

**AMENDED AGENDA  
TOWN OF CAMP VERDE  
REGULAR SESSION  
MAYOR AND COUNCIL  
473 S. MAIN STREET, SUITE 106  
WEDNESDAY, August 5, 2020 at 6:30 P.M.  
ZOOM MEETING LINK <https://us02web.zoom.us/j/88365463737>**

**ADDING ITEM 9.A**

**DISCUSSION, CONSIDERATION AND POSSIBLE APPROVAL OF RESOLUTION  
2020-1051, A RESOLUTION OF THE TOWN OF CAMP VERDE, YAVAPAI COUNTY,  
ARIZONA, APPROVING A DEVELOPMENT INCENTIVE AGREEMENT WITH VERDE  
COMMERCIAL, LLC. (STAFF RESOURCE-STEVE AYERS**

**ADDITIONAL INFORMATION FOR ITEM 9**

**FINAL VERSION OF DEVELOPMENT AGREEMENT FROM  
ATTORNEY SIMS. CHANGE IN SECTION 2.2.**



*Support your local merchants*

**AMENDED AGENDA  
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Note: Council member(s) may attend Council Sessions either in person or by telephone, video, or internet conferencing.

1. **Call to Order**
2. **Roll Call.** Council Members Buck Buchanan, Joe Butner, Bill LeBeau, Jessie Murdock, Robin Whatley; Vice Mayor Dee Jenkins; and Mayor Charles German.
3. **Pledge of Allegiance**
4. **Consent Agenda** – All those items listed below may be enacted upon by one motion and approved as consent agenda items. Any item may be removed from the Consent Agenda and considered as a separate item if a member of Council requests.
  - a) **Approval of the Minutes:**
    - 1) Regular Session – July 15, 2020
  - b) **Set Next Meeting, Date and Time:**
    - 1) Open House – Wednesday August 12, 2020 at 6:00 p.m.
    - 2) Regular Meeting – Wednesday August 19, 2020 at 6:30 p.m.
    - 3) Regular Meeting – Wednesday September 2, 2020 at 6:30 p.m. Reinstated
5. **Call to the Public for items not on the Agenda. (Please complete Request to Speak Card and turn in to the Clerk.)** Residents are encouraged to comment about any matter NOT included on the agenda. State law prevents the Council from taking any action on items not on the agenda. At the conclusion of an open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask staff to review a matter or may ask that a matter be put on a future agenda. However, members of the public body shall not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action. (Pursuant to ARS §38-431.01(H))

6. **Special Announcements and Presentations**
  - Verde Valley Senior Center – Elaine Bremner – Annual Update and Funding Request for Meals on Wheels
  - Project Update for Phase 1B of the Camp Verde Sports Complex and the Current Status of the Land and Water Conservation Fund Grant – Ron Long
7. **Discussion and Possible Recommendations regarding Communications and Proposals between Council Members that resulted in an Open Meeting Law Violation and a Prescribed Protocol to Self-Report to the Attorney General’s Office.** Staff Resource Cindy Pemberton
8. **Discussion and Consideration to direct staff to process the USDA grant awarded in the amount of \$60,000 to the Camp Verde Arena Association for purchase of bleachers and other associated items.** Staff Resource – Russ Martin
9. **Presentation, Discussion and Possible Approval of a Development Incentive Agreement between the Town of Camp Verde, an Arizona Municipal Corporation and Verde Commercial, LLC, a Minnesota limited liability Company.** Staff Resource – Steve Ayers
- 9A. **DISCUSSION, CONSIDERATION AND POSSIBLE APPROVAL OF RESOLUTION 2020-1051, A RESOLUTION OF THE TOWN OF CAMP VERDE, YAVAPAI COUNTY, ARIZONA, APPROVING A DEVELOPMENT INCENTIVE AGREEMENT WITH VERDE COMMERCIAL, LLC. (STAFF RESOURCE-STEVE AYERS)**
10. **Discussion, Consideration and Possible Approval by the Mayor and Common Council of the Town of Camp Verde, Arizona, for the acceptance of the bid amount of \$1,250 for a portion of APN 404-12-319 and \$1,250 for a portion of APN 404-12-320, as surplus property, as published in accordance with A.R.S §9-402. The proposed surplus parcels combined are approximately 9,045 square feet in size, located behind 3565 S. Quirt Circle, APN 404-12-332A, in Camp Verde, Yavapai County, Arizona.** Staff Resource Russ Martin and Melinda Lee
11. **Discussion, Consideration and Possible Approval by the Mayor and Common Council of the Town of Camp Verde, Arizona, to proceed with the publication of a legal notice for “Request for Qualifications” of local real estate agents to select for the sale of surplus property. The proposed property is located at 4092 E. Cripple Creek Drive, APN 404-13-401, in Camp Verde, Yavapai County, Arizona.** Staff Resource Russ Martin and Melinda Lee
12. **Covid-19 Update.** Staff Resource Russ Martin

- 13. Call to the Public for items not on the Agenda. (Please complete Request to Speak Card and turn in to the Clerk.)** Residents are encouraged to comment about any matter NOT included on the agenda. State law prevents the Council from taking any action on items not on the agenda. At the conclusion of an open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask staff to review a matter or may ask that a matter be put on a future agenda. However, members of the public body shall not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action. (Pursuant to A.R.S. §38-431.01(H))
- 14. Council Informational Reports.** These reports are relative to the committee meetings that Council members attend. The Committees are: Copper Canyon Fire & Medical District, Yavapai College Governing Board, Yavapai Apache Nation, Intergovernmental Association, NACOG Regional Council, Verde Valley Regional Economic Organization (VVREO), League Resolutions Committee, Arizona Municipal Risk Retention Pool, Verde Valley Transportation Org, Verde Valley Transit Committee, Verde Valley Water Users, Verde Valley Homeless Coalition, Verde Front, Verde Valley Steering Committee of MAT Force, Public Safety Personnel Retirement Board, Phillip England Center for the Performing Arts Foundation. In addition, individual members may provide brief summaries of current events. The Council will have no discussion or take action on any of these items, except that they may request that the item be placed on a future agenda.
- 15. Manager/Staff Report** Individual members of the Staff may provide brief summaries of current events and activities. These summaries are strictly for informing the Council and public of such events and activities. The Council will have no discussion, consideration, or take action on any such item, except that an individual Council member may request that the item be placed on a future agenda.
- 16. Adjournment**

CERTIFICATION OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at the Town of Camp Verde and Bashas on 08-04-2020 at 10:00 a..m.

Cindy Pemberton  
Cindy Pemberton, Town Clerk

*Note: Pursuant to A.R.S. §38-431.03. (A)(1); (A)(2) and (A)(3), the Council may hold an Executive Session for purposes of consultation for legal advice with the Town Attorney on any matter listed on the agenda, or discussion of records exempt by law from public inspection associated with an agenda item.*

*Pursuant to A.R.S. §38-431.01 Meetings shall be open to the public - All meetings of any public body shall be public meetings and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings. All legal action of public bodies shall occur during a public meeting. The Town of Camp Verde Council Chambers is accessible to the handicapped. Those with special accessibility or accommodation needs, such as large typeface print, may request these at the Office of the Town Clerk at 928-554-0021*

When Recorded Return To:

Town Clerk  
Town of Camp Verde  
473 South Main Street  
Camp Verde, Arizona 86322

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## DEVELOPMENT INCENTIVE AGREEMENT

THIS DEVELOPMENT INCENTIVE AGREEMENT ("Agreement") is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 2020 (the "Effective Date"), by and between the TOWN OF CAMP VERDE, an Arizona municipal corporation ("Town"), and VERDE COMMERCIAL LLC, a Minnesota limited liability company ("Verde Commercial" or "Owner") (collectively, the "Parties").

### RECITALS

- A. Owner desires to develop a commercial project on two parcels comprising approximately 81 acres located south of the Interstate 17 and State Route 260 interchange within the Town's limits, known as Yavapai County Assessor's Numbers 403-22-035A and 403-22-035H as more specifically described in Exhibit A, attached hereto and incorporated by reference (the "Property").
- B. Owner intends to develop the southwestern portion of the Property for storage of recreational vehicles ("RV") and boats ("RV/Boat Storage") at the southwest corner of the Property in a first phase ("Phase One") as more specifically depicted in the site plan, dated February 3, 2020, attached as Exhibit B ("Site Plan"). The balance of the Property will be developed for retail, hospitality, commercial, industrial, warehouse, or other similar use depending on tenant interest in a future phase ("Phase Two") (the Phase One and Phase Two developments are collectively referred to as the "Project").
- C. Town and Owner hereby acknowledge and agree that Owner's obligation to develop the Project will result in significant benefits accruing to the Town and the general public including, without limitation, expansion of the employment base within the Town, increased property values, increased tax revenues, and incentivizing the development of adjacent properties, and will improve or enhance the economic welfare of the citizens of Camp Verde.
- D. In connection with the construction of Phase One, Owner will build a public roadway on the Property in phases as depicted in the Site Plan that will become a loop road upon the completion of Phase Two as described in Section 2.1 below (the "Public Roadway Improvements"). Town has agreed to offset Owner's costs to construct the Public Roadway Improvements by reimbursing a portion of sales tax paid for construction of the Project ("Construction Sales Tax Reimbursement") as described in this Agreement.

- E. Owner will undertake all actions required by Town in order to obtain permits for the Project and to construct the Project pursuant to the terms and conditions set forth in this Agreement and complying with all Town rules and regulations.
- F. The Parties acknowledge that this Agreement constitutes a “Development Agreement” within the meaning of Arizona Revised Statutes (“A.R.S.”) § 9-500.05, and that, accordingly, it shall be recorded against the interest of the Owner in the Property in the Office of the Yavapai County Recorder to give notice to all persons of its existence and of the Parties’ intent that the burdens and benefits contained herein be binding on and inure to the benefit of the Parties and all their successors in interest and assigns.
- G. Town has determined that the Project is in accordance with the Town’s C-2 PAD zoning designation and General Plan’s Finnie Flat Character Area designation in place on the date of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## AGREEMENT

### 1. **Recitals.**

- 1.1. The recitals set forth above are acknowledged by the Parties to be true and correct and are incorporated into this Agreement by this reference.

### 2. **Agreements.**

- 2.1. Public Roadway Improvements. As part of Phase One, Owner shall construct an extension of North Goswick Way and dedicate public right-of-way through the Property as depicted in the Site Plan (“Goswick Extension”). As part of Phase Two, Owner shall construct an extension of Homestead Parkway and dedicate public right-of-way to connect with the Goswick Extension as a loop through the Property as depicted in the Site Plan (“Homestead Extension”). Together, the Goswick Extension and Homestead Extension constitute the “Public Roadway Improvements.” All Public Roadway Improvements shall be constructed in accordance with all Applicable Laws (hereinafter defined in Section 3) and shall be subject to review and inspection by the Town pursuant to Applicable Laws.
- 2.2. Construction Sales Tax Reimbursement. In connection with construction of the Project, Owner shall pay or cause to be paid Town’s current three and sixty-five hundredths percent (3.65%) transaction privilege tax rate for construction contracting pursuant to Section 8-415 or Section 8-417 of the Town of Camp Verde Tax Code (“Construction Sales Tax”). Town agrees to reimburse Owner for the cost to construct the Public Roadway Improvements in an amount not to exceed \$600,000 (“Maximum Reimbursement”) as set forth in this Section 2.2.
  - (a) Phase One. For improvements constructed in Phase One, the Town agrees it shall reimburse Owner an amount equal to fifty percent (50%) of each and every payment of Construction Sales Tax for Phase One construction that the Town has received as of the date of the final certificate of occupancy for the RV/Boat Storage within thirty (30) days of issuance of a final certificate of occupancy for the RV/Boat Storage use.

(b) Phase Two. For improvements constructed in Phase Two, the Town agrees that to the extent its Construction Sales Tax Reimbursement has not met the Maximum Reimbursement, it shall reimburse Owner (i) one hundred percent (100%) of Construction Sales Tax paid for construction of improvements for any retail or hospitality use that the Town has received as of the date of the final certificate of occupancy for the improvements within thirty (30) days of issuance of a final certificate of occupancy for each such use, and (ii) an amount equal to fifty percent (50%) of each and every payment of Construction Sales Tax paid for construction of improvements for any other use, including warehousing, industrial, or storage, that the Town has received as of the date of the final certificate of occupancy for the improvements within thirty (30) days of issuance of a final certificate of occupancy for each such use.

(c) Audit.

(i) Determination of Allocated Revenues Received by the Town. The Town Manager (or his designee) shall determine the amount of the Construction Sales Tax Reimbursement payment.

(ii) Computation and Report of Revenues. Within forty-five (45) days following the end of each Town fiscal year, the Town will deliver to the Owner a statistical report of all Construction Sales Taxes generated from taxable activities subject to this Agreement.

(iii) Audit and Contest. Owner shall have the right to audit and contest the Town Manager's (or his designee's) determination of the Construction Sales Tax Reimbursement payment owed to Owner for each payment under this Agreement.

(d) Timing. The Construction Sales Tax Reimbursement provided for in this Section 2.2 shall terminate upon the earlier to occur of (i) payment of the Maximum Reimbursement or (ii) at the expiration of the Term of the Agreement but shall only apply to the initial construction of each phase of the Project and not any additional or future redevelopment of the Property.

2.3. Assignability. The Construction Sales Tax Reimbursement provided by the Town to the Owner pursuant to this Agreement may be assigned by the Owner to any other party, including any successor owner of the Property or any portion thereof. The Owner shall provide the Town notice as provided in Section 7.1 of any such assignment and the identity of the successor (and chief executive, manager or operator, as applicable). This Agreement binds, benefits, and may be enforced by the parties and their respective heirs, successors, and permitted assigns.

3. **Applicable Laws**. The development of the Property shall be subject to all federal, state, county and local laws, ordinances and regulations ("Applicable Laws") in existence as of the Effective Date that are applicable to the Property. Except for the following exceptions, Town shall not

impose or enact any additional Applicable Laws that adversely impact the ability to develop the Property for the Project:

- 3.1. Amended or new Town ordinances and regulations specifically agreed to in writing by Owner;
- 3.2. Amended or new Town ordinances or regulations necessary to comply with county, state and federal laws and regulations in effect at that time;
- 3.3. Amended or new Town ordinances and regulations reasonably necessary to alleviate threats to public health and safety, provided such Town ordinances and regulations shall be applied uniformly and not arbitrarily to all areas that are subject to the similar threat;
- 3.4. Changes to taxes, filing fees, review fees, inspection fees, or development impact fees that are imposed on or charged by Town to all similarly situated persons and entities; and
- 3.5. Future updates of, and amendments to, existing building, construction, plumbing, mechanical, electrical, drainage, and similar construction and safety-related codes, such as the Uniform Building Code, which updates and amendments are generated by a nationally recognized construction safety organization or by the county, state, or federal government, provided that such building or safety code updates and amendments are not applied discriminatorily against any portion of the Property; and further provided that such future updates shall not apply to any improvements for which a permit already has been issued, unless retroactive application is mandated by the State of Arizona, by Yavapai County, or by federal law.

Nothing herein shall be interpreted as relieving Owner from any obligations which it may have with respect to applicable regulations enacted by the federal government, Yavapai County or the State of Arizona. Nothing in this Agreement shall alter or diminish Town's authority to exercise its eminent domain powers.

#### 4. **Term.**

- 4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of ten (10) years. The Agreement shall terminate automatically on the tenth anniversary of the Effective Date.

#### 5. **Default and Remedies.**

- 5.1. Events Constituting Default. A party hereunder shall be deemed to be in default under this Agreement if such party breaches any obligation required to be performed by the respective party hereunder, and such breach or default continues for a period of twenty (20) days after written notice of the default, in the event of a monetary default, or ninety (90) days after written notice of the default, in the event of non-monetary default, from the non-defaulting party (or, if a non-monetary default cannot reasonably be cured within ninety (90) days, then the party shall be in default if it fails to commence the cure of such breach within the 90-day period and diligently pursue the same to completion).
- 5.2. Remedies. In the event that a party is in default under this Agreement and fails to cure such default within the applicable period of cure set forth in Section 5.1 above, the party or Parties not in default shall have all rights and remedies available as provided for in this Agreement, in addition to all rights and remedies at law, or in equity.



**6. Conflict of Interest; Representatives Not Individually Liable.**

6.1. Conflict of Interest. Pursuant to Arizona law, rules and regulations, no member, official or employee of the Town shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested. This Agreement is subject to, and may be terminated by Town in accordance with the provisions of A.R.S. §38-511.

6.2. No Personal Liability. No member, official, officer, or employee of the Town shall be personally liable to the Owner, or any successor or assignee, (a) in the event of any default or breach by the Town, (b) for any amount which may become due to the Owner or its respective successor or assign, or (c) pursuant to any obligation of the Town under the terms of this Agreement. In addition, no member, agent, employee or regent of the Owner shall be personally liable to the Town (i) in the event of any default or breach by the Owner or the Town, (ii) for any amount which may become due to the Town, or (iii) pursuant to any obligation of the Owner or the Town.

**7. General Provisions.**

7.1. Notices. Any notice, request, approval, consent or document required or permitted in this Agreement (collectively, “Notices”, or individually a “Notice”) shall be in writing and delivered either personally or by private messenger service (including overnight courier) or by mail addressed as provided below. Any Notice shall be deemed to be given or received on the date received or refused. Any Notice to be given by any party hereto may be given by legal counsel for such party. Counsel for the Parties may give simultaneous Notice hereunder to the opposing party and its counsel. Any copy noted below as mandatory shall be sent simultaneously with the Notice to the Party. Each address shall for all purposes be as set forth below unless otherwise changed by Notice to the other party as provided herein:

To Owner: Verde Commercial LLC  
Attn: Patrick Schwinghammer  
2800 Niagara Ln N  
Plymouth, MN 55447

Copy to: Carolyn Oberholtzer, Esq.  
Bergin, Frakes, Smalley & Oberholtzer PLLC  
4343 East Camelback Road, Suite 210  
Phoenix, Arizona 85018

To Town: Town of Camp Verde  
Attn: Russ Martin, Town Manager  
473 South Main Street  
Camp Verde, Arizona 86322

Copy to:

Town Attorney  
473 South Main Street  
Camp Verde, Arizona 86322

- 7.2. Construction. Time is of the essence with respect to each provision of this Agreement. The language in all parts of this Agreement shall in all cases be construed as a whole and simply according to its plain meaning and not strictly for nor against any of the Parties, and the construction of this Agreement and any of its various provisions shall be unaffected by any claims, whether or not justified, that it has been prepared, wholly or in substantial part, by or on behalf of any of the Parties. The Parties do not intend to become, and nothing contained in this Agreement shall be interpreted to deem that the Parties are partners or joint venturers in any way. The singular includes the plural, and the plural includes the singular. A provision of this Agreement which prohibits a party from performing an action shall be construed so as to prohibit the party from performing the action or from permitting others to perform the action. Except to the extent, if any, to which this Agreement specifies otherwise, each party shall be deemed to be required to perform its obligations under this Agreement at its own expense, and each party shall be permitted to exercise its rights and privileges only at its own expense. “Including” means “including but not limited to.” “Include” means “include but not limited to.” “Any” means “any and all.” Except to the extent context requires otherwise, “may” means “may but shall not be obligated to.” “At any time” means “at any time and from time to time.” An expense incurred on behalf of a party shall be deemed to have been incurred by the party. An obligation performed on a party’s behalf and pursuant to its request or consent shall be deemed to have been performed by the party.
- 7.3. No Third Party Rights. Nothing in this Agreement shall be construed to permit anyone other than Owner and/or the Town and their respective successors and assigns to rely upon the covenants and agreements herein contained nor to give any such third party a cause of action (as a third party beneficiary or otherwise) on account of any nonperformance hereunder.
- 7.4. Cooperation. The Parties hereby acknowledge and agree that they shall cooperate in good faith with each other and use best efforts to pursue the economic development of the Property as contemplated by this Agreement, provided that the obligations required by this Section 7.4 shall not impose a financial obligation not otherwise set forth in this Agreement or incurred by the respective party in the ordinary course of business.
- 7.5. Indemnity.
- (a) Indemnity by the Owner. The Owner shall pay, defend, indemnify and hold harmless the Town and its Town Council members, officers, officials, employees and agents from and against all claims, demands, fines, penalties, costs, expenses, damages, losses, obligations, judgments, liabilities, and suits (including reasonable attorney’s fees, experts’ fees and court costs associated) which arise from or relate in any way to any action or omission of Owner, or its employees, contractors, subcontractors, agents or representatives, undertaken under this Agreement; provided, however, that the provisions of this Section 7.5(a) shall not apply to the extent any loss, damage or claim is based, upon an act or omissions of the Town, its employees, contractors,

subcontractors, agents or representatives. The foregoing indemnity obligations of the Owner shall survive the expiration or termination of this Agreement for a period equal to the applicable statute of limitations period.

- (b) Indemnity by the Town. To the extent permitted by law, the Town shall pay, defend, indemnify and hold harmless the Owner and their respective partners, shareholders, officers, managers, members, agents and representatives from and against all claims, demands, fines, penalties, costs, expenses, damages, losses, obligations, judgments, liabilities and suits (including reasonable attorney's and experts' fees and court costs associated) which arise from or which relate in any way to any negligent or willful act or omission by the Town, its employees, contractors, subcontractors, agents or representatives, undertaken in fulfillment of the Town's obligations under this Agreement; provided, however, that the provisions of this Section 7.5(b) shall not apply to the extent any loss or damage or claims therefore which are attributable to acts or omissions of the Owner and/or its affiliates, or their respective agents, employees, contractors, subcontractors or representatives, and the Town shall have no defense obligations in any instance in which a claim is asserted based, in whole or in part, upon an act or omissions of the Owner, its employees, contractors, subcontractors, agents or representatives. The foregoing indemnity obligations of the Town shall survive the expiration or termination of this agreement for a period equal to the applicable statute of limitations period.

- 7.6. Dispute Resolution. If there is a dispute hereunder which the Parties cannot resolve between themselves after any applicable cure period, the Parties agree that there shall be a ninety (90) day moratorium on litigation during which time the Parties agree to attempt to settle the dispute by nonbinding mediation before commencement of litigation. The mediation shall be held under the commercial mediation rules of the American Arbitration Association. The matter in dispute shall be submitted to a mediator mutually selected by the Parties to the dispute. In the event that the Parties cannot agree upon the selection of a mediator within ten (10) days, then within five (5) days thereafter, the Parties to the dispute shall request the presiding judge of the Superior Court in and for the County of Yavapai, State of Arizona, to appoint an independent mediator. The mediator selected shall have at least five (5) years of experience in mediating or arbitrating disputes relating to commercial property development. The cost of any such mediation shall be divided equally between the Parties to the dispute, or in such other fashion as the mediator may order. The results of the mediation shall be nonbinding on the Parties, and any party shall be free to initiate litigation or arbitration as set forth herein upon the conclusion of mediation or ninety (90) days after the date the Parties first reached an impasse on the subject matter of the dispute, whichever occurs later. Notwithstanding the foregoing, in the case of a good faith dispute and until the resolution thereof, the Town and Owner shall continue to meet all obligations set forth in this Agreement, including providing incentives as set forth in Section 2, except to the extent such action is the subject of the dispute
- 7.7. Captions. The captions used herein are for convenience only and not a part of this Agreement and do not in any way limit or amplify the terms and provisions hereof.
- 7.8. Force Majeure. The performance of either party and the duration of this Agreement shall be extended by any causes that are extraordinary or beyond the control of the party required

to perform, such as, but not limited to, a significant weather or geological event or other act of God, civil or military disturbance, labor or material shortage (excluding those caused by lack of funds), initiative or referendum, confiscation or seizure by any government or public authority, acts of terrorism, or any epidemic, pandemic, plague, outbreaks of infectious disease or any other public health crisis, including quarantine or other personal movement restrictions, strikes, lock-outs, labor disputes, inability to procure materials, failure of power, or restrictive governmental laws or regulations (“Force Majeure Event”). The Parties acknowledge that the COVID-19 outbreak may constitute a Force Majeure Event. Nevertheless, the Parties have executed this Agreement in good faith believing they can comply with the terms hereof notwithstanding the COVID-19 outbreak.

- (a) Extension. The Term shall be extended for any Force Majeure Event either (i) day-for-day for the duration of the Force Majeure Event or (ii) as agreed in writing between the Town Manager (or his designee) and Owner.

- 7.9. Laws and Venue. This Agreement shall be governed by and construed in accordance with the Applicable Laws and laws of the State of Arizona without giving effect to conflicts of law principles. This Agreement has been made and entered into in Yavapai County, Arizona. Any action brought to interpret, enforce, or construe any provision of this Agreement shall be commenced and maintained in the Superior Court of the State of Arizona in and for the County of Yavapai (or, as may be appropriate, in the Justice Courts of Yavapai County, Arizona, or in the United States District Court for the District of Arizona, if, but only if, the Superior Court lacks or declines jurisdiction over such action). The Parties irrevocably consent to jurisdiction and venue in such courts for such purposes and agree not to seek transfer or removal of any court action.
- 7.10. Successors and Assigns. Except as set forth in Section 2.3 regarding assignability of the Construction Sales Tax Reimbursement, this Agreement shall run with the land and all of the covenants and conditions set forth herein shall inure to the benefit of and be binding upon the successors and assigns of the Parties hereto.
- 7.11. Waiver. No waiver by any party of any breach of any of the terms, covenants, or conditions of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same for any other term, covenant, or condition herein contained
- 7.12. Severability. In the event that any phrase, clause, sentence, paragraph, section, article, or other portion of this Agreement shall become illegal, null or void, or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void, or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in full force and effect to the fullest extent permitted by law.
- 7.13. Exhibits. All exhibits attached hereto are incorporated herein by this reference as though fully set forth herein.
- 7.14. Entire Agreement. This Agreement constitutes the entire agreement between the Parties hereto pertaining to the subject matter hereof and all prior and contemporaneous agreements, representations, negotiations, and understandings of the Parties hereto, oral or written are hereby superseded and merged herein.

- 7.15. Amendment. No change, addition or deletion is to be made to this Agreement, except by a written amendment approved by the Town Council and executed by the Parties. Although the material terms of this Agreement shall not be changed without Town Council approval, the Parties shall have the right (but not the obligation), upon their mutual agreement, to vary or modify minor, administrative, technical, or procedural terms of this Agreement.
- 7.16. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original but all of which together shall constitute one and the same instrument. Signature and acknowledgement pages may be removed from one counterpart and inserted into another counterpart to form a single document.
- 7.17. Recordation of Agreement. This Agreement shall be recorded in the Official Records of Yavapai County, Arizona, within ten (10) days after its approval and execution by the Town.
- 7.18. Consents and Approvals. Except as may be otherwise set forth in this Agreement, the Parties hereto shall at all times act reasonably with respect to any and all matters which require any party to review, consent, or approve of any act or matter hereunder except for a matter where a Party can act in its sole and absolute discretion. The Town hereby acknowledges and agrees that any unnecessary delay hereunder would adversely affect the development of the Project, and hereby authorizes and empowers the Town Manager to consent to any and all requests of Owner, such consent not to be unreasonably withheld, delayed, or conditioned, requiring the consent of the Town hereunder without further action of the Town Council, except for any actions requiring Town Council approval as a matter of law, including, without limitation, any further amendment or modification of this Agreement pursuant to Section 7.15 above.
- 7.19. Town's Representations. The Town represents and warrants to the Owner as follows:
- (a) The Town has the power and authority to execute, deliver, and perform its obligations under this Agreement and has obtained all necessary consents, authorizations, and approvals required as a condition to the execution and delivery thereof.
  - (b) The execution of this Agreement will not violate or constitute a default on the part of the Town under any agreement to which the Town is a party or by which it is bound.
  - (c) The representatives of the Town who have executed this Agreement have the power and the authority to have done so.
- 7.20. Owner's Representations. Owner represents and warrants to the Town as follows:
- (a) Owner has the power and authority to execute, deliver, and perform its obligations under this Agreement and has obtained all necessary consents, authorizations, and approvals required as a condition to the execution and delivery thereof.
  - (b) The execution of this Agreement will not violate or constitute a default on the part of Owner under any agreement to which Owner is a party or by which it is bound.
  - (c) The representatives of Owner who have executed this Agreement have the power and authority to have done so.

- 7.21. Proposition 207 Waiver. By executing this Agreement, Owner, on behalf of itself and any successors-in-interest to all or any portion of the Property hereby waives any right to claim diminution in value or claim for just compensation for diminution in value under A.R.S. § 12-1134, et seq. arising out of any Town action permitted to be taken by the Town pursuant to this Agreement. This waiver constitutes a complete release of any and all claims and causes of action that may arise or may be asserted under A.R.S. § 12-1134, et seq. as it exists or may be enacted in the future or that may be amended from time to time with regard to the Property with regard to Town actions permitted to be taken by the Town pursuant to this Agreement. In connection therewith, upon the request of the Town, Owner shall promptly execute and deliver to the Town, any and all such reasonable waivers of rights under Proposition 207 which may be reasonably requested by the Town consistent with this Agreement in order to more fully evidence the waiver set forth herein. Owner agrees to indemnify, hold harmless, and defend Town, its officers, employees, and agents, from any and all claims, causes of actions, demands, losses, and expenses, including attorney's fees, and litigation costs, that may be asserted by or may result from Owner seeking potential compensation, damages, attorney's fees or costs under A.R.S. § 12-1134, et seq. that they may have, solely as a result of this Agreement, now or in the future.
- 7.22. Estoppel Certificate. Any party may request of the other party, and the requested party shall, within fifteen (15) business days, respond and certify by written instrument to the requesting party that (a) this Agreement is unmodified and in full force and effect, (b) the existence of any default under this Agreement and the scope and nature of the default, if applicable, (c) the existence of any counterclaims which the requested party has against the other party, and (d) any other matters that may reasonably be requested in connection with this agreement and the Project. In the event a party has not received an estoppel certificate within fifteen (15) business days from the date of the request, then in such event, said party shall be entitled to prepare an estoppel certificate and deliver the certificate to the other party and such estoppel certificate shall be binding upon such party.

***SIGNATURE PAGES FOLLOW***

IN WITNESS WHEREOF, this Agreement has been executed as of the day and year first above written.

***“Town”***

TOWN OF CAMP VERDE, an Arizona  
municipal corporation

By: \_\_\_\_\_  
Charles German, Mayor

***Attest:***

***Approved as to form:***

By: \_\_\_\_\_  
Cindy Pemberton  
Town Clerk

By: \_\_\_\_\_  
\_\_\_\_\_  
Town Attorney

STATE OF ARIZONA        )  
  ) ss.  
COUNTY OF YAVAPAI    )

On this \_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned officer,  
personally appeared Charles German, who acknowledged himself to be the Mayor of the TOWN OF  
CAMP VERDE, an Arizona municipal corporation, and he, in such capacity, being authorized so to do,  
executed the foregoing instrument for the purposes therein contained on behalf of that entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY SEAL:

\_\_\_\_\_  
Notary Public





## EXHIBIT "A"

### LEGAL DESCRIPTION OF PROPERTY

#### PARCEL 1:

The following is a description of a parcel of land located within the Southwest Quarter of Section 25, Township 14 North, Range 4 East, of the Gila and Salt River Base and Meridian, Yavapai County, Camp Verde, Arizona, Said parcel being more particularly described as follows:

Beginning at the found 1" pipe marking the Southwest corner of said Section 25, From which a BLM brass cap marking the Southeast Corner of said section 25 bears North 89° 55' 34" East Basis of Bearing at a distance of 5,302.56 feet;

Thence North 89° 55' 18" East, a distance of 2,654.92 feet, along the South line of said Section 25, to a plastic cap atop a 1/2" rebar stamped 26925, marking the South Quarter Corner of said Section 25;

Thence North 01° 44' 54" East, a distance of 476.29 feet, along the North-South mid-section line, of said Section 25, to an ADOT alum. cap marking the Westerly right-of-way line of State Route 260;

Thence North 01° 43' 39" East, a distance of 66.49 feet, along the said Westerly right-of-way line, to an ADOT alum. cap;

Thence North 26° 58' 55" West, a distance of 123.12 feet, along the Said Westerly right-of-way line, to an ADOT alum. cap;

Thence North 28° 14' 44" West, a distance of 452.70 feet, along the said Westerly right-of-way line, to an ADOT alum. cap;

Thence South 61° 46' 41" West, a distance of 319.52 feet, along a Southerly right-of-way line of George Roth Rock Road, to an ADOT alum. cap;

Thence North 27° 15' 11" West, distance of 964.42 feet, along the Westerly right-of-way line of George Roth Rock Road, to an ADOT alum. cap;

Thence North 72° 26' 55" West, a distance of 32.00 feet, along a Westerly right of-way line of George Roth Rock Road, to the Southerly right-of-way line of Gosswick Way and an ADOT alum. cap;

Thence South 62° 44' 56" West, a distance of 53.26 feet, along the Southerly right-of-way line of Gosswick Way, to an ADOT alum. cap;

Thence North 26° 29' 33" West, a distance of 10.15 feet, along the Southerly right-of-way line of Gosswick Way, to an ADOT alum. cap;

Thence South 62° 45' 58" West, a distance of 139.16 feet, along the Southerly right-of-way line of Gosswick Way, to a plastic cap atop a 1/2" rebar stamped LS. 26925;

Thence South 27° 06' 26" East, a distance of 231.30 feet, along the East line of that parcel of land described in Book 3784, Page 24, Records of the Yavapai County Recorder, to a plastic cap atop a 1/2" rebar stamped LS. 19853, marking the Southeast corner thereof;

Thence South 62° 44' 36" West, a distance of 279.91 feet, along the South line of said parcel, to a plastic cap atop a 1/2" rebar stamped LS. 19853, marking the Southwest corner thereof;

Thence North 27° 07' 50" West, a distance of 231.41 feet, along the West line of said parcel, to the South right-of-way line of Gosswick Way, and a plastic cap atop a 1/2" rebar, stamped LS. 26925;

Thence South 62° 45' 58" West, a distance of 29.47 feet, along the Southerly right-of-way line of Gosswick Way, to a plastic cap atop a 1/2" rebar stamped L.S. 26925;

Thence North 27° 19' 08" West, a distance of 456.74 feet, to the Southerly right-of-way line of Interstate Hwy 17, and a plastic cap atop a 1/2" rebar stamped L.S. 2626;

Thence South 45° 27' 47" West, a distance of 127.57 feet, along the Southerly right-of-way line of Interstate Hwy 17, to an ADOT Alum. cap;

Thence South 38° 42' 11" West, a distance of 145.19 feet, along the Southerly right-of-way line of Interstate Hwy 17, to an ADOT Alum. cap;

Thence South 45° 32' 11" West, a distance of 311.33 feet, along the Southerly right-of-way line of Interstate Hwy 17, to an ADOT Alum. cap marking the beginning of a curve to the right, being concave to the North and having a radius of 5,929.58 feet;

Thence along said curve to the right, through a central angle of 05° 07' 48" an arc distance of 530.91 feet, along the Southerly right-of-way line of Interstate Hwy 17, to a plastic cap atop a 1/2" rebar stamped LS. 19853; said curve also having a chord bearing of South 44° 55' 35" West, and a chord distance of 530.73 feet;

Thence South 48° 55' 09" West, a distance of 237.72 feet, along the Southerly right-of-way line of Interstate Hwy 17, to an ADOT Alum. cap;

Thence South 01° 40' 41" West, a distance of 1,003.38 feet, along the East line of said Section 25, to the POINT OF BEGINNING.

## PARCEL II:

The following is a description of a parcel of land located within the Southwest Quarter of Section 25, Township 14 North, Range 4 East, of the Gila and Salt River Base and Meridian, Yavapai County, Camp Verde, Arizona, being a portion of that parcel of land described in Book 3784, Page 24, Record Source #1 (R1) records of the Yavapai County Recorder; Said parcel being more particularly described as follows:

Beginning for reference at the found 1" pipe marking the Southwest corner of said Section 25, From which a BLM brass cap marking the Southeast Corner of said section 25 bears North 89° 55' 34" East Basis of Bearing for this description at a distance of 5,302.56 feet;

Thence North  $44^{\circ} 23' 04''$  East, a distance of 1,899.51 feet, to a plastic cap atop a  $\frac{1}{2}$ " rebar stamped L.S. 19853 marking the Southwest corner of that said parcel of land described in (R1), and the TRUE POINT OF BEGINNING;

Thence North  $62^{\circ} 44' 36''$  East, a distance of 279.91 feet, along the South line of said parcel, to a plastic cap atop a  $\frac{1}{2}$ " rebar stamped L.S. 19853, marking the Southeast corner thereof;

Thence North  $27^{\circ} 06' 26''$  West, a distance of 231.30 feet, along the East line of said parcel, to the South right-of-way line of Gosswick Way, and a plastic cap atop a  $\frac{1}{2}$ " rebar stamped L.S. 26925;

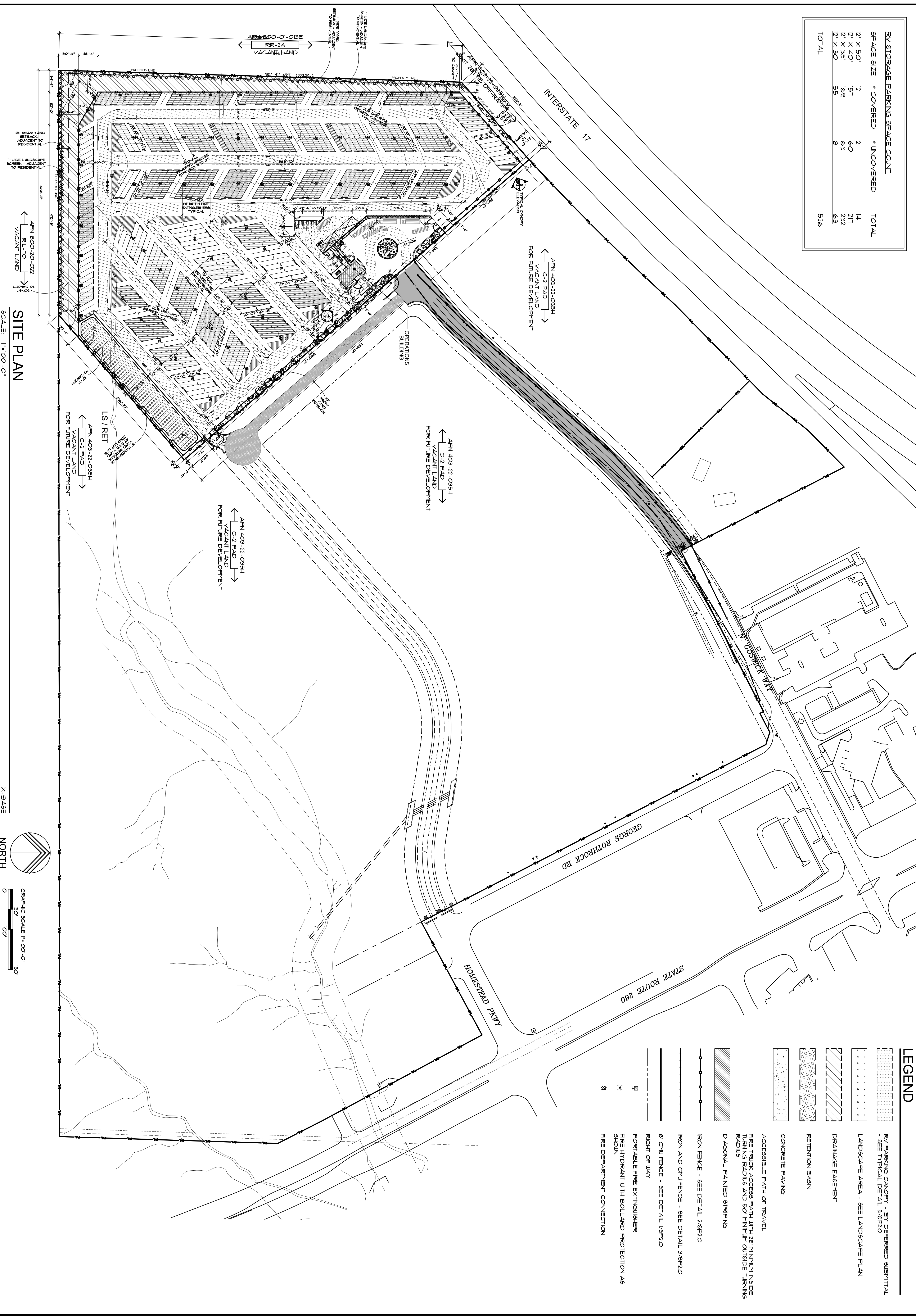
Thence South  $62^{\circ} 45' 58''$  West, a distance of 280.00 feet, along the South right-of-way line of Gosswick Way, to a plastic cap atop a  $\frac{1}{2}$ " rebar stamped L.S. 26925;

Thence South  $27^{\circ} 07' 50''$  East, a distance of 231.41 feet, along the Westerly line of that said parcel of land described in (R1), to the TRUE POINT OF BEGINNING.

**EXHIBIT "B"**

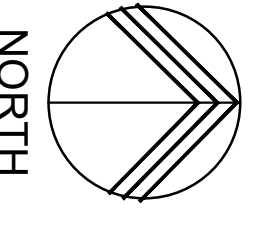
**SITE PLAN**

RV STORAGE PARKING SPACE COUNT			
SPACE SIZE	* COVERED	* UNCOVERED	TOTAL
12' X 50'	12	2	14
12' X 40'	157	60	217
12' X 35'	169	63	232
12' X 30'	55	8	63
<b>TOTAL</b>			<b>526</b>



**SITE PLAN**  
SCALE: 1"=100'-0"

X-BASE



GRAPHIC SCALE 1"=100'-0"  
0 50 100

**LEGEND**

- RV PARKING CANOPY - BY DERIVED SUBMITTAL - SEE TYPICAL DETAIL 3/9/20
- LANDSCAPE AREA - SEE LANDSCAPE PLAN
- DRAINAGE EASEMENT
- RETENTION BASIN
- CONCRETE PAVING
- ACCESSIBLE PATH OF TRAVEL
- FIRE TRUCK ACCESS PATH WITH 28' MINIMUM INSIDE TURNING RADIUS AND 50' MINIMUM OUTSIDE TURNING RADIUS
- DIAGONAL PAINTED STRIPING
- IRON FENCE - SEE DETAIL 2/9/20
- IRON AND CMU FENCE - SEE DETAIL 3/9/20
- CMU FENCE - SEE DETAIL 1/9/20
- RIGHT OF WAY
- PORTABLE FIRE EXTINGUISHER
- FIRE HYDRANT WITH BOLLARD PROTECTION AS SHOWN
- FIRE DEPARTMENT CONNECTION

**SP.O.O.**  
 Drawing No: 19012  
 Project Number: 02/03/2020  
 Date: 02/03/2020  
 Expires: 6/30/2021  
 Drawing Name: OVERALL SITE PLAN  
 Revisions:

**CAMP VERDE RV STORAGE PARK**  
 APN # 403-22-035H, ZONING C-2 PAD  
 162 N. GOSWICK WAY  
 CAMP VERDE, ARIZONA 86322

**Larson Associates Architects, Inc.**  
 3807 North 24th Street, Suite 100  
 Phoenix, AZ 85016  
 602.955.9929 602.954.4790 FAX  
 design@larson-architects.com



## **RESOLUTION 2020-1051**

### **A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CAMP VERDE, YAVAPAI COUNTY, ARIZONA, APPROVING A DEVELOPMENT INCENTIVE AGREEMENT WITH VERDE COMMERCIAL, LLC**

**WHEREAS**, The Town of Camp Verde has made the recruitment of new commercial and retail development a priority, and

**WHEREAS**, The Town of Camp Verde believes that commercial and retail growth is vital to the economic health of the Town of Camp Verde; and

**WHEREAS**, The Town of Camp Verde believes that expanding the commercial and retail job base for the community is an integral part of building a strong economy; and

**WHEREAS**, The Mayor and Town Council, after due consideration, has determined that it is necessary and desirable to foster additional economic development and to further enhance, promote, and serve the best interests and general welfare of the Town of Camp Verde and its residents by offering incentives for new construction on certain commercial properties;

**NOW THEREFORE**, the Mayor and Common Council of the Town of Camp Verde resolve that the Town of Camp Verde hereby:

1. Approves a Development Incentive Agreement between the Town of Camp Verde and Verde Commercial, LLC, offering construction tax rebates on an 81-acre property consisting of Assessor Parcel s Number 403-22-035A and 403-22-035H for a period not to exceed 10 years following the execution of the agreement, up to a Maximum Reimbursement of \$600,000.
2. Offer construction tax rebates over two phases.
3. In Phase One, the Town of Camp Verde shall rebate Verde Commercial, LLC, an amount equal to fifty percent (50%) of any and all construction sales tax paid to the Town of Camp Verde for construction of an RV/Boat storage facility
4. Additionally, as part of Phase One, Verde Commercial, LLC, will construct Public Roadway Improvements in the form of an extension of North Goswick Way, then dedicate the roadway improvements to the Town of Camp Verde.
5. For improvements constructed in Phase Two, the Town agrees that to the extent its Construction Sales Tax Reimbursement has not met the Maximum Reimbursement, it shall reimburse Verde Commercial one hundred percent

(100%) of Construction Sales Tax paid for construction of improvements for any retail or hospitality use, and an amount equal to fifty percent (50%) of each and every payment of Construction Sales Tax paid for construction of improvements for any other use, including warehousing, industrial, or storage..

I the undersigned Charles German being the duly appointed and qualified Mayor of the Town of Camp Verde, certify that the foregoing Resolution is a true, correct and accurate copy

**PASSED AND ADOPTED** by a majority vote of the Mayor and Common Council of the Town of Camp Verde at the Regular meeting on August 5, 2020.

\_\_\_\_\_  
Charles German, Mayor

Attest:

Approved as to form:

\_\_\_\_\_  
Cindy Pemberton, Town Clerk

\_\_\_\_\_  
Town Attorney