



Agenda

Work Study and Possible Executive Session Queen Creek Town Council

Queen Creek Town Hall, 22350 S. Ellsworth Road
Council Chambers

April 18, 2012

5:30pm

1. Call to Order

2. Roll Call (one or more members of the Council may participate by telephone)

3. Motion to adjourn to Executive Session (to be held in the Saguaro Conference Room of the Municipal Services Building) for the following purposes:

A. Discussion and consultation with the Town's attorneys for legal advice regarding a notice of violation and possible settlement re: Queen Creek Landfill. (A.R.S. 38-431.03(A)(3).

B. Discussion and consideration of assignments and performance evaluation of Town Manager (A.R.S. §38-431.03(A)(1).

ITEMS FOR DISCUSSION These items are for Council discussion only and no action will be taken. In general, no public comment will be taken.

None.

4. Adjournment



Agenda
Regular and Possible Executive Session
Queen Creek Town Council
Queen Creek Town Hall, 22350 S. Ellsworth Road
Council Chambers
April 18, 2012
7:00 p.m.

1. Call to Order

2. Roll Call (one or more members of the Council may participate by telephone)

3. Pledge of Allegiance:

4. Invocation: Pastor Ron Nelson, Life Link Church

5. Ceremonial Matters: Presentations, Proclamations, Awards, Guest Introductions and Announcements.

6. Committee Reports

A. Council summary reports on meetings and/or conferences attended. This may include but is not limited to Phoenix-Mesa Gateway Airport; MAG; East Valley Partnership; CAAG. The Council will not propose, discuss, deliberate or take legal action on any matter in the summary unless the specific matter is properly noticed for legal action.

B. Partner agencies quarterly or periodic updates to Council. This may include but is not limited to Queen Creek Chamber of Commerce; Queen Creek Performing Arts Center; Boys & Girls Club of East Valley; and Maricopa or Pinal County Board of Supervisors or other governmental agencies. The Council will not propose, discuss, deliberate or take legal action on any matter in the summary unless the specific matter is properly noticed for legal action.

- Queen Creek Chamber of Commerce – 3rd Quarter report

C. Economic Development Commission – March 25, 2012

D. Town Center Committee – April 11, 2012

7. Public Comment: Members of the public may address the Town Council on items not on the printed agenda and during Public Hearings. Please complete a “Request to Speak Card”, located on the table at the rear of the Council Chambers and turn it in to the Town Clerk prior to the beginning of the meeting. There is a time limit of three minutes for comments.

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Queen Creek Town Council

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8. Consent Calendar: Matters listed under the Consent Calendar are considered to be routine and will be enacted by one motion and one vote. Public Hearing items are designated with an asterisk (*). Prior to consideration of the Consent Agenda, the Mayor will ask whether any member of the public wishes to remove a Public Hearing item for separate consideration. Members of the Council and or staff may remove any item for separate consideration.

A. Consideration and possible approval of the March 21, 2012 Work Study and Regular Session Minutes. **TAB A**

B. Consideration and possible approval of the April 4, 2012 Regular Session Minutes. **TAB B**

C. Consideration and possible approval of Expenditures over \$25,000. **TAB C**

D. Consideration and possible approval of a Services Contract in the amount not to exceed \$50,000 with Ripple Industries, LLC, for supervisory control and data acquisition (SCADA) system programming and software maintenance services on an as-needed/on-call basis. **TAB D**

E. Consideration and possible approval of the Amended and Restated Intergovernmental Agreement continuing the operation of the TOPAZ Regional Wireless Cooperative (TRWC). **TAB E**

PUBLIC HEARINGS: If you wish to speak to the Council on an item listed as a Public Hearing, please complete a Request to Speak Card and turn it in to the Town Clerk. Speakers will be called upon in the order in which their cards are received. Speakers are limited to three (3) minutes each.

9. Public Hearing and possible approval of **RZ11-038/SD11-039/ORDINANCE 510-12 “Church Farm”** a request by Greg Davis of IPlan Consulting on behalf of William Lyon Homes to rezone 879 acres from R1-43 to Planned Area Development (PAD) with underlying zoning districts of R/C, PQ/P, C-2, R1-4, R1-5, R1-7 and R1-9 in addition to the approval of a Preliminary Plat and Landscape Plan for a master planned single-family subdivision. The project is located at the southeast corner of Signal Butte and Ocotillo Roads. **TAB F**

10. Public Hearing and possible approval of **CU12-001/SP12-002 “Pegasus Airpark”** a request by the Pegasus Airpark Flight Association to amend the Conditional Use Permit CU01-97 to allow the operation of very light jets (under 12,500 pounds) in addition to a request for an additional fuel tank to be used for Jet-A aircraft fuel. The property is located approximately ¼ mile east of Ellsworth Road and north of Empire Blvd. **TAB G**

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FINAL ACTION: If you wish to speak to the Council on an item listed under Final Action, please complete a Request to Speak Card and turn it in to the Town Clerk. Speakers will be called upon in the order in which their cards are received. Speakers are limited to three (3) minutes each.

11. Presentation and update from the Town Center Alliance.

12. Discussion and possible approval of a façade improvement program in the Town Center. **TAB H**

13. Discussion and possible approval of a pedestrian street light banner program in the Town Center. **TAB I**

ITEMS FOR DISCUSSION: These items are for Council discussion only and no action will be taken. In general, no public comment will be taken.

14. Quarterly Marketing update.

15. Motion to adjourn to Executive Session: The Council may reconvene the Executive Session for any of the items listed on the Executive Session Agenda.

16. Adjournment



Minutes
Work Study Session
Queen Creek Town Council
Queen Creek Town Hall, 22350 S. Ellsworth Road
Council Chambers
March 21, 2012
5:30pm

1. Call to Order

The meeting was called to order at 5:30pm.

2. Roll Call (one or more members of the Council may participate by telephone)

Council Members present: Alston; Barnes; Benning; Oliphant; Vice Mayor Brown and Mayor Barney. Council Member Wheatley was absent.

3. Motion to adjourn to Executive Session (to be held in the Saguaro Conference Room of the Municipal Services Building) for the following purposes:

A. Discussion and consultation with the Town Attorney for legal advice and to consider the Town's position and instruct the staff regarding acquisition of property (Victoria Towne Center). (A.R.S. 38-431.03(A)(3) & (7). **DRAFT**

B. Discussion and consultation with the Town Attorney for legal advice and to consider the Town's position and instruct its attorney regarding the development agreement between the Town and Rock Point Church. (ARS 38-431.03(A)(3) and (4).

C. Discussion and consultation with the Town Attorney for legal advice and to consider the Town's position and instruct its attorney regarding pending litigation in the matter of Town v. Highland Homes and Mark Pugmire. (ARS 38-431.03(A)(3) and (4).

D. Discussion and consultation with the Town's attorneys for legal advice and to consider the Town's position and instruct its attorneys regarding litigation against the Social Security Administration. (ARS 38-431.03(A)(3) and (4).

E. Discussion and consultation with the Town's attorneys for legal advice regarding a notice of violation and possible settlement re: Queen Creek Landfill. (A.R.S. 38-431.03(A)(3). **DRAFT**

F. Discussion and consultation with the Town Attorney for legal advice concerning scalloped street improvements and assessments. (A.R.S. 38-431.03(A)(3)

G. Discussion and consultation for legal advice with the Town Attorney and to consider the Town's position and instruct its staff regarding a possible land exchange. (ARS 38-431.03 (A)(3) and (7).

Motion to adjourn to Executive Session at 5:31pm (Benning/Brown/Unanimous)

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ITEMS FOR DISCUSSION These items are for Council discussion only and no action will be taken. In general, no public comment will be taken.

None.

4. Adjournment

The Work Study Session reconvened and adjourned at 7:00pm.

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DRAFT

Minutes
Regular Session
Queen Creek Town Council
Queen Creek Town Hall, 22350 S. Ellsworth Road
Council Chambers
March 21, 2012
7:00 p.m.

1. Call to Order

The meeting was called to order at 7:06pm.

2. Roll Call (one or more members of the Council may participate by telephone)

Council Members present: Alston; Barnes; Benning; Oliphant; Vice Mayor Brown and Mayor Barney.

Council Member Wheatley was absent.

3. Pledge of Allegiance: Spencer Tyler, Boy Scout Troop 861 led the Pledge.

4. Invocation: A moment of silence was held.

5. Ceremonial Matters: Presentations, Proclamations, Awards, Guest Introductions and Announcements.

- Boy Scout Recognition – Queen Creek East Stake: Forty-five Scouts and 20 leaders were recognized for providing 32 hours of service cleaning Desert Mountain Park.
- Eagle Scout Recognition – Hayden Woodard coordinated 29 volunteers to provide 180 hours of service harvesting the fruit from Town-owned trees and delivering the edible fruit to the Family Resource Center, Amadeo Church and St. Vincent de Paul, three food banks providing service to Queen Creek.

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6. Committee Reports

A. Council summary reports on meetings and/or conferences attended. This may include but is not limited to Phoenix-Mesa Gateway Airport; MAG; East Valley Partnership; CAAG. The Council will not propose, discuss, deliberate or take legal action on any matter in the summary unless the specific matter is properly noticed for legal action.

Council Member Benning:

- CAAG Executive Committee – March 15, 2012: The committee voted to support the Tiger 4 Transportation application.

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Mayor Barney:

- Phoenix-Mesa Gateway Airport Authority – March 19, 2012: Mayor Barney reported on Spirit Airlines announcement of expanded service; highest ever passenger count at the airport for February; and the Aviation Day was a huge success with over 12-thousand visitors. The Board also approved the FY12-13 budget. The next meeting is April 16, 2012.

B. Partner agencies quarterly or periodic updates to Council. This may include but is not limited to Queen Creek Chamber of Commerce; Queen Creek Performing Arts Center; Boys & Girls Club of East Valley; and Maricopa or Pinal County Board of Supervisors or other governmental agencies. The Council will not propose, discuss, deliberate or take legal action on any matter in the summary unless the specific matter is properly noticed for legal action.

None.

C. Parks and Recreation Advisory Board – March 13, 2012: Council Member Oliphant reported on the presentation, discussion and approval of the donation of two electronic scoreboards for Desert Mountain Park; staff updates and the RFP for the youth soccer program. Committee Chair Dobbs provided an update on the Policy Review Committee. The next meeting is not scheduled.

7. Public Comment: Members of the public may address the Town Council on items not on the printed agenda and during Public Hearings. Please complete a “Request to Speak Card”, located on the table at the rear of the Council Chambers and turn it in to the Town Clerk prior to the beginning of the meeting. There is a time limit of three minutes for comments.

Scot Mussi, Phoenix, AZ, spoke in regard to Item G on the Consent Calendar and thanked Council and staff for resolving the issue.

Jack Reed, Queen Creek, AZ, thanked Council for rescinding the scalloped street resolution.

DRAFT

Corina Snyder, Queen Creek, AZ, spoke in regards to wanting to start a home baking business and would like to get the laws in Queen Creek changed to allow the commercial use of a home kitchen.

8. Consent Calendar: Matters listed under the Consent Calendar are considered to be routine and will be enacted by one motion and one vote. Public Hearing items are designated with an asterisk (*). Prior to consideration of the Consent Agenda, the Mayor will ask whether any member of the public wishes to remove a Public Hearing item for separate consideration. Members of the Council and or staff may remove any item for separate consideration.

A. Consideration and possible approval of the March 7, 2012 Work Study and Regular Session Minutes.

- B. Consideration and possible approval of Expenditures over \$25,000.
- C. Consideration and possible approval of **Resolution 900-12** the amended development agreement and deed of trust relating to in-lieu payments by Rock Point Church, and authorizing the Town Manager and Town Attorney to make changes, so long as those changes do not alter the material provision of the documents.
- D. Consideration and possible approval of **Resolution 901-12** the Canvass of the March 13, 2012 Primary Election.
- E. Consideration and possible approval of a lease agreement with GTP Infrastructure I, LLC for a renewable five-year lease of premises located at Founders Park for a cellular tower and equipment compound.
- F. Consideration and possible approval of the appointment of Mayor Gail Barney as Chairperson and Town Manager John Kross as resident to the Queen Creek Local Public Safety Retirement Board. Both appointments are for four (4) years.
- G. Consideration and possible approval of rescinding **Resolution 832-10** the Notice of Intention for Ellsworth – Cloud – Empire Scalloped Street Assessment Project SS #01 adopted on March 17, 2010 pertaining to Ellsworth Road improvements and related assessments.

Council requested Item C removed for discussion.

Motion to approve Consent Calendar A-B and D-G as presented
(Brown/Alston/Unanimous)

DRAFT

Council requested a brief review of the amendments proposed for the Development Agreement with Rock Point Church. Public Works Division Manager White provided information on the amendments regarding a deed of trust and payments in-lieu for half-street improvements as assurance of construction.

Motion to authorize staff to negotiate the final terms of a development agreement and deed of trust by which the lender/senior lien holder is a party to the documents; obligation to make payments runs with the land and is not affected by foreclosure of the senior lien; payments will continue to be made if the senior lien holder takes control of the property or sells it to a third party; and authorizing the Town Manager and Town Attorney to execute and approve development agreement and deed of trust so long as there is no change to the material terms described in this motion (Benning/Alston/Unanimous)

PUBLIC HEARINGS: If you wish to speak to the Council on an item listed as a Public Hearing, please complete a Request to Speak Card and turn it in to the Town Clerk. Speakers will be called upon in the order in which their cards are received. Speakers are limited to three (3) minutes each.

9. Public Hearing and possible action on **Resolution 899-12** amending the existing Schedule of Fees for Residential Waste Services relating to initial Cost and Replacement for newly constructed homes and future annexations, to be effective April 21, 2012.

DRAFT

Public Works Division Manager White reviewed the proposed schedule of fees, posting requirements, and the one comment received on Facebook. Mr. White stated that the fee doesn't impact current residents and applies only to new development. He added that this fee was included in the solid waste ordinance but not in the initial schedule of fees.

The Public Hearing was opened. No one came forth and the hearing was closed.

Motion to approve Resolution 899-12 amending the existing Schedule of Fees for Residential Waste Services relating to initial Cost and Replacement for newly constructed homes and future annexations, to be effective April 21, 2012
(Brown/Benning/Unanimous)

FINAL ACTION: If you wish to speak to the Council on an item listed under Final Action, please complete a Request to Speak Card and turn it in to the Town Clerk. Speakers will be called upon in the order in which their cards are received. Speakers are limited to three (3) minutes each.

10. Discussion and possible action on the continuation of the Queen Creek Incubator (QC Inc.) program.

Economic Director Cott provided a brief review of purpose for developing the Queen Creek Incubator pilot program and the Economic Development Commission's recommendation to continue the program and utilize the vacant Parks & Recreation Building.

Economic Development Specialist Moyers reviewed the first-year successes of the program – including tenants; services used by tenants and other members; business training opportunities, job creation and the tenant criteria which provided some flexibility.

Ms. Moyers said that during the second-year the program would continue to be evaluated and requested Council's direction on continuing the program and relocating to an appropriate location.

DRAFT

Council discussion on continuing the program included being more aggressive on attracting revenue generating and high-tech businesses while moving away from the service based and home occupation businesses and cutting down on Town expenditures.

Assistant Town Manager Flynn clarified that the direction requested was whether to continue the program as established and proceed with relocating when the lease at the current space expires.

There was discussion on the costs for moving to the Parks & Recreation Building and renegotiating a lease for the current space. Council also discussed the current lease term and effect it would have on current tenants. Staff explained that the program criteria is clear on the end of the lease. There was also discussion on creating stricter tenant criteria.

DRAFT

1st Motion to continue the Queen Creek Incubator program as established through the end of the lease (Brown/Benning)

2nd Motion to continue the Queen Creek Incubator program with changes to the program as tenants graduate and direct staff to continue to evaluate potential locations for the program and work to secure a location prior to current lease ending December 2012 (Barnes)

Council discussed the proposed motion in regard to businesses graduating; service businesses and term of lease.

Motion dies for lack of Second

Council asked for information on terms of current tenants. Ms. Moyers responded that all will have to graduate by December 2012 and each was allowed 12-24 months. Tenants could sign a twelve month lease initially and then resign to December 2012.

**Vote on 1st Motion: 5-1 (Barnes)
Motion Passed.**

3rd Motion to direct staff to incorporate comments and present alternative options for the program with financial information for each option (operating) including relocation options (Brown/Benning)

Discussion was in regard to the time and resources needed to evaluate the options.

**Vote: 4-2 (Barnes/Oliphant)
Motion Passed.**

ITEMS FOR DISCUSSION: These items are for Council discussion only and no action will be taken. In general, no public comment will be taken.

DRAFT

None.

11. Motion to adjourn to Executive Session: The Council may reconvene the Executive Session for any of the items listed on the Executive Session Agenda.

None.

DRAFT

12. Adjournment

The meeting was adjourned at 8:38pm.

DRAFT



Minutes
Regular Session
Queen Creek Town Council
Queen Creek Town Hall, 22350 S. Ellsworth Road
Council Chambers
April 4, 2012
6:00 p.m.

1. Call to Order

The meeting was called to order at 6:10pm.

2. Roll Call (one or more members of the Council may participate by telephone)

Council Members present: Alston; Barnes; Benning; Oliphant; Wheatley; Vice Mayor Brown and Mayor Barney.

Also present: Town Manager Kross; Assistant Town Manager Flynn; Town Attorney Bisman; Town Clerk Robinson and PIO Marnie Schubert.

ITEMS FOR DISCUSSION: These items are for Council discussion only and no action will be taken. In general, no public comment will be taken.

3. Discussion and presentation on communicating in the complex regional political environment for elected officials – a training session for the Queen Creek Town Council.

As adopted in the 2012-2017 Corporate Strategic Plan, concerning professional development, this meeting is a training session for the Town Council and no action will occur at this meeting.

Cary Pfeffer of ClearComm Consulting, facilitated the training session.

4. Adjournment

The meeting adjourned at 8:00pm.

DRAFT



Requesting
Department:
Management Services

TO: HONORABLE MAYOR AND TOWN COUNCIL

THROUGH: JOHN KROSS, TOWN MANAGER

**FROM: KIM CLARK, SR. FINANCIAL SERVICES ANALYST
YOLANDA BRACAMONTE, CONTROLLER**

**RE: CONSIDERATION AND POSSIBLE APPROVAL OF
EXPENDITURES \$25,000 AND OVER**

DATE: April 18, 2012

Staff Recommendation:

Staff recommends approval of expenditures \$25,000 and over.

Proposed Motion:

Move to approve Town expenditures \$25,000 and over, pursuant to Town purchasing policy.

Discussion:

The following items being requested are:

1. Printing/Graphic design and marketing

See attachment for additional explanation on the above expenditures.

Fiscal Impact:

The initial fiscal impact of the requested spending authority for the above expenditure is \$40,000. Funds have been identified within the line item budget as approved in the 2011-2012 fiscal year budgets.

Alternatives:

1. Council could choose not to approve this expenditure. The impact of this action would prevent the Communications & Marketing Division of completing graphic design projects including, but not limited to the design of a 6-page recreation newsletter, banner images for the Shop the QC Program, human resources recruitment brochures, administrative projects such as stationary, and web banner designs.

Attachments:

- A detailed list of requested expenditure.

Attachment: Expenditures \$25,000 and over

**For Fiscal Year 2012
April 18, 2012**

Item #	Vendor	Description	Purpose	Requesting Dept	Fiscal Impact \$	Procurement Method
1.	Esser Design	Printing/Graphic Design/Marketing	Contract spending authority for as-needed graphic design and marketing services to meet the needs of the Economic Development, Human Resources, Utility Services Department, Public Works, Parks & Rec., Development Services, and Fire. **Amount includes monies already expended July 2011 through March 2012.**	Communications & Marketing	\$40,000	City of Peoria Contract: ACON-76407



Requesting Department:

Utility Services

TO: HONORABLE MAYOR AND TOWN COUNCIL

THROUGH: JOHN KROSS, TOWN MANAGER

**FROM: PAUL GARDNER, UTILITY SERVICES DIRECTOR
GREG HOMOL, FIELD OPERATIONS SUPERINTENDENT
MIKE JOHNSON, FIELD OPERATIONS SUPERINTENDENT
GREG FLYNN, SR. FINANCIAL SERVICES ANALYST**

RE: CONSIDERATION AND POSSIBLE APPROVAL OF A CONTRACT IN THE AMOUNT NOT TO EXCEED \$50,000 WITH RIPPLE INDUSTRIES, LLC FOR SUPERVISORY CONTROL AND DATA ACQUISITION (SCADA) SYSTEM PROGRAMMING AND SOFTWARE MAINTENANCE SERVICES ON AN AS-NEEDED/ON-CALL BASIS

DATE: April 18, 2012

Staff Recommendation:

Staff recommends the approval of the contract with Ripple Industries, LLC for SCADA system programming and software maintenance services in an amount not to exceed \$50,000.

Relevant Council Goal(s):

N/A

Proposed Motion:

Move to approve as recommended above.

Discussion:

The Supervisory Control and Data Acquisition (SCADA) system is the nerve center of the Town of Queen Creek's Water System; the proper functioning of this critical infrastructure is essential for the delivery of water services to residential and commercial customers within the Town.

The Town previously contracted with CPT Control Process Technologies, located in Mesa for the repair and programming services for SCADA system; as of March 2012 and due to a re-organization, this firm will no longer be providing the services that are required by the Water Division to ensure the proper functioning of the Water Division's SCADA system. Water Division

staff has identified another suitable vendor to perform the needed SCADA programming and software maintenance services.

Ripple Industries, LLC, a newly formed limited liability firm, is comprised of former employees of CPT Control Process Technologies. This firm has indicated that they can provide the Water Division on-call emergency troubleshooting and repair as well as, system programming, programming modifications, modifications and upgrades to existing hardware/software, and hardware/software maintenance for the SCADA system. The attached contract with Ripple Industries, LCC will not exceed \$50,000 on an annual basis.

Fiscal Note:

Funding for this service is available within the 220-460-2020-00000-404330 Well Site Repair and Maintenance account line in the Water Enterprise Fund. The maintenance of the SCADA system is an annually recurring budget item. The Water Enterprise expended \$49,974 in FY10-11 and \$16,393 year-to-date in FY11-12 with CPT Control Technologies for SCADA programming and software maintenance services. The new contract will assume the remaining budget appropriation for these services for the remainder of the current fiscal year -- if services are needed.

Alternatives:

The proper functioning of this critical infrastructure is essential for the delivery of water services to residential and commercial customers within the Town. If the Town Council chooses not to approve this service procurement, another suitable vendor would need to be identified quickly to provide the needed services for the Water Utility.

Attachments:

- 1) Service Contract – Ripple Industries, LLC

TOWN OF QUEEN CREEK

SERVICES CONTRACT

This Contract is made and entered into effective as of the ____ day of April, 2012 (the "Effective Date"), by and between the Town of Queen Creek, an Arizona municipal corporation ("Town"), and Ripple Industries, LLC, an Arizona limited liability company ("Vendor"). Town and Vendor may be referred to in this Contract collectively as the "Parties" and each individually as a "Party."

RECITALS

The Town wishes to enter into a contract for Supervisory Control and Data Acquisition (SCADA) system programming, programming modifications, modifications and upgrades to existing hardware/software, and hardware/software maintenance on an as-needed/on-call basis; and

Vendor is qualified to perform the Services; and

The Mayor is authorized and empowered by the Town Code to execute contracts for services.

Now therefore, in consideration of the mutual promises and obligations set forth in this Contract the Parties agree as follows:

AGREEMENTS

ARTICLE 1. SCOPE OF SERVICES

Vendor shall provide the services described in the Scope of Services attached here to as Exhibit B (the "Services"). The Services may include providing and/or installing certain Goods, as either specified on Exhibit B or as necessary to properly provide the Services ("Goods"), in which case such Goods to be provided shall be included in the Services provided under this Contract. All Services will be reviewed and approved by the Contract Administrator to determine acceptable completion. Review and approval by the Contract Administrator shall not relieve Vendor of any liability for defective, non-complying, improper, negligent or inadequate Services rendered, and/or Goods provided, pursuant to this Contract.

ARTICLE 2. FEES

1. The amount paid to Vendor under this Contract, including reimbursable expenses, shall not exceed \$50,000.00 annually.

2. Vendor shall be paid according to the schedule set forth in Exhibit C.

3. The Town will make every effort to process payment for the purchase of goods or services within thirty (30) calendar days after receipt of goods or services and a correct notice of amount due, unless a good faith dispute exists as to any obligation to pay all or a portion of the account. A Town issued purchase order is required prior to any services being rendered. A Town purchasing card is an acceptable method of payment.

4. If for any reason the Vendor fails to fulfill in a timely and proper manner its obligations under this Contract, or if the Vendor violates any of the covenants, agreements, or stipulations of this Contract, the Town may withhold from payment due to the Vendor such amounts as are necessary to protect the Town's position for the purpose of set-off until such time as the exact amount of damages due to the Town from Vendor is agreed to by the parties in writing, or is finally determined by a court of competent jurisdiction.

ARTICLE 3. TERM OF CONTRACT

1. This Contract shall be in full force and effect when approved by the Town Council of Queen Creek, Arizona and signed by its Mayor as attested by the Town Clerk.

2. The Vendor shall proceed with providing the Services immediately upon receipt of a notice to proceed issued by the Contract Administrator.

3. The term of the Contract shall commence on the date of award and shall continue for a period of one (1) year from the date of the award. The Town has the option, in the Town's sole discretion to renew the Contract for four (4) additional one year periods. If the Contract is renewed, the total length of the Contract shall not exceed five (5) years. Any of the one (1) year contracts may be unilaterally extended by the Town for a period of thirty-one (31) days.

ARTICLE 4. TERMINATION OF CONTRACT

1. The Town has the right to terminate this Contract for cause or convenience, or to terminate any portion of the Services which have not been performed by the Vendor.

2. In the event the Town terminates this Contract or any part of the Services as herein provided, the Town shall notify the Vendor in writing, and immediately upon receipt of such notice, the Vendor shall discontinue all Services, or the specific Services being terminated, as applicable, under this Contract.

3. Upon such termination, the Vendor shall immediately deliver to the Town any and all documents or work product generated by the Vendor under the Contract (collectively, the "Work Product"), together with all unused material supplied by the Town, applicable to the Services being terminated. Vendor shall be responsible only for such portion of the work as has been completed and accepted by the Town. Use of incomplete data by the Town shall be the Town's sole responsibility.

4. The Vendor shall receive as compensation in full only for Services performed and Goods delivered to the Town, and approved in writing by the Contract Administrator, prior to the date of such termination. The Town shall make such final payment within 60 days after the latest of: (i) Vendor's completion or delivery to the Town of any portion of the Services not terminated; or (ii) Vendor's delivery to the Town of all Work Product and any unused material supplied by the Town, in accordance with Paragraph 3 of Article 4.

ARTICLE 5. ALTERATIONS OR ADDITIONAL SERVICES

The entire Scope of Services to be performed in accordance with this Contract is set forth in Exhibit B. Services and Goods which are not included or necessary to providing the

Services set forth in Exhibit B will be considered Additional Services, only if approved in writing by the Contract Administrator prior to their performance. The Vendor shall not perform such Additional Services without prior written authorization in the form of an approved written change order or contract amendment from the Town. In the event the Vendor performs such claimed Additional Services without prior written authorization from the Town, it shall be conclusively presumed that the claimed Additional Services were included in the Scope of Services and Vendor shall not be permitted to request or receive any additional compensation for such claimed Additional Services.

ARTICLE 6. ASSIGNMENT AND SUBCONTRACTING

1. This Contract may not be assigned in whole or in part without the prior written consent of the Town, and any such attempted assignment shall be null and void and a material breach of this Contract, and shall transfer no rights to the purported assignee.

2. The Vendor may engage such subvendors as Vendor may deem necessary or desirable for the timely and successful completion of this Contract. However, the use of such subvendors for the performance of any part of the Services specified in Exhibit B shall be subject to the prior written approval of the Town. Vendor will submit a complete list of subvendors on Exhibit D and will update the information on the list during the term of the Contract, should the status or identity of said subvendors change. Employment of such subvendors in order to complete the Services set forth in Exhibit B shall not entitle Vendor to additional compensation beyond that set forth in Article 2. The Vendor shall be responsible for and shall warrant all Services including work delegated to such subvendors.

ARTICLE 7. COMPLETENESS AND ACCURACY

The Vendor shall be responsible for and shall and hereby does warrant the completeness, accuracy and quality of all Services performed pursuant to the Contract including, but not limited to the Services, and any the reports, surveys, plans, supporting data and/or other documents prepared or compiled pursuant to Vendor's obligations under this Contract and shall correct at Vendor's expense all errors or omissions which may be discovered therein. Town's acceptance or approval of the Vendor's Services shall in no way relieve the Vendor of any of Vendor's responsibilities hereunder.

ARTICLE 8. OWNERSHIP OF DOCUMENTS

All documents including but not limited to data computation, studies, reports, notes, drawings, or other documents, which are prepared in the performance of this Contract are to be and remain the property of the Town and are to be delivered to the Contract Administrator before final payment under this Contract is made to the Vendor, or upon termination of this Contract for any reason. To the extent any such documents is deemed to be the property of Vendor, Vendor hereby assigns all of Vendor's right, title and interest (including any applicable copyright) in such documents and Work Product to the Town.

ARTICLE 9. INDEMNIFICATION

1. To the fullest extent permitted by law, the Vendor shall defend, indemnify, save and hold harmless the Town and its officials, officers, employees and agents (collectively

"Indemnitees") from and against any and all damages, claims, losses, liabilities, actions or expenses (including, but not limited to, attorneys' fees, court costs, and the cost of appellate proceedings) (collectively, "Claims") relating to, arising out of or alleged to have resulted from the performance of Services pursuant to this Contract including, but not limited to, any such performance by any subvendor. The Vendor's duty to defend, hold harmless and indemnify Indemnitees pursuant to this section shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, including death, or to injury to, impairment, or destruction of property including loss of use resulting therefrom, caused in whole or in part by the acts, errors, mistakes, omissions, work or services of the Vendor or anyone for whose acts the Vendor may be legally liable. It is the specific intention of the Parties that the Indemnitees shall be indemnified by Vendor from and against all Claims other than those arising from the Indemnitees' sole negligence. The Vendor will be responsible for primary loss investigation and defense and judgment costs where this Indemnification applies.

2. In the event that any action or proceeding shall at any time be brought against any of the Indemnitees by reason of any Claim referred to in this Article, the Vendor, at Vendor's sole cost and upon at least 10 day's written notice from Town, shall defend the same with counsel acceptable to Town, in Town's sole discretion.

3. The Vendor's obligations under this Article shall survive the expiration or earlier termination of this Contract.

4. The insurance provisions set forth in this Contract are separate and independent from the indemnity provisions of this Article and shall not be construed in any way to limit the scope and magnitude of this Indemnification, nor shall this Indemnification be construed in any way to limit the scope, magnitude or applicability of the insurance provisions.

ARTICLE 10. INSURANCE

Vendor shall secure and maintain during the life of this Contract, the insurance coverages set forth on Exhibit A.

ARTICLE 11. WARRANTIES

1. The Vendor shall be responsible for and shall and hereby does warrant the that all Services provided shall: (i) be of good quality; (ii) be provided by properly trained, qualified, and licensed (where applicable) workers and/or subvendors; (iii) conform to the requirements of this Contract (including all applicable descriptions, specifications, drawings and samples); (iv) be free from defects; (v) be appropriate for the intended purpose; (vi) meet or exceed all specifications, requirements and legal regulations, statues and/or codes that apply thereto, including, without limitation, all federal, state, county, and Town rules regulations, ordinances and/or codes that may apply; and (vii) be fully covered by Vendor's warranties running in favor of the Town under this Contract.

2. The Vendor shall be responsible for and shall and hereby does warrant the that all Goods provided pursuant to this Contract shall: (i) be new; (ii) be of good quality and manufacture; (iii) conform to the requirements of this Contract and the specific Purchase

Order (including all applicable descriptions, specifications, drawings and samples); (iv) be free from defects in material, workmanship, or design; (v) be fit for the intended purpose; (vi) meet or exceed all specifications, requirements and legal regulations, statues and/or codes that apply thereto, including, without limitation, all federal, state, county, and Town rules regulations, ordinances and/or codes that may apply; and (vii) be fully covered by Vendors and manufacturers' warranties applicable to the Goods running in favor of the Town. The Vendor additionally warrants to the Town that no software or computer code provided by Vendor or its subcontractors pursuant to this Contract does or will infringe the rights of any third parties.

3. Copies of all applicable manufacturers' warranties shall be delivered to the Town with or before delivery to the Town, or installation of any Goods. The Contract Administrator may at any time require Vendor to deliver to the Contract Administrator written warranties from the Vendor, and/or the manufacturers of the Goods, for review and approval by the Town. These warranties shall be in form and content satisfactory to the Town, the Town's lender(s), if any, and any other person reasonably requested by the Town, or the Town's lender(s). If the Vendor fails to deliver such warranties, or if the warranties are determined by the Contract Administrator to be inadequate or unacceptable, the Vendors will be considered to be in material breach of this Contract.

4. Immediately upon notice from the Contract Administrator thereof, Vendor shall correct or replace as required by the Contract Administrator, at Vendor's expense, all defects, noncompliance, or inadequacies which may be discovered in any of the Services and/or Goods provided under this Contract. The Town's acceptance or approval of the Services and/or Goods shall in no way relieve the Vendor of any of Vendor's responsibilities hereunder. Unless a longer period is set forth in the Vendor's or manufacturers' written warranties, this obligation to correct or replace shall continue for a period of two (2) years after acceptance of the specific Services and/or Goods.

ARTICLE 12. ADDITIONAL DISCLOSURES BY VENDOR

1. The Vendor shall reveal fully and in writing any financial or compensatory agreements which the Vendor has with any prospective contractor prior to the Town's publication of requests for proposals or comparable documents.

2. The Vendor hereby warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Vendor, to solicit or secure this contract, and that the Vendor has not paid or agreed to pay any person, company, corporation, individual or firm other than a bona fide employee working solely for the Vendor any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this contract.

3. The Vendor shall comply with Executive Order No. 11246 entitled "Equal Opportunity Employment" as amended by Executive Order no. 11375, and supplemented Department of Labor Regulations 41 CFR, Part 16.

ARTICLE 13. CONTRACT ADMINISTRATOR

The Town's Contract Administrator for this Contract shall be the Town Manager or

his/her designee(s).

ARTICLE 14. NOTICE

All notices or demands required to be given, pursuant to the terms of this Contract, shall be given to the other Party in writing, delivered in person, sent by facsimile transmission, deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested or deposited with any commercial air courier or express service at the addresses set forth below, or to such other address as the Parties may substitute by written notice, given in the manner prescribed in this paragraph.

Town: John Kross, Town Manager
22350 South Ellsworth Road
Queen Creek, AZ 85142
Facsimile: (480) 358-3189

With a copy to: MARISCAL, WEEKS, MCINTYRE & FRIEDLANDER, P.A.
2901 North Central Avenue, Suite 200
Phoenix, Arizona 85012
Att'n: Fredda J. Bisman, Esq.
Facsimile: (602) 285-5100

Vendor: Nathan Pitney, Industrial Accounts Manager
Ripple Industries, LLC
1917 South Signal Butte Road, Suite #101-175
Mesa, Arizona 85209
Facsimile: (602) 910-5543

A notice shall be deemed received on the date delivered, if delivered by hand, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express services or, if mailed, three (3) working days (exclusive of United States Post Office holidays) after the notice is deposited in the United States mail as above provided, and on the delivery date indicated on receipt, if delivered by certified or registered mail. Any time period stated in a notice shall be computed from the time the notice is deemed received. Notices sent by facsimile transmission shall also be sent by regular mail to the recipient at the above address. This requirement for duplicate notice is not intended to change the effective date of the notice sent by facsimile transmission. E-mail is not an acceptable means for meeting the requirements of this section unless otherwise agreed in writing.

ARTICLE 15. GENERAL PROVISIONS

A. RECORDS AND AUDIT RIGHTS. Vendor's records (hard copy, as well as computer readable data), and any other supporting evidence deemed necessary by the Town to substantiate charges and claims related to this contract shall be open to inspection and subject to audit and/or reproduction by Town's authorized representative to the extent necessary to adequately permit evaluation and verification of cost of the Services, and any

invoices, change orders, payments, or claims submitted by the Vendor or any of his payees related to or arising out of the Contract. The Town's authorized representative shall be afforded access, at reasonable times and places, to all of the Vendor's records and personnel throughout the term of this Contract and for a period of three (3) years after last or final payment.

B. INCORPORATION OF RECITALS AND EXHIBITS. The Recitals, Exhibits and Appendices attached hereto are acknowledged by the Parties to be substantially true and correct, and hereby incorporated as agreements of the Parties.

C. ATTORNEYS' FEES. In the event either Party brings any action for any relief, declaratory or otherwise, arising out of this Contract, or an account of any breach or default hereof, the prevailing Party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses (including expert witness fees), determined by the arbitrator or court sitting without a jury, which fees shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.

D. ENTIRE AGREEMENT. This Contract constitutes the entire understanding of the Parties and supersedes all previous representations, written or oral, with respect to the services specified herein.

E. GOVERNING LAW. This Contract shall be governed by and construed in accordance with the substantive laws of the State of Arizona, without reference to conflict of laws and principles. Exclusive jurisdiction and venue for any action brought to enforce or construe any provision of this Contract shall be proper in the Superior Court of Maricopa County, Arizona and both Parties consent to the sole jurisdiction of, and venue in, such court for such purposes.

F. INDEPENDENT CONTRACTOR. The services Vendor provides under the terms of this Contract to the Town are that of an Independent Contractor, not an employee, or agent of the Town. As an independent contractor, Vendor shall: (a) have discretion in deciding upon the method of performing the services provided; (b) not be entitled to worker's compensation benefits from the Town; (c) not be entitled to any Town sponsored benefit plan; (d) shall select the hours of his/her work; (e) shall provide her/her own equipment and tools; and (f) to the extent required by law, be responsible for obtaining and remaining licensed to provide the Services.

G. TAXES. Vendor shall be solely responsible for any and all tax obligations which may result out of the Vendors performance of this contract. The Town shall have no obligation to pay any amounts for taxes, of any type, incurred by the Vendor. The Town will report the value paid for these Services each year to the Internal Revenue Service (I.R.S.) using Form 1099. The Town shall not withhold income tax as a deduction from contractual payments. Vendor acknowledges that Vendor may be subject to I.R.S. provisions for payment of estimated income tax. Vendor is responsible for consulting the local I.R.S. office for current information on estimated tax requirements. Sales tax for Goods received by the Town in relation to this Contract shall be indicated as a separate item on any notice of amount due.

H. AMENDMENTS. Any amendment, modification or variation from the terms of this Contract shall be in writing and signed by all Parties hereto.

I. COMPLIANCE WITH LAW. The Vendor specifically agrees and hereby warrants to the Town that in the performance of the Services, Vendor and anyone acting on Vendor's behalf, including but not limited to Vendor's subvendors, will comply with all state, federal and local statues, ordinances and regulations, and will obtain all permits and licenses applicable for performance under this contract.

J. SEVERABILITY. In the event that any provision of this Contract shall be held to be invalid and/or unenforceable, the remaining provisions shall be valid and binding upon the Parties.

K. WAIVER. One or more waivers by either Party of any provisions, terms, conditions, or covenants of this Contract, or any breach thereof, shall not be construed as a waiver of a subsequent breach by the other Party.

L. COUNTERPARTS. This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, binding on all of the Parties. The Parties agree that this Contract may be transmitted between them via facsimile. The Parties intend that the faxed signatures constitute original signatures and that a faxed contract containing the signatures (original or faxed) of all the Parties is binding upon the Parties.

M. COMPLIANCE WITH IMMIGRATION LAWS AND REGULATIONS.

Pursuant to the provisions of A.R.S. §41-4401, the Vendor warrants to the Town that the Vendor and all its subvendors are in compliance with all Federal Immigration laws and regulations that relate to their employees and with the E-Verify Program under A.R.S. §23-214(A). Vendor acknowledges that a breach of this warranty by the Vendor or any of its subvendors is a material breach of this Contract subject to penalties up to and including termination of this Contract or any subcontract. The Town retains the legal right to inspect the papers of any employee of the Vendor or any subvendor who works on this Contract to ensure compliance with this warranty.

The Town may conduct random verification of the employment records of the Vendor and any of its subvendors to ensure compliance with this warranty.

The Town will not consider Vendor or any of its subvendors in material breach of the foregoing warranty if Vendor and its subvendors establish that they have complied with the employment verification provisions prescribed by 8 USCA § 1324(a) and (b) of the Federal Immigration and Nationality Act and the e-verify requirements prescribed by Arizona Revised Statutes § 23-214(A).

The provisions of this Article must be included in any contract the Vendor enters into with any and all of its subvendors who provide services under this Contract or any subcontract. As used in this Section M "services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real

property.

N. PROHIBITION OF DOING BUSINESS WITH SUDAN AND IRAN. Pursuant to A.R.S. §§35-391.06 and 35-393-06, Vendor hereby certifies to the Town that Vendor does not have "scrutinized" business operations, as defined in A.R.S. §§35-391 and 35-393, in either Sudan or Iran. Vendor acknowledges that, in the event either of the certifications to the Town by Vendor contained in this paragraph is determined by the Town to be false, the Town may terminate this Contract and exercise other remedies as provided by law, in accordance with A.R.S. §§35-391.06 and 35-393-06.

O. CANCELLATION FOR CONFLICT OF INTEREST. Pursuant to the provisions of A.R.S. § 38-511, the Town may cancel any contract or agreement, without penalty or obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the Town is, at any time while the contract or any extension thereof is in effect, an employee of any other party to the contract in any capacity or a Vendor to any other party to the contract with respect the subject matter of the contract.

P. LICENSES. Vendor shall maintain in current status all Federal, State, and Local licenses and permits required for the operation of the business conducted by Vendor and the services to be performed under the resultant contract.

Q. PERMITS AND RESPONSIBILITIES. Vendor shall, without additional expense to the Town, be responsible for obtaining any necessary licenses and permits and for complying with any applicable Federal, State and Municipal Laws, codes and regulations in connection with the execution of the work.

R. LIENS. Vendor shall cause all materials, service or construction provided or performed under the resultant contract to be free of all liens, and if the Town requests, Vendor shall deliver appropriate written releases, in statutory form of all liens to the Town.

S. PATENTS AND COPYRIGHTS. All services, information, computer program elements, reports and other deliverables, which may be patented or copyrighted and created under this contract are the property of the Town and shall not be used or released by Vendor or any other person except with the prior written permission of the Town.

T. WORKPLACE COMPLIANCE. Vendor understands and acknowledges the applicability to it of the American with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989.

U. LIQUIDATED DAMAGES.

(i) Reasonableness. In the event of any delay by Vendor in the performance required by this Contract, the Town and Vendor agree that actual damages would be difficult to measure, and that liquidated damages in the amount of \$100.00 for each calendar day of delay (the "Liquidated Damages Amount") are a reasonable projection of actual damages for such delay.

(ii) Right to Terminate. If a Delinquency (as defined in Exhibit B) occurs, the Town may, but shall not be required to, immediately terminate the Contract by written notice

to Vendor.

(iii) If Contract is Not Terminated. If the Contract is not terminated as provided in this Section 15(U), Vendor shall continue performance and until the requested products are delivered or services performed and the Town may deduct from any future payment due to Vendor the amount of aggregate Liquidated Damages Amount accrued in connection with the respective Emergency Notice (as defined in Exhibit B).

(iv) If Contract is Terminated. In the event that the Town exercises its right of termination as provided in this Section 15(U), the Liquidated Damages Amount will accrue from the start of the Delinquency until such time as similar, substitute products or services are delivered or obtained, provided the Town exercises reasonable diligence in connection therewith. Thereafter, the Town may deduct from any future payment due to Vendor the amount of aggregate Liquidated Damages Amount accrued in connection with the respective Emergency Notice.

ARTICLE 16. FUNDS APPROPRIATION

If the term of this Contract or provision of any Services hereunder extends beyond the current fiscal period of the Town and the Town Council does not appropriate funds to continue this Contract and pay for charges hereunder, the Town may terminate this Contract at the end of the current fiscal period. The Town agrees, to the extent reasonably practical, to give written notice of such termination pursuant to Article 13 of this Agreement at least thirty (30) days prior to the end of the current fiscal period and will pay to the Consultant approved charges incurred through the end of such period.

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK.

In witness whereof, the parties hereto have executed and caused to be signed by their duly authorized representatives, this Contract effective on the date first written above.

TOWN OF QUEEN CREEK:

Approval of Town Council:

Approval of Contract Administrator:

Gail Barney, Mayor

John Kross, Town Manager

ATTEST:

Jennifer Robinson, Town Clerk

REVIEWED AS TO FORM:

Mariscal, Weeks, McIntyre & Friedlander, P.A.
Town Attorneys

VENDOR:



Nathan Pitney
Ripple Industries, LLC's Industrial Accounts Manager

EXHIBIT A
INSURANCE

1. **Insurance Certificate:** The Town requires a complete and valid certificate of insurance prior to the award of any contract. Vendor shall submit a copy of the insurance certificate for coverage with minimum amounts stated below. The coverage shall be maintained in full force and effect during the term of the Contract and shall not serve to limit any liabilities or any other vendor obligations. Insurance evidenced by the certificate shall not expire, be canceled, or materially changed without thirty (30) days prior written notice to the Town, and a statement to that effect must appear on the face of the certificate and the certificate shall be signed by a person authorized to bind the insurer.

2. **Deductible:** The amount of any deductible shall be stated on the face of the certificate. The Contract Administrator may require Vendor to furnish a financial statement establishing the ability of Vendor to fund the deductible. If in the sole judgment of the Contract Administrator the financial statement does not establish Vendor's ability to fund the deductible, and no other provisions acceptable to the Contract Administrator are made to assure funding of the deductible, the Contract Administrator may, in his/her sole discretion, terminate this Contract and the Town will have no further obligation to Vendor.

3. **General Liability:** Vendor shall secure and maintain, at his or her own expense, until completion of the contract, general liability as shall protect Vendor and the Town from claims for bodily injury, personal injury, and property damage which may arise because of the Goods provided under this contract. Vendor shall provide general liability and excess general liability coverage in the following amounts, at a minimum:

- i. **Projects less than \$1,000,000:** Vendor shall have total limits of insurance to include primary and excess coverage in an amount not less than \$2,000,000. For example, coverage may include \$1,000,000 primary and \$1,000,000 excess, \$2,000,000 primary, or other equivalent combinations.
- ii. **Projects greater than \$1,000,000:** Vendor shall provide total limits of insurance to include primary and excess coverage in an amount of not less than \$5,000,000. For example, coverage may include \$1,000,000 primary and \$4,000,000 excess, \$2,000,000 primary and \$3,000,000 excess, or other equivalent combinations.

4. **Automobile Liability:** Vendor shall secure, and maintain at his or her own expense, until the completion of the Contract, coverage for any auto, including non-owned and hired autos, with a combined single limit of \$1,000,000 per occurrence. The Town shall be named as an Additional Insured.

5. **Worker's Compensation Insurance:** Before beginning work, Vendor shall furnish to the Town satisfactory proof that he or she has, for the period covered under the Contract, full Worker's Compensation coverage for all persons whom Vendor may employ directly, or indirectly, and shall hold the Town free and harmless for all personal injuries of all persons whom Vendor may employ directly or indirectly.

6. **Additional Insured:** Vendor shall name the Town of Queen Creek as an "Additional Insured" on all insurance policies, except Worker's Compensation, and this shall be reflected on the Certificate of Insurance.

7. **Rating of Insurance Company(ies):** Any and all insurance company(ies) supplying coverage to Vendor must have no less than an "A" rating in accordance with the A.M. Best rating guide.

8. **Waiver:** The Town Manager, in consultation with the Risk Manager and/or Town Attorney, reserves the right to waive, reduce, or increase insurance requirements should it be in the best interest of the Town.

EXHIBIT B

SCOPE OF SERVICES

1. To provide Supervisory Control and Data Acquisition (SCADA) system programming, programming modifications, modifications and/or upgrades to existing hardware and/or software, and hardware and/or software maintenance on an as-needed, on-call basis.

2. The Town, in its reasonable discretion, may designate certain requested maintenance as requiring "emergency" response by Vendor, so long as the Town communicates such requirement to Vendor, either verbally or in writing (each, an "Emergency Notice"). Vendor shall respond to any request for emergency response within two (2) hours of the Town's delivery of the respective Emergency Notice. If Vendor fails to respond within such period or fails to proceed with reasonable diligence thereafter and until the requested maintenance has been provided, Vendor shall be deemed to have been delinquent in its performance from the time of the Emergency Notice (a "Delinquency").

EXHIBIT C

PAYMENT SCHEDULE/TERMS

Item No.	Type of Service	Rate	Unit (i.e. per hours, per call, each, etc.)	Minimum Number of Units (If applicable)
1.	SCADA system programming, modifications and maintenance to hardware/software, as needed	\$85.00	hour	2
2.	Emergency call response (NOTE: Response time must be within two (2) hours of call)	\$85.00	hour	2
3.	Parts to be billed at invoice cost plus <u>15%</u>			
4.	Please list any additional fees/associated costs:			
	Holiday rates 1.5	\$125.00	hour	2
PROMPT PAYMENT DISCOUNT: TERMS <u>2</u> Percent <u>10</u> Days				

Quoted prices are good for a period of one (1) year.

EXHIBIT D
LIST OF SUBVENDORS

U:\ATTORNEYS\SAH\QUEEN CREEK\CONTRACTS\2010 TEMPLATES\SERVICES CONTRACT (5-31-10).doc

Requesting Department:

Fire Department



TO: HONORABLE MAYOR AND TOWN COUNCIL

THROUGH: JOHN KROSS, TOWN MANAGER

FROM: VAN SUMMERS, FIRE CHIEF

**RE: CONSIDERATION AND POSSIBLE APPROVAL OF AMENDED
AND RESTATED INTERGOVERNMENTAL AGREEMENT
CONTINUING THE OPERATION OF THE TOPAZ REGIONAL
WIRELESS COOPERATIVE (TRWC).**

DATE: APRIL 18, 2012

Staff Recommendation:

Staff recommends that the Town Council approve the amended Intergovernmental Agreement which allows for an improved cost recovery model, the addition of the Rio Verde Fire District as a member.

Relevant Council Goal(s):

KRA 5: Public Safety (Fire, Emergency Services, and Police/Sheriff)

Proposed Motion:

Approve the amended and restated Intergovernmental Agreement, continuing the operation of the TOPAZ Regional Wireless Cooperative. (TRWC)

Discussion:

At the December 7, 2011 Council Meeting you approved the amended and restated Intergovernmental Agreement continuing the operations of the TOPAZ Regional Wireless Cooperative. (TRWC). The agencies have re-visited the policy on TRWC Member Additions which allowed the TRWC Board to approve new members. The agencies are requesting to have each community governing boards approve new members. We support this request.

In 2008, The City of Mesa, the City of Apache Junction, the Towns of Gilbert and Queen Creek, and the Apache Junction Fire District formed the TRWC to build and sustain a shared public safety grade radio communications network. The

City of Mesa is the Administrative Manager of the Cooperative – providing day-to-day network oversight on behalf of the member agencies. Beyond the core membership of the TRWC, many other agencies participate to support daily public safety and municipal operations and interoperability, totaling over twenty (20) agencies all together.

The TRWC is governed by a Board of Directors, with representation from each member agency. The Manager of Technology and Innovation, who also serves as the Board's Vice Chairman, represents Mesa. The Board has unanimously approved the proposed IGA and supporting Governance materials – authorizing the submission to their respective governing bodies for final approval. Upon Council approval, Mesa's City Manager (along with his counterparts) will execute the IGA putting into effect the following changes (as well as other minor clerical revisions):

1. **Improved Cost Recovery Model** - The IGA and Governance changes provide improved provisions allowing the TRWC Board of Directors to establish a cost recovery model independent of the IGA and Governance process – usually in conjunction with annual budget adoption. In anticipation of this, the TRWC Board of Directors has considered and approved a revised model that allocates operating and maintenance costs based on actual system usage. Conversely, the current method is based on the proportion of subscriber units affiliated with the system by each member agency. The new model provides a more fair and equitable distribution of costs among members, as the distribution is based on how much each agency taxes the system resources. The IGA and Governance changes also allow for the Board to implement these changes and consider other similar changes moving forward as part of their normal governance duties.
2. **Rio Verde Fire District Membership** – The Rio Verde Fire District (Rio Verde) will be added as a voting member agency of the TRWC. Upon receipt of a membership request by Rio Verde, staff contracted for a third party analysis to determine system impacts should they become a member. It was determined that the system could readily maintain current performance levels while adding Rio Verde's relatively small radio traffic volume. In conjunction with their TRWC membership, Rio Verde is also entering into agreement with the City of Mesa for dispatch services (under separate cover). Rio Verde will fully participate in TRWC cost recovery and the governance process.
3. **Improved Risk and Liability Provisions** – Several improvements were made to the IGA and Governance documents to clarify roles and responsibilities as it relates to risk and liability among members. This was the result of a review by Mesa's Risk Manager and his recommendations

to provide a more consistent approach with other multi-agency ventures that Mesa and its partners are currently party to. In conjunction with these changes, the TRWC Board has also provided budgetary approval to enter into an independent property insurance policy to be administered by the City of Mesa to more clearly define protected assets, coverage, and costs associated with the Cooperative.

Fiscal Impact:

The IGA continues with the practice established in TRWC Governance delegating authority to the TRWC Board of Directors for general oversight and budgeting. Certain provisions, as noted above, provide improved clarity as it relates to the powers of the TRWC Board of Directors regarding cooperative fiscal matters, which in turn translate to member agency appropriation where necessary. Such appropriation is generally reviewed by the respective member agencies governing boards (Mesa City Council in this case) through the normal budgeting process.

As noted above, we anticipate some changes in cost allocation to be implemented in the near future, as recently directed by the TRWC Board of Directors and in conjunction with the attached amended and restated IGA. Some agencies will experience a change in cost, but the overall impact to the TRWC is neutral. The Town of Queen Creek will realize a decrease in cost with the new usage model. This cost recovery model represents a fair and equitable method of allocation to all members. Additionally, the TRWC will be establishing a new insurance policy that will marginally impact operating and maintenance costs for the TRWC, which is expected to be less than \$11,000 annually. The subject TRWC assets were previously covered under Mesa's general policy, so impacts to the City should be minimal.

Alternatives:

None

Attachments:

Amended and Restated IGA (47 pages)

When Recorded Return To:
William H. Anger
Engelman Berger, P.C.
3636 N. Central Ave., Suite 700
Phoenix, AZ 85012

**AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT TO
PLAN, DESIGN, CONSTRUCT, OPERATE, MAINTAIN AND FINANCE
THE TOPAZ REGIONAL WIRELESS COOPERATIVE NETWORK**

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**AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT TO
PLAN, DESIGN, CONSTRUCT, OPERATE, MAINTAIN AND FINANCE
THE TOPAZ REGIONAL WIRELESS COOPERATIVE NETWORK**

1. Parties. This Amended and Restated Intergovernmental Agreement ("Agreement") is entered into by and between the City of Mesa, the City of Apache Junction, Apache Junction Fire District, the Town of Gilbert, the Town of Queen Creek and the Rio Verde Fire District (the "Parties").

2. Recitals.

2.1. The City of Mesa, the City of Apache Junction, Apache Junction Fire District, the Town of Gilbert and the Town of Queen Creek entered into an Intergovernmental Agreement to Plan, Construct, Operate, Maintain and Finance the TRWC Network Contract Number 2008-3002-0359 and dated August 7, 2008 (the "August 7, 2008 Agreement").

2.2. This Agreement supercedes and replaces in its entirety the August 7, 2008 Agreement and the Governance Agreement dated April 8, 2008 attached as Exhibit A to the August 7, 2008 Agreement.

2.3. The Parties enter into this Agreement for the purpose of planning, designing, constructing, operating, maintaining and financing the TRWC.

2.4. The Parties are authorized to enter into this Agreement by the joint exercise of powers provisions of Title 11, Chapter 7, Article 3 (§§ 11-951 et seq.), Arizona Revised Statutes and the authorization of their legislative or other governing bodies.

2.5. The Parties agree to establish the TRWC, an unincorporated association of the Parties, to jointly and cooperatively exercise their powers to achieve the purposes specified in paragraph 2.3.

2.6. The TRWC shall use its reasonable efforts, through cooperation and the pooling of common resources, to improve communications and operations among various public safety and public service agencies.

2.7. The rules and policies governing the TRWC's regulation and management are set forth in a governance document ("Governance Agreement"), which is attached to this Agreement as Exhibit A and incorporated herein and made a part of this Agreement by this reference. Certain terms that are defined in the Governance Agreement are used in this Agreement. Those terms shall have the same meaning in this Agreement as such terms are defined in the Governance Agreement.

2.8. It is the Parties' intention that the Governance Agreement be enforceable to the same extent as this Agreement. The Governance Agreement shall be subject to amendment as provided herein and shall be valid for the duration of this Agreement. The Governance Agreement is approved by all Parties and shall be binding upon any Parties that are admitted after the initial Parties. No additional Parties shall be admitted to the TRWC without first agreeing to be as bound by the Governance Agreement as are the Parties hereto.

**AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT TO
PLAN, DESIGN, CONSTRUCT, OPERATE, MAINTAIN AND FINANCE
THE TOPAZ REGIONAL WIRELESS COOPERATIVE NETWORK**

3. Term and Duration of Agreement; Dissolution.

3.1. The "Effective Date" of this Agreement is May 1, 2012. The initial term of this Agreement is five (5) years commencing on the Effective Date and ending on April 30, 2017; thereafter, the Agreement will automatically renew for terms of five (5) years. All Parties shall execute this Agreement and comply with the requirements of A.R.S. § 11-952, which includes appropriate action by the legislative or other governing body of the Party for the approval of the Agreement, determination by the Party's attorney that the Agreement is within the powers and authority of the Party, and the proper filing of the Agreement. This Agreement shall continue until such time as the TRWC is dissolved.

3.2. The Parties do not anticipate that the TRWC will be dissolved until it is no longer desirable and feasible for the TRWC to operate the Network or the Network is transferred to another entity.

3.3. If the Parties dissolve the TRWC other than by transferring the Network to another entity, the assets of the TRWC shall be returned to the Members in proportion to their contributions to the TRWC as determined in section 10.2 of the Governance Agreement.

4. Manner of Financing.

4.1. The cost of planning, designing, constructing, operating and maintaining the Network shall be paid in the manner specified in the Governance Agreement.

4.2. Each Party agrees to timely pay its share of the cost of planning, designing, constructing, operating and maintaining the Network as specified in the Governance Agreement. Each Party shall render its amounts payable to the TRWC no later than thirty (30) days from the invoice date. The TRWC may collect interest at the rate of one percent (1 %) per month for payments not received thirty (30) days from the invoice date. The interest collected shall be deposited in the operating and maintenance budget and used to offset the costs of operation and maintenance.

4.3. It will be the responsibility of each Party to this Agreement to take the appropriate steps in conformity with state or local laws to ensure that it appropriates sufficient funds to cover the obligations it assumes under this Agreement. Each Party recognizes that the performance by the Parties under this Agreement may be dependent upon the appropriation of funds to or by that Party. Should any Party fail to appropriate or fail to be appropriated the necessary funds, that Party may withdraw from this Agreement as specified in Section 6 on the last day of the fiscal period for which funds are legally available and, notwithstanding anything to the contrary in this Agreement or Section 5.10 of the Governance Agreement, subject to Board of Directors approval, shall forfeit all or a portion of the equipment and real property owned by such Member that is used in the Network as determined by the Board of Directors. Each Party agrees to give notice to the other Parties as soon as reasonably possible after the unavailability of funds comes to the Party's attention. Except as otherwise provided in this Section 4.3, the ownership of equipment and real property that is used in the Network shall be governed by Section 5.10 of the Governance Agreement.

4.4. Each Party understands and acknowledges that claims and lawsuits may be filed for damages resulting from acts or omissions in connection with planning, designing,

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constructing, operating, maintaining and financing the Network or that other unforeseen costs and expenses may be incurred in connection with the planning, designing, constructing, operating, maintaining and financing the Network. The Parties agree that all damages, costs and expenses not specifically provided for in this Agreement, shall be shared by the Parties in proportion to each Party's share of the total weighted votes, in accordance with Section 4.3.6.3 of the Governance Agreement, at the time the claim or lawsuit, whichever first occurs, is first served on any Party or the unforeseen costs or expenses were incurred. Each Party shall promptly notify the TRWC and the Administrative Manager upon receipt of a claim or lawsuit relating to the Network. The Administrative Manager shall take the lead role on behalf of the TRWC in coordinating the investigation and defense of any claim or lawsuit made in connection with planning, designing, constructing, operating, maintaining or financing the Network. Nothing in this section shall preclude any Party, at its expense, from providing its own legal counsel in connection with any claim or lawsuit made in connection with planning, designing, constructing, operating, maintaining or financing the Network. Claims and lawsuits include any claims, losses, liability, costs, or expenses (including reasonable attorneys fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage.

4.5. The Administrative Manager subject to Board of Directors approval may apply for such federal, state or other grants as are made available for the planning, designing, constructing, operating, maintaining and financing the Network. The Administrative Manager may submit the grant application on behalf of the TRWC in accordance with applicable laws, rules, regulations and procedures. Any grant funds received will be used to reduce the cost of the project for which a grant application was submitted. The application for or the award of a grant shall not relieve a Party of its obligation to pay costs billed by the TRWC as provided in this Agreement.

4.6. Any Party that intends to individually submit a grant application that may benefit the TRWC or the Network shall first submit its proposal and grant application to the TRWC for its recommendation. With approval of the Board of Directors, the Party may submit its application to obtain the grant funding. Acceptance and use of any grant funds so obtained for the TRWC and the Network is subject to the discretion and approval of the Board of Directors. A Party who applies for, is awarded, and accepts grant funds under this paragraph 4.6 is individually responsible for meeting all terms, conditions and obligations of the grant.

4.7. The TRWC's Board of Directors shall adopt procurement procedures.

4.8. The TRWC's Board of Directors shall determine what insurance coverage is appropriate to protect the Parties from risks concerning the TRWC and the Network. The Board of Directors shall obtain such insurance on behalf of the TRWC. In deciding what insurance coverage and indemnities are appropriate, the Board of Directors may elect to self-insure for all or a portion of the risks.

4.9. The Parties understand and acknowledge that certain Network equipment, hardware, software and other personal property that is held jointly and owned in common by the Parties will become in time unfit or unnecessary for use by the TRWC. To provide for the disposal of such surplus Network personal property during the term of this Agreement, each Party agrees to obtain from its legislative or other governing body by ordinance, resolution or other applicable legal action, appropriate authorization enabling the TRWC to sell by public auction, sealed bids, or negotiation any and all surplus Network personal property.

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5. Obligations as Members. Each Party agrees to become a TRWC Member and to comply with and be subject to the obligations of Members as set forth in the Governance Agreement, including the obligation to contribute to the cost of the Network. This Agreement shall not relieve any Party of any obligation or responsibility imposed upon it by law.

6. Voluntary Termination or Withdrawal as Members. Any Party may voluntarily terminate its participation in the TRWC by providing twenty-four (24) months' prior written notice to the other Parties and complies with the requirements of Section 10.5 and any other provision of the Governance Agreement that addresses voluntary termination or withdrawal from the TRWC.

7. Additional Parties. Other cities, towns, counties, and Indian communities and other public agencies, as that term is defined by A.R.S. § 11-951, shall become additional parties to this Agreement and shall be bound by the terms of this Agreement at such times as those public agencies are admitted as TRWC Members.

8. Failure to Pay Financial Obligation.

8.1. If a Party is relieved from payment of its financial obligation to the TRWC as a matter of law, then the TRWC may suspend the Party's right to vote and participate in the affairs of the TRWC until such time as the Party has paid the difference between the Party's share of the costs and the amount the Party has paid for such costs. All other obligations of the Party shall remain in effect, except for obligations specifically excused as a matter of law.

8.2. Except as provided in paragraph 8.1, if a Party fails to pay a financial obligation within thirty (30) days of the invoice date and then, upon notice by the Administrative Manager of the deficiency, fails to cure the non-payment within thirty (30) days of the date of the deficiency notice, the TRWC shall suspend the Party's right to vote and participate in the affairs of the TRWC until such time as the Party has paid the difference between the Party's share of the costs and the amount the Party has paid for the costs. All other obligations of the Party shall remain in effect, except for obligations specifically excused as a matter of law.

9. Open Meeting Law. The TRWC, including the Board of Directors, shall comply with A.R.S. §§ 38-431, et seq. (Arizona Open Meeting Law) in conducting meetings to the extent the law is applicable.

10. Records; Confidentiality.

10.1. The TRWC shall comply with A.R.S. §§ 39-121 et seq. (Arizona Public Records Law) in maintaining and providing access to the records of the TRWC.

10.2. The TRWC shall make its financial records regarding the planning, designing, constructing, operating, maintaining and financing the Network available to any Party to this Agreement. Such request for inspection shall not be made more frequently than once a month.

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10.3. Each Party to this Agreement agrees to make available to the TRWC its financial records related to planning, designing, constructing, operating, maintaining and financing the Network. Such request for inspection shall not be made more frequently than once a month.

10.4. To the extent permitted by law, the Parties shall treat Network information as proprietary and confidential. Network information includes, but is not limited to, technical data, engineering details, construction documents, equipment lists, programming configurations, and operational procedures. Any Party who receives a request for information or a public records request concerning the Network shall promptly forward the request to the Administrative Manager for consideration and response.

11. Conflict of Interest. The Parties understand and acknowledge that this Agreement may be subject to cancellation under A.R.S. § 38-511 (Arizona's public employee conflict of interest law) in the event there is a conflict of interest of the type specified in A.R.S. § 38-511 by persons significantly involved in initiating, negotiating, securing, drafting or creating this Agreement.

12. Compliance with Applicable Laws. Each Party shall comply with all applicable laws, statutes, ordinances, executive orders, rules, regulations, standards, and codes of federal, state and other governments with jurisdiction over the Party whether or not specifically referred to in this Agreement.

13. Cooperation.

13.1. The Parties agree to make, sign and deliver all documents and to perform all acts that are necessary to fully carry out the terms of this Agreement. Each of the Parties shall fully cooperate with and assist one another in obtaining all licenses, permits, authorizations, approvals and consents required in the performance of this Agreement. Nothing in this Agreement shall be construed or interpreted to require the TRWC to be responsible for dispatching or otherwise causing its Members to respond to an event within another Member's jurisdiction.

13.2. In the event any legal proceeding is instituted challenging the authority and power of any of the Parties to execute this Agreement or to perform its terms and conditions, the Parties shall jointly and cooperatively defend the validity of this Agreement.

13.3. The Parties may elect and shall have the right to seek specific performance by any Party of any or all of the obligations set forth in this Agreement. The Parties agree that specific performance may be sought by way of special action filed in superior court seeking an injunction ordering the Party to perform its obligations under this Agreement. The Parties agree not to raise as a defense the position that there is an "adequate remedy at law." The Parties hereby stipulate and consent to the jurisdiction of the superior court in any such special action.

14. Amendment.

14.1. This Agreement may be amended only by a written document executed by a duly authorized representative of each of the Parties.

14.2. This Agreement and the Governance Agreement may be amended by one of the following two procedures:

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14.2.1. TRWC-Legislative Procedure. A proposed amendment to this Agreement including the Governance Agreement attached as Exhibit A shall be submitted for approval to the TRWC's Board of Directors. Upon approval of the Board of Directors in accordance with the voting process set forth in the Governance Agreement, each Party shall take appropriate steps in conformity with state and local law to authorize and approve the proposed amendment.

14.2.2. Formal Addendum Procedure. A proposed amendment to this Agreement or the Governance Agreement shall be presented to each Party in the form of an addendum, and, if approved by the Board of Directors in accordance with the voting process set forth in the Governance Agreement, each Party will take appropriate steps in conformity with state and local law to authorize and approve the amendment.

14.3. Each Party shall file a copy of the appropriate resolution, ordinance or other recorded action by which its legislative or governing body approved the amendment with the Executive Director of the TRWC.

15. Existing and Future Agreements.

15.1. The Parties agree that the provisions of this Agreement shall be incorporated in any future subcontracts between the Parties and any other person, political subdivision or public agency that contracts with the Parties to make use of the Network.

15.2. The Parties agree that they will not enter into subcontracts for the use of the Network without the prior approval of the Board of Directors, which shall have the authority to review the subcontracts for conformity with the rights and obligations set forth in this Agreement.

15.3. The Parties agree that this Agreement is a modification of all existing agreements between the Parties in regard to the Network. In the event of any conflict, inconsistency, or incongruity between the provisions of this Agreement and any of the provisions of any previous agreement between the Parties, the provisions of this Agreement shall in all respects govern and control.

15.4. Nothing in this Agreement shall be construed or interpreted:

15.4.1. To supersede prior existing mutual aid agreements or radio support agreements between or among the Parties.

15.4.2. To prohibit a Party from entering into separate agreements after the Effective Date of this Agreement concerning real estate, buildings and structures, and towers that the Party owns, leases, or licenses and that the Party authorizes and allows the TRWC to use as part of the Network, provided the separate agreements are consistent with this Agreement and compatible with the TRWC's use of the property for the Network.

15.4.3. To supersede prior existing agreements concerning real estate, buildings and structures, and towers that the Party owns, leases, or licenses and that the Party authorizes and allows the TRWC to use as part of the Network.

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15.5. This Agreement is entered into for the sole and exclusive benefit of the Parties, and no other person shall claim any implied right, benefit or interest in this Agreement. The Parties do not intend to create rights in or remedies to any third party as a beneficiary of this Agreement or of any duty, obligation, or undertaking established under this Agreement.

16. Notices.

16.1. Any notice, consent or other communications ("Notice") required or permitted under this Agreement shall be in writing and either delivered in person, or, deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, or deposited with any commercial air courier or express service addressed with confirmed receipt to the addresses of each Member that are on file with the Executive Director.

16.2. If mailed as provided in Section 16.1 of this Agreement, notice shall be deemed received five (5) days after the Notice is deposited in the U.S. mail as provided above. If delivered as provided in Section 16.1 of this Agreement, Notices shall be deemed received at the time it is personally served, on the day received as confirmed by any commercial air courier or express services. Any time period stated in a Notice shall be computed from the time the Notice is deemed received. A Party may change its mailing address or the person to receive Notice by notifying the Executive Director and the other parties as provided in this paragraph.

17. Default and Cure; Alternative Dispute Resolution.

17.1. Each Party agrees that it will perform all duties and obligations agreed to be performed by it under the terms and conditions of this Agreement, and that the unexcused failure of the Party to perform its duties and obligations shall constitute a default under this Agreement. In the event of a default by a Party, the Executive Director shall give written notice of the default, specifying the existence and the nature of the default. The defaulting Party shall have thirty (30) days to remedy the default by rendering the necessary performance. In the event that the defaulting Party disputes an asserted default, the Party shall perform the disputed obligation, but may do so under protest. The protest shall be in writing, and shall precede the performance of the disputed obligation, and shall specify the reasons upon which the protest is based. After performance of the disputed obligation under protest, the Party disputing the asserted default shall have the right to submit the dispute to the TRWC's Board of Directors for a recommendation on a non-binding resolution under paragraph 17.3.

17.2. Notwithstanding the provisions of paragraph 17.1, in the event a Member disputes an amount billed, it shall do so in writing to the Executive Director within six (6) months after the invoice date or within sixty (60) days of the end of the fiscal year in which the invoice was issued, whichever is earlier. The Member shall pay the disputed amount, but may do so under protest. The protest shall be in writing, and shall accompany the disputed payment if not previously paid and shall specify the reason upon which the protest is based. After the protest has been filed and the disputed amount has been paid, the dispute shall be handled in accordance with the dispute resolution process specified in paragraph 17.3. Payments not made under protest shall be deemed to be correct. If a protest is not filed within the earlier of six (6) months after the invoice date or within sixty (60) days of the end of the fiscal year in which the invoice was issued, the Member waives its right to file a protest.

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17.3. If any dispute, complaint or controversy, including a protest made pursuant to paragraph 17.1 or 17.2, ("dispute") arises between or among the Parties under this Agreement, the Parties agree that the dispute shall be brought to the TRWC's Board of Directors for non-binding dispute resolution. The Board of Directors may establish appropriate and prompt procedures to govern the processing of complaints and the internal dispute resolution process. If a Party disagrees with the Board of Directors' determination, the Party may pursue the remedies otherwise provided for in this Agreement or provided at law.

17.4. The Parties agree that notwithstanding the existence of a dispute between or among the Parties, insofar as is possible under the terms of this Agreement, each Party shall continue to perform the obligations that are required of it and that are not related to the dispute. The Parties agree that at any point in the internal dispute resolution process, the Board of Directors may adopt and impose an interim emergency remedy to ensure the continuation of essential communication services until the dispute is resolved.

17.5. This Agreement shall not be construed or interpreted to prohibit a Party from seeking injunctive relief for the preservation of property.

17.6. In the event a dispute is not resolved pursuant to paragraph 17.3, the Parties agree to use arbitration to the extent required under A.R.S. § 12-133 and A.R.S. § 12-1518.

18. Waiver. The waiver by any Party of any breach of any term, covenant or condition of this Agreement shall not be deemed a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition of this Agreement.

19. Performance and Uncontrollable Events.

19.1. All terms and conditions that are to be performed by the Parties or any of the Parties shall be performed at the sole expense of the Party so obligated, and if any other Party pays any sum of money or does any act that requires the payment of money by reason of the failure, neglect or refusal of the obligated Party to perform such term or condition, the sum of money paid by the other Party shall immediately be payable to the other Party by the Party obligated to perform.

19.2. No Party shall be considered to be in default in the performance of any obligations under this Agreement (other than obligations of a Party to pay costs and expenses) if failure of performance is due to an uncontrollable event. The term "uncontrollable event" means any cause beyond the control of the Party affected, including but not limited to flood, earthquake, storm, fire, epidemic, war, riot, civil disturbance or disobedience, labor dispute, and action or non-action by or failure to obtain the necessary authorizations or approvals from any governmental agency or authority or the electorate, labor or material shortage, sabotage and restraint by court order or public authority, that by exercise of due diligence and foresight the Party reasonably could not have been expected to avoid and that by exercise of due diligence it will be unable to overcome. A Party that is rendered unable to fulfill any obligation by reason of an uncontrollable event shall exercise due diligence to remove such inability with all reasonable dispatch.

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19.3. If any Party claims that its failure to perform was due to an uncontrollable event, the Party shall bear the burden of proof that such activity was within the meaning and intent of this section, if such claim is disputed by any Party to this Agreement.

20. Assignment and Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns; provided, however, that nothing shall relieve any Party of any obligation under this Agreement, except upon the express written consent of the other Parties.

21. Entire Agreement. This Agreement, including the Governance Agreement, contains the entire agreement and understanding among the parties regarding the formation, governance and operations of the TRWC, and supersedes and replaces all related prior negotiations, agreements and proposed agreements, written or oral. Each Party acknowledges that no other Party, nor any agent or attorney of any Party, has made any promise, representation, or warranty whatsoever, expressed or implied, not contained in this Agreement and acknowledges that this Agreement has not been executed in reliance on any promise, representation or warranty not contained in this Agreement. This Agreement shall not be amended, modified or supplemented at any time unless in writing.

22. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona applicable to contracts executed and intended to be performed entirely within the State of Arizona by residents of the State of Arizona. Any action at law, suit in equity or judicial proceeding for the enforcement of this Agreement or any provision thereof shall be instituted only in the courts of Maricopa County, Arizona.

23. Severability. If any provision of this Agreement is declared void or unenforceable by a court of competent jurisdiction, the provision shall be severed from this Agreement, which shall otherwise remain in full force and effect if the remaining provisions permit the Parties to obtain the practical benefits of the Network. If any law or court of competent jurisdiction prohibits or excuses any Party from undertaking any contractual commitment to perform any act under this Agreement, this Agreement shall remain in full force and effect, but the provisions requiring such action shall be deemed to permit the Party to take such action at its discretion, if such a construction is permitted by law. This section shall not limit the discretion of the Parties to suspend a Party's right to vote and participate in the affairs of the TRWC as provided in Section 8, entitled Failure To Pay Financial Obligation.

24. Headings. Section headings are inserted in this Agreement solely for convenience and the section headings shall not by themselves alter, modify, limit, expand or otherwise affect the meaning of any provision of this Agreement.

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

[Signatures on following pages]

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers.

TOWN OF GILBERT

Date: _____

By _____

Town Manager

Printed Name

ATTEST:

Town Clerk

Printed Name

APPROVED AS TO FORM and within the powers and authority granted under the laws of Arizona to the Town of Gilbert

Town Attorney

Printed Name

**AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT TO
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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers.

CITY OF MESA

Date: _____

By _____

City Manager

Printed Name

ATTEST:

City Clerk

Printed Name

APPROVED AS TO FORM and within the powers and authority granted under the laws of Arizona to the City of Mesa

City Attorney

Printed Name

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers.

TOWN OF QUEEN CREEK

Date: _____

By _____
Town Manager

Printed Name

ATTEST:

Town Clerk

Printed Name

APPROVED AS TO FORM and within the powers and authority granted under the laws of Arizona to the Town of Queen Creek

Town Attorney

Printed Name

**AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT TO
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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers.

APACHE JUNCTION FIRE DISTRICT

Date: _____

By _____

Fire Board Chairman

Printed Name

ATTEST:

Attorney for the Board of Directors

Printed Name

APPROVED AS TO FORM and within the powers and authority granted under the laws of Arizona to the County of _____

Attorney for Board of Directors

Printed Name

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers.

CITY OF APACHE JUNCTION

Date: _____

By _____

City Manager

Printed Name

ATTEST:

City Clerk

Printed Name

APPROVED AS TO FORM and within the powers and authority granted under the laws of Arizona to the City of Apache Junction

City Attorney

Printed Name

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers.

RIO VERDE FIRE DISTRICT

Date: _____

By _____

Its: _____

Printed Name

ATTEST:

Board of Directors, Clerk

Printed Name

APPROVED AS TO FORM and within the powers and authority granted under the laws of Arizona to the County of Maricopa

County Attorney

Printed Name

EXHIBIT A

Governance Agreement

GOVERNANCE AGREEMENT

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1. RECITALS

This Governance Agreement ("Agreement") supercedes and replaces in its entirety the Governance Agreement dated April 8, 2008 and attached as Exhibit A to the Intergovernmental Agreement to Plan, Construct, Operate, Maintain and Finance the Topaz Regional Wireless Cooperative Network Contract Number 2008-3002-0359 and dated August 7, 2008 by and between City of Mesa, the City of Apache Junction, Apache Junction Fire District, the Town of Gilbert and the Town of Queen Creek. This Agreement has been approved and adopted by all Members. This Agreement shall be subject to amendment as provided in this Agreement and shall be valid for the duration of the TRWC's existence. This Agreement shall be binding upon all Members.

2. DEFINITIONS

Term	Definition
Account	"Account" shall mean a Local Government Investment Pool ("LGIP") or other account established for the purpose of paying, reserving money for or depositing funds for TRWC Network fees, Area fees, capital improvement fees, special assessment fees, grants or any other fees as determined and approved by the Board of Directors.
Administrative Manager	Administrative Manager "Administrative Manager" shall mean the City of Mesa or any subsequent Administrative Manager(s) and shall be responsible for the day-to-day operations and financial management of the TWRC.
Alternate Representative	"Alternative Representative" shall mean one or more persons that have been designated by a Member to serve as an alternate for a Member's Representative and have the authority specified in this Agreement.
Area	"Area" shall mean a subsection of the Network approved by the Board of Directors that is managed by an Area Manager.
Area Manager	"Area Manager" shall mean the City of Mesa and any other Member that subsequently becomes an Area Manager pursuant to Subsection 4.1.3.
Associate	"Associate" shall have the meaning set forth in Subsection 4.1.4.
Board of Directors	"Board of Directors" shall have the meaning set forth in Section 4.3.
Conditional Participant	"Conditional Participant" shall have the meaning set forth in Subsection 4.1.6.
Executive Director	"Executive Director" shall have the meaning set forth in Subsection 4.3.7.
Fiscal Year	"Fiscal Year" shall mean the accounting period in which all financial transactions will occur. The fiscal year for the TRWC will commence on the first day of July and end on the thirtieth day of June unless otherwise agreed to by the Board of Directors.
Impact Assessment	"Impact Assessment" shall mean an assessment used to identify

	capital expenses needed to modify the Network.
Interoperability	“Interoperability” shall have the meaning provided by the Public Safety Wireless Advisory Committee in a 1996 report to the Federal Communication Commission (“FCC”) and National Telecommunications and Information Administration (“NTIA”) and shall mean “an essential communication link within Public Safety and Public Service wireless communications systems which permits units from two or more different agencies to interact with one another and to exchange information according to a prescribed method in order to achieve predictable results.
Interoperability Participant	“Interoperability Participant” shall mean an entity that is not a Member authorized by the Board of Directors to use the Network for the purpose of participating in on-going interoperable situations or circumstances.
LGIP Account	“Local Government Investment Pool Account” shall mean an account set up through the State Treasurer’s Office.
Member	“Member” shall mean any entity that executes and becomes a party to the Amended and Restated Intergovernmental Agreement to Plan, Design, Construct, Operate, Maintain and Finance the Topaz Regional Wireless Cooperative Network with an Effective Date of May 1, 2012 as more specifically described in Subsection 4.1.1.
Network	“Network” shall mean the public safety/municipal communications system that includes, but is not limited to, the 700/800 MHz system originally built by TOPAZ.
NIMS	“NIMS” shall mean the National Incident Management System.
Numerical Vote	“Numerical Vote” shall have the meaning set forth in Subsection 4.3.6.2.
Party/Parties	“Party” shall mean any Member or subsequent Member; and “Parties” means all Members.
Representative	“Representative” shall mean the person designated by a Member to act on behalf of the Member on all matters concerning the TRWC.
Subscriber Unit	“Subscriber Unit” shall mean a voice and/or data unit (operating portable, mobile, and control station).
Talkgroup	“Talkgroup” shall mean a defined organizational grouping of radio users that need to communicate together.
TOPAZ	“TOPAZ” shall mean Trunked Open Arizona Network – 700/800 MHz Network procured and built by the City of Mesa.
TRWC	“TRWC” shall mean the TOPAZ Regional Wireless Cooperative Network.
Weighted Votes	“Weighted Vote(s)” shall have the meaning set forth in Subsection 4.3.6.3.

3. PURPOSE AND INTENT OF AGREEMENT

3.1. Purpose of the Agreement

The TRWC is formed for the purpose of improving communications and operations among participating public safety and service entities. This Agreement establishes an organizational and management structure for ongoing Network administration, operation, and maintenance; and establishes a budget proposal process, an accounting process, and the allocation of costs associated with the Network's operations, maintenance, and enhancement for Members.

The Members further desire throughout this Agreement to provide a process for admitting other public safety and public service agencies to join and participate in the TRWC according to the rules set forth in this Agreement.

The TRWC assumes no responsibility for events occurring within a Member's jurisdiction; rather each Member agrees that it is responsible for responding to events within its jurisdiction.

The TRWC Board of Directors shall govern the TRWC's continued development and operations.

3.2. Confidentiality and Sharing of Information

Network information shall be treated as proprietary and confidential because such confidentiality is essential for public safety. This Network information includes, but is not limited to, technical data, engineering details, construction documents, equipment lists, programming configurations, and operational procedures.

Any request for information shall be forwarded to the TRWC Executive Director for consideration.

4. TRWC STRUCTURE

The TRWC structure for Network use, operation, maintenance, replacement and enhancement is as follows:

4.1 Network Members

The following subsections describe the various categories of Membership or other participation.

4.1.1. Members

The TRWC Members will consist of the entities that execute and become a party to the Amended and Restated Intergovernmental Agreement to Plan, Design, Construct, Operate, Maintain and Finance the Topaz Regional Wireless Cooperative Network with an Effective Date of May 12, 2012 and any other entity that is admitted in accordance with Section 4.2 of this Agreement.

Entity means any city, town, county, state, Indian nation, fire district or other separately constituted public entity.

4.1.2. Administrative Manager

As the Administrative Manager, Mesa shall have the following powers and duties:

- 4.1.2.1.** Appoint an Executive Director, subject to the approval of the Board of Directors.
- 4.1.2.2.** Establish and maintain an accounting and budget system.
- 4.1.2.3.** Collect and disburse funds.
- 4.1.2.4.** Procure general goods and services and professional services for the TRWC.
- 4.1.2.5.** Contract with other federal, state, and local agencies as required to carry out the purposes of the TRWC.
- 4.1.2.6.** Serve as a TRWC contracting authority.
- 4.1.2.7.** Subject to Board of Directors approval, apply for and, if awarded, accept TRWC grants and donations.
- 4.1.2.8.** Provide reports as required by the Board of Directors.
- 4.1.2.9.** Perform the functions set forth in Subsection 6.4.5.
- 4.1.2.10.** Perform all other duties as assigned by the Board of Directors.

The TRWC Membership will reimburse the Administrative Manager for all costs incurred for performing Administrative Manager responsibilities.

4.1.3. Area Manager(s)

The Area Manager(s) is responsible for the day-to-day operations and maintenance of a specified portion of the TRWC as determined by the Board of Directors.

The TRWC may designate additional Area Managers as the Network architecture changes to include specialized components or regional Areas or sub-systems.

The Area Managers shall have the following powers and duties within their designated areas:

- 4.1.3.1.** Manage and allocate Subscriber Unit identifications and priorities.

- 4.1.3.2.** Manage and allocate Talkgroup identifications and priorities.
- 4.1.3.3.** Collect and report TRWC utilization statistical data.
- 4.1.3.4.** Maintain, optimize, and backup TRWC databases.
- 4.1.3.5.** Operate, inspect and maintain the Network infrastructure.
- 4.1.3.6.** Identify, track, and resolve TRWC problems.
- 4.1.3.7.** Establish and maintain a disaster recovery plan.
- 4.1.3.8.** In conjunction with the Administrative Manager and the Executive Director, participate in planning activities, including administrative organizational structure and staffing, Network expansions and enhancements, budget and expenditures, and risk management.
- 4.1.3.9.** Implement the Board of Directors' policies and procedures.
- 4.1.3.10.** Inform the Executive Director of TRWC issues.
- 4.1.3.11.** Perform the functions set forth in Subsection 6.4.5.
- 4.1.3.12.** Perform all other duties as assigned by the Board of Directors.

4.1.4. Associates

A non-governmental entity may become a TRWC Associate if (1) (a) it contracts with the Administrative Manager to use the Network, subject to Board of Directors' approval, (b) it is under contract to a Member for providing public safety or public services and authorized to use the Network to support contracted activities, or (c) is periodically using the Network to support public safety services with an existing Member; and (2) compliant with the conditions as set forth by the Board of Directors. Associates have no TRWC voting rights or representation on the Board of Directors. The Associate's representative should provide the Executive Director with all appropriate contact information for all notifications. The Administrative Manager subject to the Board of Directors' approval may, but is not required to, assess fees and costs including "in kind" compensation against an Associate in an amount determined by the Board of Directors.

4.1.5. Interoperability Participants

An Interoperability Participant may use the Network to support existing Members with intermittent interoperable situations or circumstances of use if authorized and subject to the conditions established by the Board of Directors. To support interoperability the TRWC shall follow the NIMS protocols for interoperable communications. Interoperability Participants have no TRWC voting rights or representation on the Board of Directors. The Interoperability Participant's representative should provide the Executive Director with all appropriate contact

information for all notifications. The Administrative Manager subject to the Board of Directors' approval may, but is not required to, assess fees and costs including "in kind" compensation against an Interoperability Participant in an amount determined by the Board of Directors.

4.1.6. Conditional Participants

A non-Member entity may temporarily use the Network for special events, tactical situations or emergency circumstances to support an existing Member(s), but only if authorized by the Board of Directors or the Executive Director. Conditional Participants have no TRWC voting rights or representation on the Board of Directors. Unless directed by the Board of Directors as a condition to use the Network, no fees and costs will be assessed to the Conditional Participants because their use of the Network is on a short, temporary basis to support existing Members. The Conditional Participants shall provide the Executive Director with the name of a designated representative and all appropriate contact information for all notifications.

4.2. Member Admission

4.2.1. General Requirements

Any governmental entity may apply for TRWC Membership. Subject to the Board of Directors' approval, such applicants shall be admitted as a Member and such membership shall become effective immediately after the following have occurred:

- Such applicant has fulfilled the requirements of Subsections 4.2.2., 4.2.3. and 4.2.4. below;
- Such applicant has entered into an agreement with the TRWC that specifies the fee or charges that such applicant shall pay to the TRWC pursuant to Section 5 below, including the costs associated with the process and the cost to cover such applicant's capacity and coverage needs; and
- Such applicant has executed and become a party to this Agreement.

4.2.2. Application

Any governmental entity may apply for Membership by submitting a written request for consideration to the TRWC Executive Director.

4.2.3. Evaluation Factors

The TRWC will evaluate requests for new membership using the following factors:

- Impact on Network Radio Frequency ("RF") coverage;
- Impact on the Network Grade of Service ("GOS");
- Interoperability requirements (i.e. extent of wide area roaming for both the existing and new members);

- Need for additional infrastructure;
- Regulatory constraints;
- Applicant's infrastructure;
- Applicant's user needs assessment;
- Backhaul availability;
- Cost impacts;
- Impact on current operations;
- Roaming impact on existing Members;
- Benefits to the TRWC to admit the applicant; and
- Additional factors as determined by the TRWC.

4.2.4. Admission Process

The Board of Directors has the sole and absolute discretion to either summarily deny or consider applicants for Membership status. If the Board of Directors elects to consider the application, the TRWC will conduct an analysis to determine costs, risks and benefits to the TRWC. The applicant shall pay the costs of such analysis prior to consideration.

After completion of the analysis statement, the Executive Director will develop a recommendation, complete with a financial impact and Network operational impact statement for the Board of Directors' consideration. If the Board of Directors decides to consider a Membership application, the Board of Directors will vote on such membership. The Board of Directors shall have the sole and absolute discretion to accept or deny applicants for membership. The Board of Directors shall establish the initial cost to join the Network.

4.3. TRWC Board of Directors and Executive Director

The TRWC structure shall consist of a Board of Directors, and an Executive Director, with the duties as discussed below. An organizational chart of the TRWC structure is shown in Appendix A.

4.3.1. Composition and General Duties

The Board of Directors shall consist of City Managers, County Managers, State of Arizona Department Directors, Regional Agency Directors or others with equivalent authority who are Members in good standing with the TRWC. The Board of Directors shall set TRWC policy, develop and maintain a long-range capital budget, develop and adopt an annual budget, and assess the fees listed in Section 5. The Board of Directors may exercise such other powers and duties as authorized under this Agreement. Each Member shall be entitled to have one Representative on the Board of Directors. Each Member shall be bound by the acts of its Representative, and the TRWC may rely on the act of a Representative the same as if such act

were done by the Member. The Representative or Alternate Representative must be vested with the authority to lawfully act on the Member's behalf with respect to the TRWC.

4.3.2. Chairperson

Notwithstanding Subsection 4.3.6.1 to the contrary, a Chairperson shall be elected by the Board of Directors by simple un-weighted majority vote at the first meeting and serve for a two (2) year term, except the initial term of the inaugural Chairperson shall be three (3) years. The Chairperson shall be responsible for scheduling Board of Directors meetings, providing agendas and meeting minutes for each meeting, presiding over the meetings and attesting to the accuracy of the meeting minutes.

4.3.3. Vice-Chairperson

Notwithstanding Subsection 4.3.6.1 to the contrary, a Vice-Chairperson shall be elected by the Board of Directors by simple un-weighted majority vote at the first meeting and serve for a two (2) year term. The Vice-Chairperson shall execute the duties of the Chairperson when the Chairperson is absent from meetings or not available.

4.3.4. Board of Directors Meetings

The Board of Directors will schedule and conduct regularly scheduled or specially called TRWC Board of Directors meetings, pursuant to Subsections 4.3.4.1 through 4.3.4.6 below. Proper notice and agendas must be provided to the Board of Directors' members in advance of any Board of Directors meeting.

4.3.4.1. Regular Meetings

The Board of Directors' regular meetings shall be held quarterly, except to the extent that and for such periods of time as the Board of Directors shall determine that regular meetings should be held more or less frequently.

4.3.4.2. Special Meetings

Board of Directors' special meetings may be called by two or more members with the approval of the Chairperson upon a minimum of three (3) working days notice to the other members. In the event of an emergency, a meeting may be scheduled and noticed with less than three (3) working days notice, provided that a Quorum as defined below is present at such meeting.

4.3.4.3. Executive Sessions

Executive sessions may be called as needed by the Board of Directors as permitted under Arizona law.

4.3.4.4. Notice and Agenda

The Executive Director shall prepare the notice of meeting and the initial agenda for each regular or special meeting and shall provide the notice and initial agenda to each Board of Directors' member. Each Board of Directors' member shall be entitled to add agenda items by notifying the Chairperson and the Executive Director.

4.3.4.5. Quorum

A quorum shall be required to conduct business. To constitute a quorum, there shall be at least three Board of Directors' members present and the Weighted Votes in good standing with the TRWC represented constitute an eighty percent (80%) majority of the Weighted Votes.

4.3.4.6. Attendance

Subject to approval by the Board of Directors, a Member may attend and participate in a meeting by telephone, videoconference, or written proxy and such attendance and participation shall have the same effect as if the Member were present in person.

4.3.5. Board of Directors Representation

Each Member is entitled to appoint one person to serve as that Member's Representative and shall notify the TRWC in writing of such Member's Representative. The Member's Representative appointment is effective when the TRWC receives such written notice. Each Member shall be bound by the acts of its Representative, and the TRWC may rely on the act of a Representative the same as if such acts were done by the Member. The Representative or Alternate Representative must be vested with the authority to lawfully act on the Member's behalf with respect to the TRWC.

4.3.5.1. Appointment of Alternate Representatives

Each Member shall appoint one (1) or more designated persons as that Member's Alternate Representative who may act when that Member is not available. Each Member shall be bound by the acts of its Representative, and the TRWC may rely on the act of a Representative the same as if such act were done by the Member. The Representative or Alternate Representative must be vested with the authority to lawfully act on the Member's behalf with respect to the TRWC. The names and addresses of all Board of Directors' members, Representatives and Alternate Representatives shall be maintained by the Executive Director.

4.3.5.2. Removal and Replacement

A Member may remove or replace its Representative and/or Alternate Representative(s) at any time by giving written notice, including effective resignation date to the TRWC Executive Director.

4.3.6. Board of Directors Voting

4.3.6.1. Voting Calculation

It is contemplated that all Members will strive to promote cooperation and the welfare of the TRWC by consensus decision-making. Each Member attending a meeting of the Board of Directors is required to vote on all legal matters to be decided by the Board of Directors at that meeting. A failure to vote or a voluntary abstention shall be counted as an affirmative vote unless excused by applicable federal or state conflict of interest laws. Only Members in good standing are allowed to vote.

The voting rights of a Member shall be suspended for non-payment of the Member's financial obligations to the TRWC. A Member is not in good standing if it has not timely paid its TRWC financial obligations.

4.3.6.2. Numerical Voting

All matters shall be decided by a Numerical Vote, provided that any Member may call for a Weighted Vote at any time before or after the Numerical Vote if the call for the Weighted Vote is made before adjournment of the meeting at which the Numerical Vote is taken. A Numerical Vote shall pass by the affirmative vote of a majority of the Members of the Board of Directors present and voting. In case of a tie in votes on any motion, the motion shall be considered lost. If a Weighted Vote is taken, the Numerical Vote shall have no effect unless it is in accord with the Weighted Vote.

4.3.6.3. Weighted Voting

Each Member of the Board of Directors shall have the number of Weighted Votes that are calculated in accordance with the following formula: $\text{Weighted Votes} = 100 \times (\text{Total of Member's Subscriber Units} / \text{Total Network Subscriber Units})$ provided, however, Mesa's percentage of Weighted Votes shall not fall below twenty-one percent (21%). If Mesa's percentage of Weighted Votes falls below twenty-one percent (21%) then the Weighted Vote of Mesa automatically shall be increased to twenty-one percent (21%). In such case, the Weighted Votes of all the other Members shall be adjusted proportionately so that the sum of the Weighted Voting percentage of all Members equals one

hundred percent (100%). The number of Weighted Votes of each Member shall be recalculated at the beginning of each quarter or whenever a new Member joins the TRWC.

A Weighted Vote shall pass by both the affirmative vote of a majority of the Members of the Board of Directors present and the affirmative vote of Members representing eighty percent (80%) of the Weighted Votes of all Members in good standing. If the Weighted Vote does not pass, the original Numerical Vote has no effect. A Weighted Vote shall be taken on a roll call basis.

4.3.6.4. Voting Topics

Topics that require voting include (1) the approval for expenditures not identified in the TRWC annual budget; (2) annual budgets and fee allocations (both capital and O&M); (3) membership; (4) policies; (5) strategic plans; (6) disaster recovery plans; (7) participating in or accepting grants; and (8) resolving disputes.

4.3.7. Executive Director

The Administrative Manager shall appoint an Executive Director, subject to the Board of Directors' approval, to control and coordinate TRWC administrative activities that are assigned to the Executive Director by the Board of Directors. The Executive Director will report to the Board of Directors. Duties of the Executive Director include:

- Communicating issues to the Members as appropriate to support the mission of the TRWC.
- In conjunction with the Administrative Manager and affected Area Manager(s), managing overall planning activities, including administrative organizational structure and staffing, Network expansions and enhancements, budget and expenditures, and risk management.
- Preparing an annual budget, including fees recommended for approval by the Board of Directors.
- Providing billing and cost recovery services following standard accounting practices.
- Creating an annual update of the five (5) year plan for approval by the Board of Directors.
- Preparing meeting notices, agendas and maintaining meeting minutes for the Board of Directors.
- Coordinating efforts of the TRWC.
- Oversight of the conflict resolution process.

- Keep or cause to be kept the current version of this Agreement and all other records of each TRWC transaction and shall maintain such records at the TRWC principal office. Said records shall be open for inspection and examination by all Members or their duly authorized representative at all reasonable times.
- Maintenance of Operating Procedures as directed by the Board of Directors.
- Keep or cause to be kept appropriate documentation of all bills of sale, licenses, leases, titles, warranties and operating manuals as approved by the Board of Directors.
- Providing quarterly budget and expense reports that follow standard accounting practices.
- Providing quarterly Network performance reports.
- Maintenance of an inventory of all Network infrastructure and real property used on behalf of the TRWC.
- Maintaining a current record of all contact information for all Members' Representatives and Alternate Representatives.
- Performing other duties as directed by the Board of Directors.

5. ACCOUNTING, BILLINGS, PAYMENTS, OWNERSHIP

The Members shall maintain sufficient balances in their respective Accounts as required by the Administrative Manager. Accounts shall be established for Network fees, Area fees, capital improvement fees, special assessments, grants or any other purpose as determined and approved by the Board of Directors.

At least once every five (5) years, the Board of Directors shall review/revise the Network service Areas that shall be used to estimate and assess the operations and maintenance, and capital fees of the Network. The Areas may represent (1) regional geographic areas that experience similar operations and maintenance and capital costs or (2) unique functional requirements.

The Administrative Manager shall pay all administrative, operating and maintenance, capital, special assessments, and grants specific costs that are incurred for the benefit of the TRWC as a whole and shall draw from each Area Manager's (or Members') respective Account that member's share of the actual costs based on a defined basis as determined by the Board of Directors.

If an Area Manager with the approval of the Board of Directors, adds a member to their Area, that Area Manager is responsible for all costs in their Area and billing to the member added to their Area.

5.1. Budget and Expenditure Planning

5.1.1. The Executive Director shall prepare a preliminary budget for the subsequent fiscal year by February 1 of each year. The preliminary budget shall include all administrative costs, operation and maintenance costs, and planned capital costs. As a part of the preliminary budget, a five fiscal year financial model shall be prepared. The financial model shall include projected: revenue forecast and requirements, administrative costs, operation and maintenance costs and planned capital costs. All significant issues and financial assumptions influencing the budget and model shall be detailed and included as a part of the presentation. The proposed budget, financial model and the presentation of significant issues and financial assumptions shall be forwarded to the Board of Directors for consideration.

The Board of Directors shall adopt each subsequent fiscal year's final administrative, operation and maintenance, and capital budget by April 1 of each year. A copy of the adopted budget shall be provided to all Area Managers.

5.1.2. If, at any time during the current fiscal year, the Executive Director has reason to believe that the final estimate of the cost of operating and maintaining the Network approved by the Board of Directors and used to calculate quarterly, (or other period approved by the Board of Directors) fees for a given operations and maintenance Area exceeds ten percent (10%) of the total, the Executive Director may present a new estimate of the cost of operating and maintaining the Network for that Area to the Board of Directors for approval. If the Board of Directors approves the new estimate, it shall be used to recalculate the remaining quarterly, (or other period approved by the Board of Directors) fees due in that fiscal year in that Area.

5.2. Network Fees

5.2.1. The Executive Director shall estimate the annual Network costs to include administration, and operation and maintenance for the Network at large ("Network Costs") for each upcoming fiscal year. By no later than February 1, the Executive Director shall present an estimate of the costs to the Board of Directors. The Board of Directors shall approve a final estimate of the cost by April 1, of the year before the fiscal year in question.

5.2.2. The Board of Directors shall assess the Network fees on a quarterly basis provided that the Board of Directors may adjust the frequency of the assessed fees. The Network fees shall be paid monthly into an appropriate Account by each Area Manager (or Member) on a basis as determined by the Board of Directors.

5.2.3. Each Area Manager (or Member) shall deposit the Network fees into an Account that shall only be used for TRWC purposes. The Administrative Manager shall draw down the actual cost monthly and provide an actual costs report to each Area Manager or Member. The Administrative Manager may change the method of payment for Network Fees subject to Board of Directors' approval.

5.3. Area Fees

5.3.1. Each Area Manager shall estimate the annual Area costs to include administration, and operation and maintenance for the Area ("Area Costs") for each upcoming fiscal year. By no later than February 1, each Area Manager shall present an estimate of the costs to the Board of Directors. The Board of Directors shall approve a final estimate of the cost by April 1, of the year before the fiscal year in question.

5.3.2. Subject to Board of Directors' approval, each Area Manager shall assess the Area fees on a quarterly basis, however, the Area Managers may adjust the frequency of the assessed fees. The Area fees shall be paid monthly by each Area's Members, on a basis as determined by the Area Manager subject to the Board of Directors' approval. The Area fees shall be calculated as determined by the Board of Directors.

5.3.3. Each Area Manager shall determine the method of payment for the Members within their area.

5.4. Subscriber Unit Maintenance and Programming

5.4.1. The cost of Subscriber Unit maintenance shall be borne by the owner of those Subscriber Units and not the TRWC.

5.4.2. All Network and Subscriber programming shall be done by entities authorized by the TRWC. The cost of such Subscriber programming and any other related costs shall be paid by the Members receiving the service. Any general Network programming cost shall be paid by the TRWC and billed to the Members based on an approved allocation method.

5.5. Capital Improvement Fees

5.5.1. The Executive Director shall estimate the cost of replacement of assets used by the Network (exclusive of real property and other items identified in subparagraph 5.10.1) and Network improvements for each upcoming fiscal year and future years. By no later than February 1, the Executive Director shall present an estimate of the costs to the Board of Directors. The Board of Directors shall approve a final estimate of the costs by April 1, of the year before the fiscal year in question.

5.5.2. The Board of Directors shall assess to the Members of each Area (or other period approved by the Board of Directors) a monthly fee that covers the total cost of replacement of assets used by the Network (exclusive of real property and other items identified in subparagraph 5.10.1) and Network improvements approved by the Board of Directors for the current fiscal year for the applicable Area. The fees shall be paid monthly into an appropriate Account by each Area Manager, calculated as determined by the Board of Directors.

5.5.3. Each Area Manager shall deposit the capital improvement and replacement fees, if any, collected into an appropriate Account that shall only be used for TRWC

Network capital improvement and replacement activities. The Administrative Manager shall draw down the actual costs monthly and provide an actual costs report to each Area Manager.

5.5.4. If a Member brings assets to the TRWC that provide significant benefit to the TRWC as a whole or in a particular Area, and the Board of Directors accepts these assets on behalf of the TRWC, the capital fee assessed to that Member shall be reduced commensurately with the value of the benefit as determined by the Board of Directors.

5.6. Special Assessments (including Disaster Recovery, Additional Subscriber Units and Talk Groups, Roaming and Other Special Assessments)

5.6.1. The Board of Directors may assess other fees on an as-needed basis to pay the costs of disaster recovery, payment for uninsured casualty losses, regulatory fines or insurance deductibles, the use of the Network by an Interoperability Participant, Conditional Participant, or Associate or to pay the costs of special projects that do not benefit all Members in a reasonably proportionate manner. Such fees may be assessed in any manner as approved by the Board of Directors and need not be equal among Members.

5.6.2. When an existing Member(s) wishes to add a number of subscriber units, talk groups, roaming profile or other capacity issues to the Network that are expected to impact Network performance for other Member(s), the TRWC shall assess a fee to the relevant Member(s) that covers the cost of a study that determines the full costs and full benefits of the additional subscriber units on other existing Member(s). The study shall consider the impacts on the existing Network and existing Member(s), including but not limited to, controllers, base stations, facility capacity, traffic capacity, roaming capacity, and microwave/fiber capacity.

5.6.3. The TRWC shall also assess a fee as approved by the Board of Directors to Member(s) that covers the costs necessary for the TRWC to provide initial service to the additional subscriber-units. If these costs include investment in infrastructure necessary to increase Network capacity, and the infrastructure that must be purchased for such capacity could ultimately be used to handle additional subscriber units beyond the amount requested by the Member(s), the TRWC or the Area Manager may enter into a capacity agreement that provides for reimbursement of a portion of these costs, if and when additional subscriber units are brought onto the Network.

5.6.4. The TRWC shall also assess a fee as approved by the Board of Directors to Member(s) that covers the costs imposed by the additional subscriber units, talk groups, roaming profile or other capacity issues on existing Member(s). Fees so collected must first be used by the TRWC to make the harmed existing Area Manager whole. The Member(s) are to receive the same services and benefits they receive from the TRWC before the additional subscriber units were put into service.

5.6.5. Special Assessments shall be deposited into an appropriate Account that shall only be used to pay the costs of the projects for which the assessment is imposed. The Executive Director may use this Account without prior Board of Directors' approval only in the

event of a major failure, disaster or force majeure event that necessitates immediate action to restore the Network to operating condition.

5.7. Grants

5.7.1. The Administrative Manager may proceed to obtain grant funding for the TRWC with the Board of Directors' approval. Any matching funds required by a grant towards a network wide project will be assessed to the Members based on an appropriate allocation method determined by the Board of Directors. The Administrative Manager will deposit Network related grant funds to the Member's Account or other appropriate account. If any matching is required related to the Network project, the Member(s) will deposit the appropriate funds to their respective Account or other appropriate account as directed by the Board of Directors in its sole and absolute discretion.

5.7.2. Member(s) may proceed individually to obtain grant funding for assessed TRWC System projects. Acceptance and use of these Grant funds is at the discretion and approval of the Board of Directors if the Members' grant request is tied to a TRWC System project. The Member that is awarded the grant remains responsible for meeting all of the terms, conditions and obligations of the grant.

5.8. Member Payments

5.8.1. Each Member shall pay the fees levied against it by the TRWC.

5.9. Billing, Records and Reports

5.9.1. Upon reasonable notice, TRWC non-privileged accounting records and reports are subject to Member review.

5.9.2. The Executive Director will prepare and deliver to the Board of Directors annual and quarterly reports. Special Reports will be prepared as requested by the Board of Directors.

5.10. Ownership

5.10.1. Ownership of Assets

Each Area Manager and Member shall continue to be responsible for all real estate and real property, including fixtures thereto, and personal property that the Area Manager and Member owns, leases, licenses or otherwise allows to be used by the Network. Real estate and real property, including fixtures thereto, and personal property shall not be transferred to the TRWC. This without limitation shall include:

- Real estate
- Buildings and structures

- Towers
- Network Hardware and Software
- Frequencies

Otherwise, subject to the Board of Directors' approval, Network hardware and software used to operate the Network may be owned by the TRWC.

Any Member(s) that brings in real estate, building and structures and towers must maintain the operational integrity and capacity necessary to operate the Network as defined in the applicant's user needs assessment.

5.10.2. Transfer or Assignment of Ownership of Assets

Notwithstanding anything to the contrary in this Agreement, all Network hardware and software purchased by the Area Manager or Members and used to operate the Network shall be owned by that Area Manager or Member unless replaced by the TRWC at TRWC's cost.

6. SERVICES

6.1. Use of the Network

When using the Network each Member, Associate, Interoperability Participant, and Conditional Participant shall abide by all policies, procedures and guidelines established by the TRWC.

6.2. Requests for Service

6.2.1. Routine or Normal

Routine services consist of Members using their day-to-day talkgroups in a manner that is consistent with normal operations. Initial Member talkgroups, feature sets, encryption usage, priorities and roaming allowances ("Member Capabilities") are established upon the time of becoming a Member. The Member capabilities may be subsequently changed pursuant to recommendations by the Executive Director and subject to approval by the Board of Directors.

6.2.2. Emergency or Tactical

On certain occasions there could be a need for emergency or tactical operations that may require TRWC Executive Director notification and/or authorization. This may include: changes in Member capabilities, requests for dynamic regrouping; console patching; or talkgroup merging. It could also entail the need for temporary Network authorization for non-Members. In most cases Member talkgroups and operational plans adequately provide for emergency and tactical scenarios without the need for TRWC Executive Director notification or authorization. Due to the nature of public safety emergencies, Members have the flexibility to act as necessary, as deemed by their respective dispatch and incident commanders in the time of emergency

situations that fall outside of normal operations. Members shall promptly notify the TRWC's Executive Director of changes necessitated by the emergency.

6.3. Planning

Any Member desiring expanded services shall make these requests to the TRWC Executive Director. The TRWC Executive Director will work with the Area Manager and/or Member as necessary in evaluating and planning for the request. Examples include a request to add sites to the Network to increase a Member's in-building coverage or to implement a Network upgrade in order to receive a new feature. These types of requests require detailed assessment and planning due to their potential technical and cost impacts to all Members. The allocation of the costs for such detailed assessments and planning services will be reviewed by the Executive Director and subject to the approval of the Board of Directors.

6.3.1. Needs Assessment

It is anticipated that Members may request assistance with a needs assessment based on the current and ongoing communications needs and priorities. Depending on the nature of the required assessment, the Executive Director may designate a sub-group or hire third-party services to conduct the assessment subject to the Administrative Manager's approval. A fee may be required for this service.

6.4. Programming and Reprogramming

All Network subscribers must be programmed or re-programmed with a valid Network key. In order to maintain the highest level of Network security, all Network subscribers programming is performed by entities authorized by the TRWC. All subscribers to be programmed or reprogrammed must have valid programming templates that have been approved by the Administrative Manager.

6.4.1. Talkgroups

A talkgroup is a defined organizational grouping of radio users that need to communicate together. When two or more radio users select the same talkgroup on their radios, all radio users with that talkgroup selection hear the transmitted audio. A talkgroup plan is a summary of all defined radio talkgroups. This plan is then used to develop the radio template that is the programming data for the individual radios.

TRWC talkgroups are "owned" by the agency that uses a talkgroup for primary business operations. Authority to assign or release a talkgroup for use by other entities resides with the owner of the talkgroup.

A number of existing TRWC talkgroups are designated as interoperability talkgroups. Interoperability talkgroups are assigned a single agency owner by the Administrative Manager.

Each Member is responsible for the development of their talkgroup plans. Talkgroup plans are designed to support Member's public safety and public service operations and have a direct impact to the Network performance. Talkgroup plans are approved for use on the Network by the Administrative Manager.

6.4.2. Priorities

The Executive Director, subject to the Board of Directors' approval, shall establish priority levels for the individual talkgroups on the Network. In general, priorities are assigned highest to lowest for emergency calls, public safety, public service and general government users, respectively. Emergency calls are for when immediate assistance is needed and are initiated by activating the emergency button on the subscriber unit.

6.4.3. Use Area and Roaming

The TRWC Network is composed of multiple radio communications sites and is configured in a mix of simulcast cells and individual repeater (IR) sites. Site access restrictions and roaming restrictions will be imposed to manage traffic loading because the Network has limited capacity.

The Executive Director, subject to the Board of Directors' approval, shall grant talkgroup site and roaming authorization, as necessary, to support Member business operations.

6.4.4. Encryption

The Executive Director shall assess, evaluate and act upon requests from any Member or applicant desiring the use of the encryption and Over-The-Air-Re-keying (OTAR) capabilities of the Network.

The TRWC Network supports radio encryption and OTAR. The Mesa Police Department and any other authorized entity are responsible for the generation, distribution, storage, destruction and maintenance of their respective encryption materials. The Mesa Police Department and any authorized entity shall have established procedures, approved by the Board of Directors, for supporting their respective encryption operations on the TRWC Network.

6.4.5. Network Management

The Administrative Manager and Area Manager(s) are responsible for Network Management.

Network Management responsibilities include:

- Subscriber ID management and allocation.
- Subscriber priority management.
- Talkgroup ID management and allocation.
- Talkgroup priority management.

- Implementing established policies and procedures governing the operations of subscribers on the Network.
- Producing and collecting statistical data and reports for Member Network utilization.
- Database maintenance, optimization, and back-ups.
- Problem identification, tracking, escalation, and resolution.
- Notwithstanding anything to the contrary in this Subsection 6.4.5, the Administrative Manager shall be solely responsible, unless delegated by the Administrative Manager to an Area Manager, for system wide Network configuration and management.

6.5. Training

Each Member shall ensure that its users are properly trained prior to any use of the Network.

7. PERFORMANCE

The Network was designed and implemented following design and evaluation standards for public safety systems. During the technical analysis phase for adding new Members to the Network, the TRWC shall follow the TRWC design criteria and evaluation standards to protect both current and future Members.

7.1. Coverage

The initial RF coverage performance metrics are shown for the areas as depicted on the RF coverage maps with a 12dB margin for portable in-building coverage. The RF coverage maps are housed with the Administrative Manager for the coverage areas.

The TRWC shall maintain, or improve upon, RF coverage performance as the Network is upgraded and/or expanded, to ensure that the established minimum coverage standard is in place throughout the Network.

7.2. Capacity

Unless the Board of Directors agree otherwise, the Grade of Service (GOS) performance metric for public safety is defined as five percent (5%). This means that no more than five percent (5%) of transmissions would receive a system busy upon initial Push to Talk ("PTT") during the busy hour for the Network.

Member roaming allowances and interoperable talkgroup agreements will have an impact on the existing Network GOS. Without Network capacity increases, Members will not be allowed full Network roaming for day-to-day talkgroups, but, with permission from the TRWC, may have access to interoperable talkgroups that roam. The TRWC shall maintain, or improve upon, the GOS as the Network is upgraded and/or expanded to ensure that the established minimum Network capacity standard is in place.

7.3. Reliability and Availability

The TRWC intends to maintain the existing Network coverage and capacity requirements; however, there are no guarantees for Network reliability and availability for new Members when operating within the existing service territory. It is anticipated that there may be situations where certain constraints or permissions are recommended and deployed to assist with capacity control during the new Member evaluation process. These will be explored and discussed with each applicant on a case-by-case basis.

7.4. WARRANTY DISCLAIMER: ALL MEMBERS DISCLAIM ALL WARRANTIES WHETHER WRITTEN, ORAL, IMPLIED OR STATUTORY, APPLICABLE OR RELATING TO THE EQUIPMENT, SUPPLIES, MAINTENANCE OF THE EQUIPMENT, OR OTHER OR ITEMS PROVIDED UNDER THE AGREEMENT BY ANY MEMBER(S), INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE MEMBERS ALSO HEREBY WAIVE ANY RIGHTS AND REMEDIES TO MAKE A CLAIM INCLUDING, WITHOUT LIMITATION, ANY GENERAL, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, FOR ANY REASON WHATSOEVER, BASED ON THE OPERATION AND MAINTENANCE OF THE NETWORK BY THE ADMINISTRATIVE MANAGER(S) AND/OR THE AREA MANAGER(S).

8. OPERATIONAL CONTROL AND DUTIES (PROGRAMMING AND CAPABILITIES)

8.1. Roles

The Network databases contain critical information and must be properly managed and archived. The Network databases contain information related to subscriber radios, radio users, talkgroups, fleet mapping, site preferences, roaming privileges, Network operational parameters, user accounts, passwords, and access privileges as described in Operational Policies and Procedures.

All Network Databases shall be programmed, maintained, and managed in a manner consistent with minimizing the degradation of operational performance and the loss or corruption of data. The Administrative Manager and Area Manager(s) are responsible for the programming, maintenance, and backup of the TRWC Network Databases.

8.2. Policies and Procedures

The Executive Director shall maintain, subject to Board of Directors' approval, the TRWC policies and procedures. At a minimum, the Executive Director shall review the TRWC policies and procedures bi-annually. Revisions to the policies and procedures shall be approved by the Board of Directors. The Executive Director may consider specific revisions upon request.

8.3. Control Center and Monitoring

The Administrative Manager and Area Manager(s) shall utilize the TRWC Network monitoring equipment that reports Network faults and outages in real time.

9. MAINTENANCE

9.1. Maintenance Plans

The Administrative Manager shall determine Network maintenance standards and responsibilities, subject to approval by the TRWC Board of Directors. The Area Managers are responsible for maintaining the Network equipment (not Subscriber Units) to the level of performance as determined by the Board of Directors. The Members shall be properly notified of any scheduled and unscheduled service affecting Network maintenance activities that have a potential impact to the operational capabilities of the Network or the subscriber's usage of the Network.

9.2. Emergency and Disaster Recovery

The Executive Director shall establish and maintain a disaster recovery plan, subject to approval by the TRWC Board of Directors.

9.3. Record-keeping Requirements

The Executive Director shall establish and maintain inventory and maintenance records for all elements of the Network.

9.4. Responsibility for Repair of Subscriber Equipment

Each Radio Network Participant is responsible for the maintenance and repair of its own Subscriber Units and related equipment. The TRWC policies and procedures for Network keys, encryption keys, and configuration programming shall apply when maintaining and repairing subscriber equipment.

10. GENERAL PROVISIONS

10.1. Limitations

Subject to applicable law, no TRWC director shall be liable to the TRWC for money damages for any action taken or any failure to take action as a director. To the extent permitted by law, the TRWC shall indemnify any officer, Executive Director, Administrative Manager, Area Manager, Representative, or Alternative Representative (each "Indemnified Party", collectively "Indemnified Parties") from any liability or expense sought or imposed because such person is made party to a proceeding because he/she is an officer, Executive Director, Administrative

Manager, Area Manager, Representative, or Alternative Representative of the TRWC. No Indemnified Party shall be personally liable to the TRWC or its Members for monetary damages for breach of fiduciary duty as a director, Officer, Executive Director, Administrative Manager, Area Manager, Representative, or Alternative Representative; provided, however, that this Section 10.1 shall not eliminate or limit the liability of an Indemnified Party to the extent provided by applicable law for (i) the amount of financial benefit received by an Indemnified Party to which the Indemnified Party is not entitled; (ii) an intentional infliction of harm on the TRWC or its membership; (iii) a violation of Section 10-833 of the Arizona Revised Statutes; or (iv) an intentional violation of Arizona law. The limitation of liability provided herein shall continue after the Indemnified Party has ceased to occupy such position as to acts or omissions occurring during such director's term or terms of office, and no amendment or repeal of this Section 10.1 shall apply to or have any effect on the liability or alleged liability of any Indemnified Party for or with respect to any acts or omissions of such Indemnified Party occurring prior to such amendment or repeal.

10.2. Dissolution

If the Board of Directors determines that it is not feasible or desirable to continue the TRWC activities, then assets of the TRWC shall be returned to the Members in proportion to their contributions to the TRWC.

10.3. Conflict Resolution

10.3.1. Mediation

If a complaint, dispute or controversy (hereinafter complaint) arises between any of the Parties to this Agreement, it is hereby agreed that the complaint shall be brought to the TRWC Board of Directors for non-binding conflict resolution. The Board of Directors shall have the authority to establish appropriate and reasonably prompt procedures to govern the processing of all complaints and an internal conflict resolution process.

The Parties agree that, at any point in the conflict resolution process, the Board of Directors may adopt and impose an interim emergency remedy to ensure the continuation of essential communication services until the matter is resolved.

Nothing in this Agreement shall prohibit any Party from seeking injunctive relief for the preservation of property. In the event any of the conflict resolution procedures are ruled unlawful or made unlawful by statute, the other terms of this Agreement are declared separate and severable and shall remain in full force and effect.

10.4. Insurance

The Area Managers, subject to the Board of Directors' approval, shall determine the appropriate insurance coverage for TRWC insurable assets and liability exposures.

10.5. Termination or Withdrawal

Any Member may voluntarily terminate its participation in the TRWC by providing twenty-four (24) months written notice to the Board of Directors; provided that the terminating Member: (a) relinquishes all Network equipment purchased or partially purchased by the TRWC; (b) transfers or relinquishes any unexpended TRWC Accounts which have been collected for the replacement of equipment; (c) pays all fees and charges owed to the TRWC up to and through the effective date of termination; and (d) agrees to such additional or alternative terms and conditions as may be unanimously established by all Parties, including the terminating Party.

10.6. Amendments to the Agreement

Any Member may propose an amendment to this Agreement to the Executive Director. The Executive Director will make a recommendation to the Board of Directors. The Board of Directors shall vote on any amendments brought to it by the Executive Director. An amendment to this Agreement shall be effective when approved by the Board of Directors. This Agreement may be amended by the Board of Directors by a vote of eighty percent (80%) of the Weighted Votes with at least three (3) members of the Board of Directors voting in favor of the amendment.

10.7. Entire Agreement

This Agreement contains the entire agreement and understanding among the Parties concerning the subject hereof and supersedes and replaces all prior negotiations, agreements and proposed agreements, written or oral, relating thereto. Each of the Parties hereto acknowledges that no other Party, nor any agent or attorney of any Party, has made any promise, representation, or warranty whatsoever, expressed or implied, not contained herein concerning the subject matter hereof, to induce it to execute this Agreement and acknowledges that this Agreement has not been executed in reliance on any promise, representation or warranty not contained herein. This Agreement shall not be amended, modified or supplemented at any time unless by in writing executed by the Parties hereto.

10.8. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona applicable to contracts executed and intended to be performed entirely within the State of Arizona by residents of the State of Arizona. Any action at law, suit in equity or judicial proceeding for the enforcement of this Agreement or any provision therefore shall be instituted only in the courts of Maricopa County, Arizona.

10.9. Counterparts

This Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall become

effective upon execution of the Agreement by all parties. Upon full execution, the effective date of this Agreement shall be deemed May 1, 2012.

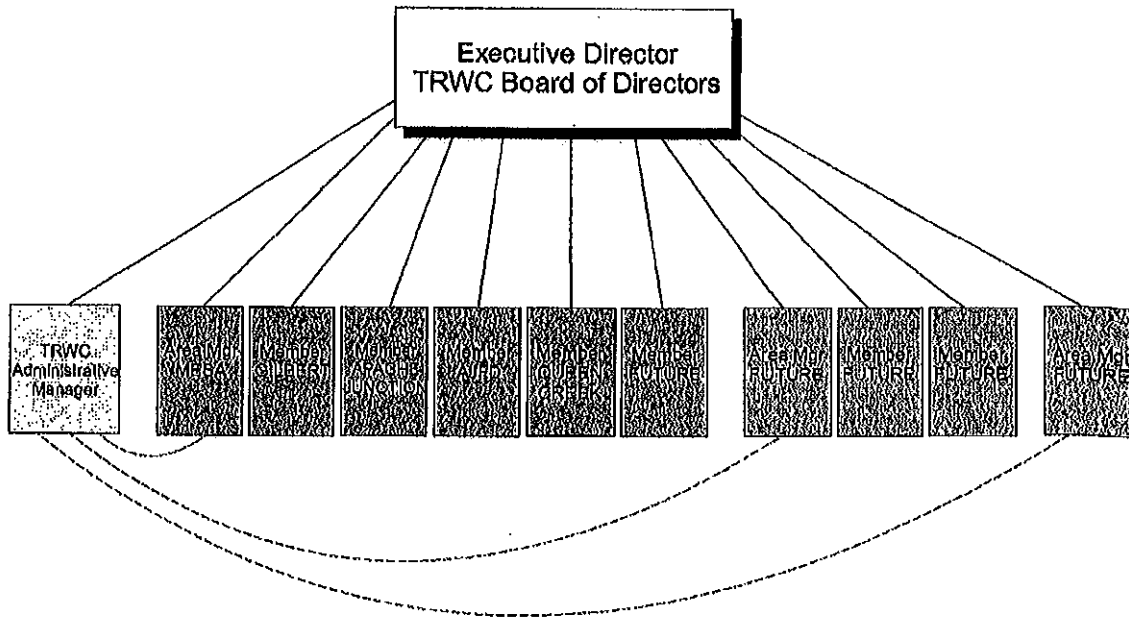
10.10. Headings

Article and section headings are inserted herein solely for convenience and the same shall not by themselves alter, modify, limit, expand or otherwise affect the meaning of any provision of this Agreement.

10.11. Assignment and Binding Effect

This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and assigns; provided, however, that nothing herein shall relieve any Party of any obligation under this Agreement, except upon the express written consent of the TRWC.

APPENDIX A – Proposed Functional Organization Chart



- Existing Sub-Systems
- Future/Potential Sub-System B
- Future/Potential Sub-System C





Requesting Department:
Development Services

TO: HONORABLE MAYOR AND TOWN COUNCIL

**THROUGH: JOHN KROSS, AICP
TOWN MANAGER**

**FROM: TOM CONDIT, P.E.
COMMUNITY DEVELOPMENT DIRECTOR**

**DAVE WILLIAMS
SENIOR PLANNER**

RE: PUBLIC HEARING AND POSSIBLE ACTION ON RZ11-038 / SD11-039 (ORDINANCE 510-12) "CHURCH FARM" A request by Greg Davis of IPlan Consulting on behalf of William Lyon Homes to Rezone 879 acres from R1-43 to Planned Area Development (PAD) with underlying zoning districts of R/C, PQ/P, C-2, R1-4, R1-5, R1-7 and R1-9, in addition to approval of a Preliminary Plat and Landscape Plan for a master planned single-family subdivision. The project is located at the southeast corner of Signal Butte and Ocotillo Roads.

DATE: APRIL 18, 2012

PLANNING & ZONING COMMISSION RECOMMENDATION

The Planning Commission recommended approval of RZ11-038, SD11-039, subject to the Conditions of Approval outlined in this report.

STAFF RECOMMENDATION

Staff concurs with the Planning Commission's recommendation.

PROPOSED MOTION

Move to approve RZ11-038, SD11-039 (ORDINANCE 510-12), subject to the Conditions of Approval outlined in this report.

RELEVANT COUNCIL GOAL

General Plan, Goal 3, Develop superior residential neighborhoods, Policy 3B: Provide a diversity of housing opportunities within the Town ranging from lower density residential

areas in the desert foothills and equestrian neighborhoods to higher-density housing in master planned developments.

General Plan, Goal 3, Develop superior residential neighborhoods, Policy 3D: Ensure compatibility between new projects and existing neighborhoods by providing appropriate transitional treatments when;

- a. New residential subdivisions are adjacent to existing residential areas; and,
- b. New development contains lots adjacent to open space, a non-residential land use or an arterial street.

General Plan, Goal 3, Develop superior residential neighborhoods, Policy 3F: Incorporate private parks, trails and open spaces that provide connectivity to the Town's existing and proposed parks, trails and open space system as design elements in all new residential developments.

SUMMARY

The proposal consists of a request from William Lyon Homes to rezone approximately 879 acres from R1-43 residential to a Planned Area Development with underlying zoning of R/C, PQ/P, C-2, R1-4, R1-5, R1-7 and R1-9, in addition to approval of a Preliminary Plat and Landscape Plan for a master planned single-family subdivision.

HISTORY

- | | |
|------------------|---|
| October 1, 2008: | Town Council approved annexation of Church Farm into the Town of Queen Creek. |
| October 1, 2008: | Town Council referred Church Farm Proposal back to the Planning Commission for further review. |
| June 16, 2010: | Town Council approved GP10-014, Minor General Plan Amendment reducing the size of Community Commercial from 45 acres to 25 acres. |
| March 14, 2012 | Planning Commission recommended approval of RZ11-038 and SD11-039. |

DISCUSSION

The applicant is requesting to Rezone approximately 879 acres from R1-43 residential to a Planned Area Development with underlying zoning of R/C, PQ/P, C-2, R1-4, R1-5, R1-7 and R1-9, in addition to approval of a Preliminary Plat and Landscape Plan for a master planned single-family subdivision.

The Church Farm master planned community was originally proposed in 2006. Over the past 6 years, the project has undergone several changes in design to accommodate

changing market demographics as well as the Town's 2008 General Plan Update. Additionally, the alignment of the Abel Moody power line and flood control studies from Pinal County affected the project. This proposal incorporates all of the outside influences in the design of this project in addition to comments from the surrounding neighbors, staff, and the Planning Commission and Town Council meetings in 2008.

Project Information	
Project Name	Church Farm
Site Location	Southeast of Signal Butte and Ocotillo roads.
Current Zoning	R1-43
Proposed Zoning	Recreation Conservation (R/C), Public/Quasi Public (PQ/P), General Commercial (C-2), Residential Districts R1-4, R1-5, R1-7 and R1-9 (Planned Area Development).
General Plan Designation	Very Low Density Residential (VLDR 0-1 DU/AC), Medium Density Residential (2-3 DU/AC) Medium High Density Residential (MHDRA (3-5 DU/AC), Commercial Services (CS)
Surrounding Zoning Designations:	
North	R1-43 Residential (Undeveloped land)
South	Recreation / Conservation; Queen Creek Wash.
East	SR, and CR-1 (Single Family Residential) Pinal County
West	R1-9 (PAD), R1-6 (PAD) R1-43, Queen Creek
Gross Acreage	879 Acres
Total Lots/Units	2,310
Proposed Density	2.89 DU/AC
Open Space Acreage:	
Provided	229.9 Acres
Required	150.8

Planning Commission Discussion

The Planning Commission discussed the case at length and had two recommendations, which have been added to the case as Conditions of Approval 49 and 50. The first recommendation was to include a native surface trail along Lenora Way East of Meridian Road as an aid for horses to access the trail system on the eastern boundary of the project.

The second recommendation, suggested by Commissioner Nichols, was to include traffic calming on all linear streets over 900' in length. If implemented as proposed, this stipulation would have required traffic calming on more than 40 street segments. In a subsequent conversation, staff spoke with Commissioner Nichols about the wording in the new stipulation, and recommended a modification allowing staff latitude to evaluate linear streets over 900 feet in length and for staff to make the final determination on which streets require traffic calming. Commissioner Nichols agreed with staff's

recommendation. Staff will be proposing the revised language at the Council meeting on April 18.

General Plan

One of the biggest influences in this proposal – when compared to the proposed Church Farms master plan presented in 2006 - is the General Plan Update that was completed by the Town in 2008. Previously, this area was designated as Very Low Density Residential (0-1 dwelling units per acre (DU/AC)), Low Density Residential (1-2 DU/AC), Medium Density Residential (2-3 DU/AC) and Commercial Services. The original project was designed with 1,745 lots with an overall density of 2.17 DU/AC and was in compliance with the General Plan at that time. The original plan included a wide variety of lots from acre-plus equestrian lots to R-2 high density lots.

The 2008 General Plan Update reflected increased density in this area, significantly reducing the Very Low Density Residential in addition to removing the Low Density Residential and changing it to Medium Density Residential (2-3 DU/AC) west of Meridian Road, and Medium High Density Residential (3-5 DU/AC) east of Meridian Road. The current proposal is for 2,310 homes for an overall density of 2.89 DU/AC, which is in compliance with the current General Plan.

In 2010, William Lyon Homes applied for a Minor General Plan Amendment which reduced the overall size of the Community Services (CS) on the southeast corner of Signal Butte and Ocotillo roads from 45 acres to 25 acres. The Town Council approved this Minor General Plan modification.

Planned Area Development (PAD)

The applicant is proposing several deviations as part of a Planned Area Development (PAD) as allowed in the Zoning Ordinance. The *italicized* text is directly from the applicant's narrative. Staff response is in **bold** below each request.

1. *PAD Expiration | Vested Rights: While zoning of real property typically continues in perpetuity subject to legislative determination that the zoning is in conformance with the General Plan, Section 4.10J: Final Development Plan or Site Plan and Section 4.10L: Termination of the PAD Classification of the Queen Creek Zoning Ordinance sets forth provisions to impose a two year time limitation on PAD zoning. This Ordinance provision can however be satisfied if a Final Site Plan or a Final Subdivision Plat has been submitted for approval within two years of PAD approval.*

Establishment of vested zoning rights for land uses and densities are essential for the Town regarding General Planning purposes and planning for future capital improvement programs. Similarly, predictability and fairness is just as critical for the property owner in effort to protect legitimate investment-backed expectations for the project. Establishment of vested rights for the entire PAD project area is vital in that it provides this predictability and provides for a means of reliance

upon development rights that allows for the continued incurrence of substantial design related expenses throughout the life of the project. We are therefore requesting that in addition to a Final Site Plan or Final Subdivision Plat establishing the vested rights for the project, that approval of a Map of Dedication instrument also establish vested rights for the entire Church Farm project with respect to zoning designations, densities, site development regulations, and use regulations as described in this Project Narrative, illustrated on the corresponding Zoning Exhibit and Development Plan, and approved by Council Ordinance.

Given the overall size and complexity of this project, staff is supportive of the applicant's request for vesting of zoning rights via appropriate Map(s) of Dedication in addition to Final Site Plan or Final Subdivision Plat. Given market conditions and the number of units and parcels involved, the development of Church Farms will more than likely happen over several years versus shorter time frames seen with single plat subdivisions. Maps of Dedication have been used in the past on smaller projects to convey similar needs for vesting of zoning rights. Details on the specific dedications are described in the Conditions of Approval.

2. *Preliminary Plat Duration: Section 4.4D.2: One (1) Year Approval with Extension*
The Queen Creek Subdivision Ordinance sets forth that preliminary plat approval is valid for a period of one year from the date of Town Council action; and, that a request can be made for a single, one-year extension of the original preliminary plat approval. Although we understand that the intent of this provision may be to provide the Town with some assurances that subdivision development is consistent with the Town's current regulations and requirements, a one year approval time frame for a Preliminary Plat is no longer a sufficient duration to secure appropriate financing of the on- and off-site improvements. Additionally, a project of this magnitude demands a significant amount of time to coordinate the physical improvements to the property. We are therefore requesting that duration for approval of a Preliminary Plat for the project be valid for a period of 2 years and that submittal of a Final Site Plan, Final Subdivision Plat or Map of Dedication instrument establish vested rights for the entire Preliminary Plat.

Staff is supportive of the applicant's request to modify the initial time frame for Preliminary Plat expiration to 2 years given the size and complexity of this project.

3. *Phasing: Section 4.10.D2: PAD Projects Phased of the Queen Creek Zoning Ordinance requires that all PAD projects shall be phased so that the density of any phase, when combined with previously constructed phases, does not exceed the approved overall project density. Although we fully understand the intent of the provision, the immense size of Church Farm precludes us from designing phases large enough to encompass all lot sizes, thus some phases will exceed the overall project density; however, these phases will in no case exceed the*

permitted density of the General Plan. Additionally each phase will provide sufficient open space, vehicular circulation, and infrastructure improvements to ensure independent function.

Staff is supportive of the applicant's proposal related to development of individual phases and densities. Some parcels are higher in density than others and when looked at individually, may be higher than that designated by the General Plan in their respective areas. However, the overall density for this project is currently at 2.89 DU/AC, which is below the overall maximum per the General Plan for this area which is 3.05 DU/AC when averaged over the entire 879 acres of land. By vesting the zoning conditions and preliminary plats, any changes to the density of the plan in the future would have to be looked at in the context of the entire site, and not just the individual parcels. This further ensures that overall density remains at a level deemed appropriate by the Town Council.

4. *Phasing Sequence Amendments: Modifications of the project phasing sequence generally requires approval by the Town Council through a PAD amendment. Although concurrent development is anticipated per the corresponding Phasing Plan, deviation from this plan may be necessary from time to time, as future infrastructure costs and market conditions may render specific project areas more appropriate for development. As a result of the need for flexibility in project phasing, combined with the time and resources necessary to process a PAD amendment, we are proposing that the Church Farm project be permitted to develop within the phases concurrently or out of order from the numbering set forth in the approved Phasing Plan. Realizing the need for the Town to ensure that out of sequence phasing will not be detrimental to the public, it is proposed that phasing amendments be approved administratively by the Town Engineer who will ensure that the revised phasing continues to meet the public safety needs as well as the design intent of the community.*

Staff is supportive of the request for administrative approval of Phasing modifications. With the staff (Town Engineer) approval, it will reduce the processing time involved while ensuring that the intent and character of the project maintains the Town's high standards.

5. *Balancing of Densities: Balancing of densities provisions, as set forth in Tables 4.10-2 and 4.10-3 Balancing of Densities, provides a table that prescribes minimum and maximum percentages of lots for the R1-7, R1-12, and R1-15 (and larger) zoning districts. Since our proposal includes three zoning districts that are not incorporated in this section of the Code, we cannot comply, thus do not believe it is applicable. Regardless, we do believe we comply with the intent of the section by providing a wide range of lot sizes throughout the project. We believe that the proposed density balance and lot sizes provide the needed livability and sustainability for the project and greater community. We are therefore requesting deletion of this requirement for the Church Farm project.*

As discussed above in item #3, Staff is in support of constructing individual parcels which may have higher densities than allowable by the General Plan for that specific parcel, as the entire site does conform to the Plan. Given the varying lot sizes, and desired buffering of smaller lots closer to Ocotillo and larger lots closer to the Queen Creek Wash, it is understood that the smaller lot sizes will be built first as infrastructure is constructed to gain access to the southern and eastern sections of this project.

6. *Buffer Yards: Section 5.3E: Buffer Yards and Screening Methods of the Zoning Ordinance sets forth provisions to provide for physical and visual transition areas between lots of different densities. Per Table 5.3-1: Landscaping, Screening & Buffer Yards Between Zoning Districts and Figure 5.3-2, a minimum of a 25-foot wide landscaped buffer area is required between the proposed R1-7 lots and the R1-9 lots. This provision also requires the plantings of at least 2 evergreen tree species and 1 deciduous tree species every 100-linear foot. Buffer yard standards for the R1-4 or R1-5 zoning districts are not addressed in these tables. Understanding that buffering is also an important component of Queen Creek's Zoning Ordinance, we have designed the project to meet the intent. Buffering the existing large lot neighbors occurs in two primary ways. Landscape tracts measuring between 45-feet and 150-feet are used to not only provide a physical separation between the existing homes and proposed development, but to allow access to the Community wide equestrian trails in the area. The second form of buffering is through the use of transitional lot sizes. We have designed the larger lots of Church Farm to be located at the perimeter and adjacent to the existing neighborhoods in an effort to minimize the impact that these lot area changes can have on the existing rural lifestyle.*

Buffering within the master plan development similarly occurs through transitional lot sizes and the use of landscape tracts that also contain linear trails and paths for the community's use. Because we are using a combination of landscaping, trails, and lot size transitioning and in an effort to ensure cohesiveness throughout the community, we propose the deletion of this provision within the context of the PAD, although we believe the intent is maintained.

Staff is supportive of the applicant's request. Given the unique nature and size of this project, the applicant has utilized an extensive system of trails and open spaces which meets the intent of the Zoning Ordinance related to Bufferyard Standards. Also, by locating larger lots adjacent to the existing residential that is in the area, they create a further buffer from the R1-4 and R1-5 lots and the associated higher density areas.

7. *Landscape Setback – Collector Level Streets: Table 5.3-1: Landscaping, Screening & Buffer Yards Between Zoning Districts and Figure 5.3-2 also establishes the minimum buffer yard distances and platting requirements for*

those areas between the residential lots and the adjacent arterial / collector level street. More specifically a minimum distance of 30-feet is required between the lots lines and the street, which area is required to be landscaped per the provisions set forth in the table. The project meets or exceeds this requirement in most locations with the exception of those internal areas that include traffic calming features/intersections. In order to maintain the planned internal open space linkage widths and corresponding trail locations, it is necessary to reduce the required 30-foot landscape setback at these traffic calming features and intersections. We are therefore proposing that the landscape setback requirement for the areas adjacent to all traffic calming features/intersections be a minimum of 10-feet.

Staff is supportive of the applicant's request for the reduced landscape setbacks to incorporate the traffic calming into the project. The total landscaping at a minimum would include the 10 foot landscape buffer in addition to 6 feet of right-of-way landscaping and a 6 foot sidewalk.

8. *Tot Lot Play Stations: Although not codified in the Town's Zoning Ordinance or approved as part of the Subdivision Regulations, the Town has historically required .25 open space amenity play stations for each household in the community, with 50-percent of the provided play stations being tot lots. While we fully embrace the importance of providing for sufficient children's amenities, we also believe it imperative to foster development of healthy communities for all age groups, thus we are requesting to deviate from the latter part of this policy and expand the traditional application of the play stations to include a broader spectrum of amenity types for all age groups, which is described in detail in Section 8: Project Theming and Character. It is important to note that the overall quantity of play stations proposed exceeds the number requested by the Town.*

Staff is supportive of the applicant's request. The amenity package proposed is very unique and unlike any other subdivision in Queen Creek or the Southeast Valley. The overall intent is to create areas all residents can use regardless of their age and have activities they can use and enjoy. There are a total of 11 uniquely designed areas which include activities such as forts and swings for the kids, chalkboard walls to draw on, climbing walls, outdoor areas to barbeque and relax for the adults and an area for outdoor movie screen for the entire community to enjoy.

9. *Signs: Neighborhood identification is very important to the character of a community and at 879 acres, Church Farm is one of the Town's largest master planned communities that should be afforded sufficient opportunities for appropriately scaled identification. Sign areas for the proposed subdivision entry monument signage is consistent with the provisions of Section 6.16D: Sign Permitted in Residential Zoning Districts of the Queen Creek Zoning Ordinance; however, deviation from the Code is requested to address the need for additional*

sign height. In effort to promote superior way finding and neighborhood identification, deviation from the permitted height of 5-feet is requested to allow for a sign height measurement of 12-feet for the community entry monuments, and a height of 7.5-feet for the neighborhood entry monuments. As illustrated in the corresponding conceptual landscape plans, the requested sign height is primarily to address the proposed height of the architectural element in which the signs are proposed to be affixed.

Commercial entry signage is designed to maintain consistency with the design theme proposed for the project subdivision entry monument signage. Although the commercial entry signage is consistent with the provisions of Section 6.16: Sign Regulations of the Queen Creek Zoning Ordinance in terms of sign area, height, and location for the primary element of the sign, the architectural element containing the tenant identification panels exceeds the regulations identified in the Sign Code in terms of height and area. The signage lettering for 'Church Farm' is proposed at the maximum sign area of 48-square feet, and well within the height limitation of 8-feet; however, the tenant identification panels are proposed up to a height of 12-feet and the area of these panels will exceed the overall area permitted. Continuing to promote superior way finding and high quality design within the Town, deviation from the height and area code provisions is therefore requested for the 'Identification Ground-Mounted Sign' to permit an overall height of 12-feet and a total of 78-square feet in area.

Staff is supportive of the applicant's request for increased square footage for their signage. Given the size and scale of the project, the signage is proportionate with the projects size and character. Architectural embellishments that exceed the overall height have been approved in other locations where they are consistent with the architecture and scale of the project, such as Power Marketplace.

Staff does, however, propose that a comprehensive sign application be submitted that addresses the separate commercial tenant. Multi-tenant signs for the Commercial Center shall be reviewed and approved separately when the commercial site is submitted for site plan approval. The signage for the Commercial Center should be consistent with the architecture of the residential component of Church Farm.

10. *Garage Setback: Section 1.01 Table 5.11-1 contained within Section 5.11 Residential Architectural Design Standards requires that front loaded garages be recessed a minimum of 5-feet from the front plane of the living area. The primary purpose of this provision is to provide visual interest and relief from street views. We also believe it is important to maintain this type of design standard to help promote pedestrian scale to the streetscape, which in turn, will also enhance the quality residential living environment of the neighborhoods. In an effort to promote desirable larger rear yards, more usable floor plans, while also providing*

incentive for more pedestrian scaled front porches closer to the street, deviation is requested in two ways:

- The deletion of the requirement from the R1-4 and R1-5 zoning districts.*
- Allowing the 5-foot recess to be measured from the front plane of a covered porch if offered (living area if not) for the R1-7 and R1-9 Zoning Districts.*

Staff is not supportive of this request. The intent to maintain the 5 foot setback from the face of garage from the livable area of the home has been consistently upheld through prior Design Reviews on many projects. Garage setbacks in the R1-4 and R1-5 Zoning Districts are not addressed in the Design Review Guidelines; however, staff has been consistent in recommending that smaller lot homes meet the requirement of the design guidelines where physically able.

11. Garage Face Proportions: Although the purpose of the Town's 40-percent garage face proportionality provision is to enhance the residential streetscape views, we do not believe that this provision fully takes into account the physical size of the dwelling units on relatively smaller lots. This provision essentially equates to the fact that the smallest dwelling unit width within a neighborhood can only be 50-foot, as a typical 2-car garage is a minimum of 20-feet in width (width include measurement of garage return walls). That results in lots that are at least 60 feet wide which eliminates the need for the R1-4 and R1-5 zoning districts which we do not believe is the intent. The Church Farm proposal in an effort to maximize diversity includes R1-4 and R1-5 zoned lots that can accommodate 40 and 45 foot wide products which cannot meet this regulation. Therefore, we propose that the R1-4 and R1-5 Zoning districts utilize a 45-percent garage face proportionality maximum.

Staff is supportive of the applicant's request. The R1-4 and R1-5 homes cannot physically meet the standards based on the width of the lots, and the building setbacks required under other provisions of the Ordinance.

12. Patio | Porch Size – R1-4 and R1-5 Districts: While we fully agree that rear patios should be required for all dwelling units in this desert environment, we also believe that the universal requirement of 180 sq. ft. for each dwelling unit is not appropriate for the smaller R1-4 and R1-5 lots as it does not take into account the size of the structures and corresponding yard sizes. In effort to provide for the desired 180 sq. ft. of covered area, while also respecting the proportions of the anticipated dwelling units to the size of the lot, we are requesting that minimum Areas of the front porch and rear patio areas combined be equivalent to 180 sq ft.

Staff is supportive of the applicants request due to the nature of the lots. Staff would propose a slight language change to clarify that the combined

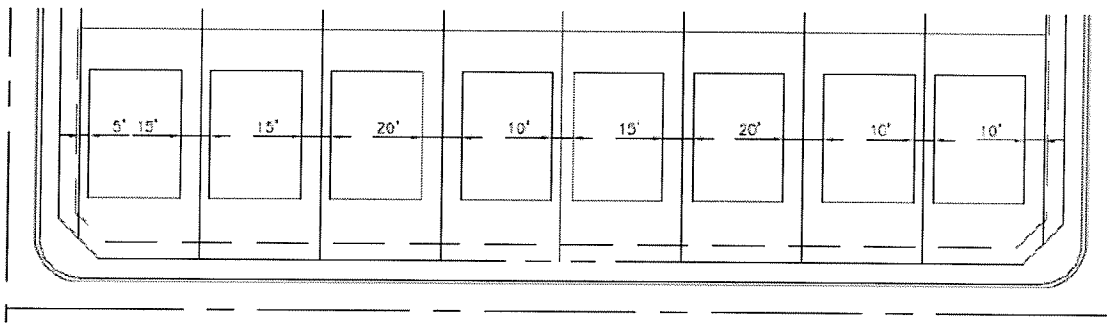
180 square feet be covered. A similar proposal was approved for Hastings Farms for the R-2 lots for this same reason.

13. *Floor Area Ratio – All Residential Districts: As currently adopted in the Queen Creek Zoning Ordinance, floor area ratios are not consistent with lot coverages identified in Table 4.7-2: Dimensional Standards. Proposed deletion of this regulation is offset by the project’s full compliance with the Town’s lot coverage requirements.*

Staff is supportive of the applicant’s request. This particular item has been recognized by staff and is being incorporated into future revisions of the Zoning Ordinance. The lot coverage better addresses the concerns for storm water drainage for the structures and takes into account future accessory structures that individual homeowners may build in the future.

14. *Building Separation – R1-9 and R1-7 Zoning Districts: Development standards, as set forth in Table 4.7-2: Dimensional Standards of the Queen Creek Zoning Ordinance, establish that side yard setbacks for both the R1-9 and R1-7 zoning districts provide that adjoining lots have a minimum spacing of 15-feet between buildings, where the minimum setback is 7-feet for the R1-9 district and 5-feet for the R1-7 district. This provision further encourages staggering of side yard setbacks to create differentiation in building orientation to the street. Although the total side yard setbacks proposed will meet or exceed Zoning Ordinance requirements, deviation is requested from the minimum building separation requirements of 15-feet for both the R1-9 and R1-7 districts. Every lot will have combined setbacks of at least 15-feet but in order to provide the staggering the Town desires, as well as allow more flexibility to the home builder which affords floor plan flipping, more diverse floor plans, and better utility line placement, we are requesting that the minimum building separation be 10-feet. Since the side yard setbacks are 5-foot and 10-foot, there will not be a situation where there are two 10-foot building separations in a row. In fact, the results of this deviation, as illustrated below, will be a mix of 10-foot, 15-foot, and 20-foot building separations, meeting the intent of this requirement.*

R1-7 & R1-9 | 10-FOOT SEPARATION EXHIBIT



Staff is supportive of the applicant's request. The intent of the Zoning Ordinance in the R1-7 and R1-9 districts is to provide for staggered setbacks to provide more visual interest between the homes by utilizing staggering 7 foot and 8 foot side setbacks. By staggering the setbacks with 5 foot and 10 foot offsets, it provides the ability for most of the homes to have vehicle gates to access the rear yards in addition to providing for more variation between homes. The staggered variation provided by the applicant meets the intent of the Zoning Ordinance.

15. *R1-9: Parcels D, H, J and M are proposed to maintain the base zoning designation of R1-9: Urban Development Type A District (9,000 square feet per dwelling unit). While a large majority of the lot development standards are proposed to be maintained for the R1-9 zoned parcels, modifications are requested to the lot width maximums, lot depth maximums, as well as some of the building setbacks to add flexibility and to promote covered patios, porches, and side entry garages. While still maintaining the Town's desired width-to-depth lot design ratio, the requested deletion of the maximum lot width and depths will assist to promote the needed lot design flexibility and to ensure that larger size transition lots can be accommodated. Offsetting this requested modification is the proposed increase to the minimum lot depth, which will also assist to increase the lot area of the R1-9 lots to over 12,000 square feet. A 5-foot front yard setback modification is proposed to accommodate a front porch or side entry garage arrangement, whereas the minimal requested deviations to the side yard setback and minimum building separation requirements will also help to promote rear yard access (RV gates), and foster an enhanced streetscape for the neighborhood. Minimal rear yard setback deviations are necessary to promote larger single story floor plans and deeper covered patios.*

Staff is supportive of the applicant's requests for the R1-9 district, in that it appears to meet the intent of the Zoning Ordinance. It is consistent with other subdivisions throughout the community.

16. *R1-7: The R1-7: Urban Development Type A District (7,000 square feet per dwelling unit) portion of the project consists of Parcels C and K. As with the R1-9 district above, the proposed, setback deviations for the R1-7 district lots will assist in promoting covered patios, porches, and front and side entry garages arrangements. Offsetting the requested modifications is the proposed increase to the minimum lot depth, which will also assist to increase the lot area of the R1-7 lots to over 8,000 square feet. Similar to the R1-9 deviations, minimal setback and building separation deviations are proposed which will add the needed flexibility to help promote an enhanced streetscape for the neighborhood, while also assisting with facilitating rear yard access. Minimal rear yard setback deviations are necessary to promote larger single story floor plans and deeper covered patios.*

Staff is supportive of the applicant's request for the R1-7 district, in that it appears to meet the intent of the Zoning Ordinance. It is consistent with other subdivisions throughout the community.

17. R1-5: The R1-5: Urban Development District (up to 5 dwelling units per acre) portion of the project consists of Parcels B, G, and L. The proposed modification to increase lot dimensions will promote both front and side entry garage arrangements while also providing a minimum lot size of 6,900 square feet. In addition to the generally requested modifications to the patio sizes and floor area ratio, we are proposing a standard for building separation where none exists today.

Staff is supportive of the applicant's request; however, we recommend clarifying the language to reflect that both the porch and patio shall be covered.

18. R1-4: The R1-4: Urban Development District (up to 8 dwelling units per acre) portion of the project consists of Parcels A, E, and F. The proposed increased minimum lot dimensions will facilitate front and side entry garage arrangements, while also providing a lot size of 5,500 square feet. Similar to the R1-5 development standard deviations summarized above concerning garage face proportions, patio sizes, and floor area ratio, we are proposing a standard for building separation where none exists today.

Staff is supportive of the applicant's request; however, we recommend clarifying the language to reflect that both the porch and patio shall be covered.

*19. Development Standards: Site Development Regulations for the nonresidential zoned parcels conform to provisions set forth in Table 4.7-2: Dimensional Standards of the Town of Queen Creek Zoning Ordinance for the respective zoning district. Modifications to the residential lot development standards however, are being requested to permit greater flexibility in the development of a higher quality living environment. The following table is a comparison of the lot sizes proposed in comparison to those identified in the Zoning Ordinance (deviations noted in **bold** typeface in the tables):*

TABLE 6.301: LOT DEVELOPMENT STANDARDS LOT SIZE – CHURCH FARM					
Parcel	Zoning	Minimum Lot Area (sq. ft.) (proposed)*	Minimum Lot Area (sq.ft.) (Code)	Minimum Lot Dimensions (proposed)	Minimum Lot Dimensions (Code)
A	R1-4	5,500	4,000	55' x 100'*	40' x 60'
B	R1-5	6,900	5,000	60' x 115'*	50' x 70'
C	R1-7	8,400	7,000	70' x 120'*	70' x 100'
D	R1-9	12,600	9,000	90' x 140'*	90' x 100'
E	R1-4	5,500	4,000	55' x 100'*	40' x 60'
F	R1-4	5,500	4,000	55' x 100'*	40' x 60'
G	R1-5	6,900	5,000	60' x 115'*	50' x 70'
H	R1-9	12,600	9,000	90' x 140'*	90' x 100'
J	R1-9	12,600	9,000	90' x 140'*	90' x 100'
K	R1-7	8,400	7,000	70' x 120'*	70' x 100'
L	R1-5	6,900	5,000	60' x 115'*	50' x 70'
M	R1-9	12,600	9,000	90' x 140'*	90' x 100'

* Except to accommodate cul-de-sacs, knuckles, and other street designs that encroach into the typical lot depth.

Staff is in supportive of the above table 6.301 related to the proposed lot dimensions for the zoning designations and parcels listed above. Lot sizes for each of the respective zoning districts are larger than the code would allow for each district.

*The following table is a comparison of the residential lot development standards proposed in comparison to those identified as minimum requirements in the Zoning Ordinance. Deviations from code are indicated in **bold** typeface. Letter designations in the Additional Regulations column refer to proposed regulations that follow the Lot Development Standards | Setbacks, Building Height, Lot Coverage – Church Farm table for Single Family Residential Districts.*

Table 6.302: Lot Development Standards | Setbacks, Building Height, Lot Coverage – Church Farm

<i>Standards</i>	<i>R1-9 (Proposed)</i>	<i>R1-9 (Code)</i>	<i>R1-7 (Proposed)</i>	<i>R1-7 (Code)</i>	<i>R1-5 (Proposed)</i>	<i>R1-5 (Code)</i>	<i>R1-4 (Proposed)</i>	<i>R1-4 (Code)</i>	<i>Additional Regulations (proposed)</i>
Maximum Height (ft.)	30	30	30	30	30	30	30	30	
Minimum Building Setbacks (ft.)									
Front (front facing garage/side entry garage/covered porch)	20/15	20	20/15	20	20/15/10	20/15/10	20/15/10	20/15/10	(A)
Side (Min. / Total)	5/15	7	5/15	5	5	5	5	5	(B)
Rear	25/20	25	25/20	25	20/15	20/15	15/10	15/10	(C)
Maximum Building Setbacks (ft.)									
Front	30	30	30	30	30	30	30	30	
Minimum Building Separation (ft.)	10	15	10	15	--	--	--	--	
Maximum Lot Coverage (%)									(D)
One-story	40	40	40	40	55	55	60	60	
Two-story	40	40	40	40	50	50	50	50	
Front Facing Garage Ratio (%)	40	40	40	40	45	45	45	45	
Minimum Patio Size (sq. ft.)	180	180	180	180	180	180	180	180	(E)
Maximum Density (du/ac) - net	4.0	4.0	4.0	4.0	5.0	5.0	8.0	8.0	
Floor Area Ratio	--	0.40	--	0.40	--	0.55	--	0.60	
Maximum Lot Width (ft.)	None	120	None	100	None	70	None	65	
Maximum Lot Depth (ft.)	None	130	None	130	None	None	None	None	

A. Front Setback.

1. R1-9 district: Minimum 20-foot setback to living area or front facing garage; 15-foot setback to covered porch or side entry garage.
2. R1-7 district: Minimum 20-foot setback to front facing garage; 15-foot setback to living area, covered porch or side entry garage
3. R1-5 and R1-4 districts: Minimum 20-foot setback to front facing garage; 15-foot setback to living area or side entry garage; 10-foot setback to covered porch.

Staff is supportive of the Front Setback proposals in Section A and the Table above.

B. Side Setback.

1. R1-9 district: Minimum 5-foot side yard setback; total of both side yard setbacks shall be 15-feet.
2. R1-7 district: Minimum 5-foot side yard setback; total of both side yard setbacks shall be 15-feet
3. R1-9 and R1-7 districts: Minimum building separation between dwelling units on adjacent lots shall be 10-feet.

Staff is supportive of the Side Setback proposals in Section B and the Table above.

C. Rear Setback.

1. R1-9 and R1-7 districts: Minimum 20-foot rear yard setback for covered patios.

2. R1-5 district: Minimum 20-foot rear yard setback to the livable area of 2-story dwelling units; 15-foot setback to 1-story dwelling units; and, 15-foot setback for covered patios of both 1-story and 2-story dwelling units.
3. R1-4 district: Minimum 15-foot rear yard setback to the livable area of 2-story dwelling units; minimum 10-foot rear yard setback for 1-story dwelling units; and, 10-foot rear yard setback for covered patios of both 1-story and 2-story dwelling units.

Staff is supportive of the Rear Setback proposals in Section C and the Table above.

D. Lot Coverage.

1. R1-9 and R1-7 districts: Lot coverage may increase 5-percent to 45-percent for single story dwelling units that provide front porches which meet all of the following, minimum design criteria:
 - (a) 120-square feet in area;
 - (b) 8-foot depth; and,
 - (c) Width equal to or greater than the depth of the porch.

Staff is supportive of the Lot Coverage increase for qualifying architectural features. This is already included in the Zoning Ordinance for these districts.

E. Patio / Porch.

1. R1-5 and R1-4 districts: The combined area of a covered porch and patio for each dwelling unit shall be 180-square feet.

Staff is supportive of the Patio / Porch request, however has clarified by way of the Conditions of Approval that the 180 square feet shall be covered.

Staff is supportive of the majority of the PAD requests based on several factors. The open space required for this project is 150 acres with the applicant providing 230 acres total. The applicant will be improving and stabilizing the Queen Creek Wash in addition to improvement of a trail node at the wash at Meridian Road. The overall design is one that takes into account the Town's agricultural heritage and embraces it through the landscaping and themes of the amenities they are proposing. The applicant is also providing a site for the Queen Creek schools for an elementary school in the center of the subdivision.

Zoning Discussion

The Church Farm subdivision has proposed several Zoning Districts throughout the 879 acre project. These Zoning Designations include C-2 General Commercial, R/C Recreation Conservation, P/QP Public /Quasi-Public in addition to R1-9, R1-7, R1-5 and R1-4 Districts.

The Residential Zoning Districts have been discussed at length above. The overall mixture provides a balance of homes on varying lot sizes with the smaller lots along Signal Butte Road adjacent to the commercial lots, adjacent to the Union Pacific Railroad tracks and adjacent to the future school site. Larger lots are distributed along the Queen Creek Wash and along the east side of the property adjacent to the larger equestrian lots located in Pinal County.

Given the overall size and diversity of the Church Farm Subdivision, the applicant proposes as part of the Planned Area Development to submit individual Design Review submittals at such time as each parcel is proposed for development. Staff is in support of this approach given the time frame to build out 2,310 lots. A proposed condition of the approval of this project will be that each parcel go through the formal Design Review process and the plans be reviewed and approved by the Planning Commission and Town Council.

Church Farm has been designed as a master planned community in all aspects. The applicant has proposed a park and open space system which will be unique to Queen Creek and the Southeast Valley. Throughout the 879 acres, there will be 11 individual neighborhood parks with a trail system providing connectivity. Per the applicant, the park names are based on architectural characteristics from a historical estate (i.e., the Living Room, The Front Porch, the Courtyard, etc). These parks are designed to be flexible and are intended to compliment the residents surrounding it.

Per the applicant's narrative, they indicate that the design of the parks was based on the concept of "free play":

"Spontaneous, creative activity; experiences that are created based on what is provided in one's immediate environment. It is critical to the developmental and sensory needs of children and promotes imaginative thinking as a creative way of learning about the world."

The Town of Queen Creek recommends .25 play stations per residential lot, which would be the equivalent of 578 total play stations for this subdivision. The applicant is providing 582 play stations total. These play stations have been interpreted by Staff as equivalent units given the broad range of activities that are proposed in each of these parks, versus the standard tot-lot provided by most developers. Some of these unique amenities include standard items such as basketball courts and swings, but also more creative items such as a chalkboard wall, boulders for rock climbing, a performance stage, ping pong tables, chess and checker boards and a hedge maze.

The parks are proposed to be connected by a system of trails to aid in pedestrian circulation through the subdivision. Per the applicant's narrative, they have provided 8.6 miles of 6 foot wide sidewalks adjacent to the roadways in addition to approximately 8.2 miles of 5 foot wide sidewalks in the open spaces. They have also provided 3.6 miles of

8 foot wide shared multi-use trails and 3.2 miles of soft native surface trails for multi-modal transportation alternatives throughout the project.

Staff worked with the applicant to develop this unique approach to the amenities offered and is supportive of their request. Staff is supportive of the overall design of the amenities and the open space plan and believes that it will be a unique draw to this subdivision and the Town of Queen Creek for residents looking for something that appeals to all ages.

The applicant is also providing a trail node just north of the Queen Creek wash on the East side of Meridian Road. This trail node will incorporate a parking area large enough for horse trailers, in addition to a 60 foot round pen and a 125 foot x 250 foot arena. The applicant is also providing a dosing station at this location to assist with maintenance of the wastewater collection system.

Given the overall size and type of development for Church Farm, the applicant was required to provide a total of 150.8 acres of open space. The project as proposed includes 229.9 acres of open space spread evenly through the site - including 11 community parks, and an extensive trail system.

The applicant has provided a fence plan for the various walls to be built throughout the community. Staff has reviewed the plan and it appears to meet all of the standards for walls as set forth in the Zoning Ordinance.

The landscaping proposed for the project also meets the intent of the Zoning Ordinance. The applicant has proposed diversity in the plantings to theme individual parcels so that the same plant palette isn't used throughout the 879 acres. Some examples of trees proposed include Acacia, Palo Verde, Ash, Pistache, Ironwood and Pine. All plants on the proposed landscape plans are included on the Arizona Municipal Water Users Low Water Guide list which is the approved plant list for the Town of Queen Creek.

The applicant is requesting C-2 General Commercial zoning for 25 acres at the southeast corner of Signal Butte and Ocotillo to aid in future land planning and site development. Future development of these commercial parcels will require approval of the site plan and architecture from the Planning Commission and the Town Council.

Abel Moody 230 KV Power Lines

The applicant had to accommodate future construction of the Abel-Moody 230-KV power lines within their project. To accommodate the corridor required by Salt River Project, the applicant has provided for a 100 foot landscape buffer along Signal Butte Road and along the northern boundary with the Union Pacific Railroad. This alignment was approved several years ago by the Arizona Corporation Commission. At this time, it is unknown when construction will commence on these lines.

Future Plans for Meridian Road Queen Creek Wash Crossing

Meridian Road crosses the Queen Creek Wash at the south end of the Church Farm Project. The width of the wash at the crossing location is approximately 200 feet. The future Wash crossing has been examined in a recent Design Concept Report (DCR). In the DCR, the proposed Wash crossing would consist of a box culvert which would include one extended height barrel to accommodate equestrian usage. The Church Farm Project Design Team has taken into account the proposed design elevation of the future box culvert Wash crossing and has made accommodations in their design for the future Wash crossing. It will be several years before final design commences on this project, which could be constructed as a box culvert or a bridge crossing.

Eastern Storm Water Diversion Channel

To control the offsite storm water which arrives at the eastern boundary of the project, a diversion channel is proposed to convey storm water flow to the Queen Creek Wash. The channel will run from Lenora Way south to the Wash. The channel bottom width will vary from 40-45 feet, the side slopes will have a maximum slope of 6:1, and the maximum water depth during a 100-year storm event will be three feet with a minimum freeboard of one foot. The design flow rates are consistent with the hydrologic results provided in the recent Meridian Road Design Concept Report.

Queen Creek Wash Improvements

A study was completed by the applicant evaluating conditions of the Queen Creek Wash and assessing the lateral migration of the northern bank of the Wash. The following improvements will be necessary to avoid bank erosion:

- Bank stabilization will be provided and will consist of angular rip-rap with an average gradation of 6" in diameter.
- Rip-rap will be installed on the north bank to one foot above the 100-year water surface elevation, and extend down below the Wash bed to a depth of five feet to prevent possible scour.

Phasing Plan

The Church Farm Project consists of eight residential phases plus a future school site and commercial development area. Each phase is independent of one another with respect to grading & drainage facilities, water facilities, and sewer facilities. As each phase is constructed, the associated offsite improvements will be constructed concurrently with the onsite improvements. Specific offsite improvements are outlined in the Conditions of Approval section of this report. All phases will be subject to approval by the Town for public safety requirements. Each phase will provide for sufficient vehicular circulation to accommodate the final build-out of each respective phase. To support development activities, the eastern storm water diversion channel

will be constructed during the initial phase of the development. Each phase will provide its own storm water retention. Traffic signals will be constructed with each applicable phase as outlined in the Conditions of Approval section of this report.

Utility Department Comments

The applicant will provide a fifty foot by fifty foot odor and corrosion control chemical dosing site. The purpose of this site is to allow Town staff to introduce an odor and corrosion control chemical into the wastewater collection system stream to reduce and/or eliminate unpleasant odiferous and corrosive gases and is consistent with other dosing stations throughout the Town. This site will treat the portions of the wastewater collection system along Meridian and Ocotillo Roads, as well as a large portion of the sewer lines within the Church Farms community.

The dosing station will be surrounded by a block wall with rolling metal gate, water and sewer services, and a vault and transmission lines - all provided by the applicant. The external landscaping will also be provided by the applicant. The Town will install the remaining above-ground facilities, and operate and maintain the system.

The developer will also be required to install multiple connections for sewer flushing units. These units also help to alleviate the production of odiferous and corrosive gases by flushing water through the system. The units are set to flush on a periodic basis. These units are installed in areas where chemical treatment is not feasible or desirable.

Trail Node

A Trail Node is being provided, similar to Desert Mountain Park, where residents with horses can park their horse trailers and enter the Queen Creek Wash at Meridian Road. A horse crossing under the future box culvert / bridge at that location has already been discussed with Maricopa and Pinal counties at that location.

ANALYSIS

General Plan Review: The project is located in the Low Density Residential (0-1 DU/AC), Medium Density Residential (2-3 DU/AC), Medium High Residential (3-5 DU/AC) and Commercial Services (CS). The overall density for this project is 3.05 DU/AC when averaged over the entire 879 acre site. The proposed density is 2.89 DU/AC and is consistent with the General Plan for this area.

Zoning Review: The zoning designation of the property is currently R1-43. The applicant is proposing a Planned Area Development (PAD) with underlying zoning districts of C-2, R/C, PQ/P, R1-9, R1-7, R1-5 and R1-4. Staff has conducted a detailed review of the proposal with comments above in the discussion section.

Engineering Review: The project has been reviewed by the Engineering Division. Detailed comments are provided in the Discussion section of the report related to the

future plans for Meridian Road at the Wash Crossing, the eastern storm water diversion channel, Queen Creek Wash improvements and the phasing plan. Conditions of Approval have been added to address Engineering stipulations for this project.

Preliminary Plat Review: The Preliminary Plat consists of 2,310 lots. It is in compliance with all applicable codes of the Town with the exception of those items listed in the Conditions of Approval.

Building Elevation Review: No elevations were submitted with this project given the diversity in residential architecture that could occur throughout this master planned project. Each parcel when ready to develop will be required to submit detailed Design Review plans to be approved by the Town Council at a later date.

Landscape / Open Space / Fence Plan Review: The overall landscape as proposed meets the standards set forth in the Zoning Ordinance. Open Space required for the project was 150.8 acres, with 229.9 being provided. Staff has also reviewed the fence plan and is supportive of the applicant's fence plan.

Population Impact: Given the number of residential units proposed for this subdivision, at build out, Church Farm will add approximately 7,900 residents to the Town of Queen Creek, based on 3.41 persons per household as established by the US Census in 2010.

Abel-Moody Power Lines: The Abel Moody power lines have been accommodated along the east side of Signal Butte road and north of the Union Pacific Railroad right-of-way in a 100' wide landscape corridor. Trails and SRP approved landscaping is proposed for this area.

Queen Creek Schools: The applicant is providing a 12 acre school site for the Queen Creek schools for an elementary school. Queen Creek Unified School District has no objections to the plan and continues to work with the applicant on this project to finalize details.

PUBLIC COMMENTS

The applicant has done extensive neighborhood outreach with the surrounding residents with the most recent neighborhood meeting being on February 15, 2012.

Staff has advertised the public hearing in the Arizona Republic – Gilbert Edition, posted 3 large public hearing signs on the property in conspicuous locations and mailed out property owner letters to all owners within 1200' of this proposal. To date, staff has not received any comments from the public on this case.

CONDITIONS OF APPROVAL

- 1) This project shall be developed in accordance with the plans attached to this case and all the provisions of the zoning ordinance applicable to this case.
- 2) The Rezoning approved in case number RZ11-038 is effective upon signature by the property owner of the Prop 207 waiver and filing of the waiver with the Town of Queen Creek Planning Division. Failure to sign and return the waiver to the Planning Division within 5 working days of the date of approval shall render this conditional approval null and void.
- 3) The Developer shall create a Home Owners Association (HOA) for the maintenance of all landscaping within all arterial, collector and local right-of-ways adjacent to HOA residential lots and/or HOA owned tracts and all HOA owned open spaces, parks and/or tracts as shown on the plat or map of dedication. A Property Owners Association (POA) or the adjacent property owner shall maintain all landscaping within all arterial, collector, and local right-of-ways adjacent to commercial, school, or other parcels of land.
- 4) The Home Owners Association shall be responsible for maintaining the storm water retention basins to drain within 36 hours. Failure of any drainage basin to drain within 36 hours shall require the HOA to design and implement a Town-approved solution, which may include installing dry wells, at the expense of the HOA.
- 5) Applicant shall provide any additional lighting details, per ordinance requirements, prior to installation. Light fixtures shall be architecturally compatible with other facilities on the site.
- 6) Two-story homes along Meridian Road and the Queen Creek Wash shall be prohibited.
- 7) All signs shall be subject to separate permit and review by staff prior to issuance of any building permits for this project.
- 8) The Parcels zoned as C-2 General Commercial, shall require approval of site plan, architecture, comprehensive sign plan, and landscaping plan through the Planning Commission and Town Council and shall adhere to all standards of the Town of Queen Creek at the time of the submittal. Architecture, sign plan and landscaping shall be complimentary of the approved plans for Church Farm.
- 9) Notice and Construction Requirements for all Residential Developments. Developer shall place a note on the final plat, State Real Estate Department Report, and CC&Rs for the project regarding each of the items listed below, and also shall require the builder(s) at their model home complexes to provide notice to prospective buyers in the form of a 4'x3' sign at the entrance to each sales office of the items listed below:

- A) Phoenix Mesa Gateway Airport. "This site is near Phoenix Mesa Gateway Airport. Due to its proximity to Phoenix Mesa Gateway Airport, the site is likely to experience aircraft over flights, which could generate noise levels that may be of concern to some individuals. The mix of aircraft consists of cargo, commercial, charter, corporate, general aviation and military aircraft."
 - B) Southern Pacific Rail Line. A note shall be placed on the Final Plat for this project that indicates that this is an operating rail line. Further, for all properties within 300 feet of the rail line, builder shall use generally accepted noise/sound attenuation measures for construction of the buildings.
 - C) Agricultural and Crop-Dusting Activities. "This site is near areas subject to crop dusting operations. General agricultural operations also exist in the area and this site may be subject to noise, dust and possibly odors normally associated with agricultural operations. Additionally, this site is located in an area where there are aircraft operations associated with agriculture."
 - D) School Activities. "This site is near the Queen Creek High School in addition to having a future elementary school within its subdivision boundaries. Noise, lights and parking issues may exist at these locations and in the surrounding areas."
 - E) Commercial Activities. "Parcel A and B are in close proximity to future commercial development, and may experience noise from deliveries, traffic, lights and parking issues related to the operation of these commercial properties."
- 10) Developer shall provide notice by way of CC&R, separate notice/flyer/information booklet and plats to future residents that the project is located within the "Phoenix Mesa Gateway Airport Over-flight Area II" as defined by the Williams Regional Planning Study (WRPS) and as adopted by Queen Creek Council Resolution No. 115-96. Per Ordinance 292-04, Airport Over-flight Area II requires the following:
- A) Public Disclosure of Potential Noise Impacts – Constructive knowledge of potential aircraft noise impacts should be made to future purchasers, mortgagees, renters, occupiers and users of the property.
 - B) Notification on all Plats and Titles. It should be noted on the plat and the Title Report that there is a potential for objectionable aircraft noise. The plat and title shall note the following: "These properties, due to their proximity to Phoenix Mesa Gateway Airport, are likely to experience aircraft over flights, which could generate noise levels which may be of concern to some individuals."
 - C) An avigation easement shall be recorded over this entire property and duly noted on all plats, public reports and notices of title.

- 11) All residential parcels shall be developed in accordance with the exhibits, phasing plans and plans attached to this case, such that the total number of dwelling units and densities per parcel shall not be exceeded. At the request of the applicant, the attached phasing plan may be modified and re-approved administratively by the Town Engineer, subject to payment of the Town's adopted plan review fees. The total number of units shall not exceed 2,310.
- 12) All R1-9 and R1-7 zoned residential units shall be designed and developed in accordance with the Residential Design Standards as adopted in the Zoning Ordinance. Each product line must be submitted and approved by Town Council, through the Design Review Process, prior to issuance of building permits for said units.
- 13) All R1-4 and R1-5 zoned residential units shall be designed and developed in accordance with the R1-7 and R1-9 Residential Design Standards in the Zoning Ordinance, with the exception of;
 - A) Maximum percentage of the garage face (including the 2 foot side returns) shall be no wider than 45% of the width of the home.
 - B) Covered Patio and Porch square footage shall be a combined minimum of 180 square feet.
- 14) No roof mechanical or HVAC equipment shall be visible from any surrounding properties or the adjacent street per code. No wall mounted equipment shall be visible from a public street or adjacent residential zone.
- 15) Gutters, downspouts and similar items shall be painted to match or complement the color of the building.
- 16) Tot lots shall utilize creatively design shade structures. Details to be resolved with the final landscape plan process.
- 17) Landscaping underneath the SRP Abel-Moody Corridor shall be approved by SRP and the Town.
- 18) All Designated Open Spaces, Trails, Buffers/Transition Areas, and non-buildable tracts, such as all active and passive parks, major/minor trails shall be designated Open Space Recreation Conservation (RC).
- 19) The developer shall submit a clearance letter regarding archeological and cultural resources from the State Historic Preservation Office (SHPO) prior to each final plat approval.
- 20) Developer by way of a survey of the site, shall determine the presence of any protected species of animals, such as but not limited to, Burrowing Owls and Desert Tortoise, and if discovered shall be mitigated appropriately. No permits shall be issued until a letter of clearance by US Fish and Wildlife or an appropriate designee on their behalf has been received.

- 21) Gravel used in landscaping beds shall be 5/8" screened and shall be Madison or Walker Gold, or an approved equivalent in color. Trails shall be 1/4" minus in size. Trail standards for depth shall comply with Town of Queen Creek standards at time of construction.
- 22) All native plants as identified in Zoning Ordinance 5.3 shall be preserved or relocated onsite as indicated in that section.
- 23) The underlying zoning for the project shall consist of the following:

Parcel	Gross Acreage (+/-)	Zoning
A	62.77 ac	(PAD) R1-4 Single Family Residential
B	45.21 ac	(PAD) R1-5 Single Family Residential
C	55.10 ac	(PAD) R1-7 Single Family Residential
D	56.51 ac	(PAD) R1-9 Single Family Residential
E	125.99 ac	(PAD) R1-4 Single Family Residential
F	87.16 ac	(PAD)R1-4 Single Family Residential
G	85.69 ac	(PAD) R1-5 Single Family Residential
H	54.12 ac	(PAD) R1-9 Single Family Residential
I	28.13 ac	R/C Recreation / Conservation
J	49.55 ac	(PAD) R1-9 Single Family Residential
K	109.43 ac	(PAD) R1-7 Single Family Residential
L	26.04 ac	(PAD) R1-5 Single Family Residential
M	39.89 ac	(PAD) R1-9 Single Family Residential
N	19.13 ac	R/C Recreation / Conservation
SD	14.09 ac	P/QP Public / Quasi-Public
CO1	14.16 ac	C-2 General Commercial
CO2	5.75 ac	C-2 General Commercial
Site Total	878.72 ac	

A) Parcel areas are zoned areas and final plat physical limits may vary from Parcel to Parcel.

- 24) This project shall be developed only in the conformance Zoning Ordinance standards with the following modifications listed below.

R1-9 Zoning District Standards: Parcels D, H, J and M

Development Standard	Approved R1-9 Minimum Standard
Lot Dimensions	90'x140'*
Front Setback	20' Front Facing Garage, 15' Side Entry Garage / Covered Porch
Rear Setback	25' Livable, 20'

	Covered Patio
Side Yard Setback	5' minimum, 15' total side yard setbacks, 10' minimum between structures.
Minimum Lot Size	12,600 sq.ft.
Max. Lot Coverage	40%**
Max Lot Depth	None
Max Lot Width	None

*Except to accommodate cul-de-sacs, knuckles, and other street designs that encroach into the typical lot depth.

** 5% increase if front porch meets qualifying front porch standards as outlined in the Zoning Ordinance.

R1-7 Zoning District Standards: Parcels C and K

Development Standard	Approved R1-7 Minimum Standard
Lot Dimensions	70'x120'*
Front Setback	20' Front Facing Garage, 15-foot setback to living area, covered porch or side entry garage.
Rear Setback	25' Livable, 20' Covered Patio
Side Yard Setback	5' Minimum, 15' total side setbacks, 10' minimum between structures
Minimum Lot Size	8,400 sq.ft.
Max. Lot Coverage	40%**
Max Lot Depth	None
Max Lot Width	None

*Except to accommodate cul-de-sacs, knuckles, and other street designs that encroach into the typical lot depth.

** 5% increase if front porch meets qualifying front porch standards as outlined in the Zoning Ordinance.

R1-5 Zoning District Standards: Parcels B, G and L

Development Standard	Approved R1-5 Minimum Standard
Lot Dimensions	60'x115'*
Front Setback	20' Front Facing Garage, 15' Side Entry Garage, 10' Covered Porch

Rear Setback	20' Livable, 15' Covered Patio
Side Yard Setback	5'
Minimum Lot Size	6,900 sq.ft.
Max. Lot Coverage	55% One Story 50% Two Story
Max Lot Depth	None
Max Lot Width	None

* Except to accommodate cul-de-sacs, knuckles, and other street designs that encroach into the typical lot depth.

R1-4 Zoning District Standards: Parcels A, E, and F

Development Standard	Approved R1-4 Minimum Standard
Lot Dimensions	55'x100'*
Front Setback	20' Front Facing Garage, 15' Side Entry Garage, 10' Covered Porch
Rear Setback	15' Livable, 10' Covered Patio
Side Yard Setback	5'
Minimum Lot Size	5,500 sq.ft.
Max. Lot Coverage	60% One story 50% Two Story
Max Lot Depth	None
Max Lot Width	None

*Except to accommodate cul-de-sacs, knuckles, and other street designs that encroach into the typical lot depth.

- 25) The developer shall be required to provide a fifty foot by fifty foot (50' x 50') odor and corrosion control chemical dosing site at Town Multi-Modal Trail Node in Southeast corner of the development as part of Parcel N.
- A) Developer is to provide minimum six foot eight inch (6' 8") high block wall with twenty foot (20') rolling metal gate and external landscaping and driveway.
 - B) Developer is to provide a minimum four inch sewer service from the dosing site to the fifteen inch (15") Sewer collection main line on Meridian.
 - C) Developer is to provide a minimum one inch water service to the dosing site.
 - D) Developer is to provide a utility vault on east side of Meridian directly west of the dosing site (size to be determined).
 - i) Developer is to provide a minimum four inch (4") diameter sewer service transmission line/ sleeve with two inch (2") diameter inside line, that is a continuous run of poly with no connectors or joints, from the vault west to a Town standard sixty inch (60") manhole at the eight inch (8") sewer collection main line in Parcel H. The line is to be slurry capped through the

- developer provided/ dedicated easement through the home-owner's property.
- ii) Developer is to provide a minimum three quarter inch (3/4") water service to the vault from the main dosing site.
 - iii) Developer is to provide a minimum four inch (4") sewer service/ sleeve from the dosing site to the vault.
- 26) The Developer shall be required to provide seven (7) sewer flushing unit water and sewer services in tract areas, along with three Eclipse flushing units. Three (3) of the seven (7) flushing unit locations will remain as permanent flushing locations for the sewer collection system when all phases of the development have been completed per the CF Flushing Units Locations map, the other four will be properly abandoned.
- A) Water services are to be minimum two inch (2") in size, developer to provide three water meter assemblies only, exclusive of impact fees.
 - B) Sewer service is to be minimum six inch (6") in size
- 27) The Developer shall provide a copy of sewer as-builts to Sunrise Engineering after completion of project for the purpose of maintaining an up to date Waste Water Master Plan and sewer collection system modeling.
- 28) The sewer collection system tie in on Ocotillo Road shall be in the twenty four inch (24") main line, or the transition to the twenty four inch (24") main line.
- 29) All sewer collection system tie-ins shall either be done using new manhole construction, or by core drilling existing manholes. No jack hammering of manholes will be permitted.
- 30) The developer shall be required to adhere to all provisions indicated in an approved phasing plan.
- 31) The Diversion Channel along the Eastern project boundary shall be constructed during the first phase of the project.
- 32) SRP Power – The applicant shall contact SRP for specific requirements that they may have in addition to the Town requirements. The Town requires all poles less than 69kV to be relocated underground. SRP may require easements outside of Public Right-of-Way.
- 33) The Abel Moody 230 kV Transmission Line has a proposed Signal Butte Road alignment within the vicinity of the Church Farm Project. The applicant shall coordinate all requirements and necessary easements for the Abel-Moody 230 kV Transmission Project with SRP.
- 34) The Developer shall be responsible for the dedication of Right-of-Way (ROW) for all adjacent offsite improvements as outlined below:

- C) 50 feet ROW (half street) on Signal Butte Road between Ocotillo Road and the most northerly residential street shall be dedicated to the Town of Queen Creek.
 - D) 40 feet ROW (half street) on Signal Butte Road between the most northerly residential street and the southern limits of the project shall be dedicated to the Town of Queen Creek.
 - E) 55 feet ROW (half street) on Ocotillo Road for the entire frontage of the property shall be dedicated to the Town of Queen Creek.
 - F) 140 feet ROW (full street) on Meridian Road for the entire frontage of the property shall be dedicated to the Town of Queen Creek, with the exception of the right-of way at the north end of the project adjacent to the LDS Church, where 70 feet ROW (half street) shall be dedicated to the Town of Queen Creek.
- 35) The Developer shall be responsible for design and construction of all adjacent offsite improvements as outlined below:
- A) Full half street improvements per the Town's Detail No. R-103 including all related sidewalk, curb and gutter, streetlights, landscaping, applicable water and sewer lines, and drainage facilities shall be designed and constructed for Signal Butte Road for all portions of the ROW adjacent to the property frontage between Ocotillo Road and the east-west collector street. Road improvements shall be to the section line of the improved road and shall include removal and replacement of any existing asphalt to the section line.
 - B) Full half street improvements per the Town's Detail No. R-105 including all related sidewalk, curb and gutter, streetlights, landscaping, applicable water and sewer lines, and drainage facilities shall be designed and constructed for Signal Butte Road for all portions of the ROW adjacent to the property frontage between the east-west collector street and the most southerly residential street. Road improvements shall be to the section line of the improved road and shall include removal and replacement of any existing asphalt to the section line. Improvements shall also include any required roadway tapers located south of the east-west collector street as required by the Town. The remaining ROW south of the most southerly residential street shall be landscaped with decomposed granite, shrubs and ground cover.
 - C) Full half street improvements per the Town's Major Arterial Detail No. R-102 including all related sidewalk, curb and gutter, streetlights, landscaping, applicable water and sewer lines, and drainage facilities shall be designed and constructed for Ocotillo Road for all portions of the ROW adjacent to the property frontage. Road improvements shall be to the section line of the

improved road and shall include removal and replacement of any existing asphalt to the section line. Improvements shall also include any required roadway tapers as required by the Town.

- D) Full width street improvements per the Town's Principal Arterial Detail No. R-101 including all related sidewalk, curb and gutter, streetlights, landscaping, applicable water and sewer lines, and drainage facilities shall be designed and constructed for Meridian Road for all portions of the ROW adjacent to the property frontage from the most southerly property lines of Parcels H and M extended to the south property line of the LDS Church. Improvements shall also include any required roadway tapers as required by the Town.
- E) Full half street improvements per the Town's Principal Arterial Detail No. R-101 including all related sidewalk, curb and gutter, streetlights, landscaping, applicable water and sewer lines, and drainage facilities shall be designed and constructed for Meridian Road for all portions of the ROW adjacent to the property frontage from the south property line of the LDS Church to Lenora Way. Improvements shall also include any required roadway tapers as required by the Town.
- F) On Meridian Road, a painted left turn lane shall be provided for northbound traffic approaching Ocotillo Road. The existing Meridian Road pavement between Lenora Way and Ocotillo Road shall be increased in width to 3 lanes (northbound, southbound and shared left turn) without curb and gutter. The existing Meridian Road pavement shall be overlaid with asphalt to achieve a Major Collector pavement structural section as approved by the Town.
- G) A raised median and sufficient width for dual left turn lanes shall be provided for northbound traffic on Signal Butte Road approaching Ocotillo Road. Signal Butte Rd north of Ocotillo Rd shall be widened to a width sufficient to accommodate all required travel lanes and provide for a smooth transition for traffic. Any necessary ROW to accomplish these required improvements shall be obtained by the developer at Fair Market Value. If developer is unable to acquire the ROW, the Town shall use the power of eminent domain, at developer's expense, to acquire the ROW.
- H) On Ocotillo Road, two eastbound travel lanes and a raised median are to be designed and constructed between Signal Butte Road and the north-south collector street east of Signal Butte Road – pavement markings will provide a transition to the right turn deceleration lane. The developer shall provide a cash-in-lieu payment for the median (curb & gutter and landscaping) adjacent to Parcel CO2.
- I) A painted left turn lane and a right turn lane shall be provided for eastbound traffic on Ocotillo Road approaching Meridian Road. A painted left turn lane shall be provided for westbound traffic on Ocotillo Road approaching Meridian

Road. Ocotillo Road ROW to accommodate the Ocotillo Road improvements west of Meridian Road shall be obtained by the developer at Fair Market Value. If developer is unable to acquire the ROW, the Town shall use the power of eminent domain, at developer's expense, to acquire the ROW. This stipulation may be administratively modified by the Town Engineer in the event an IGA is formed covering all or part of these improvements.

- 36) The developer shall be responsible for providing traffic signals at the locations outlined below:
- A) The existing signal poles on the southeast and northeast corners of the intersection of Ocotillo Road and Signal Butte Road shall be relocated and modified as required with this project per the approved phasing plan. Specific items including pole location will be determined during the construction plan review phase.
 - B) Provide (\$225,000) cost share (cash-in-lieu) for the traffic signal at the intersection of Ocotillo Road and the collector road located ¼ mile east of Signal Butte Road.
 - C) The developer shall design and construct per Town standards the traffic signal at the intersection of Ocotillo Road and Meridian Road. This stipulation may be administratively modified by the Town Engineer in the event an IGA is formed covering all or part of these improvements.
 - D) Provide (\$300,000) cost share (cash-in-lieu) for the traffic signal at the intersection of Meridian Road and Church Farm East-West Collector in accordance with the approved phasing plan.
 - E) Provide (\$300,000) cost share (cash-in-lieu) for the traffic signal at the intersection of Meridian Road and Church Farm South Collector in accordance with the approved phasing plan.
- 37) All cash-in-lieu payments made by the developer shall be deposited with the Town prior to recordation of the associated Final Plat or Map of Dedication and in accordance with Town Standards.
- 38) Construction assurance shall be required for all onsite and offsite improvements and shall be provided in the form of a bond, irrevocable letter of credit (IRLOC), or cash. The construction assurance is required to be approved by the Town Attorney. Construction assurances shall be provided in accordance with the form and timing as described in Section 7 of the Town's Subdivision Ordinance.
- 39) The developer shall submit an Engineers Cost Estimate for all onsite public improvements, offsite public improvements, Queen Creek Wash improvements, Queen Creek Trail improvements, and Queen Creek Trail Node improvements. All

Engineers Cost Estimates are required to be submitted to the Town during the applicable Final Plat or Map of Dedication review phase of the project.

- 40) Lenora Way, east of Meridian Road, shall be Platted as a Tract with the designation of a Roadway, Water, Sewer, and Landscape Easement. This portion of Lenora way will be platted with Parcel J.
- 41) All traffic calming devices for the Church Farm East-West Collector and South Collector shall be approved by the Town and shall be constructed in accordance with the approved phasing plan.
- 42) A portion of this project lies within the FEMA Special Flood Hazard Area. A CLOMR and LOMR will be required from FEMA with the concurrence of both Maricopa County and Pinal County Flood Control Districts. Submit copies of all reports, documentations and approvals to the Town of Queen Creek. The CLOMR must be issued prior to recordation of the affected Final Plats. Timing of Final Plat recordation is dependent on the conditions in the CLOMR.
- 43) The developer shall be responsible for Queen Creek Wash improvements and dedication as outlined below:
 - A) The Developer shall be required to provide slope protection for the north side of Queen Creek Wash within the project boundary limits per the Church Farm Queen Creek Wash Evaluation by Atwell, LLC, dated September 2011.
 - B) The Queen Creek Wash within the top of bank limits shall be platted as a tract during the first phase of the project. The Wash improvements shall be constructed concurrently with the improvements of the first Parcel within Phase 6. Dedication of the Wash to the Town of Queen Creek shall occur after the Town's acceptance of the Wash improvements.
 - C) The Queen Creek Trail shall be platted as a minimum 50 foot wide tract outside the top of bank limits during the first phase of the project. The Trail improvements shall be constructed concurrently with the improvements of the first Parcel within Phase 6. Dedication of the Trail to the Town of Queen Creek shall occur after the Town's acceptance of the Trail improvements.
 - D) The Queen Creek Trail Node shall be platted as a tract during the first phase of the project. The Trail Node improvements shall be constructed concurrently with the improvements of the first Parcel within Phase 6. Dedication of the Trail Node to the Town of Queen Creek shall occur after the Town's acceptance of the Trail Node improvements.
- 44) All construction documents submitted to the Town for review during the final plat review phase shall be in accordance with Town Ordinances, Town checklists, Town design standards & guidelines, and requirements, except as superseded by these conditions of approval.

- 45) The developer shall coordinate all specific requirements for any existing easements as it relates to this project.
- 46) The developer shall coordinate and obtain approval from the Queen Creek Irrigation District including any required approvals from the Federal Bureau of Reclamation for any and all work within the existing 50 foot Bureau of Reclamation Easement.
- 47) All ingress/egress easements that are in conflict with the development shall be abandoned prior to recordation of the affected Final Plat.
- 48) All utility and irrigation conflicts shall be resolved prior to recordation of the affected Final Plat including any relocations, removals, or easement abandonment.
- 49) The developer shall install a native surface trail on the south side of Lenora Way from Meridian to the trail connections on the eastern edge of the property.
- 50) Residential roadways shall not exceed 900 feet without including traffic calming measures as recommended by Town staff.

ATTACHMENTS

1. Location Map
2. Ordinance 510-12
3. Narrative
4. Preliminary Plat
5. Zoning Map
6. Landscape Plan
7. Public Comments (if any)

ORDINANCE 510-12

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, DECLARING AS PUBLIC RECORDS THAT CERTAIN DOCUMENTS TITLED "CHURCH FARM LEGAL DESCRIPTION", ATTACHED HERETO AS EXHIBIT "A", AND "CHURCH FARM ZONING EXHIBIT" ATTACHED HERETO AS EXHIBIT "B" AND ADOPTING EXHIBITS "A" AND "B", THEREBY AMENDING THE OFFICIAL ZONING DISTRICT MAP FOR THE TOWN OF QUEEN CREEK, ARIZONA, PURSUANT TO ARTICLE 3, SECTION 3.4 OF THE ZONING ORDINANCE FOR THE TOWN OF QUEEN CREEK TO CHANGE THE ZONING DISTRICT CLASSIFICATION FOR APPROXIMATELY 879 ACRES LOCATED AT THE SOUTHEAST CORNER OF OCOTILLO ROAD AND SIGNAL BUTTE ROAD FROM R1-43 TO A PLANNED AREA DEVELOPMENT OVERLAY (PAD) WITH UNDERLYING ZONING OF PQ/P, C-2, R/C, R1-9, R1-7, R1-5 and R1-4 IN CASE NO. RZ 11-038 (CHURCH FARM).

WHEREAS, Arizona Revised Statutes § 9-802 provides a procedure whereby a municipality may enact the provisions of a code or public record by reference, without setting forth such provisions, providing that the adopting ordinance is published in full; and

WHEREAS, Article 3, ZONING PROCEDURES, Section 3.4 ZONING AMENDMENT, establishes the authority and procedures for amending the Zoning Ordinance; and

WHEREAS, the development proposed is consistent and shall be developed in accordance with Article 4, Section 4.10 PLANNED AREA DEVELOPMENTS; and,

WHEREAS, Article 4, ZONING, Section 4.2 Zoning District Maps, establishes the Zoning District Maps and states that the Zoning District Maps, along with all the notations, references, and other information shown thereon, are a part of this Ordinance and have the same force and effect as if said maps and all the notations, references, and other information shown thereon were all fully set forth or described in the zoning ordinance text; and,

WHEREAS, a Public Hearing on this ordinance was heard before the Planning and Zoning Commission on March 14, 2012; and

WHEREAS, the Planning and Zoning Commission voted 6-0 in favor of this text amendment case;

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF QUEEN CREEK, ARIZONA, AS FOLLOWS:

- Section 1. The document attached hereto as Exhibit "A," titled Church Farm Legal Description and Exhibit "B", titled Church Farm Zoning Exhibit are hereby declared to be public records;
- Section 2. Three (3) copies of Exhibit "A and B" are ordered to remain on file with the Town Clerk;
- Section 3. The document titled "Church Farm Zoning Exhibit," which has been made a public record, is hereby referred to, adopted, and made a part of Queen Creek Zoning Map as set forth in "Exhibit B";
- Section 4. If any section, subsection, clause, phrase or portion of this ordinance or any part of these amendments to the Queen Creek Zoning Map is for any reason held invalid or unconstitutional by the decision of any court or competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED BY the Mayor and Town Council of the Town of Queen Creek, Maricopa County, this 18th day of April, 2012.

FOR THE TOWN OF QUEEN CREEK:

ATTESTED TO:

Gail Barney, Mayor

Jennifer F. Robinson, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:

John Kross, Town Manager

Mariscal, Weeks, McIntyre &
Friedlander, PA, Attorneys for the
Town

EXHIBIT A
CHURCH FARM
LEGAL DESCRIPTION

MARICOPA COUNTY --

PARCEL NO. 1:

THAT PORTION OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 7 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A BRASS CAP IN HANDHOLE MARKING THE NORTHWEST CORNER OF SAID SECTION 24, FROM WHICH A BRASS CAP IN HANDHOLE MARKING THE NORTH QUARTER CORNER OF SAID SECTION 24 BEARS SOUTH 89 DEGREES 57 MINUTES 52 SECONDS EAST, A DISTANCE OF 2622.36 FEET;

THENCE SOUTH 89 DEGREES 57 MINUTES 52 SECONDS EAST ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 24, A DISTANCE OF 1907.05 FEET;

THENCE DEPARTING SAID NORTH LINE, SOUTH 00 DEGREES 05 MINUTES 51 SECONDS EAST, A DISTANCE OF 55.00 FEET TO THE NORTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND AS DESCRIBED IN DOCUMENT 2009-0013150, MARICOPA COUNTY RECORDS;

THENCE CONTINUING SOUTH 00 DEGREES 05 MINUTES 51 SECONDS EAST ALONG THE WEST LINE OF SAID PARCEL, A DISTANCE OF 10.00 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL, SAID CORNER ALSO BEING THE NORTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND AS DESCRIBED IN DOCUMENT 2009-0013149, MARICOPA COUNTY RECORDS;

THENCE SOUTH 00 DEGREES 05 MINUTES 51 SECONDS EAST ALONG THE WEST LINE OF SAID PARCEL, A DISTANCE OF 673.56 FEET;

THENCE NORTH 89 DEGREES 54 MINUTES 09 SECONDS EAST ALONG THE SOUTH LINE OF SAID PARCEL OF LAND, A DISTANCE OF 61.72 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL, SAID CORNER ALSO BEING THE NORTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND AS DESCRIBED IN DOCUMENT 2009-0013153, MARICOPA COUNTY RECORDS;

THENCE NORTH 89 DEGREES 54 MINUTES 09 SECONDS EAST ALONG THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 330.01 FEET;

THENCE SOUTH 00 DEGREES 35 MINUTES 44 SECONDS EAST ALONG THE EAST LINE OF SAID PARCEL, A DISTANCE OF 121.17 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL, SAID CORNER ALSO BEING THE SOUTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND AS DESCRIBED IN DOCUMENT 2009-0013151, MARICOPA COUNTY RECORDS;

THENCE NORTH 89 DEGREES 45 MINUTES 05 SECONDS EAST ALONG THE SOUTH LINE OF SAID PARCEL, A DISTANCE OF 317.81 FEET TO THE WEST LINE OF "CHURCH FARM ACRES" ACCORDING TO BOOK 924, PAGE 29, MARICOPA COUNTY RECORDS;

THENCE SOUTH 00 DEGREES 27 MINUTES 02 SECONDS EAST ALONG THE WEST LINE OF SAID "CHURCH FARM ACRES", A DISTANCE OF 732.05 FEET (MEASURED) 738.13 FEET (RECORD) TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY WITH A RADIUS OF 65.00 FEET;

THENCE SOUTHERLY ALONG SAID CURVE AND SAID WEST LINE, THROUGH A CENTRAL ANGLE OF 32 DEGREES 12 MINUTES 15 SECONDS, AN ARC LENGTH OF 36.53 FEET TO A POINT ON THE NORTH-SOUTH MID-SECTION LINE OF SAID SECTION 24, SAID POINT BEING SOUTH 00 DEGREES 27 MINUTES 02 SECONDS EAST, A DISTANCE OF 1623.88 FEET (MEASURED) 1629.98 FEET (RECORD) FROM A BRASS CAP IN HANDHOLE MARKING THE NORTH QUARTER CORNER OF SAID SECTION 24;

THENCE SOUTH 00 DEGREES 27 MINUTES 02 SECONDS EAST ALONG SAID WEST LINE AND SAID MID-SECTION LINE, A DISTANCE OF 280.10 FEET TO THE SOUTHWEST CORNER OF SAID "CHURCH FARM ACRES";

THENCE NORTH 89 DEGREES 49 MINUTES 32 SECONDS EAST ALONG THE SOUTH LINE OF SAID "CHURCH FARM ACRES", A DISTANCE OF 1256.11 FEET;

THENCE NORTH 00 DEGREES 10 MINUTES 28 SECONDS WEST ALONG THE EAST LINE OF SAID "CHURCH FARM ACRES", A DISTANCE OF 550.00;

THENCE SOUTH 89 DEGREES 49 MINUTES 32 SECONDS WEST ALONG THE NORTH LINE OF SAID "CHURCH FARM ACRES", A DISTANCE OF 1218.76 FEET;

THENCE NORTH 00 DEGREES 27 MINUTES 02 SECONDS WEST ALONG THE WESTERLY-MOST EAST LINE OF SAID "CHURCH FARM ACRES", A DISTANCE OF 47.00 FEET (MEASURED) 50.00 FEET (RECORD) TO THE WESTERLY-MOST NORTHEAST CORNER OF SAID "CHURCH FARM ACRES", SAID CORNER ALSO BEING A POINT IN THE SOUTH LINE OF "COUNTRY MINI-FARMS, UNIT 2" ACCORDING TO BOOK 163, PAGE 36, MARICOPA COUNTY RECORDS;

THENCE NORTH 89 DEGREES 45 MINUTES 33 SECONDS EAST ALONG THE SOUTH LINE OF SAID "COUNTRY MINI-FARMS, UNIT 2", A DISTANCE OF 2512.58 FEET TO THE EASTERLY-MOST NORTHWEST CORNER OF THAT CERTAIN PARCEL OF LAND AS DESCRIBED IN DOCUMENT 2009-0013154, MARICOPA COUNTY RECORDS;

THENCE SOUTH 00 DEGREES 32 MINUTES 35 SECONDS EAST ALONG THE EASTERLY-MOST WEST LINE OF SAID PARCEL, A DISTANCE OF 49.91 FEET;

THENCE SOUTH 89 DEGREES 49 MINUTES 32 SECONDS WEST ALONG THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 408.01 FEET;

THENCE SOUTH 00 DEGREES 32 MINUTES 35 SECONDS EAST ALONG THE WEST LINE OF SAID PARCEL, A DISTANCE OF 500.01 FEET;

THENCE NORTH 89 DEGREES 49 MINUTES 32 SECONDS EAST ALONG THE SOUTH LINE OF SAID PARCEL, A DISTANCE OF 478.01 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL, AND TO A POINT ON THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 24, SAID POINT BEING SOUTH 00 DEGREES 32 MINUTES 35 SECONDS EAST, A DISTANCE OF 1857.71 FEET FROM A BRASS CAP IN HANDHOLE MARKING THE NORTHEAST CORNER OF SAID SECTION 24;

THENCE SOUTH 00 DEGREES 32 MINUTES 35 SECONDS EAST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 24, A DISTANCE OF 757.70 FEET TO A REBAR MARKING THE EAST QUARTER CORNER OF SAID SECTION 24;

THENCE SOUTH 00 DEGREES 32 MINUTES 34 SECONDS EAST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 24, A DISTANCE OF 1025.02 FEET TO AN IRON PIPE MARKING THE NORTHEAST CORNER OF THE SOUTH 165.00 FEET OF THE NORTH 1190.00 FEET OF THE NORTH HALF OF THE SOUTH HALF OF SAID SECTION 24;

THENCE SOUTH 89 DEGREES 46 MINUTES 27 SECONDS WEST ALONG THE NORTH LINE OF SOUTH 165.00 FEET OF THE NORTH 1190.00 FEET OF THE NORTH HALF OF THE SOUTH HALF OF SAID SECTION 24, A DISTANCE OF 2626.35 FEET TO A REBAR ON THE NORTH-SOUTH MID-SECTION LINE OF SAID SECTION 24;

THENCE CONTINUING SOUTH 89 DEGREES 46 MINUTES 27 SECONDS WEST ALONG SAID NORTH LINE, A DISTANCE OF 2626.21 FEET TO THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 24 AND TO A REBAR MARKING THE NORTHWEST CORNER OF THE SOUTH 165.00 FEET OF THE NORTH 1190.00 FEET OF THE NORTH HALF OF THE SOUTH HALF OF SAID SECTION 24;

THENCE NORTH 00 DEGREES 23 MINUTES 36 SECONDS WEST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 24, A DISTANCE OF 1025.00 FEET TO AN ALUMINUM CAP MARKING THE WEST QUARTER CORNER OF SAID SECTION 24;

THENCE NORTH 00 DEGREES 23 MINUTES 13 SECONDS WEST ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 24, A DISTANCE OF 2625.99 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 2:

LOCATED IN THE SOUTH HALF OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 7 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT A BRASS CAP IN HANDHOLE MARKING THE NORTHWEST CORNER OF SAID SECTION 24;

THENCE SOUTH 00 DEGREES 23 MINUTES 13 SECONDS EAST ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 24, A DISTANCE OF 2625.99 FEET TO AN ALUMINUM CAP MARKING THE WEST QUARTER CORNER OF SAID SECTION 24;

THENCE SOUTH 00 DEGREES 23 MINUTES 36 SECONDS EAST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 24, A DISTANCE OF 1025.00 FEET TO A REBAR MARKING THE NORTHWEST CORNER OF THE SOUTH 165.00 FEET OF THE NORTH 1190.00 FEET OF THE NORTH HALF OF THE SOUTH HALF OF SAID SECTION 24, TO THE POINT OF BEGINNING;

THENCE NORTH 89 DEGREES 46 MINUTES 27 SECONDS EAST ALONG THE NORTH LINE OF THE SOUTH 165.00 FEET OF THE NORTH 1190.00 FEET OF THE NORTH HALF OF THE SOUTH HALF OF SAID SECTION 24, A DISTANCE OF 2626.21 FEET TO A REBAR ON THE NORTH-SOUTH MID-SECTION LINE OF SAID SECTION 24;

THENCE CONTINUING NORTH 89 DEGREES 46 MINUTES 27 SECONDS EAST ALONG SAID NORTH LINE, A DISTANCE OF 2626.35 FEET TO THE EAST LINE OF THE SOUTHEAST

QUARTER OF SAID SECTION 24 AND TO AN IRON PIPE MARKING THE NORTHEAST CORNER OF THE SOUTH 165.00 FEET OF THE NORTH 1190.00 FEET OF THE NORTH HALF OF THE SOUTH HALF OF SAID SECTION 24;

THENCE SOUTH 00 DEGREES 32 MINUTES 34 SECONDS EAST ALONG SAID EAST LINE, A DISTANCE OF 165.00 FEET TO THE SOUTHEAST CORNER OF THE SOUTH 165.00 FEET OF THE NORTH 1190.00 FEET OF THE NORTH HALF OF THE SOUTH HALF OF SAID SECTION 24;

THENCE SOUTH 89 DEGREES 46 MINUTES 27 SECONDS WEST ALONG THE SOUTH LINE OF THE SOUTH 165.00 FEET OF THE NORTH 1190.00 FEET OF THE NORTH HALF OF THE SOUTH HALF OF SAID SECTION 24, A DISTANCE OF 5252.99 FEET TO THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 24 AND TO THE SOUTHWEST CORNER OF THE SOUTH 165.00 FEET OF THE NORTH 1190.00 FEET OF THE NORTH HALF OF THE SOUTH HALF OF SAID SECTION 24;

THENCE NORTH 00 DEGREES 23 MINUTES 36 SECONDS WEST ALONG SAID WEST LINE, A DISTANCE OF 165.00 FEET TO THE POINT OF BEGINNING;

EXCEPT ALL GAS, OIL, METALS AND MINERAL RIGHTS AS RESERVED IN PATENT FROM THE STATE OF ARIZONA IN DOCKET 670, PAGE 373, RECORDS OF MARICOPA COUNTY, ARIZONA.

PARCEL NO. 3:

LOCATED IN THE SOUTH HALF OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 7 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT A BRASS CAP IN HANDHOLE MARKING THE NORTHWEST CORNER OF SAID SECTION 24;

THENCE SOUTH 00 DEGREES 23 MINUTES 13 SECONDS EAST ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 24, A DISTANCE OF 2625.99 FEET TO AN ALUMINUM CAP MARKING THE WEST QUARTER CORNER OF SAID SECTION 24;

THENCE SOUTH 00 DEGREES 23 MINUTES 36 SECONDS EAST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 24, A DISTANCE OF 1190.00 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 89 DEGREES 46 MINUTES 27 SECONDS EAST ALONG THE SOUTH LINE OF THE SOUTH 165.00 FEET OF THE NORTH 1190.00 FEET OF THE NORTH HALF OF THE SOUTH HALF OF SAID SECTION 24, A DISTANCE OF 5252.99 FEET TO THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 24;

THENCE SOUTH 00 DEGREES 32 MINUTES 34 SECONDS EAST ALONG SAID EAST LINE, A DISTANCE OF 1426.20 FEET TO AN ALUMINUM CAP MARKING THE SOUTHEAST CORNER OF SAID SECTION 24;

THENCE SOUTH 89 DEGREES 39 MINUTES 44 SECONDS WEST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 24, A DISTANCE OF 2628.89 FEET TO AN ALUMINUM CAP MARKING THE SOUTH QUARTER CORNER OF SAID SECTION 24;

THENCE SOUTH 89 DEGREES 40 MINUTES 06 SECONDS WEST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 24, A DISTANCE OF 2094.05 FEET TO THE NORTHEASTERLY RIGHT-OF-WAY LINE OF THE SOUTHERN PACIFIC RAILROAD ACCORDING TO THE "SOUTHERN PACIFIC TRANSPORTATION COMPANY RIGHT-OF-WAY AND TRACK MAP" (CHRISTMAS BRANCH);

THENCE NORTH 53 DEGREES 36 MINUTES 33 SECONDS WEST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 666.44 FEET TO A POINT ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 24, SAID POINT BEING NORTH 00 DEGREES 23 MINUTES 36 SECONDS WEST, A DISTANCE OF 398.49 FEET FROM AN ALUMINUM CAP MARKING THE SOUTHWEST CORNER OF SAID SECTION 24;

THENCE NORTH 00 DEGREES 23 MINUTES 36 SECONDS WEST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 24, A DISTANCE OF 1037.67 FEET TO THE POINT OF BEGINNING;

EXCEPT ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES, HELIUM, OR OTHER SUBSTANCES OF A GASEOUS NATURE, COAL, METALS, MINERALS, FOSSILS, FERTILIZER OF EVERY NAME AND DESCRIPTION AND FISSIONABLE MATERIAL AS RESERVED IN ARIZONA REVISED STATUTES.

PARCEL NO. 4:

LOCATED IN THE NORTH HALF OF SECTION 25, TOWNSHIP 2 SOUTH, RANGE 7 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT AN ALUMINUM CAP MARKING THE NORTHWEST CORNER OF SAID SECTION 25 FROM WHICH AN ALUMINUM CAP MARKING THE NORTH QUARTER CORNER OF SAID SECTION 25 BEARS NORTH 89 DEGREES 40 MINUTES 06 SECONDS EAST, A DISTANCE OF 2627.80 FEET;

THENCE NORTH 89 DEGREES 40 MINUTES 06 SECONDS EAST ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 25, A DISTANCE OF 533.75 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF THE SOUTHERN PACIFIC RAILROAD ACCORDING TO THE "SOUTHERN PACIFIC TRANSPORTATION COMPANY RIGHT-OF-WAY AND TRACK MAP" (CHRISTMAS BRANCH), SAID POINT BEING THE POINT OF BEGINNING;

THENCE CONTINUING NORTH 89 DEGREES 40 MINUTES 06 SECONDS EAST ALONG SAID NORTH LINE, A DISTANCE OF 2094.05 FEET TO AN ALUMINUM CAP MARKING THE NORTH QUARTER CORNER OF SAID SECTION 25;

THENCE NORTH 89 DEGREES 39 MINUTES 44 SECONDS EAST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 25, A DISTANCE OF 2628.89 FEET TO AN ALUMINUM CAP MARKING THE NORTHEAST CORNER OF SAID SECTION 25;

THENCE SOUTH 00 DEGREES 31 MINUTES 18 SECONDS EAST ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 1310.25 FEET;

THENCE DEPARTING SAID EAST LINE, SOUTH 89 DEGREES 39 MINUTES 07 SECONDS WEST ALONG THE SOUTH LINE OF THE NORTH HALF OF THE NORTH HALF OF SAID SECTION 25, A DISTANCE OF 2630.42 FEET;

THENCE SOUTH 89 DEGREES 37 MINUTES 59 SECONDS WEST ALONG SAID SOUTH LINE, A DISTANCE OF 630.08 FEET TO A POINT ON SAID RIGHT-OF-WAY LINE AND ON A SPIRAL CURVE CONCAVE SOUTHWESTERLY WITH A RADIUS OF 3919.83 FEET AND A CHORD BEARING OF NORTH 39 DEGREES 56 MINUTES 24 SECONDS WEST, A DISTANCE OF 377.18 FEET;

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 05 DEGREES 30 MINUTES 55 SECONDS AND AN ARC LENGTH OF 377.22 FEET TO THE

BEGINNING OF A CIRCULAR CURVE CONCAVE SOUTHWESTERLY WITH A RADIUS OF 3919.83 FEET AND A CHORD BEARING OF NORTH 46 DEGREES 18 MINUTES 30 SECONDS WEST, A DISTANCE OF 618.31 FEET;

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 09 DEGREES 02 MINUTES 50 SECONDS AND AN ARC LENGTH OF 618.96 FEET TO THE BEGINNING OF A SPIRAL CURVE CONCAVE SOUTHWESTERLY WITH A RADIUS OF 3919.83 FEET AND A CHORD BEARING OF NORTH 52 DEGREES 41 MINUTES 00 SECONDS WEST, A DISTANCE OF 379.96 FEET;

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 05 DEGREES 33 MINUTES 22 SECONDS AND AN ARC LENGTH OF 380.00 FEET;
THENCE NORTH 53 DEGREES 36 MINUTES 33 SECONDS WEST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 599.94 FEET TO THE POINT OF BEGINNING.

PARCEL NO. 5:

AN EASEMENT FOR POTABLE WATER UTILITY PIPELINES, PIPES AND APPURTENANT FACILITIES, AS CREATED IN PRIVATE POTABLE WATER CONSTRUCTION, MAINTENANCE AND ACCESS EASEMENT AGREEMENT RECORDED IN RECORDING NO. 97-0202962, RECORDS OF MARICOPA COUNTY, ARIZONA, OVER THE FOLLOWING DESCRIBED PROPERTY:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 2 SOUTH, RANGE 7 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

THENCE NORTH 89 DEGREES 42 MINUTES 41 SECONDS WEST (NORTH 89 DEGREES 42 MINUTES 28 SECONDS WEST, RECORD) ALONG THE NORTHERLY LINE OF SAID SOUTH HALF OF THE NORTHEAST QUARTER, ALSO BEING THE SOUTHERLY LINE OF COUNTRY MINI-FARMS UNIT TWO, ACCORDING TO BOOK 163 OF MAPS, PAGE 36, RECORDS OF MARICOPA COUNTY, ARIZONA, A DISTANCE OF 22.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 00 DEGREES 00 MINUTES 41 SECONDS EAST (SOUTH, RECORD) BEING PARALLEL WITH AND 22.00 FEET WESTERLY OF THE EASTERLY LINE OF SECTION 24, A DISTANCE OF 1307.69 FEET TO A POINT ON THE EAST-WEST MIDSECTION LINE OF SAID SECTION 24;

THENCE SOUTH 00 DEGREES 00 MINUTES 18 SECONDS EAST, BEING PARALLEL WITH AND 22.00 FEET WESTERLY OF SAID EASTERLY LINE OF SECTION 24, A DISTANCE OF 1025.02 FEET;

THENCE NORTH 89 DEGREES 41 MINUTES 47 SECONDS WEST, BEING PARALLEL WITH AND 1025.00 FEET SOUTHERLY OF THE EAST-WEST MIDSECTION LINE, A DISTANCE OF 10.00 FEET;

THENCE NORTH 00 DEGREES 00 MINUTES 18 SECONDS WEST, BEING PARALLEL WITH AND 32.00 FEET WESTERLY OF SAID EASTERLY LINE OF SECTION 24, A DISTANCE OF 1025.02 FEET
TO A POINT OF SAID EAST-WEST MIDSECTION LINE;

THENCE NORTH 00 DEGREES 00 MINUTES 41 SECONDS WEST, BEING PARALLEL WITH AND 32.00 FEET WESTERLY OF SAID EASTERLY LINE OF SECTION 24, A DISTANCE OF 1307.68

FEET TO A POINT ON SAID NORTHERLY LINE OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 24;

THENCE SOUTH 89 DEGREES 42 MINUTES 41 SECONDS EAST ALONG SAID NORTHERLY LINE, A DISTANCE OF 10.00 FEET TO THE TRUE POINT OF BEGINNING.

PINAL COUNTY –

PARCEL NO. 1:

ALL OF LOTS 4 AND 5, AND THE NORTH HALF OF LOTS 8 AND 9, SECTION 19, TOWNSHIP 2 SOUTH, RANGE 8 EAST OF THE GILA AND SALT RIVER MERIDIAN, PINAL COUNTY, ARIZONA; EXCEPT ALL MINERALS, OIL, GAS AND CHEMICAL ELEMENTS AS RESERVED IN FEE NO. 2006-031016, RECORDS OF PINAL COUNTY, ARIZONA.

PARCEL NO. 2:

THE SOUTH HALF OF LOTS 8 AND 9, AND ALL OF LOTS 10 AND 11, SECTION 19, TOWNSHIP 2 SOUTH, RANGE 8 EAST OF THE GILA AND SALT RIVER MERIDIAN, PINAL COUNTY, ARIZONA.

PARCEL NO. 3:

LOTS 2 AND 3, SECTION 30, TOWNSHIP 2 SOUTH, RANGE 8 EAST OF THE GILA AND SALT RIVER MERIDIAN, PINAL COUNTY, ARIZONA.

ZONING EXHIBIT

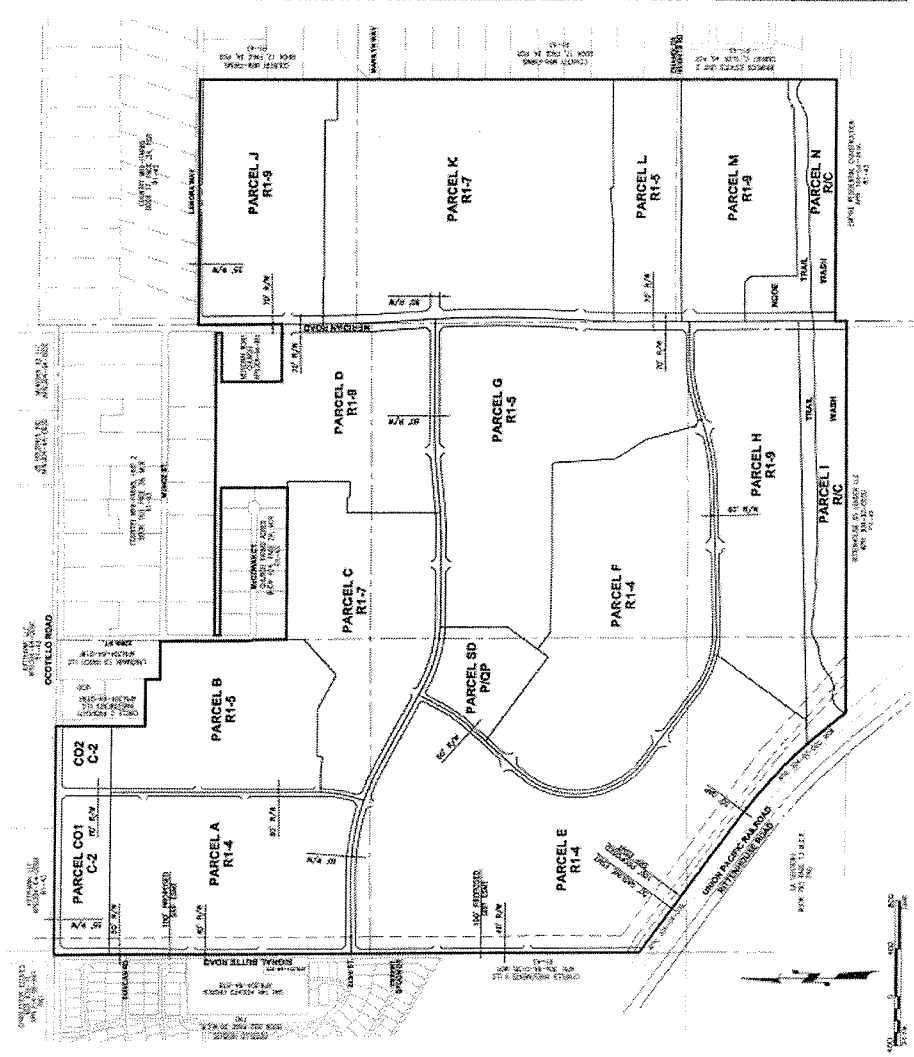
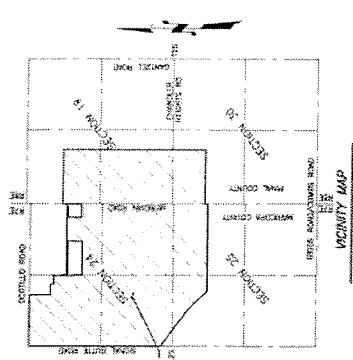
FOR CHURCH FARM

LOCATED IN PART OF SECTIONS 24 AND 25, T.2S., R.7.E., AND SECTIONS 19 AND 30, T.2S., R.8E. OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY AND PINAL COUNTY, ARIZONA.

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PARCEL	ACRES	NET ACRES	ZONING	MIN. LOT AREA	MIN. LOT WIDTH	MIN. FRONT YARD SETBACK	MIN. SIDE YARD SETBACK	MIN. REAR YARD SETBACK	MIN. FRONT SETBACK	MIN. SIDE SETBACK	MIN. REAR SETBACK	MIN. FRONT SETBACK	MIN. SIDE SETBACK	MIN. REAR SETBACK
A	62.77	62.77	C-2	10,000	100	10	5	5	10	5	5	10	5	5
B	45.21	45.21	R1-5	10,000	100	10	5	5	10	5	5	10	5	5
C	53.30	53.30	R1-7	10,000	100	10	5	5	10	5	5	10	5	5
D	145.51	145.51	R1-8	10,000	100	10	5	5	10	5	5	10	5	5
E	135.86	135.86	R1-4	10,000	100	10	5	5	10	5	5	10	5	5
F	87.18	87.18	R1-4	10,000	100	10	5	5	10	5	5	10	5	5
G	82.66	82.66	R1-5	10,000	100	10	5	5	10	5	5	10	5	5
H	181.10	181.10	R1-8	10,000	100	10	5	5	10	5	5	10	5	5
I	283.13	283.13	R1C	10,000	100	10	5	5	10	5	5	10	5	5
J	103.82	103.82	R1-9	10,000	100	10	5	5	10	5	5	10	5	5
K	128.62	128.62	R1-7	10,000	100	10	5	5	10	5	5	10	5	5
L	128.62	128.62	R1-5	10,000	100	10	5	5	10	5	5	10	5	5
M	128.62	128.62	R1-9	10,000	100	10	5	5	10	5	5	10	5	5
N	132.13	132.13	R1C	10,000	100	10	5	5	10	5	5	10	5	5
UNION PARKWAY	144.75	144.75	P1C/P	10,000	100	10	5	5	10	5	5	10	5	5
SIGNAL BUTTE ROAD	15.18	15.18	R1-4	10,000	100	10	5	5	10	5	5	10	5	5
SALT RIVER ROAD	188.75	188.75	R1-4	10,000	100	10	5	5	10	5	5	10	5	5

SITE DATA
 SECTION 24 ACRES: 62.77 AC
 SECTION 25 ACRES: 45.21 AC
 SECTION 19 ACRES: 53.30 AC
 SECTION 30 ACRES: 145.51 AC
 TOTAL ACRES: 307.79 AC
 TOTAL ACRES INCLUDING COMMERCIAL TRUCK, AVENUE, AND COLLECTOR RIGHT OF WAY: 312.21 AC
 TOTAL ACRES INCLUDING COMMERCIAL TRUCK, AVENUE, AND COLLECTOR RIGHT OF WAY, WELL BEITS AND WATER DAMPS: 317.73 AC
 TOTAL ACRES INCLUDING COMMERCIAL TRUCK, AVENUE, AND COLLECTOR RIGHT OF WAY, WELL BEITS AND WATER DAMPS, AND UNION PARKWAY: 462.48 AC
 TOTAL ACRES INCLUDING COMMERCIAL TRUCK, AVENUE, AND COLLECTOR RIGHT OF WAY, WELL BEITS AND WATER DAMPS, AND UNION PARKWAY AND SIGNAL BUTTE ROAD: 477.66 AC
 TOTAL ACRES INCLUDING COMMERCIAL TRUCK, AVENUE, AND COLLECTOR RIGHT OF WAY, WELL BEITS AND WATER DAMPS, AND UNION PARKWAY AND SIGNAL BUTTE ROAD AND SALT RIVER ROAD: 666.41 AC

ZONING	MIN. LOT AREA	MIN. LOT WIDTH	MIN. FRONT YARD SETBACK	MIN. SIDE YARD SETBACK	MIN. REAR YARD SETBACK	MIN. FRONT SETBACK	MIN. SIDE SETBACK	MIN. REAR SETBACK
R1-4	10,000	100	10	5	5	10	5	5
R1-5	10,000	100	10	5	5	10	5	5
R1-7	10,000	100	10	5	5	10	5	5
R1-8	10,000	100	10	5	5	10	5	5
R1-9	10,000	100	10	5	5	10	5	5
R1C	10,000	100	10	5	5	10	5	5
P1C/P	10,000	100	10	5	5	10	5	5
C-2	10,000	100	10	5	5	10	5	5

Conditions of Approval

- 1) This project shall be developed in accordance with the plans attached to this case and all the provisions of the zoning ordinance applicable to this case.
- 2) The Rezoning approved in case number RZ11-038 is effective upon signature by the property owner of the Prop 207 waiver and filing of the waiver with the Town of Queen Creek Planning Division. Failure to sign and return the waiver to the Planning Division within 5 working days of the date of approval shall render this conditional approval null and void.
- 3) The Developer shall create a Home Owners Association (HOA) for the maintenance of all landscaping within all arterial, collector and local right-of-ways adjacent to HOA residential lots and/or HOA owned tracts and all HOA owned open spaces, parks and/or tracts as shown on the plat or map of dedication. A Property Owners Association (POA) or the adjacent property owner shall maintain all landscaping within all arterial, collector, and local right-of-ways adjacent to commercial, school, or other parcels of land.
- 4) The Home Owners Association shall be responsible for maintaining the storm water retention basins to drain within 36 hours. Failure of any drainage basin to drain within 36 hours shall require the HOA to design and implement a Town-approved solution, which may include installing dry wells, at the expense of the HOA.
- 5) Applicant shall provide any additional lighting details, per ordinance requirements, prior to installation. Light fixtures shall be architecturally compatible with other facilities on the site.
- 6) Two-story homes along Meridian Road and the Queen Creek Wash shall be prohibited.
- 7) All signs shall be subject to separate permit and review by staff prior to issuance of any building permits for this project.
- 8) The Parcels zoned as C-2 General Commercial, shall require approval of site plan, architecture, comprehensive sign plan, and landscaping plan through the Planning Commission and Town Council and shall adhere to all standards of the Town of Queen Creek at the time of the submittal. Architecture, sign plan and landscaping shall be complimentary of the approved plans for Church Farm.

- 9) Notice and Construction Requirements for all Residential Developments. Developer shall place a note on the final plat, State Real Estate Department Report, and CC&Rs for the project regarding each of the items listed below, and also shall require the builder(s) at their model home complexes to provide notice to prospective buyers in the form of a 4'x3' sign at the entrance to each sales office of the items listed below:
- A) Phoenix Mesa Gateway Airport. "This site is near Phoenix Mesa Gateway Airport. Due to its proximity to Phoenix Mesa Gateway Airport, the site is likely to experience aircraft over flights, which could generate noise levels that may be of concern to some individuals. The mix of aircraft consists of cargo, commercial, charter, corporate, general aviation and military aircraft."
 - B) Southern Pacific Rail Line. A note shall be placed on the Final Plat for this project that indicates that this is an operating rail line. Further, for all properties within 300 feet of the rail line, builder shall use generally accepted noise/sound attenuation measures for construction of the buildings.
 - C) Agricultural and Crop-Dusting Activities. "This site is near areas subject to crop dusting operations. General agricultural operations also exist in the area and this site may be subject to noise, dust and possibly odors normally associated with agricultural operations. Additionally, this site is located in an area where there are aircraft operations associated with agriculture."
 - D) School Activities. "This site is near the Queen Creek High School in addition to having a future elementary school within its subdivision boundaries. Noise, lights and parking issues may exist at these locations and in the surrounding areas."
 - E) Commercial Activities. "Parcel A and B are in close proximity to future commercial development, and may experience noise from deliveries, traffic, lights and parking issues related to the operation of these commercial properties."
- 10) Developer shall provide notice by way of CC&R, separate notice/flyer/information booklet and plats to future residents that the project is located within the "Phoenix Mesa Gateway Airport Over-flight Area II" as defined by the Williams Regional Planning Study (WRPS) and as adopted by Queen Creek Council Resolution No. 115-96. Per Ordinance 292-04, Airport Over-flight Area II requires the following:
- A) Public Disclosure of Potential Noise Impacts – Constructive knowledge of potential aircraft noise impacts should be made to future purchasers, mortgagees, renters, occupiers and users of the property.

- B) Notification on all Plats and Titles. It should be noted on the plat and the Title Report that there is a potential for objectionable aircraft noise. The plat and title shall note the following: "These properties, due to their proximity to Phoenix Mesa Gateway Airport, are likely to experience aircraft over flights, which could generate noise levels which may be of concern to some individuals."
 - C) An avigation easement shall be recorded over this entire property and duly noted on all plats, public reports and notices of title.
- 11) All residential parcels shall be developed in accordance with the exhibits, phasing plans and plans attached to this case, such that the total number of dwelling units and densities per parcel shall not be exceeded. At the request of the applicant, the attached phasing plan may be modified and re-approved administratively by the Town Engineer, subject to payment of the Town's adopted plan review fees. The total number of units shall not exceed 2,310.
 - 12) All R1-9 and R1-7 zoned residential units shall be designed and developed in accordance with the Residential Design Standards as adopted in the Zoning Ordinance. Each product line must be submitted and approved by Town Council, through the Design Review Process, prior to issuance of building permits for said units.
 - 13) All R1-4 and R1-5 zoned residential units shall be designed and developed in accordance with the R1-7 and R1-9 Residential Design Standards in the Zoning Ordinance, with the exception of;
 - A) Maximum percentage of the garage face (including the 2 foot side returns) shall be no wider than 45% of the width of the home.
 - B) Covered Patio and Porch square footage shall be a combined minimum of 180 square feet.
 - 14) No roof mechanical or HVAC equipment shall be visible from any surrounding properties or the adjacent street per code. No wall mounted equipment shall be visible from a public street or adjacent residential zone.
 - 15) Gutters, downspouts and similar items shall be painted to match or complement the color of the building.
 - 16) Tot lots shall utilize creatively design shade structures. Details to be resolved with the final landscape plan process.
 - 17) Landscaping underneath the SRP Abel-Moody Corridor shall be approved by SRP and the Town.

- 18) All Designated Open Spaces, Trails, Buffers/Transition Areas, and non-buildable tracts, such as all active and passive parks, major/minor trails shall be designated Open Space Recreation Conservation (RC).
- 19) The developer shall submit a clearance letter regarding archeological and cultural resources from the State Historic Preservation Office (SHPO) prior to each final plat approval.
- 20) Developer by way of a survey of the site, shall determine the presence of any protected species of animals, such as but not limited to, Burrowing Owls and Desert Tortoise, and if discovered shall be mitigated appropriately. No permits shall be issued until a letter of clearance by US Fish and Wildlife or an appropriate designee on their behalf has been received.
- 21) Gravel used in landscaping beds shall be 5/8" screened and shall be Madison or Walker Gold, or an approved equivalent in color. Trails shall be ¼" minus in size. Trail standards for depth shall comply with Town of Queen Creek standards at time of construction.
- 22) All native plants as identified in Zoning Ordinance 5.3 shall be preserved or relocated onsite as indicated in that section.
- 23) The underlying zoning for the project shall consist of the following:

Parcel	Gross Acreage (+/-)	Zoning
A	62.77 ac	(PAD) R1-4 Single Family Residential
B	45.21 ac	(PAD) R1-5 Single Family Residential
C	55.10 ac	(PAD) R1-7 Single Family Residential
D	56.51 ac	(PAD) R1-9 Single Family Residential
E	125.99 ac	(PAD) R1-4 Single Family Residential
F	87.16 ac	(PAD)R1-4 Single Family Residential
G	85.69 ac	(PAD) R1-5 Single Family Residential
H	54.12 ac	(PAD) R1-9 Single Family Residential
I	28.13 ac	R/C Recreation / Conservation
J	49.55 ac	(PAD) R1-9 Single Family Residential
K	109.43 ac	(PAD) R1-7 Single Family Residential
L	26.04 ac	(PAD) R1-5 Single Family Residential
M	39.89 ac	(PAD) R1-9 Single Family Residential
N	19.13 ac	R/C Recreation / Conservation
SD	14.09 ac	P/QP Public / Quasi-Public
CO1	14.16 ac	C-2 General Commercial
CO2	5.75 ac	C-2 General Commercial
Site Total	878.72 ac	

A) Parcel areas are zoned areas and final plat physical limits may vary from Parcel to Parcel.

- 24) This project shall be developed only in the conformance Zoning Ordinance standards with the following modifications listed below.

R1-9 Zoning District Standards: Parcels D, H, J and M

Development Standard	Approved R1-9 Minimum Standard
Lot Dimensions	90'x140'*
Front Setback	20' Front Facing Garage, 15' Side Entry Garage / Covered Porch
Rear Setback	25' Livable, 20' Covered Patio
Side Yard Setback	5' minimum, 15' total side yard setbacks, 10' minimum between structures.
Minimum Lot Size	12,600 sq.ft.
Max. Lot Coverage	40%**
Max Lot Depth	None
Max Lot Width	None

*Except to accommodate cul-de-sacs, knuckles, and other street designs that encroach into the typical lot depth.

** 5% increase if front porch meets qualifying front porch standards as outlined in the Zoning Ordinance.

R1-7 Zoning District Standards: Parcels C and K

Development Standard	Approved R1-7 Minimum Standard
Lot Dimensions	70'x120'*
Front Setback	20' Front Facing Garage, 15-foot setback to living area, covered porch or side entry garage.
Rear Setback	25' Livable, 20' Covered Patio
Side Yard Setback	5' Minimum, 15' total side setbacks, 10' minimum between structures
Minimum Lot Size	8,400 sq.ft.
Max. Lot Coverage	40%**
Max Lot Depth	None

Max Lot Width	None
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*Except to accommodate cul-de-sacs, knuckles, and other street designs that encroach into the typical lot depth.

** 5% increase if front porch meets qualifying front porch standards as outlined in the Zoning Ordinance.

R1-5 Zoning District Standards: Parcels B, G and L

Development Standard	Approved R1-5 Minimum Standard
Lot Dimensions	60'x115'*
Front Setback	20' Front Facing Garage, 15' Side Entry Garage, 10' Covered Porch
Rear Setback	20' Livable, 15' Covered Patio
Side Yard Setback	5'
Minimum Lot Size	6,900 sq.ft.
Max. Lot Coverage	55% One Story 50% Two Story
Max Lot Depth	None
Max Lot Width	None

* Except to accommodate cul-de-sacs, knuckles, and other street designs that encroach into the typical lot depth.

R1-4 Zoning District Standards: Parcels A, E, and F

Development Standard	Approved R1-4 Minimum Standard
Lot Dimensions	55'x100'*
Front Setback	20' Front Facing Garage, 15' Side Entry Garage, 10' Covered Porch
Rear Setback	15' Livable, 10' Covered Patio
Side Yard Setback	5'
Minimum Lot Size	5,500 sq.ft.
Max. Lot Coverage	60% One story 50% Two Story
Max Lot Depth	None
Max Lot Width	None

*Except to accommodate cul-de-sacs, knuckles, and other street designs that encroach into the typical lot depth.

- 25) The developer shall be required to provide a fifty foot by fifty foot (50' x 50') odor and corrosion control chemical dosing site at Town Multi-Modal Trail Node in Southeast corner of the development as part of Parcel N.
- A) Developer is to provide minimum six foot eight inch (6' 8") high block wall with twenty foot (20') rolling metal gate and external landscaping and driveway.
 - B) Developer is to provide a minimum four inch sewer service from the dosing site to the fifteen inch (15") sewer collection main line on Meridian.
 - C) Developer is to provide a minimum one inch water service to the dosing site.
 - D) Developer is to provide a utility vault on east side of Meridian directly west of the dosing site (size to be determined).
 - i) Developer is to provide a minimum four inch (4") diameter sewer service transmission line/ sleeve with two inch (2") diameter inside line, that is a continuous run of poly with no connectors or joints, from the vault west to a Town standard sixty inch (60") manhole at the eight inch (8") sewer collection main line in Parcel H. The line is to be slurry capped through the developer provided/ dedicated easement through the home-owner's property.
 - ii) Developer is to provide a minimum three quarter inch (3/4") water service to the vault from the main dosing site.
 - iii) Developer is to provide a minimum four inch (4") sewer service/ sleeve from the dosing site to the vault.
- 26) The Developer shall be required to provide seven (7) sewer flushing unit water and sewer services in tract areas, along with three Eclipse flushing units. Three (3) of the seven (7) flushing unit locations will remain as permanent flushing locations for the sewer collection system when all phases of the development have been completed per the CF Flushing Units Locations map, the other four will be properly abandoned.
- A) Water services are to be minimum two inch (2") in size, developer to provide three water meter assemblies only, exclusive of impact fees.
 - B) Sewer service is to be minimum six inch (6") in size
- 27) The Developer shall provide a copy of sewer as-builts to Sunrise Engineering after completion of project for the purpose of maintaining an up to date Waste Water Master Plan and sewer collection system modeling.
- 28) The sewer collection system tie in on Ocotillo Road shall be in the twenty four inch (24") main line, or the transition to the twenty four inch (24") main line.
- 29) All sewer collection system tie-ins shall either be done using new manhole construction, or by core drilling existing manholes. No jack hammering of manholes will be permitted.
- 30) The developer shall be required to adhere to all provisions indicated in an approved phasing plan.

- 31) The Diversion Channel along the Eastern project boundary shall be constructed during the first phase of the project.
- 32) SRP Power – The applicant shall contact SRP for specific requirements that they may have in addition to the Town requirements. The Town requires all poles less than 69kV to be relocated underground. SRP may require easements outside of Public Right-of-Way.
- 33) The Abel Moody 230 kV Transmission Line has a proposed Signal Butte Road alignment within the vicinity of the Church Farm Project. The applicant shall coordinate all requirements and necessary easements for the Abel-Moody 230 kV Transmission Project with SRP.
- 34) The Developer shall be responsible for the dedication of Right-of-Way (ROW) for all adjacent offsite improvements as outlined below:
 - C) 50 feet ROW (half street) on Signal Butte Road between Ocotillo Road and the most northerly residential street shall be dedicated to the Town of Queen Creek.
 - D) 40 feet ROW (half street) on Signal Butte Road between the most northerly residential street and the southern limits of the project shall be dedicated to the Town of Queen Creek.
 - E) 55 feet ROW (half street) on Ocotillo Road for the entire frontage of the property shall be dedicated to the Town of Queen Creek.
 - F) 140 feet ROW (full street) on Meridian Road for the entire frontage of the property shall be dedicated to the Town of Queen Creek, with the exception of the right-of way at the north end of the project adjacent to the LDS Church, where 70 feet ROW (half street) shall be dedicated to the Town of Queen Creek.
- 35) The Developer shall be responsible for design and construction of all adjacent offsite improvements as outlined below:
 - A) Full half street improvements per the Town's Detail No. R-103 including all related sidewalk, curb and gutter, streetlights, landscaping, applicable water and sewer lines, and drainage facilities shall be designed and constructed for Signal Butte Road for all portions of the ROW adjacent to the property frontage between Ocotillo Road and the east-west collector street. Road improvements shall be to the section line of the improved road and shall include removal and replacement of any existing asphalt to the section line.
 - B) Full half street improvements per the Town's Detail No. R-105 including all related sidewalk, curb and gutter, streetlights, landscaping, applicable water

and sewer lines, and drainage facilities shall be designed and constructed for Signal Butte Road for all portions of the ROW adjacent to the property frontage between the east-west collector street and the most southerly residential street. Road improvements shall be to the section line of the improved road and shall include removal and replacement of any existing asphalt to the section line. Improvements shall also include any required roadway tapers located south of the east-west collector street as required by the Town. The remaining ROW south of the most southerly residential street shall be landscaped with decomposed granite, shrubs and ground cover.

- C) Full half street improvements per the Town's Major Arterial Detail No. R-102 including all related sidewalk, curb and gutter, streetlights, landscaping, applicable water and sewer lines, and drainage facilities shall be designed and constructed for Ocotillo Road for all portions of the ROW adjacent to the property frontage. Road improvements shall be to the section line of the improved road and shall include removal and replacement of any existing asphalt to the section line. Improvements shall also include any required roadway tapers as required by the Town.
- D) Full width street improvements per the Town's Principal Arterial Detail No. R-101 including all related sidewalk, curb and gutter, streetlights, landscaping, applicable water and sewer lines, and drainage facilities shall be designed and constructed for Meridian Road for all portions of the ROW adjacent to the property frontage from the most southerly property lines of Parcels H and M extended to the south property line of the LDS Church. Improvements shall also include any required roadway tapers as required by the Town.
- E) Full half street improvements per the Town's Principal Arterial Detail No. R-101 including all related sidewalk, curb and gutter, streetlights, landscaping, applicable water and sewer lines, and drainage facilities shall be designed and constructed for Meridian Road for all portions of the ROW adjacent to the property frontage from the south property line of the LDS Church to Lenora Way. Improvements shall also include any required roadway tapers as required by the Town.
- F) On Meridian Road, a painted left turn lane shall be provided for northbound traffic approaching Ocotillo Road. The existing Meridian Road pavement between Lenora Way and Ocotillo Road shall be increased in width to 3 lanes (northbound, southbound and shared left turn) without curb and gutter. The existing Meridian Road pavement shall be overlaid with asphalt to achieve a Major Collector pavement structural section as approved by the Town.

- G) A raised median and sufficient width for dual left turn lanes shall be provided for northbound traffic on Signal Butte Road approaching Ocotillo Road. Signal Butte Rd north of Ocotillo Rd shall be widened to a width sufficient to accommodate all required travel lanes and provide for a smooth transition for traffic. Any necessary ROW to accomplish these required improvements shall be obtained by the developer at Fair Market Value. If developer is unable to acquire the ROW, the Town shall use the power of eminent domain, at developer's expense, to acquire the ROW.
 - H) On Ocotillo Road, two eastbound travel lanes and a raised median are to be designed and constructed between Signal Butte Road and the north-south collector street east of Signal Butte Road – pavement markings will provide a transition to the right turn deceleration lane. The developer shall provide a cash-in-lieu payment for the median (curb & gutter and landscaping) adjacent to Parcel CO2.
 - I) A painted left turn lane and a right turn lane shall be provided for eastbound traffic on Ocotillo Road approaching Meridian Road. A painted left turn lane shall be provided for westbound traffic on Ocotillo Road approaching Meridian Road. Ocotillo Road ROW to accommodate the Ocotillo Road improvements west of Meridian Road shall be obtained by the developer at Fair Market Value. If developer is unable to acquire the ROW, the Town shall use the power of eminent domain, at developer's expense, to acquire the ROW. This stipulation may be administratively modified by the Town Engineer in the event an IGA is formed covering all or part of these improvements.
- 36) The developer shall be responsible for providing traffic signals at the locations outlined below:
- A) The existing signal poles on the southeast and northeast corners of the intersection of Ocotillo Road and Signal Butte Road shall be relocated and modified as required with this project per the approved phasing plan. Specific items including pole location will be determined during the construction plan review phase.
 - B) Provide (\$225,000) cost share (cash-in-lieu) for the traffic signal at the intersection of Ocotillo Road and the collector road located ¼ mile east of Signal Butte Road.
 - C) The developer shall design and construct per Town standards the traffic signal at the intersection of Ocotillo Road and Meridian Road. This stipulation may be administratively modified by the Town Engineer in the event an IGA is formed covering all or part of these improvements.

- D) Provide (\$300,000) cost share (cash-in-lieu) for the traffic signal at the intersection of Meridian Road and Church Farm East-West Collector in accordance with the approved phasing plan.
- E) Provide (\$300,000) cost share (cash-in-lieu) for the traffic signal at the intersection of Meridian Road and Church Farm South Collector in accordance with the approved phasing plan.
- 37) All cash-in-lieu payments made by the developer shall be deposited with the Town prior to recordation of the associated Final Plat or Map of Dedication and in accordance with Town Standards.
- 38) Construction assurance shall be required for all onsite and offsite improvements and shall be provided in the form of a bond, irrevocable letter of credit (IRLOC), or cash. The construction assurance is required to be approved by the Town Attorney. Construction assurances shall be provided in accordance with the form and timing as described in Section 7 of the Town's Subdivision Ordinance.
- 39) The developer shall submit an Engineers Cost Estimate for all onsite public improvements, offsite public improvements, Queen Creek Wash improvements, Queen Creek Trail improvements, and Queen Creek Trail Node improvements. All Engineers Cost Estimates are required to be submitted to the Town during the applicable Final Plat or Map of Dedication review phase of the project.
- 40) Lenora Way, east of Meridian Road, shall be Platted as a Tract with the designation of a Roadway, Water, Sewer, and Landscape Easement. This portion of Lenora way will be platted with Parcel J.
- 41) All traffic calming devices for the Church Farm East-West Collector and South Collector shall be approved by the Town and shall be constructed in accordance with the approved phasing plan.
- 42) A portion of this project lies within the FEMA Special Flood Hazard Area. A CLOMR and LOMR will be required from FEMA with the concurrence of both Maricopa County and Pinal County Flood Control Districts. Submit copies of all reports, documentations and approvals to the Town of Queen Creek. The CLOMR must be issued prior to recordation of the affected Final Plats. Timing of Final Plat recordation is dependent on the conditions in the CLOMR.
- 43) The developer shall be responsible for Queen Creek Wash improvements and dedication as outlined below:
 - A) The Developer shall be required to provide slope protection for the north side of Queen Creek Wash within the project boundary limits per the Church Farm Queen Creek Wash Evaluation by Atwell, LLC, dated September 2011.

- B) The Queen Creek Wash within the top of bank limits shall be platted as a tract during the first phase of the project. The Wash improvements shall be constructed concurrently with the improvements of the first Parcel within Phase 6. Dedication of the Wash to the Town of Queen Creek shall occur after the Town's acceptance of the Wash improvements.
- C) The Queen Creek Trail shall be platted as a minimum 50 foot wide tract outside the top of bank limits during the first phase of the project. The Trail improvements shall be constructed concurrently with the improvements of the first Parcel within Phase 6. Dedication of the Trail to the Town of Queen Creek shall occur after the Town's acceptance of the Trail improvements.
- D) The Queen Creek Trail Node shall be platted as a tract during the first phase of the project. The Trail Node improvements shall be constructed concurrently with the improvements of the first Parcel within Phase 6. Dedication of the Trail Node to the Town of Queen Creek shall occur after the Town's acceptance of the Trail Node improvements.
- 44) All construction documents submitted to the Town for review during the final plat review phase shall be in accordance with Town Ordinances, Town checklists, Town design standards & guidelines, and requirements, except as superseded by these conditions of approval.
- 45) The developer shall coordinate all specific requirements for any existing easements as it relates to this project.
- 46) The developer shall coordinate and obtain approval from the Queen Creek Irrigation District including any required approvals from the Federal Bureau of Reclamation for any and all work within the existing 50 foot Bureau of Reclamation Easement.
- 47) All ingress/egress easements that are in conflict with the development shall be abandoned prior to recordation of the affected Final Plat.
- 48) All utility and irrigation conflicts shall be resolved prior to recordation of the affected Final Plat including any relocations, removals, or easement abandonment.
- 49) The developer shall install a native surface trail on the south side of Lenora Way from Meridian to the trail connections on the eastern edge of the property.
- 50) Residential roadways shall not exceed 900 feet without including traffic calming measures as recommended by Town staff.



Requesting Department:
Development Services

TO: HONORABLE MAYOR AND TOWN COUNCIL

**THROUGH: JOHN KROSS, ICMA-CM
TOWN MANAGER**

**FROM: TOM CONDIT, P.E.
DEVELOPMENT SERVICES DIRECTOR**

**FROM: WAYNE BALMER, AICP
PLANNING ADMINISTRATOR**

RE: PUBLIC HEARING AND POSSIBLE ACTION CU12-001 AND SP12-002 "PEGASUS AIRPARK VERY LIGHT JETS," A request by The Pegasus Airpark Flight Association, to amend Conditional Use Permit 01-97 to allow the operation of very light jets (under 12,500 pounds) in addition to a request for an additional fuel tank to be used for Jet-A aircraft fuel. The property is located approximately ¼ mile east of Ellsworth Road, north of Empire Road.

DATE: APRIL 18, 2012

PLANNING AND ZONING COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval of CU12-001 and SP12-002, "Pegasus Airpark Very Light Jets", Site Plan and Conditional Use approval, to amend Conditional Use Permit 01-97 to allow the operation of very light jets (under 12,500 pounds) and approval of an additional fuel tank to be used for Jet-A aircraft fuel, subject to the Conditions of Approval outlined in this report. The Commission also recommended an additional condition be added requiring a noise study be completed every five years, which staff has included.

STAFF RECOMMENDATION

Staff concurs with the Planning Commission's recommendation.

RELEVANT COUNCIL GOALS

- General Plan Growth Areas Element, Goal 5, Policy 5b: Encourage the use of available infrastructure capacity to accommodate new development consistent with the land use goals and provisions of the General Plan.

- Corporate Strategic Plan, KRA 8: Land Use; Goal 7, Enhance the opportunities for Queen Creek businesses to be successful.

PROPOSED MOTION

Move to approve CU12-001 and SP12-002 "Pegasus Very Light Jets" subject to the Conditions of Approval contained in the staff report.

SUMMARY

The proposal consists of a request from the Pegasus Airpark Flight Association to amend Conditional Use Permit 01-97 (formerly Special Use Permit SU01-97) to allow the use of turbine powered aircraft and very light jets and allow for future construction of a Jet-A fuel storage tank for use by the residents of Pegasus Airpark. Four new stipulations are also proposed, one as a recommendation from the Planning Commission.

HISTORY

- March 14, 2012: The Planning and Zoning Commission recommends approval of CU12-001 and SP12-002, with an conditional condition requiring the Flight Association to complete a noise study every five years to verify compliance with the Council approved 65 DNL noise standards.
- October 15, 2008: Town Council denied a request to allow very light jets and helicopters at Pegasus Airpark (CU08-020).
- June 6, 2007: Town Council Approves Pegasus Airpark, Phase 5 Amended Plat (SD07-013) which reduced the number of aviation lots to 82.
- March 18, 1998: Town Council approves an amendment to the Special Use Permit (SU 01-97) for the Fixed Base Operations which limited the number of aircraft to 225 and allowed for a 100 low lead aviation fuel tank.
- May 3, 1995: Town Council approves the Preliminary Plat for Pegasus Airpark Development, subject to conditions. The Preliminary Plat consists of 159 lots on 320 acres.
- June 20, 1994: Town Council approves the Special Use Permit (Now called Conditional Use Permits, SU 07-94) for the airstrip at the Pegasus Airpark development, subject to conditions.

DISCUSSION

The applicant is requesting an amendment to Conditional Use Permit 01-97 (formerly Special Use Permit SU01-97) to allow for the use of turbine powered aircraft and very light jets in addition to allowing future construction of a Jet-A fuel storage tank for use by residents of Pegasus Airpark.

Prior Request History

In 2008, the Pegasus Airpark Flight Association filed a request to allow both helicopters and very light jets to be located at Pegasus Airpark. Under that request, the inclusion of helicopters would have also changed the approach and departure patterns for the airport used by the fixed wing aircraft. While most of the public comment received did not support the proposed helicopter use, the comments received regarding light jets were mixed. During the public hearing at the Town Council meeting on October 15, 2008, there was significant debate on both the use of helicopters and light jets, with the final vote being 5 in favor and 2 against the proposed change. Since the request was for modification of Conditional Use Permit and 6 affirmative votes were required; the change was not approved.

Current Request

The current request is only to allow for very light jets. Helicopter use is not included in this proposal. The current runway design of Pegasus Airpark allows for operation of aircraft up to 12,500 pounds in weight with approach speeds of less than 121 knots, and the proposed very light jets will operate within these design criteria. There are no changes proposed to the current flight pattern for Pegasus, as the new aircraft will operate within the existing approved pattern. There is also no proposed change in the total number of aircraft that can be based at Pegasus Airpark, which has set by the Council at 225.

The applicant's narrative indicates that replacement of older piston powered aircraft with more modern very light jet or turbine powered aircraft will reduce the overall future noise level at the airport. The applicant has provided a noise comparison between piston powered aircraft and very light jets to demonstrate this point.

When discussing noise there are two separate standards: DNL (day/night level) and single event noise (dBA). The DNL measures the single event noise levels created by the total number of flight operations and averages the noise level over a 24 hour period to develop an average daily noise level. In contrast, a single event noise is the number of decibels (dBA) of noise created by a specific aircraft operation.

The current DNL noise ratings range from 38.2 to 46.8 DNL at the airport, depending on the location where the noise is measured. This is well below the 65 DNL approved under the current Use Permit.

The following table shows a comparison of the single event noise levels at takeoff between two currently approved twin engine aircraft with two proposed very light jets.

Type	Description	Approved Currently for Pegasus	Single Event Noise (dBA)
Beechcraft Bonanza	6 passenger, piston powered single engine airplane	Yes	67.8
Beechcraft Baron	4-6 Passenger, Piston Powered twin engines	Yes	72.1
Eclipse 500 Jet	4-5 passenger, Jet powered, twin engine	No	54.9
Cessna Citation Encore	4-6 passenger, jet powered, twin engine	No	58.3

As a comparison, office background noise is typically about 60 dBA, and the noise level from a major arterial street (such as Ellsworth Road or Rittenhouse Road) is generally about 65 dBA. On an unrelated case where noise was also a concern, the Town employed a sound engineer from DM Environmental to evaluate a concert occurring at Schnepf Farms. He reported highest sound reading obtained during a concert was 65dBA - and it was attributed to traffic noise from Rittenhouse Road - not the concert that was playing at the time.

Per applicant's narrative, they do not expect the 65 DNL noise limit be exceeded by the operation of the airport. The estimate listed in the noise report is that at least 19,000 operations (take offs or landings) per year would be needed in order to reach the 65 DNL at any point adjacent to the runway.

In order to evaluate the applicant's position regarding aircraft noise, the Town asked the aviation planning firm of Coffman and Associates to review the materials submitted and provide their input on the issue. Their response was that the use of very light jets is projected by the FAA to increase significantly in the future, and they support the position that very light jets tend to generate less noise than piston driven aircraft. They concluded they did not think the future use of very light jets at Pegasus would adversely affect the surrounding area. A copy of their March 3, 2012 letter is attached.

Project Information	
Project Name	Pegasus Airpark Very Light Jets
Site Location	Empire / Ellsworth Road
Current Zoning	R1-43

Project Information	
General Plan Designation	Very Low Density Residential (VLDR 0-1 DU/AC)
Surrounding Zoning Designations: North South East West	R1-35 (Orchard Ranch)
	General Rural (GR) unincorporated Pinal County
	R1-35
	General Rural (GR) unincorporated Pinal County
CUP Request	To allow very light jets and turbine powered aircraft in addition to a Jet-A Fuel tank for non-commercial use.

Conditional Use Review

Conditional Use Permits are authorized under Article 3.5 *Conditional Use Permits* of the Zoning Ordinance. Conditional uses are those uses which are generally compatible with the land uses permitted by right in a zoning district, but which require individual review of their location, design, configuration and possible additional conditions in order to ensure the appropriateness of the use at a particular location within a given zoning district.

Conditional use review in the zoning code sets forth the following criteria for evaluating a proposed conditional use:

1. The proposed conditional use shall be in compliance with all regulations of the applicable zoning district, the provisions of Article 5 of this Ordinance, and any applicable performance standards as set forth in Article 6 of this Ordinance.

CONDITION MET – with approval of the amendment to the CUP and SP modifications as proposed in the project narrative and included in this staff report.

2. The proposed conditional use shall conform to the character of the neighborhood, within the same zoning district, in which it is located. In making such a determination, consideration shall be given to the location, type and height of buildings or structures and the type and extent of landscaping and screening on the site. **CONDITION MET – with approval of the “Conditions of Approval” included in this staff report. No architectural changes are proposed as part of this and aircraft operations will remain in the currently approved character of the airpark.**

3. Adequate utilities, access roads, drainage, fire protection, and other necessary facilities shall be provided. **CONDITION DOES NOT APPLY -- No changes to the existing facilities in Pegasus Airpark are proposed.**

4. Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads. **CONDITION MET – Flight Patterns will not be altered by this proposal.**

5. The proposed use shall not be noxious or offensive by reason of vibration, noise,

odor, dust, smoke or gas. **CONDITION MET– with approval of the “Conditions of Approval” included in this staff report maximum permitted noise levels will remain unchanged.**

6. The proposed use shall not be injurious to the use and enjoyment of the property in the immediate vicinity for the purposes already permitted nor substantially diminish or impair the property values within the neighborhood. **CONDITION MET – with approval of the “Conditions of Approval” included in this staff report.**

7. The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district. **CONDITION MET – with approval of the “Conditions of Approval” included in this staff report.**

8. The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger public health, safety, morals, comfort, or general welfare. **CONDITION MET – with approval of the “Conditions of Approval” included in this staff report.**

9. The public interest and welfare supporting the proposed conditional use shall be sufficient to outweigh the individual interests which are adversely affected by the establishment of the proposed use. **CONDITION MET – with approval of the “Conditions of Approval” included in this staff report.**

Given the above evaluation, it appears the applicant has met the intent of the criteria for evaluation of a conditional use.

ANALYSIS

General Plan Review: The project is located in the Very Low Density Residential (VLDR 0-1 DU/AC). Pegasus Airpark and its associated residential development are consistent with this land use designation.

Zoning Review: The zoning designation of the property is R1-43.

PUBLIC COMMENTS

The applicant conducted a neighborhood meeting after notifying all property owners within ½ mile of the perimeter of the Pegasus Airpark. Over 300 property owners were notified both in Maricopa and Pinal counties. A flight demonstration was conducted as part of that neighborhood meeting with comments solicited from the 50 attendees. Of the 50 attendees, 15 submitted comments to the Flight Association, with 13 being positive and 2 being negative.

Staff has advertised this case in the newspaper prior to both the Planning Commission and Council meetings, in addition to posting public hearing signs on site. Public hearing

letters were also mailed to all property owners within ½ mile of the airport prior to the Planning Commission, and again before the Council meeting, to notify the public of the date of the Council public hearing being moved to April 18. Staff also sent an email to all citizens from whom an email had been received as of Monday, March 26, notifying them of the April 18 Council meeting date.

As of April 9 a total of 41 emails from the public have been received, 24 in favor and 17 opposed to the request.

All letters and email comments received are attached.

On April 1, the applicant submitted an email agreeing to support the additional stipulation proposed by the Planning and Zoning Commission requiring a noise study be completed every five years to demonstrate compliance with the Council approved 65 DNL noise level for Pegasus. A copy is attached.

CONDITIONS OF APPROVAL

All stipulations from SU01-97 shall remain in full effect, except as follows:

- 1) Stipulation 12 of SU01-97 shall be revised to the following:
 - A) Aircraft allowed to operate from Pegasus Airpark shall be limited to fixed-wing aircraft powered by piston (both gas and diesel engines), turbine, turbo fan, jet engines, as well as potential future equivalent propulsion technologies (i.e., electric powered, hydrogen, etc.) with a maximum take-off weight of 12,500 pounds or less and approach speed of less than 121 knots and wing span of less than 79 feet. Aircraft which are not fully Stage 3 noise compliant as defined by the FAA or which do not comply with the operational limits above related to weight, approach speed and wingspan are prohibited, as are ultra-light aircraft and powered parachutes. Light Sport category aircraft, as defined by the FAA, are not included in this prohibition. The specifications for this airpark shall be published and maintained in the CC and R's for the property, the Flight Association and the FAA airport facilities directory.
- 2) Stipulation 14 of SU01-97 shall be revised to the following:
 - A) 100 Low Lead and Jet-A aviation fuel is to be sold to members of the Flight Association or their authorized parties only.

THE FOLLOWING STIPULATIONS ARE RECOMMENDED FOR ADDITION TO THE ORIGINAL CONDITIONAL USE PERMIT:

Stipulation:

- 19) Location and design of a Jet-A aviation fuel tank shall be approved by staff.

- 20) Medical, police and similar emergency service aircraft, regardless of type, may utilize Pegasus Airpark at any time as needed for public safety purposes.
- 21) The Conditional Use Permit approved in case number CU12-001 is effective upon signature by the property owner of the Prop 207 waiver and filing of the waiver with the Town of Queen Creek Planning Division. Failure to sign and return the waiver to the Planning Division within 5 working days of the date of approval shall render this conditional approval null and void.

THE FOLLOWING STIPULATION WAS RECOMMENDED BY THE PLANNING COMMISSION:

- 22) The Pegasus Flight Association shall complete a third party independent noise study on or before April 18, 2017, and every five years thereafter, and submit the results of the study to the Town to verify the Airpark has not exceeded the 65DNL noise level standard established by the Town Council.

For future reference, the above conditions have been combined with those remaining from SU01-97 into a single document to provide a complete list of all approve conditions, which is attached.

ATTACHMENTS

1. Location Map
2. Pegasus Flight Association Project Narrative
3. November 29, 2011 Neighborhood meeting minutes
4. Email public comments as of April 9, 2012
5. February 22, 2012 letter from Robert McBride
6. March 12, 2012 letter from Arcus Landmark Companies
7. Minutes of March 18, 1998 Council meeting regarding SU01-97
8. Minutes of the October 15, 2008 Council meeting regarding CU08-020
9. March 3, 2012 letter from Coffman Associates
10. March 4, 2012 article from the San Tan Today newspaper
11. March 14, 2012 Planning Commission draft minutes
12. Letter from Jack McCormick agreeing to accept additional stipulation as recommended by the Planning and Zoning Commission.
13. Complete list of conditions of approval from SU01-97, combined with those proposed in CU12-001 and SP12-002



Pegasus Airpark

Request for Very Light Jets

Case #
SP12-002, CU12-001





**PEGASUS
AIRPARK**

January 7, 2012

**PROJECT NARRATIVE FOR PEGASUS AIRPARK PDA FOR
REMOVAL OF STIPULATIONS PROHIBITING JET AIRCRAFT
AND THE SALE OF JET FUEL**

Pegasus Airpark is requesting a modification to the current stipulations that will allow jets to be based and use Pegasus Airpark. This modification will have NO impact on the current noise constraints imposed by the stipulations today. Due to technological advances within the aerospace industry this modification will allow aircraft with acceptable noise signatures access to the airpark that previously did not exist.

This submittal is being made on behalf of the Pegasus Airpark Homeowners Association and the Pegasus Airpark Flight Association requesting the removal of the stipulations prohibiting jet aircraft, and the sale of jet fuel at Pegasus Airpark. These Stipulations were put in effect when Special Use Permit No 07-94 was issued on July 20, 1994 and revised to Special Use Permit SU01-97 issued on March 18, 1998.

Due to repeated requests from our residents, the issue of the Town Stipulations against jets was brought up at the Association Meeting held on August 11, 2007. During this meeting it was discussed having those Stipulations removed and the overwhelming majorities were in favor of allowing jets to be based at Pegasus Airpark. The residents feel this restriction is out dated, slowing down sales and delaying the build out of the Airpark, and it does not promote noise reduction or serve anyone's interests. The Airpark residents want to allow all categories of aircraft up to the 12,500 pound design limit to be able to use the Airpark.

Due to the inclusion of helicopters and other factors, this request was denied.

This subject has again been addressed by both HOA and Flight Association members over the past period of months and the decision was made that a committee be formed to revisit this issue and if there was interest, go back to the City with the request to allow jet traffic and fuel at Pegasus.

This request is much simpler as we are not including helicopters in this request nor are we changing flight paths, etc as was done in the past.

After looking at official DB numbers we concluded that we can reduce the average DB (DNL) if we allowed jet powered aircraft under 12,500 pounds and

Stage 3 or greater compliant. This would be accomplished by allowing new quieter aircraft to replace some of the older louder aircraft while not changing the total number of aircraft allowed.

With the new modern aircraft (very light jets) the noise level generated is less than many piston powered prop airplanes. This improvement in noise reduction has come in recent years with the modernization of the fan jet engine and the introduction of newly designed Jet Aircraft. Having a percentage of the total allowed aircraft based at Pegasus with a lower noise signature will undoubtedly reduce the overall noise level. Jet aircraft are certified to higher standards making them inherently safer aircraft. They have redundant systems, jet engines which are more reliable than piston engines, are typically twin engine aircraft, and are generally flown by more experienced pilots with more extensive training. They typically climb at a higher rate, which puts them at pattern altitude sooner, also reducing the noise signature.

Allowing jet aircraft up to the runway design weight of 12,500 pounds will keep the larger noisy aircraft out while letting a resident have for example one of the new Eclipse or Cessna Citation jets. The aircraft use at Pegasus is typically much lower than predicted by the Town's aviation consultant who stated that 50% of the aircraft based at Pegasus may fly every day. A poll of the current residents who have their aircraft based at Pegasus Airpark shows that the typical owner only fly's their plane once every one to two weeks and they feel a typical jet aircraft owner would fly less than once a week.

Included in this application is a list of aircraft showing their noise signature. The noise level produced can be compared between aircraft and it shows the majority of the Light Jets put out less noise than some of the piston powered aircraft already using Pegasus. For example the takeoff noise level of an Eclipse 500 Jet is 54.9 dBA. A Cessna Citation Encore (twin J) is 58.3 dBA. Comparing that with a piston powered Beech A36 Bonanza (67.8 dBA) shows these jets are quieter on takeoff. Other factors such as speed and faster climb to altitude as mentioned earlier will further reduce the noise.

The Flight Association is also requesting the removal of the Stipulation against the sale of jet fuel at Pegasus Airpark. Jet Fuel is kerosene and has a lower flash point than gasoline making it less volatile. The flash point for gasoline is (-49F, -45C) degrees while Jet-A is (100F, 38C) degrees. This makes it safer in both storage and dispensing. Propeller driven aircraft such as the Beech King Air use Jet-A and there are newer designed diesel piston engines that also use Jet-A. Having Jet-A fuel available at Pegasus would reduce the amount of traffic for those aircraft that would have to make a special trip to another airport to purchase fuel. The Flight Association does not propose to install another fuel tank for Jet-A at this time, but is making the request so residents know it can be available for the future. As more and more aircraft are converted to the new

engines there will come a time in the future when the consumption of Jet-A will rival aviation gasoline.

We would like to ask the town council to reconsider the original recommendations that were put in place 15 years ago due to technological advancements in the aviation industry with the sole intent to reduce noise, improve safety and fuel efficiency. The Pegasus Residents are the ones closest to the noise and they will control any loud abusive aircraft by normal HOA procedures and modifications to the Pegasus Airpark Operation and Safety Regulations. In no case will the originally agreed upon 65DNL at any boundary of the site be exceeded.

A public meeting was held on November 29, 2011 with about 50 adults in attendance. Part of the meeting was a demonstration of a very light jet in flight. Following the meeting, the 31 adults that had signed in were asked to submit comments. Of the approximately 15 responses, copies attached, 2 were negative and 13 were positive.

No landscaping plans included. This request does not involve any construction.

No sewer plans included. This request does not involve any construction.

No additional water is required. Removal of Stipulations has no effect on water usage.

No wastewater report included. Wastewater is not affected.

No traffic study included. Removal of Stipulations has no effect on road traffic.

Respectfully submitted on behalf of Pegasus HOA and Flight Associations,

Jack McCormick
President
Pegasus Airpark Flight Association

Pegasus Airport Flight Association
Flight Committee
149 W Boston Street
Chandler, AZ 85225

Minutes of Public Meeting
November 29, 2011
McCormick Hangar

To amend our special use permit to allow light jets (under 12,500 pounds) and to allow jet fuel at Pegasus Airpark

The meeting was opened at about 3:15 by Pegasus Flight Association President Jack McCormick with an estimated 50 to 60 adults in attendance.

Persons were asked to sign in and fill out comment sheets. We had about 31 persons sign in with address and email address, we had no comment sheets turned in.

After a short introduction as to why the meeting was being held, McCormick described typical light jets by referencing six very light jets (vlj) that are now either being delivered or undergoing flight testing. These aircraft include:

Name:	# of Orders	# of Deliveries	Cost
Citation Mustang	500+	345	2.6m
Embraer Phenom	500+	199	3.6m
Eclipse 500	0	260	2.1m
Cirrus	500	0	1.7m
Diamond D	300	0	1.9m
Honda	130	0	3.6m

(note, current as of 2010)

McCormick then talked about the Eclipse vlj that was on display on the ramp as to its weight, speed, range, and fuel load.

McCormick then indicated the changes in technology that have allowed aircraft manufactures to develop and build lighter, stronger, and quieter aircraft with advanced panels, radios, etc.

McCormick then opened up the presentation to questions from the attendees.

Q How much noise does a light jet make?

A A light jet is much quieter than many piston aircraft. Noise studies were made in 2008 to confirm this (McCormick)

Q How safe is a light jet

A Gordon Bluth (owner of the demonstration vlj) indicated that there are many factors including the new type of construction, the new technology that is available now, the fuel being jet fuel verses 100 avgas, etc. He went on to say that a major safety item is pilot training. Because of both FAA and Insurance requirements, the training for most vlj pilots is much more demanding. He indicated that to fly his vlj, he had to have advanced medicals, have special training in the type of aircraft every year, as well as to be certified by the FAA to pilot the aircraft. (Bluth)

Q How much fuel does your aircraft carry?

A About 220 gallons of jet fuel (Bluth)

Q How much fuel does the twin aircraft (also parked on the ramp) carry?

A About 240 gallons of avgas (McCormick)

Q How fast is the vlj traveling on short final

A About 80 mph (Bluth)

Q How fast is the twin traveling on short final

A About 100 mpg (McCormick)

Q Is there a sound rating for the engines on the vlj

A Yes, at this time, there are three classifications of engines. Stage 1, stage 2, and stage 3 with 3 being the quietest. The jet on the ramp is stage 3 (Bluth)

Q Then why not limit the airport to stage 3 jets

A That would be difficult as small aircraft currently are designated as 12,500 pounds or lighter. To confirm the classification of a jet upon landing would be difficult. (McCormick)

Q How loud is the jet

A That will be demonstrated when we do a fly by.

All questions were presented in a polite and considerate manner and most seemed satisfied with the answers. The questions were posed mainly by a couple from Orchard Ranch.

I then indicated that if there no more questions, we would do a flight demonstration. We had anticipated that departure would be on runway 8 of which starts at the hangar and goes east however, the wind turned around and we had to use 26 or, taxi to the east end of the runway and depart to the west.

Two small piston aircraft departed first with the jet departing last. As the wind was from the west, after startup and the start of the taxi, there was no sound from any of the aircraft until takeoff and over flight. The pistons went high and there was little sound from them and the jet came by low and the sound was very low.

The jet made several more passes again very low and the noise level was very low.

The attendees spent time before and after the meeting looking at the aircraft, asking questions of the pilots, and were interested in what was presented.

There was a lot of small talk on the ramp, very little which appeared to be negative.

The meeting adjourned at about 6:00 PM

Pegasus Airpark E-mail Public Comments – as of April 11, 2012

42 comments total - 25 in favor, 17 opposed

Jack McCormick jack@bushpilotsinternational.com

12/19/11

November 19, 2012

I wish to thank you for spending a part of your day last Saturday at our hangar in Queen Creek. It was fun to meet the many new people that attended as well as talk to old friends. As you are aware, the primary reason for this meeting was to show you what a Personal Jet was, how it flew, how noisy it was, and to address any issues that you might have regarding allowing Personal Jets (jet aircraft under 12,500 pounds) at Pegasus.

If I may, the six points that we addressed were that:

1. They are quiet.
2. They are safe.
3. The pilots are required to be a higher standard of training
(Tested and pass an FAA flight review and medical on a yearly basis)
4. They are modern
5. They use the latest technology
6. They tend to be newer aircraft

We believed that we provided answers to every question presented by those in attendance as well as created some additional questions with answers ourselves

If you have any questions or additional concerns, please contact me direct on my Pegasus Flight Phone at 480 316 1132. If I don't have the answer, I will find it out and get back to you.

We counted about 60 persons who attended however, very few (nobody) filled out our comment sheets. We would like to have as many comments as possible. Although there were city of Queen Creek people in attendance, we need something in writing from those that would like to share their opinion regarding allowing jets in Pegasus.

Please forward your comments to:
dave.williams@queencreek.org

with copy to
jack@bajabushpilots.com

Thank you for your attendance, I hope that our presentation provided the information that you needed in order to form a positive position

Sincerely

Jack McCormick
President, Pegasus Flight Association

Munson garjun@cox.net

12/19/11

Dear Mr. Williams,

My wife and I are residents in Pegasus Airpark, Lot 75. Although we very much enjoy the looks and sounds of airplanes and have no concerns whatsoever about allowing personal jets or VLJ (as I understand it), we had never been up close to observe one. We attended the meeting on Saturday, and very much enjoyed and appreciated the display and demonstration, and learned quite a lot about personal jets. The information provided about personal jets was very helpful to me as a private pilot. My wife and I were very much impressed with exactly how quite this type of jet is. Again, it would not bother us to have most any type of airplane takeoff and land at Pegasus, but we were particularly impressed with the size, looks, and lack of noise level the personal jet has. What we observed is that if you aren't looking or are not aware of the jet taking off or landing, you could easily miss it and not even know it was there. It certainly is more quiet than many of the other aircraft already allowed to come in and out of Pegasus Airpark.

We agree with and hope the surrounding community will endorse and approve our request to allow personal jets at Pegasus Airpark. We believe there would certainly be a potential for increased economic development and revenue to the area as a result. We also believe there would be more of a demand for property in and around our community, which would help the real estate market in the area. The bottom line is that there should be little to no impact with noise or safety concerns for our good neighbors bordering our community with this change.

Thank you for your time. If you have any need to contact us please feel free to do so.

Gary and June Munson
21927 E Pegasus Parkway
602-561-1918

From: redbirdx@msn.com
To: davewilliams@queencreek.org
CC: jack@bajabushpilots.com
Subject: Pegasus Airpark
Date: Tue, 20 Dec 2011 15:14:38 -0500

Mr. Williams,

This email is in reference to the request by Pegasus Airpark for an amendment to the Special Use Permit to allow light Jets to operate at the airpark.

After the presentation and demonstration at the airpark on Saturday, December 17, 2011, I am writing in support of the amendment. I feel that taking into account all of the considerations of noise and safety, light jets are as quiet, or quieter and as safe, or more safe then planes that are currently allowed.

I believe by allowing jets we open the properties to more potential homebuyers, and thus increase the likelihood of homes being constructed, sold and becoming owner occupied and thereby contributing to the acceleration of the economic recovery in Queen Creek.

Please consider the amendment a positive action for Queen Creek.

Sincerely,

Joann Cardinal
21224 E. Pegasus Pkwy.
Queen Creek

Hittie, Craig craig_hittie@tempe.gov

12/22/11

Good morning Mr. Williams. My name is Craig Hittie and I am a private pilot and recently moved to Pegasus (Lot 49) after the completing the construction of our dream home. I am writing you to request your support for amending the existing Special Use Permit granted to the residents of Pegasus to include small jets. I believe the demonstration last weekend provided sufficient evidence that the belief that small jets operating out of Pegasus would dramatically increase the noise levels (and negatively impact nearby residents) has proved to be unwarranted. In addition, I believe the ability to operate small jets out of Pegasus will increase the property values of all properties within the subdivision (whether developed, or not), resulting in additional tax receipts for the Town of Queen Creek. Amending the Special Use Permit seems to be a "win-win" for everyone.

I appreciate your time and consideration in this matter.

Craig Hittie
21589 E. Orion Way (lot 49)
Queen Creek, AZ 85142

Joanne.Valestin@microchip.com

12/22/11

Hello Again Mr. Williams,

I was unable to attend the public meeting held last Saturday at Pegasus Airpark but am fully in favor of "Personal Jets" (under 12,500 lbs) being allowed in the Airpark. Many airplanes make more noise than the small jets that are flying today. My husband and I have been around airplanes most of our lives and moved to Pegasus for that reason. He was a jet engine mechanic in the Air Force and likes the quiet engines are on the small jets. Jets burn kerosene which is unleaded and is less flammable than aircraft fuel. If Pegasus was able to get zoning for small jets it would make the Airpark more attractive to buyers especially being located in a rural community. It certainly was for us.

Thanks in advance for considering/planning the proposal for small jets at Pegasus to present to the Town Council.

Regards,
Joanne Valestin
21589 E. Pegasus Pkwy.
Queen Creek, Az. 85142
602-908-0460

Joyce Coury jcoury2000@aol.com

12/22/11

I feel it is to the benefit of the community of Queen Creek, to allow light jets to be flown into Pegasus Airpark. Our property values will increase, as there is a desire for property ownership allowing light jets.

Stellar Airpark, in Chandler has become desirable, due to the fact that owners may fly their light jets there.

.Pegasus has the same qualifications deeming it an ideal place for growth and prosperity. Homeowners taking pride in ownership of their aircraft and property, increase the prosperity of the town of Queen Creek by utilizing services of our community.

Please vote to allow light jets into our Airpark.

Respectfully,

Joyce Coury

rdisilvestro@aol.com [via srs.bis6.us.blackberry.com](http://via.srs.bis6.us.blackberry.com)

12/22/11

Dave,

I own a hangar and a one acre lot. I am opposed to flying jets into Pegasus because it still is a housing community with horses and jets will take away from the equestrian lifestyle.

Thank you for my consideration.

Ray

D'Angelo, Dale R dale.r.d'angelo@boeing.com

12/22/11

Happy and Safe Holydays to you and your family Mr. Williams,

As an aircraft owner of a full size hangar and taxiway home site on Pegasus, my households' opinion of accepting Personal Jets; I ask for you favor of approval to allow General Aviation Personal Jets in and out of Pegasus. The win-win for the our community is that it will continue to keep up with current times, as well as encourage more people whom have the need for such like vehicles of transportation.

Merry Christmas!

Dale D'Angelo, M. E.

W: (425)266-6707

C: (480)226-3490

Interiors Build Integration

747-8 Program

richardyerian@cox.net

12/22/11

Dear Mr. Williams,

I wanted to write you and ask for your support to allow jets at Pegasus Airpark. I own a hanger at Pegasus and base my airplane there, therefore I have a genuine reason to see the airpark continue to prosper and grow.

As shown by the recent demonstration of a jet departing from the airpark, the noise from a jet is no louder than a propeller aircraft, and in many cases, even less. Developments in jet design have made today's jet engines much quieter than the older jets.

Allowing jets at Pegasus will allow the airpark to continue to grow. Usually people that own jets will have the capability to build high end houses which will provide a larger tax revenue for Queen Creek. Jets are allowed at Stellar Airpark in Chandler which is in much closer proximity to housing than Pegasus. I would rather see the people with jets spending their money in Queen Creek than Chandler. I hope you share my view.

This will be a win-win situation for the airpark and Queen Creek.

Thank you,

Richard Yerian

richardyerian@cox.net

Cindy Diaz qcdiaz@yahoo.com

12/23/11

Mr. Williams,

We reside within the Pegasus Airpark and are excited at the opportunity to have Personal Jets as part of our aircraft selection here. These jets are quiet and efficient, would attract further folks to our park, increasing the property values as well as Town revenues.

We approve our Boards proposal and would appreciate the Town's approval as well.

Sincerely,

Peter and Cynthia Diaz
21494 E. Pegasus Parkway
Lot#11
Queen Creek

Fredkay Olson fredkay1@cox.net

12/23/11

Mr. Williams:

On the 17th of December, Pegasus Airpark had a close up public display of a VLJ. An actual demonstration of its flight performance and noise characteristics were provided. All on hand will attest that this aircraft has a take-off sound level that is quieter than most of the propeller driven single engine aircraft based at Pegasus. Runway landing and take-off distances for this aircraft are no greater than that of many prop driven aircraft presently using Pegasus. The simplicity of this aircraft, compared to complexity of high performance propeller driven aircraft was explained.

Bottom line: This aircraft is quiet. It has more than enough performance for Pegasus runway dimensions. It's safe. It's simple. Jets are flown by pilots with a higher degree of training, because of their cursing altitudes. There is absolutely no reason aircraft such as this shouldn't be based at, and using Pegasus Airpark.

Fred Olson
21903 East Stacey Road
Pegasus Airpark
Queen Creek, Arizona 85142
480-882-1109

Betty Pearce pbj3523b@yahoo.com

12/26/11

Dear Mr. Williams

Pegasus has been my airplane's home 7 years or so, maybe more and it is a wonderful place in the world. I believe the issue of the jets and their owners being allowed would be a boon to the Pegasus community and the Town of Queen Creek. I'm sure you've heard many pro-jet comments and I'll "second" them.

What an exciting time for Queen Creek, there are few and far between communities of this nature, much less with any jet families. What an unique opportunity for Queen Creek to sport this on their town literature and web site for a draw for business and more.

Respectfully in the air,

Betty Pearce
Bonanza E35

On Mon, Dec 26, 2011 at 10:21 PM, David Darrow <darrowda63@gmail.com> wrote:

December 26, 2011

Dear Mr. Balmer:

Thank you for speaking with me on Thursday, December 22, 2011 regarding Light Jet aircraft operations at Pegasus Airport.

Following my attendance at the Pegasus HOA meeting where piston and jet aircraft characteristics were demonstrated on December 17, 2011, you asked that I send you my thoughts and concerns. As a concerned citizen and adjacent property owner to Pegasus Airport, the following list illustrates what I feel the Town of Queen Creek should consider for rejecting an amendment to SU 01-97 referencing the use jet aircraft.

1. Noise. Jet engines, regardless of size, produce a sound completely different from piston engines. This sound is very distinguishable and too most, unpleasant. The "foot print" produced by jet aircraft is heard at a greater distance during full thrust climb out procedures than piston aircraft. Jet noise is also more prevalent at higher altitudes and during arrival descent procedures. Depending on atmospheric conditions, a jet engine that produces a DNL range of 65db can be heard at much higher altitudes than piston powered aircraft. I cannot answer at this time if all manufactures of Light Jet aircraft meet the DNL limit of 65db set for Pegasus. As production models offer different options I can surmise larger, more powerful jet engines will become available (within the same weight class), causing noise level increases.
2. As a regulatory authority for operations at Pegasus, allowing jet operations will likely present an increase in citizenship complaints to the Town of Queen Creek. Currently, the use permit in place allows

aircraft to operate on a 24 hour, 7 day a week at will basis. Most, if not all aircraft owners at Pegasus currently use the airport for private recreation. Early morning and late night flights are rare. If jets are permitted the same operational rights it is likely this class of ownership will include business travel. Departing in the early morning hours to make business meetings with a late night arrival back to the airport will likely become the norm.

3. Allowing jet aircraft operations at Pegasus will enable residents to charter jet services to accommodate their personal needs. Not everyone at Pegasus may choose to own a Light Jet based on cost or pilot abilities. Permitting jets to operate at Pegasus will likely increase the overall number of flight operations created by the differential between owning and chartering flights. Policing charter flights to abide by special use permit limitations would likely warrant violations on consistent basis. The limits placed on pilot owned aircraft at Pegasus may be unknown to outside charter service groups.

4. Incompatibility of jets with slower fixed wing aircraft. The speed difference between piston propeller driven aircraft and turbine powered jets create a safety concern. Pilot radio position reporting is not always easily recognizable by other pilots. The speed overtake of jet aircraft on slower aircraft in the traffic pattern and around Pegasus can lead to catastrophic consequences for pilots and subject residence to the loss of life or property.

Of interest to me is receiving previous Minutes of Town meetings held to change the current use permit for allowance of Light Jet aircraft to operate at Pegasus Airpark. Would you kindly make these records available to me?

I am also very interesting in attending all future meetings open to the public relating to operations at Pegasus Airpark. Can you advise me on the best means for the Town to notify me of any upcoming events?

Should you have any questions, please feel free to contact me at (425) 293-5213.

Sincerely,

David Darrow

On Tue, Dec 27, 2011 at 7:42 AM, Wayne Balmer <wayne.balmer@queencreek.org> wrote:

Mr. Darrow:

Thank you for your e-mail. Attached you will find copies of the staff report, Council agenda and meeting minutes for October 15, 2008 when the Council considered the request from the Pegasus Flight Association to amend SU01-07 which established the current standards for aviation use at Pegasus Airpark. Also attached is a copy of the Council minutes from March 18, 2008 describing the SU01-07 requirements. Hopefully these will help address your concerns regarding the total number of aircraft, operating hours and types of aircraft operations at the airpark.

As I stated during our conversation, we have not yet received an application from the Flight Association to modify the SU01-07 standards. The neighborhood meeting was an informational/educational meeting to demonstrate the use of very light jets and to gauge public response.

In the event we receive an application to amend these stipulations, the applicants will do another mailing to the surrounding residents and conduct an "official" neighborhood meeting. They will also be asked to provide updated information regarding their request and be available to answer questions from the public. We will keep your email on file, and add your name to the list of people the applicant will be asked to contact in the future.

Should you have any additional questions, please feel free to contact me.

Wayne Balmer, AICP | Planning Administrator, Development Services Department | Town of Queen

Steve Lewis slewis_az@hotmail.com

12/28/11

Dear Mr. Williams,

I attended the Personal Jet neighborhood open house at Circle G Pegasus Air Park. I must say that I was impressed with the number of people that attended and the very positive attitude of those present toward allowing personal jets. To note, there was one gentleman that seemed to differ with the others present. Getting to know more people from the surrounding area was great, but of course the highlight was the jet demonstration. We were all amazed at how beautiful and quiet it was. I do own property at Pegasus and I think it would be a win - win for the City of Queen Creek's tax base in the future, the neighbors property values as we add more high quality homes of jet owners and of course the economic benefit of having business owners/managers being based in Queen Creek because of the availability of air transportation..

Thank you for help and assistance in bringing this most positive addition to our community.

Sincerely,

Steve Lewis
Cell [319-750-2944](tel:319-750-2944)

jchelus@solarbay.com [via yahoo.com](mailto:jchelus@yahoo.com)

12/29/11

Hello Mr. Williams,

I just wanted to say that landing the small jets at Pegasus will have little if any negative impact.. I am in favor of letting them land there. I own lot 80 at Pegasus. It is an equestrian lot. I have no plane or pilot's license.

Thank You

John Chelus

Carole Myers csmyers3@msn.com

Jan 1, 2012

to Dave, Jack

Mr. Williams, we live at Pegasus Airpark and would like to voice our opinion on the approval of the light jets.

I was not able to attend the demonstration, but I was at home and could hear the jet taking off and landing. Frankly it was quieter than a lot of the planes that take off and land at Pegasus. There are some noisy single engines and some twin engines that are nosier. We bought knowing there would be planes landing and taking off and in fact that is why we bought a home in Pegasus. We have a twin engine airplane.

WE frequently hear the Military jets flying above our home and frankly they are quiet noisy. We also here the Big Jets take off from Mesa Gateway if the winds are blowing in the right direction.

So long story short, we see no reason why the light jets should not be approved.

Sincerely,

John and Carole Myers

From: <gxccessive@cs.com>

Date: Wed, Feb 22, 2012 at 12:30 PM

Subject: Jet aircraft

To: dave.williams@queencreek.org

Dear Mr. Williams,

Thank you for taking a moment to read my e-mail.

We just moved in to our home at 20991 E Mewes almost a year ago to the day. Our previous home was at McQueen and Ocotillo near the Chandler airport. When we considered purchasing that house, we were shown a flight path that did not fly directly over our home site. Sadly 30-40 planes a day during the weekend flew directly over our home at low altitude and full throttle. Thankfully they were not jets, but very very annoying. That is one of the biggest reasons we moved to nice quiet Queen Creek.

Lucky for us the planes at Pegasus are only somewhat audible from where we live now. I **strongly object** to allowing jet aircraft fly in and out of Pegasus. I realize these are much smaller than commercial aircraft, but even the smallest jet engines are **substantially louder** than internal combustion engines. Those type of aircraft should be limited to airports that are not surrounded by homes and families.

Thank you for your consideration,

Gary Burroughs

David Darrow

February 22, 2012

Dear Mr. Balmer:

This is a request for information relating to the allowance of jet aircraft activity at Pegasus Airpark.

Based on your response below, can you provide me with an update as to scheduled hearings or if a ruling determination is underway?

David Darrow

From: **Shannon Grenz** <trimproautographics@yahoo.com>

Date: Thu, Feb 23, 2012 at 6:22 PM

Subject: Pegasus Airpark

To: "Dave.Williams@Queencreek.org" <Dave.Williams@queencreek.org>

Dave, I would like to take this opportunity to OPPOSE allowing light jets at the Pegasus Airpark. We recently moved from Chandler to Queen Creek to avoid the noise from the Chandler Airpark and now Pegasus is entertaining light jets next to our subdivision in Queen Creek! Sincerely, Shannon Burroughs
20991 E Mewes Rd.

Dave Williams



February 27, 2012

Wayne,

I received voice mail from Elizabeth Flick, she says she lives at 20892 E. Orchard Lane, [480-474-6090](tel:480-474-6090) and stated she was against any jets or jet fuel at Pegasus Airpark. She did not indicate if she wanted contact or not.

Thank you,

From: **Wayne Beyer** <w_cbeyer@hotmail.com>
Date: Tue, Feb 28, 2012 at 11:13 AM
Subject: zoning hearing
To: dave.williams@queencreek.org

David

In regards to the zoning meeting upcoming March 14 and April 4. As a property owner I support the applications CU 12-001 and SP 12-002.

Sincerely
Wayne Beyer
Property owner

From: **Kathy Bilof** <kbilof@owc.net>
Date: Sun, Mar 11, 2012 at 5:33 PM
Subject: case #CU12-001 and SP12-002
To: Dave Williams <dave.williams@queencreek.org>

Dear Mr. Williams,

We would like to express our support of an application Case No. CU12-001 and SP12-002 submitted by The Pegasus Airpark Flight Association requesting approval for an amendment of stipulation 12 of Conditional Use Permit 01-97 to allow for very light jets (Under 12,500 Pounds) in addition to a request for a fuel tank for Jet-Aircraft fuel. We are registered property owners within 1200 feet of the property under consideration in this request and believe that its approval would be good for the town of Queen Creek.

Sincerely,

Richard M. Bilof
Kathleen S. Bilof
21570 E. Orion Way
Queen Creek, AZ 85142

From: **Mary Gloria** <mary.gloria@pandevidaaz.org>
Date: Mon, Mar 12, 2012 at 10:32 AM

Hello Council Members;

Once again, the jet issue is brought before the Council Board and I hope the board will put it to rest once and for all. This community is not in favor of jets traffic, its' fumes, noise and the possibility of a crash in the area of the Orange Groves, nor the Pegasus community. Needless to say, this would have an adverse affect on the peace and quiet that we all enjoy.

Please say NO to the jets! And, keep our community a community where we can come home to peace and quiet and the air will not be polluted with the fumes of jets.

Thank you for the lives you will help change,

Mary Gloria

From: "Laura V. Ruscetti" <lvrnaz2@yahoo.com>

Date: March 12, 2012 11:50:40 AM MST

Subject: Pegasus light weight jet traffic

Dear Council Members,

Please reject the proposal for "light weight" jets and jet fuel storage at Pegasus Park Air Field. As a close neighbor of that air strip, we feel that the increased jet traffic would ruin the peaceful setting we moved to the Queen Creek area to enjoy.

Sincerely,

Phil and Laura Ruscetti

26622 S. 197Th PL.

Queen Creek, AZ. 85142

On Mon, Mar 12, 2012 at 4:52 PM, <Kanej1@aol.com> wrote:

Hello members of QC Town Council~

My name is Karen Joseph and I live at 21102 E Orchard Lane in Orchard Ranch. I am opposed to allowing jets at Pegasus!

I appreciate that Pegasus Airpark might benefit from this but as a neighbor to their community I personally am opposed to the noise and increase in air traffic. It is loud enough with the flights and helicopters that originate from there as well as Williams Gateway.

Please do NOT allow them to bring in jets and fuel.

Thank you for your time and consideration.

Karen Joseph

On Mon, Mar 12, 2012 at 5:54 PM, Maureen MacDonald <hagertymacdonald@gmail.com> wrote:

Dear Council Members,

My name is Maureen MacDonald and I live at 20939 E Orchard Lane, in Orchard Ranch. I have been a resident of Queen Creek since 1999.

I am requesting that you DO NOT allow Pegasus to bring Jets and Jet fuel to our community.

We are presently subjected to a high volume of planes and helicopters flying in and out of Pegasus, along with the air traffic generated by Williams Gateway. I oppose an increase of noise and air traffic that bringing Jets to this community would permit.

We have a wonderful addition to the East Valley at Williams Gateway and I do believe that Jets would be better served there.

I do hope our Town Council supports our vision of maintaining a peaceful environment for Queen Creek.

Thank you for your consideration.

Maureen MacDonald

20939 E Orchard Lane

Queen Creek

On Mar 12, 2012, at 7:42 PM, Bob and Phyl Bailey <rtandpc@gmail.com> wrote:

Our home is next to the Pegasus Air Park and we do not want jets landing and circling the house. Many of the planes fly right over our house and violate the rules of the park. I do not really mind this and actually enjoy the light planes but NO JETS. I heard the demonstrations and NO JETS!

THANKS

Phyl Bailey

Orchard Ranch

On Mon, Mar 12, 2012 at 8:56 PM, Charlotte Warn <skiingwarn@yahoo.com> wrote:

Dear Council members,

Please vote against allowing jets to fly into Pegasus Airpark. We live in Orchard Ranch and would like to continue having a peaceful and safe neighborhood.

Thank you,

Charlotte Warn & family

On Mon, Mar 12, 2012 at 9:11 PM, Bradley Young <byoung758@gmail.com> wrote:

Honorable Mayor Barney:

I live in Orchard Ranchettes on Orchard Lane. I believe that the noise from a small jet is less objectionable than the prop planes we hear and can support a change to allow them to land and take off from the private airport. Feel free to contact me with any questions.

Thanks

From: kott@q.com

Date: March 13, 2012 7:34:13 AM MST

To: [gail barney <gail.barney@queencreek.org>](mailto:gail.barney@queencreek.org), [craig barnes <craig.barnes@queencreek.org>](mailto:craig.barnes@queencreek.org), [john alston <john.alston@queencreek.org>](mailto:john.alston@queencreek.org), [robin benning <robin.benning@queencreek.org>](mailto:robin.benning@queencreek.org), [jeff brown <jeff.brown@queencreek.org>](mailto:jeff.brown@queencreek.org), [dawn oliphant <dawn.oliphant@queencreek.org>](mailto:dawn.oliphant@queencreek.org), [julia wheatley <julia.wheatley@queencreek.org>](mailto:julia.wheatley@queencreek.org)

Subject: Pegasus

I am a resident of Orchard Ranch and am against any changes to Pegasus. When that development was created it allowed for small planes and those residents knew what they were getting. This does not need to keep coming up as an issue, it is a waste of funds.....

It is a safety hazard, as well as additional noise over not only Orchard Ranch but all neighborhoods in the area. The planes already fly right over Orchard Ranch (which I was told they should not) and they fly low at times.

I am opposed to any changes.

Sincerely,

Karen Ott & Family

Orchard Ranch residents for 12.5 years

From: Kanej1@aol.com

Date: March 13, 2012 8:04:25 AM MST

To: jeff.brown@queencreek.org

Subject: Re: Pegasus/ jets

Hi Jeff~

I do understand and appreciate what you are suggesting. It has been my experience that the aircraft that is housed at Pegasus is louder and probably less expensive than the jets that we are discussing.

The helicopters that I am referring to do not originate nor land at Pegasus. I do believe the majority are rescue type crafts.

I appreciate your response to my email. I am only adding "my two cents" and saying I would prefer if jets were not welcomed any closer than Williams Gateway.

Thank you for your time and consideration.

Sincerely,

Karen Joseph

In a message dated 3/12/2012 6:20:18 P.M. US Mountain Standard Time, jeff.brown@queencreek.org writes:

Karen,

Thanks for bringing your concerns and input to me. I appreciate you taking the time.

Please understand that in 1998 the Town Council at that time voted to allow 225 total airplanes on the 159 aviation lots. I believe you bought your home in 2003? When those were the numbers of lots and of craft allowed.

In 2007 the Town Council of the time approved an amended plat that reduced the number of aviation lots to 82. That very likely also reduced the maximum number of craft that will ever be stationed there. These craft are expensive and it is unlikely to think that every lot will have even one craft, let alone multiple.

The proposal forthcoming is for a Quieter and more efficient and in every aspect more modern and better craft. No changes are proposed to flight patterns or to number of craft allowed. To deny this project would be to subject your community to a future of louder craft rather than quieter.

The benefit to the community will be greater property values and increased tax base. I would submit to you that your community will likewise be improved by the inclusion of a quieter and better craft and increased property values.

I do not know of any helicopters at Pegasus and would ask you to clarify that part of your email for Wayne Balmer of Town Staff to investigate further.

Regards, Jeff Brown

On Mon, Mar 12, 2012 at 4:52 PM, <Kanej1@aol.com> wrote:

Hello members of QC Town Council~

My name is Karen Joseph and I live at 21102 E Orchard Lane in Orchard Ranch.

I am opposed to allowing jets at Pegasus!

I appreciate that Pegasus Airpark might benefit from this but as a neighbor to their community I personally am opposed to the noise and increase in air traffic.

It is loud enough with the flights and helicopters that originate from there as well as Williams Gateway.

Please do NOT allow them to bring in jets and fuel.

Thank you for your time and consideration.

Karen Joseph

On Tue, Mar 13, 2012 at 10:11 AM, Thomas Lang <santanman@msn.com> wrote:

Council Members,

The upcoming hearing on amending the rules for Pegasus has us very concerned. Please do not allow jet traffic to invade our space. I realize that some of you may feel that this "improvement" will help our property values and would decrease the noise in our area.

We are very opposed to this "improvement". Jets flying low over a residential area does not make an area more desirable, it has just the opposite effect. We moved out here 30 years ago for the peace and quiet. Please allow us to continue to live so. Mesa Gate Way is very close to the town and it is not in a residential neighborhood, let the jets go there and leave us alone.

Thank you in advance for your consideration.

Valerie Reed and Thomas Lang

santansam1@q.com

11:52 AM March 13, 2012

to Cheryl, Kristen, Kurt, Mary, Mary, Betty, Maureen, Mary, Tom, Ed

All,

See attached.

I talked with Wayne a few minutes ago to get his input as to staffs opinion on what is being proposed. I know that many people remember that a similar proposal was denied before, and I also know that this new proposal has been viewed as discouraging to those who had thought that this issue had been decided. Some people see this proposal as proof that Government will always support moneyed interests and that the interests of citizens carries no weight in the decision making process. But it isn't true.

What is true is that Government has no authority to prevent people from asking, but asking ain't necessarily getting. It is also true that nothing is ever really over. There is nothing written that cannot be erased.

There were real concerns and persuasive reasons that the former proposal was denied. Queen Creek staff believes those concerns have been alleviated in the current proposal, and it would be a mistake to oppose this proposal with arguments based on an assumption that this is not the case. It would also be a mistake to assume that all real concerns have been anticipated and alleviated. I think the necessary first step in being effective rather than easily dismissed and in getting it right is to know firsthand what is actually being proposed, view it critically and then determine if indeed the citizenry's concerns have or have not been adequately taken into account. There is no doubt that an informed responsible citizenry has power. What needs perpetual proving is that such a citizenry is the one weighing in.

Gordon

From: **Maureen MacDonald** <hagertymacdonald@gmail.com>

Date: Tue, Mar 13, 2012 at 12:09 PM

Subject: Re: Pegasus/Jets

To: Jeff Brown

Mr. Brown,

Thank you for your immediate response. Yes, when we researched moving here in 1999, the public report stated we were surrounded by farmers fields, and an abandoned air strip with no mention of an approved aviation subdivision as of 1998.

Since we have planes flying **over our homes** on a regular basis landing in **Pegasus**, it is a bit more personal for us as we border this aviation subdivision.

I am sure if you were in the path of flying planes as we are, you may reconsider making any changes to the afore mentioned approved 1998 plan.

As you know the nature of the present subdivision allows for older planes that are NOT Fueled with Jet Fuel. You too were not here at that time, but it was with great hesitation and community concerns that the initial subdivision was approved. Community safety was paramount and that is one reason why Jets were not approved.

If the nature of the 1998 approved subdivision is now changed to allow Pegasus to house Jets, then our community will be flooded with Jet fueled planes. This would not only increase the occurrence of planes flying over our community of homes, but also affect the safety of our families, friends and neighbors.

You mentioned that the flight patterns would not change, I question where the approved flight paths are located, and who is policing it? Self policing and reporting a problem is not the answer. It appears that the flight path is located directly over Orchard Ranch. And I would like to believe that flying directly over homes would be frowned upon.

I watch planes regularly fly down Orchard Lane, and too many to count start their descent south **over my home** or my neighbors, turning east to line up with the road into Pegasus. Like many trails it may be an unapproved path, but it is one well traveled.

I do not wish to now have planes fueled with jet fuel flying over our home. It is not the safe environment I bought into when I researched moving to the beautiful town of Queen Creek.

Thank you for your time, I hope you will take into consideration the concerns of the neighboring community.

Maureen MacDonald

20939 E Orchard Lane

Queen Creek

On Tue, Mar 13, 2012 at 7:17 PM, Ed Guerra <ed@desertspringranch.com> wrote:

Council Members,

Please reconsider allowing light jet aircraft to fly in and out of Pegasus Airpark. As a 14 year resident of the area, I can say it does not add appeal or value to the homeowners of the area. All too often I shake my head at noisy low flying planes that typically buzz the area. These are already the highest risk aircraft for crashes. Living by an airport has never been a plus. As an aerospace engineer I am all too familiar with the noise that jet engines produce. The noise produced is throughout a large range of the hearing spectrum and the low level rumbles are heard for miles. We've worked hard to maintain a family environment and coexist with a well established equestrian community. Low flying aircraft add another risk to equestrian riders. I am proud of the direction the Queen Creek area is taking. Let's not industrialize the heart of our community with more air traffic.

Regards,

Ed, Kristen and Reece Guerra
San Tan Ranches, Unit 4

From: <cherimdavison@netscape.net>
Date: Tue, Mar 13, 2012 at 5:58 PM
Subject: Pegasus Air Park hearing

Council Members,

The upcoming hearing on amending the rules for Pegasus air traffic is of concern to those of us in the immediate area. Small private plane usage is already allowed and that should be all that is necessary for the personal residences in the Pegasus subdivision. To allow jet plane usage and/or fly over, etc. in an essentially residential neighborhood is presuming on the other businesses and neighbors in the area. The increased speed and maneuverability of a jet is of concern not only for noise but also safety. With the Gateway / Williams field airfield only minutes away, those who can afford these more expensive planes should be content to "park" them there, not selfishly zoom in and land at their spacious residences in our neighborhood!!

Thank you in advance for your consideration

Cheryl & Dave Davison
Hunt Hwy & Ellsworth near San Tan Flats

Jeff Brown

8:06 PM March 13, 2012

to Charlotte, me

Charlotte,

One of the things I love most about the Town of Queen Creek residents is their civil discourse and ability to disagree without being disagreeable. So you can imagine my surprise when you made an accusation such as you did in this note. I explained my thinking on this matter and can assure you that no person or jet lobby is paying me.

Regards, Jeff Brown

On Tue, Mar 13, 2012 at 7:57 PM, Charlotte Warn <skiingwarn@yahoo.com> wrote:

Jeff, how much is the jet lobby paying you? Jet fuel water table contamination is the key issue. Let one in, and they all come in. The only Jets I want are from Winnipeg. Put up a hockey rink instead. Quieter jets, HA! Sounds like a clean coal argument to me. We will fight you!

Christopher Carpenter OD drc@chandlereye.com [via](#) yahoo.com

9:56 AM, March 14, 2012

Orchard Ranch Residents

I just wanted to share my thoughts on the "very light jet" request for Pegasus. I am in favor of the change. These jets are quieter than most of the piston-driven aircraft that we hear taking off in Pegasus. I do not own a jet, but to deny the request based on "noise" has no basis in fact. I have actually flown in one of these "VLJ's" in the proposal, and they are small and quiet. If they make Pegasus more attractive to residents/pilots, we all win.

One of your Orchard Ranch Neighbors

From: "Thomas Henkel" <thenkel@cox.net>

Date: Mar 14, 2012 10:52 AM

Subject: Pegasus Plan

To: <dave.williams@queencreek.org>

Hi, Dave-

Unfortunately, we are unable to attend tonight's meeting to speak to the Town Board about Pegasus AirPark CU12-001 and SP12-002. Please accept our written comments below to be included in the record, and we appreciate your efforts to allow all residents to have a voice in this decision.

We are residents of Orchard Ranch, and we were actively involved in order to stop the developers at Pegasus when they wanted jets and helicopters to be allowed 3 years ago. We are still very much against the current application for jets. We object to allowing jets at Pegasus because: 1. We see no benefit to our property values with additional noise and air traffic coming from Pegasus. We deserve the right to enjoy our property, and the peace and quiet of our area. Please do not take this away!! 2. The Town Board needs to seriously take into consideration the close proximity of Mesa-Gateway Airport which continues to project increased growth and already has a variety of aircraft from commercial to military. We already have several different aircraft flying at different altitudes over our subdivision daily, and we certainly do NOT want more jets in the air around us. Some of the jets that take off or land at Gateway already literally shake our house!! 3. The jets from Pegasus will fly faster and higher and add to the potential crash/accident possibilities due to increased numbers of aircraft in the same airspace. Does the Town Board know if there is potential liability to the Town if Pegasus jets approved by the Town are involved in any kind of accident? 4. We, also, hope that the Town Board will make the RESIDENTS of Queen Creek their priority, and not cave-in to INVESTORS who own Pegasus lots but have no intention to ever live in Pegasus. These investors are only trying to get the jets to help sell lots, and they have no real interest in making Queen Creek a better place to live. We urge the Town Board to make the responsible and right decision to deny the applications from Pegasus AirPark. Thank you.

Sincerely,
Tom and Nancy Henkel
21510 E. Mewes Road
Queen Creek, AZ 85142

From: <SchmittatPegasus@aol.com>
Date: Wed, Mar 14, 2012 at 12:02 PM
Subject: Very Light Jets at Pegasus Airpark
To: dave.williams@queencreek.org

My e-mail is to support allowing very light jets (VLJ) at Pegasus Airpark.

My name is Richard Schmitt, I own 8 lots at Pegasus Airpark . My qualifications are 4 years as an Air Force Mechanic and 45 years in the aviation business.

My licenses include ground instructor, flight instructor, aircraft dispatcher, Airline Transport Pilot with 6 jet type ratings. I was a FAA designated examiner on the Challenger 601 jet aircraft, I flew corporate jets for 40 years as a pilot for the General Electric Company in different jet aircraft. I also functioned as a training pilot at General Electric for 9 years. I am a retired National Guard Helicopter Pilot.

I believe those who are against allowing VLJ's at Pegasus are misinformed about noise and safety issues. The very light jet is quieter, safer and designed to higher standard than most aircraft to include some airliners. VLJ pilots, by regulation are held to a higher initial and recurrent training standard then the majority of general aviation pilots.

Allowing VLJ's at Pegasus will create sales to those persons who can afford a one to five million dollar aircraft and therefore, will be building high end homes at the Airpark which will improve the entire community and its tax base.

Respectfully.

Richard Schmitt

29 Wintergreen Hill Road

Danbury CT 06811

203-748-9064

C 845591063

From: **Jamalee Rogers** <jamalee_cordell@yahoo.com>
Date: Wed, Mar 14, 2012 at 12:39 PM
Subject: Pegasus Air Park -- Case No. CU12-001 and SP 12-002
To: "dave.williams@queencreek.org" <dave.williams@queencreek.org>

David Williams,

I am unable to attend the Public Hearing on March 14th but please help ensure that my comments are included:

I am in full support of allowing Very Light Jets under 12,500 Pounds and a fuel tank for Jet-A aircraft Fuel.

I live in Orchard Ranch (the subdivision just North of Pegasus Airpark). I love having them as my neighbors and specifically chose to live next to them. I have many neighbors that have purchased second homes here in Orchard Ranch that also enjoy the convenience of having an airpark so close. They make great neighbors. I would love to attract these types of homeowners both to Pegasus and to its surrounding areas.

Aircraft noise out of Pegasus Airpark has never been an issue. It is a delight to watch on the rare occasions that I am able to catch a glimpse.

I am also extremely confident that the continued peace & safety of the surrounding areas will be maintained as VLJ (Very Light Jet) pilots are held to superior safety regulations and require additional training with increased standards by the FAA.

It would serve Queen Creek well to attract the attention of VLJ owners looking for property here in the valley. Please help by approving an amendment of stipulation 12 of Conditional Use Permit 01-97 to allow for these Jets under 12,500lbs.

Sincerely,

Jamalee Rogers

Orchard Ranch Homeowner

From: **Kasha O** <kashaleeo@gmail.com>
Date: Wed, Mar 14, 2012 at 1:50 PM
Subject: Regarding Pegasus Airport at meeting tonight.

Hello Council Members,

As a resident of San Marquee Estates on Chandler Heights and 197th Pl. I would like to express my strong distaste regarding Jets using the Pegasus Airport. I am aware that this is an issue to be discussed tonight at the meeting and would like for it to be known that this neighborhood as a whole would not approve with this either. We are a small community striving to keep the small town feel and this goes against everything Queen Creek us credible for. Thank you for your time.

Sincerely,
Kasha Ostler

From: **David H. Busch** <dbusch@teletracker.com>
Date: Wed, Mar 14, 2012 at 3:34 PM
Subject: Amendment to conditional use permit
To: "gail.barney@queencreek.org", "jeff.brown@queencreek.org", "john.alston@queencreek.org", "craig.barnes@queencreek.org", "robin.benning@queencreek.org", "dawn.oliphant@queencreek.org", "julia.wheatley@queencreek.org"

Greetings:

I am writing in support of the amendment to allow the operation of very light jets in Pegasus airpark. I know you are busy people, so I'll be brief.

We have had multiple demonstrations for the council as well as concerned residents and anyone who has attended these demonstrations has agreed the sound is no louder than the single engine planes that operate here now. In many cases, they are even quieter.

I can appreciate the desire for peace and quiet in Queen Creek; it's one of the things that attracted us here in the first place. In my view, denying the operation of VLJ's has little to no impact on noise. We have done a lot of research on this as a community and have submitted those findings to you for your review. I hope that you take into consideration the positive impacts that expanding the use permit can have on Pegasus and Queen Creek as a whole. Pegasus and Orchard Ranch are some of the nicest communities in Queen Creek. The town should do all it can to encourage their growth. Aviation properties are rare and limiting the potential resident pool by excluding VLJ's is not a recipe for success in Pegasus. We need to get with the times. Stellar airpark is thriving and held value better than most other areas in the Phoenix area. There's no reason Pegasus can't do the same.

All the best,

David Busch

Pegasus Property Owner

On Wed, Mar 28, 2012 at 10:50 AM,

From: **Elizabeth Talbot** <elizabeth.cbarnes1@farmersagency.com>

Date: Wed, Mar 28, 2012 at 10:50 AM

Subject: Jets flying in to Pegasus air park

To: TownCouncil@queencreek.org

At 6:30 PM on Friday March 23rd a jet flew right over our home and scared the crap out of us. It sounded like a missile. It was not very high above our home. It flew out at 7:02 PM did a fly by and then headed North East.

I understand that they are not allowed to have jets land there.

This is not the first time a jet has landed there.

Please let me know why they allowed the jet to land. I would like to hear their reason.

I spoke to several of my neighbors and they all said it was very loud and very low.

Very concerned about the low flying air craft flying into & out of Pegasus Air Park.

Beth Talbot
mbtalbot1@gmail.com

Jack McCormick

April 2, 2012

to Gail, Jeff, John, me, Dave, Gordon

Please review the attachment regarding the complaint regarding a jet departing and landing Pegasus.
Thanks....

March 29, 2012

Gail Barney
Mayor, Village of Queen Creek

CC:

Jeff Brown
John Kross
Wayne Balmer
Dave Williams
Gordon Bluth

Thank you for the note regarding a flight on last Friday, March 23.

I am aware of the flight that you are concerned about as I was outside that evening and saw then heard the jet fly by first in a direction from Williams Gateway to the South East and again, about twenty minutes later, return from the same direction

This flight originated at Gateway and returned to Gateway, its mission was to take photos of a large young adult weekend outing near Florence.

The pilot, Gordon Bluth, who lives at Pegasus and has a VLJ based at Gateway, confirmed to me that he was flying the aircraft, did not land or takeoff off from Pegasus, and was flying according to directions from Gateway Control Tower upon departure.

He also indicated that he was given runway 30L to depart and in the departure process, was given a 270 degree turn to put him on his intended course. He indicated that he was going to the Florence area for an over flight and then returning back to Gateway. He climbed to 3,500 AGL (about 2,000 feet above ground level) during this turning climb and then cut back to cruse for the remainder of the flight.

Gordon indicated that on his return, he went around the south side of the San Tan Mountains at about 3,500 AGL and contacted Gateway for landing. He indicated that he was at cruse speed (low power setting) when crossing Pegasus as he was setting up for his landing.

Several important things:

He did not land or take off from Pegasus but from Gateway.

That there are persons at Gateway that can document his departure / return.

He was following directions from Gateway for takeoff and departure

He was well above the normal traffic pattern when crossing Pegasus

He was following directions from Gateway when setting up for landing

My question would be where this person lives that raised a concern. If they lived west of Williams, the aircraft may have been crossing over them in a climb as directed by Gateway. If not, the aircraft would have been at cruse speed setting which would be very quiet.

And there were just two complaints that were forwarded to me of which I believe are from the same person. If the aircraft came so low as to "scare the crap" out of them, I would have to believe there would have been numerous complaints, not just one (or two).

If the person who made the complaint would like to contact myself or Gordon to talk about this flight or to see the aircraft that made the flight, feel free to give them my contact information.

Bottom line:

The flight in question did not depart from or land at Pegasus

Sincerely

Pegasus Flight Association

Jack McCormick

President

On Wed, April 4, 2012 at 9:19 AM, Elizabeth Talbot <elizabeth.cbarnes1@farmersagency.com> wrote:

John,

Please let me know what is going on with my email. This is all I have received. Is someone checking in to this?

Yes, I live in the direct path of the air strip on the West side of Ellsworth.

You can contact me by phone at [480-220-8607](tel:480-220-8607) or email at mbtalbot1@gmail.com.

John Kross

April 4, 2012

to Elizabeth, town council, me

Hello Beth, yes, we are actively looking into this matter, since your filing the complaint via email on March 28. On April 2, we received the attached letter from Jack McCormick, of the Pegasus Flight Association for further follow-up. Mr. McCormick has also been provided the location of your home for further assistance.

We are also trying to get the flight data tracks from Gateway Airport to confirm the contents of the letter. This may take some time to get, and may not be readily available for a few days.

Wayne Balmer is the project manager handling the Pegasus Conditional Use Permit case. If you would like to speak with Wayne directly, he is the one on my staff who is lead on this matter. Wayne can be reached at wayne.balmer@queencreek.org or 358-3095.

Thank you.

John Kross, Town Manager, ICMA-CM

John Kross

Apr 5 (3 days ago)

to Elizabeth, me

Beth, in response to your email, please see attached.

April 5, 2012

Gail Barney

Mayor, Village of Queen Creek

CC:

Village of Queen Creek Council Members
Wayne Balmer
Dave Williams
Gordon Bluth

Thank you for your concern and your request for additional information regarding a flight on March 23, 2012 that was identified as a VLJ from Pegasus. Without this additional request, we might not have found the reason for the sound from an aircraft that "scared the crap" out of a neighbor west of Pegasus.

It is true; there was a VLJ that departed from Williams on that date as indicated in my letter dated March 29, 2012.

And there was a complaint made to the city indicating that a jet had passed over a person's house at a very low altitude and was so loud, it sounded like a missile. The time was reported to be 6:30p or 7:02p depending on how you read the complaint.

And it is also true that Gordon Bluth is the owner of the VLJ and that he departed Williams on that date and about that time.

And there is concern that the VLJ could have been the jet that made all the noise. However, both Gordon and I have been perplexed over this reference as there is just no way could his VLJ have made the noise per the complaint.

Considerable time has been spent by both Gordon and myself and what we were able to determine is that there were multiple F18s (Hornets) from Yuma doing training exercises out of Williams as well as a C17 that had departed Miramar Air force Base in California landing Williams at 6:43, its flight path and time of crossing close to Pegasus and almost the same time as the loud over-flight of an aircraft was reported. We have also confirmed that there were six F18. (Hornet) aircraft from Yuma doing practice flights from Williams during the same time as the complaint referenced. The Military activity during this time was confirmed by Rob Davis, FBO Lead at PhxMesa Gateway Aviation Services. (480/998-7700) Gateway Aviation Services fueled both the C17 and the Hornets on that Friday.

The aircraft that overflew Pegasus inbound to Williams was a C17, one of the largest aircraft in the world. Its specifications are as follows:

Owner: US Government
Power plant: Four (4) Pratt & Whitey F117-PW-100 turbofan engines
Payload: 170,900 pounds or 134 troops
Wingspan: 169 feet
Length: 174 feet
Fuel Capacity: 35,545 gallons jet fuel

In addition, there was a business Cessna Citation that departed Williams crossing Power & Hunt Highway at 6:54p at 3,500 feet climbing.

We believe that the person making the complaint did hear several loud aircraft that evening and might have seen the VLJ however; we believe that the source of the sound was from other aircraft in the area and not the VLJ. And, if the noise was from an F18, they are so fast, they will be almost out of site before you hear their sound.

Many do not realize that the FAA has established airways, corridors, and reporting points in the sky just as we have roads on the ground. This is good however, it funnels air traffic through the same airspace much as freeways work on the ground. What is not good is that recently, a point near Pegasus has been established as a reporting point for VFR traffic inbound to Williams. What that means is that VFR traffic are told to contact Williams tower when at this reporting point thusly creating more air traffic over our homes. Most of this traffic is at or above 3,000 feet however FAA rules allows aircraft to fly as low as 1,000 feet over populated areas and this is what sometimes happens. And to add additional noise to the Pegasus area, medical and media helicopters cross Pegasus several times a day as well as there is one red R44 helicopter that crosses Pegasus at about 1,000 feet almost every day. These flights are not from Pegasus however, many assume they are.

As we all know, the Pegasus Flight Association is in the process of requesting that our Special Use Permit with the Village of Queen Creek be amended to allow VLJ (very light jets) to use Pegasus. We also realize that there is a lot emotion regarding this request however, it seems that most complaints reflect that it is not the jet request that people are complaining about but just having an airport here in general.

Our flight association has been and still is aggressive working to reduce noise and increase flight safety. For the City to approve VLJ is a major step to achieve these goals. As indicated before, VLJ are the aircraft of the future when it comes to safety and noise.

We have rules that regulate the use of the airpark. Of most interest to the City would be the runways we use. We have two, one facing west and the second facing east. (they are the same, just from different ends. Our normal (no wind) arrival and departure is runway 8. Using runway 8, we takeoff to the east putting our takeoff noise over the cotton fields. (no wind is described by the FAA as wind no more than 4 knots) It must be noted that when we have wind greater than 4 knots from the west, we must depart runway 26 to the west. In additions, we do not allow over-flights less than 1,000 AGL as well as there will be no "touch and goes" or commercial flight training at Pegasus. It must be noted that when inbound, an aircraft will have to descend to the touchdown threshold and there could be a go-around if the pilot determines to do so because of a safety issue. If you Google our Runway, we have displaced our runway threshold about 900 feet from the fence to keep as high as possible when on final into Pegasus. We also do not allow mid-field takeoffs so that the flight is as high as possible when crossing out of the Pegasus property.

Our rules also state in all procedures that we must avoid flight over noise sensitive areas when compatible with safety however, we have no regulations for rate of climb as this is a safety issue and every aircraft is different. Most aircraft safely climb at 500 feet per minute however; the liftoff point from the airport and the speed of the aircraft because of safety cannot be regulated by rules.

Having an airport in Queen Creek is important to the City, the people who live here, and helps to increase the value of Queen Creek as a whole. I would invite any interested person to contact me and I would welcome the opportunity to "show them around" our home in Pegasus Air Park.

I hope that this letter provides the information needed to help put this March 23rd flight issue to bed.

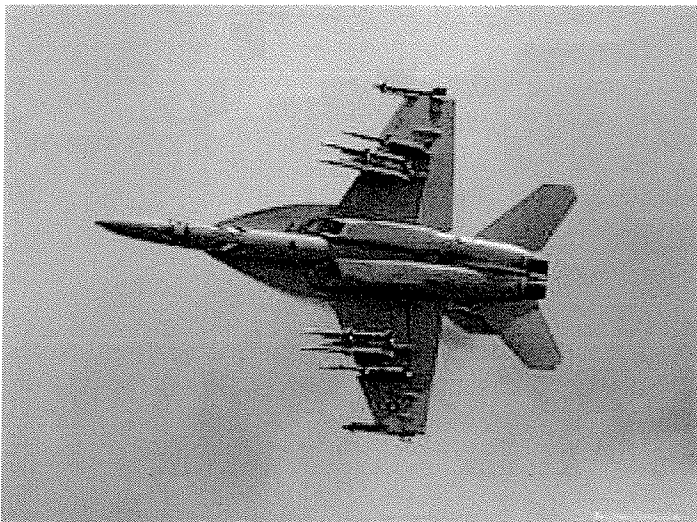
Sincerely
Pegasus Flight Association

Jack McCormick (via email)

Jack McCormick
President



C17 aircraft that arrived Williams at 6:43p on March 23 on a flight from Miramar Air Force Base in Southern California. It departed thirty minutes later on a flight to March AFB, again in Southern California. (file photo)



*A file photo of an F18. (Hornet) There were 6 of these aircraft from Yuma doing practice flights from Williams on the evening of the complaint. (file photo)
Please note that the flight path from Yuma to Williams crosses very close to Pegasus.*



A file photo of an Eclipse VLJ, the same type as reported in the noise complaint on March 23, 2012. This aircraft has two stage 3 engines, the quietest jet engine available today.

Kathy Bilof kbilof@owc.net

April 8, 2012 4:37 PM

Dear Mr. Balmer

We would like to express our support of an application Case No. CU12-001 and SP12-002 submitted by The Pegasus Airpark Flight Association requesting approval for an amendment of stipulation 12 of Conditional Use Permit 01-97 to allow for very light jets (Under 12,500 Pounds) in addition to a request for a fuel tank for Jet-Aircraft fuel. We are registered property owners within 1200 feet of the property under consideration in this request and believe that its approval would be good for the town of Queen Creek.

Sincerely,

Richard M. Bilof
Kathleen S. Bilof
21570 E. Orion Way
Queen Creek, AZ 85142

Mike & Beth Talbot mbtalbot1@gmail.com

Tuesday, April 11, 2012 7:39
PM

to gail.barney, me, john.kross, jeff.brown, john.alston, craig.barnes, robin.benning, dawn.oliphant, julia.wheatley

I, (Michael Talbot), am responding to Mr. Jack McCormick's second email dated April 5, 2012 concerning the issue listed above.

On March 23, 2012 at approximately 6:30PM I was working in my yard on the southwest corner of my home when a private/business jet flew over my home, from the west going east, startling me as it cleared the east end of our home. It was at an extremely low altitude and going very fast. I watched as the jet aircraft flew directly towards Pegasus Airpark at the low altitude. I assumed that it landed at Pegasus Airpark after it cleared the palm trees located at the west entrance of the airpark. The jet aircraft appeared to be lower than the propeller airplanes that land at the airpark. If the jet aircraft did not land it made a touch and go on the airpark runway or an extremely low fly by.

My wife (Beth) had joined me and we were still in the yard at the southeast corner of our home at approximately 7:00pm when again we/I saw a private/business jet aircraft flying over Pegasus Airpark going west. Once again the jet aircraft was at an altitude as if it had taken off from the airpark. The jet aircraft gained altitude and banked to the south going over the Santan Mountain area. The jet aircraft made a u-turn and flew back over Pegasus Airpark going northeast at a higher altitude. The jet aircraft continued northeast when we stopped watching it.

A note on our property location: From the east side of our property you can see Pegasus Airpark's west entrance, with the rock structure and palm trees up front. You are also able to see houses in the airpark. There is an open field between our property and Ellsworth Road. There are no structures or houses to block the view.

I do appreciate Mr. McCormick's lecture on military aircraft and the Pegasus Airpark rules and regulations he listed. But the jet aircraft that flew over our home at an extremely low altitude on March 23, 2012, (at approximately 6:30 pm), was well under the FAA rule of 1,000 feet over a populated area, which led me to believe that the jet aircraft landed, did a touch and go or a fly by over the airpark runway. **This jet aircraft was NOT a military style aircraft.**

I did try to contact Rob Davis, FBO Lead at PhxMesa Gateway Aviation Services, on Wednesday, April 10, 2012 around 9:00 am but was unable to talk to him. I wanted to ask if the radar at PhxMesa Gateway Airport tracks the flight path of small aircraft entering or leaving the airport and if so is that data stored. I left a message on the phone for Rob to please call me back, but as of this time he has not responded.

Our home is not located in the Town of Queen Creek boundaries. We are located in a Maricopa County island west of Ellsworth Road, but we also value the Town of Queen Creek as our home and support the local economy.

Regards
Michael & Beth Talbot

(402)741-1387

Jim Meysenburg jimm@gottsch.net

Wednesday, April 11, 2012 6:56
AM

Mr. Balmer

My name is Jim Meysenburg. I own a lot on Stacey Way in the Pegasus Airpark. I am writing in support of amending the conditional use permit to allow light jets and the addition of Jet-A fuel to Pegasus Air Park. I feel this would be an asset to the entire Queen Creek area and would also benefit surrounding businesses. I appreciate the council's willingness to reconsider the matter.

Sincerely,

Jim Meysenburg

Wednesday, March 14, 2012
Ronald P. Serafinowicz
956 W Juanita Avenue
Gilbert, Arizona 85233

RE: Pegasus Airpark Flight Association PAD Amendment to Allow Jet Aircraft at Pegasus Airpark

To: The Honorable Mayor Gail Barney and Council Members Jeff Brown, Craig Barnes, Robin Benning, Dawn Oliphant, and Julia Wheatley

I am an owner of multiple lots at Pegasus Airpark, an aviator, and retired military helicopter pilot. I was also involved in the development of Pegasus Airpark until 2009. I would like to take this opportunity to express my support for the PAD Amendment by the Pegasus Airpark Flight Association to remove the Town Stipulations against Jet aircraft and the sale of jet fuel at Pegasus Airpark. Anyone who opposes this removal of the Stipulations is not using logic and would only oppose it for political reasons. The Airpark would not have any additional aircraft if jets are allowed and it would allow a percentage of the aircraft based there to be a safer and quieter aircraft thereby increasing the overall safety of the Pegasus fleet and actually reducing the overall noise levels. The noise level is really not a factor anyway because Pegasus Airpark is a private airport and traffic levels will never be great enough to be of concern that they would approach any noise limits. People may try to compare Pegasus Airpark to commercial airports that have hundreds of times as much traffic as Pegasus does, and this is not a valid point.

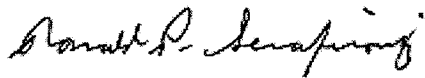
Jet aircraft up to the limit of 12,500 pounds are a category that fall into what is considered light jet aircraft. These aircraft are generally quieter than many propeller driven aircraft such as a Cessna 180 which are based at Pegasus. They are generally twin engine aircraft and flown by pilots that are required to be trained to a higher standard than the average general aviation pilot. These factors make jet aircraft at Pegasus Airpark safer aircraft. Another factor which most people do not consider is the fact that these jet aircraft climb at a higher rate than propeller driven aircraft which makes the noise footprint much smaller than for example a Cessna 180 climbing out on takeoff. A higher climb speed also makes the noise duration a shorter event.

There is also no logic for the opposition against removing the Stipulation prohibiting the sale of jet fuel at Pegasus Airpark. Pegasus is already approved and has operated sales of aviation gasoline for many years. Aviation gasoline has a flash point of minus 35 degrees F. Jet A fuel has a flash point of 56 degrees F. This higher flash point makes it a much safer fuel to handle so there would be no safety issues in allowing Pegasus to sell jet fuel along with 100LL aviation gasoline.

Allowing jets to be based at Pegasus Airpark will help with the development and build out of the Airpark but there is a way the Town of Queen Creek could really help that situation and bring in a greater tax base for the town. The Town should remove the Stipulations against all aircraft 12,500 pounds and below. This should include helicopters. Over a period of ten years I was involved with the sales at Pegasus and have personally witnessed the loss of lot sales because the buyer was a helicopter owner or jet aircraft owner. The ratio was about 6 to 1. For the loss of 1 sale to a jet aircraft owner, about 6 lots sales were lost to owners of helicopters. I recall there were two jets owners over an 8 year period and about 12 helicopter owners who did not buy due to the restrictions. There could have been 14 or more homes at Pegasus then what currently exists. This restriction preventing helicopters from being based at Pegasus Airpark will continue to hamper the development of the Airpark. A helicopter can land anywhere in the town of Queen Creek on private land except at Pegasus Airpark. The Town should get out of the business of trying to manage the Airpark and allow the Pegasus Airpark Flight Association to regulate the Airpark. They are the people living there who have intimate knowledge of the operations of aircraft and are best suited to maintain a safe and efficient operation at Pegasus Airpark. I would like to see the Council remove the Stipulation against helicopters along with the removal of the jet aircraft and jet fuel restrictions at Pegasus. If the Council does not want to do this then how about allowing a small number of helicopters to be based at Pegasus so the council can study the effect over the next five years or so.

Please add my letter to the file in support of this change.

Regards,



Ron Serafinowicz
Pegasus Airpark lot owner

February 22, 2012

Town of Queen Creek

RE: Case # CU12-001 and CU12-002

Mr. Williams:

Thank you for the notification for request by Pegasus Airpark to allow small jets at their property. I cannot express strongly enough how much we disapprove of these matters. There is no reasonable person who would think allowing jet-powered aircraft in residential areas is a good idea. Three reasons come to mind.

1. The storage of additional and more potent fuels is a safety concern.
2. The storage of additional fuel creates more chance for ground-water contamination.
3. The noise level would increase and be distracting to neighboring properties.

I can honestly say that having the airpark next to us is not a big problem at this time. But the planes can be heard when taking off and landing and it is not acceptable to increase either the level of noise we now have or the frequency of incoming / outgoing flights.

In addition, they made this request previously and it was rejected. Please register us as against these most recent proposals.

Regards,



Robert McBride
21056 E. Excelsior Avenue
Queen Creek, AZ
Orchard Ranch Estates

c: Vision Management

ARCLIS™



LANDMARK
companies

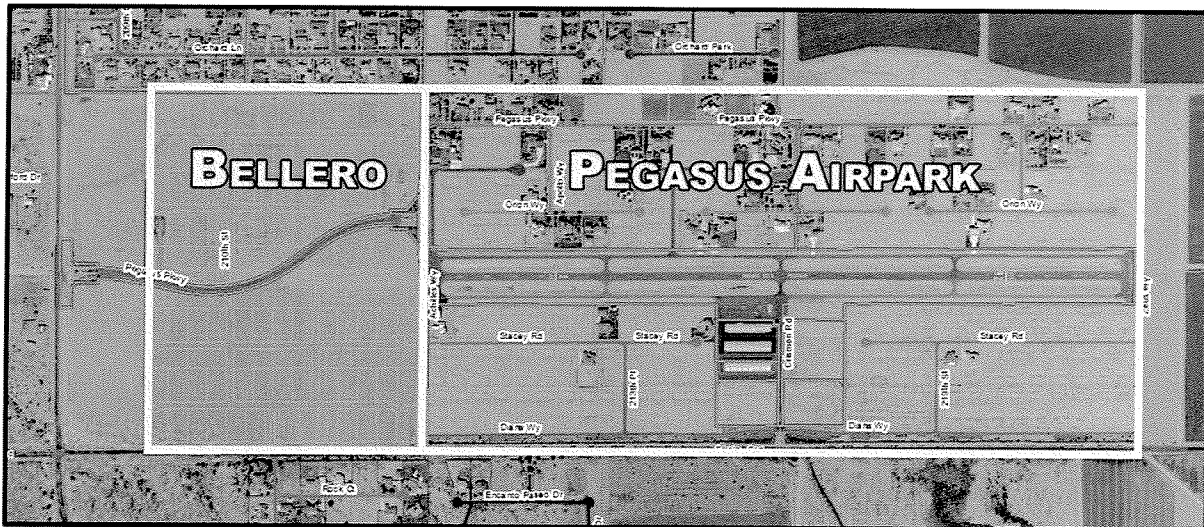
March 12, 2012

RE: CU12-001 and SP12-002, "Pegasus Airpark Very Light Jets"

Site Plan and Conditional Use approval, to amend Conditional Use Permit 01-97 to allow the operation of very light jets.

Dear Mayor Barney, Queen Creek Town Council, Planning and Zoning Commission, and Staff:

I represent the 122 acre Belloero project immediately west of Pegasus Airpark:



I would like to offer my support for the proposal to allow "Very Light Jets" at Pegasus.

We are currently in the process of rezoning our Belloero project and will be presenting our proposal in the coming months. As the closest Pegasus neighbor with the most near term development potential, our project stands to bear the greatest impact by the proposed jets. As such, we've taken great interest in the proposal. I attended the jet demonstration on December 17, 2011. We were able to hear the noise difference between a conventional piston/prop plane and a light jet. The two different types of planes generate distinctly different types of noise. Is one more or less 'noisy' or 'distracting' than the other? That can be a subjective question generating different responses from different people. From my

observation, the Eclipse jet I heard does not generate enough additional noise to provide reasonable justification to oppose the proposal.

The light jet used for the demonstration was a 3,500 pound Eclipse. The permit request includes planes up to 12,500 pounds. At first glance, this might appear to be cause for concern and uncertainty that larger, noisier planes than the Eclipse could come to Pegasus. However, from what I understand, all currently available light jets are similar in size and noise to the Eclipse and that future light jets will have more stringent noise limitations. So, in spite of the uncertainty regarding future planes and noise, it seems reasonable to accommodate the jets.

Conditions change and therefore needs change. With the advent of new jet technology, Pegasus is seeking change that would benefit that community and those property owners. No land use change comes without some kind of impact to neighbors. The key is to seek a reasonable balance for both applicant and neighbor. I do not see the impact to Bellerose as being unreasonable.

On the side of benefits, allowing the jets may increase interest for lots and new residents at Pegasus. Encouraging renewed development and home construction in Pegasus is good for the area and certainly good for Bellerose. Acre lot communities, such as Pegasus, are a tough sell in this new market. Any added differentiator such as jets will certainly help. In addition, jets attract a higher end buyer that will likely result in higher end homes. That will be positive for area property values as well as tax base for Queen Creek.

With all that in mind, the benefits to allowing jets should outweigh any downsides. On that basis, I offer my support for "Very Light Jets" at Pegasus Airpark.

Thank You,
Jason Barney
Arcus Capital
Landmark Companies
jason@jasonbarney.com
480-818-2000

**MINUTES FOR THE REGULAR SESSION
QUEEN CREEK TOWN COUNCIL
March 18, 1998**

7. **SU 01-97 Public Hearing and possible action** on an application submitted by Circle G Property Development to amend certain stipulations of a previously approved Special Use Permit (SU 07-94). The Town Council granted approval of Special Use Permit (SU 07-94) for the Airstrip Operations at Pegasus Air Park Development on July 20, 1994.

Town Planner Kross gave a staff report and reviewed the Special Use Permit (SU 07-94) previously approved. Mr. Kross reviewed Stipulations 1, 9, 11 and 12 which address the maximum number of airplanes allowed, the phasing plan, noise levels and runway design. Mr. Kross stated that Williams Gateway Airport Authority and the property owner to the north are in concurrence with the proposed stipulations.

Kate May, of Coffman and Associates, the Town's airport consultant, came forward and explained the difference between a 72dBA and 65 DNL noise measurements, runway strengths, noise violations and enforcement problems. Ms. May also answered Council's questions in regard to the cost of training and operation of monitoring equipment. She explained that by designating the runway as B-II, the size and weight of airplanes would be limited and by prohibiting helicopters and sailplanes would also control noise levels off the airpark property.

Ray Olsen, applicant, came forward and stated that he was requesting clarification on the number of airplanes permitted and the maximum noise level allowed. Mr. Olsen also stated that he was in agreement with the proposed Stipulation 9.

Mayor Schnepf opened the Public Hearing.

Don Urrea, 19540 E. Happy Road, came forward and stated his concerns with number of airplanes and noise levels. He requested clarification on noise level measurements.

Kate May explained that measuring aircraft noise takes into account the noise levels above, below and the sides of the aircraft.

Council asked who would be responsible for the enforcement of noise violations. Staff responded that the nuisance provisions of the Town Code would apply and a citation would be issued to the owner of the airplane in violation and to Pegasus Airpark. It was also stated that if a complaint was received outside of the Town limits, the complaint would be investigated and a citation issued if necessary.

Wayne Smith, 21665 E. Nightingale Drive, came forward in favor of the airpark.

Silvia Centoz, 26220 S. Hawes Road, spoke in opposition to the airpark development and the number of airplanes proposed.

Ray Olsen, applicant, came forward to answer Council's questions.

Council asked Kate May how many daily trips were made from similar airparks. Ms. May responded that not all aircraft operate everyday and perhaps less than 50% of the total number of planes located at the airpark would fly daily.

Council then asked for clarification of commercial uses. Ray Olsen, applicant, responded that there would be no commercial operations allowed. He further explained that hangars would be available for lease by non-residents to keep airplanes and that the stipulations prohibit commercial use.

Mayor Schnepf closed the Public Hearing.

Council discussed the proximity to a proposed school site, the number of rental hangars and vehicular traffic.

Motion: Vice Mayor Calender

To approve SU 01-97 with the following stipulations, and specifically limiting the total number of airplanes to 225 with 65 hangars available for non-residents at the FBO and noise level not to exceed 65 DNL:

1. The total quantity of planes allowed on the entire Pegasus Airpark Development shall not exceed 225; this shall include both the residential area and the FBO. The maximum quantity of planes allowed on the FBO shall not exceed 92 planes. This provision allows for there to be a lesser quantity of planes than 92 at the FBO, with a greater quantity of planes allowed in the residential area, provided that the total quantity of planes does not exceed 225 for the entire Pegasus Airpark Development.
2. Prior to seeking plat approval or any pre-development site activity, any required State and Federal Aviation Administration authorization of the aviation use must be obtained; and, further, there shall be no runway or other aviation lighting other than the minimum required for fixed wing or day or night operation. Aviation lighting shall only consist of pilot-controlled or activated lighting. No continuous lighting shall occur except for pilot-activated beacon lighting. However, this shall not prohibit the standard FAA approved light, illuminating a windsock for wind speed direction.
3. Residential lots shall be not less than one acre in area, exclusive of rights-of-way and taxiway easements; with overall density not exceeding .75 dwelling units per gross acre.
4. This Special Use approval specifically does not constitute plat or plan of development approval (noting, in particular, access problems on the schematic plan) and it is noted that separate, direct vehicular access to the fixed base operations, runway and other aviation-related common facilities is required. Prior to any building permits or zoning clearances being issued for the FBO developer shall receive site plan (plan of development) approval from the Town Council.
5. The following commercial uses are prohibited: charter, courier, commercial flight schools, scheduled air service and crop dusting.
6. The development shall adopt, and shall enforce by means of effective sanctions, rules prohibiting (except where violations are necessary for safety reasons) "touch and goes." Developer shall establish normal and recommended procedures for general aviation including approach and departure patterns that attempt to minimize noise over residential areas.
7. All aviation-related buildings (including, but not limited to, hangars and service buildings) are required to be screened from perimeter street view by an approved landscape plan and installation.
8. Required street, drainage and other dedications shall be completed prior to seeking plan of development approval.
9. Aircraft noise shall not exceed a level of **65 DNL** at any boundary of the site. Pegasus Airpark shall be required to submit annual noise reports to the Town. Violation of this noise level will result in the Town issuing a warning to the Airpark. If the Airpark fails to take action against

the violator(s) or the noise level is continued to be violated within the next 12 months by any airpark user then within three (3) months after the warning is received then this may be cause for the Town Council to conduct a Public Hearing(s) and consider revoking the Special Use Permit for the airpark. In any event the Special Use Permit shall not be revoked for violation of 65 DNL standard if the Airpark is exercising due diligence in bringing legal action in a court of competent jurisdiction to enjoin the violation.

10. The Town shall have the right to review Airpark operation performance to ensure compliance with the special use permit. Review of airpark performance shall include, but not be limited to, review of all FBO and flight association operations, such as investigation of books, accounts, reports, correspondence and audits
11. Hangar and tie-down construction at the FBO site may be allowed prior to residential house construction in accordance with the following: up to 50% of the total planes allowed on the f.b.o (46 planes of the 92 allowed). Once hangar or tie-down construction is completed to allow 46 planes, then one additional hangar may be allowed for every house constructed and a certificate of occupancy (c of o) issued by the town for the house. In general FBO development should be phased to coincide with residential occupancy in the subdivision.
12. Pegasus airport shall be designed in conformance with FAA design criteria for a B-II Airport Reference Code. The airport runway strength shall be designed to accommodate only those permitted aircraft that are propeller-driven, fixed-wing aircraft with a maximum take-off weight of 12,500 pounds or less and approach speed of less than 121 knots and wing span of less than 79 feet; types of aircraft specifically prohibited are jets of any kind, ultra-lights, turbo-jets and helicopters. The specifications for this airpark shall be published and maintained in the C,C and R's to the property, the Flight Association and the FAA airport facilities directory.
13. That the airpark shall be operated solely as a private airpark for use by residents of the Pegasus Airpark Development and members of the flight association. Guests may be allowed of either residents of the airpark development or flight association members provided that guests have express prior permission from the airpark development or flight association members. Guests will not be allowed by those persons who own or lease hangars or own or lease tie-downs and do not reside on permanent basis at Pegasus Airpark. The exception to this requirement shall be for emergency landings. Such prior permission shall be granted only to persons having a bona fide reason for landing at the airpark, such as persons staying overnight or longer with Pegasus Airpark residents or flight association members who also reside at Pegasus Airpark. No person other than those defined herein shall be permitted to use the airpark, including by way of example and not limitation, those persons visiting for the sole purpose of refueling. This requirement shall be so stated in the appropriate C, C, and R's and the Federal Aviation Administration's Airport Facilities Directory. This in no way shall prohibit bonafide potential buyers to land at the airpark, nor prohibit special lot sales promotions during the initial phases of development of the airpark.
14. The FBO shall not advertise the commercial services offered by the facility. No jet fuel shall be sold anywhere within Pegasus Airpark.
15. Developer shall be required to meet all applicable Federal Aviation Administration fuel storage requirements and report to the Town that applicable fuel storage facilities are in compliance. Reporting mechanism to the Town shall, at a minimum, is via a copy of the notice of approval by the appropriate regulatory agency.
16. Any fuel system allowed on the property shall be designed as a private card-lock system for members of the HOA or flight association only.

17. The Developer shall submit a new “Notice of Proposed Landing Area” to the FAA for airspace approval. Documentation of this approval shall be submitted to the Town prior to issuance of any building permits.
18. Within 30-days of the date of Council’s decision on this Special Use Permit, the applicant/developer shall pay to the Town of Queen Creek for all airport consulting costs up to \$1,500.

Second: Council Member Rose

Amendment: Council Member Hildebrandt

To allow a total of 300 planes.

Amendment fails due to lack of Second.

Vote on First Motion: Unanimous in favor

Motion: Vice Mayor Calender

To suspend the rules.

Second: Council Member Rose

Vote: Unanimous

Motion: Vice Mayor Calender

To hear Item 16 before Item 10.

Second: Council Member Hildebrandt

Vote: Unanimous

Item H: Town Manager Kross stated that Steve Sossaman should also be considered for appointment to the Finance Review Task Force.

Motion to approve Item H with the addition of Steve Sossaman as recommended (Mortensen/Brown/Unanimous)

PUBLIC HEARINGS AND FINAL ACTION: If you wish to speak to the Council on an item listed as a Public Hearing or Action, please complete a Request to Speak Card and turn it in to the Town Clerk. Speakers will be called upon in the order in which their cards are received. Speakers are limited to three (3) minutes each.

9. Public Hearing and possible action on CU08-020 “Pegasus Airpark Helicopters and Jets” a request by The Pegasus Airpark Flight Association to amend Stipulation #12 and #14 of Conditional Use Permit 01-97 to allow the operation of helicopters and very light jets (under 12,500 pounds) and a request for an additional fuel tank to be used for Jet-A aircraft fuel. The property is located approximately ¼ mile east of Ellsworth Road north of Empire Blvd.

Planning Manager Wayne Balmer gave a presentation on the Conditional Use permit application, site plan of the taxi and runway; 1994 & 1998 Conditional Use permit approvals that limited the number of planes to 225 and airpark remaining private. Mr. Balmer provided information on the types of aircraft currently allowed as well as some prohibited uses such as crop-dusting. Mr. Balmer said the flight association is requesting that helicopters, turbine turbo prop VLJ (very light jet) under 12,500 lbs and Jet A fuel be permitted. Mr. Balmer said the applicant states the request is in line with current technology and modern aircraft. Mr. Balmer showed examples of the proposed aircraft and helicopters. Community/neighborhood outreach activities included neighborhood meetings, fly-in's, mailings to property owners within 1200 ft., Planning and Zoning Commission meetings as well as media coverage. Mr. Balmer summarized the Planning and Zoning Commission's recommendation to allow the VLJ (very light jets) and Jet A fuel with the stipulation that the conditional use permit would take effect upon approval of an airpark operational flight plan by the FAA and implementation by the flight association.

Dennis Brierton, Queen Creek and representing the flight association, read a statement about the public participation process and proposed operations. He said the airpark needs to remain viable and grow.

Michael Traegarz, representing the applicant, gave a presentation showing air traffic patterns for Williams Gateway Airport; the proposed Pegasus airspace daytime operations plan which would be published and regulate all pilots. Mr. Traegarz discussed the previous conditional use permits and that the private airpark did not allow commercial operations and protected airspace.

Council asked for additional information on airspace control without helicopters. Mr. Brierton explained that the procedural operation plan would establish airspace use. The approval process of an operation plan was discussed. Council asked if there were helicopter procedures. Mr. Brierton responded no because helicopters aren't allowed.

The Public Hearing was opened.

**Minutes for the Regular Session
Queen Creek Town Council
October 15, 2008
Page 5**

Ralph Clark, Queen Creek, submitted written comments in favor.
Barry Weigele, Queen Creek, spoke in favor of helicopters.
Scott Baker, Chandler, spoke in favor of helicopters.
Anne Reed, Queen Creek-Pinal County, submitted written comment in opposition.
Silvia Centoz, Queen Creek-Maricopa County, spoke in opposition.
Tom Henkel, Queen Creek, spoke in opposition to allowing jets and helicopters.
Nancy Henkel, Queen Creek, spoke in opposition to allowing jets and helicopters.
Mary Brooks, Queen Creek, spoke in opposition.
Sylvia Barrett, Queen Creek-Maricopa County, spoke in opposition.
David Busch, Queen Creek, spoke in favor.
Al Pense, Gold Canyon, spoke in favor.
Brian Roberts, Gold Canyon, spoke in favor.
Michael Killeen, Queen Creek, spoke in favor of helicopters.
Ron Serafinowicz, Gilbert, spoke in favor.
Joe Goetz, Gilbert, Spoke in favor.
Dan Coury, Queen Creek, spoke in favor of jets, helicopters and Jet A fuel.
Robin Benning, Queen Creek, spoke in opposition but supports emergency use of helicopters.
Edward Cardinal, Queen Creek, submitted written comments in favor.
Mary Gloria, Queen Creek – Pinal County, spoke in opposition.
Joanne Valestin, Queen Creek, spoke in favor.
David Canfield, Queen Creek, spoke in favor.
Greg Clark, Queen Creek, spoke in opposition.
Ronnie Wetch, Queen Creek, spoke in opposition.
Kyle Robinson, Queen Creek, submitted written comments in favor.
Maureen MacDonald, Queen Creek, spoke in opposition.

The Public Hearing was closed.

Council asked why an operations plan wasn't filed before if there were concerns from pilots. Mr. Traegarz responded that they had no authority of the airspace. Emergency landings for helicopters were discussed. There was also discussion on Jet A fuel, noise level of aircraft and current vs. future landing guidelines and current altitude of planes.

Motion to approve CU08-020 "Pegasus Airpark Helicopters and Jets", allowing helicopters, VLJ (very light jets) and an additional fuel tank to accommodate Jet A fuel with the additional recommended stipulations #19-23 (Brown/Wootten)

Council discussed some concern with information being provided by only the applicant, outstanding safety issues of helicopters and the possibility of obtaining independent third party data. Mr. Balmer said that specific questions could be answered. Council also discussed having the operations plan be approved prior to approval of the conditional use permit.

The safety provided by an operations plan was discussed and Council asked if any additional firefighting equipment would be required. Fire Chief Summers responded that there would be no need for additional staffing.

**Minutes for the Regular Session
Queen Creek Town Council
October 15, 2008
Page 6**

Roll Call Vote: Barnes – nay
Brown – aye
Hildebrandt – nay
Mortensen – nay
Wootten – nay
Sanders – aye

Motion failed 4-2.

Motion to approve CU CU08-020 as recommended by the Planning and Zoning Commission allowing jets but not helicopters with the additional stipulations #19-23 (Mortensen/Wootten)

Mr. Traegarz requested that if Council approved the motion that the Town develop an airspace plan and have it approved.

Roll Call Vote: Barnes – nay
Brown – aye
Hildebrandt – nay
Mortensen – aye
Wootten – aye
Sanders – aye

Motion Failed 4-2 (a $\frac{3}{4}$ vote of Council Members in attendance is required for Conditional Use permits)

Council asked if the Town could develop an airspace plan. Town Attorney Mattice stated the Town doesn't have the authority over airspace and advised not to agree to any statement that the Town would be required to develop or implement any such plan.

10. Discussion and possible action to reconsider the approval of **Ordinance 441-08** Annexation 07-166 "Circle G at Church Farms" approved on October 1, 2008.

Council Member Brown said that he had requested this item be brought back for reconsideration as there were still significant issues remaining with the recommended stipulations regarding road improvements and Queen Creek Wash improvements for the rezoning application at the time the annexation was approved on October 1, 2008. Council Member Brown added that there are now additional issues to be considered including completing an updated economic analysis. The current analysis that was used to base the annexation on was completed two years ago and showed a net gain of \$3 million over a 20-year period and that the applicant is not agreeing with the stipulations based on the financial implications of completing them.

Motion to reconsider Ordinance 441-08 Annexation 07-166 "Circle G at Church Farms" approved October 1, 2008 (Barnes/Brown)

Francis Slavin, representing the applicant, stated that the commercial corner was pre-sold and is scheduled to close in December 2008 and needed to have the annexation completed to accommodate the rezoning approval. He said it would be a financial detriment to the applicant if

March 29, 2012

Gail Barney
Mayor, Village of Queen Creek

CC:

Jeff Brown
John Kross
Wayne Balmer
Dave Williams
Gordon Bluth

Thank you for the note regarding a flight on last Friday, March 23.

I am aware of the flight that you are concerned about as I was outside that evening and saw then heard the jet fly by first in a direction from Williams Gateway to the South East and again, about twenty minutes later, return from the same direction

This flight originated at Gateway and returned to Gateway, its mission was to take photos of a large young adult weekend outing near Florence.

The pilot, Gordon Bluth, who lives at Pegasus and has a VLJ based at Gateway, confirmed to me that he was flying the aircraft, did not land or takeoff off from Pegasus, and was flying according to directions from Gateway Control Tower upon departure. He also indicated that he was given runway 30L to depart and in the departure process, was given a 270 degree turn to put him on his intended course. He indicated that he was going to the Florence area for an over flight and then returning back to Gateway. He climbed to 3,500 AGL (about 2,000 feet above ground level) during this turning climb and then cut back to cruise for the remainder of the flight.

Gordon indicated that on his return, he went around the south side of the San Tan Mountains at about 3,500 AGL and contacted Gateway for landing. He indicated that he was at cruise speed (low power setting) when crossing Pegasus as he was setting up for his landing.

Several important things:

He did not land or take off from Pegasus but from Gateway.
That there are persons at Gateway that can document his departure / return.
He was following directions from Gateway for takeoff and departure
He was well above the normal traffic pattern when crossing Pegasus
He was following directions from Gateway when setting up for landing

My question would be where this person lives that raised a concern. If they lived west of Williams, the aircraft may have been crossing over them in a climb as directed by Gateway. If not, the aircraft would have been at cruise speed setting which would be very quiet.

And there were just two complaints that were forwarded to me of which I believe are from the same person. If the aircraft came so low as to “scare the crap” out of them, I would have to believe there would have been numerous complaints, not just one (or two).

If the person who made the complaint would like to contact myself or Gordon to talk about this flight or to see the aircraft that made the flight, feel free to give them my contact information.

Bottom line:

The flight in question did not depart from or land at Pegasus

Sincerely
Pegasus Flight Association

Jack McCormick
President

April 1, 2012, 9:05
AM

Jack McCormick jack@bushpilotsinternational.com

Wayne Balmer, Dave Williams, Steve, Gordon, Charley, Dan

April 1, 2012

The Pegasus Flight Association hereby agrees to the stipulation to CU12-001/SP12-002 as specified and requested by Commissioner Robinson and passed by the Planning and Zoning Commission as follows:

Motion: Commissioner Robinson

To recommend approval of the CU12-001/SP12-002, "Pegasus Airpark – Very Light Jets", a request by The Pegasus Airpark Flight Association for approval of to amend Conditional Use Permit CU01-97 to allow the operation of very light jets (under 12,500 pounds) in addition to a request for an additional fuel tank to be used for Jet-A aircraft fuel. The property is located approximately one-quarter mile east of Ellsworth Road, north of Empire Blvd, providing a stipulation be added for third party independent noise studies be conducted every five (5) years to ensure the airpark is in compliance with Council approved DNL (does not exceed 65 DNL).

Jack McCormick
President

Jack McCormick

Pegasus Flight Association

March 5, 2012

Mr. Wayne Balmer, AICP
Planning Administrator, Development Services Department
Town of Queen Creek
22350 S. Ellsworth Road
Queen Creek, AZ 85242

RE: Pegasus Airpark – Modification of Stipulations Prohibiting Jet Aircraft and the Sale of Jet Fuel

Dear Mr. Balmer,

This letter is in response to the request from the Town of Queen Creek that our firm review the data provided regarding the requested modification to the zoning stipulations on Pegasus Airpark and provide our input on the subject.

Pegasus Airpark is requesting a modification to the current stipulations that restrict jets from being based or operating at Pegasus Airpark, as well as the stipulation prohibiting the sale of Jet-A fuel. The request for the stipulation change is based upon the national trend to more sophisticated turboprop and jet powered aircraft, and the lower noise levels generated by these aircraft types weighing less than 12,500 pounds.

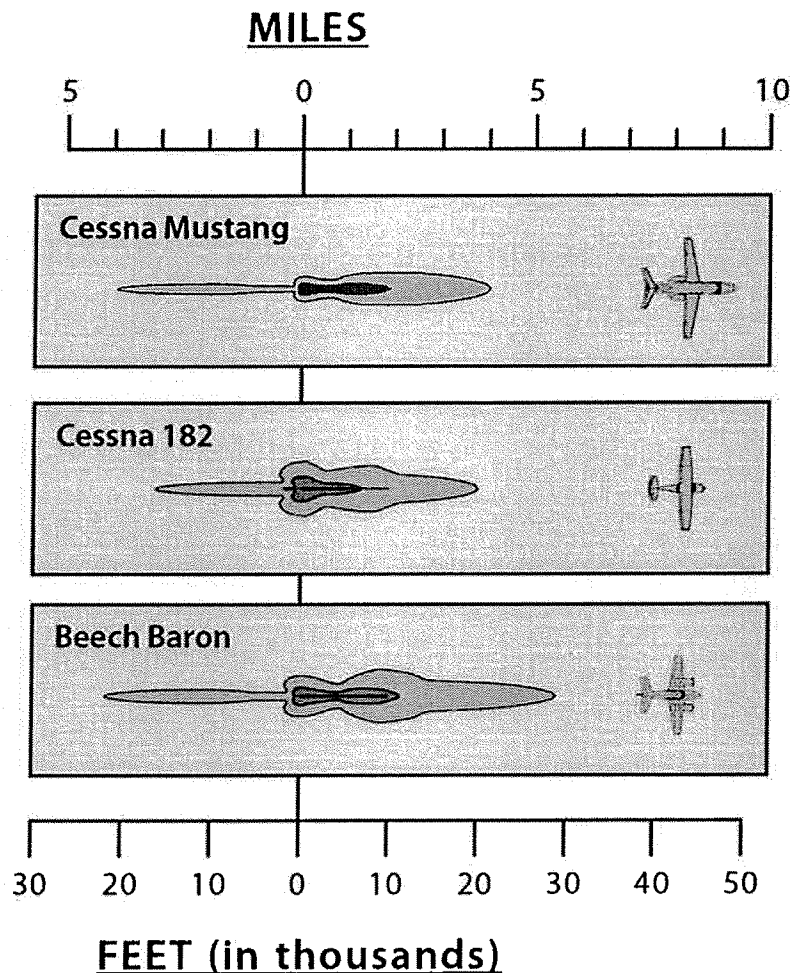
We concur with the national trend toward more sophisticated turboprop and jet powered aircraft. In 2010, there were an estimated 224,172 active general aviation aircraft in the United States based upon Federal Aviation Administration (FAA) statistics. According to FAA's forecasts¹, single engine fixed-wing piston aircraft are projected to increase at just 0.3 percent annually, and multi-engine fixed-wing piston aircraft are projected to decrease by 0.9 percent per year. This is due, in part, to declining numbers of multi-engine piston aircraft and the expectation that the new, light sport aircraft and the relatively inexpensive very light jets (VLJ) will dilute or weaken the replacement market for piston aircraft. The FAA expects the turbine-powered aircraft (turboprop and jet) to grow at an average annual rate of 3.1 percent through 2031. Even more significantly, the jet portion of this fleet is expected to grow at an average annual growth rate of 4.2 percent.

Two noise analysis reports prepared by Armstrong Consulting were provided supporting the conclusion that jets weighing less than 12,500 pounds (referred to as very light jets or VLJs) generate less noise than current aircraft at the airport. We've prepared noise footprint comparisons for three of the aircraft (two of these aircraft are included in the Armstrong

¹ Federal Aviation Administration Terminal Area Forecasts, 2011

Consulting report, the Beech Baron and the Cessna Mustang 510) using FAA's Integrated Noise Model (INM) version 7.0b. As seen in the graphic below, the jet powered aircraft (the Cessna Mustang) weighing less than 12,500 pounds generated less noise than either of the two piston driven aircraft. Both the Cessna 182 and Beech Baron are popular general aviation aircraft and are similar in flight characteristics to others of their type, and as a result, likely somewhat typical of the aircraft currently operating from Pegasus Airpark. The aircraft noise footprint contours were developed using the Integrated Noise Model (INM) version 7.0c. The inner contour represents the 90 sound exposure level (SEL) and the outer contour the 80 SEL.

The louder Stage 2 business jet aircraft (Lear 20 series or Gulfstream II/III), or variants with engine hushkits, exceed the 12,500 pound weight limit at Pegasus Airpark. Therefore, we concur that jet powered aircraft weighing less than 12,500 pounds would generate less noise than some of the aircraft currently operating at Pegasus Airpark.



Base upon our review of the information provided, we concur with staff's recommendation for CU12-001 and SP12-002, "Pegasus Airpark Very Light Jets," Site Plan and Conditional Use approval, to amend Conditional Use Permit 01-97 to allow the operation of very light jets (under

Mr. Wayne Balmer, AICP

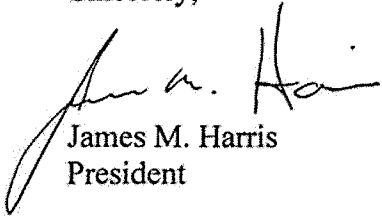
March 5, 2012

Page 3

12,500 pounds) and approval of an additional fuel tank to be used for Jet-A aircraft fuel, subject to the Conditions of Approval outlined in the staff's draft development services report.

In the meantime, if you have any questions or need additional information, please do not hesitate to give me a call at 602-993-6999.

Sincerely,

A handwritten signature in black ink, appearing to read "James M. Harris". The signature is written in a cursive style with a large, sweeping initial "J".

James M. Harris
President

SUNDAY, MARCH 4, 2012

Queen Creek revisits Pegasus Airpark request to land light jets

By Chase Kamp
San Tan Valley Today Publications

Pegasus Airpark, a gated residential aviation community in Queen Creek, is asking the town to allow light jets to land in the airpark's runway.

A similar request that included permission for helicopter landings was denied four years ago due to concerns about excessive noise for nearby communities, but officials from both Pegasus and the Town said noise will not likely be a factor this time around.

Pegasus submitted a request to the Queen Creek planning and zoning commission to allow the landing of VLJs, or very light jets, which will be reviewed by the commission at a public meeting on Mar. 14, 2012.

In Oct. 2008, the Queen Creek Town Council had a split vote on a conditional use permit amendment requested by Pegasus to land both VLJs and helicopters. "The biggest bone of contention was the inclusion of helicopters," said Queen Creek Councilman Jeff Brown.

An alternate motion was put forward by the Council to allow VLJs and not helicopters, which received a failing vote of 4-2. "Because of the conditional use aspect of that zoning case, the bar to pass would have been 6 of 7," Brown explained.

Pegasus has removed helicopters from its current request. Jack McCormick, President of the Pegasus Flight Association, said the airpark is now only requesting to land small business and private jets that are less than 10500 pounds. "We're not talking about the big liners that make so much noise," he said.

Queen Creek Planning and Zoning commission chair Steve Sossaman said VLJs have been sufficiently quiet for the last ten years. "It's always been about the helicopters," he said. "They're not quiet."

Sossaman said there was no issue taken with the aspects of the 2008 zoning request concerning VLJs, their departure tracks or the necessary fuel tanks, which was confirmed by Oct. 7, 2008 staff report.

Brown said he was impressed by the safety of the newer jets and "amazed at how quiet they were."

"Certainly they were a lot quieter than many if not most of the small planes that are currently allowed at Pegasus Airpark," Brown said.

The Pegasus Airpark community is located on Empire Boulevard just east of Ellsworth Road, about a mile from the Ellsworth Road-Hunt Highway curve.

In addition to reduced noise, Pegasus officials say VLJs have superior safety regulations. McCormick said VLJ pilots are required to receive more training than for standard piston aircraft. "They have raised the bar considerably because they are up in commercial flight levels," he said.

The VLJ is also held to a higher maintenance standard than other jets, said Richard Schmitt, a partial-owner of Pegasus Airpark and experienced corporate jet pilot.

“A typical jet engine will fly for 10,000 to 20,000 hours before overhaul,” Schmitt explained. “For a person who owns a jet, the FAA insists on an overhaul well before the maximum because those standards are designed for commercial airliners.”

Brown said the approval of VLJ landings could improve the prospects of lot sales in the Pegasus Airpark community.

“The lack of home sales in Pegasus Airpark is of course partly attributable to the downturn in the overall housing market,” he said. “It would be my contention, however, that another factor that prevents additional home sales there is the lack of approval for the newer, quieter VLJs.”

The request is tentatively scheduled for action by the Town Council on April 4.

To comment on this article and others, please visit: [Facebook.com/SanTanValleyNEWS](https://www.facebook.com/SanTanValleyNEWS) or send us an email at atNews@TodayPublications.com



**MINUTES OF THE REGULAR SESSION MEETING OF THE QUEEN CREEK
PLANNING AND ZONING COMMISSION**

Wednesday, March 14, 2012 7:00 P.M.

Council Chambers, 22350 S. Ellsworth Road, Queen Creek, AZ 85242

1. **CALL TO ORDER** The meeting was called to order at 7:00 p.m. by Vice-Chairman Ingram the Council Chambers of the Town Hall.
2. **ROLL CALL** (one or more members of the Commission may participate by telephone).

Present

Vice-Chairman Steve Ingram
Commissioner Jason Gad
Commissioner Alex Matheson
Commissioner Ryan Nichols
Commissioner Debbie Reyes
Commissioner Kyle Robinson

Absent

Chairman Steve Sossaman

Staff

Present

Planning Administrator Wayne Balmer
Senior Planner Dave Williams
Sr. Administrative Assistant Laura Catanese

Absent

3. **PUBLIC COMMENT**
There were no public comments.

4. **Consent Agenda:** Matters listed under the Consent Agenda are considered to be routine and will be enacted by one motion and one vote. Public Hearing items are designated with an asterisk (*). Prior to consideration of the Consent Agenda, the Chairman will ask whether any member of the public wishes to remove a Public Hearing item for separate consideration. Members of the Commission and/or staff may remove any item for separate consideration.

- a. **Consideration and Possible Approval of January 11, 2012 Work Study and Regular Session Minutes;**

Motion: Commissioner Gad

To approve the Consent Agenda, as presented.

2nd: Commissioner Reyes
Vote: All Ayes. Motion carried 6-0.

5. **Public Hearing, Discussion and Possible Action on CU12-001/SP12-002, “Pegasus Airpark – Very Light Jets”**. A request by The Pegasus Airpark Flight Association to amend Conditional Use Permit CU01-97 to allow the operation of very light jets (under 12,500 pounds) in addition to a request for an additional fuel tank to be used for Jet-A aircraft fuel. The property is located approximately one-quarter mile east of Ellsworth Road, north of Empire Blvd.

Staff Presentation

Planning Administrator, Wayne Balmer gave a brief slideshow presentation, providing site information, current and prohibited conditional uses, and project history. The applicant (Pegasus Airpark Flight Association) is requesting to amend Conditional Use Permit CU01-97 to allow the operation of very light jets (under 12, 500 pounds). Helicopter use is not included in the applicant’s proposal. Future construction of a Jet A fuel storage tank for use only by the residents of Pegasus Airpark/hanger owners is included in the proposal. There are no proposed changes to the current flight pattern of the airpark, and aircraft will operate within the existing approved pattern. Council has set the total number of aircraft to be based at Pegasus Airpark at 225, and there is no proposed change requested.

Regarding noise levels, there are two separate standards: DNL (day/night level) and single event noise (dBA). The DNL measures the single event noise levels created by the total number of flight operations and averages the noise level over a 24 hour period to develop an average daily noise level. In contrast, a single event noise is the number of decibels (dBA) of noise created by a specific aircraft operation. The current DNL noise ratings at the airport range from 38.2 to 46.8 DNL (depending on the location where the noise is measured). This is well below the 65 DNL approved under the current use permit (CU12-001). In order to better evaluate the applicant’s position regarding aircraft noise, the Town asked the aviation experts Coffman & Associates to review the materials submitted and to provide their opinions on the issue. In their letter of response dated March 5, Coffman & Associates state that the future use of very light jets is projected by the FAA to increase significantly, and they support the position that very light jets generate less noise than piston driven aircraft. Coffman & associates also supported the staff recommendation. Mr. Balmer concluded his presentation by stating that staff recommends approval of CU12-001 and SP12-002 for the following reasons:

- The number, size and performance of the aircraft proposed remains unchanged
- The existing non-commercial use of the airport remains unchanged
- New turbo-prop and very light jets provide the latest in aviation technology and safety
- The new turbo-prop and very light jets are quieter
- Staff analysis and recommendations were forwarded to Coffman and Associates for their review and they concurred with the staff position (Coffman & Associates are a nationally known aviation noise planning consulting firm)

Applicant’s Presentation

Jack McCormick of The Pegasus Airpark Flight Association gave a brief presentation that gave the following points of interest:

- Light jet use will have no impact on current noise constraints; light jets do not do a wind up as piston driven engines must.
- Approval of light jet use will have a positive effect on local economy.
- Light jet use is a safe mode of transportation; pilots must complete a rigorous training program on level with commercial aircraft pilot training.
- Jet A fuel is similar to kerosene, making it less volatile than gas driven engines

Questions & Comments from the Commission:

Gad: Thank you for the presentation. What is the current interest level? If approved, will you market directly to light jet owners?

Jack McCormick stated that he receives interest calls every 2-3 months; light jet owners seem to be waiting for development to begin. Pegasus has a reputation as being the “airport that does not allow jets”. All marketing is handled through real estate agents.

Robinson: It seems that the old technology (piston driven engines) is waning and light jets are “the wave of” a much quieter future. What precautions are in place concerning the safe is Jet a fuel tank?

Mr. Balmer stated the proposed Jet A fuel tank will include the following safeguards:

- 5-6 foot grouted 8” split face CMU wall
- Bollards surrounding the tank for added protection
- Containment for fuel spills
- Double hull tank design
- Cardlock system

Public Hearing

Vice-Chairman Ingram opened the Public Hearing at 7: 50 p.m.

IN FAVOR OF APPROVAL (Speaking):

1. Bradley Young, 20831 E. Orchard Lane, Queen Creek, 85142:
Light jets are quieter, current road noise is worse. Pegasus does not offer any pilot training.
2. Greg Davis, on behalf of Jason Barney, Chandler:
Light jet noise is less impactful and less noise over time.
3. Rich Fitschen, Chandler:
I think allowing light jets to operate at Pegasus would be a positive for not only the airpark but also for the Town of Queen Creek.
4. Lance Schneider, Chandler:
Light jets are the future of aviation and aviation safety.
5. Gordon Bluth, Queen Creek:
Slow approach speeds are flown by light jets.

IN FAVOR OF APPROVAL (Cards):

1. Ron Davis, Queen Creek:
I live close to the runway at Pegasus and have found that the small jets make less noise than piston driven aircraft.
2. David Canfield, 3186 E. Desert Moon Trail, San Tan Valley, 85143

I have attended several flight demonstrations at the airpark and do not think anyone outside the airpark would ever know one was in operation unless seen.

3. Ralph Clark, Queen Creek: Does not wish to speak.
4. Steve Lewis, Gold Canyon, 8003 E. Autumn Sage Trail, Gold Canyon, 85118:
I am a former president of an airport authority and know what an asset it can be to the community. Jets are a win-win for the community, giving a greater tax base from added residential living that would not come without the ability to have a jet. Potential residents have been lost for this reason this past year.
5. Gary Munson, 21927 E. Pegasus Parkway, Queen Creek, 85142:
Allowing light jets at Pegasus will not increase noise levels above current airplanes. It will also bring more opportunity for increased home sales and investments to our community.
6. Sharon Aut, Queen Creek: Does not wish to speak.
7. Joann Cardinal, Queen Creek: My thoughts have already been expressed.
8. Edward G. Cardinal: No comments on card.
9. Jim Meysenburg, San Tan Valley, 85143:
Does not wish to speak. I feel the addition of light jets to the traffic at Pegasus Airpark would only increase the amount of new residents to the area. It would be an important contribution to the community.

OPPOSED TO APPROVAL (Speaking):

1. Kare Watts, Queen Creek resident, gave the Commission two hand wrote letters, one from herself and one from her mother, Carolyn Lewis. Each are opposed to approval, citing the following reasons:
 - Noise pollution
 - Too close to neighborhoods
 - Disturbing to natural habitation
 - Frightening to domestic animals
 - Air pollution
 - Safety danger to resident (airplane crashes)
2. Regina Whitman, Queen Creek:
What happens when there are problems? Does the FAA regulate the pilots?
3. Donald Urrea, 19540 E. Happy Road, Queen Creek, 85142:
Horses hear aircraft frequency no matter what decibel it is. My concern is for the safety of my grandchildren when riding horses. If I had known Pegasus was coming when I purchased my home, I would have chosen a different residence.
4. Tom Lang, 6875 W. Hunt Hwy, Queen Creek:
I live west of the airport. Planes that fly over and bank near my home, which disturbs my horses. Will the Jet A fuel tank hold up in 100° heat?
5. Sylvia Centoz, 26226 S. Hawes Road, Queen Creek:
Planes fly over my house at low altitudes and spook my horses. In 1994 I collected 108 signatures in opposition of Pegasus Airpark and the subsequent changes have made things worse. There are three (3) current petitions in circulation opposing approval of very light jets

and Jet A fuel tank storage. Pegasus does not own all the airspace. The DNL is higher than presented.

6. Mary Brooks, San Tan Ranches (Pinal County):

I live west of the airpark and have been opposed to it from the beginning. Those that have been out here a long time (25+ years) feel double crossed – that we were promised one thing and given another. The Town needs to consider the needs of long time residents in equal proportion to the needs of new residents.

OPPOSED TO APPROVAL (Cards):

1. Arline Studley, Queen Creek, AZ: Does not wish to speak.

Comments: I reside in San Tan Heights in Pinal County, just south of Hunt Highway. As the public report indicated there would be small personal planes taking off and landing with nominal impact. I oppose commercial jets, light jets, or other aircraft. There is no need for them to land at Pegasus with Phoenix Mesa Gateway Airport in close proximity. I am also concerned with increased flight patterns over my home and more importantly the Horseshoe Park & Equestrian Center.

2. Carolyn Lewis: Does not wish to speak; no address given.

There being no further public comment, the Public Hearing was closed at 8:19 p.m.

Motion: Commissioner Robinson

To recommend approval of the CU12-001/SP12-002, “Pegasus Airpark – Very Light Jets”, a request by The Pegasus Airpark Flight Association for approval of to amend Conditional Use Permit CU01-97 to allow the operation of very light jets (under 12,500 pounds) in addition to a request for an additional fuel tank to be used for Jet-A aircraft fuel. The property is located approximately one-quarter mile east of Ellsworth Road, north of Empire Blvd, *providing a stipulation be added for third party independent noise studies be conducted every five (5) years to ensure the airpark is in compliance with Council approved DNL (does not exceed 65 DNL).*

Second: Commissioner Gad

Voting on the Motion:

Vote: Motion carried 6-0. UNANIMOUS

6. **Public Hearing, Discussion and Possible Action on RZ12-038/SD11-039, “Church Farm”**, a request by Greg Davis of iPlan Consulting on behalf of William Lyon Homes to rezone 879 acres from R1-43 to Planned Area Development (PAD) with underlying zoning districts of R/C, PQ/P, C-2, R1-4, R1-5, R1-7, and R1-9, in addition to a request for approval of a Preliminary Plat, Grading and Drainage Plan, and Landscape Plan for a master planned single family residential subdivision. The site is located at the southeast corner of Signal Butte and Ocotillo roads. There is a Maricopa county island to the north of the site and a Pinal County island to the east.

**Complete list of Conditions of Approval for Pegasus Airpark
from Case SU01-97 and Cases CU12-001/SP12-002**

1. The total quantity of planes allowed on the entire Pegasus Airpark Development shall not exceed 225; this shall include both the residential area and the FBO. The maximum quantity of planes allowed on the FBO shall not exceed 92 planes. This provision allows for there to be a lesser quantity of planes than 92 at the FBO, with a greater quantity of planes allowed in the residential area, provided that the total quantity of planes does not exceed 225 for the entire Pegasus Airpark Development.
2. Prior to seeking plat approval or any pre-development site activity, any required State and Federal Aviation Administration authorization of the aviation use must be obtained; and, further, there shall be no runway or other aviation lighting other than the minimum required for fixed wing or day or night operation. Aviation lighting shall only consist of pilot-controlled or activated lighting. No continuous lighting shall occur except for pilot-activated beacon lighting. However, this shall not prohibit the standard FAA approved light, illuminating a windsock for wind speed direction.
3. Residential lots shall be not less than one acre in area, exclusive of rights-of-way and taxiway easements; with overall density not exceeding .75 dwelling units per gross acre.
4. This Special Use approval specifically does not constitute plat or plan of development approval (noting, in particular, access problems on the schematic plan) and it is noted that separate, direct vehicular access to the fixed base operations, runway and other aviation-related common facilities is required. Prior to any building permits or zoning clearances being issued for the FBO developer shall receive site plan (plan of development) approval from the Town Council.
5. The following commercial uses are prohibited: charter, courier, commercial flight schools, scheduled air service and crop dusting.
6. The development shall adopt, and shall enforce by means of effective sanctions, rules prohibiting (except where violations are necessary for safety reasons) "touch and goes." Developer shall establish normal and recommended procedures for general aviation including approach and departure patterns that attempt to minimize noise over residential areas.
7. All aviation-related buildings (including, but not limited to, hangers and service buildings) are required to be screened from perimeter street view by an approved landscape plan and installation.
8. Required street, drainage and other dedications shall be completed prior to

seeking plan of development approval.

9. Aircraft noise shall not exceed a level of **65 DNL** at any boundary of the site. Pegasus Airpark shall be required to submit annual noise reports to the Town. Violation of this noise level will result in the Town issuing a warning to the Airpark. If the Airpark fails to take action against the violator(s) or the noise level is continued to be violated within the next 12 months by any airpark user then within three (3) months after the warning is received then this may be cause for the Town Council to conduct a Public Hearing(s) and consider revoking the Special Use Permit for the airpark. In any event the Special Use Permit shall not be revoked for violation of 65 DNL standard if the Airpark is exercising due diligence in bringing legal action in a court of competent jurisdiction to enjoin the violation.
10. The Town shall have the right to review Airpark operation performance to ensure compliance with the special use permit. Review of airpark performance shall include, but not be limited to, review of all FBO and flight association operations, such as investigation of books, accounts, reports, correspondence and audits
11. Hangar and tie-down construction at the FBO site may be allowed prior to residential house construction in accordance with the following: up to 50% of the total planes allowed on the f.b.o (46 planes of the 92 allowed). Once hangar or tie-down construction is completed to allow 46 planes, then one additional hangar may be allowed for every house constructed and a certificate of occupancy (c of o) issued by the town for the house. In general FBO development should be phased to coincide with residential occupancy in the subdivision.
12. Aircraft allowed to operate from Pegasus Airpark shall be limited to fixed-wing aircraft powered by piston (both gas and diesel engines), turbine, turbo fan, jet engines, as well as potential future equivalent propulsion technologies (i.e., electric powered, hydrogen, etc.) with a maximum take-off weight of 12,500 pounds or less and approach speed of less than 121 knots and wing span of less than 79 feet. Aircraft which are not fully Stage 3 noise compliant as defined by the FAA or which do not comply with the operational limits above related to weight, approach speed and wingspan are prohibited, as are ultra-light aircraft and powered parachutes. Light Sport category aircraft, as defined by the FAA, are not included in this prohibition. The specifications for this airpark shall be published and maintained in the CC and R's for the property, the Flight Association and the FAA airport facilities directory.
13. That the airpark shall be operated solely as a private airpark for use by residents of the Pegasus Airpark Development and members of the flight association. Guests may be allowed of either residents of the airpark development or flight association members provided that guests have

express prior permission from the airpark development or flight association members. Guests will not be allowed by those persons who own or lease hangars or own or lease tie-downs and do not reside on permanent basis at Pegasus Airpark. The exception to this requirement shall be for emergency landings. Such prior permission shall be granted only to persons having a bona fide reason for landing at the airpark, such as persons staying overnight or longer with Pegasus Airpark residents or flight association members who also reside at Pegasus Airpark. No person other than those defined herein shall be permitted to use the airpark, including by way of example and not limitation, those persons visiting for the sole purpose of refueling. This requirement shall be so stated in the appropriate C, C, and R's and the Federal Aviation Administration's Airport Facilities Directory. This in no way shall prohibit bonafide potential buyers to land at the airpark, nor prohibit special lot sales promotions during the initial phases of development of the airpark.

14. 100 Low Lead and Jet-A aircraft fuel is to be sold to members of the Flight Association and their authorized parties only.
15. Developer shall be required to meet all applicable Federal Aviation Administration fuel storage requirements and report to the Town that applicable fuel storage facilities are in compliance. Reporting mechanism to the Town shall, at a minimum, is via a copy of the notice of approval by the appropriate regulatory agency.
16. Any fuel system allowed on the property shall be designed as a private card-lock system for members of the HOA or flight association only.
17. The Developer shall submit a new "Notice of Proposed Landing Area" to the FAA for airspace approval. Documentation of this approval shall be submitted to the Town prior to issuance of any building permits.
18. Within 30-days of the date of Council's decision on this Special Use Permit, the applicant/developer shall pay to the Town of Queen Creek for all airport consulting costs up to \$1,500. **NOTE:** This condition was completed in 1998.
19. Location and design of a Jet-A aviation fuel tank shall be approved by staff.
20. Medical, police and similar emergency service aircraft, regardless of type may utilize Pegasus Airpark at any time as needed for public safety purposes.
21. The Conditional Use Permit approved in case number CU12-001 is effective upon signature by the property owner of the Prop 207 waiver and filing of the waiver with the Town of Queen Creek Planning Division. Failure to sign and return the waiver to the Planning Division within 5 working days of the date of

approval shall render this conditional approval null and void.

22. The Pegasus Flight Association shall complete a third party independent noise study on or before April 18, 2017, and every five years thereafter, and submit the results of the study to the Town to verify the Airpark has not exceeded the 65DNL noise level standard established by the Town Council.

Requesting Department:

Economic Development



TO: HONORABLE MAYOR AND TOWN COUNCIL

THROUGH: JOHN KROSS, TOWN MANAGER

FROM: DOREEN COTT, ECONOMIC DEVELOPMENT DIRECTOR
KIM MOYERS, ECONOMIC DEVELOPMENT SPECIALIST

RE: DISCUSSION AND POSSIBLE APPROVAL OF THE FAÇADE IMPROVEMENT PROGRAM.

DATE: April 18, 2012

Staff Recommendation:

Staff recommends the approval of the Façade Improvement Program utilizing Town Center Municipal funds.

Town Center Committee Recommendation:

The Town Center Committee recommends approval of the Façade Improvement Program utilizing Town Center Municipal funds.

Proposed Motion:

Move to approve the Façade Improvement Program as outlined for the purpose of stimulating revitalization in the more mature commercial area of the Town Center.

Discussion:

The Town Center Committee outlined an aggressive work plan at the beginning of Fiscal Year 11-12 with key goals and objectives from the different elements within the approved Town Center Plan. The Committee has been working over the past several months to develop a façade improvement program to encourage revitalization and beautification within the Town Center providing an economic development program tool to utilize the Town Center Funds. At the February 8, 2012 Town Center Committee meeting a Motion was made to: *accept the Façade Improvement application and program overview.*

This objective is also included in the Corporate Strategic Plan:

KRA 8: LAND USE/ECONOMIC DEVELOPMENT

Goal 1: Maintain a balanced community and economically diverse employment base. *Develop beautification program for the Town Center that includes façade improvement grants, gateway features, public art, special events, festival and activities and specific design standards for Town Center.*

The purpose of the Façade Improvement Program is to improve the appearance of building façades, the street-facing exteriors of commercial buildings or building that have been re-designated as commercial or office space, located in the Town Center. The program is aimed to stimulate revitalization in the oldest commercial area in Queen Creek, addressing deteriorating property conditions and to generate business in the Town Center commercial areas, perhaps even generating additional investment. The program is designed to encourage well-designed improvements, restore or improve architectural elements and interest in the Town Center and visually improve facades to encourage economic growth in the Town Center.

The Program will provide participants (property owners and tenants with owner approval) the opportunity to receive a reimbursement of up to 50% of eligible pre-approved improvement costs. The maximum amount for any individual grant award is \$20,000 per individual property owner. All projects should be considered permanent to the structure/façade and should remain as part of the property if the building is sold or applicant/tenant moves to a different location.

Eligible improvements include exterior painting, exterior signs, awnings, addition of patio or outdoor space. Ineligible activities include new building construction or interior work. Please see **Attachment A** for a full list of eligible/ineligible improvements.

The program will be managed by the Town of Queen Creek's Economic Development Department staff. All applications will be reviewed by committee comprised of staff and members of the Town Center Committee. On an annual basis, staff will publish the Façade Improvement Program Application with any applicable revisions. Revisions may include updated information on deadlines for application submission as well as other pertinent program deadlines and dates.

Applications for the program will be accepted (4) times per calendar year (July/October/January/April).

Fiscal Impact: The Town Center Committee's recommended that \$100,000 of the Town Center Municipal Funds be allocated toward the Façade Improvement Program.

Alternatives:

Direct staff to make modifications to the proposed Façade Improvement Program.

- Adjust the maximum amount of the individual grant.
- Alter the dates for the acceptance of applications – annual, bi-annual instead of quarterly.

Direct staff to not move forward with the Façade Improvement Program.

Attachments:

- A. Façade Improvement Program Overview and Purpose
- B. Application

DRAFT

Program Overview and Purpose

The purpose of the Façade Improvement Program is to improve the appearance of the Façade, the street-facing exteriors of a building and residential structures that have been re-designated as commercial or office space located in the Town Center. The Program's mission is to stimulate revitalization in the oldest commercial area in Queen Creek, addressing deteriorating property conditions and to generate business in the Town Center commercial areas. (Map to be included of Town Center properties eligible for participation)

The program will be managed by the Town of Queen Creek's Economic Development Department staff. On an annual basis, staff's responsibilities include:

- Revision and publishing the Façade Improvement Program Application. Revisions to include update of deadlines for submission as well as other pertinent program deadlines and dates.
- Prepare proposed total dollar amount to be allotted to each Façade Improvement project and total budget for annual program, along with the Town Center Committee.

Applications for the program will be accepted and distributed four (4) times per calendar year (July/October/January/April).

Eligible Criteria:

Eligible participants of the program include property owners of commercial buildings within the Town Center and tenants of commercial buildings. A business owner who is leasing space must have written approval from the property owner to participate in the program.

Eligible improvements must contribute to the visual enhancement of the property as viewed from the public right of way. Improvements must be comprehensive and may incorporate several of the acceptable components of the existing façade.

Examples of Typical Eligible Improvements Include:

- 1.) Exterior painting, cleaning, façade repair
- 2.) Plants and landscaping
- 3.) Exterior Signs
- 4.) Awnings
- 5.) Doors and windows
- 6.) Façade and display window lighting
- 7.) Demolition of obsolete structures
- 8.) Addition of a patio or outdoor space

Examples of Typical Ineligible activities:

- 1.) New building construction
- 2.) Any interior work
- 3.) Roof repairs, except those portions that directly attach to a new or renovated façade
- 4.) Any items that are not allowed by the Town of Queen Creek building code
- 5.) Parking lots and parking lot striping

Note: final decisions of financial contributions and eligible projects will be made by the review committee.

Façade Improvement Program Administration

The Program will provide participants the opportunity to receive a reimbursement of up to 50% of eligible pre-approved improvement costs. The maximum amount for any individual grant award is \$20,000 per individual property owner. Program would be subject to available funding as appropriated each year.

All projects should be considered permanent to the structure/façade and should remain as part of the property if building is sold or applicant moves to a different location.

Funding Source: Projects will be funded through the Town Center Municipal Fund. Funds will be budgeted on a yearly basis and will be announced at the beginning of the first cycle.

Goals:

- To encourage well-designed improvements
- To restore or improve architectural elements and interest to the structure
- To visually improve facades to encourage economic growth in Town Center

Who can apply for funding?

Any commercial property/building owner or business owner/tenant with written authorization from the owner for improvements may apply for funding.

Applicants may apply to the program more than once; however, will not be awarded funding more than twice in any five year period on the same property unless ownership changes.

Application Process:

- 1.) **Pre-Application information sessions.** Information sessions will be held approximately three to four weeks prior to the submission deadline of the application. The meeting will include:
 - a. a comprehensive review of the application
 - b. program requirements
 - c. approval process and terms and conditions of the grant
 - d. opportunity to ask questions
- 2.) **Complete and submit a formal Program application** to the Town of Queen Creek Economic Development Department no later than 5:00 pm upon the date of the deadline. Submissions should include:
 - a. a completed application
 - b. a site plan drawn to scale
 - c. altered property rehabilitation plans drawn to scale
 - d. photographs of the existing condition
 - e. estimated total project costs
 - f. if tenant is the applicant, letter of support from property owner indicating support of the project
- 3.) **Staff Application Review Process.** Town of Queen Creek "Town Center Design Review Team" will review each application for completeness, identify appropriate funding for each proposed project and prepare recommendations. Staff will evaluate applications on the following criteria:
 - a. Total project budget
 - b. Design plan
 - c. Location within Town Center
 - d. Returning facility into a productive use and/or creation of new uses within the space
 - e. Total linear feet of storefront to be improved
- 4.) **Following approval, the Town will issue a formal "Notice to Proceed".** Any work initiated BEFORE "Notice to Proceed" will not be eligible for funds reimbursement. Participants will be required to enter into and execute a written agreement with the Town of Queen Creek to establish the terms, conditions, and requirements for participation in the program.
- 5.) Following the "Notice to Proceed", but prior to work starting, **the applicant must secure any required building or development permits.**
- 6.) The applicant must submit copies of paid bills, cancelled checks, contractor lien waivers and receipts to the Town for reimbursements. Reimbursements can be requested on the last day of each month for work that has been completed. A receipt, picture of the completed work , along with the line item within the application that the work applied to will be needed for each reimbursement.
- 7.) The Economic Development Department inspects completed project to ensure that work was performed as outlined in application. This inspection does not replace or supersede any additional inspections that may be required by the Town's Building Safety Division.
- 8.) **Applicant is reimbursed up to the amount of the approved grant.** Work must be completed within 6 months of the stated start date unless otherwise noted in application.

DRAFT
FACADE IMPROVEMENT PROGRAM
APPLICATION

The purpose of the Façade Improvement Program is to improve the appearance of the Façade, the street-facing exteriors of commercial buildings and residential structures that have been re-designated as commercial or office space located in the Town Center. The Program's mission is to stimulate revitalization in the oldest commercial area in Queen Creek, address deteriorating property conditions and to generate business. For further details of this program, please review the Program Overview & Guidelines and the Application Process worksheet.

DATE:

PROPERTY INFORMATION

Property address:

Year property was constructed:

APPLICANT INFORMATION

Applicant Name:

Applicant Address:

Applicant Phone:

Applicant Email:

Business Name (if applicable):

How long have you been in business (if applicable)?

How many employees do you currently have on staff?

How many employees do you anticipate adding after improvements?

PROPERTY OWNER INFORMATION (If Applicant is not Property Owner):

Owner Name:

Owner Address:

Owner Phone:

Owner Email:

Is the Property Currently for Sale?

PROJECT INFORMATION

Anticipated Start Date:

Anticipated Finish Date:

Proposed Project TOTAL Cost:

Provide a narrative of your proposed project including types of improvements (doors, windows, signage, etc.) and outcomes for the building (how the project will improve your business):

Detailed Description (budget) of all construction, rehabilitation, and improvements, including types of materials and colors (attach final bids documents, photos, drawings and samples where possible). Include breakdown of all approximate costs associate with each line item.

Signature:

Property Owner's Name & Date

Business Owner's Name & Date

DISCLAIMER: I understand that all improvements are subject to obtaining the appropriate permits for the project. INITIAL: _____

Requesting Department:

Economic Development



TO: HONORABLE MAYOR AND TOWN COUNCIL

THROUGH: JOHN KROSS, TOWN MANAGER

FROM: DOREEN COTT, ECONOMIC DEVELOPMENT DIRECTOR
KIM MOYERS, ECONOMIC DEVELOPMENT SPECIALIST

**RE: DISCUSSION AND POSSIBLE APPROVAL OF THE
PEDESTRIAN STREET LIGHT BANNER & FLAG PROGRAM IN
THE TOWN CENTER.**

DATE: April 18, 2012

Staff Recommendation:

Staff recommends the approval of the pedestrian street light banner and flag program in the Town Center.

Town Center Committee Recommendation:

The Town Center Committee recommends approval of the pedestrian street light banner and flag program in the Town Center.

Proposed Motion:

Move to implement a one-year pilot of the banner and flag program in the Town Center for the 19 pedestrian street light poles along Ellsworth Road from Rittenhouse Road to Sierra Parkway.

Discussion:

The Town Center Committee outlined an aggressive work plan at the beginning of Fiscal Year 11-12 with key goals and objectives from the different elements within the approved Town Center Plan. Included in the FY11-12 work plan was the goal of *creating an identity for the Town Center*. One of the objectives for this goal includes allowing different businesses or organizations the opportunity to display banners on the pedestrian street light poles along Ellsworth Road to help with the marketing of a special event. A second objective includes the installation of flag brackets on the same street lights for the display of American flags on national holidays.

Banners

In an effort to encourage and promote special events that attract visitors to the community, the Town Center Committee has drafted a program to allow Queen Creek businesses or organizations to display banners on the 19 pedestrian poles along Ellsworth Road from Rittenhouse Road to Sierra Parkway. The business or organization

would be responsible for the cost associated with producing the banners including an "installation fee" for Town Staff to put up and take down the banners.

The opportunity to participate will be available on a first-come, first-serve basis, with Town events and activities taking first priority on the schedule. Applications will be reviewed by staff and scheduled for installation as appropriate. Banners will be changed on a six week rotation by the Public Works staff. The Public Works Street Division is currently responsible for hanging banners on the existing pedestrian lights along Ellsworth Road. Staff recommends that installation of the banners remain the responsibility of Public Works staff since they are already familiar with the process and the necessary safety precautions associated with this activity. Using a volunteer or outside group would increase liability for the Town. Installation time is approximately 2 hours for the 19 poles. The staff time associated with installing the banners will not impact current responsibilities and no overtime will be required to complete the work.

Banners must be for the marketing of a special event aimed to draw visitors and residents to the Queen Creek area. Banners can be re-used from year to year, if appropriate, in an effort to reduce costs.

At the February 8, 2012 Town Center Committee meeting, a MOTION was made and unanimously approved to *accept the banner program allowing any Queen Creek business or organization holding a special event designed to bring residents and visitors into Queen Creek to participate, subject to Town approval.*

A second MOTION was made and unanimously approved to *allow businesses to purchase a total of (19) banners OR half the banners (9-10) to be displayed with the specifications outlined in the banner program. This motion would allow for more than one special event to advertise concurrently.*

Flags

In a related program, the Town Center Committee recommended the purchase of American Flags for each of the pedestrian street light poles. Committee members agree that the flags will provide a strong visual impact for a low cost. The flags would attach to a bracket under the banner on the light poles.

At the February 8, 2012 Town Center Committee meeting, a MOTION was made and unanimously approved to *recommend the purchase of 19 American flags and associated brackets for the display of America flags on appropriate national holidays throughout the year.* Public Works staff will install the brackets and put the flags up and down on scheduled days.

Fiscal Impact:

The Banner Program requires the participating business or organization to purchase the banners and pay the installation fee.

The cost of the 19 American flags and brackets will be approximately \$2,500. Funds are available in the Town Center Municipal fund.

Alternatives:

1. Direct staff to make modifications to the Banner and Flag Program.
2. Approve only the Banner portion of the program.
3. Approve only the Flag portion of the program.
4. Direct staff to not move forward with the Banner and Flag Program.

Attachments:

- Banner Program Overview

DRAFT

Banner Marketing Opportunities

The Town of Queen Creek is offering the business community the opportunity to display banners on the 19 pedestrian poles along Ellsworth Road from Rittenhouse to Sierra Parkway.

Display banners will be available on a first-come, first-serve basis, with Town events and activities taking first priority. Applications must be sent to: _____.

Interested parties must provide **(20) 48" x 26" UV print on double sided banners with grommets on TOP and BOTTOM.**

Banners can be used from year to year if appropriate.

Banners must be brought to the Development Services Building, 22358 S. Ellsworth Rd, (1) week prior to scheduled time to be displayed and must be picked up within (1) week after being taken down.

Banners will be hung on a six week rotation – no changes will be permitted unless needed for Town events.

Banners must display a special event aimed to draw residents and visitors to the Queen Creek area.

Special events must be within Queen Creek boundaries.

Town of Queen Creek cannot be responsible for any damaged or stolen material.

DRAFT
Banner Application

Name: _____

Business Name: _____

Contact Phone Number & Email Address: _____

Event: _____

Event Date: _____

Event Description: _____

I would like to purchase banners for (circle one) ALL / HALF of the poles.