



RESOLUTION 2010-817

**A RESOLUTION OF THE MAYOR AND COMMON COUNCIL
OF THE TOWN OF CAMP VERDE, YAVAPAI COUNTY, ARIZONA,
APPROVING A COMPROMISE AND SETTLEMENT AGREEMENT WITH CALIFORNIA
HOTWOOD, ZELLNER AND RELATED ENTITIES CONCERNING THE SETTLEMENT OF
THE DISPUTE REGARDING THE ZELLNER WOODLOT**

Whereas, the Town of Camp Verde has been involved in a dispute regarding the woodlot known as the "Zellner Woodlot;" and

Whereas, in order to avoid litigation costs and allow this dispute to be resolved, the Town of Camp Verde desires to approve the "Compromise and Settlement Agreement" and its exhibits.

NOW THEREFORE, the Mayor and Common Council of the Town of Camp Verde resolve to approve The Compromise and Settlement Agreement attached hereto as Exhibit A.

Passed and adopted by a majority vote of the Common Council at the Special Session meeting of August 18, 2010.



Bob Burnside, Mayor 8-18-2010

Attest:



Deborah Barber, Town Clerk

Approved as to form:



Town Attorney



TOWN OF CAMP VERDE

◆ 473 S. Main Street ◆ Camp Verde, Arizona 86322 ◆ (928) 567-6631 FAX 567-9061

www.cvaz.org

towncouncil@cvaz.org

[EXCHANGED PURSUANT TO SETTLEMENT DISCUSSIONS UNDER EVIDENTIARY RULE 408]

August 24, 2010

An Open Letter to Sophie Zellner, her family, and the Citizens of Camp Verde:

I would like to extend an apology for the past and present events that led to the Zellner wood yard controversy to Mrs. Sophie Zellner, her family and the citizens of Camp Verde.

While I recognize that the settlement of this issue cannot erase the expense suffered by all of us, the settlement does afford us the opportunity to move forward with a greater understanding of our roles, rights, processes and responsibilities. To ensure that the Town serves the needs of its citizens, our Council has set forth an aggressive schedule to rewrite our zoning ordinances.

The Town required you to justify the use of your property and provide proof of the grandfathered status of the property, even though Town officials and the Board of Adjustment had previously found that one of the lots, Lot 69, was grandfathered in for use as a wood yard.

The Town realizes that this process has caused emotional distress, anguish and grief for all parties involved.

You and your husband and family have been long-time leading members and supporters of our community.

In conclusion, I sincerely apologize for our actions and know that the payments the Town makes pursuant to our settlement agreement do not even begin to make up for the cost financially, emotionally and in terms of time.

Sincerely,

Bob Burnside
Mayor



Return To:



Thomas P. Kack, Esq.
Musgrove Drutz & Kack
1135 Iron Springs Road
Prescott, AZ 86305

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Compromise & Settlement Agreement

COMPROMISE and SETTLEMENT AGREEMENT

THIS COMPROMISE and SETTLEMENT AGREEMENT ("Agreement") is made and entered into by and among the Town of Camp Verde, a political subdivision of the State of Arizona ("Town"), California Hotwood, Inc., a California corporation which does business as Canyon Wood Supply ("Hotwood"), Sophronia Zellner, a single woman ("Zellner"), Dad's Wood Supply, LLC., an Arizona limited liability company formerly known as Canyon Wood Supply, LLC ("Dad's"), the Zellner Living Trust ("Trust"); and JerSo Investments, L.L.P, an Arizona limited liability partnership ("JerSo"), (all collectively the "Parties"), is made effective as of the Effective Date set out below. Zellner, Dad's, Trust and JerSo may be referred to collectively herein as the "Zellner Entities."

THE PARTIES RECITE, COVENANT, CONDITION AND AGREE AS FOLLOWS:

RECITALS

A. For many years the Zellner Entities or one or more of them and their predecessors operated a commercial log, wood, and wood by-product storage, cutting, splitting, packaging, chipping, shipping and sale (wholesale and retail) operation utilizing various methods, equipment, and vehicles (all of which activities and uses are collectively hereinafter referred to as a "Wood Yard") on real property located at Murdock Road in Camp Verde, Arizona, Yavapai County Assessor's Parcel Numbers 404-02-062 ("Lot 62"), 404-02-065 ("Lot 65"), 404-02-066 ("Lot 66"), 404-02-067 ("Lot 67"), 404-02-068B ("Lot 68B") and 404-02-069 ("Lot 69"), all collectively referred to as the "Property" and more particularly and legally described in Exhibit "A" attached hereto and made hereof. This commenced in approximately 1966 with such use of Lots 62, 65, and 66.

B. The Yavapai County zoning code authorized the use of Lots 62, 65, and 66, and was interpreted by Yavapai County to permit the expansion to Lots 67 and 68B for commercial purposes for use as a Wood Yard by the Zellner Entities prior to the date of the Town's incorporation on December 8, 1986.

C. Upon approval of the Town's Community Development Director (and who was the Town's "Zoning Administrator" as that title is defined in ARS §9-462), on or about 1998 and in reliance upon such approval, the Zellner Entities purchased parcel (Lot "69") and commenced using it for the Zellner Entities' Wood Yard business.

D. Hotwood, the Zellner Entities, and Jerry Zellner entered into a Purchase and Sale Agreement ("PSA") for the purchase of the Canyon Wood Supply business assets by Hotwood and a Real Property Purchase Agreement ("RPPA") for the purchase by Hotwood of the Property from Jerry Zellner and the Zellner Entities on or about January 31, 2007.

Return To:

Thomas P. Kack, Esq.
Musgrove Drutz & Kack
1135 Iron Springs Road
Prescott, AZ 86305



Compromise & Settlement Agreement

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\$100
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"UnOfficial Copy"

**COMPROMISE and SETTLEMENT
AGREEMENT**

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B. The Yavapai County zoning code authorized the use of Lots 62, 65, and 66, and was interpreted by Yavapai County to permit the expansion to Lots 67 and 68B for commercial purposes for use as a Wood Yard by the Zellner Entities prior to the date of the Town's incorporation on December 8, 1986.

C. Upon approval of the Town's Community Development Director (and who was the Town's "Zoning Administrator" as that title is defined in ARS §9-462), on or about 1998 and in reliance upon such approval, the Zellner Entities purchased parcel (Lot "69") and commenced using it for the Zellner Entities' Wood Yard business.

D. Hotwood, the Zellner Entities, and Jerry Zellner entered into a Purchase and Sale Agreement ("PSA") for the purchase of the Canyon Wood Supply business assets by Hotwood and a Real Property Purchase Agreement ("RPPA") for the purchase by Hotwood of the Property from Jerry Zellner and the Zellner Entities on or about January 31, 2007.

E. Hotwood also agreed to purchase the property and business, at least in part, in reliance upon the government allowed, long-term use of the Property as a Wood Yard and representations made by Town Development Department staff to Hotwood's appraiser that the Property was subject to a legal non-conforming use as a Wood Yard and that such use would be allowed to continue upon the sale or transfer of the Property.

F. Hotwood has already taken delivery and ownership of the business assets of Dad's, formerly Canyon Wood Supply, LLC, and Lots 62, 65, 66, and 68B, from the Zellner Entities and Jerry Zellner.

G. On or about June 27, 2007, Hotwood made its written Promissory Note to Dad's ("Note"), for and on account of a part of the purchase price set forth in the PSA and on July 1, 2009, a payment plus accrued interest was due on the Note. Hotwood claims that payment was not paid due to the dispute with the Town concerning the Property. Zellner disputes the validity of that claim.

H. On or about June 27, 2007, Trust, JerSo, and Jerry L. Zellner ("Lessors") entered into that certain written Real Property Lease ("Lease") with Hotwood whereby Lessors leased Lots 67 and 69 to Hotwood for a term of twenty-six (26) months, to enable Hotwood's possession of Lots 67 and 69 pending the completion of the purchase of Lots 67 and 69 by Hotwood.

I. Pursuant to the RPPA, Hotwood and the Zellner Entities agreed that the close of escrow for Yavapai County parcel numbers 409-02-67 and 404-02-69 would be on June 3, 2009.

J. Previous to the sale of Lots 62, 65, 66, and 68B to Hotwood, the Zellner Entities utilized all of Lots 62, 65, 66, 67, 68B and 69 for a Wood Yard, and such use has been continued by Hotwood without interruption since Hotwood purchased and leased the subject Property and purchased the business.

K. The Town has made claims that Hotwood may not lawfully use the Property including the parcels already purchased by Hotwood from Trust, Zellner, Jerry L. Zellner, and JerSo pursuant to the RPPA, for use as a Wood Yard due to the residential zoning of the Property and the parcels. A dispute arose regarding the permissible use of the Property and particularly Lot 69 as a Wood Yard (the "Zoning Dispute"), whether such use complies with the Town Zoning Code, and whether the use of the Property by Hotwood for a Wood Yard is a legal non-conforming use (sometimes referred to as a "grandfathered use") that is appurtenant, may continue, runs with the land, and is freely transferable.

L. The Town through its zoning administrators has commenced administrative proceedings against the Zellner Entities and Hotwood.

M. The Zellner Entities have filed a Complaint and an Amended Complaint in Yavapai County Superior Court, Case No. CV82008-0289, (the "Arizona Action") arising out of such dispute. Hotwood intervened and filed its own complaint and said action is now pending, which action shall be included in the term "Arizona Action."

N. The Yavapai County Superior Court granted the Zellner Entities' and Hotwood's motions for summary judgment for a permanent injunction and declaratory relief concerning Lot 69. As a result, the use of Lot 69 for past and future commercial purposes as a Wood Yard has been confirmed as a legal non-conforming use, that runs with the land.

O. The Court in the Arizona Action additionally found as follows:

Yavapai County established zoning in 1968. Detailed zoning for the Camp Verde area was established in September 1970. Thus, land uses established before September 1970 are considered legal non-conforming uses. Land uses established after September 1970 had to meet the zoning regulations in place at the time.

It is undisputed that Zellners utilized all of Lots 62, 65 and 66 as a Wood Yard prior to September 1970 and that use was, a legal non-conforming (grandfathered) use and the Court found and ordered that a 2000 decision of the Town of Camp Verde Board of Adjustments ("BOA") approving expansion of the Wood Yard use onto Lot 69 was legally subject to *Res Judicata* effect and that such lot was, thus, subject to a legal non-conforming use as a Wood Yard. A Partial Judgment consistent with the foregoing is attached hereto as Exhibit "B" ("Partial Judgment") and it shall be submitted to the Court.

P. The Court clarified in a later ruling that there appeared to be a dispute as to Lots 67 and 68B such that it could not then render summary judgment that such lots are subject to a legal non-conforming use as a Wood Yard based on the evidence presented to the Court at the time.

Q. The Town agrees that the Yavapai County Zoning Code as then applicable and as interpreted by Yavapai County allowed the Zellners' expansion of the use as a Wood Yard onto Lots 67 and 68B in the 1970's without the necessity for any formal or informal approval or action by Yavapai County because the expansion was less than a one hundred percent (100%) in area and was upon contiguous property. The Town agrees that the applicable Yavapai County Zoning Code contained no procedures for or requirements to obtain approval of such expansion.

R. Due to the dispute, Hotwood has not completed the purchase under the RPPA of Lots 67 and 69. Zellner disputes that Hotwood was entitled to withhold performance. Hotwood initiated an action in California to compel the Zellner Entities to arbitrate the entitlement of Hotwood to an extension under the RPPA, PSA, and Note in the Superior Court of California (the "California Action"), and said action is now pending. Hotwood and the Zellner Entities have agreed to settle their dispute by a separate Agreement for Close of Escrow and Note Payment which is subject to the express condition of this Agreement being made and effective, and the entry of a final Judgment Pursuant To Stipulation as set forth in paragraph S below, regarding the Property but, otherwise, the terms of that agreement are not a part of this Agreement and are not incorporated herein.



S. The Parties agree that the use of the Property as a Wood Yard was and is a legal non-conforming use that is appurtenant to and runs with the land, and that the parties disputes should be compromised and settled on the terms set forth herein to avoid the expense of further litigation, to implement the terms of a Judgment Pursuant To Stipulation between the parties (referred to hereafter as the "Judgment" and attached hereto as Exhibit "C"), and to provide greater certainty regarding the rights to use of the subject Property. The parties specifically intend that this Agreement and the Judgment shall be binding upon each party, each party's privies, and all persons and entities represented by each party including the party's respective officers, directors, trustees, beneficiaries, trustees, members, shareholders, franchisees and franchisors, attorneys, principals, successors, predecessors and, in particular, the Town's citizens, residents and property owners to the extent permitted by law.

T. Jerry L. Zellner is now deceased, and Zellner is the successor to the interests of Jerry L. Zellner in the properties and agreements referred to herein.

NOW THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

AGREEMENT

1. Effective Date. This Agreement shall become binding and effective when signed contemporaneously by all of the Parties and the Judgment and the Partial Judgment have been signed by all of the Parties (the "Effective Date"). This Agreement is conditioned upon the contemporaneous execution of the Agreement for Close of Escrow and Note Payment by the Zellner Entities and Hotwood. Each party to this Agreement covenants and agrees not to appeal, seek to vacate or set aside, or otherwise attack or contest the Partial Judgment and the Judgment.

2. Incorporation. All of the recitals set forth above are true, correct, and made a part of this agreement by this reference.

3. Confirmation of Non-Conforming Use. The Parties agree that the weight of the evidence demonstrates that the use of Lots 62, 65 and 66 for Wood Yard purposes commenced in 1966 and has continued to date without interruption. The expansion onto Lots 67, and 68B for Wood Yard purposes by the Zellner Entities occurred in the early 1970's, well prior to the date of the Town's incorporation on December 8, 1986, and such use has continued to date without interruption. The Yavapai County Zoning Code as then applicable and as interpreted by Yavapai County allowed such use and expansion without any formal or informal application to Yavapai County and without any formal or informal approval by Yavapai County. Zoning Administrator Lau testified he investigated the propriety of the use of the property then owned by Zellners in 1998, Lots 62, 65, 66, 67 and 68B, before he approved expansion of said use to Lot 69. Such lots were all being used for a Wood Yard when the expansion was presented to and upheld by Administrator Roberts and, later, the BOA. The Yavapai Superior Court has determined that the expansion by one or more of the Zellner Entities of the Wood Yard use to Lot 69 was a lawful expansion. Pursuant to this Agreement, the Town agrees the use of the Property for Wood Yard purposes is a lawful non-conforming use that runs with the land and is appurtenant to the Property, and the right to such use does not cease or terminate upon the sale, release or transfer of the Property or any portion thereof or interest therein.



4. Releases.

A. The Zellner Entities for themselves, jointly and separately, and on behalf of their respective trustees, agents, assigns, employees, officers, principals, members, beneficiaries, successors, predecessors, nominees, licensors and licensees, franchisors and franchisees, and all others related in any way to any of them, do hereby release, acquit and forever discharge the Town, and each of its agents, attorneys, assigns, employees, departments, officers, directors, shareholders, principals, successors, and nominees of, for, from and against any and all claims, actions, causes of action, demands, damages, costs, loss of profits or service, attorneys' fees, expenses and compensation of any kind and nature, known or unknown, which any of them, jointly or severally, now have or may hereinafter accrue which arise from the said Arizona Action and the facts that formed the basis of the claims of the Zellner Entities therein.

B. The Zellner Entities for themselves, jointly and separately, and on behalf of their respective agents, trustees, assigns, employees, officers, principals, members, beneficiaries, successors, predecessors, nominees, licensors and licensees, franchisors and franchisees, and all others related in any way to any of them, do hereby release, acquit and forever discharge Hotwood, and each of its respective agents, trustees, attorneys, assigns, employees, officers, directors, shareholders, principals, successors and nominees of, for, from and against any and all claims, actions, causes of action, demands, damages, costs, loss of profits or service, attorneys' fees, expenses and compensation of any kind and nature, known or unknown, which any of them, jointly or severally, now have or may hereinafter accrue which arise from the Arizona Action or are in any way related to the facts that formed the basis of the claims of the Zellner Entities therein.

C. Hotwood for themselves, jointly and separately, and on behalf of their respective agents, trustees, assigns, employees, officers, principals, members, beneficiaries, successors, predecessors, nominees, licensors and licensees, franchisors and franchisees, and all others related in any way to any of them, do hereby release, acquit and forever discharge the Town, and each of its attorneys, assigns, employees, departments, officers, directors, shareholders, principals, successors and nominees of and from any and all claims, actions, causes of action, demands, damages, costs, loss of profits or service, attorneys' fees, expenses and compensation of any kind and nature, known or unknown, which any of them, jointly or severally, now have or may hereinafter accrue which arise from the Arizona Action and facts that formed the basis of the claims of Hotwood therein.

D. Hotwood for themselves, jointly and separately, and on behalf of their respective agents, trustees, assigns, employees, officers, principals, members, beneficiaries, successors, predecessors, nominees, licensors and licensees, franchisors and franchisees, and all others related in any way to any of them, do hereby release, acquit and forever discharge the Zellner Entities, and each of their respective agents, trustees, attorneys, assigns, employees, officers, directors, shareholders, principals, successors and nominees of, for, from and against any and all claims, actions, causes of action, demands, damages, costs, loss of profits or service, attorneys' fees, expenses and compensation of any kind and nature, known or unknown, which any of them, jointly or severally now have related to claims for breach or default under the PSA and RPPA as a result of the zoning of the Wood Yard or arise from the claims or defenses asserted in the Arizona Action.



E. To the extent permitted by law, the Town on behalf of its respective council, agents, trustees, assigns, employees, officers, departments, citizens, residents, property owners, principals, successors, predecessors, nominees, licensors and licensees, franchisors and franchisees, and all others related in any way to any of them, do hereby release, acquit and forever discharge the Zellner Entities and Hotwood, and each of them, and each of their respective agents, attorneys, assigns, employees, officers, directors, shareholders, principals, successors and nominees of, for, from and against any and all claims, actions, causes of action, demands, damages, costs, loss of profits or service, attorneys' fees, expenses and compensation of any kind and nature, known or unknown, which any of them, jointly or severally, now have or may hereinafter accrue which arise from or are in any way related to the said Arizona Action or the facts that formed the basis of the Town's assertions or defenses to the claims of the Zellner Entities and Hotwood therein.

F. Each Party recognizes that it may not now fully know the number, nature, and magnitude of all claims it now has or in the future may have against the parties released as set forth above but nevertheless, except as otherwise provided herein, intends to assume the risk that it is releasing such unknown claims. Each Party agrees that this Agreement is a full and final release of such claims and is a further consideration and inducement for the settlement.

G. Each Party acknowledges that a material part of this Agreement is the deliberate extinguishing of any of its claims which currently are unknown, so that there is no possibility of future claims by the Parties of the type described and released above except as provided in Section 4.H and Section 4.I. Each Party assumes the risk that it has sustained damages that may not have manifested themselves and that are presently unknown. Each Party also understands and agrees that if the facts with respect to which this Agreement is executed and the releases herein provided for are made, are found hereafter to be other than or different from the facts now believed by it to be true, it expressly accepts and assumes the risk of such possible differences in facts and agrees that this Agreement shall be and remain effective notwithstanding such difference in facts.

H. Nothing provided herein shall be construed as waiving or releasing claims by Hotwood or the Zellner Entities as against each other, for performance of the PSA, the Promissory Note, the Lease and the RPPA, as modified in the Agreement for Close of Escrow and Note Payment ("ACE"), except claims relating to or arising from the zoning dispute.

I. The releases set forth above are not intended to release and do not release any party from the covenants, obligations, and agreements arising from, created by or set forth in this Agreement.

5. Town Approval. This Agreement is subject to review and approval by the Town Council. If this Agreement is not so approved on or before August 18, 2010, it shall be null and void.



6. **Judgment.** Upon the approval of this Agreement by the Town Council, the Parties shall contemporaneously execute the Stipulation to the Entry of the Judgment Pursuant To Stipulation in the form attached hereto as Exhibit "D," and approve the Judgment and the Partial Judgment as to form and content by affixing their signatures thereto. If this Agreement is and remains operative and effective 45 days after the date the Town's Council approves of this Agreement by a formal executed Resolution, then the Stipulation and the Partial Judgment and the Judgment shall immediately be filed with the Court in the Arizona Action and, if this Agreement does not remain operative and effective, then the Stipulation, Partial Judgment and Judgment shall not be filed with the Court and this Agreement and the Agreement for Close of Escrow and Note Payment shall be null and void. The Parties intend and agree that, to the fullest extent permitted by law, the Judgment Pursuant to Stipulation shall be binding upon and have preclusive effect (collateral estoppel effect and *res judicata* effect) regarding the lawfully conforming use of the Property, and shall be binding upon and applicable to the Parties and the Parties' successors, heirs, assigns, officers, agents, employees, shareholders, members, beneficiaries, trustees, the town's citizens, and the present and future owners of property in the Town whether or not such persons reside within the Town.

Hotwood and the Zellner Entities have submitted the Partial Judgment based upon various rulings made by the Court in the Arizona Action. The Parties agree that the Partial Judgment fairly reflects the rulings of the Court, that they have and will file no objections to the same and that if they have not already done so they will execute the Partial Judgment as approved as to form and content. That Partial Judgment is not superseded by nor is it merged into this Agreement or the Judgment Pursuant To Stipulation. The Partial Judgment shall remain effective and enforceable both independent of and in conjunction with the Judgment Pursuant to Stipulation.

7. **Business License.** Within ten (10) days following the Effective Date of this Agreement, the Town shall issue a business license to Hotwood pursuant to Article 9-3 of the Town Code for use of the Property and each of the Lots 62, 65, 66, 67, 68B, and 69 as a Wood Yard.

8. **Wood Yard Operational Changes.** Use of the Property as a Wood Yard by Hotwood after close of escrow on Lots 67 and 69 pursuant to the ACE shall be subject to the following conditions:

A. **Daily Wood Yard operations** shall not commence until the earlier of one (1) hour after sunrise or 7:30 a.m.

B. **Log processing and receiving operations** shall not take place on Sundays. All other business activities such as retail sales of wood and wood products may occur on Sundays.

C. **The limitations set forth in A and B above** shall not apply to work that does not create noise, dust or excessive traffic, in-office work, the inventory of logs and wood products, and work inside a building.

The sole and only remedy for any alleged violation of this paragraph 8 by the owner or possessor of the Property shall be the right of the Town to enforce compliance by injunction. No violation or violations of this paragraph 8 shall result in a termination of the legal non-conforming use of the Property as a Wood Yard, nor shall any violations or number of violations result in the limitation of the future use of the Property as a Wood Yard.

9. Waterline: The Town shall cause to be constructed and installed at the Town's expense a water line extending to the north property line of Lot 69 and a fire hydrant, as follows:

A. The Town shall install the water line to provide water service to the subject Property, and install the fire hydrant at or about the intersection of the north property line of Lot 69 and Murdock Road, for benefit of the Property, and to promote the health, welfare, and safety of adjacent and nearby property owners. The water line shall be not less than 8" in diameter and shall have sufficient capacity, including pressure, to serve the entire Property, and all properties in the area of the Property that may be reasonably anticipated to connect to the line, and there shall be reserved for the Property sufficient capacity and water to serve no less than 14 residences on the Property.

B. **The water line and hydrant shall be completed, installed, and ready for use not later than April 1, 2013.** The Town shall be responsible for funding construction of the water line and hydrant and shall deposit a total of \$130,000.00, payable at the rate of \$43,333.00 per year, commencing with the first quarter of the Town's 2010-2011 fiscal year and payable in the same quarter of the Town's 2011-2012 and the 2012-2013 fiscal years into in a separate account with such funds dedicated and restricted to use for the subject water line and hydrant. The Town has estimated the cost of said improvements to be \$130,000.00, and by this Agreement Hotwood is effectively funding that amount by payments totaling \$75,000.00 by joint check to the Town and Sophronia Zellner as set forth in paragraph 10, and by relinquishing its claims against the Town for attorney's fees and costs exceeding \$130,000.00. The additional \$55,000.00 allocated to the cost of the improvements (\$75,000.00 plus \$55,000.00 equals \$130,000.00) is thus contributed by Hotwood by way of releasing its attorney fee claim, and without any further payment by Hotwood. Thus, should the Town fail to install the water line then Hotwood shall have, in its discretion, the right to either: (i) be paid by the Town the sum of \$130,000.00 plus interest thereon at the legal rate from the Effective Date on the \$55,000.00 in relinquished fees and costs and interest at the legal rate on the \$75,000.00 paid by Hotwood to the Town and Zellners from the dates paid by Hotwood or (ii) the right to elect to install the water line and hydrant and recover from the Town the actual cost of the installation of the water line and hydrant. Hotwood shall further be entitled to recover from the Town reasonable attorneys' fees and costs in enforcing the Town's performance and in collecting any sums due under this paragraph 9.

C. Hotwood shall be responsible for the costs of any on-site improvements to the Property, including connection to the water line, and shall be responsible for the costs of setting a meter and monthly water service provider charges. Hotwood shall not be responsible for any other fees attributable to the providing of water, including but not limited to impact fees or development fees charged for providing water to the Property.

10. **Payments to Zellners.** Hotwood shall pay the total sum of \$75,000.00, by three (3) installments of \$25,000.00 each paid annually by joint checks, payable to both the Town and Sophronia Zellner. The first installment shall be paid on or before 31 days after the Effective Date of this Agreement, and the successive payments shall be paid on or before the first and second anniversary of such date, provided however, the only conditions precedent to Hotwood's paying such sums shall be entry of the Judgment and the Partial Judgment and the running of any and all applicable appeal time periods, without appeal, and the execution and performance of the Agreement for Close of Escrow and Note Payment and the RPPA, to the extent obligations thereunder have then accrued and that the Agreement is and remains legally effective and operative. The Town shall endorse and forward each such check upon receipt from Hotwood to Zellner by first class mail, postage pre-paid, within five (5) days of the Town's receipt of such checks. The Town shall further pay Sophronia Zellner an additional \$75,000.00, in three annual payments of \$25,000.00 each. The first installment shall be due thirty-one (31) days after the Effective Date of this Agreement, and subsequent installments shall be made on or before the first and second anniversaries of such date, provided however, the only conditions precedent to the Town's paying such sums shall be entry of the Judgment and the running of any and all applicable appeal time periods, without appeal and the execution and delivery of this Agreement.

11. **Remedies, Non-Excuse of Obligations.** Upon this Agreement becoming effective, including the final Judgment and Partial Judgment being entered in the Arizona Action and becoming final, a default in performance due Hotwood from the Town and vice versa shall not excuse or release performance by the Town or Hotwood pursuant to paragraph 10 above. By way of example, while the Town's failure to make one or more of the \$43,333.00 deposits set forth in paragraph 9.B. shall be a default and a breach of this Agreement between the Town and Hotwood, it will not excuse Hotwood's payments or the Town's payments pursuant to paragraph 10 and while Hotwood's failure to abide by the operation limitations may be a default or breach between Hotwood and the Town, it will not excuse the Town's payments to Zellner. Likewise, a breach or default of the obligations by Zellners to the Town shall not excuse the Town's obligations to Hotwood and a breach by Zellners of any obligations to Hotwood shall not excuse Hotwood's obligations to the Town. When any provision of this Agreement specifically limits the remedy for the breach or enforcement of an obligation or future performance then such remedy(s) shall be the only remedy available for that breach or enforcement. No breach by any party shall impair the terms and effect of the Judgment and Partial Judgment entered in the Arizona Action. Notwithstanding the foregoing provisions of this Section 11, if the obligations of the parties under Section 4 of this Agreement are determined to be not enforceable by a court of competent jurisdiction, all other obligations under this Agreement shall terminate. The Zellners are not subject to the provisions of paragraphs 7, 8, and 9 of this Agreement, and no cause of action against the Zellners is created thereby. The Town and Hotwood covenant not to sue the Zellner Entities on account of the breach of paragraphs 7, 8, and 9. Upon the close of escrow pursuant to the ACE, the property shall be burdened by the provisions of paragraph 8 of this Agreement.

12. **Non-Admission.** Nothing provided herein shall constitute an admission by any party hereto, or a release or modification of any rights and remedies of the parties, except as may be consistent with the terms hereof. The primary purpose of this Agreement is to settle the dispute as to the lawful use of the Property and each lot thereof, which will also allow Hotwood and the Zellner Entities to conclude their agreement.



13. Counterparts and Copies. This Agreement may be executed in two or more counterparts and each counterpart, when executed, shall be deemed an original, and all such counterparts taken together shall constitute one agreement binding on all of the parties. For all purposes, extra duplicate and unexecuted pages of the counterparts may be discarded and the remaining pages assembled as one document. It is not necessary that each party execute the same counterpart so long as identical counterparts (except as to pagination) are executed by all parties. The submission of a signature page transmitted by facsimile (or similar electronic transmission facility) shall be considered an "original" signature page for purposes of this Agreement. Facsimile signatures of this Agreement shall be as fully effective as original signatures. Each party signing this Agreement by facsimile signature agrees to furnish a copy bearing an original signature of the party to the other signatories, but the failure to do so shall not affect the binding force and validity of any facsimile signature.

14. Advice of Counsel. Each of the Parties hereto warrants that they have consulted with their attorneys concerning this Agreement and all matter covered by it, that they have been fully advised by their attorneys with respect to their rights, and that with respect to the execution of this Agreement, that they have executed this Agreement after securing the advice of their attorneys. The Parties have cooperated in the drafting and preparation of this Agreement. Hence, no presumption in favor of or against any party shall apply to the construction of this Agreement.

15. Non-Modification. It is expressly understood and agreed that this Agreement may not be altered, amended or modified except by a writing executed by all Parties.

16. Knowing and Voluntary Execution. The Parties hereto acknowledge that they have carefully read the foregoing Agreement, know and understand all of its terms, and voluntarily execute the same with fully knowledge of the consequences thereof. The undersigned warrant their authority to execute this Agreement on behalf of any entity on behalf of which they are executing.

17. Further Acts and Cooperation. Each party hereto agrees to promptly and as expeditiously as possible carry out and execute their respective responsibilities under the terms of this Agreement and to execute any and all documents which may be necessary from time to time in the future to implement the terms of this Agreement. The Parties hereby acknowledge and agree that they shall cooperate in good faith with each other as contemplated by this Agreement, in order that each Party may obtain the full benefit of this Agreement.

18. Binding Effect.

A. To the fullest extent permitted by law, and upon execution hereof by the parties this Agreement shall be binding upon and inure to the benefit of the parties and their successors, beneficiaries, representatives, assigns, trustees and heirs and shall be binding upon all third parties that they represent or who are in privity with them, and including their members, officers, employees, agents and, as regards the town, its citizens and present and future owners of real property within the Town.

B. Notwithstanding anything to the contrary, this Agreement and the requirement for compliance with it shall be binding upon and shall inure to the benefit of the parties and their successors, assigns, representatives, heirs, beneficiaries and trustees upon the full execution of this Agreement by the parties. The binding effect, and the right to enforce this Agreement and the right to obtain the benefits of this Agreement are subject to the provisions of Section 18.C. below.

C. The binding effect of this Agreement shall terminate and it shall be of no further force and effect if and when, through no voluntary action or any inaction by the parties which would be in conflict with the terms hereof. The Court should fail or refuse to execute the Judgment or Partial Judgment, with or without non-substantive changes by the Court which shall be subject to approval by the parties and which approval shall not be unreasonably withheld; or if this Agreement or the Judgment or the Partial Judgment are rendered ineffective or non-operative or set aside by appeal or otherwise. Should the binding effect of this Agreement terminate consistent with the foregoing then: no party shall be bound by the factual or legal statements in this Agreement, the Judgment, the Partial Judgment, or Stipulation for Entry of Judgment Pursuant to Stipulation and none of such documents or any portions thereof shall be admissible regarding the merits of the claims and defenses in either the Arizona Action or the California Action pursuant to Rule 408 Arizona Rules of Evidence and this Agreement.

19. Integration. This Agreement states the entire agreement among the Parties who have executed this Agreement and supersedes their prior agreements, negotiations or understandings, except that the PSA and other instruments and documents related thereto including but not limited to the Seller's Representations, RPPA, Lease, and the Promissory Note payable by Hotwood shall remain in full force and effect except as modified in the separate Agreement for the Close of Escrow and Note Payment between Hotwood and Zellners. Each of the Parties acknowledges and agrees that no other party, nor agent, nor attorney of any of the parties have made any promise, representation, or warranty, express or implied, not set forth in this Agreement and the documents referred to herein. Each party signing this Agreement acknowledges that such party has not executed this Agreement in reliance on any promise, representation, conduct, or warranty of any other Party or their attorneys or agents which are not expressly set forth in this Agreement. The terms of this Agreement are contractual and not a mere recital.

20. Default. Failure or unreasonable delay by any party in the performance of any term or provision of this Agreement for a period of ten (10) days after written notice thereof from another party shall constitute a default under this Agreement. If the default is of a nature which is not capable of being cured within ten (10) days, the cure shall be commenced within such period, and diligently pursued to completion. The notice shall specify the nature of the alleged default and the manner in which the default may be satisfactorily cured. Except as otherwise provided herein, in the event of a default hereunder by any party, the non-defaulting party shall be entitled to all remedies at both law and in equity, including, without limitation, specific performance and the right to perform the obligation(s) of which the defaulting party is in default and to immediately seek reimbursement from the defaulting party of all sums expended in order to cure such default, together with interest on all such sums from the date said sums are expended by the non-defaulting party for the purpose of curing the default to the date such sums are paid in full.

21. Attorneys' Fees and Costs.

A. Except as otherwise provided herein, each Party to this Agreement shall bear its own costs, expenses, and attorneys' fees, whether taxable or otherwise, incurred in, arising out of, or in any way related to the matters released herein.

B. The prevailing Party or Parties (as determined by the Court or other relevant authority) in any action to enforce, this Agreement shall be entitled to recover its reasonable attorney's fees, experts' fees, costs and other disbursements of counsel.

22. Representations and Warranties of the Parties Regarding Authority, Capacity, and Negotiation Process. The Parties make the following representations and warranties with the understanding that each other Party hereto enters into this Agreement in reliance upon each of these representations and warranties, and that without these representations and warranties, no Party would enter into or consent to, this Agreement:

A. Each Party represents and warrants that it has not sold, transferred, conveyed, assigned, hypothecated or subrogated any of the rights, defenses, claims or causes of action released in this Agreement, and hereby expressly waives all rights it has or may have to do so, except as expressly provided herein.

B. Each party represents and warrants that it has been fully advised by its attorney, concerning the effect and finality of this Agreement contained herein, and that the Party understands, without reservation or doubt, the effect and finality of this Agreement.

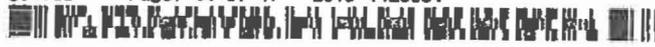
C. Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter this Agreement on behalf of the Party for whom he or she purports to sign.

23. Conflict of Interest. Pursuant to Arizona law, rules and regulations, no member, official or employee of the Town shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested. This Agreement is subject to cancellation pursuant to A.R.S. § 38-511.

24. Notices. All notices, approvals, and other communications provided for herein or given in connection herewith shall be validly given, made, delivered or served, and delivered personally or sent by nationally recognized courier (e.g., Federal Express, Airborne, UPS), or by United States mail, certified with return receipt requested, to:

If to the Town:

Town of Camp Verde
473 S Main St
Camp Verde AZ 86322
Telephone: 928 567-6631
Fax: 928 567-9061



With a copy to: William J. Sims, III
Moyes Sellers & Sims
1850 N. Central Ave., #1100
Phoenix, AZ 85004
Telephone: (602) 604-2141
Fax: (602) 274-9134

If to the Zeller Entities: Sophronia Zellner
216 Nesting Glade
Depoe Bay, Oregon 97341

With a copy to: Robert L. Earle
Earle & Associates
P.O. Box 3870
Sedona, AZ 86340
Telephone: (928) 282-5519
Fax: (928) 282-5977

If to Hotwood: California Hotwood, Inc.
5920 E. Live Oak Rd.
Lodi, CA 95240
Telephone: (209) 333-5480
Fax: (209) 333-7008

With a copy to: Daniel A. McDaniel
Nomellini, Grilli & McDaniel
Professional Law Corporations
P.O. Box 1461
Stockton, CA 95201-1461
Telephone: (209) 465-5883
Fax: (209) 465-3956

Thomas P. Kack
Musgrove, Drutz & Kack, P.C.
1135 Iron Springs Road
Post Office Box 2720
Prescott, AZ 86302-2720
Telephone: (928) 445-5935
Fax: (928) 445-5980

Any Party may change the address at which the Party is to receive notice by providing notice of the address change to the other Parties pursuant to this section. Notices, approvals and other communications provided for herein shall be deemed delivered upon personal delivery, within twenty-four (24) hours following deposit with a nationally recognized overnight courier, or within five (5) business days following deposit with the United States mail, certified with return receipt requested, as hereinabove provided, prepaid and addressed as set forth above.



25. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona. Any action filed regarding this Agreement or damages for breach of the same shall be filed in the Superior Court of Yavapai County, Arizona. The Town enters this Agreement as an administrative action and it does so pursuant to its general authority to dispute and settle disputes and pursuant to ARS §§ 9-240, 9-276, 9-462 et seq including 9-462.02 and §9-500.05 as to development regarding Hotwood's constitutionally protected right to continue a non-conforming use. This Agreement does not abrogate Hotwood's right to abandon a non-conforming use of the property as a Wood Yard.

26. Waiver. No waiver by any Party of any breach of any of the terms, covenants or conditions of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same for any other term, covenant or condition herein contained.

27. Limited Severability. The terms of this Agreement shall be construed and interpreted in a fashion that allows all terms hereof to be effective. The Parties each believe that the execution, delivery and performance of this Agreement is in compliance with all applicable laws. However, in the event that any phrase, clause, sentence, paragraph, section, article or other portion of this Agreement is declared void or unenforceable (or is construed as requiring the Town to do any act in violation of any applicable laws, constitutional provision, law, regulation, or valid provisions of Town Code), so long as the same does not materially affect the use of the Property as a Wood Yard, and does not materially affect the benefits to any party accruing from this Agreement, such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provides essentially the same rights and benefits (economic or otherwise) to the Parties as if such severance and reformation were not required. There shall be no reformation in the event of the inability, upon full performance of this Agreement, to utilize all the Property as a Wood Yard. The Parties further agree, in such circumstances, to do all acts and to execute all amendments, instruments, and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.

28. Recordation of Agreement. This Agreement is entered into in settlement of a dispute regarding real property and this Agreement shall be recorded in the Official Records of Yavapai County, Arizona, after its approval and execution by the Town.

29. No Third Party Beneficiaries. There are no third party beneficiaries to the Agreement, and no person or entity not a Party will have any right or cause of action.

30. No Agency Created. Nothing contained in the Agreement will create any partnership, joint venture, or agency relationship between the Parties.

31. Apology. The Town shall provide a letter of apology in the form attached as Exhibit I to the Zellner family, the neighbors surrounding the Property and the citizens of Camp Verde Arizona. The Town shall provide a letter of apology to Hotwood in the form attached as Exhibit "2".

32. Titles. The titles and headings provided for in the numbered sections of this Agreement are provided for convenience and shall not effect or alter the interpretation or enforcement of this Agreement.

33. Strict Performance and Time of the Essence. Strict performance is required as to each and every term of this Agreement and time is and shall remain of the essence herein.

TOWN OF CAMP VERDE

By: *Bob Burnside*
Bob Burnside, Mayor

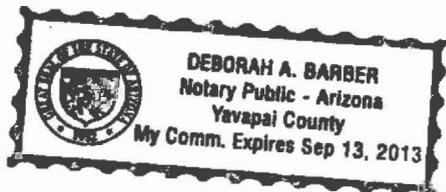
STATE OF ARIZONA)
) ss.
County of Yavapai)

On this, the 19 day of August, 2010, before me a notary public, Bob Burnside, the undersigned officer, personally appeared, satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same, as Mayor of the Town of Camp Verde, Arizona, for the purposes therein contained.

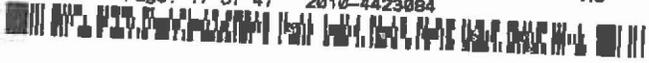
In witness hereof, I hereunto set my hand and official seal.

My Commission Expires: Sept 13, 2013 *Deborah A. Barber*
Notary Public

ATTEST:
Deborah Barber
Town Clerk



Approved: *William Sims III*
William Sims III, Town Attorney



HOTWOOD

By: _____
Kurt Kautz, President

STATE OF CALIFORNIA)
) ss.
County of _____)

On this, the ___ day of _____, 2010, before me a notary public, Kurt Kautz, personally appeared, satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same, on behalf of California Hotwood, Inc., for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

My Commission Expires:

Notary Public

SOPHRONIA ZELLNER

By: Sophronia Zellner
Sophronia Zellner

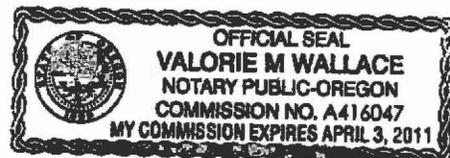
STATE OF Oregon)
) ss.
County of Lincoln)

On this, the 13th day of August, 2010, before me a notary public, Sophronia Zellner, personally appeared, satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

My Commission Expires:

4/3/2011 Valorie M Wallace
Notary Public



DADS WOOD, LLC f/k/a
CANYON WOOD SUPPLY, LLC

By: Sophronia Zellner
Sophronia Zellner

STATE OF OREGON)
County of Lincoln) ss.

On this, the 13th day of August, 2010, before me a notary public, Sophronia Zellner, personally appeared, satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same, on behalf of Dads Wood, LLC f/k/a Canyon Wood Supply, LLC, for the purposes therein contained.

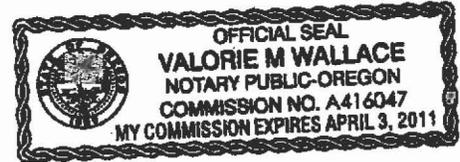
In witness hereof, I hereunto set my hand and official seal.

My Commission Expires:

4/3/2011 Valorie M Wallace
Notary Public

THE ZELLNER LIVING TRUST

By: Sophronia Zellner
Sophronia Zellner



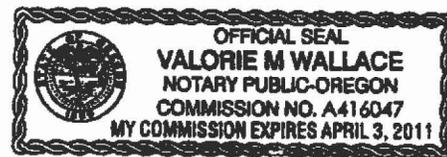
STATE OF oregon)
County of Lincoln) ss.

On this, the 13th day of August, 2010, before me a notary public, Sophronia Zellner, personally appeared, satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same, as Trustee of the Zellner Living Trust, for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

My Commission Expires:

4/3/2011 Valorie M Wallace
Notary Public



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\$56.00 Page: 19 of 47 2010-4423084

JERSON INVESTMENTS, LLP

By: Sophronia Zellner
Sophronia Zellner

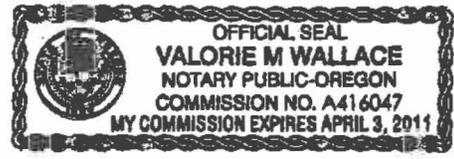
STATE OF Oregon)
County of Lincoln) ss.

On this, the 13th day of AUGUST, 2010, before me a notary public, Sophronia Zellner, personally appeared, satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same, on behalf of Jerro Investments, LLP, for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

My Commission Expires: 4/3/2011

Valorie M Wallace
Notary Public



“Unofficial Copy”

HOTWOOD

By: [Signature]
Kurt Kautz, President

STATE OF CALIFORNIA)
) ss.
County of _____)

On this, the ___ day of _____, 2010, before me a notary public, Kurt Kautz, personally appeared, satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same, on behalf of California Hotwood, Inc., for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

My Commission Expires: _____
Notary Public

SOPHRONIA ZELLNER

By: _____
Sophronia Zellner

STATE OF _____)
) ss.
County of _____)

On this, the ___ day of _____, 2010, before me a notary public, Sophronia Zellner, personally appeared, satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

My Commission Expires: _____
Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Joaquin

On August 13, 2010 before me, Kelly Kirilov, Notary Public

Date

Here Insert Name and Title of the Officer

personally appeared Kurt Kautz

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Place Notary Seal Above

Signature: Kelly Kirilov

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Compromise and Settlement Agreement

Document Date: _____ Number of Pages: 18

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Kurt Kautz

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing: _____

EXHIBIT "A"

PARCEL I (APN 404-02-066 5)

A parcel of land situated in a portion of the Southeast Quarter (SE1/4) of Government Lot 5 of Section 5, Township 13 North, Range 5 East of the Gila and Salt River Base and Meridian, Town of Camp Verde, Yavapai County, Arizona, being more particularly described as follows:

COMMENCING at an aluminum capped iron bar stamped "JDS ASSOCIATES RLS 37401" (set) monumenting the Southeast corner of said Lot 5 of said Section 5, from which an aluminum capped iron bar stamped "JDS ASSOCIATES RLS 37401" (set) monumenting the Northeast corner of said Lot 5 bears North 00°16'06" West (a measured geodetic bearing and Basis of Bearing for this description), a distance of 1,324.26 feet;

THENCE South 89°55'46" West (of record South 89°56' West and West), along the South line of said Lot 5, a distance of 15.00 feet (of record 15 feet) to a plastic capped iron bar stamped "JDS ASSOC RLS 37401" (set);

THENCE North 00°16'06" West, parallel with and 15.00 feet West of the East line of said Lot 5, a distance of 127.95 feet to a plastic capped iron bar stamped "JDS ASSOC RLS 37401" (set) monumenting the POINT OF BEGINNING, from which said aluminum capped iron bar stamped "JDS ASSOCIATES RLS 37401" (set) monumenting said Southeast corner of said Lot 5 bears South 06°57'08" East (of record South 05°54' East), a distance of 128.88 feet (of record 128.87 feet);

THENCE South 89°55'46" West (of record South 89°56' West), a distance of 336.50 feet (of record 336.5 feet) to a plastic capped iron bar stamped "JDS ASSOC RLS 37401" (set);

THENCE North 00°16'07" West (of record North 00°11' West), a distance of 143.01 feet (of record 142.99 feet) to a plastic capped iron bar stamped "JDS ASSOC RLS 37401" (set);

THENCE North 89°55'34" East (of record North 89°56' East), a distance of 336.50 feet (of record 336.5 feet) to a plastic capped iron bar stamped "JDS ASSOC RLS 37401" (set) monumenting a point lying 15.00 feet West of said East line of said Lot 5;

THENCE South 00°16'06" East (of record South 00°13' East), parallel with and 15.00 feet West of said East line of said Lot 5, a distance of 143.03 feet (of record 142.99 feet) to the POINT OF BEGINNING.

Containing 1.10 acres, more or less.

EXHIBIT " A "



PARCEL 2 (APN 404-02-065 2)

A parcel of land situated in a portion of the Southeast Quarter (SE1/4) of Government Lot 5 of Section 5, Township 13 North, Range 5 East of the Gila and Salt River Base and Meridian, Town of Camp Verde, Yavapai County, Arizona, being more particularly described as follows:

COMMENCING at an aluminum capped iron bar stamped "JDS ASSOCIATES RLS 37401" (set) monumenting the Southeast corner of said Lot 5 of said Section 5, from which an aluminum capped iron bar stamped "JDS ASSOCIATES RLS 37401" (set) monumenting the Northeast corner of said Lot 5 bears North $00^{\circ}16'06''$ West (a measured geodetic bearing and Basis of Bearing for this description), a distance of 1,324.26 feet;

THENCE South $89^{\circ}55'46''$ West (of record South $89^{\circ}56'$ West and West), along the South line of said Lot 5, a distance of 351.50 feet to a plastic capped iron bar stamped "JDS ASSOC RLS 37401" (set) monumenting the POINT OF BEGINNING.

THENCE South $89^{\circ}55'46''$ West (of record South $89^{\circ}56'$ West and West), along said South line of said Lot 5, a distance of 307.73 feet to a found 1" galvanized pipe (attached plastic cap stamped "FOUND PT RLS 37401") monumenting the Southwest corner of the Southeast Quarter (SE1/4) of said Lot 5;

THENCE North $00^{\circ}03'26''$ West (of record North $00^{\circ}19'$ West), along the West line of said Southeast Quarter (SE1/4) of said Lot 5, a distance of 270.94 feet (of record 270.98 feet) to a found 1" galvanized pipe (attached plastic cap stamped "FOUND PT RLS 37401");

THENCE North $89^{\circ}55'34''$ East (of record North $89^{\circ}56'$ East), a distance of 306.73 feet to a plastic capped iron bar stamped "JDS ASSOC RLS 37401" (set);

THENCE South $00^{\circ}16'07''$ East (of record South $00^{\circ}13'$ East), a distance of 270.95 feet (of record 270.98 feet) to the POINT OF BEGINNING.

Containing 1.91 acres, more or less.



PARCEL 3 (APN 404-02-062 3)

A parcel of land situated in a portion of the Northeast Quarter of the Southwest Quarter of the Southwest Quarter (NE1/4, SW1/4, SW1/4) of Section 5, Township 13 North, Range 5 East of the Gila and Salt River Base and Meridian, Town of Camp Verde, Yavapai County, Arizona, being more particularly described as follows:

BEGINNING at an aluminum capped iron bar stamped "JDS ASSOCIATES RLS 37401" (set) monumenting the Northeast corner of said Northeast Quarter of the Southwest Quarter of the Southwest Quarter (NE1/4, SW1/4, SW1/4) of said Section 5, being also the Southeast corner of Government Lot 5 of said Section 5, from which an aluminum capped iron bar stamped "JDS ASSOCIATES RLS 37401" (set) monumenting the Northeast corner of said Lot 5 bears North $00^{\circ}16'06''$ West (a measured geodetic bearing and Basis of Bearing for this description), a distance of 1,324.26 feet;

THENCE South $00^{\circ}13'07''$ East (of record South $00^{\circ}03'$ West), along the East line of said Northeast Quarter of the Southwest Quarter of the Southwest Quarter (NE1/4, SW1/4, SW1/4), a distance of 164.56 feet (of record 165.24 feet) to a plastic capped iron bar stamped "JDS ASSOC RLS 37401" (set);

THENCE South $89^{\circ}53'51''$ West (of record North $89^{\circ}50'$ West and West), a distance of 329.87 feet (of record 329.18 feet) to a found 1/2" iron bar (attached plastic cap stamped "FOUND PT RLS 37401");

THENCE South $89^{\circ}53'51''$ West (of record North $89^{\circ}50'$ West and West), a distance of 329.22 feet (of record 329.17 feet) to a found 1/2" iron bar (attached plastic cap stamped "FOUND PT RLS 37401") monumenting a point on the West line of said Northeast Quarter of the Southwest Quarter of the Southwest Quarter (NE1/4, SW1/4, SW1/4);

THENCE North $00^{\circ}15'57''$ West (of record North), along the West line of said Northeast Quarter of the Southwest Quarter of the Southwest Quarter (NE1/4, SW1/4, SW1/4), a distance of 164.93 feet a found 1" galvanized pipe (attached plastic cap stamped "FOUND PT RLS 37401") monumenting the Northwest corner of said Northeast Quarter of the Southwest Quarter of the Southwest Quarter (NE1/4, SW1/4, SW1/4);

THENCE North $89^{\circ}55'46''$ East (of record North $89^{\circ}56'$ East), a distance of 659.23 feet to the POINT OF BEGINNING.

Containing 2.49 acres, more or less.



PARCEL 4 (APN 404-02-068B 9)

A parcel of land situated in a portion of the Southeast Quarter (SE1/4) of Government Lot 5 of Section 5, Township 13 North, Range 5 East of the Gila and Salt River Base and Meridian, Town of Camp Verde, Yavapai County, Arizona, being more particularly described as follows:

COMMENCING at an aluminum capped iron bar stamped "JDS ASSOCIATES RLS 37401" (set) monumenting the Southeast corner of said Lot 5 of said Section 5, from which an aluminum capped iron bar stamped "JDS ASSOCIATES RLS 37401" (set) monumenting the Northeast corner of said Lot 5 bears North 00°16'06" West (a measured geodetic bearing and Basis of Bearing for this description), a distance of 1,324.26 feet;

THENCE North 00°16'06" West, along the East line of said Lot 5, a distance of 468.98 feet (of record 468.98 feet) to a plastic capped iron bar stamped "JDS ASSOC RLS 37401" (set);

THENCE South 89°55'47" West, a distance of 227.09 feet to a plastic capped iron bar stamped "JDS ASSOC RLS 37401" (set) monumenting the POINT OF BEGINNING.

THENCE South 89°55'47" West, a distance of 431.43 feet to a plastic capped iron bar stamped "JDS ASSOC RLS 37401" (set) monumenting a point on the West line of said Southeast Quarter (SE1/4) of said Lot 5;

THENCE North 00°10'54" West, along said West line, a distance of 191.45 feet to a found 1" galvanized pipe (attached plastic cap stamped "FOUND PT RLS 37401") monumenting the Northwest corner of said Southeast Quarter (SE1/4) of said Lot 5;

THENCE North 89°53'29" East (of record North 89°56'15" East), a distance of 431.13 feet (of record 437.05 feet) to a plastic capped iron bar stamped "JDS ASSOC RLS 37401" (set);

THENCE South 00°16'18" East (of record South 00°04'34" East), a distance of 191.74 feet (of record 194.44 feet) to the POINT OF BEGINNING.

Containing 1.89 acres, more or less.

Unofficial



PARCEL 5 (APH 404-02-067 8)

A parcel of land situated in a portion of the Southeast Quarter (SE1/4) of Government Lot 5 of Section 5, Township 13 North, Range 5 East of the Gila and Salt River Base and Meridian, Town of Camp Verde, Yavapai County, Arizona, being more particularly described as follows:

COMMENCING at an aluminum capped iron bar stamped "JDS ASSOCIATES RLS 37401" (set) monumenting the Southeast corner of said Lot 5 of said Section 5, from which an aluminum capped iron bar stamped "JDS ASSOCIATES RLS 37401" (set) monumenting the Northeast corner of said Lot 5 bears North 00°16'06" West (a measured geodetic bearing and Basis of Bearing for this description), a distance of 1,324.26 feet;

THENCE North 00°16'06" West, along the East line of said Lot 5, a distance of 270.98 feet (of record 270.98 feet) to a plastic capped iron bar stamped "JDS ASSOC RLS 37401" (set) monumenting the **POINT OF BEGINNING**.

THENCE South 89°55'34" West (of record South 89°56' West), a distance of 658.23 feet to a found 1" galvanized pipe (attached plastic cap stamped "FOUND PT RLS 37401") monumenting a point on the West line of the Southeast Quarter (SE1/4) of said Lot 5;

THENCE North 00°21'08" West, along said West line of said Southeast Quarter (SE1/4), a distance of 198.04 feet (of record 198 feet) to a plastic capped iron bar stamped "JDS ASSOC RLS 37401" (set);

THENCE North 89°55'47" East (of record North 89°56' East), a distance of 658.52 feet to a plastic capped iron bar stamped "JDS ASSOC RLS 37401" (set) monumenting a point on said East line of said Lot 5;

THENCE South 00°16'06" East, a distance of 198.00 feet (of record 198 feet) to the **POINT OF BEGINNING**.

Containing 2.99 acres, more or less.

Unofficial



PARCEL 6 (APN 404-02-069 4)

A parcel of land situated in a portion of the Northeast Quarter (NE1/4) of Government Lot 5 of Section 5, Township 13 North, Range 5 East of the Gila and Salt River Base and Meridian, Town of Camp Verde, Yavapai County, Arizona, being more particularly described as follows:

~~COMMENCING~~ at an aluminum capped iron bar stamped "JDS ASSOCIATES RLS 37401" (set) monumenting the Southeast corner of said Lot 5 of said Section 5, from which an aluminum capped iron bar stamped "JDS ASSOCIATES RLS 37401" (set) monumenting the Northeast corner of said Lot 5 bears North 00°16'06" West (a measured geodetic bearing and Basis of Bearing for this description), a distance of 1,324.26 feet;

THENCE North 00°16'06" West, along the East line of said Lot 5, a distance of 660.87 feet to a plastic capped iron bar stamped "JDS ASSOC RLS 37401" (set) monumenting the ~~POINT OF BEGINNING~~.

THENCE South 89°53'29" West (of record South 89°56'15" West), a distance of 658.23 feet (of record 661.16 feet) to a found 1" galvanized pipe (attached plastic cap stamped "FOUND PT RLS 37401") monumenting the Southwest corner of said Northeast Quarter (NE1/4) of said Lot 5;

THENCE North 00°10'54" West, along the West line of said Northeast Quarter (NE1/4) of said Lot 5, a distance of 242.70 feet to a plastic capped iron bar stamped "JDS ASSOC RLS 37401" (set);

THENCE North 89°53'29" East, a distance of 208.50 feet to a found 1/2" iron bar (attached plastic cap stamped "FOUND PT RLS 37401");

THENCE North 89°53'29" East, a distance of 449.36 feet to a plastic capped iron bar stamped "JDS ASSOC RLS 37401" (set) monumenting a point on the East line of said Northeast Quarter (NE1/4) of said Lot 5;

THENCE South 00°16'06" East, along said East line, a distance of 242.70 feet to the ~~POINT OF BEGINNING~~.

Containing 3.67 acres, more or less.

Unofficial

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8 *Attorneys for Plaintiff California Hotwood, Inc.*

9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
10 **IN AND FOR THE COUNTY OF YAVAPAI**

11 **SOPHRONIA ZELLNER**, a single woman;
12 **CANYON WOOD SUPPLY, LLC**, an
13 Arizona Limited Liability Company; **THE**
14 **ZELLNER LIVING TRUST**; and **JERSON**
15 **INVESTMENTS, LLP**, an Arizona Limited
16 Liability Partnership,

17 **Plaintiffs,**

18 vs.

19 **TOWN OF CAMP VERDE**, a political
20 subdivision of the State of Arizona,

21 **Defendant.**

22 **CALIFORNIA HOTWOOD, INC.**, a
23 California Corporation,

24 **Additional Plaintiff,**

25 vs.

26 **TOWN OF CAMP VERDE**, a political
27 subdivision of the State of Arizona,

28 **Defendant.**

Case No.: V1300CV820080289

PARTIAL JUDGMENT

(Assigned to the Honorable Michael R. Bluff)

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Plaintiffs SOPHRONIA ZELLNER, a single woman, CANYON WOOD SUPPLY, LLC, an Arizona Limited Liability Company, THE ZELLNER LIVING TRUST, and JERSON INVESTMENTS, LLP, an Arizona Limited Liability Partnership (collectively "Zellner")

EXHIBIT "B"



1 having filed a Motion for Summary Judgment; additional Plaintiff CALIFORNIA HOTWOOD,
2 INC. ("Hotwood"), having joined Zellner's Motion for Summary Judgment and having filed its
3 own Motion for Summary Judgment; and Defendant TOWN OF CAMP VERDE, a political
4 subdivision of the State of Arizona ("Town") having responded to said Motions; replies and
5 further memoranda having been filed, this court having heard oral argument on both Motions;
6 and this Court having rendered its "Under Advisement Ruling on October 12, 2009";

7
8 Zellners having filed Plaintiff's Motion For Further Ruling On Motion For Summary
9 Judgment; Hotwood having filed it's Joinder in Zellner's Plaintiff's Motion for Further Ruling
10 on Motion for Summary Judgment and Request to Correct the Record; Town having filed it's
11 Response to Plaintiffs' Motion for Further Ruling on Motion for Summary Judgment; replies
12 having been filed and oral argument having been held; and this Court having clarified its
13 previous rulings by entry of a minute entry dated December 29, 2009 entitled "Rulings";

14
15 **NOW, THEREFORE,** the Court finds, orders and adjudges as follows:

16 A. The Court finds as follows:

17 1. This case involves six (6) parcels of property located in the Town of Camp
18 Verde, Arizona, assessors parcel numbers 404-02-062 (Lot 62), 404-02-065 (lot 65), 404-02-066
19 (Lot 66), 404-02-067 (Lot 67), 404-02-068B (Lot 68B), and 404-02-069 (Lot 69). All of the
20 foregoing lots are legally described in Exhibit "A" hereto and are hereinafter collectively
21 referred to as the "Property".

22
23 2. Zellners owned and operated a commercial Wood Yard business commencing
24 over 40 years prior to the date of this Judgment. That business included and includes the
25 importation of logs and the storing, cutting, debarking, splitting and packaging, shipping,
26 processing and the retail and wholesale sale and shipping of such logs, wood and wood products
27
28

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1 and by-products by various methods and using various equipment. This use is hereinafter
2 referred to as a "Wood Yard".

3 3. In the 1960's Zellners operated the Wood Yard on Lots 62, 65 and 66.

4 4. Yavapai County adopted a zoning code in 1968 and adopted detailed zoning
5 maps for what is now the Camp Verde Arizona area in 1970. Land uses after September 1970
6 had to meet zoning regulations in place at the time.

7 5. In the early 1970's the Zellners purchased Lots 67 and 68B. In the early 1970's
8 Zellners expanded the Wood Yard business onto Lots 67 and 68B.

9 6. The Town incorporated in 1986. At that time all of Lots 62, 65, 66, 67 and 68B
10 were being used as a Wood Yard.

11 7. In 1998, Plaintiffs sought permission from the Town's Community Development
12 Director/Zoning Administrator, Robert Lau, to expand their business to an adjacent Lot #69. At
13 that time, Section 105(E) of the Town's Zoning Ordinance stated:

14 "A non-conforming use may expand if such expansion does not exceed 100% of the area
15 of the original business"

16 Bob Lau determined the Wood Yard had been operating as a legal non-conforming use
17 and that expansion was allowed under the ordinance. Expansion was allowed and Lot #69 was
18 purchased by Zellners.

19 8. In 2000, the new Planning and Zoning Director, John Roberts, was again
20 approached about the expansion onto Lot #69. Roberts concluded that Lau had previously
21 approved the expansion as a "legal non-conforming expansion" under the Town's code.
22 Robert's agreed to follow Lau's prior decision.

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1 A neighbouring property owner challenged Zellner's proposed expansion and appealed
2 Robert's decision to the Town's Board of Adjustments ("BOA"). Proper notice was provided
3 for the BOA hearing and the BOA had jurisdiction to hear the appeal. The BOA hearing was
4 held in October 2000 and the BOA unanimously upheld Robert's decision and approved the
5 decision to allow expansion of the business onto Lot #69. The BOA placed no conditions upon
6 the expansion as upheld. No appeal was taken from the BOA decision and it became final.

7
8 9. In January 2007, Zellner's entered into contract with Hotwood to purchase the
9 Wood Yard and to purchase the property over a period of several years. Hotwood has a contract
10 to purchase but has not yet closed on the purchase of Lot #67 and Lot #69. Hotwood continued
11 and continues to operate the Wood Yard as Canyon Wood Supply on all of the Property.

12
13 10. On October 24, 2008, the Town sent nearly identical letters to both Plaintiffs
14 advising them that zoning approval was required prior to issuing a business license for the Wood
15 Yard operations. According to the letters:

16 "before zoning approval can be granted for the business license, we must
17 determine whether operators of the wood lot should be allowed to conduct
18 this type of activity in a residential district."

19 The letters went on to state that:

20 "Uses established before September 10, 1970 could have a legal non-conforming
21 status. These uses and approvals must be documented through the certification
22 process set forth in Section 105 of our Zoning Ordinance."

23 The letter concluded by saying:

24 "Please provide the requested information to our Department within 15 days so
25 we can initiate the certification process. The Director has set the date for a
26 public hearing to be heard on November 20, 2008 ..."

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1 11. Prior to the scheduled hearing, Zellners filed their first Amended Complaint for
2 Count One - Preliminary Injunction & Permanent Injunction; Count Two - Declaratory
3 Judgment; Count Three - Estoppel and Count Four - Equal Protection. The parties
4 subsequently stipulated to postpone the scheduled public hearing pending this Court's ruling on
5 Zellner's Application for Preliminary Injunction. Hotwood's Complaint, filed April 24, 2009,
6 alleged claims similar to Zellners.
7

8 12. The Court finds that the October 2000 decision of the BOA allowing expansion
9 of the Wood Yard onto Lot 69 was a final determination on the merits and had and has *res*
10 *judicata* effect and was and is binding upon the Town and its citizens and owners of property
11 within the Town.

12 13. The Town disputed that all the balance of lots at issue were subject to legal non-
13 conforming use as a Wood Yard. The Court found there were inferences from the facts that
14 were in dispute and there was an issue as to whether Lots 67 and 68B only were subject to a
15 legal non-conforming use as a Wood Yard. Stated otherwise Lots 62, 65, 66 and 69 are found to
16 be subject to the legal non-conforming use as a Wood Yard.
17

18 14. Plaintiffs are entitled to relief on each of Plaintiffs' Counts One and Two
19 consistent herewith.
20

21 B. The Court awards Judgment and orders in favor of Zellners and Hotwood against Town
22 as follows:

23 1. The parcels designated by Assessors Parcel Numbers 404-02-062; 404-02-065;
24 404-02-066; and 404-02-069 are hereby declared and determined to be subject to the pre-
25 existing legal non-conforming use as a Wood Yard and such use as a Wood Yard is determined
26 to be appurtenant to and to run with such parcels without conditions.
27
28

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2. The Town, including its officials and employees, is hereby permanently enjoined from taking any further action to determine or to re-determine the non-conforming use status of such parcels, including that the Town shall not conduct or cause any hearing regarding such issue and the Town shall not hold or determine or rule that the use of such parcels as a Wood Yard is not a legal non-conforming use.

3. There is no just cause for delay and it is directed that this Partial Judgment shall be entered immediately.

DATED this _____ day of _____ 2010.

Michael R. Bluff,
Judge of the Superior Court, Yavapai County

Approved as to form and content:

Jeffrey T. Murray
William J. Sims III
Attorneys for Defendant,
The Town of Camp Verde

Date

Thomas P. Kack
Attorney for Plaintiff California Hotwood, Inc.

Date

Robert L. Earle
Attorney for Plaintiffs Zellner, Canyon Wood Supply, LLC,
Zellner Living Trust, and Jerso Investments, LLP

Date

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**Partial Judgment
Exhibit A to Exhibit B**

Consists of the legal description of Parcels 404-02-062, 404-02-065, 404-02-066, 404-02-067, 404-02-068B, and 404-02-069 which are omitted in this copy but which are attached to the original to be submitted in the Arizona Action.

UnOfficial Copy

EXHIBIT A to EXHIBIT B

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8 *Attorney for Plaintiff California Hotwood, Inc.*

9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
10 **IN AND FOR THE COUNTY OF YAVAPAI**

11 **SOPHRONIA ZELLNER**, a single woman;
12 **CANYON WOOD SUPPLY, LLC**, an
13 Arizona Limited Liability Company; **THE**
14 **ZELLNER LIVING TRUST**; and **JERSON**
15 **INVESTMENTS, LLP**, an Arizona Limited
16 Liability Partnership,

17 **Plaintiffs,**

18 vs.

19 **TOWN OF CAMP VERDE**, a political
20 subdivision of the State of Arizona,

21 **Defendant.**

22 **CALIFORNIA HOTWOOD, INC.**, a
23 California Corporation,

24 **Additional Plaintiff,**

25 vs.

26 **TOWN OF CAMP VERDE**, a political
27 subdivision of the State of Arizona,

28 **Defendant.**

Case No.: V1300CV820080289

**JUDGMENT PURSUANT
TO STIPULATION**

(Assigned to the Honorable Michael R. Bluff)

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Plaintiffs SOPHRONIA ZELLNER, a single woman; CANYON WOOD SUPPLY, LLC, an Arizona Limited Liability Company; THE ZELLNER LIVING TRUST; and JERSON INVESTMENTS, LLP, an Arizona Limited Liability Partnership (collectively "Zellner") and Plaintiff CALIFORNIA HOTWOOD, INC. ("Hotwood"); and Defendant TOWN OF CAMP

EXHIBIT "C"



1 VERDE, a political subdivision of the State of Arizona ("Town") having reached a settlement on
2 all issues in this case pursuant to an agreement titled "Compromise and Settlement Agreement"
3 (the "Agreement"), having stipulated to the entry of this Judgment Pursuant To Stipulation and
4 this Court being fully apprised of the facts of this case,

5
6 NOW, THEREFORE, this Court finds, adjudges and decrees as follows:

7 The Court finds as follows:

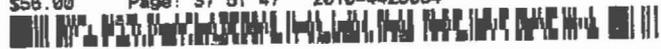
8 1. The real property at issue in this case consists of six parcels of property located in
9 Yavapai county Arizona, Assessors Parcel Numbers 404-02-062 ("Lot 62"), 404-02-065
10 ("Lot 65"), 404-02-066 ("Lot 66"), 404-02-067 ("Lot 67"), 404-02-068B ("Lot 68B"), and
11 404-02-069 ("Lot 69"). (Collectively the "Property"). The legal descriptions for the foregoing
12 parcels are set forth in the attached Exhibit "A".

13
14 2. The Property has been and is being used as a commercial wood yard including
15 the importation of logs and wood materials and the storing, cutting, debarking, splitting,
16 packaging, processing, shipping of logs and wood and the retail and wholesale sale of fire wood,
17 wood products and wood by-products, which use is hereinafter referred to as a "Wood Yard".

18
19 3. This action was commenced due to the Town's attempt to enforce certain
20 provisions of the Town of Camp Verde Zoning Code. The Town took the position that Zellners
21 and Hotwood were required to proceed to a hearing and prove that the various lots were subject
22 to the (legal) non-conforming use as a Wood Yard.

23
24 4. This Court has already made findings and rulings regarding the property such that
25 only two of the lots, Lot 67 and Lot 68B have not been determined to be subject to a legal non-
26 conforming use as a Wood Yard. As to these two lots, pursuant to the Compromise and
27 Settlement Agreement entered into by the Plaintiffs and Defendant, the Plaintiff and Defendant
28

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1 agree and the facts demonstrate of record that these two lots were purchased in the early 1970's;
2 they were used in the Wood Yard business in the 1970's until the present; and that these two lots
3 were regulated by Yavapai County until the Town incorporated in 1986. The facts of record,
4 including the Yavapai County Zoning Code as applicable in the 1970's through 1986 (the Old
5 County Code), and testimony of record including the Declaration of County Official Boyce
6 MacDonald, demonstrates that the Old County Code as interpreted by Yavapai County allowed
7 the expansion of a use by up to 100% onto adjacent lots without the necessity for any formal or
8 informal application to or approval or action by Yavapai County. County records demonstrate
9 that the expansion by Zellners onto Lots 67 and 68B was less than a 100% expansion of the use
10 of Lots 62, 65 and 66 and that the lots were all contiguous and that, when the expansion
11 occurred onto Lots 67 and 68, the expansion would have been legal and resulted in a legal non-
12 conforming use under Old County Code.

13
14
15 5. There has been a dispute as to whether the approval of Zellners 1998 expansion
16 of the Wood Yard business by past Town Community Development Director/Zoning
17 Administrator Robert Lau, the upholding of this decision by later Community Development
18 Director John Roberts and the upholding of the Roberts decision in October 2000 by the Town's
19 then Board of Adjustments (the "BOA") factually or legally implied that the use of Lots 67 and
20 68B was a legal non-conforming use. Lots 67 and 68B are situated between Lot 69 and Lots 62,
21 65 and 66 such that Lot 69 would not be contiguous to a legal non-conforming use unless Lots
22 67 and 68B were then legally used as a Wood Yard at that time. The facts of record demonstrate
23 that Lots 67 and 68B were already being used as a Wood Yard in the 1970's and were still so
24 used during the time those decisions were made. The evidence demonstrates that when Director
25

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1 Bob Lau made his decision he had investigated the use of the existing property including review
2 of aerial photos.

3 6. The use of the Property as a Wood Yard is a legal non-conforming use under
4 Arizona Law.

5 7. Zellners are entitled to Judgment on Counts One, Two and Three of its First
6 Amended Verified Complaint as to all of the property and Hotwood is entitled to Judgment on
7 Counts One, Two and Three of its Verified Complaint as to all of the Property.

8 8. The Parties have agreed to the dismissal with prejudice of Court Four of both
9 Zellners First Amended Verified Complaint and Hotwood's Verified Complaint.

10 9. The Town, Hotwood and the Zellners have agreed that this Judgment shall be
11 interpreted as binding and shall be binding upon the Parties hereto and their privies, including
12 persons and entities represented directly or indirectly by the Parties, and the Parties' officers,
13 directors, members, successors, assigns, employees, personal representatives, trustees and
14 beneficiaries and to successors in interest to the property and, as regards the Town, its citizens
15 and persons or entities that are owners or become owners of property within the Town.

16 10. Hotwood, Zellners and the Town have agreed to waive any right to appeal, to
17 move for a new trial or to otherwise seek to set this Judgment aside or to directly or indirectly
18 seek to relitigate, dispute or attack this Judgment or the findings herein.

19 WHEREFORE, this Court finds and awards Judgment in favor of Zellners and
20 Hotwood against Town as follows:

21 1. The expansion of the Wood Yard onto Lots 67 and 68B in the 1970's was legal
22 under the Old County Code and the use of Lots 67 and 68B was a legal non-conforming use.

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1 2. The pre-existing (legal) non-conforming use of Lots 67 and 68B as a Wood Yard
2 is also subject to *res judicata* effect under the October 2000 Board of Adjustments decision
3 approving the expansion of the Wood Yard onto Lot 69 and that such use is appurtenant to and
4 shall run with the property without conditions or limitations. The use of the property as a Wood
5 Yard is subject to statutory provisions under ARS §9-462.02 and relevant provisions of the
6 Arizona Constitution.

7
8 3. The Property, including those parcels designated by Assessors Parcel Numbers
9 404-02-062; 404-02-065; 404-02-066; 404-02-67 and 404-02-068B and 404-02-069; are hereby
10 declared and determined to be subject to the pre-existing non-conforming use as a Wood Yard
11 and such use as a Wood Yard is determined to be appurtenant to the Property and to run with the
12 Property without conditions or limitations.

13
14 4 The Town, including its officials and employees, is hereby permanently enjoined
15 from taking any further action to determine or re-determine the non-conforming use status of the
16 Lots 62, 65, 66, 67, and 68B, including that the Town shall not conduct or cause any hearing to
17 be held regarding such issues and the Town shall not hold or determine or rule that the use of the
18 Lots 62, 65, 66, 67 and 68B as a Wood yard is not a legal non-conforming use.

19
20 5. The Parties to this action shall each bear their own attorneys fees and costs
21 incurred in this action.

22 6. Count Four of Zellners' First Amended Verified Complaint and Count Four of
23 Hotwood's Verified Complaint are hereby dismissed with prejudice.

24 7. This Judgment is entered in addition to the Partial Judgment entered in this case
25 and that Partial Judgment is not merged herein.

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8. There is no just reason for delaying the entry of this Judgment and this Judgment shall be entered immediately.

DATED this _____ day of _____ 2010.

Michael R. Bluff,
Judge of the Superior Court, Yavapai County

Approved as to form and content:

Jeffrey T. Murray
William J. Sims III
*Attorneys for Defendant,
The Town of Camp Verde*

Date

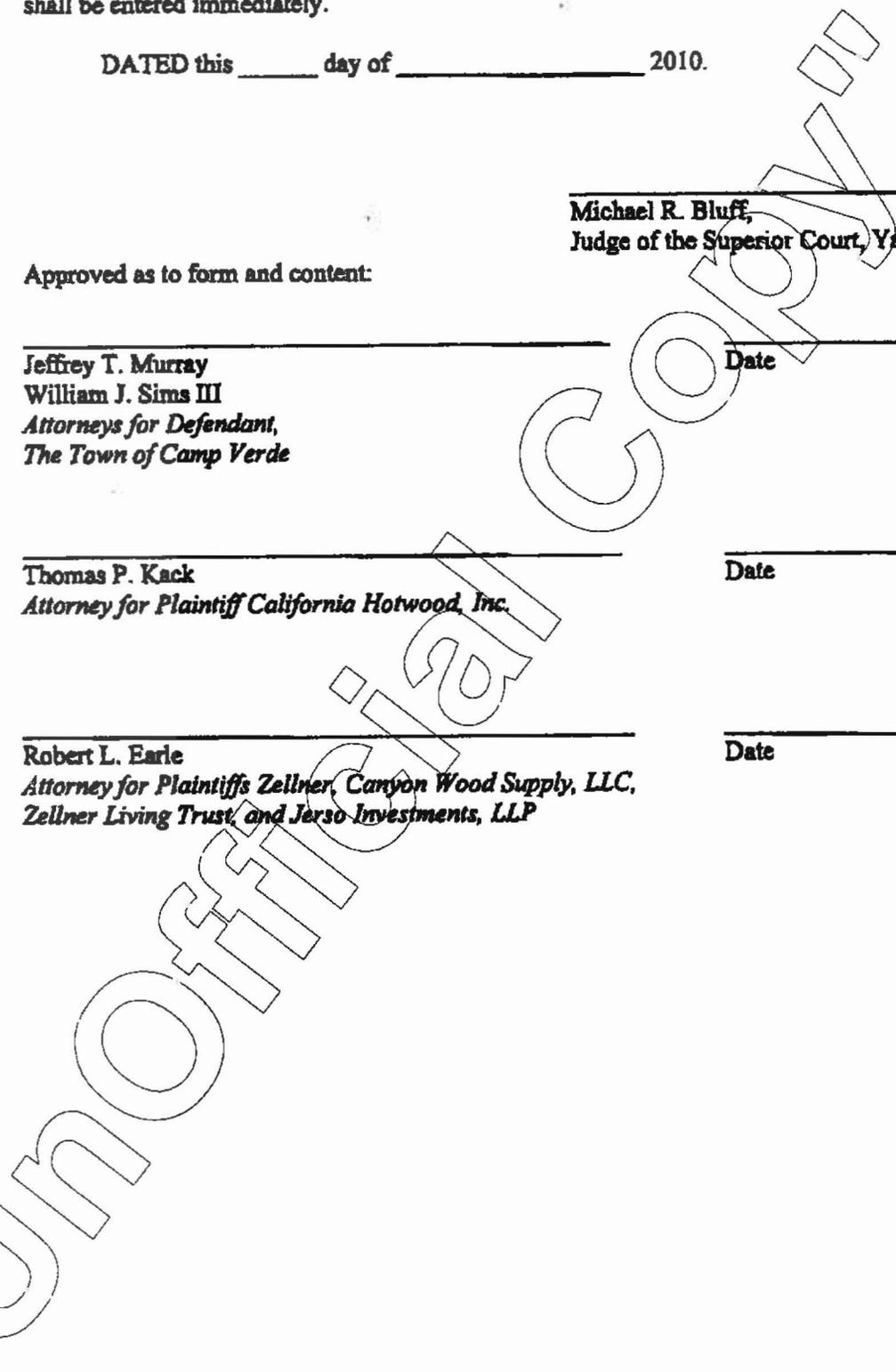
Thomas P. Kack
Attorney for Plaintiff California Hotwood, Inc.

Date

Robert L. Earle
*Attorney for Plaintiffs Zellner, Canyon Wood Supply, LLC,
Zellner Living Trust, and Jerso Investments, LLP*

Date

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**Judgment Pursuant to Stipulation
Exhibit A to Exhibit C**

**Consists of the legal description of Parcels 404-02-062, 404-02-065, 404-02-066,
404-02-067, 404-02-068B, and 404-02-069 which are omitted in this copy but which are
attached to the original to be submitted in the Arizona Action.**

UnOfficial Copy

EXHIBIT A to EXHIBIT C

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6 Tel: (928) 445-5935 • Fax: (928) 445-5980
7 tkack@cableone.net
8 *Attorney for Plaintiff California Hotwood, Inc.*

9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
10 **IN AND FOR THE COUNTY OF YAVAPAI**

11 **SOPHRONIA ZELLNER**, a single woman;
12 **CANYON WOOD SUPPLY, LLC**, an
13 Arizona Limited Liability Company; **THE**
14 **ZELLNER LIVING TRUST**; and **JERSON**
15 **INVESTMENTS, LLP**, an Arizona Limited
16 Liability Partnership,

17 Plaintiffs,

18 vs.

19 **TOWN OF CAMP VERDE**, a political
20 subdivision of the State of Arizona,

21 Defendant.

22 **CALIFORNIA HOTWOOD, INC.**, a
23 California Corporation,
24 Additional Plaintiff,

25 vs.

26 **TOWN OF CAMP VERDE**, a political
27 subdivision of the State of Arizona,

28 Defendant.

Case No.: V1300CV820080289

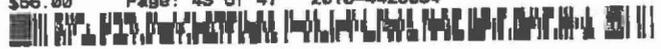
**STIPULATION FOR ENTRY OF
JUDGMENT PURSUANT TO
STIPULATION**

(Assigned to the Honorable Michael R. Bluff)

MUSGROVE, DRUTZ & KACK, P.C.
P.O. BOX 2720
PRESCOTT, ARIZONA 86302-2720
TELEPHONE: (928) 445-5935
FAX NUMBER: (928) 445-5980

Plaintiffs **SOPHRONIA ZELLNER**, a single woman; **CANYON WOOD SUPPLY,**
LLC, an Arizona Limited Liability Company; **THE ZELLNER LIVING TRUST**; and
JERSON INVESTMENTS, LLP, an Arizona Limited Liability Partnership, (collectively
"Zellner") through Attorney Robert Earle; and Plaintiff **CALIFORNIA HOTWOOD, INC.**, a
California Corporation, ("Hotwood") through Attorney Thomas P. Kack; and the **TOWN OF**

EXHIBIT " D "



1 **CAMP VERDE**, a political subdivision of the State of Arizona, ("Town"), hereby recite,
2 stipulate and request as follows:

3 1. Hotwood, Zellner and the Town have reached a settlement on all outstanding
4 issues in this case and a copy of such "Compromise and Settlement Agreement" is provided to
5 the Court by its attachment hereto as Exhibit "1".
6

7 2. Hotwood, Zellner and the Town stipulate that the Court execute the Judgment
8 Pursuant To Stipulation submitted to the Court pursuant to this Stipulation and approved as to
9 form and content by the parties to this action.

10 3. Hotwood, Zellner and the Town stipulate that they waive the right to appeal, to
11 file a motion for new trial, and to seek to vacate or set aside the Judgment Pursuant to
12 Stipulation and further stipulate that they will not directly or indirectly attack or seek to relitigate
13 the rulings contained in Judgment Pursuant to Stipulation or any findings therein.
14

15 4. Hotwood, Zellner and the Town respectfully request that the Court execute the
16 Judgment Pursuant To Stipulation.

17 **RESPECTFULLY SUBMITTED** this _____ day of August, 2010.

18
19 **MOYES, SELLERS & SIMS, LTD**

MUSGROVE, DRUTZ & KACK, P.C

20
21 _____
22 Jeffrey T. Murray
23 William J. Sims III
24 Moyes, Sellers & Sims, Ltd
25 Attorneys for Defendant,
26 The Town of Camp Verde

27 _____
28 Thomas P. Kack
Musgrove, Drutz & Kack, P.C.
Attorney for Plaintiff California Hotwood,
Inc.

MUSGROVE, DRUTZ & KACK, P.C.
P.O. BOX 2720
PRESCOTT, ARIZONA 86302-2720
TELEPHONE: (928) 445-5935
FAX NUMBER: (928) 445-5980

1 EARLE & ASSOCIATES

2
3
4 Robert L. Earle
5 *Attorney for Plaintiffs Zellner, Canyon Wood Supply, LLC, Zellner Living Trust, and Jerso*
6 *Investments, LLP*

7 Copy of the foregoing mailed
8 this ____ day of August, 2010, to:

9 Robert L. Earle
10 Earle & Associates
11 PO Box 3870
12 Sedona, Arizona 86340-0001
13 *Attorney for Plaintiffs Zellner, Canyon Wood Supply, LLC,*
14 *Zellner Living Trust, and Jerso Investments, LLP*

15 Jeffrey T. Murray
16 William J. Sims III
17 Moyes, Sellers & Sims, Ltd.
18 1850 N Central Avenue, #1100
19 Phoenix, AZ 85004
20 *Attorneys for Defendant, the Town of Camp Verde*

21 By _____

MUSGROVE, DRUTZ & KACK, P.C.
P.O. BOX 2720
PRESCOTT, ARIZONA 86302-2720
TELEPHONE: (928) 445-9935
FAX NUMBER: (928) 445-9980

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**Stipulation for Entry of Judgment Pursuant to Stipulation
Exhibit 1 to Exhibit D**

**The Compromise and Settlement Agreement, which is omitted in this copy
of the Stipulation, will be attached to the original Stipulation for Entry of Judgment
Pursuant to Stipulation to be filed in the Arizona Action.**

UnOfficial Copy

EXHIBIT 1 to EXHIBIT D

[DRAFT DOCUMENT NOT YET APPROVED BY COUNCIL]

[EXCHANGED PURSUANT TO SETTLEMENT DISCUSSIONS UNDER EVIDENTIARY RULE 408]

_____, 2010

An Open Letter to Sophie Zellner, the Zellner family and the Citizens of Camp Verde:

I would like to extend an apology for the past and present events that led to the Zellner wood yard controversy to Mrs. Sophie Zellner, her family and the citizens of Camp Verde.

While I recognize that the settlement of this issue cannot erase the expense suffered by all of us, the settlement does afford us the opportunity to move forward with a greater understanding of our roles, rights, processes and responsibilities. To ensure that the Town serves the needs of its citizens, our Council has set forth an aggressive schedule to rewrite our zoning ordinances.

The Town required you to justify the use of your property and provide proof of the grandfathered status of the property, even though Town officials and the Board of Adjustment had previously found that one of the lots, Lot 69, was grandfathered in for use as a wood yard.

The Town realizes that this process has caused emotional distress, anguish and grief for all parties involved.

You and your husband and family have been long-time leading members and supporters of our community.

In conclusion, I sincerely apologize for our actions and know that the payments the Town makes pursuant to our settlement agreement do not even begin to make up for the cost financially, emotionally and in terms of time.

Sincerely,

Bob Burnside
Mayor

EXHIBIT " / "

[DRAFT DOCUMENT NOT YET APPROVED BY COUNCIL]

[EXCHANGED PURSUANT TO SETTLEMENT DISCUSSION
UNDER EVIDENTIARY RULE 408]

_____, 2010

An Open Letter to California Hotwood

I would like to extend an apology for the past and present events that led to the Zellner wood yard controversy to California Hotwood.

While I recognize that the settlement of this issue cannot erase the expense suffered by all of us, the settlement does afford us the opportunity to move forward with a greater understanding of our roles, rights, processes, and responsibilities. To ensure that the Town serves the needs of its citizens, our Council has set forth an aggressive schedule to rewrite our zoning ordinances.

The Town required the Zellners to justify the use of their property and provide proof of the grandfathered status of the property, even though Town officials and the Board of Adjustment had previously found that one of the lots, Lot 69, was grandfathered in for use as a wood yard. The Town realizes that this process has caused emotional distress, anguish and grief for all parties involved.

California Hotwood has continued the operation of the wood yard and is a valuable part of our community.

In conclusion, I sincerely apologize for our actions and know that the efforts the Town makes pursuant to our settlement agreement do not even begin to make up for the cost financially, emotionally and in terms of time.

Sincerely,

Bob Burnside
Mayor

EXHIBIT " 2 "



RESOLUTION 2010-817

**A RESOLUTION OF THE MAYOR AND COMMON COUNCIL
OF THE TOWN OF CAMP VERDE, YAVAPAI COUNTY, ARIZONA,
APPROVING A COMPROMISE AND SETTLEMENT AGREEMENT WITH CALIFORNIA
HOTWOOD, ZELLNER AND RELATED ENTITIES CONCERNING THE SETTLEMENT OF
THE DISPUTE REGARDING THE ZELLNER WOODLOT**

Whereas, the Town of Camp Verde has been involved in a dispute regarding the woodlot known as the "Zellner Woodlot;" and

Whereas, in order to avoid litigation costs and allow this dispute to be resolved, the Town of Camp Verde desires to approve the "Compromise and Settlement Agreement" and its exhibits.

NOW THEREFORE, the Mayor and Common Council of the Town of Camp Verde resolve to approve The Compromise and Settlement Agreement attached hereto as Exhibit A.

Passed and adopted by a majority vote of the Common Council at the Special Session meeting of August 18, 2010.



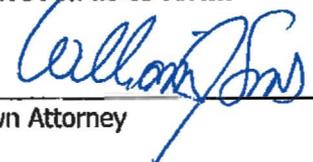
Bob Burnside, Mayor 8-18-2010

Attest:



Deborah Barber, Town Clerk

Approved as to form:



Town Attorney

**COMPROMISE and SETTLEMENT
AGREEMENT**

THIS COMPROMISE and SETTLEMENT AGREEMENT ("Agreement") is made and entered into by and among the Town of Camp Verde, a political subdivision of the State of Arizona ("Town"), California Hotwood, Inc., a California corporation which does business as Canyon Wood Supply ("Hotwood"), Sophronia Zellner, a single woman ("Zellner"), Dad's Wood Supply, LLC., an Arizona limited liability company formerly known as Canyon Wood Supply, LLC ("Dad's"), the Zellner Living Trust ("Trust"); and JerSo Investments, L.L.P, an Arizona limited liability partnership ("JerSo"), (all collectively the "Parties"), is made effective as of the Effective Date set out below. Zellner, Dad's, Trust and JerSo may be referred to collectively herein as the "Zellner Entities."

THE PARTIES RECITE, COVENANT, CONDITION AND AGREE AS FOLLOWS:

RECITALS

A. For many years the Zellner Entities or one or more of them and their predecessors operated a commercial log, wood, and wood by-product storage, cutting, splitting, packaging, chipping, shipping and sale (wholesale and retail) operation utilizing various methods, equipment, and vehicles (all of which activities and uses are collectively hereinafter referred to as a "Wood Yard") on real property located at Murdock Road in Camp Verde, Arizona, Yavapai County Assessor's Parcel Numbers 404-02-062 ("Lot 62"), 404-02-065 ("Lot 65"), 404-02-066 ("Lot 66"), 404-02-067 ("Lot 67"), 404-02-068B ("Lot 68B") and 404-02-069 ("Lot 69"), all collectively referred to as the "Property" and more particularly and legally described in Exhibit "A" attached hereto and made hereof. This commenced in approximately 1966 with such use of Lots 62, 65, and 66.

B. The Yavapai County zoning code authorized the use of Lots 62, 65, and 66, and was interpreted by Yavapai County to permit the expansion to Lots 67 and 68B for commercial purposes for use as a Wood Yard by the Zellner Entities prior to the date of the Town's incorporation on December 8, 1986.

C. Upon approval of the Town's Community Development Director (and who was the Town's "Zoning Administrator" as that title is defined in ARS §9-462), on or about 1998 and in reliance upon such approval, the Zellner Entities purchased parcel (Lot "69") and commenced using it for the Zellner Entities' Wood Yard business.

D. Hotwood, the Zellner Entities, and Jerry Zellner entered into a Purchase and Sale Agreement ("PSA") for the purchase of the Canyon Wood Supply business assets by Hotwood and a Real Property Purchase Agreement ("RPPA") for the purchase by Hotwood of the Property from Jerry Zellner and the Zellner Entities on or about January 31, 2007.

E. Hotwood also agreed to purchase the property and business, at least in part, in reliance upon the government allowed, long-term use of the Property as a Wood Yard and representations made by Town Development Department staff to Hotwood's appraiser that the Property was subject to a legal non-conforming use as a Wood Yard and that such use would be allowed to continue upon the sale or transfer of the Property.

F. Hotwood has already taken delivery and ownership of the business assets of Dad's, formerly Canyon Wood Supply, LLC, and Lots 62, 65, 66, and 68B, from the Zellner Entities and Jerry Zellner.

G. On or about June 27, 2007, Hotwood made its written Promissory Note to Dad's ("Note"), for and on account of a part of the purchase price set forth in the PSA and on July 1, 2009, a payment plus accrued interest was due on the Note. Hotwood claims that payment was not paid due to the dispute with the Town concerning the Property. Zellner disputes the validity of that claim.

H. On or about June 27, 2007, Trust, JerSo, and Jerry L. Zellner ("Lessors") entered into that certain written Real Property Lease ("Lease") with Hotwood whereby Lessors leased Lots 67 and 69 to Hotwood for a term of twenty-six (26) months, to enable Hotwood's possession of Lots 67 and 69 pending the completion of the purchase of Lots 67 and 69 by Hotwood.

I. Pursuant to the RPPA, Hotwood and the Zellner Entities agreed that the close of escrow for Yavapai County parcel numbers 409-02-67 and 404-02-69 would be on June 3, 2009.

J. Previous to the sale of Lots 62, 65, 66, and 68B to Hotwood, the Zellner Entities utilized all of Lots 62, 65, 66, 67, 68B and 69 for a Wood Yard, and such use has been continued by Hotwood without interruption since Hotwood purchased and leased the subject Property and purchased the business.

K. The Town has made claims that Hotwood may not lawfully use the Property including the parcels already purchased by Hotwood from Trust, Zellner, Jerry L. Zellner, and JerSo pursuant to the RPPA, for use as a Wood Yard due to the residential zoning of the Property and the parcels. A dispute arose regarding the permissible use of the Property and particularly Lot 69 as a Wood Yard (the "Zoning Dispute"), whether such use complies with the Town Zoning Code, and whether the use of the Property by Hotwood for a Wood Yard is a legal non-conforming use (sometimes referred to as a "grandfathered use") that is appurtenant, may continue, runs with the land, and is freely transferable.

L. The Town through its zoning administrators has commenced administrative proceedings against the Zellner Entities and Hotwood.

M. The Zellner Entities have filed a Complaint and an Amended Complaint in Yavapai County Superior Court, Case No. CV82008-0289, (the "Arizona Action") arising out of such dispute. Hotwood intervened and filed its own complaint and said action is now pending, which action shall be included in the term "Arizona Action."

N. The Yavapai County Superior Court granted the Zellner Entities' and Hotwood's motions for summary judgment for a permanent injunction and declaratory relief concerning Lot 69. As a result, the use of Lot 69 for past and future commercial purposes as a Wood Yard has been confirmed as a legal non-conforming use, that runs with the land.

O. The Court in the Arizona Action additionally found as follows:

Yavapai County established zoning in 1968. Detailed zoning for the Camp Verde area was established in September 1970. Thus, land uses established before September 1970 are considered legal non-conforming uses. Land uses established after September 1970 had to meet the zoning regulations in place at the time.

It is undisputed that Zellners utilized all of Lots 62, 65 and 66 as a Wood Yard prior to September 1970 and that use was, a legal non-conforming (grandfathered) use and the Court found and ordered that a 2000 decision of the Town of Camp Verde Board of Adjustments ("BOA") approving expansion of the Wood Yard use onto Lot 69 was legally subject to *Res Judicata* effect and that such lot was, thus, subject to a legal non-conforming use as a Wood Yard. A Partial Judgment consistent with the foregoing is attached hereto as Exhibit "B" ("Partial Judgment") and it shall be submitted to the Court.

P. The Court clarified in a later ruling that there appeared to be a dispute as to Lots 67 and 68B such that it could not then render summary judgment that such lots are subject to a legal non-conforming use as a Wood Yard based on the evidence presented to the Court at the time.

Q. The Town agrees that the Yavapai County Zoning Code as then applicable and as interpreted by Yavapai County allowed the Zellners' expansion of the use as a Wood Yard onto Lots 67 and 68B in the 1970's without the necessity for any formal or informal approval or action by Yavapai County because the expansion was less than a one hundred percent (100%) in area and was upon contiguous property. The Town agrees that the applicable Yavapai County Zoning Code contained no procedures for or requirements to obtain approval of such expansion.

R. Due to the dispute, Hotwood has not completed the purchase under the RPPA of Lots 67 and 69. Zellner disputes that Hotwood was entitled to withhold performance. Hotwood initiated an action in California to compel the Zellner Entities to arbitrate the entitlement of Hotwood to an extension under the RPPA, PSA, and Note in the Superior Court of California (the "California Action"), and said action is now pending. Hotwood and the Zellner Entities have agreed to settle their dispute by a separate Agreement for Close of Escrow and Note Payment which is subject to the express condition of this Agreement being made and effective, and the entry of a final Judgment Pursuant To Stipulation as set forth in paragraph S below, regarding the Property but, otherwise, the terms of that agreement are not a part of this Agreement and are not incorporated herein.

S. The Parties agree that the use of the Property as a Wood Yard was and is a legal non-conforming use that is appurtenant to and runs with the land, and that the parties disputes should be compromised and settled on the terms set forth herein to avoid the expense of further litigation, to implement the terms of a Judgment Pursuant To Stipulation between the parties (referred to hereafter as the "Judgment" and attached hereto as Exhibit "C"), and to provide greater certainty regarding the rights to use of the subject Property. The parties specifically intend that this Agreement and the Judgment shall be binding upon each party, each party's privies, and all persons and entities represented by each party including the party's respective officers, directors, trustees, beneficiaries, trustees, members, shareholders, franchisees and franchisors, attorneys, principals, successors, predecessors and, in particular, the Town's citizens, residents and property owners to the extent permitted by law.

T. Jerry L. Zellner is now deceased, and Zellner is the successor to the interests of Jerry L. Zellner in the properties and agreements referred to herein.

NOW THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

AGREEMENT

1. Effective Date. This Agreement shall become binding and effective when signed contemporaneously by all of the Parties and the Judgment and the Partial Judgment have been signed by all of the Parties (the "Effective Date"). This Agreement is conditioned upon the contemporaneous execution of the Agreement for Close of Escrow and Note Payment by the Zellner Entities and Hotwood. Each party to this Agreement covenants and agrees not to appeal, seek to vacate or set aside, or otherwise attack or contest the Partial Judgment and the Judgment.

2. Incorporation. All of the recitals set forth above are true, correct, and made a part of this agreement by this reference.

3. Confirmation of Non-Conforming Use. The Parties agree that the weight of the evidence demonstrates that the use of Lots 62, 65 and 66 for Wood Yard purposes commenced in 1966 and has continued to date without interruption. The expansion onto Lots 67, and 68B for Wood Yard purposes by the Zellner Entities occurred in the early 1970's, well prior to the date of the Town's incorporation on December 8, 1986, and such use has continued to date without interruption. The Yavapai County Zoning Code as then applicable and as interpreted by Yavapai County allowed such use and expansion without any formal or informal application to Yavapai County and without any formal or informal approval by Yavapai County. Zoning Administrator Lau testified he investigated the propriety of the use of the property then owned by Zellners in 1998, Lots 62, 65, 66, 67 and 68B, before he approved expansion of said use to Lot 69. Such lots were all being used for a Wood Yard when the expansion was presented to and upheld by Administrator Roberts and, later, the BOA. The Yavapai Superior Court has determined that the expansion by one or more of the Zellner Entities of the Wood Yard use to Lot 69 was a lawful expansion. Pursuant to this Agreement, the Town agrees the use of the Property for Wood Yard purposes is a lawful non-conforming use that runs with the land and is appurtenant to the Property, and the right to such use does not cease or terminate upon the sale, release or transfer of the Property or any portion thereof or interest therein.

4. Releases.

A. The Zellner Entities for themselves, jointly and separately, and on behalf of their respective trustees, agents, assigns, employees, officers, principals, members, beneficiaries, successors, predecessors, nominees, licensors and licensees, franchisors and franchisees, and all others related in any way to any of them, do hereby release, acquit and forever discharge the Town, and each of its agents, attorneys, assigns, employees, departments, officers, directors, shareholders, principals, successors, and nominees of, for, from and against any and all claims, actions, causes of action, demands, damages, costs, loss of profits or service, attorneys' fees, expenses and compensation of any kind and nature, known or unknown, which any of them, jointly or severally, now have or may hereinafter accrue which arise from the said Arizona Action and the facts that formed the basis of the claims of the Zellner Entities therein.

B. The Zellner Entities for themselves, jointly and separately, and on behalf of their respective agents, trustees, assigns, employees, officers, principals, members, beneficiaries, successors, predecessors, nominees, licensors and licensees, franchisors and franchisees, and all others related in any way to any of them, do hereby release, acquit and forever discharge Hotwood, and each of its respective agents, trustees, attorneys, assigns, employees, officers, directors, shareholders, principals, successors and nominees of, for, from and against any and all claims, actions, causes of action, demands, damages, costs, loss of profits or service, attorneys' fees, expenses and compensation of any kind and nature, known or unknown, which any of them, jointly or severally, now have or may hereinafter accrue which arise from the Arizona Action or are in any way related to the facts that formed the basis of the claims of the Zellner Entities therein.

C. Hotwood for themselves, jointly and separately, and on behalf of their respective agents, trustees, assigns, employees, officers, principals, members, beneficiaries, successors, predecessors, nominees, licensors and licensees, franchisors and franchisees, and all others related in any way to any of them, do hereby release, acquit and forever discharge the Town, and each of its attorneys, assigns, employees, departments, officers, directors, shareholders, principals, successors and nominees of and from any and all claims, actions, causes of action, demands, damages, costs, loss of profits or service, attorneys' fees, expenses and compensation of any kind and nature, known or unknown, which any of them, jointly or severally, now have or may hereinafter accrue which arise from the Arizona Action and facts that formed the basis of the claims of Hotwood therein.

D. Hotwood for themselves, jointly and separately, and on behalf of their respective agents, trustees, assigns, employees, officers, principals, members, beneficiaries, successors, predecessors, nominees, licensors and licensees, franchisors and franchisees, and all others related in any way to any of them, do hereby release, acquit and forever discharge the Zellner Entities, and each of their respective agents, trustees, attorneys, assigns, employees, officers, directors, shareholders, principals, successors and nominees of, for, from and against any and all claims, actions, causes of action, demands, damages, costs, loss of profits or service, attorneys' fees, expenses and compensation of any kind and nature, known or unknown, which any of them, jointly or severally now have related to claims for breach or default under the PSA and RPPA as a result of the zoning of the Wood Yard or arise from the claims or defenses asserted in the Arizona Action.

E. To the extent permitted by law, the Town on behalf of its respective council, agents, trustees, assigns, employees, officers, departments, citizens, residents, property owners, principals, successors, predecessors, nominees, licensors and licensees, franchisors and franchisees, and all others related in any way to any of them, do hereby release, acquit and forever discharge the Zellner Entities and Hotwood, and each of them, and each of their respective agents, attorneys, assigns, employees, officers, directors, shareholders, principals, successors and nominees of, for, from and against any and all claims, actions, causes of action, demands, damages, costs, loss of profits or service, attorneys' fees, expenses and compensation of any kind and nature, known or unknown, which any of them, jointly or severally, now have or may hereinafter accrue which arise from or are in any way related to the said Arizona Action or the facts that formed the basis of the Town's assertions or defenses to the claims of the Zellner Entities and Hotwood therein.

F. Each Party recognizes that it may not now fully know the number, nature, and magnitude of all claims it now has or in the future may have against the parties released as set forth above but nevertheless, except as otherwise provided herein, intends to assume the risk that it is releasing such unknown claims. Each Party agrees that this Agreement is a full and final release of such claims and is a further consideration and inducement for the settlement.

G. Each Party acknowledges that a material part of this Agreement is the deliberate extinguishing of any of its claims which currently are unknown, so that there is no possibility of future claims by the Parties of the type described and released above except as provided in Section 4.H and Section 4.I. Each Party assumes the risk that it has sustained damages that may not have manifested themselves and that are presently unknown. Each Party also understands and agrees that if the facts with respect to which this Agreement is executed and the releases herein provided for are made, are found hereafter to be other than or different from the facts now believed by it to be true, it expressly accepts and assumes the risk of such possible differences in facts and agrees that this Agreement shall be and remain effective notwithstanding such difference in facts.

H. Nothing provided herein shall be construed as waiving or releasing claims by Hotwood or the Zellner Entities as against each other, for performance of the PSA, the Promissory Note, the Lease and the RPPA, as modified in the Agreement for Close of Escrow and Note Payment ("ACE"), except claims relating to or arising from the zoning dispute.

I. The releases set forth above are not intended to release and do not release any party from the covenants, obligations, and agreements arising from, created by or set forth in this Agreement.

5. Town Approval. This Agreement is subject to review and approval by the Town Council. If this Agreement is not so approved on or before August 18, 2010, it shall be null and void.

6. Judgment. Upon the approval of this Agreement by the Town Council, the Parties shall contemporaneously execute the Stipulation to the Entry of the Judgment Pursuant To Stipulation in the form attached hereto as Exhibit "D," and approve the Judgment and the Partial Judgment as to form and content by affixing their signatures thereto. If this Agreement is and remains operative and effective 45 days after the date the Town's Council approves of this Agreement by a formal executed Resolution, then the Stipulation and the Partial Judgment and the Judgment shall immediately be filed with the Court in the Arizona Action and, if this Agreement does not remain operative and effective, then the Stipulation, Partial Judgment and Judgment shall not be filed with the Court and this Agreement and the Agreement for Close of Escrow and Note Payment shall be null and void. The Parties intend and agree that, to the fullest extent permitted by law, the Judgment Pursuant to Stipulation shall be binding upon and have preclusive effect (collateral estoppel effect and *res judicata* effect) regarding the lawfully conforming use of the Property, and shall be binding upon and applicable to the Parties and the Parties' successors, heirs, assigns, officers, agents, employees, shareholders, members, beneficiaries, trustees, the town's citizens, and the present and future owners of property in the Town whether or not such persons reside within the Town.

Hotwood and the Zellner Entities have submitted the Partial Judgment based upon various rulings made by the Court in the Arizona Action. The Parties agree that the Partial Judgment fairly reflects the rulings of the Court, that they have and will file no objections to the same and that if they have not already done so they will execute the Partial Judgment as approved as to form and content. That Partial Judgment is not superseded by nor is it merged into this Agreement or the Judgment Pursuant To Stipulation. The Partial Judgment shall remain effective and enforceable both independent of and in conjunction with the Judgment Pursuant to Stipulation.

7. Business License. Within ten (10) days following the Effective Date of this Agreement, the Town shall issue a business license to Hotwood pursuant to Article 9-3 of the Town Code for use of the Property and each of the Lots 62, 65, 66, 67, 68B, and 69 as a Wood Yard.

8. Wood Yard Operational Changes. Use of the Property as a Wood Yard by Hotwood after close of escrow on Lots 67 and 69 pursuant to the ACE shall be subject to the following conditions:

A. Daily Wood Yard operations shall not commence until the earlier of one (1) hour after sunrise or 7:30 a.m.

B. Log processing and receiving operations shall not take place on Sundays. All other business activities such as retail sales of wood and wood products may occur on Sundays.

C. The limitations set forth in A and B above shall not apply to work that does not create noise, dust or excessive traffic, in-office work, the inventory of logs and wood products, and work inside a building.

The sole and only remedy for any alleged violation of this paragraph 8 by the owner or possessor of the Property shall be the right of the Town to enforce compliance by injunction. No violation or violations of this paragraph 8 shall result in a termination of the legal non-conforming use of the Property as a Wood Yard, nor shall any violations or number of violations result in the limitation of the future use of the Property as a Wood Yard.

9. Waterline: The Town shall cause to be constructed and installed at the Town's expense a water line extending to the north property line of Lot 69 and a fire hydrant, as follows:

A. The Town shall install the water line to provide water service to the subject Property, and install the fire hydrant at or about the intersection of the north property line of Lot 69 and Murdock Road, for benefit of the Property, and to promote the health, welfare, and safety of adjacent and nearby property owners. The water line shall be not less than 8" in diameter and shall have sufficient capacity, including pressure, to serve the entire Property, and all properties in the area of the Property that may be reasonably anticipated to connect to the line, and there shall be reserved for the Property sufficient capacity and water to serve no less than 14 residences on the Property.

B. The water line and hydrant shall be completed, installed, and ready for use not later than April 1, 2013. The Town shall be responsible for funding construction of the water line and hydrant and shall deposit a total of \$130,000.00, payable at the rate of \$43,333.00 per year, commencing with the first quarter of the Town's 2010-2011 fiscal year and payable in the same quarter of the Town's 2011-2012 and the 2012-2013 fiscal years into in a separate account with such funds dedicated and restricted to use for the subject water line and hydrant. The Town has estimated the cost of said improvements to be \$130,000.00, and by this Agreement Hotwood is effectively funding that amount by payments totaling \$75,000.00 by joint check to the Town and Sophronia Zellner as set forth in paragraph 10, and by relinquishing its claims against the Town for attorney's fees and costs exceeding \$130,000.00. The additional \$55,000.00 allocated to the cost of the improvements (\$75,000.00 plus \$55,000.00 equals \$130,000.00) is thus contributed by Hotwood by way of releasing its attorney fee claim, and without any further payment by Hotwood. Thus, should the Town fail to install the water line then Hotwood shall have, in its discretion, the right to either: (i) be paid by the Town the sum of \$130,000.00 plus interest thereon at the legal rate from the Effective Date on the \$55,000.00 in relinquished fees and costs and interest at the legal rate on the \$75,000.00 paid by Hotwood to the Town and Zellners from the dates paid by Hotwood or (ii) the right to elect to install the water line and hydrant and recover from the Town the actual cost of the installation of the water line and hydrant. Hotwood shall further be entitled to recover from the Town reasonable attorneys' fees and costs in enforcing the Town's performance and in collecting any sums due under this paragraph 9.

C. Hotwood shall be responsible for the costs of any on-site improvements to the Property, including connection to the water line, and shall be responsible for the costs of setting a meter and monthly water service provider charges. Hotwood shall not be responsible for any other fees attributable to the providing of water, including but not limited to impact fees or development fees charged for providing water to the Property.

10. Payments to Zellners. Hotwood shall pay the total sum of \$75,000.00, by three (3) installments of \$25,000.00 each paid annually by joint checks, payable to both the Town and Sophronia Zellner. The first installment shall be paid on or before 31 days after the Effective Date of this Agreement, and the successive payments shall be paid on or before the first and second anniversary of such date, provided however, the only conditions precedent to Hotwood's paying such sums shall be entry of the Judgment and the Partial Judgment and the running of any and all applicable appeal time periods, without appeal, and the execution and performance of the Agreement for Close of Escrow and Note Payment and the RPPA, to the extent obligations thereunder have then accrued and that the Agreement is and remains legally effective and operative. The Town shall endorse and forward each such check upon receipt from Hotwood to Zellner by first class mail, postage pre-paid, within five (5) days of the Town's receipt of such checks. The Town shall further pay Sophronia Zellner an additional \$75,000.00, in three annual payments of \$25,000.00 each. The first installment shall be due thirty-one (31) days after the Effective Date of this Agreement, and subsequent installments shall be made on or before the first and second anniversaries of such date, provided however, the only conditions precedent to the Town's paying such sums shall be entry of the Judgment and the running of any and all applicable appeal time periods, without appeal and the execution and delivery of this Agreement.

11. Remedies, Non-Excuse of Obligations. Upon this Agreement becoming effective, including the final Judgment and Partial Judgment being entered in the Arizona Action and becoming final, a default in performance due Hotwood from the Town and vice versa shall not excuse or release performance by the Town or Hotwood pursuant to paragraph 10 above. By way of example, while the Town's failure to make one or more of the \$43,333.00 deposits set forth in paragraph 9.B. shall be a default and a breach of this Agreement between the Town and Hotwood, it will not excuse Hotwood's payments or the Town's payments pursuant to paragraph 10 and while Hotwood's failure to abide by the operation limitations may be a default or breach between Hotwood and the Town, it will not excuse the Town's payments to Zellner. Likewise, a breach or default of the obligations by Zellners to the Town shall not excuse the Town's obligations to Hotwood and a breach by Zellners of any obligations to Hotwood shall not excuse Hotwood's obligations to the Town. When any provision of this Agreement specifically limits the remedy for the breach or enforcement of an obligation or future performance then such remedy(s) shall be the only remedy available for that breach or enforcement. No breach by any party shall impair the terms and effect of the Judgment and Partial Judgment entered in the Arizona Action. Notwithstanding the foregoing provisions of this Section 11, if the obligations of the parties under Section 4 of this Agreement are determined to be not enforceable by a court of competent jurisdiction, all other obligations under this Agreement shall terminate. The Zellners are not subject to the provisions of paragraphs 7, 8, and 9 of this Agreement, and no cause of action against the Zellners is created thereby. The Town and Hotwood covenant not to sue the Zellner Entities on account of the breach of paragraphs 7, 8, and 9. Upon the close of escrow pursuant to the ACE, the property shall be burdened by the provisions of paragraph 8 of this Agreement.

12. Non-Admission. Nothing provided herein shall constitute an admission by any party hereto, or a release or modification of any rights and remedies of the parties, except as may be consistent with the terms hereof. The primary purpose of this Agreement is to settle the dispute as to the lawful use of the Property and each lot thereof, which will also allow Hotwood and the Zellner Entities to conclude their agreement.

13. Counterparts and Copies. This Agreement may be executed in two or more counterparts and each counterpart, when executed, shall be deemed an original, and all such counterparts taken together shall constitute one agreement binding on all of the parties. For all purposes, extra duplicate and unexecuted pages of the counterparts may be discarded and the remaining pages assembled as one document. It is not necessary that each party execute the same counterpart so long as identical counterparts (except as to pagination) are executed by all parties. The submission of a signature page transmitted by facsimile (or similar electronic transmission facility) shall be considered an "original" signature page for purposes of this Agreement. Facsimile signatures of this Agreement shall be as fully effective as original signatures. Each party signing this Agreement by facsimile signature agrees to furnish a copy bearing an original signature of the party to the other signatories, but the failure to do so shall not affect the binding force and validity of any facsimile signature.

14. Advice of Counsel. Each of the Parties hereto warrants that they have consulted with their attorneys concerning this Agreement and all matter covered by it, that they have been fully advised by their attorneys with respect to their rights, and that with respect to the execution of this Agreement, that they have executed this Agreement after securing the advice of their attorneys. The Parties have cooperated in the drafting and preparation of this Agreement. Hence, no presumption in favor of or against any party shall apply to the construction of this Agreement.

15. Non-Modification. It is expressly understood and agreed that this Agreement may not be altered, amended or modified except by a writing executed by all Parties.

16. Knowing and Voluntary Execution. The Parties hereto acknowledge that they have carefully read the foregoing Agreement, know and understand all of its terms, and voluntarily execute the same with fully knowledge of the consequences thereof. The undersigned warrant their authority to execute this Agreement on behalf of any entity on behalf of which they are executing.

17. Further Acts and Cooperation. Each party hereto agrees to promptly and as expeditiously as possible carry out and execute their respective responsibilities under the terms of this Agreement and to execute any and all documents which may be necessary from time to time in the future to implement the terms of this Agreement. The Parties hereby acknowledge and agree that they shall cooperate in good faith with each other as contemplated by this Agreement, in order that each Party may obtain the full benefit of this Agreement.

18. Binding Effect.

A. To the fullest extent permitted by law, and upon execution hereof by the parties this Agreement shall be binding upon and inure to the benefit of the parties and their successors, beneficiaries, representatives, assigns, trustees and heirs and shall be binding upon all third parties that they represent or who are in privity with them, and including their members, officers, employees, agents and, as regards the town, its citizens and present and future owners of real property within the Town.

B. Notwithstanding anything to the contrary, this Agreement and the requirement for compliance with it shall be binding upon and shall inure to the benefit of the parties and their successors, assigns, representatives, heirs, beneficiaries and trustees upon the full execution of this Agreement by the parties. The binding effect, and the right to enforce this Agreement and the right to obtain the benefits of this Agreement are subject to the provisions of Section 18.C. below.

C. The binding effect of this Agreement shall terminate and it shall be of no further force and effect if and when, through no voluntary action or any inaction by the parties which would be in conflict with the terms hereof: The Court should fail or refuse to execute the Judgment or Partial Judgment, with or without non-substantive changes by the Court which shall be subject to approval by the parties and which approval shall not be unreasonably withheld; or if this Agreement or the Judgment or the Partial Judgment are rendered ineffective or non-operative or set aside by appeal or otherwise. Should the binding effect of this Agreement terminate consistent with the foregoing then: no party shall be bound by the factual or legal statements in this Agreement, the Judgment, the Partial Judgment, or Stipulation for Entry of Judgment Pursuant to Stipulation and none of such documents or any portions thereof shall be admissible regarding the merits of the claims and defenses in either the Arizona Action or the California Action pursuant to Rule 408 Arizona Rules of Evidence and this Agreement.

19. Integration. This Agreement states the entire agreement among the Parties who have executed this Agreement and supersedes their prior agreements, negotiations or understandings, except that the PSA and other instruments and documents related thereto including but not limited to the Seller's Representations, RPPA, Lease, and the Promissory Note payable by Hotwood shall remain in full force and effect except as modified in the separate Agreement for the Close of Escrow and Note Payment between Hotwood and Zellners. Each of the Parties acknowledges and agrees that no other party, nor agent, nor attorney of any of the parties have made any promise, representation, or warranty, express or implied, not set forth in this Agreement and the documents referred to herein. Each party signing this Agreement acknowledges that such party has not executed this Agreement in reliance on any promise, representation, conduct, or warranty of any other Party or their attorneys or agents which are not expressly set forth in this Agreement. The terms of this Agreement are contractual and not a mere recital.

20. Default. Failure or unreasonable delay by any party in the performance of any term or provision of this Agreement for a period of ten (10) days after written notice thereof from another party shall constitute a default under this Agreement. If the default is of a nature which is not capable of being cured within ten (10) days, the cure shall be commenced within such period, and diligently pursued to completion. The notice shall specify the nature of the alleged default and the manner in which the default may be satisfactorily cured. Except as otherwise provided herein, in the event of a default hereunder by any party, the non-defaulting party shall be entitled to all remedies at both law and in equity, including, without limitation, specific performance and the right to perform the obligation(s) of which the defaulting party is in default and to immediately seek reimbursement from the defaulting party of all sums expended in order to cure such default, together with interest on all such sums from the date said sums are expended by the non-defaulting party for the purpose of curing the default to the date such sums are paid in full.

21. Attorneys' Fees and Costs.

A. Except as otherwise provided herein, each Party to this Agreement shall bear its own costs, expenses, and attorneys' fees, whether taxable or otherwise, incurred in, arising out of, or in any way related to the matters released herein.

B. The prevailing Party or Parties (as determined by the Court or other relevant authority) in any action to enforce, this Agreement shall be entitled to recover its reasonable attorney's fees, experts' fees, costs and other disbursements of counsel.

22. Representations and Warranties of the Parties Regarding Authority, Capacity, and Negotiation Process. The Parties make the following representations and warranties with the understanding that each other Party hereto enters into this Agreement in reliance upon each of these representations and warranties, and that without these representations and warranties, no Party would enter into or consent to, this Agreement:

A. Each Party represents and warrants that it has not sold, transferred, conveyed, assigned, hypothecated or subrogated any of the rights, defenses, claims or causes of action released in this Agreement, and hereby expressly waives all rights it has or may have to do so, except as expressly provided herein.

B. Each party represents and warrants that it has been fully advised by its attorney, concerning the effect and finality of this Agreement contained herein, and that the Party understands, without reservation or doubt, the effect and finality of this Agreement.

C. Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter this Agreement on behalf of the Party for whom he or she purports to sign.

23. Conflict of Interest. Pursuant to Arizona law, rules and regulations, no member, official or employee of the Town shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested. This Agreement is subject to cancellation pursuant to A.R.S. § 38-511.

24. Notices. All notices, approvals, and other communications provided for herein or given in connection herewith shall be validly given, made, delivered or served, and delivered personally or sent by nationally recognized courier (e.g., Federal Express, Airborne, UPS), or by United States mail, certified with return receipt requested, to:

If to the Town:	Town of Camp Verde 473 S Main St Camp Verde AZ 86322 Telephone: 928 567-6631 Fax: 928 567-9061
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With a copy to: William J. Sims, III
Moyes Sellers & Sims
1850 N. Central Ave., #1100
Phoenix, AZ 85004
Telephone: (602) 604-2141
Fax: (602) 274-9134

If to the Zeller Entities: Sophronia Zellner
216 Nesting Glade
Depoe Bay, Oregon 97341

With a copy to: Robert L. Earle
Earle & Associates
P.O. Box 3870
Sedona, AZ 86340
Telephone: (928) 282-5519
Fax: (928) 282-5977

If to Hotwood: California Hotwood, Inc.
5920 E. Live Oak Rd.
Lodi, CA 95240
Telephone: (209) 333-5480
Fax: (209) 333-7008

With a copy to: Daniel A. McDaniel
Nomellini, Grilli & McDaniel
Professional Law Corporations
P.O. Box 1461
Stockton, CA 95201-1461
Telephone: (209) 465-5883
Fax: (209) 465-3956

Thomas P. Kack
Musgrove, Drutz & Kack, P.C.
1135 Iron Springs Road
Post Office Box 2720
Prescott, AZ 86302-2720
Telephone: (928) 445-5935
Fax: (928) 445-5980

Any Party may change the address at which the Party is to receive notice by providing notice of the address change to the other Parties pursuant to this section. Notices, approvals and other communications provided for herein shall be deemed delivered upon personal delivery, within twenty-four (24) hours following deposit with a nationally recognized overnight courier, or within five (5) business days following deposit with the United States mail, certified with return receipt requested, as hereinabove provided, prepaid and addressed as set forth above.

25. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona. Any action filed regarding this Agreement or damages for breach of the same shall be filed in the Superior Court of Yavapai County, Arizona. The Town enters this Agreement as an administrative action and it does so pursuant to its general authority to dispute and settle disputes and pursuant to ARS §§ 9-240, 9-276, 9-462 et seq including 9-462.02 and §9-500.05 as to development regarding Hotwood's constitutionally protected right to continue a non-conforming use. This Agreement does not abrogate Hotwood's right to abandon a non-conforming use of the property as a Wood Yard.

26. Waiver. No waiver by any Party of any breach of any of the terms, covenants or conditions of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same for any other term, covenant or condition herein contained.

27. Limited Severability. The terms of this Agreement shall be construed and interpreted in a fashion that allows all terms hereof to be effective. The Parties each believe that the execution, delivery and performance of this Agreement is in compliance with all applicable laws. However, in the event that any phrase, clause, sentence, paragraph, section, article or other portion of this Agreement is declared void or unenforceable (or is construed as requiring the Town to do any act in violation of any applicable laws, constitutional provision, law, regulation, or valid provisions of Town Code), so long as the same does not materially affect the use of the Property as a Wood Yard, and does not materially affect the benefits to any party accruing from this Agreement, such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provides essentially the same rights and benefits (economic or otherwise) to the Parties as if such severance and reformation were not required. There shall be no reformation in the event of the inability, upon full performance of this Agreement, to utilize all the Property as a Wood Yard. The Parties further agree, in such circumstances, to do all acts and to execute all amendments, instruments, and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.

28. Recordation of Agreement. This Agreement is entered into in settlement of a dispute regarding real property and this Agreement shall be recorded in the Official Records of Yavapai County, Arizona, after its approval and execution by the Town.

29. No Third Party Beneficiaries. There are no third party beneficiaries to the Agreement, and no person or entity not a Party will have any right or cause of action.

30. No Agency Created. Nothing contained in the Agreement will create any partnership, joint venture, or agency relationship between the Parties.

31. Apology. The Town shall provide a letter of apology in the form attached as Exhibit 1 to the Zellner family, the neighbors surrounding the Property and the citizens of Camp Verde Arizona. The Town shall provide a letter of apology to Hotwood in the form attached as Exhibit "2".

32. Titles. The titles and headings provided for in the numbered sections of this Agreement are provided for convenience and shall not effect or alter the interpretation or enforcement of this Agreement.

33. Strict Performance and Time of the Essence. Strict performance is required as to each and every term of this Agreement and time is and shall remain of the essence herein.

TOWN OF CAMP VERDE

By: 
Bob Burnside, Mayor

STATE OF ARIZONA)
) ss.
County of Yavapai)

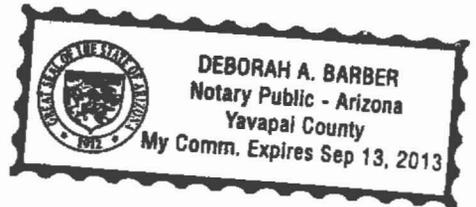
On this, the 19 day of August, 2010, before me a notary public, Bob Burnside, the undersigned officer, personally appeared, satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same, as Mayor of the Town of Camp Verde, Arizona, for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

My Commission Expires: Sept 13, 2013 Deborah A. Barber
Notary Public

ATTEST:


Town Clerk



Approved:

William Sims III, Town Attorney

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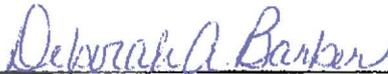
TOWN OF CAMP VERDE

By: 
Bob Burnside, Mayor

STATE OF ARIZONA)
) ss.
County of Yavapai)

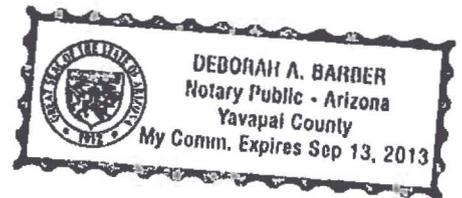
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In witness hereof, I hereunto set my hand and official seal.

My Commission Expires: Sept. 13, 2013 
Notary Public

ATTEST:


Town Clerk



Approved:


William Sims III, Town Attorney