

May 25, 2023

MEMORANDUM TO: Honorable Mayor and City Council

THRU: Charles P. Potucek, City Manager
Victoria Yarbrough Assistant City Manager

FROM: Matt McLachlan, AICP, Community Development Director

SUBJECT: REQUEST FOR CONSENT AGENDA ITEM PLACEMENT
Resolution 2023-035
Acceptance of Sewer Easements from Strr Investments, LLC,
Economic Technologies, LLC, Mendelsohn McMillan Family Trust,
Nemow Holdings, LLC, and Eyefly AZ Properties, LLC, for Public
Sewer Main Extension Project.

STAFF RECOMMENDATION:

The City Manager recommends approval.
The Director of Community Development recommends approval.
The CIP and Development Manager recommends approval.

INITIATED BY:

City of Sierra Vista

BACKGROUND:

The current fiscal year budget includes funding for extending a public sewer main to serve businesses in the plaza west of the KFC along E. Fry Boulevard and the vacant parcel to the south. Because the sewer main extension traverses private property, sewer easements needed to be obtained from five separate owners to ensure the City has legal access for construction and future maintenance. The sewer easements and associated exhibits were prepared by the Public Works/Engineering Division.

The construction plans for the sewer main extension have been completed and the project will be put out for bid soon. The estimated cost of this project is \$125,330.



FRY BLVD

NE Cor Lot 4

105-06-019E

105-06-005A

105-06-008

105-06-006

105-06-007

105-06-009

105-06-010

105-06-004

**SEWER
EASEMENT**

105-06-011

MARIANNE DR

105-06-012

DEDICATED
DRAINAGE

WILCOX DR

RESOLUTION 2023-035

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; AUTHORIZING THE ACCEPTANCE OF SEWER EASEMENTS FROM STRR INVESTMENTS, LLC, ECONOMIC TECHNOLOGIES, LLC, MENDELSON MCMILLAN FAMILY TRUST, NEMOW HOLDINGS, LLC, AND EYEFly AZ PROPERTIES, LLC, AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY OR THEIR DULY AUTHORIZED OFFICERS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, the City desires to make public sewer service available to certain properties situated in a portion of Lot 4, Section 2, Township 22 South, Range 20 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona; and

WHEREAS, the property owners identified on the deeds wish to convey sewer easements to the City for the sewer line extension project; and

WHEREAS, the sewer easements are in conformance with Development Code requirements; and

WHEREAS, the City desires to accept the easements offered by the property owners identified on the deeds; and

WHEREAS, it is settled policy of the City Council that dedication is considered as satisfactorily assured when documents granting the required easements have been accepted for recordation by the City Council pursuant to the City of Sierra Vista Development Code.

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

SECTION 1

That the settled policy of the City Council, accepting the deeds for recordation for the dedication of sewer line easements, be, and hereby is, reaffirmed.

SECTION 2

That the sewer easement attached hereto as Exhibit "A" and made a part hereof, from Strr Investments, LLC, pertaining to Assessor Parcel # 105-06-006, is hereby accepted.

SECTION 3

That the sewer easement attached hereto as Exhibit “B” and made a part hereof, from Economic Technologies, LLC, pertaining to Assessor Parcel # 105-06-007, is hereby accepted.

SECTION 4

That the sewer easement attached hereto as Exhibit “C” and made a part hereof, from Mendelsohn McMillan Family Trust, pertaining to Assessor Parcel # 105-06-009, is hereby accepted.

SECTION 5

That the sewer easement attached hereto as Exhibit “D” and made a part hereof, from Nemow Holdings, LLC, pertaining to Assessor Parcel # 105-06-010, is hereby accepted.

SECTION 6

That the sewer easement attached hereto as Exhibit “E” and made a part hereof, from Eyefly AZ Properties, LLC, pertaining to Assessor Parcel # 105-06-004, is hereby accepted.

SECTION 7

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 25TH DAY OF MAY, 2023.

CLEA A. McCAA II
Mayor

Approved As To Form:

Attest:

NATHAN WILLIAMS
City Attorney

JILL ADAMS
City Clerk

Prepared By: Matt McLachlan, AICP
Community Development Director

Attachments:

Exhibit A – Sewer Easement, Strr Investments, LLC (APN 105-06-006)

Exhibit B – Sewer Easement, Economic Technologies, LLC (APN 105-06-007)

Exhibit C – Sewer Easement, Mendelsohn McMillan Family Trust (APN 105-06-009)

Exhibit D – Sewer Easement, Nemow Holdings, LLC (APN 105-06-010)

Exhibit E – Sewer Easement, Eyefly AZ Properties, LLC (APN 105-06-004)

EXHIBIT A

SEWER EASEMENT

STRR INVESTMENTS, LLC (APN 105-06-006)

SEWER EASEMENT

WITNESSETH: That WHEREAS for the convenience of the undersigned parties it is necessary for the City of Sierra Vista, a municipal corporation of Cochise County, Arizona, to allow construction and maintenance of a sanitary sewer line across certain property of the undersigned parties, which portion of said property herein granted is more particularly described as follows:

SEE ATTACHED EXHIBIT "A"

NOW, THEREFORE, WE, THE UNDERSIGNED PARTIES, AS GRANTOR, FOR AND IN CONSIDERATION of One Dollar (\$1.00) to us in hand paid by the City of Sierra Vista, receipt of which is hereby acknowledged, do hereby grant and convey unto the City of Sierra Vista an easement in perpetuity over and across the above-described property for the purpose of constructing, maintaining, operating, inspecting, and repairing necessary sewer line facilities and the necessary adjuncts thereto, laid thereon and therein, and it is distinctly understood and agreed that the City of Sierra Vista shall at all times have the right to enter upon said premises when necessary for the purposes above mentioned.

Grantor reserves the right to use the easement for purposes which will not interfere with the City of Sierra Vista's full enjoyment of the right hereby granted; provided, that the Grantor shall not erect or construct any building or other structure upon or in said easement which will in any manner interfere with the use of or access to said easement by the City of Sierra Vista.

In exercising its right of entry for construction, maintenance, or repair of said Sanitary Sewer Line, the City of Sierra Vista shall restore the surface of the ground to its former state.

DATED this 26 day of April, 2023

[Signature]

Title Manager
STRR INVESTMENTS, LLC

STATE OF Texas
COUNTY OF Tarrant

Before me Jeri Stoneham, a Notary Public in and for the County of Tarrant and State of Texas, on this day personally appeared Rehman Akhmed, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this 26 day of April, 2023



[Signature]

Notary Public

EXHIBIT "A"

Sewer Easement Description (Assessor Parcel # 105-06-006 KFC)

A 20.00 feet wide permanent easement for the construction, operation, and maintenance of a sanitary sewer line, across and under that portion of Assessor Parcel No. 105-06-006 as recorded in Fee# 2017-22851 of the Records of Cochise County, Arizona, situated in a portion of Lot 4, Section 2, Township 22 South, Range 20 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona, more particularly described as follows:

Assessor Parcel #105-06-006 Property Legal Description

COMMENCING at the Northeast corner of said Lot 4;

Thence South 00 degrees 02 minutes 50 seconds West along the Easterly line of said Lot 4, a distance of 50.00 feet to a point on the Southerly right-of-way of State Highway No. 90 (also known as Fry Blvd.);

Thence South 89 degrees 02 minutes 50 seconds West along the said State Highway No. 90 right-of-way line, a distance of 155.00 feet to the TRUE POINT OF BEGINNING;

Thence South 00 degrees 02 minutes 50 seconds West, a distance of 280.00 feet;

Thence South 89 degrees 57 minutes 10 seconds West, a distance of 100.00 feet (being the southwest corner of described property);

Thence North 00 degrees 02 minutes 50 seconds, a distance of 280.00 feet to a point on the Southerly right-of-way line of State highway No. 90;

Thence North 89 degrees 57 minutes 10 seconds East, along the right-of-way line, a distance of 100.00 to the TRUE POINT OF BEGINNING.

Sewer Easement Legal Description

A 20.00 feet wide permanent easement, more particularly described as follows;

COMMENCING at the said Northeast corner of said Lot 4;

Thence South 00 degrees 02 minutes 50 seconds West along the Easterly line of said Lot 4, a distance of 50.00 feet to a point on the Southerly right-of-way of State Highway No. 90 (also known as Fry Blvd.);

Thence South 89 degrees 02 minutes 50 seconds West along the said State Highway No. 90 right-of-way line, a distance of 155.00 feet to the Northwest corner of said property;

Thence South 00 degrees 02 minutes 50 seconds West, a distance of 280.00 feet to the Southeast corner of said property;

Thence South 89 degrees 57 minutes 10 seconds West, a distance of 100.00 feet to the southwest corner of said property and the TRUE POINT OF BEGINNING;

Thence along the west property line, North 00 degrees 02 minutes 50 seconds West, a distance of 20.00 feet;

Thence departing the west property line, parallel and 20.00 feet north of said south property line, North 89 degrees 57 minutes 10 seconds East, a distance of 18.42 feet;

Thence North 23 degrees 07 minutes 55 seconds East, a distance of 61.36 feet; Thence

South 66 degrees 52 minutes 05 seconds East, a distance of 20.00 feet; Thence South

23 degrees 07 minutes 55 seconds West, a distance of 53.19 feet;

Thence South 00 degrees 02 minutes 50 seconds West, a distance of 20.00 feet to the southern boundary of said property;

Thence along said southern boundary, South 89 degrees 57 minutes 10 seconds West, a distance of 40.00 feet to the TRUE POINT OF BEGINNING.

The total area contains 19,50.00 Sq. Ft, or 0.04 Acres, more or less.

EXHIBIT "A" - MAP

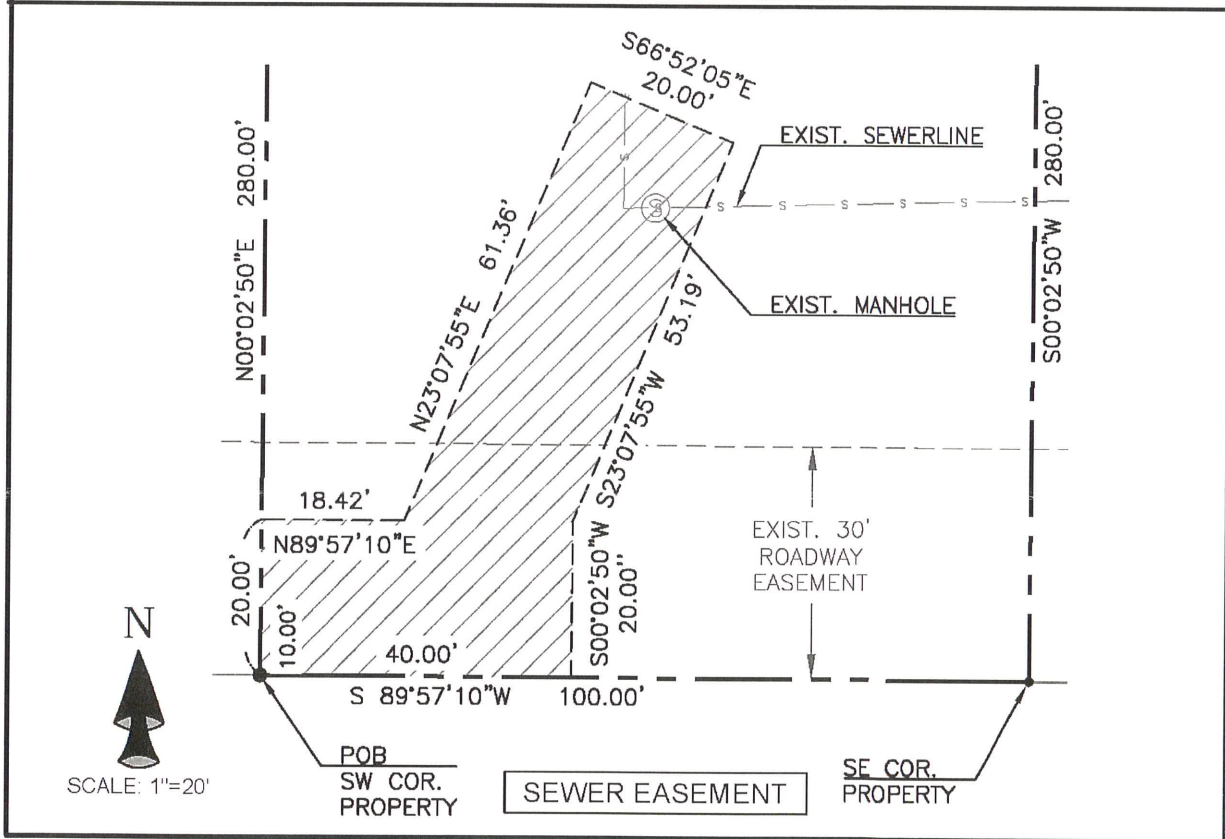
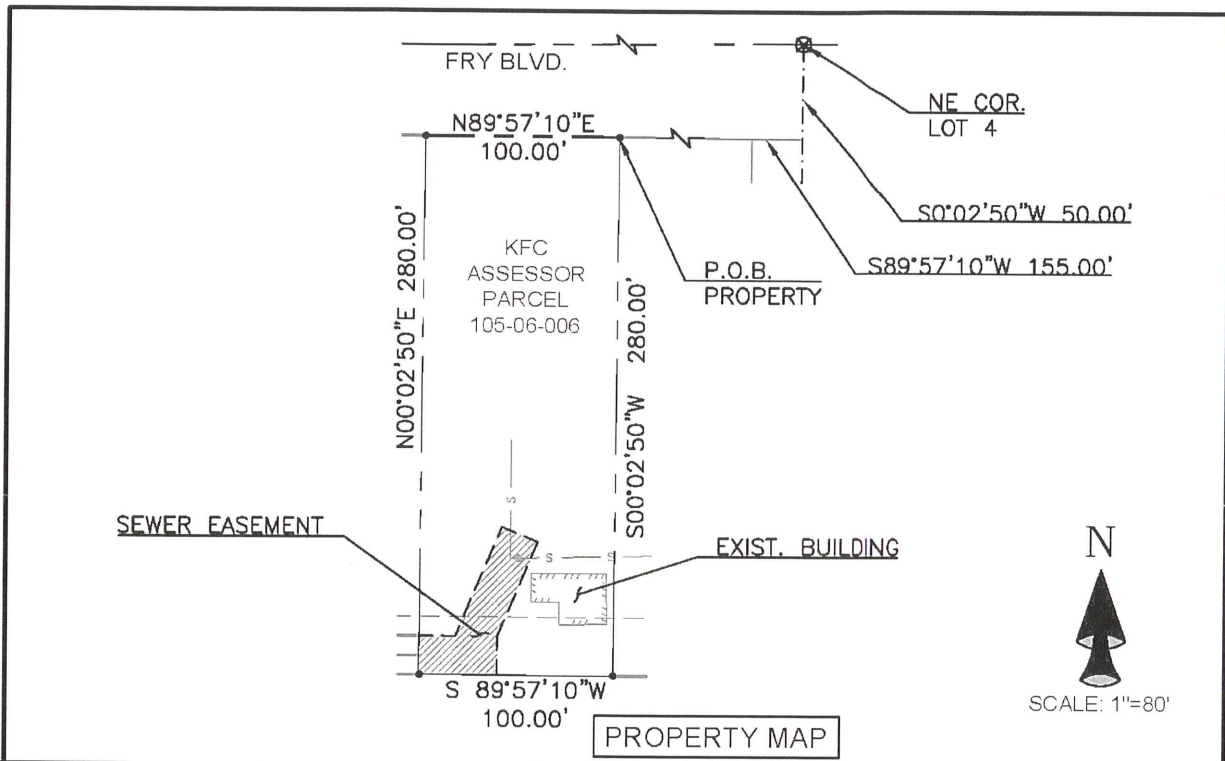


EXHIBIT B

SEWER EASEMENT

ECONOMIC TECHNOLOGIES, LLC (APN 105-06-007)

SEWER EASEMENT

WITNESSETH: That WHEREAS for the convenience of the undersigned parties it is necessary for the City of Sierra Vista, a municipal corporation of Cochise County, Arizona, to allow construction and maintenance of a sanitary sewer line across certain property of the undersigned parties, which portion of said property herein granted is more particularly described as follows:

SEE ATTACHED EXHIBIT "A"

NOW, THEREFORE, WE, THE UNDERSIGNED PARTIES, AS GRANTOR, FOR AND IN CONSIDERATION of One Dollar (\$1.00) to us in hand paid by the City of Sierra Vista, receipt of which is hereby acknowledged, do hereby grant and convey unto the City of Sierra Vista an easement in perpetuity over and across the above-described property for the purpose of constructing, maintaining, operating, inspecting, and repairing necessary sewer line facilities and the necessary adjuncts thereto, laid thereon and therein, and it is distinctly understood and agreed that the City of Sierra Vista shall at all times have the right to enter upon said premises when necessary for the purposes above mentioned.

Grantor reserves the right to use the easement for purposes which will not interfere with the City of Sierra Vista's full enjoyment of the right hereby granted; provided, that the Grantor shall not erect or construct any building or other structure upon or in said easement which will in any manner interfere with the use of or access to said easement by the City of Sierra Vista.

In exercising its right of entry for construction, maintenance, or repair of said Sanitary Sewer Line, the City of Sierra Vista shall restore the surface of the ground to its former state.

DATED this 29 day of March, 2023

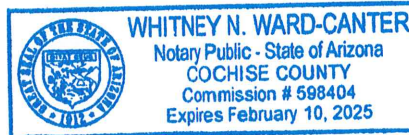
Owner Ranall Groth

Title

ECONOMIC TECHNOLOGIES, LLC

STATE OF ARIZONA

COUNTY OF COCHISE



Before me Whitney N. Ward-Canter, a Notary Public in and for the County of Cochise, and State of Arizona, on this day personally appeared Ranall Groth, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this 29th day of March, 2023

Whitney N. Ward-Canter
Notary Public

EXHIBIT "A"

Sewer Easement Description

(Assessor Parcel # 105-06-007)

A 20.00 ft. wide permanent easement for the construction, operation, and maintenance of a sanitary sewer line, over the South 20.00 feet of the following described parcel more particularly described as follows:

That portion of Lot 4, Section 2, Township 22 South, Range 20 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona,

BEGINNING at the Northeast corner of said Lot 4;

Thence South 00° 02' 50" West along the Easterly line of said Lot 4, a distance of 50.00 feet to a point on the Southerly right of way of State Highway 90 as it existed on October 28, 1970;

Thence South 89° 57' 150" West, along the Southerly right of way line of State Highway No. 90, a distance of 255.00 feet to the TRUE POINT OF BEGINNING;

Thence South 00° 02' 50" West, a distance of 280.00 feet;

Thence South 89° 57' 10" West, a distance of 100.00 feet;

Thence North 00° 02' 50" East, a distance of 280.00 feet to a point on the Southerly right of way line of State Highway No. 90;

Thence North 89° 57' 10" East along said right of way line, a distance of 100.00 feet to the TRUE POINT OF BEGINNING;

EXCEPT 1/16th of all gas, oil, metals, and mineral rights as reserved in the recorded Patent to said land.

EXHIBIT "A" - MAP

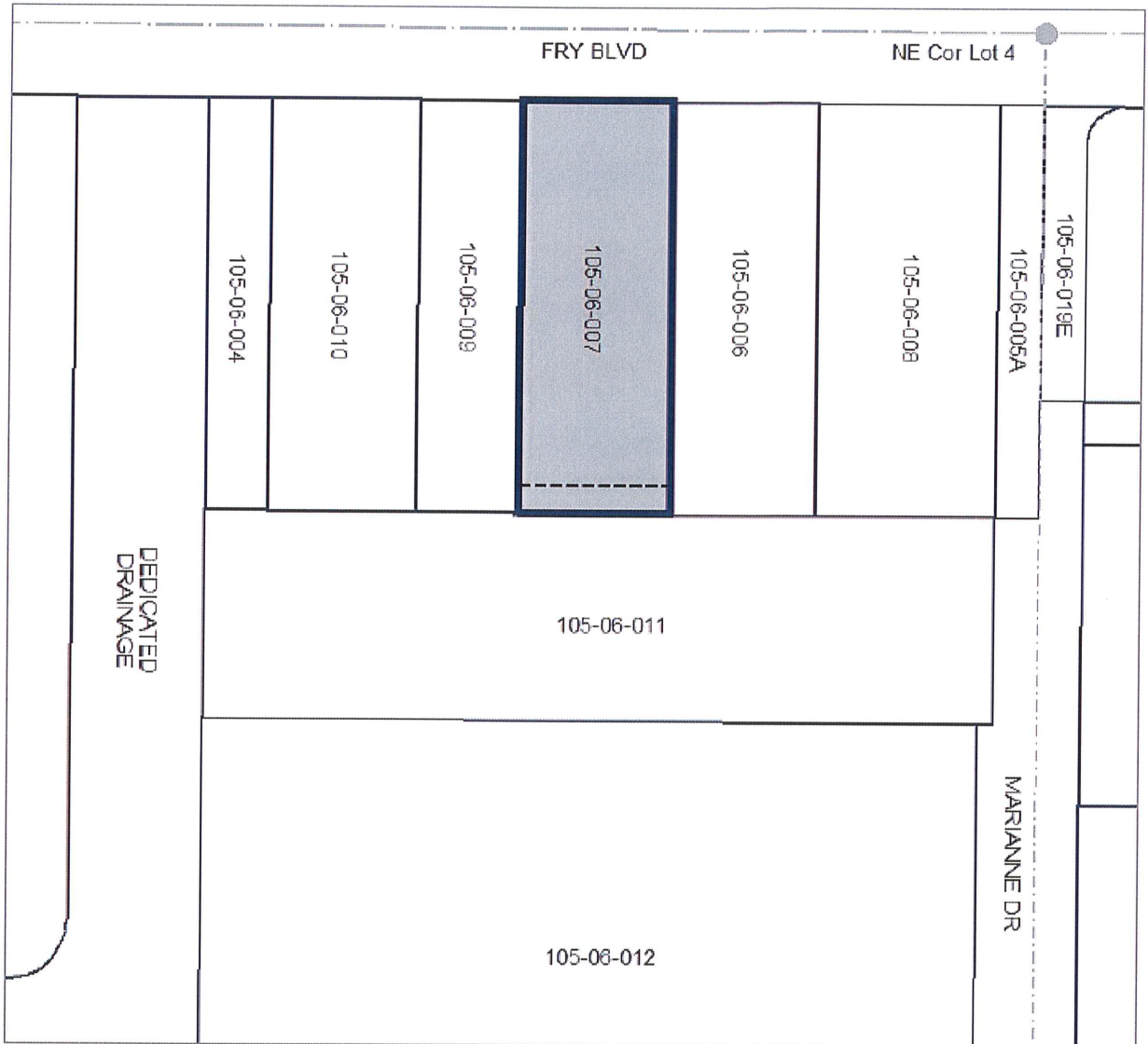


EXHIBIT C

SEWER EASEMENT

MENDELSON MCMILLAN FAMILY TRUST (APN 105-06-009)

SEWER EASEMENT

WITNESSETH: That WHEREAS for the convenience of the undersigned parties it is necessary for the City of Sierra Vista, a municipal corporation of Cochise County, Arizona, to allow construction and maintenance of a sanitary sewer line across certain property of the undersigned parties, which portion of said property herein granted is more particularly described as follows:

SEE ATTACHED EXHIBIT "A"

NOW, THEREFORE, WE, THE UNDERSIGNED PARTIES, AS GRANTOR, FOR AND IN CONSIDERATION of One Dollar (\$1.00) to us in hand paid by the City of Sierra Vista, receipt of which is hereby acknowledged, do hereby grant and convey unto the City of Sierra Vista an easement in perpetuity over and across the above-described property for the purpose of constructing, maintaining, operating, inspecting, and repairing necessary sewer line facilities and the necessary adjuncts thereto, laid thereon and therein, and it is distinctly understood and agreed that the City of Sierra Vista shall at all times have the right to enter upon said premises when necessary for the purposes above mentioned.

Grantor reserves the right to use the easement for purposes which will not interfere with the City of Sierra Vista's full enjoyment of the right hereby granted; provided, that the Grantor shall not erect or construct any building or other structure upon or in said easement which will in any manner interfere with the use of or access to said easement by the City of Sierra Vista.

In exercising its right of entry for construction, maintenance, or repair of said Sanitary Sewer Line, the City of Sierra Vista shall restore the surface of the ground to its former state.

DATED this 5 day of MAY, 2023



Title

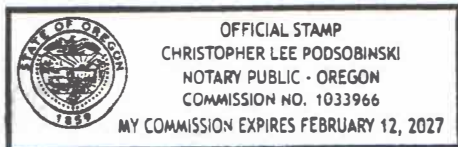
MENDELSON MCMILLAN FAMILY TRUST

Oregon
STATE OF ~~ARIZONA~~

COUNTY OF ~~COCHISE~~
Jackson

Before me Christopher Podsobinski, a Notary Public in and for the County of Jackson, and State of Oregon, on this day personally appeared Marc Mendelsohn, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that He executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this 5 day of May, 2023



Notary Public

Sewer Easement Description
(Assessor Parcel # 105-06-009)

A 20.00 ft. wide permanent easement for the construction, operation, and maintenance of a sanitary sewer line, over the South 20.00 feet of the following described parcel more particularly described as follows:

That portion of Lot 4, Section 2, Township 22 South, Range 20 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona,

BEGINNING at the Northeast corner of said Lot 4;

Thence South 00° 02' 50" West along the Easterly line of said Lot 4, a distance of 50.00 feet to a point on the Southerly right of way of State Highway 90 as it existed on October 28, 1970;

Thence South 89° 57' 150" West, along the Southerly right of way line of State Highway No. 90, a distance of 355.00 feet to the TRUE POINT OF BEGINNING;

Thence South 00° 02' 50" West, a distance of 280.00 feet;

Thence South 89° 57' 10" West, a distance of 70.00 feet; Thence North 00° 02' 50" East, a distance of 280.00 feet to a point on the Southerly right of way line of State Highway No. 90;

Thence North 89° 57' 10" East along said right of way line, a distance of 70.00 feet to the TRUE POINT OF BEGINNING;

EXCEPT 1/16 of all gas, oil, metals, and mineral rights as reserved in the recorded Patent to said land.

EXHIBIT "A" - MAP

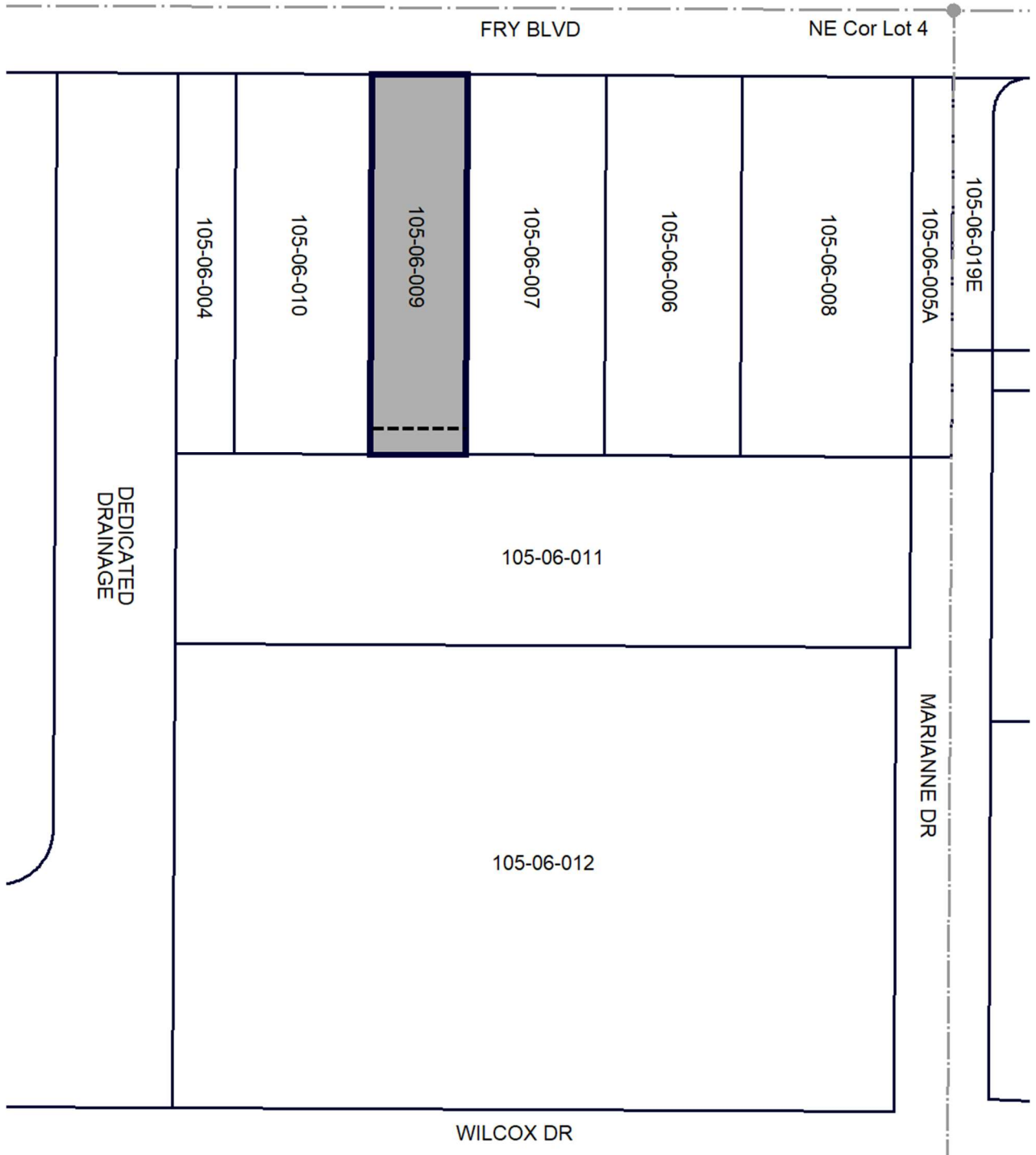


EXHIBIT D

SEWER EASEMENT

NEWMOW HOLDINGS, LLC (APN 105-06-010)

SEWER EASEMENT

WITNESSETH: That WHEREAS for the convenience of the undersigned parties it is necessary for the City of Sierra Vista, a municipal corporation of Cochise County, Arizona, to allow construction and maintenance of a sanitary sewer line across certain property of the undersigned parties, which portion of said property herein granted is more particularly described as follows:

SEE ATTACHED EXHIBIT "A"

NOW, THEREFORE, WE, THE UNDERSIGNED PARTIES, AS GRANTOR, FOR AND IN CONSIDERATION of One Dollar (\$1.00) to us in hand paid by the City of Sierra Vista, receipt of which is hereby acknowledged, do hereby grant and convey unto the City of Sierra Vista an easement in perpetuity over and across the above-described property for the purpose of constructing, maintaining, operating, inspecting, and repairing necessary sewer line facilities and the necessary adjuncts thereto, laid thereon and therein, and it is distinctly understood and agreed that the City of Sierra Vista shall at all times have the right to enter upon said premises when necessary for the purposes above mentioned.

Grantor reserves the right to use the easement for purposes which will not interfere with the City of Sierra Vista's full enjoyment of the right hereby granted; provided, that the Grantor shall not erect or construct any building or other structure upon or in said easement which will in any manner interfere with the use of or access to said easement by the City of Sierra Vista.

In exercising its right of entry for construction, maintenance, or repair of said Sanitary Sewer Line, the City of Sierra Vista shall restore the surface of the ground to its former state.

DATED this 2nd day of January, 2023

Ann Lebeck

Title owner

NEMOW HOLDINGS, LLC

Title

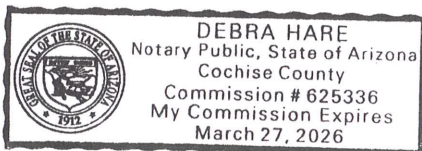
NEWMOW HOLDINGS LLC

STATE OF ARIZONA

COUNTY OF COCHISE

Before me Debra Hare, a Notary Public in and for the County of Cochise, and State of Arizona, on this day personally appeared Ann Lebeck, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that 2 executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this 27th day of January, 2023



Debra Hare
Notary Public

EXHIBIT "A"

**Sewer Easement Description
(Assessor Parcel # 105-06-010)**

A 20.00 ft. wide permanent easement for the construction, operation, and maintenance of a sanitary sewer line, over the South 20.00 feet of the following described parcel more particularly described as follows:

That portion of Lot 4, Section 2, Township 22 South, Range 20 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona,

BEGINNING at the Northeast corner of said Lot 4;

Thence South 00° 02' 50" West along the Easterly line of said Lot 4, a distance of 50.00 feet to a point on the Southerly right of way of State Highway 90 (now known as Fry Boulevard);

Thence South 89° 57' 10" West, along the Southerly right of way line of State Highway No. 90, a distance of 425.00 feet to the TRUE POINT OF BEGINNING;

Thence South 00° 02' 50" West, a distance of 280.00 feet;

Thence South 89° 57' 10" West, a distance of 100.00 feet;

Thence North 00° 02' 50" East, a distance of 280.00 feet to a point on the Southerly right of way line of State Highway No. 90 (now known as Fry Boulevard);

Thence North 89° 57' 10" East, along said right of way line, a distance of 100.00 feet to the TRUE POINT OF BEGINNING;

EXCEPT 1/16 of all oil, gases, and other hydrocarbon substances, coal, stone, metals, minerals, fossils and fertilizers of every name and description and except all materials which may be essential to production of fissionable material as reserved in Arizona Revised Statutes.

EXHIBIT "A" - MAP

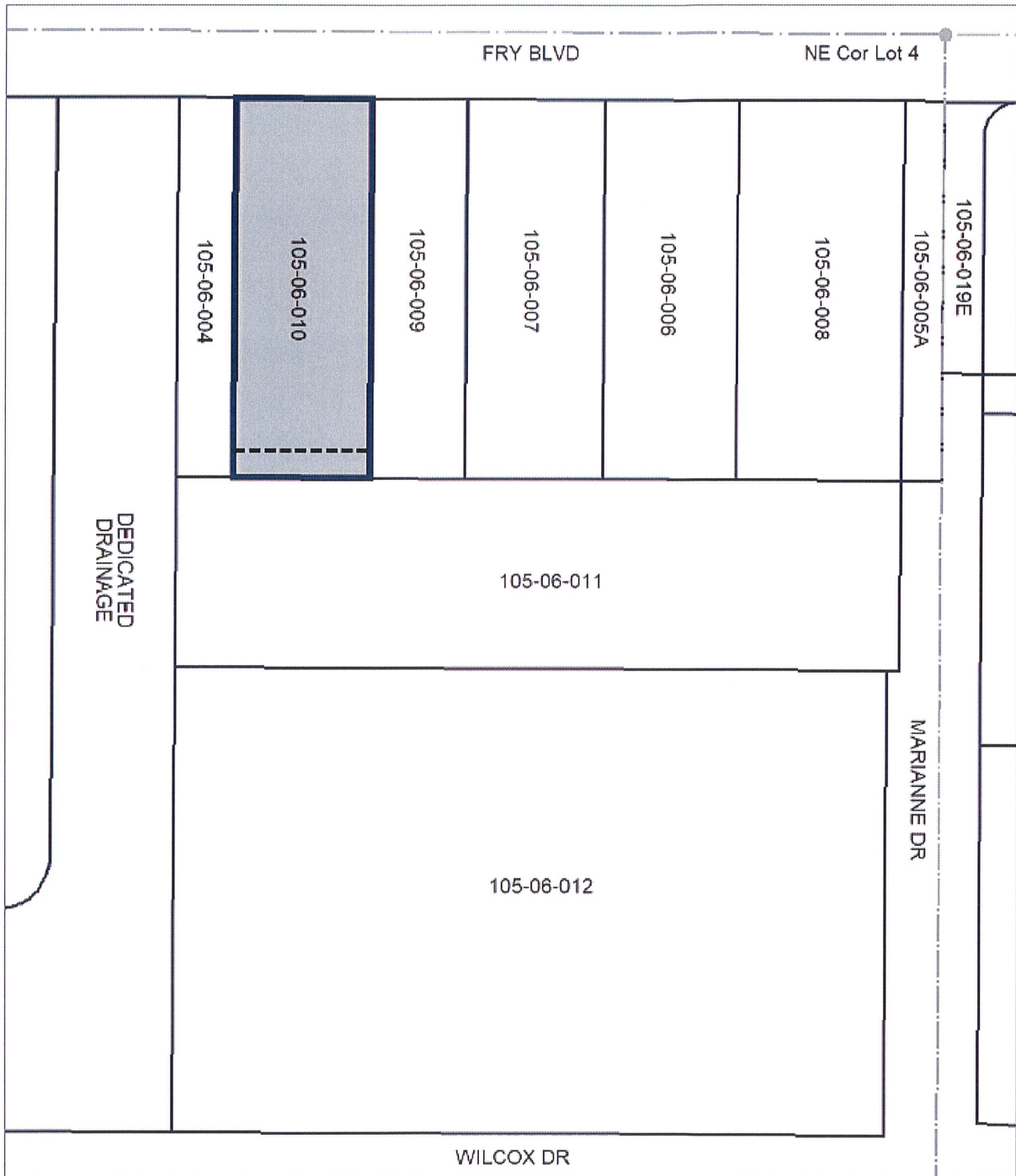


EXHIBIT E

SEWER EASEMENT

EYEFLY AZ PROPERTIES, LLC (APN 105-06-004)

SEWER EASEMENT

WITNESSETH: That WHEREAS for the convenience of the undersigned parties it is necessary for the City of Sierra Vista, a municipal corporation of Cochise County, Arizona, to allow construction and maintenance of a sanitary sewer line across certain property of the undersigned parties, which portion of said property herein granted is more particularly described as follows:

SEE ATTACHED EXHIBIT "A"

NOW, THEREFORE, WE, THE UNDERSIGNED PARTIES, AS GRANTOR, FOR AND IN CONSIDERATION of One Dollar (\$1.00) to us in hand paid by the City of Sierra Vista, receipt of which is hereby acknowledged, do hereby grant and convey unto the City of Sierra Vista an easement in perpetuity over and across the above-described property for the purpose of constructing, maintaining, operating, inspecting, and repairing necessary sewer line facilities and the necessary adjuncts thereto, laid thereon and therein, and it is distinctly understood and agreed that the City of Sierra Vista shall at all times have the right to enter upon said premises when necessary for the purposes above mentioned.

Grantor reserves the right to use the easement for purposes which will not interfere with the City of Sierra Vista's full enjoyment of the right hereby granted; provided, that the Grantor shall not erect or construct any building or other structure upon or in said easement which will in any manner interfere with the use of or access to said easement by the City of Sierra Vista.

In exercising its right of entry for construction, maintenance, or repair of said Sanitary Sewer Line, the City of Sierra Vista shall restore the surface of the ground to its former state.

DATED this 4th day of May, 2023



Title

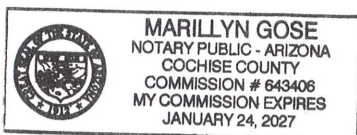
EYEFly AZ PROPERTIES, LLC

STATE OF ARIZONA

COUNTY OF COCHISE

Before me Marilyn Gose, a Notary Public in and for the County of Cochise, and State of Arizona, on this day personally appeared Stephen Phillips, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that ___ executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this 4th day of May, 2023





Notary Public

EXHIBIT "A"

**Sewer Easement Description
(Assessor Parcel # 105-06-004)**

A 20.00 ft. wide permanent easement for the construction, operation, and maintenance of a sanitary sewer line, over the South 20.00 feet of the following described parcel more particularly described as follows:

That portion of Lot 4, Section 2, Township 22 South, Range 20 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona,

BEGINNING at the Northeast corner of said Lot 4;

Thence South 00° 02' 50" West along the Easterly line of said Lot 4, a distance of 50.00 feet to a point on the Southerly right of way of State Highway 90;

Thence South 89° 57' 10" West, along the Southerly right of way line of State Highway No. 90, a distance of 525.00 feet to the TRUE POINT OF BEGINNING;

Thence South 00° 02' 50" West, a distance of 280.00 feet;

Thence South 89° 57' 10" West, a distance of 42.49 feet;

Thence North 00° 05' 01" East, a distance of 280.00 feet to a point on the Southerly right of way line of State Highway No. 90;

Thence North 89° 57' 10" East, along said right of way line, a distance of 43.23 feet to the TRUE POINT OF BEGINNING;

EXCEPT 1/16 of all oil, gases, and other hydrocarbon substances, coal, stone, metals, minerals, fossils, and fertilizers of every name and description and except all materials which may be essential to the production of fissionable material as reserved in Arizona Revised Statutes.

EXHIBIT "A" - MAP

