

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

3 **In the Matter of:**

Case No.: P17-088

4 **Gordon Grandy**
5 **Registered Land Surveyor**
6 **No. 17238**

7 **Respondent**

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 Gordon Grandy (“Respondent”), holder of Registration No. 17238, and the Board enter
14 into 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 (as defined in A.R.S. § 41-158.18) upon acceptance by the Board of this
6 Consent Agreement and may be retained in the Board's files pertaining to this matter.

7 6. Respondent understands this Consent Agreement deals with Board case
8 number P17-088 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 Registered Land Surveyor Registration
19 No. 17238.

20 3. On or about December 2, 2014, NFra, Inc., Respondent employer, contracted
21 Consultant Registered Surveying, Inc. (CRS), to provide topographic observation
22 services and provide a Digital Terrain Model addressing grade breaks and drainage
23 conditions, road tie-in locations and other terrain conditions for the Ash Street extension
24 South of Juniper project.

25 4. On or about February 2, 2015, CRS provided NFra a surveying report for the
26 Ash Street Extension project.

27 5. On or about August 17, 2015, Respondent signed and sealed the final plat for
28 the Ash Street South of Juniper project.

1 6. On or about March 28, 2017, the Board received a complaint alleging that
2 Respondent failed to complete field measurements and may have used field
3 measurements taken by CRS; that Respondent's field observations of existing adjoining
4 parcel survey monument evidence were not observed as evidence from historical
5 recorded surveys and plats that affect the parcel; Respondent's field measurements to
6 mark new parcel A and Lot 1, limits appear not to be completed or are not clear as to set
7 monument type on plat face and that Respondent's survey showing the currently installed
8 Ash Street centerline monuments lack geometric data for positions and are installed such
9 that they are non-compliant with MAG Standard detail 120, notes 8-10.

10 7. On May 16, 2017, Respondent submitted a written statement in which he
11 admitted that he did not conduct or assist with field measurements. Respondent wrote the
12 comparisons were made from title reports and cadastral surveys and then merged with
13 electronic data supplied by CRS. Respondent further admitted that as of the date of the
14 written statement, Lot 1 property corners had not been positioned in the field and that all
15 corners failed to be adequately called out as found or set. Respondent also admitted that
16 the setting of new property corners was neglected. Respondent admitted that an amended
17 plat with bearings and distances between MAG monuments in Ash Street as well as the
18 setting of new property corners are tasks that must be completed.

19 8. On June 28, 2017, an assessment was submitted to Staff in which the assessor
20 wrote that it is not clear as to the monuments set for the final plat, which indicated a
21 violation of A.R.S 9-474(D). The assessor further stated that the Final Plat does not have
22 any statements regarding the policy that allows for monuments to be set after the
23 recording of the plat.

24 9. On August 17, 2017, Respondent admitted in an interview that he did not
25 take field measurements and utilized title reports to create the final plat for the Ash Street
26 project. Respondent also admitted that there were no corners set, no monuments were set
27 and that a corrected survey has not been completed.

28 10. On August 17, 2017, an Enforcement Advisory Committee convened to

1 review the complaint against the Respondent. During the meeting, the Committee found
2 that Respondent failed to conduct a land survey in accordance with the Arizona Boundary
3 Survey Minimum Standards (ABSMS) 4, 5, 8 and 11. The Committee also found that
4 Respondent demonstrated gross negligence concerning the project in that Respondent did
5 not verify information provided, that the field work was not thorough, no corners or
6 monuments were set and that Respondent did not perform a boundary survey prior to
7 putting a boundary of a final plat document together. The Committee also found that
8 Respondent failed to leave sufficient permanent monuments on the plat which falls well
9 below the statute requirement.

10 CONCLUSIONS OF LAW

- 11 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq.
- 12 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline
13 pursuant to A.R.S. § 32-128(C)(2), in that Respondent demonstrated gross negligence.
- 14 3. The conduct alleged in the Findings of Fact constitutes grounds for discipline
15 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301(13), in that
16 Respondent Failed to conduct a Land Boundary Survey in accordance with the Arizona
17 Boundary Survey Minimum Standards.
- 18 4. The conduct alleged in the Findings of Fact constitutes grounds for discipline
19 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301(4), in that
20 Respondent failed to leave sufficient permanent monuments so that another surveyor or
21 engineer may retrace his work, and the nature and location of the monuments were not
22 plainly shown on the plat in violation of A.R.S. § 9-474(D).

23 ORDER

24 Based on the foregoing Findings of Fact and Conclusions of Law, the Board issues
25 the following Order which shall replace, supersede and render any prior Order related to
26 case P17-088, null and void:

- 27 1. LETTER OF REPRIMAND. Respondent is hereby issued a Letter of
28 Reprimand.

1 2. STAYED SUSPENSION AND PROBATION. Respondent’s registration as
2 a Registered Land Surveyor, No. 17238, shall be suspended for twelve (12) months;
3 however, the suspension is stayed for as long as Respondent remains in compliance with
4 this Order. During the stay of suspension, Respondent’s registration as a Land Surveyor
5 is placed on probation for twelve (12) months. If Respondent is non-compliant with any
6 terms of this Order during the twelve (12) month stayed suspension and probation period,
7 the stay of the suspension shall be lifted and Respondent’s registration as a Land
8 Surveyor shall be automatically suspended without a formal hearing, and remain
9 suspended until Respondent is compliant with all terms of this Order. If Respondent
10 completes all terms of this Order prior to end of the twelve (12) month stayed suspension
11 and probation period, Respondent may be eligible for early termination of probation.

12 3. PEER REVIEW. Within twelve (12) months, Respondent shall
13 submit his next two (2) Boundary Surveying projects for peer review. Within Thirty (30)
14 days of the effective date of this Consent Agreement, Respondent shall furnish to the
15 Board, the name of an Arizona registered Professional Land Surveyor (“Peer Reviewer”)
16 who agrees to review and report on Respondent’s work. The proposed Peer Reviewer
17 shall have at least five years of actual engagement as a Land Surveyor, shall be registered
18 and in good standing with the Board and shall not have received any disciplinary action
19 from the Board within the last three years. Respondent shall submit to the Board a current
20 resume detailing the qualifications of the proposed Peer Reviewer, and an Affidavit and
21 Agreement to Conduct Peer Review signed by the proposed Peer Reviewer. Upon
22 approval by the Board of the Peer Reviewer, Respondent shall ensure that the Peer
23 Reviewer provides a written report to the Board after each peer reviewed project
24 describing any deficiencies in Respondent’s practice, and certifying that the peer
25 reviewed project provided to the client by the Respondent is in compliance with Board
26 rules and statutes. Respondent shall not give final approval on any projects to a client,
27 contractor, any regulatory or review body or any other person until the project has been
28 reviewed and approved by the Peer Reviewer. Respondent shall retain the Peer Reviewer

1 at his own expense.

2 4. CORRECTED SURVEY. By January 2, 2018, Respondent shall submit an
3 amended survey bearing a single seal and signature of the prime professional Registered
4 Land Surveyor and which corrects the original survey for the aforementioned project, to
5 the Board for review at the Board's January 23, 2018 meeting. Upon Board approval of
6 the amended survey, Respondent shall provide proof to the Board that the amended
7 survey has been recorded.

8 5. ADMINISTRATIVE PENALTY. Within six (6) months from the effective
9 date of this Consent Agreement, Respondent shall pay an administrative penalty of One
10 Thousand Five Hundred Dollars (\$1500.00) by certified check or money order made
11 payable to the State of Arizona Board of Technical Registration.

12 6. COST OF INVESTIGATION. Within ninety (90) days from the effective
13 date of this Consent Agreement, Respondent shall pay the cost of investigation of this
14 case to the Board in the amount of Eight Hundred Eight Dollars (\$808.00) by certified
15 check or money order made payable to the State of Arizona Board of Technical
16 Registration, according to the provisions of A.R.S. § 32-128(H).

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

23 8. RENEWAL OF REGISTRATION. During the probationary period,
24 Respondent shall timely renew his Arizona registration as a Land Surveyor, and timely
25 pay all required registration fees.

26 9. EFFECTIVE DATE. The effective date of this Consent Agreement is the
27 date the Respondent and Board sign the Consent Agreement. If the dates are different, the
28 effective date is the later of the two dates.

1 10. COSTS OF COMPLIANCE. Respondent shall pay all costs associated with
2 complying with this Consent Agreement.

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

8

9 ACCEPTED and ORDERED this 21 day of December, 2017.

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Alejandro Angel, P.E., Chairman
Arizona State Board of
Technical Registration

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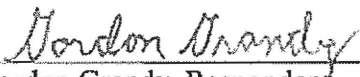
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Consent Agreement and Order, No. P17-088 accepted this 19th day of
December, 2017.

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Gordon Grandy, Respondent

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ORIGINAL filed this _____ day of
_____, 2017, with:

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Arizona State Board of Technical Registration
1110 W. Washington, Suite 240
Phoenix, AZ 85007

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24

COPY of the foregoing mailed via Certified Mail
No. _____ and
First Class mail this _____ day of _____, 2017, to:

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26

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Gordon Grandy
2366 E. Oakland St.
Chandler, AZ 85225

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By: _____