



BOARD OF SUPERVISORS AGENDA ITEM SUMMARY

Requested Board Meeting Date: November 18, 2014

ITEM SUMMARY, JUSTIFICATION &/or SPECIAL CONSIDERATIONS:

CONSENT TO USE OF EASEMENT BETWEEN: Frederick Russell and Samantha Horsman and Pima County, a political subdivision of the State of Arizona

Frederick Russell and Samantha Horsman (Russell) own property at 1420 East Ina Road which is encumbered by a Slope Easement that was granted to Pima County and recorded June 7, 1991 in Docket 9055 at page 171. Russell would like the option of constructing a privacy wall within the Slope Easement and has requested the approval of Pima County to do so. This Consent document grants that approval under certain terms and conditions which have been agreed to by all parties.

This Consent to Use of Easement has been reviewed and approved by appropriate County Staff.

Revenue: \$-0-

CONTRACT NUMBER (If applicable): N/A

STAFF RECOMMENDATION(S):

Staff recommends that the Pima County Board of Supervisors approve and the Chair execute the Consent to Use of Easement on behalf of Pima County, a political subdivision of the State of Arizona.

CORPORATE HEADQUARTERS: _____

CLERK OF BOARD USE ONLY: BOS MTG. November 18, 2014

ITEM NO. _____

PIMA COUNTY COST: \$ -0- and/or REVENUE TO PIMA COUNTY: \$ -0-

FUNDING SOURCE(S): N/A

(i.e. General Fund, State Grant Fund, Federal Fund, Stadium D. Fund, etc.)

Advertised Public Hearing:

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YES

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NO

Board of Supervisors District:

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All

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IMPACT:

IF APPROVED:

Russell will have the conditional approval of Pima County to construct a privacy wall on their property within the Slope Easement.

IF DENIED:

Russell will not have the conditional approval of Pima County to construct a privacy wall on their property within the Slope Easement.

DEPARTMENT NAME: Public Works Real Property Services

CONTACT PERSON: Marty Stickford

TELEPHONE NO.: 724-6379

WHEN RECORDED RETURN TO:
PIMA COUNTY REAL PROPERTY SERVICES
201 N. STONE, 6TH FLOOR
TUCSON, AZ 85701



CONSENT TO USE OF EASEMENT

1. **Parties.** This Consent to Use of Easement ("**Consent**") is entered into between FREDRICK RUSSELL and SAMANTHA HORSMAN (collectively "**Russell**"), and PIMA COUNTY, a political subdivision of the State of Arizona ("**County**").

2. **Background and Purpose.**

2.1. Russell is the owner of property that is encumbered by a Slope Easement granted to County, recorded June 7, 1991 in Docket 9055 at page 171, in the office of the County Recorder, Pima County, Arizona (the "**Easement**").

2.2. Russell desires to use a portion of the Easement for a privacy wall and related landscaping and improvements (collectively the "**Wall**"), and County consents to Russell's use of the Easement but only in accordance with the terms and conditions of his Consent, and for no other purpose which is not permitted by the Easement.

3. **Conditions Precedent to Construction of Wall.** Russell must satisfy the following conditions prior to construction of the Wall within the Easement:

- 3.1. The Wall must meet all applicable building and development requirements.
- 3.2. The Wall must satisfy the construction standards attached as Exhibit "A".
- 3.3. The exterior design of the Wall facing Ina Road must match the Ina Road side

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exterior design of the existing, adjacent walls and be approved by the Pima County Department of Transportation (“PCDOT”) prior to construction.

3.4. Russell shall obtain all applicable building permit(s).

4. **Construction and Planting.** All construction and planting activities within the Easement are subject to the following conditions:

4.1. Russell shall not reduce or compromise the overall subgrade of the Easement.

4.2. Russell shall replace impacted native vegetation with like kind substitutions if such impacted vegetation is not salvaged and transplanted on site.

4.3. Russell shall maintain all improvements and vegetation.

4.4. Russell shall, at Russell’s expense, remove or relocate all or any portion of the Wall as required by PCDOT, in the event a public improvement project necessitates the removal or relocation. In this event, County will provide one hundred twenty (120) days’ prior written notice to Russell.

5. **Completion of Wall.** The Wall shall not be deemed to be in compliance with this Consent until PCDOT has performed a final inspection after notification of completion of construction by Russell, and the Wall is approved by PCDOT. Russell shall perform any required modifications to the Wall as a result of the PCDOT inspection at Russell’s sole cost and expense.

6. **Maintenance of Wall.** Russell is responsible for all repairs and maintenance of the Wall and shall keep it in good, safe condition and repair.

7. **Hold Harmless.** To the fullest extent allowed by law, Russell will indemnify, defend, and holds harmless County, its officers, departments, employees, and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands, or damages of any kind or nature arising out of the use of the Easement by Russell, which are attributed, in whole or in part, to any act or omission of the Russell, its agents, representatives, employees, invitees, or anyone acting under its direction or control or on its behalf, whether intentional or negligent, in connection with or incident to the use of the Easement as permitted by this Consent. Russell’s responsibilities shall not extend to the negligence of County, its officers, departments, employees and agents.

8. **Term.** This agreement shall run with the land and be binding upon the Russell and County, and their successors, heirs and assigns.

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IN WITNESS WHEREOF, the parties hereto have caused this Consent to be executed through their respective authorized representatives, on the dates set forth below.

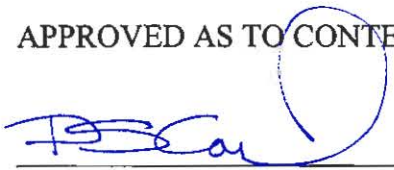
PIMA COUNTY

BY: _____
Chair, Board of Supervisors

ATTEST:

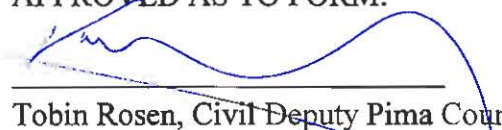
Robin Brigode, Clerk of the Board

APPROVED AS TO CONTENT:



Priscilla S. Cornelio, Director, PCDOT

APPROVED AS TO FORM:



Tobin Rosen, Civil Deputy Pima County Attorney

STATE OF ARIZONA)
) ss
COUNTY OF PIMA)

This instrument was acknowledged before me this _____ day of _____, 2014 by

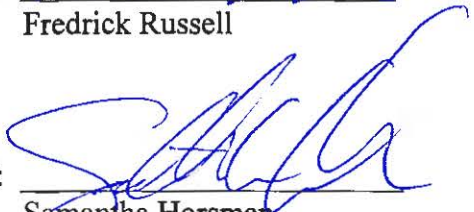
_____.

Notary Public

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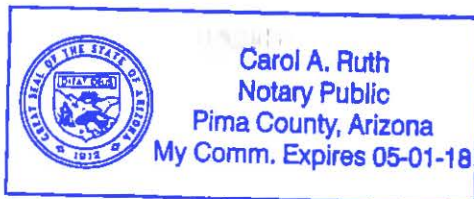
RUSSELL

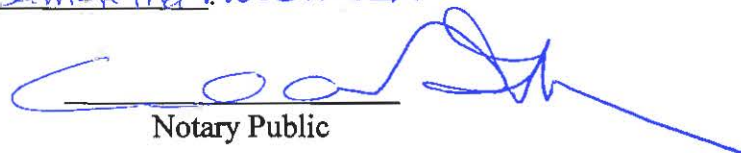
BY:  Dated 11/3/14
Fredrick Russell

BY:  Dated 11-03-2014
Samantha Horsman

STATE OF ARIZONA)
) ss
COUNTY OF PIMA)

This instrument was acknowledged before me this 3 day of Nov, 2014 by
Fredrick Russell & Samantha Horsman

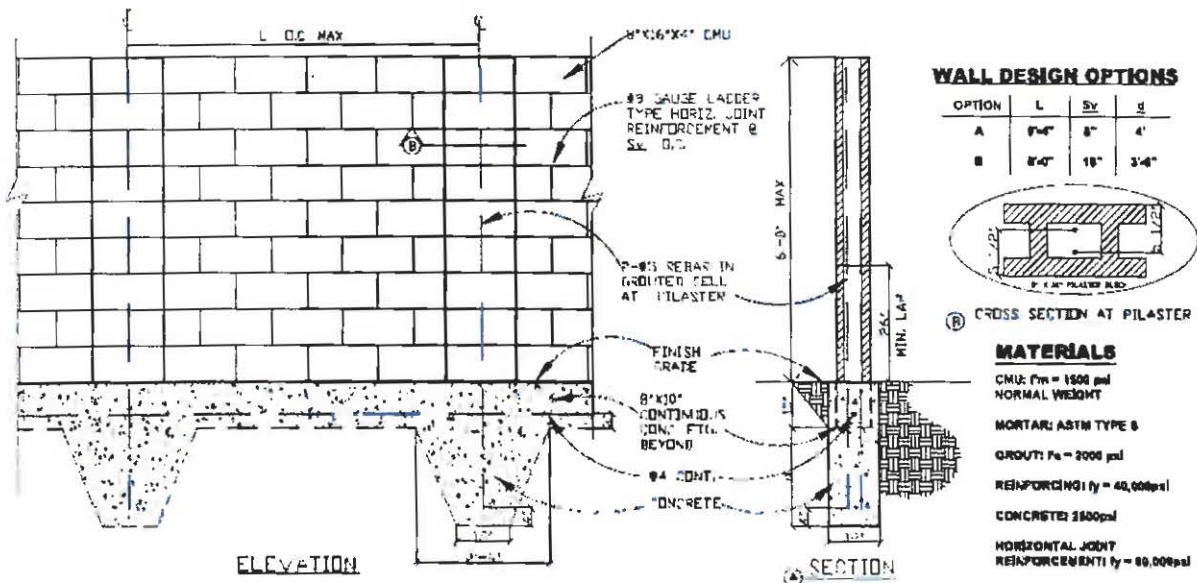



Notary Public

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4", 6", and 8" Masonry Wall Detail

- Construction shall comply with the currently adopted International Building Code.
- Walls/fences over four (4) feet require a zoning review and approval.
- Walls/fences not over seven (7) feet shall not require a building review and approval.
- Walls/fences not over four (4) feet shall not require a permit, but shall comply with all building and zoning requirements.
- Separate approval by Regional Flood Control District (RFCD) is required.
- Pima County makes no representations and assumes no responsibility or liability in providing this standard detail. Owners/applicants and professionals using this detail shall assume full responsibility for its design.
- Owner/applicant/builder is responsible for verifying soil conditions at the footing's bearing surface and is solely responsible for the performance for footing.
- Owner/applicant/builder is responsible for verifying location of property lines. Failure to do so may require the wall to be moved at owner's expense.
- State statute (ARS 40-360.22 requires that underground utilities be located prior to excavation activities. Information on the presence of underground utilities is available by contacting Arizona Blue Stake.

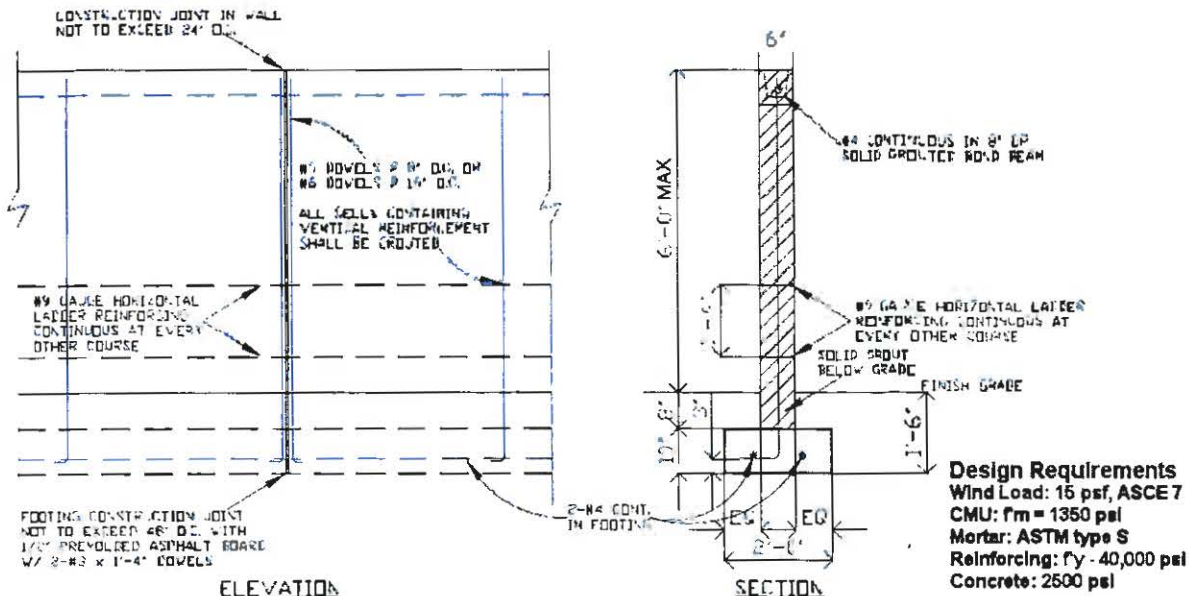


4" Masonry Wall

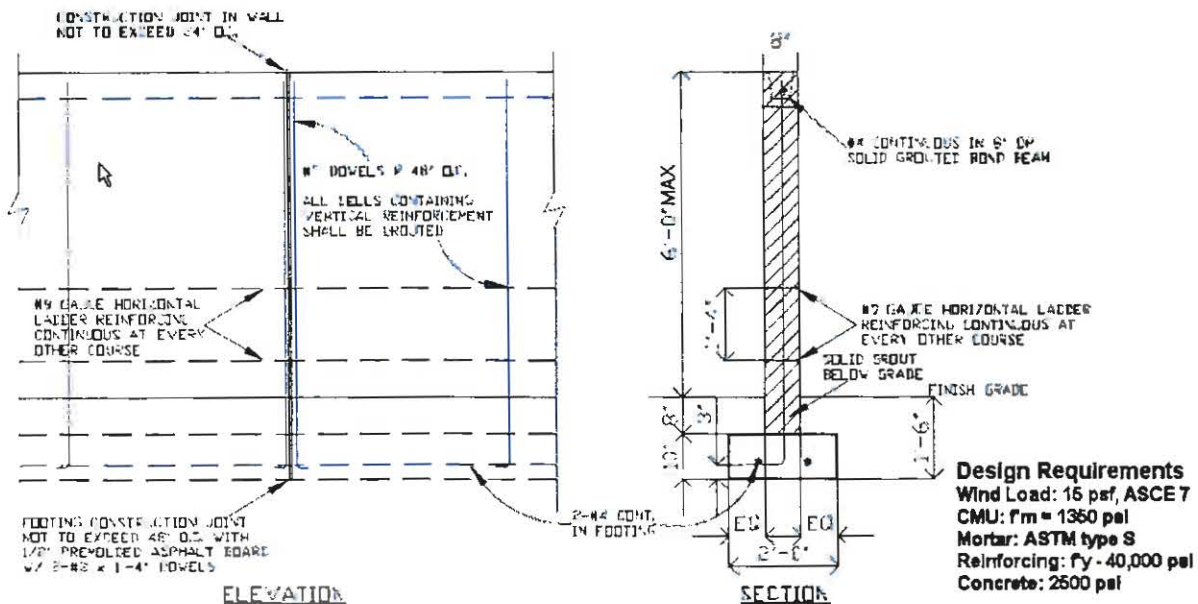
Exhibit "A" (Continued)



Carmine DeBolis, Jr.
Director



6" Masonry Wall



8" Masonry Wall