

ZMC 09-004

When Recorded Return To:
Town of Prescott Valley
7501 East Civic Circle
Prescott Valley, AZ 86314



**AGREEMENT
TO WAIVE CLAIM FOR DIMINUTION IN VALUE
REGARDING ACTION
PROPOSED BY TOWN OR REQUESTED BY PROPERTY OWNER**

This Waiver is related to Proposition 207 (Article 2.1 to Chapter 8, Title 12 of the Arizona Revised Statutes) dealing with eminent domain and regulatory takings. The Waiver is as an agreement between the Town and the owners in conjunction with the land use law actions requested by the property owners. Each owner of a fee interest in the subject property is asked to sign the waiver agreement and have the signatures properly notarized. Extra sheets for the Owners signature can be made for multiple owners involved in an application. A legal description should be attached by the applicant. The Town will complete the application number when the application is processed and attach a copy of the completed application.

This Agreement to Waive Claim for Diminution in Value Regarding Action Proposed by Town or Requested by Property Owner ("Agreement") made as of this 4th day of November, 2009, by and between the Town of Prescott Valley, a municipal corporation of Arizona ("Town") and

POLLAND FAMILY TRUST ("Owner(s)");

WITNESSETH:

WHEREAS, on December 4, 2006, the Governor of Arizona signed into law the Private Property Rights Protection Act (Proposition 207) approved by the voters on November 7, 2006; and

WHEREAS, Proposition 207 added a new Article 2.1 to Chapter 8, Title 12 of the Arizona Revised Statutes (comprising §§12-1131 through 12-1138) dealing with eminent domain and regulatory takings; and

WHEREAS, ARS §12-1134 permits an owner of private real property to seek just compensation from the state or a political subdivision thereof that

enacts or applies a land use law which (subject to certain exceptions) reduces existing rights to use, divide, sell or possess said property and thereby reduces the fair market value of the property; and

WHEREAS, "land use law" includes any statute, rule, ordinance, resolution, or law enacted by the state or political subdivision that regulates the use or division of land or any interest in land; and

WHEREAS, ARS §12-1134(I) recognizes that the state or political subdivisions may reach agreements with private property owners to waive claims for diminution in value resulting from land use law actions proposed by the state or political subdivision or requested by the property owners; and

WHEREAS, Arizona courts have recognized the inherent authority of municipal corporations to enter into agreements within the scope of their legislative powers, the same as individuals and other corporations, in matters that appertain to said municipal corporations [see, *Town of Tempe v. Corbell*, 17 Ariz. 1 (1915)]; and

WHEREAS, the Town (through its Common Council) has, on the date first-above written, duly considered and approved this Agreement with the Owner(s) to waive any claims said Owner(s) may have for diminution in value that may result, now or in the future, from the land use law action(s) proposed by the Town or requested by the Owner(s) as more fully set forth herein;

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein (and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged), the parties hereto agree as follows:

SECTION ONE. This Agreement applies to that private real property described in Exhibit "A" attached hereto and expressly made a part hereof ("Property").

SECTION TWO. The land use law action(s) proposed by the Town or requested by the Owner(s) to which this Agreement applies have been designated as follows by the Town's Community Development Department:

ANX09-001, GPA09-002, ZMC09-004

and are based on certain application(s), copies of which ("Application(s)) are shown as Exhibits "B" "C" and "D" respectively, attached hereto and expressly made a part hereof ("Action(s)").

SECTION THREE. By signing this Agreement, the Owner(s) expressly agree(s) and acknowledge(s) that the Owner(s) hereby waive(s) any right to claim diminution in value or claim just compensation for diminution in value of the Property under ARS §12-1134, now or in the future, in relation to the Action(s). This includes (but is expressly not limited to) agreement and consent by the Owner(s) to all conditions that may ultimately be imposed as part of the Action(s).

SECTION FOUR. It is expressly understood by the parties that this Agreement does not add to, detract from, or otherwise modify any discretion, right, power, authority, obligation, or duty of the Town under applicable law with respect to any legislative, administrative, or quasi-judicial action(s).

SECTION FIVE. This Agreement (including any exhibits attached hereto and any addendum) constitutes the entire understanding and agreement of the Owner(s) and the Town and shall supersede all prior agreements or understandings between the Owner(s) and Town regarding the Property. This Agreement may not be modified or amended except by written agreement of the Owner(s) and the Town.

SECTION SIX. This Agreement is made and entered into in Yavapai County, Arizona, and will be construed and interpreted under the laws of the State of Arizona.

SECTION SEVEN. The parties agree that this Agreement may be filed in the Official Records of the County Recorder's Office, Yavapai County, Arizona.

SECTION EIGHT. This Agreement runs with the land and is binding upon all present and future owners of the Property.

SECTION NINE. This Agreement is subject to the cancellation provisions of ARS §38-511.

SECTION TEN. The Owner(s) warrant(s) and represent(s) that the Owner(s) is/are the owner(s) of fee title to the Property, and that no other person(s) has/have any ownership interest(s) in the Property. The person(s) who sign(s) on behalf of the Owner(s) personally warrant(s) and guarantee(s) to the Town that he/she/they have the legal authority to bind the Owner(s) to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their authorized representatives the day and year first-above written.

TOWN OF PRESCOTT VALLEY, a
municipal corporation of Arizona,
(Town)

Harvey C. Skoog, Mayor

ATTEST:

Diane Russell, Town Clerk

APPROVED AS TO FORM:

Ivan Legler, Town Attorney

STATE OF ARIZONA)
) ss:
County of Yavapai)

The foregoing instrument was acknowledged before me this ___ day of _____, 20__, by Harvey C. Skoog, Mayor of the Town of Prescott Valley, a municipal corporation of Arizona, on behalf of said municipal corporation.

Notary Signature

My Commission Expires:

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their authorized representatives the day and year first-above written.

_____, (Owner(s))

[Handwritten Signature]

Owner(s) Signature

Owner(s) Signature

STATE OF ARIZONA)

) ss:

County of Yavapai)

On this 4th day of November, 2009
personally appeared before me,
____ who is personally known to me,
X whose identity I verified on the basis of AZ Drivers license
____ whose identity I verified on the oath/affirmation of _____
a credible witness,
to be the signer of the foregoing document, and he/she acknowledged that
he/she signed it.

[Handwritten Signature]

Notary Signature

My Commission Expires:

November 10, 2012



Exhibit "A" Page 1

PROPERTY DESCRIPTION

All that portion of the West half of Section 34, Township 14 North, Range 1 East, Gila and Salt River Base and Meridian, Yavapai County, Arizona, more particularly described as follows:

Commencing at the Northwest corner of said Section 34;

Thence, South 00°29'25" East, 1808.70 feet to a point on the West line of said Section 34

Thence, North 89°30'35" East, 274.11 feet;

Thence, South 62°28'00" East, 337.58 feet;

Thence, South 35°46'00" East, 236.05 feet;

Thence, South 17°21'30" East, 118.45 feet;

Thence, South 31°36'35" East, 286.74 feet;

Thence, South 22°50'17" East, 79.59 feet to the **POINT OF BEGINNING**;

Thence, North 68°16'44" East, 258.81 feet to a point on the Westerly right-of-way of Arizona state Route 69, being a point on a non-tangent curve, concave Southwesterly, with a radius of 22818.30 feet and a center point bearing South 68°16'44" West,

Thence, Southerly along said curve and right-of-way through a central angle of 01°09'16", a length of 459.80 feet;

Thence, South 20°34'00" East, 84.98 feet along said right-of-way;

Thence, South 69°26'00" West, 25.80 feet;

Thence, North 20°34'00" West, 65.64 feet to the beginning of a tangent curve, concave Southwesterly, with a radius of 22,793.31 feet, and a length of 30.23 feet;

Thence, North 71°00'45" West, 114.91 feet;

Thence, North 59°18'01" West, 82.64 feet;

Thence, North 39°23'11" West, 74.57 feet;

Thence, South 67°09'43" West, 13.82 feet;

Thence, North 22°50'17" West, 88.18 feet;

Thence, South 67°09'43" West, 50.00 feet;

Thence, North 22°50'17" West, 149.98 feet to the **POINT OF BEGINNING**;

Containing 1.9696 acres, more or less.

Exhibit "A" Page 2

DAVA AND ASSOCIATES
310 EAST UNION STREET PRESCOTT, ARIZONA 86303
928-778-7587

TOWN OF PRESCOTT VALLEY ANNEXATION 03 - J

Description of land located in Section 34, Township 14 North, Range 1 East, of the Gila and Salt River Meridian, Yavapai County, Arizona.

That portion of Section 34 as described in Book 3684 of Official Records, Page 431 in the Yavapai County Recorder's Office.

EXCEPTING THEREFROM any portion lying northerly of a line from the most northerly corner of Lot 73, as shown on the plat of Prescott Country Club recorded in Book 13 of Maps and Plats, Page 79 in the Yavapai County Recorder's Office, and being perpendicular to the west line of Section 34 and extending easterly to the southwesterly right-of-way line of State Route 69. **ALSO EXCEPTING THEREFROM** any portion lying southerly of the following described line:

COMMENCING at the most northerly corner of the parcel described in Book 1057 of Official Records, Pages 740-741 in the Yavapai County Recorder's Office:

thence, northwesterly along the northeasterly line of the parcel described in Book 3778 of Official Records, Page 731 in the Yavapai County Recorder's Office, 200.00 feet to the **POINT OF BEGINNING**.

Thence, along a line perpendicular to the westerly right-of-way line of State Route 69 to the westerly right-of-way line of State Route 69 and to the **POINT OF TERMINATION**.

Containing approximately 14 acres.

I certify that, I, Thomas G. Callahan, am a Registered Land Surveyor in the State of Arizona, that this description was prepared under my direction and contains adequate information to allow retracement thereof.

Thomas G. Callahan,

R.L.S. 22752



Exhibit "B" ANX09-001

Community Development Department
 7501 E. Civic Circle
 Prescott Valley AZ 86314
 Phone (928) 759-3050
 Fax (928)772-7829
 email: comdev@pvaz.net

**PLANNING DIVISION -
 ANNEXATION APPLICATION**

- COMMERCIAL**
 RESIDENTIAL

Project Name: Pollard Annexation Assessor's Parcel #: 402-14-225C

Site Address: Vacant Land - No Address. Legal: Unit: _____ Lot: _____

		For Staff Use Only	
Applicant/Owner Name & Address: <u>Pollard Family Trust</u> <u>P.O. Box 2468</u> <u>Prescott, AZ 86302</u>		Meeting Date: <u>7, 24 109 T.C.</u>	
Phone: _____ Fax: _____ Email: _____		Application No.: <u>ANX 09-001</u>	
Agent (If different than property owner. Agent letter must accompany submittal)/Agent Address: <u>Eileen Fowler</u> <u>8652 Eastridge Dr. Ste 201</u> <u>Prescott Valley, AZ 86314</u>		Township _____ Section _____ Range _____	
Phone: <u>928-899-1378</u> Fax: <u>928-775-7190</u> Email: <u>eileen@efowler.com</u>		Date Received: <u>6-23-09</u>	
		Zoning: <u>R1L-70</u>	
		Fees & Charges: <u>N/A</u>	
		Receipt #/Date: _____	
		Assigned To: <u>JS.</u>	
		Taken By: <u>JS.</u>	
Subdivision Name: <u>No subdivision, APN 402-14-225C</u>			
Address or Location of Property: _____			
Total Acres: <u>2</u>		Total Lots: _____	
Min. Lot Size: _____		Max. Lot Size: _____	
Average Lot Size: _____			
Existing Zoning: _____		Proposed Zoning: <u>C3</u>	
(if applicable)			
Name		Signature	
Date			

Community Development Department
 7501 E. Civic Circle
 Prescott Valley AZ 86314
 Phone (928) 759-3050
 Fax (928) 772-7829
 email: comdev@pvaz.net

Exhibit "C" GPA09-002



PLANNING DIVISION - HEARING APPLICATION
 GENERAL PLAN AMENDMENT

COMMERCIAL
 RESIDENTIAL

MINOR MAJOR

Corresponding Development Agreement? Yes No

Project Name: Pollard

Assessor's Parcel #: 402-14-225G
~~402-14-225H~~
~~402-14-225C~~

Site Address: 12151 E Hwy 69, Dewey AZ 86327 Unit: _____ Lot: _____

		For Staff Use Only	
Applicant/Owner: <u>Pollard Family Trust</u> <u>Charolette Pollard</u>		Meeting Date: <u>8 / 10 / 09</u>	
Mailing Address: <u>PO Box 2468</u> <u>Prescott, AZ 86302</u>		Application No.: <u>GPA09-002</u>	
Phone: <u>928-778-1900</u> Fax: <u>928-443-0824</u> Email: <u>charelaine@gmail.com</u>		Township <u>14 N</u> Section <u>34</u> Range <u>1E</u>	
		Date Received: <u>6-29-09</u>	
		Zoning: <u>PCV-70, PIC-70</u>	
		Fees & Charges: <u>300⁰⁰</u>	
		Receipt #/Date: <u>6-29-09 300⁰⁰ R0900733</u>	
		Assigned To: <u>JS</u>	
		Taken By: <u>JS.</u>	
Agent (If different than property owner. Agent letter must accompany submittal): <u>Eileen L Fowler</u>		Mailing Address: _____ _____ _____	
		Phone: _____ Fax: _____ Email: _____	
Detailed Request (or attached detailed narrative): <u>(Attached)</u>			
I hereby certify that the information submitted for this application is complete and accurate to the best of my knowledge; and that I am the applicant or the bonafide agent of same as stated in the attached documentation.			
<u>Eileen L Fowler</u> Signature		<u>June 6, 2009</u> Date	
<u>Eileen L Fowler</u> Print Name			



Exhibit "D" ZMC09-004

nity Development Department
7501 E. Civic Circle
Prescott Valley AZ 86314
Phone (928) 759-3050
Fax (928)772-7829
email: comdev@pvaz.net

PLANNING DIVISION - HEARING APPLICATION
ZONING MAP CHANGE

COMMERCIAL
 RESIDENTIAL

Tier I Tier II Tier III

Project Name: Polland Assessor's Parcel #: 402-14-225G*
402-14-225H*
402-14-225C*

Site Address: 12151 E Highway 69, Dewey AZ Unit: _____ Lot: _____

Applicant/Owner: <u>Polland Family Trust</u> <u>Charolette Polland</u> Mailing Address: <u>P.O. Box 2468</u> <u>Prescott, AZ 86302</u> Phone: <u>928-778-1900</u> Fax: <u>928-443-0824</u> Email: <u>charelaine@gmail.com</u>	<i>For Staff Use Only</i>
	Meeting Date: <u>8 / 10 / 09</u> Application No.: <u>ZMC09-004</u> Township <u>14 N</u> Section <u>34</u> Range <u>1 E</u> Date Received: <u>6-29-09</u> Zoning: <u>RCU-70 & R1L-70</u> Fees & Charges: <u>1250 + (15 x 15) = 1475⁰⁰</u> Receipt #/Date: <u>6-29-09 1475.00 R0900734</u> Assigned To: <u>JS</u> Taken By: <u>JS</u>
Agent (If different than property owner. Agent letter must accompany submittal): <u>Eileen L Fowler</u>	Mailing Address: _____ Phone: _____ Fax: _____ Email: _____
Detailed Request: <u>Attached</u>	
I hereby certify that the information submitted for this application is complete and accurate to the best of my knowledge; and that I am the applicant or the bonafide agent of same as stated in the attached documentation. <u>Eileen L Fowler</u> _____ <u>June 6, 2009</u> Signature _____ Date _____ <u>Eileen L Fowler</u> Print Name _____	