

WHEN RECORDED RETURN TO:



**OFFICIAL RECORDS OF
PINAL COUNTY RECORDER
LAURA DEAN-LYTL**

(34)
R
City Attorney
City of Apache Junction
300 East Superstition Boulevard
Apache Junction, Arizona 85119

DATE/TIME: 08/21/09 1253
FEE: \$25.50
PAGES: 34
FEE NUMBER: 2009-086010

**PRE-ANNEXATION DEVELOPMENT AND
DRAINAGE SETTLEMENT AGREEMENT**

CITY OF APACHE JUNCTION, ARIZONA
an Arizona municipal corporation,

and

FORTUNE TRAVEL, INC.
an Oregon corporation

August 18, 2009

PRE-ANNEXATION DEVELOPMENT AND DRAINAGE SETTLEMENT AGREEMENT

This PRE-ANNEXATION DEVELOPMENT AND DRAINAGE SETTLEMENT AGREEMENT ("Agreement") is entered into by and between the CITY OF APACHE JUNCTION, an Arizona municipal corporation ("City") and FORTUNE TRAVEL, INC., an Oregon corporation ("Developer"). City and Developer are sometimes herein referred to collectively as "Parties", or individually as a "Party".

RECITALS

1. Developer owns approximately one hundred twenty-three (123) acres of unimproved real property, Pinal County Assessor Parcel Nos. 102-19-003A and 102-19-0038, located adjacent to the southeast corner of Meridian Boulevard and Southern Avenue in unincorporated Pinal County, Arizona (the "Property"), the legal description and map of which are attached hereto as Exhibit A and are incorporated herein by reference.

2. The Parties desire that the Property be annexed into the corporate limits of the City; and once annexed, it is the intention of Developer to develop the Property in phases as an active adult manufactured home community consisting of approximately 650 residential units and a clubhouse.

3. The annexation of the Property, the contemplated development and use of the Property pursuant to this agreement are consistent and in harmony with the 1999 Apache Junction General Plan ("General Plan").

4. Developer desires to gain consent from the City for Superstition Mountains Community Facilities District No. 1 ("Sewer District") to provide sewer service to the Property pursuant to A.R.S. § 48-709 (A)(14).

5. Developer has submitted, or will submit, a completed development review application for the Property (which includes, but is not limited to, applications for approval of grading and drainage, traffic, elevations, site plan, landscaping, and signage) for review by City in accordance with City's customary and ordinary zoning, planning and development review processes. The proposed Site Plans for the Property are attached hereto as Exhibits B-1, B-2, B-3 and B-4.

6. It is anticipated that development of the Property pursuant to this Agreement will result in aesthetic, planning, economic and other tangible and intangible public benefits to the City including providing for the construction of the Public Roadway Improvements and Drainage Improvements as more fully described in Exhibit C, providing for planned and orderly development of the Property, adding to the tax base and otherwise increasing tax revenues to the City arising from or relating to the Property, improving or enhancing the economic welfare of the residents or businesses of the City and advancing the goals of the Apache Junction General Plan, and providing for additional tangible and intangible municipal benefits provided for in this Agreement.

Ordinance, Site Plan, Subdivision Regulations, as applicable, Engineering Policies and Guidelines, Building Codes; stand-alone ordinances and resolutions and all other requirements and policies and practices which apply to the development.

SECTION 4. ANNEXATION AND ZONING

A. Annexation

4.A.1. Developer shall deliver to City a Petition for Annexation of the Property duly executed by all necessary property owners and others holding any interest in the Property (the “Annexation Petition”). Upon receipt of the Annexation Petition, and other petitions from affected property owners, City shall comply with the provisions of A.R.S. §§ 9-471 *et seq.*, and, if annexation of the Property is thereupon determined to be in the best interest of City, City shall adopt the final ordinance annexing the Property into the corporate limits of City (the “Annexation Ordinance”). It is anticipated this Agreement, the Annexation Ordinance and the Rezoning, will all be considered by the Mayor and City Council on the same date.

4.A.2. The effective date of the Annexation Ordinance shall be referred to in this Agreement as the “Annexation Date.” Developer shall take all actions and execute all documents reasonably necessary to cause or facilitate the completion of the annexation process. Developer agrees, understands and acknowledges without limiting any other remedy or relief for a subsequent breach of any of the conditions of this Agreement, that once the Property has been annexed into the corporate limits of the City, there presently does not exist any statutory remedy for such breach by the City that would result in the Property being automatically de-annexed from the City and returned to the status of being located in unincorporated Pinal County territory.

B. Zoning

Contemporaneously with the Annexation Ordinance and pursuant to A.R.S. § 9-471 (L), City staff shall recommend to the City Council, a City zoning classification for the Property of General Rural (“GR”), which is the equivalent to the Property’s current Pinal County zoning classification. In addition, immediately after the Annexation Ordinance is considered by the Mayor and City Council, staff will recommend to the Mayor and City Council a zoning designation for the Property as Trailer Homesite by Planned Development (“TH-PD”). The enactment of any zoning ordinance with respect to the Property shall be in the sole discretion of the City Council.

C. Conditions Precedent

4.C.1. The annexation of the Property into the City, and the adoption of a TH-PD Zoning classification with conditions of approval mutually acceptable to City and Developer for the Property are conditions precedent to the commencement and effective date of this Agreement. In

ATTEST:

By: Kathleen Connelly
Kathy Connelly
City Clerk

APPROVED TO AS FORM:

By: 17.15.09
R. Joel Stern, Esq.

CITY:

CITY OF APACHE JUNCTION, an Arizona
municipal corporation

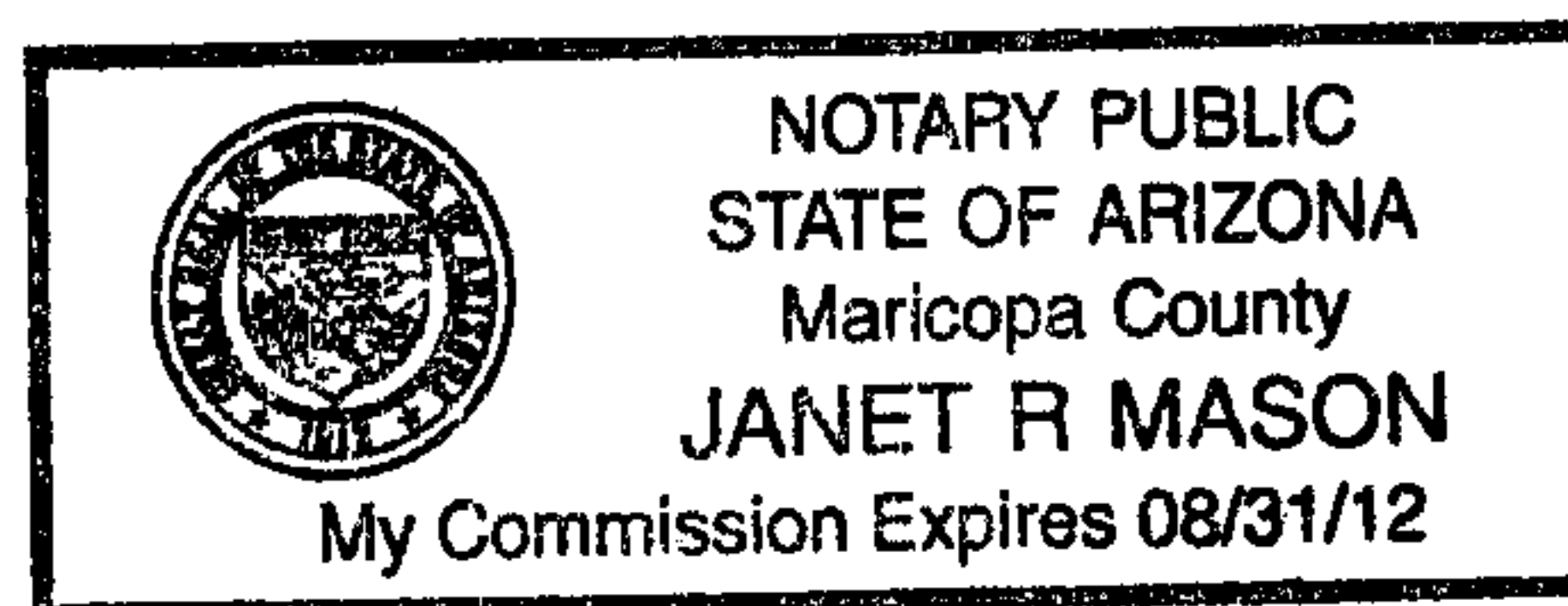
By: John Insalaco
John Insalaco
Mayor

STATE OF ARIZONA)
County of PINAL) ss

The foregoing instrument was acknowledged before me this 20th day
of August, 2009, by John S. Insalaco, Mayor of the City of
Apache Junction, Arizona, an Arizona municipal corporation, on behalf of the City.

Janet R. Mason
Notary Public

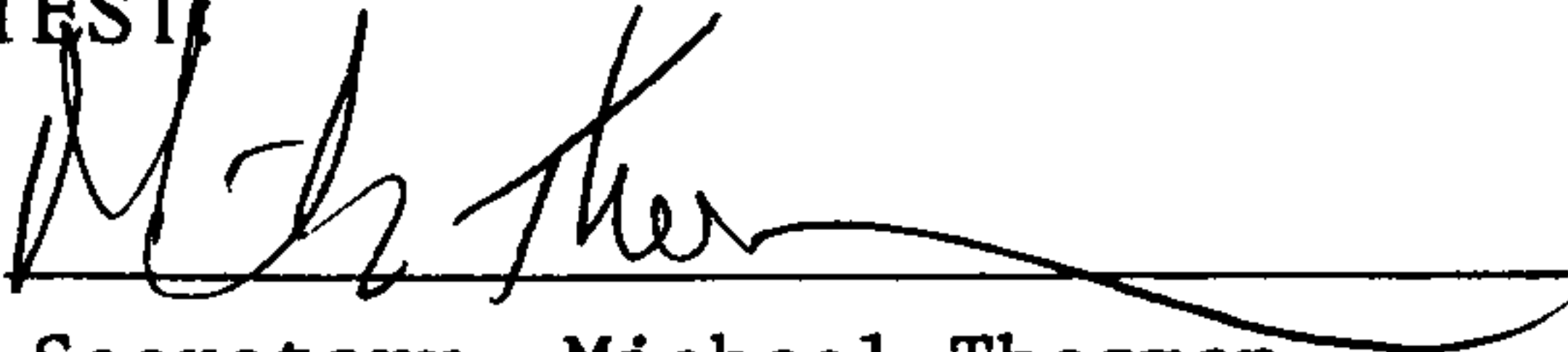
My Commission Expires:
8-31-12



DEVELOPER:

FORTUNE TRAVEL, INC.,
an Oregon corporation

ATTEST,

By: 
Its: Secretary, Michael Thesman

By: 
Its: President, Ernest Thesman

STATE OF OREGON)
) ss
County of _____)

~~The foregoing instrument was acknowledged before me this _____ day
of _____, 2009, by _____, the _____ Fortune
Travel, Inc., on behalf of such company.~~

Notary Public

My Commission Expires: SEE ATTACHED CERTIFICATE

EXHIBIT A
LEGAL DESCRIPTION

The Northwest Quarter of Section 31, Township 1 North, Range 8 East, Gila and Salt River Base and Meridian, Pinal County, Arizona;

EXCEPT that portion of the South half of the Northwest Quarter which lies South of the following described line;

BEGINNING at a point on the West line of said Section 31, which point bears North 0 degrees 05 minutes 05 seconds East 850.00 feet from the West quarter corner of said Section 31;

THENCE North 89 degrees 54 minutes 55 seconds East 55.00 feet;

THENCE South 5 degrees 37 minutes 47 seconds East 251.08 feet;

THENCE North 89 degrees 57 minutes 52 seconds East 2557.97 feet to the Point of Ending on the East line of said South half of the Northwest Quarter of Section 31; and

EXCEPTING THEREFROM all coal, oil, gas and other mineral deposits as reserved in the Patent recorded in Book 50 of Deeds, page 27.

Exhibits B1 through
B4 can be viewed
by contacting Developer
Michael Thesman c/o Fortune
Travel.

