

ORDINANCE 2020-005

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; EXTENDING AND INCREASING THE CORPORATE LIMITS OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA, PURSUANT TO THE PROVISIONS OF TITLE 9, CHAPTER 4, ARTICLE 7, ARIZONA REVISED STATUTES AND AMENDMENTS THERETO, BY ANNEXING THERETO CERTAIN TERRITORY CONTIGUOUS TO THE EXISTING CITY LIMITS OF THE CITY OF SIERRA VISTA, ARIZONA; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY. NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1

All that certain real property situated in the northern half of Section 12, Township 22 South, Range 20 East, of the Gila and Salt River Base and Meridian, Cochise County, Arizona, more particularly described as follows in Exhibit A, which contains approximately 0.94 acres (more or less), be and hereby is, annexed to the City of Sierra Vista, Arizona, and that the present corporate limits be and the same hereby are, extended and increased to include the described property included in Exhibit A.

SECTION 2

That the property described in Exhibit A shall be zoned to the City's zoning district that is the closest density to the County's zoning; the subject parcel currently zoned GB will have a zoning designation of General Commercial (GC). This designation shall be shown on the official Zoning Map as such until the property is rezoned.

SECTION 3

That a copy of this Ordinance, together with an accurate map of the territory hereby annexed to the City of Sierra Vista, certified by the Mayor of the City, be filed and recorded in the office of the County Recorder of Cochise County, Arizona.

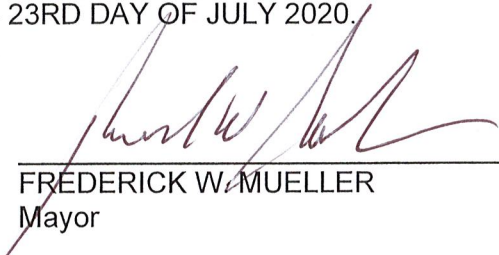
SECTION 4

All other ordinances or parts of ordinances in conflict with this Ordinance, to the extent of such conflict and no further, are hereby repealed.

SECTION 5

Should any section, clause, or provision of this Ordinance be declared by the Courts to be invalid, such invalidity shall not affect other provisions, which can be given effect without the invalid provisions, to this end, the provisions of this Ordinance are declared to be severable.

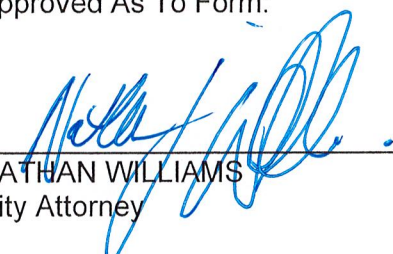
PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 23RD DAY OF JULY 2020.



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FREDERICK W. MUELLER  
Mayor


Approved As To Form:



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NATHAN WILLIAMS  
City Attorney

Attest:



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JILL ADAMS  
City Clerk

Prepared By: Blake Fisher, Planner I

**LEGAL DESCRIPTION FOR CITY OF SIERRA VISTA  
ANNEXATION BOUNDARY OF COMMERCIAL PROPERTY  
1988 SOUTH HWY 92 (APN 105-16-013)  
SIERRA VISTA, ARIZONA**

**EXHIBIT A**

**PARCEL I:**

That portion of the Northeast quarter of Section 12, Township 22 South, Range 20 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona, more particularly described as follows:

COMMENCING at the East quarter corner of said Section 12 as monumented by a 2-inch brass cap marked LS 8208;

THENCE due West along the mid-section line of said Section 12, a distance of 100.00 feet to a point on the Westerly right of way line of State Highway 92 and the TRUE POINT OF BEGINNING;

THENCE due West along said mid-section line, a distance of 250.00 feet;

THENCE North 00 degrees 01 minutes 06 seconds West, a distance of 440.00 feet;

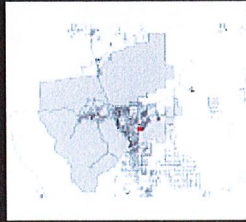
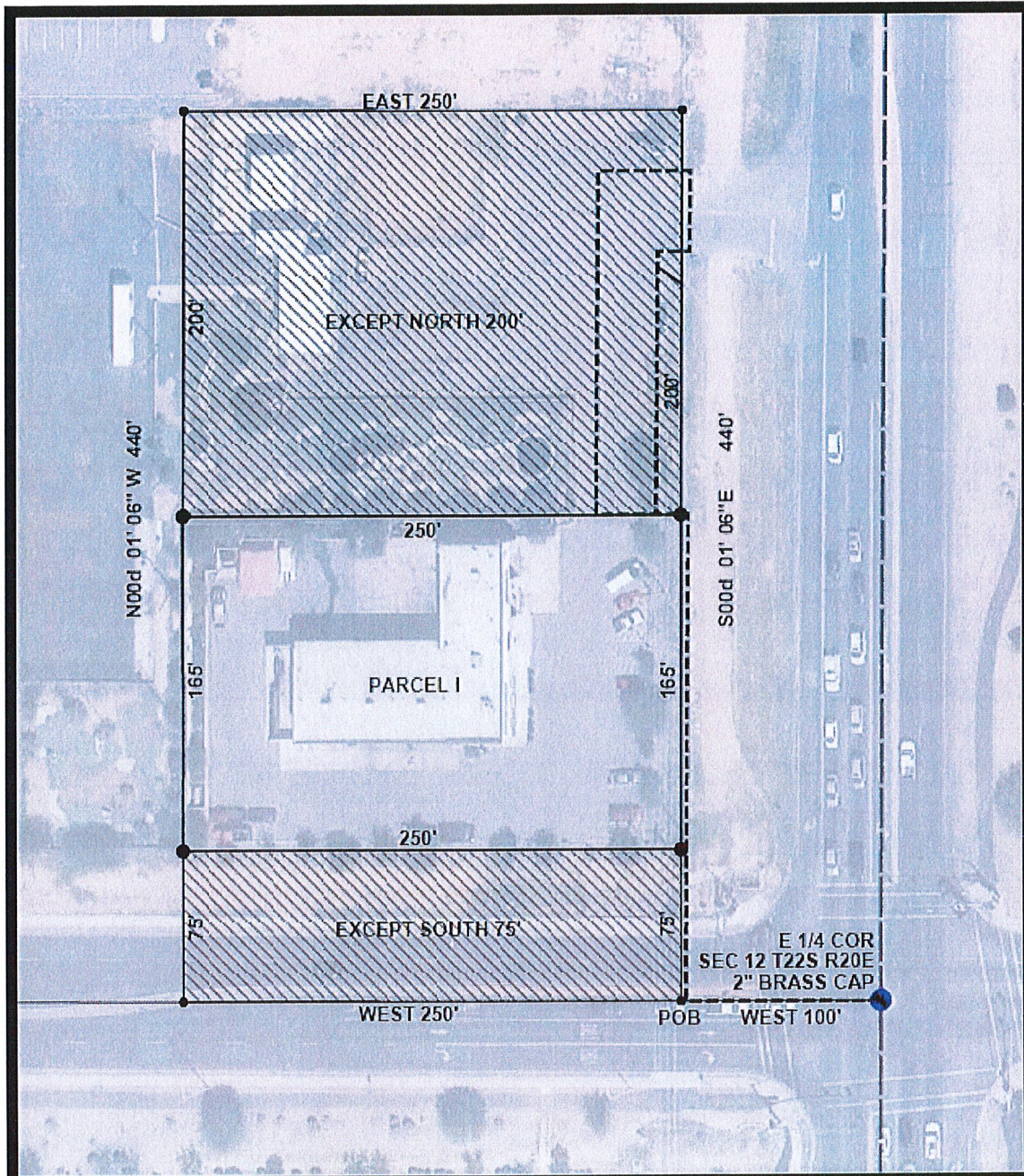
THENCE due East, a distance of 250.00 feet to a point on the Westerly right of way line of State Highway 92;

THENCE South 00 degrees 01 minutes 06 seconds East, a distance of 440.00 feet along said Westerly right of way line parallel to and 100.00 feet distance West from the Easterly section line of said Section 12 to the TRUE POINT OF BEGINNING;

EXCEPT the North 200.00 feet thereof;

AND EXCEPT the South 75 feet more particularly described in that certain document recorded July 1, 1998, Instrument no. 9807-19549;

AND ALSO EXCEPT an undivided one-half interest in and to all mineral, oil and gas rights as reserved in Deed recorded in Docket 943 at Pages 20, 24, and 28, records of Cochise County, Arizona.



105-16-013  
Big "O" Tire  
Annexation

This map is a product of the  
City of Sierra Vista GIS



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This document is a graphic representation only of best available sources.  
City of Sierra Vista assumes no responsibility for any errors.

~~2020-11643~~

Page 1 of 5

Requested By: CITY OF SIERRA VISTA

David W. Stevens - Recorder

Cochise County, AZ

06/12/2020 01:13 PM Recording Fee \$15.00

**WHEN RECORDED MAIL TO:**

CITY OF SIERRA VISTA  
1011 N. CORONADO DR  
SIERRA VISTA, AZ 85635

ANNEXATION PETITION

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**DO NOT REMOVE**

**THIS IS PART OF THE OFFICIAL DOCUMENT**

# CITY OF SIERRA VISTA ANNEXATION PETITION

To the Honorable Mayor and Council of the City of Sierra Vista, Arizona.

We, the undersigned, being owners of real and/or personal property situated within the area hereinafter described and mapped, do hereby petition the City Council of the City of Sierra Vista to annex said area in said City.

We understand that the area to be annexed must be contiguous to the City limits, that the provisions of Section 9-471, Arizona Revised Statutes, must be fully observed and complied with, and that the Sierra Vista City Council may or may not annex the territory we are requesting to be annexed.

(SEE ATTACHMENT FOR LEGAL DESCRIPTION AND MAP)

Owner:

Tax Parcel Number(s) of the Property being annexed.	Name of Property Owner(s)	Mailing Address of Owner(s)
105-16-013	Cochise Roadworks, LLC	1988 S Hwy 92, Sierra Vista, AZ 85635
<del>MINIADO</del>		
Date Signed	Signature of Owner	
7/21/2020	See attached Pre-Annexation Agreement - BAF	

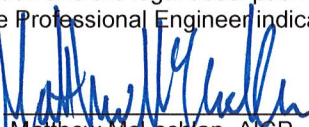
Co-owner:

Tax Parcel Number(s) of the Property being annexed.	Name of Property Owner(s)	Mailing Address of Owner(s)
Date Signed	Signature of Owner	

I, Blake Fisher, hereby certify that I circulated the above petition and that the legal description and map on the reverse side hereof was shown to each owner before obtaining his/her signature and that no additions, deletion, or alteration to the territory sought to be annexed were made after the petition was signed by any person.

  
 \_\_\_\_\_  
 CIRCULATOR

I, Matthew McLachlan, hereby certify that the above petition and the legal description and map shown as attachment A hereof were prepared by the City staff from information provided by the Professional Engineer indicated hereon.

  
 \_\_\_\_\_  
 Matthew McLachlan, AICP  
 Director, Department of Community Development  
 City of Sierra Vista

# CITY OF SIERRA VISTA ANNEXATION PETITION

LEGAL DESCRIPTION FOR CITY OF SIERRA VISTA  
ANNEXATION BOUNDARY OF COMMERCIAL PROPERTY  
1988 SOUTH HWY 92 (APN 105-16-013)  
SIERRA VISTA, ARIZONA

EXHIBIT "ONE"

PARCEL I:

That portion of the Northeast quarter of Section 12, Township 22 South, Range 20 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona, more particularly described as follows:

COMMENCING at the East quarter corner of said Section 12 as monumented by a 2-inch brass cap marked LS 8208;

THENCE due West along the mid-section line of said Section 12, a distance of 100.00 feet to a point on the Westerly right of way line of State Highway 92 and the TRUE POINT OF BEGINNING;

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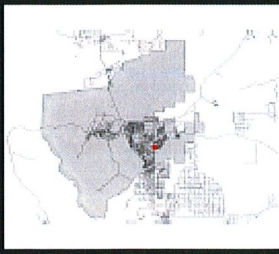
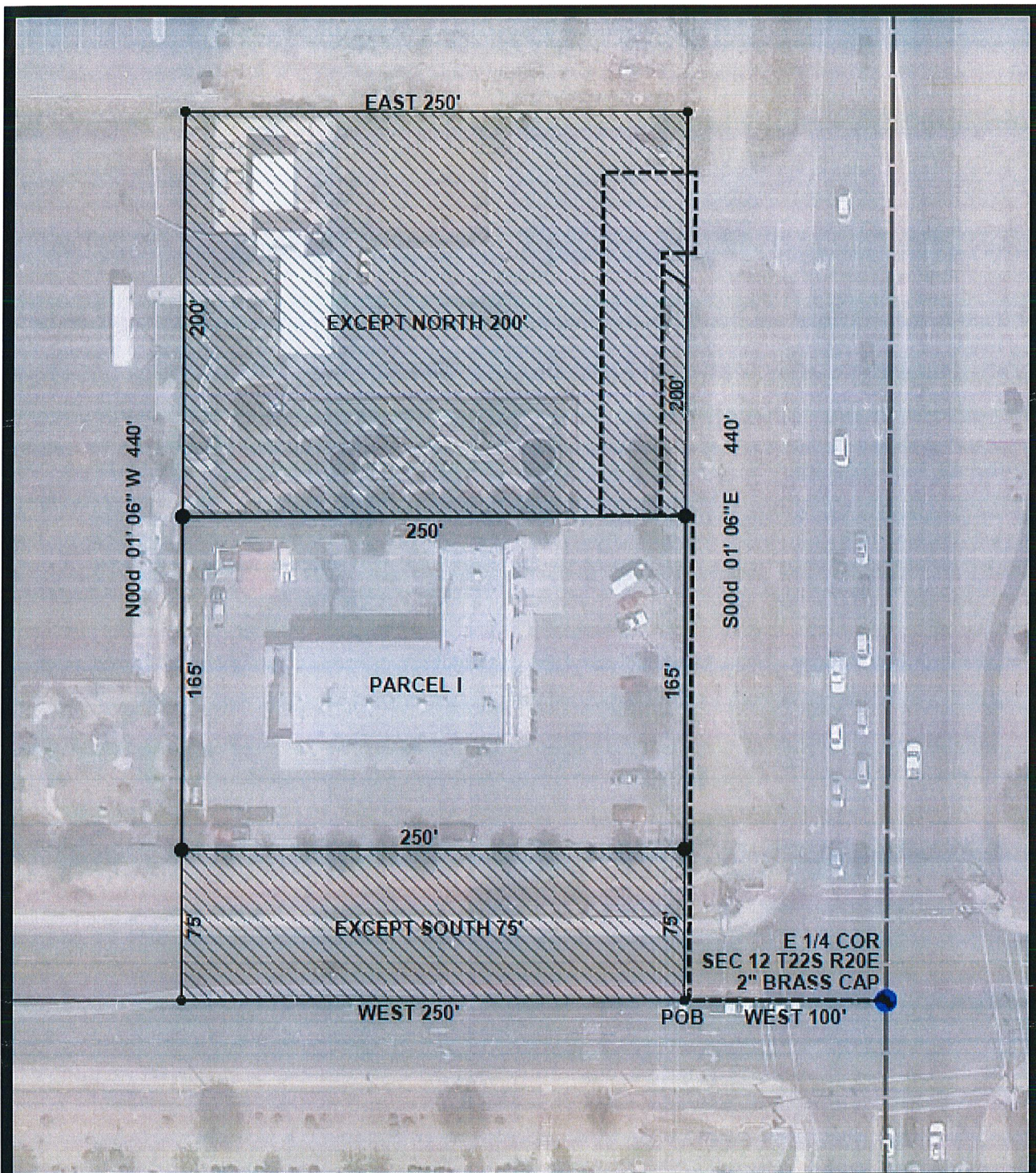
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EXCEPT the North 200.00 feet thereof;



AND EXCEPT the South 75 feet more particularly described in that certain document recorded July 1, 1998, Instrument no. 9807-19549;

AND ALSO EXCEPT an undivided one-half interest in and to all mineral, oil and gas rights as reserved in Deed recorded in Docket 943 at Pages 20, 24, and 28, records of Cochise County, Arizona.



105-16-013  
Big "O" Tire  
Annexation

This map is a product of the  
City of Sierra Vista GIS

jodi.mcgrath, 2020-05-26 13:21:44  
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This document is a graphic representation only of best available sources.  
City of Sierra Vista assumes no responsibility for any errors.

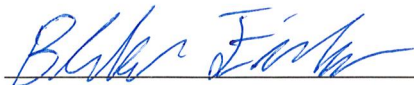


## AFFIDAVIT REGARDING "BIG O TIRES ANNEXATION"

Personally appears before me, Blake Fisher, who, first being duly sworn, deposes and says as follows:

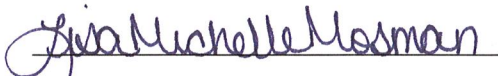
1. I make this affidavit of my own personal knowledge.
2. I am the duly appointed Planner I of the City of Sierra Vista, Arizona and I am qualified to make this affidavit on behalf of and for the City.
3. I, based on due diligent research of the subject annexation area hereby affirm, pursuant to A.R.S. §9-471(A)(6), that no part of the territory for which the attached Annexation Petition is filed is already subject to an earlier filing for annexation.

FURTHER AFFIANT SAYETH NOT.



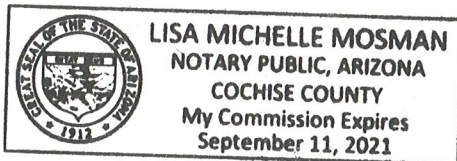
(Name and Title)

SWORN TO AND SUBSCRIBED before me  
this 9<sup>th</sup> day of June, 2020.



Notary Public for the State of Arizona

My commission expires: 9.11.2021



RESOLUTION 2019-072

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; AUTHORIZING THE MAYOR TO EXECUTE A PRE-ANNEXATION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SIERRA VISTA AND COCHISE ROADWORKS, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, CONCERNING PROPERTY LOCATED AT 1988 SOUTH HIGHWAY 92; SIERRA VISTA, ARIZONA, AND AUTHORIZING DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY, OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, the City of Sierra Vista and Cochise Roadworks, LLC, owner of Parcel No. 105-16-013, have reached a Pre-Annexation and Development Agreement (PADA), attached as Exhibit 1 to this Resolution and incorporated by reference, for the property whose location and boundaries are shown on the map attached as Exhibit "A" to the PADA; and

WHEREAS, the execution of this PADA is in the best interest of the City of Sierra Vista.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA:

SECTION 1

The PADA between the City of Sierra Vista and Cochise Roadworks, LLC., an Arizona limited liability company, (with its Exhibit A), attached as Exhibit 1 to this Resolution, is authorized and approved.

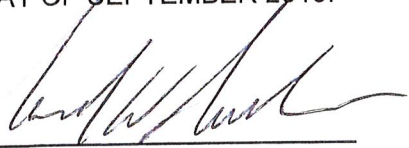
SECTION 2

The Mayor is authorized and directed to execute the PADA for and on behalf of the City of Sierra Vista and the City Clerk is authorized and directed to attest the same.

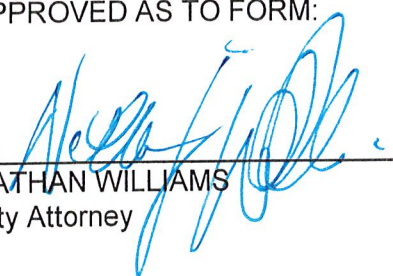
SECTION 3

The City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this Resolution.


PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF  
THE CITY OF SIERRA VISTA, ARIZONA, THIS 12TH DAY OF SEPTEMBER 2019.

  
\_\_\_\_\_  
FREDERICK W. MUELLER  
Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
NATHAN WILLIAMS  
City Attorney

ATTEST:

  
\_\_\_\_\_  
Jill Adams  
City Clerk

Prepared by:  
Matt McLachlan, AICP  
Director of Community Development

**PRE-ANNEXATION AND DEVELOPMENT AGREEMENT**

This Pre-Annexation Agreement (hereinafter, the "Agreement") is made and entered into as of (date) 8/2/19, by and between the City of Sierra Vista, Arizona, a municipal corporation organized under the laws of the State of Arizona (hereinafter, the "City") and Cochise Roadworks LLC, an Arizona limited liability company (hereinafter, the "Owner") of the property specifically described below pursuant to the authority of A.R.S. § 9-500.05.

**RECITALS:**

- A. A.R.S. § 9-500.05 authorizes the City to enter into an agreement with any person or entity having an interest in real property providing for the annexation and development of such property and establishing certain development rights therein.
- B. Owner beneficially owns certain real property at 1988 S. Highway 92, parcel 105-16-013 located in portions of Section 12, Township 22 South, Range 20 East, of the Gila and Salt River Base and Meridian, and more particularly described in Exhibit A attached hereto and made part hereof (hereinafter, the "Property").
- C. The Property is currently located in an unincorporated area of Cochise County and is contiguous to the exterior boundary of the City.
- D. The property is currently zoned GB under the Cochise County zoning ordinance.
- E. City and Owner desire that the Property be annexed into the corporate limits of the City and be developed as an integral part of the City and in accordance with VISTA 2030, the existing comprehensive plan for the City.
- F. City and Owner have determined that entering into this Agreement will be in the best interest of the City, the public, and the Owner; will be proper and legal exercise of City power; will promote orderly development of the Property and the surrounding area; will promote the health, safety and welfare and economy of the community in general; and meets the economic development goals of the City.
- G. The City and the Owner are entering into this Agreement pursuant to the provisions of A.R.S. §9-500.05 in order to facilitate the annexation and development of the Property by providing for, among other things:

- 1. Establishment of the terms for annexation of the Property into the City.

## AGREEMENT

In consideration of the foregoing premises, the mutual covenants and promises in this Agreement and the intent to legally bind City and Owner, the following is agreed:

1. **Annexation Consent.** Owner hereby consents to annexation of the Property into the City of Sierra Vista **as shown in Exhibit A**. This consent to annex the Property into the City shall operate as a covenant and shall run with the land and bind each of Owner's heirs, executors, administrators, successors and assigns to the Property.
2. **Commercial Driveway Apron.** City hereby consents to construct, at its sole cost and expense, a commercial driveway apron providing ingress and egress from Avenida Cochise to the Property under the following terms and conditions:
  - (a) The apron will be restricted to right-in, right-out turning movements only.
  - (b) The apron will be entirely located within fifty (50) feet of the west property line unless an alternate location is mutually agreed to by the parties.
  - (c) The apron will substantially conform to Standard Detail No. 262 unless modified with the consent of the parties to this Agreement.
  - (d) The City shall commence construction of the commercial driveway apron within one hundred and eighty (180) days from the date of execution by both parties hereto unless an extension of time is granted by the Owner.
  - (e) The City will not be responsible for any future repairs or maintenance of the driveway apron following its construction.
  - (f) The City shall not annex the Property until the commercial driveway apron passes its final inspection by the City Engineer.
3. **Durable Special Power of Attorney.** To facilitate annexation of the Property in a manner convenient to the City, Owner shall execute, simultaneously with the execution of this Agreement, a durable special power of attorney, attached and incorporated herein as Exhibit B, designating the City Clerk with the irrevocable power to sign and execute, on behalf of the Owner, any lawful annexation petition or other annexation document for the purpose of annexing the Property into the City of Sierra Vista. Any successor(s) to Owner shall execute a similar annexation petition or documents necessary to accomplish the annexation.
4. **Applicable Zoning.** Pursuant to A.R.S. §9-471(L), upon annexation, the City shall adopt a City zoning classification for the Property that permits densities and uses no greater than those permitted by the existing Cochise County zoning (the "Original City Zoning").
5. **Private Property Rights Development Act.** By signing this Agreement, Owner agrees to waive claims for diminution in value under the Private Property Rights Development Act in connection with annexation of the Property as well as for any claim for diminution in value as a result of any subsequent rezoning of the Property by the City.

6. **Entire Agreement.** This agreement sets forth the entire understanding between the parties concerning the subject matter of this agreement and incorporates all prior negotiations and understandings. There are no covenants, promises, agreements, conditions or understandings, either oral or written, between the parties relating to the subject matter of this agreement other than those set forth herein. No modification or amendment of this agreement shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.
7. **Negotiated Effort.** The parties agree that this Agreement represents the negotiated joint efforts of the parties. In the event a court of competent jurisdiction finds ambiguity, this Agreement shall not be construed against either party in favor of a non-drafting party.
8. **Authority.** All persons executing this document for City and Owner have all necessary and legal authority to enter into this Agreement for their respective corporations and the individual(s) executing this Agreement on behalf of their respective parties are authorized and empowered to bind the party on whose behalf such individual is signing.
9. **Covenants Running with the Land.** This Agreement is made as part of a common scheme or plan for the development of the property and a "Development Agreement" as defined in A.R.S. §9-500.05 and all rights and obligations hereunder subject to the provisions of Paragraph 3 contained herein shall be considered to run with the land and benefit and burden all owners of all or any portion of the Property, including owners who acquire title to any portion of the Property subsequent to the execution and recording of this Agreement. Nothing in this Agreement shall be construed as creating a partnership between Owner and the City.
10. **Governing Venue.** The laws of the State of Arizona shall govern this agreement and, in the event of a dispute, venue shall be in Cochise County, Arizona.
11. **Attorneys' Fees.** Should litigation be necessary to enforce any term or provision of this Contract, or to collect any damages claimed or portion of the amount payable under this Agreement, then all litigation and collection expenses, witness fees, court costs, and attorneys' fees will be paid to the prevailing party.
12. **Mediation.** If a dispute arises out of or relates to the Agreement or this Amendment, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try to settle the dispute through mediation before resorting to arbitration, litigation or some other dispute resolution procedure. In the event that the parties cannot agree upon the selection of a mediator within seven (7) days, either party may request the presiding judge of the Superior Court of Cochise County to assign a mediator from a list of mediators maintained by the

Arizona Municipal Risk Retention Pool.

13. **Notices.** Any notice required pursuant to the provisions of this Agreement shall be in writing and be sent by certified mail to the following addresses until notice of change of address is given and shall be deemed received on the fifth business day following deposit in the United States Mail.

City Clerk	<u>Cochise Roadworks LLC</u>
City of Sierra Vista	<u>1988 S. Highway 92</u>
1011 N. Coronado Drive	<u>Sierra Vista, AZ 85635</u>
Sierra Vista, AZ 85635	

14. **Non-Severability.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court or competent jurisdiction, such holding shall not invalidate or render unenforceable all other provisions hereof.
15. **Amendments, Modifications and Waivers.** This Agreement may not be amended, none of its terms may be modified and none of the provisions or any of its terms may be waived without the written consent of the parties hereto.
16. **Applicable Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Arizona.
17. **Captions.** The captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or Section of this Agreement.
18. **Additional Documents and Acts.** The parties hereto shall execute, acknowledge, if applicable, and deliver such additional documents and do such other acts as may be reasonably required to fully implement the intent of this Agreement.
19. **Execution in Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.
20. **Term.** The term of this Agreement shall commence on the date of execution by both parties hereto.

CITY OF SIERRA VISTA:

By: [Signature]  
FREDERICK W. MUELLER  
Mayor, City of Sierra Vista

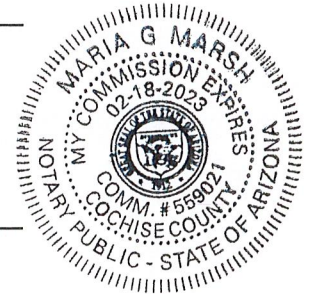
STATE OF ARIZONA )  
 ) ss  
County of Cochise )

This instrument was acknowledged before me this 12th day of September, 2019, by Frederick W Mueller

[Signature]  
Notary Public

My commission expires:

02-18-23



APPROVAL AS TO FORM:

By: [Signature]  
NATHAN L. WILLIAMS  
City Attorney

PROPERTY OWNER NAME:

By:  
Dr. ERIC LANE  
[Signature]  
Title: promised Cochise Products LLC

STATE OF ARIZONA )  
 ) ss.  
County of Cochise )

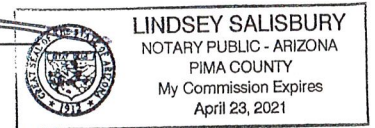
This instrument was acknowledged before this 2 day of August, 2019,

ATTEST:

By: [Signature]  
JILL ADAMS  
City Clerk

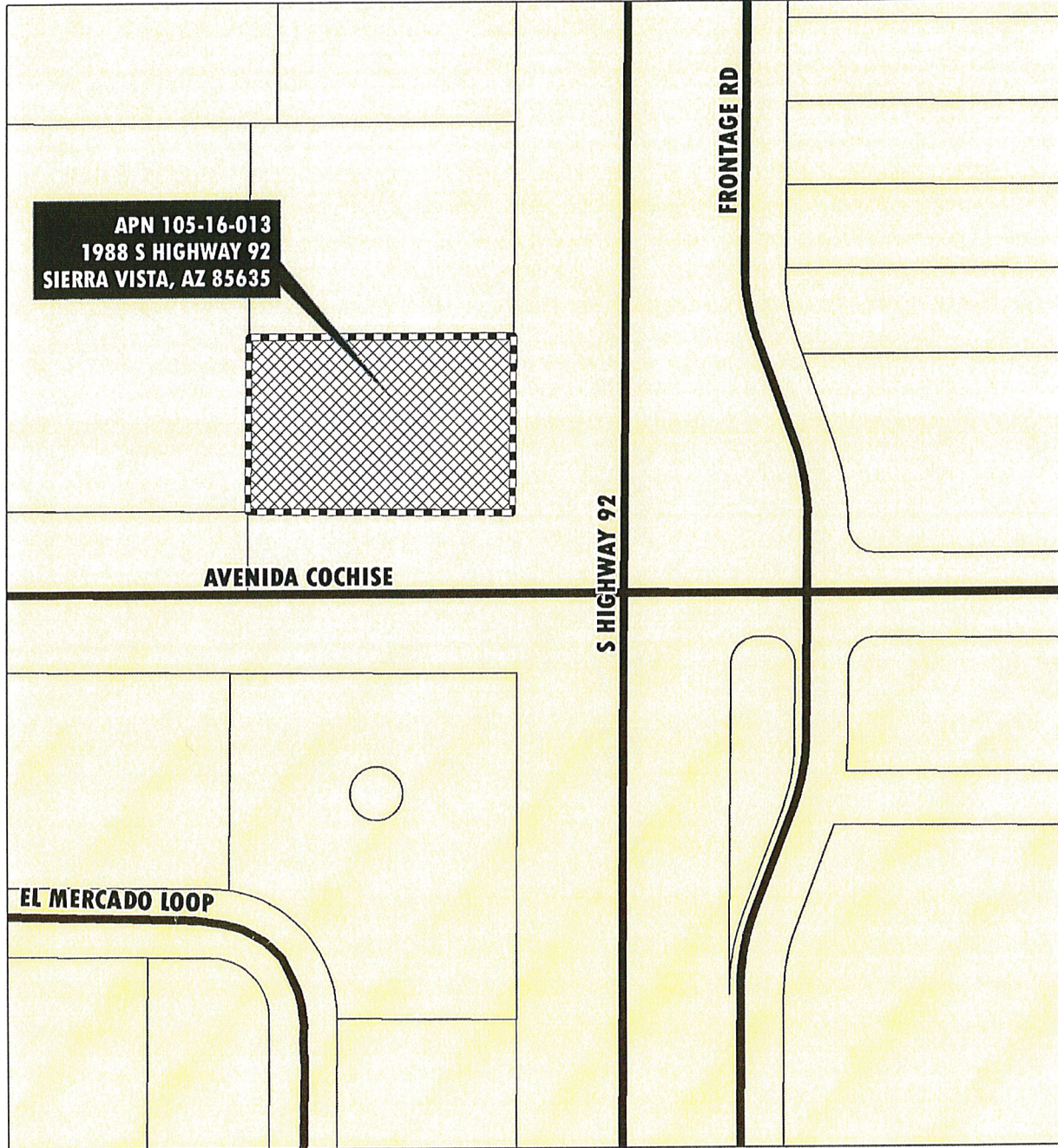
me  
by

[Signature]  
Notary Public  
My commission expires:  
4/23/2021





# EXHIBIT "A" - SUBJECT PROPERTY



SUBJECT PROPERTY



CITY LIMITS

EXHIBIT B

DURABLE SPECIAL POWER OF ATTORNEY

Cochise Roadworks LLC is the owner of the following described real property:

Assessor's Parcel No. 105-16-013

Said property being parcel no. 105-16-013 I hereby appoint the CITY CLERK of the City of Sierra Vista, Arizona as its true and lawful Attorney for it and in its name, place, and stead, with full authority and full powers of substitution, to do and execute any or all of the following acts, deeds and things, relating to or in any way connected with the following described matter **AND NO OTHER:**

To execute all **ANNEXATION** documents, including, but not limited to, petitions, waivers, notices, grant all approvals or consents, and to do every act or perform everything necessary to authorize and achieve the **ANNEXATION** of the above described property into the boundaries and limits of the City of Sierra Vista, County of Cochise, State of Arizona. It is the express intention and desire that said property be annexed to the City of Sierra Vista.

I further certify that I have all necessary and legal authority to enter into this Durable Special Power of Attorney.

THIS SPECIAL POWER OF ATTORNEY SHALL NOT BE AFFECTED BY MY DISABILITY.

IN WITNESS WHEREOF, I have hereunto set my hand, this 2 day of August, 2019.

By: [Signature]  
Print Name: Eric A. Lane

STATE OF ARIZONA )  
 )ss  
COUNTY OF COCHISE )

On this Aug 2, 2019, before me, Lindsey Salisbury, a Notary Public in and for the County of Cochise, State of AZ, on this day personally appeared Eric A. Lane to be the person whose name is subscribed to within this instrument and acknowledged that he executed the same for the purposes therein contained.

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

[Signature]  
NOTARY PUBLIC

My Commission Expires: April 23 2021

