



BOARD OF SUPERVISORS AGENDA ITEM REPORT **CONTRACTS / AWARDS / GRANTS**

Requested Board Meeting Date: April 21, 2015

or Procurement Director Award ☐

Contractor/Vendor Name (DBA): QUIKTRIP Corporation, an Oklahoma corporation

Project Title/Description:

Easement and Maintenance Agreement

Purpose:

Easement and Maintenance Agreement ("Agreement") between QUIKTRIP Corporation, an Oklahoma corporation, ("QT") and Pima County, a political subdivision of the State of Arizona.

On December 17, 2013, Pima County Board of Supervisors approved Resolution and Order No. 2013-118 providing for the vacation by exchange of a portion of Sunrise Avenue for the fee dedication of other public right of way located within T13S, R13E, S16, G&SRM, Pima County, Arizona. The QT requested this abandonment to facilitate the future development of a fueling and convenience store and also as part of their development plan approval process. The Agreement sets forth the obligations of both parties as they pertain to continued public access, road maintenance and timing of the exchange for the replacement right of way.

Procurement Method:

N/A

Program Goals/Predicted Outcomes:

Staff recommends that the Pima County Board of Supervisors approve and the Chair execute the Easement and Maintenance Agreement.

Public Benefit:

Public access along Sunrise Avenue will continue to be preserved during construction. Pima County will continue to maintain this right of way until such time as QT completes the construction of the replacement right of way and this right of way is accepted by Pima County.

Metrics Available to Measure Performance:

N/A

Retroactive:

N/A

Procure Dept 03/31/15 PM12:34

*Ver. 1 To: COB. 4.8.15
Vendor-1
Pgs. - 13*

Original Information

Document Type: CTN Department Code: PW Contract Number (i.e., 15-123): 15*128
Effective Date: 4/21/15 Termination Date: 4/21/17 Prior Contract Number (Synergen/CMS): N/A
☐ Expense Amount: \$ 0 ☐ Revenue Amount: \$ 0
Funding Source(s): N/A

Cost to Pima County General Fund: \$0

Contract is fully or partially funded with Federal Funds? ☐ Yes ☒ No ☐ Not Applicable to Grant Awards
Were insurance or indemnity clauses modified? ☐ Yes ☒ No ☐ Not Applicable to Grant Awards
Vendor is using a Social Security Number? ☐ Yes ☒ No ☐ Not Applicable to Grant Awards

If Yes, attach the required form per Administrative Procedure 22-73.

Amendment Information

Document Type: _____ Department Code: _____ Contract Number (i.e., 15-123): _____
Amendment No.: _____ AMS Version No.: _____
Effective Date: _____ New Termination Date: _____
☐ Expense ☐ Revenue ☐ Increase ☐ Decrease Amount This Amendment: \$ _____
Funding Source(s): _____

Cost to Pima County General Fund: _____

Contact: Dana Hausman

Department: Public Works Real Property Services Telephone: 724-6713
Department Director Signature/Date: [Signature] 3-25-2015
Deputy County Administrator Signature/Date: [Signature] 3/26/15
County Administrator Signature/Date: [Signature] 3/27/15
(Required for Board Agenda/Addendum Items)

<p>PIMA COUNTY DEPARTMENT OF: REAL PROPERTY SERVICES</p> <p>PROJECT: Easement and Maintenance Agreement</p> <p>COMPANY: QUIKTRIP CORPORATION, an Oklahoma corporation</p> <p>AMOUNT: \$0.00</p>	<table border="1"> <tr> <td data-bbox="917 283 1404 430" style="text-align: center;"> <p>CONTRACT</p> </td> </tr> <tr> <td data-bbox="917 430 1404 661"> <p>NO. <u>CTN.PW-1500001000000000128</u></p> <p>AMENDMENT NO. _____</p> <p><small>This number must appear on all invoices, correspondence and documents pertaining to this contract.</small></p> </td> </tr> </table>	<p>CONTRACT</p>	<p>NO. <u>CTN.PW-1500001000000000128</u></p> <p>AMENDMENT NO. _____</p> <p><small>This number must appear on all invoices, correspondence and documents pertaining to this contract.</small></p>
<p>CONTRACT</p>			
<p>NO. <u>CTN.PW-1500001000000000128</u></p> <p>AMENDMENT NO. _____</p> <p><small>This number must appear on all invoices, correspondence and documents pertaining to this contract.</small></p>			

EASEMENT AND MAINTENANCE AGREEMENT

1. Parties. This Easement and Maintenance Agreement ("**Agreement**") is entered into between QUIKTRIP CORPORATION, an Oklahoma corporation ("**QT**") and PIMA COUNTY, a political subdivision of the State of Arizona ("**County**"). QT and County are collectively referred to herein as the ("**Parties**").

2. Background.

2.1. In order to develop its property as a convenience store and fueling station, QT has agreed to construct and convey to County, a replacement public roadway ("**RPR**") as described in Exhibit "A", in exchange for County's abandonment (the "**Abandonment**") and conveyance to QT of a public right-of-way known as Sunrise Avenue ("**Sunrise**"), as described in Exhibit "B" (the "**Abandoned Property**").

2.2. The Abandonment and RPR were approved by the Pima County Board of Supervisors (the "**BOS**") in Resolution and Order No. 2013-118, recorded January 8th, 2014, Sequence No. 20140080445 (the "**Resolution**").

2.3. The Resolution incorrectly stated that it would become effective only in the event the BOS approved the development plan for QT in File No. P13DC00007. In fact, the County Staff approves all development plans, and so the Resolution becomes effective once County Staff approves the development plan File No. P13DC00007. County Staff has, in fact, approved the QT development plan in File No. P13DC00007.

2.4. The recitals to the Resolution incorrectly stated that QT had conveyed the RPR to County. The Resolution further stated that the deed for the RPR would be recorded simultaneously with the Quit Claim Deed for the Abandoned Property. The Parties desire to provide in this Agreement for the Abandonment of the Abandoned Property, and the conveyance of the RPR, in accordance with the Resolution and this Agreement.

2.5. This Parties desire to preserve the County's public access and maintenance rights across Sunrise until such time as QT's construction of the RPR is completed and accepted by County.

3. Construction of RPR. QT agrees to complete construction of the RPR within twenty-four (24) months from the Effective Date. QT agrees to construct the RPR to Pima County standards and to pay all construction costs in accordance with approved Development Plan No. P13DC00007. The RPR shall be deemed completed when a Letter of Acceptance is issued by the Pima County Department of Transportation for the RPR (the "**Completion Date**").

4. Continued Use of Sunrise. The Parties agree that Sunrise will continue to be used as road right of way by the public until the RPR has been completed and accepted by County, the RPR is open for use by the public, and the Abandonment and Conveyance pursuant to Section 5 below has been completed.

5. Abandonment and Conveyance. Within ten (10) days following Completion Date, the Parties shall simultaneously record the deed for the Abandoned Property conveying the Abandoned Property to QT, and the deed for the RPR conveying the RPR to County.

6. Effective Date. This Agreement shall be effective (the "**Effective Date**") on the date it is signed by the Parties. This Agreement shall be deemed signed by County on the date that it is signed by the Chair of the Pima County Board of Supervisors.

7. Assignment. This Agreement may not be assigned by QT without the prior written consent of County, which may be withheld at County's sole discretion.

8. Attorney's Fees. In the event any action, suit or proceeding at law or in equity is instituted with respect to this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, expenses and court costs incurred.

9. Attorney's Review. The Parties acknowledge that they have had an opportunity to consult with legal counsel regarding this Agreement, and that the terms of this Agreement are not to be construed against any party because that party drafted the Agreement, or construed in favor of a party because that party failed to understand the legal effect of the provisions of this Agreement. The Pima County Attorney is signing as to form only, and represents solely the interests of Pima County. Each party shall bear the costs of their attorney incurred in connection with the negotiation and drafting of this Agreement.

10. Authority. The undersigned represent to each other that they have full power and authority to enter into this Agreement, and that all necessary actions have been taken to give full force and effect to this Agreement.

11. Binding Agreement. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, successors and assigns, as permitted hereunder.

12. Compliance with Laws; Governing Law; Venue. Each Party shall comply with all federal, state, and local laws, rules, regulations, standards, and Executive Orders without limitation to those designated within this Agreement. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Agreement, and any disputes hereunder. Any action relating to this Agreement shall be brought in a court of the State of Arizona in Pima County. Any changes in the governing laws, rules, and regulations during the terms of this Agreement shall apply, but do not require an amendment.

13. Conflict of Interest. This Agreement is subject to cancellation within three (3) years after its execution pursuant to A.R.S. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement on behalf of the County is, at any time while this Agreement or any extension of the Agreement is in effect, an employee or agent of any other party to the Agreement with respect to the subject matter of the Agreement.

14. Counterparts. This Agreement may be executed in separate counterparts, each of which shall be deemed to be an original, and all of which taken together constitute one and the same instrument.

15. Entire Agreement; Modification. This Agreement constitutes the entire Agreement between the Parties and supersedes all agreements, representations, warranties, statements, promises, and understandings, whether oral or written, with

respect to the subject matter thereof, and no party hereto shall be bound by or charged with any oral or written agreement, representations, warranties, statements, promises, or understandings not specifically set forth in this Agreement. This Agreement may not be amended, altered or modified except by a writing signed by all the Parties.

16. No Agency Created. Nothing contained in this Agreement shall create any partnership, joint venture, or agency relationship between the Parties.

17. No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement, and no person or entity not a party hereto shall have any right or cause of action hereunder.

18. Non-Waiver. The failure of either Party to insist on any one or more instances upon the full and complete performance of any of the terms and conditions of this Agreement to be performed on the part of the other, or to take any action permitted as a result thereof, shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future.

19. Severability. Each provision of this Agreement stands alone, and any provision of this Agreement found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Agreement.

20. Exhibits. The following exhibits to this Agreement are fully incorporated herein as if set forth at length:

- Exhibit A** Description of Replacement Road (RPR)
- Exhibit B** Description of Sunrise

The Parties have executed this Agreement as set forth below.

COMPANY: QUIKTRIP CORPORATION, an Oklahoma corporation

By: Troy C. Davis

MARCH 16, 2015
Date

Name: TROY C. DAVIS

Title: DIRECTOR OF REAL ESTATE

COUNTY: Pima County, a body politic and corporate of the State of Arizona:

Sharon Bronson, Chair, Pima County Board of Supervisors

Date

ATTEST:

Robin Brigode, Clerk of Board

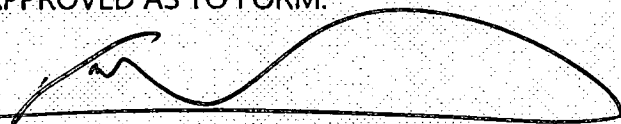
Date

APPROVED AS TO CONTENT:



Neil Konigsberg, Manager, Real Property Services

APPROVED AS TO FORM:



Tobin Rosen, Deputy County Attorney, Civil Division

EXHIBIT "A"
LEGAL DESCRIPTION
RIGHT OF WAY ACQUISITION

"Parcel I"

A portion of Lots 4 & 27 of "Sunrise Add. No. 3", according to Book 13 of Maps & Plats, Page 63, Pima County Recorder's Office, also being a portion of land situated in the Southwest Quarter of Section 16, Township 13 South, Range 13 East of the Gila and Salt River Meridian, Pima County, Arizona, being more particularly described as follows:

Commencing at a Found Brass Cap Flush Marked LS 19817 at the South Quarter Corner of said Section 16, from which a Found 1/2" Rebar at the Center Quarter Corner of said Section 16 bears North 00 degrees 17 minutes 31 seconds East, a distance of 2619.21 feet;

Thence South 89 degrees 31 minutes 00 seconds West, along the South line of the Southwest Quarter of said Section 16, a distance of 1066.81 feet, to the Centerline of Sunrise Avenue;

Thence North 00 degrees 19 minutes 24 seconds East, along said Centerline, a distance of 364.83 feet, to a point hereinafter referred to as Point 'A';

Thence South 89 degrees 51 minutes 21 seconds West, a distance of 25.00 feet, to a point on the Westerly Right-of-Way line of Sunrise Avenue, said point also being a point on the East line of said Lot 27, which is 45.00 feet South of the Northeast corner of said Lot 27, said point also being the **POINT OF BEGINNING**;

Thence South 89 degrees 50 minutes 22 seconds West, parallel with and 45.00 feet South of the North line of said Lots 4 & 27, a distance of 175.12 feet, to a curve to the left, having a Radius of 25.00 feet;

Thence Southwesterly, along said curve, through an Arc Length of 39.04 feet, and a Central Angle of 89 degrees 29 minutes 00 seconds, to a point of cusp on the Easterly Right-of-Way line of Maryvale Avenue;

Thence North 00 degrees 21 minutes 22 seconds East, along said Easterly Right-of-Way line, a distance of 69.78 feet, to the Northwest corner of said Lot 4;

Thence North 89 degrees 50 minutes 22 seconds East, along the North line of said Lots 4 & 27, a distance of 199.87 feet, to a point on the Westerly Right-of-Way line of Sunrise Avenue, said point also being the Northeast Corner of said Lot 27;

Any modification to or omission from this description completely
absolves the surveyor from any liability for this description.

Thence South 00 degrees 19 minutes 24 seconds West, along said Westerly Right-of-Way line, a distance of 45.00 feet, to the **POINT OF BEGINNING**.

"Parcel II"

A portion of Lots 34 & 57 of "Sunrise Add. No. 3", according to Book 13 of Maps & Plats, Page 63, Pima County Recorder's Office, also being a portion of land situated in the Southwest Quarter of Section 16, Township 13 South, Range 13 East of the Gila and Salt River Meridian, Pima County, Arizona, being more particularly described as follows:

Commencing at Point 'A' as described above;

Thence North 89 degrees 51 minutes 21 seconds East, a distance of 25.00 feet, to a point on the Easterly Right-of-Way line of Sunrise Avenue, said point also being a point on the West line of said Lot 34, which is 45.00 feet South of the Northwest corner of said Lot 34, said point also being the **POINT OF BEGINNING**;

Thence North 00 degrees 19 minutes 24 seconds East, along said Easterly Right-of-Way line, a distance of 45.00 feet, to the Northwest corner of said Lot 34;

Thence North 89 degrees 52 minutes 28 seconds East, along the North line of said Lots 34 & 57, a distance of 199.86 feet, to a point on the Westerly Right-of-Way line of Plane Avenue, said point also being the Northeast Corner of said Lot 57;

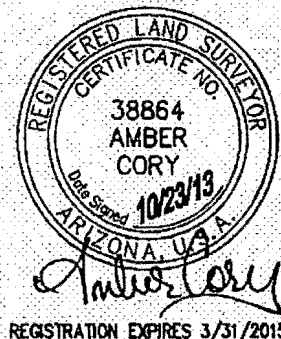
Thence South 00 degrees 17 minutes 29 seconds West, along said Westerly Right-of-Way line, a distance of 70.18 feet, to a point of cusp for a curve having a radius of 25.00 feet and to which a radial line bears South 89 degrees 42 minutes 31 seconds East;

Thence Northwesterly, along said curve, through an Arc Length of 39.45 feet, and a Central Angle of 90 degrees 25 minutes 02 seconds;

Thence South 89 degrees 52 minutes 28 seconds West, parallel with and 45.00 feet South of the North line of said Lots 34 & 57, a distance of 174.71 feet, to a point on the Easterly Right-of-Way line of Sunrise Avenue, said point also being the **POINT OF BEGINNING**.

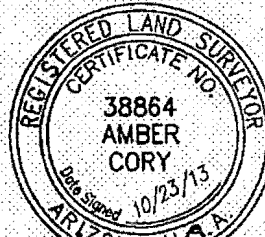
See Depiction of Exhibit "A" attached hereto and made a part hereof.

Any modification to or omission from this description completely absolves the surveyor from any liability for this description.



DEPICTION OF EXHIBIT 'A' RIGHT OF WAY ACQUISITION

FOUND 1/2" REBAR
CENTER 1/4 CORNER,
SEC. 16, T.13S., R.13E.



REGISTRATION EXPIRES 3/31/2015

FOUND & ACCEPTED
1/2" REBAR NO I.D.

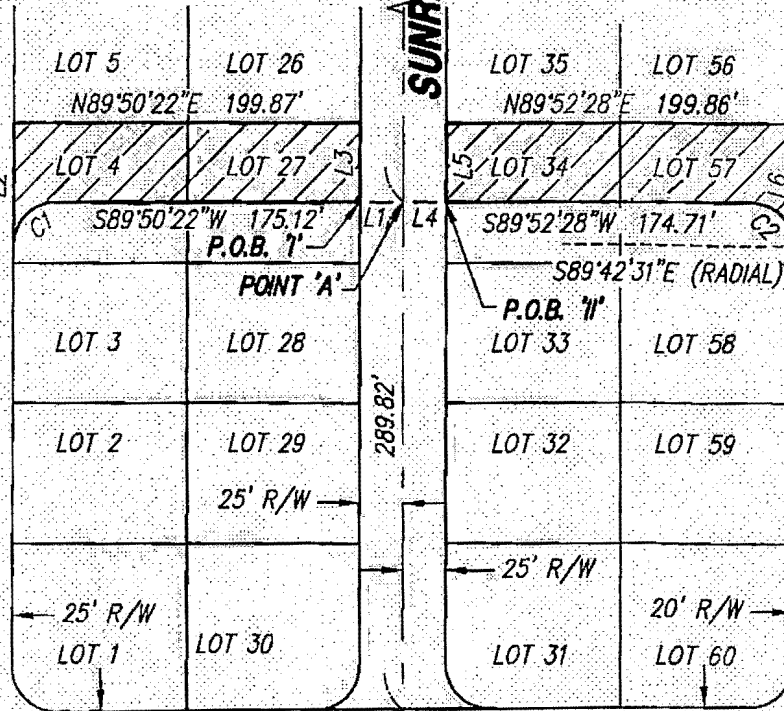
FOUND & ACCEPTED
1/2" REBAR NO I.D.
NORTHWEST CORNER,
SE 1/4, SW 1/4,
SEC. 16, T.13S., R.13E.

SCALE: 1"=100'

MARYVALE AVENUE

SUNRISE AVENUE

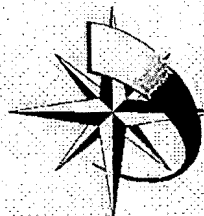
PLANE AVENUE



RUTHRAUFF ROAD

SOUTHWEST CORNER,
SEC. 16, T.13S., R.13E.
(FOUND UNMONUMENTED DIVOT)

FOUND BRASS CAP FLUSH
MARKED LS 19817
SOUTH 1/4 CORNER,
SEC. 16, T.13S., R.13E.



NORTHSIGHT

LANDSURVEYCONSULTING INC
21840 N. 18th Avenue, Suite C-103 | Phoenix, Arizona 85027
P: 480-303-0833 | F: 480-303-0834
www.NorthsightSurvey.com

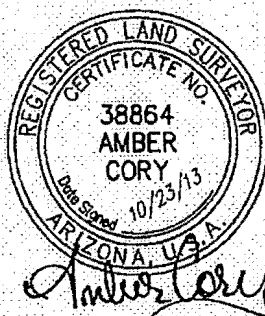
DEPICTION OF EXHIBIT 'A' **RIGHT OF WAY ACQUISITION**

LINE TABLE		
LINE	BEARING	LENGTH
L1	S89°51'21"W	25.00'
L2	N00°21'22"E	69.78'
L3	S00°19'24"W	45.00'
L4	N89°51'21"E	25.00'
L5	N00°19'24"E	45.00'
L6	S00°17'29"W	70.18'

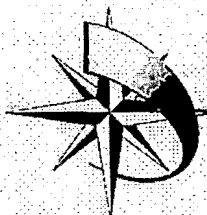
CURVE TABLE			
CURVE	RADIUS	LENGTH	DELTA
C1	25.00'	39.04'	89°29'00"
C2	25.00'	39.45'	90°25'02"

"PARCEL I" AREA = 9,126 SQUARE FEET OR 0.210 ACRES, MORE OR LESS.

"PARCEL II" AREA = 9,131 SQUARE FEET OR 0.210 ACRES, MORE OR LESS.



REGISTRATION EXPIRES 3/31/2015



NORTHSIGHT

LANDSURVEYCONSULTING INC

21840 N. 19th Avenue, Suite C-103 | Phoenix, Arizona 85027

P: 480-303-0833 | F: 480-303-0834

www.NorthSightSurvey.com

EXHIBIT "B"
LEGAL DESCRIPTION
RIGHT OF WAY ABANDONMENT

That portion of Sunrise Avenue, as recorded in the Final Plat of "Sunrise Add. No. 3", according to Book 13 of Maps & Plats, Page 63, Pima County Recorder's Office, also being a portion of land situated in the Southwest Quarter of Section 16, Township 13 South, Range 13 East of the Gila and Salt River Meridian, Pima County, Arizona, being more particularly described as follows:

Commencing at a Found Brass Cap Flush Marked LS 19817 at the South Quarter Corner of said Section 16, from which a Found 1/2" Rebar at the Center Quarter Corner of said Section 16 bears North 00 degrees 17 minutes 31 seconds East, a distance of 2619.21 feet;

Thence South 89 degrees 31 minutes 00 seconds West, along the South line of the Southwest Quarter of said Section 16, a distance of 1066.81 feet, to the Centerline of said Sunrise Avenue;

Thence North 00 degrees 19 minutes 24 seconds East, along said Centerline, a distance of 75.01 feet, to a point on the prolongation of the Northerly Right-of-Way of Ruthrauff Road, said point being the **POINT OF BEGINNING**.

Thence South 89 degrees 31 minutes 00 seconds West, parallel with and 75.00 feet North of the South line of the Southwest Quarter of said Section 16, and along said prolongation, a distance of 49.65 feet, to point of cusp for a curve having a radius of 25.00 feet and to which a radial line bears South 00 degrees 29 minutes 00 Seconds East;

Thence along the West Right-of-Way line of Sunrise Avenue, Northeasterly along said curve to the left, through an Arc Length of 38.92 feet, and a Central Angle of 89 degrees 11 minutes 36 seconds, to a point of tangency;

Thence continuing along said West Right-of-Way line, North 00 degrees 19 minutes 24 seconds East, a distance of 265.32 feet, to a point on the East line of Lot 27 of said "Sunrise Add. No. 3", which is 45.00 feet South of the Northeast corner of said Lot 27;

Thence North 89 degrees 51 minutes 21 seconds East, a distance of 50.00 feet, to a point on the West line of Lot 34 of said "Sunrise Add. No. 3", which is 45.00 feet South of the Northwest corner of said Lot 34;

Thence along the East Right-of-Way line of Sunrise Avenue, South 00 degrees 19 minutes 24

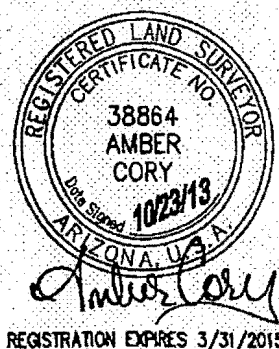
Any modification to or omission from this description completely
absolves the surveyor from any liability for this description.

seconds West, a distance of 264.32 feet, to the beginning of a tangent curve, having a Radius of 25.00 feet;

Thence continuing along said East Right-of-Way line, and along said curve to the left, through an Arc Length of 39.62 feet, and a central angle of 90 degrees 48 minutes 24 seconds, to a point of tangency on the North Right-of-Way line of Ruthrauff Road;

Thence South 89 degrees 31 minutes 00 seconds West, parallel with and 75.00 feet North of the South line of the Southwest Quarter of said Section 16, and along the prolongation of said Northerly Right-of-Way line, a distance of 50.36 feet, to the **POINT OF BEGINNING**.

See the Depiction of Exhibit "A" attached hereto and made a part hereof.



Any modification to or omission from this description completely absolves the surveyor from any liability for this description.

DEPICTION OF EXHIBIT "B" RIGHT OF WAY ABANDONMENT

FOUND 1/2" REBAR
CENTER 1/4 CORNER,
SEC. 16, T.13S., R.13E.



REGISTRATION EXPIRES 3/31/2015

FOUND & ACCEPTED
1/2" REBAR NO I.D.

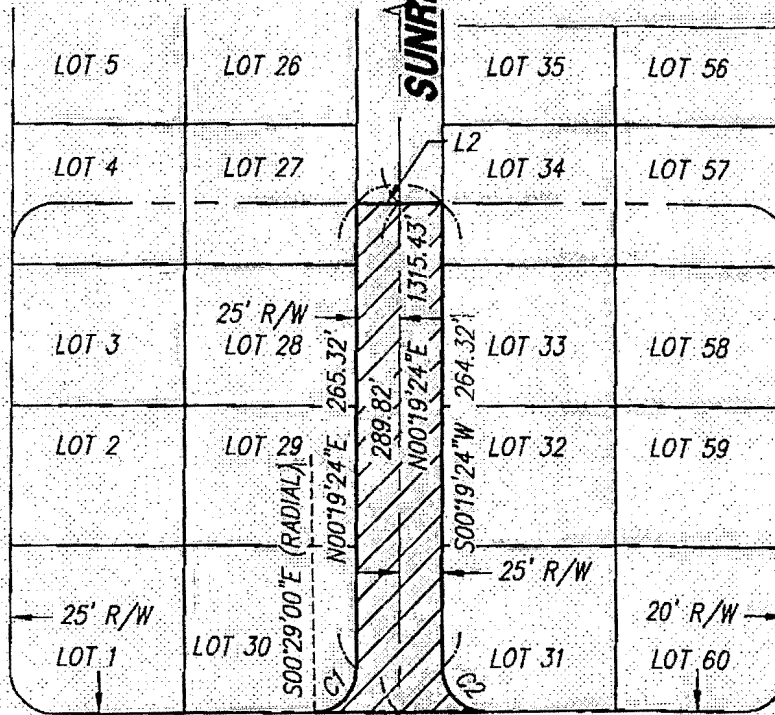
FOUND & ACCEPTED
1/2" REBAR NO I.D.
NORTHWEST CORNER,
SE 1/4, SW 1/4,
SEC. 16, T.13S., R.13E.

SCALE: 1"=100'

MARYVALE AVENUE

SUNRISE AVENUE

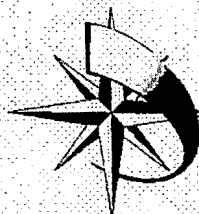
PLANE AVENUE



RUTHRAUFF ROAD

SOUTHWEST CORNER,
SEC. 16, T.13S., R.13E.
(FOUND UNMONUMENTED DIVOT)

FOUND BRASS CAP FLUSH
MARKED LS 19817
SOUTH 1/4 CORNER,
SEC. 16, T.13S., R.13E.



NORTHSIGHT

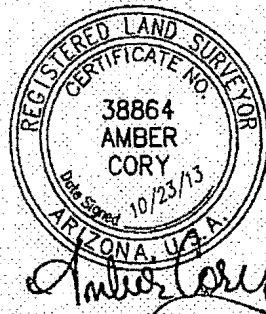
LANDSURVEYCONSULTING INC
21840 N. 19th Avenue, Suite C-103 | Phoenix, Arizona 85027
P: 480-303-0833 | F: 480-303-0834
www.NorthsightSurvey.com

DEPICTION OF EXHIBIT "B" **RIGHT OF WAY ABANDONMENT**

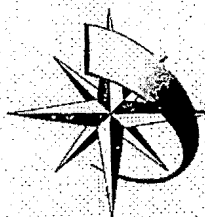
LINE TABLE		
LINE	BEARING	LENGTH
L1	S89°31'00"W	49.65'
L2	N89°51'21"E	50.00'
L3	S89°31'00"W	50.36'

CURVE TABLE			
CURVE	RADIUS	LENGTH	DELTA
C1	25.00'	38.92'	89°11'36"
C2	25.00'	39.62'	90°48'24"

ABANDONMENT AREA = 14,759 SQUARE FEET OR 0.339 ACRES, MORE OR LESS.



REGISTRATION EXPIRES 3/31/2015



NORTHSIGHT
LAND SURVEY CONSULTING INC
 21640 N. 18th Avenue, Suite C-103 | Phoenix, Arizona 85027
 P: 480-303-0833 | F: 480-303-0834
www.NorthsightSurvey.com