0000039363

NEW APPLICATION

Arizona Utility Supply & Services, LLC

4002 E. Taro Lane Phoenix, AZ 85050

(602) 569-3190 FAX (602) 569-3536

2001 MAR 16 A 9:14

AZ CORP COMMISSION
DOCUMENT CONTROL

DOCKET NO. WS-04002A-01-0228

March 14, 2001

Docket Control Center
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, Arizona

To Whom it Concerns:

Attached is an application by Arizona Utility Supply & Services, LLC for a "Certificate of Convenience and Necessity". The purpose of this application is to be able to serve the public with sewer service in Pinal County.

Respectfully submitted,
ARIZONA UTILITY SUPPLY & SERVICECS, LLC

Maurice L. Lee
Member/Manager

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DOCKET NO. S-04002A-01-0223

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ARIZONA CORPORATION COMMISSION

APPLICATION FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY

WATER AND/OR SEWER

A. The name, address and telephone number of the Applicant (Company) is:

Arizona Utility Supply & Services, LLC

4002 E. Taro Ln.

Phoenix, AZ 85050 (602)569-3190 FAX (602)569-3536

B. If doing business (d.b.a.) under a name other than the Applicant (Company) name listed above, specify:

N/A

C. List the name, address and telephone number of the management contact:

Maurice L. Lee

4002 E. Taro Ln.

Phoenix, AZ 85050 (602)569-0330

D. List the name, address and telephone number of the attorney for the Applicant:

Jeffrey C. Zimmerman

Moyes Storey (602)604-2111 FAX (602)274-9135

3003 N. Central AVE. #1250 Phoenix, AZ 85012-2915

E. List the name, address and telephone number of the operator certified by the Arizona Department of Environmental Quality:

Maurice L. Lee 4002 E. Taro Ln. Phx., AZ 85050 (602) 569-3190

Jeffrey Abercrombie 375 Jacque St. Queen Valley, AZ 85219 (520)463-2248

F. List the name, address and telephone number of the on-site manager of the utility:

Maurice L. Lee (602)569-3190

4002 E. Taro Ln.

Phoenix, AZ 85050

G. The Applicant is a:

____ Corporation: ____ "C", ____ "S", ____ Non-Profit ____ Arizona, ____ Foreign	____Partnership ____Limited, ____ General ____ Arizona, ____ Foreign
____ Sole Proprietorship	X Limited Liability Company (LLC)
____ Other (Specify)	

H. If Applicant is a corporation:

1. List names of Officers and Directors:

Officers N/A Directors N/A

2. Attach a copy of the corporation's "Certificate of Good Standing" issued by the Corporation's Division of the Arizona Corporation Commission.

3. Attach a copy of the Articles of Incorporation. (Attached)

4. Attach a copy of the corporation's By-Laws. (Attached)

5. If a for-profit corporation, indicate the number of shares of stock authorized for issue:

6. If stock has been issued, indicate the number of shares issued and date of issue:

N/A

H. If the Applicant is a partnership:

1. List the names of the general partners:

N/A

N/A

2. List the name, address and telephone number of the managing partners:

N/A

N/A

N/A

3. Attach a copy of the Partnership's Articles of Partnership.

- If the Applicant is a foreign limited partnership, provide a copy of the Partnership's "Certificate of Registration" filed with the Arizona Secretary of State.

J. If the Applicant is a sole proprietor, list the name, address and telephone number of the proprietor:

N/A

K. If the Applicant is a Limited Liability Company:

1. List the names of managers:

Maurice L. Lee, Member/Manager

Stephen Kohner, Member

L. List the names and addresses of any other public utility interest, which the applicant may have:

None

M. Attach a description of the area requested using **CADASTRAL** (quarter section description) or **Metes and Bounds** survey. References to parcels and dockets will not be accepted. (Attached)

N. Attach a detailed map using the form provided as Attachment "B". Shade and outline the area requested. Also, indicate any other utility within the general area using different colors. (Attached)

O. Attach financial information in a format similar to Attachment "C". (To be sumitted by March 30, 2001)

P. Explain the method of financing utility facilities. Refer to the instructions, item no. 7. (Use additional sheets if necessary): Financing of treatment plants by an aid to construction paid by the subdivision developers without any payback. Applicant then owns sewer treatment plants free and clear of any encumbrances.

Q. Estimated starting and completion dates of construction of utility facilities:

Starting date 4/1/01 Completion 5/30/02

R. Attach proposed Tariffs using either the water or sewer format of Attachment "D", unless the Utilities Division, prior to the filing of this application, approves another form. (To be submitted by 3/30/01)

S. Attach the following permits: Aquifer Protection Permit (APP) attached forThe Links WWTP ADEQ Permit No. P102976

1. The franchise from either the City or County for the area requested. Existing franchise as shown on exhibits attached. Balance of Franchises pending with Pinal County.
2. The Arizona Department of Environmental Quality (or its designee's) approval to construct facilities. Plans for the expansion of the Links WWTP have been submitted to ADEQ. Cambria WWTP and Castlegate WWTP to be submitted to ADEQ by 4/2/01.
3. The Arizona State Land Department approval. (If you are including any State land in your requested area this approval is needed.) N/A

4. Any U.S. Forest Service approval. (If you are including any U.S. Forest Service land in your requested area this approval is needed.) N/A

5. ~~(WATER ONLY) If the area requested is within an Active Management Area, attach a copy of~~ the utility's Designation of an Assured Water Supply, or the developer's Certificate ~~of~~ Assured Water Supply issued by the Arizona Department of Water Resources, ~~whichever~~ applies.
   - If the area requested is outside an Active Management ~~Area~~, attach the developer's Adequacy Statement issued by the Arizona Department of Water Resources, if applied for by the developer.

   - If the area requested ~~is~~ outside an Active Management Area and the developer does not obtain an ~~Adequacy~~ Statement, provide sufficient detail to prove that adequate water exists ~~to provide water to the area requested~~.

6. Provide a copy of your estimated property taxes. This may be obtained by contacting the Arizona Department of Revenue, Division of Property Valuation and Equalization. You must provide them with a five (5) year projection of the original cost of the plant, depreciation expense, the location of the property and the school district. (To Be submitted by 3/30/01)

T. Provide the following information:

1. Indicate the estimated number of customers, by class, to be served in each of the first five years of operation:

Residential:

First Year 197 Second Year 796 Third Year 1,592 Fourth Year 2,536

Fifth Year 3,589

Commercial:

First Year 0 Second Year 2 Third Year 5 Fourth Year 5

Fifth Year 7

Industrial:

First Year 0 Second Year 0 Third Year 1 Fourth Year 1

Fifth Year 1

Irrigation:

First Year 0 Second Year 0 Third Year 0 Fourth Year 0
Fifth Year 0

2. Indicate the projected annual water consumption or sewerage treatment, in gallons, for each of the customer classes for each of the first five years of operation:

Residential: **X 1,000/Day**

First Year 62.5 Second Year 254.7 Third Year 509.4 Fourth Year 820.1

Fifth Year 1,138.9

Commercial: **X 1,000/Year**

First Year 0 Second Year 180 Third Year 450 Fourth Year 450

Fifth Year 450

Industrial: **X 1,000/Year**

First Year 0 Second Year 36.0 Third Year 36.0 Fourth Year 36.0

Fifth Year 36.0

Irrigation:

First Year 0 Second Year 0 Third Year 0 Fourth Year 0

Fifth Year 0

3. Indicate the total estimated annual operating revenue for each of the first five years of operation:

Residential:

First Year $70,920 Second Year $280,560 Third Year $573,120

Fourth Year $922,680 Fifth Year $1,281,240

Commercial:

First Year 0 Second Year $2,400 Third Year $6,000

Fourth Year $6,000 Fifth Year $6,000

Industrial:

First Year 0 Second Year 0 Third Year $3,000

Fourth Year $3,000 Fifth Year $3,000

Irrigation:

First Year 0 Second Year 0 Third Year 0

Fourth Year 0 Fifth Year 0

4. Indicate the total estimated annual operating expenses for each of the first five years of operation:

Residential:

First Year $63,828 Second Year $260,604 Third Year $515,808

Fourth Year $830,412 Fifth Year $1,153,116

Commercial:

First Year 0 Second Year $2,160 Third Year 45,400

Fourth Year $5,400 Fifth Year $7,560

Industrial:

First Year 0 Second Year 0 Third Year $2,700

Fourth Year $2,700 Fifth Year $2,700

Irrigation:

First Year 0 Second Year 0 Third Year 0

Fourth Year 0 Fifth Year 0

5. Attach an itemized list of the major components of the water or sewer system (see Attachment C-3). (To be submitted by 3/30/01

6. Indicate the total estimated cost to construct utility facilities:

$3,500.000

(Signature of Authorized Representative)

Maurice L. Lee

(Type or Print Name Here)

Member/Manager

(Title)

SUBSCRIBED AND SWORN to before me this 14th day of March, 2001

NOTARY PUBLIC

My Commission Expires

OFFICIAL SEAL
BERNARD MARTIN STRASS
NOTARY PUBLIC - STATE OF ARIZONA
MARICOPA COUNTY
My Comm Expires Dec. 29, 2003

ccnnew.doc 4/00

ATTACHMENT "E"

PUBLIC NOTICE OF AN APPLICATION FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY BY [name of Company]

[Name of Company] has filed with the Arizona Corporation Commission ("Commission") an application for authority to provide [specific type of service] service to an area in which records indicate that you are a property owner. If the application is granted, [name of Company] would be the exclusive provider of [type of service] service to the proposed area. [Name of company] will be required by the Commission to provide this service under the rates and charges and terms and conditions established by the Commission. The granting of the application would not necessarily prohibit an individual from providing service to themselves from individually owned facilities on their property. The application is available for inspection during regular business hours at the offices of the Commission in [Phoenix at 1200 West Washington Street/Tucson at 400 West Congress, North Building, Room 218], and at [name of Company and address].

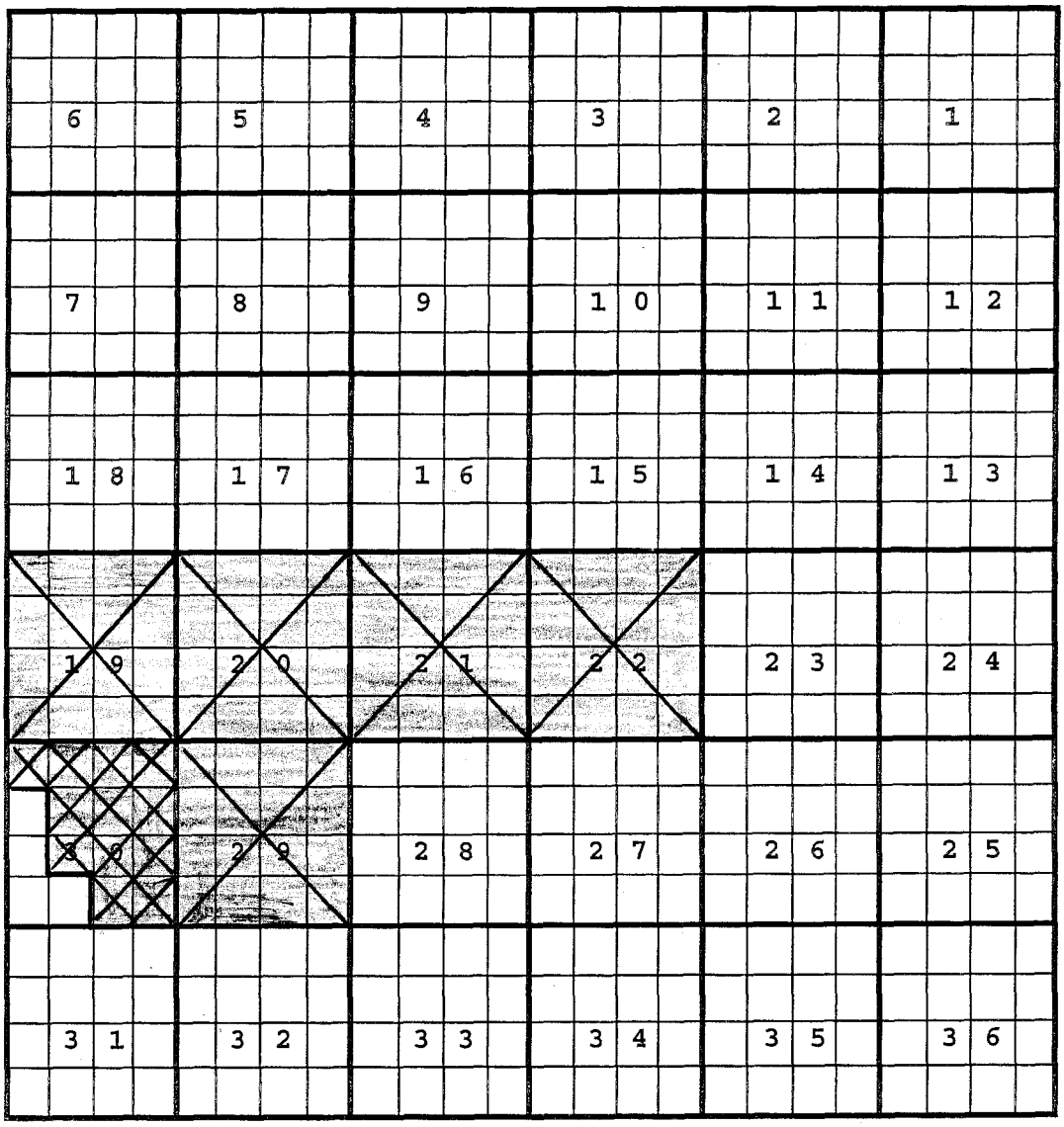
The Commission will hold a hearing on this matter. As a property owner you may have the right to intervene in the proceeding. If you do not want to intervene, you may appear at the hearing and make a statement on your own behalf. You may contact the Commission at the address and telephone number listed below for the date and time of the hearing and for more information on intervention. You may not receive any further notice of the proceeding unless requested by you.

If you have any questions or concerns about this application, have any objections to its approval, or wish to make a statement in support of it, you may contact the Consumer Services Section of the Commission at [1200 West Washington Street, Phoenix, Arizona 85007 or call 1-800-222-7000/400 West Congress, North Building, Room 218, Tucson, Arizona 85701 or call 1-800-535-0148].

NOTIFICATION WILL BE MAILED OUT NO LATER THAN MARCH 30, 2001

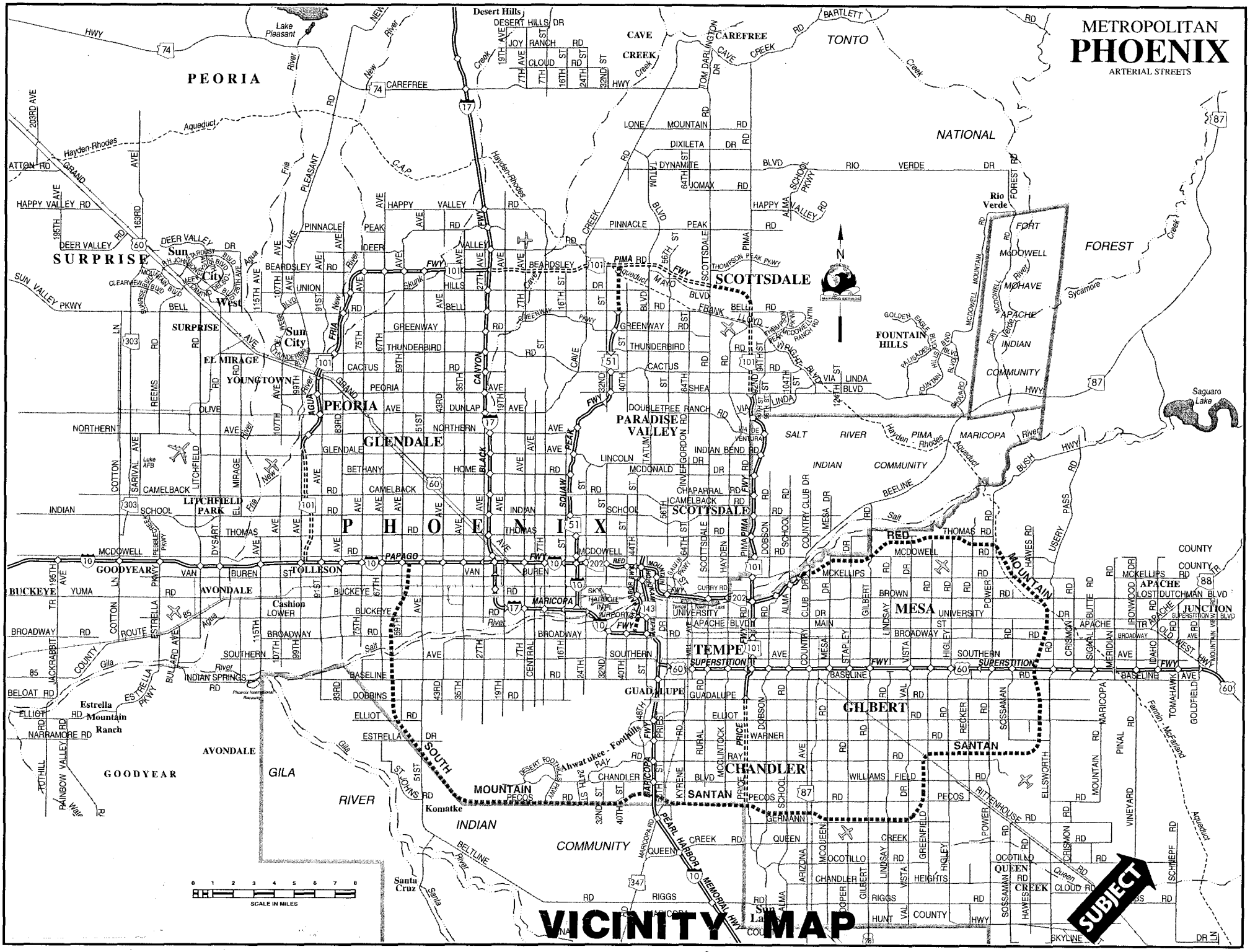
ATTACHMENT "B"

Pinal	19,20,21,22, 29, & 30	Township 2 South	Range 8 East
COUNTY	SECTION	TOWNSHIP	RANGE



Type or Print Description Here:

All of Sections 19,20,21,22,29, and 30 except the W 1/2 of the S.E. 1/4 of Section 30 and except the S.W. 1/4 of the N.W 1/4 of Section 30 (Excluding any property within the town limits of Queen Creek, Arizona) all in Township 2 South, Range 8 East of the Gila and Salt River Base and Meridian, Pinal Caounty, Arizona.

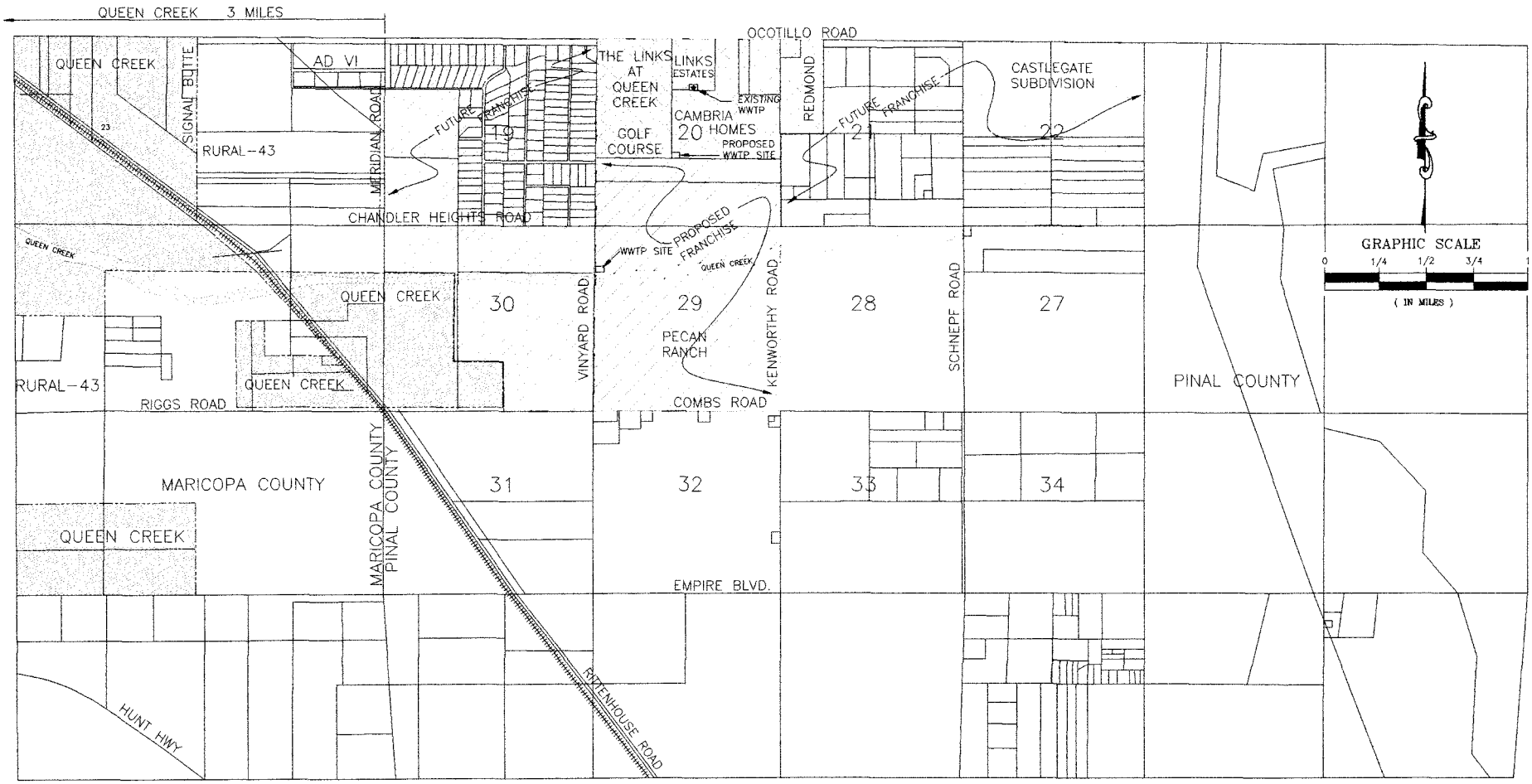


VICINITY MAP

Maps - Appendix i

EXHIBIT 'A'
1 OF 2

ARIZONA UTILITY SUPPLY & SERVICES, LLC
MASTER SEWER PLAN



A PORTION OF TOWNSHIP 2 SOUTH, RANGE 8 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, PINAL COUNTY, ARIZONA.

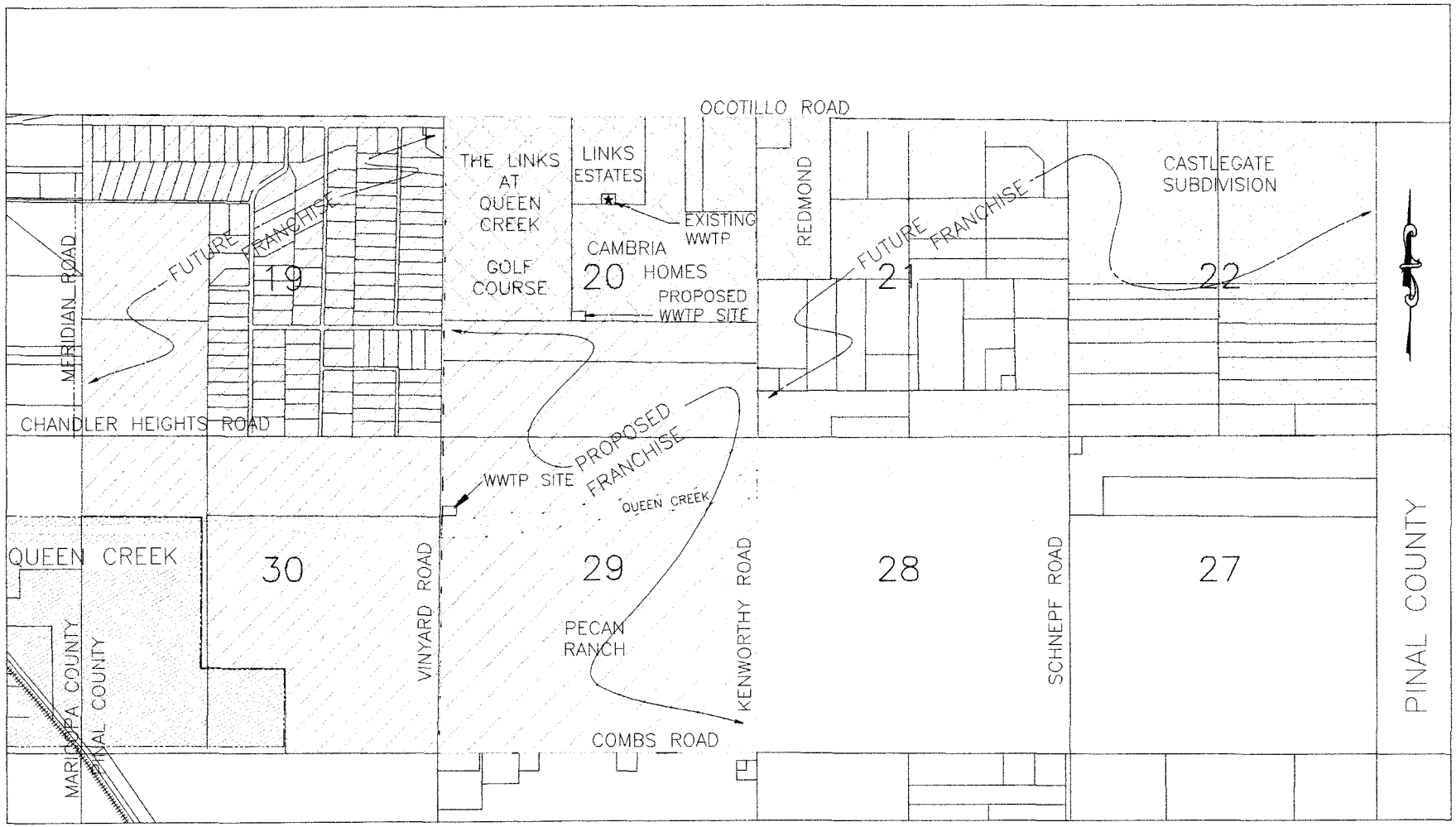
LEGEND

- EXISTING FRANCHISE (WITH REQUEST LETTERS)
- PECAN RANCH (PROPOSED FRANCHISE HEARING 3/21/01)
- PROPOSED FRANCHISE (WITH REQUEST LETTERS)
- PROPOSED FRANCHISE

2/22/01

EXHIBIT 'A'
2 OF 2

ARIZONA UTILITY SUPPLY & SERVICES, LLC
MASTER SEWER PLAN



A PORTION OF TOWNSHIP 2 SOUTH, RANGE 8 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, PINAL COUNTY, ARIZONA.

GRAPHIC SCALE

0 1/4 1/2 3/4 1

1"=1/2 MILE

LEGEND

- EXISTING FRANCHISE (WITH REQUEST LETTERS)
- PECAN RANCH (PROPOSED FRANCHISE HEARING 3/21/01)
- PROPOSED FRANCHISE (WITH REQUEST LETTERS)
- PROPOSED FRANCHISE

2/26/01

Articles of Organization - Appendix ii

ARTICLES OF ORGANIZATION

OF

ARIZONA UTILITY SUPPLY & SERVICES, LLC

ARTICLE 1 - NAME

The name of the limited liability company is ARIZONA UTILITY SUPPLY & SERVICES, LLC.

ARTICLE 2 - REGISTERED OFFICE

The registered office of the limited liability company is One Highway 73, Space #73, Pinetop, Arizona 85935, which is located in the County of Navajo.

ARTICLE 3 - STATUTORY AGENT

The name and address of the initial statutory agent of the limited liability company is Mariscal, Weeks, McIntyre & Friedlander, P.A., 2901 North Central Avenue, Suite 200, Phoenix, Arizona, 85012.

ARTICLE 4 - MANAGEMENT

Management of the limited liability company is reserved to the members.

ARTICLE 5 - NAME AND ADDRESS OF EACH MEMBER

The name and address of each person who is a member of the limited liability company at the time of its formation are:

Maurice L. Lee
4002 East Taro Lane
Phoenix, AZ 85050

Judith A. Lee
4002 East Taro Lane
Phoenix, AZ 85050

DATED this 13th day of August, 1998.

Maurice L. Lee

Maurice L. Lee, Organizer

APPOINTMENT OF STATUTORY AGENT

A. The undersigned has been named as the statutory agent in the Articles of Organization of ARIZONA UTILITY SUPPLY & SERVICES, LLC, an Arizona limited liability company (the "Company"), which has been delivered for filing with the Arizona Corporation Commission.

B. The undersigned has been notified of its appointment as agent of the Company and hereby accepts its appointment as statutory agent of the Company.

MARISCAL, WEEKS, MCINTYRE & FRIEDLANDER, P.A.

By: William Novotny

Willliam Novotny, Esq.
For the Firm

F:\USERS\GJW\ARIZONA\9323002.001

AMENDED AND RESTATED
ARTICLES OF ORGANIZATION OF
ARIZONA UTILITY SUPPLY & SERVICES, L.L.C.

1. **NAME.** The name of this limited liability company is ARIZONA UTILITY SUPPLY & SERVICES, L.L.C.

2. **REGISTERED OFFICE.** The address of the registered office of this limited liability company is 3420 E. Shea Blvd., Suite 213, Phoenix, Arizona 85028.

3. **STATUTORY AGENT.** The name and business address of the agent for service of process are Polese, Pietzsch, Williams & Nolan, a Professional Association, 2702 North Third Street, Suite 3000, Phoenix, Arizona 85004-4607.

4. **DISSOLUTION DATE.** This company can be of perpetual duration.

5. **MANAGEMENT.** Management of this limited liability company is reserved to the members. Either member shall have the power and authority to execute contracts and otherwise bind the Company except as otherwise expressly provided in the Operating Agreement.

6. **MEMBERS.** The names and addresses of the members of this limited liability company are:

Stephen A. Kohner
7902 North Black Canyon Highway
Suite 100
Phoenix, Arizona 85051

Maurice Lee
4002 East Taro Lane
Phoenix, Arizona 85050

Dated: February 23, 2001

Stephen A. Kohner

Maurice Lee

U:\Corpdocs\K\Kohner\Sunbelt Sanitation\AZ Utility & supply.art.wpd

Polese, Pietzsch, Williams & Nolan, a Professional Association, an Arizona professional association, having been designated to act as Statutory Agent, hereby consents to act in that capacity until removal or resignation is submitted in accordance with the Arizona Revised Statutes.

POLESE, PIETZSCH, WILLIAMS & NOLAN, a Professional Association, an Arizona professional association

By _____
James F. Polese, Esq.
Its Vice President

OPERATING AGREEMENT
OF
ARIZONA UTILITY SUPPLY & SERVICES, L.L.C.

THIS OPERATING AGREEMENT (the "Agreement") is made and entered into as of this 15TH day of February, 2001, by and among **STEPHEN A. KOHNER**, as a Member and **MAURICE LEE**, as a Member.

ARTICLE I

FORMATION, NAME, PURPOSES, DEFINITIONS

1.1 **Formation**. Pursuant to the Arizona Limited Liability Company Act (the "Act"), the parties have formed an Arizona limited liability company effective upon the filing of the Articles of Organization of this Company with the Arizona Company Commission. The parties shall immediately, and from time to time hereafter, execute all amendments of the Articles of Organization and do all filing, recording and other acts as may be appropriate to comply with the requirements under the Act for the operation of the Company.

1.2 **Intent**. It is the intent of the Members that the Company shall always be operated in a manner consistent with its treatment as a partnership for federal and state income tax purposes. It also is the intent of the Members that the Company not be operated or treated as a partnership for purposes of Section 303 of the federal Bankruptcy Code. No Member shall take any action inconsistent with the express intent of the parties hereto.

1.3 **Name**. The name of this Company shall be: "ARIZONA UTILITY SUPPLY & SERVICES, L.L.C."

1.4 **Registered Office.** The registered office of the Company shall be 3420 East Shea Blvd. Suite 213, Phoenix, Arizona, 85028 or such other place within this state as the Members shall determine in their sole discretion.

1.5 **Purpose**. This Company has been formed to engage in the retail and wholesale sales of construction materials and related activities, and may engage in any activities that are directly related to the accomplishment of such purpose or to any lawful purpose.

1.6 **Term**. This Company shall commence upon the filing of its Articles of Organization and shall continue until such time as it shall be terminated under the provisions of Article IX hereof.

1.7 **Members**. The name and address of each of the Members of this Company are:

Stephen A. Kohner
7902 North Black Canyon Highway
Phoenix, Arizona 85051

Maurice Lee
4002 East Taro Lane
Phoenix, Arizona 85024

1.8 **Agent for Service of Process**. The name of the agent for service of process for the Company is:

Polese, Pietzsch Williams & Nolan P.A.
2702 North Third Street, Suite 3000
Phoenix, Arizona 85004-4607

If the agent for service of process is unable or unwilling to serve or to continue to serve, then a Majority-In-Interest of the Members shall appoint his successor. The agent for service of process may be removed by a vote of a Majority-In-Interest of the Members.

1.9 **Definitions**. Whenever used in this Agreement, the following terms shall have the following meanings:

(a) "*Act*" shall mean the Arizona Limited Liability Company Act.

(b) "*Additional Member*" shall mean any person who is admitted to the Company as an Additional Member pursuant to Article VIII of this Operating Agreement.

(c) "*Affiliate*" shall mean with respect to a particular Member: (i) any Person that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control of such Member, (ii) any Person that is an officer of, partner in, member of, or trustee of, or serves in a similar capacity with respect to such Member or of which such Member is an officer, partner, member, or trustee, or with respect to which such Member serves in a similar capacity, (iii) any Person that, directly or indirectly, is the beneficial owner of ten percent (10%) or more of any class of equity securities of, or otherwise has a substantial beneficial interest in, such Member or of which such Member is, directly or indirectly, the owner of ten percent (10%) or more of any class of equity securities or in which such Member has a substantial beneficial interest; (iv) any spouse or other relative of such Member; and (v) any trust with respect to which one or more beneficiaries consist of such Member, or the spouse or other relative of such Member.

(d) "*Agreement*" shall mean this written Operating Agreement. No other document or oral agreement among the Members shall be treated as part of or superseding this Agreement unless it is reduced to writing and it has been signed by all of the Members.

(e) "*Capital Account*" shall mean the account established and maintained for each Member in accordance with this Agreement and applicable Treasury Regulations.

(f) "*Capital Contribution*" shall mean any contribution to the capital of the Company in cash, property, the use of property, services rendered or other valuable consideration transferred to the Company by a Member whenever made. "Initial Capital Contribution" shall mean the initial contributions to the capital of this Company made pursuant to Section 2.1 of this Agreement. "Additional Capital Contributions" shall mean the contributions made pursuant to Section 2.2 of this Agreement.

(g) "*Code*" shall mean the Internal Revenue Code of 1986, as amended from time to time.

(h) "*Company*" shall mean ARIZONA UTILITY SUPPLY & SERVICES, L.L.C.

(i) "*Distributable Cash*" shall mean all cash, revenues and funds received from Company operations, less the sum of the following to the extent paid or set aside by the Members:

(i) all principal and interest payments on indebtedness of the Company and all other sums paid to lenders;

(ii) all cash expenditures incurred incident to the normal operation of the Company's business; and

(iii) such cash Reserves as the Members deem reasonably necessary to the proper operation of the Company's business.

(j) "*Fiscal Year*" shall mean the Company's fiscal year, which shall be the calendar year.

(k) "*Interest*" shall mean the interest of a Member in the Company as a Member, representing such Member's rights, powers and privileges as specified in this Agreement.

(l) "*Losses*" shall mean, for each Fiscal Year, the losses and deductions of the Company determined in accordance with accounting principles consistently applied from year to year under the cash method of accounting and as reported, separately or in the aggregate, as appropriate, on the Company's information tax return filed for federal income tax purposes, plus any expenditures described in Section 705(a)(2)(B) of the Code.

(m) "*Majority-In-Interest*" shall mean Members owning a simple majority of the Percentage Interests.

(n) "*Member*" shall mean each of the parties who executes a counterpart of this Operating Agreement as a Member and each of the parties who may hereafter become an Additional Member.

(o) "*Percentage Interest*" shall mean the percentage interests in the capital, profits and losses of this Company set forth in Section 6.1 hereof.

(p) "*Profits*" shall mean, for each Fiscal Year, the income and gains of the Company determined in accordance with accounting principles consistently applied from year to year under the cash method of accounting and as reported, separately or in the aggregate, as appropriate, on the Company's information tax return filed for federal income tax purposes, plus any income described in Section 705(a)(1)(B) of the Code.

(q) "*Person*" shall mean any individual and any legal entity and their respective heirs, executors, administrators, legal representatives, successors, and assigns.

(r) "*Reserves*" shall mean, with respect to any fiscal period, funds set aside or amounts allocated during such period to reserves which shall be maintained in amounts deemed sufficient by the Members for working capital and to pay taxes, insurance, debt service or other costs or expenses incident to the ownership or operation of the Company's business.

(s) "*Treasury Regulations*" shall mean the Regulations issued by the Treasury Department under the Code.

(t) "*Withdrawal Event*" shall mean those events and circumstances listed in Section 29-733 of the Act.

ARTICLE II

CAPITALIZATION OF THE COMPANY

2.1 **Initial Capital Contributions**. Each Member shall make a cash contribution to the Company on or before June 30, 2001 in the sum of Five Hundred Dollars ($500).

2.2 **Additional Capital Contributions**. Each Member hereby agrees, upon the written request of a Majority-In-Interest of the Members and upon the consent of all of the Members, to make Additional Capital Contributions to pay the obligations of the Company. The obligation to make all agreed upon Additional Capital Contributions shall be a personal obligation of each Member and shall be enforceable by this Company and each of its Members. The failure of a Member to make an agreed upon Additional Capital Contribution shall constitute a material breach of this Agreement and shall be treated as grounds for a "good cause" removal of the Member. If a Member fails to

make an agreed upon Additional Capital Contribution, all amounts distributable by this Company to the Member in any capacity, shall be suspended, and the Member's right to receive distributions from this Company shall not be restored until the Member shall have paid in full to the Company the delinquent Additional Capital Contribution, plus interest on such amount at the rate of prime established by Bank of America Phoenix, Arizona plus two percent per annum from the date such Additional Capital Contribution should have been paid to the date it is in fact paid by the Member plus any damages to this Company attributable to the failure to timely pay the Additional Capital Contribution, plus reimbursement of any reasonable costs and expenses incurred by the Company or any Member to enforce the collection of the delinquent Additional Capital Contribution (the sum of such amounts hereinafter referred to as the "Delinquency Amount") or, at the election of a Majority-In-Interest of the non-defaulting Members, such Delinquency Amount shall have been recouped from amounts otherwise distributable to the Member. Any such recouped Delinquency Amount shall increase the Capital Account of the Member to whom it is attributed, to the extent that such recouped Delinquency Amount is treated as the failed Additional Capital Contribution.

2.3 **Loans to Company**.

(a) The Members further agree to each loan such additional sums as the Members agree in the same proportion as their ownership interest as the Members determine necessary for the continued operations of the Company. Any such loam shall bear interest at the rate of twelve percent (12%) per annum, with such loan repayable, together with all accrued interest.

(b) Nothing in this Agreement shall prevent any Member from making secured or unsecured loans to the Company by agreement with the Company and upon the vote of a Majority-In-Interest of the Members.

2.4 **Indebtedness to Third Parties**. The Member acknowledge that the Company may be securing financing from commercial financial institutions and may obtain additional financing from other third parties which indebtedness may be required to be guaranteed by the Members. The Members further acknowledge that to the extent that such indebtedness is not fractionalized but instead is a joint and several liability, then to the extent that the Company is unable to pay the indebtedness and the guarantees are implemented, each Member hereby agrees, that to the extent fails to pay his prorata share of such debt under his guarantee, to indemnify and hold the other Members harmless from and with respect to any portion of any third party indebtedness to the extent a Member is required to pay more than his prorata share thereof.

2.5 **Capital Accounts**.

(a) *Debits and Credits*. A separate Capital Account shall be maintained for each Member in accordance with the applicable provisions of the Treasury Regulations:

(i) Each Member's Capital Account shall be credited with such Member's Initial Capital Contribution and Additional Capital Contributions, such Member's distributive share of Profits allocated to such Member in accordance with the

provisions of this Agreement, any items in the nature of income or gain that are specially allocated pursuant to Section 6.4 hereof, and the amount of any Company liabilities that are assumed by such Member or that are secured by any Company property distributed to such Member.

(ii) Each Member's Capital Account shall be debited by the amount of cash distributed to such Member in accordance with this Agreement, the gross asset value of any other Company property distributed to such Member pursuant to any provision of this Agreement, such Member's distributive share of Losses allocated to such Member in accordance with this Agreement, any items in the nature of expenses or losses that are specially allocated pursuant to Section 6.4, and the amount of any liabilities of such Member that are assumed by this Company or that are secured by any property contributed by such Member to the Company.

(iii) In the event an interest in this Company is transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent it relates to the transferred interest.

(iv) In the event the gross asset values of the Company assets are adjusted pursuant to this Agreement, the Capital Accounts of all Members shall be adjusted simultaneously to reflect the aggregate net adjustment, as if this Company had recognized gain or loss equal to the amount of such aggregate net adjustment and the resulting gain or loss had been allocated among the Members in accordance with this Agreement.

(b) *Interpretation and Changes.* The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with the Code and applicable Treasury Regulations and shall be interpreted and applied in a manner consistent therewith. In the event a Majority-In-Interest of the Members shall determine, after consultation with Company counsel, that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto are allocated or computed, in order to comply with such applicable federal law, the Members shall make such modification, provided they determine in good faith that such modification is not likely to have a material adverse effect on the amounts properly distributable to any Member upon the termination of this Company and that such modification will not increase the liability of any Member to third parties.

ARTICLE III

MANAGEMENT OF THE COMPANY

3.1 **Management**. The business and affairs of the Company shall be managed exclusively by its Members, who shall direct, manage and control the business of the Company to the best of their ability and shall have full and complete authority, power and discretion to make any and all decisions and to do any and all things which they shall deem to be reasonably required to accomplish the business and objectives of the Company. Either Member can sign documents binding the Company to obligations subject to the provisions of Section 3.2 hereinbelow.

3.2 **Certain Powers of Members**. Notwithstanding the provisions of Section 3.1, each Member shall have the following power and authority, on behalf of the Company, only with the consent of all of the Members:

(a) To assign, transfer, pledge, compromise, or release any of its claims or debts except upon payment in full, or arbitrate or consent to the arbitration of any of its disputes or controversies

(b) To acquire real property;

(c) To borrow money for the Company from banks, other lending institutions, the Members, or Affiliates of the Members and, in connection therewith, to hypothecate, encumber and grant security interests in the assets of the Company to secure repayment of the borrowed sums;

(d) To sell or otherwise dispose of all or substantially all of the assets of the Company as part of a single transaction or plan; and

(e) To make an assignment for the benefit of creditors of the Company, file a voluntary petition in bankruptcy or appoint a receiver for the Company.

(f) Incur debts on behalf of the Company in excess of Ten Thousand Dollars ($10,000), except in dealing with trade accounts for the purchase of construction materials.

Unless authorized to do so by this Agreement, no agent or employee of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable for any purpose. However, a Member may act by a duly authorized attorney-in-fact.

3.3 **Member's Duty to Company**. Except as may be required by an employment agreement between the principal of a Member and the Company, no Member shall be required to manage the Company as its sole and exclusive function, and it may have other business interests and may engage in other activities in addition to those relating to the Company. Neither the Company nor any Member shall have any right, by virtue of this Agreement, to share or participate in such other investments or activities of any other Member or in the income or proceeds derived therefrom.

3.4 **Bank Accounts**. The Members may from time to time open bank accounts in the name of the Company, and a Majority-In-Interest of the Members shall determine the signatories thereon.

3.5 **Salaries**. No salary or other compensation shall be paid to any Member except as agreed to by all of the Members.

ARTICLE IV

RIGHTS AND OBLIGATIONS OF MEMBERS

4.1 **Limitation of Liability**. Each Member's liability for the debts and obligations of the Company shall be limited as set forth in Section 29-651 of the Act and other applicable law.

4.2 **List of Members**. Upon written request of any Member, he shall be provided a list showing the names, last known addresses and interests of all Members in the Company.

4.3 **Company Books**. The Members shall maintain and preserve at the Company's registered office, during the term of the Company, and for five (5) years thereafter, a current list of the full name and last known address of each Member; all accounts, books, and other relevant Company documents including, without limitation, a copy of the Articles of Organization initially filed with the Arizona Company Commission and any amendments thereto, a copy of this Agreement, together with any supplements, modifications or amendments hereto, and any prior operating agreements no longer in effect; written agreements by a Member to make an Additional Capital Contribution to the Company; copies of the Company's federal, state and local income tax returns and reports; and copies of all financial statements. Upon reasonable request, each Member shall have the right, during ordinary business hours, to inspect and copy such Company documents at the Member's expense.

4.4 **Priority and Return of Capital**. No Member shall have priority over any other Member, either as to the return of Initial Capital Contributions or Additional Capital Contributions or as to Profits, Losses or distributions; provided, however, that this Section shall not apply to loans (as distinguished from Capital Contributions) which a Member has made to the Company.

4.5 **Indemnification and Liability**.

(a) *Company Indemnification*. Each Member and its Affiliates (each of the foregoing being referred to herein as an "Indemnitee," and the Affiliate to which each such Indemnitee is related being referred to herein as such Indemnitee's "Related Person") shall be indemnified, defended and held harmless by the Company for, from and against any and all losses, claims, damages, liabilities, expenses (including attorneys' fees and costs), judgments, fines, settlements, demands, actions, or suits relating to or arising out of the business of the Company, or

the exercise by the Member of any authority conferred on such Member hereunder or the performance by the Member of any of its duties and obligations hereunder. Notwithstanding anything contained in this Agreement to the contrary, no Indemnitee shall be entitled to indemnification hereunder with respect to any claim, issue or matter: (i) in respect of which it or its Related Person (or the Company, as the result of an act or omission of such Related Person) has been adjudged liable for fraud, negligence or willful misconduct; (ii) based upon or relating to a breach by it or its Related Person of any term or provision of this Agreement; or (iii) for costs or expenses incurred by the Indemnitee in connection with a claim or action against it or its Related Person by another Member.

(b) *Member Indemnification.* In addition to the indemnification provided for in Paragraph 2.4 above, each Member shall be indemnified, defended and held harmless by the other Member (the "Indemnifying Member") for, from and against any and all losses, claims, damages, liabilities, expenses (including attorneys' fees and costs), judgments, fines, settlements, demands, actions, or suits relating to or arising out of any claim, issue or matter: (i) in respect of which such Indemnifying Member or any of its agents, employees or other representatives (or the Company, as the result of an act or omission of any of the same) has been adjudged liable for fraud, negligence or willful misconduct; or (ii) based upon or relating to a breach by the Indemnifying Member of any term or provision of this Agreement.

(c) *Liability.* No Member shall be liable, responsible, accountable in damages or otherwise to the Company or the Members for any act or failure to act in connection with the Company and its business unless the act or omission is attributed to negligence, willful misconduct or fraud or constitutes a breach by such Member of any term or provision of this Agreement.

(d) *Terms of Indemnification.* Each indemnity provided for under this Agreement shall be subject to the following provisions:

(i) The indemnity shall cover the costs and expenses of the Indemnitee, including reasonable attorneys' fees and court costs, related to any actions, suits or judgments incident to any of the matters covered by such indemnity.

(ii) The Indemnitee shall notify the indemnitor of any claim against the Indemnitee covered by the indemnity within 45 days after the Indemnitee has notice of such claim, but failure to notify the indemnitor shall in no case prejudice the rights of the Indemnitee under this Agreement unless the indemnitor shall be prejudiced by such failure and then only to the extent the indemnitor shall be prejudiced by such failure. Should the indemnitor fail to discharge or undertake to defend the Indemnitee against such liability upon learning of the same, then the Indemnitee may settle such liability, and the liability of the indemnitor hereunder shall be conclusively established by such settlement, which amount of such liability shall include both the settlement consideration and the reasonable costs and expenses, including attorneys' fees, incurred by the Indemnitee in effecting such settlement.

(iii) No indemnity hereunder shall be construed to limit or diminish the coverage of any Member under any insurance obtained by the Company. Payment shall not be a condition precedent to any indemnification provided in this Agreement.

4.6 **Fiduciary Duties**. Notwithstanding anything in this Agreement to the contrary, each Member acknowledges and agrees that each Member shall be accountable to the Company and the other Members as a fiduciary, and shall be bound by a fiduciary duty to the Company and the other Members, to the same extent that applicable law generally imposes such status and duty upon a general partner in a partnership

ARTICLE V

MEETINGS OF MEMBERS

5.1 **Annual Meeting**. An annual meeting of the Members shall be held on December 15 each year or at such other time as shall be determined by a Majority-In-Interest of the Members, commencing with the year 2000, for the purpose of the transaction of such business as may come before the meeting.

5.2 **Special Meetings**. Special meetings of the Members, for any purpose or purposes, unless otherwise prescribed by statute, may be called by any Member.

5.3 **Place of Meetings**. The Members may designate any place, either within or outside the State of Arizona, as the place of meeting for any meeting of the Members. If no designation is made, the place of meeting shall be held at the registered office of the Company.

5.4 **Notice of Meetings**. Except as provided in Section 5.5, written notice stating the place, day and hour of the meeting and the purpose or purposes for which the meeting is called shall be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personally, by mail or by facsimile, by or at the direction of the person calling the meeting, to each Member entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered two (2) business days after being deposited in the United States mail, addressed to the Member at his address as it appears on the books of the Company, with postage thereon prepaid. If transmitted by way of facsimile, such notice shall be deemed to be delivered on the date of such facsimile transmission to the facsimile number for the respective Member which has been supplied by such Member to the other Members and identified as such Member's facsimile number.

5.5 **Meeting of all Members**. If all of the Members shall meet at any time and place, either within or outside of the State of Arizona, and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice, and at such meeting lawful action may be taken. A Member shall be entitled to attend meetings by telephone and vote in all matters.

5.6 **Record Date**. For the purpose of determining Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or Members entitled to receive payment of any distribution, or in order to make a determination of Members for any other purpose, the date on which notice of the meeting is mailed or the date on which the resolution declaring such distribution is adopted, as the case may be, shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section, such determination shall apply to any adjournment thereof.

5.7 **Quorum**. A Majority-In-Interest of the Members, represented in person or by proxy, shall constitute a quorum at any meeting of Members. In the absence of a quorum at any such meeting, a majority of the Interests so represented may adjourn the meeting from time to time for a period not to exceed sixty (60) days without further notice. However, if the adjournment is for more than sixty (60) days or if, after the adjournment, a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each Member of record entitled to vote at a meeting.

5.8 **Manner of Acting**. If a quorum is present, the affirmative vote of a Majority-In-Interest of the Members shall be the act of the Members, unless the vote of a greater or lesser proportion or number is otherwise required by the Act, by the Articles of Organization, or by this Agreement.

5.9 **Proxies**. At all meetings of Members, a Member may vote in person or by proxy executed in writing by the Member or by a duly authorized attorney-in-fact. Such proxy shall be filed with the Company before or at the time of the meeting. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

5.10 **Action by Members Without a Meeting**. Action required or permitted to be taken at a meeting of Members may be taken without a meeting if the action is evidenced by one (1) or more written consents describing the action taken, signed by each member entitled to vote and delivered to the Company for inclusion in the minutes or for filing with the Company records. Action taken under this Section is effective when all Members entitled to vote have signed the consent, unless the consent specifies a different effective date. The record date for determining Members entitled to take action without a meeting shall be the date the first Member signs a written consent.

5.11 **Waiver of Notice**. When any notice is required to be given to any Member, a waiver thereof in writing signed by the Person entitled to such notice, whether before, at, or after the time stated therein, shall be equivalent to the giving of such notice.

ARTICLE VI

PROFITS, LOSSES; DISTRIBUTIONS

6.1 **Percentage Interests**. The Percentage Interests of the Members are as follows:

Stephen A. Kohner	-	50%
Maurice Lee	-	50%

6.2 **Distributions**. Distributions of Distributable Cash or other property shall be made to the Members in proportion to their Percentage Interests on the record date of such distribution and all such distributions shall be made at such time as is determined by a Majority-In-Interest of the Members. All amounts withheld pursuant to the Code or any provisions of state or local tax law with respect to any payment or distribution to the Members from the Company shall be treated as amounts distributed to the relevant Member or Members pursuant to this Section 6.2.

6.3 **Profits and Losses**. Subject to Section 6.4, each Member shall share in the Profits and Losses of the Company in the same ratio as their Percentage Interests.

6.4 **Special Allocations**.

(a) *Preferred Distributions*. There shall be no preferred or priority payments made to any Member with respect to a Member's Capital Contribution.

(b) *Qualified Income Offset*. In the event any Member, in such capacity, unexpectedly receives any adjustments, allocations or distributions described in Treasury Regulation Sections 1.704-1(b)(2)(ii)(d)(4) (regarding depletion deductions), 1.704-1(b)(2)(ii)(d)(5) (regarding certain mandatory allocations under Treasury Regulations regarding family partnerships, the so-called varying interest rules, or certain in-kind distributions), or 1.7041(b)(2)(ii)(d)(6) (regarding certain distributions, to the extent they exceed certain expected offsetting increases in a Member's Capital Account), items of Company income and gain shall be specially allocated to such Members in an amount and a manner sufficient to eliminate, as quickly as possible, the deficit balances in the Member's Capital Account created by such adjustments, allocations or distributions. Any special allocations of items of income or gain pursuant to this Subsection shall be taken into account in computing subsequent allocations of Profits pursuant to this Article VI, so that the net amount of any items so allocated and the Profits, Losses or other items allocated to each Member pursuant to this Article VI shall, to the extent possible, be equal to the net amount that would have been allocated to each such Member pursuant to this Article VI as if such unexpected adjustments, allocations or distributions had not occurred.

(c) *Section 704(c) Allocations*. If necessary or required under Section 704(c) of the Code or Treasury Regulation Section 1.704-1(b)(2)(iv)(c), the tax matters partner (as described in Section 11.2) shall make special tax allocations in order to account for the variation, if any, between the adjusted tax basis of an asset and its fair market value. Any elections or other decisions relating to such allocations shall be made by the tax matters partner in any manner that reasonably reflects the purpose of this Agreement. Allocations made pursuant to this Subsection are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Profits, Losses, other items, or distributions pursuant to any provision of this Agreement.

(d) *Other Allocations*. The tax matters partner shall make such other special allocations as are required in order to comply with any mandatory provision of the applicable Treasury Regulations or to reflect a Member's economic interest in this Company determined with reference to such Member's right to receive distributions from this Company and such Member's obligation to pay its expenses and liabilities.

(e) *Acknowledgment*. The Members are aware of the income tax consequences of the allocations made by this Article VI and hereby agree to be bound by the provisions of this Article VI hereof in reporting their share of Company income and loss for income tax purposes.

6.5 **Limitation Upon Distributions**. No distribution shall be declared and paid unless, prior to distribution, there are no outstanding loans to any Member and, after the distribution is made, the assets of the Company are in excess of all liabilities of the Company, except liabilities to Members on account of their Contributions.

6.6 **Accounting Method**. The books and records of account of the Company shall be maintained in accordance with the cash method of accounting.

6.7 **Interest On and Return of Capital Contributions**. No Member shall be entitled to interest on the Member's Capital Contribution or to the return of the Member's Capital Contribution, except as otherwise specifically provided for herein.

6.8 **Accounting Period**. The Company's accounting period shall be the calendar year.

6.9 **Books of Account and Records**. At the expense of the Company, the Members shall maintain records and accounts of all operations and expenditures of the Company.

6.10 **Returns and Other Elections**. The tax matters partner shall cause the preparation and timely filing of all tax returns required to be filed by the Company pursuant to the Code and all other tax returns deemed necessary and required in each jurisdiction in which the Company does business. Copies of such returns, or pertinent information therefrom shall be furnished to the Members within a reasonable time after the end of the Company's fiscal year. All elections permitted to be made by the Company under federal or state laws shall be made by the tax matters partner in his sole discretion, but may be reversed by a Majority-In-Interest of the Members.

ARTICLE VII

RESTRICTIONS ON TRANSFERABILITY

7.1 **Withdrawal from Company; Transfer of Member's Interest.**

(a) No member shall have any right to retire or withdraw voluntarily from the Company or to sell, transfer or assign an Interest or to voluntarily commit an act that constitutes a Withdrawal Event except as set forth in this Article VII.

(b) A Member may transfer all or any portion of its Interest as a Member to an Affiliate without the consent of any other Member and, upon such transfer and the execution by the transferee of this Operating Agreement, the transferee shall become a Member of the Company.

(c) A Member may transfer all or any portion of its Interest as a Member to a non-Affiliate only with the written consent of the other Member or if more than 2 Members, a Majority in Interest of the other Members and such transferee shall become a Member of the Company only upon the written consent of a Majority-In-Interest of the other Members and such transferee's execution of this Operating Agreement.

(d) Notwithstanding the foregoing, if either Stephen A. Kohner or Maurice Lee decided to sell their interest in the Company, then the selling party shall first offer his interest to the other Member on the same price and terms as that offered to a bona fide third party. In the event that notice of intent to purchase is not tendered within thirty (30) days of receipt of intent to sell, then the Member intending to sell his interest shall be permitted to dispose of his interest to such third party; provided however, the non selling Member shall have the right to purchase that portion of the selling Member's interest as to give the non-selling Member at least Fifty Two percent (52%) of the capital, profits and loss of the Company. Only if the non-selling Member declines to purchase any portion of the selling Member's interest shall the selling Member be free to sell to a third party his entire interest in the Company..

7.2 **Damages**. Except as otherwise contemplated in this Article VII, any voluntary act as a Member that constitutes a withdrawal from this Company shall constitute a material breach of this Agreement, and this Company shall be entitled to collect damages for such breach. Such damages shall offset any cash or other property otherwise distributable to such Member by this Company.

7.3 **Impact of Transfer.** Neither an assignment of any Interest nor the admission of a transferee of an Interest as a Member shall effect the dissolution of the Company. A transferee that has not become a Member of the Company is only entitled to receive, to the extent transferred, the share of distributions, including those representing the return of Capital Contributions, and the allocation of Profits and Losses, to which the transferring Member would otherwise be entitled with respect to the transferred Interest.

ARTICLE VIII

ADDITIONAL MEMBERS

After the formation of the Company, any Person acceptable to a Majority-In-Interest of the Members may become an Additional Member of this Company for such consideration as the existing Members by their unanimous vote shall determine. No Additional Members shall be entitled to any retroactive allocation of Losses, income or expense deductions incurred by the Company. The tax matters partner may, at the time an Additional Member is admitted, close the Company books (as though the Company's tax year had ended) or make *pro rata* allocations of Loss, income and expense

deductions to an Additional Member for that portion of the Company's tax year in which an Additional Member was admitted in accordance with the provisions of Section 706(d) of the Code and the Treasury Regulations promulgated thereunder.

ARTICLE IX

DISSOLUTION AND TERMINATION

9.1 **Dissolution**.

(a) The Company shall be dissolved upon the occurrence of any of the following events:

(i) by the unanimous written agreement of all Members;

(ii) upon the entry of a decree of dissolution under A.R.S. § 29-785;

(iii) upon the involuntary dissolution by the Arizona Company Commission under A.R.S. § 29-786; or

(iv) upon any other Withdrawal Event, unless the business of the Company is continued by the specific consent of a Majority-In-Interest of the remaining Members given within ninety (90) days after such event. Each of the Members has sole and complete discretion as to whether to consent to continue the business of the Company upon the occurrence of a Withdrawal Event as described above.

(b) As soon as possible following the occurrence of any Withdrawal Event, if the Company is not continued, a representative of the Company shall execute and file a Notice of Winding Up with the Arizona Company Commission.

9.2 **Effect of Filing of Dissolving Statement**. Upon the dissolution of the Company, the Company shall cease to carry on its business, except insofar as may be necessary for the winding up of its business, but its separate existence shall continue until Articles of Termination have been filed with the Arizona Company Commission or until a decree dissolving the Company has been entered by a court of competent jurisdiction.

9.3 **Winding Up, Liquidation and Distribution of Assets**.

(a) Upon dissolution, an accounting shall be made by the Company's independent accountants of the accounts of the Company and of the Company's assets, liabilities and operations, from the date of the last previous accounting until the date of dissolution. The Members shall immediately proceed to wind up the affairs of the Company.

(b) If the Company is dissolved and its affairs are to be wound up, the Members shall (1) sell or otherwise liquidate all of the Company's assets as promptly as practicable (except to the extent the Members may determine to distribute any assets to the Members in kind), (2) allocate any profit or loss resulting from such sales to the Members Capital Accounts in accordance with Article VI hereof, (3) discharge all liabilities of the Members (other than liabilities to Members), including all costs relating to the dissolution, winding up, and liquidation and distribution of assets, (4) establish such reserves as may be reasonably necessary to provide for contingent liabilities of the Company (for purposes of determining the Capital Accounts of the Members, the amounts of such reserves shall be deemed to be an expense of the Company), (5) discharge any liabilities of the Company to the Members other than on account of their interests in Company capital or profits, and (6) distribute the remaining assets in the following order:

(i) If any assets of the Company are to be distributed in kind, the net fair market value of such assets as of the date of dissolution shall be determined by independent appraisal or by agreement of the Members. Such assets shall be deemed to have been sold as of the date of dissolution for their fair market value, and the Capital Accounts of the Members shall be adjusted pursuant to the provisions of Articles II and VI of this Agreement to reflect such deemed sale.

(ii) The positive balance of each Member's Capital Account as determined after taking into account all Capital Account adjustments for the Company's taxable year during which the liquidation occurs, shall be distributed to the Members, either in cash or in kind, as determined by a Majority-In-Interest of the Members, with any assets distributed in kind being valued for this purpose at their fair market value. Any such distributions to the Members in respect of their Capital Accounts shall be made in accordance with the time requirements set forth in Section 1.704-1(b)(2)(ii)(b)(2) of the Treasury Regulations.

(c) Notwithstanding anything to the contrary in this Agreement, upon a liquidation within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations, if any Member has a negative Capital Account balance (after giving effect to all contributions, distributions, allocations and other Capital Account adjustments for all taxable years, including the year during which such liquidation occurs), such Member shall have no obligation to make any contribution to the capital of the Company, and the negative balance of such Member's Capital Account shall not be considered a debt owed by such Member to the Company or to any other person for any purpose whatsoever.

(d) Upon completion of the winding up, liquidation and distribution of the assets, the Company shall be deemed terminated.

(e) The Members shall comply with any applicable requirements of applicable law pertaining to the winding up of the affairs of the Company and the final distribution of its assets.

9.4 **Articles of Termination**. When all debts, liabilities and obligations have been paid and discharged or adequate provisions have been made therefor and all of the remaining property and

assets have been distributed to the Members, Articles of Termination shall be executed and filed with the Arizona Company Commission.

9.5 **Return of Contribution Non-recourse to Other Members**. Except as provided by law, upon dissolution, each Member shall look solely to the assets of the Company for the return of his or her Capital Contribution. If the Company property remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return the cash or other property contribution of one or more Members, such Member or Members shall have no recourse against any other Member.

ARTICLE X

INVESTMENT REPRESENTATIONS

10.1 **Investment Intent**. Each of the Members hereby represents and warrants to the Company and to each of the other Members that it has acquired its interest in the Company for investment, solely for the account of the partners or members thereof (and as to such partners or members in their individual capacities, the representations and warranties made in this Article X shall also be true, correct and binding), with the intention of holding such interest for investment, and without any intention of participating directly or indirectly in any distribution of any portion of such interest.

10.2 **Registration of Members' Interest**. Each of the Members hereby acknowledges that it is aware that its interest in the Company has not been registered under the Securities Act of 1933, as amended (the "Securities Act"), and that its interest in the Company has not been registered under the securities laws of any state. Each of the Members further understands and acknowledges that its representations and warranties contained in this Article X are being relied upon by the Company and by the other Members as the basis for exemption of the issuance of such Member's interest in the Company from the registration requirements of the Securities Act and all applicable state securities laws. Each of the Members further acknowledges that the Company shall be under no obligation to register his interest in the Company under the Securities Act or under any state securities law and shall be under no obligation to recognize any sale, transfer or assignment of its interest in the Company to any person unless and until such Member or his transferee furnishes to the other Members an opinion of counsel or other adequate assurances, satisfactory to the other Members, that the transfer of such interest in the Company has been registered under the Securities Act and under all applicable state securities laws or that such registration is not required. Each of the Members further acknowledges that it may theretofore have to bear the economic risk of its investment in the Company for the duration of the Company.

10.3 **Nature of Investment and Risk**. Each of the Members hereby acknowledges that, prior to its execution of this Agreement, it received a copy of this Agreement, together with all other information requested and deemed necessary or relevant by it or its representative or attorney, and has caused its partners or members to read and examine the same and, to the extent deemed necessary, caused the same to be read and examined by its representative or attorney. Each of the Members hereby further acknowledges that its representative or attorney is familiar with this Agreement and with the business and affairs of the Company and that the Member does not desire any further information or data relating to the Company or to the other Members. Each of the Members hereby acknowledges that its partners or members understand that the purchase of its interest in the Company is a speculative investment involving a high degree of risk and does hereby represent that it has a net worth sufficient to bear the economic risk of his investment in the Company and to justify its investing in a highly speculative venture of this type and has such knowledge and experience in financial and business matters, either individually or together with certain identified purchaser representatives, that it is capable of evaluating the merits and risks of a venture of this type.

ARTICLE XI

MISCELLANEOUS PROVISIONS

11.1 **Notices**. Any notice, demand, or communication required or permitted to be given by any provision of this Agreement shall be deemed to have been sufficiently given or served for all purposes if (a) delivered personally to the party or to an executive officer of the party to whom the same is directed; (b) if sent by registered or certified mail, postage and charges prepaid, addressed to the Member's and/or Company's address, as appropriate, which is set forth in this Agreement; or (c) by facsimile to any facsimile number supplied by the Company or a Member and identified as that Member's facsimile number. Any such notice shall be deemed to be given upon personal delivery, three (3) business days after the date on which the same was deposited in a regularly maintained receptacle for the deposit of United States mail, addressed and sent as aforesaid, or upon facsimile transmission provided that the sender's facsimile machine provides proof of successful transmission.

11.2 **Tax Matters Partner**. The Members shall designate one of the Members as a tax matters partner, and such tax matters partner is authorized and required to represent the Company (at the Company's expense) in connection with all examinations of the Company's affairs by tax authorities, including resulting administrative and judicial proceedings, and to expend Company funds for professional services and costs associated therewith. The Members agree to cooperate with the tax matters partner and to do or refrain from doing any or all things reasonably required by the tax matters partner to conduct those proceedings. The tax matters partner agrees to promptly notify the other Members upon the receipt of any correspondence from any federal, state or local tax authorities relating to any examination of the Company's affairs. The tax matters partner shall be prohibited from entering into any settlement or arrangement on behalf of the Company with respect to any federal, state or local tax authorities without the express written approval of the Members.

11.3 **Application of Arizona Law**. This Agreement and its application and interpretation shall be governed exclusively by its terms and by the laws of the State of Arizona.

11.4 **Waiver of Action for Partition**. Each Member irrevocably waives during the term of the Company any right that he may have to maintain any action for partition with respect to the property of the Company.

11.5 **Amendments**. This Agreement may not be amended except by the unanimous written agreement of all of the Members.

11.6 **Execution of Additional Instruments**. Each Member hereby agrees to execute such other and further statements of interest and holdings, designations, powers of attorney and other instruments necessary to comply with any laws, rules or regulations.

11.7 **Construction**. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders and vice versa; and the word "person" or "party" shall include a Company, firm, partnership, proprietorship or other form of association.

11.8 **Headings**. The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Agreement or any provision hereof.

11.9 **Waivers**. The failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation.

11.10 **Rights and Remedies Cumulative**. The rights and remedies provided by this Operating Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

11.11 **Severability**. If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

11.12 **Heirs, Successors and Assigns**. Each and all of the covenants, terms, provisions and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Agreement, their respective heirs, legal representatives, successors and assigns.

11.13 **Creditors**. None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Company.

11.14 **Counterparts**. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Members and the Company set their hands as of the date first written.

Stephen A. Kohner

Stephen A. Kohner

"Member"

Maurice Lee

Maurice Lee

"Member"

C:\WINDOWS\TEMP\AZ Utility supply.wpd

Franchise - Appendix iii

AGENDA FORM
FOR
PINAL COUNTY BOARD of SUPERVISORS

Budgeted: N/A
Generates Revenue for County: Yes
Revenue Generated : N/A
Uses County Funds: No
Source of Funds: N/A
Cost to County: N/A
Reduces/Contains: N/A
Expenditure Reduced:/Contained: N/A

Competitive negotiations (PC1-347 D1) N/A
Two step competitive negotiation (PC1-347 D2) N/A
Review of Qualifications (PC1-347D3) N/A
Multi step sealed bidding (PC1-326) N/A
Intergovernmental Agreement (PC1-1003) N/A
Competitive sealed proposals RFP (PC1-329) N/A
Expenditures for County: Other (PC1-____) N/A

1. **REQUESTED BY:**
Fund No: 10 Dept No: 1037 Dept. Name: Special Services Director: Gary Medina

2. **BRIEF DESCRIPTION OF AGENDA ITEM AND REQUESTED BOARD ACTION:** Agenda Item for February 14, 2001

9:30 a.m. PUBLIC HEARING to consider, discuss, approve or disapprove the creation of the Arizona Utility Supply & Services, LLC Sewer Franchise, located in Sections 20, 29, and the W1/2 of the N1/2 of Section 21, T2S, R8E, G&SRB&M, Pinal County.

3. **MOTION: It is moved that the Pinal County Board of Supervisors . . .**

SUGGESTED MOTION: Approve the creation of the Arizona Utility Supply & Services, LLC Sewer franchise area and further move that the Board authorize its Chairman and Clerk to execute the documents as presented.

4. **DEPARTMENT:**
Gary D. Medina 1-17-01
Action recommended by Date

7. **DEPUTY COUNTY MANAGER:**
1/31/01
Date
Approve ☒ Disapprove ☐

5. **GRANTS AND CONTRACTS ADMINISTRATOR:**
Date
Approve ☐ Disapprove ☐

8. **PURCHASING DEPARTMENT:**
Date
Approve ☐ Disapprove ☐

6. **COUNTY ATTORNEY'S OFFICE:**
2/1/01
Date
☐ Approved as to form and within the powers and authority granted under the laws of the State of Arizona to the Pinal County Board of Supervisors.

9. **FINANCE OFFICE:**
Date
Approve ☐ Disapprove ☐

10. **COUNTY MANAGER:**
Date
APPROVE ☐ DISAPPROVE ☐

11. **BOARD OF SUPERVISORS:**
Action Taken: ☒ Approve ☐ Amend ☐ Disapprove ☐ Delete ☐

CHAIRMAN: Jimmie B. Tom 2-14-01
Date

CLERK OF THE BOARD: 2-14-01
Date

Creation Of The Arizona Utility Supply & Services, LLC Sanitary Sewer Franchise

WHEREAS, Arizona Utility Supply & Services, LLC, a(n) Arizona corporation, duly authorized to conduct business in the State of Arizona, has duly filed and presented to the Board of Supervisors of the County of Pinal, State of Arizona, its application for a new public utility franchise for the purpose of constructing, operating and maintaining a sewer system and related appurtenances along, under and across the public streets, alleys and highways, except federal and state highways, within the unincorporated area of Pinal County, Arizona, as described in the Public Notice of the creation hearing attached hereto as Exhibit "A."

WHEREAS, upon Arizona Utility Supply & Services, LLC's filing of an application for the public utility franchise (hereinafter "Application"), the Board of Supervisors of Pinal County ordered a public notice of its intent to consider the granting of the public utility franchise to be published in a newspaper of general circulation, in Pinal County, Arizona, stating the time and place for consideration of the Application was set for 9:30 a.m. on Wednesday, February 14, 2001, at the Pinal County Board of Supervisors' Hearing Room, Administration Building No. 1, Florence, Arizona.

WHEREAS, said Application having come on regularly for hearing at 9:30 a.m. on Wednesday, February 14, 2001; and it appearing from the affidavit of the publisher of the Florence Reminder and Blade Tribune that due and regular notice of said time and place set for the consideration of such action has been published for at least once a week for three consecutive weeks prior to said hearing date, to-wit: in the issues of the Florence Reminder and Blade Tribune on January 25, 2001; February 1, 2001; and February 8, 2001; and the matter being called for hearing at 9:30 a.m. on February 14, 2001, and an opportunity having been given to all interested parties to be heard.

WHEREAS, the Board of Supervisors of Pinal County has the power to create a sewer franchise under its general police powers in such matters.

NOW, THEREFORE,

Section 1: DEFINITIONS

The following terms used in this Franchise shall have the following meanings:

A. County: Pinal County, Arizona

B. Board: Board of Supervisors of Pinal County, Arizona.

C. Grantor: Pinal County, by and through its Board of Supervisors

D. Grantee: Arizona Utility Supply & Services, LLC, a(n) Arizona corporation, its successors and assigns

E. Grantee's Facilities: Sewer system and related appurtenances

Section 2: GRANT

A. Grantor, on February 14, 2001, hereby grants to Grantee, for a period of 25 years, this new public utility franchise (hereinafter "Franchise") for the purpose of constructing, operating and maintaining a sewer system and related appurtenances along, under and across public streets, alleys and highways, except federal and state highways, under the terms and conditions set forth herein within the unincorporated area of Pinal County, Arizona, as described in the Application (hereinafter "Franchise Area").

B. Nonexclusive Franchise.

(1) The Franchise granted hereby shall not be exclusive and shall not restrict in any manner the right of County in the exercise of any regulatory power which it now has or which may hereafter be authorized or permitted by the laws of the State of Arizona. Nothing herein shall be construed to prevent County from granting other like or similar franchises to any other person, firm or corporation. County retains and shall ever be considered as having and retaining the right and power to allow and to grant to any other person, firm, corporation or other companies, franchise rights and privileges to be exercised in and upon its public streets, alleys, highways and public places, and such of the same and parts thereof as County may deem best or choose to allow, permit, give or grant.

(2) Nothing herein shall be construed to prevent County and its proper authorities from constructing and installing a sewer system, or improvements to its public highways, streets and alleys, and for that purpose, to require the Grantee at Grantee's own expense to remove Grantee's facilities to conform thereto and facilitate the same.

C. Reservation of Rights.

(1) County reserves the right to alter and amend the Franchise at any time and in any manner necessary for the safety or welfare of the public or to protect the public interests, and County reserves the right to impose at any time restrictions and limitations upon the use of the public streets, alleys and highways as County deems best for the public safety or welfare.

(2) County expressly reserves the right, after due notice to grantee, to modify, amend, alter, change or eliminate any of the provisions of the Franchise which may become obsolete or impractical; and to impose such additional conditions upon the grantee as may be just and

reasonable, such conditions to be those deemed necessary for the purpose of insuring adequate service to the public; provided however, County shall not modify, amend, alter, change or eliminate any of said provisions until after a public hearing, if such is legally required or requested by grantee.

Section 3: RENEWAL/SUBSEQUENT APPLICATION/REMOVAL OF SYSTEM

A. The Franchise herein granted shall expire on February 14, 2026; and upon its termination, Grantee shall cease to exercise under the terms of the Franchise the privileges herein granted. In the event Grantee desires a renewal of the Franchise herein granted, or a new franchise for a subsequent period, Grantee shall apply to and open negotiations with County for that purpose at least six (6) months before the expiration of the Franchise herein granted; but nothing herein shall be construed to bind County to grant such renewal or subsequent franchise.

B. Upon termination of the Franchise the grantee shall remove its facilities from the streets, alleys, ways, highways and bridges within the Franchise Area and shall restore the areas to their original condition. If such removal is not completed within six months of such termination, County may deem any property not removed as having been abandoned.

Section 4: REGULATION

Grantee, its successors and assigns shall be subject to reasonable regulations for the maintenance by grantee, its successors and assigns, of such portion of the public streets, alleys and highways altered, damaged or destroyed by Grantee, its agents or employees in exercising the privileges granted by the Franchise.

Section 5: CONSTRUCTION, INSTALLATION AND REPAIRS

A. Prior to the beginning of any construction for installation of the sewer system and related appurtenances, the Grantee, its successors and assigns will submit a plan of proposed construction to the Pinal County Engineer and will not commence any construction until the plan of construction is approved by the County Engineer or his designate.

B. All work performed by Grantee under the Franchise shall be done in the manner prescribed by County and subject to the supervision of County, and in strict compliance with all laws, ordinances, rules and regulations of federal, state and local governments.

C. No construction, reconstruction, repair, or relocation under the Franchise shall be commenced until written permits have been obtained from the proper county officials. In any permit so issued, such officials may impose such conditions and regulations as a condition of the granting of the same as are necessary for the purpose of protecting any structures in the highways or streets and for the proper restoration of such highways, streets and structures, and for the protection of the public and the continuity of pedestrian and vehicular traffic.

D. No construction under the Franchise by grantee shall impose upon County the duty to maintain any public street, alley or highway unless County accepts said public street, alley or highway into the county maintenance system as provided by law.

Section 6: INSPECTION

County shall, if it deems it necessary, have the right to inspect the construction, operation and maintenance of Grantee's facilities to insure the proper performance of the terms of the Franchise granted herein.

Section 7: SUFFICIENCY, LOCATION AND MAINTENANCE

All of Grantee's Facilities shall be in all respects adequate, efficient, substantial and permanent in design and workmanship, and shall be so located, erected and maintained so as not to interfere with the use and enjoyment of the public streets, alleys and highways. All of Grantee's Facilities erected by Grantee shall be maintained in a safe, suitable, substantial condition and in good order and repair.

Section 8: EXPANSION

Grantee will, from time to time, during the term of the Franchise make such enlargements and extensions of its water system as are necessary to adequately provide for the requirements of County and the inhabitants of the Franchise Area; provided that nothing herein shall compel Grantee to expand or enlarge its system beyond the economic and operating limits thereof. Such enlargements and extensions shall be made in accordance with company rules and regulations.

Section 9: RELOCATION

A. During the term of the Franchise whenever County or any qualified authority having jurisdiction in the Franchise Area alters, repairs, improves, or changes the grade of, any public streets, alleys and highways in the Franchise Area during the term of the Franchise, then and in such event, Grantee, its successors or assigns, at its own expense, shall promptly, upon reasonable notice, make such changes in the location, structure or alignment of its water lines and related appurtenances as the public officials in charge of such work may deem necessary.

B. After thirty (30) days notice to Grantee, of needed changes or corrections and upon the failure of Grantee, to make such changes set forth in Section 9(A) above or to correct any damage to the right-of-way of any public street, alley or highway within the Franchise Area caused directly or indirectly by Grantee, its agents, successors or assigns, County or its successors shall have the right to make such changes or corrections at the expense of said Grantee, its successors or assigns, and such expenses shall be due and payable upon written demand by County or its successors to Grantee, its successors or assigns.

Section 10: LIABILITY

A. If any streets, highways, alleys, ways, bridges, sidewalks, public place, or other public facility should be disturbed, altered, damaged or destroyed by Grantee, its employees, contractors, subcontractors or agents in the construction, installation, operation and maintenance of Grantee's Facilities under the Franchise, the same shall be promptly repaired, reconstructed, replaced or restored by Grantee, without cost to County, as soon as practicable and in as good condition as before Grantee's entry and to the satisfaction of County. If Grantee fails to make such restoration and repairs within a reasonable time as determined by County, then County may fix a reasonable

time for such restoration and repairs and shall notify Grantee in writing of the restoration and repairs required and the time fixed for the performance thereof. Upon failure of Grantee to comply within the time specified, County may cause proper restoration and repairs to be made, and the expense of such work shall be paid by Grantee upon demand by County.

B. Grantee shall be responsible to every owner of property which shall be injured by the work of construction, installation, operation or maintenance of Grantee's Facilities under the Franchise, all physical damage which shall be done to such injured property through any act or omission of Grantee, its employees, contractors, subcontractors or agents arising out of said construction, installation, operation or maintenance.

C. It is a condition of the Franchise that County shall not and does not by reason of the Franchise assume any liability of the Grantee whatsoever for injury to persons or damage to property.

Section 11: INDEMNIFICATION

Grantee by its acceptance of the Franchise agrees for itself, its successors and assigns that throughout the entire term of this franchise, Grantee, its successors and assigns, at its sole cost and expense, shall indemnify, defend, save and hold harmless Pinal County, its elected officers, employees and agents from any and all lawsuits, judgments and claims for injury, death and damage to persons and property, both real and personal, caused by the construction, design, installation, operation or maintenance of the sewer system or related appurtenances by Grantee within the Franchise Area. Indemnified expenses shall include, but not be limited to, litigation and arbitration expenses, and attorneys' fees.

Section 12: ACCEPTANCE BY GRANTEE / EFFECTIVE DATE FRANCHISE

The Franchise shall be accepted by Grantee by written instrument in the form attached hereto as Exhibit "B" (hereinafter "Acceptance"), executed and acknowledged by it as a deed is required to be, and filed with the Clerk of the Pinal County Board of Supervisors within thirty days after the date this Franchise is accepted by County. This Franchise shall be effective upon delivery of the Acceptance to the Clerk of the Pinal County Board of Supervisors in the form required and within the time specified above.

Section 13: LIMITS ON GRANTEE'S RECOURSE

A. Grantee by its acceptance of the Franchise acknowledges such acceptance relies upon grantee's own investigation and understanding of the power and authority of the County to grant said franchise. Grantee by its acceptance of the Franchise accepts the validity of the terms and conditions of the Franchise in their entirety and agrees it will not, at any time, proceed against County in any claim or proceeding challenging any term or provision of the Franchise as unreasonable, arbitrary or void, or that County did not have the authority to impose such term or condition.

B. Grantee by accepting the Franchise acknowledges that it has not been induced to accept the same by any promise, verbal or written, by or on behalf of County or by any third person regarding any term or condition of the Franchise not expressed therein. Grantee by its acceptance of the

Franchise further pledges that no promise or inducement, oral or written, has been made to any employee or official of County regarding receipt of the Franchise.

C. Grantee by its acceptance of the Franchise further acknowledges that it has carefully read the terms and conditions of the Franchise and accepts without reservation the obligations imposed by the terms and conditions herein.

D. The Board's decision concerning its selection and awarding of the Franchise shall be final.

Section 14: FAILURE TO ENFORCE FRANCHISE

Grantee shall not be excused from complying with any of the terms and conditions of the Franchise by any failure of County, upon any one or more occasions, to insist upon the Grantee's performance or to seek Grantee's compliance with any one or more of such terms or conditions.

Section 15: COMPLIANCE WITH THE LAW

Grantee shall at all times, conduct its business under the Franchise in accordance with all federal, state and local laws, rules and regulations, as amended, including any future amendments thereto as may, from time to time, be adopted.

Section 16: INTERPRETATION/GOVERNING LAW

The interpretation and performance of the Franchise and of the general terms and conditions shall be in accordance with and governed by the laws of the State of Arizona.

Section 17: VENUE

Exclusive venue for any legal action to enforce the provisions, terms and conditions of the Franchise shall be the Superior Court of the State of Arizona in and for the County of Pinal, Florence, Arizona..

Section 18: SEVERABILITY

If any section, provision, term or covenant or any portion of any section, provision, term or covenant of the Franchise is determined to be illegal, invalid or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory agency having jurisdiction thereof, such determination shall have no effect on any remaining portion of such section, provision, term or covenant or the remaining sections, provisions, terms or covenants of the Franchise, all of which will remain in full force and effect for the term of the Franchise or any renewal or renewals thereof.

Section 19: FORFEITURE

A. If Grantee fails to comply with any of the provisions of this agreement or defaults in any of its obligations hereunder, except for causes beyond the reasonable control of Grantee; and shall fail within thirty (30) days after written notice from County to commence, and within a reasonable time, complete the correction of such default or noncompliance, County shall have the right to revoke this

agreement and all rights of Grantee hereunder. In the event Grantee makes a general assignment or general arrangement for the benefit of creditors; or a trustee or receiver is appointed to take possession of substantially all of Grantee's Facilities within the Franchise Area or of Grantee's interest in this Franchise, where possession is not restored to Grantee within thirty (30) days; or Grantee's Facilities within the Franchise Area are subject to an attachment, execution or other seizure of substantially all of the Grantee's Facilities within the Franchise Area or this Franchise, where such seizure is not discharged within thirty (30) days, County may declare the Franchise, along with the Original Franchise, forfeited and terminated.

B. Nothing herein contained shall limit or restrict any other legal rights that County may possess arising from such violations.

Section 20: REVOCATION OF FRANCHISE

The Franchise may after due notice and hearing, be revoked by County for any of the following reasons:

A. For false or misleading statements in, or material omissions from the application for and the hearing on the granting of the Franchise.

B. For any transfer or assignment of the Franchise or control thereof without County's written consent.

C. For failure to comply with any of the terms and conditions of the Franchise.

Section 21: ASSIGNMENT/TRANSFER

Grantee shall not assign or transfer any interest in the Franchise without the prior written consent of County. Said Board shall not unreasonably withhold its consent to a proposed transfer.

Section 22: NOTICE

Notices required under the Franchise shall be delivered or sent by certified mail, postage prepaid to:

Grantor:

Clerk of the Pinal County Board of Supervisors
P.O. Box 827
31 N. Pinal Street
Florence, Arizona 85232

Grantee:

Arizona Utility Supply & Services, LLC
4002 E. Taro Lane
Phoenix, Arizona 85050

The delivery or mailing of such notice shall be equivalent to direct personal notice and shall be deemed to have been given at the time of delivery. Either party may change its address under this section by written notice to the other party.

Section 23: REMEDIES

Rights and remedies reserved to the parties by the Franchise are cumulative and shall be in addition to and not in derogation of any other rights or remedies which the parties may have with respect to the subject matter of the Franchise and a waiver thereof at any time shall not affect any other time.

Section 24: RIGHT OF INTERVENTION

County hereby reserves to itself, and Grantee hereby grants to County, the right to intervene in any suit, action or proceeding involving any provision in the Franchise.

Section 25: BOOKS AND RECORDS

Grantee shall maintain books and records that identify all of Grantee's underground facilities by type and location within the Franchise Area. Grantee will make such books and records available to County upon County's request and without cost to County.

Section 26: AD VALOREM TAXES

Grantee shall pay its ad valorem taxes before they become delinquent.

IN WITNESS WHEREOF, the Board of Supervisors of Pinal County, Arizona, by its Chairman and its Clerk, thereunto duly authorized, has hereunto set its hand and cause its official seal to be affixed on **Actual date of hearing**.

PINAL COUNTY BOARD OF SUPERVISORS

Jimmie B. Kerr

Jimmie B. Kerr, Chairman 2-14-01

ATTEST:

By: Sheri Cluff, Deputy Clerk

Stanley D. Griffis, Clerk of the Board

APPROVED AS TO FORM:

ROBERT CARTER OLSON
PINAL COUNTY ATTORNEY

Richard Husk, Deputy County Attorney

Exhibit A
Page 1 of 2

Arizona Utility Supply & Servicces, LLC
P.O. Box 30543
Phoenix, AZ 85046
(602) 569-3190 Fax (602) 569-3536

FACSIMILE

To:	From:	
Gary Medina Pinal Coounty Board of Supervisors	Maurice Lee	Date: 1/14/01 Number of Pages: 2 Phone: 520-868-6206 Fax: 520-868-6379

Remarks:

RE: Franchise Legal Description

Dear Mr. Medina:

Enclosed herewith is the legal description of the Pecan Ranch to be excluded or a new description as shown herein>

Please call should you have any questions

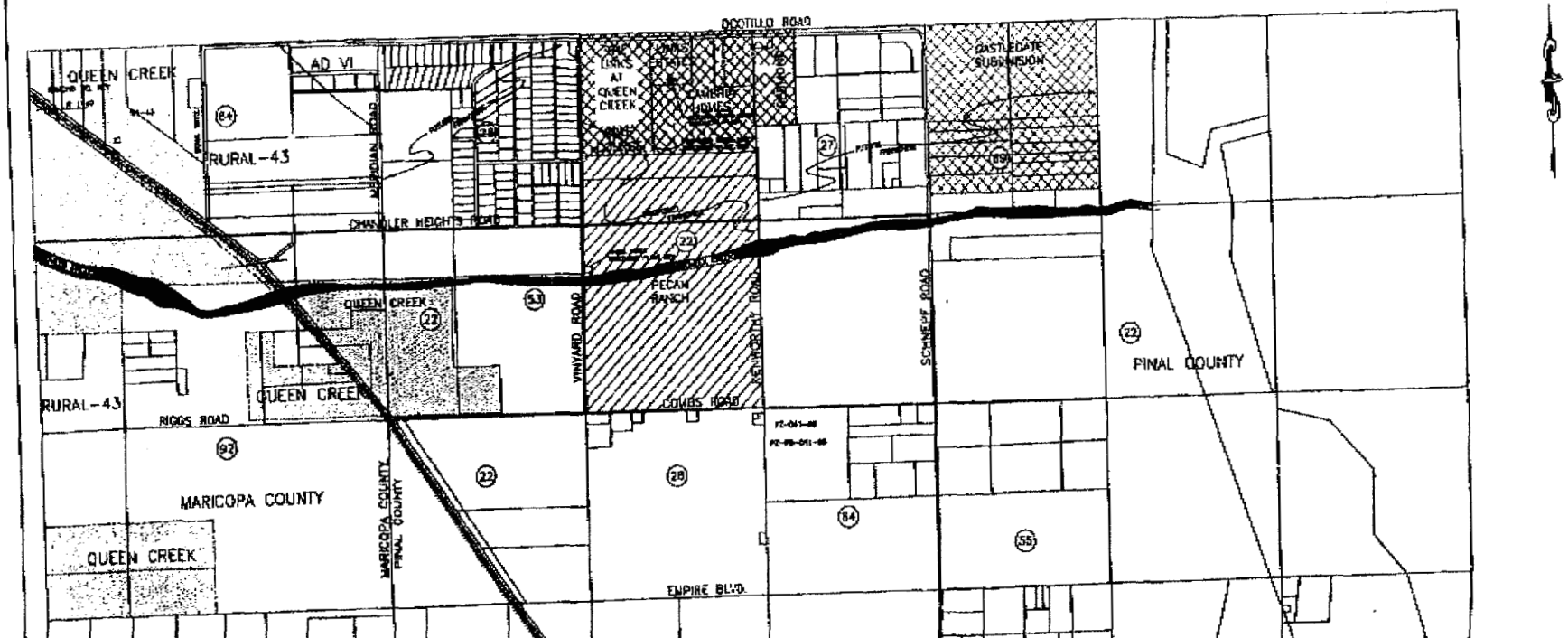
LEGAL DESCRIPTION

All of Section 20 except the South one half of the South one half of Section 20 and the South one half of the North one half of the South one half of Section 20 and the West one half of North one half of Section 21, all in Township 2 South, Range 8 East of the Gila and Salt River Base and Meridian,, Pinal County, Arizona

EXHIBIT A
Page 2 of 2

ARIZONA UTILITY SUPPLY & SERVICES, LLC

MASTER SEWER PLAN



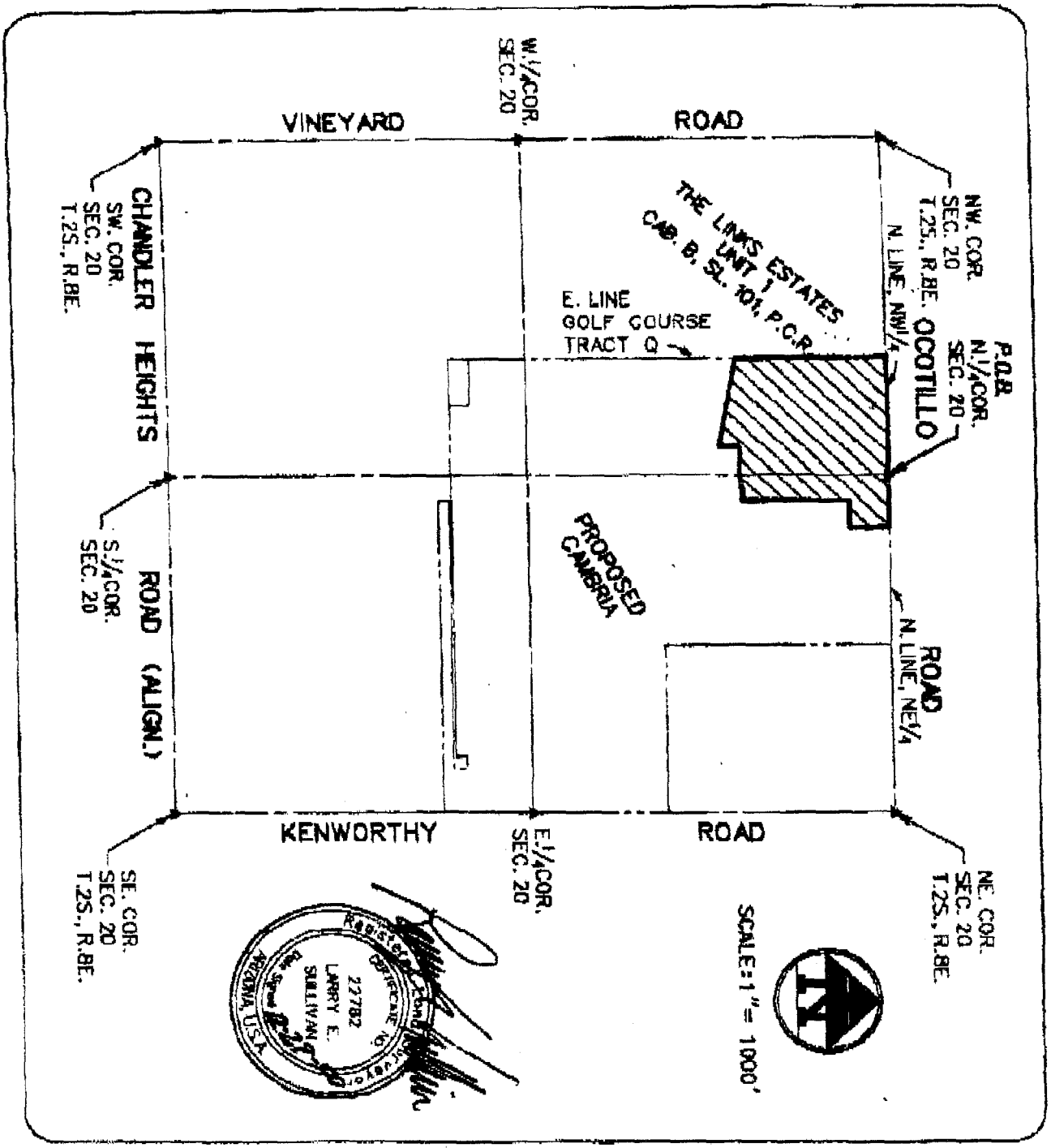


EXHIBIT N:\000014\LAND\EHSANPMT.DGN	CAMBRIA OFFSITE SANITATION PERMIT AREA	JOB NO 000014
4850 NORTH 12TH STREET PHOENIX, ARIZONA 85014 TELEPHONE (602) 264-6831	COE & VAN LOO ARCHITECTURE ENGINEERING LANDSCAPE ARCHITECTURE	SHEET 1 OF 1

Letters of Endorsements - Appendix iiii

December 15, 2000

To Whom it Concerns:

Arizona Utility Supply & Services, LLC and/or assignee is applying for a franchised area in Pinal County, Arizona to serve certain properties with sewer treatment and collection service. Woodside Homes Sales Corporation or assignee hereby request that our property as described herein as "Exhibit A" be included in the franchised area that Arizona Utility Supply & Services, LLC is applying for.

Woodside Homes Sales Corporation or assignee also request that their property as described herein be included in the "Certificate of Convenience and Necessity" as granted by Arizona Corporation Commission for Arizona Utility Supply & Services, LLC and/or assignee

BY: _____ Its Dev. Director Date: 12/21/00
For Woodside Homes Sales Corporation

May 10, 2000

LEGAL DESCRIPTION FOR
CAMBRIA
CR-3 RESIDENTIAL ZONING PARCEL

Tract D and a part of Tract C, "The Links Estates Unit 1", recorded in Cabinet B, Slide 101, Pinal County Records, and a part of the Southwest Quarter of Section 20, Township 2 South, Range 8 East, of the Gila and Salt River Meridian, Pinal County, Arizona, more particularly described as follows:

Beginning at the North Quarter-Corner of said Section 20;

Thence North 89°46'52" East, along the North line of the Northeast Quarter of said Section 20, a distance of 398.92 feet to the True Point of Beginning;

Thence continuing North 89°46'52" East, along said North line, a distance of 921.12 feet to the Northwest corner of the Northeast Quarter of the Northeast Quarter of said Section 20;

Thence South 00°00'10" West, along the West line of the East Half of the Northeast Quarter of said Section 20, a distance of 1,650.57 feet to the Southwest corner of the North Half of the North Half of the Southeast Quarter of the Northeast Quarter of said Section 20;

Thence North 89°46'37" East, along the South line of the North Half of the North Half of the Southeast Quarter of the Northeast Quarter of said Section 20, a distance of 1,320.47 feet to the Southeast corner of the North Half of the North Half of the Southeast Quarter of the Northeast Quarter of said Section 20;

Thence South 00°00'43" East, along the East line of the Northeast Quarter of said Section 20, a distance of 990.28 feet to the East Quarter-corner of said Section 20;

Thence South 00°00'37" East, along the East line of the Southeast Quarter of said Section 20, a distance of 660.22 feet to the Southeast corner of the North Half of the North Half of the Southeast Quarter of said Section 20;

Thence South 89°46'12" West, along the South line of the North Half of the North Half of the Southeast Quarter of said Section 20, a distance of 2,441.85 feet to a point on a line which is parallel with the West line of the Southwest Quarter of said Section 20;

Thence North 00°00'29" East, along said parallel line, a distance of 79.73 feet to a point on the South line of a 15.00 foot wide access strip and wellsite recorded in Docket 1932, Page 269, Pinal County Records;

Thence, along the boundary of said 15.00 foot wide access strip and wellsite, the following courses:

Legal Description for
Cambria
CR-3 Residential Zoning Parcel
May 10, 2000
Page 2 of 3

Thence North 89°46'12" East, a distance of 1,991.83 feet;
Thence South 00°00'37" East, a distance of 2.01 feet;
Thence North 89°46'12" East, a distance of 100.00 feet;
Thence North 00°00'37" West, a distance of 100.00 feet;
Thence South 89°46'12" West, a distance of 100.00 feet;
Thence South 00°00'37" East, a distance of 82.99 feet;

Thence South 89°46'12" West, a distance of 1,991.82 feet to a point on a line which is parallel with the West line of the Southwest Quarter of said Section 20;

Thence South 00°00'29" West, along said parallel line, a distance of 1.63 feet to a point on a line which is parallel with the North line of the Northeast Quarter of said Section 20;

Thence South 89°46'52" West, along said parallel line, a distance of 199.91 feet to a point on a line which is parallel with the North line of the Northwest Quarter of said Section 20;

Thence South 89°46'27" West, along said parallel line, a distance of 540.38 feet;

Thence North 00°13'33" West, a distance of 128.56 feet;
Thence North 45°06'50" West, a distance of 35.42 feet;

Thence South 89°59'54" West, a distance of 343.90 feet to the East line of Golf Course Tract Q, shown on said "The Links Estates Unit 1";

Thence North 00°00'29" East, along said East line of Golf Course Tract Q, being parallel with the West line of the Southwest Quarter of said Section 20, a distance of 412.28 feet;

Thence North 00°00'06" West, continuing along said East line of Golf Course Tract Q, being parallel with the West line of the Northwest Quarter of said Section 20, a distance of 1,544.52 feet;

Thence South 79°03'31" East, a distance of 699.63 feet;
Thence North 00°00'16" West, a distance of 155.03 feet;
Thence South 89°07'26" East, a distance of 313.95 feet;
Thence North 00°00'06" West, a distance of 16.36 feet;

Thence North 89°59'29" East, a distance of 109.00 feet to a point on a line which is parallel with the West line of the Northwest Quarter of said Section 20;

Legal Description for
Cambria
CR-3 Residential Zoning Parcel
May 10, 2000
Page 3 of 3

Thence North 00°00'06" West, along said parallel line, a distance of 784.13 feet to a point on a line which is parallel with the North line of the Northeast Quarter of said Section 20;

Thence North 89°46'52" East, along said parallel line, a distance of 200.00 feet to a point on a line which is parallel with the West line of the Northwest Quarter of said Section 20;

Thence North 00°00'06" West, along said parallel line, a distance of 282.97 feet to the True Point of Beginning.

Containing 184.415 Acres, more or less.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
22782
LARRY E.
SULLIVAN
Date Signed 5-10-00
ARIZONA U.S.A.

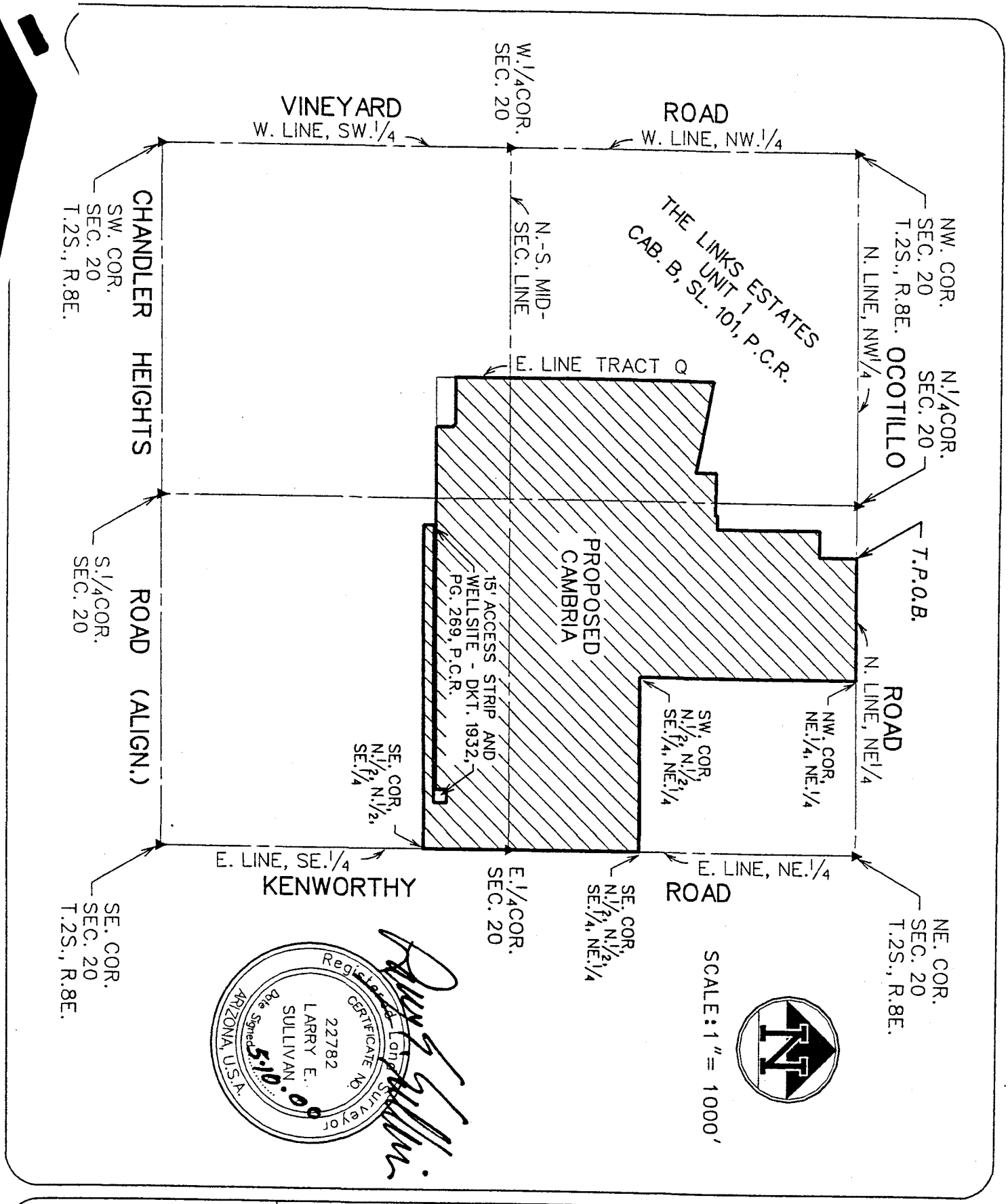


EXHIBIT	CAMBRIA CR-3 RESIDENTIAL ZONING PARCEL	JOB NO 000014
4550 NORTH 12TH STREET PHOENIX, ARIZONA 85014 TELEPHONE (602) 264-6831	COE & VAN LOO PLANNING•ENGINEERING•LANDSCAPE ARCHITECTURE	SHEET 1 OF 1

FILE: N:\000014\LAND\EHCR3RES.DGN DATE: 05/11/00

May 10, 2000

LEGAL DESCRIPTION FOR
CAMBRIA
WASTEWATER TREATMENT SITE
CI-2 INDUSTRIAL ZONING PARCEL

That part of the Southwest Quarter of Section 20, Township 2 South, Range 8 East, of the Gila and Salt River Meridian, Pinal County, Arizona, more particularly described as follows:

Commencing at the West Quarter-Corner of said Section 20;

Thence North 89°46'27" East, along the East-West mid-section line of said Section 20, a distance of 1,733.19 feet to the East line of Golf Course Tract Q, "The Links Estates Unit 1", recorded in Cabinet B, Slide 101, Pinal County Records;

Thence South 00°00'29" West, along said East line of Golf Course Tract Q, being parallel with the West line of the Southwest Quarter of said Section 20, a distance of 412.28 feet to the True Point of Beginning;

Thence North 89°59'54" East, a distance of 343.90 feet;
Thence South 45°06'50" East, a distance of 35.42 feet;

Thence South 00°13'33" East, a distance of 128.56 feet to a point on a line which is parallel with the North line of the Northwest Quarter of said Section 20;

Thence South 89°46'27" West, along said parallel line, a distance of 369.53 feet to the East line of said Golf Course Tract Q;

Thence North 00°00'29" East, along said East line of Golf Course Tract Q, being parallel with the West line of the Southwest Quarter of said Section 20, a distance of 155.00 feet to the True Point of Beginning.

Containing 1.300 Acres, more or less.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
22782
LARRY E.
SULLIVAN
Date Signed 5-10-
ARIZONA, U.S.A.

N:\000014\Admin\04-003g.wp8

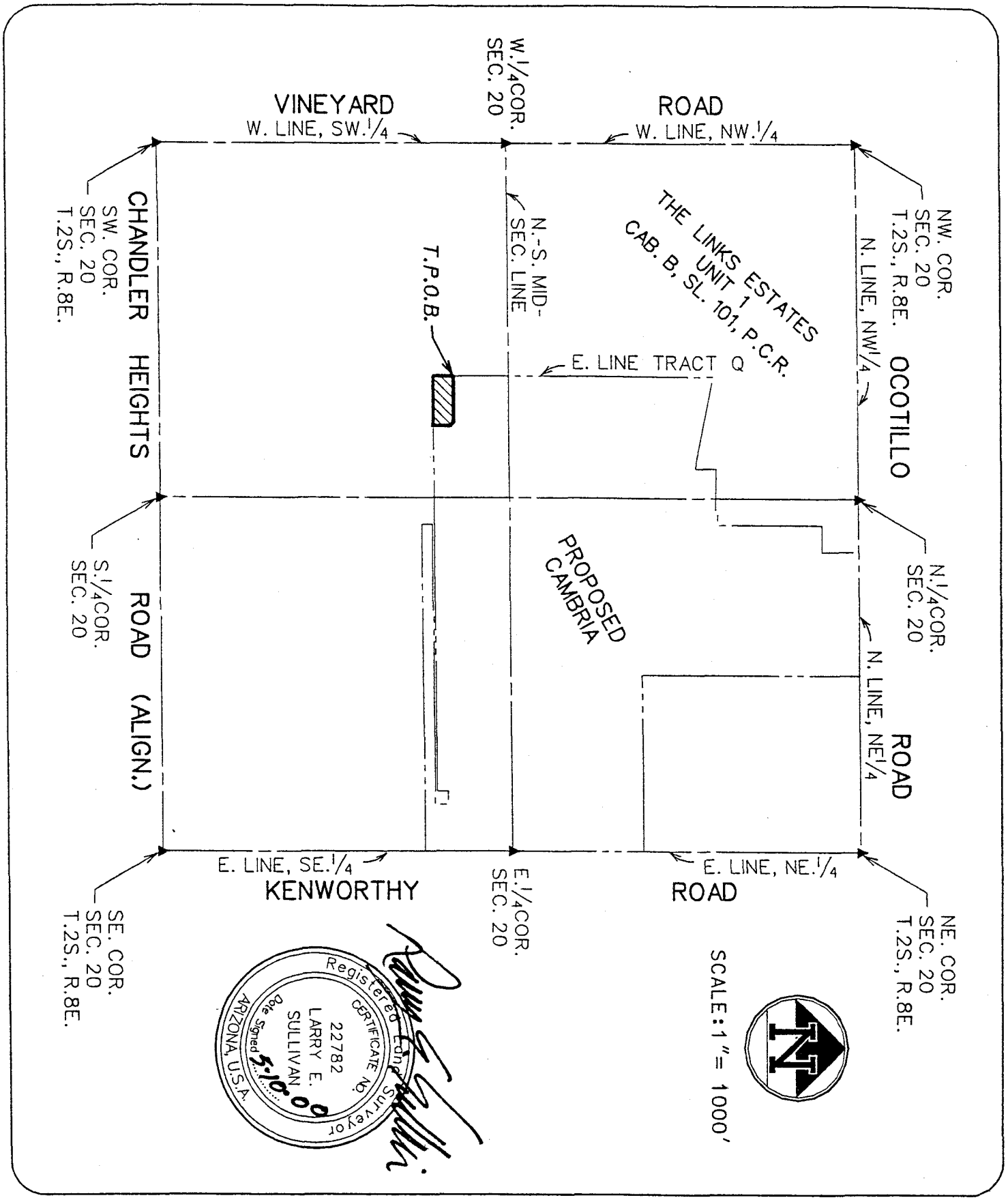


EXHIBIT	CAMBRIA - WASTEWATER TREATMENT SITE CI-2 INDUSTRIAL ZONING PARCEL	JOB NO 000014
4550 NORTH 12TH STREET PHOENIX, ARIZONA 85014 TELEPHONE (602) 264-6831	COE & VAN LOO PLANNING•ENGINEERING•LANDSCAPE ARCHITECTURE	SHEET 1 OF 1

FILE: N:\000014\LAND\EHCI2IND.DGN DATE: 05/11/00

November 15, 2000

To Whom it Concerns:

Arizona Utility Supply & Services, LLC is applying for a franchised area in Pinal County, Arizona to serve certain properties with sewer treatment and collection service. As owners of the below described property, Madison Diversified, hereby request that our property as described herein be included in the franchised area that Arizona Utility Supply & Services, LLC is applying for.

Madison Diversified also request that their property as described herein be included in the "Certificate of Convenience and Necessity" as granted by Arizona Corporation Commission for Arizona Utility Supply & Services, LLC.

LEGAL DESCRIPTION

Parcel No. 1
The west half of the Northwest quarter of Section 21, Township 8 East of the Gila & Salt River Base and Meridian, Pinal County, Arizona.

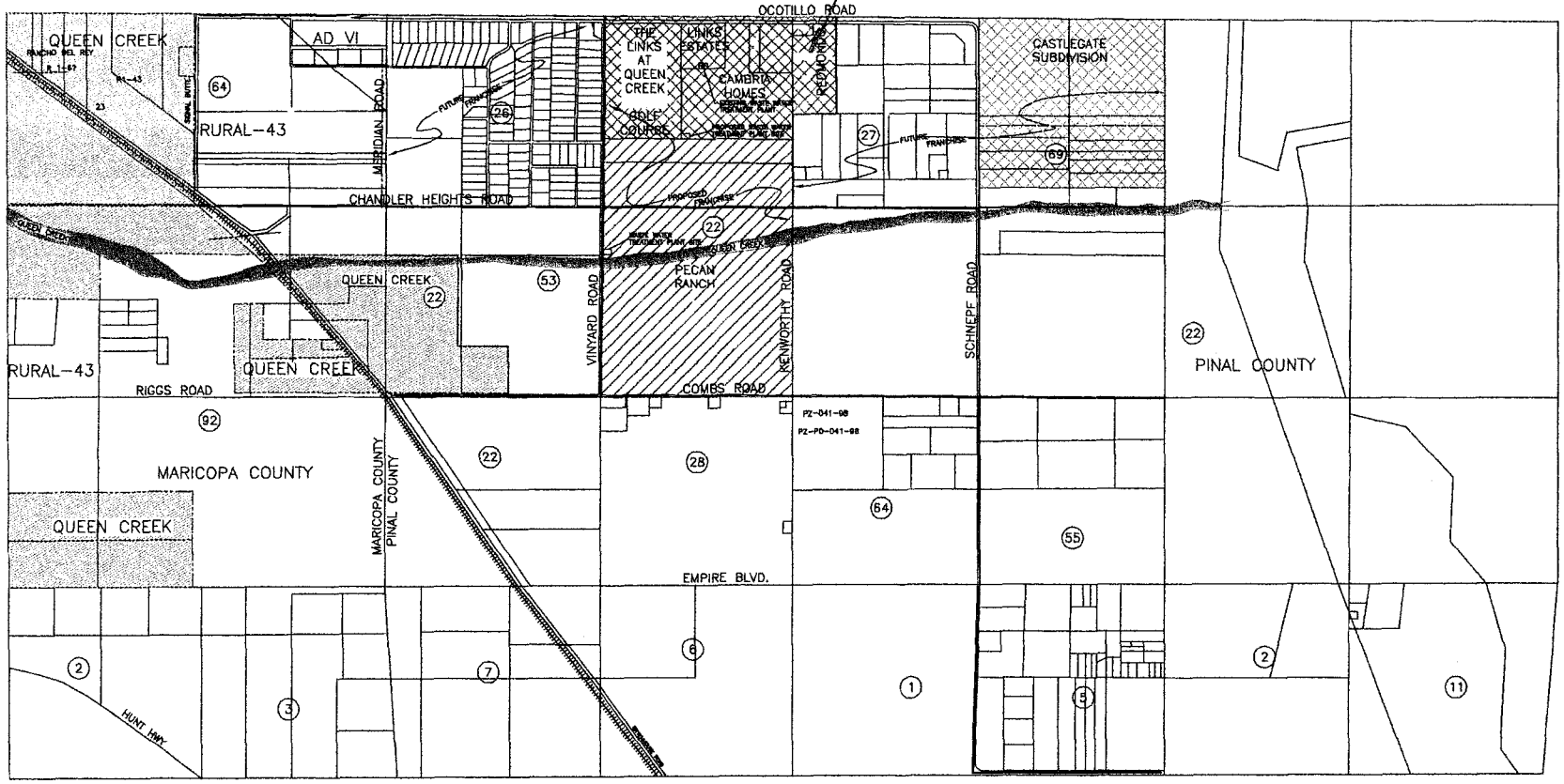
BY: _____ Its Vice-Pres. Date: Nov. 16, 2000
For Madison Diversified 802 CORP.

EXHIBIT A

ARIZONA UTILITY SUPPLY & SERVICES, LLC

MASTER SEWER PLAN

Madison Diversified 802 Corp.



February 22, 2001

To Whom it Concerns:

Arizona Utility Supply & Services, LLC and/or assignee is applying for a franchised area in Pinal county, Arizona to serve certain properties with sewer treatment and collection service. The Links at Ocotillo Home Owners Association hereby request that their subdivision as described as "Exhibit A" , also known as The Links Estates Phase One, be included in the franchised area that Arizona Utility Supply & Services, LLC is applying for.

The Links at Ocotillo Home Owners Association also request that their property as described herein be included in the "Certificate of Convenience and Necessity" as granted by Arizona Corporation Commission for Arizona Utility Supply & Services, LLC and/or assignee. It is also understood that the 72 lots of The Links Estates Phase One shall have sewer service at no cost to the home owners

By: Stephen A Kohner its Pres. Date 2-23-01
The Links at Ocotillo Home Owners Association

By: Maurice Lee its- Mgr Date 2/26/01
Arizona Utility Supply & Services, LLC

December 29, 2000

LEGAL DESCRIPTION FOR
CAMBRIA
OFFSITE SANITATION PERMIT AREA

That part of "The Links Estates Unit 1", recorded in Cabinet B, Slide 101, Pinal County Records, and that part of the North Half of Section 20, Township 2 South, Range 8 East, of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

Beginning at the North Quarter-Corner of said Section 20;

Thence North 89°46'52" East, along the North line of the Northeast Quarter of said Section 20, a distance of 398.92 feet;

Thence South 00°00'06" East, a distance of 282.97 feet;
Thence South 89°46'52" West, a distance of 200.00 feet;
Thence South 00°00'06" East, a distance of 784.13 feet;
Thence South 89°59'29" West, a distance of 109.00 feet;
Thence South 00°00'06" East, a distance of 16.36 feet;
Thence North 89°07'26" West, a distance of 313.95 feet;
Thence South 00°00'16" East, a distance of 155.03 feet;

Thence North 79°03'31" West, a distance of 699.63 feet to the East line of Golf Course Tract Q, as shown on said "The Links Estates Unit 1";

Thence North 00°00'06" West, along said East line of Golf Course Tract Q and the Northerly extension thereof, a distance of 1,096.56 feet to the North line of the Northwest Quarter of said Section 20;

Thence North 89°46'27" East, along said North line, a distance of 910.90 feet to the Point of Beginning.

Containing 30.112 Acres, more or less.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
22782
LARRY E.
SULLIVAN
Date Signed 12-29-00
ARIZONA, U.S.A.

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