



City of Avondale

City Council Online Meeting

Monday, May 3, 2021

Mayor and Council

Kenneth Weise, Mayor

Veronica Malone, Vice Mayor

Tina Conde, Council Member | Pat Dennis, Council Member

Bryan Kilgore, Council Member | Curtis Nielson, Council Member

Mike Pineda, Council Member

Administration

Charles A. Montoya, City Manager

Gina Montes, Assistant City Manager

Tracy Stevens, Deputy City Manager | Cherlene Penilla, Deputy City Manager

Nicholle Harris, City Attorney | Marcella Carrillo, City Clerk

Online Meeting

Join the meeting and view presentations: <https://avondaleaz.zoom.us/j/3083557784>

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Join the meeting with audio only: Call 301-715-8592 (meeting ID: 308 355 7784)



**City Council Online Meeting
Notice & Agenda
Monday, May 3, 2021**

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SPECIAL MEETING

6:00 PM

CALL TO ORDER BY MAYOR

- 1. ROLL CALL BY THE CITY CLERK**
 - 2. EMPLOYEE RECOGNITION**
 - 3. ADJOURNMENT**
-

WORK SESSION

Convene immediately following the Special Meeting

CALL TO ORDER BY MAYOR

- 1. ROLL CALL BY THE CITY CLERK**
- 2. PRESENTATION AND DISCUSSION OF THE CITY'S WATER RESOURCES**

City Council will receive an update from staff regarding the City's diverse water portfolio, the current condition of our resources and the planning underway to ensure that our water resources grow with the future of our City. This item is for discussion only.
- 3. PROPOSED RATE CHANGES FOR WATER, SEWER, AND SANITATION UTILITIES**

City Council will receive a presentation from staff on the forecast for the water, sewer, and sanitation utilities and discuss potential rate changes for these utilities and request feedback and direction in order to finalize a final recommendation on utility rates that will be presented to Council at a future date. This item is for discussion only.
- 4. ADJOURNMENT**

Request to Speak: Anyone wishing to address the Council regarding items listed on the agenda or under unscheduled public appearance should email a request to speak to CityClerk@AvondaleAZ.gov prior to consideration of that agenda item.

REGULAR MEETING
Convene immediately following the Work Session

CALL TO ORDER BY MAYOR
PLEDGE OF ALLEGIANCE & MOMENT OF REFLECTION

1. ROLL CALL AND STATEMENT OF PARTICIPATION BY THE CITY CLERK

2. UNSCHEDULED PUBLIC APPEARANCES

(Limit three minutes per person. Please state your name.)

3. CONSENT AGENDA

Items on the consent agenda are of a routine nature or have been previously studied by the City Council at a work session. They are intended to be acted upon in one motion. Council members may pull items from consent if they would like them considered separately.

a. MINUTES

City Council will consider a request to approve the March 22, 2021 City Council Meeting Minutes. The Council will take the appropriate action.

b. AWARD AUTHORITY FOR VEHICLE MAINTENANCE AND REPAIR

The City Council will consider a request to increase spending authority for fire apparatus maintenance and repairs in the amount of \$50,000. The Council will take appropriate action.

c. THIRD AMENDMENT TO THE EMPLOYMENT AGREEMENT WITH CHARLES A. MONTROYA

City Council will consider a request to approve the 3rd Amendment to the Employment Agreement with Charles A. Montoya and authorize the Mayor and City Clerk to execute the necessary documents. The Council will take appropriate action.

d. RESOLUTION 1023-0521 - FIRST THINGS FIRST GRANT RENEWAL

City Council will consider a request to adopt Resolution 1023-0521 authorizing the grant agreement with the First Things First Southwest Maricopa Regional Partnership Council to receive \$200,000 in funding and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

e. RESOLUTION 1024-0521 - INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY FOR IMPROVEMENTS TO LOWER BUCKEYE ROAD FROM EL MIRAGE ROAD TO 125TH AVENUE

City Council will consider a request to adopt Resolution 1024-0521 approving an Intergovernmental Agreement with Maricopa County for the construction of a asphalt sidewalk on Lower Buckeye Road from EL Mirage Road to 125th Avenue, and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

f. RESOLUTION 1025-0521 - AUTHORIZING GRANT ACCEPTANCE FROM THE ARIZONA GOVERNOR'S OFFICE OF HIGHWAY SAFETY - PROPOSITION 207 FUNDING

City Council will consider a request to adopt Resolution 1025-0521, authorizing the Grant acceptance from the Arizona Governor's Office of Highway Safety - Proposition 207 Funding and authorizing the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. Council will take appropriate action.

g. RESOLUTION 1026-0521 - 2021-2022 HUD ANNUAL ACTION PLAN

City Council will consider a request to adopt Resolution 1026-0521 approving the City's 2021-2022 Annual Action Plan, identifying housing and community development needs and strategies and defining how Community Development Block Grant (CDBG) and HOME funds will be allocated next fiscal year and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

h. ORDINANCE 2019-0521 - LEASE AGREEMENT WITH SODA BOMB LLC

City Council will consider a request to adopt Ordinance 2019-0521, approving the Lease Agreement with Soda Bomb, LLC. for the property located at 745 North 114th Avenue, Suite 103 and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

i. ORDINANCE 2020-0521 - ABANDONMENT OF THE VAN BUREN STREET RIGHT-OF-WAY - VAN BUREN STREET AND AVONDALE BOULEVARD

City Council will consider a request to adopt Ordinance 2020-0521 authorizing the abandonment of a portion of Van Buren Street right-of-way, located on the north side of Van Buren Street, 169.11 east of the centerline of Avondale Boulevard, and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

j. ORDINANCE 2021-0521 - ABANDONMENT OF AN INGRESS/EGRESS EASEMENT - VAN BUREN STREET AND AVONDALE BOULEVARD

City Council will consider a request to adopt Ordinance 2021-0521 authorizing the abandonment of a 20 foot wide ingress/egress easement located north of Van Buren Street and east of Avondale Boulevard, and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

k. ORDINANCE 2022-0521 - ABANDONMENT OF THE FILLMORE STREET RIGHT-OF-WAY - AVONDALE BOULEVARD AND 114TH AVENUE

City Council will consider a request to adopt Ordinance 2022-0521 authorizing the abandonment of the Fillmore Street right-of-way between Avondale Boulevard and 114th Avenue, and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

l. FINAL PLAT FOR THE BLVD LAKE PLAT - APPLICATION PL-21-0077

City Council will consider a request to approve a Final Plat for The BLVD Lake Plat, approximately 14.16 acres of City-owned property located at the southeast corner of 114th Avenue and The BLVD, with land at the northeast corner of Avondale Boulevard and Van Buren Street. The proposed Final Plat splits the existing City-owned Lake parcel into two (2) lots, and consolidates two (2) city-owned parcels and a portion of the former Fillmore Street right-of-way into a single parcel. The plat dedicates twenty (20) feet of right-of-way along the Van Buren Street frontage, as well as a public utility easement (PUE) over the former Fillmore Street right-of-way. The Council will take appropriate action.

4. REGULAR AGENDA

a. RESOLUTION 1027-0521 - ADOPTION OF THE FISCAL YEAR 2022 TENTATIVE BUDGET

City Council will consider a request to adopt Resolution 1027-0521 setting forth the fiscal year (FY) 2022 tentative budget and establishing the City's annual expenditure limitation and authorize the Mayor or City Manager, City Attorney, and City Clerk to execute the necessary documents. The Council will take appropriate action.

5. ADJOURNMENT

**ALAMAR COMMUNITY FACILITIES DISTRICT BOARD
REGULAR MEETING
Convene immediately following the Regular City Council Meeting**

CALL TO ORDER BY DISTRICT CHAIR

1. ROLL CALL BY THE DISTRICT CLERK

2. MINUTES

The District Board will consider a request to approve the June 15, 2020 board meeting minutes. The District Board will take appropriate action.

3. RESOLUTION 1-2021 - FISCAL YEAR 2022 TENTATIVE BUDGET

The District Board will consider a request to adopt Resolution 1-2021 setting forth the fiscal year 2021-22 (FY2022) tentative budget for the Alamar Community Facilities District. The District Board will take appropriate action.

4. ADJOURNMENT

Council Members of the City of Avondale will attend either in person or by telephone conference call. Individuals with special accessibility needs, including sight or hearing impaired, large print, or interpreter, should contact the City Clerk at 623-333-1200 or TDD 623-333-0010 at least two business days prior to the Council Meeting.

Los miembros del Concejo de la Ciudad de Avondale participaran ya sea en persona o por medio de llamada telefonica. Personas con necesidades especiales de accesibilidad, incluyendo personas con impedimentos de vista u oido, o con necesidad de impresion grande o interprete, deben comunicarse con la Secretaria de la Ciudad at 623-333-1200 o TDD 623-333-0010 cuando menos dos dias habiles antes de la junta del Concejo.

CITY COUNCIL REPORT

SUBJECT: Presentation and Discussion of the City's Water Resources

MEETING DATE: 5/3/2021

TO: Mayor and Council

FROM: Kirk Beaty, Public Works Director, (623) 333-4417

THROUGH: Gina Montes, Assistant City Manager, (623) 333-1012

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Areas:

- * Creative and Sustainable Community Development - Avondale is committed to creating a sense of place, a community of residents and local businesses unified by pride and common values.
 - * Innovative Program and Service Delivery - Avondale will continue to serve as a model of innovative, efficient, and responsive government.
 - * Diverse Recreation and Entertainment Opportunities - Avondale provides residents with the ability to connect with amenities, businesses, and their community, enhancing the opportunity to live, work, and enjoy a healthy, active, and affordable lifestyle.
 - * Natural Resources and Open Spaces - Avondale recognizes the value of its natural resources and promotes environmental sustainability and conservation in its operations, activities, and planning.
-

PURPOSE:

City Council will receive an update from staff regarding the City's diverse water portfolio, the current condition of our resources and the planning underway to ensure that our water resources grow with the future of our City. This item is for discussion only.

BACKGROUND:

The City has one of the most unique water portfolios in the Southwest. Providing a reliable and sustainable supply is a priority for Avondale. This requires constant planning and partnering. Strategies are in place to ensure that the City of Avondale can provide safe, sufficient water supplies to our customers now and into the future.

This topic is especially important as we embark with the renewal of our Designation of Assured Water Supply with the Arizona Department of Water Resources which is set to expire in 2025. This renewal requires the ability and resources to supply water for the next 100 years.

DISCUSSION:

The information presented will lead to discussions in order to assist the Mayor and Council in making informed decisions regarding the City's operations, future studies and partnership opportunities along with capital improvement and resource investments as they relate to our water resources and infrastructure.

Public Works manages its water portfolio and delivery of water services first and foremost with highest regard to public health and safety, meeting all local, state and federal regulations with the highest standards for innovative and exceptional customer service. Additionally, we understand that sustainable community development is only possible with adequate water supplies to meet those needs for future growth. In this presentation, staff will highlight the City's water portfolio, recharge options, and consumption status along with next steps to continue to proactively prepare for a sustainable water future.

BUDGET IMPACT:

For information and discussion only, there is no request for budgetary allowances with this report.

RECOMMENDATION:

The information presented is intended to educate and encourage discussion related to Avondale's Water Resources.

CITY COUNCIL REPORT

SUBJECT: Proposed Rate Changes for Water, Sewer, and Sanitation Utilities

MEETING DATE: 5/3/2021

TO: Mayor and Council

FROM: Lindsey Duncan, Finance & Budget Director, (623) 333-2011

THROUGH: Gina Montes, Assistant City Manager, (623) 333-1012

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

The proposed utility rates are related to at least three strategic outcome areas.

- Innovative Program and Service Delivery - The proposed rates are more simple than the current rates, which allows for improved understanding, easier maintenance, and the ability to use the latest utility billing software.
 - Public Health and Safety - The proposed rates help ensure continued access to safe and secure water, sewer, and sanitation services, which is vital to public health and safety.
 - Natural Resources and Open Spaces - The proposed rates continues a tiered rate schedule to provide affordable water for basic usage and to promote water conservation.
-

PURPOSE:

City Council will receive a presentation from staff on the forecast for the water, sewer, and sanitation utilities and discuss potential rate changes for these utilities and request feedback and direction in order to finalize a final recommendation on utility rates that will be presented to Council at a future date. This item is for discussion only.

BACKGROUND:

The city operates three utilities; water, sewer, and sanitation. These utilities operate as enterprises, with the utility rates charged to residents and businesses needing to cover the costs of operating each utility. These utility rates must be periodically evaluated to ensure the utilities can cover their costs and remain fiscally sustainable. The last rate increase for water and sewer was effective February 2018 and the last rate increase for Sanitation was effective in 2009.

DISCUSSION:

Water - The Water utility serves approximately 23,000 residential customers and approximately 575

commercial customers. The financial policies of the city call for the Water utility to maintain a fund balance of 6 months of the operating budget of the previous year. The last rate increase for Water was effective February 2018. The Water utility faces expenditure pressures from increasing water commodity costs, increased capital costs, potential shortfalls in Colorado River water, and normal inflation. The city retained the services of a consultant, Raftelis, to evaluate the current water rate structure and ensure the rates accomplish the goals of financial stability, equity, simplicity, and conservation. Water rate structures were evaluated to reflect the usage patterns of customers and several changes are recommended to better meet this goal. With those goals in mind, the following changes are proposed for October 2021:

- Financial Stability: Increase overall water revenue collection by 1%.
- Equity: Reduce cross customer class subsidy by increasing total residential rates. Reduce the base fee for all customers. Move highest residential tier from starting at 12,000 gallons to 15,000 gallons to target discretionary water use.
- Simplicity: Move commercial and multi-family customer classes to a flat per 1,000 gallon charge.
- Conservation: Create unique customer classification for landscape customers.

Staff anticipates that an average customer consuming nine thousand gallons of water per month will see an increase of approximately \$2.57. Other customers may see differing results based on their consumption patterns.

For FY 2023, increases to the meter base fees and a tier rate adjustment is expected to increase an average customer's monthly water bill by \$1.88.

For FY 2024, staff projects needing 2% across-the-board rate increases, which would be approximately \$0.65 per month. Since these rate changes impact a number of components of the water rates, the impact to individual customers will vary.

Sewer - The Sewer utility serves approximately 22,300 residential customers and approximately 560 commercial customers. The financial policies of the city call for the Sewer utility to maintain a fund balance of 6 months of the operating budget of the previous year. The last rate increase for Sewer was effective February 2018.

The Sewer utility faces expenditure pressures from increasing costs for electricity and chemicals for water treatment, the cost of aging infrastructure, and the cost of adding additional infrastructure to meet the needs of growth. The city retained the services of Raftelis to evaluate the current sewer rate structure and ensure the rates accomplish the goals of financial stability, equity, and simplicity. With those goals in mind, the following changes are proposed for October 2021:

- Financial Stability: Increase base user fee while decreasing per 1,000 gallon charge. This will reduce the variability in revenue collections.
- Equity: Base user fee based on meter size rather than flat rate.
- Simplicity: Phase in a single volume rate for non-residential customers by FY 2024.

Average single family customer (with 6,000 gallons of wastewater) will not see a noticeable increase in their wastewater bill for FY 2022 and will see an increase of \$0.56 in FY 2023.

For FY 2024, staff projects needing a 2% across-the-board rate increase, which would be a monthly increase of approximately \$0.60.

The net effect on an average Avondale customer will be combined increases of approximately \$2.50 per month for water and wastewater in both FY 2022 and FY 2023.

Sanitation - The city of Avondale offers sanitation services for residents, but not commercial customers. The vast majority of customers pay \$20.00 a month, which covers once-a-week trash service, once-a-week recycling service, once-a-month bulk waste collection, and once-a-month green waste service. The last rate increase was implemented in January 2009.

Since the last rate increase, the Sanitation utility has seen escalating costs related to personnel, fuel and fleet charges, landfill fees, and recycling. Since 2010, personnel costs (both compensation and additional staff) and landfill fees have increased by 50%. Additionally, recycling services 10 years ago netted the city approximately \$150,000 in revenue. With the changes in the recycling market, recycling disposal currently costs the City approximately \$150,000.

Considering these additional costs and looking at the long range fiscal sustainability of the Sanitation Fund, staff recommends a \$2.00 increase effective October 2021, a \$2.00 increase effective July 2022, and a \$1.50 increase annually starting FY 2024.

Total Impact - For the average residential customer with 9,000 gallons of water, the combined impact of these rate changes is \$4.58 in their total utility bill starting October 2021. Impacts for other levels of consumption and customer classes will vary, as the proposed changes impact different portions of the rates customers are charged.

BUDGET IMPACT:

The proposed rate recommendation will help ensure the water, sewer, and sanitation utilities remain fiscally sustainable. Future capital projects and additional funding for operations for these utilities are contingent on increased utility rates.

RECOMMENDATION:

Staff is recommending Council provide feedback and direction on the proposed utility rates.

CITY COUNCIL REPORT

SUBJECT: Minutes

MEETING DATE: 5/3/2021

TO: Mayor and Council

FROM: Marcella Carrillo, City Clerk, (623) 333-1214

THROUGH: Cherlene Penilla, Deputy City Manager, 623-333-1015

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Area:

- Connected Community - Avondale will work directly and closely with our communities to develop programs and infrastructure that connect residents to the city's resources, the region, and each other.

The approval of this agenda item provides residents with access to a previous meeting's minutes, which includes a summary of the meeting. The minutes are posted online where residents can access and read the summary. The minutes provide another outlet for residents to connect with the City Council.

PURPOSE:

City Council will consider a request to approve the March 22, 2021 City Council Meeting Minutes. The Council will take the appropriate action.

BACKGROUND:

n/a

DISCUSSION:

n/a

BUDGET IMPACT:

This item has no budget impact.

RECOMMENDATION:

Staff recommends City Council approve the March 22, 2021 City Council Meeting Minutes.

MINUTES OF THE AVONDALE CITY COUNCIL
CITY OF AVONDALE, ARIZONA
ONLINE MEETING
March 22, 2021

A **Work Session** of the City Council of the City of Avondale, Arizona was convened using the Zoom Cloud Meeting platform in open and public session at 6:31 p.m. All participants attended by phone or video.

Members Present: Mayor Kenn Weise; Vice Mayor Veronica Malone; Council Members Tina Conde, Pat Dennis, Bryan Kilgore, Curtis Nielson, and Mike Pineda.

Members Absent: None.

Other Municipal Officials Present: Charles Montoya, City Manager; Gina Montes, Assistant City Manager; Tracy Stevens, Deputy City Manager; Cherlene Penilla, Deputy City Manager; Nicholle Harris, City Attorney; Marcella Carrillo, City Clerk; Kirk Beaty, Public Works Director; Ken Chapa, Economic Development Services Director; Lindsey Duncan, Finance and Budget Director; Bryan Hughes, Parks and Recreation Director; Craig Jennings, Judge; Chris Lopez, Neighborhood and Family Services Director; Callie McGraw, Interim Human Resource Director; Kevin Murphy, Development and Engineering Services Director; Dale Nannenga, Police Chief; Abril Ruiz-Ortega, Court Administrator; Jeffrey Scheetz, Chief Information Officer; and Pier Simeri, Marketing and Public Relations Director.

Audience: Five members of the public were present.

1. ROLL CALL BY THE CITY CLERK

2. CAPITAL BUDGET AND ASSET REPLACEMENT DISCUSSION

City Council received a presentation from staff regarding the City's Capital Improvement Program (CIP) and Asset Replacement Program in preparation of the fiscal year 2022 (FY2022) budget which begins on July 1, 2021. This item was for discussion only.

Lindsey Duncan, Finance and Budget Director, stated that capital projects are items with a cost of greater than \$100,000 and a useful life of at least three years. Asset replacement addresses items that must be replaced on a periodic basis. The CIP program is a multiyear plan for capital infrastructure and unlike the operating budget most projects do not stay within fiscal year boundaries. Projects are generally identified through a variety of means, including staff analysis, professional opinion, contractual obligations and Council direction. City Council appropriates the first year of funding through the annual budget adoption process and the planning is over a five-year timeframe.

The City must consider the cost of operating and maintaining the new assets once constructed. Costs are reviewed throughout the process of identifying projects and bringing them forward for funding. CIP project costs have increased in recent years for a variety of reasons and continue to increase. The City is fortunate that many of its assets were constructed within the last 20 years; however, investments will be required as these

assets age. The current fiscal year budget is \$280 million, with capital at \$80 million or approximately 29 percent of the budget. While the budget for next year is still being developed, the allocation is expected to be very similar. The revenue sources were reviewed.

CIP funding sources were presented. Borrowing in the form of general obligation bonds requires voter approval for their original authorization and is repaid through secondary property tax levies, backed by the full faith and credit of the City. For 2010, \$13.5 million is obligated for the current general obligation bond authorization, of which \$7.5 million (general government) is for the Civic Center annex and \$6 million for streets improvements. The City anticipates issuing the \$7.5 million; however, there are no plans at this time to issue \$6 million for streets. There are no plans in this fiscal year to issue additional revenue bonds. For fiscal year 2022, use of \$8.7 million has been set aside of public safety general obligation bonds, but no allocations to revenue bonds.

A review of the definition and process for impact fees was provided. Year to date through February, approximately \$9.6 million has been collected. The forecast for the current fiscal year is \$14.9 million with a similar amount for Fiscal Year 2022. More nominal funding sources include grant opportunities and intergovernmental sources. For Fiscal Year 2020 requested CIP projects, percentages by category are: Transportation at 28 percent, The BLVD at 17 percent, Parks and Recreation at 12 percent, General Government at 9 percent, Public Safety at 7 percent and Utilities at 27 percent.

CIPs are identified as: funded, planned and unfunded. The recommended funding was presented in all categories.

Sources for asset replacement funding include general city taxes and user fees. Methods include sinking funds, ongoing allocations, and one-time contributions. In fiscal year 2021, the City appropriated \$750,000 to replace fire apparatus and \$221,000 for replacement of personal protective equipment. Information technology had approximately \$1.5 million in replacement funding. Some areas had ongoing allocation, with level funding on an annual basis. Unused funds are then carried over to the next fiscal year. Generally, there was not a specific asset or location identified in the CIP; however, departments were planning for specifics. These are generally categorized by asset type.

Most remaining infrastructure falls into the category of one-time contributions. This is generally used to allocate one-time funding on an as-needed basis, as the asset either reaches the end of its useful life or is no longer in operating order. This has been historically applied to park assets, police equipment, and facilities infrastructure. There was a separate allocation in fiscal year 2021 for self-contained breathing apparatus, firehoses, nozzles, tools, lighting replacements, turf replacement, park equipment, and library materials.

Asset inventory details are collected by department on spreadsheet software. There are over 500 listings and a count of over 5,500 with departments continuing to identify assets that need to be inventoried and replaced. They will provide information, such as date acquired, useful life, make, model, quantity, purchase price and projected replacement

price. Many of the items had smaller dollar values but in quantities that qualified to be added to the asset replacement plan. There are several single large assets with values of over \$100,000.

Based on Council direction, the City's asset management software will include assets from a variety of areas, such as utilities, traffic facilities and parks, linking to the GIS system. Data analysis and verification is under way. The system has been selected and implementation is under way.

Recommendations for Fiscal Year 2022 include:

- Maintain sinking fund for vehicles and rolling stock
- Maintain ongoing allocation for pavement preservation and street overlay
- Allocate total asset replacement funding by category
- Using five-year schedules
- Specific projects to be identified
- Management reviews recommendation
- Tracked in CIP projects

The upcoming budget meeting calendar was reviewed.

Council Members Pineda thanked staff for the presentation and commented positively on the asset management system.

Council Member Conde thanked staff for taking the time to identify their assets.

Council Member Nielson thanked staff for the presentation and commented positively on the asset management system.

Council Member Kilgore thanked staff for their hard work and dedication to get the numbers right and being fiscally responsible. He was happy to see projects moving forward, specifically noting the funding for streets, sidewalks, and streetlights.

Council Member Dennis referenced Project Number 1125 (Avondale Blvd - McDowell to Encanto). For 2021, the budget shows construction infrastructure at \$675,00 and technology hardware at \$100,000 with no carryovers; however, there were several other amounts for 2022. She asked for clarification on whether the amounts are adjusted or starting from scratch in 2022. Charles Montoya, City Manager, stated that the budget due diligence process is under way. West Point High School was completed and a site development for townhomes was approved on the south side of the high school. The City is continuing to work on the mentioned section due to an SRP ditch. Funds are being pushed off until this is resolved, and the funding amounts are being adjusted for 2022.

Council Member Dennis referenced the traffic signal at Broadway Road and Avondale Boulevard, which shows design and engineering for \$250,000 in 2023, to be totally funded in 2024. She asked whether the City is making warrants to move this up more quickly. Mr. Montoya confirmed that warrants must be made before proceeding. With the

additional development in the area, the intent is to expedite the project while also working with the County.

Council Member Dennis addressed the Western Avenue decorative string lights and commented that there were many vandalism issues with the old lights. Mr. Montoya stated that there are no guarantees to prevent vandalism; however, staff will take appropriate mitigation actions.

In response from an inquiry from Vice Mayor Malone, Mr. Montoya confirmed the brick would be kept within the decorative circle on Central and Western. Vice Mayor Malone referenced Project 1220 (ADA and Sidewalk Gap Study). She noted she received complaints of non-ADA compliance in the area of Buckeye Road and Central due to an electricity pole preventing wheelchair access. She inquired about making the southern portion of the City ADA compliant. Mr. Montoya reviewed the ways the City addresses this, including working with developer to underground power lines. In addition, the City reviews funding each year from utilities for undergrounding power lines. There is not yet a set timeline for completion, as there are a large number of areas to be addressed.

Vice Mayor Dennis discussed the traffic signal on Avondale Boulevard and Lower Buckeye, which was originally projected to be completed this fiscal year but is now pushed back to 2023. There is currently no traffic signal on the southern part of Avondale Boulevard after Wyman. She would like to see this project moved up as this is a prime area for illegal drag racing. Mr. Montoya stated that he engaged with the County approximately a month and a half ago as the race event was approaching, in order to determine whether temporary lights could be installed. The intersection is large and primarily on County land. It is anticipated that there will be warrants with the additional building at Alamar which the developer will be responsible for part of the costs. To put in a light without warrants can sometimes put the City at a liability. Vice Mayor Malone suggested placing blinking stop signs at the site, similar to what is currently installed at Garden Lakes and Thomas. Mr. Montoya committed that staff would ensure some action in the next three months with blinking stop signs and bollards on the road.

Vice Mayor Malone referenced an unfunded project in the courts involving a security office, asking if a higher cubicle can be built to keep the guard's computer out of view. Mr. Montoya stated that staff will look into this. He clarified that funding is available for doing the design of the expansion of the lobby, which will come before other areas are added. Judge Jennings commented that the court is currently in compliance with security requirements. It is hoped that they can expand the lobby at some point and that would likely be the time that the security office would be built off a portion of the lobby. Mr. Montoya commented that once design is complete, they will have a better idea of how much other areas can be expanded to include the security office. Staff will work on privacy mitigation for the court security.

Council Member Pineda asked about the possibility of providing the name of any other associated entities on a project within the budget materials. This will assist with resident questions. Mr. Montoya stated that this information is always available to share with

Council; however, he is hesitant to put the information in a public domain, as there is the potential to create an adversarial relationship.

Council Member Dennis asked about the possibility of applying to the Water Infrastructure Finance Program (WIFA) for funding projects. Ms. Duncan stated that this funding mechanism is similar to issuing bonds but comes with a different set of requirements. Although funding is available, is it not as beneficial as the City issuing its own bonds.

Mayor Weise shared appreciation to staff for their work on the budget. He shared Vice Mayor Malone's concerns regarding drag racing locations in the City and encouraged staff to take mitigating steps, such as rumble strips and flashing stop lights. He noted that a federal infrastructure plan is anticipated, and Council will be updated as information is available.

Mr. Montoya stated that he has discussed the drag racing issue with the Police Chief Nannenga as well as the City Attorney, Nicholle Harris. She is now looking at a recently passed ordinance in Phoenix, but the City will also engage in mitigation techniques.

3. ADJOURNMENT

There being no further business before the Council, Council Member Dennis moved to adjourn the Work Session meeting; Vice Mayor Malone seconded the motion.

Upon vote, the motion was carried unanimously 7 to 0.

Council Member Conde	Aye
Council Member Dennis	Aye
Council Member Kilgore	Aye
Council Member Nielson	Aye
Council Member Pineda	Aye
Vice Mayor Malone	Aye
Mayor Weise	Aye

Meeting adjourned at 7:34 p.m.

A **Regular Meeting** of the City Council of the City of Avondale, Arizona was convened using the Zoom Cloud Meeting platform in open and public session at 7:42 p.m. All participants attended by phone or video.

Mayor Kenn Weise led the Pledge of Allegiance, followed by a moment of silent reflection.

Members Present: Mayor Kenn Weise; Vice Mayor Veronica Malone; Council Members Tina Conde, Pat Dennis, Bryan Kilgore, Curtis Nielson, and Mike Pineda.

Members Absent: None.

Other Municipal Officials Present: Charles Montoya, City Manager; Gina Montes, Assistant City Manager; Tracy Stevens, Deputy City Manager; Cherlene Penilla, Deputy City Manager; Nicholle Harris, City Attorney; Marcella Carrillo, City Clerk; Kirk Beaty, Public Works Director; Ken Chapa, Economic Development Services Director; Lindsey Duncan, Finance and Budget Director; Bryan Hughes, Parks and Recreation Director; Craig Jennings, Judge; Chris Lopez, Neighborhood and Family Services Director; Callie McGraw, Interim Human Resource Director; Kevin Murphy, Development and Engineering Services Director; Dale Nannenga, Police Chief; Abril Ruiz-Ortega, Court Administrator; Jeffrey Scheetz, Chief Information Officer; and Pier Simeri, Marketing and Public Relations Director.

Audience: Approximately 30 members of the public were present.

1. ROLL CALL AND STATEMENT OF PARTICIPATION BY THE CITY CLERK

2. UNSCHEDULED PUBLIC APPEARANCES

- Paul Lemmon, resident of Avondale, spoke regarding the traffic on Garden Lakes Parkway. There was a Garden Lakes Parkway traffic study completed in 2019 that was included in the CIP budget five-year plan as unfunded. The Garden Lakes Safety Committee met recently and the issue of speeding on Garden Lakes has been identified as a top concern. He noted various upgrades completed on behalf of the Homeowners Association. He requested City Council give priority in the 2022 budget for completion of the 5-year project that the City presented. The traffic measures to reduce speeds in this busy corridor are essential for safety and quality of life.
- Michele Canales previously submitted a request to speak but was not present to speak during the meeting.

3. RECOGNITION ITEMS

a. EXCEPTIONAL STUDENT OF AVONDALE RECOGNITION (AVI STAR STUDENT)

The Mayor and City Council will recognize Avondale students from schools located in Avondale for their character and achievement. This item was for discussion only

Christopher Lopez, Neighborhood and Family Services Director, presented the Exceptional Student of Avondale nominations:

- Conner Walker
- Roberto Lopez Jr.
- Margaret Ellis
- Nathan Linley
- Alexander Rickett
- Gavin Aldrich
- Mario Cantu Cazares

Mayor Weise and Councilmembers each took a moment to offer congratulations, advice, and encouragement to the students.

4. CONSENT AGENDA

Items on the consent agenda are of a routine nature or have been previously studied by the City Council at a work session. They are intended to be acted upon in one motion. Council members may pull items from consent if they would like them considered separately.

Mayor Weise asked if any Council Member wished to have an item removed from the Consent Agenda. Having no requests from Council, motion was made by Council Member Pineda, seconded by Council Member Conde, to approve the Consent Agenda.

Upon vote, the motion carried unanimously 7 to 0.

Council Member Conde	Aye
Council Member Dennis	Aye
Council Member Kilgore	Aye
Council Member Nielson	Aye
Council Member Pineda	Aye
Vice Mayor Malone	Aye
Mayor Weise	Aye

a. MINUTES

City Council approved the February 1, 2021 City Council Meeting Minutes.

b. RESOLUTION 1017-0321 - SECOND AMENDMENT TO THE ALAMAR PRE-ANNEXATION DEVELOPMENT AGREEMENT WITH BROOKFIELD LAKIN LLC

City Council adopted Resolution 1017-0321, approving the Second Amendment to the Alamar Pre-Annexation Development Agreement with Brookfield Lakin LLC, which (1) revises the framework for the management of funding responsibilities within the planned Alamar Community Park, (2) adds public wireless fidelity network infrastructure (WiFi) as a required element within the Community park, (3) updates the location of the planned City of Avondale public safety facility within the Alamar master planned community to reflect the location agreed to by the City subsequent to the 2018 Development Agreement approval and authorized the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

c. RESOLUTION 1018-0321 – INTERGOVERNMENTAL AGREEMENT FOR THE CREATION AND PARTICIPATION IN THE WEST VALLEY INVESTIGATIVE RESPONSE TEAM

City Council adopted Resolution 1018-0321 approving an Intergovernmental Agreement with various agencies for the creation and participation in the West Valley Investigative Response Team (WVIRT) and authorized the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

d. SELF-INSURED EMPLOYEE BENEFITS

City Council approved a request from staff to prepare the City to exit the Arizona Metropolitan Trust and initiate its own self-insured employee benefits program.

1) RESOLUTION 1015-0321 - WITHDRAWAL FROM THE ARIZONA METROPOLITAN TRUST

City Council adopted Resolution 1015-0321, authorizing the withdrawal of the City of Avondale's membership in the Arizona Metropolitan Trust and authorized the Mayor, City Manager, City Attorney and the City Clerk to execute the necessary documents.

2) RESOLUTION 1016-0321 - AUTHORIZING THE CITY MANAGER TO ENTER INTO EMPLOYEE BENEFITS CONTRACTS

City Council adopted Resolution 1016-0321, authorizing the City Manager to enter into contracts for the procurement of medical, dental, vision, and life insurance benefits and authorized Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

3) REQUEST FOR POSITIONS IN THE HUMAN RESOURCES AND THE FINANCE AND BUDGET DEPARTMENTS

City Council (a) authorized the addition of three full-time equivalent (FTE) positions to include a Senior Human Resources Benefits Analyst and a Human Resources Benefits Specialist in the Human Resources Department as well as a Senior Budget Analyst in the Finance and Budget Department; (b) and authorized the Mayor, City Manager, and City Clerk to execute the necessary documents.

e. ORDINANCE 2015-0321 - SALE OF REAL PROPERTY LOCATED NEAR AVONDALE BOULEVARD AND VAN BUREN STREET

City Council adopted Ordinance 2015-0321 authorizing the sale of approximately 12.99 acres of real property located at 11348 West Van Buren Street, Avondale, Assessor Parcel Number 102-57-263, and authorized the Mayor or City Manager and City Clerk to execute the necessary documents.

5. REGULAR AGENDA

a. PUBLIC HEARING AND RESOLUTION 1019-0321 - SPECIFIC AREA PLAN FOR OLD TOWN, CASHION, AND LAS LIGAS/RIO VISTA (APPLICATION PL-20-0056)

City Council held a public hearing and consider a request to adopt Resolution 1019-0321 for Application PL-20-0056 Specific Area Plan for Old Town, Cashion, and Las Ligas/Rio Vista. The Plan is to reflect evolving economic development and planning conditions to attract new businesses and residential development to these areas. The intent of the Plan is to reflect the City's current level of expectation for revitalization in the next several years in the three areas.

Jodie Novak, Assistant Director of Development and Engineering Services, stated that the Plan acts as a guidebook to foster opportunities for redevelopment, revitalization, and

new development. It focuses on keeping three areas economically thriving, as the City grows in other areas. The Plan includes district ideas and concepts that focus on the three areas. This is accomplished through gateway intersections and key focus areas. Gateway intersection areas and key focus areas were identified and reviewed. Another component in the Old Town area is an existing zoning overlay, which provides the opportunity for commercial uses on a single-family zoning area. The Plan indicates expansion of this area north and south of Western. This would expand the Old Town area, providing more small business and economic opportunities. Examples were also provided for the Cashion area, including creation of a neighborhood park. In Las Ligas/Rio Vista District, there are no City-owned land available for development. There is a significant amount of vacant areas that are privately owned and zoned for residential purposes. It is hoped that the property owners will be enticed to come in with small and full residential development.

There are heavy restrictions on some of the City-owned properties in the Old Town area. These were purchased via Neighborhood Stabilization Funds through Federal HUD grant funds. The City must follow federal guidelines. The Neighborhood and Family Services Department is working on a Request for Proposal to procure services from a nonprofit to look at how to develop some of the properties in this area.

Some of the placemaking items in the three neighborhoods include signage, marketing/events, and public infrastructure. Development forum predominantly focuses on site/landscape design, building architecture, public art, and beautification. As properties redevelop or new development commences, City staff will work with property owners to ensure development maintains the desired quality. A brief summary of Council comments, public participation, and Board & Committee meetings was provided. The next steps were presented.

Mayor Weise opened the public hearing and received the following requests to speak:

- Robin Velasquez stated that she was commenting on behalf of herself and Laura Gonzales, who both work and live in Old Town Avondale. They have been very involved in the planning process from the beginning. A significant concern is the roundabout concept, noting most people whom she spoke with are against the concept. She suggested a traffic study to compare a light and a roundabout. Gathering places should be monitored and cleaned to avoid situations such as what is currently taking place in front of the library on Western. Also, of concern is the jail location near the new community center. Mayor Weise stated that someone on staff would be in touch with her regarding her concerns.
- Through the Zoom Meeting Platform, the following comment was left by M. Silvas "The Western Light district of old town. Update the lights on shops, etc. Just as Tolleson has done."

Mayor Weise closed the public hearing and opened the floor for comments from Council.

Council Member Pineda stressed the importance of cultivating conditions for the City's individual communities to thrive. The quality of the businesses in Old Town are something for residents to truly appreciate and celebrate. He offered Old Town San Diego as an example of Avondale's Old Town potential. The City should focus on smart growth and avoid disruption to neighborhoods and the traffic flow. It is important to keep Las Ligas and Cashion in the conversation as well, in terms of lighting and outreach to the small businesses. He appreciates the proactive approach of Economic Development and the partnerships being cultivated with business and development.

Council Member Conde thanked staff for its collaborative outreach with the community, as there are generations of families that live in these areas. She appreciates the flexible development standards and the ambassador program, which allows residents and businesses to have input on the process. It would be nice to have consideration for a special name for the shops on Western. The Spanish word for shops is Tiendas so a unique name could be "The Tiendas on Western" or "Old Town Tiendas".

Council Member Nielson commented that this plan is not concrete and can be modified based on need and conditions. Items such as the roundabout can be investigated, and the findings can be shared with residents for input.

Council Member Kilgore stated that since he began on Council in 2014, the residents in these areas have been speaking about the improvements they would like to see and things that have been taken away. He noted that himself, this Council and the previous Council have made an effort to make sure changes were made and improvements were happening. It is positive to see this conversation happening but to know that it is becoming concrete is even better. Vice Mayor Malone and Council Member Pineda are from this area. They have walked these streets, lived in the area and played in the area, so their words have value and weight. He expressed his excitement for what will transpire and noted the echoes of all the Council Members with respect to the conversation by the City going out to the people. Members of the public such as Robin, Laura, Mr. Rogers, Pep Guzman, (former) Mayor Marie Lopez Rogers, and Rose with the Agua Fria School District are all excited about the changes. He noted he is looking forward to getting it right, making a huge difference, and fixing some things. He echoed the comment from Council Member Pineda regarding the appearance of Old Town Tolleson, having a color palette that emulates the City. He expressed his gratitude to staff, Council, and all who have been contributing to making this positive difference.

Council Member Dennis stated that over time, there have been many ideas for the Old Town area, including the arts plan, infrastructure projects, roadway and lighting. She is happy to see the plan expand to some of the neighborhoods in the southern part of the City. She concurred with Council Member Nielson's comments that this is a plan that can be modified over the coming years. She stressed the need for City owned properties and elements to have a higher level of service in terms of maintenance and presentation. In expanding venues for Western Avenue, parking will be a major concern that must be considered in the plan.

Vice Mayor Malone expressed appreciation to staff for the presentation and for consistency of focus and momentum, particularly in consideration of community voices. She also acknowledged that the Plan can be changed and updated. She inquired as to how residents will be informed of such changes. Mr. Montoya stated that any modifications made will go through a process, with public notification and Council input.

Mayor Weise concurred with Council Member Pineda's comparison to Old Town San Diego in terms of the potential. Decisions on potential projects such as the roundabout will not be made in a unilateral fashion. Those who live and work in the area will have strong input into what they want. Thus far, there has been significant public engagement with significant participation in open houses, comments received, and voices heard. He also acknowledged that this cannot revolve solely around Western Avenue, but must also involve Las Ligas and Rio Vista, with investment from the private sector in surrounding neighborhoods. One of the reasons for moving the fire and police station to Western Avenue to the Rio Lopez Rogers complex is to have the opportunity for a large swath of land that could be bid out for development. This would benefit the entire area and bring a diversity of land and business owners. In terms of naming areas, he would like to see the name reflect the historical significance of the area, rather than just a catch phrase. Mr. Montoya agreed that residents, business owners, and property owners must also invest in the community.

Council Member Pineda moved to adopt Resolution 1019-0321 approving Application PL-20-0056 Specific Area Plan for Old Town, Cashion, and Las Ligas/Rio Vista; Vice Mayor Malone seconded the motion. Upon vote, the motion was carried unanimously 7 to 0.

Council Member Conde	Aye
Council Member Dennis	Aye
Council Member Kilgore	Aye
Council Member Nielson	Aye
Council Member Pineda	Aye
Vice Mayor Malone	Aye
Mayor Weise	Aye

6. ADJOURNMENT

There being no further business before the Council, Council Member Dennis moved to adjourn the Regular Meeting; Vice Mayor Malone seconded the motion. Upon vote, the motion was carried unanimously 7 to 0.

Council Member Conde	Aye
Council Member Dennis	Aye
Council Member Kilgore	Aye
Council Member Nielson	Aye
Council Member Pineda	Aye
Vice Mayor Malone	Aye
Mayor Weise	Aye

Meeting adjourned at 8:48 p.m.

Kenn Weise, Mayor

CERTIFICATION AND ATTESTATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Work Session and Regular Meeting of the Council of the City of Avondale held on the 22nd day of March 2021. I further certify that the meeting was duly called and held, and that the quorum was present.

Marcella Carrillo, City Clerk

Date Approved by City Council

CITY COUNCIL REPORT

SUBJECT: Award Authority for Vehicle Maintenance and Repair

MEETING DATE: 5/3/2021

TO: Mayor and Council

FROM: Tony Corsi, Director of Fire and Administration, (623) 333-6100

THROUGH: Dale Nannenga, Public Safety Manager, (623) 333-7207
Gina Montes, Assistant City Manager, (623) 333-1012

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Area:

- Public Health and Safety - Avondale is a city where all people feel safe and secure, relying on trusted public and community-based resources.

The approval of this agenda item will promote Avondale's public health and safety by ensuring the fire apparatus stay operational for emergency response.

PURPOSE:

The City Council will consider a request to increase spending authority for fire apparatus maintenance and repairs in the amount of \$50,000. The Council will take appropriate action.

BACKGROUND:

The Administrative Awards document was approved as part of the FY2021 Adopted Budget and governs the maximum annual spend on certain contracts. If a contract exceeds the amount on the Council approved Administrative Awards document, Council must approve the additional award authority on the contract.

DISCUSSION:

As the Fire and Medical Department's fleet ages, there are fewer vehicles covered under warranty resulting in increases in maintenance and repair costs compared to prior years. In anticipation of these ongoing increases to maintenance and repair costs, the Fire and Medical Department has requested an ongoing increase to the apparatus maintenance and repair budget and spending authority beginning in Fiscal Year 2022. With large repairs occurring so far in Fiscal Year 2021, the increase in contract authority is needed sooner.

Avondale Fire and Medical Department contracts with W.W. Williams to provide maintenance and repair services for fire apparatus to ensure they are operational for emergency response. The annual maximum spend on this contract is governed by the Administrative Awards document, the contract itself does not have an explicit contract maximum. The Administrative Awards document gave Fire and Medical Department a maximum authorization of \$190,500 for Vehicle Maintenance and Repair. The Fire and Medical Department projects potentially needing \$50,000 in additional award authority for FY2021.

BUDGET IMPACT:

This additional amount for the award authority will be covered by savings from other areas of the Fire and Medical Department's Fiscal Year 2021 operating budget.

RECOMMENDATION:

Staff recommends the City Council authorize a increase in spending authority for apparatus maintenance and repairs and authorize staff to execute the necessary documents.

CITY COUNCIL REPORT

SUBJECT: Third Amendment to the Employment Agreement with Charles A. Montoya

MEETING DATE: 5/3/2021

TO: Mayor and Council

FROM: Marcella Carrillo, City Clerk, (623) 333-1214

THROUGH: Cherlene Penilla, Deputy City Manager, (623) 333-1015

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Area:

- Innovative Program and Service Delivery - Avondale will continue to serve as a model of innovative, efficient, and responsive government.

This agenda item supports the strategy to attract, retain, and develop a diverse and competitive workforce to meet the needs of the residents and business community.

PURPOSE:

City Council will consider a request to approve the 3rd Amendment to the Employment Agreement with Charles A. Montoya and authorize the Mayor and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

On May 21, 2018, City Council approved the initial Employment Agreement with Charles A. Montoya and appointed Mr. Montoya as City Manager.

On June 18, 2018, City Council approved an amendment to the Employment Agreement modifying Mr. Montoya's initial start date. Mr. Montoya started with the City of Avondale as City Manager on July 16, 2018.

On November 12, 2019, City Council met in Executive Session pursuant to Arizona Revised Statutes 38-431.03 to discuss the annual evaluation of Mr. Montoya. As a result of the discussion held within Executive Session, City Council approved an amendment to Mr. Montoya's Employment Agreement on November 18, 2019.

On August 24, 2020, City Council approved the second amendment to the Employment Agreement with Mr. Montoya effective July 1, 2020.

DISCUSSION:

On April 19, 2021, City Council met in Executive Session pursuant to Arizona Revised Statutes 38-431.03 to discuss the annual evaluation of Mr. Montoya. As a result of the discussion held within Executive Session, City Council directed Mayor Weise in open session to discuss the terms of a future amendment to Mr. Montoya's Employment Agreement.

The following items are being added for compensation:

- Annual Employee Merit and COLA, recommended to City employees in the 2021-2022 Annual Budget
- An additional \$7,500 annually in employee 401a plan
- Option to allow for the employee to opt into the High Deductible City employee health plan with the annual deduction included in an HSA if employee chooses
- An additional 4 hours of vacation per month (one week per year)

The employee has also asked for the ability to maximize employee deductions according to the IRS rules with no additional compensation. This Amendment will be effective July 1, 2021.

BUDGET IMPACT:

Funding for this agreement is in the City Administrative Office Budget in Fund 101-5100-00-5000 Personnel Services.

RECOMMENDATION:

Staff recommends approval of the amended Employment Agreement with Charles A. Montoya and authorized the Mayor and City Clerk to execute the necessary documents.

**THIRD AMENDMENT TO THE TERMS AND CONDITIONS OF THE AMENDED
AND
RESTATED EMPLOYMENT AGREEMENT DATED JULY 18, 2018**

THIS THIRD AMENDMENT TO THE AMENDED AND RESTATED EMPLOYMENT AGREEMENT (this "Amendment") is made and entered into by and between the City of Avondale, an Arizona municipal corporation (the "City") and Charles A. Montoya ("Montoya") and all terms and conditions set forth herein shall be effective as of July 1, 2021 (the "Effective Date").

RECITALS

- A. The Mayor and Council of the City of Avondale ("City Council") have entered into an Amended and Restated Employment Agreement with Montoya dated June 18, 2018 (the "Agreement") for the provision of the duties and functions of the City Manager, pursuant to the Avondale City Charter and Code and in accordance with Arizona Revised Statutes, Section 9-271; and
- B. The Mayor and the City Council entered into an Amendment to the Agreement, effective July 16, 2019 (the "First Amendment"); and
- C. The Mayor and City Council entered into an Amendment to the Agreement, effective July 1, 2020 (the "Second Amendment"); and
- D. It is the City Council's desire that Montoya continue his employment and role as City Manager; and
- E. Montoya desires to continue his employment and role as City Manager of the City; and
- F. The City Council and Montoya desire to amend the Agreement (the "Third Amendment") to set forth the percentage of the merit increase and market adjustment and/or cost of living increase Montoya shall receive for Fiscal Year 2021-2022 and benefits effective as of July 1, 2021; and
- G. The City Council and Montoya desire that the terms and conditions of this Third Amendment be effective as of July 1, 2021.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and recitals, which are hereby incorporated into and are deemed an integral part of this Amendment, the Amended and Restated Employment Agreement dated July 18, 2018, the First Amendment and the Second Amendment, the City, acting through the City Council, and Montoya hereby agree to amend the Agreement as follows:

1. This Third Amendment shall be effective July 1, 2021.

2. Section 6.1 of the Agreement shall be amended to add the following:

For the 2021-2022 Budget Year, this percentage adjustment/increase shall be 2.5% of Montoya's 2020-2021 base salary and 2.5% of Montoya's 2020-2021 base salary for market adjustment and/or cost of living increase, as other City employees to be adopted in the 2021-2022 annual budget.

In addition, should Montoya opt for the Health Savings Account ("HSA") benefit offered by the City, the City shall pay Montoya as part of his compensation an additional amount equal to the maximum allowed by the Internal Revenue Code through the term of the Agreement and as adjusted from time to time. Such additional compensation shall be payable in one installment at the end of the first pay period after July 1, 2021, and each calendar year after and applied to his HSA account.

3. Section 6.3(B) of the Agreement shall be amended to add the following at the beginning of the section:

The City shall increase Montoya's annual compensation in an amount equal to the amounts contributed to Montoya's current ICMA-RC 457 plan account as set forth in Sections 6.3(B) as amended by this Third Amendment, to allow for Internal Revenue Code benefit deductions **with no additional increase in total compensation and benefits.**

4. Section 6.3(C) of the Agreement shall be amended to increase the maximum amount of annual contribution by the City to an additional \$7,500 and to provide for payment to Montoya as compensation, to allow for Internal Revenue Code benefit deductions from compensation paid to Montoya.
5. Section 6.6 of the Agreement shall be amended to add an additional four (4) hours of vacation leave per month in addition to what Montoya is currently receiving.
6. Except as amended hereby, all of the terms and conditions of the Amended and Restated Employment Agreement dated June 18, 2018, as amended by the First Amendment and the Second Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment on the day and year first set forth above.

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

CITY OF AVONDALE, an Arizona
municipal corporation

Charles A. Montoya, City Manager

Kenneth N. Weise, Mayor

APPROVED AS TO FORM:

Susan Segal

ATTEST:

Marcella Carrillo, City Clerk

CITY COUNCIL REPORT

SUBJECT: Resolution 1023-0521 - First Things First Grant Renewal

MEETING DATE: 5/3/2021

TO: Mayor and Council

FROM: Chris Lopez, Neighborhood Family Services Director, 623 333 2711

THROUGH: Cherlene Penilla, Deputy City Manager, (623) 333-1015

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

Connected Community

PURPOSE:

City Council will consider a request to adopt Resolution 1023-0521 authorizing the grant agreement with the First Things First Southwest Maricopa Regional Partnership Council to receive \$200,000 in funding and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

The Arizona Early Childhood Development and Health Board, known as First Things First, is a State agency established by voter initiative to support a voluntary system of early care and education. The objective is to provide an array of education and health programs for families with children from birth to five years of age. The Southwest Maricopa Regional Partnership Council represents Avondale and the surrounding communities, and is charged with making strategy and funding recommendations to the First Things First Board.

DISCUSSION:

The scope of work for the grant addresses the priority areas of the Regional Council and enhances the services provided at the Arizona Complete Health Avondale Resource Center. The Center connects families to services that support parents, early childhood care and education, housing and health services. Avondale staff provide information and referrals for families and also conduct outreach efforts to educate the public and organizations that serve families at the center. The grant agreement provides an award amount of up to \$200,000.

BUDGET IMPACT:

No matching funds are required to receive this grant, and the General Fund will not be impacted.

Grant appropriations are included in the FY2022 adopted budget in various line-items in Fund/Division 209-7554.

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution 1023-0521 authorizing the grant agreement with First Things First Southwest Maricopa Regional Partnership Council to receive \$200,000 in funding and authorize the Mayor, City Manager and City Clerk to execute necessary documents.

RESOLUTION NO. 1023-0521

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN AMENDMENT TO THE GRANTEE AGREEMENT WITH FIRST THINGS FIRST, SOUTHWEST MARICOPA REGIONAL PARTNERSHIP COUNCIL RELATING TO SERVICES AT THE CITY OF AVONDALE FAMILY RESOURCE CENTER.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. The Amendment to the Grantee Agreement with First Things First, Southwest Maricopa Regional Partnership Council, Arizona Early Childhood Development and Health Board relating to services at the City of Avondale Family Resource Center (the “Amendment”) for fiscal year 2021-2022 is hereby approved in substantially the form and substance attached hereto as Exhibit A and incorporated herein by this reference.

SECTION 2. The Mayor, the City Manager, the City Clerk, and the City Attorney are hereby authorized and directed to take all steps necessary to cause the execution of the Amendment and to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona, May 3, 2021.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 1023-0521

[Amendment]

See following pages.



4000 North Central Avenue, Suite 800, Phoenix, Arizona 85012
602.771.5100 | 877.803.7234 | firstthingsfirst.org

Notice of Renewal Consideration

DATE: March 15, 2021

TO: City of Avondale
Attn: Chris Lopez
clopez@avondaleaz.gov

FROM: Michelle Neitch, Fiscal Specialist

RE: Grant Renewal Information for State Fiscal Year 2022 (SFY22)

The following First Things First grant is eligible for renewal consideration. Receipt of this packet does not guarantee renewal of the grant award but if renewed, the award period for your SFY22 grant will be July 1, 2021 through June 30, 2022.

Grantee Name:	City of Avondale
SFY21 FTF Grant Number:	GRA-RC007-19-0959-01-Y3
Lead Strategy:	Family Resource Centers
Non-Lead Strategies:	
Eligible Renewal Amount for SFY22:	\$200,000

The renewal packet includes the following documents:

1. Grant Renewal Amendment

Confirm the eligible award amount and contracted service units on the form.

2. Line-Item Budget and Budget Narrative

The SFY22 Line-Item Budget and Budget Narrative should continue to align with the approved SFY21 Line-Item Budget and Budget Narrative and the scope of the approved programming.

3. Program Personnel Table

Complete the table with the personnel that align with the SFY22 Line-Item Budget and Budget Narrative.

Follow Up Action Necessary

Please complete all documents; have your designated signatory sign the amendment, line-item budget, and budget narrative; and then scan/email all items back to me by **April 9, 2021**. Electronic submission to mneitch@firstthingsfirst.org is preferred, but if sending by standard mail, please send to my attention, First Things First, 4000 N. Central Avenue, Suite 800, Phoenix, AZ 85012.

If the renewal is approved by the Board of First Things First at the June 2021 meeting, First Things First will countersign the amendment document and scan/email it back for your records.



4000 North Central Avenue, Suite 800, Phoenix, Arizona 85012
602.771.5100 | 877.803.7234 | firstthingsfirst.org

Reminders

Grantees must always adhere to the latest version of the Standards of Practice which can be located in the Strategy Toolkit, www.firstthingsfirst.org/grants/strategy-toolkit and related policy documents that apply to this grant. Additional policy/grant-related documents (FTF Grants Uniform Terms and Conditions, FTF Data Security Policy and Procedures, and the FTF Tribal Data Policy) are located under Grantee Resources, www.firstthingsfirst.org/grants/grantee-resources.

SFY22 Data Template Training

If refresher data template training is needed for SFY22, please contact the FTF Evaluation team to schedule, ftfevaluation@firstthingsfirst.org.

Closing out SFY21

Your current grant ends June 30, 2021. Final narrative and data reports must be submitted on or before July 20, 2021 and your final request for reimbursement must be submitted no later than August 16, 2021 (45 days from the grant end date.) Unexpended funds from SFY21 do not carry over to SFY22.

If you have any questions, please contact Michelle Neitch at mneitch@firstthingsfirst.org.

Thank you.

 FIRST THINGS FIRST	Grant Renewal Amendment	Early Childhood Development and Health Board (First Things First) 4000 North Central Avenue, Suite 800 Phoenix, Arizona 85012 (602) 771-5100
	Grant Renewal/2022 Grant Award GRA-RC007-19-0959-01-Y4 Southwest Maricopa Regional Partnership Council Family Resource Centers	

CONTRACTOR:

City of Avondale

PURPOSE OF AMENDMENT:

1. Pursuant to the Special Terms and Conditions, Contract Renewal, for the above referenced grant award, the State of Arizona hereby exercises its sole option to renew the grant award number referenced above. The renewal award period is **July 1, 2021** through **June 30, 2022**.
2. Total award amount for the grant period is \$200,000
3. Contracted Service Units:
Lead Strategy:
Family Resource Centers
Number of families referred to services: 1,100
Number of parenting activities held: 200
4. The grantee is responsible for all updated Standards of Practice located in the First Things First Partner and Grant Management System (PGMS) under Grantee Resources/Standards of Practice.
5. All other terms and conditions remain unchanged and are according to the original award documents, clarification documents and renewal submission documents.

Contractor hereby acknowledges receipt and understanding of the contract amendment

Signature

Name

Title

Date

The above referenced amendment is hereby executed effective July 1, 2021 once signed and dated below:

Josh Allen
CFO/COO

Date

Line-Item Budget and Budget Narrative

SFY22 Line-Item Budget

Budget period: July 1, 2021 – June 30, 2022

Budget Category	Line Item Description	Requested Funds	Total Cost
PERSONNEL SERVICES		Personnel Services Sub Total	\$111,494
Salaries	Family Education Specialist- 1.0 FTE Family Education Assistant -1.0 FTE	\$63,271 \$48,223	
EMPLOYEE RELATED EXPENSES		Employee Related Expenses Sub Total	\$28,564
Fringe Benefits or Other ERE	Family Education Specialist Family Education Assistant	\$17,083 \$11,481	
PROFESSIONAL AND OUTSIDE SERVICES		Professional & Outside Services Sub Total	\$11,900
Contracted Services	Avondale Family Education and Resource Program (AFERP)	\$11,900	
TRAVEL		Travel Sub Total	\$0
In-State Travel Out-of-State Travel		\$0	
AID TO ORGANIZATIONS OR INDIVIDUALS		Aid to Organizations or Individuals Sub Total	\$0
Subgrants or Subcontracts to organizations/agencies/entities		\$0	
OTHER OPERATING EXPENSES		Other Operating Expenses Sub Total	\$47,242
• Telephones/Communications Services • General Office Supplies • Food • Dues/Subscriptions • Advertising • Professional Development (Staff Training, Conferences, Workshops, Training Fees for Staff) • Program Materials • Program Supplies • Program Incentives • Software	• Cell Phones • General Office Supplies • Meeting Expenses/Food • Online Curriculum • Marketing/Advertising • Professional Development/Staff Training • Program Materials • Educational/Other Supplies • Program Incentives • Software Fee	\$2400 \$1000 \$1800 \$1100 \$1000 \$1200 \$21,500 \$12,742 \$4500 \$600	
NON-CAPITAL EQUIPMENT		Non-Capital Sub Total	\$800
Equipment \$4,999 or less in value	• Computer	\$800	
Subtotal Direct Program Costs:			\$
ADMINISTRATIVE/INDIRECT COSTS		Total Admin/Indirect	\$
Indirect/Admin Costs		\$	\$
Total		\$200,000	\$200,000

Authorized Signature _____ Date _____

SFY22 Budget Narrative

The budget narrative should provide a clear and concise description of how amounts were determined, including calculations, for each proposed line item in the Line-Item Budget. If a budget category does not apply, either leave blank or delete the category.

Personnel Services: *Include information such as position title(s), name of employee (if known), salary, time to be spent on this program (hours or %), number of months assigned to this program, etc. Explain how the salary rate for each position was determined. If salaries are expected to increase during the program year, indicate the percentage increases for each position and justify the percent of the salary increase.*

Family Education Specialist: This is a twelve-month position and is currently filled by Juan Marquez and represents a 1.0 full-time equivalent (FTE) which will be 100% dedicated to First Things First programming. This staff member's current hourly rate is \$29.54 for a total of \$60,261.60 annually. A total of \$63,271 is budgeted for the next fiscal year which includes a 5% pay grade increase. The increase falls in line with the City of Avondale's policy of giving their employees an annual merit increase of 5% each year.

Family Education Assistant: This is a twelve-month position and is currently filled by Maria Mosqueira and represents a 1.0 full-time equivalent (FTE) which will be 100% dedicated to First Things First programming. This staff member's current hourly rate is \$22.51 for a total of \$45,926.40 annually. A total of \$48,223 is budgeted for the next fiscal year which includes a 5% pay grade increase. The increase falls in line with the City of Avondale's policy of giving their employees an annual merit increase of 5% each year.

Employee Related Expenses: *Include a benefit percentage and what expenses make up employee benefit costs. Indicate any special rates for part-time employees, if applicable. Explain how the benefits for each position were determined. If using a fringe benefit rate, explain how this percentage is justified or approved by your agency/organization.*

Family Education Specialist: Actual benefit costs were used to estimate expenses for the next grant period. The components included are Health, Dental, OASDI, Medicare, Disability, Retirement and Life Insurance for a total of \$17,083. This amount is based on the City of Avondale calculation of employee related expenses.

Family Education Assistant: Actual benefit costs were used to estimate expenses for the next grant period. The components included are Health, Dental, OASDI, Medicare, Disability, Retirement and Life Insurance for a total of \$11,481. This amount is based on the City of Avondale calculation of employee related expenses.

Professional and Outside Services: *If professional consultants/services costs are proposed in the budget, define how the costs for these services were determined and the justification for the services related to the program. Explain how all contracts will be procured.*

Avondale Family Education and Resource Program (AFERP): A total of **\$11,900** is budgeted for program services around the delivery of resources, referrals and parenting activities for families with children birth to age five. The amount was determined based on past experiences in hiring qualified consultants for services of a similar nature. The types of workshops and services provided include but are not limited to early language and literacy, discipline, brain development, kindergarten readiness, health, nutrition and child safety (ex. Raising A Reader and Arizona Science Center). All contractors will be subject to the First Things First Standards of Practice and contracts will be procured through the City of Avondale's procurement policies and procedures.

Travel: *Separate in-state and out-of-state travel. Include a detailed breakdown of hotel, transportation, meal costs, etc. Indicate the location(s) of travel, the justification for travel, how many employees will attend and how the estimates have been determined. Applicants **must** use the State of Arizona Travel Policy on rates limitations for mileage, lodging, and meals (<https://qao.az.gov/travel/welcome-qao-travel>) for both in-state and out-of-state travel.*

N/A

Aid to Organizations or Individuals: *In the event that this application represents collaboration and you will be utilizing subcontractors (including subgrantees) to perform various components of the program, include a list of subcontractors, programmatic work each subcontractor will perform, and how costs for each subcontractor are determined.*

N/A

Other Operating Expenses: *Explain each item to be purchased, how the costs were determined and justify the need for the items. All purchases should be made through competitive bid or using established purchasing procedures. Items can only be categorized in the following line items: Telephones /Communications Services, Internet Access, General Office Supplies, Food, Rent/Occupancy, Utilities, Furniture, Postage, Software (including IT supplies), Dues/Subscriptions, Advertising, Printing/Copying, Equipment Maintenance, Professional Development (Staff Training, Conferences, Workshops, and Training Fees for Staff), Insurance, Program Materials, Program Supplies, Scholarships, and Program Incentives.*

Telephone/Communications Services – Cell Phone: Cell phone allowance is calculated at \$100 per month for 12 months for each staff member (x2) for a total of **\$2400**. This amount is based on the City of Avondale’s cell phone stipend policy.

General Office Supplies: This line item will provide for office items generally used, including business card holders, pens/pencils, paper clips, paper goods, desk organizers/storage, highlighters, clipboards, correction tape, personal protection equipment (gloves, mask, face shields, etc.), hand sanitizer, disinfectant spray for a total of **\$1000**. This amount is based on the current actual costs of these supplies.

Food – Meetings Expenses/Food: This line item will provide for meeting expenses, primarily for community events, workshops, and networking meetings held at the Resource Center for a total of **\$1800**. This allows for 4 events at a cost of approximately \$250 per event as well as a series of smaller events at a lower cost. Funds will also allow for partner/networking meetings expenses along with food and/or snacks for parenting activities and workshops.

Dues/Subscriptions: This line item will provide for a subscription to an online early childhood curriculum. The online curriculum will be utilized to provide in-person and online training sessions. Monthly and/or weekly events will integrate this online curriculum as an evidence-based informative source. The annual subscription costs are a total of **\$1700**.

Advertising – Marketing/Advertising: A total of **\$1000** is budgeted to purchase collateral materials for outreach and promotion of the Resource Center. This amount will include items that will need to be repurchased due to the rebranding and location change of the resource center. The budget amount is based on the contracted rate with the printer under contract with the City of Avondale.

Professional Development/Staff Training: A total of **\$1200** is budgeted for registration fees for the First Things First Summit in August 2021, as well as any miscellaneous professional development and training opportunities that may become available during the fiscal year. Two (2) FTE, FTF-funded City of Avondale/Resource Center staff will attend the FTF Summit and any additional training opportunities. This amount will also include the cost of recertification for the National Child Passenger Safety Certification of one (1) FTF-funded staff and any additional certifications that become available during the fiscal year.

Program Materials: A total of **\$21,500** is budgeted to purchase materials for workshops, events and programs aimed at promoting early childhood health, development and safety. The funds will cover child safety/health items such as car seats, CPR/First Aid training materials and certificates, parent workshops consumables (workbooks, completion certificates, hand-out materials, etc.), personal hygiene items such as diapers/pull-ups,

wipes, and personal hygiene products (baby wash, lotion, hand soap, shampoo, feminine hygiene products, etc.) and decorations and crafting supplies for parenting activities and events.

Program Supplies – Educational/Other Supplies: A total of **\$12,742** is budgeted to purchase age-appropriate educational items and program supplies for families and children to use while visiting and/or attending events at the Resource Center. Items to be purchased include developmental and sensory toys/manipulatives including blocks, puzzles, dolls/puppets, art supplies (crayons, markers, child scissors, child aprons, activity books, construction paper, pom poms, glitter, paper plates, ribbons, streamers, stickers, etc.) and serving utensils (such as spoons, forks, napkins, trays, cups and containers).

Program Incentives: A total of **\$4500** is budgeted to purchase incentives for participation in workshops, events and programs held at the Resource Center. Incentives will include books, developmental, educational, and personal hygiene items such as diapers/pull-ups, wipes, and personal hygiene products (baby wash, lotion, hand soap, shampoo, feminine hygiene products, etc.). Families who attend activities and programs will be able to access these services. This will serve the dual purpose of outreach and awareness for the Resource Center as well as promoting early literacy and early childhood development.

Non-Capital Equipment: *For items with a unit cost less than \$5,000 and an initial estimated useful life beyond a single year, explain each item to be purchased, how the costs were determined and justify the need for the items. All purchases should be made through competitive bid or using established purchasing procedures. For example, items such as computers, printers, projectors, etc. each with a unit cost less than \$5,000.*

Computers: A total of **\$800** is budgeted to purchase a laptop computer. The cost is determined by the current City of Avondale technology costs.

Administrative/Indirect Costs: *Administrative costs are general or centralized expenses of overall administration of an agency/organization that receives grant funds and does not include particular program costs. Such costs are generally identified with the agency/organization's overall operation and are further described in 2 CFR 220, 2 CFR 225, and 2 CFR 230.*

Indirect costs are costs of an organization that are not readily assignable to a particular program, but are necessary to the operation of the organization and the performance of the program. The cost of operating and maintaining facilities, depreciation, and administrative salaries are examples of the types of costs that are usually treated as indirect.

Applicants must list either Option A or Option B and provide proper justification for expenses included:

- ☐ **Option A - Administrative Costs:** *With proper justification, applicants may include an allocation for administrative costs for up to 10% of the total direct costs requested of the grant request. Administrative costs may include allocable direct charges for: costs of financial, accounting, auditing, contracting or general legal services; costs of internal evaluation, including overall management improvement costs; and costs of general liability insurance that protects the agency/organization(s) responsible for operating a program, other than insurance costs solely attributable to the program. Administrative costs may also include that portion of salaries and benefits of the program's director and other administrative staff not attributable to the time spent in support of a specific program.*

OR

- ☐ **Option B - Federally Approved Indirect Costs:** *If your agency/organization has a federally approved indirect cost rate agreement in place, applicants may include an allocation for indirect costs for up to 10% of the direct costs. Applicants must provide a copy of their federally approved indirect cost rate agreement.*

Authorized Signature _____ Date _____



Program Personnel Table

Key Personnel - those individuals directly responsible for program implementation/services and are fully or partially funded through the proposed program.				
Name/ Position Title	Background/Expertise* Must include qualifications that align with the Standards of Practice (SOP)	Key Roles and Responsibilities	Meets the SOP Staffing Qualifications Yes/No**	FTEs funded through the program
Juan Marquez / Family Education Specialist	Juan holds a Bachelor of Arts in Elementary Education and has over ten years of experience working with families with children 0 to 5 years of age. Juan's experience includes working at the Benevilla Family Resource Center, a First Things First-funded Resource Center in the NW Maricopa Region as well as with Arizona First Things First. Juan currently is the Family Education Specialist at the Arizona Complete Health Avondale Resource Center. Juan brings expertise in early childhood development, workshop facilitation, information and referral services, outreach and awareness and is fluent in both English and Spanish.	Conducts outreach to external agencies (non-profit, governmental, school districts, childcare centers, etc.) providing services to families with children 0 to 5 years of age, with an emphasis on those funded by First Things First. Assures that external agencies are aware of the Family Resource Center and that staff at the Resource Center is familiar with the gamut of services available to families with young children. Develops and maintains regular system of communication with external agencies and facilitates use of the Center by those agencies. Works closely and in conjunction with a variety of community leaders, healthcare providers, educational institutions, and other organizations to develop and maintain strong understanding and support of program initiatives. Coordinates early childhood programming, parent resources and events at the Resource Center. Works with families with young children to help them access services through the Resource Center and other human services providers. Implements and facilitates developmental and sensory screenings, car seat education classes, and parent education workshops. Facilitates parent/family referrals	Yes	1.0

		to First Things First-funded agencies and other agencies providing services to families with young children. Provides extra support for families with young children in special need of assistance in accessing services to support their needs. Collects and reports data to First Things First and other funding partners on a quarterly basis and to other Resource Center stakeholders on a monthly basis. Is responsible for submitting grant applications and renewals to First Things First. Manages the First Things First budget and expenditures.		
<i>Maria Mosqueira / Family Education Assistant</i>	Maria holds a Bachelor of Science degree in Psychology with a Minor in Health and Wellness Coaching from Northern Arizona University. She has over eleven years of experience working with families with children 0 to 5 years of age. Her experiences include working as a Family Support Specialist for the Early Head Start and Head Start programs for both Southwest Human Development and the City of Phoenix. Maria has experience in providing information and referral services, outreach and awareness activities and has a wealth of knowledge in early childhood development and education. Maria is fluent in both English and Spanish.	The Family Education Assistant provides outreach for the Arizona Complete Health Avondale Resource Center and early childhood program coordination in the Resource Center and in the First Things First, Southwest Maricopa Region. Duties include building partnerships with early childhood and community service providers, assisting families in finding and applying for services, referrals to community resources, and collaborating with city departments, local schools, libraries and community organizations. Essential duties include: Coordinating early childhood programming at the Resource Center and in the community. Implement and co-facilitate developmental and sensory screenings and car seat education classes. Collaborating with service providers, schools, and libraries to provide community awareness on early childhood topics. Provides a culturally diverse, family-centered environment that provides information and referral services to residents of the community. Assists with providing accurate and timely data reporting to First Things First and other funders. Provides	Yes	1.0

		support to other related department projects and activities.		
<i>Jerie Guajardo</i> <i>Family Services Manager</i>	Jerie has 20 years of experience working with children, youth, families and communities. Experience includes behavioral health, counseling, case management, education, program development and youth development. Holds a Bachelor of Science degree in Human Services with an emphasis in early childhood education and management.	Manage the Family Services Division which includes the Arizona Complete Health Avondale Resource Center and directly supervises both FTF funded staff members.	Yes	0.0
Additional Personnel - those individuals partially funded through the proposed program but who do not directly implement or have direct program oversight of the program.				
Program Total:				

* Resumes and/or job descriptions for key personnel may be requested at any time but unless otherwise indicated, they do not need to be submitted.

** By signing this document, I assure that all key personnel meet the Personnel/Staff Qualifications outlined in the FTF Standards of Practice or if any personnel do not meet the Staff Qualification standards, they have been approved through the FTF Request for Exemption from Staff Qualification process prior to hire.

Name/Title

Date

CITY COUNCIL REPORT

SUBJECT: Resolution 1024-0521 - Intergovernmental Agreement with Maricopa County For Improvements to Lower Buckeye Road From El Mirage Road to 125th Avenue

MEETING DATE: 5/3/2021

TO: Mayor and Council

FROM: Kevin Murphy, Development and Engineering Services Director, (623) 333-4011

THROUGH: Tracy Stevens, Deputy City Manager, (623) 333-1014

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

Initiative: Foster Sustainable Community Development

Goal: Maintain and Expand Quality Infrastructure and Improve Connectivity to City Amenities

PURPOSE:

City Council will consider a request to adopt Resolution 1024-0521 approving an Intergovernmental Agreement with Maricopa County for the construction of a asphalt sidewalk on Lower Buckeye Road from EL Mirage Road to 125th Avenue, and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

Lower Buckeye Road from El Mirage Road to 125th Avenue is a paved arterial roadway that is located in unincorporated Maricopa County. The roadway is bordered on the south and north by the City of Avondale. The proposed project is to construct a 5' wide asphalt sidewalk, 3" thick, placed on existing prepared surface. The sidewalk will be constructed on the south side of the Road and total cost of construction is expected to be \$50,000. The western terminus is the Southeast corner of Lower Buckeye and 125th Avenue. The eastern terminus will tie into the existing Circle K asphalt pavement, located approximately 150 LF west of the El Mirage curb line.

DISCUSSION:

City staff have discussed proposed sidewalk construction for this Lower Buckeye Road with MCDOT, and the County has agreed to allow the City to install the proposed improvements on Lower Buckeye Road, which is under their jurisdiction, and has agreed to reimburse the City for the 50% cost of construction of said improvements up to \$25,000. The City will be responsible for maintenance and operation of this sidewalk.

The new sidewalk will provide pedestrian connection from Circle K to transit stand that is located east of 125th Avenue intersection.

BUDGET IMPACT:

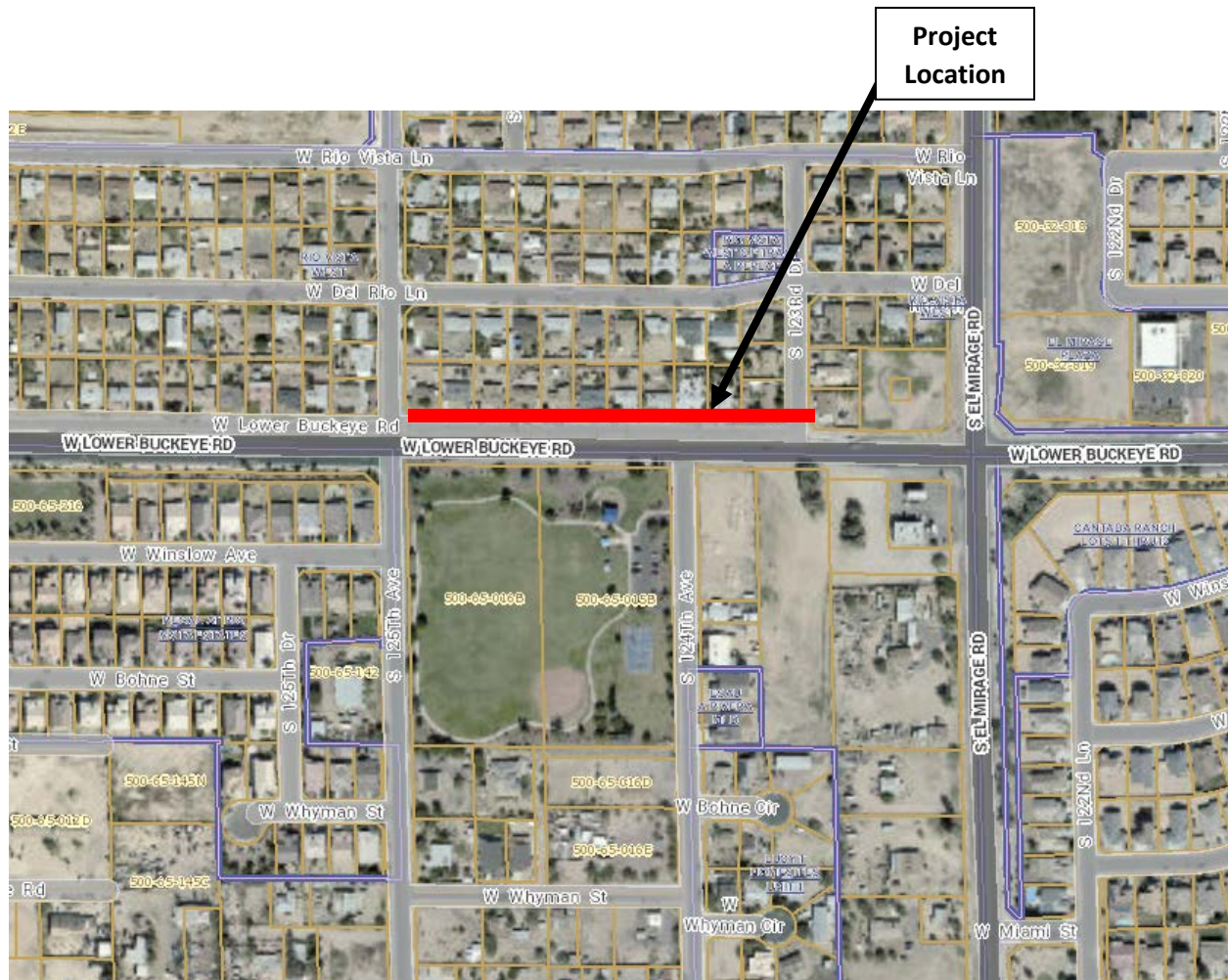
The cost of construction of the proposed asphalt sidewalk will be funded from the Traffic Safety Enhancements project, which has appropriation in FY2021. The City will be reimbursed up to \$25,000 towards the cost by MCDOT.

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution 1024-0521 authorizing an Intergovernmental Agreement (IGA) between the City of Avondale and Maricopa County for the construction of a asphalt sidewalk on Lower Buckeye Road from EL Mirage Road to 125th Avenue, and authorize the Mayor and City Clerk to execute the necessary documents.



**LOWER BUCKEYE SIDEWALK
BETWEEN EL MIRAGE ROAD AND 125TH AVENUE**



RESOLUTION NO. 1024-0521

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY RELATING TO IMPROVEMENTS TO LOWER BUCKEYE ROAD FROM EL MIRAGE ROAD TO 125TH AVENUE.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. The Intergovernmental Agreement with Maricopa County, relating to improvements to Lower Buckeye Road from El Mirage Road to 125th Avenue (the “Agreement”), is hereby approved in substantially the form and substance attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps necessary to cause the execution of the Agreement and to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona May 3, 2021.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 1024-0521

[Agreement]

See following pages.

INTERGOVERNMENTAL AGREEMENT
BETWEEN MARICOPA COUNTY
AND THE CITY OF AVONDALE
FOR IMPROVEMENTS TO: LOWER BUCKEYE ROAD
FROM EL MIRAGE ROAD TO 125TH AVENUE
(TT 0700)
(C-64-21-_____ -X-00)

This Intergovernmental Agreement (**Agreement**) is between the County of Maricopa, a political subdivision of the State of Arizona (**County**), and the City of Avondale, a municipal corporation (**City**). The County and City are collectively referred to as the **Parties** or individually as a **Party**.

STATUTORY AUTHORIZATION

1. The County is authorized, pursuant to Arizona Revised Statutes (**A.R.S.**) § 11-251 and §§ 28-6701 *et. seq.*, to lay out, maintain, control and manage public roads within the County.
2. Public agencies are authorized, pursuant to A.R.S. §§ 11-951 *et. seq.*, to enter into Intergovernmental Agreements for the provision of services or for joint or cooperative action.
3. The City is authorized, pursuant to A.R.S. § 9-240 and §§ 9-276 *et. seq.*, to lay out and establish, regulate and improve streets within the City and to enter into this Agreement.

BACKGROUND

4. Lower Buckeye Road from El Mirage Road to 125th Avenue is a paved arterial roadway that is located in unincorporated Maricopa County. The roadway is bordered on the south and north by the City of Avondale.
5. The proposed project is to construct a 5' wide asphalt sidewalk, 3" thick, placed on existing prepared surface. The western terminus is the SE corner of Lower Buckeye and 125th Avenue. The eastern terminus will tie into the existing Circle K asphalt pavement, located approximately 150 LF west of the El Mirage curb line. (**Project**).

PURPOSE OF THE AGREEMENT

6. The purpose of this Agreement is to identify and define the responsibilities of the County and City for the Project, including but not limited to cost sharing, design, permitting, environmental clearance, right-of-way acquisition, utility relocation, construction and construction management, and annexation of the roadway.

TERMS OF THE AGREEMENT

7. The City shall:

- 7.1 Act as the lead agency for all aspects of the Project.
- 7.2 Plan and construct the Project to City standards, including compliance with all ADA requirements.
- 7.3 Not prepare sealed plans but shall include representatives from the County in the pre-construction meeting with their contractor.
- 7.4 Be responsible for 50% of the Project costs, as well as 50% of any costs of a future project to provide a permanent pedestrian access along this alignment. Project costs are currently estimated not to exceed \$50,000.
- 7.5 Invoice the County for 50% of the Project costs upon completion of the Project. Completion of the project is anticipated in FY 21.
- 7.6 Apply to the County for no-cost permits for any necessary Project related work performed within County jurisdiction.
- 7.7 Be responsible and assume liability for the planning, permitting, construction, inspection, operation, maintenance, and repair for all the components of the Project while the area remains under County jurisdiction.

8. The County shall:

- 8.1 Be responsible for 50% of the Project costs, as well as 50% of any costs of a future project to provide a permanent pedestrian access along this alignment. Project costs are currently estimated at \$50,000.
- 8.2 Pay the invoice from the City for 50% of the Project costs within thirty (30) days of receipt.
- 8.3 Issue no-cost permits to the City for any necessary Project related work performed within County jurisdiction.

GENERAL TERMS AND CONDITIONS

9. To the extent permitted by law, each Party will indemnify, defend and save the other Party harmless, including any of the Party's departments, agencies, officers, employees, elected officials or agents, from and against all loss, expense, damage or claim of any nature whatsoever which is caused by any activity, condition or event arising out of the negligent performance or nonperformance by the indemnifying Party of any of the provisions of this Agreement. By entering into this Agreement, each Party indemnifies the other against all liability, losses and damages of any nature for or on account of any injuries or death of persons or damages to or destruction of property arising out of or in any way connected with the performance or nonperformance of this Agreement, except such injury or damage as shall have been caused or contributed to by the negligence of that other Party. The damages which are the subject of this indemnity shall include but not be limited to the damages incurred by any Party, its departments, agencies, officers, employees, elected officials or agents. In the event of an action, the damages which are the subject of this indemnity shall include costs, expenses of litigation and reasonable attorney's fees.
10. This Agreement shall become effective as of the date it is approved by the governing bodies of the Parties and remain in full force and effect until all stipulations previously indicated have been satisfied, except that it may be amended upon written Agreement by all Parties.
11. This Agreement shall be subject to the provisions of A.R.S. § 38-511.
12. The Parties warrant that they are in compliance with A.R.S. § 41-4401 and further acknowledge that:
 - 12.1 Any contractor or subcontractor who is contracted by a Party to perform work on the Project shall warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214(A), and shall keep a record of the verification for the duration of the employee's employment or at least three (3) years, whichever is longer.
 - 12.2 Any breach of the warranty shall be deemed a material breach of this agreement of which breaching party may be liable for penalties including termination of the agreement.
 - 12.3 The Parties retain the legal right to inspect the papers of any contractor or subcontractor employee who works on the Project to ensure that the contractor or subcontractor is complying with the warranty above and that the contractor agrees to make all papers and employment records of said employee available during normal working hours in order to facilitate such

an inspection.

- 12.4 Nothing in this Agreement shall make any contractor or subcontractor an agent or employee of the Parties to this Agreement.
13. Any contractor or subcontractor who engages in for-profit activity and has 10 or more employees, if the value of the contract is a minimum of \$1,000,000, certify it is not currently engaged in, and agrees for the duration of this Agreement to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.
14. Each Party to this Agreement warrants that neither it nor any contractor or vendor under contract with the Party to provide goods or services toward the accomplishment of the objectives of this Agreement is suspended or debarred by any federal agency which has provided funding that will be used in the Project described in this Agreement.
15. Each of the following shall constitute a material breach of this Agreement and an event of default ("Default") hereunder: A Party's failure to observe or perform any of the material covenants, conditions or provisions of this Agreement to be observed or performed by that Party ("Defaulting Party"), where such failure shall continue for a period of thirty (30) days after the Defaulting Party receives written notice of such failure from the non-defaulting Party provided, however, that such failure shall not be a Default if the Defaulting Party has commenced to cure the Default within such thirty (30) day period and thereafter is diligently pursuing such cure to completion, but the total aggregate cure period shall not exceed ninety (90) days unless the Parties agree in writing that additional time is reasonably necessary under such circumstances to cure such default. In the event a Defaulting Party fails to perform any of its material obligations under this Agreement and is in Default pursuant to this Section, the non-defaulting Party, at its option, may terminate this Agreement. Further, upon the occurrence of any Default and at any time thereafter, the non-defaulting Party may, but shall not be required to, exercise any remedies now or hereafter available to it at law or in equity.
16. All notices required under this agreement to be given in writing shall be sent to:
- County:
- Maricopa County Department of Transportation
Attn: Intergovernmental Relations Branch
2901 W. Durango Street
Phoenix, Arizona 85009
- City:

City of Avondale
Attn: City Manager
11465 West Civic Center Drive
Avondale, AZ 85323

All notices required or permitted by this Agreement or applicable law shall be in writing and may be delivered in person (by hand or courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, and shall be deemed sufficiently given if served in a manner specified in this paragraph. Either Party may by written notice to the other specify a different address for notice. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail, the notice shall be deemed given 72 hours after the notice is addressed as required in this paragraph and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given 24 hours after delivery of the notice to the Postal Service or courier.

17. This Agreement does not imply authority to perform any tasks, or accept any responsibility, not expressly stated in this Agreement.
18. Any funding provided for in this Agreement, other than in the current fiscal year, is contingent upon being budgeted and appropriated by the governing bodies of the Parties in such fiscal year. This Agreement may be terminated by any Party at the end of any fiscal year due to non-appropriation of funds.
19. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assignees. Neither Party shall assign its interest in this Agreement without the prior written consent of the other Party.
20. This Agreement and all Exhibits attached to this Agreement set forth all of the covenants, promises, agreements, conditions and understandings related to the Project between the Parties to this Agreement, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between the Parties related to the Project, other than as set forth in this Agreement, and those agreements which are executed contemporaneously with this Agreement. This Agreement shall be construed as a whole and in accordance with its fair meaning and without regard to any presumption or other rule requiring construction against the party drafting this Agreement. This Agreement cannot be modified or changed except by a written instrument executed by all of the Parties hereto.
21. Each Party has reviewed this Agreement and has had the opportunity to have it reviewed by legal counsel.

22. The waiver by any Party of any right granted to it under this Agreement is not a waiver of any other right granted under this Agreement, nor may any waiver be deemed to be a waiver of a subsequent right obtained by reason of the continuation of any matter previously waived.
23. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law, but if any provision shall be invalid or prohibited under the law, such provision shall be ineffective to the extent of such prohibition or invalidation but shall not invalidate the remainder of such provision or the remaining provisions.
24. Except as otherwise provided in this Agreement, all covenants, agreements, representations and warranties set forth in this Agreement or in any certificate or instrument executed or delivered pursuant to this Agreement shall survive the expiration or earlier termination of this Agreement for a period of one (1) year.
25. Nothing contained in this Agreement shall create any partnership, joint venture or other agreement between the Parties hereto. Except as expressly provided in this Agreement, no term or provision of this Agreement is intended or shall be for the benefit of any person or entity not a party to this Agreement, and no such other person or entity shall have any right or cause of action under this Agreement.
26. Section or other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
27. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument. Faxed, copied and scanned signatures are acceptable as original signatures.
28. The Parties will execute and/or deliver to each other such other instruments and documents as may be reasonably necessary to fulfill the covenants and obligations to be performed by such Party pursuant to this Agreement.
29. The venue for any claim arising out of or in any way related to this Agreement shall be Maricopa County, Arizona.
30. This Agreement shall be governed by the laws of the State of Arizona.

End of Agreement - Signature Page Follows

IN WITNESS WHEREOF, the Parties have executed this Agreement.

CITY OF AVONDALE

Recommended by:

City Manager Date

Approved and Accepted by:

Mayor Date

Attest by:

City Clerk Date

APPROVAL OF CITY ATTORNEY

The foregoing Agreement has been reviewed pursuant to A.R.S. § 11-952, as amended, by undersigned Counsel, who has determined that it is in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

City Attorney Date

IN WITNESS WHEREOF, the Parties have executed this Agreement.

MARICOPA COUNTY

Recommended by:

DocuSigned by:
 4/6/2021

Jennifer Toth, P.E. Date
Transportation Director

Approved and Accepted by:

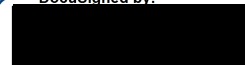
Chairman Date
Board of Supervisors

Attest by:

Clerk of the Board Date

APPROVAL OF DEPUTY COUNTY ATTORNEY

The foregoing Agreement has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Deputy County Attorney, who has determined that it is in proper form and within the powers and authority granted to the Board of Supervisors under the laws of the State of Arizona.

DocuSigned by:
 4/7/2021

9B0782D9E1CE48E
Deputy County Attorney Date

INTERGOVERNMENTAL AGREEMENT
BETWEEN MARICOPA COUNTY
AND THE CITY OF AVONDALE
FOR IMPROVEMENTS TO: LOWER BUCKEYE ROAD
FROM EL MIRAGE ROAD TO 125TH AVENUE
(TT 0700)
(C-64-21-_____ -X-00)

This Intergovernmental Agreement (**Agreement**) is between the County of Maricopa, a political subdivision of the State of Arizona (**County**), and the City of Avondale, a municipal corporation (**City**). The County and City are collectively referred to as the **Parties** or individually as a **Party**.

STATUTORY AUTHORIZATION

1. The County is authorized, pursuant to Arizona Revised Statutes (**A.R.S.**) § 11-251 and §§ 28-6701 *et. seq.*, to lay out, maintain, control and manage public roads within the County.
2. Public agencies are authorized, pursuant to A.R.S. §§ 11-951 *et. seq.*, to enter into Intergovernmental Agreements for the provision of services or for joint or cooperative action.
3. The City is authorized, pursuant to A.R.S. § 9-240 and §§ 9-276 *et. seq.*, to lay out and establish, regulate and improve streets within the City and to enter into this Agreement.

BACKGROUND

4. Lower Buckeye Road from El Mirage Road to 125th Avenue is a paved arterial roadway that is located in unincorporated Maricopa County. The roadway is bordered on the south and north by the City of Avondale.
5. The proposed project is to construct a 5' wide asphalt sidewalk, 3" thick, placed on existing prepared surface. The western terminus is the SE corner of Lower Buckeye and 125th Avenue. The eastern terminus will tie into the existing Circle K asphalt pavement, located approximately 150 LF west of the El Mirage curb line. (**Project**).

PURPOSE OF THE AGREEMENT

6. The purpose of this Agreement is to identify and define the responsibilities of the County and City for the Project, including but not limited to cost sharing, design, permitting, environmental clearance, right-of-way acquisition, utility relocation, construction and construction management, and annexation of the roadway.

TERMS OF THE AGREEMENT

7. The City shall:

- 7.1 Act as the lead agency for all aspects of the Project.
- 7.2 Plan and construct the Project to City standards, including compliance with all ADA requirements.
- 7.3 Not prepare sealed plans but shall include representatives from the County in the pre-construction meeting with their contractor.
- 7.4 Be responsible for 50% of the Project costs, as well as 50% of any costs of a future project to provide a permanent pedestrian access along this alignment. Project costs are currently estimated not to exceed \$50,000.
- 7.5 Invoice the County for 50% of the Project costs upon completion of the Project. Completion of the project is anticipated in FY 21.
- 7.6 Apply to the County for no-cost permits for any necessary Project related work performed within County jurisdiction.
- 7.7 Be responsible and assume liability for the planning, permitting, construction, inspection, operation, maintenance, and repair for all the components of the Project while the area remains under County jurisdiction.

8. The County shall:

- 8.1 Be responsible for 50% of the Project costs, as well as 50% of any costs of a future project to provide a permanent pedestrian access along this alignment. Project costs are currently estimated at \$50,000.
- 8.2 Pay the invoice from the City for 50% of the Project costs within thirty (30) days of receipt.
- 8.3 Issue no-cost permits to the City for any necessary Project related work performed within County jurisdiction.

GENERAL TERMS AND CONDITIONS

9. To the extent permitted by law, each Party will indemnify, defend and save the other Party harmless, including any of the Party's departments, agencies, officers, employees, elected officials or agents, from and against all loss, expense, damage or claim of any nature whatsoever which is caused by any activity, condition or event arising out of the negligent performance or nonperformance by the indemnifying Party of any of the provisions of this Agreement. By entering into this Agreement, each Party indemnifies the other against all liability, losses and damages of any nature for or on account of any injuries or death of persons or damages to or destruction of property arising out of or in any way connected with the performance or nonperformance of this Agreement, except such injury or damage as shall have been caused or contributed to by the negligence of that other Party. The damages which are the subject of this indemnity shall include but not be limited to the damages incurred by any Party, its departments, agencies, officers, employees, elected officials or agents. In the event of an action, the damages which are the subject of this indemnity shall include costs, expenses of litigation and reasonable attorney's fees.
10. This Agreement shall become effective as of the date it is approved by the governing bodies of the Parties and remain in full force and effect until all stipulations previously indicated have been satisfied, except that it may be amended upon written Agreement by all Parties.
11. This Agreement shall be subject to the provisions of A.R.S. § 38-511.
12. The Parties warrant that they are in compliance with A.R.S. § 41-4401 and further acknowledge that:
 - 12.1 Any contractor or subcontractor who is contracted by a Party to perform work on the Project shall warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214(A), and shall keep a record of the verification for the duration of the employee's employment or at least three (3) years, whichever is longer.
 - 12.2 Any breach of the warranty shall be deemed a material breach of this agreement of which breaching party may be liable for penalties including termination of the agreement.
 - 12.3 The Parties retain the legal right to inspect the papers of any contractor or subcontractor employee who works on the Project to ensure that the contractor or subcontractor is complying with the warranty above and that the contractor agrees to make all papers and employment records of said employee available during normal working hours in order to facilitate such

an inspection.

12.4 Nothing in this Agreement shall make any contractor or subcontractor an agent or employee of the Parties to this Agreement.

13. Any contractor or subcontractor who engages in for-profit activity and has 10 or more employees, if the value of the contract is a minimum of \$1,000,000, certify it is not currently engaged in, and agrees for the duration of this Agreement to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.
14. Each Party to this Agreement warrants that neither it nor any contractor or vendor under contract with the Party to provide goods or services toward the accomplishment of the objectives of this Agreement is suspended or debarred by any federal agency which has provided funding that will be used in the Project described in this Agreement.
15. Each of the following shall constitute a material breach of this Agreement and an event of default ("Default") hereunder: A Party's failure to observe or perform any of the material covenants, conditions or provisions of this Agreement to be observed or performed by that Party ("Defaulting Party"), where such failure shall continue for a period of thirty (30) days after the Defaulting Party receives written notice of such failure from the non-defaulting Party provided, however, that such failure shall not be a Default if the Defaulting Party has commenced to cure the Default within such thirty (30) day period and thereafter is diligently pursuing such cure to completion, but the total aggregate cure period shall not exceed ninety (90) days unless the Parties agree in writing that additional time is reasonably necessary under such circumstances to cure such default. In the event a Defaulting Party fails to perform any of its material obligations under this Agreement and is in Default pursuant to this Section, the non-defaulting Party, at its option, may terminate this Agreement. Further, upon the occurrence of any Default and at any time thereafter, the non-defaulting Party may, but shall not be required to, exercise any remedies now or hereafter available to it at law or in equity.
16. All notices required under this agreement to be given in writing shall be sent to:

County:

Maricopa County Department of Transportation
Attn: Intergovernmental Relations Branch
2901 W. Durango Street
Phoenix, Arizona 85009

City:

City of Avondale
Attn: City Manager
11465 West Civic Center Drive
Avondale, AZ 85323

All notices required or permitted by this Agreement or applicable law shall be in writing and may be delivered in person (by hand or courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, and shall be deemed sufficiently given if served in a manner specified in this paragraph. Either Party may by written notice to the other specify a different address for notice. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail, the notice shall be deemed given 72 hours after the notice is addressed as required in this paragraph and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given 24 hours after delivery of the notice to the Postal Service or courier.

17. This Agreement does not imply authority to perform any tasks, or accept any responsibility, not expressly stated in this Agreement.
18. Any funding provided for in this Agreement, other than in the current fiscal year, is contingent upon being budgeted and appropriated by the governing bodies of the Parties in such fiscal year. This Agreement may be terminated by any Party at the end of any fiscal year due to non-appropriation of funds.
19. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assignees. Neither Party shall assign its interest in this Agreement without the prior written consent of the other Party.
20. This Agreement and all Exhibits attached to this Agreement set forth all of the covenants, promises, agreements, conditions and understandings related to the Project between the Parties to this Agreement, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between the Parties related to the Project, other than as set forth in this Agreement, and those agreements which are executed contemporaneously with this Agreement. This Agreement shall be construed as a whole and in accordance with its fair meaning and without regard to any presumption or other rule requiring construction against the party drafting this Agreement. This Agreement cannot be modified or changed except by a written instrument executed by all of the Parties hereto.
21. Each Party has reviewed this Agreement and has had the opportunity to have it reviewed by legal counsel.

22. The waiver by any Party of any right granted to it under this Agreement is not a waiver of any other right granted under this Agreement, nor may any waiver be deemed to be a waiver of a subsequent right obtained by reason of the continuation of any matter previously waived.
23. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law, but if any provision shall be invalid or prohibited under the law, such provision shall be ineffective to the extent of such prohibition or invalidation but shall not invalidate the remainder of such provision or the remaining provisions.
24. Except as otherwise provided in this Agreement, all covenants, agreements, representations and warranties set forth in this Agreement or in any certificate or instrument executed or delivered pursuant to this Agreement shall survive the expiration or earlier termination of this Agreement for a period of one (1) year.
25. Nothing contained in this Agreement shall create any partnership, joint venture or other agreement between the Parties hereto. Except as expressly provided in this Agreement, no term or provision of this Agreement is intended or shall be for the benefit of any person or entity not a party to this Agreement, and no such other person or entity shall have any right or cause of action under this Agreement.
26. Section or other headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
27. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument. Faxed, copied and scanned signatures are acceptable as original signatures.
28. The Parties will execute and/or deliver to each other such other instruments and documents as may be reasonably necessary to fulfill the covenants and obligations to be performed by such Party pursuant to this Agreement.
29. The venue for any claim arising out of or in any way related to this Agreement shall be Maricopa County, Arizona.
30. This Agreement shall be governed by the laws of the State of Arizona.

End of Agreement - Signature Page Follows

IN WITNESS WHEREOF, the Parties have executed this Agreement.

CITY OF AVONDALE

Recommended by:

City Manager Date

Approved and Accepted by:

Mayor Date

Attest by:

City Clerk Date

APPROVAL OF CITY ATTORNEY

The foregoing Agreement has been reviewed pursuant to A.R.S. § 11-952, as amended, by undersigned Counsel, who has determined that it is in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

City Attorney Date

IN WITNESS WHEREOF, the Parties have executed this Agreement.

MARICOPA COUNTY

Recommended by:

DocuSigned by:
 4/6/2021

Jennifer Toth, P.E. Date
Transportation Director

Approved and Accepted by:

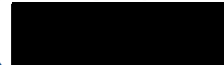
Chairman Date
Board of Supervisors

Attest by:

Clerk of the Board Date

APPROVAL OF DEPUTY COUNTY ATTORNEY

The foregoing Agreement has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Deputy County Attorney, who has determined that it is in proper form and within the powers and authority granted to the Board of Supervisors under the laws of the State of Arizona.

DocuSigned by:
 4/7/2021

9B0782D9E3CE48E
Deputy County Attorney Date

CITY COUNCIL REPORT

SUBJECT: Resolution 1025-0521 - Authorizing Grant acceptance from the Arizona Governor's Office of Highway Safety - Proposition 207 Funding

MEETING DATE: 5/3/2021

TO: Mayor and Council

FROM: Dale Nannenga, Chief of Police 623-333-7207

THROUGH: Gina Montes, Assistant City Manager, (623) 333-1012

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Area:

- Public Health and Safety - Avondale is a city where all people feel safe and secure, relying on trusted public and community-based resources.
-

PURPOSE:

City Council will consider a request to adopt Resolution 1025-0521, authorizing the Grant acceptance from the Arizona Governor's Office of Highway Safety - Proposition 207 Funding and authorizing the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. Council will take appropriate action.

BACKGROUND:

The Avondale Police Department is an active participant in the GOHS program and recently sought grant funding to help the Avondale Police Department reduce impaired driving. The grant funding from GOHS is from Proposition 207, passed into Arizona's constitution on November 30, 2020, and will allow for greater enforcement of impaired driving statutes.

DISCUSSION:

The funding's from the Proposition 207 grant is crucial in obtaining equipment, training, and personnel costs dedicated to traffic enforcement. This funding would allow for the Avondale Police Department to use its resources to the fullest. The equipment and services provided by the grant funding include:

- Training and supplies for two police officers in expert drug recognition;
- Twelve (12) laser imaging, detection, and ranging (Lidar) units to measure speed;
- Ten (10) portable breath test (PBT) devices;
- Fifteen (15) tint meters;
- One (1) ultrasound vein visualization device for DUI investigations, and;

- One (1) aerial drone with accessories for mapping accidents and evidence.

This agreement shall become effective when the GOHS Director signs the contract and expires at the end of the 2021 calendar year.

BUDGET IMPACT:

There are no match requirements for this grant.

RECOMMENDATION:

Staff recommends the City Council adopt Resolution 1025-0521 authorizing the City of Avondale to accept the GOHS grant funding in the amount of \$87,000.00 for the Avondale Police Department.

RESOLUTION NO. 1025-0521

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE,
ARIZONA, AUTHORIZING THE ACCEPTANCE OF A GRANT FROM THE
GOVERNOR'S OFFICE OF HIGHWAY SAFETY FOR PROPOSITION 207
FUNDING.

WHEREAS, the Governor's Office of Highway Safety ("GOHS") has awarded the City of Avondale (the "City") a grant in the amount of \$87,000.00 from Proposition 207 funding for the purpose of reducing impaired driving by conducting training programs and purchasing equipment for detecting, testing and enforcing laws against driving, flying or boating while impaired (the "Grant"); and

WHEREAS, the Mayor and Council of the City of Avondale ("City Council") desire to accept the Grant funds.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The City Council hereby authorizes (i) the acceptance of the Grant in an amount not to exceed \$87,000.00 and (ii) the execution of the GOHS Highway Safety Contract with GOHS relating to the acceptance and administration of the Grant funds (the "Agreement") in substantially the form and substance attached hereto as Exhibit A and incorporated herein by reference.

SECTION 3. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to execute and submit the Agreement and any other necessary or desirable instruments in connection with the Grant and to take all steps necessary to carry out the purpose and intent of this Resolution.

[SIGNATURES ON FOLLOWING PAGE]

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona,
May 3, 2021.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 1025-0521

[Agreement]

See following pages.



DOUGLAS A. DUCEY
GOVERNOR

ALBERTO GUTIER
DIRECTOR
GOVERNOR'S HIGHWAY SAFETY REPRESENTATIVE

Chief Dale Nannenga
Avondale Police Department
11485 West Civic Center Drive
Avondale, Arizona 85323

PROJECT REFERENCE:

Contract Number: 2021-207-036
Total Estimated Costs: \$87,000.00
Purpose of Project: Proposition 207 Funding
2 officers EDR training and Materials & Supplies: 12
Lidars, 10 PBTs, 15 Tent Meters and 1 Ultrasound Vein
Visualization and Capital Outlay Equipment: 1 Drone and
accessories

Dear Chief Nannenga,

Attached is one copy of the referenced Proposition 207 Funding Contract for your review and signature. This is not an authorization to proceed with the project.

Please complete the following steps:

1. Review the entire contract as there have been significant changes throughout the contract;
2. GOHS requires one single-sided copy with an original signature.
3. Have your fiscal staff complete the Reimbursement Instructions (page 6);
4. As Agency Head, sign and date the signature page;
5. Return one completed and signed copy to the Governor's Office of Highway Safety, 1700 West Washington Street, Executive Tower, Suite 430, Phoenix, Arizona 85007.

Please do not incur any costs at this time as it would nullify the contract. Once the signed copy is received, I will approve and sign the contract as the GOHS Director/Governor's Highway Safety Representative and an original executed contract with authorization to proceed will be forwarded to you.

Sincerely,

Alberto Gutier, Director
Governor's Highway Safety Representative

2-9-2021

Date

Enclosures



2021 CONTRACT 207 FUND

AGENCY Avondale Police Department		GOHS CONTRACT NUMBER 2021-207-036	
ADDRESS 11485 West Civic Center Drive, Avondale, Arizona 85323		PROGRAM AREA 207 FUND	
AGENCY CONTACT John Martin		PHONE 623-333-7228	
GOHS GRANT COORDINATOR Ellen Bourget		PHONE 602-255-3213	
PURPOSE OF PROJECT 207 Funds will support Professional and Outside Services: 2 officers EDR training and Materials & Supplies: 12 Lidars, 10 PBTs, 15 Tent Meters and 1 Ultrasound Vein Visualization and Capital Outlay Equipment: 1 Drone and accessories			
BUDGET COST CATEGORY			Project Period CY 2021
1. Personnel Services			\$0.00
2. Employee Related Expenses (40%)			\$0.00
3. Professional and Outside Services			\$2,000.00
4. Travel In-State			\$0.00
5. Travel Out-of-State			\$0.00
6. Materials and Supplies			\$39,650.00
7. Capital Outlay			\$45,350.00
TOTAL ESTIMATED COSTS			\$87,000.00
CURRENT GRANT PERIOD		FROM: 01-01-2021	TO: 12-31-2021
TOTAL 207 FUNDS OBLIGATED THIS CY: \$87,000.00			
A political subdivision or State agency that is mandated to provide a certified resolution or ordinance authorizing entry into this Contract must do so prior to incurring any expenditures. Failure to do so may result in termination of the awarded Contract.			

GOALS AND OBJECTIVES:

The Agency will make expenditures, to meet the outlined Program Goals/Objectives:

- (a) Reducing impaired driving, including conducting training programs and purchasing equipment for detecting testing and enforcing laws against driving, flying or boating while impaired.
- (b) Equipment, training and personnel costs for dedicated traffic enforcement.

Each law enforcement agency that receives an enforcement-related grant is required to ensure that accurate data on all drivers involved is reported. Failure to comply may result in withholding funds and cancellation of the enforcement contract until this requirement is met.

SPECIFIC REQUIREMENTS:

PROFESSIONAL AND OUTSIDE SERVICES/PUBLIC INFORMATION/MEDIA –

Requirements for Professional and Outside Services:

A copy of all Contracts for "Professional and Outside Services" must be submitted to the GOHS Director for written approval before execution.

Requirements for Public Information and Education Materials:

Prior to the printing and distribution of public information and education materials, a sample will be provided to the GOHS Director for review and written approval.

Requirements for Paid Media:

All paid media must be preapproved by the GOHS Director to ensure that consistent messages are sent statewide. Requests for paid media must include, at a minimum, scripts, description of target audience (to include methodology for identifying target audience), type of media to be utilized (electronic, print), campaign schedule, and budget. Additional information may be requested on a case-by-case basis.

STATE CONTRACT:

Procurement may be made using an open State contract award. Documents submitted to substantiate purchases using an open State contract must bear the contract number.

PROJECT EVALUATION:

IT IS REQUIRED THAT ALL LAW ENFORCEMENT AGENCIES MUST ENTER STATISTICAL AND ENFORCEMENT ACTIVITY INTO THE ON-LINE GOHS ENFORCEMENT REPORTING SYSTEM.

Final Statement of Accomplishments

The Project Director shall submit a Final Statement of Accomplishments Report to the GOHS **no later than fifteen (15) days after the conclusion of each Calendar Year (December 31th)**. All agencies receiving funding are required to submit a Final Statement of Accomplishments Report. ***Note:*** Failure to comply with the outlined GOHS reporting requirements may result in withholding of State funds or termination of the Contract.

REPORT OF COSTS INCURRED (RCI):

The Agency shall submit a Report of Costs Incurred (RCI), with supporting documentation attached, to the Governor's Office of Highway Safety on a quarterly basis, for each active quarter, in conjunction with the required report. Agencies may submit additional RCI forms for expenditures when funds have been expended for which reimbursement is being requested. Accepted supporting documentation to submit with a Report of Cost Incurred (RCI) includes, but is not limited to; scanned copies of timesheets, payroll records, paid invoices/purchase orders, and other account records. RCIs shall be delivered via email or mail with appropriate supporting documentation to the Governor's Office of Highway Safety. Final RCIs will not be accepted fifteen (15) days after the conclusion of each Calendar Year (December 31st). **Expenditures submitted after the expiration date may not be reimbursed and the Agency will accept financial responsibility.**

PROJECT MONITORING:

207 Fund grant project monitoring is used by the GOHS project coordinator to track the progress of project objectives, performance measures, and compliance with applicable procedures, laws, and regulations. The process is used throughout the duration of the contracted project and serves as a continuous management tool. Project monitoring also presents an opportunity to develop partnerships, share information, and provide

assistance to contracted agencies. Additionally, project monitoring outlines a set of procedures for project review and documentation.

DURATION:

Contracts shall be effective on the date the Governor's Office of Highway Safety Director signs the Contract and expire at the end of the calendar year. If the Agency is unable to expend the funds in the time specified, the Agency will submit notification on the Agency's letterhead and submit via regular mail to the Director of the Governor's Office of Highway Safety. The Agency shall address all requests to modify the Contract to the Director of the Governor's Office of Highway Safety on Agency's official letterhead and submit the request via regular mail. All requests for modification must bear the signature of the Agency Head. **Failure to comply may result in cancellation of the Contract. Any unexpended funds remaining at the termination of the Contract shall be negotiated with the Director of the Governor's Office of Highway Safety.**

MEDIA RELEASE:

To prepare complete press release information for media (television, radio, print, and on-line) during each campaign period including a main press release, schedule of events, departmental plans, and relevant data. The material will emphasize the campaign's purpose, aggressive enforcement, and the high cost of Speeding in terms of money, criminal, and human consequences.

PRESS RELEASE: Agencies are **required** to develop and distribute a press release announcing this grant award **upon receipt** of the executed Contract. A copy of this press release shall be sent to the GOHS Director for approval prior to being sent to the media. This press release shall include the objective and specify that the funding is from the Governor's Office of Highway Safety.

CERTIFICATIONS AND AGREEMENTS

This CONTRACT, is made and entered into by the STATE OF ARIZONA, by and through the Governor's Office of Highway Safety (GOHS) hereinafter referred to as "STATE", and the agency named in this Contract, hereinafter referred to as "AGENCY".

WHEREAS, STATE may make said funds available to various state, county, tribal, or municipal agencies, governments, or political subdivisions upon application and approval by STATE, and

WHEREAS, AGENCY has submitted an application for Funds for 207 funds projects;

NOW, THEREFORE, IN CONSIDERATION OF MUTUAL PROMISES AND OTHER GOODS AND VALUABLE CONSIDERATION, it is mutually agreed that AGENCY will strictly comply with the following terms and conditions and the following State Statutes, Rules, and Regulations:

I. Project Monitoring, Reports, and Inspections

- A. AGENCY agrees to fully cooperate with representatives of GOHS in monitoring the project, either on-site or by telephone, during the life of the Contract.
- B. AGENCY will submit a Final Report on the Contract to include all financial, performance, and other reports required as a condition of the grant to GOHS within thirty (30) days of the completion of the Contract.

II. Reimbursement of Eligible Expenses

- A. AGENCY's Project Administrator, or Finance Personnel, will submit a Report of Costs Incurred Form (RCI) to STATE each time there have been funds expended for which reimbursement is being requested. Failure to meet this requirement may be cause to terminate the project under Section XX herein, "Termination and Abandonment".
- B. AGENCY will reimburse STATE for any ineligible or unauthorized expenses for which State funds have been claimed and reimbursement received, as may have been determined by a State audit.
- C. STATE will have the right to withhold any installments equal to the reimbursement received by AGENCY for prior installments which have been subsequently determined to be ineligible or unauthorized.

III. Property Agreement

- A. AGENCY will immediately notify STATE if any equipment purchased under this Contract ceases to be used in the manner as set forth by this Contract. In such event, AGENCY further agrees to either give credit to the project cost or to another active project for the residual value of such equipment in an amount to be determined by STATE or to transfer or otherwise dispose of such equipment as directed by STATE.
- B. No equipment will be conveyed, sold, salvaged, transferred, etc., without the express written approval of GOHS, or unless otherwise provided elsewhere in this Contract.

IV. Travel

In-State and Out-of-State Travel

In state and out-of-state travel claims will be reimbursed at rates provided by AGENCY's regulations, provided that such regulations are as restrictive as those of STATE. Where they are less restrictive, ARS §38-624 will apply. The State must approve all out-of-state travel in writing and in advance.

V. Standard of Performance

AGENCY hereby agrees to perform all work and services herein required or set forth, and to furnish all labor, materials, and equipment, except that labor, material, and equipment as STATE agrees to furnish pursuant to this Contract.

VI. Hold Harmless Agreement

Neither party to this agreement agrees to indemnify the other party or hold harmless the other party from liability hereunder. However, if the common law or a statute provides for either a right to indemnify and/or a right to contribution to any party to this agreement then the right to pursue one or both of these remedies is preserved.

VII. Non-Assignment and Sub-Contracts

This Contract is not assignable nor may any portion of the work to be performed be subcontracted unless specifically agreed to in writing by STATE. No equipment purchased hereunder may be assigned or operated by other than AGENCY unless agreed to in writing by STATE.

VIII. Work Products and Title to Commodities and Equipment

- A. The work product and results of the project are the property of STATE, unless otherwise specified elsewhere in this Contract. All property, instruments, non-consumable materials, supplies, and the like, which are furnished or paid for by STATE under the terms of this Contract, unless otherwise provided for elsewhere in this Contract, are and remain the property of STATE and will be returned at the completion of this project upon request of STATE. The work product and results of the project will be furnished to STATE upon request, if no provision is otherwise made by this Contract.
- B. The provisions of subparagraph A apply whether or not the project contracted for herein is completed.

XII. Executive Order 2009-09

It is mutually agreed that AGENCY will comply with the terms and conditions of Executive Order 2009-09, *Non-Discrimination in Employment by Government Contractors and Subcontractors*.

XVI. Inspection and Audit, ARS §35-214

Pursuant to ARS §35-214, all books, accounts, reports, files, and other records relating to this Contract will be subject at all reasonable times to inspection and audit by STATE for five (5) years after completion of this Contract. The records will be produced at the Governor's Office of Highway Safety.

XX. Termination and Abandonment

- A. The STATE and AGENCY hereby agree to the full performance of the covenants contained herein, except that STATE reserves the right, at its discretion, to terminate or abandon any portion of the project for which services have not been already performed by AGENCY.
- B. In the event STATE abandons the services or any part of the services as herein provided, STATE will notify AGENCY in writing and within twenty-four (24) hours after receiving such notice,

AGENCY will discontinue advancing the work under this Contract and proceed to close said operations under the Contract.

- C. The appraisal value of work performed by AGENCY to the date of such termination or abandonment shall be made by STATE on a basis equitable to STATE and AGENCY and a final reimbursement made to AGENCY on the basis of costs incurred. Upon termination or abandonment, AGENCY will deliver to STATE all documents, completely or partially completed, together with all unused materials supplied by STATE.
- D. AGENCY may terminate or abandon this Contract upon thirty (30) days written notice to STATE, provided there is subsequent concurrence by STATE. Termination or abandonment by AGENCY will provide that costs can be incurred against the project up to and including sixty (60) days after notice is given to STATE.
- E. Any equipment or commodities which have been purchased as a part of this Contract and which have not been consumed or reached the end of its useful life will be returned to STATE upon its written request.

XXI. Cancellation Statute

All parties are hereby put on notice that this Contract is subject to cancellation pursuant to ARS §38-511, the provisions of which are stated: In accordance with ARS §38-511, this Contract may be cancelled without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the STATE, its political subdivisions or any department or agency of either, is at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a consultant to any other party of the Contract with respect to the subject matter or the Contract. The cancellation shall be effective when written notice from the Governor or Chief Executive Officer or governing body of the political subdivision is received by all other parties to the Contract unless the notice specifies a later time.

REIMBURSEMENT INSTRUCTIONS

1. Agency Official preparing the Report of Costs Incurred:

Name: _____

Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

2. Agency's Fiscal Contact:

Name: _____

Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

Federal Identification Number: _____

3. Reimbursement information:

Warrant/Check to be made payable to:

Warrant/Check to be mailed to:

(Agency)

(Address)

(City, State, Zip Code)

Signature of Agency Head:

Dale Nannenga, Chief of Police
Avondale Police Department

**Signature of Secondary Official
(If applicable)**

Date

Telephone

Date

Telephone

AUTHORITY

1. This Project is authorized by **A.R.S 36-2817** and regulations promulgated there under. The funds authorized for this Project have been appropriated and budgeted by the "Smart and Safe Arizona Act" The expenses are reimbursable under Proposition 207 passed into Arizona's Constitution November 30, 2020.

2. AGREEMENT AND AUTHORIZATION TO PROCEED

**By State Official responsible to Governor for the
Administration of the State Highway Safety Agency**

**Alberto Gutier, Director
Governor's Office of Highway Safety
Governor's Highway Safety Representative**

Approval Date

CITY COUNCIL REPORT

SUBJECT: Resolution 1026-0521 - 2021-2022 HUD Annual Action Plan

MEETING DATE: 5/3/2021

TO: Mayor and Council

FROM: Christopher Lopez, Neighborhood & Family Services Director, (623) 333-2711

THROUGH: Cherlene Penilla, Deputy City Manager, (623) 333-1015

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

Creative and Sustainable Community Development

PURPOSE:

City Council will consider a request to adopt Resolution 1026-0521 approving the City's 2021-2022 Annual Action Plan, identifying housing and community development needs and strategies and defining how Community Development Block Grant (CDBG) and HOME funds will be allocated next fiscal year and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

As an entitlement grantee, the City of Avondale receives annual allocations of CDBG funds from HUD, and HOME funds as a member of the Maricopa County HOME Consortium. HUD has allocated \$745,967 in CDBG funds to Avondale for Fiscal Year 2021-2022. The City will also receive \$211,296 in HOME Investment Partnership (HOME) funds through Maricopa County for Fiscal Year 2021-2022. The Federal objective of the CDBG program is to "develop viable urban communities by providing decent housing, a suitable living environment and economic opportunities for low-moderate income persons." The objective of the HOME Program is to "create affordable housing opportunities for low-income persons." City of Avondale goals and objectives with respect to CDBG and HOME are defined in the 5-Year Consolidated Plan which was approved by City Council in May 2020.

DISCUSSION:

The Consolidated Plan identifies the housing, economic and social development needs of low-income and special needs persons and prescribes strategies to address them. The Annual Action Plan serves as an update to the Consolidated Plan and identifies the goals, strategies and expected outcomes for that program year.

HUD requires that local governments involve the public in completing their Annual Action Plans. Neighborhood and Family Services (NFS) has been in the process of seeking input as part of the public participation process for the FY 2021-2022 Annual Action Plan. The first public hearing was held at the Neighborhood & Family Services Commission meeting on February 10, 2021. A second public hearing was held at the City Council meeting of April 5, 2021 during the required 30-day comment period, which began March 25, 2021 and concluded on April 26, 2021.

Data gathered from the public participation process to date supports the community priorities which remain as follows: preserve the existing affordable housing stock, increase homeownership opportunities, affirmatively further fair housing in Avondale, support organizations that assist the City's special needs population, support new construction and rehabilitation of affordable rental development, and improve economic conditions in low-income, economically-challenged neighborhoods.

To advance these goals, staff recommends the following funding allocations for FY 2021-2022:

CDBG Allocations (\$745,967 total):

1. Owner Occupied Home Repair - \$355,274;
2. Public Improvements - \$150,000;
3. Youth Services (AviTEMP) - \$50,000;
4. Revitalization Area and Small Business Assistance -\$40,500
5. Promote Fair Housing - \$1,000
6. Administration \$149,193

HOME Allocations (\$211,296 total):

1. Home Buyer Down Payment Assistance - \$31,590
2. Owner Occupied Home Repairs - \$166,500
3. Administration \$13,206

BUDGET IMPACT:

The use of \$211,296 in HOME funds will require a 25% non-federal match from the City of Avondale, which will be included in the proposed budget for next fiscal year. This amounts to \$52,824. CDBG funds do not require match.

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution 1026-0521, approving the 2021-2022 Annual Action Plan.

RESOLUTION NO. 1026-0521

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING THE 2021/2022 ANNUAL ACTION PLAN PORTION OF THE 2020-2024 CONSOLIDATED PLAN AND AUTHORIZING ITS SUBMISSION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR RECEIPT OF FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS; AND AUTHORIZING ACCEPTANCE OF HOME FUNDS FROM MARICOPA COUNTY AND THE RELATED HOME EXPENDITURES.

WHEREAS, Title 1 of the Housing and Community Development Act of 1974, as amended, establishes a Community Development Block Grant (“CDBG”) program for the purpose of developing viable urban communities by (i) providing decent housing and suitable living environments, (ii) expanding economic opportunities and (iii) preventing and/or eliminating conditions of slum and blight, principally for persons of low and moderate income; and

WHEREAS, the City of Avondale (the “City”) desires to receive CDBG funds and to continue to carry out CDBG-funded programs; and

WHEREAS, the U.S. Department of Housing and Urban Development (“HUD”) is expected to provide approximately \$745,967 in CDBG funds to the City for Fiscal Year 2021/2022; and

WHEREAS, the Code of Federal Regulations, 24 CFR Part 91 requires the submission to HUD and subsequent approval by HUD of an Annual Action Plan as a condition of receiving CDBG funds; and

WHEREAS, the Council of the City of Avondale (the “City Council”) must approve the 2020-2024 Consolidated Plan (the “Consolidated Plan”) prior to its submission to HUD; and

WHEREAS, the Consolidated Plan was approved by the City Council on May 4, 2020 and by HUD on October 21, 2020; and

WHEREAS, the City prepared an updated 2021/2022 Annual Action Plan element of the Consolidated Plan listing activities to be funded in the 2021/2022 program year (the “2021/2022 Annual Action Plan”); and

WHEREAS, Maricopa County is expected to provide the City \$211,296 in HOME funds, which will require the City to contribute a matching amount equal to 25% from non-federal funds; and

WHEREAS, the City has completed public participation requirements in accordance with 24 CFR Part 91, including (i) a public hearing held on February 10, 2021, at which an opportunity for public comment was available, (ii) a 30-day comment period beginning March 25, 2021 and extending through April 26, 2021, during which time comments were able to be received from City residents for incorporation into the 2021/2022 Annual Action Plan and (iii) an additional public hearing held by the City Council on April 5, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The City Council hereby approves and authorizes the submission to HUD of the following: (i) the 2021/2022 Annual Action Plan and (ii) the allocation of CDBG funding to the activities to be undertaken as described below.

2021/2022 CDBG Annual Action Plan Allocations - Estimated		
Activity	Funding Source	Amount Proposed
Housing Rehabilitation Program	CDBG/HOME	\$521,774
Avondale First Time Homebuyer Program	HOME	\$31,590
Public Infrastructure Improvements	CDBG	\$150,000
AviTemp/Tuition Assistance Program for Youth	CDBG	\$50,000
Small Business Assistance	CDBG	\$40,500
Fair Housing	CDBG	\$1,000
Administration	CDBG/HOME	\$162,399
Total Grant		\$957,263

SECTION 3. The City Council hereby finds that expenditures as set forth in the 2021/2022 Annual Action Plan are necessary and appropriate and further, that said expenditures for the CDBG program will serve to assist low- and moderate-income individuals/ families (no less than 70 percent as described in federal regulations) and/or serve to prevent or eliminate conditions of slum or blight in the community.

SECTION 4. If the amount of funding approved by HUD is less than the total of estimates set forth in Section 2 above, the City Manager or designee is hereby authorized and directed to make adjustments as necessary to the activity allocations to ensure that the funds allocated are distributed to the listed activities in the proportions set forth in Section 2 above.

SECTION 5. The City Council hereby approves and authorizes (i) acceptance of the HOME funds in the amount of \$211,296 from Maricopa County, (ii) expenditure of the 25% match in the amount of \$52,824; and (iii) expenditure of the HOME funds in the manner set forth in the 2021/2022 Annual Action Plan.

SECTION 6. The Mayor, the City Manager or authorized designee, the City Clerk and the City Attorney are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona, May 3, 2021.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

CITY COUNCIL REPORT

SUBJECT: Ordinance 2019-0521 - Lease Agreement with Soda Bomb LLC

MEETING DATE: 5/3/2021

TO: Mayor and Council

FROM: Kenneth Chapa, Economic Development Director, 623-333-1411

THROUGH: Tracy Stevens, Deputy City Manager, (623) 333-1014

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Area:

- Diverse Recreation and Entertainment Opportunities - Avondale provides residents with the ability to connect with amenities, businesses, and their community, enhancing the opportunity to live, work, and enjoy a healthy, active, and affordable lifestyle.

The approval of this agenda item will help increase visitor traffic to Avondale

PURPOSE:

City Council will consider a request to adopt Ordinance 2019-0521, approving the Lease Agreement with Soda Bomb, LLC. for the property located at 745 North 114th Avenue, Suite 103 and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

The City of Avondale (Landlord) and Soda Bomb, LLC (Tenant) desire to enter into a Lease Agreement for the use of City property (the Premises) located at 745 N 114th Avenue, Suite 103, containing approximately 1,500 square feet.

The Tenant shall use the Premises for the purpose of operating a soda and treat shop (quick serve bakery).

DISCUSSION:

The term of the lease is seven (7) years with an option to extend for an additional five (5) years.

The Tenant will receive three (3) months abated rent beginning with the first full month on or after the commencement date, but not later than October 31, 2021. Thereafter, the Tenant will pay \$15.00 per square foot (the Base Rent) the first three years, then \$18.50 beginning year four with \$0.50 annual adjustments.

The City will pay a maximum of \$165,000 for Tenant Improvements (Tis) to:

i. provide a catalyst for The BLVD Retail and increase daytime population to feed new retail in the Park Avenue District and further development in this area, and

ii. create new opportunities for employment in Avondale

The City has determined, by a review of comparable rental rates, that the Base Rent and Allowance are within market value for a similar type of tenant in the area.

BUDGET IMPACT:

Total Rent: Initial Term and Option Term \$337,399.23

City's Costs: (Tenant Improvements) \$165,000.00

Net Cumulative Rent = \$172,399.23

City's costs to be paid through the Economic Opportunities Fund, which is proposed to have a total budget of \$2 million in the FY2022 budget.

RECOMMENDATION:

Staff recommends City Council adopt Ordinance 2019-0521 approving the Lease Agreement between the City of Avondale and Soda Bomb, LLC.

ORDINANCE NO. 2019-0521

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING THE LEASE AGREEMENT BETWEEN THE CITY OF AVONDALE AND SODA BOMB, LLC.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. The Lease Agreement between the City of Avondale and Soda Bomb, LLC. is hereby approved in substantially the form and substance attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps and to execute all documents necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona, May 3, 2021.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 2019-0521

[Lease Agreement]

See following pages.

DATE: April __, 2021

LEASE AGREEMENT
By and Between

THE CITY OF AVONDALE,
an Arizona municipal corporation, as Landlord

and

Soda Bomb LLC
an Arizona limited liability company

LEASE AGREEMENT

This Cover Sheet (this "**Cover Sheet**") is hereby incorporated by reference into and made a part of the attached Lease. Each reference in the Lease to any term of this Cover Sheet shall have the meaning as set forth in this Cover Sheet for such term. In the event of a conflict between the terms of this Cover Sheet and the Lease, the terms of the Lease shall prevail. Any initially capitalized terms used herein and not otherwise defined herein shall have the meaning as set forth in the Lease.

COVER SHEET

LANDLORD NAME: THE CITY OF AVONDALE
an Arizona municipal corporation

TENANT NAME: SODA BOMB LLC
an Arizona limited liability company

TENANT ADDRESS: 745 N. 114th Avenue, Suite 103, Avondale, Arizona 85323

TRADE NAME: Soda Bomb

- ITEM 1. **PREMISES:** Those certain premises at 745 N. 114th Avenue, Suite 103, Avondale, Arizona 85323 (the "**Premises**") containing approximately 1,500 square feet of "**Floor Area**" (as defined in **ITEM 2** of the Cover Sheet) located at The BLVD and 114th Avenue, in the retail component of the mixed-use development, owned by the City of Avondale, Assessor Parcel Number 102-57-247 ("**The BLVD Retail**"). The approximate layout The BLVD Retail and location of the Premises, including, therein are shown on the site plan attached hereto as **Exhibit A-1** (the "**Site Plan**").
- ITEM 2. **FLOOR AREA:** With respect to each building or structure in The BLVD Retail, the number of square feet of floor space intended for exclusive tenant occupancy at each level or story lying within the exterior faces of exterior walls thereof (except party walls, as to which the center line, not the exterior faces, shall be used), whether or not leased or occupied ("**Floor Area**"). If such space is office space, "**Floor Area**" shall refer to the rentable area of the space in question. Floor area shall consist of that space identified on **Exhibit A-2 (Floor Area)**.
- ITEM 3. **PERMITTED USE:** Subject to the other provisions of this Lease, Tenant shall use the Premises for the purpose of operating therein a soda and treat shop (quick serve bakery) and for other purposes ancillary to the aforesaid use and/or for other general quick serve bakery purposes ("**Permitted Use**"), and for no other use or purpose and under the Trade Name set forth above and under no other trade name, without Landlord's prior written consent. Tenant will not commit, omit or permit any act, condition or event that is contrary to any Legal Requirement or Insurance Requirement, as defined below.
- ITEM 4. **INITIAL TERM:** The term of this Lease (the "**Initial Term**") shall commence on the Commencement Date (as defined in **ITEM 6** below) and shall end on the last day of the eighty-fourth (84th) full calendar month after the Commencement Date. The term "**Lease Years**" is defined in **Article 2**, which also sets forth the calculation thereof.

The Initial Term of this Lease, and any extension thereof, are sometimes herein referred to as the "**Term.**"

OPTION TERM: At the end of the Initial Term provided that the Tenant is not in default and the Lease is in good standing, shall have an option to extend the lease for an additional five (5) years with the first year of the lease renewal starting at twenty dollars and fifty cents (\$20.50) per square foot, followed by two percent (2%) annual increases for every year thereafter.

- ITEM 5. **DELIVERY DATE:** The "**Delivery Date**" shall be the date on which Landlord delivers possession of the Premises to Tenant. Tenant may commence "**Tenant's Work**" (as defined in **Exhibit B-2**) in the Premises without substantial interference from Landlord or its contractor, which will be no later than the Effective Date. Tenant shall acknowledge delivery of the Premises by executing the Delivery Date Certificate in the form attached hereto as **Exhibit B-1**.
- ITEM 6. **COMMENCEMENT DATE:** Subject to the provisions of this Lease, the Initial Term of this Lease and Tenant's obligation to pay "**Rent**" (as defined in **Article 3**) shall commence on the date (the "**Commencement Date**") that is the later of the following: (i) forty-five days (45) after delivery of Premises and completion of Tenant's work; or (ii) Tenant's opening of business. Within 30 days after the Commencement Date has been determined, Landlord and Tenant shall execute and deliver to each other a commencement date memorandum in the form attached hereto as **Exhibit D** and incorporated herein by this reference ("**Form of Commencement Date Memorandum**"). The parties agree that the Commencement Date shall not be later than October 31, 2021, unless agreed to by both parties in writing.
- ITEM 7. **RENT:** The Rent payable by Tenant pursuant to this Lease shall include all the following:
- A. During the Initial Term and the Option Term (if applicable), an amount, per month, as set forth below, provided Tenant shall receive three months of abated rent beginning with the first full month on or after the Commencement Date:

Initial Term:			
Months	1-3	\$0	Rent Abated
Months	4-12	\$15.00 SF	\$1,875.00
Months	13-24	\$15.00 SF	\$1,875.00
Months	25-36	\$15.00 SF	\$1,875.00
Months	37-48	\$18.50 SF	\$2,312.50
Months	49-60	\$19.00 SF	\$2,375.00
Months	61-72	\$19.50 SF	\$2,437.50
Months:	73-84	\$20.00 SF	\$2,500.00
Extension:			
Months	85-96	\$20.50 SF	\$2,562.50
Months	97-108	\$20.91 SF	\$2,613.75
Months	109-120	\$21.33 SF	\$2,666.03
Months	121-132	\$21.75 SF	\$2,719.35
Months	133-144	\$22.19 SF	\$2,773.73

As used in the table above, the term "**Month**" means each full calendar month following the Commencement Date (and if the Commencement Date does not occur on the first day of a calendar month, the period from the Commencement Date to the first day of the next calendar month shall be included in the first Month for purposes of determining the duration of the Initial Term and the monthly Rent rate applicable for such partial month.

ITEM 8. **PERCENTAGE RENT: INTENTIONALLY OMITTED**

ITEM 9. **IMPROVEMENTS BY LANDLORD AND TENANT:**

A. Landlord's Work.

1. "**Landlord's Work**" shall mean the following: The Landlord will inspect the HVAC, plumbing, gas and electric and certify that all are in operating order, the Landlord will perform any maintenance repairs on the aforementioned if needed prior to the Delivery Date. Notwithstanding the foregoing, Landlord is not required to perform any additional improvements to the Premises prior to the Commencement of the Lease. Tenant agrees to accept the Premises in its "AS IS" condition.

2. If for any reason, Landlord cannot deliver possession of the Premises to Tenant on the Delivery Date, (a) this Lease will not be void or voidable and Landlord will not be liable to Tenant for any resultant loss or damage and (b) the Commencement Date, Delivery Date and Expiration Date shall each be delayed by one day for each day of such delay; provided, however, if the Commencement Date is delayed by more than 90 days, Tenant, by written notice to Landlord prior to the Commencement Date, may terminate this Lease. Tenant will execute the Form of Commencement Date Memorandum attached to this Lease as **Exhibit D** within 15 days of Landlord's request.

B. Tenant's Work.

1. Tenant shall, at its sole cost and expense, install fixtures and stock the Premises and perform all work designated as "**Tenant's Work**" in **Exhibit B-2** in the manner set forth in this Lease. Tenant shall, at its sole cost and expense, cause an architect licensed in the state to prepare interior plans and specifications for Tenant's Work.

2. Tenant agrees to furnish to Landlord, for Landlord's prior review and approval, the Plans and Specifications (as such term is referred to in **Exhibit B-2**) with respect to the Premises prepared in the manner and within the time periods required in the Construction Guidelines. If such Plans and Specifications are not furnished by Tenant to Landlord within the required time period in a form to permit approval by Landlord, then Landlord may avail itself of its options under the Construction Guidelines. Once Landlord receives the Plans and Specifications, Landlord may not unreasonably withhold its approval of the same. Landlord's approval of Tenant's Plans and Specifications or any modifications thereof shall not constitute the assumption of any responsibility by Landlord for their accuracy or

sufficiency or their conformity with applicable laws, and Tenant shall be solely responsible therefor. In addition to conforming to the requirements specified in the Construction Guidelines, Tenant shall schedule its work so as not to unreasonably interfere with any work being performed by Landlord or by any other tenant in The BLVD Retail, or with the operation of The BLVD Retail and its tenants. It is further understood and agreed that: **(a)** Landlord shall have no responsibility or liability whatsoever for any loss of, or damage to, any fixtures, equipment, merchandise, or other property belonging to Tenant or its agents, employees and contractors, installed or left in the Premises, unless such loss or damage is caused by Landlord or its agents, employees or contractors, in which case Landlord shall be solely liable; and **(b)** Tenant's entry upon and occupancy of the Premises prior to the Commencement Date shall be governed by and subject to all the provisions, covenants and conditions of this Lease.

3. Additional alterations to the interior and/or exterior of the Premises shall be approved in accordance with provisions of the Lease.

C. Performance of Tenant's Work

1. Tenant shall not perform Tenant's Work without providing to Landlord, according to the time requirements set forth in the Construction Guidelines, any drawings or specifications required by Landlord, and without Landlord's prior written consent. In the event Landlord grants such consent, such Work shall be performed in a good and workmanlike manner and in accordance with all applicable legal and insurance requirements and all drawings or specifications approved by Landlord. Any work performed by Tenant shall be subject to Landlord's inspection and approval after completion.

2. Tenant shall timely obtain at its sole cost all certificates and approvals with respect to work done and installations made by Tenant that may be required for the issuance of a non-temporary certificate of occupancy for the Premises, and shall immediately deliver to Landlord a copy of all such certificates and approvals. Promptly upon the completion of its work, Tenant shall repair, clean and restore to their prior condition all portions of The BLVD Retail affected by any work of Tenant. In the event that any mechanic's, materialman's or other lien is filed against the Premises or The BLVD Retail as a result of any work or act of or on behalf of Tenant, Tenant, at its expense, shall discharge or bond off the same within ten days from the filing thereof. If Tenant fails to discharge said mechanic's, materialman's or other lien, Landlord may bond or pay the same without inquiring into the validity or merits of such lien and all reasonable sums so advanced and fees incurred (including legal fees) shall be paid by Tenant on demand as Additional Rent. It shall be Tenant's continuing obligation to keep and maintain the Premises and all other parts of The BLVD Retail free from any and all liens arising out of any work performed, materials furnished or obligations incurred by or for Tenant. In addition, Tenant shall replace any bonds posted by Landlord pursuant hereto with a suitable bond of equivalent amount within seven days after Landlord's demand therefor. Tenant shall have the right to contest the correctness or the validity of any such lien provided Tenant is diligently pursuing the matter to resolution and further provided that Landlord, in its reasonable judgment, concludes that there is no jeopardy to Landlord's title to the Premises or The BLVD Retail. In the event Landlord concludes that its title to the Premises or The BLVD Retail is jeopardized hereunder, Tenant shall, within thirty

days of notice from Landlord, procure and record a lien release bond meeting the requirements of Ariz. Rev. Stat. § 33-1004, as amended, or any successor statute.

D. **Removal by Tenant.** All of Tenant's Work made by Tenant shall at once when made become part of the leasehold and become property of Landlord. Upon the expiration or sooner termination of this Lease, Tenant shall not remove any of such alterations, decorations, additions and improvements, except that trade fixtures, furniture and equipment installed by Tenant may be removed if: **(1)** such trade fixtures, furniture and equipment are not integral to the operation of the Building or the Premises (by way of example only and not a limitation, HVAC and plumbing systems may not be removed); **(2)** all Rents hereunder are paid in full; and **(3)** Tenant has performed all of its other obligations hereunder. Tenant hereby acknowledges and agrees that any property remaining in the Premises after the expiration or earlier termination of this Lease, shall be deemed abandoned by Tenant and Landlord may dispose of such personal property as it deems appropriate, at Tenant's cost, and Tenant shall reimburse Landlord for such costs within fifteen (15) days after being billed for the same.

E. **Allowance for Tenant Improvement Costs.** Tenant's Work and together with all architectural mechanical, engineering, construction documents, general contractor fees, signage, structural floor enhancements, construction management or consulting fees incurred by the Tenant shall be referred to herein as "**Tenant Improvements**" Landlord and Tenant agree that Landlord will provide Tenant an amount not to exceed one hundred sixty-five thousand dollars (\$165,000) for Tenant Improvements (the "**Tenant Improvement Allowance**" or the "**Allowance**"). The City desires to provide this Tenant Improvement Allowance to:

- (i) provide a catalyst for The BLVD Retail and increase daytime population to attract new retail in the Park Avenue District and further development in this area,
- (ii) create new opportunities for employment in Avondale.

The City has determined, by a review of comparable rental rates, that the Rent and Allowance are within market value for a similar type of tenant in the area.

Any cost for the Tenant Improvements above the Tenant Allowance shall be solely borne by Tenant. Subject to the availability of the Tenant Improvement Allowance under the Milestones described below, Landlord shall disburse to Tenant's contractor, as directed by Tenant, the Tenant Improvement Allowance only upon a delivery to the Landlord by Tenant of a monthly draw request ("**Draw Request**") which is accompanied by (a) a certification by the Tenant's construction manager that the Tenant Improvements described in the Draw Request has been completed in accordance with plans and specs therefor, (b) final mechanic's lien waivers (i.e., conditional only upon receipt of payment) for all labor, suppliers, materialmen, contractors and subcontractors to the extent included in such Draw Request, (c) copies of any related invoices, billing statements, or other documentation supporting Developer's request of the amount requested pursuant to such Draw Request and (d) for the final draw request, a valid certificate of occupancy. Landlord shall, with reasonable promptness, but in no event later than 30 days after receipt of the above listed items submitted by Tenant, (a) inspect the Tenant Improvements so submitted

and approve or disapprove the completion of it as in compliance with Tenant's plans and specs and (b) if the Tenant Improvements so submitted is approved by Landlord, then Landlord will pay the actual paid amounts not to exceed the Tenant Improvement Allowance subject to the limitations set forth in herein. If the Tenant Improvements are not approved by Landlord, Landlord shall designate the specific reason(s) for the disapproval in writing. If Landlord does not approve the Tenant Improvements, Tenant, at its option, may: (i) resubmit its Draw Request at such time as Tenant has corrected the deficiencies specified by Landlord for approval. Notwithstanding anything to the contrary contained herein, the Landlord shall retain ownership of all improvements, equipment or other property paid by the Tenant Improvement Allowance and Landlord shall be under no obligation to pay the Tenant Improvement Allowance if the Tenant is in default under this Lease. Fifty percent (50%) of the Tenant Improvement Allowance shall become available to Tenant upon the City's issuance of a building permit for the Tenant Improvements, or such portion thereof which require a building permit; twenty-five percent (25%) of the Tenant Improvement Allowance shall become available to Tenant upon the installation of a meter for electric power supplied to the Premises and clearance thereof by the applicable electric utility provider; and twenty-five percent (25%) of the Tenant Improvement Allowance shall become available to Tenant upon the City's issuance of a Certificate of Occupancy for the Premises, with respect to the Tenant Improvements (each of the foregoing, a "**Milestone**"). Tenant shall provide City with an itemized invoice for each stage of the Tenant Improvements.

F. Intentionally Omitted.

G. Design Services and Fees. The Tenant will pay for all professional fees associated with the design and review of the Tenant Improvements, subject to application of the Tenant Improvement Allowance as provided above.

H. Development Services and Fees. The Landlord will pay for all municipal development and infrastructure hookup and impact fees associated with the Premises.

ITEM 10. **GUARANTEE:** None.

ITEM 11. **SECURITY DEPOSIT:** An amount equal to one thousand eight hundred seventy-five dollars (\$1,875.00) to be paid on or before the Effective Date (the "**Security Deposit**"). requirements set forth in Sections 17.4, and 33.1.

ITEM 12. **TENANT'S CONTACTS:**

Name: Scott Knight, Owner
Address: 12636 South 175th W Goodyear, AZ 85338
Telephone: (480) 220-9908
Email: sknight@sodabombaz.com

ITEM 13. **CITY:** The City of Avondale, an Arizona municipal corporation (the "**City**").

- ITEM 14. **STATE:** The State of Arizona (the "**State**").
- ITEM 15. **BUILDING:** The building in The BLVD Retail in which the Premises are located, or the retail portion of the building in The BLVD Retail in which the Premises are located.
- ITEM 16. **CONTROLLABLE ELEMENTS:** "Controllable Elements" shall be deemed to include all Operating Expenses except (i) Taxes, (ii) utility costs or charges (including without limitation any utility taxes which may be imposed on any of the same), (iii) any weather-related clean-up or damage (including without limitation any snow, ice, or water removal or similar cost), (iv) expenses attributable to an event of Force Majeure, (v) insurance costs and charges, and (vii) any other charges or expenses for which Landlord does not reasonably have an opportunity to select a vendor or negotiate rates.

LEASE AGREEMENT

This Lease Agreement (this "**Lease**") is made and entered into as of the Effective Date by and between the City of Avondale, an Arizona municipal corporation ("**Landlord**") and Soda Bomb LLC, an Arizona limited liability company ("**Tenant**"). The "Effective Date" shall be the date upon which the last of Landlord and Tenant executed this Lease, as indicated on the signature pages of this Lease.

ARTICLE 1

Lease of Premises; Use of Common Areas; Reservation of Rights

1.1 **Lease of Premises.** Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises.

1.2 **Use of Common Areas.** Except as otherwise specifically set forth by the Landlord in subsequent documents governing the use of The BLVD Retail Common Areas, Landlord grants to Tenants and its agents, employees and invitees, the non-exclusive right, together with all of the occupants of The BLVD Retail and their agents, employees and invitees, to use the Common Areas.

1.3 **Landlord's Reservation of Rights.** Landlord reserves "as-is": **(A)** the exclusive use of the exterior walls (other than the storefront), the roof, the airspace above the roof and the space below the floor slab; and **(B)** the right to install, maintain, use, repair and/or replace pipes, ducts, conduits, utility lines and wires in the space above the interior surfaces of the ceilings, below the finished floor, within the demising walls of the Premises and in all of the "**Common Areas**" (as defined in **Article 4**) of The BLVD Retail. Landlord reserves the right to affect such other tenants in The BLVD Retail as Landlord may elect in its sole business judgment, subject to the exclusivity requirements herein and Tenant's quiet enjoyment.

ARTICLE 2

Lease Year; Option Term; Obligation to Open and Continuously Operate

2.1 **Lease Year.** For purposes of this Lease, the term "**Lease Year**" shall mean a period of twelve (12) full, consecutive calendar months. The first Lease Year shall commence on the Commencement Date and end on the last day of the twelfth full calendar month following the Commencement Date. If the Commencement Date occurs on a date other than the first day of the month, then the first Lease Year shall include the partial month between the Commencement Date and the last day of the month during which the Commencement Date occurs, and the Minimum Rent and other charges payable during such partial month shall be appropriately prorated based on the number of days in such month. Any Lease Year which is for any reason shorter than a full 12-month calendar year is sometimes herein referred to as a "**partial**" Lease Year. For purposes of calculating and paying the Minimum Rent, Percentage Rent and all recurring "**Additional Rent**" (as defined in **Article 3**) payable under this Lease during any partial Lease Year, such charges shall be appropriately prorated based on the number of days in such partial Lease Year.

2.2 **Option Term.** Provided, (A) Tenant is fully operating its business for the Permitted Use in all portions of the Premises; and (B) no "Event of Default" (as defined in Article 23) exists, Tenant may provide written notice (the "Option Notice") to Landlord not less than one hundred and eighty (180) days prior to the expiration of the lease of Tenant's desire to exercise the option to

extend the lease for the Option Term. Landlord shall have Thirty (30) days to respond to Tenant's request. The parties reserve the right to amend the terms of the lease as part of the exercise of the option term and Landlord reserves the right to reject an extension. The right to exercise the Option Term is personal to the named Tenant herein and may not be exercised by any person or entity other than Tenant or a permitted assignee. The Minimum Rent payable by Tenant during the Option Term shall be as set forth in **ITEM 7** of the Cover Sheet. Notwithstanding anything contained in this Lease to the contrary, in the event Tenant properly exercises its option to extend the Term, Tenant shall be deemed to have waived any existing Opening or On-Going Co-Tenancy Failure(s) and Tenant's Economic Termination Right as of the date of Tenant's Option Notice.

2.3 Tenant Obligation to Open and Continuously Operate. Tenant agrees to open for business to the public in the Premises after the completion of the Tenant Improvements and the receipt of the Certificate of Occupancy and any other requirements to reasonably open the Premises and to continuously operate thereafter throughout the remainder of the Term. Tenant shall operate during commercially reasonable hours and on commercially reasonable dates unless it is illegal, inadvisable, or reasonably impossible to operate or due to remodeling or alterations as described herein. If Tenant fails to open for business by said date, or "**ceases operating**" (as defined in this Section) at any time during the Term (including an Option Term exercised by Tenant), then and in either of such events, in addition to Landlord's other rights and remedies with respect to such default, Tenant shall pay to Landlord, in addition to the Rent and Additional Rent payable hereunder, as liquidated damages ("**Liquidated Damages**"), an additional amount equal to 25% of the total Rent due from Tenant hereunder (calculated at a daily rate based on a 30-day month) for each day between the Commencement Date and the date Tenant opens for business in the Premises as required under this Lease, or between the date Tenant ceases operating for business in the Premises and the date Tenant resumes operating for business in the Premises as required under this Lease (as applicable). Tenant shall pay Landlord the Liquidated Damages together with the monthly installments of Rent and other charges payable under this Lease. Tenant agrees that the forgoing amount of Liquidated Damages is a reasonable estimate of the damage to Landlord that would be caused by Tenant's failure to open or continuously operate the Premises for business as required under this Lease. Tenant acknowledges that The BLVD Retail is an interdependent enterprise and its success is dependent upon the opening and continued operation of Tenant's business in accordance with the terms of this Lease. Tenant shall maintain in the Premises all suitable furniture, fixtures, equipment and other personal property necessary for the conduct of Tenant's business therein. For purposes of this Section, the term "**ceases operating**" shall mean and refer to any period when Tenant has not been open for business with the public in the Premises in accordance with the provisions of this Lease for 15 or more consecutive days (exclusive of reasonable periods during which the Premises are being restored following casualty damage thereto or a "**Taking**" (as defined in **Article 22**) thereof, and periods during which the Premises are being remodeled or altered in accordance with this Lease or when it is inadvisable, illegal, or reasonably not possible to operate.

ARTICLE 3

Rent; Payment of Rent; Late Charge

3.1 Rent. The term "**Rent**" shall mean all amounts required to be paid by Tenant to Landlord under this Lease. Commencing as of the Commencement Date and continuing throughout the Term, Tenant shall pay to Landlord Rent in equal monthly installments (as set forth in **ITEM 7** of the Cover Sheet), in advance, on the first day of each month, without prior notice or demand, setoff or deduction. Rent shall be prorated for any partial calendar month. If the Commencement Date is a date other than the first day of a calendar month: **(1)** Rent for the month

containing the Commencement Date shall be prorated based upon the ratio that the number of days in the Term within such month bears to the total number of days in such month; and **(2)** the initial monthly rental period shall include the month in which the Commencement Date occurs and the following full calendar month (unless the Commencement Date is the first day of a calendar month, in which event the initial monthly rental period shall include only the month containing the Commencement Date). Notwithstanding the aforementioned, Landlord shall provide three (3) months of abated rent to Tenant beginning on the first day of the first full month after the Commencement Date. The term "**Additional Rent**" means all amounts required to be paid by Tenant to Landlord hereunder, other than Rent, whether or not such amount is specifically designated Additional Rent.

3.2 Payment of Rent. Tenant shall pay all sums required to be paid to Landlord, without prior notice, demand, setoff or deduction at the office of Landlord, City of Avondale, 11465 W. Civic Center Drive, Suite 250, Avondale, Arizona 85323, Attention: Accounts Receivable, or at such other place or places as Landlord may designate from time to time. In the event Landlord designates a property manager to manage this Lease, the Tenant shall be notified in writing and shall pay all rents directly to the property management firm designated in the official notice. The obligation of Tenant to pay any amount due to Landlord hereunder shall be independent of any obligation of Landlord under this Lease.

3.3 Late Charge. Tenant hereby acknowledges that late payment by Tenant to Landlord of Rent shall cause Landlord to incur various expenses not contemplated by this Lease, the exact amount of which is presently difficult to ascertain. Accordingly, if any payment of Rent due from Tenant under this Lease is not received by Landlord when due, then, in addition to the required payment, Tenant shall also pay to Landlord a "**Late Charge**" equal to \$25.00 per day after a seven calendar day grace period, plus interest from the end of the grace period to the date of payment at the rate of 12% per annum (the "**Interest Rate**"). Tenant agrees that the Late Charge represents a fair and reasonable estimate of the expenses that Landlord shall incur by reason of a late payment by Tenant. Acceptance of the Late Charge by Landlord shall not constitute a waiver of Tenant's default with respect to any past due amounts, nor prevent Landlord from exercising any other rights and remedies granted to Landlord under this Lease or at law or in equity. The Late Charge and the interest on past due amounts shall be considered Additional Rent.

ARTICLE 4

Common Areas; Control of Common Areas; Operating Costs; Trash

4.1 Common Areas. The Common Areas shall be operated and maintained by the Landlord. The term "**Common Areas**" means all portions of the area depicted on Exhibit A-1 Site Plan attached hereto designated by Landlord from time to time for the common or joint use and benefit of Landlord, Tenant and the occupants of The BLVD Retail and their employees, agents, servants, customers and other invitees, including, without limitation, storage areas not within the Premises, public restrooms other than those within the Premises, offices not within the Premises, utility rooms other than those within the Premises, the parking areas serving The BLVD Retail (the use of which is subject to the fees, rules and regulations established therefor by the operator of the parking facility from time to time), access roads, corridors, balconies, stairs, elevators, escalators, driveways, retaining walls, exterior boundary walls and fences, water, sanitary and storm sewers (including, without limitation, any on or off-site sewer lines), on-site water retention and drainage facilities serving The BLVD Retail and which Landlord is required to maintain (however, Landlord shall only maintain as part of the Operating Costs, sanitary sewers up to the Premises), gas, electric, telephone and other utilities lines, systems, conduits and facilities to the

perimeter walls of any building within The BLVD Retail (even though intended for the use of only one or a limited number of occupants) and those serving more than one premises within a building, and any of the foregoing within The BLVD Retail which serve the Common Areas, plantings, landscaped areas, truck service ways, loading dock areas and facilities, courts, ramps, sidewalks, any drinking fountains, and the facilities appurtenant to the foregoing and within The BLVD Retail. The Common Areas are set forth on Exhibit A-1 Site Plan.

4.2 Control of Common Areas. Subject to the Landlord's subsequent documents relating to use of the Common Areas, it is agreed that: **(A)** all Common Areas shall be subject to the exclusive control and management by Landlord, and Landlord shall have the right at any time (either before, during or after the initial arrangement of the entrances, access roads, parking areas and other Common Areas), to construct buildings and other improvements thereon and therein, and to permit the owners and occupants of land located outside The BLVD Retail and Premises and their invitees to use the Common Areas; **(B)** Landlord shall have the right to demolish and make alterations and additions to the buildings in The BLVD Retail (including the construction of additional buildings therein), and to add and exclude areas from The BLVD Retail, and to relocate improvements so long as they do not have a material adverse effect on Tenant; and **(C)** Landlord shall have the right to do and perform such other acts in and to the Common Areas as Landlord shall determine to be advisable, in its sole and absolute discretion, so long as such acts do not have a material adverse effect on Tenant. The rights of Landlord as reserved in this Lease shall be subject to the condition that no exercise of such rights by Landlord shall alter the physical dimensions of the Premises, or change their location or relative proximity to other stores, or otherwise materially or unreasonably interfere with the conduct of Tenant's business in the Premises.

4.3 Tenant's Obligations. In addition to the Rent provided herein above, for each Expense Year during the Term, tenant shall pay to Landlord Tenant's Share of Operating Expenses allocated to the tenants of The BLVD Retail (pursuant to Section 4.4.2, below) which are incurred by Landlord on account of operation and maintenance of The BLVD Retail during such Expense Year. For purposes hereof, "**Tenant's Share**" shall mean the percentage determined by dividing the Floor Area of the Premises, approximately 1,500 square feet, by the total Floor Area within The BLVD Retail, approximately 26,294 square feet. Landlord reserves the right, in its sole discretion, to increase or decrease from time to time the total Floor Area of The BLVD Retail based upon Landlord's standard Floor Area measurement standards used for The BLVD Retail. In the event either the Floor Area of the Premises and/or the total Floor Area of The BLVD Retail is changed, Tenant's Share shall be appropriately adjusted, and, as to the Expense Year in which such change occurs, Tenant's Share for such year shall be determined on the basis of the number of days during such Expense Year that each such Tenant's Share was in effect. It is estimated that Tenant's Share will be approximately 5.7%. Notwithstanding anything contained herein to the contrary, in no event shall Tenant's Share increase due to any decrease in the total Floor Area of The BLVD Retail caused by or consented to by Landlord.

4.4 Definitions.

4.4.1 Expense Year. Each calendar year during the Term (or partial calendar year if the Term commences or ends on other than the provided first (1st) or last day of a calendar year); provided, however, that Landlord, upon notice to Tenant, may change the Expense Year from time to time to any other twelve (12) consecutive month period, and, in the event of any such change, Tenant's Share of Operating Expenses shall be equitably adjusted for any Expense Year involved in any such change.

4.4.2. Operating Expenses or Operating Costs. For purposes hereof, "Operating Expenses" or "Operating Costs" are intended to be inclusive of all costs incurred by Landlord in operating and maintaining The BLVD Retail, except franchise, estate, inheritance, net income, gift, corporate and excess profit taxes of Landlord, interest on and capital retirement of Landlord's mortgage loans, if any, and costs charged by Landlord directly to specific tenants (including any utilities separately metered and charged to specific tenants). Landlord agrees to make reasonable efforts to minimize operating costs insofar as such efforts are not inconsistent with Landlord's intent to operate and maintain The BLVD Retail in a first-class manner. Operating Expenses may include, but shall not necessarily be limited to, the following.

4.4.2.1 Tax Expenses. Tax Expenses which, for purposes hereof, shall mean, collectively, any and all general and special taxes and impositions of every kind and nature whatsoever levied, assessed, or imposed upon, or with respect to The BLVD Retail, any leasehold improvements, fixtures, installations, additions, and equipment, whether owned by Landlord or Tenant, or either because of or in connection with Landlord's ownership, leasing and operation of The BLVD Retail, including, without limitation, real estate taxes, personal property taxes, sewer rents, water rents, general or special assessments, duties or levies charged or levied upon or assessed against The BLVD Retail and related personal property, transit taxes, all costs and expenses (including legal fees and court costs) charged for the protest or reduction of property taxes or assessments in connection with the BLVD Retail, or any tax or excise on rent or any other tax (however described) on account of rental received for use and occupancy of any or all of The BLVD Retail (except Landlord's net income taxes), whether any such taxes are imposed by the United States, the State of Arizona, the County of Maricopa, or any local governmental municipality, authority, or agency or any political subdivision of any thereof. Tax expenses shall include a prorata share of any in lieu payment made by the City to compensate for taxes that would be imposed on the Property if owned by a party subject to the assessment of real property and or personal property taxes which is anticipated to include assessments relating to a special district being formed for maintenance improvements used by all of the common area.

4.4.2.2. Insurance. All costs and expenses to Landlord in maintaining fire and extended coverage insurance, property damage, liability and rent loss insurance and any other insurance maintained by Landlord covering the use and operation of The BLVD Retail which is customary in comparable projects in the area or which is reasonably deemed prudent by Landlord.

4.4.2.3. Heating, Ventilating and Air Conditioning System.

The costs and expense of operating and maintaining the heating, ventilating and air conditioning system for the Common Areas, if any such HVAC system exists, including the costs of utilities required in the operation thereof, shall be included. Tenant shall be responsible for the operation and maintenance costs for the heating, ventilating and air conditioning system, including the cost of utilities required in the operation thereof necessary to serve the Premises. The cost of replacement of an air conditioning unit serving the Common Area or serving the Premises shall be a responsibility of Landlord.

4.4.2.4. Required Capital Improvements. The costs of capital improvements and structural repairs and replacements made in or to The BLVD Retail designed

primarily to reduce Operating Expenses or to reduce the rate of increase in Operating Expenses (herein “**Cost Savings Improvements**”). The expenditures for Cost Savings Improvements shall be reimbursed to Landlord in equal installments over the useful life of such capital improvement or structural repair or replacement (as reasonable determined by Landlord) together with interest on the balance of the unreimbursed expenditure at a rate equal to the floating commercial loan rate announce from time to time by US Bank, a national banking association, or its successor, as its prime rate plus two percent (2%) per annum (the “**Prime Rate**”) which is in effect on the date the expenditure was incurred by Landlord; provided, however, the amount to be reimbursed for any Cost Savings Improvements shall be limited in any year to the estimated reduction or estimated savings in Operating Expenses as a result thereof.

4.4.2.5. **Standard Services and Utilities.** All costs and expenses incurred by Landlord in providing standard services and utilities to all tenants of the BLVD Retail, including office janitorial services, such as to clean the public areas, remove garbage, and do minor repairs, window washing and utilities not separately metered and not charged by Landlord directly to specific tenants; together with the cost of replacement of non-building standard electric light bulbs and fluorescent tubes and blasts, which Landlord shall have the exclusive right to provide and install.

4.4.2.6. **Management Fees.** Included in the Operating Expenses and reconciled annually paid to a third-party management company not affiliated with Landlord.

4.4.2.7. **General Maintenance and Repairs.** All costs and expenses incurred by Landlord in operating, managing, repairing and maintaining the BLVD Retail, including all sums expended in connection with the Common Areas for general maintenance and repairs, resurfacing (excluding pavement resurfacing), painting, restriping, cleaning, sweeping and janitorial services as defined in Paragraph 4.4.2.5, window washing, maintenance and repair of elevators, stairways, sidewalks, curbs, sprinkler systems planting and landscaping, lighting and other utilities, maintenance and repair of any fire protection systems, automatic sprinkler systems, lighting systems, emergency back-up utility systems, storm drainage systems and any other utility systems, personnel to implement such services and to police the Common Areas, rental of machinery and equipment used in such maintenance and services, police and fire protection services, trash removal services, all costs and expenses pertaining to security systems, utilities, premiums and other costs for workers' compensation insurance, wages, withholding taxes, social security taxes, personal property taxes, fees for required licenses and permits, supplies, and charges for management of the BLVD Retail. Costs and expenses incurred by Landlord in operating, managing, repairing and maintaining The BLVD Retail which are incurred exclusively for the benefit of specific tenants of The BLVD Retail must not be included within the Operating Expenses.

4.4.3 **Non-Operating Expenses.** Notwithstanding the foregoing, for purposes of this Lease, Operating Expenses shall NOT include the following.

4.4.3.1 **Other Capital Improvements.** Costs of items considered capital improvements, capital repairs, capital replacements, and/or capital equipment, all as determined in accordance with Landlord's standard real estate accounting practices, except as permitted in Section 4.4.2.3, 4.4.2.4 above.

4.4.3.2 Depreciation and Amortization. Depreciation and amortization, except as provided herein and except on materials, tools, supplies and vendor-type equipment purchased by Landlord to enable Landlord to supply services Landlord might otherwise contract for with a third party where such depreciation and amortization would otherwise have been included in the charge for such third party's services, all as determined in accordance with standard real estate accounting practices, consistently applied, and when depreciation or amortization is permitted or required, the item shall be amortized over its reasonably anticipated useful life as determined by Landlord in the manner described in Section 4.4.2.4 above, together with interest on the unamortized costs at the Prime Rate.

4.4.3.3 Interest, Points and Fees. Interest, points, fees and principal payments on any mortgages encumbering the BLVD Retail, and other debt costs, if any, except as specifically included in Section 4.4.2.4 above.

4.4.3.4 Reimbursement for Insurance Proceeds. Costs of any items (including, but not limited to, costs incurred by Landlord for the repair of damage to the BLVD Retail) to the extent Landlord received reimbursement from insurance proceeds or from a third party (except that any commercially reasonable deductible amount under any insurance policy shall be included within Operating Expenses).

4.4.3.5 Broker's Commission. Brokerage commissions, space planning costs, finders' fees and attorneys' fees incurred by Landlord in connection with leasing or attempting to lease space within The BLVD Retail (including all such fees and costs incurred in connection with the negotiation and execution of this Lease).

4.4.3.6 Permits and Licensing. Costs, including permit, license and inspection costs, incurred with respect to the installation of tenant improvements made for any tenants in The BLVD Retail or incurred in renovating or otherwise improving, preparing, decorating, painting or redecorating vacant space for tenants or other occupants of the BLVD Retail.

4.4.3.7 Penalties. Interest, penalties or other costs arising out of Landlord's failure to make timely payment of its obligations under this Lease or otherwise in connection with The BLVD Retail, including, without limitation, Landlord's failure to make timely payment of any item that is included in Operating Expenses or Tax Expenses.

4.4.3.8 Attorney's Fees. Attorneys' fees and other costs and expenses incurred in connection with negotiations or disputes with present or prospective tenants or other occupants of The BLVD Retail (including costs incurred due to violations by tenants of the terms and conditions of their leases), or any other attorneys' fees incurred in connection with The BLVD Retail (including, without limitation, any financing, sale or syndication of the BLVD Retail), except (A) as specifically enumerated as an Operating Expense in this Lease, or (B) to the extent the expenditure of such attorneys' fees general benefits the tenants of the BLVD Retail.

4.4.3.9 Overhead Costs. Costs and overhead and profit increment paid to Landlord or to subsidiaries or affiliates of Landlord for goods and/or services in or to The BLVD Retail to the extent the same exceeds typical costs and overhead and profit

increment of such goods and/or services rendered by qualified unaffiliated third parties on a competitive basis.

4.4.3.10 Sales Tax. Under the Arizona Municipal Tax Code, commercial leases are subject to the Transaction Privilege (Sales) Tax imposed by the City of Avondale this tax will be charged to the Tenant above the Base Lease amount.

4.4.3.11 Other Costs. Costs of acquisition of sculptures, painting and other objects of art.

4.5 Calculation and Payment of Operating Expenses.

4.5.1 Statement of Estimated Operating Expenses. Prior to that date which is thirty (30) days prior to the first day of a new Expense Year, Landlord shall endeavor to give Tenant a yearly expense estimate statement (the "Estimate Statement") which shall set forth Landlord's reasonable estimate (the "Estimate") of what the total amount of Operating Expenses for the new Expense Year shall be. The failure of Landlord to timely furnish the Estimate Statement for any Expense Year shall not preclude Landlord from enforcing its rights under this Article 4. Tenant shall pay Tenant's Share of the Estimated Expenses (defined below) with installments of Rent in monthly installments of one-twelfth (1/12) thereof on the first day of each calendar month during such year, except that the monthly installment of Tenant's Share of the Estimated Expenses for the first full calendar month of the Initial Term shall start at the Commencement Date of this Lease. Tenant hereby acknowledges that prior to the execution of this Lease by Landlord and Tenant, Landlord provided to Tenant the Estimate Statement for calendar year 2021. As shown on the Estimate Statement for calendar year 2021, Tenant's Share of the Estimate would be nine thousand three hundred sixty dollars and zero cents \$9,360.00 (\$6.24 per square foot times 1,500 square feet of Floor Area within the Premises), and the monthly Estimate installment due herein shall be seven hundred eighty dollars and zero cents (\$780.00). Beginning with 2022 and continuing through and including 2026, the amount payable as Tenant's Share of Controllable Elements of Operating Costs shall not increase by more than five percent (5%) per annum over the amount of Tenant's Share of Controllable Elements, on a cumulative basis for the previous year. For calendar years 2022 through 2026. For lease years after 2027, the growth rate of the amount payable as Tenant's Share of Controllable Expenses shall not be capped.

4.5.2 Estimated Expenses for any particular year shall mean Landlord's estimate of Operating Expenses for a calendar year. If at any time Landlord determines that Operating Expenses are projected to vary from the then Estimated Expenses, Landlord may, by notice to Tenant, revise such Estimated Expenses, and Tenants monthly installments for the remainder of such year shall be adjusted so that by the end of such calendar year Tenant has paid to Landlord Tenant's Share of the revised Estimated Expenses for such year. Until a new Estimate Statement is furnished, Tenant shall pay monthly, with the monthly Minimum Rent installments, an amount equal to one-twelfth (1/12) of Tenant's Share of the Estimated Expenses set forth in the previous Estimate Statement delivered by Landlord to Tenant.

4.5.3 Payment. Landlord shall endeavor to give to Tenant on or before the first day of February following the end of each Expense Year, a statement (the "**Statement**") which shall state the Operating Expenses incurred or accrued for such preceding Expense Year ("**Actual Expenses**"), and the amount of the Estimated Expenses paid by Tenant for such preceding Expense Year and shall indicate the amount, if any, of the difference between the Actual Expense and the Estimated Expenses (the "**Excess**") for such Expense Year. If an Excess is present, Tenant shall pay, within thirty (30) days after receipt of said Statement, the full amount of the Excess

for such Expense Year. If any Statement reflects that Tenant has overpaid Tenant's Share of Operating Expenses for such Expense Year, Landlord shall refund the amount of the overpayment to Tenant. The failure of Landlord to timely furnish the Statement for any Expense Year shall not prejudice Landlord from enforcing its rights under this **Article 4**. Even though the Term has expired and Tenant has vacated the Premises, when the final determination is made of Tenant's Share of the Operating Expenses for the Expense Year in which this lease terminates, if an Excess is present, Tenant shall immediately pay to Landlord an amount as calculated pursuant to the provisions of Section 4.5.1 of this Lease. The provisions of this Section shall survive the expiration or earlier termination of the Term. Notwithstanding anything contained herein to the contrary, Tenant shall not be obligated to pay any Excess for any Expense Year more than two (2) years after the expiration of such Expense Year.

4.6 Audit Rights. Tenant, may, after reasonable notice to Landlord and at reasonable times, inspect Landlord's records (pertaining to Landlord's calculation of Operating Expenses) at Landlord's offices, provided that Tenant and its accountant or representative shall, and each of them shall cause their respective agents and employees to, maintain all information contained in Landlord's records in strict confidence. Landlord shall cooperate in good faith with Tenant and accountant to provide Tenant and the accountant with the information upon which the certification is to be based. However, if such certification by the accountant proves that the total amount of Operating Expenses for the applicable period were overstated by more than five percent (5%), then the actual, documented and reasonable cost of the accountant and such certification shall be paid for by Landlord. Promptly following the parties' receipt of such certification, the parties shall make such appropriate payments or reimbursements, as the case may be, to each other, as are determined to be owing pursuant to such certification.

4.7 Security Services. Except for Landlord's negligence, Landlord shall not be liable in any manner whatsoever to Tenant or any third party by reason of any act or omission of Landlord in providing or maintaining security services (or electing not to provide or maintain security services) in the Common Areas.

4.8 Trash. Tenant shall be solely responsible for the removal of all trash and garbage from its Premises to a common trash receptacle for removal from the property by the Landlord.

ARTICLE 5

[INTENTIONALLY OMITTED]

ARTICLE 6

[INTENTIONALLY OMITTED]

ARTICLE 7

Real Estate Taxes

7.1 Real Estate Taxes. The City is the fee owner of The BLVD Retail and will not be assessed real property taxes. Pursuant to the Government Property Lease Excise Tax Statutes ARIZ. REV. STAT. §§ 42-6201 The BLVD Retail is instead subject to the assessment or levy of an excise tax ("**GPLET**"). The GPLET is calculated in accordance with the provisions of ARIZ. REV. STAT. § 42-6203. The Tenant may be exempt from paying the GPLET if they qualify under ARIZ. REV. STAT. § 42-6208. However, assessments (both special and general) imposed in connection with any financing district, transportation development district, special assessment district, special benefit district, sanitary improvement district, local improvement district or any similar district of which The BLVD Retail (or any portion thereof) is a part are not covered under Operating Costs

and are instead treated as "**Special Assessments**" according to the terms of this section and **Section 7.2** below. Tenant covenants and agrees to pay to Landlord as Additional Rent any costs for these Special Assessments and in no event shall Tenant contest or appeal or have any right to contest or appeal these Special Assessments levied or assessed against the Premises or the BLVD Retail. Tenant shall pay all taxes applicable to all other property in the Premises that is Tenant's personal property not taxed, as set forth in **Section 20.1** (captioned "**Tenant's Property**").

7.2 Tenant's Proportionate Share of Special Assessments. Tenant's "**Proportionate Share of Special Assessments**" shall be calculated by dividing the acreage of the tax parcel on which The BLVD Retail is located (i.e., APN 102-57-247) by the total acreage of the property contained within the BLVD Retail District, and multiplying the foregoing fraction, expressed as a percentage, by Tenant's Share, also expressed as a percentage. The estimated full cash value shall be used to set the assessed value in the same manner and method as other commercial property and the tax rate for the Maintenance Improvement District which has been created to provide for maintenance of common area facilities contained within the BLVD development which benefits all of the property within the BLVD development including the property that is the subject of this Lease and shall be applied against the assessed value established under this paragraph and in accordance with paragraph 4.4.2.1.

ARTICLE 8 [INTENTIONALLY OMITTED]

ARTICLE 9 Parking & Public Rights of Way

9.1 Parking. Tenant and its employees, customers and invitees may have the non-exclusive right, together with Landlord and all other tenants and occupants of the BLVD Retail, to park on a first come first serve basis, in the public parking spaces located on N. 114th Avenue, W. Dale Earnhardt Drive and The BLVD. Landlord shall, at all times, provide one (1) parking space adjacent to the Premises for Tenant's exclusive use for curbside pick-up by Tenant's customers. Neither Tenant, nor its employees shall use any parking spaces marked or designated as reserved parking spaces for other tenants of Landlord. Tenant shall, within five days after request from Landlord, furnish to Landlord the automobile license numbers of all automobiles owned or used by Tenant or its employees. If there is a violation of the foregoing requirement by any employee of Tenant, Landlord shall give Tenant notice thereof, and if such violation continues following notice to Tenant, Landlord shall have the right, at Landlord's option, to tow any vehicle parked in violation of the terms hereof, or to charge Tenant the sum of \$35.00 per day for each violation.

9.2 Parking Fees. At some time in the future the Landlord may convert all or some of the surface parking to structured parking. However, Landlord agrees to make reasonable efforts to minimize the need for structured parking if initial development does not warrant the installation of a parking structure. Such parking structure will not change Tenant's parking rights described herein during or after construction.

9.3 Public Rights-of-Way. The public rights-of-way may from time to time at the sole discretion of the City, be temporarily closed for events so long as Tenant is still able to reasonably operate its business, including parking and access. The City or Landlord is under no obligation to temporarily or permanently replace the loss of parking due to closure of public rights-of-way. The

City or Landlord is responsible for maintenance and cleaning of public rights-of-way after any such event.

ARTICLE 10

Construction of the Premises

10.1 **Construction of the Premises.** Landlord and Tenant agree that the Premises shall be constructed in a good and workmanlike manner in accordance with the terms and provisions of **ITEM 9** and **Exhibit B-2** hereto. Tenant agrees that Landlord has made no representations or warranties regarding the condition of the Premises or the BLVD Retail, except as expressly set forth in this Lease. All Tenant's work shall be completed by licensed contractors holding a valid registration from the Arizona Registrar of Contractors.

ARTICLE 11

Alterations; Roof Penetration; Signs; Indemnification

11.1 **Interior Non-Structural Alterations.** After the Tenant's Work is completed, Tenant shall have the right to make interior, non-structural alterations or additions to the Premises without Landlord's consent. Tenant shall provide 3 days' prior notice to Landlord before the commencement of any interior, non-structural alterations or additions to be made to the Premises.

11.2 **Structural and Exterior Alterations.** Tenant shall not make any structural or exterior modifications, improvements, alterations, additions or installations in or to the Premises (the "**Alterations**") without Landlord's prior, written consent. Along with any request for Landlord's consent and before commencement of any Alterations or delivery of any materials to be used in any Alterations, Tenant shall furnish Landlord with a complete set of plans and specifications, names and addresses of contractors, copies of permits and licenses, and an indemnification in such form and amount as may be reasonably satisfactory to Landlord and, if required by Landlord, a performance bond executed by a commercial surety reasonably satisfactory to Landlord, and in an amount equal to the cost of the Alterations and the payment of all liens for labor and material arising therefrom. All Alterations shall be done only by licensed, bondable contractors or subcontractors reasonably approved by Landlord, and at such time and in such manner as Landlord may from time to time reasonably designate. Tenant shall pay the cost of all Alterations (including a reasonable charge for Landlord's services and for Landlord's inspection, architectural and engineering time), and also the cost of painting, restoring or repairing any portion of the Premises and The BLVD Retail required because of Tenant's Alterations. Upon completion of the Alterations, Tenant shall furnish Landlord with contractor's affidavits and full final, unconditional waivers of liens and a reasonably detailed breakdown of the costs of all labor and materials employed in such Alterations. All Alterations shall comply with all insurance requirements and all laws, ordinances, rules and regulations of all governmental authorities (including, without limitation, the Americans With Disabilities Act) and shall be constructed in a good and workmanlike and lien free manner. Tenant shall permit Landlord to inspect construction operations in connection with any Alterations. Tenant shall not be allowed to make any modifications, improvements, Alterations, additions or installations if such action results or would result in a labor dispute or otherwise would materially interfere with Landlord's operation of the BLVD Retail. Subject to applicable federal and state law, in the event any Alterations result in a labor dispute, Tenant shall cause work to be halted immediately, remove the workers, contractors or mechanics responsible for such dispute and replace them with workers, contractors and mechanics acceptable to Landlord and whose work shall not (in the sole and absolute discretion of Landlord) result in a labor dispute.

11.3 **Roof Penetration.** Tenant must obtain prior, written approval from Landlord before accessing the roof of The BLVD Retail for any type of roof puncture/penetration or for attaching any items to the roof, and such work must be performed by Landlord's roofing contractor at a competitive market price or by a contractor approved by Landlord. Tenant shall be responsible for any damage to the Premises, the roof or the building containing the Premises or The BLVD Retail caused by Tenant, its agents or contractors, including, but not limited to, any roof puncture/penetration. Tenant shall be responsible for the roof above the Premises in the event it makes an alteration, with or without Landlord permission, and any damage to the Premises occurs. Notwithstanding the foregoing, Landlord approves of Tenant installing a satellite dish on the roof of the Premises and will reasonably cooperate with Tenant in such planning and installation thereof so as not to penetrate the roof or roof membrane; provided, however, that Tenant submit to Landlord its plans for the installation of the satellite for Landlord's approval and that Tenant does not cause any roof warranties to be rendered null and void or inapplicable.

11.4 **Tenant's Signs.** Tenant shall comply at all times with the provisions of **Exhibit C** with respect to Tenant's interior signs. All of Tenant's signs shall comply with all Legal Requirements for the BLVD Retail. Tenant shall be responsible for the costs of designing, manufacturing, installing, illuminating, operating and maintaining its signs. Upon the termination of this Lease, Tenant shall remove its signs and restore and repair all parts of the Premises and The BLVD Retail affected by the installation or removal of its signs, to the condition existing prior to installation or to a condition reasonably acceptable to Landlord. If Tenant fails or refuses to remove its sign as herein required, Landlord may, but shall not be obligated to, remove such signs and repair and restore all damage caused by their removal, and Tenant shall pay to Landlord the costs of all such removal, repair and restoration, together with an amount equal to 25% of such costs, within ten days after receipt of an invoice therefor. Landlord reserves the right to place signage on the exterior of the Premises, including, without limitation, building identification signage, directional signage and signage for other tenants and occupants of the BLVD Retail.

11.5 **Indemnification.** Tenant agrees to indemnify, defend and hold Landlord harmless, utilizing legal counsel reasonably acceptable to Landlord, for, from and against any and all third party claims, demands, actions, causes of action, losses, damages, costs, and expenses, including court costs and reasonable attorneys' fees of Landlord to the extent arising from Tenant's interior non-structural alterations, Alterations, roof puncture/penetrations, any lien placed upon the property by a contractor performing improvements on behalf of Tenant, Tenant's signs, or any other work performed by or on behalf of Tenant on the Premises unless caused by Landlord's negligence or willful misconduct in which event Landlord shall be solely liable. The provisions of this Section shall survive the expiration or termination of this Lease. Tenant shall be fully responsible for clearing any liens placed upon the property due to work performed, or materials supplied, as requested by Tenant, and Landlord may seek indemnification for any costs in curing such liens not paid by Tenant.

ARTICLE 12

Repair and Maintenance

12.1 **Landlord Repairs.** Landlord agrees to maintain the Building and the Common Areas in good repair consistent with the terms of this Lease and to make or cause to be made the following repairs (which shall include replacements, if necessary) (collectively, "**Landlord Repairs**"). Upon Notice from Tenant, Landlord shall have three (3) days to acknowledge receipt of notice. Within five (5) days of receipt of Notice from Tenant, Landlord shall provide Tenant with a schedule on the Completion of Landlord Repairs. Tenant retains all of their rights under subsections A-B of this Section should Landlord fail to make such repairs or any other such

repairs the responsibility of Landlord and necessary to make the Premises habitable for Tenant's purposes under this Lease.

A. **Structural Repairs.** Structural portions of the Premises ("**structural portions**") consist, without limitation, of the foundation, roof, floor slab and members supporting the roof), the cost of which shall be included in Operating Costs; PROVIDED, HOWEVER, notwithstanding the foregoing, in no event shall Landlord be responsible for the repair or replacement of the floor covering in the Premises. In the event Landlord fails to perform its maintenance obligations herein, Tenant shall have the right to perform such maintenance and Landlord shall reimburse Tenant for the cost thereof plus an administrative fee of fifteen percent (15%) of Tenant's reasonable costs incurred, within thirty (30) days after receipt of an invoice therefor.

B. **Utility Repairs.** All repairs to and replacements of utility systems and sewer lines up to the point of the meters located in the mechanical room or, if there is no mechanical room, to the point at which they are stubbed to the Premises, the cost of which shall be included in BLVD Retail Operating Costs. PROVIDED, HOWEVER, in the event any damage is caused by one or more acts or omissions of Tenant, its agents, employees, customers or invitees (or any other person other than Landlord), Tenant shall pay the cost of such repairs within 30 days after receipt of an invoice therefor. Additionally, Landlord shall include in Operating Costs the costs of repair(s) to plumbing and utility lines from the entrance points of the utility lines into The BLVD Retail to the mechanical room(s) or, if there is no mechanical room, to the point at which they are stubbed to the Premises. In addition, Landlord shall repair utility lines to the Premises during the time period from the Effective Date through the one year anniversary of the Commencement Date of this Lease except when caused by the negligence of Tenant.

12.2 **Tenant Repairs.** Except as is Landlord's obligation under this Article, Tenant agrees, at its own cost and expense, to take good care of the Premises and Tenant's trash area and to keep them in good and first-class order, condition and state of repair (which shall include replacements, if necessary) including, without limitation, the following:

A. **Interior Repairs.** Any and all interior repairs, including but not limited to all repairs to its trade fixtures and electrical equipment and fixtures, plumbing fixtures, lines and equipment and other utility lines (including sewer and utility lines within and exclusively serving the Premises), from the point of the meters in the mechanical room or, if there is no mechanical room, to the point at which they are stubbed to the Premises), elevators, if any, and wiring (including that within walls or ceilings, or under flooring or floor covering, or in or under the slab).

B. **Storefront Repairs.** All storefront repairs, including glass and doors, door frames, locks, lifts, openers and hardware. Notwithstanding any other provision of this Lease, Landlord shall make any storefront repairs needed during the period from the Effective Date through the first anniversary of the Commencement Date of the Lease except those caused by the gross negligence or willful misconduct of Tenant.

C. **Window Repairs.** All repairs to windows (including sashes, frames, locks and hardware) and all Tenant's signs (including replacement of signs). Notwithstanding any other provision of this Lease, Landlord shall make any window repairs needed during the period from the Effective Date through the first anniversary of the Commencement Date of the Lease except those caused by the gross negligence or willful misconduct of Tenant.

D. **Maintenance Repair.** All the maintenance and repair (but not replacement which shall be Landlord's responsibility) of the HVAC System located in and exclusively serving the Premises, including maintenance of all fixtures, equipment, ducts, machinery, machinery controls, appliance and utility lines as are used for, in connection with or which are part of the electrical, plumbing, heating, air conditioning, ventilation or other mechanical systems in and exclusive to the Premises. Tenant shall, within 30 days after the Delivery Date, enter into and provide Landlord a copy of, and thereafter maintain, a preventative maintenance contract on the HVAC System in the Premises, which contract shall provide for periodic maintenance in accordance with the manufacturer's specifications. In the event Tenant fails to maintain such preventative maintenance contract, Landlord, at its option, may arrange for such a preventative maintenance contract for the HVAC System on terms reasonably acceptable to Tenant; PROVIDED, HOWEVER, Landlord has notified Tenant of this failure of Tenant to comply with the maintenance requirements set forth herein and Tenant has failed to cure such noncompliance within 30 days after receipt by Tenant of Landlord's notice, in which event the cost of such preventative HVAC System maintenance shall be billed directly to Tenant and shall be paid within thirty days after receipt of an invoice therefor. Notwithstanding any other provision of this Lease, Landlord shall make any HVAC System repairs described in this Section needed during the period from the Effective Date through the first anniversary of the Commencement Date of the Lease except those caused by the gross negligence or willful misconduct of Tenant.

ARTICLE 13

Inspections; Self Help; Construction in the BLVD Retail

13.1 **Inspections.** Landlord shall have the right, upon reasonable prior notice, except in the event of an emergency (in which case only such notice as is practicable shall be required), to enter upon the Premises to determine Tenant's compliance with this Lease or to maintain and repair any pipes, conduits or ducts, whether used in the supply of services to Tenant or to other occupants of the BLVD Retail. Landlord shall further have the right, on at least 48 hours prior notice, to enter the Premises in connection with the following: **(A)** construction on the Premises; or **(B)** completing any work, repairs, alterations, or improvements in and about the Premises.

13.2 **Landlord's Right to Self Help.** If Tenant neglects or refuses to make repairs to or to maintain the Premises as required under this Lease, or to fulfill any other obligation (or any part thereof) as required under this Lease, then in addition to all other rights and remedies of Landlord as a result of such failure, Landlord and/or its agents shall have the right, upon giving Tenant reasonable notice of its election to do so, except in the event of an emergency (in which case only such notice as is practical shall be required), to make the repairs or perform the maintenance or other obligations on behalf of and for the account of Tenant. The cost of the work so done or obligations performed by Landlord or its agents, together with an amount equal to 25% of such costs, shall be paid for by Tenant within ten days after Tenant's receipt of a bill therefor. If Tenant fails to pay such amount within such 10-day period, the amount shall accrue interest at the Interest Rate upon the expiration of such 10-day period until paid. Nothing herein shall imply any duty on the part of Landlord to do any work which Landlord is not specifically and expressly required to perform under this Lease or which, under any provisions of this Lease, Tenant is required to perform, and the performance of such work by Landlord shall not constitute a waiver of Tenant's default. Landlord shall have no liability to Tenant for any loss or damage which may result to its stock or business by reason of such repairs, replacements or action.

13.3 Construction in the BLVD Retail. In connection with any construction, excavation or other building operations related to changes to the BLVD Retail, Landlord, its agents, employees and contractors shall have the right of access to enter the Premises on reasonable prior notice to Tenant and to strengthen, add to or shore the foundations, walls, columns or supporting members thereof, and to erect scaffolding and/or protective barricades around and about the Premises (but not so as to preclude entry thereto) and to do any act or thing necessary for the safety or preservation of the Premises, in Landlord's sole discretion, and Landlord shall use reasonable efforts to complete all construction in the Premises as promptly as possible (considering the nature and extent of the construction and subject to prudent construction practices). Tenant's obligations under this Lease shall not be affected by any such changes, construction, excavation or other building operations, and so long as Landlord acts reasonably, Landlord shall not be liable for any inconvenience, disturbance, loss of business or any other annoyance arising therefrom, subject to Tenant's exclusivity right, right to Quiet Enjoyment and other rights hereunder.

ARTICLE 14

Utilities/Meters; Interruption of Service

14.1 Utilities/Meters. Tenant agrees to obtain directly from the provider thereof and pay all charges for electricity, air conditioning, heating, gas, water, sanitary sewer and other utility bills relating to the Premises from and after the Delivery Date. If any utility services are not separately metered to the Premises, Landlord may require Tenant (as part of Tenant's Work or at any time during the Term of this Lease), at Tenant's sole cost and expense, to install check or sub-meters to measure Tenant's consumption of such utilities, and shall pay Landlord as Additional Rent, a share of the cost of such utilities (based on Tenant's consumption thereof as evidenced by such check or sub-meter and the rate for such utilities paid by Landlord). Additionally, if any utility service (whether separately or jointly metered to the Premises) is required to be maintained in Landlord's name, Tenant shall either pay all charges for such utility if separately metered to the Premises, or a proportionate share thereof (as set forth in this paragraph above) if jointly metered with other premises. Tenant shall pay any tap, connection and hook-up fees, and any security and other deposits, payable in connection with the utilities serving the Premises except for such development impact fees or hook-up fees charged by the City. All utilities (if separately metered) shall be transferred into Tenant's name on or before the Delivery Date (or such earlier date as Tenant may enter the Premises to perform Tenant's Work). If Tenant installs any electrical equipment that overloads the lines in the Premises, Tenant shall, at its own expense, make whatever changes are necessary to comply with the requirements of codes and ordinances of the City or any governing body having jurisdiction.

14.2 Interruption of Service. No reasonable interruption in, or temporary stoppage of (not to exceed one business day), any of the services or utilities furnished to the Premises is to be deemed an eviction or disturbance of Tenant's use and possession of the Premises, nor does any such interruption or stoppage relieve Tenant from any obligation under this Lease, render Landlord liable for damages or entitle Tenant to any Rent abatement. If Tenant is reasonably unable to operate its business for more than 5 business days, Tenant will be entitled to a rent abatement after such week until the Tenant is able to resume operations, unless the interruption is caused by Landlord, in which event Rent shall abate immediately and continue until such services are restored. If any interrupted services are not restored within ninety (90) days, Tenant may terminate this Lease by written notice to Landlord given during the continuance of the interruption.

ARTICLE 15

Tenant's Insurance; Landlord's Insurance; Mutual Release and Waiver of Subrogation

15.1 **Tenant's Insurance.** Tenant, at its sole cost and expense, shall obtain and keep in force commencing as of the Delivery Date, the following insurance with an insurance company authorized to do business in Arizona or alternatively through an actuarially sound self-insurance program:

A. **"Special Form Causes of Loss" Property Insurance.** Property insurance using ISO forms CP0010 and CP1030 (or their equivalent) and including equipment breakdown covering all of Tenant's Property, plate glass and all **"Leasehold Improvements"** (as defined in **Article 21**) in the Premises made and paid for by Tenant (including, without limitation, Leasehold Improvements paid for with the Construction Allowance, if any), in an amount equal to the full replacement cost thereof.

B. **Business Interruption Insurance.** Business interruption insurance using ISO form CP0030 (or its equivalent) and including equipment breakdown, with a deductible or waiting period of no greater than 72 hours, in an amount that shall reimburse Tenant for direct or indirect loss of earnings attributable to all perils insured against in the previous Subsection or attributable to the prevention of access to the Premises by civil authority; and sufficient to reimburse Tenant for Rent in the event of a casualty to, or temporary taking of, The BLVD Retailor the Premises.

C. **Commercial General Liability Insurance.** Commercial general liability insurance to protect against claims for bodily injury and property damage arising out of premises operations, products, and completed operations, and advertising and personal injury liability, including Dram Shop or host liquor liability (if alcoholic beverages are sold or served in, from or about the Premises), written on an occurrence basis, with policy limits of not less than \$1,000,000.00 per occurrence, unless Landlord agrees to a lesser amount.

D. **Environmental Insurance.** Without limiting the provisions of **Article 32**, in the event Tenant's use of the Premises does or might result in the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants (including, without limitation, any Hazardous Materials) into or upon land, the atmosphere or any watercourse or body of water, then Tenant shall obtain environmental insurance insuring against any loss for bodily injury, property damage, cleanup costs and defense expenses resulting from any of the above-described causes with limits of not less than \$2,000,000.00 inclusive per occurrence and \$2,000,000.00 annual aggregate, per location.

E. **Employer's Liability Insurance and Workers Compensation.** Employer's Liability insurance, with minimum limits of not less than \$500,000.00, bodily injury each accident, \$500,000.00 bodily injury by disease policy limit, and \$500,000.00 bodily injury by disease each employee, and Worker's Compensation in form and amount as required by applicable law.

F. **Umbrella Liability Insurance.** Umbrella liability insurance over such primary general liability, employer's liability insurance policies and/or commercial automobile liability insurance (as applicable) in limits of not less than \$2,000,000.00, inclusive, per occurrence, and \$2,000,000.00 annual aggregate.

G. **Commercial Automobile Liability Insurance.** Commercial automobile liability insurance covering all owned, non-owned and hired automobiles, in limits of not less than \$1,000,000.00 combined single limit (each accident).

15.2 **Policies of Insurance.** Tenant shall have the right to satisfy the insurance required by this Article by means of blanket insurance policy(ies). All general liability policies of insurance or certificates thereof shall name Landlord, Landlord's property manager, and all mortgagees of Landlord, as additional insureds, as their respective interests may appear. Any and all deductibles or co-insurance in the above-described policies or inadequacy of limits for coverage shall be assumed by, for the account of, and at Tenant's sole risk. Prior to commencing any work under this Agreement, Tenant will provide Landlord with suitable evidence of insurance in the form of certificates of insurance of the insurance policies as required by this Agreement, issued by Tenant's insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. The Landlord shall reasonably rely upon the certificates of insurance as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. Tenant agrees to further provide Landlord evidence of renewals of policies upon request. The required coverage and/or limits referred to herein shall in no way affect or limit Tenant's liability with respect to its duties and obligations under this Lease.

15.3 **Uses Which Affect Insurance.** Tenant shall not knowingly conduct or permit to be conducted in the Premises any activity, or place any equipment in or about the Premises or BLVD Retail, which shall invalidate the insurance coverage in effect or increase the rate of insurance on the Premises or the BLVD Retail, and Tenant shall comply with all requirements and regulations of Landlord's property and liability insurers. If any invalidation of coverage or increase in the rate of insurance occurs or is threatened by any insurance company due to any act or omission by Tenant, or its agents, employees, representatives, or contractors, such statement or threat shall be conclusive evidence that the increase in such rate is due to the act of Tenant, and Tenant shall be liable for the increase and such amount shall be considered Additional Rent payable with the next monthly installment of Minimum Rent due under this Lease unless Tenant cures such act or omission after receiving written notice of same.

15.4 **Landlord's Insurance.** Landlord shall, at all times during the Term, carry a policy or policies of commercial general liability insurance covering the Common Areas in The BLVD Retail and special form causes of loss insurance covering Landlord's improvements in the BLVD Retail, all in such forms and amounts and with such deductibles and self-insured retentions as Landlord reasonably deems appropriate. Landlord shall not be required to carry insurance of any kind on Tenant's Property, and Tenant hereby acknowledges and agrees that Tenant shall have no right to receive any proceeds from any insurance policies carried by Landlord. If insurance coverages generally maintained by landlords of similar space in similar buildings in the area in which The BLVD Retail is located increase or otherwise change, Landlord may similarly change the insurance coverages Landlord maintains under this Lease.

ARTICLE 16

Non-Liability of Landlord; Tenant Indemnification; Landlord Indemnification; Third Party Claims; Tenant's Risk

16.1 RESERVE

16.2 Tenant Indemnification. Tenant hereby agrees to indemnify, defend, and hold Landlord and its affiliates, owners, appointed and elected officers, agents and employees (collectively, the "**Landlord Indemnified Parties**") harmless for, from and against any and all "**Losses**" (as defined in this Section), to the extent arising from any or all of the following (collectively, "**Tenant's Indemnified Matters**"): **(A)** the conduct or management by Tenant or Tenant's officers, directors, members, partners, agents, employees, or representatives ("**Tenant Parties**") of the Premises or any business therein, or any work or Alterations done, or any condition created by Tenant or any Tenant Parties in or about the Premises during the Term or during the period of time, if any, prior to the Commencement Date that Tenant is given access to the Premises; **(B)** any misconduct, omission or negligence of any or all of Tenant and Tenant Parties occurring in the Premises; **(C)** any accident, injury or damage whatsoever occurring in, at or upon either or both of The BLVD Retail and the Premises and caused by Tenant and/or Tenant Parties; **(D)** any breach by Tenant of any of its warranties and representations under this Lease; **(E)** any violation by any or all of Tenant and/or any Tenant Parties of any law, code, ordinance or other governmental regulation in connection with this Lease or the Premises; **(F)** any breach or default on the part of Tenant in the performance of any covenant or obligation contained in this Lease; **(G)** claims for work or labor performed for or materials supplied or furnished to Tenant and/or any Tenant Parties; and **(I)** the violation of any "**Environmental Law**" (as defined in **Article 32**) or any permit, application or consent required in connection with any Environmental Law by any or all of Tenant and Tenant Parties with respect to the Premises during the Term; excluding, however, any violation of any Environmental Law resulting directly from the acts or omissions of Landlord and Landlord's employees, agents and contractors. In case any action or proceeding is brought against any or all of Landlord and Landlord Indemnified Parties by reason of any of Tenant's Indemnified Matters, Tenant, upon notice from Landlord shall defend such action or proceeding by counsel reasonably satisfactory to Landlord. For purposes of this Article, the term "**Losses**" shall mean all third party claims, demands, expenses, actions, judgments, damages, penalties, fines, liabilities, losses of every kind and nature, suits, administrative proceedings, costs and fees, including, without limitation, attorneys' and consultants' reasonable fees and expenses, and the costs of cleanup, remediation, removal and restoration, that are in any way related to any matter covered by the foregoing obligations. The provisions of this Section shall survive the expiration or termination of this Lease.

16.3 Landlord Indemnification. To the extent permitted by law, Landlord hereby agrees to indemnify, defend, and hold harmless Tenant, its officers, agents and servants, for, from and against any and all claims, actions, suits, judgments, decrees, orders, liability and expense in connection with loss of life, bodily injury and/or damage to property using counsel reasonably acceptable to Tenant **(A)** arising from or out of any occurrence in or upon any of the Common Areas, except to the extent the same is caused by the willful misconduct or negligent act or omission of Tenant and/or Tenant Parties; and/or **(B)** occasioned wholly or in part by any willful misconduct or negligent act of Landlord, its agents, employees or servants or breach of this Agreement. The provisions of this Section shall survive the expiration or earlier termination of this Lease with respect to any damage, injury or death occurring before such expiration or earlier termination.

16.4 RESERVE

16.5 Tenant's Risk. All personal property in the Premises shall be at Tenant's sole risk, and Landlord shall not be liable for any damage done to, or loss of, such personal property, or for damage or loss suffered by the business income or occupation of Tenant arising from any act of neglect of third parties, or from bursting, overflowing, or leaking of water, sewer or steam pipes, rain, wind, tornadoes, floor or other surface or subsurface water, from overflow of drainage

facilities or backup or stoppage of any drain, sewer or other water runoff facility or device or from the heating or plumbing fixtures, noise, dust, or from electric wires, or from gas, odors, natural disaster, riot or act of violence, leaking roofs or caused in any other manner. Tenant shall give Landlord prompt notice of any accident to, defect in or problem in the Premises or Building of which Tenant has knowledge or notice. Tenant, for itself and its agents, employees, representatives, expressly assumes all risks of injury or damage to person or property, resulting from the condition of The BLVD Retailor any part thereof.

ARTICLE 17

Assignment and Subletting

17.1 Consent of Landlord. Tenant shall not assign this Lease or sublet the Premises or any part thereof or mortgage, pledge or hypothecate its leasehold interest or grant any concession or license within the Premises or sublease any operating department therein, whether by sale, assignment, death, incompetency, mortgage, deed of trust, trust, operation of law or otherwise, and whether voluntary or involuntary, without the prior written consent of Landlord (which Landlord may grant or withhold in the exercise of its sole and absolute discretion) which consent shall be evidenced by the signature of the City Manager thereon. Any attempt to do any of the foregoing, without the prior written consent of Landlord, shall be void and of no force or effect. This prohibition shall be construed to include a prohibition against an assignment or subletting by operation of law.

17.2 Corporate, Partnership or Limited Liability Company Transfer. Any transfer of Tenant's interest in this Lease by merger, consolidation or dissolution or any change in ownership or power to vote a majority of the "**voting stock**" (as defined in this Section) or majority in interest in Tenant, if Tenant is a corporation or limited liability company, or any transfer of this Lease by transfer of any other ownership interest of Tenant, or any Guarantor, during the Term shall constitute an assignment for the purpose of this Lease, and shall not be permitted unless Tenant obtains the express consent of Landlord. For purposes of this Section, the term "**voting stock**" means shares of stock or interest of any kind, regularly entitled to vote for the election of directors, managing partners, or managers or their equivalent of the corporation, limited liability company, partnership or other entity involved.

17.3 Assignment; Pledging. If this Lease is assigned or if the Premises are subleased (whether in whole or in part) or in the event of the mortgage, pledge or hypothecation of the leasehold interest or grant of any concession or license within the Premises or if the Premises are occupied in whole or in part by anyone other than Tenant in violation of the terms of this Article, Landlord shall have the right to do the following: **(A)** collect rent from the assignee, sublessee, mortgagee, pledgee, party to whom the leasehold interest was hypothecated, concessionee or licensee or other occupant and apply the net amount collected to the Rent payable hereunder without being deemed to have approved or consented to such action by Tenant; and/or **(B)** reenter the Premises, assume and take possession of the whole or any part thereof, and remove all persons or personal property therefrom, by direct or summary action, or in a different type of suit or proceeding, by force, or otherwise, without being deemed guilty of trespass or other actionable wrong by reason thereof, and without being liable for damages therefor or in connection therewith, and after demand made therefor, Tenant or anyone in possession claiming under Tenant shall be deemed guilty of unlawful detainer and subject to such summary or other action as may be provided by law.

17.4 Event of Assignment or Subletting. If Tenant wishes to assign this Lease or sublet all or any part of the Premises, it shall first give written notice of such intention to Landlord,

furnishing Landlord with a copy of the final proposed assignment or sublease document and with full information as to the identity and financial status of the proposed assignee or subtenant. Any proposed assignment document shall provide, without limitation, the following: **(A)** that the assignee thereunder shall be liable for all of the obligations of Tenant under this Lease (including, without limitation, the payment of any and all amounts paid or to be paid by Tenant under this Lease on an estimated basis and reconciled on an annual basis, regardless of whether such reconciliation occurs subsequent to such assignment); and **(B)** that any security deposit paid to Landlord under this Lease is transferred to such assignee. Within 60 days after receipt of such notice and documentation from Tenant, Landlord shall have the right, by notice to Tenant, to either: **(1)** permit Tenant to terminate this Lease upon notice of its election to do so to Landlord, in which case Tenant shall be relieved of further liability hereunder and under the proposed assignment or sublease; **(2)** approve or reject such assignment or subletting; or **(3)** convert the assignment or sublease into a direct lease between Landlord and such proposed assignee or sublessee and receive all of the rents. Notwithstanding the foregoing, Tenant may not attempt to assign or sublease this Lease until 12 months after the commencement of this Lease.

17.5 Permitted Transfer. Notwithstanding anything contained in this Lease to the contrary, Tenant may assign the Lease, upon Landlord's prior consent, which shall not be unreasonably withheld (a "**Permitted Transfer**") to a legal entity (a "**Permitted Transferee**") which is either: **(A)** the successor, by merger or otherwise, to all or substantially all of Tenant's assets and liabilities; or **(B)** controls or is controlled by or is under common control with Tenant. For purposes of this Section, the term "**control**" (including the terms "controls," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise. Any such assignment or subletting shall be otherwise subject to and upon all of the terms, provisions and covenants of this Lease. However, any assignment, including a Permitted Transfer, shall not in any way relieve Tenant of liability as to any term or condition of this Lease without the express approval of Landlord.

17.6 Miscellaneous Provisions. Landlord agrees to give a reasonable estoppel letter to any assignee or sublessee to which Landlord consents or in the event of a Permitted Transfer, upon request from such assignee or sublessee. Any sale, assignment, mortgage, transfer or subletting of this Lease which is not in compliance with the provisions of this Article shall be void and of no further force or effect. All rentals paid to Tenant by an assignee or sublessee shall be received by Tenant in trust for Landlord and forwarded immediately to Landlord without offset or reduction, or, at Landlord's election, such rentals shall be paid directly to Landlord (to be applied as a credit and offset to Tenant's Rent obligations). All consideration paid to Tenant for an assignment, sublease or other right to use the Premises which is in excess of the amount required to be paid over to Landlord for the use of the Premises (or pro rata portion of the amount required to be paid to Landlord in the case of a sublease of a portion of the Premises) shall be paid to Landlord by Tenant upon receipt. Tenant shall pay all costs incurred by Landlord in connection with any proposed assignment or sublease, including reasonable attorneys' fees, and shall pay any brokerage commission incurred by reason of any such proposed assignment or sublease.

17.7 No Release or Waiver. Notwithstanding anything contained in this Lease to the contrary, no consent or action by Landlord, and no assignment or subletting permitted by Landlord, shall be deemed a waiver or a release of Tenant from the performance by Tenant of its covenants, duties and obligations hereunder unless otherwise agreed to in writing. All obligations and duties shall continue notwithstanding any such consent, assignment or subletting.

ARTICLE 18

Landlord Transfer

18.1 **Landlord Transfer.** Landlord reserves the right to sell or otherwise assign its interest in this Lease or the Premises and the acquisition of title or of Landlord's interest in this Lease by a subsequent owner shall not affect or impair this Lease. However, Landlord may not sell, assign, or otherwise transfer the Building or this Lease with Tenant without also selling, assigning, or otherwise transferring any and all of Landlord's liabilities and/or responsibilities under this Lease. If Landlord conveys or transfers its entire interest in the Premises, upon such conveyance or transfer, Landlord (and in the case of any subsequent conveyances or transfers, the then grantor or transferor) shall be released from all liability with respect to the performance of any obligations on the part of Landlord to be performed hereunder from and after the date of such conveyance or transfer. Upon notice of such transfer, Tenant shall attorn to the new owner as landlord.

ARTICLE 19

Permitted Use; Prohibited Uses; Future Restriction; Rules and Regulations; Legal Requirements; Radius Restriction

19.1 **Permitted Use.** It is understood and agreed between the parties hereto that during the Term of this Lease, the Premises shall be used and occupied only for the Permitted Use as defined in **ITEM 3** of the Cover Sheet and for no other purpose or purposes without the prior written consent of Landlord (which may be withheld in Landlord's sole and absolute discretion). In the event Landlord elects (in the exercise of its sole and absolute discretion) to permit Tenant to use all or any portion of the Premises for a use other than the Permitted Use described in **ITEM 3** of the Cover Sheet, then such approved use shall constitute a "**Permitted Use**" for purposes of this Lease.

19.2 **Prohibited Uses; Future Restrictions.** Tenant shall promptly comply with all encumbrances of record affecting the Premises from time to time, all laws, ordinances and lawful orders, the rules adopted by the Declarant, or, if applicable, any rules and regulations of the BLVD Retail, as may be amended or promulgated in the future so long as there is not material adverse effect to Tenant, affecting the Premises and the cleanliness, safety, occupation and use of the same. In addition to other restrictions on the use of the Premises, Tenant shall not use or permit the Premises to be used for, and the Premises are subject to, and Tenant shall abide by, the "**BLVD Retail Rules and Regulations**" (as defined in this Article). In the event Tenant violates any of the provisions of this Section, Landlord shall have all rights and remedies provided in this Lease, in addition to all rights and remedies available to Landlord at law or in equity, including, but not limited to, injunctive relief.

19.3 **BLVD Retail Rules and Regulations.** In addition to the restrictions contained in this Lease, Landlord may from time to time promulgate reasonable and non-discriminatory rules and regulations which further govern the operation of Tenant's business in the Premises and in and about The BLVD Retail and which do not have a materially adverse effect on Tenant ("**BLVD Retail Rules and Regulations**"). Tenant agrees to abide by and comply with all such reasonable and non-discriminatory rules and regulations. A copy of The BLVD Retail Rules and Regulations currently in effect for The BLVD Retail is attached hereto as **Exhibit C** and incorporated herein by this reference.

19.4 **Legal Requirements.** Tenant shall be obligated (and shall be responsible) to comply with any Legal Requirements, which pertain to Tenant's use and occupancy of the Premises, whether such Legal Requirements are structural or nonstructural in nature. The term "**Legal Requirements**" means all applicable current or future statutes, ordinances, orders, rules, regulations, judgments and requirements of public authorities with jurisdiction over The BLVD Retail and/or the Premises, and all other matters of record affecting the Premises from time to time. Tenant shall not do or permit anything to be done in or about the Premises, nor bring or keep anything therein which is not within the Permitted Use of the Premises which shall in any way increase the existing rate of or affect any fire or other insurance upon the Premises or The BLVD Retailor any of its contents, or cause a cancellation of any insurance policy covering said Premises or The BLVD Retailor any part thereof or any of its contents. Further, Tenant shall furnish and maintain an adequate number of fire extinguishers in good operating condition as may be reasonably required by Landlord or any governmental authority, and in any event, not less than one such extinguisher for each floor or level of the Premises or as may be required under the adopted fire code of the city.

ARTICLE 20

Bankruptcy and Other Actions

Any Event of Default of the type described in **Subsection 23(D)** (captioned "**Bankruptcy**") under the Default provisions of this Lease (a "**Bankruptcy Event**") shall be deemed in material breach of Tenant's obligations hereunder and this Lease shall thereupon automatically terminate. Landlord does, in addition, reserve any and all other remedies provided in this Lease or in the law in connection with any Bankruptcy Event.

A. No default of this Lease by Tenant, either prior to or subsequent to the happening of any Bankruptcy Event, shall be deemed to have been waived unless expressly done so in writing by Landlord.

B. It is understood and agreed that this is a lease of real property in a shopping center as such a lease is described in Section 365(b)(3) of the Bankruptcy Code, that Landlord is entitled to all rights and benefits of a landlord thereunder, and that nothing contained herein shall be deemed a waiver of any such right or benefit.

C. Subject to applicable federal and state law, included within and in addition to any other conditions or obligations imposed upon Tenant or its successor in the event of assumption and/or assignment of this Lease in connection with any Bankruptcy Event are the following: **(1)** the cure of any monetary defaults and the reimbursement of pecuniary loss within not more than 30 days of assumption and/or assignment; **(2)** the deposit of an additional sum equal to three months of Minimum Rent and Additional Rent to be held as security; **(3)** the use of the Premises as set forth in this Lease with the quality and quantity of any goods or services required to be offered for sale unchanged with a covenant of continuous operation by Tenant or its successor; **(4)** the reorganized debtor or assignee of such debtor in possession or Tenant's trustee demonstrates in writing that it has retailing experience in shopping centers of comparable size and financial ability to operate a retail establishment out of the Premises in the manner contemplated in this Lease and meets all other reasonable criteria of Landlord as did Tenant upon execution of this Lease; **(5)** the prior written consent of any mortgagee to which this Lease has been assigned as collateral security; and **(6)** the Premises, at all times, remains a single store and no physical changes of any kind may be made to the Premises unless in compliance with the applicable provisions of this Lease.

ARTICLE 21
Tenant's Property; Personal Property Taxes; Leasehold Improvements

21.1 **Tenant's Property.** Upon the expiration or earlier termination of this Lease, Tenant shall remove from the Premises all of Tenant's furniture, trade fixtures, signage (including both interior and exterior signage, but excluding signage required by law [e.g., "EXIT" signage]), merchandise, inventory, displays and other personal property paid for by Tenant (i.e., excluding any property or improvements paid for by Landlord either directly or with the Construction Allowance) located in the Premises (collectively, "**Tenant's Property**"). Tenant shall use reasonable efforts to avoid or minimize any damage to the Premises or Center resulting from such removal and shall repair any damage to the Premises or Center caused by the removal of Tenant's Property, and all utility lines shall be professionally capped or plugged and Tenant shall leave the Premises in broom clean condition. Tenant hereby agrees that, in addition to any other work required to comply with the provisions of this Section, the foregoing shall require Tenant to repair all damage to the exterior of the Premises resulting from the removal of Tenant's signage and other improvements therefrom, and to repaint all areas beneath such signage and improvements to the extent required for such areas to match the color and materials of the remainder of the exterior of the Premises. If Tenant shall fail to remove any of Tenant's Property, such property shall become the property of Landlord and Landlord shall have the right to dispose of such property as it deems appropriate, and Tenant shall reimburse Landlord for any costs thereby incurred on demand. This requirement shall survive the Term of this Lease to the extent necessary to give effect hereto. Notwithstanding anything contained in this Lease to the contrary, in addition to Tenant's obligation to pay its Proportionate Share of Special Assessments as set forth in **Article 7** above, during the Term of this Lease Tenant acknowledges and agrees that it shall pay all taxes, impositions, assessments and similar charges levied or imposed by any governmental or taxing authority against Tenant's Property or any other property or fixtures located in the Premises and used in connection with the operation of Tenant's business therein that are not taxed as real property, whether owned by Landlord or Tenant and to the extent such Taxes are applicable to Tenant (collectively, "**Personal Property Taxes**"). Tenant shall pay all Personal Property Taxes directly to the applicable governmental authority (or, if Landlord receives the bill with respect to any Personal Property Taxes, Tenant shall pay to Landlord within 20 days after receipt of an invoice therefor from time to time, in which event Landlord shall remit such Personal Property Taxes to the applicable governmental authority).

21.2 **Leasehold Improvements Remain.** Notwithstanding anything to the contrary set forth in this Lease, all alterations, decorations, installations, additions or improvements upon or to the Premises attached or affixed to the real estate by either party, including, but not limited to, all paneling, millwork, decorations, partitions, air conditioning units, heating equipment, hot water heaters, light fixtures, railings, mezzanine floor, galleries, elevators, stairways, vault doors, kitchen equipment and the like (collectively, the "**Leasehold Improvements**"), shall immediately become the property of Landlord upon installation and shall remain upon, and be surrendered with the Premises, as a part thereof, at the termination of this Lease. The value or cost of the Leasehold Improvements constructed by Tenant shall in no way constitute a substitute for or a credit against any obligation of Tenant under this Lease to pay Rent.

ARTICLE 22
Eminent Domain

22.1 **Definition/General.** In the event of a taking of all or any part or of any interest in the Premises, the Building, The BLVD Retail buildings, the Common Areas or any other part of the property by reason of any exercise of the power of eminent domain, or if there is a transfer

thereof or of any interest therein, made in avoidance of an exercise of the power of eminent domain (all of the foregoing being hereinafter collectively referred to as a "**Taking**"), the following provisions shall apply. Landlord shall notify Tenant of any pending or threatened Taking and of all related proceedings including the settling of any award.

A. **Total Taking.** In the event of a Taking of all of the Premises, the BLVD Retail, this Lease shall terminate as of the date of such Taking and all of Tenant's obligations hereunder, including its obligation to pay Rent accruing from and after the date of the Taking shall terminate as of the date of such Taking. To the extent that compensation for a complete taking of the premises includes the value of the Tenants Improvements, such compensation for value of the Tenant improvements shall be provided to Tenant

B. **Partial Taking.** In the event of a Taking of the following: **(1)** more than 20% of the Premises; **(2)** more than 40% of the Building or The BLVD Retail buildings; **(3)** more than 35% of the Common Areas (including the parking areas); or **(4)** more than two of the accessways serving The BLVD Retail without replacement thereof, then Tenant or Landlord may terminate this Lease by notice to the other within 60 days after possession is taken by the condemning authority; PROVIDED, HOWEVER, in the event Tenant elects to terminate this Lease pursuant to Clause (3) above, Landlord shall have the right to nullify such election by giving Tenant notice of its election to promptly restore the Common Areas so taken or furnish substitute facilities which are functionally equivalent to or better than the Common Areas so taken and within a reasonable distance from those portions taken.

22.2 **Restoration.** In the event this Lease is not canceled as herein provided, then Landlord shall: **(A)** restore, if the condemnation award proceeds are available and sufficient to do so, the affected portion and, if applicable, so much of the remainder of the Premises to a complete architectural unit to the extent that they existed on the date physical delivery thereof was initially delivered to Tenant prior to the Commencement Date (in any event subject to then existing code); and **(B)** turn over to Tenant (for restoration purposes by Tenant) that portion of Landlord's award applicable to Tenant's Work initially installed by Tenant and additional Tenant Improvements that was awarded to Landlord (rather than to Tenant) and not otherwise received by Tenant from the condemning authority or pursuant to **Section 22.3** (captioned "**Award**") for such element of damage; PROVIDED, HOWEVER, Landlord may terminate this Lease, if no condemnation award proceeds are available or the condemnation award proceeds are insufficient to restore such affected portion or remainder of the Premises as provided above, by written notice to Tenant within 60 days after the date the condemning authority notifies Landlord of the amount of the condemnation award proceeds (if any). Following the physical delivery of the Premises to Tenant, Tenant shall commence and complete restoration of the Premises to at least the extent of Tenant's Work initially installed by Tenant and additional Tenant Improvements, subject to Tenant receiving enough award proceeds to pay for such Improvements (if there is not enough award, Tenant will have the option to terminate the Lease). During the period of restoration in the Premises only, the Rent shall be equitably abated in accordance with the nature and extent that Tenant's use and enjoyment of the Premises has been affected. Notwithstanding anything contained in this Lease to the contrary, in the event Landlord restores the Premises, Tenant shall agree to waive any existing Opening or On-Going Co-Tenancy Failure(s) and Tenant's Economic Termination Right.

22.3 **Award.** All damages awarded for any Taking shall belong to and be the property of Landlord, Tenant hereby assigning to Landlord its interest, if any, in said award. Notwithstanding the foregoing, Tenant shall have the right to prove in any condemnation proceedings and to receive any separate award which may be made for damages to or condemnation of Tenant's

movable trade fixtures and equipment and for moving expenses; PROVIDED, HOWEVER, Tenant shall in no event have any right to receive any award for its interest in this Lease or for loss of leasehold, and any such award shall not reduce amounts that would otherwise be available to Landlord. Notwithstanding the foregoing provisions of this Article, Landlord may terminate this Lease with no further liability to Tenant in the event that following any Taking of any part of the BLVD Retail, or any conveyance in lieu thereof, any party holding a mortgage, trust deed or similar lien on Landlord's interest in The BLVD Retail elects to require the application of an award or payment for the taking or conveyance in lieu thereof to reduce the indebtedness secured by such mortgage, trust deed or similar lien.

ARTICLE 23

Default

23.1 Default Definition. The occurrence of all or any of the following shall constitute an "Event of Default" by Tenant:

A. **Non-payment of Rent or other sums.** Any installment of Rent, Additional Rent or any other sum(s) required to be paid by Tenant hereunder, or any part thereof, shall at any time be in arrears and unpaid following the due date and after five days written notice thereof as herein provided.

B. **Vacation or Abandonment of Premises.** Tenant has "**vacated or abandoned**" (as defined in this Subsection) the Premises, and such conditions continues for a period of more than five days after Tenant's receipt of written notice thereof. For purposes of this subsection, the term "**vacated or abandoned**" shall mean that Tenant has: **(1)** ceased operating for business in the Premises, and **(2)** has either: **(a)** verbally or in writing expressed to Landlord or its agent its intention to cease performing all or any of its obligations under this Lease; or **(b)** removed such items of Tenant's Property from the Premises so as to render the Premises unsuitable for the operation of Tenant's business therein; or **(c)** tendered the keys to the Premises to Landlord or its agent; PROVIDED, HOWEVER, Tenant hereby agrees that no acceptance of notice or of the keys to the Premises by Landlord or any agent of Landlord shall constitute an acceptance of surrender of the Premises or terminate this Lease or Tenant's liability hereunder.

C. **Non-performance.** There is any default or breach on the part of Tenant in the observance or performance of any of the other covenants, agreements, or conditions of this Lease on the part of Tenant to be kept and performed, and said default or breach shall continue for a period of 30 days after notice thereof from Landlord to Tenant (or, if such default cannot reasonably be cured within 30 days, if Tenant shall fail to commence to cure the default within such 30-day period or thereafter fails to diligently pursue such cure to completion, but in no event shall cure period exceed 90 days).

D. **Bankruptcy.** If: **(1)** Tenant or any Guarantor of Tenant's obligations under this Lease shall become insolvent, or shall make a transfer in fraud of creditors, or shall make an assignment for the benefit of creditors; **(2)** Tenant or any Guarantor of Tenant's obligations under this Lease shall file a petition under any section or chapter of the United States Bankruptcy Code, as amended, or under any similar law or statute of the United States or any State thereof, or an order for relief relating to Tenant or any Guarantor of Tenant's obligations under this Lease is granted in proceedings filed against Tenant or any guarantor of Tenant's obligations under this Lease; or **(3)** a receiver or trustee shall be appointed for the Premises or for all or substantially all of the assets of Tenant or any guarantor of Tenant's obligations under this Lease.

E. **Attachment.** This Lease or the Premises or any part of the Premises are taken upon execution or by other process of law directed against Tenant, or are taken upon or subject to any attachment at the instance of any creditor or claimant against Tenant, and the attachment is not discharged or disposed of within 15 days after its levy.

F. **Failure to Take Possession.** Tenant fails to take possession of the Premises on the Commencement Date as required hereunder.

23.2 **Remedies.** Upon an Event of Default of Tenant hereunder Landlord, at its option, may exercise any of the following remedies, which shall be in addition to the exercise of all rights and remedies of Landlord under this Lease, at law or in equity, with respect to such Event of Default:

A. **Terminate.** Cancel and terminate this Lease and all rights of Tenant hereunder and enter the Premises and take possession thereof.

B. **Take Possession.** Without terminating the Lease, re-enter and take possession of the Premises and remove all persons and property therefrom. Tenant hereby grants to Landlord a lien and security interest as security for payment of all Rent, Additional Rent, or any other charges now or hereafter payable by Tenant hereunder, upon all equipment, fixtures, and inventory (and the proceeds thereof within the Premises, including all improvements, equipment, fixtures, inventory, merchandise, and other personal property now or hereafter placed on or in the Premises, to the full extent of Tenant's and any assignee's, or subtenant's interest herein, and such lien shall include the right to prevent removal of the property from the Premises and may be enforced, upon nonpayment of rent or other charges as property from the Premises and may be enforced, upon nonpayment of rent to other charges as aforesaid, or any other default by Tenant hereunder, without any type of notice to Tenant, unless notice is required by some other provision of this Lease by the re-entry, taking and sale, lease or other disposition of such property. Landlord shall also have all other rights and remedies upon default provided by law, including those set forth in the Uniform Commercial Code. The sale, lease, or other disposition of the property shall be either public or private after at least ten days' notice to Tenant at his last known address, and Landlord shall have the right and privilege to be a purchaser at any such sale. Landlord and Tenant agree that ten days' notice of such sale, lease, or other disposition of the property is reasonable under the circumstances. Landlord shall not be deemed guilty of trespass or liable for any loss or damage occasioned thereby. Should Landlord elect to re-enter, as herein provided, or should Landlord take possession pursuant to legal proceedings or pursuant to any notice provided for by law or by this Lease, Landlord may either cancel this Lease pursuant to the rights reserved elsewhere in this Lease, or Landlord may, from time to time, without canceling this Lease, make such alterations and repairs as may be necessary in order to relet the Premises; and relet said Premises or any part thereof for such term or terms (which may be for a term extending beyond the Term of this Lease) and at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable; upon each such reletting all rentals received by Landlord from such reletting shall be applied first, to the payment of any indebtedness other than Rent due hereunder from Tenant to Landlord, second, to the payment of any costs and expenses of such reletting, including brokerage fees and reasonable attorneys' fees, third, to the payment of costs of any alterations and repairs necessary to relet the Premises, fourth, to the payment of Rent due and unpaid hereunder, and the residue, if any, shall be held by Landlord and applied in payment of future Rent or damage as such amounts may become due and payable hereunder during the entire term of the Lease. If such rentals received from such reletting during any month be less than that to be paid during that month by Tenant hereunder, Tenant shall pay any such deficiency to Landlord. No such re-entry or taking

possession of said Premises by Landlord shall be construed as an election on its part to cancel this Lease unless a notice of such intention is given to Tenant or unless the cancellation thereof is decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to cancel this Lease for such previous Event of Default.

C. **Locks/Security Devices.** Alter locks and other security devices at the Premises in accordance with applicable law.

D. **Tenant Improvement Allowance.** Withhold payment of any unpaid portion of the Tenant Improvement Allowance, if any, regardless of whether Tenant has already paid for all or any portion of the cost of the work, materials or labor to be paid for with the Tenant Improvement Allowance.

E. **Injunctive Relief.** Without limitation, exercise any other right at law or in equity, including specifically, but not by way of limitation, the pursuit of temporary or permanent injunctive relief.

23.3 **Additional Provisions.** If Tenant shall after default voluntarily give up or tender possession of the Premises to Landlord, by delivering the keys to the Premises to Landlord or its agent or property manager, or both, such actions shall be deemed to be in compliance with Landlord's rights and the acceptance thereof by Landlord shall not be deemed to constitute a surrender of the Premises or otherwise affect Landlord's rights in connection with such default; it being understood and agreed that such surrender may be effected only by the written agreement of Landlord and Tenant. In the event that Landlord shall have taken possession of the Premises, Landlord shall have the right to use all the furniture, fixtures and equipment at the Premises, including that which is owned by or leased to Tenant, prior to any foreclosure thereon by Landlord or repossession thereof by a Landlord thereof or third party having a lien thereon. Landlord shall also have the right to remove from the Premises (without legal process) all or any portion of such furniture, fixtures, equipment and other property located thereon and place same in storage at any premises elected by Landlord, and in such event, Tenant shall be liable to Landlord for costs incurred by Landlord in connection with such removal and storage, together with interest thereon at the Interest Rate. Landlord shall also have the right to relinquish possession of all or any portion of such furniture, fixtures, equipment and other property to any person ("**Claimant**") claiming to be entitled to possession thereof, without the necessity of making any investigation or inquiry as to the basis upon which Claimant purports to act, and Tenant agrees to indemnify, defend and hold Landlord harmless from all cost, expense, loss, damage and liability incident to Landlord's relinquishment of possession of all or any portion of such furniture, fixtures, equipment or other property. Tenant stipulates and agrees that the rights set forth in this Section are commercially reasonable.

ARTICLE 24

Subordination; Estoppels

24.1 **Subordination.** Tenant covenants and agrees that **(A)** this Lease is and shall automatically and without further act or deed by Tenant be and remain subject and subordinate to any mortgages, deeds of trust, security deeds or other security instruments, and any ground leases or underlying leases presently existing or hereafter placed upon all or any portion of The BLVD Retail(each a "**Mortgage**") and to any and all advances to be made thereunder, and to any interest accrued thereon, and to all renewals, replacements, modifications, consolidations and extensions thereof or participation thereof, **(B)** any mortgagee, grantee, master lessor, beneficiary

or trustee (each a "**Mortgagee**") may elect to have this Lease made a prior lien to its Mortgage, and in the event of such election and upon notification by Landlord or such Mortgagee to Tenant to that effect, this Lease shall without further act or deed by Tenant be deemed prior in lien to said Mortgage, whether this Lease is dated prior to or subsequent to the date of any such Mortgage, and **(C)** Tenant shall execute and deliver whatever instruments may reasonably be required by Landlord or any present or prospective Mortgagee to acknowledge such subordination or priority (as applicable) in recordable form. If any proceeding is brought for default under any Mortgage to which this Lease is subject, or in the event of foreclosure, deed in lieu of foreclosure or the exercise of the power of sale under any Mortgage covering the Premises (each a "**Foreclosure**") and if requested by Landlord's successor, Tenant shall attorn to such successor and shall recognize that successor as Landlord under this Lease. Tenant agrees that such successor shall not be **(1)** liable for any act or omission of Landlord under this Lease occurring prior to such Foreclosure, **(2)** subject to any offset accruing to Tenant against Landlord prior to such Foreclosure, or **(3)** bound by any previous prepayment of Rent or Security Deposit which have not been expressly delivered by Landlord to such successor. If so requested, Tenant shall enter into a new lease with such successor on the same terms and conditions as are contained in this Lease (for the unexpired Term of this Lease then remaining).

24.2 **Estoppel.** The parties agree that they shall rely solely upon the terms of this Lease to govern their relationship. They further agree that reliance upon any representation, act, or omission outside the terms of this Lease shall be deemed unreasonable, and shall not establish any rights or obligations on the part of either party. Within 20 days after the request of the other party at any time and from time to time, each of Landlord and Tenant agree to execute, acknowledge and deliver to the other party a written instrument in form reasonably acceptable to Landlord and Tenant, duly executed, acknowledged: **(A)** certifying that this Lease has not been modified except as set forth in such certificate and is in full force and effect as modified; **(B)** specifying the dates to which the Minimum Rent, Additional Rent and other charges hereunder have been paid; **(C)** stating whether or not, to the knowledge of the party executing such instrument, the other party is in default and, if so, stating the nature of such default; **(D)** stating the Commencement Date; **(E)** stating whether the option to extend the Term has been exercised; and **(F)** affirming such other factually accurate matters pertaining to the provisions or subject matter of this Lease as may be required by the other party.

ARTICLE 25

Notices

Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if **(A)** delivered to the party at the address set forth below, **(B)** deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or **(C)** given to a recognized and reputable overnight delivery service, to the address set forth below, or **(D)** if transmitted by electronic mail to the address for each party set forth below if no return error message or delivery failure message is received by the sender thereof :

If to Tenant:	Soda Bomb LLC 12636 South 175 th W Goodyear, AZ 85338 Attention: Scott Knight, Owner sknight@sodabombaz.com
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With copy to:

If to the City: City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Attn: Economic Development Director
kchapa@avondaleaz.gov

With copies to: City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Attn: City Manager

City of Avondale City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Attn: City Attorney

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received **(1)** when delivered to the party, **(2)** three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or **(3)** the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

ARTICLE 26

Surrender of Premises

Tenant shall surrender the Premises in broom clean condition and in good order, condition and repair, reasonable wear and tear and insured casualty damage excepted, and shall surrender all keys for the Premises to Landlord at the place then fixed for the payment of Rent and shall inform Landlord of all combinations on locks, safes and vaults, if any, in the Premises. Tenant's obligation to observe or perform this covenant shall survive the expiration or earlier termination of this Lease.

ARTICLE 27

Holding Over

If Tenant remains in possession of the Premises after the expiration of the Term or earlier termination of this Lease, without the execution of a new Lease, then, at Landlord's option, Tenant shall be deemed to be occupying the Premises as a month-to-month holdover Tenant, subject to all the provisions of this Lease insofar as they are applicable to a month-to-month tenancy, but at a daily rental of 125% per day Minimum Rent and Additional Rent provided under this Lease, computed on the basis of a 30 day month.

ARTICLE 28

Casualty

28.1 **Removal of Debris.** In the event of a casualty, Tenant shall be responsible for the prompt removal of all debris resulting from Tenant Improvements installed in the Premises by Tenant, including Tenant's furniture and fixtures.

28.2 **Termination.** If at any time during the Term, the Premises or any material portion of The BLVD Retail should be destroyed or damaged by fire or other casualty, Landlord shall have the election to repair and reconstruct the damaged portion of the Premises and/or The BLVD Retail to substantially the condition which existed at the time of Landlord's tender of possession of the Premises to Tenant or alternatively, to terminate this Lease. Landlord shall notify Tenant of its election within 20 days after receipt of notice from Tenant of such damage or destruction. In the event Landlord elects to terminate this Lease pursuant to this Section, Rent shall be apportioned on a per diem basis and be paid to the date of termination, such termination to be effective 30 days following the date of Landlord's notice and upon expiration of such 30-day period neither party shall have any further rights or obligations hereunder. Rent shall be abated for the period Tenant is unable to operate in the Premises.

28.3 **Repair.** If Landlord elects to repair and restore the Premises: **(A)** this Lease shall continue in full force and effect; **(B)** such repairs shall be made by Landlord within a reasonable period of time; and **(C)** Rent shall abate proportionately only during the period and to the extent that the Premises are unfit for use, and are not otherwise used, by Tenant to operate its business. Notwithstanding the foregoing, if the damage is due to the negligence of Tenant or its employees, there shall be no abatement of Rent. If Landlord elects to repair and restore the Premises, Tenant hereby covenants and agrees to restore the interior of the Premises, pursuant to Landlord's standard construction procedures, and reopen fully stocked and staffed in the Premises promptly thereafter. Notwithstanding anything contained in this Lease to the contrary, in the event Landlord elects to repair and restore the Premises, Tenant shall agree to waive any existing Opening or On-Going Co-Tenancy Failure(s) and Tenant's Economic Termination Right. Rent shall be abated for the period Tenant is unable to operate in the Premises.

28.4 **Notice.** Tenant shall give notice to Landlord within two business days after Tenant learns of any accident, damage or destruction at the Premises.

ARTICLE 29

Waiver

One or more waivers of any covenant or condition of this Lease by Landlord shall not be construed as a waiver of a further breach of the same covenant or condition, and the consent or approval by Landlord to or of any act by Tenant requiring Landlord's consent or approval shall not be deemed to waive or render unnecessary Landlord's consent or approval to any subsequent similar act by Tenant. No receipt of money by Landlord after a Tenant default has been declared shall, without the consent of Landlord, in any way reinstate, continue or extend the Term of this Lease. Receipt by Landlord of Tenant's keys to the Premises shall not constitute an acceptance of surrender of the Premises without Landlord's acknowledgment thereof.

ARTICLE 30

Quiet Possession

Landlord agrees that, so long as Tenant fully complies with all of the terms, covenants and conditions herein contained on Tenant's part to be kept and performed, Tenant shall peaceably and quietly have, hold and enjoy the Premises free from molestation by Landlord or any party claiming by, through or under Landlord.

ARTICLE 31

Broker's Commission

Landlord and Tenant agree that no brokers have been involved in these lease negotiations. No commission is due and payable.

ARTICLE 32

Asbestos and Other Hazardous Materials

32.1 Definitions. For purposes of this Lease:

A. **"Environmental Laws"** means any federal, state or local statute, regulation or ordinance or any judicial or administrative decree or decision, whether now existing or hereinafter enacted, promulgated or issued, with respect to any Hazardous Materials, drinking water, groundwater, wetlands, landfills, open dumps, storage tanks, underground storage tanks, solid waste, waste water, storm water runoff, waste emissions or wells, including, without limiting the generality of the foregoing, the following statutes, and regulations, orders, decrees, permits, licenses and deed restrictions now or hereafter promulgated thereunder, and amendments and successors to such statutes and regulations as may be enacted and promulgated from time to time: Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601 et seq., as amended by the Superfund Amendments and Reauthorization Act; the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq.; the Hazardous Material Transportation Act, 42 U.S.C. §1801 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. §1251 et seq.; the Toxic Substances Control Act, 15 U.S.C. §2601 et seq.; the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq.; the Emergency Planning and Community Right to Know Act, 42 U.S.C. §11001 et seq.; the Clean Air Act, 42 U.S.C. §7401 et seq.; the Uranium Mill Tailings Radiation Control Act (42 U.S.C. Section 7901 et seq.); the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. § 136 et seq.); the Noise Control Act (42 U.S.C. § 4901 et seq.); the Safe Drinking Water Act (21 U.S.C. § 349, 42 U.S.C. § 201 and § 300f et seq.); and the National Environmental Policy Act (42 U.S.C. § 4321 et seq.).

B. **"Hazardous Materials"** means each and every element, compound, chemical mixture, contaminant, pollutant, material, waste or other substance which is defined, determined or identified as hazardous or toxic under any Environmental Law.

C. **"Release"** means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, storing, escaping, leaking, dumping, discarding, burying, abandoning, using, generating, permitting, producing, introducing, maintaining, disposing or releasing into the Premises, The BLVD Retailer the environment.

D. **"Environmental Authorities"** means the United States, the State and any political subdivision thereof, the United States Environmental Protection Agency and any and all governmental authorities and the agencies, departments, commissions, boards, bureaus, bodies,

councils, offices, authorities, or instrumentality of any of them, of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise) whether now or hereafter in existence having jurisdiction under any Environmental Law.

E. **"Notice"** means any communication, written or oral, actual or threatened, from any governmental authority or any other public or private entity or individual, concerning any violation of any Environmental Law, or any act or omission resulting or which may result in the Release of Hazardous Material, and shall include the imposition of any liens on The BLVD Retailor revenues or assets of Landlord.

32.2 Tenant Requirements. Landlord is unaware of Hazardous Substances on the Premises. If this is a material concern to the Tenant, this shall be investigated by the Tenant prior to Lease Execution. Landlord will comply with all Environmental Laws as to the Premises and Common Areas. Neither Tenant, nor its agents, employees, contractors, servants, subtenants, concessionaires or invitees, shall Release any Hazardous Materials in or about any portion of the Premises or the BLVD Retail, or transport any Hazardous Materials to or from the Premises or the BLVD Retail, except construction materials (other than asbestos or polychlorinated biphenyls), office equipment, cleaning solutions, other maintenance materials and oil and other petroleum products that are or contain Hazardous Materials may be used, handled or stored on the Premises, provided such materials, equipment, solutions and products are used in de minimis amounts and are used only incidental to and as reasonably necessary for the operation and maintenance of the Premises for the Permitted Use hereunder and in compliance with all applicable Environmental Laws. In addition, neither Tenant, nor its agents, employees, contractors, servants or subtenants, shall install, use or permit the installation or use of storage tanks or other subterranean structures, on, under or adjacent to the Premises. Tenant shall, at Tenant's sole cost and expense, comply with all Environmental Laws applicable to Tenant's operations in the Premises and the BLVD Retail, and make all submissions to, provide all information required by, and comply with all requirements of all Environmental Authorities. If there is any Release or transportation by Tenant of Hazardous Materials at or from the Premises or the BLVD Retail by Tenant or at Tenant's direction, or which arises at any time from Tenant's use or occupancy of the Premises or the BLVD Retail, and Landlord, any Environmental Authority or any third party demands that a remediation be undertaken, then Tenant, at Tenant's sole cost and expense, shall prepare and submit remediation plans for the demanding party's approval, and Tenant shall carry out all such remediation in accordance with such approved plans. In addition, Tenant shall promptly provide all information regarding the Release or transportation of Hazardous Materials that is requested by Landlord. If remediation is required by Tenant pursuant to the provisions of this Article, then Tenant shall continue to pay any and all Rent that comes due during such remediation and no abatement of Rent shall apply. If Tenant fails to fulfill or begin to fulfill any obligation imposed under this Section within 30 days after receipt of written notice from Landlord, Landlord may, in its sole discretion, undertake the remediation of such Hazardous Materials from the Premises and/or the BLVD Retail, in which event Tenant shall cooperate with Landlord in order to prepare all documents Landlord deems necessary or appropriate to determine the applicability of the Environmental Laws to the Premises and the BLVD Retail, and Tenant's use thereof and for compliance therewith. In addition, Tenant shall execute all documents promptly upon Landlord's request, and reimburse Landlord for all reasonable expenses incurred by Landlord in fulfilling Tenant's obligations set forth in this Section, together with an additional amount equal to 25% of such expenses, within ten days after receipt of an invoice therefor. Notwithstanding the foregoing, Tenant shall have no obligation to undertake any remediation or incur any costs or expenses (as required in this Section) as a result of Hazardous Materials **(A)** existing in the Premises on or before the Delivery Date and not Released by Tenant, or its agents, employees, contractors, servants, subtenants,

concessionaires or invitees; or **(B)** Released in the Premises or The BLVD Retail by Landlord, its agents, contractors or employees, or a third party unrelated to Tenant.

32.3 Tenant Indemnification. Tenant shall indemnify, protect and save Landlord, its officers, members, managers, agents and servants, and any Encumbrance Holder and management company (collectively, "**Landlord's Indemnitees**"), harmless for, from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, proceedings or expenses of any kind or of any nature whatsoever (including reasonable attorneys' and experts' fees and disbursements), which may at any time be imposed upon, incurred by or asserted or awarded against Landlord or any of the Landlord Indemnitees, arising out of, or in any way connected with, any breach or violation of the requirements set forth in this Article by Tenant or any of its agents, employees, contractors, servants, subtenants, concessionaires or invitees. In connection with Tenant's indemnification hereunder: **(A)** upon receipt of written notice from Landlord, Tenant agrees to defend any claim or demand brought, or any action, petition, or order filed, against Landlord or the Landlord Indemnitees by counsel reasonably satisfactory to Landlord, whether any such claim or action is rightfully or wrongfully brought or filed; and Tenant shall pay all reasonable expenses incurred in connection with defending against such action or proceeding; and **(B)** Tenant shall pay, satisfy and discharge any judgments, liens, orders or decrees which may be recovered or filed against Landlord, or any of the Landlord Indemnitees, arising out of any such claim, demand, action, petition or order.

Landlord will comply with all Environmental Laws as to the Building and the Common Areas.

32.4 Survival. The provisions of this Article shall extend to and be enforceable by Landlord's liability, health, disability and worker's compensation insurers, and shall survive the expiration or sooner termination of the Term.

ARTICLE 33

Security Deposit; Conflicts; Access; Relationship; Headings & Miscellaneous

33.1 Security Deposit. On or before the Effective Date, Tenant shall deposit with Landlord the sum specified in **ITEM 11** of the Cover Sheet (the "**Security Deposit**"). The Security Deposit shall be held by Landlord without liability for interest as security for the faithful performance by Tenant of all of its obligations under this Lease. The Security Deposit shall not be mortgaged, assigned, transferred or encumbered by Tenant without the prior written consent of Landlord and any such act on the part of Tenant shall be without force and effect and shall not be binding upon Landlord. If any of the Rent or any other sum payable by Tenant to Landlord hereunder shall be overdue and unpaid or paid by Landlord on behalf of Tenant, or if Tenant shall fail to perform any of its obligations under this Lease, then Landlord may, at its option and without prejudice to any other remedy which Landlord may have on account thereof, appropriate and apply said entire Security Deposit, or so much thereof as may be necessary to compensate Landlord for Minimum Rent, Additional Rent, loss or damage sustained by Landlord as a result thereof, and Tenant shall forthwith upon demand restore the Security Deposit to the original sum deposited. Should Tenant comply with all of said obligations and promptly pay all the rentals when due and all other sums payable by Tenant to Landlord, said Security Deposit shall be refunded in full to Tenant at the expiration or earlier termination of this Lease as mutually agreed to by both parties. In the event of bankruptcy or other debtor-creditor proceedings against Tenant, as specified in **Article 20**, the Security Deposit shall be deemed to be applied first to the payment of rental and other charges due Landlord for the earliest periods prior to the filing of such proceedings. Landlord may deliver the Security Deposit to the purchaser or assignee of Landlord's interest in the Premises in the event that such interest is transferred and thereupon

Landlord shall be discharged from any further liability with respect to the Security Deposit. This Section shall also apply to any subsequent transfer of Landlord's interest in the Premises.

33.2 Governing Item. Notwithstanding anything contained in the Lease to the contrary, in the event of a conflict between Tenant's approved Construction Documents, as set forth in **Exhibit B-2**, and the terms and conditions of this Lease, including, but not limited to, **Exhibit B-2**, Tenant's approved Construction Documents, as approved by Landlord in accordance with **Exhibit B-2**, shall govern.

33.3 Landlord Access to Rent. Landlord may, at any time during the last 12 months of the Term, upon reasonable notice to Tenant, enter the Premises at all reasonable hours for the purpose of offering them for rent; provided, however, that such actions must not disturb Tenant's use of the Premises for its operations.

33.4 Relationship. Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating a relationship between the parties hereto other than the relationship of landlord and tenant.

33.5 Submission. The submission of this Lease for examination does not constitute a reservation or any option for the Premises and this Lease becomes effective only upon its execution and delivery by both parties hereto.

33.6 Headings. The Article headings used throughout this Lease are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Lease.

33.7 Construction. Whenever herein the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders. The captions, section numbers, article numbers, and index appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of such sections or articles of this Lease nor in any way affect this Lease.

33.8 Independent Covenants. The doctrine of independent covenants shall apply in all matters relating to this Lease including, without limitation, all obligations of Landlord and Tenant to perform their respective obligations under this Lease. All obligations of Tenant which by their nature involve performance after the end of the Term, or which cannot be ascertained to have been performed until after the end of the Term of this Lease, shall survive the expiration or earlier termination of this Lease.

33.9 Holiday Lights. Tenant agrees to allow Landlord's representative to install and maintain holiday lights on the Premises during the holiday season, if such lights shall not interfere with Tenant's signs or obstruct Tenant's entrance. During the holiday season, holiday lights may be placed upon the outline of the roofline of the buildings located at the BLVD Retail.

33.10 RESERVE

33.11 Time of Essence & Binding Nature. Time is of the essence of all of the terms and provisions of this Lease, and the terms and conditions hereof shall extend to and be binding upon the heirs, executors, successors and assigns of the parties hereto and mention of the singular shall include the plural and the plural shall include the singular.

33.12 **Memorandum of Lease.** In accordance with ARIZ. REV. STAT. § 42.6202(C), the City shall record a memorandum of this Lease in the Maricopa County Recorder's Office.

33.13 **Trial Waiver.**

THE PARTIES HERETO IRREVOCABLY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, OR TENANT'S USE AND OCCUPANCY OF THE PREMISES.

33.14 **Governing Law.** This Lease shall be subject to the laws of the State of Arizona.

33.15 **Attorneys' Fees.** In the event either party to this Lease brings any legal action to enforce the provisions hereof, the prevailing party in any such action shall be entitled to recover from the non-prevailing party all attorneys' fees and other fees and costs incurred by such prevailing party in connection with any such action.

33.16 **Force Majeure.** In the event either party hereto shall be delayed or hindered in or prevented from the performance of any act required under this Lease by reason of strikes, lockouts, labor troubles, acts of God, inclement weather, including periods of rain, inability to procure materials, failure of power, governmental law or regulations that require closure of Tenant's Business for more than Sixty consecutive days, riots, insurrections, war or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Lease ("**Force Majeure**"), then performance of such act shall be excused for the number of calendar days of such delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. No delay under this Section shall be effective unless Landlord or Tenant shall have notified the other of the delay within 20 days after cessation of the event giving rise to such delay setting forth the nature of such Force Majeure and the duration of such delay. The provisions of this Section shall not: **(A)** operate to excuse Tenant from prompt payment of Minimum Rent, Additional Rent or any other payment required by the terms of this Lease; nor **(B)** be applicable to delays resulting from the inability of a party to obtain financing or to proceed with its obligations under this Lease because of a lack of funds.

33.17 RESERVE

33.18 RESERVE

33.19 **Tenant Liability; Authority.** If this Lease is executed by more than one person or entity as "**Tenant**", each such person or entity shall be jointly and severally liable hereunder. It is expressly understood that any one of the parties who have executed this Lease as "**Tenant**" (herein individually referred to as "**Signatory**") shall be empowered to execute any modification, amendment, exhibit, floor plan, or other document ("**Future Instrument**") and bind each such Signatory who has executed this Lease regardless of whether each Signatory, in fact, executes such Future Instrument. If Tenant is a corporation, limited liability company or partnership, each individual executing this Lease on behalf of such entity represents and warrants that he/she is duly authorized to execute and deliver this Lease on behalf of said entity, in accordance with the organizational documents of said entity, and that this Lease is binding upon said entity.

33.20 Homeland Security. Tenant represents, certifies and warrants to Landlord as follows: **(A)** Tenant is not named by, and is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by, any Executive Order, including without limitation Executive Order 13224, or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person," or other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enacted, enforced or administered by the Office of Foreign Assets Control; **(B)** Tenant is not engaged in this transaction, directly or indirectly, for or on behalf of, or instigating or facilitating this transaction, directly or indirectly on behalf of, any such person, group, entity or nation; and **(C)** none of the proceeds used to pay Minimum Rent and Additional Rent have been or will be derived from a "specified unlawful activity" as defined in, and Tenant is not otherwise in violation of, the Money Laundering Control Act of 1986, as amended, or any other applicable laws regarding money laundering activities. Furthermore, Tenant agrees to immediately notify Landlord if Tenant was, is, or in the future becomes a "senior foreign political figure," or an immediate family member or close associate of a "senior foreign political figure," within the meaning of Section 312 of the USA PATRIOT Act of 2001. Notwithstanding anything in this Lease to the contrary, Tenant acknowledges and agrees that this Lease is a continuing transaction and that the foregoing representations, certifications and warranties are ongoing and shall be and remain true and in full force and effect on the date hereof and throughout the Term and that any breach thereof shall constitute an automatic Event of Default giving rise to Landlord's remedies and Tenant agrees to indemnify, defend and hold harmless Landlord and Landlord's management agent from and against all losses, damages, costs and expenses resulting from or relating to any breach of the foregoing representations, certification and warranties.

33.21 Limitation of Landlord's Liability. Notwithstanding any other provision of this Lease, Tenant agrees that neither Landlord nor any of Landlord's officers, directors, partners, shareholders, members or employees shall have any personal liability hereunder. Landlord is a governmental entity and can only be obligated to pay its obligations set forth in this Lease as may lawfully be made from funds appropriated and budgeted for that purpose during Landlord's then current fiscal year. The Landlord's obligations under this Lease are current expenses subject to the "budget law" and the unfettered legislative decision of the Landlord concerning budgeted purposes and appropriation of funds. Should Landlord elect not to appropriate and budget funds to pay its Lease obligations, this Lease shall be deemed terminated at the end of the then current fiscal year term for which such funds were appropriated and budgeted for such purpose and Landlord shall be relieved of any subsequent obligation under this Lease. Landlord shall be the sole judge and authority in determining the availability of funds for its obligations under this Lease. Landlord shall keep the Tenant informed as to the availability of funds for this Lease. The obligation of Landlord to make any payment pursuant to this Lease is not a general obligation or indebtedness of Landlord. The Tenant hereby waives any and all rights to bring any claim against the Landlord from or relating in any way to Landlord's termination of this Lease pursuant to this Section 31.21.

33.22 Legal Representation of the Parties. This Lease was negotiated by the Parties hereto with the benefit of legal representation and any rules of construction or interpretation otherwise requiring this Lease to be construed or interpreted against any party shall not apply to any construction or interpretation hereof or thereof.

33.23 Agreement; Amendment. This Lease (including all Riders, Exhibits, Addenda and Guaranty, if any) is the complete agreement between Landlord and Tenant concerning the Premises and the BLVD Retail. There are no oral agreements, understandings, promises or

representations between Landlord and Tenant affecting this Lease. All prior negotiations and understandings, if any, between the parties hereto with respect to the Premises and the BLVD Retail, shall be of no force or effect and shall not be used to interpret this Lease. This Lease shall not be amended, changed or extended except by written instrument signed by both parties hereto. This Lease shall be considered to have been executed by a person if there exists a photocopy, facsimile copy, or a photocopy of a facsimile copy of an original hereof or of a counterpart hereof which has been signed by such person. Any photocopy, facsimile copy, or photocopy of facsimile copy of this Lease or a counterpart hereof shall be admissible into evidence in any proceeding as though it were an original.

33.24 Subsequent Commencement. This Lease shall be effective as of the day and year first above written notwithstanding that the Term shall commence at a date subsequent thereto and Landlord and Tenant intend that each shall have vested rights immediately upon the full execution signing of this Lease and that this Lease shall be fully binding and in full force and effect from and after execution hereof by the last to sign of Landlord and Tenant.

33.25 Severability. If any provision of this Lease or the application of it to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each provision of the Lease shall be valid and enforceable to the fullest extent permitted by law, and the remaining provisions of this Lease shall be interpreted so as to nearly as possible conform to the intent of the parties as indicated in this Lease.

33.26 Conflict of Interest. The Landlord may cancel this Lease pursuant to ARIZ. REV. STAT. § 38-511 without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Lease on behalf of the Landlord is, at any time while the Lease or any extension of the Lease is in effect, an employee of the Tenant in any capacity or a consultant to the Tenant with respect to the subject matter of the Lease. The cancellation shall be effective when written notice from the Landlord is received by the Tenant, unless the notice specifies a later time.

33.27 Incorporation of Exhibits. All Exhibits identified in this Lease, including, but not limited to the following listed Exhibits, shall be and are hereby incorporated into this Lease by this reference:

EXHIBIT A-1	SITE PLAN
EXHIBIT A-2	FLOOR PLAN
EXHIBIT B-1	DELIVERY DATE CERTIFICATE
EXHIBIT B-2	CONSTRUCTION GUIDELINES
EXHIBIT C	BLVD RETAIL RULES AND REGULATIONS
EXHIBIT D	FORM OF COMMENCEMENT DATE MEMORANDUM
EXHIBIT E	PARKING MAP

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned parties have executed this Lease the day and year first above written.

LANDLORD:
CITY OF AVONDALE,
an Arizona municipal corporation

TENANT:
SODA BOMB LLC,
an Arizona limited liability company

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date Executed: _____

Date Executed: _____

ATTEST:

Marcella Carrillo, City Clerk

Date Executed: _____

EXHIBIT A-1

SITE PLAN

Tenant hereby acknowledges that the attached Site Plan is intended to show the approximate layout of The BLVD Retail and location of the Premises, and Landlord has the right at any time to expand, reduce, remove, demolish, renovate or construct any existing or new improvements in the BLVD Retail, including, without limitation, the right to change the shape, size, configuration, number, design or extent of such improvements, provided the approximate location, size and configuration of the Premises shall not be materially changed.



EXHIBIT A-2
FLOOR PLAN

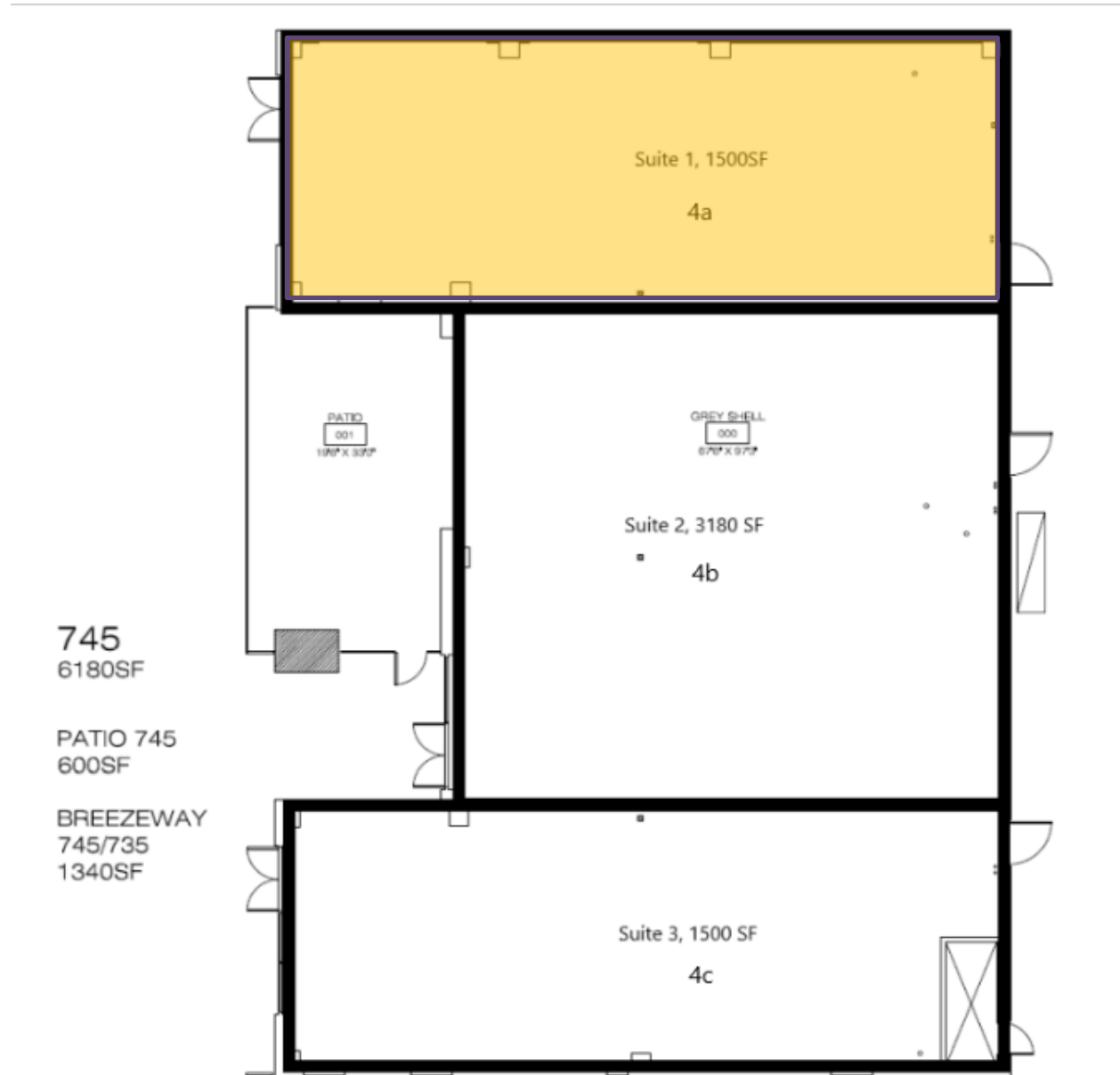


EXHIBIT B-1

DELIVERY DATE CERTIFICATION

[DATE]

VIA FEDERAL EXPRESS

Tenant: Soda Bomb LLC
12636 S 175th W
Goodyear, AZ 85338
Attention: SVP, Construction and Special Projects

Copy To:

Re: Lease Agreement, dated _____(the "**Lease**"), between THE CITY OF AVONDALE, an Arizona municipal corporation ("**Landlord**"), and SODA BOMB LLC, ("**Tenant**"), with respect to those certain premises contemplated to contain approximately 1,500 square feet, as more particularly depicted and described in **Exhibit A** to the Lease (the "**Premises**") and located at 745 N. 114th Avenue, Avondale, Arizona 85323

Dear Tenant:

In accordance with the provisions of the Lease, Landlord and Tenant acknowledge that the Delivery Date (as such term is defined in the Lease) will be deemed to be _____. This notice shall constitute the Delivery Date Certificate from Landlord to Tenant.

LANDLORD:

CITY OF AVONDALE,
an Arizona municipal corporation

By: _____

Name: _____

Title: _____

Date Executed: _____

ATTEST:

Marcella Carrillo, City Clerk

TENANT:

SODA BOMB, LLC
an Arizona limited liability company

By: _____

Name: _____

Title: _____

Date Executed: _____

Date Executed: _____

EXHIBIT B-2

CONSTRUCTION GUIDELINES

THIS **EXHIBIT B-2** (the "**Construction Guidelines**") supplements the Lease to which it is attached and is incorporated therein as if set out in full. In the event of a conflict between the terms of this **Exhibit B-2** and the Lease, this **Exhibit B-2** shall control. Capitalized terms not defined in this **Exhibit B-2** shall have the meanings given to such terms in the Lease.

1. **Landlord's Work.** Landlord shall, at its own cost and expense, perform only the work described as "**Landlord's Work**" in **ITEM 9** of the Lease. Landlord has made no representations or warranties regarding the condition of the Premises or the BLVD Retail, except as expressly set forth in this Lease.

2. **Tenant's Work.** Tenant shall, at its own cost and expense, perform all work described as "Tenant's Work" in **ITEM 9** of the Lease in addition to all work not described as "**Landlord's Work**" in the Lease necessary to complete the Premises and to prepare them for the operation of Tenant's business therein (collectively, "**Tenant's Work**"). The parties acknowledge that Tenant will not be required to comply with the public procurement laws with respect to Tenant's Work or other alterations hereunder. Tenant agrees that all Leasehold Improvements to the Premises shall, upon installation, become the property of Landlord and shall remain upon the Premises upon the expiration or earlier termination of this Lease. Tenant shall not do anything upon or in connection with the Premises or the construction of any part thereof which interferes in any way with, or results in a work stoppage in connection with, construction of any part of The BLVD Retail or any other tenant's space.

3. **Plans and Specifications.**

3.1 **Tenant's Drawings.** Tenant shall prepare and furnish to Landlord, at Tenant's sole cost and expense, and in compliance with applicable laws, statutes, ordinances and codes, a complete set of finish drawings ("**Tenant's Drawings**") by the end of the project.

3.2 **Approval of Tenant's Drawings.** Landlord shall have 15 days after receipt to approve or disapprove Tenant's Drawings, specifying in detail any reasons for disapproval. If Tenant's Drawings are disapproved, Tenant shall incorporate Landlord's comments and resubmit Tenant's Drawings to Landlord within 15 days. Landlord shall have 5 days after receipt of the resubmitted Drawings to approve or disapprove them, and, in the event of disapproval, the procedures set forth herein shall be repeated until Landlord has approved Tenant's Drawings. Landlord will not unreasonably withhold its approval.

3.3 **Construction Documents.** Tenant shall prepare and furnish to Landlord, at Tenant's sole cost and expense, and in compliance with applicable laws, statutes, ordinances and codes, a complete set of construction plans and specifications at 100% design development ("**Construction Documents**") by _____ 2021. A complete set of Construction Documents shall be kept on the Premises at all times until Tenant opens for business therein.

3.4 **Approval of Construction Documents.** Landlord shall have 15 days after receipt to approve or disapprove Tenant's Construction Documents, specifying in detail any reasons for disapproval. If Tenant's Construction Documents are disapproved, Tenant shall incorporate Landlord's comments and resubmit Tenant's Construction Documents to Landlord within 15 days. Landlord shall have 5 days after receipt of the resubmitted Construction Documents to approve or

disapprove them, and, in the event of disapproval, the procedures set forth herein shall be repeated until Landlord has approved Tenant's Construction Documents. Landlord will not unreasonably withhold its approval. A complete set of Construction Documents shall be kept on the Premises at all times until Tenant opens for business therein.

3.5 **Tenant's Architect/Engineer.** Tenant shall cause all architects and engineers engaged by Tenant (each a "**Professional**") to obtain and keep in force, with an insurance company authorized to do business in Arizona which has a general policy rating of A- or better and a financial class of VII or better by A.M. Best Company, Inc. (or if a rating of A.M. Best Company is no longer available, a comparable rating from a similar or successor service), a policy of professional liability insurance covering all liability arising out of any negligent acts or errors and omissions committed by such Professional with limits of not less than \$1,000,000.00 per claim and annual aggregate, with a retroactive date prior to the contract date. Each Professional shall maintain such policy for a minimum of two years after completion of work or shall obtain a two-year extended reporting period if the policy is canceled or non-renewed.

4. **Tenant's Contractor.** All contractors engaged by Tenant shall be bondable, licensed contractors, having good labor relations, and capable of performing quality workmanship and working in harmony with Landlord's contractors and other contractors on the job. The term "contractors" as used in this Section shall be deemed to include subcontractors. The City shall have the absolute right to review contractor plans, bids, and estimated costs and, in its reasonable discretion, the City may approve or disapprove Tenant's Contractor, specifying in detail any reasons for disapproval. If the Tenant's Contractor is not approved, the City has authority to request that Tenant solicit a different contractor to perform any and all work according to the specifications of this lease.

4.1 **Insurance.** On or before entry into the Premises, Tenant shall cause its contractor to obtain and to keep in force, with an insurance company authorized to do business in Arizona which has a general policy rating of A- or better and a financial class of VII or better by A.M. Best Company, Inc. (or if a rating of A.M. Best Company is no longer available, a comparable rating from a similar or successor service), until Tenant's Work is completed, all of the following insurance:

A. **Commercial General Liability Insurance.** Commercial general liability insurance to protect against claims for bodily injury and property damage arising out of premises operations, products, and completed operations, and advertising and personal injury liability, written on an occurrence basis using ISO Form CG0001 (or its equivalent) with no amendments to the definition of an insured contract, in limits of not less than \$2,000,000.00 inclusive, per occurrence, and \$2,000,000.00 annual aggregate per project, or such higher limits as Landlord may require from time to time during the Term. Completed Operations to remain in force for at least two years following project completion. To the extent permitted by applicable law, such policy(ies) shall include a waiver of any right of subrogation of the insurers thereunder against Landlord, Landlord's property manager, and all mortgagees of Landlord.

B. **Commercial Automobile Liability Insurance.** Commercial automobile liability insurance to include contractual liability insurance for the indemnities set forth in this contract covering all owned, non-owned and hired automobiles, in limits of not less than \$1,000,000.00 combined single limit (each accident), or such higher limits as Landlord may require from time to time during the Term. To the extent permitted by applicable law, such policy(ies) shall include a waiver of any right of subrogation of the

insurers thereunder against Landlord, Landlord's property manager, and all mortgagees of Landlord.

C. Employer's Liability Insurance and Workers Compensation.

Employer's Liability insurance, with minimum limits of not less than \$500,000 bodily injury each accident, \$500,000.00 bodily injury by disease policy limit and \$500,000.00 bodily injury by disease each employee, and Worker's Compensation, in form and amount as required by applicable state law. To the extent permitted by applicable law, such policy shall include a waiver of any right of subrogation of the insurers thereunder against Landlord, Landlord's property manager, and all mortgagees of Landlord.

D. Umbrella Liability Insurance.

Umbrella liability insurance over the primary general liability, automobile liability and employer's liability insurance policies in limits of not less than \$2,000,000.00 inclusive per occurrence, and \$2,000,000.00 annual aggregate, per project, or such higher limits as Landlord may require from time to time during the Term. To the extent permitted by applicable law, such policy(ies) shall include a waiver of any right of subrogation of the insurers thereunder against Landlord, Landlord's property manager, and all mortgagees of Landlord.

E. Builder's Risk Insurance.

Builder's Risk insurance on a "Special Form" basis (including collapse) using a completed value (non-reporting) form for full replacement cost covering all work which Tenant contracts for or performs in The BLVD Retail and all materials and equipment used or installed by Tenant in or about the Premises, off site and in transit. This insurance shall include: (1) interests of Tenant, Landlord, Landlord's property manager, all mortgagees of Landlord, Tenant's contractor, subcontractors and sub-subcontractors; and (2) a mutual release and waiver of subrogation for all parties.

F. Insurance Changes.

Landlord may require, from time to time, changes or endorsements to Tenant's contractor insurance required herein.

4.2 Policies of Insurance.

Tenant's contractor shall have right to satisfy the insurance required by this Section by means of blanket insurance policy(ies), provided that no other loss which may also be insured by the blanket insurance shall affect the insurance coverages required hereunder and further provided that Tenant's contractor delivers to Landlord a certificate specifically stating that such coverages apply to Landlord, Landlord's property manager, all mortgagees of Landlord, the Premises and the BLVD Retail. All policies of insurance or certificates thereof, except with respect to workers compensation or professional liability, shall name Tenant, Landlord, Landlord's property manager, and all mortgagees of Landlord, as additional insureds, as their respective interests may appear, including products and completed operations. All self-insured retentions and deductible amounts shall be subject to Landlord's prior written approval. Any and all deductibles or coinsurance in the above-described policies or inadequacy of limits for coverage shall be assumed by, for the account of, and at Tenant's contractor sole risk. Prior to commencing any work under this Agreement, Tenant will provide Landlord with suitable evidence of insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Agreement, issued by Tenant's insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Confidential information such as the policy premium may be redacted from the declaration page(s) of each insurance policy, provided that such redactions do not alter any of the information required by this Agreement. The Landlord shall reasonably rely upon the

certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. Tenant agrees to further provide Landlord evidence of renewals of policies not later than 30 days prior to the end of the expiring term. Landlord reserves the right to request and receive for review certified copies of any and all insurance policies to which the Lease is applicable. The required coverage and or limits referred to and set forth herein shall in no way affect or limit Tenant's contractor's liability with respect to its performance.

4.3 **Conditions to Commencement of Tenant's Work.** On or before entry into the Premises, Tenant shall cause its contractor to: **(A)** review the plans and specifications (including all exhibits, addendums or riders thereto); **(B)** review other related data including "**technical data**"; **(C)** inspect the Premises; and **(D)** obtain all governmental permits and approvals and pay any associated tax (including, but not limited to, excise tax) to complete Tenant's Work and forward copies to Landlord.

4.4 **Construction of Tenant's Work.** Tenant shall cause its contractor: **(A)** to construct Tenant's Work strictly in accordance with Landlord approved plans and specifications and changes thereto which are stamped approved by Landlord's architect; **(B)** to advise Landlord immediately of any requested change from the plans and specifications; **(C)** to keep a Landlord approved original set of plans and specifications at the job site at all times; and **(D)** not to leave the job site until Landlord's and Tenant's punch list items are complete, all damage is repaired and the site is free of debris and all unused materials are removed. Daily site cleanup is required.

4.5 **Contractor Deposit.** Prior to commencement of construction, Tenant or Tenant's contractor shall deposit with Landlord the amount of \$5,000.00 for the Premises as a damage/repair/clean-up deposit (the "**Contractor Deposit**"). Landlord may utilize the Contractor Deposit if Tenant's contractor does not repair damage to the property, damages the property, does not complete punch list items or does not clean-up their construction site as required or otherwise fulfill the obligations of this Section. Should Landlord be required to complete any work to be completed by Tenant's contractor, including, but not limited to, cleanup, painting, punch list items, etc., Tenant shall pay Landlord the cost of such work, together with an amount equal to 25%, within 20 days after receipt of an invoice therefor. Any items borrowed from Landlord shall be documented.

4.6 **Violations by Tenant's Contractors.** In addition to application of the Contractor Deposit, and any and all remedies at law or equity, in the event Tenant's contractor violates the requirements of this Exhibit, Landlord, upon five days' notice, may order Tenant's contractors to remove themselves, their equipment and their employees from Landlord's property. Notwithstanding the foregoing, in the event Tenant's contractor violates the requirements of this Exhibit on two occasions, as to the third such occasion, Landlord shall not be required to give notice to Tenant and may order Tenant's contractors to remove themselves, their equipment and their employees from the BLVD Retail.

5. **Allowance.** In consideration of the performance by Tenant of Tenant's Work in the Premises and the timely fulfillment of all of the terms of this Lease, Landlord agrees to pay to Tenant the Construction Allowance, as described in the Lease, applicable to those costs as defined in Item 10 (E) for Tenant's permanent leasehold improvements for the Premises. The Construction Allowance shall be applicable only to Tenant's Work actually performed and completed to the Premises and shall be paid according to the provisions of **ITEM 9 (E)** of the Cover Sheet of this lease. Landlord further agrees to pay Tenant any and all remaining retainage within 21 days of the Certificate of Occupancy, provided **all** of the following have occurred:

5.1 **Opened.** Tenant has opened for business in the Premises as required by this Lease and has paid to Landlord the first and any subsequently owed Rent payment(s) or other amounts due under this Lease.

5.2 **Commencement Date Memorandum.** Tenant has executed and delivered to Landlord a Commencement Date Memorandum in the form attached to the Lease as **Exhibit D**;

5.3 **No Default.** Tenant is not in default after notice and the lapse of any applicable cure period.

5.4 **Work Completed.** Tenant's Work is completed in accordance with approved Construction Documents.

5.5 **Debris.** The Premises and the Common Areas surrounding the Premises are free of Tenant's debris, all contractor equipment and materials have been removed from the Premises, and any damage to The BLVD Retailor the Common Areas caused by Tenant, its agents or contractors, has been repaired.

5.6 **Liens, Judgments, Levies, or Tax Liens.** The Premises, including all installations therein, are free and clear of all liens and there are no judgments, levies, attachments, liens or tax liens pending or in effect with respect to Tenant's Work in the Premises.

5.7 **Required Documentation.** Tenant has submitted the following completed documentation to Landlord:

A. **Lien Waivers.** Full, final and unconditional lien waivers and releases in favor of Landlord, Landlord's lender, any proposed purchaser, or any other person/entity reasonably requested by Landlord, from Tenant's general contractor and from all Tenant's subcontractors having contracts in excess of \$5,000.00.

B. **Certificates.** A copy of the permanent Certificate of Occupancy and any temporary Certificates of Occupancy.

C. **Contractor's Final Billing.** A copy of the final billing from Tenant's general contractor (broken down in reasonable detail and showing the cost of work performed at the Premises adequate to componentized for tax purposes under either generally accepted accounting principles or Internal Revenue guidelines).

D. **Architect Certificate.** Tenant's architect's certificate certifying that Tenant's Work is completed in accordance with the approved Construction Documents, including all items on Landlord's representative's punch list.

[Balance of this page intentionally left blank.]

EXHIBIT C

THE BLVD RETAIL DEVELOPMENT RULES AND REGULATIONS

Landlord agrees to use its reasonable efforts to cause compliance by tenants of The BLVD Retail with these Rules and Regulations, as they may be revised or amended by Landlord from time to time in its commercially reasonable discretion so long as there is no material adverse effect on Tenant (as amended, the "**Rules and Regulations**"), Landlord will assist with reasonable enforcement of these Rules and Regulations on all property in the BLVD Retail Development. Unless otherwise provided, all terms used in these Rules and Regulations shall have the same meaning as set forth in this Lease. To the extent that the provisions of these Rules and Regulations are inconsistent with the provisions of this Lease, the provisions of the Lease shall control. In the event Tenant violates any of the Rules and Regulations and such violation continues for more than 24 hours after Tenant's receipt of notice thereof from Landlord, then Tenant shall pay Landlord, as liquidated damages, an amount equal to \$50.00 per day so long as such violation continues. Tenant recognizes that its violation of the Rules and Regulations will result in damages to Landlord and that the nature and amount of such damages is difficult or impossible to quantify, and that the foregoing amount represents a reasonable approximation of the actual damages Landlord would suffer in the event Tenant violates the Rules and Regulations.

1. Business Hours. Unless otherwise specified in this Lease, Tenant agrees to remain open during standard business hours. Standard business hours generally commence at 8:00 a.m. through 10:00 p.m. Retail establishments are expected to be open for not less than seventy-five (75) percent of standard business hours.

2. Common Areas. Tenant shall not use the Common Areas, including areas adjacent to the Premises (except any outdoor seating area approved by Landlord pursuant to Section 8 below), for any purpose other than ingress and egress, and in accordance with all other applicable provisions of this Lease, including these Rules and Regulations. Without limiting the generality of the foregoing, Tenant shall not use the Common Areas to canvass, solicit business or information from, or distribute any article or material to, other tenants, occupants or invitees of the BLVD Retail, without the express written consent of Landlord. Tenant shall not allow anything to remain in or to obstruct any passageway, sidewalk, court, corridor, stairway, entrance, exit, elevator, shipping area, or other area outside the Premises (except as set forth in Section 8 below). Janitorial closets, utility closets, telephone closets, broom closets, electrical closets, storage closets, and other such closets, rooms and areas shall be used only for the purposes and in the manner designated by Landlord, and may not be used by Tenant, or its contractors, agents, employees, or other parties without Landlord's prior written consent.

3. Deliveries. Deliveries of furniture, inventory and all other items shall be brought into The BLVD Retail in compliance with all Legal Requirements and at Tenant's sole risk. All such deliveries shall be made prior to 10:00 am and only through the service entrances of Tenant's Premises and service entrances of the BLVD Retail, when available. Landlord may inspect items brought into The BLVD Retail Premises with respect to weight or dangerous nature or compliance with this Lease or applicable laws. Tenant shall move all inventories, supplies, furniture, equipment and other items directly into the Premises immediately upon receipt.

4. Trash; Recycling Program. All garbage, refuse, trash and other waste shall be kept in the kind of container, placed in the areas, and prepared for collection in the manner and at the times and places specified by Landlord, subject to the Section in the Lease concerning Hazardous Substances. Tenant shall not burn any trash or garbage of any kind in or about the Premises or

BLVD Retail. Landlord reserves the right to require that Tenant participate in any recycling program designated by Landlord. If Tenant is permitted under this Lease to handle foodstuffs, garbage and refuse shall be stored and daily removed from the Premises in leak proof, airtight containers. If any leakage occurs, Tenant shall promptly clean and remove any evidence of such leakage at its expense. Tenant shall immediately clean up and remove spills and debris in connection with its disposal of waste at or from the Premises.

5. **Pest Control.** Tenant shall, at its sole cost, arrange for pest control at such intervals as may reasonably be required by Landlord. Tenant shall provide Landlord with evidence of Tenant's compliance with this provision within five days after Landlord's written request. If, however, Landlord shall provide or arrange for such pest control, Tenant shall pay to Landlord Tenant's Proportionate Share of the cost thereof (or such other share as Landlord may fairly and reasonably determine) on or before the first day of each calendar month in advance, or Landlord may include such charges in Operating Costs.

6. **Sign and Display Windows.** Tenant will be permitted to install a sign(s) on its suite, window line and will be properly identified on the Building monument, directory and will have the right to lighted exterior building signage as approved by the City of Avondale. Tenant will obtain all required permitting and approvals from the City of Avondale prior to installing any signage and will pay for all costs associated with sign installation. All Tenant's signs shall be professionally designed, prepared and installed and in good taste so as not to detract from the general appearance of the Premises or The BLVD Retail and shall comply with the sign criteria developed by Landlord as set forth in the Lease. The term "**sign**" for purposes of this Section shall mean any sign, placard, picture, name, direction, lettering, insignia, trademark, advertising material, advertising display, awning or other similar item, including Tenant's storefront sign. Blinds, shades, drapes and other such items shall not be placed in or about the windows in the Premises except to the extent, if any, that the character, shape, designs, color, material and make thereof is first approved by Landlord in writing. During such periods as Tenant is required to operate its store hereunder, Tenant shall keep the display window(s) and signs, if any, in the Premises well lit during business hours and daily until at least 11:00 p.m., at Landlord's discretion.

7. **Display of Merchandise.** Tenant shall not place or maintain any permanent or temporary fixture or other item or display any merchandise: **(A)** outside of the Premises; or **(B)** anywhere inside the Premises within six feet of any entrance to the Premises (except that, with respect to any recessed entry of the Premises, Tenant shall not place or maintain any such fixtures or other item within three feet of any entrance). All displays of merchandise shall be tasteful and professional.

8. **Outdoor Seating.** Any outdoor seating area (the "**Outdoor Seating Area**"), including the placement and quantity of furniture, fixtures and equipment in, and the design and materials of, the Outdoor Seating Area, must be approved by Landlord. The Outdoor Seating Area shall be installed and maintained at Tenant's sole cost and expense, in accordance with all applicable laws and at all times clean and free of debris. When not in use, Tenant shall store the Outdoor Seating Area furniture, fixtures and equipment in an appropriate location, which, if on the Premises, shall be approved by Landlord in the exercise of its sole and absolute discretion.

9. **Plumbing Equipment.** The toilet rooms, urinals, wash bowls, drains and sewers and other plumbing fixtures, equipment and lines shall not be misused or used for any purpose other than that for which they were constructed, and no foreign substance of any kind shall be deposited therein. The expense incurred due to any breakage, stoppage or damage resulting from a violation

of this provision shall be borne by Tenant, who shall, or whose employees, invitees or agents shall, have caused such breakage, stoppage or damage.

10. **Exhaust System; Grease Traps; Odor Control.** If Tenant operates a business on the Premises in which smoke and/or odor cannot be avoided by an exhaust termination location design, Tenant shall, at Tenant's sole cost and expense, provide an exhaust air pollution control system approved by Landlord.

11. **Roof; Awnings and Projections.** Tenant shall not install any aerial, antennae, satellite dish or any other device on the roof, exterior walls or Common Areas of The BLVD Retail without obtaining Landlord's prior written consent, provided that Tenant shall be permitted to install, at Tenant's sole cost and expense, cable television service to the Premises. Tenant may install as applicable and have access to the HVAC System only to the extent approved in writing or required by Landlord from time to time in connection with Tenant's obligations under this Lease. No awning or other projection shall be attached by or for Tenant to the exterior walls of the Premises or the Building. Any item set forth in this Section installed without the prior written consent of Landlord shall be subject to removal by Landlord without notice to Tenant all at Tenant's sole cost and expense.

12. **Overloading Floors.** Tenant shall not overload any floor or part thereof in the Premises, Building or BLVD Retail, including any public corridors or elevators therein, and Landlord may designate the location of safes, vaults and all other heavy articles and require supplementary supports of such material and dimensions as Landlord may deem necessary to properly distribute the weight at Tenant's expense (including expenses for structural review and engineering).

13. **Locks and Keys.** Upon termination of this Lease or Tenant's right to possession, Tenant shall: **(A)** return to Landlord all keys, parking stickers or key cards, and in the event of loss of any such items, shall pay Landlord therefor; and **(B)** advise Landlord as to the combination of any vaults or locks that Landlord permits to remain in the Premises.

14. **Unattended Premises.** Before leaving the Premises unattended, Tenant shall close and securely lock all doors or other means of entry to the Premises and shut off all lights (except signs required to be illuminated hereunder), water faucets and other utilities in the Premises (except heat to the extent necessary to prevent the freezing or bursting of pipes). This provision shall not imply that Tenant may leave the Premises unattended in violation of the operating requirements set forth elsewhere in this Lease.

15. **Heating Facilities.** If the Premises are equipped with heating facilities separate from those in the remainder of the BLVD Retail, Tenant shall keep the Premises at a temperature sufficiently high to prevent freezing of water in pipes and fixtures.

16. **Food and Beverages; Game and Vending Machines.** Except to the extent expressly permitted under this Lease, Tenant shall not: install, operate or use any video, electronic or pinball game or machine, or any coin or token operated vending machine or device to provide products, merchandise, food, beverages, candy, cigarettes or other commodities or services, including, but not limited to, pay lockers, pay toilets, scales and amusement devices; PROVIDED, HOWEVER, that Tenant may install vending machines for the sale of non-alcoholic beverages, food and candy in an area not visible from the sale area or exterior of the Premises for the exclusive use of Tenant's employees.

17. **Landlord's Trade Name and Trademarks.** No symbol, design, name (other than the name of The BLVD Retail in Tenant's advertising as permitted or required by this Lease), mark or insignia adopted by Landlord for The BLVD Retail or picture or likeness of The BLVD Retail shall be used by Tenant without the prior written consent of Landlord.

18. **Prohibited Activities.** Tenant shall not: **(A)** use strobe, flashing lights or rotating spotlights in or on the Premises (or other areas of the BLVD Retail) or in any signs for the Premises; **(B)** use, sell or distribute leaflets, handbills, bumper stickers, other stickers or decals, balloons or other such articles in the Premises (or other areas of the BLVD Retail); **(C)** operate any loudspeaker, telephone set, phonograph, radio, CD player or other musical or sound producing instrument or device that can be heard outside the Premises; **(D)** operate any electrical or other device which interferes with or impairs radio, television, microwave, or other broadcasting or reception from or in The BLVD Retail elsewhere; **(E)** make or permit objectionable noise, vibration, smoke, fumes, vapors or odors to emanate from the Premises unless, in the case of smoke, fumes, vapors, or odors, Tenant installs and maintains a grease containment system or, if applicable, skin and hair salon odor control system, approved by Landlord in writing; **(F)** do or permit anything in or about the Premises or any other areas of The BLVD Retail that is unlawful, or which tends to create or maintain a nuisance or do any act tending to injure the reputation of the BLVD Retail; **(G)** use or permit upon the Premises or other areas of The BLVD Retail anything that violates the certificates of occupancy issued for the Premises or the BLVD Retail, or causes a cancellation of Landlord's insurance policies or increases Landlord's insurance premiums (and Tenant shall comply with all requirements of Landlord's insurance carriers, the American Insurance Association, and any board of fire underwriters); **(H)** use the Premises for any purpose, or permit upon the Premises or any areas of The BLVD Retail anything that may be dangerous to parties or property (including, but not limited to, flammable oils, fluids, paints, chemicals, firearms or any explosive articles or material(s); **(I)** cause, conduct, permit or advertise any auction or closing-out or wholesale business in the Premises; or any distress sale, fire sale, bankruptcy sale, liquidation, relocation sale, closing sale, going-out-of-business sale, sheriff's sale, receiver's sale, or any other sale that, in Landlord's opinion, adversely affects the reputation of The BLVD Retail or suggests that the business operations are to be discontinued in the Premises; nor **(J)** do or permit anything to be done upon the Premises or any other areas of The BLVD Retail in any way tending to disturb, bother or annoy any other tenant at The BLVD Retail or the occupants of neighboring property.

19. **Responsibility for Compliance.** Tenant shall be responsible for requiring compliance with these Rules and Regulations, as they may be amended from time to time, by Tenant's employees and, as applicable, by Tenant's agents, invitees, contractors, subcontractors and suppliers.

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EXHIBIT D

FORM OF COMMENCEMENT DATE MEMORANDUM

THIS COMMENCEMENT DATE MEMORANDUM ("**Memorandum**") dated as of _____, 202__, by and between, **CITY OF AVONDALE, an Arizona municipal corporation ("Landlord")**, and, **SODA BOMB LLC, an Arizona limited liability company ("Tenant")**.

RECITALS:

A. By that certain Center Lease dated as of _____ between Landlord and Tenant (the "**Lease**"), Landlord leased to Tenant and Tenant leased from Landlord the Premises, subject to the conditions and limitations therein contained.

B. **ITEM 6** of the Cover Sheet of the Lease provides that, upon determination of the Commencement Date, Landlord and Tenant shall execute a memorandum which shall set forth, among other things, the Commencement Date, the exact Floor Area of the Premises, the date when Tenant may exercise its Option Term pursuant to **ITEM 7** of the Cover Sheet of the Lease, and the date on which the initial term of the Lease shall expire (subject to Tenant's right, if any, to extend the Term of the Lease as provided therein), and shall evidence Tenant's acceptance of the Premises and agreement that Landlord has fully complied with Landlord's covenants and obligations.

C. The Commencement Date and such other dates have been determined and, accordingly, the parties desire to enter into this Memorandum.

D. Unless otherwise provided herein, all capitalized words and terms in this Memorandum shall have the same meanings ascribed to such words and terms in the Lease.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The Delivery Date was _____.
2. The Commencement Date is _____. Tenant's obligation to pay Minimum Rent and other charges payable by Tenant under the Lease shall commence as of the Commencement Date set forth above.
3. The Floor Area of the Premises is 1,500 square feet.
4. Tenant shall exercise its right to the Option Term, if at all, six (6) months prior to the lease termination date, set forth in the Lease.
5. The date on which the initial Term of the Lease shall expire, unless such Term is extended by Tenant as provided in the Lease, is _____.
6. Tenant hereby acknowledges Tenant's acceptance of possession of the Premises and agrees that Landlord has fully complied with Landlord's covenants and obligations under the Lease.

7. Tenant acknowledges that all Rent is payable to Landlord at the following address, unless further notified:

City of Avondale
11465 W. Civic Center Drive, Suite 250
Avondale, Arizona 85323
Attn: Accounts Receivable

8. This Memorandum may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Memorandum as of the day and year first above written.

LANDLORD:

CITY OF AVONDALE,
an Arizona municipal corporation

By: _____

Name: _____

Title: _____

Date Executed: _____

ATTEST:

Marcella Carrillo, City Clerk

TENANT:

SODA BOMB, LLC
an Arizona limited liability company

By: _____

Name: _____

Title: _____

Date Executed: _____

Date Executed: _____

EXHIBIT E
PARKING MAP



CITY COUNCIL REPORT

SUBJECT: Ordinance 2020-0521 - Abandonment of the Van Buren Street Right-of-Way - Van Buren Street and Avondale Boulevard

MEETING DATE: 5/3/2021

TO: Mayor and Council

FROM: Kevin Murphy, Development and Engineering Services Director, (623) 333-4011

THROUGH: Gina Montes, Assistant City Manager, (623) 333-1012

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

Strategic Outcome: Diverse Recreation and Entertainment Opportunities

Strategy: Increase visitor traffic to Avondale's entertainment, recreation, conference, and hospitality venues

Strategic Outcome: Innovative Program and Service Delivery

Strategy: Attract, retain, and develop a diverse and competitive workforce to meet the needs of the residents and business community

PURPOSE:

City Council will consider a request to adopt Ordinance 2020-0521 authorizing the abandonment of a portion of Van Buren Street right-of-way, located on the north side of Van Buren Street, 169.11 east of the centerline of Avondale Boulevard, and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

The Van Buren Street Right of Way was described per Book 1023 Page 35, Maricopa County Recording Number 2009-0215355.

DISCUSSION:

To encourage development within the Park Avenue District of The BLVD, The City is preparing a plat entitled The BLVD Lake Plat. This portion of Van Buren Street Right of Way is a rectangular notch near the northeast corner of Van Buren Street and Avondale Boulevard. This portion of Van Buren Street will no longer be needed, and will be abandoned to become part of Lot 3 of the Plat. The right of way to be abandoned measures approximately 62 feet x 118 feet.

BUDGET IMPACT:

This abandonment has no budgetary impact.

RECOMMENDATION:

Staff recommends that the City Council adopt Ordinance 2020-0521 authorizing the abandonment of a portion of Van Buren Street Right of Way on the north side of Van Buren Street, 169.11 feet east of the centerline of Avondale Boulevard.

LOCATION MAP - ABANDONMENT OF VAN BUREN ROW AT The BLVD



ORDINANCE NO. 2020-0521

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, PROVIDING FOR THE ABANDONMENT OF A RECTANGULAR PARCEL OF RIGHT-OF-WAY GENERALLY LOCATED EIGHTY-FIVE FEET NORTH OF VAN BUREN STREET AND ONE HUNDRED SIXTY-NINE FEET EAST OF AVONDALE BOULEVARD.

WHEREAS, Article I, Section 3 of the Avondale City Charter authorizes the City of Avondale (the “City”) to dispose of its acquired property as the City’s interests may require; and

WHEREAS, through a special warranty deed recorded at Instrument No. 2003-0279658 in the Maricopa County Recorder’s Office on March 6, 2003, the City acquired the property consisting of $\pm$ 7,317 square feet or 0.168 acres of land more or less, generally located eighty-five (85) feet north of Van Buren Street and one hundred sixty-five (165) feet east of Avondale Boulevard (the “Abandoned ROW”); and

WHEREAS, the Abandoned ROW has never been used as a roadway and the City is authorized to vacate the land pursuant to ARIZ. REV. STAT. § 9-240(B)(3)(e) and ARIZ. REV. STAT. § 28-7205; and

WHEREAS, the Council of the City of Avondale (the “City Council”) has determined that the Abandoned ROW is no longer needed and therefore, it is necessary and appropriate to abandon said property.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The Abandoned ROW, as more particularly described and depicted in Exhibit A, attached hereto and incorporated herein by reference, is hereby declared to be no longer necessary and is hereby abandoned to the surrounding City parcel, Maricopa County Assessor Parcel No. 102-57-005X.

SECTION 3. Upon recordation of this Ordinance in the office of the Maricopa County Recorder, the ownership of the Abandoned ROW shall re-vest in the City, which is the owner for the land abutting the Abandoned ROW.

SECTION 4. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona, May 3, 2021.

Kenneth Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 2020-0521

[Legal Description and Map of Abandoned ROW]

See following pages.

EXHIBIT "A"
LEGAL DESCRIPTION
FOR
RIGHT OF WAY ABANDONMENT

A PARCEL OF LAND SITUATED IN A PART OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AND BEING A PORTION OF THAT CERTAIN PARCEL DESCRIBED IN INSTRUMENT NO. 2003-0279658, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 6, FROM WHICH THE SOUTH QUARTER CORNER OF SAID SECTION 6, BEARS NORTH 89 DEGREES 07 MINUTES 15 SECONDS EAST, A DISTANCE OF 2480.76 FEET;

THENCE UPON AND WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 6, NORTH 89 DEGREES 07 MINUTES 15 SECONDS EAST, A DISTANCE OF 169.11 FEET;

THENCE DEPARTING SAID SOUTH LINE, NORTH 00 DEGREES 02 MINUTES 19 SECONDS WEST, A DISTANCE OF 85.01 FEET TO THE PROPOSED NORTH RIGHT OF WAY LINE OF VAN BUREN STREET AND THE POINT BEGINNING;

THENCE CONTINUING NORTH 00 DEGREES 02 MINUTES 19 SECONDS WEST, A DISTANCE OF 62.01 FEET;

THENCE NORTH 89 DEGREES 07 MINUTES 15 SECONDS EAST, A DISTANCE OF 118.01 FEET;

THENCE SOUTH 00 DEGREES 02 MINUTES 19 SECONDS EAST, A DISTANCE OF 62.01 FEET;

THENCE SOUTH 89 DEGREES 07 MINUTES 15 SECONDS WEST, A DISTANCE OF 118.01 FEET TO THE POINT OF BEGINNING AND CONTAINING A COMPUTED AREA OF 7,317 SQUARE FEET OR 0.168 ACRES OF LAND, MORE OR LESS.



FILE:V:\PROJECTS\2018\1018157 Avondale Survey On-Call\CAD\The Blvd Lake Plat\Exhibits\VAN_BUREN_RW.dwg DATE:Apr, 20 2021 TIME: 08:26 am

THIS IS NOT A PROPERTY BOUNDARY SURVEY.

AVONDALE BOULEVARD

FD BRASS CAP IN HANDHOLE
W 1/4 COR SEC 6 T1N R1E

APN 102-57-005X
CITY OF AVONDALE
DOC 2008-0627997, MCR

A PORTION OF
2003-0279658



NTS

PARCEL AREA:
7,317 SF OR
0.168 ACRES

RIGHT OF WAY TO
BE ABANDONED

N89°07'15"E

118.01'

118.01'

62.01'

62.01'

S00°02'19"E

N00°02'19"W

N00°02'19"W

85.01'

S89°07'15"W

POINT OF
BEGINNING

65'
R/W

100'
PROPOSED
R/W

65'
EXISTING
R/W

85'
PROPOSED
R/W

169.11'

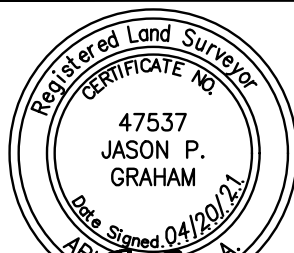
N89°07'15"E 2480.76'
BASIS OF BEARINGS

VAN BUREN STREET

FD BRASS CAP IN HANDHOLE
SW COR SEC 6 T1N R1E
POINT OF COMMENCING

FD MARICOPA COUNTY HIGHWAY
DEPT. BRASS CAP IN HANDHOLE
S 1/4 COR SEC 6 T1N R1E

DIBBLE



Dibble Project No
1018157

EXHIBIT "A"
RIGHT OF WAY ABANDONMENT
VAN BUREN STREET

A PART OF SOUTHWEST 1/4 SECTION 6, T1N, R1E, GILA &
SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA

DATE: APR 2021

DRN: BAR CHK: CSD

PAGE 2

CITY COUNCIL REPORT

SUBJECT: Ordinance 2021-0521 - Abandonment of an Ingress/Egress Easement - Van Buren Street and Avondale Boulevard

MEETING DATE: 5/3/2021

TO: Mayor and Council

FROM: Kevin Murphy, Development and Engineering Services Director, (623) 333-4011

THROUGH: Gina Montes, Assistant City Manager, (623) 333-1012

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

Strategic Outcome: Diverse Recreation and Entertainment Opportunities

Strategy: Increase visitor traffic to Avondale's entertainment, recreation, conference, and hospitality venues

Strategic Outcome: Innovative Program and Service Delivery

Strategy: Attract, retain, and develop a diverse and competitive workforce to meet the needs of the residents and business community

PURPOSE:

City Council will consider a request to adopt Ordinance 2021-0521 authorizing the abandonment of a 20 foot wide ingress/egress easement located north of Van Buren Street and east of Avondale Boulevard, and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

This 20 foot wide ingress/egress easement was recorded per Docket 14758 Page 34, Maricopa County Recording Number 2008-0627997.

DISCUSSION:

To encourage development within the Park Avenue District of The BLVD, The City is preparing a plat entitled The BLVD Lake Plat. This 20 foot wide ingress/egress easement, which is located along the east side of APN 102-57-005X will no longer be needed, and will be removed from what will become Lot 3 of The BLVD Lake Plat.

BUDGET IMPACT:

This abandonment has no budgetary impact.

RECOMMENDATION:

Staff recommends that the City Council adopt Ordinance 2021-0521 authorizing the abandonment of a 20 foot wide ingress/egress easement located along the east side of APN 102-57-005X.

LOCATION MAP - ABANDONMENT OF INGRESS/EGRESS EASEMENT AT The BLVD



ORDINANCE NO. 2021-0521

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE,
ARIZONA, PROVIDING FOR THE ABANDONMENT OF AN INGRESS
AND EGRESS EASEMENT GENERALLY LOCATED THIRTY-TWO FEET
NORTH OF VAN BUREN STREET AND SEVEN HUNDRED THIRTY-FIVE
FEET WEST OF AVONDALE BOULEVARD.

WHEREAS, Article I, Section 3 of the Avondale City Charter authorizes the City of Avondale (the “City”) to dispose of its acquired property as the City’s interests may require; and

WHEREAS, through the Joint Tenancy Deed and easement, recorded at Instrument No. 1980-0332654 in the Maricopa County Recorder’s Office on October 14, 1980, the City acquired an easement for ingress and egress over $\pm$ 0.168 acres generally located thirty-two (32) feet north of Van Buren Street and seven hundred thirty-five (735) feet west of Avondale Boulevard (the “Ingress/Egress Easement”); and

WHEREAS, the Council of the City of Avondale (the “City Council”) has determined that the Ingress/Egress Easement is no longer needed and therefore, it is necessary and appropriate to abandon said easement.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The Ingress/Egress Easement, as more particularly described and depicted in Exhibit A, attached hereto and incorporated herein by reference, is hereby declared to be no longer necessary for ingress and egress and is hereby abandoned to the surrounding City parcel, Maricopa County Assessor Parcel No. 102-57-005X.

SECTION 3. Upon recordation of this Ordinance in the office of the Maricopa County Recorder, the Ingress/Egress Easement shall be forever extinguished and all right and title to the real property described therein shall vest in the City.

SECTION 4. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this Ordinance.

[SIGNATURES ON FOLLOWING PAGE]

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona,
May 3, 2021.

Kenneth Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 2021-0521

[Legal Description and Map of Ingress/Egress Easement]

See following pages.

EXHIBIT "A"
LEGAL DESCRIPTION
FOR
INGRESS/EGRESS ABANDONMENT

A PARCEL OF LAND SITUATED IN A PART OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AND BEING THAT CERTAIN PARCEL DESCRIBED IN DOCKET 14758, PAGE 34, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 6, FROM WHICH THE SOUTH QUARTER CORNER OF SAID SECTION 6, BEARS NORTH 89 DEGREES 07 MINUTES 15 SECONDS EAST, A DISTANCE OF 2480.76 FEET;

THENCE UPON AND WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 6, NORTH 89 DEGREES 07 MINUTES 15 SECONDS EAST, A DISTANCE OF 735.29 FEET;

THENCE DEPARTING SAID SOUTH LINE, NORTH 01 DEGREES 04 MINUTES 28 SECONDS WEST, A DISTANCE OF 33.00 FEET TO THE SOUTHWEST CORNER OF THAT CERTAIN PARCEL RECORDED IN DOCKET 14758, PAGE 34, RECORDS OF MARICOPA COUNTY, ARIZONA AND BEING THE POINT OF BEGINNING;

THENCE CONTINUING NORTH 01 DEGREES 04 MINUTES 28 SECONDS WEST, A DISTANCE OF 333.31 FEET;

THENCE NORTH 89 DEGREES 20 MINUTES 32 SECONDS EAST, A DISTANCE OF 0.64 FEET;

THENCE NORTH 01 DEGREES 00 MINUTES 17 SECONDS WEST, A DISTANCE OF 29.69 FEET TO THE NORTH LINE OF THAT CERTAIN PARCEL RECORDED IN DOCUMENT NO. 2008-0627997, RECORDS OF MARICOPA COUNTY, ARIZONA;

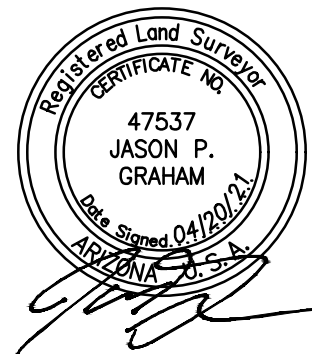
THENCE UPON AND WITH SAID NORTH LINE, NORTH 89 DEGREES 04 MINUTES 47 SECONDS EAST, A DISTANCE OF 19.51 FEET TO THE NORTHEAST CORNER OF SAID PARCEL;

THENCE DEPARTING SAID NORTH LINE, UPON AND WITH THE EAST LINE OF SAID PARCEL, SOUTH 01 DEGREES 12 MINUTES 26 SECONDS EAST, A DISTANCE OF 50.01 FEET;

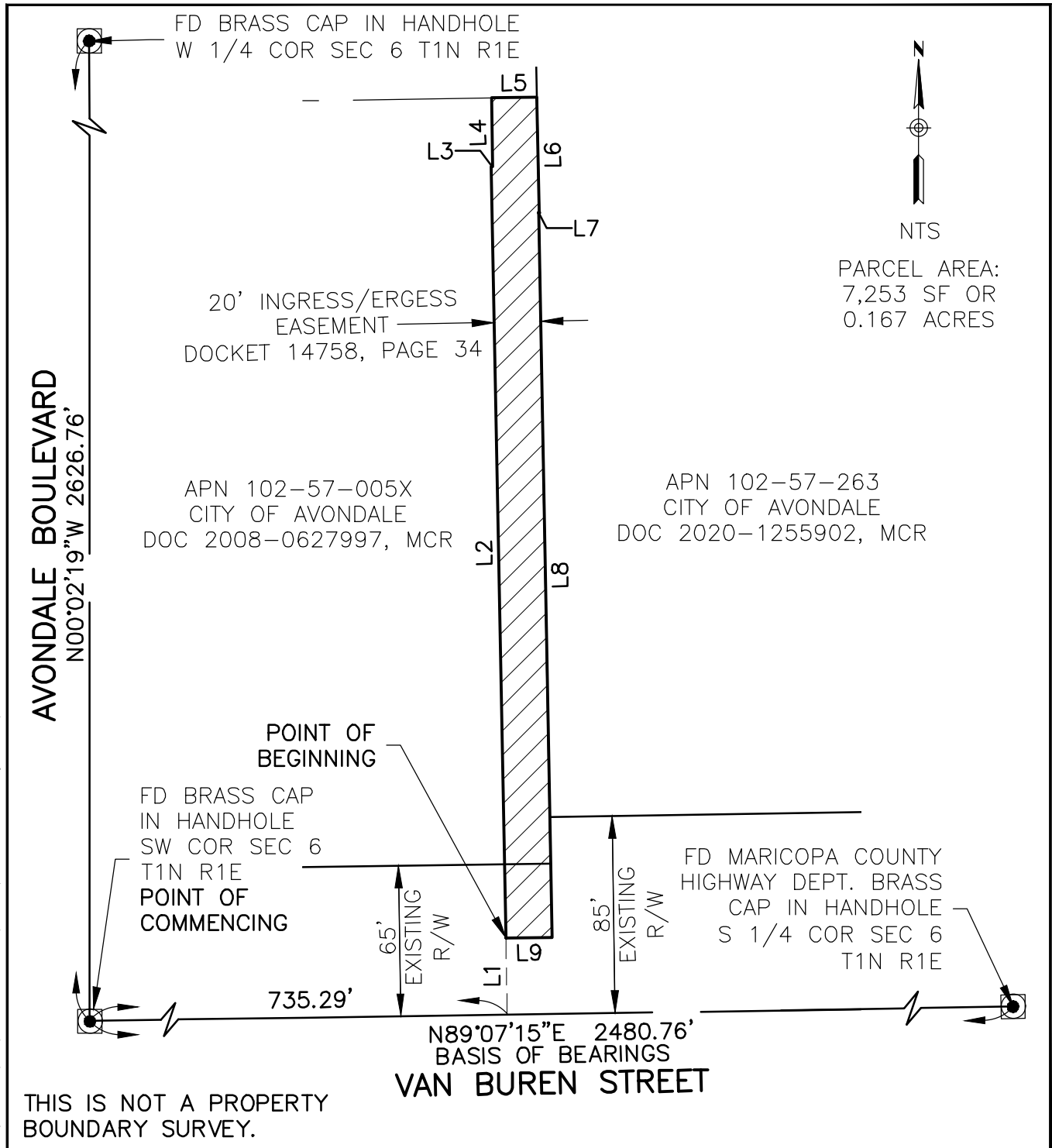
THENCE SOUTH 89 DEGREES 07 MINUTES 15 SECONDS WEST, A DISTANCE OF 0.31 FEET;

THENCE SOUTH 01 DEGREES 04 MINUTES 28 SECONDS EAST, A DISTANCE OF 313.00 FEET;

THENCE SOUTH 89 DEGREES 07 MINUTES 15 SECONDS WEST, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING AND CONTAINING A COMPUTED AREA OF 7,253 SQUARE FEET OR 0.168 ACRES OF LAND, MORE OR LESS.



FILE:\PROJECTS\2018\1018157 Avondale Survey On-Call\CAD\The Blvd Lake Plat\Exhibits\ABAN-INGR-EGRS.dwg DATE: Apr, 20 2021 TIME: 07:41 am



DIBBLE

Dibble Project No
1018157



EXHIBIT "A"
INGRESS/EGRESS ABANDONMENT

A PART OF SOUTHWEST 1/4 SECTION
6, T1N, R1E, GILA & SALT RIVER
MERIDIAN, MARICOPA COUNTY, ARIZONA

DATE: APR 2021

DRN: BAR CHK: CSD

PAGE 2

LINE DATA TABLE		
LINE	BEARING	DISTANCE
L1	N01°04'28"W	33.00'
L2	N01°04'28"W	333.31'
L3	N89°20'32"E	0.64'
L4	N01°00'17"W	29.69'
L5	N89°04'47"E	19.51'
L6	S01°12'26"E	50.01'
L7	S89°07'15"W	0.31'
L8	S01°04'28"E	313.00'
L9	S89°07'15"W	20.00'

DIBBLE

Dibble Project No
1018157

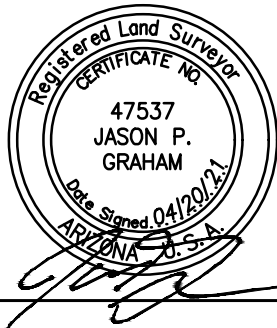


EXHIBIT "A"
INGRESS/EGRESS ABANDONMENT

A PART OF SOUTHWEST 1/4 SECTION
6, T1N, R1E, GILA & SALT RIVER
MERIDIAN, MARICOPA COUNTY, ARIZONA

DATE: APR 2021

DRN: BAR CHK: CSD

PAGE 3



CITY COUNCIL REPORT

SUBJECT: Ordinance 2022-0521 - Abandonment of the Fillmore Street Right-of-Way - Avondale Boulevard and 114th Avenue

MEETING DATE: 5/3/2021

TO: Mayor and Council

FROM: Kevin Murphy, Development and Engineering Services Director, (623) 333-4011

THROUGH: Gina Montes, Assistant City Manager, (623)-333-1012

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

Strategic Outcome: Diverse Recreation and Entertainment Opportunities

Strategy: Increase visitor traffic to Avondale's entertainment, recreation, conference and hospitality venues

Strategic Outcome: Innovation Program and Service Delivery

Strategy: Attract, retain, and develop a diverse and competitive workforce to meet the needs of the residents and business community

PURPOSE:

City Council will consider a request to adopt Ordinance 2022-0521 authorizing the abandonment of the Fillmore Street right-of-way between Avondale Boulevard and 114th Avenue, and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

The Fillmore Street Right of Way was recorded per Book 1095 Page 5, Maricopa County Recording Number 2011-0758099.

DISCUSSION:

To encourage development within the Park Avenue District of The BLVD, The City is preparing a plat entitled The BLVD Lake Plat. This portion of Fillmore Street between Avondale Boulevard and 114th Avenue will no longer be needed, and will be abandoned to become part of Lot 3 of the Plat. The right of way to be abandoned is 33 feet in width.

This abandoned right of way will become a public utility easement (PUE) for the future placement of underground water and sewer lines.

BUDGET IMPACT:

This abandonment has no budgetary impact.

RECOMMENDATION:

Staff recommends that the City Council adopt Ordinance 2022-0521 authorizing the abandonment of Fillmore Street Right of Way between Avondale Boulevard and 114th Avenue

ORDINANCE NO. 2022-0521

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE,
ARIZONA, PROVIDING FOR THE ABANDONMENT OF A PARCEL OF
FILLMORE STREET RIGHT-OF-WAY GENERALLY LOCATED NORTH OF
VAN BUREN STREET AND EAST OF AVONDALE BOULEVARD.

WHEREAS, Article I, Section 3 of the Avondale City Charter authorizes the City of Avondale (the “City”) to dispose of its acquired property as the City’s interests may require; and

WHEREAS, through a special warranty deed recorded at Instrument No. 2020-0054479 in the Maricopa County Recorder’s Office on May 8, 2020, the City acquired the a portion of Fillmore Street consisting of $\pm 11,462$ square feet or 0.263 acres of land more or less, generally located north of Van Buren Street and east of Avondale Boulevard (the “Fillmore Street ROW”); and

WHEREAS, the Fillmore Street ROW has never been used as a roadway and the City is authorized to vacate the land pursuant to ARIZ. REV. STAT. § 9-240(B)(3)(e) and ARIZ. REV. STAT. § 28-7205; and

WHEREAS, pursuant to ARIZ. REV. STAT. § 28-7205 abandoned right-of-way vests in the owners of the land abutting the Fillmore Street ROW. Accordingly, MGN1, LLC, the Louisiana limited liability company that owns the parcel of land north of the Fillmore Street ROW has deeded its interest in the Fillmore Street ROW to the City pursuant to the Quit Claim Deed attached hereto as Exhibit B; and

WHEREAS, the City owns the parcel of land South of the Fillmore Street ROW; and

WHEREAS, the Council of the City of Avondale (the “City Council”) has determined that the Fillmore Street ROW is no longer needed as a roadway, and therefore, it is necessary and appropriate to abandon said property, and re-purpose it for other City uses.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The Fillmore Street ROW, as more particularly described and depicted in Exhibit A, attached hereto and incorporated herein by reference, is hereby declared to be no longer necessary as a roadway, and is hereby abandoned to the adjacent City parcel, Maricopa County Assessor Parcel No. 102-57-005V, and may be put to any lawful City use.

SECTION 3. Upon recordation of this Ordinance in the office of the Maricopa County Recorder, the ownership of the Fillmore Street ROW shall vest in the City.

SECTION 4. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps and execute all documents necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona, May 3, 2021.

Kenneth Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 2022-0521

[Legal Description and Map of Fillmore Street ROW]

See following pages.

EXHIBIT "A"
LEGAL DESCRIPTION
FOR
RIGHT OF WAY ABANDONMENT

A PARCEL OF LAND SITUATED IN A PART OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AND BEING A PORTION OF FILLMORE STREET AS DEDICATED IN BY THE PLAT OF AVONDALE CITY CENTER PHASE 2, AS RECORDED IN BOOK 1095, PAGE 5, RECORDS OF MARICOPA COUNTY, ARIZONA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 6, FROM WHICH THE WEST QUARTER CORNER OF SAID SECTION 6, BEARS NORTH 00 DEGREES 02 MINUTES 19 SECONDS WEST, A DISTANCE OF 2626.76 FEET;

THENCE UPON AND WITH THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 6, NORTH 00 DEGREES 02 MINUTES 19 SECONDS WEST, A DISTANCE OF 703.54 FEET;

THENCE DEPARTING SAID WEST LINE, NORTH 89 DEGREES 57 MINUTES 41 SECONDS EAST, A DISTANCE OF 65.00 FEET TO THE EAST RIGHT OF WAY LINE OF AVONDALE BOULEVARD AND THE NORTH RIGHT OF WAY LINE OF FILLMORE STREET AND BEING THE POINT OF BEGINNING;

THENCE DEPARTING SAID EAST RIGHT OF WAY LINE, UPON AND WITH SAID NORTH RIGHT OF WAY LINE, SOUTH 45 DEGREES 28 MINUTES 20 SECONDS EAST, A DISTANCE OF 42.10 FEET;

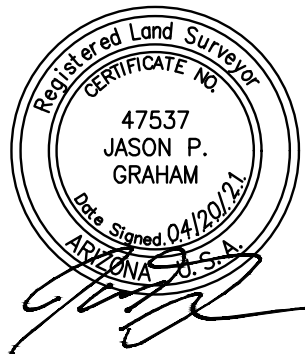
THENCE NORTH 89 DEGREES 05 MINUTES 38 SECONDS EAST, A DISTANCE OF 250.13 FEET;

THENCE NORTH 44 DEGREES 31 MINUTES 40 SECONDS EAST, A DISTANCE OF 49.87 FEET;

THENCE SOUTH 00 DEGREES 02 MINUTES 19 SECONDS EAST, A DISTANCE OF 68.00 FEET TO THE SOUTH LINE OF FILLMORE STREET PER THE AFORESAID PLAT;

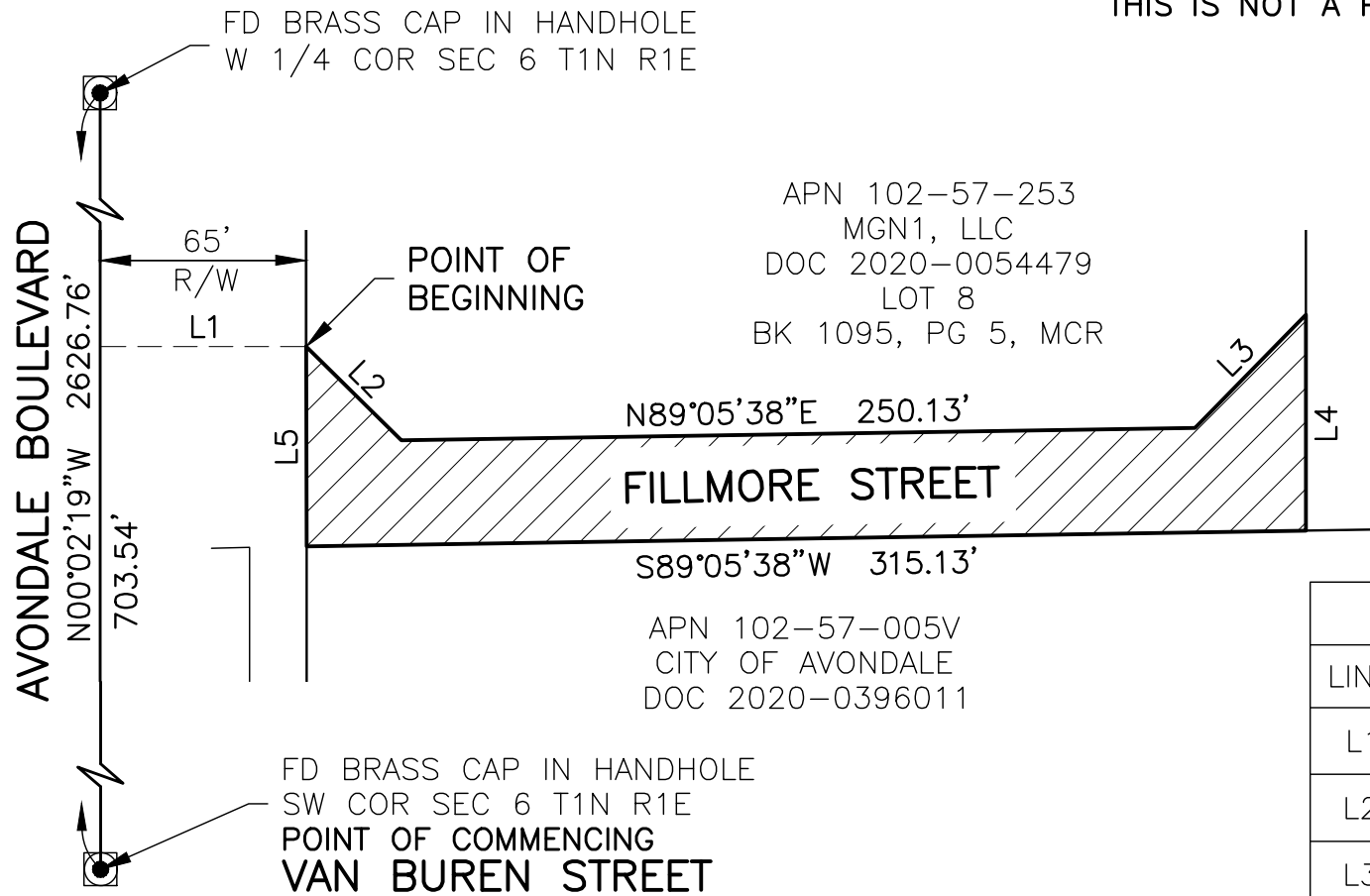
THENCE UPON AND WITH SAID SOUTH LINE, SOUTH 89 DEGREES 05 MINUTES 38 SECONDS WEST, A DISTANCE OF 315.13 FEET;

THENCE NORTH 00 DEGREES 02 MINUTES 19 SECONDS WEST, A DISTANCE OF 63.00 FEET TO THE POINT OF BEGINNING AND CONTAINING A COMPUTED AREA OF 11,462 SQUARE FEET OR 0.263 ACRES OF LAND, MORE OR LESS.



FILE:\PROJECTS\2018\1018157 Avondale Survey On-Call\CAD\The Blvd Lake Plat\Exhibits\FILLMORE_RW.dwg DATE: Apr. 20 2021 TIME: 07:44 am

THIS IS NOT A PROPERTY BOUNDARY SURVEY.



NTS

PARCEL AREA:
11,462 SF OR
0.263 ACRES

LINE DATA TABLE

LINE	BEARING	DISTANCE
L1	N89°57'41"E	65.00'
L2	S45°28'20"E	42.10'
L3	N44°31'40"E	49.87'
L4	S00°02'19"E	68.00'
L5	N00°02'19"W	63.00'

DIBBLE

Dibble Project No
1018157

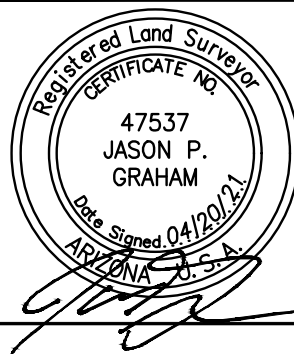


EXHIBIT "A"
RIGHT OF WAY ABANDONMENT
FILLMORE STREET

A PART OF SOUTHWEST 1/4 SECTION 6, T1N, R1E, GILA &
SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA

DATE: APR 2021

DRN: BAR CHK: CSD

PAGE 2

EXHIBIT B
TO
ORDINANCE NO. 2022-0521

[Quit Claim Deed Related to the Fillmore Street ROW]

See following pages.

When Recorded Mail To:

City of Avondale
City Clerk's Office
11465 W. Civic Center Drive
Avondale, Arizona 85323

EXEMPT FROM AFFIDAVIT OF PROPERTY VALUE PURSUANT TO ARIZ. REV. STAT. § 11-1134(A)(3).

QUIT CLAIM DEED

GRANTOR: MGN1, L.L.C., a Louisiana limited liability corporation whose address is 1340 Aris Avenue, Metairie, LA 70005

GRANTEE: City of Avondale, an Arizona municipal corporation whose address is 11465 W. Civic Center Drive, Avondale AZ 85323

Grantor, for and in consideration of the sum of \$1.00 and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby remises, releases, sells and quitclaims to the Grantee all right, title and interest in the following real property situated in Maricopa County, Arizona, together with all rights and privileges appurtenant thereto:

See Exhibit A, attached hereto and incorporated herein by reference (the "Property").

SUBJECT TO current taxes and other current assessments, patent reservations, covenants, conditions and restrictions, liabilities, easements, rights-of-way and other matters of record.

[SIGNATURES ON FOLLOWING PAGES]

"GRANTOR"

MGN1, L.L.C.
a Louisiana limited liability corporation

By _____

Its Member

THIS DOCUMENT NOT
PREPARED BY THE (ACKNOWLEDGMENT)
UNDERSIGNED NOTARY
ATTESTING TO SIGNATURES ONLY

STATE OF LOUISIANA)

) ss.

COUNTY OF JEFFERSON)

On APRIL 2ND, 2021, before me personally appeared MAN NEWELL STANLEY the member of MGN1, L.L.C., a Louisiana limited liability corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the company.



Notary Public

(Affix notary seal here)
ACCEPTED BY:

"GRANTEE"

CITY OF AVONDALE,
an Arizona municipal corporation

Charles Montoya, City Manager

ATTEST:

Marcella Carrillo, City Clerk

STATE OF ARIZONA)

) ss.

COUNTY OF MARICOPA)

On _____, 2021, before me personally appeared Charles Montoya, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the City of Avondale.

Notary Public

(Affix notary seal here)

EXHIBIT A
TO
QUITCLAIM DEED
BETWEEN
MGN1, L.L.C.
AND
THE CITY OF AVONDALE

[Property]

See following page.

EXHIBIT "A"
LEGAL DESCRIPTION
FOR
RIGHT OF WAY ABANDONMENT

A PARCEL OF LAND SITUATED IN A PART OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AND BEING A PORTION OF FILLMORE STREET AS DEDICATED IN BY THE PLAT OF AVONDALE CITY CENTER PHASE 2, AS RECORDED IN BOOK 1095, PAGE 5, RECORDS OF MARICOPA COUNTY, ARIZONA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 6, FROM WHICH THE WEST QUARTER CORNER OF SAID SECTION 6, BEARS NORTH 00 DEGREES 02 MINUTES 19 SECONDS WEST, A DISTANCE OF 2626.76 FEET;

THENCE UPON AND WITH THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 6, NORTH 00 DEGREES 02 MINUTES 19 SECONDS WEST, A DISTANCE OF 703.54 FEET;

THENCE DEPARTING SAID WEST LINE, NORTH 89 DEGREES 57 MINUTES 41 SECONDS EAST, A DISTANCE OF 65.00 FEET TO THE EAST RIGHT OF WAY LINE OF AVONDALE BOULEVARD AND THE NORTH RIGHT OF WAY LINE OF FILLMORE STREET AND BEING THE POINT OF BEGINNING;

THENCE DEPARTING SAID EAST RIGHT OF WAY LINE, UPON AND WITH SAID NORTH RIGHT OF WAY LINE, SOUTH 45 DEGREES 28 MINUTES 20 SECONDS EAST, A DISTANCE OF 42.10 FEET;

THENCE NORTH 89 DEGREES 05 MINUTES 38 SECONDS EAST, A DISTANCE OF 250.13 FEET;

THENCE NORTH 44 DEGREES 31 MINUTES 40 SECONDS EAST, A DISTANCE OF 49.87 FEET;

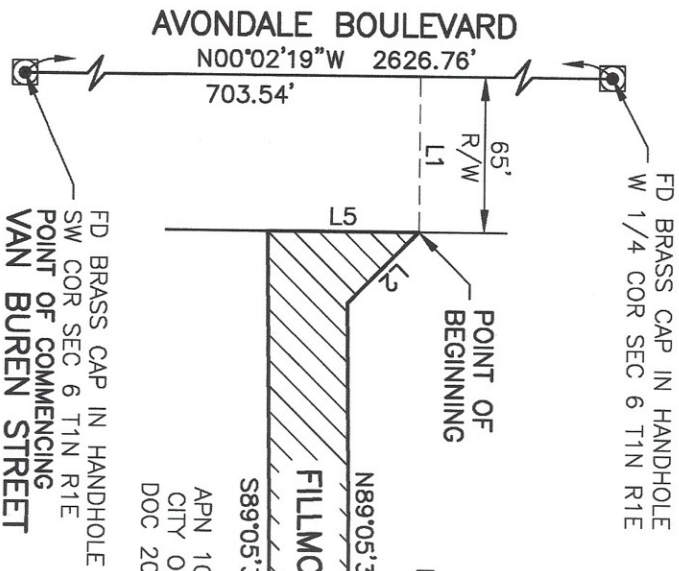
THENCE SOUTH 00 DEGREES 02 MINUTES 19 SECONDS EAST, A DISTANCE OF 68.00 FEET TO THE SOUTH LINE OF FILLMORE STREET PER THE AFORESAID PLAT;

THENCE UPON AND WITH SAID SOUTH LINE, SOUTH 89 DEGREES 05 MINUTES 38 SECONDS WEST, A DISTANCE OF 315.13 FEET;

THENCE NORTH 00 DEGREES 02 MINUTES 19 SECONDS WEST, A DISTANCE OF 63.00 FEET TO THE POINT OF BEGINNING AND CONTAINING A COMPUTED AREA OF 11,462 SQUARE FEET OR 0.263 ACRES OF LAND, MORE OR LESS.



THIS IS NOT A PROPERTY BOUNDARY SURVEY.



NTS
 PARCEL AREA:
 11,462 SF OR
 0.263 ACRES

LINE DATA TABLE		
LINE	BEARING	DISTANCE
L1	N89°57'41"E	65.00'
L2	S45°28'20"E	42.10'
L3	N44°31'40"E	49.87'
L4	S00°02'19"E	68.00'
L5	N00°02'19"W	63.00'

DIBBLE

Dibble Project No
 1018157



EXHIBIT "A"
RIGHT OF WAY ABANDONMENT
FILLMORE STREET
 A PART OF SOUTHWEST 1/4 SECTION 6, T1N, R1E, GILA &
 SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA

DATE: FEB 2021
 DRN: BAR CHK: CSD



CITY COUNCIL REPORT

SUBJECT: Final Plat for The BLVD Lake Plat - Application PL-21-0077

MEETING DATE: 5/3/2021

TO: Mayor and Council

FROM: Kevin Murphy, Development & Engineering Services Director, (623) 333-4011

THROUGH: Gina Montes, Assistant City Manager, (623) 333-1012

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

STRATEGIC OUTCOME: Diverse Recreation and Entertainment Opportunities

STRATEGY: Increase visitor traffic to Avondale's entertainment, recreation, conference, and hospitality venues

STRATEGIC OUTCOME: Innovative Program and Service Delivery

STRATEGY: Attract, retain, and develop a diverse and competitive workforce to meet the needs of the residents and business community

PURPOSE:

City Council will consider a request to approve a Final Plat for The BLVD Lake Plat, approximately 14.16 acres of City-owned property located at the southeast corner of 114th Avenue and The BLVD, with land at the northeast corner of Avondale Boulevard and Van Buren Street. The proposed Final Plat splits the existing City-owned Lake parcel into two (2) lots, and consolidates two (2) city-owned parcels and a portion of the former Fillmore Street right-of-way into a single parcel. The plat dedicates twenty (20) feet of right-of-way along the Van Buren Street frontage, as well as a public utility easement (PUE) over the former Fillmore Street right-of-way. The Council will take appropriate action.

BACKGROUND:

The City-owned subject properties are located at the southeast corner of 114th Avenue and The BLVD and the northeast corner of Avondale Boulevard and Van Buren Street (Exhibit A).

The portion of the subject property located at the northeast corner of Avondale Boulevard and Van Buren Street was annexed in November 1977 and was zoned Agricultural (AG) until being rezoned to City Center District (CCD) in February 2010.

The portion of the subject property located at the southeast corner of the 114th Avenue and Fillmore Street alignments was annexed in May 2009 and zoned AG until also being rezoned to CCD in February 2010. Following adoption of The BLVD Specific Plan in September 2019, the entirety of the subject property was rezoned from CCD to The BLVD District (BLVDD) in March 2020. The property is located within The BLVD's Park Avenue District, the core area for The BLVD, which is expected to develop with a mix of hotel, retail, restaurant, sports, entertainment, theater, cultural, multi-family residential, studios, office, and education uses all designed to interface with adjacent streets in an urban manner and featuring modern, contemporary design.

The existing uses and zoning of the surrounding properties are as follows:

North: The American Sports Complex and in-line retail and restaurant spaces zoned The BLVD – Park Avenue District

East: A 12.99-acre City-owned parcel zoned BLVDD, part of the Park Avenue District, currently being marketed for future urban multi-family development

South of Van Buren St: A 78.9-acre County island currently in agricultural production, designated as The BLVD Neighborhood District on the City's General Plan Land Use Map, and zoned in Maricopa County as RU-43 (Rural Residential)

West: Additional vacant/undeveloped land zoned BLVDD, part of the Park Avenue District, planned to be developed with Avid Hotel and accompanying shops and restaurants.

SUMMARY OF REQUEST:

The Development & Engineering Services Department is requesting approval of a Final Plat consisting of 14.16 acres of City-owned property located at the southeast corner 114th Avenue and The BLVD together with land at the northeast corner of Avondale Boulevard and Van Buren Street. The proposed Final Plat (Exhibit E) contains a total of three (3) lots, splitting the existing City-owned Lake parcel into two (2) lots, and consolidating two (2) city-owned parcels and a portion of Fillmore Street right-of-way into a single parcel, for the purpose of marketing and developing this area with high-intensity, urban-form multi-family residential. Additionally, the proposed Final Plat dedicates an additional twenty (20) feet along the Van Buren Street frontage, as well as a public utility easement over the abandoned portion of Fillmore Street. Lot 1 as shown on the Final Plat will be improved by the City with a lake feature for recreational purposes, and retained by the City.

PUBLIC PARTICIPATION:

Public notification is not required for Final Plat applications.

PLANNING COMMISSION ACTION:

The Planning Commission does not review Final Plat applications.

ANALYSIS:

1. The proposed Final Plat has been prepared by a Registered Land Surveyor and the document has been confirmed as geometrically accurate and in conformance with Arizona Statutes governing the subdivision of real property.
2. The proposed Final Plat is in conformance with the City of Avondale Zoning Ordinance and Subdivision Regulations.

DISCUSSION:

1. The proposed Final Plat is in conformance with the City of Avondale Zoning Ordinance and Subdivision Regulations.
2. The proposed Final Plat is in conformance with The BLVD Specific Plan.
3. The conditions of approval are reasonable to ensure conformance with the provisions as outlined in the Avondale Zoning Ordinance and all other applicable City codes, ordinances, and policies.

BUDGET IMPACT:

There is no budgetary impact associated with this action. The budget for the design and construction of the BLVD water feature was approved by Council on October 19, 2020.

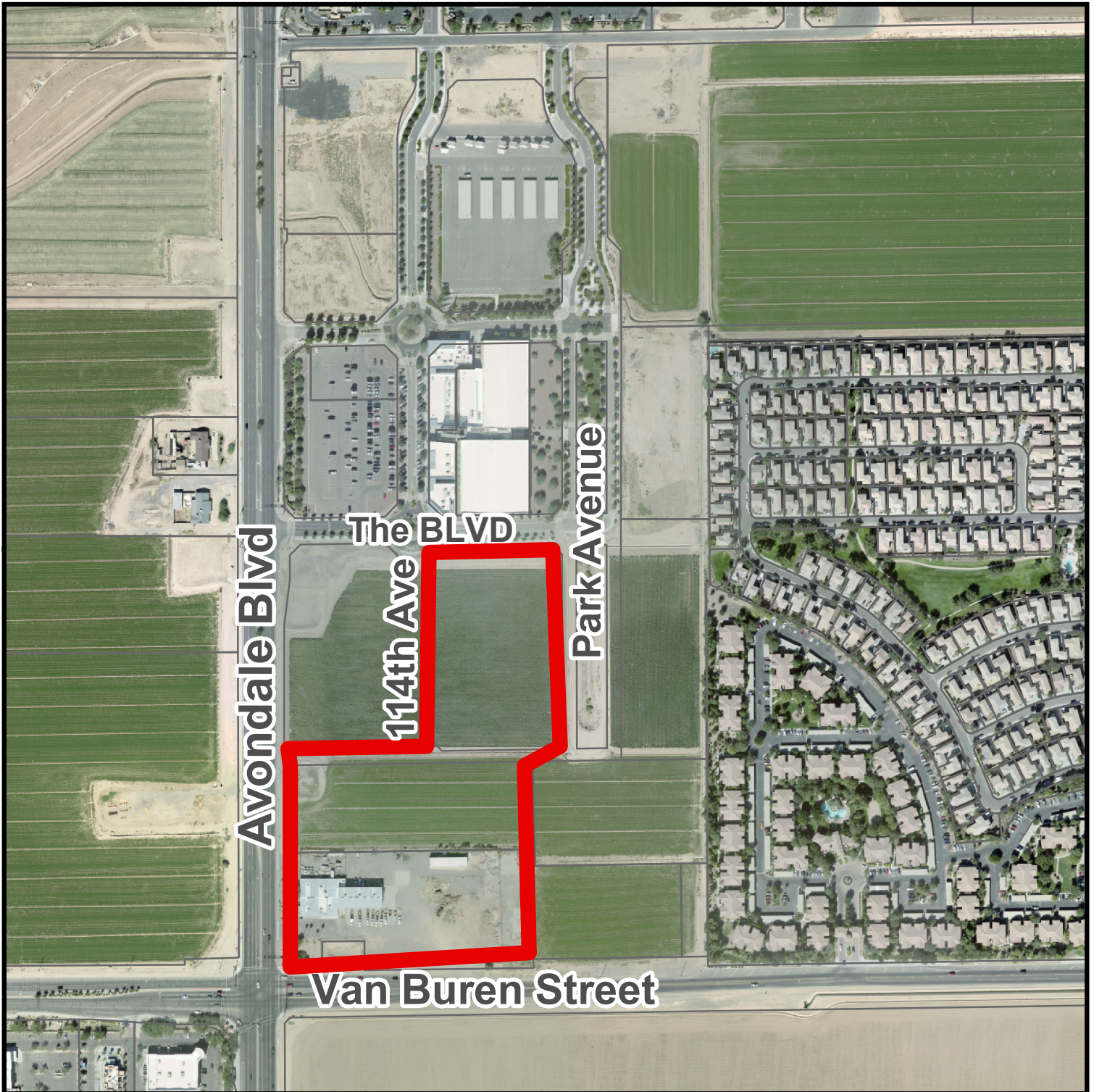
RECOMMENDATION:

No public hearing is required. The City Council will **APPROVE** Application PL-21-0077, a request for a Final Plat for The BLVD Lake Plat, containing a total of three (3) parcels plus a dedication of right-of-way, totaling approximately 14.16 acres, subject to the following condition of approval:

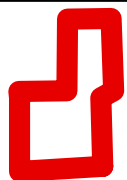
1. The recorded plat shall be in conformance with the Final Plat for The BLVD Lake Plat dated February 2021.

PROPOSED MOTION:

I move that City Council **APPROVE** Application PL-21-0777, a request for a Final Plat for The BLVD Lake Plat, consisting of three (3) parcels plus dedication of right-of-way on Van Buren Street totaling 14.16 acres, subject to one (1) condition of approval as listed in the staff report.

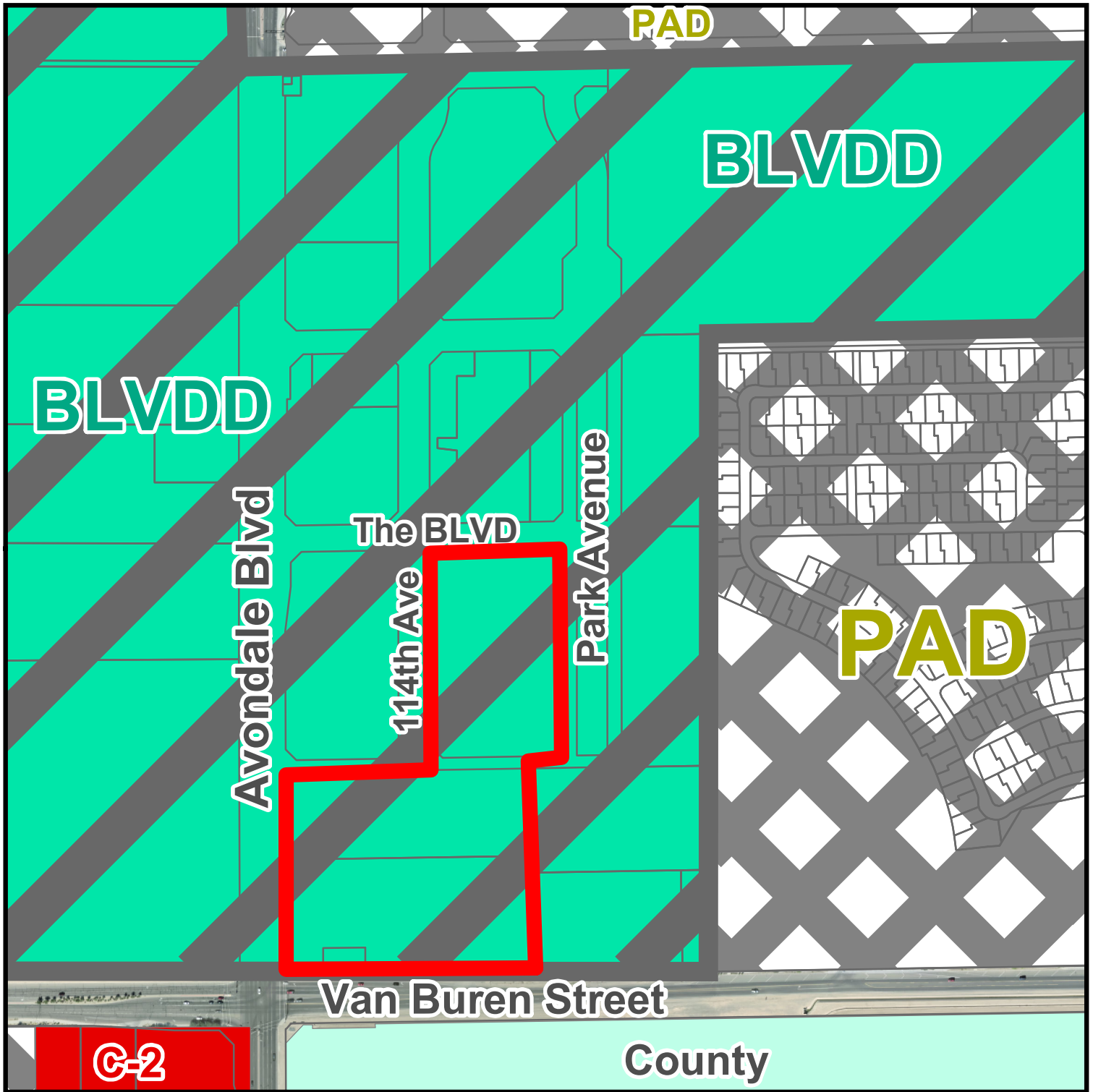


Aerial Photograph

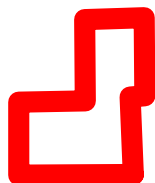


Project Location



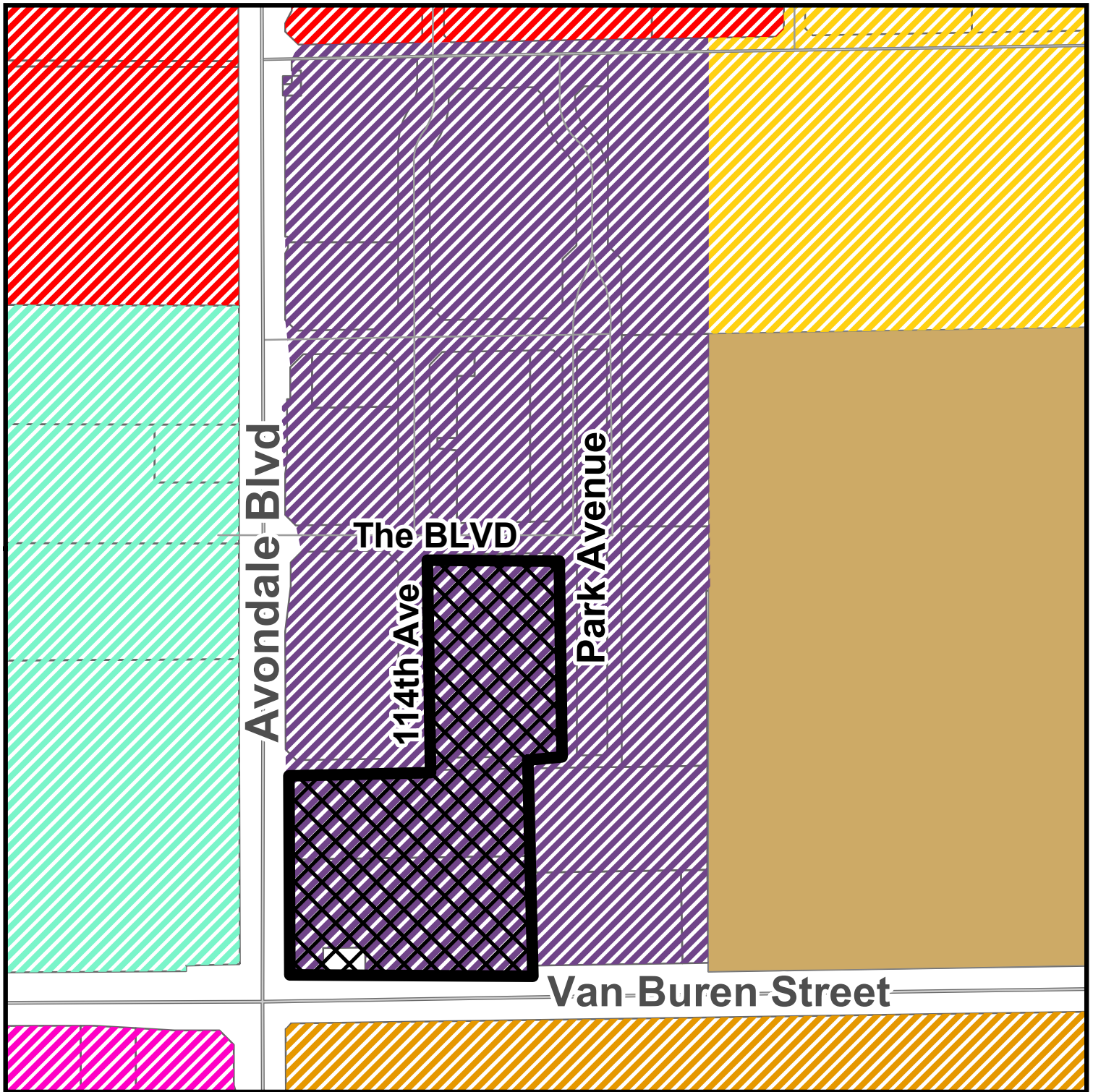


Zoning Vicinity Map



Project Location





General Plan Land Use Map



Neighborhood District



Gateway District



Village District



Park Avenue District



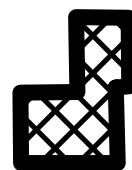
Promenade District



Residential District



Medium/High Density Residential



Subject Property

*SUMMARY OF RELATED FACTS
APPLICATION PL-21-0077*

<i>THE PROPERTY</i>	
PROPERTY SIZE	Approximately 14.16 acres
LOCATION	Southeast corner 114 th Avenue and The BLVD together with land at the northeast corner of Avondale Boulevard and Van Buren Street.
PHYSICAL CHARACTERISTICS	The subject property is undeveloped and mostly in agricultural production.
GENERAL PLAN LAND USE DESIGNATION	The BLVD – Park Avenue District
EXISTING ZONING	The BLVD District (BLVDD)
ZONING HISTORY	The portion of the subject property located at the northeast corner of Avondale Boulevard and Van Buren Street was annexed in November 1977 and was zoned Agricultural (AG) until being rezoned to City Center District (CCD) in February 2010. The portion of the subject property located at the northeast corner of the 114th Avenue and Fillmore Street alignments was annexed in May 2009 and zoned AG until also being rezoned to CCD in February 2010. Following adoption of The BLVD Specific Plan in September 2019, the entirety of the subject property was rezoned from CCD to The BLVD District (BLVDD) in March 2020. The property is located within The BLVD's Park Avenue District, the core area for The BLVD, which is expected to develop with a mix of hotel, retail, restaurant, sports, entertainment, theater, cultural, multi-family residential, studios, office, and education uses all designed to interface with adjacent streets in an urban manner and featuring modern, contemporary design.

<i>SURROUNDING ZONING AND LAND USE</i>	
NORTH	The American Sports Complex and in-line retail and restaurant spaces zoned The BLVD – Park Avenue District
EAST	A 12.99-acre City-owned parcel zoned BLVDD, part of the Park Avenue District, currently being marketed for future urban multi-family development.
SOUTH OF VAN BUREN STREET	A 78.9-acre County island currently in agricultural production, designated as The BLVD Neighborhood District on the City's General Plan Land Use Map, and zoned in Maricopa County as RU-43 (Rural Residential)

WEST	Additional vacant/undeveloped land zoned BLVDD, part of the Park Avenue District, planned to be developed with Avid Hotel and accompanying shops and restaurants.
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<i>PUBLIC SCHOOLS</i>	
SCHOOL DISTRICT(S)	Littleton Elementary School District Tolleson Union High School District
ELEMENTARY SCHOOL	Student's choice (No defined school). The closest district school is Collier Elementary School located at the southwest corner of Coldwater Springs Boulevard and 114 th Avenue within the Coldwater Springs community.
HIGH SCHOOL	La Joya Community High School, located at the southwest corner of Avondale Boulevard and Durango Street.

<i>STREETS</i>	
Van Buren Street	
Classification	Major Arterial
Existing half street right-of-way	65 feet
Standard half street right-of-way	65 feet and a twenty (20) foot trail easement
Existing half street improvements	One (1) travel lane, right-turn lane at Avondale Boulevard, partial curb and gutter, and a recently constructed landscaped and illuminated multi-use trail.
Standard half street improvements	Three (3) travel lanes, landscaped median, bike lane, curb, gutter, detached sidewalk, street lights, landscaping, and a landscaped and illuminated multi-use trail.
Avondale Boulevard	
Classification	Major Arterial
Existing half-street ROW	65 feet
Standard half-street ROW	65 feet
Existing half-street improvements	Three (3) travel lanes, landscaped median, bike lane, curb, gutter, and street lights.
Standard half-street improvements	Three (3) travel lanes, landscaped median, bike lane, curb, gutter, detached sidewalk, street lights, and landscaping.
Park Avenue	
Classification	The BLVD Custom Major Collector
Existing half street right-of-way	40 feet
Standard half street right-of-way	40 feet
Existing half street improvements	None

Standard half street improvements	One (1) travel lane, bike lane, on-street parking lane, median linear park, curb, gutter, detached sidewalk, street lights, and landscaping.
Fillmore Street	
Classification	The BLVD Custom Local
Existing half street right-of-way	33 feet
Standard half street right-of-way	33 feet
Existing half street improvements	None
Standard half street improvements	To be determined
The BLVD	
Classification	The BLVD Custom Local
Existing half-street ROW	31 feet
Standard half-street ROW	31 feet
Existing half-street improvements	Varies by location
Standard half-street improvements	One (1) travel lane, angled parking, curb and gutter, detached sidewalk, street lights and landscaping.
114th Avenue	
Classification	The BLVD Custom Local
Existing half-street ROW	44 feet
Standard half-street ROW	44 feet
Existing half-street improvements	None
Standard half-street improvements	One (1) travel lane, angled on-street parking, curb, gutter, detached sidewalk, street lights and landscaping.

UTILITIES	
The site has access to an existing 8-inch water line in The BLVD and an existing 20-inch water main in Van Buren Street. Additionally, the site has access to an existing 8-inch sewer line in The BLVD and an 18-inch sewer main in Van Buren Street. SRP provides electrical service to this area.	

THE BLVD LAKE PLAT

BEING A REPLAT OF LOT 7, AVONDALE CITY CENTER PHASE 2 AS RECORDED IN BOOK 1095 OF MAPS ON PAGE 5, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA AND A PORTION OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 1 NORTH, RANGE 1 EAST, OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA

PARCEL DESCRIPTION

LOT 7, AVONDALE CITY CENTER PHASE 2 AS RECORDED IN BOOK 1095 OF MAPS ON PAGE 5, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA;

ALONG WITH:

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA DESCRIBED AS FOLLOWS;

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 6;

THENCE UPON AND WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER SAID SECTION 6, NORTH 89 DEGREES 07 MINUTES 15 SECONDS EAST, A DISTANCE OF 65.04 FEET;

THENCE DEPARTING SAID SOUTH LINE, NORTH 00 DEGREES 02 MINUTES 19 SECONDS WEST, A DISTANCE OF 90.01 FEET TO POINT OF BEGINNING ON THE EAST RIGHT OF WAY LINE OF AVONDALE BOULEVARD;

THENCE UPON AND WITH SAID EAST RIGHT OF WAY LINE, NORTH 00 DEGREES 02 MINUTES 19 SECONDS WEST, A DISTANCE OF 612.45 FEET TO THE MOST WESTERLY SOUTHWEST CORNER OF LOT 8, AVONDALE CITY CENTER PHASE 2 AS RECORDED IN BOOK 1095 OF MAPS, PAGE 5, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE UPON AND WITH THE SOUTH LINE OF SAID LOT 8, SOUTH 45 DEGREES 28 MINUTES 20 SECONDS EAST, A DISTANCE OF 42.10 FEET;

THENCE CONTINUING UPON AND WITH THE SOUTH LINE OF SAID LOT 8, NORTH 89 DEGREES 05 MINUTES 38 SECONDS EAST, A DISTANCE OF 250.13 FEET;

THENCE CONTINUING UPON AND WITH THE SOUTH LINE OF SAID LOT 8, NORTH 44 DEGREES 31 MINUTES 40 SECONDS EAST, A DISTANCE OF 49.87 FEET TO THE WEST RIGHT OF WAY LINE OF 114TH AVENUE;

THENCE UPON AND WITH SAID WEST RIGHT OF WAY LINE, SOUTH 00 DEGREES 54 MINUTES 22 SECONDS EAST, A DISTANCE OF 68.00 FEET TO THE SOUTH RIGHT OF WAY LINE OF FILLMORE STREET;

THENCE UPON AND WITH SAID SOUTH RIGHT OF WAY LINE, NORTH 89 DEGREES 05 MINUTES 38 SECONDS EAST, A DISTANCE OF 362.18 FEET TO THE MOST SOUTHERLY NORTHWEST CORNER OF LOT 1, PARK AVENUE EAST AT THE BLVD AS RECORDED IN BOOK 1563 OF MAPS, PAGE 42, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE UPON AND WITH THE WEST LINE OF SAID LOT 1, SOUTH 01 DEGREES 12 MINUTES 26 SECONDS EAST, A DISTANCE OF 293.71 FEET;

THENCE UPON AND WITH THE WEST LINE OF SAID LOT 1, SOUTH 01 DEGREES 12 MINUTES 26 SECONDS EAST, A DISTANCE OF 293.71 FEET;

THENCE CONTINUING UPON AND WITH SAID WEST LINE, SOUTH 89 DEGREES 07 MINUTES 15 SECONDS WEST, A DISTANCE OF 0.31 FEET;

THENCE CONTINUING UPON AND WITH SAID WEST LINE, SOUTH 01 DEGREES 04 MINUTES 28 SECONDS EAST, A DISTANCE OF 281.00 FEET TO THE NORTH RIGHT OF WAY LINE OF VAN BUREN STREET;

THENCE UPON AND WITH SAID NORTH RIGHT OF WAY LINE, SOUTH 89 DEGREES 07 MINUTES 15 SECONDS WEST, A DISTANCE OF 664.10 FEET;

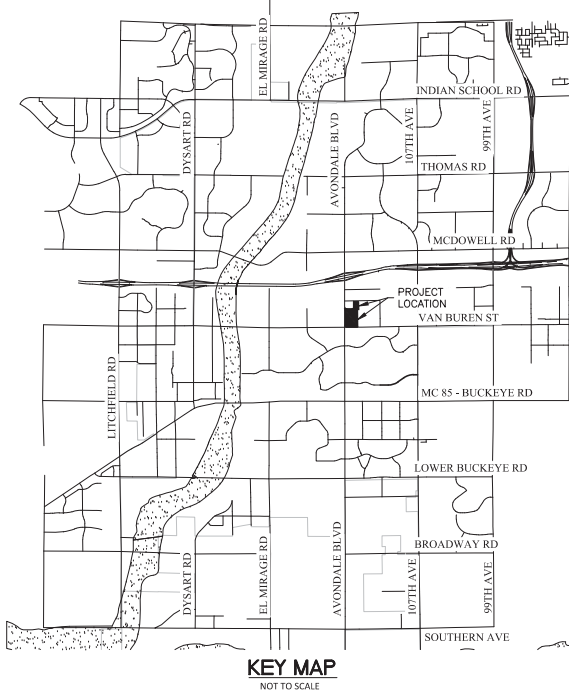
THENCE CONTINUING UPON AND WITH SAID NORTH RIGHT OF WAY LINE, NORTH 45 DEGREES 27 MINUTES 32 SECONDS WEST, A DISTANCE OF 35.10 FEET TO THE POINT OF BEGINNING.

NOTES

- ALL LANDSCAPING WITHIN ADJACENT PUBLIC RIGHT-OF-WAY IS TO BE MAINTAINED BY OWNER EXCLUDING MEDIANS ON ARTERIAL STREETS.
- ALL UTILITY AND PUBLIC SERVICE EASEMENTS, INCLUDING ANY LIMITATIONS OF EASEMENTS; AND CONSTRUCTION WITHIN SUCH EASEMENTS SHALL BE LIMITED TO UTILITIES, LANDSCAPING, AND WOOD, WIRE OR REMOVABLE SECTION TYPE FENCES.
- ALL EXISTING OVERHEAD UTILITIES SHALL BE INSTALLED UNDERGROUND IN ACCORDANCE WITH CITY OF AVONDALE MUNICIPAL CODE AND AS REQUIRED BY THE ARIZONA CORPORATION COMMISSION.
- NO ALTERATIONS SHALL BE MADE TO THE STORM WATER RETENTION AREAS AND APPROVED OR EXISTING CONVEYANCE PATTERNS THAT ARE A PART OF THESE PREMISES WITHOUT WRITTEN APPROVAL BY THE CITY OF AVONDALE.
- NO STRUCTURES SHALL BE CONSTRUCTED IN OR ACROSS NOR SHALL OTHER IMPROVEMENTS OR ALTERATIONS BE MADE TO THE DRAINAGE FACILITIES THAT ARE A PART OF THIS SUBDIVISION WITHOUT WRITTEN AUTHORIZATION BY THE CITY OF AVONDALE.
- NO WALLS/FENCES SHALL BE BUILT WITHOUT PRIOR CITY OF AVONDALE APPROVAL.

100 YEAR ASSURED WATER SUPPLY:

THE AREA PLATTED HEREON LIES WITHIN THE DOMESTIC WATER SERVICE AREAS OF THE CITY OF AVONDALE WHICH IS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY PURSUANT TO SECTION 45- 576 ARIZONA REVISED STATUTES.



KEY MAP
NOT TO SCALE

APPROVALS

APPROVED BY THE CITY COUNCIL OF THE CITY OF AVONDALE, ARIZONA THIS _____ DAY OF _____, 2021.

BY: _____ MAYOR DATE: _____

ATTEST: _____ CITY CLERK DATE: _____

BY: _____ CITY ENGINEER DATE: _____

OWNER

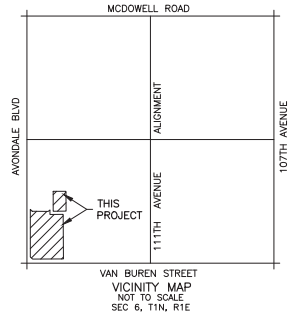
CITY OF AVONDALE
11465 W. CIVIC CENTER DRIVE
AVONDALE, ARIZONA 85323
Phone: 623-333-4216
CONTACT: KEVIN MURPHY, P.E. - CITY ENGINEER

BASIS OF BEARINGS

THE SOUTH LINE OF THE SOUTHWEST 1/4 SECTION 6, T 1 N, R 1 E OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA BEARING: SOUTH 89 DEGREES 07 MINUTES 15 SECONDS WEST

REFERENCE DOCUMENTS

BOOK 683 OF MAPS, PAGE 27, MCR
BOOK 1027 OF MAPS, PAGE 31, MCR
BOOK 1095 OF MAPS, PAGE 5, MCR



AREA TABLE

LOT	S.F.	ACRES
LOT 1	84,643 S.F.	1.943 ACRES
LOT 2	127,836 S.F.	2.935 ACRES
LOT 3	389,085 S.F.	8.932 ACRES
ROW	15,028 S.F.	0.345 ACRES
TOTAL	616,591 S.F.	14.155 ACRES

DEDICATION

STATE OF ARIZONA
COUNTY OF MARICOPA

KNOW ALL MEN BY THESE PRESENTS: THE CITY OF AVONDALE, AN ARIZONA MUNICIPAL CORPORATION, AS OWNER, HAS SUBDIVIDED UNDER THE NAME OF FINAL PLAT OF AVONDALE CITY CENTER PHASE 4, A COMMERCIAL SUBDIVISION BEING A REPLAT OF LOT 7, AVONDALE CITY CENTER PHASE 2 AS RECORDED IN BOOK 1095, PAGE 5, OFFICIAL RECORDS OF MARICOPA COUNTY, AND A PORTION OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 1 NORTH, RANGE 1 EAST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, AS SHOWN AND PLATTED HEREON, HEREBY PUBLISHES THIS PLAT AS AND FOR THE FINAL PLAT AVONDALE CITY CENTER PHASE 4, A COMMERCIAL SUBDIVISION, AND HEREBY DECLARES THAT SAID PLAT SETS FORTH THE LOCATION AND GIVES THE DIMENSIONS OF THE PARCEL, AND THAT THE PARCEL SHALL BE KNOWN BY THE NUMBER ON SAID PLAT, AND THAT THE CITY OF AVONDALE HEREBY DEDICATES TO THE PUBLIC, THE RIGHT-OF-WAY FOR PUBLIC STREETS.

IN WITNESS WHEREOF:

THE CITY OF AVONDALE, AN ARIZONA MUNICIPAL CORPORATION, AS OWNER, HAS HEREUNDER CAUSED ITS CORPORATE NAME TO BE AFFIXED BY THE UNDERSIGNED OFFICER HEREUNTO DULY AUTHORIZED.

THIS _____ DAY OF _____, 20____

BY: _____ MAYOR

ACKNOWLEDGEMENT

STATE OF ARIZONA
COUNTY OF MARICOPA

BEFORE ME THIS _____ DAY OF _____, 20____ THE UNDERSIGNED OFFICER,

PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, WHO ACKNOWLEDGED HIMSELF TO BE THE MAYOR OF THE CITY OF AVONDALE, IN WITNESS WHEREOF, I HERETO SET MY HAND AND OFFICIAL SEAL.

BY: _____ MY COMMISSION EXPIRES: _____

SURVEYOR'S CERTIFICATION

THIS CERTIFICATE OF SURVEY IS ONLY VALID IF IT BEARS THE ORIGINAL SEAL AND INKED SIGNATURE OF THE CERTIFYING PROFESSIONAL LAND SURVEYOR.

I, JASON P. GRAHAM, HEREBY CERTIFY THAT I AM A LICENSED LAND SURVEYOR IN THE STATE OF ARIZONA; THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN; THAT ALL MONUMENTS ACTUALLY EXIST AS SHOWN; THAT THEIR POSITIONS ARE CORRECTLY SHOWN, AND THAT SAID MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED. THIS CERTIFICATE OF SURVEY IS BASED UPON AN ACTUAL SURVEY PERFORMED ON THE GROUND BY ME OR MY DIRECT SUPERVISION AND THAT SAID SURVEY MEETS OR EXCEEDS THE CURRENT MINIMUM STANDARDS FOR AN ARIZONA BOUNDARY SURVEY TO THE BEST OF MY PROFESSIONAL ABILITIES, KNOWLEDGE, AND BELIEFS.

JASON P. GRAHAM RLS 47537



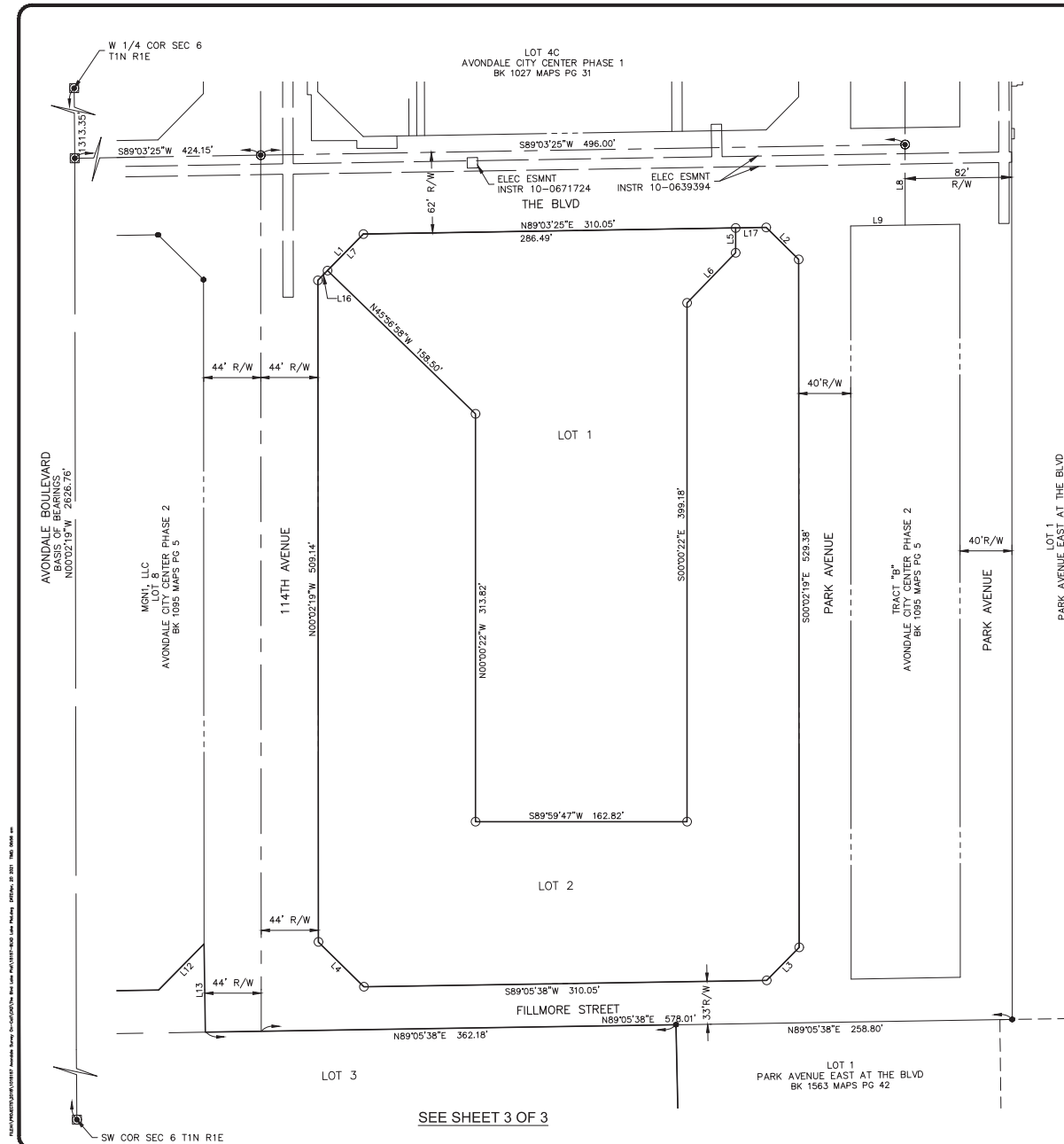
7878 N. 16th Street
Suite 300
Phoenix, AZ 85020
P 602.957.1155
F 602.957.2838
www.dibblecorp.com

DIBBLE

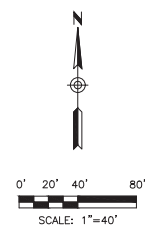
THE BLVD LAKE PLAT
SOUTHWEST 1/4 SECTION 6, T1N, R1E GILA AND
SALT RIVER MERIDIAN, MARICOPA COUNTY,
ARIZONA

PROJ. NO.	DATE	SCALE	AS SHOWN
1016157	FEB 2021	DATE	SCALE
SURVEYED	FEB 2021	DRAWN	CSD
FIELD WORK	JRK	REK	
REVISIONS:			

SHEET
1
OF 3



LINE DATA TABLE		
LINE	BEARING	DISTANCE
L1	N44°30'33"E	49.89'
L2	S45°29'27"E	35.08'
L3	S44°31'40"W	35.62'
L4	N45°28'20"W	49.12'
L5	S00°04'08"E	19.09'
L6	S44°06'20"W	53.73'
L7	N44°30'33"E	39.44'
L8	N00°02'39"W	62.01'
L9	N89°03'25"E	41.94'
L10	N45°27'32"W	35.10'
L11	S45°28'20"W	42.10'
L12	N44°31'40"E	49.87'
L13	S00°54'22"E	68.00'
L14	S00°02'19"E	15.00'
L15	N00°02'19"W	10.00'
L16	N44°30'33"W	10.45'
L17	N89°03'25"E	23.56'



LEGEND

- | | |
|---|------------------------------|
|  | FOUND BRASS CAP IN HANDHOLE |
|  | FOUND BRASS CAP FLUSH |
|  | FOUND REBAR |
|  | SET REBAR WITH CAP RLS 47537 |
|
 | |
|  | SECTION LINE |
|  | CENTERLINE |
|  | BOUNDARY |
|  | EASEMENT LINE |



THE BLVD LAKE PLAT
SOUTHWEST 1/4 SECTION 6, T1N, R1E GILA AND
SALT RIVER MERIDIAN, MARICOPA COUNTY,
ARIZONA

7878 N. 16th Street
Suite 300
Phoenix, AZ 85020
P 602.957.1155
F 602.957.2838
www.dibblecorp.com

DIBBLE

PROJ NO: 1018157	DATE: FEB 2021	SCALE: AS SHOWN
SURVEYED: FEB 2021	DRAWN: CSD	REVIEWED: BAR
FIELD WORK: JRK REK		REVIEWED: JPG
REVISIONS:		

CITY COUNCIL REPORT

SUBJECT: Resolution 1027-0521 - Adoption of the Fiscal Year 2022 Tentative Budget

MEETING DATE: 5/3/2021

TO: Mayor and Council

FROM: Lindsey Duncan, Finance and Budget Director, (623) 333-2011

THROUGH: Gina Montes, Assistant City Manager, (623) 333-1012

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

STRATEGIC PLAN:

This agenda item supports all Avondale Strategic Outcome Areas. The Strategic Plan guides the allocation of funding to the highest priorities.

PURPOSE:

City Council will consider a request to adopt Resolution 1027-0521 setting forth the fiscal year (FY) 2022 tentative budget and establishing the City's annual expenditure limitation and authorize the Mayor or City Manager, City Attorney, and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

Budget discussions informing the development of the recommended budget for FY2022 were held with Council on December 14, 2020, February 16, 2021, and March 22, 2021. The recommended budget was presented on April 5, 2021 and April 19, 2021. Feedback from those discussions have been incorporated into the tentative budget.

In conformance with state law and the City Charter, the tentative budget must be adopted prior to the third Monday in July. The adoption of the tentative budget will set the maximum limit of expenditures for FY2022. The total budget may be reduced prior to final adoption, but cannot be increased.

DISCUSSION:

A summary of the tentative budget and a notice of public hearing on the budget and property tax levy will be published as required by A.R.S. 42-17103. Additionally, the tentative budget will be posted to the city of Avondale website. The following list shows the timeline for all actions required for formal adoption of the city's annual budget:

May 3, 2021 - Adopt tentative budget

May 6, 2021 - 1st publication of tentative budget

May 13, 2021 - 2nd publication of tentative budget

May 20, 2021 - 1st publication of Truth in Taxation notice

May 28, 2021 - 2nd publication of Truth in Taxation notice

June 7, 2021 - Hold public hearing on budget and property tax levy. Convene special meeting adopting final budget.

June 21, 2021 - Adopt property tax levy

BUDGET IMPACT:

This action will set the maximum expenditure limit for FY2022. Revisions can be made to decrease, but not increase, the total expenditure amount for the final budget.

RECOMMENDATION:

Staff recommends that Council adopt Resolution 1027-0521 setting forth the FY2022 tentative budget and annual expenditure limitation and authorize staff to proceed with the required publication process.

RESOLUTION NO. 1027-0521

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE,
ARIZONA, SETTING FORTH THE TENTATIVE BUDGET AND
ESTABLISHING THE EXPENDITURE LIMITATION FOR THE CITY OF
AVONDALE FOR FISCAL YEAR 2021-2022.

WHEREAS, pursuant to the provisions of the laws of the State of Arizona and the City Charter, the Council of the City of Avondale (the “City Council”) is required to adopt a budget; and

WHEREAS, in accordance with ARIZ. REV. STAT. § 42-17102, the City Manager has prepared and filed with the City Council the City Manager’s Budget estimates for the fiscal year beginning July 1, 2021 and ending June 30, 2022; and

WHEREAS, the qualified electors of the City of Avondale (the “City”) did, on August 4, 2020, approve the Home Rule Option for expenditure limitations pursuant to the Arizona Constitution Article IX, Section 20; and

WHEREAS, the Home Rule Option requires that an expenditure limitation must be established each year as part of the annual budget.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The statements and schedules attached hereto as Exhibit A and incorporated herein by reference are hereby adopted as the City’s official tentative budget for the fiscal year beginning July 1, 2021, and ending June 30, 2022, including the establishment of the expenditure limitation for such fiscal year in the amount of \$336,147,700.

SECTION 3. Upon approval of the City Council, the City Manager or designee shall publish in the official City newspaper once per week for two consecutive weeks (i) the official tentative budget and (ii) a notice of the public hearing of the City Council to hear taxpayers and make tax levies at designated times and places. The notice shall include the physical addresses of the Avondale Civic Center Library, the Sam Garcia Western Avenue Library and the Avondale City Hall, and the website where the tentative budget may be found. If a truth in taxation notice is required under ARIZ. REV. STAT. § 42-17107, it may be combined with such hearing notice.

SECTION 4. The City Manager or designee shall, not later than seven business days following consideration of this Resolution by the City Council, make available at the Avondale Civic Center Library, the Sam Garcia Western Avenue Library and the Avondale City Hall a complete copy of the tentative budget, and shall post the tentative budget on the City's website.

SECTION 5. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to execute all documents and take all steps necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona, May 3, 2021.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 1027-0520

[Statements and Schedules]

See following pages.

City of Avondale
Summary Schedule of Estimated Revenues and Expenditures/Expenses
Fiscal Year 2022

Fiscal Year	S c h		FUNDS								
			General Fund	Special Revenue Fund	Debt Service Fund	Capital Projects Fund	Trust & Agency Fund	Enterprise Funds Available	Internal Service Funds	Total All Funds	
2021	Adopted/Adjusted Budgeted Expenditures/Expenses*	E	1	89,758,920	36,269,571	9,535,900	75,466,232	5,000	61,966,877	7,106,900	280,109,400
2021	Actual Expenditures/Expenses**	E	2	80,648,198	26,797,886	9,535,900	37,717,232	5,000	46,822,977	6,573,300	208,100,493
2022	Fund Balance/Net Position at July 1***		3	79,766,000	36,394,000	8,040,000	31,204,000	2,110,000	100,291,000	8,015,000	265,820,000
2022	Primary Property Tax Levy	B	4	3,290,678							3,290,678
2022	Secondary Property Tax Levy	B	5			3,724,510					3,724,510
2022	Estimated Revenues Other than Property Taxes	C	6	89,718,500	64,978,800	41,000	7,077,000	6,653,600	39,997,000	5,553,100	214,019,000
2022	Other Financing Sources	D	7	0	0	0	13,980,000	0	1,197,000	0	15,177,000
2022	Other Financing (Uses)	D	8	(5,280,000)	0	0	0	0	(1,197,000)	0	(6,477,000)
2022	Interfund Transfers In	D	9	39,096,000	1,396,100	1,390,000	600,000	0	16,197,000	0	58,679,100
2022	Interfund Transfers (Out)	D	10	(40,145,100)	(1,390,000)	0	0	0	(17,144,000)	0	(58,679,100)
2022	Reduction for Amounts Not Available:		11								
LESS:	Amounts for Future Debt Retirement:										0
	Future Capital Projects										0
	Maintained Fund Balance for Financial Stability										0
											0
											0
2022	Total Financial Resources Available		12	166,446,078	101,378,900	13,195,510	52,861,000	8,763,600	139,341,000	13,568,100	495,554,188
2022	Budgeted Expenditures/Expenses	E	13	142,078,500	80,121,000	7,585,000	24,144,000	7,047,400	67,720,400	7,451,400	336,147,700

EXPENDITURE LIMITATION COMPARISON

1 Budgeted expenditures/expenses
2 Add/subtract: estimated net reconciling items
3 Budgeted expenditures/expenses adjusted for reconciling items
4 Less: estimated exclusions
5 Amount subject to the expenditure limitation
6 EEC expenditure limitation or voter-approved alternative expenditure limitation

2021	2022
\$ 280,109,400	\$ 336,147,700
280,109,400	336,147,700
\$ 280,109,400	\$ 336,147,700
\$ 280,109,400	\$ 336,147,700

* Includes Expenditure/Expense Adjustments Approved in the current year from Schedule E.

** Includes actual amounts as of the date the proposed budget was prepared, adjusted for estimated activity for the remainder of the fiscal year.

*** Amounts on this line represent Fund Balance/Net Position amounts except for amounts not in spendable form (e.g., prepaids and inventories) or legally or contractually required to be maintained intact (e.g., principal of a permanent fund).

City of Avondale
Tax Levy and Tax Rate Information
Fiscal Year 2022

	<u>2021</u>	<u>2022</u>
1. Maximum allowable primary property tax levy. A.R.S. §42-17051(A)	\$ <u>3,145,875</u>	\$ <u>3,290,678</u>
2. Amount received from primary property taxation in the current year in excess of the sum of that year's maximum allowable primary property tax levy. A.R.S. §42-17102(A)(18)	\$ _____	
3. Property tax levy amounts		
A. Primary property taxes	\$ <u>3,145,875</u>	\$ <u>3,290,678</u>
B. Secondary property taxes	<u>3,435,086</u>	<u>3,724,510</u>
C. Total property tax levy amounts	\$ <u>6,580,961</u>	\$ <u>7,015,188</u>
4. Property taxes collected*		
A. Primary property taxes		
(1) Current year's levy	\$ <u>3,145,875</u>	
(2) Prior years' levies	<u>0</u>	
(3) Total primary property taxes	\$ <u>3,145,875</u>	
B. Secondary property taxes		
(1) Current year's levy	\$ <u>3,435,086</u>	
(2) Prior years' levies		
(3) Total secondary property taxes	\$ <u>3,435,086</u>	
C. Total property taxes collected	\$ <u>6,580,961</u>	
5. Property tax rates		
A. City/Town tax rate		
(1) Primary property tax rate	<u>0.6808</u>	<u>0.6672</u>
(2) Secondary property tax rate	<u>0.7434</u>	<u>0.7552</u>
(3) Total city/town tax rate	<u>1.4242</u>	<u>1.4224</u>
B. Special assessment district tax rates		
Secondary property tax rates - As of the date the proposed budget was prepared, the city/town was operating <u>0</u> special assessment districts for which secondary property taxes are levied. For information pertaining to these special assessment districts and their tax rates, please contact the city/town.		

* Includes actual property taxes collected as of the date the proposed budget was prepared, plus estimated property tax collections for the remainder of the fiscal year.

City of Avondale
Revenues Other Than Property Taxes
Fiscal Year 2022

SOURCE OF REVENUES	ESTIMATED REVENUES 2021	ACTUAL REVENUES* 2021	ESTIMATED REVENUES 2022
GENERAL FUND			
Local taxes			
Local Sales Tax	\$ 36,692,000	\$ 41,240,000	\$ 42,341,000
Other Taxes	10,000	7,000	47,000
Licenses and permits			
Franchise Fees	1,273,000	1,200,000	1,200,000
Building & Development Permits	879,000	6,602,000	5,488,000
Licenses	247,000	210,000	220,000
Other Permits	73,000	84,000	0
Intergovernmental			
State Urban Revenue Sharing	12,465,000	1,246,500	11,472,000
City's Share of St. Sales Tax	9,206,000	9,595,000	10,324,000
Auto Lieu Tax	3,869,000	3,936,000	4,077,000
Other Cities & Towns		333,300	1,897,100
Other Grants	195,900		21,000
Charges for services			
Development Charges for Service	976,000	1,295,000	2,278,000
Other Charges for Service	536,500	224,000	450,000
Recreation Charges for Service	573,000	314,000	395,500
Internal Service Charges	33,000		0
Fines and forfeits			
Court Fines	847,000	857,000	847,000
Other Fines	21,000	13,000	21,000
Interest on investments			
Interest	520,000	520,000	320,000
Miscellaneous			
Sale of Assets	1,054,000	2,103,000	9,000
Other Revenue	630,900	795,300	783,900
Donations	57,800		0
Operating Lease	1,037,000	707,000	737,000
General Fund Capital			
Sale of Land			6,790,000
Interest	0	10,000	0
	0	10,000	6,790,000
Total General Fund	\$ 71,196,100	\$ 71,292,100	\$ 89,718,500

* Includes actual revenues recognized on the modified accrual or accrual basis as of the date the proposed budget was prepared, plus estimated revenues for the remainder of the fiscal year.

SPECIAL REVENUE FUNDS

Highway User Revenue Fund			
Highway User Revenue Fees	\$ 6,057,000	\$ 6,057,000	\$ 5,849,000
Interest	80,000	28,000	28,000
	6,137,000	6,085,000	5,877,000
Senior Nutrition			
Federal Sources	324,700	324,700	351,000
Other Cities & Towns	18,300	26,700	18,600
Other Revenue	1,300		17,100
Donations	34,900		0
	379,200	351,400	386,700
Community Action Program			
Federal Sources	173,300	173,300	311,100

City of Avondale
Revenues Other Than Property Taxes
Fiscal Year 2022

SOURCE OF REVENUES	ESTIMATED REVENUES 2021	ACTUAL REVENUES* 2021	ESTIMATED REVENUES 2022
Other Cities and Towns	25,000	25,000	25,000
	198,300	198,300	336,100
HOME Grant			
Federal Sources	1,157,800	1,157,800	613,700
	1,157,800	1,157,800	613,700
Other Grants			
Other State Sources	211,000	211,000	511,000
Other Federal Sources	16,500	16,500	1,049,100
Other Grants and Donations	98,100	98,100	761,000
Other Revenue	15,366,700		30,159,000
	15,692,300	325,600	32,480,100
Cemetery Maintenance Fund			
Interest	0	1,500	0
	0	1,500	0
Library Projects			
Donations	0	15,000	0
	0	15,000	0
Transit Fund			
Interest			20,500
Arizona Lottery Fund	230,000	230,000	218,000
	230,000	230,000	238,500
County R.I.C.O.			
Seizure of Property	20,000	20,000	40,000
	20,000	20,000	40,000
Court Payments			
Other State Sources	7,700	15,000	0
Court Fines	71,000	20,000	0
Interest	6,000		0
Fill the Gap	5,000		0
	89,700		0
Court Enhancements			
Federal Sources	0	0	43,600
Interest			5,000
	0	0	48,600
Judicial Collection Enhancement			
Federal Sources	0	0	21,000
	0	0	21,000
Fill the Gap			
Federal Sources	0	0	9,000
	0	0	9,000
Regional Family Advocacy			
Federal Sources	260,000	260,000	260,000
Other Cities and Towns	1,046,700	1,046,700	791,800
Other Grants			200,000
	1,306,700	1,306,700	1,251,800
0.5% Dedicated Sales Tax			
City Sales Tax	8,966,000	10,136,000	10,443,000
Interest Earned		150,000	154,000
	8,966,000	10,286,000	10,597,000
Public Safety Dedicated Sales Tax			
City Sales Tax	8,966,000	10,136,000	10,443,000

City of Avondale
Revenues Other Than Property Taxes
Fiscal Year 2022

SOURCE OF REVENUES	ESTIMATED REVENUES 2021	ACTUAL REVENUES* 2021	ESTIMATED REVENUES 2022
Interest Earned	80,000	80,000	78,000
	9,046,000	10,216,000	10,521,000
Community Development Block Grant			
Other Federal Sources	2,912,800	2,912,800	2,002,100
	2,912,800	2,912,800	2,002,100
Environmental Programs Fund			
Environmental Fee	260,000	285,000	291,000
	260,000	285,000	291,000
Wildland Fire Deployment			
Other State Sources	172,200	172,200	172,200
	172,200	172,200	172,200
Tow Impound Fund			
Other Fines	97,000	30,000	50,000
	97,000	30,000	50,000
Tourism Fund			
Other State Sources	43,000	43,000	43,000
	43,000	43,000	43,000
Total Special Revenue Funds	\$ 46,708,000	\$ 33,636,300	\$ 64,978,800

* Includes actual revenues recognized on the modified accrual or accrual basis as of the date the proposed budget was prepared, plus estimated revenues for the remainder of the fiscal year.

DEBT SERVICE FUNDS

General Obligation			
Interest	\$ 0	\$ 10,000	\$ 10,000
	\$ 0	\$ 10,000	\$ 10,000
0.5% Dedicated Sales Tax Debt			
Interest	\$ 32,000	\$ 20,000	\$ 31,000
	\$ 32,000	\$ 20,000	\$ 31,000
Total Debt Service Funds	\$ 32,000	\$ 30,000	\$ 41,000

CAPITAL PROJECTS FUNDS

Street Construction			
Federal Sources	\$ 383,000	\$ 383,000	\$ 0
Interest	75,000	75,000	0
	\$ 458,000	\$ 458,000	\$ 0
Police Construction			
Interest	5,000	5,000	0
	\$ 5,000	\$ 5,000	\$ 0
Park Construction			
Interest	18,000	18,000	0
	\$ 18,000	\$ 18,000	\$ 0
Landscaping Landfill Remediation			
Interest	0	20,000	0
	0	20,000	0
Fire Construction			
Interest	10,000	10,000	0
	10,000	\$ 10,000	\$ 0
Streets Development Impact Fee Fund			
Development Impact Fees	1,333,000	3,510,000	3,419,000
	1,333,000	3,510,000	3,419,000

Police Development Impact Fee Fund

City of Avondale
Revenues Other Than Property Taxes
Fiscal Year 2022

SOURCE OF REVENUES	ESTIMATED REVENUES 2021	ACTUAL REVENUES* 2021	ESTIMATED REVENUES 2022
Development Impact Fees	329,000	976,000	950,000
	329,000	976,000	950,000
Fire Development Impact Fee Fund			
Development Impact Fees	329,000	902,000	878,000
	329,000	902,000	878,000
Parks Development Impact Fee Fund			
Development Impact Fees	594,000	1,618,000	1,576,000
	594,000	1,618,000	1,576,000
Library Development Impact Fee Fund			
Development Impact Fees	72,000	0	0
	72,000	0	0
Vehicle Replacement			
Sale of Assets	62,000		62,000
Interest	100,000	100,000	190,000
	162,000	\$ 100,000	\$ 252,000
Equipment Replacement			
Interest	6,000	6,000	2,000
	6,000	6,000	2,000
Total Capital Projects Funds	\$ 3,316,000	\$ 7,623,000	\$ 7,077,000

* Includes actual revenues recognized on the modified accrual or accrual basis as of the date the proposed budget was prepared, plus estimated revenues for the remainder of the fiscal year.

Trust and Agency

Employee Benefit Trust

Contributions	\$		\$	6,651,600
	\$	0	\$	6,651,600

Volunteer Fireman's Pension

Interest	\$	3,000	\$	3,000	\$	2,000
	\$	3,000	\$	3,000	\$	2,000

Total Permanent Funds \$ 3,000 \$ 3,000 \$ 6,653,600

ENTERPRISE FUNDS

Water Fund

Water Sales	\$	15,000,000	\$	15,770,000	\$	15,770,000
Interest		512,000		512,000		320,000
Operating Lease		33,000		33,000		33,000
Other Revenue		70,000		70,000		70,000
	\$	15,615,000	\$	16,385,000	\$	16,193,000

Sewer Operations

Sewer Fees	\$	9,700,000	\$	10,200,000	\$	10,275,000
Interest		176,000		176,000		206,000
	\$	9,876,000	\$	10,376,000	\$	10,481,000

Sewer Construction

Interest		0		60,000		0
	\$	0	\$	60,000	\$	0

Water Construction

Interest		100,000		60,000		0
	\$	100,000	\$	60,000	\$	0

City of Avondale
Revenues Other Than Property Taxes
Fiscal Year 2022

SOURCE OF REVENUES	ESTIMATED REVENUES 2021	ACTUAL REVENUES* 2021	ESTIMATED REVENUES 2022
Sanitation			
Sanitation Fees	5,100,000	5,400,000	5,400,000
Interest	104,000	120,000	58,000
Licenses		29,000	29,000
Other Cities and Towns	57,700	0	0
	5,261,700	5,549,000	5,487,000
Sanitation Construction			
Interest	1,000	1,000	0
	1,000	1,000	0
Water Equipment Replacement			
Interest	28,000	28,000	16,000
	28,000	28,000	16,000
Sewer Equipment Replacement			
Interest	6,000	6,000	0
	6,000	6,000	0
Sanitation Equipment Replacement			
Interest	70,000	70,000	70,000
	70,000	70,000	70,000
Water Development Impact Fees			
Development Fees	1,835,000	3,372,000	3,284,000
	1,835,000	3,372,000	3,284,000
Sewer Development Impact Fees			
Development Fees	2,384,000	4,529,000	4,411,000
Interest	75,000	75,000	55,000
	2,459,000	4,604,000	4,466,000
Total Enterprise Funds	\$ 35,251,700	\$ 40,511,000	\$ 39,997,000
* Includes actual revenues recognized on the modified accrual or accrual basis as of the date the proposed budget was prepared, plus estimated revenues for the remainder of the fiscal year.			
INTERNAL SERVICE FUNDS			
Risk Management			
Internal Service Charges	\$ 918,800	\$ 918,000	\$ 1,618,100
Other Revenue	13,500	0	13,500
Interest	33,000	33,000	45,000
	\$ 965,300	\$ 951,000	\$ 1,676,600
Fleet Services Management			
Internal Service Charges	\$ 2,822,800	\$ 2,822,800	\$ 3,252,000
	\$ 2,822,800	\$ 2,822,800	\$ 3,252,000
Worker's Compensation			
Internal Service Charges	\$ 529,200	\$ 529,200	\$ 624,500
	\$ 529,200	\$ 529,200	\$ 624,500
Total Internal Service Funds	\$ 4,317,300	\$ 4,303,000	\$ 5,553,100
TOTAL ALL FUNDS	\$ 160,824,100	\$ 157,398,400	\$ 214,019,000

* Includes actual revenues recognized on the modified accrual or accrual basis as of the date the proposed budget was prepared, plus estimated revenues for the remainder of the fiscal year.

City of Avondale
Other Financing Sources/(Uses) and Interfund Transfers
Fiscal Year 2022

FUND	OTHER FINANCING 2022		INTERFUND TRANSFERS 2022	
	SOURCES	(USES)	IN	(OUT)
GENERAL FUND				
Operating Transfers	\$	\$	\$ 947,000	\$ (3,396,100)
Capital Transfers			0	(36,749,000)
Interfund Loans	0	(5,280,000)		
General Fund Capital			34,346,000	0
General Fund Asset Replacement			1,803,000	0
Economic Opportunities - from General Fund			2,000,000	0
Total General Fund	\$ 0	\$ (5,280,000)	\$ 39,096,000	\$ (40,145,100)
SPECIAL REVENUE FUNDS				
Dedicated Sales Tax - Debt	\$	\$	\$	\$ (1,390,000)
Transit Fund - Operating Transfers			1,082,200	0
Regional Family Advocacy - Operating Transfers			263,900	0
Public Arts Fund - Operating Transfers			50,000	0
Total Special Revenue Funds	\$ 0	\$ 0	\$ 1,396,100	\$ (1,390,000)
DEBT SERVICE FUNDS				
2019 PRO Debt Service - Debt Transfer			1,390,000	0
Total Debt Service Funds	\$ 0	\$ 0	\$ 1,390,000	\$ 0
CAPITAL PROJECTS FUNDS				
General Obligation - Bond Proceeds	8,700,000			
Street Development Impact Fee - Interfund Loan	1,068,000	0		
Parks Development Impact Fee - Interfund Loan	4,212,000	0		
Vehicle Replacement - Capital			600,000	0
Total Capital Projects Funds	\$ 13,980,000	\$ 0	\$ 600,000	\$ 0
ENTERPRISE FUNDS				
Water Fund - Operating Transfers	\$	\$	\$ 0	\$ (547,000)
Sewer Fund - Operating Transfers			0	(400,000)
Water Fund - Capital Transfers			0	(6,619,000)
Sewer Fund - Capital Transfers			0	(8,207,000)
Water Construction		(1,197,000)	6,200,000	0
Sewer Construction			7,956,000	0
Sanitation Construction			155,000	0
Water Equipment Replacement - Capital			419,000	0
Sewer Equipment Replacement - Capital			251,000	0
Sanitation Equipment Replacement - Capital			1,216,000	0
Water Development Impact Fee	1,197,000			
Sanitation Fund - Capital Transfers			0	(1,371,000)
Total Enterprise Funds	\$ 1,197,000	\$ (1,197,000)	\$ 16,197,000	\$ (17,144,000)
TOTAL ALL FUNDS	\$ 15,177,000	\$ (6,477,000)	\$ 58,679,100	\$ (58,679,100)

**City of Avondale
Expenditures/Expenses by Fund
Fiscal Year 2022**

	ADOPTED BUDGETED EXPENDITURES/ EXPENSES	EXPENDITURE/ EXPENSE ADJUSTMENTS APPROVED	ACTUAL EXPENDITURES/ EXPENSES*	BUDGETED EXPENDITURES/ EXPENSES
FUND/DEPARTMENT	2021	2021	2021	2022
GENERAL FUND				
City Administration	\$ 4,189,700	\$ 176,800	\$ 4,366,500	\$ 2,039,500
City Attorney	1,585,600	0	1,585,600	1,864,700
City Clerk	983,000	(127,400)	855,600	824,300
City Council	328,200	(19,900)	261,300	329,100
City Court	1,221,000	17,220	1,238,220	1,297,100
Contingency	11,960,000	(7,439,234)	0	15,162,000
Development & Engineering Services	4,670,200	179,800	4,810,000	5,252,900
Economic Development	1,924,100	1,218,808	3,142,908	2,098,600
Facilities		0	0	3,040,800
Finance & Budget	4,582,600	475,500	4,980,100	5,877,600
Fire and Medical	10,284,300	261,133	10,545,433	11,439,100
Human Resources	1,469,000	65,400	1,484,400	1,973,700
Indirect Costs	(4,702,100)	0	(4,702,100)	(5,172,900)
Information Technology	8,352,500	162,351	7,654,251	9,558,600
Marketing & Public Relations	916,200	0	916,200	1,098,200
Neighborhood and Family Services	3,897,900	(357,858)	3,540,042	4,026,500
Non-Departmental	912,100	0	5,405,744	1,376,800
Parks & Recreation	4,373,700	356,600	4,730,300	5,322,500
Police	20,742,000	70,300	20,804,300	22,981,400
Public Works	21,400	0	21,400	71,000
Economic Opportunities Fund				
Economic Development	3,585,000	0	3,585,000	2,000,000
Police	40,000	0	40,000	0
General Fund Construction				
City Administration	507,000	0	507,000	0
City Court		0	0	68,000
Development & Engineering Services	5,822,000	4,428,000	2,250,000	30,992,000
Fire and Medical		0	0	8,897,000
Information Technology	400,000	0	400,000	445,000
Neighborhood and Family Services	2,726,000	(500,000)	2,226,000	156,000
Parks & Recreation		0	0	6,056,000
Police		0	0	1,200,000
General Fund Asset Replacement				
Facilities				1,106,000
Fire and Medical				613,000
Parks & Recreation				84,000
Total General Fund	\$ 90,791,400	\$ (1,032,480)	\$ 80,648,198	\$ 142,078,500
SPECIAL REVENUE FUNDS				
Highway User Revenue Fund				
Development & Engineering Services	2,262,800	0	2,262,800	5,823,100
Non-Departmental	221,300	0	221,300	250,100
Public Works	1,667,600	0	1,667,600	1,756,900
Senior Nutrition				
Neighborhood and Family Services	211,400	215,933	427,333	386,700
Community Action Program				
Neighborhood and Family Services	198,300	347,538	545,838	336,100
Home Grants				
Neighborhood and Family Services	1,092,300	(651,389)	440,911	613,700
Other Grants				
Fire and Medical	162,900	516,792	679,692	1,202,300
Neighborhood and Family Services	814,400	1,178	815,578	879,500
Parks & Recreation		0	0	500,000
Police	27,500	174,449	201,949	189,000
Public Works	265,000	11,823	276,823	0
Non-Departmental	15,000,000	(6,336,715)	0	30,000,000
Library Projects				

**City of Avondale
Expenditures/Expenses by Fund
Fiscal Year 2022**

	ADOPTED BUDGETED EXPENDITURES/ EXPENSES	EXPENDITURE/ EXPENSE ADJUSTMENTS APPROVED	ACTUAL EXPENDITURES/ EXPENSES*	BUDGETED EXPENDITURES/ EXPENSES
FUND/DEPARTMENT	2021	2021	2021	2022
Neighborhood and Family Services	8,800	(1,680)	7,120	0
Cemetery Maintenance Fund				
Non-Departmental	15,700	0	15,700	0
Parks & Recreation		0	0	15,700
Transit Fund				
Development & Engineering Services	1,374,100	0	1,374,100	1,785,000
Co. RICO With Mar. Co. Atty				
Police	0	41,521	41,521	40,000
Court Enhancements				
City Court	0	0	0	84,100
Judicial Collection Enhancement				
City Court	0	0	0	67,500
Fill the Gap				
City Court	0	0	0	17,300
Court Payments				
City Court	162,500	0	162,500	0
Regional Family Advocacy				
Indirect Costs	162,100	0	162,100	191,700
Non-Departmental	5,400	0	5,400	10,600
Police	1,654,100	55,379	1,709,479	1,326,800
0.5% Dedicated Sales Tax				
Development & Engineering Services	0	0	0	17,880,000
Donations				
Police		31,431	31,431	0
Public Safety Dedicated Sales Tax				
City Court	305,500	0	305,500	314,700
Contingency	495,000	0	0	495,000
Fire and Medical	2,297,500	(22,700)	2,099,800	6,360,800
Information Technology	0	25,300	25,300	125,700
Non-Departmental	62,600	0	557,600	99,700
Police	7,365,700	(287,900)	6,625,300	6,568,900
Community Development Block Grant				
Neighborhood and Family Services	2,955,000	(728,313)	2,226,687	1,921,100
Environmental Programs Fund				
Development & Engineering Services	205,200	0	255,200	283,800
Contingency	50,000	0	0	50,000
Public Arts Fund				
Contingency	50,000	0	0	0
Marketing & Public Relations	117,000	129,900	116,000	280,600
Wildland Fire Deployment Fund				
Fire and Medical	172,200	0	172,200	172,200
Tow Impound Fund				
Police	97,000	0	97,000	49,400
SAFER Grant				
Police	0	2,188,990	2,188,990	
Fire and Medical	0	1,036,135	1,036,135	
Tourism Fund				
Economic Development	43,000	0	43,000	43,000
Total Special Revenue Funds	\$ 39,521,900	\$ (3,252,329)	\$ 26,797,886	\$ 80,121,000
DEBT SERVICE FUNDS				
General Obligation				
Non-Departmental	\$ 3,867,000	\$ 2,000	\$ 3,869,000	\$ 3,797,000
Dysart Road				
Non-Departmental	211,000	1,000	212,000	136,000
0.5% Dedicated Sales Tax Debt Service				
Non-Departmental	4,680,000	4,000	4,684,000	2,653,000

**City of Avondale
Expenditures/Expenses by Fund
Fiscal Year 2022**

	ADOPTED BUDGETED EXPENDITURES/ EXPENSES	EXPENDITURE/ EXPENSE ADJUSTMENTS APPROVED	ACTUAL EXPENDITURES/ EXPENSES*	BUDGETED EXPENDITURES/ EXPENSES
FUND/DEPARTMENT	2021	2021	2021	2022
PRO Debt Service				
Non-Departmental	769,000	1,900	770,900	999,000
Total Debt Service Funds	\$ 9,527,000	\$ 8,900	\$ 9,535,900	\$ 7,585,000
CAPITAL PROJECTS FUNDS				
Streets Construction				
Development & Engineering Services	\$ 16,642,000	\$ (4,256,620)	\$ 5,385,380	\$ 0
Non-Departmental	0	0	0	0
Parks & Recreation Dept.	900,000	0	900,000	0
Police Construction				
Development & Engineering Services	0	0	0	0
Police	5,061,900	(183,400)	4,878,500	0
Park Construction				
Parks & Recreation Dept.	2,974,000	(685,000)	789,000	0
City Administration	462,000	(288,000)	174,000	0
Neighborhood and Family Services	0	0	0	0
Fire Construction				
Fire and Medical	519,000	12,456,000	975,000	0
Transit Capital Fund				
Development & Engineering Services	500,000	0	500,000	0
Transit Capital				
Development & Engineering Services	0	0	0	420,000
Streets Development Impact Fee				
Development & Engineering Services	6,010,000	1,606,620	2,616,620	5,181,000
Police Development Impact Fee				
Development & Engineering Services	0	0	0	19,000
Fire Development Impact Fee				
Development & Engineering Services	0	0	0	19,000
Fire and Medical	0	0	0	948,000
Parks Development Impact Fee				
Development & Engineering Services	0	0	0	19,000
Parks & Recreation	4,000,000	0	0	7,740,000
General Obligation Bond Construction 2019				
Neighborhood and Family Services	8,069,000	(2,932,000)	5,137,000	0
Police	4,677,100	(721,000)	3,956,100	0
General Obligation Bond Construction 2021				
Development & Engineering Services	9,257,000	0	4,257,000	0
Fire and Medical	0	0	0	1,320,000
Non-Departmental	160,000	0	160,000	120,000
PRO Bond Construction 2019				
Development & Engineering Services	1,475,000	0	1,475,000	3,294,000
Public Works	5,516,000	(276,000)	5,240,000	0
Vehicle Replacement				
Public Works	2,200,000	0	351,000	2,486,000
Equipment Replacement				
Fire and Medical	716,000	0	716,000	0
Information Technology	1,380,000	226,632	206,632	2,578,000
Total Capital Projects Funds	\$ 70,519,000	\$ 4,947,232	\$ 37,717,232	\$ 24,144,000
TRUST AND AGENCY FUND				
Employee Benefit Trust				
Human Resources	\$ 0	\$ 0	\$ 0	\$ 7,042,400
Volunteer Fireman's Pension				
Fire and Medical	5,000	0	5,000	5,000
Total Trust and Agency Funds	\$ 5,000	\$ 0	\$ 5,000	\$ 7,047,400
ENTERPRISE FUNDS				
Water Operations				
Information Technology	\$ 0	\$ 0	\$ 253,600	\$ 252,500

**City of Avondale
Expenditures/Expenses by Fund
Fiscal Year 2022**

	ADOPTED BUDGETED EXPENDITURES/ EXPENSES	EXPENDITURE/ EXPENSE ADJUSTMENTS APPROVED	ACTUAL EXPENDITURES/ EXPENSES*	BUDGETED EXPENDITURES/ EXPENSES
FUND/DEPARTMENT	2021	2021	2021	2022
Non-Departmental	129,700	0	129,700	90,600
Public Works	11,076,600	0	11,690,500	11,651,100
Indirect Costs	1,697,100	0	1,697,100	1,929,000
Contingency	1,000,000	0		1,000,000
Sewer Operations				
Information Technology	0	0	140,200	208,200
Non-Departmental	1,179,800	0	1,179,800	700,300
Public Works	5,396,200	(10,100)	6,234,500	5,541,200
Indirect Costs	1,564,600	0	1,564,600	1,494,000
Contingency	1,000,000	0		1,000,000
Sewer Capital				
Development & Engineering Services	100,000	0	100,000	100,000
Public Works	12,461,000	(142,000)	8,319,000	9,011,000
Water Capital				
Development & Engineering Services	0	0	0	973,000
Public Works	18,017,000	(4,901,361)	3,115,639	15,476,000
Sanitation Operations				
Non-Departmental	34,000	0	34,000	68,400
Public Works	4,304,800	0	4,804,800	5,219,600
Indirect Costs	916,400	0	916,400	1,101,500
Contingency	500,000	0		500,000
Sanitation Capital				
Public Works	0	0	0	760,000
Water Equipment Replacement				
Information Technology	72,000	36,800	108,800	332,000
Public Works	113,000	0	113,000	806,000
Sewer Equipment Replacement				
Information Technology	25,000	22,377	47,377	293,000
Public Works	0	0	0	2,231,000
Sanitation Equipment Replacement				
Information Technology	9,000	11,600	20,600	0
Public Works	2,042,000	0	1,042,000	2,683,000
Water Development Impact Fee				
Development & Engineering Services		0	0	32,000
Public Works	1,000,000	4,311,361	5,311,361	4,235,000
Sewer Development Impact Fee				
Development & Engineering Services		0	0	32,000
Total Enterprise Funds	\$ 62,638,200	\$ (671,323)	\$ 46,822,977	\$ 67,720,400
INTERNAL SERVICE FUNDS				
Risk Management Fund				
Human Resources	1,921,800	0	2,421,800	2,024,900
Information Technology	140,000	0	106,400	137,700
Indirect Costs	74,000	0	74,000	109,200
Contingency	500,000	0	0	500,000
Fleet Services Fund				
Non-Departmental	15,300	0	15,300	24,500
Public Works	2,500,900	0	2,532,700	2,624,400
Indirect Costs	287,900	0	287,900	347,500
Contingency	31,800	0		31,800
Workers' Compensation Fund				
Human Resources	1,134,300	0	1,134,300	1,149,600
Non-Departmental	900	0	900	1,800
Contingency	500,000	0		500,000
Total Internal Service Funds	\$ 7,106,900	\$ 0	\$ 6,573,300	\$ 7,451,400
TOTAL ALL FUNDS	\$ 280,109,400	\$ (0)	\$ 208,100,493	\$ 336,147,700

* Includes actual expenditures/expenses recognized on the modified accrual or accrual basis as of the date the proposed budget was prepared, plus estimated expenditures/expenses for the remainder of the fiscal year.

City of Avondale
Expenditures/Expenses by Department
Fiscal Year 2022

	ADOPTED BUDGETED EXPENDITURES/ EXPENSES	EXPENDITURE/ EXPENSE ADJUSTMENTS APPROVED	ACTUAL EXPENDITURES/ EXPENSES*	BUDGETED EXPENDITURES/ EXPENSES
DEPARTMENT/FUND	2021	2021	2021	2022
City Administration				
General Fund	\$ 4,189,700	\$ 176,800	\$ 4,366,500	\$ 2,039,500
Park Construction	462,000	(288,000)	174,000	0
One Time Construction	507,000	0	507,000	0
Department Total	\$ 5,158,700	\$ (111,200)	\$ 5,047,500	\$ 2,039,500
List Department:				
City Attorney				
General Fund	\$ 1,585,600	\$ 0	\$ 1,585,600	\$ 1,864,700
Department Total	\$ 1,585,600	\$ 0	\$ 1,585,600	\$ 1,864,700
List Department:				
City Clerk				
General Fund	\$ 983,000	\$ (127,400)	\$ 855,600	\$ 824,300
Department Total	\$ 983,000	\$ (127,400)	\$ 855,600	\$ 824,300
List Department:				
City Council				
General Fund	\$ 328,200	\$ (19,900)	\$ 261,300	\$ 329,100
Department Total	\$ 328,200	\$ (19,900)	\$ 261,300	\$ 329,100
List Department:				
City Court				
General Fund	\$ 1,221,000	\$ 17,220	\$ 1,238,220	\$ 1,297,100
General Fund Capital	0	0	0	68,000
Court Payments	162,500	0	162,500	0
Court Enhancement	0	0	0	84,100
Judicial Collection Enhancement	0	0	0	67,500
Fill the Gap	0	0	0	17,300
Public Safety Dedicated Sales Tax	305,500	0	305,500	314,700
Department Total	\$ 1,689,000	\$ 17,220	\$ 1,706,220	\$ 1,848,700
List Department:				
Development and Engineering				
General Fund	\$ 4,670,200	\$ 179,800	\$ 4,810,000	\$ 5,252,900
Highway User Revenue Fund	2,262,800	0	2,262,800	5,823,100
0.5% Dedicated Sales Tax	0	0	0	17,880,000
Transit Fund	1,374,100	0	1,374,100	1,785,000
Environmental Programs Fund	205,200	0	255,200	283,800
Streets Construction	16,642,000	(4,256,620)	5,385,380	0
General Fund Capital	5,822,000	4,428,000	2,250,000	30,992,000
Streets Development Impact Fee	6,010,000	1,606,620	2,616,620	5,181,000
Transit Capital Fund	500,000	0	500,000	420,000
General Obligation Bond Construction 2021	9,257,000	0	4,257,000	0
Fire Development Impact Fee	0	0	0	19,000
PRO Bond Construction 2019	1,475,000	0	1,475,000	3,294,000
Parks Development Impact Fee	0	0	0	19,000
Police Development Impact Fee	0	0	0	19,000
Water Development Impact Fee	0	0	0	32,000
Sewer Development Impact Fee	0	0	0	32,000
Water Capital	0	0	0	973,000
Sewer Capital	100,000	0	100,000	100,000
Department Total	\$ 48,318,300	\$ 1,957,800	\$ 25,286,100	\$ 72,105,800
List Department:				
Economic Development				
General Fund	\$ 1,924,100	\$ 1,218,808	\$ 3,142,908	\$ 2,098,600
Economic Opportunities Fund	3,585,000	0	3,585,000	2,000,000
Tourism Fund	43,000	0	43,000	43,000
Department Total	\$ 5,552,100	\$ 1,218,808	\$ 6,770,908	\$ 4,141,600
List Department:				
Facilities				
General Fund	\$ 0	\$ 0	\$ 0	\$ 3,040,800
General Fund Asset Replacement	0	0	0	1,106,000
Department Total	\$ 0	\$ 0	\$ 0	\$ 4,146,800

City of Avondale
Expenditures/Expenses by Department
Fiscal Year 2022

	ADOPTED BUDGETED EXPENDITURES/ EXPENSES	EXPENDITURE/ EXPENSE ADJUSTMENTS APPROVED	ACTUAL EXPENDITURES/ EXPENSES*	BUDGETED EXPENDITURES/ EXPENSES
DEPARTMENT/FUND	2021	2021	2021	2022
List Department:				
Finance & Budget				
General Fund	\$ 4,582,600	\$ 475,500	\$ 4,980,100	\$ 5,877,600
Department Total	\$ 4,582,600	\$ 475,500	\$ 4,980,100	\$ 5,877,600
List Department:				
Fire and Medical				
General Fund	\$ 10,284,300	\$ 261,133	\$ 10,545,433	\$ 11,439,100
General Fund Construction	0	0	0	8,897,000
General Fund Asset Replacement	0	0	0	613,000
Other Grants	162,900	516,792	679,692	1,202,300
Public Safety Dedicated Sales Tax	2,297,500	(22,700)	2,099,800	6,360,800
Wildland Fire Deployment Fund	172,200	0	172,200	172,200
Fire Construction	519,000	12,456,000	975,000	0
Fire Development Impact Fee	0	0	0	948,000
Equipment Replacement	716,000	0	716,000	0
General Obligation Bond Construction 2021	0	0	0	1,320,000
SAFER Grant	0	1,036,135	1,036,135	0
Volunteer Fireman's Pension	5,000	0	5,000	5,000
Department Total	\$ 14,156,900	\$ 14,247,360	\$ 16,229,260	\$ 30,957,400
List Department:				
Human Resources				
General Fund	\$ 1,469,000	\$ 65,400	\$ 1,484,400	\$ 1,973,700
Employee Benefit Trust	0	0	0	7,042,400
Risk Management Fund	1,921,800	0	2,421,800	2,024,900
Workers' Compensation Fund	1,134,300	0	1,134,300	1,149,600
Department Total	\$ 4,525,100	\$ 65,400	\$ 5,040,500	\$ 12,190,600
List Department				
Indirect Costs				
General Fund	(4,702,100)	0	(4,702,100)	(5,172,900)
Regional Family Advocacy	162,100	0	162,100	191,700
Water Operations	1,697,100	0	1,697,100	1,929,000
Sewer Operations	1,564,600	0	1,564,600	1,494,000
Sanitation Operations	916,400	0	916,400	1,101,500
Risk Management Fund	74,000	0	74,000	109,200
Fleet Services Fund	287,900	0	287,900	347,500
Department Total	0	0	0	0
List Department:				
Information Technology				
General Fund	\$ 8,352,500	\$ 162,351	\$ 7,654,251	\$ 9,558,600
Public Safety Dedicated Sales Tax	0	25,300	25,300	125,700
General Fund Construction	400,000	0	400,000	445,000
Equipment Replacement	1,380,000	226,632	206,632	2,578,000
Water Operations	0	0	253,600	252,500
Sewer Operations	0	0	140,200	208,200
Water Equipment Replacement	72,000	36,800	108,800	332,000
Sewer Equipment Replacement	25,000	22,377	47,377	293,000
Sanitation Equipment Replacement	9,000	11,600	20,600	0
Risk Management Fund	140,000	0	106,400	137,700
Department Total	\$ 10,378,500	\$ 485,060	\$ 8,963,160	\$ 13,930,700
List Department:				
Marketing & Public Relations				
General Fund	\$ 916,200	\$ 0	\$ 916,200	\$ 1,098,200
Public Arts Fund	117,000	129,900	116,000	280,600
Department Total	\$ 1,033,200	\$ 129,900	\$ 1,032,200	\$ 1,378,800
List Department:				
Neighborhood and Family Services				
General Fund	\$ 3,897,900	\$ (357,858)	\$ 3,540,042	\$ 4,026,500
General Fund Construction	2,726,000	(500,000)	2,226,000	156,000
Senior Nutrition	211,400	215,933	427,333	386,700
Community Action Program	198,300	347,538	545,838	336,100
Home Grants	1,092,300	(651,389)	440,911	613,700

City of Avondale
Expenditures/Expenses by Department
Fiscal Year 2022

	ADOPTED BUDGETED EXPENDITURES/ EXPENSES	EXPENDITURE/ EXPENSE ADJUSTMENTS APPROVED	ACTUAL EXPENDITURES/ EXPENSES*	BUDGETED EXPENDITURES/ EXPENSES
DEPARTMENT/FUND	2021	2021	2021	2022
Other Grants	814,400	1,178	815,578	879,500
Library Projects	8,800	(1,680)	7,120	0
Community Development Block Grant	2,955,000	(728,313)	2,226,687	1,921,100
General Obligation Bond Construction 2019	8,069,000	(2,932,000)	5,137,000	0
Department Total	\$ 19,973,100	\$ (4,606,591)	\$ 15,366,509	\$ 8,319,600

List Department:

Non-Departmental

General Fund	\$ 912,100	\$ 0	\$ 5,405,744	\$ 1,376,800
Highway User Revenue Fund	221,300	0	221,300	250,100
Cemetery Maintenance Fund	15,700	0	15,700	0
Regional Family Advocacy	5,400	0	5,400	10,600
Public Safety Dedicated Sales Tax	62,600	0	557,600	99,700
General Obligation	3,867,000	2,000	3,869,000	3,797,000
General Obligation Bond Construction 2021	160,000	0	160,000	120,000
Dysart Road	211,000	1,000	212,000	136,000
0.5% Dedicated Sales Tax Debt Service	4,680,000	4,000	4,684,000	2,653,000
PRO Debt Service	769,000	1,900	770,900	999,000
Water Operations	129,700	0	129,700	90,600
Sewer Operations	1,179,800	0	1,179,800	700,300
Sanitation Operations	34,000	0	34,000	68,400
Fleet Services Fund	15,300	0	15,300	24,500
Workers' Compensation Fund	900	0	900	1,800
Department Total	\$ 12,263,800	\$ 8,900	\$ 17,261,344	\$ 10,327,800

List Department:

Parks & Recreation

General Fund	\$ 4,373,700	\$ 356,600	\$ 4,730,300	\$ 5,322,500
General Fund Construction	0	0	0	6,056,000
General Fund Asset Replacement	0	0	0	84,000
Other Grants	0	0	0	500,000
Cemetery Maintenance Fund	0	0	0	15,700
Park Construction	2,974,000	(685,000)	789,000	0
Streets Construction	900,000	0	900,000	0
Parks Development Impact Fee	4,000,000	0	0	7,740,000
Department Total	\$ 12,247,700	\$ (328,400)	\$ 6,419,300	\$ 19,718,200

List Department:

Police

General Fund	\$ 20,742,000	\$ 70,300	\$ 20,804,300	\$ 22,981,400
General Fund Construction	0	0	0	1,200,000
Economic Opportunities Fund	40,000	0	40,000	0
Regional Family Advocacy	1,654,100	55,379	1,709,479	1,326,800
Public Safety Dedicated Sales Tax	7,365,700	(287,900)	6,625,300	6,568,900
Police Construction	5,061,900	(183,400)	4,878,500	0
Other Grants	27,500	174,449	201,949	189,000
Tow Impound Fund	97,000	0	97,000	49,400
General Obligation Bond Construction 2019	4,677,100	(721,000)	3,956,100	0
Donations	0	31,431	31,431	0
SAFER Grant	0	2,188,990	2,188,990	0
Co. RICO With Mar. Co. Atty	0	41,521	41,521	40,000
Department Total	\$ 39,665,300	\$ 1,369,770	\$ 40,574,570	\$ 32,355,500

List Department:

Public Works

General Fund	\$ 21,400	\$ 0	\$ 21,400	\$ 71,000
Highway User Revenue Fund	1,667,600	0	1,667,600	1,756,900
Other Grants	265,000	11,823	276,823	0
PRO Bond Construction 2019	5,516,000	(276,000)	5,240,000	0
Vehicle Replacement	2,200,000	0	351,000	2,486,000
Water Operations	11,076,600	0	11,690,500	11,651,100
Sewer Operations	5,396,200	(10,100)	6,234,500	5,541,200
Sewer Capital	12,461,000	(142,000)	8,319,000	9,011,000
Water Capital	18,017,000	(4,901,361)	3,115,639	15,476,000
Sanitation Operations	4,304,800	0	4,804,800	5,219,600
Sanitation Capital	0	0	0	760,000

City of Avondale
Expenditures/Expenses by Department
Fiscal Year 2022

	ADOPTED BUDGETED EXPENDITURES/ EXPENSES	EXPENDITURE/ EXPENSE ADJUSTMENTS APPROVED	ACTUAL EXPENDITURES/ EXPENSES*	BUDGETED EXPENDITURES/ EXPENSES
DEPARTMENT/FUND	2021	2021	2021	2022
Water Equipment Replacement	113,000	0	113,000	806,000
Sewer Equipment Replacement	0	0	0	2,231,000
Water Development Impact Fee	1,000,000	4,311,361	5,311,361	4,235,000
Sanitation Equipment Replacement	2,042,000	0	1,042,000	2,683,000
Fleet Services Fund	2,500,900	0	2,532,700	2,624,400
Department Total	\$ 66,581,500	\$ (1,006,277)	\$ 50,720,323	\$ 64,552,200
List Department:				
Contingency				
General Fund	\$ 11,960,000	\$ (7,439,234)	\$ 0	\$ 15,162,000
Other Grants	15,000,000	(6,336,715)	0	30,000,000
Public Safety Dedicated Sales Tax	495,000	0	0	495,000
Environmental Programs Fund	50,000	0	0	50,000
Public Arts Fund	50,000	0	0	0
Water Operations	1,000,000	0	0	1,000,000
Sewer Operations	1,000,000	0	0	1,000,000
Sanitation Operations	500,000	0	0	500,000
Risk Management Fund	500,000	0	0	500,000
Fleet Services Fund	31,800	0	0	31,800
Workers' Compensation Fund	500,000	0	0	500,000
Department Total	\$ 31,086,800	\$ (13,775,949)	\$ 0	\$ 49,238,800
TOTAL ALL DEPARTMENTS	\$ 280,109,400	\$ 0	\$ 208,100,493	\$ 336,147,700

* Includes actual expenditures/expenses recognized on the modified accrual or accrual basis as of the date the proposed budget was prepared, plus estimated expenditures/expenses for the remainder of the fiscal year.

City of Avondale
Full-Time Employees and Personnel Compensation
Fiscal Year 2022

	Full-Time Equivalent (FTE)	Employee Salaries and Hourly Costs	Retirement Costs	Healthcare Costs	Other Benefit Costs	Total Estimated Personnel Compensation
FUND	2022	2022	2022	2022	2022	2022
GENERAL FUND	475.22	\$ 40,629,700	\$ 7,848,800	\$ 4,333,900	\$ 3,147,600	\$ 55,960,000
SPECIAL REVENUE FUNDS						
Highway User Revenue Fund	20.50	\$ 1,578,400	\$ 188,300	\$ 164,800	\$ 156,800	\$ 2,088,300
Senior Nutrition	8.50	283,100	25,200	24,800	28,500	361,600
Community Action Program	2.00	100,500	12,700	23,800	8,900	145,900
Other Grants	16.78	1,110,800	261,000	151,800	59,200	1,582,800
Court Enhancements	0.80	47,900	5,900	4,900	4,400	63,100
Regional Family Advocacy	7.00	544,400	67,800	35,500	44,800	692,500
Public Safety Dedicated Sales Tax	63.00	5,470,400	1,544,800	588,500	400,600	8,004,300
Community Development Block Grant	2.00	156,300	19,500	11,200	14,000	201,000
Environmental Programs Fund	1.00	95,800	12,000	12,400	8,700	128,900
Wildland Fire Deployment	0.00	128,000	0	0	0	128,000
Tow Impound Fund	0.50	32,700	4,100	2,500	3,200	42,500
Volunteer Fireman's Pension	0.00	\$ 0	\$ 5,000	\$ 0	\$ 0	\$ 5,000
Total Special Revenue Funds	122.08	\$ 9,548,300	\$ 2,146,300	\$ 1,020,200	\$ 729,100	\$ 13,443,900
ENTERPRISE FUNDS						
Water Operations	36.50	\$ 2,654,700	\$ 325,000	\$ 313,400	\$ 267,300	\$ 3,560,400
Sewer Operations	23.50	1,719,700	211,600	225,200	178,200	2,334,700
Sanitation	26.75	1,795,300	216,500	264,500	190,600	2,466,900
Total Enterprise Funds	86.75	\$ 6,169,700	\$ 753,100	\$ 803,100	\$ 636,100	\$ 8,362,000
INTERNAL SERVICE FUND						
Fleet Services Fund	8.75	\$ 653,200	\$ 81,600	\$ 70,600	\$ 64,000	\$ 869,400
Worker's Compensation Fund	1.20	121,900	15,300	9,200	11,100	157,500
Risk Management Fund	0.80	95,900	12,000	8,300	8,400	124,600
Total Internal Service Fund	10.75	\$ 871,000	\$ 108,900	\$ 88,100	\$ 83,500	\$ 1,151,500
TOTAL ALL FUNDS	694.80	\$ 57,218,700	\$ 10,857,100	\$ 6,245,300	\$ 4,596,300	\$ 78,917,400

MINUTES OF THE ALAMAR COMMUNITY FACILITIES DISTRICT BOARD MEETING
CITY OF AVONDALE, ARIZONA
CITY COUNCIL CHAMBER
June 15, 2020

A **Regular Meeting** of the Alamar Communities Facilities District Board of the City of Avondale, Arizona was convened at 11465 Civic Center Drive in open and public session at 5:46 p.m.

Members Present: Chairperson Kenn Weise; Vice Chairperson Pat Dennis; Board Members Robert Antoniak, Tina Conde, Kevin Kugler; Veronica Malone, Curtis Nielson, and Mike Pineda.

All Board Members attended the meeting using the Zoom Cloud Meeting platform with the exception of Chairperson Kenn Weise who appeared in-person.

Members Absent: Board Member Bryan Kilgore.

Other Municipal Officials Present: Charles Montoya, City Manager; Gina Montes, Assistant City Manager; Tracy Stevens, Deputy City Manager; Marcella Carrillo, City Clerk; Cindy Blackmore, Public Works Director; Jessica Blazina, Intergovernmental Affairs Administrator; Jeff Case, Fire Chief; Ken Chapa, Economic Development Services Director; Lindsey Duncan, Finance and Budget Director; Bryan Hughes, Parks and Recreation Director; Chris Lopez, Neighborhood and Family Services Director; Kevin Murphy, Development and Engineering Services Director; Dale Nannenga, Police Chief; Jeffrey Scheetz, Chief Information Officer; and Pier Simeri, Marketing and Public Relations Director.

Audience: Approximately 5 members of the public were present.

1. ROLL CALL BY THE DISTRICT CLERK

2. APPROVAL OF MINUTES

The District Board considered a request to approve the June 1, 2020 board meeting minutes.

Having no comments or changes to the minutes, Vice Chairperson Dennis moved to approve the June 1, 2020 board meeting minutes; seconded by Board Member Nielson.

Upon roll call vote, the motion was carried unanimously 8 to 0.

Board Member Antoniak	Aye
Board Member Conde	Aye
Board Member Kugler	Aye
Board Member Malone	Aye
Board Member Nielson	Aye
Board Member Pineda	Aye
Vice Chairperson Dennis	Aye
Chairperson Weise	Aye

3. RESOLUTION 4-2020 - SETTING THE PROPERTY TAX LEVY FOR FISCAL YEAR ENDING JUNE 30, 2021

The District Board considered a request to adopt Resolution 4-2020 levying upon the assessed valuation of the property within Lakin Community Facilities District subject to ad valorem taxation a certain sum upon each one hundred dollars (\$100.00) of valuation for the fiscal year ending June 30, 2021.

Lindsey Duncan, Finance and Budget Director, stated the budget was established based on the level amounts from the tentative budget. The budget is balanced with expected revenues equaling estimated expenditures. The budget may be amended throughout the fiscal year but not increased.

Since the formation, the board had not issued any debt; therefore, a levy on secondary property tax is not required. There is an established maximum primary rate of \$0.30 for every \$100 of net assessed value. This raises approximately \$5,436 when applying the mentioned rate to the current value. Also included in the budget is an estimate of approximately \$24,800 to be collected from the developer for insurance payments. The total expenditures and revenues are established at \$30,280, being a balanced budget.

Board Member Nielson moved to adopt Resolution 4-2020 levying upon the assessed valuation of the property within Lakin Community Facilities District subject to ad valorem taxation a certain sum upon each one hundred dollars (\$100.00) of valuation for the fiscal year ending June 30, 2021; seconded by Board Member Pineda.

Upon roll call vote, the motion was carried unanimously 8 to 0.

Board Member Antoniak	Aye
Board Member Conde	Aye
Board Member Kugler	Aye
Board Member Malone	Aye
Board Member Nielson	Aye
Board Member Pineda	Aye
Vice Chairperson Dennis	Aye
Chairperson Weise	Aye

4. ADJOURNMENT

There being no further business before the Board, Vice Chairperson Dennis moved to adjourn the Regular Meeting; Board Member Conde seconded the motion.

Upon roll call vote, the motion was carried unanimously 8 to 0.

Board Member Antoniak	Aye
Board Member Conde	Aye
Board Member Kugler	Aye
Board Member Malone	Aye
Board Member Nielson	Aye

Board Member Pineda	Aye
Vice Chairperson Dennis	Aye
Chairperson Weise	Aye

Meeting adjourned at 5:52 p.m.

Kenn Weise, Chairperson

CERTIFICATION AND ATTESTATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of the Alamar Communities Facilities District Board of the City of Avondale held on the 15th day of June 2020. I further certify that the meeting was duly called and held, and that the quorum was present.

Marcella Carrillo, District Clerk



AGENDA ITEM REPORT

SUBJECT: Resolution 1-2021 - Fiscal Year 2022 Tentative Budget

MEETING DATE: 5/3/2021

TO: Board Members

FROM: Lindsey Duncan, District Treasurer, (623) 333-2011

THROUGH: Gina Montes, Assistant District Manager, (623) 333-1012

REVIEWED: Charles A. Montoya, District Manager, (623) 333-1016

PURPOSE:

The District Board will consider a request to adopt Resolution 1-2021 setting forth the fiscal year 2021-22 (FY2022) tentative budget for the Alamar Community Facilities District. The District Board will take appropriate action.

BACKGROUND:

The adoption of the tentative budget will set the maximum limit of expenditures for FY2022. The total budget may be reduced prior to final adoption, but cannot be increased. The tentative budget for the district must be approved by resolution on or before July 15.

DISCUSSION:

Per A.R.S. 48-716, on or before July 15, the district treasurer shall prepare a proposed budget for the ensuing fiscal year for the district board's approval. Public notice is required at least 10 days before the tentative budget. Public notice will be published per the requirements of A.R.S. 48-715. The final budget shall be adopted before October 1.

BUDGET IMPACT:

This action will set the maximum expenditure limit for FY2022. Revisions can be made to decrease, but not increase the total expenditure amount for the final budget.

RECOMMENDATION:

Staff recommends adoption of a resolution setting forth the FY2022 tentative budget and annual expenditure limitation and authorize staff to proceed with required publications.

RESOLUTION NO. 1-2021

A RESOLUTION OF THE DISTRICT BOARD OF THE ALAMAR COMMUNITY FACILITIES DISTRICT, SETTING FORTH THE TENTATIVE BUDGET AND ESTABLISHING THE EXPENDITURE LIMITATION FOR LAKIN COMMUNITY FACILITIES DISTRICT FOR FISCAL YEAR 2021-2022.

WHEREAS, on May 21, 2018, the Mayor and Council of the City of Avondale, Arizona (the “City”), adopted Resolution No. 3453-518 forming Alamar Community Facilities District (“ACFD”), a community facilities district in accordance with ARIZ. REV. STAT. § 48-701 et seq., as amended; and

WHEREAS, ACFD is a special purpose district for purposes of Article IX, Section 19, of the Arizona Constitution, a tax-levying public improvement district for the purposes of Article XIII, Section 7, of the Arizona Constitution, and a municipal corporation for all purposes of ARIZ. REV. STAT. Title 35, Chapter 3, Articles 3, 3.1, 3.2, 4 and 5, as amended, and (except as otherwise provided in ARIZ. REV. STAT. § 48-708(B), as amended) is considered to be a municipal corporation and political subdivision of the State of Arizona, separate and apart from the City; and

WHEREAS, a primary purpose for creating ACFD was to finance certain public infrastructure needed for the development known as “Alamar Park” through assessment of ad valorem taxes on all real and personal property within ACFD; and

WHEREAS, in accordance with ARIZ. REV. STAT. §§ 48-716 and 48-723, as amended, the District Treasurer of ACFD has submitted to the District Board of ACFD a proposed budget for Fiscal Year 2021-2022 which includes statements and estimates of the operation and maintenance expenses of ACFD, the costs of capital improvements to be financed by the authorized ad valorem tax levy, and the amount of all other expenditures for public infrastructure and enhanced municipal services proposed to be paid from the tax levy; and

WHEREAS, the District Board of ACFD desires now to approve said tentative budget for the Fiscal Year 2021-2022, to publish notice of having filed the required statements and estimates, and to set a date (and publish notice thereof) for a public hearing to receive comment on the tentative budget.

NOW, THEREFORE, BE IT RESOLVED BY THE DISTRICT BOARD OF THE ALAMAR COMMUNITY FACILITIES DISTRICT as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The statements and schedules attached hereto as Exhibit A and incorporated herein by reference are hereby adopted as the District's official tentative budget for the fiscal year beginning July 1, 2021, and ending June 30, 2022, including the establishment of the expenditure limitation for such fiscal year.

SECTION 3. The public hearing date of June 7, 2021, beginning at or after 5:45 p.m. at the City of Avondale City, Council Chambers, 11465 W. Civic Center Drive, Avondale, Arizona, is hereby set to consider said tentative budget (including, but expressly not limited to, consideration of those portions of the statements), and a notice shall be published once in a newspaper of general circulation no later than ten (10) days prior to said hearing date.

SECTION 4. The District Board Chairman, the District Manager, the District Clerk and the District Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the District Board of the Alamar (formerly Lakin) Community Facilities District on May 3, 2021.

Kenneth N. Weise, Chairman District Board
Alamar Community Facilities District

ATTEST:

Marcella Carrillo, District Clerk
Alamar Community Facilities District

APPROVED AS TO FORM:

Nicholle Harris, District Attorney
Alamar Community Facilities District

EXHIBIT A
TO
RESOLUTION NO. 1-2021

[Statements and Schedules]

See following pages.

Alamar Community Facilities District #38191
Summary Schedule of Estimated Revenues and Expenditures/Expenses
Fiscal Year 2022

Fiscal Year	S c h	FUNDS							
		General Fund	Special Revenue Fund	Debt Service Fund	Capital Projects Fund	Permanent Fund	Enterprise Funds Available	Internal Service Funds	Total All Funds
2021 Adopted/Adjusted Budgeted Expenditures/Expenses*	E 1		30,280						30,280
2021 Actual Expenditures/Expenses**	E 2		30,280						30,280
2022 Fund Balance/Net Position at July 1***	3								0
2022 Primary Property Tax Levy	B 4		1,321						1,321
2022 Secondary Property Tax Levy	B 5			16,957					16,957
2022 Estimated Revenues Other than Property Taxes	C 6		534,000	23,043	0				557,043
2022 Other Financing Sources	D 7				40,000				40,000
2022 Other Financing (Uses)	D 8								0
2022 Interfund Transfers In	D 9								0
2022 Interfund Transfers (Out)	D 10								0
2022 Reduction for Amounts Not Available	11								
LESS: Amounts for Future Debt Retirement:									0
Future Capital Projects									0
Maintained Fund Balance for Financial Stability									0
									0
									0
2022 Total Financial Resources Available	12	0	535,321	40,000	40,000	0	0	0	615,321
2022 Budgeted Expenditures/Expenses	E 13		535,000	40,000	40,000				615,000

EXPENDITURE LIMITATION COMPARISON

1 Budgeted expenditures/expenses
2 Add/subtract: estimated net reconciling items
3 Budgeted expenditures/expenses adjusted for reconciling items:
4 Less: estimated exclusions
5 Amount subject to the expenditure limitation
6 EEC expenditure limitation

2021	2022
\$ 30,280	\$ 615,000
30,280	615,000
\$ 30,280	\$ 615,000
\$	\$

☐ The city/town does not levy property taxes and does not have special assessment districts for which property taxes are levied. Therefore, Schedule B has been omitted.

* Includes Expenditure/Expense Adjustments Approved in the current year from Schedule E.

** Includes actual amounts as of the date the proposed budget was prepared, adjusted for estimated activity for the remainder of the fiscal year

*** Amounts on this line represent Fund Balance/Net Position amounts except for amounts not in spendable form (e.g., prepaids and inventories) or legally or contractually required to be maintained intact (e.g., principal of a permanent fund).

Alamar Community Facilities District #38191
Tax Levy and Tax Rate Information
Fiscal Year 2022

	<u>2021</u>	<u>2022</u>
1. Maximum allowable primary property tax levy. A.R.S. §42-17051(A)	\$ <u> </u>	\$ <u> 0</u>
2. Amount received from primary property taxation in the current year in excess of the sum of that year's maximum allowable primary property tax levy. A.R.S. §42-17102(A)(18)	\$ <u> 0</u>	
3. Property tax levy amounts		
A. Primary property taxes	\$ <u> 5,436</u>	\$ <u> 1,321</u>
B. Secondary property taxes	\$ <u> 0</u>	\$ <u> 16,957</u>
C. Total property tax levy amounts	\$ <u> 5,436</u>	\$ <u> 18,279</u>
4. Property taxes collected*		
A. Primary property taxes		
(1) Current year's levy	\$ <u> </u>	
(2) Prior years' levies		
(3) Total primary property taxes	\$ <u> 0</u>	
B. Secondary property taxes		
(1) Current year's levy	\$ <u> </u>	
(2) Prior years' levies	\$ <u> 0</u>	
(3) Total secondary property taxes	\$ <u> 0</u>	
C. Total property taxes collected	\$ <u> 0</u>	
5. Property tax rates		
A. City/Town tax rate		
(1) Primary property tax rate	<u> 0.3000</u>	<u> 0.3000</u>
(2) Secondary property tax rate	<u> 0.0000</u>	<u> 3.8500</u>
(3) Total city/town tax rate	<u> 0.3000</u>	<u> 4.1500</u>
B. Special assessment district tax rates		
Secondary property tax rates - As of the date the proposed budget was prepared, the City was operating <u> one (1) </u> special assessment district for which secondary property taxes are levied. For information pertaining to these special assessment districts and their tax rates, please contact the city.		

* Includes actual property taxes collected as of the date the proposed budget was prepared, plus estimated property tax collections for the remainder of the fiscal year.

Alamar Community Facilities District #38191
Revenues Other Than Property Taxes
Fiscal Year 2022

SOURCE OF REVENUES	ESTIMATED REVENUES 2021	ACTUAL REVENUES* 2021	ESTIMATED REVENUES 2022
SPECIAL REVENUE FUNDS			
Contributions - Operations	\$ 24,844	\$ 24,844	\$ 34,000
Contributions - Capital			0
Contributions - Debt			23,043
Contingency			500,000
	\$ 24,844	\$ 24,844	\$ 557,043
Total Special Revenue Funds	\$ 24,844	\$ 24,844	\$ 557,043
TOTAL ALL FUNDS	\$ 24,844	\$ 24,844	\$ 557,043

* Includes actual revenues recognized on the modified accrual or accrual basis as of the date the proposed budget was prepared, plus estimated revenues for the remainder of the fiscal year.

Alamar Community Facilities District #38191
Other Financing Sources/(Uses) and Interfund Transfers
Fiscal Year 2022

	OTHER FINANCING 2022		INTERFUND TRANSFERS 2022	
FUND	SOURCES	(USES)	IN	(OUT)
Bond Issuance	\$ 40,000			

**Alamar Community Facilities District #38191
Expenditures/Expenses by Fund
Fiscal Year 2022**

FUND/DEPARTMENT	ADOPTED BUDGETED EXPENDITURES/ EXPENSES 2021	EXPENDITURE/ EXPENSE ADJUSTMENTS APPROVED 2021	ACTUAL EXPENDITURES/ EXPENSES* 2021	BUDGETED EXPENDITURES/ EXPENSES 2022
General Operations	\$ 30,280	\$	\$ 30,280	\$ 35,000
Capital - Dev and Engineering				20,000
Capital - Finance				20,000
Debt				40,000
Contingency				500,000
Total Special Revenue Funds	\$ 30,280	\$ 0	\$ 30,280	\$ 615,000
TOTAL ALL FUNDS	\$ 30,280	\$ 0	\$ 30,280	\$ 615,000

* Includes actual expenditures/expenses recognized on the modified accrual or accrual basis as of the date the proposed budget was prepared, plus estimated expenditures/expenses for the remainder of the fiscal year.

Alamar Community Facilities District #38191
Expenditures/Expenses by Department
Fiscal Year 2022

	ADOPTED BUDGETED EXPENDITURES/ EXPENSES	EXPENDITURE/ EXPENSE ADJUSTMENTS APPROVED	ACTUAL EXPENDITURES/ EXPENSES*	BUDGETED EXPENDITURES/ EXPENSES
DEPARTMENT/FUND	2021	2021	2021	2022
General Operations:				
Alamar CFD Operating	\$ 30,280	\$	\$ 30,280	\$ 35,000
Debt				40,000
Capital - Dev and Engineering				20,000
Capital - Finance				20,000
Contingency				500,000
Department Total	\$ 30,280	\$ 0	\$ 30,280	\$ 615,000

* Includes actual expenditures/expenses recognized on the modified accrual or accrual basis as of the date the proposed budget was prepared, plus estimated expenditures/expenses for the remainder of the fiscal year.