

In the Superior Court of the State of Arizona
In and For the County of MARICOPA

Case Number _____

CIVIL COVER SHEET- NEW FILING ONLY
(Please Type or Print)

Plaintiff's Attorney Ryan J. Lorenz

Attorney Bar Number 019878

CV2017-055633

Is Interpreter Needed? Yes No
If yes, what language:

COPY

SEP 25 2017



MICHAEL K. JEANES, CLERK
K. KEE
DEPUTY CLERK

Plaintiff's Name(s): (List all) Plaintiff's Address: Phone #: Email Address:

PROTECT OUR PRESERVE, an Arizona non-profit corporation; NODDC, INC., an Arizona non-profit corporation

c/o Ryan J. Lorenz, Clark Hill PLC, 14850 N. Scottsdale Rd., Ste. 500, Scottsdale, AZ 85254; 480.684.1100; rlorenz@clarkhill.com

(List additional plaintiffs on page two and/or attach a separate sheet).

Defendant's Name(s): (List All) CITY OF SCOTTSDALE, an Arizona municipal corporation

(List additional defendants on page two and/or attach a separate sheet)

EMERGENCY ORDER SOUGHT: Temporary Restraining Order Provisional Remedy OSC

Election Challenge Employer Sanction Other _____
(Specify)

RULE 8(h) COMPLEX LITIGATION APPLIES. Rule 8(h) of the Rules of Civil Procedure defines a "Complex Case" as civil actions that require continuous judicial management. A typical case involves a large number of witnesses, a substantial amount of documentary evidence, and a large number of separately represented parties.

(Mark appropriate box on page two as to complexity, **In addition** to the Nature of Action case category.)

THIS CASE IS ELIGIBLE FOR THE COMMERCIAL COURT UNDER EXPERIMENTAL RULE 8.1. (Maricopa County only.) Rule 8.1 defines a commercial case and establishes eligibility criteria for the commercial court. Generally, a commercial case primarily involves issues arising from a business contract or business transaction. However, consumer transactions are not eligible. A consumer transaction is one that is primarily for personal, family or household purposes. Please review Rule 8.1 for a complete list of the criteria. See <http://www.superiorcourt.maricopa.gov/commercial-court/>. You must check this box if this is an eligible commercial case. In addition, mark the appropriate box below in the "Nature of Action" case category. The words "commercial court assignment requested" must appear in the caption of the original complaint.

NATURE OF ACTION

(Place an "X" next to the **one** case category that most accurately describes your primary case.)

100 TORT MOTOR VEHICLE:

- 101 Non-Death/Personal Injury
 102 Property Damage
 103 Wrongful Death

110 TORT NON-MOTOR VEHICLE:

- 111 Negligence
 112 Product Liability – Asbestos
 112 Product Liability – Tobacco
 112 Product Liability – Toxic/Other
 113 Intentional Tort

- 114 Property Damage
 115 Legal Malpractice
 115 Malpractice – Other professional
 117 Premises Liability
 118 Slander/Libel/Defamation
 116 Other (Specify) _____

120 MEDICAL MALPRACTICE:

- 121 Physician M.D. 123 Hospital
 122 Physician D.O. 124 Other

130 CONTRACTS:

- 131 Account (Open or Stated)
- 132 Promissory Note
- 133 Foreclosure
- 138 Buyer-Plaintiff
- 139 Fraud
- 134 Other Contract (i.e. Breach of Contract)
- 135 Excess Proceeds-Sale
- Construction Defects (Residential/Commercial)
 - 136 Six to Nineteen Structures
 - 137 Twenty or More Structures

150-199 OTHER CIVIL CASE TYPES:

- 156 Eminent Domain/Condemnation
- 151 Eviction Actions (Forcible and Special Detainers)
- 152 Change of Name
- 153 Transcript of Judgment
- 154 Foreign Judgment
- 158 Quiet Title
- 160 Forfeiture
- 175 Election Challenge
- 179 NCC-Employer Sanction Action (A.R.S. §23-212)
- 180 Injunction against Workplace Harassment
- 181 Injunction against Harassment
- 182 Civil Penalty
- 186 Water Rights (Not General Stream Adjudication)
- 187 Real Property
- Special Action against Lower Courts (See lower court appeal cover sheet in Maricopa)

- 194 Immigration Enforcement Challenge (§§1-501, 1-502, 11-1051)

150-199 UNCLASSIFIED CIVIL:

- Administrative Review (See lower court appeal cover sheet in Maricopa)
- 150 Tax Appeal (All other tax matters must be filed in the AZ Tax Court)
- 155 Declaratory Judgment
- 157 Habeas Corpus
- 184 Landlord Tenant Dispute- Other
- 190 Declaration of Factual Innocence (A.R.S. §12-771)
- 191 Declaration of Factual Improper Party Status
- 193 Vulnerable Adult (A.R.S. §46-451)
- 165 Tribal Judgment
- 167 Structured Settlement (A.R.S. §12-2901)
- 169 Attorney Conservatorships (State Bar)
- 170 Unauthorized Practice of Law (State Bar)
- 171 Out-of-State Deposition for Foreign Jurisdiction
- 172 Secure Attendance of Prisoner
- 173 Assurance of Discontinuance
- 174 In-State Deposition for Foreign Jurisdiction
- 176 Eminent Domain- Light Rail Only
- 177 Interpleader- Automobile Only
- 178 Delayed Birth Certificate (A.R.S. §36-333.03)
- 183 Employment Dispute- Discrimination
- 185 Employment Dispute-Other
- 195(a) Amendment of Marriage License
- 195(b) Amendment of Birth Certificate
- 163 Other _____ (Specify)

COMPLEXITY OF THE CASE

If you marked the box on page one indicating that Complex Litigation applies, place an "X" in the box of no less than one of the following:

- Antitrust/Trade Regulation
- Construction Defect with many parties or structures
- Mass Tort
- Securities Litigation with many parties
- Environmental Toxic Tort with many parties
- Class Action Claims
- Insurance Coverage Claims arising from the above-listed case types
- A Complex Case as defined by Rule 8(h) ARCP

Additional Plaintiff(s)

Additional Defendant(s)

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SEP 25 2017



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10 *Attorneys for Plaintiffs Protect Our Preserve and NoDDC, Inc.*

11 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

12 **IN AND FOR THE COUNTY OF MARICOPA**

13 PROTECT OUR PRESERVE, an
14 Arizona non-profit corporation; NODDC,
15 INC., an Arizona non-profit corporation;

16 Plaintiffs,

17 vs.

18 CITY OF SCOTTSDALE, an Arizona
19 municipal corporation,

20 Defendant.

Case No. CV 2017-055633

**PETITION FOR ORDER TO
SHOW CAUSE RE MOTION FOR
PRELIMINARY INJUNCTION**

21 Pursuant to Rule 6(d), Ariz. R. Civ. P., Plaintiffs Protect Our Preserve
22 (“POP”) and NoDDC, Inc. (“NoDDC”), through counsel, hereby petition the court
23 for its order directing Defendant City of Scottsdale (“City”) to appear and show
24 cause why the court should not enter the preliminary injunction requested in the
25 Petitioner’s Motion for Preliminary Injunction, filed contemporaneously. POP and
26 NoDDC incorporate by reference the contents of their verified complaint, the
declaration of Mike Norton and the motion as though fully set forth in of this
Petition.

In summary, the City has been studying, planning and developing a public
project known as the Desert Discovery Center (“DDC”) for several years. The DDC
is currently conceived to require the grading and construction of several structures

1 on a portion of the McDowell Sonoran Preserve, at its Gateway Trailhead, located at
2 18333 N. Thompson Peak Parkway, Scottsdale, Arizona 85255 ("DDC Site"). The
3 City has a problem with the project. The DDC is inconsistent with permitted usages
4 of the McDowell Sonoran Preserve because the construction and buildings are not
5 permitted by provisions of the City's Charter Form of Government ("Charter") as
6 amended, to protect preserve-designated land in perpetuity. The City can legally
7 remove the preserve designation under the Charter by a two-thirds vote of the City
8 council and approval by voters in a special election. Charter, Art. 8, § 11. The City's
9 studies and plans are becoming firmer. Further procurement and expenditure of tens
10 of millions of dollars of taxpayer money is imminent. The City has ignored and
11 attempted to circumvent the Charter requirements.

12 WHEREFORE, POP and NoDDC pray for entry of the Court's Order as
13 follows:

14 A. Directing the Defendant City of Scottsdale, to appear through counsel
15 and through a designated representative and show cause why the court should not
16 make the findings and determinations and conclusions and orders requested by the
17 Plaintiff in its motion for preliminary injunction.

18 B. Directing such appearance to occur before: Hon. _____,
19 Maricopa County Superior Court, 18380 N. 40th Street, Phoenix, Arizona 85032
(return hearing only).

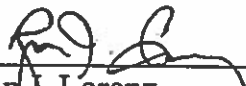
20 C. Directing POP and NoDDC to serve a copy of the order upon the City
21 of Scottsdale at least ten (10) calendar days prior to the hearing and to provide proof
22 of such service at or before the time of such hearing.

23 D. At and after such hearing, holding such proceedings and entering such
24 orders for the expeditious consideration of the motion for preliminary injunction as
25 the circumstances support.

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DATED this 25 day of September, 2017.

CLARK HILL PLC

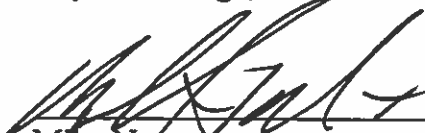
By: 

Ryan J. Lorenz
*Attorneys for Plaintiffs Protect Our
Preserve and NoDDG, Inc.*

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VERIFICATION

I, Mike Norton, hereby declare that the following is true and correct to the best of my knowledge, under penalty of perjury. I am a director of Plaintiff NoDDC, Inc. and am authorized to make this verification. I have read the foregoing Petition for Order to show Cause re Motion for Preliminary Injunction and know the contents thereof, and the same is true to the best of my knowledge, information and belief.



Mike Norton

22-SEP-17
Date

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SEP 25 2017



MICHAEL K. JEANES, CLERK
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9 PROTECT OUR PRESERVE, an
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10 INC., an Arizona non-profit corporation;

11 Plaintiffs,

12 vs.

13 CITY OF SCOTTSDALE, an Arizona
municipal corporation,

14 Defendant.


Case No. CV2017-055633

**CERTIFICATE ON
COMPULSORY ARBITRATION**

15
16 The undersigned certifies that the Complaint seeks relief other than a monetary
17 judgment. The undersigned also certifies that he knows the dollar limits and any
18 other limitations set forth by the local rules of practice for the applicable superior
19 court, and further certifies that this case is *not* subject to compulsory arbitration, as
20 provided by Rules 72 through 76, Ariz. R. Civ. P.

21 DATED this 15 day of September, 2017.

22 **CLARK HILL PLC**

23 By: 
24 Ryan J. Lorenz
25 *Attorneys for Plaintiffs Protect Our
Preserve and NoDDC, Inc.*

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13 vs.

14 CITY OF SCOTTSDALE, an Arizona
15 municipal corporation,

16 Defendant.

Case No. _____

CV2017-055633

**DECLARATION OF
MICHAEL J. NORTON**

17
18 I, Michael J. Norton, hereby declare that the following is true and correct to
19 the best of my knowledge under penalty of perjury:

20 1. I am a director of Plaintiff NoDDC, Inc. ("NoDDC"), an Arizona non-
21 profit corporation, and as such, I am authorized to make this declaration. I have the
22 complaint to be filed by DDC and Plaintiff Protect Our Preserve ("POP") and know
23 the contents thereof, and the same is true to the best of my knowledge, information
24 and belief.

25 2. I am a resident and taxpayer of Scottsdale, Arizona. I am generally
26 familiar with the City of Scottsdale's McDowell Sonoran Preserve, a 33,000 acre
27 parcel of vacant land within the city limits that has been designated by the City
28

1 under its laws, including the Charter Form of Government, adopted in 1951
2 (“Charter”) and ordinances of the City specifically adopted and enacted by the City
3 for the purpose of protecting the McDowell Sonoran Preserve, found at Scottsdale
4 City Code, Article 21.

5 3. A general, but not necessarily completely accurate, historical account
6 of events pertaining to the McDowell Sonoran Preserve can be found in the book,
7 “The People’s Preserve,” by Joan C. Fudala (2014), available from the City for free
8 at <http://www.scottsdaleaz.gov/Assets/ScottsdaleAZ/Preserve/PreserveHistory.pdf>.

9 4. I have read and am familiar with the historical facts, tax measures,
10 ballot measures, legal events and acquisitions of land by the City and other events
11 discussed in NoDDC’s complaint, most of which are confirmed in “The People’s
12 Preserve.”

13 5. I have conducted extensive research of public records and have
14 submitted several public records requests to the City seeking information on the
15 McDowell Sonoran Preserve, and more specifically, the proposed Desert Discovery
16 Center (“DDC”), a development which the City has committed itself to locating on
17 preserve-designated land near the Gateway Trailhead of the McDowell Sonoran
18 Preserve, located at 18333 N. Thompson Peak Parkway, Scottsdale, Arizona 85255
19 (“DDC Site”).

20 6. The McDowell Sonoran Preserve is one of the City’s greatest and best
21 government accomplishments, not because of what it is, but because of what it is
22 not. The McDowell Sonoran Preserve was and always has been grandiose in its
23 minimalism. By that, I mean that it requires no fanfare, no grand entrance, no
24 attention-seeking behavior, because it is the natural condition of the land of the
25 McDowell Mountains that is the big show. Citizens and visitors to Scottsdale have
26 enshrined the preserve because of its natural beauty.

1 7. In the early 2000s, a few ambitious community leaders hatched the
2 idea of the DDC, without much thought about the legal ramifications of what they
3 were doing. The City has now spent hundreds of thousands of dollars on consulting
4 fees, professional design fees, and architectural fees, to conceptualize the DDC.

5 8. The DDC as conceived by the various studies conducted to determine
6 its feasibility was, from 2008 when such studies began, an ever-growing idea.
7 According to the Phase II Study, approved by the City council, the DDC was
8 designed to consume over thirty-five acres of native, undisturbed, protected,
9 preserve-designated lands at the DDC Site.

10 9. I learned from public records that in 2012, the City issued a request for
11 qualifications ("RFQ"), in order to obtain statements of qualifications from
12 consultants who could work with the City to conceive the design, scope of services,
13 and amenities to be included in the DDC. No responses were received. I know from
14 public records that the 2012 RFQ failed to receive any responsive proposals.

15 10. The City then worked through City staff to re-write the request for
16 qualifications with members of the Desert Discover Center Advocates Group
17 ("DDCAG"), an informal association of private citizens interested in advancing the
18 planning and development of the DDC which was formed at the behest of the City
19 in 2013.

20 11. I recently learned and confirmed through communication between
21 members of the DDCAG and City employees that members of the DDCAG helped
22 City staff write a second RFQ.

23 12. Members of the DDCAG then incorporated Desert Discovery Group
24 Scottsdale, Inc. ("DDCS Inc."), which submitted a statement of qualifications and
25 was awarded a contract as a consultant in early 2016.

26 13. In September 2016, fellow citizens and I attended a meeting of the
27 City council. At that time and at that meeting, the City council was presented with a
28

1 resolution to decide whether to submit the issue of construction of the DDC to a
2 public vote.

3 14. The City and its elected officials are well aware of the provisions of
4 the Charter that prohibit the City from withdrawing the preserve designation from
5 preserve land unless the City approves such removal by a two-thirds City council
6 majority and a majority of voters in an election.

7 15. The City and its elected officials are also well aware that the
8 conceptual DDC approved in the Phase II feasibility study constituted a usage of
9 preserve land inconsistent with Charter and City code provisions because it went too
10 far beyond the minimalist construction of features in the preserve allowed.

11 16. The City would not have even considered the possibility of an election
12 if its officials did not know that the DDC's Phase II design, expected to destroy
13 about thirty-five acres of the preserve, complied with the Charter and City code
14 provisions.

15 17. At that City council meeting in September 2016, there were
16 insufficient votes to send the matter to an election.

17 18. On May 23, 2017, NoDDC and POP caused an administrative claim to
18 be served upon the City. In the claim, NoDDC and POP demanded that the City
19 suspend planning, development and construction of the DDC unless the City
20 conducted a City council vote and special election to approve removal of the
21 preserve designation from land slated to be used for the DDC. By its silence and
22 lack of response, the City refused for the second time.

23 19. The members and principals of NoDDC and POP are citizens,
24 homeowners, and taxpayers of Scottsdale. They are users of the McDowell Sonoran
25 Preserve in its present form. They intend to continue using and enjoying the
26 McDowell Sonoran Preserve to the extent that it is not ruined from its natural state
27 and condition.

28

1 20. The time is ripe to stop or forestall planning, development and
2 construction of the DDC. The City will continue to expend public funds on the
3 project without proper authorization to effectively remove preserve designation
4 from land in violation of the Preserve Charter Amendment

5 21. I have reviewed the City's various plans, including the Phase II and
6 Phase III studies. Those studies call for the construction of one or more buildings
7 and other man-made structures that will occupy several contiguous acres. These
8 structures and buildings will host activities far beyond that permitted by the Charter
9 and preserve ordinances, which tell the people of Scottsdale that "[t]he preserve will
10 not contain traditional facilities or improvements associated with a public park, but
11 may contain facilities or improvements that the city determines are necessary or
12 appropriate to support passive recreational activities." Instead, the City tells the
13 people of Scottsdale that "[t]he preserve will be left in as pristine a state as possible
14 to maintain for this and future generations, in perpetuity, a nearby natural desert
15 refuge from the rigors of urban life." SRC section 21-2(b).

16 22. NoDDC should prevail in proving that the DDC is beyond what the
17 Charter permits. It seems to be a legal issue that the City is violating its own Charter
18 by proceeding without a council or public vote.

19 23. It is no hardship to the City to pause its efforts and conduct a City
20 council vote and a sensible public vote on the matter, rather than continuing to
21 spend up to \$75 million just for construction of the DDC, only to start incurring
22 massive operating losses, once the DDC opens for business.

23 24. It is a tremendous hardship on NoDDC and POP should the DDC
24 proceed in violation of the Charter because the preserve land cannot be restored to
25 its natural condition. The construction will also destroy vegetation and displace
26 wildlife.

1 25. It is in the public interest that the public's wishes, as expressed in the
2 Charter and in the City code provisions to protect the McDowell Sonoran Preserve,
3 to stop the City's planning, development, procurement and construction of the DDC
4 unless and until the City council has a two-thirds vote to approve removal of the
5 preserve designation from the DDC Site and such approval is ratified by the voters
6 in an election. The people of Scottsdale voted for the Charter amendment procedure
7 that vested the people with authority to allow removal of preserve property by
8 election. Though that may be inconvenient for the City or those standing to profit
9 from development of the DDC, the Charter should be followed both in letter and in
10 spirit.

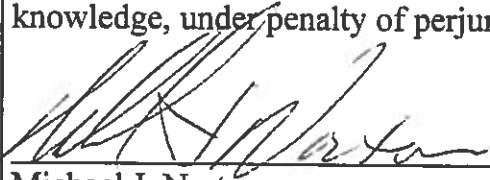
11 26. The City is engaged in a number of legal maneuvers to circumvent the
12 Charter and the will of the voters. For example, the City has said that a Municipal
13 Use Master Site Plan ("MUMSP") zoning decision allows it to violate the Charter. It
14 does not. Zoning is a function of city government carried out by ordinance, which is
15 subordinate to the Charter.

16 27. Based upon my observations of the City's public records and
17 activities, it will continue to defy the Charter and come up with new and novel ways
18 to get around the Charter because it knows that the DDC is unpopular.

19 28. Recently, other members of Protect Our Preserve, NoDDC and I
20 conducted an unscientific poll using a website known as Survey Monkey to see if
21 the public's position might support the DDC. The invitation to respond to the poll
22 was transmitted to 140,000 Facebook users in Scottsdale. Only 5.86% of those who
23 responded indicated they wanted the DDC built at the DDC Site. A strong majority
24 of responders, 62% do not want the DDC built anywhere on the McDowell Sonoran
25 Preserve. Only 16% of responders agreed that the DDC should be built but only if it
26 was located away from the McDowell Sonoran Preserve or if voters approved it.

1 29. Even if my unscientific poll had a margin of error of 40%, and the
2 error was skewed against the DDC, the DDC would still enjoy less than fifty percent
3 support to be built at the DDC Site. It is obvious that the public interest in the DDC
4 is negative.

5 I hereby declare that the foregoing is true and correct to the best of my
6 knowledge, under penalty of perjury.

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8 Michael J. Norton
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14-Sep-2017
Date

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INC., an Arizona non-profit corporation;

Plaintiffs,

vs.

CITY OF SCOTTSDALE, an Arizona
municipal corporation,

Defendant.

Case No. CV2017-055633

COMPLAINT

(Declaratory Judgment)

Plaintiffs Protect Our Preserve ("POP") and NoDDC, Inc. ("NoDDC"),
through counsel, for their complaint, allege as follows:

INTRODUCTION

1. The Charter Form of Government ("Charter") of the City of Scottsdale ("City") protects land designated as preserve in perpetuity unless removed under Charter procedure. The procedure allows for removal of less than one acre up to six times per year with two-thirds (2/3) City Council approval. However, removal of the preserve designation from any other parcel requires same two-thirds (2/3) City Council approval and must be submitted to a vote of the people.

2. For the last several years, the City has been conducting studies and paying hundreds of thousands of dollars to consultants to design and eventually

1 oversee construction of the Desert Discovery Center. The Desert Discovery Center is
2 contemplated to be located at 18333 N. Thompson Peak Parkway, Scottsdale, Arizona
3 85255 ("DDC Site") on land designated and protected by the Charter as the
4 McDowell Sonoran Preserve. The magnitude, size and tumescence of the proposed
5 structures and "improvements" will consume greater than the permissible quantity of
6 acreage that can be taken out of preserve status in any given year.

7 3. The City has declined to refer the matter to a public vote. Such refusal is
8 in violation of the Charter. POP seeks injunctive relief to prevent further planning,
9 expenditure of tax payer dollars, and development of the DDC Site without a public
10 vote.

11 JURISDICTION

12 4. POP and NoDDC are Arizona non-profit corporations.

13 5. The City is an Arizona municipal corporation.

14 6. This is an action for adjudication of relative rights, responsibilities, and
15 obligations which are disputed and are ripe for determination under the Uniform
16 Declaratory Judgment Act, A.R.S. § 12-1831, *et seq.*

17 7. POP and NoDDC have standing to bring this action by reason of the
18 following:

19 a. At least one member or principal of POP and NoDDC have a
20 concrete and personal interest in adjudication of this matter in favor of POP
21 and NoDDC as requested herein.

22 b. The City's planned developments of the DDC Site affects the
23 recreational and aesthetic interests of a member or principal of POP and
24 NoDDC.

25 c. Members and principals of POP and NoDDC have used the
26 McDowell Sonoran Preserve area and have specific and concrete plans to
return to the McDowell Sonoran Preserve and the DDC Site thereof.

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d. The members and principals of POP and NoDDC make use of the McDowell Sonoran Preserve through the Gateway entrance located at the DDC Site.

e. POP and NoDDC members and principals are residents, property owners and taxpayers in the City, some of whom reside within two miles of the DDC Site.

f. POP and NoDDC members and principals will make regular and consistent use of the McDowell Sonoran Preserve now and in the future.

g. POP and NoDDC members and principals believe the DDC Site as planned and proposed, constitutes the removal of preserve designated property in violation of the Charter.

h. POP and NoDDC have representational standing through some or all of their members and principals. POP and NoDDC members and principals would have individual standing to challenge the City's development of the DDC Site under the plans going forward.

i. The DDC Site is not merely hypothetical. The DDC has already cost the City millions of dollars on planning and development which continue to impose injury, damages, and waste on the City and its taxpayers.

j. POP's and NoDDC's members' and principals' interests are relevant to their purpose. POP and NoDDC were specifically created to protect the integrity of the McDowell Sonoran Preserve and contest the City's action to develop the DDC in violation of the Charter without voter approval.

8. Venue is proper in Maricopa County, where the City is located.

9. This court has subject matter and personal jurisdiction over the parties to this action.

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SUBSTANTIVE ALLEGATIONS

10. In 1995, the City passed Resolution No. 4236 placing Proposition 400 on a special election ballot set for May 23, 1995. Proposition 400 provided for a .20% sales tax increase for a thirty year period of time to fund land purchases within a recommended study boundary area in north Scottsdale, which would become the McDowell Sonoran Preserve.

11. The text of Proposition 400 stated that the taxes approved by voters would be used to provide funds to supplement private efforts to acquire land for the McDowell Sonoran Preserve for the purpose of maintaining scenic views, preserving plant and wildlife and passive outdoor recreational opportunities for residents and visitors.

12. In 1995 and 1996, the State of Arizona enacted the Arizona Preserve Initiative which was codified in A.R.S. § 37-311, *et seq.* ("API"). The API permitted the Arizona State Land Department to hold state trust land for open space, scenic beauty, protected plants, wildlife, archeology, and multiple use values. A.R.S. § 37-311(1).

13. The API permitted the City to acquire state trust land within the recommended study boundary of the McDowell Sonoran Preserve more easily than waiting for such state trust land to be auctioned for the benefit of the state land trust beneficiaries.

14. In 1996, the City appointed members to a Desert Preservation Task Force ("DPTF").

15. In 1997, the DPTF recommended that the City expand the recommended study boundary to include an additional 19,940 acres, which included what would become the Tom's Thumb and Lost Dog trailhead access points.

16. In 1998, the City extended the McDowell Sonoran Preserve boundaries to include the additional 19,940 acres.

1 17. Simultaneously, in 1998, the City Council placed more ballot measures
2 up for election in the form of Proposition 410 and Proposition 411.

3 18. Proposition 410 represented an increase in the protective measures for
4 preserve land and legally declared preserve designations to be in perpetuity.

5 19. Proposition 410 required a supermajority of the City council and
6 ratification by voters to remove the preserve designation from preserved land.

7 20. Proposition 411 allowed for the use of the preserve sales tax authorized
8 by previous Proposition 400 to be used for the acquisition of the additional 19,370
9 additional acres previously recommended.

10 21. When passed, Proposition 410 added Article 8, Sections 8-11 ("Preserve
11 Charter Amendment") to the City Charter.

12 22. The newly added Charter provisions state:

13 To establish a mountain and desert preservation heritage for present
14 and future citizens of the city, the council may designate as preserve
15 land any land owned by the city which is suitable for mountain or
16 desert preservation. The council shall designate preserve land by
17 resolution. Land purchased directly with the proceeds of a tax
18 specifically authorized by the electors for purchase of preserve land
19 shall be deemed designated as preserve land upon the city's
20 acquisition. Land that may be designated as preserve land is any land
21 owned by the city in fee title and any other real property interest
22 which gives the city possession or use of land or power to cause land
23 to be left in its natural condition.

24 A preserve land designation shall be perpetual unless that
25 designation is removed as provided in this charter.

26 The city shall not convey ownership or grant any easement, lease,
lien or other real property interest in any land designated as preserve
land.

 The council may remove the preserve designation from any parcel of
land less than one (1) acre in area. Such removal shall be limited to a
maximum of six (6) parcels within any one (1) calendar year. Such
removal shall not become effective until sixty (60) days after an

1 affirmative vote of two-thirds (2/3) of all members of the council
2 and after resolution of any referendum concerning such removal.
3 Removal of the preserve designation from any other parcel of land
4 shall require approval by an affirmative vote of two-thirds (2/3) of
5 all members of the council, but shall not become effective unless
6 submitted by the council to the electors and approved by vote of the
7 majority of votes cast at the election.

8 Charter, Art. 8, §§ 8-11.

9 23. In furtherance of the Preserve Charter Amendment, in 2000, the City
10 enacted the McDowell Sonoran Preserve Ordinance, which prohibited certain
11 activities, including concessions, bringing food into the preserve, alcohol, nighttime
12 operations, sound amplification, and other intrusive and overtly unnatural activities.

13 24. Neither the Preserve Charter Amendment nor the McDowell Sonoran
14 Preserve Ordinance authorized or endorsed the investigation, research, study,
15 development or construction of the DDC.

16 25. By 2000, though the City had designated, through the recommended
17 study boundary, a large tract of land to become the complete Sonoran McDowell
18 Preserve, it did not own all of the land.

19 26. The Proposition 400 sales tax revenue only allowed the City to acquire
20 property with revenue on hand from the sales tax increase.

21 27. Under Proposition 400, the speed of acquisition of property by the early
22 2000s was insufficient to completely acquire all property within the reserve study
23 boundary, without issuing bonds (and borrowing money) to accelerate the City's
24 purchases.

25 28. Because the value of real estate both statewide, in Maricopa County,
26 and particularly in the City was dramatically increasing in the early 2000s, the City
sought to increase its financial ability to acquire land within the contemplated
complete McDowell Sonoran Preserve.

29. In 2004, City voters were presented with Ballot Question 1 requesting
that voters approve an additional 0.15% sales tax for a thirty year period extending

1 through June 2034 for land acquisition and for constructing non-specific
2 improvements in the McDowell Sonoran Preserve.

3 30. The affirmative vote of Ballot Question 1 did not approve the DDC. To
4 the contrary, Ballot Question 1 assured voters that nothing like the DDC would ever
5 be allowed without public vote.

6 31. No published materials or campaign information disseminated by the
7 City prior to the 2004 Ballot Question 1, gave voters any notice of any potential
8 action or construction remotely similar to the size, scope, and operational nature of
9 the currently proposed DDC.

10 32. In the same year, Ballot Question 2 asked the voters for authorization to
11 issue \$500 million of general obligation bonds to accelerate the City's purchase of
12 land within the McDowell Sonoran Preserve.

13 33. As with Ballot Question 1, Ballot Question 2 included no authorization
14 for the extensive and expensive planning, development and construction of the DDC
15 as currently conceived.

16 34. In 2008, the City retained the services of ConsultEcon, Inc. to evaluate
17 opportunities to construct the DDC on land designated with preserve status at the
18 DDC Site.

19 35. ConsultEcon, Inc. presented the City with the DDC Phase I Study which
20 included analysis of the viability of the project, program concepts and themes, and the
21 desired size and scope of the DDC.

22 36. The Phase I Study included two options for the City. One option was a
23 very small DDC and another termed as a large destination tourist attraction.

24 37. ConsultEcon, Inc. concluded that the DDC Site was recommended as
25 the optimum location.

26 38. ConsultEcon, Inc. considered the use of non-preserve land for the DDC
but discarded the idea.

1 39. On August 12, 2008, a joint committee meeting was conducted between
2 the Tourism Development Commission (“TDC”) and the City’s McDowell Sonoran
3 Preserve Commission (“MSPC”). The joint meeting was intended to discuss the DDC
4 Site and its potential size, facility type and scale.

5 40. At the August 12, 2008 joint meeting, the City Attorney admitted that
6 the City would need to insure compliance with the Preserve Charter Amendment and
7 McDowell Sonoran Preserve Ordinance.

8 41. The City suffered an enormous financial setback when it was defeated
9 in condemnation litigation to acquire 383 acres of land from Edmunds-Toll
10 Construction Co. (“Toll Brothers”) for \$81.9 million.

11 42. The City had to pay \$214,000 per acre plus its own attorneys’ fees to
12 acquire that portion of the McDowell Sonoran Preserve.

13 43. It is no small coincidence that the very expensive property that the City
14 purchased at a very high price is also the very location of the DDC Site, on which the
15 DDC proponents appear bent to spend tens of millions of dollars more for
16 construction and development.

17 44. On October 9, 2009, the City approved funding for a new capital project
18 entitled “Desert Discovery Center” and simultaneously authorized funding for the
19 Phase II feasibility study to be paid with preserve sales tax dollars.

20 45. The City was not legally authorized to spend earmarked sales tax dollars
21 on the DDC, at any phase. The City did so and continues to do so.

22 46. On January 26, 2010, the City awarded a consulting contract to
23 Swaback Partners PLLC (“Swaback”). At that time, the request for proposals for the
24 Phase II design/feasibility study described the DDC as a “larger, destination,
25 attraction-type facility.”
26

1 47. At the time of the award, the City authorized expenditure of \$500,000 to
2 Swaback for its work. This too represented an unauthorized expenditure of funds
3 earmarked from the sales tax increase for the DDC.

4 48. On June 15, 2010, the study by Swaback was presented to the City
5 which included costs of operating the DDC as well as a business and marketing plan.

6 49. On September 29, 2010, a joint meeting of TDC and MSPC culminated
7 in a vote on the Phase II feasibility study and recommendations/work program.

8 50. While the TDC voted unanimously to approve Phase II, the MSPC vote
9 was unsuccessful because of a five-five split.

10 51. The MSPC “no” votes on Phase II were based upon the DDC Site
11 location, concessions costs, sustainability and other features of the DDC that violated
12 the letter and spirit of the Preserve Ordinance.

13 52. On November 9, 2010, City Council approved Phase II by Resolution
14 No. 8469 and recommended proceeding further with the DDC project.

15 53. On December 13, 2010, the City Council passed Resolution No. 8540
16 which established the DDC Phase III Feasibility Committee, to be supported by more
17 bed taxes.

18 54. In early 2012, the Phase II committee reported that it supported the
19 location, concept and vision of the DDC project as a premiere education and tourism
20 facility.

21 55. On April 3, 2012, the City Council approved resolution No. 8998 which
22 accepted the Phase III committee recommendations and work program.

23 56. Late in 2012, the City issued a Request for Qualifications (“RFQ”) for
24 DDC operations and identified the DDC Site as the location for those operations. The
25 City received no responses.

26 57. In 2013, upon the suggestion, request and instructions of the City, the
Desert Discovery Center Advocates Group (“DDCAG”) was organized, comprised of

1 an association of private citizens whose mission was to conduct community outreach,
2 fundraising, and to explore possible private and public partnerships and to marshal
3 community and political support for the DDC.

4 58. Because the City elicited no responses to the 2012 RFQ, the City and
5 the DDCAG set upon a course to collaborate on a new RFQ.

6 59. In August 2014, City staff, a few City council members and DDCAG
7 members met. City staff, a few City council members and DDCAG members
8 conducted a number of follow-up meetings.

9 60. In December 2014, DDCAG parties and City staff and City council
10 members conducted meetings again discussing a new RFQ, including items and terms
11 to be included in the RFQ as well as the statement of qualifications required to bid.

12 61. In March 2015, City Council directed City staff to reissue a new RFQ
13 (“DDC RFQ”).

14 62. The DDCAG drafted or assisted City staff with drafting the DDC RFQ.

15 63. The DDCAG then formed a “non-profit” corporation known as the
16 Desert Discovery Center Scottsdale, Inc. (“DDCS Inc.”).

17 64. Having pretty much drafted the DDC RFQ, the results of a competitive
18 response/bidding process were predictable. The DDC RFQ was awarded to its one
19 and only bidder, DDCS Inc.

20 65. In September 2015, City staff was directed by the City council to
21 negotiate a contract under which the former DDCAG, now incorporated as the “non-
22 profit” DDCS Inc. could get paid consulting service fees.

23 66. At the same time, the City requested that the City treasurer identify
24 possible funding sources to pay for the DDCS Inc. consulting contract.

25 67. On January 11, 2016, the City Council voted six-to-one to approve the
26 DDCS Inc. contract for further planning and study and to issue requests for

1 qualifications for professional design services and to amend a Municipal Use Master
2 Site Plan (“MUMSP”) for the DDC Site.

3 68. In September 2016, the City Council considered whether to conduct a
4 public vote on land usage in accordance with the provisions of the Preserve Charter
5 Amendment.

6 69. The City Council refused to conduct a special election to consider
7 removal of preserve property from preserve status and/or to construct the DDC.

8 70. To date, the City has paid hundreds of thousands of dollars to the DDCS
9 Inc. as part of its \$1.7 million budgeted for study.

10 71. The current plans for the DDC will occupy nearly six acres of land
11 designated as preserve within the McDowell Sonoran Preserve. A copy of Swaback’s
12 July 2017 Architectural Final Report (“Swaback Report”), p. 13 is attached as Exhibit
13 1 and is incorporated by reference.¹

14 72. The currently planned DDC is expected to cost between \$35 million and
15 \$75 million, just for construction.

16 73. By the City’s own plan, the DDC would never be self-sustaining or
17 revenue-neutral. Instead, the DDC would rely upon City subsidies, grants,
18 endowments and donations, none of which have been set aside or yet created.

19 74. Upon information and belief, the sales tax increases will be the primary
20 source for operations of the DDC. However, sales tax funds from previous ballot
21 propositions are not authorized for construction or operations of the DDC because
22 they were only be used for the purchase of preserve land.

23 ¹ In what appears to be an attempt at appeasement of POP, NoDDC and
24 sympathizers with their cause, the site was moved and shrunken from its more
25 ostentatious, thirty-five acre monstrosity planned in the Phase II Study. However,
26 Swaback said, in the passive voice, that “it was decided by City Staff that it would
be acceptable to move the design area to this new area *for the purposes of this
study.*” See, Exhibit 1 [emphasis added]. The City’s plans are a moving target when
it comes to size and location, as if to avoid public scrutiny.

1 75. On July 31, 2017 the City formally initiated action to amend the
2 MUMSP moving the DDC project through the various stages of planning and
3 development commissions for imminent final approval and construction.

4 76. The City council either committed the City to the notion that the City
5 was not removing land from the preserve to build the DDC or committed the City to
6 violating the Preserve Charter Amendment.

7 77. Pursuant to Charter, Article 1, § 3(A), the City is authorized to acquire
8 property within or without its corporate limits for any City purpose, consistent with
9 state law, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease
10 or condemnation, and may sell, lease, mortgage, hold, manage and control such
11 property as its interests may require.

12 78. The City has self-imposed a restriction on this Charter power on the
13 subject of removal of property from a preserve designation. Charter, Article 8, § 8.

14 79. The applicable section provides:

15 To establish a mountain and desert preservation heritage for present
16 and future citizens of the City, the Council may designate as
17 preserve land any land owned by the City which is suitable for
18 mountain or desert preservation. The Council shall designate
19 preserve land by resolution. Land purchased directly with the
20 proceeds of a tax specifically authorized by the electors for purposes
21 of preserve land shall be deemed designated as preserve land upon
22 the City's acquisition. Land that may be designated as preserve land
23 is any land owned by the City in fee title and any other real property
24 interest which gives the City possession or use of land or power to
25 cause land to be left in its natural condition.

26 *Id.*

 80. Removal of the preserve designation of preserve land may only take
place under the procedure set forth in Charter, Article 8, Section 11, which requires a
two-thirds (2/3) majority vote of the Council and a majority vote of the electors.

1 81. The proposed plans for the DDC constitute a removal of the preserve
2 designation on a parcel of preserve land greater than permitted which must be
3 preceded by a two-thirds (2/3) vote of the City Council and a majority vote of the
4 electors.

5 82. The DDC is not compliant with the parameters of the Preserve
6 Ordinance, which provides:

7 (a) The purpose of the McDowell Sonoran Preserve is to establish in
8 perpetuity a preserve of Sonoran desert and mountains to maintain scenic
9 views, as a habitat for wildlife and desert plants; to protect archaeological
10 and historical resources and sites, while providing appropriate public
recreational opportunities for residents and visitors.

11 (b) The preserve will be left in as pristine a state as possible to
12 maintain for this and future generations, in perpetuity, a nearby natural
desert refuge from the rigors of urban life.

13 (c) The preserve will not contain traditional facilities or improvements
14 associated with a public park, but may contain facilities or improvements
15 that the city determines are necessary or appropriate to support passive
recreational activities.

16 Scottsdale Revised Code ("SRC") § 21-2 (Ord. No. 3321, § 1, 5-23-00)

17 83. The DDC's proposed improvements are not "necessary or appropriate to
18 support passive recreational activities." SRC § 21-2(c).

19 84. The proposed DDC as currently planned and being developed is not
20 within the scope of an access area "of sufficient size and with adequate amenities for
21 appropriate public access." SRC § 21-3(8). This is because "access area" is limited to
22 an area for "parking vehicles, interpretive displays, information, and minor amenities
23 such as restrooms." SRC § 21-11.

24 85. As presently conceived, there will be an entire plaza that is nothing
25 minimalist. *See*, Swaback Report, p. 29, attached as Exhibit 2 and incorporated by
26 reference.

1 86. Passive recreational activities are defined as “hiking, wildlife viewing,
2 mountain bicycling, horseback riding and rock climbing.” SRC § 21-2(c).

3 87. The City has attempted to justify the intrusiveness and size of the DDC
4 by claiming that it is permitted by the MUMPSP, case no. 10-UP-2006, issued under
5 SRC Appendix B (“Zoning Ordinance”), § 1.501, *et seq.*

6 88. Pursuant to A.R.S. Const. Art. 13, § 2, “Upon such approval, said
7 charter shall become the organic law of such city and supersede any charter then
8 existing (and all amendments thereto), and all ordinances inconsistent with said new
9 charter.” *Id.*

10 89. The City cannot take action by ordinance, even a Zoning Ordinance, to
11 undo what its organic document, the Charter, has decreed.

12 90. Any attempt by ordinance, resolution, or contract to undo the Preserve
13 Charter Amendment or negate or defy its terms is ineffective.

14 91. Nonetheless, in spite of the primacy of the Preserve Charter Amendment
15 over ordinances, City contracts, City procurement, and the City’s best laid plans, the
16 Charter must govern the City’s conduct as to the McDowell Sonoran Preserve
17 designation. Removal of the preserve designation on property for the DDC has not
18 complied with the Charter procedure.

19 92. The status of DDC planning, development, and forthcoming
20 construction and the continuing expenditure of public funds constitute a present and
21 continuing violation of the Preserve Charter Amendment by City action.

22 93. The City has no plans to suspend the DDC development, conduct a
23 Council vote or a public vote on removal of specified property from McDowell
24 Sonoran Preserve designation as required by the Preserve Charter Amendment.

25 94. The current status of development and the City’s obvious intention to
26 continue moving forward with DDC development and construction have ripened the
dispute over whether the City has complied with the Preserve Charter Amendment

1 into a present and actual legal controversy and dispute for which a court is
2 empowered by A.R.S. § 12-1831, *et seq.*, which empowers the superior court as a
3 court of general jurisdiction to adjudicate the rights, responsibilities, and obligations
4 or parties having a present, ripe, and actual legal dispute.

5 95. The status of the DDC planning, study, development and forthcoming
6 construction are appropriate for a court to address by injunction.

7 a. POP and NoDDC have a strong likelihood of succeeding in
8 establishing that the City is in and will be in violation of the Preserve Charter
9 Amendment by unlawful and non-compliant removal of land from the
10 McDowell Sonoran Preserve designation.

11 b. There will be continuing and substantial irreparable injury if an
12 injunction is not granted to stop the City and force it to conduct a Council vote
13 and public election. The City's continuing expenditure of taxpayer dollars of
14 up to \$75 million to build the DDC cannot be refunded to the City once spent if
15 such expenditure occurs in violation of the Preserve Charter Amendment.
16 Moreover, the preserve lands cannot be restored to their virgin and undisturbed
17 condition once the DDC and its bulldozers scrape the native soil from the
18 surface, destroy native plants, and disrupt the natural flora and fauna of the
19 acres that are to be graded and used for the DDC.

20 c. A balance of hardships weighs in favor of suspending the DDC
21 planning and development for so long as is required for the City Council to
22 conduct a vote, determine whether a 2/3 majority is obtained, plan and prepare
23 for a special election, and submission of the matter to a public vote.

24 d. Public policy favors granting injunction in the circumstances.
25 The McDowell Sonoran Preserve is a showcase of ingenuity and successful
26 government planning by fencing off certain property at great expense and then
leaving it alone. The public has a strong interest in stopping development and

1 construction of the DDC for as long as the City takes to comply with the
2 Preserve Charter Amendment. The land is not going to be lost during the time
3 it takes to have a council vote and public election.

4 96. The harm to POP and NoDDC, their principals and members is
5 imminent. On August 1, 2017, at public meetings, the City unveiled its latest size,
6 scope, and footprint of the proposed DDC. *See*, Exhibits 1 and 2.

7 97. On May 23, 2017, POP and NoDDC served an administrative claim on
8 the City demanding that the City submit for an election the question of whether the
9 preserve designation should be removed from the parcel of land in the McDowell
10 Sonoran Preserve as the DDC Site.

11 98. POP's and NoDDC's claim is in all respects compliant with the
12 provisions of A.R.S. § 12-821.01.

13 99. Pursuant to A.R.S. § 12-821.01(C), the City denied POP's and
14 NoDDC's claim by expiration of the timeframe of sixty (60) days from service.

15 100. The City failed to respond to POP's and NoDDC's claim altogether,
16 which appears to be a purposeful avoidance of the legal issue of compliance with the
17 Preserve Charter Amendment.

18 101. The failure and delay interposed by the City only warrants stronger
19 reasons why injunctive relief is appropriate.

20 WHEREFORE, POP and NoDDC pray for entry of judgment in their favor and
21 against the City as follows:

22 A. For declaratory judgment finding and determining as follows:

23 1. The DDC as presently planned can only be constructed through
24 the removal of the preserve designation from land now protected within the
25 Scottsdale McDowell Sonoran Preserve.
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2. The removal requires a two-thirds (2/3) vote of the Scottsdale City Council and a majority of electors in a special public election to approve removal.

B. For a temporary restraining order, preliminary injunction and permanent injunction against the City, the Mayor, City Council, City Manager, City Attorney, and other officers, agents, servants, employees, contractors, consultants and attorneys for and with the City, together with other persons in active concert or participation with them, precluding them from proceeding any further with planning, study, development, construction, contracting, disbursement of taxpayer funds, or payment of any obligation to any vendor of services for the purpose of proceeding with the Desert Discovery Center project in any form unless and until the City has complied with the Preserve Charter Amendment by conducting a vote of its City Council, achieving a two-thirds (2/3) majority vote, and a public election achieving a majority of voters' approval.

C. For an order directing the City to bring the DDC into compliance in all respects before discharging the City on the injunction and permitting it to proceed, and conducting a review hearing to confirm compliance before lifting the injunction and permitting the City to proceed.

D. For an award of costs in favor of POP and NoDDC and against the City, together with interest on such sums from the date of entry of judgment until paid in full, pursuant to A.R.S. § 44-1201.


E. For such other and further relief as the court deems just and equitable on the circumstances.

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DATED this 22 day of September, 2017.

CLARK HILL PLC

By: 
Ryan J. Lorenz
*Attorneys for Plaintiffs Protect Our
Preserve and NoDDC, Inc.*

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VERIFICATION

STATE OF ARIZONA)
) ss.
County of Maricopa)

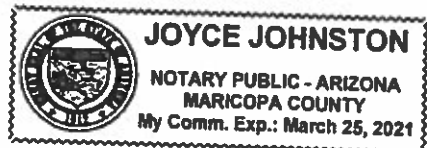
Betty Janik, being first duly sworn upon her oath, deposes and says:

I am Director and Treasurer on behalf of Protect Our Preserve, an Arizona non-profit corporation, and as such, I am authorized to make this verification. I have read the foregoing Complaint and know the contents thereof, and the same is true to the best of my knowledge, information and belief.

Protect Our Preserve,
an Arizona non-profit corporation

By: Betty Janik
Betty Janik
Its: Director and Treasurer

SUBSCRIBED AND SWORN to before me this 1st day of September, 2017, by Betty Janik, who is either personally known to me or who has satisfactorily identified herself.



Joyce Johnston
Notary Public

EXHIBIT 1

THE SITE

SITE ANALYSIS

Since the site north of the existing Gateway was the subject of the Phase 2 work, and that site analysis was included in that report, it was not duplicated here. It can be found on Pages 18 -22 of the Phase 2 report.

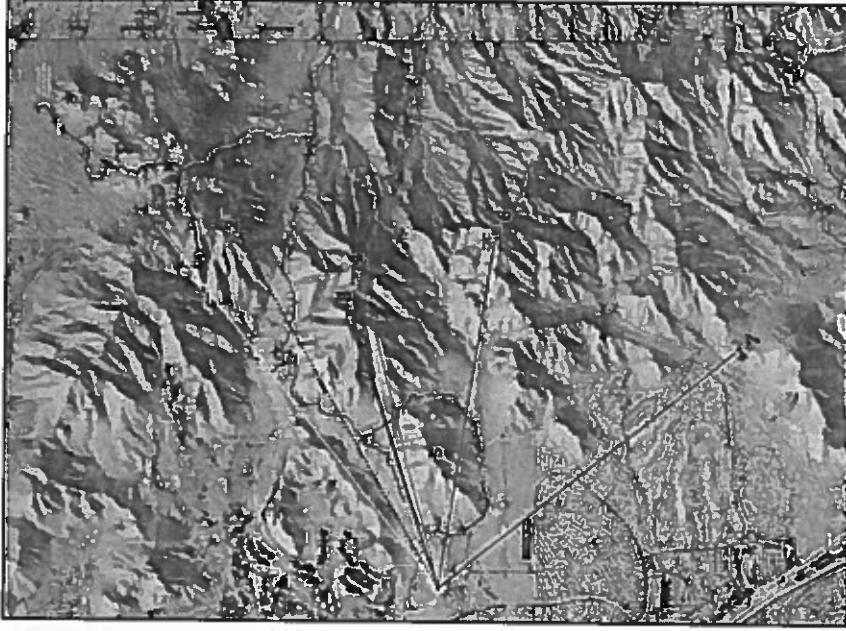
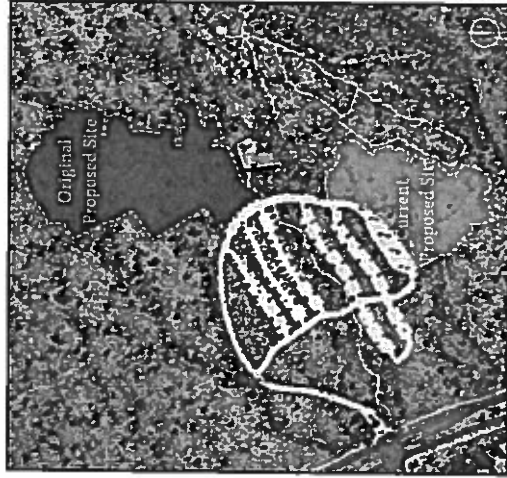
Alternative Site Considered within Gateway

As the design work continued, and more public commentary related to the negative influence the DDC might have on the Gateway hiker experience, the design team looked for a compromise. It was discussed in several meetings with the DDCS, and City Staff, whether an alternative site within the Gateway area might be considered. Consideration was given to the existing parking lot area, to an area directly north of the parking lot, and to an area behind and east of the existing maintenance building. As time went on, and more discussion and site visits occurred, the area behind the existing maintenance site seemed to resolve many of the issues.

An existing, secondary, trailhead was located at that location for equestrian and hiker use, and the parking area was less used than the stalls nearest the Gateway trailhead. The area also offered many of the same view corridors that were explored by Thinc for their interpretive experiences. It also offered a better opportunity adjacent to a wash corridor for the interpretive experience regarding water flow and animal corridors. Meetings were held on site with several members of the City Staff to review the site relocation, who also consulted with the Acting City Manager at the time for approval. Our Teams Civil Engineers, and the City Engineer also looked at the drainage conditions, as well as the parking area and the use of the existing maintenance building. After much deliberation, it was decided by City Staff that it would be acceptable to move the design area to this new area for the purposes of this study.

Support Site Concept Considered

As the design work progressed on the second site, the idea of making a smaller footprint for the DDC by having only what were considered "essential uses" be located within the Preserve, and other spaces such as certain storage, offices, and overflow parking could possibly be located at a support site nearby, but not in the Preserve. Although the exact location for the support site has not been determined, a few possibilities exist on City owned land in the Bell Rd. Corridor. The DDCS, and its consultants analyzed the architectural program, and selected which spaces could be located at the support facility. With this new approach, we started the design based on the new site location with a smaller footprint goal.

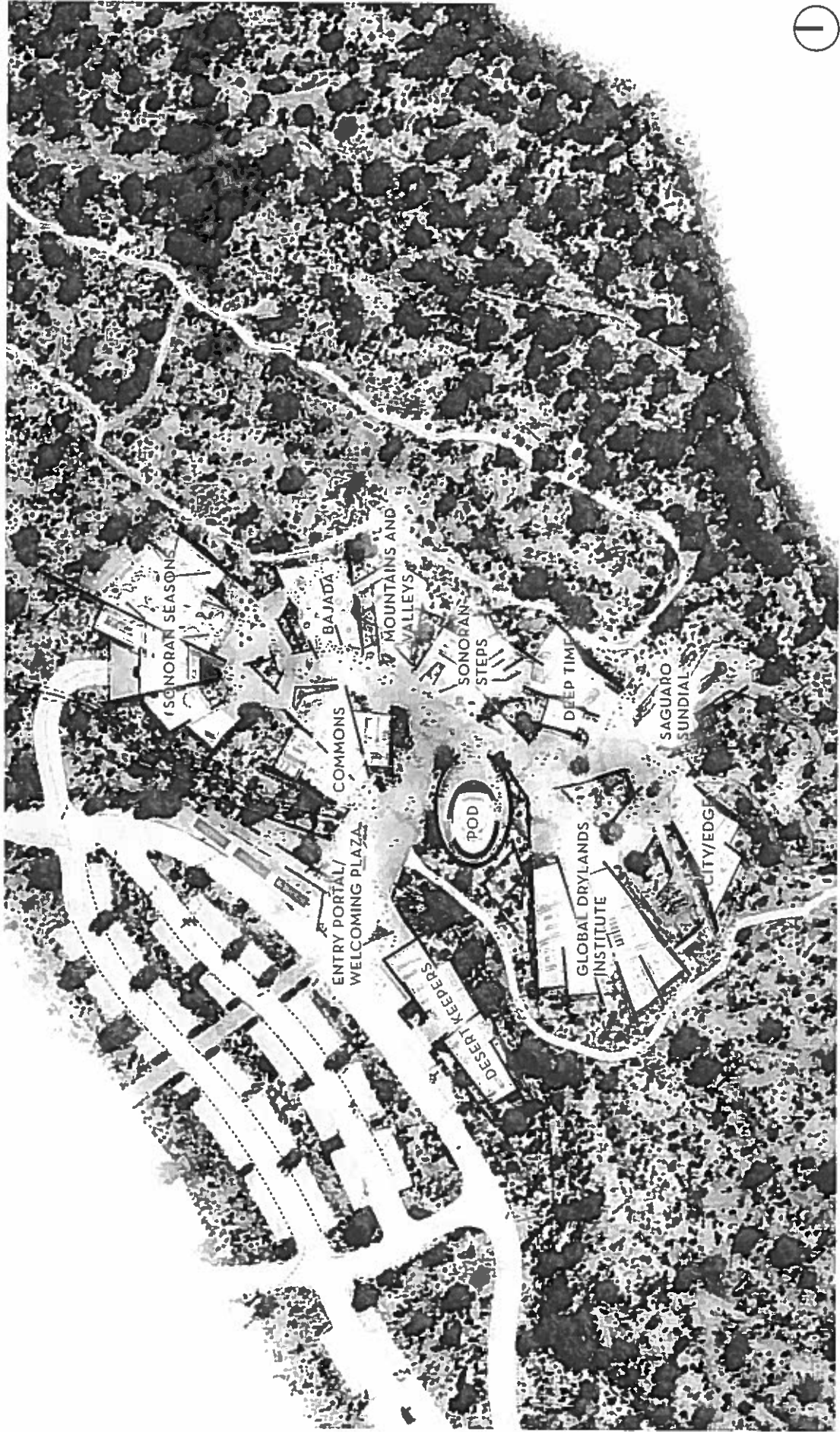


DDC PANORAMA (LANDFORMS)

1. Tom's Thumb
2. Lookout Point
3. Drinkwater Peak
4. McDowell Peak
5. "Gateway Loop" Peak
6. Thompson Peak
7. Talliesin Overlook

EXHIBIT 2

THE ARCHITECTURAL CONCEPT



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2 Christopher T. Curran - #032583
3 **CLARK HILL PLC**
4 14850 N. Scottsdale Road, Suite 500
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6 Telephone: (480) 684-1100
7 Facsimile: (480) 684-1199
8 Email: rlorenz@clarkhill.com
9 ccurran@clarkhill.com

10 *Attorneys for Plaintiffs Protect Our Preserve and NoDDC, Inc.*

11 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

12 **IN AND FOR THE COUNTY OF MARICOPA**

13 PROTECT OUR PRESERVE, an
14 Arizona non-profit corporation; NODDC,
15 INC., an Arizona non-profit corporation;

16 Plaintiffs,

17 vs.

18 CITY OF SCOTTSDALE, an Arizona
19 municipal corporation,

20 Defendant.

Case No. CV2017-055633

SUMMONS

REQUESTS FOR REASONABLE ACCOMMODATION
FOR PERSONS WITH DISABILITIES MUST BE
MADE TO THE DIVISION ASSIGNED TO THE CASE
BY PARTIES AT LEAST 3 JUDICIAL DAYS IN
ADVANCE OF A SCHEDULED COURT
PROCEEDING

21 **THE STATE OF ARIZONA TO THE DEFENDANTS:**

22 **City of Scottsdale,**
23 **an Arizona municipal corporation**
24 **c/o Scottsdale Clerk's Office**
25 **3939 N. Drinkwater Blvd.**
26 **Scottsdale, AZ 85251**

YOU ARE HEREBY SUMMONED and required to appear and defend, within the time applicable, in this action in this Court. If served within Arizona, you shall appear and defend within 20 days after the service of the Summons and Complaint upon you, exclusive of the day of service. If served out of the State of Arizona - whether by direct service, by registered or certified mail, or by publication - you shall appear and defend within 30 days after the service of the Summons and Complaint upon you is complete, exclusive of the day of service. Where process is served upon the Arizona Director of Insurance as an insurer's attorney to receive service of legal process against it in this state, the insurer shall not be required to appear, answer or plead until expiration of 40 days after date of such service upon the Director. Service by registered or certified mail out of the State of Arizona is complete 30 days after the

1 date of filing the receipt and affidavit of service with the Court. Service by
2 publication is complete 30 days after the date of first publication. Direct service is
3 complete when made. Service upon the Arizona Motor Vehicle Superintendent is
4 complete 30 days after filing the Affidavit of Compliance and return receipt or
5 Officer's Return. Ariz. R. Civ. P. 4; A.R.S. §§ 20-222, 28-502, and 28-503.

6 YOU ARE HEREBY NOTIFIED that in case of your failure to appear and
7 defend within the time applicable, judgment by default may be rendered against you
8 for the relief demanded in the Complaint.

9 YOU ARE CAUTIONED that in order to appear and defend, you must file an
10 Answer or proper response in writing with the Clerk of this Court, accompanied by
11 the necessary filing fee, within the time required, and you are required to serve a copy
12 of any Answer or response upon the Plaintiff's attorney. Ariz. R. Civ. P. 5 and A.R.S.
13 § 12-311.

14 The name and address of Plaintiff's attorney is Ryan J. Lorenz, Clark Hill PLC
15 at 14850 N. Scottsdale Road, Suite 500, Scottsdale, Arizona 85254

16 SIGNED AND SEALED this date: _____ SEP 25 2017

17 CLERK OF THE SUPERIOR COURT
18 MICHAEL KRUGER, CLERK
19 K. KEE
20 DEPUTY CLERK

21 By _____
22 Deputy Clerk

1 Ryan J. Lorenz - #019878
Christopher T. Curran - #032583
2 **CLARK HILL PLC**
14850 N. Scottsdale Road, Suite 500
3 Scottsdale, Arizona 85254
Telephone: (480) 684-1100
4 Facsimile: (480) 684-1199
Email: rlorenz@clarkhill.com
5 ccurran@clarkhill.com

6 *Attorneys for Plaintiffs Protect Our Preserve and NoDDC, Inc.*

7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

8 **IN AND FOR THE COUNTY OF MARICOPA**

9 PROTECT OUR PRESERVE, an
Arizona non-profit corporation; NODDC,
10 INC., an Arizona non-profit corporation;

11 Plaintiffs,

12 vs.

13 CITY OF SCOTTSDALE, an Arizona
municipal corporation,

14 Defendant.

Case No. CV 2017-055633

SUMMONS

15 **REQUESTS FOR REASONABLE ACCOMMODATION
FOR PERSONS WITH DISABILITIES MUST BE
MADE TO THE DIVISION ASSIGNED TO THE CASE
BY PARTIES AT LEAST 3 JUDICIAL DAYS IN
ADVANCE OF A SCHEDULED COURT
PROCEEDING**

16 **THE STATE OF ARIZONA TO THE DEFENDANTS:**

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c/o Scottsdale Clerk's Office
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12 of any Answer or response upon the Plaintiff's attorney. Ariz. R. Civ. P. 5 and A.R.S.
13 § 12-311.

14 The name and address of Plaintiff's attorney is Ryan J. Lorenz, Clark Hill PLC
15 at 14850 N. Scottsdale Road, Suite 500, Scottsdale, Arizona 85254.

16 SIGNED AND SEALED this date: _____ SEP 25 2017

17 CLERK OF THE SUPERIOR COURT
18 MICHAEL K. COOPER, CLERK
19 K. KEE
20 DEPUTY CLERK

21 By _____
22 Deputy Clerk