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AZ CORPORATION COMMISSION
DOCKET CONTROL

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8 **BEFORE THE ARIZONA CORPORATION COMMISSION**

9 **COMMISSIONERS**

10 DOUG LITTLE, INTERIM CHAIRMAN
11 BOB STUMP
12 BOB BURNS
13 TOM FORESE

14 IN THE MATTER OF THE
15 APPLICATION OF WICKENBURG
16 RANCH WASTEWATER, AN ARIZONA
17 LIMITED LIABILITY COMPANY, FOR
18 APPROVAL OF THE SALE OF ASSETS
19 AND FOR CANCELLATION OF THE
20 CERTIFICATE OF CONVENIENCE AND
21 NECESSITY

Docket No. SW-20769A-16-0026

**APPLICATION FOR APPROVAL OF
THE SALE OF ASSETS AND/OR FOR
CANCELLATION OF THE
CERTIFICATE OF CONVENIENCE
AND NECESSITY**

22 Pursuant to Arizona Corporation rules and procedures, Wickenburg Ranch
23 Wastewater, LLC (Company or Applicant) submits this Application for Approval of the
24 Sale of Assets and for Cancellation of the Certificate of Convenience and Necessity
25 (CC&N).

26 **PRELIMINARY STATEMENT**

27 The Company is an Arizona corporation engaged in the business of providing
28 wastewater utility service in Wickenburg, Arizona. The proposed development to be

1 served by Company is owned by Van Development Co., Inc., and Wickenburg
2 Development Co., LLC (collectively referred to as Developer). Developer is building a
3 2,162-acre master planned community currently consisting of 1,724 single-family home
4 lots, 600 multi-family units (2,324 housing units total), and commercial units known as
5 Wickenburg Ranch. The Company is serving 72 customers at this time.
6

7
8 With the exception of Wickenburg Ranch, the Town of Wickenburg (Town)
9 provides water and wastewater service within its boundaries. The Town expressed a
10 strong interest in providing utility service to Wickenburg Ranch as well. The Town,
11 Company, and Developer have agreed that allowing the Town to provide such service is
12 in the best interest of all parties, including the current and future customers of
13 Wickenburg Ranch. Accordingly, the parties entered into an agreement whereby either
14 the Town or a community facilities district governed by the Town Council would own
15 and/or operate the utility system serving Wickenburg Ranch.
16
17

18 To be clear, the Town is not purchasing the assets. Instead, there are two options
19 for reimbursing the Company for installing the utility system. First, the Town would
20 establish hook-up fees to be paid by future customers. Second, the Town would form a
21 community facilities district, which would be governed and managed by the Town
22 Council, and finance the cost of the utility system pursuant to A.R.S. § 48-701, *et seq.*
23 Under either scenario, the Town's current utility customers do not pay for acquiring the
24 utility system or become subject to higher rates in the future to pay for the system
25 acquisition.
26
27
28

APPLICATION

1
2 A. The name, address and telephone number of the Applicant is:

3
4 **Wickenburg Ranch Wastewater, LLC**
5 **PO Box 16460**
6 **Phoenix, AZ 85011**
7 **602-230-1051**

8 B. If doing business under a name other than the Applicant name specify:

9 **Not Applicable.**

10 C. The Applicant is a:

11 **Limited Liability Company**

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

13 **Steve Wene**
14 **Moyes Sellers & Hendricks**
15 **1850 N. Central Avenue, Ste. 1100**
16 **Phoenix, Arizona 85004**
17 **(602) 604-2189**

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

19 **Thomas Warley**
20 **Wickenburg Ranch Wastewater, LLC**
21 **4222 E Camelback Rd., Suite H100**
22 **Phoenix, AZ 85018**
23 **602-386-1317**

24 F. The name, address and telephone number of the Purchaser is:

25 **Town of Wickenburg**
26 **155 N. Tegner St., Ste. A**
27 **Wickenburg, AZ 85930**
28 **928-684-5451**

1 G. List the name and telephone number of the purchaser's representative.

2 **Joshua Wright, Manager**
3 **Town of Wickenburg**
4 **155 N. Tegner St., Ste. A**
5 **Wickenburg, AZ 85930**
6 **928-684-5451**

7 H. The Purchaser is an:

8 **The Town of Wickenburg is a municipality, a political subdivision of the State**
9 **of Arizona. The community facilities district also is a political subdivision of the**
10 **State of Arizona, formed and governed by the Town Council.**

11 I. The purpose for the sale is due to:

12 **Enable the community to benefit from the wastewater provider being a**
13 **municipal corporation. Those benefits include opportunities to receive grants and**
14 **subsidized loans, tax benefits, and lower market costs for professional services.**

15 J. Provide a copy of the following documents:

16 1. Sales or purchase agreement

17 **See Exhibit 1.**

18 2. Court order (if condemnation)

19 **Not Applicable.**

20 3. Corporate Resolution authorizing the liquidation of the assets, if required
21 by the Articles of Incorporation

22 **Not Applicable.**

23 K. Have all customer security deposits been refunded?

24 **No. All security deposits will be transferred to the Purchaser for refund**
25 **pursuant to the terms and conditions of the Company pursuant to the Purchase**
26 **Agreement.**

27

28

1 L. Are there any refunds due on Main Extension Agreements?

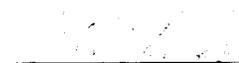
2 **No.**

3
4 M. Are there any refunds due on meter and service line installations?

5 **No.**

6
7 DATED January 25, 2016.

8
9 **MOYES SELLERS & HENDRICKS LTD.**

10
11 
12 _____
13 Steve Wene

14 Original and 13 copies of the foregoing
15 filed this 25th day of January, 2016, with:

16 Docket Control
17 Arizona Corporation Commission
18 1200 West Washington
19 Phoenix, Arizona 85007
20
21 _____
22
23
24
25
26
27
28

EXHIBIT 1

5
28



Recording Requested By and
When Recorded Return to:

Town of Wickenburg
Town Clerk
155 North Tegner Street, Suite A
Wickenburg, Arizona 85390

PRE-ANNEXATION AND DEVELOPMENT AGREEMENT

by and between

TOWN OF WICKENBURG

And

**VAN DEVELOPMENT CO., INC.,
5860 DEVELOPMENT, INC., AND
JVT INVESTORS, LLC**

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LIST OF EXHIBITS:

Exhibit A	Legal Description of the Property
Exhibit B	List of Permits issued by Yavapai County
Exhibit C	Approved Master Plan and PAD Amendments
Exhibit D	Amended Master Plan
Exhibit E	Master Phasing Plan
Exhibit F	Regional Circulation Plan
Exhibit G	Master Streets & Circulation Plan
Exhibit H	Water Agreement
Exhibit I	Wastewater Agreement
Exhibit J	Master Drainage Study
Exhibit K	Master Parks, Trails and Open Space Plan
Exhibit L	Signage Package

DEFINITIONS

"Active Adult Community" means a community which may include age restrictions requiring that residents be of a certain age to own real property within a Parcel or subdivision within the Project.

"ADEQ" is the Arizona Department of Environmental Quality.

"ADOT" is the Arizona Department of Transportation.

"ADOT Traffic System" are roadways under the jurisdiction of Arizona Department of Transportation.

"Additional Property" is all or any portion of real property now owned, or which may become owned, by Developer or its affiliate(s) within five years from the Effective Date and which is adjacent to or proximate to the Property.

"ADWR" is the Arizona Department of Water Resources.

"Agreement" is this Pre-Annexation and Development Agreement inclusive of all Exhibits, as may be amended from time to time.

"Amended Master Plan" is the master plan set forth in **Exhibit D** which will be considered by the Town for approval as part of the Rezoning Ordinance.

"Approved Master Plan" is the approved master plan set forth in **Exhibit C** which was approved by the Yavapai County Board of Supervisors as a Planned Area Development and a Master Site Plan by Zoning Map Change HA# H5214 and four minor amendments, in addition to the April 3, 2012 PAD Extension of Time.

"Annexation Ordinance" is, or shall be, the Town ordinance that annexes the Property into the Town.

"AZGFD" is the Arizona Game and Fish Department.

"CC&Rs" are the Covenants, Conditions and Restrictions that shall encumber the Property and which shall govern the Project through one or more Owners' Associations that shall establish quality control through the Property both during development and during maturing of the community. CC&Rs will be recorded on the Property concurrently with recordation of the first final plat for any portion of the Property.

"CLOMR" is the Conditional Letter of Map Revision issued by FEMA signifying its intent to revise its floodway maps to remove areas from designated floodways.

"Community Commercial" is a site planned to accommodate community employment uses and large square footage major tenants for larger retail uses.

"Community Facilities District" or **"CFD"** or **"Wickenburg Ranch CFD"** is a special taxing district formed in accordance with Title 48, Article 6 of the Arizona Revised Statutes for the purpose of financing eligible Public Infrastructure.

“Conditional Use Permit” is a permit granting a conditional use within a zoning district established for the Property in accordance with the Wickenburg Ranch PAD Standards.

“Date of Application” is the date Developer’s application to the Town for the Pre-Annexation and Development Agreement (the **“Application”**) was deemed complete by the Town. The Date of Application is October 4, 2013.

“Design Guidelines” are the planning, engineering, architectural, and landscape design guidelines applicable to new construction and later modifications to the Project. The Design Guidelines shall be submitted to the Town for review and approval in conjunction with approval of the first preliminary plat submitted for development on the Property.

“Developer” is VAN DEVELOPMENT CO., INC., a Kansas corporation, as to an undivided 57.4% interest, 5860 DEVELOPMENT, INC., an Arizona corporation, as to an undivided 19.8% interest, and JVT INVESTORS, LLC, an Arizona limited liability company, as to an undivided 22.8% interest, and all successors in title and interest to Developer who undertake development of the Property.

“Developer Representative” is the representative for Developer acting as liaison with the Town. The initial Developer Representative is William I. Brownlee.

“Development Rights” is development allowed to be undertaken by Developer in accordance with this Agreement, the Approved Master Plan, and, if approved, the Amended Master Plan.

“Drainage System” is a drainage and flood control system and facilities for collection, diversion, detention, retention, dispersal, use and discharge of drain water.

“Effective Date” is the effective date of the resolution adopted by the Town at a duly noticed and held Town Council hearing to approve this Agreement.

“FEMA” is the U.S. Federal Emergency Management Agency.

“Fire Department” is the Wickenburg Fire Department.

“Infrastructure Assurance” is a letter of credit, bond, or such other security acceptable to the Town to assure complete installation of required Public Infrastructure.

“Infrastructure Plan” is the Infrastructure Plan developed through coordinated planning, design, engineering, construction, acquisition, installation, and/or provision of Public Infrastructure as set forth in this Agreement and as contemplated by the Village Plan process.

“Master Drainage Study” is that certain Master Drainage Study, dated January 5, 2010, by Wood Patel & Associates, as may be amended from time to time.

“Master Habitat Mitigation Plan” is that certain Final Habitat Mitigation Plan, dated January 11, 2007, by EcoPlan Associates as may be amended from time to time.

“Master Phasing Plan” is the phasing plan set forth in Exhibit E.

“Master Traffic Study” is that certain Traffic Impact Study, dated May 24, 2011, by Stanley Consultants Inc., and approved by ADOT on July 20, 2011, as may be amended from time to time.

“Master Wastewater Study” is that certain Wastewater Collection System Basis of Design Report, dated August 11, 2008, by SKG Enterprises, Inc., as may be amended from time to time.

“Master Water Study” is that certain Master Potable Water Study, dated January 13, 2009, by Wood Patel & Associates, as may be amended from time to time.

“Maximum Density” is the maximum number of residential units in the Property as provided in the Approved Master Plan. The Maximum Density is the total maximum gross residential density for the Project after mitigation of slope, floodway, and habitat constraints and is 1.08 dwelling units/acre or 2,324 dwelling units. Upon approval of the Amended Master Plan, the Maximum Density is 1.45 dwelling units/acre or 3,129 dwelling units (excluding RV units).

“Maximum Parcel Density” is the maximum gross residential density for each Parcel subject to the limitation on the maximum density allowed within each parcel as set forth in the Approved Master Plan. Upon approval of the Amended Master Plan, the Maximum Parcel Density is the maximum gross residential density for each Parcel subject to the limitation on the maximum density allowed within each parcel as set forth in the Amended Master Plan.

“Mortgage” is any lien placed upon the Project, or any portion thereof, including the lien of any mortgage or deed of trust, as a pledge of real property to a creditor as security for performance of an obligation or repayment of a debt.

“Open Space” is land which is set aside for recreation, agriculture, habitat, vegetation, scenic or similar uses. Open Space may be developed or natural and may include: (i) public and private parks, sports fields, and trails; (ii) golf courses; (iii) equestrian centers; (iv) landscape easements or common areas inside or outside of public rights-of-way; (v) floodplains and floodways; (vi) scenic corridors; (vi) undeveloped hillsides; (viii) wetlands, wildlife habitat, stream corridors, and unique or sensitive plant areas; and (ix) conservation easements or permanent open space on private lands or lots. Open Space may be publicly or privately owned and may be accessible or inaccessible to the public. The minimum Open Space within the Project shall be 25% of the Project area or 540 acres. The minimum amount of Open Space within any Village Plan shall be 15% of the total gross acres of the Village Plan.

“Ordinances” are ordinances or resolutions enacted by the Town as more particularly referenced herein, including the Annexation Ordinance and Rezoning Ordinance necessary to meet the terms of this Agreement.

“Owner” shall be collectively VAN DEVELOPMENT CO., INC., a Kansas corporation, as to an undivided 57.4% interest, 5860 DEVELOPMENT, INC., an Arizona corporation, as to an undivided 19.8% interest, and JVT INVESTORS, LLC, an Arizona limited liability company, as to an undivided 22.8% interest.

“Owners’ Association” is one or more non-profit entities created or to be created by Developer, that shall be responsible for, without limitation, the perpetual management of the Common Area, as such is defined in CC&Rs encumbering or to encumber the Property, which management is at the expense of the ultimate owners of the Project.

“P & Z Commission” is the Town Planning & Zoning Commission.

"PAD" is a planned area development as defined in the Town Zoning Ordinance.

"PAD Standards" are the Wickenburg Ranch Planned Area Development Standards, as may be amended from time to time, that govern the Property. The PAD Standards shall be submitted to the Town for review and approval in conjunction with approval of the first preliminary plat submitted for development on the Property.

"Parcel" is a distinct parcel of land, or combination of parcels within the Property or a Village Plan that is linked to other Parcels or Village Plans throughout the Property through an integrated circulation system and overall thematic character that defines the Project and each Village Plan.

"Parcel Developer" is the developer of all or a portion of a Parcel.

"Parcel Plan" is the development plan for all or a portion of a Parcel, which Parcel Plan is the basis for construction and is developed based on, and consistent with, the Village Plan.

"Party or Parties" is, individually or collectively, the parties to this Agreement.

"Pre-Annexation Resolution" is, or shall be the Town Resolution that duly approves this Agreement.

"Project" is the approximately 2,160 acres located in Yavapai County, Arizona, legally described and depicted in **Exhibit A**, plus any Additional Property that may later be added to the Project. The Project is also sometimes referred to herein as **"Wickenburg Ranch"** or the **"Property."**

"Property" is the approximately 2,160 acres located in Yavapai County, Arizona, legally described and depicted in **Exhibit A**, plus any Additional Property that may later be added to the Project. The Property is also sometimes referred to herein as **"Wickenburg Ranch"** and/or the **"Project."**

"Public Infrastructure" is infrastructure facilities and services improvements, including, without limitation, underlying lands and improvements that are owned or to be owned by the Town or third-party public service providers and facilities conveyed to the Town and/or the fire or police departments. Public Infrastructure which is constructed and dedicated by the Developer may include but is not limited to; rights of ways, roads, dry utilities, Wastewater Systems, Water System, and public Open Space, including, but not limited to, the engineering, permitting, and financing costs for the aforementioned.

"Rezoning Ordinance" is, or shall be, the Town Ordinance approving the Amended Master Plan for the Property, which includes among other things, a land use plan, underlying zoning districts, the PAD Standards, and the Design Guidelines.

"School District" is the Wickenburg Unified School District.

"Sewer Provider" is Wickenburg Wastewater, L.L.C., an Arizona limited liability company. Through the adoption of this Agreement the Town of Wickenburg will become the Sewer Provider.

"Term" is the duration of this Agreement as set forth herein.

"Town" is the Town of Wickenburg, Arizona.

"Town Fees" are the normal fees assessed for Town services as assessed against other similarly situated persons and property, amended from time to time by the Town Council, including but not limited to fees for building permits and inspections, community service applications, utility hook-ups, development fees, business licenses, subdivisions, and use permits.

"Town Representative" is the representative for the Town acting as liaison with Developer. The initial Town Representative is the Town Manager.

"Village Plan" is the guide to development of all or a portion of the Parcels within a Village which are developed based on, and consistent with, the Approved Master Plan, and if approved, the Amended Master Plan. Parcels can represent one or more phases within a Village Plan.

"Wastewater System" is as defined by the Wastewater Agreement.

"Wastewater Agreement" is the Wastewater Company Transfer Agreement and Escrow Instructions among Wickenburg Ranch Wastewater, LLC, an Arizona limited liability company; Vanwick, LLC, an Arizona limited liability company, Van Development Co., Inc., a Kansas corporation, 5860 Development Inc., an Arizona corporation, and JVT Investors, LLC, an Arizona limited liability company, and the Town, set forth in **Exhibit I**.

"Water Provider" is Wickenburg Water, L.L.C., an Arizona limited liability company. This Agreement and the Water Agreement provide for the Town of Wickenburg becoming the Water Provider.

"Water System" is as defined in the Water Agreement.

"Water Agreement" is the Water Company Transfer Agreement and Escrow Instructions among Wickenburg Ranch Water, LLC, an Arizona limited liability company; Vanwick, LLC, an Arizona limited liability company, Van Development Co., Inc., a Kansas corporation, 5860 Development Inc., an Arizona corporation, and JVT Investors, LLC, an Arizona limited liability company, and the Town, set forth in **Exhibit H**.

"Wickenburg General Plan" is, collectively, the Town of Wickenburg's General Plan, adopted in August 2013, as may be amended from time to time.

"Wickenburg Ranch" is the approximately 2,160 acres located in Yavapai County, Arizona, legally described in **Exhibit A**, plus any Additional Property that may later be added to Wickenburg Ranch. Wickenburg Ranch is also sometimes referred to herein as the **"Project"** or the **"Property."**

"Yavapai County Permits" includes all permits issued to Developer by Yavapai County its successors or assigns as set forth in **Exhibit B**.

"Zoning Administrator" is the zoning administrator appointed pursuant to Section 14-23-5 of the Wickenburg Zoning Ordinance.

"Zoning Ordinance" is the zoning ordinance of the Town adopted and in effect on the Date of Application.

PRE-ANNEXATION AND DEVELOPMENT AGREEMENT

THIS PRE-ANNEXATION AND DEVELOPMENT AGREEMENT (this "Agreement") is entered into by and between the TOWN OF WICKENBURG, a municipal corporation organized and existing under the State of Arizona, by and through its Mayor (the "Town") and VAN DEVELOPMENT CO., INC., a Kansas corporation, as to an undivided 57.4% interest, 5860 DEVELOPMENT, INC., an Arizona corporation, as to an undivided 19.8% interest, and JVT INVESTORS, LLC, an Arizona limited liability company, as to an undivided 22.8% interest, Wickenburg Ranch Water, LLC, an Arizona limited liability company and Wickenburg Ranch Wastewater, LLC, an Arizona limited liability company (collectively, "Owner" and/or the "Developer").

RECITALS

A. Owner owns approximately 2,156.75 acres of the Property, legally described and depicted on **Exhibit A** attached hereto, which is located north of the existing Town in Yavapai County, Arizona. Vanwick LLC owns approximately .35 of an acre of the Property; Wickenburg Ranch Water, LLC owns approximately 1.32 acres of the Property; and Wickenburg Ranch Wastewater, LLC owns approximately 1.6 acres of the Property. Vanwick LLC, Wickenburg Ranch Water, LLC, and Wickenburg Ranch Wastewater, LLC all have consented to the recordation of this Agreement on their portion of the Property but do not bear any of the burdens of the "Owner" or "Developer" as set forth in this Agreement.

B. Developer and the Town are entering into this Agreement pursuant to the provisions of Arizona Revised Statutes Section 9-500.05 in order to facilitate the annexation, comprehensive planning, zoning designation and development of the Property by providing for, among other things: (i) condition, terms, restrictions and requirements for the annexation of the Property; (ii) conditions, terms, restrictions and requirements for the financing, construction and installation of Public Infrastructure; (iii) permitted uses for the Property; (iv) density and intensity of such uses; and (v) other matters related to the development of the Property.

C. Developer and the Town are entering into this Agreement for the purpose of providing assurances to the Town that the Property shall be developed substantially similar to the provisions as provided herein, for the purpose of providing important protection to the natural environment, for the purpose of providing a viable tax base and long-term financial stability to the Town, and for the purpose of providing assurances to Developer that Developer may proceed with the Approved Master Plan, and if approved, the Amended Master Plan, substantially under the terms hereof without encountering future changes in Town ordinances and requirements that could materially affect the ability to develop the Property under the Approved Master Plan, and if approved, the Amended Master Plan.

D. The development of the Property pursuant to this Agreement shall result in significant planning and economic benefits to the Town and Developer by, without limitation: (i) encouraging investment in and commitment to comprehensive planning for efficient utilization of municipal and other public resources to secure quality planning, growth and protection of the environment; (ii) requiring development of the Property consistent with the Wickenburg General Plan, the Approved Master Plan, the Rezoning Ordinance (if approved), as it may be amended from time to time, and this Agreement; (iii) providing for the planning, design, engineering, construction, acquisition, and/or installation of Public Infrastructure in order to support anticipated development of the Property and the larger land area that includes impacts by and to the Property; (iv) increasing tax and other revenues to

the Town based on a strengthened tax base of improvements to be constructed on and in reasonable proximity to the Property; (v) creating employment through development of the Property consistent with this Agreement; and (vi) creating quality housing, employment, recreation and other land uses on the Property for the citizens of the Town.

E. This Agreement shall promote and encourage the development of the Property by providing Developer and Developer's creditors with general assurances of Developer's ability to timely and economically complete development of the Project. The benefits to be received by the Town and Developer pursuant to this Agreement and the rights granted by the Town and secured to Developer hereunder constitute sufficient consideration to support the covenants and agreements of the Town and Developer.

F. Substantial improvements have been made to the Property, pursuant to permits issued by Yavapai County, a list of which is attached hereto as **Exhibit B**, including, but not limited to, landscaping, grading, underground utilities, drainage, an Arizona Public Service Substation and a golf course which provide regional as well as local benefits. The Town acknowledges that the improvements completed to date are deemed to have "commenced development" as defined in Section 440 PAD District, paragraph 1 (2) of the Yavapai County Planning and Zoning Ordinance. Developer may continue the development and construction of the Property in Yavapai County prior to the Annexation and Rezoning Ordinance being final and non-appealable. The Town represents and warrants that any development and construction completed and approved by Yavapai County, in the past or occurring as of the date the Annexation and Ordinance is final and non-appealable shall be deemed approved by the Town. Developer shall have the right to continue to construct and develop at no cost to Developer under any Yavapai County Permits in a manner as if the permits had been issued by the Town.

G. Developer and the Town desire that the Property be annexed into the corporate limits of the Town and be developed as an integral part of the Town. The Town has filed a blank annexation petition with Yavapai County and the requisite meetings and hearings have been, or will be, held in accordance with ARS Section 9-471 et seq.

H. The Town acknowledges and agrees that, pursuant to ARS 9-471(L), the Annexation Ordinance for the Property will contain a provision that adopts zoning classifications permitting development of the Property pursuant to the Approved Master Plan. Furthermore, the Town acknowledges certain uses approved by Yavapai County in the Approved Master Plan, such as the community center, golf course, golf course clubhouse, golf course driving range, lakes, swimming pools and tennis courts, equestrian facility and recreational vehicle and boat storage facility may or may not require a conditional use permit per the Zoning Ordinance; the Town acknowledges that if the Yavapai County Zoning Ordinance does not require a conditional use permit for uses that would require a conditional use permit in the Town, those provisions shall apply and the Town shall not require a conditional use permit for those uses in the Town. Developer has submitted to the Town an application requesting an amendment to the Zoning Ordinance text and map in connection with the Property for the Amended Master Plan. Immediately following annexation of the Property, the Town shall use best efforts to rezone the Property in accordance with the terms and conditions set forth in this Agreement and the notice and hearing requirements of ARS Section 9-462.04. The Town shall take any and all actions necessary to ensure that the Town's authority to rezone the Property is not limited or prohibited in any manner.

I. The PAD zoning designation together with the zoning designations contained in the Amended Master Plan are the appropriate zoning designations for the Property and are consistent with the Town General Plan as may be amended from time to time, and subject to this Agreement, are designed to establish proper and beneficial land use designations and regulations, densities, provisions for public infrastructure, design regulations, procedures for administration and implementation and other matters related to the development of the Property; provided however, the adoption of the Rezoning Ordinance is subject to the notice and hearing requirements of ARS Section 9-462.04.

J. The parties acknowledge that pursuant to ARS Section 9-500.05, Paragraph A, this Agreement shall become effective as to those matters on which the Parties can agree prior to annexation on the date it is approved and effective as to all matters on the date that the Annexation Ordinance is effective.

K. Developer and the Town desire that the Property be planned for development as a PAD, which PAD shall be guided by the Rezoning Ordinance, this Agreement, and the Town Code.

L. The terms and conditions of this Agreement have undergone extensive review by the Town and have been found to be fair, just and reasonable and the Town concludes that the public health, safety and welfare of the Town's citizens shall be best served by entering into this Agreement.

M. The annexation, zoning and development of the Property as contemplated by this Agreement allows the Town to provide for high-quality development and ensure orderly, controlled and quality growth in the Town. The Town's approval of this Agreement does not exceed the Town's authority under any multi-jurisdictional agreements.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, and in consideration of the Recitals and Definitions above, which are incorporated below, and in consideration of the premises and the mutual representations, covenants and agreements hereinafter contained, the Town and Developer represent, covenant and agree as follows:

1. ANNEXATION

1.1 Owner (A) has delivered to the Town a blank annexation petition for the Property and (B) shall deliver a fully executed annexation petition bearing all of the valid signatures necessary to cause the Property to be annexed into the corporate limits of the Town, at the time and place designated by the Town, but not earlier than thirty (30) days following the date that such blank annexation petition is filed in the office of the Yavapai County Recorder. ~~Owner shall ensure that no signatures are placed upon the annexation petition earlier than thirty (30) days following the date that such blank annexation petition is filed in the office of the Yavapai County Recorder.~~ With respect to the annexation petition, the Town agrees to comply with the provisions of A.R.S. regarding annexations and, if determined to be in the best interest of the Town, adopt the Annexation Ordinance. The Town acknowledges that this Agreement provides an adequate plan to provide the Property with an appropriate level of infrastructure and services to serve the anticipated new development pursuant to and in compliance with A.R.S. § 9-471(O).

2. MASTER PLANS; PARCEL PLANS.

2.1 **Conditions of Development.** All development on the Property will occur subject to the conditions and limitations set forth in this Agreement. Further, Developer shall submit such applications regarding design review, preliminary and final plat reviews, condominium plat reviews, PAD and/or any conditional use permits, as and if applicable, and any other applicable applications as may be required by the Zoning Ordinance, except as otherwise provided within this Agreement.

2.2 **Planned Area Development.** Prior to the effective date of the Annexation Ordinance, Developer may continue to implement the Approved Master Plan. On and after the effective date of the Annexation Ordinance, Developer shall be authorized to implement the Approved Master Plan, and once approved, the Amended Master Plan, and shall be accorded all approvals necessary to permit Developer to implement this Agreement subject to the Town's review and reasonable approvals of Village Plans, Parcel Plans, site plans, subdivision plats, infrastructure plans and other similar requests in accordance with the notice and hearing procedures of the Town Code.

Developer shall include in the Village Plans the types of uses that are the same as or similar to (as reasonably determined by the Town's Zoning Administrator), and densities and intensities of uses equal to or less than, those set forth in this Agreement. Development of the Property may include, without limitation, the planning, design, engineering, construction, acquisition, installation, and/or provision of improvements of any sort or nature, including private infrastructure and Public Infrastructure related to development of the Property, whether located within or outside the Property, subject to Town approval as may be required by the Town's codes. The Town, having exercised its discretion in approving this Agreement, shall cooperate reasonably in processing the approval or issuance of such permits, plans, specifications, plats and/or other development approvals of or for the Property as may be requested by Developer in order to implement the Project, and which are consistent with this Agreement and Town codes.

Notwithstanding anything to the contrary herein, prior to the effective date of the Annexation Ordinance, Developer may submit to the Town Village Plans, Parcel Plans, site plans, subdivision plats, infrastructure plans and other similar requests, which requests shall be processed in accordance with the notice and hearing procedures of the Town Code, but which shall not be approved until the Annexation Ordinance is effective.

2.3 **Master Phasing Plan.** The development planned for the Property, including the Public Infrastructure, has commenced and is contemplated to progress in phases (that may be non-contiguous) and accomplished over an estimated 20 years. The 20-year estimate is by Developer, but may occur sooner or later as dictated by market conditions. Phasing plans may be modified by Developer based upon changing residential and non-residential real estate market conditions, industry factors, and/or business considerations and the subjugation of Additional Property to this Agreement.

2.4 **Village Plan.** Each Village Plan shall be based on the Approved Master Plan, and if approved, shall thereafter be based on the Amended Master Plan. It is not necessary for any amended or modified Village Plan to encompass the same geographical area as a set forth in the Approved Master Plan or the Amended Master Plan (whichever one is applicable at any given time). A Village Plan may be modified to reflect the addition of areas within the Project or Additional Property and be broken into additional Villages at the sole and absolute discretion of Developer.

2.5 Allocation; Density. Subject only to the Maximum Density and Maximum Parcel Density, Developer shall have the right to allocate residential density and the Development Rights associated with such residential density from Parcels or Village Plans to other Parcels or Village Plan(s) at any time, and Developer may reallocate any unused residential density originally allocated to a Village Plan or Parcel in the event that the preliminary or final platting of a Village Plan or Parcel results in unused residential density provided such allocation: (i) does not exceed the Maximum Parcel Density; (ii) does not exceed the Maximum Density for the Property; (iii) does not alter or waive the PAD Standards; (iv) does not allow a use otherwise prohibited; or (v) cause a material change to this Agreement without prior amendment to this Agreement as required by the Town Code and compliance with the notice and hearing requirements thereof. The allocation of residential density between a Village Plan and Parcel is consistent with the PAD standards, planning efforts to encourage planning flexibility based on physical and market conditions while protecting private property rights. Developer shall deliver notice to the Town that an allocation of residential density shall be made from one Village Plan or Parcel to another Village Plan or Parcel and shall provide the Town with a statement of the number of residential units per gross acre being allocated and to which Village Plan and Parcel. Any such allocation may not necessitate a formal amendment to this Agreement unless such allocation exceeds the Maximum Density of a Parcel, and shall be retained in the Town's official file for the Property.

2.6 Additional Property. Recognizing the uniqueness of each Village Plan herein, Town Code, Article 14-22, Section 14-22-1 allows for the inclusion of Additional Property into a PAD, thus providing for its expansion in area. In the event Developer acquires Additional Property, and desires to subject such Additional Property to the benefits and obligations of this Agreement, Developer may request that the Town annex the Additional Property into the corporate boundaries of Town (if such Additional Property is not already within the Town's corporate boundaries). Upon such request, the Town shall process the annexation of the Additional Property, after payment by Developer of the Town's annexation fee, in accordance with the requirements of ARS Section 9-471 and, upon completion, amend this Agreement and use best efforts to amend the Rezoning Ordinance, after payment by Developer of all required rezoning fees, subject to the notice and hearing requirements of ARS Section 9-462.04 to add such existing additional residential density and/or commercial uses and intensities of such Additional Property, or, if requested by Developer, add such additional residential density and/or commercial uses and intensities consistent with any zoning or plan approvals for the Additional Property. The addition of such Additional Property may increase the Maximum Density (including the Additional Property) and alter other development parameters in connection with the Property by the amount of dwelling units and commercial acreage allowed pursuant to the existing entitlement on the property to be annexed or in accordance with an approved rezoning of the Additional Property which may be approved by the Town. Upon annexation of said Additional Property, Developer shall apply to the Town for any necessary land use approvals for the Additional Property, including any necessary amendment to this Agreement. The amendment to this Agreement may include alternative plans and land use designations, inclusion of one or more Village's, designation of Parcels density and intensity of uses within a Village or Parcel Plan, Phasing Plans or other planning or entitlement documents. Developer shall have the right to apply for the allocation of residential density and/or commercial acreage, and the Development Rights associated with such residential density and/or commercial acreage, from existing Village Plans or Parcel Plan to the Additional Property as if the Additional Property was part of the Master Plan for the Property. At the request of the Developer Additional Property will be annexed into the Community Facilities District or alternatively, at the Developer's request, the Town will agree to establish additional Community Facilities District. Additional properties are subject to the 25% open space requirement mentioned in 3.6.1. If Developer desires to amend the

boundaries of the existing CFD to include the Additional Property, or to form a new CFD for the Additional Property, then Developer will pay all costs associated with enlarging the existing CFD or creating a new CFD.

2.7 **Term.** The Term of this Agreement shall commence on the Effective Date and shall automatically terminate on the 30th anniversary of the first day of the Term without the necessity of any notice, agreement, or recording by or between the Parties, unless one of the following apply:

2.7.1 If more than 50% but less than 95% of the lots within the Project have been issued building permits by the 30th anniversary of this Agreement, this Agreement shall automatically extend, without the necessity of any notice, agreement, or recording by or between the Parties, an additional 10 years, for a total of 40 years, at which time this Agreement shall automatically terminate as to the Project without the necessity of any notice, agreement, or recording by or between the Parties;

2.7.2 This Agreement has otherwise been terminated pursuant to its terms or due to a breach of its terms; or

2.7.3 The Parties, by mutual written agreement, have established a different Term.

3. **INFRASTRUCTURE AND SERVICES.**

The Parties acknowledge that a general intent of this Agreement is for Developer to provide for its proportionate share of the Public Infrastructure which will be set forth by coordinated planning, design, engineering, financing, construction, acquisition, installation, and/or provision of Public Infrastructure as contemplated by the Village Plan process and as otherwise described herein. Various public facilities and services as identified in this Agreement and to be identified in the Village Plan(s) shall be sited, provided, maintained and operated in accordance with this Agreement or in accordance with separate agreements with the Town or other governmental or quasi-governmental entities. The Town and Developer recognize that a proportionate share of the costs associated with the development of the Property and Public Infrastructure shall be borne by Developer and third-party owners of property within the development and that many necessary elements of Public Infrastructure should be provided and/or maintained by other governmental or quasi-governmental entities or the CFD, and not by the Town, and that Developer may enter into separate agreements with such other entities. For clarification, the Parties make specific note of and acknowledge the following:

3.1 **Traffic and Circulation.**

3.1.1 **Arizona Department of Transportation.** Improvements to the ADOT Traffic System, as applicable, abutting the Project shall be provided at the direction of ADOT. Unless the Town has such jurisdiction, the Town shall not be responsible for any construction or maintenance costs associated with the ADOT Traffic System, as applicable to the Project.

3.1.2 **Regional Circulation Plan; Master Traffic Study; Master Streets and Circulation Plan.** Conceptual locations, which are subject to change as the Property is developed, of major roadways within the Property and Wickenburg area are provided in the Regional Circulation Plan, attached hereto as **Exhibit F**. Developer is also working with ADOT and others to determine the appropriate funding mechanisms to provide future funding to mitigate the impact of the development of the Property on the existing ADOT Traffic System. Developer and the Town shall cooperate to achieve approval by ADOT of the circulation interrelationship between the ADOT Traffic System, such as the

location of highway interchanges and/or roundabouts, as reflected in the Master Streets and Circulation Plan. The Master Streets and Circulation Plan for the Property, which was developed based on the Master Traffic Study, the Village Plans and construction of the arterials generally along the alignments shown in the Regional Circulation Plan, is attached hereto as **Exhibit G**, and shows three roundabouts, two providing access to the Property from US 93 and SH 89, and one at the intersection of US 93 and SH 89.

3.1.3 ADOT Traffic System. Prior to and following annexation and adoption of all Ordinances, Developer may design, engineer, construct, acquire, install, permit and dedicate the ADOT Traffic System applicable to the Project in accordance with the Master Streets and Circulation Plan, Parcel Specific Streets and Circulation Plans and the Phasing Plan. The Town and Developer shall cooperate in pursuit of funding from or authorized by the State of Arizona for the construction of necessary improvements to Wickenburg Ranch Highway Improvements (which improvements may include, without limitation, interchanges, roundabouts, traffic signals, turning lanes and frontage roads to construct US 93 from approximately Station 112+36.17 to approximately Station 150+00 and SH 89 from the intersection of US 93 and SH 89 to the northern boundary of Wickenburg Ranch) with the goal of obtaining funding to construct these improvements within the next five years.

3.1.4 Phased Construction. Developer shall construct or arrange for the construction of, in phases, and in accordance with the Master Streets and Circulation Plan streets and roadways and to be used for motorized vehicular traffic for ingress and egress to, through, within and from the Project; parking; pedestrian, bicycle and/or other facilities, such as sidewalks to be used for non-motorized vehicular traffic for ingress and egress to, through, within and from the Property; street lighting with underground electric service distribution; all striping, traffic signals, street sign posts, street name signs, stop signs, speed limit signs, and all other directional/warning/advisory traffic signage as may be reasonably required. The Town shall not issue Certificates of Occupancy for any phase prior to adequate on-site roads being constructed to the Town standards required for approved access to the Parcel.

3.1.5 Private Roads. All private roads and/or rights-of-way within the Property shall be constructed by Developer to the Town applicable standards and maintained by Developer and/or an Owners' Association; provided, however, in certain areas, Developer may seek approval from the Town to install private roads which are not to the Town standards or are not paved to preserve a rural character subject to meeting necessary public safety requirements. Developer reserves the right to seek approval to limit access, through access control structures, to private roads within the Property, and to determine the location of curb cuts, provided a qualified engineer determines that their location does not present a significant hazard. Developer shall have the right to retain ownership of private roads and/or rights-of-way underlying private roads. Some or all of private roads and/or rights-of-way may be conveyed to one or more Owners' Associations. Developer may seek Town approval to install access control structures within the medians of the private roads and/or rights-of-way at any portion of the Property. Developer shall grant to the appropriate service providers license for police, fire, ambulance, garbage collection, electrical and telephone line installation and repair, water or sewer line installation and repair, and other similar public purposes, over such private roads and/or rights-of-way. Application for private streets shall be made to the Town at the same time as a preliminary plat application is filed. A condition of approval of private roads shall be that Developer indemnify, defend and hold harmless the Town from and against all claims, liabilities and damages arising from the use, maintenance and design of the private road.

3.2 Water.

3.2.1 **Water Provider.** Wickenburg Water, L.L.C. currently is the water provider for the Project. It is intended that following the effective date of the Annexation Ordinance, the Town will become the municipal water provider for the Project under the terms and conditions of this Agreement and the Water Agreement. The Town, or some other legally-constituted public or private provider(s), may operate the Water System on behalf of Wickenburg Water, L.L.C. until such time as the Water System is conveyed to the Town. Upon conveyance of the Water System to the Town, the Town shall provide water to the Property from the Water System as set forth in the Water Agreement. The Town acknowledges and agrees that all water rights conveyed by Wickenburg Water, L.L.C. to the Town are to be reserved for and allocated to the Property and any Additional Property, and shall not be used to serve any other property unless and until Developer has received final plat approval for all Parcels within the Property and any Additional Property. If Developer seeks to acquire additional water rights to serve the Property and/or any Additional Property, the Town shall cooperate, at Developer's expense, with such acquisition, which rights shall be for the sole benefit of the Property and Additional Property until the Developer has received final plat approval for all Parcels within the Property and any Additional Property.

3.2.2 **Water Conservation Criteria.** Water conservation criteria for landscape and irrigation have been included in the Design Guidelines.

3.2.3 **Water Connection Fee.** Upon acquisition of Wickenburg Water, L.L.C., the Town shall utilize the procedures set forth in ARS Section 9-511.01 to establish a water connection fee or shall establish some other method of fee collection as set forth in the Water Agreement. The Town shall not be obligated to pay for the water infrastructure by any method other than the water connection fee or fee collection established as set forth in the Water Agreement.

3.3 Wastewater Treatment and Disposal.

3.3.1 **Sewer Provider.** Following the effective date of the Annexation Ordinance, it is intended that the sewer collection, treatment and disposal shall be provided by Town. The Town, or some other legally-constituted public or private provider(s) allowed to operate in Town, may operate the Wastewater System on behalf of Wickenburg Wastewater L.L.C. until such time as the Wastewater System is conveyed to the Town by Wickenburg Wastewater L.L.C. When the Town becomes the provider, Town shall provide sewer service to the Property from the Wastewater System as set forth in the Wastewater Agreement. The treatment capacity of the Wastewater System shall be for the processing of wastewater generated by development on the Property and any Additional Property until the Developer has received final plat approval for all Parcels within the Property and any Additional Property.

3.3.2 **Wastewater Connection Fee.** Upon acquisition of Wickenburg Wastewater, L.L.C., the Town shall utilize the procedures set forth in ARS Section 9-511.01 to establish a wastewater connection fee or shall establish some other method of fee collection as set forth in the Wastewater Agreement. The Town shall not be obligated to pay for the wastewater infrastructure by any method other than the wastewater connection fee or fee collection established as set forth in the Wastewater Agreement.

3.4 Storm Water Drainage.

3.4.1 **Drainage System.** Post-development storm water management includes drainage collection, diversion, detention, retention, dispersal, use and discharge. The Town shall be responsible for maintaining drainage ways, structures, culverts or other structures passing storm water if such structures are located within a dedicated public right-of-way or public easement that the Town has such jurisdiction over. The Town shall not be responsible for any construction, collection, conveyance or maintenance costs associated with the Drainage System within private roads or on private Open Space or the golf course. Such structures will be maintained by Developer or the Owners Association.

3.4.2 **Master Drainage Study.** Developer has completed and obtained approval of the Master Drainage Study attached hereto as **Exhibit J** by Yavapai County. The existing drainage structures located in the public rights-of-way were constructed based on the Master Drainage Study and will be accepted by the Town upon the effective date of the Annexation Ordinance.

3.4.3 **Drainage System Construction.** Developer shall design, engineer, construct, acquire, install, permit and dedicate the Drainage System in accordance with the Master Drainage Plan and Parcel Specific Drainage Plans. The Drainage System shall be designed to utilize the roadways, streets, drainage structures and existing washes for storm water conveyance. In addition, 100-year storm water flows leaving the Property shall be maintained at or below the existing peak flow rates. Storm water detention/retention basins shall be utilized to maintain the pre-development peak flows and to accommodate the increased 100-year runoff volume due to development. The phasing of the Project's development shall dictate the timing and location of the Drainage System components. Upon dedication of any phase of the Drainage System to the Town, Developer shall provide the Town with all applicable as-built drawings, operation and maintenance manuals and operation records.

3.4.4 **CLOMR and LOMR.** In connection with such Master Drainage Study and Master Drainage Plan, Developer shall establish the applicable 100-year floodway elevations for the Property and has obtained from FEMA a Conditional Letter of Map Revision ("CLOMR") that adjusts the floodway boundaries. Additionally, FEMA issued a Letter of Map Revision ("LOMR") for portions of the Martinez Wash and Lower Kelly Wash effective January 3, 2011. The Town shall use all good faith efforts to cooperate with Developer in connection with Developer's applications to FEMA for additional Letters of Map Revision when it is appropriate to file the same to modify relevant flood maps to reflect actual conditions.

3.5 Public Facilities.

3.5.1 **Police.** Police protection shall be provided by the Town upon the effective date of the Annexation Ordinance. The Town shall provide police protection services to the Property as developed on the same basis as is provided to other residents and businesses within Town.

3.5.2 **Fire and Emergency Services.** Fire and Emergency Services protection shall be provided by the Town upon the effective date of the Annexation Ordinance. The Town shall provide fire and emergency services to the Property as developed on the same basis as is provided to other residents and businesses within Town. Developer agrees to work with the Town to identify a suitable site of at least three acres directly accessible by either Merv Griffin Way or Miners Pass Road (as such roads are identified on **Exhibit G**, for the construction of a fire station and police substation facility ("**Fire Station**") on the Property and Developer agrees to convey, at no expense to the Town, the site and

contribute up to \$800,000 for the construction of the Fire Station if constructed within five (5) years from the effective date of this Agreement. It is acknowledged by the Town and Developer that significant design and architectural work has already been completed for the Fire Station. Developer shall be responsible for all costs associated with the remainder of the design and architectural work necessary to complete the Fire Station sufficient to meet the Town's public safety needs. The conveyance of the site and contribution of up to \$800,000 is subject to (i) the Town giving notice of its election to proceed with the construction of the Fire Station (ii) the Developer identifying within 60 days of such notice a site for the Fire Station, (iii) the Developer having completed public access to the site; (iv) the Town having issued three hundred (300) building permits, (v) the Developer providing to the Town a building design and site plan (which will include screening of equipment) for review and approval, and (vi) the Town providing to the Developer a budget for the construction of the Fire Station along with the source of funding the Town will use to build and equip the facility (collectively the "Pre Conditions"). The Town shall commence construction of the Fire Station within twelve (12) months after providing notice to Developer of its election to proceed with construction of the Fire Station as described above. The Town will use the Fire Station for fire and police services, storage of equipment needed to provide municipal services to the Property and police and fire vehicles and equipment necessary to provide services to the Property. The Town shall incorporate the architectural and design standards for the Property in the Fire Station and equipment storage area to the extent reasonably feasible. If construction occurs after the fifth anniversary of this Agreement, the \$800,000.00 shall be adjusted annually based the Producer Price Index (new industrial construction), but shall never be adjusted below \$800,000. The Town will be responsible to fund all construction costs in excess of \$800,000 as adjusted and agrees to pay for the equipment, staffing and on-going operations of the facility after the facility is constructed. The dedication and contribution shall occur when the Pre-Conditions are met. Notwithstanding the foregoing, in the event that the Town adopts any development fee for the construction of Fire and Emergency Services facilities, the Town will provide a credit to the Developer for such fee in accordance with paragraph 3.11 below.

3.5.3 Other Municipal Services. Other municipal services presently are provided by Town. Town shall provide such other municipal services to the Property, including garbage and refuse Service for residential and commercial, on the same basis as is provided to other residents and businesses within Town.

3.6 Master Parks, Trails and Open Space Plan.

3.6.1 Open Space. The Project will contain Open Space totaling a minimum of 25% of the gross Project acreage. In addition, each Village Plan shall contain a minimum of 15% of its total gross acres as Open Space. A Master Parks, Trails and Open Space Plan for the Project is attached hereto as **Exhibit K**, which depicts the intent to link neighborhoods and Village Plans to various common areas and recreational uses. The pathways and trails will be within and through Village Plans and may be located along Open Space corridors and near or adjacent to community streets and roads. Pathways and trails may also utilize drainage ways and dry gulches between common areas and neighborhoods or may be combined with the drainage system for the Project. The parks and trails shown on **Exhibit K** attached hereto will be either: (i) owned by the Owners' Association; or (ii) owned by Town. The Developer will provide to the Town a non-motorized public access easement for the trail within the APS easement along the northern boundary of the Project and the Martinez Wash Multi-Use Trail. Notwithstanding the foregoing, Developer shall have the right to determine the location of a non-motorized public trail connection between State Highway 89 and Martinez Wash at it sole and

absolute discretion. The Developer shall specifically designate which trails, pathways, parks and open space are "public" and/or "private" within each Village or Parcel upon submission of a final plat.

3.6.2 **Parks and Open Space Reimbursement.** If Developer, at no cost or expense to the Town,, develops any portion of Developer's land for public park(s), public Open Space, regional trails or publicly dedicated equestrian center or conveys the improvements to the Town, upon approval of the improvement costs ("**Approved Park Costs**"), Developer shall be entitled to any development fee credits pursuant to A.R.S. § 9-463.05.

3.6.3 **Landscape.** All landscaped areas within the Property shall meet or exceed the landscape requirements in the PAD Standards and/or Design Guidelines. A landscape plant list shall be included in the Design Guidelines. Developer shall identify an Owners' Association or other entity to accept the ownership and maintenance of landscaping and irrigation systems.

3.6.4 **Signage.** Signage shall be coordinated throughout the entire Property, with different areas within a Village potentially having particular signage themes. These areas may include urban, mixed-use entertainment areas, employment and commercial areas, parks and recreation areas, residential villages, residential hillsides, resort areas, pathways and trails, public and private roadways, and areas for temporary directional signage. Although there may be individual signage themes within different areas of the Property, continuity in appearance shall be recognizable through the use of color, material, form and character. The Signage Package for the Property is attached hereto as **Exhibit L**. All signage design shall conform to the Signage Package and regulations and procedures contained in the PAD Standards and/or the Design Guidelines.

3.6.5 **Lighting.** All lighting shall incorporate "Western Sky Requirements" design principles to reduce excessive light levels, light trespass and glare and to promote dark skies, to the extent possible. Lighting criteria will be established through the Design Guidelines.

3.6.6 **Habitat Mitigation Plan.** Developer has filed and received approval from the appropriate agencies for its Habitat Mitigation Plan as prepared by EcoPlan Associates, dated January 11, 2007, that addressed development within the Property. Town acknowledges and accepts all prior approvals of the Habitat Mitigation Plan and hereby confirms that it will not impose any additional conditions related to habitat mitigation or preservation.

3.7 **Variations and Deviations From Standards.** The following variances and deviations from County standards were included in and approved as part of the Approved Master Plan and Town hereby approves the variances for development of the Property:

3.7.1 Collector roads shall be allowed with 80-foot minimum rights-of-way and 12-foot minimum varying width median, two (2) 12-foot paved travel lanes, two (2) 4-foot bicycle lanes and curbs. For your information, one paving and grading plan set was previously submitted to and approved by Yavapai County. The plan set was created by Wood Patel and included Merv Griffin Way and Miners Pass and both roads meet these criteria;

3.7.2 Design speed for stopping sight distance of 30 mph shall be allowed for streets serving 40 units or less;

3.7.3 No super elevation shall be required on local streets. Tangents may be eliminated on reverse curves;

3.7.4 Roadway intersections between 75 degrees and 90 degrees shall be allowed. Low volume roads could be flatter;

3.7.5 Intersection offsets of 125 feet shall be allowed for local streets;

3.7.6 Maximum profile grade of 15% shall be allowed for up to 300 feet on local streets, but shall not exceed 10% of the total miles of street. No driveway access shall be allowed to any street over 12% grade;

3.7.7 Roadway ditch depth shall be sufficient to carry up to a 10-year storm. For your information the drainage infrastructure that was previously approved by Yavapai County and subsequently installed in Merv Griffin Way and Miners Pass was designed based on that criteria;

3.7.8 Cul-de-sacs up to 1,900 feet long shall be allowed on local streets serving 40 lots or less;

3.7.9 Split roads shall be allowed on hillsides;

3.7.10 Bridges may be designed for less than a 100-year flood when secondary access is provided and all weather access is provided to all lots;

3.7.11 Sales offices, including marketing trailers, model home complexes and construction trailers will be allowed on each Parcel on the Property, as well as up to two community information/sales centers. The sales offices and construction trailers will remain operational at each location so long as lots are available for sale within the respective parcel and will be removed upon build-out of the respective parcel, with the exception of any Community Information and Sales Office on Parcel W, at the Highway 93 entrance, which may be converted to a permanent real estate sales and community information office; and

3.7.12 With the exception of the requirement to submit drainage studies, grading plans, obtain permits, and pay applicable permit fees, the property will be exempt from compliance with the grading provisions of the Town's Subdivision Ordinance, Chapter 11, Article 11-6, Grading and Drainage Requirements.

3.7.13 The Town agrees to issue building permits for the construction of model homes and community facilities prior to completion and acceptance of the Public Infrastructure required to serve the model homes and community facilities. Furthermore, the Developer and Town agree that the model homes and community facilities cannot be operated as model homes and/or community facilities until the Developer completes the Public Infrastructure and the Town issues a certificate of occupancy for the model homes and/or community facilities. Additionally, during the construction of the model homes and/or community facilities, the Developer shall provide temporary access to the Fire Department based upon standards agreed to by and between the Developer and the Fire Department.

3.8 **Construction.** The Town acknowledges to the extent Developer has developed or will develop the Property, Developer shall have the right and the obligation, at any time after the Effective Date and following annexation and publication of all of the Ordinances, to convey to the CFD or Town land, subject to Town's or other applicable governmental jurisdiction's acceptance, and/or construct or cause to be constructed and installed any or all portions of the Public Infrastructure that relates to the segments of the Property developed by Developer. Developer shall comply with all applicable

requirements, standards, codes, rules, or regulations of Town, or Yavapai County in the case of permits previously issued, and in compliance with all applicable permit requirements, standards, codes, rules or regulations of: (a) the State of Arizona; (b) the United States of America; and (c) other applicable governmental agencies. Developer shall have the right, upon receipt from Town (or other applicable governmental jurisdiction, as may be applicable) of an appropriate encroachment permit, to enter and remain upon and cross over any Town-held (or other applicable governmental jurisdiction, as may be applicable) easements or rights-of-way to the extent reasonably necessary to facilitate such construction, or to perform necessary maintenance or repairs of such Public Infrastructure, provided that Developer's use of such easements and rights-of-way shall not impede or adversely affect Town's use and enjoyment thereof and provided that Developer shall substantially restore such easements and rights-of-way to their condition prior to Developer's entry upon and completion of such construction, repair or maintenance. To the extent permitted by law and subject to obtaining an encroachment permit from Town (or other applicable governmental jurisdiction), the prior dedication of any easements or rights-of-way shall not affect or proscribe Developer's right to construct, install, and/or provide Public Infrastructure thereon or thereover. Town, as necessary to implement the installation of Public Infrastructure, shall cooperate reasonably with and assist in: (a) the abandonment of any unnecessary public rights-of-way or easements currently located on the Property and not otherwise used or required by other members of the public; (b) the acquisition and/or condemnation of any necessary public rights-of-way or easements not currently located on the Property and required to be consistent with the Village Plans or provide access to the Property pursuant to the Village Plans; and (c) submitting requests or filing applications, or entering into intergovernmental agreements with appropriate governmental entities regarding the abandonment or acquisition of public rights-of-way or easements necessary to develop the Property. The prior dedication of public rights-of-way, easements and/or other real property interests by the Developer shall not proscribe the Developer's and/or the Community Facilities District's ability to finance, construct and/or acquire Public Infrastructure contained with such public rights-of-way, easements and/or other real property interests.

3.9 Infrastructure Assurance. It shall be a condition to the issuance of a building permit or permits that Town shall have been provided with assurance for the construction costs of Public Infrastructure in connection with the applicable Parcel, in accordance with Town's existing policies for the amount of such assurances. The Infrastructure Assurance(s) shall be reduced accordingly as construction of the Public Infrastructure occurs on a quarterly basis on a percentage basis as the construction is completed. Developer shall provide to the Town at the beginning of each Public Infrastructure project a job cost report, approved construction contracts and other information as may be reasonably required by the Town. On a monthly basis thereafter Developer shall provide an accounting showing payment for the Public Infrastructure completed to date, unconditional lien releases for work completed in the prior billing period and conditional lien releases for the current billing period ("Monthly Draw"). Within twenty (20) days after the end of each quarter, the Town shall release (or, in the case of a letter of credit, accept a substitute letter of credit or provide a notification to the lender of a release of a portion of the letter of credit) such assurance, in whole or in part as may be appropriate under the circumstances. Notwithstanding the foregoing, the Town shall not require financial assurance for any Public Infrastructure which is to be funded through CFD bond proceeds or which has been constructed or installed as part of a Yavapai County Permit and has been part of an approved inspection by Yavapai County. The Town and Developer shall meet and determine the amount of Public Infrastructure requiring Infrastructure Assurance as a condition of the issuance of a building permit for such Public Infrastructure. Infrastructure Assurance can be provided by a letter of credit, bond, and guarantee from Developer or Owner acceptable to the Town or other forms of financial assurances acceptable to the Town and Developer.

3.10 **Development Fee Credit; Other Fee Reimbursement.** The Town will comply with ARS Section 9-463.05 with respect to the issuance of credits for Public Infrastructure constructed by Developer and/or the CFD and dedicated to the Town or other governmental or quasi-governmental entity. Any Credits shall be freely assignable by Developer and at Developer's sole election, the Developer shall direct the Town to reimburse the Developer or its assigns directly such Credits as collected by the Town.

3.11 **Wickenburg Ranch Community Facilities District.** The Town and Developer agree that establishment of a Community Facilities District is appropriate to ensure development of the Property in a timely and orderly manner (the "**Wickenburg Ranch Community Facilities District**" or "**CFD**"). Within 30 days following the Effective Date for the Annexation Ordinance, the Town will use its best efforts to commence and diligently pursue formation of the Wickenburg Ranch Community Facilities District and call for the necessary bond elections. Nothing herein obligates the Town Council to vote for or against the formation of a Wickenburg Ranch Community Facilities District. Any Public Infrastructure which has been or is anticipated to be constructed by the Developer may at the Developer's option be financed, constructed and/or acquired through the Wickenburg Ranch Community Facilities District to the extent permitted by law.

4. **REGULATION OF DEVELOPMENT.**

4.1 **Regulation of Development.**

4.1.1 **Applicable Rules.** The ordinances, rules, regulations, permit requirements, development fees, other infrastructure fees, exactions, other requirements, and/or official policies however denominated, applicable to and governing the development of the Property shall be those that are existing and in force as of the effective date of Rezoning Ordinance except for a road impact fees for Vulture Mine Road imposed for a benefitted area which includes the Project. Except as otherwise expressly provided in this Agreement, Town shall not impose or enact any additional conditions, zoning or other exactions, requirements, dedications, development or other fees, rules or regulations applicable to or governing the development of the Property, including any requirement for the dedication of land or property, or the payment of fees or money for the planning, design, engineering, construction, acquisition, improvement, or provision of Public Infrastructure to lessen, offset, mitigate, or compensate for the burdens of the development of the Property on Town, Town having acknowledged that all such burdens have been considered and are adequately accounted for by the conditions to development of the Property set forth in this Agreement.

4.1.2 **Permissible Additions to the Applicable Rules.** Except as otherwise provided in this Agreement, the Town may enact the following provisions, and take the following actions, which shall be applicable to and binding on the development of the Property and Town shall provide Developer with not less than sixty (60) days' notice to provide Developer with an opportunity to suggest methods of enacting and implementing such provisions on the Property:

4.1.2.1 Interpretation of how Yavapai County Approvals will be administered, permitted, applied, as it relates to existing land use ordinances, rules, regulations, permit requirements, other requirements and official policies of Town that are consistent with the express provisions of this Agreement upon the Effective Date and following annexation and publication of all of the Ordinances;

4.1.2.2 Future land use ordinances, rules, regulations, permit requirements, other requirements and official policies of Town that are generally applicable to similarly situated

properties or persons, provided that such land use ordinances, rules, regulations, permit requirements, other requirements, and official policies shall, to the extent applicable, not involve the modification of any factual determinations of Town memorialized in this Agreement and shall not materially impair Developer's ability to develop the Property in the manner provided in this Agreement.

4.1.2.3 Other future land use ordinances, rules, regulations, permit requirements, development fees, other requirements, and/or official policies that Developer may agree, in writing apply to the development of the Property;

4.1.2.4 Future land use ordinances, rules, regulations, permit requirements, other requirements and official policies of Town enacted as necessary to comply with mandatory requirements imposed on Town by State or federal laws and regulations, court decisions, and other similar superior external authorities beyond the control of Town; provided, however, that in the event any such mandatory requirement prevents or precludes compliance with this Agreement, such affected provisions of this Agreement shall be modified as may be necessary to achieve the minimum permissible variance from the terms of this Agreement in order to achieve compliance with such mandatory requirement. To the extent such compliance requires any discretionary factual determination by Town, such determinations shall be consistent with Town's findings memorialized in this Agreement;

4.1.2.5 Future land use and other ordinances, rules, regulations, permit requirements, other requirements and official policies of Town of uniform application throughout Town and reasonably necessary to alleviate legitimate threats to public health and safety, provided that such land use ordinances, rules, regulations, permit requirements, other requirements and official policies shall, to the extent applicable, not involve the modification of any material factual determinations of Town memorialized in this Agreement; and

4.1.2.6 Future updates of, and amendments to, existing building, plumbing, mechanical, electrical, dangerous buildings, drainage, and similar construction and safety related codes, such as the Uniform Building Code and International Electric Code, which updates and amendments are generated by a nationally recognized construction/safety organization, such as the International Conference of Building Officials, or by the State or federal governments.

4.1.3 Effect of Future Laws. In the event State or federal laws or regulations are enacted after the Effective Date of the Rezoning Ordinance and/or the decisions are issued by a court of competent jurisdiction which prevent or preclude compliance with one or more provisions of this Agreement (individually or collectively, "New Law"), the provisions in whole or in part, as applicable, of this Agreement shall be modified or suspended as may be necessary to comply with such New Law. As soon as reasonably necessary, after enactment of any such New Law, Developer and Town shall meet and confer in good faith in order to agree upon such modification or suspension or challenge to such New Law based on the effect such New Law would have on the purposes and intent of this Agreement. During the time that the Parties are conferring on such modification or suspension or challenge to the New Law, the parties may take reasonable action to comply with such New Law. Should the Parties be unable to agree to a modification or suspension, either may petition a court of competent jurisdiction for an appropriate modification or suspension of this Agreement. In addition, Developer and Town each or together shall have the right to challenge the New Law preventing compliance with the terms of this Agreement. In the event that such challenge is successful, this Agreement shall remain unmodified and in full force and effect.

Nothing in this Agreement shall be interpreted as relieving Developer of any obligation that Developer may have, either currently or in the future, to comply with all applicable governmental rules and regulations enacted by entities other than Town that apply to the Property, provided that, to the extent such compliance involves factual findings or discretionary determinations by Town, all such findings and/or discretionary determinations shall be consistent with Town's findings and determinations memorialized in this Agreement.

4.2 **Amendment.** Town and Developer acknowledge that amendments to this Agreement may be necessary or appropriate from time to time. When the Parties agree that an amendment is necessary or appropriate, the Parties shall, unless otherwise required by applicable law as established in this Agreement or by State or federal statute, effectuate minor amendments administratively approved by the Zoning Administrator which include: (i) any minor alteration to the Development Standards; and (ii) any reallocation of residential density or commercial acreage between Villages and Parcels so long as the Maximum Density allowed per this Agreement or a Parcel is not exceeded. Such minor amendments, after execution, shall be attached to this Agreement as an addendum and become a part thereof. The approval of such minor amendments shall not necessitate formal amendment of this Agreement, but shall be retained in Town's official file for the Property or at the election of Developer may be recorded through a memorandum so as to show of record on the Property title report. All amendments to this Agreement requiring approval of the Town Council shall be reviewed by the Town in accord with the notice and hearing procedures of Town Code. The Parties shall cooperate in good faith to agree upon and use reasonable efforts to process any amendments to this Agreement.

4.3 **Changes to Zoning, PAD Standards and Development Program.** For the Term of this Agreement, Town shall not initiate any changes or modifications to the PAD Standards or the zoning designations applicable to the Property, except at the request and sole expense of Developer. Any changes sought by an owner of Property within the Project which has not yet been developed and released in accordance with paragraph 7.2 shall require the approval of Developer. Any such request for change shall be processed in the manner then set forth by Town Code and/or this Agreement and/or other applicable law. Any changes or modifications to the PAD Standards, or this Agreement or the zoning or land use designations applicable to any part of the Property in which Developer has a real property interest that are initiated by Town shall become effective only upon Developer's written consent. Nothing in this paragraph shall be deemed to require Town approval of requested changes to the zoning or land use designations applicable to this Property after adoption and publication of all of the Ordinances. The approval of any Village Plan(s) or Parcel Plan(s) which contain less density than is allocated to that Village Plan shall not have the effect of reducing the Project's overall Maximum Density but Developer shall be able to reallocate such density in accordance with this Agreement.

4.4 **Vested Rights.** Upon the effective date of the Annexation Ordinance, Developer shall have a vested right to develop the Property consistent with the Approved Master Plan. Upon the effective date of the Rezoning Ordinance, Developer shall have a vested right to develop the Property consistent with the Rezoning Ordinance. For the Term of this Agreement, Developer shall have vested rights to develop the Property in accordance with this Agreement, the Zoning Ordinance, the Approved Master Plan, and, once approved, the Rezoning Ordinance. The determinations of Town memorialized in this Agreement, together with the assurances provided to Developer in this Agreement, including this section, are bargained for and in consideration for the undertakings of Developer set forth herein and contemplated by this Agreement, and are intended to be and have been relied upon by Developer to Developer's detriment in undertaking the obligations of Developer under this Agreement.

5. PROJECT GOVERNANCE.

5.1 **Governance Entities.** Developer shall create appropriate entities including, without limitation, a non-profit Owners' Association, and record CC&Rs consistent with this Agreement which bind all present and future owners within the Project and provide for the perpetual support and maintenance of the Project's governance entities, processes and common areas and to establish quality control throughout the Property both during development and during maturing of the community after the last house is built. Developer shall complete the CC&Rs and submit the same to the Town for review upon submission of the first preliminary plat for a Parcel. Developer shall have the sole and absolute discretion over the content, approval and enforcement rights of the Declarant or other governing agent or agency, formation and adoption of the CC&Rs and is only providing the draft set of CC&Rs for the Town official record.

5.2 **PAD Standards.** Enforceable planning standards shall be applicable to all development within the Property, including both new construction and later modifications. The PAD Standards shall be distinct to the Property or any Additional Property that comprises the Project, and shall meet and enhance the PAD standards set forth in Town Code, Article 14-22, Section 14-22-1. In the event of any conflicts between the PAD Standards and the Town Code, Article 14-22, Section 14-22-1, the PAD Standards shall prevail.

5.3 **Design Guidelines.** Enforceable planning, engineering, architectural and landscape design guidelines, including, without limitation, mass grading guidelines and water conservation techniques, shall be applicable to all development within the area that comprises the Property, including both new construction and later modifications. The Design Guidelines are distinct to the Project, but meet and enhance the design standards of the Town Code. In the event of any conflicts between the Design Guidelines and/or the Town Code, the Design Guidelines shall prevail.

6. COOPERATION AND ALTERNATIVE DISPUTE RESOLUTION.

6.1 **Appointment of Representatives.** To further the commitment of the Parties to cooperate in the implementation of this Agreement, Town shall designate and appoint a Town Representative and Developer shall designate and appoint a Developer Representative. Town or Developer may change their respective Representative at any time, but each Party shall have a current active Representative appointed for discussion and review as further detailed in this Agreement. The Representatives shall be available at all reasonable times to discuss and review the performance of the Parties to this Agreement and the development of the Property pursuant to the approved PAD Standards and/or Design Guidelines. The Representatives may recommend amendments to this Agreement which may be agreed upon by the Parties.

6.2 **Compliance Reviews.** As long as Developer owns any of the Property, Developer's Representative shall meet with Town's Representative at least once per year during the Term, to review development completed in the prior year and the development anticipated to be commenced or completed in the ensuing year. Developer shall be required to provide Town with such information as may reasonably be requested including: acreage of the Property sold in the prior year; acreage of the Property under contract; the number of Certificates of Occupancy issued in the prior year; the number of Certificates of Occupancy anticipated to be issued in the ensuing year; and Development Rights allocated in the prior year and anticipated to be allocated in the ensuing year.

6.3 **Agreement to Cooperate.** In the event of any legal or equitable action or other proceeding instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties hereby agree to cooperate in defending such action or proceeding. Town and Developer may agree to select mutually agreeable legal counsel to defend such action or proceeding with the parties sharing equally in the cost of such joint counsel, or each party may select its own legal counsel at each party's expense. All other costs of such defense(s) shall be shared equally by the parties. Each party shall retain the right to pursue its own independent legal defense.

6.4 **Fees.** No new impact or development fees may be imposed by Town regarding the development of the Project without the consent of Developer except as set forth in Section 4.1.1. The Town shall assess its normal Town Fees and agrees that such fees are set consistent with best practices and based on the calculation methods set forth by the International Code Council. Developer shall promptly pay all fees when due.

6.5 **Default.** Failure or unreasonable delay by either Party to perform or otherwise act in accordance with any term or provision of this Agreement for a period of 30 days following written notice thereof from the other Party (the "**Cure Period**"), shall constitute a default under this Agreement; provided, however, that if the failure or delay is such that more than 30 days would reasonably be required to perform such action or comply with any term or provision hereof, then such Party shall have such additional time as may be necessary to perform or comply so long as such Party commences performance or compliance within such 30-day period and diligently proceeds to complete such performance or fulfill such obligation (the "**Extended Cure Period**"). The written notice provided for above shall specify the nature of the alleged default and the manner in which said default may be satisfactorily cured, if possible. In the event a default of Developer is not cured within the Cure Period or the Extended Cure Period, if applicable, that portion of the Property related to such default shall cease and desist all construction activity or permitting until such time as the Default is cured. A default by a Parcel Developer shall not be deemed to be a default by Developer, Owner, or any other Parcel Developer or owner, and the Town may not withhold or condition its performance under this Agreement as to any Parcel Developer or Developer who is not in default of this Agreement. No owner of a portion of the Property may enforce this Agreement as against any other owner of a portion of the Property.

6.6 **Dispute Resolution/Remedies.**

6.6.1 **Process.** Notwithstanding anything to the contrary herein, if an event of default is not cured within the Cure Period or the Extended Cure Period, if applicable, the non-defaulting Party may initiate the process by providing written notice initiating the process to the alleged defaulting Party. Within 15 days after delivery of such notice, each Party shall appoint one person to act as mediator on behalf of such Party and notify the other Party. Within 15 days after delivery of such notice, the persons appointed shall themselves appoint one person to serve as the sole mediator. The mediator shall set the time and place of the mediation hearing and shall give reasonable notice of the hearing to the Parties. The Parties may agree to hold the hearing by telephone.

6.6.2 **Hearing.** The Parties have structured this dispute resolution process with the goal of providing for the prompt and efficient resolution of all disputes falling within the purview of this process. The hearing of any dispute shall commence as soon as practicable, but in no event later than 30 days after selection of the mediator. This deadline can be extended only with the consent of both Parties, or by decision of the panel upon a showing of emergency circumstances. Proceedings shall be

under the control of the mediator and as informal as practicable. The mediator shall determine the nature and scope of discovery, if any, and the manner of presentation of relevant evidence consistent with the deadlines provided herein, and the Parties' objective that disputes be resolved in a prompt and efficient manner. No discovery may be had of privileged materials or information. In order to effectuate the Parties' goals, the hearing, once commenced, shall proceed from business day to business day until concluded, absent a showing of emergency circumstances. The mediator shall, within 15 days from the conclusion of any hearing, issue its decision. The decision shall be rendered in accordance with the Agreement and the laws of the State of Arizona. If those receiving a request for mediation fail to appoint a mediator within the time above specified, or if the two mediators so selected cannot agree on the selection of a third mediator within the time above specified, or if the result of such mediation is unsatisfactory to one or more Parties, then any Party may avail itself of any legal or equitable remedy available under Arizona law.

6.6.3 **Fees.** Each Party shall pay one-half of all fees and costs associated with the mediation process.

6.6.4 **Condemnation.** The process and remedies set forth herein shall not apply to an action to condemn or acquire by inverse condemnation all or any portion of the Property, and in the event of any such action, Developer shall have all rights and remedies available to it at law or in equity.

6.7 **Prevailing Party.** In the event that either party to this Agreement shall file suit or action at law or equity to interpret or enforce this Agreement, the unsuccessful party to such litigation agrees to pay to the prevailing party all costs and expenses including reasonable attorneys' fees incurred by the prevailing party. Similarly, all fees and costs associated with an appeal to any appellate court thereafter, including, without limitation, the prevailing Party's attorneys' fees, shall be paid by the non-prevailing party.

7. **NOTICES AND FILINGS.**

7.1 **Manner of Serving.** All notices, filings, consents, approvals and other communications provided for herein or delivered in connection herewith shall be validly delivered, filed, made, or served if in writing and delivered personally or delivered by a nationally recognized overnight courier or sent by certified United States Mail, postage prepaid, return receipt requested, if to:

Town: Town Manager
Town of Wickenburg
155 N. Tegner Street, Suite A
Wickenburg, AZ 85390

With a copy to: Curtis, Goodwin, Sullivan, Udall & Schwab, PLLC
501 East Thomas Road
Phoenix, AZ 85012

Developer: The M3 Companies, LLC
Attn: William Brownlee
4222 E. Camelback Road, #H100
Phoenix, AZ 85018

With a copy to: JVT Investors, LLC
Attn: Stan Reed
1550 E. Missouri, Suite 300
Phoenix, AZ 85014

And a copy to: Dana Stagg Belknap
Gallagher & Kennedy, P.A.
2575 E. Camelback Road
Phoenix, AZ 85016

or to such other addresses as either Party hereto may from time to time designate in writing and delivery in a like manner.

7.2 **Mailing Effective.** Notices, filings, consents, approvals and communication given by mail shall be deemed delivered immediately if personally delivered, 24 hours following deposit with a nationally recognized courier, or 72 hours following deposit in the U.S. mail, postage prepaid and addressed as set forth above.

8. MISCELLANEOUS.

8.1 **Operations During Construction.** Developer intends to, and hereby does, reserve mineral and/or royalty rights on minerals located on or under the Property. Mining (for purposes of on-site material usage), blasting and batch plant operations shall be allowed on site during construction of the Project in accordance with the procedures of Town Code and this Agreement. The location of such operations shall be subject to reasonable review and approval by the appropriate governmental agencies that have jurisdiction over such operations. Portions of the Property not currently under development may be used for agricultural purposes and the Town will continue to apply agricultural property tax rates to any portion of the Property which is continuing to be used for agricultural purposes.

8.2 **Termination Upon Sale to Public.** Except as otherwise provided herein, this Agreement is not intended to and shall not create conditions or exceptions to title or covenants running with the Property beyond the development of the Property. Therefore, in order to alleviate any concern as to the effect of this Agreement on the status of title to any portion of the Property, this Agreement shall terminate without the necessity of any notice, agreement or recording by and/or between the Parties in connection with any lot that has been finally subdivided and individually (and not in "Bulk") leased (for a period of longer than one year) or sold to the end-purchasers or users thereof (a "Public Lot") and thereupon such Public Lot shall be released from and no longer be subject to or burdened by the provisions of this Agreement.

8.3 **Termination Upon Completion of Development.** The Town shall, upon written request of Developer, execute appropriate and recordable evidence of termination of this Agreement if the Town has determined reasonably that Developer has fully performed Developer's obligations under this Agreement in connection with all or a portion of the Property. Upon Town approval and acceptance of improvements for any detailed phase of the Property, or portion thereof, by the Town, and the recordation of the final plat and completion and acceptance of improvements in connection therewith, the Town shall, as soon as practicable, execute and record an appropriate instrument of release of the

Agreement in connection with such phase of development of the Property. It is the intentions of the Parties that as a Phase of the Property is final platted, that the portion of the Property associated with the final plat shall be removed from the legal description for the Property in **Exhibit A**. Notwithstanding the foregoing, the Termination Upon Completion of Development and/or Termination Upon Sale to Public shall not have any effect on the obligations of the Town or Developer with respect to the Water System Conveyance and Reimbursement Agreement, Wastewater System Conveyance and Reimbursement Agreement, any other Reimbursement Agreement or obligations of the Town to reimburse any fee or costs to Developer in accordance with this Agreement.

8.4 Status Statements. Any Party (the "**Requesting Party**") may, at any time, and from time to time, deliver written notice to any other Party requesting such other Party (the "**Providing Party**") to provide in writing that, to the knowledge of the Providing Party: (i) this Agreement is in full force and effect and a binding obligation of the Parties; (ii) this Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments; (iii) the Requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults; and whether, to the knowledge of the Providing Party, any event has occurred or failed to occur which, with the passage of time or the giving of notice, or both, would constitute a default and, if so, specifying each such event (a "**Status Statement**"). A Party receiving a request hereunder shall execute and return such Status Statement within 10 days following the receipt thereof. The Town shall have the right to execute any Status Statement requested by Developer hereunder. The Town acknowledges that a Status Statement hereunder may be relied upon by transferees and mortgagees. The Town shall have no liability for monetary damages to Developer, and transferee or mortgagee, or any other person in connection with, resulting from or based upon the issuance of any Status Statement hereunder.

8.5 Mortgage Provisions.

8.5.1 Mortgage Protection. This Agreement shall be superior and senior to any future lien placed upon the Property, or any portion thereof, including the lien of any Mortgage. However, no breach hereof shall invalidate or impair the lien of any Mortgage made in good faith and for value, and any acquisition or acceptance of title or any right or interest in or with respect to the Property, or any portion thereof, by a mortgagee (herein defined to include a beneficiary under a deed of trust), whether under or pursuant to a mortgage foreclosure, trustee's sale or deed in lieu of foreclosure or trustee's sale, or otherwise, shall be subject to all of the terms and conditions contained in this Agreement. No mortgagee shall have an obligation or duty under this Agreement to perform Developer's obligations or other affirmative covenants of Developer hereunder, or to guarantee such performance; except that to the extent that any covenant to be performed by Developer is a condition to the performance of a covenant by the Town, the performance thereof shall continue to be a condition precedent to the Town's performance hereunder.

8.5.2 Bankruptcy. If any mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof by any process or injunction issued by any court of competent jurisdiction or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Developer, the times specified above for commencing or prosecuting foreclosure or other proceedings shall be extended for the period of the prohibition, provided that such mortgagee is proceeding expeditiously to terminate such prohibition and in no event for a period longer than two years.

9. **GENERAL.**

9.1 **Waiver.** No delay in exercising any right or remedy shall constitute a waiver by either Party thereof, and no waiver by the Town or Developer of the breach of any covenant or condition of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

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

9.3 **Headings.** This Agreement shall be construed according to its fair meaning and as if prepared by both Parties hereto. Titles and captions are for convenience only and shall not constitute a portion of this Agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates.

9.4 **Exhibits and Recitals.** Any exhibit attached hereto shall be deemed to have been incorporated herein with the same force and effect as if fully set forth in the body hereof. The Recitals set forth at the beginning of this Agreement are hereby acknowledged and incorporated herein and the Parties hereby confirm the accuracy thereof. The Definitions set forth prior to the Recitals are hereby acknowledged and incorporated herein.

9.5 **Further Acts.** Each of the Parties shall promptly execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement.

9.6 **Time of Essence.** Time is of the essence in implementing the terms of this Agreement.

9.7 **Successors and Assigns.** The burdens of this Agreement are binding upon, and the benefits inure to, all successors in interest of the Parties to this Agreement and constitute covenants that run with the land. Developer's rights and obligations hereunder shall only be assigned to a person or entity that has acquired the Property, or a portion thereof, and shall be assigned by a written instrument, recorded in the official records of Yavapai County, Arizona, expressly assigning such rights and obligations. In the event of a complete or partial assignment of Developer's rights and obligations hereunder, except an assignment for collateral purposes only, Developer's liability under this Agreement shall terminate. Nothing in this Agreement shall operate to restrict Developer's ability to assign less than all of Developer's rights and obligations under this Agreement to those persons or entities that acquire any portion of the Property. Notwithstanding the foregoing, the ongoing ownership, operation and maintenance obligations in connection with this Agreement may be assigned to an Owners' Association. Developer shall provide the Town with written notice of any assignment of Developer's rights or obligations to such Owners' Association within a reasonable period of time following such assignment. Notwithstanding any other provisions of this Agreement, Developer may assign all or part of Developer's rights and duties under this Agreement as collateral to any financial institution from which Developer has borrowed funds for use in developing the Property.

9.8 **No Partnership; Third Parties.** It is hereby specifically understood, acknowledged and agreed that neither the Town nor Developer shall be deemed to be an agent of the other for any purpose whatsoever. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between Developer and the Town. No term or provision of this Agreement is intended to, or shall, be for the benefit of any third party, person, firm, organization or legal entity not a party hereto, and no such other third party, person, firm, organization or legal entity shall have any right to cause of action hereunder.

9.9 **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written, are hereby superseded and merged herein. No modification or amendment to this Agreement of any kind whatsoever shall be made or claimed by Developer or the Town shall have any force or effect whatsoever unless the same shall be endorsed in writing and signed by the Party against which the enforcement of such modification or amendment is sought, and then only to the extent set forth in such instrument. Such approved amendment shall be recorded in the Official Records of Yavapai County, Arizona.

9.10 **Construction.** All Parties hereto have either been represented by separate legal counsel or have had the opportunity to be so represented. Thus, in all cases, the language herein shall be constructed simply in accord with its fair meaning and not strictly for or against a Party, regardless of whether such Party prepared or caused the preparation of this Agreement.

9.11 **Names and Plans.** Developer shall be the sole owner of all names, titles, plans, drawings, specifications, ideas, programs, designs and work products of every nature at any time developed, formulated or prepared by or at the request of Developer in connection with the Property and the Project; provided, however, that in connection with any conveyance of portions of the Property to the Town, such rights pertaining to the portions of the Property so conveyed shall be assigned to the Town to the extent that such rights are assignable.

9.12 **Severability.** If any provision of this Agreement is declared void or unenforceable, such provision shall be severed from this Agreement, which shall otherwise remain in full force and effect. If any applicable law or court of competent jurisdiction prohibits or excuses one Party from undertaking any contract commitment to perform any act hereunder, then the other Party may, at such other Party's sole discretion, terminate this Agreement or proceed with that portion of the Agreement not prohibited by law.

9.13 **Parties' Intent.** It is the Parties' express intention that the terms and conditions be construed and applied as provided herein, to the fullest extent possible. It is the Parties' further intention that, to the extent any such term or condition is found to constitute an impermissible restriction of the police power of the Town, such term or condition shall be construed and applied in such lesser fashion as may be necessary to not restrict the police power of the Town.

9.14 **Choice of Law.** This Agreement shall be construed in accordance with the laws of the State of Arizona in effect on the Date of Application. Any action brought in connection with this Agreement shall be brought in a court of competent jurisdiction located in Yavapai County, Arizona.

9.15 **Recordation.** After its execution, this Agreement shall be recorded in the office of the Yavapai County, Arizona at the expense of the Town. Each commitment and restriction on the Project shall be a burden on the Property, shall be appurtenant to and for the benefit of the Property and shall

run with the land. This Agreement shall be binding on Developer and owners, and their respective heirs, administrators, executors, agents, legal representatives, successors, and assigns; provided, however, that if all or any portion of the Project is sold, the sellers shall thereupon be released and discharged from any and all obligations arising under this Agreement in connection with the portion of the Property sold. The new owner of the Property or any portion thereof (including, without limitation, any owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all commitments and other obligations arising under this Agreement with respect to the Property or portion thereof.

9.16 **No Developer Representations.** Nothing contained herein shall be deemed to obligate Developer to complete any part or all of the development of the Property within a specific time line, phasing schedule or other schedules, or any other plan, and this Agreement shall not be deemed a representation or warranty by Developer of any kind whatsoever.

9.17 **Good Standing; Authority.** Each of the Parties represents to the other that: (i) Developer is an Arizona limited liability company duly qualified to do business in Arizona; (ii) the Town is a municipal corporation duly qualified to do business in the State of Arizona; and (iii) the individual(s) executing this Agreement on behalf of the Parties are authorized and empowered to bind the Party on whose behalf each such individual is signing.

(Signatures on the Following Page.)

IN WITNESS WHEREOF, the Parties hereto, having been duly authorized, have executed this Pre-Annexation and Development Agreement to be effective on the Effective Date.

TOWN:

TOWN OF WICKENBURG, ARIZONA, a municipal corporation organized and existing under the laws of the State of Arizona

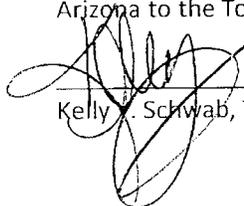
By: 
John Cook, Mayor

Attest:


Gloria Leija, Interim Town Clerk

APPROVED AS TO FORM AND AUTHORITY

The foregoing Agreement has been received by the undersigned attorney, who has determined that it is in proper form and within the power and authority granted under the laws of the State of Arizona to the Town of Wickenburg


Kelly Schwab, Town Attorney

OWNER/DEVELOPER:

~~M3 Builders, L.L.C., an Arizona limited liability company, its manager
By: ~~the M3 Companies, L.L.C., an Arizona limited liability company, its sole member~~~~

~~By: _____
William I. Brownlee, Manager~~

~~On behalf of VAN DEVELOPMENT CO., INC.,
5860 DEVELOPMENT, INC., and
JVT INVESTORS, L.L.C.~~

**SEE ATTACHED SIGNATURE
PAGES**

OWNER/DEVELOPER:

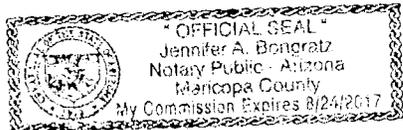
Van Development Co., Inc., a Kansas corporation,

By: _____

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On this 5th day of February, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared Larry Van Tuhl, known or identified to me to be the President of Van Development Co., the corporation that executed the instrument, or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Jennifer A. Bongratz

Notary Public for Arizona
My commission expires:

OWNER/DEVELOPER:

5860 Development, Inc., an Arizona corporation,

By:


P. Stanley Reed, Asst. Secretary

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On this 5th day of February, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared P. Stanley Reed, known or identified to me to be the Asst Sec of 5860 Development, the corporation that executed the instrument, or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Jennifer A. Bongratz
Notary Public for Arizona
My commission expires:

OWNER/DEVELOPER:

JVT Investors, L.L.C., an Arizona limited liability company,

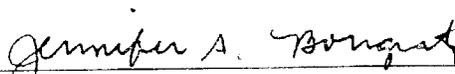
By: 
P. Stanley Reed, Agent

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On this 5th day of February, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared P. Stanley Reed, known or identified to me to be the Agent of JVT Investors, the limited liability company that executed the instrument, or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

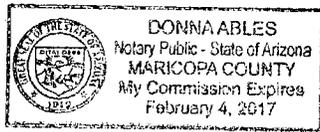



Notary Public for Arizona
My commission expires:

STATE OF ARIZONA)
) ss.
COUNTY OF YAVAPAI)

On this 4th day of Nov, 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared John Cook, known or identified to me to be the Mayor of the Town of Wickenburg, the municipal corporation that executed the instrument or the person who executed the instrument on behalf of said municipal corporation, and acknowledged to me that such municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Donna Ables
Notary Public for Arizona
My commission expires: Feb. 4, 2017

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On this _____ day of _____, 2013, before me, the undersigned, a Notary Public in and for said State, personally appeared William I. Brownlee, member of _____, an Arizona limited liability company, known or identified to me to be the Manager of _____, the limited liability company that executed the instrument, or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for Arizona
My commission expires:

OWNER ACKNOWLEDGMENT AND CONSENT

The undersigned owner of the Property acknowledges and agrees to the annexation of the Annexation Property and to the recordation of this Agreement on the Property.

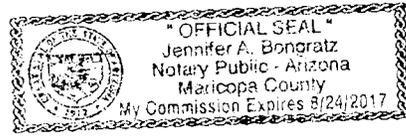
Vanwick LLC

By: [Signature]
Its: Asst. Secretary

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On this 5th day of February, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared P. Stanley Reed, known or identified to me to be the Asst Secretary of Vanwick, the limited liability company that executed the instrument, or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Jennifer A. Bongrat
Notary Public for Arizona
My commission expires:

OWNER ACKNOWLEDGMENT AND CONSENT

The undersigned owner of the Property acknowledges and agrees to the annexation of the Annexation Property and to the recordation of this Agreement on the Property.

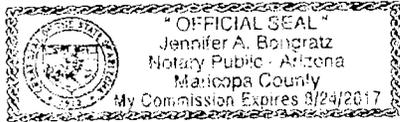
Wickenburg Ranch Water, LLC

By: [Signature]
Its: ASST. SECRETARY

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On this 5th day of February, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared P. Stanley Reed, known or identified to me to be the Asst Secretary of Wickenburg Ranch Water, the limited liability company that executed the instrument, or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Jennifer A. Bongratz
Notary Public for Arizona
My commission expires:

OWNER ACKNOWLEDGMENT AND CONSENT

The undersigned owner of the Property acknowledges and agrees to the annexation of the Annexation Property and to the recordation of this Agreement on the Property.

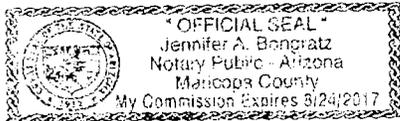
Wickenburg Ranch Wastewater, LLC

By: [Signature]
Its: Asst. Secretary

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

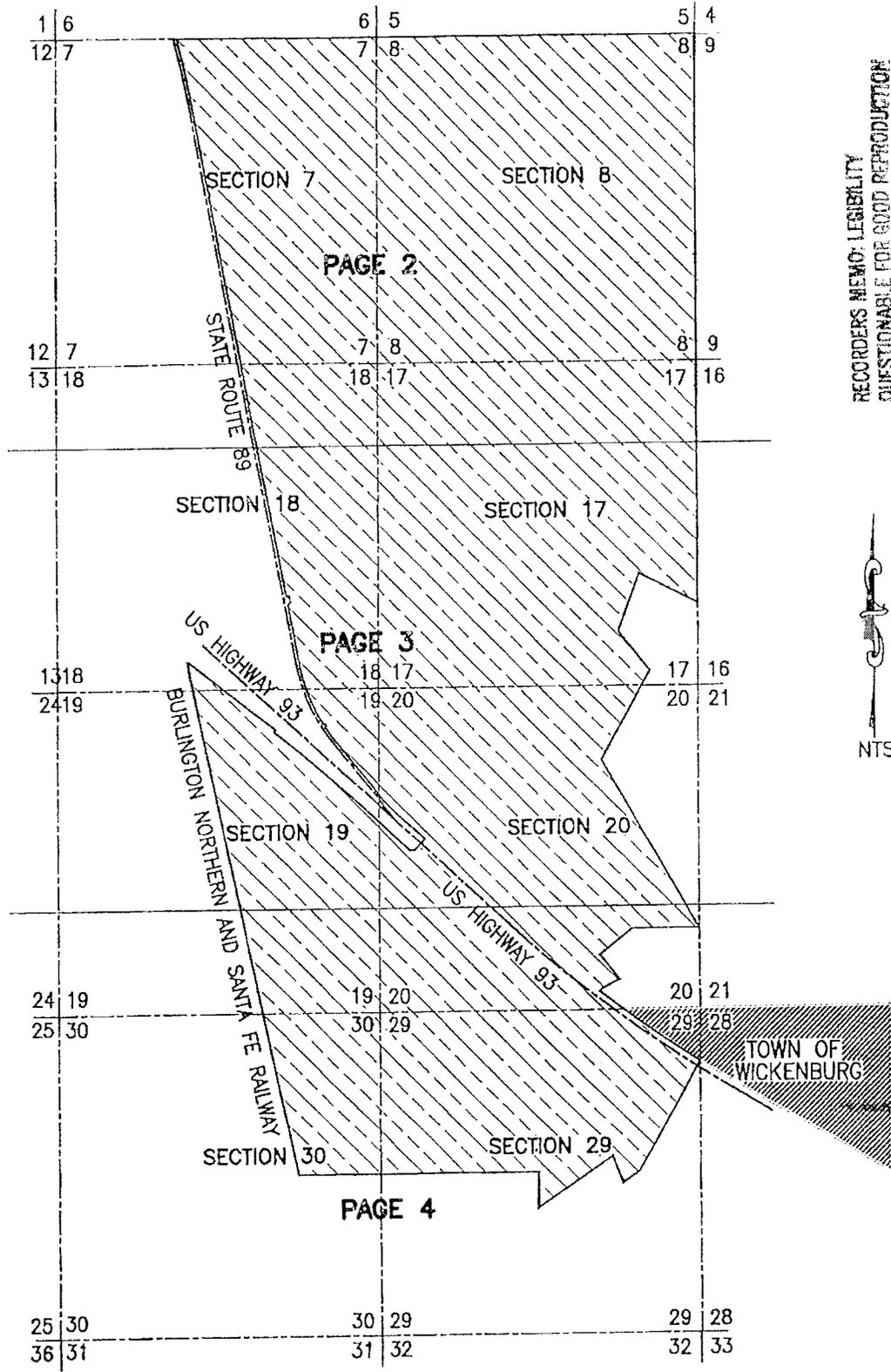
On this 5th day of February, 2014, before me, the undersigned, a Notary Public in and for said State, personally appeared P. Stanley Reed, known or identified to me to be the Asst Sec of Wickenburg Ranch Wastewater, the limited liability company that executed the instrument, or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Jennifer A. Bongratz
Notary Public for Arizona
My commission expires:

TOWN OF WICKENBURG, ARIZONA ANNEXATION EXHIBIT KEY MAP

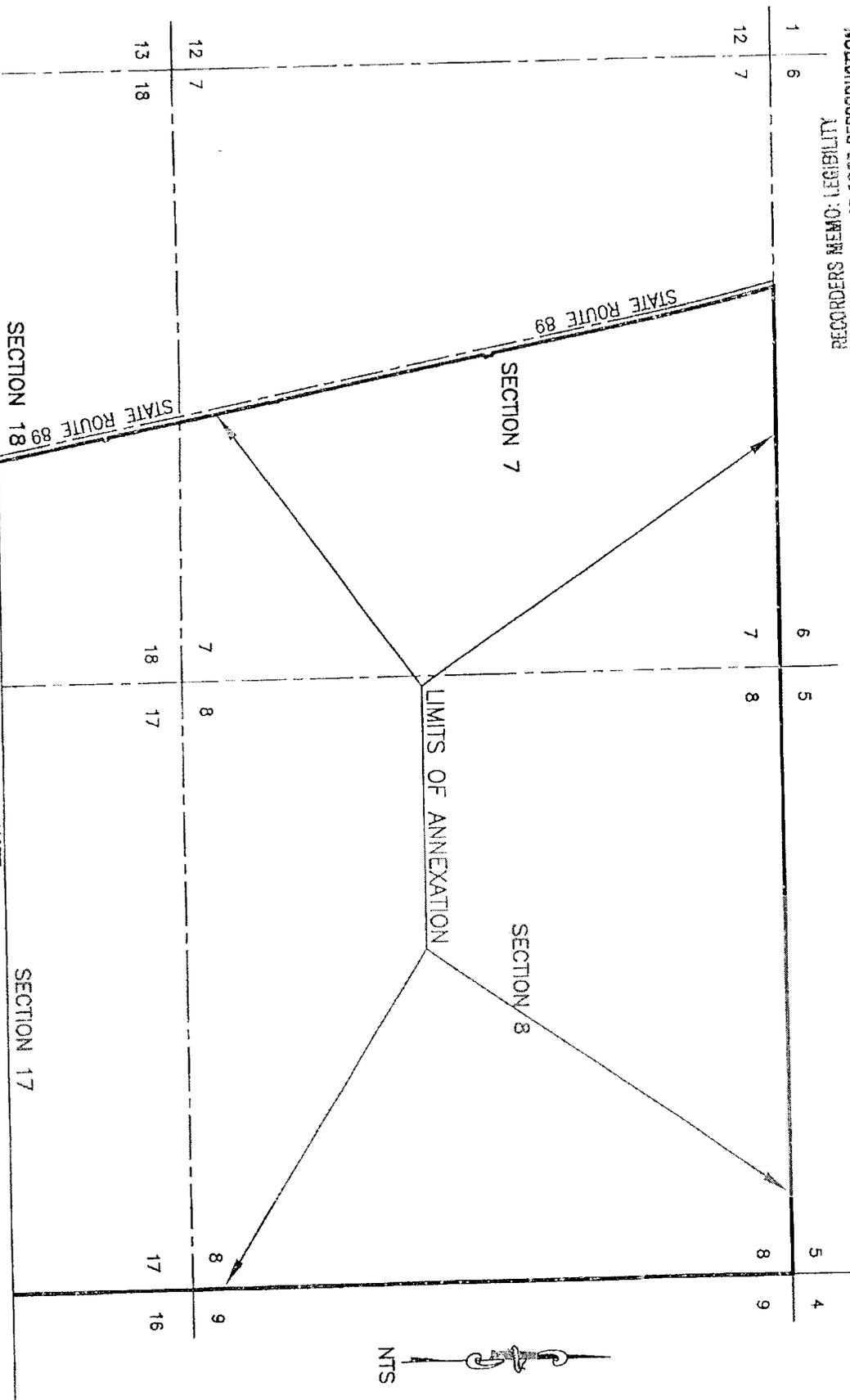


RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION



TOWN OF WICKENBURG, ARIZONA ANNEXATION EXHIBIT

RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION



MATCH PAGE 3 OF 4

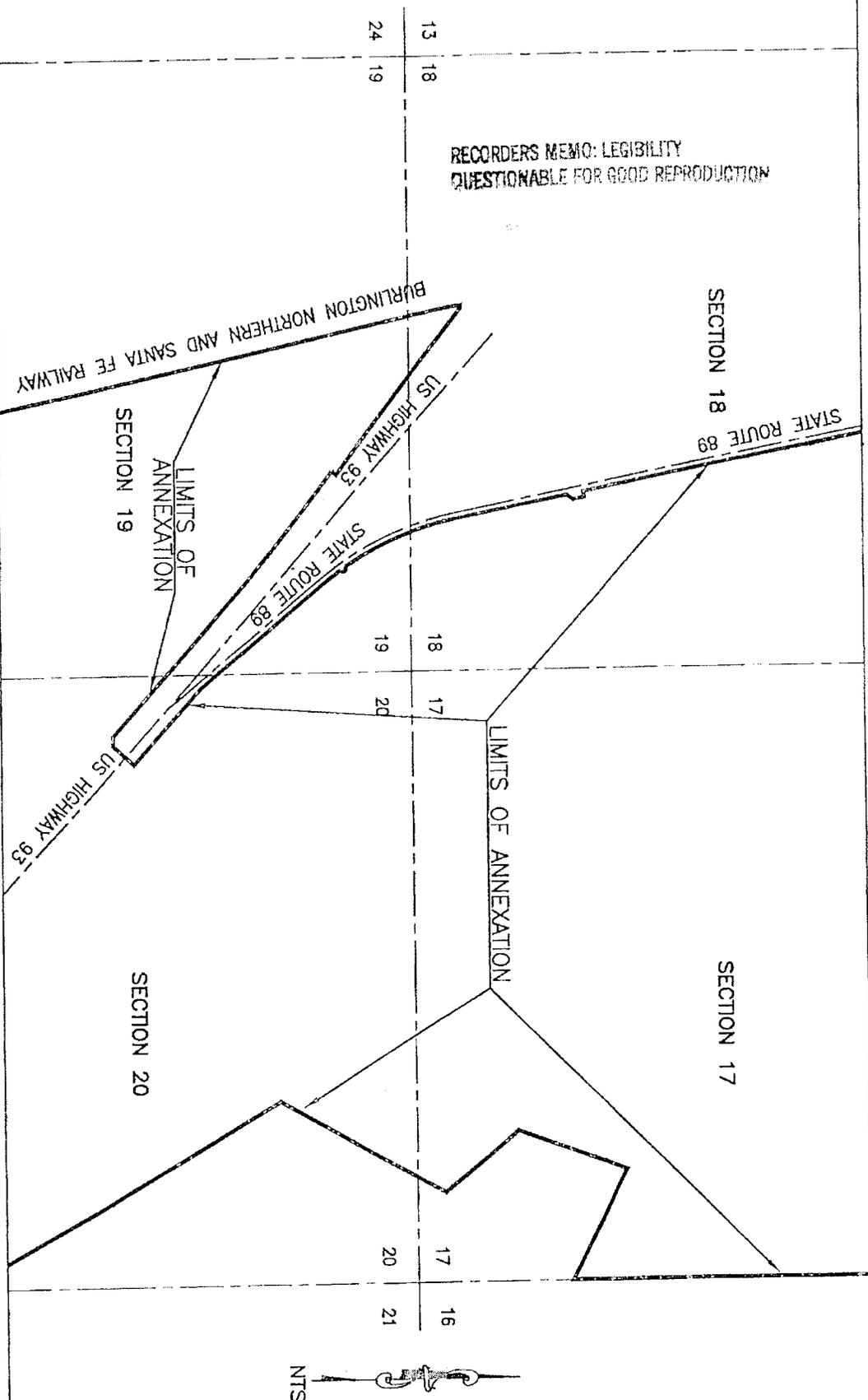
RSTeM
Land Surveyors

JOB 2-3, 12-6-13

NOTE:
ALL PARCELS SHOWN IN THIS EXHIBIT AND ATTACHED
DESCRIPTION ARE TAKEN FROM RECORDED DOCUMENTS
FROM THE YAVAPAI COUNTY RECORDERS OFFICE. NO
FIELD SURVEY WAS CONDUCTED TO ASSIST IN THE
CREATION OF THIS EXHIBIT AND DESCRIPTION.

TOWN OF WICKENBURG, ARIZONA
ANNEXATION EXHIBIT

MATCH PAGE 2 OF 4



RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION

LIMITS OF
ANNEXATION
SECTION 19

LIMITS OF ANNEXATION

MATCH PAGE 4 OF 4

RST
Stem
Land Surveyors

JOB 2-3, 12-6-13

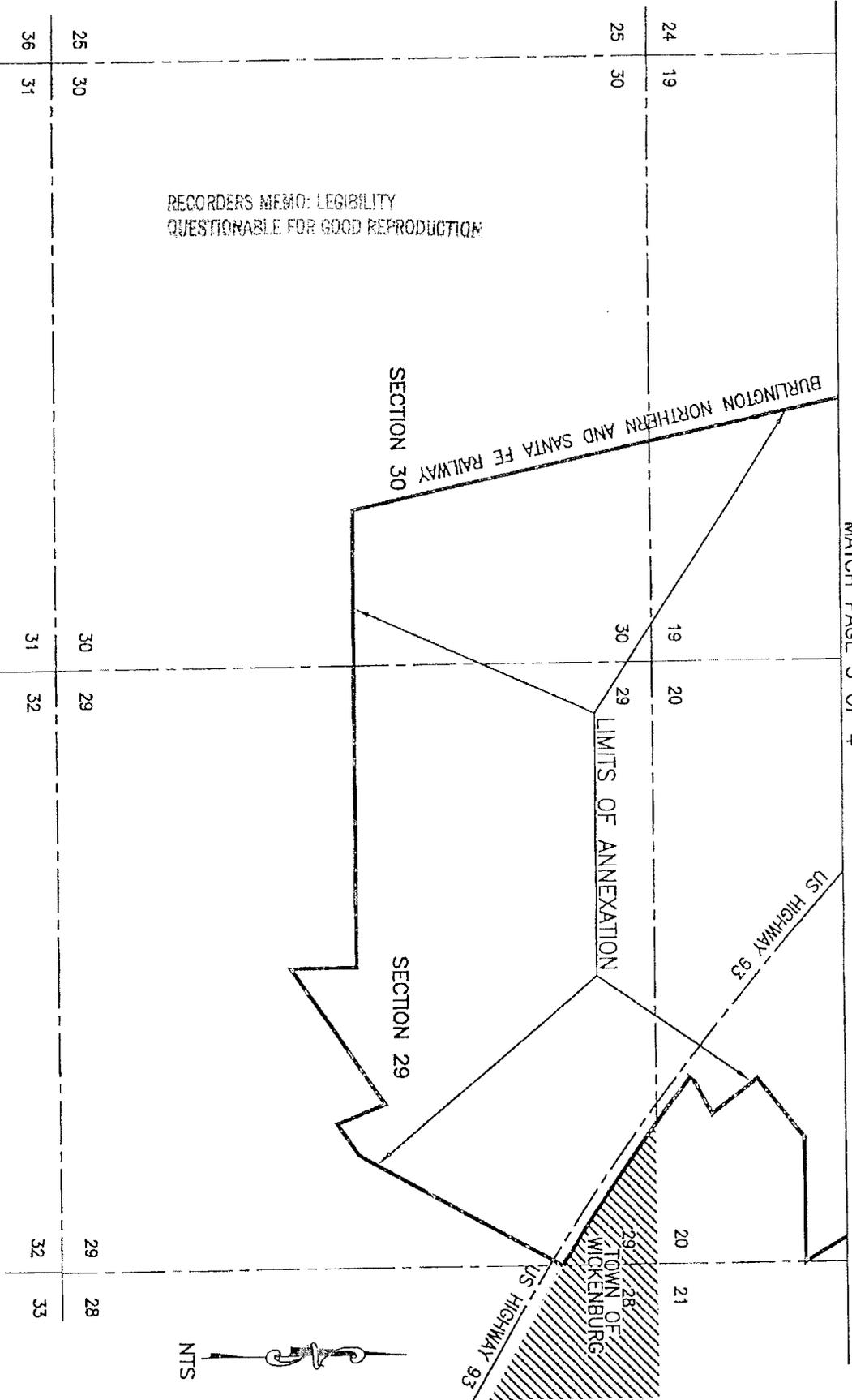
NOTE:
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DESCRIPTION ARE TAKEN FROM RECORDED DOCUMENTS
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FIELD SURVEY WAS CONDUCTED TO ASSIST IN THE
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PAGE 3 OF 4



**TOWN OF WICKENBURG, ARIZONA
ANNEXATION EXHIBIT**

MATCH PAGE 3 OF 4



RSTeem
Land Surveyors

JOB 2-3, 12-6-13

NOTE:
ALL PARCELS SHOWN IN THIS EXHIBIT AND ATTACHED DESCRIPTION ARE TAKEN FROM RECORDED DOCUMENTS FROM THE YAVAPAI COUNTY RECORDERS OFFICE. NO FIELD SURVEY WAS CONDUCTED TO ASSIST IN THE CREATION OF THIS EXHIBIT AND DESCRIPTION.

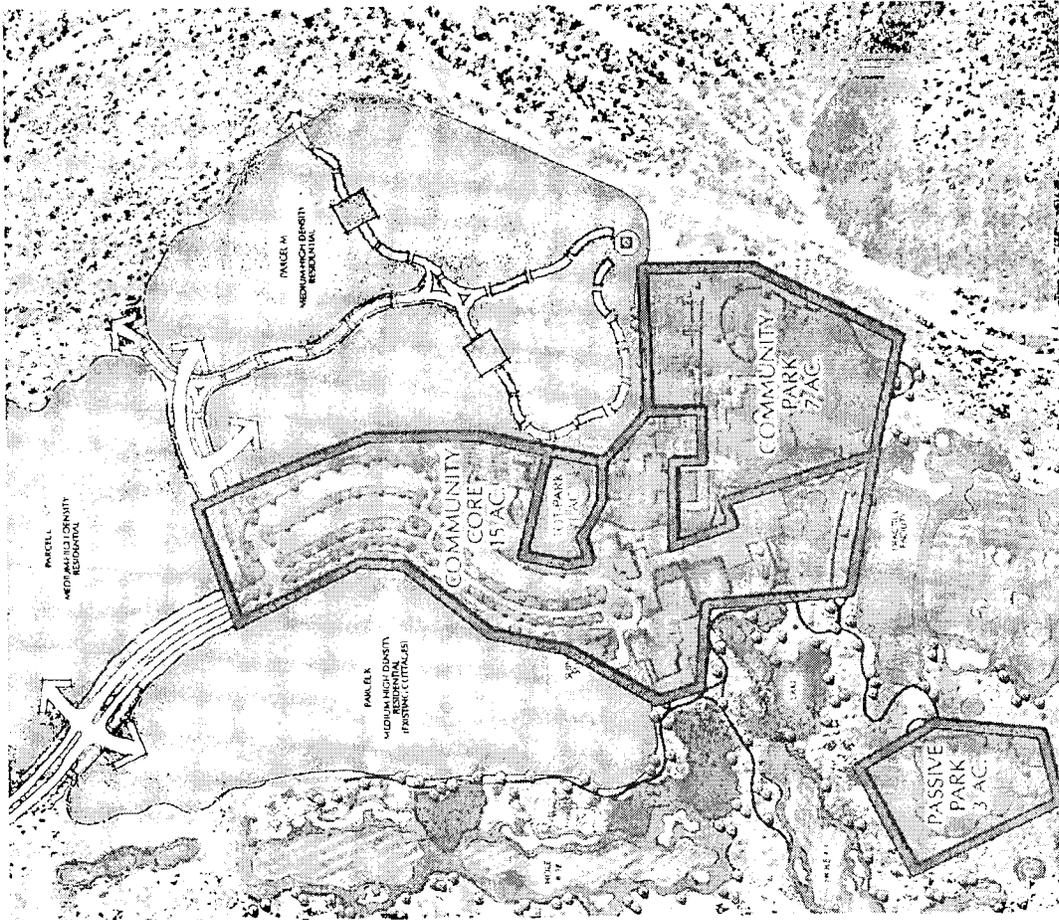
PAGE 4 OF 4

Permit Application	Permit Number	Long Description	Permit Purpose	Parcel Number	Permit Status
A12006003138	P12007003070	Residential Add On	Mass Grading	201-02-158J	Permit Inspection Called In
A12006004394	P12006004159	Miscellaneous/BCL	Temp Sign	201-02-158J	FINALED
A12006004399	P12006004160	Miscellaneous/BCL	Temp Sign	201-02-158J	FINALED
A12007005014	P12008001132	Miscellaneous/BCL	Supplemental Grading	201-02-158J	Superseded by P12010000674
A12007005247	P12007004795	Septic	Septic Sales Office	201-02-158S	FINALED
A12007005366	P12008001131	Residential Add On	New Grading	201-02-158S	Superseded by P12010000674
A12007005381	P12007004924	Over The Counter	Elec to Const Trailer	201-02-158S	FINALED
A12008000370	P12008000440	Miscellaneous/BCL	Temp Sign	201-02-158S	FINALED
A12008001010	P12008001142	Commercial Follow On	Elec to Well 4	201-02-158S	FINALED
A12008001011	P12008001141	Commercial Follow On	Elec to Well 6	201-02-158S	FINALED
A12008001012	P12008001140	Commercial Follow On	Elec to Well 7	201-02-158S	FINALED
A12008001101	P12008001044	Commercial Follow On	100 Amp to existing Well	201-02-158J	FINALED
A12008001243	P12008001363	Over The Counter	Demo of 14 Structures	201-02-158N	FINALED
A12008001556	P12008001522	Commercial Follow On	Pump Control Well 6	201-02-158N	FINALED
A12008001558	P12008001521	Commercial Follow On	Pump Control Well 4	201-02-158N	FINALED
A12008001756	P12008001763	Commercial - New	400 AMP HOA Pump Station	201-02-149E	FINALED
A12008001758	P12008001762	Commercial - New	600 AMP Golf Pump Station	201-02-149E	FINALED
A12008001865	P12008002066	Septic	Septic Hole 9	201-02-158J	Non-renewable/Expired
A12008001870	P12008002026	Septic	Septic Hole 5	201-02-158J	FINALED
A12008001889	P12008002161	Residential Add On	New Grading	201-02-158N	Custom Lots - Will not be graded
A12008001911	P12008001917	Commercial Follow On	Pump Control Well 7	201-02-158J	FINALED
A12008002075	P12008002025	Septic	Septic Hole 15	201-02-158J	FINALED
A12008002203	P12008002065	Over The Counter	Demo 9 Cabins	201-02-158J	FINALED
A12008002558	P12008002747	Septic	Temp Vault & Haul/Clubhouse	201-02-158G	Non-renewable/Expired
A12008002582	P12008002605	Commercial - New	Pump Controls HOA Pump	201-02-158G	FINALED
A12008002583	P12008002606	Commercial - New	Pump Controls Golf Course	201-02-158G	FINALED
A12008002596	P12010001016	Commercial - New	Gate House	201-02-158A	
A12008002908	P12010001010	Commercial - New	Bathroom Hole 15	201-02-158D	
A12008002909	P12010001011	Commercial - New	Bathroom Hole 5	201-02-158D	
A12008003071	P12010001009	Commercial - New	Pump House	201-02-158G	
A12008003073	P12010001005	Commercial - New	Open Storage	201-02-158G	
A12008003076	P12010001008	Commercial - New	HOA Building	201-02-158G	
A12008003079	P12010001006	Commercial - New	Golf Maintenance	201-02-158G	
A12008003083	P12010001018	Miscellaneous/BCL	HOA Area Block Wall	201-02-158G	
A12008003084	P12010001020	Commercial Follow On	HOA Grading	201-02-158G	
A12008003376		Commercial - New	Waste Water Treatment Plant	201-02-158H	
A12009000250	P12010001017	Commercial - New	Maint Equip Yard Fuel Storage	201-02-158G	
A12009000490	P12010001015	Commercial Follow On	Grading for WWTP	201-02-158H	
A12009000682	P12009000572	Over The Counter	Demo of Lodge	201-02-158G	FINALED
A12009000801	P12010001004	Residential Add On	Grading - Gravel Drive	201-02-158D	
A12009000845	P12010000674	Miscellaneous/BCL	Supplemental for Mass Grading	201-02-158H	Final Inspection Called In
A12009001229	P12009002797	Commercial - New	Grading/fence/APS substation	201-02-158N	APS Responsibility
A120096001719	P12010000997	Commercial Follow On	Well Campus Grading	201-02-158M	
A120096001720	P12010001002	Miscellaneous/BCL	Well Campus Block Wall	201-02-158M	

RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION

A12009001721	P12010001001	Commercial - New	Well Campus Water Tank	201-02-158M	
A12009001722	P12010001013	Commercial - New	Well Campus Modular Bldg	201-02-158M	
A12009001780	P12010000995	Commercial - New	WW Lift Station	201-02-158J	
A12009002044	P12010000998	Commercial Follow On	Grading - Village Center	201-02-158G	
A12009002626	P12010001000	Commercial Follow On	Block Wall Well 7	201-02-158C	
A12009002630	P12010000996	Miscellaneous/BCL	Grading Well Site 7	201-02-158C	
A12010000324	P12010000999	Commercial Follow On	Grading WW Lift Station	201-02-158J	

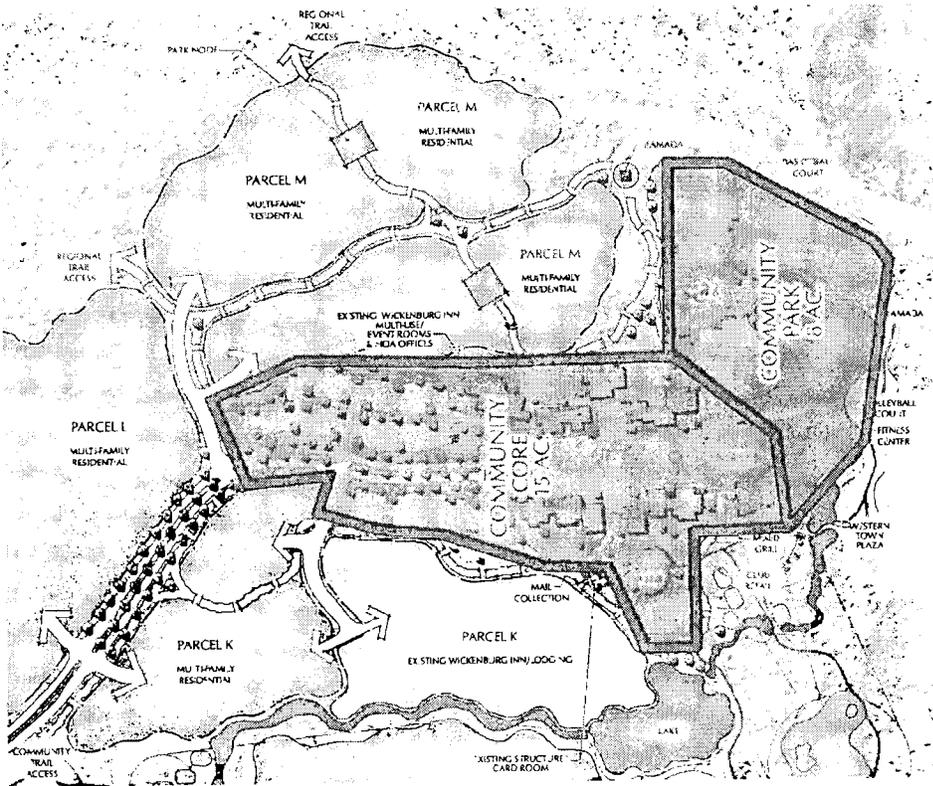
RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION



PROPOSED AMENDED SITE PLAN - SEPTEMBER 2006



RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION



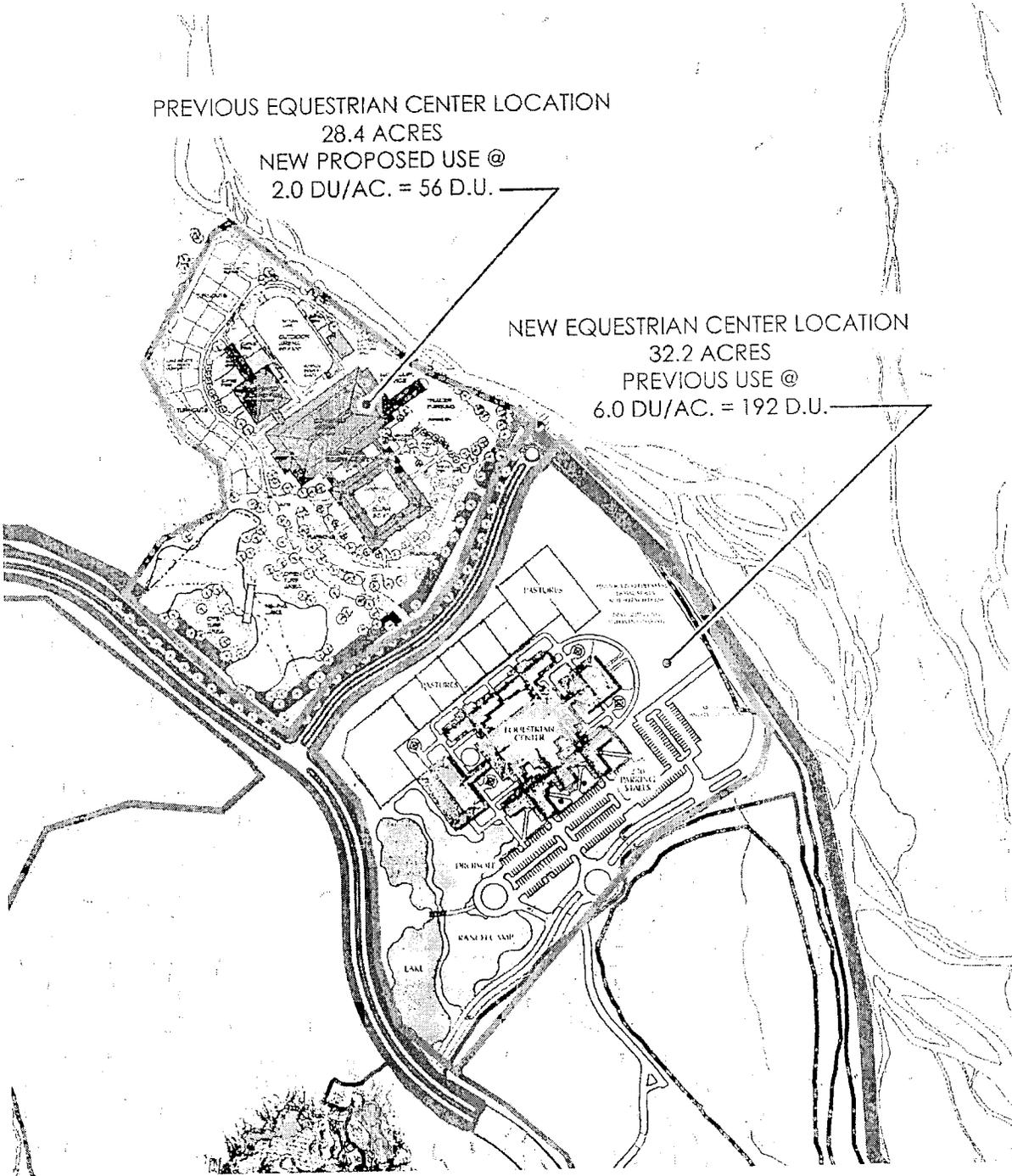
APPROVED SITE PLAN - JANUARY 3, 2006



COMMUNITY CORE COMPARISON EXHIBIT

PREVIOUS EQUESTRIAN CENTER LOCATION
28.4 ACRES
NEW PROPOSED USE @
2.0 DU/AC. = 56 D.U.

NEW EQUESTRIAN CENTER LOCATION
32.2 ACRES
PREVIOUS USE @
6.0 DU/AC. = 192 D.U.



JUNE 18, 2007

RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION

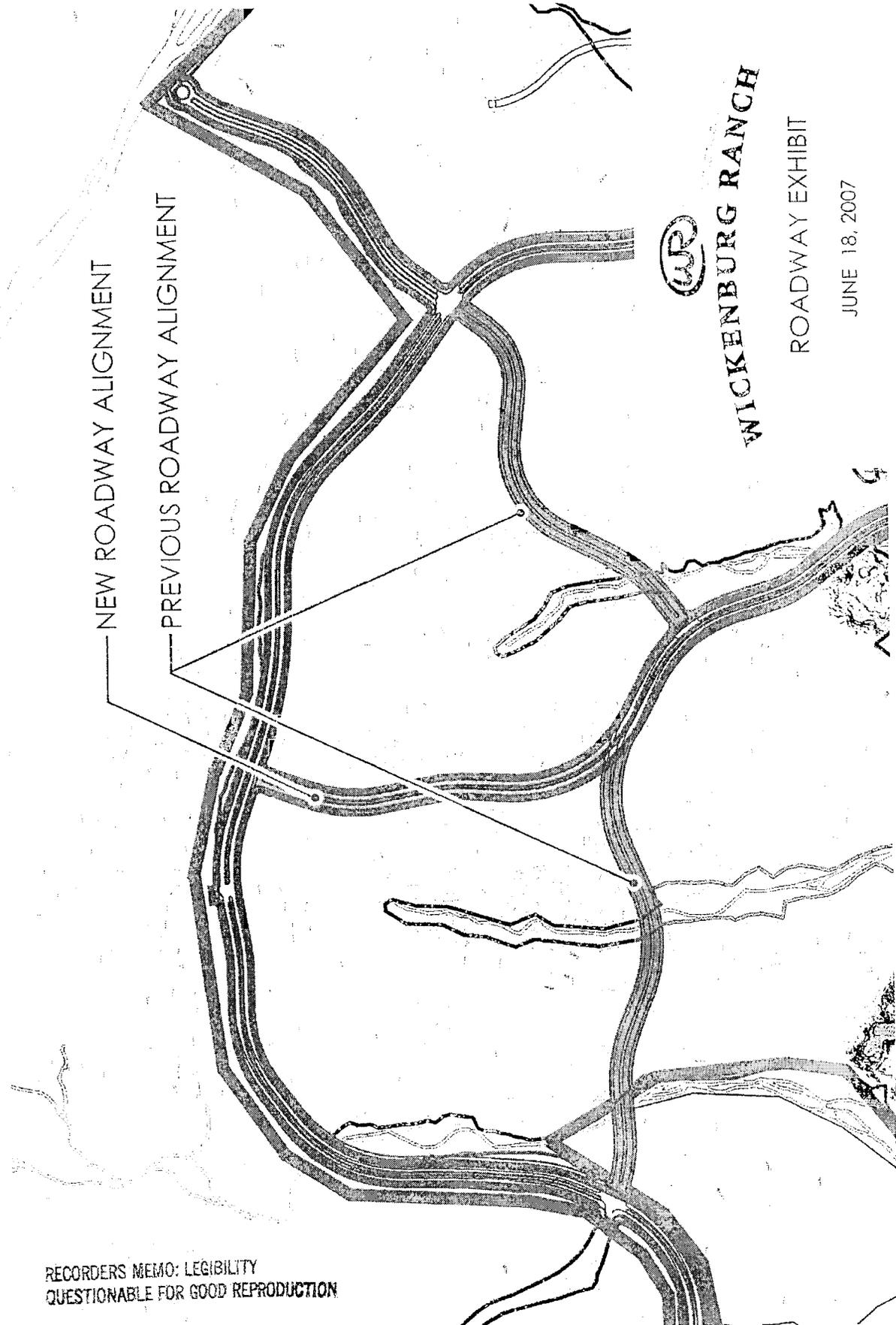


WICKENBURG RANCH

EQUESTRIAN CENTER COMPARISON EXHIBIT

NEW ROADWAY ALIGNMENT

PREVIOUS ROADWAY ALIGNMENT

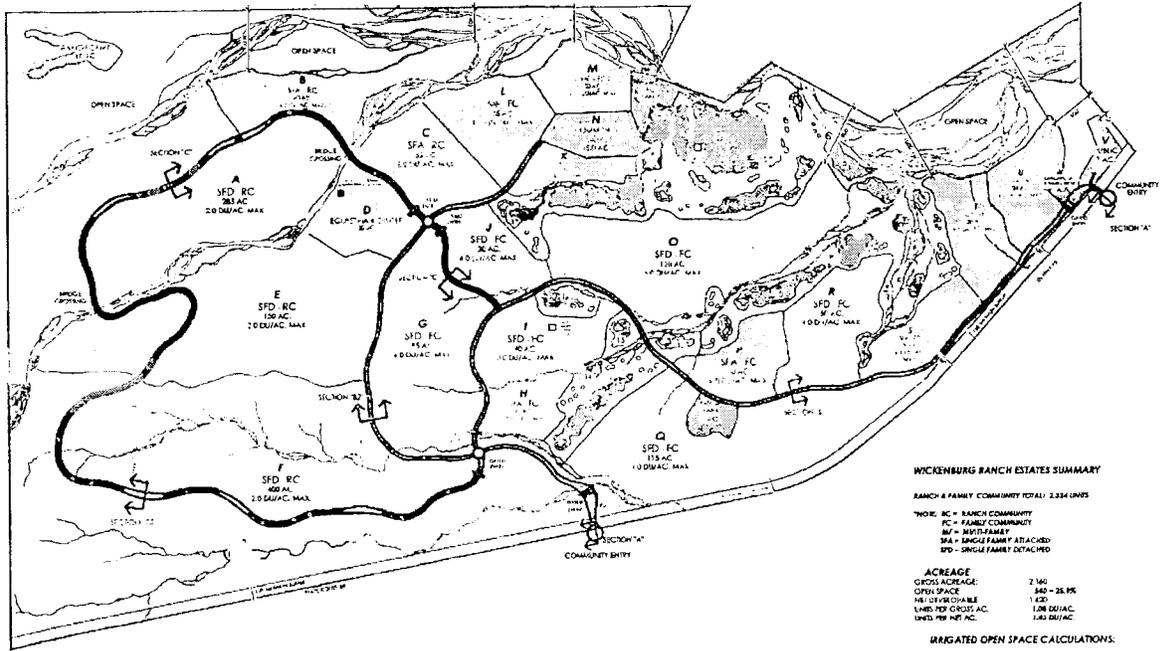


WICKENBURG RANCH

ROADWAY EXHIBIT

JUNE 18, 2007

RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION



WICKENBURG RANCH ESTATES SUMMARY

RANCH & FAMILY COMMUNITY TOTAL 2,234 UNITS

NOTE: RC = RANCH COMMUNITY
 FC = FAMILY COMMUNITY
 MF = MULTI-FAMILY
 SFA = SINGLE FAMILY ATTACHED
 SFD = SINGLE FAMILY DETACHED

ACREAGE

GROSS ACREAGE:	2,140
OPEN SPACE:	840 - 28.9%
NET DEVELOPABLE:	1,300
UNITS PER GROSS AC.	1.08 DU/AC
UNITS PER NET AC.	1.43 DU/AC

IRRIGATED OPEN SPACE CALCULATIONS:

OPEN SPACE CATEGORY	SPRAY IRRIGATED	DIP IRRIGATED
EXECUTIVE GOLF COURSE	11.38 AC	12.33 AC
PARKING/QUESTIRAN	11.5 AC	11.5 AC
PARKING/RECREATION	11.5 AC	11.5 AC
HIGHWAY TO SUPPLY	11.5 AC	11.5 AC
TOTAL	45.88 AC	46.83 AC

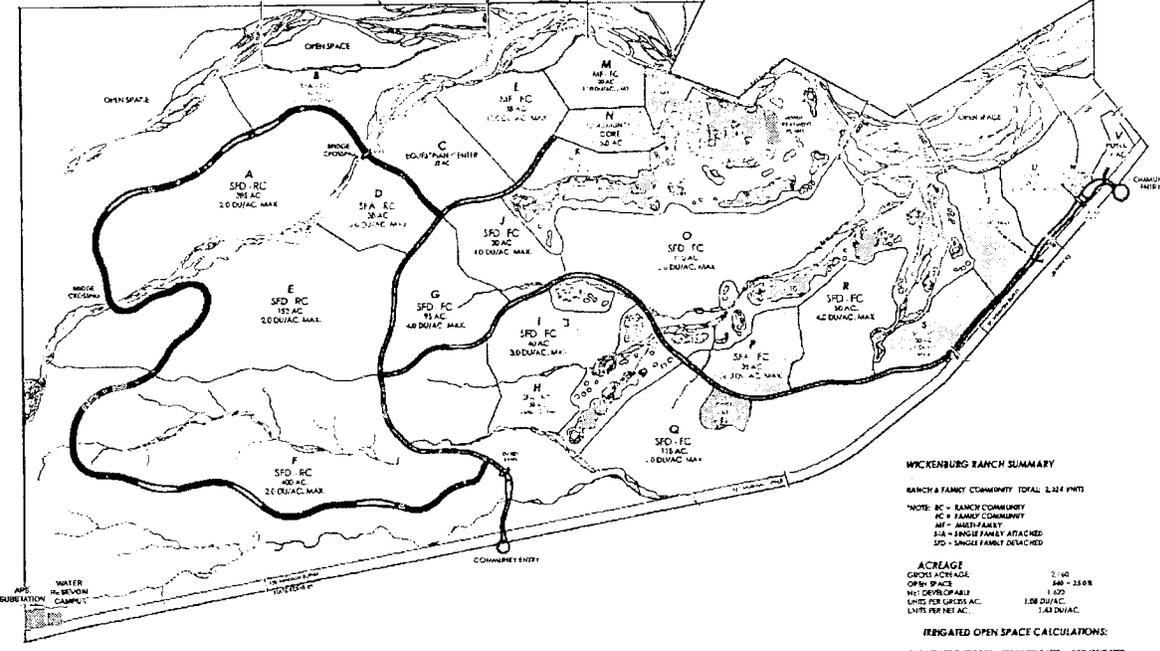
*AREAS WILL BE USED TO ACCOMMODATE EFFLUENT STORAGE REQUIREMENTS



**WICKENBURG RANCH ESTATES
 MASTER SITE PLAN
 EXHIBIT "B"**

NOVEMBER 2005

RECORDERS MEMO: LEGIBILITY
 QUESTIONABLE FOR GOOD REPRODUCTION



WICKENBURG RANCH SUMMARY

RANCH & FAMILY COMMUNITY TOTAL 2,234 UNITS

NOTE: RC = RANCH COMMUNITY
 FC = FAMILY COMMUNITY
 MF = MULTI-FAMILY
 SFA = SINGLE FAMILY ATTACHED
 SFD = SINGLE FAMILY DETACHED

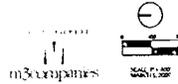
ACREAGE

GROSS ACREAGE:	2,140
OPEN SPACE:	840 - 28.9%
NET DEVELOPABLE:	1,300
UNITS PER GROSS AC.	1.08 DU/AC
UNITS PER NET AC.	1.43 DU/AC

IRRIGATED OPEN SPACE CALCULATIONS:

OPEN SPACE CATEGORY	SPRAY IRRIGATED	DIP IRRIGATED
EXECUTIVE GOLF COURSE	11.38 AC	12.33 AC
PARKING/QUESTIRAN	11.5 AC	11.5 AC
PARKING/RECREATION	11.5 AC	11.5 AC
HIGHWAY TO SUPPLY	11.5 AC	11.5 AC
TOTAL	45.88 AC	46.83 AC

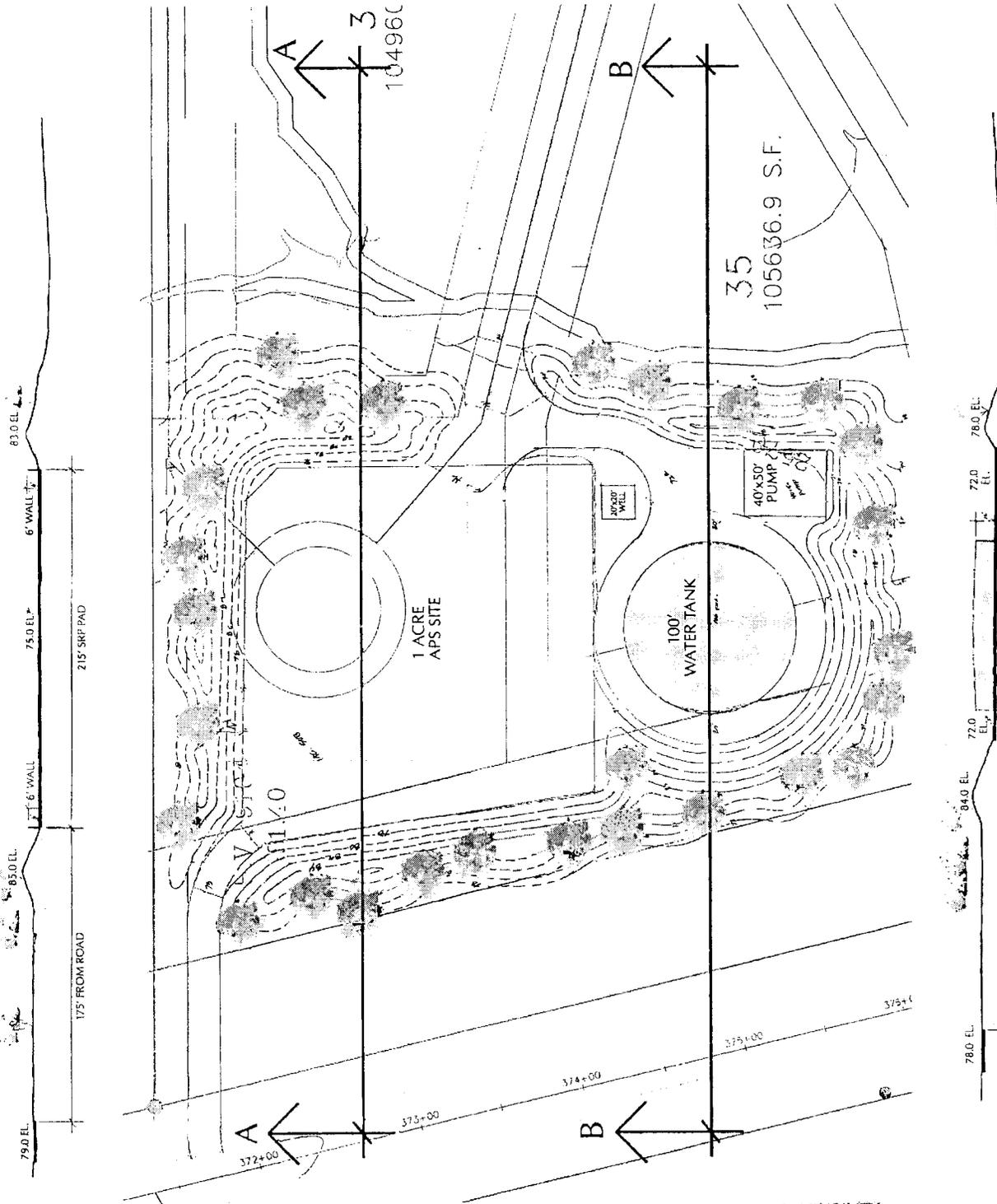
*AREAS WILL BE USED TO ACCOMMODATE EFFLUENT STORAGE REQUIREMENTS



**WICKENBURG RANCH
 MASTER SITE PLAN**

MARCH 2008

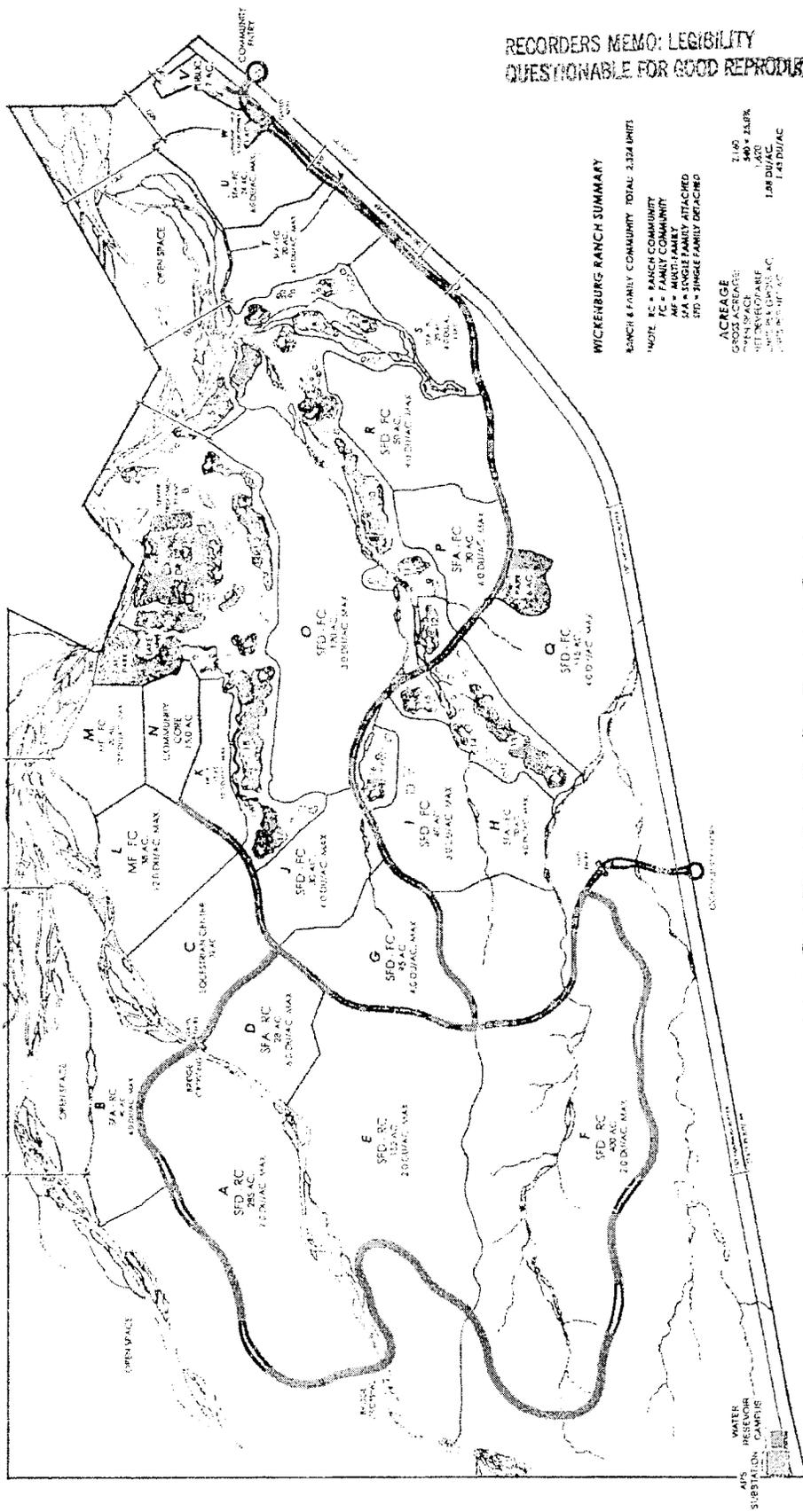
SECTION "A"



SECTION "B"

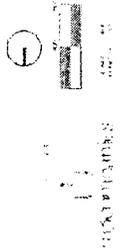
RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION

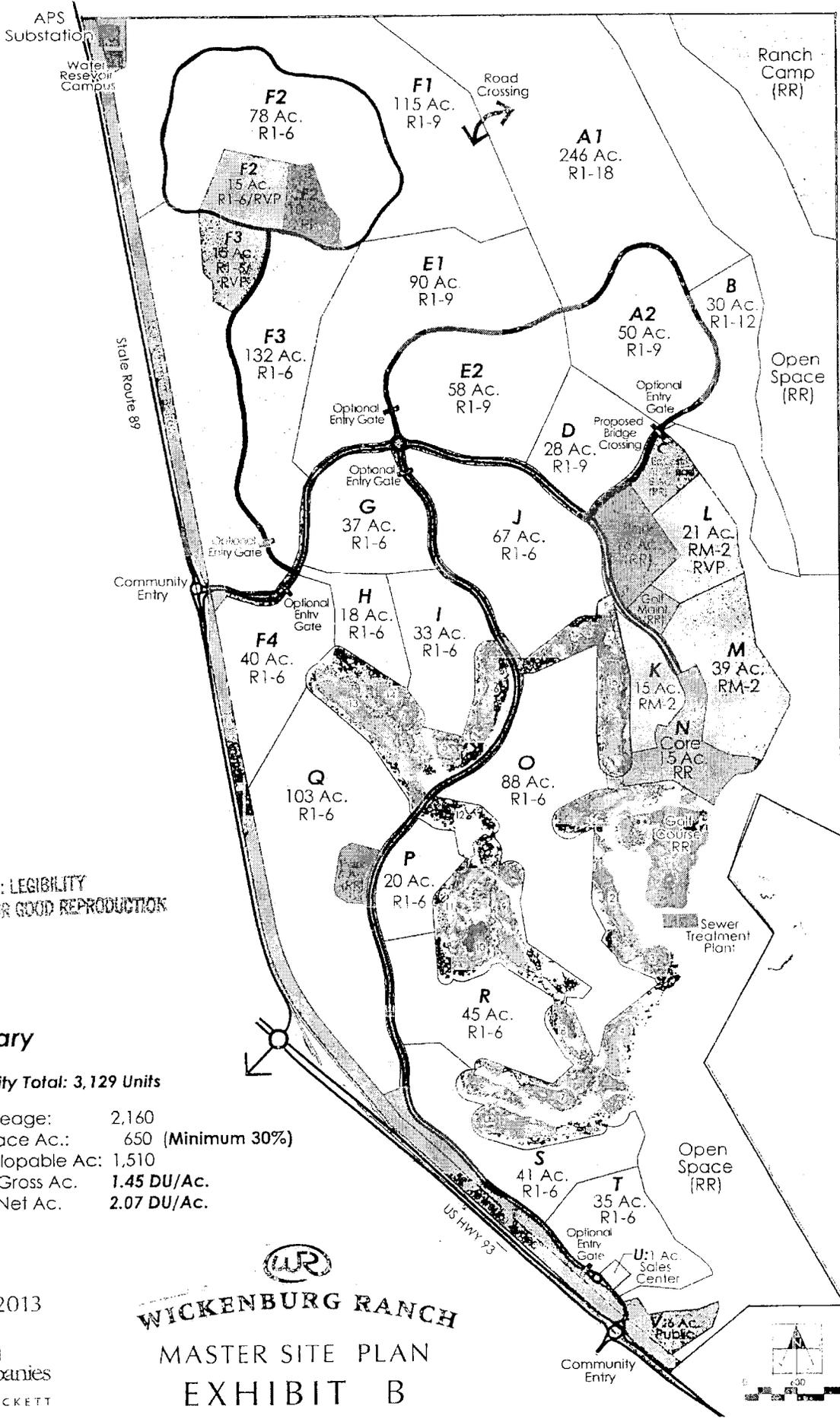
RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION



WICKENBURG RANCH SUMMARY
 RANCH & FAMILY COMMUNITY TOTAL 3,374 UNITS
 NOTE: FC = FAMILY COMMUNITY
 MF = MULTI-FAMILY
 SFA = SINGLE FAMILY ATTACHED
 SFD = SINGLE FAMILY DETACHED
 ACREAGE
 2.1 AC
 1.4 AC
 1.0 AC
 1.0 AC
 1.0 AC
 1.41 DU/AC

WICKENBURG RANCH
 MASTER SITE PLAN
 MAY 2008
 PER THIRD MINOR PAD AMENDMENT





RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION

Summary

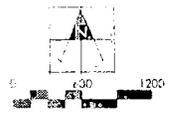
Community Total: 3,129 Units

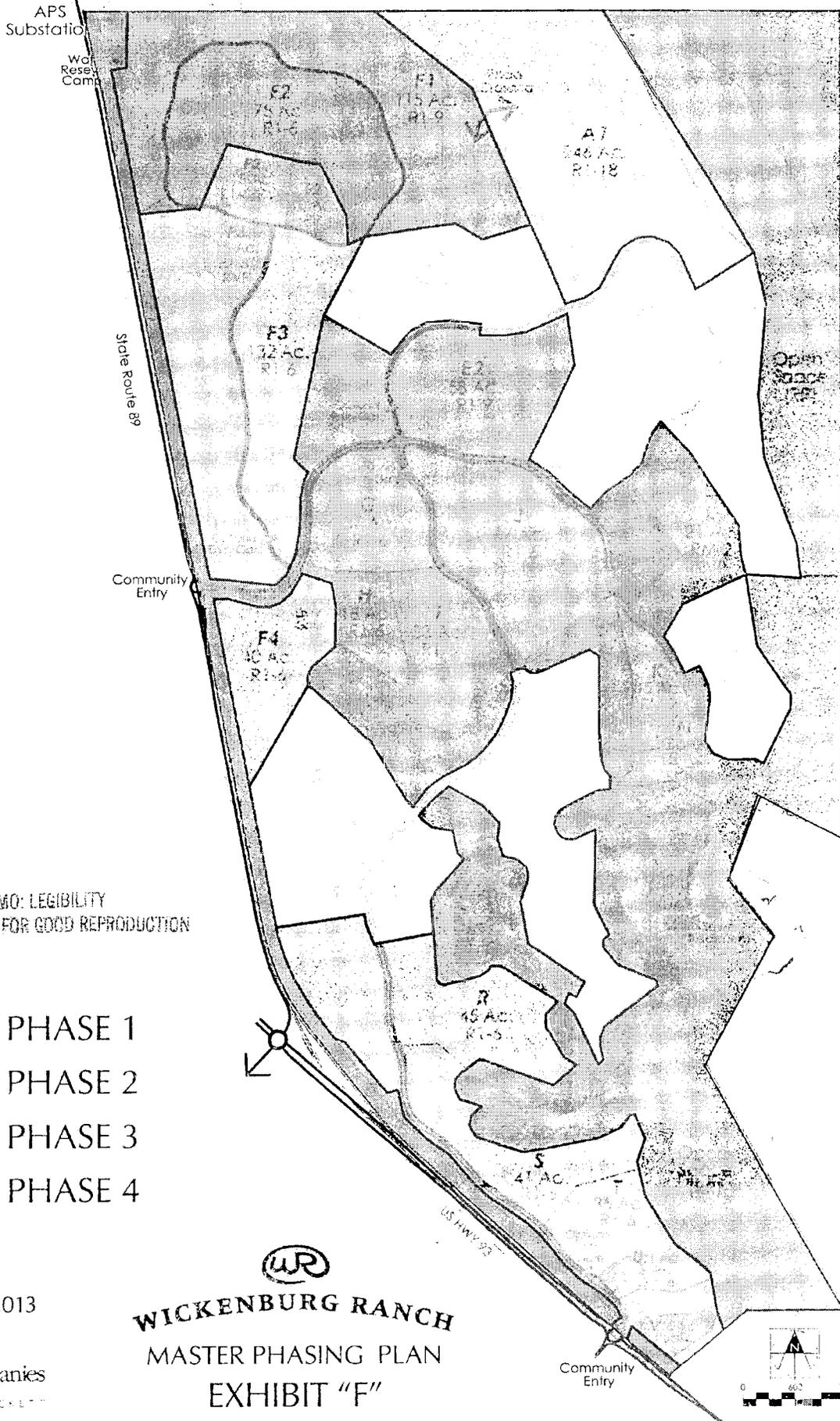
Gross Acreage: 2,160
 Open Space Ac.: 650 (Minimum 30%)
 Net Developable Ac: 1,510
 Units per Gross Ac. **1.45 DU/Ac.**
 Units per Net Ac. **2.07 DU/Ac.**

March 2013

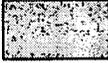
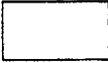
 m3companies
 GREG PICKETT

WICKENBURG RANCH
MASTER SITE PLAN
EXHIBIT B





RECORDERS MEMO: LEGIBILITY
QUESTIONABLE. FOR GOOD REPRODUCTION

-  PHASE 1
-  PHASE 2
-  PHASE 3
-  PHASE 4

March 2013



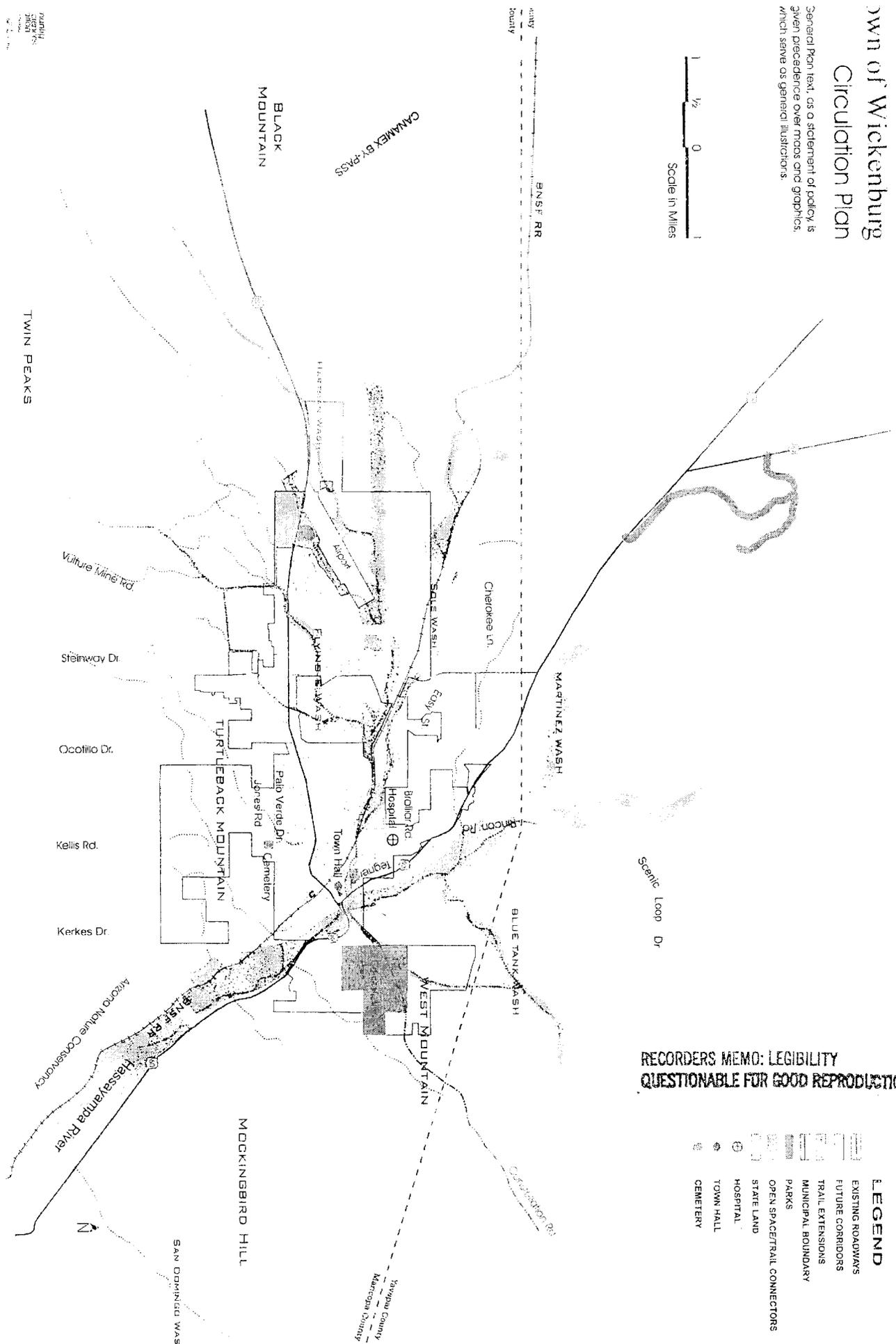

WICKENBURG RANCH
 MASTER PHASING PLAN
 EXHIBIT "F"

Community Entry



Town of Wickenburg Circulation Plan

General Plan text, as a statement of policy, is given precedence over maps and graphics, which serve as general illustrators.



RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION

- LEGEND**
- EXISTING ROADWAYS
 - FUTURE CORRIDORS
 - TRAIL EXTENSIONS
 - MUNICIPAL BOUNDARY
 - PARKS
 - OPEN SPACETRIL CONNECTORS
 - STATE LAND
 - HOSPITAL
 - TOWN HALL
 - CEMETERY

Hydrology
SPECIAL
TWIN PEAKS
MAY 1988

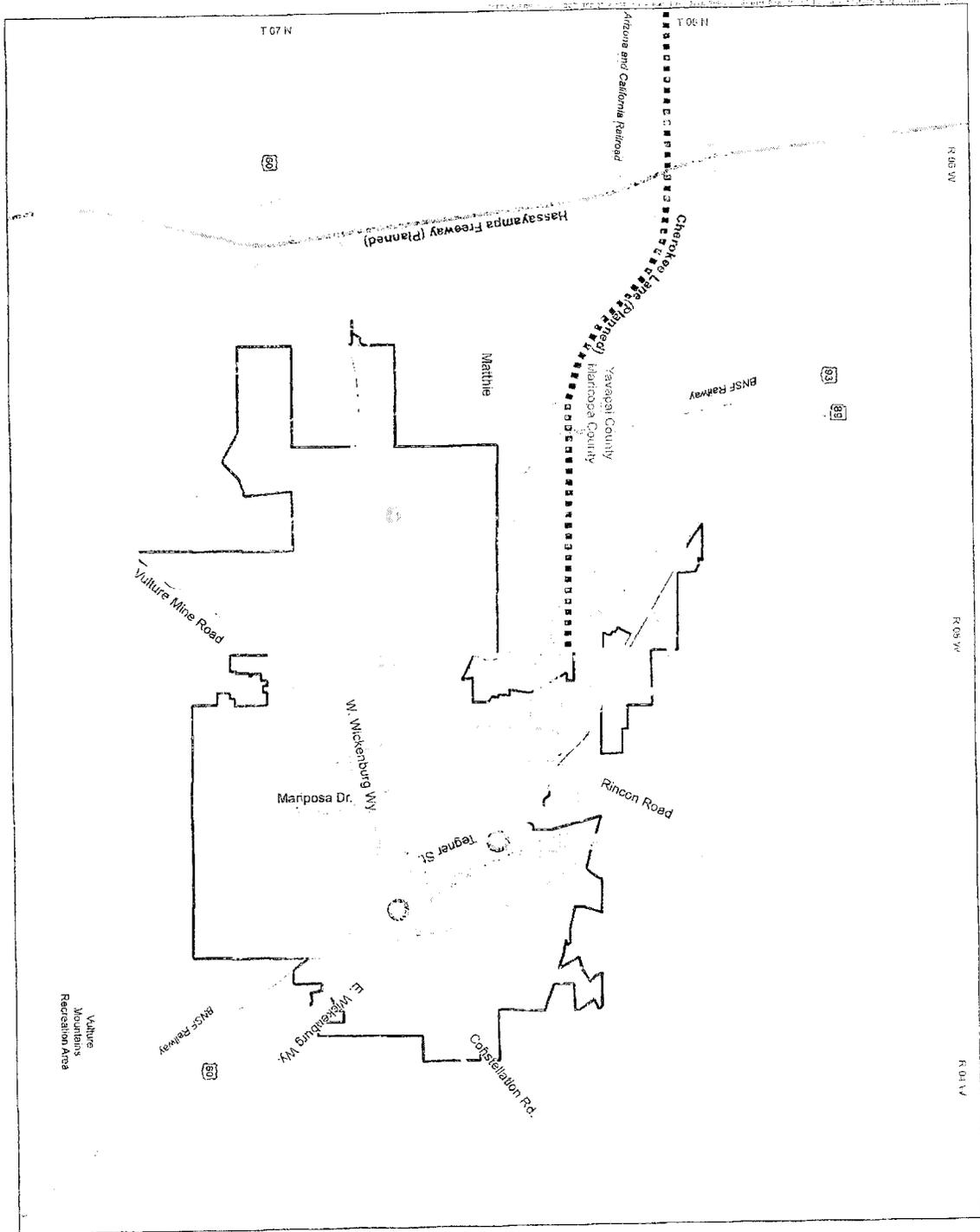
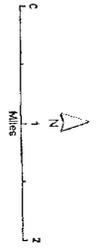


Figure 7
Circulation Plan

- LEGEND**
- Surface Management
 - Bureau of Land Management
 - State Trust
 - Private
 - Public
 - Land reclamation permit required to cross.
 - General Resource Features
 - Town of Wickenburg Boundary
 - County Boundary
 - U.S. Highway
 - State Highway
 - Local Road
 - Railroad
 - River/Wash
 - Wickenburg Municipal Airport
 - Hassayampa River
 - Vulture Mountains
 - Recreation Area
 - Township and Range
 - Boundary
 - Section Boundary
 - Future Transportation Corridor
 - Planning Management
 - Primary Network
 - Roundabout
 - Growth Node

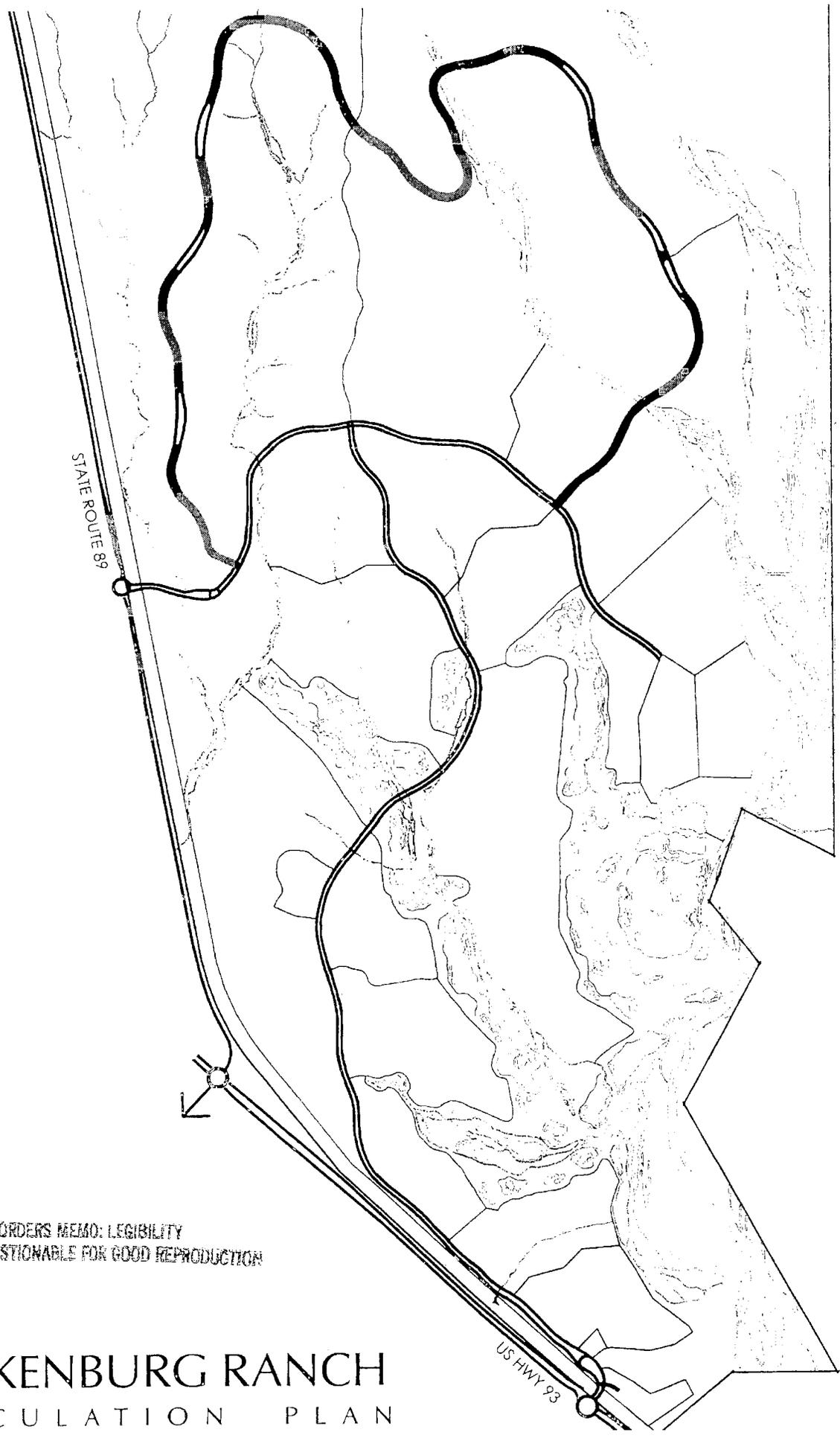
RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION



Scale:
Date: May 2007
Author: ADOT/2006, A. K. N. 1997/2006
Title: Circulation Plan 2007/2011



PLANNERS
SCALE: 1" = 400'
MAY 2008



RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION

WICKENBURG RANCH

CIRCULATION PLAN

**WATER SYSTEM TRANSFER AGREEMENT AND ESCROW
INSTRUCTIONS**

Among

**Wickenburg Ranch Water, LLC
an Arizona limited liability company;**

**Vanwick, LLC, an Arizona limited liability company, Van Development Co.,
Inc., a Kansas corporation, 5860 Development Inc., an Arizona corporation,
and JVT Investors, LLC, an Arizona limited liability company
collectively “Van Tuyl Entities”;**

and

**Town of Wickenburg,
a political subdivision of the State of Arizona,
“Town”**

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LIST OF EXHIBITS

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3. CC&N Legal Description
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5. Common Areas
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7. Bill of Sale
8. Special Warranty Deed
9. Retained Property
10. Assignment and Assumption Agreement
11. Affidavit of Real Property Value
12. Non-Foreign Affidavit

**WATER SYSTEM TRANSFER AGREEMENT
AND ESCROW INSTRUCTIONS**

DATED: Dated to be effective as of _____, 2013 (the "Effective Date").

PARTIES: This Water System Transfer Agreement and Escrow Instructions (the "Agreement" or "Transfer Agreement") is among Wickenburg Ranch Water, LLC, an Arizona limited liability company ("Water Company"); Vanwick, LLC, an Arizona limited liability company, Van Development Co., Inc., a Kansas corporation, 5860 Development Inc., an Arizona corporation, and JVT Investors, LLC, an Arizona limited liability company, and the Town of Wickenburg, a political subdivision of the State of Arizona ("Town");

All entities referred to herein are collectively referred to herein as "Parties" and individually as "Party".

RECITALS

- A. Wickenburg Ranch is a 2,162-acre master planned community ("Project"), as set forth in the legal description attached hereto as Exhibit 1 and mapped on Exhibit 2, collectively owned by Vanwick, LLC, Van Development Co., Inc., 5860 Development Inc., and JVT Investors, LLC ("Van Tuyl Entities").¹
- B. Water Company, owned by Vanwick LLC, was formed to provide the Development with potable water service ("Water Service").
- C. The Water Company has been granted a Certificate of Convenience and Necessity ("CC&N") by the Arizona Corporation Commission ("Commission") authorizing the Water Company to provide Water Service to the public within a defined geographic area, as set forth in the legal description attached hereto as Exhibit 3 and mapped on Exhibit 4. Accordingly, the Water Company has the right to provide Water Service to the public within the CC&N, subject to the regulation by the Commission and other governmental entities, including, without limitation, the Arizona Department of Water Resources ("ADWR"), the Arizona Department of Environmental Quality ("ADEQ") and Yavapai County. However, the Water Company has never actually commenced the business of rendering Water Service and none of the Water Company plant or property, or any portion thereof, is currently devoted to the business of rendering Water Service.
- D. In anticipation of the Project's full build-out, the Water Company secured from ADWR a Designation of Adequate Water Supply for groundwater use in the amount of 2,243 acre-feet annually for the Project ("Designation"). At build-out, the Project is projected to have a total water demand of 2,573 acre-feet annually. The additional 330 acre feet of water demand is to be met with reclaimed water produced from treated sewage generated within the Project and

¹ The Van Tuyl Entities have transferred a few parcels of Project land to Arizona Public Service Company, the Water Company and Wickenburg Ranch Wastewater LLC for use in the provision of utility service.

delivered for reuse (e.g., on the golf course and common areas as depicted on Exhibit 5 (collectively "Common Areas"))).

- E. The water infrastructure necessary to serve the public has been master planned as shown in Exhibit 6 ("Water Master Plan"). Portions of the infrastructure have already been constructed as listed in the Bill of Sale set forth in Exhibit 7, Attachment 1. As the Project grows, the Van Tuyl Entities will cause to be built all water infrastructure necessary to serve the Project.
- F. Town desires to receive from Water Company and Water Company desires to transfer to Town certain real property, personal property, rights and facilities described herein as the Transferred Assets and Water Company further desires to extinguish the CC&N issued by the Commission, all upon and subject to the terms and conditions set forth herein.
- G. The Parties understand that the transaction contemplated by this Agreement to occur at the Close of Escrow, as defined below, ("Transaction") will occur in conjunction with the Town's annexation of the Project in accordance with the terms of that certain Pre-Annexation and Development Agreement between the Parties, dated _____, 2013 (the Pre-Annexation and Development Agreement) to which this Agreement is Exhibit I.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises, agreements, representations and warranties set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. INCORPORATION OF RECITALS. All of the foregoing Recitals are hereby incorporated herein by reference as agreements of the Parties.

2. TERM. The Term of this Agreement shall commence on the Effective Date and shall automatically terminate on the 30th anniversary of the first day of the Term without the necessity of any notice, agreement, or recording by or between the Parties, unless one of the following apply:

2.1 If more than 50% but less than 95% of the lots within the Project have been issued building permits by the 30th anniversary of the Pre-Annexation and Development Agreement, this Agreement shall automatically extend, without the necessity of any notice, agreement, or recording by or between the Parties, an additional 10 years, for a total of 40 years, at which time this Agreement shall automatically terminate as to the Project without the necessity of any notice, agreement, or recording by or between the Parties;

2.2 This Agreement has otherwise been terminated pursuant to its terms or due to a breach of its terms; or

2.3 The Parties, by mutual written agreement, have established a different Term.

3. TRANSFER OF EXISTING INFRASTRUCTURE

3.1 Assets to be Transferred at Close of Escrow. Subject to the terms and conditions set forth in this Agreement, Water Company will convey, transfer, assign and deliver to Town, and Town will receive and assume from Water Company, upon Close of Escrow, which means the deliveries to be made by the Parties at the Closing Date in accordance with this Agreement, all of Water Company's right, title and interest in and to those assets of Water Company identified in the attachments to the Bill of Sale set forth in Exhibit 7 and Deed set forth in Exhibit 8 (collectively, the "Transferred Assets").

3.1.1 Good title to all Transferred Assets shall be conveyed to Town free and clear of all liens, restrictions and encumbrances of any kind whatsoever, except as approved by Town as set forth below.

3.1.2 Water Company and the Van Tuyl Entities warrant the Transferred Assets to be free of any and all defects in the manufacture, design and installation for a period of two years from the date of conveyance and transfer to Town. The Water Company and Van Tuyl Entities shall be responsible for all costs of repairing and replacing the infrastructure built to serve the Project potable water in a safe and reliable manner from time to time ("Water Improvements" or "Improvements") during this initial two year period; provided that Town shall cooperate in pursuing remedies against any applicable written warranty or bond transferred to Town with the Improvement.

3.1.3 The Town agrees to cooperate, in good faith, but without cost to the Town, to effectuate the transfer to Town or extinguishment of all permits and regulatory approvals associated with the Transferred Assets and the provision of Water Service by the Water Company.

3.1.4 Van Tuyl Entities shall, at their cost, conduct or cause to be conducted pressure tests and chlorination of all Transferred Assets within one hundred twenty (120) days prior to transfer of the Transferred Assets to the Town. Upon Close of Escrow, Town agrees to accept the Transferred Assets provided these assets pass commercially reasonable testing. The Town understands and agrees that roadways will not be constructed when the Transferred Assets underlying and adjacent to the roadways are tested and conveyed to the Town.

3.2 Retained Property. Van Tuyl Entities holds title to and will retain the wells, facilities and equipment listed in Exhibit 9 ("Retained Property"), for the purpose of meeting the water demands of the Common Areas described in Exhibit 5 with both water and effluent. The Retained Property includes: (a) the ability to withdraw, deliver and use water to meet the water demands of the Common Areas consistent with Arizona law; (b) the ability to receive, deliver, and use effluent produced by the Project and to be made available to the Van Tuyl entities by Town under this Agreement to meet the water demands of the Common Areas; and (c) the ability to operate, repair, maintain and remove and construct facilities to meet the water demands of the Common Areas consistent with the rules, regulations, laws and orders applicable thereto.

3.3 The Exhibits. Any Party may, prior to or at the Close of Escrow, by notice in accordance with the terms of this Agreement, propose to amend or create any Exhibit to this

Agreement in order to add information or correct information previously supplied and shall provide all information related to the proposed updated Exhibit to the other Parties within ten (10) days of such notice. No proposed update of any Exhibit shall be effective and made part of this Agreement unless and until accepted in writing by all Parties. No such amendment shall be evidence, in and of itself, that the representations and warranties in the corresponding section are no longer true and correct.

4. TRANSFER OF INFRASTRUCTURE BUILT AFTER THE EFFECTIVE DATE

4.1 Construction of Water Improvements. Van Tuyl Entities will build or cause to be built all water improvements necessary to serve the Project in a safe and reliable manner from time to time (“Improvements” or “Water Improvements”) pursuant to the Water Master Plan. All Improvements installed after the Effective Date shall:

4.1.1 Meet the standards and specifications set forth in the Water Master Plan;

4.1.2 Be installed pursuant to construction contracts that are:

4.1.2.1 Subject to competitive bid or other process and procedure applicable to the construction of Town structures and improvements; and

4.1.2.2 Contain all provisions required of municipal contracts by the Town Code or state law, including, without limitations provisions for performance and payment bonds, insurance, conflict of interest, e-verify and scrutinized business operations; and

4.1.3 Be located on or within Town owned land or Town easements and rights-of-way acceptable to Town and Van Tuyl Entities shall secure and convey, or cause to be secured and conveyed, such lands, easements and rights-of-way free of any encumbrance, condition or restriction of any kind, whatsoever, and in a form acceptable to Town.

4.1.4 Be free of all defects in the manufacture, design and installation for a period of two years from the date of conveyance and transfer to Town. The Water Company and Van Tuyl Entities shall be responsible for all costs of repairing and replacing the Improvements during this initial two year period; provided that Town shall cooperate in pursuing remedies against any applicable written warranty or bond transferred to Town with the Improvement.

4.1.5 Shall undergo commercially reasonable testing, including pressure and chlorination tests, within one hundred twenty (60) days prior to transfer or conveyance to Town at Van Tuyl Entities’ cost.

4.2 Phasing. Van Tuyl Entities may construct the Improvements in phases, but peak demand, as estimated by ADEQ and operational redundancy consistent with prudent utility practices, for all potentially occupied residences and commercial facilities must be met at all times.

4.3 Construction Commencement. Prior to commencement of the construction of any Improvements after the Effective Date, Van Tuyl Entities will provide Town notice and shall coordinate inspection and testing of the Improvements with Town in a manner consistent with the Town's normal practice or as agreed to in writing by Town for each phase of the Project. The Van Tuyl Entities will provide Town written notification of the completion of each specific Improvement or phase. The manner and timing of such notice shall be in accordance with specifications established by Town. The Van Tuyl Entities and Town shall cooperate and agree to execute all necessary and appropriate instruments and take all actions reasonably requested by the other in order to extinguish any easements and convey any abandoned or dedicated rights-of-way undertaken in anticipation of Van Tuyl Entities' construction of the Improvements.

4.4 Use of Rights-of-Way and Easements. Van Tuyl Entities has the right to reasonable use of all Town rights-of-way and easements to construct the Water Improvements. This right shall be subject to the Town's police powers and all normal and customary restrictions and fees related thereto, including, without limitation, permitting and licensing requirements.

4.5 Town's Approval of Improvement Plans and Inspection. Van Tuyl Entities will construct the Improvements consistent with the Water Master Plan and Town hereby approves such Water Master Plan. Van Tuyl Entities warrant that the water-related facilities as set forth in the Water Master Plan will provide at least the minimum fire flows and flow duration recommended by the International Fire Code, 2003 edition, at the Project's currently approved densities and for any increased densities requested by the Van Tuyl Entities and approved by the Town.

4.5.1 If at the time the Van Tuyl Entities submit construction plans to the Town there exists improved and reasonably affordable technology that is compatible with the Improvements, then Town may propose the use of the improved technology. Van Tuyl Entities shall amend the construction plans to incorporate the Town's proposed technology unless Van Tuyl Entities reasonably determine the technology to be either incompatible or unduly expensive in comparison to the originally planned Improvement set forth in the Master Plan and related plans. Town will review the detailed plans and specifications upon submittal and payment of applicable review fees in accordance with Town's normal and customary procedures.

4.5.2 Van Tuyl Entities will arrange for Town inspections of Improvements and Town will conduct such inspections in accordance with Town's normal and customary procedures to closeout permits and issue an Approval to Operate upon completion of the Improvements. Written request for inspection shall be provided to Town prior to the burying of any Improvement constructed after the Effective Date.

4.6 Government Approvals. Van Tuyl Entities, with the cooperation of Town, will obtain any required approvals of the final plans, specifications, licensure and permits for the Improvements by any and all federal, state, municipal and other governmental authorities, offices and departments having jurisdiction in the matter.

4.7 Completion Requirements. Van Tuyl Entities will follow good utility practices and the applicable governmental rules, regulations, and policies when designing, permitting, constructing, installing, and connecting the Improvements. The Improvements will be

constructed in a good, careful, proper, and workmanlike manner in accordance with standard practices applied uniformly throughout the Town. Upon completion of the Improvements, Van Tuyl Entities will submit as-built drawings, testing and inspection results, operations manuals, spare parts and components and assign warranties to the Town.

4.8 Transfer of Improvements. Within two (2) business days of receiving written notice from Town that inspection and any required testing is complete and the Improvements are acceptable to Town, all right, title and interest to the completed Improvements shall automatically transfer to Town. Van Tuyl Entities shall provide Town documentation evidencing the transfer, such as a bill of sale, and shall take such action as necessary to provide good title to the Improvements free and clear of all liens, restrictions, conditions and encumbrances of any kind whatsoever.

5. VAN TUYL ENTITIES REIMBURSEMENT.

5.1 Service Connection Fees. In consideration of the transfer by Water Company of the Transferred Assets, the deletion and extinguishment of the CC&N and the representations, warranties and covenants set forth herein, and the design, construction, installation and transfer of Water Improvements by Van Tuyl Entities, Town shall, to the extent allowed by law, and in addition to any other fees and charges for Water Service, establish, collect and pay to Van Tuyl Entities, in the manner set forth below, a fee for connecting each lot to the potable water system ("Connection Fee"). The Connection Fee shall be collected upon issuance of a building permit as a condition to providing the applicable Water Service to any customer within the Project, or otherwise served by the Transferred Assets or Improvements, excluding the Common Areas and lots dedicated to providing Water Service, during the term of this Agreement. If it is determined that the Connection Fee is not legally permissible, the Parties shall confer and agree upon another form of collection for reimbursement. If the Parties do not reach an agreement within ninety (90) days, then this issue will be remedied consistent with the remedy provisions described in the Pre-Annexation and Development Agreement. The intent of the remedy will be to devise a method that will provide the same amount of reimbursement as the Connection Fee would have produced.

5.2 Reimbursable Water Improvement Costs. "Reimbursable Water Costs" will be composed of the following costs duly supported by contracts and invoices to be supplied by the Water Company and Van Tuyl Entities:

5.2.1 *Existing Improvements*. \$1,916,618.77 (subject to confirmation and adjustment) for the actual cost of constructing and installing water-related Transferred Assets conveyed to Town at Close of Escrow - including inspection, testing, permitting costs, and professional expenses - set forth in Exhibit 7, Attachment 1;

5.2.2 *Future Improvements*. The actual costs to be incurred by Van Tuyl Entities for the design, construction and installation of backbone Improvements (i.e., water lines larger than 6 inches in diameter, wells and appurtenant facilities, storage facilities, pump stations, and water treatment facilities) to be transferred to the Town post-Closing including reasonable professional and administrative costs for engineering, surveying, inspection, and permitting;

5.2.3 Less any sums received by Van Tuyl Entities from sources other than the Connection Fees to pay for the water-related Transferred Assets and Improvements, including, but not limited to, reimbursement of eligible costs from a community facilities district. It is the Parties intention and Town agrees to support the Van Tuyl Entities recovery of interest of up to 3% per year from the date of conveyance until reimbursement for any Improvements financed by a community facilities district; and

5.2.4 Reimbursable Water Costs do not include fees paid to Town or Town representatives and agents for fees and charges related to the Water Improvements.

5.3 Establishing Connection Fees: Town shall establish the Connection Fee based upon the actual and estimated Reimbursable Water Costs per lot within the Project, or to be served by the Improvement, excluding the Common Areas and lots dedicated to providing Water Service, as follows:

5.3.1 Annually, on or before February 1st during the term of this Agreement, the Van Tuyl Entities shall submit to Town its proposed update of actual and estimated Reimbursable Water Costs and any reimbursement or payment therefore from other sources, together with appropriate documentary support. Town and the Van Tuyl Entities shall cooperatively work to mutually agree upon the level of Reimbursable Water Costs. Town shall adjust the Connection Fees up or down from time to time as it deems appropriate in order to collect the Reimbursable Water Costs through the connections fees through build-out of the Project. At no time shall the Town make adjustments to the Connection Fees which result in the Van Tuyl Entities collecting less than the Reimbursable Water Costs.

5.3.2 The Connection Fee per lot will be calculated by dividing the total Reimbursable Costs related to each type of Water Service by the number of equivalent residential dwelling units that are estimated to require Water Service within the Project or otherwise served by the Improvements. The Connection Fee charged per lot shall then be based upon an approximation of the equivalent residential dwelling unit demand developed on the lot.

5.3.3 The Connection Fees described herein will be in addition to all other fees levied by the Town, including, but not limited user fees, service fees, and other utility connection fees.

5.4 Collection and Distribution of the Connection Fees,

5.4.1 *Payment by Lot Owner.* Town shall collect a Connection Fee when the lot owner, or agent thereof, applies for a building permit to construct a structure on the lot or seeks to initiate Water Service at the lot during the term of this Agreement. All Connection Fee payments received by Town will be placed and maintained in a separate, restricted Connection Fee account by Town. This provision applies to lots both within and outside the Project.

5.4.2 *Reimbursement to Vanwick.* Semi-annually, on or before July 30th and January 30th, or 30 days after collecting 50 Connection Fees, whichever occurs first (the "Collection Period"), Town shall deliver the Connection Fees collected during the Collection

Period (the "Period Amount") to Vanwick, LLC and shall credit the Period Amount against the applicable Reimbursable Water Costs. The funds shall be accompanied by a report from Town setting forth the number of permits issued, the amount collected and any offsets for amounts due to Town. Town shall not disburse amounts collected as Connection Fees to Vanwick, LLC in excess of the Reimbursable Water Costs.

5.4.3 *CFD Option.* The Van Tuyl Entities may, at their option, petition Town to form a Community Facilities District ("CFD") within the Project as an alternative method of funding all or a portion of the Reimbursable Water Costs. In the event a CFD is created, the CFD funding for Reimbursable Water Costs shall be limited to funding for Reimbursable Water Costs for Improvements transferred to the CFD. Town may, but shall not be required to transfer Improvements to the CFD that have been transferred to Town under the terms of the Agreement prior to the creation of the CFD. Nothing herein shall require Town to approve the creation of a CFD that it deems not in the best interests of Town.

5.4.4 *Assignment.* Vanwick, LLC has the right to assign payments from the Town to any other person or entity. Notice of such assignment must be delivered to the Town in writing and will become effective upon receipt by the Town. Such assignment shall not be construed to increase Town's obligations or the Vanwick, LLC's rights under this Agreement nor shall this Agreement be construed to limit claims and remedies against any assignee, including the right to set off against payments.

6. OPERATION AND MAINTENANCE OF IMPROVEMENTS.

6.1 Operation and Maintenance of Improvements. Upon the transfer of the Improvements to Town, Town will operate and maintain the Improvements consistent with its operation and maintenance of similar assets, subject to the terms and conditions of the Agreement. Town will provide Water Service in accordance with standard practices for the Town; provided, however, Town shall have no obligation to extend Water Service to any lot within the Project for which the Van Tuyl Entities have not constructed the necessary Water Improvements.

6.2 Customer Rates. Except for Connection Fees established pursuant to this Agreement, the Town shall establish rates, charges and fees for water customers within the Project in the same manner as they are established for other Town customers generally. While it is anticipated that rates, charges and fees within the Project will be the same as those established in the Town generally, nothing herein shall preclude Town from establishing different rates, charges and fees for the Project if cost justified, after considering any subsidy payments made hereunder by the Van Tuyl Entities. However, the rates, charges and fees for the Project shall be no more than 100% higher than the same rates, charges, and fees for other Town customers without the consent of Vanwick, LLC.

6.3 Operating Losses. The Parties understand that during the initial Project build out, the operations and maintenance costs will likely exceed revenues generated by Water Service. Therefore, notwithstanding any conflicting terms in this Agreement, the Van Tuyl Entities agree to provide Town payments to subsidize the Town's operation, repair and maintenance of the Improvements ("Subsidy Payments") as set forth below:

6.3.1 Subsidy Payments will equal the difference between the operating revenues received by Town from Water Service provided within the Project during the calendar year against operating expenses incurred by Town to provide Water Service within the Project during the calendar year.

6.3.2 To calculate Subsidy Payments, operating expenses shall be computed in accordance with Town's customary accounting practices and Governmental Accounting Standards Board ("GASB") standards, excluding: (i) depreciation expense for capitalized Improvements that was covered by revenues collected from water customers within the Project;² and (ii) repair or replacement of capitalized Improvements.

6.3.3 If a capitalized Improvement is repaired or replaced during the Subsidy Payment period, which terminates pursuant to 6.3.6, the responsibility for the expense is as follows:

6.3.3.3 Van Tuyl Entities shall be responsible for all of the costs to repair or replace the capitalized Improvement for a period of two year period following conveyance of the Improvement to the Town.

6.3.3.4 Thereafter, the repair or replacement expense will be paid as prioritized below:

6.3.3.4.1. First, the Town shall use its revenues collected to cover depreciation expense to pay the cost of repair or replacement;

6.3.3.4.2. Second, if the Town's accumulated depreciation is not sufficient to pay the expense, then the Town shall use its revenues collected to support its reserve fund to pay the cost of repair or replacement;

6.3.3.4.3. Third, if the Town's accumulated depreciation and reserve funds combined are not sufficient to pay the cost of repair or replacement, then Van Tuyl Entities will pay the remaining balance through the Subsidy Payment.

6.3.4 Town will, during its annual budget process, project operating expenses for the Water Service for the calendar year along with the projected revenues for the Water Service for the Project. No later than July 1, Van Tuyl Entities shall deposit the difference between the projected operating expenses and the projected revenue for the Subsidy Payments with Town.

² For example, assume pursuant to GASB depreciation expense was \$1,000 in a calendar year. Further assume the Town's water rates are calculated to recover depreciation and the Town collected \$200 in revenues to cover depreciation expense. Van Tuyl Entities would be responsible for subsidizing the \$800 in depreciation expense not met by revenues.

6.3.5 At the end of each fiscal year, Town shall provide an accounting of the actual operating expenses and actual revenues received for the Water Service for the Project. If the Subsidy Payments made by the Van Tuyl Entities for the prior calendar year are less than the actual operating loss, the Van Tuyl Entities shall pay the difference within thirty (30) days of written notice by Town. If the Subsidy Payments exceed the operating losses, the over-payment by Van Tuyl Entities shall be applied to the deposit for the Subsidy Payments for the next calendar year.

6.3.6 Van Tuyl Entities' obligation to make Subsidy Payments will terminate when the Town's annual operating revenues equal or exceed its annual operating expenses, excluding revenue generated from sales of water for construction or hauling.

6.4 Adequate Water Supply. Town will take no action to reduce or cancel the Designation and once transferred to Town, shall comply with the terms of the Designation, including making all filings required by ADWR and agrees to seek to extend the Designation through the term of this Agreement. Additionally, during the term of this Agreement, Town shall not (a) allow the use of the Designation by any property outside the Project, or (b) interconnect the Improvements with any other water distribution system without the written consent of the Van Tuyl Entities, which consent shall not be unreasonably withheld. The Parties acknowledge that the use of the groundwater by the Van Tuyl Entities on the Common Areas is to be included in the current or committed demand as part of the Designation and Van Tuyl Entities shall provide Town its annual usage on the Common Areas no later than February 15th of each year. The Town agrees it shall not consent to become the Water Service provider of any subdivision that does not establish water adequacy through ADWR for any subdivision within the same subbasin as the Project and would increase the overall groundwater demand in the subbasin recognized by ADWR as of the Effective Date without the written consent of the Van Tuyl Entities, which consent shall not be unreasonably withheld.

7. PRELIMINARY TITLE REPORT AND OBJECTIONS.

7.1 The Report and Objections.

7.1.1 Upon delivery to _____ (Attn: _____) ("Escrow Agent") of triplicate executed originals of this Agreement by Water Company and Town, the date of such delivery deposit shall be referred to herein as the "Opening of Escrow". Escrow Agent shall administer the "Escrow" in accordance with the terms of this Agreement. Water Company shall cause Escrow Agent to issue and deliver to the Parties a preliminary title report (commitment for title insurance) concerning the real property it is transferring to the Town as described in Exhibit 8, Attachment 1 ("Real Property") together with legible copies of all instruments referred to therein (collectively the "Report"), by 5:00 p.m. local time on the 30th day following the Opening of Escrow. The Report is to be preliminary to the extended coverage owner's policy of title insurance to be issued to Town by Escrow Agent insuring Town's fee simple title to the Real Property and Improvements an amount to be determined by Town prior to Closing ("Owner's Policy"). Water Company shall pay only the premium for a standard Owner's Policy. Town shall pay the costs associated with any extended coverage as well as any endorsements requested by Town.

7.1.2 Town shall have until 5:00 p.m. local time on the 30th day after the Town's receipt of the Report in which to advise Water Company and Escrow Agent, in writing, either: (i) that the condition of title to the Real Property as evidenced by the Report is acceptable; or, (ii) to object to any liens, encumbrances or other exceptions in the Report (excluding real property taxes and assessments not yet due and payable which may constitute a lien on the Real Property) (collectively the "Town's Objections"). Any exceptions in the Report which Town accepts shall be permitted exceptions ("Permitted Exceptions"). If, for any reason, Town shall not have notified Water Company and Escrow Agent of Town's Objections within the time specified in this, Water Company shall provide written notice to Town of Town's failure to issue Town's Objections. If Town does not notify Water Company and Escrow Agent of Town's Objections before 5:00 p.m. local time on the 10th day after Town's Receipt of such notice, Town shall be deemed to have approved of the condition of title of the Real Property as shown by the Report.

7.1.3 If Town's Objections are made within the time specified, Water Company shall attempt, to the extent commercially reasonable, to cure Town's Objections within forty-five (45) days of receipt of same. If Water Company is unable to cure Town's Objections within such forth-five-day period, Town shall (i) waive, in writing, the curing of such Town's Objections, (ii) provide additional time to cure Town's objection, or (iii) cancel this Agreement and except as otherwise provided in this Agreement, neither Water Company nor Town shall have any further liability or obligation under this Agreement. If Town does not provide the written notice of additional time to cure or waiver of Town's Objections within ten (10) days following the end of the forty-five-day period, Town shall be deemed to have elected to cancel this Agreement.

7.1.4 Escrow Agent shall issue and deliver to the Parties any supplemental title report(s) deemed necessary by Escrow Agent ("Supplemental Report"). Town shall have until 5:00 p.m. local time on the 20th day after Town's receipt of any Supplemental Report in which to advise Water Company and Escrow Agent, in writing, of any objections Town may have to any item disclosed by the Supplemental Report(s) which was not set forth in the Report or a previous Supplemental Report ("Supplemental Objections"). If, for any reason, Town shall not have notified Water Company and Escrow Agent of Town's Supplemental Objections within the time specified in this Section, Water Company shall provide written notice to Town of Town's failure to issue Town's Objections. If Town does not notify Water Company and Escrow Agent of Town's Supplemental Objections before 5:00 p.m. local time on the 20th day after Town's Receipt of such notice, Town shall be deemed to have approved of the condition of title of the Real Property as shown by the Supplemental Report. The provisions of Section shall apply with regard to any attempted title cure by Water Company, it being agreed that Water Company shall have until 5:00 p.m. local time on the 20th day after Water Company's receipt of the Supplemental Objections, if any, within which Water Company, in Water Company's sole discretion, may attempt to cure the Supplemental Objections.

8. TOWN'S DUE DILIGENCE.

8.1 Access to the Real Property. Water Company shall permit Town access to the Real Property at any commercially reasonable time or times, provided Town shall give Water

Company at least twenty-four (24) hours prior telephonic notice prior to entry upon the Real Property, to conduct Town's due diligence investigation and Town and Water Company shall schedule a mutually convenient time for Town's entry upon the Real Property.

8.2 Town's Restoration of the Real Property. Town, at Town's sole cost and on or before the earlier of (a) Water Company's request, or (b) termination of this Agreement, shall repair and restore any damage to the Real Property or the improvements caused by any entry, testing and/or inspection of, on or upon the Real Property or the Improvements by Town or Town's representatives ("Town's Restoration Obligation").

9. CONDITIONS PRECEDENT.

9.1 Town's Conditions Precedent. Town's obligation to perform under this Agreement is expressly subject to the satisfaction (or waiver) at or prior to Close of Escrow of the following:

9.1.1 Water Company and Van Tuyl Entities shall have performed in all material respects their obligations under this Agreement at or prior to Close of Escrow pursuant to the terms hereof.

9.1.2 Escrow Agent shall have issued to Town the Owner's Policy (or a binding written commitment therefor) subject only to the Permitted Exceptions and those other matters, if any, approved or deemed approved by Town pursuant to this Agreement.

9.1.3 Town's Council ("Council") shall have approved this Agreement and the Pre-Annexation and Development Agreement, which approval shall not be subject to appeal or reversal after expiration of the thirty (30) day period from the date of approval (the "Council Approval"). The Council Approval shall be obtained by Town at Town's sole cost.

9.1.4 The Commission shall have entered a final order approving the extinguishing/cancelling the Water Company's CC&N and transfer of the Transferred Assets to the Town ("Commission Order") on terms and conditions acceptable to Town.

9.2 Water Company's Conditions Precedent.

9.2.1 Water Company's obligation to perform under this Agreement is expressly subject to the satisfaction (or waiver) at or prior to Close of Escrow of the following:

9.2.2 Town shall have performed in all material respects its obligations under this Agreement required to be performed by it at or prior to Close of Escrow pursuant to the terms hereof.

9.2.3 The Commission shall have entered the Commission Order on terms and conditions acceptable to Water Company.

10. PRE-CLOSING COVENANTS OF THE PARTIES' APPROVALS.

10.1 Commission Approval.

10.1.1 Within forty (40) days after Opening of Escrow, Water Company shall file with the Commission an application ("Application") requesting the permanent cancellation and extinguishment of the CC&N and approval of the transfer of the Transferred Assets to Town subject to the consummation of the Transaction.

10.1.2 Water Company shall be responsible for preparing, filing and prosecuting the Application. Town agrees to support the Application filed by Water Company and shall expeditiously provide information reasonably requested by Water Company in prosecuting the Application, including letters of support, written testimony, responses to data requests and other discovery, and attending meetings, public comment sessions, procedural conferences, hearings and open meetings.

10.1.3 In the event the Commission denies the Application or includes terms or conditions unacceptable to any Party, the Parties shall work cooperatively to remedy, to the extent commercially reasonable, the circumstance or circumstances which caused the Commission to deny the Application.

10.1.4 Upon Commission approval of the Application and Close of Escrow, Town shall assume the sole right, duty and obligation to provide Water Service within the Project and shall take all necessary and appropriate actions relating to such water utility service.

10.2 ADEQ and ADWR Approvals.

10.2.1 The Parties will cooperate and work in good faith to transfer all permits, rights, and obligations within the jurisdiction of ADEQ and ADWR to the Town.

10.3 Further Assurances. Subject to the terms and conditions of this Agreement, each Party will use commercially reasonable efforts to (i) take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable under applicable laws to consummate the Transaction as soon as practicable after the Opening of Escrow, (ii) obtain and maintain all approvals required to be obtained from any third party and/or any Governmental Agency that are necessary to consummate the Transaction and (iii) obtain and maintain all financing necessary to consummate the Transaction.

10.4 Covenant to Satisfy Conditions. Water Company will use its commercially reasonable efforts to ensure that the conditions set forth in Section 9.1 of this Agreement are satisfied, insofar as such matters are within the control of Water Company. Town will use its commercially reasonable efforts to ensure that the conditions set forth in Section 9.2 of this Agreement are satisfied, insofar as such matters are within the control of Town.

11. THE CLOSING.

11.1 Time, Date and Place of Closing. The Transaction shall close and all deliveries to be made at Close of Escrow shall take place at the office of Escrow Agent either: (i) within thirty (30) days of receipt of the Commission Order defined below; or (ii) on such other date and at such other place and/or time as the Parties may agree ("Closing Date"), whichever is later. Notwithstanding the foregoing, the Improvements will not be transferred to the Town until the

Pre-Annexation and Development Agreement between the Parties is approved; the Project by the Town Council; and is officially annexed into the Town, which shall occur within sixty (60) days of the date of the Commission Order unless the Parties mutually agree to extend the Closing Date beyond such date.

11.2 Water Company's Obligations at Close of Escrow. At or prior to Close of Escrow, Water Company shall execute and/or deliver or cause to be executed and/or delivered to Town:

11.2.1 A bill of sale from Water Company to Town, a form of which is attached hereto as Exhibit 7, with the appropriate attachment;

11.2.2 An assignment and assumption agreement, a form of which is attached hereto as Exhibit 10, with the appropriate attachment ("Assignment and Assumption Agreement") including permits and licenses, if any;

11.2.3 A special warranty deed with respect to Water Company's interest in the Real Property attached hereto as Exhibit 8, along with an executed Affidavit of Real Property Value, a form of which is attached hereto as Exhibit 11;

11.2.4 A sworn affidavit, in the form of Exhibit 12 attached hereto ("Non-Foreign Affidavit") stating under penalty of perjury that Water Company is not a "foreign person" as such term is defined in Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended ("Code"); and

11.2.5 The Commission Order.

11.3 Town's Obligations at Close of Escrow. At or prior to Close of Escrow, Town shall execute and/or deliver or cause to be executed and/or delivered to Water Company the Assignment and Assumption Agreement.

11.4 Transfer Documents. The Bill of Sale, the Assignment and Assumption Agreement, the Deed and all documents which may be necessary to transfer the Assets are hereinafter collectively referred to as the "Transfer Documents."

12. WATER COMPANY'S AND VAN TUYL ENTITIES' REPRESENTATIONS AND WARRANTIES. Subject to the terms, conditions and limitations set forth in this Agreement, Water Company and Van Tuyl Entities hereby represent and warrant to Town as follows:

12.1 The Water Company has not and up to Close of Escrow will not devote any portion of the Transferred Assets to the business of or services rendered by a public utility.

12.2 Subject only to the receipt of the Commission Order, the Water Company and Van Tuyl Entities have all the requisite power, capacity and authority to execute, deliver and perform their respective obligations under this Agreement, including the Transfer Documents.

12.3 The Water Company and Van Tuyl Entities are duly organized, validly existing, and in good standing under the laws of the State of Arizona and/or other applicable state laws.

12.4 This Agreement has been duly executed and delivered by the Water Company and Van Tuyl Entities and constitutes a legally binding and enforceable obligation of the Water Company and Van Tuyl Entities enforceable against the Water Company and Van Tuyl Entities in accordance with its terms.

12.5 There are no unrecorded leases, which may affect title to the Real Property.

12.6 Water Company and Van Tuyl Entities have not received any notice of violation with regard to any applicable regulation, ordinance, requirement, covenant, condition or restriction from any Governmental Agency.

12.7 To the knowledge of Water Company and Van Tuyl Entities, there are and have been no violations by Water Company of any laws which could reasonably be expected to have a material adverse effect on the Assets or Town's ability to provide Utility Service to the Project following the Closing, and, to Water Company's and Van Tuyl Entities' knowledge, no violations of any environments, health or safety laws have been committed on the Real Property.

12.8 To the knowledge of Water Company and Van Tuyl Entities, no legal action has been undertaken or is threatened with respect to or in any manner affecting the Transferred Assets.

12.9 This Agreement and its consummation will not conflict with or result in a breach of any agreement, judgment, order or government permit, nor will it result in the creation of a lien, or require consent of a third Party or Governmental Agency, except as expressly set forth elsewhere in the Agreement.

12.10 Except for the approval of the Commission and consent of Governmental authorities to the transfer of applicable permits, no consent of any third party is required in order for Water Company and Van Tuyl Entities to enter into this Agreement and perform Water Company's obligations hereunder.

13. TOWN'S REPRESENTATIONS AND WARRANTIES. Subject to the terms, conditions and limitations set forth in this Agreement, Town hereby represents and warrants to Water Company and Van Tuyl Entities as follows:

13.1 Subject only to receipt of Council Approval, to Town's knowledge, it has full power and authority to execute, deliver and perform Town's obligations under this Agreement as well as the Transfer Documents.

13.2 To Town's knowledge, there are no actions or proceedings pending or threatened against Town which may whatsoever affect the validity or enforceability of this Agreement or any of the Transfer Documents.

13.3 The execution, delivery and performance of this Agreement and the Transfer Documents have not and will not constitute a breach or default under any other agreement, law or court order under which Town is a Party or may be bound.

14. PRE-CLOSING COVENANTS OF THE PARTIES.

14.1 Prior to Close of Escrow or any earlier termination of this Agreement, Water Company will not devote any plant or property being transferred to Town under this Agreement to the public utility business or to rendering public Water Service and shall not enter into or execute any employment, management or service contract with respect to the rendering of Water Service unless directed to do so by the Commission. When any such direction is received, Water Company shall contemporaneously deliver a copy thereof to Town.

14.2 All bills or other charges, costs or expenses arising out of or in connection with or resulting from Water Company's use, ownership, or operation of the Transferred Assets up to Close of Escrow, including all costs associated with the Escrow and Close of Escrow shall be paid in full by Water Company on or before Close of Escrow. Water Company's obligations under this Section shall survive Close of Escrow.

14.3 Water Company and Van Tuyl Entities agree that, between the Effective Date and Close of Escrow or any earlier termination of this Agreement, Water Company, at Water Company's sole cost, shall: (a) maintain the Transferred Assets in their current condition; (b) pay, in the normal course of business, all sums due for work, materials or services furnished or otherwise incurred in the ownership, use or operation of the Transferred Assets, but in no event will the failure to pay prior to Close of Escrow relieve Water Company of its obligation to deliver the Transferred Assets to Town free of mechanics', material suppliers' and similar liens for work, materials or services furnished with respect to the Transferred Assets prior to Close of Escrow; (c) comply, in all material respects, with all Legal Requirements applicable to Water Company; (d) except as required by a Governmental Agency not remove or permit any Improvements to be removed from the Real Property without the prior written consent of Town; and (e) Water Company shall not, by voluntary or intentional act or omission to act, further cause or create any easement, encumbrance, or mechanic's or materialmen's liens, and/or similar liens or encumbrances to arise or to be imposed upon the Transferred Assets or any portion thereof, that will affect title thereto subsequent to Close of Escrow without Town's prior written consent, which consent may be withheld at Town's sole discretion.

15. SURVIVAL PERIOD. All representations made in this Agreement by either Party shall survive the execution and delivery of this Agreement, the cancellation of this Agreement and the Close of Escrow.

16. POST-CLOSING MAINTENANCE OF AND ACCESS TO INFORMATION. Water Company, Van Tuyl Entities and Town acknowledge that after Close of Escrow, Water Company, Van Tuyl Entities or Town may need access to information or documents related to this Transaction in the control or possession of the other Party for the purposes of concluding the Transaction, tax returns or audits, compliance with the government reimbursement programs and other laws and regulations, and the prosecution or defense of third Party claims. Accordingly, the Parties shall keep, preserve and maintain in the ordinary course of business, and as required by law and relevant insurance carriers, all books, records, documents and other information in the possession or control of such Party and relevant to the foregoing purposes for a period of five (5) years from Close of Escrow or such longer period of time as may be required by any Legal Requirement.

17. BROKER'S COMMISSION. The Parties represent and warrant to one another that they have not dealt with any finder, broker or realtor in connection with this Agreement. If any person shall assert a claim to a finder's fee or brokerage commission on account of alleged employment as a finder or broker in connection with the Transaction, the Party under whom the finder or broker is claiming shall indemnify and hold the other Party harmless from and against any such claim and all costs, expenses and liabilities incurred in connection with such claim or any action or proceeding brought on such claim, including, but not limited to, counsel and witness fees and court costs in defending against such claims. The provisions of this Section shall survive Close of Escrow or the earlier termination of this Agreement.

18. ASSIGNMENT. The burdens of this Agreement are binding upon, and the benefits inure to, all successors in interest of the Parties to this Agreement and constitute covenants that run with the land. Except as otherwise specifically provided in this Agreement, Van Tuyl Entities' rights and obligations hereunder shall only be assigned to a person or entity that has acquired the Property, or a portion thereof, and shall be assigned by a written instrument, recorded in the official records of Yavapai County, Arizona, expressly assigning such rights and obligations. In the event of a complete or partial assignment of Van Tuyl Entities' rights and obligations hereunder, except an assignment for collateral purposes only, Van Tuyl Entities' liability under this Agreement shall terminate. Nothing in this Agreement shall operate to restrict Van Tuyl Entities' ability to assign less than all of Van Tuyl Entities' rights and obligations under this Agreement to those persons or entities that acquire any portion of the Property. Notwithstanding the foregoing, the ongoing ownership, operation and maintenance obligations in connection with this Agreement may be assigned to an affiliate, acquirer, or owners' association. However, prior to any assignment, Van Tuyl Entities must reasonably determine that such affiliate, acquirer, or association has the ability to perform the obligations under the terms of the Agreement and notify Town of any pending assignment and the results of Van Tuyl Entities' determination that the affiliate, acquirer, or association has the ability to perform the obligations under the terms of the Agreement. No assignment shall be finalized until Town has consented, such consent to not be unreasonably withheld. Notwithstanding any other provisions of this Agreement, Van Tuyl Entities may assign all or part of Van Tuyl Entities' rights and duties under this Agreement as collateral to any financial institution from which Van Tuyl Entities' has borrowed funds for use developing the Project.

19. RISK OF LOSS. Prior to the transfer of the Improvements to the Town, Van Tuyl Entities retain all risk of loss of Improvements and is required to maintain insurance coverage in accordance with the industry standard for the construction of such Improvements in the State of Arizona.

20. EVENTS OF DEFAULT.

20.1 Town's Event of Default. Town shall be in default under this Agreement if any of the following events shall occur:

20.1.1 Town shall fail to fully and timely perform any of Town's obligations under this Agreement and such failure shall continue past 5:00 p.m. local time on the thirtieth

(30th) day after Town's receipt of written notice from Water Company specifying Town's non-compliance (or such longer period as is reasonably necessary to cure such non-compliance);

20.1.2 If any material representation or warranty made by Town in this Agreement shall be false or misleading in any material respect;

20.1.3 If Town shall: (i) voluntarily be adjudicated as bankrupt or insolvent; (ii) seek, consent to or not contest the appointment of a receiver or trustee for itself or for all or any part of its property; (iii) file a petition seeking relief under the bankruptcy, arrangement, reorganization of other debtor relief laws of the United States, any state or any other competent jurisdiction; or, (iv) make a general assignment for the benefit of its creditors; or,

20.2 Water Company's and Van Tuyl Entities' Event of Default. Water Company and Van Tuyl Entities shall be in default under this Agreement if any of the following events shall occur:

20.2.1 Water Company and Van Tuyl Entities shall fail to fully and timely perform any of Water Company's and Van Tuyl Entities obligations under this Agreement and such failure shall continue past 5:00 p.m. local time on the thirtieth (30th) day after Water Company's and Van Tuyl Entities' receipt of written notice from Town specifying Water Company's and Van Tuyl Entities' non-compliance (or such longer period as is reasonably necessary to cure such non-compliance);

20.2.2 If any material representation or warranty made by Water Company in this Agreement shall be false or misleading in any material respect;

20.2.3 If Water Company or Van Tuyl Entities shall: (i) voluntarily be adjudicated as bankrupt or insolvent; (ii) seek, consent to or not contest the appointment of a receiver or trustee for itself or for all or any part of its property; (iii) file a petition seeking relief under the bankruptcy, arrangement, reorganization of other debtor relief laws of the United States, any state or any other competent jurisdiction; or, (iv) make a general assignment for the benefit of its creditors; or,

20.2.4 If a court of competent jurisdiction enters an order, judgment or decree appointing, without the consent of Water Company or Van Tuyl Entities, a receiver or trustee for Water Company or Van Tuyl Entities, or for all or any part of Water Company's property.

21. DISPUTE RESOLUTION AND REMEDIES.

21.1 Process. Notwithstanding anything to the contrary herein, if an event of default is not cured within the cure period (30 days or period reasonably necessary to cure) the non-defaulting Party may initiate the process by providing written notice initiating the process to the alleged defaulting Party. Within 15 days after delivery of such notice, each Party shall appoint one person to act as mediator on behalf of such Party and notify the other Party. Within 15 days after delivery of such notice, the persons appointed shall themselves appoint one person to serve as the sole mediator. The mediator shall set the time and place of the mediation hearing and

shall give reasonable notice of the hearing to the Parties. The Parties may agree to hold the hearing by telephone.

21.2 Hearing. The Parties have structured this dispute resolution process with the goal of providing for the prompt and efficient resolution of all disputes falling within the purview of this process. The hearing of any dispute shall commence as soon as practicable, but in no event later than 30 days after selection of the mediator. This deadline can be extended only with the consent of both Parties, or by decision of the panel upon a showing of emergency circumstances. Proceedings shall be under the control of the mediator and as informal as practicable. The mediator shall determine the nature and scope of discovery, if any, and the manner of presentation of relevant evidence consistent with the deadlines provided herein, and the Parties' objective that disputes be resolved in a prompt and efficient manner. No discovery may be had of privileged materials or information. In order to effectuate the Parties' goals, the hearing, once commenced, shall proceed from business day to business day until concluded, absent a showing of emergency circumstances. The mediator shall, within 15 days from the conclusion of any hearing, issue its decision. The decision shall be rendered in accordance with the Agreement and the laws of the State of Arizona. If those receiving a request for mediation fail to appoint a mediator within the time above specified, or if the two mediators so selected cannot agree on the selection of a third mediator within the time above specified, or if the result of such mediation is unsatisfactory to one or more Parties, then any Party may avail itself of any legal or equitable remedy available under Arizona law.

21.3 Fees. Each Party shall pay one-half of all fees and costs associated with the mediation process.

21.4 Condemnation. The process and remedies set forth herein shall not apply to an action to condemn or acquire by inverse condemnation all or any portion of the Property, and in the event of any such action, Developer shall have all rights and remedies available to it at law or in equity.

22. ATTORNEYS' FEES. Subject to the limitations set forth in this Agreement regarding litigation and remedies, if there is any litigation to enforce any provisions or rights arising herein, the unsuccessful Party in such litigation, as determined by the Court shall pay the successful Party, as determined by the Court, all costs and expenses, including, but not limited to, reasonable attorneys' fees incurred by the successful Party, such fees to be determined by the Court.

23. NOTICES.

23.1 Addresses. Except as otherwise required by law, any notice required or permitted hereunder shall be in writing and shall be given by personal delivery, or by deposit in the United States mail, certified or registered, return receipt requested, postage prepaid, addressed to the Parties at the addresses set forth below, or at such other address as a Party may designate in writing pursuant hereto, or tested telex, or telegram, or telecopies, or any express or overnight delivery service (e.g. Federal Express), delivery charges prepaid:

if to Water Company: Vanwick, LLC
1550 E. Missouri Suite 300
Phoenix, AZ 85014
Attn: Stan Reed
Telephone No: (602) 200-7586
Facsimile No: (602) 738-0607

with a copy to: Moyes Sellers & Hendricks
1850 N. Central Ave. Ste. 1100
Phoenix, Arizona 85004
Attn: Steve Wene
Telephone No.: (602) 604-2189
Facsimile No.: (602) 274-9135

if to Van Tuyl Entities: Vanwick LLC
1550 E. Missouri Suite 300
Phoenix, AZ 85014
Attn: Stan Reed
Telephone No: (602) 200-7586
Facsimile No: (602) 738-0607

if to Town: Town of Wickenburg
Attn: Town Manager
155 N. Tegner Street, Suite A
Wickenburg, Arizona 85390
Telephone No.:(928) 684-5451
Facsimile No.: 602-506-1580

with a copy to: Curtis, Goodwin, Sullivan, Udall & Schwab
Attn: William Sullivan and Kelly Schwab
501 E. Thomas Rd.
Phoenix, Arizona 85012
Telephone No.: (602) 393-1700
Facsimile No.: (602) 393-1701

if to Escrow Agent: _____

Attn: _____
Telephone No.: (____) _____
Facsimile No.: (____) _____

23.2 Effective Date of Notices. Notice shall be deemed to have been given on the date on which notice is delivered, if notice is given by personal delivery or facsimile and on the date of deposit in the mail, if mailed or deposited with the overnight carrier, if used. Notice shall be

deemed to have been received on the date on which the notice is received, if notice is given by personal delivery, overnight courier or facsimile and on the 5th day following deposit in the mail, if notice is mailed. Following Opening of Escrow, a copy of any notice given to a Party shall also be given to Escrow Agent by regular mail or by any other method provided for herein. Notice given by facsimile shall also be given by one of the other methods provided herein.

24. CLOSING COSTS AND PRORATIONS. Water Company, Van Tuyl Entities and Town agree to pay all respective closing costs as provided in this Agreement. All prorations shall be calculated through escrow as of Close of Escrow based upon the latest available information. Any other closing costs not specifically designated as the responsibility of either Party in this Agreement shall be paid by Town, Water Company and Van Tuyl Entities according to the usual and customary allocation of the same by Escrow Agent. Water Company and Van Tuyl Entities agree that all closing costs payable by Water Company and Van Tuyl Entities shall be deducted from Water Company's and Van Tuyl Entities' proceeds otherwise payable to Water Company and Van Tuyl Entities at Close of Escrow. Except as provided in this Agreement, Water Company, and Van Tuyl Entities and Town shall each bear their own costs in regard to the Transaction.

25. ESCROW CANCELLATION CHARGES. If escrow fails to close because of a Water Company or Van Tuyl Entities' Event of Default, Water Company and Van Tuyl Entities shall be liable for any cancellation charges of Escrow Agent charges. If escrow fails to close because of a Town's Event of Default, Town shall be liable for any cancellation charges of Escrow Agent. If escrow fails to close for any other reason, Water Company and Town shall each be liable for one-half of any cancellation charges of Escrow Agent.

26. APPROVALS. Concerning all matters in this Agreement requiring the consent or approval of any Party or as a condition precedent to action by any of the Parties, the Parties agree that any such consent to each approval shall not be unreasonably withheld unless otherwise provided in this Agreement.

27. ADDITIONAL ACTS. The Parties agree to execute promptly such other documents and to perform such other acts as may be reasonably necessary to carry out the purpose and intent of this Agreement.

28. GOVERNING LAW; JURISDICTION; VENUE. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Arizona. In regard to any litigation which may arise in regard to this Agreement, Water Company, Van Tuyl Entities and Town shall and do hereby submit exclusively to the jurisdiction of and Water Company, Van Tuyl Entities and Town hereby agree that the proper venue shall be exclusively in the Superior Court for the State of Arizona as to permitted litigation.

29. BINDING AGREEMENT. This Agreement constitutes the binding agreement between Water Company, Van Tuyl Entities and Town for the transfer of the Transferred Assets subject to the terms set forth in this Agreement. Subject to the limitations on assignment set forth in this Agreement, this Agreement shall bind and inure to the benefit of the Parties and their respective successors and assigns. This Agreement supersedes all other written or verbal agreements between the Parties concerning the transaction. No claim of waiver or modification concerning

any provision of this Agreement shall be made against a Party unless based upon a written instrument signed by the Parties.

30. CONSTRUCTION. The terms and provisions of this Agreement represent the results of negotiations among the Parties, each of which has been or has had the opportunity to be represented by counsel of its own choosing, and neither of which has acted under any duress or compulsion, whether legal, economic or otherwise. Consequently, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, and the Parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Agreement that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the Party whose attorney prepared the executed Agreement or any earlier draft of the same.

31. TIME OF ESSENCE. Time is of the essence of this Agreement. However, if this Agreement requires any act to be done or action to be taken on a date which is a Saturday, Sunday or legal holiday in the State of Arizona, such act or action shall be deemed to have been validly done or taken if done or taken on the next succeeding day which is not a Saturday, Sunday or legal holiday in the State of Arizona.

32. INTERPRETATION. If there is any specific and direct conflict between, or any ambiguity resulting from, the terms and provisions of this Agreement and the terms and provisions of any document, instrument or other agreement executed in connection herewith or in furtherance hereof, including any Exhibits hereto, the same shall be consistently interpreted in such manner as to give effect to the general purposes and intention as expressed in this Agreement which shall be deemed to prevail and control.

33. HEADINGS AND COUNTERPARTS. The headings of this Agreement are for reference only and shall not limit or define the meaning of any provision of this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

34. INCORPORATION BY REFERENCE. All Exhibits to this Agreement are fully incorporated herein as though set forth at length herein.

35. SEVERABILITY. If any provision of this Agreement is determined by the Court to be unenforceable, the remaining provisions shall nevertheless be kept in effect.

36. NO PARTNERSHIP OR OTHER LIABILITY. Any and all provisions, implications, or interpretations of or from this Agreement to the contrary notwithstanding, no partnership, joint venture or other relationship is created, implied or acknowledged between or among the Parties.

37. GENERAL PROVISIONS REGARDING ESCROW AGENT.

37.1 Calculation of Prorations. Escrow Agent will make all adjustments and/or prorations on the basis of the actual number of days in a month, and by credit and/or debit to the respective accounts of Water Company, Van Tuyl Entities and Town in the Escrow.

37.2 Close of Escrow. For purposes of the instructions to Escrow Agent and all other purposes hereunder, the expression "Close of Escrow" shall mean the date the Deed is recorded.

37.3 Amendments to Instructions. No change of instructions shall be of any effect on the Escrow unless given in writing by Water Company, Van Tuyl Entities and Town. In the event conflicting demands are made or notices served upon Escrow Agent with respect to the Escrow, the Parties hereto expressly agree that Escrow Agent shall have the absolute right at Escrow Agent's election to do either or both of the following: (i) withhold and stop all further proceedings in, and performance of, the Escrow; or (ii) file a suit in interpleader and obtain an order from the Court requiring the Parties to interplead and litigate in such Court their several claims and rights among themselves. In the event such interpleader suit is brought, Escrow Agent shall ipso facto be fully released and discharged from all obligations to further perform any and all duties or obligations imposed upon Escrow Agent in the Escrow, and the Parties jointly and severally agree to pay all reasonable costs, expenses, and reasonable attorneys' fees expended or incurred by Escrow Agent, the amount thereof to be fixed and a judgment therefor entered by the Court in such suit.

37.4 Release of Escrow Agent. Except for Escrow Agent's negligence, fraud or breach of contract, Escrow Agent shall not be held liable for the identity, authority or rights of any person executing any document deposited in the Escrow, or for Water Company, Van Tuyl Entities or Town's failure to comply with any of the provisions of any agreement, contract or other instrument deposited in the Escrow and Escrow Agent's duties hereunder shall be limited to the safekeeping of such money, instruments, or other documents received by Escrow Agent as escrow holder, and for the disposition of same in accordance with the written instructions accepted by Escrow Agent in the Escrow.

37.5 Escrow Transaction. It is agreed by the Parties that so far as Escrow Agent's rights and liabilities are concerned, this transaction is an escrow and not any other legal relation.

(signature pages follow)

IN WITNESS WHEREOF, the Parties have executed this Transfer Agreement and Escrow Instructions as of the Effective Date.

TOWN:

TOWN OF WICKENBURG

By: _____
John C. Cook, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Curtis, Goodwin, Sullivan, Udall & Schwab
Town Attorneys

WATER COMPANY:

WICKENBURG RANCH WATER COMPANY, LLC

By: _____

Its: _____

State of Arizona)

) ss.

County of Maricopa)

The foregoing instrument was acknowledged before me on _____, by
_____.

My Commission expires: _____

VAN TUYL ENTITIES:

VANWICK, LLC

By: _____
Its: _____

State of Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me on _____, by
_____.

My Commission expires: _____

VAN DEVELOPMENT CO.

By: _____
Its: _____

State of Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me on _____, by
_____.

My Commission expires: _____

5860 DEVELOPMENT, INC.

By: _____
Its: _____

State of Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me on _____, by
_____.

My Commission expires: _____

JVT INVESTORS, LLC

By: _____
Its: _____

State of Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me on _____, by
_____.

My Commission expires: _____

ESCROW AGENT'S ACCEPTANCE

The foregoing fully executed Transfer Agreement and Escrow Instructions ("Agreement") is accepted by the undersigned this ____ day of _____, 2013 which for the purposes of this Agreement shall be deemed to be the date of Opening of Escrow.

_____.

By: _____
Escrow Officer

**WASTEWATER SYSTEM TRANSFER AGREEMENT AND ESCROW
INSTRUCTIONS**

Among

**Wickenburg Ranch Wastewater, LLC,
an Arizona limited liability company;**

**Vanwick, LLC, an Arizona limited liability company, Van Development Co.,
Inc., a Kansas corporation, 5860 Development Inc., an Arizona corporation,
and JVT Investors, LLC, an Arizona limited liability company
collectively “Van Tuyl Entities”;**

and

**Town of Wickenburg,
a political subdivision of the State of Arizona,
“Town”**

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LIST OF EXHIBITS

1. Project Legal Description
2. Project Map
3. CC&N Legal Description
4. CC&N Map
5. Common Areas
6. Wastewater Master Plan
7. Bill of Sale
8. Special Warranty Deed
9. Retained Property
10. Assignment and Assumption Agreement
11. Affidavit of Real Property Value
12. Non-Foreign Affidavit

**WASTEWATER SYSTEM TRANSFER AGREEMENT
AND ESCROW INSTRUCTIONS**

DATED: Dated to be effective as of _____, 2013 (the "Effective Date").

PARTIES: This Wastewater System Transfer Agreement and Escrow Instructions (the "Agreement") is among Wickenburg Ranch Wastewater, LLC, an Arizona limited liability company ("Wastewater Company"); Vanwick, LLC, an Arizona limited liability company, Van Development Co., Inc., a Kansas corporation, 5860 Development Inc., an Arizona corporation, and JVT Investors, LLC, an Arizona limited liability company, and the Town of Wickenburg, a political subdivision of the State of Arizona ("Town");

All entities referred to herein are collectively referred to herein as "Parties" and individually as "Party".

RECITALS

- A. Wickenburg Ranch is a 2,162-acre master planned community ("Project"), as set forth in the legal description attached hereto as Exhibit 1 and mapped on Exhibit 2, collectively owned by Vanwick, LLC, Van Development Co., Inc., 5860 Development Inc., and JVT Investors, LLC ("Van Tuyl Entities").¹
- B. Wastewater Company, owned by Vanwick LLC, was formed to provide the Development wastewater service ("Wastewater Service").
- C. Wastewater Company was granted a Certificate of Convenience and Necessity ("CC&N") by the Arizona Corporation Commission ("Commission") authorizing the Wastewater Company to provide sewer service to the public within a defined geographic area, as set forth in the legal description attached hereto as Exhibit 3 and mapped in Exhibit 4. Accordingly, the Wastewater Company has the right to provide Wastewater Service to the public within its CC&N, subject to the regulation by the Commission and other governmental entities, including, without limitation, the Arizona Department of Environmental Quality ("ADEQ"), and Yavapai County. However, the Wastewater Company has never actually commenced the business of rendering Wastewater Service and none of the Wastewater Company plant or property, or any portion thereof, is currently devoted to the business of rendering Wastewater Service.
- D. At build-out, the Project is projected to produce 330 acre feet of reclaimed water produced from treated sewage generated within the Project and delivered for reuse (e.g., on the golf course and common areas as depicted on Exhibit 5 (collectively "Common Areas")).
- E. The wastewater infrastructure necessary to serve the public has been master planned as shown in Exhibit 6 ("Wastewater Master Plan"). Portions of the infrastructure have already been constructed as listed in the Bill of Sale set forth in Exhibit 7, Attachment 1. As the Project

¹ The Van Tuyl Entities have transferred a few parcels of Project land to Arizona Public Service Company, the Wastewater Company and Wickenburg Ranch Water LLC for use in the provision of utility service.

grows, the Van Tuyl Entities will cause to be built all wastewater infrastructure, including reclaimed water delivery and disposal, necessary to serve the Development. The fourth phase of the wastewater treatment plant is currently projected as necessary only to meet wastewater treatment demands of landowners outside the Development, in which case the Van Tuyl Entities will have no obligation to cause the fourth phase of the wastewater treatment plant to be built.

- F. Town desires to receive from Wastewater Company and Wastewater Company desires to transfer to Town certain real property, personal property, rights and facilities described herein as the Transferred Assets and Wastewater Company further desires to extinguish the CC&N issued by the Commission, all upon and subject to the terms and conditions set forth herein.
- G. The Parties understand that the transaction contemplated by this Agreement to occur at the Close of Escrow, as defined below, ("Transaction") will occur in conjunction with the Town's annexation of the Project in accordance with the terms of that certain Pre-Annexation and Development Agreement between the Parties, dated _____, 2013 (the Pre-Annexation and Development Agreement) to which this Agreement is Exhibit K.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises, agreements, representations and warranties set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. INCORPORATION OF RECITALS. All of the foregoing Recitals are hereby incorporated herein by reference as agreements of the Parties.
2. TERM. The Term of this Agreement shall commence on the Effective Date and shall automatically terminate on the 30th anniversary of the first day of the Term without the necessity of any notice, agreement, or recording by or between the Parties, unless one of the following apply:
 - 2.1 If more than 50% but less than 95% of the lots within the Project have been issued building permits by the 30th anniversary of the Pre-Annexation and Development Agreement, this Agreement shall automatically extend, without the necessity of any notice, agreement, or recording by or between the Parties, an additional 10 years, for a total of 40 years, at which time this Agreement shall automatically terminate as to the Project without the necessity of any notice, agreement, or recording by or between the Parties;
 - 2.2 This Agreement has otherwise been terminated pursuant to its terms or due to a breach of its terms; or
 - 2.3 The Parties, by mutual written agreement, have established a different Term.
3. TRANSFER OF EXISTING INFRASTRUCTURE

3.1 Assets to be Transferred at Close of Escrow. Subject to the terms and conditions set forth in this Agreement, Wastewater Company will convey, transfer, assign and deliver to Town, and Town will receive and assume from Wastewater Company, upon Close of Escrow, which means the deliveries to be made by the Parties at the Closing Date in accordance with this Agreement, all of Wastewater Company's right, title and interest in and to those assets of Wastewater Company identified in the attachments to the Bill of Sale set forth in Exhibit 7 and Deed set forth in Exhibit 8 (collectively, the "Transferred Assets").

3.1.1 Good title to all Transferred Assets shall be conveyed to Town free and clear of all liens, restrictions and encumbrances of any kind whatsoever, except as approved by Town as set forth below.

3.1.2 Wastewater Company and the Van Tuyl Entities warrant the Transferred Assets to be free of any and all defects in the manufacture, design and installation for a period of two years from the date of conveyance and transfer to Town. The Wastewater Company and Van Tuyl Entities shall be responsible for all costs of repairing and replacing the infrastructure built to provide the Project Wastewater Service in a safe and reliable manner from time to time ("Wastewater Improvements" or "Improvements") during this initial two year period; provided that Town shall cooperate in pursuing remedies against any applicable written warranty or bond transferred to Town with the Improvement.

3.1.3 The Town agrees to cooperate, in good faith, but without cost to the Town, to effectuate the transfer to Town or extinguishment of all permits and regulatory approvals associated with the Transferred Assets and the provision of Wastewater Service by the Wastewater Company.

3.1.4 Van Tuyl Entities shall, at their cost, conduct or cause to be conducted hydrovac, flush, video and pressure testing of gravity sewer lines and pressure testing of the low pressure sewer lines included as part of the Transferred Assets within one hundred twenty (120) days prior to transfer of the Transferred Assets to the Town. Upon Close of Escrow, Town agrees to accept the Transferred Assets provided these assets pass commercially reasonable testing. The Town understands and agrees that roadways will not be constructed when the Transferred Assets underlying and adjacent to the roadways are tested and conveyed to the Town.

3.2 Retained Property. Van Tuyl Entities holds title to and will retain the facilities and equipment listed in Exhibit 9 ("Retained Property"), for the purpose of meeting the water demands of the Common Areas described in Exhibit 5 with both water and effluent. The Retained Property includes the ability to receive, deliver, and use effluent produced by the Project and to be made available to the Van Tuyl entities by Town under this Agreement to meet the water demands of the Common Areas.

3.3 The Exhibits. Any Party may, prior to or at the Close of Escrow, by notice in accordance with the terms of this Agreement, propose to amend or create any Exhibit to this Agreement in order to add information or correct information previously supplied and shall provide all information related to the proposed updated Exhibit to the other Parties within ten (10) days of such notice. No proposed update of any Exhibit shall be effective and made part of

this Agreement unless and until accepted in writing by all Parties. No such amendment shall be evidence, in and of itself, that the representations and warranties in the corresponding section are no longer true and correct.

4. TRANSFER OF INFRASTRUCTURE BUILT AFTER THE EFFECTIVE DATE

4.1 Construction of Wastewater Improvements. Van Tuyl Entities will build or cause to be built all wastewater improvements necessary to serve the Project in a safe and reliable manner from time to time (“Improvements” or “Wastewater Improvements”) pursuant to the Wastewater Master Plan. All Improvements installed after the Effective Date shall:

4.1.1 Meet the standards and specifications set forth in the Wastewater Master Plan;

4.1.2 Be installed pursuant to construction contracts that are:

4.1.2.1 Subject to competitive bid or other process and procedure applicable to the construction of Town structures and improvements; and

4.1.2.2 Contain all provisions required of municipal contracts by the Town Code or state law, including, without limitations provisions for performance and payment bonds, insurance, conflict of interest, e-verify and scrutinized business operations; and

4.1.3 Be located on or within Town owned land or Town easements and rights-of-way acceptable to Town and Van Tuyl Entities shall secure and convey, or cause to be secured and conveyed, such lands, easements and rights-of-way free of any encumbrance, condition or restriction of any kind, whatsoever, and in a form acceptable to Town.

4.1.4 Be free of all defects in the manufacture, design and installation for a period of two years from the date of conveyance and transfer to Town. The Wastewater Company and Van Tuyl Entities shall be responsible for all costs of repairing and replacing the Improvements during this initial two year period; provided that Town shall cooperate in pursuing remedies against any applicable written warranty or bond transferred to Town with the Improvement.

4.1.5 Shall undergo commercially reasonable testing within one hundred twenty (120) days prior to transfer or conveyance to Town at Van Tuyl Entities’ cost.

4.2 Phasing. Van Tuyl Entities may construct the Improvements in phases, but peak demand, as estimated by ADEQ and operational redundancy consistent with prudent utility practices, for all potentially occupied residences and commercial facilities must be met at all times.

4.2.1 The fourth (4th) phase of the wastewater treatment plant is currently projected to serve demand arising outside the Project. The Van Tuyl Entities shall only have an obligation to construct the fourth (4th) phase of the wastewater treatment plant if any portion of

its capacity is necessary to meet the peak demand, as estimated by ADEQ, for all potentially occupied residences and commercial facilities within the Project.

4.3 Construction Commencement. Prior to commencement of the construction of any Improvements after the Effective Date, Van Tuyl Entities will provide Town notice and shall coordinate inspection and testing of the Improvements with Town in a manner consistent with the Town's normal practice or as agreed to in writing by Town for each phase of the Project. The Van Tuyl Entities will provide Town written notification of the completion of each specific Improvement or phase. The manner and timing of such notice shall be in accordance with specifications established by Town. The Van Tuyl Entities and Town shall cooperate and agree to execute all necessary and appropriate instruments and take all actions reasonably requested by the other in order to extinguish any easements and convey any abandoned or dedicated rights-of-way undertaken in anticipation of Van Tuyl Entities' construction of the Improvements.

4.4 Use of Rights-of-Way and Easements. Van Tuyl Entities has the right to reasonable use of all Town rights-of-way and easements to construct the Wastewater Improvements. This right shall be subject to the Town's police powers and all normal and customary restrictions and fees related thereto, including, without limitation, permitting and licensing requirements.

4.5 Town's Approval of Improvement Plans and Inspection. Van Tuyl Entities will construct the Improvements consistent with the Wastewater Master Plan and Town hereby approves such Wastewater Master Plan.

4.5.1 If at the time the Van Tuyl Entities submit construction plans to the Town there exists improved and reasonably affordable technology that is compatible with the Improvements, then Town may propose the use of the improved technology. Van Tuyl Entities shall amend the construction plans to incorporate the Town's proposed technology unless Van Tuyl Entities reasonably determine the technology to be either incompatible or unduly expensive in comparison to the originally planned Improvement set forth in the Master Plan and related plans. Town will review the detailed plans and specifications upon submittal and payment of applicable review fees in accordance with Town's normal and customary procedures.

4.5.2 Van Tuyl Entities will arrange for Town inspections of Improvements and Town will conduct such inspections in accordance with Town's normal and customary procedures to closeout permits and issue an Approval to Operate upon completion of the Improvements. Written request for inspection shall be provided to Town prior to the burying of any Improvement constructed after the Effective Date.

4.6 Government Approvals. Van Tuyl Entities, with the cooperation of Town, will obtain any required approvals of the final plans, specifications, licensure and permits for the Improvements by any and all federal, state, municipal and other governmental authorities, offices and departments having jurisdiction in the matter.

4.7 Completion Requirements. Van Tuyl Entities will follow good utility practices and the applicable governmental rules, regulations, and policies when designing, permitting, constructing, installing, and connecting the Improvements. The Improvements will be

constructed in a good, careful, proper, and workmanlike manner in accordance with standard practices applied uniformly throughout the Town. Upon completion of the Improvements, Van Tuyl Entities will submit as-built drawings, testing and inspection results, operations manuals, spare parts and components and assign warranties to the Town.

4.8 Transfer of Improvements. Within two (2) business days of receiving written notice from Town that inspection and any required testing is complete and the Improvements are acceptable to Town, all right, title and interest to the completed Improvements shall automatically transfer to Town. Van Tuyl Entities shall provide Town documentation evidencing the transfer, such as a bill of sale, and shall take such action as necessary to provide good title to the Improvements free and clear of all liens, restrictions, conditions and encumbrances of any kind whatsoever.

5. VAN TUYL ENTITIES REIMBURSEMENT.

5.1 Service Connection Fees. In consideration of the transfer by Wastewater Company of the Transferred Assets, the deletion and extinguishment of the CC&N and the representations, warranties and covenants set forth herein, and the design, construction, installation and transfer of the Wastewater Improvements by Van Tuyl Entities, Town shall, to the extent allowed by law, and in addition to any other fees and charges for Wastewater Service, establish, collect and pay to Van Tuyl Entities, in the manner set forth below, a fee for connecting each lot to the wastewater system ("Connection Fee"). The Connection Fee shall be collected upon issuance of a building permit as a condition to providing Wastewater Service to any customer within the Project, or otherwise served by the Transferred Assets or Improvements, excluding the Common Areas and lots dedicated to providing utility service during the term of this Agreement. If it is determined that the Connection Fee is not legally permissible, the Parties shall confer and agree upon another form of collection for reimbursement. If the Parties do not reach an agreement within ninety (90) days, then this issue will be remedied consistent with the remedy provisions described in the Pre-Annexation and Development Agreement. The intent of the remedy will be to devise a method that will provide the same amount of reimbursement as the Connection Fee would have produced.

5.2 Reimbursable Wastewater Improvement Costs. "Reimbursable Wastewater Costs" will be composed of the following costs duly supported by contracts and invoices to be supplied by the Wastewater Company and Van Tuyl Entities:

5.2.1 Existing Improvements. \$_____ for the actual cost of constructing and installing the Transferred Assets conveyed to Town at Close of Escrow, including inspection, testing, permitting costs, and professional expenses set forth in Exhibit 7, Attachment 1;___; and

5.2.2 Future Improvements. The actual costs to be incurred by Van Tuyl Entities for the design, construction and installation of backbone Improvements (i.e., gravity wastewater collection and reclaimed water lines larger than 6 inches in diameter, pressure sewer lines 1-1/2 inches and larger, manholes, wastewater storage facilities, pump stations, lift stations, recharge storage facilities, wastewater treatment facilities and associated facilities and improvements installed for the Improvements) to be transferred to the Town post-Closing

including reasonable professional and administrative costs for engineering, surveying, inspection, and permitting; and

5.2.3 Less any sums received by Van Tuyl Entities from sources other than the Connection Fees to pay for the wastewater-related Transferred Assets and Improvements, including, but not limited to, reimbursement of eligible costs from a community facilities district. It is the Parties intention and Town agrees to support the Van Tuyl Entities recovery of interest of up to 3% per year from the date of conveyance until reimbursement for any Improvements financed by a community facilities district; and

5.2.4 Reimbursable Wastewater Costs do not include fees paid to Town or Town representatives and agents for fees and charges related to the Wastewater Improvements.

5.3 Establishing Connection Fees: Town shall establish the Connection Fee based upon the actual and estimated Reimbursable Wastewater Costs per lot within the Project, or to be served by the Improvement,² excluding the Common Areas and lots dedicated to providing utility services, as follows:

5.3.1 Annually, on or before February 1st during the term of this Agreement, the Van Tuyl Entities shall submit to Town its proposed update of actual and estimated Reimbursable Wastewater Costs and any reimbursement or payment therefore from other sources, together with appropriate documentary support. Town and the Van Tuyl Entities shall cooperatively work to mutually agree upon the level of Reimbursable Wastewater Costs. Town shall adjust the Connection Fees up or down from time to time as it deems appropriate in order to collect the Reimbursable Wastewater Costs through the connections fees through build-out of the Project. At no time shall the Town make adjustments to the Connection Fees which result in the Van Tuyl Entities collecting less than the Reimbursable Wastewater Costs.

5.3.2 The Connection Fee per lot will be calculated by dividing the total Reimbursable Wastewater Costs related to each type of utility service by the number of equivalent residential dwelling units that are estimated to require Wastewater Service within the Project or otherwise served by the Improvements. The Connection Fee charged per lot shall then be based upon an approximation of the equivalent residential dwelling unit demand developed on the lot.

5.3.3 The Connection Fees described herein will be in addition to all other fees levied by the Town, including, but not limited user fees, service fees, and other utility connection fees.

5.4 Collection and Distribution of the Connection Fees.

5.4.1 *Payment by Lot Owner.* Town shall collect a Connection Fee when the lot owner, or agent thereof, applies for a building permit to construct a structure on the lot or seeks

² Development lots using on-site septic treatment shall not be charged the Wastewater Connection and shall be excluded when calculating the Wastewater Connection Fee.

to initiate Wastewater Service at the lot during the term of this Agreement. All Connection Fee payments received by Town will be placed and maintained in a separate, restricted Connection Fee account by Town. This provision applies to lots both within and outside the Project.

5.4.2 *Reimbursement to Vanwick.* Semi-annually, on or before July 30th and January 30th, or 30 days after collecting 50 Connection Fees, whichever occurs first (the "Collection Period"), Town shall deliver the Connection Fees collected during the Collection Period (the "Period Amount") to Vanwick, LLC and shall credit the Period Amount against the applicable Reimbursable Wastewater Costs. The funds shall be accompanied by a report from Town setting forth the number of permits issued, the amount collected and any offsets for amounts due to Town. Town shall not disburse amounts collected as Connection Fees to Vanwick, LLC in excess of the Reimbursable Wastewater Costs.

5.4.3 *CFD Option.* The Van Tuyl Entities may, at their option, petition Town to form a Community Facilities District ("CFD") within the Project as an alternative method of funding all or a portion of the Reimbursable Wastewater Costs. In the event a CFD is created, the CFD funding for Reimbursable Wastewater Costs shall be limited to funding for Reimbursable Wastewater Costs for Improvements transferred to the CFD. Town may, but shall not be required to transfer Improvements to the CFD that have been transferred to Town under the terms of the Agreement prior to the creation of the CFD. Nothing herein shall require Town to approve the creation of a CFD that it deems not in the best interests of Town.

5.4.4 *Assignment.* Vanwick, LLC has the right to assign payments from the Town to any other person or entity. Notice of such assignment must be delivered to the Town in writing and will become effective upon receipt by the Town. Such assignment shall not be construed to increase Town's obligations or the Vanwick, LLC's rights under this Agreement nor shall this Agreement be construed to limit claims and remedies against any assignee, including the right to set off against payments.

6. OPERATION AND MAINTENANCE OF IMPROVEMENTS; EFFLUENT.

6.1 Operation and Maintenance of Improvements. Upon the transfer of the Improvements to Town, Town will operate and maintain the Improvements consistent with its operation and maintenance of similar assets, subject to the terms and conditions of the Agreement. Town will provide continuous Wastewater Service in accordance with standard practices for the Town; provided, however, Town shall have no obligation to extend Wastewater Service to any lot within the Project for which the Van Tuyl Entities have not constructed the necessary Wastewater Improvements.

6.2 Customer Rates. Except for Connection Fees established pursuant to this Agreement, the Town shall establish rates, charges and fees for wastewater customers within the Project in the same manner as they are established for other Town customers generally. While it is anticipated that rates, charges and fees within the Project will be the same as those established in the Town generally, nothing herein shall preclude Town from establishing different rates, charges and fees for the Project if cost justified, after considering any subsidy payments made hereunder by the Van Tuyl Entities. However, the rates, charges and fees for the Project shall be

no more than 100% higher than the same rates, charges, and fees for other Town customers without the consent of Vanwick, LLC.

6.3 Operating Losses. The Parties understand that during the initial Project build out, the operations and maintenance costs will likely exceed revenues generated by Wastewater Service. Therefore, notwithstanding any conflicting terms in this Agreement, the Van Tuyl Entities agree to provide Town payments to subsidize the Town's operation, repair and maintenance of the Improvements ("Subsidy Payments") as set forth below.

6.3.1 Subsidy Payments will equal the difference between the operating revenues received by Town from Wastewater Service provided within the Project during the calendar year against operating expenses incurred by Town to provide Wastewater Service within the Project during the calendar year.

6.3.2 To calculate Subsidy Payments, operating expenses shall be computed in accordance with Town's customary accounting practices and Governmental Accounting Standards Board ("GASB") standards, excluding: (i) depreciation expense for capitalized Improvements that was covered by revenues collected from water customers within the Project,³ and (ii) repair or replacement of capitalized Improvements.

6.3.3 If a capitalized Improvement is repaired or replaced during the Subsidy Payment period, which terminates pursuant to 6.3.6, the responsibility for the expense is as follows:

6.3.3.3 Van Tuyl Entities shall be responsible for all of the costs to repair or replace the capitalized Improvement for a period of two year period following conveyance of the Improvement to the Town.

6.3.3.4 Thereafter, the repair or replacement expense will be paid as prioritized below:

6.3.3.4.1. First, the Town shall use its revenues collected to cover depreciation expense to pay the cost of repair or replacement;

6.3.3.4.2. Second, if the Town's accumulated depreciation is not sufficient to pay the expense, then the Town shall use its revenues collected to support its reserve fund to pay the cost of repair or replacement;

³ For example, assume pursuant to GASB depreciation expense was \$1,000 in a calendar year. Further assume the Town's water rates are calculated to recover depreciation and the Town collected \$200 in revenues to cover depreciation expense. Van Tuyl Entities would be responsible for subsidizing the \$800 in depreciation expense not met by revenues.

6.3.3.4.3. Third, if the Town's accumulated depreciation and reserve funds combined are not sufficient to pay the cost of repair or replacement, then Van Tuyl Entities will pay the remaining balance through the Subsidy Payment.

6.3.4 Town will, during its annual budget process, project operating expenses for the Wastewater Service for the calendar year along with the projected revenues for the Wastewater Service for the Project. No later than July 1, Van Tuyl Entities shall deposit the difference between the projected operating expenses and the projected revenue for the Subsidy Payments with Town.

6.3.5 At the end of each fiscal year, Town shall provide an accounting of the actual operating expenses and actual revenues received for the Wastewater Service for the Project. If the Subsidy Payments made by the Van Tuyl Entities for the prior calendar year are less than the actual operating loss, the Van Tuyl Entities shall pay the difference within thirty (30) days of written notice by Town. If the Subsidy Payments exceed the operating losses, the over-payment by Van Tuyl Entities shall be applied to the deposit for the Subsidy Payments for the next calendar year.

6.3.6 Van Tuyl Entities' obligation to make Subsidy Payments will terminate when the Town's annual operating revenues equal or exceed its annual operating expenses.

6.4 Effluent. The Van Tuyl Entities shall transfer and convey to Town a wastewater treatment facility ("WWF") permitted and certified as capable of producing "A+" quality effluent. Upon receipt of the WWF, and subject to the Van Tuyl Entities (i) making required Subsidy Payments, (ii) fulfilling warranties related to the WWF and (iii) timely constructing and transferring future phases of the WWF pursuant to this Agreement, Town will produce and deliver A+ effluent in accordance with the Aquifer Protection Permit issued by ADEQ for the facility.

6.4.1 Effluent produced by the WWF shall first be made available to the Van Tuyl Entities for meeting the water demands of the Common Areas.

6.4.2 If the Van Tuyl Entities construct and convey a permitted recharge facility to Town, including any necessary monitoring wells, and pay the cost of securing all necessary recharge facility and storage permits, the Van Tuyl Entities, without further payment to Town, shall have the right to all recharge credits generated by the storage of effluent produced by the WWF at the recharge facility during the term of this Agreement provided for use on the Development or the Additional Property (as the term is defined in the Pre-Annexation Development Agreement). The Van Tuyl Entities' right to such recharge credits shall expire when this Agreement terminates and shall not include the right to sell the recharge credits. Nothing herein shall preclude the Parties from mutually agreeing to other use(s) of the recharge credits during the term of this Agreement.

6.4.3 *Charge for Effluent*. For ten (10) years following the initial delivery of A+ effluent to the golf course lake serving at the permitted retention area, Town will deliver the effluent at no charge to the Van Tuyl Entities. Thereafter, the Town may charge for effluent a

rate of \$25 per acre-foot adjusted annually from the date of initial effluent delivery of A+ effluent based on the rate from the All Items Consumer Price Index All Urban Consumers, U.S. City Average (1982-84 = 100), which is published by the U.S. Department of Labor, Bureau of Labor Statistics ("CPI").

6.4.4 *Initial Operations.* Notwithstanding any other provision herein, the Parties understand that initially the inflow volume will be insufficient to allow the wastewater plant to operate and treatment to "A+" quality effluent is not required until inflows are sufficient, estimated to be 20,000 gallons per day. Until that time, Town agrees to permit the Van Tuyl Entities to vault and haul inflows at their expense and Town agrees to accept the vault and haul inflows at their existing wastewater treatment facility at no additional charge. Town agrees that the vault and haul operation will not be a reason to deny the issuance of certificates of occupancy or any other necessary permits for unit occupancy.

7. PRELIMINARY TITLE REPORT AND OBJECTIONS.

7.1 The Report and Objections.

7.1.1 Upon delivery to _____ (Attn: _____) ("Escrow Agent") of triplicate executed originals of this Agreement by the Wastewater Company and Town, the date of such delivery deposit shall be referred to herein as the "Opening of Escrow". Escrow Agent shall administer the "Escrow" in accordance with the terms of this Agreement. Wastewater Company shall cause Escrow Agent to issue and deliver to the Parties a preliminary title report (commitment for title insurance) concerning the real property it is transferring to the Town as described in Exhibit 8, Attachment 1 ("Real Property") together with legible copies of all instruments referred to therein (collectively the "Report"), by 5:00 p.m. local time on the 30th day following the Opening of Escrow. The Report is to be preliminary to the extended coverage owner's policy of title insurance to be issued to Town by Escrow Agent insuring Town's fee simple title to the Real Property and Improvements an amount to be determined by Town prior to Closing ("Owner's Policy"). Wastewater Company shall pay only the premium for a standard Owner's Policy. Town shall pay the costs associated with any extended coverage as well as any endorsements requested by Town.

7.1.2 Town shall have until 5:00 p.m. local time on the 30th day after the Town's receipt of the Report in which to advise Wastewater Company and Escrow Agent, in writing, either: (i) that the condition of title to the Real Property as evidenced by the Report is acceptable; or, (ii) to object to any liens, encumbrances or other exceptions in the Report (excluding real property taxes and assessments not yet due and payable which may constitute a lien on the Real Property) (collectively the "Town's Objections"). Any exceptions in the Report which Town accepts shall be permitted exceptions ("Permitted Exceptions"). If, for any reason, Town shall not have notified Wastewater Company and Escrow Agent of Town's Objections within the time specified in this, Wastewater Company shall provide written notice to Town of Town's failure to issue Town's Objections. If Town does not notify Wastewater Company and Escrow Agent of Town's Objections before 5:00 p.m. local time on the 10th day after Town's Receipt of such notice, Town shall be deemed to have approved of the condition of title of the Real Property as shown by the Report.

7.1.3 If Town's Objections are made within the time specified, Wastewater Company shall attempt, to the extent commercially reasonable, to cure Town's Objections within forty-five (45) days of receipt of same. If Wastewater Company is unable to cure Town's Objections within such forty-five-day period, Town shall (i) waive, in writing, the curing of such Town's Objections, (ii) provide additional time to cure Town's objection, or (iii) cancel this Agreement and except as otherwise provided in this Agreement, neither Wastewater Company nor Town shall have any further liability or obligation under this Agreement. If Town does not provide the written notice of additional time to cure or waiver of Town's Objections within ten (10) days following the end of the forty-five-day period, Town shall be deemed to have elected to cancel this Agreement.

7.1.4 Escrow Agent shall issue and deliver to the Parties any supplemental title report(s) deemed necessary by Escrow Agent ("Supplemental Report"). Town shall have until 5:00 p.m. local time on the 20th day after Town's receipt of any Supplemental Report in which to advise Wastewater Company and Escrow Agent, in writing, of any objections Town may have to any item disclosed by the Supplemental Report(s) which was not set forth in the Report or a previous Supplemental Report ("Supplemental Objections"). If, for any reason, Town shall not have notified Wastewater Company and Escrow Agent of Town's Supplemental Objections within the time specified in this Section, Wastewater Company shall provide written notice to Town of Town's failure to issue Town's Objections. If Town does not notify Wastewater Company and Escrow Agent of Town's Supplemental Objections before 5:00 p.m. local time on the 20th day after Town's Receipt of such notice, Town shall be deemed to have approved of the condition of title of the Real Property as shown by the Supplemental Report. The provisions of Section shall apply with regard to any attempted title cure by Wastewater Company, it being agreed that Wastewater Company shall have until 5:00 p.m. local time on the 20th day after Wastewater Company's receipt of the Supplemental Objections, if any, within which Wastewater Company, in Wastewater Company's sole discretion, may attempt to cure the Supplemental Objections.

8. TOWN'S DUE DILIGENCE.

8.1 Access to the Real Property. Wastewater Company shall permit Town access to the Real Property at any commercially reasonable time or times, provided Town shall give Wastewater Company at least twenty-four (24) hours prior telephonic notice prior to entry upon the Real Property, to conduct Town's due diligence investigation and Town and Wastewater Company shall schedule a mutually convenient time for Town's entry upon the Real Property.

8.2 Town's Restoration of the Real Property. Town, at Town's sole cost and on or before the earlier of (a) Wastewater Company's request, or (b) termination of this Agreement, shall repair and restore any damage to the Real Property or the improvements caused by any entry, testing and/or inspection of, on or upon the Real Property or the Improvements by Town or Town's representatives ("Town's Restoration Obligation").

9. CONDITIONS PRECEDENT.

9.1 Town's Conditions Precedent. Town's obligation to perform under this Agreement is expressly subject to the satisfaction (or waiver) at or prior to Close of Escrow of the following:

9.1.1 Wastewater Company and Van Tuyl Entities shall have performed in all material respects their obligations under this Agreement at or prior to Close of Escrow pursuant to the terms hereof.

9.1.2 Escrow Agent shall have issued to Town the Owner's Policy (or a binding written commitment therefor) subject only to the Permitted Exceptions and those other matters, if any, approved or deemed approved by Town pursuant to this Agreement.

9.1.3 Town's Council ("Council") shall have approved this Agreement and the Pre-Annexation and Development Agreement, which approval shall not be subject to appeal or reversal after expiration of the thirty (30) day period from the date of approval (the "Council Approval"). The Council Approval shall be obtained by Town at Town's sole cost.

9.1.4 The Commission shall have entered a final order approving the extinguishing/cancelling the Wastewater Company's CC&N and transfer of the Transferred Assets to the Town ("Commission Order") on terms and conditions acceptable to Town.

9.2 Wastewater Company's Conditions Precedent.

9.3 Wastewater Company's obligation to perform under this Agreement is expressly subject to the satisfaction (or waiver) at or prior to Close of Escrow of the following:

9.3.1 Town shall have performed in all material respects its obligations under this Agreement required to be performed by it at or prior to Close of Escrow pursuant to the terms hereof.

9.3.2 The Commission shall have entered the Commission Order on terms and conditions acceptable to Wastewater Company.

10. PRE-CLOSING COVENANTS OF THE PARTIES' APPROVALS.

10.1 Commission Approval.

10.1.1 Within forty (40) days after Opening of Escrow, Wastewater Company shall file with the Commission an application ("Application") requesting the permanent cancellation and extinguishment of the CC&Ns and approval of the transfer of the Transferred Assets to Town subject to the consummation of the Transaction.

10.1.2 Wastewater Company shall be responsible for preparing, filing and prosecuting the Application. Town agrees to support the Application filed by Wastewater Company and shall expeditiously provide information reasonably requested by Wastewater Company in prosecuting the Application, including letters of support, written testimony, responses to data requests and other discovery, and attending meetings, public comment sessions, procedural conferences, hearings and open meetings.

10.1.3 In the event the Commission denies the Application or includes terms or conditions unacceptable to any Party, the Parties shall work cooperatively to remedy, to the extent commercially reasonable, the circumstance or circumstances which caused the Commission to deny the Application.

10.1.4 Upon Commission approval of the Application and Close of Escrow, Town shall assume the sole right, duty and obligation to provide Wastewater Service within the Project and shall take all necessary and appropriate actions relating to such Wastewater Service.

10.2 ADEQ Approvals.

10.2.1 The Parties will cooperate and work in good faith to transfer all permits, rights, and obligations within the jurisdiction of ADEQ and ADWR to the Town.

10.2.2 The Parties understand that the ongoing design change for the wastewater treatment facility requires an amendment to the current Aquifer Protection Permit, and ADEQ's approval process for such an amendment is lengthy. Further, the Aquifer Protection Permit will need to be transferred to the Town and the Town or its designee will become the wastewater treatment plant's operator of record. Accordingly, the Town agrees to cooperate and support the Van Tuyl Entities' efforts in processing the amendment and transfer discussed in this Section.

10.3 Further Assurances. Subject to the terms and conditions of this Agreement, each Party will use commercially reasonable efforts to (i) take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable under applicable laws to consummate the Transaction as soon as practicable after the Opening of Escrow, (ii) obtain and maintain all approvals required to be obtained from any third party and/or any Governmental Agency that are necessary to consummate the Transaction and (iii) obtain and maintain all financing necessary to consummate the Transaction.

10.4 Covenant to Satisfy Conditions. Wastewater Company will use its commercially reasonable efforts to ensure that the conditions set forth in Section ____ of this Agreement are satisfied, insofar as such matters are within the control of Wastewater Company. Town will use its commercially reasonable efforts to ensure that the conditions set forth in Section ___ of this Agreement are satisfied, insofar as such matters are within the control of Town.

11. THE CLOSING.

11.1 Time, Date and Place of Closing. The Transaction shall close and all deliveries to be made at Close of Escrow shall take place at the office of Escrow Agent either: (i) within thirty (30) days of receipt of the Commission Order defined below; or (ii) on such other date and at such other place and/or time as the Parties may agree ("Closing Date"), whichever is later. Notwithstanding the foregoing, the Improvements will not be transferred to the Town until the Pre-Annexation and Development Agreement between the Parties is approved; the Development by the Town Council; and is officially annexed into the Town, which shall occur within sixty (60) days of the date of the Commission Order unless the Parties mutually agree to extend the Closing Date beyond such date.

11.2 Wastewater Company's Obligations at Close of Escrow. At or prior to Close of Escrow, Wastewater Company shall execute and/or deliver or cause to be executed and/or delivered to Town:

11.2.1 A bill of sale from Wastewater Company to Town, a form of which is attached hereto as Exhibit 7, with the appropriate attachment;

11.2.2 An assignment and assumption agreement, a form of which is attached hereto as Exhibit 10, with the appropriate attachment ("Assignment and Assumption Agreement") including permits and licenses, if any;

11.2.3 A special warranty deed with respect to Wastewater Company's interest in the Real Property attached hereto as Exhibit 8, along with an executed Affidavit of Real Property Value, a form of which is attached hereto as Exhibit 11;

11.2.4 A sworn affidavit, in the form of Exhibit 12 attached hereto ("Non-Foreign Affidavit") stating under penalty of perjury that Wastewater Company is not a "foreign person" as such term is defined in Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended ("Code"); and

11.2.5 The Commission Order.

11.3 Town's Obligations at Close of Escrow. At or prior to Close of Escrow, Town shall execute and/or deliver or cause to be executed and/or delivered to Wastewater Company the Assignment and Assumption Agreement.

11.4 Transfer Documents. The Bill of Sale, the Assignment and Assumption Agreement, the Deed and all documents which may be necessary to transfer the Assets are hereinafter collectively referred to as the "Transfer Documents."

12. WASTEWATER COMPANY'S AND VAN TUYL ENTITIES' REPRESENTATIONS AND WARRANTIES. Subject to the terms, conditions and limitations set forth in this Agreement, Wastewater Company and Van Tuyl Entities hereby represent and warrant to Town as follows:

12.1 The Wastewater Company has not and up to Close of Escrow will not devote any portion of the Transferred Assets to the business of or services rendered by a public utility.

12.2 Subject only to the receipt of the Commission Order, the Wastewater Company and Van Tuyl Entities have all the requisite power, capacity and authority to execute, deliver and perform their respective obligations under this Agreement, including the Transfer Documents.

12.3 The Wastewater Company and Van Tuyl Entities are duly organized, validly existing, and in good standing under the laws of the State of Arizona and/or other applicable state laws.

12.4 This Agreement has been duly executed and delivered by the Wastewater Company and Van Tuyl Entities and constitutes a legally binding and enforceable obligation of

the Wastewater Company and Van Tuyl Entities enforceable against the Wastewater Company and Van Tuyl Entities in accordance with its terms.

12.5 There are no unrecorded leases, which may affect title to the Real Property.

12.6 Wastewater Company and Van Tuyl Entities have not received any notice of violation with regard to any applicable regulation, ordinance, requirement, covenant, condition or restriction from any Governmental Agency.

12.7 To the knowledge of Wastewater Company and Van Tuyl Entities, there are and have been no violations by Wastewater Company of any laws which could reasonably be expected to have a material adverse effect on the Assets or Town's ability to provide Wastewater Service to the Project following the Closing, and, to Wastewater Company's and Van Tuyl Entities' knowledge, no violations of any environments, health or safety laws have been committed on the Real Property.

12.8 To the knowledge of Wastewater Company and Van Tuyl Entities, no legal action has been undertaken or is threatened with respect to or in any manner affecting the Transferred Assets.

12.9 This Agreement and its consummation will not conflict with or result in a breach of any agreement, judgment, order or government permit, nor will it result in the creation of a lien, or require consent of a third Party or Governmental Agency, except as expressly set forth elsewhere in the Agreement.

12.10 Except for the approval of the Commission and consent of Governmental authorities to the transfer of applicable permits, no consent of any third party is required in order for Wastewater Company and Van Tuyl Entities to enter into this Agreement and perform Wastewater Company's obligations hereunder.

13. TOWN'S REPRESENTATIONS AND WARRANTIES. Subject to the terms, conditions and limitations set forth in this Agreement, Town hereby represents and warrants to Wastewater Company and Van Tuyl Entities as follows:

13.1 Subject only to receipt of Council Approval, to Town's knowledge, it has full power and authority to execute, deliver and perform Town's obligations under this Agreement as well as the Transfer Documents.

13.2 To Town's knowledge, there are no actions or proceedings pending or threatened against Town which may whatsoever affect the validity or enforceability of this Agreement or any of the Transfer Documents.

13.3 The execution, delivery and performance of this Agreement and the Transfer Documents have not and will not constitute a breach or default under any other agreement, law or court order under which Town is a Party or may be bound.

14. PRE-CLOSING COVENANTS OF THE PARTIES.

14.1 Prior to Close of Escrow or any earlier termination of this Agreement, Wastewater Company will not devote any plant or property being transferred to Town under this Agreement to the public utility business or to rendering public Wastewater Service and shall not enter into or execute any employment, management or service contract with respect to the rendering of Wastewater Service unless directed to do so by the Commission. When any such direction is received, Wastewater Company shall contemporaneously deliver a copy thereof to Town.

14.2 All bills or other charges, costs or expenses arising out of or in connection with or resulting from Wastewater Company's use, ownership, or operation of the Transferred Assets up to Close of Escrow, including all costs associated with the Escrow and Close of Escrow shall be paid in full by Wastewater Company on or before Close of Escrow. Wastewater Company's obligations under this Section shall survive Close of Escrow.

14.3 Wastewater Company and Van Tuyl Entities agree that, between the Effective Date and Close of Escrow or any earlier termination of this Agreement, Wastewater Company, at Wastewater Company's sole cost, shall: (a) maintain the Transferred Assets in their current condition; (b) pay, in the normal course of business, all sums due for work, materials or services furnished or otherwise incurred in the ownership, use or operation of the Transferred Assets, but in no event will the failure to pay prior to Close of Escrow relieve Wastewater Company of its obligation to deliver the Transferred Assets to Town free of mechanics', material suppliers' and similar liens for work, materials or services furnished with respect to the Transferred Assets prior to Close of Escrow; (c) comply, in all material respects, with all Legal Requirements applicable to Wastewater Company; (d) except as required by a Governmental Agency not remove or permit any Improvements to be removed from the Real Property without the prior written consent of Town; and (e) Wastewater Company shall not, by voluntary or intentional act or omission to act, further cause or create any easement, encumbrance, or mechanic's or materialmen's liens, and/or similar liens or encumbrances to arise or to be imposed upon the Transferred Assets or any portion thereof, that will affect title thereto subsequent to Close of Escrow without Town's prior written consent, which consent may be withheld at Town's sole discretion.

15. SURVIVAL PERIOD. All representations made in this Agreement by either Party shall survive the execution and delivery of this Agreement, the cancellation of this Agreement and the Close of Escrow.

16. POST-CLOSING MAINTENANCE OF AND ACCESS TO INFORMATION. Wastewater Company, Van Tuyl Entities and Town acknowledge that after Close of Escrow, Wastewater Company, Van Tuyl Entities or Town may need access to information or documents related to this Transaction in the control or possession of the other Party for the purposes of concluding the Transaction, tax returns or audits, compliance with the government reimbursement programs and other laws and regulations, and the prosecution or defense of third Party claims. Accordingly, the Parties shall keep, preserve and maintain in the ordinary course of business, and as required by law and relevant insurance carriers, all books, records, documents and other information in the possession or control of such Party and relevant to the foregoing

purposes for a period of five (5) years from Close of Escrow or such longer period of time as may be required by any Legal Requirement.

17. BROKER'S COMMISSION. The Parties represent and warrant to one another that they have not dealt with any finder, broker or realtor in connection with this Agreement. If any person shall assert a claim to a finder's fee or brokerage commission on account of alleged employment as a finder or broker in connection with the Transaction, the Party under whom the finder or broker is claiming shall indemnify and hold the other Party harmless from and against any such claim and all costs, expenses and liabilities incurred in connection with such claim or any action or proceeding brought on such claim, including, but not limited to, counsel and witness fees and court costs in defending against such claims. The provisions of this Section shall survive Close of Escrow or the earlier termination of this Agreement.

18. ASSIGNMENT. The burdens of this Agreement are binding upon, and the benefits inure to, all successors in interest of the Parties to this Agreement and constitute covenants that run with the land. Except as otherwise specifically provided in this Agreement, Van Tuyl Entities' rights and obligations hereunder shall only be assigned to a person or entity that has acquired the Property, or a portion thereof, and shall be assigned by a written instrument, recorded in the official records of Yavapai County, Arizona, expressly assigning such rights and obligations. In the event of a complete or partial assignment of Van Tuyl Entities' rights and obligations hereunder, except an assignment for collateral purposes only, Van Tuyl Entities' liability under this Agreement shall terminate. Nothing in this Agreement shall operate to restrict Van Tuyl Entities' ability to assign less than all of Van Tuyl Entities' rights and obligations under this Agreement to those persons or entities that acquire any portion of the Property. Notwithstanding the foregoing, the ongoing ownership, operation and maintenance obligations in connection with this Agreement may be assigned to an affiliate, acquirer, or owners' association. However, prior to any assignment, Van Tuyl Entities must reasonably determine that such affiliate, acquirer, or association has the ability to perform the obligations under the terms of the Agreement and notify Town of any pending assignment and the results of Van Tuyl Entities' determination that the affiliate, acquirer, or association has the ability to perform the obligations under the terms of the Agreement. No assignment shall be finalized until Town has consented, such consent to not be unreasonably withheld. Notwithstanding any other provisions of this Agreement, Van Tuyl Entities may assign all or part of Van Tuyl Entities' rights and duties under this Agreement as collateral to any financial institution from which Van Tuyl Entities' has borrowed funds for use developing the Project.

19. RISK OF LOSS. Prior to the transfer of the Improvements to the Town, Van Tuyl Entities retain all risk of loss of Improvements and is required to maintain insurance coverage in accordance with the industry standard for the construction of such Improvements in the State of Arizona.

20. EVENTS OF DEFAULT.

20.1 Town's Event of Default. Town shall be in default under this Agreement if any of the following events shall occur:

20.1.1 Town shall fail to fully and timely perform any of Town's obligations under this Agreement and such failure shall continue past 5:00 p.m. local time on the thirtieth (30th) day after Town's receipt of written notice from Wastewater Company specifying Town's non-compliance (or such longer period as is reasonably necessary to cure such non-compliance);

20.1.2 If any material representation or warranty made by Town in this Agreement shall be false or misleading in any material respect;

20.1.3 If Town shall: (i) voluntarily be adjudicated as bankrupt or insolvent; (ii) seek, consent to or not contest the appointment of a receiver or trustee for itself or for all or any part of its property; (iii) file a petition seeking relief under the bankruptcy, arrangement, reorganization of other debtor relief laws of the United States, any state or any other competent jurisdiction; or, (iv) make a general assignment for the benefit of its creditors; or,

20.2 Wastewater Company's and Van Tuyl Entities' Event of Default. Wastewater Company and Van Tuyl Entities shall be in default under this Agreement if any of the following events shall occur:

20.2.1 Wastewater Company and Van Tuyl Entities shall fail to fully and timely perform any of Wastewater Company's and Van Tuyl Entities obligations under this Agreement and such failure shall continue past 5:00 p.m. local time on the thirtieth (30th) day after Wastewater Company's and Van Tuyl Entities' receipt of written notice from Town specifying Wastewater Company's and Van Tuyl Entities' non-compliance (or such longer period as is reasonably necessary to cure such non-compliance);

20.2.2 If any material representation or warranty made by Wastewater Company in this Agreement shall be false or misleading in any material respect;

20.2.3 If Wastewater Company or Van Tuyl Entities shall: (i) voluntarily be adjudicated as bankrupt or insolvent; (ii) seek, consent to or not contest the appointment of a receiver or trustee for itself or for all or any part of its property; (iii) file a petition seeking relief under the bankruptcy, arrangement, reorganization of other debtor relief laws of the United States, any state or any other competent jurisdiction; or, (iv) make a general assignment for the benefit of its creditors; or,

20.2.4 If a court of competent jurisdiction enters an order, judgment or decree appointing, without the consent of Wastewater Company or Van Tuyl Entities, a receiver or trustee for Wastewater Company or Van Tuyl Entities, or for all or any part of Wastewater Company's property.

21. DISPUTE RESOLUTION AND REMEDIES.

21.1 Process. Notwithstanding anything to the contrary herein, if an event of default is not cured within the cure period (30 days or period reasonably necessary to cure) the non-defaulting Party may initiate the process by providing written notice initiating the process to the alleged defaulting Party. Within 15 days after delivery of such notice, each Party shall appoint one person to act as mediator on behalf of such Party and notify the other Party. Within 15 days

after delivery of such notice, the persons appointed shall themselves appoint one person to serve as the sole mediator. The mediator shall set the time and place of the mediation hearing and shall give reasonable notice of the hearing to the Parties. The Parties may agree to hold the hearing by telephone.

21.2 Hearing. The Parties have structured this dispute resolution process with the goal of providing for the prompt and efficient resolution of all disputes falling within the purview of this process. The hearing of any dispute shall commence as soon as practicable, but in no event later than 30 days after selection of the mediator. This deadline can be extended only with the consent of both Parties, or by decision of the panel upon a showing of emergency circumstances. Proceedings shall be under the control of the mediator and as informal as practicable. The mediator shall determine the nature and scope of discovery, if any, and the manner of presentation of relevant evidence consistent with the deadlines provided herein, and the Parties' objective that disputes be resolved in a prompt and efficient manner. No discovery may be had of privileged materials or information. In order to effectuate the Parties' goals, the hearing, once commenced, shall proceed from business day to business day until concluded, absent a showing of emergency circumstances. The mediator shall, within 15 days from the conclusion of any hearing, issue its decision. The decision shall be rendered in accordance with the Agreement and the laws of the State of Arizona. If those receiving a request for mediation fail to appoint a mediator within the time above specified, or if the two mediators so selected cannot agree on the selection of a third mediator within the time above specified, or if the result of such mediation is unsatisfactory to one or more Parties, then any Party may avail itself of any legal or equitable remedy available under Arizona law.

21.3 Fees. Each Party shall pay one-half of all fees and costs associated with the mediation process.

21.4 Condemnation. The process and remedies set forth herein shall not apply to an action to condemn or acquire by inverse condemnation all or any portion of the Property, and in the event of any such action, Developer shall have all rights and remedies available to it at law or in equity.

22. ATTORNEYS' FEES. Subject to the limitations set forth in this Agreement regarding litigation and remedies, if there is any litigation to enforce any provisions or rights arising herein, the unsuccessful Party in such litigation, as determined by the Court shall pay the successful Party, as determined by the Court, all costs and expenses, including, but not limited to, reasonable attorneys' fees incurred by the successful Party, such fees to be determined by the Court.

23. NOTICES.

23.1 Addresses. Except as otherwise required by law, any notice required or permitted hereunder shall be in writing and shall be given by personal delivery, or by deposit in the United States mail, certified or registered, return receipt requested, postage prepaid, addressed to the Parties at the addresses set forth below, or at such other address as a Party may designate in writing pursuant hereto, or tested telex, or telegram, or telecopies, or any express or overnight delivery service (e.g. Federal Express), delivery charges prepaid:

if to Wastewater Company: Vanwick, LLC
1550 E. Missouri Suite 300
Phoenix, AZ 85014
Attn: Stan Reed
Telephone No: (602) 200-7586
Facsimile No: (602) 738-0607

with a copy to: Moyes Sellers & Hendricks
1850 N. Central Ave. Ste. 1100
Phoenix, Arizona 85004
Attn: Steve Wene
Telephone No.: (602) 604-2189
Facsimile No.: (602) 274-9135

if to Van Tuyl Entities: Vanwick LLC
1550 E. Missouri Suite 300
Phoenix, AZ 85014
Attn: Stan Reed
Telephone No: (602) 200-7586
Facsimile No: (602) 738-0607

if to Town: Town of Wickenburg
Attn: Town Manager
155 N. Tegner Street, Suite A
Wickenburg, Arizona 85390
Telephone No.: (928) 684-5451
Facsimile No.: 602-506-1580

with a copy to: Curtis, Goodwin, Sullivan, Udall & Schwab
Attn: William Sullivan and Kelly Schwab
501 E. Thomas Rd.
Phoenix, Arizona 85012
Telephone No.: (602) 393-1700
Facsimile No.: (602) 393-1701

if to Escrow Agent: _____

Attn: _____
Telephone No.: () _____
Facsimile No.: () _____

23.2 Effective Date of Notices. Notice shall be deemed to have been given on the date on which notice is delivered, if notice is given by personal delivery or facsimile and on the date

of deposit in the mail, if mailed or deposited with the overnight carrier, if used. Notice shall be deemed to have been received on the date on which the notice is received, if notice is given by personal delivery, overnight courier or facsimile and on the 5th day following deposit in the mail, if notice is mailed. Following Opening of Escrow, a copy of any notice given to a Party shall also be given to Escrow Agent by regular mail or by any other method provided for herein. Notice given by facsimile shall also be given by one of the other methods provided herein.

24. CLOSING COSTS AND PRORATIONS. Wastewater Company, Van Tuyl Entities and Town agree to pay all respective closing costs as provided in this Agreement. All prorations shall be calculated through escrow as of Close of Escrow based upon the latest available information. Any other closing costs not specifically designated as the responsibility of either Party in this Agreement shall be paid by Town, Wastewater Company and Van Tuyl Entities according to the usual and customary allocation of the same by Escrow Agent. Wastewater Company and Van Tuyl Entities agree that all closing costs payable by Wastewater Company and Van Tuyl Entities shall be deducted from Wastewater Company's and Van Tuyl Entities' proceeds otherwise payable to Wastewater Company and Van Tuyl Entities at Close of Escrow. Except as provided in this Agreement, Wastewater Company, and Van Tuyl Entities and Town shall each bear their own costs in regard to the Transaction.

25. ESCROW CANCELLATION CHARGES. If escrow fails to close because of a Wastewater Company or Van Tuyl Entities' Event of Default, Wastewater Company and Van Tuyl Entities shall be liable for any cancellation charges of Escrow Agent charges. If escrow fails to close because of a Town's Event of Default, Town shall be liable for any cancellation charges of Escrow Agent. If escrow fails to close for any other reason, Wastewater Company and Town shall each be liable for one-half of any cancellation charges of Escrow Agent.

26. APPROVALS. Concerning all matters in this Agreement requiring the consent or approval of any Party or as a condition precedent to action by any of the Parties, the Parties agree that any such consent to each approval shall not be unreasonably withheld unless otherwise provided in this Agreement.

27. ADDITIONAL ACTS. The Parties agree to execute promptly such other documents and to perform such other acts as may be reasonably necessary to carry out the purpose and intent of this Agreement.

28. GOVERNING LAW; JURISDICTION; VENUE. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Arizona. In regard to any litigation which may arise in regard to this Agreement, Wastewater Company, Van Tuyl Entities and Town shall and do hereby submit exclusively to the jurisdiction of and Wastewater Company, Van Tuyl Entities and Town hereby agree that the proper venue shall be exclusively in the Superior Court for the State of Arizona as to permitted litigation.

29. BINDING AGREEMENT. This Agreement constitutes the binding agreement between Wastewater Company, Van Tuyl Entities and Town for the transfer of the Transferred Assets subject to the terms set forth in this Agreement. Subject to the limitations on assignment set forth in this Agreement, this Agreement shall bind and inure to the benefit of the Parties and their respective successors and assigns. This Agreement supersedes all other written or verbal

agreements between the Parties concerning the transaction. No claim of waiver or modification concerning any provision of this Agreement shall be made against a Party unless based upon a written instrument signed by the Parties.

30. CONSTRUCTION. The terms and provisions of this Agreement represent the results of negotiations among the Parties, each of which has been or has had the opportunity to be represented by counsel of its own choosing, and neither of which has acted under any duress or compulsion, whether legal, economic or otherwise. Consequently, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, and the Parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Agreement that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the Party whose attorney prepared the executed Agreement or any earlier draft of the same.

31. TIME OF ESSENCE. Time is of the essence of this Agreement. However, if this Agreement requires any act to be done or action to be taken on a date which is a Saturday, Sunday or legal holiday in the State of Arizona, such act or action shall be deemed to have been validly done or taken if done or taken on the next succeeding day which is not a Saturday, Sunday or legal holiday in the State of Arizona.

32. INTERPRETATION. If there is any specific and direct conflict between, or any ambiguity resulting from, the terms and provisions of this Agreement and the terms and provisions of any document, instrument or other agreement executed in connection herewith or in furtherance hereof, including any Exhibits hereto, the same shall be consistently interpreted in such manner as to give effect to the general purposes and intention as expressed in this Agreement which shall be deemed to prevail and control.

33. HEADINGS AND COUNTERPARTS. The headings of this Agreement are for reference only and shall not limit or define the meaning of any provision of this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

34. INCORPORATION BY REFERENCE. All Exhibits to this Agreement are fully incorporated herein as though set forth at length herein.

35. SEVERABILITY. If any provision of this Agreement is determined by the Court to be unenforceable, the remaining provisions shall nevertheless be kept in effect.

36. NO PARTNERSHIP OR OTHER LIABILITY. Any and all provisions, implications, or interpretations of or from this Agreement to the contrary notwithstanding, no partnership, joint venture or other relationship is created, implied or acknowledged between or among the Parties.

37. GENERAL PROVISIONS REGARDING ESCROW AGENT.

37.1 Calculation of Prorations. Escrow Agent will make all adjustments and/or prorations on the basis of the actual number of days in a month, and by credit and/or debit to the respective accounts of Wastewater Company, Van Tuyl Entities and Town in the Escrow.

37.2 Close of Escrow. For purposes of the instructions to Escrow Agent and all other purposes hereunder, the expression "Close of Escrow" shall mean the date the Deed is recorded.

37.3 Amendments to Instructions. No change of instructions shall be of any effect on the Escrow unless given in writing by Wastewater Company, Van Tuyl Entities and Town. In the event conflicting demands are made or notices served upon Escrow Agent with respect to the Escrow, the Parties hereto expressly agree that Escrow Agent shall have the absolute right at Escrow Agent's election to do either or both of the following: (i) withhold and stop all further proceedings in, and performance of, the Escrow; or (ii) file a suit in interpleader and obtain an order from the Court requiring the Parties to interplead and litigate in such Court their several claims and rights among themselves. In the event such interpleader suit is brought, Escrow Agent shall ipso facto be fully released and discharged from all obligations to further perform any and all duties or obligations imposed upon Escrow Agent in the Escrow, and the Parties jointly and severally agree to pay all reasonable costs, expenses, and reasonable attorneys' fees expended or incurred by Escrow Agent, the amount thereof to be fixed and a judgment therefor entered by the Court in such suit.

37.4 Release of Escrow Agent. Except for Escrow Agent's negligence, fraud or breach of contract, Escrow Agent shall not be held liable for the identity, authority or rights of any person executing any document deposited in the Escrow, or for Wastewater Company, Van Tuyl Entities or Town's failure to comply with any of the provisions of any agreement, contract or other instrument deposited in the Escrow and Escrow Agent's duties hereunder shall be limited to the safekeeping of such money, instruments, or other documents received by Escrow Agent as escrow holder, and for the disposition of same in accordance with the written instructions accepted by Escrow Agent in the Escrow.

37.5 Escrow Transaction. It is agreed by the Parties that so far as Escrow Agent's rights and liabilities are concerned, this transaction is an escrow and not any other legal relation.

(signature pages follow)

IN WITNESS WHEREOF, the Parties have executed this Transfer Agreement and Escrow Instructions as of the Effective Date.

TOWN:

TOWN OF WICKENBURG

By: _____
John H. Cook, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Curtis, Goodwin, Sullivan, Udall & Schwab
Town Attorneys

WASTEWATER COMPANY: WICKENBURG RANCH WASTEWATER COMPANY, LLC

By: _____

Its: _____

By: _____

State of Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me on _____, by
_____.

My Commission expires: _____

VAN TUYL ENTITIES:

VANWICK, LLC

By: _____
Its: _____
By: _____

State of Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me on _____, by
_____.

My Commission expires: _____

VAN DEVELOPMENT CO.

By: _____
Its: _____
By: _____

State of Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me on _____, by
_____.

My Commission expires: _____

5860 DEVELOPMENT, INC.

By: _____
Its: _____
By: _____

State of Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me on _____, by
_____.

My Commission expires: _____

JVT INVESTORS, LLC

By: _____
Its: _____
By: _____

State of Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me on _____, by
_____.

My Commission expires: _____

ESCROW AGENT'S ACCEPTANCE

The foregoing fully executed Transfer Agreement and Escrow Instructions ("Agreement") is accepted by the undersigned this ____ day of _____, 2013 which for the purposes of this Agreement shall be deemed to be the date of Opening of Escrow.

By: _____
Escrow Officer

LEGAL DESCRIPTION OF WASTEWATER COMPANY'S CC&N

[TO COME FROM WASTEWATER COMPANY]

Escrow No. _____

BILL OF SALE

THIS BILL OF SALE is made as of _____, by Wickenburg Ranch Wastewater, LLC, an Arizona limited liability company ("Wastewater Company"), in favor of the Town of Wickenburg, a political subdivision of the State of Arizona (Town").

RECITALS

A. Pursuant to a Transfer Agreement and Escrow Instructions dated as of _____ (the "Agreement") by and between Wastewater Company and Town, Wastewater Company has agreed to sell and assign to Town certain Transferred Assets (as that capitalized term is defined in the Agreement) of Wastewater Company and Town has agreed to accept such Transfer Assets from Wastewater Company and to assume certain utility obligations of Wastewater Company related thereto.

B. All capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed thereto in the Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Wastewater Company does hereby sell, convey, assign, transfer and deliver unto Town, its successors and assigns, all of Wastewater Company's right, title and interest in and to all of the Transferred Assets set forth in Attachment 1,

TO HAVE AND TO HOLD unto Town, its successors and assigns, for its use and benefit forever.

This Bill of Sale is subject to the terms and conditions (including the representations and warranties) contained in the Agreement, and shall be governed by, and construed and enforced in accordance with, the laws of the State of Arizona, without regard to its conflicts of laws principles.

IN WITNESS WHEREOF, Wastewater Company has executed and delivered this Bill of Sale on the date first above written.

By: _____

Name: _____

Its: _____

Escrow No. _____

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Assignment") is made and entered into as of _____, by Wickenburg Ranch Wastewater, LLC, an Arizona limited liability company ("Assignor"), and the Town of Wickenburg, a political subdivision of the State of Arizona ("Assignee").

RECITALS

A. Pursuant to a Transfer Agreement and Escrow Instructions dated as of _____ (the "Agreement") by and between Assignor and Assignee, Assignor has agreed to sell, transfer, convey, assign and deliver to Assignee certain Transferred Assets (as that capitalized term is defined in the Agreement) of Assignor and Assignee has agreed to take delivery of such Transfer Assets from Assignor and to assume certain utility obligations of Assignor related thereto.

B. All capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed thereto in the Agreement.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and agreements set forth herein and in the Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignment. As of the date hereof, Assignor hereby assigns to Assignee, its successors and assigns, all of Assignor's right, title and interest in, to and under the Assumed Liabilities. This Assignment is subject to all of the terms and conditions (including without limitation, the representations and warranties) contained in the Agreement.
2. Assumption. Assignee hereby accepts the foregoing assignment and assumes the obligations, liabilities and duties of Assignor under the Assumed Liabilities.
3. Binding Effect. This Assignment shall inure to the benefit of, and be binding upon, the successors, executors, administrators, legal representatives and assigns of Assignor and Assignee.
4. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.
5. Governing Law. This Assignment shall be governed by, and construed and enforced in accordance with, the laws of the State of Arizona, without regard to its conflicts of laws principles.

6. Notices. Notices pursuant to this Assignment shall be given in the manner provided in the Agreement.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment and Assumption Agreement on the date first above written.

ASSIGNOR:

WICKENBURG RANCH WASTEWATER
COMPANY, an Arizona Limited liability company

By: _____

Name: _____

Its: _____

ASSIGNEE:

TOWN OF WICKENBURG, a political subdivision
of the State of Arizona

By: _____

Name: _____

Its: _____

LIST OF SERVICE CONTRACTS

[TO BE INSERTED BY TOWN AT COE]

When recorded, return to:

Attn: _____

Escrow No.: _____

SPECIAL WARRANTY DEED

For valuable consideration, the receipt of which is acknowledged, Wickenburg Ranch Wastewater Company, an Arizona limited liability company ("Grantor"), conveys to Town of Wickenburg, a political subdivision of the State of Arizona ("Grantee"), the following described real property situated in Yavapai County, Arizona, together with all rights and privileges appurtenant thereto:

See the legal description set forth in Attachment 1 attached and incorporated by this reference (the "Property").

SUBJECT TO all the matters of record as of the date of recording of this Special Warranty Deed in the Official Records of Yavapai County, Arizona.

And the Grantor hereby binds itself and its successors to warrant and defend the title to the Property as against the acts of Grantor, but no others, subject to the matters above set forth.

Dated to be effective as of _____, 20__.

GRANTOR:

WICKENBURG RANCH WASTEWATER
COMPANY, an Arizona Limited liability company

By: _____

Its: _____

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____,
by _____, as _____ of Wickenburg
Ranch Wastewater Company, an Arizona Limited liability company on behalf of the company.

Notary Public

My Commission Expires:

LEGAL DESCRIPTION OF THE PROPERTY

[TO BE INSERTED AT COE]

Escrow No. **NON-FOREIGN PERSON AFFIDAVIT**

THIS AFFIDAVIT is made this _____ day of _____, 20____, by Wickenburg Ranch Wastewater Company, an Arizona limited liability company (collectively "Transferor"), for the benefit of the Town of Wickenburg, a political subdivision of the State of Arizona ("Transferee").

Section 1445(a) of the Internal Revenue Code of 1986 (hereinafter referred to as the "Code") provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. To inform the Transferee that withholding of tax is not required upon the disposition by Transferor of a U.S. real property interest, the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust or foreign estate or other foreign person (as those terms are defined in the Code and Income Tax Regulations);
2. Transferor is not a disregarded entity as defined in 26 CFR §1-1445.2(b)(2)(iii);
3. Transferor's U.S. Employer Identification Number or Social Security Number, as applicable is _____ and
4. Transferor's office address is _____.

Transferor understands that this certification may be disclosed to the Internal Revenue Service by Transferee and that any false statement contained herein could be punished by fine, imprisonment or both.

Under penalties of perjury, the undersigned declares that the undersigned has examined this certification and, to the best of the undersigned's knowledge and belief, it is true, correct and complete, and the undersigned further declares that the undersigned has authority to sign this document on behalf of Transferor.

TRANSFEROR:

WICKENBURG RANCH WASTEWATER COMPANY

By: _____

Name: _____

Its: _____

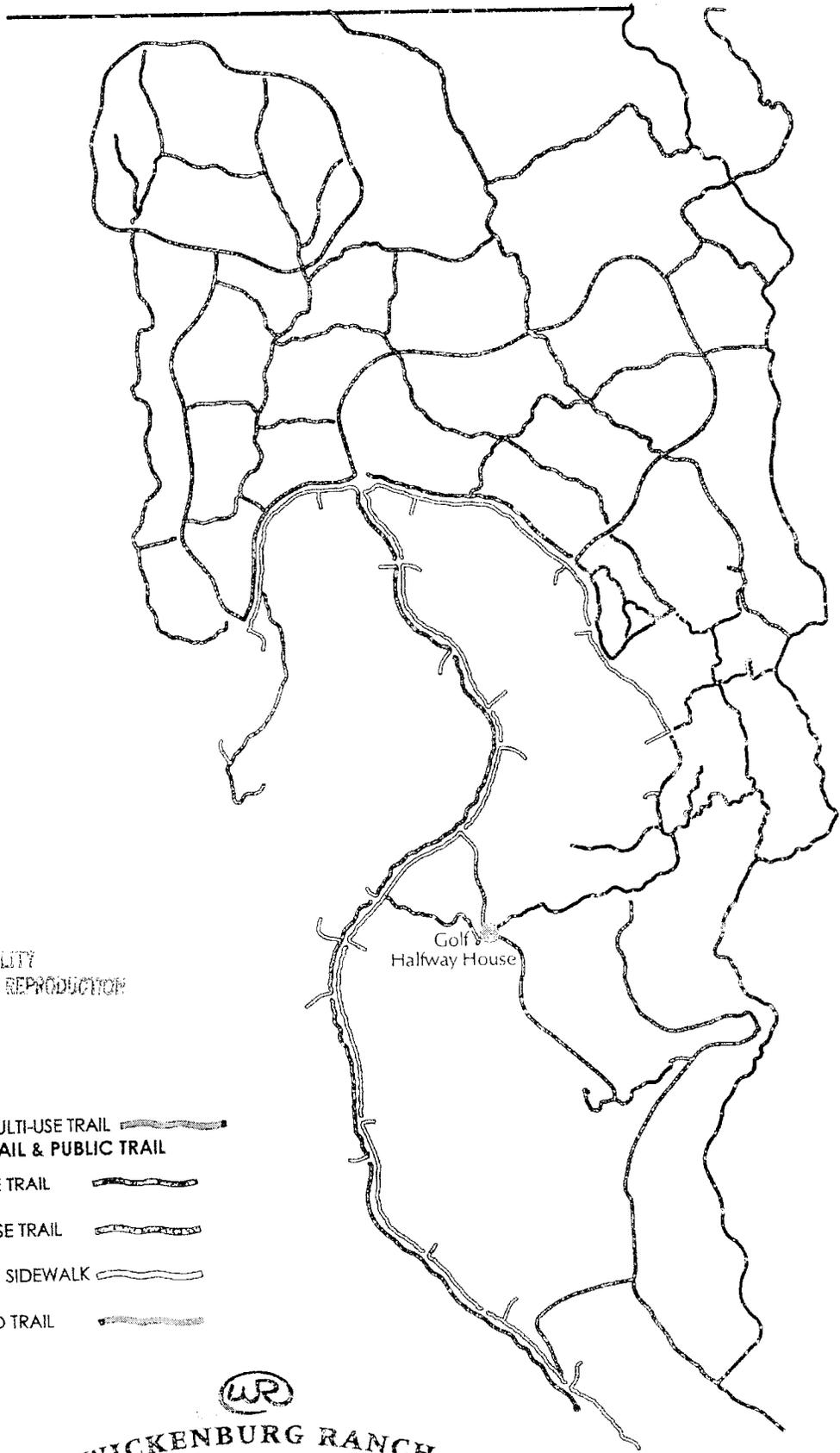
STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____,
by _____, as _____ of Wickenburg
Ranch Wastewater Company, an Arizona limited liability company, on behalf of the company.

Notary Public

My Commission Expires:

Due to the size, this document can be accessed at the
Town Clerk's Office, 155 N. Tegner Street, Suite A,
Wickenburg, Arizona, 928-684-5451.



RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION

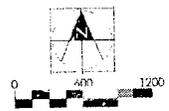
TRAILS LEGEND

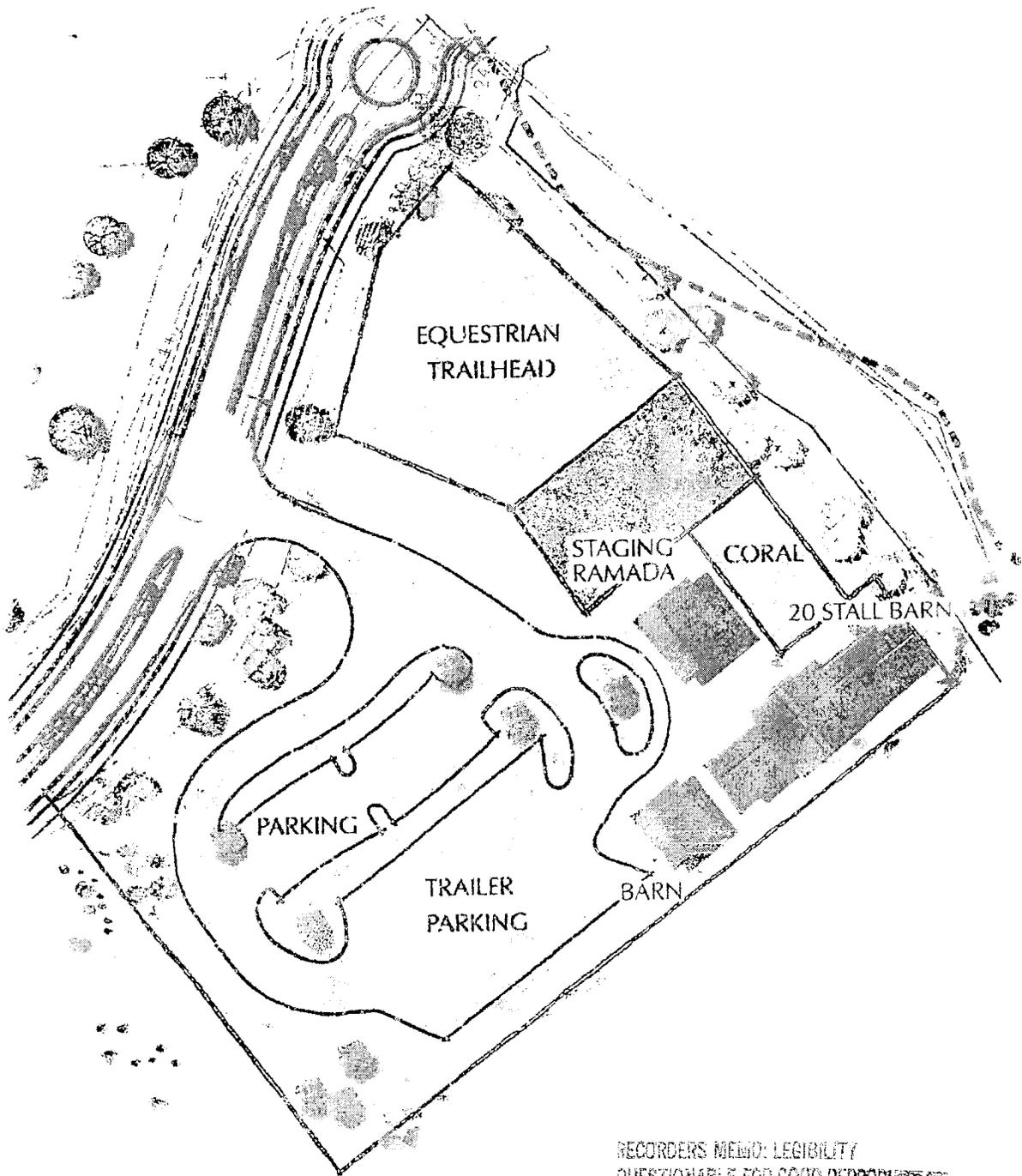
- MARTINEZ WASH MULTI-USE TRAIL 
- APS EASEMENT TRAIL & PUBLIC TRAIL 
- NATURAL MULTI-USE TRAIL 
- ROADSIDE MULTI-USE TRAIL 
- COLLECTOR ROAD SIDEWALK 
- CORE AREA PAVED TRAIL 

March 2013




WICKENBURG RANCH
MASTER TRAILS PLAN
EXHIBIT N





RECORDERS MEMO: LEGIBILITY
 QUESTIONABLE FOR GOOD REPRODUCTION

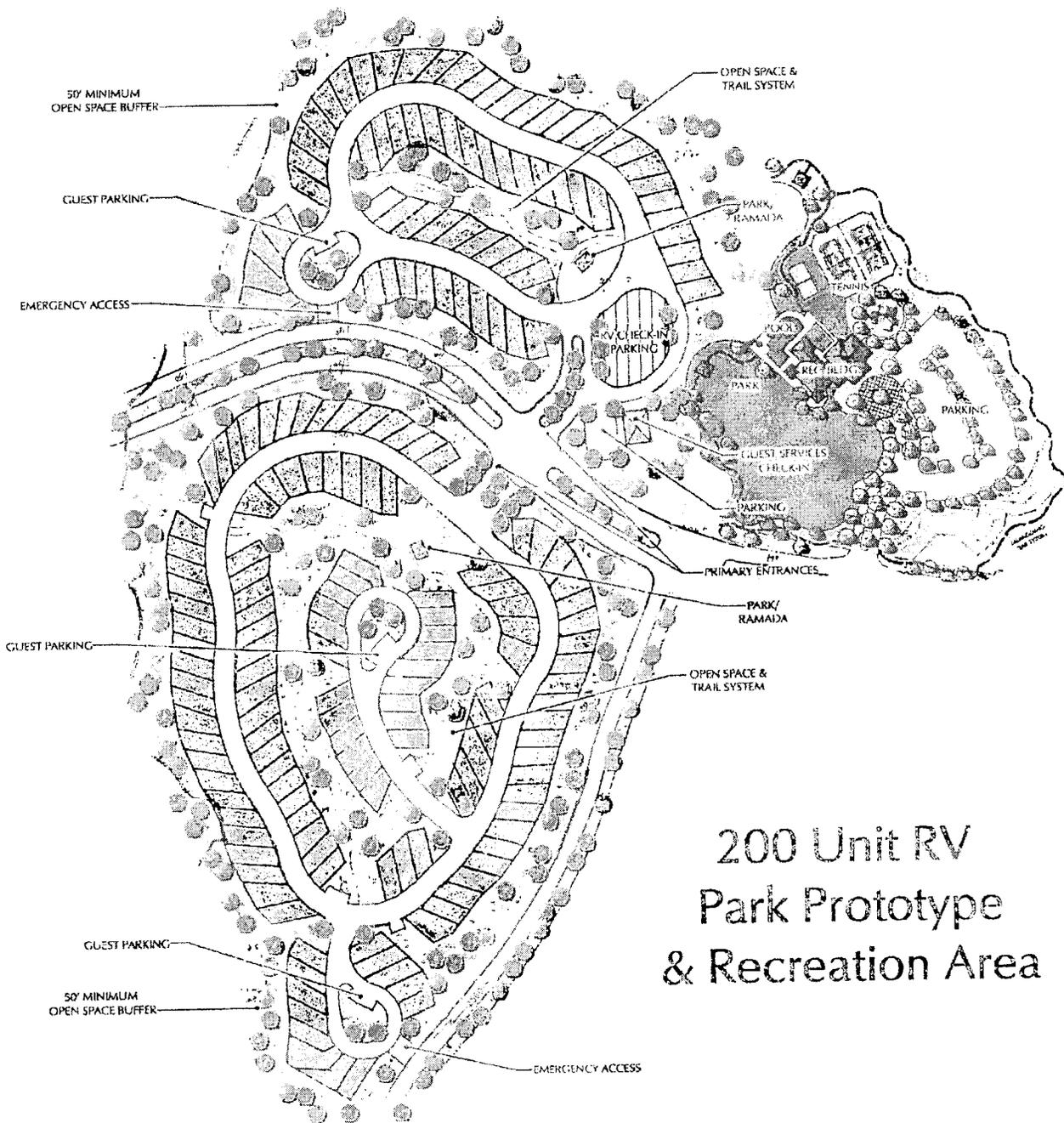
October 2013


 m3companies
 P. PICKET


WICKENBURG RANCH

Equestrian Trailhead Concept
EXHIBIT E





200 Unit RV Park Prototype & Recreation Area

RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION

October 2013

m3companies
C. J. PICKETT

WR
WICKENBURG RANCH

200 Unit RV Park Prototype & Recreation Area

EXHIBIT L

Not to Scale

APS Substation
 Wolf Resey Camp

State Route 89

Community Entry

Billboard

US HWY 95

Community Entry

PERMANENT SIGN

RECORDERS MEMO: LEGIBILITY
 QUESTIONABLE FOR GOOD REPRODUCTION

-  COMMUNITY SALES & INFORMATION CENTER
-  PARCEL SALES CENTER
- (A) COMMUNITY ENTRY SIGNAGE (2 PER ENTRY)
- B. NEIGHBORHOOD ENTRY SIGNAGE (NOT SHOWN, 2 PER PARCEL ENTRY, SOME PARCELS MAY HAVE MORE THAN 1 ENTRY)
- (C) COMMUNITY MARKETING SIGNAGE (NOT TO EXCEED 96 SQ. FT. PER SIGN)
- D. FACILITY SIGNAGE (TO INCLUDE ONSITE & OFFSITE DIRECTIONAL SIGNAGE)
- E. TRAIL SIGNAGE (SIGNAGE SPACING TO BE NOT LESS THAN 1320' ON PUBLIC & PRIVATE TRAILS)
- F. GOLF CART CROSSING SIGNAGE
- G. BUILDER SIGNAGE & TEMPORARY SALES OFFICE (NOT SHOWN, 5 SIGNS PER PARCEL TOTALING 100 SQ. FT.)
- H. BUILDER & CUSTOM LOT SIGNAGE (NOT SHOWN, 1 PER LOT)
- I. OFF PREMISE SIGN
- J. MONUMENT SIGN FOR COMMERCIAL PARCEL
- K. BILLBOARD

March 2013

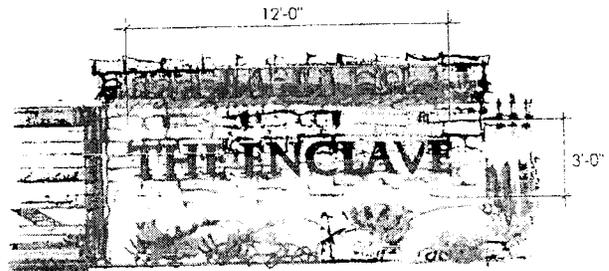



WICKENBURG RANCH
 MASTER SIGNAGE & SALES CENTER PLAN
 EXHIBIT J-1





(A) COMMUNITY ENTRY SIGNAGE



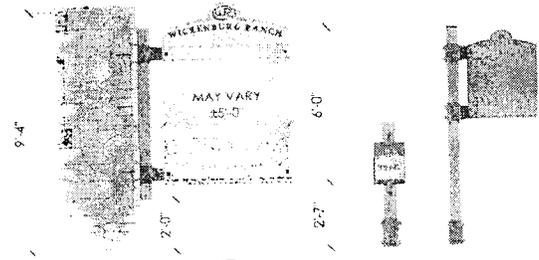
(B) NEIGHBORHOOD ENTRY SIGNAGE



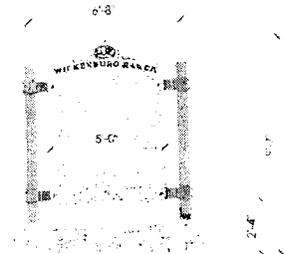
(C) COMMUNITY MARKETING SIGNAGE



(D) FACILITY SIGNAGE



(D) FACILITY SIGNAGE



(G) BUILDER SIGNAGE & TEMPORARY SALES OFFICE SIGNAGE



(G) BUILDER SIGNAGE & TEMPORARY SALES OFFICE SIGNAGE

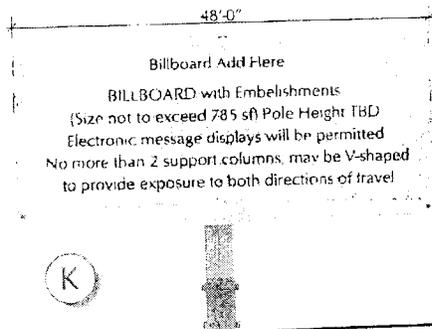


(H) BUILDER/CUSTOM LOT SIGNAGE



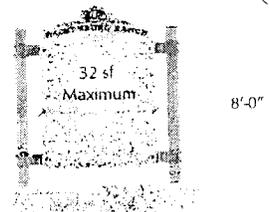
(I)

(E-F) TRAIL SIGNAGE & GOLF CART CROSSING SIGNAGE



(K)

RECORDERS MEMO: LEGIBILITY QUESTIONABLE FOR GOOD REPRODUCTION



(J) Commercial Monumentation (Size not to exceed 32 sf)

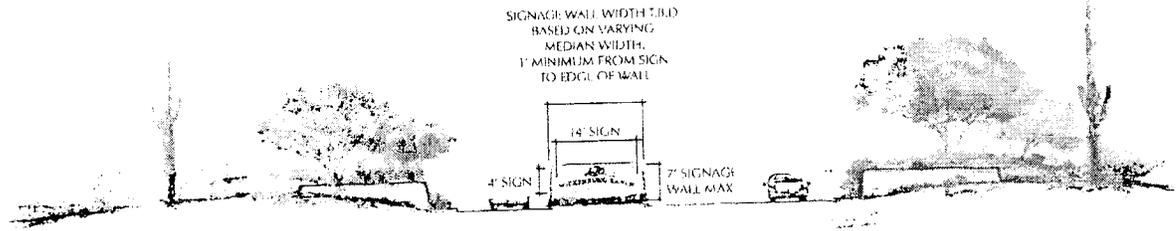
March 2013

m3companies

WICKENBURG RANCH
Community Signage Concepts
EXHIBIT J2

Not to Scale

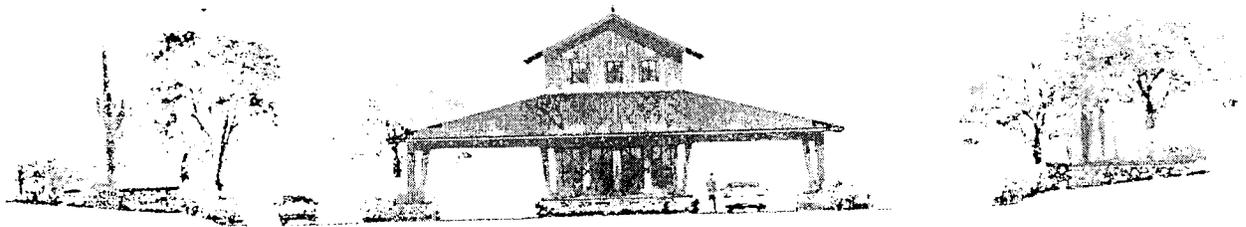
RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION



COMMUNITY ENTRY SIGNAGE



ENTRY BIRD'S EYE



GATEHOUSE (Optional)

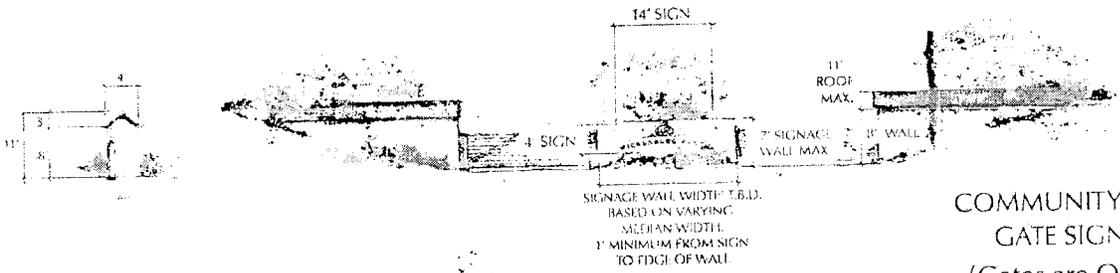
March 2013

m3companies
ARCHITECTURE


WICKENBURG RANCH

Highway 89 Entry
EXHIBIT J3

Not to Scale



COMMUNITY ENTRY GATE SIGNAGE
(Gates are Optional)

COMMUNITY ENTRY GATE SIGNAGE

ENTRY GATES
(Gates are Optional)

GATEHOUSE
(Optional)

RECORDERS MEMO: LEGIBILITY
QUESTIONABLE FOR GOOD REPRODUCTION

COMMUNITY ENTRY SIGNAGE

March 2013




WICKENBURG RANCH

Highway 89 Entry & Entry Gates (Optional)

EXHIBIT J4

Not to Scale