SCOTTSDALE

CITY COUNCIL MEETING

*****AMENDED*** AGENDA (4:00 P.M. SPECIAL MEETING/EXECUTIVE SESSION ADDED, CITY ATTORNEY APPOINTMENT ADDED, ITEM #15 WITHDRAWN, ITEM #26A ADDED)**

COUNCIL
Mary Manross, Mayor
Wayne Ecton — Ned O'Hearn
Robert W. Littlefield — David Ortega
Cynthia Lukas — Tom Silverman

Tuesday, July 1, 2003

***4:00 P.M.
City Council Special Meeting

Call to Order – City Hall Kiva Forum, 3939 N. Drinkwater Blvd.
Roll Call

1. **Recruitment of City Attorney**
   Request: Update on status of City Attorney recruitment.
   Contact: Neal Shearer, 480-312-2604, (nshearer@scottsdaleaz.gov)
2. **Motion to recess into Executive session to:**
   a. Discuss or consider employment, assignment, appointment, promotion, and salary of City Attorney pursuant to ARS Sec. 38-431.03 (A) (1). No specific candidates will be discussed.
   b. Discuss or consult for legal advice with the City's attorneys regarding the process of hiring a City Attorney pursuant to ARS Sec. 38-431.03 (A) (3).
   c. Discuss or consult with the City's attorneys in order to consider its position and instruct its attorneys regarding the public body's position regarding employment contracts for a City Attorney pursuant to ARS Sec. 38-431.03 (A) (4).

   Contact: Neal Shearer, 480-312-2604, (nshearer@scottsdaleaz.gov)

Adjourn

***City Council Executive Session

Immediately Following 4:00 P.M. City Council Special Meeting

Call to Order – City Hall Kiva Conference Room

1. **Motion to recess into Executive session to:**
   a. Discuss or consider employment, assignment, appointment, promotion, and salary of City Attorney pursuant to ARS Sec. 38-431.03 (A) (1). No specific candidates will be discussed.
   b. Discuss or consult for legal advice with the City's attorneys regarding the process of hiring a City Attorney pursuant to ARS Sec. 38-431.03 (A) (3).
   c. Discuss or consult with the City's attorneys in order to consider its position and instruct its attorneys regarding the public body's position regarding employment contracts for a City Attorney pursuant to ARS Sec. 38-431.03 (A) (4).

Adjourn

5:00 P.M.
CITY COUNCIL MEETING

Call to Order – City Hall Kiva Forum, 3939 N. Drinkwater Boulevard

Roll Call

Pledge of Allegiance

Invocation

Presentations/Information Updates
Aviation Subcommittee Update

*****Appointment**
Consider appointment of Brad Woodford as Interim City Attorney

Boards and Commissions
Development Review Board (1)
Environmental Quality Advisory Board (1)
Transportation Commission (1)

Public Comment
Citizens may complete one speaker/citizen comment card per night and submit it to the City Clerk before or during this evening's meeting. Please check the box that refers to "public comment." This "Public Comment" time is reserved for citizen comments regarding non-agendized items. No official Council action can be taken on these items.

1. Portales Amended Development Stipulation #3

Request:

1. To delete stipulation #3 of Case 76-Z-85 on a 39.77 +/- acre parcel located at 4800 N. Scottsdale Road with Downtown/Regional Commercial Office Type 2, Planned Block Development (D/R CO-2 PBD).
2. To adopt Ordinance No. 3517 affirming the amendment to the stipulations.

Location: 4800 N Scottsdale Rd
Reference: 76-ZN-1985#4
Staff Contact(s): Kira Wauwie AICP, Project Coordination Manager, 480-312-7061, kwauwie@ScottsdaleAZ.gov; Randy Grant, Chief Planning Officer, 480-312-7995; rgrant@ScottsdaleAZ.gov

2. DC Ranch Parcel 1.18 (Planning Unit 1)

Request:

1. To approve the Final Plat for a 111-lot subdivision at DC Ranch.
2. To adopt Resolution No. 6336 authorizing Park Agreement No. 2003-123-COS.

2-PP-2003
Key Items for Consideration:

- This is the first development/subdivision in DC Ranch's Planning Unit 1.
- The development complies with the Master Plans for Planning Unit 1.
- A new 12.8-acre neighborhood park site will be dedicated to the City.

Related Policies, References: 54-ZN-1989#1 thru 5, 5-MP-2002, Community Facilities District
Staff Contact(s): Tim Curtis, Project Coordination Manager, 480-312-4210, tcurtis@ScottsdaleAZ.gov; Joe Morris, Development Engineering Manager, 480-312-5757, jdmorris@ScottsdaleAz.gov; rgrant@ScottsdaleAZ.gov

3. DC Ranch Ordinance Adoption

Request: Consider adopting Ordinance No. .3518, affirming zoning classifications as approved in case 54-ZN-1989#2. The original zoning is as follows:

Parcel 2.3b –Single Family Residential District (R1-7);
Parcel 2.6 – Commercial Office District (C-O);
Parcel 2.15 –Single Family Residential District (R1-7);
Parcel 5.11 –(R-4R);
Parcel 6.6 – Single Family Residential District (R1-10);
Parcel 6.11 –Single Family Residential District (R1-10);
Parcel 6.13 –Single Family Residential District (R1-10);
Parcel 6.14 –Single Family Residential Districts (R1-43 and R1-10);
Parcel 6.15 –Single Family Residential District (R1-10);
Parcel G.1 – Single Family Residential Districts (R1-43, R1-10, R1-7);
Parcels G.2 and G.4 – Single Family Residential District (R1-10) and (R-4);
Parcel G.3 – (R-5) – Multi-Family Residential District;
Parcel 5.1 – (R-5) – Multi-Family Residential District;
All of the above parcels also have the Planned Community District (PCD) zoning overlay.

Location: Various Parcels in DC Ranch
Reference: 54-ZN-1989#2E
Staff Contact(s): Tim Curtis, Project Coordination Manager, 480-312-4210, tcurtis@ScottsdaleAZ.gov; Randy Grant, 480-312-7995, rgrant@ScottsdaleAZ.gov

4. 121st Place Abandonment (Price Residence)

Request: Consider the following:

1. Abandon 50 feet right-of-way along the 121st Place alignment.
2. Abandon 33 feet GLO (General Land Office) patent roadway and public utility easement.
3. Dedicate a 15 foot public trail easement along Mountain View Road.
4. Reserve a 20 foot water and sewer line easement along the east side of the subject 121st Place right-of-way.
5. Adopt Resolution No. 6334 vacating and abandoning a portion of right of way and roadway easement.

Location: North of Mountain View Road and West of 121st Place.

Reference: 3-AB-2003

Staff Contact(s): Cheryl Sumners, Senior Planner, 480-312-7834, csumners@ScottsdaleAZ.gov; Jeff Fisher, Plan Review and Permit Services Director, 480-312-7619, jefisher@ScottsdaleAz.gov; Randy Grant, 480-312-7995, rgrant@ScottsdaleAZ.gov

5. Intergovernmental Agreement (IGA) with the Flood Control District of Maricopa County for design and construction of drainage improvements in Scottsdale.

Request: Consider adoption of Resolution No. 6286 to authorize IGA #2003-052-COS with the Flood Control District of Maricopa County for design and construction of:

- Scottsdale Road Storm Drain Outfall Improvements,
- 71st Street Channel Improvements,
- Cactus Park Basin Improvements, and
- Mescal Park Basin Improvements.

  The estimated cost of the proposed improvements is $5,083,333 of which the Flood Control District will finance 50 percent.

Related Policies, References:

a. Scottsdale Road Corridor Drainage Master Plan
b. City Procurement Code

Staff Contact(s): Robert M. Johnson, CIP Coordination Manager, (480)-312-7054, rmjohnson@scottsdaleaz.gov; Al Dreska, Municipal Services General Manager, 480-312-2776, adreska@scottsdaleaz.gov

6. Intergovernmental Agreement tp allow the Scottsdale Police Department to provide forensic services and use of the Family Advocate Center to the Town of Paradise Valley Police Department.

Request:

- Adopt Resolution No. 6329 authorizing the City to enter into an Intergovernmental Agreement:
- Authorize Intergovernmental Agreement No. 2003-118-COS, which allows the Scottsdale Police Department to provide forensic services and the use of the Family Advocacy Center to the town of Paradise Valley Police Department for $25,000.
- In anticipation of the agreement, the Scottsdale Police Department included $20,000 in the Forensic Science Agreement center approved FY03/04 budget. As the IGA is for $25,000, authorize the transfer $5,000 of Special Revenue Fund Contingency budget to the Forensic Science Agreement center (280-02304-54530). The contract amount will fully fund the costs associated with the IGA.

Related Policies, References: This agreement is made under the authority of Article 1, section 3-1 of the city charter of the City of Scottsdale.

Staff Contact(s): Allen Steve Garrett, Forensic Services Division Manager, 480-312-5280, sgarrett@scottsdaleaz.gov

7. **Consider awarding federal lobbying and information services contract with Carolyn C. Chaney and Associates.**
Request: Approve Contract Number 2003-122-COS with Carolyn C. Chaney and Associates to provide federal lobbying and information services on behalf of the City of Scottsdale for an annual compensation of $66,000 and up to $3,000 for reimbursable expenses incurred on behalf of Scottsdale while carrying out the terms of the contract.
Staff Contact(s): Steve Olson, Governmental Relations Director, solson@scottsdaleaz.gov (480)312-2423

8. **City Code amendment instituting the City of Scottsdale Drought Management Plan.**
Request: Adopt Ordinance No. 3516 amending the City Water Conservation Code to provide regulations for times of drought, and empowering the City Manager to promulgate and enforce the City of Scottsdale Drought Management Plan. The City of Scottsdale Drought Management Plan is the administrative document which describes City of Scottsdale's response to water supply shortages, including mandatory water conservation regulations. The Code amendment provides the mechanism to enforce the Drought Management Plan requirements.
Staff Contact(s): Beth Miller, Water Resources Advisor, emiller@Scottsdaleaz.gov (480) 312-5009; Roger Klingler, Assistant City Manager, 480-312-5830, rklingler@scottsdaleaz.gov; David Mansfield, Water Resources General Manager, 480-312-5681, dmansfield @scottsdaleaz.gov

9. **Construction Bid Award for the expansion and renovation of Fire Station 11, located in the proximity of McDonald Drive and Scottdale Road**
Request: Authorize Construction Bid Award No. 03PB110 to Petersen Development, the lowest responsive bidder, at their lump sum base bid of $148,000.00.
Staff Contact(s): Dan Walsh, Project Manager, (480) 312-5248 dwalsh@scottsdaleaz.gov; Al Dreska, (480) 312-2776, adreska@scottsdaleaz.gov

10. **Construction Bid Award and Budget Transfer for Fire Station 27, located near the intersection of Pima and Ashler Hills**
Request:
AUTHORIZE Construction Bid Award No. 03PB108 in the total amount of $741,364.00, consisting of the base bid and bid alternate No. 1, to Harney-Naill, Inc., the lowest responsive bidder.
AUTHORIZE a capital contingency fund transfer in the amount of $200,000 to CIP Account No. B9909 (Ashler Hills & Pima Fire Station #27)
AUTHORIZE a reduction in the proposed FY 04/05 CIP Budget allocation to CIP Account No. B9909 from $400,000 to $200,000.
Related Policies, References: The design and construction of this facility will move the City toward the accepted total emergency coverage that was identified in 1992 and subsequently included in the City's General Plan. Council approved the design contract for the station on December 4, 2002. The amount of the proposed capital contingency transfer to CIP Account No. B9909 will be offset by reducing the additional funding planned for this project in FY 04/05.
Staff Contact(s): Dan Walsh, Project Manager, dwalsh@scottsdaleaz.gov , (480) 312-5248; Al Dreska, (480) 312-2776, adreska@scottsdaleaz.gov

11. Design of Regulatory Compliance Improvements at the Central Arizona Project Water Treatment Plant.

Request: Authorize Engineering Services Contract No. 2003-110-COS with Malcolm Pirnie, Inc. in the amount of $2,394,102.00 for the final design of regulatory compliance improvements at the Central Arizona Project Water Treatment Plant.

Related Policies, References:

a. Water Resources Master Plan, approved by City Council on October 15, 2001.

b. Engineering Services Contract No. 2001-167-COS, for conceptual site plan of CAP Treatment Plant expansion, approved by City Council on November 26, 2001.

Staff Contact(s): Charles W. Henne, Project Manager, (480) 312-7097, chenne@scottsdaleaz.gov; Al Dreska, (480) 312-2776, adreska@scottsdaleaz.gov

12. Engineering Services Contract for design of the Zone 12 /13 Water Transmission Line.

Request: Authorize Engineering Services Contract No. 2003-121-COS with Wood, Patel & Associates, Inc., in the amount of $190,433.00 for the design of a water transmission line between Dynamite Boulevard and Jomax Road, and for engineering services during construction of the Zone 12/13 Reservoir.

Related Policies, References:

a. Water Resources Master Plan, approved by City Council on October 15, 2001.

b. Engineering Services Contract 2000-030-COS for design of Zone 12/13 Reservoir, approved by City Council on March 20, 2000.

Staff Contact(s): Doreen Song, P.E. Project Manager, (480)312-2367, dsong@scottsdaleaz.gov; Al Dreska, (480) 312-2776, adreska@scottsdaleaz.gov

13. Construction Bid Award for Waterline Replacements in the area of De La O Road, Pima to 84th Street.

Request: Authorize Construction Bid Award No. 03PB005 to Citywide Contracting, LLC, the lowest responsive bidder, at their unit price bid of $450,474.00.

Staff Contact(s): Alison Tymkiw, Sr. Project Manager, (480) 312-7985, atymkiw@scottsdaleaz.gov

14. Adopt Official Marking Scheme for City-owned and Leased vehicles and Authorize City Manager Approval of Unmarked Vehicles.

Request: Adopt Resolution No. 6287 establishing an official marking scheme for City-owned and leased vehicles and authorizing the City Manager to grant exemptions to the marking requirement for those vehicles used to perform confidential functions.

Related Policies, References:

- Arizona Revised Statutes (ARS) Section 38-538
- Arizona Revised Statutes (ARS) Section 28-2511
- City Audit Report No. 0161D

Staff Contact(s): Danny Johnson, Fleet Management Director, (480) 312-5575, djohnson@scottsdaleaz.gov; Al Dreska, (480) 312-2776, adreska@scottsdaleaz.gov

***15. WITHDRAWN
Construction Bid Award for Civic Center Mall Amphitheater and Nevelson Sculpture Re-siting

16. **Construction Contract Award for Hayden Road - Thompson Peak Parkway to Williams Drive**
Request: Authorize Construction Contract Award No. 03PB072 to J. Banicki Construction, Inc., the lowest responsive bidder, at their total unit price bid of $973,589.85 for Segment 3 of the Hayden Road – Princess Drive to Pinnacle Peak project
Staff Contact(s): Alex McLaren , Construction and Design Director, amclaren@scottsdaleaz.gov, (480)312-7099; Al Dreska, (480) 312-2776, adreska@scottsdaleaz.gov

17. **Construction Bid Award for Police District Three Emergency Electrical Power Generator**
Request: Authorize Construction Bid Award No. 03PB095 to Buehler Brothers Electric, Inc., the lowest responsive bidder, at their lump sum base bid of $72,200.00.
Staff Contact(s): Dan Walsh, Project Manager, (480) 312-5248 dwalsh@scottsdaleaz.gov; Al Dreska, (480) 312-2776, adreska@scottsdaleaz.gov

18. **Outdoor Dining Lease on Civic Center Mall**
Request: Adopt Resolution No. 6339 AUTHORIZING lease agreement 2003-125-COS with James-Hotel Scottsdale L.L.C., an Arizona limited liability company to construct and operate an outdoor dining area on the Scottsdale Civic Center Mall.
Related Policies, References:
- Section 2-221(b)(4) of the Scottsdale Revised Code, which allows the sale of City property interests, including leases, directly to adjoining property owners.
- Resolution No. 4879 was adopted September 2, 1997, which authorized a lease with AZ88 to construct and operate an outdoor dining area on the Scottsdale Civic Center Mall.
- Resolution No. 5296 was adopted June 1, 1999, which authorized a lease with the Blue Moose restaurant to operate a second outdoor dining area on the Scottsdale Civic Center Mall.

Staff Contact(s): Ron King, Asset Management Coordinator, (480)-312-7042, rking@scottsdaleaz.gov; Jon Chase, Principle Planner, (480)-312-2578, jchase@scottsdaleaz.gov; Randy Grant, 480-312-7995, rgrant@scottsdaleaz.gov

19. **Contract Modification for Design of Sewer Collection System Rehabilitation Project**
Request: Authorize contract modification to Engineering Services Contract No. 2002-034A-COS with Brown & Caldwell Inc., in the total amount of $188,191.00, for design of Phase 2 of the Sewer Collection System Rehabilitation Project.
Related Policies, References: Engineering Services Contract No. 2002-034-COS, approved by City Council on May 13, 2002.
Staff Contact(s): Annette Grove, Sr. Project Manager, (480) 312-2399, agrove@scottsdaleaz.gov; Al Dreska, (480) 312-2776, adreska@scottsdaleaz.gov

20. Acquire easement for the widening of 96th Street from Shea Boulevard to Thunderbird Road.

Request: Adopt Resolution No. 6326 authorizing the acquisition of a multi-use path and slope easement on property located at 9551 E. Redfield Road from G & I Redfield Development, LLC at the total appraised value of $33,840 plus approximately $1,500 in closing costs for the 96th St. Improvements CIP project (Shea – Thunderbird Road).

Related Policies, References:

a. Resolution No. 6253 authorized the initiation of negotiations for the acquisition of 16 various parcels of right-of-way/easements (ROW) from nine property owners for the 96th St. Improvements project (Shea-Thunderbird Rd).
b. Cactus Corridor Equestrian Overlay District
c. Bond 2000 CIP Project

Staff Contact(s): Marek Urbanek, Project Manager, (480) 312-2563, murbanek@ci.scottsdale.az.us; Rhonda Thomas, Right of Way Agent, (480) 312-7847, Rthomas@ci.scottsdale.az.us; Al Dreska, (480) 312-2776, adreska@scottsdaleaz.gov

21. Purchase of Excess Municipal Liability Insurance for the period 7/1/03-04

Request: Consider authorizing purchase of General Liability, Vehicle Liability and Public Officials Errors and Omission insurance protection of $40,000,000 Limits of Liability per occurrence and annual aggregate coverage from various insurers for claims in excess of the City's self-insured retention amount of $2,000,000 per occurrence for a cost of $687,830.

Related Policies, References: Scottsdale Revised Code, Section 2-173 calls for the purchase of excess insurance above the self-insured retention as recommended by the Risk Management Director and approved by City Council.

Staff Contact(s): Myron J. Kuklok, Risk Management Director, 480-312-7841, mkuklok@scottsdaleaz.gov; Craig Clifford, Chief Financial Officer, 480-312-2364, cclifford@scottsdaleaz.gov

22. Purchase of Scottsdale Airport Liability Insurance for the period 7/1/03-04

Request: Consider authorizing purchase of Scottsdale Airport Liability and Hangarkeepers' Legal Liability insurance of $100,000,000 per occurrence and annual aggregate limits of Airport Liability coverage and $100,000,000 for Hangarkeepers Legal Liability coverage from insurers ACE/Lloyds at a cost of $57,602.

Staff Contact(s): Myron J. Kuklok, Risk Management Director, 480-312-7841, mkuklok@scottsdaleaz.gov; Craig Clifford, Chief Financial Officer, 480-312-2364, cclifford@scottsdaleaz.gov

23. Purchase of excess Workers' Compensation insurance for the period 7/1/03 – 7/1/04

Request: Consider authorizing the purchase of Workers' Compensation insurance from Midwest Employers Casualty Company in excess of the City's self-insured retention amount of $600,000 for a cost of $92,185.

Staff Contact(s): Myron J. Kuklok, Risk Management Director, 480-312-7841, mkuklok@scottsdaleaz.gov; Craig Clifford, Chief Financial Officer, 480-312-2364, cclifford@scottsdaleaz.gov

24. Purchase of Property Insurance for City Buildings, Contents and Equipment for the period 7/1/03-04.

Request: Consider authorizing purchase of Property insurance on approximately $534 million of buildings, contents and equipment replacement values in excess of the deductible portions from the Allianz Insurance Group, at a cost of $713,147.

Staff Contact(s): Myron J. Kuklok, Risk Management Director, 480-312-7841, mkuklok@scottsdaleaz.gov

25. Authorize the filing of a Notice of Appeal in *City of Scottsdale v. Glenalden Homes, L.L.C., et al.*, Superior Court Case No. CV 99-13348.

Request: Authorize Graham & Associates, LTD. to file a Notice of Appeal on behalf of the City of Scottsdale in the litigation entitled *City of Scottsdale v. Glenalden Homes, L.L.C., et al.*, Superior Court Case No. CV 99-13348, an eminent domain action brought to acquire real property for the McDowell Sonoran Preserve, with the caveat that counsel will return to the City Council for further direction on how to proceed in prosecuting the appeal to a conclusion.
Related Policies, References: Resolution No. 6280 (retention of outside counsel)
Staff Contact(s): David A. Pennartz, City Attorney, dpennartz@scottsdaleaz.gov, (480) 312-2405

26. City of Scottsdale adv. Allied Construction, Inc.

Request: Adopt Resolution No. 6335 authorizing the City Attorney to renew Contract No. 2000-160A-COS and authorize renewal of Contract No. 2000-160A-COS in a maximum amount of Five Thousand Dollars ($5,000) with Holden Brodman PLC for legal services in connection with the dispute among the City of Scottsdale, Allied Construction, Inc., and the City's engineer, Cella Barr Associates, relating to construction at McCormick-Stillman Ranch Railroad Park.
Staff Contact(s): Steven Bennett, Deputy City Attorney 480-312-2405, sbennett@scottsdaleaz.gov; David A. Pennartz, City Attorney, 480-312-2405, dpennartz@scottsdaleaz.gov

*****26A. Authorization of Tourism/Proposition 202 Funding Proposal**

Request: Authorize Resolution No. 6341 to authorize a proposal to the Fort McDowell Yavapai Nation for funds to promote tourism in the northeast valley, in accordance with Proposition 202.
Related Policies, References: Proposition 202, the 17 Tribe Indian Self-Reliance Initiative.
Staff Contact(s): Natalie N. Lewis, nlewis@ScottsdaleAZ.gov, 480-312-7806

Regular Agenda begins on the following page

27. Downtown Overlay and Related Amendments

Request:

1. To amend City of Scottsdale Zoning Ordinance (Ordinance No. 455) Article I., Administration and Procedures., Section 1.403. Additional conditions for specific conditional uses., Article III., Definitions.; Section 3.100 General.; Article V., District Regulations., Section 5.3002. Conflict with other sections., Article IX., Parking and Loading Requirements., Section 9.104. Programs and incentives to reduce parking requirements., and Section 9.108 Special parking requirements in districts., and to add Article VI., Supplementary Districts.; Section 6.1200., (DO) DOWNTOWN OVERLAY.
2. To apply the Downtown Overlay (DO) zoning to 750 +/- acres known as the Downtown area.
3. To adopt Ordinance No. 3521 affirming the above rezoning
4. To adopt Ordinance No. 3520, affirming the above text amendment.

Location: Downtown area which is generally bounded by Chaparral Road on the north, Miller Road on the east, Earll Drive on the south and 68th Street on the west.

Reference: 1-TA-2003 & 5-ZN-2003

Staff Contacts: Monique de los Rios-Urban, Senior Planner, 480-312-7898, mdelos@ScottsdaleAz.gov; Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov; Ed Gawf, Deputy City Manager, 480-312-4510, egawf@scottsdaleaz.gov

Public Comment

Citizens may complete one speaker/citizen comment card per night and submit it to the City Clerk before or during this evening's meeting. This "Public Comment" time is reserved for citizen comments regarding non-agendized items. No official Council action will be taken on these items.

City Manager's Report

Mayor and Council Items

Adjournment

Section 2.17 of the Scottsdale City Code states, "Regular Meetings that are scheduled to be conducted on consecutive days may be combined and held on either of the two (2) days, at the election of the council, and shall be considered a single meeting." The Council may hold over any items noticed on the Tuesday agenda to the agenda for the Wednesday meeting.

CITY COUNCIL REPORT

MEETING DATE: July 1, 2003 ITEM NO. 1 GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT **Portales Stipulation #3**

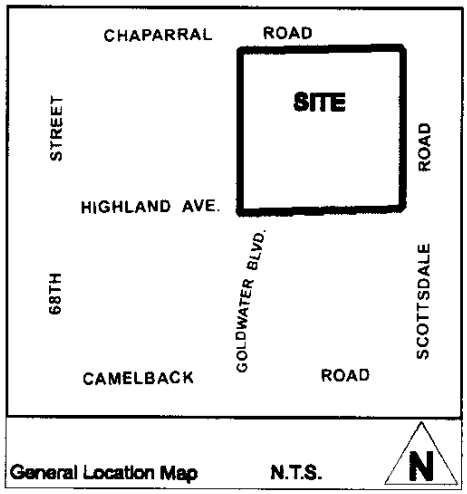
REQUEST

Request:
1. To delete stipulation #3 of Case 76-Z-85 on a 39.77 +/- acre parcel located at 4800 N Scottsdale Road with Downtown/Regional Commercial Office Type 2, Planned Block Development (D/RCO-2, PBD).
2. To adopt Ordinance No. 3517 affirming the amendment to the stipulations.

76-ZN-1985#4

Key Items for Consideration:

- The 1985 zoning stipulation requires hotel development prior to the development of more than 300,000 square feet of office/retail uses.
- This request does not change the master development plan for this project and the zoning continues to be available for residential, hotel, office, and retail development.
- The City's goal to develop hotels to serve tourists was highly successful and a currently adequate base of hotels is now available.
- Planning Commission recommends approval, 5-0.



General Location Map N.T.S.

OWNER Anchor National Life Insurance Company

APPLICANT CONTACT Paul Barker
Anchor Forum Portales
480-425-4664

LOCATION 4800 N Scottsdale Rd

BACKGROUND

Zoning.
The site is zoned Downtown/Regional Commercial Office Type 2 Planned Block Development (D/RCO-2 PBD). The 1985 zoning was approved with 1,600,000 square feet of office, retail, hotel and condominium uses as established in a master plan. The zoning stipulations require hotel development prior to the development of more than 300,000 square feet of office/retail uses. The stipulation was made in an effort to provide additional hotel rooms for the tourist community.

Because of the market and lending conditions, the hotel construction is

severely constrained. In order to pursue other uses allowed by the site's zoning, the applicant seeks to delete this timing stipulation.

The original zoning on this site was the result of significant land assembly and neighborhood participation. The only stipulation affected in this application is Stipulation #3; none of the stipulations that relate to neighborhood participation are proposed for change.

Downtown Plan.
This site is located within the Downtown Area and designated as Mixed Use Neighborhoods by the General Plan Land Use Element. The Downtown has its own Land Use Map that designates this site for Regional Commercial/Office development. This category includes uses that draw from a greater distance compared to a neighborhood or community serving use.

Context.
The site is located at the northernmost end of the Downtown area, and is surrounded by the following zoning:

- **West of the Site:** Single Family Residential (R1-10) District with existing single-family residential development
- **North of the Site:** Single Family Residential (R1-7) District with existing single-family residential development.
- **East of the site:** Multiple-Family Residential (R-5), Commercial Office (C-O), and Central Business (C-2) Districts developed with hotel, office, and retail uses.
- **South of the site:** Downtown/Regional Commercial Office Type 2 Planned Block Development (D/RCO-2 PBD) developed with a motel and restaurant, just north of Fashion Square.

APPLICANT'S PROPOSAL

Goal/Purpose of Request.
The applicant proposes to eliminate the timing constraint that requires the construction of a hotel prior to the development of more than 300,000 square feet of office/retail space. The proposal does not change the approved land use master plan and a hotel continues to be an allowed use. This change will allow the developer to pursue other land uses allowed on the Portales site.

IMPACT ANALYSIS

Economic Vitality Impact.
The City's Economic Vitality office prepared a report regarding the success of hotel development from 1995-2000. It states that 8 hotels opened downtown and added nearly 1,000 rooms to the downtown inventory and these rooms have yet to be absorbed.

Traffic.
There is no change in the mix of uses allowed for this project. Therefore the traffic impacts are not changed.

Policy implications.
The Downtown Plan proposes uses and design recommendations. Removal of this stipulation will affect only the development timing of various land uses on the site. The overall mix of uses remains the same (office, retail, residential and hotel). As a result, the Downtown Plan will be implemented.

Community involvement.
The applicant has a complete Citizen Review Report (See Attachment #6). Staff has received several phone calls have been received from neighbors and the concerns expressed were related to calming traffic on Chaparral Road and making the traffic signal at Ranch Drive and Scottsdale Road operational.

Community Impact.
The zoning for this site was approved in 1985. Since that time, significant changes have occurred in the Downtown. Many new hotels have been constructed, the hotel market has changed, and financing has become more challenging. This stipulation change will allow the other approved uses, including retail and office, to be developed without waiting for the hotel market to turn around.

RECOMMENDATION

Planning Commission:
This item was on the Planning Commission's May 28, 2003 consent agenda, there were no neighboring property owners or other parties that appeared to speak at the hearing, and the request was approved without discussion.

Planning Commission recommended approval, 5-0.

Recommended Approach:
Staff recommends approval, subject to the attached stipulations.

RESPONSIBLE DEPT(S)

Planning and Development Services Department
Current Planning Services

STAFF CONTACT(S)

Kira Wauwie AICP
Project Coordination Manager
480-312-7061
E-mail: kwauwie@ScottsdaleAZ.gov

Randy Grant
Chief Planning Officer
480-312-7995
E-mail: rgrant@ScottsdaleAz.gov

APPROVED BY

6/18/03

Roy Ekblaw Date
General Manager, Planning & Development Services Department

6/18/03

Ed Gawf Date
Deputy City Manager

ATTACHMENTS

1. Applicant's Narrative
2. Context Aerial
2A. Aerial Close-Up
3. Land Use Map
4. Zoning Map
5. Stipulations
6. Citizen Involvement
7. May 28, 2003 Planning Commission Minutes
8. Ordinance No. 3517
   Exhibit 1. Stipulations
9. Site Plan

PROJECT NARRATIVE

SCOTTSDALE PORTALES
76-Z-85

In 1985, the Scottsdale Portales was approved as a Mixed-Use Development comprised of office, retail, hotel, and residential uses. In 1985, additional hotel rooms were needed and desired in the Downtown area – especially if the hotel were four-star or better in quality. Additional hotel rooms in the Downtown area were so desired by the City in 1985 that Portales Zoning Stipulation No. 3 states:

> "Office/retail development shall not exceed 300,000 sq.ft. prior to construction of the hotel."

Many things have changed since 1985.

Since 1985, SunAmerica (and their predecessor Pensus) has diligently marketed the hotel component of the Portales to various hoteliers that are four-star or better in quality. Although there was some interest from economy/minimum service hoteliers several years ago which SunAmerica rejected because that type of hotel would have been inconsistent with the high-quality expectations for the Portales, it has been impossible for SunAmerica to secure a luxury, full-service hotel. Further, as is discussed below and detailed in attachments A and B from the City's Office of Economic Vitality, there is no realistic expectation that a luxury, full-service hotel can be financed and built on the Portales site in the foreseeable future. Furthermore, under current conditions, forcing additional hotel rooms into Downtown Scottsdale would further dilute the existing market and add economic hardship to existing hotel owners, already with significant occupancy challenges. Therefore, we request that Zoning Stipulation 3 be deleted.

Our request that Stipulation 3 be deleted is not a request to eliminate "hotel" as a land use at the Portales. Instead, it is merely a request to eliminate a "timing" Stipulation that is an impediment to additional office/retail development at the Portales (280,000± sq.ft. of office/retail development exists at the Portales). Due to current hotel market and lending realities, Zoning Condition 3 is unachievable, unnecessary, and (unintentionally) contrary to the City's Downtown Development Objectives.

As is detailed in the Economic Vitality Office's "Scottsdale Hotel Market Overview – mid 2002" summary that is attached as Exhibit A, Downtown Scottsdale has an abundant number of hotel rooms, substantial vacancies, and significantly reduced bed tax revenues. Further, as is summarized in the Economic Vitality Office's "Hotel Financing Trends – mid 2000" memorandum that is attached as Exhibit B, the financing market for hotels has been weak for the past three years, was weakened further by the events of September 11, 2001, and will be further challenged by the 2002

ATTACHMENT #1

76-ZN-1985#4
04/02/2003

openings of 1,700± new upper moderate/resort rooms at the Westin Kierland and Marriott Desert Ridge Hotels. The Office of Economic Vitality's Memoranda confirm SunAmerica's own experiences: luxury, full-service hotels are not currently financable, and the City and its existing hoteliers certainly do not need additional hotel rooms in the Downtown area.

Stipulation No. 3 was well-intentioned in 1985. However, many things have changed and that Stipulation is now (unintentionally) precluding further office/retail development on the Portales site. Precluding or delaying further development of the Portales serves no beneficial purpose and is contrary to the City's Downtown Development Objectives. Stipulation No. 3 is unachievable and should be deleted.

BURCH & CRACCHIOLO, P.A.

702 East Osborn, Suite 200
Phoenix, Arizona 85014
(602) 234-9913
(602) 240-3823 (fax)

TO: Paul Barker; Doug Tymins

FROM: Ed Bull

DATE: March 10, 2003

RE: Anchor Forum; Scottsdale Portales

During the Pre-Application meeting concerning Anchor Forum's request to delete Scottsdale Portales' Zoning Stipulation No. 3 (maximum 300,000 sq. ft. of office and retail development before hotel construction), Kira Wauwie asked that we provide ner with information concerning Zoning Stipulation No. 7 (pedestrian linkages/people mover system). As we recapped with Kira during the Pre-App meeting, it has long been (and remains) SunAmerica's and Anchor Forum's understanding from previous Staff eviews and numerous approvals that Stipulation No. 7 was satisfied by SunAmerica's redecessor (the Pensus Group) approximately 15 years ago. I hope that the following ummary is of help to you in your further discussions with Staff about Stipulation No. 7.

Stipulation No. 7. Stipulation 7 of the 1985 Zoning Approval provides:

> "Prior to any application for Development Review Board approval, the applicant shall submit for City Council approval a formalized concept for pedestrian linkages including an "automated pedestrian conveyance system." The concept shall reflect the connection between the subject property and Fashion Square in the first phase with the ability to expand the system in the future to also interconnect the Safari Resort, Sunburst Resort, Camelview Plaza, the China Inn property, Fifth Avenue, and other adjacent areas. The system shall be designed to promote pedestrian movement between the referenced properties without interfering with vehicular traffic." (Emphasis Added)

Similar Stipulations were imposed on Scottsdale Fashion Square and Camelview Plaza.

76-ZN-1985#4
4-24-03

In accordance with Stipulation No. 7, as I recall, Pensus and their consultants timely submitted a Pedestrian Movement Report (and revised Reports) for consideration by the City, Scottsdale Fashion Square, and Camelview Plaza. I personally recall being in a meeting(s) with Staff and others where numerous fundamental concerns were voiced, including: the impossibility of having pedestrian-friendly non-motorized "stretched-golf carts" crossing public rights-of-way; the impracticality of using licensed bus-type vehicles because they are not pedestrian-inviting; mall retailers' insistence that using motorized vehicles to transport shoppers from one major retailer to another was completely inconsistent with the mall concept – which is to invite pedestrian foot traffic through smaller tenant stores that link the major anchors in a mall; and various other concerns with the whole concept. I was later advised by Pensus representatives that Staff ultimately recognized that Pensus had done enough to comply with Stipulation No. 7 – with Staff then giving Pensus clearance to proceed with their first DRB Application.[1]

2. DRB Applications. As is emphasized above, Stipulation No. 7 begins with the phrase: "Prior to any application for DRB Approval..." Enclosed is Ricki Horowitz' February 7, 2003, Memorandum identifying at least 12 DRB cases that have been filed and processed. Please note that the City Council also acted on at least two of these DRB Applications (e.g., the Council's July 5, 1988, approval of the DRB's one-year time extension of 178-DR-86 and the Council's January 17, 1989, re-affirmation of the DRB's approval of 178-DR-86 #2). The processing of these (at least 12) DRB cases strongly indicates that, for approximately 15 years, the City has considered Stipulation 7 satisfied by Pensus' participation in the pedestrian movement studies and reports. Further, as is concluded by Dave Mattson in his enclosed draft letter, Staff probably concluded that without the participation of the other parties, the entire concept became a moot issue.

---

[1] Please see the attached February 21, 2003, draft letter from Dave Mattson. Dave was Pensus' Director of Development and was intimately involved with Pensus' late-1980's DRB submittals and construction of Goldwater Boulevard and related improvements. Per Dave's draft letter, his recollection and my recollection are consistent.

3. Zoning-related Applications. In addition to the (at least 12) DRB Applications that had been processed, at least two zoning-related cases have been processed. Specifically:

   a. 76-ZN-85 #2. On November 4, 1997, the City Council approved the amendment to the Planned Block District Development Standards for Finova.

   b. 76-ZN-85 #3. On February 1, 2000, the City Council approved modification of the PBD site development standards, stipulation amendments, and a site plan amendment. This application moved the hotel to the southeast quadrant and the residential (condos) to the northwest quadrant.

In both of these zoning-related cases, I know that Staff carefully reviewed the 1985 Stipulations for compliance. In both of these zoning-related cases, as well as No. 63-DR-O1 for the Portales Corporate Center office, retail, and hotel complex, Staff recognized and the Approved Plans confirm that, for various reasons, the pedestrian linkage between the Portales and Scottsdale Fashion Square sites needed to be an at-grade connection at the intersection of Scottsdale Road and Highland. At no time did Staff indicate any non-compliance with Stipulation No. 7. In fact, in Application 76-ZN-85 #3 (residential condos), Staff carefully edited the 1985 Stipulations and struck through those Stipulations that were satisfied or otherwise no longer applicable. The face sheet and pages 1 and 2 of the 76-ZN-85 #3 Stipulations are enclosed. Please note that Stipulation No. 9 (formerly Stipulation No. 7) was expressly stricken as a part of the Residential Condominium Approval.

In conclusion, based upon my personal recollection of some events and based upon what I have long-understood from what others reported to me:

A. Pensus timely and diligently worked with the City to satisfy Stipulation No. 7 through the submittal of pedestrian movement concepts and reports.

B. The City apparently concluded approximately 15 years ago that Pensus had done enough to satisfy Stipulation No. 7 and clearly has allowed numerous

DRB and other applications to be filed, processed, and (in some cases) built.

C. The City apparently concluded that, for various reasons including physical constraints and the non-concurrence/non-participation of other potential parties, the pedestrian movement concepts that were envisioned in 1985 are an impossibility.

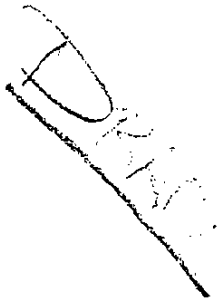
D. The City has "scrubbed" the 1985 Stipulations in conjunction with numerous applications in the past 5 years and has never (until now) suggested any outstanding issues with Stipulation No.7. In fact, three years ago, the City expressly deleted Stipulation No. 7 as a part of the Residential Approval.

E. For at least the past 5 years, the City's focus for pedestrian movement has been on providing a meaningful pedestrian gathering location at the NWC of Scottsdale Road and Highland with an at-grade connection between the Portales and Scottsdale Fashion Square at the intersection of Scottsdale Road and Highland.

F. This long-ago satisfied (or long-ago moot) Stipulation No. 7 should not now be resurrected.

ECB:b
Enclosures

February 21, 2003



Mr. Douglas Tymins
Managing Director
Real Estate Acquisitions and Investments
Sun America Investments
2800 North Central Avenue
Suite 2100
Phoenix, Arizona 85004

Re: *Scottsdale Portales*

Dear Doug:

Ed Bull. of *Burch & Cracchiolo, P.A.* contacted me earlier this month, and asked me a series of questions based on my involvement with the *Portales* as part of the *ANREG* portfolio during my tenure as the *Vice President / Director of Development* for the *Pensus Group*. In particular, Ed asked that I try to reconstruct the specifics associated with the so-called "people-mover" concept, that was contained in the original Zoning Stipulations associated with the property.

As I related to Ed in that telephone call, my association with the "people-mover" issue began shortly after the zoning was granted. The stipulation called for a study, which was to lead to an eventual solution to be developed / installed, on a tri-party basis between *The Portales*, *Scottsdale Fashion Square* and *Camelview Mall*.

In the ensuing year, a study was commissioned by *The Pensus Group*, and several draft variations were circulated for review with *City of Scottsdale* staff, as well as the appropriate parties at the other two entities. Discussions on an implementation strategy were never really productive, since the ownership group associated with *Camelview Mall* refused to participate in the process.

The question of the conditions of the "people-mover" stipulation having been satisfied, was in my mind, completed in the 1987 - 1988 time frame. With the absence of any participation by *Camelview Mall*, the execution as originally conceived by staff, became a moot issue.

With regard to issue of gaining so-called "approval" of the study, staff specifically ignored the requirement due in large part to what I assumed was their recognition that the execution of the plan was not going to occur as conceived. Point-in-fact, staff allowed *The Portales* to process complete *Design Review Board* packages for the basic infrastructure package, and has subsequently allowed the *Finova* building, and several other related actions to take place on the property.

At Ed's request, I asked my staff to look for "any" *Portales* related files in our archive, but as you may suspect, after fifteen (15) years, those files are in file heaven.

If there is anything I can add or provide assistance to you to get this resolved, I'm as close as your telephone.

Sincerely,
D. R. Mattson, Inc.

David R. Mattson, *FAIC, MCIOB, CPC*
President

DRM/03gc1/sun_america.dtymins.001

CC: Mr. Ed Bull

Memo

To: Ed Bull
From: Ricki Horowitz
Date: February 7, 2003
Subject: Anchor-Forum/Finova II

You asked me to research one of the zoning stipulations from Case No. 72-ZN-85, more specifically:

> Prior to any application for Development Review Board approval, the applicant shall submit for City Council approval a formalized concept for pedestrian linkages including an "automated pedestrian conveyance system". The concept shall reflect the connection between the subject property and Fashion Square in the first phase with the ability to expand the system in the future to also interconnect the Safari Resort, Sunburst Resort, Camelview Plaza, the China Inn property, Fifth Avenue, and other adjacent areas. The system shall be designed to promote pedestrian movement between the four referenced properties without interfering with vehicular traffic.

I had an opportunity to review the City's microfiche and hard copy files and found the following Design Review cases at this location:

1. 178-DR-86. This case was for approval of a site plan and elevations for a 250,000 square foot office/retail building within the northeast quadrant of the development (Building "C"). The DRB meeting was on 3/19/87.

   On 6/9/88, the DRB approved a one-year time extension. The Council also approved the extension on 7/5/88.

2. 178-DR-86 #2. On 2/19/87, the DRB approved the master landscaping and streetscape.

3. 178-DR-86 #3. Approval was for a perimeter wall and the couplet bridge. The DRB heard the case on 11/19/87.

4. 178-DR-86 #4. On 1/17/89, the City Council approved reaffirmation of the DRB's approval of case number 178-DR-86 #2.

5. 178-DR-86 #5. I could not find this case.

6. 177-DR-97. On 11/6/97, the DRB approved the site plan and elevations for the Finova Corporate Center Building.

7. 177-DR-97 #2. On 1/20/00, the DRB approved the art work.

8. 28-DR-00. On 4/6/00, the DRB approved the site plan and elevations for the residential condos.

9. 63-DR-01. On 11/29/01, the DRB approved the Portales corporate center office, retail and hotel complex site plan and elevations subject to stipulations.

10. 13-DR-87. This case involved landscaping; however, I found no written record of this file.

11. 79-DR-90. This case included site plans and elevations for the Festival of Fine Arts.

12. 8-DR-02. This case invovled Scottsdale Portales Bridge Enhancement; however, I did not review the file.

As you know, our original case was 76-ZN-85. There have been two other zoning cases with this number.

76-ZN-85 #2. On 11/4/97, the City Council approved the amendment to the Planned Block District Development Standards for Finova.

76-ZN-85 #3. On 2/1/00, the City Council approved modification of the PBD site development standards, stipulation amendments and a site plan amendment. This application moved the hotel to the southeast quadrant and the residential (condos) to the northwest quadrant.

It also modified zoning stipulation 1 and circulation stipulation 9. The stipulations for Portales Residential deleted the pedestrian connection stipulation (see stipulation 7 above).

You asked me to get information on Ken Allen and Connie Padian. Ken Allen is still with Allen & Philp (480-990-2800). Connie Padian is with the City of Scottsdale Inspection, Land Survey Department (480-312-5755).

RLH:BRF
Attachments

COUNCIL AC ON REPORT

AGENDA ITEM NO. 15

TO: Mayor and City Council
FROM: Community Development
PROJECT NAME: Portales Residential
CASE NO.: 76-ZN-85#3, Resolution No. 5471 & Ordinance No. 3287

Meeting Date: 02/0100
Case Number: 76-ZN-85#3
Staff Contact: Jerry Stabley
Ext.: 7064

REQUEST: Modification of Planned Block Development (PBD) site development standards, amendment of a zoning stipulation, and amendment of site plan from case 76-ZN-85#2

LOCATION: Southwest corner of Scottsdale and Chaparral Roads.

APPLICANT: The Empire Group
7550 E. McDonald Dr., #C
Scottsdale, AZ 85250

OWNER: Sun America
2800 N. Central Avenue
Phoenix, AZ

PLANNING COMMISSION RECOMMENDATION: APPROVE on the regular agenda by a vote of 7-0, and ADOPT Resolution No. 5471 and Ordinance No. 3287 affirming this case, subject to the attached stipulations

DEVELOPMENT REVIEW BOARD RECOMMENDATION: APPROVE by a vote of 5 to 1 on the regular agenda, subject to the attached stipulations.

STAFF RECOMMENDATION: APPROVE, subject to the attached stipulations.

PUBLIC COMMENT: The applicant has held numerous meetings with the residents in the vicinity of this project. Staff has not received any public comment regarding this case at the time of drafting this report.

SITE DETAILS
USE: Condominiums
PARCEL SIZE: +/-9.7 Acres Gross
DENSITY: 13 DU/AC

PARKING REQUIRED: 189
PARKING PROVIDED: 294

BUILDINGS: 18
HEIGHT: 65 Foot Maximum
SETBACKS: North: 54 ft, South: 31 ft, East 25 ft., West 30 ft.

SUMMARY OF REQUEST: This request is to amend the site plan for the Scottsdale Portales, which is located at the southwest corner of Scottsdale and Chaparral Roads. This amendment will allow changes to residential and office components of the plan located north of Goldwater Boulevard. The new plan will increase the amount of land occupied by the residential component, and increase the number of units, while moving the residences from the north central portion of the site to the northwestern corner. The new site plan will also shift the location of a planned second office building.

The stipulation amendment will allow another access road from the north side of the project onto Chaparral Road. The current stipulation was based on resident and staff concerns that the

Action Taken: APPROVED 2/1/00 DATE INITIALS

STIPULATIONS FOR CASE ~~76-ZN-85#2~~ 76-ZN-85#3 – Portales Residential

76-ZN-85 #3 – PORTALES RESIDENTIAL
NOTE: THE STIPULATIONS FROM CASE 76-ZN-85 CONTINUE TO APPLY TO THE REMAINDER OF THE PORTALES SITE.

ZONING

~~1. Development shall be in substantial conformance with the development program (including site plan, architectural concept, square footages, and use ratios) submitted as part of the application. The applicant shall submit a revised Development Plan which reflects the stipulations. If the plan requires significant modification in recognition of non-participating properties, the modified plan shall be approved through the public hearing process. However, in no case shall the total gross floor area exceed that which is reflected on the applicant's plan. If a non-participatory property remains at the time of development of an affected phase, the square footage of that phase shall be reduced by the amount of non-participatory property. If building permits have not been issued and on-site construction has not begun within 24 months from the date of approval, the plan shall lapse and be of no further effect unless for sufficient cause a time extension is obtained by the applicant. The City Council may extend the period for the beginning of construction. Upon the lapse of the approved Development Plan, the zoning shall revert to its former classification without legislative action.~~

2. **CONFORMANCE TO DEVELOPMENT SUBMITTAL. DEVELOPMENT OF THIS PORTION OF THE "PORTALES" SITE SHALL BE IN CONFORMANCE WITH THE SITE PLAN AND DEVELOPMENT PROGRAM SUBMITTED BY JEFF SCHWARTZ, THE EMPIRE GROUP AND DATED 6 JANUARY 2000. THESE STIPULATIONS TAKE PRECEDENCE OVER THE ABOVE-REFERENCED SITE PLAN AND DEVELOPMENT PROGRAM. ANY PROPOSED SIGNIFICANT CHANGE, AS DETERMINED BY THE ZONING ADMINISTRATOR, SHALL BE SUBJECT TO SUBSEQUENT PUBLIC HEARINGS BEFORE THE PLANNING COMMISSION AND CITY COUNCIL.**

3. **CONFORMANCE TO AMENDED DEVELOPMENT STANDARDS. DEVELOPMENT OF THIS PORTION OF THE "PORTALES" SITE SHALL BE IN CONFORMANCE WITH THE AMENDED DEVELOPMENT STANDARDS DATED 24 NOVEMBER 1999 AND ATTACHED. ANY CHANGE TO THE DEVELOPMENT STANDARDS SHALL BE SUBJECT TO SUBSEQUENT PUBLIC HEARINGS BEFORE THE PLANNING COMMISSION AND CITY COUNCIL.**

~~4. The phasing plan shall be approved by the Development Review Board. First phase improvements shall include the following:~~

~~a. couplet with associated infrastructure (including underpasses)~~
~~b. perimeter streets~~
~~c. perimeter buffers and streetscapes~~
~~d. termination of Highland west of the couplet~~
~~e. first phase of the approved Automated Pedestrian Conveyance System~~

ATTACHMENT A

APPROVED
2/1/00
INITIALS

5. Office retail development shall not exceed 300,000 square feet prior to construction of the hotel.

6. The Development Review Board shall pay particular attention to the following:

   a. architectural compatibility between phases
   b. internal and external pedestrian linkages (locations, widths, and design)
   c. design criteria set forth in Section 1.403, L, M, and N of the on-site and off-site Zoning Ordinance
   d. perimeter dense landscape buffers and streetscape

~~7. The development standards shall be modified in substantial conformance with the plan submitted as part of the application.~~

~~8. A noise abatement study shall be submitted with recommended design solutions to mitigate couplet impact to the residential area to the west.~~

~~9. Prior to any application for Development Review Board approval, the applicant shall submit for City Council approval a formalized concept for pedestrian linkages including an "automated pedestrian conveyance system." The concept shall reflect the connection between the subject property and Fashion Square in the first phase with the ability to expand the system in the future to also interconnect the Safari Resort, Sunburst Resort, Camelview Plaza, the China Inn property, Fifth Avenue, and other adjacent areas. The system shall be designed to promote pedestrian movement between the reference properties without interfering with vehicular traffic.~~

WASTEWATER

~~UTILTIES~~

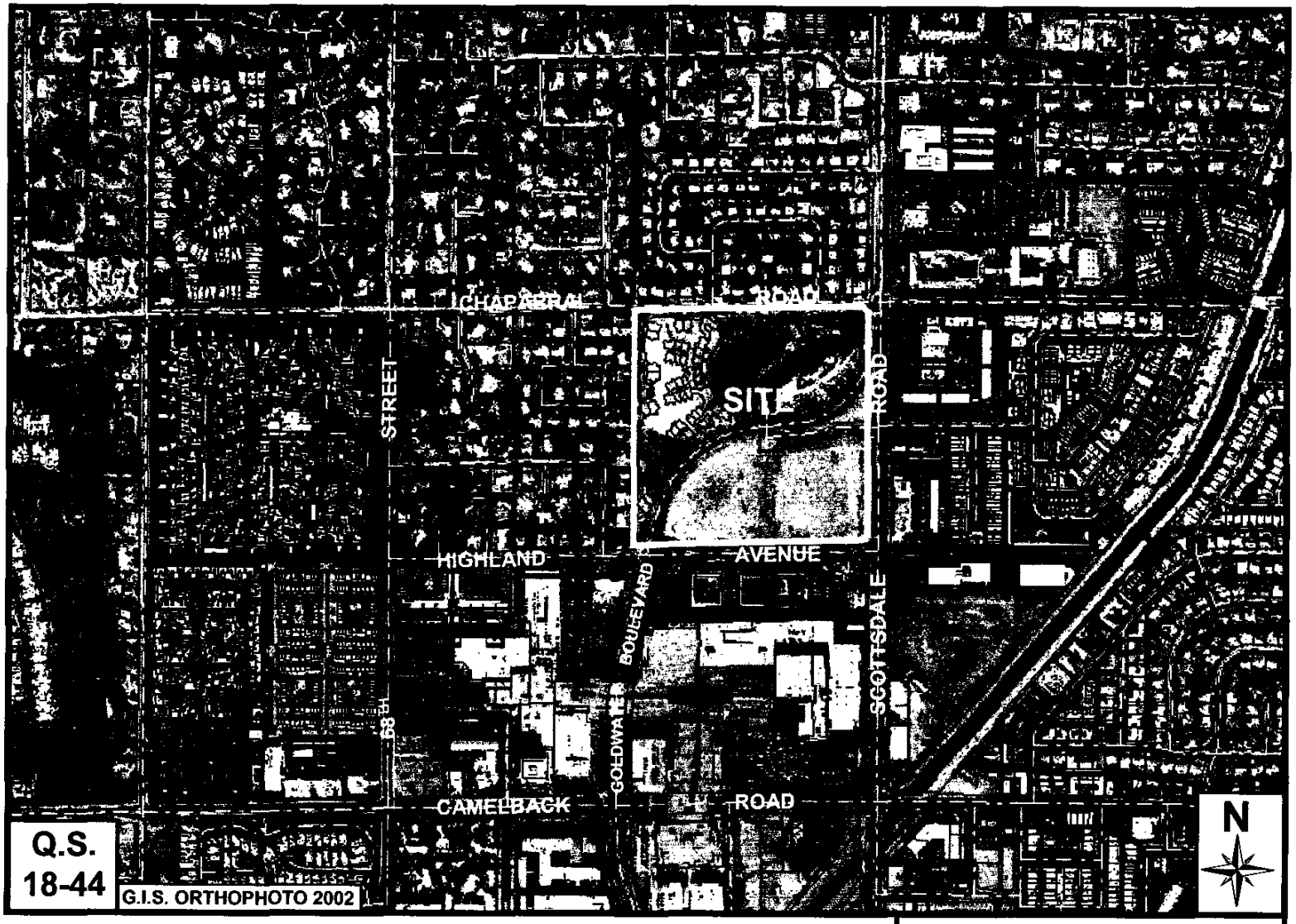
~~1. The applicant shall provide an approved Master Wastewater Plan and Report. The report shall not only demonstrate how the wastewater system will be developed and integrated with the City's system, but how the City's system will be able to handle the additional load which the development will impose on the trunk interceptor under Miller Road. The staff believes that the interceptor does not currently have the capacity of this additional load. A study of the downtown sewer needs is being prepared which will identify the participatory responsibilities of this development. Said Master Plan and Report shall be prepared by a registered professional engineer licensed in the State of Arizona. The applicant's Mater Wastewater Plan shall include but not necessarily be limit to:~~

~~1) Location and size of all necessary wastewater/sewer facilities~~

~~2) A timetable specifying the time and responsible party for construction on the necessary wastewater facilities.~~

~~3) Necessary calculations to substantiate line sizes.~~

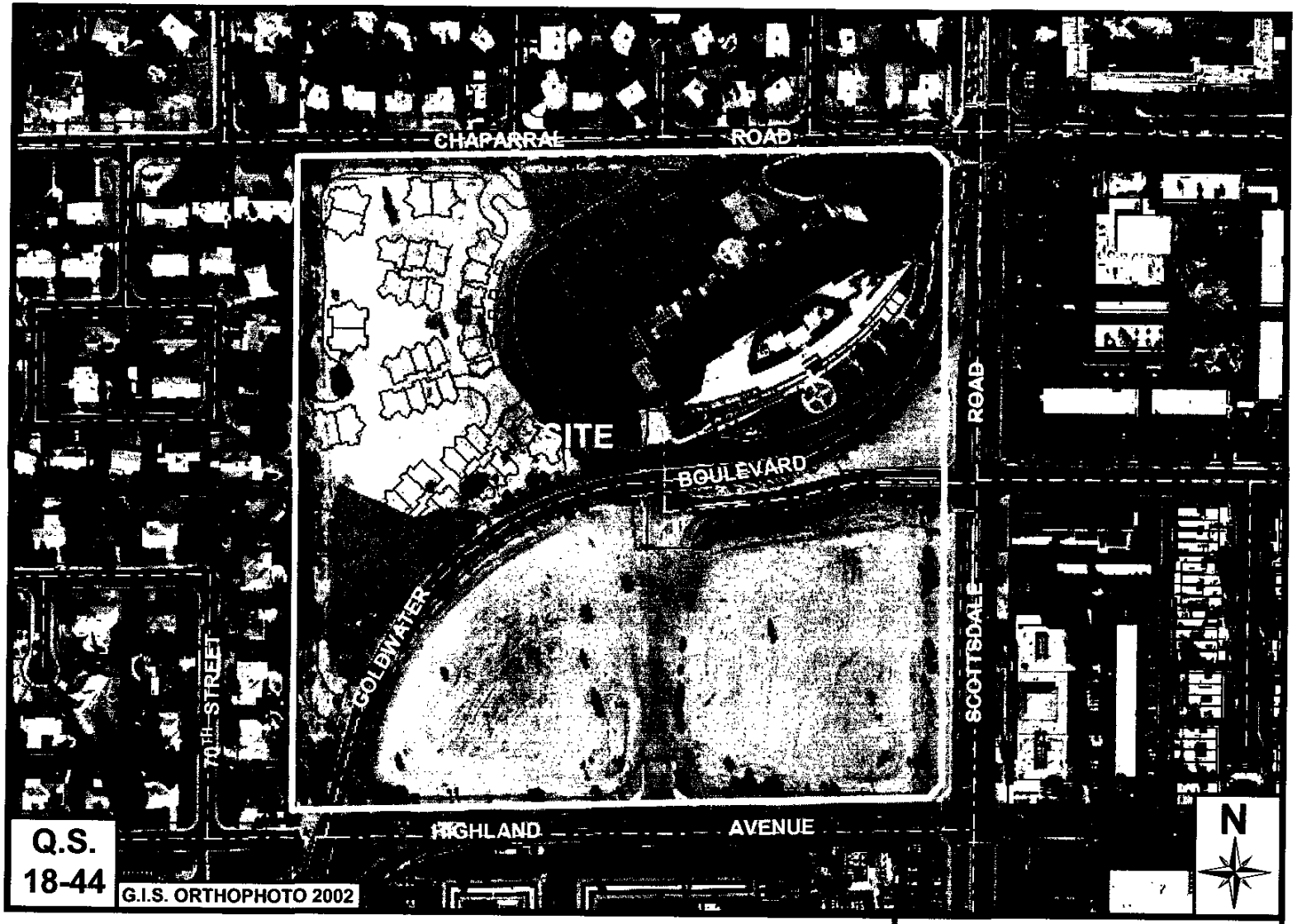
APPROVED
2/1/01 LP
DATE INITIALS



Portales

76-ZN-1985#4

ATTACHMENT #2

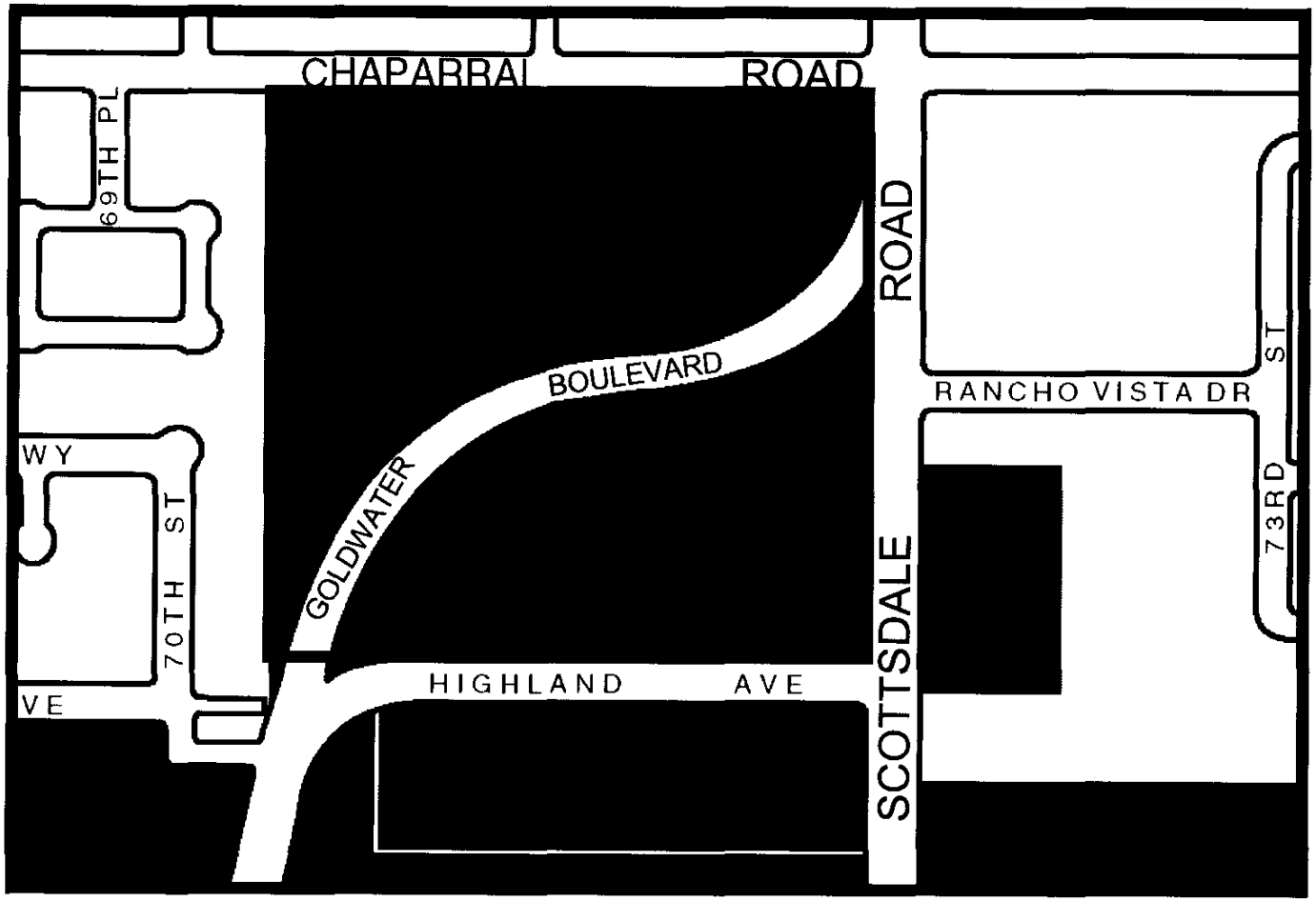


Portales

76-ZN-1985#4

ATTACHMENT #2A

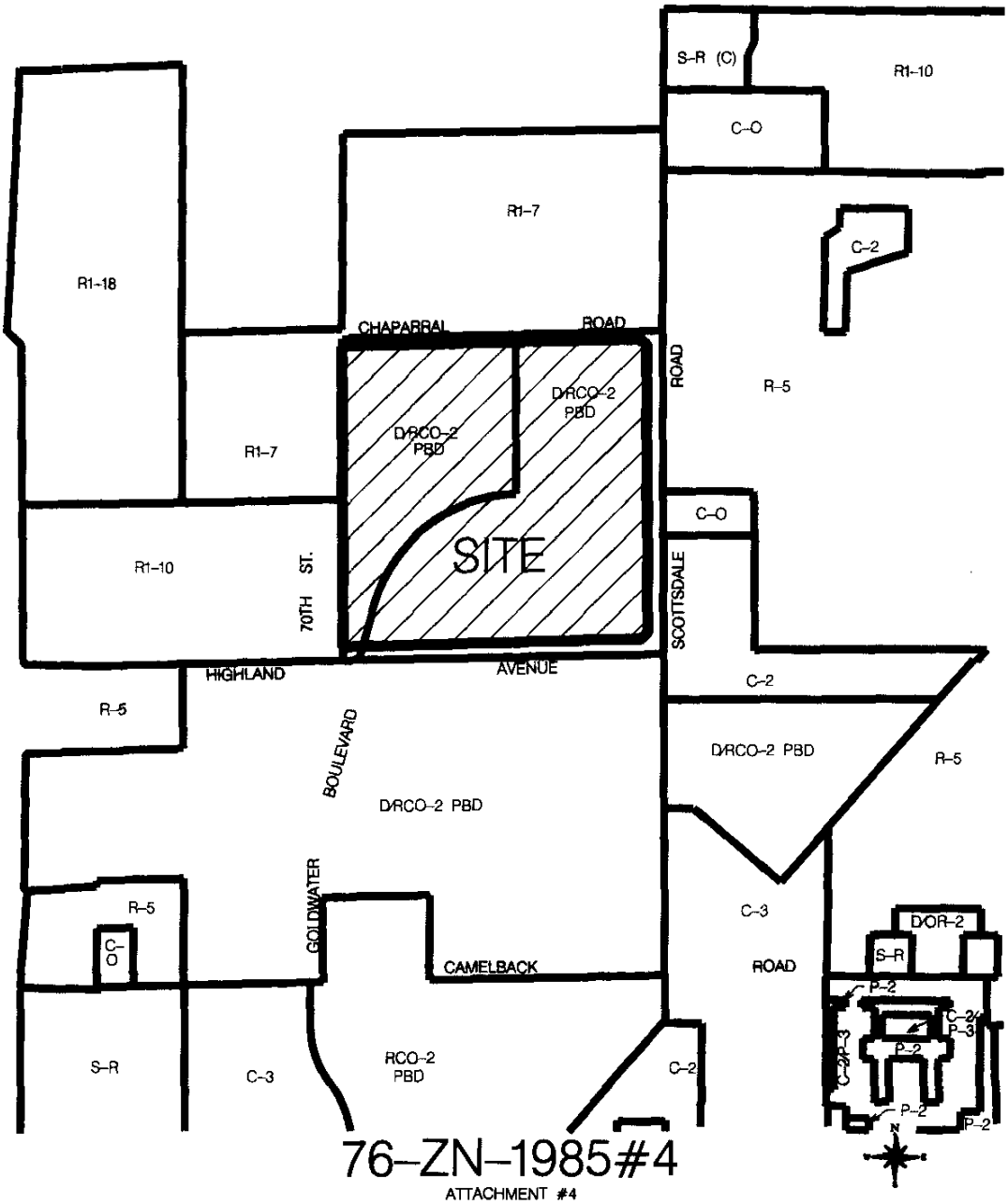
Downtown General Plan



- Retail Specialty
- Office Commercial
- Civic Center
- Office Residential
- Residential/Hotel
- Regional Commercial/Office
- Residential High Density
- Medical

N

76-ZN-1985#4
ATTACHMENT #3



76-ZN-1985#4

ATTACHMENT #4

STIPULATIONS FOR CASE 76-ZN-1985#4

ZONING

1. CONFORMANCE. Development shall be in substantial conformance with the development program (including site plan, architectural concept, square footages, and use ratios) submitted as part of the application. The applicant shall submit a revised Development Plan, which reflects the stipulations. If the plan requires significant modification in recognition of non-participating properties, the modified plan shall be approved through the public hearing process. However, in no case shall the total gross floor area exceed that which is reflected on the applicant's plan. If a non-participatory property remains at the time of development of an affected phase, the square footage of that phase shall be reduced by the amount of non-participatory property. If building permits have not been issued and on-site construction has not begun within 24 months from the date of approval, the plan shall lapse and be of no further effect unless for sufficient cause a time extension is obtained by the applicant. The City Council may extend the period for the beginning of construction. Upon lapse of the approved Development Plan, the zoning shall revert to its former classification without legislative action.

2. PHASING. The phasing plan shall be approved by the Development Review Board. First phase improvements shall include the following:

    a. Couplet with associated infrastructure (including underpasses)
    b. Perimeter streets
    c. Perimeter buffers and streetscapes
    d. Termination of Highland west of the couplet
    e. First phase of the approved Automated Pedestrian Conveyance System

    First phase improvements shall be assured by providing a letter of credit or cash deposit. A Certificate of Occupancy shall not be issued prior to approval and acceptance of required first phase improvements. The timing for construction of subsequent phases shall be in part contingent upon the completion of the couplet to Camelback Road through Fashion Square and Camelview Plaza. Prior to the final office phase, construction shall have commenced on the condominium phase.

~~3. Office/retail development shall not exceed 300,000 square feet prior to construction of the hotel.~~

~~4~~3. DEVELOPMENT REVIEW BOARD. The Development Review Board shall pay particular attention to the following:

    a. Architectural compatibility between phases
    b. Internal and external pedestrian linkages (locations, widths, and design)
    c. Design criteria set forth in Section 1.403, L, M, and N of the on-site and off-site Zoning Ordinance
    d. Perimeter dense landscape buffers and streetscape

~~5~~ 4. DEVELOPMENT STANDARDS. The development standards shall be modified in substantial conformance with the plan submitted as part of the application.

~~6~~ 5. NOISE ABATEMENT. A noise abatement study shall be submitted with recommended design solutions to mitigate couplet impact to the residential area to the west.

ATTACHMENT #5

UTILITIES

1. The applicant shall provide an approved Master Wastewater Plan and Report. The report shall not only demonstrate how the wastewater system will be developed and integrated with the City's system but how the City's system will be able to handle the additional load which the development will impose on the trunk interceptor under Miller Road. The staff believes that the interceptor does not currently have the capacity for this additional load. A study of the downtown sewer needs is being prepared which will identify the participatory responsibilities of this development. Said Master Plan and Report shall be prepared by a registered professional engineer licensed in the State of Arizona. The applicant's Master Wastewater Plan shall include but not necessarily be limited to:

    1) Location and size of all necessary wastewater/sewer facilities.

    2) A timetable specifying the time and responsible party for construction on the necessary wastewater facilities.

    3) Necessary calculations to substantiate line sizes.

    4) Integration of Master Wastewater Plan with the City's Wastewater Master Plan.

2. The applicant shall provide a copy of the Master Water Plan and Report which has been submitted to and approved by the City of Phoenix to allow the addition of this development to its water system.

3. The applicant shall provide an approved Master Grading and Drainage Plan and Report prepared in accordance with the City's design procedures and criteria. In addition to the hydrologic data needed to describe the stormwater runoff conditions affecting the property, the plan and report shall describe:

    1) Phasing of on-site grading and construction and of the construction of streets, storm drains, detention/retention basins, and other facilities which will influence stormwater runoff.

    2) Measures necessary to provide protection from damage caused by storm water runoff and to limit erosion and sediment deposition problems during development phasing.

    3) Preliminary design of all storm drains showing planned improvements.

    4) Location and volume requirements for any storm drainage retention/detention facilities to be provided and the identification of areas to be served by each facility.

    5) Identification of persons or agencies responsible for the construction of each facility which will manage stormwater runoff or re-direct its flow.

    6) Locations for the stockpiling or disposal of excavated material.

CIRCULATION

1. Dedication of the following street right-of-way shall be made within 6 months of City Council approval:

Street	Right-of-Way Width
Couplet	65' (full-street)
Scottsdale	65' (half-street)

Highland	45' (half-street) to 90' (full-street)
Chaparral	30' (half-street)

2. A 1' VNE (vehicular non-access easement) shall be provided along street frontage except at approved driveway locations.

3. The applicant shall be responsible for the design and construction of traffic signals at the following intersections:

Signals	Participation
Scottsdale/Chaparral	100%
Scottsdale/Rancho Vista	100%
Scottsdale/Highland	100%
Highland/Project Entry	100%

4. The applicant shall be responsible for the funding of the construction of one auxiliary turn lane in each of the four travel directions at the intersection of the Couplet and Camelback Road.

5. The design speed of the west couplet shall be 40 miles per hour. All access to the couplet shall be designed accordingly.

6. Highland Avenue shall not intersect the couplet from the west. This applicant shall be responsible for terminating Highland Avenue at 70th Street and revegetation of the affected area as approved by the Development Review Board.

7. Prior to dedication of required right-of-way, all unnecessary existing right-of-way shall be abandoned and all unnecessary easements shall be released. Application for such abandonment and release shall be the responsibility of the applicant. Legal access shall be provided to non-participating properties.

8. Highland Avenue shall consist of a two-way, five lane street connecting Scottsdale Road and the west couplet. The entrance to the site from Highland shall be a 90-degree intersection. The intersection of Highland Avenue and the west couplet shall be a "T" intersection with no east approach.

9. The only direct access to Chaparral Road shall align with 71st Place. The intersection shall be designed to preclude left turn exits.

TO: Scottsdale Portales Area Neighbors

FROM: Paul Barker and Rob Ryan
Forum Capital, LC

DATE: February 5, 2003

RE: Scottsdale Portales; Zoning Stipulation No. 3 (case 519-PA-02) and Decorative Lighting (case 23-SA-2003)

Dear Neighbors:

When the zoning for the Scottsdale Portales was approved in 1985, additional hotel rooms were needed and desired in the Downtown Scottsdale area. Additional hotel rooms in the Downtown area were so desired by the City in 1985 that Portales Zoning Stipulation No. 3 calls for construction of a hotel at the Portales prior to office/retail development exceeding 300,000 sq. ft. Since 1985, the City has achieved (or over –achieved) its desire for additional hotel rooms in the Downtown area. In fact, the City's Economic Vitality Office's "Scottsdale Hotel Market Overview" acknowledges that Downtown Scottsdale has an abundant number of hotel rooms, substantial vacancies, and significantly reduced bed tax revenues- all of which was weakened further by the events of September 11, 2001, and will be further challenged by the 2002 openings of 1,700± new upper/moderate resort rooms in Northeast Phoenix at the Westin Kierland and Marriott Desert Ridge Hotels. In short, the City of Scottsdale and its existing hoteliers certainly do not currently need additional hotel rooms in the Downtown area.

Stipulation No. 3 was well intentioned in 1985. However, many things have changed since 1985. Therefore, although we do not want to eliminate "hotel" as a land use at the Portales, we do want to delete Stipulation No. 3, which is (under current circumstances) an inappropriate "timing" Stipulation.

We have filed an Application (519-PA-02) with the City requesting the deletion of Stipulation No. 3. Our Application will be reviewed by City Staff and heard by the Planning Commission and City Council. Although we do not yet have the dates of those Hearings, the dates, times, and locations of the Planning Commission and City Council Hearings will be posted on the Portales site. We believe that our Application is fair and simply makes good sense under today's circumstances.

Additionally, we have also filed an Application (23-SA-2003) to the City of Scottsdale to install decorative soft lighting on the Palm Trees along the corner of Scottsdale Road and Chapparal Rd. We believe the addition of these lights would soften the appearance of the building at night, by drawing attention to the Palm Trees. We would like to show you our proposed plans and also invite your comments on this matter.

We have set aside the evenings of Tuesday, February 18 at 6:00 p.m. and Tuesday, February 25 at 6:00 p.m. and invite you to join us on one of these nights for an informal neighborhood meeting to discuss our two Applications. The meetings will be held in the lobby of the Portales (Finova) office building. Please RSVP to Courteney Barker at 480-425-4600 to let us know which night you plan to attend.

If you have any questions or need additional information, please call either one of us at 480-425-4660 or visit with us at the meeting.

Thank you for your courtesy and consideration.

Very truly yours,

Paul Barker and Rob Ryan

ATTACHMENT #6

FirstName	LastName	Address1	City	State	PostalCode
		Pkwy			
Maurice Pederson	Conn Dexter	4702 N 68th Pl	Scottsdale	AZ	85251
Brotherhood Of Man		4714 N 68th Pl	Scottsdale	AZ	85251
Kathryn	Campana	4709 N 68th Pl	Scottsdale	Az	85251
Charles & Dorothy	Sanders	4714 N 68th Way	Scottsdale	AZ	85251
Reda	Oneill	4711 N 68th Way	Scottsdale	AZ	85251
Meling	Von Hellens	6844 E Highland Ave	Scottsdale	AZ	85251
Charles & Dorothy	Saunders	4702 N 68th Way	Scottsdale	AZ	85251
Richard	Simmons	4705 N 68th Pl	Scottsdale	AZ	85251
Steve Lindley	Seville Condominiums HOA	7315 E Northland #4	Scottsdale	Az	85251
Seville East		4924 N 73rd St.	Scottsdale	AZ	85251

FirstName	LastName	Address1	City	State	PostalCode
Wilson W.	Jones	5012 North 71st Street	Scottsdale	AZ	85253-7024
Marianna F.	Brose	5016 N. 71st Street	Scottsdale	AZ	85253-7024
Christopher	Woods	PO Box 787	Menlo Park	CA	94026-0787
Joan W.	Martin	4563 E. Calle Tuberia	Phoenix	AZ	85018-3821
Roger & Joan	Martin	8100 E. Indian School Rd. 2	Scottsdale	AZ	85251-2737
H M Jr.	Steiger	7114 E. Chaparral Rd.	Scottsdale	AZ	85253-7037
Ralph	Mueller	5012 N. 71st Place	Scottsdale	AZ	85253-7026
Elizabeth P. Leonard Trust		5018 North 71st Place	Scottsdale	AZ	85253-7026
Naderer Family Living Trust		5024 N. 71st Place	Scottsdale	AZ	85253-7026
Karen M.	Tierney	7111 E. Pasadena Ave.	Scottsdale	AZ	85253-7077
Simon, Thomas & Elizabeth	Yuree	7103 E. Pasadena Ave.	Scottsdale	AZ	85253-7077
Alynne Lenore	Sorvala	7049 E. Pasadena Ave.	Scottsdale	AZ	85253-7048
Rege L. & Olga	Litton	PO Box 1114	Scottsdale	AZ	85254-1114

FirstName	LastName	Address1	City	State	PostalCode
		Paradise Pkwy			
Ronald & Beth	Harris	4739 N 70th St	Scottsdale	AZ	85251
Lauren	Daeche	4729 N 70th St	Scottsdale	AZ	85251
Elizabeth	Sodano	4719 N 70th St	Scottsdale	AZ	85251
Jami	Dettmann	4709 N 70th St	Scottsdale	AZ	85251
Audrey	Nagy	4701 N 70th St	Scottsdale	AZ	85251
James	Doane	PO Box 57	Scottsdale	AZ	85252
Philip & Glenda	Shelton	6902 E Highland Ave	Scottsdale	AZ	85251
Merilyn	Reynolds	8420 E Cactus Wren Rd	Scottsdale	AZ	85250
Charles & Ann	Bremmer	6850 E Highland AVe	Scottsdale	AZ	85251
Ralph & Elizabeth	Knotts	4724 N 69th St	Scottsdale	AZ	85251
Audrey	Hazard	4715 N 69th St	Scottsdale	AZ	85251
James & Ruth	Munier	4719 N 69th St	Scottsdale	AZ	85251
Grace	Ryan	4710 N 70th St	Scottsdale	AZ	85251
Christopher & Tracy	Bennett	4720 N 70th St.	Scottsdale	AZ	85251
Nevin & Necia	Savage	6909 E Paradise Pkwy	Scottsdale	AZ	85251
Warren	Corman	6901 E Paradis Pkwy	Scottsdale	AZ	85251
Gertrude	Steward	6851 E Paradise Pkwy	Scottsdale	AZ	85251
Herzel Jean	Nahom	6827 E Vermont Ave	Paradise Valley	AZ	85253
Ralph & Charlene	Lyons	6829 E Paradise Pkwy	Scottsdale	AZ	85251
Robert & Elizabeth	Reiling	6819 E Paradise Pkwy	Scottsdale	AZ	85251
Michael & Rita	Moretti	6801 E Paradise Pkwy	Scottsdale	AZ	85251
Jo Ann	Moretti	6801 E Paradise	Scottsdale	AZ	85251

FirstName	LastName	Address1	City	State	PostalCode
Nancy		St			
William	Barton	4801 N 69th St	Scottsdale	AZ	85251
Raimund & Agnes	Rainer	6905 E Mariposa Dr	Scottsdale	AZ	85251
Helen	Brown	6819 E Chaparral Rd	Scottsdale	AZ	85253
Marlene	Mathes	4830 N 68th Pl	Scottsdale	AZ	85251
Michael & Barbara	Oboyle	4820 N 68th Pl	Scottsdale	Az	85251
Gary	Grosch	4812 N 68th Pl	Scottsdale	AZ	85251
Carl & Willa	Nelson	17224 N 43rd Ave #109	Glendale	AZ	85308
Jane	Duckworth	4811 N 68th Pl	Scottsdale	AZ	85251
Donald & Allene	Dugan	PO Box 1266	Scottsdale	AZ	85252
Shawn & Annette	Dugan	4829 N 68th Pl	Scottsdale	AZ	85251
Tanya	Kirkpatrick	6901 E Chaparral Rd	Scottsdale	AZ	85253
Steve	Faller	6911 E Chaparral Rd	Scottsdale	AZ	85253
Stephen & Karen	Ritchie	6802 E Paradise Pkwy	Scottsdale	AZ	85251
Gary Fairbanks	Jessica Richardson	6820 E Paradise Pkwy	Scottsdale	AZ	85251
Alan	Hahn	6830 E Paradise Pkwy	Scottsdale	AZ	85251
David & Jennifer	Nore	6840 E Paradise Pkwy	Scottsdale	Az	85251
Kathryn	Ayres	6850 E Paradise Pkwy	Scottsdale	AZ	85251
Robert & June	Turner	6860 E Paradise Pkwy	Scottsdale	AZ	85251
Frederick	Dougherty	6902 E Paradise Pkwy	Scottsdale	Az	85251
Richard & Brenda	Warneka	6128 E Cactus Wren Rd	Paradise Valley	AZ	85253
Cindy Sue	Langdell	6920 E	Scottsdale	AZ	85251

FirstName	LastName	Address1	City	State	PostalCode
Verna Lucy	Perry	6921 E Chaparral Rd	Scottsdale	AZ	85253
Richard	Sorgen	6915 E Chaparral Rd	Scottsdale	AZ	85253
Herbert & Barbara	Shofe	6909 E Chaparral Rd	Scottsdale	AZ	85253
Thomas	Jacobs	6916 E Mariposa Dr	Scottsdale	AZ	85251
Barry & Chelsea	Lewis	6908 E Mariposa Dr	Scottsdale	AZ	85251
Daniel & Donna	Mara	4826 N 69th St	Scottsdale	AZ	85251
Walter & Catherine	Hicks	4822 N 69th St	Scottsdale	AZ	85251
LF Tr	Thurman	4814 N 69th St	Scottsdale	Az	85251
Marsha	Stanley	4808 N 69th St	Scottsdale	AZ	85251
Kristi	Koonce	1322 W Stottler Dr.	Chandler	AZ	85224
Keith	Pendergraft	6911 E Rancho Vista Dr	Scottsdale	AZ	85251
William & Jean	Boland	6923 E Rancho Vista Dr	Scottsdale	AZ	85251
Fred	Dougherty	6925 E Rancho Vista Dr	Scottsdale	AZ	85251
John	Larson	6931 E Rancho Vista Dr	Scottsdale	AZ	85251
Robert	Crompton	4807 N 70th St	Scottsdale	AZ	85251
Carlos & Maria	Turak	4715 N 70th St	Scottsdale	AZ	85251
Don & Geraldine	Miller	4721 N 70th St	Scottsdale	AZ	85251
John & Marion	Wright	4825 N 70th St	Scottsdale	AZ	85251
James & Jean	Toye	6930 E Mariposa Dr	Scottsdale	Az	85251
Jeff	Sidles	6924 E Mariposa Dr	Scottsdale	Az	85251
Barbara	Bouchard	6929 E Mariposa Dr	Scottsdale	AZ	85251
Danny &	Parks	4814 N 70th	Scottsdale	AZ	85251

FirstName	LastName	Address1	City	State	PostalCode
		Pasadena Ave.			
Michael A.	Covington	7050 E. Pasadena Ave.	Scottsdale	AZ	85253-7049
Ronald & Elisabeth	Erickson	PO Box 8756	Aspen	CO	81612-8756
Dean & Tricia	Wauson	7110 E. Pasadena Ave.	Scottsdale	AZ	85253-7076
Joanne M.	Hayward	7114 E. Pasadena Ave.	Scottsdale	AZ	85253-7076
Larry & Judy	Felder	7120 E. Pasadena Ave.	Scottsdale	AZ	85253-7078
Donald & Patricia	Badenoch	5027 N. 71st Place	Scottsdale	AZ	85253-7025
William & Susan	Wall	786 Honey Creek Rd.	Ann Arbor	MI	48103-1638
Robert & Paulette	Fesler	5017 N. 71st Place	Scottsdale	AZ	85253-7025
Gilbert D.	Ortega	7501 E. Jackrabbit Rd.	Scottsdale	AZ	85250-6435
Gilbert	Ortega	6208 N. Scottsdale Rd.	Scottsdale	AZ	85253-5422
John & Adelia	Marzek	7124 E. Chaparral Rd.	Scottsdale	AZ	85253-7053
James K.	Doane	PO Box 57	Scottsdale	AZ	85252-0057
Pearl D.	Pegler	6122 E. Naumann Dr.	Paradise Valley	AZ	85253
Gompers Memorial Rehabilitation		3501 W. Osborn Rd.	Phoenix	AZ	85019-4034
Jeffrey	Schwimmer	4841 N. 68th St	Scottsdale	AZ	85251
Stacy	Garn	4839 N 68th St	Scottsdale	AZ	85251
James & Donna	Mullin	9455 N Fairway Dr	Milwaukee	WI	53217
Frederick	Dettmann	4801 N 68th St	Scottsdale	AZ	85251
Natalie	Yohler	6939 E Chaparral Rd	Scottsdale	AZ	85253
Francis	Beagureau	6929 E Chaparral Rd	Scottsdale	AZ	85253
John & Lois	Neillie	6925 E Chaparral Rd	Scottsdale	AZ	85253

FirstName	LastName	Address1	City	State	PostalCode
Susan M.		Raintree Dr.			
Robert C. & Alice L.	Defriese	7117 E. Orange Blossom Ln.	Scottsdale	Az	85253-7044
Toussaint Trust		7107 E. Orange Blossom Ln.	Scottsdale	AZ	85253-7044
Sue Ann	Dines	7107 E. Orange Blossom Ln.	Scottsdale	AZ	85253-7044
Anneliese E.	Grossman	2818 E. Pinchot Ave.	Phoenix	AZ	85016-7508
Joey D.	Petelle	7041 E. Orange Blossom Ln.	Scottsdale	AZ	85253-7042
Carlos A. & America G.	Jarava	2151 W. Thunderbird Rd.	Phoenix	AZ	85023-6003
Shannon Michel	Steiger	7029 E. Orange Blossom Ln.	Scottsdale	AZ	85253-7042
Frank J.	Demeter Jr.	4435 N. 78th St. 286A	Scottsdale	AZ	85251-2538
John B.	Peters	7017 E. Orange Blossom Ln.	Scottsdale	AZ	85253-7042
James K.	Doane	PO Box 57	Scottsdale	AZ	85252-0057
Matthew Anthony	McDonald	5029 N. 70th St.	Scottsdale	AZ	85253-7038
Jack	Bramble	7018 E. Pasadena Ave.	Scottsdale	AZ	85253-7049
Ditta M.	Hoffelner	PO Box 5836	Scottsdale	AZ	85261-5836
Gregory B.	Russell	7026 E. Pasadena Ave.	Scottsdale	AZ	85253-7049
Tide Litton &	Olga Rege	7028 E. Pasadena Ave.	Scottsdale	AZ	85253-7049
June Mary	Provinzano	7032 E. Pasadena Ave.	Scottsdale	AZ	85253-7049
Ronald L. & Suzanne S.	Dawson	7038 E. Pasadena Ave.	Scottsdale	AZ	85253-7049
Jonathan F.	Henderson	7044 E.	Scottsdale	AZ	85253-7049

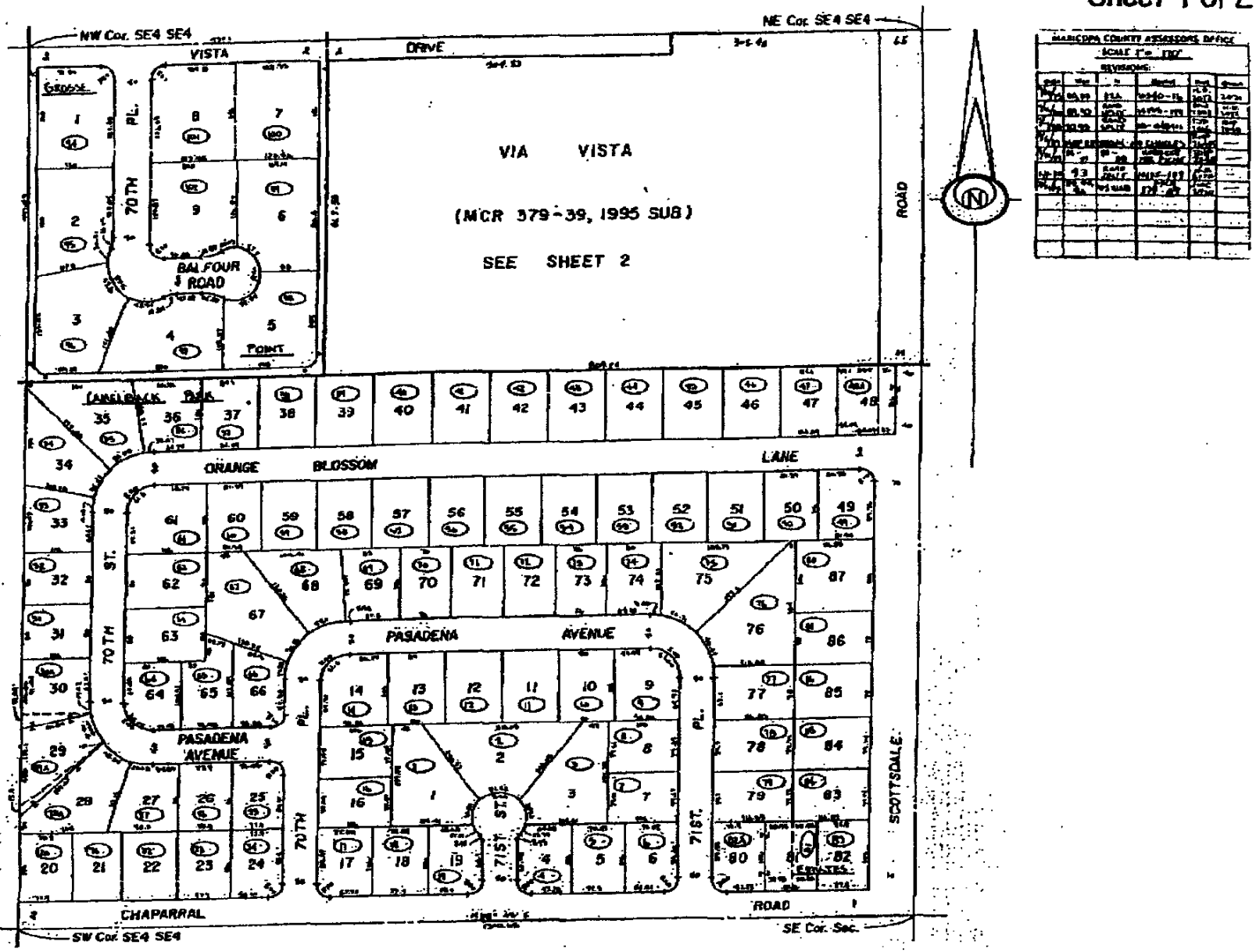
FirstName	LastName	Address1	City	State	PostalCode
Roger A.	Cox	7014 E. Orange Blossom	Scottsdale	AZ	85253-7043
The Bedford Family Trust		7018 E. Orange Blossom	Scottsdale	AZ	85253-7043
Patricia Ann	Beaty	7024 E. Orange Blossom	Scottsdale	AZ	85253-7043
Pamela	Till	7030 E. Orange Blossom	Scottsdale	AZ	85253-7043
Madeline L.	Finney	7036 E. Orange Blossom Lane	Scottsdale	AZ	85253-7043
Robert Tripi	Lisa Cole	7042 E. Orange Blossom Ln.	Scottsdale	AZ	85253-7043
Janice M.	Summa	7048 E. Orange Blossom Ln.	Scottsdale	AZ	85253-7043
Neil E.	Midler	7102 E. Orange Blossom Ln.	Scottsdale	AZ	85253-7045
William A.	Cote	7108 E. Orange Blossom Ln.	Scottsdale	AZ	85253-7045
Mitzi Lanahan	McKibben	501 W. 13th St.	Tempe	AZ	85281-6420
George A. & Robin	Gantous	6541 N. Tatum Blvd.	Scottsdale	AZ	85253-4005
Kathryn Sue	Nedley	7126 E. Orange Blossom Ln.	Scottsdale	AZ	85253-7045
William P.	Clarkson	7132 E. Orange Blossom Ln.	Scottsdale	AZ	85253-7045
Don	Smith	5036 N. Scottsdale Rd.	Scottsdale	AZ	85253-7002
Wallace S.	Tuttle	13039 N. 63rd St.	Scottsdale	AZ	85254-3815
Carolyn A.	Mackel	7129 E. Orange Blossom Ln.	Scottsdale	AZ	85253-7044
William T. &	Riegel	9259 E.	Scottsdale	AZ	85260-7520

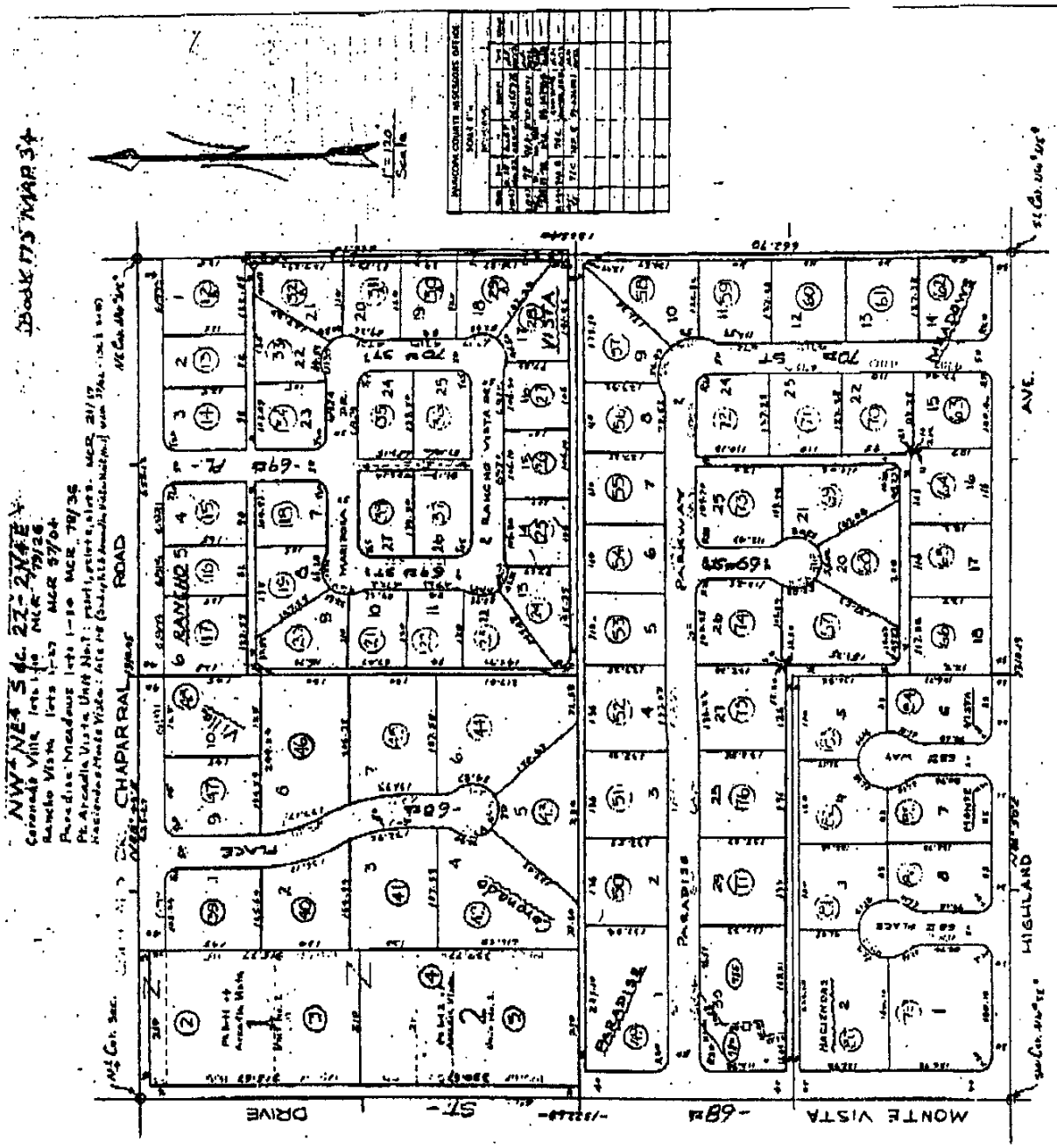
FirstName	LastName	Address1	City	State	PostalCode
H M	Steiger Jr.	180 Crosby Blvd.	Buffalo	NY	14228-3248
Nancy N.	Danker	104 David Dr.	Moraga	CA	94556-2708
Allison Family Trust		5011 N. 70th Place	Scottsdale	AZ	85253-7018
Katherine H Tr	Krichbaum	7036 E. Chapparal Rd.	Scottsdale	AZ	85253-7064
Dennis O.	Dugan	7040 E. Chaparral Rd	Scottsdale	AZ	85253-7064
Mary L. & Viola A.	Klasek	7046 E. Chaparral Rd.	Scottsdale	AZ	85253-7064
Brian N.	O'Keefe	7002 E. Chaparral Rd.	Scottsdale	AZ	85253-7035
Mark Leslie	Cox	7008 E. Chaparral Rd.	Scottsdale	AZ	85253-7035
The Rendon Family Trust		7014 E. Chaparral Rd.	Scottsdale	AZ	85253-7035
Lynn D.	McKinney	7020 E. Chaparral Rd.	Scottsdale	AZ	85253-7035
Richard S.	Marecek	8836 E. Windrose Dr.	Scottsdale	AZ	85260-4580-
Nancy & Jerome Stucen	Champlin	7025 E. Pasadena Ave.	Scottsdale	AZ	85253-7048
Shawn	Bucher	7037 E. Pasadena Ave.	Scottsdale	AZ	85253-7048
M. Elinor Mavor Trust		7015 E. Pasadena Ave.	Scottsdale	AZ	85253-7048
Donald J. Ziriax Trust		7009 E. Pasadena Ave.	Scottsdale	AZ	85253-7048
Robert L.	Cooper	5020 N. 70th Street	Scottsdale	AZ	85253-7020
Catherine E.	Schaffer	5024 N. 70th St.	Scottsdale	AZ	85253-7020
Robert C. & Diane D.	Berg	4645 N. 32nd St. #100	Phoenix	AZ	85018-3308
William R. & Mary P.	Clardy	5036 N. 70th St.	Scottsdale	AZ	85253-7020
Dusty & Sharon L.	Johnson	5042 N. 70th St.	Scottsdale	AZ	85253-7020
Leslie S. & Lilli K	Grant	5046 N. 70th St.	Scottsdale	AZ	85253-7020

SE4 SE4 Sec. 15-T2N R4E

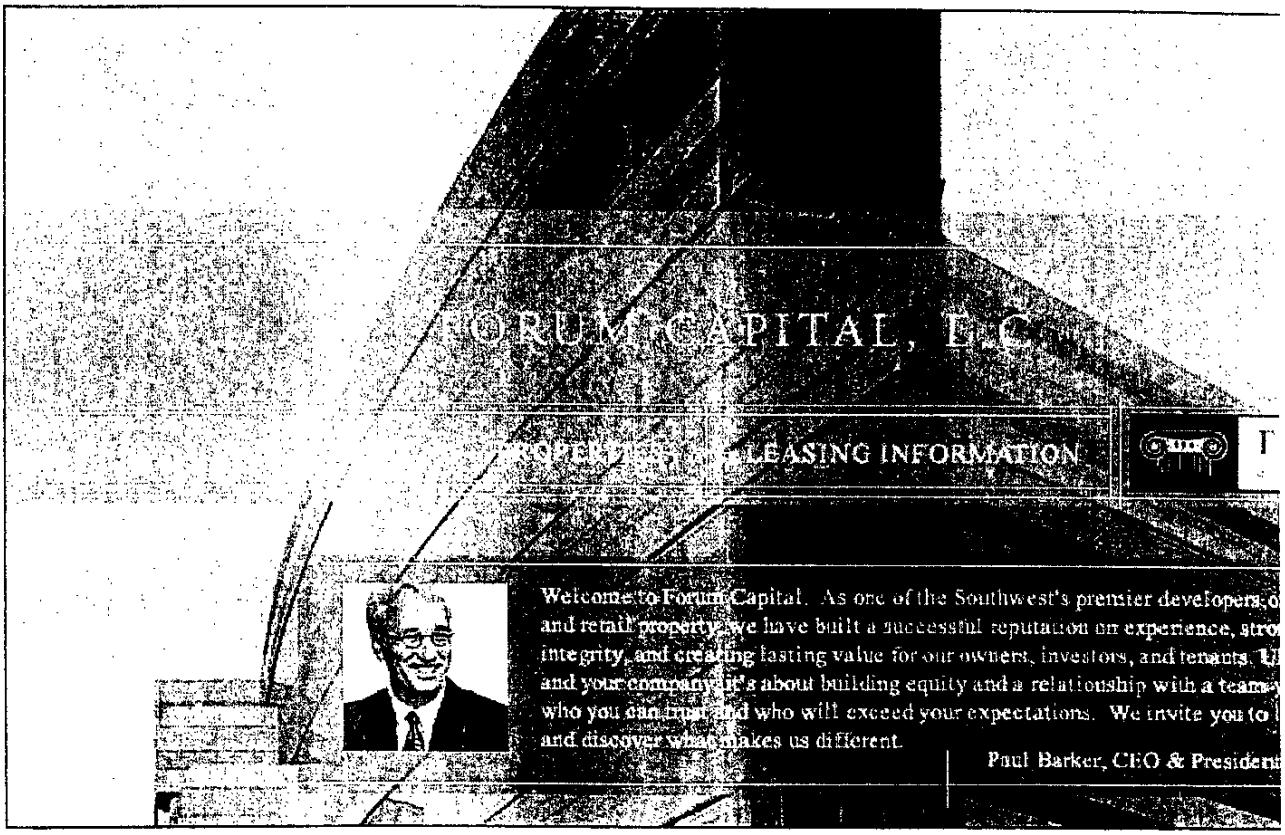
CAMELBACK PARK ESTATES (MCR 50-25)
GROSSE POINT (MCR 75-16)

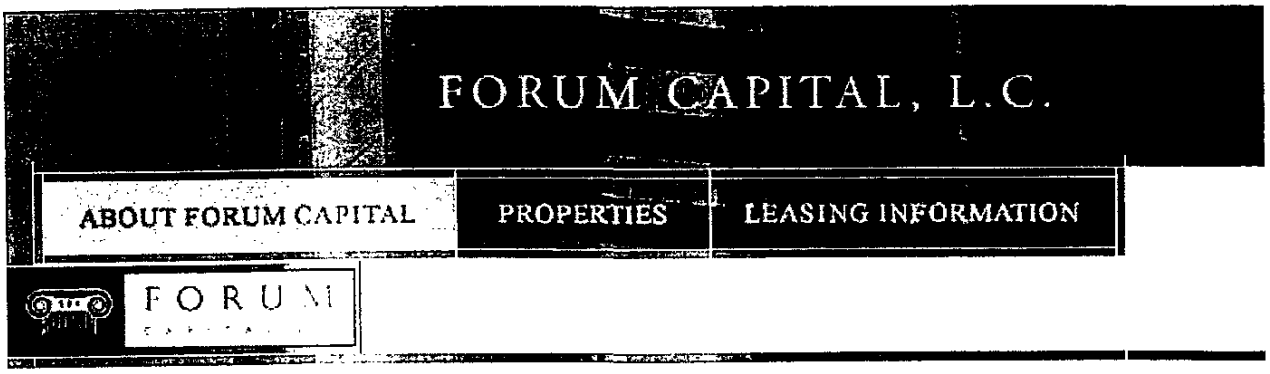
Book 173
Map 22
Sheet 1 of 2




Book 173 Map 34
NW¼ NE¼ Sec. 22-2N-4E
Colorado Vista Lots 1-10 MCR 79/26
Rancho Vista Lots 1-33 MCR 97/04
Paradise Meadows Lots 1-10 MCR 79/35
Pt. Arcadia Vista Unit No. 1 part 1, part 2, Lots 1-10 MCR 21/17
Haciendas Hills Vista Lots 1-10 MCR 21/17
1" = 120' Scale
CHAPARRAL ROAD
RANCHO VISTA
PARADISE PARKWAY
MONTE VISTA
HIGHLAND AVE.
DRIVE
ST.
PLACE
PARADISE
HACIENDAS
70th ST
69th
68th

Community News | Scottsdale Portales Neighborhood Meetings Scheduled **Posted Feb 6, 2003**





Corporate Info
- Leasing & Marketing
- Property Management
- Construction Management
- Securing Strategic Financing

Community News

Contact Information

Community News

Scottsdale Portales Neighborhood Meetings Scheduled
Posted February 6, 2003

There will be two neighborhood meetings regarding the Scottsdale Portales.

When

- Tuesday, February 18, 2003
- Tuesday, February 25, 2003

Where

- Portales (FINOVA) Corporate Center
  4800 N. Scottsdale Rd.
  Scottsdale, AZ
  (Main Lobby)

Please plan to attend one of these meetings, whichever is convenient with your schedule. The content of both meetings will be the same. The issues to be discussed relate to Zoning Stipulation No. 3 (Case 519-PA-02) and Decorative Site lighting (Case 23-SA-2003).

Additional Information

- View Letter to Scottsdale Portales Area Neighbors
  (Word Document)
  Regarding: Scottsdale Portales; Zoning Stipulation No. 3 (case 519-PA-02) and Decorative Lighting (case 23-SA-2003)

Should you have any questions or need additional information prior to the meeting, please contact us. Our main telephone number is 480-425-4600. We look forward to seeing you in a couple of weeks.

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Anchor Forum Portales I, LLC owners of the Portales Development are submitting an application (Case 519-PA-02) to the City of Scottsdale to remove a zoning stipulation on the Portales property. The property (16.56 acres) has a stipulation which requires additional hotel rooms to be built into a currently over saturated hotel market prior to office/retail development in excess of 300,000 square feet. We will be convening neighborhood meetings on the evenings of Feb. 18th at 6:00 pm and Feb. 25th at 6:00 pm at the Portales (Finova) Office Building, 4800 N Scottsdale Rd. and invite our neighbors to attend.
Please Contact Rob Ryan at 480-425-4665 for further information.
03077Z9-February 15, 2003.

THE ARIZONA REPUBLIC

STATE OF ARIZONA
COUNTY OF MARICOPA } SS.

TOM BIANCO, being first duly sworn, upon oath c
and says: That he is the legal advertising manager
Arizona Business Gazette, a newspaper of
circulation in the county of Maricopa, State of A
published at Phoenix, Arizona, by Phoenix Newspape
which also publishes The Arizona Republic, and t
copy hereto attached is a true copy of the adverti
published in the said paper on the dates as indicated.

The Arizona Republic/Zone 9

2/15/2003

Sworn to before me this
19TH day of
February A.D. 2003

MARILYN GREENWOOD
NOTARY PUBLIC-ARIZONA
MARICOPA COUNTY
My Comm. Expires May 23, 2003

THE Tribune

Legal Advertising

120 W. First Avenue N

Phone(480) 898-6826, Fa

Affidavit of Pub

Account Number: 2262075

P.O. Number: NOTICE PORTALES DEVELOPMI

Invoice Number: 389467

Price: $252.73
STATE OF ARIZONA
County of Maricopa

I, Marie Gerz-Lilley, Legal Clerk, acknowledge that newspaper of general circulation. The dates of the FEBRUARY 15, 2003

The Tribune (East Valley & Scottsdale Editions)

Legal Clerk

STATE OF ARIZONA
COUNTY OF MARICOPA

On FEBRUARY 15, 2003, Marie Gerz-Lilley perso know personally to be the person who signed the he/she signed it.

"Anchor Forum Portales I, LLC owners of the Portales Development are submitting an application (Case 519-PA-02) to the City of Scottsdale to remove a zoning stipulation on the Portales property. The property (16.56 acres) has a stipulation which requires additional hotel rooms to be built into a currently over saturated hotel market prior to office/retail development in excess of 300,000 square feet. We will be convening neighborhood meetings on the evenings of Feb. 18th at 6:00 pm and Feb. 25th at 6:00 pm at the Portales (Finova) Office Building, 4800 N Scottsdale Rd. and invite our neighbors to attend.

Please Contact Rob Ryan at 480-425-4665 for further information."

February 15, 2003

CASE NO: 519-PA-02 / 23-SA-2003
PROJECT LOCATION: Scottsdale Portales

COMMUNITY INPUT CERTIFICATION

It is valued in the City of Scottsdale that all applicants for rezoning, use permit, and/or variances will inform, and will invite input from neighboring residents, affected school districts, and other parties that may be impacted by the proposed use. The applicant shall submit this completed certification with the application as verification that such contact has been made.

DATE	NAME (Person, Organization, Etc. and Address)		Type / Meeting	Of / Phone	Contact / Letter
2-18-03	DAN MARA	4826 N. 69th ST		480-675-0231	
2-18-03	Patty Badenoch	5027 N 71 Pl		949-9549	
2-18-03	Dan BADENOCH	5027 N 71st PL Ctce		949-9549	
2-18-03	BOB HAWTHORNE	LOUIE LIGHTING		480-607-0628	
2/18-03	MIKE MILLER & ANN GROSSMAN	7047 E. ORANGE BLOSSOM LN. Mail: PO Box 37142 Pltx 85069		602 9566154	
✓	Wm DANKER	5019 N. 70TH PL		480-946-0417	
2-18-03	Keith Pendergraft	6911 E Rancho Vista Dr Scottsdale Az 85251		480-481 9177	

Signature of owner/applicant

Date

CASE NO: 519-PA-02 / 23-SA-2003
PROJECT LOCATION: Scottsdale Portales

COMMUNITY INPUT CERTIFICATION

It is valued in the City of Scottsdale that all applicants for rezoning, use permit, and/or variances will inform, and will invite input from neighboring residents, affected school districts, and other parties that may be impacted by the proposed use. The applicant shall submit this completed certification with the application as verification that such contact has been made.

DATE	NAME (Person, Organization, Etc. and Address)	Type Of Contact: Meeting	Phone	Letter
2/25/03	Larry & Judy Felder			
2/25/03	Dow Badnal			

Signature of owner/applicant

Date

Early Notification of Project Under Consideration

Site Address: 4800 N. Scottsdale Rd.
Scottsdale, AZ

Project Overview: Site P roval

- Existing Zoning: D/RC
- Proposed Zoning: Same
- Acreage: Net 16.56 acres

APPLICANT CONTACT: Rob Ryan
PHONE NUMBER: 480-425-4665
PRE-APPLICATION CASE NUMBER: 519-PA-02

Case File Available at City of Scottsdale

480-312-7000

Posting Date: 01/29/03

1)

AFFIDAVIT OF POSTING
CITIZEN REVIEW PROCESS - PROJECT UNDER CONSIDERATION

CASE NUMBER: 519 PA-02

PROJECT NAME: Portales

LOCATION: 4800 N. Scottsdale Rd

SITE POSTING DATE: 1/29/03

APPLICANT NAME: Anchor Forum Portales

SIGN COMPANY NAME: Scottsdale Signs

PHONE NUMBER: 480-994-4000

I confirm that the site has been posted as indicated by the Project Manager for the case as listed above. Polaroid picture/s of site posting/s have been submitted.

Applicant Signature

2/28/03
Date

Amy Austin
Notary Public

Acknowledged before me this 28th day of February ~~2000~~ 2003

My commission expires

AMY AUSTIN
Notary Public - Arizona
Maricopa County
My Comm. Expires Jul 20, 2005

Return completed, notarized affidavit AND pictures to Community Development no later than 14 days after your application submittal.

7447 E. Indian School Road, Suite 105, Community Development
Scottsdale, AZ 85251
480-312-7000

Rev. 8/29/00 TJR/bl

AFFIDAVIT

I, Lauren E. Krueger, state and affirm the following:

1. I am the owner/manager of Scottsdale Sign LLC dba Scottsdale Sign-A-Rama, 7904 E. Chaparral Rd. Ste. A-106, Scottsdale, Arizona;

2. The attached billing statement is a contract between the Forum Capital LLC and Scottsdale Sign-A-Rama for the manufacture and installation of an Early Notification sign meeting the specifications of the City of Scottsdale;

3. I supervised the installation of this sign at 4800 N. Scottsdale Road, Scottsdale, on January 29, 2003, as shown in the attached picture.

Lauren E. Krueger

Lauren E. Krueger

STATE OF ARIZONA)
)
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 31st day of January, 2003, by Lauren Krueger.

Notary Public

SHINICA S. WISE
NOTARY PUBLIC – ARIZONA
MARICOPA COUNTY
My Commission Expires
JANUARY 20, 2006

BURCH & CRACCHIOLO, P.A.
ATTORNEYS AT LAW

MAILING ADDRESS
P.O. BOX 16882
PHOENIX, ARIZONA 85011

702 EAST OSBORN ROAD
SUITE 200
PHOENIX, ARIZONA 85014

(602) 274-7611
FAX (602) 234-0341

Edwin C. Bull
(602) 234-9913

June 13, 2003

Mayor Mary Manross
CITY OF SCOTTSDALE
3939 North Drinkwater Boulevard
Scottsdale, Arizona 85251

Re: 76-ZN-1985 #4 (Scottsdale Portales' Stipulation #3)
July 1, 2003, City Council Agenda

Dear ~~Mayor Manross~~: MARY

One of the items scheduled for your Council's July 1, 2003, Agenda is Anchor Forum's request to delete Scottsdale Portales' Zoning Stipulation #3. On behalf of Anchor Forum and SunAmerica, we ask that your Council concur with your Planning Commission's and Staff's Recommendations to delete this Stipulation.

Zoning Stipulation #3 (which was put in place in 1985) is a "timing" Stipulation that calls for hotel development prior to the development of more than 300,000 sq.ft. of office/ retail uses at the Scottsdale Portales. In 1985, additional hotel rooms were needed and desired in the Downtown area. However, since 1985, hundreds of hotel rooms have been added in the Downtown and thousands of hotel rooms have been added in surrounding areas that compete with Downtown hoteliers. Further, as confirmed by information provided by the City's Office of Economic Vitality, there is no realistic expectation that a luxury full-service hotel can be financed and built on the Portales site in the reasonably foreseeable future. And, under current conditions (even if financing and a hotelier were available) forcing additional hotel rooms into Downtown Scottsdale would further dilute the existing market and add economic hardship to existing hotel owners who are already facing significant occupancy and room rate challenges. Due to current hotel market and lending realities, Zoning Stipulation #3 is unachievable and unnecessary.

Although Zoning Stipulation #3 was well-intentioned in 1985, that Stipulation is now (unintentionally) precluding further office/retail development on the Portales site. Precluding or delaying further development of the Portales serves no beneficial purpose and is contrary to the City's Downtown development objectives. Deleting Stipulation #3 will help implement the Downtown Plan. In fact, deleting Stipulation #3 and allowing office and retail

development to occur at the Portales should help create additional demand for existing Downtown hotel rooms.

Two neighborhood meetings were held prior to the Planning Commission's Hearing. No opposition was voiced at those meetings or at the Planning Commission's Hearing, and we are not aware of any neighborhood opposition to deleting Stipulation #3.

If you have questions or need additional information, please call Paul Barker at Anchor Forum (480-425-4660), or me (602-234-9913). Otherwise, we request your Council's Approval in accordance with the Commission's/Staff's Recommendation.

Thank you.

Very truly yours,

BURCH & CRACCHIOLO, P.A.

Edwin C. Bull

ECB:b

cc: Kroy Ekblaw
Kira Wauwie
Paul Barker
Doug Tymins

5-AB-2003 (Ayoub Residence) request by Jesse McDonald, applicant, Jerry and Claudia Ayoub, owner, to abandon a portion of Mountain View Road alignment located on the north side of Mountain View Road and west of 116th Street. **Continued to June 25, 2003.**

76-ZN-1985#4 (Portales Stipulation #3) request by Anchor Forum Portales, applicant, Anchor National Life Insurance Company, owner, to delete stipulation #3 of Case 76-Z-85 on a 39.77 +/- acre parcel located at 4800 N Scottsdale Road with Downtown/Regional Commercial Office Type 2, Planned Block Development (D/RCO-2, PBD).

MS. WAUWIE presented this case as per the project coordination packet. Staff recommends approval, subject to the attached stipulations.

COMMISSIONER NELSSEN inquired why that stipulation was originally put in the agreement. Ms. Wauwie stated it is her understanding that in 1985, there was a great interest on the part of the City to have a hotel development in the downtown area and that stipulation was put in to encourage that.

COMMISSIONER HEITEL MOVED TO FORWARD CASE 76-ZN-1985#4 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY COMMISSIONER HESS.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO ZERO (0).

52-ZN-1997#2 (Osborn Commons) request by Scottsdale Osborn Holding Corporation, applicant, Dee Ann Skipton, owner, for a site plan amendment to 52-ZN-1997 on a 1.7 +/- acre parcel located at the northwest corner of Osborn Road and Bishop Lane with Downtown/Office Commercial Type 2 (D/OC-2) zoning. **Continued to June 25, 2003**

1-GP-2003 (Mirage Trail) request by Mirage Trail LLC, applicant/owner, for a General Plan amendment from Commercial to Urban Neighborhood on a 5.1 +/- acre parcel located at the southeast corner of Legend Trail Parkway and N Desert Ridge Drive.

43-ZN-1990#2 (Mirage Trail) request by Mirage Trail LLC, applicant/owner, to rezone from Central Business District, Environmentally Sensitive Lands, Hillside District (C-2, ESL, HD) to Medium-Density Residential, Environmentally Sensitive Lands (R-3, ESL) on a 5.1 +/- acre parcel located at the southeast corner of Legends Trails Parkway and N Desert Ridge Drive.

MS. WAUWIE presented cases 1-GP-2003 & 43-ZN-1990#2 as per the project coordination packet. Staff recommends approval, subject to the attached stipulations.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

TIM MONTGOMERY, 34894 N. 92nd Place, spoke in favor of the request. He stated he is a Board member for the Legend Trail community. He further stated since Mirage purchased this property they have worked very closely with the affected homeowners and the homeowner controlled Board of Directors. He remarked they are totally

ORDINANCE NO. 3517

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AMENDING ORDINANCE NO. 455, THE ZONING ORDINANCE OF THE CITY OF SCOTTSDALE, BY AND FOR THE PURPOSE OF AMENDING THE STIPULATIONS PREVIOUSLY APPROVED IN CASE NO. 76-ZN-1985#3, TO THOSE APPROVED IN ZONING CASE NO. 76-ZN-1985#4 FOR THE 39.77 +/- ACRE PARCEL LOCATED AT 4800 N. SCOTTSDALE ROAD.

WHEREAS, Case No. 76-ZN-1985#4 has been properly noticed for City Council consideration, pursuant to the requirements of the Zoning Ordinance of the City of Scottsdale and the statutes of the State of Arizona, and the necessary hearings have been completed; and

WHEREAS, the Council of the City of Scottsdale, Arizona, wishes to rezone the Property located at 4800 N. Scottsdale Road (the "Property") by amending the stipulations to remove the requirement that hotel development must occur prior to the development of office/retail uses;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Scottsdale, as follows:

Section 1. That the Zoning Ordinance of the City of Scottsdale is hereby amended by amending the Stipulation for the property located at 4800 N. Scottsdale Road, previously approved in zoning case No. 76-ZN-1985#3, as set forth in the amended Stipulations attached as Exhibit 1, incorporated herein by this reference.

PASSED AND ADOPTED by the Council of the City of Scottsdale this ___ day of July, 2003.

ATTEST:

By:_____
Sonia Robertson, City Clerk

CITY OF SCOTTSDALE, an Arizona municipal corporation

By:_____
Mary Manross, Mayor

APPROVED AS TO FORM:

By:_____
David A. Pennartz, City Attorney

ATTACHMENT #8

STIPULATIONS FOR CASE 76-ZN-1985#4

ZONING

1. CONFORMANCE. Development shall be in substantial conformance with the development program (including site plan, architectural concept, square footages, and use ratios) submitted as part of the application. The applicant shall submit a revised Development Plan, which reflects the stipulations. If the plan requires significant modification in recognition of non-participating properties, the modified plan shall be approved through the public hearing process. However, in no case shall the total gross floor area exceed that which is reflected on the applicant's plan. If a non-participatory property remains at the time of development of an affected phase, the square footage of that phase shall be reduced by the amount of non-participatory property. If building permits have not been issued and on-site construction has not begun within 24 months from the date of approval, the plan shall lapse and be of no further effect unless for sufficient cause a time extension is obtained by the applicant. The City Council may extend the period for the beginning of construction. Upon lapse of the approved Development Plan, the zoning shall revert to its former classification without legislative action.

2. PHASING. The phasing plan shall be approved by the Development Review Board. First phase improvements shall include the following:

    a. Couplet with associated infrastructure (including underpasses)
    b. Perimeter streets
    c. Perimeter buffers and streetscapes
    d. Termination of Highland west of the couplet
    e. First phase of the approved Automated Pedestrian Conveyance System

    First phase improvements shall be assured by providing a letter of credit or cash deposit. A Certificate of Occupancy shall not be issued prior to approval and acceptance of required first phase improvements. The timing for construction of subsequent phases shall be in part contingent upon the completion of the couplet to Camelback Road through Fashion Square and Camelview Plaza. Prior to the final office phase, construction shall have commenced on the condominium phase.

~~3. Office/retail development shall not exceed 300,000 square feet prior to construction of the hotel.~~

~~4~~3. DEVELOPMENT REVIEW BOARD. The Development Review Board shall pay particular attention to the following:

    a. Architectural compatibility between phases
    b. Internal and external pedestrian linkages (locations, widths, and design)
    c. Design criteria set forth in Section 1.403, L, M, and N of the on-site and off-site Zoning Ordinance
    d. Perimeter dense landscape buffers and streetscape

~~5~~ 4. DEVELOPMENT STANDARDS. The development standards shall be modified in substantial conformance with the plan submitted as part of the application.

~~6~~ 5. NOISE ABATEMENT. A noise abatement study shall be submitted with recommended design solutions to mitigate couplet impact to the residential area to the west.

EXHIBIT #1

UTILITIES

1. The applicant shall provide an approved Master Wastewater Plan and Report. The report shall not only demonstrate how the wastewater system will be developed and integrated with the City's system but how the City's system will be able to handle the additional load which the development will impose on the trunk interceptor under Miller Road. The staff believes that the interceptor does not currently have the capacity for this additional load. A study of the downtown sewer needs is being prepared which will identify the participatory responsibilities of this development. Said Master Plan and Report shall be prepared by a registered professional engineer licensed in the State of Arizona. The applicant's Master Wastewater Plan shall include but not necessarily be limited to:

    1) Location and size of all necessary wastewater/sewer facilities.

    2) A timetable specifying the time and responsible party for construction on the necessary wastewater facilities.

    3) Necessary calculations to substantiate line sizes.

    4) Integration of Master Wastewater Plan with the City's Wastewater Master Plan.

2. The applicant shall provide a copy of the Master Water Plan and Report which has been submitted to and approved by the City of Phoenix to allow the addition of this development to its water system.

3. The applicant shall provide an approved Master Grading and Drainage Plan and Report prepared in accordance with the City's design procedures and criteria. In addition to the hydrologic data needed to describe the stormwater runoff conditions affecting the property, the plan and report shall describe:

    1) Phasing of on-site grading and construction and of the construction of streets, storm drains, detention/retention basins, and other facilities which will influence stormwater runoff.

    2) Measures necessary to provide protection from damage caused by storm water runoff and to limit erosion and sediment deposition problems during development phasing.

    3) Preliminary design of all storm drains showing planned improvements.

    4) Location and volume requirements for any storm drainage retention/detention facilities to be provided and the identification of areas to be served by each facility.

    5) Identification of persons or agencies responsible for the construction of each facility which will manage stormwater runoff or re-direct its flow.

    6) Locations for the stockpiling or disposal of excavated material.

CIRCULATION

1. Dedication of the following street right-of-way shall be made within 6 months of City Council approval:

Street	Right-of-Way Width
Couplet	65' (full-street)
Scottsdale	65' (half-street)

Highland	45' (half-street) to 90' (full-street)
Chaparral	30' (half-street)

2. A 1' VNE (vehicular non-access easement) shall be provided along street frontage except at approved driveway locations.

3. The applicant shall be responsible for the design and construction of traffic signals at the following intersections:

Signals	Participation
Scottsdale/Chaparral	100%
Scottsdale/Rancho Vista	100%
Scottsdale/Highland	100%
Highland/Project Entry	100%

4. The applicant shall be responsible for the funding of the construction of one auxiliary turn lane in each of the four travel directions at the intersection of the Couplet and Camelback Road.

5. The design speed of the west couplet shall be 40 miles per hour. All access to the couplet shall be designed accordingly.

6. Highland Avenue shall not intersect the couplet from the west. This applicant shall be responsible for terminating Highland Avenue at 70th Street and revegetation of the affected area as approved by the Development Review Board.

7. Prior to dedication of required right-of-way, all unnecessary existing right-of-way shall be abandoned and all unnecessary easements shall be released. Application for such abandonment and release shall be the responsibility of the applicant. Legal access shall be provided to non-participating properties.

8. Highland Avenue shall consist of a two-way, five lane street connecting Scottsdale Road and the west couplet. The entrance to the site from Highland shall be a 90-degree intersection. The intersection of Highland Avenue and the west couplet shall be a "T" intersection with no east approach.

9. The only direct access to Chaparral Road shall align with 71st Place. The intersection shall be designed to preclude left turn exits.

CITY COUNCIL REPORT

MEETING DATE: July 1, 2003 ITEM NO. 2 GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT

DC Ranch Parcel 1.18 (Planning Unit 1)

REQUEST

Request:

1. To approve the Final Plat for a 111-lot subdivision at DC Ranch.
2. To adopt Resolution No. 6336 authorizing Park Agreement No. 2003-123-COS.

2-PP-2003

Key Items for Consideration:

- This is the first development/subdivision in DC Ranch's Planning Unit 1.
- The development complies with the Master Plans for Planning Unit 1.
- A new 12.8-acre neighborhood park site will be dedicated to the City.

Related Policies, References:

54-ZN-1989#1 thru 5, 5-MP-2002, Community Facilities District

OWNER

DC Ranch LLC
480-367-7000

APPLICANT CONTACT

Karrin Taylor
Biskind Hunt & Taylor
602-955-3452

LOCATION

Planning Unit 1 at DC Ranch

BACKGROUND

Zoning.

The subdivision is zoned Single Family Residential/Planned Community District (R1-7/PCD). The R1-7/PCD zoning district allows for single-family homes, religious facilities, and public schools as by-right uses. Private schools require use permits.

The park site is zoned Open Space/Planned Community District (OS/PCD), which allows municipal uses, parks, golf courses, and other open space recreational uses. On June 17, 2003, the City Council approved the Master Site Plan for neighborhood park site.

General Plan.

The General Plan Land Use Element designates the subdivision as Suburban Neighborhoods. This category includes medium-lot to small-lot single-family subdivisions with densities between 1 house per acre and 8 houses per acre.

The General Plan Land Use Element designates the park site as Developed

Open Space. This category includes parks and other recreation areas.

Context.
Planning Unit 1 of DC Ranch is generally located between Pima Road to the west and 94th Street to the east, and between Union Hills Road to the north and Bell Road to the south. Planning Unit 1 area is open desert that has been used for cattle grazing, with cattle still on the property. Planning Unit 1 is zoned for both residential and commercial land uses, has land allocated for a public park, has a natural alluvial fan drainage system, and is relatively flat (lower desert landform).

Parcel 1.18 consists of 37 acres and is located in the middle of Planning Unit 1, and will have access from the future Loop Road connecting 94th Street to Union Hills Drive. The surrounding property is zoned R1-7/PCD District to the north and east, Industrial Park District/PCD (I-1) to the south, and Open Space District/PCD (O-S) to the west.

The park parcel consists of 12.8 acres and is located near the southeast corner of the Pima Road and Union Hills Drive intersection. The park will have access from the future 91st Street to the east connecting Union Hills Drive to Bell Road, and a new street to the north connecting Pima Road to 91st Street. A power line corridor abuts the south side of the park site, which will be used as part of a citywide path and trail system that will connect to the park.

APPLICANT'S PROPOSAL

Goal/Purpose of Request.
This is a request for approval of a preliminary subdivision plat of 37 acres into 111 lots (approximately 3 homes per acre). One point of access to the subdivision will be from the future Loop Road. The site is bounded to the east and west by existing washes, which provide pedestrian connectivity from this subdivision to the other planned developments in Planning Unit 1. A small pocket park will be provided in the middle of the subdivision near the subdivision entrance. All development will comply with the Master Development Plans for DC Ranch.

Park Dedication - Development Agreement.
This is also a request is to authorize Park Agreement No. 2003-123-COS to dedicate a neighborhood park to the City. DC Ranch and the City of Scottsdale have a development agreement that created procedures for park dedications to the city. The agreement states that dedications shall occur concurrently with final plat or Development Review Board approval of any abutting development site.

The Park Agreement allows the dedication of a new neighborhood park, and allows the City of Scottsdale to acquire said park, subject to certain reservations, conditions, covenants and restrictions. This dedication fulfils the requirements per the zoning case and development agreement. The Community Services Department has worked with DC Ranch and approves of the acquisition of 12.8 acres for a future city park.

Development information.

- *Existing Use:* Open Desert
- *Subdivision Size:* 37 acres
- *Number of Lots:* 111 (3 homes per acre)
- *Building Height Allowed:* 30 feet
- *Park Size:* *12.8 acres*

IMPACT ANALYSIS

Traffic.
Roads identified in the approved Master Circulation Plan will be constructed as part of a joint effort between the developer and an approved Community Facilities District.

Water/Sewer.
The applicant is responsible for new water and sewer infrastructure to service the site. There are no anticipated uses as this area has been master planned for the proposed uses.

Police/Fire.
Police and fire facilities exist in the DC Ranch Master Planned Community, and no service impacts are anticipated.

Schools District comments/review.
Scottsdale Unified School District indicates there are no capacity issues because the proposal is consistent with the approved master plan land use budget.

Open space, scenic corridors.
Open space tracts will be provided within the subdivision and along washes through the site, consistent with the Environmental Design Master Design Concept (EDMP). Much of the new neighborhood park will also serve as open space.

Community involvement.
DC Ranch has posted this development in their newsletter and have notified the Ironwood Village neighborhood. There have been no comments regarding this case.

Community Impact.
DC Ranch has prepared Master Development Plans to address water, wastewater, drainage, and circulation issues, as well as a master environmental design concept. The nearest residential neighborhood is ¼ mile to the north.

RECOMMENDATION

Approval of this plat will result in:

- Development of 111 lots
- Infrastructure improvements
- The City's acquisition of a new neighborhood Park within DC Ranch

Recommended Approach:
Staff recommends that the final plat be approved as presented. The City Attorney's office, in conjunction with the Parks and Recreation Department, has reviewed and recommend approval of the park dedication agreement (See Attachment 8).

Proposed Next Steps:
Approval will enable the final plat to be recorded, establishing lots, streets, easements and common tracts.

Approval of the park dedication will enable the Parks and Recreation Staff to process a municipal use master site plan for City Council review and approval, which will outline the park improvements and amenities.

RESPONSIBLE DEPT(S)

Planning and Development Services Department
Current Planning Services

STAFF CONTACT(S)

Tim Curtis
Project Coordination Manager
480-312-4210
E-mail: tcurtis@ScottsdaleAZ.gov

Joe Morris
Development Engineering Manager
480-312-5757
E-mail: jdmorris@ScottsdaleAz.gov

APPROVED BY

6/11/03

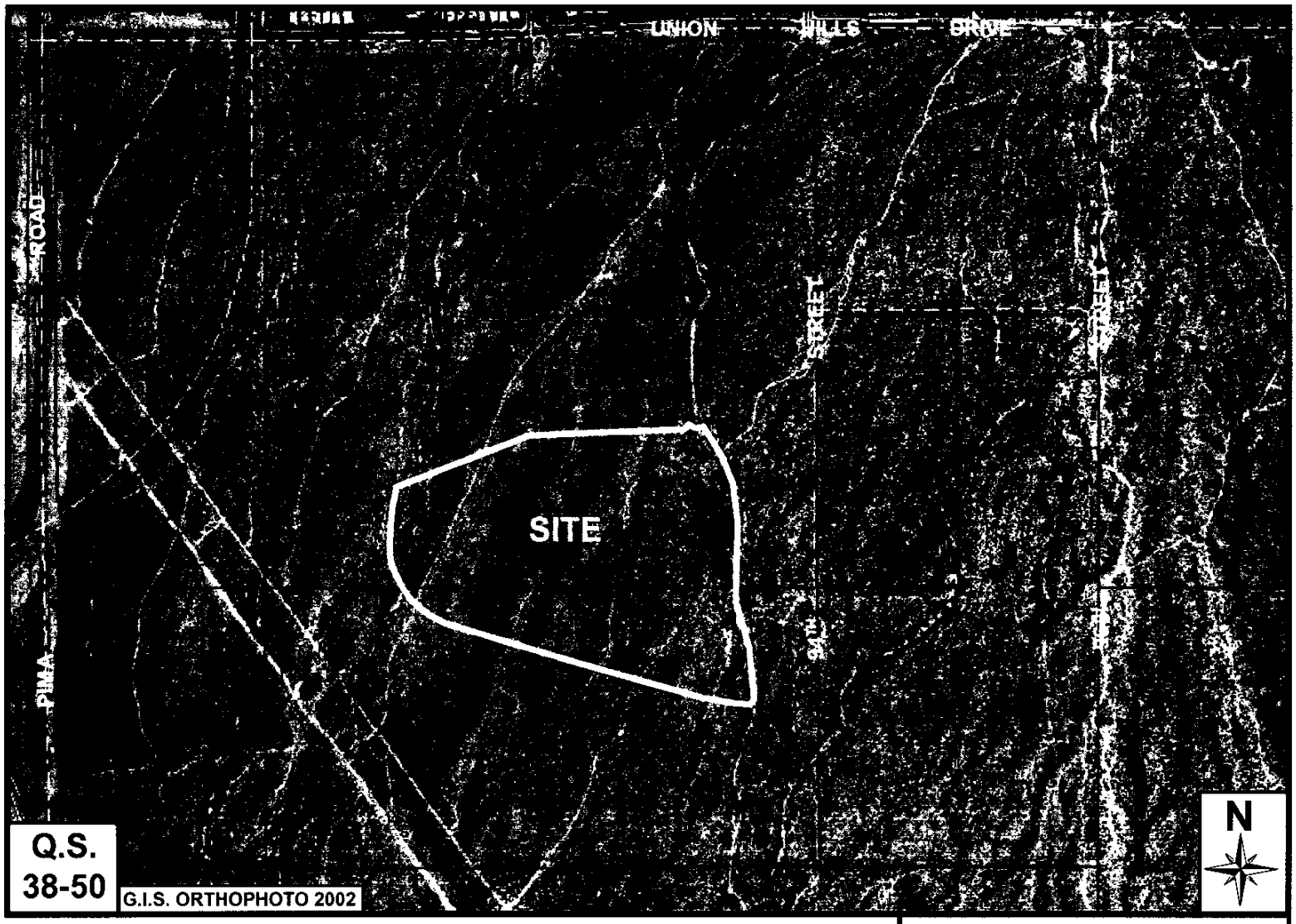
Kroy Ekblaw — Date
Planning and Development Services General Manager

6/18/03

Ed Gawf — Date
Deputy City Manager

ATTACHMENTS

1. Context Aerial
2. Final Plat Map
3. Preliminary Plat Map
4. Development Review Board Staff Report
5. Development Review Board Minutes
6. Park Dedication Agreement (2003-123-COS)
7. Resolution No. 6336

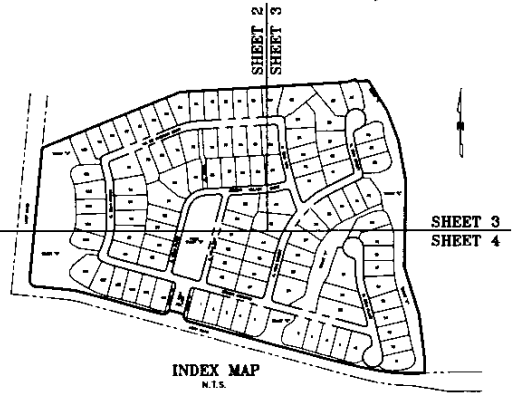


DC Ranch Parcel 1.18

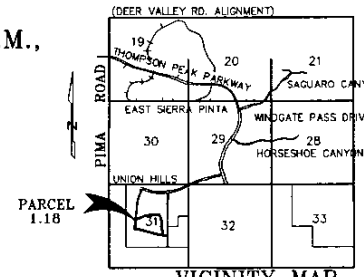
2-PP-2003

ATTACHMENT #1

FINAL PLAT FOR DC RANCH PARCEL 1.18
A PORTION OF SECTION 31, T.4N., R.5E., OF THE G.&S.R.M., MARICOPA COUNTY, ARIZONA



INDEX MAP
N.T.S.



VICINITY MAP
N.T.S.

DEDICATION

STATE OF ARIZONA }
COUNTY OF MARICOPA } SS

KNOW ALL MEN BY THESE PRESENTS THAT DC RANCH L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, HAS SUBDIVIDED UNDER THE NAME OF "DC RANCH PARCEL 1.18", A PORTION OF SECTION 31, TOWNSHIP 4 NORTH, RANGE 5 EAST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AS SHOWN PLATTED HEREON, AND HEREBY PUBLISHES THIS PLAT AS AND FOR THE PLAT OF SAID "DC RANCH PARCEL 1.18", AND HEREBY DECLARES THAT SAID PLAT SETS FORTH THE LOCATION AND GIVES THE DIMENSION OF LOTS, TRACT STREETS AND EASEMENTS CONSTITUTING SAME, AND THAT EACH LOT, TRACT AND STREET SHALL BE KNOWN BY THE NUMBER, LETTER OR NAME GIVEN TO EACH, RESPECTIVELY, AS SHOWN ON SAID PLAT AND INCLUDED IN THE ABOVE DESCRIBED PREMISES. THE PRIVATE STREETS LOCATED WITHIN THE AREA SHOWN HEREON AS TRACT "A" ARE HEREBY DECLARED A PRIVATE ACCESSWAY FOR THE EXCLUSIVE USE OF DC RANCH COMMUNITY COUNCIL, INC., AN ARIZONA NON-PROFIT CORPORATION, AND ITS ASSIGNS, AND ARE NOT DEDICATED TO THE PUBLIC FOR ITS USE EXCEPT AS EXPRESSLY STATED HEREIN.

DC RANCH L.L.C. HEREBY DEDICATES AN EASEMENT TO THE CITY OF SCOTTSDALE OVER, UPON AND ACROSS TRACT "A" FOR THE PURPOSE OF PROVIDING ACCESS FOR EMERGENCY AND SERVICE-TYPE VEHICLES, "E.S.V.A.E.", INCLUDING REFUSE COLLECTION VEHICLES.

DC RANCH L.L.C. HEREBY DEDICATES AN EASEMENT TO THE CITY OF SCOTTSDALE OVER, UPON AND ACROSS TRACT "A" AND WITHIN EASEMENT PREMISES AS ELSEWHERE SPECIFIED ON THIS PLAT AS A PUBLIC UTILITIES EASEMENT OR "P.U.E." FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, MAINTAINING, REPLACING, REPAIRING AND OPERATING ONE OR MORE SEWER LINES AND RELATED FACILITIES, AND WATER LINES AND RELATED FACILITIES, TOGETHER WITH ACCESS RELATED TO THE INSTALLATION, CONSTRUCTION, MAINTENANCE, REPLACEMENT AND REPAIR OF SAID SEWER AND WATER LINES AND RELATED FACILITIES, PROVIDED, HOWEVER, THAT ALL WATER AND SEWER LINES SHALL BE CONSTRUCTED UNDERGROUND, AND UPON THE COMPLETION OF ANY INSTALLATION, CONSTRUCTION, MAINTENANCE, REPLACEMENT OR REPAIR OF ANY WATER OR SEWER LINE OR RELATED FACILITY WITHIN SUCH EASEMENT, THE CITY OF SCOTTSDALE SHALL PROMPTLY REPAIR OR REPLACE ANY PAVING, CURBS, GUTTERS OR SIDEWALKS DISTURBED (BUT, IF ANY SUCH IMPROVEMENTS ARE COMPOSED OF COLORED CONCRETE, THIS REQUIREMENT SHALL ONLY REQUIRE THE CITY'S BEST EFFORTS TO MATCH EXISTING COLORS), AND WITHIN DESERT LANDSCAPED AREAS SHALL LEVEL OR FILL EARTH TO PRE-EXISTING CONTOURS, REPLACING MINOR CACTI AND SHRUBS, AND RESEED WITH NATIVE PLANT SEEDS, BUT NOT INCLUDING REPLACEMENT OF TREES OR MAJOR CACTI OR ANY OBLIGATION TO REPAIR OR REPLACE MASONRY WALLS OR PAYMENT OF ANY COSTS IN CONNECTION THEREWITH.

DC RANCH L.L.C. HEREBY DEDICATES TO THE CITY OF SCOTTSDALE AN EASEMENT OVER, UPON AND ACROSS TRACT "A" AND WITHIN EASEMENT PREMISES ELSEWHERE SPECIFIED ON THIS PLAT AS A "PUBLIC UTILITIES EASEMENT" OR "P.U.E.", FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, MAINTAINING, REPLACING, REPAIRING AND OPERATING PUBLIC UTILITY SERVICES, INCLUDING ELECTRIC, GAS, CATV, TELEPHONE, COMMUNICATIONS, SECURITY AND FIRE CONTROL AND OTHER RELATED FACILITIES; PROVIDED, HOWEVER, THAT ALL UTILITY LINES SHALL BE CONSTRUCTED UNDERGROUND AND UPON THE COMPLETION OF ANY INSTALLATION, CONSTRUCTION, MAINTENANCE, REPLACEMENT OR REPAIR OF ANY UTILITY LINE OR OTHER FACILITY WITHIN SUCH EASEMENT, THE CITY OF SCOTTSDALE (OR ANY OTHER PERSON OR ENTITY CLAIMING A RIGHT THROUGH THE CITY OF SCOTTSDALE TO USE SUCH EASEMENT), AT ITS SOLE EXPENSE, SHALL PROMPTLY RETURN THE AFFECTED PROPERTY (INCLUDING IMPROVEMENTS AND LANDSCAPING LOCATED THEREON) TO ITS PRIOR CONDITION. THE FOREGOING DOES NOT EXCUSE COMPLIANCE WITH ANY CITY REVIEW AND APPROVAL REQUIREMENTS APPLICABLE TO THE INSTALLATION OF SUCH UTILITY FACILITIES.

DC RANCH L.L.C. HEREBY DEDICATES TO THE CITY OF SCOTTSDALE A PERPETUAL EASEMENT, OVER, UPON AND ACROSS EACH OF THE SEVERAL AREAS DESIGNATED ON THE PLAT AS "VISIBILITY TRIANGLE EASEMENT", OR "V.T.E.", FOR THE PURPOSES OF MAINTAINING VISIBILITY AREAS WITHIN SUCH TRACTS OR LOTS, AND NATURAL OPEN SPACE UPON WHICH NO IMPROVEMENT MAY BE CONSTRUCTED EXCEPT (A) LANDSCAPE REVEGETATION IMPROVEMENTS, AND WATER AND IRRIGATION SYSTEMS AS MAY BE NECESSARY IN CONNECTION WITH REVEGETATION AND LANDSCAPING OF SUCH AREAS, AS MAY BE APPROVED BY THE CITY OF SCOTTSDALE, AND (B) SUCH OTHER IMPROVEMENTS AS MAY BE APPROVED BY THE CITY OF SCOTTSDALE.

DC RANCH L.L.C. HEREBY DEDICATES TO THE CITY OF SCOTTSDALE A PERPETUAL EASEMENT, OVER, UPON AND ACROSS EACH OF THE SEVERAL TRACTS AND OTHER AREAS DESIGNATED ON THE PLAT AS "DRAINAGE EASEMENT" OR "D.E." FOR PURPOSES OF WATER DRAINAGE, RETENTION AND DISCHARGE TO, ON, ACROSS AND FROM DC RANCH AND FOR THE PURPOSE OF INSTALLING, MAINTAINING, REPLACING AND REPAIRING THE PIPES, CHANNELS, CULVERTS, RETENTION AREAS AND OTHER DRAINAGE FACILITIES NOW OR HEREAFTER LOCATED THEREON.

DC RANCH L.L.C. HEREBY DEDICATES TO DC RANCH COMMUNITY COUNCIL, INC., AND ITS SUCCESSORS AND ASSIGNS, A PERPETUAL EASEMENT, OVER, UPON AND ACROSS EACH OF THE SEVERAL TRACTS AND OTHER AREAS DESIGNATED ON THE PLAT AS "PRIVATE DRAINAGE EASEMENT" OR "PVT.D.E." FOR PURPOSES OF WATER DRAINAGE, RETENTION AND DISCHARGE TO, ON, ACROSS AND FROM DC RANCH AND FOR THE PURPOSE OF INSTALLING, MAINTAINING, REPLACING AND REPAIRING THE PIPES, CHANNELS, CULVERTS, RETENTION AREAS AND OTHER DRAINAGE FACILITIES NOW OR HEREAFTER LOCATED THEREON.

DC RANCH L.L.C. HEREBY DEDICATES TO DC RANCH COMMUNITY COUNCIL, INC. PERPETUAL EASEMENTS OVER, UPON AND ACROSS TRACT "B" AND EACH OF THE SEVERAL AREAS DESIGNATED ON THE PLAT AS "PRIVATE TRAIL EASEMENT" OR "PVT.TR.E." FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, MAINTAINING, REPLACING AND REPAIRING PRIVATE TRAIL AND SIDEWALK IMPROVEMENTS AND SUCH ACCESS CONTROL GATES, FENCING AND OTHER DEVICES AS DC RANCH COMMUNITY COUNCIL INC. MAY FROM TIME TO TIME DETERMINE.

DC RANCH L.L.C. HEREBY DEDICATES TO THE DC RANCH COMMUNITY COUNCIL, INC., A PERPETUAL EASEMENT OVER, UPON AND ACROSS THE PREMISES DESIGNATED ON THIS PLAT AS "SIDEWALK EASEMENT" OR "S.W.E." FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, MAINTAINING, REPLACING AND REPAIRING PRIVATE SIDEWALK IMPROVEMENTS WITHIN SUCH PREMISES.

DC RANCH L.L.C. HEREBY DEDICATES TO DC RANCH COMMUNITY COUNCIL, INC. A PERPETUAL NON-EXCLUSIVE EASEMENT OVER, UPON AND ACROSS ALL TRACTS SHOWN ON THIS PLAT AS "PUBLIC UTILITY EASEMENT" OR "P.U.E.", AND ALL PREMISES DESIGNATED ON THIS PLAT AS "SUBDIVISION FACILITIES EASEMENT" OR "S.F.E." FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, MAINTAINING, REPLACING AND REPAIRING SUCH IRRIGATION CONTROLLERS, BACKFLOW PREVENTION DEVICES, IRRIGATION LINES AND OTHER IRRIGATION FACILITIES, ELECTRICAL PANELS AND ELECTRICAL LINES, AND RELATED FACILITIES, AS DC RANCH COMMUNITY COUNCIL, INC. MAY DEEM APPROPRIATE TO SERVE THE SUBDIVISION SHOWN ON THIS PLAT AND NEIGHBORING SUBDIVISIONS WITHIN DC RANCH, WITHOUT LIMITING ANY OTHER RIGHT THAT DC RANCH COMMUNITY COUNCIL, INC. MAY HAVE TO INSTALL, CONSTRUCT, MAINTAIN, REPLACE OR REPAIR ANY SUCH FACILITIES ELSEWHERE IN THE SUBDIVISION SHOWN ON THIS PLAT.

OWNER WARRANTS AND REPRESENTS TO THE CITY OF SCOTTSDALE TO BE THE SOLE OWNER OF THE PROPERTY COVERED HEREBY AND THAT EVERY LENDER, EASEMENT HOLDER OR OTHER PERSON OR ENTITY HAVING ANY INTEREST IN THE LAND ADVERSE TO OR INCONSISTENT WITH THE DEDICATIONS, CONVEYANCES OR OTHER REAL PROPERTY INTERESTS CREATED OR TRANSFERRED BY THIS MAP HAS CONSENTED TO OR JOINED IN THIS MAP AS EVIDENCED BY INSTRUMENTS WHICH ARE RECORDED WITH THE MARICOPA COUNTY RECORDER'S OFFICE OR WHICH OWNER WILL RECORD NOT LATER THAN THE DATE ON WHICH THIS MAP IS RECORDED.

IN WITNESS WHEREOF:

DC RANCH L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, BY DMB PROPERTY VENTURES LIMITED PARTNERSHIP, A DELAWARE LIMITED PARTNERSHIP, ITS ADMINISTRATIVE MEMBER, BY DMB GP, INC., AN ARIZONA CORPORATION, ITS GENERAL PARTNER, HAS HEREUNTO CAUSED ITS NAME TO BE AFFIXED AND THE SAME TO BE ATTESTED BY THE SIGNATURE OF _____ _____ ITS _____ DULY AUTHORIZED.

DC RANCH L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY

BY: DMB PROPERTY VENTURES LIMITED PARTNERSHIP, A DELAWARE LIMITED PARTNERSHIP, ADMINISTRATIVE MEMBER

BY: DMB GP, INC., AN ARIZONA CORPORATION, GENERAL PARTNER

BY: _____

ITS: _____

RATIFICATION AND APPROVAL OF PLAT

STATE OF ARIZONA }
COUNTRY OF MARICOPA } SS

KNOW ALL MEN BY THESE PRESENTS:
THAT DC RANCH COMMUNITY COUNCIL, INC., AN ARIZONA NON-PROFIT CORPORATION, WITH RESPECT TO CERTAIN REAL PROPERTY WHICH HAS BEEN PLATTED, HEREBY RATIFIES, AFFIRMS AND APPROVES THE PLAT FOR "DC RANCH PARCEL 1.18," AND EVERY DEDICATION MORE SPECIFICALLY SET FORTH HEREON.

IN WITNESS WHEREOF:

THE UNDERSIGNED HAS CAUSED THE CORPORATE NAME OF DC RANCH COMMUNITY COUNCIL, INC., AN ARIZONA NON-PROFIT CORPORATION TO BE AFFIXED AND ATTESTED TO BY THE SIGNATURE OF THE UNDERSIGNED OFFICER BEING THEREUNDER DULY AUTHORIZED THIS _____ DAY OF _____, 2003.

DC RANCH COMMUNITY COUNCIL, INC., AN ARIZONA NON-PROFIT CORPORATION

BY: _____

ITS: _____

BASIS OF BEARING

THE BASIS OF BEARING IS A STRAIGHT LINE CALCULATED BETWEEN THE SOUTHWEST CORNER OF SECTION 31 AND THE SOUTHEAST CORNER OF SECTION 33, T. 4 N., R. 5 E., USING A BEARING OF NORTH 89° 58' 08" EAST PER CITY OF SCOTTSDALE G.P.S. GROUND COORDINATES.

TRACT SUMMARY TABLE

TRACT	PURPOSE
"A"	PRIVATE STREET, E.S.V.A.E., P.U.E., PVT.D.E., S.F.E.
"B"	O.S., PVT.TR.E., PVT.D.E., S.F.E.
"C"	O.S., S.F.E.
"D"	O.S., S.F.E.
"E"	O.S., S.F.E., D.E.
"F"	O.S., S.F.E., PVT.D.E.
"G"	O.S., S.F.E., PVT.TR.E., PVT.D.E.
"H"	O.S., S.F.E.
"I"	O.S., S.F.E.

NOTE: THE ABOVE LISTED EASEMENTS ENCOMPASS THE ENTIRE TRACT. THERE MAY BE OTHER EASEMENTS THAT ARE DELINEATED ON THIS PLAT THAT ENCUMBER PORTIONS OF THESE TRACTS.

ACKNOWLEDGMENT

STATE OF ARIZONA }
COUNTY OF MARICOPA } SS

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2003, BY _____, THE _____ OF DMB GP, INC., AN ARIZONA CORPORATION, IN ITS CAPACITY AS GENERAL PARTNER OF DMB PROPERTY VENTURES LIMITED PARTNERSHIP, A DELAWARE LIMITED PARTNERSHIP, IN ITS CAPACITY AS ADMINISTRATIVE MEMBER OF DC RANCH L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY, FOR AND ON BEHALF THEREOF.

_____
NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

ACKNOWLEDGMENT

STATE OF ARIZONA }
COUNTRY OF MARICOPA } SS

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____DAY OF _____, 2003, BY _____, THE _____ OF DC RANCH COMMUNITY COUNCIL, INC., AN ARIZONA NON-PROFIT CORPORATION, FOR AND ON BEHALF THEREOF.

_____
NOTARY PUBLIC

MY COMMISSION EXPIRES: _____

APPROVALS

APPROVED BY THE COUNCIL OF THE CITY OF SCOTTSDALE, ARIZONA, THIS _____ DAY OF _____, 2003.

BY: _____
MAYOR

ATTEST: _____
CITY CLERK

I HEREBY CERTIFY THAT THIS PLAT SUBSTANTIALLY CONFORMS TO THE APPROVED PRELIMINARY PLAT.

BY: _____ DATE: _____
PROJECT COORDINATION MANAGER

I HEREBY CERTIFY THAT ALL ENGINEERING CONDITIONS AND REQUIREMENTS OF THE CITY CODE HAVE BEEN COMPLIED WITH.

BY: _____ DATE: _____
INTERIM PLAN REVIEW AND PERMIT SERVICES DIRECTOR

NOTES:

1. THE STREETS DESIGNATED AS TRACT "A" ARE PRIVATE STREETS TO BE OWNED AND MAINTAINED BY DC RANCH COMMUNITY COUNCIL, INC. NORMALLY, AFTER THIS PLAT IS RECORDED, THE CITY OF SCOTTSDALE WILL NOT ACCEPT DEDICATION OF STREETS TO THE PUBLIC IN ORDER TO RELIEVE DC RANCH COMMUNITY COUNCIL, INC., OF STREET MAINTENANCE RESPONSIBILITIES.
2. THIS PLAT IS LOCATED WITHIN THE CITY OF SCOTTSDALE WATER SERVICE AREA AND HAS BEEN DESIGNATED AS HAVING AN ASSURED WATER SUPPLY.
3. CONSTRUCTION WITHIN ALL EASEMENT AND TRACT AREAS, EXCEPT BY PUBLIC AGENCIES AND UTILITY COMPANIES, SHALL BE LIMITED TO ROADWAY IMPROVEMENTS AND RELATED PAVING, CURBS, GUTTERS AND SIDEWALKS (TO THE EXTENT, IF ANY, THAT ANY ROADWAY MAY NOW OR HEREAFTER BE CONSTRUCTED THEREON), PATHS, TRAILS, AND WOOD, WIRE OR REMOVABLE SECTION FENCING, AND MUST OTHERWISE CONFORM WITH ALL APPLICABLE COVENANTS, CONDITIONS AND RESTRICTIONS.
4. ELECTRIC LINES TO BE CONSTRUCTED UNDERGROUND AS REQUIRED BY THE ARIZONA CORPORATION COMMISSION GENERAL ORDER U-28.
5. THE MAINTENANCE OF EASEMENT PREMISES WHICH LIE WITHIN THE BOUNDARY OF A SUBDIVISION LOT IS THE RESPONSIBILITY OF EACH INDIVIDUAL LOT OWNER WHICH MAINTENANCE OBLIGATIONS MAY, BY SEPARATELY RECORDED INSTRUMENT, BE ASSUMED BY DC RANCH COMMUNITY COUNCIL, INC. THE MAINTENANCE OF ALL EASEMENT PREMISES OUTSIDE OF LOT BOUNDARIES SHALL BE THE RESPONSIBILITY OF DC RANCH COMMUNITY COUNCIL, INC. THE MAINTENANCE OF ALL EASEMENT PREMISES OUTSIDE OF LOT BOUNDARIES AND WITHIN TRACTS SHALL BE THE RESPONSIBILITY OF DC RANCH COMMUNITY COUNCIL, INC.
6. AREA WITHIN THE VISIBILITY TRIANGLE EASEMENT SHALL BE CLEAR OF LANDSCAPING, SIGN, OR OTHER VISIBILITY OBSTRUCTIONS WITH A HEIGHT GREATER THAN 2 FEET. TREES WITHIN THE VISIBILITY TRIANGLE EASEMENT SHALL HAVE A CANOPY THAT BEGINS AT 7 FEET IN HEIGHT UPON INSTALLATION. ALL HEIGHTS ARE MEASURED FROM NEAREST STREET LINE ELEVATION.
7. OWNERSHIP AND/OR MAINTENANCE OBLIGATIONS OF DC RANCH COMMUNITY COUNCIL, INC. MAY BE ASSIGNED TO AND PERFORMED BY DC RANCH ASSOCIATION, INC. AS MAY BE PROVIDED IN ONE OR MORE SEPARATELY RECORDED DOCUMENTS.
8. REFERENCE THE "RESULTS OF SURVEY, A PORTION OF DC RANCH" RECORDED IN BOOK 428, PAGE 38, #98-0781253, MARICOPA COUNTY RECORDS, FOR DOCUMENTATION REGARDING THE BASIS OF BEARING FOR THIS PLAT, THE PROJECT BOUNDARY FOR DC RANCH AND RELATED SECTION CORNER AND SECTION LINE INFORMATION.
9. TRACTS "B", "C", "D", "E", "F", "G", "H", AND "I" WILL BE OWNED AND MAINTAINED BY DC RANCH COMMUNITY COUNCIL, INC. AS OPEN SPACE SUBJECT TO THE EASEMENT RIGHTS GRANTED OVER SUCH TRACTS AS ELSEWHERE SHOWN ON THIS PLAT.
10. ALL LOTS AND PRIVATE DRIVEWAYS SHALL CONFORM TO THE FIRE DEPARTMENT GUIDE LINE FOR EMERGENCY VEHICLE ACCESS.
11. THE PROPERTY SHOWN ON THIS PLAT IS WITHIN CLOSE PROXIMITY TO THE SCOTTSDALE AIRPORT (THE "AIRPORT"), WHICH IS LOCATED BETWEEN FRANK LLOYD WRIGHT BOULEVARD ON THE NORTH, PIMA ROAD ON THE EAST, THUNDERBIRD ROAD ON THE SOUTH AND SCOTTSDALE ROAD ON THE WEST. THE AIRPORT IS A GENERAL AVIATION RELIEVER/COMMERCIAL SERVICE AIRPORT FOR THE SCOTTSDALE-NORTH PHOENIX AREA. PURCHASERS OF LOTS SHOWN ON THIS PLAT WILL TAKE TITLE SUBJECT TO THE PROVISIONS OF THE SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR DC RANCH PARCEL 1.18 AND SUPPLEMENT TO THE COVENANT, AND AIRPORT NOTIFICATION RECORDED CONCURRENTLY HEREWITH, WHICH CONTAINS A MORE DETAILED DISCLOSURE REGARDING THE PROXIMITY OF THE AIRPORT AND A RELEASE OF THE CITY OF SCOTTSDALE, DC RANCH ASSOCIATION, INC., DC RANCH COMMUNITY COUNCIL AND DC RANCH L.L.C., AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, FROM CLAIMS ARISING AS A RESULT OF AIRPORT OPERATIONS.

CERTIFICATION

I, THOMAS R.GETTINGS, OF WOOD, PATEL & ASSOCIATES, INC. HEREBY CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT I AM A REGISTERED LAND SURVEYOR IN THE STATE OF ARIZONA. THAT THIS MAP OR PLAT CONSISTING OF FOUR (4) SHEETS, REPRESENTS A SURVEY PERFORMED UNDER MY SUPERVISION DURING THE MONTH OF APRIL OF 1995; THAT THE SURVEY IS CORRECT AND ACCURATE; THAT THE BOUNDARY MONUMENTS SHOWN ACTUALLY EXIST AS SHOWN AND ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

THOMAS R. GETTINGS
REGISTERED LAND SURVEYOR #27239
WOOD, PATEL & ASSOCIATES, INC.
2051 W. NORTHERN AVENUE, SUITE 100
PHOENIX, ARIZONA 85021

TOTAL NUMBER OF LOTS = 111
ZONING = R1-7
GROSS ACREAGE = 38.1502 ACRES

DMB

WOOD/PATEL
Civil Engineers
Hydrologists
Land Surveyors
Construction Managers
(602) 335-8500

DC RANCH
SCOTTSDALE
DC RANCH PARCEL 1.18 FINAL PLAT

PRELIMINARY
NOT FOR CONSTRUCTION OR RECORDING

DRAWN	KK
CHECKED	TRG
DATE	05-22-03
SCALE	N.T.S.
JOB NO.	WP021674.02
SHEET	1 OF 4

ATTACHMENT #2

CURVE TABLE					
CURVE	DELTA	RADIUS	ARC	CHORD BEARING	CHORD
C1	09°35'13"	497.00'	83.16'	N76°35'25"W	83.06'
C2	07°01'51"	262.50'	32.15'	S71°17'18"E	32.13'
C3	92°03'55"	28.50'	45.81'	S21°43'50"E	41.04'
C4	07°59'17"	317.50'	44.26'	N20°19'30"E	44.23'
C5	17°10'01"	217.50'	65.17'	N07°44'51"E	64.92'
C6	15°52'18"	317.50'	87.95'	N08°48'18"W	87.67'
C7	05°53'12"	182.50'	18.75'	S13°45'50"E	18.74'
C8	79°09'00"	28.50'	39.37'	S26°45'16"W	36.31'
C9	18°21'49"	282.50'	90.54'	S77°30'41"W	90.18'
C14	71°29'23"	96.50'	120.41'	S50°56'54"W	112.75'
C18	90°00'00"	25.00'	39.27'	N60°12'12"E	35.36'
C19	90°00'00"	12.00'	18.85'	N29°47'48"W	16.97'
C20	90°00'00"	12.00'	18.85'	S60°12'12"W	16.97'
C21	90°00'00"	25.00'	39.27'	S29°47'48"E	35.36'
C25	90°00'00"	12.00'	18.85'	S29°47'48"E	16.97'
C26	71°29'23"	12.00'	14.97'	S50°56'54"W	14.02'
C28	90°00'00"	12.00'	18.85'	N60°12'12"E	16.97'
C29	90°00'00"	12.00'	18.85'	S29°47'48"E	16.97'
C30	71°29'23"	83.00'	103.56'	S50°56'54"W	96.97'
C31	108°30'37"	12.00'	22.73'	N39°03'06"W	19.48'
C32	90°00'00"	12.00'	18.85'	N60°12'12"E	16.97'
C33	06°46'19"	246.00'	29.08'	S71°24'39"E	29.06'
C34	82°20'14"	12.00'	19.34'	S21°51'22"E	17.31'
C35	07°58'54"	335.00'	46.67'	N20°19'16"E	46.63'
C36	17°10'01"	235.00'	70.41'	N07°44'51"E	70.15'
C37	15°52'18"	335.00'	92.80'	N08°48'18"W	92.50'
C38	05°34'39"	165.00'	16.06'	S13°55'07"E	16.06'
C39	79°27'34"	12.00'	16.64'	S28°35'59"W	15.34'
C40	18°21'49"	265.00'	84.93'	S77°30'41"W	84.57'
C43	71°29'23"	110.00'	137.23'	S50°56'54"W	128.52'
C63	13°10'58"	279.00'	64.19'	S68°12'19"E	64.05'
C64	90°19'28"	20.00'	31.53'	S16°27'06"E	28.36'
C65	12°22'47"	300.00'	64.82'	N22°31'15"E	64.68'
C66	17°10'01"	200.00'	59.92'	N07°44'51"E	59.70'
C67	15°52'18"	300.00'	83.10'	N08°48'18"W	82.84'
C68	12°49'28"	200.00'	44.77'	S10°17'42"E	44.67'
C69	72°12'44"	20.00'	25.21'	S32°13'24"W	23.57'
C70	18°21'49"	300.00'	96.15'	S77°30'41"W	95.74'
C74	01°17'42"	3149.50'	71.18'	N76°28'41"W	71.18'
C75	01°10'57"	3149.50'	65.00'	N75°12'21"W	65.00'
C156	12°24'23"	180.50'	39.08'	S74°40'49"E	39.01'
C157	09°07'05"	586.50'	93.34'	N73°02'10"W	93.24'
C158	03°28'48"	2046.50'	124.30'	S75°51'18"E	124.28'
C159	09°38'16"	235.50'	39.61'	S69°17'47"E	39.57'
C160	07°12'42"	869.50'	109.44'	S60°52'15"E	109.37'
C161	24°16'51"	50.50'	21.40'	S45°07'32"E	21.24'
C162	53°49'39"	28.50'	26.77'	S08°04'16"E	25.80'
C163	17°55'19"	86.50'	27.68'	S29°48'13"W	27.57'
C164	13°53'50"	14.82'	3.59'	S45°42'47"W	3.59'
C165	17°32'45"	112.50'	34.45'	S63°24'20"E	34.32'
C166	08°18'17"	24.50'	3.55'	S50°28'49"E	3.55'
C167	79°08'41"	24.50'	33.84'	S06°45'20"E	31.22'
C168	25°28'51"	150.50'	66.84'	N20°05'35"E	66.30'
C169	10°55'32"	179.50'	34.23'	N01°54'23"E	34.18'
C170	01°42'35"	179.50'	5.36'	N04°24'40"W	5.36'
C171	08°57'12"	630.50'	76.32'	S01°47'21"E	76.47'
C172	22°52'14"	174.50'	69.65'	N09°44'52"W	69.19'
C173	72°13'25"	35.50'	44.75'	S14°55'43"W	41.84'
C174	37°29'12"	52.50'	34.35'	S88°47'01"W	33.74'
C175	14°12'56"	188.35'	46.73'	S17°01'45"E	46.61'
C177	00°14'21"	3149.50'	13.15'	N77°13'43"W	13.15'
C178	90°00'00"	25.00'	39.27'	S39°23'01"E	35.36'

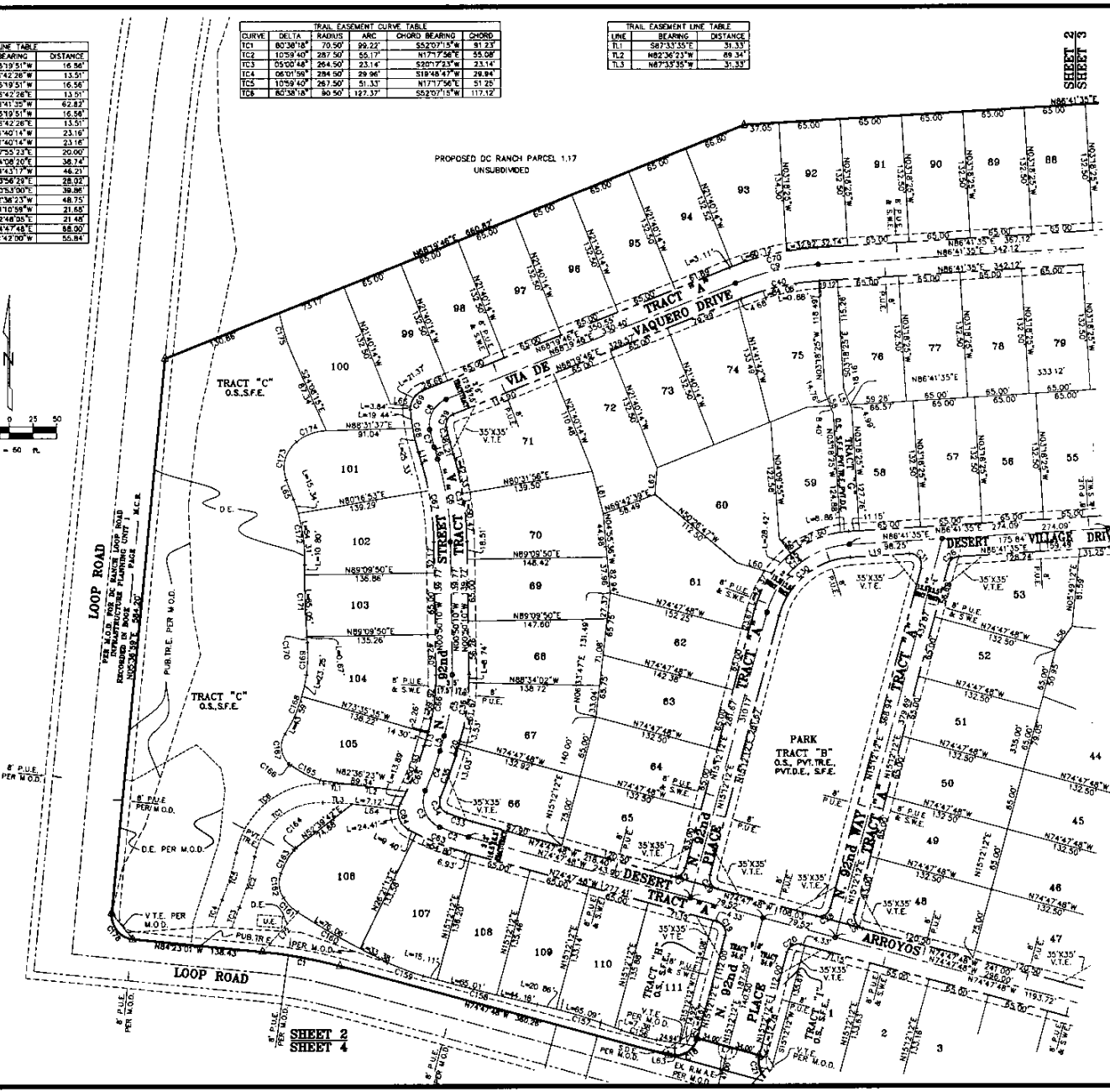
LINE TABLE		
LINE	BEARING	DISTANCE
L5	S18°19'51"W	16.56'
L8	N16°42'28"W	13.51'
L13	S18°19'51"W	16.56'
L14	S16°42'28"E	13.51'
L19	S86°41'35"W	62.82'
L20	S18°19'51"W	16.56'
L21	S16°42'28"E	13.51'
L57	N21°40'14"W	23.16'
L58	N21°40'14"W	23.16'
L59	S37°55'23"E	20.00'
L60	S74°08'20"E	36.74'
L61	N14°43'17"W	46.21'
L62	N03°56'29"E	28.02'
L63	S80°53'00"E	39.86'
L64	N82°36'23"W	48.75'
L65	N21°10'59"W	21.68'
L66	S82°48'05"E	21.48'
L71	S74°47'48"E	88.00'
L72	S41°42'00"W	55.84'

TRAIL EASEMENT CURVE TABLE					
CURVE	DELTA	RADIUS	ARC	CHORD BEARING	CHORD
TC1	80°38'18"	70.50'	99.22'	S52°07'15"W	91.23'
TC2	10°59'40"	287.50'	55.17'	N17°17'56"E	55.08'
TC3	05°00'48"	264.50'	23.14'	S20°17'23"W	23.14'
TC4	06°01'59"	284.50'	29.96'	S18°48'47"W	29.94'
TC5	10°59'40"	267.50'	51.33'	N17°17'56"E	51.25'
TC6	80°38'18"	90.50'	127.37'	S52°07'15"W	117.12'

TRAIL EASEMENT LINE TABLE		
LINE	BEARING	DISTANCE
TL1	S87°33'35"E	31.33'
TL2	N82°36'23"W	89.34'
TL3	N87°33'35"W	31.33'

LEGEND

- △ CORNER OF THIS SUBDIVISION SURVEY MONUMENT WITH RLS CAP OR TAG TO BE SET
- ● SURVEY MONUMENT FOUND AS NOTED
- ○ SURVEY MONUMENT BRASS CAP TO BE SET AT TIME OF CONSTRUCTION
- U.E. UTILITY EASEMENT
- L.S.E. LANDSCAPE EASEMENT
- W.S.E. WATER AND SEWER EASEMENT
- S.D.E. SIGHT DISTANCE EASEMENT
- S.F.E. SUBDIVISION FACILITIES EASEMENT
- E.S.V.A.E. EMERGENCY AND SERVICE VEHICLE ACCESS EASEMENT
- P.U.E. PUBLIC UTILITY EASEMENT
- P.U.E. & S.W.E. PUBLIC UTILITY EASEMENT & SIDEWALK EASEMENT
- V.T.E. VISIBILITY TRIANGLE EASEMENT
- PVT.TR.E. PRIVATE TRAIL EASEMENT
- PUB.TR.E. PUBLIC TRAIL EASEMENT
- PVT.D.E. PRIVATE DRAINAGE EASEMENT
- O.S. OPEN SPACE
- GLO GENERAL LAND OFFICE
- D.E. DRAINAGE EASEMENT
- DOC. DOCUMENT
- M.O.D. MAP OF DEDICATION FOR DC RANCH LOOP ROAD INFRASTRUCTURE RECORDED IN BOOK ____ PAGE ____ M.C.R.
- M.C.R. MARICOPA COUNTY RECORDS
- EC73 EASEMENT LINE – CURVE TABLE ITEM
- EL294 EASEMENT LINE – LINE TABLE ITEM
- L51 CENTER OR PROPERTY LINE – LINE TABLE ITEM
- C4 CENTER OR PROPERTY LINE CURVE TABLE ITEM
- PLAT BOUNDARY
- EASEMENTS AS NOTED
- CENTERLINE
- PROPERTY LINE



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Civil Engineers
Hydrologists
Land Surveyors
Construction Managers
(602) 335-8500

DC RANCH
SCOTTSDALE
DC RANCH PARCEL 1.18 FINAL PLAT

PRELIMINARY NOT FOR CONSTRUCTION OR RECORDING

DRAWN	KK
CHECKED	TRG
DATE	05-22-03
SCALE	1" = 50'
JOB NO	WP#02167902
SHEET	2 OF 4

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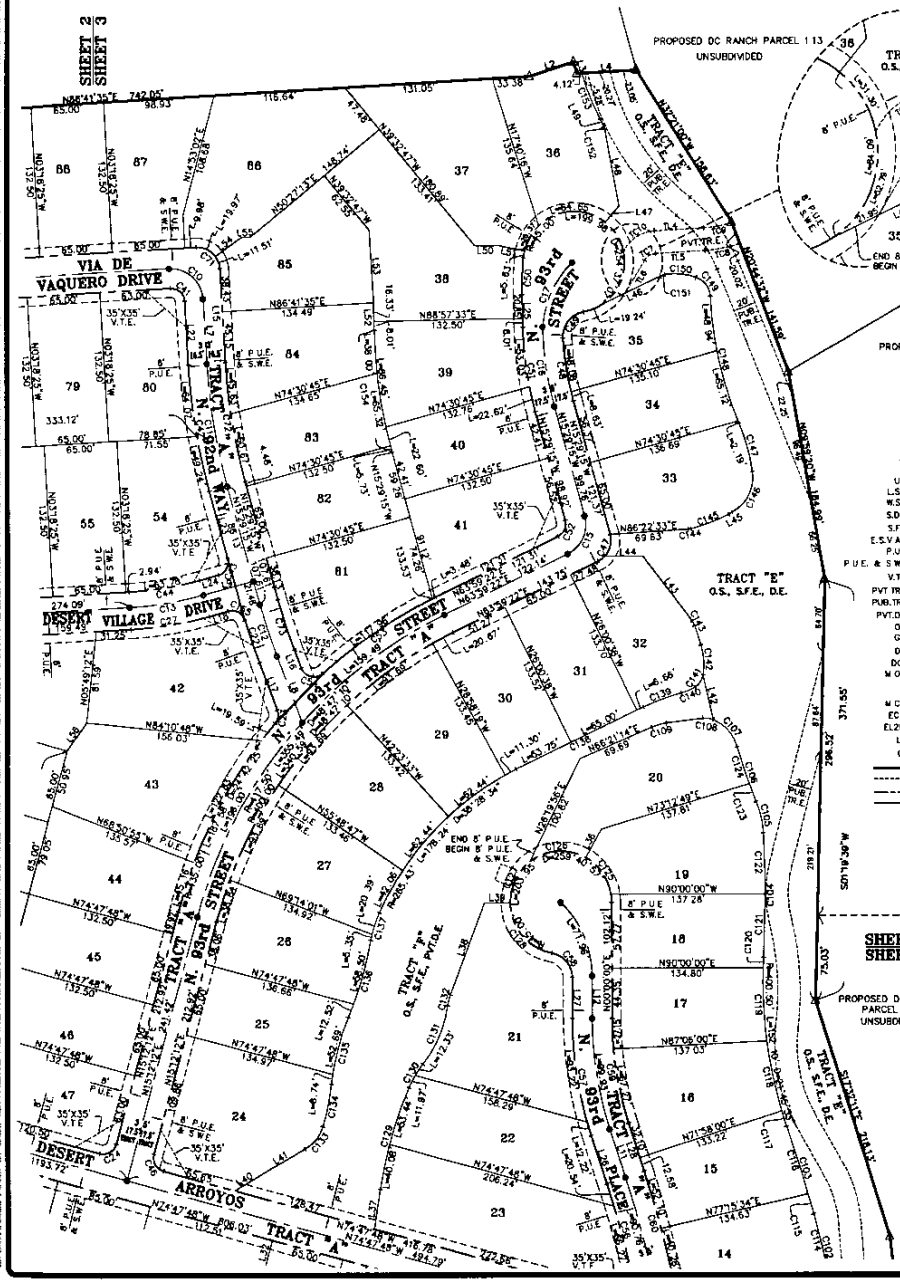

LEGEND

△	CORNER OF THIS SUBDIVISION SURVEY MONUMENT WITH RLS CAP OR TAG TO BE SET
●	SURVEY MONUMENT FOUND AS NOTED
O	SURVEY MONUMENT BRASS CAP TO BE SET AT TIME OF CONSTRUCTION
U.E.	UTILITY EASEMENT
L.S.E.	LANDSCAPE EASEMENT
W.S.E.	WATER AND SEWER EASEMENT
S.D.E.	SIGHT DISTANCE EASEMENT
S.F.E.	SUBDIVISION FACILITIES EASEMENT
E.S.V.A.E.	EMERGENCY AND SERVICE VEHICLE ACCESS EASEMENT
P.U.E.	PUBLIC UTILITY EASEMENT
P.U.E. & S.W.E.	PUBLIC UTILITY EASEMENT & SIDEWALK EASEMENT
V.T.E.	VISIBILITY TRIANGLE EASEMENT
PVT.TR.E.	PRIVATE TRAIL EASEMENT
PUB.TR.E.	PUBLIC TRAIL EASEMENT
PVT.D.E.	PRIVATE DRAINAGE EASEMENT
O.S.	OPEN SPACE
GLO	GENERAL LAND OFFICE
D.E.	DRAINAGE EASEMENT
DOC.	DOCUMENT
M.O.D.	MAP OF DEDICATION FOR DC RANCH LOOP ROAD INFRASTRUCTURE RECORDED IN BOOK ____ PAGE ____ M.C.R.
M.C.R.	MARICOPA COUNTY RECORDS
EC73	EASEMENT LINE – CURVE TABLE ITEM
EL294	EASEMENT LINE – LINE TABLE ITEM
L51	CENTER OF PROPERTY LINE – LINE TABLE ITEM
C4	CENTER OF PROPERTY LINE CURVE TABLE ITEM
———	PLAT BOUNDARY
- - - - -	EASEMENTS AS NOTED
— · — · —	CENTERLINE
———	PROPERTY LINE

CURVE TABLE					
CURVE	DELTA	RADIUS	ARC	CHORD BEARING	CHORD
C10	90°00'00"	28.50'	44.77'	N48°18'25"W	40.31'
C11	12°10'51"	516.50'	109.80'	S09°23'50"E	109.60'
C12	05°20'21"	516.50'	48.13'	S18°09'26"E	48.11'
C13	12°10'51"	313.50'	66.65'	N80°36'10"E	66.52'
C15	79°28'38"	28.50'	39.53'	N24°15'03"E	36.44'
C16	14°26'49"	262.50'	71.23'	S08°15'51"E	71.04'
C17	48°52'39"	85.91'	73.29'	S21°35'44"W	71.09'
C22	04°17'08"	533.00'	39.87'	S18°41'02"E	39.86'
C23	60°44'13"	12.00'	12.72'	N09°32'30"E	12.13'
C24	90°00'00"	12.00'	18.85'	N60°12'12"E	16.97'
C27	12°10'51"	333.00'	70.79'	N80°36'10"E	70.66'
C41	90°00'00"	12.00'	18.85'	N48°18'25"W	16.97'
C42	12°10'51"	533.00'	113.31'	S09°23'50"E	113.10'
C43	90°00'00"	12.00'	18.85'	N29°30'45"E	18.97'
C44	12°10'51"	300.00'	63.78'	N80°36'10"E	63.66'
C46	90°00'00"	12.00'	18.85'	S29°47'48"E	18.97'
C47	79°28'38"	20.00'	27.74'	N24°15'03"E	25.57'
C48	12°15'41"	265.00'	56.71'	S09°21'25"E	56.60'
C49	83°02'18"	22.00'	31.88'	S38°17'35"W	29.17'
C50	06°14'03"	303.00'	32.97'	S02°04'35"W	32.95'
C51	14°26'49"	300.00'	75.64'	S08°15'51"E	75.44'
C52	79°28'38"	12.00'	16.65'	N24°15'03"E	15.34'
C53	15°59'48"	435.00'	121.43'	S05°59'29"W	121.05'
C54	111°10'49"	12.00'	23.29'	S76°25'01"E	19.80'
C56	05°09'14"	965.00'	86.81'	N15°27'23"W	86.78'
C57	18°02'00"	335.00'	105.44'	S08°01'00"E	105.00'
C58	79°40'57"	22.00'	30.60'	N38°50'28"W	28.18'
C59	18°02'00"	300.00'	94.47'	S09°01'00"E	94.03'
C60	05°17'33"	1000.00'	92.37'	N15°23'13"W	92.34'
C71	90°00'00"	20.00'	31.42'	N48°18'25"W	28.28'
C72	12°10'51"	500.00'	106.30'	S09°23'50"E	106.10'
C73	05°20'21"	500.00'	46.59'	S18°09'26"E	46.58'
C102	05°43'38"	628.50'	62.82'	N13°11'03"W	62.80'
C103	02°37'19"	1760.50'	80.56'	N17°27'32"W	80.55'
C104	06°05'20"	1025.50'	108.98'	N00°02'42"E	108.93'
C105	19°57'38"	80.50'	28.04'	N12°58'46"W	27.90'
C106	07°28'16"	395.50'	51.34'	S19°14'26"E	51.31'
C107	53°18'11"	38.50'	33.30'	N41°59'24"W	32.15'
C108	29°36'53"	18.50'	9.56'	N62°35'58"W	9.46'
C109	16°14'23"	47.50'	13.46'	S74°28'28"W	13.42'
C114	04°18'23"	628.50'	47.24'	N13°53'41"W	47.23'
C115	00°34'47"	1760.50'	17.82'	N18°20'18"W	17.82'

CURVE TABLE					
CURVE	DELTA	RADIUS	ARC	CHORD BEARING	CHORD
C116	02°07'51"	1760.50'	62.74'	N17°38'55"W	62.74'
C117	07°02'59"	400.50'	14.33'	S17°38'41"E	14.33'
C118	09°04'31"	400.50'	63.44'	S12°04'56"E	63.37'
C119	09°19'16"	400.50'	64.69'	S02°55'03"E	64.62'
C120	01°22'47"	400.50'	9.64'	S02°23'58"W	9.64'
C121	03°09'41"	1025.50'	55.39'	N01°32'31"E	55.38'
C122	02°59'39"	1025.50'	53.58'	N01°30'09"W	53.58'
C123	02°24'58"	395.50'	16.68'	S21°45'05"E	16.68'
C124	05°01'18"	395.50'	34.66'	S18°01'57"E	34.65'
C125	51°20'23"	45.00'	40.32'	N34°55'02"W	38.99'
C126	67°41'19"	45.00'	52.81'	S85°47'37"W	49.63'
C127	52°10'27"	45.00'	40.98'	S26°05'14"W	39.58'
C128	79°40'57"	45.00'	62.58'	S39°50'28"E	57.66'
C129	14°04'53"	380.50'	93.51'	S15°53'56"W	93.28'
C130	15°22'56"	90.50'	24.30'	S30°39'50"W	24.22'
C131	30°25'53"	107.50'	57.10'	N23°08'22"E	56.43'
C132	12°35'13"	45.50'	10.00'	S14°13'02"W	9.98'
C133	43°02'10"	34.50'	25.91'	N38°27'02"E	25.31'
C134	10°39'19"	208.50'	38.40'	N11°38'18"E	38.35'
C135	18°15'28"	218.50'	61.43'	S14°24'21"W	61.22'
C136	12°41'44"	320.50'	71.02'	N16°11'13"E	70.87'
C137	15°12'19"	97.00'	25.74'	S17°26'30"W	25.67'
C138	01°01'18"	6133.00'	125.41'	S64°06'22"W	125.41'
C139	10°19'53"	199.50'	35.97'	S69°51'28"W	35.92'
C140	16°21'08"	46.50'	13.27'	N86°50'51"E	13.23'
C141	50°06'44"	15.50'	13.56'	N33°36'54"E	13.13'
C142	25°47'56"	59.50'	26.82'	N04°21'18"W	26.59'
C143	19°06'31"	13.92'	4.65'	N27°44'07"W	4.63'
C144	10°17'19"	14.87'	2.67'	N81°13'54"E	2.67'
C145	13°33'03"	152.00'	35.95'	N89°18'43"E	35.87'
C146	70°51'45"	34.50'	42.67'	N27°06'19"E	40.00'
C147	14°24'44"	175.50'	44.15'	N15°51'55"W	44.03'
C148	20°00'09"	333.00'	116.25'	S12°44'13"E	115.66'
C149	58°59'20"	18.50'	22.28'	N37°13'48"W	20.95'
C150	28°45'12"	60.67'	28.33'	N85°06'04"W	28.07'
C151	17°24'37"	12.67'	3.85'	S72°49'01"W	3.84'
C151	17°24'37"	12.67'	3.85'	S72°49'01"W	3.84'
C151	17°24'37"	12.67'	3.85'	S72°49'01"W	3.84'
C151	17°24'37"	12.67'	3.85'	S72°49'01"W	3.84'
C152	18°25'02"	9.34'	2.67'	N18°42'52"W	2.67'
C153	09°46'34"	251.46'	42.91'	S22°02'02"E	42.85'
C154	14°26'49"	432.50'	109.05'	S08°15'51"E	108.78'
C155	88°56'47"	12.00'	18.63'	N81°00'52"W	16.81'

LINE TABLE		
LINE	BEARING	DISTANCE
L2	N72°19'44"E	40.84'
L3	N17°40'18"W	10.46'
L4	N86°41'35"E	52.72'
L7	S03°18'25"E	57.56'
L8	S20°49'37"E	62.91'
L9	N74°30'45"E	45.95'
L11	N18°02'00"W	44.67'
L12	N00°00'00"E	37.73'
L15	N03°16'25"W	83.58'
L16	N20°49'37"W	17.87'
L17	S20°49'37"E	44.72'
L18	N74°30'45"E	17.55'
L23	S03°18'25"E	56.56'
L23	S15°29'15"E	60.83'
L24	N74°30'45"E	17.45'
L25	N01°02'27"W	28.88'
L26	N18°02'00"W	44.67'
L27	N00°00'00"E	36.20'
L28	N18°02'00"W	44.67'
L31	S56°54'32"W	45.69'

LINE TABLE		
LINE	BEARING	DISTANCE
L32	N15°12'12"E	23.56'
L35	N17°44'28"W	24.73'
L36	S29°24'47"W	28.10'
L37	N08°53'28"E	35.22'
L38	N20°30'39"E	86.38'
L39	N90°00'00"E	23.00'
L40	N59°26'38"E	26.08'
L41	N59°56'07"E	46.49'
L42	S12°54'33"E	40.70'
L43	S37°18'23"E	71.92'
L44	N89°49'16"E	34.18'
L45	N62°32'11"E	3.48'
L46	N64°06'42"E	57.01'
L46	N64°06'42"E	57.01'
L46	N64°06'42"E	57.01'
L46	N64°06'42"E	57.01'
L47	S39°38'07"W	16.90'
L48	N10°30'21"W	66.38'
L49	N28°53'23"W	7.61'
L50	S68°57'33"W	21.32'
L51	S76°38'23"E	23.45'
L52	S01°02'27"E	24.34'
L53	S03°18'25"E	64.70'
L54	S53°41'28"W	28.29'
L55	N86°41'35"E	8.18'
L56	N35°44'40"E	30.20'

TRAIL EASEMENT LINE TABLE		
LINE	BEARING	DISTANCE
TL4	N86°34'45"E	44.11'
TL4	N86°34'45"E	44.11'
TL4	N86°34'45"E	44.11'
TL4	N86°34'45"E	44.11'
TL5	S86°34'45"W	44.11'
TL5	S86°34'45"W	44.11'
TL5	S86°34'45"W	44.11'
TL5	S86°34'45"W	44.11'
TL6	S30°42'01"W	33.77'
TL6	S30°42'01"W	33.77'
TL6	S30°42'01"W	33.77'
TL6	S30°42'01"W	33.77'

TRAIL EASEMENT CURVE TABLE					
CURVE	DELTA	RADIUS	ARC	CHORD BEARING	CHORD
TC7	55°52'44"	12.50'	12.19'	S58°36'23"W	11.71'
TC7	55°52'44"	12.50'	12.19'	S58°36'23"W	11.71'
TC7	55°52'44"	12.50'	12.19'	S58°36'23"W	11.71'
TC7	55°52'44"	12.50'	12.19'	S58°36'23"W	11.71'
TC8	74°49'45"	122.50'	31.58'	N78°11'53"E	31.48'
TC9	14°15'46"	102.50'	25.52'	N79°26'52"E	25.45'
TC10	60°58'49"	32.50'	34.59'	S56°05'21"W	32.98'
TC10	60°58'49"	32.50'	34.59'	S56°05'21"W	32.98'
TC10	60°58'49"	32.50'	34.59'	S56°05'21"W	32.98'
TC10	60°58'49"	32.50'	34.59'	S56°05'21"W	32.98'

NORTHEAST CORNER OF SECTION 31, T.4N., R.5E. FOUND GLO BRASS CAP

N

50 0 25 50

1 inch = 50 ft.

EAST 1/4 CORNER OF SECTION 31, T.4N., R.5E. FOUND GLO BRASS CAP

N00°02'24"W 2642.30'

S00°02'24"E 2642.07'

SOUTHEAST CORNER OF SECTION 31, T.4N., R.5E. FOUND PK NAIL

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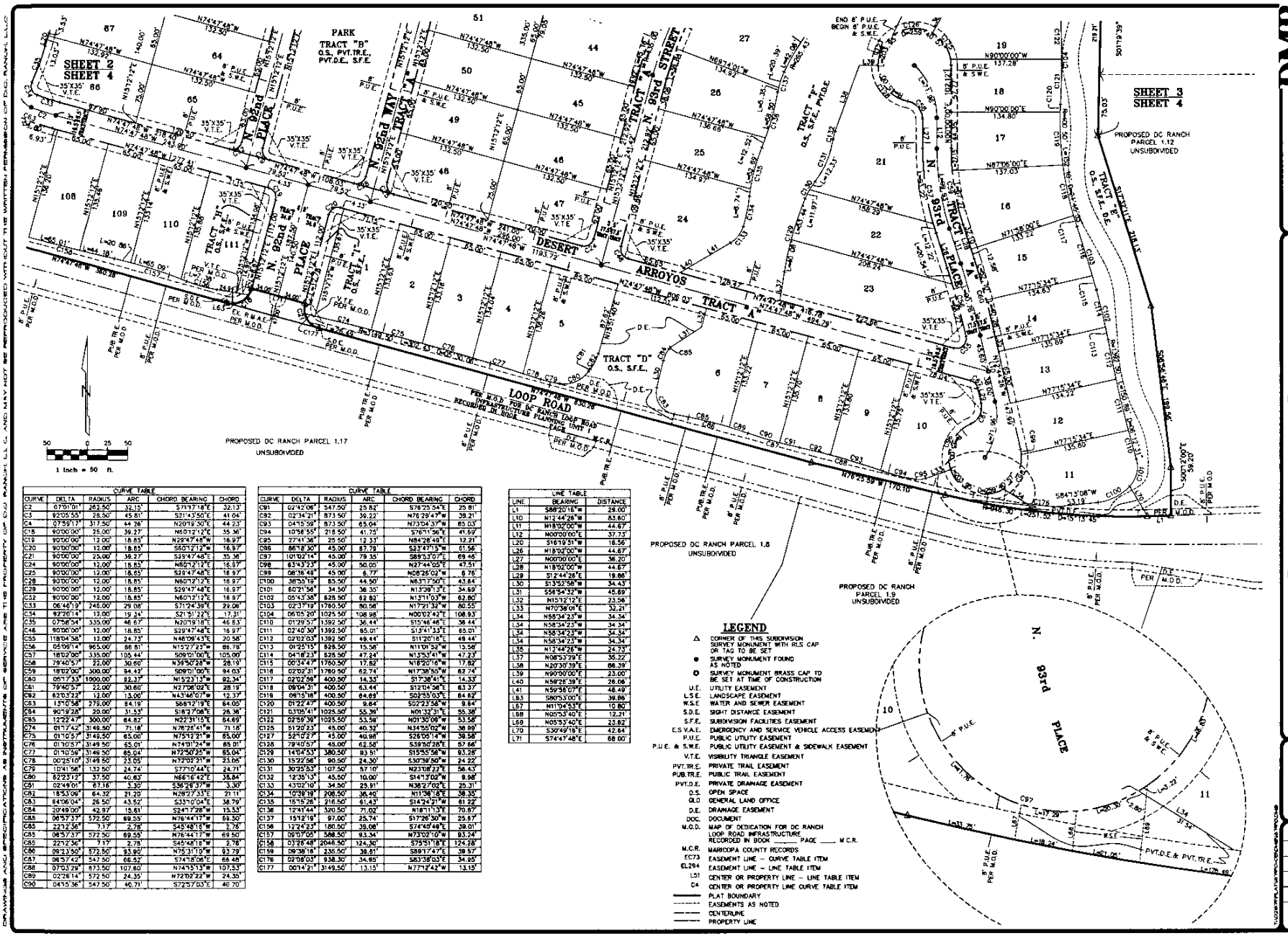
DC RANCH
SCOTTSDALE
DC RANCH PARCEL 1.18 FINAL PLAT

PRELIMINARY
NOT FOR CONSTRUCTION OR RECORDING

DRAWN KK
CHECKED TRG
DATE 05-22-03
SCALE 1" = 50'
JOB NO. WP802167.02
SHEET 3 OF 4



CURVE TABLE					
CURVE	DELTA	RADIUS	ARC	CHORD BEARING	CHORD
C2	67°01'01"	262.50'	32.13'	S71°17'18"E	32.13'
C3	92°05'55"	28.50'	45.81'	S21°43'50"E	41.04'
C4	07°59'17"	317.50'	44.38'	N20°19'30"E	44.23'
C18	90°00'00"	25.00'	39.27'	N60°12'12"E	35.36'
C19	90°00'00"	12.00'	18.85'	N29°47'48"W	16.97'
C20	90°00'00"	12.00'	18.85'	S60°12'12"W	16.97'
C21	90°00'00"	25.00'	39.27'	S29°47'48"E	35.36'
C24	90°00'00"	12.00'	18.85'	N60°12'12"E	16.97'
C25	90°00'00"	12.00'	18.85'	S29°47'48"E	16.97'
C28	90°00'00"	12.00'	18.85'	N60°12'12"E	16.97'
C29	90°00'00"	12.00'	18.85'	S29°47'48"E	16.97'
C32	90°00'00"	12.00'	18.85'	N60°12'12"E	16.97'
C33	06°46'19"	246.00'	29.08'	S71°24'39"E	29.06'
C34	92°20'14"	12.00'	19.34'	S21°51'22"E	17.31'
C35	07°58'54"	335.00'	46.67'	N20°19'18"E	46.63'
C46	90°00'00"	12.00'	18.85'	S29°47'48"E	16.97'
C55	118°04'58"	13.00'	24.73'	N48°09'43"E	20.56'
C56	05°09'14"	965.00'	86.81'	N15°27'23"W	86.78'
C57	18°02'00"	335.00'	105.44'	S09°01'00"E	105.00'
C58	79°40'57"	22.00'	30.60'	N39°50'28"W	28.19'
C59	18°02'00"	300.00'	94.49'	S09°01'00"E	94.03'
C60	05°17'33"	1000.00'	92.37'	N15°23'13"W	92.34'
C61	79°40'57"	22.00'	30.60'	N27°08'02"E	28.19'
C62	62°03'22"	12.00'	13.00'	N43°46'07"W	12.37'
C63	131°06'58"	279.00'	84.19'	S68°12'19"E	64.05'
C64	90°19'28"	20.00'	31.53'	S16°27'08"E	28.38'
C65	12°22'47"	300.00'	64.82'	N22°31'15"E	64.69'
C74	01°17'42"	3149.50'	71.18'	N76°26'41"W	71.18'
C75	01°10'57"	3149.50'	65.00'	N75°12'21"W	65.00'
C76	01°10'57"	3149.50'	65.01'	N74°01'24"W	65.01'
C77	01°10'59"	3149.50'	65.04'	N72°50'25"W	65.04'
C78	00°25'10"	3149.50'	23.05'	N72°03'31"W	23.05'
C79	10°41'56"	132.50'	24.74'	S77°10'44"E	24.71'
C80	62°23'12"	37.50'	40.83'	N66°16'42"E	38.84'
C81	02°49'01"	67.18'	3.30'	S36°28'37"W	3.30'
C82	18°53'06"	64.32'	21.20'	N28°27'33"E	21.11'
C83	64°36'04"	26.50'	43.82'	S33°10'04"E	38.79'
C84	20°49'00"	42.97'	15.61'	S24°17'28"W	15.53'
C85	06°57'37"	572.50'	69.55'	N76°44'17"W	69.50'
C86	22°12'36"	7.17'	2.78'	S45°48'18"W	2.76'
C85	06°57'37"	572.50'	69.55'	N76°44'17"W	69.50'
C86	22°12'36"	7.17'	2.78'	S45°48'18"W	2.76'
C86	09°13'50"	572.50'	93.80'	N75°31'19"W	93.79'
C87	06°57'42"	547.50'	66.52'	S74°18'06"E	66.48'
C88	07°03'29"	873.50'	107.60'	N74°15'13"W	107.53'
C89	02°26'14"	572.50'	24.35'	N72°02'22"W	24.35'
C90	04°15'36"	547.50'	40.71'	S72°57'03"E	40.70'

CURVE TABLE					
CURVE	DELTA	RADIUS	ARC	CHORD BEARING	CHORD
C91	02°42'08"	547.50'	25.82'	S76°25'54"E	25.81'
C92	02°34'21"	873.50'	39.22'	N76°29'47"W	39.21'
C93	04°15'59"	873.50'	65.04'	N73°04'37"W	65.03'
C94	10°56'55"	218.50'	41.75'	S76°11'56"E	41.69'
C95	27°41'36"	25.50'	12.33'	N84°28'49"E	12.21'
C96	86°18'30"	45.00'	67.78'	S23°47'15"W	61.56'
C97	101°02'14"	45.00'	79.35'	S89°53'07"E	69.46'
C98	63°43'23"	45.00'	50.05'	N27°44'05"E	47.51'
C99	06°38'48"	45.00'	6.77'	N06°26'02"W	6.76'
C100	38°55'19"	85.50'	44.50'	N63°17'50"E	43.84'
C101	60°21'54"	34.50'	36.35'	N13°38'12"E	34.69'
C102	05°43'38"	625.50'	62.62'	N13°11'03"W	62.60'
C103	02°37'19"	1780.50'	80.56'	N17°21'32"W	80.55'
C104	06°05'20"	1025.50'	108.98'	N00°02'42"E	108.93'
C110	01°29'57"	1392.50'	36.44'	S15°46'46"E	36.44'
C111	02°40'30"	1392.50'	65.01'	S13°41'33"E	65.01'
C112	02°02'03"	1392.50'	49.44'	S11°20'16"E	49.44'
C113	01°25'15"	828.50'	15.58'	N11°01'52"W	15.58'
C114	04°18'23"	828.50'	47.24'	N13°53'41"W	47.23'
C115	00°34'47"	1780.50'	17.82'	N18°20'16"W	17.82'
C116	02°02'31"	1780.50'	62.74'	N17°38'55"W	62.74'
C117	02°02'59"	400.50'	14.33'	S17°38'41"E	14.33'
C118	09°04'31"	400.50'	63.44'	S12°04'56"E	63.37'
C119	09°15'16"	400.50'	64.69'	S02°55'03"E	64.62'
C120	01°22'47"	400.50'	9.64'	S02°23'56"W	9.64'
C121	03°05'41"	1025.50'	55.36'	N01°32'31"E	55.36'
C122	02°59'39"	1025.50'	53.58'	N01°30'09"W	53.58'
C125	51°20'23"	45.00'	40.32'	N34°55'02"W	38.99'
C127	52°10'27"	45.00'	40.98'	S26°05'14"W	39.58'
C128	79°40'57"	45.00'	62.58'	S39°50'28"E	57.66'
C129	14°04'53"	380.50'	93.51'	S15°55'58"W	93.28'
C130	15°22'56"	90.50'	24.30'	S30°38'50"W	24.22'
C131	30°25'53"	107.50'	57.10'	N23°08'22"E	56.43'
C132	12°35'13"	45.50'	10.00'	S14°13'02"W	9.98'
C133	43°02'10"	34.50'	25.91'	N36°27'02"E	25.31'
C134	10°39'19"	208.50'	38.40'	N11°38'18"E	38.35'
C135	15°15'26"	216.50'	61.43'	S14°24'21"W	61.22'
C136	12°41'44"	320.50'	71.02'	N18°11'13"E	70.87'
C137	15°12'19"	97.00'	25.74'	S17°26'30"W	25.67'
C156	12°24'23"	180.50'	39.08'	S74°49'49"E	39.01'
C157	09°07'05"	586.50'	93.34'	N73°02'10"W	93.24'
C158	03°26'48"	2046.50'	124.30'	S75°51'18"E	124.28'
C159	09°39'18"	235.50'	39.81'	S89°17'47"E	39.57'
C176	02°08'03"	938.30'	34.65'	S83°38'03"E	34.95'
C177	00°14'21"	3149.50'	13.15'	N77°12'42"W	13.15'

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S88°20'18"W	28.00'
L10	N12°44'26"W	63.60'
L11	N18°02'00"W	44.67'
L12	N00°00'00"E	37.73'
L20	S16°19'51"W	16.56'
L26	N18°02'00"W	44.67'
L27	N00°00'00"E	36.20'
L28	N18°02'00"W	44.67'
L29	S12°44'28"E	19.88'
L30	S13°52'58"W	34.43'
L31	S56°54'32"W	45.69'
L32	N15°12'12"E	23.56'
L33	N70°38'01"E	32.21'
L34	N58°34'23"W	34.34'
L34	N58°34'23"W	34.34'
L34	N58°34'23"W	34.34'
L34	N58°34'23"W	34.34'
L35	N12°44'26"W	24.73'
L37	N08°53'29"E	35.22'
L38	N20°30'39"E	68.39'
L39	N90°00'00"E	23.00'
L40	N58°28'39"E	26.06'
L41	N59°58'07"E	48.49'
L63	S80°53'00"E	39.86'
L67	N11°04'53"E	10.80'
L68	N05°53'40"E	12.21'
L69	N05°53'40"E	23.82'
L70	S30°49'18"E	42.64'
L71	S74°47'48"E	68.00'

LEGEND

△	CORNER OF THIS SUBDIVISION SURVEY MONUMENT WITH RLS CAP OR TAG TO BE SET
●	SURVEY MONUMENT FOUND AS NOTED
O	SURVEY MONUMENT BRASS CAP TO BE SET AT TIME OF CONSTRUCTION
U.E.	UTILITY EASEMENT
L.S.E.	LANDSCAPE EASEMENT
W.S.E.	WATER AND SEWER EASEMENT
S.D.E.	SIGHT DISTANCE EASEMENT
S.F.E.	SUBDIVISION FACILITIES EASEMENT
E.S.V.A.E.	EMERGENCY AND SERVICE VEHICLE ACCESS EASEMENT
P.U.E.	PUBLIC UTILITY EASEMENT
P.U.E. & S.W.E.	PUBLIC UTILITY EASEMENT & SIDEWALK EASEMENT
V.T.E.	VISIBILITY TRIANGLE EASEMENT
PVT.TR.E.	PRIVATE TRAIL EASEMENT
PUB.TR.E.	PUBLIC TRAIL EASEMENT
PVT.D.E.	PRIVATE DRAINAGE EASEMENT
O.S.	OPEN SPACE
G.O.	GENERAL LAND OFFICE
D.E.	DRAINAGE EASEMENT
DOC.	DOCUMENT
M.O.D.	MAP OF DEDICATION FOR DC RANCH LOOP ROAD INFRASTRUCTURE RECORDED IN BOOK ____ PAGE ____ M.C.R.
M.C.R.	MARICOPA COUNTY RECORDS
EC73	EASEMENT LINE – CURVE TABLE ITEM
EL294	EASEMENT LINE – LINE TABLE ITEM
L51	CENTER OR PROPERTY LINE – LINE TABLE ITEM
C4	CENTER OR PROPERTY LINE CURVE TABLE ITEM
———	PLAT BOUNDARY
- - - -	EASEMENTS AS NOTED
———	CENTERLINE
———	PROPERTY LINE

DMB

WOOD/PATEL
Civil Engineers
Hydrologists
Land Surveyors
Land Development Managers
(602) 335-8500

DC RANCH
SCOTTSDALE
DC RANCH PARCEL 1.18 FINAL PLAT

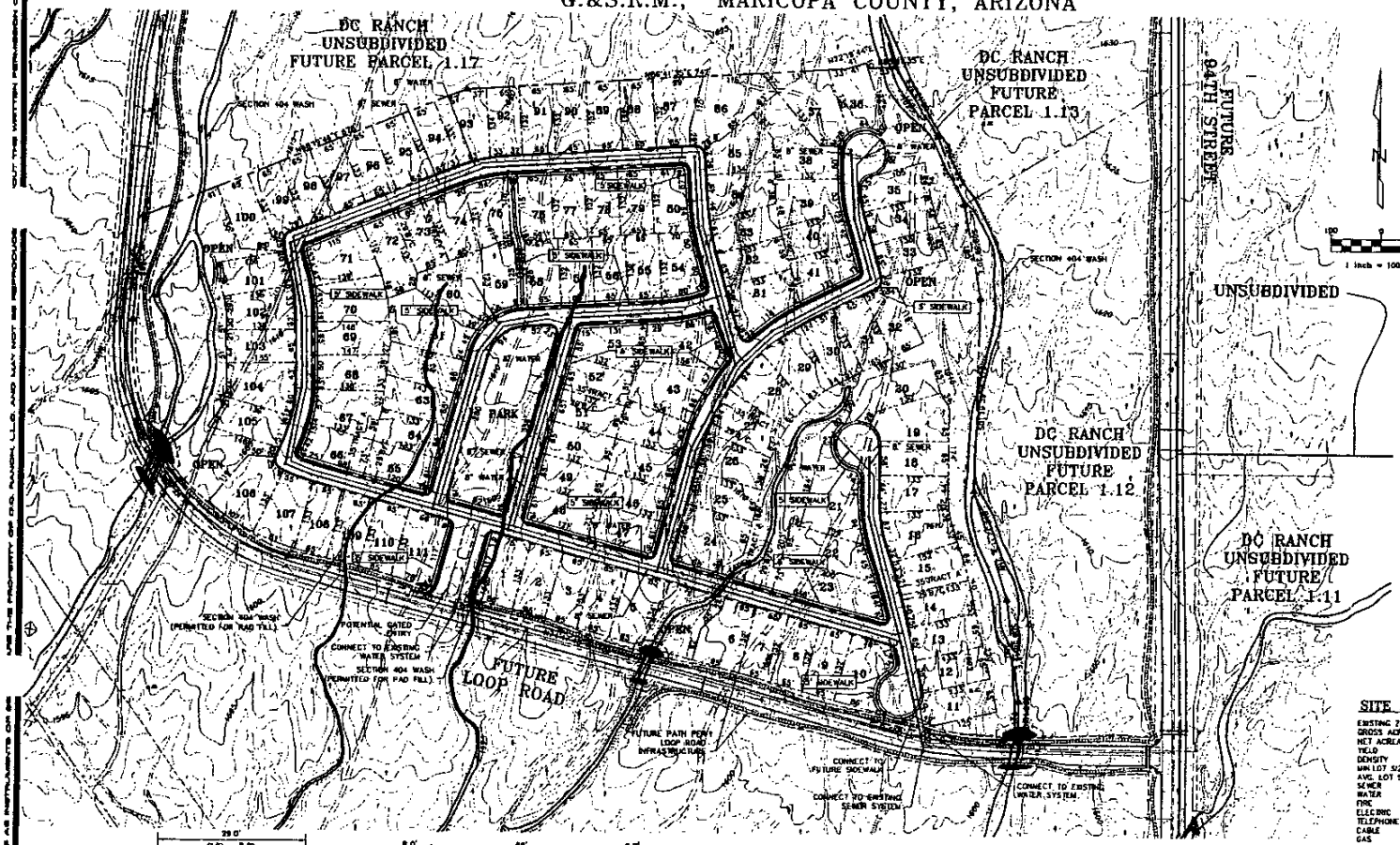
PRELIMINARY
NOT FOR CONSTRUCTION OR RECORDING

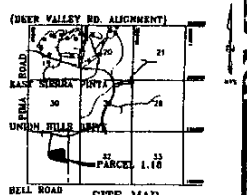
DRAWN	KK
CHECKED	TRG
DATE	05-22-03
SCALE	1" = 50'
JOB NO	WP02167.02
SHEET	4 OF 4

DRAWINGS AND SPECIFICATIONS AS INSTRUMENTS OF SERVICE ARE THE PROPERTY OF DC RANCH LLC AND MAY NOT BE REPRODUCED WITHOUT THE WRITTEN PERMISSION OF DC RANCH LLC

PRELIMINARY PLAT FOR PARCEL 1.18 IN DC RANCH

A PORTION OF SECTION 31, T.4N., R.5E., OF THE G.&S.R.M., MARICOPA COUNTY, ARIZONA





SITE MAP

1 inch = 100 ft.

DEVELOPER

DC RANCH L.L.C.
7600 East Doubletree, suite 300
Scottsdale, AZ 85258-2137
Contact: David Lipinski P.E.
(480) 367-7000 Fax: (480) 367-9708

CIVIL ENGINEER

Wood, Patel and Associates
2051 West Northern, Suite 100
Phoenix, AZ 85021
Contact: Gordon Mark P.E.
(602) 335-8500 Fax: (602) 335-8580

LAND PLANNER

Swanson Partners
7550 East McDonald Drive
Scottsdale, AZ 85250
Contact: Trevor Berger
(480) 367-2100 Fax: (480)367-2101

LANDSCAPE ARCHITECT

Weimer & Associates
5815 N. Scottsdale Rd.- Suite E-120
Scottsdale, AZ 85253
Contact: Jim Smith
(480) 945-9553 Fax: (480) 945-9534

SITE DATA

EXISTING ZONING	R1-7
GROSS ACREAGE	37.81 AC
NET ACREAGE	38.81 AC
YIELD	111 LOTS
DENSITY	2.94 UNIT/AC.
MIN LOT SIZE	8612 SQ.FT.
AVG. LOT SIZE	9050 SQ.FT.
SEWER	CITY OF SCOTTSDALE
WATER	CITY OF SCOTTSDALE
FIRE	RURAL METRO
ELECTRIC	ARIZONA PUBLIC SERVICE
TELEPHONE	QWEST COMMUNICATIONS
CABLE	COX COMMUNICATIONS
GAS	SOUTHWEST GAS

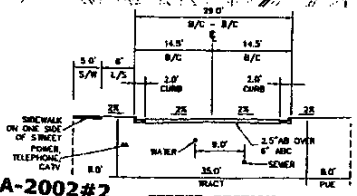
NOTES

1.) AN 8' P.U.E. WILL BE PROVIDED ON BOTH SIDES OF FULL STREETS, UNLESS DETERMINED IT IS NOT NEEDED.

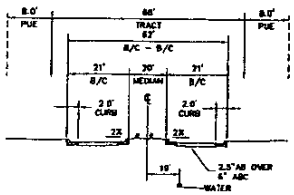
2.) ALL STREETS ARE PRIVATE.

3.) ALL STREETS AND TRACTS WILL BE MAINTAINED BY BOARD OF GOVERNORS OF THE RANCH IN ACCORDANCE WITH APPLICABLE RECORDED RESTRICTIONS, AND DEVELOPMENT AGREEMENT AND STIPULATIONS.

4.) THERE SHALL BE NO CUTS OR FILLS EXCEEDING 8' IN HEIGHT ON THIS SITE



STREET SECTION
WAY / TWO-SIDED PARKING



ENTRY STREET SECTION

485-PA-2002#2
01/06/03

2-PP-2002
01/06/2003

DMB

WOOD/PATEL
Civil Engineers
Land Planners
Land Surveyors
(602) 335-8500

DC RANCH
SCOTTSDALE
PARCEL 1.18
PRELIMINARY PLAT - SITE PLAN

DESIGNED D.K.
DRAWN PSS
CHECKED GHH
DATE

N-89#5

1 OF 1

ATTACHMENT #3

DEVELOPMENT REVIEW BOARD REPORT

MEETING DATE: February 20, 2003 ITEM NO. _____ GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT

DC Ranch Parcel 1.18 (Planning Unit 1)

REQUEST

Request to approve Preliminary Plat for a 111-lot subdivision at DC Ranch.
2-PP-2003

Key Items for Consideration:

- This is the first development/subdivision in DC Ranch's Planning Unit 1.
- The development will comply with the Master Plans for Planning Unit 1, including the Master Environmental Design Concept Plan.

Related Policies, References:
54-ZN-1989#1 thru 5, 5-MP-2002, Community Facilities District

OWNER

DC Ranch LLC
480-367-7000

APPLICANT CONTACT

Karrin Taylor
Biskind Hunt & Taylor
602-955-3452

LOCATION

Planning Unit 1 at DC Ranch

BACKGROUND

Zoning.
The site is zoned Single Family Residential District (R1-7). The R1-7 zoning district allows for 7,000-square-foot, or larger, residential lot sizes. The residential zoning districts also allow religious facilities and public schools as by-right uses. Private schools require use permits.

General Plan.
The General Plan Land Use Element designates the property as Suburban Neighborhoods. This category includes medium-lot to small-lot single-family subdivisions with densities between 1 house per acre and 8 houses per acre.

Context.
Planning Unit 1 of DC Ranch is generally located between Pima Road to the west and 94th Street to the east, and between Union Hills Road to the north and Bell Road to the south. Planning Unit 1 area is open desert that has been used for cattle grazing, with cattle still on the property. Planning Unit 1 is zoned for both residential and commercial land uses, has land allocated for a public park, has a natural alluvial fan drainage system, and is relatively flat (lower desert landform). In December 2002, the Development Review Board approved the Environmental Design Master Design Concept (EDMP) for Planning Unit 1.

APPROVED AT DRB 2/20/2003– BDF

ATTACHMENT #4

Parcel 1.18 consists of 37 acres and is located in the middle of Planning Unit 1, and will have access from the future Loop Road connecting 94th Street to Union Hills Drive. The surrounding property is zoned R1-7 District to the north and east, Industrial Park District (I-1) to the south, and Open Space District (O-S) to the west.

APPLICANT'S PROPOSAL

Goal/Purpose of Request.
This is a request for approval of a preliminary subdivision plat of 37 acres into 111 lots (approximately 3 homes per acre). One point of access to the subdivision will be from the future Loop Road. The site is bounded to the east and west by existing washes, which provide pedestrian connectivity from this subdivision to the other planned developments in Planning Unit 1. A neighborhood park will be provided in the middle of the subdivision near the subdivision entrance. All development will comply with the Master Development Plans for DC Ranch, including the Environmental Design Master Design Concept (EDMP).

Community Impact.
DC Ranch has prepared Master Development Plans to address water, wastewater, drainage, and circulation issues, as well as a master environmental design concept. The nearest residential neighborhood is ¼ mile to the north.

IMPACT ANALYSIS

Traffic.
Roads identified in the approved Master Circulation Plan will be constructed as part of a joint effort between the developer and an approved Community Facilities District.

Development information.

- *Existing Use:* Open Desert
- *Parcel Size:* 37 acres
- *Number of Lots:* 111 (3 homes per acre)
- *Building Height Allowed:* 30 feet

Water/Sewer.
The applicant is responsible for new water and sewer infrastructure to service the site.

Police/Fire.
Police and fire facilities exist in the DC Ranch Master Planned Community, and no service impacts are anticipated.

Schools District comments/review.
Scottsdale Unified School District has been notified of this application, an no capacity issues are anticipated.

Open space, scenic corridors.

Open space tracts will be provided within the subdivision and along washes through the site, consistent with the Environmental Design Master Design Concept (EDMP).

Community involvement.
DC Ranch has posted this development in their newsletter. There have been no comments regarding this case.

OPTIONS AND STAFF RECOMMENDATION

Description of Option A:
The Development Review Board could approve the request, subject to stipulations.

Description of Option B:
The Development Review Board could continue the case to obtain more information or citizen input.

Description of Option C:
The Development Review Board could recommend denial of the request, finding that subdivision has significant design flaws.

Recommended Approach:
Staff recommends approval, subject to the attached stipulations.

RESPONSIBLE DEPT(S)

Planning and Development Services Department
Current Planning Services

STAFF CONTACT(S)

Tim Curtis
Project Coordination Manager
480-312-4210
E-mail: tcurtis@ScottsdaleAZ.gov

APPROVED BY

_____
Tim Curtis
Project Coodination Manager
Report Author

ATTACHMENTS

1. Applicant's Narrative
2. Context Aerial
3. Zoning Map
4. Existing Conditions Photos
5. Preliminary Plat Map

A Stipulations

B Ordinance Requirements

provide additional landscape base planting for the building to the satisfaction of city staff.

- The Applicant should provide modification to the steel canopy and building colors to provide a warmer and more varied color scheme to the satisfaction of city staff.

Mr. Ward noted the colors would be modified to accommodate the type of recommendations that were suggested at study session.

VICE CHAIRMAN POTTER MOVED TO APPROVE CASE 8-DR-2003 WITH THE AMENDED STIPULATIONS AND CASE 9-DR-2003 WITH THE AMENDED STIPULATIONS INCLUDING THE STIPULATIONS AS TO VEGETATION CHANGES IN KEY AREAS AND THE COLOR CHANGES TO A WARMER COLOR PALETTE. SECOND BY MR. CORTEZ.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).

REGULAR AGENDA

2-PP-2003	DC Ranch Parcel 1.18 Preliminary Plat Planning Unit 1 at DC Ranch N/A Architect/Designer

MR. CURTIS presented this case as per the project coordination packet. Staff recommends approval, subject to the attached stipulations.

KARRIN TAYLOR, Biskind Hunt & Taylor, 11201 N. Tatum, Phoenix, AZ, representing the applicant DC Ranch. She reviewed the circulation plan. She stated there are stipulations that require they provide connectivity to the east of the site both at the northeast corner and the southeast corner of the site in addition to stipulations that requires additional connection from the southwest corner of the site to the loop row. She further stated the way the subdivisions are being platted they will likely be developed as gated communities so they wanted to make sure they could function as individual gated communities but provide that internal connection to a path system that will run north south between these four parcels. She presented the circulation and open space map from the EDMP that was approved.

MR. SODEN inquired if the connectivity she is referring to is non-vehicular. Ms. Taylor replied in the affirmative. Mr. Soden asked a series of questions regarding the connectivity and traffic impacts on this site. Ms. Taylor presented additional information regarding the circulation and traffic impacts on this site.

She reported this subdivision planning is very similar to what was done in the first planning unit and was very successful so they are continuing it to this phase

Mr. Soden stated he would suggest they stipulate that the fencing at the cul-de-sac be four feet high or less. Ms. Taylor stated they would be willing to stipulate that the walls would be between three to four feet high. She further stated it is intended to be a low wall similar in character to the thematic walls throughout DC Ranch. She noted the wall is intended to be a landscape wall as opposed to keeping people out of the community.

Mr. Soden inquired if the park in tract F would be used for storm water retention. Ms. Taylor replied in the negative.

Mr. Soden stated on the conceptual landscape and wall plan all of the streets are shown with street trees. He inquired if the developer or the homeowners would install the street trees. Ms. Taylor replied they would be installed by the homebuilder. She stated the intention is that a tree palette would be selected for each subdivision and then the homebuilder would be required to install that tree throughout the subdivision. Mr. Soden requested they stipulate the trees throughout the entire parcel are one type of tree species only.

MR. SCHMITT stated on the Landscape Wall Plan legend there is a symbol for six-foot sidewalks by others and native granular trail by others. He further stated he would like to understand who "others" are. He inquired if the developer does not put those in who would install the trails. Ms. Taylor replied the master developer DC Ranch would install them.

VICE CHAIRMAN POTTER stated the preliminary plat plan shows a variety or washes and the wash to the west runs directly through lots 60-65 and then through 109 he inquired how they would treat those lots. Ms. Taylor stated they are significant 404 washes that are included in their existing 404 permit so the pad and fill treatment for the pads are included in the permit. Vice Chairman Potter inquired if they would be channeled underground. The engineer on this project stated the 404 permits, which they show under the building pads, have been permitted under the 404 permit for all of DC Ranch to be filled in completely. They will not exist in any condition until they leave the site. They are required to supply them with water to keep them alive off site.

COUNCILMAN ECTON stated this subdivision is directly in the path of aircraft leaving Scottsdale Airport. He inquired about the steps or measures that they are going to take to ensure that two to three years from now they don't have a whole subdivision complaining they did not know there was going to be an airplane flying over their homes. Ms. Taylor stated they have ongoing dialogue with the airport and they have worked with them and the City Attorney's Office to draft a supplemental declaration that will be recorded against the property that

includes airport notification and extensive indemnification of the developer as well as the City of Scottsdale related to aircraft noise and any other peril associated with the airport. In addition to that, in the disclosure statement to the Department of Real Estate they have included an Airport Notification. She reported in Planning Unit 1 the builders would be required to use energy efficient materials as part of the Green Building Program all to help with the sound issue.

Councilman Ecton inquired what happens when the original homeowner sales the house and they have a new homeowner that maybe does not have access to all of that information. Ms. Taylor stated that is the benefit of recording the supplemental declaration and airport notification form in the title of that document so that it appears in the title report and is not buried in the fine print.

MR. SODEN MOVED TO APPROVE CASE 2-PP-2003 WITH THE FOLLOWING ADDED STIPULATIONS:

- **THE FENCING AT THE CUL-DE-SACS IS FOUR FEET HIGH OR LESS.**
- **THE STREET TREES THROUGHOUT THE ENTIRE PARCEL ARE CONSISTENT AND ARE ONE TYPE OF TREE SPECIES ONLY.**

SECOND BY MR. CORTEZ.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).

7-DR-2003	Scenic Corridor Design Guidelines Citywide

MS. SHEWAK presented this case as per the project coordination packet. She stated the DR Board approvals on the guideline policy document are never ending. The approvals will last until staff brings forward amendments that they think are large enough for their review. There will be an opportunity after the Board approves the text to make minor modifications to sustain the life of this document. The traditional one-year approval does not affect this guideline document. Staff recommends approval.

MR. CONNER provided a brief overview of the process that has occurred to date. He discussed the Sensitive Design Guidelines. He stated Scenic Corridors are major thoroughfares designated by the City's General Plan to have scenic desert landscape setbacks that provide a sense of openness for the community. He discussed why the City designates Scenic Corridors and how they are designated. He reviewed the two formats of the Scenic Corridor Design Guidelines.

MEMORANDUM

DATE: June 19, 2003
TO: Honorable Mayor and Members of the City Council
FROM: Planning and Development Services Dept.
RE: 2-PP-2003; Resolution No. 6336 authorizing Park Agreement No. 2003-123-COS.

The Park Dedication Agreement (2003-123-COS) and Resolution No. 6336 (Attachments 6 and 7) were undergoing final refinements at time of printing. Attached is a Draft copy of the Park Dedication Agreement. Final attachments will be delivered in a supplemental packet to the Mayor and City Council on or before June 26, 2003.

DRAFT
5-12-03

DRAFT

When recorded, mail to:

(_____)
ONE STOP SHOP RECORDS
City of Scottsdale
7447 East Indian School Road, Suite 100
Scottsdale, AZ 85251

SPECIAL WARRANTY DEED,
WITH RESERVATION OF EASEMENTS,
AND COVENANTS AND RESTRICTIONS
(DC Ranch Planning Unit I Park Site)

DEDICATION

DC RANCH L.L.C., an Arizona limited liability company ("DC Ranch"), hereby conveys to THE CITY OF SCOTTSDALE, an Arizona municipal corporation (the "City"), the real property situated in Maricopa County, Arizona and more particularly described in **Exhibit "A"** attached hereto (the "Park Property"), subject to the reservation of easements, the covenants and restrictions, and the other matters set forth in this instrument.

DC Ranch hereby binds itself and its successors to warrant and defend the title of the Park Property against all of the acts of DC Ranch and no other, subject to the matters set forth above.

RESERVATIONS

Notwithstanding anything to the contrary in this instrument, the foregoing dedication, and acceptance by the City of such dedication, shall be subject to the following matters:

1. **Matters of Record**. All patent reservations, obligations, liabilities or other matters of record or to which reference is made in the public record; and any and all conditions, easements, encroachments, rights-of-way, or restrictions which a physical inspection, or accurate ALTA survey, of the Park Property would reveal, including without limitation that certain Second Amendment to Development Agreement recorded as Document No. 98-0970077 in the Official Records of Maricopa County, Arizona, as amended by that certain Third Amendment to Development Agreement recorded as Document No. 2003009008 in the Official Records of Maricopa County, Arizona (the "Development Agreement").

2. **Reservation of Easements**. The following easements (collectively, the "Easements"), each of which is reserved from the conveyance of this Dedication:

a. **Reservation of Landscape Easement**. DC Ranch hereby reserves to itself, and its successors and assigns, and hereby grants to the Council, and its successors and assigns, a perpetual easement over, upon and across the portions of the Park Property described in **Exhibit "B"** attached hereto (the "Landscape Easement Area"), for purposes of (i) installing,

constructing, maintaining, and replacing landscaping within such easement premises (collectively the "Landscaping Improvements"); (ii) the right of ingress and egress over, upon and across the Landscape Easement Area as may reasonably be necessary to permit the economical installation, construction, maintenance and replacement of the Landscape Improvements; and (iii) the right to remove plant growth, dirt and other materials from the Landscape Easement Area as may be necessary in connection with the installation, construction, maintenance, and replacement of the Landscape Improvements.

b. **Reservation of Temporary Construction Easement**.

(i) DC Ranch hereby reserves to itself, and its successors and assigns, and hereby grants to the Council, and its successors and assigns, a temporary easement over, upon and across the portions of the Park Property described in **Exhibit "C"** attached hereto (the "Temporary Construction Easement Area"), for purposes of (i) constructing and installing roadway improvements and related paving, curbs, gutters, and sidewalks within the 91st Street alignment and along the northern boundary of the Park Property (collectively the "Roadway Improvements"); (ii) the right of ingress and egress over, upon and across the Temporary Construction Easement Area as may reasonably be necessary to permit the economical installation and construction of the Roadway Improvements; and (iii) the right to remove plant growth, dirt and other materials from the Temporary Construction Easement Area as may be necessary in connection with the construction and installation of the Roadway Improvements.

(ii) The rights and easements granted under this subparagraph b are temporary and shall expire upon the recording in the Official Records of Maricopa County, a notice of completion, which DC Ranch covenants it will execute, cause to be acknowledged and recorded upon completion of the Roadway Improvements. Notwithstanding anything to the contrary contained herein, the rights and easements herein granted and conveyed shall expire and terminate automatically without the necessity of recording any document or instrument, if not previously terminated, on the date that is ten (10) years after the recordation of this Easement.

c. **Reservation of Drainage Easement**. DC Ranch hereby reserves to itself, and its successors and assigns, and hereby grants to the Council, and its successors and assigns, a perpetual easement over, upon and across the portion of the Park Property more particularly described in **Exhibit "D"** attached hereto (the "Drainage Easement Area") for purposes of (i) drainage, discharge and retention of water over, upon, across and through the channels, culverts, retention areas and other drainage facilities now or hereafter located on the Drainage Easement Area (collectively, the "Drainage Improvements"), from any portion of the DC Ranch development outside of the Park Property, (ii) installing and constructing improvements for such drainage, discharge and retention, including without limitation the Drainage Improvements, and (iii) maintaining, replacing, repairing and operating any and all Drainage Improvements installed or constructed by DC Ranch. DC Ranch further reserves to itself, and its successors and assigns, and hereby grants to the Council, and its successors and assigns, a right of access over, upon and across the Park Property as may be reasonably required in connection with the installation, construction, maintenance, repair and replacement of the Drainage Improvements. Any such construction and installation shall be subject to normally applicable requirements of City permits and approvals. No structure of any kind shall be constructed within the Drainage Easement Area

that would impede the flow of water over, under or through any Drainage Improvements or that would materially reduce the retention capacity of any Drainage Improvements. The rights of DC Ranch under this Paragraph 2(c) shall not be construed to deny the City any right to cause or permit water from any portion of the Park Property to drain or discharge into, or be retained on, the Drainage Easement Area.

3. **Maintenance of Improvements**. During and after construction of the Drainage Improvements, Public Utility Improvements and Landscape Improvements, DC Ranch shall be responsible for the maintenance of all such improvements in good condition, order and repair, provided that (i) DC Ranch may delegate all or any part of such responsibility to the Council by separate recorded instrument, (ii) on the earlier of the (a) date on which the City commences construction of the improvements on the Park Property or (b) the date that is five (5) years after the recording of this document, the City shall assume all responsibility for maintenance of the entire Park Property, including such improvements, and (iii) if the City determines that it is in the best interests of the City to undertake such maintenance before it is required to do so under the foregoing clause "(ii)", then the City shall so notify DC Ranch, whereupon, beginning sixty (60) days after such notice is given to DC Ranch, the City shall thereafter be responsible for such maintenance, whereupon DC Ranch shall no longer be responsible for such maintenance.

4. **Protection of Easement Premises and Improvements**. Subject to the need to provide police, fire, rescue and other emergency municipal services, the City shall protect and maintain DC Ranch's rights of continuous access in the Public Utility Easement Area, the Landscape Easement Area, the Temporary Construction Easement Area (until its expiration), and the Drainage Easement Area, (collectively, the "Easement Areas"), as against all acts of the City and its employees and contractors. The City shall also protect all improvements located within the Easement Areas, as against all acts of the City and its employees and contractors. In the enforcement of the provisions of this section, DC Ranch shall be entitled to pursue any and all remedies available at law or in equity, including without limitation pursuit of a temporary restraining order, permanent injunction or other relief in the nature of specific performance.

COVENANTS, CONDITIONS AND RESTRICTIONS

Notwithstanding anything to the contrary in this instrument, DC Ranch and the City hereby agree and declare that the Park Property shall be held, conveyed and transferred subject to the following covenants, conditions and restrictions, which are hereby imposed against the Park Property as part of a general plan of development that is designed to protect and enhance the value and desirability of the entire DC Ranch development (collectively, the "Covenants"):

1. **Use of Property**. The City shall not use the Park Property for any purpose other than a public park, including related improvements (the "Park Improvements"), all in accordance with the DC Ranch Parcel 1.4 Master Site Plan approved by the Scottsdale City Council on _____ 2003 (the "Approved Site Plan"), as such Approved Site Plan may be amended by the City Council from time to time in accordance with applicable public processes, and otherwise in accordance with Section 3.11 of the Development Agreement. Construction of the Park Improvements shall be at the sole expense of the City. The City covenants and agrees the Park Improvements will include a parking lot as generally shown on the Approved Site Plan.

2. **Revegetation**. The City shall make commercially reasonable efforts to preserve all vegetation removed from the Park Property, in accordance with all standards applicable to private developers within the City of Scottsdale and all other laws and regulations pertaining to native plants. Except for such vegetation as may be used in connection with landscaping of the Park Property, the City shall promptly deliver all vegetation removed from the Park Property to DC Ranch for such use as DC Ranch may deem appropriate.

3. **General Construction Obligations**. During the installation and construction of the Park Improvements, the City shall take all steps reasonably necessary to (i) keep, or cause to be kept, the Park Property in a neat, orderly and clean condition, free of debris, (ii) employ effective dust control procedures, (iii) protect all property and improvements located outside of the Park Property from damage caused by the City or its agents, employees, contractors or subcontractors, and immediately repair or replace any such property once damaged to its pre-existing condition at the City's expense, (iv) keep all property and improvements within the DC Ranch development, and all paths, trails, rights-of-way and drives, reasonably clean and clear of the City's equipment, building materials, dirt, debris and similar materials, (v) secure, maintain in effect and comply with all state and federal permits necessary, (vi) comply with all applicable laws, rules and regulations pertaining to construction and safety (including without limitation Section 404 of the Clean Water Act and all other laws, rules and regulations pertaining to the washes located on and immediately to the east of the Park Property), and all construction and safety requirements imposed from time to time by DC Ranch with respect to construction activities at the DC Ranch development, (vii) comply with all applicable laws, rules and regulations pertaining to construction and safety, and all construction and safety requirements set forth in the construction rules set forth in **Exhibit "E"** attached hereto (the "Construction Rules"), and (ix) cooperate (and cause its agents, employees and contractors to cooperate) with DC Ranch and DC Ranch's agents, employees and contractors, in coordinating any construction activities of the City on or about the Easement Areas or adjacent property under development so as to avoid interfering with construction activities on such Easement Areas and adjacent property. DC Ranch shall comply with the foregoing with respect to any installation and construction of Public Utility Improvements, Landscape Improvements, and Drainage Improvements by DC Ranch.

4. **Maintenance of Park Property**. At all times, the City shall maintain the Park Property and all landscaping and improvements thereon (except with respect to maintenance required of DC Ranch as provided above) in a neat, orderly and clean condition and to the standards generally prevailing in the DC Ranch development, at the City's sole expense.

5. **404 Corridor**. The City agrees not to disturb the natural wash areas that are located in the western and southeastern portion of the Park Property (the "404 Corridor") and to comply with all applicable laws, rules and regulations pertaining to the 404 Corridor, including without limitation Section 404 of the Clean Water Act. The City acknowledges that a violation of Section 404 of the Clean Water Act may result in significant civil and criminal penalties. The City shall be responsible for determining the precise location and limits of the 404 Corridor, including the extent of the regulated natural vegetation areas, and the City acknowledges that DC

Ranch has recommend strongly that the City retain a qualified engineer or other professional to do so.

6. **Contractors**. The City shall use its best efforts to ensure that all of its employees and contractors are aware of the City's obligations under this Dedication and all Construction Rules, and to ensure that all such persons abide by all such obligations and requirements. Upon request by DC Ranch, the City shall provide DC Ranch with a copy of all contracts between the City and all such contractors (or among such persons) relating to the Park Improvements. Before entering onto the Park Property in connection with the performance of any work in connection with the Park Improvements, all such contractors shall execute and deliver to DC Ranch a Contractor's Acknowledgment and Covenant in the form of **Exhibit "F"** attached hereto.

GENERAL PROVISIONS

DC Ranch and the City hereby agree as follows:

1. **Running With the Land**. DC Ranch hereby declares its express intent that the foregoing Easements and Covenants shall run with the land and shall be an encumbrance on the Park Property, and, except as otherwise provided, shall be binding upon, enforceable against, and inure to the benefit of DC Ranch, the City, and their respective successors and assigns, including successors-in-title to the Park Property. Each and every contract, deed or other instrument hereafter executed conveying, transferring or otherwise disposing of the Park Property or any portion thereof, shall conclusively be held to have been executed, delivered and accepted by the grantee or transferee subject to the Covenants regardless of whether the Covenants are set forth in such contract, deed or other instrument. The Covenants shall continue in full force and effect perpetually.

2. **Default; Remedies**. In the event of any breach of any of the Covenants, or any other terms, conditions, conditions, restrictions, easements, covenants and reservations set forth in this instrument, the non-breaching party may pursue any and all remedies available at law or in equity and, in elaboration and not in limitation of the foregoing, the non-breaching party may pursue any proceedings at law or in equity to enjoin such breach and/or to recover damages for any such breach. Notwithstanding the foregoing, no breach of any of the Covenants, or of any other term, condition, condition, restriction, easement, covenant and reservation set forth in this instrument shall entitle any party to cancel, rescind or otherwise terminate the conveyance evidenced by this instrument or any of the Covenants, or of any other term, condition, condition, restriction, easement, covenant and reservation set forth in this instrument.

3. **Release**. The City, by its acceptance of the foregoing conveyance, to the fullest extent permitted by law, on behalf of itself, its employees, its successors-in-title, and anyone claiming by, through or under the City, hereby forever waives any and all claims that it may now have or hereafter acquire against DC Ranch and its members, and their respective constituent members and partners, and the owners, employees, representatives and agents of each of the foregoing (collectively, the "Released Parties"), relating to or resulting from any and all injuries, losses, liens, claims, demands, judgments, liabilities, damages, costs and expenses (including but not limited to court costs and reasonable attorneys' fees and expenses) sustained by or made or

threatened against the City, its employees, its successors-in-title, or anyone claiming by, through or under the City such person or entity, which result from or arise out of or in connection with flooding of the Park Property (without regard to the cause or causes of such flooding), including without limitation (a) flooding that is determined to have caused any damage to the Park Property or any improvement or other property located there or used in connection therewith, and (b) flooding that is determined to have caused any bodily injury or death. The City further covenants not to sue, or otherwise assert liability on the part of, DC Ranch or any of the other Released Parties (directly or indirectly, whether by complaint, counterclaim, third party claim, or otherwise, whether in connection with an action in any court, or in connection with any other legal proceedings) pertaining in any manner to any such injuries, losses, liens, claims, demands, judgments, liabilities, damages, costs and expenses. The provisions of this paragraph 3 shall not apply to the extent (and only to the extent) that such injuries, losses, liens, claims, demands, judgments, liabilities, damages, costs and expenses result from DC Ranch's failure to construct drainage improvements in accordance with plans approved by the City. The City acknowledges and agrees that the foregoing waiver and the foregoing covenant not to sue shall pertain equally to known and unknown claims, damages and causes of action. The foregoing waiver of claims shall survive the recordation of this instrument.

4. **Notices**. Any and all notices required or permitted hereunder shall be given in writing and personally delivered, sent by registered or certified mail, return receipt requested, postage prepaid, or sent by Federal Express or other similar reputable overnight courier, addressed as follows:

If to DC Ranch:	DC Ranch L.L.C. 7600 East Doubletree Ranch Road, Suite 300 Scottsdale, Arizona 85258 Attn: Brent Herrington
With a copy to:	Biskind, Hunt & Taylor, P.L.C. 11201 North Tatum Boulevard, Suite 330 Phoenix, Arizona 85028 Attn: Karrin Kunasek Taylor, Esq.
To the City:	City of Scottsdale 3939 Drinkwater Boulevard Scottsdale, Arizona 85251 Attn: City Manager
With a copy to:	City of Scottsdale 3939 Drinkwater Boulevard Scottsdale, Arizona 85251 Attn: City Attorney

or at any other address or facsimile number designated by DC Ranch or the City in writing, and any such notice or communication shall be deemed to have been given as of the date of delivery, if hand delivered or sent by overnight courier, as of three (3) days after the date of mailing, if

mailed within the continental United States, or as of seven (7) days after mailing, if mailed outside the continental United States.

5. **Satisfaction of Stipulations**. The conveyance of the Park Property pursuant to this Dedication is agreed to be in full satisfaction of any and all stipulations requiring DC Ranch (or any person or entity constituting DC Ranch) to dedicate to the City land for the park purposes within the area of land commonly known as Planning Unit I in the DC Ranch development, under Section 3.11 the Development Agreement, or otherwise.

DATED: _____, 2003.

DC RANCH: DC RANCH L.L.C., an Arizona limited liability company

By: DMB PROPERTY VENTURES LIMITED PARTNERSHIP, a Delaware limited partnership, its Administrative Member

By: DMB GP, INC., an Arizona corporation, its General Partner

By: _____

Its: _____

The City of Scottsdale hereby accepts the foregoing dedication of the Park Property (as defined above), and hereby agrees to be bound by the terms of the foregoing instrument:

CITY OF SCOTTSDALE, an Arizona municipal corporation ("City")

By: _____
Mary Manross, Mayor

ATTEST:

_____
Sonia Robertson, City Clerk

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APPROVED AS TO FORM:

_____
David Pennartz, City Attorney

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this ___ day of _____, 2003, by _____, the _____ of DMB GP, INC., an Arizona corporation, General Partner of DMB PROPERTY VENTURES LIMITED PARTNERSHIP, a Delaware limited partnership, the Administrative Member of DC RANCH L.L.C., an Arizona limited liability company, on behalf of the limited liability company.

_____
Notary Public

My Commission Expires:

_____

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EXHIBIT A
PARCEL DESCRIPTION
DC Ranch
Proposed Neighborhood Park Boundary

A parcel of land lying within Section 31, Township 4 North, Range 5 East, of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

Commencing at the west quarter corner of said section, a ½" rebar, from which the northwest corner of said section, a C.O.S. brass cap, bears North 00°00'08" East, a distance of 2640.83 feet;
THENCE along the east-west mid-section line of said section, North 89°57'56" East, a distance of 1069.65 feet;
THENCE leaving said east-west mid-section line, North 00°03'27" West, a distance of 244.03 feet, to the **POINT OF BEGINNING**;
THENCE North 00°03'27" West, a distance of 677.45 feet, to the beginning of a non-tangent curve;
THENCE easterly along said curve, having a radius of 272.00 feet, concave northerly, whose radius bears North 13°00'03" West, through a central angle of 10°16'56", a distance of 48.81 feet, to the curve's end;
THENCE North 66°43'01" East, a distance of 371.85 feet, to the beginning of a curve;
THENCE northeasterly along said curve, having a radius of 278.00 feet, concave southerly through a central angle of 04°41'38", a distance of 22.78 feet, to a point of compound curvature;
THENCE easterly along said curve, having a radius of 141.50 feet, concave southerly through a central angle of 29°41'46", a distance of 73.34 feet, to a point of reverse curvature;
THENCE easterly along said curve, having a radius of 158.50 feet, concave northerly through a central angle of 09°10'37", a distance of 25.39 feet, to the curve's end;
THENCE South 88°04'13" East, a distance of 119.43 feet, to the beginning of a curve;
THENCE easterly along said curve, having a radius of 25.00 feet, concave southwesterly through a central angle of 96°37'53", a distance of 42.16 feet, to a point of compound curvature;
THENCE southerly along said curve, having a radius of 1612.00 feet, concave westerly through a central angle of 03°55'38", a distance of 110.49 feet, to the curve's end;
THENCE South 12°29'19" West, a distance of 82.86 feet, to the beginning of a curve;
THENCE southerly along said curve, having a radius of 1508.00 feet, concave easterly through a central angle of 06°52'20", a distance of 180.87 feet, to the curve's end;
THENCE South 05°36'59" West, a distance of 885.64 feet, to a point on said mid-section line;

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Parcel Description
DC Ranch
Proposed Neighborhood Park Boundary

April 7, 2003
WP#011426.06
Page 2 of 3
See Exhibit "A"

THENCE continuing South 05°36'59" West, leaving said mid-section line, a distance of 220.52 feet;
THENCE North 36°02'39" West, a distance of 806.38 feet, to the **POINT OF BEGINNING.**

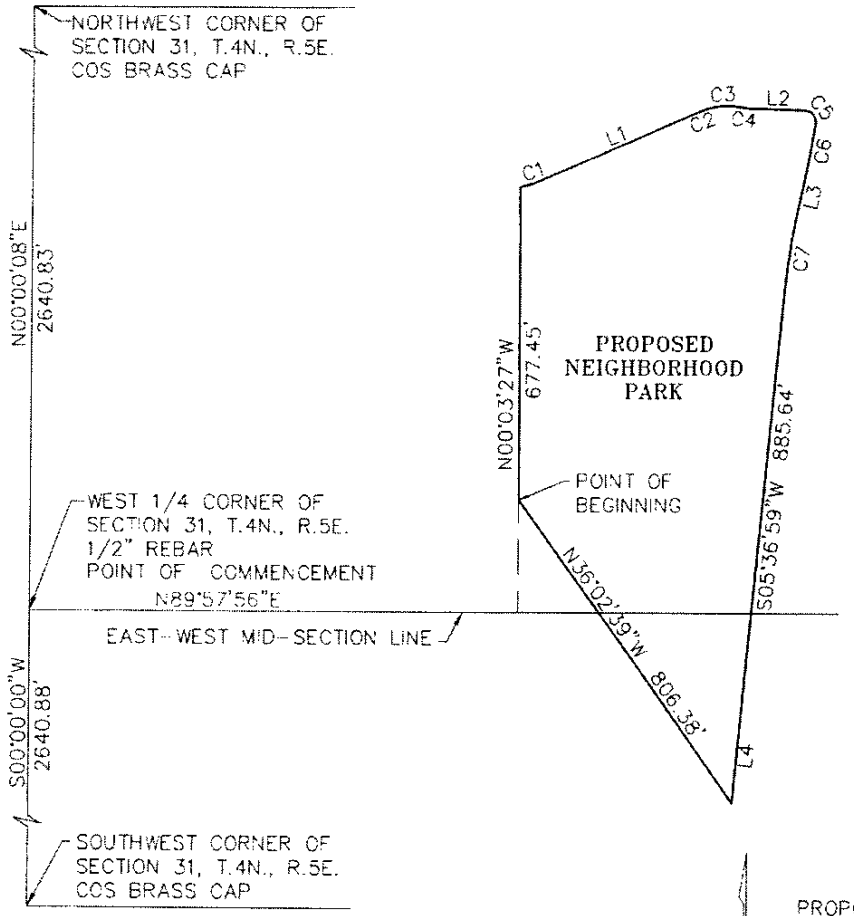
Containing 14.6527 acres, or 638,272 square feet of land, more or less.

Subject to existing rights-of-way and easements.

This parcel description is based on the Results of Survey of a portion of DC Ranch recorded in Book 426, page 38, M.C.R. and other client provided information. This parcel description is located within an area surveyed by Wood/Patel during the month of September, 1996 and any monumentation noted in this parcel description is within acceptable tolerance (as defined in Arizona Boundary Survey Minimum Standards dated 02/14/2002) of said positions based on said survey.

Y:\WP\Parcel Descriptions\011426.06 DC Ranch Proposed Neighborhood Park Boundary.doc

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37513
BRADLEY W.
SARGENT
DATE SIGNED 4-7-03
ARIZONA, U.S.A.



LINE TABLE		
LINE	BEARING	DISTANCE
L1	N66°43'01"E	371.85'
L2	S88°04'13"E	119.43'
L3	S12°29'19"W	82.86'
L4	S05°36'59"W	220.52'

CURVE TABLE			
CURVE	DELTA	RADIUS	ARC
C1	10°16'56"	272.00'	48.81'
C2	04°41'38"	278.00'	22.78'
C3	29°41'46"	141.50'	73.34'
C4	09°10'37"	158.50'	25.39'
C5	96°37'53"	25.00'	42.16'
C6	03°55'38"	1612.00'	110.49'
C7	06°52'20"	1508.00'	180.87'

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37513
BRADLEY W.
SARGENT
Date Signed 4-7-03
ARIZONA, U.S.A.

WOOD/PATEL
2051 West Northern
Phoenix, AZ 85021
Phone (602) 335-8500
Fax: (602) 335-8580

EXHIBIT "A"

DC RANCH
PROPOSED NEIGHBORHOOD PARK BOUNDARY
04-07-03
WP#011426.06
PAGE 3 OF 3
NOT TO SCALE
T:\2001\011426\LEGAL\1426L04-DB\DWG\1426L04
Exhibit A/Page 3 of 3

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EXHIBIT B

PARCEL DESCRIPTION
DC Ranch Neighborhood Park
Proposed 20' Landscape Easement

A parcel of land lying within Section 31, Township 4 North, Range 5 East, of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

Commencing at the west quarter corner of said section, a ½" rebar, from which the northwest corner of said section, a C.O.S. brass cap, bears North 00°00'08" East, a distance of 2640.83 feet;
THENCE along the east-west mid-section line of said section, North 89°57'56" East, a distance of 1069.65 feet;
THENCE leaving said east-west mid-section line, North 00°03'27" West, a distance of 901.00 feet, to the **POINT OF BEGINNING;**
THENCE continuing North 00°03'27" West, a distance of 20.48 feet, to the beginning of a non-tangent curve;
THENCE easterly along said curve, having a radius of 272.00 feet, concave northerly, whose radius bears North 13°00'03" West, through a central angle of 10°16'56", a distance of 48.81 feet, to the curve's end;
THENCE North 66°43'01" East, a distance of 371.85 feet, to the beginning of a curve;
THENCE northeasterly along said curve, having a radius of 278.00 feet, concave southerly through a central angle of 04°41'38", a distance of 22.78 feet, to a point of compound curvature;
THENCE easterly along said curve, having a radius of 141.50 feet, concave southerly through a central angle of 29°41'46", a distance of 73.34 feet, to a point of reverse curvature;
THENCE easterly along said curve, having a radius of 158.50 feet, concave northerly through a central angle of 09°10'38", a distance of 25.39 feet, to the curve's end;
THENCE South 88°04'13" East, a distance of 119.43 feet, to the beginning of a curve;
THENCE easterly along said curve, having a radius of 25.00 feet, concave southwesterly through a central angle of 96°37'53", a distance of 42.16 feet, to a point of compound curvature;
THENCE southerly along said curve, having a radius of 1612.00 feet, concave westerly through a central angle of 03°55'38", a distance of 110.49 feet, to the curve's end;
THENCE South 12°29'19" West, a distance of 82.86 feet, to the beginning of a curve;
THENCE southerly along said curve, having a radius of 1508.00 feet, concave easterly through a central angle of 06°52'20", a distance of 180.87 feet, to the curve's end;
THENCE South 05°36'59" West, a distance of 885.64 feet, to a point on east-west mid-section line;
THENCE leaving said mid-section line, South 05°36'59" West, a distance of 220.52 feet;
THENCE North 36°02'39" West, a distance of 30.09 feet;

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THENCE North 05°36'59" East, a distance of 198.04 feet, to a point on said east-west mid-section line;
THENCE leaving said mid-section line, North 05°36'59" East, a distance of 885.64 feet, to the beginning of a curve;
THENCE northerly along said curve, having a radius of 1528.00 feet, concave easterly through a central angle of 06°52'20", a distance of 183.27 feet, to the curve's end;
THENCE North 12°29'19" East, a distance of 82.86 feet, to the beginning of a curve;
THENCE northerly along said curve, having a radius of 1592.00 feet, concave westerly through a central angle of 03°55'38", a distance of 109.12 feet, to a point of compound curvature;
THENCE northerly along said curve, having a radius of 5.00 feet, concave southwesterly through a central angle of 96°37'53", a distance of 8.43 feet, to the curve's end;
THENCE North 88°04'13" West, a distance of 119.43 feet, to the beginning of a curve;
THENCE westerly along said curve, having a radius of 178.50 feet, concave northerly through a central angle of 09°10'38", a distance of 28.59 feet, to a point of reverse curvature;
THENCE westerly along said curve, having a radius of 121.50 feet, concave southerly through a central angle of 29°41'46", a distance of 62.97 feet, to a point of compound curvature;
THENCE westerly along said curve, having a radius of 258.00 feet, concave southerly through a central angle of 04°41'38", a distance of 21.14 feet, to the curve's end;
THENCE South 66°43'01" West, a distance of 371.85 feet, to the beginning of a curve;
THENCE southwesterly along said curve, having a radius of 292.00 feet, concave northerly through a central angle of 11°10'58", a distance of 56.99 feet, to the curve's end and the **POINT OF BEGINNING.**

Containing 0.9900 acres, or 43,125 square feet of land, more or less.

Subject to existing rights-of-way and easements.

This parcel description is based on the Results of Survey of a portion of DC Ranch recorded in Book 426, page 38, M.C.R. and other client provided information. This parcel description is located within an area surveyed by Wood/Patel during the month of September, 1996 and any monumentation noted in this parcel description is within acceptable tolerance (as defined in Arizona Boundary Survey Minimum Standards dated 02/14/2002) of said positions based on said survey.

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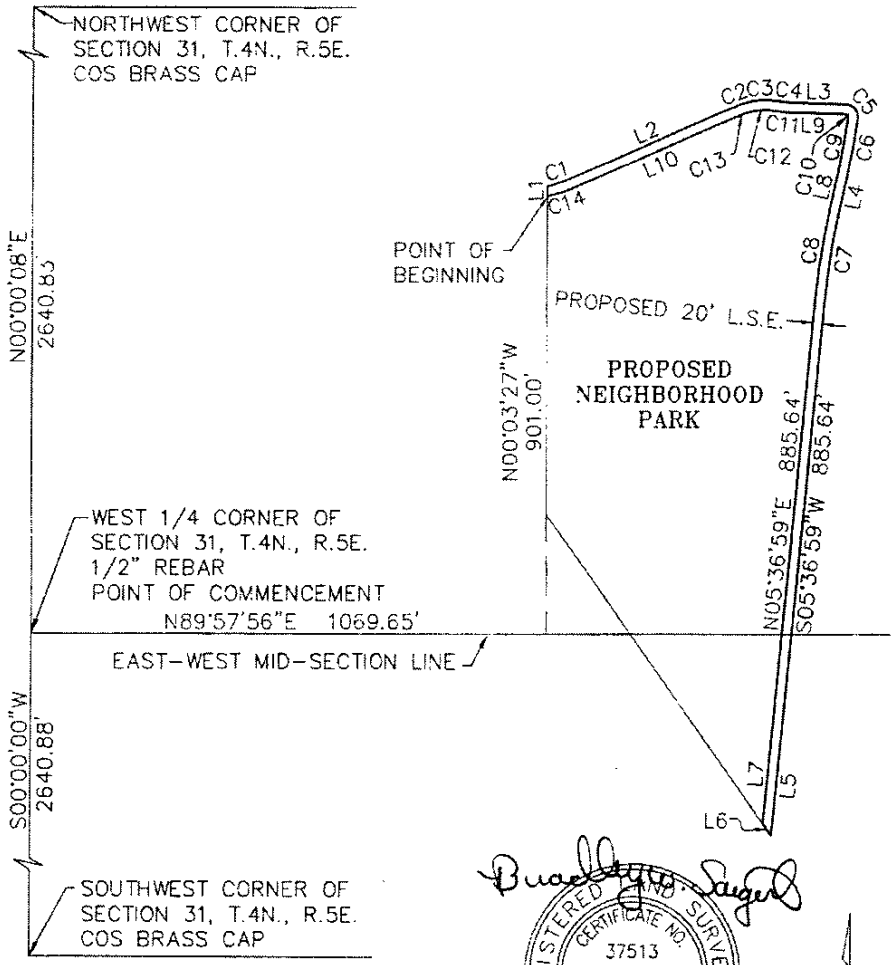
REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37513
BRADLEY W.
SARGENT
DATE SIGNED 4-7-03
ARIZONA, U.S.A.



LINE TABLE		
LINE	BEARING	DISTANCE
L1	N00°03'27"W	20.48'
L2	N66°43'01"E	371.85'
L3	S88°04'13"E	119.43'
L4	S12°29'19"W	82.86'
L5	S05°36'59"W	220.52'
L6	N36°02'39"W	30.09'
L7	N05°36'59"E	198.04'
L8	N12°29'19"E	82.86'
L9	N88°04'13"W	119.43'
L10	S66°43'01"W	371.85'

CURVE TBLE			
CURVE	DELTA	RADIUS	ARC
C1	10°16'56"	272.00'	48.81'
C2	04°41'38"	278.00'	22.78'
C3	29°41'46"	141.50'	73.34'
C4	09°10'38"	158.50'	25.39'
C5	96°37'53"	25.00'	42.16'
C6	03°55'38"	1612.00'	110.49'
C7	06°52'20"	1508.00'	180.87'
C8	06°52'20"	1528.00'	183.27'
C9	03°55'38"	1592.00'	109.12'
C10	96°37'53"	5.00'	8.43'
C11	09°10'38"	178.50'	28.59'
C12	29°41'46"	121.50'	62.97'
C13	04°41'38"	258.00'	21.14'
C14	11°10'58"	292.00'	56.99'

WOOD/PATEL
2051 West Northern
Phoenix, AZ 85021
Phone: (602) 335-8500
Fax: (602) 335-8580

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37513
BRADLEY W.
SARGENT
Date Signed 4-7-03
ARIZONA, U.S.A.

N

DC RANCH NEIGHBORHOOD PARK
PROPOSED 20' LANDSCAPE EASEMENT
04-07-03
WP#011426.06
PAGE 3 OF 3
NOT TO SCALE
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EXHIBIT C

PARCEL DESCRIPTION
DC Ranch Neighborhood Park
Proposed 50' Temporary Construction Easement

A parcel of land lying within Section 31, Township 4 North, Range 5 East, of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

Commencing at the west quarter corner of said section, a ½" rebar, from which the northwest corner of said section, a C.O.S. brass cap, bears North 00°00'08" East, a distance of 2640.83 feet;
THENCE along the east-west mid-section line of said section, North 89°57'56" East, a distance of 1069.65 feet;
THENCE leaving said east-west mid-section line, North 00°03'27" West, a distance of 870.39 feet, to the **POINT OF BEGINNING**;
THENCE North 00°03'27" West, a distance of 51.09 feet, to the beginning of a non-tangent curve;
THENCE easterly along said curve, having a radius of 272.00 feet, concave northerly, whose radius bears North 13°00'03" West, through a central angle of 10°16'56", a distance of 48.81 feet, to the curve's end;
THENCE North 66°43'01" East, a distance of 371.85 feet, to the beginning of a curve;
THENCE northeasterly along said curve, having a radius of 278.00 feet, concave southerly through a central angle of 04°41'38", a distance of 22.78 feet, to a point of compound curvature;
THENCE easterly along said curve, having a radius of 141.50 feet, concave southerly through a central angle of 29°41'46", a distance of 73.34 feet, to a point of reverse curvature;
THENCE easterly along said curve, having a radius of 158.50 feet, concave northerly through a central angle of 09°10'38", a distance of 25.39 feet, to the curve's end;
THENCE South 88°04'13" East, a distance of 119.43 feet, to the beginning of a curve;
THENCE easterly along said curve, having a radius of 25.00 feet, concave southwesterly through a central angle of 96°37'53", a distance of 42.16 feet, to a point of compound curvature;
THENCE southerly along said curve, having a radius of 1612.00 feet, concave westerly through a central angle of 03°55'38", a distance of 110.49 feet, to the curve's end;
THENCE South 12°29'19" West, a distance of 82.86 feet, to the beginning of a curve;
THENCE southerly along said curve, having a radius of 1508.00 feet, concave easterly through a central angle of 06°52'20", a distance of 180.87 feet, to the curve's end;
THENCE South 05°36'59" West, a distance of 885.64 feet, to a point on said east-west mid-section line;
THENCE leaving said mid-section line, South 05°36'59" West, a distance of 220.52 feet;
THENCE North 36°02'39" West, a distance of 75.22 feet;

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THENCE North 05°36'59" East, a distance of 164.32 feet, to a point on said east-west mid-section line;
THENCE leaving said mid-section line, North 05°36'59" East, a distance of 885.64 feet, to the beginning of a curve;
THENCE northerly along said curve, having a radius of 1558.00 feet, concave easterly through a central angle of 06°52'20", a distance of 186.87 feet, to the curve's end;
THENCE North 12°29'19" East, a distance of 82.86 feet, to the beginning of a curve;
THENCE northerly along said curve, having a radius of 1562.00 feet, concave westerly through a central angle of 02°53'47", a distance of 78.96 feet, to a point of intersection with a non-tangent line;
THENCE North 88°04'13" West, a distance of 91.10 feet, to the beginning of a curve;
THENCE westerly along said curve, having a radius of 208.50 feet, concave northerly through a central angle of 09°10'38", a distance of 33.40 feet, to a point of reverse curvature;
THENCE westerly along said curve, having a radius of 91.50 feet, concave southerly through a central angle of 29°41'46", a distance of 47.42 feet, to a point of compound curvature;
THENCE westerly along said curve, having a radius of 228.00 feet, concave southerly through a central angle of 04°41'38", a distance of 18.68 feet, to the curve's end;
THENCE South 66°43'01" West, a distance of 371.85 feet, to the beginning of a curve;
THENCE southwesterly along said curve, having a radius of 322.00 feet, concave northerly through a central angle of 12°19'09", a distance of 69.23 feet, to the curve's end and the **POINT OF BEGINNING**.

Containing 2.4229 acres, or 105,542 square feet of land, more or less.

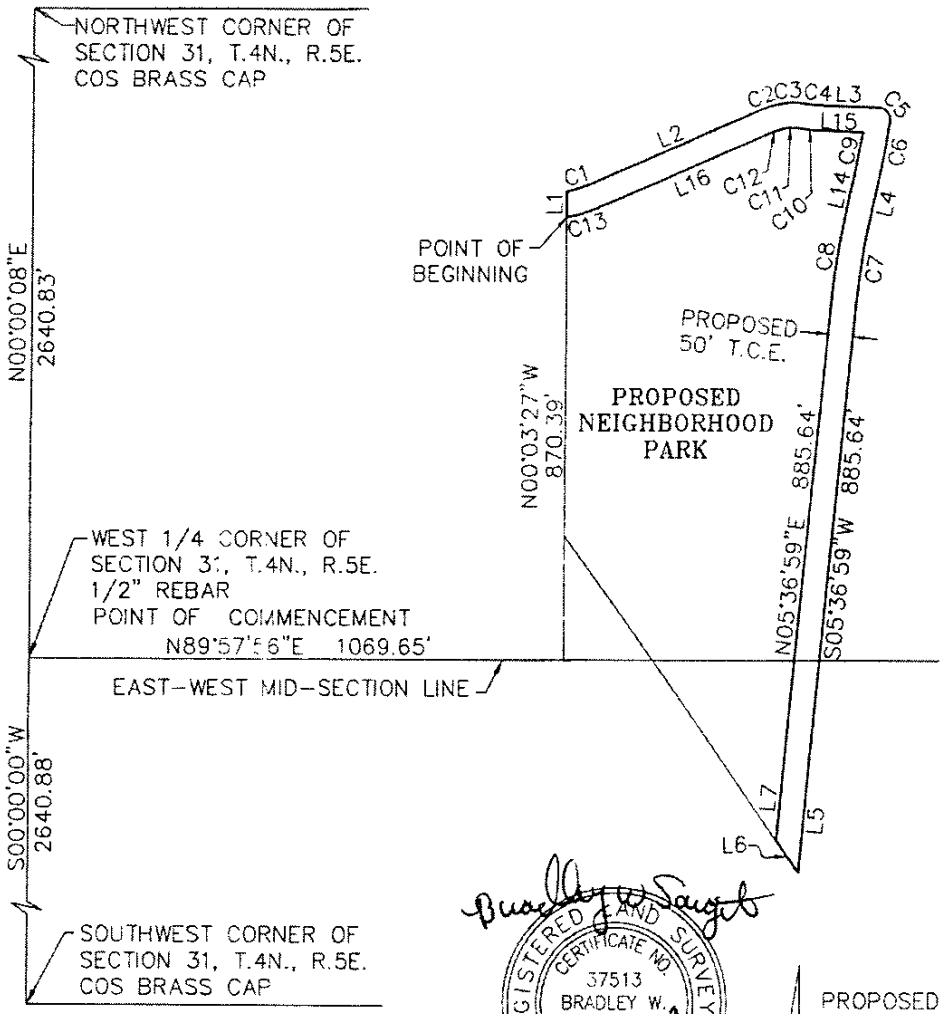
Subject to existing rights-of-way and easements.

This parcel description is based on the Results of Survey of a portion of DC Ranch recorded in Book 426, page 38, M.C.R. and other client provided information. This parcel description is located within an area surveyed by Wood/Patel during the month of September, 1996 and any monumentation noted in this parcel description is within acceptable tolerance (as defined in Arizona Boundary Survey Minimum Standards dated 02/14/2002) of said positions based on said survey.

Bradley W. Sargent

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37513
BRADLEY W.
SARGENT
DATE SIGNED 4-7-03
ARIZONA, U.S.A.

Y:\WP\Parcel Descriptions\011426.06 DC Ranch Neighborhood Park Proposed 50' Temporary Construction Easement.doc



LINE TABLE		
LINE	BEARING	DISTANCE
L1	N00°03'27"W	51.09'
L2	N66°43'01"E	371.85'
L3	S88°04'13"E	119.43'
L4	S12°29'19"W	82.86'
L5	S05°36'59"W	220.52'
L6	N36°02'39"W	75.22'
L7	N05°36'59"E	164.32'
L14	N12°29'19"E	82.86'
L15	N88°04'13"W	91.10'
L16	S66°43'01"W	371.85'

CURVE TABLE			
CURVE	DELTA	RADIUS	ARC
C1	10°16'56"	272.00'	48.81'
C2	04°41'38"	278.00'	22.78'
C3	29°41'46"	141.50'	73.34'
C4	09°10'38"	158.50'	25.39'
C5	96°37'53"	25.00'	42.16'
C6	03°55'38"	1612.00'	110.49'
C7	06°52'20"	1508.00'	180.87'
C8	06°52'20"	1558.00'	186.87'
C9	02°53'47"	1562.00'	78.96'
C10	09°10'38"	208.50'	33.40'
C11	29°41'46"	91.50'	47.42'
C12	04°41'38"	228.00'	18.68'
C13	12°19'09"	322.00'	69.23'

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37513
BRADLEY W.
SARGENT
Date Signed 4-7-03
ARIZONA, U.S.A.

WOOD/PATEL
2051 West Northern
Phoenix, AZ 85021
Phone: (602) 335-8500
Fax: (602) 335-8580

N

DC RANCH NEIGHBORHOOD PARK
PROPOSED 50' TEMPORARY CONSTRUCTION EASEMENT
04-07-03
WP#011426.06
PAGE 3 OF 3
NOT TO SCALE
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EXHIBIT D

April 7, 2003
WP#011426.06
Page 1 of 2

PARCEL DESCRIPTION
DC Ranch Neighborhood Park
Proposed Drainage Easement

A parcel of land lying within Section 31, Township 4 North, Range 5 East, of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

Commencing at the west quarter corner of said section, a ½" rebar, from which the northwest corner of said section, a C.O.S. brass cap, bears North 00°00'08" East, a distance of 2640.83 feet;
THENCE along the east-west mid-section line of said section, North 89°57'56" East, a distance of 1246.91 feet;
THENCE leaving said east-west mid-section line, South 36°02'39" East, a distance of 424.13 feet, to the **POINT OF BEGINNING**;
THENCE North 28°55'20" East, a distance of 135.37 feet;
THENCE South 05°36'59" West, a distance of 184.52 feet;
THENCE North 36°02'39" West, a distance of 80.57 feet, to the **POINT OF BEGINNING.**

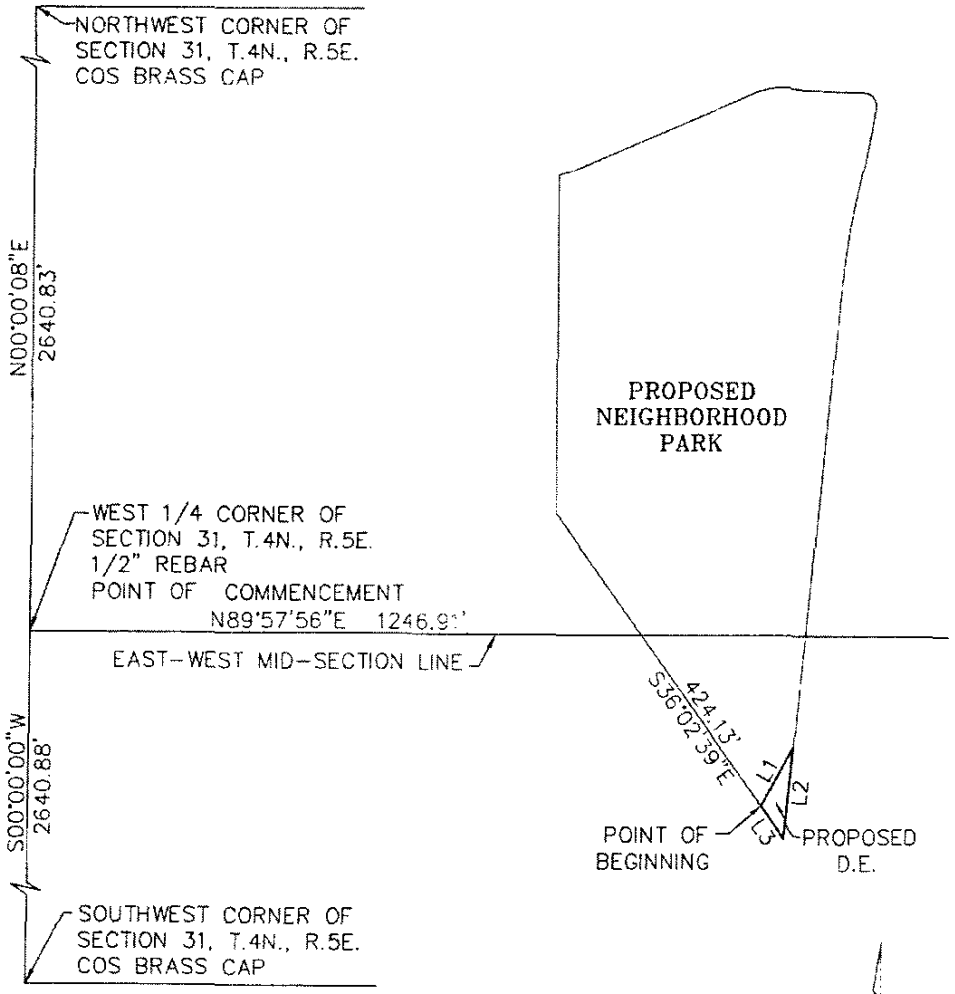
Containing 0.1134 acres, or 4.941 square feet of land, more or less.

Subject to existing rights-of-way and easements.

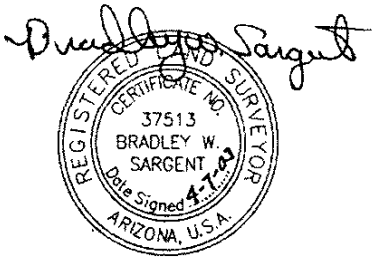
This parcel description is based on the Results of Survey of a portion of DC Ranch recorded in Book 426, page 38, M.C.R. and other client provided information. This parcel description is located within an area surveyed by Wood/Patel during the month of September, 1996 and any monumentation noted in this parcel description is within acceptable tolerance (as defined in Arizona Boundary Survey Minimum Standards dated 02/14/2002) of said positions based on said survey.

Y:\WP\Parcel Descriptions\011426.06 DC Ranch Neighborhood Park Proposed Drainage Easement.doc

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37513
BRADLEY W.
SARGENT
DATE SIGNED 4-7-03
ARIZONA, U.S.A.



LINE TABLE		
LINE	BEARING	DISTANCE
L1	N28°55'20"E	135.37'
L2	S05°36'59"W	184.52'
L3	N36°02'39"W	80.57'



WOOD/PATEL
2051 West Northern
Phoenix, AZ 85021
Phone: (602) 335-8500
Fax: (602) 335-8580

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DC RANCH NEIGHBORHOOD PARK
PROPOSED DRAINAGE EASEMENT
04-07-03
WP#011426.06
PAGE 2 OF 2
NOT TO SCALE
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Exhibit "E"
to
Dedication

CONSTRUCTION RULES

1. **Hours of Operation**. Daily hours of operation for work on the Park Property shall be the standard hours of operation for other City construction projects. Notwithstanding the foregoing, no work will be allowed on the site on Sundays or legal holidays. If a contractor needs to work on a Sunday or legal holiday, the contractor must request and receive express written approval from DC Ranch at least two (2) days in advance of undertaking the work. DC Ranch may grant or withhold such approval on any reasonable basis.

2. **Site Access**. All employees must enter the Park Property only at approved locations and must park on approved locations only. Transportation within the site from parking areas must be arranged by the applicable contractors and subcontractors. Contractors, subcontractors and employees must not cut locks or fences for entering or exiting the Park Property. Each time a gate is unlocked, it must be immediately closed and re-locked. No vehicle may cross any adjacent homesite, common area, golf course or other property to access the Park Property. Unless otherwise designated in writing by DC Ranch, the only permitted point(s) of entry onto the Park Property shall be from 91st Street, south of Union Hills Drive.

3. **Fire Hazards**. All vehicles driving onto the Park Property must be equipped with a charged, working fire extinguisher and a shovel. The fire extinguisher must be seven (7) pounds minimum. It is strongly recommended that all vehicles on the Park Property be equipped with a charged, working cellular telephone or radio. If a fire starts, "911" should be called immediately. All vehicles must have a complete and properly functioning exhaust system. Drivers and operators of vehicles must be cautious when operating and parking vehicles on the Park Property and shall not stop over areas containing combustible vegetation. DC Ranch strongly discourages smoking on the site. Any representative or employee of any contractor or subcontractor who does smoke must be extremely cautious with smoking materials to be certain that they are totally extinguished in a vehicle's ashtray. Any fire damage caused by a representative or employee of any contractor or subcontractor shall be construed as the negligent and wilful misconduct of the contractor or subcontractor. No equipment that may produce a spark or significant heat may be used except within reach of a fire extinguisher.

4. **Clean-Up**. All trash and debris must be cleaned up at the end of each work day. Lightweight materials must be disposed of in a suitable trash receptacle. Heavy materials must be disposed of off-site on a weekly basis. Dumping, burning or burying trash or debris is prohibited.

5. **Job Site Storage**. Contractors' and subcontractors' materials, tools and equipment may be stored on the Park Property at a location subject to the approval of DC Ranch's construction manager. Any losses or damages resulting from storage of materials, tools and equipment shall be remedied at the cost of the contractor or subcontractor. Each contractor

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and subcontractor shall be responsible for any erection, dismantling, maintenance, utilities, fencing, telephoning, security, etc., that it may deem necessary in setting up any storage area.

6. **Fencing**. During construction on the Park Property, the Park Property must be enclosed with a screen fence to reduce visibility of operations from neighboring parcels, and to prevent debris from leaving the Park Property.

7. **Site Area Plan**. A site area plan showing staging locations, contractor parking and toilet facilities must be submitted to and approved by the DC Ranch Covenant Commission before commencement of any construction activities on the Park Property.

8. **Toilet Facilities**. Adequate sanitary facilities for all workers shall be provided by the contractors and subcontractors in accordance with OSHA requirements.

9. **Protection of Existing Utilities ("Blue Staking")**. Each contractor and subcontractor shall be responsible for the exact location of all existing utilities and is responsible for proper notification of all applicable utility providers before digging. Each contractor and subcontractor shall verify all utility locations and coordinate in a timely manner with the applicable utility provider, and DC Ranch Association, Inc., so that any obstructing utility installation may be adjusted appropriately. Every utility line shall be protected at all times. Any damage to utility lines caused by the operations of a contractor or subcontractor shall be reported promptly to the applicable utility provider. Repairs to any such utility lines shall be made by the utility provider at the expense of the contractor or subcontractor.

10. **Construction Limits**. The character of the land and vegetation on the Park Property is extremely valuable to the project. Each contractor and subcontractor is to recognize and protect the value of land and vegetation adjoining the contractor's or subcontractor's work area. The contractor or subcontractor shall not clear any vegetation from the site or disturb any land other than that specified in the attached agreement.

11. **Safety**. All work activities shall be performed in accordance with all applicable state and federal occupational safety and health standards.

12. **General Conduct**. No radio or other audio equipment may be played or used within the Park Property. Possession or discharge of any firearm within the Park Property is strictly prohibited. Possession or use of alcohol or any controlled substance within the Park Property is strictly prohibited. No dogs or other pets are permitted on the Park Property. No visitors are permitted at the Park Property, other than persons having official business related to work on the Park Property.

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Exhibit "F"
to
Dedication

ACKNOWLEDGMENT AND COVENANT

The undersigned hereby acknowledges that it has received a copy of the Dedication from DC Ranch L.L.C. ("**DC Ranch**") to the City of Scottsdale (the "**City**") dated _____, 2003 (the "**Dedication**"), pertaining to the Park Property within the DC Ranch Development and that it has had an opportunity to read and understand the Dedication, and the undersigned hereby agrees for the benefit of DC Ranch and the City to abide by all of the terms of the Agreement applicable to the City and its contractors. The undersigned further covenants as follows:

1. The undersigned agrees to indemnify, defend and hold harmless DC Ranch and its members, managers, constituent partners and shareholders, and the constituent members and managers, constituent partners, shareholders, directors, officers, employees, agents and representatives of each of the foregoing (collectively, the "**Indemnitees**"), for, from and against any and all claims, losses, damages, liabilities, obligations, suits, demands, fines and proceedings, costs and expenses (including, without limitation, reasonable attorneys' fees, paralegal fees and investigation costs incurred by any one or more of the Indemnitees) that may be asserted against, or incurred or suffered by any one or more of the Indemnitees as a result of, arising out of, or directly or indirectly related to (a) the undersigned's violation or the violation by any employee or subcontractor of the undersigned of any federal, state or local law or regulation in the course of performing the Work (as defined in the Dedication), (b) any act, error or omission of the undersigned or any of its employees or subcontractors in connection with the performance of the Work, including without limitation any act, error or omission relating to the use, storage, treatment, generation, transportation, release or disposal of any Hazardous Materials (as defined in the Dedication), and (c) any violation of any term, condition or covenant or obligation of the City under the Dedication by the undersigned or any of its employees or subcontractors.

2. The undersigned shall secure and maintain during the performance of any portion of the work by the undersigned workman's compensation insurance and comprehensive general and automobile liability insurance with no less than a $2,000,000.00 single limit, which policy shall name DC Ranch as an additional insured, and shall cover the acts and omissions of the undersigned as well as its employees and contractors when acting on behalf of the undersigned. The undersigned shall submit to DC Ranch a certificate of insurance evidencing the foregoing required coverage before the commencement of any Work. DC Ranch reserves the right to require additional evidence of coverage from the undersigned from time to time upon request. The foregoing policies shall provide that they may not expire, be canceled or be materially changed without thirty (30) days prior written notice to DC Ranch and a statement to this effect must appear on the foregoing certificate of insurance. If a policy expires during the performance of any portion of the work by the undersigned, a renewal certificate must be provided to DC Ranch at least thirty (30) days prior to expiration.

DATED: _____, 2003.

_____

By: _____
Its: _____

CITY COUNCIL REPORT

MEETING DATE: July 1, 2003 ITEM NO. 3 GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT **DC Ranch Ordinance Adoption**

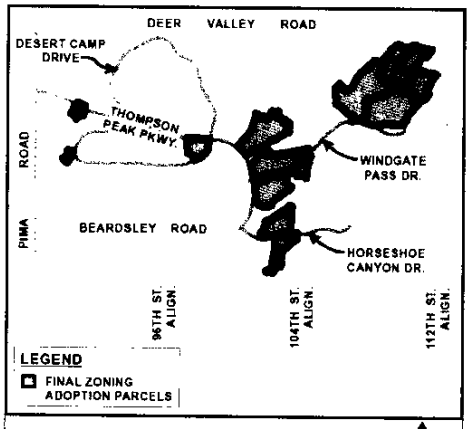
REQUEST

Final ordinance adoption for various parcels at DC Ranch
DC Ranch Parcels 2.3B, 2.6, 2.15, 5.11, 6.6, 6.11, 6.13, 6.14, 6.15, G1, G2/G4, G3, and 5.1

To consider adopting Ordinance No. 3518, affirming zoning classifications as approved in case 54-ZN-1989#2. The original zoning is as follows:

Parcel 2.3b – Single Family Residential District (R1-7);
Parcel 2.6 – Commercial Office District (C-O);
Parcel 2.15 – Single Family Residential District (R1-7);
Parcel 5.11 – (R-4R);
Parcel 6.6 – Single Family Residential District (R1-10);
Parcel 6.11 – Single Family Residential District (R1-10);
Parcel 6.13 – Single Family Residential District (R1-10);
Parcel 6.14 – Single Family Residential Districts (R1-43 and R1-10);
Parcel 6.15 – Single Family Residential District (R1-10);
Parcel G.1 – Single Family Residential Districts (R1-43, R1-10, R1-7);
Parcels G.2 and G.4 – Single Family Residential District (R1-10) and (R-4);
Parcel G.3 – Multi-Family Residential District (R-5);
Parcel 5.1 – Multi-Family Residential District (R-5);
All of the above parcels also have the Planned Community District (PCD) zoning overlay.

And adopt Ordinance #3518
54-ZN-1989#2E



General Location Map N.T.S. N

Key Items for Consideration:

- This request is in conformance with original zoning master plan for the DC Ranch community.
- This is the second step in a standard two-step process in adopting zoning for master planned communities.

Related Policies, References:
54-ZN-1989#2, #4, #5

OWNER DC Ranch LLC
480-367-7000

APPLICANT CONTACT Karrin Taylor
Biskind, Hunt & Taylor, P.L.C.

602-955-3452

LOCATION

Various Parcels in the DC Ranch Master Planned Community

BACKGROUND

Background/History:
DC Ranch is a master planned community approved with a development agreement in 1989 (Case 54-ZN-1989). In 1995, Case 54-ZN-89#2 approved the existing zoning districts within the DC Ranch master planned community. Subsequent amendments to the master zoning case and the development agreement have occurred since the original approval. The zoning case generally outlined the zoning districts and acreages of parcels. The ordinance affirming the zoning districts, however, was not adopted during that approval process. This procedure is very similar to the process followed in other master planned communities and cases with multiple zoning districts. In order to ratify this zoning procedure, a second step is necessary to adopt the official zoning boundaries for parcels within DC Ranch.

APPLICANT'S PROPOSAL

Goal/Purpose of Request.
The applicant is requesting zoning adoption on 14 parcels within the DC Ranch master planned community. The adoption of zoning is consistent with the rezoning case and would affect the parcels listed under the proposed action and shown in Attachment #5. The parcels include single-family residential developments south and east of Thompson Peak Parkway alignment and an office pad at the southeast corner of Thompson Peak Parkway and 90th Street.

All parcels have received development approval; except Parcels 2.6 and 2.15, which will require subsequent public hearings for Development Review Board (DRB) approval. Parcel 2.6 (Market Street Offices) is scheduled for the June 19, 2003 DRB hearing.

IMPACT ANALYSIS

Community Impact.
There are no requested zoning changes with this application because this application fulfills the ordinance adoption procedures. The residents within DC Ranch will not be impacted by this application because the adoption of the zoning district finalizes the zoning that was used to develop the properties.

Approval of this case will result in the following policy action:

- This action will affirm the zoning districts for DC Ranch Parcels 2.3B, 2.6, 2.15, 5.11, 6.6, 6.11, 6.13, 6.14, 6.15, G1, G2/G4, G3, and 5.1 as approved in case 54-ZN-89#2.
- The zoning of the parcels shown above has already been approved. The adoption of zoning is a housekeeping item.

Community Involvement:
The applicant informed the residents of DC Ranch by providing information on the community's Internet Site. Staff has not received any feedback from the residents of DC Ranch.

RECOMMENDATION

Recommended Approach:
Staff recommends approval.

RESPONSIBLE DEPT(S)	**Planning and Development Services Department** Current Planning Services	
STAFF CONTACT(S)	Tim Curtis Project Coordination Manager 480-312-4210 E-mail: tcurtis@ScottsdaleAZ.gov	Randy Grant Chief Planning Officer 480-312-7995 E-mail: rgrant@ScottsdaleAz.gov

APPROVED BY

Kroy Ekblaw — Date 6/18/03
General Manager, Planning and Development Services Dept.

Ed Gawf — Date 6/18/03
Deputy City Manager

ATTACHMENTS

1. Applicant's Narrative
2. Context Aerial
2A. Aerial Close-Up
3. Land Use Map
4. Zoning Maps
5. Parcel Map
6. Ordinance No. 3518
   Exhibit 1: Zoning Map

DC RANCH

Final Zoning Adoption
Project Narrative

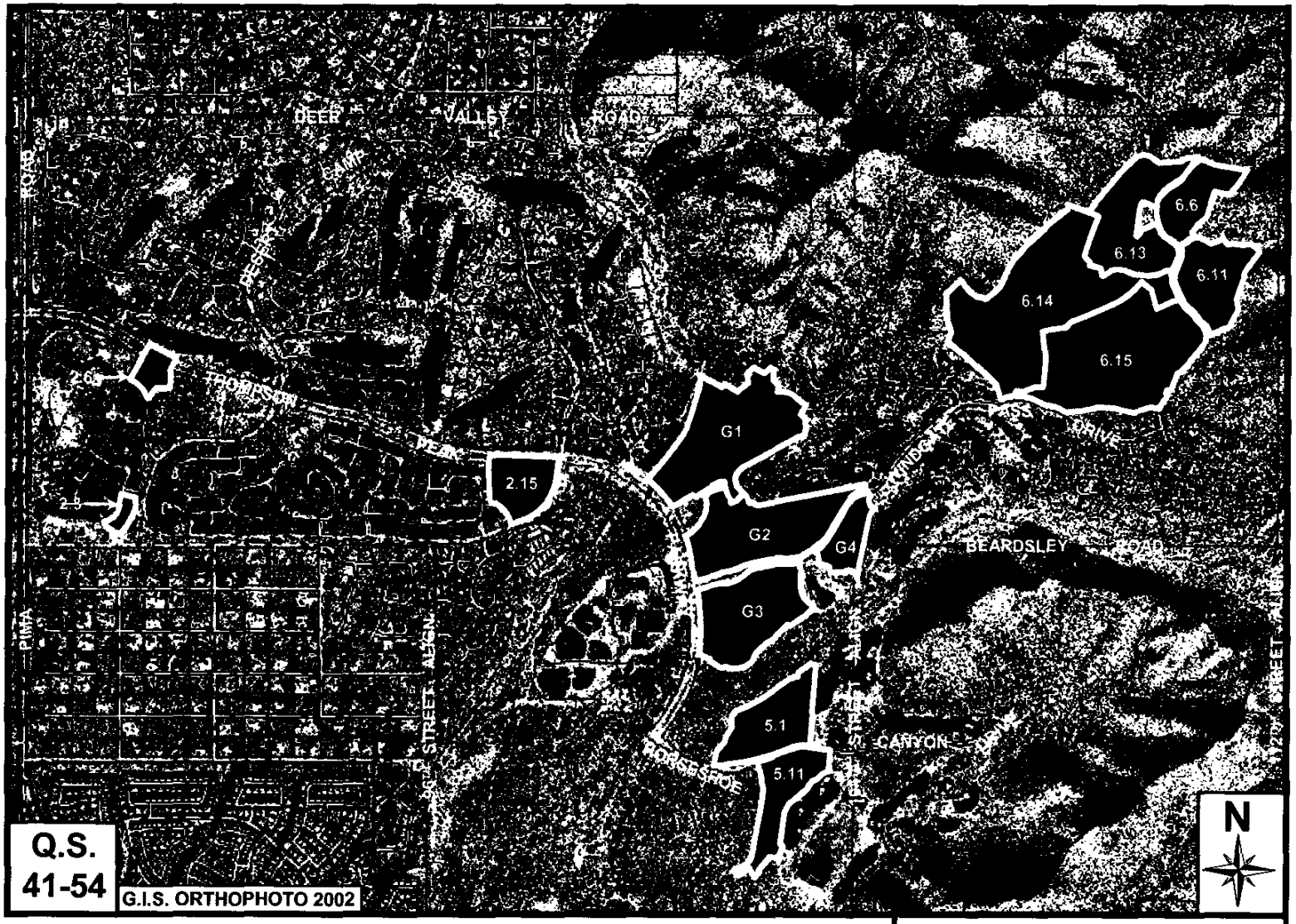
The Second Amendment to Development Agreement, dated October 18, 1998, as amended, (the "Development Agreement") governs development of DC Ranch. DC Ranch is developed into six (6) planning units and is being developed in phases. Pursuant to the Development Agreement, Section 1.01, final zoning of the individual parcels within DC Ranch is to be adopted upon the compliance with various stipulations set forth in the Development Agreement. At this time, stipulations have been met and final plats have been obtained on numerous parcels. Accordingly, a request has been made to adopt final zoning as set forth in Table 1. Final plats have been approved on each of the parcels listed in the table.

Table 1

DC Ranch Parcel No.	Final Zoning	Acreage	Final Plat
2.3b	R1-7	2.16 ac	Book 607 Page 5
2.6	CO	4.60 ac	Not Platted – Infill
2.15	R1-7	12.53 ac	Not Platted – Infill
5.11	R4-R	15.38 ac	Book 626 Page 42
6.6	R1-10	18.33 ac	Book 617 Page 43
6.11	R1-10	13.65 ac	Book 617 Page 44
6.13	R1-10	26.53 ac	Book 616 Page 42
6.14	R1-43, R1-10	60.06 ac	Book 608 Page 10
6.15	R1-10	51.21 ac	Book 617 Page 13
G.1	R1-7, R1-10, R1-43	45.54 ac	Book 607 Page 6
G.2/G.4	R-4, R1-10	90.57 ac	Book 607 Page 8
G.3	R-5	29.94 ac	Book 607 Page 9
5.1	R-5	19.66 ac	Book 607 Page 14

54-ZN-1989#2E

ATTACHMENT #1

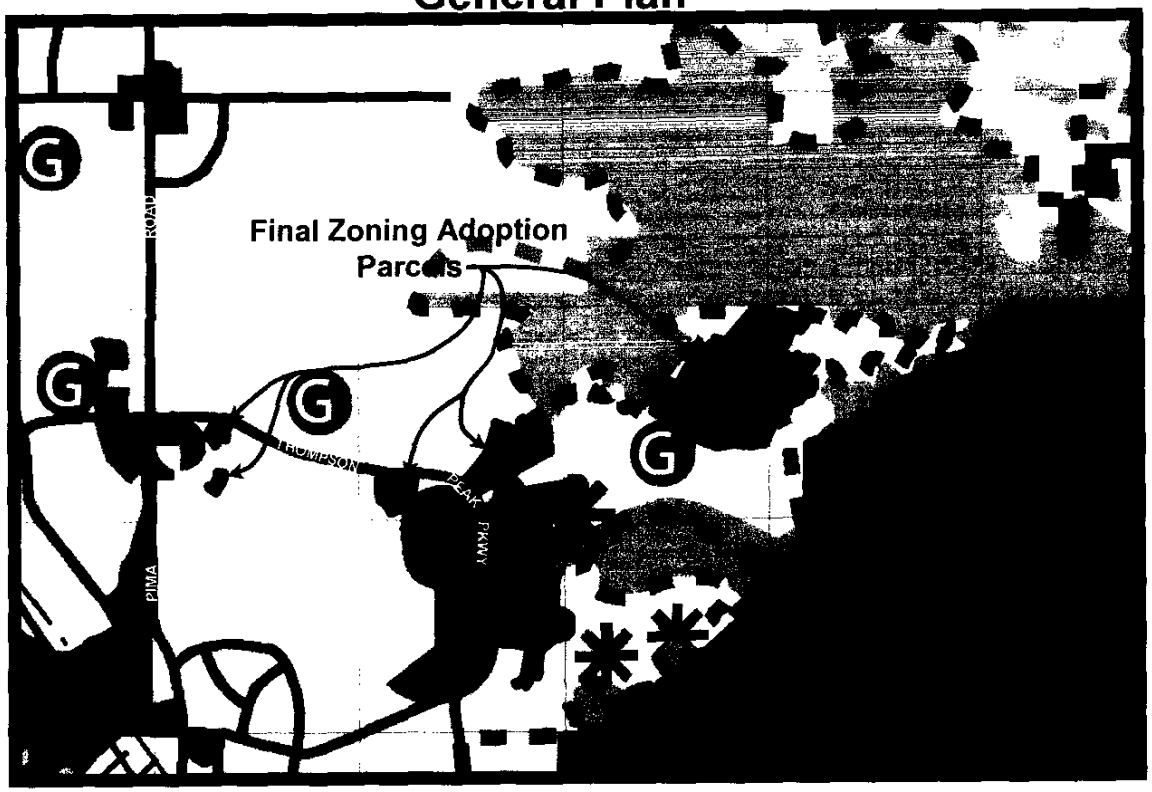


DC Ranch
Final Zoning Adoption

54-ZN-1989#2E

ATTACHMENT #2

General Plan

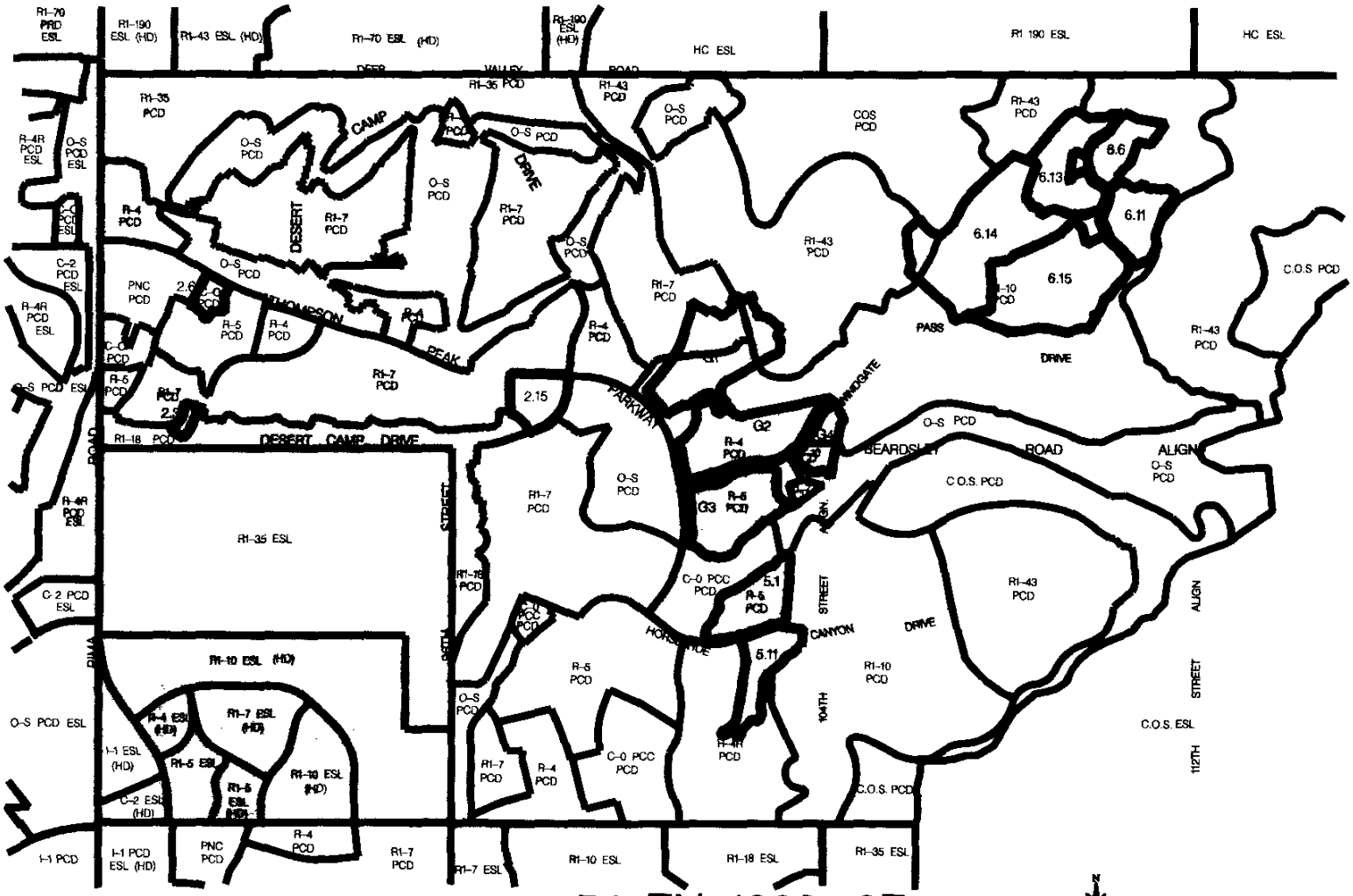


Rural Neighborhoods
Suburban Neighborhoods
Urban Neighborhoods
Mixed Use Neighborhoods
Resorts/Tourism
Shea Corridor
Mayo Support District
Regional Use District
Commercial
Office
Employment
Natural Open Space
Developed Open Space (Parks)
Developed Open Space (Golf Courses)
Cultural/Institutional or Public Use
State Trust Lands under State Land Commissioner's Order #078-2001/2002
McDowell Sonoran Preserve (as of 4/2002)
Recommended Study Boundary of the McDowell Sonoran Preserve
City Boundary
Location not yet determined

Adopted by City Council October 30, 2001
Ratified by Scottsdale voters March 12, 2002
revised to show McDowell Sonoran Preserve as of April 2, 2002

N

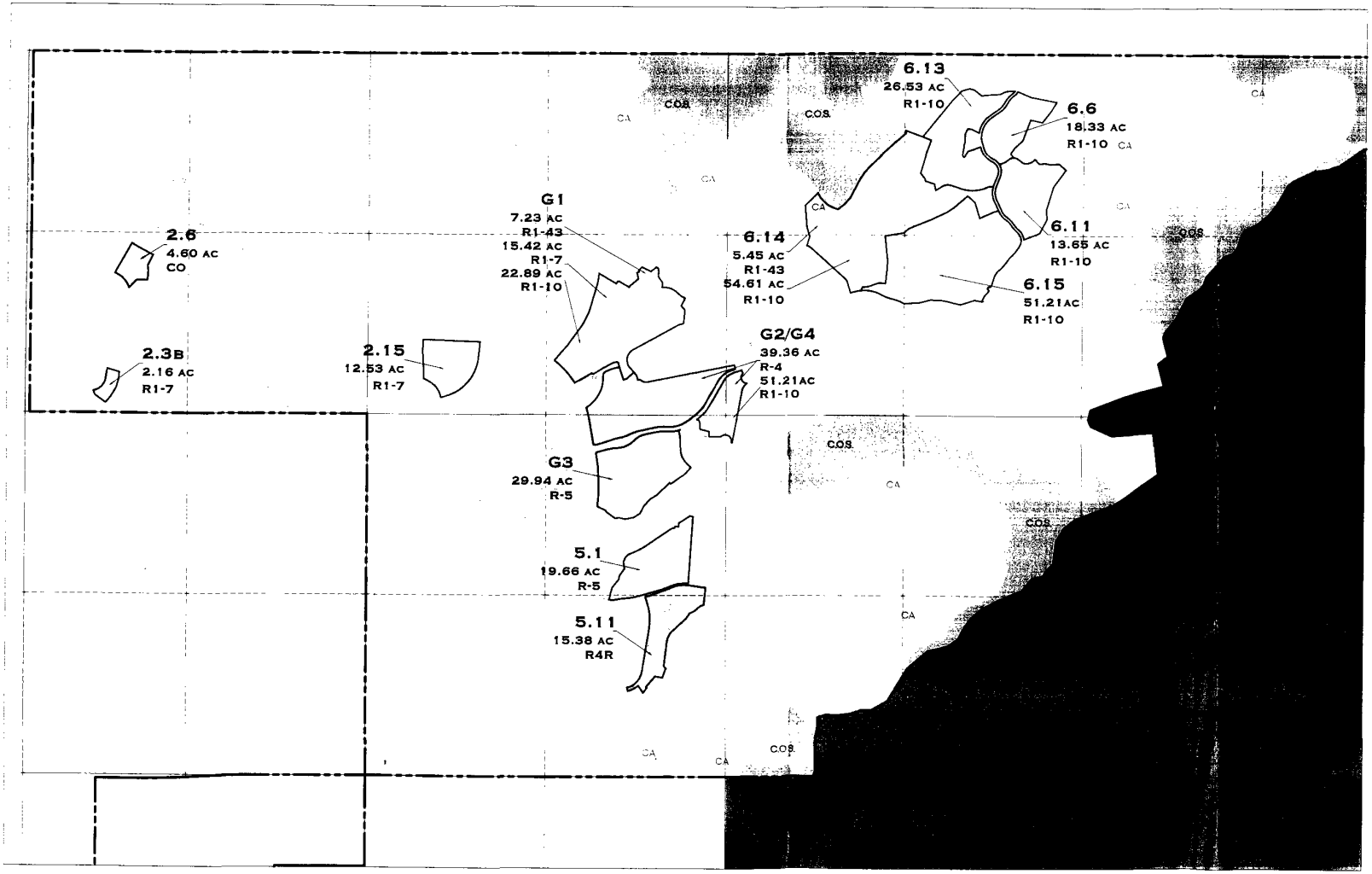
54-ZN-1989#2E
ATTACHMENT #3



54-ZN-1989#2E

ATTACHMENT #4

FINAL ZONING ADOPTION



R1-43 ZONING

R1-10 ZONING

R1-7 ZONING

R-5 ZONING

R-4 ZONING

R4R ZONING

CO ZONING

CONTEXT MAP

Drawings and Specifications as instruments of service are the property of the architect and may not be reproduced or used for anything without the written permission of Swaback Partners, pllc.

DATE 07 MARCH 2003

0' 600' 1200'

ATTACHMENT #5

SWABACK PARTNERS pllc
Architecture & Planning

PARCELS 2.3B, 2.6, 2.15, 5.11, 6.6, 6.11, 6.13, 6.14 AND 6

DMB

54-ZN-1989#2E

ORDINANCE NO. 3518

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AMENDING ORDINANCE NO. 455, THE ZONING ORDINANCE OF THE CITY OF SCOTTSDALE, BY AND FOR THE PURPOSE OF SETTING CERTAIN BOUNDARIES ON THE "DISTRICT MAP" FOR DC RANCH PARCELS 2.3B AND 2.15 AS SINGLE FAMILY RESIDENTIAL DISTRICT (R1-7 PCD); DC RANCH PARCEL 2.6 AS COMMERCIAL OFFICE DISTRICT (C-O PCD); DC RANCH PARCEL 5.11 AS RESORT/TOWNHOUSE RESIDENTIAL DISTRICT (R-4R PCD); DC RANCH PARCELS 6.6, 6.11, 6.13 AND 6.15 AS SINGLE FAMILY RESIDENTIAL DISTRICTS (R1-10 PCD), DC RANCH PARCEL 6.14 AS SINGLE FAMILY RESIDENTIAL DISTRICTS (R1-43 PCD AND R1-10 PCD); DC RANCH PARCEL G.1 AS SINGLE FAMILY RESIDENTIAL DISTRICTS (R1-43 PCD, R1-10 PCD, AND R1-7 PCD); DC RANCH PARCELS G.2 AND G.4 AS SINGLE FAMILY RESIDENTIAL DISTRICTS (R1-10 AND R-4 PCD); AND DC RANCH PARCELS G.3 AND 5.1 AS MULTIPLE-FAMILY RESIDENTIAL DISTRICT (R-5 PCD), ALL PARCELS WITH THE PLANNED COMMUNITY DISTRICT (PCD) ZONING OVERLAY, AS APPROVED IN ZONING CASE NO. 54-ZN-89#2 AND ORDINANCE NO. 2811.

WHEREAS, the Zoning Case No. 54-ZN-89#2E, was properly noticed for public hearing, pursuant to the requirements of the Scottsdale Zoning Ordinance and the statutes of the State of Arizona, and the necessary hearings were completed; and

WHEREAS, on July 11, 1995, in Ordinance No. 2811, the Council approved the zoning classifications for Case No. 54-ZN-89#2, but did not precisely set the boundaries for these districts, contemplating formal ordinance adoption when the specific boundaries were set; and

WHEREAS, it is now appropriate to specifically set certain boundaries for the parcels of real property known as DC Ranch Parcels 2.3b, 2.6, 2.15, 5.11, 6.6, 6.11, 6.13, 6.14, 6.15, G.1, G.2, G3, G.4, and 5.1, more particularly described on the map attached hereto as Exhibit 1, and incorporated herein by reference; and

WHEREAS, it is now necessary that the comprehensive zoning map of the City of Scottsdale be amended respecting the subject parcels to conform with the decision of the Scottsdale City Council in Case No. 54-ZN-89#2.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Scottsdale, Arizona:

Section 1. That the "District Map" adopted as a part of Ordinance No. 455, showing the zoning district boundaries in the City of Scottsdale, is amended with respect to the parcels listed below as follows:

ATTACHMENT #6

DC Ranch Parcels 2.3b and 2.15 -- Single Famly Residential District (R1-7 PCD);

DC Ranch Parcel 2.6 -- Commercial Office District (C-O PCD);

DC Ranch Parcel 5.11 -- Resort/Townhouse Residential District (R-4R PCD);

DC Ranch Parcels 6.6, 6.11, 6.13 and 6.15 -- Single Family Residential Districts (R1-10 PCD),

DC Ranch Parcel 6.14 -- Single Family Residential Districts (R1-43 PCD and R1-10 PCD);

DC Ranch Parcel G.1 -- Single Family Residential Districts (R1-43 PCD, R1-10 PCD, AND R1-7 PCD);

DC Ranch Parcels G.2 and G.4 -- Single Family Residential Districts (R1-10 AND R-4 PCD);

DC Ranch Parcels G.3 and 5.1 -- Multiple-Family Residential District (R-5 PCD)

all parcels with the Planned Community District (PCD) zoning overlay, as illustrated on the zoning map attached hereto as Exhibit 1 and incorporated herein by reference, subject to compliance with all applicable stipulations of Case No. 54-ZN-89#2.

PASSED AND ADOPTED by the Council of the City of Scottsdale this ____ day of July, 2003.

ATTEST:

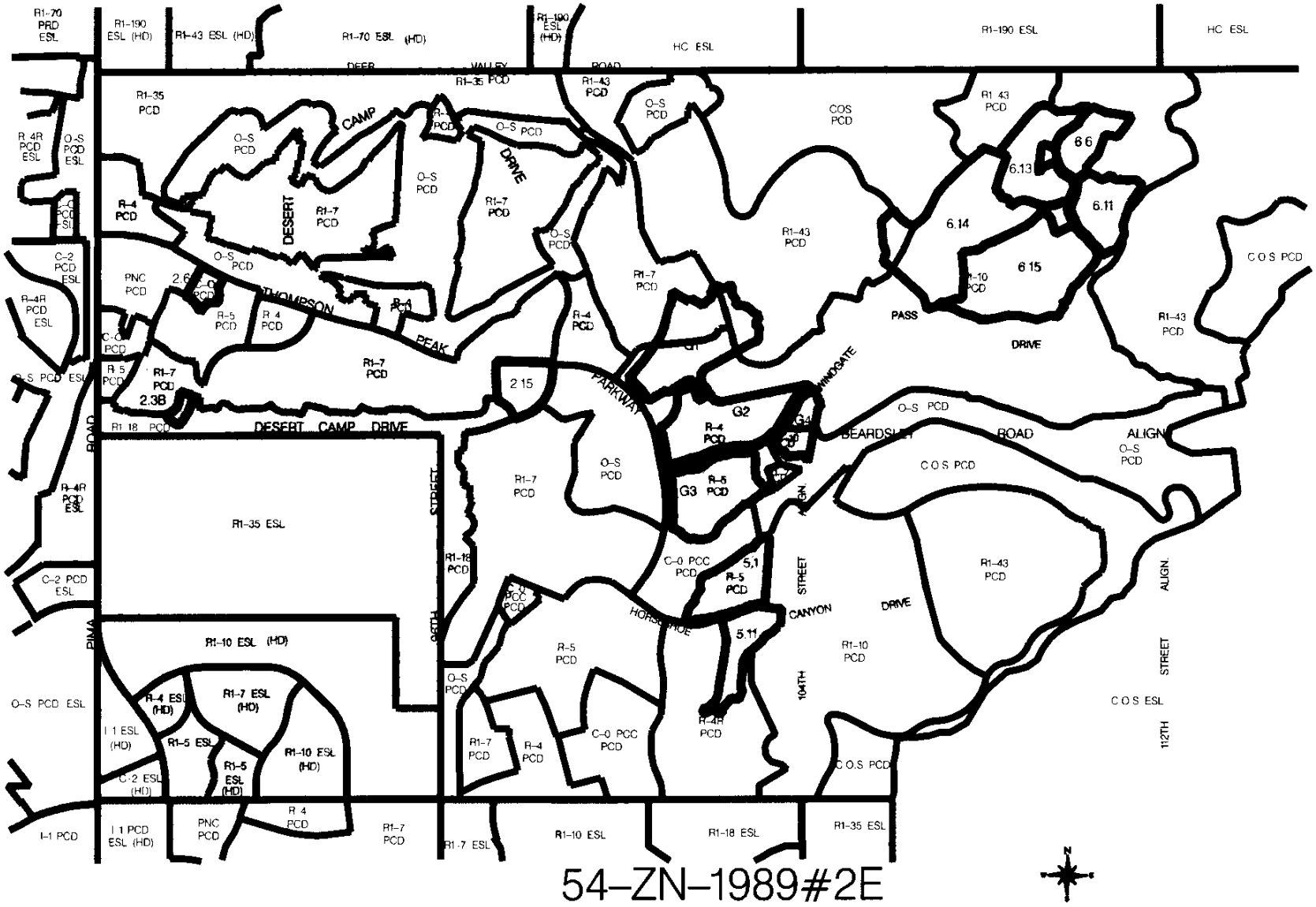
By:_____
Sonia Robertson
City Clerk

CITY OF SCOTTSDALE, an Arizona municipal corporation

By:_____
Mary Manross
Mayor

APPROVED AS TO FORM:

By: Patricia J. Boomsma for
David A. Pennartz
City Attorney



54–ZN–1989#2E

EXHIBIT #1

CITY COUNCIL REPORT

MEETING DATE: July 1, 2003 ITEM NO. 4 GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT

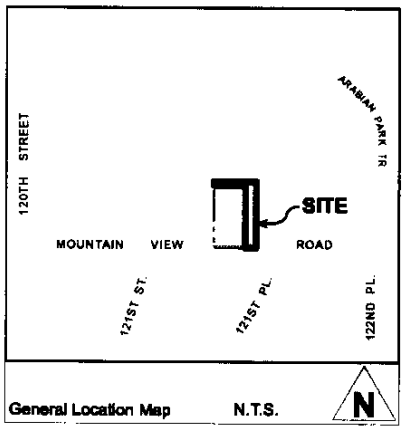
121st Place Abandonment (Price Residence)

REQUEST

Request to consider the following:

1. Abandon 50 feet right-of-way along the 121st Place alignment.
2. Abandon 33 feet GLO (General Land Office) patent roadway and public utility easement.
3. Dedicate a 15 foot public trail easement along Mountain View Road.
4. Reserve a 20 foot water and sewer line easement along the east side of the subject 121st Place right-of-way.
5. Adopt Resolution No. 6334 vacating and abandoning a portion of right of way and roadway easement.

3-AB-2003



APPLICANT/OWNER CONTACT

Tina Price/Bruce Haseley
480-661-6569

LOCATION

North of Mountain View Road and West of 121st Place.

BACKGROUND

Background.
The subject 50 feet right-of-way was dedicated to the city in 1980. The 33 feet subject GLO patent roadway easement was reserved on the original patent deed to assure legal access for this parcel and the surrounding parcels. Neither the subject right-of-way nor the roadway easement have street improvements.

The Pueblo Bonito Unit III subdivision was approved to the immediate north in 1995 and a perimeter wall was constructed along that boundary preventing any future through connection along 121st Place.

The subject GLO roadway easement is located in the rear yard of the property and is not located along any planned street. All adjacent lots have legal access.

Zoning.
The site is zoned R1-43.

APPLICANT'S PROPOSAL

Goal/Purpose of Request.
This request is to eliminate the existing 50 feet right-of-way along 121st Place and the 33 feet GLO roadway easement located along the north side of parcel

improved as part of the city's street system. A water and sewer line easement will be reserved over a portion of 121st Place. A public trail easement will be dedicated along Mountain View Road, adding to the planned trail system for this area.

Planning Commission.
Recommends approval by a vote of 3-2.

Commissioner Nelssen had concerns with the GLO easement being abandoned without a public trail reservation. The draft trails master plan for this area shows a planned trail location immediately adjacent to Mountain View Road. The property owner has made a dedication in this planned location.

Commissioner Barnett was concerned with piecemeal abandonment of GLO roadway easements. He favors several residents to come forward together instead of individually. At this time, as applications come through the process, staff encourages property owners to jointly participate in the abandonment. The feedback staff has received from the residents/applicants is that it becomes difficult trying to coordinate several property owners in collecting necessary documents and gaining participation, even when the owners may support the abandonment. Additionally, often times they may be dealing with vacant lots that have owners out of state or the country and it poses challenges for communication and participation. As an end result, the owner moves forward with their individual request.

STAFF RECOMMENDATION

Recommended Approach:
Staff recommends approval, subject to two stipulations:

1. Dedicate a 15 foot public trail easement along Mountain View Road (this has been completed and is on file for recordation).
2. Reserve a water and sewer line easement over, under, and across the east 20 feet of the subject 50 feet 121st Place right-of-way.

RESPONSIBLE DEPT(S)

Planning and Development Services Department

STAFF CONTACT(S)

Cheryl Sumners
Senior Planner
480-312-7834
E-mail: csumners@ScottsdaleAZ.gov

Jeff Fisher
Plan Review and Permit Services Director
480-312-7619
E-mail: jefisher@ScottsdaleAz.gov

APPROVED BY

6/18/03

Kroy Ekblaw Date
General Manager, Planning & Development Services Department

6/18/03

Ed Gawf Date
Deputy City Manager

ATTACHMENTS

1. Departmental Issues Checklist
2. Context Aerial
2A. Detail Aerial
3. Area Trails Plan
4. Resolution No. 6334
   Exhibit A. Legal Description
   Exhibit B. Graphic
5. May 28, 2003 Planning Commission Minutes

CASE 3-AB-2003

Department Issues Checklist

Legal Department

☑ Support

The City Attorney's office has stated that in abandoning this GLO easement, the city is abandoning the public access rights, in accordance with the cases, which permit the governing body of the local government to make those decisions. The City's abandonment of a GLO easement does not include any determination of private rights, nor does the City's action release any private rights if they are later found to exist. Similar to other private easement rights, those are matters between private property owners.

Transportation

☑ Support

Neither the 121st Place right-of-way nor the 33 feet GLO roadway easement located along the north fall within the city's planned street system. The 121st Place right-of-way dead ends at an existing perimeter wall for Pueblo Bonito Unit III.

Trails

☑ Support

The planned trail system in this area is along the north side of Mountain View Road. The property owners have dedicated a 15 foot public trail easement which will be recorded if the abandonment is approved.

Adjacent Property Owner Notification

☑ Support

The adjacent property owners to the north, east, and west were contacted by this applicant and have no objection to the abandonment.

Public Utilities

☑ Support

Written consent has been granted to abandon the subject rights-of-way without the need for any reservations.

Emergency/Municipal Services

☑ Support

This request does not impact the ability to serve any adjacent properties.

Water/Sewer Services

☑ Support

Water and sewer lines exist within the 121st Place right-of-way. An easement for water and sewer lines shall be reserved over the east 20 feet of the subject 50 feet right-of-way.

Drainage

☑ Support

No drainage easements are required over the abandoned area.

Attachment #1

217-32-061D. There are no existing street improvements in either subject roadway. There are existing water and sewer lines located in the 121st Place right-of-way. The request is to:

- Abandon the 50 feet right-of-way along 121st Place, reserving a water and sewer line easement over, under, and across the east 20 feet.
- Abandon the north 33 feet GLO roadway easement.

As a condition of the abandonment, the property owners are required to:

- Dedicate a 15 foot public trail easement along Mountain View Road. This dedication has been received by staff and will be recorded if the abandonment is approved.

Key Issues.

- Eliminates the subject GLO easement and 121st Place right-of-way from public use.
- Maintains consistency with city street standards as approved by the Transportation Department.
- A 20 foot sewer and water line easement is reserved over the east 20 feet of the subject 50 feet 121st Place right-of-way.
- A 15 feet public trail easement is dedicated along Mountain View Road.

IMPACT ANALYSIS

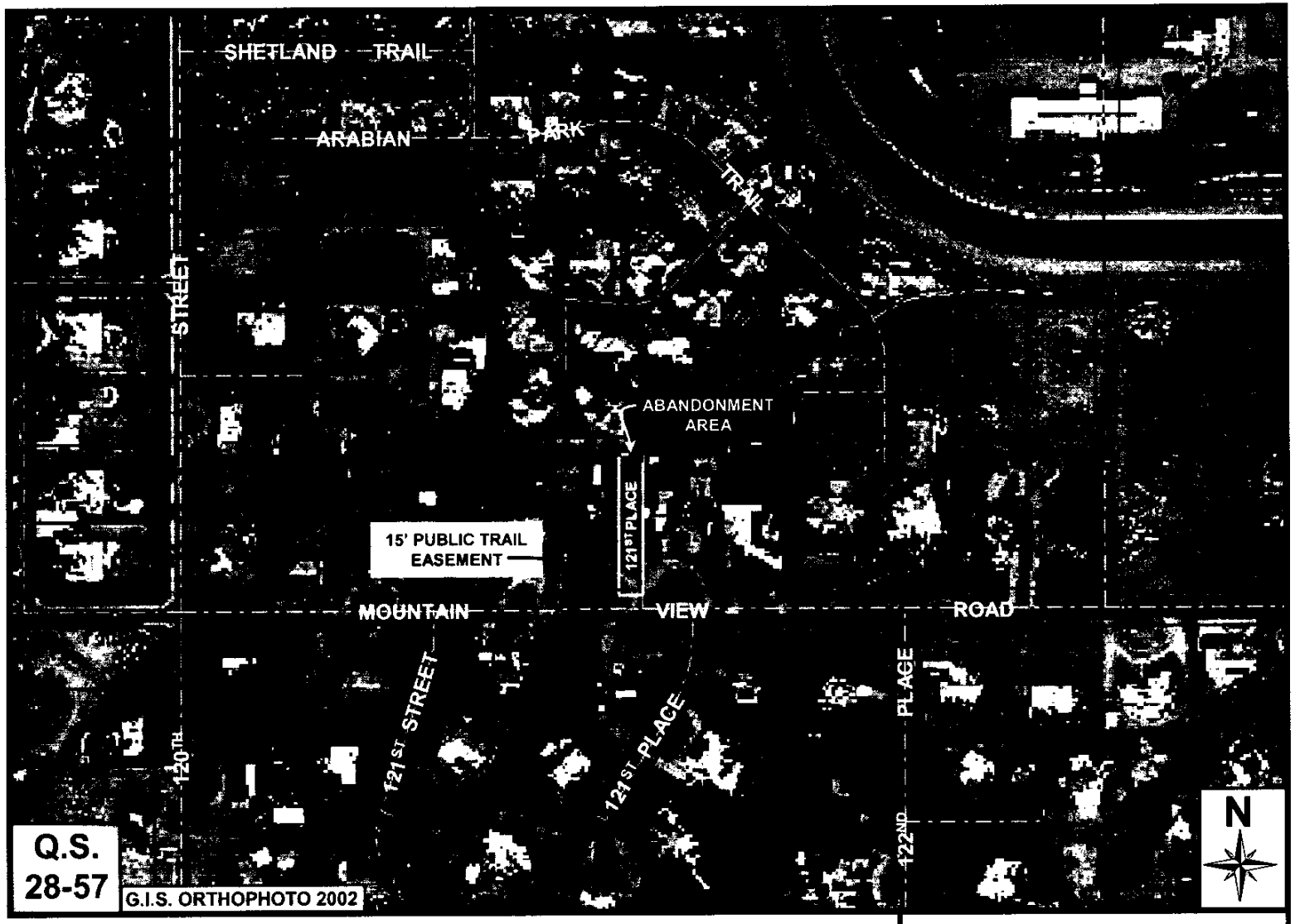
Departmental Responses.
City Department/Division participants concur with this abandonment request. See Department Issues Checklist (Attachment #1).

Transportation Impact Summary
This is an abandonment of City-owned right of way running north from Mountain View Road along the 121st Place alignment, and an abandonment of an easement running east-west along the back of a developed lot. 121st Place, in this location, is a stub dedication that runs between two residential properties that access off of the bordering Mountain View Road and not this subject alignment. 121st Place and the easement along the rear of the lot are not improved as a road or serving as a road. Neither are required for current or future roadway purposes.

Trails Impact
The dedication for a public trail easement on the north side of Mountain View Road is in accordance with the draft trails master plan, which includes a trail on the north side of Mountain View Road from 120th to 124th Streets (See Attachment #3). There is no need to reserve portions of the GLO roadway easement or 121st Place right-of-way because it will provide no opportunity for connectivity. The Pueblo Bonito Unit III subdivision to the north has precluded any possibility of access to the north.

Community Involvement
The property owner approached the abutting property owners (Pueblo Bonito Homeowner's Association and the properties immediately to the east and west) and all support this request.

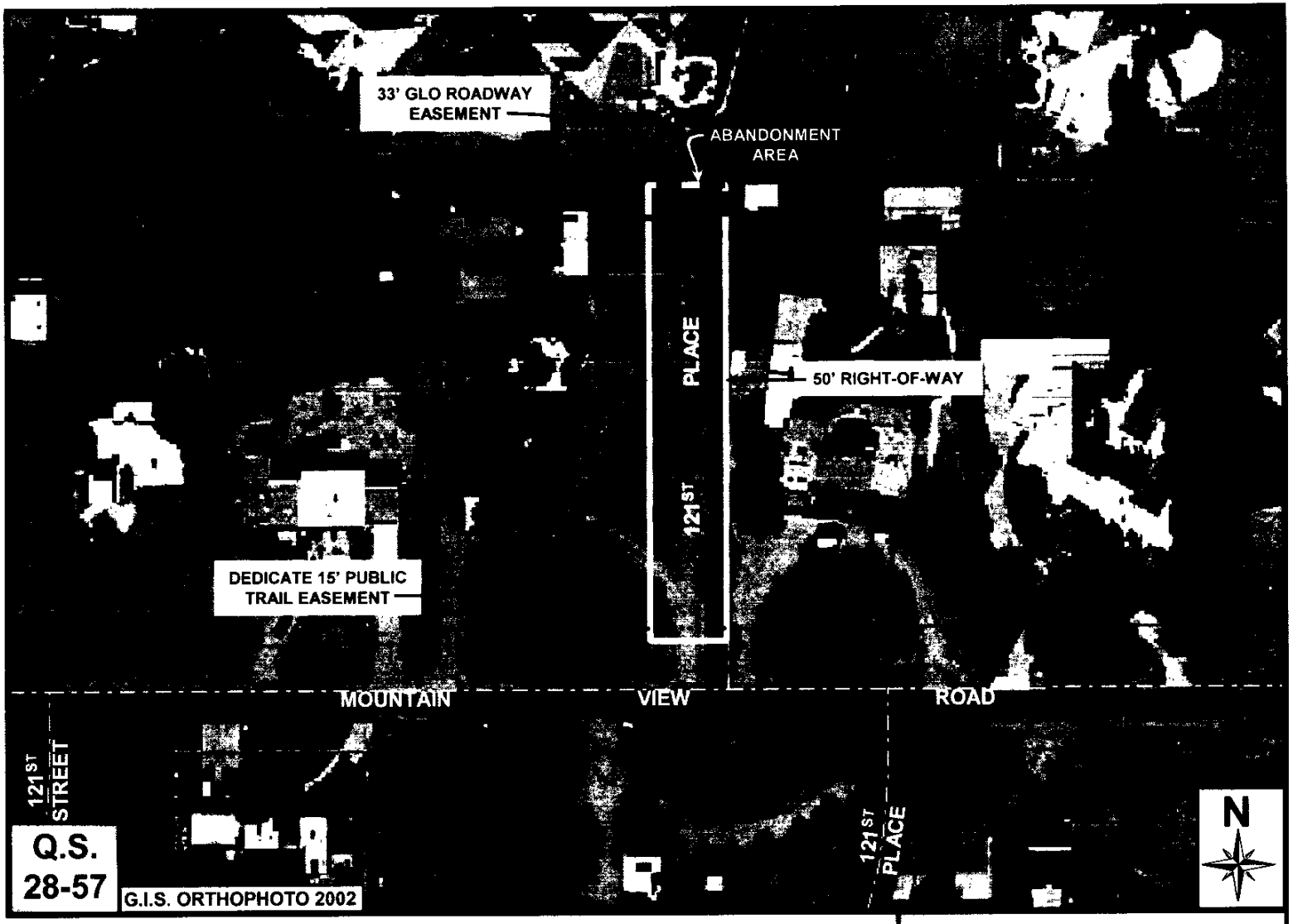
Community Impact
The subject right-of-way and roadway easement are not planned to be



Mountain View Road
West of 121st Place

3-AB-2003

ATTACHMENT #2

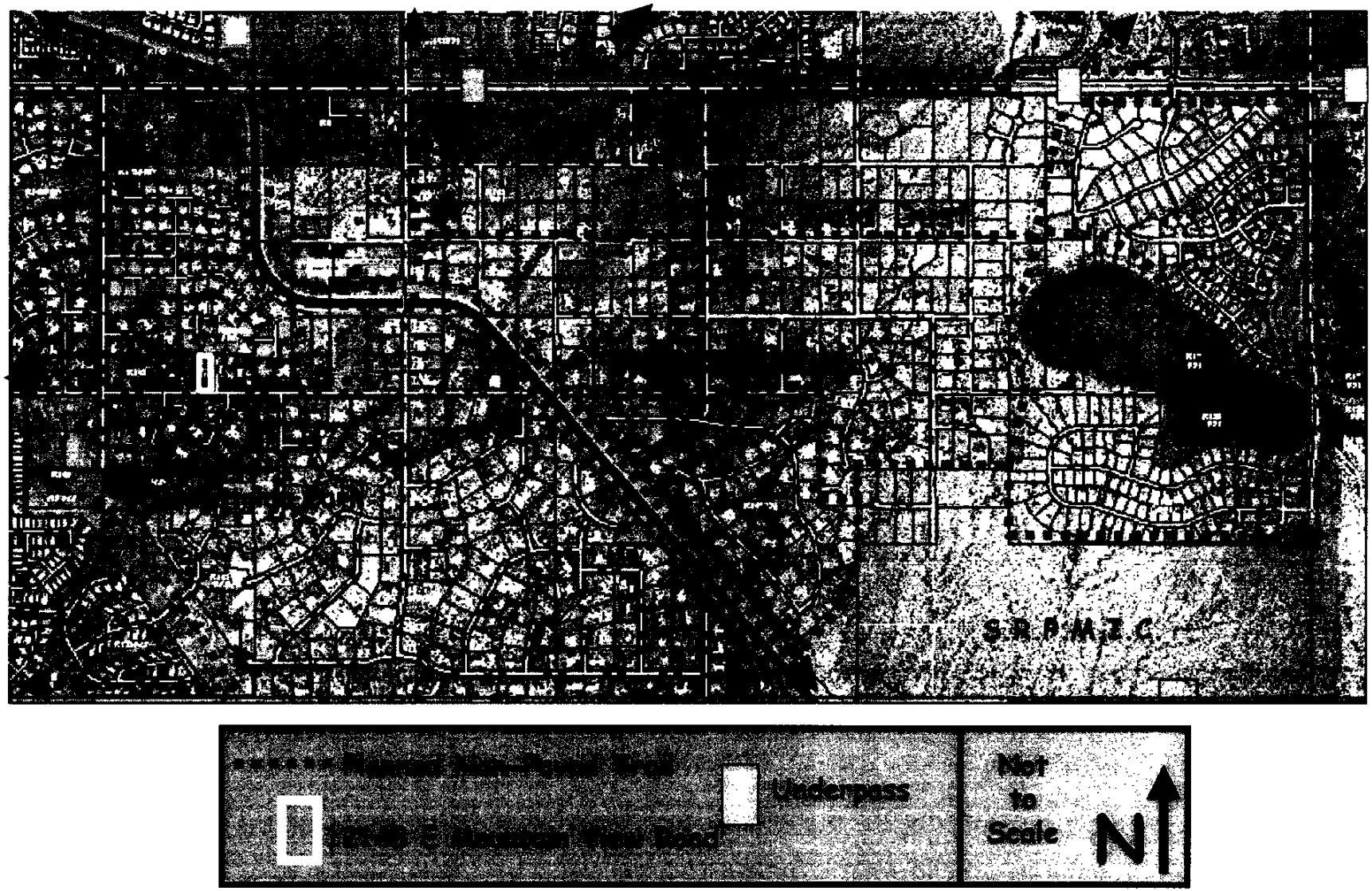


Mountain View Road
West of 121st Place

3-AB-2003

ATTACHMENT #2A

Planned Trails in the East Shea Area



Attachment #3

RESOLUTION NO. 6334

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, VACATING AND ABANDONING A PORTION OF THE PUBLIC RIGHT-OF-WAY, APPLICATION NO. 3-AB-2003, PURSUANT TO THE PROVISIONS OF THE ARIZONA REVISED STATUTES, ARTICLE 8, CHAPTER 20, TITLE 28.

WHEREAS, application has been made to the Council of the City of Scottsdale for abandonment of a portion of public right-of-way; and

WHEREAS, A.R.S. Sec. 28-7202 provides that a city may dispose of a roadway or portion thereof when said property or portion thereof is no longer necessary for public use; and

WHEREAS, after notice to the public, hearings have been held before the Planning Commission and Council of the City of Scottsdale on the proposed abandonment of a portion of the public right-of-way, described in Application No. 3-AB-2003, within the City of Scottsdale; and

WHEREAS, it is in the opinion of the Council that the portion of public right-of-way described herein below is no longer necessary for public uses as roadway; and

WHEREAS, the City Council finds that consideration and other public benefit commensurate with the value of the property, giving due consideration to its degree of fragmentation and marketability, will be provided by the owner of the abutting property to the city.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Scottsdale, Arizona, as follows:

Attachment #4

That the real property situated within the City of Scottsdale, Maricopa County, Arizona, and described in Exhibit "A" attached hereto and by this reference made a part hereof; be and the same is hereby vacated and abandoned subject to the reservation of a waterline and sewerline easement over the east 20 feet of the subject 50 feet right-of-way and an easement for all existing utilities, and reservation of such rights as are specified in A.R.S. Sections 28-7210 and 28-7215. A map marked Exhibit "B" disclosing the area vacated is attached hereto and by this reference made a part hereof.

PASSED AND ADOPTED by the Council of the City of Scottsdale this _____ day of _____, 2003.

_____
Mary Manross, Mayor

ATTEST:

Sonia Robertson
City Clerk

By:_____
City Clerk

APPROVED AS TO FORM:

JV Valpando for
David Pennartz, City Attorney

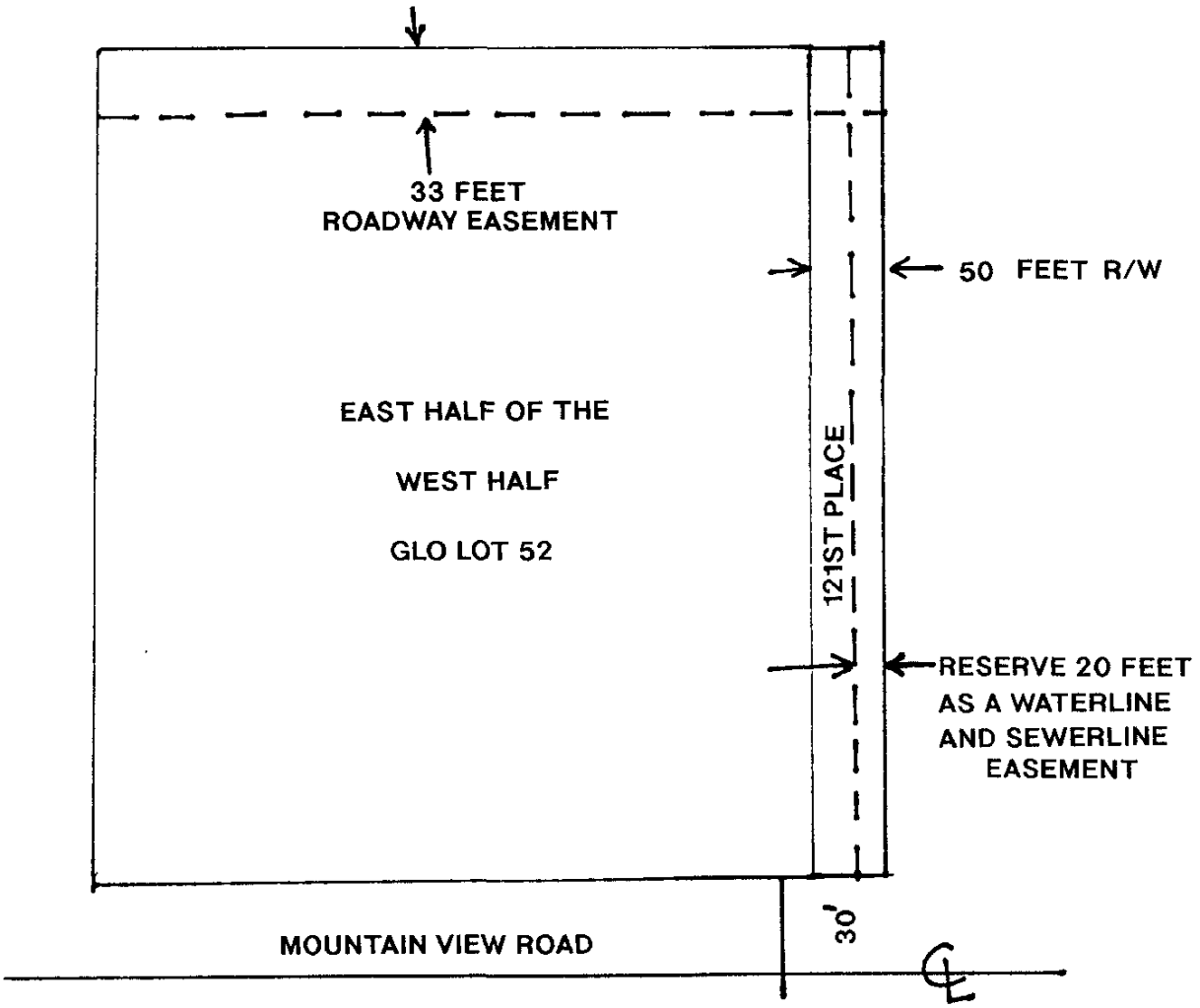
3-AB-2003
Graphic for Abandonment

The east 50 feet except the south 30 feet of the West half of Lot 52, Section 26, Township 3 North, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona AND RESERVING a waterline and sewerline easement over, under, and across the east 20 feet;

And the north 33 feet of the East half of the West half of Lot 52, Section 26, Township 3 North, Range 5 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona AND RESERVING a waterline and sewerline easement over, under, and across the east 20 feet.

EXHIBIT A

3-AB-2003
Graphic for Abandonment



N
↑
NTS

EXHIBIT B

supportive of this change in the reduction of density from 60 units down to 36 for sale private ownership condos. He thanked Mirage for being partner oriented in terms of setbacks, heights, landscaping, and other issues.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

COMMISSIONER NELSSEN stated he appreciates the coordinated effort of working with all of the residents. This does seem to be an improvement.

COMMISSIONER NELSSEN MOVED TO FORWARD CASES 1-GP-2003 & 43-ZN-1990#2 TO THE CITY COUNCIL WITH THE RECOMMENDATION FOR APPROVAL SUBJECT TO THE ATTACHED STIPULATIONS AND FOLLOWING NOTE TO THE DR BOARD:

- **THE DR BOARD SHOULD LOOK VERY CLOSELY TO SEE IF THEY COULD MITIGATE ANY SUPERFLUOUS HEIGHT.**
- **PAY CLOSE ATTENTION TO THE DESIGN AND CHARACTER OF THE BUILDINGS.**

SECOND BY COMMISSIONER HEITEL.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO ZERO (0).

REGULAR AGENDA

3-AB-2003 (12148 E Mountain View Rd) request by Tina Price/Bruce Haseley, applicant/owner, to abandon a portion of 121st Place right-of-way and a Government Land Office (GLO) roadway easement north of Mountain View Road and west of 121st Place.

MS. SUMNERS presented this case as per the project coordination packet. Staff recommends approval, subject to two stipulations:

1. Dedicate a 15-foot public trail easement along Mountain View Road.
2. Reserve a water and sewer line easement over, under, and across the east 20 feet of the subject 50 feet 121st Place right-of-way.

COMMISSIONER NELSSEN inquired if the adjacent properties on either side east or west have abandoned those easements. Ms. Sumners replied she is not aware if those have been abandoned. She stated she has not researched the titles on those properties. Commissioner Nelssen stated the reason he asked is because these abandonments seem to go like dominos somebody in the neighborhood gets one and they seem to go on and on. He inquired how those structures got built in the GLO easement. Ms. Sumners stated she was not sure those buildings have been out there a long time. She request that the applicant address that question.

MS. PRICE, applicant, stated she does not know how long the building has been out there. They have owned the property for two years and they were there before they moved in.

COMMISSIONER HEITEL inquired if they have consent files from the five adjacent property owners to the west for abandonment of this portion. Ms. Sumners stated the property owner approached the immediate parcel to the west and each parcel to the east and the subdivision HOA to the north and obtained support and approval from all of those properties. They did not go to the three further to the east.

COMMISSIONER NELSSEN stated his concern is that they have an option, if the city has not abandoned their interest i.e. the public interest in adjoining GLO patent easements that could present an opportunity for people to use that easement as a neighborhood trail. He further stated as it is they have their trail in a straight line adjacent to automobile traffic. He remarked those easements are for the benefit of other patentees in the community and we have not heard from those people.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

NORWOOD SISSON, 7431 E. Portland, stated he would like to read an email from John Aleo into the record:

> "General Land Office (GLO) patent for roadway and public utility easement for subject parcel was created under federal law. There are no provisions in the federal law to abandon patent easements. The beneficial interest held by the "affected parties" in a patent easement is a private access and property right passed on through the deed. To block, impede, or interfere with a GLO patent easement is a violation of those rights and creates a material defect to the title. A standard lender's title insurance policy doesn't cover the ramifications created by the material defect. To issue a building permit to allow the erection of a permanent structure onto said patent easement is a violation of the federal law.
>
> The "affected parties" are all those patentees and /or subsequent owners who own property in that GLO subdivided area, and all present, past, and future utility companies.
>
> The city's policy to abandon "their interest' in any GLO patent easement doesn't not give cause to assemble, re-plat, or rezone these GLO areas, nor justify the issuance of building permits to erect permanent structures onto said patent easements.
>
> May the owner of subject property, utility companies, and all "affected parties" take heed to action that the city may take regarding subject GLO patent easement. "

LEON SPIRO, 7814 E. Oberlin Way, stated he would like to go on record as disapproving only of the 33 foot GLO patent roadway easement abandonment request. He further stated he has no objection of the 50-foot roadway easement going north. He presented information on case law as it relates to this issue. He also presented

information on federal law as it relates to this issue. He discussed the land issues and legal issues that relate to this issue. He inquired of staff when and by whom decided where the GLO patent roadway easements were on this GLO five-acre parcel and where they abandoned. He asked a series of questions regarding the structures that have been built on the easements in this area. He discussed the problems that result from buildings being built on the easements.

Mr. Spiro discussed the departmental check list for this case noting it has a disclaimer from the City Attorneys office that reads: The City Attorney's office in abandoning this GLO easement, the city is abandoning the public access rights, in accordance with the cases, which permit the governing body of the local government to make those decisions. The City's abandonment of a GLO easement does not include any determination of private rights, nor does the City's action release any private rights if they are later found to exist. Similar to other private easement rights, those are matters between private property owners". He stated they should make a motion to have this disclaimer statement added to the resolution that will be the recorded document for your approval of this abandonment.

LILLIAN NEWMAN, 12130 E. Mountain View Road, stated she lives next door to this property to the west. She further stated she does not know why there should be a problem as far as the city abandoning it. She remarked she cannot understand the purpose of why the city has an easement on it. She stated they do not know why they would have such a small area dedicated for a horse trail.

MS. SUMNERS stated the public trail in this vicinity is according to the draft master trails plan that shows a trail public trail along the north side of Mountain View Road. She stated as requests come to staff for abandonments they evaluate all of the circulation needs and one of the circulation needs is for trails. For this particular request, they are recommending approval subject to a 15-foot public trail easement along Mountain View Road.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

COMMISSIONER BARNETT inquired why they are going about doing these on an individual property basis. This seems more like a large case zoning issue rather than going and having each one of these individual property owners come in over the next period of years and going piece by piece by piece. Ms. Sumners replied what staff is doing at this point as applications come to them they are encouraging people to approach their neighbors and try and coordinate these issues. The feedback they have received from people is that it is hard as the number grows to gather all the documentation and get support. Sometimes the actual owners are out-of-state and trying to get all of that together is sometimes rather difficult so often times they move forward on their own.

COMMISSIONER HEITEL stated with regard to the trails issue he would like to congratulate staff for continuing to be diligent in locating and noticing trails in regards to the master trails plan. Homeowners who live in areas where trails are dedicated and contemplated by master trails plan are extremely important especially to equestrian

users and is very important for the preservation of those issues and to continue to take these trail opportunities.

Commissioner Heitel stated he has no problem with the 50-foot abandonment. He further stated he is disturbed in seeing construction occur in the middle of an easement and after the fact coming back to us and asking them to clear up the problem.

COMMISSIONER HEITEL MOVED TO FORWARD CASE 3-AB-2003 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL, SUBJECT TO TWO STIPULATIONS:

1) **DEDICATE A 15-FOOT PUBLIC TRAIL EASEMENT ALONG MOUNTAIN VIEW ROAD.**
2) **RESERVE A WATER AND SEWER LINE EASEMENT OVER, UNDER, AND ACROSS THE EAST 20 FEET OF THE SUBJECT 50 FEET 121ST PLACE RIGHT-OF-WAY.**

SECOND BY COMMISSIONER HESS.

THE MOTION PASSED BY A VOTE OF THREE (3) TO TWO (2) WITH COMMISSIONER BARNETT AND COMMISSIONER NELSSEN DISSENTING.

4-AB-2003 (Chalfin Residence) request by Sallie & Bradley Chalfin, applicant/owner, to abandon the west 33 feet and the north 8 feet of the south 33 feet General Land Office patent roadway and public utility easements for parcel 217-32-037C located east of 125th Street, north of Gold Dust Avenue.

MR. DEELEY presented this case as per the project coordination packet. Staff recommends approval; subject to the reservation of an 8 feet trail easement over the subject north 8 feet GLO roadway easement.

COMMISSIONER HEITEL inquired why they are only asking for an 8 feet trail easement when those are typically 15 feet. Mr. Deeley stated the difference on the trail on Mountain View and the trail on Gold dust is that the trail on Mountain View is a secondary trail. Based on the new master plan and where this is a neighborhood trail under those criteria 8 feet would provide enough for our trail location. Commissioner Heitel stated they have had some discussion in that whole trail issues that these little narrow strips of five and eight feet was not sufficient for equestrian uses. He inquired where did the eight feet come from. Mr. Deeley stated the eight feet is just covering the area that was requested for abandonment under the GLO so rather than abandoning the GLO they requested that we reserve whatever portion of GLO along Gold Dust Avenue alignment be reserved for local trail.

COMMISSIONER BARNETT stated on the last one they were looking for an easement at the front of the property for a trail and now we are looking for an abandonment in the same position. He inquired if there is suppose to be a trail in front of this property. Mr. Deeley replied in the affirmative. In this case, they are just talking about reserving the eight feet that is being requested to be abandoned and changing it from GLO roadway

CITY COUNCIL REPORT

MEETING DATE: 07/01/03 ITEM NO. 5 GOAL: Transportation

SUBJECT

Intergovernmental Agreement (IGA) #2003-052-COS with the Flood Control District of Maricopa County for design and construction of drainage improvements within the City of Scottsdale

REQUEST

Consider adoption of Resolution No. 6286 to authorize IGA #2003-052-COS with the Flood Control District of Maricopa County for design and construction of

- Scottsdale Road Storm Drain Outfall Improvements,
- 71st Street Channel Improvements,
- Cactus Park Basin Improvements, and
- Mescal Park Basin Improvements.

The estimated cost of the proposed improvements is $5,083,333 of which the Flood Control District will finance fifty percent.

Related Policies, References:

a. Scottsdale Road Corridor Drainage Master Plan
b. City Procurement Code

BACKGROUND

The Paradise Valley, Scottsdale, Phoenix (PVSP) Drainage Master Plan, developed in the late 1970's, is the basis of current regional drainage facilities. Facilities such as the Cactus Park and Mescal Park detention basins were constructed as regional drainage facilities for the watershed. Several years ago, the City requested that the Flood Control District consider improving and supplementing the drainage facilities within the Scottsdale Road Corridor between Thunderbird Road and Mountain View Road.

In response, the Flood Control District initiated the Scottsdale Road Corridor Drainage Master Plan in March 2001. The project area boundary encompasses approximately 10 square miles and includes portions of the Cities of Phoenix, Scottsdale and the Town of Paradise Valley. Scottsdale, Phoenix and Paradise Valley have been involved throughout the planning process. The Central Arizona Project (CAP) to the north, Miller Road to the east, the Berneil Ditch (Mountain View Road) to the south, and 64th Street to the west bound the watershed. Indian Bend Wash is the outlet for the drainage from this area.

After gathering and updating the drainage information in the watershed, it was determined that most of the regional facilities provide a relatively high level of flood control. However, this system continues to leave certain areas vulnerable to flooding, even from relatively minor storms.

Several alternatives were developed to address improvements to the existing facilities within the watershed area. After combining public input and comments from the other involved agencies, a recommended alternative was chosen and subsequently presented to the public by the Flood Control District on June 19, 2002.

The recommended alternative will provide a consistent 10-year level of protection for the area and also improve the capacity of the existing Cactus Park and Mescal Park basins to a 100-year level of protection.

The recommended alternative includes the following proposed improvements:

- Scottsdale Road, from Thunderbird Road to Sweetwater Avenue: Install large diameter storm drain pipe, catch basins along Scottsdale Road, cover existing open channel and install new multi-use path with landscaping.

- Cactus Park Detention Basin: Raise the overflow spillway along Cactus Road approximately two feet to provide additional storage volume and prevent the overflow from a 100-year storm.

- 71st Street Channel, from north of Sunnyside Drive to Sahuaro Drive: Various conveyance improvements ranging from installation of underground storm drain to rebuilding of the existing surface channel.

- Mescal Park Detention Basin: Enlarge the size of the existing basin to increase stormwater storage volume and prevent the overflow from a 100-year storm. Reconstruct the emergency overflow spillway to eliminate potential hazardous overflow condition.

ANALYSIS & ASSESSMENT

Contract process and terms.
The IGA requires that the City and the Flood Control District share equally in the cost of final design, construction, construction management, right-of-way acquisition and operation and maintenance of the improvements. The City will take the lead in the design and construction of the Scottsdale Road Storm Drain Outfall Improvements while the Flood Control District will be responsible for designing and constructing the remaining improvements. The project shall include landscaping and aesthetic features as allowed by the District's "Policy for the Aesthetic Treatment and Landscaping of Flood Control Projects". This policy allows for the District to contribute up to $50,000 per acre for landscaping and up to 6% of construction costs for aesthetic treatments.

Policy implications.
Supports City Council Critical Objective A. *"Enhance and protect a diverse, family-oriented community where neighborhoods are safe, protected from adverse impacts, and well maintained."*

Supports City Council Critical Objective C. *"Provide for the safe, efficient and affordable movement of people and goods."*

Community involvement.
During the development of the Drainage Master Plan a series of three public meetings were held, in May 2001, and March and June 2002, to inform the public of the project goals and ask for assistance in determining the final preferred improvements. The meetings were led by the Flood Control District with support from the City's Transportation Department.

RESOURCE IMPACTS

Available funding.
Funding for $3.3 million for the Scottsdale Road Storm Drain Outfall project is budgeted in project number F0304 on the City's adopted budget. The project is a Bond 2000 project.

Future budget implications.
Additional landscaping in the Scottsdale Road corridor will represent an annual maintenance expense of less than $1,000.

OPTIONS & STAFF RECOMMENDATION

Recommended Approach: Authorize the IGA in order to move forward with design and construction of the improvements.

RESPONSIBLE DEPT(S)

Transportation Department

STAFF CONTACT(S)

Robert M. Johnson, CIP Coordination Manager, (480)-312-7054, rmjohnson@ci.scottsdale.az.us

APPROVED BY

6/10/03
John C. Little, Jr., Transportation General Manager — Date
jlittle@scottsdaleaz.gov (480) 312-2539

6/11/03
Al Dreska, Municipal Services General Manager — Date
adreska@scottsdaleaz.gov (480) 312-5555

6/12/03
Ed Gawf, Deputy City Manager — Date
egawf@scottsdaleaz.gov (480) 312-5830

ATTACHMENTS

1. Resolution No. 6286
2. Intergovernmental Agreement #2003-052-COS

RESOLUTION NO. 6286

A RESOLUTION OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE FLOOD CONTROL DISTRICT MARICOPA COUNTY FOR THE PURPOSE OF FINAL DESIGN, RIGHT-OF-WAY ACQUISITION, UTILITY RELOCATION, CONSTRUCTION, CONSTRUCTION MANAGEMENT AND OPERATION AND MAINTENANCE OF THE SCOTTSDALE ROAD STORM DRAIN OUTFALL IMPROVEMENTS, 71ST STREET CHANNEL IMPROVEMENTS, CACTUS PARK BASIN IMPROVEMENTS AND MESCAL PARK BASIN IMPROVEMENTS.

WHEREAS, the Arizona Revised Statutes 11-951, et.seq., provide that public agencies may enter into intergovernmental agreements for joint operation or cooperative action; and

WHEREAS, Section 3-1 of article 1 of the Charter of the City of Scottsdale authorizes the City to enter into intergovernmental agreements with various public agencies; and

WHEREAS, the City of Scottsdale wishes to participate with the Flood Control District of Maricopa County in the construction of the Scottsdale Road Storm Drain Outfall Improvements, 71st Street Channel Improvements, Cactus Park Basin Improvements, and Mescal Park Basin Improvements.

NOW THEREFORE, LET IT BE RESOLVED by the Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1: Mary Manross, Mayor, is hereby authorized and directed to execute, on behalf of the City of Scottsdale, Intergovernmental Agreement Number 2003-052-COS with the Flood Control District of Maricopa County for the construction of the Scottsdale Road Storm Drain Outfall Improvements, 71st Street Channel Improvements, Cactus Park Basin Improvements, and Mescal Park Basin Improvements.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona this 1st day of July, 2003.

ATTEST

CITY OF SCOTTSDALE, an Arizona municipal corporation

Sonia Robertson, City Clerk

Mary Manross, Mayor

APPROVED AS TO FORM

David Pennartz, City Attorney

When Recorded Return to:
Flood Control District of Maricopa County
2801 West Durango
Phoenix, Arizona 85009

Intergovernmental Agreement

for the

Final Design, Rights-of-way Acquisition, Utility Relocation, Construction, Construction Management and Operation and Maintenance

of the

Scottsdale Road Corridor Drainage Improvements

between the

Flood Control District of Maricopa County

and the

City of Scottsdale

IGA FCD 2002A016

SCOTTSDALE IGA No. 2003-052-C0S

Agenda Central: C-69-03-100-2-00

This Intergovernmental Agreement (IGA) is entered into by and between the Flood Control District of Maricopa County, a municipal corporation and political subdivision of the State of Arizona, acting by and through its Board of Directors hereinafter called the DISTRICT, and the City of Scottsdale, acting by and through its City Council, hereinafter called the CITY.

This Agreement shall become effective as of the date it has been executed by all parties.

DATE FILED WITH MARICOPA COUNTY RECORDER _____

STATUTORY AUTHORIZATION

1. The DISTRICT is empowered by Arizona Revised Statues Section 48-3603, as revised, to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the DISTRICT.

2. The CITY is empowered by Arizona Revised Statues Section 11-952, as amended, to enter into this Agreement. The CITY has authorized the undersigned to execute this Agreement on behalf of CITY.

BACKGROUND

3. The Paradise Valley, Scottsdale, Phoenix (PVSP) Drainage Master Plan, conducted in the late 1970's, is the basis of the current regional drainage facilities in this area. Facilities, such as the Cactus Park and Mescal Park detention basins, were constructed as regional drainage facilities for the watershed. The CITY, through the Capital Improvement Project Prioritization Process for FY 95-96, requested that the DISTRICT consider improving and supplementing the drainage facilities within the Scottsdale Road Corridor between Thunderbird Road and Mountain View Road.

4. The DISTRICT initiated the Scottsdale Road Corridor Drainage Master Plan in March 2001. The project area boundary encompasses approximately ten (10) square miles and includes portions of the Cities of Phoenix and Scottsdale, as well as the Town of Paradise Valley. The Central Arizona Project (CAP) to the north, Miller Road to the east, the Berneil Ditch to the south, and 64th Street to the west bound the watershed. Indian Bend Wash is the outlet for the drainage from this area. After gathering and updating the drainage information in the watershed, it was determined that most of the regional facilities provide a relatively high level of flood control. Budget constraints, availability of vacant rights-of-way, jurisdictional priorities, variations in the design criteria, and piecemeal implementation has resulted in an inconsistent system of storm drains, channels, and basins in this watershed. This system leaves certain areas vulnerable to flooding, even from relatively minor storms. The Cities of Scottsdale and Phoenix and the Town of Paradise Valley (TOWN) have been involved throughout the planning process.

5. Several alternatives were developed to address improvements to the existing facilities within the watershed area. After combining public input and comments from the other involved agencies, a recommended alternative was chosen and subsequently presented to the public on June 19, 2002. The recommended alternative, hereinafter called the PLAN (Exhibit A), will provide a consistent 10-year level of protection for the area and also improves the capacity of the existing Cactus Park and Mescal Park basins to a 100-year level of protection. The public and the agencies are in support of the PLAN. The total cost of implementation of the PLAN is estimated to be $6,057,000. Different elements of the PLAN include the following.

   5.1 **Scottsdale Road Storm Drain (SCOTTSDALE RD):** New 8' X 5' box culvert structure from just south of Thunderbird Road along the eastern edge of Scottsdale Road to the southwest corner of the proposed Fighter Pilot Museum development. New 12' X 5' box culvert in combination with new 90" storm drain system from the southwest corner of the proposed Fighter Pilot Museum to Sweetwater Road, at a total cost estimated to be $2,230,000.

   5.2 **71st Street Channel Improvements (71st ST.)**: New 84" & 60" storm drain system in combination with channel grading, at a total cost estimated to be $1,700,000.

   5.3 **Cactus Park Basin Improvements (CACTUS)**: New floodwall improvements on the south side of park area along Cactus Road, at a total cost estimated to be $156,000.

   5.4 **Mescal Park Basin Improvements (MESCAL)**: New reinforced concrete spillway in combination with basin excavation and landscaping, at a total cost estimated to be $315,000.

   5.5 **Berneil Ditch Improvements (BERNEIL):** New hard surfaced channel from Scottsdale Road east to the end of Chaparral High School property and a floodwall on the south side of the channel at a total cost estimated to be $1,656,000.

6. In August 2002, the Flood Control Advisory Board of the DISTRICT endorsed Resolution FCD 2002R009 and on November 6, 2002 the Board of Directors of the DISTRICT adopted the Resolution. The Resolution authorizes the Chief Engineer and General Manager to negotiate and prepare an IGA(s) for cost-sharing of design, rights-of-way acquisition, utility relocations, construction, construction management, and operation and maintenance of the PLAN.

PURPOSE OF THE AGREEMENT

7. The purpose of this IGA is to identify and define the responsibilities of the DISTRICT and the CITY for cost-sharing the design, rights-of-way acquisition, utility relocations, construction, construction management, and operation and maintenance for the SCOTTSDALE RD., 71st ST., CACTUS, and MESCAL elements of the PLAN (PROJECT). A separate IGA will be drafted between the CITY, the TOWN, and the DISTRICT for the BERNEIL element of the PLAN.

   The approximate cost of the PROJECT addressed in this IGA is estimated to be $4,401,000. The SCOTTSDALE RD. element of the PROJECT may be built with the CITY'S proposed Thunderbird Road and Scottsdale Road Intersection Improvements Project. Once constructed by the CITY, the DISTRICT agrees to reimburse fifty percent (50%) of the total drainage improvement costs of this element of the PROJECT to the CITY as cost-share obligation for implementation of the PROJECT.

   This IGA is for the implementation of only PROJECT facilities to be located within the corporate boundaries of the City of Scottsdale.

TERMS OF AGREEMENT

8. Construction management shall be assigned a value of eight percent (8%) of the actual construction cost of the PROJECT plus actual costs for materials testing and survey work associated with construction management. If the CITY chooses to use non-CITY staff to perform construction management, the CITY will invoice the DISTRICT for actual costs, not to exceed eight percent (8%) of the construction cost.

9. The total PROJECT cost shall include landscaping and aesthetic features as allowed by the DISTRICT's "Policy for the Aesthetic Treatment and Landscaping of Flood Control Projects" (Policy). Additional landscape features and park amenities, if compatible with the PROJECT function, may be included in the PROJECT design and construction at the request of the CITY, with the additional construction and construction management cost being solely at the CITY's expense. Non-flood control features may be included in the PROJECT design at the request of the CITY, and the additional cost will be solely at the CITY's expense.

10. The DISTRICT shall:

    10.1 Serve as the lead agency for the design, rights-of-way acquisition, utility relocation, construction and construction management of the 71st ST., CACTUS, and MESCAL elements of the PROJECT. The DISTRICT will also act as the contracting agency for these elements of the PROJECT and perform all services necessary to administer the design and construction contracts. These services include, but are not limited to, the following: advertise for Letters of Interest; shortlist consultants; interview consultants; select and award the consultant design contract; manage and administer the design contract; issue invitations for construction bids; receive, protect,

and open bids; determine the lowest responsible and responsive bidder; award the contract; and issue the Notice-to-Proceed.

10.2 The DISTRICT may elect to do the design work for the 71st ST., CACTUS and MESCAL elements of the PROJECT in-house. The DISTRICT'S actual cost of the design will be included in the PROJECT cost of these elements. The DISTRICT will document its actual cost and provide it to the CITY.

10.3 Fund one hundred percent (100%) of the total design cost of the 71st ST., CACTUS and MESCAL elements of PROJECT at an estimated cost of $325,650.

10.4 Fund one hundred percent (100%) of the design change orders of the 71st ST., CACTUS, and MESCAL elements of the PROJECT with the exception of those design change orders resulting from the specific requests or actions of the CITY for non-flood control features, which will be paid for by the CITY. The change order amounts shall not exceed twenty percent (20%) of total design cost.

10.5 Fund fifty percent (50%) of the costs of rights-of-way acquisition, utility relocation, construction, and construction management of the 71st ST., CACTUS, and MESCAL elements of the PROJECT. The total cost is estimated to be $1,845,350. The DISTRICT'S cost-share is estimated to be $922,675.

10.6 Fund fifty percent (50%) of the construction change orders for the 71st ST., CACTUS, and MESCAL ~~one hundred percent (100%)~~elements of the PROJECT with the exception of those construction change orders resulting from the specific requests or actions of the CITY for non-flood control features, which will be paid for entirely by the CITY.

10.7 Fund fifty percent (50%) of the rights-of-way acquisition, utility relocation, construction, and construction management of the SCOTTSDALE RD element of the PROJECT. The total cost is estimated at $1,895,500. The DISTRICT'S cost is estimated at $947,750.

10.8 Reimburse the CITY twenty-five percent (25%) of the total cost of rights-of-way acquisition, utility relocation, construction, and construction management of SCOTTSDALE RD. element of the PROJECT estimated at $473,875 at the Notice to Proceed for construction of this element of the PROJECT.

10.9 Reimburse the CITY twenty-five percent (25%) of the total cost of rights-of-way acquisition, utility relocation, construction, and construction management of SCOTTSDALE RD. element of the PROJECT estimated at $473,875 after the final inspection and approval of the construction of this element of the PROJECT.

10.10 Invoice the CITY for the rights-of-way acquisition, utility relocation, construction, and construction management costs of the 71st ST., CACTUS, and MESCAL elements of the PROJECT as specific milestones are accomplished, as described below. The CITY'S reimbursement to the DISTRICT shall be paid as construction phases of the PROJECT are implemented. The CITY's payments may be altered based on the availability of funding, however, the projected schedule of invoices and payments is:

10.10.1 Invoice the CITY for twenty-five percent (25%) of the total cost of the rights-of-way acquisition, utility relocation, construction, and construction management of 71st ST.,

CACTUS, and MESCAL element of the PROJECT at the Notice-to-Proceed for construction of this element of the PROJECT.

10.10.2 Invoice the CITY for twenty-five percent (25%) of the total cost of the rights-of-way acquisition, utility relocation, construction, and construction management of 71st ST., CACTUS, and MESCAL element of the PROJECT after the final inspection and approval of the construction of this element of the PROJECT.

10.11 Provide the 30%, 60%, 90%, and 100% final plans and specifications, as well as all change orders for both design and construction of the 71st ST., CACTUS, and MESCAL elements of the PROJECT to the CITY for their review, comment, and concurrence before final approval. The DISTRICT and the CITY will work to address all comments and incorporate such comments as required into the final plans and specifications.

10.12 Participate, as necessary, in public involvement activities conducted by the CITY for the design and construction of SCOTTSDALE RD. element of the PROJECT.

10.13 Conduct public meetings, information campaigns, or other public involvement activities as may be required for the design and construction of the 71st ST., CACTUS, and MESCAL elements of the PROJECT.

10.14 Review and provide comments on all submittals for the SCOTTSDALE RD. element of the PROJECT, including the 30%, 60%, and 90% plans and specifications within three (3) weeks of receipt of the submittal, and within one (1) week for the final plans and specifications, and all design and/or construction change orders.

10.15 Participate in the final inspection of all the elements of the PROJECT with the CITY to determine whether all work has been performed in accordance with contractual requirements.

10.16 Obtain review and approval from the CITY of any changes to the elements of the PROJECT that will increase flows that discharge into or otherwise change the function of the PROJECT as originally designed.

10.17 Agree that to the extent the DISTRICT's Contractor for the construction of the 71st ST., CACTUS, and MESCAL elements of the PROJECT provides general, automobile, professional liability, or other insurance to the DISTRICT; the CITY will be named as additional insured on those policies.

10.18 Provide record drawings of all new construction for the 71st ST., MESCAL, and CACTUS elements of the PROJECT to the CITY upon completion and acceptance of construction.

10.19 Not be responsible for the operation and maintenance of the PROJECT and the liability for the use by the public of the facilities and all other related property, or incur liability for any damages that may occur from these facilities not functioning because of lack of maintenance by the CITY, upon completion and acceptance of the construction of the PROJECT by the CITY and the DISTRICT.

11 CITY shall:

11.1 Serve as the lead agency for the design, rights-of-way acquisition, utility relocation, construction, and construction management of the SCOTTSDALE RD. element of the PROJECT. This

element of the PROJECT will be designed and constructed with the CITY'S Thunderbird Road and Scottsdale Road Intersection Improvements Project. The CITY will act as the contracting agency for SCOTTSDALE RD. element of the PROJECT and perform all services necessary to administer design and construction and perform all services necessary to administer design and construction contracts. These services include, but are not limited to, the following: advertise for Letters of Interests; shortlist consultants; interview consultants; select and award the consultant the design contract; manage and administer the design contract; issue invitations for construction bids; receive, protect, and open bids; determine the lowest responsible and responsive bidder; award the contract; and issue the Notice-to-Proceed.

11.2 Fund one hundred percent (100%) of the total design cost of the SCOTTSDALE RD. element of the PROJECT estimated at $334,500.

11.3 Fund one hundred percent (100%) of the design change orders of the SCOTTSDALE RD. element of the PROJECT.

11.4 Fund fifty percent (50%) of the rights-of-way acquisition, utility relocation, construction, and construction management of the SCOTTSDALE RD. element of the PROJECT. The total cost is estimated at $1,895,500. The CITY'S cost is estimated at $947,750.

11.5 Fund fifty percent (50%) of the construction change orders for the SCOTTSDALE RD. element of the PROJECT with the exception of those construction change orders resulting from the specific requests or actions of the DISTRICT for non-flood control features, which will be paid for entirely by the DISTRICT.

11.6 Fund fifty percent (50%) of the costs of rights-of-way acquisition, utility relocation, construction, and construction management cost of the 71st ST., CACTUS, and MESCAL elements of the PROJECT. The total cost is estimated to be $1,845,350. The CITY'S share is estimated to be $922,675.

11.7 Reimburse the DISTRICT twenty-five percent (25%) of the total cost of rights-of-way acquisition, utility relocation, construction, and construction management of 71st ST., CACTUS, and MESCAL elements of the PROJECT estimated at $461,338 at the Notice-to-Proceed for construction of these elements of the PROJECT.

11.8 Reimburse the DISTRICT twenty-five percent (25%) of the total cost of rights-of-way acquisition, utility relocation, construction, and construction management of 71st ST., CACTUS, and MESCAL elements of the PROJECT estimated at $461,337 after the final inspection and approval of the construction of these elements of the PROJECT.

11.9 Invoice the DISTRICT for the rights-of-way acquisition, utility relocation, construction, and construction management of the SCOTTSDALE RD. element of the PROJECT as specific milestones are accomplished, as described below. The DISTRICT'S reimbursement to the CITY shall be paid as construction phases of the PROJECT are implemented. The DISTRICT'S payments may be altered based on the availability of funding, however, the projected schedule of invoices and payments is:

11.9.1 Invoice for twenty-five percent (25%) of the total cost of the rights-of-way acquisition, utility relocation, construction, and construction management of the SCOTTSDALE RD.

element of the PROJECT at the Notice-to-Proceed Proceed for construction of this element of the PROJECT.

11.9.2 Invoice for twenty-five percent (25%) of the total cost of the rights-of-way acquisition, utility relocation, construction, and construction management of the SCOTTSDALE RD. element of the PROJECT after the final inspection and approval of the construction of this element of the PROJECT.

11.10 Provide to the DISTRICT, all required CITY permits at no cost for the implementation of all elements of the PROJECT.

11.11 Provide the 30%, 60%, 90%, and 100% final plans and specifications, as well as all change order requests for both design and construction of the SCOTTSDALE RD. element of the PROJECT to the DISTRICT for their review, comment, and concurrence before final approval. The CITY and the DISTRICT will work to address all comments and incorporate such comments as required into the final plans and specifications.

11.12 Participate in public involvement activities conducted by the DISTRICT during the design and construction phases of the 71st ST., MESCAL, and CACTUS elements of the PROJECT.

11.13 Conduct public meetings, information campaigns, or other public involvement activities as may be required for the design and construction of the SCOTTSDALE RD. element of the PROJECT.

11.14 Fund one hundred percent (100%) of the CITY requested design and/or construction change orders resulting from the specific requests or the actions by the CITY for non-flood control features relating to any elements of the PROJECT.

11.15 Participate in the final inspection of all the elements of the PROJECT with the DISTRICT to determine whether all work has been performed in accordance with contractual requirements.

11.16 Obtain review and approval from the DISTRICT of any changes to the elements of the PROJECT that will increase flows that discharge into or otherwise change the function of the PROJECT as originally designed.

11.17 Require utilities located within CITY rights-of-way, and which do not have prior rights, to relocate their conflicting facilities at no cost to the implementation of all the elements of the PROJECT.

11.18 Grant easements to the DISTRICT, for use of CITY-owned rights-of-way and utility easements required for construction of all the elements of the PROJECT at no cost to the DISTRICT.

11.19 Be responsible for, and assume ownership, liability, operation and maintenance, of all the elements of the PROJECT within the jurisdictional limits of the CITY at its sole expense following completion of each phase of construction. The CITY is also responsible for repair or replacement as necessary of all the elements of the PROJECT at no cost to the DISTRICT.

11.20 The operation and maintenance responsibility for the elements of the PROJECT includes removal of trash, debris, sediment, and vegetation from the facilities; electricity and other operation costs for the facilities; aesthetics maintenance and vandalism repair. The CITY is also responsible for

structural maintenance and repair of the facilities, including project reconstruction and replacement and associated costs.

11.21 The DISTRICT has the option to inspect and repair and/or maintain the elements of the PROJECT if the CITY fails to act within sixty (60) days of written notification by the DISTRICT of failure to repair and maintain the elements of the PROJECT. The CITY shall reimburse the DISTRICT for actual costs incurred by the DISTRICT for any such repair or maintenance within ninety (90) days of receipt of an invoice.

11.22 Provide and designate a representative to attend monthly progress/partnering meetings with the DISTRICT and others for all elements of the PROJECT.

11.23 Review and provide comments on all submittals including the 30%, 60%, and 90% plans and specifications within three (3) weeks of receipt of the submittal, and within one (1) week for the one hundred percent (100%) final plans and specifications, and all design and/or construction change orders.

11.24 CITY shall provide record drawings of all new construction for the SCOTTSDALE RD. element of the PROJECT to the DISTRICT after its completion and acceptance of construction.

11.25 Agree that to the extent the CITY's Contractor for the construction of the SCOTTSDALE RD. element of the PROJECT provides general, automobile, professional liability, or other insurance to the CITY; the DISTRICT will be named as additional insured on those policies.

12 After completion of the design and construction of all of these elements of the PROJECT, if necessary, the DISTRICT or the CITY will reimburse the other party who has funded more, fifty percent (50%) of the difference of the actual cost between the DISTRICT'S and the CITY'S documented costs for design of their respective elements of the PROJECT. These costs will include costs of change orders, approved by both parties for flood control features related to the elements of the PROJECT. Costs for non-flood control features will be the responsibility of the requesting party.

13 Any permits required for the implementation of the PROJECT made by parties to this Agreement shall be issued at no cost to the total cost of the PROJECT.

14 Either party to this Agreement may with mutual written agreement of the other party delegate responsibilities to another party. Any delegation, however, shall not relieve the delegating party to its original responsibilities as defined herein.

15 In the case of any dispute over any items in this Agreement, the parties agree to use their best efforts and enter into good faith negotiations to resolve the disputed matters. However, this will not limit the rights of the parties to seek any remedies provided by law.

16 All parties to this Agreement shall take reasonable and necessary actions within their authority to assure that only storm water is discharged into the elements of the PROJECT, and that such discharges into these elements comply at the point of discharge with any applicable requirements of the Clean Water Act, Arizona Pollutant Discharge Elimination System (AZPDES), or any other applicable discharge requirements, including any permit requirements.

17 Each party to this Agreement (indemnitor) shall, to the extent permissible by law, indemnify, defend and save harmless the other (indemnitee) including, their agents, representatives, officers, directors, officials,

governors, and employees thereof, from and against any loss or expense incurred as a result of any claim or suit of any nature whatsoever, which arises out of indemnitor's negligent or wrongful acts or omissions pursuant to this Agreement. Such indemnification obligation shall encompass any personal injury, death or property damages resulting from the indemnitor's acts or omissions, as well as reasonable attorney's fees, court costs, and other expenses relating to the defense against claims or litigation, incurred by the indemnitee. Indemnitee shall be liable for its own negligence or wrongful acts as provided by law.

18 All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Flood Control District of Maricopa County Chief Engineer and General Manager 2801 West Durango Street Phoenix, Arizona 85009	City of Scottsdale Attn: General Manager/Transportation 7447 East Indian School Road, Suite 205 Scottsdale, Arizona 85251

19 Each (or any) party to this Agreement will pay for, and not seek reimbursement for, its own personnel and administrative costs associated with the implementation of the PROJECT including, but not limited to, the following unless specifically identified otherwise in this Agreement: design, rights-of-way acquisition, inspection, public involvement, permitting, management and administration, and operation and maintenance.

20 This Agreement shall expire in twenty (20) years from the date of recording with the Maricopa County Recorder or upon completion of all the elements of the PROJECT and after all funding obligations and reimbursements have been satisfied in accordance with this Agreement, whichever is first to occur. However, by mutual written agreement of all parties, this Agreement may be amended or terminated. The operation and maintenance provisions of this Agreement shall survive the expiration of this Agreement.

21 This Agreement is subject to cancellation by any party pursuant to the provisions of A.R.S. § 38-511.

22 Attached to this Agreement or contained herein are the written determinations by the appropriate attorneys for the parties to this Agreement, that these agencies are authorized under the laws of the State of Arizona to enter into this Agreement and that it is in proper form.

23 If legislation is enacted after the effective date of this Agreement, which changes the relationship, or structure of one or more parties to this Agreement, the parties agree that this Agreement shall be renegotiated at the written request of any party. The preceding sentence does not bind any party's governing board in any way to accept or approve amendment or other changes to this Agreement.

FLOOD CONTROL DISTRICT OF MARICOPA COUNTY
A Municipal Corporation

Recommended by:

_____

Michael S. Ellegood, P.E. Date
Chief Engineer and General Manager

Approved and Accepted:

By: _____
Chairman, Board of Directors Date

Attest:

By:_____
Clerk of the Board Date

The foregoing Intergovernmental Agreement, IGA FCD 2002A016, has been reviewed pursuant to Arizona Revised Statutes §11-952, as amended, by the undersigned General Counsel, who has determined that it is in proper form and within the powers and authority granted to the Flood Control District of Maricopa County under the laws of the State of Arizona.

_____

General Counsel Date

CITY OF SCOTTSDALE

City of Scottsdale, a Municipal Corporation
Mary Manross, Mayor

By: _____
Mary Manross, Mayor Date

Attest:

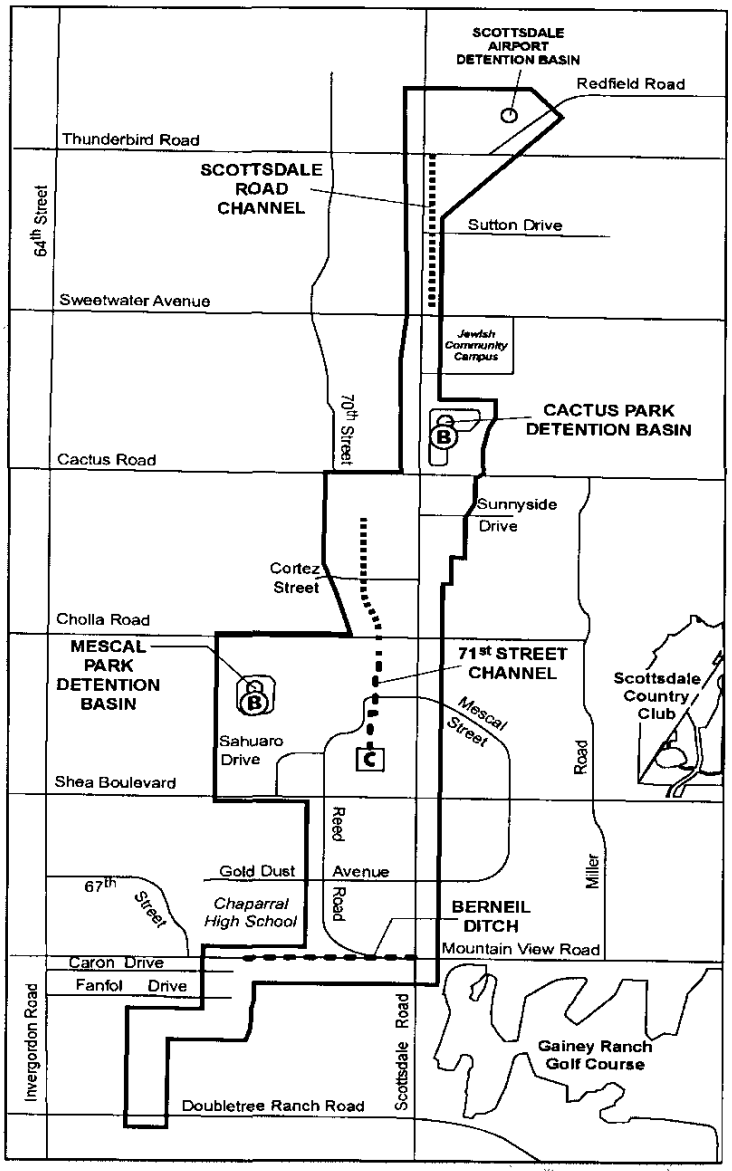
By: _____
City Clerk Date

The foregoing Intergovernmental Agreement, IGA FCD 2002A016, has been reviewed pursuant to Arizona Revised Statues § 11-952, as amended, by the undersigned attorney who has determined that it is in proper form and within the power and authority granted to the City of Scottsdale under the laws of the State of Arizona.

By: _____ 6-18-03
David Pennartz, City Attorney Date

SOL

EXHIBIT A



KEY

- ***Focus Area***
- ***Parks/Recreation***
- ***Proposed Underground Storm Drain***
- ***Proposed Channel Improvement***
- ***Proposed Culvert Improvement***
- ***Proposed Basin Improvement***

CITY COUNCIL REPORT

MEETING DATE: 07/01/2003 ITEM NO. 6 GOAL: Neighborhoods

SUBJECT

Intergovernmental Agreement which allows the Scottsdale Police Department to provide forensic services and use of the Family Advocate Center to the Town of Paradise Valley Police Department.

REQUEST

- Adopt Resolution No. 6329 authorizing the City to enter into an Intergovernmental Agreement:
- Authorize Intergovernmental Agreement No. 2003-118-COS, which allows the Scottsdale Police Department to provide forensic services and the use of the Family Advocacy Center to the town of Paradise Valley Police Department for $25,000.
- In anticipation of the agreement, the Scottsdale Police Department included $20,000 in the Forensic Science Agreement center approved FY03/04 budget. As the IGA is for $25,000, authorize the transfer $5,000 of Special Revenue Fund Contingency budget to the Forensic Science Agreement center (280-02304-54530). The contract amount will fully fund the costs associated with the IGA.

Related Policies, References: This agreement is made under the authority of Article 1, section 3-1 of the city charter of the City of Scottsdale.

BACKGROUND

Since 1993, the Scottsdale Police Department has provided forensic services in the areas of drug analysis, blood alcohol analysis, latent fingerprint examinations, forensic biology examinations, firearms examinations, and trace evidence comparisons to the Paradise Valley Police Department through an intergovernmental agreement. With the opening of the Family Advocacy Center, the Paradise Valley Police Department has requested the to utilize this facility along with the currently provided forensic services as a tool in their investigations of domestic violence, sex crimes, and crimes against children and elderly abuse. In the past, both agencies have acted cooperatively regarding law enforcement support and both agencies desire to continue and expand this cooperative relationship in order to enhance public safety and welfare to their residents.

Action Taken_____

ANALYSIS & ASSESSMENT

The Scottsdale Police Department has reviewed its ability to provide forensic services through its crime laboratory to the Paradise Valley Police Department ("PVPD"). Approximately 1% of the total forensic caseload performed by the crime laboratory can be attributed to submissions from PVPD. The continuation of providing forensic services by the crime laboratory to the PVPD will not hinder the laboratory's ability to continue to provide its responsive service to the needs of the Scottsdale Police Department.

The Scottsdale Police Department has also reviewed its ability to provide the use of the Scottsdale Family Advocacy Center to the Paradise Valley Police Department ("PVPD"). The use of the Center will provide PVPD a victim friendly environment for victims of child crimes, domestic violence, sex crimes and elderly abuse. PVPD will be able to utilize quiet rooms, a playroom, audio/video interview rooms and monitoring room for victims and their families. They will have use of telephones, training room and conference room use at the center, on a space available basis. The report writing area will also be available to them, including use of a computer. PVPD must supply their own blank video and audiocassette tapes to record interviews. The Scottsdale Police Crisis Intervention Staff ("PCIS") services may be available to PVPD victims if PCIS personnel are on-duty at the facility and available to assist. PVPD will also have access to the call-out a forensic interviewer for child interviewers. The forensic interviewer has an office at the Scottsdale Center and shares time between here and the West Valley Advocacy Center. Research indicates that PVPD would utilize these facilities and services approximately three times a year. This amount of usage would not impede upon Scottsdale Police Department's ability to utilize the Center for their own needs.

RESOURCE IMPACTS

Available funding. Through the Intergovernmental Agreement, the Town of Paradise Valley will provide to the City of Scottsdale Police Department a total of $25,000.00. The funds will be deposited in the existing Forensic Science center (280-02304) and used to cover Scottsdale Police Department's supplies, training, and equipment maintenance expenditures incurred providing the services proposed under this agreement. The $20,000 for Forensic Services is anticipated to recover all expenses incurred in providing these services.

The Scottsdale Police Department anticipated this agreement and included $20,000 in the FY03/04 approved budget. A transfer of Special Revenue Special Programs Contingency for $5,000 to the Forensic Science center will cover the total costs that will be incurred due to the IGA. The IGA funding amount will fully cover all expenditures incurred by the City of Scottsdale Police Department under this agreement.

Staffing, workload impact. No additional staffing will be required to fulfill this agreement.

Maintenance requirements. There will be no maintenance contracts under this agreement.

Future budget implications. The Intergovernmental Agreement allows for a yearly review of all costs to insure that funding remains appropriate to the needs of both parties. Based on the annual review of the costs incurred, additional expenditure budget will be requested in FY 04/05 if needed.

(Continued)

OPTIONS & STAFF RECOMMENDATION

Description of Option A: Decline the agreement and provide no forensic assistance to a neighboring agency. This would require that they utilize the Arizona Department of Public Safety Crime Laboratory. This is a free service to the Paradise Valley Police Department, but the response time by that organization in completing requests for forensic services is very extensive.

Description of Option B: Provide forensic services mutual aid to the Paradise Valley Police Department free of charge as a good neighbor willing to enhance public safety and welfare. Scottsdale Police Department would have to absorb all expenses of providing this services. This would reduce the Police Department's ability to provide appropriate funding for its own needs.

Recommended Approach: Staff recommends that the City accept the intergovernmental agreement between the Scottsdale Police Department and the Paradise Valley Police Department in that it will provide more than sufficient funds to cover the services provided, that it will not require additional staffing, it is beneficial to the pubic safety and welfare of the citizens of both communities, and it will encourage continued good relations between the City of Scottsdale and the Town of Paradise Valley.

RESPONSIBLE DEPT(S)

Police Department, Administrative Services Bureau, Forensic Services Division, and Investigative Services Bureau

STAFF CONTACTS

6/13/03

Name — Date

Allen Steve Garrett
Forensic Services Division Manager
480-312-5280
sgarrett@scottsdaleaz.gov

APPROVED BY

6/13/03

Name — Date

Alan Rodbell
Chief of Police
480-312-5310
arodbell@scottsdaleaz.gov

6/13/03

Name — Date

Craig Clifford
Chief Financial Officer
480-312-2364
cclifford@scottsdaleaz.gov

6/16/03

Name — Date

Jan Dolan
City Manager
480-312-2422
jdolan@scottsdaleaz.gov

(Continued)

ATTACHMENTS

1. Resolution # 6329
2. Intergovernmental Agreement No. 2003-118-COS

(Continued)

RESOLUTION NO. 6329

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE MAYOR TO EXECUTE INTERGOVERNMENTAL AGREEMENT NO. 2003-118-COS BETWEEN THE CITY OF SCOTTSDALE AND THE TOWN OF PARADISE VALLEY, PURSUANT TO WHICH THE TOWN WILL CONTRACT FOR FORENSIC LABORATORY SERVICES AND THE USE OF THE SCOTTSDALE FAMILY ADVOCACY CENTER.

WHEREAS, Arizona Revised Statutes Sections 11-951, et. seq. provide that public agencies may enter into intergovernmental agreements to contract for services, or for the provision of services, or for joint or cooperative action; and

WHEREAS, article 1, section 3-1 of the City Charter of the City of Scottsdale authorizes the City to enter into intergovernmental agreements with various public agencies, including political subdivisions and agencies of the state; and

WHEREAS, the City of Scottsdale and Town of Paradise Valley have previously contracted for forensic laboratory services and otherwise cooperated regarding photographic services, latent print examinations, and forensic examinations;

WHEREAS, the City and Town have acted cooperatively regarding law enforcement support in the past; and

WHEREAS, the City and the Town agree that an agreement to provide crime laboratory services and to allow use of the Scottsdale Family Advocacy Center by the Town enhances police services and capabilities in furtherance of the public safety and welfare and in furtherance of the mutual goals stated herein; and

WHEREAS, the City and the Town have voluntarily negotiated the attached Intergovernmental Agreement No. 2003-118-COS to provide crime laboratory services and to allow use of the Scottsdale Family Advocacy Center by the Town; and

WHEREAS, it is in the best interest of the City and the Town that an Intergovernmental Agreement for Crime Laboratory and Scottsdale Family Advocacy Center Services be executed,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Scottsdale as follows:

Resolution No. 6329

Section 1. That Mary Manross, Mayor, is hereby authorized and directed to execute, on behalf of the City of Scottsdale, an agreement with the Town of Paradise Valley, a copy of which is attached to this Resolution and incorporated herein by this reference, for the purpose of performing forensic and crime laboratory services for the Paradise Valley Police Department, and for the Town's use of the Scottsdale Family Advocacy Center.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Arizona, this ___day of July, 2003.

ATTEST:

CITY OF SCOTTSDALE, an
Arizona municipal corporation,

_____
Mary Manross
Mayor

_____
Sonia Robertson
City Clerk

APPROVED AS TO FORM:

David A. Pennartz
City Attorney

Attachment #___
Page 2 of 2

AGREEMENT

This intergovernmental agreement ("Agreement"), is made and entered into this 5th June of May, 2003, by and between the City of Scottsdale, an Arizona municipal corporation ("City"), and the Town of Paradise Valley, an Arizona municipal corporation ("Town"), collectively referred to herein as the "Parties."

WHEREAS Article 1, section 3 -1 of the city charter of the City of Scottsdale authorizes the City to enter into intergovernmental agreements with various public agencies, including political subdivisions and agencies of the state.

WHEREAS Arizona Revised Statues, §11-952 authorizes the Town to enter into intergovernmental agreements with various public agencies, including political subdivisions and agencies of the state.

WHEREAS, the City and Town have acted cooperatively regarding photographic services, latent print examinations, and forensic examinations provided to the Town by the City; and

WHEREAS, the City and Town have acted cooperatively regarding law enforcement support; and

WHEREAS, the Parties view the continuation and expansion of a cooperative relationship as desirable as a means of maintaining and improving the ability of the Parties to provide enhanced public safety and welfare and other services to their residents, to the mutual benefit of those residents and the Parties; and

WHEREAS, the Parties agree that an agreement to provide crime laboratory services and use of the Family Advocacy Center operation by the City to the Town to enhance police services and capabilities in furtherance of the mutual goals stated herein; and

WHEREAS, the Parties agree that an agreement to provide specific law enforcement support by the City to the Town, and by the Town to the City, will enhance police services and capabilities in furtherance of the mutual goals stated herein; and

WHEREAS, the Parties, in furtherance of these goals, desire to enter into an Agreement regarding their respective rights and responsibilities.

NOW, THEREFORE, in consideration of the above recitals, the mutual promises given in this Agreement and for the other good and valuable consideration, the Parties agree as follows:

I. <u>General Responsibilities</u>

Unless otherwise expressly provided herein, the Parties agree that they shall be responsible for the following.

A. Forensic Services

1. The City shall, through the City's Police Department Crime Laboratory, perform the following services:

a. Analysis and identification of any dangerous or narcotic drugs within twenty (20) working days after delivery to the City.

b. Analysis of blood samples for the presence of ethyl alcohol within fourteen (14) days after delivery to the City.

c. Forensic biology analysis, to include identifying stains for type of body fluid, species determination, and deoxyribonucleic acid ("DNA") analysis using polymerase chain reaction ("PCR") within thirty (30) working days after delivery to the City.

d. Latent fingerprint, footwear and tire tread examinations and comparisons within twenty (20) working days after delivery to the City.

e. Photographic work including all labor and chemicals needed in the development of 35mm film, printing contact sheets, CD's or 3" x 5" for each roll of film developed, and printing either 5" x 7" or 8" x 10" photos for courtroom purposes. The City will purchase and store all film, paper and chemical supplies to be used for and on behalf of the Town Police Department.

f. Twenty-four (24) hour crime scene assistance on homicide and officer involved shootings to include scene processing, evidence collection, and evidence processing. If manpower is available, crime scene assistance may be provided, but not required, for sexual assault and major aggravated assault crime scenes.

g. Miscellaneous trace examinations, including paint comparison, fiber and hair comparison, and arson accelerant identification, within sixty (60) days after delivery to the City.

h. Firearms/toolmark examination and comparison within sixty (60) days after delivery to the City.

i. Courtroom testimony by crime laboratory personnel for analyses performed for the Town, as may be required.

j. Training for up to three (3) of the Town's police employees will be offered in crime scene processing, evidence packaging, and crime scene photography, each time the City offers in-house training courses.

The City may also provide one-on-one training to the Town's police employees if warranted and agreeable to both the City and the Town.

2. The Town, through the Town's Police Department, shall:

a. Transport, deliver and retrieve all evidence to and from the City's Crime Laboratory.

b. Package and deliver evidence according to the City's Police Department's policies and procedures.

c. Assume responsibility for the packaging, paper work and storage of all evidence collected at a crime scene and subsequently examined by the City.

d. Provide any and all forms necessary to facilitate the transfer of evidence to and from the Town to the City.

e. Provide police support at all times to City crime scene personnel when processing a crime scene in the Town.

3. Limitations and conditions. The following limitations and conditions shall apply to the performance of this Agreement:

a. The following laboratory services will not be provided by the City:

i. Urinalysis for the presence of alcohol or drugs.

ii. Examination of questioned documents.

iii. Crime scene processing except as provided in paragraph A.1.f.

iv. The City will store evidence from the Town only for the length of time it is necessary to perform the required analyses or examinations. The Town shall retrieve from the City all evidence and reports on a regular and timely basis, as set by the City.

B. Law Enforcement Support

The City shall, through the City's Police Department, provide use of the Scottsdale Family Advocacy Center by the Town's Police Department. The Scottsdale Advocacy Center would provide PVPD a victim friendly environment for victims of child crimes, domestic violence, sex crimes and elderly abuse. Paradise Valley Police Department ("PVPD") will be able to utilize quiet rooms, a playroom, audio/video interview rooms and monitoring room for victims and their families. PVPD will have use of telephones, training room and conference room use at the center, on a space available basis. The report writing area will also be available to PVPD, including use of a computer. PVPD must supply their own blank video and

audiocassette tapes to record interviews. The Scottsdale Police Crisis Intervention Staff ("PCIS") services may be available to PVPD victims if PCIS personnel are on-duty at the facility and available to assist. PVPD will also have access to the call-out a forensic interviewer for child interviewers. The forensic interviewer has an office at the Scottsdale Center and shares time between here and the West Valley Advocacy Center.

II. General Conditions

A. The Town shall not be responsible for any overtime cost required to fulfill the terms of the Agreement.

B. The Town shall not be held responsible for any Workmen's Compensation claims resulting from injuries sustained by a City employee while in the performance of the Agreement. Neither the City nor Town shall be responsible for the other's activities performed pursuant to this Agreement.

1. To the fullest extent permitted by law, the City shall defend, indemnify and hold harmless the Town, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of, or resulting from any negligent or intentional actions, acts, errors, mistakes or omissions caused in whole or part by the City relating to work or services in the performance of this Agreement, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of the City employees.

2. To the fullest extent permitted by law, the Town shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of, or resulting from any negligent or intentional actions, acts, errors, mistakes or omissions caused in whole or part by the Town relating to work or services in the performance of this Agreement, including but not limited to, anyone directly or indirectly employed by the Town or anyone for whose acts the Town may be liable and any injury or damages claimed by any of the Town's employees.

III Costs

The Town shall pay the City, for the services rendered under the Agreement for each 12-month period, a sum total of twenty-five thousand dollars and no cents

($25,000.00) on or before January 1st of each year. The City shall invoice the Town on or before December 1st of each year. The City shall bear the cost of employees' salaries and benefits and provide the equipment and supplies needed to meet the City's requirements of the Agreement.

IV. Terms and renewal

A. The term of this Agreement shall be for a period of three (3) years, commencing on January 1, 2003, and ending on December 31, 2005. However, after the first year and annually thereafter, the terms of this Agreement will be reviewed by both the City and the Town, and, if necessary, amended to insure that the costs of the Agreement are appropriate and agreeable for the services being rendered. Either Party may terminate this Agreement, for convenience or cause, by submitting not less than sixty (60) days written notice. Any notice required to be given pursuant to the provisions of the Agreement shall be given in writing, and either delivered in person or deposited in the United States mail, postage pre-paid, registered or certified mail, return receipt requested, and properly addressed, at the following addresses:

City of Scottsdale Police Department
Crime Laboratory
9065 East Via Linda
Scottsdale, AZ 85258
Attention: Steve Garrett

Town of Paradise Valley Police Department
6433 E. Lincoln Drive
Paradise Valley, AZ 95253
Attention: J. D. Wintersteen, Chief of Police

Either party may furnish to the other a different mailing address and designate another individual upon whom all notices may be serviced as herein provided. Such notices shall be given in accordance with this section. The Town shall be reimbursed its cost of the Agreement, prorated according to the time that the Agreement was in force.

B. The City shall give the Town the option of renewing this Agreement for one additional three (3) year term under the same terms and conditions as this Agreement and any intervening amendments thereof entered into by the Parties. The Town shall give the City written notice of its intention to renew this Agreement at least sixty (60) days prior to the expiration of this Agreement.

C. This Agreement is subject to termination pursuant to A.R.S. §38-511.

V. Miscellaneous

A. This Agreement constitutes the entire understanding of the parties and no representations or agreements, oral or written, made prior to its execution shall vary or modify the terms herein. This Agreement shall supersede any other Agreement between the parties on the same subject matter.

B. This Agreement shall be governed and interpreted according to the laws of the State of Arizona. This Agreement is subject to arbitration to the extent required by Arizona Revised Statutes Section 12-1518.

C. Any amendment, modification or variation from the terms of this Agreement shall be in writing and shall be effective only after approval of all parties signing the original Contract.

D. This rights and responsibilities that are the subjects of this Agreement shall not be assigned or sublet in whole or in part.

E. The Contract Administrator for the City for matters relating to the City shall be: Steve Garrett of the Scottsdale Police Department.

The Contract Administrator for the Town for matters relating to the Town shall be: Lieutenant Karl J. Emberg, Commander, Support Services Division, Paradise Valley Police Department.

IN WITNESS WHEREOF the Parties hereby execute this Agreement by affixing their signatures below, on the date first written above.

CITY OF SCOTTSDALE

By_____
MARY MANROSS
Mayor

TOWN OF PARADISE VALLEY

By
EDWARD LOWRY
Mayor

ATTEST:

By_____
Sonia Robertson
City Clerk

By
Lenore Lancaster
Town Clerk

In accordance with A.R.S. Section 11-952, the undersigned, as legal counsel for the City of Scottsdale has reviewed the foregoing intergovernmental agreement and has

determined that it is in appropriate form and is within the powers and authority granted to the City.

SCOTTSDALE CITY ATTORNEY'S OFFICE

By _____
David A. Pennartz
City Attorney

In accordance with A.R.S. Section 11-952, the undersigned, as legal counsel for the Town of Paradise Valley has reviewed the foregoing intergovernmental agreement and has determined that it is in appropriate form and is within the powers and authority granted to the Town.

By _____
Andrew Miller
Attorney, Town of Paradise Valley

CITY COUNCIL REPORT

MEETING DATE: 07/01/2003 ITEM NO. 7 GOAL: Communications and Open Government

SUBJECT

Consider awarding federal lobbying and information services contract with Carolyn C. Chaney and Associates.

REQUEST

Approval of Contract Number 2003-122-COS with Carolyn C. Chaney and Associates to provide federal lobbying and information services on behalf of the City of Scottsdale for an annual compensation of $66,000 and up to $3,000 for reimbursable expenses incurred on behalf of Scottsdale while carrying out the terms of the contract.

BACKGROUND

The goal of the Federal Lobbying and Information Services Contract is to provide effective advocacy of the City Council's position on federal legislative, regulatory and funding matters in a targeted and consistent manner through building positive relationships, building coalitions, coordination of city activities, direct advocacy and participation in national organizations of shared interests. The contractor is responsible for keeping the City Council and staff informed regarding matters at the national level that impact City Council goals and objectives, city operations and city budgeting.

Current issues being addressed at the national level include:

1. Addressing Regional Aviation issues (Council Goal 2, Preserve Character and Environment)
2. Funding for compliance with EPA Arsenic Regulations (Council Goal 2, Preserve Character and Environment)
3. Funding for land preservation (Council Goal 2, Preserve Character and Environment)
4. Funding for Scottsdale and Regional Transportation Improvements. (Council Goal 3, Movement of Goods and People)
5. Authority and funding for social services programs such as the Homeless Continuum of Care proposals (Council Goal 1, Enhance and Preserve the Community and Neighborhoods)
6. Preserve local authority
    a. Preserve ability to manage city right-of-ways (Council Goal 3, Movement of Goods and Services)
    b. Preserve revenues (Council Goal 7, Ensure fiscal responsibility)
    c. Preserve local land use planning authority (Council Goal 1, Enhance and Preserve the Community and Neighborhoods)
7. Funding and preserve authority for police protection and emergency services (Council Goal 1, Enhance and Protect the Community and Neighborhoods)

Action Taken_____

The firm of Carolyn Chaney and Associates has represented the City since 1992. They have been involved in obtaining $500,000 for testing arsenic removal technologies, $2.5 million in FAA funds for runway widening and taxiway extension at Scottsdale Airport, $5.5 million in police hiring and equipment purchases, $600,000 per year for three years in NASA funds for linking remote sensed satellite data to the City's Geographic Information System, and over $800,000 for flood control planning projects. The City has also been a leader in national efforts to promote the Conservation and Reinvestment Act to provide significant increases in federal funding for land preservation and conservation programs, and opposition to efforts to prohibit state and local taxation of purchases over the internet. There has also been a concentrated effort to work with the FAA and Senator McCain to influence the FAA in its Northwest 2000 plan and to include Scottsdale interests in federal transportation planning efforts. Through the existing contract, the City of Scottsdale has a strong relationship with our Congressional delegation and with federal agencies such as the Federal Aviation Administration, Housing and Urban Development, Environmental Protection Agency, Army Corps of Engineers, and the U.S. Department of Transportation.

ANALYSIS & ASSESSMENT

Contract process and terms. In December 2002, the City issued a request for proposals (#03RP006) for Federal Lobbying and Information Services. Ten responses were received. A three person review committee reviewed the RFPs using the following criteria: 1) ability to provide services, 2) costs for providing services, 3) demonstrated successful experience in providing services, 4) familiarity with federal issues of interest to Scottsdale, 5) experience and qualifications of personnel, 6) demonstrated experience with positive bipartisan relationships, 7) ability to communicate proposal and 8) availability of Washington D.C. offices. Following initial review three potential contractors were interviewed by telephone. Based on the evaluation Chaney and Associates were selected.

Significant issues to be addressed. The provisions of the contract require:

1. Communication with City Council and City staff. Identify and provide analyses of legislative and administrative issues involving Congress, the White House, federal agencies, and national organizations such as the National League of Cities and the U.S. Conference of Mayors.
2. Support City Council and City staff when meeting with congressional delegation, federal agencies and national organizations.
3. In cooperation with City Council and City staff, preparation of annual Federal Program.
4. Prepare briefing materials and/or conduct briefings for City Council and City staff preparing to meet with federal officials and members of Congress.
5. Review and comment on written documents being prepared for submission to federal agencies and Congress; and perform appropriate liaison and follow-up work to obtain the most favorable consideration of the proposals.
6. Maintain liaison with and provide assistance to the City's congressional delegation and federal agencies as an extension of city staff.
7. Advocate on behalf of the city before federal agencies and Congress.

Direct contact through an ongoing presence in Washington D.C. is the most effective method to meet the objectives set forth in this contract. A monthly or annual retainer is the prevalent relationship for representation of cities on federal

issues. Retainers provide stability in planning, elimination of the administrative expense to analyze bills, familiarity with the community represented, and an ongoing contact by which Washington D.C. Congressional and agency staff can work with the local government. The cost to begin service on an issue is very high, so retainers level expenses over the life of a contract.

Community involvement. The Intergovernmental Relations Office staff provides the liaison between the contractor and the City Council, the staff and the Scottsdale Community. The IGR Office provides direction to the contractor.

RESOURCE IMPACTS

Available funding. Funds for this contract are included in the General Government, Intergovernmental Relations General Fund Budget.

Future budget implications. The terms of this contract provide that the contract may be renewed on an annual basis for up to five years (the initial contract plus four renewals) upon approval of the Council. The contract may be terminated for cause or for convenience. Any increases in the amount of the annual fee or any increase in the cap on reimbursable expenses must be approved by the City Council.

OPTIONS & STAFF RECOMMENDATION

Description of Option A: Provide services through an annual retainer contract. Approval of the contract with Carolyn C. Chaney and Associates to provide federal lobbying and information services on behalf of the City of Scottsdale for an annual compensation of $66,000 and up to $3,000 for reimbursable expenses incurred on behalf of Scottsdale while carrying out the terms of the contract. This option would authorize staff to proceed with execution of the federal lobbying and information services contract.

Description of Option B: Provide services through staff resources. Do not authorize the Federal Lobbying and Information Services Contract and direct staff to provide the services from existing resources. This option would require the existing Intergovernmental Relations staff to divert resources from state and regional intergovernmental relations activities and would require greater involvement from other City Departments in federal, state and regional issues. The Intergovernmental Relations staff would be responsible for tracking federal regulations, federal legislation, and maintaining contact with federal staffs. Federal lobbying requires specialized resources and a commitment to ongoing contact. Representation from Scottsdale would be possible but the distance from Washington and the lack of ongoing person to person contact would result in less effective representation.

Description of Option C: Provide services through an hourly contract with a capped amount. Do not authorize the Federal Lobbying and Information Services Contract and direct the staff to seek proposals for provision of services contracted on an hourly basis. This option would direct staff to solicit proposals for services when federal issues require specific types of representation. This option provides flexibility to provide expert assistance on specific issues. It does not generally provide the broad representation necessary to identify and respond to a wide variety of issues.

Recommended Approach: Approval of Contract Number 2003-122-COS with Carolyn C. Chaney and Associates to provide federal lobbying and information services on behalf of the City of Scottsdale for an annual compensation of $66,000 and up to $3,000 for reimbursable expenses incurred on behalf of Scottsdale while

carrying out the terms of the contract

RESPONSIBLE DEPT(S) General Government, Office of Intergovernmental Relations

STAFF CONTACT(S)

Steve Olson
Governmental Relations Director
solson@scottsdaleaz.gov
(480)312-2423

APPROVED BY

Name
Date
Roger Klingler
Assistant City Manager
rklingler@scottsdaleaz.gov
(480)312-5830

ATTACHMENTS

1. Federal Lobbying and Information Services Contract Number 2003-122-COS.

CITY OF SCOTTSDALE
PROFESSIONAL SERVICES CONTRACT

THIS CONTRACT, made and entered into this 1st day of July, 2003, by and between the City of Scottsdale, a Municipal Corporation of the State of Arizona hereinafter referred to as "City", and Carolyn C. Chaney & Associates, Inc. , hereinafter referred to as "Consultant".

WITNESSETH

THAT, the Mayor of the City of Scottsdale is authorized and empowered by provisions of the City Charter to execute contracts for professional services;

WHEREAS, the City desires to contract for federal lobbying and information services; and

WHEREAS, Consultant is duly qualified to perform the requested services;

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1.0 DESCRIPTION, ACCEPTANCE, DOCUMENTATION

Consultant shall act under the authority and approval of the Contract Administrator for the City, further named herein, to provide the professional services required by this Contract.

1.1 SERVICE DESCRIPTION

The entire Scope of Work for Request for Proposal (RFP) No. 03RP008 identified as RFP For Federal Lobbying and Information Services is incorporated herein by this reference as fully as if written out below. Consultant's proposal submitted in response to RFP No. 03RP008 and dated December 11, 2002, is incorporated herein by this reference as fully as if written out below. If any provision incorporated by reference from the Scope of Work conflicts with any provision of the Consultant's proposal, the provision of the Scope of Work will control. If any provision of the Consultant's proposal conflicts with any provision of this Contract, this Contract will control.

1.2 ACCEPTANCE AND DOCUMENTATION

A. Each task shall be reviewed and approved by the Contract Administrator to determine acceptable completion.

B. The City shall provide all necessary information to the Consultant for timely completion of the tasks specified in Item 1.1 above.

C. All documents, including but not limited to, data compilations, studies, and reports which are prepared in the performance of this Contract are to be and remain the property of the City and are to be delivered to the Contract Administrator before final payment is made to the Consultant.

2.0 BILLING RECORDS, AUDIT, FEES

2.1 BILLING RECORDS, AUDIT

The time spent for each task shall be recorded and submitted to the Contract Administrator. Consultant shall maintain all books, papers, documents, accounting records and other evidence pertaining to time billed and to costs incurred and make such materials available for audit by the City pursuant to Section 4.7 of this Contract.

2.2 FEE SCHEDULE

Consultant shall be paid an annual fee of $66,000 for services rendered under this contract, payable in twelve (12) monthly installments.

Consultant shall submit to the Contract Administrator for approval, any out-of-pocket travel or other incidental expenses to be billed to the City.

Approved annual expenses shall not exceed $3,000 for those expenses incurred on behalf of the City while carrying out the terms of the contract. Examples of reimbursable expenses are approved staff travel, long-distance telephone charges, photocopying, and other executive expenses. Expenses charged to the City apply only to charges directly related to the City and not other clients.

Amounts indicated in this Section 2.2 represent the entire amounts payable under this Contract. Additional expenses will not be authorized.

2.3 PAYMENT APPROVAL

All charges must be approved by the Contract Administrator prior to payment.

2.4 FEE ADJUSTMENT

Increases in the fee or the expense cap may be requested by the Consultant thirty (30) days prior to the anniversary date of the Contract. Increases will become effective only after approval by the Contract Administrator and concurrence of the Purchasing Director and the City Council and will be effective for at least one (1) year from the date of approval.

3.0 TERM, EXTENSION, TERMINATION

3.1 TERM AND EXTENSION

The term of this Contract shall be for a one (1) year period. The City and Consultant may mutually agree to extend this Contract for four, one year periods upon the recommendation of the Contract Administrator and concurrence of the Purchasing Director, and the City Council.

3.2 TERMINATION

Termination for Convenience: City reserves the right to terminate this contract or any part hereof for its sole convenience with thirty (30) days written notice. In the event of such termination, Consultant shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and Subcontractors to cease such work. As compensation in full for services performed to the date of such termination, the Consultant shall receive a fee for the percentage of services actually completed. This fee shall be in the amount to be mutually agreed upon by the Consultant and the City, based on the agreed Scope of Work. If there is no mutual agreement, the Contract Administrator shall determine the percentage of completion of each task detailed in the Scope of Work and the Consultant's compensation shall be based upon such determination. The City shall make this final payment within sixty (60) days after the Consultant has delivered the last of the partially completed items. Consultant shall not be paid for any work done upon receipt of the notice of termination, nor for any costs incurred by Consultant's suppliers or Subcontractors, which Consultant could reasonably have avoided.

Termination for Cause: City may also terminate this contract or any part hereof with seven (7) days notice for cause in the event of any default by the Consultant, or if the Consultant fails to comply with any of the terms and conditions of this contract. Unsatisfactory performance as judged by the Contract Administrator, and failure to provide City, upon request, with adequate assurances of future performance shall all be causes allowing City to terminate this contract for cause. In the event of termination for cause, City shall not be liable to Consultant for any amount, and Consultant shall be liable to City for any and all damages sustained by reason of the default which gave rise to the termination.

TERMINATION - CONT'D

In the event Consultant is in violation of any Federal, State, County or City law, regulation or ordinance, the City may terminate this contract immediately upon giving notice to the Consultant.

3.3 FUNDS APPROPRIATION

If the City Council does not appropriate funds to continue this Contract and pay for charges hereunder, the City may terminate this Contract at the end of the current fiscal period. The City agrees to give written notice pursuant to Section 4.12 of termination to the Consultant at least thirty (30) days prior to the end of its current fiscal period and will pay to the Consultant all approved charges incurred through the end of such period.

4.0 GENERAL TERMS

4.1 ENTIRE AGREEMENT

This Contract constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Contract may not be modified or amended except by a written document, signed by authorized representatives of each party.

4.2 ARIZONA LAW

This Contract shall be governed and interpreted according to the laws of the State of Arizona.

4.3 MODIFICATIONS

Any amendment, modification or variation from the terms of this Contract shall be in writing and shall be effective only after approval of all parties signing the original Contract.

4.4 ASSIGNMENT

Services covered by this Contract shall not be assigned or sublet in whole or in part without the prior written consent of the Purchasing Director and Contract Administrator.

4.5 SUCCESSORS AND ASSIGNS

This Contract shall extend to and be binding upon Consultant, its successors and assigns, including any individual, company, partnership or other entity with or into which Consultant shall merge, consolidate or be liquidated, or any person, corporation, partnership or other entity to which Consultant shall sell its assets.

4.6 CONTRACT ADMINISTRATOR

The Contract Administrator for the City shall be Steve Olson, Intergovernmental relations Director, or designee. The Contract Administrator shall oversee the execution of this Contract, assist the Consultant in accessing the organization, audit billings, and approve payments. The Consultant shall channel reports and special requests through the Contract Administrator.

4.7 RECORDS AND AUDIT RIGHTS

Consultant's records (hard copy, as well as computer readable data), and any other supporting evidence deemed necessary by the City to substantiate charges and claims related to this contract shall be open to inspection and subject to audit and/or reproduction by City's authorized representative to the extent necessary to adequately permit evaluation and verification of cost of the work, and any invoices, change orders, payments or claims submitted by the Consultant or any of his payees pursuant to the execution of the contract. The City's authorized representative shall be afforded access, at reasonable times and places, to all of the Consultant's records and personnel pursuant to the provisions of this article throughout the term of this contract and for a period of three years after last or final payment.

Consultant shall require all Subcontractors, insurance agents, and material suppliers (payees) to comply with the provisions of this article by insertion of the requirements hereof in a written contract agreement between Consultant and payee. Such requirements will also apply to any and all Subcontractors.

If an audit in accordance with this article, discloses overcharges, of any nature, by the Consultant to the City in excess of one percent (1%) of the total contract billings, the actual cost of the City's audit shall be reimbursed to the City by the Consultant. Any adjustments and/or payments which must be made as a result of any such audit or inspection of the Consultant's invoices and/or records shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of City's findings to Consultant.

4.8 ATTORNEY'S FEES

In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Contract, or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

4.9 INELIGIBLE BIDDER

The preparer of specifications is not eligible to submit a bid or proposal on the solicitation for which they prepared the specification, nor is the preparer eligible to supply any product to a bidder or offeror on the solicitation for which they prepared the specification.

4.10 INDEPENDENT CONTRACTOR

The services Contractor provides under the terms of this Contract to the City are that of an Independent Contractor, not an employee, or agent of the City. The City will report the value paid for these services each year to the Internal Revenue Service (I.R.S.) using Form 1099.

INDEPENDENT CONTRACTOR - CONT'D

City shall not withhold income tax as a deduction from contractual payments. As a result of this, Contractor may be subject to I.R.S. provisions for payment of estimated income tax. Contractor is responsible for consulting the local I.R.S. office for current information on estimated tax requirements.

4.11 CONFLICT OF INTEREST

The City may cancel any contract or agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City's departments or agencies is, at any time while the contract or any extension of the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract. The cancellation shall be effective when written notice from the City is received by all other parties to the contract, unless the notice specifies a later time (A.R.S. §38-511).

4.12 NOTICES

All notices or demands required to be given pursuant to the terms of this Contract shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of Consultant:
Carolyn Chaney
1401 K Street, NW- Suite 700
Washington, D.C. 20005-3430
Telephone: (202) 842-4930
Fax: (202) 842-5051
chaney@capitaledge.com

In the case of City:
Steve Olson
3939 Drinkwater Boulevard
Scottsdale, Arizona 85251
Telephone: (480) 312-2423
Fax: (480) 312-2738
solson@scottsdaleaz.gov.

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

4.13 FORCE MAJEURE

Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, or power failures.

4.14 TAXES

Consultant shall be solely responsible for any and all tax obligations which may result out of the Consultants performance of this contract. The City shall have no obligation to pay any amounts for taxes, of any type, incurred by the Consultant.

4.15 ADVERTISING

No advertising or publicity concerning the City using the Consultant's services shall be undertaken without prior written approval of such advertising or publicity by the City Contract Administrator.

4.16 COUNTERPARTS

This contract may be executed in one or more counterparts, and each originally executed duplicate counterpart of this Contract shall be deemed to possess the full force and effect of the original.

4.17 CAPTIONS

The captions used in this Contract are solely for the convenience of the parties, do not constitute a part of this Contract and are not to be used to construe or interpret this Contract.

4.18 SUBCONTRACTORS

During the performance of the Contract, the Consultant may engage such additional Subcontractors as may be required for the timely completion of this Contract. The addition of any Subcontractors shall be subject to the prior approval of the City.

In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Contract rests with the Consultant.

4.19 INDEMNIFICATION

To the fullest extent permitted by law, Consultant, its successors, assigns and guarantors, shall defend, indemnify and hold harmless City of Scottsdale, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of, or resulting from any negligent or intentional actions, acts, errors, mistakes or omissions caused in whole or part by Consultant relating to work or services in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Consultant's and Subcontractor's employees.

Insurance provisions set forth in this agreement are separate and independent from the indemnity provisions of this paragraph and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this paragraph shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

4.20 CHANGES IN THE WORK

The City may at any time, as the need arises, order changes within the scope of the work without invalidating the contract. If such changes increase or decrease the amount due under the contract documents, or in the time required for performance of the work, an equitable adjustment shall be authorized by written Change Order.

The City will execute a formal Change Order based on detailed written quotations from the Contractor for work related changes and/or a time of completion variance. All Change Orders are subject to approval by the City.

Contract Change Orders are subject to the Rules and Procedures within the City's Procurement Code.

5.0 INSURANCE

This contract contains two samples of Certificates of Insurance, the Standard Acord Certificate and the Certificate developed by the City of Scottsdale.

The City Certificate is preferred, however, the Acord Certificate is acceptable provided it is identical to the sample attached and contains the additional language and deleted language as reflected on the sample.

Failure to provide a Certificate of Insurance with the appropriate verbiage as indicated on the attached samples, will result in rejection of your certificate and delay in contract execution.

Additionally, Certificates of Insurance submitted without referencing an RFP and Contract number will be subject to rejection and returned or discarded.

5.1 Insurance Representations and Requirements

5.1.1 General: Consultant agrees to comply with all applicable City ordinances and state and federal laws and regulations.

Without limiting any obligations or liabilities of Consultant, Consultant shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies duly licensed by the State of Arizona (admitted insurer) with an AM Best, Inc. rating of B ++ 6 or above or an equivalent qualified unlicensed insurer by the State of Arizona (non-admitted insurer) with policies and forms satisfactory to City of Scottsdale. Failure to maintain insurance as specified may result in termination of this Contract at City of Scottsdale's option.

Insurance Representations and Requirements – Cont'd

5.1.2 No Representation of Coverage Adequacy: By requiring insurance herein, City of Scottsdale does not represent that coverage and limits will be adequate to protect Consultant. City of Scottsdale reserves the right to review any and all of the insurance policies and/or endorsements cited in this Contract but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Contract.

5.1.3 Coverage Term: All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of subject contract are satisfactorily performed, completed and formally accepted by the City of Scottsdale, unless specified otherwise in this Contract.

5.1.4 Claims Made: In the event any insurance policies required by this Contract are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three (3) years past completion and acceptance of the work or services as evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three year period.

5.1.5 Policy Deductibles and or Self Insured Retentions: The policies set forth in these requirements may provide coverage which contain deductibles or self insured retention amounts. Such deductibles or self insured retention shall not be applicable with respect to the policy limits provided to City of Scottsdale. Consultant shall be solely responsible for any such deductible or self insured retention amount. City of Scottsdale, at its option, may require Consultant to secure payment of such deductible or self insured retention by a surety bond or irrevocable and unconditional Letter of Credit.

5.1.6 Use of Subcontractors: If any work under this agreement is subcontracted in any way, Consultant shall execute written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements set forth herein protecting City of Scottsdale and Consultant. Consultant shall be responsible for executing the agreement with Subcontractor and obtaining Certificates of Insurance verifying the insurance requirements.

5.1.7 Evidence of Insurance: Prior to commencing any work or services under this Contract, Consultant shall furnish City of Scottsdale with Certificate(s) of Insurance, or formal endorsements as required by this Contract, issued by Consultant's insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverage, conditions, and limits of coverage and that such coverage and provisions are in full force and effect. If a Certificate of Insurance is submitted as verification of coverage, City of Scottsdale shall reasonably rely upon the Certificate of Insurance as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this agreement.

Insurance Representations and Requirements - Cont'd

Evidence of Insurance – Cont'd
If any of the above cited policies expire during the life of this Contract, it shall be Consultant's responsibility to forward renewal Certificates within ten (10) days after the renewal date containing all the aforementioned insurance provisions. Certificates shall specifically cite the following provisions:

1. City of Scottsdale, its agents, representatives, officers, directors, officials and employees shall be named an Additional Insured under the following policies:
   a) Commercial General Liability
   b) Excess Liability - Follow Form to underlying insurance as required.
2. Consultant's insurance shall be primary insurance as respects performance of subject contract.
3. All policies, except Professional Liability insurance, if applicable, waive rights of recovery (subrogation) against City of Scottsdale, its agents, representatives, officers, directors, officials and employees for any claims arising out of work or services performed by Consultant under this Contract.
4. Certificate shall cite 30 day advance notice of cancellation provision. If ACORD Certificate of Insurance form is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

5.2 Required Coverage

5.2.1 Commercial General Liability: Consultant shall maintain "occurrence" form Commercial General Liability insurance with a limit of not less than $1,000,000 for each occurrence, $1,000,000 Products and Completed Operations Annual Aggregate, and a $1,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as Insurance Services Office, Inc. policy form CG 00 01 07 98 or equivalent thereof, including but not limited to, separation of insureds clause. If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope then underlying.

5.2.2 Professional Liability: If the Contract is the subject of any professional services or work, or if Consultant engages in any professional services or work adjunct or residual to performing the work under this Contract, Consultant shall maintain Professional Liability insurance covering errors and omissions arising out of the work or services performed by Consultant, or anyone employed by Consultant, or anyone for whose acts, mistakes, errors and omissions Consultant is legally liable, with a liability insurance limit of $1,000,000 each claim and $1,000,000 all claims.

6.0 SEVERABILITY AND AUTHORITY

6.1 SEVERABILITY

If any term or provision of this Contract shall be found to be illegal or unenforceable, then notwithstanding such illegality or unenforceability, this Contract shall remain in full force and effect and such term or provision shall be deemed to be deleted.

6.2 AUTHORITY

Each party hereby warrants and represents that it has full power and authority to enter into and perform this Contract, and that the person signing on behalf of each has been properly authorized and empowered to enter this Contract. Each party further acknowledges that it has read this Contract, understands it, and agrees to be bound by it.

7.0 REQUEST FOR TAXPAYER I.D. NUMBER & CERTIFICATION I.R.S. W-9 FORM

Prior to any contract payment being made, the attached I.R.S. Form ***must*** be completed and submitted to the following address:

City of Scottsdale
Accounts Payable Division
7447 E. Indian School Rd.
Scottsdale, AZ 85251

IN WITNESS WHEREOF, the City of Scottsdale by its Mayor and City Clerk have hereunto subscribed their names this 1st day of July, 2003.

CITY OF SCOTTSDALE

By:_____
Mary Manross, Mayor

ATTEST:

By:_____
Sonia Robertson, City Clerk

CONSULTANT:

By:_____
Carolyn C. Chaney

CITY OF SCOTTSDALE REVIEW:

Monroe C. Warren
Purchasing Director

CITY CONTRACT ADMINISTRATOR

By:_____
Steve Olson
Government Relations Director

Myron Kuklok
Risk Management Director

APPROVED AS TO FORM:

David A. Pennartz
City Attorney

Contract #2003-122-COS

IN WITNESS WHEREOF, the City of Scottsdale by its Mayor and City Clerk have hereunto subscribed their names this 1st day of July, 2003.

CITY OF SCOTTSDALE

By:_____
Mary Manross, Mayor

ATTEST:

By:_____
Sonia Robertson, City Clerk

CONSULTANT:

By: Carolyn C. Chaney
Carolyn C. Chaney

CITY OF SCOTTSDALE REVIEW:

_____
Monroe C. Warren
Purchasing Director

CITY CONTRACT ADMINISTRATOR

By:_____
Steve Olson
Government Relations Director

_____
Myron Kuklok
Risk Management Director

APPROVED AS TO FORM:

_____
David A. Pennartz
City Attorney

Form **W-9**

(Rev. January 2002)

Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give form to the requestor. Do not send to the IRS

Print or type
See Specific Instructions on page 2

Name: CAROLYN CHANEY

Business name, if different from above: CAROLYN C. CHANEY & ASSOCIATES, INC.

Check the appropriate box: ☐ Individual/ Sole Proprietor ☒ Corporation ☐ Partnership ☐ Other ☐ Exempt from backup withholding

Address (number, street, and apt. or suite no.): 3128 STONEHENGE DRIVE

Requestor's name and address (optional)

City, state, and ZIP code: RIVA, MD 21140

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I Instructions on page 2. For other entities, it is your employer identification number (EIN). If you do not have a number, see How to get a TIN on page 2.

Social Security Number

or

Employer identification number: 5 2 1 9 0 5 6 2 5

Note: *If the account is in more than one name, see the chart on page 2 for guidelines on whose number to enter.*

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me). **And**
2. I am not subject to backup withholding because **(a)** I am exempt from backup withholding, or **(b)** I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or **(c)** the IRS has notified me that I am no longer subject to backup withholding, **and**
3. I am a U.S. person (including a U.S. resident alien).

Certification Instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 2).

Sign Here **Signature of U.S. person ▶** Carolyn C. Chaney **Date ▶** 6/15/03

Purpose of Form

A person who is required to file an information return with the IRS must get your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of security property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to give your correct TIN to the person requesting it (the requester) and, when applicable to:

1. Certify the TIN you are giving is correct (or you are waiting for a number to be issued).
2. Certify you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

If you are a foreign person, use the appropriate Form W-8. See **Pub. 515**, Withholding of Tax on Nonresident Aliens and Foreign Entities.

Note: *If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.*

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 30% of such payments **after** December 31, 2001 (29% **after** December 31, 2003). This is called "backup" withholding. "Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will **not** be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester, or
2. You do not certify your TIN when required (see the Part II instructions on page 2 for details), or
3. The IRS tells the requester that you furnished an incorrect TIN, or
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend account opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions on page 2 and the separate instructions for the Requester of Form W-9.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of $50 for each such failure unless your failure is due to a reasonable cause and not to willful neglect.

Civic penalty for false information with respect to withholding. If you make a false statement With no reasonable basis that results in no Backup withholding, you are subject to a $500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations May subject you to criminal penalties including Fines and/or imprisonment.

Misuse of TINs. If the requester discloses or Uses TINs in violation of Federal law, the Requester may be subject to civil and criminal Penalties.

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY) 04/23/2003

PRODUCER (301)229-1500 FAX (301)320-2458
Henry A Latimer & Son Inc
4701 Sangamore Rd. Suite S-250
Bethesda, MD 20816

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED Carolyn C. Chaney & Associates Inc.
1401 K Street NW
Suite 700
Washington, DC 20005-3401
Contract #2003-122-COS

INSURER A: Firemen's Ins. Co. of Wash. DC
INSURER B:
INSURER C:
INSURER D:
INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC	200141914	01/01/2003	01/01/2004	EACH OCCURRENCE	$ 1,000,000
					FIRE DAMAGE (Any one fire)	$ 100,000
					MED EXP (Any one person)	$ 10,000
					PERSONAL & ADV INJURY	$
					GENERAL AGGREGATE	$ 2,000,000
					PRODUCTS - COMP/OP AGG	$ 1,000,000
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident)	$
					BODILY INJURY (Per person)	$
					BODILY INJURY (Per accident)	$
					PROPERTY DAMAGE (Per accident)	$
	GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT	$
					OTHER THAN AUTO ONLY: EA ACC	$
					AGG	$
	EXCESS LIABILITY OCCUR CLAIMS MADE DEDUCTIBLE RETENTION $				EACH OCCURRENCE	$
					AGGREGATE	$
						$
						$
						$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	800039914	01/01/2003	01/01/2004	WC STATU-TORY LIMITS OTH-ER	
					E.L. EACH ACCIDENT	$ 100,000
					E.L. DISEASE - EA EMPLOYEE	$ 100,000
					E.L. DISEASE - POLICY LIMIT	$ 500,000
	OTHER					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS
Certificate holder is additional insured for their project.

CERTIFICATE HOLDER | ADDITIONAL INSURED; INSURER LETTER

City of Scottsdale
Govt. Relations Director
Attn: Steve Olson
3939 Civic Center Blvd
Scottsdale, AZ 85251

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE
Helen Horrocks/HELEN

©ACORD CORPORATION 1988

CITY COUNCIL REPORT

MEETING DATE: 07/01/2003 ITEM NO. 8 GOAL: Long-term Economic Prosperity

SUBJECT

City Code amendment instituting the City of Scottsdale Drought Management Plan.

REQUEST

Adopt Ordinance No. 3516 amending the City Water Conservation Code to provide regulations for times of drought, and empowering the City Manager to promulgate and enforce the City of Scottsdale Drought Management Plan.

The City of Scottsdale Drought Management Plan is the administrative document which describes City of Scottsdale's response to water supply shortages, including mandatory water conservation regulations. The Code amendment provides the mechanism to enforce the Drought Management Plan requirements.

BACKGROUND

Drought is a natural climatic condition that has occurred many times in the past and will occur again in the future. The southwestern United States, including the Phoenix area, has been experiencing drought conditions for several years. In response to these drought conditions, Salt River Project (SRP) reduced water deliveries in January 2003. The decision to reduce water allotments followed record low stream flows in the Salt and Verde rivers for the past four years.

Scottsdale's water supply is diverse and less than five percent of it comes from the Salt River Project, so the SRP allocation reduction did not materially affect Scottsdale. Since Scottsdale does not use its entire SRP allocation, the amount of water that Scottsdale received has been the same in 2003 as it had been in previous years.

The City has sufficient Central Arizona Project (CAP) surface water supplies, supplemented by wells as needed, to meet projected demands. Colorado River water delivered through the CAP canal accounts for 60 percent of the total drinking water used in Scottsdale. Well water currently provides about 35 percent of total drinking water use.

Scottsdale continues to promote voluntary water conservation as a life style and the City Manager requested the Water Resources Department to work with other City Departments to reduce City water use by 5 percent. Substantial efforts have been made toward reaching that goal.

However, the continued dry conditions on both the SRP and the CAP watersheds make it prudent for Scottsdale to have a mechanism in place to respond should more severe shortages occur. Therefore, Water Resources Department staff,

working with the City Attorney's Office, have prepared a Drought Management Ordinance and a Drought Management Plan for Council consideration.

Drought Management Ordinance. The ordinance amends the City Water Conservation Code to acknowledge drought conditions and provide the mechanism for enforcing the Drought Management Plan. The ordinance authorizes the City Manager to declare a drought in response to reductions in the City's water supply, and direct the Water Resources Department to implement the Plan. The ordinance requires that notice of the drought declaration, together with the applicable Drought Management Plan provisions, be published as part of the public record.

The Drought Management Ordinance also authorizes enforcement of the mandatory elements of the Drought Management Plan, and includes a procedure for variance from those requirements in cases to be determined by the City Manager. It also allows the implementation of a drought surcharge to offset any increased operational costs, including public education.

As the City is already in a Stage 1 drought condition as defined by the Drought Management Plan, the Drought Management Ordinance contains an emergency clause allowing it to go into effect immediately. This will enable the City Manager to declare a Stage 1 drought immediately upon adoption of the ordinance by City Council.

Drought Management Plan. While the City will continue to ask for voluntary reductions in water consumption, the City of Scottsdale Drought Management Plan provides a structured response in order to provide information to the public in advance of the need to implement emergency measures.

A copy of the Drought Management Plan will be kept available for inspection at both the City Clerk's Office and the Water Resources Department administrative offices. The Department will also make copies of the Drought Management Plan available at all citizen service centers and libraries, and on the Department's website.

There are four stages in the Drought Management Plan. Each stage is triggered by a specific percentage reduction in expected water deliveries, or can be declared if the City Manager determines that it is necessary to protect the health and welfare of Scottsdale water customers.

Each drought stage has water use reduction measures that may be implemented by the City Manager or designee. These measures are considered to be sufficient to reduce water demand to the level required throughout the drought stage. For example, the measures triggered by a 10% overall supply reduction in Stage 2 are sufficient to meet demand until the declaration of a Stage 3 drought condition, which results from an overall supply reduction of 15 percent.

Many of the water use reduction measures contained in the Drought Management Plan are targeted toward reducing the amount of water used for landscape watering by both the City and its water customers. Water used by landscaping typically accounts for more than half of the amount of water used by a residential customer. Water use reduction measures targeted toward landscaping therefore provide the greatest potential for water savings.

Public information and education. Public education and awareness are essential elements of successful implementation of each progressive drought stage. Declaration of drought at any stage will initiate an intensive public education and

information program to educate all customers impacted by the shortage regarding the state of the water shortage condition, and the need for action. At more severe drought stages, this public education and information program will also be utilized to communicate required conservation measures.

Drought stages. Each successive drought stage from Stage 1 to Stage 4 represents an increasingly severe condition and includes an increasingly stringent list of drought measures that may be implemented as needed. These measures include water use reduction goals for both the City and water customers. They also include specific actions such as landscape watering restrictions and vehicle washing limitations. Regulations placed in effect at lower drought stages will remain in effect at more stringent response levels.

These drought measures apply only to the use of potable water. Any water customer whose water use consists of more than 50% effluent on an annual basis is exempt from many of the regulations as described below. If any effluent user has a contract with the City which imposes more stringent requirements than the Drought Management Plan, the requirements of that contract shall apply.

The following is a summary of the types of drought measures associated with each stage of drought declaration.

Stage 1: Water Alert
A Stage 1 Water Alert can be triggered when the SRP or CAP announces a pending water allocation reduction. This stage sets a goal of a 5% reduction in City water use, and requests similar reductions on the part of our water customers. Stage 1 drought conditions currently exist.

Stage 2: Water Warning
A Stage 2 Water Warning can be triggered by a 10% reduction in Scottsdale's water supply. Stage 2 sets a goal of a 10% reduction in water use by the City and a 5% water use reduction by City water customers.

Stage 3: Water Emergency
A Stage 3 Water Emergency can be triggered by a 15% reduction in Scottsdale's available water supply. A Water Emergency sets a goal that all water customers reduce their normal year water use by 10%.

Stage 4: Water Crisis
A Stage 4 Water Crisis can be triggered by a 20% reduction in Scottsdale's water supply. A Water Crisis continues the 10% water use reduction goal implemented in Stage 3. Use of water for construction will be prohibited, and all new water service connections must be approved by the Water Resources Department.

Enforcement mechanisms. Stages 2, 3, and 4 allow consideration of a drought surcharge to pay for any additional drought-related operational costs, including the enhanced public information program. The drought surcharge can be required at any drought stage to offset program expenditure.

The enforcement of the provisions of the Drought Management Plan is expected to be implemented through utilization of existing staff in various Departments. These staff may require training in order to perform these functions.

The City Manager or designee will consider hardship or special cases to determine whether a particular circumstance warrants a variance from the Drought Management Plan. A variance shall be granted only for reasons of severe

economic hardship, medical hardship or for a legitimate public health concern.

ANALYSIS & ASSESSMENT

Recent staff action. In addition to development of the Drought Management Plan and Ordinance, staff have been meeting with representatives of other municipal water agencies to insure that proposed measures are consistent with measures as proposed by those agencies. Staff have also been considering potential enforcement options and working to develop a public outreach strategy for implementation upon Plan adoption.

It is important that the City's drought management actions be consistent with actions proposed to be taken by other cities throughout the Valley. Staff have reviewed the Drought Management Plans adopted by the Cities of Phoenix, Peoria, and Gilbert. Scottsdale's Drought Management Plan is consistent with the other adopted drought plans.

Community involvement. The Water Resources Department conducted a public information campaign to inform Scottsdale water customers regarding the drought at the time of the SRP allocation reduction announcement in the fall of 2002. An additional community involvement and outreach effort will be implemented upon adoption of the Drought Management Ordinance and Drought Management Plan.

RESOURCE IMPACTS

Available funding. There are no additional funds required at this time. Future drought-related costs could be funded through implementation of a drought surcharge.

Staffing, workload impact. Enforcement of conservation regulations may increase workload on existing City personnel.

Future budget implications. Any future drought-related costs could be funded through implementation of a drought surcharge.

OPTIONS & STAFF RECOMMENDATION

Description of Option A: Adopt Ordinance No. 3516 providing the City Manager with authority to promulgate and enforce Drought Management Plans and related conservation regulations.

Description of Option B: Do not adopt Drought Management Ordinance. This would leave the City with no legal authority to respond to increasingly severe drought conditions, should they occur.

Recommended Approach: Staff recommends adoption of the Drought Management Ordinance per Option A.

Proposed Next Steps: Upon approval of the Drought Management Plan, a Stage 1 drought would be immediately declared, based upon the criteria contained in the Drought Management Plan. This would trigger conservation measures by City Departments.

RESPONSIBLE DEPT(S)

Water Resources Department

STAFF CONTACTS

Beth Miller, Water Resources Advisor
emiller@Scottsdaleaz.gov (480) 312-5009

APPROVED BY

David M. Mansfield 6-18-03

Name Date

David M. Mansfield, Water Resources General Manager

Name 6/17/03 Date

Roger Klingler, Assistant City Manager

ATTACHMENTS

1. Ordinance No. 3516
2. City of Scottsdale Drought Management Plan

ORDINANCE NO. 3516

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AMENDING THE CITY WATER CONSERVATION CODE TO PROVIDE REGULATIONS FOR TIMES OF DROUGHT, AND EMPOWERING THE CITY MANAGER TO ENFORCE DROUGHT MANAGEMENT PLANS.

WHEREAS, as a water provider, the City is committed to comprehensive planning, in order to secure an assured water supply for needs today and those of the future; and

WHEREAS, water waste hampers the City's ability to do so, especially in times of drought, and is a public nuisance; and

WHEREAS, droughts are unavoidable but their impact can be lessened by implementing drought management plans, to restrict the use of water in escalating degrees, as the severity of the situation dictates; and

WHEREAS, to be effective, the drought management plans must have a corresponding enforcement plan, and the City Manager needs the power to make declarations of drought in order to enact the appropriate plan; and

WHEREAS, many parts of Arizona are already in Stage One drought conditions, so impending conditions advise implementation now, as opposed to waiting 30 days into the summer.

NOW, THEREFORE, BE IT ORDAINED by the City Council as follows:

Section 1. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 2. This ordinance is effective immediately.

Section 3. Article VII of Chapter 49 of the Scottsdale Revised Code is amended as follows.

DIVISION I. WATER CONSERVATION

[This portion of the article remains unchanged.]

DIVISION II. DROUGHT MANAGEMENT

SEC. 49-253. SCOPE.

THE PROVISIONS OF THIS ORDINANCE SHALL APPLY TO ALL PERSONS, CUSTOMERS, AND PROPERTY SERVED BY THE CITY OF SCOTTSDALE WATER RESOURCES DEPARTMENT.

(ORD. NO. 3516, § 3, 6-17-03)

SEC. 49-254. DECLARATION OF POLICY.

IT IS HEREBY DECLARED THAT, BECAUSE OF THE CONDITIONS SOMETIMES PREVAILING IN ARIZONA, THE GENERAL WELFARE OF THE CITY REQUIRES THAT THE WASTE OR UNREASONABLE USE, OR UNREASONABLE METHOD OF USE OF WATER BE

PREVENTED. WATER WASTE IS A PUBLIC NUISANCE, ESPECIALLY IN TIMES OF DROUGHT.

(ORD. NO. 3516, § 3, 6-17-03)

SEC. 49-255. PURPOSE.

THE CITY WILL USE INTENSIVE PUBLIC EDUCATION TO ASSIST CUSTOMERS IMPACTED BY THE SHORTAGE TO UNDERSTAND THE ALERT AND THE CITY'S NEED FOR VOLUNTARY COMPLIANCE. IN ADDITION TO EDUCATION, THE CITY MAY USE ENFORCEMENT MEASURES TO CURB WATER MISUSE. NO PERSON SHALL USE, OR PERMIT THE USE OF CITY WATER RESOURCES FOR PURPOSES CONTRARY TO THIS ARTICLE OR A DROUGHT MANAGEMENT PLAN.

(ORD. NO. 3516, § 3, 6-17-03)

SEC. 49-256. CITY MANAGER; DROUGHT MANAGEMENT PLAN IMPLEMENTATION.

(A) THE CITY MANAGER SHALL DIRECT THE GENERAL MANAGER OF WATER RESOURCES TO PROMULGATE A DROUGHT MANAGEMENT PLAN CONTAINING REGULATIONS SETTING FORTH THE CRITERIA FOR IMPLEMENTATION AND TERMINATION OF VARIOUS WATER USE REDUCTION STAGES.

(B) THE CITY MANAGER IS AUTHORIZED TO DECLARE A DROUGHT, AND AUTHORIZE IMPLEMENTATION OF THE DROUGHT MANAGEMENT PLAN, IN RESPONSE TO EVENTS INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING: THE SALT RIVER PROJECT OR THE CENTRAL ARIZONA WATER CONSERVATION DISTRICT ANNOUNCES REDUCTIONS IN SUPPLY, OR AN INSUFFICIENT SUPPLY APPEARS LIKELY DUE TO WATER SYSTEM LIMITATIONS OR STRUCTURAL FAILURE.

(C) SUCH DECLARATION MAY DESIGNATE THE ENTIRE AREA SERVED BY THE CITY OF SCOTTSDALE WATER RESOURCES DEPARTMENT, OR A PORTION OF IT IF THE SHORTAGE IS NOT SYSTEM-WIDE.

(D) UPON DECLARING A DROUGHT, THE CITY MANAGER MAY DIRECT THE WATER RESOURCES DEPARTMENT TO IMPLEMENT STAGE ONE, TWO, THREE OR FOUR CONSERVATION REGULATIONS, DEPENDING ON THE SEVERITY OF THE DROUGHT CONDITIONS. THE CITY MANAGER MAY UPDATE THESE REGULATIONS FROM TIME TO TIME.

(E) THE CITY MANAGER MAY TERMINATE THE DROUGHT DECLARATION WHEN THE WATER RESOURCES GENERAL MANAGER ADVISES THAT THE CONDITIONS THAT TRIGGERED IT NO LONGER EXIST.

(ORD. NO. 3516, § 3, 6-17-03)

SEC. 49-258. NOTIFICATION AND PUBLICATION.

IF THE CITY MANAGER DETERMINES THAT THE HEALTH AND SAFETY OF THE CITY DICTATE IMPLEMENTING THE DROUGHT MANAGEMENT PLAN, NOTIFICATION SHALL BE PUBLISHED IN A IN A PAPER OF GENERAL CIRCULATION, TO EDUCATE THE PUBLIC ABOUT THE NEED FOR THE PLAN, AND GIVE THEM NOTICE OF CONSERVATION REGULATIONS AND REQUIREMENTS OF THE APPLICABLE STAGE OF THE PLAN. A COPY OF THE DROUGHT MANAGEMENT PLAN SHALL ALSO BE AVAILABLE FOR

INSPECTION AT THE CITY CLERK'S OFFICE, AND THE WATER RESOURCES DEPARTMENT ADMINISTRATIVE OFFICE DURING NORMAL BUSINESS HOURS.

(ORD. NO. 3516, § 3, 6-17-03)

SEC. 49-259. ENFORCEMENT.

(A) THE CITY MANAGER OR DESIGNEE SHALL HAVE AUTHORITY TO TAKE ACTIONS TO ENFORCE ANY MANDATORY ELEMENTS THAT ARE PART OF DROUGHT MANAGEMENT PLANS.

(B) THE CITY MAY IMPOSE A SURCHARGE ON WATER CONSUMED IN EXCESS OF THE AMOUNT PRESCRIBED BY THE DROUGHT MANAGEMENT PLAN IN PLACE AT THE TIME.

(C) A WRITTEN NOTICE SHALL BE PLACED ON THE PROPERTY WHEN A VIOLATION OCCURS, AND A DUPLICATE MAILED TO THE PERSON WHO RESPONSIBLE FOR THE SERVICE TO THE PROPERTY WHERE THE VIOLATION TOOK PLACE. THE NOTICE SHALL DESCRIBE THE VIOLATION AND ORDER THAT IT BE ABATED IMMEDIATELY.

(D) FOR SUBSEQUENT VIOLATIONS, THE CITY WILL ISSUE CITATIONS AND FINES. FINES ARE SERIAL; THAT IS, FOR EACH SUBSEQUENT VIOLATION THERE IS A SEPARATE FINE.

(E) FUNDS GENERATED BY THE FINES SHALL BE USED TO MITIGATE THE IMPACT OF THE DROUGHT.

(ORD. NO. 3516, § 3, 6-17-03)

SEC. 49-263. VARIANCES.

VARIANCES TO DROUGHT PLAN PROVISIONS MAY BE GRANTED AT THE DISCRETION OF THE CITY MANAGER OR DESIGNEE. APPLICANTS FOR A VARIANCE MUST APPLY IN WRITING TO THE DEPARTMENT OF WATER RESOURCES, AND DEMONSTRATE SPECIAL CIRCUMSTANCES SUCH AS HEALTH AND SAFETY NEEDS OR OBLIGATION OF CONTRACT.

(ORD. NO. 3516, § 3, 6-17-03)

SEC. 49-264. LIMITED EXEMPTION TO RESTRICTIONS FOR USERS OF RECLAIMED WATER.

TO THE EXTENT THEY ARE EXEMPT FROM THE DROUGHT MANAGEMENT PLAN, USERS OF EFFLUENT SHALL CLEARLY POST NOTICES STATING THAT THE WATER BEING USED IS NOT FROM THE PUBLIC DRINKING WATER SUPPLY, AND IS IN CONFORMANCE TO DROUGHT MANAGEMENT PLAN IN FORCE AT THE TIME.

(ORD. NO. 3516, § 3, 6-17-03)

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona this 2nd day of July, 2003.

ATTEST:

By: _____
Sonia Robertson
City Clerk

CITY OF SCOTTSDALE, an Arizona municipal corporation

By: _____
Mary Manross
Mayor

APPROVED AS TO FORM:

By: J Villalpando for
David A. Pennartz
City Attorney

City of Scottsdale
Drought Management Plan

Overview

Drought is a natural climatic condition that has occurred many times in the past and will occur again in the future. The Water Resource Department's overall water management strategy includes planning for drought conditions. The purpose of this plan is to provide a management program of appropriate responses to drought conditions in the event water deliveries are reduced or curtailed to treatment plants, resulting in a reduction to water deliveries to customers.

To ensure an adequate water supply for the City's water users, a drought management plan should establish the criteria for action at each stage of water supply reduction. The plan should minimize negative impact on water users and the economy. Hardship should be distributed equally among all the water users: municipal, residential, commercial and industrial. Water demand reduction includes all measures taken by the water utility to reduce the use of potable water in response to drought.

There are four drought stages in this plan, and each stage has measures that may be implemented by the City Manager or designee. Each stage of the drought management plan is triggered by a reduction of expected water deliveries. Each drought stage is also associated with a menu of response measures. Each successive stage from Stage I to Stage 4 represents a progressively severe condition which includes an increasingly stringent list of measures that may be implemented as necessary.

Although the Water Resources Department may ask for voluntary reduction in water consumption at any time, the drought management plan provides a structured program of response that is available to the public in advance of the need to implement emergency measures.

Purposes of the Drought Management Plan

- Provide contingency plans to ensure that appropriate management resources are available to continue delivering an adequate, safe and reliable supply of high quality water to all customers
- Identify strategies which will motivate the community to reduce normal water consumption
- Recommend a programmed response for each stage which would most effectively reduce water consumption to the available supply with the least adverse impact

Initiation Procedures and Termination Notification

The General Manager of the Water Resources Department shall report the nature and severity of the drought condition to the City Manager or designee. Upon approval from the City Council the City Manager or designee will declare a drought and may impose the measures provided in the Plan to protect the City's water supply and the health, safety and welfare of our water customers.

The Communication and Public Affairs (CAPA) Department and the Water Resources Department shall be charged with public notification and educational activities related to the drought and the restrictions imposed upon water users to conserve water. The General Manager shall continually monitor the drought condition and promptly recommend to the City Manager or designee or the City Council that the declaration be rescinded or modified as warranted by the changing conditions.

Drought Stages and Management

Specific drought triggers and responses are listed according to stages. Stages are dependent on the ability of the Water Resources Department to supply the demand. Restrictions will apply to the use of potable water.

The City Manager or designee is authorized to implement any and all drought measures necessary to achieve the needed outcome. Measures placed in effect at lower drought stages will remain in effect at more stringent response levels. Additional measures may be added when determined necessary by the City Manager or designee.

Declaration of drought at any stage will initiate an intensive public education and information program to advise and educate customers impacted by the water shortage and the need for possible drought measures. At more severe drought stages, this public education and information program will also be utilized to communicate required drought measures and the penalties for non-compliance.

A drought surcharge may be implemented as the City will incur additional operating cost including increased public education due to drought conditions. A drought surcharge may be required at any Drought Stage to offset program expenditures.

STAGE 1: Water Alert

A Stage 1 Water Alert may be declared when a water allocation reduction notification is given by either Salt River Project (SRP) or Central Arizona Project (CAP) to the City of Scottsdale Water Resources Department.

The following measures may be implemented in response to a Water Alert declaration including but not limited to:

Public Education

- A public education and information program designed specifically to address the drought situation and need for voluntary water reductions

Municipal Operation (only)

- 5% overall water use reduction goal
- Reduce water feature operational run time
- **No washing of sidewalks, driveways or parking lots

Residential, Commercial and Industrial Customers

- overall 5% water use reduction goal
- Reduction of landscape watering
- Reduction of operational run time for outdoor misters
- Reduction of water feature operational run time

Other Measures

- Any other measures determined necessary by the City Manager or designee

Notes (applicable to all stages):

*Effluent exemption: Any water customer whose water use consists of more than 50% effluent on an annual basis is exempt from certain drought measures. Each water customer must provide clear signage indicating that effluent water is being used "at this site".

**Vehicle washing, street sweeping and pavement washing are limited or prohibited except to maintain the health, safety and welfare of citizens and water customers.

STAGE 2: Water Warning

Any of the following drought conditions may result in the declaration of a Stage 2 Water Warning:

- SRP notifies the Water Resources Department that SRP surface water deliveries will be reduced to a level which results in insufficient water supplies being available to meet 95% of water demand for the year prior to the initial drought declaration within that portion of the City's service area which falls within SRP boundaries.

OR

- CAP notifies the Water Resources Department that expected CAP deliveries to Scottsdale for the upcoming calendar year will be 10% less than the amount of water ordered by Scottsdale for the year prior to the initial drought declaration.

OR

- Any combination of water supply reductions resulting in an overall decrease of 10% in the amount of water resources available to Scottsdale

OR

- The City Manager or designee determines that such a declaration is necessary to preserve the public health and safety and general welfare of the citizens of Scottsdale.

All drought measures implemented in Stage 1 will be carried forward to Stage 2. The following measures may be implemented in response to the Water Warning declaration including but not limited to:

Public Education

- A public education and information program designed specifically to address the drought situation and the need for compliance

Municipal Operation (only)

- Increase overall water use reduction goal from 5% to 10%
- Restrict landscape watering to:
  - Wednesday, Friday, Sunday from 5AM to 2PM - Odd number street address
  - Tuesday, Thursday, Saturday from 5AM to 2PM - Even number street address
  - No landscape watering on Monday
- *No Fall overseeding of turf areas
- No operation of outdoor misters
- Reduce water feature operational run time from 8 AM to 2 PM

- **Auto/truck washing allowed only if pail and hose/shut off nozzle are used or at a commercial facility

Residential, Commercial and Industrial Customers

- Restrict landscape watering to:
  - Wednesday, Friday, Sunday from 5 AM to 2 PM - Odd street address number
  - Tuesday, Thursday, Saturday from 5 AM to 2 PM - Even street address number
  - No landscape watering on Monday
- No operation of outdoor misters
- Reduce water feature operational run time to 8 AM to 2 PM
- **No washing of sidewalks, driveways or parking lots
- **Vehicle washing allowed only if pail and hose/shut off nozzle are used or at a commercial facility
- *5% water use reduction goal below the ADWR allotment for large turf facilities

Other Measures

- Any other measures determined necessary by the City Manager or designee

STAGE 3: Water Emergency

Any of the following drought conditions may result in the declaration of a Stage 3 Water Emergency:

- SRP notifies the Water Resources Department that SRP surface water deliveries will be reduced to a level which results in insufficient water supplies being available to meet 90% of water demand for the year prior to the initial drought declaration within that portion of the City's service area which falls within SRP boundaries.

OR

- CAP notifies the Water Resources Dept that expected CAP deliveries to Scottsdale for the upcoming calendar year will be 20% less than the amount of water ordered by Scottsdale for the year prior to the initial drought declaration.

OR

- Any combination of water supply reductions resulting in an overall decrease of 15% in the amount of water resources available to Scottsdale

OR

- The City Manager or designee determines that such a declaration is necessary to preserve the public health and safety and general welfare of the citizens of Scottsdale.

All drought measures implemented in Stage 2 will be carried forward to Stage 3. The following additional measures may be implemented in response to the Water Emergency declaration including but not limited to:

Municipal Operation (only)

- Restrict landscape watering to one day per week:
  - Saturday from 5 AM to 2 PM only - Odd street number address
  - Sunday from 5 AM to 2 PM only - Even street number address
  - No landscape watering Monday thru Friday
- *No operation of water features
- **No vehicle washing except at a commercial facility
- Water service connections authorized by approval of the Water Resource Department only
- No new construction flow meters or hydrant meters unless approved by the Water Resources Department
- **No street sweeping

Residential, Commercial and Industrial Customers

- Increase overall water use reduction goal to 10%
- Restrict landscape watering to one day per week:
  - Saturday from 5 AM to 2 PM only – Odd street number address
  - Sunday from 5 AM to 2 PM only – Even street number address
  - No landscape watering Monday thru Friday
- *No water feature operation
- **No vehicle washing except at a commercial facility
- * 10% water use reduction goal below the ADWR allotment for large turf facilities
- Water service connections authorized by approval of the Water Resource Department only
- No new construction flow meters or hydrant meters unless approved by Water Resources Department
- **No street sweeping

Other Measure

- Any other measures determined necessary by the City Manager or designee

STAGE 4: Water Crisis

Any of the following drought conditions may result in the declaration of a Stage 4 Water Crisis:

- SRP notifies the Water Resources Department that SRP surface water deliveries will be reduced to a level which results in insufficient water supplies being available to meet 85% of water demand for the year prior to the initial drought declaration within that portion of the City's service area which falls within SRP boundaries.

OR

- CAP notifies the Water Resources Dept that expected CAP deliveries to Scottsdale for the upcoming calendar year will be 25% less than the amount of water ordered by Scottsdale for the year prior to the initial drought declaration.

OR

- Any combination of water supply reductions resulting in an overall decrease of 20% in the amount of water resources available to Scottsdale.

OR

- The City Manager or designee determines that such a declaration is necessary to preserve the public health and safety and general welfare of the citizens of Scottsdale.

All drought measures implemented in Stage 2 and Stage 3 will be carried forward to Stage 4. The following additional measures may be implemented in response to the Water Emergency declaration including but not limited to:

Municipal Operation (only)

- Landscape watering is restricted to trees only, one day per week:
  - Saturday from 5 AM to 2 PM only - odd street number address
  - Sunday from 5 AM to 2 PM only - even street number address
  - No tree watering Monday thru Friday

Residential, Commercial and Industrial Customers

- Landscape watering is restricted to trees only, one day per week:
  - Saturday from 5 AM to 2 PM only - odd street number address
  - Sunday from 5 AM to 2 PM only - even street number address
  - No tree watering Monday thru Friday

Other Measures

- Additional water use reduction to be determined by City Manager

Variance

Customer specific variances may be granted in cases of hardship or special conditions. The Water Resources Department will consider hardship or special cases to determine whether a particular circumstance warrants a variance. A variance shall be granted only for reasons of severe economic hardship, medical hardship or for a legitimate public health concern. A fee of twenty-five dollars shall be assessed per application to defray administrative costs. The fee may be waived upon the execution of an affidavit.

CITY COUNCIL REPORT

MEETING DATE: 07/01/2003 ITEM NO. 9 GOAL: Neighborhoods

SUBJECT **Construction Bid Award for the expansion and renovation of Fire Station 11**

REQUEST AUTHORIZE Construction Bid Award No. 03PB110 to Petersen Development, the lowest responsive bidder, at their lump sum base bid of $148,000.00.

BACKGROUND Fire Station 11, located in the proximity of McDonald and Scottsdale Road, is one of the oldest stations in the city. It was originally constructed to accommodate a crew of four fire fighters and was constructed before the sprinkler ordinance. Due to its location within the City, the station now houses nine personnel along with additional suppression apparatus such as a ladder truck and rescue vehicle along with the original pumper. Previous renovations, designed to satisfy ADA and EEO concerns actually reduced the net usable original area.

This project would provide the following improvements:

- Fire sprinkler system for entire building.
- An 800 SF addition to the rear of the building that will provide new sleeping quarters for nine fire fighters.
- Renovate the existing sleeping quarters area to provide additional day-room and dining space.

ANALYSIS & ASSESSMENT Work is scheduled to begin in July with a targeted completion date in November. The station will remain operational during construction activities and the work will be under close supervision to ensure operations and response times are not impacted. The inclusion of a sprinkler system for the entire structure will significantly reduce the potential for substantial damage to the structure.

Contract process and terms. The Purchasing Department opened sealed bids the project on June 5, 2003 at 2:00 PM. The bids that were received were as follows:

Petersen Development	**$148,000.00**
Shannon Construction	$153,000.00
Adaptive CM, LLC	$157,718.00
Morrell General Contractors	$159,999.99
Niche Contractors	$166,500.00
TI Specialists	$169,786.00

The Purchasing Director concurs with the identification of the successful bidder and confirms that the procurement procedures provided by the City Code have been followed. The CIP Coordinator concurs that funds are available to authorize this contract

Action Taken_____

Community involvement.
The adjacent community was notified of the design and operational issues as part of the Design Review process. A publicized meeting was held at the facility to solicit design input from residents and entertain questions on any operational issues.

RESOURCE IMPACTS

Available funding.
Funds are available in CIP Account No. B0205.

Future budget implications.
The annual operating cost impact for the expanded buildinghas been estimated at $1,400.00.

Staffing, workload impact. Work is scheduled to begin in July and will be completed within 120 days.

Maintenance requirements. The cost of maintaining the facility and grounds will remain the City's responsibility.

OPTIONS & STAFF RECOMMENDATION

Description of Option A:
Do not approve this contract and provide minor improvements within the existing shell to better accommodate fire suppression personnel. There is little potential to provide lighting, sound or area separation between living, sleeping areas and locker/restroom facilities.

Description of Option B:
Relocate personnel and equipment to new or renovated existing facilities. This option would be substantially more costly and less efficient than expanding Station 11 as the ladder truck and it's associated personnel are the only group that can be moved without a substantial impact on response times.

Recommended Approach:
Approve this contract award in order to advance the project in the most expeditious manner possible.

Proposed Next Steps:
Approval of this construction contract would enable the initiation of construction activities in July with a targeted completion by the end of October.

RESPONSIBLE DEPT(S)

Municipal Services, Capital Project Management

STAFF CONTACT(S)

Dan Walsh, Project Manager, (480) 312-5248 dwalsh@scottsdaleaz.gov

APPROVED BY

Al Dreska — Date 6/16/03
Municipal Services General Manager
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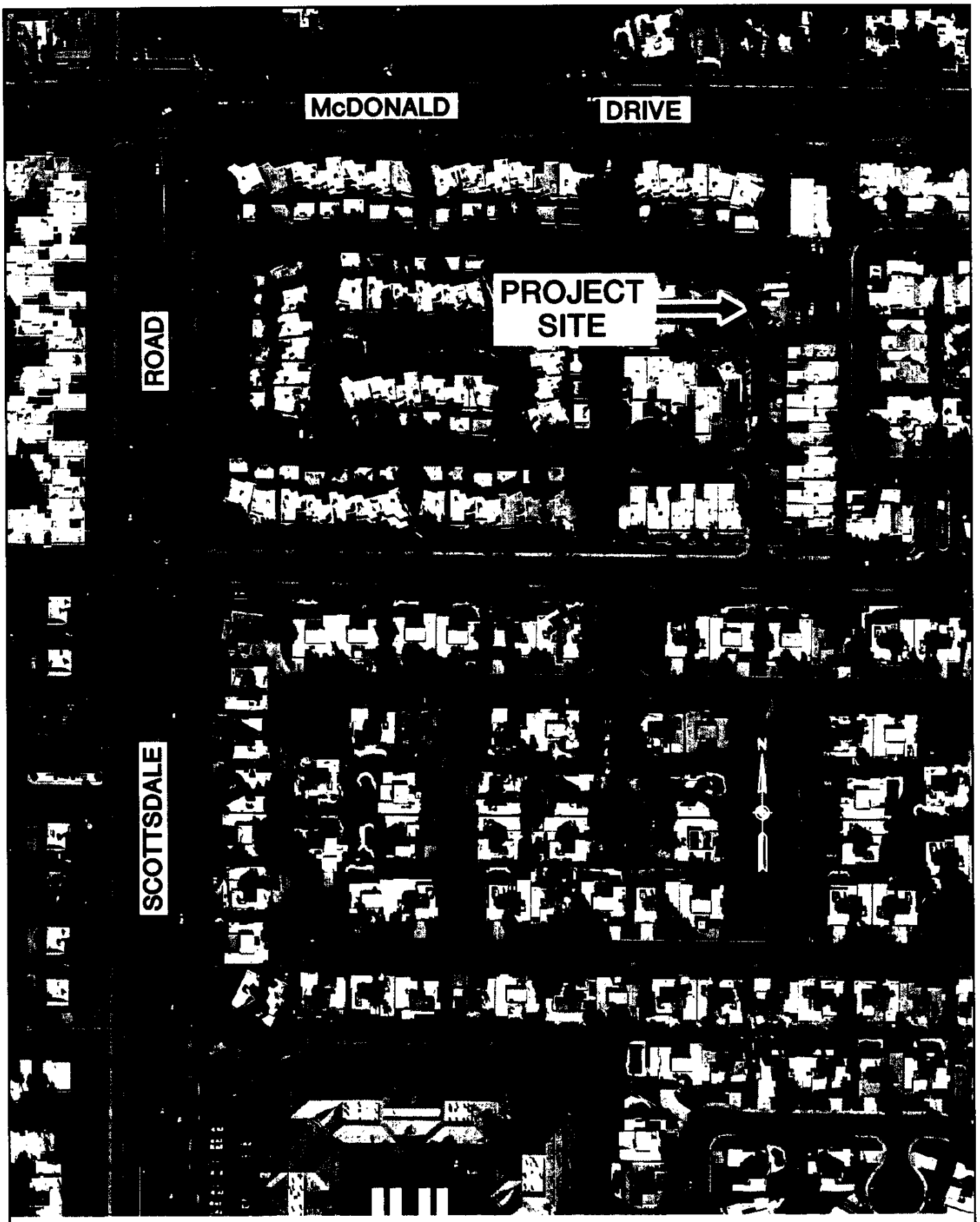
Roger Klingler — Date 6/17/03
Assistant City Manager
rklingler@scottsdaleaz.gov (480) 312-5830

ATTACHMENTS

1. Location Map



PROJECT LOCATION MAP

Attachment 1

CITY COUNCIL REPORT

MEETING DATE: 07/01/2003 ITEM NO. 10 GOAL: Neighborhoods

SUBJECT

Construction Bid Award and Budget Transfer for Fire Station 27 located near the intersection of Pima and Ashler Hills

REQUEST

AUTHORIZE Construction Bid Award No. 03PB108 in the total amount of $741,364.00, consisting of the base bid and bid alternate No. 1, to Harney-Naill, Inc., the lowest responsive bidder.

AUTHORIZE a capital contingency fund transfer in the amount of $200,000 to CIP Account No. B9909 (Ashler Hills & Pima Fire Station #27)

AUTHORIZE a reduction in the proposed FY 04/05 CIP Budget allocation to CIP Account No. B9909 from $400,000 to $200,000.

Related Policies, References:
The design and construction of this facility will move the City toward the accepted total emergency coverage that was identified in 1992 and subsequently included in the City's General Plan.

Council approved the design contract for the station on December 4, 2002.

The amount of the proposed capital contingency transfer to CIP Account No. B9909 will be offset by reducing the additional funding planned for this project in FY 04/05.

BACKGROUND

In 1989, the Rural/Metro Fire Department and the City of Scottsdale entered into a program to identify future needs for fire stations and the delivery of emergency service to the northern areas of the community. In 1992, the updated City Capital Facilities map identified the locations in the city where future fire stations should be located. The information on the map was developed using a computer-based program called Fire Router. This program used the existing General Plan information, which identified major street routes and actual driving conditions, to establish estimated emergency response times and recommended locations for future facilities. The locations identified provide the best emergency response coverage for the developing areas of the city. During recent years, the primary fire and emergency medical coverage for the areas north of the CAP canal have been provided from one temporary facility at Pima and Jomax Roads. The projected emergency coverage plan for this portion of city consists of four facilities as follows:

Action Taken_____

- Pima Road/Thompson Peak Parkway (In service)
- Alma School Road/Jomax Road (In service)
- Scottsdale Road vicinity of Dynamite Blvd. (Land acquisition and design planned during FY 03-04)
- Pima Road/Ashler Hills Drive (This project)

ANALYSIS & ASSESSMENT

Work authorized under this contract would begin in July with completion scheduled for February 2004. Fire fighters would continue to provide service out of temporary facilities located at Pima and Jomax until all work is complete. No traffic impacts are expected as all work is substantially on site.

Contract process and terms. The Purchasing Department opened sealed bids for the project on May 28, 2003 at 3:00 PM. The responsive bids that were received are as follows:

Contractor	Base Bid	Bid Alt. 1	Total
Harney-Naill, Inc.	**$738,773.00**	**$2,591.00**	**$741,364.00**
Morrell General Contractors	$770,000.00	$0.00	$770,000.00
Niche Contractors, Inc.	$769,399.00	$2,693.00	$772,092.00
W. Johnson Construction	$780,000.00	$2,500.00	$782,500.00
JRW Construction Co.	$785,094.53	$4,300.00	$789,394.53
W.M. Grace Contractors	$791,400.00	$4,700.00	$796,100.00
Pace-Pacific	$805,000.00	$2,561.00	$807,561.00
Walton General Contractors	$797,000.00	$11,000.00	$808,000.00
Suft Construction Corp.	$781,000.00	$33,600.00	$814,600.00
Vizor, LLC	$818,200.00	$10,500.00	$828,700.00
TI Specialists, Inc.	$845,561.00	$9,825.00	$855,386.00
Valley Diamond Builders	$795,367.00	$65,000.00	$860,367.00
Close Construction	$824,000.00	$40,000.00	$864,000.00
Regency Development	$857,400.00	$16,000.00	$873,400.00
Bjerk Builders, Inc.	$875,000.00	$1,004.00	$876,004.00
Sun Eagle Corporation	$863,000.00	$20,000.00	$883,000.00
Femcon Inc.	$857,658.00	$35,000.00	$892,658.00
Sygnos, Inc.	$877,000.00	$22,000.00	$899,000.00

Bid Alternate 1 would provide Aerated Autoclaved Concrete Masonry Units in lieu of standard masonry units. These masonry units have a thermal resistance of R-24, an acoustical rating of STC-48 and a four-hour fire rating; all of which far exceed standard masonry units. The masonry units also resist mold and are considered a "Green Building Material". Based on the very nominal additional cost bid by the lowest bidder, this bid alternate is recommended for award.

The total bid amount exceeds the funding available mainly due to the substantial site improvement costs required to develop this facility. New utility services (water, sewer, gas and telecommunications) will be required.

The Purchasing Director concurs with the identification of the successful bidder and confirms that the procurement procedures provided by the City Code have been followed. The CIP Coordinator concurs that funds are available to award this contract after the recommended budget adjustment.

Community involvement.
The adjacent community was notified of the design as part of the Design Review process. Meetings were held in the proximity of the project to promote citizen

attendance and input.

RESOURCE IMPACTS

Available funding.
Funds totaling $1,200,000, from current and future General Fund sources, are allocated for this CIP Project. The current project budget along with the planned uses of these funds and the timing of the budget allocations are:

FY 02/03 - $800,000 (Design and Construction Costs)
FY 04/05 - $400,000 (Site Acquisition Costs)

The site for this fire station is a portion of a City-owned water reservoir and pump station property that was originally acquired with Water Funds. The proposed FY 04/05 budget allocation was intended to "purchase" as much as 5 acres from this 12 acre Water Fund property for the site that will be occupied by the fire station. The final plans for the fire station have resulted in a requirement for 2 acres to accommodate the building, parking and circulation and open space. The amount of the final "purchase" price will be established by an independent appraisal. A preliminary appraisal has set the value of the 2-acre fire station site at approximately $125,000. The design and construction of the facility will require approximately $1,000,000 to complete. A detail of the proposed budget allocation, based on the recommended budget transfer and subsequent budget reduction, follows:

Design & Admin. Costs to Date	$84,696
Construction Contract	$741,364
Water, Sewer and Water Resource Development Fees	$40,000
Development Services Fees	$8,000
Construction Admin. & Materials Testing	$50,000
Fixed Equipment and Telecommunications Costs	$34,000
Project Contingency	$41,940
Subtotal for Design & Construction	$1,000,000
Available for site acquisition (FY 04/05)	$200,000
Total Budget	$1,200,000

Any funds not spent for the completion of this project will be returned to the General Fund for future fiscal years' budgeting.

Future budget implications.
The total estimated annual cost to maintain and operate this new fire protection facility is $52,500. This estimate includes all utility, landscaping and general building maintenance costs.

Staffing, workload impact.
This construction contract is scheduled to begin in July, 2003 and be completed within 240 calendar days. The coordination and supervision of construction activities is part of the available staff allocation in the Capital Project Management division. The fire suppression staff that will ultimately occupy the facility are currently operating out of other nearby facilities and no additional staff needs are anticipated.

Maintenance requirements.
The cost of maintaining the facility and grounds will be the City's responsibility

and will be eventually offset by the removal of the temporary fire protection facility at the corner of Pima and Jomax Roads..

Traffic Impacts.
Work under this contract is confined to the actual site and few, if any, traffic disruptions are anticipated.

OPTIONS & STAFF RECOMMENDATION

Description of Option A:
Do not approve this contract and continue to provide fire suppression services out of the temporary facility. This option would continue to provide service from outside of the area being serviced, which would increase response times. This option would also require the replacement of the current living quarters that were not replaced earlier in anticipation of a new permanent facility.

Recommended Approach:
Approve this contract award in order to advance the project in the most expeditious manner possible.

Proposed Next Steps:
Approval of this construction contract would enable the initiation of construction activities in July with a targeted completion by the end of February, 2004.

RESPONSIBLE DEPT(S)

Municipal Services, Capital Project Management

STAFF CONTACT(S)

Dan Walsh, Project Manager
dwalsh@scottsdaleaz.gov (480) 312-5248

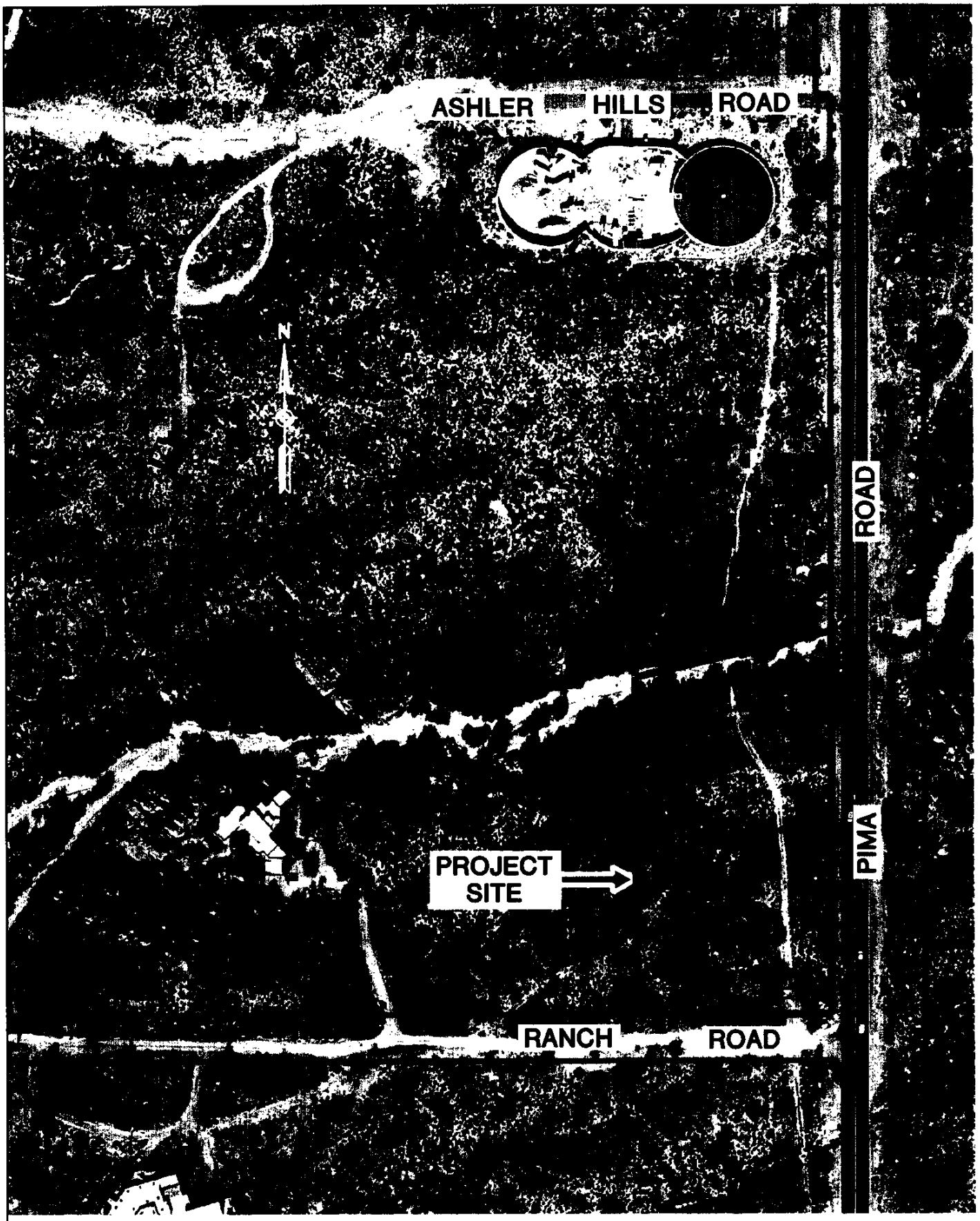
APPROVED BY

Al Dreska 6/16/03
Date
Al Dreska
Municipal Services General Manager
adreska@scottsdaleaz.gov(480) 312-5555

Roger Klingler 6/17/03
Roger Klingler
Assistant City Manager
rklingler@scottsdaleaz.gov (480) 312-5830

ATTACHMENTS

1. Location Map



PROJECT LOCATION MAP

Attachment 1

CITY COUNCIL REPORT

MEETING DATE: 07/01/2003 ITEM NO. 11 GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT

Design of Regulatory Compliance Improvements at the Central Arizona Project Water Treatment Plant.

REQUEST

AUTHORIZE Engineering Services Contract No. 2003-110-COS with Malcolm Pirnie, Inc. in the amount of $2,394,102.00 for the final design of regulatory compliance improvements at the Central Arizona Project Water Treatment Plant.

Related Policies, References:

a. Water Resources Master Plan, approved by City Council on October 15, 2001.
b. Engineering Services Contract No. 2001-167-COS, for conceptual site plan of CAP Treatment Plant expansion, approved by City Council on November 26, 2001.

BACKGROUND

Water Quality Improvements

The Scottsdale Central Arizona Project Water Treatment Plant (CAP WTP) is located on a 41.63 acre site on the west side of the Water Campus and is bounded by Hualapai Drive, Union Hills Drive, power line easement and State land. The plant treats surface water from the CAP canal and has a current water treatment capacity of 50 million gallons per day (mgd). A future expansion of the CAP WTP capacity to 75 mgd will require that the site be expanded by 3.44 acres to the west and will involve a land purchase from the State Land Department, subject to approval by the City Council (See Attachment 1: Aerial Site Map and Attachment 2: Project Layout).

The United States Environmental Protection Agency (EPA) has issued regulations affecting water quality, which require compliance by municipal water systems. A recent EPA regulation is the Disinfectant/ Disinfection By-Product (D/DBP)-Stage II Rule, which primarily impacts the City's surface water supplies. This regulation lowers the maximum level of potentially harmful by-products in drinking water, caused by the reaction of chlorine and organic matter, from 100 to 80 ppb.

To meet the requirements of the D/DBP Rule, the City intends to add a granular activated carbon (GAC) filtration process to its existing CAP water treatment plant. The carbon filters remove organic material from the water, prior to chlorination, thus lowering disinfection by-products to an acceptable level. In accordance with EPA regulations, the City must be in compliance with the D/DBP Rule three years after official promulgation, which is expected this calendar year. This engineering services contract provides final design services to add GAC filtration to the existing CAP Water Treatment Plant on Union Hills Drive. The current processes at the CAP Plant will not comply with the future D/DBP Rule.

Action Taken _____

To comply with the D/DBP Rule in other City neighborhoods that are served primarily by treated surface water, the GAC filtration process is currently being designed into the new Chaparral Water Treatment Plant at Hayden Road and McDonald Drive, which is planned to begin construction later this year.

In addition to the public health aspects of compliance with the new EPA Rule, the GAC filtration process will also provide the additional benefit of improving the taste and odor qualities of the drinking water. GAC accomplishes this by removing organic compounds related to algae, which generally appears in the CAP system in late summer.

During design of this project, certain security improvements to the CAP Plant will be incorporated, including hardening of certain access points, and improved detection and monitoring by sensors, cameras and other security devices.

ANALYSIS & ASSESSMENT

Recent staff action. On October 15, 2001, City Council approved the 2001 Water Resources Master Plan. This master plan recommended that water quality enhancements at the CAP Water Treatment Plant be completed to meet requirements of the proposed Disinfectant/Disinfection By-Product Rule– Stage II.

On March 5, 2002, staff submitted an application to the State Land Department to purchase 3.44 acres of land to accommodate the future expansion of plant capacity. State Land is presently processing the application and it is anticipated that the purchase of the land, subject to approval by the City Council, will be completed by the end of 2003.

In March 2003, under provisions of an EPA grant, a security consultant completed a vulnerability assessment of the CAP plant, which identified areas of possible enhancement of the existing security at the site.

Contract process and terms. On February 21, 2003 Capital Project Management staff solicited proposals for a design contract from 100 engineering consultants. Five proposals were received on March 31, 2003. All proposals were thoroughly evaluated by a panel of four City staff members and four firms were invited for follow-up interviews on April 21, 2003. The four firms were evaluated based on their basic understanding of the project, project approach, staffing considerations and response to questions. Based upon these selection criteria, Malcolm Pirnie, Inc. was selected as the best qualified firm to perform the design work and was contacted for contract negotiations (See Attachment 3).

The contract term will be for 15 months, to include the design and bid phase processes. The construction of these facilities will take approximately eighteen months, with completion programmed for late 2006.

The Purchasing Director confirms that the procurement procedures provided by the City Code have been followed. The CIP Coordinator concurs that funds are available to authorize this contract.

Community involvement. The project will be limited to the CAP Water Treatment Plant site and will have minimum traffic and neighborhood impact. The results of the design will be presented to interested citizen groups prior to construction.

RESOURCE IMPACTS

Available funding. Funds for this contract are available in the CIP Account number 602-W0202 (CAP Plant Expansion). This contract will be funded by water rates.

Future budget implications. The estimated construction cost for this project is $26 million. The estimated land acquisition cost is approximately $3 million, depending on the appraisal to be conducted by the State Land Department. There are no planned staffing increases associated with these improvements to the CAP Water Treatment Plant.

Options & Staff Recommendation

Description of Option A: Authorize this engineering services contract for the Regulatory Compliance Improvements Project final design. Proceeding with this contract will allow the City to prepare for the upcoming Disinfectant/Disinfection By-Product–Stage II Rule promulgated by the US Environmental Protection Agency. Incorporating granular activated carbon treatment into the water treatment plant process will control DBPs and enhance taste and odor aspects of the water.

Description of Option B: Do not proceed with design of the Regulatory Compliance Improvements Project. Not proceeding with this design contract will result in not meeting the requirements of EPA's D/DBP Rule.

Recommended Approach: Staff recommends Option A. The authorization of this engineering services contract will allow the City to continue to implement the provisions of the 2001 Water Resources Master Plan and address EPA regulations in a timely manner.

Proposed Next Steps: If this action is approved, final design will begin immediately and be completed by October 2004. Construction will begin in early 2005 and be completed by the fall of 2006.

Responsible Dept(s)

Capital Project Management and Water Resources

Staff Contact(s)

Charles W. Henne, Project Manager, (480) 312-7097, chenne@scottsdaleaz.gov

Approved By

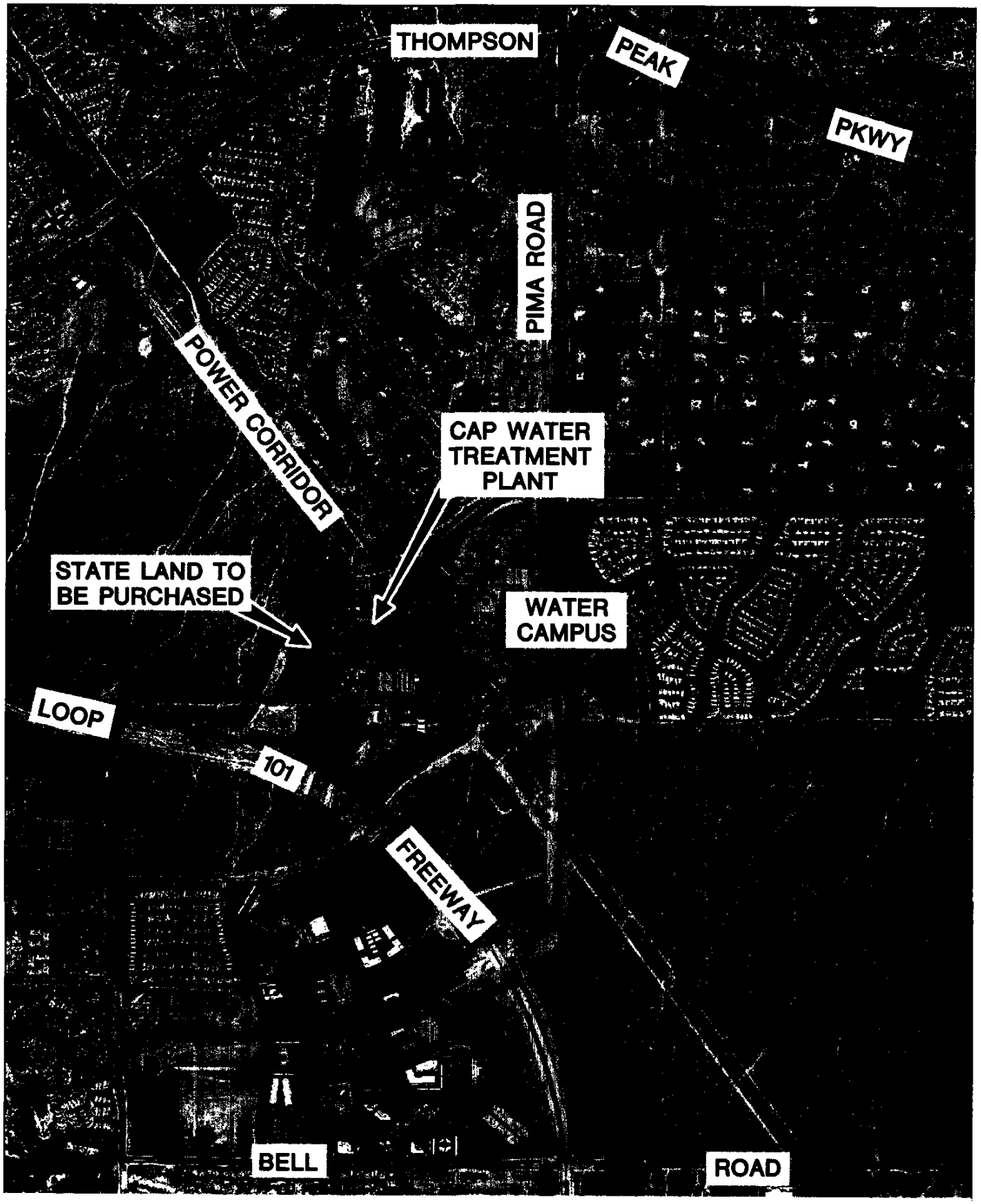
Al Dreska — Date: 6/16/03
Municipal Services General Manager
adreska@scottsdaleaz.gov, (480) 312-5555

David Mansfield — Date: 6/17/03
Water Resources General Manager
dmansfield@scottsdaleaz.gov, (480) 312-5681

Roger Klingler — Date: 6/16/03
Assistant City Manager
rklingler@scottsdaleaz.gov, (480) 312-5830

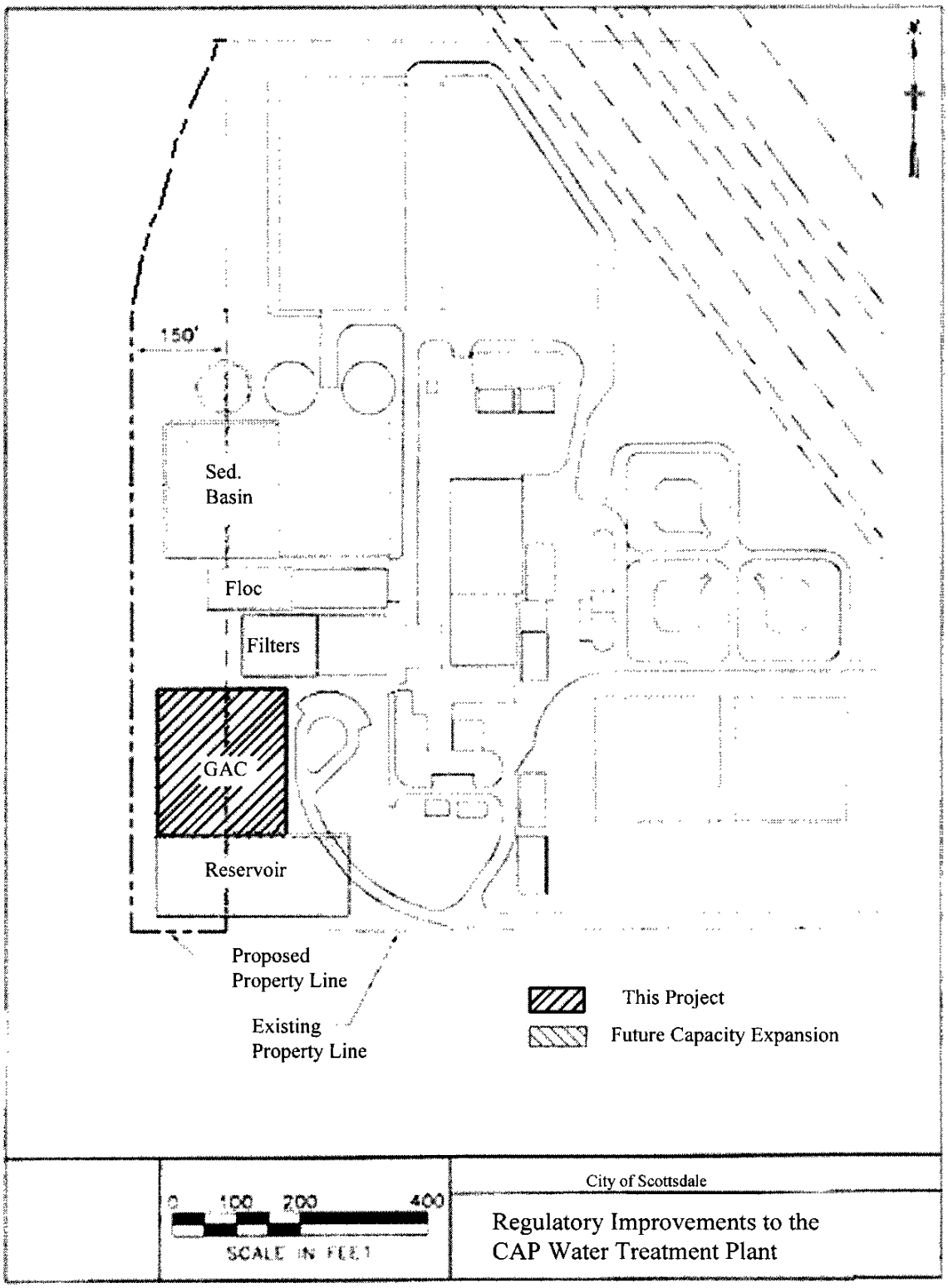
Attachments

1. Aerial Site Map
2. Project Layout
3. Consultant Evaluation Matrix
4. Engineering Services Contract No. 2003-110-COS



REGULATORY COMPLIANCE IMPROVEMENTS AT THE CENTRAL ARIZONA PROJECT WATER TREATMENT PLANT

Attachment 1



Attachment 2

Design of Regulatory Compliance Improvements at CAP WTP
Granular Activated Carbon

	Total Points per Reviewer					
	Reviewer 1	Reviewer 2	Reviewer 3	Reviewer 4	Total	Average
[redacted]						
[redacted]	30	28	20	27	105	26.25
[redacted]	30	28	25	28	111	27.75
[redacted]	25	25	15	22	87	21.75
[redacted]	30	28	27	27	112	28
[redacted]	18	17	15	18	68	17
[redacted]	20	18	18	17	73	18.25
[redacted]	18	16	15	15	64	16
[redacted]	20	19	18	19	76	19
[redacted]	20	23	15	20	78	19.5
[redacted]	15	22	10	18	65	16.25
[redacted]	20	21	20	18	79	19.75
[redacted]	20	24	22	22	88	22
[redacted]	23	22	20	22	87	21.75
[redacted]	25	22	23	23	93	23.25
[redacted]	20	21	15	20	76	19
[redacted]	25	23	23	23	94	23.5

Final Score	Average (for 4 Categories)	Rank
[redacted]	84.5	3
[redacted]	85.5	2
[redacted]	76.5	4
[redacted]	92.5	1

Attachment 3

06/12/2003

CITY OF SCOTTSDALE
ENGINEERING SERVICES CONTRACT

THIS CONTRACT, made and entered into this 30th day of June, 2003, by and between the CITY OF SCOTTSDALE, a Municipal Corporation of the State of Arizona, hereinafter referred to as "City", and Malcolm Pirnie, Inc., a Corporation of the State of New York, hereinafter referred to as "Engineer".

WITNESSETH

THAT, the Mayor of the City of Scottsdale is authorized and empowered by provisions of the City Charter to execute contracts for professional services; and

WHEREAS, the City desires to contract for Engineering services to design Water Quality Enhancements within the Scottsdale Central Arizona Project Water Treatment Plant; and

WHEREAS, Engineer is qualified to render the services desired by City;

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1.0 SCOPE OF SERVICES

Engineer shall act under the authority and approval of the Contract Administrator to provide the engineering services required by this Contract.

The City wishes to assign Engineer the tasks specified in the attached Exhibit A, Project Scope of Work, which is hereby incorporated by reference and made a part of this Contract.

The Engineer shall obtain all necessary information for the timely completion of the tasks specified in Exhibit A, Project Scope of Work.

2.0 FEES AND PAYMENTS

2.1 FEE SCHEDULE

Engineer shall be paid according to the following schedule:

Lump Sum Tasks:	
Project Management	$ 184,410
GAC Testing and Evaluations	$ 53,435
Schematic Design/Basis of Design Report	$ 227,365
Cost and Schedule Analysis	$ 56,756
Detailed Design Documents	$1,454,631
Permitting Support Services	$ 63,491
Detailed QA/QC Checks	$ 50,938
Bidding Process Assistance	$ 36,785
Time and Materials Tasks:	
Special Services	$ 229,291
Allowances Tasks:	
Allowance	$ 37,000
Total Contract Price	**$2,394,102**

2.2 *PAYMENT APPROVAL*

Engineer shall maintain all books, papers, documents, accounting records and other evidence pertaining to time billed and to costs incurred and make such materials available at all reasonable times during the contract period.

For Lump Sum Tasks:
Monthly payments for labor, subconsultants, and expenses shall be made to the Engineer on the basis of a progress report prepared and submitted by the Engineer for the work completed through the last day of the preceding calendar month. The progress report shall indicate the percent of work completed for each task. Each task shall be subject to review and approval by the Contract Administrator to determine acceptable completion.

For Time and Materials Tasks:
Monthly payments for labor, subconsultants, and expenses shall be made to the Engineer on the basis of a progress report prepared and submitted by the Engineer for the work completed through the last day of the preceding calendar month. The time spent and expenses incurred for each task shall be recorded and submitted to the Contract Administrator. Each task shall be subject to review and approval by the Contract Administrator to determine acceptable completion.

For Allowances:
Monthly payments for allowances shall be made to the Engineer on the basis of a progress report prepared and submitted by the Engineer for allowance costs incurred through the last day of the preceding calendar month. The allowance costs incurred for each task shall be recorded and submitted to the Contract Administrator. Each allowance item shall be subject to review and approval by the Contract Administrator to determine acceptable completion.

The Contract Administrator shall prepare a partial payment request document for the Engineer's acceptance. However, not more than 90% of the total contract price shall be paid before City's final acceptance of all completed work.

The Contract Administrator reserves the exclusive right to determine the amount of work performed and payment due the Engineer on a monthly basis.

All charges must be approved by the Contract Administrator prior to payment.

3.0 GENERAL TERMS AND CONDITIONS

3.1 *CONTRACT ADMINISTRATOR*

The Contract Administrator for the City shall be Charles W. Henne, or designee. The Contract Administrator shall oversee the performance of this Contract, assist the Engineer in accessing the organization, audit billings, and approve payments. The Engineer shall submit all reports and special requests through the Contract Administrator.

3.2 *TERM OF CONTRACT*

Term of the Contract is until the tasks listed in Scope of Services has been completed. The Engineer agrees to proceed with the work immediately upon notification to proceed issued by the Contract Administrator and shall complete all work within 442 calendar days, including City review.

This Contract shall be in full force and effect when it has been approved by the City Council of the City of Scottsdale, Arizona and signed by its Mayor as attested by the City Clerk thereof.

In the event that any tasks remain incomplete after the specified completion time period, continuation of this Contract shall be subject to written approval by the Contract Administrator.

3.3 *TERMINATION OF CONTRACT*

The City has the right to terminate this Contract or abandon any portion of the project for which services have not been performed by the Engineer.

Termination for Convenience: City reserves the right to terminate this contract or any part hereof for its sole convenience with thirty (30) days written notice. In the event of such termination, Engineer shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and Subcontractors to cease such work. As compensation in full for services performed to the date of such termination, the Engineer shall receive a fee for the percentage of services actually completed. This fee shall be in the amount to be mutually agreed upon by the Engineer and the City, based on the agreed Scope of Work. If there is no mutual agreement, the Contract Administrator shall determine the percentage of completion of each task detailed in the Scope of Work and the Engineer's compensation shall be based upon such determination. The City shall make this final payment within sixty (60) days after the Engineer has delivered the last of the partially completed items. Engineer shall not be paid for any work done upon receipt of the notice of termination, nor for any costs incurred by Engineer's suppliers or Subcontractors, which Engineer could reasonably have avoided.

Termination for Cause: City may also terminate this contract or any part hereof with seven (7) days notice for cause in the event of any default by the Engineer, or if the Engineer fails to comply with any of the terms and conditions of this contract. Unsatisfactory performance as judged by the Contract Administrator, and failure to provide City, upon request, with adequate assurances of future performance shall all be causes allowing City to terminate this contract for cause. In the event of termination for cause, City shall not be liable to Engineer for any amount, and Engineer shall be liable to City for any and all damages sustained by reason of the default which gave rise to the termination.

In the event Engineer is in violation of any Federal, State, County or City law, regulation or ordinance, the City may terminate this contract immediately upon giving notice to the Engineer.

In the event the City shall terminate this Contract or any part of the services as herein provided, the City shall notify the Engineer in writing, and immediately upon receiving such notice, the Engineer shall discontinue advancing the work under this Contract and proceed to close said operations.

Upon such termination or abandonment, the Engineer shall deliver to the City all drawings, special provisions, field survey notes, reports, and estimates, entirely or partially completed, in any format, including but not limited to written or electronic media, together with all unused materials supplied by the City. Use of incomplete data shall be the City's sole responsibility.

The Engineer shall appraise the work it has completed and submit its appraisal to the City for evaluation.

If through any cause, the Engineer shall fail to fulfill in a timely and proper manner its obligations under this Contract, or if the Engineer shall violate any of the convenants, agreements, or stipulations of this Contract, the City may withhold any payments to the Engineer for the purpose of setoff until such time as the exact amount of damages due the City from the Engineer is determined by a court of competent jurisdiction.

3.4 FUNDS APPROPRIATION

If the City Council does not appropriate funds to continue this Contract and pay for charges hereunder, the City may terminate this Contract at the end of the current fiscal period. The City agrees to give written notice of termination to the Engineer at least thirty (30) days prior to the end of its current fiscal period and will pay to the Engineer all approved charges incurred through the end of such period.

3.5 AUDIT

The City may audit all of the Engineer's records, calculations, and working documents pertaining to this work at a mutually agreeable time and place.

Engineer's records (hard copy, as well as computer readable data), and any other supporting evidence deemed necessary by the City to substantiate charges and claims related to this contract shall be open to inspection and subject to audit and/or reproduction by City's authorized representative to the extent necessary to adequately permit evaluation and verification of cost of the work, and any invoices, change orders, payments or claims submitted by the Engineer or any of his payees pursuant to the execution of the contract. The City's authorized representative shall be afforded access, at reasonable times and places, to all of the Engineer's records and personnel pursuant to the provisions of this article throughout the term of this contract and for a period of three years after last or final payment.

Engineer shall require all Subcontractors, insurance agents, and material suppliers (payees) to comply with the provisions of this article by insertion of the requirements hereof in a written contract agreement between Engineer and payee. Such requirements will also apply to any and all Subcontractors.

If an audit in accordance with this article, discloses overcharges, of any nature, by the Engineer to the City in excess of one percent (1%) of the total contract billings, the actual cost of the City's audit shall be reimbursed to the City by the Engineer. Any adjustments and/or payments which must be made as a result of any such audit or inspection of the Engineer's invoices and/or records shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of City's findings to Engineer.

3.6 OWNERSHIP OF PROJECT DOCUMENTS

All documents, including but not limited to, field notes, design notes, tracings, data compilations, studies, and reports in any format, including but not limited to, written or electronic media, which are prepared in the performance of this contract are to be and remain the property of the City and are to be delivered to the Contract Administrator before final payment is made to the Engineer.

When the work detail covers only the preparation of preliminary reports or plans, there shall be no limitations upon the City as to subsequent use of the plans or ideas incorporated therein, for the preparation of final construction plans. The City does agree to release the Engineer from any liability related to the preparation of final construction plans by others.

3.7 COMPLETENESS AND ACCURACY

The Engineer shall be responsible for the completeness and accuracy of its work, including but not limited to, survey work, reports, supporting data, and drawings, sketches, etc. prepared or compiled pursuant to this Contract and shall correct, at its expense, all errors or omissions therein which may be disclosed. The cost necessary to correct those errors attributable to the Engineering errors shall be chargeable to the Engineer. Additional construction added to the project shall not be considered the responsibility of the Engineer unless the need for same was created by any error, omission, or negligent act of the Engineer. The fact that the City has accepted or approved the Engineer's work shall in no way relieve the Engineer of any of its responsibilities.

3.8 ATTORNEY'S FEES

In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Contract, or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action.

3.9 SUCCESSORS AND ASSIGNS

This Contract shall extend to and be binding upon the Engineer, its successors and assigns, including any individual, company, partnership, or other entity with or into which the Engineer shall merge, consolidate, or be liquidated, or any person, corporation, partnership, or other entity to which the Engineer shall sell its assets.

3.10 ASSIGNMENT

Services covered by this Contract shall not be assigned or sublet in whole or in part without the prior written consent of the Contract Administrator.

3.11 SUBCONTRACTORS

During the performance of the Contract, the Engineer may engage such additional Subcontractors as may be required for the timely completion of this Contract. The addition of any Subcontractors shall be subject to the prior approval of the City.

In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Contract rests with the Engineer.

3.12 ALTERATIONS OR ADDITIONS TO SCOPE OF SERVICES

The total Scope of Engineering Services to be performed in accordance with this Contract is set forth herein, and, if the Engineer is asked to perform services which are not included in this Contract, they will be considered additional services. The Engineer shall not perform these services without written authorization in the form of an approved Change Order from the City. In the event the Engineer performs the additional services without written authorization (Change Order) from the City to perform same, it shall be assumed that the additional services were included in the original Scope of Services and the fees set forth herein, and therefore, the Engineer shall not be permitted to request nor receive any additional compensation for those additional services.

3.13 MODIFICATIONS

Any amendment, modification or variation from the terms of this Contract shall be in writing and shall be effective only after approval of all parties signing the original Contract.

3.14 CONFLICT OF INTEREST

Engineer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Engineer, to solicit or secure this Contract, and that it has not paid or agreed to pay any person or persons, other than a bona fide employee working solely for Engineer any fee, commission, percentage, brokerage fee, gifts or any consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, City shall have the right to annul this Contract without liability, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee, together with costs and attorney's fees.

The City may cancel any Contract or Agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the City's departments or agencies is, at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a consultant to any other party to the Contract with respect to the subject matter of the Contract. The cancellation shall be effective when written notice from the City is received by all other parties to the Contract, unless the notice specifies a later time (A.R.S. 38-511).

The Engineer shall reveal fully in writing any financial or compensatory agreement which it has with a prospective Engineer prior to the City's publication of documents for bidding.

3.15 FORCE MAJEURE

Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, or power failures.

3.16 TAXES

The fee listed in this Contract includes any and all taxes applicable to the activities hereunder. The City shall have no obligation to pay additional amounts for taxes of any type.

3.17 ADVERTISING

No advertising or publicity concerning the City using the Engineer's services shall be undertaken without prior written approval of such advertising or publicity by the Contract Administrator.

3.18 COUNTERPARTS

This Contract may be executed in one or more counterparts, and each executed duplicate counterpart of this Contract shall be deemed to possess the full force and effect of the original.

3.19 ENTIRE AGREEMENT

This Contract constitutes the entire understanding of the parties and no representations or agreements, oral or written, made prior to its execution shall vary or modify the terms herein.

3.20 ARIZONA LAW

This Contract shall be governed and interpreted according to the laws of the State of Arizona.

3.21 EQUAL EMPLOYMENT OPPORTUNITY

The Engineer shall comply with Executive Order No. 11245, entitled "Equal Employment Opportunity", as amended by Executive Order No. 11375, and as supplemented in Department of Labor Regulations (41 CFR Part 60).

3.22 EVALUATION OF ENGINEER'S PERFORMANCE

The Engineer will be evaluated regarding its performance of this Contract. This evaluation shall include, but not be limited to, the following consideration for:

Completeness
Accuracy
Utility Coordination
Technical Expertise
Organization
Appearance of plans (linework, lettering, etc.)
Working relationship with City staff and others
Availability
Communication skills (meetings, correspondence, etc.)

This evaluation will be prepared by the staff and used to evaluate the desirability to proceed with negotiations for additional services.

3.23 NOTICES

All notices or demands required to be given, pursuant to the terms of this Contract, shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

On behalf of the Engineer: Peter Tymkiw, P.E.
Malcolm Pirnie, Inc.
4646 E. Van Buren Street, Suite 400
Phoenix, AZ 85008-6945
(602) 241-1770

On behalf of the City: Charles W. Henne
Project Manager
City of Scottsdale, Capital Project Management
7447 E. Indian School Road, Suite 205
Scottsdale, Arizona 85251
(480) 312-7097

Notices shall be deemed received on date delivered if delivered by hand and on the delivery date indicated on receipt if delivered by certified or registered mail.

3.24 INDEPENDENT CONTRACTOR

The services Contractor provides under the terms of this Contract to the City are that of an Independent Contractor, not an employee, or agent of the City. The City will report the value paid for these services each year to the Internal Revenue Service (I.R.S.) using Form 1099.

City shall not withhold income tax as a deduction from contractual payments. As a result of this, Contractor may be subject to I.R.S. provisions for payment of estimated income tax. Contractor is responsible for consulting the local I.R.S. office for current information on estimated tax requirements.

3.25 INELIGIBLE BIDDER

The preparer of specifications is not eligible to submit a bid or proposal on the solicitation for which they prepared the specification, nor is the preparer eligible to supply any product to a bidder or offeror on the solicitation for which they prepared the specification.

3.26 INDEMNIFICATION

To the fullest extent permitted by law, Engineer, its successors, assigns and guarantors, shall defend, indemnify and hold harmless City of Scottsdale, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of, or resulting from any negligent or intentional actions, acts, errors, mistakes or omissions caused in whole or part by Engineer relating to work or services in the performance of this Contract, including but not limited to, any Subcontractor or anyone

directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Engineer's and Subcontractor's employees.

Insurance provisions set forth in this agreement are separate and independent from the indemnity provisions of this paragraph and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this paragraph shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

4.0 INSURANCE

This solicitation/contract contains two samples of Certificates of Insurance, the Standard Acord Certificate and the Certificate developed by the City of Scottsdale.

The City Certificate is preferred, however, the Acord Certificate is acceptable provided it is identical to the sample attached and contains the additional language and deleted language as reflected on the sample.

Failure to provide a Certificate of Insurance with the appropriate verbiage as indicated on the attached samples, will result in rejection of your certificate and delay in contract execution.

Additionally Certificates of Insurance submitted without referencing a Contract number will be subject to rejection and returned or discarded.

4.1 Insurance Representations and Requirements

4.1.1 General: Engineer agrees to comply with all applicable City ordinances and state and federal laws and regulations.

Without limiting any obligations or liabilities of Engineer, Engineer shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies duly licensed by the State of Arizona (admitted insurer) with an AM Best, Inc. rating of B + + 6 or above or an equivalent qualified unlicensed insurer by the State of Arizona (non-admitted insurer) with policies and forms satisfactory to City of Scottsdale. Failure to maintain insurance as specified may result in termination of this Contract at City of Scottsdale's option.

4.1.2 No Representation of Coverage Adequacy: By requiring insurance herein, City of Scottsdale does not represent that coverage and limits will be adequate to protect Engineer. City of Scottsdale reserves the right to review any and all of the insurance policies and/or endorsements cited in this Contract but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this agreement or failure to identify any insurance deficiency shall not relieve Engineer from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Contract.

4.1.3 Coverage Term: All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of subject contract are satisfactorily performed, completed and formally accepted by the City of Scottsdale, unless specified otherwise in this Contract.

4.1.4 Claims Made: In the event any insurance policies required by this Contract are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three (3) years past completion and acceptance of the work or services as evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

4.1.5 Policy Deductibles and or Self Insured Retentions: The policies set forth in these requirements may provide coverage which contain deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to City of Scottsdale. Engineer shall be solely responsible for any such deductible or self-insured retention amount. City of Scottsdale, at its option, may require Engineer to secure payment of such deductible or self-insured retention by a surety bond or irrevocable and unconditional Letter of Credit.

4.1.6 Use of Subcontractors: If any work under this agreement is subcontracted in any way, Engineer shall execute written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements set forth herein protecting City of Scottsdale and Engineer. Engineer shall be responsible for executing the agreement with Subcontractor and obtaining Certificates of Insurance verifying the insurance requirements.

4.1.7 Evidence of Insurance: Prior to commencing any work or services under this Contract, Engineer shall furnish City of Scottsdale with Certificate(s) of Insurance, or formal endorsements as required by this Contract, issued by Engineer's insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions, and limits of coverage and that such coverage and provisions are in full force and effect. If a Certificate of Insurance is submitted as verification of coverage, City of Scottsdale shall reasonably rely upon the Certificate of Insurance as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this agreement. If any of the above-cited policies expire during the life of this Contract, it shall be Engineer's responsibility to forward renewal Certificates within ten (10) days after the renewal date containing all the aforementioned insurance provisions. Certificates shall specifically cite the following provisions:

1. City of Scottsdale, its agents, representatives, officers, directors, officials and employees shall be named an Additional Insured under the following policies:
   a) Commercial General Liability
   b) Auto Liability
   c) Excess Liability - Follow Form to underlying insurance.
2. Engineer's insurance shall be primary insurance as respects performance of subject contract.
3. All policies, except Professional Liability insurance if applicable, waive rights of recovery (subrogation) against City of Scottsdale, its agents, representatives, officers, directors, officials and employees for any claims arising out of work or services performed by Engineer under this Contract.
4. Certificate shall cite a 30-day advance notice of cancellation provision. If ACORD Certificate of Insurance form is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or

representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

4.2 Required Coverage

4.2.1 Commercial General Liability: Engineer shall maintain "occurrence" form Commercial General Liability insurance with a limit of not less than $1,000,000 for each occurrence, $2,000,000 Products and Completed Operations Annual Aggregate, and a $2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, and personal injury and advertising injury. Coverage under the policy will be at least as broad as Insurance Services Office, Inc. policy form CG 00 01 07 98 or equivalent thereof, including but not limited to, separation of insureds clause. If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

4.2.2 Professional Liability: If the Contract is the subject of any professional services or work, or if Engineer engages in any professional services or work adjunct or residual to performing the work under this Contract, Engineer shall maintain Professional Liability insurance covering errors and omissions arising out of the work or services performed by Engineer, or anyone employed by Engineer, or anyone for whose acts, mistakes, errors and omissions Engineer is legally liable, with a liability insurance limit of $1,000,000 each claim and $2,000,000 all claims. In the event the Professional Liability insurance policy is written on a "claims made" basis, coverage shall extend for three (3) years past completion and acceptance of the work or services, and Engineer shall be required to submit Certificates of Insurance evidencing proper coverage is in effect as required above.

4.2.3 Vehicle Liability: Engineer shall maintain Business Automobile Liability insurance with a limit of $1,000,000 each accident on Engineer's owned, hired, and non-owned vehicles assigned to or used in the performance of the Engineer's work or services under this Contract. Coverage will be at least as broad as Insurance Services Office, Inc. coverage code "1" "any auto" policy form CA 00 01 07 97 or equivalent thereof. If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

4.2.4 Workers Compensation Insurance: Engineer shall maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Engineer's employees engaged in the performance of work or services under this Contract, and shall also maintain Employers' Liability Insurance of not less than $100,000 for each accident, $100,000 disease for each employee and $500,000 disease policy limit.

5.0 SOFTWARE LICENSES

As to all software licenses provided to the City as part of Engineer's obligations under this Contract, the following provisions apply:

5.1 SOURCE CODE AVAILABILITY

5.1.1 Engineer shall furnish City, without charge, a single copy of the Source Code for the Software immediately upon the occurrence of any of the following:

1. Engineer becomes insolvent; or
2. Engineer ceases to conduct business; or
3. Engineer makes a general assignment for the benefit of creditors; or
4. A petition is filed in Bankruptcy by or against Engineer.

5.1.2 Use of the Source Code shall be subject to the same restrictions as to which the Software itself is subject.

5.1.3 City shall have the right to modify Source Code in any manner it deems appropriate, provided that the Source Code as modified shall remain subject to the restrictions set forth in 5.1.2 immediately above.

5.2 PROPRIETARY PROTECTION

5.2.1 City acknowledges that to the extent Engineer advises the City that the Software is confidential information or is a trade secret property of the Engineer, the Software is thereby disclosed on a confidential basis under this Contract and is to be used only pursuant to the terms and conditions set forth herein.

5.2.2 Engineer shall not use or disclose any knowledge, data or proprietary information relating to City obtained in any manner whatsoever.

5.2.3 To the extent permitted by Arizona Law, the parties agree, both during the term of this Contract and for a period of seven (7) years after termination of this Contract and of all licenses granted hereunder, to hold each others' confidential information in confidence. The parties agree, unless required by government regulations or order of court, not to make each others' confidential information available in any form to any third party or to use each other's confidential information for any purposes other than the implementation of this Contract provided, however, that if Engineer's confidential information is requested to be divulged under the provisions of the Arizona Public Records Act, A.R.S., Title 39, Engineer shall reimburse to City the full cost of City's refusal to release the information, including costs of litigation, City's attorney fees, fines, penalties or assessments of opposing party's attorney fees. Each party agrees to take all reasonable steps to ensure that confidential information is not disclosed or distributed by its employees or agents in violation of the provisions of this Contract.

5.3 NON-INFRINGEMENT

Engineer warrants that the Software provided hereunder does not and will not infringe upon or violate any patent, copyright, trade secret or other proprietary or property right of any person or entity.

In the event of a claim against City asserting or involving such an allegation, Engineer will defend, at Engineer's expense, and will indemnify City and hold City harmless against any loss, cost, expense (including attorney fees) or liability arising out of such claim, whether or not such claim is successful. In the event an injunction or order should be obtained against use of the Software by reason of the allegations, or if in Engineer's opinion the Software is likely to become the subject of such a claim of infringement, Engineer will, at its option and its expense: (I) procure for the City the right to continue using the Software; or (ii) replace or modify the same so that it

becomes non-infringing (such modification or replacement shall be functionally equivalent to the original); or (iii) if neither (i) nor (ii) is practicable, repurchase the Software on a depreciated basis utilizing a straight line five (5) year period, commencing on the date of acceptance.

5.4 THIRD PARTY LICENSE

Engineer shall sublicense to City any and all third party Software required in the execution of this Contract. City reserves the right to accept or reject third party license terms. If City rejects the terms of a third party license, it shall be Engineer's responsibility to negotiate acceptable terms or to supply Software from another source with terms acceptable to City. City's acceptance of the third party license terms shall not be unreasonably withheld.

6.0 SEVERABILITY AND AUTHORITY

6.1 SEVERABILITY

If any term or provision of this Contract shall be found to be illegal or unenforceable, then notwithstanding such illegality or unenforceability, this Contract shall remain in full force and effect and such term or provision shall be deemed to be deleted.

6.2 AUTHORITY

Each party hereby warrants and represents that it has full power and authority to enter into and perform this Contract, and that the person signing on behalf of each party has been properly authorized and empowered to enter this Contract. Each party further acknowledges that it has read, understands, and agrees to be bound by the terms and conditions of this Contract.

7.0 REQUEST FOR TAXPAYER I.D. NUMBER & CERTIFICATION I.R.S. W-9 FORM

Prior to any contract payment being made, the attached I.R.S. Form ***must*** be completed and submitted to the following address:

City of Scottsdale
Accounts Payable Division
7447 E. Indian School Rd.
Scottsdale, AZ 85251

IN WITNESS WHEREOF, the City of Scottsdale by its Mayor and City Clerk have hereunto subscribed their names this 30th day of June, 2003.

CITY OF SCOTTSDALE

Mary Manross, Mayor

ENGINEER: Kenneth E. Spiker
Kenneth E. Spiker, P.E.
Vice President

ATTEST:

Sonia Robertson, City Clerk

Monroe C. Warren
Purchasing Director

Myron Kuklok
Risk Management Director

Charles W. Henne
Contract Administrator

APPROVED AS TO FORM:

David A. Pennartz
City Attorney

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY) 04/28/2003

PRODUCER (908)654-0300 FAX (908) 654-0332
Slapin, Lieb Pike and Rampolla Insurance Services
for Commerce and Industry
200 Sheffield Street, Suite 104
Mountainside, NJ 07092-2314

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED Malcolm Pirnie Inc.
104 Corporate Park Drive
P.O. Box 751
White Plains, NY 10602-0751

INSURERS AFFORDING COVERAGE	
INSURER A:	CENTENNIAL INSURANCE COMPANY
INSURER B:	STEADFAST INSURANCE COMPANY
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY [X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [ ] PROJECT [ ] LOC	299405355 (SEE ATTACHED FOR COMMENTS IF ANY)	11/01/2002	11/01/2003	EACH OCCURRENCE FIRE DAMAGE (Any one fire) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 50,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 1,000,000
A	AUTOMOBILE LIABILITY [X] ANY AUTO [ ] ALL OWNED AUTOS [ ] SCHEDULED AUTOS [X] HIRED AUTOS [X] NON-OWNED AUTOS	299405355 (SEE ATTACHED FOR COMMENTS IF ANY)	11/01/2002	11/01/2003	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
	GARAGE LIABILITY [ ] ANY AUTO				AUTO ONLY - EA ACCIDENT OTHER THAN AUTO ONLY: EA ACC AGG	$ $ $
B	EXCESS LIABILITY [X] OCCUR [ ] CLAIMS MADE [ ] DEDUCTIBLE [ ] RETENTION $	SE05871008-00 (SEE ATTACHED FOR COMMENTS IF ANY)	11/01/2002	11/01/2003	EACH OCCURRENCE AGGREGATE	$ 20,000,000 $ 20,000,000 $ $ $
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	401551969 (SEE ATTACHED FOR COMMENTS IF ANY)	11/01/2002	11/01/2003	[X] WC STATUTORY LIMITS [ ] OTHER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
	OTHER					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS
Re:Scottsdale GAC Contract

...See attached for details....

*except 10 days for non-payment.

CERTIFICATE HOLDER [ ] ADDITIONAL INSURED; INSURER LETTER

City of Scottsdale
Mr. Charles W. Menne
Capital Project Management
7447 E.Indian School Rd,Ste205
Scottsdale, AZ 85251

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL XXXXXXXX MAIL 30* DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

AUTHORIZED REPRESENTATIVE
Richard P. Rampolla Exec. V.P.

©ACORD CORPORATION 1988

Endorsements or Modifications as Applicable: (copies attached)

General Liability: 1/A, 2, 3, 4, 5, 6
Automobile: 1/B, 3, 4, 5, 6
Excess Liability: 1/C, 2, 3, 5, 6
Workers Compensation: 3

OPERATIONS OF THE NAMED INSURED INCLUDING SCOTTSDALE GAC CONTRACT

1/A: CITY OF SCOTTSDALE, ITS AGENTS, REPRESENTATIVES, OFFICERS, DIRECTORS, OFFICIALS AND EMPLOYEES ARE INCLUDED AS ADDITIONAL INSUREDS, BUT ONLY FOR WORK PERFORMED BY MALCOLM PIRNIE, INC. PER CG 20 10 11 85, COPY ATTACHED.

1/B: CITY OF SCOTTSDALE, ITS AGENTS, REPRESENTATIVES, OFFICERS, DIRECTORS, OFFICIALS AND EMPLOYEES ARE INCLUDED AS ADDTITIONAL INSUREDS, PER CA 20 48 07 97, COPY ATTACHED.

1/C: CITY OF SCOTTSDALE, ITS AGENTS, REPRESENTATIVES, OFFICERS, DIRECTORS, OFFICIALS AND EMPLOYEES ARE INCLUDED AS ADDITIONAL INSUREDS, PER FOLLOW FORM OF UNDERLYING.

(2) EXCLUDES PROFESSIONAL LIABILITY.

(3) INCLUDES WAIVER OF SUBROGATION.

(4) THIS INSURANCE IS PRIMARY TO THE EXTENT COVERAGE IS PROVIDED BY THE POLICY TO THE COVERAGE OF THE CERTIFICATE HOLDER AS RESPECTS WORK PERFORMED FOR THE CERTIFICATE HOLDER BY MALCOLM PIRNIE, INC.

(5) INCLUDES CONTRACTUAL LIABILITY INSURANCE TO THE EXTENT COVERAGE IS PROVIDED BY THE POLICY.

(6) INCLUDES SEVERABILITY OF INTEREST.

****

POLICY NUMBER: 299-40-50-55

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS (FORM B)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

AS ON FILE WITH THE COMPANY

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement effective 11/01/2002	Policy No. 299-40-53-55
Named Insured MALCOLM PIRNIE, INC.	Countersigned by (Authorized Representative)

SCHEDULE

Name of Person(s) or Organization(s): AS ON FILE WITH COMPANY

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations or above Schedule as applicable to the endorsement.)

Each person or organization indicated above is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in SECTION II of the Coverage Form.

Copyright, Insurance Services Office, Inc., 1996

POLICY CHANGE

Effective 11/01/2002 , this endorsement forms a part of Policy No. 299-40-53-55
(At the time stated in the policy)

issued to MALCOLM PIRNIE, INC.
(SEE AIL 03 #2)

PRODUCER: SLAPIN, LIEB, PIKE & RAMPOLLA

by CENTENNIAL Insurance Company

(The information provided for above is required to be completed only when this endorsement is issued for attachment to the policy subsequent to its effective date.)

WAIVER OF SUBROGATION

In the event of any payment under this policy, the company agrees to waive its rights under the subrogation conditions against any person or organization where required by contract.

President

Authorized Representative

1-18-1643 11/28/01 DAS CPW

POLICY CHA

AtlanticMutual Companies

CONTRACT

Effective 11/01/2002 (At the time stated in the policy), this endorsement forms a part of Policy No. 401-55-19-6

issued to MALCOLM PIRNIE, INC.

PRODUCER: SLAPIN, LIEB, PIKE & RAMPOLLA

by CENTENNIAL Insurance Company

(The information provided for above is required to be completed only when this endorsement is issued for attachment to the policy subsequent to its effective date.)

WAIVER OF SUBROGATION ENDORSEMENT

IN THE EVENT OF ANY PAYMENT UNDER THIS POLICY, THE COMPANY AGREES WAIVE ITS RIGHTS UNDER THE SUBROGATION CONDITION AGAINST ANY PERSO OR ORGANIZATION WHERE REQUIRED BY CONTRACT.

All other terms and conditions of this insurance remain unchanged.

CPW PVT 01/10/2001 18-1643

President

Authorized Representative

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY): 04/28/2003

PRODUCER	
(908)654-0300 FAX (908)-654-0332 Slapin, Lieb Pike and Rampolla Insurance Services for Commerce and Industry 200 Sheffield Street, Suite 104 Mountainside, NJ 07092-2314	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED	INSURERS AFFORDING COVERAGE
Malcolm Pirnie Inc. 104 Corporate Park Drive P.O. Box 751 White Plains, NY 10602-0751	INSURER A: CONTINENTAL CASUALTY COMPANY INSURER B: INSURER C: INSURER D: INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
	GENERAL LIABILITY ☐ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC				EACH OCCURRENCE	$
					FIRE DAMAGE (Any one fire)	$
					MED EXP (Any one person)	$
					PERSONAL & ADV INJURY	$
					GENERAL AGGREGATE	$
					PRODUCTS - COMP/OP AGG	$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident)	$
					BODILY INJURY (Per person)	$
					BODILY INJURY (Per accident)	$
					PROPERTY DAMAGE (Per accident)	$
	GARAGE LIABILITY ☐ ANY AUTO				AUTO ONLY - EA ACCIDENT	$
					OTHER THAN AUTO ONLY: EA ACC	$
					AGG	$
	EXCESS LIABILITY ☐ OCCUR ☐ CLAIMS MADE ☐ DEDUCTIBLE RETENTION $				EACH OCCURRENCE	$
					AGGREGATE	$
						$
						$
						$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATU-TORY LIMITS / OTH-ER	
					E.L. EACH ACCIDENT	$
					E.L. DISEASE - EA EMPLOYEE	$
					E.L. DISEASE - POLICY LIMIT	$
A	OTHER Professional Liability	AEA 00 821 40 23	11/01/2002	11/01/2003	$10,000,000 Per Claim and Annual Aggregate Including Claims expense	

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

Re: Scottsdale GAC Contract

*except 10 days for non-payment.

CERTIFICATE HOLDER ☐ ADDITIONAL INSURED; INSURER LETTER	CANCELLATION
City of Scottsdale Mr. Charles W. Henne Capital Project Management 7447 E.Indian School Rd,Ste205 Scottsdale, AZ 85251	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL XXXXXXXX MAIL 30* DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX AUTHORIZED REPRESENTATIVE Richard Rampolla, Exec. V.P.

ACORD 25-S (7/97)

©ACORD CORPORATION 1988

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

EXHIBIT A

SCOPE OF WORK
FOR

CITY OF SCOTTSDALE

REGULATORY COMPLIANCE IMPROVEMENTS PROJECT
CENTRAL ARIZONA PROJECT (CAP) WATER TREATMENT PLANT (WTP)
PROJECT NO. W0202

Phase I: Design & Bid Phase Assistance

INTRODUCTION

The City of Scottsdale's Water Department always strives to provide the highest quality service to its citizens. To support this effort, the City is continually updating and upgrading facilities to ensure the best water quality is provided to its citizens. The primary purpose of this project is to comply with Federal regulations for disinfection by-products in public water supplies (Stage 2 Disinfection/Disinfectant By-products Rule promulgated by the U.S. Environmental Protection Agency under the Federal Safe Drinking Water Act). This project will add a post filtration Granular Activated Carbon (GAC) facility to the existing CAP Water Treatment Plant (WTP). The addition of a GAC facility will allow the City to meet more stringent water quality regulations and improve the taste and overall water quality for the areas served by CAP water. This project will also include an evaluation to determine the most cost effective security improvements to the CAP WTP to prevent unauthorized access to the treatment plant and protect key treatment plant assets.

The current hydraulic capacity of the CAP WTP is 55 million gallons per day (MGD). The existing CAP WTP will be expanded to a capacity of 75 MGD under a future project. This scope of work has been developed based upon designing a GAC facility with a treatment capacity of 55 MGD, and includes the infrastructure, and empty GAC contactors to allow for the treatment capacity of the GAC facility to be expanded to 75 MGD in the future.

The project will be completed in the following two major phases:

Phase I:	Design & Bid Phase Assistance
Phase II:	Construction Phase Services

This scope of work includes Phase I services only. At the option of the City, a subsequent contract amendment for Phase II services may be negotiated upon completion of final design for the facility, as described in the scope of work below.

The scope of work to be performed in Phase I includes eight basic engineering design services tasks, eight special services tasks, and three allowance tasks as follows:

Basic Engineering Services: (Lump Sum)

Task No.	Title
1	Perform Project Management
2	Perform GAC Testing and Evaluation
3	Develop Schematic Design/Basis of Design Report
4	Perform Cost Analysis
5	Develop Detailed Design Documents
6	Provide Permitting Support Services
7	Perform Detailed QA/QC Checks
8	Provide Bidding Process Assistance

Special Services: (Hourly Rate Not To Exceed)

Task No.	Title
S1	Potholing Services
S2	Geotechnical Investigation
S3	GAC Facility Site Survey
S4	Municipal Use Master Site Plan Application Technical Support
S5	DRB Submittal Technical Support
S6	CAP WTP Operational Improvements
S7	Site Security Improvements Evaluation
S8	Obtain Aquifer Protection Permit for CAP WTP

Allowances: (Invoiced At Cost)

Task No.	Title
A1	Deliverable Reproduction
A2	Expertise Travel/Subsistence
A3	Permitting Fees

The Basic Engineering Services tasks will be conducted according to the schedule below. Special Services and Allowances Tasks will run concurrent with Basic Engineering Services.

Phase I Tasks	Completion (in months after Notice-to-Proceed)
1. Perform Project Management	14
2. Perform GAC Testing and Evaluation	3
3. Develop Schematic Design/Basis of Design Report	8
4. Perform Cost and Schedule Analysis	12
5. Develop Detailed Design Documents	12
6. Permitting Support Services	14
7. Perform Detailed QA/QC Checks	12
8. Perform Bidding Process Assistance	14

The scope of work for each task is fully described in the following sections.

Task 1: Perform Project Management

The Engineer shall perform overall project management over the GAC Facilities schematic, final design and related efforts of this project as detailed in the following subtasks:

1.1 Track Project Progress and Schedule: The Engineer shall report the progress of the project through the use of a computer-based project management system which includes all major activities of the scope of services. The Engineer shall update the schedule on a regular basis and provide the updated schedule to the City. The City will receive updated reports summarizing information on project progress included in each monthly invoice statement as required by the agreement.

1.2 Conduct Biweekly Project Update Meetings and Make Required Presentations: The Engineer shall conduct up to twenty four biweekly update meetings with the City's Project Management staff, CAP WTP staff, and construction liaison staff, to discuss the progress and direction of the project, report on decisions made and progress to date, upcoming project elements that will be completed, and to discuss specific technical aspects of the work. The Engineer shall provide appropriate agenda and meeting minute documentation for each meeting. Meeting minutes shall be submitted within five days of the meeting date. The Engineer shall also maintain an action item checklist, which shall be attached to the meeting minutes to document team assignments and decisions resulting from the meetings.

1.3 Manage Subconsultants: The Engineer shall manage the firms providing services for the completion of this project. The Engineer shall review the progress of the services being performed, correctness of partial payment requests, and payment of firms.

Task 2: Perform GAC Testing and Evaluations

The Engineer shall determine the design criteria for the GAC facility. Recommendations for empty bed contact time (EBCT), GAC type, and GAC replacement frequency will be developed. The operating mode of the GAC facility (i.e., the replacement logistics) will also be determined. The services for Task 2 shall include the following subtasks:

2.1 Compile Existing GAC Studies on CAP Water: Engineer shall review applicable bench and pilot-scale testing conducted by other entities on CAP water. Up to five sources of information will be analyzed to determine whether relevant bench- and pilot-scale testing results are available. The City shall provide to the Engineer all available test results on their water and other waters completed for the City by other consultants. The results from this effort will be summarized in the form of a PowerPoint presentation to City staff.

2.2 Conduct Rapid Small Scale Column Tests (RSSCT) – Supplement Existing Evaluations: Engineer shall perform up to three RSSCT experiments, including 3 simulated distribution system disinfection byproduct (SDS-DBP) analyses per RSSCT test, to refine the preliminary design criteria developed in Task 2.1. The results of these tests along with the compilation of previous studies done on CAP water will be utilized to determine the final design criteria with respect to the size of the GAC facility in terms of EBCT. Results of these experiments will also be utilized to determine the most appropriate GAC replacement frequency.

2.3 Develop GAC Adsorption Process Design Criteria: Based upon the evaluations conducted in Tasks 2.1 and 2.2, the Engineer shall determine the final process design criteria for the GAC facility. An analysis will be performed to evaluate alternative operating logistics to determine the best operational strategy for the carbon facility. The alternative analysis will address issues regarding water quality fluctuations and operational ease.

Task 3: Develop Schematic Design/Basis of Design Report

A prerequisite to the preparation of plans and specifications for the GAC Facilities project is the development of a specific design agenda which incorporates the project and site conditions and constraints, summarizes the rationale for each detailed design decision, and contains comprehensive design criteria including hydraulics, process control criteria, and process descriptions for each component and system incorporated into the project. The schematic design phase of this project will include the following subtasks:

3.1 Conduct Hydraulic Analysis: The Engineer shall conduct hydraulic analyses as required to determine the best approach to incorporate the new GAC facility, and potential future ultraviolet (UV) disinfection facilities, into the existing CAP WTP hydraulic profile. The hydraulic analyses will establish the elevations of the future UV facility, the new GAC facility seal well and resulting elevations for the GAC contactors, and the required conveyance and bypass piping sizes. The evaluation will include modeling and analysis of the following alternatives:

- Gravity flow from the existing filters though the new GAC facility and potential future UV facilities, to the existing finished water reservoirs. Evaluation of this alternative will include an assessment of a low-profile design approach for the GAC contactors, including pros and cons of the approach.
- A low-lift GAC influent pumping station to convey flow from the existing backwash supply pump station wet well through the GAC facility, future UV facility, and to the existing finished water reservoirs.
- Gravity flow from the existing backwash supply pump station wet well through the new GAC facility, and a low-lift post-GAC pumping station to convey flow through the future UV facility to the existing finished water reservoirs.

The results of the hydraulic analysis and the recommended alternative will be presented during one of the project meetings (Task 1.2) for review by City staff. Once the City has reviewed and approved the selected alternative, a hydraulic profile of the selected alternative will be developed for the CAP WTP that incorporates the new GAC facility and potential future UV facility. The hydraulic profile will be submitted to the City as part of the Basis of Design report (Task 3.9).

3.2 Develop GAC Contactor Configuration and Preliminary Details: Based upon the results of the GAC testing and evaluations conducted under Task 2, the Engineer shall develop the configuration of the GAC contactors, including preliminary details for the contactor underdrain system, carbon charge fill and removal system, and appurtenant piping and valves. The configuration and details will be presented during one of the project meetings (Task 1.2) for review and approval by City staff.

3.3 Develop Backwash Supply and Waste Washwater Recovery Strategy: The Engineer shall estimate the backwash and carbon transport water requirements of the GAC facility and evaluate the capability of the existing CAP WTP backwash supply infrastructure to provide bed fluidization, backwash supply, and carbon transport water for the GAC facility. Existing washwater recovery facilities and operations at the CAP WTP will be reviewed. The results of the evaluations and recommendations will be presented during one of the project meetings (Task 1.2) for review and approval by City staff. Necessary facilities and operational modifications to the existing CAP WTP for washwater supply and recovery will be identified and described in the Basis of Design report (Task 3.9).

3.4 Develop Structural Design Criteria: The Engineer shall prepare structural design criteria for the proposed GAC Facility structures based on the geotechnical information provided under Task S2. The structural design criteria shall be reviewed during one of the project meetings (Task 1.2), and approved by the City prior to beginning detailed design. Four draft and four final copies of the structural design criteria memorandum will be delivered to the City.

3.5 Develop Preliminary Architectural Theme/Concepts/Layouts: The Engineer shall develop an architectural theme concept for the GAC facility, including building layout and elevation illustrations, as a means to begin communications with the City's Development Review Board and to guide the design of visible elements of the facility. The architectural concept will include the general building architectural style, major exterior architectural elements and materials, and a preliminary interior floor plan addressing all operational and functional needs of the building. The architectural concepts will be presented during one of the project meetings (Task 1.2) for review and approval by City staff. The architectural concept will be presented in the Basis of Design report (Task 3.9).

3.6 Develop Preliminary Site and Landscape Plans and Drainage Report: The Engineer shall develop a preliminary site improvements plan and landscaping concept to integrate the new GAC facility into the CAP WTP. The site plan will include an emphasis on the strategy for carbon truck access and GAC changeout staging, along with integration of the new facilities into the CAP WTP while minimizing impacts to major existing buried infrastructure. In conjunction with preparing the site plans, the Engineer shall, using applicable local guidelines, determine requirements for management of site drainage resulting from the proposed improvements, including detention/retention, if required, that will be necessary for protection of existing and proposed facilities. The preliminary site and landscape plans will be presented during one of the project meetings (Task 1.2) for review and approval by City staff. The preliminary site and landscaping plans and the site drainage requirements will be presented in the Basis of Design report (Task 3.9).

3.7 Conduct Code Evaluation: The Engineer shall conduct a code classification and compliance evaluation in conjunction with the Basis of Design phase. The evaluation will summarize code classifications and compliance issues for all new spaces within enclosed structures. The code evaluation will be submitted to applicable City departments for review and comment prior to its inclusion in the Basis of Design Report (Task 3.9). A meeting will be held with the City's project manager and City code compliance officers, as appropriate, to resolve all

code classifications and issues prior to proceeding with preparation of plans and specifications.

3.8 Update CAP WTP Master Site Plan: A conceptual-level update of the existing master site plan (*Damon S. Williams & Associates, 2002*) will be prepared to illustrate the layout of the GAC facility and associated site improvements and major piping along with all other currently-planned treatment process expansions to expand the CAP WTP capacity to 75 MGD and an additional finished water storage reservoir, as directed by City staff. This conceptual master site plan will be included in the Basis of Design Report (Task 3.9).

3.9 Prepare Basis of Design Report: The Basis of Design Report will encompass the development of Basis of Design chapters for each component of the project, which shall be prepared by the Engineer, presented and submitted to the City for comment, and then reviewed with the City at one of the bi weekly project meeting (Task 1.2). The project components for which the Basis of Design chapters will be provided include the analysis and evaluations developed in Tasks 3.1 to 3.8. Each chapter in the Basis of Design Report will contain, where appropriate, the following information for the required facilities.

- Introduction
- Process Description
- Special Materials of Construction
- Equipment Sizing/Selection/Layout
- System/Process Control Descriptions and Schematics
- Special Construction/Operation Requirements and Constraints
- Requirements for GAC Expansion to 75 MGD
- Sole Source Equipment Requirements
- Equipment Data Sheets
- Opinion of Probable Construction Costs (Developed under Task 4.0)

As each chapter or group of chapters is completed, it will be delivered to the City for review followed by a project review meeting (Task 1.2). Upon completion of the review process for all the chapters, a draft Basis of Design report shall be submitted to the City for review and comment. Five copies of the draft report shall be provided to the City. Once the detailed design for the facilities is 60 percent complete, the draft Basis of Design Report will be finalized and bound into a final Basis of Design Report. Five copies of the final Basis of Design report shall be provided to the City.

Task 4: Perform Cost and Schedule Analysis

The Engineer shall develop opinions of probable construction costs and develop a planning level construction schedule and shall submit them with the required project deliverables as listed below:

4.1 Schematic/Basis of Design Submittal

4.2 30% Design Phase Submittal

4.3 90% Design Phase Submittal

4.4 Final Design Phase Submittal

All costs shall be projected to the midpoint of construction, and each submittal shall contain a summary of the costing criteria and takeoff information utilized.

Task 5: Develop Detailed Design Documents

Using the work developed in Task 3 as a basis, the Engineer shall prepare plans and specifications for the proposed GAC facilities. The scope and budget for this task has been developed based upon the following criteria:

- Drawings shall be developed on 24"x36" sheets using AutoCAD 2000, and shall follow the AIA short form layering system.
- Specifications shall be developed using the latest edition of Microsoft Word.
- The work will be bid under a single general construction contract.
- Design documents will be prepared consistent with the City-adopted versions of the following standards documents, and where available, standard specifications and details will be incorporated by reference into the project bidding documents:
  - City of Scottsdale Design Standards and Policy Manual
  - MAG Uniform Standard Specifications and Details for Public Works Construction.
  - The City of Scottsdale's Supplement to MAG Standard Specifications and Details for Public Works Construction.
  - City of Scottsdale Building Codes and ordinances.

The plans and specifications shall be prepared in accordance with the following subtasks:

5.1 Prepare 30% Design Documents. Initially a 30% set of plans and a table of contents for the anticipated specifications sections shall be developed. Input from City staff shall be obtained during this portion of the design through the bi-weekly meetings with City staff in accordance with Subtask 1.2. The documents shall include partial sets of the following discipline drawings:

- General
- Civil
- Process/Mechanical
- Structural
- Architectural
- Instrumentation and Control
- Electrical

Three half-sized sets of the 30% plans shall be submitted to the City for review and comment. At the completion of the 30% set of plans, a Design Alignment Review will be conducted using the Engineer's senior level design staff and City operations and construction staff (Task 7.1)

5.2 Prepare 60% Design Documents. Following review of the 30% plans during the biweekly project meetings (Task 1.2), the documents will be developed to the 60% completion level. Input from City staff shall be obtained during this portion of the design through regularly

scheduled meetings with City staff in accordance with Subtask 1.2. The documents shall include partially completed sets of the following discipline drawings and specifications:

- General
- Civil
- Landscape/Irrigation
- Process/Mechanical
- Structural
- Architectural
- HVAC
- Plumbing
- Fire Protection
- Instrumentation and Control
- Electrical

Technical specifications shall be prepared in accordance with Construction Specifications Institute (CSI) Division 1 through 17 organization. Front-end contract documents (bidding documents, agreement, general and supplementary conditions, etc.) and City of Scottsdale Special Provisions boilerplate shall be prepared by the City and provided in hard-copy format to the Engineer for coordination purposes in preparation of the General Requirements (Division 1) and the technical specifications.

At the completion of the 60% design document phase, a list of anticipated Maintenance of Plant Operation (MOPO) procedures shall be developed and submitted to the City for review. The MOPO procedures will outline the outages and sequences required to perform new equipment and infrastructure connections and terminations to the existing facilities. The MOPO's will also establish any outage durations and constraints related to each MOPO activity identified.

Six full size and three half size sets of the 60% plans and six sets of the specifications shall be submitted to the City for review and comment. At the completion of the 60% set of plans, a Design Alignment Review will be conducted using the Engineer's senior level design staff and City operations and construction staff (Task 7.1)

5.3 Prepare 90% Design Documents. Following review of the 60% set of plans and specifications, the plans and specifications shall be taken from the 60% to the 90% level. City input shall be maintained though the biweekly project meetings (Task 1.2). At the completion of the 90% design, a detailed QA/QC review shall be performed in accordance with Task 7.1.

Eleven full size and three half size sets of the 90% plans, and six sets of the specifications shall be submitted to the City for review and comment.

5.4 Prepare Final Design Documents. Following the QA/QC review (Task 7) and receipt of review comments from and the City's Plan Review Department the plans and specifications will be prepared for review by local permitting agencies. The design documents shall be submitted to MCESD in order to obtain the applicable approvals to construct the project (Task 6.4). Following review and receipt of comments from MCESD, the plans and

specifications will be finalized. The Engineer shall, as final design product deliverables, deliver to the Capital Projects Management the following:

- One reproducible (hardcopy) master set of bidding documents; plans and specifications.
- One electronic (softcopy - WordPerfect and AutoCAD) master set of plans and specifications on a CD.
- Two sets of full size bound copies of the plans and specifications.
- One electronic format CD of the Final Basis of Design Report, Final Calculations, and Final/Approved Equipment Data Sheets developed for this project.

Task 6: Provide Permitting Support Services

The Engineer shall provide permitting assistance to the City. This scope of services explicitly excludes requirements related to state agencies for archaeological clearance (SHPO), biological evaluation, Stormwater Pollution Prevention Plan, Risk Management Plan (RMP), Process Safety Management Plan (PSMP), and the Army Corps of Engineers (ACOE) for any jurisdictional waters designation for the wash(es) on the new property to the west of the plant. Permitting support services will be based upon the following subtasks:

6.1 Develop Permitting Matrix. The Engineer shall work with the City staff to coordinate with those agencies involved in the completion of this project. The Engineer shall develop a matrix identifying permit requirements, schedule, and responsible party for the permitted activities associated with the GAC Facilities and the new standby generators located on the CAP site (designed under the Water Campus Expansion project). Anticipated permitting activities to be performed under this contract are described below. It is anticipated that coordination with the following agencies will be required:

- Maricopa County Environmental Services Department (MCESD)
- Arizona Department of Environmental Quality

6.2 Hazardous Materials Management Plan (HMMP) for CAP WTP: An HMMP is required for the CAP WTP due to the storage of hazardous materials above the 1998 Uniform Fire Code (UFC) threshold values at the WTP. The HMMP sets forth procedures to minimize chances of accidents, implement proper hazardous materials monitoring systems, and develop emergency response procedures. As a result of the standby power generators being designed under the Water Campus Expansion project and located on the CAP site, the CAP WTP will introduce additional hazardous materials to the facility that will require on-site storage. The Engineer shall review the existing Water Campus HMMP, employee/operator training procedures, inspection and record keeping, and hazardous waste disposal procedures at the WTP. After reviewing the existing documentation, the Engineer shall meet with the Fire Department to discuss any necessary changes to the HMMP format established for the Water Campus and required technical content associated with the implementation of the new facilities at the CAP WTP. Based on the file review and discussions with the Fire Department, the Engineer shall develop the following sections of the CAP WTP HMMP to incorporate the design, installation, and operation of the GAC facility:

- General Facility Information
- General Site Map
- Building Floor Plans and Hazardous Materials Storage Plans

- Roof Plans
- Vulnerability Analysis
- Hazardous Material Inventory (MSDSs)
- Portable Emergency Equipment
- Hazardous Materials Handling
- Chemical Compatibility and Separation
- Hazardous Waste Disposal
- Hazard Labeling and Warning Signs and Labels
- Monitoring Program
- Inspection and Record keeping
- Employee Training
- Other Hazardous Materials Related Permits
- Contingency Plan / Emergency Response Plan

A draft copy of the HMMP will be submitted to the City for review. The HMMP will be reviewed by the City and at the bi-weekly project meeting, will be discuss with the Engineer to address any questions and/or comments regarding the document. The Engineer shall then incorporate any changes requested by the City prior to finalizing the HMMP and submitting it to the Fire Department.

6.3 Obtain Non-Minor Revision to Existing Water Campus Air Quality Operating Permit: Since the CAP WTP facility is adjacent to the Water Campus, and both facilities are owned and operated by the City, the Maricopa County Environmental Services Department (MCESD) will require the standby power generators, being design under the Water Campus Expansion project and located on the CAP site, be added to the Water Campus air permit as opposed to issuing a new air permit for the CAP WTP. Adding the standby power generators will not cause a significant net emissions increase, as defined in the Maricopa County air quality regulations, and after adding the standby power generators to the existing Water Campus air permit, the air permit will remain a Non-Title V air permit.

The Engineer shall assist City staff to prepare documents to incorporate the standby power generators at the CAP WTP into the existing Water Campus air quality operating permit. Working with the City staff, the Engineer will conduct the following activities:

- Calculate emissions of regulated air pollutants from the standby power generators and other sources proposed for expanded Water Campus.
- Assess and develop any emission limits or operating limits that the City must accept to retain the Non-Title V status of the existing air permit.
- Prepare and submit Non-Minor revision documents and supporting information in accordance with the requirements of the MCESD.
- Provide additional information on the Non-Minor Revision to MCESD if required.
- Review the revised draft air permit prepared by MCESD.
- Negotiate air permit conditions with MCESD if required.
- Support the public comment process for the proposed revised permit, including attending a public hearing if necessary.
- Facilitate issuance of the permit invoice and payment of the invoice.
- Facilitate delivery of the final revised Non-Minor air permit to the City.

The adjacent locations of the Water Campus and the CAP WTP and the common ownership and control of the facilities by the City complicates the permit review and issuance process. It is recognized by the Engineer and City that due to this complexity, MCESD may conduct a more detailed review of the Non-Minor revision than is typically expected. This more detailed MCESD review may require an additional level of effort by the City and the Engineer to obtain the revised air permit than is currently established for this Task.

6.4 Obtain Maricopa County Department of Environmental Services Approval to Construct: The Engineer shall meet with the County at the 60% and 90% design phase to review the project and discuss potential issues. Prior to submitting final design documents (Task 5.4), the Engineer shall conduct a formal review meeting with the County. The Engineer shall respond to any comments from the County and incorporate any required revisions into the project plans and specifications. The Engineer shall submit final plans and specifications to the County for their approval and will assist the City in obtaining the County's Approval to Construct.

Task 7: Perform Detailed QA/QC Checks

7.1 Conduct Constructability and Operability Reviews: The Engineer shall provide the services of a Design Alignment Team (DAT) to provide overall design, constructability and operability review of the project. DAT meetings shall be conducted at specified points in the project and shall include designated members of City staff. Specific DAT review points shall include:

- After the completion of the draft Basis of Design Report.
- After the completion of the 30% design documents.
- After the completion of the 60% design documents.

7.2 Conduct Plan and Specification Coordination and Crosscheck: The Engineer shall perform a detailed QA/QC check of the plans and specifications for the work identified in Task 5 at the 90% stage. The detailed QA/QC check shall include the following:

- Review and check of the plans and specifications for conformity with the Engineer's Design Checklist.
- A coordination review and check of the plans with the specifications.
- A coordination check between the process/mechanical work with all specialty groups including site work paving and grading, yard piping, electrical, instrumentation, structural, architectural, HVAC, fire protection, and plumbing.

Task 8: Provide Bidding Process Assistance

The Engineer shall provide assistance to the City during the bidding process. The following bidding process assistance shall be performed:

8.1 Attend Pre-Bid Conference: The Engineer shall assist the City in conducting the pre-bid meeting and walk-through tour. The Engineer shall prepare the required presentation materials for the meeting.

8.2 Prepare Addenda: During the bidding period, the Engineer shall field questions from perspective bidders and prepare addenda as required. The Engineer shall submit the addenda to the City for reproduction and distribution.

8.3 Evaluate Pre-Bid Submittals: The Engineer shall assist the City in evaluating prequalification submittals for equipment and materials made during the bidding period. The Engineer shall prepare the required documents to accept or deny the submittals and issue any required changes through an addenda, as included under Subtask 8.2 above.

SPECIAL SERVICES

All Special Services Tasks identified below will be invoiced on an hourly rate not to exceed basis. The hourly rates shall be as identified Attachment 1 – Fee Schedule. Costs for each task must be approved and authorized by the City's Project Manager.

Task S1: Potholing Services

The Engineer shall develop a list of potholing requirements for verification of underground utilities, and shall submit the list to the City for review and approval. The Engineer shall provide, through a qualified subcontractor, potholing services (up to a maximum cost of $10,000) and shall work with the City to coordinate the potholing efforts. Once the subsurface utilities have been exposed, horizontal and vertical locations will be surveyed by the Engineer as needed.

Task S2: Geotechnical Investigation

The Engineer shall provide, through a qualified subconsultant, subsurface geotechnical investigations required to support the design of the GAC Facilities project. Geotechnical investigations shall be limited to those investigations required to supplement the geotechnical information available on the site from previous activities. Specific services to be provided shall include up to five structural borings to 25-feet depth or refusal and appropriate soils classifications including consolidation/swell tests to determine engineering properties. All data and findings will be summarized in a report presenting the results of the field and laboratory testing, and the recommendations for foundation support, including footing depth, bearing capacity, estimated settlement, lateral earth pressures and site grading and preparation procedures. Two copies of the report shall be submitted to the City.

Task S3: GAC Facility Site Survey

The Engineer shall provide, through a qualified subconsultant, site topographic survey of the CAP WTP site and the plant expansion area to the west to support the preparation of detailed plans for GAC facility and site security enhancements. A survey base sheet showing process structures and buildings, all relevant surface features, and any other information as needed to develop a complete and accurate base plan system for this project will be provided as part of this scope.

Task S4: Municipal Use (MU) Master Site Plan Application Technical Support

The Engineer shall prepare and file the MU application with the City. The Engineer shall be required to attend a Pre-Application meeting with the City's Project Manager and the City's Project Coordinator. At that meeting, the City's Project Coordinator will identify the submittal requirements based upon the Use Permit Shopping List. It is anticipated that the shopping list will require the following items to be completed by the Engineer and the City:

Task	By Engineer	By City or N/A
Part 1- General Requirements		
1. MU Master Site Plan Shopping List	X	
2. Completed Application Form	X	
3. Application Fee	X	
4. Letter of Authorization		X
5. Current Title Report		X
6. Legal Description		X
7. Project Narrative	X	
8. Combined Context Aerial and Site Plan	X	
9. Existing Conditions Photo Exhibit	X	
10. Assessor's Map		X
11. Site Location Map	X	
12. Community Input Certification		X
13. School District Notification		N/A
14. Policy for Appeal		N/A
15. Archeological Resources (survey & report)		X
16. Historic Property		N/A
17. Completed Airport Communication Form		N/A
18. Site Posting Requirements		N/A
Part 2- Required Plans and Related Data		
1. Site Plan	X	
2. Project Data Sheet	X	
3. Site Plan Worksheet	X	
4. Floor Plans	X	
5. Floor Plan Worksheet	X	
6. Elevations	X	
7. Conceptual Landscaping Plan	X	
8. Corporate Image Features		N/A
9. Lighting Details and Cut Sheets	X	
10. Photometric Analysis	X	
11. Lighting Site Plan	X	
12. Parking Study		N/A
13. Transportation Impact & Mitigation Analysis		N/A

14. Parking Master Plan			N/A
15. Drainage Report	X		
16. ESL Addendum			N/A

The scope of work and fee are based upon the Engineer attending one Planning Commission hearing and assisting in presenting any of the technical issues that may need to be explained about the project.

Task S5: Development Review Board (DRB) Submittal Technical Support

The Engineer shall prepare and file the DRB application with the City. The Engineer shall attend a Pre-Application meeting with the City's Project Manager and the City's Project Coordinator. At that meeting, the City's Project Coordinator will identify the submittal requirements based upon the Development Review Board Shopping List. It is anticipated that the shopping list will require the following items to be completed by the Engineer and the City:

Task	By Engineer	By City	or N/A
Part 1- General Requirements			
1. Development Review Shopping List	X		
2. Completed Application Form		X	
3. Application Fee	X		
4. Letter of Authorization			X
5. Current Title Report			X
6. Legal Description			X
7. Project Narrative	X		
8. Combined Context Aerial and Site Plan	X		
9. Existing Conditions Photo Exhibit	X		
10. Location Map	X		
11. Abbreviated Water & Sewer Need Report	X		
12. Policy for Appeal			N/A
13. Design Guidelines			N/A
14. Archeological Resources			X
15. Historic Property			N/A
16. Completed Airport Communication Form			N/A
17. Community Input Certification			N/A
18. Purchase Agreement			N/A
Part 2- Required Plans and Related Data			
1. Site Plan	X		
2. Project Data Sheet	X		
3. Site Plan Worksheet	X		
4. Site Cross Sections			N/A
5. Phasing Plans			N/A
6. Typical Lot Layout			N/A

7. Preliminary Art Plan				N/A
Part 3 – Architectural Plans and Documents				
1. Color Elevations	X			
2. Streetscape Elevations			N/A	
3. Perspective Drawing		X		
4. Floor Plans	X			
5. Floor Plan Worksheet	X			
6. Wall Details & Entry Feature (site wall)	X			
7. Corporate Image Features			N/A	
8. Sign Details			N/A	
Part 4- Lighting Plan				
1. Lighting Details	X			
2. Photometric Analysis	X			
3. Lighting Site Plan	X			
4. Cut Sheets of proposed lighting	X			
5. Accent & Landscape Lights	X			
Part 5- Engineering Reports & Related Requirements				
1. Results of ALTA			X	
2. Topo Map (2-foot contours)	X			
3. Drainage Report	X			
4. Parking Study			N/A	
5. Transportation Impact & Mitigation Analysis			N/A	
6. Parking Master Plan			N/A	
7. Cross Sectional Detail			N/A	
8. Water Study				X
9. Wastewater Study			X	
10. Letter of Approval for Fountains			N/A	
Part 6 – Environmental and Landscaping				
1. Conceptual Landscape Plan & Materials List	X			
2. Landscape Plan Worksheet	X			
3. Native Plant Submittal	X			
4. Revegetation Site Plan Techniques			N/A	
5. Topo/Aerial/Site Plan Overlay			N/A	
6. Slope Analysis			N/A	
7. Cuts & Fills			N/A	
8. Composite Factors Map			N/A	
9. Unstable Slope Map			N/A	
10. Bedrock Map			N/A	

11. Natural Area Open Space Plan		N/A	
12. Vista Corridor Plan		N/A	
13. Scenic Corridor Plan			N/A
Part 7 – Samples and Models			
1. Exterior Building Color & Material Samples	X		
2. Color Boards	X		
3. Massing Model		N/A	
4. Detailed Model		N/A	

The scope of work and fee are based upon the Engineer attending one DRB meeting and assisting in presenting any of the technical issues that may need to be explained about the project.

Task S6: CAP WTP Operational Improvements

Operational reliability of the existing CAP WTP facilities will be critical for implementation of the GAC project to maintain operations and treatment capacity of the WTP during integration of GAC facilities into the process flow stream for both Plants 1 and 2. The Engineer shall perform field investigations to determine the need to implement operational improvements to the existing CAP WTP as part of this GAC Facilities project. Operational improvements of existing CAP WTP facilities will be required to accommodate construction of the new GAC facilities. The field investigation will include site visits, testing and sampling as required, and developing operational improvement recommendations. The improvement investigation, evaluation and subsequent document preparation, if applicable, shall be limited to include the following items:

- Refurbish or replace Plant 1 chain and flights.
- Refurbish or replace the existing slide gates in the 5 existing sedimentation and filter basins.
- Repair or replace the existing drain plug valves at the sedimentation and filter basins, and make improvements to the existing basin isolation features to prevent leakage to the drains and the backwash pump station.
- Evaluate the need to provide additional media or media replacement in the existing Plant 1 filter basins. The evaluation will include measuring the depth of the media in the existing Plant 1 filter basins, sampling the existing media, performing limited on-line monitoring, and developing specifications to provide additional media in the filters as required to raise the level of the media to the original design depths and to achieve original filter media specifications.

Detailed design documents will be prepared for these items within the time-and-materials budget established for this Special Services task. The operational improvements design documents will be incorporated in to the overall project construction documents as identified in Task 5.

Task S7: Site Security Improvements Evaluation

Based upon the recently completed Vulnerability Assessment of the CAP WTP, the Engineer shall conduct an evaluation to determine the most cost effective security improvements for the CAP WTP. The evaluation will be conducted after the CAP WTP Master Site Plan (Task 3.8) has been approved by the City. The security improvements measures that will be evaluated include replacement and hardening of the existing perimeter fencing, remote controlled access gates, a card reader system for site access, improved detection and monitoring of the entire CAP WTP site with motion sensors,

remote cameras, and lighting, and other security devices and detectors for existing buildings. Following completion of the evaluation, the Engineer shall submit a technical memorandum detailing the security improvements evaluated, the costs associated with each of the improvements, and the improvements that are recommended to be implemented at the CAP WTP.

Task S8: Obtain Aquifer Protection Permit for CAP WTP

The Engineer shall review current and future liquids and solids generation associated with the water treatment activities at the plant and will evaluate the applicability of the Aquifer Protection Permit (APP) program to the CAP WTP. The Engineer shall prepare an Aquifer Protection Permit Determination of Applicability for ADEQ review. This submittal will include a description of the water treatment processes at the CAP WTP, description and quantity of any discharges associated with the facility, description and quantity of all waste produced by the facility, and local hydrogeologic information (i.e., depth to groundwater). Based on the information provided in this submittal, ADEQ will determine if the facility is required to apply for a General Permit or an Individual Permit.

If a General Permit is required, the Engineer shall prepare a Notice of Intent (NOI) submittal for ADEQ's review. This NOI shall include a description of the facility, characterization of the discharge (including analytical results), description of sampling and analytical procedures, descriptions on how the permit conditions will be met, and descriptions of any surface impoundments.

If an Individual Permit is required, the Engineer shall prepare an APP Application Package. Part of this preparation will include a pre-application meeting with ADEQ to discuss the required contents of the submittal. The Individual Permit application package will include the following information:

- Facility data (name, location, duration of operation, etc.)
- Applicant, Owner, and Operator information
- List of existing environmental permits
- Location map with local well information
- Site Plan
- Design Plans
- Characterization of discharge (analytical results)
- Demonstration of Best Available Demonstrated Control Technology (BADCAT) per A.A.C. R18-9-B204.
- Demonstration of Compliance with Aquifer Water Quality Standards
- Proposed Points of Compliance
- Demonstration of Technical Ability
- Demonstration of Financial Capability
- Discharge Impact Area Assessment
- Description of Site Hydrogeology
    - Surficial geology
    - Subsurface geology
    - Surface water hydrology
    - Groundwater hydrology

In addition to the pre-application meeting, the Individual Permit Application Package submittal process will include an administrative completeness review by ADEQ, a technical review, and issuance of a draft permit for review, a public notice and comment period, and a final decision.

ALLOWANCES

Task A1: Deliverable Reproduction

An allowance not to exceed $20,000 has been established for the Engineer for deliverable reproduction of drawings, specifications, and other project documents as identified in Task 3 and Task 5. Deliverable reproduction expenses in excess of this allowance amount are beyond the scope of this contract and will require an adjustment in this allowance to be approved and authorized by the City's Project Manager.

Task A2: Expertise Travel/Subsistence

An allowance not to exceed $5,000 has been established for the Engineer to pay for expertise travel and subsistence expenses associated with Design Alignment Team members not employed by the Engineer to participate in DAT reviews with City staff. This allowance is based upon 3 design review meetings. Expenses in excess of this allowance amount are beyond the scope of this contract and will require an adjustment in this allowance to be approved and authorized by the City's Project Manager.

Task A3: Permitting Fees

An allowance not to exceed $12,000 has been established for the Engineer to pay for the required review fees to obtain an Approval to Construct from Maricopa County Department of Environmental services. Fees in excess of this allowance amount are beyond of the scope of this contract and will require an adjustment in this allowance to be approved and authorized by the City's Project Manager.

PHASE II: OPTIONAL CONSTRUCTION PHASE SERVICES

It is hereby mutually agreed that the City may, at its option, require the Engineer to provide certain consulting services during the project construction phase including updating the existing CAP WTP Information Access System (IAS) to incorporate the new GAC facilities, and construction administration/resident engineering services. It is also agreed that the Engineer shall remain available to provide these services. The City shall notify the Engineer of its intention to exercise this option within twenty calendar days subsequent to the award of the construction contract. These services are not within the scope of services to be performed in accordance with this contract and shall be compensated for by a mutually agreed upon contract amendment between the City and the Engineer.

ATTACHMENT 1
FEE SCHEDULE

CITY OF SCOTTSDALE
Project W0202
REGULATORY COMPLIANCE IMPROVEMENTS
Central Arizona Project Water Treatment Plant

SUMMARY				
Task	Malcolm Pirnie Labor	Subconsultants	Expenses	Total
LUMP SUM TASKS:				
Task 1 - Perform Project Management	$179,912	$0	$4,498	$184,410
Task 2 - Perform GAC Testing and Evaluations	$42,376	$10,000	$1,059	$53,435
Task 3 - Develop Schematic Design/Basis of Design Report	$211,156	$10,930	$5,279	$227,365
Task 4 - Perform Cost and Schedule Analysis	$55,372	$0	$1,384	$56,756
Task 5 - Develop Detailed Design Documents	$1,217,620	$206,570	$30,441	$1,454,631
Task 6 - Provide Permitting Support Services	$61,942	$0	$1,549	$63,491
Task 7 - Perform Detailed QA/QC Checks	$49,696	$0	$1,242	$50,938
Task 8 - Provide Bidding Process Assistance	$35,888	$0	$897	$36,785
LUMP SUM SUBTOTAL	**$1,853,962**	**$227,500**	**$46,349**	**$2,127,811**
SPECIAL SERVICES (Time & Materials Tasks):				
S1 Potholing Services	$3,268	$10,000		$13,268
S2 Geotechnical Investigation	$864	$5,000		$5,864
S3 GAC Facility Site Survey	$5,156	$40,000		$45,156
S4 Municipal Use Master Site Plan Application Support	$12,120			$12,120
S5 DRB Submittal Technical Support	$12,120			$12,120
S6 CAP WTP Operational Improvements	$40,596			$40,596
S7 Site Security Improvements Evaluation	$45,940			$45,940
S8 Obtain Aquifer Protection Permit for CAP WTP	$49,976			$49,976
Special Services Expenses			$4,251	$4,251
SPECIAL SERVICES SUBTOTAL	**$170,040**	**$55,000**	**$4,251**	**$229,291**
ALLOWANCES:				
Deliverable Reproduction			$20,000	$20,000
Expertise Travel/Subsistence			$5,000	$5,000
Permitting Fees			$12,000	$12,000
ALLOWANCES SUBTOTAL			**$37,000**	**$37,000**
Total	**$2,024,002**	**$282,500**	**$87,600**	**$2,394,102**

CITY COUNCIL REPORT

MEETING DATE: 07/01/2003 ITEM NO. 12 GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT

Engineering Services Contract for design of the Zone 12 /13 Water Transmission Line.

REQUEST

AUTHORIZE Engineering Services Contract No. 2003-121-COS with Wood, Patel & Associates, Inc., in the amount of $190,433.00 for the design of a water transmission line between Dynamite Boulevard and Jomax Road, and for engineering services during construction of the Zone 12/13 Reservoir.

Related Policies, References:

a. Water Resources Master Plan, approved by City Council on October 15, 2001.
b. Engineering Services Contract 2000-030-COS for design of Zone 12/13 Reservoir, approved by City Council on March 20, 2000.

BACKGROUND

The 2001 Water Resources Master Plan validated the need for additional water storage and transmission capability in Zone 13, one of the higher elevations in the City, located generally northeast of Pima and Jomax Roads (See Attachment 1).

Design of the 3 million gallon Zone 12/13 Reservoir, located at Dixileta Drive and 114th Street, is being finalized and the construction documents will be publicly bid this summer. Included in that design are the pumping station and waterlines to transmit the water south to Dynamite Boulevard. The bid award will be presented to City Council in September for its consideration.

This design contract will extend that waterline south to Jomax Road, generally along the 115th Street alignment, providing treated water from Zone 12 uphill to Zone 13. This contract also requires engineering services during bidding and construction of the Zone 12/13 Reservoir project. These services generally include responding to requests for design clarification from the construction contractor and insuring that all installed equipment meets project specifications.

ANALYSIS & ASSESSMENT

Contract process and terms. On March 5, 2003 Capital Project Management staff solicited proposals for a design contract from 104 engineering consultants. Eighteen proposals were received on March 27, 2003. All proposals were thoroughly evaluated by a panel of four City staff members. The 18 firms were evaluated based on their capability and experience, knowledge of the project features, the firm's suggested approach to the design, and project schedule. Based on the initial evaluation, three firms were identified as most qualified and invited to submit final proposals. Based on final reviews of these proposals, Wood, Patel

Action Taken_____

& Associates, Inc. was selected as best qualified and engaged in final contract negotiations (See Attachment 2).

The contract term will be for 18 months, to include the design and bid phases and engineering services during construction of the reservoir.

The Purchasing Director confirms that the procurement procedures provided by the City Code have been followed. The C.I.P. Coordinator concurs that funds are available to authorize this contract.

Community involvement. This project will be limited to the area bounded by Dynamite Boulevard and Jomax Road to the north and south, and 114th to 118th Streets to the west and east. Approximate half of this area is not developed at present. The waterline design will be presented to interested citizen groups for review and comment on the proposed water line design prior to construction.

RESOURCE IMPACTS

Available funding. Funds for this contract are available in CIP account numbers 602-W0304 (Zone 12/13 Water Transmission Line) and 602-W9913 (Zone 12/13 Water System Improvements). This contract will be funded by water development fees.

Future budget implications.
The estimated construction cost for the reservoir project is $7,000,000. The estimated construction cost for the waterline project is $500,000. No right-of-way acquisitions are planned for the waterline project. No additional staffing will be required by either of these projects.

OPTIONS & STAFF RECOMMENDATION

Description of Option A: Authorize this engineering services contract, which will allow the City to provide design services for the Zone 12/13 Transmission Line and engineering services during construction of the Zone 12/13 Reservoir project. The result of these two projects will be to supply adequate water and pressure for planned future development in Zone 13.

Description of Option B: Do not proceed with design of the Zone 12/13 Water Transmission Line Project. Not proceeding with this design contract will result in not providing adequate water and pressure for planned future development in Zone 13.

Recommended Approach: Staff recommends Option A. The authorization of this engineering services contract will allow the City to continue to implement the provisions of the 2001 Water Resources Master Plan and address water supply issues in Zones 12 and 13.

Proposed Next Steps: If this action is approved, final design will begin immediately and be completed by May 2004. Construction of the waterlines will begin in summer 2004 and be completed by the end of 2004, coincident with the completion of the Zone 12/13 Reservoir.

RESPONSIBLE DEPT(S)

Capital Project Management and Water Resources

STAFF CONTACT(S)

Doreen Song, P.E. Project Manager, (480)312-2367, dsong@scottsdaleaz.gov

APPROVED BY

Al Dreska — 6/16/03
Date

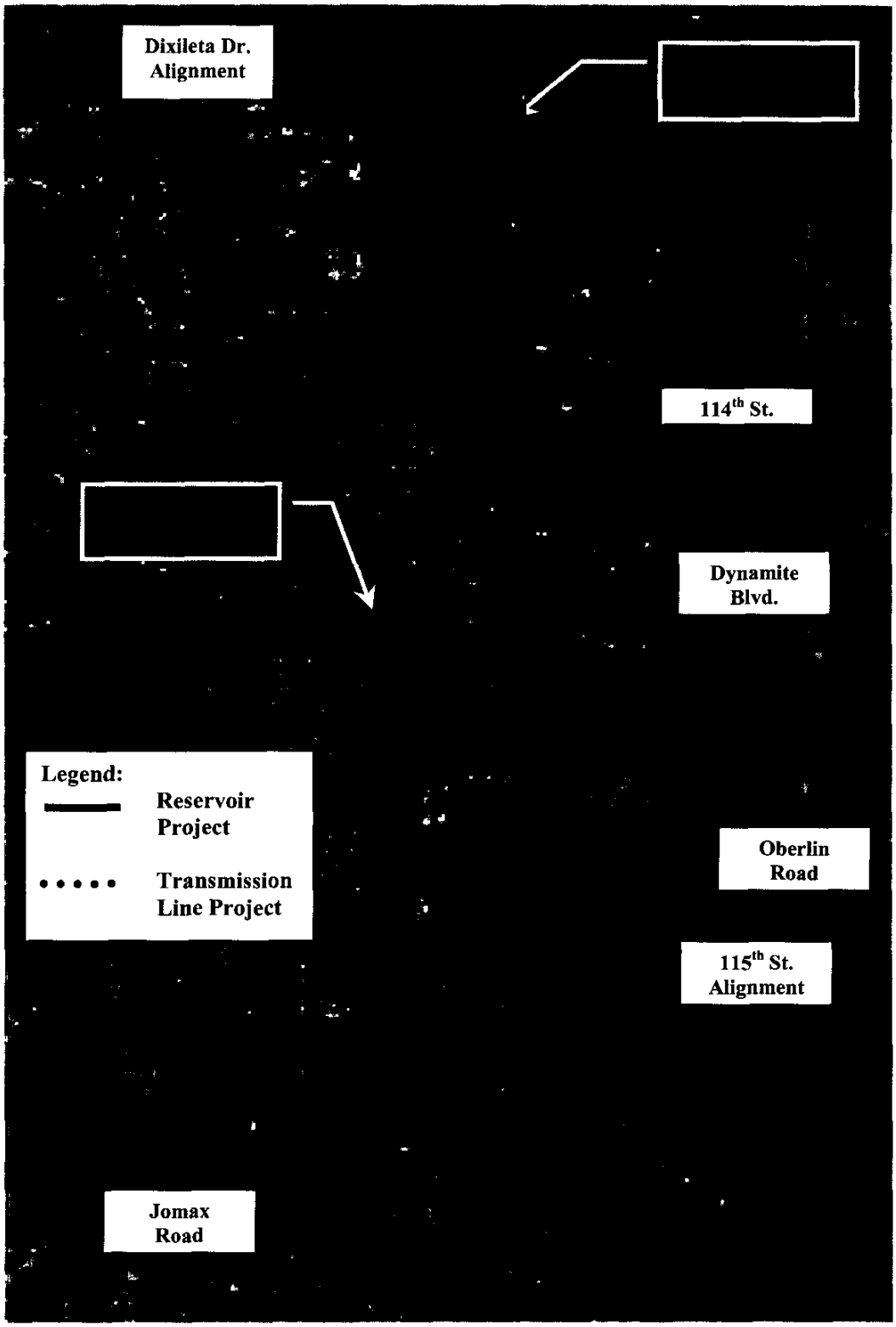
Al Dreska
Municipal Services General Manager
adreska@scottsdaleaz.gov (480) 312-5555

Roger Klingler — 6/17/03
Date

Roger Klingler
Assistant City Manager
rklingler@scottsdaleaz.gov (480) 312-5830

ATTACHMENTS

1. Project Location Map
2. SOQ Evaluation Summary
3. Engineering Services Contract 2003-121-COS



Attachment No. 1
Location Map

Zone 12/13 Water Transmission Line

SOQ Evaluation Summary

	Total Points per Reviewer					
	Reviewer 1	Reviewer 2	Reviewer 3	Reviewer 4	Total	Average
	24	30	33	32	119	29.75
	26	25	28	32	111	27.75
	25	20	33	32	110	27.5
	22	20	23	23	88	22
	20	18	22	23	83	20.75
	20	10	23	24	77	19.25
	16	12	18	15	61	15.25
	17	12	17	20	66	16.5
	18	15	18	20	71	17.75
	8	8	9	8	33	8.25
	8	10	7	8	33	8.25
	7	7	8	6	28	7

Final Score	Average (for 4 Categories)	Rank
	75.25	1
	73.25	2
	71.5	3

Attachment 2

06/17/2003

CITY OF SCOTTSDALE
ENGINEERING SERVICES CONTRACT

THIS CONTRACT, made and entered into this 2nd day of July, 2003, by and between the CITY OF SCOTTSDALE, a Municipal Corporation of the State of Arizona, hereinafter referred to as "City", and Wood, Patel and Associates, Inc., a Corporation of the State of Arizona, hereinafter referred to as "Engineer".

WITNESSETH

THAT, the Mayor of the City of Scottsdale is authorized and empowered by provisions of the City Charter to execute contracts for professional services; and

WHEREAS, the City desires to contract for Engineering services to design approximately 5,300 feet of 12-inch diameter water line and provide limited construction administration services.

WHEREAS, Engineer is qualified to render the services desired by City;

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1.0 SCOPE OF SERVICES

Engineer shall act under the authority and approval of the Contract Administrator to provide the engineering services required by this Contract.

The City wishes to assign Engineer the tasks specified in the attached Exhibit A, Project Scope of Work, which is hereby incorporated by reference and made a part of this Contract.

The Engineer shall obtain all necessary information for the timely completion of the tasks specified in Exhibit A, Project Scope of Work.

2.0 FEES AND PAYMENTS

2.1 FEE SCHEDULE

The amount paid to Engineer under this Contract shall not exceed $190,433.00.

2.2 PAYMENT APPROVAL

The time spent for each task shall be recorded and submitted to the Contract Administrator. Engineer shall maintain all books, papers, documents, accounting records and other evidence pertaining to time billed and to costs incurred and make such materials available at all reasonable times during the contract period.

Monthly payments shall be made to the Engineer on the basis of a progress report prepared and submitted by the Engineer for work completed through the last day of the

preceding calendar month. Each task shall be subject to review and approval by the Contract Administrator to determine acceptable completion.

The Contract Administrator shall prepare a partial payment request document for the Engineer's acceptance. However, not more than 90% of the total contract price shall be paid before City's final acceptance of all completed work. .

The Contract Administrator reserves the exclusive right to determine the amount of work performed and payment due the Engineer on a monthly basis.

All charges must be approved by the Contract Administrator prior to payment.

3.0 GENERAL TERMS AND CONDITIONS

3.1 CONTRACT ADMINISTRATOR

The Contract Administrator for the City shall be Doreen A. Song, or designee. The Contract Administrator shall oversee the performance of this Contract, assist the Engineer in accessing the organization, audit billings, and approve payments. The Engineer shall submit all reports and special requests through the Contract Administrator.

3.2 TERM OF CONTRACT

The Engineer agrees to proceed with the work immediately upon notification to proceed issued by the Contract Administrator and shall complete all work within 540 calendar days, including City review.

This Contract shall be in full force and effect when it has been approved by the City Council of the City of Scottsdale, Arizona and signed by its Mayor as attested by the City Clerk thereof.

This Contract shall be in full force and effect when all signatures have been affixed hereon.

In the event that any tasks remain incomplete after the specified completion time period, continuation of this Contract shall be subject to written approval by the Contract Administrator.

3.3 TERMINATION OF CONTRACT

The City has the right to terminate this Contract or abandon any portion of the project for which services have not been performed by the Engineer.

Termination for Convenience: City reserves the right to terminate this contract or any part hereof for its sole convenience with thirty (30) days written notice. In the event of such termination, Engineer shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and Subcontractors to cease such work. As compensation in full for services performed to the date of such termination, the Engineer shall receive a fee for the percentage of services actually completed. This fee shall be in the amount to be mutually agreed upon by the Engineer and the City, based on the agreed Scope of Work. If there is no mutual agreement, the Contract Administrator

shall determine the percentage of completion of each task detailed in the Scope of Work and the Engineer's compensation shall be based upon such determination. The City shall make this final payment within sixty (60) days after the Engineer has delivered the last of the partially completed items. Engineer shall not be paid for any work done upon receipt of the notice of termination, nor for any costs incurred by Engineer's suppliers or Subcontractors, which Engineer could reasonably have avoided.

Termination for Cause: City may also terminate this contract or any part hereof with seven (7) days notice for cause in the event of any default by the Engineer, or if the Engineer fails to comply with any of the terms and conditions of this contract. Unsatisfactory performance as judged by the Contract Administrator, and failure to provide City, upon request, with adequate assurances of future performance shall all be causes allowing City to terminate this contract for cause. In the event of termination for cause, City shall not be liable to Engineer for any amount, and Engineer shall be liable to City for any and all damages sustained by reason of the default which gave rise to the termination.

In the event Engineer is in violation of any Federal, State, County or City law, regulation or ordinance, the City may terminate this contract immediately upon giving notice to the Engineer.

In the event the City shall terminate this Contract or any part of the services as herein provided, the City shall notify the Engineer in writing, and immediately upon receiving such notice, the Engineer shall discontinue advancing the work under this Contract and proceed to close said operations.

Upon such termination or abandonment, the Engineer shall deliver to the City all drawings, special provisions, field survey notes, reports, and estimates, entirely or partially completed, in any format, including but not limited to written or electronic media, together with all unused materials supplied by the City. Use of incomplete data shall be the City's sole responsibility.

The Engineer shall appraise the work it has completed and submit its appraisal to the City for evaluation.

If through any cause, the Engineer shall fail to fulfill in a timely and proper manner its obligations under this Contract, or if the Engineer shall violate any of the convenants, agreements, or stipulations of this Contract, the City may withhold any payments to the Engineer for the purpose of setoff until such time as the exact amount of damages due the City from the Engineer is determined by a court of competent jurisdiction.

3.4 FUNDS APPROPRIATION

If the City Council does not appropriate funds to continue this Contract and pay for charges hereunder, the City may terminate this Contract at the end of the current fiscal period. The City agrees to give written notice of termination to the Engineer at least thirty (30) days prior to the end of its current fiscal period and will pay to the Engineer all approved charges incurred through the end of such period.

3.5 AUDIT

The City may audit all of the Engineer's records, calculations, and working documents pertaining to this work at a mutually agreeable time and place.

Engineer's records (hard copy, as well as computer readable data), and any other supporting evidence deemed necessary by the City to substantiate charges and claims related to this contract shall be open to inspection and subject to audit and/or reproduction by City's authorized representative to the extent necessary to adequately permit evaluation and verification of cost of the work, and any invoices, change orders, payments or claims submitted by the Engineer or any of his payees pursuant to the execution of the contract. The City's authorized representative shall be afforded access, at reasonable times and places, to all of the Engineer's records and personnel pursuant to the provisions of this article throughout the term of this contract and for a period of three years after last or final payment.

Engineer shall require all Subcontractors, insurance agents, and material suppliers (payees) to comply with the provisions of this article by insertion of the requirements hereof in a written contract agreement between Engineer and payee. Such requirements will also apply to any and all Subcontractors.

If an audit in accordance with this article, discloses overcharges, of any nature, by the Engineer to the City in excess of one percent (1%) of the total contract billings, the actual cost of the City's audit shall be reimbursed to the City by the Engineer. Any adjustments and/or payments which must be made as a result of any such audit or inspection of the Engineer's invoices and/or records shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of City's findings to Engineer.

3.6 OWNERSHIP OF PROJECT DOCUMENTS

All documents, including but not limited to, field notes, design notes, tracings, data compilations, studies, and reports in any format, including but not limited to, written or electronic media, which are prepared in the performance of this contract are to be and remain the property of the City and are to be delivered to the Contract Administrator before final payment is made to the Engineer.

When the work detail covers only the preparation of preliminary reports or plans, there shall be no limitations upon the City as to subsequent use of the plans or ideas incorporated therein, for the preparation of final construction plans. The City does agree to release the Engineer from any liability related to the preparation of final construction plans by others.

3.7 COMPLETENESS AND ACCURACY

The Engineer shall be responsible for the completeness and accuracy of its work, including but not limited to, survey work, reports, supporting data, and drawings, sketches, etc. prepared or compiled pursuant to this Contract and shall correct, at its expense, all errors or omissions therein which may be disclosed. The cost necessary to correct those errors attributable to the Engineering errors shall be chargeable to the Engineer. Additional construction added to the project shall not be considered the responsibility of the Engineer unless the need for same was created by any error, omission, or negligent act of the Engineer. The fact that the City has accepted or approved the Engineer's work shall in no way relieve the Engineer of any of its responsibilities.

3.8 ATTORNEY'S FEES

In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Contract, or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action.

3.9 SUCCESSORS AND ASSIGNS

This Contract shall extend to and be binding upon the Engineer, its successors and assigns, including any individual, company, partnership, or other entity with or into which the Engineer shall merge, consolidate, or be liquidated, or any person, corporation, partnership, or other entity to which the Engineer shall sell its assets.

3.10 ASSIGNMENT

Services covered by this Contract shall not be assigned or sublet in whole or in part without the prior written consent of the Contract Administrator.

3.11 SUBCONTRACTORS

During the performance of the Contract, the Engineer may engage such additional Subcontractors as may be required for the timely completion of this Contract. The addition of any Subcontractors shall be subject to the prior approval of the City.

In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Contract rests with the Engineer.

3.12 ALTERATIONS OR ADDITIONS TO SCOPE OF SERVICES

The total Scope of Engineering Services to be performed in accordance with this Contract is set forth herein, and, if the Engineer is asked to perform services which are not included in this Contract, they will be considered additional services. The Engineer shall not perform these services without written authorization in the form of an approved Change Order from the City. In the event the Engineer performs the additional services without written authorization (Change Order) from the City to perform same, it shall be assumed that the additional services were included in the original Scope of Services and the fees set forth herein, and therefore, the Engineer shall not be permitted to request nor receive any additional compensation for those additional services.

3.13 MODIFICATIONS

Any amendment, modification or variation from the terms of this Contract shall be in writing and shall be effective only after approval of all parties signing the original Contract.

3.14 CONFLICT OF INTEREST

Engineer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Engineer, to solicit or secure this Contract, and that it has not paid or agreed to pay any person or persons, other than a bona fide employee working solely for Engineer any fee, commission, percentage, brokerage fee,

gifts or any consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, City shall have the right to annul this Contract without liability, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee, together with costs and attorney's fees.

The City may cancel any Contract or Agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the City's departments or agencies is, at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a consultant to any other party to the Contract with respect to the subject matter of the Contract. The cancellation shall be effective when written notice from the City is received by all other parties to the Contract, unless the notice specifies a later time (A.R.S. 38-511).

The Engineer shall reveal fully in writing any financial or compensatory agreement which it has with a prospective Contractor prior to the City's publication of documents for bidding.

3.15 FORCE MAJEURE

Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, or power failures.

3.16 TAXES

The fee listed in this Contract includes any and all taxes applicable to the activities hereunder. The City shall have no obligation to pay additional amounts for taxes of any type.

3.17 ADVERTISING

No advertising or publicity concerning the City using the Engineer's services shall be undertaken without prior written approval of such advertising or publicity by the Contract Administrator.

3.18 COUNTERPARTS

This Contract may be executed in one or more counterparts, and each executed duplicate counterpart of this Contract shall be deemed to possess the full force and effect of the original.

3.19 ENTIRE AGREEMENT

This Contract constitutes the entire understanding of the parties and no representations or agreements, oral or written, made prior to its execution shall vary or modify the terms herein.

3.20 ARIZONA LAW

This Contract shall be governed and interpreted according to the laws of the State of Arizona.

3.21 EQUAL EMPLOYMENT OPPORTUNITY

The Engineer shall comply with Executive Order No. 11245, entitled "Equal Employment Opportunity", as amended by Executive Order No. 11375, and as supplemented in Department of Labor Regulations (41 CFR Part 60).

3.22 EVALUATION OF ENGINEER'S PERFORMANCE

The Engineer will be evaluated regarding its performance of this Contract. This evaluation shall include, but not be limited to, the following consideration for:

Completeness
Accuracy
Utility Coordination
Technical Expertise
Organization
Appearance of plans (linework, lettering, etc.)
Working relationship with City staff and others
Availability
Communication skills (meetings, correspondence, etc.)

This evaluation will be prepared by the staff and used to evaluate the desirability to proceed with negotiations for additional services.

3.23 NOTICES

All notices or demands required to be given, pursuant to the terms of this Contract, shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

On behalf of the Engineer:

James L. Condit, P.E.
Wood, Patel and Associates, Inc.
2051 W. Northern, Suite 100
Phoenix, Arizona 85021
(602) 335-8500

On behalf of the City:

Doreen A. Song, P.E.
Project Manager
City of Scottsdale
7447 E. Indian School Road, Suite 205
Scottsdale, Arizona 85251
(480) 312-2367

Notices shall be deemed received on date delivered if delivered by hand and on the delivery date indicated on receipt if delivered by certified or registered mail.

3.24 INDEPENDENT CONTRACTOR

The services Engineer provides under the terms of this Contract to the City are that of an Independent Contractor, not an employee, or agent of the City. The City will report the value paid for these services each year to the Internal Revenue Service (I.R.S.) using Form 1099.

City shall not withhold income tax as a deduction from contractual payments. As a result of this, Contractor may be subject to I.R.S. provisions for payment of estimated income tax. Contractor is responsible for consulting the local I.R.S. office for current information on estimated tax requirements.

3.25 INELIGIBLE BIDDER

The preparer of specifications is not eligible to submit a bid or proposal on the solicitation for which they prepared the specification, nor is the preparer eligible to supply any product to a bidder or offeror on the solicitation for which they prepared the specification.

3.26 INDEMNIFICATION

To the fullest extent permitted by law, Engineer, its successors, assigns and guarantors, shall defend, indemnify and hold harmless City of Scottsdale, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of, or resulting from any negligent or intentional actions, acts, errors, mistakes or omissions caused in whole or part by Engineer relating to work or services in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Engineer's and Subcontractor's employees.

Insurance provisions set forth in this agreement are separate and independent from the indemnity provisions of this paragraph and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this paragraph shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

4.0 INSURANCE

This solicitation/contract contains two samples of Certificates of Insurance, the Standard Acord Certificate and the Certificate developed by the City of Scottsdale.

The City Certificate is preferred, however, the Acord Certificate is acceptable provided it is identical to the sample attached and contains the additional language and deleted language as reflected on the sample.

Failure to provide a Certificate of Insurance with the appropriate verbiage as indicated on the attached samples, will result in rejection of your certificate and delay in contract execution.

Additionally Certificates of Insurance submitted without referencing a Contract number will be subject to rejection and returned or discarded.

4.1 **Insurance Representations and Requirements**

4.1.1 General: Engineer agrees to comply with all applicable City ordinances and state and federal laws and regulations.

Without limiting any obligations or liabilities of Engineer, Engineer shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies duly licensed by the State of Arizona (admitted insurer) with an AM Best, Inc. rating of B ++ 6 or above or an equivalent qualified unlicensed insurer by the State of Arizona (non-admitted insurer) with policies and forms satisfactory to City of Scottsdale. Failure to maintain insurance as specified may result in termination of this Contract at City of Scottsdale's option.

4.1.2 No Representation of Coverage Adequacy: By requiring insurance herein, City of Scottsdale does not represent that coverage and limits will be adequate to protect Engineer. City of Scottsdale reserves the right to review any and all of the insurance policies and/or endorsements cited in this Contract but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this agreement or failure to identify any insurance deficiency shall not relieve Engineer from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Contract.

4.1.3 Coverage Term: All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of subject contract are satisfactorily performed, completed and formally accepted by the City of Scottsdale, unless specified otherwise in this Contract.

4.1.4 Claims Made: In the event any insurance policies required by this Contract are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three (3) years past completion and acceptance of the work or services as evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

4.1.5 Policy Deductibles and or Self Insured Retentions: The policies set forth in these requirements may provide coverage which contain deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to City of Scottsdale. Engineer shall be solely responsible for any such deductible or self-insured retention amount. City of Scottsdale, at its option, may require Engineer to secure payment of such deductible or self-insured retention by a surety bond or irrevocable and unconditional Letter of Credit.

4.1.6 Use of Subcontractors: If any work under this agreement is subcontracted in any way, Engineer shall execute written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements set forth herein protecting City of Scottsdale and Engineer. Engineer shall be responsible for executing the agreement

with Subcontractor and obtaining Certificates of Insurance verifying the insurance requirements.

4.1.7 Evidence of Insurance: Prior to commencing any work or services under this Contract, Engineer shall furnish City of Scottsdale with Certificate(s) of Insurance, or formal endorsements as required by this Contract, issued by Engineer's insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions, and limits of coverage and that such coverage and provisions are in full force and effect. If a Certificate of Insurance is submitted as verification of coverage, City of Scottsdale shall reasonably rely upon the Certificate of Insurance as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this agreement. If any of the above-cited policies expire during the life of this Contract, it shall be Engineer's responsibility to forward renewal Certificates within ten (10) days after the renewal date containing all the aforementioned insurance provisions. Certificates shall specifically cite the following provisions:

1. City of Scottsdale, its agents, representatives, officers, directors, officials and employees shall be named an Additional Insured under the following policies:
   a) Commercial General Liability
   b) Auto Liability
   c) Excess Liability - Follow Form to underlying insurance.
2. Engineer's insurance shall be primary insurance as respects performance of subject contract.
3. All policies, except Professional Liability insurance if applicable, waive rights of recovery (subrogation) against City of Scottsdale, its agents, representatives, officers, directors, officials and employees for any claims arising out of work or services performed by Engineer under this Contract.

Evidence of Insurance- Cont'd

4. Certificate shall cite a 30-day advance notice of cancellation provision. If ACORD Certificate of Insurance form is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

4.2 Required Coverage

4.2.1 Commercial General Liability: Engineer shall maintain "occurrence" form Commercial General Liability insurance with a limit of not less than $1,000,000 for each occurrence, $2,000,000 Products and Completed Operations Annual Aggregate, and a $2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, and personal injury and advertising injury. Coverage under the policy will be at least as broad as Insurance Services Office, Inc. policy form CG 00 01 07 98 or equivalent thereof, including but not limited to, separation of insured's clause. If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

4.2.2 Professional Liability: If the Contract is the subject of any professional services or work, or if Engineer engages in any professional services or work adjunct or residual to performing the work under this Contract, Engineer shall maintain Professional Liability insurance covering errors and omissions arising out of the work or services performed

by Engineer, or anyone employed by Engineer, or anyone for whose acts, mistakes, errors and omissions Engineer is legally liable, with a liability insurance limit of $1,000,000 each claim and $2,000,000 all claims. In the event the Professional Liability insurance policy is written on a "claims made" basis, coverage shall extend for three (3) years past completion and acceptance of the work or services, and Engineer shall be required to submit Certificates of Insurance evidencing proper coverage is in effect as required above.

4.2.3 Vehicle Liability: Engineer shall maintain Business Automobile Liability insurance with a limit of $1,000,000 each accident on Engineer's owned, hired, and non-owned vehicles assigned to or used in the performance of the Engineer's work or services under this Contract. Coverage will be at least as broad as Insurance Services Office, Inc. coverage code "1" "any auto" policy form CA 00 01 07 97 or equivalent thereof. If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

4.2.4 Workers Compensation Insurance: Engineer shall maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Engineer's employees engaged in the performance of work or services under this Contract, and shall also maintain Employers' Liability Insurance of not less than $100,000 for each accident, $100,000 disease for each employee and $500,000 disease policy limit.

5.0 SOFTWARE LICENSES

As to all software licenses provided to the City as part of Engineer's obligations under this Contract, the following provisions apply:

5.1 SOURCE CODE AVAILABILITY

5.1.1 Engineer shall furnish City, without charge, a single copy of the Source Code for the Software immediately upon the occurrence of any of the following:

1. Engineer becomes insolvent; or
2. Engineer ceases to conduct business; or
3. Engineer makes a general assignment for the benefit of creditors; or
4. A petition is filed in Bankruptcy by or against Engineer.

5.1.2 Use of the Source Code shall be subject to the same restrictions as to which the Software itself is subject.

5.1.3 City shall have the right to modify Source Code in any manner it deems appropriate, provided that the Source Code as modified shall remain subject to the restrictions set forth in 5.1.2 immediately above.

5.2 PROPRIETARY PROTECTION

5.2.1 City acknowledges that to the extent Engineer advises the City that the Software is confidential information or is a trade secret property of the Engineer, the Software is thereby disclosed on a confidential basis under this Contract and is to be used only pursuant to the terms and conditions set forth herein.

5.2.2 Engineer shall not use or disclose any knowledge, data or proprietary information relating to City obtained in any manner whatsoever.

5.2.3 To the extent permitted by Arizona Law, the parties agree, both during the term of this Contract and for a period of seven (7) years after termination of this Contract and of all licenses granted hereunder, to hold each others' confidential information in confidence. The parties agree, unless required by government regulations or order of court, not to make each others' confidential information available in any form to any third party or to use each other's confidential information for any purposes other than the implementation of this Contract provided, however, that if Engineer's confidential information is requested to be divulged under the provisions of the Arizona Public Records Act, A.R.S., Title 39, Engineer shall reimburse to City the full cost of City's refusal to release the information, including costs of litigation, City's attorney fees, fines, penalties or assessments of opposing party's attorney fees. Each party agrees to take all reasonable steps to ensure that confidential information is not disclosed or distributed by its employees or agents in violation of the provisions of this Contract.

5.3 NON-INFRINGEMENT

Engineer warrants that the Software provided hereunder does not and will not infringe upon or violate any patent, copyright, trade secret or other proprietary or property right of any person or entity.

In the event of a claim against City asserting or involving such an allegation, Engineer will defend, at Engineer's expense, and will indemnify City and hold City harmless against any loss, cost, expense (including attorney fees) or liability arising out of such claim, whether or not such claim is successful. In the event an injunction or order should be obtained against use of the Software by reason of the allegations, or if in Engineer's opinion the Software is likely to become the subject of such a claim of infringement, Engineer will, at its option and its expense: (I) procure for the City the right to continue using the Software; or (ii) replace or modify the same so that it becomes non-infringing (such modification or replacement shall be functionally equivalent to the original); or (iii) if neither (i) nor (ii) is practicable, repurchase the Software on a depreciated basis utilizing a straight line five (5) year period, commencing on the date of acceptance.

5.4 THIRD PARTY LICENSE

Engineer shall sublicense to City any and all third party Software required in the execution of this Contract. City reserves the right to accept or reject third party license terms. If City rejects the terms of a third party license, it shall be Engineer's responsibility to negotiate acceptable terms or to supply Software from another source with terms acceptable to City. City's acceptance of the third party license terms shall not be unreasonably withheld.

6.0 SEVERABILITY AND AUTHORITY

6.1 SEVERABILITY

If any term or provision of this Contract shall be found to be illegal or unenforceable, then notwithstanding such illegality or unenforceability, this Contract shall remain in full force and effect and such term or provision shall be deemed to be deleted.

6.2 AUTHORITY

Each party hereby warrants and represents that it has full power and authority to enter into and perform this Contract, and that the person signing on behalf of each party has been properly authorized and empowered to enter this Contract. Each party further acknowledges that it has read, understands, and agrees to be bound by the terms and conditions of this Contract.

7.0 REQUEST FOR TAXPAYER I.D. NUMBER & CERTIFICATION I.R.S. W-9 FORM

Prior to any contract payment being made, the attached I.R.S. Form ***must*** be completed and submitted to the following address:

City of Scottsdale
Accounts Payable Division
7447 E. Indian School Rd.
Scottsdale, AZ 85251

IN WITNESS WHEREOF, the City of Scottsdale by its Mayor and City Clerk have hereunto subscribed their names this ___ day of _____, 200__.

CITY OF SCOTTSDALE

_____
Mary Manross, Mayor

ATTEST:

_____
Sonia Robertson, City Clerk

ENGINEER:

_____
Signature

Richard G. Roberts
Name

Vice President - Public Works
Title

SSN

Larry Franklin for
Monroe C. Warren
Purchasing Director

Suzanne M. Welch for
Myron Kuklok
Risk Management Director

Doren Long
Contract Administrator

APPROVED AS TO FORM:

_____ for
David A. Pennartz
City Attorney

SCOPE OF WORK

Section 1

Zone 12/13 Water Transmission Line Design

COS Project No. W0304

Under contract to the City of Scottsdale (City), Wood, Patel & Associates, Inc. (Engineer) shall provide Design Services for the City of Scottsdale's Project No W0304 (Section 1 Project) and certain limited Construction Administration Services for the City of Scottsdale's Project No. W9913, Zone 12 Reservoir, Zone 13 Booster Pump Station, and Zone 12 and 13 Water Transmission Mains (Section 2 Project) as defined herein.

Project Description

The City of Scottsdale is currently preparing construction plans for a waterline in N. 114th Street from E. Dixileta Drive to the south right-of-way line of E. Dynamite Boulevard within the Desert Vista subdivision. The Zone 12/13 Water Transmission Line project will extend that water transmission line south along the paved 114th Street alignment to E. Oberlin Way, east along the graded Oberlin Way alignment to N. 115th Street, south along the native desert 115th Street alignment to the unpaved intersection of E. Red Bird Road and N. 114th Way, southwest along an unpaved portion of 114th Way and then continues into the Desert Summit subdivision along the paved portion of 114th Way south to the existing 8-inch diameter ductile iron waterline in E. Four Peaks Drive.

Engineer will provide Engineering and project management services, including utility approvals (including APS, and Utility company coordination per Central Arizona Coordinating Committee *Public Improvement Project Guide*), all public and private agency coordination and approvals, and the preparation of construction drawings and final bid documents, including special provisions that are required for the bidding of this project.

The intent of this project is to provide the City of Scottsdale, the construction staking surveyors, and the construction contractor a set of design documents that are easily interpreted and meet the applicable engineering standards to the satisfaction of the Water Resources and Capital Project Management Departments in accordance with the degree of care and skill that an engineer in Scottsdale, AZ would exercise under similar conditions.

Design Standards

- City of Scottsdale 2002 Supplement to MAG Standard Specifications and Details
- MAG Standard Details, 1998, with 2003 Revisions
- MAG Standard Specifications, 1998 with 2003 Revisions

Scope of Services

TASK 1 - Project Management and Administration

1.1 Scoping & Kick-off Meetings

Engineer will research and obtain available as-built information for the project including roadway plans, utility maps, approved development plans, right-of-way, and parcel information. A field visit will be conducted by Engineer's design staff to confirm visible existing conditions and confirm scope of services.

1.2 Tri-weekly Design Meetings (9) and (1) Public Meeting

Engineer will prepare an agenda, necessary exhibits and/or handouts, and meeting minutes for nine tri-weekly design meetings. Engineer will participate in one public meeting for the project. The public meeting will be held after the design survey has been completed and a preliminary design alignment is set. Engineer will prepare presentation graphics. The City will be responsible for handouts, comment sheets, setting the date and time of the meetings, arranging for the meeting place, and notifying the public. Engineer's project manager will attend the meeting to answer questions and make a presentation if requested by the City.

1.3 Project Administration

Engineer will prepare and submit monthly progress statements with Engineer's associated invoices per City requirements.

Task 2: Design Concept Report (DCR)

2.1 Data Collection

2.1.1 Topographic Survey, Base Map Preparation & Coordination

Engineer will establish horizontal and vertical control and perform a limited topographic survey of the project site to include the centerline along the project monument line. The survey will be referenced to the City of Scottsdale vertical and horizontal datum and will locate all relevant physical features within 15 feet of each side of the waterline monument line, including visible utilities. Engineer will set six (6) temporary construction control points at 114th Street and Dynamite Boulevard, 114th Street and Oberlin Drive, 115th Street and Oberlin Drive, two at 900 feet intervals between Oberlin Drive and Four Peaks Drive, and one at Four Peaks Drive, to be used during the course the Project's construction activities. The City will provide a Digital Terrain Model (DTM) (2 feet contour interval) and topographic mapping on current City datum for use by Engineer in preparation of work and services.

2.1.2 Geotechnical Investigation & Report - (Provided by Ninyo & Moore)

Engineer's sub-consultant, *Ninyo & Moore*, will perform the geotechnical investigation for the waterline improvements. Five test borings will be provided in the centerline along the project monument line. Two of the borings will be conducted within the existing paved surface of 114th Street and one in the existing paved surface of 114th Way. Outside of the existing pavement the planned pipeline traverses undeveloped land that has exposures of granite bedrock. It is proposed to conduct two borings at locations accessible with truck-mounted equipment. It is also proposed to conduct a limited seismic refraction profile over the undeveloped segment between Oberlin and Red Bird Road to develop depths to competent rock. The purpose of the seismic refraction study is to develop data that can be used by bidders to better evaluate the excavation methods required for the subsurface materials along the alignment.

Recommendations as to the corrosive nature of the native soils against buried pipe materials (based on soil resistivity and pH tests) will also be provided. The results of the geotechnical analysis will be summarized in a report.

2.1.3 Archeological Survey (Provided by Senna Environmental Services)

Engineer's sub-consultant, *Senna Environmental Services*, will perform the archeological investigation through one of its subconsultants, Northland Research. A site file search will be completed at the State Historic Preservation Office and any other appropriate institutions. This check will determine the presence and location of any previously documented sites or cultural resource inventories in the project area. Information documenting this search and the results will be provided in the final survey report.

A Class III Cultural Resource Survey of the project area will be completed. Survey methods will follow guidelines established by the Arizona State Museum. The survey will be done under the Arizona Antiquities Act blanket permit issued to Northland Research.

A report will be prepared detailing the results of the site files check and survey. The report will document any cultural resources encountered during the survey and the condition of any previously recorded sites, and provide recommendations regarding site eligibility to the National Register of Historic Places.

2.1.4 Native Plant Survey (Provided by A Dye Design)

Engineer's sub-consultant, *A Dye Design*, will perform the native inventory and will tag and flag plants eligible for salvage per the City of Scottsdale requirements. The flags will serve as requests for Wood/Patel surveyors to locate trunk or centerline on the base map. The inventory will provide the basis for the final landscape and irrigation design documents.

2.1.5 Pothole Existing Utilities (Provided by Saf-R-Dig)

Engineer's sub-consultant, *Saf-R-Dig*, will perform the subsurface utility location services to determine horizontal and vertical underground utility locations at the proposed waterline connections. It is estimated that a maximum of two (2) locations will be required for the connection to the existing system.

2.1.6 ACOE 404 Nationwide Permit No. 12 Application (Allowance)

It is assumed that based upon the initial field visual survey that each existing wash crossing will impact less than one-tenth (0.1) acre and will therefore be below the notification threshold and eligible for construction under the Nationwide Permit No. 12. Engineer has included an allowance for potential coordination and administrative activities associated with the Nationwide Permit No. 12. It should be noted that this does not include the necessary notification or services to the ACOE that are or could be required after the construction has been completed.

The U.S. Fish and Wildlife Service (USFWS) and the U.S. Army Corps of Engineers (Corps) have recently developed joint guidance with regard to the determination of effects of projects on the endangered Cactus Ferruginous Pygmy-owl. This new guidance requires the Corps to consult with the USFWS for all projects that occur in Survey Zone 3 (portions of Maricopa and northern Pinal County, outside the Urban Exclusion Zone) and that will disturb habitat components (multiple layers of vegetation or large trees and saguaros). Completion of surveys (with negative results) would likely facilitate a determination of either "no effect" (i.e., no consultation with USFWS required) or "may affect, not likely to adversely affect" (i.e., consultation with USFWS may be completed in an informal manner). Because the project is located in Survey Zone 3 and there will be some removal of vegetation, included as part of the allowance would be coordination with the City of Scottsdale, the Corps, and the USFWS the preparation of a letter and associated supporting materials requesting confirmation of either

a "no effect" determination or USFWS concurrence on a "may affect, not likely to adversely affect" determination for the project. This task does not include services related to the completion of formal Section 7 consultation with the USFWS, should this become mandated by the Corps.

This item has been included as an allowance.

Preliminary Alignments

2.2.1 Preliminary Horizontal & Vertical Alignment - Submit 50% Review

Engineer will prepare the preliminary horizontal and vertical alignment on base sheets and submit to the City for 50% review.

2.2.2 Receive & Incorporate Comments

Engineer will receive and incorporate City review comments to the preliminary horizontal and vertical alignment. This will then be used as the basis for exhibits to be used during the Public Meeting.

2.2.3 Wash Crossing Design

Engineer will prepare the preliminary wash crossing design. It is assumed that scour analysis will not be required and that a minimum depth will be established base upon estimated peak discharge design flows provided by the City.

2.2.4 Preliminary Opinion of Probable Construction Cost

Engineer will prepare the preliminary opinion of probable construction cost. This opinion will be offered without the benefit of plans and specifications and used by the City to evaluate budgets.

2.2.5 Report Quality Assurance, Quality Control and Peer Review

Engineer will conduct the report quality assurance, quality control, and peer review of the Design Concept Report.

2.3 Final Design Concept Report and Documents

Engineer will incorporate City review comments in the Final Design Concept Report and Documents.

Task 3: Water Transmission Line Final Design - Construction Documents

Engineer will prepare a construction plan, specifications and estimates for the project in accordance with City of Scottsdale standards. The plan will include:

Cover Sheet
General Notes and Design Data Sheet
Typical Detail Sheet
Pipeline Plan and Profile Sheets
Pipeline Details
Landscape & Irrigation Plans

Review Packages:

An initial 30% roll plot will be submitted with the DCR that will include the proposed horizontal and vertical alignments and typical sections. As design progresses, review submittals will occur at the 60%, 90% and 100% stages. The plan submittals will follow the checklists provided by the City.

Following each review, Engineer will review the City's comments and complete a comment resolution form. Engineer will incorporate all comments unless otherwise authorized by the City.

Electronic copies of the plan set (in AutoCAD 2000 format) will be submitted at the completion of the design.

Specifications will be in accordance with the MAG Standard Specifications and City of Scottsdale 2002 Supplement to MAG Standard Specifications. Special provisions will be supplied for all items not adequately covered by the standard specifications, and will include the method of measurement and basis of payment for all items included on the bid schedule.

Cross sections will be prepared and earthwork quantities determined; however, cross sections are not a deliverable, nor are they part of the construction document package.

Opinion of Probable Construction Cost based upon final design will be prepared for all pay items per the standard specifications and special provisions.

Engineer's sub-consultant, *A Dye Design,* will prepare landscape and landscape irrigation plans, specifications, and opinions of probable construction costs for the Project. They will participate in the preliminary design meeting to determine the types of plantings and irrigation equipment. The landscaping will generally match what is currently provided and will provide salvage and revegatation plans, including salvage, planting and irrigation plans, planting and irrigation details, MAG modified specs, including specifications for topsoil and desert pavement salvage, and an opinion of probable construction cost estimate with detailed quantities. Water taps and electrical connections for irrigation equipment will be shown on the plan and profile drawings. The new landscaping shall generally match the existing landscaping.

Deliverables to City

- 30% submittal – Two (2) 40-scale roll plots of project corridor with typical section and preliminary opinion of probable construction cost offered without the benefit of plans and specifications
- 60% submittal – 30% plan comments and annotated comment sheets, four (4) full-size, and four (4) half-size plan sets, draft geotechnical report, outline special provisions to the City and two (2) half-size sets to each of the affected utilities.

- 90% submittal - 60% plan comments and annotated comment sheets, two (2) full-size, and two (2) half-size plan sets, final geotechnical report, opinion of probable construction cost based upon final design, special provisions to the city and two (2) half-size sets to each of the affected utilities.
- Final submittal - 90% plan comments and annotated comment sheets, the mylar cover sheet, two (2) sets full size plans, opinion of probable construction cost, and bid documents.
- Mylar Cover Sheet with COS approval signature submitted to MCESD for approval signature

Once the plans have been approved and signed, Engineer will submit 4-mil mylars of all plans, 1 set full size plan, sealed and signed special provisions, sealed and signed opinion of probable construction cost and electronic copies of all plans, bid documents and estimate.

Schedule

The following schedule was developed based on past experience and is indexed to the notice to proceed date:

Notice to Proceed	July 3, 2003
Kick-off Meeting	July 8, 2003
Topographic Survey, Base Map Preparation & Coordination	August 25, 2003
Geotechnical Investigation & Report	August 25, 2003
Archeological Survey	August 25, 2003
Native Plant Survey	September 1, 2003
Submit 50% Design Concept Report	September 4, 2003
Public Meeting #1	TBD
Submit Design Concept Report and 30% Plans	September 28, 2003
Design Concept Report Approved	October 25, 2003
Submit 60% Review Plans	December 21, 2003
Submit 90% Review Plans	January 23, 2003
Submit 100% Review Plans	February 28, 2004
Submit Final Plans For COS & MCESD Signature	March 20, 2004
Signed Mylar Plans and Specification	April 5, 2004
Bidding	TBD

Final plans would be submitted within 28 weeks after notice to proceed, unless additional scope items are added or if any necessary utility relocation plans being prepared by the utility are not received.

SCOPE OF WORK

Section 2

Zone 12 Reservoir, Zone 13 Booster Pump Station,

and Zone 12 and 13 Water Transmission Mains

Construction Administration

COS Project No. W9913

CONSTRUCTION ADMINISTRATION SERVICES

Under contract to the City of Scottsdale (Owner or City), Wood, Patel & Associates, Inc. (Engineer) shall provide certain Construction Administration Services for the City of Scottsdale's Project No. W9913, Zone 12 Reservoir, Zone 13 Booster Pump Station, and Zone 12 and 13 Water Transmission Mains (Project) as defined herein.

Project Description

In the interest of time, the project shall be divided into 2 separate packages for bidding, recommendation of the most apparent responsive bidder and construction administration support by Engineer. Project A shall be the Zone 12 Reservoir and Zone 13 Booster Pump Station. Project B shall be the Zone 12 and 13 Water Transmission Mains.

In the interest of cost effectiveness, Engineer's time and associated fee is based on site visits and periodic project meetings taking place concurrently for Project A and Project B, thus reducing travel time and project coordination.

SCOPE OF WORK

It is acknowledged the Engineer's scope of services is not a turn-key service or, industry standard 100% complete as the City will be independently performing certain critical construction administration tasks.

A. Bid Phase Services

1. Engineer will attend the pre-bid meeting for the Reservoir and Booster Pump Station project and the Transmission Main project. Engineer will respond to Contractor questions and will issue addendums once reviewed and approved by Owner as necessary to support the project. The City will issue all addendums to the bidders. Engineer will attend bid opening and after review of Contractor bids, recommend award based on the most apparent responsive bidder.

2. Engineer will review, if necessary, any substitute and "or equal" materials or equipment requested during the bid phase and issue addendums accordingly on a time and material basis. We have included an allowance for this work if necessary. As approved by Owner, substitute and "or equal" alternatives that are advantageous to the City will be processed on a time and material basis. (This item has been included as an allowance).

B. Construction Phase Services

1. Engineer will attend the preconstruction meeting for each project. The City will conduct each meeting.

2. Receive, review, and comment accordingly on Contractor required submittals, including shop drawings. Engineer will provide City with a submittal log weekly.

3. Provide consultation to the City on construction matters relative to the Project. (This item has been included as an allowance).

4. Provide special structural inspections for the reservoir construction. (This item has been included as an allowance).

5. Receive, review, and respond to the Contractor's requests for information, including additional shop drawing reviews. (This item has been included as an allowance).

CITY COUNCIL REPORT

MEETING DATE: 07/01/03 ITEM NO. 13 GOAL: Fiscal and Resource Management

SUBJECT

Construction Bid Award for Waterline Replacements in the area of De La O Road, Pima to 84th Street.

REQUEST

AUTHORIZE Construction Bid Award No. 03PB005 to Citywide Contracting, LLC, the lowest responsive bidder, at their unit price bid of $450,474.00.

BACKGROUND

The purpose of this construction project is to replace existing, failing, plastic potable water lines with new ductile iron pipe, as part of the City's ongoing waterline replacement program.

The project extends north and south of De La O Road, west of Pima Road (see Attachment 1). Developers originally installed PVC waterlines in this area of the City over twenty years ago. The plastic waterlines have deteriorated to the point that an excessive number of breaks have been experienced in recent years, resulting in continued repairs and inconvenience to the residents. The goal of the City's ongoing Waterline Replacement program is to replace existing deteriorating and substandard pipe with new ductile iron pipe. This program involves a series of prioritized design and construction contracts, in various locations throughout the city water service area. The Water Resources Department has developed priorities based on history and frequency of waterline breaks in a given area. This proposed construction contract represents a current high priority area in need of improvement (see Attachment 2).

Since 1990, at least twenty-five failures have occurred in this section of the system, with increasing frequency. These failures have subjected customers to numerous water outages. Failures such as these reflect a trend associated with deterioration of the substandard material in this area. This project will serve the community by correcting unreliable and deficient systems that experience breaks, causing an interruption in service to residents. The replacement of these waterlines will reduce the potential for interrupted service due to repairs, thereby lowering the exposure to public health and safety issues.

ANALYSIS & ASSESSMENT

Recent staff action. On March 18, 2002, Council approved Engineering Services Contract No. 2002-030-COS with CSA Engineering, Inc. for the design of Waterline Replacements. The Waterline Replacements in the area of De La O Road, west of Pima Road was one of the locations identified for design under the engineering services contract. This location was prioritized by the City's Water Resources Department due to number of breaks, inability to provide appropriate service to this area, and inconvenience to residents.

Action Taken _____

Contract process and terms. The Purchasing Department opened sealed bids for this project on June 9, 2003 at 3:00 PM. The bids that were received were as follows:

CityWide Contracting	**$450,474.00**
WGC Inc.	$453,479.00
Pierson Construction Corporation	$479,076.40
LTC Inc.	$485,419.00
Fusion Engineering	$522,504.00
MD Merrett Inc.	$523,741.81
Holloman Corporation	$571,074.00
B&F Contracting Inc.	$573,028.00
Achen Gardner Engineeing	$592,979.70

The Purchasing Director concurs with the identification of the successful bidder and confirms that the procurement procedures provided by the City Code have been followed. The CIP Coordinator concurs that funds are available to authorize this contract

Community involvement. City staff distributed informational flyers to the area residents in June 2003 to present the scope of the project, potential impacts, and the expected benefits. During construction, the contractor and City staff will notify residents of the project status.

RESOURCE IMPACTS

Available funding. Funds for this contract are available in CIP Account No. 602-W8570 (Waterline Replacements). This account is funded by water rates.

Staffing, workload impact. This contract is scheduled to begin July 2003 and will be completed within 75 days.

Maintenance requirements. The construction of these waterline replacements will reduce the maintenance needs associated with the frequent waterline breaks currently occurring due to the old, deteriorating, plastic pipe.

Traffic Impacts During Construction:
Traffic flow will be maintained on all residential streets involved in this project and disruptions will be minimal. There will be no traffic impact on Pima Road due to these construction activities.

OPTIONS & STAFF RECOMMENDATION

Description of Option A: Authorize the award of this construction contract to the lowest responsive bidder. Proactively proceeding with this construction contract will benefit customers by improving existing service and reducing the potential of interrupted service due to repairs, thereby lowering the exposure to public health and safety issues.

Description of Option B: Reject all bids received for this project. The City would then continue to utilize the existing plastic waterlines which are experiencing frequent breaks. Not proceeding with this construction contract will result in limiting the Water Resources Department's ability to provide appropriate water service, quality, and fire protection to this service area.

Recommended Approach: Staff recommends Option A. The award of this construction contract will benefit customers by improving existing service and

reducing the potential of interrupted service due to repairs, thereby lowering the exposure to public health and safety issues.

Proposed Next Steps: If this action is approved, construction is scheduled to start in July 2003 and be completed by October 2003.

RESPONSIBLE DEPT(S) Municipal Services, Capital Project Management and Water Resources

STAFF CONTACT(S) Alison Tymkiw, Sr. Project Manager, (480) 312-7985, atymkiw@scottsdaleaz.gov

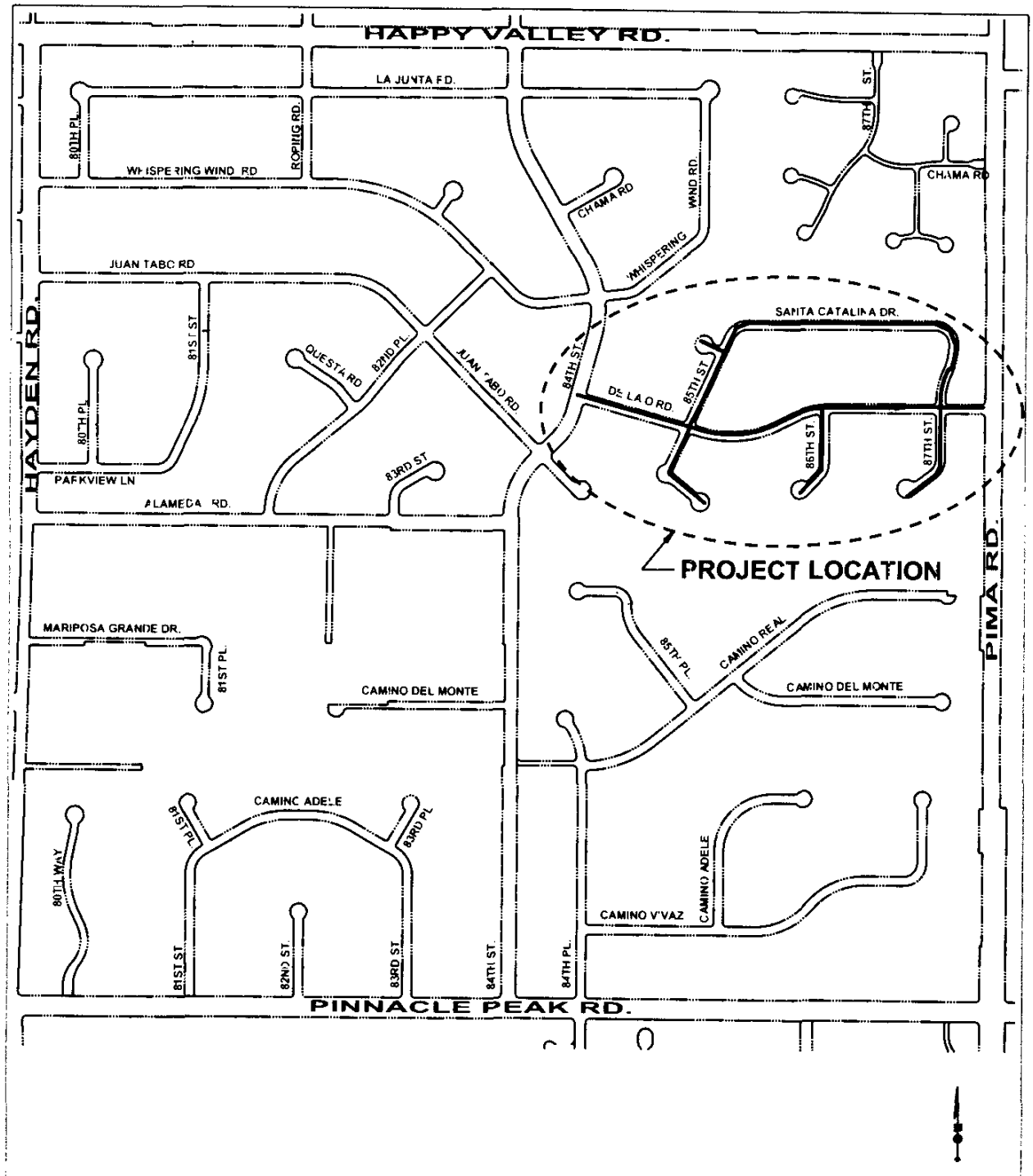
APPROVED BY

Al Dreska — Date 6/13/03
Municipal Services General Manager
adreska@scottsdaleaz.gov (480) 312-5555

Roger Klingler — Date 6/13/03
Assistant City Manager
rklingler@scottsdaleaz.gov (480) 312-5830

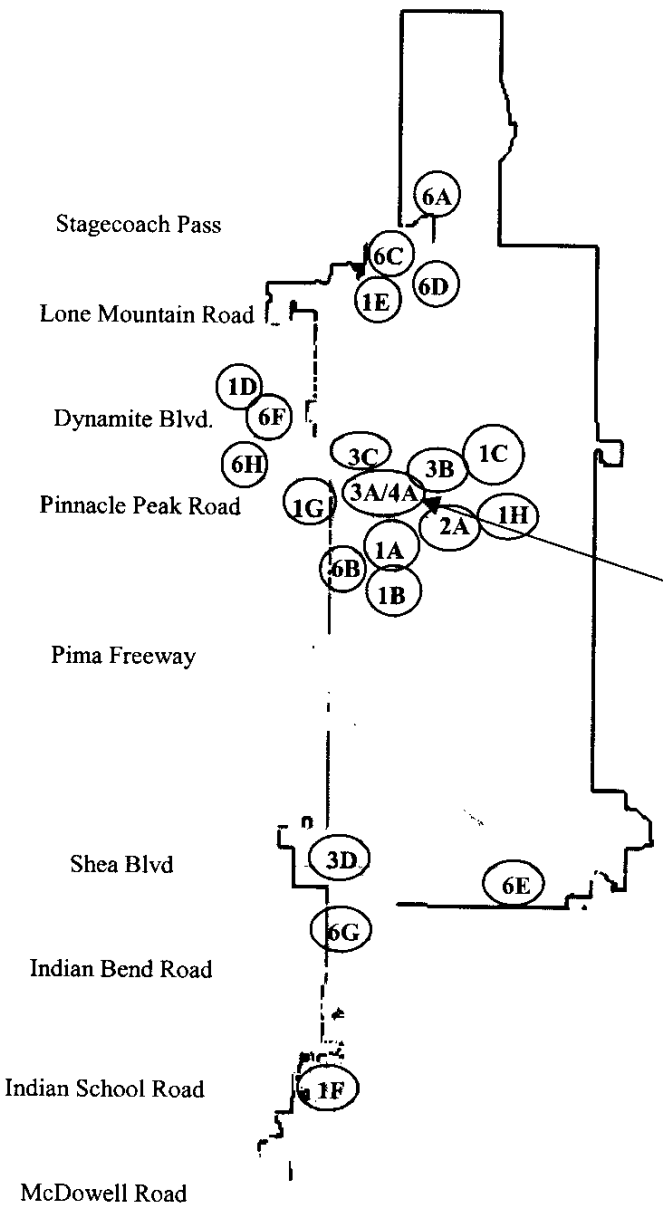
ATTACHMENTS

1. Project Location Map
2. Updated Status of Waterline Replacements Program



Attachment 1
PROJECT LOCATION MAP
WATERLINE REPLACEMENT PROJECT

Waterline Replacements
Area Map



1 - Completed Projects

A - Los Gatos
B - Peak Country Club
C – Alma School Road
D – Dix Co-op
E – Westland Road
F – Indian School Road and Scottsdale Road
G – Well 106 Improvements
H – East Pinnacle Peak Phase One

2 - Under Construction

A - East Pinnacle Peak Phase Two & Three

3 - Under Design

A – Pinnacle Peak Estates
B – Happy Valley – Pima to Alma School
C – Happy Valley Ranch
D – 64th Street and Shea

4 - Award of Construction

A – De La O Area of Pinnacle Peak Estates

5 - AWARD OF DESIGN

None at this time

6 - Future Projects

A – Carefree Ranch
B – Hayden – Pinn. Peak to Union Hills
C – Boulders Subdivision
D – Desert Ranch
E – Paradise Heights
F – Dynamite – 56th to 64th
G – 7500 McCormick Parkway
H – 56th Street and Jomax

Large Meter Retrofit, PRV Replacements, Valves and Hydrant Replacements are not depicted on this map

Attachment 2

CITY COUNCIL REPORT

MEETING DATE: 07/01/2003 ITEM NO. 14 GOAL: Fiscal Management

SUBJECT

Adopt Official Marking Scheme for City-owned and Leased vehicles and Authorize City Manager Approval of Unmarked Vehicles.

REQUEST

Adopt Resolution No. 6287 establishing an official marking scheme for City-owned and leased vehicles and authorizing the City Manager to grant exemptions to the marking requirement for those vehicles used to perform confidential functions.

Related Policies, References:

- Arizona Revised Statutes (ARS) Section 38-538
- Arizona Revised Statutes (ARS) Section 28-2511
- City Audit Report No. 0161D

BACKGROUND

A City Audit Report, completed in October 2002, found the City was not in compliance with several requirements contained in Arizona Revised Statutes relating to marking and licensing of vehicles operated by any political subdivision of the State of Arizona The entire texts of ARS 38-538 et seq and ARS 28-2511 are shown in Attachment No. 2.

ARS 38-538, enacted in 1998, requires that all municipal vehicles be identified "in a visible manner" and any un-marked vehicles be subject to annual review and approval by the appropriate governing body. This Statute requires that all Arizona municipalities identify their vehicles with:

- Visible designation of the name of the political subdivision
- Name of the department or agency that owns, or leases for more than six months, the vehicle.
- A "for official use only" decal

The City Fleet Management Division has been applying a uniform marking pattern to City-owned vehicles for several decades. This pattern consists of:

- City Seal decals applied to both sides of a vehicle
- "For official use only" decals applied to both sides of a vehicle
- Four digit vehicle numbers applied to both sides of a vehicle
- City Seal decals applied to the front and rear ends of a vehicle
- Four digit vehicle numbers applied to the front and rear ends of a vehicle

The goal of this marking pattern is to insure that any City vehicle can, reasonably, be identified when viewed from any angle. Applying unique,

Action Taken_____

easy to read, vehicle numbers enables specific identification of any vehicle. The audit report, in addition to recommending that a uniform marking pattern be adopted by Council, also recommended that the use of City Seal decals be discontinued and a City insignia (See attachment No. 3) be used to identify vehicles as owned or leased by the City since City Seals could be applied to other items, both publicly and privately owned. The report states that the application of City seals to privately owned vehicles is a class 2 misdemeanor.

Finally, the audit report found the City is not in compliance with the requirements of ARS Section 38-538 regarding authorization to operate un-marked vehicles. ARS requires an annual review and authorization of all un-marked vehicles by the Governing Board through publication of these vehicles' "nature of service and the year, make, model and identification number of the motor vehicle". ARS Section 28-2511A authorizes the State Motor Vehicle Department to issue "private" license plates for publicly owned vehicles provided the vehicle has been properly exempted from marking by the requirements of ARS Section 38-538. All marked vehicles are required to display "plates with distinguishing marks" (government plates).

ANALYSIS & ASSESSMENT

A staff committee, appointed by the City Manager, has reviewed the ARS requirements and their implications on City fleet operations. City Fleet Management's marking requirements have been identified in a written policy that is recommended for Council adoption (See Attachment No. 1). This policy:

- Requires the application of City emblems, instead of City seals, to all vehicles acquired by the City after July 1, 2003. The emblems would be applied to both sides and both ends of any motor vehicle and equipment.
- Maintains the requirement to apply vehicle numbers to both sides and both ends of a vehicle or equipment.
- Adds the requirement to apply assigned department or division names to both sides of a vehicle or equipment.
- Maintains the requirement to apply unique, highly reflective, decal packages to marked police units.

The City Legal Department has reviewed the ARS language regarding exemptions for un-marked vehicles. A literal interpretation of the ARS would imply that the identity of un-marked vehicles used in covert police operations must be publicly disclosed by the City Council on an annual basis. This action could jeopardize the personal safety of those police officers operating the undercover vehicles. The Legal Department has prepared Resolution No. 6287 as a means of complying with ARS 38-538 without publicly disclosing the identity of the un-marked vehicles. This resolution would:

- Authorize the City Manager to grant exemptions to vehicle marking for one-year periods after proper application by the department requesting the exemption.
- Establish that the information provided with any request for exemption be held as a confidential record with access to these records restricted to the Mayor and Council and the City Auditor.

Recent staff action. Fleet Management staff have prepared an inventory of vehicles and equipment that will require the application of department or division names and are prepared to add these decals to all vehicles and equipment at their next scheduled preventative maintenance service. City insignia's would be ordered and applied to all new and replacement vehicles acquired for City use.

Significant issues to be addressed. The proposed resolution would enhance the visibility and ease of identifying all marked City vehicles while establishing controls and protection for operators of un-marked vehicles.

Policy implications. This action would achieve compliance with ARS sections regulating marking and exemption of City-owned vehicles and equipment.

Community involvement. City vehicles would continue to be visibly and consistently marked. Easy identification of marked vehicles contributes to overall public safety.

RESOURCE IMPACTS

The proposed resolution and attached policy would minimize the fiscal impact of compliance with the pertinent ARS sections by authorizing application of department/division names during regularly scheduled maintenance activities and applying City insignias to newly acquired vehicles and equipment as they are placed into initial service.

Available funding. The estimated cost for the procurement and application of department/division names for approximately 400 vehicles and equipment is $5000. These funds are available in the Fleet Management Division's operations and maintenance budget.

Staffing, workload impact. None

Maintenance requirements. No significant impact to overall fleet maintenance and operations activities.

Future budget implications. None

Cost recovery options. None

OPTIONS & STAFF RECOMMENDATION

Description of Option A: Authorize Resolution No. 6287 and achieve compliance with ARS requirements.

Description of Option B: Authorize Resolution No. 6287 with an amendment to require the immediate removal of all City seals from vehicles and equipment and replacement with City insignias. This would require the removal of approximately 4000 decals and the immediate procurement and application of 4000 new City insignias at an estimated cost of $50,000.

Recommended Approach: Adopt Resolution No. 6287, as proposed, to achieve compliance with Arizona Revised Statute requirements without incurring substantial operating budget impacts.

Proposed Next Steps: Staff is prepared to implement the provisions of Resolution No. 6287 as discussed above.

RESPONSIBLE DEPT(S)

City Manager's Office
Fleet Management Division/Municipal Services Department

STAFF CONTACTS

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APPROVED BY

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Municipal Services General Manager
adreska@scottsdaleaz.gov

Roger Klingler — Date 6/17/03
Assistant City Manager
rklingler@scottsdaleaz.gov

ATTACHMENTS

1. Resolution No. 6287
2. Texts of ARS 38-538 and 28-2511A
3. Rendering of City insignia applied to vehicle

RESOLUTION NO. 6287

A RESOLUTION OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, ADOPTING THE OFFICIAL VEHICLE MARKING SCHEME FOR CITY VEHICLES, AND AUTHORIZING THE CITY MANAGER TO DESIGNATE CERTAIN VEHICLES TO REMAIN UNMARKED, IF NECESSARY, FOR PUBLIC SAFETY REASONS; AND PROVIDING FOR CONFIDENTIALITY OF RECORDS RELATING TO UNMARKED PUBLIC SAFETY VEHICLES.

WHEREAS, Arizona Revised Statutes Section 38-538 (B) requires that motor vehicles owned or leased for six months or more by a political subdivision of this state shall bear an official insignia and the phrase "for official use only," in a visible manner, as determined by that political subdivision; and

WHEREAS, Arizona Revised Statutes Section 38-538.03 (B) nevertheless allows the City to exempt some vehicles from these marking requirements, for social service programs, felony investigations and other activities for which participants need to maintain confidentiality in order to perform their functions safely; and

WHEREAS, the statutes allow the City to grant such exemptions for such vehicles, for up to one year.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Scottsdale, as follows:

Section 1. The City Council adopts the official marking scheme for City vehicles, as specified and described in Attachment 1 to this Resolution and incorporated herein by this reference.

Section 2. The City Council authorizes the City Manager the authority to grant exemptions, for up to one year at a time, from that scheme when public safety reasons dictate that a City vehicle should remain unmarked.

Section 3. The department requesting an exemption shall provide the City Manager with the following information on each vehicle: the nature of its use, year, make, model and vehicle identification number, so that the City Manager can determine whether or not exemption is justified under the statute.

Section 4. The information provided in or with the request for exemption and the City Manager's designation of exempt vehicles for unmarked public safety use shall be held as confidential records, as the City Council hereby determines that public access to such records would jeopardize the safety of the personnel utilizing unmarked public safety vehicles and would

be contrary to the best interests of the City in conducting public safety operations. These records shall be available for audit by the City Auditor and inspection by the Mayor and Council, utilizing such safeguards as are necessary to protect and maintain the confidential nature of the records and information, which shall not lose their confidential status by reason of such audit or inspection.

PASSED AND ADOPTED by the City Council of the City of Scottsdale, Arizona this _____ day of _____, 2003.

CITY OF SCOTTSDALE
A MUNICIPAL CORPORATION

_____
Mary Manross, Mayor

ATTEST:

_____
Sonia Robertson, City Clerk

APPROVED AS TO FORM:

_____
David A. Pennartz, City Attorney

34976_2

City of Scottsdale Fleet Management

STANDARD OPERATING PROCEDURE

Policy # 02 – 1003

Effective Date: July 1, 2003

SUBJECT: **VEHICLE / EQUIPMENT MARKING POLICY:**

Purpose: It is the policy of City of Scottsdale that all City owned motor vehicles and equipment and any vehicles leased for more than six (6) consecutive months shall be marked to meet or exceed the requirements of ARS 38-538. These vehicles/equipment shall be identified by affixing the City Symbol and Equipment Number visible from all sides of the piece of equipment. In addition to the City Symbol and Equipment Number, "For Official Use Only" and assigned department or division decals shall be affixed to the right and left sides of all vehicles as most practical, based on the size and shape of the individual vehicle. Additional markings and/or decals identifying a national accreditation or similar designation may be affixed to licensed motor vehicles upon the approval of the Fleet Management Director.

UNMARKED VEHICLES / EQUIPMENT : Certain City of Scottsdale owned Vehicles/Equipment or any Vehicles/Equipment leased for more than six (6) consecutive months may remain unmarked to support the unique needs or purposes of a City department's functions. Each unmarked vehicle shall be considered an **Exception** to this policy. ***Exceptions*** to Vehicle / Equipment Marking Policy **may** only be granted by the City Manager or designee. Any unit granted exception from the Vehicle/Equipment Marking Policy shall be reviewed by the City Manager or designee on an annual basis. Vehicles/Equipment may be added to the exception list throughout the year, on an as needed basis, as authorized by the City Manager or designee. The City Manager or designee shall authorize all new Vehicles/Equipment requiring exception status before being placed into service, even if the Vehicle/Equipment is replacing a unit that has been previously granted exception status.

Procedure:

VEHICLE / EQUIPMENT MARKING STANDARDS:

1. **Color**

City of Scottsdale light duty vehicles (cars and trucks) shall be painted white. City of Scottsdale heavy-duty vehicles shall be painted white except in instances where vehicle high visibility is required (i.e. Solid Waste Trucks). Deviation from the standard white color shall be determined on a case-by-case basis by the Fleet Director or designee. Vehicles donated to the City of Scottsdale need not be repainted solely to change the color; a color change can occur if the vehicle's paint requires refinishing.

Attachment No. 2

2. Standard Markings

a. Light Duty Vehicles (Class 1 through 4) / Equipment

i. Vehicle / Equipment Front:

- Equipment numbers, a **MINIMUM** of two inches (2") in height, made from reflective material shall be placed on the right front (passenger's side) of the vehicle / equipment.
- City of Scottsdale symbol, a **MINIMUM** of three inches (3") in size, made from reflective material shall be placed on the left front (driver's side) of the vehicle / equipment.

ii. Vehicle / Equipment Right and Left sides:

- Equipment numbers, a **MINIMUM** of two inches (2") in height, made from reflective material shall be placed forward of the City symbol (toward the front of the vehicle / equipment), higher than the City symbol, and within twenty four inches (24") of the City Symbol.
- City of Scottsdale symbols, a **MINIMUM** of six inches (6") in size, made from reflective material, placed in the center of the upper thirty percent (30%) of both front doors (if applicable).
- "Official Use Only" decal, a **MINIMUM** of two inches (2") in height, made from reflective material shall be centered, either directly under or over the City symbol (based on vehicle / equipment configuration).
- Assigned department or division name, a **MINIMUM** of two inches (2") in height, made from reflective material as may best identify the services performed by operators of the City vehicle.

iii. Vehicle / Equipment Rear:

- Equipment numbers, a **MINIMUM** of two inches (2") in height, made from reflective material placed on the left rear (driver's side) of the vehicle/equipment.
- City of Scottsdale symbol, a **MINIMUM** of three inches (3") in size, made from reflective material shall be placed on the right rear (passenger's side) of the vehicle/equipment.

b. Heavy Duty Vehicles (Class 5 through 8) / Equipment

i. Vehicle/Equipment Front:

- Equipment numbers, a **MINIMUM** of two inches (2") in height with four inches (4") in height being preferred, made from reflective material, placed on the right front(passenger's side) of the vehicle / equipment.
- City of Scottsdale symbol, a **MINIMUM** of three inches (3") in size with six inches (6") being preferred, made from reflective material, placed on the left front (driver's side) of the vehicle / equipment.

ii. Vehicle / Equipment Right and Left sides:

- Equipment numbers, a **MINIMUM** of two inches (2") in height with four inches (4") in height being preferred, made from reflective material, placed forward of the City symbol (toward the front of the vehicle / equipment), higher than and within twenty four inches (24") of the City symbol.
- City of Scottsdale symbol, a **MINIMUM** of six inches (6") in size with twelve inches (12") being preferred, made from reflective material, placed in the center of the upper thirty percent (30%) of the door areas (if applicable).
- "Official Use Only" decal, a **MINIMUM** of two inches (2") in height, made from reflective material centered, either directly under or over the City symbol (based on vehicle / equipment configuration).
- Assigned department or division name, a **MINIMUM** of two inches (2") in height, made from reflective material as may best identify the services performed by operators of the City vehicle.

iii. Vehicle / Equipment Rear:

- Equipment numbers, a **MINIMUM** of two inches (2") in height with four inches (4") in height being preferred, made from reflective material placed on the left (driver's side) of the vehicle/equipment.
- City of Scottsdale symbol, a **MINIMUM** of three inches (3") in size with six inches (6") being preferred, made from reflective material, placed on the right rear (passenger's side) of the vehicle/equipment.

c. ***Police Department Patrol Vehicles / Equipment***

i. **Vehicle / Equipment Front:**

- Equipment numbers, a **MINIMUM** of two inches (2") in height, made from reflective material placed on the right (passenger's side) of the vehicle/equipment.
- City of Scottsdale symbol, a **MINIMUM** of three inches (3") in size, made from reflective material placed on the left front (driver's side) of the vehicle/equipment.

ii. **Vehicle / Equipment Right and Left sides:**

- Custom "Scottsdale Police" decal package, made from reflective material.

iii. **Vehicle / Equipment Rear:**

- Equipment numbers, a **MINIMUM** of two inches (2") in height, made from reflective material, placed on the left rear (driver's side) of the vehicle/equipment.
- A "www.ScottsdalePD.com" decal, a **MINIMUM** of two inches (2") in height, made from reflective material, placed on the right rear (passenger's side) of the vehicle / equipment.
- "Scottsdale Police" decal, made from reflective material.

iv. **Vehicle / Equipment Roof:**

- Equipment numbers, a **MINIMUM** of twelve inches (12") in height, made from reflective material placed rearward of the lightbar.
- "Scottsdale Police" decal , made from reflective material centered and to the rear of the roof Equipment Numbers.

3. Extraneous Markings

No decals, stickers, signs, or other markings are allowed on any City of Scottsdale vehicle, other than official City of Scottsdale markings, without the express written consent of the Fleet Management Director, or designee.

4. Policy Implementation

This policy shall apply to all newly acquired or leased vehicles after 07/01/03. In addition, all existing vehicles shall be brought into compliance with the requirement to identify the assigned department or division responsible for operation of the vehicle as soon as practically possible. Existing vehicles marked with City Seals shall not be re-marked to meet the requirements of this policy.

Arizona Revised Statutes

38-538. Designation of state and political subdivision motor vehicles; definition

A. Except as provided in section 38-538.03, a motor vehicle owned or leased for six months or more by this state shall bear the designations "State of Arizona--(name of department or agency)" and "for official use only" in letters that are no more than two inches in height. The designation "for official use only" shall appear above the designation "State of Arizona--(name of department or agency)". The designations shall be on a decal that is placed on:

1. The rear window of the motor vehicle in an area that does not interfere with the driver's ability to safely operate the motor vehicle.

2. The rear bumper of the motor vehicle if the motor vehicle does not have a rear window.

B. A motor vehicle owned or leased for six months or more by a political subdivision of this state shall:

1. Bear the designation of the name of the political subdivision of this state and the department or agency of the political subdivision that owns or leases the motor vehicle in a visible manner as determined by the political subdivision.

2. Have placed on the motor vehicle in a visible manner as determined by the political subdivision the designation "for official use only".

C. For the purposes of this section, "political subdivision" includes an organization that is tax exempt as a political subdivision under the constitution or laws of this state.

38-538.01. State and political subdivision vehicles; patterns and insignias; violation; classification

A. The state highway engineer shall approve a uniform pattern for use in the designation of state motor vehicles. A state agency or department may use a distinctive insignia, other than the uniform pattern, on approval of the insignia by the governor.

B. The governing body of each political subdivision shall approve a uniform pattern for use in designating the political subdivision motor vehicles.

C. A person who knowingly places a pattern or insignia approved for use as a designation for motor vehicles of this state or a political subdivision on a motor vehicle not owned or leased by this state or a political subdivision is guilty of a class 2 misdemeanor.

38-538.02. Use of state motor vehicles; personal vehicle reimbursement

A. A motor vehicle owned or leased by this state shall not be provided to an employee, including an elected official, for the employee's personal use except as provided in subsection D of this section.

B. This state shall restrict the use of all motor vehicles owned or leased by it for motor pool use only. An employee may use a motor vehicle in the motor pool for business purposes only.

C. Reimbursement for travel for business purposes with an employee's own motor vehicle shall only be based on actual miles traveled.

D. This section does not apply to a person who is exempt under section 38-538.03 or a motor vehicle that is leased or rented pursuant to section 41-805 or section 41-1713, subsection B, paragraph 9.

E. For purposes of this section, use for business purposes does not include normal commuting to and from the employee's residence at any time unless the employee is on duty or on call for duty during the time that the employee is at the employee's residence.

38-538.03 Exemptions

A. This article does not apply to a motor vehicle designated for the use of the governor.

B. The head of a state department or agency with the power and duty to conduct rehabilitation or social service programs, felony investigations or activities of a confidential nature may apply to the governor, or the head of a department or agency of a political subdivision may apply to the governing body of the political subdivision, for an exemption from this article for a motor vehicle used in this service. The application shall state the nature of the service and the year, make, model and identification number of the motor vehicle and shall provide other information the governor or political subdivision governing body requires. The governor or political subdivision governing body may grant the exemption for not more than one year.

38-538.04 Violation; classification

Failure to comply with this article is a class 2 misdemeanor unless another classification is specifically prescribed in this article.

28-2511 . Official vehicles; registration exemption; definitions

A. A registration fee is not required for a vehicle owned by a foreign government, by a consul or any other official representative of a foreign government, by the United States, by a state or political subdivision of a state, by an Indian tribal government, by a provider of ambulance, fire fighting or rescue services that is used solely for the purpose of providing emergency services or by a nonprofit organization that presents to the department a form approved by the director of the division of emergency management pursuant to section 26-318. The person who has custody of these vehicles shall register them as required by this chapter and shall display official license plates that bear distinguishing marks. The department shall furnish the license plates free of charge. The department may issue regular license plates without any distinguishing marks for vehicles that are exempt from title 38, chapter 3, article 10 pursuant to section 38-538.03, subsection B.

B. The director may issue license plates for vehicles owned by and used in the line of duty by law enforcement agencies in other states and the federal government without being registered as required by this chapter.

C. The director may enter into agreements or arrangements subject to the approval of the attorney general of this state with the federal government and with motor vehicle departments in other states to provide for a reciprocal exchange of license plates for use on vehicles owned or operated by law enforcement agencies for investigating actual or suspected violations of law. License plates of other states obtained pursuant to this subsection may be used on exempt vehicles of law enforcement agencies of this state or a political subdivision of this state.

D. The director shall maintain a record of the license plates issued pursuant to subsections B and C of this section. The director shall also keep a record of the license plates received pursuant to subsection C of this section, the regular

license plates issued pursuant to subsection A of this section and the vehicles to which the plates are attached. These records are not open to public inspection except on demand of the attorney general.

E. Any vehicle that is registered pursuant to this section and that is powered by an alternative fuel shall display an alternative fuel vehicle special plate issued pursuant to section 28-2416, except that the department may issue regular license plates without any alternative fuel distinguishing marks or regular alternative fuel vehicle special plates for vehicles that are exempt from title 38, chapter 3, article 10 pursuant to section 38-538.03, subsection B. This subsection applies to all existing vehicles that are registered pursuant to this section and all newly-acquired vehicles that are registered pursuant to this section.

F. For the purposes of this section:

1. "Alternative fuel" has the same meaning prescribed in section 1-215.

2. "Ambulance" means a vehicle for which a certificate of registration has been issued pursuant to section 36-2212.

Attachment No. 3

CITY COUNCIL REPORT

MEETING DATE: 07/02/2003 ITEM NO. 15 GOAL: Preservation & Character

SUBJECT

Construction Bid Award for Civic Center Mall Amphitheater and Nevelson Sculpture Re-siting

REQUEST

AUTHORIZE Construction Bid Award No. 03PB113 to the lowest responsive bidder identified in Attachment No. 1.

BACKGROUND

The Louise Nevelson Sculpture 'Windows to the West' was sited between the Civic Center Library and City Hall in 1973. This very popular artwork was purchased for $40,000 with the financial support of Scottsdale's residents, private donors, and the National Endowment for the Arts.

Over time, the cor-ten steel artwork has deteriorated significantly. City Council authorized $360,000 to fund a project to renovate the amphitheater and provide a new sculpture pad. Separately, the Scottsdale Cultural Council, in June of 2002, contracted to have the sculpture removed and restored by the Tallix Foundry in Beacon, N.Y., the fabricator originally chosen by Louise Nevelson.

In May of 2002, a single construction bid was received for a design that created a sculpture plinth and a water feature that transformed into an amphitheater stage for entertainment venues. The bid was more than twice the available budget and was rejected.

A revised concept was created that located the sculpture between 2 fountains (See Attachment No. 2). A maximum construction budget of $300,000 was targeted for the project. A citizen committee and the Cultural Council's Public Art Collection Committee reviewed and accepted the proposal. City staff prepared the construction documents except for the electrical and structural drawings.

The design appearance and form is reminiscent of the original plaza and fountain. The artwork remains the focus of the amphitheater. Other components are a large (1000 square foot) pool that utilizes reused fountain jets and tumbles into a basin visible from the Civic Center Library Reading Room. North of the sculpture, a curtain of water emanates from beneath the plinth and falls 12 inches into a small pool. This curtain of water is visible from the 75th Street. New area lighting and power supply for special events are also included.

Although the sculpture appears as a backdrop to both fountains, it will be located away from water and precautions have been taken to minimize overspray. The water jets are over 20 feet away will be valved to allow a maximum 3' height. A

Action Taken_____

new chemical feed system is also included in the design that will keep the chlorine concentrations low. The new water curtain feature on the north pool falls only 12" and does not create a significant splash.

Plans and specifications were made available to prospective bidders starting June 3.

ANALYSIS & ASSESSMENT

Contract process and terms. The Purchasing Department will open sealed project bids on June 24, 2003 at 3:00 PM. The received bids will be reported to City Council separately.

The Purchasing Director will identify the successful bidder and will confirm that the procurement procedures provided by the City Code have been followed. The CIP Coordinator concurs that funds are available to authorize this contract.

Community involvement.
The restoration of the Nevelson 'Windows to the West' and improvements to the amphitheater have been of great interest to Scottsdale citizens. The various sculpture and fountain configurations have been before City Council and Development Review Board at least 3 times each. A committee of citizens and members of the Public Art Collection Committee have had several meetings over the last two years. A presentation of the final bid package was reviewed and discussed by the committee in early June.

RESOURCE IMPACTS

There is sufficient available funding in CIP Account No. P0104 (Nevelson Sculpture Re-Siting).

Future budget implications.
This project will upgrade all aspects of the existing water feature, reduce total water area and volume and create a more energy-efficient feature. Maintenance costs will be slightly reduced by these improvements.

Maintenance requirements.
The completed project will eliminate the need for rented generators and numerous overland electric cables for stage lighting and sound equipment.

The new pool equipment and chemical feed system will be installed in an underground vault that meets OSHA containment standards.

Seating will be available in two locations for patrons unable to sit in the grass areas.

OPTIONS & STAFF RECOMMENDATION

Description of Option A:
Award of this construction contract will provide a new setting for the popular 'Windows to the West' sculpture. The renovated artwork is tentatively scheduled for re-installation in early November 2003.

Description of Option B:
At the direction of City Council, the project can be postponed until a later date.

Description of Option C:
All bids may be rejected and another design package developed that responds to concerns that a larger capital investment should be made for this area of the Mall.

Recommended Approach: Award of construction contract will restore the Nevelson to its accepted home and provide improvements that enable this area to function more effectively when used as a performance stage.

Proposed Next Steps:
Construction could start within 2 weeks after date of award and is scheduled for 100 calendar days. The sculpture would be re-installed in November 2003.

RESPONSIBLE DEPT (S) Municipal Services, Capital Project Management

STAFF CONTACT (S) Bill Peifer, Sr. Project Managerbpeifer@scottsdaleaz.gov (480) 312- 7869

APPROVED BY

Al Dreska — Date 6/16/03
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Roger Klingler — Date 6/19/03
Assistant City Manager
rklingler@scottsdaleaz.gov (480) 312-5830

ATTACHMENTS

1. Bidders Tabulation
2. Proposed Site Plan

Memorandum

To: Mayor and City Council

From: Bill Peifer, Project Manager
Capital Project Management

CC: Jan Dolan, City Manager
Roger Klingler, Assistant City Manager
Al Dreska, General Manager
Municipal Services

Date: June 16, 2003

Re: Civic Center Amphitheater and Nevelson Re-siting Bid Tabulation

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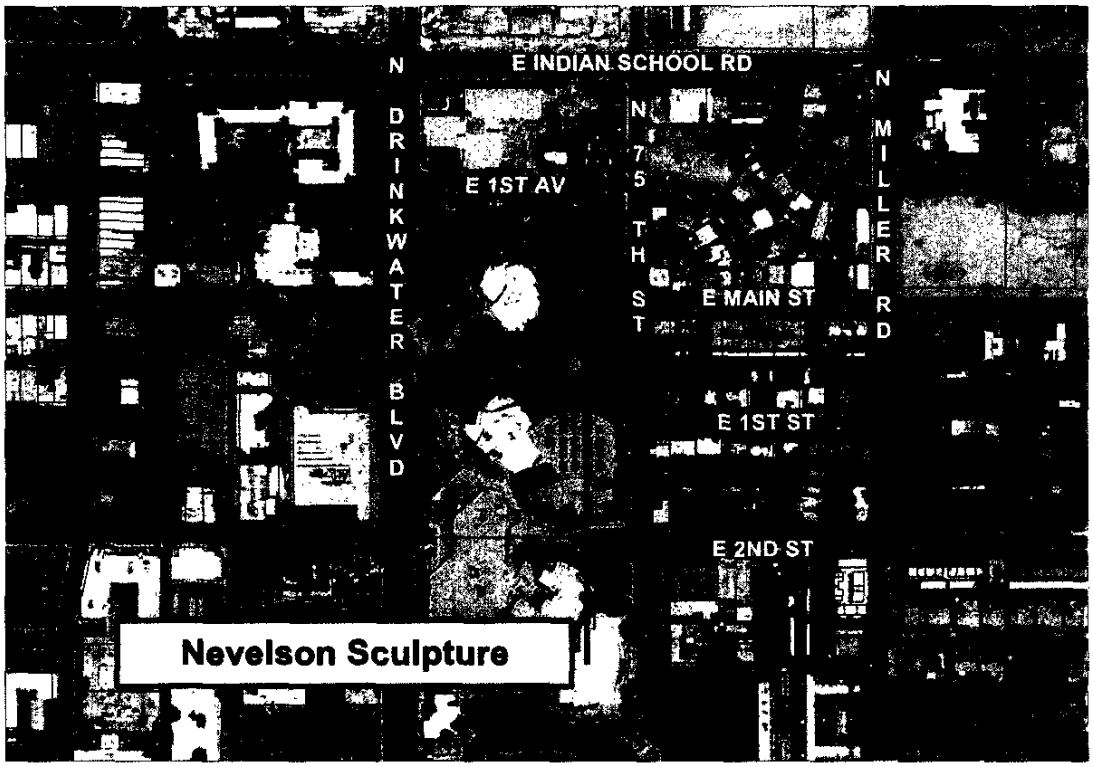
Mayor and City Council,

Attachment 1, the Bid Tabulations for the Civic Center Amphitheater and Nevelson Re-siting-Item 8 on July 2, 2003 Council Agenda will not be available until after the bid opening on June 24, 2003 at 3:00 pm.

Copies of the Bid Tabulation will be delivered to Scottsdale City Council and City Manager, as soon as possible.

Attachment 2



CITY COUNCIL REPORT

MEETING DATE: 07/02/2003 ITEM NO. 16 GOAL: Transportation

SUBJECT

Construction Contract Award for Hayden Road - Thompson Peak Parkway to Williams Drive

REQUEST

AUTHORIZE Construction Contract Award No. 03PB072 to J. Banicki Construction, Inc., the lowest responsive bidder, at their total unit price bid of $973,589.85 for Segment 3 of the Hayden Road – Princess Drive to Pinnacle Peak project (see Location Map).

BACKGROUND

City Council approved Engineering Services Contract No. 2002-033-COS for Hayden Road between Princess Drive and Pinnacle Peak Road on April 16th 2002. The project's design was planned for development in three segments:

- Segment 1. Princess Drive to Loop 101 Freeway.
- Segment 2. Loop101 Freeway to Thompson Peak Parkway.
- Segment 3. Bridge and roadway improvements at Hayden/Miller Road and Deer Valley Road.

Design and construction of Segment 1.- Princess Drive to the Freeway has been completed and opened to traffic on June 6th 2003. Design and right-of-way acquisition for Segment 2 is nearing completion and construction of this segment will begin later this Fall.

This construction contract is for Segment 3 from Thompson Peak Parkway to Williams Drive. The existing roadway in this segment consists of four lanes, separated by a raised, landscaped median with a two-lane bridge at Deer Valley. By constructing a second bridge all four lanes can be fully utilized. In addition to the bridge, a signal will be installed at Grayhawk Drive and the roadway will be resurfaced with rubberized asphalt.

ANALYSIS & ASSESSMENT

The final section of the Loop 101 Freeway was opened to traffic in April 2002 and has infrastructure in place for exit and entry ramps at Hayden Road. The purpose of these design and construction projects is to complete the connection of Hayden Road to the Loop 101 Freeway.

The Hayden Road project, which is being achieved in three segments, consists of the following:

Segment 1 extends from Princess Drive to the Loop 101 Freeway. A design concept report was prepared by Stantec Consultants under the direction of the Transportation Department and was used as a basis of design for this segment.

Action Taken_____

The plans also called for the installation of an Intelligent Transportation System (ITS) from the Loop 101 Freeway to Frank Lloyd Wright Boulevard. Water and sewer lines consistent with the City's Master Plan were also installed. Segment 1 is now complete and was open to traffic on June 6th 2003.

Segment 2 extends from the Freeway to Thompson Peak Parkway. The design concept report for this segment is complete and the engineer is in the process of completing the final plans and construction documents for this segment. Staff anticipates that the construction contract will be presented for Council consideration in Fall 2003 and that construction will be complete by Spring 2004.

Segment 3 includes plans and construction documents for a bridge and associated roadway improvements at the intersection of Deer Valley Road and Hayden/Miller Road. The design has been completed for this segment and this portion of the project is now ready for construction.. These improvements are scheduled for completion by January 2004.

Upon completion of all three segments of Hayden Road, there will be an important new north – south route in this area of the city that provides another access point to the Loop 101 Freeway. There will be four traffic lanes from Frank Lloyd Wright Boulevard to Williams Drive, which is one half mile south of Pinnacle Peak Road. From Williams Drive to Pinnacle Peak Road, the street will remain narrowed to one lane in each direction until the final phase of this project, including improvements to Pinnacle Peak Road, is funded for design and construction after right-of-way and drainage issues are resolved along the Rawhide frontage..

Contract process and terms.
The Purchasing Division opened bids for Segment 3 on June 17, 2003 at 2:00 PM and bids were received as follows:

J. Banicki Construction, Inc.	**$973,589.85**
Hunter Contracting Co.	$1,026,745.90
Bison Contracting Co., Inc.	$1,055,927.25
Archon, Inc.	$1,077,290.20
Haydon Building Corp.	$1,137,433.00
Achen-Gardner Engineering	$1,172,609.37

The Purchasing Director concurs with the identification of the successful bidder and confirms that the procurement procedures provided by the City Code have been followed. The CIP Coordinator concurs that funds are available to authorize this contract.

Community involvement.
The preparation of the design concept report involved three public meetings and meetings with individual homeowner associations and joint meetings of the Transportation and Parks Commissions. Staff has also held meetings with the Grayhawk Master property owners association.

RESOURCE IMPACTS

Available funding.
Funds for this construction contract are available in CIP Account No. S0201 (Hayden/Miller Road – DeerValley to Pinnacle Peak).

Traffic Impact.
Disruptions during construction of the bridge will be minimal, as traffic will continue to use the existing bridge. One lane of northbound and southbound traffic will be maintained during the resurfacing phase of the project.

OPTIONS & STAFF RECOMMENDATION

Option A:
Awarding the construction bid and building the project now responds to the desire to ultimately provide a connection to Hayden Road and the Loop 101 Freeway.

Option B:
Not awarding the bid at this time would require re-bidding and create a delay in providing a connection.

Recommended Approach:
Based on the above, the staff recommendation is to proceed with the project and award the bid. Funding is available and the construction bid prices are acceptable.

Proposed Next Steps:
Following the award of the contract, necessary documents will be prepared and executed and the Contractor will be directed to begin work. Construction should start in late July and be completed by January 2004.

RESPONSIBLE DEPT(S)

Municipal Services Department, Capital Project Management Division

STAFF CONTACT(S)

Alex McLaren , Construction and Design Director
amclaren@ci.scottsdale.az.us(480)312-7099

APPROVED BY

Al Dreska — Date 6/13/03
Municipal Services General Manager
adreska@ci.scottsdale.az.us (480)312-5555

Roger Klingler — Date 6/13/03
Assistant City Manager
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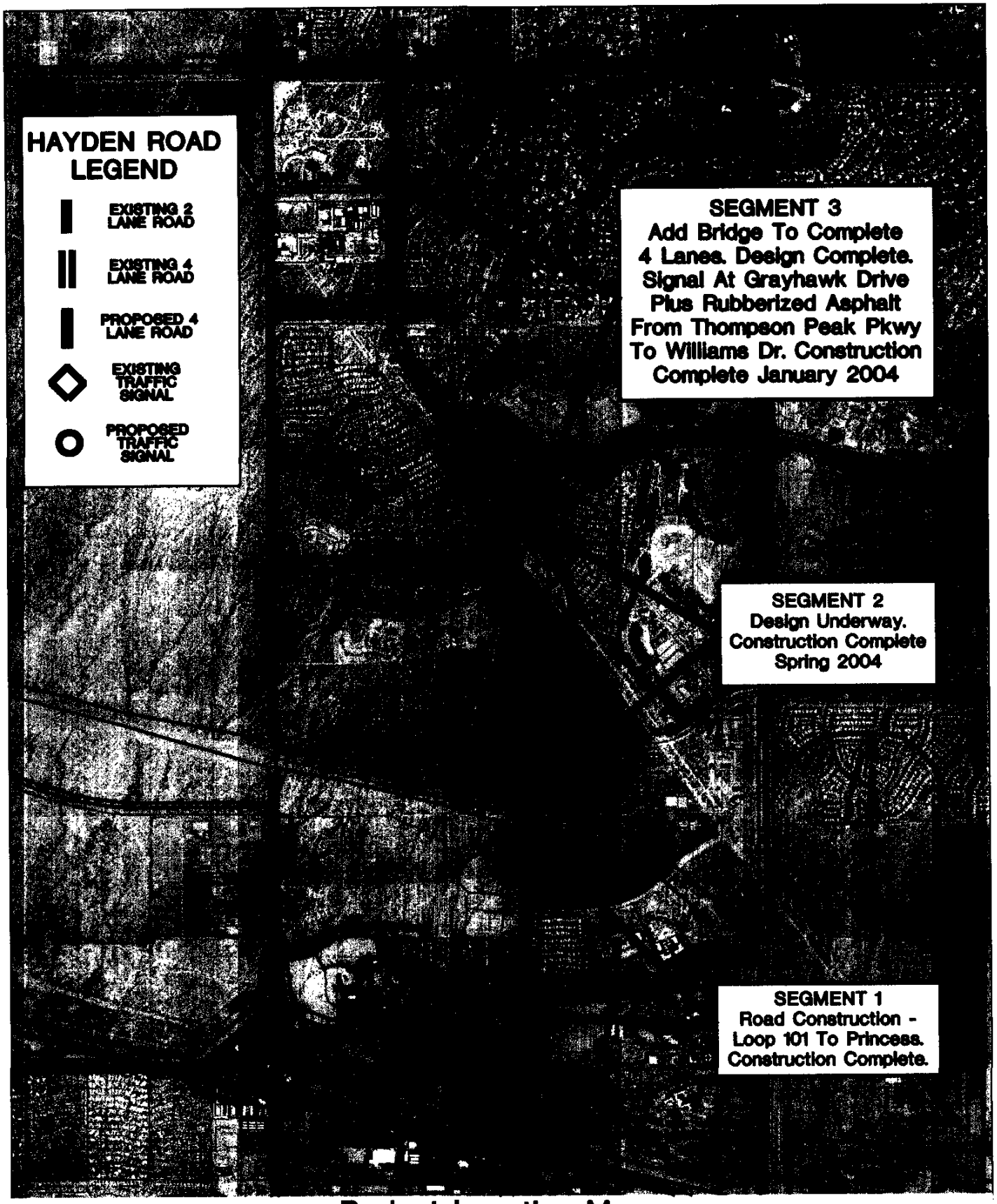
ATTACHMENTS

1. Location Map



Project Location Map

HAYDEN ROAD

Princess Drive To Pinnacle Peak Pkwy

CITY COUNCIL REPORT

MEETING DATE: 07/02/2003 ITEM NO. 17 GOAL: Neighborhoods

SUBJECT

Construction Bid Award for Police District Three Emergency Electrical Power Generator

REQUEST

AUTHORIZE Construction Bid Award No. 03PB095 to Buehler Brothers Electric, Inc., the lowest responsive bidder, at their lump sum base bid of $72,200.00.

BACKGROUND

The District Three Public Safety facility is located near the intersection of Thompson Peak Parkway and Pima Road. This facility, which provides police and fire suppression services, did not include emergency power generation facilities as part of the original scope or budget. As a result, it is susceptible to power outages and the resulting disruptions to services. The rapid development of the area has enhanced the potential for outages as the demand for electrical power grows quicker than the transmission facilities.

This project consists of providing and installing a diesel powered emergency generator capable of producing on-site electrical power adequate to maintain uninterrupted operation of the police and fire protection facilities located at this site.

ANALYSIS & ASSESSMENT

A total of 120 calendar days have been allowed for this contract. Work under this contract is expected to begin in July and be completed by the end of October. The contractor will only be allowed thirty days on site and any planned power outages required to connect the emergency generation equipment to the facility's electrical distribution system must be limited to twelve hours. The exact timing of any power outage will be coordinated with the Police Department to minimize service disruptions. The balance of the contract time will be used for lead-time to fabricate and deliver the electrical generator to the site.

The public safety facilities at this location will be served by a reliable back-up source of electrical power after completion of this contract.

Contract process and terms. The Purchasing Department opened sealed bids on May 22, 2003 at 3:00 PM. Twelve responsive bids were received as follows:

Buehler Brothers Electric, Inc.	**$72,200.00**
Corbins Electric	$75,394.00
AJP Electric	$79,500.00
Commonwealth Electric	$79,800.00
Northern Arizona Systems	$79,900.00

Action Taken_____

Ludvik Electric	$82,300.00
Hatfield Reynolds Electric	$85,500.00
Wilson Electric	$90,200.00
Kortman Electric	$92,850.00
Shadduck and Assoc.	$97,500.00
Sturgeon Electric	$99,583.21
Integrated Power Tech.	$116,141.14

The Purchasing Director concurs with the identification of the successful bidder and confirms that the procurement procedures provided by the City Code have been followed. The CIP Coordinator concurs that funds are available to authorize this contract.

Significant issues to be addressed.
The completion and activation of this system will ensure that power outages do not affect the service level provided by emergency service personnel operating from this site, which includes both police and fire suppression personnel.

Community involvement.
The equipment will be housed in the mechanical equipment yard and will not be seen or heard by residents or visitors. Maintaining emergency service levels during periods when the demand for service is the highest provides a sense of security in the community being served.

RESOURCE IMPACTS

Available funding.
Funds for this contract are available in CIP Account No. E0203 (Police Emergency Power).

Future budget implications.
There will be a minor increase in maintenance costs to exercise and provide fuel for the generator assembly. The cost of providing mobile emergency power generation equipment in the event of a prolonged outage would far outweigh the cost of scheduled maintenance activities.

Staffing, workload impact. If approved, work is scheduled to begin in July and will be completed within 120 days. The coordination and supervision of construction activities is part of the available staff allocation in the Capital Project Management division.

Maintenance requirements.
The cost of maintaining the new equipment along with the existing facility and grounds will remain the City's responsibility.

Traffic Impacts.
No traffic impacts will be generated by this project.

OPTIONS & STAFF RECOMMENDATION

Description of Option A:
Do not approve this project and accept the risks associated with the potential of reduced service levels during short electrical power outages and the costs of importing portable power generation during more lengthy outages.

Recommended Approach:
Approve this contract in order to advance the project in the most expeditious manner possible and take advantage of a favorable construction bidding climate.

Proposed Next Steps:
Approval of this construction contract would enable the initiation of project activities in July with a targeted completion in October.

RESPONSIBLE DEPT(S) Municipal Services, Capital Project Management

STAFF CONTACT(S) Dan Walsh, Project Manager, (480) 312-5248 dwalsh@scottsdaleaz.gov

APPROVED BY

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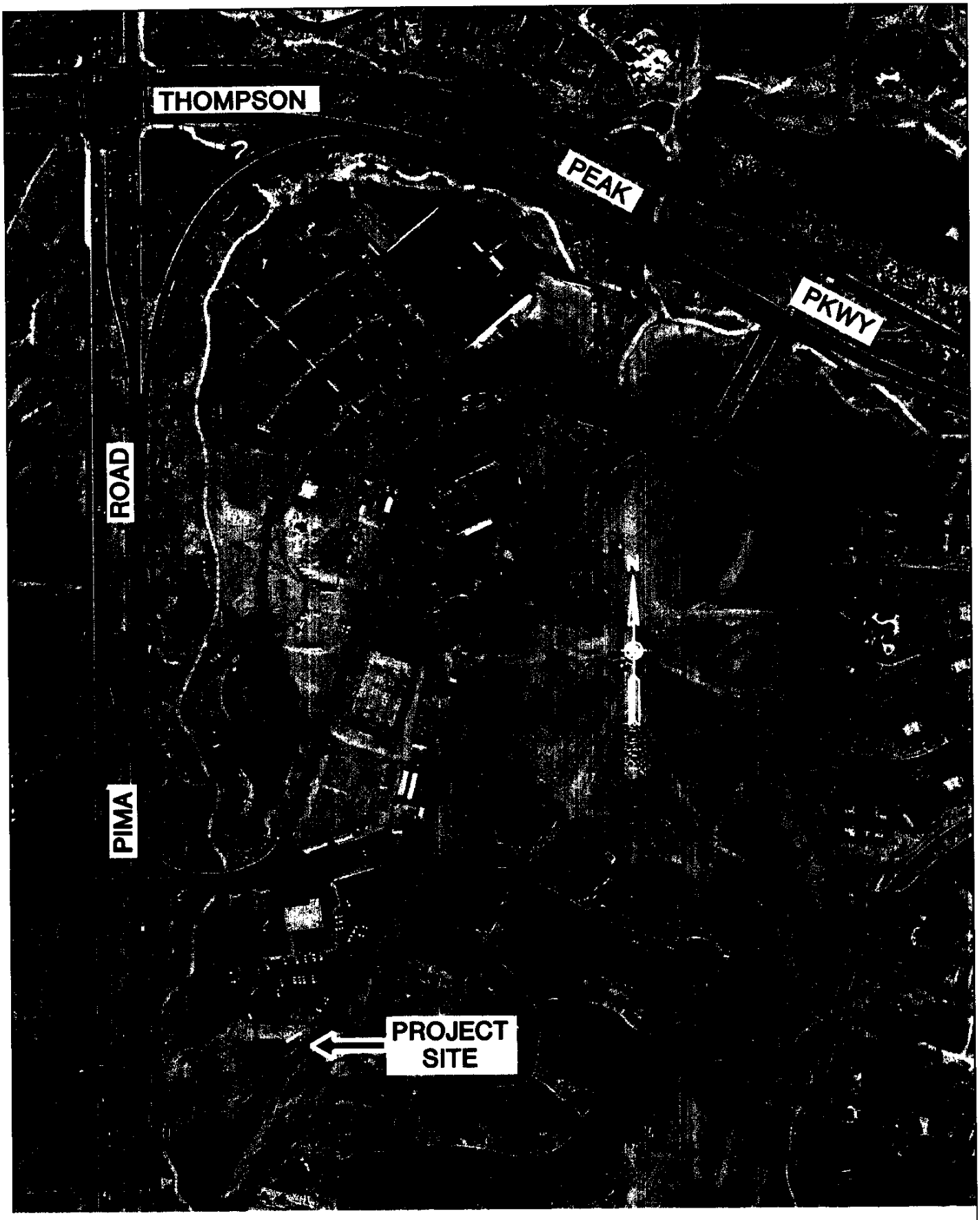
Roger Klingler — Date 6/17/03
Assistant City Manager
rklingler@scottsdaleaz.gov (480) 312-5830

ATTACHMENTS

1. Location Map



PROJECT LOCATION MAP

Attachment 1

CITY COUNCIL REPORT

MEETING DATE: 07/02/2003 ITEM NO. 18 GOAL: Long-term Ecomonic Prosperity

SUBJECT

Outdoor Dining Lease on Civic Center Mall

REQUEST

ADOPT Resolution No. 6339 AUTHORIZING lease agreement 2003-125-COS with James-Hotel Scottsdale L.L.C., an Arizona limited liability company to construct and operate an outdoor dining area on the Scottsdale Civic Center Mall.

Related Policies, References:

- Section 2-221(b)(4) of the Scottsdale Revised Code, which allows the sale of City property interests, including leases, directly to adjoining property owners.
- Resolution No. 4879 was adopted September 2, 1997, which authorized a lease with AZ88 to construct and operate an outdoor dining area on the Scottsdale Civic Center Mall.
- Resolution No. 5296 was adopted June 1, 1999, which authorized a lease with the Blue Moose restaurant to operate a second outdoor dining area on the Scottsdale Civic Center Mall.

BACKGROUND

In May 2003 the James-Hotel Scottsdale purchased the hotel and resort property at 7353 E. Indian School Road at the southwest corner of Indian School and Drinkwater Boulevard. The property, which was built in 1975, is located on the north edge of the Scottsdale Civic Center Mall. The new owner plans a major renovation of the property and open for business in November 2003. Included in the renovation plans is an outdoor dining area on a portion of City owned mall property directly abutting the south side of the hotel and resort property. Attachment No. 3 is an aerial photo showing the proposed outdoor dining area.

ANALYSIS & ASSESSMENT

The Hotel has applied for Development Review Board approval of its renovations including the outdoor dining area. The Development Review Board reviewed the patio design at its June 5, 2003 Study Session and indicated support for the patio. Formal review and approval of the Hotel design is scheduled for the July 10, 2003 Development Review Board Meeting. Attachment No. 4 are drawings that show the proposed design of the outdoor dining area.

As a result, the attached lease for the 1,827 S.F. outdoor dining area was prepared. The general terms and conditions of the lease with the James-Hotel Scottsdale include the following provisions:

- A 15-year lease term. The City can terminate the lease with six

months prior written notice if City reconfigures the Mall and the outdoor dining area interferes with the proposed Mall reconfiguration. The City can also terminate the lease if upon the sale of the Hotel the lease is not assigned to the new owner.

- Base Rent will be $ 3,878 per year, paid semi-annually. The rental amount is equivalent to ten per cent of the value of the land per year.
- Base Rent will be adjusted upward annually based on the Consumer Price Index. If the CPI drops the rent will not be reduced.
- Permitted uses are restricted to the serving of fully prepared food and beverages.
- Lessee's liquor license is related only to the leased area and the Hotel. Lessee has no rights to serve liquor on the balance of the Civic Center Mall. Lessee must provide liquor liability insurance of $1,000,000.
- Lessee must provide $2,000,000 in general liability insurance.
- Activities at the premises are restricted between 6:00 a.m. and 1:00 a.m., except that no use of the premises shall be made outside general operational hours of the Mall, as may be established by the City.
- Outdoor music and sound equipment is prohibited if audible more than 30 feet from the lease area.
- City may require Lessee to hire security guards if necessary.
- Lessee is responsible for the all maintenance of the premises at the Lessee's cost.
- Lessee is responsible for the costs of all improvements to the premises, which must be approved by the City.
- Lessee is responsible for all utility charges.
- Assignment of Lessee's leasehold interest is prohibited except with the City permission.

Policy implications.
This is the third outdoor dining lease on the Civic Center Mall with terms and conditions similar to the first two outdoor dining leases. The lease conforms to the City's practice of encouraging Mall activity throughout the day and bringing people into the Mall. More activity on the Mall, especially during evening hours, enhances the area's safety. Additional outside patrons will add watchful eyes and ears to discourage unfavorable activities. The agreement has the concurrence of the Scottsdale Cultural Council staff, Community Services Department, Risk Management and Capital Project Management.

Community involvement.
There have been no public meetings to date on the project, except for the June 5, 2003 Development Review Board Study Session and the upcoming July 10, 2003 Development Review Board Hearing.

RESOURCE IMPACTS

The lessee is responsible for all for the construction, maintenance and operational costs of the outdoor dining area. The annual rent is $ 3,878 and will be adjusted annually by the amount of increase in the Consumer Price Index. If the CPI drops, the rent will not be reduced. Revenue from this lease will be deposited into the City's general fund account 100-00100-46601.

OPTIONS & STAFF RECOMMENDATION

Description of Option A:
Adopt Resolution No. 6339 authorizing Lease Agreement No. 2003-125-COS, which will provide additional outdoor dining and activity on the Civic Center Mall and provide a small revenue stream to the City.

Description of Option B:
Determine that outdoor dining in the proposed area is not in the City best interests.

This would delay and/or hinder the development and success of the renovation plans for the Hotel.

Recommended Approach:
Adopt Resolution No. 6339 and Authorize Lease Agreement No. 2003-125-COS for an outdoor dining lease.

Proposed Next Steps:
Lessee plans to begin construction of the Hotel renovations upon receiving Development Review Board approval and open the hotel and outdoor dining area for business November 2003.

RESPONSIBLE DEPT(S) Municipal Services, Capital Project Management

STAFF CONTACTS

Ron King, Asset Management Coordinator, (480)-312-7042, rking@scottsdaleaz.gov
Jon Chase, Principle Planner, (480)-312-2578, jchase@scottsdaleaz.gov

APPROVED BY

Al Dreska 6/17/03
Date
Municipal Services General Manager
adreska@scottsdaleaz.gov (480) 312-5555

Roger Klingler 6/17/03
Date
Assistant City Manager
rklingler@scottsdaleaz.gov (480)312-5380

ATTACHMENTS

1. Resolution No. 6339
2. Lease Agreement No. 2003-125-COS
3. Aerial Photo
4. Outdoor Patio Design Drawings

RESOLUTION NO. 6339

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AGREEMENT NO. 2003-125-COS BETWEEN THE CITY OF SCOTTSDALE AND JAMES-HOTEL SCOTTSDALE L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY TO LEASE CITY-OWNED REAL PROPERTY LOCATED AT 7373 EAST SCOTTSDALE MALL.

WHEREAS, the City of Scottsdale owns title to a certain parklike outdoor mall and related public real property (the Scottsdale Civic Center Mall) being generally the public parcels within the area bounded by Brown Avenue, First Avenue, 75th Street and 2nd Street, together with the Scottsdale Stadium area, all within the City of Scottsdale; and

WHEREAS, James-Hotel L.L.C. is the owner of a hotel and resort building located within the Scottsdale Civic Center Mall; and

WHEREAS, the City of Scottsdale desires to lease a portion of Civic Center Mall adjoining the hotel and resort building for outdoor food and beverage service as described on Exhibit "A" attached hereto.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Scottsdale, Arizona as follows:

That the Mayor is authorized to execute Agreement No. 2003-125-COS, attached hereto as Exhibit "B", leasing to James-Hotel Scottsdale L.L.C., an Arizona limited liability company, the real property located within the Scottsdale Civic Center Mall for use as an outdoor dining area.

PASSED AND ADOPTED by the Council of the City of Scottsdale this 2nd day of July 2003.

_____
Mary Manross, Mayor

ATTEST:
Sonia Robertson, City Clerk

By: _____

APPROVED AS TO FORM:

for
David A. Pennartz, City Attorney

WHEN RECORDED RETURN TO:

City of Scottsdale
ONE STOP SHOP/RECORDS
(Ron King, Linda Lorbeer)
7447 E. Indian School Road, Suite 100
Scottsdale, AZ 85251

C.O.S. No. 2003 -125-COS

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Agreement") is made and entered into this 2nd day of July, 2003, by and between the City of Scottsdale ("Lessor"), an Arizona municipal corporation, and James-Hotel Scottsdale L.L.C., an Arizona limited liability company ("Lessee").

WITNESSETH

A. Lessor is the owner of a park like outdoor mall and related public real property (the "Mall Site") being generally the public parcels within the area bounded by Brown Avenue, First Avenue, 75th Street and 2nd Street, together with the Scottsdale Stadium area, all within the City of Scottsdale, Maricopa County, Arizona.

B. Lessor is the owner of certain real property (the "Premises") located within the Mall Site comprising approximately One thousand eight hundred twenty seven (1827) square feet of land described on Exhibit "A" attached hereto.

C. As of the date of this Agreement, the Premises is improved with landscaping, utilities, irrigation equipment, and related facilities.

D. Lessee represents to Lessor that Lessee is the owner of the existing hotel and resort building immediately north of and adjacent to the Premises (the "Hotel Building"), which is located on the parcel of real property (the "Hotel Parcel") described on Exhibit "B" attached hereto.

E. Lessor desires to lease to Lessee the Premises for outdoor food and beverage service (including alcohol) for immediate consumption of food prepared inside the Hotel Building (the "Permitted Uses") subject to the requirements of this Agreement.

F. Lessor desires to reserve rights to construct and use additional improvements upon the Premises subject to the requirements of this Agreement.

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

I. PREMISES

1. Premises.

1.1 Restrictions on Premises Areas. The Premises include and are limited to the area described in the drawing attached hereto as Exhibit "C" (the "Site Plan") which are labeled as "Proposed Patio Extension."

1.2 Reconfiguration. Lessor shall have the unilateral right to modify the entirety of the Mall Site from time to time during the term of this Agreement. Any relocation of then existing improvements installed by Lessee upon the Premises required by Lessor's reconfiguration shall be at Lessor's expense and shall be preceded by sixty (60) days notice of the work by Lessor to Lessee. Lessor may also unilaterally regulate, reroute, close and otherwise alter pedestrian and vehicular traffic access to the Mall Site and travel within any area of the Mall Site without Lessee's consent. This paragraph shall not detract from such rights as Lessee may have to continued access to and from the public street system and the Hotel Parcel.

1.3 Condition of Premises. Lessee has examined, studied and inspected the Premises, and the Mall Site, and the Premises are being leased in an "as is" condition without any express or implied warranties of any kind, including without limitation any warranties or representations as to their condition or fitness for any use. Lessee has obtained such information and professional advice as Lessee has determined to be necessary related to this Agreement or this transaction. Lessee has had extensive prior experience with the Mall Site and the Premises and is familiar with their condition.

1.4 Lessor's Fixtures and Personalty Included. Lessor is not obligated to provide to Lessee any fixtures or personal property owned by Lessor. Any and all of Lessor's property as may come into the possession of Lessee or be used by Lessee shall be returned to Lessor by Lessee at termination of this Agreement and shall be maintained in good working condition by Lessee from time to time at Lessee's expense and replaced by Lessee at Lessee's expense when worn out and shall be owned at all times by Lessor with Lessee being solely responsible for the condition thereof. All such personal property is provided "as is" and Lessee accepts all responsibility for its condition and shall thoroughly inspect the same before use. Without Lessor's prior written consent, Lessee shall not remove, damage or alter in any way any improvements or fixtures upon the Premises (whether installed by Lessee, Lessor or otherwise) or any personal property of Lessor, except as otherwise expressly provided in this Agreement.

1.5 Prior Contracts. Lessee's rights hereunder are subject to all covenants, conditions, restrictions, easements, agreements, liens, reservations and encumbrances upon, and all other recorded or unrecorded conditions of title to, the Premises. Lessee has obtained any title insurance or information Lessee deems appropriate. Lessor does not warrant title to the Premises. Lessee's rights hereunder are further subject to all present and future building restrictions, regulations, zoning laws, ordinances, resolutions, and orders of all bodies, bureaus, commissions and bodies of any municipal, county, state, or federal authority, now or hereafter having jurisdiction over the Premises or Lessee's use thereof.

1.6 Reservation for Existing Utilities. Lessor reserves from this Agreement an easement for repair, replacement and maintenance of any and all pipes, wires, cables or other utilities existing upon the Premises as of the date of this Agreement. In the event of construction work within the Premises related to such utilities, Lessee shall, if requested by Lessor, temporarily

remove its improvements at Lessee's expense so that Lessor shall have convenient access to such utilities.

1.7 Reservation for Lessor's Use and Future Improvements. Notwithstanding anything contained in this Agreement to the contrary, Lessor reserves the right to use and allow others to use any existing or future improvements upon the Premises and to construct new improvements upon the Premises so long as such improvements do not, in Lessor's reasonable discretion, materially and substantially impair Lessee's ability to utilize the Premises for the Permitted Uses. All of Lessor's reserved rights under various provisions of this Agreement shall be cumulative to each other. Lessee shall not obstruct public use of other portions of the Mall Site.

1.8 Rights in Adjacent Property. Lessee's rights are expressly limited to the real property defined as the "Premises" in this Agreement. Without limitation, in the event any public right-of-way or other public or private property adjacent to the Premises is dedicated, abandoned or otherwise acquired or disposed of by Lessor, such property shall not accrue to this Agreement but shall be Lessor's only. In addition, and severable from the preceding sentence, upon any such event, Lessee shall quit-claim to Lessor such right-of-way or other property. Such quit claim deed shall not detract from such rights as Lessee may have as respects access to and from the public street system and the Hotel Parcel. This Agreement does not grant to Lessor any interest in the Hotel Parcel

1.9 Variation in Area. In the event the Premises consist of more or less than the stated area, this Agreement shall nevertheless continue and Lessee's obligations hereunder shall not be increased or diminished.

II. TERM OF LEASE

2. Term of Lease. Lessor hereby leases the Premises to Lessee subject to and conditioned upon Lessee's full, timely, complete and faithful performance of all performances and things to be performed or done hereunder by Lessee, and Lessee hereby accepts the Premises and this Agreement.

2.1 Term. The term of this Agreement shall be for a period of fifteen (15) years commencing on the date of this Agreement unless sooner terminated as set forth in this Agreement.

2.2 Automatic Termination. This Agreement shall automatically terminate in the event Lessee for any reason ceases for a period of ninety (90) days to operate and use the Premises for the Permitted Uses under the same management that manages the full service hotel on the Hotel Parcel, or upon six months prior written notice if Lessor is reconfiguring the Mall Site and the continued existence of the outdoor patio area will in Lessor's reasonable discretion interfere with the proposed reconfiguration project work or improvements.

2.3 Holding Over. In any circumstance whereby Lessee would hold over and remain in possession of the Premises after the expiration of this Agreement, such holding over shall not be deemed to operate as a renewal or extension of this Agreement, but shall only create a tenancy from month to month which may be terminated at any time by Lessor upon thirty (30) days prior notice to Lessee, or by Lessee upon thirty (30) days prior notice to Lessor.

III. LEASE PAYMENTS

3. Lease Payments. Lessee shall pay to Lessor all of the following payments together with all other payments required by this Agreement (all payments by Lessee to Lessor required by this Agreement for any reason are collectively the "Rent"):

3.1 Rent Payment Date. All rent shall be payable in advance, twice annually, with the first payment due on or before January 1, 2004. Subsequent payments will be due on January 1 and July 1 of each year the Agreement is in effect.

3.2 Base Rent. The rental amount (the "Base Rent") Lessee shall pay to Lessor on each January 1 and July 1 during this Agreement shall be One thousand nine hundred thirty nine Dollars ($1939 .00).

3.3 Base Rent Adjustment. The Base Rent shall be automatically adjusted upward on each annual anniversary of this Agreement on the basis of changes in the United States Consumer Price Index for all Urban Consumers (CPI-U), U.S. City average published by the United States Bureau of Labor Statistics (the "Cost of Living Index"). The amount of each adjusted monthly rent installment of Base Rent (represented by the letter "R" in the formula set forth below) shall be equal to the then current Cost of Living Index number (represented by the letter "C" in the formula set forth below) divided by the Cost of Living Index number for the month during which the date of this Agreement occurs (represented by the letter "M" in the formula set forth below), and multiplied by the original monthly Base Rent amount (represented by the "$" symbol in the formula set forth below). This computation is expressed by the following formula:

$$R = \frac{C}{M} x\$$$

provided, that in no event shall any Rent be adjusted downward from any previous period. If such Cost of Living Index shall no longer be published at the adjustment date, then another similar index published by any federal agency shall be substituted by Lessor in Lessor's reasonable discretion. In the event of a holdover, all Rent shall be increased by an additional fifty percent (50%) over the amount of Rent that would otherwise be payable under this Agreement.

3.4. Security Deposit. Upon execution of this Agreement, Lessee shall provide to Lessor, and maintain with Lessor at all times during the term of this Agreement, a cash security deposit in the amount of One Thousand Dollars ($1,000), all guaranteeing the faithful performance of this Agreement. Any funds or property of Lessee held by or available to Lessor under or related to this Agreement shall also stand as a security deposit guaranteeing Lessee's faithful performance of this Agreement. Any portion of any security deposit to which Lessee may then be entitled, net of any setoff or other obligation of Lessee or Lessor, shall be paid to Lessee by the then owner of the fee title to the Premises within sixty (60) days after termination of this Agreement.

3.5. Late Fees. Should any installment of Rent not be paid on or before the date due, a ten percent (10%) late fee shall be added to the amount due, or found to be due. Furthermore, any Rent that is not timely paid shall accrue interest at the rate of one percent (1%) per month from the date the amount first came due until paid. Lessee expressly agrees that the foregoing represent reasonable estimates of Lessor's costs in the event of a delay in payment of Rent.

3.6. Rent Amounts Cumulative. All amounts payable by Lessee hereunder or under any tax, assessment or other existing or future ordinance or other law of the City of Scottsdale or the State of Arizona shall be cumulative and payable in addition to each other payment required hereunder, and such amounts shall not be credited toward, substituted for, or setoff against each other in any manner.

3.7. No Setoffs. All Rent shall be paid in full directly to Lessor without setoff or deduction of any description. Lessee expressly waives any right of setoff.

IV. USE RESTRICTIONS

4. Use Restrictions. This Article does not restrict Lessee's use of the Hotel Parcel. Lessee's use and occupation of the Premises shall in all respects conform to all and each of the following cumulative provisions:

4.1 Permitted Uses. Lessee shall use the Premises solely for the Permitted Uses. No other activity shall be conducted at or from the Premises. The Permitted Uses are further restricted in that Lessee shall use the Premises solely for the preparation and serving to Lessee's invitees and guests of fully prepared food and beverages (including alcoholic beverages if permitted by law) for immediate consumption upon the Premises or upon the Hotel Parcel. Outdoor cooking is not allowed. Lessee may elect to serve at the Premises food prepared at other locations outside the Premises and the Hotel Parcel.

4.2 Animals. No animals are allowed on the Premises other than seeing eye dogs and similar animals providing health assistance to disabled persons. Customers' dogs on leashes are also permitted, if allowed by applicable laws and regulations from time to time.

4.3 Time Restrictions. All activities at the Premises must start no earlier than 6:00 a.m. and must conclude no later than 1:00 a.m. In addition, no use of the Premises shall be made outside general operational hours for the Mall Site as established from time to time by Lessor.

4.4 Noise. Outdoor music and sound equipment is prohibited at the Premises if it is audible more than thirty (30) feet from the Premises. The doors giving access from the Premises from or to any buildings upon the Hotel Parcel or any other adjoining property controlled by Lessee must be kept closed when music is playing inside said buildings, except that such doors may be propped open at Lessor's sole discretion from time to time. The preceding sentence does not restrict Lessee's use of the Hotel Parcel; but any use of the Hotel Parcel inconsistent with the preceding sentence is a breach by Lessee of this Agreement. In exercising such discretion, Lessor may take into account any and all factors that Lessor determines influence or may influence the affect of such music or other noise upon the Premises, the Mall Site, and any activity or condition thereon, including without limitation Lessor's desire to maintain a quiet and calm ambiance at the Mall Site.

4.5 Nonexclusive Uses. Lessee understands and agrees that Lessor, Lessor's other tenants, and other persons within and without the Mall Site and the surrounding vicinity will conduct from time to time business activities in direct competition with Lessee. Lessee has no exclusive rights to conduct any activity anywhere at the Mall Site.

4.6 Governmental Relations. Lessee shall conduct its activities at the Premises in coordination with Lessor as necessary to maintain good relations with all governmental entities

having jurisdiction over the Premises and shall immediately give to Lessor notice of any actual or threatened dispute, violation or other disagreement relating to the Premises. Lessee is not an agent for Lessor.

4.7 Fixtures and Personal Property. Lessee shall provide to and maintain at the Premises all equipment and other items necessary for the Premises to be conveniently used for the Permitted Uses.

4.8 Liquor License. Lessee's possession of any liquor license at the Premises shall be related only to the Premises and the Hotel Parcel. This Agreement does not create in Lessee any rights with respect to liquor service at the balance of the Mall Site. Upon termination of this Agreement for any reason, Lessee shall cause the Premises to be removed from the scope of its liquor license.

4.9 Lessee's Agent. Lessee shall at all times during normal business hours or when the Premises are otherwise occupied retain on call available to Lessor upon the Premises or the Hotel Parcel an active, qualified, competent and experienced manager to supervise all activities upon and operation of the Premises and who shall be authorized to represent and act for Lessee in matters pertaining to all emergencies and the day-to-day operation of the Premises and all activities under this Agreement. Lessee shall also provide notice to Lessor of the name, address, and regular and after hours telephone numbers of a person to handle Lessee's affairs and emergencies at the Premises.

4.10 Staff Qualifications and Requirements. Lessee shall provide to the Premises at least the following level of staffing and expertise.

4.10.1 No employee of Lessee shall work upon the Premises or in the vicinity of the Premises (including without limitation adjacent property) without Lessee first confirming that such person has not been convicted of a felony crime.

4.10.2 If Lessor reasonably determines the same to be desirable, Lessee shall hire one or more security guards for the Premises with such qualifications as Lessor may reasonably request. Lessee shall allow any security guards to respond to emergencies in the vicinity of the Premises.

4.10.3 Lessee shall make its employees available to Lessor from time to time for safety training.

4.10.4 In addition, Lessee must comply with (and train its personnel to comply with) the minimum security standards and emergency action plan attached hereto as Exhibit "D".

4.11 Security Requirements. Lessee shall participate in any "Business Watch" programs for the Mall Site. Such program shall follow the program promulgated from time to time by the City of Scottsdale Police Department or other law enforcement agency selected by Lessor from time to time. Lessee shall reasonably cooperate with Lessor and the City of Scottsdale Police regarding concerns and countermeasures affecting security and related risks of business and other operations and activities at and near the Premises.

4.12 Standards of Service. In entering into this Agreement, Lessor and Lessee have foremost in mind providing the public food and beverage services and facilities of the highest quality. Without limitation, Lessee shall operate the Premises in a first-class manner; shall furnish prompt, clean and courteous service; and shall keep the Premises attractively maintained, orderly, clean, sanitary and in an inviting condition at all times, all to the satisfaction of Lessor. Lessee shall not employ any person or persons in or about the Premises who shall fail to be clean, courteous, efficient and neat in appearance or who shall use improper, obnoxious or rude language or act in a loud or boisterous or otherwise improper manner. No nudity, partial nudity, adult entertainment or lewd conduct of any sort is permitted.

4.13 Conduct at Premises. In entering into this Agreement, Lessor and Lessee have foremost in mind providing the public with an orderly atmosphere devoid of any act by any person contrary to the highest standards of community sensitivity, and avoiding any substance or appearance of any noisy, unruly, inebriated, disruptive, disorderly, lewd, nude, partially nude, adult oriented, unwholesome or sexually oriented behavior, business, entertainment, or other activity of any description or to any degree at the Premises. Any such behavior, business or activity at the Premises by Lessee, any customer of Lessee or anyone else using the Premises pursuant to this Agreement is strictly prohibited. The requirements of this paragraph are specifically acknowledged to be a requirement of this Agreement independent of and in addition to any zoning or other governmental regulation affecting the Premises. Any violation of this paragraph by any person using any part of the Mall Site pursuant to or under this Agreement shall be an "Unruly Behavior Occurrence" by Lessee under this Agreement. Further, during the entire term of this Agreement, this entire paragraph and all of its subparagraphs also applies to the acts of any persons upon the Hotel Parcel or any other adjacent land used in connection with the Premises and to the acts of such persons upon the Mall Site while leaving the Premises. To that end and without limitation, all of the following shall apply:

4.13.1 No materials shall be displayed, viewed or produced upon the Premises depicting specified anatomical areas or specified sexual activities. Also, no person upon the Premises shall make visible his or her specified anatomical areas. "Specified anatomical areas" shall mean less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and human male genitals in a discernible turgid state, even if completely and opaquely covered, or any simulation or portrayal of any of the foregoing. All specified sexual activities are prohibited without exception. Specified sexual activities shall mean human genitals in a state of sexual stimulation or arousal; acts of masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic region, buttock or female breast, or any simulation or portrayal of any of the foregoing.

4.13.2 Patron dancing outdoors and any direct or indirect physical contact involving customers, employees, performers and other persons outdoors is prohibited.

4.13.3 Lessee shall immediately cause to be removed from the Premises any person (and from the Mall Site any person related to Lessee or this Agreement (including without limitation Lessee's customers)) who:

4.13.3.1 Is obviously intoxicated or under the influence of any narcotic or chemical.

4.13.3.2 Commits any act of violence.

4.13.3.3 Acts in a loud or unusually boisterous manner.

4.13.3.4 Harms or threatens harm to any person or thing.

4.13.3.5 Uses profanity which can be heard by users of the Mall Site or the public.

4.13.3.6 Violates any law or any regulation applicable to the Mall Site.

4.13.3.7 Causes, directs or encourages any person to commit an Unruly Behavior Occurrence.

4.13.4 The address used in any police report of an Unruly Behavior Occurrence shall not be conclusive proof of the location of the matters reported for the purposes of this Agreement; rather, Unruly Behavior Offenses reported in police reports to have occurred at the address of the Premises shall be chargeable to Lessee under this Agreement only to the extent provided by this Agreement.

4.13.5 The requirements of this paragraph only are for the benefit of Lessor and for the benefit of all real property located within three hundred fee (300') of the Mall Site. The owners and occupants of such real property and their successors and assigns are third party beneficiaries of this paragraph throughout the term of this Agreement. Such third party beneficiaries' sole remedy is injunctive relief against Lessee and other occupants of the Premises to enforce the requirements of this paragraph.

4.14 Common Areas. Subject to current and future regulations and policies governing the use of, and access to, the Mall Site, Lessee, its officers, employees, agents, patrons and invitees, and its suppliers of services and furnishers of materials shall have the right of ingress to and egress from the Premises through such portions of the Mall Site as are open to the public for that purpose from time to time. Such right is strictly limited to ingress and egress. All deliveries to the Premises shall be made through the outside door to the existing restaurant located adjacent to the west side of the Premises. There shall be absolutely no delivery of supplies, food preparation activity or storage, however temporary, at the Premises. Lessee shall immediately clean up any spills or debris caused by Lessee or its suppliers or customers. Lessee shall daily inspect the waste disposal area serving the Hotel Building and report to Lessor any violations of the preceding sentence by third parties.

4.15 Parking Provided by Lessor. Lessee shall provide parking in compliance with applicable current and future laws and regulations. Lessor is not required to provide any parking.

4.16 Mall Operations. Lessee acknowledges that Lessee's use of the Premises shall be subject and subordinate to use of the Mall Site for outdoor concerts, festivals, catered events, public and private occasions and all other lawful purposes of every description which will necessarily directly and indirectly affect Lessee and the Premises. Lessee's use of the Premises shall not be permitted by Lessee to in any way adversely affect Lessor's use or operation of the Mall Site.

4.17 Signs. Lessee shall have the right to install and operate exterior signs at the Premises to identify Lessee's operations at the Premises provided that all of the following conditions are met:

4.17.1 The location, size, content and style of each such sign shall be subject to the provisions of the applicable sign ordinance and shall be in keeping with Lessor's Mall Site sign program as the same may change from time to time and with the overall aesthetics and utility of the Mall Site facilities and grounds, as determined by Lessor.

4.17.2 All signs and shall be designed, made and installed in a professional manner.

4.17.3 No sign shall be erected, installed or displayed until Lessee has submitted written request, together with descriptions and drawings showing the intended locations, size, style and colors of such signs, to Lessor, and has received prior written approval from Lessor.

4.17.4 Lessee shall bear all costs pertaining to the erection, installation, operation, maintenance and removal of all signs including, but not limited to, the application for and obtaining of any required building or other permits.

4.17.5 Lessor shall have the absolute right to reject or impose any conditions upon any proposed sign upon the Premises or to require removal of any sign upon the premises, all at Lessor's sole and absolute discretion.

4.17.6 The requirements of this paragraph apply to all signs and banners and all other manner of signage.

4.18 Hazardous Materials. Lessee shall not produce, dispose, transport, treat, use or store any hazardous waste or materials or toxic substance upon or about the Premises or any substance now or hereafter subject to regulation under the Arizona Hazardous Waste Management Act, A.R.S. Sec. 49-901, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq., or the Toxic Substances Control Act, 15 U.S.C. 2601, et seq., or any other federal, state, county, or local law pertaining to hazardous waste or toxic substances (collectively "Toxic Substances"). The preceding sentence does not prohibit use of ordinary janitorial supplies used to clean and maintain the Premises. Lessee shall pay, indemnify, defend and hold Lessor harmless against any loss or liability incurred by reason of any Toxic Substance on or affecting the Premises occurring after the date of this Agreement, and shall immediately notify Lessor of any Toxic Substance at any time discovered or existing upon the Premises. Lessee understands the hazards presented to persons, property and the environment by dealing with Toxic Substances. Lessee shall cause any on-site or off-site storage, treatment, transportation, disposal or other handling of Toxic Substance by Lessee in connection with the Premises to be performed by persons, equipment, facilities and other resources who are at all times properly and lawfully trained, authorized, licensed and otherwise permitted to perform such services.

4.19 Prohibited Names. Lessee shall not use in connection with its operations at the Premises any name that directly or indirectly refers to or contains any part of Lessor's name or the Mall Site's name or otherwise suggests a connection between Lessor and Lessee or Lessee's activities except that Lessee may use its own name as stated at the beginning of this Agreement. Lessee shall also not use in connection with its operations at the Premises any name associated

with products or purveyors of any sort of alcohol, tobacco, adult entertainment or gambling related products or services.

V. IMPROVEMENTS GENERALLY

5. Improvements. Lessee shall have all responsibilities for improvements to the Premises during the term of this Agreement.

5.1 Improvements by Lessor. Lessor has not promised to and is not obligated in any manner to make any improvements to the Premises or the Mall Site.

5.2 General Provisions for Lessee's Improvements. The following provisions shall govern all improvements, repairs, installation, removal, demolition and other construction work of any description by Lessee whether or not specifically described herein (collectively "Lessee's Improvements") upon or related to the Premises:

5.2.1 As of the date of this Agreement, Lessor has not approved or promised to approve any plans for Lessee's Improvements. As of the date of this Agreement, Lessee is not obligated to construct any Lessee's Improvements.

5.2.2 All Lessee's Improvements shall be designed and made at Lessee's sole cost and expense.

5.2.3 All Lessee's Improvements shall be contained entirely within the Premises and without any encroachment or dependence upon any other property.

5.2.4 Any and all construction work performed on the Premises by Lessee shall be performed in a workman-like manner as reasonably determined by Lessor and shall be diligently pursued to completion and in conformance with all building codes and similar rules. All Lessee's Improvements shall be and become part of the realty and the real property of Lessor "brick by brick" as constructed. Lessee's construction work must not interfere with normal operation of the Mall Site. In any event, the Premises must be left in as good or better condition as it may be on the date of this Agreement, or such better condition as the Premises may hereafter be placed.

5.2.5 All work shall be done strictly at Lessee's expense and paid for by Lessee. In no event, including without limitation termination of this Agreement for any reason, shall Lessor be obligated to compensate Lessee in any manner for any of Lessee's Improvements or other work provided by Lessee during or related to this Agreement.

5.2.6 Lessee's Improvements shall include all leasehold improvements, furnishings, furniture, equipment, fixtures, paint, decorations and other construction work of any description as described in all plans delivered by Lessee to Lessor. All such plans and construction are subject to inspection and final approval by Lessor as to colors, fabrics, materials, site plan, etc., as well as design, function and appearance.

5.2.7 Lessee shall diligently and expeditiously pursue the installation of all approved Lessee's Improvements and shall complete installation of all of Lessee's Improvements

no later than the earlier of i) six (6) months after the date of plans approval or ii) any earlier date required by this Agreement or by Lessor's approval of the plans.

5.2.8 Lessee shall make no alterations, modifications or additions to the Premises without having first received the written consent of Lessor which Lessor may withhold in Lessor's sole and absolute discretion. Any approved alterations, modifications or additions shall be accomplished by Lessee at its sole cost and expense. Any changes to utility facilities shall be strictly limited to the Premises and shall be undertaken by Lessee at its sole cost and expense, and only with the written permission of Lessor.

5.3 Design Requirements. All Lessee Improvements shall comply with the following design requirements:

5.3.1 All Lessee Improvements shall be designed so as to present uniformity of design, function, appearance and quality throughout and consistency with other buildings and improvements located at the Mall Site, taking into consideration the design of the Hotel Building.

5.3.2 All of Lessee's Improvements shall be of high quality, safe, modern in design, and attractive in appearance, all as approved by Lessor.

5.3.3 All Lessee's Improvements must conform to the draft "Amenity Edge Design Guidelines for the Scottsdale Civic Center Renovation" dated November, 1996, which have been provided to Lessee.

5.4 Plans Required. Lessee's design of all Lessee's Improvements shall occur in three stages culminating in final working construction documents for the Lessee's Improvements (the "Final Plans"). The three stages are, in order of submission and in increasing order of detail, as follows:

5.4.1 Conceptual plans showing the general layout, locations, configuration, and capacities of all significant improvements, topographical features, pedestrian and vehicular ways, buildings, utilities, water systems, and other features significantly affecting the appearance, design, function and efficient operation of each of element of the Lessee's Improvements.

5.4.2 Preliminary plans showing all floor plan, general internal and external building design and decoration schemes, mechanical, electrical and plumbing systems, landscaping and all other elements necessary prior to preparation of final working construction documents and showing compliance with all requirements of this Agreement. The preliminary plans shall show all detail necessary prior to preparation of final plans.

5.4.3 Final working construction documents for the Lessee's Improvements (collectively the "Final Plans").

5.5 Approval Process. The following procedure shall govern Lessee's submission to Lessor of all plans hereunder, including any proposed changes by Lessee of previously approved plans:

5.5.1 All plans must comply with all requirements of law, all Site Documents and this Agreement. No plans shall be deemed approved until stamped "APPROVED PER LEASE"

and dated by Lessor's project manager. Lessee acknowledges that Lessor's project manager's authority with respect to the Project is limited to the administration of the requirements of this Agreement. Lessee shall be responsible to secure all zoning approvals, design revisions, or other governmental approvals and satisfy all governmental requirements pertaining to the Project and shall not rely on Lessor or Lessor's project manager for any of the same. Lessor's project manager (who shall not be exclusively assigned to this Project) shall be reasonably available to coordinate and assist Lessee in working through issues that may arise in connection with such approvals and requirements.

5.5.2 Lessee acknowledges that Lessor has a substantial interest in the design construction and operation of the Lessee's Improvements. No construction, reconstruction, alteration or other individually or cumulatively significant work shall occur upon the Premises except in compliance with plans approved by Lessor in compliance with this Agreement. Lessor's issuance of building permits or other governmental review or action shall not constitute approval of any plans for purposes of this Agreement.

5.5.3 All plans must comply with all requirements of law, all agreements related to the Premises and this Agreement.

5.5.4 Lessor has the right to require Lessee to submit any Lessee Improvements to the City of Scottsdale Design Review Board or any similar body for approval.

5.5.5 Lessee shall coordinate with Lessor as necessary on significant design issues prior to preparing plans to be submitted hereunder.

5.5.6 No later than each submission date, Lessee shall hand deliver to Lessor five (5) complete copies of all plans. Submission dates shall be such dates as are necessary for Lessee to timely obtain the approvals required by this Agreement.

5.5.7 Within thirty (30) days after Lessor's receipt of plans from Lessee, Lessor shall hand deliver to Lessee one (1) copy of the plans submitted stamped "APPROVED PER LEASE" and dated by Lessor, or marked to indicate the changes that would be necessary in order for Lessor to approve the plans.

5.5.8 If changes are required, Lessee shall revise the plans incorporating the changes requested by Lessor and shall within thirty (30) days after Lessor returns the marked up plans to Lessee submit to Lessor the revised plans. Within twenty (20) days after Lessee's receipt of such plans, Lessor shall hand deliver to Lessee one (1) copy of such revised plans stamped "APPROVED PER LEASE" and dated.

5.5.9 The parties shall endeavor to resolve any design and construction issues to their mutual satisfaction but, in the event of an impasse for any reason or however arising, in light of Lessor's investment in the Mall Site and Lessor's reversion in the Premises, and as a condition of Lessor's entering into this Agreement, final decision authority regarding all design and construction issues shall rest with Lessor.

5.5.10 Lessee shall provide copies of any and all designs or plans for improvements upon the Premises to Lessor for Lessor's unrestricted use at the Premises or elsewhere.

VI. MAINTENANCE

6. Improvements and Maintenance. Lessee shall have all responsibilities for maintenance and repair of the Premises during the term of this Agreement.

6.1 Maintenance by Lessor. Except for existing underground utilities, Lessor has no maintenance responsibilities regarding the Premises.

6.2 Utilities. Lessee shall contract for and pay all charges, fees, deposits and other amounts for all utilities at the rates applicable thereto. Utility circuits must not be connected to Lessor's systems.

6.3 Maintenance by Lessee. Lessee shall at all times repair, maintain and replace the Premises and all facilities thereat at Lessee's sole expense in a first-class, sound, clean and attractive manner, as determined in Lessor's reasonable discretion. Without limitation, Lessee shall be responsible for the following:

6.3.1 Adequate and sanitary handling and disposal, away from the Premises and the Mall Site, of all trash, garbage and other refuse related to Lessee's use of the Premises. Without limitation, Lessee shall provide and use suitable covered receptacles for all trash and other refuse related to Lessee's use of the Premises. Piling of boxes, cartons, barrels, debris or other items outside the Premises or in a manner visible from outside the Premises or in a manner visible to areas open to the public is prohibited. The area in which trash containers are stored shall be kept clean and free of all trash and debris and shall be shielded from public view.

6.3.2 Trash pickup for the Premises and for all real property that lies within ten (10) feet of the Premises.

6.3.3 Repairing erosion or other water or wind damage or changes to the surface or any other part of the Premises.

6.3.4 All irrigation, landscape, building and other maintenance required to operate the Premises in a first class manner with appearance, landscaping, upkeep, repair and refurbishing, cleanliness and healthy vegetation meeting or exceeding the manner of maintenance at the nicest similar facilities in Maricopa County, Arizona.

6.3.5 Janitor and all other cleaning service in the Premises.

6.3.6 Maintenance as described on Exhibit "E" attached hereto.

6.3.7 All other repairs and maintenance of the Premises not specifically required hereunder to be performed by Lessor.

6.3.8 Daily trash pickup and biweekly washing down of the Premises and the additional area which is designated on the Site Plan as the "Cleaning Area."

VII. BREACH BY LESSEE

7. Breach by Lessee. Lessee shall comply with, perform and do each performance and thing required of Lessee herein and Lessee's failure to do so shall be a breach by Lessee of this Agreement.

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

7.1.1 If Lessee shall be in arrears in the payment of Rent and shall not cure such arrearage within ten (10) days after Lessor has notified Lessee in writing of such arrearage.

7.1.2 If Lessee shall abandon the Premises.

7.1.3 If any environmental, health or similar inspector issues any notice of investigation or violation of health, environmental or similar regulations in connection with Lessee's use of the Premises or determines during any two or more consecutive inspections that the same violation has been repeated or that the overall operation falls materially below standards for first rate well operated similar facilities in Maricopa County.

7.1.4 If any assignment of any of Lessee's property shall be made for the benefit of creditors.

7.1.5 If any representation or warranty made by Lessee in connection with this Agreement or the negotiations leading to this Agreement shall prove to have been false in any material respect when made.

7.1.6 If the issuer of any guaranty, letter of credit, bond or similar instrument shall fail for any reason to timely and fully honor any request by Lessor for funds or other performance under the instrument.

7.1.7 If Lessee shall fail to timely pay any taxes or other amounts herein required to be paid by Lessee to any third person.

7.1.8 If Lessee shall fail to obtain or maintain any licenses, permits, or other governmental approvals from Lessor or any other governmental body or timely pay any taxes with respect to this Agreement, the Premises or Lessee's use of the Premises.

7.1.9 If there shall occur a Unruly Behavior Offense and such Unruly Behavior Offense shall not be cured immediately upon notice by Lessor. Lessor may give notice related to Unruly Behavior Offenses orally in person, or by telephone, or by the notice provisions of this Agreement, or in any manner that gives Lessee or Lessee's on site manager actual notice of Lessor's objection to any Unruly Behavior Offense.

7.1.10 If there shall occur ten (10) Unruly Behavior Offenses within any six (6) month period, regardless of any notice given or not given by Lessor regarding the same.

7.1.11 If the Scottsdale Police or any other law enforcement agency is called to the Premises by someone other than Lessee and its agents twice in any six (6) month period in connection with any Unruly Behavior Offenses.

7.1.12 If Lessee shall fail to or neglect to do or perform or observe any other provisions contained herein on its part to be kept or performed and such failure or neglect to do or perform or observe any of such other provisions shall continue for a period of thirty (30) days after Lessor has notified Lessee in writing of Lessee's default hereunder.

7.1.13 If Lessee shall persist in a pattern of repeated failure (or neglect) to do or perform or observe any provision contained herein.

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

7.2.1 Lessor's right to terminate this Agreement for nonpayment of Rent or for any other Event of Default is hereby specifically provided for and agreed to. Termination of this Agreement due to Lessee's breach or for any other reason does not terminate Lessee's obligations arising prior to or simultaneous with, or attributable to, the termination or in any way terminate any of Lessee's liability related to any breach of this Agreement.

7.2.2 Without demand or notice, enter into and upon the Premises or any part thereof, and repossess the same of its former estate, and expel Lessee and those claiming by, through or under it, and remove their effects, if any, forcibly if necessary, without being deemed guilty of trespass and without prejudice to any other remedy.

7.2.3 Enforce a lien (which is hereby granted to Lessor) upon Lessee's property now or at any time hereafter at the Premises securing all of Lessee's obligations hereunder.

7.2.4 Cause a receiver to be appointed for the Premises and for the continuing operation of Lessee's business thereon.

7.2.5 Pay or perform, for Lessee's account and at Lessee's expense, any or all payments or performances required hereunder to be paid or performed by Lessee.

7.2.6 Abate at Lessee's expense any violation of this Agreement.

7.2.7 Pursue at Lessee's expense any and all other remedies, legal or equitable, to which Lessor may be entitled.

7.2.8 Refuse without any liability to Lessee therefor to perform any obligation imposed on Lessor by this Agreement.

7.2.9 Be excused from further performance under this Agreement.

7.2.10 Insist upon Lessee's full and faithful performance under this Agreement and upon Lessee's full and timely payment of all Rent during the entire remaining term of this Agreement.

7.2.11 Assert or exercise any other right or remedy permitted by law.

7.3 Power of Attorney. For the purpose of exercising any of Lessor's rights or remedies hereunder, Lessee hereby irrevocably appoints Lessor as Lessee's true and lawful attorney in fact, and such power of attorney shall be deemed to be a power coupled with an interest which cannot be revoked for any reason, to pay or perform, for Lessee's account and at Lessee's expense, any or all payments or performances required hereunder to be paid or performed by Lessee, to terminate of record this Lease, to enter into and upon the Premises or any part thereof, and to perform any act upon the Premises or otherwise deemed necessary by Lessor to exercise its rights under this Agreement.

7.4 Notice of Breach. Lessee shall promptly give notice to Lessor of any event or circumstance which is (or which with the passing of time or the giving of notice or both will become) an Event of Default under this Agreement.

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

7.6 Reimbursement of Lessor's Expenses. Lessee shall pay to Lessor upon demand any and all amounts expended or incurred by Lessor in performing Lessee's obligations.

7.7 Inspection. Lessor shall have access to the Premises at all times upon reasonable prior notice (except, in the event of an emergency without notice) for the purpose of examining, inspecting, evaluating, planning, repairing, designing, maintaining or showing the Premises or exercising Lessor's other rights hereunder. Lessee shall promptly undertake appropriate action to rectify any deficiency (identified by Lessor during such inspections or otherwise) in Lessee's compliance with this Agreement. This paragraph does not limit Lessor's other rights of access to the Premises elsewhere in this Agreement or otherwise.

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

VIII. TERMINATION

8. Rights at Termination.

8.1 Delivery of Possession. Lessee shall, at the expiration of the term hereof or upon any sooner termination thereof, without demand, peaceably and quietly quit and deliver up the Premises to Lessor thoroughly cleaned, in good repair, maintained and repaired and in as good order and condition, reasonable use and wear excepted, as the same now are or in such better condition as the Premises may hereafter be placed by Lessee or Lessor. Upon termination, Lessee shall deliver to Lessor any security deposits, prepaid rents, or other amounts for which Lessor deems a claim may be made respecting the Premises.

8.2 Confirmation of Termination. Upon expiration or termination of this Agreement for any reason, Lessee shall provide to Lessor upon demand quit claim deeds covering the Premises executed by Lessee and by all persons claiming through this Agreement or Lessee any interest in or right to use the Premises. Such quit claim deeds shall not detract from such rights as Lessee may have upon termination of this Agreement as respects access to and from the public street system and the Hotel Parcel. Termination of this Agreement for any reason does not terminate Lessee's obligations arising prior to or simultaneous with, or attributable to, the termination.

8.3 Fixtures and Improvements. Upon termination of this Agreement through expiration, default or otherwise, if the same has not occurred earlier, title to any and all fixtures and structural or permanent improvements placed upon the Premises by Lessee TOGETHER WITH ALL IRRIGATION EQUIPMENT, WALKWAYS, SOCKETS, RAILINGS, AND ALL OTHER EQUIPMENT AND PERSONAL PROPERTY OF EVERY DESCRIPTION ATTACHED OR AFFIXED TO THE PREMISES shall automatically vest in Lessor without any payment by Lessor or any compensation to Lessee and without requirement of any deed, conveyance, or bill of sale. The preceding sentence does not apply to other personal property that is not physically attached in any way to the Premises. However, if Lessor shall request any documents in confirmation thereof, Lessee shall promptly execute, acknowledge and deliver the same. Lessee shall provide and assign to Lessor all operating manuals, warranties and similar materials pertaining to all personal property transferred to Lessor. Further, upon termination of this Agreement Lessee shall at its own expense, but only to the extent requested by Lessor in writing, remove and dispose of any said property and any fixtures and structural or permanent improvements placed upon the Premises by Lessee.

IX. INSURANCE

9. Insurance. Lessee shall insure the Premises as follows:

9.1 Insurance Required. Prior to entering, occupying or using the Premises in any way (and in any event, commencing not later than five (5) days after the date of this Agreement) and at all times thereafter, Lessee shall obtain and cause to be in force and effect the following insurance:

9.1.1 Commercial General Liability. Commercial general liability insurance with a minimum limit of $2,000,000 for each occurrence and a $2,000,000 general aggregate limit per policy year. The policy shall include coverage for bodily injury, broad form property damage, personal injury, premises liability, blanket contractual, and products and completed operations coverage. Without limitation, the policy will cover Lessee's liability under the indemnity provisions of this Agreement. The protection under the policy shall at a minimum meet or exceed Insurance Service Office, Inc. form CG00011093, and additional insured Form B, CG 20101185, or any replacements thereof.

9.1.2 Workers' Compensation. Such workers' compensation and similar insurance as is required by law and employer's liability insurance with a minimum limit of $500,000 for each accident, $500,000 disease for each employee, $500,000 policy limit for disease. All contractors and subcontractors must provide like insurance

9.1.3 All Risk Property. Unless waived by Lessor in writing, all risk property insurance in an amount equal to full replacement cost of the Premises and all personal property used in connection therewith.

9.1.4 Contractor's Protective. With respect to any construction involving the Premises, owner's and contractor's protective insurance covering the interests of contractors, Lessor and Lessee, with a minimum limit of $1,000,000 for each occurrence and a $2,000,000 general aggregate limit per policy year.

9.1.5 Builders' Risk Property Insurance. Unless Lessor gives notice that Builder's risk insurance is not required, Builders' risk insurance in the amount of the entire cost of all Lessee's Improvements as well as subsequent modifications thereto. Such builders risk insurance shall be maintained until final payment has been made or until no person or entity other than Lessee and Lessor has an insurable interest in the Premises, whichever is earlier. This insurance shall include interests of Lessor, Lessee and all subcontractors and sub-subcontractors involved in the Project during the life of the course of any construction, and shall continue until all work is completed and accepted by Lessee and Lessor. Lessee bears full responsibility for loss or damage to all work being performed and to the buildings under construction. Builders' risk insurance shall be on an all-risk policy form and shall also cover false work and temporary buildings and shall insure against risks of direct physical loss or damage from external causes including debris removal, demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for architect's service and expenses required as a result of such insured loss and other "soft costs". Builders' risk insurance must provide coverage from the time any covered property comes under Lessee's control and/or responsibility, and continue without interruption during construction or renovation or installation, including any time during which the covered property is being transported to the construction installation site, and while on the construction or installation site awaiting installation. The policy will provide coverage while the covered Premises or any part thereof are occupied. Builders' risk insurance shall be primary and not contributory.

9.1.6 Boiler Insurance. If any construction requires testing of equipment or other similar operations, at the option of Lessor, Lessee will be responsible for providing proper insurance for these exposures under a Boiler Machinery Insurance policy.

9.1.7 Liquor Liability. Liquor liability insurance in an amount not less than One Million Dollars ($1,000,000) for each occurrence and One Million Dollars ($1,000,000) general aggregate.

9.1.8 Other Insurance. Any other insurance Lessor may reasonably determine from time to time to be necessary to protect Lessor, the Premises, Lessor's surrounding property, Lessee, or the activities carried on the Premises. Such insurance shall be limited to insurance a reasonable person owning, leasing, occupying, or operating similar facilities could reasonably purchase.

9.2 Form of Insurance. All insurance policies shall meet the following requirements:

9.2.1 All policies except workers' compensation must name Lessor and the other Additional Insureds as additional insureds. Lessee shall cause coverage for Additional Insureds to be incorporated into each insurance policy via endorsement equivalent to Insurance Services Office, Inc. Commercial General Liability Additional Insured, Form B CG 20 10 11 85. Lessor may give Lessee notice of Lessor's election from time to time that any or all the Additional Insureds not be named as Additional Insureds with respect to specific insurance coverages.

9.2.2 All policies must provide Lessor with thirty (30) days prior notice of any cancellation, reduction or other change in coverage.

9.2.3 All policies shall require that notices be given to Lessor as specified for notices to Lessor under this Agreement.

9.2.4 Any "claims made" coverage shall have an extended reporting period for a minimum of two (2) years after the insurer's notice to Lessor that the policy has expired.

9.2.5 Policies must also cover and insure Lessee's activities relating to the business activities conducted from the Premises.

9.2.6 The insurer's duty to notify Lessor of changes in coverage shall not include phrases such as "endeavor to" or "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives."

9.2.7 All policies shall contain provisions that neither Lessee's breach of a policy requirement or warranty, nor failure to follow claims reporting procedures, shall affect coverage provided to Lessor.

9.2.8 All policies must clearly show by formal endorsement or otherwise that all coverage required by this Agreement is provided.

9.2.9 Each policy must specifically state that the policy is issued pursuant to this article of this Agreement.

9.2.10 All insurance policies shall contain a waiver of any transfer rights of recovery (subrogation) against Lessor and all other Additional Insureds.

9.2.11 No deductible shall be applicable to coverage provided to Lessor.

9.3 Insurance Certificates. Lessee shall evidence all insurance by furnishing to Lessor certificates of insurance. Certificates must be provided within thirty (30) days after the date of this Agreement and indicate that the insurer will notify Lessor at least thirty (30) days prior to any change in insurance coverage. Certificates must evidence that the policy referenced by the certificate satisfies each requirement of this Agreement applicable to the policy. For example, certificates must indicate that Lessor and its agents, officials and employees are additional insureds. Certificates must be in a form acceptable to Lessor. All certificates are in addition to the actual policies and endorsements required.

9.4 Combined Insurance. Lessee may elect to provide insurance policies which include not only the Premises, but also any adjacent real property Lessee may own or lease.

9.5 Lessor's Election to Provide Insurance. With respect to any insurance required hereunder, Lessor may elect to acquire all or any part of such insurance covering the Premises and Lessee shall pay to Lessor the costs of such insurance as reasonably determined by Lessor. Lessee shall provide all insurance not so provided by Lessor.

9.6 Insurance Proceeds. All insurance proceeds (whether actually paid before or after termination of this Agreement) shall be paid directly to Lessor for Lessor's use in compensating Lessor for the loss of the Premises, protecting Lessor, the Premises and Lessor's property from every other loss or exposure suffered by Lessor, rebuilding the Premises, and satisfying and securing Lessee's obligations hereunder. Any remaining proceeds shall be allocated among Lessor and Lessee as their interests may appear.

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

9.8 Primary Insurance. Lessee's insurance shall be primary insurance. Any insurance or self insurance maintained by Lessor shall not contribute to Lessee's insurance.

9.9 Indemnity. In addition to all other obligations hereunder, to the fullest extent permitted by law, throughout the term of this Agreement and until all obligations and performances under or related to this Agreement are satisfied and all matters described in this paragraph are completely resolved, Lessee (and all other persons using, acting, working or claiming through or for Lessee or this Agreement (if they participated in causing the claim in questions)) shall jointly and severally pay, indemnify, defend and hold harmless Lessor and all other Additional Insureds for, from and against any and all claims or harm related to the Premises or this Agreement (the "Indemnity"). Without limitation, the Indemnity shall include and apply to any and all allegations, demands, judgments, assessments, taxes, impositions, expenses, proceedings, liabilities, obligations, suits, actions, claims (including without limitation claims of personal injury, bodily injury, sickness, disease, death, property damage, destruction, loss of use or other impairment), damages, losses, expenses, penalties, fines or other matters (together with all attorney fees, court costs, and the cost

of appellate proceedings) which may arise in any manner out of any use of the Premises or Lessor's property related to this Agreement or any actions, acts, errors, mistakes or omissions relating to work or services in the performance of or related to this Agreement, including any injury or damages or cause of action claimed or caused by any employees, contractors, subcontractors, tenants, subtenants, agents or other persons upon or using the Premises or surrounding areas related to this Agreement, including without limitation, claims, liability, harm or damages caused in part by Lessor or any other Additional Insured or anyone for whose mistakes, errors, omissions or negligence Lessee or Lessor may be liable. Notwithstanding the foregoing, the Indemnity does not apply to:

9.9.1 Claims arising only from sole gross negligence of Lessor.

9.9.2 Claims which the law prohibits from being imposed upon Lessee.

9.10 Consultant Indemnity. Lessee shall require all architects, engineers, and other consultants, (collectively "Consultants") at any time contracted to provide professional services in the design construction, operation or other work regarding the Premises to provide to Lessor the following indemnity and professional liability insurance.

9.10.1 To the fullest extent permitted by law, the Consultant shall defend, indemnify and hold harmless Lessee, Lessor and their respective agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of or resulting from the Consultant's acts, errors, mistakes or omissions relating to professional services relating to the Project. Consultant's said duty to defend, hold harmless and indemnify shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death; or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by any acts, errors, mistakes or omissions related to professional services relating to the Project including any person for whose acts, errors, mistakes or omissions the Consultant may be legally liable. The amount and type of insurance coverage required by this Agreement will in no way be construed as limiting the scope of the indemnity in this paragraph.

9.10.2 The Consultant retained to provide the services or work relating to the Project will maintain Professional Liability insurance covering acts, errors, mistakes and omissions arising out of the services or work performed by the Consultant or any person employed by him, with a limit of not less than $1,000,000 for each claim.

9.11 Risk of Loss. Lessor is not required to carry any insurance covering or affecting the Premises or Lessor's property. Lessee assumes the risk of any and all loss, damage or claims to the Premises or related to Lessee's use of the Premises or Lessor's property throughout the term hereof. Lessee's obligations to indemnify do not diminish in any way Lessee's obligations to insure; and Lessee's obligations to insure do not diminish in any way Lessee's obligations to indemnify. Lessee's obligations to indemnify and provide insurance are in addition to, and do not limit, any and all other liabilities or obligations of Lessee under or connected with this Agreement.

9.12 Sublesses. Any sublessees must also provide the insurance required by this Agreement.

X. CONDEMNATION

10. Condemnation.

10.1 Future Condemnation. If any part of the Premises shall be acquired or condemned by eminent domain for any public or quasi-public use or purpose, and in the event that such taking or condemnation shall render the Premises unsuitable for the Permitted Uses, then the term of this Agreement shall cease and terminate as of the date of the condemnor taking possession in such proceeding and Lessee shall have no claim for the value of any unexpired term of this Agreement. Notwithstanding the preceding sentence, Lessee shall be entitled to a portion of the condemnation proceeds not exceeding the lesser of i) the actual amount paid by Lessee to third parties to construct any Lessee's Improvements taken, reduced by twenty percent (20%) for each year or portion of a year which has passed from the date such Lessee's Improvements were completed to the date of the condemnor taking possession, or ii) the total condemnation proceeds. In the event of a partial taking or condemnation which is not extensive enough to render the Premises unsuitable for the Permitted Uses, Lessee shall restore the Premises to a condition comparable to its condition at the time of such condemnation less the portion lost in the taking and this Agreement shall continue in full force and effect, with condemnation proceeds being used to restore the Premises and any excess being retained by Lessor. Lessee acknowledges that Lessor from time to time may have or acquire, and may use, the power to condemn the Premises or any interests therein or rights thereto. Lessee on behalf of all persons claiming under this Agreement unconditionally and irrevocably waives any right to contest Lessor's power to take or the proper exercise of such power.

XI. DAMAGE TO OR DESTRUCTION OF PREMISES

11. Damage to or Destruction of Premises. If the Premises are damaged by fire, explosion, the elements, the public enemy, or other casualty, then Lessee shall restore the Premises. Such work shall be performed with due diligence and at Lessee's sole cost and expense, except that Lessor shall reimburse Lessee for restoration work to the extent of such net insurance proceeds as provided by this Agreement.

XII. LESSEE'S RECORDS

12. Lessee's Records. Lessee shall maintain in a secure and fixed place at the Premises or elsewhere within Maricopa County, Arizona proper and accurate records relating in any manner to this Agreement and to all of Lessee's obligations hereunder. So long as the same shall be pertinent to this Agreement or any transactions contemplated herein and, in any event, for a period extending at least seven (7) years after termination of this Agreement, Lessee will at its expense permit and assist Lessor and its representatives at all reasonable times to inspect, audit and copy any or all of such information.

12.1 Standards for Records. Lessee will maintain a standard, modern system of accounting and shall keep and maintain all books and records in accordance with generally accepted accounting principles applied on a consistent basis.

12.2 Supplemental Information. Lessee will also furnish, from time to time, such additional financial and other information as Lessor may reasonably request pertaining to Lessee's

and Lessor's respective rights and obligations with respect to this Agreement as reasonably determined by Lessor.

12.3 Records Included. The records of Lessee subject to this Agreement include, but are not limited to, any and all information, materials and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, computerized records, invoices, cash register tapes and similar records, contracts, commitments, arrangements, notes, daily diaries, ledgers, correspondence, reports, drawings, receipts, vouchers and memoranda, and any and all other agreements, sources and repositories of information and matters that may in Lessor's reasonable judgment bear on any matters, rights, duties or obligations under or covered by this Agreement or any performance hereunder. This article does not obligate Lessee to provide Lessor access to records that are unrelated to Lessee's and Lessor's rights and obligations under this Agreement.

XIII. COMPLIANCE WITH LAW

13. Compliance with Law. Lessee shall conduct only lawful operations at the Premises and at the Mall Site in accordance with all federal, state, county and city laws, ordinances, regulations or other rules as are now in effect or as may hereafter be adopted or amended. Lessee acknowledges that this Agreement does not constitute, and Lessor has not promised or offered, any type of waiver of, or agreement to waive (or show any type of forbearance or favoritism to Lessee with regard to), any law, ordinance, power, regulation, tax, assessment or other legal requirement now or hereafter imposed by the City of Scottsdale or any other governmental body upon or affecting Lessee, the Premises, the Mall Site or Lessee's use of the Premises. Lessee acknowledges that all of Lessee's obligations hereunder are in addition to, and cumulative upon (and not to any extent in substitution or satisfaction of), all existing or future laws and regulations applicable to Lessee. In the case of an ordinance or other law of the City of Scottsdale authorizing a credit, reduction in tax or amount assessed, or any other benefit as a result of performances rendered under this Agreement, Lessee expressly repudiates all such benefits with respect to performances rendered under this Agreement. Lessee further agrees that this Agreement is not intended to diminish any performances to the City of Scottsdale that would be required of Lessee by law if this Agreement had been made between Lessee and a private citizen. Lessor has not relinquished any right of condemnation or eminent domain over the Premises. This Agreement is not intended in any way to impair the City of Scottsdale's power to enact, apply or enforce any laws or regulations, or exercise any governmental powers, affecting in any way Lessee or the Premises. Lessee promises to comply with all applicable laws. Lessor's rights and remedies hereunder for breach of such promise supplement and are in addition to and do not replace all otherwise existing powers of the City of Scottsdale or any other governmental body. Without limiting in any way the generality of the foregoing, Lessee shall comply with all and each of the following:

13.1 Government Property Lease Excise Tax. Lessee shall be responsible for any and all property taxes and all government property lease excise taxes described in A.R.S. § 42-1901 *et seq.* or similar laws in force from time to time. Pursuant to A.R.S. § 42-1931, failure by Lessee to pay the tax(es) after notice and an opportunity to cure is an event of default that could result in divesting the Lessee of any interest in or right of occupancy of the Premises.

13.2 Taxes, Liens and Assessments. In addition to all other Rent herein provided, Lessee shall pay, when due and as the same become due and payable all taxes and general and special fees, charges and assessments of every description which during the term of this

Agreement may be levied upon or assessed against the Premises, the operations conducted therein, any Rents paid or other performances under this Agreement by either party, and all possessory interest in the Premises and improvements and other property thereon, whether belonging to the Lessor or Lessee; and Lessee agrees to indemnify, defend and hold harmless Lessor and the Premises and such property and all interest therein and improvements thereon from any and all such taxes and assessments, including any interest, penalties and other expenses which may be imposed, and from any lien therefor or sale or other proceedings to enforce payment thereof. Lessee shall have the right to contest, but not the right to refuse to timely pay, any taxes and assessments. Lessor shall have the right from time to time to require that all of the foregoing payments be made by Lessee through Lessor. Lessee shall pay all sales, transaction privilege, and similar taxes.

13.3 Food Laws. Lessee shall at all times comply with Federal Pure Food and Drug Laws and all other applicable health rules, regulations, standards, laws and ordinances of the United States of America, State of Arizona, County of Maricopa, City of Scottsdale, and any other authority lawfully exercising authority over food and beverage services. Lessee shall at its own expense obtain and maintain all necessary licenses and permits permitting the sale of food and beverages on the Premises.

13.4 Building permits. Lessee shall obtain at its own expense all building or other permits in connection with all construction performed by Lessee and shall comply with all zoning, building safety, fire and similar laws and procedures of every description.

XIV. ASSIGNABILITY

14. Assignability. This Agreement is not assignable by Lessee except in strict compliance with the following:

14.1 Assignments and Subleases Prohibited. References in this Agreement to assignments or subleases by Lessee shall be deemed to apply to all of the following transactions, circumstances and conditions:

14.1.1 Any voluntary or involuntary assignment, transfer, pledge, lien or sublease of the Premises or any interest therein.

14.1.2 The use, occupation, management, control or operation of the Premises or any part thereof by others.

14.1.3 Any transfer of corporate stock or any other direct or indirect transfer of any substantial part of the ownership, management or control of Lessee or the Premises.

14.1.4 Any assignment for the benefit of creditors, voluntary or involuntary.

14.1.5 Any bankruptcy or reorganization.

14.1.6 The occurrence of any of the foregoing by operation of law.

14.2 Assignment Remedies. In the event of any prohibited assignment, Lessor may, in its sole discretion and in addition to all other remedies available to Lessor under this Agreement or

otherwise and in any combination, collect Rent from the assignee, sublessee or occupant and apply the net amount collected to the Rent required to be paid thereunder and/or void the assignment, all without prejudicing any other right or remedy of Lessor under this Agreement. No cure or grace periods shall apply to assignments prohibited by this Agreement or to enforcement of this Agreement against an assignee who did not receive Lessor's consent.

14.3 No Waiver. No consent or collection or other action or inaction by Lessor shall be deemed a waiver of the prohibition on assignments or any other provision of this Agreement, or the acceptance of the assignee, sublessee or occupant as Lessee, or a release of Lessee from the further performance by Lessee of the provisions of this Agreement. The consent by Lessor to an assignment or subletting shall not relieve Lessee from obtaining the consent in writing of Lessor to any further assignment or sublease. Upon assigning, transferring or subletting the Premises, Lessee shall not be released of any liability hereunder but shall remain fully and personally obligated under this Agreement.

14.4 Enforceability after Assignment. This Agreement shall be enforceable personally and in total against Lessee and each successor, partial or total, and regardless of the method of succession, to Lessee's interest hereunder. Each successor having actual or constructive notice of this Agreement shall be deemed to have agreed to the preceding sentence.

14.5 Grounds for Refusal. No assignments of this Agreement are contemplated or bargained for. Lessor has the absolute right for any reason or for no reason in its sole discretion to give or withhold consent to any assignment or to impose any conditions upon any assignment, except that Lessor shall not unreasonably refuse to consent to an assignment of this Agreement to any purchaser of the Hotel Parcel. Lessee shall pay to Lessor the sum of Five Hundred Dollars ($500) for legal and administrative expenses related to any request for consent.

14.6 Sale of Hotel Parcel. In addition to all of Lessor's other termination rights, Lessor shall have the right to unilaterally terminate this Agreement if this Agreement is not assigned to any purchaser of the Hotel Parcel, even if the assignment is prevented by Lessor's failure to consent to such assignment. Lessee shall give Lessor thirty (30) days advance notice of any transfer of the Hotel Parcel.

XV. MISCELLANEOUS

15. Miscellaneous.

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

If to Lessor:

Asset Management Coordinator
One Civic, 2nd Floor, Suite 205
7447 E. Indian School Rd.
Scottsdale, AZ 85251

Copies to:	City of Scottsdale 3939 Civic Center Blvd. Scottsdale, AZ 85251 Attn: City Attorney
If to Lessee:	James-Hotel Scottsdale, L.L.C. c/o B.R. Guest, Inc. 206 Spring Street New York, New York, 10012 Telephone: (212) 653-0280 Facsimile: (212) 653-0165 Email: crichmond@brguestinc.com
Copies to:	John E. Rooney, Esq. Beus Gilbert, PLLC 4800 N. Scottsdale Road, Suite 6000 Scottsdale, AZ 85251 Telephone: (480) 429-3014 Facsimile: (480) 429-3100 Email: jrooney@beusgilbert.com

or to such other street address within Maricopa County, Arizona as may be designated by the respective parties in writing from time to time. Notices to Lessee may also be hand delivered to the Premises. In the event of any service by mail, as aforesaid, service of any notice shall be deemed to be complete forty-eight (48) hours after the notice is deposited in the United States mail.

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

15.3 Invalid Provisions. In the event any term, condition, covenant, stipulation, agreement or provision herein contained is held to be invalid or unenforceable for any reason, the invalidity of any such term, condition, covenant, stipulation, agreement or provision shall in no way affect any other term, condition, covenant, stipulation, agreement or provision herein contained.

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

15.5 Attorneys' Fees. In the event any action or suit or proceeding is brought by either party to enforce compliance with this Agreement or for failure to observe any of the covenants of this Agreement or to vindicate or exercise any rights or remedies hereunder, the party which does not prevail shall pay all costs of such action or suit and all expenses of such action or suit together with such sum as the court may adjudge reasonable as attorneys' fees to be allowed in said suit, action or proceeding.

15.6 No Third Party Beneficiaries. Except as expressly stated with respect to Unruly Behavior Offenses, no person or entity shall be a third party beneficiary to this Agreement.

15.7 Exhibits. All Exhibits specifically stated to be attached hereto are incorporated into this Agreement by this reference.

15.8 Integration. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any prior agreement, understanding, negotiation or representation regarding the Premises.

15.9 Further Assurances. Lessee agrees to do such further acts and things and to execute and deliver such additional agreements and instruments as Lessor may reasonably require to consummate, evidence, confirm or carry out the agreement contained herein.

15.10 Construction. Whenever the context of this Agreement requires, the singular shall include the plural, and the masculine shall include the feminine. This Agreement shall be construed according to its plain meaning and neither for nor against any party hereto. Lessee acknowledges that the Rent payable hereunder was negotiated in light of the plain meaning of this Agreement and this Agreement shall therefore be interpreted according to its plain meaning and without regard to rules of interpretation, if any, which might otherwise favor Lessee.

15.11 Survival of Liability. All obligations of Lessee hereunder and all warranties and indemnities of Lessee hereunder shall survive termination of this Agreement for any reason.

15.12 Choice of Law. This Agreement shall be governed by the internal laws of the State of Arizona. Proper venue for any action regarding this Agreement shall be Maricopa County.

15.13 Approvals and Inspections. All approvals, reviews and inspections by Lessor under this Agreement or otherwise are for Lessor's sole benefit and not for Lessee's benefit.

15.14 Recording. Within ten (10) days after the date of this Agreement, Lessee shall cause this Agreement to be recorded in the office of the Maricopa County Recorder.

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

15.16 Budgeting. In the event funds necessary for this Agreement are not appropriated by the Scottsdale City Council, either party may terminate this Agreement, by giving a written notice of termination to the other. Any notice of termination under this section shall be given by Lessor to Lessee at least thirty (30) days prior to the end of Lessor's then current fiscal year (July 1 to June 30).

EXECUTED as of the date first given above.

LESSEE: **JAMES-HOTEL SCOTTSDALE L.L.C., an Arizona limited liability company**

By: _____

ITS: MEMBER

C.O.S. No. _____-___-COS

LESSOR: **CITY OF SCOTTSDALE,**
an Arizona municipal corporation

By: _____
Mary Manross, Mayor

ATTEST:

_____
Sonia Robertson, City Clerk

APPROVED AS TO FORM:

_____
David A. Pennartz, City Attorney

_____
Ron King, Asset Management Coordinator

_____ for
Myron Kuklok, Risk Management Director

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____ 2003, _____, president of James-Hotel Scottsdale L.L.C., an Arizona limited liability company.

_____
Notary Public

My Commission Expires:

_____

C.O.S. No. _____-___-COS

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____, 2003, by Mary Manross, Mayor of the City of Scottsdale, an Arizona municipal corporation.

_____
Notary Public

My Commission Expires:

_____

TABLE OF EXHIBITS

Exhibit	Paragraph	Description
A	B	Legal description for City owned land covered by this lease.
B	D	Formal legal description for Hotel Parcel.
C	2.1	Drawing of premises to be used by Lessee indicating "proposed patio extension" and general configuration of proposed improvements.
D	5.10.4	Minimum security standards and emergency action plan.
E	7.3.6	Janitorial and maintenance program.

NOTE: All exhibits must be labeled and leave at least one half inch clear space along all margins.

This list is not part of the lease.

Detach this list before distributing for proposals.

EXHIBIT "D"

SECURITY AND EMERGENCY PLAN

1. Lessee's outdoor security efforts will equal security efforts inside the main restaurant.

2. Lessee will immediately contact the Scottsdale Police Department, the applicable fire department, and/or paramedics when any situation arises outside the capacity and training of Lessee's on-site employees.

3. Lessee will not allow unruly behavior by patrons or employees. Lessee will take immediate action to stop any unruly behavior that may occur.

4. Lessee will hire security officers as described in the Lease.

5. Lessee will adhere to all other security and emergency requirements as described in the Lease.

C.O.S. No. _____-___-COS

EXHIBIT "E"

JANITORIAL AND MAINTENANCE PROGRAM

1. Lessee will hose down the outdoor dining area daily.

2. Lessee will clean the outdoor dining area daily.

3. During business hours, Lessee will monitor the cleanliness of the outdoor dining area as well as the area within ten (10) feet of the outdoor dining area, and will take necessary actions to immediately maintain cleanliness of both.

4. Lessee will advise co-users of the trash pick-up area of the importance of insuring that garbage is deposited in the trash container and that lids are kept closed.

GeoDimensions

3030 E. Camelback Rd. Suite 260
Phoenix, AZ 85016
Phone (602) 952-8788
Fax (602) 952-9905

June 17, 2003
City of Scottsdale Lease Parcel
Legal Description
GDI Job No. 03537

CERTIFICATE NO. 22762
GENE C. HARRISON II
Date Signed 6-17-03
ARIZONA U.S.A.

LEGAL DESCRIPTION
OF A
PARCEL OF LAND

That portion of Lot "L" of Scottsdale Mall, a subdivision as recorded in Book 170 of Maps, Page 2, Records of Maricopa County, Arizona, being a portion of the Northwest quarter of Section 26, Township 2 North, Range 4 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

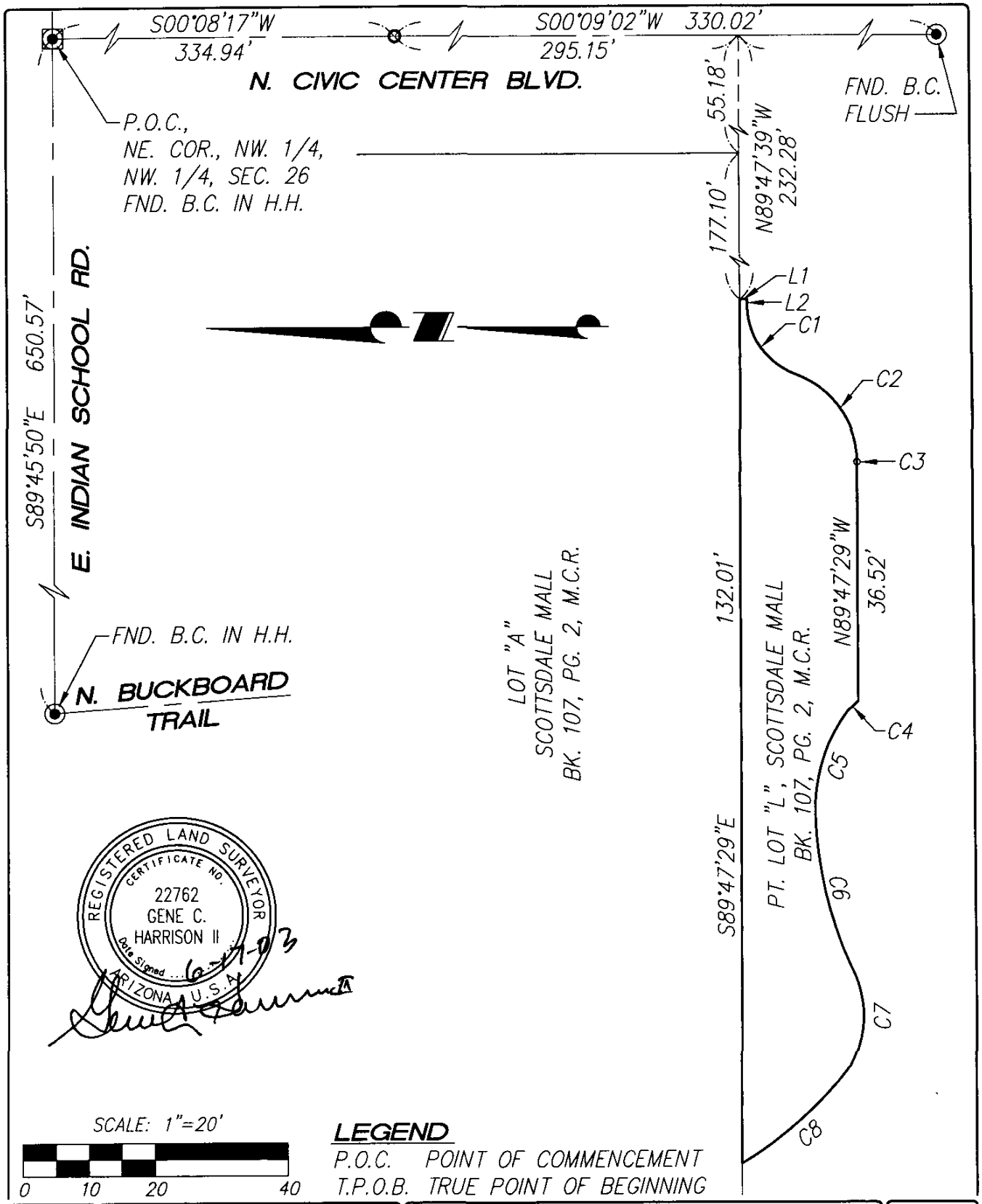
COMMENCING at the northeast corner of said Scottsdale Mall subdivision, being the northeast corner of the Northwest Quarter of the Northwest Quarter of said Section 26, said point being a found brass cap in hand hole at the intersection of Indian School Road and Civic Center Plaza as depicted on said Scottsdale Mall subdivision plat;
THENCE S00°08'17"W along the monument line of said Civic Center Plaza, a distance of 334.94 feet;
THENCE continuing along said monument line S00°09'02"W, a distance of 295.15 feet;
THENCE N89°47'29"W along the north line of said Lot "L" and its' easterly projection, a distance of 232.28 feet to the TRUE POINT OF BEGINNING.

THENCE S00°12'31"W, a distance of 1.13 feet;
THENCE West, a distance of 1.00 feet to the beginning of a curve concave to the southeast, from which the center of said curve bears South, a distance of 11.07 feet;
THENCE southwesterly along the arc of said curve, through a central angle of 69°38'15", a distance of 13.45 feet to the beginning of a reverse curve concave to the northwest, from which the center of said curve bears N69°38'15"W, a distance of 14.29 feet;

THENCE southwesterly along the arc of said curve, through a central angle of 69°38'15", a distance of 17.37 feet to the beginning of a non-tangent curve concave to the north, from which the center of said curve bears N00°25'28"E, a distance of 49.93 feet;
THENCE westerly along the arc of said curve, through a central angle of 00°06'36", a distance of 0.10 feet;
THENCE N89°47'29"W, a distance of 36.52 feet to the northerly face of an existing block wall, and the beginning of a non-tangent curve concave to the southwest, from which the center of said curve bears S49°15'45"W, a distance of 46.56 feet;
THENCE northwesterly along the northerly face of said block wall and the arc of said curve, through a central angle of 02°47'38", a distance of 2.27 feet to the beginning of a non-tangent curve concave to the south, from which the center of said curve bears S36°13'47"W, a distance of 25.45 feet;
THENCE westerly along the northerly face of said block wall and the arc of said curve, through a central angle of 37°49'47", a distance of 16.80 feet to the beginning of a compound curve concave to the south, from which the center of said curve bears S01°36'00"E, a distance of 62.07 feet;
THENCE westerly along the northerly face of said block wall and the arc of said curve, through a central angle of 21°49'42", a distance of 23.65 feet to the beginning of a non-tangent curve concave to the north, from which the center of said curve bears N29°01'42"W, a distance of 16.10 feet;
THENCE westerly along the northerly face of a concrete driveway and the arc of said curve, through a central angle of 57°24'54", a distance of 16.13 feet to the beginning of a non-tangent curve concave to the northeast, from which the center of said curve bears N37°22'11"E, a distance of 60.31 feet;
THENCE northwesterly along the northerly face of said concrete driveway and the arc of said curve, through a central angle of 21°20'11", a distance of 22.46 feet;
THENCE S89°47'29"E along the north line of said Lot "L", a distance of 132.01 feet to the TRUE POINT OF BEGINNING.

Subject to existing rights of way and easements.

Said parcel Contains 1,827 square feet or 0.04 acres, more or less.



PROJ. NO. 03537	JAMES HOTEL	GeoDimensions	DATE
FIG. NO. 1 of 2	CITY OF SCOTTSDALE LEASE PARCEL	3030 E CAMELBACK ROAD SUITE 260 PHOENIX, ARIZONA 85016 PHONE (602) 952-8788 FAX 952-9905	06/2003

06/17/2003 03:18:03 PM

LINE TABLE		
LINE	BEARING	LENGTH
L1	S00°12'31"W	1.13
L2	N90°00'00"W	1.00

CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	13.45	11.07	69°38'15"
C2	17.37	14.29	69°38'15"
C3	0.10	49.93	0°06'36"
C4	2.27	46.56	2°47'38"
C5	16.80	25.45	37°49'47"
C6	23.65	62.07	21°49'42"
C7	16.14	16.10	57°24'54"
C8	22.46	60.31	21°20'11"

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
22762
GENE C.
HARRISON II
Date Signed 6-17-03
ARIZONA U.S.A.

PROJ. NO. 03537	JAMES HOTEL CITY OF SCOTTSDALE LEASE PARCEL	GeoDimensions	3030 E CAMELBACK ROAD SUITE 260 PHOENIX, ARIZONA 85016 PHONE (602) 952-8788 FAX 952-9905	DATE 06/2003
FIG. NO. 2 of 2				

3DSKPROJ\03537\dwg\03537C1.dwg, 06/17/2003 03:18:12 PM

Project: 02533 Tue June 17 14:39:31 2003

Parcel Map Check

Parcel name: LeaseParcel

```
   North: 4368.0759          East : 5416.7117
Line  Course: S 00-12-31 W  Length: 1.1327
        North: 4366.9432            East : 5416.7076
Line  Course: N 90-00-00 W  Length: 0.9959
        North: 4366.9432            East : 5415.7117
Curve  Length: 13.4533             Radius: 11.0690
        Delta: 69-38-15           Tangent: 7.6985
        Chord: 12.6404             Course: S 55-10-52 W
    Course In: S 00-00-00 W     Course Out: N 69-38-15 W
    RP  North: 4355.8742            East : 5415.7117
    End North: 4359.7257            East : 5405.3344
Curve  Length: 17.3705             Radius: 14.2920
        Delta: 69-38-15           Tangent: 9.9402
        Chord: 16.3210             Course: S 55-10-52 W
    Course In: N 69-38-15 W     Course Out: S 00-00-00 W
    RP  North: 4364.6987            East : 5391.9355
    End North: 4350.4067            East : 5391.9355
Curve  Length: 0.0959              Radius: 49.9265
        Delta: 0-06-36            Tangent: 0.0478
        Chord: 0.0957              Course: N 89-31-14 W
    Course In: N 00-25-28 E     Course Out: S 00-32-04 W
    RP  North: 4400.3319            East : 5392.3053
    End North: 4350.4075            East : 5391.8396
Line  Course: N 89-47-29 W  Length: 36.5164
        North: 4350.5405            East : 5355.3235
Curve  Length: 2.2702              Radius: 46.5568
        Delta: 2-47-38            Tangent: 1.1354
        Chord: 2.2700              Course: N 42-08-04 W
    Course In: S 49-15-45 W     Course Out: N 46-28-07 E
    RP  North: 4320.1578            East : 5320.0470
    End North: 4352.2239            East : 5353.8006
Curve  Length: 16.8003             Radius: 25.4453
        Delta: 37-49-47           Tangent: 8.7193
        Chord: 16.4969             Course: N 72-41-07 W
    Course In: S 36-13-46 W     Course Out: N 01-36-01 W
    RP  North: 4331.6983            East : 5338.7619
    End North: 4357.1336            East : 5338.0513
Curve  Length: 23.6479             Radius: 62.0718
        Delta: 21-49-42           Tangent: 11.9691
        Chord: 23.5051             Course: S 77-29-08 W
    Course In: S 01-36-01 E     Course Out: N 23-25-43 W
    RP  North: 4295.0860            East : 5339.7848
    End North: 4352.0404            East : 5315.1046
Curve  Length: 16.1384             Radius: 16.1049
        Delta: 57-24-54           Tangent: 8.8199
        Chord: 15.4716             Course: S 89-40-44 W
    Course In: N 29-01-43 W     Course Out: S 28-23-11 W
    RP  North: 4366.1222            East : 5307.2898
    End North: 4351.9537            East : 5299.6333
Curve  Length: 22.4576             Radius: 60.3065
        Delta: 21-20-11           Tangent: 11.3604
        Chord: 22.3281             Course: N 41-57-45 W
```

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
22762
GENE C.
HARRISON II
Date Signed 6-17-03
ARIZONA, U.S.A.

```
    Course In: N 37-22-10 E     Course Out: S 58-42-21 W
    RP  North: 4399.8816             East : 5336.2364
```



```
Project: 02533                                          Tue June 17 14:39:31 2003
              Parcel Map Check
    End North: 4368.5565             East : 5284.7038
Line  Course: S 89-47-29 E  Length: 132.0087
        North: 4368.0758             East : 5416.7116

   Perimeter: 282.8878   Area: 1,827.02 sq.ft. 0.04 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.0001               Course: S 51-56-43 W
  Error North: -0.00005              East : -0.00006
Precision  1: 2,828,878.0000
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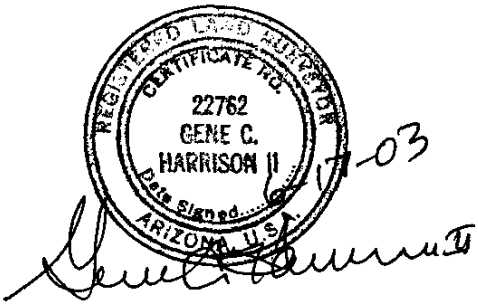
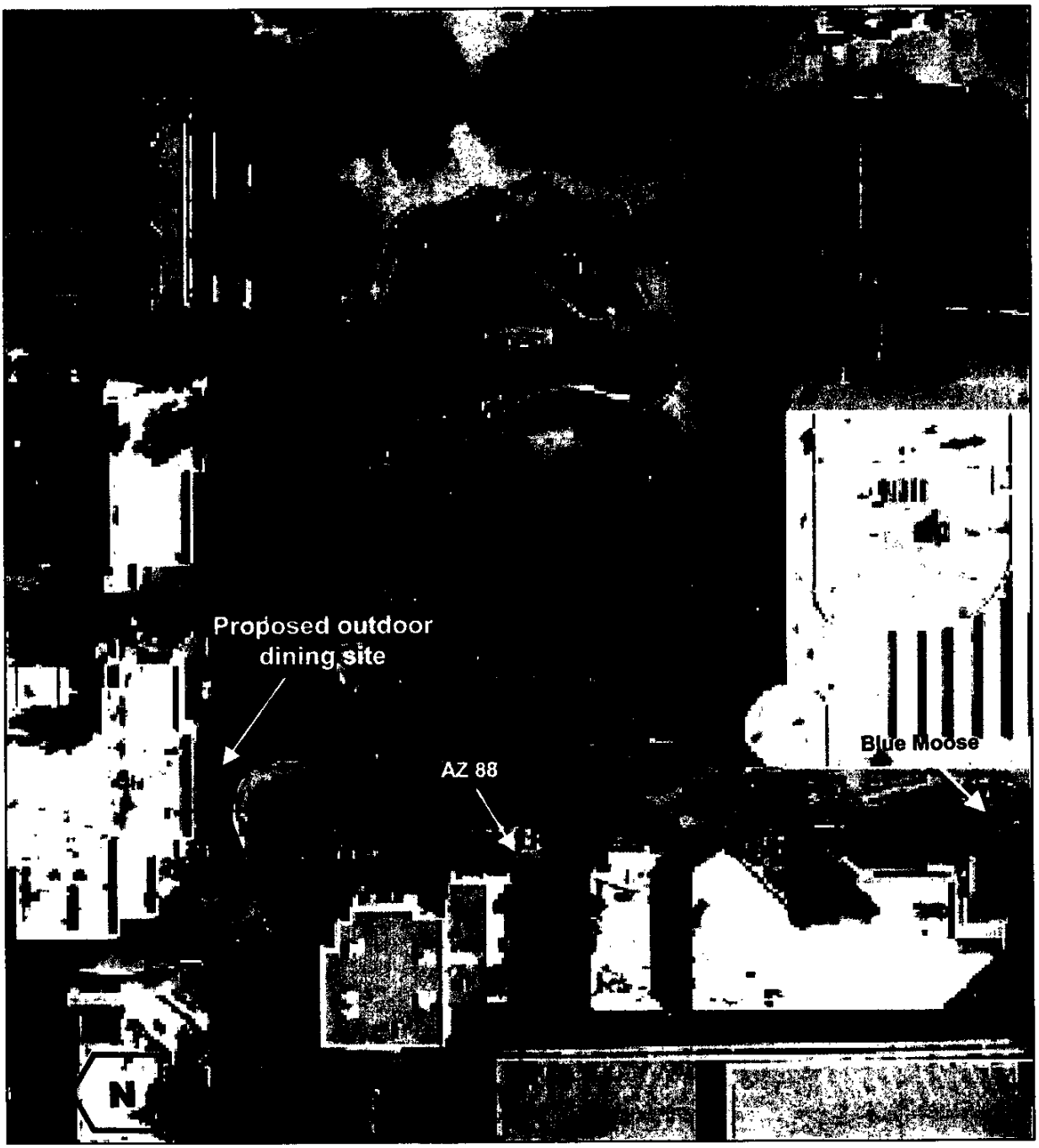
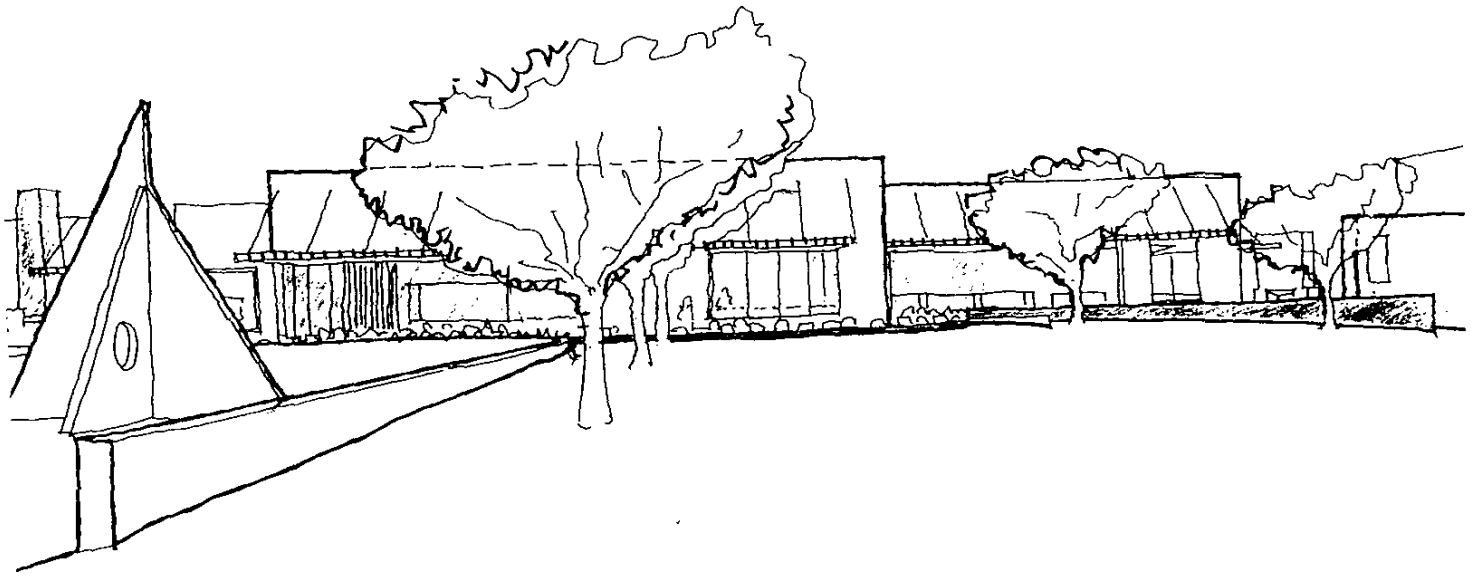
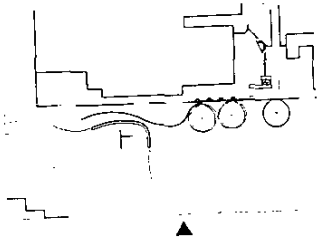




Attachment 3



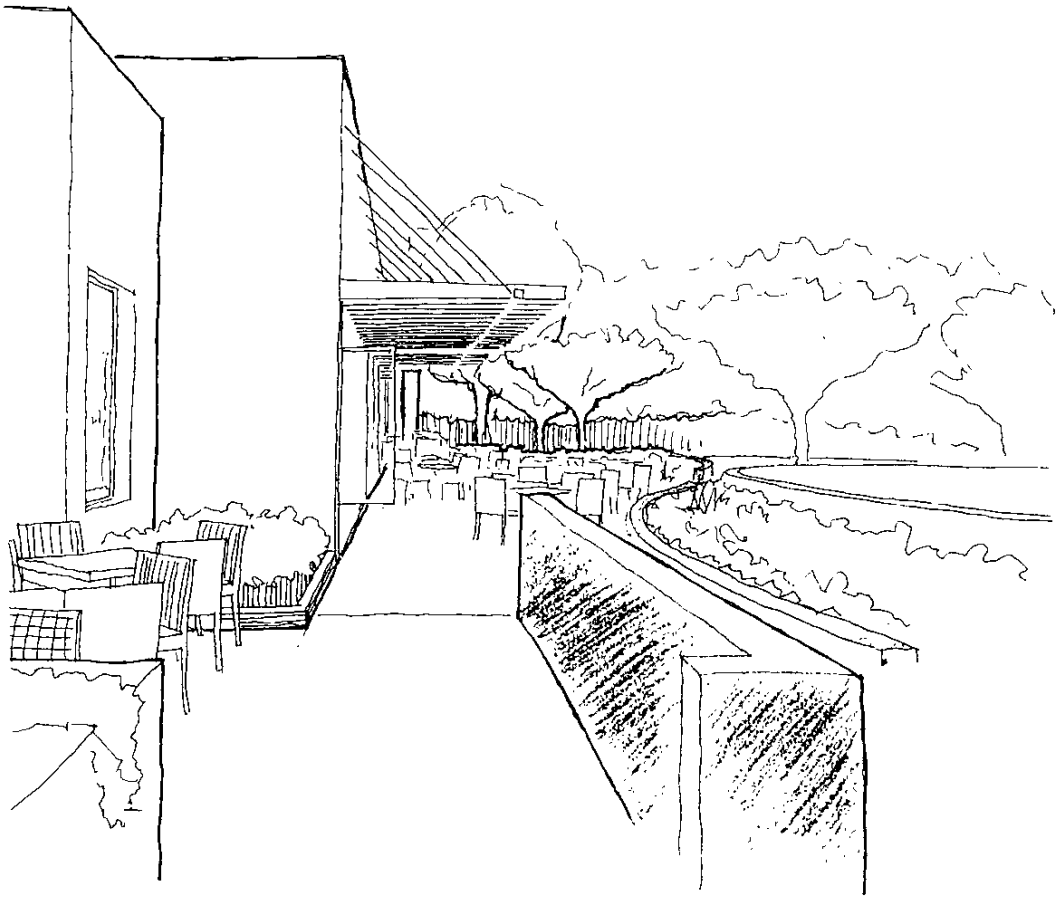


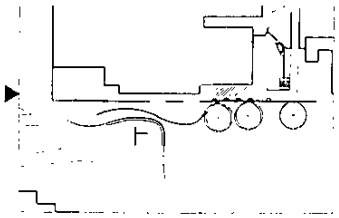
JAMES HOTEL/BR GUEST
7353 EAST INDIAN SCHOOL ROAD, SCOTTSDALE, AZ
DBA NO 2300

DEBORAH BERKE & PARTNERS ARCHITECTS LLP
211 W 19TH STREET, NEW YORK, NY 10011 T 212-229-9211 F 212-989-3347

1/50" =
REF Si

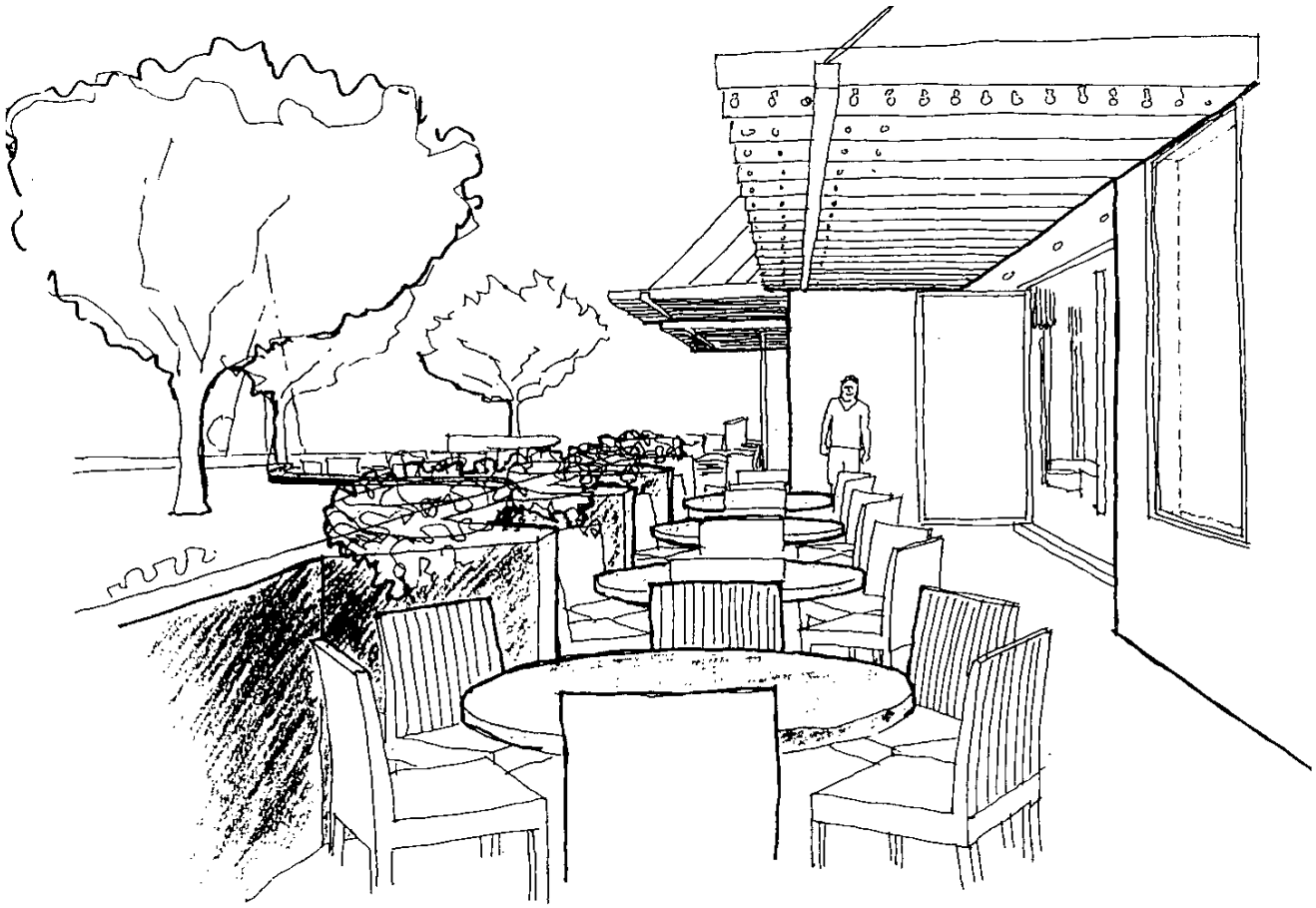
South Facade

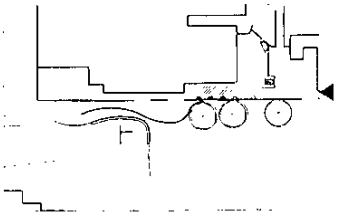




JAMES HOTEL/BR GUEST 7353 EAST INDIAN SCHOOL ROAD, SCOTTSDALE, AZ DBA NO 2300	WEST FACADE PERSPECTIVE PROPOSED PATIO EXTENSION	
DEBORAH BERKE & PARTNERS ARCHITECTS LLP 211 W 19TH STREET, NEW YORK, NY 10011 T 212-229-9211 F 212-989-3347	1/50" = 1'-0" 17 MAY 2003 REF Site-01 dwg DRN BY JD	PERSP 3

Attachment No. 4
Page 2 of 3





Attachment No. 4 (3 of 3)

JAMES HOTEL/BR GUEST 7353 EAST INDIAN SCHOOL ROAD, SCOTTSDALE, AZ	DBA NO 2300	EAST PROPC
DEBORAH BERKE & PARTNERS ARCHITECTS LLP 211 W 19TH STREET, NEW YORK, NY 10011 T 212-229-9211 F 212-989-3347		1/50" = 1'-0" REF Site-01 dwg

CITY COUNCIL REPORT

MEETING DATE: 07/02/2003 ITEM NO. 19 GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT

Contract Modification for Design of Sewer Collection System Rehabilitation Project

REQUEST

AUTHORIZE contract modification to Engineering Services Contract No. 2002-034A-COS with Brown & Caldwell Inc., in the total amount of $188,191.00, for design of Phase 2 of the Sewer Collection System Rehabilitation Project.

Related Policies, References: Engineering Services Contract No. 2002-034-COS, approved by City Council on May 13, 2002.

BACKGROUND

This contract modification would extend the term of Engineering Services Contract No. 2002-034-COS with Brown & Caldwell Inc. for the design of sewer collection system rehabilitation by one additional year, per the terms of the original contract.

The sewer collection system rehabilitation program has been ongoing for approximately eight years, with design and construction being phased in accordance with priorities established by the Water Resources Department. Sewer lift station facilities have been assessed and all sewer lines have been televised as part of this program to determine deterioration and potential blockages.

Sewer rehabilitation priorities are based upon potential failures, inconvenience to residents, regulatory requirements, costs, and other projects in the same vicinity. This program has reduced operations and maintenance costs, inconvenience to residents, and citizen exposure to health and safety issues.

This contract represents Phase 2 of a three-phase project:

- Phase 1 consisted of the design of a sewer line on Happy Valley Road, east of Pima Road, which will eliminate Sewer Lift Stations 3 and 4; rehabilitation of Sewer Lift Stations 8 and 9; and design of sewer lines at Oak/64th Streets and at Hayden/Indian Bend Roads. These projects are in the final plan review and right-of-way acquisition processes.

- Phase 2 involves the rehabilitation of Sewer Lift Stations 12, 16, and 17; and design of a sewer main to eliminate Sewer Lift Station 18. (See Attachments 2 and 3). Rehabilitation of the lift stations consists of wet well rehabilitation and replacement of lifting rails, pumps and approximately 1,500 feet of force mains. Lift Station 18 currently serves the northern portion of the Pinnacle Peak Country Club area. This project will evaluate and design a gravity sewer main to provide a downstream

Action Taken _____

connection; eliminating the need for the lift station. Coordination with the Country Club Home Owners Association on alignments will be included.

- Projects tentatively identified for Phase 3 to this contract involve assessment and design of manhole rehabilitation on the City's main sewer trunk lines, and design of sewer line repairs at various locations within the City's sewer collection system. Phase 3 design is not part of this requested contract modification and would be submitted to City Council for its consideration in approximately one year.

ANALYSIS & ASSESSMENT

Recent staff action. On May 13, 2002, City Council approved Contract No. 2002-034-COS with Brown & Caldwell for Phase 1 of the design for sanitary sewer line, lift station, and water line modifications. This council report addresses Phase 2 design. The multi-phase term option was chosen for this contract to reduce repetitive selection processes for engineering services of similar design work, and to facilitate possible reprioritization of areas experiencing critical deficiencies.

Contract process and terms. The initial term of this engineering services contract was for one year, with the option to extend on an annual basis for up to two additional one-year periods, upon satisfactory completion of services performed to date. Extensions to this contract require the concurrence of the Purchasing Director and approval of the City Council. Engineering services provided during the first year of this contract have been satisfactory.

Community involvement.
This project will benefit the citizens and community by improving the City's sanitary sewer facilities. During construction, there will be minor traffic impacts to residential streets within the Pinnacle Peak Country Club. These traffic impacts, along with the sewer line alignment, will be discussed and coordinated with the golf course management and homeowners association.

RESOURCE IMPACTS

Available funding. Funding for this contract is available in CIP Account 605-V3704 (Sewer Collection System Rehabilitation). Sewer fees fund this CIP account.

Future budget implications. The estimated construction cost for this project is $600,000. No right-of way acquisitions are anticipated. This project will significantly reduce O&M costs for responding to system deficiencies. No additional staffing is required as a result of this project.

OPTIONS & STAFF RECOMMENDATION

Description of Option A: Authorize this engineering services contract modification for Phase 2 sanitary sewer rehabilitations. Proceeding with this contract will continue the reduction of maintenance efforts and operating costs of the existing sewer lift stations while providing the potential for future sewer connections and extensions for an area currently using septic systems.

Description of Option B: Do not authorize this engineering services contract modification. Direct staff to solicit proposals for a new design services contract. This will subject residents to service from the current sewer lift stations in need of rehabilitation.

Recommended Approach: Staff recommends Option A. The authorization of this engineering services contract modification will allow continued and timely design services to improve the existing infrastructure by a capable and competent engineering consultant..

Proposed Next Steps: If this action is approved, the design work will begin immediately. Construction will begin in mid-2004 and be complete by the end of CY 2004.

RESPONSIBLE DEPT(S) Capital Project Management/Municipal Services

STAFF CONTACTS Annette Grove, Sr. Project Manager, (480) 312-2399, agrove@scottsdaleaz.gov

APPROVED BY

Al Dreska — Date: 6/13/03
Municipal Service General Manager
adreska@scottsdaleaz.gov, (480) 312-5555

Roger Klingler — Date: 6/13/03
Assistant City Manager
rklingler@scottsdaleaz.gov, (480) 312-5830

ATTACHMENTS

1. Engineering Services Contract No. A2002-034-COS
2. Location Map – Rehabilitation of Lift Stations 12, 16 and 17
3. Location Map – Sewer Main to Eliminate Lift Station 18

CITY OF SCOTTSDALE
MODIFICATION TO ARCHITECTURAL/ENGINEERING/ PROFESSIONAL SERVICES

THIS CONTRACT MODIFICATION, made and entered into this 1st day of July, 2003, by and between the City of Scottsdale, a Municipal Corporation of the State of Arizona, hereinafter referred to as "City", and Brown and Caldwell , hereinafter referred to as "Contractor", amending the Contract dated May 13, 2002, between City and Contractor.

WITNESSETH

THAT, the Mayor of the City of Scottsdale is authorized and empowered by provisions of the City Charter to execute Contracts and Contract Modifications.

WHEREAS, the CITY desires to provide design services to rehabilitate Sewer Lift Station Nos. 12, 16, and 17, and eliminate Sewer Lift Station No. 18; AND

WHEREAS, the City and the Contractor mutually agree to modify the Contract;

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1.0 MODIFICATIONS:

1.1 Section 1.0, Scope of Services, is hereby added to the original Contract to read as follows: The Engineer is assigned the tasks specified in the attached Exhibit AA, Scope of Work.

1.2 Section 2.0, Fees and Payments, is hereby added to the original Contract. The Engineer shall be paid for performing the attached Exhibit AA, Scope of Work, per the following schedule:

Project Management	$ 13,730
Data Collection	$ 5,836
Utility Coordination	$ 6,280
Survey	$ 1,173
Geotechnical Investigation	$ 476
Meeting Participation	$ 11,698
Right-of-Way/Legal Descriptions	$ 698
Rehab LS 12, 16, and 17	$ 59,392
Eliminate LS 18 in Pinnacle Peak CC	$ 42,810
Bid Phase Assistance	$ 6,123
Reimbursable Expenses	$ 39,975
(potholing,survey, Printing, Cty review)	**$188,191**

1.3 Section 3.2, Term of Contract, is hereby added to the original Contract.
The Engineer agrees to proceed with the attached Exhibit AA, Scope of Work, immediately upon notification to proceed issued by the Contract Administrator and shall complete the work within 365 calendar days, including City review.

2.0 OTHER CONTRACT PROVISIONS:

All provisions of the original Contract not modified in Section 1.0, above, shall remain in full force and effect as stated therein.

IN WITNESS WHEREOF, THE CITY OF SCOTTSDALE by its Mayor and City Clerk have hereunto subscribed their name this 1st day of July, 2003.

Contract #A2002-034-COS

CITY OF SCOTTSDALE

By:_____
Mary Manross, Mayor

ATTEST:

By: _____
Sonia Robertson, City Clerk

CONTRACTOR:

By_____
Brown and Caldwell

By: _____ for
Samuel A. Edmondson
Senior Vice President

CITY CONTRACT ADMINISTRATOR

By: _____
Annette Grove
Sr. Project Manager

CITY OF SCOTTSDALE REVIEW:

_____
Monroe C. Warren
Purchasing Director

Suzanne M. Welch for
Myron Kuklok
Risk Management Director

APPROVED AS TO FORM:

_____ for
David A. Pennartz
City Attorney

EXHIBIT AA

ENGINEERING SCOPE OF WORK

SEWER COLLECTION SYSTEM REHABILITATION
PROJECT NO. V3704
CONTRACT NO. 2002-034-COS

I. BRIEF DESCRIPTION OF THE PROJECT

A. The Engineer, acting under the authority and to the approval of the Contract Administrator, shall perform the necessary studies, surveys, and designs of the following items:

1. Rehabilitate Sewer Lift Station Nos. 12, 16 and 17 (Happy Valley Road/112th Street area) including associated force main replacement.

2. Design of sewer line through the Pinnacle Peak Country Club to complete the gravity system and eliminating Sewer Lift Station No. 18.

II. GENERAL REQUIREMENTS

A. DESIGN STANDARDS

All work shall conform to:

1. The MAG Standard Specifications and Details

2. The City of Scottsdale MAG Supplemental Specifications and Supplemental Standard Details

3. The latest City of Scottsdale Design Standards and Policy Manual

4. All applicable uniform and national codes along with the city amendments as adopted by ordinance

5. AWWA, NSF, ACI, ASTM, etcetera as applicable

6. Other applicable specifications and details required by a governmental agency or utility company

The Engineer is responsible for providing the work to meet the latest City of Scottsdale Design Standards and Policies Manual, Section 1.2, Capital Project Management Plan Requirements. Any design criteria, plan preparation techniques or other requirements established herein shall take precedence over any other conflicting standards or specifications.

B. QUALITY CONTROL

Quality control is a management system for producing a product, which complies with the terms of the contract. The Engineer is responsible for maintaining a Quality Control Program that will provide a quality product. The Engineer shall meet with the Contract Administrator to review and discuss the designed system they have implemented to ensure a successful end product through out the design. The system shall be acceptable to the Contract Administrator. Subsequent changes may be determined necessary if the program is not producing the quality of work required by the contract.

C. PROJECT DESIGN SCHEDULE

Prior to commencing any work, the Engineer and the Contract Administrator shall meet to determine the project design schedule. The Engineer shall meet with the Contract Administrator, prior to the monthly billing, to assess the projects' progress in relation to the design schedule. In the event that the Engineer falls behind the accepted design schedule, the Engineer shall be required to provide documentation explaining each event that caused the project to be delayed. In addition, the Engineer must prepare a written statement to identify what steps will be taken to return to the project to its original schedule. This documentation will be necessary prior to payment approval.

III. TASKS

A. PROJECT MANAGEMENT

This task will provide a firm foundation for overall project management and monitoring. The Engineer will prepare monthly progress reports; perform regular budget and schedule monitoring; provide utility coordination for the sewer collection rehabilitation needs; and manage subconsultants.

B. DATA COLLECTION

1. The Engineer shall:

    a. Visit the site(s) with the Contract Administrator and other City staff members, prior to commencement of the work to insure an onsite understanding of the nature of the work.

    b. Obtain all available maps, studies, laboratory tests, records, right-of-way, and parcel/property line information from the City of Scottsdale.

    c. Verify GIS data, as-built plans, utility information.

    d. Review the City's Sewer Master Plan, current updates and other pertinent data and studies of the work to be performed.

2. It shall be the responsibility of the Engineer to determine, request and obtain specific data and information needed to perform the work. The Engineer shall provide all necessary research and data collection required determining and identifying all existing project area utilities. As necessary, the Engineer shall perform potholing of underground utilities, to further determine and identify existing project area utilities.

3. All data obtained from the City (i.e. – quarter sections, contour maps, property lines, easement and right of way locations, aerial photography, O & M Manuals, studies, laboratory tests, records, GIS data, as-builts) shall be provided at no cost to the Engineer.

C. UTILITY COORDINATION

1. The Engineer shall coordinate with utility companies and other agencies to incorporate existing and proposed utility facilities into the construction plans as necessary. All existing and proposed utilities shall be shown in the plan and profile on the preliminary and final construction plans. The Engineer shall notify and coordinate the utilities in accordance with the AUCC "Public Improvement Project Guide". Initial contact with utility companies shall be made under the data collection task as record drawings are being collected.

2. The Engineer shall be responsible for field verifying the horizontal and vertical locations of potential utility conflicts within the project limits. Utility base maps prepared by the Engineer, detailing all existing data, shall be transmitted to the utility companies for verifications and comment concerning the utility locations. Their comments shall be incorporated into the base maps.

3. The Engineer shall be completely responsible for scheduling the location and number of potholes with the affected utility, resolving potential conflicts and shall diligently pursue resolution of all conflicts with the official utility until acceptable solutions are designed. The Engineer shall be responsible for providing underground utility locating services utilizing an air vacuum method of excavations, which produces a hole in the pavement not greater than 12 inches in diameter. The City's Contract Administrator prior to commencement of activities shall review the number and location of potholes required for design. Fees for potholing shall be based upon a lump sum allowance which shall include the cost for barricading, securing permits/permission from all concerned agencies, pavement restoration, report preparation, recording the thickness of the asphalt when borings occur in the existing paved roadway, and other incidental items. To minimize traffic congestion and barricading, all potholing shall occur in their shortest time frame and during non-peak traffic hours.

D. SURVEY

1. The Engineer shall perform all necessary survey work to establish horizontal and vertical ground control and to provide topographic information at one-foot contours for all existing conditions and features throughout the project limits.

2. All survey work shall be based on current City of Scottsdale datum.

3. The survey shall include the location of existing surface structures, drainage ways, vegetation greater than 2 inches in diameter and rim and invert of all sewer and storm drain manholes.

4. Survey extents shall clearly demonstrate the relationship of the site to the adjacent properties.

5. Property line, easement and parcel information will be provided by the City of Scottsdale.

E. GEOTECHNICAL INVESTIGATION

The Engineer shall perform a geotechnical analysis of the existing conditions for the gravity sewer associated with Lift Station No. 18 only. A geotechnical report shall be submitted for use in the determination of the potential for corrosion, slope stability, and trenching.

1. The following information shall be included in the Geotechnical Report:

    a. Vicinity map of the project limits

    b. Plot plan showing location of borings

    c. Boring Logs – include a boring to 20-foot depth at all locations

    d. Detailed descriptions of surface and subsurface conditions

    e. Summary of laboratory tests performed and tests results. Typical testing shall include grain size and distribution, moisture, plasticity, compaction, R-value, and shrink/swell testing

    f. Summary of geotechnical recommendations for pavement, estimated settlements, lateral design parameters, utility backfill and bedding criteria, and corrosivity potential of native soils.

F. MEETING PARTICIPATION

As part of the contractual relationship with the City, the Engineer shall attend, prepare agenda and take notes at the meetings outlined herein. The notes shall be furnished to the Contract

Administrator in he form of minutes. The notes shall address action items and the responsible parties. The Contract Administrator shall review and approve all meeting notes.

1. Project Status: The Engineer shall attend six (6) monthly meetings with the Contract Administrator and Water Operations staff to keep the City abreast of the project status and gather information for systems and components desired by the City. The meetings will be held at the Water Operations building.

2. Utility Coordination: There are no utility coordination meetings included in this project.

3. Public Informational Meetings: There are no Public Information meetings included in this project. All issues will be addressed through the HOA meetings meetings.

4. Homeowners Association Meetings: The Engineer shall prepare for, organize and attend two (2) HOA meetings, to communicate the scope(s) and impact of the project(s) to the affected public.

5. Development Review Board: There are no DRB meetings included in this project as all improvements are located below ground.

6. Pre-bid: The Engineer's project manager and key project staff members shall attend two (2) pre-bid conferences to address technical questions asked by the prospective bidders.

G. LANDSCAPING/SITE PLANS

No landscaping or landscape architect included for this project. Any disturbance of the golf course turf will be restored coordinated by the Contractor with the golf course staff.

H. RIGHT-OF-WAY AND LEGAL DESCRIPTIONS

The Engineer shall provide legal drawings and descriptions of the required rights-of-way, easements, and temporary construction easements required for any portions of this project. For the purpose of this proposal, it is assumed that only one easement will be required which will be located at the golf course crossing.

I. REHABILITATION OF LIFT STATION NOS. 12, 16 AND 17

1. The Engineer shall investigate the rehabilitation of Lift Stations Nos. 12, 16 and 17, in order to try to meet current City of Scottsdale and State Health Department Requirements. The rehabilitation will be limited to in-place replacement of the equipment. No backup power, odor scrubber, variable frequency drives, wall enclosures, or other improvements will be required other than those noted herein. All three sites will be bid as one package.

2. A new valve vault for the check valve and Mag meter will be constructed at each site. New rails and pumps will be provided at each site. Lift Station Nos. 12 and 17 will include approximately 520 feet of new force main and Lift Station No. 16 will include approximately 490 feet of new force main located within the roadway. A profile view will not be provided on the plan set for the force mains. Each site is equipped with telemetry which will remain. Sites are, and will remain, single-phase power. The existing wet well manholes will be coated using Raven or Aquatapoxy.

3. Brown and Caldwell will size the new pumps and force mains by identifying the number of tributary lots and calculate the flow based on the Improvement Plans provided by the City and the City Design Standard and Policy Manual criteria. A basis of design report will be prepared to meet Maricopa County Environmental Services Standards.

J. PINNACLE PEAK COUNTRY CLUB SEWER LINE

The Engineer shall prepare construction plans and specifications for a continuous gravity sewer line beginning at the sewer located near 8533 East Paraiso (lot 15), crossing the golf course, south through the PUE to Club House Way, west onto Country Club Trail, south onto 84th Place, and ending at the MH near 8343 East Sands Drive (lot 20). Total length is approximately 4600 feet, will be constructed of SDR 35 PVC pipe, and will be located in the middle of the travel lane. Provisions for post construction chip sealing will be provided. Wyes will be provided at potential future connections at locations directed by the City. This new sewer line will eliminate Lift Station No. 18. The Lift Station equipment shall be salvaged and the station and force main abandoned in place per State Health Requirements. The pipeline will be packaged with the City (Engineer CSA, Peter Chen) waterline project. Brown and Caldwell will complete a delineation of the service area, anticipated flow calculations, and pipeline sizing for the new gravity sewer. A basis of design report will be prepared to meet Maricopa County Environmental Services Standards.

K. OPTIONAL CONSTRUCTION PHASE SERVICES

It is hereby agreed that the City may, at its option, request the Engineer to provide certain engineering services consulting services during the construction phase. The City shall notify the Engineer of its intent to exercise this option within twenty (20) calendar days subsequent to the award of the construction contract. These services are not within the scope of engineering services to be performed in accordance with this Contract and shall be considered additional services which shall be compensated by a mutually agreed upon Change Order between the City and the Engineer.

IV. PROJECT PREPARATION AND SUBMITTAL GUIDELINES

A. GENERAL INFORMATION

1. These guidelines are a source of information available to assist the Engineer in the design and preparation of materials as required by the City of Scottsdale Capital Project Management.

2. The City's function in connection with submitted plans, specifications, construction cost estimates, design reports, etcetera, is that only of review for conformance with design standards, procedures and criteria established by the City; the City shall not be responsible for checking the Engineer's plans for accuracy or engineered design.

3. The Engineer shall be responsible for:

   a. Compliance with the City's design standards, policies and this Scope of Work.

   b. Preparation of plans and specifications of a quality representative of the profession, which are both clear and of sufficient detail to provide the Contractor direction by which this project may be constructed.

   c. Researching and obtaining available materials, maps, as-builts, reports, etcetera, as may be applicable to this project.

   d. Ongoing communication and informal contact with the City of Scottsdale Capital Project Management and Water Operations/Resources staff.

   e. Necessary potholing of existing facilities and utilities at approximately thirty-five (35) locations.

4. In addition to the submittal of plans and documents described herein, other materials may be required for presentation to community meetings. The requirements for these items are described elsewhere within the Project Scope of Work. A presentation to the Development Review Board is not required.

B. SUBMITTALS – GENERAL REQUIREMENTS

1. All submittals shall be made to the Contract Administrator. A Capital Improvements Project generally consists of three plans submittal phases prior to the delivery of all final and approved design documents to the City.

2. It shall be the Engineer's responsibility to submit plans and coordinate with all agencies having utilities within the project limits. Likewise, the Engineer shall

abide by any intergovernmental agency agreements and procedures. The Engineer will coordinate and obtain review approval from all governmental agencies as needed to obtain all required approvals. It is assumed that the only governmental agencies needed for this project is the Maricopa County Environmental Services Department (MCESD).

3. If a plan does not contain sufficient information to adequately review that phase of the design, the plans will be returned to the Engineer for completion and resubmittal of that phase of the project.

4. The City will arrange a meeting with the Engineer upon its completion of the review submittal to discuss the direction in which the work is proceeding, make note of any recommendations by the engineer and voice any concerns over the project.

5. The City's function in connection with submitted plans, specifications, construction cost estimates, design reports, etcetera, is that only of review for conformance with design standards, procedures and criteria established by the City. The City shall not be responsible for checking the Engineer's plans for accuracy or engineered design.

C. FIRST SUBMITTAL (60 Percent Documents)

The first submittal is a preliminary design identifying the locations and relationships of surface and subsurface improvements.

1. Utility coordination and potholing

   a. Conflicts noted and arrangements made for potholing prior to proceeding into final design.

   b. Initiate any required coordination or concurrent design effort with a private utility agency.

2. Preliminary design for:

   a. New sewer line alignment/grade/manhole locations

   b. Sewer Lift Station modifications.

3. Basis of Design Report – A design letter report will be completed and sealed by the Engineer. The report will include information required for submission to the MCESD.

4. Preliminary construction cost estimate.

5. Outline special provisions - Include an outline of the special provisions and technical specifications.

6. Materials submitted to the Contract Administrator:

   Six (6) sets of plans
   Six (6) copies of the special provisions outline
   One (1) copy of field survey notes
   Three (3) geotechnical reports
   Two (2) preliminary construction cost estimate
   Two (2) outlines of special provisions
   Two (2) copies of the Basis of Design Report.

D. SECOND SUBMITTAL (90 Percent Documents)

This is a progress submittal to the City of the final design materials. It will also be the initial submittal to the City to the Project Review Department's engineering, fire, planning and building units for review and comment.

The Engineer shall submit this second submittal to the MCESD for expedited review. The submittal to MCESD shall include a signed statement of the sewage treatment facility and/or the owner of the sewage collection system affirming compliance with R18-9-E301.C and verification of operation and maintenance plan if the project has a design flow of more than 10,000 gallons per day, which will be supplied by the City to the Engineer.

The Engineer shall provide to the City design drawings or progress updates, of any concurrent improvements by a private utility agency.

1. Completed design for:

   a. Sewer lines: elevation, alignment, grade breaks, manholes, inlet and rim elevations, slope

   b. Sewer lift stations; elevation, electrical requirements, suction head elevation, pump requirements, etcetera.

2. Construction cost estimate: Updated detailed construction cost estimate.

3. Final draft of special provisions and technical specifications.

   a. Format per CPM guidelines

4. Schedule of bid items draft.

5. Materials submitted to the Contract Administrator:

Previous City redlines and annotated review comments
Ten (10) complete sets of plans
Four (4) special provisions/specifications
Three (3) construction cost estimates
Two (2) schedule of bid items.

E. APPROVED PLANS

All final comments from the second review conference shall be resolved and any required resubmittals to the City shall be provided. The Engineer shall deliver a complete set of professionally sealed original contract documents to the City. Drawings shall be submitted on 24"x 36" 4-mil. mylar sheets.

In addition to the original contract documents, the Engineer shall provide to the City all drawings, Special Provisions, bid schedules or other contract document material stored on IBM compatible magnetic diskettes (MicroStation™ for drawings and MS Word™ for written materials; or as approved by the Contract Administrator).

Any other approvals required the Engineer prior to final approved plans submittal shall obtain (Health Department, Flood Control District, etcetera) to the City.

1. Materials submitted to the Contract Administrator:

Previous City redlines and annotated review comments
Original drawings with original seals
Six (6) complete sets of plans prints and specifications
Original Special Provisions and Bid Schedule
Original field notes
Magnetic diskettes containing drawings and written materials.

G. BIDDING PHASE

The Engineer shall make their services available to the City, for advice and consultation, and interpretation of the plans and specifications. The Engineer shall develop and provide to the City all required project addenda during the project bidding phase.

The Engineer shall attend and participate at the project pre-bid meeting.

CITY OF SCOTTSDALE
Sewer Collection System Rehabilitation
Project No. A3704

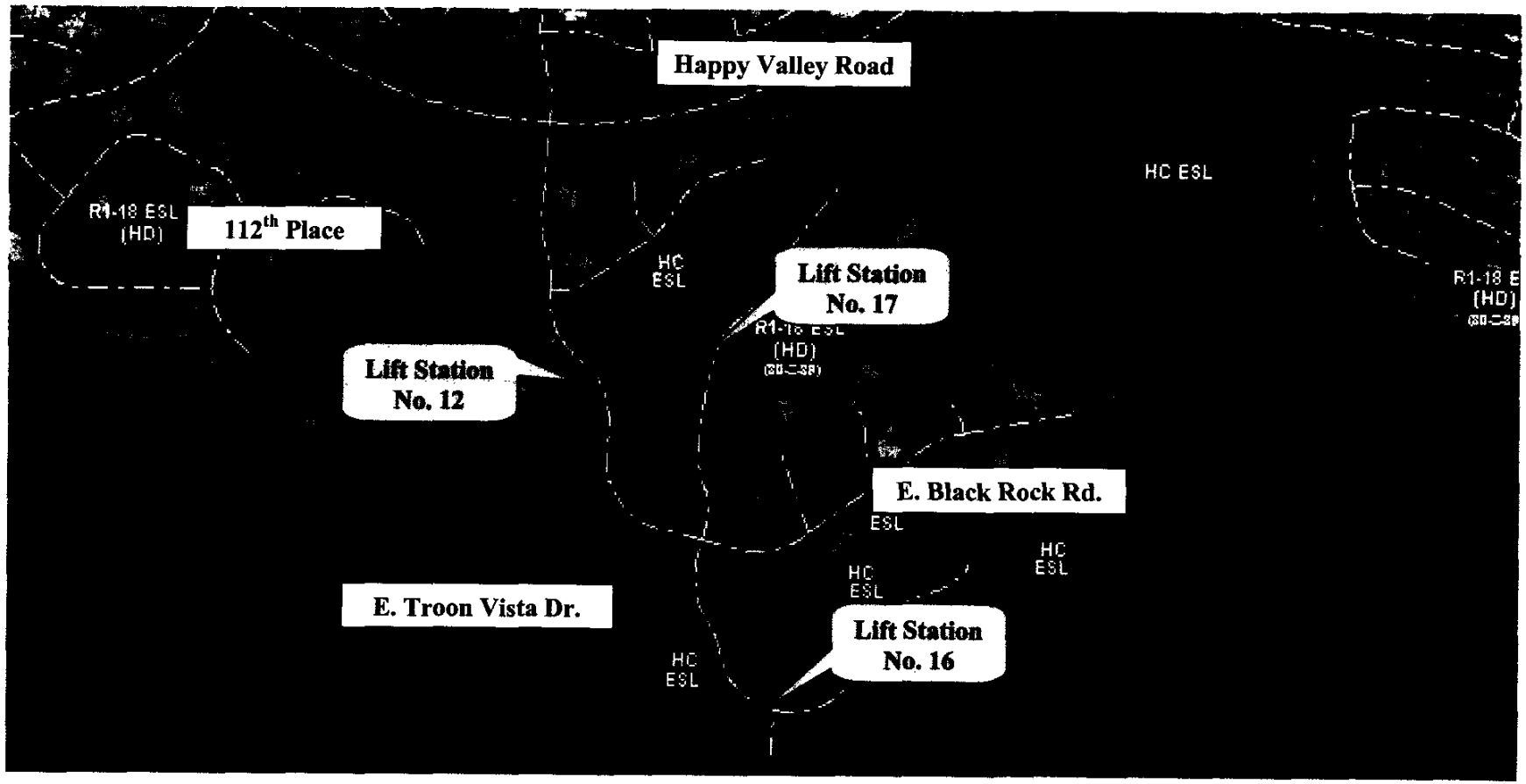
DRAFT FEE BREAKDOWN

Task	Principal in Charge $ 167.00	Project Manager $ 127.00	Project Engineer $ 111.00	Electrical Engineer $ 111.00	EIT $ 95.00	CADD $ 79.00	Clerical $ 67.00	Total
I - DESIGN DEVELOPMENT								
Task A - Project Management								
1 Project Direction and Control		40						$ 5,080
2 Progress Reports		12					4	$ 1,792
3 Project Scheduling		6						$ 762
4 Client Coordination		48						$ 6,096
Total - Task A	*0*	*106*	*0*	*0*	*0*	*0*	*4*	*$ 13,730*
Task B - Data Collection								
1 Site Visits		8	8	8				$ 2,792
2 Data Collection and Review		4	16	4		4		$ 3,044
Total - Task B	*0*	*12*	*24*	*12*	*0*	*4*	*0*	*$ 5,836*
Task C - Utility Coordination								
1 Utility Coordination		2	4	4	4			$ 1,522
2 Field Verification/Base Map Preparation		2	8		8	16	2	$ 3,300
3 Potholing Coordination		2	8			4		$ 1,458
Total - Task C	*0*	*6*	*20*	*4*	*12*	*20*	*2*	*$ 6,280*
Task D - Survey								
1 Survey Review & Coordination		2	4		5			$ 1,173
Total - Task D	*0*	*2*	*4*	*0*	*5*	*0*	*0*	*$ 1,173*
Task E - Geotechnical Investigation								
1 Coordination		2	2					$ 476
Total - Task F	*0*	*2*	*2*	*0*	*0*	*0*	*0*	*$ 476*
Task F - Meeting Participation								
1 Kick-off Meeting		6	4	4			2	$ 1,784
2 Monthly Meetings/Status Reports (6 Meetings)		24	18	8			4	$ 6,202
3 Utility Coordination Meetings (0)								$ -
4 Public Informational Meetings (0)								$ -
5 Homeowners Association Meetings (2)		8	6		6	10	10	$ 3,712
Total - Task F	*0*	*38*	*28*	*12*	*6*	*10*	*16*	*$ 11,698*
Task G - Landscaping/Site Plans								
1 Not Included								$ -
Total - Task G	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*$ -*
Task H - Right-of-way and Legal Descriptions								
1 Review & Coordination		2	4					$ 698
Total - Task H	*0*	*2*	*4*	*0*	*0*	*0*	*0*	*$ 698*
TOTAL - I - Design Development	*0*	*168*	*82*	*28*	*23*	*34*	*22*	*$ 39,891*
II - CONSTRUCTION DOCUMENTS AND SUBMITTALS								
Task I - Rehabilitation of Lift Stations Nos. 12, 16 and 17								
First Submittal (60%)								
1 Conceptual Design Development/Coordination	2	4	12	12	8			$ 4,266
2 Preliminary Design Plans		8	28	20	12	52		$ 11,592
3 Basis of Design Report		8	16	8			4	$ 3,948
4 Preliminary Cost Estimate		3	6	6				$ 1,713
5 Preliminary Special Provisions/Specifications Outline		3	6	3			2	$ 1,514
6 Submit for Review		3				6	3	$ 1,056
Total - First Submittal	*2*	*29*	*68*	*49*	*20*	*58*	*9*	*$ 24,089*
Second Submittal (90%)								
1 90% Design Plans	6	6	24	24	8	40		$ 11,012
2 90% Construction Estimate		3	6	6				$ 1,713
3 Final Draft Special Provisions/Specifications		14	18	16			12	$ 6,356
4 Draft Schedule of Bid Items		3	6	3			3	$ 1,581
5 Maricopa County Submittal			3				3	$ 534
6 Submit for Review		3				6	3	$ 1,056
Total - Second Submittal	*6*	*29*	*57*	*49*	*8*	*46*	*21*	*$ 22,252*

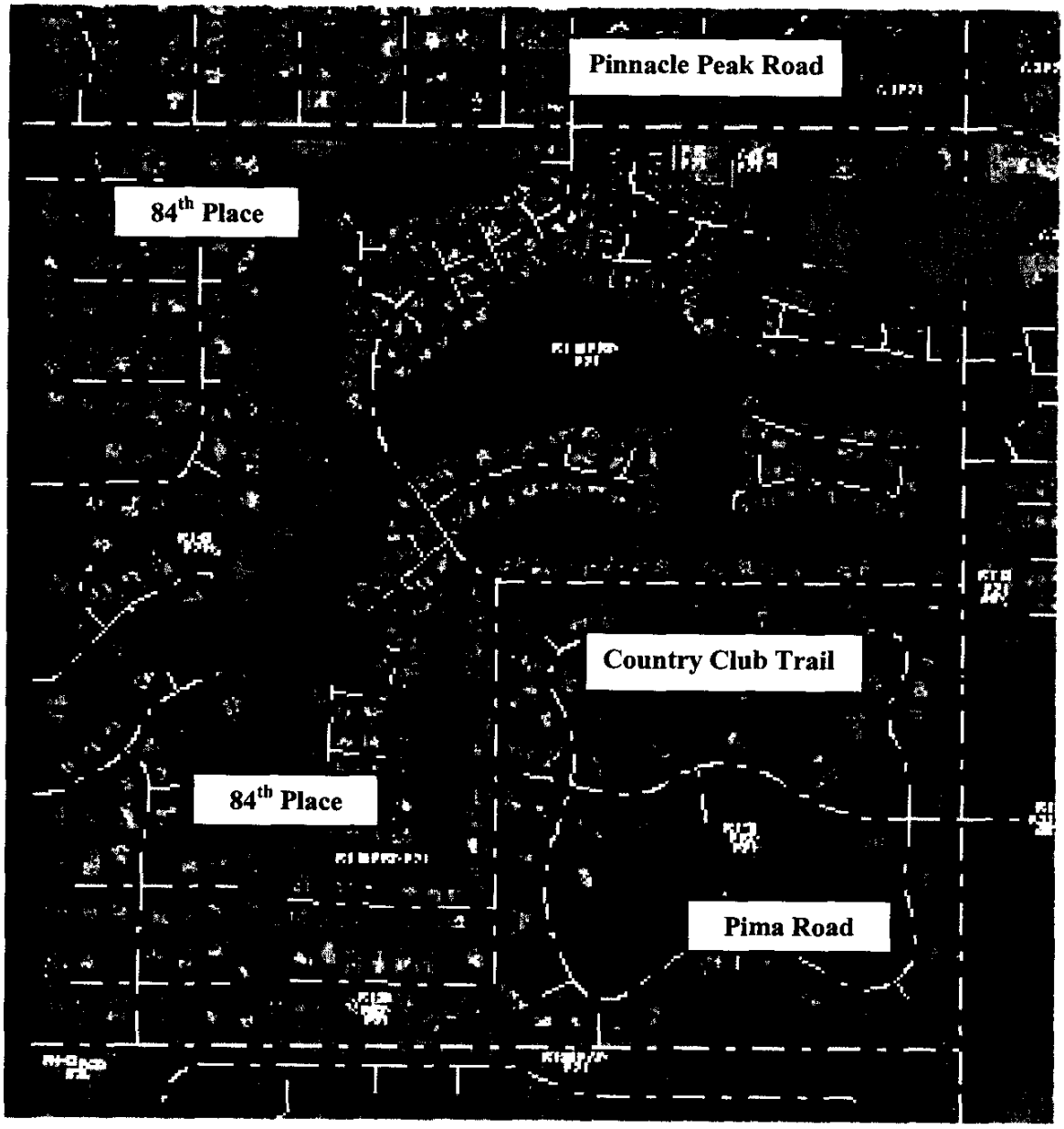
Task	Principal in Charge $ 167.00	Project Manager $ 127.00	Project Engineer $ 111.00	Electrical Engineer $ 111.00	EIT $ 95.00	CADD $ 79.00	Clerical $ 67.00	Total
Final Plans								
1 Final Design Plans	2	8	12	16	4	32		$ 7,366
2 Final Cost Estimate		3	3	3				$ 1,047
3 Final Special Provisions and Specifications		3	8	8			8	$ 2,693
4 Bid Schedule		3	3	3				$ 1,047
5 Submit for Review		3				4	3	$ 898
Total - Final Plans	*2*	*20*	*26*	*30*	*4*	*36*	*11*	*$ 13,051*
TOTAL - TASK I - REHAB LIFT STATIONS 12, 16 & 17	***10***	***78***	***151***	***128***	***32***	***140***	***41***	***$ 59,392***
Task J - Pinnacle Peak Country Club Gravity Sewer & LS 18 Abandonment								
First Submittal (60%)								
1 Conceptual Design Development/Coordination	2	8	18	2	6			$ 4,140
2 Preliminary Design Plans		8	12	2	4	32		$ 5,478
3 Basis of Design Report		8	16		6		4	$ 3,630
4 Preliminary Cost Estimate		4	6					$ 1,174
5 Preliminary Special Provisions/Specifications Outline		4	8				2	$ 1,530
6 Submit for Review		3				6	3	$ 1,056
Total - First Submittal	*2*	*35*	*60*	*4*	*16*	*38*	*9*	*$ 17,008*
Second Submittal (90%)								
1 90% Design Plans	4	16	26	4	6	48		$ 10,392
2 90% Construction Estimate		2	6					$ 920
3 Final Draft Special Provisions/Specifications		8	12	2			12	$ 3,374
4 Draft Schedule of Bid Items		4	4				2	$ 1,086
5 Maricopa County Submittal			3				2	$ 467
6 Submit for Review		3				6	3	$ 1,056
Total - Second Submittal	*4*	*33*	*51*	*6*	*6*	*54*	*19*	*$ 17,295*
Final Plans								
1 Final Design Plans	2	8	12	2	4	24		$ 5,180
2 Final Cost Estimate		2	4					$ 698
3 Final Special Provisions and Specifications		2	8				4	$ 1,410
4 Bid Schedule		2					2	$ 388
5 Submit for Review		3				4	2	$ 831
Total - Final Plans	*2*	*17*	*24*	*2*	*4*	*28*	*8*	*$ 8,507*
TOTAL - Task J - PINNACLE PEAK CC SEWER	***8***	***85***	***135***	***12***	***26***	***120***	***36***	***$ 42,810***
III - BIDDING PHASE								
Task K - Bid Phase Assistance								
1 Pre-bid Conference (2)		6	6	6			3	$ 2,295
2 Answering Contractor's Questions		4	8	8			2	$ 2,418
3 Prepare Addenda		2	4	4			4	$ 1,410
Total - Task K - BID PHASE ASSISTANCE	***0***	***12***	***18***	***18***	***0***	***0***	***9***	***$ 6,123***
Subtotal	**18**	**343**	**386**	**186**	**81**	**294**	**108**	**$ 148,216**

Subcontractors and Expenses	
Topographic Surveys/Legal Descriptions	$ 12,925
Landscaping	$ -
Potholing Services (35 potholes)	$ 17,325
Public Information Services	$ -
Geotechnical Investigation	$ 3,025
Printing	$ 5,000
County Review Fee	$ 1,700
Subconsultant Total	$ 39,975

Total not to exceed $ 188,191



Attachment No. 2
Location Map
Rehabilitation of Sanitary Sewer Lift Station No. 12, 16, and 17



Attachment No. 3
Location Map
Sewer Main to Eliminate Sewer Lift Station No. 18

CITY COUNCIL REPORT

MEETING DATE: 07/01/2003 ITEM NO. 20 GOAL: Transportation

SUBJECT

Acquire easement for the widening of 96th Street from Shea Boulevard to Thunderbird Road.

REQUEST

ADOPT Resolution No. 6326 authorizing the acquisition of a multi-use path and slope easement on property located at 9551 E. Redfield Road from G & I Redfield Development, LLC at the total appraised value of $33,840 plus approximately $1,500 in closing costs for the 96th St. Improvements CIP project (Shea – Thunderbird Road).

Related Policies, References:

a. Resolution No. 6253 authorized the initiation of negotiations for the acquisition of 16 various parcels of right-of-way/easements (ROW) from nine property owners for the 96th St. Improvements project (Shea-Thunderbird Rd).
b. Cactus Corridor Equestrian Overlay District
c. Bond 2000 CIP Project

BACKGROUND

The 96th Street Improvements include design of a new roadway and multi-use path improvements for 96th Street from Shea Boulevard to Thunderbird Road. The proposed improvements were reviewed with the community through a series of four public meetings held between July 2001 and May 2002. The Transportation Commission voted to approve the final scope of these improvements on May 16, 2002. The goal of this project is to improve traffic flow, provide added safety for both pedestrians and vehicles, reduce delay times at intersections, and improve non-motorized circulation.

On December 13, 2002, Dennis L. Lopez & Associates, LLC, appraised all of the various rights-of-way and easements needed for the project. The appraiser estimated the combined value of the 16 parcels of ROW at about $262,000. On January 31, 2003, the review appraiser, Sell & Associates, Inc., concurred with the primary appraiser's conclusions. Copies of the appraisals and review appraisals are on file in the City Clerk's Office.

On February 18, 2003, Council adopted Resolution No. 6253 authorizing the initiation of negotiations for the acquisition of 16 various parcels of ROW and easements required for this project from nine property owners.

Action Taken_____

ANALYSIS & ASSESSMENT

Resolution No. 6253 included the acquisition of the following easement from G & I Redfield Development, LLC, whose property is located at the southwest corner of Redfield Road and 96th Street. Attachment No. 2 is an aerial photo showing the property area required for the 96th Street improvements at the Redfield Road intersection.

Type	Size	Appraised Value
Multi-use Path & Slope Easement	4,512 s.f.	$33,840

On March 25, 2003, the City sent an offer letter to G & I Redfield Development, LLC to purchase the Multi-use Path and Slope Easements from their parcel subject to City Council approval. On June 18, 2003, G & I Redfield Development, LLC, accepted the City's offer to purchase the ROW for the appraised value (Attachment No. 3).

Community involvement:
Meetings will continue to be held with property owners impacted by the project and interested parties along the corridor. Community involvement will be especially important as this project moves forward.

RESOURCE IMPACTS

Available funding:
Adoption of Resolution No. 6326 will result in an expenditure of $33,840 plus closing costs of approximately $1,500 from CIP Account No. S9903, 96th Street – Shea Blvd to Sweetwater.

Future Budget Implications:
It is estimated that it will cost about $71,000 to acquire the remaining six parcels of ROW and easements required for the 96th Street project. The estimated construction cost of the 96th Street improvements is $5,500,000. Additional landscape maintenance costs after construction of this project will be less than $1,000 per year.

OPTIONS & STAFF RECOMMENDATION

Option A:
Adopt Resolution No. 6326, which will allow the City to acquire the ROW and easements for the appraised value from a willing seller, which will allow construction of improvements for this portion of 96th Street.

Option B:
Do not adopt Resolution No. 6326, which would delay any improvements to this two-mile segment of 96th Street and its intersection with Shea Boulevard. Traffic issues in this area will continue to increase with delays at the 96th Street and Shea intersection, and bicycle system improvements would also be delayed.

Recommended approach:
Option A - Adopt Resolution No. 6326, which will allow the City to acquire the property rights for the appraised value in order to move forward with this acquisition and proceed with the project.

Proposed Next Steps:
Acquisition of the remaining rights-of-way and easements will continue. Initiation of construction of the 96th Street project is targeted for the latter half of 2003.

RESPONSIBLE DEPT(S) Municipal Services, Capital Project Management

STAFF CONTACT(S) Marek Urbanek, Project Manager, (480) 312-2563, murbanek@ci.scottsdale.az.us
Rhonda Thomas, Right of Way Agent, (480) 312-7847, Rthomas@ci.scottsdale.az.us

APPROVED BY

6/18/03

Al Dreska — Date
Municipal Services General Manager
adreska@ci.scottsdale.az.us (480) 312-5555

6/17/03

Roger Klingler — Date
rklingler@ci.scottsdale.az.us (480) 312-5830

ATTACHMENTS

1. Resolution No. 6326
2. Aerial Photo of ROW to be Acquired
3. Acceptance of Offer by G & I Redfield Development
4. City Council Resolution No. 6253

RESOLUTION NO. 6326

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ACQUISITION OF REAL PROPERTY INTERESTS IN CERTAIN REAL PROPERTIES ALONG 96TH STREET FROM SHEA BOULEVARD TO THUNDERBIRD ROAD NECESSARY FOR THE CONSTRUCTION OF IMPROVEMENTS TO 96TH STREET BETWEEN SHEA BOULEVARD AND THUNDERBIRD ROAD.

BE IT RESOLVED by the Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

SECTION 1. That it is deemed necessary and essential as a matter of public welfare that certain real property interests located at 9551 East Redfield Road, as described in Exhibit "A" attached hereto, (hereinafter the "Real Property") be acquired for the construction of public street improvements along 96th Street between Shea Boulevard and Thunderbird Road.

SECTION 2. That the City Manager or her designee is hereby directed and authorized to purchase the necessary interests in that portion of the Real Property located at 9551 East Redfield Road at the price of $33,840, plus closing costs, estimated to be approximately $1,500.

SECTION 3. That the duly authorized disbursing agents of the City of Scottsdale are hereby authorized and directed to pay all sums that may be necessary to complete said purchase.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona this 30th day of June 2003.

CITY OF SCOTTSDALE,
An Arizona municipal corporation

_____
Mary Manross, Mayor

ATTEST:

_____
Sonia Robertson, City Clerk

APPROVED AS TO FORM:

_____
David A. Pennartz, City Attorney

LEGAL DESCRIPTION

MULTI-USE PATH AND SLOPE EASEMENT

96TH STREET SOUTH OF REDFIELD ROAD

That portion of Lot 35, of Section 7, Township 3 North, Range 5 East, Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

COMMENCING at the southeast corner of said Lot 35;

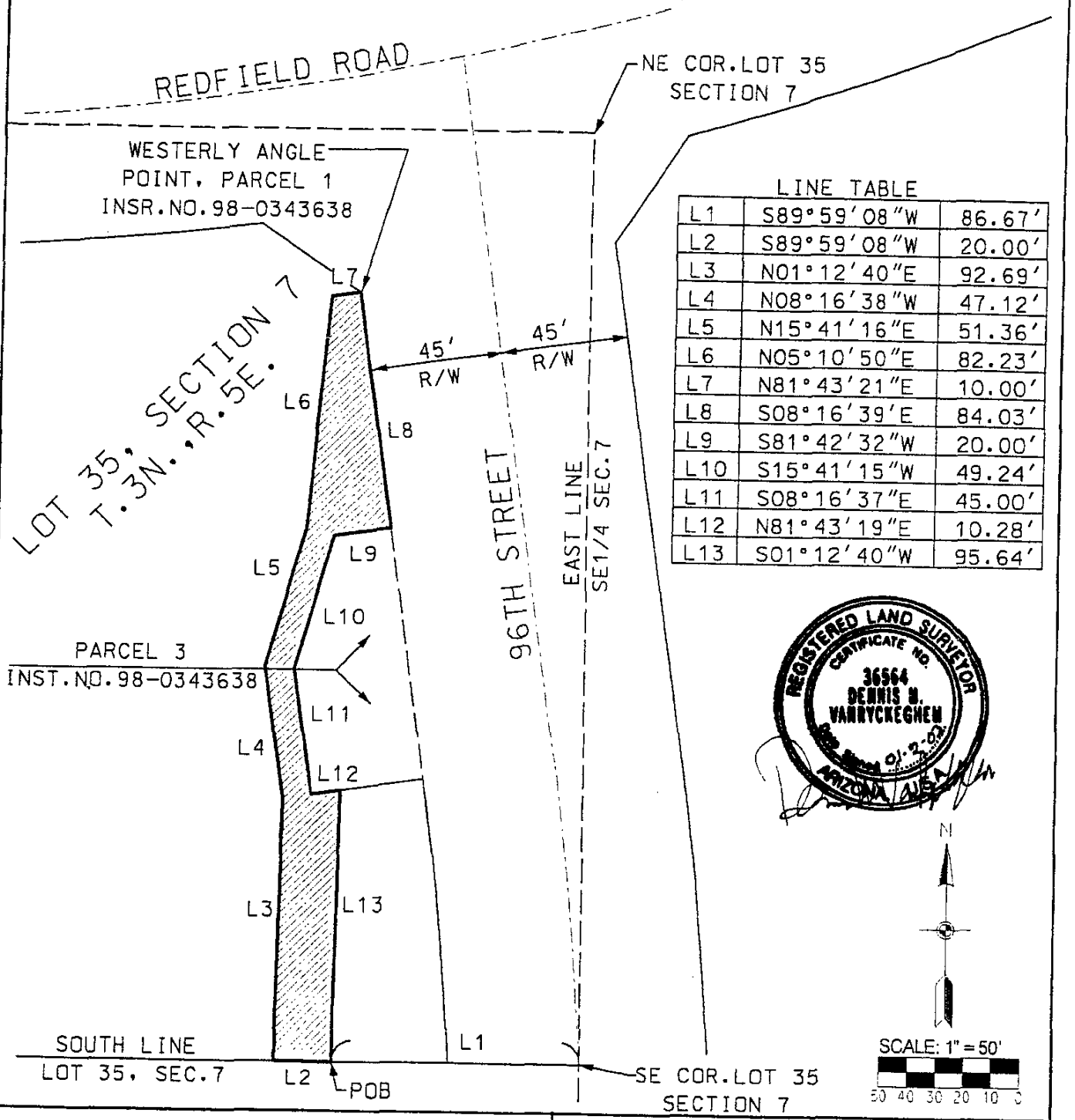
thence South 89°59' 08" West along the South line of said Lot 35, a distance of 86.67 feet to the POINT OF BEGINNING;

thence continuing South 89°59'08" West along said South line a distance of 20.00 feet;
thence departing said South line North 1°12'40" East 92.69 feet;
thence North 8°16'38" West 47.12 feet;
thence North 15°41'16" East 51.36 feet;
thence North 5°10'50" East 82.23 feet;
thence North 81°43'21" East 10.00 feet to the westerly line of 96th Street according to Parcel 1 of Instrument Number 98-0343638, records of said County;
thence South 8°16'39" East 84.03 feet along said westerly line to the northeast corner of Parcel 3 of said Instrument 98-03436338;
thence departing said westerly line South 81°42'32" West along the northerly line of said Parcel 3 a distance of 20.00 feet to the northwest corner of said Parcel 3;
thence South 15°41'15" West along the westerly line of said Parcel 3 a distance of 49.24 feet;
thence continuing South 8°16'37" East along the westerly line to the southwest corner of said Parcel 3 a distance of 45.00 feet;
thence North 81°43'19" East along the southerly line of said Parcel 3 a distance of 10.28 feet;
thence departing said South line South 1°12'40" West 95.64 feet to the POINT OF BEGINNING.

Containing 4512 square feet or 0.1036 acres, more or less.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
36564
DENNIS M.
VANRYCKEGHEM
Date Signed 04-2-03
ARIZONA U.S.A.

PART OF LOT 35, SITUATED IN THE SE 1/4 OF
SEC.7, T.3N.,R.5E., G.&S.R.B.&M., MARICOPA COUNTY, ARIZONA



LINE TABLE

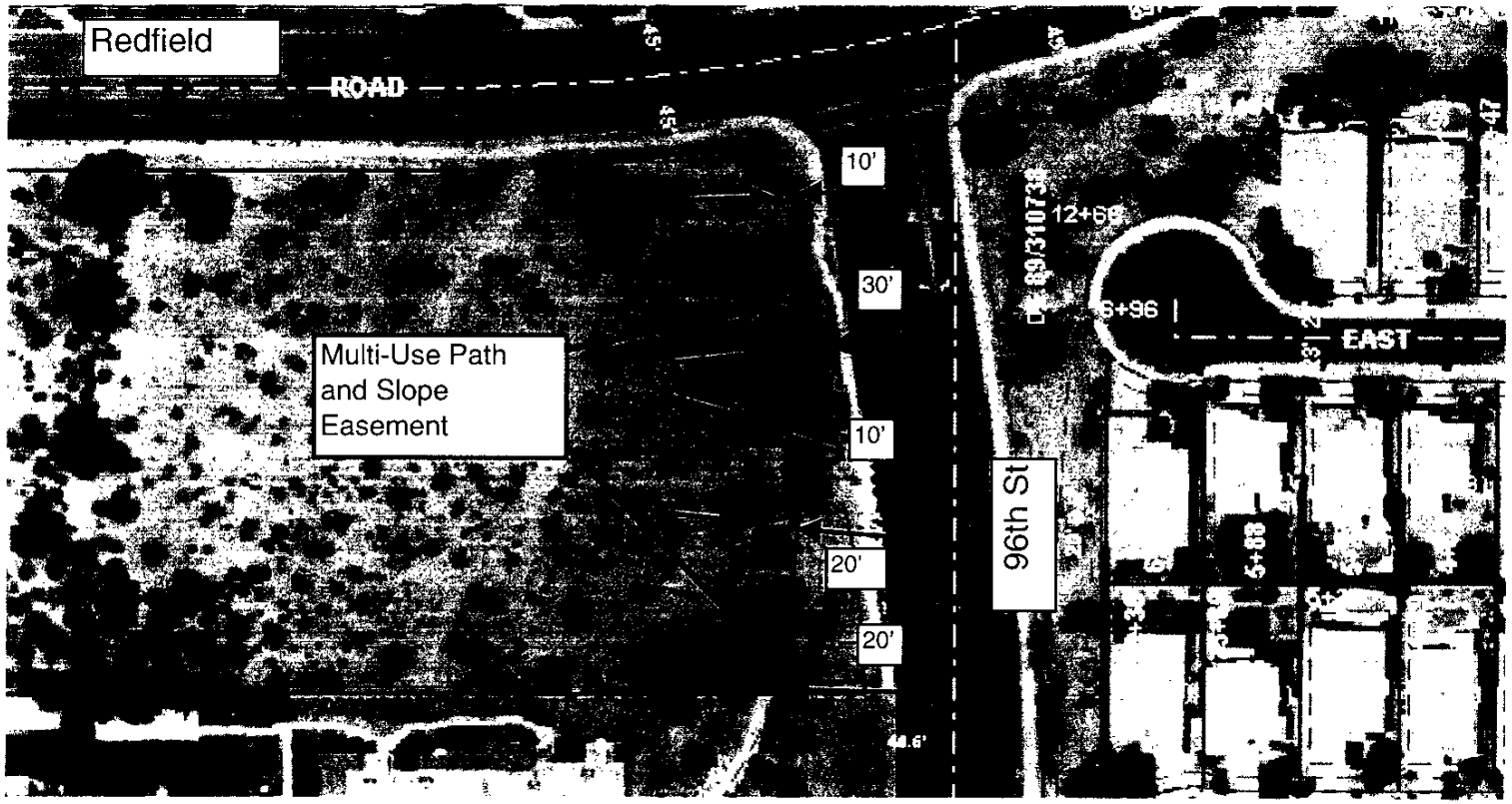
L1	S89°59'08"W	86.67'
L2	S89°59'08"W	20.00'
L3	N01°12'40"E	92.69'
L4	N08°16'38"W	47.12'
L5	N15°41'16"E	51.36'
L6	N05°10'50"E	82.23'
L7	N81°43'21"E	10.00'
L8	S08°16'39'E	84.03'
L9	S81°42'32"W	20.00'
L10	S15°41'15"W	49.24'
L11	S08°16'37"E	45.00'
L12	N81°43'19"E	10.28'
L13	S01°12'40"W	95.64'

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
36564
DENNIS M.
VANRYCKEGHEM
Date Signed 01-2-03
ARIZONA, U.S.A.

MULTI-USE PATH AND SLOPE EASEMENT
96TH STREET SOUTH OF REDFIELD ROAD

CITY OF SCOTTSDALE
INSPECTION SERVICES DEPARTMENT
LAND SURVEY GROUP

APN 217-15-021	SURVEYED BY D.V.	DRAWN BY D.V.	DATE 12/17/02	SHEET 2 OF 2



G&I Development 217-15-021

Capital Project Management

7447 E. Indian School Rd., Suite 205
Scottsdale, AZ 85251

PHONE 480-312-7250
FAX 480-312-7971
WEB www.ci.scottsdale.az.us/capitalprojects

March 25, 2003

CERTIFIED MAIL

G & I Redfield Development LLC
105 Kenville Rd.
Buffalo, NY, 14215

RE: Project: 410-S9903; 96th Street Improvements
Parcel No.: 217-15-021

To Whom It May Concern:

As you are aware, the City of Scottsdale is planning roadway and multi-use path improvements for 96th Street from Shea Boulevard to Thunderbird Road. The goal of the project is to improve traffic flow, provide added safety for both pedestrians and vehicles, reduce delay times at intersections, and improve non-motorized circulations.

In order to facilitate this project, it will be necessary for us to acquire a Multi-Use Path and Slope Easement across the eastern side of your property next to the existing drainage channel. The easement will vary from 10 to 20 feet wide to permit construction and to accommodate the change in elevation from the wash to the street (about 5-6 feet). (See attached exhibits).

On February 18, 2003, Scottsdale's City Council adopted Resolution No. 6253, authorizing the acquisition of the necessary rights-of-way. Consequently, the City hired Dennis Lopez, an independent fee appraiser of Dennis L. Lopez & Associates, to appraise the right-of-way and easement rights. Jan Sell of Sell & Associates, reviewed Mr. Lopez's appraisal along with City staff, and all concur that Mr. Lopez has reached an accurate and well supported conclusion of value.

Based on the aforementioned appraisal, the City of Scottsdale offers the amount of $33,840 for the purchase of these easement rights from this parcel. This offer is contingent upon the City Council formally authorizing the purchase agreement. As a matter of policy, the City of Scottsdale will pay all title and escrow fees associated with the transaction.

G & I Redfield Devleopment, LLC
Page Two
March 25, 2003

A breakdown and explanation of this purchase offer is as follows:

Partial Acquisition of Fee Simple Estate

Multi-use Path & Slope Easement : 4,512 s.f. x $7.50/s.f. = $33,840

Total Fair Market Value: = $33,840

If the above terms and transactions are acceptable to you, please sign, or have your appropriate representative sign below, thereby noting your acceptance. Upon receipt of your acceptance, we will present a recommendation to the City Council to authorize the purchase agreement at our March 17, 2003 City Council Meeting.

Again, please note, any offers would be contingent upon City Council's formal approval. You may contact me at (480) 312-7847, if you have any questions regarding this acquisition, or Marek Urbanek, the project manager at (480) 312-2563 with any construction questions. Thank you.

Sincerely,

Rhonda Thomas
Right of Way Agent

Attachments

Approval of Offer:

V.P. Andrew Reitz

(Print Name of Authorized Signer)
G & I Redfield Development, LLC

Signature Date

cc: Joseph Valerio, 3373 De Kalb Pike, King of Prussia, PA, 19406

RESOLUTION NO. 6253

A RESOLUTIONOF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ACQUISITION OF REAL PROPERTY INTERESTS IN CERTAIN REAL PROPERTIES ALONG 96TH STREET FROM SHEA BOULEVARD TO THUNDERBIRD ROAD NECESSARY FOR THE CONSTRUCTION OF IMPROVEMENTS TO 96TH STREET BETWEEN SHEA BOULEVARD AND THUNDERBIRD ROAD.

BE IT RESOLVED by the Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

SECTION 1. That it is deemed necessary and essential as a matter of public welfare that fee title and other property interests be acquired in the real property described in Exhibit "A" attached hereto, (hereinafter the "Real Property") for the construction of public street improvements along 96th Street between Shea Boulevard and Thunderbird Road.

SECTION 2. That the City Manager or designee is hereby directed and authorized to acquire fee title to each parcel, or such lesser interests as the City Manager or designee may find appropriate, and to determine, through the use of an independent appraisal and review appraisal, the fair market value of the interests acquired and to negotiate acquisition prices with the property owners, subject to ratification and approval by this Council.

SECTION 3. Notwithstanding Section 2 above, the City Manager or designee is authorized and directed to finalize the purchase of the necessary interests in any portion of the Real Property for which the price is less than $5,000 and is no more than the appraised value.

SECTION 4. That the duly authorized disbursing agents of the City of Scottsdale are hereby authorized and directed to pay all sums that may be necessary to establish the fair market value and negotiate a purchase price for the above-described property including, but not limited to, title reports, appraisal and review appraisal services, escrow fees, title insurance, and closing costs.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona this 18th day of February 2003.

CITY OF SCOTTSDALE,
An Arizona municipal corporation

Mary Manross

Mary Manross, Mayor

ATTEST:

Sonia Robertson

Sonia Robertson, City Clerk

APPROVED AS TO FORM:

David A. Pennartz, City Attorney

CITY COUNCIL REPORT

MEETING DATE: 07/01/2003 ITEM NO. 21 GOAL: Fiscal Management

SUBJECT **Purchase of Excess Municipal Liability Insurance for the period 7/1/03-04**

REQUEST

- Consider authorizing purchase of General Liability, Vehicle Liability and Public Officials Errors and Omission insurance protection of $40,000,000 Limits of Liability per occurrence and annual aggregate coverage from various insurers for claims in excess of the City's self-insured retention amount of $2,000,000 per occurrence for a cost of $687,830.

Related Policies, References: Scottsdale Revised Code, Section 2-173 calls for the purchase of excess insurance above the self-insured retention as recommended by the Risk Management Director and approved by City Council.

BACKGROUND

In past years, the City has purchased excess liability insurance to protect itself against the financial impact of large and catastrophic accident claims by transferring the risk to commercial insurers in exchange for a fixed cost premium amount.

During the last six years, the City has sought to increase its total per occurrence and annual aggregate liability limits to protect against rising and often unpredictable accident values and court awards. It was relatively easy and cost-effective to raise the total liability limits during the period 1997 through 2001 because the market was soft. For example, the City increased its limits of total liability coverage in fiscal 1998 from $20 million to $40 million. In 1999, the City raised the limits to $60 million. In 2000, the City again raised its limits of liability to $75 million, which it maintained through fiscal year 2002.

Shortly after the City's policy renewals of 7/1/01 for the period 7/01/01-02, the global liability insurance marketplace began to undergo changes and price increases due to poor underwriting results because of severe competition and declining rates of return on investments. The events of September 11, 2001 precipitously changed the global insurance marketplace overnight into a very tight, restrictive and expensive marketplace. The liability renewals on 7/1/02 limited purchase to only $30 million of liability limits and increased the City's self-insured retention amount from $1 million to $2 million while overall costs increased 50%. The $30 million of per occurrence and annual aggregate liability limits was deemed adequate but a minimum threshold. All other large Arizona public entities were forced into similar circumstances.

ANALYSIS & ASSESSMENT

Through the RFP bid process, the City secures the expertise and services of a commercial insurance agent/broker to access the global liability insurance marketplace. With rare exception, commercial liability insurers market their products through the agent/broker system as opposed to dealing direct with their current or potential clients. To properly handle the needs of the City, and to be an effective representative and advocate of the City in identifying potential liability insurers and creating competition among insurers, the insurance broker must have international marketing capabilities and industry contacts along with extensive experience with public entities and particularly Arizona public

Action Taken_____

entities. Arizona public entities are unique because of the very limited governmental tort immunity they enjoy relative to many other states. The City's current insurance broker/agent is Marsh USA, Inc. Marsh USA, Inc. is the largest commercial broker in the world, and the Phoenix office is the agent/broker to most of the larger Arizona public entities.

In conjunction with the City's insurance broker, Marsh USA, Inc., Risk Management undertakes a review of its insurance program and structure each year to determine if opportunities and international market conditions exist to more cost-effectively handle the financial impact of accident cases. The current and proposed insurance program structure, with a self-insured retention per accident, and excess catastrophic insurance purchased through a commercial insurer for a fixed premium charge in excess of the self-insured amount, is judged by Marsh and the City's Risk Management Director to be the most cost-effective protection and cost structure for the City given its size and risk profile.

The current liability insurance marketplace is still very tight, restrictive and expensive with limited options available but there is some increase in competition among insurers and prices have softened somewhat.

Key in the analysis are the self-insured retention amount, the total limits of liability insurance the City should minimally carry to protect itself, and how those factors fit into the overall budget.

The City currently carries a $2 million self-insured retention for each liability claim. The $2 million self-insured retention has, to a great degree, been influenced by excess insurers pricing who want to provide truly catastrophic coverage and remove themselves from the working layers of claims. The largest single liability claim the City and excess insures have had to pay out over the last ten years has been $1.4 million. The cost-reward of raising the self-insured retention amount to $3 million is somewhat financially attractive. However, it is staff's judgment that, while some savings can be gained, it is not compelling enough to assume the extra increment of risk given the City's volatile risk profile and that excess insurance prices have eased somewhat from last year.

A further key consideration is how much total liability insurance coverage above the self-insured retention should be purchased. This is an art rather than a science as no model or rule of thumb encompasses all factors to be considered. Since Arizona is unique because of its limited governmental tort immunity or limits on liability payouts, a useful model is to review the largest Arizona public entity accident cases awards that have come down in the last six years.

The largest case was a vehicle accident case with a $30 million payout. Another vehicle accident case incurred a $12 million payout. There are two police restraint cases one of which had a $43 million jury award that was subsequently reduced to under $6 million and another case with a $9 million payout.

The current $30 million of overall coverage limits is deemed by staff to be minimally adequate limits to protect the City in all but the most severe of cases and circumstances. It is staff's opinion that coverage limits should be increased incrementally upward as budget and insurance market conditions allow from the current $30 million coverage level. Incrementally adding to insurance liability limits increases the probability that a loss or series of losses will be contained within the insurance coverage limits.

Many insurance company quotations and variations were received from AIG Group, Clarendon America Insurance Co., Gulf Insurance Co., and ACE/Westchester Group. Marsh staff and the City's Risk Management Director mixed and matched, and tailored the quotations to arrive at the optimal pricing and structural fit. AIG Group continues to be the all-important lead primary excess layer of coverage, which all other insurers follow.

(Continued)

It is staff's recommendation that the City take advantage of the easing of the marketplace and purchase an additional $10 million of liability limits bringing total limits to $40 million.

	Current Program AIG/Various	Renewal Structure 1 AIG/Various	Renewal Structure 2 AIG/Various	Renewal Structure 3 AIG/Various	Renewal Structure 4 AIG/Various
Self-Insured Retention (SIR)	$2,000,000	$2,000,000	$2,000,000	$2,000,000	$2,000,000
Total Liability Limits *	$30,000,000	$30,000,000	$35,000,000	$40,000,000	$40,000,000
Cost	$621,831	$642,050	$666,730	$687,830	$708,725

* Per Occurrence and Annual Aggregate

RESOURCE IMPACTS

Available funding: The cost is fully covered within the Risk Management Division budget. However, if insurance premiums coupled with liability and Workers' Compensation claim payments exceed budgeted amounts during the fiscal year, a transfer of funds from the Loss Trust Fund will be initiated and submitted to the City Council for approval.

Staffing, workload impact: The City has a very proactive safety program to control and mitigate the financial impact of liability-related accident cases. The Risk Management Division coordinates the safety program to address the liability exposures in all the respective work areas. Lessons learned from existing claims brought against the City are reviewed with appropriate City staff to prevent or mitigate future similar or related happenings. This program is already in place and requires no additional staff at this time.

OPTIONS & STAFF RECOMMENDATION

The options for the purchase of excess liability insurance are:

1. The City could reject carrying any excess liability insurance.
2. The City could purchase excess liability insurance but increase its self-insured retention amount.
3. The City could reduce the amount of excess insurance it purchases.
4. Some combination of # 2 and 3 above.

Description of Option 1 – Not carrying any excess liability insurance could place a financial strain on City resources and cash flows if it had to pay out monies on a severe or catastrophic claim, or series of claims. Assuming all the financial risk of potentially high valued random accident claims is not deemed prudent in spite of the current high excess insurance costs.

Description of Option 2 – The City currently carries a $2 million self-insured retention for each liability claim. The $2 million self-insured retention has, to a great degree, been influenced by excess insurers pricing who want to provide truly catastrophic coverage and remove themselves from the working layers of claims. The largest single liability claim the City and excess insures have had to pay out over the last ten years has been $1.4 million. Marsh and staff examined the cost-reward of raising the self-insured retention amount to $3 million and it is somewhat financially attractive. However, it is staff's and Marsh's judgment that, while some savings could be gained, the savings are not compelling enough to assume the extra increment of risk given the City's volatile risk profile and the fact that market prices have eased somewhat over last year.

Description of Option 3 - $30 million of overall coverage limits is deemed by staff to be adequate limits to protect the City in all but the most severe of cases and circumstances. Reducing the limits to $25 million or $20 million given the legal climate for civil claims along with the perceived deep pockets of the City is not advisable.

(Continued)

Description Option 4 – Increasing the self-insured retention and reducing coverage limits is not a combination deemed prudent given the insurance quotations and available budget amounts.

Recommended Approach: This action recommends the purchase of Structure 3 above. It allows an increase in liability limits from $30 million to $40 million at a reasonable cost increase while maintaining the $2 million self-insured amount. Staff believes Structure 3 is the optimal structure given current market conditions and available budget funds. If additional options for purchasing more coverage on a cost-effective basis become available during the year, we will bring those proposals forward to the Council.

Proposed next steps: Upon Council approval, coverage will be bound for the period 7/1/03-04.

RESPONSIBLE DEPT(S) Risk Management Division

STAFF CONTACT(S) Myron J. Kuklok, Risk Management Director

APPROVED BY

Craig Clifford, Chief Financial Officer — Date 6/16/03

for Barbara Burns, Assistant City Manager — Date 6/16/03

Jan Dolan, City Manager — Date 6/16/03

ATTACHMENTS Resolution No. 6330

(Continued)

RESOLUTION NO. 6330

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY'S RISK MANAGEMENT DIVISION TO PURCHASE EXCESS MUNICIPAL LIABILITY INSURANCE FROM PARTICIPATING INSURERS, CV STARR/AIG GROUP STRUCTURE, FOR THE PERIOD JULY 1, 2003 TO JULY 1, 2004.

WHEREAS, it is in the best interest of the City to purchase excess municipal liability insurance (General Liability, Vehicle Liability and Public Officials Errors and Om issions) from private insurers; and

WHEREAS, participating insurers, CV Starr/AIG Group structure, are in the business of excess municipal liability insurance; and

WHEREAS, the City wishes to acquire excess municipal liability insurance with total limits of $40 Million and a self-insured retention limit of $2 Million for the period July 1, 2003 to July 1, 2004.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1: The City's Risk Management Division is hereby authorized and directed, on behalf of the City of Scottsdale, to purchase excess municipal liability insurance with total policy limits of $40 million and a self-insured retention limit of $2 million from participating insurers, CV Starr/AIG Group structure, for the period July 1, 2003 to July 1, 2004.

PASSED, ADOPTED, AND APPROVED by the City Council of the City of Scottsdale this 1st day of July, 2003.

ATTEST:

CITY OF SCOTTSDALE, an
Arizona municipal corporation

By: _____
Sonia Robertson
City Clerk

By: _____
Mary Manross
Mayor

APPROVED AS TO FORM:

By: _____
David A. Pennartz
City Attorney

res 6330-liability.DOC

CITY COUNCIL REPORT

MEETING DATE: 07/01/2003 ITEM NO. 22 GOAL: Fiscal Management

SUBJECT **Purchase of Scottsdale Airport Liability Insurance for the period 7/1/03-04**

REQUEST

- Consider authorizing purchase of Scottsdale Airport Liability and Hangarkeepers' Legal Liability insurance of $100,000,000 per occurrence and annual aggregate limits of Airport Liability coverage and $100,000,000 for Hangarkeepers Legal Liability coverage from insurers ACE/Lloyds at a cost of $57,602.

BACKGROUND

The City has traditionally carried Airport Liability and Hangarkeepers' Insurance to cover airport operations, and has chosen not to self-insure any portion of the coverage because premium costs have been extremely reasonable.

While general aviation airport operations generally have very good risk profiles, and Scottsdale's Airport has a similar good risk profile, the nature of aviation losses are such that there tends not to be very many losses but a few losses can be very severe involving large-valued claims. The City may not even be directly involved in a loss but can be brought into a claim or lawsuit that necessitates defending the claim. It is because of the large and unpredictable nature of the exposures that the City has sought to transfer the risk to an insurer and carry high limits of liability under the subject policy.

ANALYSIS & ASSESSMENT

Through the RFP bid process, the City secures the expertise and services of a commercial insurance agent/broker to access the global insurance marketplace for airport liability insurance. With rare exceptions airport liability insurers market their products through the agent/broker system rather than dealing directly with current or potential clients. To properly handle the needs of the City, and to be an effective representative and advocate of the City in identifying potential insurers and creating competition among insurers, the insurance broker/broker must have international marketing capabilities and industry contacts. The City's current agent/broker is Marsh USA, Inc. Marsh USA Inc. is the largest commercial broker in the world, and has an excellent aviation-related marketing group.

In conjunction with the City's insurance agent/broker, Marsh USA, Inc., staff undertakes a review of its insurance program and structure each year to determine if opportunities and international market conditions exist to more effectively handle the financial impact of potential airport liability accidents. The current insurance structure of purchasing pure insurance coverage without any self-insured deductibles or retention amounts is deemed to be the most cost-effective in spite of rising premiums in recent years.

The property-casualty insurance marketplace has changed dramatically since September 11, 2001. Prices for all property-casualty insurance coverage, including Airport Liability and Hangarkeepers' Legal Liability, has increased dramatically. However, Aviation liability coverage has not seen the magnitude of increase of non-aviation

Action Taken_____

liability insurance, and this year, there has been some additional competition among insurers, which has actually driven down prices.

The marketplace for airport liability insurance is relatively small. Marsh USA, Inc., marketed the airport liability insurance to four (4) general aviation airport liability insurers. The insurers were ACE/Lloyds, AIG Group, Global Insurance Co., and Phoenix Aviation Managers.

Competition was intense between incumbent insurer, ACE/Lloyds, and Phoenix Aviation Managers as illustrated below. The Phoenix Aviation Managers quote is $1,530 less than the ACE/Lloyds quote but provides only $30 million of liability limits for hijacking and terrorism coverage while the ACE/Lloyds policy provides $50 million limits. Staff believes the extra $20 million ofhijacking and terrorism liability limits are well worth the additional $1,530.

	ACE/Lloyds Current Program	ACE/Lloyds Renewal Quote	Phoenix Aviation Mgrs Quote	AIG Quote
Liability Insurance	$100 million	$100 million	$100 million	$100 million
Hangarkeepers' Legal Liability	$100 million	$100 million	$100 million	$100 million
Hijacking/Terrorism Limits	$50 million	$50 million	$30 million	$50 million
Price	$58,774	$57,602	$56,072	$101,935

RESOURCE IMPACTS

Available funding: The cost of Airport Liability and Hangarkeepers' Legal Liability insurance is covered within the Airport operating budget.

Staffing, workload impact: In a strong effort to control and mitigate the financial impact of airport accident cases, the City has a proactive safety and security program geared to address liability exposures of the airport. The program has been in effect for some time and requires no additional resources or staffing.

OPTIONS & STAFF RECOMMENDATION

Possible options to the Purchase of Airport liability insurance are:

1) The City could self-insure a portion of the risk.
2) The City could completely self-insure the exposure.
3) The City could carry less limits of coverage.
4) Some combination of 1, 2 and 3.

Description of Option 1 – The City could assume a self-insured deductible portion of $500,000 or $1,000,000 but the reduction of premiums would be small and not a cost-effective exchange for accepting a significant increment of more risk.

Description of Option 2 – This option is judged not to be a prudent approach because of the overall high-risk unpredictable nature of airport operations exposures. In addition, premium costs, while rising, are still reasonable considering the magnitude of exposures. This makes transfer of the financial risk to an insurer for a fixed reasonable premium a sound approach.

Description of Option 3 - This option is not prudent because the loss magnitude potential can be very high in the aviation area.

Description of Option 4 – This option is not viable because none of the above three options combine to produce significant premium savings.

(Continued)

Recommended Approach: This proposal recommends accepting the renewal quotation of the incumbent insurer, ACE/Lloyds. The ACE/Lloyds quote is $1,530 higher than the Phoenix Aviation Managers quote, but provides only $50 million of liability limits for hijacking and terrorism coverage while the Phoenix Aviation Managers provides only $30 million limits. Staff believes the extra $20 million of hijacking and terrorism liability limits are well worth the additional $1,530.

RESPONSIBLE DEPT(S) Risk Management Division

STAFF CONTACT(S) Myron J. Kuklok, Risk Management Director

APPROVED BY

Craig Clifford, Chief Financial Officer — Date 6/16/03

for Barbara Burns, Assistant City Manager — Date 6/16/03

Jan Dolan, City Manager — Date 6/16/03

ATTACHMENTS Resolution No. 6333

(Continued)

RESOLUTION NO. 6333

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY'S RISK MANAGEMENT DIVISION TO PURCHASE AIRPORT LIABILITY AND HANGARKEEPERS' LEGAL LIABILITY INSURANCE FROM PARTICIPATING INSURERS, ACE INSURANCE COMPANY AND LLOYDS OF LONDON, FOR THE SCOTTSDALE AIRPORT FOR THE PERIOD JULY 1, 2003 TO JULY 1, 2004.

WHEREAS, it is in the best interest of the City to purchase airport liability and hangarkeepers' legal liability insurance from private insurers for the Scottsdale Airport; and

WHEREAS, participating insurers, ACE Insurance Company and Lloyds of London, are in the business of insuring airports; and

WHEREAS, the City wishes to acquire airport liability insurance with limits of $100,000,000 per occurrence and aggregate and hangarkeepers' legal liability insurance with $100,000,000 limits for aircraft on airport premises for the period July 1, 2003 to July 1, 2004;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1: The City's Risk Management Division is hereby authorized and directed, on behalf of the City of Scottsdale, to purchase airport liability and hangarkeepers' legal liability insurance with the aforementioned policy limits from participating insurers, ACE Insurance Company and Lloyds of London, for the Scottsdale Airport for the period July 1, 2003 to July 1, 2004.

PASSED, ADOPTED, AND APPROVED by the City Council of the City of Scottsdale this 1st day of July, 2003.

ATTEST:

CITY OF SCOTTSDALE, an
Arizona municipal corporation

By: _____
Sonia Robertson
City Clerk

By: _____
Mary Manross
Mayor

APPROVED AS TO FORM:

By: _____
David A. Pennartz
City Attorney

res 6333-airport.DOC

CITY COUNCIL REPORT

MEETING DATE: 07/01/2003 ITEM NO. 23 GOAL: Fiscal Management

SUBJECT **Purchase of excess Workers' Compensation insurance for the period 7/1/03 – 7/1/04**

REQUEST

- Consider authorizing the purchase of Workers' Compensation insurance from Midwest Employers Casualty Company in excess of the City's self-insured retention amount of $600,000 for a cost of $92,185.

BACKGROUND

Workers' Compensation coverage is required by State statute to provide protection to City employees for on-the-job injuries. The City has chosen to self-insure a large portion as a cost-effective way of funding claims.

The City is a qualified Workers' Compensation self-insurer authorized by the Industrial Commission of Arizona, the State agency that regulates Workers' Compensation matters in Arizona. As an authorized self-insurer, Scottsdale adjusts and handles its own Workers' Compensation claims through claims staff in the Risk Management Division.

The City elects not to incur the entire risk of Workers' Compensation claims. Scottsdale assumes the initial portion of the claim (self-insured retention), but chooses to transfer the balance of any claim above the self-insurance retention to an Excess Workers' Compensation insurer in return for a fixed premium rate. This has the effect of limiting the City's financial liability in any one severe case or series of severe cases.

ANALYSIS & ASSESSMENT

Through the RFP bid process, the City secures the expertise and services of a commercial insurance agent/broker to access the global insurance marketplace for excess Workers' Compensation insurance. With rare exceptions, excess Workers' Compensation insurers market their products through the intermediary agent/broker system rather than dealing directly with current and potential clients. To properly handle the needs of the City, and to be an effective representative and advocate of the City in identifying potential insurers and creating competition among insurers, the insurance agent/broker must have international marketing capabilities and industry contacts. The City's current insurance agent/broker is Marsh USA, Inc. Marsh USA, Inc. is the largest commercial broker in the world and has excellent market contacts, and handles most of the excess Workers' Compensation insurance for self-insured public entities in Arizona.

In conjunction with the City insurance agent/broker, Marsh USA, Inc., staff undertakes a review of its insurance program and structure each year to determine if opportunities and international market conditions exist to more cost effectively handle the financial impact of Workers' Compensation cases. The current and proposed insurance program structure, with a self-insured retention per accident, and excess catastrophic insurance purchased through a commercial insurer for a fixed premium charge above the self-insured retention amount, is judged by Marsh USA, Inc. and the City's Risk Management Director to be the most cost-effective protections and cost structure for the City given its size and risk profile.

Action Taken_____

The insurance marketplace has changed dramatically since September 11, 2001. Prices for all property-casualty insurance coverage, including Workers' Compensation Excess insurance, have risen dramatically.

Marsh USA, Inc. marketed the excess Workers' Compensation insurance program and quotations and various options were received from four excess Workers' Compensation insurers. The insurers are Midwest Employers Casualty Co., Continental Casualty Co., Safety National Casualty Corporation, and Employers Reinsurance Corporation.

A key consideration is determining the amount of the self-insured retention. The City has not had a claim penetration into the $400,000 to $500,000 nor the $500,000 to $600,000 claim layers within the last ten years. Staff forecasts that there will be one claim that will fully penetrate both layers within the next ten years. That cost would be $200,000. At today's costs, going from an already $400,000 self-insured retention per loss to a $600,000 self-insured retention per loss would save roughly $50,000 per year or a total of $500,000 over ten years. The savings netted against the one-claim penetration costs would result in total savings of approximately $300,000 over the ten-year period. Even if two full claim penetrations occurred during the ten-year period, approximately $100,000 would be saved. From a risk-reward viewpoint, staff believes it is cost-effective to raise the self-insured retention to from $400,000 per loss to $600,000 per loss at this time as illustrated in Structure 3 below. Structure 3 saves $9,885 or 9.7% over last year's cost, and $45,961 or 33.3% over renewal of same structure as last year.

	Current Program	Renewal Structure 1	Renewal Structure 2	Renewal Structure 3	Renewal Structure 4
Self-Insured Retention Each Accident (SIR)	$400,000	$400,000	$500,000	$600,000	$750,000
Estimated Premium	$102,070	$138,146	$114,548	$92,185	$92,671

RESOURCE IMPACTS

Available funding: The cost is fully covered within the Risk Management Division budget.

Staffing, workload impact: It should be noted that the City has a strong employee safety program including being granted Arizona Occupational Safety and Health Administration's (OSHA) highest designation – Voluntary Protection Program (VPP) STAR status. The Voluntary Protection Program was designed by OSHA to recognize organizations that have outstanding safety and health programs. The STAR status stands for Safety Through Accountability and Recognition, and is the highest designation in the VPP program. The significance of the VPP STAR designation is that it sets up a partnership environment of working together to eliminate and reduce workplace hazards as opposed to a regulatory/compliance environment. Staff will continue strong ongoing efforts to reduce and mitigate employee injuries and the resulting cost. No additional staff or resources are necessary at this time.

OPTIONS & STAFF RECOMMENDATION

Possible option to the purchase of excess Workers' Compensation insurance:

1) The City could increase its self-insured portion.
2) The City could completely self-insure the Workers' Compensation exposures.
3) The City could purchase insurance from a commercial insurer in some other loss sensitive financial configuration.
4) Some combination of above items.

Description of Option 1: This is a viable cost-effective option. See Analysis and the Recommended approach.

(Continued)

Description of Option 2: This option is not deemed prudent because of the financial volatility of a severe Workers' Compensation claim or series of claims.

Description of Option 3: This option would not produce the cost savings margin that the present self-insurance configuration does.

Description of Option 4: This alternative is not viable because the above items to do combine in a matter to produce significant premium savings.

Recommended approach: This action recommends purchase of Renewal Structure 3. The City has not had a claim penetration into the $400,000 to $500,000 nor the $500,000 to $600,000 claim layers within the last ten years. Staff forecasts that there will be one claim that will fully penetrate both layers within the next ten years. That cost would be $200,000. At today's costs, going from an already $400,000 self-insured retention per loss to a $600,000 self-insured retention per loss would save an estimated $50,000 per year or a total of $500,000 over ten years. The savings netted against the one claim penetration costs would result in total savings of approximately $300,000 over the ten year period. Even if two full claim penetrations occurred during the ten year period, approximately $100,000 would be saved. From a risk-reward viewpoint, staff believes it is cost-effective to raise the self-insured retention from $400,000 per loss to $600,000 per loss at this time.

Proposed Next Steps: Upon Council approval, coverage with the designated insurers will be placed into effect for the period 7/1/03-04.

RESPONSIBLE DEPT(S) Risk Management Division

STAFF CONTACT(S) Myron J. Kuklok, Risk Management Director

APPROVED BY

Craig Clifford, Chief Financial Officer — Date 6/16/03

for Barbara Burns, Assistant City Manager — Date 6/16/03

Jan Dolan, City Manager — Date 6/16/03

ATTACHMENTS Resolution No. 6331

(Continued)

RESOLUTION NO. 6331

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY'S RISK MANAGEMENT DIVISION TO PURCHASE EXCESS WORKERS' COMPENSATION INSURANCE FROM MIDWEST EMPLOYERS INSURANCE COMPANY FOR THE PERIOD JULY 1, 2003 TO JULY 1, 2004.

WHEREAS, it is in the best interest of the City to purchase excess Workers' Compensation insurance for its employees from a private insurer; and

WHEREAS, Midwest Employers Insurance Company is in the business of Excess Workers' Compensation; and

WHEREAS, the City wishes to acquire Excess Workers' Compensation insurance with statutory limits of insurance for the period July 1, 2003 to July 1, 2004;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1: The City's Risk Management Division is hereby authorized and directed, on behalf of the City of Scottsdale, to purchase Excess Workers' Compensation insurance with the aforementioned policy limits from Midwest Employers Insurance Company for the period July 1, 2003 to July 1, 2004.

PASSED, ADOPTED, AND APPROVED by the City Council of the City of Scottsdale this 1st day of July, 2003.

ATTEST:

CITY OF SCOTTSDALE, an
Arizona municipal corporation

By: _____
Sonia Robertson
City Clerk

By: _____
Mary Manross
Mayor

APPROVED AS TO FORM:

By: _____
David A. Pennartz
City Attorney

res 6331-WC.doc

CITY COUNCIL REPORT

MEETING DATE: 07/01/2003 ITEM NO. 24 GOAL: Fiscal Management

SUBJECT

Purchase of Property Insurance for City Buildings, Contents and Equipment for the period 7/1/03-04.

REQUEST

- Consider authorizing purchase of Property insurance on approximately $534 million of buildings, contents and equipment replacement values in excess of the deductible portions from the Allianz Insurance Group, at a cost of $713,147.

BACKGROUND

The City has traditionally carried Property insurance on its buildings, contents and equipment from a commercial insurer without significant self-insurance retentions due to availability and reasonable cost of commercial property insurance.

During the year 2001, the global property insurance marketplace began to undergo significant changes and price increases caused by poor underwriting results, a very competitive marketplace, and absorbing the costs of a series of global natural disasters. In addition, low investment income also affected insurers results.

After September 11, 2001, the global property insurance marketplace precipitously changed overnight into a very tight, restrictive and extremely expensive marketplace. Particularly hard hit were the natural disaster coverages of flood, earthquake, hurricane, and wind and rain. The City's first encounter with the new property marketplace was the policy renewal on 7/1/02. Overall premiums increased almost 150% from $281,833 to $699,242, which put great strain on the budget, along with many restrictive policy provisions and increased deductible portions. Because the Water Campus/CAP Plant is located in flood zone AO, premiums for the flood insurance portion increased almost 500% and coverage was reduced from $70 million of coverage limits to $30 million. Flood zone AO is defined as base flood depths range from one (1) to three (3) feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident. The $30 million flood level of coverage was judged to be the minimum level to adequately protect the City in the event of a large flood event.

ANALYSIS & ASSESSMENT

Through the RFP bid process, the City secures the expertise and services of a commercial insurance agent/broker to access the global property insurance marketplace. With rare exception, commercial property insurers market their products through the agent/broker system as opposed to dealing with current and potential clients directly. To properly handle the needs of the City, and to be a strong representative and advocate of the City in identifying potential property insurers and creating competition among insurers, the insurance broker must have national and international marketing capabilities and industry contacts along with extensive experience with property insurance for public entities. The City's current insurance agent/broker is Marsh USA, Inc. Marsh USA Inc. is the largest commercial insurance broker in the world, and the Phoenix office is the property insurance agent/broker to most of the larger Arizona public entities.

Action Taken_____

In conjunction with the City's insurance agent/broker Marsh USA, Inc. staff undertakes a review of its insurance structure each year to determine if opportunities and international market conditions exist to more effectively handle the financial impact of potential property losses. The general property insurance marketplace continues to be very tight, restrictive and expensive particularly the natural disaster property coverage perils. The insurance structure of purchasing pure property insurance excess of deductible portions is still the best structure to handle property loss exposures.

Recent staff action: During the past year a project was completed that updated all locations and their insurable replacement values.

Significant issues to be addressed: Marsh USA, Inc. marketed the property insurance to a total of sixteen (16) insurers. The sixteen insurers were the incumbent, St Paul Cos, Allianz Insurance Co., Travelers, ACE, Great American, AON Group, Clarendon American, Empire Indemnity, Chubb Group, Continental Casualty Co., Factory Mutual Cos., Commonwealth Cos. Hartford Insurance Co., Employers of Wausau, Royal Surplus Lines, and Zurich American Insurance Company. Of the sixteen insurers, two insurers submitted quotations which is about what was expected in the current tight market. What was not expected in this marketplace was the very intense competition between bidder Allianz Insurance Co. and the incumbent insurer, St Paul Cos. The competition was so intense over last year's marketplace that Allianz's quote actually reduced premiums from last year $35,479 or 4.7%, and $72,989 or 9.3% below the incumbent insurer. Staff had forecast an overall 15% to 20% increase due to market conditions for budget purposes.

	Current Program	Structure 1 St. Paul Cos.	Structure 2 Allianz Group
Property Values Insured	$528,258,609	$533,945,596	$533,945,596
Limit Per Loss	$125,000,000	$200,000,000	$150,000,000
Property Deductible Per Loss	$100,000	$100,000	$100,000
Flood Coverage Limit	$30,000,000	$30,000,000	$35,000,000
Flood Deductible Per Loss	$500,000	$500,000	$1,000,000
Property Insurance Cost	$593,998	$612,290	$585,634
Flood Insurance Cost	$154,628	$173,846	$127,513
Total Cost	$748,626	$786,136	$713,147

RESOURCE IMPACTS

Available funding: The cost is fully covered within the Risk Management Division budget. If new properties are added to insurable values during the course of the year, additional pro-rata premium is due, which is also covered within the Risk Management Division budget. However, if insurance premiums and liability and Workers' Compensation claim payments exceed budgeted amounts during Fiscal Year 02/03, a transfer of funds from the Loss Trust Fund will be initiated and submitted to the City Council for approval.

(Continued)

Staffing, workload impact: In a strong effort to control and mitigate the financial impact of property losses, the City has a proactive safety program geared to address property loss exposures. The City's property loss experience has been very favorable over the last ten years, and the properties themselves are reflective of quality properties. This program is already in place and requires no additional resources or staff at this time.

OPTIONS & STAFF RECOMMENDATION

The options to purchasing or reducing property insurance premiums are:

1) The City could increase its self-insured portion through higher policy deductibles.
2) The City could reduce the coverage broadness and insurance perils covered.
3) The City could entirely self-insure the property risks.
4) Some combination of #1, #2 and #3.

Description of Option 1: This is a viable option element this year as respects Flood coverage in the below Recommended approach. Allianz's quote includes a $1,000,000 Flood deductible in flood zone A from the current $500,000 deductible which translates through the layers of flood insurance to a savings of approximately $68,000. Staff considers assuming the additional $500,000 Flood deductible increment for a savings of $68,000, repeated over a number of years, to be cost effective because of the low probability of a major flood event. In exchange for approximately $22,000 of the savings, staff is recommending purchase of an additional $5 million of flood coverage insurance raising the limit from $30 million to $35 million. That incremental addition enhances coverage protection for the City and increases the probability that a large flood event will be covered.

Description of Option 2: Property insurance covers a very broad spectrum of natural disaster type risks. Natural disaster occurrences are random and unpredictable along with the magnitude of damages that can be incurred. As a result, reducing coverage broadness is not advisable for the small premium reductions that would be achieved.

Description of Option 3: This option would not be advisable because of the random nature of occurrences and magnitude of damages to property that could be incurred. The City is practicing fiscal responsibility by purchasing property insurance on its insurable assets.

Description of Option 4: None of the combinations work together to produce cost effective commensurate premium savings.

Recommended approach: Staff recommends changing insurers from St. Paul Cos to Allianz Insurance Company. By doing so, savings of $35,479 over last year's cost can be realized. Policy coverage is approximately the same between the two bidders' policies. Allianz carries an A.M. Best's financial rating of "A XV" which is a very high rating.

Proposed next steps: Upon Council approval, coverage will be bound and put into effect effective for the period 7/1/03-04.

(Continued)

RESPONSIBLE DEPT(S)	Risk Management Division	
STAFF CONTACT(S)	Myron J. Kuklok, Risk Management Director	
APPROVED BY	Craig Clifford, Chief Financial Officer	6/16/03 Date
	for Barbara Burns, Assistant City Manager	6/16/03 Date
	Jan Dolan, City Manager	6/16/03 Date
ATTACHMENTS	Resolution No. 6332	

(Continued)

RESOLUTION NO. 6332

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY'S RISK MANAGEMENT DIVISION TO PURCHASE PROPERTY INSURANCE FROM PARTICIPATING INSURERS, THE ALLIANZ INSURANCE COMPANY AND OTHER PARTICIPATING INSURERS, FOR THE PERIOD JULY 1, 2003 TO JULY 1, 2004.

WHEREAS, it is in the best interest of the City to purchase property insurance for its buildings and contents from private insurers; and

WHEREAS, the Allianz Insurance Company and other participating insurers, are in the business of property insurance; and

WHEREAS, the City wishes to acquire property insurance to protect City property valued at approximately $534 Million for the period July 1, 2003 to July 1, 2004.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1: The City's Risk Management Division is hereby authorized and directed, on behalf of the City of Scottsdale, to purchase property insurance with policy limits to protect City property valued at approximately $534 Million from the Allianz Insurance Company and other participating insurers, for the period July 1, 2003 to July 1, 2004.

PASSED, ADOPTED, AND APPROVED by the City Council of the City of Scottsdale this 1st day of July, 2003.

ATTEST:

CITY OF SCOTTSDALE, an
Arizona municipal corporation

By: _____
Sonia Robertson
City Clerk

By: _____
Mary Manross
Mayor

APPROVED AS TO FORM:

By: _____
David A. Pennartz
City Attorney

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CITY COUNCIL REPORT

MEETING DATE: 07/01/2003 ITEM NO. 25 GOAL: Fiscal Management

SUBJECT

Authorize the filing of a Notice of Appeal in *City of Scottsdale v. Glenalden Homes, L.L.C., et al.*, Superior Court Case No. CV 99-13348.

REQUEST

Motion authorizing GRAHAM & ASSOCIATES, LTD. to file a Notice of Appeal on behalf of the City of Scottsdale in the litigation entitled *City of Scottsdale v. Glenalden Homes, L.L.C., et al.*, Superior Court Case No. CV 99-13348, an eminent domain action brought to acquire real property for the McDowell Sonoran Preserve, with the caveat that counsel will return to the City Council for further direction on how to proceed in prosecuting the appeal to a conclusion.

Related Policies, References:
Resolution No. 6280 (retention of outside counsel)

BACKGROUND

This case involves a condemnation proceeding initiated by the City to acquire 181 platted and engineered lots on 143 acres owned by Glenalden Homes L.L.C. located in a master-planned residential development in north Scottsdale known as Troon North. The proceedings were initiated by the City to condemn Glenalden's property for inclusion within the McDowell Sonoran Preserve established by the City for a park for desert and mountain preservation.

Trial was held in February and March, 2003. The property owner sought a jury verdict in excess of twenty-six million dollars and the City contended that nine million dollars was just compensation. The jury returned a verdict for fifteen million dollars, and the City on June 6, 2003 filed a Motion for New Trial or Remitter asking the trial court either to reduce the amount of the judgment or grant the City a new trial on the ground that the verdict was excessive.

Michael Graham, counsel primarily responsible for representing the City, has stated that the City may wish to appeal the verdict if the Motion for New Trial or Remitter is not successful. He believes that the trial court committed several substantial legal errors in the admission of evidence that might warrant reversal. There are strict time limits for filing a Notice of Appeal that cannot be altered by order of the trial court or agreement of the parties. The Notice cannot be filed before the Judgment is entered or the Motion for New Trial or Remitter is ruled upon, but must be filed within thirty days after the judgment is entered or the Motion for New Trial or Remitter is denied, whichever is later. If the Council is unavailable to act within that thirty day period, or if for any reason the matter cannot be put before the Council within the thirty day time limit, the City could lose a valuable right to seek appellate review of the judgment.

Action Taken_____

ANALYSIS & ASSESSMENT

The case of *City of Scottsdale v. Glenalden Homes, L.L.C.* involves extremely complex legal and factual issues. The decision on whether to pursue an appeal to completion cannot be made without further analysis, but because of the extremely short deadlines for acting once the time starts to run for filing the Notice there may not be time for the Council to make a fully informed decision on this issue given its present schedule before a Notice of Appeal has to be filed or the right to appeal is lost if a Notice is not filed. As a precautionary measure, it is safest to authorize counsel to file a Notice of Appeal if it is necessary to do so in order to avoid losing the right to appeal. The Council can then decide whether to prosecute the appeal to a conclusion.

RESOURCE IMPACTS

The cost of preparing and filing a Notice of Appeal is minimal. The costs of the litigation are paid from funds reserved for the acquisition of real property within the McDowell Sonoran Preserve study boundary. The costs will be paid from funds available in capital account number 52140.

OPTIONS & STAFF RECOMMENDATION

Given the length of time it can take to resolve the pending Motion for New Trial or Remitter and to have a final judgment entered, it is possible this authorization to file a Notice of Appeal will not be necessary because the Council may have the opportunity to decide whether to pursue an appeal to completion before the time for filing the Notice arrives. However, if the time limit for filing a Notice expires while the Council is unavailable to meet and consider the matter, the consequence would be to lose the opportunity to pursue an appeal involving an amount in controversy of over five million dollars plus interest.

RESPONSIBLE DEPT(S)

General Government, City Attorney's Office – Civil Division

STAFF CONTACT(S)

David A. Pennartz, City Attorney, dpennartz@scottsdaleaz.gov
(480) 312-2405

APPROVED BY

6/13/03

for David A. Pennartz, Date
City Attorney, dpennartz@scottsdaleaz.gov
(480) 312-2405

6/16/03

Jan Dolan Date
City Manager, jdolan@ci.scottsdale.az.us
(480) 312-2422

ATTACHMENTS

Resolution No. 6280

(Continued)

RESOLUTION NO. 6280

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY TO ENTER INTO CONTRACT FOR LEGAL SERVICES, NO. 2001-038A-COS, WITH THE LAW FIRM OF GRAHAM & ASSOCIATES, LTD.

WHEREAS, the City Attorney's Office has previously contracted with GRAHAM & ASSOCIATES, LTD. for legal services in connection with *City of Scottsdale v. Glenalden Homes, L.L.C., et al.*, Superior Case No. CV99-13348, brought to acquire real property necessary for the McDowell Sonoran Preserve; and

WHEREAS, the City of Scottsdale desires that GRAHAM & ASSOCIATES, LTD. continue to provide legal services in connections with *City of Scottsdale v. Glenalden Homes, L.L.C., et al.*, Superior Case No. CV99-13348;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. Mayor Mary Manross is hereby authorized and directed to execute, on behalf of the City of Scottsdale, Contract for Legal Services, No. 2001-038A-COS, an agreement between the City of Scottsdale and the law firm of GRAHAM & ASSOCIATES, LTD. for the provision of legal services.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Scottsdale this 15th day of April, 2003.

ATTEST:

CITY OF SCOTTSDALE, an
Arizona municipal corporation

By: Sonia Robertson
Sonia Robertson,
City Clerk

By: Mary Manross
Mary Manross,
Mayor

APPROVED AS TO FORM:

By: David A. Pennartz
David A. Pennartz,
City Attorney

CITY COUNCIL REPORT

MEETING DATE: 07/01/2003 ITEM NO. 26 GOAL: Fiscal Management

SUBJECT

City of Scottsdale adv. Allied Construction, Inc.

REQUEST

Adopt Resolution No. 6335 authorizing the City Attorney to renew Contract No. 2000-160A-COS.
Authorize renewal of Contract No. 2000-160A-COS in a maximum amount of Five Thousand Dollars ($5,000) with Holden Brodman PLC for legal services in connection with the dispute among the City of Scottsdale, Allied Construction, Inc., and the City's engineer, Cella Barr Associates, relating to construction at McCormick Ranch Railroad Park.

BACKGROUND

On February 9, 1999, the City first contracted with the law firm of Brockelman & Brodman, P.L.C. to provide specialized legal services relating to a construction litigation dispute among the City, Allied, and Cella Barr. That dispute related to construction work performed in 1996-97 at the McCormick Railroad Park. This litigation has been pending since 1998.

On February 11, 2003, following a 4 ½ week trial, a jury returned a unanimous verdict in the City's favor. Following the verdict, outside counsel has had to prepare a motion to recover the City's attorney's fees and costs as well as respond to lengthy and unexpected post-trial motions filed by opposing counsel. Future additional work may now be expected following the court's recent ruling as to attorney's fees.

ANALYSIS & ASSESSMENT

Contract process and terms.
On March 18, 2003, the Council approved a fifth contract renewal with Holden Brodman. That renewal brought the total contract amount for over four years of legal services to $330,000. At this time, it is necessary to extend the contract amount for services necessary to complete post-trial work and to prepare preliminary City responses in the event any party files further post trial motions or appeals.

Staff is now requesting an additional $5,000 in authority in order to conclude remaining trial work and to preliminarily respond to other possible motions or appeals.

Significant issues to be addressed.
On February 24, 2003, the City filed an application with the Court for an award of over $469,000 in incurred attorney's fees, costs, and expert witness fees.

Action Taken_____

On June 11, the presiding judge signed a form of judgment awarding the City over $324,500 in attorneys' fees and costs. The Plaintiffs and Cella Barr were awarded nothing. The Plaintiffs have thirty days in which to file a notice of appeal or move for a new trial. At this time, the City's legal counsel understands such filings may be likely. Therefore, staff is requesting this additional contract extension in the event the City must preliminarily respond to an appeal or a request for a new trial before Council returns from its summer break.

Community involvement.
Payment of legal fees does not involve a public outreach process.

RESOURCE IMPACTS

Available funding. Funds are available in the City Attorney's Office Outside Counsel Account (100-01050-52140).

Future budget implications.
Despite completion of the trial, legal services will be needed to address remaining post-trial work and to preliminarily respond to anticipated appeals that may be filed by any of the other parties. In the event an appeal is actually filed, further legal services may be required.

Staffing, workload impact.
Current legal staff will continue to provide contract administration and legal support services to outside counsel. No additional staff will be required.

STAFF RECOMMENDATION

Recommended Approach:
This construction-related litigation requires specialized legal representation, and outside counsel has assumed responsibility for the case preparation since the lawsuit was filed five years ago. The services provided to date have also resulted in a jury verdict in the City's favor. It would not be feasible for in-house staff to timely develop the necessary case familiarity and specialized expertise in order to assume what will hopefully be limited post-trial legal services.

RESPONSIBLE DEPT(S)

City Attorney's Office

STAFF CONTACT(S)

Steven Bennett, Deputy City Attorney 480-312-2405
David A. Pennartz, City Attorney 480-312-2405

APPROVED BY

Name Date
David A. Pennartz, City Attorney

Name Date
Jan M. Dolan, City Manager

ATTACHMENTS

1. Resolution No. 6335
2. Contract No. 2000-160A-COS

(Continued)

RESOLUTION NO. 6335

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY TO RENEW CONTRACT FOR LEGAL SERVICES, NO. 2000-160A-COS, WITH THE LAW FIRM OF HOLDEN BRODMAN, P.L.C.

WHEREAS, the City Attorney's Office has previously contracted with HOLDEN BRODMAN, P.L.C. for specialized legal services in connection with the dispute among the City of Scottsdale, Allied Construction, Inc., and Cella Barr Associates, Inc. relating to the 1996-1997 construction at McCormick Ranch Railroad Park; and

WHEREAS, the City of Scottsdale desires that HOLDEN BRODMAN, P.L.C. continue to provide post-trial legal services in connection with the dispute and litigation relating to the McCormick Ranch Railroad Park construction;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. Mayor Mary Manross is hereby authorized and directed to execute, on behalf of the City of Scottsdale, Contract for Legal Services, No. 2000-160A-COS, a renewal of an agreement between the City of Scottsdale and the law firm of HOLDEN BRODMAN, P.L.C. for the provision of legal services.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Scottsdale this 1st day of July, 2003.

ATTEST:

CITY OF SCOTTSDALE, an
Arizona municipal corporation

By: _____
Sonia Robertson,
City Clerk

By: _____
Mary Manross,
Mayor

APPROVED AS TO FORM:

By: _____
David A. Pennartz,
City Attorney

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CONTRACT FOR LEGAL SERVICES
CITY OF SCOTTSDALE
City Attorney's Office

THIS CONTRACT renewal is made and entered into on this 1st day of July, 2003, by and between the **City of Scottsdale**, a municipal corporation, hereinafter called **CITY**, and the law firm of **Holden Brodman, PLC,** hereinafter called **COUNSEL.**

CITY, having determined it to be in its best interest to contract with attorneys not in its employ who, by experience and training, are qualified to assist in connection with **the dispute among the City of Scottsdale, Allied Construction, Inc., and Cella Barr Associates relating to the construction at McCormick Ranch Railroad Park;** and

CITY having satisfied itself as to the qualifications of COUNSEL as named above and the need to renew its contract with COUNSEL for the provision of legal services.

NOW, THEREFORE, it is agreed between the parties as follows:

1. Scope of Service and Representation. COUNSEL agrees to perform all necessary legal services, including investigation, legal research, preparation of pleadings, legal memoranda and briefs, appearances in court, and post-trial work in representing the City. Such legal services shall be carried out in cooperation with the City Attorney's Office who shall at all times be apprised of the status of all matters. No major decisions regarding the resolution of the legal issues or litigation, in whole or in part, shall be made without the prior approval of the City Attorney's Office. All offers of compromise made by plaintiff(s) shall be promptly transmitted to CITY through its City Attorney's Office, together with COUNSEL'S recommendations. City will be responsible for obtaining proper authority to accept a compromise or for obtaining authority to make a counter-offer. No appeals will be taken from judgments in any litigation without prior approval of City, acting through its City Attorney's Office.

2. Advice and Status Reporting. COUNSEL shall provide CITY with timely advice of all significant developments arising during performance of their services hereunder orally or in writing, as COUNSEL consider appropriate. COUNSEL shall provide copies of all pleadings and other documents prepared by COUNSEL, including research memoranda prepared by COUNSEL, unless they have been otherwise provided to the City Attorney's Office.

3. Compensation. CITY agrees to pay COUNSEL for services rendered hereunder as follows:

A. One Hundred and Twenty Five Dollars ($125.00) per hour for Partners.

B. One Hundred and Ten Dollars ($110.00) per hour for Associates.

C. Sixty-Five Dollars ($65.00) per hour for Paralegals.

All services not specified hereinabove shall be billed at actual cost, plus employee related costs, if any. CITY shall not be billed for use of COUNSEL'S "runners", but may be billed for messenger service required when COUNSEL'S runner is not available.

Total money paid under this contract renewal **shall not exceed Five Thousand Dollars ($5,000.00).** Fees and expenses shall be billed on a monthly basis and paid by CITY within forty-five (45) days.

4. Travel. Approval for travel shall be obtained through the City Attorney's Office prior to departure. Travel time may be billed to CITY, with the exception of travel time to CITY to meet with CITY representatives or the City Council. "Reasonable expenses" means expenses not exceeding one hundred eighty five dollars ($185.00) per night for hotel rooms, seventy-five dollars ($75.00) per person per day for meals including gratuity, and for the rental charges of the most economical type of rental car available. Where possible, COUNSEL and consultants and experts and subcontractors shall stay at hotels that charge a government rate. When traveling by airplane, whenever possible, reduced fare tickets shall be purchased. Gasoline shall not be billed to CITY except when a rental car is used out-of-state.

5. Reimbursement for Expenses. All costs and other disbursements for outside services not specified hereinabove shall be billed at actual cost, plus employee related costs, if any. All copying charges shall be billed at no more than fifteen cents ($.15) per page. To the extent practical, large photocopying tasks will be sent out to an outside copy service in an effort to further reduce photocopying costs. Outgoing faxes shall be billed for actual long distance charges incurred, not on a per page basis. On-line database retrieval charges (i.e. Lexis, Westlaw, CompuServe, Dialogue, etc.) shall be billed at actual cost.

6. Billing Procedures. In addition to the billing procedures set forth elsewhere in this Contract, COUNSEL shall follow these billing procedures:

A. "Unit billing" shall not be done. COUNSEL shall bill only for actual time spent on a task, and each task shall be itemized (e.g. tel. to opposing counsel (.2); extended tel. to Mr. Smith (.3); prepare motion to continue (.3).

B. Secretarial, word processing or other overtime shall not be billed (e.g., preparation of documents which are computerized or on a form, such as subpoenas, notices of deposition, independent medical examinations, medical authorizations, trial notices, uniform interrogatories, and requests to produce); only the actual time spent by the attorney reviewing, revising or drafting such documents shall be billed.

C. Whenever possible, attorneys shall minimize time spent consulting with one another and agree to use their best efforts to minimize the costs of the legal representation to CITY. Work on this matter billed by attorneys not listed must be approved by the City Attorney's Office in advance.

D. All consultants, experts and subcontractors engaged to provide services to COUNSEL in the performance of this agreement, and the use and extent of those services, shall be approved by the City Attorney's Office prior to them providing the services. Payment of their expenses will be subject to the same terms as paragraphs 4 and 5 above.

E. COUNSEL will submit monthly billings for services rendered and expenses incurred, which shall be paid by the City Attorney's Office. Each bill shall also contain, in addition to information required elsewhere in this Contract: 1) fees and costs incurred in the preceding month; 2) the cumulative total of fees and costs to date; 3) the City Attorney's Office contract number 2003-014 and; 4) the unbilled amount remaining on the contract. COUNSEL will use its best efforts to inform the City Attorney's Office eight weeks prior to COUNSEL billing the final fees and costs authorized under this contract. CITY will pay no fees incurred over and above the contract amount without prior authorization from CITY.

7. Maintenance of Records. In compliance with CITY'S standard procedure, all work performed in connection with this Contract shall be subject to audit. COUNSEL shall maintain all books, documents, papers, accounting records, and other evidence pertaining to time billed and to costs incurred on a particular lawsuit, and to make such materials available at their offices at all reasonable times during the Contract period and for at least three (3) years from the date of final payment for inspection by CITY or any authorized representatives of CITY, and copies thereof shall be furnished, if requested, at CITY'S expense.

8. Conflict of Interest. COUNSEL warrants and covenants that COUNSEL presently has no interest in, nor shall any interest be hereinafter acquired in, any matter which will render the services required under the provisions of this Contract a violation of any applicable local, state, or federal law. In the event that any conflict of interest should nevertheless hereinafter arise, COUNSEL shall promptly notify CITY of the existence of such conflict of interest, so that CITY may determine whether to terminate this Contract. The City Attorney is authorized to grant customary conflicts waivers to COUNSEL on behalf of the CITY, as are not adverse to the CITY's legal interests in his professional judgment. Otherwise, COUNSEL shall be free to dispose of such portion of their entire time, energy and skill as are not required to be devoted to CITY in such manner as they see fit and to such persons, firms or corporations as they deem advisable so long as no conflict of interest exists.

9. Reporting Requirements

A. Within sixty (60) days of receipt of a case, or at the time disclosure statements are first filed, whichever is sooner, COUNSEL shall provide CITY with an initial written evaluation containing the following:

1. A summary of the case's facts and issues;

2. An evaluation of the potential exposure;

3. An outline of the course of action COUNSEL intends to pursue in the case (e.g., names and/or categories of witnesses to be interviewed or deposed; experts to be retained; motions to be filed; etc.);

4. An estimate of the cost to defend the case through trial;

5. A cost/benefit analysis, including recommendations as to early settlement or offers of judgment; and,

6. The name of the attorney who will be primarily responsible for handling the case, and the names of others who will assist that person.

10. Additional Investigation. Whenever additional investigation is deemed desirable by COUNSEL and can be provided by use of non-attorney investigators, COUNSEL shall notify CITY through the City Attorney's Office of such need, and CITY may elect, at its option, to conduct such investigation. In this event, CITY shall be solely responsible for the accuracy of the facts or other information developed in response to such requests.

11. Termination. CITY may terminate this Contract upon giving ten (10) days written notice for convenience or cause. Any default by COUNSEL, if COUNSEL fails to comply with any of the conditions of this Contract, or services which provide unsatisfactory performance as judged by the Contract Administrator, and failure to provide CITY, upon request, reasonable assurance of future performance, shall be causes allowing CITY to terminate this Contract. In the event of termination for cause, CITY shall not be liable to COUNSEL for any amount, and COUNSEL shall be liable to CITY for any and all damages sustained by reason of the default which gave rise to the termination. Any notice of cancellation shall specify the particular lawsuit or lawsuits to which it applies, and any lawsuit not particularly specified shall continue to be handled by COUNSEL and, as to those, this Contract will continue in effect; provided, however, the right is retained by CITY to terminate services on any lawsuit by notifying COUNSEL in writing.

12. Notices. When notice or correspondence is required to be sent to CITY, it shall be sent to the Contract Administrator named below:

City Attorney's Office
City of Scottsdale
3939 Drinkwater Blvd.
Scottsdale, Arizona 85251
Attn: Steven B. Bennett

Should the Contract Administrator change, CITY will notify COUNSEL in writing.

13. Indemnification For Liability and Professional Liability

To the fullest extent permitted by law COUNSEL, its successors, assigns and guarantors, shall defend, indemnify and hold harmless CITY, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any negligent, or intentional actions, acts, errors, mistakes or omissions caused in whole or part by COUNSEL relating to work or services in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of COUNSEL'S and Subcontractor's employees.

Insurance provisions set forth in this agreement are separate and independent from the indemnity provisions of this paragraph and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this paragraph shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

14. Insurance Representations and Requirements

General: Counsel agrees to comply with all applicable City Ordinances and state and federal laws and regulations.

Without limiting any obligations or liabilities of COUNSEL, shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies duly licensed by the State of Arizona (admitted insurer) with an AM Best, Inc. rating of B ++ 6 or above or an equivalent qualified unlicensed insurer by the State of Arizona (non-admitted insurer) with policies and forms satisfactory to CITY. Failure to maintain insurance as specified may result in termination of this Contract at CITY'S option.

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

Coverage Term: All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of subject contract is satisfactorily performed, completed and formally accepted by the CITY, unless specified otherwise in this Contract.

Claims Made: In the event any insurance policies required by this Contract are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three (3) years past completion and acceptance of the work or services evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three year period.

Use of Subcontractors: If any work under this agreement is subcontracted in any way, COUNSEL shall execute written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements set forth herein protecting CITY and COUNSEL. COUNSEL shall be responsible for executing the agreement with Subcontractor and obtaining Certificates of Insurance verifying the insurance requirements.

Evidence of Insurance: Prior to commencing any work or services under this Contract, COUNSEL shall furnish CITY with Certificate(s) of Insurance, or formal endorsements as required by this Contract, issued by COUNSEL'S insurer(s) as evidence that policies are placed with acceptable

insurers as specified herein and provide the required coverages, conditions, and limits of coverage and such coverage and provisions are in full force and effect.
If a Certificate of Insurance is submitted as verification of coverage, City of Scottsdale shall reasonable rely upon the Certificate of Insurance as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this agreement. If any of the cited policies expire during the life of this Contract, it shall be COUNSEL'S responsibility to forward renewal Certificates within ten (10) days after the renewal date containing all the aforementioned insurance provisions:

1. CITY, its agents, representatives, officers, directors, officials and employees shall be named an Additional Insured under the following policies: a) Commercial General Liability, b) Auto Liability and c) Excess Liability-Follow Form to underlying insurance as required.

2. COUNSEL'S insurance shall be primary insurance as respects performance of subject contract.

3. All policies, except Professional Liability insurance waive rights of recovery (subrogation) against CITY, its agents, representatives, officers, directors, officials and employees for any claims arising out of work or services performed by COUNSEL under this contract.

4. Certificate shall cite 30-day advance notice of cancellation provision. If standard ACORD Certificate of Insurance form is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

Required Coverage

Commercial General Liability: COUNSEL shall maintain "occurrence" form Commercial General Liability insurance with a limit of not less than $1,000,000 for each occurrence, $1,000,000 Products and Complete Operations Annual Aggregate, and a $1,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as Insurance Services Office, Inc. policy form CG 00 01 07 98 or equivalent thereof, including but not limited to, separation of insureds clause. If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

Professional Liability: If the Contract is the subject of any professional services or work, or if COUNSEL engages in any professional services or work adjunct or residual to performing the work under this Contract, COUNSEL shall maintain Professional Liability insurance covering errors and omissions arising out of the work or services performed by COUNSEL, or anyone employed by COUNSEL, or anyone for whose acts, mistakes, errors and omissions COUNSEL is legally liable, with a liability insurance limit of $1,000,000 each claim and $1,000,000 all claims.

In the event the Professional Liability insurance policy is written on a "claims made" basis, coverage shall extend for three (3) years past completion and acceptance of the work or services, and COUNSEL shall be required to submit Certificates of Insurance evidencing proper coverage is in effect as required above.

Vehicle Liability: COUNSEL shall maintain Business Automobile Liability insurance with a limit of $500,000 each accident on COUNSEL'S owned, hired, and non-owned vehicles assigned to or used in the performance of the COUNSEL'S work or services under this Contract. Coverage will be at least as broad as Insurance Services Office, Inc. coverage code "1" "any auto" policy form CA 00 01 07 97 or equivalent thereof. If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

Workers' Compensation Insurance: COUNSEL shall maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of COUNSEL'S employees engaged in the performance of work or services under this Contract and shall also maintain Employers Liability Insurance of not less than $100,000 for each accident, $100,000 disease for each employee and $500,000 disease policy limit.

15. Choice of Law. This Contract shall be governed and interpreted according to the laws of the State of Arizona.

16. Whole Agreement. This Contract constitutes the entire understanding of the parties, and no representations or agreements, oral or written, made prior to its execution shall vary or modify the terms herein.

17. Amendments. Any amendment, modification or variation from the terms of this Contract shall be in writing and shall be effective only after approval of all parties signing the original Contract. Should there be a change in the Contract Administrator, however, CITY will only need to notify COUNSEL in writing.

18. Non-Assignment. Services covered by this Contract shall not be assigned or sublet in whole or in part without the prior written consent of the City Attorney.

19. Cancellation. CITY may cancel any contract or agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of City's departments or agencies is, at any time while the contract or any extension of the contract is in effect, an employee of any other party of the contract in any capacity, or a consultant to any other party of the contract with respect to the subject matter of the contract. The cancellation shall be effective when written notice from CITY is received by all other parties to the contract, unless the notice specifies a later time (A.R.S. § 38-511).

20. Independent Contractor Status. The services COUNSEL provides under the terms of this Contract to CITY are that of an independent contractor, not an employee. CITY will report the value paid for these services each year to the Internal Revenue Service (I.R.S.) using Form 1099. Withholding of income tax is not deducted from contractual payments. As a result of this, COUNSEL may be subject to I.R.S. provisions for payment of estimated income tax.

Consult the local I.R.S. office for current information on estimated tax requirements. Failure to comply may subject COUNSEL to a penalty.

21. Severability. Should any part of this agreement be declared in a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this agreement, which shall continue in full force and effect, provided that the remainder of this agreement, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the parties.

IN WITNESS WHEREOF, the City of Scottsdale, by its Mayor this 1st day of July , 2003.

City of Scottsdale, a
municipal corporation

By:_____
Mary Manross, Mayor

Holden Brodman, PLC

By:_____
Its: Member

ATTEST:

_____
Sonia Robertson, City Clerk

APPROVED AS TO FORM:

_____
David A. Pennartz, City Attorney

Note to Attorneys: Remember to send along a copy of your Certificate of Insurance with the Contract for Legal Services.

Revised 7/03
32972_4.doc

CITY COUNCIL REPORT

MEETING DATE: 07/01/2003 ITEM NO. 264 GOAL: Short- and Long-term Economic Prosperity

SUBJECT **Authorization of Tourism/Proposition 202 Funding Proposal**

REQUEST Authorize Resolution No. 6341 to authorize a proposal to the Fort McDowell Yavapai Nation for funds to promote tourism in the northeast valley, in accordance with Proposition 202.

Related Policies, References: Proposition 202, the 17 Tribe Indian Self-Reliance Initiative.

BACKGROUND In the 2002 state general election, Arizona voters enacted Proposition 202, the 17 Tribe Indian Self-Reliance Initiative. Passage of this ballot measure ensured the continuation of limited casino gaming on Indian lands in Arizona.

Under tribal-state gaming compacts signed earlier this year, Arizona tribes will be sharing a portion of their gaming revenue with local school districts, state and local governments and other public entities. Therefore, a statutorily specified percentage of tribal gaming revenue will be contributed annually to programs and institutions serving the public. Under Prop. 202, 12 percent of the tribe's annual revenue-sharing contributions shall be paid to local governments to provide services that benefit the general public. In accordance with ARS 5-601, the annual contribution must benefit the general public, including public safety, mitigation of impacts of gaming, or promotion of commerce and economic development.

The Fort McDowell Yavapai Nation has chosen to contribute directly to local governments. The Nation will periodically solicit proposals from eligible local governments, and make awards based on its evaluation of the submitted proposals. The Tribal Council may accept in whole or in part, reject, or request modifications to any proposals submitted to them

On June 16, 2003, the Fort McDowell Yavapai Nation requested a proposal from eligible cities, including Scottsdale (See Attachment 1). They have asked that proposals be approved by the governing bodies and be provided by July 1, 2003. The Tribe has also stated that in this round of proposals, their objective is to promote tourism in the northeast valley. To meet these time-related requirements, this item was added to the July 1, 2003 agenda for City Council review and action.

If the Tribe accepts the City's proposal (Attachment 2) as developed by the Convention and Visitor's Bureau (CVB), staff will bring back an Intergovernmental Agreement (IGA) to the City Council in August 2003. This IGA would allow the City to accept and appropriate the funds, in accordance with

Action Taken_____

ARS 5-601 and the proposal. The City's intent would be to pass the funds through the CVB via the City's current contract with the CVB.

RESOURCE IMPACTS

Available funding. If the Tribe approves the City's proposal, we would be appropriated $50,000.

Future budget implications. There are no future budget implications anticipated from acceptance of the proposal or the eventual/possible funding.

STAFF RECOMMENDATION

Recommended Approach: Approve Resolution 6341 (Attachment 3), thus accepting the Tourism/Proposition 202 Funding Proposal, as developed by the CVB.

Proposed Next Steps: If approved by the City Council, the proposal will be forwarded immediately to the Fort McDowell Indian Tribe for their consideration. If the Tribe approves the proposal, staff will bring back an IGA and an amendment to the CVB contract (to enable the City to pass the monies through the current contract) for City Council review on August 25, 2003.

RESPONSIBLE DEPT(S)

Economic Vitality Department, City Manager's Office

STAFF CONTACT

Natalie N. Lewis, nlewis@ScottsdaleAZ.gov, 480-312-7806

APPROVED BY

6/25/03

David Roderique — June 25, 2003
Economic Vitality General Manager

6/25/03

Jan Dolan — June 25, 2003
City Manager

For 6/26/03

David Pennartz — June 25, 2003
City Attorney

ATTACHMENTS

1. June 16th Letter from Fort McDowell Yavapai Nation
2. CVB Proposal
3. Resolution 6341

Fort McDowell Yavapai Nation

P.O. Box 17779, Fountain Hills, AZ 85269 Phone (480) 837-5121 Fax (480) 837-1630

President Dr. Clinton M. Pattea Vice President Bernadine Boyd Treasurer Larry Doka
Council Member Gwen Bahe Council Member Benedict Smith, Sr.

June 16, 2003

Janet M. Dolan
City Manager
City of Scottsdale
3939 N. Drinkwater Blvd.
Scottsdale, AZ 85251)

Dear Ms. Dolan:

On behalf of the Fort McDowell Yavapai Nation Tribal Council, I'm pleased to inform you that we will soon be making our first contributions to local governments as provided in Proposition 202, the 17 Tribe Indian Self-Reliance Initiative, enacted by the voters in last November's election. By this letter and attached document, we are formally soliciting from the City of Scottsdale a proposal to augment your city government's tourism promotion efforts.

Tourism is a critical component of our region's economy, but also one that suffers from chronic under-funding at the state level. All governments in the Northeast Valley rely on money spent by the millions of tourists that visit our area every year. But competition for those tourist dollars is increasingly fierce, and we know that our neighboring states of Utah, Nevada and California market themselves very aggressively. Unfortunately, they have the advantage of a greater commitment from their state governments in promoting their attractions and enticing tourists to vacation in their states. Too often, their gains come at our expense.

In this. our first round of contributions to local governments under Prop. 202, the Tribal Council would like to contribute $50,000 to the City of Scottsdale for the promotion of tourism. We look forward to discussing this with you.

Sincerely,

Dr. Clinton M. Pattea
President

ATTACHMENT 1

Fort McDowell Yavapai Nation

Contributions to Local Governments

Solicitation of Proposal

Background

In the 2002 state general election, Arizona voters enacted Proposition 202, the 17 Tribe Indian Self-Reliance Initiative. Passage of this tribally sponsored ballot measure ensured the continuation of limited casino gaming on Indian lands in Arizona. Over the past decade, gaming has enabled many Arizona tribes to begin the process of reversing a historic legacy of institutionalized poverty. Tribal gaming revenues have been used to construct desperately needed infrastructure, increase the provision of social services, improve health care for tribal members, and open up educational opportunities for our young people. The infusion of gaming revenue has allowed tribes to take significant steps down the path of economic self-sufficiency. Still, much remains to be done. It takes more than a decade of gaming to overcome a century of neglect and despair. Above all, tribal gaming has given our people a reason to be optimistic about the future.

Under tribal-state gaming compacts signed earlier this year, Arizona tribes will be sharing a portion of their gaming revenue with local school districts, state and local governments and other public entities. In drafting Prop. 202, Arizona tribal leaders believed all Arizonans should share in the benefits of tribal gaming.

To that end, a statutorily specified percentage of tribal gaming revenue will be contributed annually to programs and institutions serving the public. A substantial share of tribal contributions will be dedicated to improving the statewide education system; other public beneficiaries under Prop. 202 include medical emergency facilities, wildlife conservation programs, tourism promotion and direct assistance to local governments.

Description

Under Prop. 202, twelve percent of a tribe's annual revenue-sharing contributions shall be paid to local governments to provide services that benefit the general public.

ARS 5-601.02 states that new gaming compacts shall include the following provision:

> *Distributions by tribe to cities, towns and counties. The tribe shall make twelve percent (12%) of its total annual contribution under section 12(b) in either or both of the following forms:*
>
> > *(1) Distributions to cities, towns or counties for government services that benefit the general public, including public safety, mitigation of impacts of gaming, or promotion of commerce and economic development;*
> >
> > *(2) Deposits to the commerce and economic development commission local communities fund established by A.R.S. Section 41-1505.12*

The Fort McDowell Yavapai Nation has chosen to contribute directly to local governments in its region. The Nation will periodically solicit

proposals from eligible local governments, and make awards based on its evaluation of the submitted proposals, consistent with the priorities established by the Fort McDowell Yavapai Nation Tribal Council. The Tribal Council may accept in whole or in part, reject, or request modifications to any proposals submitted in response to this letter of solicitation. Proposals that are accepted by the Tribal Council will receive funding under terms specifically delineated in an Intergovernmental Agreement (IGA) between the Fort McDowell Yavapai Nation and the appropriate local government. Unless otherwise stipulated, all awards will provide funding for a period of one (1) year.

Tribal Council Priorities

The Fort McDowell Yavapai Nation Tribal Council recognizes that there are myriad under-funded public programs and needs in Arizona. Arizona's education system, for example, despite representing the single largest category of expenditures in the state budget, trails virtually every state in the amount of money spent per student. Critically important infrastructure improvements also lag behind; this in a state with the second highest population growth rate in the United States, a circumstance that exponentially increases the need for such improvements. Social service delivery systems are similarly challenged; the costs of social dysfunction dwarf the resources available for prevention and treatment.

Local governments stagger under the burden of unmet needs. As the level of government closest to the people, they are disproportionately responsible for providing needed services, yet are severely hamstrung by state imposed restrictions on their ability to fund these services. In drafting Prop. 202, Arizona tribal leaders were determined that a significant portion of revenue sharing dollars from tribal gaming be allocated for direct assistance to local governments.

The Fort McDowell Yavapai Nation Tribal Council has identified six general areas of priority to guide its own tribal contributions to local governments. Fort McDowell's contributions will be concentrated in these areas:

1) Education
2) Public Safety
3) Transportation
4) Economic Development
5) Health Care
6) Social Services

Proposal Objective

In this round of contributions, the Fort McDowell Yavapai Nation is soliciting proposals whose objective is the promotion of tourism in the Northeast Valley. Tourism has been and continues to be a vital form of economic development in Arizona. Our state is blessed with spectacular natural wonders, ranging from the Grand Canyon in the north to Kartchner Caverns in the south, that draw million of visitors every year. Man-made attractions are also important tourist draws; the many world class golf courses in Arizona are testament to this. Whether natural or man-made, Arizona's attractions are greatly enhanced by our southwestern climate, which insists that all visitors to our state trade in their parkas and umbrellas for a pair of sunglasses and a bottle of sun screen lotion. Ironically, despite the immense significance of tourism to Arizona's economy, our state lags behind many of its key competitors for the tourist dollar in public funding for tourism promotion.

For these reasons, the Fort McDowell Yavapai Nation Tribal Council has determined that it make contributions of $50,000 each to selected local

governments for the purpose of promoting tourism. The awards will be for a period of one year.

Application Process

Timeframe

This initial round of contributions by the Fort McDowell Yavapai Nation will proceed on an accelerated timeframe. Proposals are due by July 1, and the Tribal Council will make its decisions prior to July 25. An IGA should be approved and signed immediately thereafter.

Submittal Requirements

Complete proposals should include the following elements:

1. A detailed description of current activities aimed at promoting tourism in the Northeast Valley, including a listing of key personnel involved in these activities
2. The amount currently budgeted for tourism promotion
3. A detailed description of how additional funds will be used to augment current efforts, including stipulations that
   a. The contribution will not be used to supplant current or future funding levels, and
   b. At the end of the one year funding cycle, there will be provided a final and complete report detailing how funds were actually spent
4. A Resolution adopted by the governing body authorizing the proposal
5. Identification of a contact person for follow-up

Proposals should be delivered by mail or by hand to the following addresses:

Mailing Address	Physical Address
Fort McDowell Yavapai Nation Attn: Raphael Bear General Manager P.O. Box 17779 Fountain Hills, AZ 85269-7779	Fort McDowell Tribal Office Attn: Raphael Bear General Manager 17661 E. Yavapai Road Fort McDowell, AZ 85264

All inquiries should be addressed to Raphael Bear at the above address or by phone at (480) 816-7146.

RESOLUTION NO. 6341

A RESOLUTION OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING A PROPOSAL TO REQUEST PROPOSITION 202 FUNDS FROM THE FORT MCDOWELL YAVAPAI NATION FOR TOURISM PROMOTION PURPOSES.

WHEREAS, Scottsdale's tourism industry is an important community asset providing significant economic and cultural opportunities benefiting the citizens and businesses of Scottsdale and surrounding communities, and the public generally; and

WHEREAS, the City of Scottsdale is committed to maintaining and enhancing its tourism industry to continue to provide these important community benefits; and

WHEREAS, pursuant to ARS 5.601.02, funds in the amount of $50,000 are available from the Fort McDowell Yavapai Nation ("FMYN") to promote tourism in Scottsdale and the greater northeast valley community; and

WHEREAS, City of Scottsdale desires to work with FMYN to advance tourism and encourage visitors to visit Scottsdale and the surrounding area;

NOW, THEREFORE, be it resolved that:

Section 1. The city manager or designee is authorized and directed on behalf of the city to submit to FMYN a proposal to be considered for receipt of FMYN funds in the amount of $50,000.

Section 2. If the city's proposal is approved by FMYN, the city manager or designee is authorized and directed on behalf of the city to prepare an intergovernmental agreement providing for the transfer of such funds from FMYN to the city for use in promoting tourism and to present said intergovernmental agreement to the city council and to FMYN for approval.

PASSED AND ADOPTED by the Council of the City of Scottsdale this 1st day of July, 2003.

_____
Mary Manross, Mayor

ATTEST:

By: _____
Sonia Robertson, City Clerk

APPROVED AS TO FORM:

By: _____
David A. Pennartz, City Attorney

ATTACHMENT 3

CITY COUNCIL REPORT

MEETING DATE: July 1, 2003 ITEM NO. 27 GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT **Downtown Overlay and Related Amendments**

REQUEST

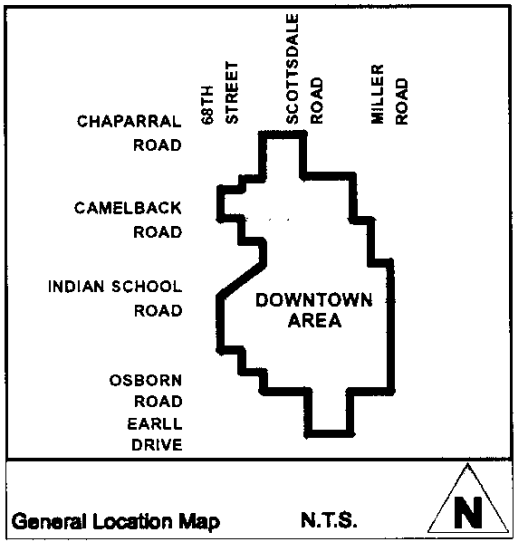
Request to approve:

1. To amend City of Scottsdale Zoning Ordinance (Ordinance No. 455) Article I., Administration and Procedures., Section 1.403. Additional conditions for specific conditional uses., Article III., Definitions.; Section 3.100 General.; Article V., District Regulations., Section 5.3002. Conflict with other sections., Article IX., Parking and Loading Requirements., Section 9.104. Programs and incentives to reduce parking requirements., and Section 9.108 Special parking requirements in districts., and to add Article VI., Supplementary Districts.; Section 6.1200., (DO) DOWNTOWN OVERLAY.
2. To apply the Downtown Overlay (DO) zoning to 750 +/- acres known as the Downtown area and generally bounded by Chaparral Road on the north, Miller Road on the east, Earll Drive on the south and 68th Street on the west.
3. To adopt Ordinance No. 3520, affirming the above text amendment.
4. To adopt Ordinance No. 3521 affirming the above rezoning

1-TA-2003 & 5-ZN-2003

Key Items for Consideration:

- The amendment to the text of the City of Scottsdale Zoning Ordinance (No. 455) would create a Downtown Overlay district.
- The Downtown Overlay is a mechanism that allows unique development standards to be tailored to the specific needs of the downtown area.
- Approval of 5-ZN-2003 would apply the Downtown Overlay (DO) to all properties within the designated Downtown area.
- Planning Commission recommended approval, 5-2.



APPLICANT CONTACT

Randy Grant
City of Scottsdale
480-312-7995

LOCATION

This Text Amendment and Overlay applies to all properties within the Downtown area, generally bounded by Chaparral Road on the north, Miller

Road on the east, Earll Drive on the south and 68th Street on the west (See General Location Map).

BACKGROUND

Zoning.
The Downtown area contains properties zoned with a wide variety of zoning districts. The Downtown Plan, adopted in 1985, created eight specific zoning districts for the downtown, but did not apply zoning to any properties. The traditional zoning categories (e.g. C-2, Central Business District) remained in place until the property owner chose to rezone to one of the Downtown Zoning categories. Some property owners have applied for and received Downtown zoning, usually for larger projects that benefited from incentives available in the Downtown districts. Among these projects are Fashion Square, the Scottsdale Memorial Osborn Medical campus, the Galleria, Loloma, and the north bank Waterfront properties.

The benefits of revitalizing smaller properties under Downtown zoning have not been as significant as those for larger properties. Most owners of smaller properties have chosen not to rezone from the C-2 or C-3 designations that were applied to the downtown when the city was originally incorporated. Attachment #4 shows the current zoning for properties in the downtown area.

General Plan.
The Downtown Plan also contains a Land Use Plan designed to guide decisions on requests to rezone to the Downtown zoning district.
Since the adoption of the Downtown Plan in 1985, it has been assumed that properties within the downtown area would ultimately be developed according to the Downtown Plan and that development would be implemented through Downtown zoning districts.

PROPOSAL

Background.
In October of 2002 staff presented to City Council a comprehensive package of revitalization tools that could be utilized to promote revitalization of Downtown Scottsdale. The creation and application of the Downtown Overlay will implement the direction staff was given by City Council and through the community involvement process.

History of Downtown Planning.
The health and vitality of Scottsdale's downtown has been an ongoing focus for the city. The adoption of the Downtown Plan and the Downtown Zoning Ordinance attempted to stimulate the development of large-scale projects while protecting Downtown's unique character districts. The Downtown Plan anticipated that property owners would, over time, choose to rezone to the Downtown district. Changing over to Downtown Zoning has been done on a case-by-case basis, and over the past 18 years less than ½ of the Downtown area has been rezoned to the Downtown District.

Description of the Downtown Overlay.
Staff is proposing an Overlay for Downtown Scottsdale. An Overlay is a zoning tool that leaves the existing zoning intact, while modifying only certain requirements and restrictions. This is the same tool that was used in the Environmentally Sensitive Lands Ordinance in 1991. The Foothills Overlay, a

similar type of overlay, was applied to 10 square miles of northwest Scottsdale in March of this year.

Goals of the Downtown Overlay.

At the October 2002 study session where the City Council discussed their goals for Downtown, the following goals emerged:

- Simplify Parking Requirements
- Promote Reinvestment in Downtown
    - Promote residential, retail, office, and dining uses
    - Establish unique development standards for Downtown
- Address concerns about bars, nightclubs, tattoo establishments and and related uses

The Overlay supplements the number of options available in the Downtown area, and provides flexibility (particularly for those properties that are not rezoned to Downtown zoning districts). The Overlay does not allow greater building heights than currently allowed in the underlying zoning district (36' max. in C-2, 18' max. in S-R, etc.). Downtown Zoning will remain an option for property owners that choose to rezone to achieve greater heights or to benefit from the development options that Downtown zoning has and will continue to provide.

How the Downtown Overlay Addresses the City's Goals for Downtown:

<u>Simplify Parking Requirements:</u>

Calculating Parking

Parking requirements for bars and restaurants are currently calculated based on the part of the building used by the public (Public Floor Area). This method makes it more difficult for the property owner or a prospective new business owner to determine how much parking is required. The proposed method will work off of the entire interior of the building (Gross Floor Area), and will be more predictable and simpler to calculate. The parking ratios have been adjusted to compensate for the new method, and the proposed parking requirements are consistent with what other cities are doing locally and nationally.

Blended Parking Rate

A blended parking rate has also been developed to help to simplify parking calculations. Currently uses such as office, retail, personal services and financial institutions are required to provide parking at different rates (1 space per 250 square feet or 1 space per 300 square feet). Standardizing the parking rates for uses that have similar parking needs would allow an office use to convert to retail or vice versa without affecting the amount of parking needed. The proposed ratio, of one space for every 300 square feet is more lenient than the current Ordinance for some of these uses, but these uses are typically open during the daytime hours and most of the parking deficiencies in Downtown are experienced at night.

In-lieu Parking

It is difficult for owners of smaller properties to provide parking on their site, especially for an expansion of an existing building. The city's in-lieu parking program allows property owners to buy credits for parking, which allows them to complete their projects. The city uses the funds collected through this program to purchase new parking lots, or to construct parking garages. Currently property owners need to rezone to the Downtown category to use the city's in-lieu parking program. These rezonings have a significant cost, and can take up to 6 months to accomplish. This proposal would allow anyone in the Downtown Overlay to use the in lieu program, and it is anticipated that providing this option would generate additional funds which to construct additional parking in Downtown.

Parking Credit Tracking System

Over the years a complicated system of parking credits has evolved in Downtown. These credits come from sources such as: improvement districts, P-3 zoning, remote parking, credit for on-street parking and evening use parking credits. Staff proposes to create a computerized system to track these credits, and to modify the ordinance to create a system of parking credits for all properties.

Parking Credits

For some properties it is difficult to track where existing parking credits come from. In many cases development occurred so long ago that there are no records of to show how parking was provided for some Downtown properties. One of the proposals for the Downtown Overlay is to create a new parking credit system that will remove much of this uncertainty. This system will make it easier for Downtown property owners, especially owners of smaller properties to improve their businesses. The new system will give parking credits equal to the parking demand of the existing or most recent use of the property.

Promote Reinvestment

One Time Parking Waiver

Owners of smaller Downtown properties often have a difficult time expanding their businesses because it is almost impossible to add parking to smaller lots. This waiver of parking requirements would allow these smaller businesses to expand without providing any more parking. The waiver would allow properties up to 12,000 square feet in size, that are used for residential, retail, office and personal services, to expand by 2,000 square feet, without additional parking required.

Allow Residential Uses Throughout Downtown

Over half of all of the land in Downtown is zoned either Central Business District (C-2) or Highway Commercial (C-3). Both of these Districts are designed for suburban development, and do not promote residential development. C-3 does not allow residences, and C-2 allows only one residence per business. The Downtown Overlay allows for free standing multi family developments, as well as units located over existing businesses. The maximum number of units is the same as the Multi-family Residential District (R-5), which allows a maximum of 23 dwelling units per acre. This maximum

is significantly lower than the 50 dwelling units per acre allowed with Downtown zoning.

Modified Development Standards

Open Space Requirements: The current zoning on over half of all Downtown properties is set up to promote suburban style development. Suburban development standards dictate a sizable amount of open spaces for all lots, with a half of all open space occurring in the front. In Downtown setting it is preferable to have buildings closer to the street where it is easier to provide shade for pedestrians and the windows and buildings create more visual interest for pedestrians. The Downtown Overlay uses a building setback to assure that structures do not loom over the street.

Floor Area Ratio: Floor area ratio (FAR) is a Zoning Ordinance tool that is used to control building massing. The existing zoning districts for over half of Downtown restrict the FAR to 0.8, which means that buildings can cover 80% of a lot. Many existing Downtown properties are already at that limit, and so are prevented from expanding. The Downtown Overlay proposes to allow an additional 0.5 FAR for residential development. The Overlay will also allow the City Council to decide if property owners can have FARs higher than allowed under the current Ordinance. The Council approval will assure that the proposed building will fit into the context of the area.

Urban Design Guidelines

The Downtown Overlay will also require that all projects in Downtown be consistent with the City's Urban Design and Architectural Guidelines.

<u>Address Land Use Concerns</u>

Distinguish Bars from Restaurants

The Downtown Overlay has new criteria to make sure that there is a clear distinction between bars and restaurants. The new standards address a variety of factors, both operational such as age verification, and physical, such as size of the bar area.

Require Use Permits for New Bars

A mixture of daytime and nighttime uses is important to the health of a Downtown. If pedestrians feel uncomfortable, or uninterested they will often turn around and will not further explore an area. If too many businesses along any given street are closed during the day, it can lead to a feeling of discomfort for pedestrians. Requiring a Use Permit will allow the City Council to determine if a new bar will tip the day and night activity balance for any given area.

Impact Analysis.

Applying the Downtown Overlay:

- Will not change the underlying zoning district on any properties.
- Will not allow additional building height.
- Will not eliminate Downtown-zoning districts or prevent property owners from seeking rezoning to those districts.

- Will require that City Council approve conditional use permits in order for any new bars/nightclubs, After Hours Establishments and tattoo parlors to be located downtown. Existing bars/nightclubs, After Hours Establishments and tattoo parlors will be "grandfathered".
- Will require that both new and existing bars and nightclubs submit Management Plans addressing maintenance and security commitments as part of the annual business license renewal process.
- Will promote integration of residential uses into downtown, and will encourage expansion and reinvestment in existing retail, office, and personal service businesses.
- Will allow any property owner within the downtown to purchase parking spaces through the in-lieu parking program (currently only properties rezoned to a Downtown District are eligible for the in-lieu program.
- Will make parking requirements more predictable and simple to calculate.

Note: For a Comparison chart showing the existing Ordinance and the proposed Ordinance, see Attachment #1.

IMPACT ANALYSIS

Policy Implications

Creating a Downtown overlay District and placing the Overlay on parcels located in Downtown Scottsdale creates opportunities for development in properties that do not have downtown Zoning. Development under the Overlay district provides benefits and incentives to existing property and business owners shifting the emphasis from assembling land and developing large projects to reinvesting in small projects. The overlay also provides additional regulations for properties with and without Downtown zoning, which address land use concerns and enhance the pedestrian friendly nature of Downtown by requiring greater oversight of potentially detrimental uses.

Community Impact.

Downtown is the symbolic center, the heart and soul of the community, it's image and function should be representative of the quality of life that has traditionally made Scottsdale a highly desirable place to live. The implementation of the Downtown Overlay will allow development that fulfills the goals to create a vibrant, diverse, creative environment, in which people can live, work, carry on business and pursue leisure activities. The goals of a successful downtown are a critical part of a vital community.

Community Involvement.

Three open houses were held with constituents within the downtown district including business owners and residents of areas within and surrounding the district. Several individual and group meetings were held with downtown property owners as well as meetings with representatives of the Scottsdale Focus group. Feedback has generally been positive.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission heard this case on June 11, 2003. Both items 1-TA-2003 and 5-ZN 2003 were approved subject to the stipulations described in Attachment 1.

The Commission generally supported the goals and purposes of the Downtown Overlay and agreed that it creates new opportunities for the development and revitalization of smaller properties within the Downtown, especially considering the parking waivers and incentives to bring residential components. Commissioners and citizens also acknowledged that this text amendment is part of a larger process and that they see it as a first step in the right direction. One Commissioner stated that the city should not apply the Downtown Overlay until more input could be obtained on the appropriate vision for Downtown.

The proposed criteria for Conditional Use permits was subject of discussion among some commissioners, specifically regarding issues related to impacts on residential uses and the benefits of requiring a use permit for after hours establishments. One commissioner expressed concerns about the fragmented nature of the regulations within the Overlay and encouraged a more holistic approach that would promote connectivity and result in coordinated solutions. One commissioner proposed to exclude the Entertainment District from the Overlay only for the requirement of obtaining a Conditional Use Permit for bars/nightclubs and after hour establishments. He stated that he is concerned about over-regulating an area and creating barriers for creativity. Following is a summary of the main stipulations recommended by the Commission:

- After Hours Establishments will be required to obtain a Conditional Use Permit within the Overlay except for the Entertainment District.
- Bars, Nightclubs and After Hours Establishments will not be required to obtain a Conditional Use permit within the Entertainment District.
- Language regarding additional criteria for Use Permits is modified as follows:
    - Delete: ~~USE WILL NOT DISRUPT EXISTING BALANCE OF DAYTIME AND NIGHTTIME USES.*~~
    - Add the word "adversely" as follows:
      USE SHALL NOT *ADVERSELY* IMPACT ADJACENT PROPERTIES FOR RESIDENTIAL USES.
    - Add: ***THE BUSINESS REMAINS OPEN AND LIQUOR SALES CONTINUE BUT***
      To: The full kitchen closes before nine 9 pm

STAFF RECOMMENDATION

Staff recommends approval of the City of Scottsdale Zoning Ordinance (Ordinance No. 455) amendment and the Downtown Overlay and its application to properties in the designated downtown area. Staff agrees with all but three of the stipulations recommended by the Planning Commission as listed below and also depicted in Attachment 1.

1. Recognizing that the elimination of the Entertainment District from

the Overlay (as it pertains to the Conditional Use Permit requirement for bars/nightclubs and after-hours establishments) would create an imbalance within the Downtown Overlay area. This could result in an undesirable over population of night uses in certain areas, creating a concentration of same-use effects and impacts, thus making it harder to maintain the mix of daytime and nighttime uses.

2. Staff considers that one of the fundamental goals of the Downtown Overlay is to promote the livability of the area, achieved in part by mixed uses, pedestrian connectivity and a balance between daytime and nighttime uses. Staff recommends maintaining the following language for the Additional Use Permit Criteria for bars/nightclubs and after hours establishments.

   ~~USE WILL NOT DISRUPT EXISTING BALANCE OF~~
   DAYTIME AND NIGHTTIME USES.

3. Impacts on residential properties by nighttime commercial uses is a major concern expressed by citizens and property owners in the downtown area. Responding to those concerns and having identified that there needs to be a mechanism to protect those existing residential properties within and adjacent to the Downtown Overlay area, staff recommends keeping the language proposed and adding the words: EXISTING to read as follows:

   USE SHALL NOT *ADVERSELY* IMPACT <u>EXISTING</u> ADJACENT PROPERTIES FOR RESIDENTIAL USES.

   Staff recognizes that this issue may apply to other areas of the city that have residential districts adjacent to nighttime commercial uses, and in the future, may propose to apply the same criteria to use permits for bars/nightclubs and after hours establishments citywide.

RESPONSIBLE DEPT(S)

Planning and Development Services Department
Current Planning Services

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APPROVED BY

6/18/03

Kroy Ekblaw Date
General Manager, Planning & Development Services Department

6/18/03

Ed Gawf Date
Deputy City Manager

ATTACHMENTS

1. Comparison Charts
1A. Applicant's Narrative
2. Context Aerial
3. General Plan Map
4. Existing Zoning Map
4A. Proposed Zoning Map
5. Proposed Ordinance Language
6. Citizen Involvement
7. Downtown Plan General Land Uses
8. Addendum to Proposed Ordinance Language
9. Ordinance No. 3520
   Exhibit 1. Ordinance Language
10. Ordinance No. 3521
    Exhibit 1. Zoning Map
11. June 11, 2003 Draft Planning Commission Minutes and Meeting Comment Cards

DOWNTOWN OVERLAY COMPARISON CHART

	Existing Ordinance	Draft - Downtown Overlay	Planning Commission Comments	Staff Comments
Parking Requirements	Restaurants, bars, nightclubs - calculated utilizing Public Floor Area. Other uses based on Gross Floor Area	Simplified calculation based on Gross Floor Area. Additional incentives for restaurants with outdoor dining areas and reastaurants that only serve breakfast and lunch.	No changes to Draft recommended	N/A
	Different requirements for different uses.	Blended parking rates for office, bank, freestanding stores, business and personal services uses.		
	Parking may be provided on site or through existing parking entitlements: improvement districts, remote parking or P-3 zoning, etc.	Same as existing.		
	On-street parking credits are granted at the rate of 1 space per 25 feet of street frontage.*3	No on-street parking credits available within the Downtown Overlay District.		
	In lieu parking may be purchased if re-zoned to Downtown.	In lieu spaces may be purchased anywhere within the Overlay.		
	Parking reductions are allowed if property participating in a parking credit program.	Same as existing. Method of calculation will include parking credits equal to the requirements of the current or most recent use of the building.*1	No changes to Draft recommended	N/A
Parking Incentive for Reinvestment	None.	One time incentive for existing businesses. Applicable for retail, office or personal service uses, limited to a maximum of 2,000 sf. of building area (additions, renovations, expansions,etc.) on lots of 12,000 sf. or less.	No changes to Draft recommended	N/A
Land use regulations	Residential uses permitted only in S-R and R districts except for properties re-zoned to Downtown.	Residential uses permitted anywhere within the Overlay.	No changes to Draft recommended	N/A
	Downtown Architectural Guidelines are a separate document, not required by ordinance.	Architectural Guidelines are required by the ordinance to assure consistent regulation.	No changes to Draft recommended	N/A
	General definitions for Resataurant and Bar/Nightclub uses.	Clear and precise criteria to define difference between a Restaurant and a Bar/Nightclub.	Clarify definiton of a bar under the following criteria: THE BUSINESS REMAINS OPEN AND LIQUOR SALES CONTINUE BUT THE FULL KITCHEN CLOSES BEFORE 9 P.M.	Supports the recommendations
	Bars/nightclubs, after-hours establishments and tattoo parlors are allowed uses.	Within the Downtown Overlay area, new bars/Nightclubs, tattoo parlors and after-hours establishments need to obtain a Conditional Use Permit*	Within the Downtown Overlay area, new bars/Nightclubs, tattoo parlors and after-hours establishments need to obtain a Conditional Use Permit* except in the Entertainment District	Suggests to keep the original Language to maintain a balance among all districts.
	No additional criteria for Conditional Use Permits for bars/night clubs and after hours establishments	Additional Criteria includes: USE WILL NOT DISRUPT EXISTING BALANCE *OF DAYTIME AND NIGHTTIME ACTIVITIES*	Recommedation to delete language	Suggests to keep the original Language to preserve balance of daytime and nighttime activities.
		Additional Criteria includes: USE SHALL NOT IMPACT ADJACENT PROPERTIES FOR RESIDENTIAL USES	Modify language to include the word ADVERSELY as follows: USE SHALL NOT ADVERSELY IMPACT ADJACENT PROPERTIES FOR RESIDENTIAL USES	Supports the recommendation and sugests adding the word EXISTING as follows: USE SHALL NOT ADVERSELY IMPACT EXISTING ADJACENT PROPERTIES FOR RESIDENTIAL USES
	Liquor license approval process is separate from the Development Review Process	Restructured Liquor license approval process - concurrent with the DR process.	No changes to Draft recommended	N/A
	In order to operate, bars/nightclubs are not currently required to submit a maintenance and operation plan in conjunction to their annual business license. After hours establishments are curently required to submit an operation plan with their annual business license.	Bars/Nightclubs are required to submit a Security and Maintenance Plan in conjunction with their annual business license. After hours establishments will continue to submitt an operation plan as part of their annual Business License.	No changes to Draft recommended	N/A
Development Standards *2	Base Floor Area Ratio (FAR) = 0.8 Maximum.	Same as existing.	No changes to Draft recommended	N/A
	a. FAR bonus maximum = None.	0.5		
	Total maximum FAR (including residential) = 0.8	1.3		
	Additional Bonus Provisions to FAR = none.	Additional Bonus Provisions to FAR = City Council review authority to exceed the max. allowed by Ordinance.		
	Building Volume = Volume ratio < 9.6 ft. * (net lot area)	No Maximum.		
	Maximum Residential Density = 1 unit per business in commercial zones and 1 unit per 3,500 s.f. in S-R districts.	Maximum Residential Density = 23 Dwelling units per Gross Acre.		
	Maximum Building Height = 18 feet in SR districts, 36 feet in all other districts.	Maximum Building Height = 18 feet in SR districts, 36 feet in all other districts.		
		Building Envelope = starting at a point 26 feet above the building setback line, the inclined stepback plane slopes at:2:1 on the front, and 1:1 on the other sides of a property.		

*1 **Only for the parking demand that is not met through on-site parking, improvement districts or remote parking.**
*2 **See additional regulations in Draft Text Ammendment**
*3 **With some exceptions**
*4 **See additional criteria in Section 6.1230**

ATTACHMENT 1

COMPARISON OF PARKING REQUIREMENTS

Use	Number of Parking Spaces Required	
	Existing Ordinance	Proposed (Downtown Overlay)
Freestanding stores	1 space per each 250 square feet of gross floor area.	1 space per each 300 square feet of gross floor area.
Office, business and professional services	1 space per each 300 square feet of gross floor area.	1 space per each 300 square feet of gross floor area.
Banks, financial, civic offices	1 space per each 250 square feet of gross floor area	1 space per each 300 square feet of gross floor area.
Personal services	1 space per each 250 square feet of gross floor area.	1 space per each 300 square feet of gross floor area.
Bars, Taverns, Nightclubs, Lounges	1 space per each 35 square feet of public floor area.	INTERIOR SPACE - 1 space per each 80 square feet of gross floor area. PATIO SPACE - 1 space per each 200 square feet of outdoor gross floor area, excluding the first 200 square feet.
Establishments with live entertainment	Base requirement (bar or restaurant) plus 1 additional space which is available per 25 square feet.	INTERIOR SPACE - 1 space per each 80 square feet of gross floor area, plus 1 space which is available to the live entertainment establishment between 8 p.m. and 2 a.m. for each 25 square feet of gross floor area.
Restaurants that serve breakfast and lunch only	INTERIOR SPACE - 1 space per each 50 square feet of public floor area. PATIO SPACE - 1 space per each 200 square feet of public floor area (excluding the first 200 square feet).	INTERIOR SPACE - 1 parking space per each 250 square feet of gross floor area. PATIO SPACE - 1 space for each 350 square feet of gross floor area (excluding the first 350 square feet of patio gross floor area, unless the space is located next to and oriented toward a publicly-owned walkway, in which case the first 500 feet is excluded).
Restaurants	1 space per each 50 square feet of public floor area.	INTERIOR SPACE - 1 parking space per each 120 square feet of gross floor area. PATIO SPACE - 1 space per each 350 square feet of gross floor area (exclude the first 350 square feet of gross floor area, unless the space is located next to and oriented toward a publicly-owned walkway, in which case the first 500 square feet is excluded.
All other uses	As specified in Article IX	

COMPARISON OF DEVELOPMENT STANDARDS

I. Development Requirements

		Existing Ordinance	Proposed (Downtown Overlay)
1	Base Floor Area Ratio (FAR)	0.8 Maximum	0.8 Maximum
	a. FAR bonus maximum	None	0.5
	Total maximum FAR (including residential)	0.8	1.3
2	Building Volume	Volume ratio < 9.6 ft. * (net lot area)	No Maximum
3	Open Space	Not less than 10% of net lot area	No Minimum

II. Site Requirements

1	Minimum Site Area	None required, (R-5 has a 35K sq. ft requirement)	None required
2	Minimum Front Building Setback	None required except for 1/2 of open space req. and 35 ft. from curb if parking occurs	16 feet from planned curb
3	Minimum Interior Side Building Setback	Minimum of 50 feet when adjacent to single family residential or alley. Minimum of 25 feet when adjacent to multi-family residential or alley	None
4	Minimum Corner Side Building Setback	None	16 feet from planned curb
5	Minimum Rear Building Setback	Minimum of 50 feet when adjacent to single family residential or alley. Minimum of 25 feet when adjacent to multi-family residential or alley	Minimum of 50 feet when adjacent to single family residential, and minimum of 25 feet when adjacent to multi-family residential. No minimum in other instances except as required for off-street loading and trash storage

III. Building Design Requirements

1	Height Maximum (all uses)	18 feet in SR districts, 36 feet in all other districts	18 feet in SR districts, 36 feet in all other districts
2	Building Envelope, starting at a point 26 feet above the building setback line, the inclined stepback plane slopes at:		2:1 on the front, and 1:1 on the other sides of a property

* (All Zoning Districts)

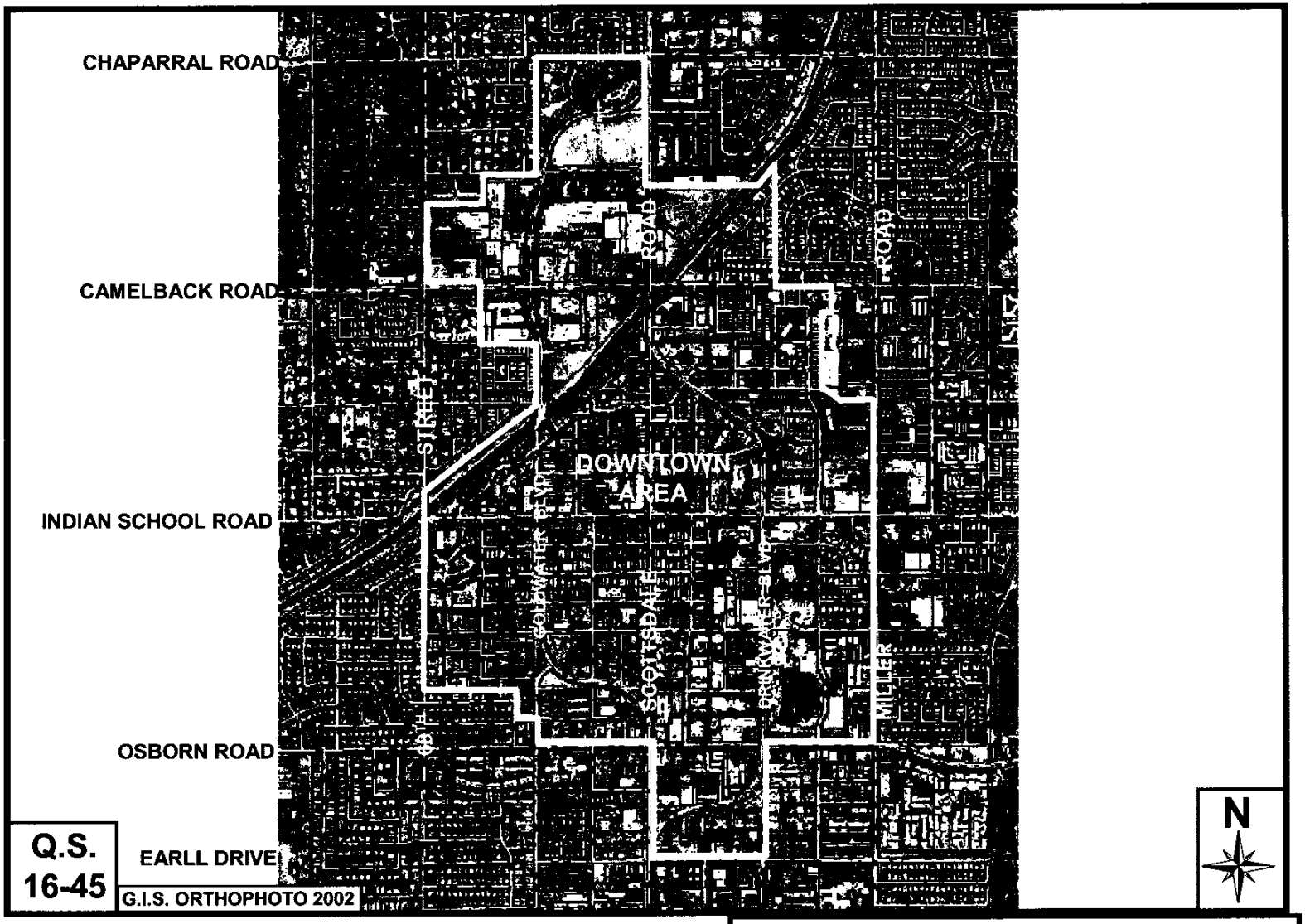
Project Narrative

This proposal has two parts: to create a Downtown Overlay (DO) District and to place the Overlay on properties located in Downtown Scottsdale. The application will place the Downtown Overlay on all of the properties shown on the attached map.

The primary purpose of the Downtown Overlay is to create new opportunities for the development or expansion of properties that do not have (D) Downtown zoning. The Overlay also provides additional regulations for properties with and without Downtown zoning. Specific objectives of the Downtown Overlay include:

- Maintain a mixture of land uses to keep Downtown vital in the day and night
- Allow for more residents in Downtown
- Simplify parking regulations to ease the Downtown development process
- Provide incentives for expansions of smaller Downtown businesses
- Enhance the family friendly nature of Downtown by requiring greater oversight of potentially detrimental uses
- Assure consistent regulation of design and architecture throughout Downtown

ATTACHMENT #1A

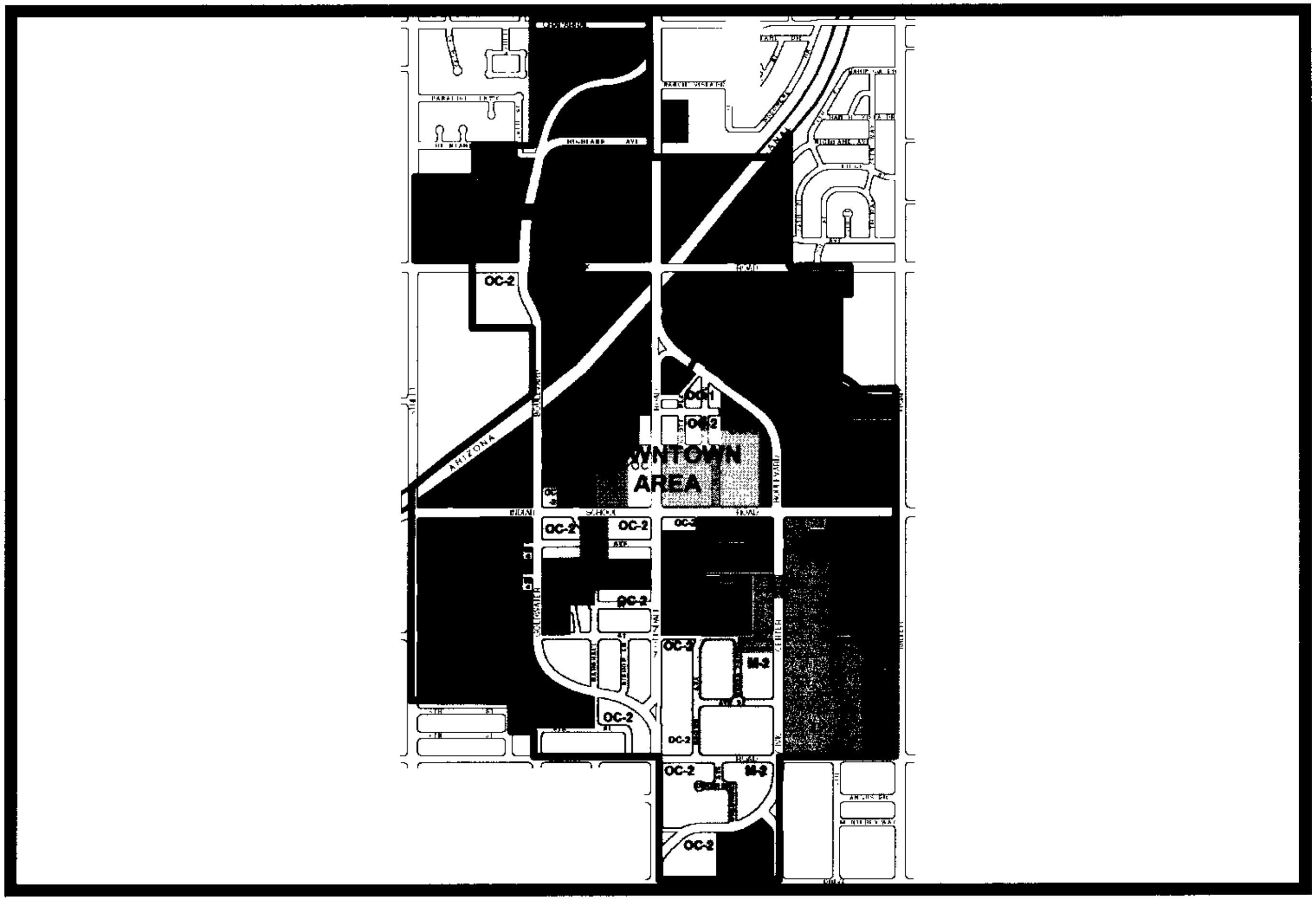


Downtown Ordinance

1-TA-2003 & 5-ZN-2003

ATTACHMENT #2

Downtown General Plan

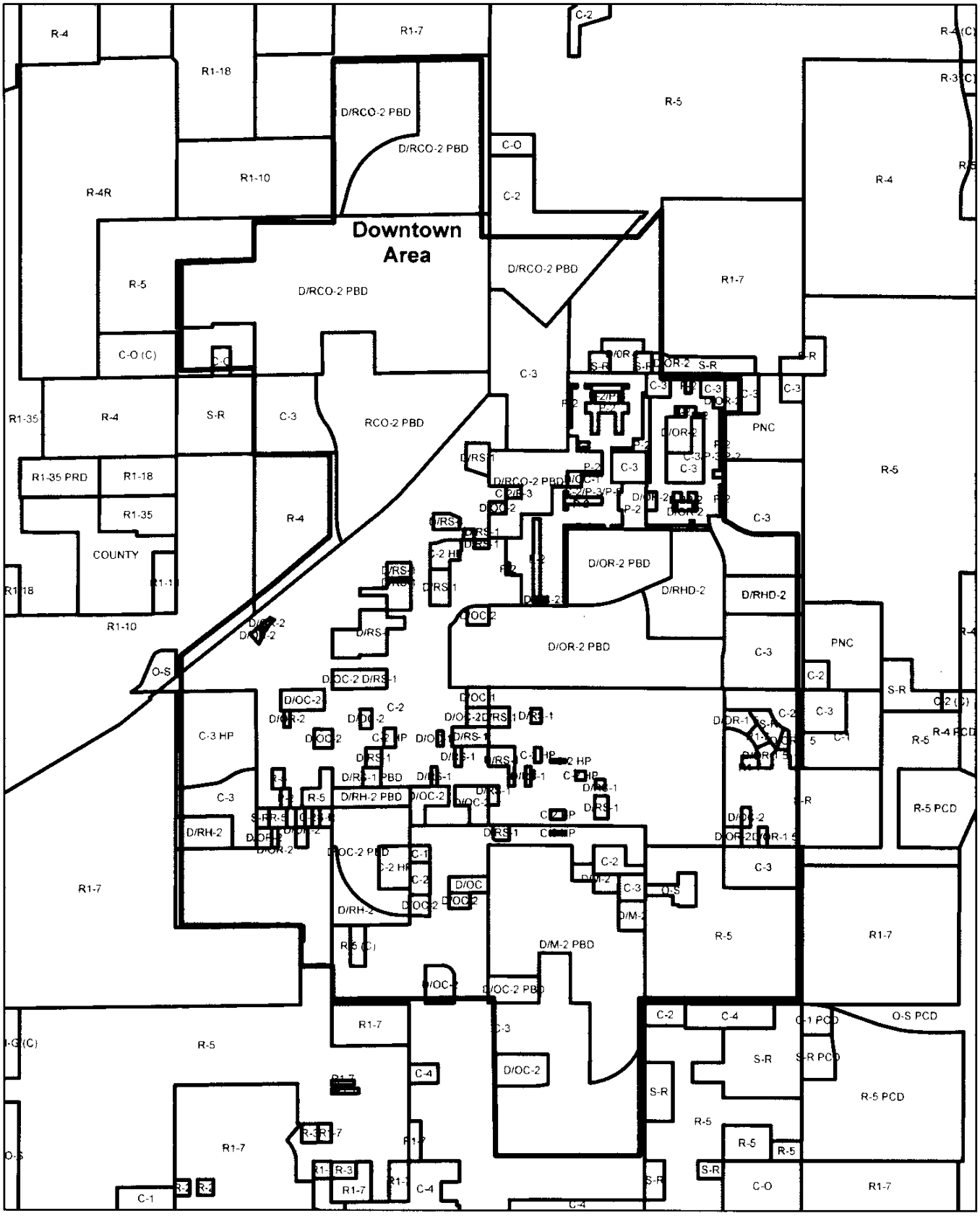


- Retail Specialty
- Office Commercial
- Civic Center
- Office Residential
- Residential/Hotel
- Regional Commercial/Office
- Residential High Density
- Medical

N

1-TA-2003 & 5-ZN-2003

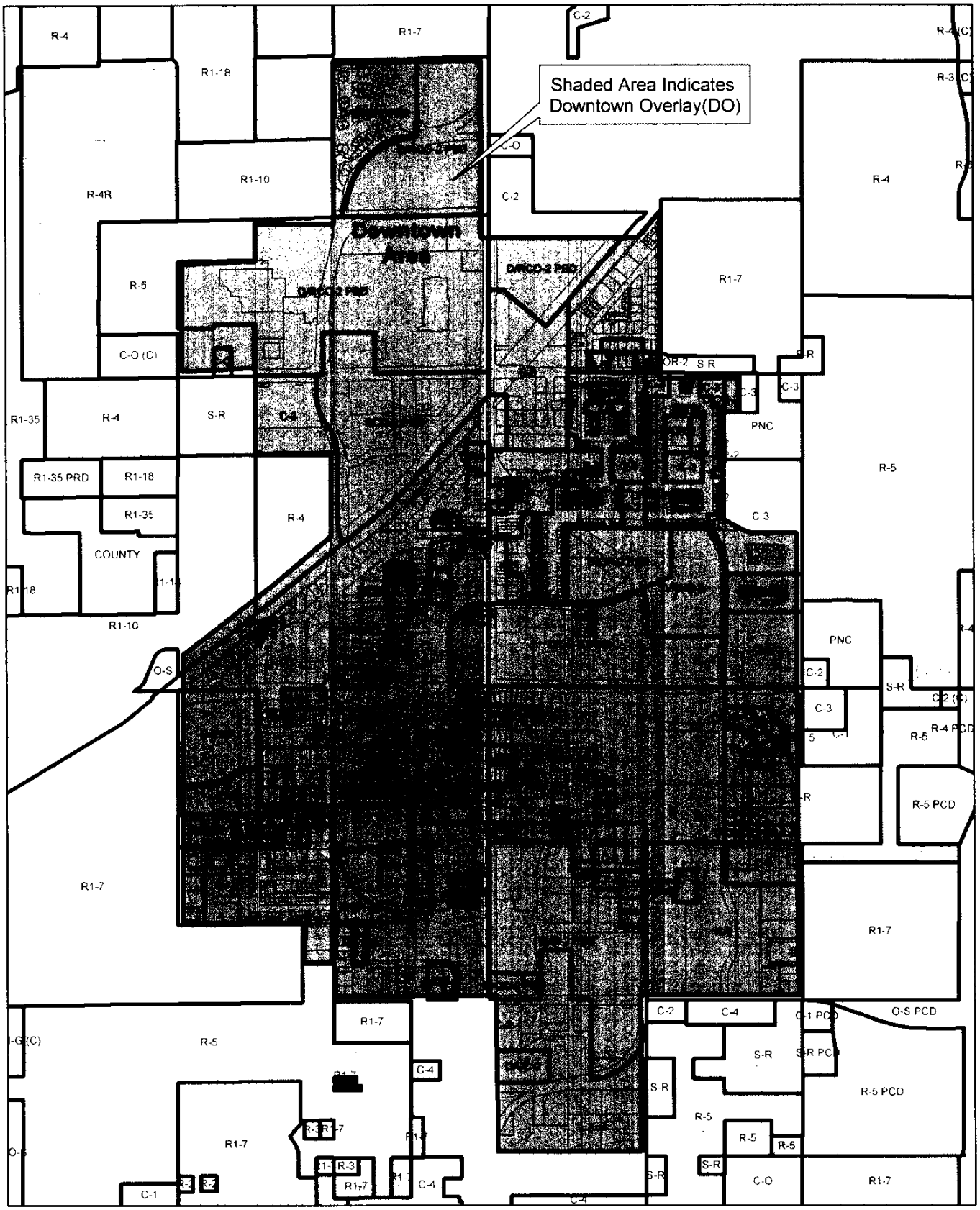
ATTACHMENT #3



1-TA-2003 / 5-ZN-2003

EXISTING ZONING

Attachment #4



1-TA-2003 / 5-ZN-2003

PROPOSED ZONING

Attachment #4A

Downtown Overlay
Proposed Ordinance Language

Note: Text format conventions:

- **NEW LANGUAGE**
- Existing language
- ~~Deleted Language~~
- ***ADDITIONS BY PLANNING COMMISSION***
- ~~***DELETIONS BY PLANNING COMMISSION****~~
- **STAFF ADDITIONS AFTER PLANNING COMMISSION**
- ~~**STAFF DELETIONS AFTER PLANNING COMMISSION**~~

Sec. 5.3000. (D) DOWNTOWN DISTRICT.

Sec. 5.3002. Conflict with other sections.

Where there is conflict between these D downtown district provisions and other sections of the zoning ordinance, these D (downtown) district regulations (sections 5.3000 through 5.3090) shall, **EXCEPT WHERE SPECIFICALLY SUPERCEDED BY THE DOWNTOWN OVERLAY *IN SECTION 6.1202 AS TO THE REGULATION OF BARS/ NIGHTCLUBS, AFTER HOURS ESTABLISHMENTS, TATTOO AND RELATED BUSINESSES, PROVISION OF PARKING AND PARKING WAIVERS*** govern development within the D downtown district.

Sec. 6.1200. (DO) DOWNTOWN OVERLAY.

Sec. 6.1201. Purpose.

THE PRIMARY PURPOSE OF THE DOWNTOWN OVERLAY DISTRICT IS TO CREATE NEW OPPORTUNITIES FOR THE DEVELOPMENT OR EXPANSION OF PROPERTIES THAT DO NOT HAVE (D) DOWNTOWN ZONING. THE (DOWNTOWN) OVERLAY ALSO PROVIDES ADDITIONAL REGULATIONS FOR PROPERTIES WITH AND WITHOUT DOWNTOWN ZONING. SPECIFIC OBJECTIVES OF THE DOWNTOWN OVERLAY INCLUDE:

A. SIMPLIFY PARKING REGULATIONS TO EASE THE DOWNTOWN DEVELOPMENT PROCESS.

B. PROVIDE INCENTIVES FOR EXPANSIONS OF SMALLER DOWNTOWN BUSINESSES.

C. ALLOW FOR MORE RESIDENCES IN DOWNTOWN.

D. MAINTAIN A MIXTURE OF LAND USES TO KEEP DOWNTOWN VITAL IN THE DAY AND NIGHT.

E. MINIMIZE THE IMPACT OF AFTER HOURS ESTABLISHMENTS, BARS/NIGHTCLUBS, TATTOO AND RELATED BUSINESSES AND OTHER SIMILAR USES ON NEIGHBORING PROPERTIES.

F. ENHANCE THE ~~FAMILY-FRIENDLY~~ NATURE OF DOWNTOWN BY ENCOURAGING USES THAT CATER TO ALL AGES AND BY REQUIRING GREATER OVERSIGHT OF POTENTIALLY DETRIMENTAL USES.

G. ASSURE CONSISTENT REGULATION OF DESIGN AND ARCHITECTURE THROUGHOUT DOWNTOWN.

Sec. 6.1202. Conflict with other sections.

WHERE THERE IS CONFLICT BETWEEN THESE (DO) DOWNTOWN OVERLAY DISTRICT PROVISIONS AND OTHER SECTIONS OF THE ZONING ORDINANCE, THESE DISTRICT REGULATIONS (SECTIONS 6.1200 THROUGH 6.1270) SHALL GOVERN DEVELOPMENT WITHIN THE DOWNTOWN OVERLAY DISTRICT. PROPERTIES WITH (D) DOWNTOWN DISTRICT ZONING SHALL NOT BE SUBJECT TO THESE REGULATIONS EXCEPT FOR THE FOLLOWING REQUIREMENTS: REGULATION OF BARS/NIGHTCLUBS, *AFTER HOURS ESTABLISHMENTS,* REGULATION OF TATTOO AND RELATED BUSINESSES, PROVISION OF PARKING, AND PARKING WAIVERS.

Sec. 6.1210. Definitions.

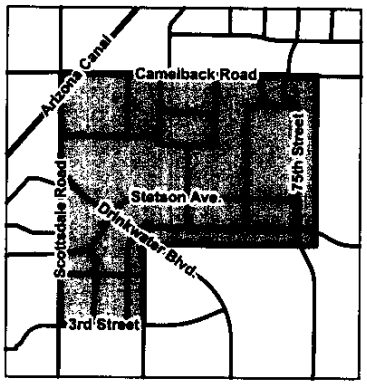
AFTER HOURS ESTABLISHMENT: INCLUDES ANY BUSINESS WHICH IS OPEN TO PATRONS DURING THE HOURS OF 1:00A.M. TO 6:00 A.M. WHICH IS THE BUSINESS PREMISES OF A STATE ON-SALE RETAIL LIQUOR LICENSEE AND WHERE DANCING OR LIVE ENTERTAINMENT MAY OCCUR.

BAR SERVICE AREA: INCLUDES THE FLOOR AREAS UNDER INDOOR AND OUTDOOR BARS AND THE FLOOR AREA BEHIND THE BARS USED FOR THE STORAGE, PREPARATION AND SERVING OF FOOD OR DRINKS.

KITCHEN: INCLUDES ONLY THOSE AREAS USED FOR THE PREPARATION AND COOKING OF FOOD AND DISHWASHING AND NOT REFRIGERATORS OR AREAS FOR THE STORAGE OF FOOD OR BEVERAGES.

TATTOO AND RELATED BUSINESSES: SHALL INCLUDE THE FOLLOWING SERVICES FOR THE HUMAN BODY: TATTOOING, BRANDING, SCARIFICATION AND PIERCING. PIERCING OF THE EARS AND TATTOOS USED FOR PERMANENT MAKEUP FOR THE FACE SHALL NOT BE CONSIDERED TATTOO AND RELATED BUSINESSES.

ENTERTAINMENT DISTRICT: SHALL INCLUDE THAT AREA GENERALLY BOUNDED BY CAMELBACK ROAD, 3RD STREET, 75TH STREET AND SCOTTSDALE ROAD AS DEPICTED IN THIS MAP:



Area B

SEC. 6.1220. APPROVALS REQUIRED.

NO STRUCTURE <u>EXCEPT A DETACHED SINGLE FAMILY DWELLING</u> SHALL BE BUILT OR ALTERED WITHOUT DEVELOPMENT REVIEW BOARD APPROVAL TO BE OBTAINED AS PRESCRIBED IN ARTICLE I, SECTION 1.900. ALL DEVELOPMENT SHALL BE CONSISTENT WITH THE CITY'S URBAN DESIGN AND ARCHITECTURAL GUIDELINES.

Sec. 6.1230. Land use standards.

A. LAND USES THAT ARE REGULATED THROUGH THE DOWNTOWN OVERLAY ARE SHOWN IN SCHEDULE A. LAND USES THAT ARE NOT LISTED IN SCHEDULE A ARE REGULATED BY THE UNDERLYING ZONING CATEGORIES. LAND USES THAT ARE REGULATED BY THE DOWNTOWN OVERLAY ARE ALLOWED AT ~~THREE (3)~~ <u>THE FOLLOWING</u> LEVELS OF PERMITTED ACTIVITY:

"P"	--PERMITTED WITHOUT CONDITIONS.
"L"	--PERMITTED WITH LIMITATIONS TO SIZE OR USE CHARACTERISTICS AS DESCRIBED IN LAND USE CLASSIFICATIONS (SECTION 6.1240).
"CU"	--PERMITTED WITH A CONDITIONAL USE PERMIT.
"N"	--NOT PERMITTED

SCHEDULE A
LAND USE REGULATION FOR THE (DO) DOWNTOWN OVERLAY DISTRICT

USE CLASSIFICATIONS	
RESIDENTIAL	
MULTIFAMILY RESIDENTIAL	P
SINGLE-FAMILY RESIDENTIAL	L(1)
COMMERCIAL	
AFTER HOURS ESTABLISHMENTS EXCEPT WITHIN THE ENTERTAINMENT DISTRICT	*CU*
AFTER HOURS ESTABLISHMENTS WITHIN THE ENTERTAINMENT DISTRICT	*P*
BARS/NIGHTCLUBS(2) IN THE ENTERTAINMENT DISTRICT	*P*
BARS/NIGHTCLUBS(2), EXCEPT FOR PROPERTIES WITHIN THE ENTERTAINMENT DISTRICT OR PROPERTIES WITH (R-5) MULTIPLE-FAMILY RESIDENTIAL DISTRICT AND (S-R) SERVICE RESIDENTIAL ZONING	CU
BARS/NIGHTCLUBS(2), FOR PROPERTIES WITH (R-5) MULTIPLE-FAMILY RESIDENTIAL DISTRICT AND (S-R) SERVICE RESIDENTIAL ZONING	N
DRIVE-THROUGH AND DRIVE-IN RESTAURANTS	N
TATTOO AND RELATED BUSINESSES, EXCEPT FOR PROPERTIES WITH (R-5) MULTIPLE-FAMILY RESIDENTIAL DISTRICT AND (S-R) SERVICE RESIDENTIAL ZONING	CU
TATTOO AND RELATED BUSINESSES, FOR PROPERTIES WITH (R-5) MULTIPLE-FAMILY RESIDENTIAL DISTRICT AND (S-R) SERVICE RESIDENTIAL ZONING	N

(1) CANNOT OCCUPY MORE THAN TWENTY-FIVE (25) PERCENT OF THE FIRST-FLOOR FLOOR AREA AND CANNOT BE LOCATED ALONG STREET FRONTAGES ON THE FIRST FLOOR.

(2) COMMERCIAL USE CLASSIFICATION AS SET IN SEC. 6.1242

~~ADDITIONAL REGULATIONS PERTAINING TO THE DOWNTOWN OVERLAY DISTRICT~~

~~B. AFTER HOURS ESTABLISHMENTS PERMITTED WITHIN THE ENTERTAINMENT DISTRICT ARE EXCEPTED FROM MEETING ANY USE PERMIT CRITERIA AS SPECIFIED IN SECTION 1.400 CONDITIONAL USE PERMIT~~

C. USES PERMITTED BY CONDITIONAL USE PERMIT UNDER THIS SECTION MUST MEET THE USE PERMIT CRITERIA AS SPECIFIED IN SECTION 1.400 CONDITIONAL USE PERMITS AND THE FOLLOWING CRITERIA:

ADDITIONAL CRITERIA FOR BARS, NIGHTCLUBS, *AFTER HOURS ESTABLISHMENTS,* TATTOO PARLORS AND RELATED BUSINESSES.

1. **BAR, NIGHTCLUB, AFTER HOURS ESTABLISHMENTS**

   - ~~**A. USE WILL NOT DISRUPT EXISTING BALANCE OF DAYTIME AND NIGHTTIME USES.***~~
   - **B. USE WILL NOT DISRUPT PEDESTRIAN-ORIENTED DAYTIME ACTIVITIES.**
   - **C. USE WILL NOT ENCOURAGE DISPLACEMENT OF DAYTIME RETAIL USES UNLESS IT CAN BE DEMONSTRATED THAT THE PROPOSED USE WILL PROMOTE DIVERSITY OF FIRST FLOOR USES ALONG THE STREET.**
   - **D. AN ACTIVE MANAGEMENT AND SECURITY PLAN SHALL BE MAINTAINED FOR THE BUSINESS**
   - **E. USE SHALL NOT *ADVERSELY* IMPACT EXISTING ADJACENT PROPERTIES FOR RESIDENTIAL USES.**
   - **F. APPLICANT SHALL DEMONSTRATE HOW NOISE AND LIGHT GENERATED BY THE USE WILL BE MITIGATED.**
   - **G. APPLICANT SHALL DEMONSTRATE THAT THE USE WILL NOT EXCEED CAPACITY FOR TRAFFIC AND PARKING IN THE AREA.**
   - **H. REQUIRED PARKING FOR THE USE SHALL BE WITHIN 600 FEET OF THE PROPERTY AND SHALL NOT BE SEPARATED FROM THE PROPERTY BY AN ARTERIAL STREET.**
   - **I. AFTER HOURS ESTABLISHMENTS MUST MAINTAIN A VALID AFTER HOURS ESTABLISHMENT LICENSE.**

2. **TATTOO PARLORS AND RELATED BUSINESSES**

   - **A. SHALL COMPLY WIT ALL APPLICABLE STATE AND COUNTY REGULATIONS**
   - **B. NO OTHER TATTOO PARLOR SHALL BE LOCATED WITHIN 1,000 FEET OF THE PROPOSED TATTOO PARLOR USE**
   - **C. THE PROPOSED TATTOO PARLOR USE ~~IF ESTABLISHED~~ SHALL NOT BE LOCATED WITHIN 500 FEET OF PROPERTY ZONED R-1 OR S-R. ~~OCCUPIED AS RESIDENTIAL USES OR S-R USES IF OCCUPIED AS A RESIDENTIAL USE~~**

Sec. 6.1240. LAND USE CLASSIFICATIONS.

Sec. 6.1241. RESIDENTIAL USE CLASSIFICATIONS.

A. MULTIFAMILY RESIDENTIAL: TWO (2) OR MORE DWELLING UNITS ON A LOT.

B. SINGLE-FAMILY RESIDENTIAL. ONE (1) DWELLING UNIT ON A LOT.

Sec. 6.1242. COMMERCIAL USE CLASSIFICATIONS.

A. AFTER HOUR ESTABLISHMENTS:. AFTER HOURS ESTABLISHMENTS OUTSIDE THE ENTERTAINMENT DISTRICT WILL BE REQUIRED TO OBTAIN A USE PERMIT AS SPECIFIED IN SECTION 1.400 CONDITIONAL USE PERMITS.

B. BAR: ANY BUSINESS THAT OFFERS ALCOHOLIC BEVERAGES FOR SALE, IS NOT AN ACCESSORY USE TO A HOTEL AND MEETS ANY OF THE FOLLOWING CRITERIA:

1. **THE BAR SERVICE AREA IS IN EXCESS OF FIFTEEN 15% OF THE GROSS FLOOR AREA**
2. **THE KITCHEN IS LESS THAN FIFTEEN 15 % OF THE GROSS FLOOR AREA**
3. **AGE VERIFICATION IS REQUESTED FOR ADMITTANCE**
4. **A COVER CHARGE IS REQUIRED FOR ADMITTANCE, EXCEPT FOR SPECIAL EVENTS AS PERMITTED THROUGH THE CITY'S SPECIAL EVENT PERMIT PROCESS**
5. **LESS THAN FORTY 40 PERCENT OF GROSS REVENUES ARE DERIVED FROM THE SALE OF PREPARED FOOD**
6. ***THE BUSINESS REMAINS OPEN AND LIQUOR SALES CONTINUE BUT* THE FULL KITCHEN CLOSES BEFORE NINE 9 PM**
7. **~~A DANCE FLOOR FOR PATRON DANCING, WHICH IS EITHER PERMANENTLY MAINTAINED OR TEMPORARILY CREATED BY THE REMOVAL OF FURNISHINGS, EXCEEDS 100 SQUARE FEET IN FLOOR AREA~~**

TAVERNS, NIGHTCLUBS AND LOUNGES SHALL BE CLASSIFIED AS BARS IF

THEY MEET THE DEFINITION ABOVE.

C. RESTAURANT: A BUSINESS WHERE THE PRIMARY ACTIVITY IS THE PREPARATION, COOKING AND SERVICE OF FOOD. AN ESTABLISHMENT THAT MEETS THE CRITERIA FOR A BAR SHALL BE CLASSIFIED AS SUCH

~~D.~~ TATTOO AND RELATED BUSINESSES: ~~ESTABLISHMENTS PROVIDING TATTOOS, BRANDING, SCARIFICATION AND PIERCING. PIERCING OF EARS AND TATTOO USED FOR PERMANENT MAKEUP FOR THE FACE SHALL NOT BE CONSIDERED BODY DECORATION~~

Sec. 6.1250. SITE DEVELOPMENT STANDARDS.

A. FOR MUNICIPAL USES THAT REQUIRE A MUNICIPAL USE MASTER PLAN, THE CITY COUNCIL CAN MODIFY THE PROPERTY DEVELOPMENT STANDARDS OF THE UNDERLYING ZONING DISTRICT

B. SCHEDULE B PRESCRIBES DEVELOPMENT STANDARDS APPLICABLE TO THE (DO) DOWNTOWN OVERLAY DISTRICT. REFERENCES IN THE ADDITIONAL REGULATIONS COLUMN REFER TO REGULATIONS LOCATED ELSEWHERE IN THE ZONING ORDINANCE.

SCHEDULE B
SITE DEVELOPMENT STANDARDS

I. *DEVELOPMENT REQUIREMENTS WITHIN OVERLAY (ALL (NON-DOWNTOWN ZONED) ZONING DISTRICTS)*				ADDITIONAL REGULATIONS
1.	FLOOR AREA RATIO (FAR)		0.8	
	a.	FAR BONUS MAXIMUM	0.5	SECTION 6.1270
	TOTAL MAXIMUM FAR (EXCLUDING RESIDENTIAL)		1.3	
2.	BUILDING VOLUME		NO MAXIMUM	
3.	OPEN SPACE		SAME AS EXISTING	
II. *SITE REQUIREMENTS WITHIN OVERLAY (ALL ZONING DISTRICTS)*				
1.	MINIMUM SITE AREA		NONE REQUIRED	
2.	MINIMUM FRONT BUILDING SETBACK		16 FEET FROM PLANNED CURB	SECTIONS 6.1251 B 6.1251 C
3.	MINIMUM INTERIOR SIDE BUILDING SETBACK		NONE	
4.	MINIMUM CORNER SIDE BUILDING SETBACK		16 FEET FROM PLANNED CURB	

5.	MINIMUM REAR BUILDING SETBACK	MINIMUM OF 50 FEET WHEN ADJACENT TO SINGLE FAMILY RESIDENTIAL, AND MINIMUM OF 25 FEET WHEN ADJACENT TO MULTI FAMILY RESIDENTIAL. NO MINIMUM IN ALL OTHER INSTANCES EXCEPT AS REQUIRED FOR OFF-STREET LOADING AND TRASH STORAGE.	

III. BUILDING DESIGN REQUIREMENTS		PROPERTIES WITH (S-R) SERVICE RESIDENTIAL ZONING	ALL OTHER ZONING DISTRICTS
1.	HEIGHT MAXIMUM (ALL USES)	18 FEET IN SR DISTRICTS, 36 FEET IN ALL OTHER DISTRICTS.	
2.	BUILDING ENVELOPE, STARTING AT A POINT 26 FEET ABOVE THE BUILDING SETBACK LINE, THE INCLINED STEPBACK PLANE SLOPES AT:	--	2:1 ON THE FRONT, AND 1:1 ON THE OTHER SIDES OF A PROPERTY

IV. RESIDENTIAL DENSITY *(*ALL ZONING DISTRICTS*)*		
1.	MAXIMUM RESIDENTIAL DENSITY	23 DWELLING UNITS PER GROSS ACRE

Sec. 6.1251. ADDITIONAL REGULATIONS.

A. SPACING BETWEEN TWO (2) BUILDINGS ON THE SAME SITE SHALL BE NOT LESS THAN TEN (10) PERCENT OF THE LARGER BUILDING'S TWO (2) LONGEST ADJACENT SIDES AT THE SPACE (*E.G.* FRONT AND SIDE)

B. WHERE EXISTING SETBACKS ON FORTY (40) PERCENT OR MORE OF A BLOCKFACE ARE LESS THAN THE SPECIFIED SETBACK, THE REQUIRED SETBACK ON A SITE TO BE DEVELOPED SHALL BE THE AVERAGE SETBACK OF THE DEVELOPED PORTION OF THE BLOCKFACE. SECTION 7.201 (ADJUSTMENT OF FRONT YARD REQUIREMENTS) SHALL NOT APPLY

C. BUILDINGS FRONTING ON CAMELBACK ROAD, INDIAN SCHOOL ROAD, AND ON SCOTTSDALE ROAD NORTH FROM CAMELBACK ROAD AND SOUTH FROM OSBORN ROAD TO THE DOWNTOWN OVERLAY DISTRICT BOUNDARY, SHALL BE SET BACK FORTY (40) FEET FROM THE PLANNED CURBLINE. BUILDINGS FRONTING ON DRINKWATER BOULEVARD AND GOLDWATER BOULEVARD SHALL BE SET BACK THIRTY (30) FEET FROM THE PLANNED CURBLINE

Sec. 6.1260. PARKING REGULATIONS.

THE PROVISIONS OF ARTICLE IX SHALL APPLY EXCEPT FOR THE FOLLOWING PROVISIONS:

COMMERCIAL/RETAIL SERVICE USES	PARKING SPACES REQUIRED
BANKS/FINANCIAL/CIVIC OFFICES	ONE (1) SPACE PER THREE HUNDRED (300) SQUARE FEET OF GROSS FLOOR AREA.
BARS, TAVERNS, NIGHTCLUBS, LOUNGES	ONE (1) SPACE PER EIGHTY (80) SQUARE FEET OF GROSS FLOOR AREA. ONE (1) SPACE PER TWO HUNDRED (200) SQUARE FEET OF OUTDOOR PUBLIC FLOOR AREA, EXCLUDING THE FIRST TWO HUNDRED (200) SQUARE FEET.
ESTABLISHMENTS WITH LIVE ENTERTAINMENT	ONE (1) SPACE PER EIGHTY (80) SQUARE FEET OF GROSS FLOOR AREA, PLUS ONE (1) SPACE WHICH IS AVAILABLE TO THE LIVE ENTERTAINMENT ESTABLISHMENT BETWEEN 8 P.M. AND 2 A.M. PER TWENTY FIVE (25) SQUARE FEET OF GROSS FLOOR AREA.
FREESTANDING STORES	ONE (1) SPACE PER THREE HUNDRED (300) SQUARE FEET OF GROSS FLOOR AREA.
OFFICE, BUSINESS AND PROFESSIONAL SERVICES	ONE (1) SPACE PER THREE HUNDRED (300) SQUARE FEET OF GROSS FLOOR AREA.

PERSONAL SERVICES	ONE (1) SPACE PER THREE HUNDRED (300) SQUARE FEET OF GROSS FLOOR AREA.
RESTAURANTS	ONE (1) PARKING SPACE FOR EACH ONE HUNDRED AND TWENTY (120) SQUARE FEET OF GROSS FLOOR AREA. ONE (1) SPACE FOR EACH THREE HUNDRED AND FIFTY (350) SQUARE FEET OF OUTDOOR PUBLIC FLOOR AREA. EXCLUDE THE FIRST THREE HUNDRED AND FIFTY (350) SQUARE FEET OF OUTDOOR PUBLIC FLOOR AREA, UNLESS THE SPACE IS LOCATED NEXT TO AND ORIENTED TOWARD A PUBLICLY OWNED WALKWAY, IN WHICH CASE THE FIRST FIVE HUNDRED (500) FEET OF OUTDOOR PUBLIC FLOOR AREA IS EXCLUDED.
RESTAURANTS THAT SERVE BREAKFAST AND LUNCH ONLY	ONE (1) PARKING SPACE FOR EACH TWO HUNDRED AND FIFTY (250) SQUARE FEET OF GROSS FLOOR AREA. ONE (1) SPACE FOR EACH THREE HUNDRED FIFTY (350) SQUARE FEET OF OUTDOOR PUBLIC FLOOR AREA. EXCLUDE THE FIRST THREE HUNDRED FIFTY (350) SQUARE FEET OF OUTDOOR PUBLIC FLOOR AREA, UNLESS THE SPACE IS LOCATED NEXT TO AND ORIENTED TOWARD A PUBLICLY OWNED WALKWAY, IN WHICH CASE THE FIRST FIVE HUNDRED (500) FEET OF OUTDOOR PUBLIC FLOOR AREA IS EXCLUDED.
ALL OTHER USES	AS SPECIFIED IN ARTICLE IX.

Sec. 6.1270. REVITALIZATION BONUS/INCENTIVE PROVISIONS.

A. **PURPOSE: THE BONUS PROVISIONS MAKE AVAILABLE INCENTIVES FOR PRIVATE SECTOR PARTICIPATION IN PURSUING REVITALIZATION OF DOWNTOWN PROPERTIES**

B. **BONUS: DEVELOPMENT REVIEW BOARD MAY APPROVE A BONUS OF UP TO 0.5 FLOOR AREA RATIO WHEN IT IS DEMONSTRATED THAT:**

1. **THE BONUS IS FOR RETAIL, OFFICE AND PERSONAL SERVICES**
2. **THAT EXISTING STRUCTURES ON THE PROPERTY ARE RENOVATED OR REMODELED IN CONJUNCTION WITH THE BONUS EXPANSION**

C. ***BONUS FLOOR AREA OR BONUS FAR:*** **AN APPLICATION FOR BONUS FLOOR AREA SHALL BE SUBMITTED WITH THE APPLICATION FOR DEVELOPMENT REVIEW, AND SHALL INCLUDE APPROPRIATE DOCUMENTS AND IDENTIFY FEATURES OF THE PROJECT THAT QUALIFY FOR THE BONUS FLOOR AREA. AS WITH PROPERTIES REZONED TO**

<u>DOWNTOWN</u>, THE BONUS SHALL EQUAL THE TOTAL FLOOR AREA ON THE SITE, DETERMINED ON THE BASIS OF SPACE USED, BUT SHALL NOT EXCEED THE MAXIMUM PERMITTED BY THE FAR RATIOS IN SECTION 6.1250, SCHEDULE B. IN LARGE PROJECTS WITH BONUS FLOOR AREA FOR RESIDENTIAL SPACE, EACH PHASE OF CONSTRUCTION MUST CONTAIN AN EQUAL PROPORTION OF RESIDENTIAL SPACE, UNLESS THE CURRENT PLANNING SERVICES DIRECTOR FINDS THAT REQUIREMENT IS INFEASIBLE BECAUSE OF THE BUILDING DESIGN. THE HEIGHT AND FLOOR AREA RATIO BONUSES SHALL NOT APPLY TO SPECIALIZED HEALTH CARE FACILITIES AND MINIMAL HEALTH CARE FACILITIES.

D. **APPROVAL FOR FAR GREATER THAN ALLOWED BY THE ORDINANCE:**
THE CITY COUNCIL SHALL HAVE THE AUTHORITY TO REVIEW AND CONSIDER A REQUEST TO EXCEED THE MAXIMUM FAR ALLOWED IN SECTION 6.1250, UPON FINDING THAT THE INCREASED FAR IS APPROPRIATE AND COMPATIBLE WITH THE SURROUNDING AREA. REQUESTS SHOULD BE SUBJECT TO ALL PUBLIC NOTICE AND COMMUNITY INVOLVEMENT REQUIREMENTS PERTINENT TO THE PUBLIC HEARING REZONING PROCESS. SEE SECTION 6.118.

Sec. 9.104. Programs and incentives to reduce parking requirements.

The following programs and incentives are provided to reduce parking requirements in the locations and situations outlined herein where the basic parking requirements of this ordinance would be excessive or detrimental to goals and policies of the city relating to mass transit and other alternative modes of transportation.

A. *Administration of parking reductions.* Programs and incentives which reduce parking requirements may be applied individually or jointly to properties and developments. Where reductions are allowed, the number of required parking spaces which are eliminated shall be accounted for both in total and by the individual program, incentive or credit which is applied. The record of such reductions shall be kept on the site plan within the project review file. Additionally, the reduction and manner in which they are applied shall be transmitted in writing to the property owner.

B. *Credit for on-street parking.* Wherever on-street angle parking is provided in the improvement of a street, credit toward on-site parking requirements shall be granted at the rate of one (1) on-site space per every twenty-five (25) feet of frontage, excluding the following:

1. Frontage on an arterial, major arterial or expressway as designated by the street classification plan.

2. Frontage on a street that is planned to be less than fifty-five (55) feet wide curb-to-curb.

3. Frontage within twenty (20) feet of a corner.

4. Frontage within ten (10) feet of each side of a driveway or alley.
THE BONUS SHALL NOT EXCEED THE MAXIMUM PERMITTED BY THE FAR RATIOS IN SECTION 6.1250, SCHEDULE B.

5. Frontage within a fire hydrant zone or other emergency access zone.

6. Locations within the (D) Downtown zoning district.

7. LOCATIONS WITHIN THE (DO) DOWNTOWN OVERLAY.

C. Credit for bicycle parking facilities.

1. Purpose. The City of Scottsdale, in keeping with the federal and Maricopa County Clean Air Acts, wishes to encourage the use of alternative transportation modes such as the bicycle instead of the private automobile. Reducing the number of vehicular parking spaces in favor of bicycle parking spaces helps to attain the standards of the Clean Air Act, to reduce impervious surfaces, and to save on land and development costs.

2. Performance standards. The City Manager or designee may authorize credit towards on-site parking requirements for all uses except residential uses, for the provision of bicycle facilities beyond those required by this ordinance, subject to the following guidelines:

a. Wherever bicycle parking is provided beyond the amount required per section 9.103.B, required bicycle parking, credit toward required on-site vehicular parking may be granted pursuant to the following:

(1) Downtown (D) zoning districts: one (1) vehicular space per eight (8) bicycle spaces.

(2) All other zoning districts: one (1) vehicular space per ten (10) bicycle spaces.

b. Wherever bicycle parking facilities exceed the minimum security level required per section 9.103.B, required bicycle parking, credit towards required onsite vehicular parking may be granted at a rate of one (1) vehicular space per every four (4) high-security bicycle spaces.

High-security bicycle spaces shall include those which protect against the theft of the entire bicycle and of its components and accessories by enclosure through the use of bicycle lockers, check-in facilities, monitored parking areas, or other means which provide the above level of security as approved by the City Manager or designee.

c. Wherever shower and changing facilities for bicyclists are provided,

credit towards required on-site vehicular parking may be granted at the rate of two (2) vehicular spaces per one (1) shower.

d. The number of vehicular spaces required per table 9.2 shall not be reduced by more than five (5) percent or ten (10) spaces, whichever is less.

D. Credit for participation in a joint parking improvement project. After the effective date of this ordinance, no new joint parking improvement projects shall be designated in the City of Scottsdale. Existing joint parking improvement projects may continue to exist, subject to the standards under which they were established.

The joint parking improvement project was a program through which a group of owners with mixed land uses including an area of more than three (3) blocks and at least six (6) separate ownerships could join together on a voluntary basis to form a parking improvement district, providing parking spaces equal to a minimum of thirty (30) percent of their combined requirements according to the ordinance under which they were established. Each participant property could have received credit for one and one-half (1 1/2) times his proportioned share of the parking spaces provided. The project required that a statement be filed with the superintendent of buildings stating the number of spaces assigned to each participating property. No adjustments were to be permitted subsequent to the filing of this statement.

E. Mixed-use shared parking programs.

1. Purpose. A mixed-use shared parking program is presented as an option to reduce the total required parking in large mixed-use facilities in which the uses operate at different times from one another throughout the day (mixed-use facilities are defined in article III, definitions). The city recognizes that strict application of the required parking ratios may result in the provision of excessive numbers of parking spaces. This results in excessive pavement and impermeable surfaces and discourages the use of alternate transportation modes. A mixed-use shared parking program allows the property developer to use parking spaces more efficiently by allowing the same spaces to be "shared" by various land uses.

2. Applicability. The mixed-use shared parking program may be applied for where mixed-uses are proposed. The applicant may choose this option or may opt to prepare a parking master plan pursuant to 9.104.F, parking master plan.

3. Procedure.

a. When a parking plan is required as part of any site plan review or permitting procedure, a mixed-use shared parking program may be requested by the applicant at the same time.

b. The mixed-use shared parking program may also be requested exclusive of any other site plan review or permitting procedure.

c. Mixed use shared parking plans shall be reviewed by, and are subject to the approval of, the City Manager or designee.

d. Alternatively, the applicant may elect to have the shared parking plan reviewed by, and subject to the approval of, the City Council in a public hearing.

e. For changes of use in mixed-use projects (as defined in article III, definitions) the applicant must demonstrate that parking necessary for the new mix of uses does not exceed the amount which was required by the previous mix of uses.

4. Limitations on mixed-use shared parking. The total number of parking spaces required by table 9.2 shall not be reduced by more than twenty (20) percent.

5. Performance standards. The City Manager or designee may authorize a reduction in the total number of required parking spaces for two (2) or more uses jointly providing on-site parking subject to the following criteria:

a. The respective hours of operation of the uses do not overlap, as demonstrated by the application on table 9.3, schedule of shared parking calculations. If one or all of the land uses proposing to use joint parking facilities do not conform to one of the general land use classifications in table 9.3, schedule of shared parking calculations, the applicant shall submit sufficient data to indicate that there is not substantial conflict in the principal operating hours of the uses. Such data may include information from a professional publication such as those published by the institute of transportation engineers (ITE) or the urban land institute (ULI), or by a professionally prepared parking study.

b. A parking plan shall be submitted for approval which shall show the layout of proposed parking.

c. The property owners involved in the joint use of on-site parking facilities shall submit a written agreement approved by the city attorney requiring that the parking spaces shall be maintained as long as the uses requiring parking exist or unless the required parking is provided elsewhere in accordance with the provisions of this article. Such written agreement shall be recorded by the property owner with the Maricopa County Recorder's Office prior to the issuance of a building permit, and a copy filed in the project review file.

Table 9.3. Schedule of Shared Parking Calculations

General Land Use Classification	Weekdays	Weekends

	Mid.-7:00 am	7:00 am.. 6:00 pm	6:00 pm Mid.	Mid- 7:00 am	7:00 am 6:00 pm	6:00 pm Mid
Office and industrial	5%	100%	5%	0%	60 %	10%
Retail	0%	100%	80%	0%	100%	60%
Residential	100%	55%	85%	100%	65%	75%
Restaurant	50%	70%	100%	45%	70%	100%
Hotel	100%	65%	90%	100%	65%	80%
Cinema/theater	0%	70%	100%	5%	70%	100%

How to use the schedule of shared parking. Calculate the number of spaces required for each use if it were free-standing (refer to the schedule of minimum on-site parking requirements). Applying the applicable general land use category to each proposed use, use the percentages to calculate the number of spaces required for each time period, (six (6) time periods per use). Add the number of spaces required for all applicable land uses to obtain a total parking requirement for each time period. Select the time period with the highest total parking requirement and use that total as your shared parking requirement.

F. Parking master plan.

1. Purpose. A parking master plan is presented as an option to promote the safe and efficient design of parking facilities for sites larger than two (2) acres or those downtown district/retail specialty uses larger than sixty thousand (60,000) square feet. The city recognizes that strict application of the required parking standards or ratios may result in the provision of parking facilities of excessive size or numbers of parking spaces. This results in excessive pavement and impermeable surfaces and may discourage the use of alternate transportation modes. A parking master plan allows the property developer to establish a more efficient parking scheme through the following requirements.

2. Applicability. The parking master plan is appropriate to alleviate problems of reuse and is also applicable as an alternative to the above mixed-use shared parking programs.

3. Procedure.

   a. When a parking plan is required as part of any site plan review or permitting procedure, the parking master plan may be requested by the applicant at the same time.

   b. The parking master plan may also be requested exclusive of any other site plan review or permitting procedure.

   c. Parking master plans shall be reviewed by, and are subject to the approval of, the City Manager or designee.

d. For changes of use in mixed-use projects (as defined in article III, definitions) the applicant must demonstrate that parking necessary for the new mix of uses does not exceed the amount which was required by the previous mix of uses.

4. Limitations on parking master plans. The City Manager or designee shall only permit reductions of up to twenty (20) percent of the total parking required per table 9.2. Reductions of more than twenty (20) percent of required parking shall be subject to approval by the City Council.

5. Elements of a parking master plan. The parking master plan shall contain the following:

   a. A plan, which graphically depicts where the spaces and parking structures are to be located.

   b. A report, which demonstrates how everything shown on the plan complies with or varies from applicable standards and procedures of the city.

   c. The plan shall show all entrances and exits for any structured parking and the relationship between parking lots or structures and the circulation master plan.

   d. The plan, supported by the report, shall show the use, number, location, and typical dimensions of parking for various vehicle types including passenger vehicles, trucks, vehicles for mobility impaired persons, buses, other transit vehicles and bicycles.

   e. The plan, supported by the report, shall include phasing plans for the construction of parking facilities and any interim facilities planned.

   f. Whenever the applicant requests any reductions in the number of required parking spaces as provided for in this ordinance, the required report shall be prepared by a registered civil engineer licensed to practice in the State of Arizona and shall document how any reductions were calculated and upon what assumptions such calculations were based.

   g. Parking ratios used within the report shall be based upon uses or categories of uses already listed within table 9.2, schedule of parking requirements. If the use is not listed in table 9.2, then the applicant may request an ordinance amendment to table 9.2 rather than a variance from its standards.

   h. Such other information as is determined by the reviewing authority to be necessary to process the parking master plan.

6. Performance standards. Parking shall comply with the requirements of the

zoning ordinance as amended except where application of the following criteria can show that a modification of the standards is warranted. This shall be determined by the City Manager or designee pending his or her review of the materials described in subsection 5. above.

a. The parking master plan shall provide sufficient number and types of spaces to serve the uses identified on the site.

b. Adequate provisions shall be made for the safety of all parking facility users, including motorists, bicyclists and pedestrians.

c. Parking master plans shall be designed to minimize or alleviate traffic problems.

d. Parking spaces shall be located near the uses they are intended to serve.

e. Adequate on-site parking shall be provided during each phase of development of the district.

f. The plan shall provide opportunities for shared parking or for other reductions in trip generation through the adoption of transportation demand management (TDM) techniques to reduce trip generation, such as car pools, van pools, bicycles, employer transit subsidies, compressed work hours, and high occupancy vehicle (HOV) parking preference.

g. Surfacing of the lot shall be dust-proof, as provided by section 9.106.C.1.a.2.

h. The parking master plan shall attempt to reduce environmental problems and to further the city's compliance with the federal Clean Air Act amendments of 1990 through appropriate site planning techniques, such as but not limited to reduced impervious surfaces and pedestrian connections.

i. Compliance with the federal Clean Air Act amendments of 1990 shall be considered.

j. Reductions in the number of parking spaces should be related to significant factors such as, but not limited to:

(1) Shared parking opportunities;

(2) Hours of operation;

(3) The availability and incorporation of transit services and facilities;

(4) Opportunities for reduced trip generation. Through pedestrian

circulation between mixed-uses (as defined in article III, definitions);

(5) Off-site traffic mitigation measures;

(6) Recognized variations in standards due to the scale of the facilities;

(7) Parking demand for a specified use; and

(8) The provisions of accessible parking spaces beyond those required per section 9.105.

k. Reductions in the number of parking spaces for neighborhood-oriented uses may be granted at a rate of one (1) space for every existing or planned residential unit located within two (2) blocks of the proposed use, and one-half (0.5) space for every existing or planned residential unit located within four (4) blocks of the proposed use.

7. Approval. The property owner involved in the parking master plan shall submit a written agreement approved by the city attorney requiring that the parking facility and any associated transportation demand management (TDM) techniques shall be maintained without alteration unless such alteration is authorized by the City Manager or designee. Such written agreement shall be recorded by the property owner with the Maricopa County Recorder's Office prior to the issuance of a building permit, and a copy filed in the project review file.

G. *Valet parking.* Reserved.

H. CREDITS WITHIN THE (DO) DOWNTOWN OVERLAY DISTRICT.

1. PURPOSE. THIS PARKING CREDIT PROGRAM WILL EASE THE PROCESS OF CALCULATING PARKING SUPPLY FOR NEW BUILDINGS, REMODELS OR FOR BUILDINGS WITH NEW TENANTS.

2. METHOD OF CALCULATION.

A. ALL PROPERTIES SHALL BE GRANTED PARKING CREDITS THAT EQUAL THE PARKING REQUIREMENTS OF THE CURRENT USE, OR OF THE MOST RECENT USE IF THE BUILDING OR PROPERTY IS VACANT.

B. PARKING CREDITS GRANTED UNDER THIS PROGRAM SHALL BE ONLY FOR THE PARKING DEMAND THAT IS NOT MET THROUGH ON-SITE PARKING, IMPROVEMENT DISTRICTS, OR REMOTE PARKING.

C. PROPERTY OWNERS ARE STILL REQUIRED TO PAY FOR ANY PUBLIC OR PRIVATE PROGRAM THAT ALLOWED THEM TO MEET THE PARKING REQUIREMENTS OF THE CURRENT USE.

D. ANY CREDITS THAT THE PROPERTY HAS THAT ARE IN EXCESS OF THE CURRENT PARKING DEMAND WILL REMAIN WITH THE PROPERTY.

E. PROPERTIES WITH P-3 PARKING DISTRICT ZONING SHALL HAVE THE OPTION OF USING THIS METHOD OF CALCULATING PARKING CREDITS, OR TO USE THE CREDITS PROVIDED BY THE P-3 PARKING DISTRICT.

I. PARKING WAIVER WITHIN THE (DO) DOWNTOWN OVERLAY DISTRICT.

1. PURPOSE. THIS PARKING WAIVER IS DESIGNED TO ACT AS AN INCENTIVE FOR THE EXPANSION OF SMALLER DOWNTOWN BUSINESSES, WHOSE EXPANSION WILL HAVE A MINIMAL IMPACT ON PARKING DEMAND.

2. APPLICABILITY. UPON APPLICATION, PROPERTY OWNERS MAY HAVE PARKING REQUIREMENTS WAIVED IF THE MEET THE FOLLOWING CRITERIA:

   A. ARE WITHIN THE (DO) DOWNTOWN OVERLAY DISTRICT.

   B. ARE USED FOR RETAIL, OFFICE OR PERSONAL SERVICES

   C. HAVE A LOT SIZE OF 12,000 NET SQUARE FEET OR LESS

3. LIMITATIONS ON THIS PARKING WAIVER.

   A. CAN BE USED ONLY ONCE

   B. CAN ONLY BE USED ON FIRST AND SECOND FLOORS

   C. CAN BE USED FOR RETAIL, OFFICE OR PERSONAL SERVICES

   D. IS LIMITED TO A MAXIMUM OF 2,000 SQUARE FEET OF BUILDING SIZE

   E. CANNOT BE USED ON LAND THAT WAS USED FOR PARKING IN THE PAST TWO YEARS.

4. RESIDENTIAL ADDITION PARKING WAIVER - THIS PARKING WAIVER IS DESIGNED TO ACT AS AN INCENTIVE FOR THE INTEGRATION OF RESIDENTIAL USES IN THE DOWNTOWN. ONE PARKING SPACE WILL BE REQUIRED PER RESIDENTIAL UNIT, THIS PARKING CAN BE REALLOCATED FROM ON SITE EXISTING PARKING FROM OTHER USES.

Sec. 9.108. Special parking requirements in districts.

A. Planned regional center. The provisions of article IX shall apply with the following exceptions:

1. There shall be no parking required for courtyards or other open spaces, except that those portions thereof used for sales or service activities shall provide parking as specified elsewhere by this ordinance.

2. Parking for dwellings shall be covered.

B. Western theme park district. The provisions of article IX shall apply with the following exceptions:

1. The number of spaces required in table 9.2 may be proportionately reduced by the provision of bus parking. Bus parking provided in lieu of automobile parking spaces may account for a maximum reduction of fifty (50) percent of the spaces required in table 9.2.

2. If any bus parking is provided in lieu of automobile parking spaces, one (1) overflow automobile parking space shall be provided for each twenty-five (25) persons for whom seating is provided as indicated on the approved development plan.

C. **DOWNTOWN OVERLAY (DO) DISTRICT (PARKING IN-LIEU ONLY) AND** *Downtown (D) districts.*

1. *Parking requirements.* Parking capacity shall satisfy the requirements of the land uses served, and can be provided by any of the following options: on-site parking, remote parking, parking in-lieu payments, or evening-use parking credits, these standards shall not be subject to variances.

2. *Parking in-lieu payments.* A parking requirement for nonresidential uses may be met by a parking in-lieu payment to the downtown parking fund and shall be used for the operation of a downtown parking program which may include, but is not linked to, the provision and maintenance of public parking spaces, the operation of tram shuttle services linking public parking facilities and downtown activity centers, and services related to the management and regulations of public parking. The city shall not be obligated to provide more than twenty (20) such spaces without the express approval of the City Council. Fractional parking requirements may be paid for on a pro rata basis. The amount of the in-lieu fee shall be established by the City Council, and may include penalties for late payment. Parking in-lieu credits may be purchased either as permanent parking credits, or as impermanent parking credits in accordance with the following:

a. *Permanent parking in-lieu credits:* parking space credits purchased

under this permanent in-lieu option shall be permanently credited to the property. These parking credits may be purchased either by installment payments to the city over a fixed period of time, or by payment of a lump sum fee.

Under the lump sum purchase option, purchase shall be made by payment the total fee in the manner described herein. The installment purchase option shall require an initial cash deposit and a written agreement binding the applicant to make subsequent monthly installment payments. The installment purchase agreement shall not create a payment term longer than fifteen (15) years, and shall include payment procedures adopted by the planning and community development department. Payment of the lump sum in-lieu fee or payment of the installment purchase deposit and execution by both parties of the installment purchase agreement, shall be completed prior to the issuance of a building permit of one is required, or to the issuance of a certificate of occupancy.

b. *Monthly parking in-lieu credits:* Parking credits obtained by payment of a monthly in-lieu fee under this option are only for the term of the activity requiring the parking and are not permanently credited to the property. Properties must first possess a minimum of four and one-half (4 1/2) parking spaces per one thousand (1,000) square feet of net floor area of building, and may thereafter subscribe for additional required parking spaces by paying the monthly in-lieu fee. Payments shall be made in accordance with a written agreement and procedures adopted by the planning and community development department. The first monthly payment shall be made prior to issuance of a certificate of occupancy for the business for whose benefit the monthly payments are made.

3. FAR bonus for underground and on-site structure parking. A maximum FAR bonus of three-tenths (0.3) is available subject to the following:

a. In a type 1 area, eighty (80) percent of the required parking is in a shared structure parking.

b. In a type 2 area, ninety (90) percent of the required parking is underground.

Where shared structure parking is underground parking provided by a project is less than stipulated above, the FAR bonus shall be adjusted downward on a pro rata basis.

Parking in-lieu payments may be utilized to satisfy shared structure parking or underground parking incentives on a space per space basis.

4. Evening-use parking. Establishments conducting business between the hours of 5:00 p.m. and 3:00 a.m. qualify for evening-use parking credits for

parking spaces identified to be vacant during those hours, subject to the following requirements:

a. Application for evening use parking credits shall be through the use permit process and shall be made by the property owner on behalf of the establishment requiring the parking credits.

b. Before qualifying for evening use parking credits, a property must possess a minimum of four and one-half (4 1/2) parking spaces per one thousand (1,000) square feet of net building area, on-site or by one (1) of the means provided for in paragraph c.(3) below.

c. Evening-use parking credits may be granted for spaces provided from one (1) or more of the following sources:

(1) Same-site: Parking spaces on the same property which are unutilized during the designated evening hours.

(2) Adjacent or nearby site: Unutilized parking spaces on adjacent or near-by properties which meet the requirements of this section and 9.107.C. and D.

(3) Public on-street and on-site spaces: After exhausting available "same-site" evening-use parking credits, additional credits may be sought using unutilized public on-street and on-site parking spaces, subject to the following requirements:

(a) The use permit application shall be accompanied by an analysis, acceptable to the City Manager or his designee, establishing the availability and location of the unutilized public parking spaces for which evening-use parking credits are being sought.

(b) The maximum number of evening-use parking credits is limited to twenty (20) parking spaces or to fifty (50) percent of the "base minimum" parking requirement ascribed to the property, whichever is less, for which a monthly fee established by City Council will be charged and deposited in a downtown parking fund.

d. The application shall provide a plan acceptable to the City Manager or his designee for the security and maintenance of the parking areas and their environs in a neat and orderly condition, and shall demonstrate that the areas meet the lighting requirements of section 7.600.

5/23/03

Citizen Review Plan: Downtown Overlay

1. **Which residents, property owners, homeowners associations, interested parties, political jurisdictions and public agencies may be affected by the application:**

   Downtown property owners, downtown businesses, the development community, realtors who deal with downtown properties, and residential areas adjacent to the downtown.

2. **How those potentially affected by an application will be notified that an application has been made:**

   - Postcard notice to all property owners in Downtown and within 750' of the downtown area
   - E-mail distribution to Development Community contacts
   - Community Input Meetings on Thursday, April 24; Monday, May 12; and Thursday, May 15
   - Display Ads for input meetings (Tribune on Wednesday, May 7; Community sections of Arizona Republic on Wednesday, May 7)
   - Fact sheet on city website, and Citizen Service Centers
   - Weekly Media updates and City's Electronic Newsletter – City Update
   - Media briefings

3. **How those potentially affected by an application will be informed of the substance of the proposed application:**

   - Postcard notice to all property owners in Downtown and within 750' feet of the downtown area
   - Fact sheet on city website, and Citizen Service Centers
   - Media update and City Update
   - Community Development Contacts E-mail list
   - E-mail notice to key stakeholders

4. **How those potentially affected by an application will be given an opportunity to discuss the application with the applicant and express their issues or concerns prior to the first public meeting:**

   - Open House meetings on April 24, May 12 and May 15 – citizen review opportunity/meeting; distribution of summary of proposed changes and draft text
   - E-mail or phone to project coordinator (Jerry Stabley)

5. **The applicants schedule for completing the citizen review process:**

- April/May – media updates; city update; e-mail distribution to development community contacts
- April/May – Community Input Open Houses
- Mid-May 2003 – finalize draft text
- Mid-May 2003- mailing to all Downtown property owners and property owners within 750' of the Downtown area re: proposed changes
- May 28 – Planning Commission review of proposed text amendment

6. **The method(s) by which the applicant will keep the City staff informed on the status of the citizen participation efforts.**
   Not applicable, city initiated text amendment.

City of Scottsdale

Planning & Development Services Open House

Your Input Needed... To update Scottsdale's Downtown Ordinance

You are cordially invited to attend one of two city-hosted community open houses:

DATE: Monday, May 12, 2003, TIME: 5:30 to 7:00 p.m.
LOCATION: One Civic Center, 7447 E. Indian School Rd., first floor conference rooms
DATE: Thursday, May 15, 2003, TIME: 10:30 a.m. to Noon
LOCATION: Downtown Storefront Office, 7094 E. Fifth Ave. (just south of Madison's)

Issues to be discussed include:

** Proposals to ensure bars are not impacting neighboring properties and are providing proper security and clean up.
** Simplified parking requirements to ease the downtown development process.
** Proposals to ensure a proliferation of massage and tattoo parlors do not impact Downtown Scottsdale.

The tentative public hearing schedule for ordinance amendments include a May 28 Planning Commission hearing and a June 17 City Council hearing.

For more information, contact Principal Planner Jerry Stabley at (480) 312-7872 or jstabley@ScottsdaleAZ.gov or access an overview of the proposed changes on the city's web site at http://www.scottsdaleaz.gov/codes/OrdinanceUpdates/DowntownZoningUpdate.asp

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5/7 Tribune

CC election signs stolen, damaged

By Thomas Ropp
Scottsdale Republic

CAVE CREEK — The head of a political action group is upset over the destruction and theft of 15 election signs.

George Ross, leader of the Committee for the Support of Home Rule, said four of his signs in support of Proposition 405 were stolen at Cave Creek Road and Rancho Manana Boulevard. Eleven other signs were run over.

"Tire marks and grease spots were still on them," Ross said.

Ross said there were probably 60 signs for each side of the Proposition 405 issue, which deals with the alternative expenditure limitation known as the Home Rule Option. A "yes" vote in the May 20 general election would allow Cave Creek to spend all available money for services that residents want. It also allows for grant money to be spent. Without the option, Cave Creek would be limited in how much it could spend based on a formula of 1980 census statistics and projected growth.

Cave Creek has been operating under the Home Rule Option for the past four years. Town staff and officials have predicted financial ruin for the town if Proposition 405 fails.

"I guess this election is heating up," said Town Manager Usama Abujbarah. "It's impossible to guard all the signs, they're everywhere."

Town Marshal Adam Stein agrees.

"In a small town like this we

YOU'RE INVITED

CITY OF SCOTTSDALE ARIZONA

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first floor conference rooms

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7094 E. Fifth Ave.
(just south of Madison's)

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or jstabley@ScottsdaleAZ.gov
or access an overview of the proposed changes on the city's web site at http://www.scottsdaleaz.gov/codes/OrdinanceUpdates/DowntownZoningUpdate.asp

Please Sign In .

Zoning Ordinance Update OPEN HOUSE - April 24, 2003
Downtown
Massage

PLEASE PRINT LEGIBLY -- AND IF AVAILABLE, PLEASE INCLUDE YOUR E-MAIL -- We will include your address on future communications related to this topic.

Name	Mailing address	City and Zip Code	E-Mail	Phone (optional)
Jenny Salarneau	THE CONSERVATORY			
Michele Rufenacht	4167 N. Marshall Way Scts.			480 946-1300
ROBERT ALEDLIE LLC	12055 N 94TH PL	85260	RALEDLIE@CLX.NET	480 351 1874
E. HOPE M. RIVERON LMT.	7375 E. 6th Ave	Scottsdale AZ 85251		480-495-5789
MARSHALL + JANENE WOODBURY	4151 N MWay	Scottsdale		480 990-0937
MARY WUESTMAN	3021 E WOODLAND	PHX 85048	MWuestman@aol.com	Janenewi@pld.com
TERRY HOOKER	2532 E Cherry Lynn	Phx 85016		480 220-0412
Randy Smith	7310 E. Stetson Drive #3	Scottsdale 85251		480·429·5919
Marilyn Wilkinson	3957 N. Brown Ave	Scottsdale 85251		480-949-9750
Carol Drudge	P.O. Box 80492	Phoenix, Az. 85060		602-840-6623
K C Miller	1100 E. Apache Tempe Az	85281	KC@swiha.net	
RON SINGH	4328 N. WELLSFARGO			

Please Sign In .

Zoning Ordinance Update OPEN HOUSE - April 24, 2003
Downtown
Massage

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Name	Mailing address	City and Zip Code	E-Mail	Phone (optional)
Lorraine White	6245 E. McDonald Dr.	P.V. Az 85253	lorrainewhite@cox.com	
CHARLES AHLBERG	2041 E. CAIRO DR.	Tempe 85282		480-838-9510
April Van Roekel	7819 E Dallas St.	Mesa 85207	COBRASSWEETIE@aol.com	(480)231-9988
CORRINNA OBERHOLTZER	POB 40271	MESA AZ 85274	CMTTM@cox.net	480 421 2689
Grant D. Helgeson	8777 E Via De Ventura	Scottsdale AZ 85258	Westlod Properties@Hot Mail.com	480-443-8570
Shawn Haycock	4835 E. Cactus Rd suite 260	Scottsdale, AZ 85254	SHaycock@Massageenvy.com	602-889-1090
Darlene L. Petersen	7327 E Wilshire Dr.			480-994-90
Karleen Gardner	4215 N. Drinkwater Bv.	Scottsdale 85251	smerentanapt.com	480 949-1222
Yvonne Miller	6637 E Moreland St	Scottsdale 85257	musicalnotes@hotmail.com	480 946 2264
Roger SABA	3965 N. BR	Scottsdale 85251	—	947 7664
ROBERT C. FIELD	7756 E. 3rd St.	SCOTTSDALE, 85257		946-7820
TOM FRENKEL	4332 N WELLS	FARGO #200		941-2260
ERIC PLANETA	P.O. Box 2118	Scottsdale Az 85252		602 390-9151
David D. Wronski	6834 E 4th St #6	Scotts 85251	davidwronski@yahoo.com	
M Doblinger	6744 E Latham	SCOTTSDALE AZ 85257	mark@primativepower.com	
SUN POK BERNARD	7357 E 6th AVE	SCOTTS, AZ 85251		9944291

Please Sign In .

Zoning Ordinance Update OPEN HOUSE - April 24, 2003
Downtown
Massage

PLEASE PRINT LEGIBLY -- AND IF AVAILABLE, PLEASE INCLUDE YOUR E-MAIL -- We will include your address on future communications related to this topic.

Name	Mailing address	City and Zip Code	E-Mail	Phone (optional)
Lewis E Briggs	965 So Reseda	Mesa 85206		480-830-4110
Judy Peters	6611 N. Hillside PV	85253		
Sam Seidito	8550 E McDowell RD			480 946 2584
Kyle Shivers	7137 E. Stetson Rd		kyle@triphoenix.com	
Jeff Dunn	7137 E. Stetson Drive	Scottsdale 85251		602.339.2633
Karl R. Kopp	7353 Scottsdale N/All	Scottsdale AZ		
Travis Leonard	7353 Scottsdale N/All	Scottsdale AZ		
Patty Badenoch	5027 N. 71 Place	Sct 85253		949 9549
Sherene Treat	8205 e Orange Blossom Lane	85250		4809948288 / 6026729464
Thomas W. Giller	c/o Alamos Mgmt Res. 2940 N 67th Pl, #16	Scotts 85251		(480) 945-2543

Please Sign In .

Zoning Ordinance Update OPEN HOUSE - April 24, 2003
Downtown
Massage

PLEASE PRINT LEGIBLY -- AND IF AVAILABLE, PLEASE INCLUDE YOUR E-MAIL -- We will include your address on future communications related to this topic.

Name	Mailing address	City and Zip Code	E-Mail	Phone (optional)
Blanca Hernandez	7333 W. Heathenbrae Dr	Phoenix Az 83033		(623) 848-0865
Erica Diaz	10504 W Indian School	Phoenix AZ		(602) 434-6206
Anne L. Payne	3314 N. 68th St #130W	Scottsdale		480 326-2049
Fred Myer	7154 E. Stetson Dr	Scottsdale 85253		480 8741002 x 11
Rolf Gruller	4161 N. Craftsman Ct.	Scottsdale 85251		480-445-4261
SAM WEST	8160 H. HAYDEN #J-210	85258		994-5728
Shiang Chen-Williams	7375 E. Stetson #102	Scottsdale AZ 85251		602-463-1079

Please Sign In .

Zoning Ordinance Update OPEN HOUSE - April 24, 2003
Downtown
Massage

PLEASE PRINT LEGIBLY -- AND IF AVAILABLE, PLEASE INCLUDE YOUR E-MAIL -- We will include your address on future communications related to this topic.

Name	Mailing address	City and Zip Code	E-Mail	Phone (optional)
YONG S GASKIN	17803 MARTHA PL	CERRITOS C.A	90703	562-547-3754
Halleman, Richard & Billy	Box 161	Scottsdale, AZ 85252	—	480-998-4560
Aron Mezo	4400 N Scottsdale	85251	APONMEZO@WSCHIRMEZ.com	
Jenny Magary	6073 W. Dublin Ln	Chandler 85226	jlmzen@cox.net	602-300-2945
Rong Wang	4435 N Buckboard TRL	Scottsdale 85261		480 203-9666
Chun Yu Wang				(480) 941-8166
Wei J Li				
Yiao Jiang Lu				
[illegible]				
MALA MAHASHINA	2928 N. 70st Suite C	Scotts 85251	~~[illegible]~~	480-694-6000
Craig McClure	7440 E. 6th Ave	Scottsdale, 85251		480-481-9891
Ed Ledgewood	" " " "	" "		480-481-9891

Zoning Ordinance Update - Community Open House

Comment Sheet - April 24, 2003

Downtown Ordinance Update

Your Name: Darlene Petersen E-mail: _____

Address: _____

City, State, Zip Code: _____

Phone Number (optional): _____

Questions and/or comments on the proposed update to Scottsdale's Downtown Ordinance Update:

Each group needed their own room.

City of Scottsdale

Planning & Development Services Open House

Your Input Needed... To update Scottsdale's Downtown Ordinance

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DATE: Monday, May 12, 2003, TIME: 5:30 to 7:00 p.m.
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5/7 Tribune

Zoning Ordinance Update - Community Open House

Comment Sheet - April 24, 2003

Downtown Ordinance Update

Your Name: WOODBURY E-mail: janenew@pld.com

Address: P O Box 329

City, State, Zip Code: Leoti, KS 67861

Phone Number (optional): KS. (620-375-2675) Scottsdale - 480-990-0937

Questions and/or comments on the proposed update to Scottsdale's Downtown Ordinance Update:

Our Property at 4151 N Marshall Way. —

Problem: trash + vandalism caused by Cajun House. Long lines into Cajun House on nights Cajun House has entertainment — Lines of rough people in line scratch up big plate glass windows ($5,000. it has cost us in the last few months!!) Also, threats to our tenants by illegally parked customers of Cajun House.

Thanks for any help you can give us.

Marshall Woodbury

P.O. Box 329
Leoti, KS 67861

Home: 620-375-2675
Fax: 620-375-2136
Cell: 620-872-1192

480-990-0937
Scottsdale, AZ 85251

4151 N Marshall Way

Sec. 5.3030. Land use standards.

Within the D district six (6) subdistricts are identified in accordance to their function within the downtown and shown on the official zoning map. Land uses appropriate to each of these subdistricts are identified and shown in schedule A. These land uses are allowed at three (3) levels of permitted activity:

"P"	--Permitted without conditions.
"L"	--Permitted with limitations to size or use characteristics as described in land use classifications (section 5.3050).
"CU"	--Permitted with a conditional use permit.

SCHEDULE A
LAND USE REGULATION FOR SUBDIVISIONS OF THE (D) DOWNTOWN DISTRICT

Use Classifications	Retail Specialty Subdistrict	Office/ Commercial Subdistrict	Office/ Residential Subdistrict	Regional Commercial Office Subdistrict	Residential/ Hotel Subdistrict	Medical Subdistrict	Civic Center Subdistrict	Residential High Density
Residential								
Day Nursery	--	--	CU	--	CU	--	--	CU
Group residential	--	--	CU	--	CU	L(2)	--	CU
Multifamily residential	L(1)	P	P	P	P	P	P	P
Specialized health care facility	--	--	CU	--	--	P	--	--
Minimal health care facility	--	--	CU	--	--	P	--	--
Single-family residential	--	--	P	--	P	--	--	--
Visitor accommodations								
Hotels, motels, and resorts	CU	P	P	P	P	--	--	CU
Commercial								
Adult businesses	--	CU	--	CU	--	--	--	--
Ambulance services	--	--	--	--	--	P	--	--
Animal sales and services								
Animal hospitals	--	P	--	P	--	--	--	--
Pet stores	L(8)	P	--	P	--	--	--	--
Banks and savings & loans	L(3)	P	P	P	--	P	--	--
With drive-up service	--	P	CU	P	--	P	--	--
Catering services	L(8)	P	--	P	--	--	--	--
Commercial recreation and entertainment								
Game center, pool halls, billiard parlors	--	CU	--	CU	--	--	--	--
Other	L(3)	P	--	P	--	--	CU	--
Communications	--	CU	--	CU	--	--	--	--

ATTACHMENT #7

facilities								
Small-scale	--	P	P	P	--	--	--	--
Eating and drinking establishments	P	P	P	P	CU	L(2)	--	--
Live entertainment establishment	CU(10)	CU(10)	--	CU(10)	CU(10)	--	--	--
With take-out service	L(3), (8)	L(3)	L(3)	L(3)	--	--	--	--
Drive-through	--	P	--	P	--	--	--	--
Bar/Microbrewery	L	L	--	L	L	--	--	--
Bar/Microbrewery with limited retail and wholesale sales	CU	CU	--	CU	--	--		
Food sales	L(3)	P	P	P	--	--	--	--
Laboratories	--	P	--	P	--	P	--	-
Maintenance and repair services	--	P	--	P	--	--	--	--
Mortuaries	--	CU	--	--	--	--	--	--
Nurseries, plant	--	CU	--	CU	--	--	--	--
Offices, business and professional	L(5)	P	P	P	--	P	--	--
Offices, medical and dental	L(5)	P	P	P	--	P	--	--
Pawnshops	--	P	--	--	--	--	--	--
Personal improvement services	L(5)	P	--	P	--	--	--	--
Health studio	--	P	--	P	--	--	--	--
Massage studio	--	P	--	P	--	--	--	--
Personal and convenience services	L(3), (6)	P	L(2), (3)	P	L(3), (4)	L(2), (3)	--	--
Personal wireless service facilities (see sections 1.400, 1.906, 3.100 and 7.200)								
Minor	--	L(12)	L(12)	L(12)	L(12)	L(12)	L(12)	L(12)
Major	--	CU(9)	CU(9)	CU(9)	CU(9)	CU(9)	CU(9)	CU(9)
Retail sales								
Arts and crafts	P	--	--	P	L(4)	--	--	--
Big box	--	--	--	P	--	--	--	--
Home furnishings and hardware	L(3)	CU(9), (11)	--	P	--	--	--	--
Other	L(3)	P	--	P	--	--	--	--
Pharmacies and medical supplies	--	P	--	P	L(4)	L(2)	--	--
Seasonal art festival	CU	--	--	CU	--	--	--	--
Secondhand appliance sales	--	P	--	--	--	--	--	--
Travel services	L(3)	P	L(2)	P	L(4)	P	--	--
Vehicle/equipment sales and services								

Automobile rentals	L(7)	CU	--	CU	L(7)	--	--	--
Automobile washing	--	CU	--	CU	--	--	--	--
Commercial parking facility	CU	CU	CU	CU	--	CU	--	--
Service stations	--	CU	CU	CU	--	--	--	--
Vehicle/equipment repair	--	CU	--	CU	--	--	--	--
Public and Semi-Public								
Clubs and lodges	L(5)	P	CU	P	CU	--	--	CU
Colleges and universities	--	CU	CU	CU	--	--	--	--
Cultural institutions	CU	CU	CU	--	CU	--	CU	--
Government offices	--	P	P	P	--	--	CU	--
Hospitals, clinics	--	--	--	--	--	CU	--	--
Municipal uses	--	P	P	P	P	--	CU	--
Religious assembly	--	CU	CU	CU	CU	--	--	CU
Schools, public or private	--	--	CU	--	CU	--	--	CU
Transportation facilities	CU	CU	--	CU	--	--	--	--
Limited	CU	CU	CU	CU	--	CU	--	--
Utilities	--	CU	CU	CU	--	--	--	--
Accessory								
Accessory parking, separate	L(8)	P	P	P	--	P	CU	--
Accessory uses and structures	P	P	P	P	P	P	CU	P

Land Use Zones

Regional Commercial/Office - The primary land use of this zone should consist of community / regional levels of commercial and office complexes. Currently it contains Fashion Square, the Galleria site, and the Portales site. The completion of the couplet system will help to spur further development of regional commercial office / residential. These developments will strengthen Downtown Scottsdale as a regional draw. The completion of the couplet and the shuttle connection from Fashion Square to the specialty shopping areas in downtown will be important to the success of this area.

Office/Residential - The primary land uses of this zone should be office and residential. Proper development flexibility with emphasis on land assembly, hared parking facilities, in-town residential mixed-use character. Within this zone is the Scottsdale High School site which will ultimately transition to this use.

Residential/Hotel – The development of residential/hotel uses in this zone will be highly compatible with the adjoining specialty shopping districts. This development will also enhance the seasonal residential and resort hotel uses currently located within this zone. The couplet system provides the access and exposure that this well maintained seasonal residential area requires to continue to develop. Consideration should be given to this land use zone for the location of a conference facility or other resort related uses which could provide an attractive draw for downtown.

Retail/Specialty - The specialty shopping uses should be limited primarily to this land use zone. It currently contains a majority of specialty retail in the downtown area and is a regional tourist attraction containing Fifth Avenue, Marshall Way, Main Street, Old Town, and Scottsdale Mall. The realignment of Marshall Way will better link these shopping districts and add to their already solid performance.

Civic Center - The Civic Center, the symbolic focus of the community, is an important element of downtown. Future expansion of the Civic Center could enable it to accommodate new, important cultural and municipal activities. Consisting of City Hall, Library, Public Safety, Justice Court, Center for the Arts, Senior Center, and Scottsdale Stadium, the Civic Center now enjoys increased exposure and improved access with the completion of Civic Center Boulevard.

Office/Commercial - This zone, which currently contains a variety of office/commercial uses, will continue to provide necessary support services for downtown and the rest of the community.

Medical - This zone will continue to be a major medical service district with a high influx of employees and clients. It currently contains medical related offices and support facilities centered around Scottsdale Memorial Hospital.

Development Types

The development types provide a preliminary pattern for the ultimate physical form (building volume, mass, scale) of Downtown Scottsdale. These types have been located to insure a visual appearance that is compatible with the character of exiting downtown landmarks. Specific design criteria based on character, physical form, functional needs and marketability are established for each district. These criteria provide the basis for the development incentive program. The Downtown Zoning Ordinance provides the legal tool for guiding specific development actions in downtown.

The following development type descriptions are recommended as a policy guide which should be used in conjunction with the Zoning Ordinance and Downtown Design Guidelines.

Type 1 Compact – Development District 1 coincided with retail / specialty land uses zones. The demand for a strong pedestrian environment in this shopping zone requires a compact, pedestrian scaled, maximum lot coverage development approach. Emphasis should be placed on arcades, balconies, courtyards, and a variety of design features, which the shopper can enjoy while experiencing this district on foot, or in a slow moving trolley. Special attention should be given to graphics, compatible building materials and architectural style. Moderate heights would be well suited to this rich, well designed specialty environment. Utilization of first levels from retail establishments and upper levels for offices could be an effective use of space allowing for introduction of more daytime users in the area.

Type 1.5 Low Scale – Development District 1.5 is most strongly associated with office / residential land use zones. This standard allows for development intensities appropriate for downtown development, but with setback and height restrictions which would assure compatibility with existing neighborhood developments.

Type 2 Intermediate - Development District 2 relates most strongly to the residential / hotel and office / residential land use zones. Although efforts should be made to achieve a good pedestrian environment, the emphasis of this development type is on intermediate scaled structures of both residential and office types with a strong reliance on efficient auto access. This development type could be characterized as a garden office / residential village with more open space / building setting than type 1. This will allow the building image vital to executive office and the privacy and amenities vital to residential / hotel to occur. Mixed–use projects should be promoted on individual sites and within individual structures. Building in this district could be taller than type 1 structures, allowing for the best achievement of quality design, cost-effective building types and the flexibility required for mixed-use. Office use of levels closer to the street with residential use of upper levels could provide incentives for residential development.

Land Use Policy

The land use policy defines functional relationships, land use types and locations, physical form and a development strategy which will maintain the character and quality of downtown. These policies will assist in the transformation of downtown into a **highly efficient mixed-use center** emphasizing specialty retail, office and residential / hotel uses. This broad land use base should help bolster specialty retail while providing an opportunity for executive office, residential and resort facilities to develop. Close coordination between the public and private sector and development standard flexibility will be necessary in order to carefully manage the design of downtown over the next 20 years. Fundamental to the revitalization of downtown Scottsdale is the understanding that the residents and visitors alike enjoy the amenities that it currently offers.

Development Incentive Program

The **involvement of the private sector is pivotal** to the successful implementation of the Downtown Plan. Flexible development standards which allow the private sector to "reach" for high level of design while assisting the city by providing necessary public facilities is integral to the development incentive program. Within this approach developers who show design innovation in achieving their performance needs, could receive development bonuses. Development bonuses in the form of increased floor area, (ratio of usable building area to parcel size), greater residential density, height, adjustments and street / alley abandonments could be awarded tom those developers who assist the city in achieving the Downtown Plan by assembling land, making street improvements, providing shared parking facilities and / or contributing to the shuttle system's development. Contributions to the downtown should be made based on the needs of particular land use zones established in the land use policy. Potential downtown needs and bonuses are listed more completely in the following table:

Downtown Needs	Downtown Bonuses
Land Assembly	Increased Floor Area Ratios
Street Improvements	Height Adjustments
Shared Parking Facilities	Residential Density Bonuses
Shuttle System	Priority Project Processing
Mixed-Use Projects	Street and Alley Abandonments
Residential Development	Flexible Parking Standards
Innovative Design	City Initiated Improvement Districts
Meaningful Open Space	City Paid Off-Sites
Historic Building Re-use	City Land Assembly (as a last resort)
Public Transit	Property Tax Deferral (or other)

The recommended Land Use Plan identifies preferred locations for primary land uses. Development of land uses which are not in conformance with the Land Use Plan or detract from primary themes of particular zones would not be eligible for bonus incentives.

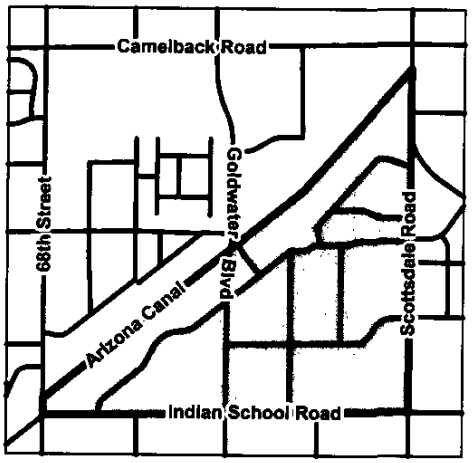
Addendum to the Ordinance

Proposed new section in the Urban Design and Architectural Guidelines.

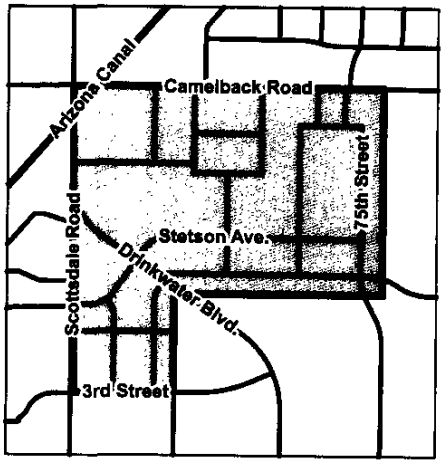
1. Drinking establishments should not occupy more than the following percentages of gross building square footage in the following areas:
    a. Area A: 15%
    b. Area B: 20%
    c. Area C: 5%
    d. Area D: 10 %

Figure 1.1

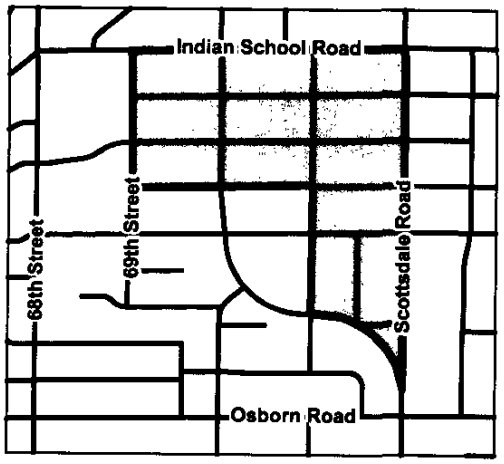
(Areas indicated by shading)



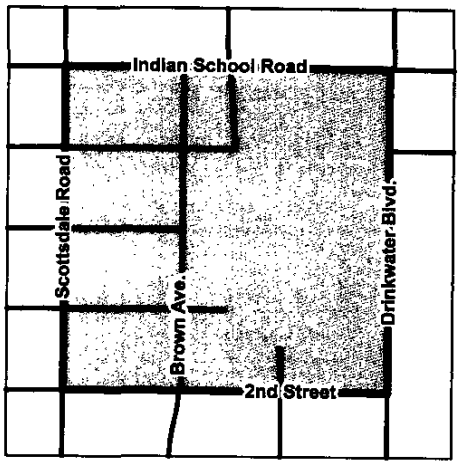
Area A



Area B



Area C



Area D

ATTACHMENT #8

ORDINANCE NO. 3520

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AMENDING ORDINANCE NO. 455, AS AMENDED, THE ZONING ORDINANCE OF THE CITY OF SCOTTSDALE, BY AMENDING ARTICLE V, DISTRICT REGULATIONS, SECTION 5.3002. CONFLICT WITH OTHER SECTIONS; ARTICLE IX, PARKING AND LOADING REQUIREMENTS, SECTION 9.104. PROGRAMS AND INCENTIVES TO REDUCE PARKING REQUIREMENTS, AND SECTION 9.109. SPECIAL PARKING REQUIREMENTS IN DISTRICTS; AND ADDING ARTICLE VI, SUPPLEMENTARY DISTRICTS, SECTION 6.1200. (DO) DOWNTOWN OVERLAY, RELATING TO THE DOWNTOWN AREA, AS PROVIDED IN CASE NO. 1-TA-2003.

WHEREAS, the City Council desires to encourage economic development in the Downtown area and create new opportunities for the development or expansion of properties in the Downtown area that do not have (D) Downtown zoning; and

WHEREAS, the City Council finds that an overlay district that maintains the existing underlying zoning while providing additional opportunities and regulations will help stimulate economic development and investment within the area to which the overlay is applied; and

WHEREAS, the City Council finds that encouraging residences within the Downtown area will encourage economic development and maintain a mixture of land uses to keep the Downtown area vital in the day and at night; and

WHEREAS, the City Council wishes to simplify Downtown parking regulations; and

WHEREAS, the City Council finds that certain land uses within the Downtown area have significant secondary effects that need to be addressed through regulation, and in particular finds that Bars, Nightclubs, and After Hours Establishments have created litter, noise, and police enforcement issues that need to be comprehensively addressed to ensure that those land uses are developed and maintained in a manner that is compatible and complementary with other businesses;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Scottsdale, as follows:

Section 1. That Ordinance No. 455, as amended, the Zoning Ordinance of the City of Scottsdale, is hereby amended by amending Article V, District Regulations, Section 5.3002. Conflict with Other Sections; and Article IX, Parking and Loading Requirements, Section 9.104. Programs and Incentives to Reduce Parking Requirements, and Section 9.109. Special Parking Requirements in Districts; and adding Article VI, Supplementary Districts, Section 6.1200. (DO) Downtown Overlay, as shown on Exhibit 1, attached hereto and incorporated herein by reference.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Council of the City of Scottsdale this ____ day of July, 2003.

ATTEST:

CITY OF SCOTTSDALE, an Arizona municipal corporation

By: _____
Sonia Robertson
City Clerk

By: _____
Mary Manross
Mayor

APPROVED AS TO FORM:

By: Patricia J. Boomsma for
David A. Pennartz
City Attorney

Downtown Overlay
Proposed Ordinance Language

Note: Text format conventions:

- **NEW LANGUAGE**
- Existing language
- ~~Deleted Language~~
- ***ADDITIONS BY PLANNING COMMISSION***
- ~~***DELETIONS BY PLANNING COMMISSION****~~
- **STAFF ADDITIONS AFTER PLANNING COMMISSION**
- ~~**STAFF DELETIONS AFTER PLANNING COMMISSION**~~

Sec. 5.3000. (D) DOWNTOWN DISTRICT.

Sec. 5.3002. Conflict with other sections.

Where there is conflict between these D downtown district provisions and other sections of the zoning ordinance, these D (downtown) district regulations (sections 5.3000 through 5.3090) shall, **EXCEPT WHERE SPECIFICALLY SUPERCEDED BY THE DOWNTOWN OVERLAY** ***IN SECTION 6.1202 AS TO THE REGULATION OF BARS/ NIGHTCLUBS, AFTER HOURS ESTABLISHMENTS, TATTOO AND RELATED BUSINESSES, PROVISION OF PARKING AND PARKING WAIVERS*** govern development within the D downtown district.

Sec. 6.1200. (DO) DOWNTOWN OVERLAY.

Sec. 6.1201. Purpose.

THE PRIMARY PURPOSE OF THE DOWNTOWN OVERLAY DISTRICT IS TO CREATE NEW OPPORTUNITIES FOR THE DEVELOPMENT OR EXPANSION OF PROPERTIES THAT DO NOT HAVE (D) DOWNTOWN ZONING. THE (DOWNTOWN) OVERLAY ALSO PROVIDES ADDITIONAL REGULATIONS FOR PROPERTIES WITH AND WITHOUT DOWNTOWN ZONING. SPECIFIC OBJECTIVES OF THE DOWNTOWN OVERLAY INCLUDE:

A. SIMPLIFY PARKING REGULATIONS TO EASE THE DOWNTOWN DEVELOPMENT PROCESS.

B. PROVIDE INCENTIVES FOR EXPANSIONS OF SMALLER DOWNTOWN BUSINESSES.

C. ALLOW FOR MORE RESIDENCES IN DOWNTOWN.

D. MAINTAIN A MIXTURE OF LAND USES TO KEEP DOWNTOWN VITAL IN THE DAY AND NIGHT.

E. MINIMIZE THE IMPACT OF AFTER HOURS ESTABLISHMENTS, BARS/NIGHTCLUBS, TATTOO AND RELATED BUSINESSES AND OTHER SIMILAR USES ON NEIGHBORING PROPERTIES.

F. ENHANCE THE ~~FAMILY-FRIENDLY~~ NATURE OF DOWNTOWN BY ENCOURAGING USES THAT CATER TO ALL AGES AND BY REQUIRING GREATER OVERSIGHT OF POTENTIALLY DETRIMENTAL USES.

G. ASSURE CONSISTENT REGULATION OF DESIGN AND ARCHITECTURE THROUGHOUT DOWNTOWN.

Sec. 6.1202. Conflict with other sections.

WHERE THERE IS CONFLICT BETWEEN THESE (DO) DOWNTOWN OVERLAY DISTRICT PROVISIONS AND OTHER SECTIONS OF THE ZONING ORDINANCE, THESE DISTRICT REGULATIONS (SECTIONS 6.1200 THROUGH 6.1270) SHALL GOVERN DEVELOPMENT WITHIN THE DOWNTOWN OVERLAY DISTRICT. PROPERTIES WITH (D) DOWNTOWN DISTRICT ZONING SHALL NOT BE SUBJECT TO THESE REGULATIONS EXCEPT FOR THE FOLLOWING REQUIREMENTS: REGULATION OF BARS/NIGHTCLUBS, *AFTER HOURS ESTABLISHMENTS,* REGULATION OF TATTOO AND RELATED BUSINESSES, PROVISION OF PARKING, AND PARKING WAIVERS.

Sec. 6.1210. Definitions.

AFTER HOURS ESTABLISHMENT: INCLUDES ANY BUSINESS WHICH IS OPEN TO PATRONS DURING THE HOURS OF 1:00A.M. TO 6:00 A.M. WHICH IS THE BUSINESS PREMISES OF A STATE ON-SALE RETAIL LIQUOR LICENSEE AND WHERE DANCING OR LIVE ENTERTAINMENT MAY OCCUR.

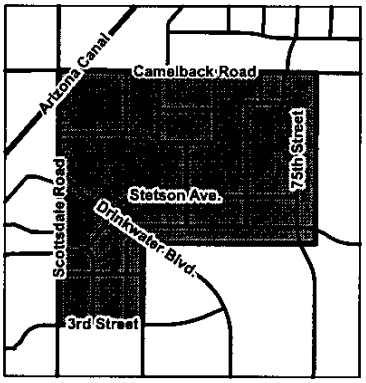
BAR SERVICE AREA: INCLUDES THE FLOOR AREAS UNDER INDOOR AND OUTDOOR BARS AND THE FLOOR AREA BEHIND THE BARS USED FOR THE STORAGE, PREPARATION AND SERVING OF FOOD OR DRINKS.

KITCHEN: INCLUDES ONLY THOSE AREAS USED FOR THE PREPARATION AND COOKING OF FOOD AND DISHWASHING AND NOT REFRIGERATORS OR AREAS FOR THE STORAGE OF FOOD OR BEVERAGES.

TATTOO AND RELATED BUSINESSES: SHALL INCLUDE THE FOLLOWING SERVICES FOR THE HUMAN BODY: TATTOOING, BRANDING, SCARIFICATION AND PIERCING. PIERCING OF THE EARS AND TATTOOS USED FOR PERMANENT MAKEUP FOR THE FACE SHALL NOT BE CONSIDERED TATTOO AND RELATED

BUSINESSES.

ENTERTAINMENT DISTRICT: SHALL INCLUDE THAT AREA GENERALLY BOUNDED BY CAMELBACK ROAD, 3RD STREET, 75TH STREET AND SCOTTSDALE ROAD AS DEPICTED IN THIS MAP:



Area B

SEC. 6.1220. APPROVALS REQUIRED.

NO STRUCTURE <u>EXCEPT A DETACHED SINGLE FAMILY DWELLING</u> SHALL BE BUILT OR ALTERED WITHOUT DEVELOPMENT REVIEW BOARD APPROVAL TO BE OBTAINED AS PRESCRIBED IN ARTICLE I, SECTION 1.900. ALL DEVELOPMENT SHALL BE CONSISTENT WITH THE CITY'S URBAN DESIGN AND ARCHITECTURAL GUIDELINES.

Sec. 6.1230. Land use standards.

A. LAND USES THAT ARE REGULATED THROUGH THE DOWNTOWN OVERLAY ARE SHOWN IN SCHEDULE A. LAND USES THAT ARE NOT LISTED IN SCHEDULE A ARE REGULATED BY THE UNDERLYING ZONING CATEGORIES. LAND USES THAT ARE REGULATED BY THE DOWNTOWN OVERLAY ARE ALLOWED AT ~~THREE (3)~~ <u>THE FOLLOWING</u> LEVELS OF PERMITTED ACTIVITY:

"P"	--PERMITTED WITHOUT CONDITIONS.
"L"	--PERMITTED WITH LIMITATIONS TO SIZE OR USE CHARACTERISTICS AS DESCRIBED IN LAND USE CLASSIFICATIONS (SECTION 6.1240).
"CU"	--PERMITTED WITH A CONDITIONAL USE PERMIT.
"N"	--NOT PERMITTED

SCHEDULE A
LAND USE REGULATION FOR THE (DO) DOWNTOWN OVERLAY DISTRICT

USE CLASSIFICATIONS	
RESIDENTIAL	
MULTIFAMILY RESIDENTIAL	P
SINGLE-FAMILY RESIDENTIAL	L(1)
COMMERCIAL	
AFTER HOURS ESTABLISHMENTS EXCEPT WITHIN THE ENTERTAINMENT DISTRICT	*CU*
AFTER HOURS ESTABLISHMENTS WITHIN THE ENTERTAINMENT DISTRICT	*P*
BARS/NIGHTCLUBS(2) IN THE ENTERTAINMENT DISTRICT	*P*
BARS/NIGHTCLUBS(2), EXCEPT FOR PROPERTIES WITHIN THE ENTERTAINMENT DISTRICT OR PROPERTIES WITH (R-5) MULTIPLE-FAMILY RESIDENTIAL DISTRICT AND (S-R) SERVICE RESIDENTIAL ZONING	CU
BARS/NIGHTCLUBS(2), FOR PROPERTIES WITH (R-5) MULTIPLE-FAMILY RESIDENTIAL DISTRICT AND (S-R) SERVICE RESIDENTIAL ZONING	N
DRIVE-THROUGH AND DRIVE-IN RESTAURANTS	N
TATTOO AND RELATED BUSINESSES, EXCEPT FOR PROPERTIES WITH (R-5) MULTIPLE-FAMILY RESIDENTIAL DISTRICT AND (S-R) SERVICE RESIDENTIAL ZONING	CU
TATTOO AND RELATED BUSINESSES, FOR PROPERTIES WITH (R-5) MULTIPLE-FAMILY RESIDENTIAL DISTRICT AND (S-R) SERVICE RESIDENTIAL ZONING	N

(1) CANNOT OCCUPY MORE THAN TWENTY-FIVE (25) PERCENT OF THE FIRST-FLOOR FLOOR AREA AND CANNOT BE LOCATED ALONG STREET FRONTAGES ON THE FIRST FLOOR.

(2) COMMERCIAL USE CLASSIFICATION AS SET IN SEC. 6.1242

~~ADDITIONAL REGULATIONS PERTAINING TO THE DOWNTOWN OVERLAY DISTRICT~~

~~B. AFTER HOURS ESTABLISHMENTS PERMITTED WITHIN THE ENTERTAINMENT DISTRICT ARE EXCEPTED FROM MEETING ANY USE PERMIT CRITERIA AS SPECIFIED IN SECTION 1.400 CONDITIONAL USE PERMIT~~

C. USES PERMITTED BY CONDITIONAL USE PERMIT UNDER THIS SECTION MUST MEET THE USE PERMIT CRITERIA AS SPECIFIED IN SECTION 1.400 CONDITIONAL USE PERMITS AND THE FOLLOWING CRITERIA:

ADDITIONAL CRITERIA FOR BARS, NIGHTCLUBS, *AFTER HOURS ESTABLISHMENTS,* TATTOO PARLORS AND RELATED BUSINESSES.

1. **BAR, NIGHTCLUB, AFTER HOURS ESTABLISHMENTS**

   ~~**A. USE WILL NOT DISRUPT EXISTING BALANCE OF DAYTIME AND NIGHTTIME USES.***~~

   B. USE WILL NOT DISRUPT PEDESTRIAN-ORIENTED DAYTIME ACTIVITIES.

   C. USE WILL NOT ENCOURAGE DISPLACEMENT OF DAYTIME RETAIL USES UNLESS IT CAN BE DEMONSTRATED THAT THE PROPOSED USE WILL PROMOTE DIVERSITY OF FIRST FLOOR USES ALONG THE STREET.

   D. AN ACTIVE MANAGEMENT AND SECURITY PLAN SHALL BE MAINTAINED FOR THE BUSINESS

   E. USE SHALL NOT *ADVERSELY* IMPACT EXISTING ADJACENT PROPERTIES FOR RESIDENTIAL USES.

   F. APPLICANT SHALL DEMONSTRATE HOW NOISE AND LIGHT GENERATED BY THE USE WILL BE MITIGATED.

   G. APPLICANT SHALL DEMONSTRATE THAT THE USE WILL NOT EXCEED CAPACITY FOR TRAFFIC AND PARKING IN THE AREA.

   H. REQUIRED PARKING FOR THE USE SHALL BE WITHIN 600 FEET OF THE PROPERTY AND SHALL NOT BE SEPARATED FROM THE PROPERTY BY AN ARTERIAL STREET.

   I. AFTER HOURS ESTABLISHMENTS MUST MAINTAIN A VALID AFTER HOURS ESTABLISHMENT LICENSE.

2. **TATTOO PARLORS AND RELATED BUSINESSES**

   A. SHALL COMPLY WIT ALL APPLICABLE STATE AND COUNTY REGULATIONS

   B. NO OTHER TATTOO PARLOR SHALL BE LOCATED WITHIN 1,000 FEET OF THE PROPOSED TATTOO PARLOR USE

   C. THE PROPOSED TATTOO PARLOR USE ~~IF ESTABLISHED~~ SHALL NOT BE LOCATED WITHIN 500 FEET OF PROPERTY ZONED R-1 OR S-R. ~~OCCUPIED AS RESIDENTIAL USES OR S-R USES IF OCCUPIED AS A RESIDENTIAL USE~~

Sec. 6.1240. LAND USE CLASSIFICATIONS.

Sec. 6.1241. RESIDENTIAL USE CLASSIFICATIONS.

A. MULTIFAMILY RESIDENTIAL*:* TWO (2) OR MORE DWELLING UNITS ON A LOT.

B. SINGLE-FAMILY RESIDENTIAL. ONE (1) DWELLING UNIT ON A LOT.

Sec. 6.1242. COMMERCIAL USE CLASSIFICATIONS.

A. <u>AFTER HOUR ESTABLISHMENTS:.. AFTER HOURS ESTABLISHMENTS OUTSIDE THE ENTERTAINMENT DISTRICT WILL BE REQUIRED TO OBTAIN A USE PERMIT AS SPECIFIED IN SECTION 1.400 CONDITIONAL USE PERMITS.</u>

B. BAR: <u>ANY</u> BUSINESS THAT OFFERS ALCOHOLIC BEVERAGES FOR SALE, IS NOT AN ACCESSORY USE TO A HOTEL AND MEETS ANY OF THE FOLLOWING CRITERIA:

1. THE BAR SERVICE AREA IS IN EXCESS OF <u>FIFTEEN</u> 15% OF THE GROSS FLOOR AREA

2. THE KITCHEN IS LESS THAN <u>FIFTEEN</u> 15 % OF THE GROSS FLOOR AREA

3. AGE VERIFICATION IS REQUESTED FOR ADMITTANCE

4. A COVER CHARGE IS REQUIRED FOR ADMITTANCE, EXCEPT FOR SPECIAL EVENTS AS PERMITTED THROUGH THE CITY'S SPECIAL EVENT PERMIT PROCESS

5. LESS THAN <u>FORTY</u> 40 PERCENT OF GROSS REVENUES ARE DERIVED FROM THE SALE OF PREPARED FOOD

6. *THE BUSINESS REMAINS OPEN AND LIQUOR SALES CONTINUE BUT* THE FULL KITCHEN CLOSES BEFORE <u>NINE</u> 9 PM

7. ~~A DANCE FLOOR FOR PATRON DANCING, WHICH IS EITHER PERMANENTLY MAINTAINED OR TEMPORARILY CREATED BY~~

~~THE REMOVAL OF FURNISHINGS, EXCEEDS 100 SQUARE FEET IN FLOOR AREA~~

TAVERNS, NIGHTCLUBS AND LOUNGES SHALL BE CLASSIFIED AS BARS IF THEY MEET THE DEFINITION ABOVE.

C. RESTAURANT: A BUSINESS WHERE THE PRIMARY ACTIVITY IS THE PREPARATION, COOKING AND SERVICE OF FOOD. AN ESTABLISHMENT THAT MEETS THE CRITERIA FOR A BAR SHALL BE CLASSIFIED AS SUCH

~~D.~~ TATTOO AND RELATED BUSINESSES*:* ~~ESTABLISHMENTS PROVIDING TATTOOS, BRANDING, SCARIFICATION AND PIERCING. PIERCING OF EARS AND TATTOO USED FOR PERMANENT MAKEUP FOR THE FACE SHALL NOT BE CONSIDERED BODY DECORATION~~

Sec. 6.1250. SITE DEVELOPMENT STANDARDS.

A. FOR MUNICIPAL USES THAT REQUIRE A MUNICIPAL USE MASTER PLAN, THE CITY COUNCIL CAN MODIFY THE PROPERTY DEVELOPMENT STANDARDS OF THE UNDERLYING ZONING DISTRICT

B. SCHEDULE B PRESCRIBES DEVELOPMENT STANDARDS APPLICABLE TO THE (DO) DOWNTOWN OVERLAY DISTRICT. REFERENCES IN THE ADDITIONAL REGULATIONS COLUMN REFER TO REGULATIONS LOCATED ELSEWHERE IN THE ZONING ORDINANCE.

SCHEDULE B
SITE DEVELOPMENT STANDARDS

I. *DEVELOPMENT REQUIREMENTS WITHIN OVERLAY (ALL (NON-DOWNTOWN ZONED) ZONING DISTRICTS)*				ADDITIONAL REGULATIONS
1.	FLOOR AREA RATIO (FAR)		0.8	
	a.	FAR BONUS MAXIMUM	0.5	SECTION 6.1270
	TOTAL MAXIMUM FAR (EXCLUDING RESIDENTIAL)		1.3	
2.	BUILDING VOLUME		NO MAXIMUM	
3.	OPEN SPACE		SAME AS EXISTING	
II. *SITE REQUIREMENTS WITHIN OVERLAY (ALL ZONING DISTRICTS)*				
1.	MINIMUM SITE AREA		NONE REQUIRED	
2.	MINIMUM FRONT BUILDING SETBACK		16 FEET FROM PLANNED CURB	SECTIONS 6.1251 B 6.1251 C

3.	MINIMUM INTERIOR SIDE BUILDING SETBACK	NONE	
4.	MINIMUM CORNER SIDE BUILDING SETBACK	16 FEET FROM PLANNED CURB	
5.	MINIMUM REAR BUILDING SETBACK	MINIMUM OF 50 FEET WHEN ADJACENT TO SINGLE FAMILY RESIDENTIAL, AND MINIMUM OF 25 FEET WHEN ADJACENT TO MULTI FAMILY RESIDENTIAL. NO MINIMUM IN ALL OTHER INSTANCES EXCEPT AS REQUIRED FOR OFF-STREET LOADING AND TRASH STORAGE.	

III. BUILDING DESIGN REQUIREMENTS		PROPERTIES WITH (S-R) SERVICE RESIDENTIAL ZONING	ALL OTHER ZONING DISTRICTS
1.	HEIGHT MAXIMUM (ALL USES)	18 FEET IN SR DISTRICTS, 36 FEET IN ALL OTHER DISTRICTS.	
2.	BUILDING ENVELOPE, STARTING AT A POINT 26 FEET ABOVE THE BUILDING SETBACK LINE, THE INCLINED STEPBACK PLANE SLOPES AT:	--	2:1 ON THE FRONT, AND 1:1 ON THE OTHER SIDES OF A PROPERTY

IV. RESIDENTIAL DENSITY (ALL ZONING DISTRICTS)		
1.	MAXIMUM RESIDENTIAL DENSITY	23 DWELLING UNITS PER GROSS ACRE

Sec. 6.1251. ADDITIONAL REGULATIONS.

A. SPACING BETWEEN TWO (2) BUILDINGS ON THE SAME SITE SHALL

BE NOT LESS THAN TEN (10) PERCENT OF THE LARGER BUILDING'S TWO (2) LONGEST ADJACENT SIDES AT THE SPACE (*E.G.* FRONT AND SIDE)

B. WHERE EXISTING SETBACKS ON FORTY (40) PERCENT OR MORE OF A BLOCKFACE ARE LESS THAN THE SPECIFIED SETBACK, THE REQUIRED SETBACK ON A SITE TO BE DEVELOPED SHALL BE THE AVERAGE SETBACK OF THE DEVELOPED PORTION OF THE BLOCKFACE. SECTION 7.201 (ADJUSTMENT OF FRONT YARD REQUIREMENTS) SHALL NOT APPLY

C. BUILDINGS FRONTING ON CAMELBACK ROAD, INDIAN SCHOOL ROAD, AND ON SCOTTSDALE ROAD NORTH FROM CAMELBACK ROAD AND SOUTH FROM OSBORN ROAD TO THE DOWNTOWN OVERLAY DISTRICT BOUNDARY, SHALL BE SET BACK FORTY (40) FEET FROM THE PLANNED CURBLINE. BUILDINGS FRONTING ON DRINKWATER BOULEVARD AND GOLDWATER BOULEVARD SHALL BE SET BACK THIRTY (30) FEET FROM THE PLANNED CURBLINE

Sec. 6.1260. PARKING REGULATIONS.

THE PROVISIONS OF ARTICLE IX SHALL APPLY EXCEPT FOR THE FOLLOWING PROVISIONS:

COMMERCIAL/RETAIL SERVICE USES	PARKING SPACES REQUIRED
BANKS/FINANCIAL/CIVIC OFFICES	ONE (1) SPACE PER THREE HUNDRED (300) SQUARE FEET OF GROSS FLOOR AREA.
BARS, TAVERNS, NIGHTCLUBS, LOUNGES	ONE (1) SPACE PER EIGHTY (80) SQUARE FEET OF GROSS FLOOR AREA. ONE (1) SPACE PER TWO HUNDRED (200) SQUARE FEET OF OUTDOOR PUBLIC FLOOR AREA, EXCLUDING THE FIRST TWO HUNDRED (200) SQUARE FEET.
ESTABLISHMENTS WITH LIVE ENTERTAINMENT	ONE (1) SPACE PER EIGHTY (80) SQUARE FEET OF GROSS FLOOR AREA, PLUS ONE (1) SPACE WHICH IS AVAILABLE TO THE LIVE ENTERTAINMENT ESTABLISHMENT BETWEEN 8 P.M. AND 2 A.M. PER TWENTY FIVE (25) SQUARE FEET OF GROSS FLOOR AREA.
FREESTANDING STORES	ONE (1) SPACE PER THREE HUNDRED (300) SQUARE FEET OF GROSS FLOOR AREA.
OFFICE, BUSINESS AND PROFESSIONAL SERVICES	ONE (1) SPACE PER THREE HUNDRED (300) SQUARE FEET OF GROSS FLOOR AREA.

PERSONAL SERVICES	ONE (1) SPACE PER THREE HUNDRED (300) SQUARE FEET OF GROSS FLOOR AREA.
RESTAURANTS	ONE (1) PARKING SPACE FOR EACH ONE HUNDRED AND TWENTY (120) SQUARE FEET OF GROSS FLOOR AREA. ONE (1) SPACE FOR EACH THREE HUNDRED AND FIFTY (350) SQUARE FEET OF OUTDOOR PUBLIC FLOOR AREA. EXCLUDE THE FIRST THREE HUNDRED AND FIFTY (350) SQUARE FEET OF OUTDOOR PUBLIC FLOOR AREA, UNLESS THE SPACE IS LOCATED NEXT TO AND ORIENTED TOWARD A PUBLICLY OWNED WALKWAY, IN WHICH CASE THE FIRST FIVE HUNDRED (500) FEET OF OUTDOOR PUBLIC FLOOR AREA IS EXCLUDED.
RESTAURANTS THAT SERVE BREAKFAST AND LUNCH ONLY	ONE (1) PARKING SPACE FOR EACH TWO HUNDRED AND FIFTY (250) SQUARE FEET OF GROSS FLOOR AREA. ONE (1) SPACE FOR EACH THREE HUNDRED FIFTY (350) SQUARE FEET OF OUTDOOR PUBLIC FLOOR AREA. EXCLUDE THE FIRST THREE HUNDRED FIFTY (350) SQUARE FEET OF OUTDOOR PUBLIC FLOOR AREA, UNLESS THE SPACE IS LOCATED NEXT TO AND ORIENTED TOWARD A PUBLICLY OWNED WALKWAY, IN WHICH CASE THE FIRST FIVE HUNDRED (500) FEET OF OUTDOOR PUBLIC FLOOR AREA IS EXCLUDED.
ALL OTHER USES	AS SPECIFIED IN ARTICLE IX.

Sec. 6.1270. REVITALIZATION BONUS/INCENTIVE PROVISIONS.

A. **PURPOSE: THE BONUS PROVISIONS MAKE AVAILABLE INCENTIVES FOR PRIVATE SECTOR PARTICIPATION IN PURSUING REVITALIZATION OF DOWNTOWN PROPERTIES**

B. **BONUS: DEVELOPMENT REVIEW BOARD MAY APPROVE A BONUS OF UP TO 0.5 FLOOR AREA RATIO WHEN IT IS DEMONSTRATED THAT:**

1. **THE BONUS IS FOR RETAIL, OFFICE AND PERSONAL SERVICES**
2. **THAT EXISTING STRUCTURES ON THE PROPERTY ARE RENOVATED OR REMODELED IN CONJUNCTION WITH THE BONUS EXPANSION**

C. ***BONUS FLOOR AREA OR BONUS FAR:*** **AN APPLICATION FOR BONUS FLOOR AREA SHALL BE SUBMITTED WITH THE APPLICATION FOR DEVELOPMENT REVIEW, AND SHALL INCLUDE APPROPRIATE DOCUMENTS AND IDENTIFY FEATURES OF THE PROJECT THAT QUALIFY FOR THE BONUS FLOOR AREA. AS WITH PROPERTIES REZONED TO**

<u>DOWNTOWN</u>, THE BONUS SHALL EQUAL THE TOTAL FLOOR AREA ON THE SITE, DETERMINED ON THE BASIS OF SPACE USED, BUT SHALL NOT EXCEED THE MAXIMUM PERMITTED BY THE FAR RATIOS IN SECTION 6.1250, SCHEDULE B. IN LARGE PROJECTS WITH BONUS FLOOR AREA FOR RESIDENTIAL SPACE, EACH PHASE OF CONSTRUCTION MUST CONTAIN AN EQUAL PROPORTION OF RESIDENTIAL SPACE, UNLESS THE CURRENT PLANNING SERVICES DIRECTOR FINDS THAT REQUIREMENT IS INFEASIBLE BECAUSE OF THE BUILDING DESIGN. THE HEIGHT AND FLOOR AREA RATIO BONUSES SHALL NOT APPLY TO SPECIALIZED HEALTH CARE FACILITIES AND MINIMAL HEALTH CARE FACILITIES.

D. **APPROVAL FOR FAR GREATER THAN ALLOWED BY THE ORDINANCE:**
THE CITY COUNCIL SHALL HAVE THE AUTHORITY TO REVIEW AND CONSIDER A REQUEST TO EXCEED THE MAXIMUM FAR ALLOWED IN SECTION 6.1250, UPON FINDING THAT THE INCREASED FAR IS APPROPRIATE AND COMPATIBLE WITH THE SURROUNDING AREA. REQUESTS SHOULD BE SUBJECT TO ALL PUBLIC NOTICE AND COMMUNITY INVOLVEMENT REQUIREMENTS PERTINENT TO THE PUBLIC HEARING REZONING PROCESS. SEE SECTION 6.118.

Sec. 9.104. Programs and incentives to reduce parking requirements.

The following programs and incentives are provided to reduce parking requirements in the locations and situations outlined herein where the basic parking requirements of this ordinance would be excessive or detrimental to goals and policies of the city relating to mass transit and other alternative modes of transportation.

A. *Administration of parking reductions.* Programs and incentives which reduce parking requirements may be applied individually or jointly to properties and developments. Where reductions are allowed, the number of required parking spaces which are eliminated shall be accounted for both in total and by the individual program, incentive or credit which is applied. The record of such reductions shall be kept on the site plan within the project review file. Additionally, the reduction and manner in which they are applied shall be transmitted in writing to the property owner.

B. *Credit for on-street parking.* Wherever on-street angle parking is provided in the improvement of a street, credit toward on-site parking requirements shall be granted at the rate of one (1) on-site space per every twenty-five (25) feet of frontage, excluding the following:

1. Frontage on an arterial, major arterial or expressway as designated by the street classification plan.

2. Frontage on a street that is planned to be less than fifty-five (55) feet wide

curb-to-curb.

3. Frontage within twenty (20) feet of a corner.

4. Frontage within ten (10) feet of each side of a driveway or alley.
THE BONUS SHALL NOT EXCEED THE MAXIMUM PERMITTED BY THE FAR RATIOS IN SECTION 6.1250, SCHEDULE B.

5. Frontage within a fire hydrant zone or other emergency access zone.

6. Locations within the (D) Downtown zoning district.

7. LOCATIONS WITHIN THE (DO) DOWNTOWN OVERLAY.

C. Credit for bicycle parking facilities.

1. Purpose. The City of Scottsdale, in keeping with the federal and Maricopa County Clean Air Acts, wishes to encourage the use of alternative transportation modes such as the bicycle instead of the private automobile. Reducing the number of vehicular parking spaces in favor of bicycle parking spaces helps to attain the standards of the Clean Air Act, to reduce impervious surfaces, and to save on land and development costs.

2. Performance standards. The City Manager or designee may authorize credit towards on-site parking requirements for all uses except residential uses, for the provision of bicycle facilities beyond those required by this ordinance, subject to the following guidelines:

a. Wherever bicycle parking is provided beyond the amount required per section 9.103.B, required bicycle parking, credit toward required on-site vehicular parking may be granted pursuant to the following:

(1) Downtown (D) zoning districts: one (1) vehicular space per eight (8) bicycle spaces.

(2) All other zoning districts: one (1) vehicular space per ten (10) bicycle spaces.

b. Wherever bicycle parking facilities exceed the minimum security level required per section 9.103.B, required bicycle parking, credit towards required onsite vehicular parking may be granted at a rate of one (1) vehicular space per every four (4) high-security bicycle spaces.

High-security bicycle spaces shall include those which protect against the theft of the entire bicycle and of its components and accessories by enclosure through the use of bicycle lockers, check-in facilities, monitored parking areas, or other means which provide the above level of security as approved by the City Manager or designee.

c. Wherever shower and changing facilities for bicyclists are provided, credit towards required on-site vehicular parking may be granted at the rate of two (2) vehicular spaces per one (1) shower.

d. The number of vehicular spaces required per table 9.2 shall not be reduced by more than five (5) percent or ten (10) spaces, whichever is less.

D. Credit for participation in a joint parking improvement project. After the effective date of this ordinance, no new joint parking improvement projects shall be designated in the City of Scottsdale. Existing joint parking improvement projects may continue to exist, subject to the standards under which they were established.

The joint parking improvement project was a program through which a group of owners with mixed land uses including an area of more than three (3) blocks and at least six (6) separate ownerships could join together on a voluntary basis to form a parking improvement district, providing parking spaces equal to a minimum of thirty (30) percent of their combined requirements according to the ordinance under which they were established. Each participant property could have received credit for one and one-half (1 1/2) times his proportioned share of the parking spaces provided. The project required that a statement be filed with the superintendent of buildings stating the number of spaces assigned to each participating property. No adjustments were to be permitted subsequent to the filing of this statement.

E. Mixed-use shared parking programs.

1. Purpose. A mixed-use shared parking program is presented as an option to reduce the total required parking in large mixed-use facilities in which the uses operate at different times from one another throughout the day (mixed-use facilities are defined in article III, definitions). The city recognizes that strict application of the required parking ratios may result in the provision of excessive numbers of parking spaces. This results in excessive pavement and impermeable surfaces and discourages the use of alternate transportation modes. A mixed-use shared parking program allows the property developer to use parking spaces more efficiently by allowing the same spaces to be "shared" by various land uses.

2. Applicability. The mixed-use shared parking program may be applied for where mixed-uses are proposed. The applicant may choose this option or may opt to prepare a parking master plan pursuant to 9.104.F, parking master plan.

3. Procedure.

a. When a parking plan is required as part of any site plan review or permitting procedure, a mixed-use shared parking program may be requested by the applicant at the same time.

b. The mixed-use shared parking program may also be requested exclusive of any other site plan review or permitting procedure.

c. Mixed use shared parking plans shall be reviewed by, and are subject to the approval of, the City Manager or designee.

d. Alternatively, the applicant may elect to have the shared parking plan reviewed by, and subject to the approval of, the City Council in a public hearing.

e. For changes of use in mixed-use projects (as defined in article III, definitions) the applicant must demonstrate that parking necessary for the new mix of uses does not exceed the amount which was required by the previous mix of uses.

4. Limitations on mixed-use shared parking. The total number of parking spaces required by table 9.2 shall not be reduced by more than twenty (20) percent.

5. Performance standards. The City Manager or designee may authorize a reduction in the total number of required parking spaces for two (2) or more uses jointly providing on-site parking subject to the following criteria:

a. The respective hours of operation of the uses do not overlap, as demonstrated by the application on table 9.3, schedule of shared parking calculations. If one or all of the land uses proposing to use joint parking facilities do not conform to one of the general land use classifications in table 9.3, schedule of shared parking calculations, the applicant shall submit sufficient data to indicate that there is not substantial conflict in the principal operating hours of the uses. Such data may include information from a professional publication such as those published by the institute of transportation engineers (ITE) or the urban land institute (ULI), or by a professionally prepared parking study.

b. A parking plan shall be submitted for approval which shall show the layout of proposed parking.

c. The property owners involved in the joint use of on-site parking facilities shall submit a written agreement approved by the city attorney requiring that the parking spaces shall be maintained as long as the uses requiring parking exist or unless the required parking is provided elsewhere in accordance with the provisions of this article. Such written agreement shall be recorded by the property owner with the Maricopa County Recorder's Office prior to the issuance of a building permit, and a copy filed in the project review file.

Table 9.3. Schedule of Shared Parking Calculations

General Land Use Classification	Weekdays			Weekends		
	Mid.-7:00 am	7:00 am.. 6:00 pm	6:00 pm Mid.	Mid- 7:00 am	7:00 am 6:00 pm	6:00 pm Mid
Office and industrial	5%	100%	5%	0%	60 %	10%
Retail	0%	100%	80%	0%	100%	60%
Residential	100%	55%	85%	100%	65%	75%
Restaurant	50%	70%	100%	45%	70%	100%
Hotel	100%	65%	90%	100%	65%	80%
Cinema/theater	0%	70%	100%	5%	70%	100%

How to use the schedule of shared parking. Calculate the number of spaces required for each use if it were free-standing (refer to the schedule of minimum on-site parking requirements). Applying the applicable general land use category to each proposed use, use the percentages to calculate the number of spaces required for each time period, (six (6) time periods per use). Add the number of spaces required for all applicable land uses to obtain a total parking requirement for each time period. Select the time period with the highest total parking requirement and use that total as your shared parking requirement.

F. Parking master plan.

1. Purpose. A parking master plan is presented as an option to promote the safe and efficient design of parking facilities for sites larger than two (2) acres or those downtown district/retail specialty uses larger than sixty thousand (60,000) square feet. The city recognizes that strict application of the required parking standards or ratios may result in the provision of parking facilities of excessive size or numbers of parking spaces. This results in excessive pavement and impermeable surfaces and may discourage the use of alternate transportation modes. A parking master plan allows the property developer to establish a more efficient parking scheme through the following requirements.

2. Applicability. The parking master plan is appropriate to alleviate problems of reuse and is also applicable as an alternative to the above mixed-use shared parking programs.

3. Procedure.

   a. When a parking plan is required as part of any site plan review or permitting procedure, the parking master plan may be requested by the applicant at the same time.

b. The parking master plan may also be requested exclusive of any other site plan review or permitting procedure.

c. Parking master plans shall be reviewed by, and are subject to the approval of, the City Manager or designee.

d. For changes of use in mixed-use projects (as defined in article III, definitions) the applicant must demonstrate that parking necessary for the new mix of uses does not exceed the amount which was required by the previous mix of uses.

4. Limitations on parking master plans. The City Manager or designee shall only permit reductions of up to twenty (20) percent of the total parking required per table 9.2. Reductions of more than twenty (20) percent of required parking shall be subject to approval by the City Council.

5. Elements of a parking master plan. The parking master plan shall contain the following:

a. A plan, which graphically depicts where the spaces and parking structures are to be located.

b. A report, which demonstrates how everything shown on the plan complies with or varies from applicable standards and procedures of the city.

c. The plan shall show all entrances and exits for any structured parking and the relationship between parking lots or structures and the circulation master plan.

d. The plan, supported by the report, shall show the use, number, location, and typical dimensions of parking for various vehicle types including passenger vehicles, trucks, vehicles for mobility impaired persons, buses, other transit vehicles and bicycles.

e. The plan, supported by the report, shall include phasing plans for the construction of parking facilities and any interim facilities planned.

f. Whenever the applicant requests any reductions in the number of required parking spaces as provided for in this ordinance, the required report shall be prepared by a registered civil engineer licensed to practice in the State of Arizona and shall document how any reductions were calculated and upon what assumptions such calculations were based.

g. Parking ratios used within the report shall be based upon uses or categories of uses already listed within table 9.2, schedule of parking requirements. If the use is not listed in table 9.2, then the applicant may request an ordinance amendment to table 9.2 rather than a

variance from its standards.

h. Such other information as is determined by the reviewing authority to be necessary to process the parking master plan.

6. Performance standards. Parking shall comply with the requirements of the zoning ordinance as amended except where application of the following criteria can show that a modification of the standards is warranted. This shall be determined by the City Manager or designee pending his or her review of the materials described in subsection 5. above.

a. The parking master plan shall provide sufficient number and types of spaces to serve the uses identified on the site.

b. Adequate provisions shall be made for the safety of all parking facility users, including motorists, bicyclists and pedestrians.

c. Parking master plans shall be designed to minimize or alleviate traffic problems.

d. Parking spaces shall be located near the uses they are intended to serve.

e. Adequate on-site parking shall be provided during each phase of development of the district.

f. The plan shall provide opportunities for shared parking or for other reductions in trip generation through the adoption of transportation demand management (TDM) techniques to reduce trip generation, such as car pools, van pools, bicycles, employer transit subsidies, compressed work hours, and high occupancy vehicle (HOV) parking preference.

g. Surfacing of the lot shall be dust-proof, as provided by section 9.106.C.1.a.2.

h. The parking master plan shall attempt to reduce environmental problems and to further the city's compliance with the federal Clean Air Act amendments of 1990 through appropriate site planning techniques, such as but not limited to reduced impervious surfaces and pedestrian connections.

i. Compliance with the federal Clean Air Act amendments of 1990 shall be considered.

j. Reductions in the number of parking spaces should be related to significant factors such as, but not limited to:

(1) Shared parking opportunities;

(2) Hours of operation;

(3) The availability and incorporation of transit services and facilities;

(4) Opportunities for reduced trip generation. Through pedestrian circulation between mixed-uses (as defined in article III, definitions);

(5) Off-site traffic mitigation measures;

(6) Recognized variations in standards due to the scale of the facilities;

(7) Parking demand for a specified use; and

(8) The provisions of accessible parking spaces beyond those required per section 9.105.

k. Reductions in the number of parking spaces for neighborhood-oriented uses may be granted at a rate of one (1) space for every existing or planned residential unit located within two (2) blocks of the proposed use, and one-half (0.5) space for every existing or planned residential unit located within four (4) blocks of the proposed use.

7. Approval. The property owner involved in the parking master plan shall submit a written agreement approved by the city attorney requiring that the parking facility and any associated transportation demand management (TDM) techniques shall be maintained without alteration unless such alteration is authorized by the City Manager or designee. Such written agreement shall be recorded by the property owner with the Maricopa County Recorder's Office prior to the issuance of a building permit, and a copy filed in the project review file.

G. *Valet parking.* Reserved.

H. CREDITS WITHIN THE (DO) DOWNTOWN OVERLAY DISTRICT.

1. PURPOSE. THIS PARKING CREDIT PROGRAM WILL EASE THE PROCESS OF CALCULATING PARKING SUPPLY FOR NEW BUILDINGS, REMODELS OR FOR BUILDINGS WITH NEW TENANTS.

2. METHOD OF CALCULATION.

A. ALL PROPERTIES SHALL BE GRANTED PARKING CREDITS THAT EQUAL THE PARKING REQUIREMENTS OF THE CURRENT USE, OR OF THE MOST RECENT USE IF THE BUILDING OR PROPERTY IS VACANT.

B. PARKING CREDITS GRANTED UNDER THIS PROGRAM SHALL BE ONLY FOR THE PARKING DEMAND THAT IS NOT MET THROUGH ON-SITE PARKING, IMPROVEMENT DISTRICTS, OR REMOTE PARKING.

C. PROPERTY OWNERS ARE STILL REQUIRED TO PAY FOR ANY PUBLIC OR PRIVATE PROGRAM THAT ALLOWED THEM TO MEET THE PARKING REQUIREMENTS OF THE CURRENT USE.

D. ANY CREDITS THAT THE PROPERTY HAS THAT ARE IN EXCESS OF THE CURRENT PARKING DEMAND WILL REMAIN WITH THE PROPERTY.

E. PROPERTIES WITH P-3 PARKING DISTRICT ZONING SHALL HAVE THE OPTION OF USING THIS METHOD OF CALCULATING PARKING CREDITS, OR TO USE THE CREDITS PROVIDED BY THE P-3 PARKING DISTRICT.

I. PARKING WAIVER WITHIN THE (DO) DOWNTOWN OVERLAY DISTRICT.

1. PURPOSE. THIS PARKING WAIVER IS DESIGNED TO ACT AS AN INCENTIVE FOR THE EXPANSION OF SMALLER DOWNTOWN BUSINESSES, WHOSE EXPANSION WILL HAVE A MINIMAL IMPACT ON PARKING DEMAND.

2. APPLICABILITY. UPON APPLICATION, PROPERTY OWNERS MAY HAVE PARKING REQUIREMENTS WAIVED IF THE MEET THE FOLLOWING CRITERIA:

   A. ARE WITHIN THE (DO) DOWNTOWN OVERLAY DISTRICT.

   B. ARE USED FOR RETAIL, OFFICE OR PERSONAL SERVICES

   C. HAVE A LOT SIZE OF 12,000 NET SQUARE FEET OR LESS

3. LIMITATIONS ON THIS PARKING WAIVER.

   A. CAN BE USED ONLY ONCE

   B. CAN ONLY BE USED ON FIRST AND SECOND FLOORS

   C. CAN BE USED FOR RETAIL, OFFICE OR PERSONAL SERVICES

   D. IS LIMITED TO A MAXIMUM OF 2,000 SQUARE FEET OF BUILDING SIZE

   E. CANNOT BE USED ON LAND THAT WAS USED FOR

PARKING IN THE PAST TWO YEARS.

4. **RESIDENTIAL ADDITION PARKING WAIVER - THIS PARKING WAIVER IS DESIGNED TO ACT AS AN INCENTIVE FOR THE INTEGRATION OF RESIDENTIAL USES IN THE DOWNTOWN. ONE PARKING SPACE WILL BE REQUIRED PER RESIDENTIAL UNIT, THIS PARKING CAN BE REALLOCATED FROM ON SITE EXISTING PARKING FROM OTHER USES.**

Sec. 9.108. Special parking requirements in districts.

A. Planned regional center. The provisions of article IX shall apply with the following exceptions:

1. There shall be no parking required for courtyards or other open spaces, except that those portions thereof used for sales or service activities shall provide parking as specified elsewhere by this ordinance.

2. Parking for dwellings shall be covered.

B. Western theme park district. The provisions of article IX shall apply with the following exceptions:

1. The number of spaces required in table 9.2 may be proportionately reduced by the provision of bus parking. Bus parking provided in lieu of automobile parking spaces may account for a maximum reduction of fifty (50) percent of the spaces required in table 9.2.

2. If any bus parking is provided in lieu of automobile parking spaces, one (1) overflow automobile parking space shall be provided for each twenty-five (25) persons for whom seating is provided as indicated on the approved development plan.

C. DOWNTOWN OVERLAY (DO) DISTRICT (PARKING IN-LIEU ONLY) AND *Downtown (D) districts.*

1. *Parking requirements.* Parking capacity shall satisfy the requirements of the land uses served, and can be provided by any of the following options: on-site parking, remote parking, parking in-lieu payments, or evening-use parking credits, these standards shall not be subject to variances.

2. *Parking in-lieu payments.* A parking requirement for nonresidential uses may be met by a parking in-lieu payment to the downtown parking fund and shall be used for the operation of a downtown parking program which may include, but is not linked to, the provision and maintenance of public parking spaces, the operation of tram shuttle services linking public parking

facilities and downtown activity centers, and services related to the management and regulations of public parking. The city shall not be obligated to provide more than twenty (20) such spaces without the express approval of the City Council. Fractional parking requirements may be paid for on a pro rata basis. The amount of the in-lieu fee shall be established by the City Council, and may include penalties for late payment. Parking in-lieu credits may be purchased either as permanent parking credits, or as impermanent parking credits in accordance with the following:

a. *Permanent parking in-lieu credits:* parking space credits purchased under this permanent in-lieu option shall be permanently credited to the property. These parking credits may be purchased either by installment payments to the city over a fixed period of time, or by payment of a lump sum fee.

   Under the lump sum purchase option, purchase shall be made by payment the total fee in the manner described herein. The installment purchase option shall require an initial cash deposit and a written agreement binding the applicant to make subsequent monthly installment payments. The installment purchase agreement shall not create a payment term longer than fifteen (15) years, and shall include payment procedures adopted by the planning and community development department. Payment of the lump sum in-lieu fee or payment of the installment purchase deposit and execution by both parties of the installment purchase agreement, shall be completed prior to the issuance of a building permit of one is required, or to the issuance of a certificate of occupancy.

b. *Monthly parking in-lieu credits:* Parking credits obtained by payment of a monthly in-lieu fee under this option are only for the term of the activity requiring the parking and are not permanently credited to the property. Properties must first possess a minimum of four and one-half (4 1/2) parking spaces per one thousand (1,000) square feet of net floor area of building, and may thereafter subscribe for additional required parking spaces by paying the monthly in-lieu fee. Payments shall be made in accordance with a written agreement and procedures adopted by the planning and community development department. The first monthly payment shall be made prior to issuance of a certificate of occupancy for the business for whose benefit the monthly payments are made.

3. FAR bonus for underground and on-site structure parking. A maximum FAR bonus of three-tenths (0.3) is available subject to the following:

   a. In a type 1 area, eighty (80) percent of the required parking is in a shared structure parking.

   b. In a type 2 area, ninety (90) percent of the required parking is underground.

Where shared structure parking is underground parking provided by a project is less than stipulated above, the FAR bonus shall be adjusted downward on a pro rata basis.

Parking in-lieu payments may be utilized to satisfy shared structure parking or underground parking incentives on a space per space basis.

4. Evening-use parking. Establishments conducting business between the hours of 5:00 p.m. and 3:00 a.m. qualify for evening-use parking credits for parking spaces identified to be vacant during those hours, subject to the following requirements:

   a. Application for evening use parking credits shall be through the use permit process and shall be made by the property owner on behalf of the establishment requiring the parking credits.

   b. Before qualifying for evening use parking credits, a property must possess a minimum of four and one-half (4 1/2) parking spaces per one thousand (1,000) square feet of net building area, on-site or by one (1) of the means provided for in paragraph c.(3) below.

   c. Evening-use parking credits may be granted for spaces provided from one (1) or more of the following sources:

      (1) Same-site: Parking spaces on the same property which are unutilized during the designated evening hours.

      (2) Adjacent or nearby site: Unutilized parking spaces on adjacent or near-by properties which meet the requirements of this section and 9.107.C. and D.

      (3) Public on-street and on-site spaces: After exhausting available "same-site" evening-use parking credits, additional credits may be sought using unutilized public on-street and on-site parking spaces, subject to the following requirements:

         (a) The use permit application shall be accompanied by an analysis, acceptable to the City Manager or his designee, establishing the availability and location of the unutilized public parking spaces for which evening-use parking credits are being sought.

         (b) The maximum number of evening-use parking credits is limited to twenty (20) parking spaces or to fifty (50) percent of the "base minimum" parking requirement ascribed to the property, whichever is less, for which a monthly fee established by City

Council will be charged and deposited in a downtown parking fund.

d. The application shall provide a plan acceptable to the City Manager or his designee for the security and maintenance of the parking areas and their environs in a neat and orderly condition, and shall demonstrate that the areas meet the lighting requirements of section 7.600.

ORDINANCE NO. 3521

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SCOTTSDALE MARICOPA COUNTY, ARIZONA, AMENDING ORDINANCE NO. 455, THE ZONING ORDINANCE OF THE CITY OF SCOTTSDALE, BY AND FOR THE PURPOSE OF CHANGING THE ZONING ON THE "DISTRICT MAP" TO ZONING APPROVED IN CASE NO. 5-ZN-2003, TO APPLY DO (DOWNTOWN OVERLAY) ZONING TO THE 750+/- ACRES KNOWN AS THE DOWNTOWN AREA, GENERALLY BOUNDED BY CHAPARRAL ROAD ON THE NORTH, MILLER ROAD ON THE EAST, EARLL DRIVE ON THE SOUTH AND 68TH STREET ON THE WEST.

WHEREAS, Case No. 5-ZN-2003 has been properly noticed for City Council consideration, pursuant to the requirements of the Zoning Ordinance of the City of Scottsdale and the statutes of the State of Arizona, and the necessary hearings have been completed; and

WHEREAS, the City Council desires to encourage economic development in the Downtown area and create new opportunities for the development or expansion of properties in the Downtown area that do not have (D) Downtown zoning; and

WHEREAS, the City Council finds that applying the Downtown Overlay District to the properties within a specified area will help promote economic development and compatible development within that area; and

WHEREAS, the City Council finds that encouraging residences within the Downtown area will encourage economic development and maintain a mixture of land uses to keep the Downtown area vital in the day and at night; and

WHEREAS, the City Council wishes to simplify Downtown parking regulations; and

WHEREAS, the City Council finds that certain land uses within the Downtown area, including After Hours establishments, Bars, Nightclubs, and Tattoo and related businesses have significant secondary effects that may be addressed through the conditional use permit process to make those land uses compatible with other businesses;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Scottsdale, as follows:

Section 1. That the "District Map" adopted as a part of the Zoning Ordinance of the City of Scottsdale, showing the zoning district boundaries, is amended to apply DO (Downtown Overlay) zoning to the 750+/- acres within the City of Scottsdale known as Downtown area, as illustrated on the zoning map and legal description, attached hereto as Exhibit #1 and Exhibit #2 respectively, and incorporated herein by reference.

PASSED AND ADOPTED by the Council of the City of Scottsdale this ___ day of July, 2003.

ATTEST:

CITY OF SCOTTSDALE, an Arizona municipal corporation

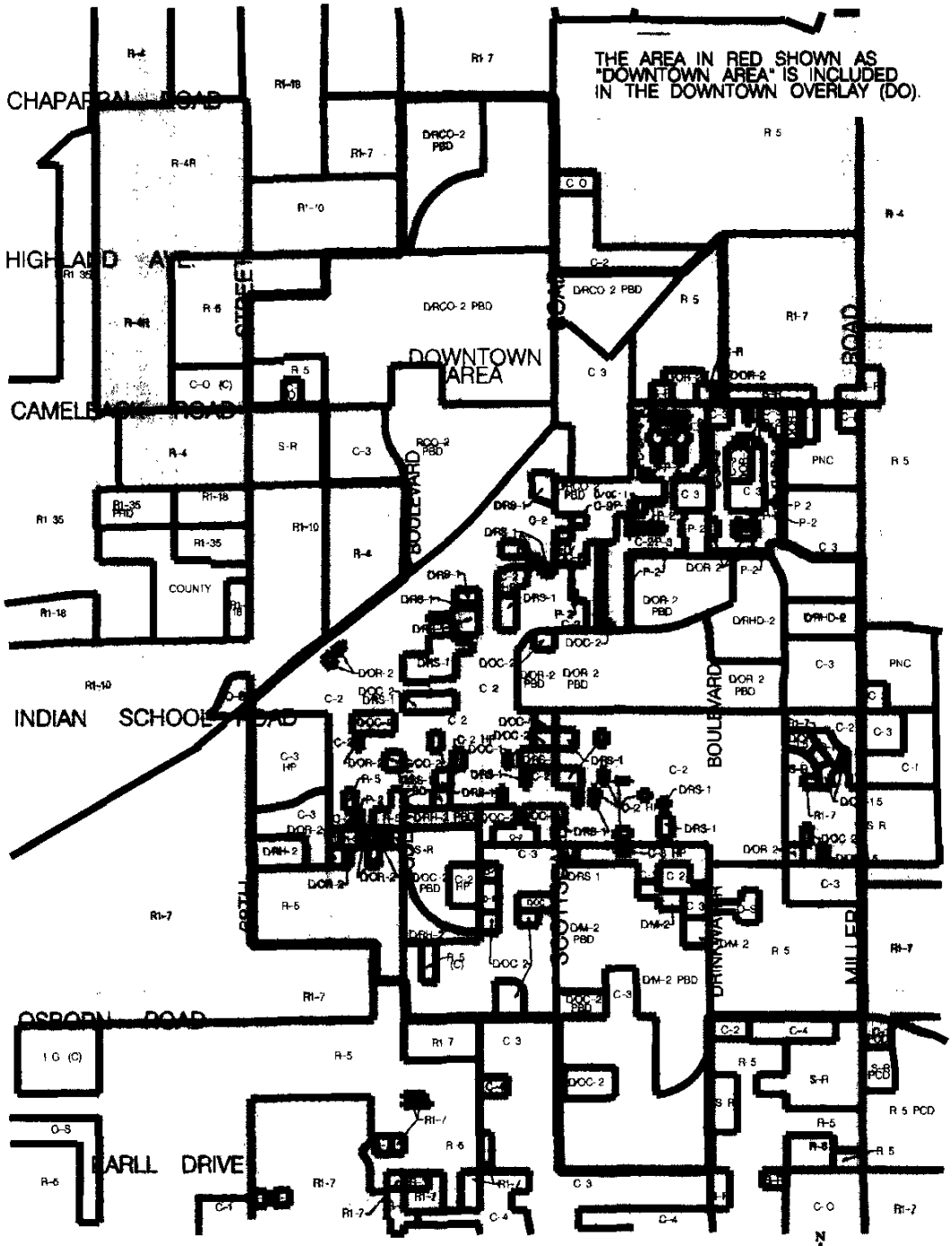
By:_____
Sonia Robertson
City Clerk

By:_____
Mary Manross
Mayor

APPROVED AS TO FORM:

By: Patricia J. Boomsma for
David A. Pennartz
City Attorney

PROPOSED ZONING



1-TA-2003 & 5-ZN-2003

Exhibit 1

DOWNTOWN OVERLAY ZONING DISTRICT

LEGAL DESCRIPTION

Portions of Section 22, 23, 26 and 27, Township 2 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

BEGINNING at the southwest corner of the northwest quarter of the southwest quarter of said Section 26 and being the intersection of Scottsdale Road and Earll Drive;

Thence northerly along said Scottsdale Road and the west line of said northwest quarter of the southwest quarter to the quarter corner common to said Sections 26 and 27 and being the intersection of Scottsdale Road and Osborn Road;

Thence westerly along Osborn Road and the south line of the southeast quarter of the northeast quarter of said Section 27 to the southwest corner of said southeast quarter of the northeast quarter and being the intersection of Osborn Road and 70th Street;

Thence northerly along 70th Street, formerly Orange Avenue, and the west line of said southeast quarter of the northeast quarter to the centerline of 6th Street, formerly Mitchell Drive according to the plat of Scottsdale Village, Book 57 of Maps, Page 24, records of said County;

Thence westerly along said centerline to the centerline of 69th Street according to said Scottsdale Village;

Thence northerly along last said centerline of 6th Street to the centerline intersection of 5th Street, formerly Whitton Avenue according to said Scottsdale Village;

Thence departing the centerline of said 69th Street easterly along the easterly prolongation of the centerline of said 5th Street a distance of 25 feet to the east line of said 69th Street;

Thence northerly along said east line and the east line of Lot 14 of said Scottsdale Village and its northerly prolongation to the north line of said Scottsdale Village;

Thence westerly along said north line said Scottsdale Village to the northwest corner of the south half of the southwest quarter of the northeast quarter of said Section 27 and the centerline of 68th Street;

Thence northerly along the west line of the northeast quarter of said Section 27 and the centerline of said 68th Street to the quarter corner common to said Sections 22 and 27 (intersection of 68th Street and Indian School Road);

Thence northerly along the centerline of 68th Street and the west line of the southeast quarter of said Section 22 to the centerline of the Arizona Canal;

EXHIBIT #2

Thence departing said west line (68th Street) northeasterly along the centerline of said Arizona Canal to the centerline of Goldwater Boulevard;

Thence northerly along the centerline of said Goldwater Boulevard to the easterly prolongation of the south line of the northeast quarter of the northwest quarter of the southeast quarter of said Section 22;

Thence departing said centerline westerly along said prolongation and south line to the southwest corner of said northeast quarter of the northwest quarter of the southeast quarter;

Thence northerly along the west line of said northeast quarter of the northwest quarter of the southeast quarter to the northwest corner of said northeast quarter of the northwest quarter of the southeast quarter and the centerline of Camelback Road;

Thence westerly along the south line of the northeast quarter of said Section 22 and the centerline of said Camelback Road to the center of said Section 22 (68th Street and Camelback Road);

Thence northerly along the centerline of 68th Street and the west line of said northeast quarter to the westerly prolongation of the south line of Colony Camelback, according to Book 173 of Maps, page 1, records of said County;

Thence departing said west line along said prolongation and said south line to the southeast corner of said Colony Camelback;

Thence northerly along the east line of said Colony Camelback and its prolongation to the north line of the southwest quarter of the northeast quarter of said Section 22 and the centerline of Highland Avenue;

Thence easterly along said centerline and said north line to the southwest corner of the northeast quarter of the northeast quarter of said Section 22;

Thence northerly along the west line of said northeast quarter of the northeast quarter to the northwest corner of said northeast quarter of the northeast quarter and the centerline of Chaparral Road;

Thence easterly along said centerline and the north line of said northeast quarter of the northeast quarter to the northeast corner of said Section 22 and the centerline of Scottsdale Road;

Thence southerly along the east line of the northeast quarter of said Section 22, being common with the west line of the northwest quarter of said Section 23 to a point that lies North 1139 feet from the west quarter corner of said Section 23 and the westerly prolongation of the south line of the property described in Instrument 2001-0116400, records of said County,

Thence departing said west line easterly along said prolongation and said south line and its easterly prolongation to the centerline of the Arizona Canal;

Thence northeasterly along said centerline to the northerly prolongation of the east lines of Daryl Estates, according to Book 54 of Maps, Page 44, records of said County and Daryl Estates Unit Two, according to Book 61 of Maps, Page 48, records of said County;

Thence southerly along said prolongation and said east lines and their southerly prolongation to the southeast corner of said Daryl Estates on the south line of the northwest quarter of said Section 23 and the centerline of Camelback Road;

Thence easterly along said south line and said centerline to the northeast corner of the west 132.00 feet of the north half of the northeast quarter of the northeast quarter of the southwest quarter of said Section 23;

Thence departing said south line and said centerline along the east line of said west 132.00 feet of the north half of the northeast quarter of the northeast quarter of the southwest quarter to the southeast corner of said west 132.00 feet of the north half of the northeast quarter of the northeast quarter of the southwest quarter;

Thence westerly along the south line of said west 132.00 feet of the north half of the northeast quarter of the northeast quarter of the southwest quarter to the southwest corner of said west 132.00 feet of the north half of the northeast quarter of the northeast quarter of the southwest quarter on the east line of Indian Plaza Properties according to Book 76 of Maps, Page 20, records of said County;

Thence southerly along said east line to the centerline of 6th Avenue as shown on the Map of Dedication for Shopping Center at Camelback and Miller according to Book 192 of Maps, Page 49, records of said County, said centerline also being a curve concave to the southwest having a radius of 350.00 feet;

Thence departing said east line southeasterly along said centerline and said curve to a point of a reversing curve having a radius of 350.00 feet;

Thence southeasterly along last said curve and said centerline to a point of tangency;

Thence easterly along said centerline to the southeast corner of the northeast quarter of the southwest quarter of said Section 23 and the centerline intersection of said 6th Avenue and Miller Road;

Thence southerly along the east line of the southeast quarter of the southwest quarter of said Section 23 and the centerline of said Miller Road to the quarter corner common to said Sections 23 and 26 and the intersection of said Miller Road and Indian School Road;

Thence southerly along the east line of the northwest quarter of said Section 26 and the centerline of said Miller Road to the center of said Section 26 and the intersection of Miller Road and Osborn Road;

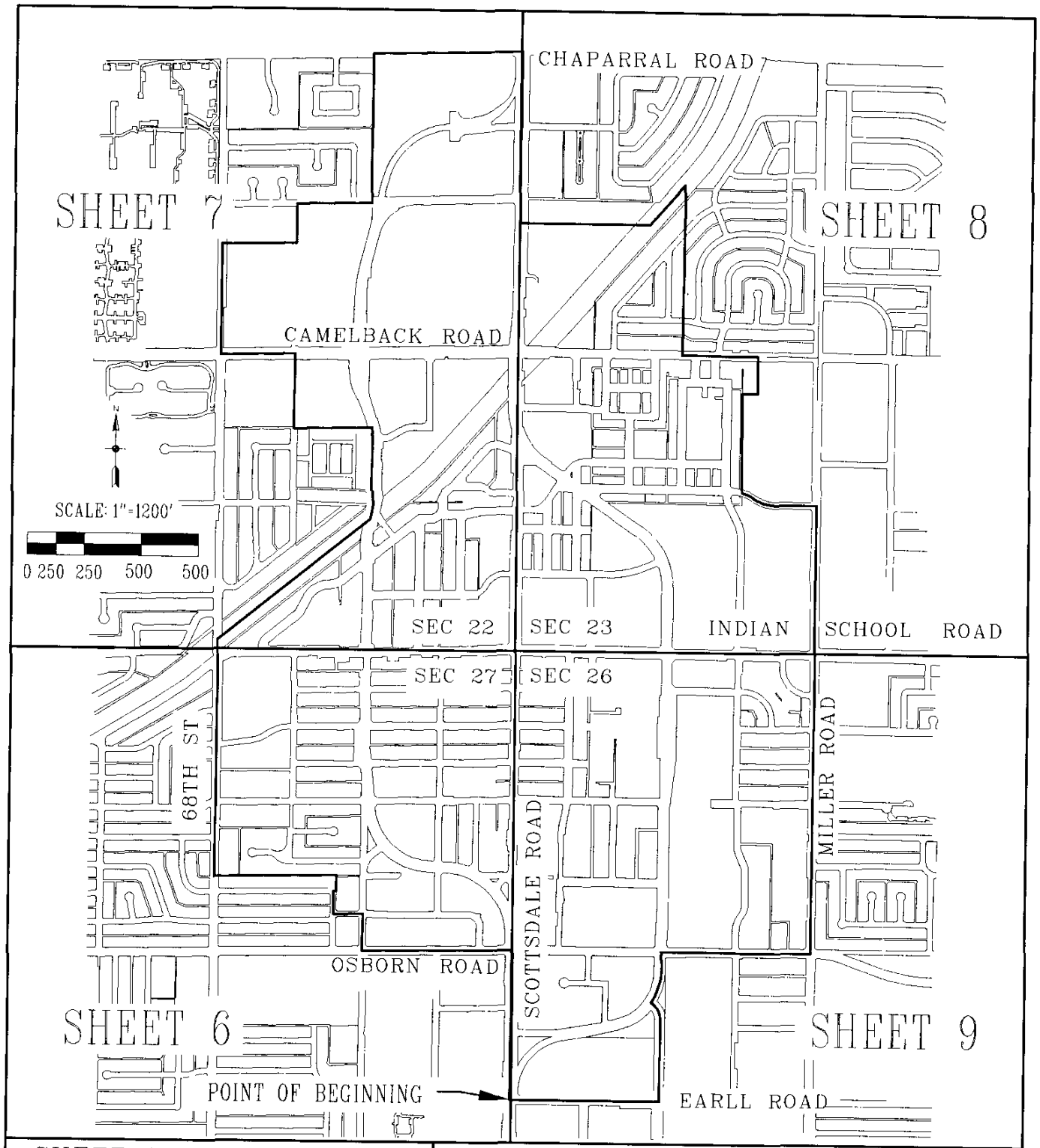
Thence westerly along the south line of the east half of the northwest quarter of said Section 26 and the centerline of said Osborn Road to the southwest corner of said east half of the northwest quarter and the intersection of Osborn Road and Drinkwater Boulevard;

Thence southwesterly along the centerline of said Drinkwater Boulevard to the centerline intersection of said Drinkwater Boulevard and Civic Center Plaza;

Thence departing the centerline of said Drinkwater Boulevard southeasterly along the centerline of said Civic Center Plaza and along a portion of the east line of the northwest quarter of the southwest quarter of said Section 26 to the southeast corner of said northwest quarter of the southwest quarter and the intersection of Earll Drive and Civic Center Plaza;

Thence westerly along the south line of said northwest quarter of the southwest quarter and the centerline of said Earll Drive to the POINT OF BEGINNING.

Containing 745 acres, more or less.



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ZONING DISTRICT

CITY OF SCOTTSDALE
PLANNING AND DEVELOPMENT DEPARTMENT
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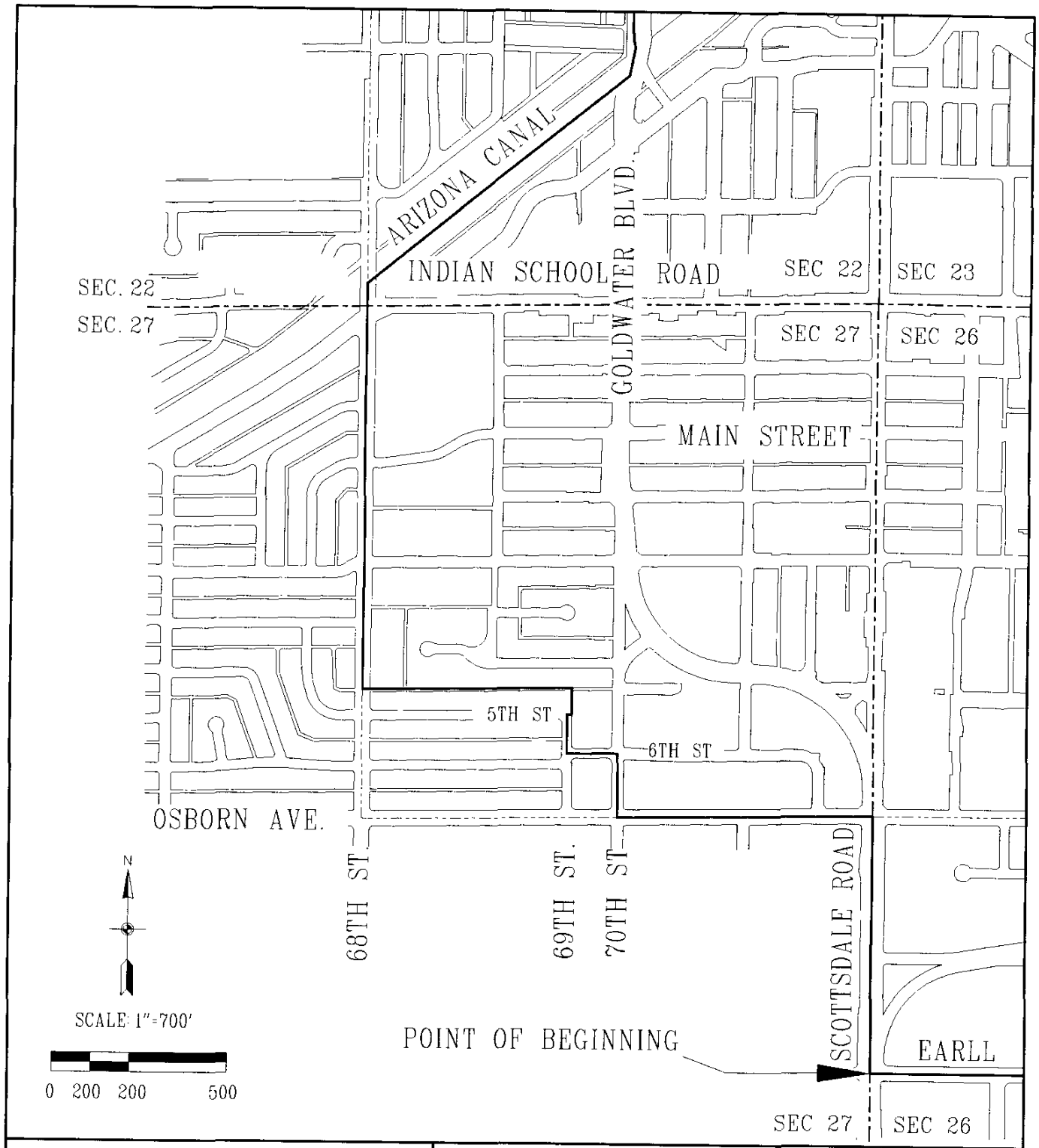
PROJECT # 03034	SURVEYED BY	DRAWN BY RCD	DATE 5-21-03	SHEET 5 OF 9



DOWNTOWN OVERLAY ZONING DISTRICT	CITY OF SCOTTSDALE PLANNING AND DEVELOPMENT DEPARTMENT INSPECTION AND LAND SURVEY DIVISION			
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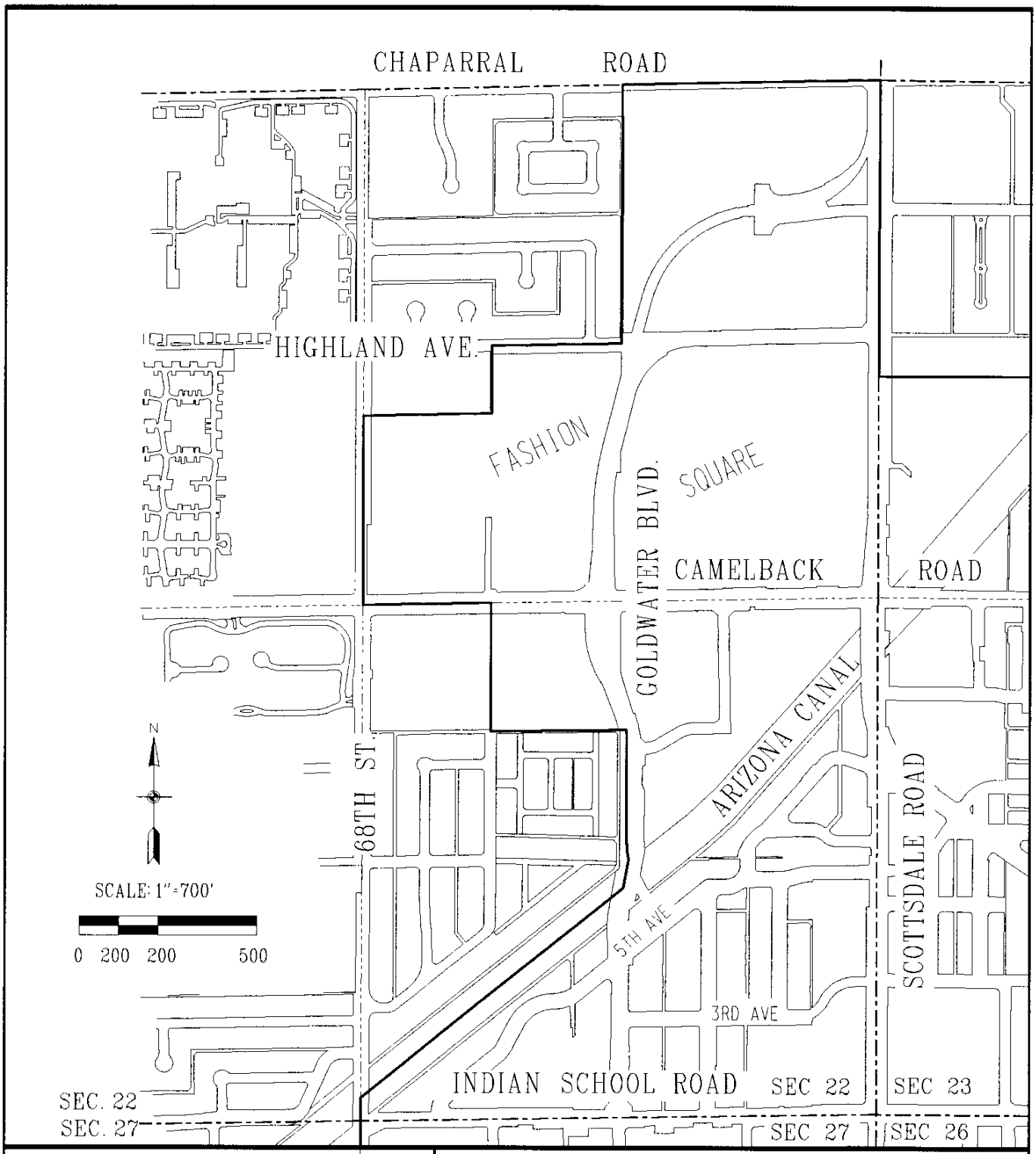
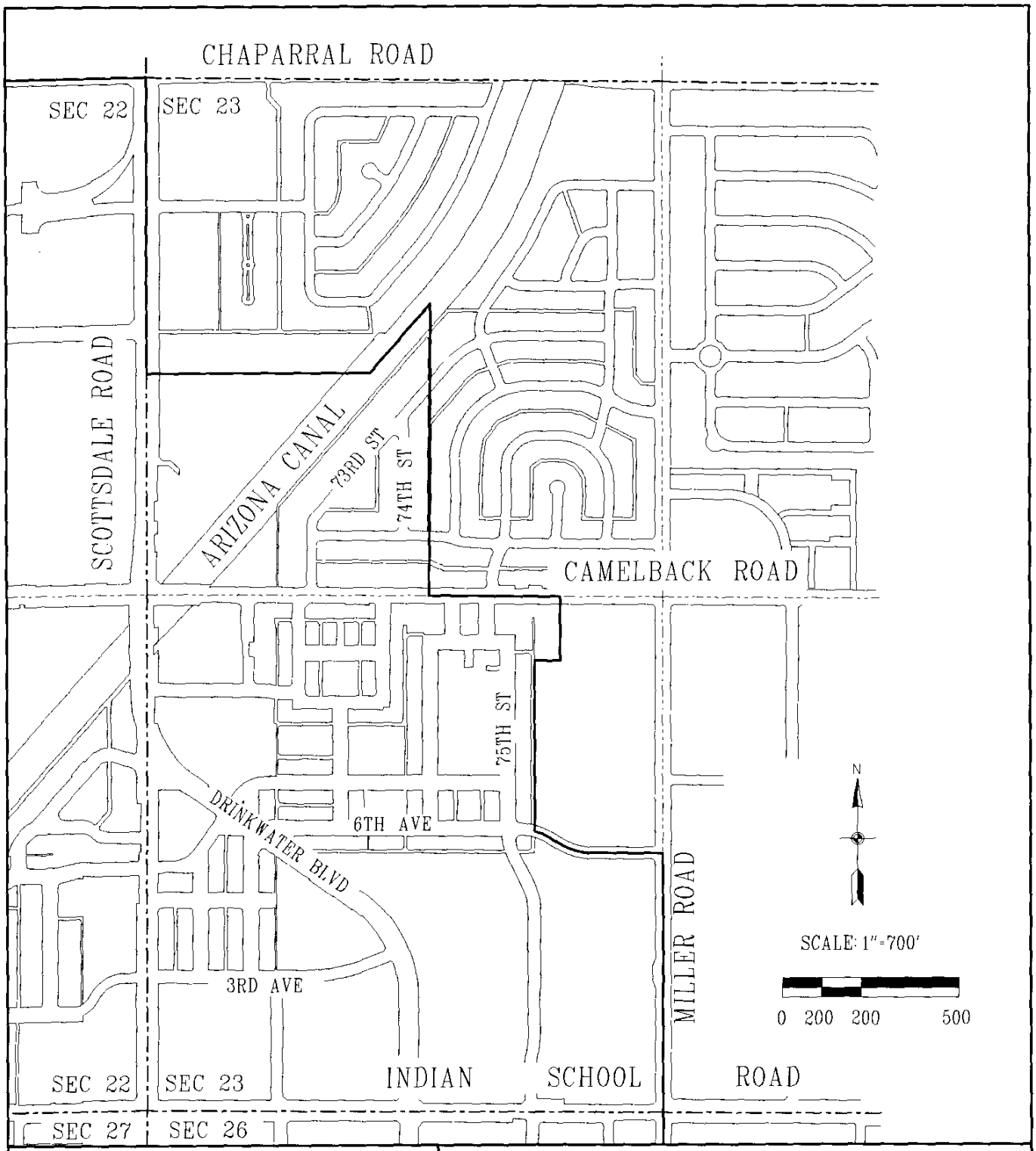


DOWNTOWN OVERLAY ZONING DISTRICT

CITY OF SCOTTSDALE
PLANNING AND DEVELOPMENT DEPARTMENT
INSPECTION AND LAND SURVEY DIVISION

PROJECT # 03034	SURVEYED BY	DRAWN BY RCD	DATE 5-21-03	SHEET 7 OF 9



DOWNTOWN OVERLAY ZONING DISTRICT	CITY OF SCOTTSDALE PLANNING AND DEVELOPMENT DEPARTMENT INSPECTION AND LAND SURVEY DIVISION			
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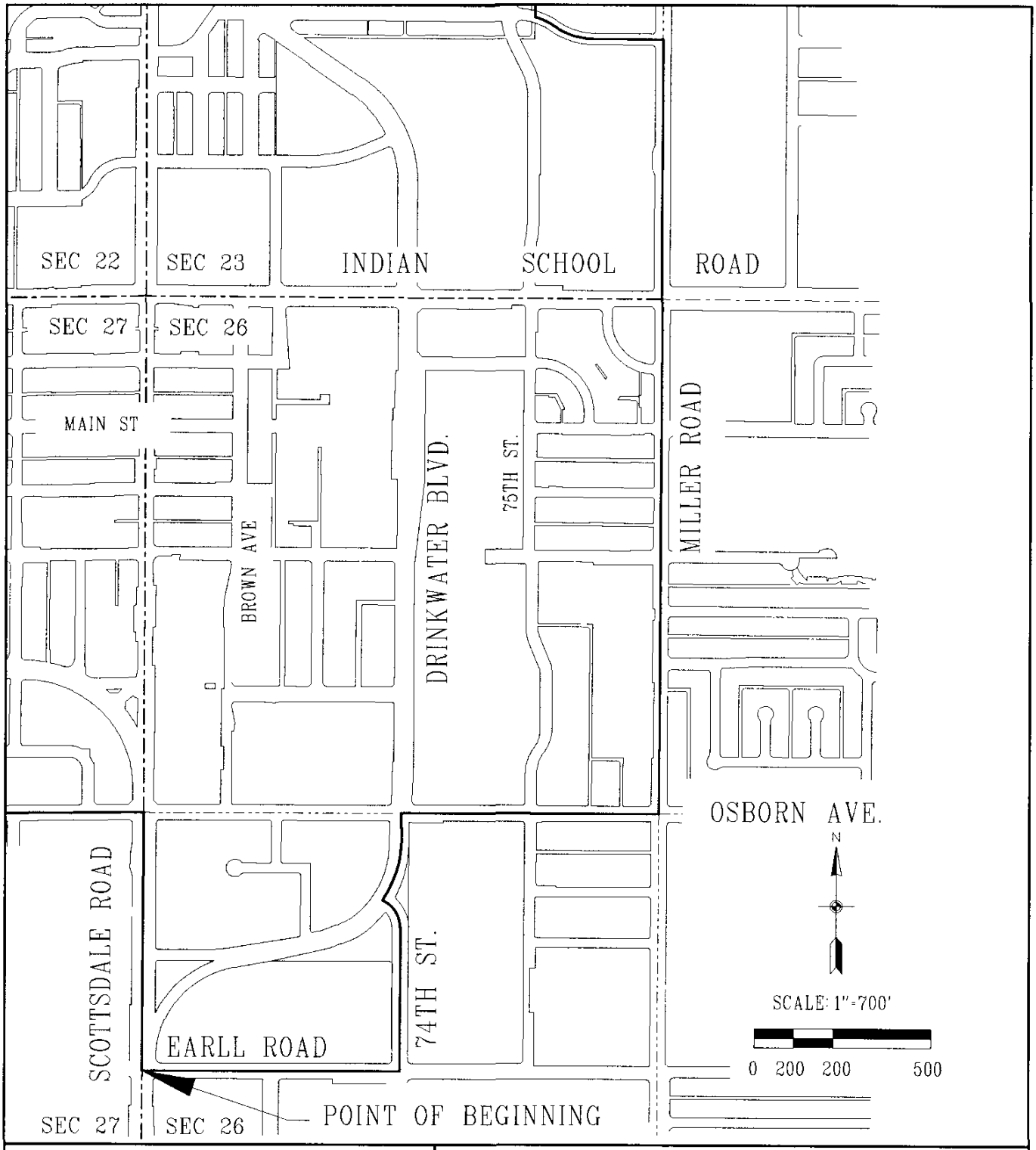

DOWNTOWN OVERLAY ZONING DISTRICT	CITY OF SCOTTSDALE PLANNING AND DEVELOPMENT DEPARTMENT INSPECTION AND LAND SURVEY DIVISION			
PROJECT # 03034	SURVEYED BY	DRAWN BY RCD	DATE 5-21-03	SHEET 9 OF 9

1-TA-2003 (Downtown Overlay and Related Amendments) request by City of Scottsdale, applicant, to amend City of Scottsdale Zoning Ordinance (Ordinance No. 455) Article I., Administration and Procedures., Section 1.403. Additional conditions for specific conditional uses., Article III., Definitions.; Section 3.100 General.; Article V., District Regulations., Section 5.3002. Conflict with other sections., Article IX., Parking and Loading Requirements., Section 9.104. Programs and incentives to reduce parking requirements., and Section 9.108 Special parking requirements in districts., and to add Article VI., Supplementary Districts.; Section 6.1200., (DO) DOWNTOWN OVERLAY. The Downtown area is generally bounded by Chaparral Road on the north, Miller Road on the east, Earll Drive on the south and 68th Street on the west.

AND

5-ZN-2003 (Downtown Overlay) request by City of Scottsdale, applicant, to apply the Downtown Overlay (DO) zoning to 750 +/- acres known as the Downtown area and generally bounded by Chaparral Road on the north, Miller Road on the east, Earll Drive on the south and 68th Street on the west.

MR. GRANT presented cases 1-TA-2003 and 5-ZN-2003 as per the project coordination packet. He stated this proposal has two parts: to create a Downtown Overlay (DO) District and to place the Overlay on properties located in Downtown Scottsdale.

Mr. Grant stated the primary purpose of the Downtown Overlay is to create new opportunities for the development or expansion of properties that do not have (D) Downtown zoning. The Overlay also provides additional regulations for properties with and without Downtown zoning. Specific objectives of the Downtown Overlay include:

- Maintain a mixture of land uses to keep Downtown vital in the day and night.
- Allow for more residents in Downtown.
- Simplify parking regulations to ease the Downtown development process.
- Provide incentives for expansions of smaller Downtown businesses.
- Enhance the family friendly nature of Downtown by requiring greater oversight of potentially detrimental uses.
- Assure consistent regulation of design and architecture throughout Downtown.

Mr. Grant stated staff recommends approval of the City of Scottsdale Zoning Ordinance (Ordinance No. 455) amendment and the Downtown Overlay and its application to properties in the designated area.

CHAIRMAN GULINO inquired if a resturant wants to have dancing would they then be put in the bar category. Mr. Grant replied if patron dancing is allowed it does trigger it to go from a resturant to a bar.

COMMISSIONER HEITEL inquired if a resturant that served breakfast and lunch would be considered a bar because the kitchen closes before 9:00 p.m. Ms. Boomsma stated if they had a liquor license to serve alcohol, but if they just serve breakfast and lunch they would not be considered a bar.
Commissioner Heitel inquired if there was a conflict between their stated goal to have entertainment districts and this particular regulation. He commented he is wondering whether they are over regulating an area they are trying to encourage entertainment. Mr. Gawf stated he did not think there was a conflict. He further stated this ordinance

does not prevent bars and nightclubs from going in because they are an important part of the downtown. What they are trying to do is make sure they go into appropriate places and they do not drive out other daytime uses. Commissioner Heitel inquired if there was the possibility that in an attempt to foster creativity they might be choking creativity. Mr. Gawf stated that is always a concern when you adopt a new regulation. What they are trying to do is balance the comments they have heard in recognition that bars and nightclubs are important to the downtown. They are trying to provide some structure to new bars and nightclubs and do it in a way that tries to achieve the goals rather than just saying no more in the downtown. They have worked hard on the criteria they want to achieve in the downtown.

COMMISSIONER SCHWARTZ stated if he was a bar owner in downtown Scottsdale he would be jumping for joy right now because they just grandfathered him in. Now, they have a set of subjective criteria for future bars to come in setting a precedence that it will be tough for you to come into our town and do business unless you do it under a whole different set of rules than everybody else has done. He further stated that if they don't want any more bars in certain area then they should just regulate that they only go to a certain area. It is unfair to say you were here first and because you came in second you have to be set to a higher level of standards. Mr. Gawf stated they have three choices to either allow them without restrictions. They can say no you can't go in regardless. The other choice would be to say they are allowed but we are going to review them on an individual basis. He remarked in this case if they get too many bars it could drive away the other uses such as the galleries and once they have left it is hard to find those replacement uses. He further remarked they looked at those three options and tried to pick the middle ground.

MS. BOOMSMA presented information on the legal principles that come into play regarding the criteria for a use permit.

COMMISSIONER SCHWARTZ stated in the packet it says: "A use shall not impact adjacent properties from residential uses". He inquired who are they to determine that you cannot build a two or three story loft across the street from a bar, resturant or tattoo parlor. Who is to say a person cannot live within those conditions because it occurs all over the world. He further stated if he were coming to build a nightclub he would never meet the guidelines of the special use permit. They just locked him out. Mr. Grant stated the issue is more should a new bar be allowed in a residential area that is residentially zoned. If someone chooses to build an apartment above, a business that would not qualify as residentially zoned property.

COMMISSIONER NELSSEN inquired if a property comes available for a bar how much time would this add to the process before they would be able to open. He further inquired if there could be incentive to expedite this process. Mr. Grant stated they would have this process running concurrently with the tenant improvement. He further stated they could look at things to expedite the process for use permits.
COMMISSIONER HEITEL reiterated his concerns regarding calling an area an entertainment district and then creating a use permit process in that entertainment district. Mr. Gawf stated the Commission could chose to identify and include in their motion an area that is exempt from this criteria.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

LYNNE LAGARDE, 3101 N. Central, Phoenix, AZ, representing Westcor, stated in general they support the goals of this downtown overlay the encouragement of reinvestment in the downtown and redevelopment and making it easier for small businesses to do that without rezoning to downtown. She further stated it is very important to keep it simple and very clear.

Ms. Lagarde stated she would like to clarify that the Downtown Overlay does not apply to properties that are currently zoned downtown or will be zoned to downtown in the future except for the specific provision that relates to bars and nightclubs, tattoo parlors and parking requirements. Mr. Grant replied in the affirmative.

Ms. Lagarde stated there are some things that could be made clearer in the ordinance. She further stated in Section 5.3002 she thought it would be helpful to add language: "except where specifically superseded by the downtown overlay' you reference the exact sections that are superseding Section 5.3000 that will let people know they have to look at those specific sections.

Ms. Lagarde stated in the Purpose Section she would suggest right up front say very simply and clearly: That the downtown ordinance does not apply to properties zoned (D) within the downtown district.

Ms. Lagarde stated she has a concern regarding Section 6.1242 the section about the bar definition there is a problem with the dance floor provision. She further stated they ought to look at the provision regarding the kitchen closing before 9 pm they may want to add it does not apply to restaurants that just open for breakfast and lunch.

She further stated with regard to Section 6.1250 (B) Site development standards it should be made clear that this does not apply if you are zoned (D).

Ms. Lagarde stated the staff has done a great job simplifying the requirements for parking. She further stated she would agree with some of the comments that have ben made the language for the bar criteria could be improved. She concluded all of that being said staff did an incredible effort to do something that is critically needed in the downtown.

SAM WEST, 8160 N. Hayden #I-210, stated he is working on a project that is on the edge of the downtown. The issue is that there is a line drawn for each of the different areas in the downtown. He further stated he felt there should be the ability to have transition at the perimeter for suburban area to the downtown area.

Mr. West stated if they are going to have residential in the downtown they need to provide services the type of services residents would expect in the downtown area. He further stated the resturant and bar business uses up all of the parking spaces at night so there really is no place to have retail for the people who would want to live in the downtown. He noted his concerns is that when they get to the final solution regarding the desire to bring people into the downtown that they are not creating conflicts and other things that would have a negative impact.

Mr. West stated it appears on the bar and resturant the change of footage requirements for parking places needs to be looked at a little harder.

Mr. West commended staff on the report. He stated he felt the suggestions as a whole are a very good solution to the problems that exist.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

MR. GRANT stated in response to some of the questions that were raised their goal with this is to keep the ordinance amendments clear, concise, and simple. He further stated this is part of a much larger package. There is a work plan that includes a number of things. He remarked they expect this will be a living process so this is not the conclusion of this process. It is simply a milestone along the way and does not preclude further actions that might adjust this ordinance. They might want to keep this as something that they periodically review and discuss. He noted they concur with the comments made by Ms. Lagarde and Ms. Boomsma is making notes about things they could recommend be included in the motion if it is the Commission's desire.

VICE CHAIRMAN STEINBERG stated he has concerns that they might be increasing the barrier to entry on certain businesses, which could reverse revitalization. He further stated he wants to be careful not to preclude business from coming to Scottsdale or fleeing Scottsdale because of the new requirements. He remarked that he would like to encourage all level of residential including starter residential not just luxury and high end. They need a mix to give vitality.

Vice Chairman Steinberg inquired how feasible would it be to add 2,000 square feet to a commercial structure from a structural, economical, life, safety, UBC Code, ADA and utility point of view will that really happen when you look at all of those factors. Mr. Gawf stated the 2,000 square feet is important for a couple of reasons. One it would be giving an opportunity. Whether someone takes it or not is another question. He further stated he believes it applies even if you tear down a building and would provide extra incentives to build that new building. He added it may not apply to remodels.

COMMISSIONER SCHWARTZ stated he felt this was a step in the right direction. He stated it was his understanding that tonight's hearing was only an ordinance about revitalizing downtown and that the use permit issues was not part of the discussion. Mr. Grant replied that has been part of the discussion all along. He apologized if staff did not communicate effectively with the Commission.

Commissioner Schwartz inquired how does this ordinance promote connectivity and encourage pedestrian traffic. Mr. Grant stated they are trying to prevent obstacles. They are looking for a mix that will create synergy.

Commissioner Schwartz inquired how can they encourage a holistic plan and joint planning in the downtown rather than planning the downtown every 4500 square foot lot at a time. Mr. Grant stated that is a good observation. The reality they have been faced with is that they have had a lot of discussions for a lot of years. One of things they have been good at is studying things and the difficulty they have had is implementing things.

They are not saying this is the end of the process. They are saying this is a step in the process and it is reflective of the input they have had to date from the citizen groups, Council, and the property owners.

Commissioner Schwartz inquired if it was financially practical to add residential use above existing commercial structures, which is the intent of this ordinance allows. Mr. Grant stated the ordinance also applies to new structures. They understand there maybe a limit financially to whether someone would take advantage of this but it does present the opportunity. He further stated they felt there is the opportunity not to only add residential uses above an existing structure but also horizontally.

Commissioner Schwartz stated with all the new emerging alternative destinations to downtown how does this plan ensure the downtown will be able to compete with other urban cores like Mill Avenue, Tempe Town Lake, Kierland Commons and the new Stack 40s development. Mr. Grant stated one thing the ERA study pointed out that they need a downtown that appeals to tourists as well as residents. The goal would be to diversify the activities they have in the downtown so they can appeal to every group. He noted there is a different market for what they are trying to do in downtown Scottsdale.

Commissioner Schwartz stated he has prepared a statement he would like to read:

The City of Scottsdale has long enjoyed an area of success and we continue to be among the places where people from all over the world wants to visit. The sense of attractiveness massed the fact that we have a very sick heart. In fact, we now have many places that are competing with and out performing our downtown as the energy center of our community. This further compounded by the fact that we want to think of as our downtown rather than geographically in the center of things in fact one end of a very long city in which its most vibrant happenings are all occurring far to the north. But most problematic of all is that our downtown area has been a war zone fueled by fragmented piecemeal thinking. Perhaps we have given up on the notion we have a grand vision for the area that extends from Los Arcos on the south to the Old Safari site to the north. What can be said without fear of being wrong is that failure to give this area the benefit of the most brilliant holistic vision will doom it to a continual and steady decline no matter what incremental additions are made. No one site or group of structures will be able to generate enough magnetism to energize the whole. Now before us is an ordinance that backs up what I am saying. Rather than wrestling with the greater task of what we desire for the overall setting this ordinance memorializes fragmented thinking. At its very best, it will encourage individual landowners to proceed on their own. At its very worst these individual pursuits will not only not generate the mechanism for their own success but will for all practical purpose further complicate or prohibit any and all attempts to carry out the level of development necessary for a sustainable future.

CHAIRMAN GULINO stated there was a letter from Mr. Leery and he brought up the point of drive throughs that it has disappeared out of this. He further stated drive throughs have always been a point of contention. Mr. Grant stated they have been discussing this issue with Mr. Leery. He further stated staff wanted to be able to address this issue without amending the ordinance. Two things need to happen, one restrict

drive throughs in the downtown. Amend the C-2 district to allow drive through in C-2 outside of the downtown overlay area.

Chairman Gulino stated the proposed use permit criteria has a statement that reads: Use shall not impact adjacent property for residential uses. He inquired if there is a R district that would apply to this item. Ms. Boomsma stated that was one of the suggestions she was going to make for possibly revising the language. She suggested they revise this criteria to read: Use shall not adversely impact adjacent residential use.

Chairman Gulino stated he received an email regarding some problems specifically targeting after hour business. He inquired how does after hours businesses fit into this new ordinance. Are after hours businesses specifically identified as another use permit. Mr. Grant stated they have not specifically addressed after hour businesses in this ordinance. Ms. Boomsma stated there are regulations for after hour clubs and that is through the business license process. Mr. Ekblaw stated it could be added into this ordinance that after hour activities would be part of the criteria for review and require a use permit. Chairman Gulino stated he might support that. He further stated his office is in the middle of a bunch of bars, he finds between one, and two o'clock people are the most destructive.

Chairman Gulino stated he felt the item Commissioner Heitel brought up regarding the kitchen closure at 9:00 PM was a good point.

Chairman Gulino stated he supports what is here. He further stated this is a step in a long process. He noted he felt a certain amount of anxiety regarding the fact they are getting bits and pieces but he does not know any other way to do it. He further noted he felt the City of Scottsdale was entering a new era where they are getting into redevelopment. He remarked what they have here is not the entire answer to what they are trying to achieve downtown. He further remarked it is a step in the right direction. It is important to take that step. What they approve today will come with mistakes and the best way to flush out those mistakes is to move forward and start working with it. They can come back and revisit those issues. He commented he would encourage a motion for approval with some clarifications.

Chairman Gulino requested after the summer break that the Planning Commission has a joint meeting with the City Council to discuss the vision for the downtown. Mr. Ekblaw stated there are a number of items in the community that staff could share with the Commission at a work study session that would help them to focus on the issues and then they could schedule a joint meeting with the Council.

COMMISSIONER HEITEL stated he does not think this is a perfect document but he thought the movement and the interest in the downtown speaks to some kind of action and this is a good first step. He further stated he felt there were some larger issues that should be discussed in a study session with the Council after the summer break. He remarked he welcomes the opening up of the process in the downtown area that has been very restrictive and created some major impediments to bringing vitality to the Downtown area. He further remarked some of the vision Mr. Gawf has spoken of is part of this process. He noted bringing the residential component into the downtown will be

huge. He further noted he would hate to stand in the way of restricting those sorts of things.

COMMISSIONER HEITEL MOVED TO FORWARD CASE 1-TA-2003 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL SUBJECT TO THE FOLLOWING CAVEATS:

CLARIFICATION OF THE DEFINITION OF THE DOWNTOWN OVERLAY AND THE DOWNTOWN DISTRICT.

CLARIFICATION OF THE BAR KITCHEN AREA.

EXEMPT THE BAR USE PERMIT PROCESS IN THE ENTERTAINMENT DISTRICT.

REMOVE THE PERCENTAGES IN THE DIFFERING AREAS.

ADD AFTER HOURS ACTIVITIES BE INCLUDED IN THE USE PERMIT PROCESS.

STRIKE THE BULLET POINT THAT READS: WILL NOT DISRUPT EXISTING BALANCE OF DAYTIME AND NIGHTTIME USES.

STRIKE THE BULLET POINT THAT READS: USE SHALL NOT IMPACT ADJACENT PROPERTIES FOR RESIDENTIAL USES.

MS. BOOMSMA provided language to be used in the motion that covered Commissioner Heitel's caveats to the motion as follows:

IN SECTION 6.1202 THAT READS: "PROPERTIES WITH (D) DOWNTOWN DISTRICT ZONING SHALL NOT BE SUBJECT TO THESE REGULATIONS EXCEPT FOR THE FOLLOWING REQUIREMENTS; REGULATION OF BARS/NIGHTCLUBS," INSERT THE LANGUAGE AFTER HOURS ACTIVITIES IF THAT IS GOING TO BE A CONDITIONAL USE PERMIT. "REGULATION OF TATTOO AND RELATED BUSINESSES, PROVISION OF PARKING, AND PARKING WAIVERS' THAT LANGUAGE SHOULD ALSO BE PUT IT IN SECTION 5.3002 AS WELL AS LEAVING IT IN SECTION 6.1202.

MS. BOOMSMA stated they could work on that language if the concept is acceptable.

SEC. 6.1230 SCHEDULE A, THEY WOULD ADD A NEW CATEGORY FOR BARS AND NIGHTCLUBS IN THE ENTERTAINMENT DISTRICT. A NEW CATEGORY P FOR THAT SPECIFIC LAND USE AREA.

NEW CLASSIFICATION FOR AFTER HOURS PERMITTED BY A CONDITIONAL USE PERMIT.

MS. BOOMSMA stated they would need to rely on staff to come up with suitable criteria for after hours criteria for after hours licensing.

UNDER THE CRITERIA FOR BARS AND NIGHTCLUBS DELETE THE FIRST BULLET POINT: USE WILL NOT DISRUPT EXISTING BALANCE OF DAYTIME AND NIGHTTIME USES. THE BULLET POINT THAT READS: USE SHALL NOT IMPACT ADJACENT PROPERTIES FOR RESIDENTIAL USES. BE CHANGED TO READ; USE SHALL NOT ADVERSELY IMPACT ADJACENT PROPERTIES FOR RESIDENTIAL USES.

UNDER TATTOO PARLORS AND RELATED BUSINESS THE BULLET POINT THAT READS: THE PROPOSED TATTOO PARLOR USE, IF ESTABLISHED SHALL NOT BE LOCATED WITHIN 500 FEET OF RESIDENTIAL USES...SHOULD BE CHANGED TO READ: THE PROPOSED TATTOO PARLOR USE, IF ESTABLISHED SHALL NOT BE LOCATED WITHIN 500 FEET OF EXISTING RESIDENTIAL USES...

COMMERCIAL USE CLASSIFICATION, CRITERIA 6 THAT READS: THE FULL KITCHEN CLOSES BEFORE 9 PM. SHOULD BE CHANGED TO READ: THE BUSINESS REMAINS OPEN AND LIQUOR SALE CONTINUE BUT THE FULL KITCHEN CLOSES BEFORE 9 PM.

COMMISSIONER HEITEL stated he was comfortable including that language in his motion.

SECOND BY COMMISSIONER BARNETT.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO TWO (2) WITH COMMISSIONER NELSSEN AND SCHWARTZ DISSENTING.

COMMISSIONER HEITEL MOVED TO FORWARD CASE 5-ZN-2003 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY COMMISSIONER BARNETT.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO TWO (2) WITH COMMISSIONER NELSSEN AND SCHWARTZ DISSENTING.

MR. EKBLAW stated going back to case on the 5th Avenue parking garage staff would set up a site tour before the next meeting. He further stated they would come up with a date and advertise it tomorrow.

WRITTEN COMMUNICATION

There was no written communication.

ADJOURNMENT

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission was adjourned at 9:20 p.m.

Respectfully Submitted,

"For the Record " Court Reporters

SPEAKER/CITIZEN COMMENT CARD

#8

This card is for providing comments when attending City Council and other public meetings, whether or not you wish to speak.

All cards MUST be submitted BEFORE public testimony has begun on the item. Testimony is limited to 3 minutes per speaker. Additional time MAY be granted to speakers representing two or more persons.

PLEASE PRINT NAME THOMAS W. GILLER MEETING DATE 6/11/03

IF APPLICABLE, NAME THE GROUP OR ORGANIZATION YOU REPRESENT BROOKS BLG INC / MARSHALL SCIENT c/o ALAMOS MGMT RESOURCES

ADDRESS 2940 N. 67th PLACE #6 SCOTT ZIP 85251

HOME PHONE 4 WORK PHONE 480 945 2548

☐ YES, I WISH TO SPEAK REGARDING ITEM #

☒ NO, I DO NOT WISH TO SPEAK, BUT WISH TO COMMENT ON BACK OF THIS CARD.

☐ I AM IN FAVOR OF AGENDA ITEM # ☒ I AM OPPOSED TO AGENDA ITEM # #8 1-TA-2003

☐ I WISH TO SPEAK DURING "PUBLIC COMMENTS" CONCERNING

Public comments are limited to items not otherwise listed on the agenda. Citizens may complete one speaker/citizen comment card per night and submit it to the City Clerk before or during the meeting. Council will listen to your remarks, but is prohibited by state law from discussing items which are not specifically listed on the agenda and posted at least 24-hours before the meeting begins.

This card constitutes a public record under Arizona law.

Please give this card to the clerk at the meeting BEFORE public testimony begins on the item you wish to address.

HOW TO ADDRESS THE COUNCIL OR BOARD/COMMISSION:

- The chair will call your name when it is your turn to speak.
- Approach the podium and state your name and address for the record.
- Groups wishing to speak should elect a spokesperson to represent the views of the group.

Comments are limited to 3 minutes.
Speakers representing two or more persons may be granted additional time

A green light will appear when you begin your comments
A yellow light will appear when you have one minute remaining
A red light will appear when your 3 minutes are up

Comments DOWNTOWN PLAN ILL CONCIEVED! SUPPORTS GARY ROE'S DOWNTOWN PLAN WHICH BROUGT US, SCOTTSDALE HIGH SITE. BAR LIMITATIONS (LAND USE) RESTRICT OWNERS PROPERTY RIGHTS WHILE NOT SOLVING PROBLEM EFFECTS OF OVERLAY NOT ~~[illegible]~~ WELL PRESENTED OR EXPLAINED TO AFFECTED PROPERTY OWNERS. SAME RAILROAD TRACKS AS APPROACH REDEVEL ~~[illegible]~~

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PLEASE PRINT NAME LYNNE LAGARDE MEETING DATE 6-11-03

IF APPLICABLE, NAME THE GROUP OR ORGANIZATION YOU REPRESENT EARL, CURLEY + LAGARDE

ADDRESS 3101 N. CENTRAL, PHOENIX AZ ZIP 85016

HOME PHONE _____ WORK PHONE 602-265-0094

☑ YES, I WISH TO SPEAK REGARDING ITEM # _____

☐ NO, I DO NOT WISH TO SPEAK, BUT WISH TO COMMENT ON BACK OF THIS CARD.

☐ I AM IN FAVOR OF AGENDA ITEM # _____ ☐ I AM OPPOSED TO AGENDA ITEM # _____

☐ I WISH TO SPEAK DURING "PUBLIC COMMENTS" CONCERNING _____

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SPEAKER/CITIZEN COMMENT CARD

8/9

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PLEASE PRINT NAME SAM WEST MEETING DATE 6/11/03

IF APPLICABLE, NAME THE GROUP OR ORGANIZATION YOU REPRESENT

ADDRESS 6166 H. HAYDEN ZIP 85250

HOME PHONE WORK PHONE

☑ YES, I WISH TO SPEAK REGARDING ITEM # 8 & 9

☐ NO, I DO NOT WISH TO SPEAK, BUT WISH TO COMMENT ON BACK OF THIS CARD.

☐ I AM IN FAVOR OF AGENDA ITEM # ☐ I AM OPPOSED TO AGENDA ITEM #

☐ I WISH TO SPEAK DURING "PUBLIC COMMENTS" CONCERNING

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SPEAKER/CITIZEN COMMENT CARD

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PLEASE PRINT NAME NORWOOD SISSON MEETING DATE JUNE 11 2003

IF APPLICABLE, NAME THE GROUP OR ORGANIZATION YOU REPRESENT

ADDRESS 7421 E. PORTLAND ZIP 85257

HOME PHONE 945941 WORK PHONE

☒ YES, I WISH TO SPEAK REGARDING ITEM # 8

☐ NO, I DO NOT WISH TO SPEAK, BUT WISH TO COMMENT ON BACK OF THIS CARD.

☐ I AM IN FAVOR OF AGENDA ITEM # ☐ I AM OPPOSED TO AGENDA ITEM #

☐ I WISH TO SPEAK DURING "PUBLIC COMMENTS" CONCERNING

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