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 3 7272 E. Indian School Road Suite 360
 4 Scottsdale, Arizona 85251
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6 Attorney for Intervenors Langley Properties, LLC.,
 7 Robson Communities, LLC., Pulte Home Corporation, Inc., et al.

THE ARIZONA CORPORATION COMMISSION

8 IN THE MATTER OF THE)
 9 APPLICATION OFSALT RIVER)
 10 PROJECT AGRICULTURAL)
 11 IMPROVEMENT AND POWER)
 12 DISTRICT ON BEHALF OF ITSELF)
 13 AND ARIZONA PUBLIC SERVICE)
 14 COMPANY, SANTA CRUZ WATER)
 15 AND POWER DISTRICTS)
 16 ASSOCIATION, SOUTHWEST)
 17 TRANSMISSION COOPERATIVE,)
 18 INC. AND TUCSON ELECTRIC)
 19 POWER IN CONFORMANCE WITH)
 20 THE REQUIREMENTS OF ARIZONA)
 21 REVISED STATUTES SECTION 40-)
 22 360, et. seq., FOR A CERTIFICATE OF)
 23 ENVIRONMENTAL COMPATIBILITY)
 24 AUTHORIZING CONSTRUCTION OF)
 25 THE PINAL WEST TO SOUTHEAST)
 VALLEY/BROWNING PROJECT)
 INCLUDING THE CONSTRUCTION)
 OF TRANSMISSION LINES FROM)
 PINAL WEST TO THE BROWNING)
 SUBSTATION AND OTHER)
 INTERCONNECTION COMPONENTS)
 IN PINAL AND MARICOPA)
 COUNTIES, ARIZONA.)

Docket NO. L-00000B-04-0126

Case No. 126

STATEMENT REGARDING
EXCLUSION OF NEW EVIDENCE
OR CONSIDERATION OF
REBUTTAL EVIDENCE

AZ CORP COMMISSION
DOCUMENT CONTROL

2005 AUG - 1 1 P 4: 41

RECEIVED

1 **I. INTRODUCTION**

2

3 At the oral argument held before the Commission on July 13, 2005, the Applicant and

4 Corporation Commission Staff made certain statements that we cannot find support for in the record

5 of this proceeding. This Statement asks that the Commission either disregard such statements or

6 consider the Exhibits and Affidavits attached to this Statement as a rebuttal. At the oral argument

7 the Applicant's attorney falsely indicated that opportunities to serve the Anthem area would be lost

8 if the 500kV line were not routed through the center of the development. (TR: 177, l. 10-11, 21-25).

9 Further, Staff repeatedly stated that the Committee's recommendation leaves Anthem "not near"

10 and "not close" to this power line. (TR: 148 l. 18 and 151 l. 15). Our review of the record found

11 that these allegations are not supported in the transcript and, as demonstrated herein, these

12 allegations are erroneous. As a result, we respectfully request that these claims either be stricken

13 from consideration or that the Commission consider the Exhibits and Affidavits submitted herewith

14 to rebut these new and incorrect claims.

15

16

17 **II. ARGUMENT**

18

19 **A. We could not find references to the new allegations in the 5,000 pages of**

20 **transcripts and they must, therefore, be disregarded**

21 Arizona law and this Commission's own Order setting the oral argument provide that the

22 record in this matter was closed after the Committee hearings concluded. Accordingly, it would be

23 improper for the Commission to consider new evidence in making its decision. Further, it would be

24

25

1 unjust for the Commission, sitting in an appellate role, to consider new evidence especially if that
2 evidence is demonstrably false.

3
4 **B. If the Commission chooses to consider the new allegations then it must accept**
5 **and consider the rebuttal evidence contained in this Statement**

6 If the Commission chooses to consider the evidence offered at the oral argument then it
7 must consider the rebuttal evidence contained in this Statement. If the Commission considers what
8 was offered at the oral argument and does not take into account this rebuttal evidence it will be
9 basing its decision on evidence that is both not in the record below and incorrect. This could result
10 in a fundamentally unfair decision to the disadvantage of all of the cities in Pinal County and every
11 Intervenor in this matter.

12
13
14 **1. Evidence clearly demonstrates that the allegations are false**

15 **a. This power line is not necessary to serve Anthem**

16
17 At the oral argument, the Applicant's attorney incorrectly stated and implied that service of
18 the master planned community known as Anthem at Merrill Ranch would be complicated or in
19 some way hindered if the alignment at issue in Siting Case 126 was sited to steer clear of the heart
20 of Florence and avoid the Anthem project. He indicated that, "we are going to have to do it a
21 different way if we don't go through Anthem." (TR: 177, l. 10-11). He went on to imply that
22 somehow an opportunity to serve Anthem would be lost if the eastern alternative were not selected.
23 (TR: 177 l. 21-25). These assertions are incorrect and there is ample evidence to rebut these new
24 inaccurate claims:
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1) Pulte, through its project manager and others, has been in constant communication with APS for approximately 10 months planning for the electrical service of the Anthem project. Daniel Bonow, Pulte's project manager for Anthem, has met with APS every other week for the past 6 months to assure that plans to serve the project are in place. See the Affidavit of Daniel Bonow attached hereto as Exhibit "A", at ¶¶ 2, 3.

2) APS provided Pulte with written confirmation of its intent to serve Anthem in a letter dated June 22, 2004 (attached as Exhibit "B") and has since confirmed its service plans as recently as a few weeks ago in the attached letter dated July 14, 2005 (attached as Exhibit "C").

3) In the July 14 letter, APS explains where the power to serve Anthem will be coming from and it is clear that it comes from sources that are being planned independent of the Case 126 line. This letter clearly refers to four 69kV substations that may be necessary to serve the area in the future and discusses the undergrounding of lines to serve the project. Pulte has been working with APS to plan for the future placement of 69kV substations as needed. See Bonow Affidavit at ¶ 4.

4) The July 14 Letter makes no mention of any future 230kV substation in the middle of Anthem as SRP's counsel discussed at the oral argument. (TR: 180 1.18).

5) The Applicant's Preferred Alignment –the one for which it had been advocating for more than two years- *is the same as* the line the Committee selected in this area; the one avoiding Anthem and the heart of Florence. The Applicant would not have selected, as its preferred alignment, an alignment that did not meet the electrical needs of APS- a project participant-;

6) As the plans attached as Exhibit "D" indicate, APS itself has already begun drafting final plans indicating the exact procedures for service of the Anthem area. As Tim Moskalik testified to

1 the Committee, Pulte intends to begin selling homes in early 2006, well before this power line is in
2 place; and

3 7) APS has repeatedly assured Pulte that Anthem will have power and has never indicated any
4 necessary connection between Anthem and the power line at issue in Line Siting Case No. 126. See
5 Bonow Affidavit at ¶ 5.

6 **b. The alternative that Florence and every other Intervenor supports**
7 **would site the line in close proximity to Anthem and the Heart of**
8 **Florence**

9 In its presentation, Staff perhaps inadvertently, misrepresented the proximity of the
10 Committee's recommended alignment to the heart of Florence. Staff repeatedly stated that the
11 Committee's chosen line leaves Anthem "not near" and "not close" to this power line. (TR: 148 l.
12 18 and 151 l. 15). Neither of these statements are true, neither are supported by any reference to the
13 transcript or the record of Case 126 and they represent new evidence that if considered could
14 prejudice all Intervenors in support of the Committee's recommended alignment. A simple
15 reference to most of the maps entered as exhibits in this matter would clearly show that the
16 Committee's selected corridor comes within 1.5 miles of the western edge of Anthem. Staff's
17 statement indicating that the chosen alignment is not close or near to Anthem simply is incorrect.
18

19
20 **III. CONCLUSION**

21
22 After reviewing the voluminous record of this matter, it appears that new evidence was
23 introduced at the oral argument held before the Commission. Because the evidentiary portion of
24 this proceeding concluded at the Line Siting Committee this new evidence must not be considered
25

1 at this time. Further, this new evidence is wrong and, therefore, if the Commission is to consider
2 this evidence it must take into account the rebuttal evidence offered herein.

3 DATED this 1st day of August, 2005.

4 **ROSE LAW GROUP**

5 

6
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11 LLC., Robson Communities, LLC., Pulte Home
12 Corporation, Inc., et al.

11 Pursuant to A.A.C. R14-3-204,
12 The ORIGINAL and 40 copies were
13 filed this 1st day of August, 2005,
14 with:

13 Docket Control
14 Arizona Corporation Commission
15 1200 W. Washington
16 Phoenix AZ 85007

16 BY: 

17 COPY of the foregoing emailed this
18 1st day of August, 2005, to:

18 Diane Targovnik, Esq. E-mail: dtargovnik@cc.state.az.us

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21 Phoenix AZ 85007

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22 Utilities Division
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Scottsdale AZ 85253

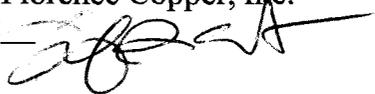
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32 Road Runner Resorts, LLC, CMR Casa Grande LLC,
33 and Florence Copper, Inc.
34 BY: 

EXHIBIT A

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5 **Attorney for Intervenors Langley Properties, LLC.,**
Robson Communities, LLC., Pulte Home Corporation, Inc., et al.

6 **ARIZONA CORPORATION COMMISSION**
7

8 IN THE MATTER OF THE) Docket NO. L-00000B-04-0126
9 APPLICATION OF SALT RIVER)
PROJECT AGRICULTURAL)
10 IMPROVEMENT AND POWER) Case No. 126
DISTRICT ON BEHALF OF ITSELF) **AFFIDAVIT OF DANIEL BONOW**
11 AND ARIZONA PUBLIC SERVICE)
COMPANY, SANTA CRUZ WATER)
12 AND POWER DISTRICTS)
ASSOCIATION, SOUTHWEST)
13 TRANSMISSION COOPERATIVE,)
14 INC. AND TUCSON ELECTRIC)
POWER IN CONFORMANCE WITH)
15 THE REQUIREMENTS OF ARIZONA)
16 REVISED STATUTES SECTION 40-)
360, et. seq., FOR A CERTIFICATE OF)
17 ENVIRONMENTAL COMPATIBILITY)
18 AUTHORIZING CONSTRUCTION OF)
THE PINAL WEST TO SOUTHEAST)
19 VALLEY/BROWNING PROJECT)
INCLUDING THE CONSTRUCTION)
20 OF TRANSMISSION LINES FROM)
PINAL WEST TO THE BROWNING)
21 SUBSTATION AND OTHER)
22 INTERCONNECTION COMPONENTS)
IN PINAL AND MARICOPA)
23 COUNTIES, ARIZONA.)

24
25 I, DANIEL BONOW, having been duly sworn, hereby depose and say:

EXHIBIT B



50 N. BROWN AVENUE • CASA GRANDE, ARIZONA 85222

June 22, 2004

Pulte Homes
Attn: Chris Clonts
Land Project Manager

RE: Power Availability Pulte/ Merrill Ranch Subdivision

Dear Mr. Clonts,

Thank you for the opportunity to provide information regarding electrical service to the above location. The Design Project Leader and your APS contact for this project is Beverly Gerlach, she can be reached on 520-421-8360. The referenced area is currently within Arizona Public Service Company's (APS) electric service area. Upon your written request, APS will extend our facilities to serve this location in accordance with the "Conditions Governing Extensions of Electric Distribution Lines and Services", Schedule #3, and the "Terms and Conditions for the Sale of Electric Service", Schedule #1, on file with the Arizona Corporation Commission (ACC).

All trenching and conduit installation is the responsibility of the Customer and will then be inspected and approved by APS. We will provide you with the requirements and specifications. To prepare the design for electrical utility service to meet the property/lot owner needs, the following items will need to be submitted: an approved set of plans on the project, a copy of the survey results on the property, load calculations, and a copy of the recorded deed. Please forward these to Beverly at your earliest opportunity. We will need to discuss and determine a mutually acceptable substation site very early in the project.

Prior to construction, an advance payment may be required. The amount of advance payment cannot be determined until an economic analysis has been made, based in part on certain information you will be required to furnish. This payment may be refundable in accordance with section 5 of Schedule #3.

In addition, you may also incur additional costs, which are non-refundable. These costs will depend upon the extent of the construction you will require that we perform to facilitate your project. An annual facilities charge may also be required in addition to the standard rates for electric service. Any APS charges will be set forth in an extension agreement which will require authorization, by APS and the Customer.

It is to be understood that this letter is intended only for your general information and does not constitute any type of offer or agreement between us. If you have any questions, please feel free to contact me at (520) 421-8395.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Creedon', written over a horizontal line.

Jeffrey S. Creedon
Supervisor
SE Service Planning Dept.

Enclosures: Schedule #1 & Schedule #3
Cc: Beverly Gerlach

EXHIBIT C



50 N. BROWN AVENUE • CASA GRANDE, ARIZONA 85222

July 14, 2005

Pulte Homes
Attn: Phillip Cross
480-391-6109

RE: Anthem at Merrill Ranch Project

Dear Mr. Cross,

APS is engineering a new 69 kilovolt (kV) sub-transmission line to serve your project. The new 69kV line will be fed from the APS Valley Farms Substation located on Hiscox Rd. south of Hwy 287. As you know, we have also identified three additional substation sites within your development. We have been working with many parties including the Town of Florence and several developers to plan a 69kV route that will maximize our ability to serve the growth of this area and at the same time minimize the impact on developed areas. As we have previously agreed with your development team, a majority of the 69kV line on the north side of the Gila River within your developments will be underground.

APS values our excellent relationship with Pulte and we look forward to continue our working relationship. If you have any questions, please feel free to contact me at (520) 421-8395.

Sincerely,

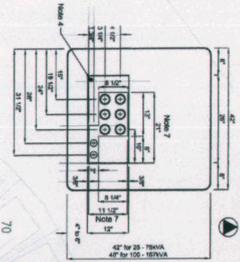
A handwritten signature in black ink, appearing to read 'Jeffrey S. Creedon', written over a horizontal line.

Jeffrey S. Creedon
Supervisor
SE Service Planning Dept.

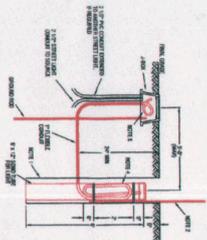
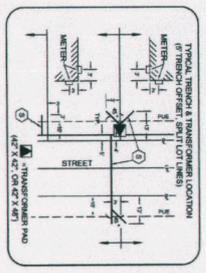
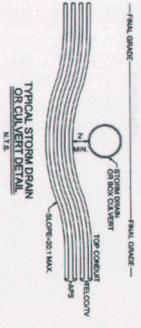
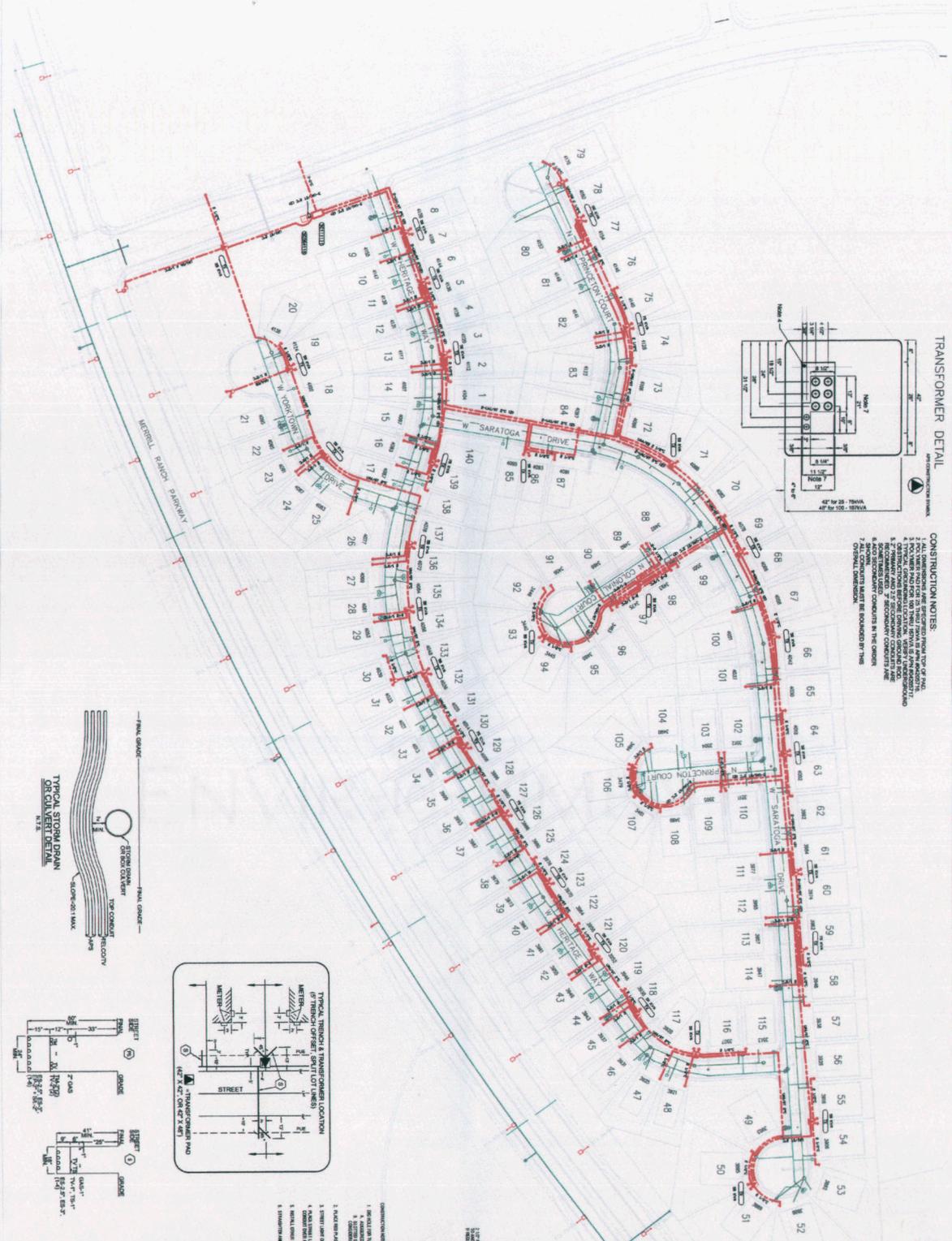
EXHIBIT D

W251164
UNIT 4

TRANSFORMER DETAIL



- CONSTRUCTION NOTES:**
1. ALL DIMENSIONS ARE INDICATED UNLESS OTHERWISE NOTED.
 2. ALL CONCRETE SHALL BE 3000 PSI STRENGTH CONCRETE.
 3. ALL CONCRETE SHALL BE CAST AND FINISHED TO THE FINISH SURFACE.
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PRELIMINARY
NOT FOR BIDDING
OR CONSTRUCTION

DATE: _____
DESIGNED BY: _____
CHECKED BY: _____
APPROVED BY: _____
REVISIONS: _____

NOTE: ANY CHANGES TO THIS PLAN SHALL BE INDICATED BY A REVISION TABLE.

- CONSTRUCTION NOTES:**
1. ALL DIMENSIONS ARE INDICATED UNLESS OTHERWISE NOTED.
 2. ALL CONCRETE SHALL BE 3000 PSI STRENGTH CONCRETE.
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DATE: 07-11-13	SCALE: 1"=40'-0"
PROJECT: W251164	SHEET: 1 OF 1
A/S ARCHITECT & INTERIOR DESIGN, INC. 1000 W. 10TH AVENUE, SUITE 100 DENVER, CO 80202	

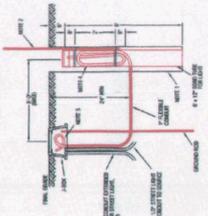
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NOT FOR BIDDING
OR CONSTRUCTION

APPROVED AS DESIGNED
DATE
SIGNATURE

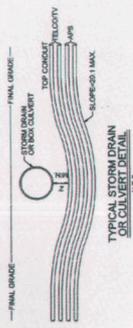
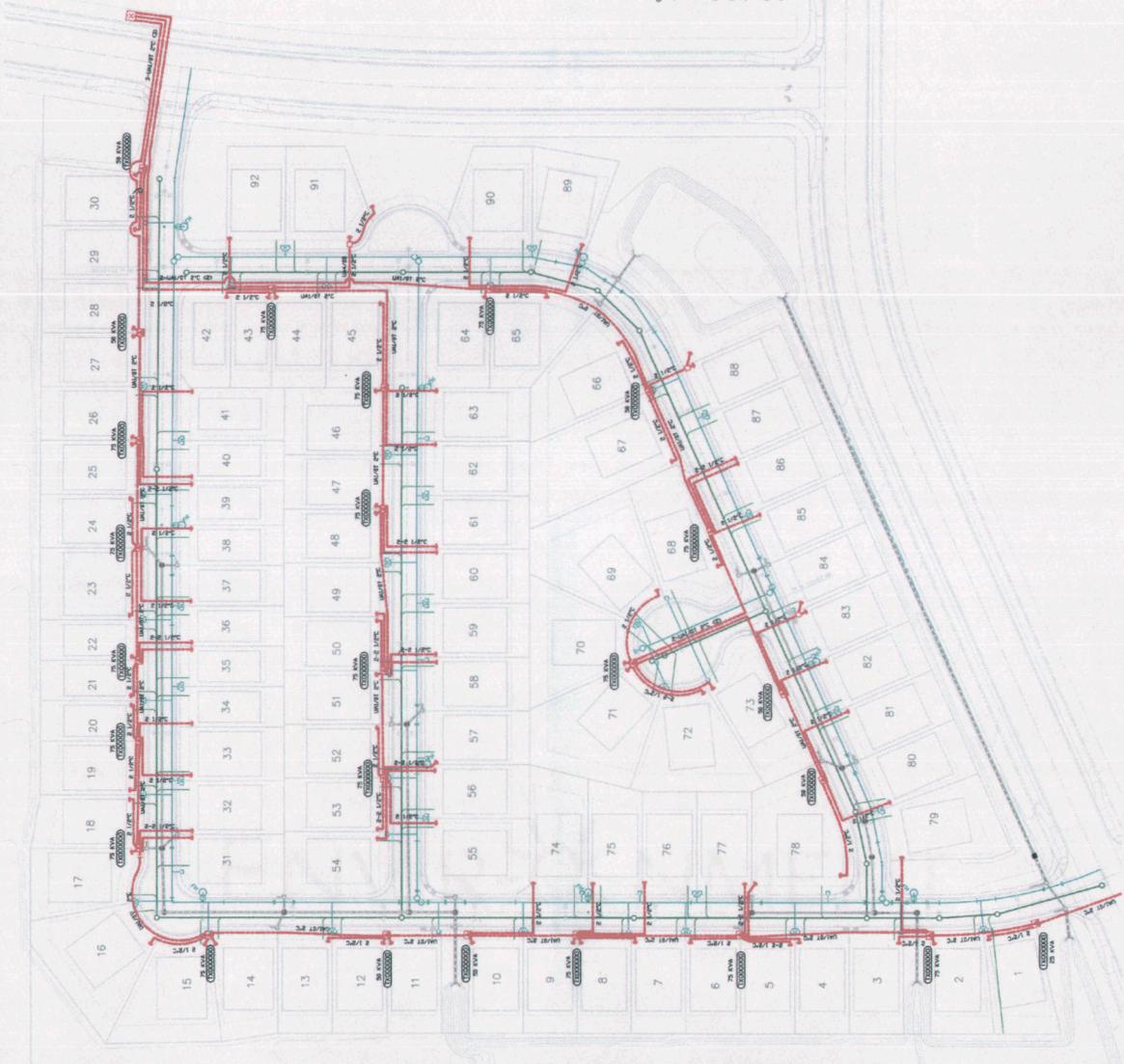
APPROVED AS REQUIRED
DATE
SIGNATURE

NOTE: THIS DRAWING IS SUBJECT TO A FUTURE REVISIONS PER THE PROJECT'S CUSTOMER CHANGES.

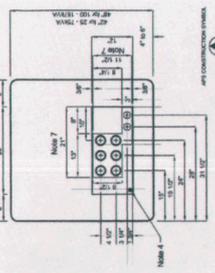
STREET LIGHT / DISK-DOWN TUBES



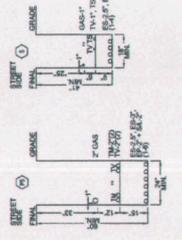
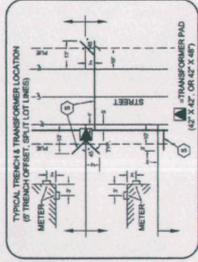
- REVISIONS:**
1. REVISIONS TO BE MADE TO THE DRAWING AS NOTED BY THE PROJECT'S CUSTOMER CHANGES.
 2. PLACE THE TUBES AT THE LOCATION INDICATED BY THE DISK-DOWN TUBES.
 3. DISK-DOWN TUBES SHALL BE 12" DIA. AND 12" HIGH.
 4. PLACE STREET LIGHT TUBES AT THE LOCATION INDICATED BY THE DISK-DOWN TUBES.
 5. DISK-DOWN TUBES SHALL BE 12" DIA. AND 12" HIGH.
 6. DISK-DOWN TUBES SHALL BE 12" DIA. AND 12" HIGH.



TRANSFORMER DETAIL

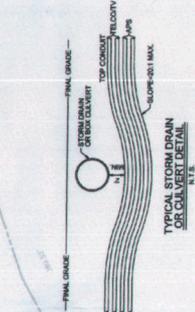
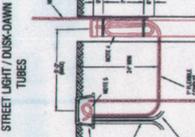
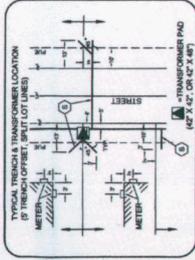
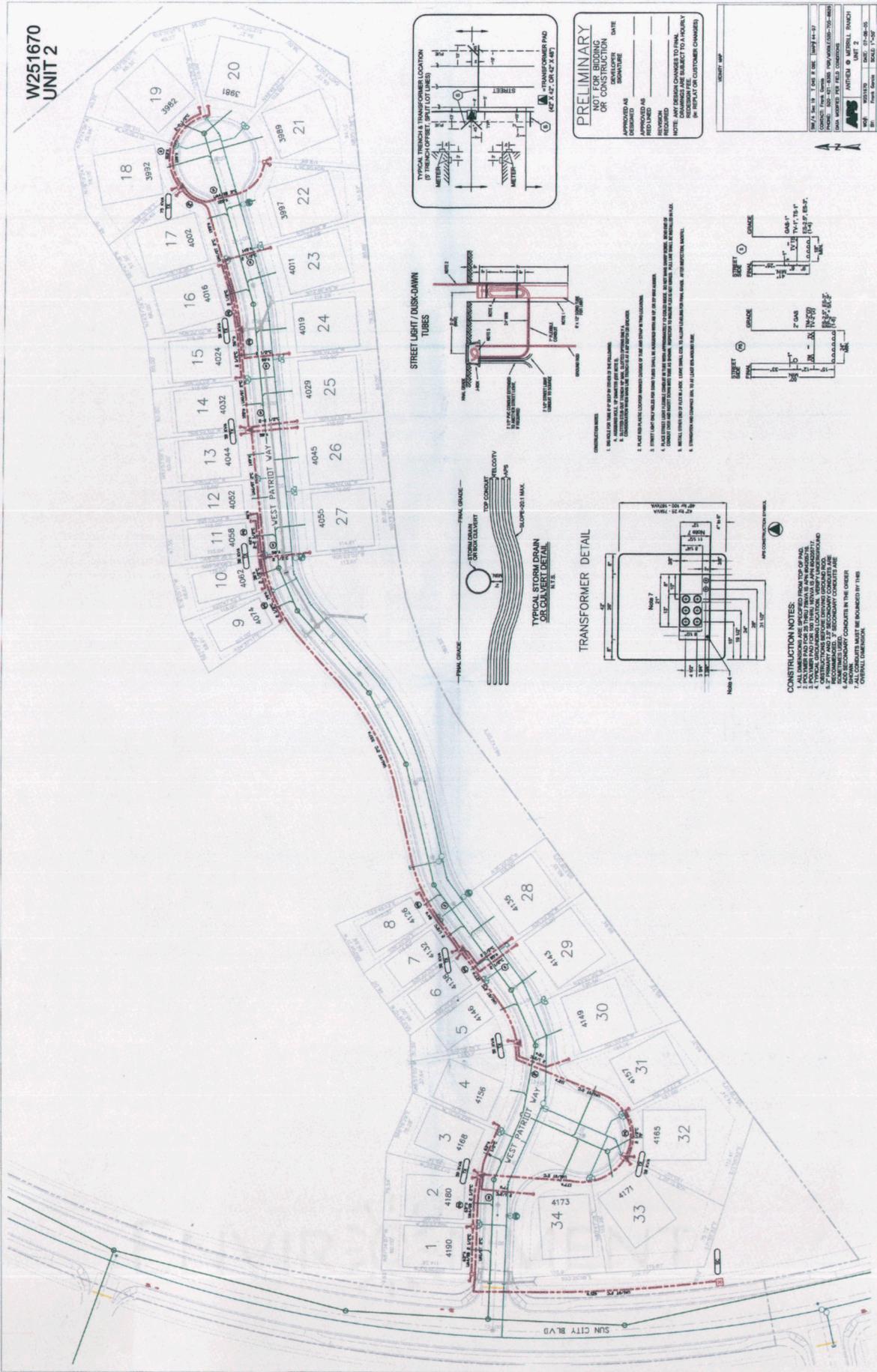


- CONSTRUCTION NOTES:**
1. ALL DIMENSIONS ARE GIVEN FROM TOP OF PAD.
 2. ALL METERS SHALL BE 12" DIA. AND 12" HIGH.
 3. ALL METERS SHALL BE 12" DIA. AND 12" HIGH.
 4. ALL METERS SHALL BE 12" DIA. AND 12" HIGH.
 5. ALL METERS SHALL BE 12" DIA. AND 12" HIGH.
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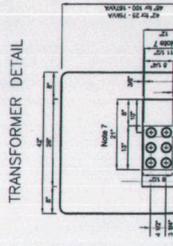
PROJECT NO.	W252247
DATE	11/11/11
SCALE	AS SHOWN
SHEET	1 OF 1
DESIGNED BY	ANTHONY B. MORRELL, P.E.
CHECKED BY	ANTHONY B. MORRELL, P.E.
DATE	11/11/11
PROJECT	W252247 UNIT 21
CLIENT	ANTHONY B. MORRELL, P.E.
SCALE	AS SHOWN
SHEET	1 OF 1

W251670
UNIT 2

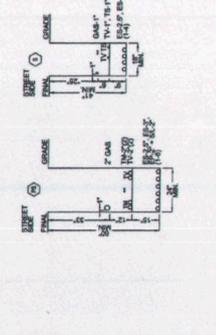


PRELIMINARY
 NOT FOR BIDDING
 OR CONSTRUCTION
 DEVELOPER: _____ DATE: _____
 DESIGNED BY: _____
 APPROVED AS: _____
 ARCHITECT: _____
 REVIEWED: _____
 NOTED: _____
 CHANGES ARE SUBJECT TO AGENCY
 REVIEW AND APPROVAL.
 (BY REPLY OR CUSTOMER CHANGE)

- CONSTRUCTION NOTES:**
1. ALL DIMENSIONS ARE SPECIFIED FROM TOP OF PAD.
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 7. ALL DIMENSIONS ARE SPECIFIED FROM TOP OF PAD.
 8. ALL DIMENSIONS ARE SPECIFIED FROM TOP OF PAD.



PROJECT NO.	W251670
UNIT NO.	UNIT 2
DATE	11/11/11
SCALE	1" = 40'
SHEET NO.	1 OF 1



CONSTRUCTION NOTES:

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8. ALL DIMENSIONS ARE SPECIFIED FROM TOP OF PAD.

