

1 **BEFORE THE ARIZONA STATE**
2 **BOARD OF TECHNICAL REGISTRATION**

3 **In the Matter of:**

4 **Mark Grim**
5 **Land Surveyor**
6 **Registration No. 51969**

7 **Respondent**

Case No.: P23-054

CONSENT AGREEMENT
and
ORDER OF DISCIPLINE

8
9 In the interest of a prompt and judicious resolution of the above-captioned matter
10 before the Arizona State Board of Technical Registration (“Board”) and consistent with
11 the public interest, statutory requirements, and the responsibilities of the Board, and
12 pursuant to A.R.S. § 32-101 et seq., and A.A.C. R4-30-120(G), the undersigned party,
13 Mark Grim (“Respondent”), holder of Registration No. 51969, and the Board enter into
14 the following Recitals, Findings of Fact, Conclusions of Law and Order (“Consent
15 Agreement”) as a final disposition of this matter.

16 **RECITALS**

17 1. Respondent has read and understands this Consent Agreement and has had
18 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
19 opportunity to discuss this Consent Agreement with an attorney.

20 2. Respondent understands that he has a right to a public administrative hearing
21 concerning this case. He further acknowledges that at such formal hearing he could
22 present evidence and cross-examine witnesses. By entering into this Consent Agreement,
23 Respondent knowingly, voluntarily, and irrevocably waives his right to such an
24 administrative hearing, as well as rights of rehearing, review, reconsideration, appeal,
25 judicial review or any other administrative and/or judicial action concerning the matters
26 set forth herein.

27 3. Respondent affirmatively agrees that this Consent Agreement shall be
28 irrevocable.

1 4. Respondent understands that this Consent Agreement or any part of the
2 agreement may be considered in any future disciplinary action by the Board against him.

3 5. The Consent Agreement, any record prepared in this matter, all investigative
4 materials prepared or received by the Board and all related exhibits and materials, are
5 public records upon acceptance by the Board of this Consent Agreement and may be
6 retained in the Board's files pertaining to this matter.

7 6. Respondent understands this Consent Agreement deals with Board case
8 number P23-054 involving allegations that Respondent engaged in conduct that would
9 subject him to discipline under the Board's statutes and rules. The investigation into
10 these allegations against Respondent shall be concluded upon the Board's adoption of
11 this Consent Agreement.

12 7. Respondent understands that this Consent Agreement does not constitute a
13 dismissal or resolution of any other matters currently pending before the Board, if any,
14 and does not constitute any waiver, express or implied, of the Board's statutory authority
15 or jurisdiction regarding any other pending or future investigation, action or proceeding.

16 8. Respondent also understands that acceptance of this Consent Agreement does
17 not preclude any other agency, subdivision, or officer of this State from instituting any
18 other civil or criminal proceedings with respect to the conduct that is the subject of this
19 Consent Agreement.

20 9. Respondent acknowledges and agrees that, upon signing this Consent
21 Agreement and returning this document to the Board's Executive Director, he may not
22 revoke his acceptance of the Consent Agreement or make any modifications to the
23 document regardless of whether the Consent Agreement has been signed on behalf of the
24 Board. Any modification to this original document is ineffective and void unless
25 mutually agreed by the parties in writing.

26 10. This Consent Agreement is subject to the approval of the Board and is
27 effective only when accepted by the Board and signed on behalf of the Board. If the
28 Board does not accept this Consent Agreement, the Board retains its authority to hold a

1 formal administrative hearing pursuant to A.R.S. § 32-128(E). In the event that the
2 Board does not approve this Consent Agreement, it is withdrawn and shall be of no
3 evidentiary value and shall not be relied upon nor introduced in any action by any party,
4 except that the parties agree that should the Board reject this Consent Agreement and this
5 case proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced
6 by its review and discussion of this document or any records relating thereto.

7 11. If a court of competent jurisdiction rules that any part of this Consent
8 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
9 shall remain in full force and effect.

10 12. Respondent understands that any violation of this Consent Agreement may
11 result in disciplinary action, including suspension or revocation of the registration under
12 A.R.S. § 32-150.

13 13. Respondent agrees that the Board will adopt the following Findings of Fact,
14 Conclusions of Law and Order.

15 **FINDINGS OF FACT**

16 1. The Board is the duly constituted authority for the regulation and control of
17 the practice of Land Surveying in the State of Arizona.

18 2. Respondent is the holder of Arizona Land Surveyor Registration No. 51969.

19 3. On or about August 19, 2021, Respondent entered into a written contract
20 with an architectural firm (“Architectural Firm”) to prepare an investigative ALTA/NSPS
21 Land Survey for Architectural Firm’s client (“Client”) on a property in Pima County,
22 Arizona, that was the subject of a prospective real estate sale.

23 4. On or about August 30, 2021, Respondent prepared and sealed an
24 investigative ALTA/NSPS Land Survey for Architectural Firm for a property in Pima
25 County, Arizona.

26 5. On or about December 5, 2022, the Board received a complaint alleging that
27 on or about August 30, 2021, Respondent prepared and sealed an ALTA/NSPS Land
28 Survey in Pima County, Arizona, that shows 16 property corner locations with no

1 monuments found or set at any of the property corner locations. Additionally the
2 complaint alleged that Respondent failed to record the ALTA/NSPS Land Survey with
3 the jurisdictional county as required.

4 7. On or about September 21, 2023, an Enforcement Advisory Committee
5 (“EAC”) Meeting convened to review the complaint against Respondent.

6 A. During the EAC meeting, Respondent acknowledged the following:

- 7 i. He prepared the investigative ALTA/NSPS Land Survey on the
8 Pima County property for Architectural Firm, who requested the
9 survey for its client, a prospective buyer of the property.
- 10 ii. He did not set any new monuments, did not note in his survey the
11 creator identity of any found monuments, and did not affix his Land
12 Surveyor Registration number upon any accepted monuments.
- 13 iii. He did not record his investigative ALTA/NSPS Land Survey with
14 the jurisdictional county.
- 15 iv. While following his due diligence for the investigative ALTA/NSPS
16 Land Survey, he discovered that the property had a significant
17 boundary encroachment that had not been previously documented in
18 a recorded survey.
- 19 v. He should have recorded the investigative ALTA/NSPS Land
20 Survey in light of the discovered boundary encroachment.

21 B. At the conclusion of the EAC meeting, the EAC Committee determined
22 the following:

- 23 i. Respondent failed to conduct a land boundary survey in accordance
24 with the Arizona Boundary Survey Minimum Standards
25 (“ABSMS”) as follows:
 - 26 a. Respondent, when noting and accepting found
27 monument corners, did not indicate that there was any
28 record or physical evidence identifying its creator and

1 incorporated it in his survey. As such, Respondent should
2 have affixed his Land Surveyor registration number to the
3 existing monuments as required by ABSMS 8(B)

4 b. Respondent failed to record the survey as required
5 when monuments are set and/or accepted as required by
6 ABSMS 13(A)&(C).

7 ii. Respondent failed to record the survey with the jurisdictional county
8 within 90 days as required when there is a material discrepancy
9 based on the accuracy requirements of the current survey which,
10 in whole or in part, does not appear on any map or record
11 previously recorded or filed with the county recorder.

12 iii. Respondent failed to record the survey as required when he found a
13 significant boundary encroachment that had not been previously
14 documented, and which represented a material discrepancy.

15 iv. Respondent failed to apply the appropriate technical knowledge and
16 skill that would be applied by other qualified registrants who
17 practice the same profession in the same area and at the same time
18 when he failed to record the survey, in light of the material
19 discrepancy regarding the significant encroachment.

20 **CONCLUSIONS OF LAW**

21 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq.

22 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline
23 pursuant to A.R.S. § 33-105 and A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-
24 301(4), through Respondent's failure to file a record of a land survey not later than ninety
25 days after its completion with the county recorder of the county where the land is located.

26 3. The conduct alleged in the Findings of Fact constitutes grounds for discipline
27 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301(6), through
28 Respondent's failure to apply the appropriate technical knowledge and skill that would be

1 applied by other qualified registrants who practice the same profession in the same area
2 and at the same time.

3 **ORDER**

4 Based on the foregoing Findings of Fact and Conclusions of Law, the Board issues
5 the following Order:

6 1. LETTER OF REPRIMAND. Respondent is hereby issued a Letter of
7 Reprimand.

8 2. STAYED SUSPENSION AND PROBATION. As of the effective date of
9 this Order, Respondent's registration as a Registered Land Surveyor, No. 51969, shall be
10 suspended for twelve (12) Months; however, the suspension shall be stayed for as long as
11 Respondent remains in compliance with this Order. During the period of stayed
12 suspension, Respondent's registration as a Registered Land Surveyor shall be placed on
13 probation. If Respondent is non-compliant with any term of this Order during the
14 probationary period, the stay of suspension shall be lifted and Respondent's registration
15 as a Registered Land Surveyor shall be automatically suspended without formal hearing,
16 and remain suspended until Respondent is compliant with all terms of this Order.

17 3. EARLY TERMINATION OF SUSPENSION AND PROBATION: Upon
18 completion of all terms of this Order, and no sooner than six months from the effective
19 date of this Order, Respondent may petition the Board for early termination of the
20 suspension and probation imposed by this Order.

21 4. ADMINISTRATIVE PENALTY. Within Twelve (12) Months from the
22 effective date of this Consent Agreement, Respondent shall pay an administrative penalty
23 of Seven Hundred Fifty Dollars (\$750.00), by certified check or money order made
24 payable to the State of Arizona Board of Technical Registration.

25 5. COST OF INVESTIGATION. Within Twelve (12) Months from the
26 effective date of this Consent Agreement, Respondent shall pay the cost of investigation
27 of this case to the Board in the amount of Five Hundred Eleven Dollars (\$511.00) by
28 certified check or money order made payable to the State of Arizona Board of Technical

1 Registration.

2 6. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws,
3 as well as, all rules governing the practice of Land Surveying in the State of Arizona.
4 The Board shall consider any violation of this paragraph to be a separate violation of the
5 rules and statues governing the Arizona Board of Technical Registration. The Board may
6 also consider Respondent's non-compliance with this Order as a separate violation of
7 A.R.S. § 32-150.

8 7. RENEWAL OF REGISTRATION. During the probationary period,
9 Respondent shall timely renew his Arizona registration as Land Surveyor, and timely pay
10 all required registration fees.

11 8. EFFECTIVE DATE. The effective date of this Consent Agreement is the
12 date the Respondent and Board sign the Consent Agreement. If the dates are different, the
13 effective date is the later of the two dates.

14 9. COSTS OF COMPLIANCE. Respondent shall pay all costs associated with
15 complying with this Consent Agreement.

16 10. NONCOMPLIANCE. If Respondent violates this Order in any way or fails
17 to fulfill the requirements of this Order, the Board, after giving notice and the opportunity
18 to be heard, may revoke, suspend or take other disciplinary actions against the
19 registration. The issue at such a hearing will be limited solely to whether this Order has
20 been violated.

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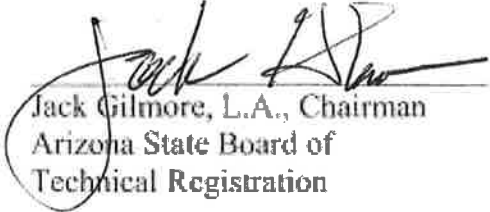
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1 ACCEPTED and ORDERED this 15 day of NOVEMBER, 2023.

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3 
4 Jack Gilmore, L.A., Chairman
5 Arizona State Board of
6 Technical Registration

7 Consent Agreement and Order, No. P23-054 accepted this 15 day of
8 November 2023.

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10 Mark Grim, Respondent
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1 **ORIGINAL** filed this 16th day of

2 November, 2023, with:

3 Arizona State Board of Technical Registration

4 1110 W. Washington, Suite 240

5 Phoenix, AZ 85007

6 **COPY** of the foregoing mailed via Certified Mail

7 No. 9214 8901 9434 4600 0950 28 and

8 First Class mail this 16th day of November, 2023, to:

9 Mark Grim

10 24654 N. Lake Pleasant Pkwy

11 Peoria, AZ 85383

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14 By: *Daniel Carthel*

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