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BEFORE THE ARIZONA CORPORATION COMMISSION

50

COMMISSIONERS

2006 MAY 10 P 3:14

- Jeff Hatch-Miller - Chairman
- William A. Mundell
- Marc Spitzer
- Mike Gleason
- Kristin K. Mayes

AZ CORP COMMISSION  
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION  
OF ARIZONA WATER COMPANY FOR AN  
EXTENSION OF ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY IN  
LAKESIDE, NAVAJO COUNTY, ARIZONA

DOCKET NO. W-01445A-04-0013

CERTIFICATE OF COMPLIANCE WITH  
DECISION AND ORDER; WITHDRAWAL  
OF REQUEST FOR ADDITIONAL TIME  
TO COMPLY WITH FILING  
REQUIREMENT

On July 9, 2004 the Commission entered Decision No. 67107 in the above-captioned docket. Decision No. 67107 approved Arizona Water Company's (the "Company") application for an extension of its certificate of convenience and necessity for its Lakeside system. It also ordered the Company to comply with certain Staff recommendations within 365 days of the effective date of said Decision, namely:

- (a) that the Applicant charge its existing rates and charges for its Pinetop-Lakeside system in the proposed extension area;
- (b) that the Applicant file, within 365 days of the effective date of this Decision, with the Commission's Utilities Division Director ("Director"), a copy of an executed main extension agreement associated with the proposed expansion area;

1 (c) that the Applicant file, within 365 days of the effective date of this  
2 Decision, with the Director, a copy of the Certificate of Approval to  
3 Construct issued by the Arizona Department of Environmental  
4 Quality for the construction of mains in the extension area; and  
5

6 (d) that the Applicant file, within 365 days of the effective date of this  
7 Decision, with the Director, a copy of the right-of-way permit  
8 issued by the Town of Pinetop-Lakeside authorizing AWC to  
9 provide water service to the requested extension area.  
10

11 On April 19, 2006 the Company filed a request for extension of time for an  
12 additional 365 days to file the above-referenced information. By a procedural order  
13 entered on April 25, 2006 the Commission directed Staff to file a response to the  
14 Company's request no later than May 12, 2006.  
15

16 The Company now withdraws its request, for the reason that it is now filing the  
17 following documents in compliance with the conditions of Decision No. 67107 that are  
18 detailed above:  
19

20 1. Executed agreement for Extension of Water Facilities for The  
21 Retreat at Walnut Creek, which is located within the proposed  
22 expansion area, and a copy of which is attached hereto as  
23 Attachment A.  
24

25 2. Certificate of Approval to Construct, issued by the Arizona  
26 Department of Environmental Quality, for the water distribution  
27 system for The Retreat at Walnut Creek, a copy of which is  
28 attached hereto as Attachment B.

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3. A Notice of Action issued by the Town of Pinetop-Lakeside approving the final plat for The Retreat at Walnut Creek, and noting, in the third stipulation, that the streets within the development will remain private, and will not be dedicated to the Town, and will thus not require a right-of-way permit. A copy of the Notice is attached hereto as Attachment C.

RESPECTFULLY SUBMITTED this 10<sup>th</sup> day of May, 2006.

ARIZONA WATER COMPANY

By: Robert W. Geake  
Robert W. Geake  
Vice President and General Counsel  
ARIZONA WATER COMPANY  
Post Office Box 29006  
Phoenix, Arizona 85038-9006

1 Original and thirteen (13) copies of the foregoing filed this 10<sup>th</sup> day of May, 2006 with:

2 Docket Control Division  
3 Arizona Corporation Commission  
4 1200 West Washington Street  
5 Phoenix, Arizona 85007

6 A copy of the foregoing was mailed this 10<sup>th</sup> day of May, 2006 to:

7 Honorable Marc E. Stern  
8 Administrative Law Judge  
9 Hearing Division  
10 Arizona Corporation Commission  
11 1200 West Washington Street  
12 Phoenix, Arizona 85007

13 Christopher Kempley, Chief Counsel  
14 Legal Division  
15 Arizona Corporation Commission  
16 1200 West Washington Street  
17 Phoenix, Arizona 85007

18 Ernest G. Johnson, Director  
19 Utilities Division  
20 Arizona Corporation Commission  
21 1200 West Washington Street  
22 Phoenix, Arizona 85007

23 Brian Bozzo  
24 Compliance Officer  
25 Utilities Division  
26 Arizona Corporation Commission  
27 1200 West Washington Street  
28 Phoenix, Arizona 85007

By: Robert W. Meale

ATTACHMENT A



ARIZONA WATER COMPANY

AGREEMENT FOR EXTENSION OF WATER FACILITIES

CUSTOMER: Walnut Creek Partners 1, L.L.C.  
 Name  
4150 E. Lone Mountain Road  
 Address  
Cave Creek, AZ 85331  
 City and State Zip Code

Contract No. \_\_\_\_\_  
 W.A. No. \_\_\_\_\_

DATE OF AGREEMENT: 5-10-2006

DATE OF COST ESTIMATE: (Attachment "A"): \_\_\_\_\_ WATER SYSTEM: Lakeside

WATER FACILITIES: Install a water distribution system to serve The Retreat at Walnut Creek as per drawing (Attachment "B").

REFUNDABLE ADVANCE	
IN AID OF CONSTRUCTION for: <u>Installation of 3,222 of 8" D.I.P. with related fittings and 51 service connections</u>	\$ <u>155,310</u>
NON-REFUNDABLE CONTRIBUTION for: <u>Installation of seven fire hydrants</u>	<u>20,564</u>
AGREEMENT TOTAL	\$ <u>175,874</u>
LESS: COST OF CONSTRUCTION	<u>159,878</u>
BALANCE DUE	\$ <u>15,996</u>

THIS AGREEMENT is made and entered into by and between ARIZONA WATER COMPANY, an Arizona corporation, (hereinafter called the "Company"), and the Customer named above. In consideration of the services to be performed by the Company and the sums of money to be paid by the Customer, in accordance with the related Cost Estimate, it is agreed as follows: (SEE ADDENDUM, ATTACHED HERETO)

- The Company will construct, or will arrange for the construction of the Water Facilities as described above.
- The Customer will pay to the Company upon signing this Agreement the Total shown above, receipt of which is hereby acknowledged by the company. The Total shown above to be paid by the customer to the Company is the Company's estimated cost of construction of the Water Facilities. The Company will determine and inform the Customer of the actual cost of construction within sixty (60) days after the completion of construction or the Company's receipt of all invoices and charges related to the construction. If the Company's actual cost of construction is less than the Total amount paid, the Company will refund the difference to the Customer; conversely, if the Company's actual cost of construction is more than the Total amount paid, the Customer shall pay the difference to the Company within sixty (60) days of receipt of an invoice from the Company. However, if the actual cost is more than five percent (5%) greater than the Total amount paid, the Customer will only be required to pay five percent (5%) more than the Total amount paid, unless the Company can demonstrate that the increased costs were beyond its control and could not be foreseen at the time the estimate for the Total amount paid was made. The Company and the Customer further agree that the amount subject to refund pursuant to paragraph 3 of this Agreement shall be the refundable portion of the Company's actual cost of construction. Information about the actual cost of construction will be attached to this Agreement and forwarded to the Customer.
- Refunds of any advances in aid of construction shall be made as follows: Each year for a period of 10 years the Company shall pay to the Customer or the Customer's assignee or successor in interest, provided the Company has first received written notice and evidence of such assignment or succession and approved of same, an amount equal to 10 percent of the total gross annual revenue received by the Company from water sales to each bona fide customer whose service line is directly connected to pipelines installed pursuant to this Agreement. Refunds shall be made by the Company on or before August 31 of each year, covering any water revenues received during the preceding July 1 to June 30 period. Any balance remaining subject to refund at the end of the 10-year period shall become non-refundable. Aggregate refunds shall in no event exceed the total of the refundable advance in aid of construction received from the Customer. No interest shall be paid by the Company on any amounts paid hereunder.
- All Water Facilities installed under this Agreement shall be the sole property of the Company, and the customer shall have no right, title or interest in or to any such facilities.
- The size, design, type and quality of materials and of the system, location and manner of installation, shall be specified by the Company and shall comply with requirements of the Arizona Corporation Commission or other public agencies having authority therein.
- The Customer agrees to furnish to the Company adequate and recordable easements and required surveying necessary to serve each parcel or lot within the Customer's subdivision, tract, development, or project.
- The Customer agrees that all easements and rights-of-way shall be free of obstacles which may interfere with the construction of the Company's Water Facilities. If the Customer's subdivision, tract, development, or project involves road construction, all roads and drainageways will be brought to grade by the Customer prior to the commencement of the installation of the Company's Water Facilities. No pavement or curbs shall be installed prior to completion of all Water Facilities. If any street, road, alley or drainageway is installed at a different grade or location after the beginning of the installation of Water Facilities, the Customer shall bear all costs incurred by the Company to relocate the Water Facilities as a result of said facilities having improper cover or location. Such costs shall be non-refundable.
- The Customer agrees to pay to the Company any additional costs incurred as a result of design changes made or caused by the Customer or its employees, agents, servants, contractors or subcontractors, the Arizona Department of Environmental Quality, the Arizona Corporation Commission, any county health department or other public agency under whose jurisdiction the subject construction may fall, or anticipated or un-anticipated changes in existing Company facilities, due to any work associated with this subdivision, tract, development or project which causes said facilities to have improper cover or location.
- This Agreement shall be binding upon and for the benefit of the successors and assigns of the Company and the Customer. No assignment or transfer of this Agreement by the Customer shall be binding upon the Company or create any rights in the assignee until such assignment or transfer is approved and accepted in writing by the Company.
- This Agreement, and all rights and obligations hereunder, including those regarding water service to the Customer, are subject to the Arizona Corporation Commission's "Rules and Regulations Relating to the Operation of Domestic Water Utility Companies" and the Company's tariff schedule TC-243, "Terms and Conditions for the Provision of Water Service."

ARIZONA WATER COMPANY

Company

By: \_\_\_\_\_

Title: UT-Engineering

KD

WALNUT CREEK PARTNERS 1, L.L.C.

Customer

By: \_\_\_\_\_

Title: \_\_\_\_\_

**AGREEMENT FOR EXTENSION  
OF WATER FACILITIES**

This Addendum to Agreement for Extension of Water Facilities (the "Agreement") is made and entered into as of the            day of            ,            by and between Arizona Water Company ("Company") and Walnut Creek Partners 1, L.L.C. ("Customer") for the extension of water service and facilities to serve The Retreat at Walnut Creek (the "Subdivision").

The Agreement is hereby modified and amended by mutual agreement of the parties in the following particulars:

1. Section 1 of the Agreement is revised to read as follows:

Customer will arrange for and bear the cost of the construction of all the mains, fire hydrants, and services for installation of approximately 3,222 L.F. of 8" D.I.P. with related fittings, 51 service connections and seven fire hydrants (collectively, the "Water Facilities") in accordance with plans and specifications reviewed and approved by the Company, and in accordance with the Company's current Construction Specifications & Standard Specification Drawings. Upon final acceptance by the Company, Customer shall thereafter transfer and convey the Water Facilities to the Company by Bill of Sale, together with a perpetual easement for the maintenance thereof, both documents to be prepared and approved by the Company. Customer shall furnish any document pertaining to ownership and title as may be requested by Company including documents which evidence or confirm transfer of possession to Company, and good and merchantable title free and clear of liens, or which contain provisions for satisfaction of liens by Customer. All risk or loss of the water facilities shall be with the Customer until written acceptance by the Company, or any portions thereof. Customer shall repair or cause to be repaired promptly, and at no cost to Company, all damage to the Water Facilities caused by Customer's construction operations until all construction in development for Customer has been completed. Customer acknowledges that Company has the right to, and may in the future, connect its existing or future water systems to the Water Facilities.

2. Section 2 of the Agreement is deleted in its entirety.

3. Section 8 of the Agreement is revised to provide that the Customer shall pay any additional costs incurred as the result of design changes made or caused by any of the persons or entities named therein and shall hold Company harmless therefrom.

4. It is further agreed that the Customer will advise all contractors asked to bid the construction of the Water Facilities that Customer will assign to the Company the duty of inspecting the installation of the Water Facilities for compliance with the Company's current Construction Specifications & Standard Specification Drawings, as referenced in Section 1 of this Addendum. If requested by Company, Customer shall "oversize" the Water Facilities as specified by Company. Company shall reimburse Developer for the differential in material prices of the oversized pipe and appurtenances, versus the material prices of the pipe and appurtenances as specified by the Company in the approved plans.

The Customer agrees to require the contractor which will be installing the Water Facilities to arrange for and attend a pre-construction conference with the Company's Division Manager at least two weeks prior to commencing construction of the Water Facilities. Customer shall obtain from the Company a signed Commencement Notice before construction of the Water Facilities begins. Developer's contractor shall comply with the Company's inspection and testing requirements for Water Facilities. Developer/contractor shall give Company adequate notice when the Water Facilities are ready for inspection and testing.

The Company specifically reserves the right to withhold final acceptance of the Water Facilities unless said facilities have been constructed in accordance with the approved plans and specifications and are satisfactory to Company upon inspection and testing. Customer agrees that it will promptly correct all material defects and deficiencies in construction, materials and workmanship upon request by Company made subsequent to inspection by Company and for one year following Company's written final acceptance of the Water Facilities in accordance with the terms of this Agreement.

Customer hereby assumes the entire responsibility and liability for injury or death of any person, or loss or damage to any property contributed to or caused by the active or passive negligence or willful acts or omissions of Customer, its agent, servants, employees, contractors or subcontractors in the execution of the work or in connection therewith. Accordingly, Customer will indemnify and hold harmless the Company, its officers, directors, agents and employees from and against claims or expenses, including penalties and assessments and attorneys' fees to which they or any of them may be subjected by reason of such injury, death, loss, claim, penalty, assessment or damage caused by the active or passive negligence or willful acts or omissions of Customer, its agents, servants, employees, contractors or subcontractors in the execution of the work or in connection therewith; and in case any suit or other proceeding shall be brought on account thereof, Customer will assume the defense at Customer's own expense and will pay all judgements rendered therein. In connection therewith, the Customer shall maintain in full force and effect insurance at no less than the following minimum amounts:

*WORKER'S COMPENSATION*

In accordance with requirements of the laws of the State of Arizona.

*COMPREHENSIVE GENERAL LIABILITY*  
(Including contractual liability covering death, bodily injury and property damage)

Combined single limit of not less than \$1,000,000 for each occurrence.

*AUTOMOTIVE LIABILITY*  
(Including owned, non-owned and hired vehicles)

Combined single limit of not less than \$1,000,000 for each occurrence.

Such insurance shall name the Company, its officers, agents, and employees as additional insured and be primary for all purposes.

The Company will at all times have the right to require that all of such insurance be placed with insurance companies that are satisfactory to it. The Customer shall file with the Company a certificate evidencing that each policy of insurance for the above coverages in the minimum amounts

specified has been purchased and is in good standing.

Such certificate shall provide that notice be given to the Company at least thirty (30) days prior to cancellation or material change in the form of such policies or any of them. Such certificates shall be kept on file by the Company and the Company must have current certificates on file, or a certificate must accompany any bid proposal, before that proposal will be accepted by the Company.

It is agreed that the Company is not an agent for Customer and shall not incur any costs or expenses on behalf of Customer and that Customer is not an agent for the Company and shall not incur any costs or expenses on behalf of the Company.

5. Customer shall, within 60 days of operational acceptance of Water Facilities by Company, furnish Company with: (a) copies of all bills, invoices and other statements of expenses incurred by Customer covering all of the costs of materials, equipment, supplies, construction and installation of the Water Facilities; (b) lien waivers and releases from contractors, subcontractors and vendors for materials, equipment, supplies and construction included in the Water Facilities; (c) receipts, specifying exact amount of payments in full by Customer to all contractors, subcontractors and vendors for all materials, equipment, supplies, labor and other costs of construction of the Water Facilities; and, (d) 4-mil mylar "as-built" drawings certified as to correctness by an engineer registered in the State of Arizona and showing the locations, materials, sizes and pertinent construction details for Water Facilities.

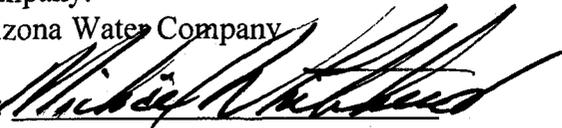
6. Upon final acceptance, Company will provide water service to the Subdivision in accordance with the rates, charges and conditions set forth in the tariffs of Company as filed with the Arizona Corporation Commission. Those rates are subject to change from time to time upon action by the Commission.

7. Customer agrees that the completion of the Water Facilities will be timed so as to enable Company to provide water service to the Subdivision as such service is requested.

Except as set forth herein, and except as necessary to give effect hereto, the Agreement remains in full force and effect and is unmodified.

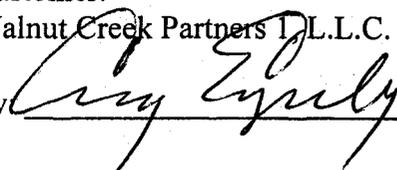
Company:

Arizona Water Company

By: 

Customer:

Walnut Creek Partners I, L.L.C.

By: 

ATTACHMENT B

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

Certificate of Approval to Construct a Water Distribution System



Project Name		The Retreat at Walnut Creek		CF#	20050136
Name		Walnut Creek Partners 1 LLC		County	LTFW
Mail Address 1		Craig Eyerly			34598
Mail Address 2		4150 E Lone Mountain Rd			
City/State/Zip		Cave Creek, AZ 85331		NAVAJO	Place ID
					23527
Project Type(s)			Project Description		
x	Pressure Main	Storage Tank	3116' 8" DIP, 6 hydrants, 8 gate valves and 48 residential service connections		
	Hydro Tank	Other			
Facility Name		Arizona Water Co			
PWS ID #		09003	Site Information		
Design Documents Approved		Date	Nearest Town	Pinetop-Lakeside	
Application		11/23/04	Location of Distribution System		
Site Plan		11/23/04	Township 9N	Range 22E	
Design Plan		11/23/04	Section 25	Quarter Section SW	
Operations & Maintenance Plan			Latitude	34° 08' 50"	
Response Letter			Longitude	109° 58' 05"	
Other					

Approval to Construct (ATC) the above-described facilities as represented in the approved plans documents on file with the Arizona Department of Environmental Quality, is hereby given subject to the following provisions.

The General Provisions and Special Provisions for the Water Distribution System appear on Pages 2 of 2

KH1/TH2

**CERTIFICATE DISTRIBUTION**

Original Certificate:  
Applicant

Certificate Copy Only  
ADEQ/NRO Reading File  
ADEQ/NRO Construction File  
County Environmental Health  
Bruce Ironside  
Ironside Engineering  
1500 S White Mountain Rd  
Suite 201  
Show Low, AZ 85901

Stephen A. Owens, Director  
Arizona Department of Environmental Quality

By:  3-14-05  
Kurt J. Harris, P.E., Manager  
Water Quality Design Review Unit  
Northern Regional Office  
Date Approved

*Certificate of Approval to Construct A Water Distribution System*

Page 2 of 2

Facility Name The Retreat at Walnut Creek

ADEQ CF# 20050136

General Provisions

1. A public water system shall be designed using good engineering practices. A public water system which is designed in a manner consistent with the criteria contained in Engineering Bulletin No. 10, "Guidelines for the Construction of Water Systems,"
2. This Approval to Construct becomes void if an extension of time is not granted by the Department within 90 days after passage of one of the following [R18-4-505(E)]:
  - A. Construction does not begin within one year after the date the Approval to Construct is issued, or
  - B. There is a halt in construction of more than one year, or
  - C. Construction is not completed within three years after the date construction begins.
3. All construction shall conform to approved plans and specifications. Should it be necessary or desirable to make a change in the approved design which will affect water quality, capacity, flow, sanitary features, or performance, the revised plans and specifications, together with a written statement of the reasons for such a change, shall be submitted to the Department for review, and approval shall be obtained in writing before the construction affected by the change is undertaken. Revisions not affecting water quality, capacity, flow, sanitary features, or performance may be permitted during construction without further approval if record if record drawings documenting these changes, prepared by a professional engineer registered in the state of Arizona, are submitted to the Department, pursuant to A.A.C. R18-4-508.
4. Notice shall be given to the Northern Regional Office (NRO) in Flagstaff (1-877-602-3675) and to County P&Z Department when construction of the project begins to allow for inspection during construction per A.R.S. § 49-104(B)(10).  
Contact Mr. Buck Olberding x2702 at least seven days prior to the start of construction, and again at least ten day before the end of construction.
5. Operation of a newly constructed facility shall not begin until an Approval of Construction (AOC) is issued by the Department per A.A.C. R18-4-507(A). Failure to comply with A.A.C. R18-4-507(A) will result in a Notice of Violation (NOV).
6. The following requirements shall be met before an AOC will be issued by the Department on a newly constructed public water system, an extension to an existing public water system, or any alterations of an existing public water system, or any alteration of an existing public water system which affects its treatment, capacity, water quality, flow, distribution, or operational performance [R18-4-507(B)]:
  - A. A professional engineer, registered in the state of Arizona, or a person under the direct supervision thereof, shall complete a final inspection and submit a Certificate of Completion on a form approved by the Department to which the seal and signature of the registrant have been affixed;
  - B. The construction conforms to approved plans and specifications, as indicated in the Certificate of Completion, and all changes have been documented by the submission of record drawings, pursuant to R18-4-508;
  - C. An operations and maintenance manual has been submitted and approved by the Department if construction includes a new water treatment facility; and
  - D. An operator, who is certified by the Department at a grade appropriate for each facility, is employed to operate each water treatment plant and the potable water distribution system.

After receipt of the items outlined above, NRO will review the file and, if in order, will issue an Approval of Construction (AOC).
7. A minimum pressure of 20 psi shall be provided at all points in the distribution lines at all times.
8. All materials and products that come into contact with drinking water or drinking water treatment chemicals must comply with NSF Standard 61. Any "or equal" substitution shall also meet NSF Standard 61. Materials which do not meet NSF Standard 61 may be considered if they otherwise comply with A.R.S. § 49-353.01.
9. Backflow prevention shall be provided in accordance with R18-4-115 and/or local ordinances.
10. The open end of each air relief pipe from automatic valves shall extend at least one foot above grade and shall incorporate pipe elbows to cause the opening, permanently covered with #16 mesh screen, to face downward.
11. This certificate voids and supersedes all previous "Approvals to Construct" issued previously for this file number.
12. Potable water line and sewer line separation shall meet A.A.C. R18-4-502. Reclaimed water line and potable water line separation shall meet A.A.C. R18-9-602. The separation requirements of A.A.C. R18-4-502 shall extend to all water line services and sewer line services within the right-of-way. Separation of water and sewer line on individual private property shall meet the requirements of the Uniform Plumbing Code.
13. Construction material used in a public water system, including residential and non-residential facilities connected to the public water system, shall be lead free as defined at R18-4-101(46).

Special Provisions

None

End of Provisions

 3-14-05  
 Kurt J. Harris, P.E.

ATTACHMENT C




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**NOTICE OF ACTION**

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**REVIEWED BY:** Town Council **DATE:** October 21, 2004

**APPLICATION:** S-42-04

**REQUEST:** Final Map approval for the 49 lot Retreat at Walnut Creek subdivision.

**LOCATION:** North of the Big Springs Nature Area. APN(s) 212-29-182A and B.

**APPLICANT:** Walnut Creek Partners 1, LLC  
4150 E. Lone Mountain Road  
Cave Creek, AZ 85331

**GRANTED:** X **DENIED:** **VOIDED:** **OTHER:**

**THE TOWN COUNCIL APPROVED THE FINAL MAP FOR THE 49 LOT RESIDENTIAL SUBDIVISION NORTH OF THE BIG SPRINGS NATURE AREA. THE MAP APPROVAL INCLUDES THE FOLLOWING STIPULATIONS:**

- The developer will deliver a financial assurance for completion of subdivision improvements that is accepted by the Town Attorney and Engineer.
- The project engineer will certify that all drainage improvements have been completed as per the drainage report and improvement plans.
- The streets identified as Tracts A, D, and J within this development will remain private and will not be dedicated to the town for maintenance. All streets within the subdivision will be paved.
- The Town Engineer will review the plans for both bridges prior to construction.
- The CC&R's include language regarding individual lot owners maintaining compliance with Chapter 16.117, Forest Health and Fire Protection.
- The developer agrees to participate in a traffic impact analysis. The cost to be shared by Walnut Creek Partners, the Town and others as applicable. The developer will restrict access on Hopi Way to emergency ingress only and egress only for residents.

Dated this 25th day of October, 2004.

\_\_\_\_\_  
Paul Esparza  
Community Development Director



TOM THOMAS IS HEAD  
OF ROADS DEPT. IF YOU  
WANT TO TALK TO HIM  
AT 928-368-8696  
OR