RESOLUTION NO. 2980

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ACCEPTING AND APPROVING: (1) TEMPORARY CONSTRUCTION EASEMENT FOR THE EAST BONITA STREET IMPROVEMENTS PROJECT PHASE II RELATED TO 401 E. BONITA STREET ---APN 304-04-009A ("SUBJECT PROPERTY").

WHEREAS, the Town of Payson, a municipal corporation and a political subdivision of the State of Arizona, is located entirely in Gila County and incorporated and organized under A.R.S. §§ 9-101 and 9-231; and

WHEREAS, pursuant to A.R.S. § 9-240 (B)(3), the Town Council shall also have power to exercise exclusive control over the streets, alley, easement, avenue, park, public place or sidewalk and to vacate, abandon, accept or abolish same within the town limits; and

WHEREAS, A.R.S. § 9-241 provides that the Town of Payson may receive real property necessary or proper to carry out the purposes of the municipal corporation, within or without its limits; and

WHEREAS, the Town of Payson has planned, designed and is ready to implement the East Bonita Street Improvements Project Phase II to be managed by ADOT to include, but not be limited to, road surface replacement, bike lanes, storm drain upgrades and separate utility upgrades or replacement in conjunction with this project; and

WHEREAS, it is the desire of the Town of Payson to accept and approve a Temporary Construction Easement for the SUBJECT PROPERTY; and

WHEREAS, said real property is located within the corporate limits of the Town of Payson,

NOW, THEREFORE, THE MAYOR AND COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section1: That the Town of Payson does hereby approve the consideration paid and accepts said Temporary Construction Easement described and depicted under Exhibit "I" and individually identified as Exhibits "A" and "B" attached hereto and incorporated by reference as though set forth in full herein.

Section 2: That Kenny J. Evans, Mayor of the Town of Payson, is authorized to execute Resolution No. 2980 to approve the Town's Offer for the property rights in substantially the form attached hereto and marked under Exhibit I.

Section 3: That the Town of Payson and Town Officials be and are hereby authorized to take such other and further actions as may be necessary or appropriate in perfecting the

use and control thereof, including, but not limited to, the maintenance thereof, and the official recordation of the documents attached hereto under Exhibit "I ".

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE TOWN OF PAYSON this 17th day of November, 2016 by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT_____

_____
Kenny J. Evans, Mayor

ATTEST:

_____
Silvia Smith, Town Clerk

APPROVED AS TO FORM:

_____
Hector M. Figueroa, Town Attorney

Prepared by Town of Payson Legal Department
HMF:dkk 11/7/2016 2:15 PM
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EXHIBIT "I"

to Resolution No. 2980

(Bonita Phase II 401 E. BONITA)

TEMPORARY CONSTRUCTION EASEMENT

The undersigned Grantor, for the consideration of ONE DOLLAR AND OTHER VALUABLE CONSIDERATION, does hereby grant to the **Town of Payson**, by and through its **Department of Transportation**, hereinafter termed Grantee, an exclusive temporary construction easement ("TCE") for use by its agents and contractors under Grantee's direction, to reconstruct and improve East Bonita Street from SR 87 to Bentley Street to accommodate two (2) travel lanes and a 4-foot bike lane on each side along with associated improvements in connection with the construction of Project No. SZ068 of the East Bonita Street Improvements Phase II (the "Project") across that certain real property situated in Gila County, Arizona, described as:

That portion of Parcel A, as shown on Record of Survey/Minor Land Division, recorded as Survey Map No. 2921, records of Gila County, Arizona, being a portion of Lot 10 Mogollon Rim Addition Plat Two, according to Map No. 150, records of Gila County, Arizona, as shown in **red** on the plat(s) attached hereto and made a part hereof (the "Property").

To the extent practicable, Grantee shall leave the Property in the same condition as existing immediately prior to Grantee's entry.

It is further understood and agreed that this TCE is to expire and terminate thirty (30) days after the completion of the Project.

IN WITNESS WHEREOF, this instrument is executed this 12 day of SEPTEMBER, 2016.

GRANTORS: DANIEL T. KILMUT and MICHELLE E. KILMUT, husband and wife, as community property with right of survivorship

Daniel T. Kilmut

Michelle E. Kilmut

ACKNOWLEDGEMENT

STATE OF ~~ARIZONA~~ NEW MEXICO)
) ss.
County of DONA ANA)

On this 12th day of SEPTEMBER, 20 16, before me, the undersigned Notary Public, personally appeared DANIEL THOMAS KLIMOT who executed and acknowledged the foregoing instrument for the purposes therein contained.

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

OFFICIAL SEAL
PATRICK ISAACS
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires 09/27/16

Notary Public

My Commission Expires: 09/27/2018

STATE OF ~~ARIZONA~~ NEW MEXICO)
) ss.
County of DONA ANA)

On this 12th day of SEPTEMBER, 20 16, before me, the undersigned Notary Public, personally appeared MICHELLE E. KLIMOT who executed and acknowledged the foregoing instrument for the purposes therein contained.

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

OFFICIAL SEAL
PATRICK ISAACS
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires 09/27/2018

Notary Public

My Commission Expires: 09/27/2018

Accepted: Town of Payson

Signature: _____

Date: _____

LEGAL DESCRIPTION FOR
TOWN OF PAYSON – EAST BONITA STREET (SZ068)
ASSESSOR PARCEL 304-04-009A

An irregular shaped land tract situated in Lot 10, Mogollon Rim Addition Plat Two as recorded on Map 150 of Gila County Recorder records within the south half of Section 3, Township 10 North, Range 10 East of the Gila and Salt River Base and Meridian, (S½, Sec 3, T10N, R10E, G&SRB&M) Gila County, Arizona more particularly described below:

A basis for bearings is South 88° 54' 33" East as measured along the north line of the south half of the south half of the northeast quarter of the southwest quarter of said Section 3 having a distance of 2,637.15 feet between arbitrary points on said line determined from found monuments representing the Center ¼ corner of Section 3 (0.5" rebar), thence South 00° 54' 27" West, 983.42 feet to the point on the line and the West ¼ corner of Section 3 (stone in handhole), thence South 00° 51' 59" West, 988.77 feet to the point on the line.

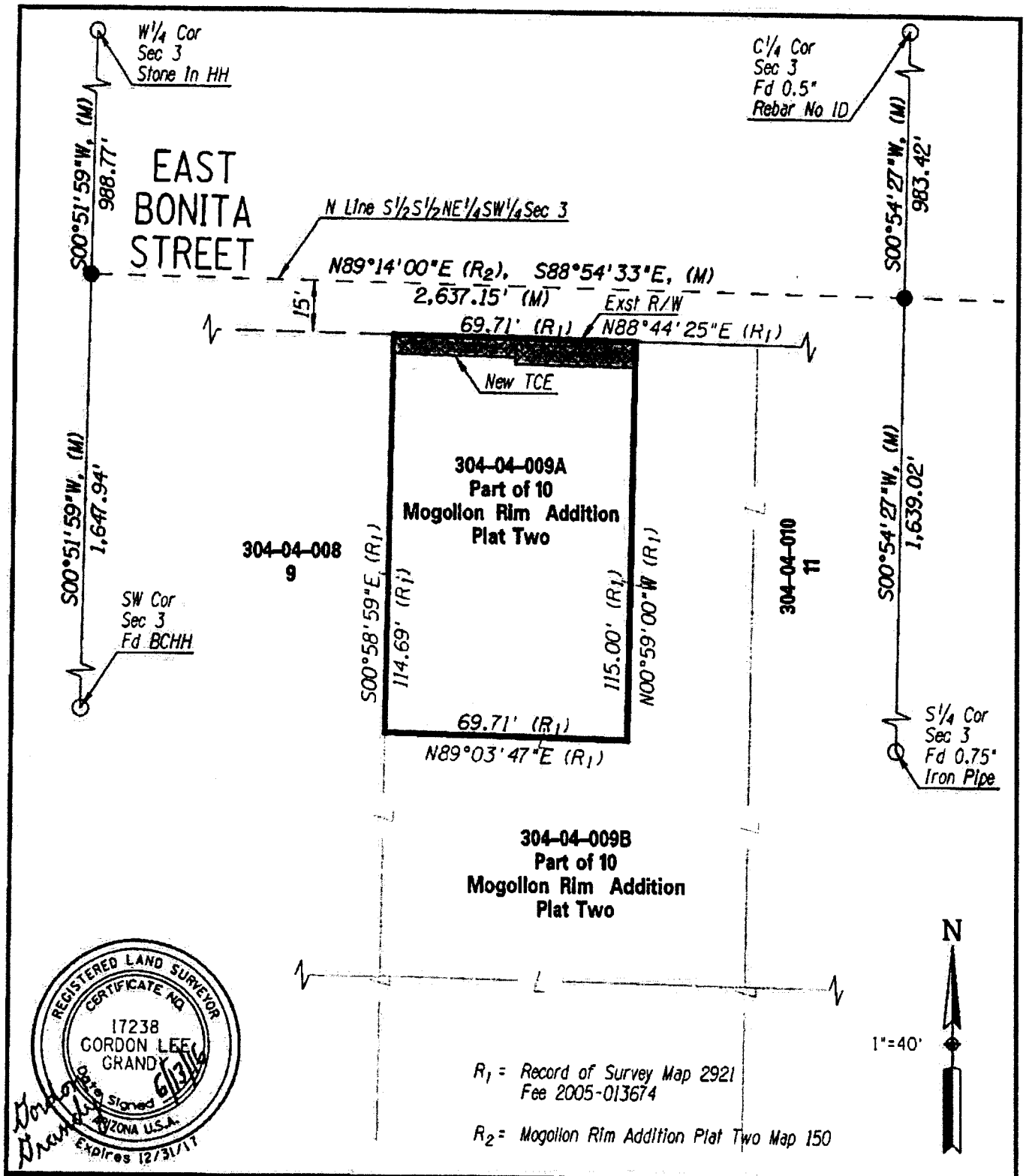
<u>For Temporary Construction Easement</u>

The north 5.50 feet of the west 69.71 feet together with the south 2.00 feet of the north 7.50 feet of the east 34.50 feet of the west 69.71 feet of said Lot 10.

Containing 452 square feet (0.0104 acres) more or less.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
17238
GORDON LEE
GRANDY
Date Signed 6/13/16
ARIZONA, U.S.A.
Expires 12/31/17

Gordon Grandy

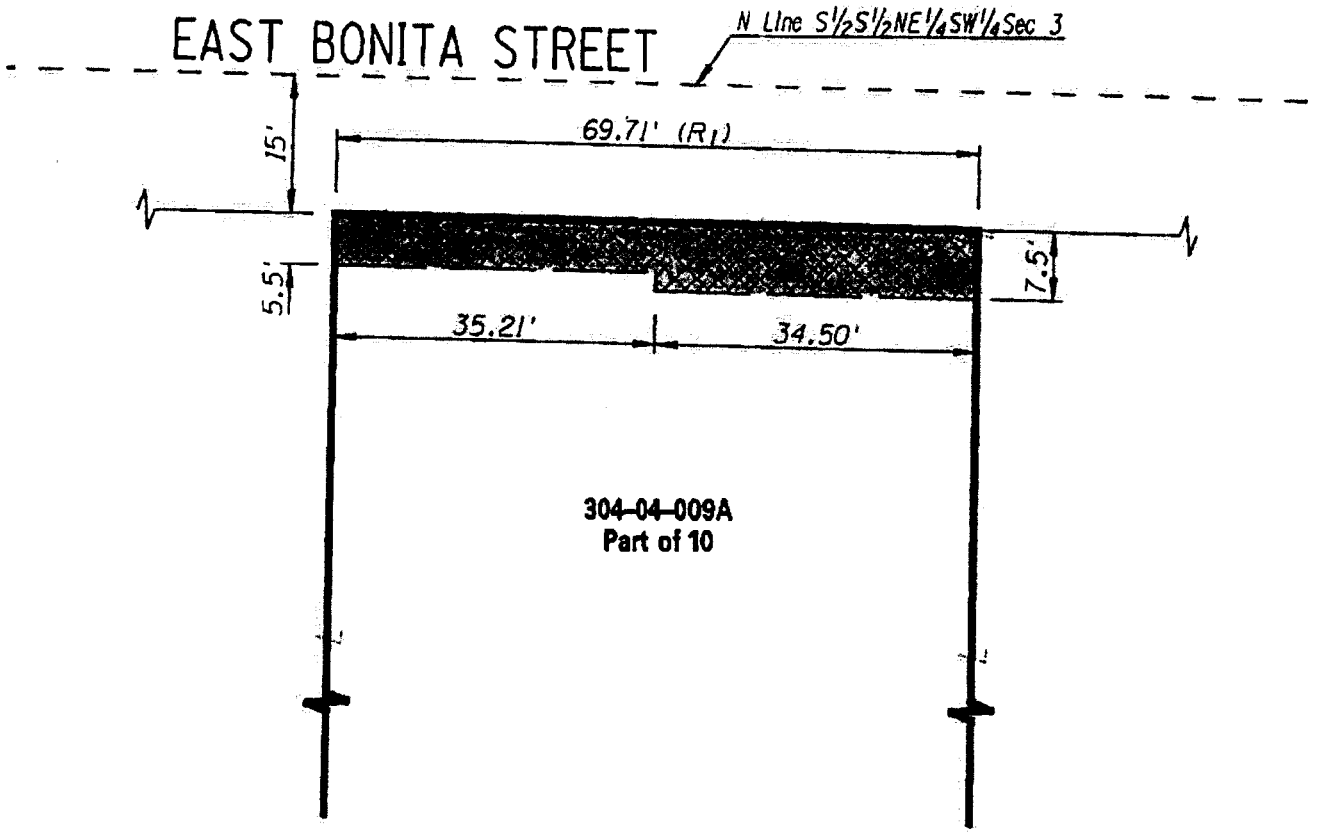


NFra Inc.
a transportation engineering firm
77 East Thomas Road, Suite 200
Phoenix, Arizona 85012

EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION
FOR TEMPORARY CONSTRUCTION EASEMENT
ASSESSOR PARCEL 304-04-009A

ADOT

DATE: 6/16	PROJECT NUMBER
DSN: KRT	0000 GI PAY SZ068 01C
DRN: KRT	
CHK: GLG	SHEET 1 OF 2



N

1"=20'

	Parcel Area	Sq Ft	Acres
Before	Gross/Net	8,006	0.1838
After	Net	8,006	0.1838
	New TCE	452	0.0104

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
17238
GORDON LEE GRANDY
Date Signed 6/3/16
ARIZONA U.S.A.
Expires 12/31/17

NFra Inc.
a transportation engineering firm
77 East Thomas Road, Suite 200
Phoenix, Arizona 85012

EXHIBIT TO ACCOMPANY LEGAL DESCRIPTION
FOR TEMPORARY CONSTRUCTION EASEMENT
ASSESSOR PARCEL 304-04-009A

ADOT

DATE: 6/16
DSN: KRT
DRN: KRT
CHK: GLG

PROJECT NUMBER
0000 GI PAY SZ068 01C

SHEET 2 OF 2