

RESOLUTION NO. 2018-19

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SEDONA,
ARIZONA, ESTABLISHING AS A PUBLIC RECORD, A WASTEWATER FACILITY
ACQUISITION AGREEMENT FOR THE QUAIL TAIL TRAIL FACILITY.**

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF SEDONA,
ARIZONA as set forth in the Agreement between the City of Sedona, and Larry C.
Napieralski "Owner" to allow the acquisition of a wastewater facility by the City of Sedona
from Owner.

At least one (1) paper copy and one (1) electronic copy of this public record shall
be kept in the office of the City Clerk for public use and inspection.

PASSED AND ADOPTED this 26th day of June, 2018 by the Mayor and Council of
the City of Sedona, Arizona.



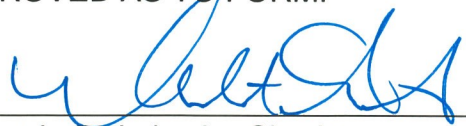
Sandra J. Moriarty, Mayor

ATTEST:



Susan L. Irvine, CMC, City Clerk

APPROVED AS TO FORM:



Robert L. Pickels, Jr., City Attorney

Wastewater Facility Acquisition Agreement

This Wastewater Facility Acquisition Agreement ("Agreement") is entered into as of this 26th day of June, 2018, by and between the City of Sedona ("City"), and Larry C. Napieralski ("Owner").

RECITALS

- A. Larry C. Napieralski, Owner of the wastewater facility and property located in and along Quail Tail Trail, wishes to sell to the City the wastewater facility (8" Sewer Main, 2 Manholes and Laterals), as shown in the attached as-built plan.
- B. City wishes to acquire ownership of the wastewater facility, as shown in the attached as-built plan.
- C. More specifically, Owner wishes to sell approximately 631 feet of 8" sewer main and appurtenances, including sewer laterals within the utility easements, as depicted in Attachment A.
- D. The City will be responsible for filing the Notice of Transfer form with ADEQ in accordance with Arizona Administrative Code R18-9-A304. Owner agrees to sign document prior to accepting payment for the wastewater facility.
- E. Arizona Revised Statutes § 9-500.05 authorizes the City to enter into a development agreement with a land owner or any other person having an interest in real property to facilitate development of the real property by providing for, among other things, the conditions, terms, restrictions, and requirements for public infrastructure and the financing of public infrastructure.
- F. On June 26, 2018 (the "Effective Date"), the City Council adopted Resolution No. 2018-19, which approved and authorized the execution and delivery of this Agreement.
- G. Upton transfer of ownership, by acceptance of payment and by the terms of this agreement, the City will be responsible for construction and maintenance of the wastewater facility.

NOW, THEREFORE, in consideration of the foregoing, and of the mutual promises and the covenants and agreements set forth below, the parties agree as follows:

AGREEMENTS

- A. Accuracy of the Recitals. The parties hereby acknowledge the accuracy of the Recitals, which are incorporated herein by this reference.
- B. Easements. It is understood that all rights within easements containing said wastewater facility, for the purpose in part for wastewater facility, are transferred with ownership of the facility to the City via quitclaim deed. It is also understood that City will obtain remaining necessary easements across current APN's 401-05-004A and 401-58-010.

If City determines at a later date, beyond transfer of ownership, that access and maintenance easements are incomplete across Owner's property, the easements will be provided to City by Owner, at no cost to City.

- C. Purchase of Facility. The City agrees to purchase facility for the value of \$37,435, Thirty Seven Thousand, Four Hundred, Thirty Five Dollars and Zero Cents. This includes all value owed and received for the facility, this is also understood to not include any debt owed for the facility.
- D. Current Condition of Facility. The City understands the current condition of the facility is in operable condition and there is no known damage or problems with the facility.
- E. City Duty to Obtain Permits. The City shall be responsible for obtaining any necessary permits from either the Coconino County or the ADEQ, or other applicable entity, in order to construct the proposed infrastructure improvements. The City shall obtain, and shall maintain, all necessary approvals, permits, consents, and authorizations from all governmental authorities and other persons or entities necessary for the City ownership, maintenance, operation, repair, and replacement of the augmented public infrastructure improvements.
- F. City Duty to Extend Facility. The City will be responsible for the cost to extend sewer service to the remaining parcels, with current Assessor's Parcel Numbers (APN's) 401-05-003J, 401-05-003M, 401-05-007C, 401-05-007D, and 401-05-006. As is typical and standard for the City of Sedona, this extension will only occur to the boundary of the pertinent easement or property boundary. In addition to the above sewer extension, the city will provide a lateral to the west boundary of 401-05-007D.
- G. Exhibits. The following exhibit is attached hereto, and is incorporated by this reference, with the same force and effect as if fully set forth in the body hereof.
 - Attachment A: As-built plans for subject wastewater facility.
- H. Further Acts. Each of the parties hereto shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement. Without limiting the generality of the foregoing, each of the parties shall cooperate in good faith regarding the prompt processing of any requests and applications for plan and specification, plat or permit approvals or revisions, and other necessary approvals relating to the development of the property in construction of the infrastructure improvements.
- I. Time of the Essence. Time is of the essence for this Agreement.
- J. Assignment. This Agreement may not be assigned without the express written consent of the non-assigning Parties. Consent shall not be unreasonably withheld.
- K. No Partnership and Third Parties. It is not intended by this Agreement, and nothing contained in this Agreement shall, create any partnership, joint venture, or other similar arrangement between Owner, and the City. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, organization, or corporation not a party hereto, and no

such other person, firm, organization, or corporation shall have any right or cause of action hereunder.

- L. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations, and understandings of the parties, oral or written, are hereby superseded and merged herein.
- M. Amendment. No change or additions are to be made to this Agreement except by written amendment executed by the parties hereto.
- N. Governing Law. This Agreement is entered into in Arizona, and shall be construed and interpreted under the laws of the State of Arizona. In particular, this Agreement is subject to the provisions of Arizona Revised Statutes § 38-511.
- O. Recordation. No later than ten (10) days after this Agreement has been executed by the parties, it shall be recorded in its entirety by the City in the Official Records of Coconino County, Arizona.
- P. Reformation. Should any term, provision, covenant, or condition of this Agreement be held to be void or invalid, the parties shall reform this Agreement to conform as closely as possible to the original intent thereof.
- Q. Venue. Any legal action relating to this Agreement shall be brought in the Coconino County Superior Court, provided, however, that nothing in this paragraph will be deemed to have authorized the bringing of any legal action in a court that does not otherwise have jurisdiction to adjudicate the legal action.
- R. Severability. Every provision of this Agreement is, and will be construed to be, a separate and independent covenant. If any provision of this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, then the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable, will not be affected by that invalidity or unenforceability, and each provision of this Agreement will be valid and will be enforced to the extent permitted by the law, and the parties will negotiate in good faith for such amendments of this Agreement that may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.
- S. Rights of Successors. This Agreement shall bind and inure to the benefit of the parties hereto, their respective heirs, representatives, lessees, successors, and assigns. The singular number includes the plural, and the masculine gender includes the feminine and neuter.
- T. Confidentiality. This Agreement is discoverable under Arizona statute and rule.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on the date and year first above written.

CITY OF SEDONA, an Arizona municipal corporation

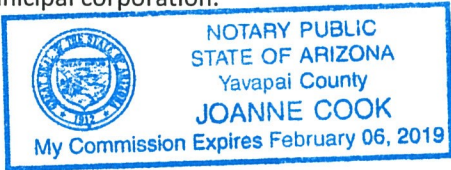
By Sandy Moriarty
Sandy Moriarty, Mayor

Attest: Susan Irvine
Susan Irvine, City Clerk

APPROVED AS TO FORM:
[Signature]
City Attorney

STATE OF ARIZONA)
County of Yavapai) ss

SUBSCRIBED AND SWORN TO before me this 28 day of July, 2018 by Sandy Moriarty, Mayor of the CITY OF SEDONA, an Arizona municipal corporation, on behalf of the municipal corporation.



Joanne Cook
Notary Public (Seal)

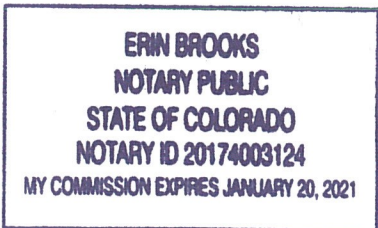
Larry C. Napieralski

By [Signature]
Larry C. Napieralski
[Printed Name]

Its 6-13-18

STATE OF Colorado)
County of Boilder) ss

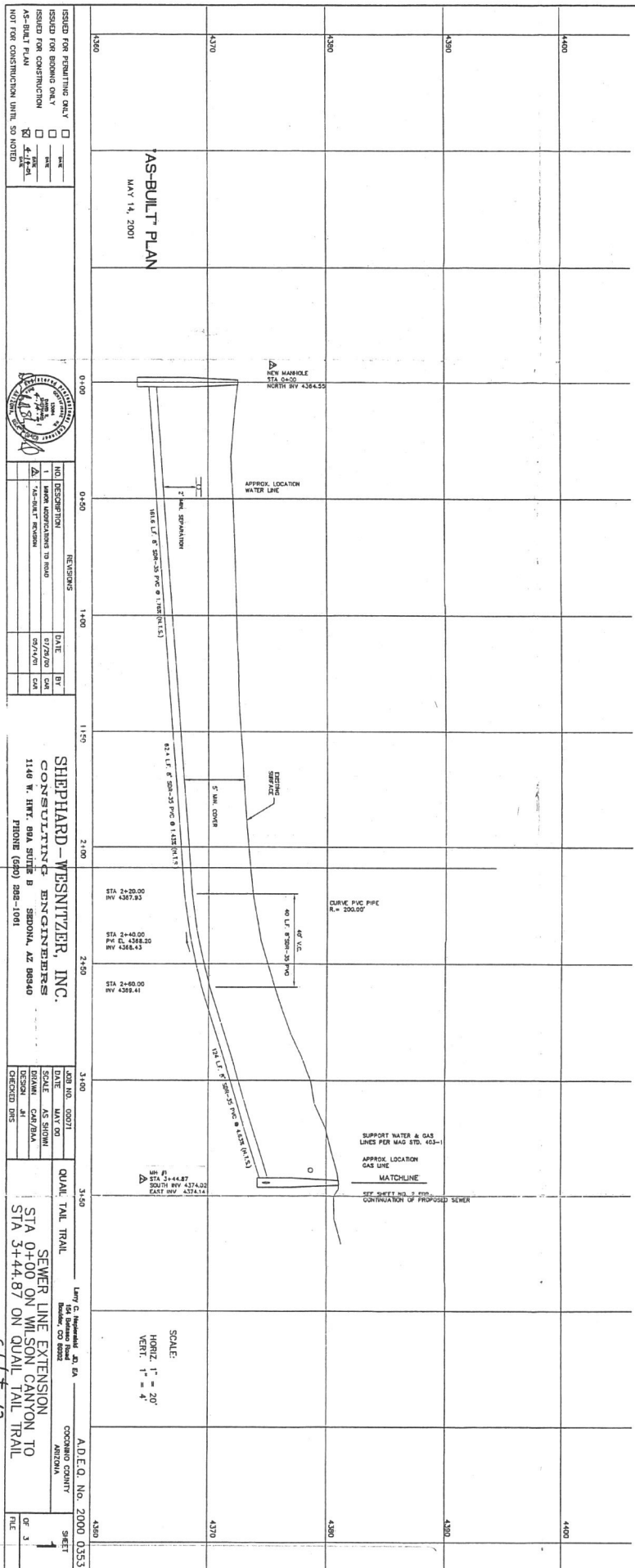
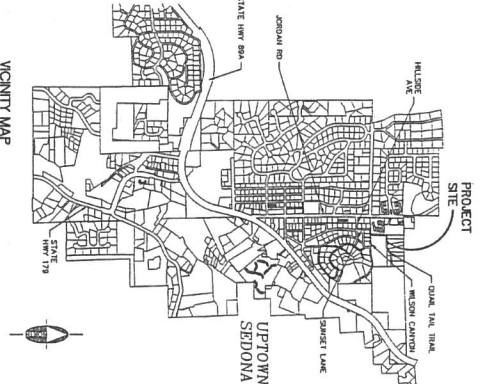
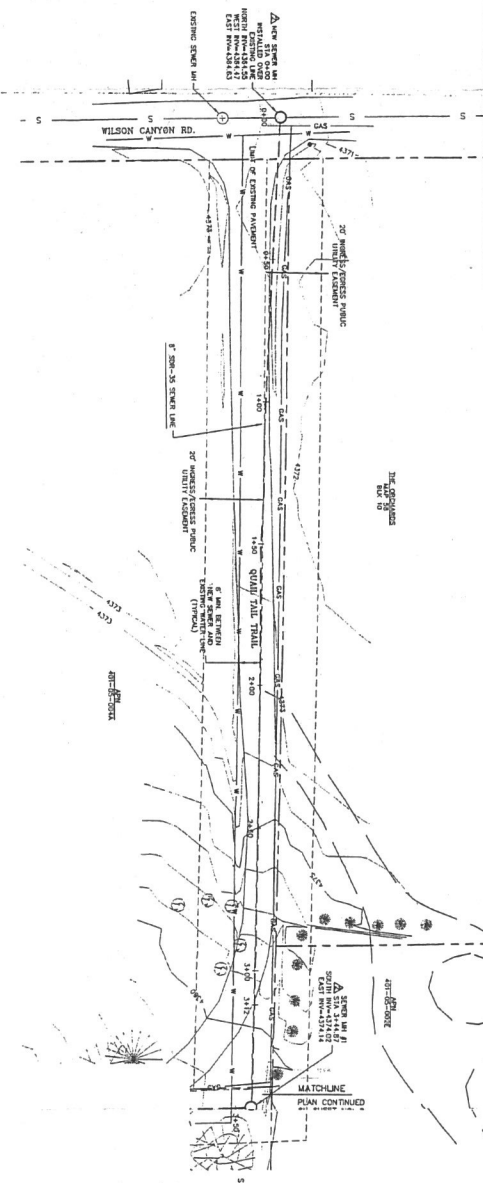
SUBSCRIBED AND SWORN TO before me this 13 day of June, 2018 by Larry C. Napieralski, owner of Larry C. Napieralski.



[Signature]
Notary Public (Seal)

CALL TAYLOR WORKING DAVIS
BEFORE YOU BID
263-1100
1-800-STAKE-IT
(OUTSIDE MARICOPA COUNTY)

SCALE: 1" = 20'
CONTOUR INTERVAL = 1'
NOTE: THIS PLAN DOES NOT REPRESENT
THE RESULT OF A SOILBAULT SURVEY
SITE PLAN



ISSUED FOR PERMITTING ONLY	<input type="checkbox"/>	ISSUED FOR BIDDING ONLY	<input type="checkbox"/>
ISSUED FOR CONSTRUCTION	<input type="checkbox"/>	ISSUED FOR CONSTRUCTION	<input type="checkbox"/>
AS-BUILT PLAN	<input checked="" type="checkbox"/>	AS-BUILT PLAN	<input checked="" type="checkbox"/>
NOT FOR CONSTRUCTION UNTIL SO NOTED			
NO. DESCRIPTION	DATE	BY	
1. AS-BUILT REVISION	07/28/01	CAN	
2. "AS-BUILT" REVISION	07/14/01	CAN	

REVISIONS DATE BY DESCRIPTION	07/28/01 CAN 07/14/01 CAN
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SHEPARD-WESNITZER, INC. CONSULTING ENGINEERS 1148 W. HWY. 89A SUITE B SEDONA, AZ 86340 PHONE (920) 888-1061	JOHN NO. 00071 DATE SCALE DRAWN CHECKED DATE
QUOTE: TAIL TRAIL SEWER LINE EXTENSION STA 0+00 ON WILSON CANYON TO STA 3+44.87 ON QUAIL TAIL TRAIL	DATE SCALE DRAWN CHECKED DATE

LARRY S. BARNARD, PE, EA REGISTERED PROFESSIONAL ENGINEER MARICOPA COUNTY, ARIZONA No. 0000000000	A.D.E.C. No. 2000 0353 SHEET OF 3 FILE
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APPROX. LOCATION WATER LINE
APPROX. LOCATION GAS LINE
MATCHLINE
SEWER LINE
MATCHLINE
CONTINUATION OF PROPOSED SEWER

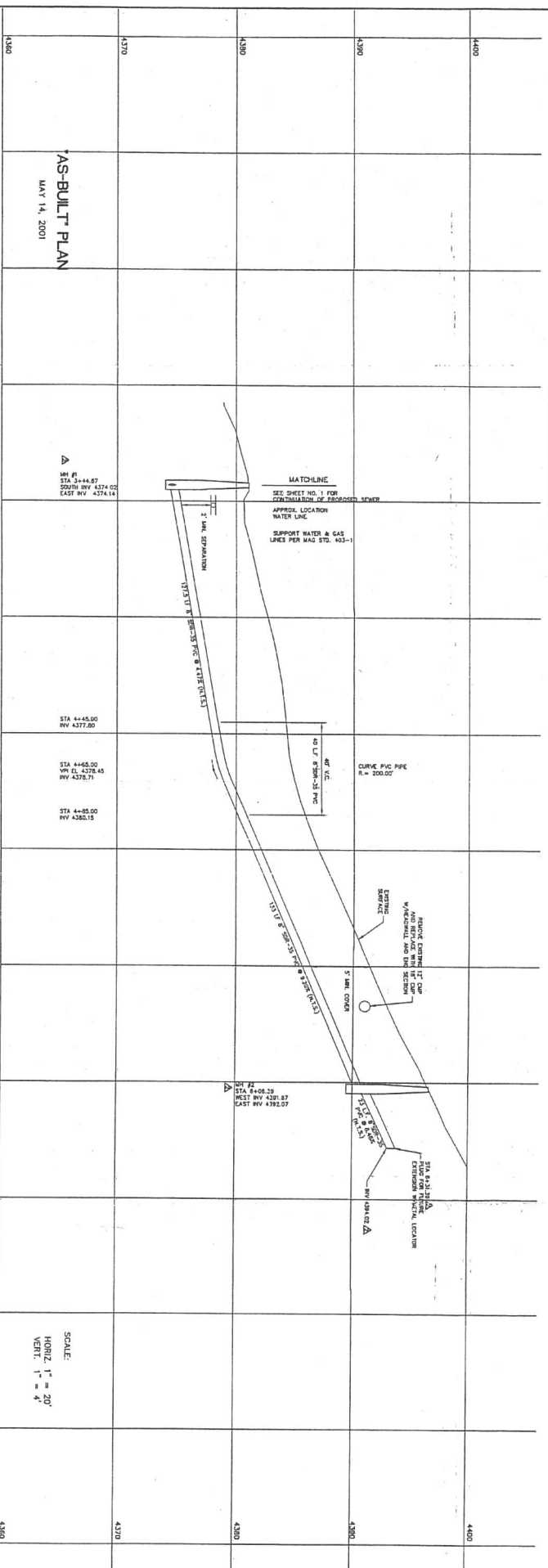
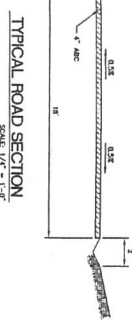
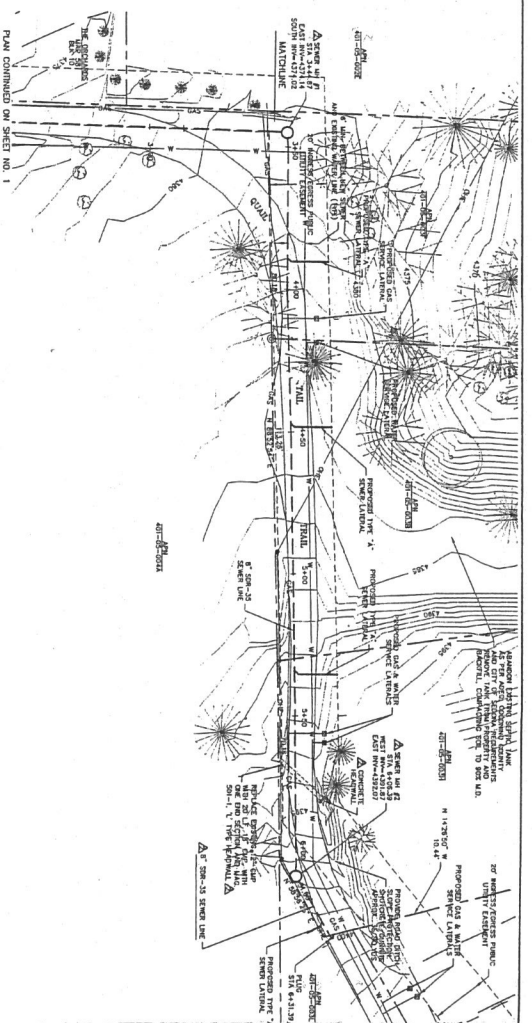
STA 2+20.00
PVI E. 4367.93
RV 4368.43
STA 2+40.00
PVI E. 4368.30
RV 4368.43
STA 2+60.00
PVI E. 4368.41
RV 4368.41

SCALE:
HORIZ. 1" = 20'
VERT. 1" = 4'

APPROX. LOCATION WATER LINE
APPROX. LOCATION GAS LINE
MATCHLINE
SEWER LINE
MATCHLINE
CONTINUATION OF PROPOSED SEWER

- LEGEND**
- NEW ROAD LINE
 - EXISTING WATER LINE
 - EXISTING GAS LINE
 - EXISTING WATER/GAS SERVICE
 - PROPOSED WATER/GAS SERVICE

SCALE: 1" = 20'
 CONTOUR INTERVAL = 1'
 NOTE: THIS PLAN DOES NOT REPRESENT THE RESULTS OF A BOUNDARY SURVEY
SITE PLAN



DESIGNED FOR PERMITTING ONLY	<input type="checkbox"/>	DATE	5/14/2001
DESIGNED FOR RECORD ONLY	<input type="checkbox"/>	DATE	
DESIGNED FOR CONSTRUCTION	<input type="checkbox"/>	DATE	
AS-BUILT PLAN	<input type="checkbox"/>	DATE	
NOT FOR CONSTRUCTION UNTIL SO NOTED	<input type="checkbox"/>	DATE	

NO.	DESCRIPTION	DATE	BY
1	DESIGN MODIFICATIONS TO ROAD	07/29/01	LSM
	"AS-BUILT" REVISION	09/17/01	LSM

REVISIONS	4190	4450	5400	5450	5900	6450
DATE						
BY						

SHEPARD - WISNITZER, INC.
 CONSULTING ENGINEERS
 1140 W. HWY. 80A SUITE B BIRMINGHAM, AL 35240
 PHONE: (205) 292-1001

DESIGNER	JM
CHECKED	DMS

QUALITY TAIL TRAIL
 LARRY G. SHEPARD, JR. P.E.
 BIRMINGHAM, AL 35202

ADDED, No. 2000 0353
 COCONINO COUNTY
 ARIZONA

SEWER LINE EXTENSION
 STA 3+44.87 TO STA 6+31.39
 ON QUALITY TAIL TRAIL

SCALE:
 HORIZ. 1" = 20'
 VERT. 1" = 4'



