



City of Avondale

City Council Online Meeting

Monday, October 25, 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

Cherlene Penilla, Assistant City Manager

Tracy Stevens, Deputy City Manager | Lindsey Duncan, Deputy City Manager

Nicholle Harris, City Attorney | Marcella Carrillo, City Clerk

Online Meeting

Join the meeting and view presentations: <https://avondaleaz.zoom.us/j/99706985158>

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City Council Online Meeting Notice & Agenda Monday, October 25, 2021

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WORK SESSION

6:00 PM

CALL TO ORDER BY MAYOR

1. ROLL CALL BY THE CITY CLERK

2. COMMUNITY SERVICES OFFICER AND LITCHFIELD PARK UPDATE

City Council will receive an update from staff on the Community Service Officer (CSO) Program, an update to the policing activities in Litchfield Park, and an update on vehicle and equipment maintenance activities for Litchfield Park.

3. INTRODUCTION TO AVONDALE AQUATIC CENTER PROJECT

City Council will receive an update from staff regarding the Avondale Aquatic Center Project, including the current status, and seek feedback on design elements.

4. ADJOURNMENT

REGULAR MEETING

7:00 PM

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

(Time is limited per person. Please state your name.)

3. PRESENTATION ITEMS

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

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

b. RECOGNITION OF FIREFIGHTERS BRAD DUELL, ELIAS AVILA, DAVID SANTANA AND ENGINEER MICHAEL REITER FROM THE AVONDALE FIRE AND MEDICAL DEPARTMENT

City Council, along with the Avondale Fire and Medical Department, will recognize Firefighters Brad Duell, Elias Avila, David Santana and Engineer Michael Reiter for their decisive actions and professionalism during a water rescue, saving the life of another. This item is for discussion only.

c. RECOGNITION OF FIRE MARSHAL JASON NAPIER FOR SUCCESSFUL COMPLETION OF THE NATIONAL FIRE ACADEMY'S EXECUTIVE FIRE OFFICER PROGRAM

City Council, along with the Avondale Fire and Medical Department, will recognize Fire Marshal Jason Napier for his completion of the four-year Executive Fire Officer Program from the National Fire Academy in Emmitsburg, Maryland and present Jason Napier with his Official Certificate of Completion. This item is for discussion only.

d. INTRODUCTION OF NEW EMPLOYEES - FIRE AND MEDICAL DEPARTMENT

The Fire and Medical Department staff will introduce the following new firefighters. This item is for discussion only.

- | | | | | |
|----------------|--------------------|-------------------|-----------------------|--------------------|
| • Brant Arnold | • Alejandro Davila | • Andrew Jachetta | • Gabriella Lestinsky | • Jonathan Salazar |
| • Elias Avila | • Aaron Fajardo | • Brock Jacobo | • Chris McBroom | • Tyler Werth |
| • Ana Cano | • Jovanny Gomez | • Rene Jimenez | • Keenan Murray | • Clay Whitlow |
| • Justin Conn | • Ivaylo Ivanov | | | |

e. INTRODUCTION OF NEW EMPLOYEE - CITY ATTORNEY'S OFFICE

The City Attorney's Office staff will introduce new employee Brandon Cartwright, Attorney I. This item is for discussion only.

f. PROCLAMATION - OCTOBER 2021 AS NATIONAL DOMESTIC VIOLENCE AWARENESS AND PREVENTION MONTH

City Council will issue a Proclamation on National Domestic Violence Awareness and Prevention Month. This item is for discussion only.

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.

a. MINUTES

City Council will consider a request to approve the September 20, 2021 and October 4, 2021 City Council meeting minutes. The Council will take appropriate action.

b. CAPITAL IMPROVEMENT PROGRAM BUDGET TRANSFERS

City Council will consider a request to adjust the FY2022 Capital Improvement Plan and FY2022 Asset Replacement Program. The Council will take appropriate action.

c. FIBER AND CONDUIT SHARING AGREEMENT

City Council will consider a request to approve a fiber and conduit sharing agreement with WANRack to provide in-kind services to the City, and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

d. RESOLUTION 1088-1021 – INTERGOVERNMENTAL AGREEMENT - CITY OF PHOENIX AND OTHER POLITICAL SUBDIVISIONS - EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM

City Council will consider a request to adopt Resolution 1088-1021, approving an Intergovernmental Agreement with the City of Phoenix and Other Political Subdivisions for the acceptance of the Edward Byrne Memorial Justice Assistance Grant 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 1089-1021 - INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY PARKS AND RECREATION FOR COOPERATIVE RECREATIONAL PROGRAMMING AT ESTRELLA MOUNTAIN REGIONAL PARK

City Council will consider a request to adopt Resolution 1089-1021 authorizing an Intergovernmental Agreement with the Maricopa County Parks and Recreation for cooperative recreational opportunities, programs, marketing, and events at the Estrella Mountain Regional Park, 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 1090-1021 - AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT WITH LITCHFIELD PARK

City Council will consider a request to adopt Resolution 1090-1021, approving an amendment to the Intergovernmental Agreement with Litchfield Park relating to the annexation/deannexation of Wigwam Creek and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

g. ORDINANCE 2055-1021 - CITY CODE AMENDMENT - CHAPTER 19 – PRELIMINARY PLATS

City Council will consider a request to adopt Ordinance 2055-1021, amending Chapter 19 of the Avondale City Code related to the approval of preliminary plats 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 2056-1021 - LICENSE AGREEMENT WITH DEL RIO RANCH III HOMEOWNERS ASSOCIATION

City Council will consider a request to adopt Ordinance 2056-1021, authorizing a License Agreement with the Del Rio Ranch III Homeowners Association allowing an irrigation pipeline to cross the City's right-of-way and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

i. OMNI AVONDALE SELF-STORAGE – RE-PLAT – APPLICATION PL-21-0152

City Council will consider a request by Jason Sanks, Sanks and Associates, on behalf of the property owner Lower Buckeye and Avondale LLC, for approval of a Re-Plat. The proposed Re-Plat divides an 8.67 gross-acre subject property into three (3) parcels and dedicates an eighteen (18) inch private utility easement. The site is located approximately 323 feet north of the northeast corner of Avondale Boulevard and Lower Buckeye Road. The Council will take appropriate action.

j. AUTHORIZATION TO PROCEED WITH ANNEXATION – SHADOW RIDGE - APPLICATION PL-21-0100

City Council will consider a request by Cindy Paddock of HILGARTWILSON, on behalf of property owner EIEIO LLC, to begin the annexation process of approximately 116.78 acres generally located at the southeast corner of Avondale Boulevard and Miami Avenue. The Council will take appropriate action.

5. REGULAR AGENDA

a. PUBLIC HEARING - OMNI AVONDALE SELF-STORAGE – CONDITIONAL USE PERMIT – APPLICATION PL-21-0151

City Council will hold a public hearing and consider a request by Jason Sanks, Sanks and Associates, on behalf of the property owner Lower Buckeye and Avondale LLC, for approval of a Conditional Use Permit to allow for the operation of a mini-storage warehouse and personal storage facility in the Durango Park Planned Area Development (PAD) that allows for C-2 (Community Commercial) uses on the 8.57-acre subject property. The Council will take appropriate action.

6. ADJOURNMENT INTO EXECUTIVE SESSION

City Council will consider a request to adjourn the Regular Meeting and hold an Executive Session pursuant to Ariz. Rev. Stat. § 38431.03(A)(4) for discussion or consultation with the City Attorney in order to consider its position and instruct the City Attorney regarding the public body's position regarding litigation.

Council Members of the City of Avondale will attend either in person or by telephone or video 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 o por video. 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: Community Services Officer and Litchfield Park Update

MEETING DATE: 10/25/2021

TO: Mayor and Council

FROM: Memo Espinoza, Police Chief, (623) 333-7235
Kirk Beaty, Public Works Director, (623) 333-4417

THROUGH: Dale Nannenga, Public Safety Chief , (623) 333-7207
Cherlene Penilla, Assistant 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 Areas:

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

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

Cities partnering for services is a prime example of innovative, efficient, and responsive government creating economies of scale and service level access that smaller entities can not fund in-house, and providing larger entities with a new revenue stream to offset operational costs of general fund activities. A well-maintained fleet is essential not only to protect the investment of taxpayer dollars, but also for the health and safety of both the operators and the traveling public with which they share the road.

PURPOSE:

City Council will receive an update from staff on the Community Service Officer (CSO) Program, an update to the policing activities in Litchfield Park, and an update on vehicle and equipment maintenance activities for Litchfield Park.

BACKGROUND:

On October 19th, 2020, the Police and City Management Staff presented an update to City Council on current events impacting law enforcement and steps the Police Department will take to engage with the community. One recommendation in the presentation was the creation of non-sworn Community Service Officers. On January 1st, 2020, three CSO positions were funded after City Council approval. The positions were created to compliment patrol squads by having the CSOs take low priority calls for service that otherwise would have to be taken by sworn police officers.

Also, on July 1st, 2021, the Police Department began providing police services to the City of Litchfield Park by providing a Sergeant, one Detective, and five Patrol Officers after entering into an Intergovernmental

Agreement.

Finally, on July 1st, 2021, the Public Works Department began providing preventative maintenance and repair services to the City of Litchfield Park vehicle and equipment fleet after entering into an Intergovernmental Agreement.

DISCUSSION:

On April 19th, 2021, a five-week in-classroom CSO Academy began for three CSOs, and then, a six-week field training program followed. During the eleven-week training program, the CSOs learned about the City of Avondale and the Avondale Police Department's Mission, Vision, and Values. The CSOs also received training on traffic control, parking citation writing, handling private property accidents, non-criminal incident reporting, and no suspect/evidence crime reporting, amongst other training topics.

On July 1st, 2021, the three CSOs completed their training, were assigned to a patrol squad, and began working in a solo capacity.

Since starting, the three CSOs have worked a combined 1006 hours and responded to 294 calls for service where they were the primary point of contact. Additionally, the CSOs responded to 73 calls for service to support sworn police officers. Overall, the CSOs responded to a total of 367 calls for service, which otherwise would have been taken by sworn police officers. This allowed sworn police officers to respond to high-priority calls for service when a sworn officer is required.

On July 1st, 2021, the City of Avondale began supplying police services to Litchfield Park by supplying a Patrol Sergeant, Detective, and five Patrol Officers to the community. Since July 1st, 2021, officers have responded to 643 calls for service. Of these calls for service, 266 were citizen-generated, and the remaining 377 were officer-initiated.

On July 1st, 2021, the City of Avondale Public Works Department-Fleet Division began providing preventative maintenance and repair services to the City of Litchfield Park vehicle and equipment fleet. Since July 1st, 2021, the Fleet Division has serviced four automobiles and two pieces of heavy equipment owned by the City of Litchfield Park. The Fleet Division has expended 82 labor hours on this work, and billed the City of Litchfield Park \$17,461.42 through the first quarter of FY2022. All repair work is pre-authorized by the City of Litchfield Park before proceeding. Additionally, the Fleet Division has facilitated the purchase of three new police vehicles to support Avondale's provision of policing services to the City of Litchfield Park. These three police vehicles were purchased and will be owned by the City of Litchfield Park. These vehicles are currently in manufacturing and are not expected to arrive from the manufacturer for several months due to ongoing supply constraints in the automobile market. The Avondale Fleet Division will oversee the upfitting of these vehicles before they are placed into service.

BUDGET IMPACT:

None

RECOMMENDATION:

For information and City Council discussion.

CITY COUNCIL REPORT

SUBJECT: Introduction to Avondale Aquatic Center Project

MEETING DATE: 10/25/2021

TO: Mayor and Council

FROM: Bryan Hughes, Director, (623) 333-2411

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 Areas:

- 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.

A modern aquatic center will provide opportunities for learn-to-swim classes, competitive swimming/diving, instructional programs such as lifeguarding courses, recreational swimming, lap swimming, exercise and aerobic classes, event rentals, scuba diving, and family and group gatherings.

PURPOSE:

City Council will receive an update from staff regarding the Avondale Aquatic Center Project, including the current status, and seek feedback on design elements.

BACKGROUND:

On July 5, 2021, the City Council approved funding for an aquatic center on the Civic Center Campus. Following a successful Request for Qualifications (RFQ) process, the City awarded a contract to Gabor Lorant Architects, Inc. of Phoenix, Arizona, to lead the design team, including Counsilman-Hunsaker as the aquatic consultant.

Additionally, staff issued a Request for Qualifications (RFQ) for a Construction Manager At-Risk (CMAR) to develop the project. Statements of Qualifications (SOQ) are scheduled to be received on October 21, 2021. The aquatic center is scheduled for completion in May 2023.

DISCUSSION:

Staff will present an overview of the process, options for design elements and facility amenities, and potential user groups.

BUDGET IMPACT:

\$6 million is budgeted in the current fiscal year for design and construction, with an additional \$10 million tentatively planned for the next fiscal year for design and construction.

RECOMMENDATION:

No action required

CITY COUNCIL REPORT

SUBJECT: Exceptional Student of Avondale Recognition (Avi Star Student)

MEETING DATE: 10/25/2021

TO: Mayor and Council

FROM: Christopher Lopez, Neighborhood and Family Service Director, (623) 333-2711

THROUGH: Cherlene Penilla, Deputy City Manager, (623) 333-2214

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

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Area:

- 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.
-

PURPOSE:

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

BACKGROUND:

The Avi Star Student recognition goes to an Avondale student(s) who are to be recognized for their achievements. The achievement may be academic, extracurricular or personal and highlights the impact the student has made for themselves, their family, school, or community.

DISCUSSION:

Avondale students will be recognized for their character and achievement.

BUDGET IMPACT:

None.

RECOMMENDATION:

This item is for information and discussion only.

CITY COUNCIL REPORT

SUBJECT: Recognition of Firefighters Brad Duell, Elias Avila, David Santana and Engineer Michael Reiter from the Avondale Fire and Medical Department

MEETING DATE: 10/25/2021

TO: Mayor and Council

FROM: Tony Corsi, Fire and Medical Department Director, (623) 333-6100

THROUGH: Dale Nannenga, Chief of Public Safety, (623) 333-7207
Cherlene Penilla, Assistant 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: 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, along with the Avondale Fire and Medical Department, will recognize Firefighters Brad Duell, Elias Avila, David Santana and Engineer Michael Reiter for their decisive actions and professionalism during a water rescue, saving the life of another. This item is for discussion only.

BACKGROUND:

At a little after midnight on July 18, 2021, E172 C shift responded to a reported vehicle into a canal in the vicinity of 95th Avenue and McDowell Road. The 911 caller reported that a small red hatchback was half submerged and slowing floating downstream with one person inside. E172's crew for that shift consisted of Firefighters Brad Duell, Elias Avila, David Santana and Engineer Michael Reiter. When they arrived on scene, they reported that the vehicle was quickly filling up with water and the driver was conscious but unable to open the doors or windows.

Sensing that the driver's death was imminent without a rapid rescue, the crew assumed command of the incident, donned life vests and helmets, and lowered a ladder into the canal. Engineer Reiter quickly entered the water with a rope tagline attached to his life vest for his own safety. He rapidly climbed on top of the car and used a hand tool to break the sunroof and pull the driver out just as the passenger compartment became completely filled with water. Engineer Reiter reported that the driver was gulping the last remaining bubble of air at the top of the vehicle's roof just as he breached the sunroof.

The driver was assisted up the ladder to the top of the canal and assessed for injuries by E172's crew. Fortunately, he had no injuries and refused transport to the hospital but was understandably overcome with emotion following his close call with death.

DISCUSSION:

This unit citation is being presented to Firefighters Brad Duell, Elias Avila, David Santana, and Engineer Michael Reiter. Their decisive actions and professionalism undoubtedly saved another person from imminent death. These four gentlemen exemplify the best and bravest of Avondale Fire & Medical Department and have made their families, fellow firefighters, fellow City employees and the citizens of Avondale extremely proud. On behalf of the Avondale Fire & Medical Department and the City Council, thank you and congratulations.

BUDGET IMPACT:

This item has no budget impact.

RECOMMENDATION:

This item is for information only.

CITY COUNCIL REPORT

SUBJECT: Recognition of Fire Marshal Jason Napier for successful completion of the National Fire Academy's Executive Fire Officer Program

MEETING DATE: 10/25/2021

TO: Mayor and Council

FROM: Tony Corsi, Fire and Medical Department Director, (623) 333-6100

THROUGH: Dale Nannenga, Chief of Public Safety, (623) 333-7207
Cherlene Penilla, Assistant 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:

- Community-Oriented Lifelong Learning Opportunities - Avondale will continue to foster an environment where education is a defining value and learning opportunities abound for residents of all ages.
-

PURPOSE:

City Council, along with the Avondale Fire and Medical Department, will recognize Fire Marshal Jason Napier for his completion of the four-year Executive Fire Officer Program from the National Fire Academy in Emmitsburg, Maryland and present Jason Napier with his Official Certificate of Completion. This item is for discussion only.

BACKGROUND:

The City of Avondale and the Fire and Medical Department provide its employees with professional development opportunities by supporting efforts in both the pursuit of academic degrees and professional certifications. Fire Marshall Jason Napier applied for and was accepted to the Executive Fire Officer Program. Jason attended four college-level courses for two weeks out of each year on campus that included applied research papers on topics that dealt specifically with issues facing the Avondale Fire and Medical Department. Each paper was graded by the academy's faculty and if the paper was considered exceptional, it was published and placed in the National Fire Academy's Learning Recourses Center. Two of Jason's papers were published and are included in the National Fire Academy's Resources Center to provide valuable learning opportunities for future students.

DISCUSSION:

The required executive-level courses that Jason Napier attended during the four-year program included Executive Development, Executive Analysis of Community Risk Reduction, Executive Analysis of Fire Service Operations in Emergency Management and Executive Leadership. Jason Napier's applied research papers were Avondale specific and include the following titles: Identifying Redundant Emergency Operations Center

Communication Methods for Avondale, AZ and Recommended Community Risk Reduction Communications Plan Elements for the Avondale Fire & Medical Department.

BUDGET IMPACT:

This item has no budget impact.

RECOMMENDATION:

This item is for information only.



DOMESTIC VIOLENCE AWARENESS PROCLAMATION

October 2021

Whereas, one in three women and one in four men have been victims of physical violence by an intimate partner in their lifetime, and one in three female murder victims and one in twenty male murder victims are killed by an intimate partner; and

Whereas, 30 percent of children exposed to intimate partner violence had their first exposure before the age of two, and an additional 26 percent had their first exposure between the ages of two and seven; and

Whereas, up to five million older Americans are abused every year, and the annual loss by older adult victims of financial abuse is estimated to be at least \$36.5 billion; and

Whereas, elder abuse is believed to be widely underreported, with only 1 in 24 cases reported; and

Whereas, victims of domestic violence are more likely to experience long-term mental and physical health concerns including a higher risk of depression, anxiety and risky behaviors; and

Whereas, promoting healthy, respectful and nonviolent relationships can help reduce the occurrence of intimate partner violence and lessen the harm on individuals and families.

NOW THEREFORE, I, Kenneth Weise, by virtue of the authority vested in me as Mayor of the City of Avondale, Arizona do hereby proclaim October 2021 as Domestic Violence Awareness Month and encourage all Avondale residents, businesses, schools and hospitals to support domestic violence survivors and stand against all forms of violence and abuse in relationships.

Mayor

ATTEST:

City Clerk

CITY COUNCIL REPORT

SUBJECT: Minutes

MEETING DATE: 10/25/2021

TO: Mayor and Council

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

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:

- 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 September 20, 2021 and October 4, 2021 City Council meeting minutes. The Council will take appropriate action.

BACKGROUND:

n/a

DISCUSSION:

n/a

BUDGET IMPACT:

This item has no budget impact.

RECOMMENDATION:

Staff recommends City Council approve the September 20, 2021 and October 4, 2021 City Council meeting minutes.

MINUTES OF THE AVONDALE CITY COUNCIL
CITY OF AVONDALE, ARIZONA
ONLINE MEETING
September 20, 2021

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 7:01 p.m. All participants attended by phone or video.

Vice Mayor Malone led the Pledge of Allegiance, followed by a moment of silent reflection.

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

Members Absent: Mayor Kenn Weise.

Other Municipal Officials Present: Charles Montoya, City Manager; Cherlene Penilla, Assistant City Manager; Tracy Stevens, Deputy City Manager; Lindsey Duncan, Deputy City Manager; Nicholle Harris, City Attorney; Marcella Carrillo, City Clerk; Kirk Beaty, Public Works Director; Ken Chapa, Economic Development Services Director; Tony Corsi, Fire & Medical Director; Keith Fallstrom, Interim Finance and Budget Director; Chris Lopez, Neighborhood and Family Services Director; Darcy Lowery, Interim Human Resource Director; Kevin Murphy, Development and Engineering Services Director; Dale Nannenga, Police Chief; Marshall Pimentel, Intergovernmental Affairs Administrator; Jeffrey Scheetz, Chief Information Officer; and Pier Simeri, Marketing and Public Relations Director.

Audience: Approximately fifteen members of the public were present.

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

2. UNSCHEDULED PUBLIC APPEARANCES

Dwayne Garrison, Avondale resident, read into the record a statement regarding City Manager, Charles Montoya. Mr. Garrison cited various criticisms, including a request on the agenda by Mr. Montoya for funding to relocate his residency.

3. PRESENTATION ITEMS

Note from the City Clerk: Items 3a and 3b were presented together.

a. LEGISLATIVE PROCLAMATION - 75TH ANNIVERSARY -

City Council accepted a proclamation from the Legislative District 19 delegation.

Marshall Pimentel, Intergovernmental Affairs Administrator, read the proclamation into the record.

b. PROCLAMATION HONORING LEGISLATIVE DISTRICT 19 DELEGATION

City Council presented a proclamation to Representative Sierra, Representative Espinoza, and Senator Contreras to honor Avondale's state legislators for their leadership during the First Regular Session of the 55th Legislature. Vice Mayor Malone read the proclamation into the record. Council members each expressed words of appreciation to the delegation members.

Representatives Sierra and Representative Espinoza spoke words of appreciation to City Council for the proclamation. They spoke positively about the Avondale community, history and legislative process.

c. PROCLAMATION RECOGNIZING KEN GALICA

City Council presented a proclamation to Ken Galica, Division Lead Planner, recognizing him for his fifteen years of loyal and dedicated service to the City of Avondale. Vice Mayor Malone read the proclamation into the record. Council members expressed words of appreciation for Mr. Galica's service and dedication to the community. A plaque from the City will be mailed to Mr. Galica in the following week.

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.

Vice Mayor Malone asked if any Council Member wished to have an item removed from the Consent Agenda.

Council Member Nielson requested to have Agenda Item 4b removed from the Consent Agenda as he requested to recuse himself from the vote of the agenda item.

Vice Mayor Malone requested to have Agenda Item 4g removed from the Consent Agenda for further discussion.

Having no additional requests from Council, motion was made by Council Member Pineda, seconded by Council Member Dennis, to approve the Consent Agenda with the exception of Agenda Items 4b and 4g.

Upon vote, the motion carried unanimously 6 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

a. MINUTES

City Council approved the July 5, 2021 City Council meeting minutes.

b. APPOINTMENT OF MEMBERS TO THE CITY'S BOARDS, COMMISSIONS AND COMMITTEES

This item was pulled from the consent agenda for further discussion. Item is listed below in more detail.

c. FISCAL YEAR 2022 MID-YEAR BUDGET ADJUSTMENTS

City Council (a) approved FY2022 mid-year supplemental budget requests as summarized in the attached report; (b) authorized the necessary budget amendments from contingency appropriation budgets; (c) amended awarding authority based off the attached report; (d) modified the interfund transfer schedule; and (e) authorized the Mayor or City Manager and City Clerk to execute the necessary documents.

d. PUBLIC ART FUND APPROPRIATION OF \$50,000 FOR A SIGNATURE PUBLIC ART PIECE AT ALAMAR PARK.

City Council approved an additional appropriation of \$50,000 from the Public Art Fund for a public art piece at Alamar Park in partnership with Brookfield Residential and authorized the Mayor or City Manager and City Clerk to execute the necessary documents.

e. CREATE A BLVD COMMERCIAL BUILDING CAPITAL IMPROVEMENT PROJECT (CIP) PROJECT AND AUTHORIZE THE NECESSARY BUDGET TRANSFER AND AWARDING AUTHORITY.

City Council (a) created a new CIP project for a new commercial building and associated necessary infrastructure improvements in the BLVD area; (b) authorized a budget transfer in the amount of \$5,500,000 from General Fund Contingency to the newly created BLVD Building account, to fund the design and construction; (c) adjusted the interfund schedule; (d) authorized staff to take the necessary action to complete the budget transfer, and; (e) authorized the Mayor or City Manager and City Clerk to execute the necessary documents.

f. REVOCABLE LICENSE AGREEMENT WITH ADELANTE HEALTH CARE, INC (WIC)

City Council approved an amended Revocable License Agreement with Adelante Health Care, Inc (WIC) and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

g. FOURTH AMENDMENT TO THE EMPLOYMENT AGREEMENT WITH CHARLES A. MONTOYA

This item was pulled from the consent agenda for further discussion. Item is listed below in more detail.

h. RESOLUTION 1072-0921 - ALTERNATIVE EXPENDITURE LIMITATION - PERMANENT BASE ADJUSTMENT

City Council adopted Resolution 1072-0921, proposing to submit to the qualified electors at the August 2, 2022 election a question to provide for a \$10,408,000 permanent adjustment to the base expenditure limitation, and authorized the Mayor or City Manager and City Clerk to execute the necessary documents.

i. RESOLUTION 1073-0921 - INTERGOVERNMENTAL AGREEMENT WITH CITY OF PHOENIX FOR TRAINING SERVICES

City Council adopted Resolution 1073-0921 authorizing an Intergovernmental Agreement (IGA) with the City of Phoenix to provide fire and medical service training and authorized the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

j. ORDINANCE 2045-0921 - DEDICATION OF A PERPETUAL EASEMENT TO THE UNITED STATES OF AMERICA - ON THOMAS ROAD, WEST OF 99TH AVENUE

City Council adopted Ordinance 2045-0921 dedicating a Perpetual Easement to the United States of America (USA) on Thomas Road west of 99th Avenue and authorized the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

k. ORDINANCE 2046-0921 - DEDICATION OF A PERPETUAL EASEMENT TO THE UNITED STATES OF AMERICA - ALONG THE WEST SIDE OF 99TH AVENUE AND SOUTH OF THOMAS ROAD

City Council adopted Ordinance 2046-0921 dedicating a Perpetual Easement to the United States of America (USA) along the west side of 99th Avenue and South of Thomas Road (also known as Holy Cross) and authorized the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

l. ORDINANCE 2047-0921 - FIRST AMENDMENT TO LEASE AGREEMENT - ARIZONA INSTITUTE LLC DBA AVEDA INSTITUTE AVONDALE

City Council adopted Ordinance 2047-0921, approving the First Amendment to Lease Agreement with Arizona Institute LLC dba Aveda Institute Avondale for the properties located at 775 North 114th Avenue and 745 North 114th Avenue, Suite 102, and authorized the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

m. ORDINANCE 2048-0921 - AVARI APARTMENTS LIMITED AND TEMPORARY FIRE ACCESS EASEMENT AGREEMENT

City Council adopted Ordinance 2048-0921 accepting a Limited and Temporary Fire Access Easement Agreement through PCCP CS Empire Avondale LLC's parcels to the Avari Apartments parcel under construction along the west side of Avondale Boulevard and north of Van Buren Street and authorized the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

n. ORDINANCE 2049-0921 - AMENDING THE AVONDALE CITY CODE, CHAPTER 10, FIRE PREVENTION AND PROTECTION

City Council adopted Ordinance 2049-0921, amending the City of Avondale Code, Chapter 10-2, appointment of Fire Chief and Firefighters, and Chapter 20, Police Department, Article I, in general, Section 20-2; appointment of officers, relating to the administration of The Fire Department and Police Department and authorized the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

THE FOLLOWING ITEMS WERE PULLED FROM THE CONSENT AGENDA TO BE VOTED ON SEPERATELY:

b. APPOINTMENT OF MEMBERS TO THE CITY'S BOARDS, COMMISSIONS AND COMMITTEES

This item was pulled from the consent agenda to be voted on separately as Council Member Nielson asked to recuse himself from the vote.

Council Member Dennis moved to approve the following recommendations for the appointment of members of the City's Boards, Commissions and Committees; Council Member Pineda seconded the motion.

JUDICIAL ADVISORY BOARD

- *John Burkholder*
- *David Garrison*
- *Ray Harwood*
- *Michael Kielsky*

MUNICIPAL ART COMMITTEE

- *Jayaker Nagamella*

PARKS AND RECREATION ADVISORY BOARD

- *Rose Vasquez*
- *Patti Nielson*

PLANNING COMMISSION

- *Alan Agundez Castillo*

PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM (POLICE/FIRE)

- *Donald Foley*

Upon vote, the motion carried unanimously 5 to 0.

Council Member Conde	Aye
Council Member Dennis	Aye
Council Member Kilgore	Aye
Council Member Nielson	Absent for the vote
Council Member Pineda	Aye
Vice Mayor Malone	Aye

g. FOURTH AMENDMENT TO THE EMPLOYMENT AGREEMENT WITH CHARLES A. MONTOYA

City Council considered the approval of the 4th amendment to the Employment Agreement with Charles A. Montoya and the authorization of the Mayor and Council to execute the necessary documents.

Vice Mayor Malone referred to the August 23rd Executive Session, stating that she did not recall specific discussion regarding the housing allowance for Mr. Montoya. She asked legal counsel if an email update constitutes a discussion. Susan Segal, Outside Counsel for the City, stated her recollection that it has been previously discussed; however, “discussion” refers to the discussion occurring at this time.

Vice Mayor Malone stated that she is concerned with the safety of Mr. Montoya and asked Chief Nannenga if there is anything the Police Department can do to ensure the safety of Mr. Montoya, his family, and the community. Chief Nannenga stated that the police department has done a great deal over the course of ten months since the incidents began to occur to include frequent police officer drive-bys and parking on the street. The department will continue to provide extra protection and patrols in the area due to the nature of the events.

Vice Mayor Malone stated that she reviewed Mr. Montoya’s contract from May 2018 and within section 6.8, Mr. Montoya was allotted a \$1,000 per month temporary housing allowance within City boundaries for a six months period. She asked whether the \$1,800 housing request could still be allowed, given the previous contract. Ms. Segal stated that the \$1,000 allowance provision was at the beginning of Mr. Montoya’s contract and a subsequent amendment rescinded it. Mr. Montoya does not currently receive a housing allowance and the cost of housing has spiraled upward since 2018. Allocating a housing allowance falls within the boundaries of the City Council and public bodies can set benefits and salary of any employee. Pursuant to the City Charter, Mr. Montoya is the only City employee who is required to live within the boundaries of the City of Avondale.

Vice Mayor Malone asked whether any employee or elected official outside of the City Manager would be eligible to request a housing allowance. Ms. Segal stated that anyone is free to ask for such allowance as part of their benefits and employment. Vice Mayor Malone inquired if that was set by policy. Ms. Segal stated it is within the boundaries of the City Charter to set the salaries and benefits.

Council Member Dennis stated the importance of ensuring the safety of the City Manager and his family. She assumes that if any situation of this nature occurred with another employee, it would be brought to the attention of the Human Resources Department and the administrative team to be addressed.

Council Member Dennis moved to approve the 4th amendment to the Employment Agreement with Charles A. Montoya and the authorization of the Mayor and Council to execute the necessary documents; Council Member Neilson seconded the motion.

Council Member Kilgore inquired if a countermotion is allowed. Nicholle Harris, City Attorney, stated the vote must be conducted since a motion and a second has been made. Council Member Kilgore inquired if a countermotion would be permitted after the vote is complete. Ms. Harris explained that no, a countermotion would not be permitted; however, the item may be brought back for reconsideration at a separate meeting.

Upon vote, the motion carried 5 to 1.

Council Member Conde	Aye
Council Member Dennis	Aye
Council Member Kilgore	Abstain (affirmative vote)
Council Member Nielson	Aye
Council Member Pineda	Aye
Vice Mayor Malone	Nay

5. REGULAR AGENDA

Note from the City Clerk: Items 5a & 5b were presented together and voted on individually.

a. PUBLIC HEARING AND RESOLUTION 1074-0921- NORTON CIRCLE - MINOR GENERAL PLAN LAND USE MAP AMENDMENT – APPLICATION PL-19-0182

City Council held a public hearing and considered a City-initiated request to adopt Resolution 1074-0921, approving a Minor Amendment to the Avondale General Plan 2030 Land Use Map for 5.70 acres of property located at the southwest corner of 4th Avenue and Norton Street (a private street). The subject property is developed with Norton Circle, a 46-unit multi-family residential community owned and operated by the Housing Authority of Maricopa County (HAMC). Approval of the proposed Minor General Plan Amendment will amend the land use designation of the property from Medium High Density Residential (MHDR) to High Density Residential (HDR); the HDR land use designation allows for development of patio homes, apartments, condominiums, or townhomes with a density ranging between 12 and 30 dwelling units per acre. Approval of the Minor General Plan Amendment will facilitate redevelopment of the site with a new 100-unit multi-family apartment complex that will continue to be owned and operated by HAMC. An application rezoning the property to R-4 (Multi-Family Residential) will be considered separately. The Council will take appropriate action.

Jodie Novak, Assistant Director of Development and Engineering Services, gave an overview of the property location and surrounding uses. The subject property is 5.7 acres and currently zoned Manufactured Home (MH) Park, determined to be a legal, nonconforming use, as it has not been developed a mobile home park. It is currently multifamily use on the property that came into Avondale in the 1940s and was development in 1976 with 46 individual apartment units, which are managed by HAMC. The request will increase the density and allow for redevelopment of the property from MHDR to HDR.

The proposal is to rezone the land from the current MH to the R-4 zoning district. The proposal involves a demolition of the existing development on this property to a safe, more progressive project with current building codes, parking standard, and landscaping amenities. The proposal is for 100 new units in five different buildings at two-to-three stories in height. There will be a centralized community playground area and a community building. The new project will continue to be maintained by HAMC to provide public housing services for the community in need. Concept drawings, design and amenities were reviewed. Maricopa County is not obligated to come to the City for approval regarding the site and building design; however, the zoning analysis is being processed through a General Plan amendment and rezoning to ensure complementary use. The development meets the goals and objectives of the General Plan. The proposed development is in conformance with the zoning category for R-4 and will provide housing for persons in need in Avondale. All required notifications were made. The Planning Commission approved both the land use amendment as well as the rezoning and staff recommends adoption.

Vice Mayor Malone opened the public hearing and did not receive any requests to speak. Vice Mayor Malone closed the public hearing and opened the floor for comments from Council.

Council Member Conde stated that the additional units of affordable housing are needed, and she welcomes the project. She would like to see the incorporation of shade elements in the picnic and barbeque areas.

Council Member Kilgore did not have any questions or comments.

Council Member Nielson asked whether anyone is living in the mobile home park area. Ms. Novak stated that the area is currently occupied with multifamily buildings owned by HAMC with existing residents. The development will be eliminated with an entire new project in its place. No mobile or manufactured homes are present at this time. In response to a question by Council Member Nielson, HAMC will facilitate relocation of existing residents during construction. Council Member Nielson stressed the importance of taking care of the displaced residents.

Council Member Pineda stated that while it will be difficult for the displaced residents, the planned final product will provide a better quality of life. He spoke positively on the aesthetics and updated materials.

Council Member Dennis noted that HAMC has been performing these upgrades and redevelopments periodically throughout jurisdictions which increases the available housing units. She looks forward to the increase in housing availability and improved living conditions.

Vice Mayor Malone expressed excitement for the upgrades to service and amenities for the residents.

Council Member Dennis moved to adopt Resolution 1074-0921, approving Application PL-19-0182 Norton Circle, for a Minor Amendment to the General Plan 2030 Land Use Map changing the Land Use designation of 5.70 acres from Medium High Density Residential (MHDR) to High Density Residential (HDR); Council Member Pineda seconded the motion.

Upon vote, the motion was carried unanimously 6 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

b. PUBLIC HEARING AND ORDINANCE 2050-0921 - NORTON CIRCLE - REZONING FROM MANUFACTURED HOME PARK (MH) TO MULTI-FAMILY RESIDENTIAL (R-4) – APPLICATION PL-19-0183

City Council held a public hearing and considered a City-initiated request to adopt Ordinance 2050-0921 to rezone approximately 5.70 gross acres of land located at the southwest corner of 4th Avenue and Norton Street (a private street) from Manufactured Home Park (MH) to Multi-Family Residential (R-4). The subject property is developed with Norton Circle, a 46-unit multi-family residential community owned and operated by the Housing Authority of Maricopa County (HAMC). Approval of the proposed rezoning will facilitate redevelopment of the site with a new 100-unit multi-family apartment complex that will continue to be owned and operated by HAMC. A separate application for a Minor General Plan Amendment, changing the land use designation of the property from Medium High Density Residential to High Density Residential, will be considered separately. Maricopa County and its agencies are statutorily exempt from City zoning regulations but are proceeding with the proposed applications in cooperation with the City of Avondale.

Vice Mayor Malone opened the public hearing and did not receive any requests to speak. Vice Mayor Malone closed the public hearing.

Council Member Nielson moved to adopt Ordinance 2050-0921, approving Application PL-19-0183 Norton Circle, to rezone approximately 5.70 acres from Manufactured Home Park (MH) to Multi-Family Residential (R-4) subject to 1 condition of approval as listed in the staff report; Council Member Conde seconded the motion.

Upon vote, the motion was carried unanimously 6 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

Note from the City Clerk: Items 5c, 5d, and 5e were presented together and voted on individually.

c. PUBLIC HEARING AND RESOLUTION 1075-0921 - PARKSIDE - MINOR GENERAL PLAN LAND USE MAP AMENDMENT – APPLICATION PL-20-0308

City Council held a public hearing and considered a request to adopt Resolution 1075-0921, approving a request by Mr. Johnathan Bastianelli, William Lyon Homes, Inc., for a Minor Amendment to the Avondale General Plan 2030 Land Use Map for Parkside, a proposed 137.27 net acre master planned community located approximately 600 feet south of the southwest corner of 99th Avenue and Indian School Road. The proposed Minor General Plan Amendment, if approved, will amend the land use designation of approximately 10 acres at the southeast corner of the subject property from Office/Professional to Medium High Density Residential (MHDR), a category that allows for singlefamily detached, single-family attached, townhomes, condominiums, patio homes, and the like with density ranging between 4.0 and 12.0 dwelling units per acre. Approval of the request will facilitate replacement of a previously planned office development with 54 additional detached single-family residential lots, increasing the total number of single-family residential lots in Parkside from 662 to 716. Related requests for a Major Amendment to the Parkside Planned Area Development (PAD) and Preliminary Plat Amendment will be considered separately.

Jodie Novak, Assistant Director of Development and Engineering Services, provided an overview of the subject property location and surrounding uses. The intent is a change the property site from Office/Professional uses to MHDR to allow for single family residential homes. The master development is over 135 acres and the subject request involves approximately 10 acres. The additional lots will be seamlessly designed in the subdivision layout to appear as a planned single-family neighborhood. An overview of the 54 lots was provided. Development of the lots will eliminate the Osborn Road connection, which will no longer be needed. The single-family subdivision will extend a multiuse trail that is connecting to 99th Avenue. Everything else within the Parkside Development will remain the same as originally approved. Staff has reviewed the proposal of the General Plan amendment, rezoning, and the preliminary plat. Staff found limited impact to the surrounding area. The development will add single family homes to the City's housing inventory. Office uses will be more appropriate along McDowell Road. The three requests meet all code requirements. All required notifications have been complete and there is adequate capacity from adjacent school districts. The Planning Commission approved all three items on August 23, 2021 and staff recommends approval.

Vice Mayor Malone opened the public hearing and did not receive any requests to speak. Vice Mayor Malone closed the public hearing, followed by comments from Council.

Council Member Dennis commented on the discussions that took place at the public meeting regarding the alignment of streetlights. She stressed the importance of good coordination with the City of Phoenix when the neighboring property is developed.

Vice Mayor Malone echoed the comments made by Council Member Dennis as she also attended the neighborhood meeting.

Council Member Pineda moved to adopt Resolution 1075-0921, approving Application PL-20-0308 Parkside, a request for a Minor Amendment to the General Plan 2030 Land Use Map changing the Land Use designation of approximately 9.99 acres from Office/Professional to Medium High Density Residential; Council Member Dennis seconded the motion.

Upon vote, the motion was carried unanimously 6 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

d. PUBLIC HEARING AND ORDINANCE 2051-0921 - PARKSIDE - MAJOR PLANNED AREA DEVELOPMENT (PAD) AMENDMENT - APPLICATION PL-20-0309

City Council held a public hearing and considered a request to adopt Ordinance 2051-0921, approving a request by Mr. Jonathan Bastianelli, William Lyon Homes, Inc., for a Major Amendment to the Parkside Planned Area Development (PAD), a proposed 137.27 net acre master planned community located approximately 600 feet south of the southwest corner of 99th Avenue and Indian School Road. The approved Parkside PAD provides for a 9.99-acre office development at the southeast corner of the site; the proposed Major PAD Amendment eliminates the planned office component, replacing that use with 54 additional detached single-family residential lots. The proposed Major Amendment also revises vehicular circulation in the southeast corner of the property, eliminating a previously planned Osborn Road alignment that will no longer be necessary given the elimination of office component. With approval of the PAD Amendment, the total number of planned single-family residential lots in Parkside will increase from 662 to 716. Related requests for a Minor General Plan Amendment and Preliminary Plat Amendment will be considered separately.

Vice Mayor Malone opened the public hearing and did not receive any requests to speak. Vice Mayor Malone closed the public hearing.

Council Member Nielson moved to adopt 2051-0921, approving Application PL-20-0309 Parkside, a request for a Major Amendment to the Parkside Planned Area Development subject to 6 conditions of approval as listed in the staff report; Council Member Conde seconded the motion.

Upon vote, the motion was carried unanimously 6 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

e. PRELIMINARY PLAT AMENDMENT – PARKSIDE - APPLICATION PL-20-0307

City Council considered a request by Mr. Jonathan Bastianelli, William Lyon Homes, Inc., for approval of an amended Preliminary Plat for Parkside, a proposed 716-lot single-family residential subdivision located on 137.27 net acres approximately 600 feet south of the southwest corner of 99th Avenue and Indian School Road. Related requests for a Minor General Plan Amendment and Major Planned Area Development (PAD) Amendment will be considered separately.

Council Member Conde moved to Application PL-20-0307 Parkside, a request for a Preliminary Plat approval for the proposed 716-lot Parkside subdivision, subject to 4 conditions of approval as listed in the staff report; Council Member Nielson seconded the motion.

Upon vote, the motion was carried unanimously 6 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

Note from the City Clerk: Items 5f and 5g were presented together and voted on indiviual.

f. PUBLIC HEARING AND RESOLUTION 1076-0921 – AVONDALE COMMONS – FREEWAY CORRIDOR SPECIFIC LAN AMENDMENT – APPLICATION PL-21-0204

City Council held a public hearing and considered a City-initiated request to adopt Resolution 1076-0921, approving a Freeway Corridor Specific Plan (FCSP) Amendment to increase the maximum allowed building height on approximately 25.23 acres located at the northwest corner of Avondale Boulevard and McDowell Road. Approval of the request will increase the maximum height allowed on the subject property by one (1) story, allowing for buildings with a maximum of four (4) stories to be developed on the site. A request to rezone the property to Avondale Commons Planned Area Development (PAD) will be considered separately; the proposed Avondale Commons PAD will facilitate development of the property in accordance with a mixed-use plan consisting of a 4-story, 324-unit multi-family residential complex and supportive commercial, retail, hospitality, and office uses.

Jodie Novak, Assistant Director of Development and Engineering Services, provided an overview of the project site details, surrounding uses, and amenities. The property annexed into Avondale in 2006 with mixed-use development but was reverted to agricultural zoning in 2011 due to the property not being developed. The mixed used designation looks to gain a village concept project in design and use, creating a live/work/recreate project. The request is to allow an additional story, to allow four-story buildings for the multifamily component. A hotel is also proposed for the site at four stories. Design details were discussed. There are eight three-story buildings which will have tuck-under garages. They are contemporary modern in nature, which offer a different

multifamily option in the health tech corridor. Additional design and construction components were discussed. The main entrance off McDowell Road features a roundabout, which provides a grand arrival space. Sidewalks are located throughout the development. Landscaping will be provided along all perimeter property lines and street frontages. Elevation details were provided. Staff feels the building height is compatible along the corridor. The proposed vehicular and pedestrian circulation will improve pedestrian activity. Permitted uses for commercial will be consistent with those allowed in the C-2 zoning district and the zoning ordinance. Staff believes the project meets all design standards. All required notifications were completed. There is adequate capacity of nearby school districts and the Planning Commission approved the item on August 23, 2021.

Vice Mayor Malone opened the public hearing and received one request to speak. Lola R., Avondale resident, stated that she is not in favor of the development, noting that four stories are too high and there are no similarly built structures in the area. An additional public speaker who was on the camera with Lola R. concurred, stating the area is a residential neighborhood and a four-story building is very intrusive and does not fit with the character of the area.

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

Council Member Pineda asked about the timing for widening Avondale Boulevard north of McDowell, going north and south from Palm Lane. Mr. Montoya stated that the City Attorney's Office has worked through the issue of obtaining the necessary right-of-way within the City itself from Palm Lane to McDowell. The right-of-way from Palm Lane north to Encanto is secured; however, this is part of another area of townhomes. The townhome development must underground the powerlines and the canal. Widening the road will probably be completed in 2022 through to McDowell Boulevard. Council Member Pineda commented that there are challenges with building on the property, given the presence of the power station. He has a goal for the Avondale Boulevard Corridor to be a live/work/play area. This project brings all these elements to the table; however, there are traffic congestion issues in the area. He empathized with the residents in the area, stating a four-story building can be intrusive in a residential area.

Council Member Dennis inquired on the distance from the property line to the buildings. Ms. Novak stated the distance is potentially 80 feet away from the property line. In response to a question, Ms. Novak stated there is approximately 20 acres between the property and the residential community to the north. Council Member Dennis commented that over time, as developments are built to the north, a graduated increase in building heights will help soften the effects of the four-story building. She understood what the resident commented on and how it is in reference to their livelihood and house values. She commented positively on the stipulation regarding the limit of multi-family district development until construction commences on development in the commercial district. In response to a question from Council Member Dennis, Ms. Novak stated her understanding that there will be elevators in the buildings.

In response to a question by Council Member Nielson, Mr. Montoya stated the children's hospital in the area will be three stories in height.

Council Member Conde stated that she lives in the area, and there is significant congestion due to the high school and housing developments on Thomas. It is important to address congestion issues prior to construction, rather than afterwards. In response to a question from Council Member Conde, Ms. Novak confirmed that there will be deceleration lanes on McDowell with half-street improvements to be completed by the developer. There will be additional right turn lanes on Avondale Boulevard. Council Member Conde spoke positively on the concept and stated it will provide a nice contemporary modern housing for that health tech corridor.

Vice Mayor Malone asked about the possibility of a turning lane dedicated off northbound Avondale Boulevard to McDowell Road. Mr. Montoya stated that the City is working with SRP and other jurisdictions to widen Avondale Boulevard not only from McDowell Road to the I-10 freeway, but also 107th Avenue. There will be a deceleration lane southbound into the complex and a deceleration lane going westbound into the complex. Widening McDowell Road is not likely possible.

In response to a question from Council Member Dennis, Ms. Novak confirmed that there is a condition for the developer to construct a bus bay along McDowell Road.

Council Member Dennis moved to adopt Resolution 1076-0921, approving Application PL-21-0204 Avondale Commons, a request for a Freeway Corridor Specific Plan Amendment increasing the maximum allowable height on 25.23 gross acres at the northwest corner of Avondale Boulevard and McDowell Road to four stories; Council Member Nielson seconded the motion.

Upon vote, the motion was carried unanimously 6 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

g. PUBLIC HEARING AND ORDINANCE 2052-0921 - AVONDALE COMMONS - REZONING FROM AGRICULTURAL (AG) TO AVONDALE COMMONS PLANNED AREA DEVELOPMENT (PAD) – APPLICATION PL-21-0072

City Council held a public hearing and consider a requested to adopt Ordinance 2052-0921, approving a request by Mr. Shaine T. Alleman, Tiffany & Bosco, P.A., to rezone approximately 25.23 gross acres (22.60 net acres) of land located at the northwest corner of Avondale Boulevard and McDowell Road from Agricultural to Avondale Commons Planned Area Development (PAD) to allow for a mixed use development of the site with a four-story, 324-unit multi-family residential complex on 12.5 net acres and supportive commercial, retail, hospitality, and office uses on 10.1 net acres. A request for an amendment to the Freeway Corridor Specific Plan to increase the maximum allowable building height (currently limited to three stories) to four stories will be considered separately.

Vice Mayor Malone opened the public hearing and did not receive any requests to speak. Vice Mayor Malone closed the public hearing.

Council Member Nielson moved to adopt Ordinance 2052-0921, approving Application PL-21-0072 Avondale Commons, a request to rezone approximately 25.23 acres from Agricultural (AG) to Avondale Commons Planned Area Development (PAD), subject to 12 conditions of approval as listed in the Planning Division Memorandum dated August 18, 2021; Council Member Conde seconded the motion.

Upon vote, the motion was carried unanimously 6 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

6. ADJOURNMENT

There being no further business before the Council, Council Member Nielson moved to adjourn the Regular Meeting; Council Member Dennis seconded the motion.

Upon vote, the motion was carried unanimously 6 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

Meeting adjourned at 8:49 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 Regular Meeting of the Council of the City of Avondale held on the 20th day of September 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

MINUTES OF THE AVONDALE CITY COUNCIL
CITY OF AVONDALE, ARIZONA
ONLINE MEETING
October 4, 2021

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 6:00 p.m. All participants attended by phone or video.

Mayor Weise led the Pledge of Allegiance, followed by a moment of silent reflection with thoughts for the Avondale firefighters who are deployed in California and in remembrance of the Drug Enforcement Administration (DEA) agent who was killed in Tucson, Arizona.

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

Members Absent: Council Member Curtis Nielson.

Other Municipal Officials Present: Charles Montoya, City Manager; Lindsey Duncan, Deputy City Manager; Nicholle Harris, City Attorney; Marcella Carrillo, City Clerk; Kirk Beaty, Public Works Director; Ken Chapa, Economic Development Services Director; Keith Fallstrom, Interim Finance and Budget Director; Bryan Hughes, Parks and Recreation Director; Chris Lopez, Neighborhood and Family Services Director; Callie McGraw, Interim Human Resource Director; Kevin Murphy, Development and Engineering Services Director; Dale Nannenga, Police Chief; Marshall Pimentel, Intergovernmental Affairs Administrator; Jeffrey Scheetz, Chief Information Officer; and Pier Simeri, Marketing and Public Relations Director.

Audience: Ten members of the public were present.

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

2. UNSCHEDULED PUBLIC APPEARANCES

None.

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.

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 Kilgore, to approve the Consent Agenda.

Upon vote, the motion carried unanimously 6 to 0.

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

a. MINUTES

City Council approved the August 23, 2021 and September 7, 2021 City Council meeting minutes.

b. CALL AND NOTICE OF ELECTION

City Council (a) called a Primary Election on August 2, 2022 and if necessary, a General Election on November 8, 2022; (b) authorized staff to add issues to the ballot as directed by Council, or by appropriate administrative action; and (c) authorized the City Clerk and the City Attorney to take all action necessary to conduct the election.

c. ADJUSTMENT TO INTERFUND TRANSFER SCHEDULE - WATER IMPACT FEE FUND TO DEBT SERVICE

City Council approved a request to adjust the Fiscal Year 2021 interfund transfer schedule for a transfer from the Water Impact Fee Fund to the Pledged Revenue Obligations Debt Fund.

d. FINAL PLAT OF DEL RIO RANCH III PHASE 2 (APPLICATION PL-21-0114)

City Council approved a request by Mr. Jason Burm, Kimley-Horn & Associates, Inc., for approval of a Final Plat for Del Rio Ranch III Phase 2. In conformance with the Del Rio Ranch III Preliminary Plat approved by City Council in April 2021, the proposed Final Plat creates 166 single-family residential lots, 16 common area tracts, and dedicates streets and easements on approximately 43.93 acres located at the southwest corner of Durango Street and 125th Avenue.

e. FINAL PLAT OF DEL RIO RANCH III PHASE 3 (APPLICATION PL-21-0115)

City Council approved a request by Mr. Jason Burm, Kimley-Horn & Associates, Inc., for approval of a Final Plat for Del Rio Ranch III Phase 3. In conformance with the Del Rio Ranch III Preliminary Plat approved by City Council in April 2021, the proposed Final Plat creates 70 single-family residential lots, 10 common area tracts, and dedicates streets and easements on approximately 19.55 acres located at the northeast corner of Durango Street and 125th Avenue.

f. FINAL PLAT OF DEL RIO RANCH III PHASE 4 (APPLICATION PL-21-0196)

City Council approved a request by Mr. Jason Burm, Kimley-Horn & Associates, Inc., for approval of a Final Plat for Del Rio Ranch III Phase 4. In conformance with the Del Rio Ranch III Preliminary Plat approved by City Council in April 2021, the proposed Final Plat creates 85 single-family residential lots, 14 common area tracts, and dedicates streets and easements on approximately 37.95 acres located at the northwest corner of Durango Street and 125th Avenue.

g. FINAL PLAT OF DEL RIO RANCH III PHASE 5 (APPLICATION PL-21-0197)

City Council approved a request by Mr. Jason Burm, Kimley-Horn & Associates, Inc., for approval of a Final Plat for Del Rio Ranch III Phase 5. In conformance with Del Rio Ranch III Preliminary Plat approved by City Council in April 2021, the proposed Final Plat creates 36 single-family residential lots, 5 common area tracts, and dedicates streets and easements on approximately 27.46 acres at the southeast corner of Buckeye Road and the Agua Fria River.

h. FINAL PLAT FOR MCDOWELL 117 (HANCOCK COMMUNITIES AT MCDOWELL 117) (APPLICATION PL-21-0194)

City Council approved a request by Mr. Matt Cawley, Bowman, for approval of a Final Plat for McDowell 117 (Hancock Communities at McDowell 117), approximately 19.06 gross acres of land located approximately 1,330 feet south of the southwest corner of McDowell Road and 117th Avenue. Consistent with the approved Hancock Communities at McDowell 117 Planned Area Development, the proposed Final Plat consolidates 2 existing parcels into a single 19.06-acre lot and dedicates water line, access, and public utility easements on the property.

i. FINAL PLAT PARKSIDE PHASE 1 (APPLICATION PL-21-0167)

City Council approved a request by Mr. Michael Park, Atwell LLC, on behalf of William Lyon Homes, Inc., for approval of a Final Plat for Parkside Phase 1. In conformance with the Parkside Preliminary plat approved by City Council on September 20, 2021, the proposed Final Plat for Phase 1 creates 456-lot single-family residential lots, 32 common area tracts, and dedicates streets and easements on approximately 68.53 net acres south of the southwest corner of 99th Avenue and Indian School Road.

j. FINAL PLAT VERDE TRAILS PARCEL 6 (APPLICATION PL-21-0121)

City Council approved a request by Ms. Sandi Elmore, on behalf of Hillcrest Residential 4, LP, for approval of a Final Plat for Verde Trails Parcel 6. In conformance with the Verde Trails Parcel 6 Preliminary Plat approved by City Council on June 21, 2021, the proposed Final Plat for Parcel 6 creates 110-lot single-family residential lots, 43 common area tracts, and dedicates streets and easements on approximately 10.91 net acres located at the northwest corner of 107th Avenue and Wier Avenue alignment, south of Broadway Road.

k. RESOLUTIONS 1077-1021 AND 1078-1021 – MAINTENANCE IMPROVEMENT DISTRICT NO. 25 FOR DEL RIO RANCH III PHASE 2

City Council approved the Petition for Formation, adopted Resolution 1077-1021, declaring its intention to form the City of Avondale Maintenance Improvement District No. 25, Del Rio Ranch III Phase 2, providing for the assessment, and adopted Resolution 1078-1021, declaring its intention to order the improvements within the newly established maintenance improvement district, providing for the assessment and declaring an emergency, and authorized the Mayor, City Attorney and City Clerk to execute the necessary documents.

l. RESOLUTIONS 1079-1021 AND 1080-1021 – MAINTENANCE IMPROVEMENT DISTRICT NO. 26 FOR DEL RIO RANCH III PHASE 3

City Council approved the Petition for Formation, adopted Resolution 1079-1021, declaring its intention to form the City of Avondale Maintenance Improvement District No. 26, Del Rio Ranch III Phase 3, providing for the assessment, and adopted Resolution 1080-1021, declaring its intention to order the improvements within the newly established maintenance improvement district, providing for the assessment and declaring an emergency, and authorized the Mayor, City Attorney and City Clerk to execute the necessary documents.

m. RESOLUTIONS 1081-1021 AND 1082-1021 – MAINTENANCE IMPROVEMENT DISTRICT NO. 31 FOR DEL RIO RANCH III PHASE 4

City Council approved the Petition for Formation, adopted Resolution 1081-1021, declaring its intention to form the City of Avondale Maintenance Improvement District No. 31, Del Rio Ranch III Phase 4, providing for the assessment, and adopted Resolution 1082-1021, declaring its intention to order the improvements within the newly established maintenance improvement district, providing for the assessment and declaring an emergency, and authorized the Mayor, City Attorney and City Clerk to execute the necessary documents.

n. RESOLUTIONS 1083-1021 AND 1084-1021 – MAINTENANCE IMPROVEMENT DISTRICT NO. 32 FOR DEL RIO RANCH III PHASE 5

City Council approved the Petition for Formation, adopted Resolution 1083-1021, declaring its intention to form the City of Avondale Maintenance Improvement District No. 32, Del Rio Ranch III Phase 5, providing for the assessment, and adopted Resolution 1084-1021, declaring its intention to order the improvements within the newly established maintenance improvement district, providing for the assessment and declaring an emergency, and authorized the Mayor, City Attorney and City Clerk to execute the necessary documents.

o. RESOLUTIONS 1085-1021 AND 1086-1021 – MAINTENANCE IMPROVEMENT DISTRICT NO. 27 FOR VERDE TRAILS PARCEL 6

City Council approved the Petition for Formation, adopted Resolution 1085-1021, declaring its intention to form the City of Avondale Maintenance Improvement District No. 27, Verde Trails Parcel 6, providing for the assessment, and adopted Resolution 1086-1021, declaring its intention to order the improvements within the newly established maintenance improvement district, providing for the assessment and declaring an emergency, and authorized the Mayor, City Attorney and City Clerk to execute the necessary documents.

p. RESOLUTION 1087-1021 - ADOPTING THE STATE OF ARIZONA NOMINATION FILING DATES, BALLOT PREPARATION DATES, AND STATE ELECTION PROCEDURES MANUAL FOR THE AUGUST 2, 2022 MUNICIPAL ELECTION

City Council adopted Resolution 1087-1021, adopting the State of Arizona nomination petition filing dates and ballot preparation date for the August 2, 2022 election, adopting the Arizona Secretary of State Election Procedures Manual, and declaring an emergency; and authorized the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

q. ORDINANCE 2053-1021 - ACQUISITION OF REAL PROPERTY - 991 NORTH AVONDALE BLVD FOR BLVD MARQUEE

City Council adopted Ordinance 2053-1021, authorizing the purchase of real property from Salt River Project for the property located at 991 North Avondale Blvd. and authorized the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

r. ORDINANCE 2054-1021 - ACCEPTING DONATION OF REAL PROPERTY FOR A PUBLIC SEWER LIFT STATION

City Council adopted Ordinance 2054-1021 authorizing the acceptance of real property located on Rio Vista Lane and west of 125th Avenue for a public sewer lift station and authorized the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

4. ADJOURNMENT

There being no further business before the Council, Vice Mayor Malone moved to adjourn the Regular Meeting; Council Member Kilgore seconded the motion.

Upon vote, the motion was carried unanimously 6 to 0.

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

Meeting adjourned at 6:04 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 Regular Meeting of the Council of the City of Avondale held on the 4th day of October 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: Capital Improvement Program Budget Transfers

MEETING DATE: 10/25/2021

TO: Mayor and Council

FROM: Keith Fallstrom, Interim Finance & Budget Director, (623) 333-2016

THROUGH: Lindsey Duncan, Deputy 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 as investments in the city's capital assets ensure the city is able to continue to provide high quality services to Avondale residents, businesses, and visitors.

PURPOSE:

City Council will consider a request to adjust the FY2022 Capital Improvement Plan and FY2022 Asset Replacement Program. The Council will take appropriate action.

BACKGROUND:

The combined capital improvement plan and asset replacement plan budget of \$140,914,000 was included in the city's budget adopted by City Council on June 7, 2021. Staff recommends budget adjustments to the projects Cashion Streetlights (T0167), Streets Asset Replacement (A0123), and the Court Improvements projects (M0033).

DISCUSSION:

The Cashion Streetlights project addresses sections of roadway which are not adequately lighted due to gaps in current streetlights. The project will add poles with Light Emitting Diode (LED) fixtures in the Cashion area to address these gaps. The original project was budgeted at \$428,000. However, it is now estimated to cost only \$160,000. The \$268,000 in savings is due to a more refined scope of work, including the detailed plan for new pole placement. Staff proposes using the savings for the Streets Asset Replacement program, which funds the replacement of traffic signal equipment and poles, streetlight poles, signs, paint pavement markings, and other transportation related assets.

The Court Improvements project enhances the current office furniture with modern workstations and seating tailored to increase collaboration and accommodate future growth. The Court Improvements project was previously authorized in FY2021 but the unspent budget capacity from FY2021 was not included in the FY2022 budget. Allocating the budget in FY2022 for the Court Improvements project will allow these improvements to be completed without impacting other budget priorities.

Transfers greater than \$50,000 between capital projects require Council approval per the city's adopted financial policies.

BUDGET IMPACT:

This proposed budget adjustment will decrease the amount available in the Unanticipated Resource Appropriation line item by \$194,000.

RECOMMENDATION:

It is recommended that City Council approve a transfer from the Cashion Streetlights (T0167) project to the Streets Asset Replacement (A0123) project in the amount of \$268,000 and approve a transfer from the unanticipated resource line item to the Court Improvements (M0033) project in the amount of \$194,000.

CITY COUNCIL REPORT

SUBJECT: Fiber and Conduit Sharing Agreement

MEETING DATE: 10/25/2021

TO: Mayor and Council

FROM: Jeff Scheetz, Chief Information Officer, (623) 333-5011

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

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

STRATEGIC PLAN:

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 regions, and each other.

PURPOSE:

City Council will consider a request to approve a fiber and conduit sharing agreement with WANRack to provide in-kind services to the City, 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 and WANRack entered into a Wired Telecommunications License and Right-of-Way Use Agreement in 2018 and a Second Amendment in 2020. This agreement permits WANRack to install, maintain and operate within the City right-of-way and provides the City in-kind services.

DISCUSSION:

This agreement is based on in-kind exchange. WANRack will provide fiber-optic cabling to the City in exchange for use of select empty City conduit. As new fiber-optic conduit is installed by WANRack, the City will have the option to utilize this new conduit path. When WANRack uses existing conduits, the City will be provided with fiber-optic cabling. This agreement permits WANRack to install, maintain and operate within the City right-of-way and provides the City in-kind services.

BUDGET IMPACT:

This agreement with WANRack will not result in direct costs to the City of Avondale. Any procurement of fiber-optic cabling or services under the agreement would be covered through the existing City Information Technology and Development/Engineering Services fiber infrastructure budget.

RECOMMENDATION:

Staff recommends the City Council approve the WANRack fiber and conduit sharing agreement to continue to enhance our fiber and broadband capabilities and authorize the necessary documents to be executed.

FIBER AND CONDUIT SHARING AGREEMENT

This Fiber and Conduit Sharing Agreement ("Agreement") dated September 9, 2021 (the "Effective Date") is made by and between the City of Avondale, an Arizona municipal corporation ("City"), and WANRack, LLC, a Delaware limited liability company ("WANRack"). City and WANRack both may hereinafter be referred to individually as a "Party" or jointly as the "Parties."

RECITALS

WHEREAS, City is organized and existing under and by virtue of the laws of the State of Arizona and possesses plenary power and authority over the use and occupation of the public rights-of-way within its corporate boundaries; and

WHEREAS, WANRack desires to install, operate and maintain a fiber network upon or within certain streets and public rights-of-way in the City; and

WHEREAS, WANRack desires to also install fiber optic cable components of its fiber network within certain conduit owned by City which is presently not fully occupied by City and/or build new conduit within the public rights-of-way within the corporate boundaries of City; and

WHEREAS, WANRack and City entered into that certain Wired Telecommunications License and Right-of-Way Use Agreement dated, February 5, 2018, as amended by that certain First Amendment dated, February 28, 2018 and that certain Second Amendment, dated May 5, 2020 (collectively, the "License Agreement") which permits WANRack to install, maintain and operate certain facilities within City's rights-of-way and to pay fees as set forth in the License Agreement; and

WHEREAS, the License Agreement is in effect and govern the relationship of the Parties; and

WHEREAS, this Agreement is a commercial transaction involving in-kind consideration requiring WANRack to perform certain services in exchange for the use of City property.

NOW, THEREFORE, in consideration of the above recitals and the following mutual covenants, agreements, and obligations of the Parties, which constitute good and valuable consideration, the sufficiency of which is acknowledged, and with the intention to be legally bound hereby, the City and WANRack agree as follows:

DEFINITIONS

For the purposes of this Agreement, the following terms, phrases, words, and their derivations, shall have the meaning given herein, unless more specifically defined within a specific Article or Paragraph of this Agreement. The definitions in the License

Agreement are hereby incorporated by reference. In the event of any conflict between the definitions in this Agreement and the License Agreement, the License Agreement definition shall govern. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- (i) **"Cable"** shall mean the cable containing either WANRack Fibers or City Fibers, as applicable, pursuant to the terms of this Agreement.
- (ii) **"Dark Fiber"** means Fiber between two specified locations that has no optronics or electronics attached to it. Unless otherwise agreed to by the Parties, the fiber type shall be standard single mode fiber (SMF 28) or equivalent.
- (iii) **"WANRack Facilities"** means all physical components of WANRack's fiber network located within the City of Avondale, including without limitation fiber optic cables, underground conduits, ducts, equipment cabinets, manholes, handholes, vaults, switches, routers, amplifiers, power supplies and other structures and appurtenances.
- (iv) **"City Facilities"** means all physical components of City's network located within the City of Avondale including, without limitation City poles, wires, cables, pipes, underground conduits, ducts, equipment cabinets, manholes, handholes, vaults, fiber optic cables and devises, switches, routers, amplifiers, power supplies, building entrances, bridges and associated bridge conduit, and other structures and appurtenances.
- (v) **"City Conduit"** shall mean the type and location of conduit granted to WANRack to pull through its Cable.
- (vi) **"WANRack Conduit"** shall mean the type and location of any new conduit installed and owned by WANRack in the public Rights-of-Way.
- (vii) **"City Fibers"** shall mean a separate cable containing a specific number of strands of Dark Fiber provided by WANRack to City.
- (viii) **"WANRack Fibers"** shall mean those number and type of optical fibers installed by WANRack in City Conduit or WANRack Conduit.
- (ix) **"Term"** shall have the meaning as set forth in Article 8.
- (x) **"Underlying Rights"** shall mean all deeds, leases, easements, pole sharing agreements and other interests by which WANRack is authorized to install,

operate and maintain its fiber network upon any real or personal property, whether public or private.

- (xi) **“Rights-of-Way”** shall mean an area of land, which by deed, conveyance, agreement, easement, dedication, usage or process of law, is reserved or dedicated to City for public purposes, including, but not limited to, street, highway, alley, public utility, pedestrian walkway, bikeway or drainage.

ARTICLE I – PURPOSE AND INTENT

1.1 This Agreement contemplates the following options for the parties:

(i) **Existing City Conduit – Separate Cable**

WANRack shall provide the City with a proposed path of City Conduit that WANRack would like to occupy. The City and WANRack will conduct a field assessment to verify space exists in the City Conduit prior to installation. Provided adequate space is available, the City shall grant WANRack access to City Conduit in order for WANRack to pull through two separate 288 fiber count microfiber Cables. The City shall be granted ownership of City Fibers in one Cable and WANRack shall maintain ownership of the WANRack Fibers in the separate Cable. The separate Cables may be pulled through concurrently or separately.

(ii) **New WANRack Conduit Build**

WANRack will notify City of any upcoming projects involving new conduit and fiber installation within the City of Avondale. City will have the option to request City Fibers within the WANRack Conduit. The placement of City Fibers within the WANRack Conduit will be done at WANRack’s actual cost for the placement of the City’s fibers plus a mark-up of 21% as documented in a separate agreement.

1.2 If WANRack is augmenting and/or enhancing City Facilities, or providing City access to portions of WANRack Facilities or WANRack Conduit, City shall waive all associated permit, Rights-of-Way, excavation or other similar fees.

1.3 WANRack shall provide all City Fibers to City at a predetermined meet-me vault located within the public Right-of-Way. City shall be responsible for bringing fiber and conduit to the applicable meet-me vault from the proposed service location.

1.4 The services described in this agreement are part of an in-kind exchange. WANRack shall provide the services described in this section. In exchange for these services, the City agrees to charge no additional License fee for use of the City’s Right-of-Way at the locations where WANRack provides these services for the City.

ARTICLE II – RIGHT OF WAY

- 2.1 Subject to WANRack's compliance at all times with all of the terms and conditions of the License Agreement, this Agreement, all of City's ordinances, and all other applicable local, state and federal laws, and further subject to City's lawful exercise of its police power (including, but not limited to, zoning, subdivision, and building code requirements), City hereby grants to WANRack permission to make reasonable use of City Facilities, Rights-of-Way and City Conduit and to construct, install, operate and maintain the WANRack Facilities within the City.
- 2.2 The permissions granted herein to make reasonable use of the Rights-of-Way shall not be deemed an exclusive license or right, and City reserves the right to make or grant a similar use of the Rights-of-Way to any other person or persons.
- 2.3 The City retains the following rights in regard to this Agreement:
 - (i) To terminate this Agreement for misuse, non-use or failure of WANRack to comply with the material provisions hereof, subject to a reasonable cure period not less than 30 days.
 - (ii) To use, control and regulate the use of City streets, roads, easements, other public places and the Rights-of-Way, and the space above and beneath the same; and
 - (iii) To require relocation of any of the WANRack Facilities from the Rights-of-Way if necessary for public safety or health or for any public or municipal purpose or project, subject to Section 10.3 of this Agreement.

ARTICLE III – USE OF RIGHTS-OF-WAY

- 3.1 WANRack Facilities shall be located, installed and maintained so that none of the WANRack Facilities endanger the lives, health or safety of persons, or interfere with any City Facilities, public improvements City or other governmental entities (including any storm water, sanitary sewer or water utilities or enterprises) have in place or may deem proper to make, nor shall the location, installation or maintenance of the WANRack Facilities hinder or obstruct the free use of the streets or other public ways. All WANRack Facilities shall be so located as to cause minimum interference with the rights and reasonable convenience of property owners of property which adjoins any Right-of-Way.
- 3.2 Prior to commencement of construction of any portion of its fiber network within City, WANRack shall furnish to City the general schematic plans for the WANRack Facilities, including, route maps, depiction, sketch or renderings of its equipment boxes and structures, engineering, traffic control, and landscaping plans, as applicable. Such plans and reports may be reviewed by City to ensure, (a) that all

applicable laws including building and zoning codes and air and water pollution regulations are complied with, (b) that aesthetic and good planning principles have been given due consideration, and (c) that adverse impact on the environment has been minimized. WANRack shall comply with all regulatory requirements of City and shall incorporate all other reasonable changes to its plans requested by City.

- 3.3 All construction, excavation, maintenance and repair work done by WANRack shall be done in a workmanlike and expeditious manner which minimizes the inconvenience to City, the general public and individuals. WANRack shall be liable for any damage to City owned property caused by WANRack's negligence or intentional misconduct. All such construction, excavation, maintenance and repair work done by WANRack shall comply with all applicable codes of City and the State of Arizona. The City shall have the right to inspect all construction or excavation work to ensure compliance with applicable codes and permits, and may order WANRack to perform corrective work. All public and private property disturbed by WANRack's activities shall be promptly restored by WANRack at its expense to substantially restore the property to its former condition, subject to inspection by City and compliance by WANRack with reasonable remedial action required pursuant to the inspection. WANRack shall be liable to City for the full cost of restoring any public property not promptly remedied by WANRack.
- 3.4 City agrees to make a good faith effort to process all of WANRack's applications for construction permits in an expeditious manner. To that end, City will endeavor to make a good faith effort to complete the processing of such applications within fifteen (15) business days unless the application is incomplete, requires further information or raises additional questions. If additional information is needed or questions occur, City will make a good faith effort to complete the processing within 30 business days. The City will not unreasonably delay the processing of permits.

ARTICLE IV – TAXES

- 4.1 Where WANRack is assessed taxes, charges, or fees (hereinafter "taxes") related to the construction, installation, and/or services being provided through this Agreement, WANRack shall bill such taxes to City in the manner and for the amount required by law. These taxes shall include and are not limited to federal, state or local sales, gross receipts, occupation, franchise, governmental assessments, regulatory charges, state and federal USF charges, excise or other similar transfer taxes. WANRack shall not bill to or otherwise attempt to collect from City any tax with respect to which City has provided WANRack with a valid exemption certificate. For the sake of clarity, taxes shall not include taxes on WANRack's income.
- 4.2 To the extent WANRack's sale of fiber network services or sale or lease of fiber to its customers is taxable by the City, WANRack shall collect such taxes from its customer and promptly remit the same to City.

ARTICLE V – COORDINATION AND CONDUIT

- 5.1 To minimize disruption to vehicular traffic and inconvenience to the public, and to enable the limited width of Rights-of-Way to be apportioned among all utilities, holders of leases and permits and other interests needing to locate or maintain facilities in the Rights-of-Way for the benefit of the public, it is imperative that any conduit sharing be encouraged to the greatest extent possible. Whenever City or WANRack intends to install new underground conduit or replace existing underground conduit in City controlled rights of way, each party shall endeavor, whenever feasible, to provide the other party with ninety (90) days advance written notice to permit the additional contemporaneous installation of conduit. If either party desires additional conduit installed, it will so notify the other party and the requesting party shall be responsible for the additional incremental expense for installing such additional conduit, unless otherwise agreed to by the Parties.

ARTICLE VI – INDEMNIFICATION

- 6.1 The indemnification provisions of this agreement shall be the same as the indemnification provision in the License Agreement (Section 26)

ARTICLE VII – INSURANCE AND BONDS

- 7.1 The Insurance and Performance bonding provisions of this agreement shall be the same as the indemnification provision in the License Agreement (Sections 23 and 25).

ARTICLE VIII – TERM

- 8.1 The rights and obligations of the City and WANRack hereunder shall be effective for a term beginning on the Effective Date and ending on the expiration or termination date of the License Agreement.
- 8.2 Upon expiration of the agreement, the Parties agree to negotiate in good faith the terms of any renewal.
- 8.3 Upon written request of either party, this Agreement shall be renegotiated at any time in accordance with the requirements of state law upon any of the following events: changes in federal, state, or local laws, regulations, or orders that materially affect any rights or obligations of either party, including but not limited to the scope of the Agreement granted to WANRack or the compensation to be received by City hereunder. Notwithstanding anything to the contrary herein, because the rights transfer contemporaneously upon installation, any changes made hereunder will be made on a prospective basis and will not impact prior installations.

ARTICLE IX – OWNERSHIP OF FACILITIES

- 9.1 Legal title to WANRack's Facilities, WANRack Conduit and WANRack Fibers and associated Cable shall be held by WANRack. Neither anything contained in this Agreement, nor any placement of WANRack Facilities within City's Facilities or Rights-of-Way shall create or vest (or be construed as creating or vesting) in City any right, title or interest in or to any real or personal property owned by WANRack. Legal title to City Conduit shall remain with City, and nothing herein shall be deemed to relinquish City's right, title, interest or control of the public Right-of-Ways.
- 9.2 City shall keep WANRack's facilities and other property subject to this Agreement free from any liens, rights or claims of any third party attributable to City that adversely affects or impairs WANRack's exclusive ownership and use of its separate facilities or other property.
- 9.3 City may only use the City Fibers, including any capacity or bandwidth thereon, for City . Any assignment or re-selling of dark or lit services on the City Fibers to any entity will require the express written consent of WANRack.
- 9.4 Nothing in this section shall limit City's ability to abate or remove abandoned facilities.

ARTICLE X – MAINTENANCE, RELOCATION, CONSULTING, MONITORING, EMERGENCY PROCEDURES

10.1 Maintenance

- (i) WANRack shall maintain the City Fibers within WANRack Conduit, and WANRack Fibers in accordance with prevailing telecommunications industry standards.
- (ii) WANRack shall be responsible for all routine and emergency maintenance of the City Fibers within WANRack Conduit, excluding "one-call" locate responses. WANRack shall be responsible for the cost of WANRack fibers "one-call" locate responses in the Cities Conduit that WANRack Fiber occupies. The City shall be responsible for all "one-call" locate responses in WANRack conduit and on all other City Fiber and all required maintenance including duct repair costs on the City Conduit.
- (iii) The City shall be responsible for any costs for relocations or repairs to City Conduit and City Fibers. WANRack shall be responsible for the cost of any relocation of WANRack Fiber or WANRack Facilities. The City shall notify WANRack as soon as reasonably practicable of any proposed projects which may impact the location of the WANRack Fiber.

- (iv) City shall be responsible for all costs to repair damage to the WANRack Fibers or City Fibers resulting from City's or its contractor's negligence or intentional misconduct.

10.2 Break Out Access

- (i) WANRack shall place its own handhole next to the City handhole along the City Conduit for access to WANRack Fiber.
- (ii) City shall place its own handhole next to the WANRack handhole along the WANRack Conduit for access to City Fiber.

10.3 Emergency Procedures.

In the event that either WANRack or City become aware of a damage to the Cable of either party, such party shall notify the other party of the damage at the contacts provided on **Exhibit A** hereto.

ARTICLE XI – ACCEPTANCE, DELIVERY, USE AND CONNECTION OF FIBERS AND CONDUIT

- 11.1 Delivery of Fibers. The City shall become the owner of the City Fibers upon installation. Documentation of the locations of the City Fibers and City Conduit for which City is responsible for the one-call locates and the WANRack Conduit containing City Fibers shall be established through the submission of as-built drawings upon completion of the project including GIS files attributed to note each party's ownership in the conduit.
- 11.2 Access. WANRack will provide City with access to City Fibers occupying WANRack Conduit at any existing WANRack handhole. City will install its own handhole next to the WANRack handhole for the placement of its splice cases and slack loops.
- 11.3 Use of Facilities. City may use its fibers granted hereunder for its internal uses to provide any lawful telecommunications and data transmission, subject to the limitations stated within this Agreement. City shall also not use its fibers in any manner that is not in compliance with (i) any and all applicable government codes, ordinances, laws, rules, regulations and/or restrictions, and (ii) the Underlying Rights, as such may be amended from time to time. City shall not use any product or service that fails to comply with any applicable safety rules or that would cause WANRack to violate any state or federal environmental laws. City shall have no limitations on the types of electronics or technologies employed to utilize its fibers subject to its use of commercially reasonable safety procedures and so long as such electronics or technologies do not interfere with the quiet use and enjoyment of, or create any risk of damage to, all or any portion of the WANRack Facilities, or interfere with WANRack's network or any of WANRack's customers on its network.

- 11.4 Connection. If City desires to connect other fiber optic cables to the City Fibers or create connections with buildings or other structures, WANRack will cooperate with City for City to acquire access, subject to any charges arising from modifications to WANRack Facilities solely to accommodate City's needs which shall be done at cost plus a markup of 21% to cover overhead expenses.

ARTICLE XII - REPRESENTATIONS

- 12.1 Cooperation. The Parties shall cooperate with each other in the defense of any third-party action that is the subject of this Article XII and shall furnish each other all such further information that they have the right and power to furnish as may reasonably be necessary to defend such third-party action.
- 12.2 Representations and Warranties. In addition to any other representations and warranties contained in this Agreement, each Party hereto represents and warrants to the other that:
- (i) It has the full right and authority to enter into, execute, deliver and perform its obligations under this Agreement;
 - (ii) It has taken all requisite corporate or company action to approve the execution, delivery and performance of this Agreement;
 - (iii) This Agreement constitutes a legal, valid and binding obligation enforceable against such party in accordance with its terms; and
 - (iv) Its execution of and performance under this Agreement shall not violate any applicable existing regulations, rules, statutes, or court orders of any local, state or federal government agency, court, or body.

ARTICLE XIII - REMEDIES, TERMINATION, EXPIRATION, DISPOSITION OF FIBERS AND CONDUIT

13.1 Termination and Remedies.

- (i) In the event of any breach of the terms of this Agreement by either party, the non-breaching party shall have the right to seek one or more of the following remedies, which are expressly agreed to be cumulative, and the exercise of any one or more of them shall not be dependent upon the exercise of any other remedy, nor does the exercise of any one or more of them constitute any bar or limitation to the exercise of any other: (a) specific performance or injunctive relief, (b) monetary damages, and (c) termination. In the event either party is required to commence an action to enforce its rights under this Agreement or to obtain remedies provided above and substantially prevails therein, such party shall be entitled to recover its costs, but excluding attorney's fees and expert witness fees.

- (ii) Before terminating this Agreement for cause on account of any default, the non-defaulting party shall provide the party in default with written notice of the default and afford such party a reasonable period in which to cure the default, but not less than thirty (30) days.

13.2 Expiration, Disposition of Fibers and Continuing Obligations.

- (i) Upon the expiration of this Agreement, subject to any extensions or renewals thereof:
 - (a) WANRack's rights to the public Rights-of-Way and City Conduit, as granted under this Agreement, shall survive the expiration or earlier termination of this Agreement. City and WANRack shall cooperate in good faith regarding WANRack's access to WANRack Facilities, WANRack Conduit and WANRack Fibers.
 - (b) Ownership and title to all of WANRack's Cable, WANRack Fiber or WANRack Conduit, or those fibers granted to WANRack by City on or under City Rights-of-Way or other City property shall remain with WANRack.
 - (c) The City shall be responsible for all maintenance and repair obligations of City Fibers.
- (ii) Nothing in this section shall limit City's ability to abate or remove abandoned facilities.

ARTICLE XIV – DELAYS

- 14.1 Delays. WANRack is not and shall not be liable for any delay in restoring any service or any operational aspect of the fiber optic systems containing such City Fibers which has been subjected to an outage, interference or interruption, whatever the cause of such outage, interference or interruption, unless due to the willful negligence or willful misconduct of WANRack. WANRack shall provide a response within 6 hours with a temporary or permanent plan of action.

ARTICLE XV – NOTICES

- 15.1 Except as otherwise provided herein, notice under this Agreement shall be deemed sufficient if provided in writing and mailed or delivered as follows:

City

The City of Avondale
11465 W. Civic Center Drive
Avondale, AZ 85323
Attn: City Manager

With copy to:

The City of Avondale
11465 W. Civic Center Drive
Avondale, AZ 85323
Attn: City Attorney

WANRack

WANRack , LLC
Attn: Legal Department
15700 College Blvd. Suite 200
Lenexa, KS 66219

- 15.2 Unless otherwise provided herein, notices shall be sent by certified U.S. Mail, return receipt requested, or by commercial overnight delivery service which provides acknowledgement of delivery and shall be deemed delivered: if sent by U.S. Mail, five (5) days after deposit, or if sent by commercial overnight delivery service, upon verification of receipt.

ARTICLE XVI - SUCCESSORS AND ASSIGNS

- 16.1 Subject to Section 28 of the License Agreement, the parties may assign this Agreement without consent to a wholly-owned subsidiary or affiliate, or to an entity that acquires a controlling interest in the party or to a company into which or with which a party is merged. Any other assignment requires the written consent of the non-assigning party. In no event will any assignment by a party be permitted without the delivery to the other party of a binding agreement in writing from the proposed assignee that (i) states that the proposed assignee will assume all current, future and outstanding past obligations under this Agreement as if such assignee had originally executed this Agreement and (ii) evidence satisfactory to the non-assigning party that the proposed assignee has insurance coverage similar to that described in Article VII or other assurances that the proposed assignee can adequately perform the obligations it would assume under this Agreement.
- 16.2 This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. No provision of this Agreement shall confer rights or benefits upon any person not a party hereto, except for public entities or political subdivisions purchasing, leasing, or receiving an assignment of City Fibers from City as allowed in this Agreement.
- 16.3 WANRack shall have the right to pledge its rights and privileges contained in this Agreement as collateral for financing without the need to obtain consent from City.

ARTICLE XVII – SIGNATURES

- 17.1 The persons signing this Agreement on behalf of WANRack and City represent and warrant that their respective parties have the requisite power and authority to enter into, execute and deliver this Agreement.

ARTICLE XVIII - MISCELLANEOUS PROVISIONS

- 18.1 Amendments. This Agreement shall not be amended, altered, or modified except by an instrument in writing duly executed by both Parties.
- 18.2 Limitation of Benefits. It is the explicit intention of the Parties hereto that no third party other than the Parties hereto is or shall be entitled to bring any action to enforce any provision of this Agreement against any Party hereto, and that covenants, undertakings, and agreements set forth in this Agreement shall be enforceable only by the Parties hereto or their respective successors or permitted assigns.
- 18.3 Severability. If any part of any provision of this Agreement shall be held to be invalid or unenforceable under applicable law, said part shall be ineffective to the extent of such invalidity or enforceability only, without in any way affecting the remaining parts of said provision or the remaining provisions of said agreement.
- 18.4 Independent Contractors. In all matters pertaining to this Agreement, the relationship of WANRack and City shall be that of independent contractors, and neither WANRack nor City shall make any representations or warranties that their relationship is other than that of independent contractors. This Agreement is not intended to create nor shall it be construed to create any partnership, joint venture, employment or agency relationship between WANRack and City; and no Party hereto shall be liable for the payment or performance of any debts, obligations, or liabilities of the other Party, unless expressly assumed in writing herein or otherwise. Each Party retains full control over the employment, direction, compensation and discharge of its employees, and will be solely responsible for all compensation of such employees, including social security, withholding and workers compensation responsibilities.
- 18.5 Exercise of Rights. No failure or delay on the part of either Party hereto in exercising any right, power or privilege hereunder and no course of dealing between the Parties shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any, other right, power or privilege.
- 18.6 Additional Actions and Documents. Each of the Parties hereto hereby agree to take or cause to be taken such further actions, to execute, acknowledge, deliver and file or cause to be executed, acknowledged, delivered and filed such further documents and instruments, and to use its commercially reasonable efforts to

obtain such consents, as may be necessary or as may be reasonably requested in order to fully effectuate the purposes, terms and conditions of this Agreement, whether at or after the execution of this Agreement.

- 18.7 Headings. Article headings contained in this Agreement are inserted for convenience of reference only, shall not be deemed to be a part of this Agreement for any purpose, and shall not in any way define or affect the meaning, construction or scope of any of the provisions hereof.
- 18.8 Incorporation of Exhibits. Any exhibits referenced in and attached to this Agreement shall be deemed an integral part hereof to the same extent as if written at length herein.
- 18.9 Governing Law. This Agreement and each of its provisions shall, be governed by and construed and interpreted according to the substantive laws of the State of Arizona without regard to its conflicts of law or choice of law provisions.
- 18.10 Counterparts. This Agreement may be executed in two or more counterparts, including electronic (.pdf) counterparts, each of which shall be an original but all of which taken together shall constitute one and the same instrument.
- 18.11 Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the transaction contemplated herein, and supersedes all prior oral or written agreements, commitments or understandings with respect to the matters provided for herein.
- 18.12 Force Majeure. Neither party will be liable for the failure to fulfill its obligations under this Agreement if and to the extent such failure is caused by an occurrence beyond its reasonable control, including, without limitation, 3rd party fiber cuts; expropriation or confiscation of facilities; compliance with any order or decree of any governmental authority; acts of war or terrorism; floods or abnormal severe weather; riots, rebellion, or sabotage; fires or explosions; labor disputes, strikes, or other concerted acts of workmen; accidents or other casualty; and failures of utilities, local exchange carriers, cities, municipalities, and other political subdivision to follow laws, agreements, or contracts. Further, neither party will be liable for delays caused by the inaction of utilities, local exchange carriers, or other political subdivisions in granting access to rights of way, poles, or any other required items needed for the installation or operation of the Facilities.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, and in confirmation of their consent to the terms and conditions contained in this Agreement and intending to be legally bound hereby, the Parties have caused this Agreement to be executed by their duly authorized officers or representative.

WANRack, LLC

City of Avondale

By

By

Michael L. Brigman
Name

Charles Montoya
Name

President
Title

City Manager
Title

September 9, 2021
Date

September 9, 2021
Date

ATTEST:

Marcella Carillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A Escalation Contact List

To assist WANRack in tracking and coordinating all necessary activities for resolving issues expeditiously, the following phone numbers are the first contacts for trouble resolution. All dispatches, if deemed necessary, will be generated through these contacts.

Reporting service issues to WANRack

1-855-482-7225

Twenty-four hours a day/seven days a week

The escalation process provides the next step for obtaining information and resolutions in the event that City is unable to receive a satisfactory resolution by contact through the phone numbers listed above.

Service Escalation Contact List

Region =		
<u>Level</u>	<u>Name</u>	<u>Cell#</u>
1st	<u>supportservices@wanrack.com</u>	
2nd	<u>Sherrie Lynn, Project Manager</u>	
3th	<u>Sean Brown, SVP Network Development</u>	
4th	<u>Mike Brigman President & COO</u>	

For Emergency and Maintenance Purposes City's escalation contact list is:

<u>Level</u>	<u>Name</u>	<u>Telephone#</u>
1st	IT 24x7 Support	623-333-4357
2nd	Wes Harris, IT Operations Manager	623-333-5015
3rd	Mark Neerings, Assistant CIO	623-333-5020
4th	Jeff Scheetz, CIO	623-333-5011

CITY COUNCIL REPORT

SUBJECT: Resolution 1088-1021 – Intergovernmental Agreement - City of Phoenix and Other Political Subdivisions - Edward Byrne Memorial Justice Assistance Grant Program

MEETING DATE: 10/25/2021

TO: Mayor and Council

FROM: Dale Nannenga, Public Safety Chief, (623) 333-7207

THROUGH: Cherlene Penilla, 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 1088-1021, approving an Intergovernmental Agreement with the City of Phoenix and Other Political Subdivisions for the acceptance of the Edward Byrne Memorial Justice Assistance Grant 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 Avondale Police Department has recently joined a regional Mobile Field Force with multiple west side agencies and committed 18 personnel to the team. The purpose of this team is to be able to provide support to each city in the event of a civil disturbance/riot/and/or crowd control environment. Grant funds will be utilized to purchase equipment necessary for performing their duties.

DISCUSSION:

The Avondale Police Department will use Edward Byrne JAG funding for continued efforts in law enforcement enhancement activities. The Tactical Operations Unit (TOU) is responsible for responding to and addressing high risk incidents and search warrants throughout the City. This funding would allow for the Avondale Police Department to purchase ballistic vests and gas masks designed to provide protection to front-line officers who may be exposed to harmful materials. This Agreement shall become effective and commence simultaneously with the FY21 JAG grant program year on October 1, 2020 and shall continue until September 30, 2024.

BUDGET IMPACT:

Staff is requesting authorization for the acceptance of Grant Funds in the amount of \$19,247 to purchase specialized equipment as it relates to officer safety and their public safety efforts. There are no match requirements for this grant.

RECOMMENDATION:

Staff recommends City Council adopt a resolution authorizing Avondale's acceptance of the intergovernmental agreement with the City of Phoenix and other political subdivisions relating to the acceptance of the Edward Byrne Memorial Justice Assistance Grant in the amount of \$19,247 to support law enforcement enhancement activities.

RESOLUTION NO. 1088-1021

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX AND OTHER POLITICAL SUBDIVISIONS RELATING TO THE ACCEPTANCE OF THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM FOR LAW ENFORCEMENT ENHANCEMENT ACTIVITIES.

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

SECTION 1. The Intergovernmental Agreement among the City of Avondale, the City of Chandler, the Town of Gilbert, the City of Glendale, the City of Goodyear, the City of Mesa, the City of Peoria, the City of Phoenix, the City of Scottsdale, the City of Surprise, the City of Tempe, and the County of Maricopa, Arizona, relating to acceptance and administration of Edward Byrne Memorial Justice Assistance Grant Program funds for law enforcement enhancement activities (the "Agreement") 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 cause the execution of the Agreement and to 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, October 25, 2021.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 1088-1021

[Agreement]

See following pages.

CONTRACT NO _____

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
THE CITY OF CHANDLER
AND
THE TOWN OF GILBERT
AND
THE CITY OF GLENDALE
AND
THE CITY OF GOODYEAR
AND
THE COUNTY OF MARICOPA, ARIZONA
AND
THE CITY OF MESA, ARIZONA,
AND
THE CITY OF PEORIA
AND
THE CITY OF SCOTTSDALE
AND
AND THE CITY OF SURPRISE
AND
THE CITY OF TEMPE
AND
THE CITY OF PHOENIX, ARIZONA
FOR
EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
FY 2021 LOCAL SOLICITATION (CFDA #: 16.738)**

Pursuant to A.R.S. §11-952, this Intergovernmental Agreement (AGREEMENT) is entered into as of the 1st day of October, 2020 by and between the City of Avondale, Arizona (AVONDALE), a municipal corporation duly organized and existing under the laws of the State of Arizona, for and on behalf of the Avondale Police Department; City of Chandler, Arizona (CHANDLER), a municipal corporation duly organized and existing under the laws of the State of Arizona, for and on behalf of the Chandler Police Department; City of Gilbert, Arizona (GILBERT), a municipal corporation duly organized and existing under the laws of the State of Arizona, for and on behalf of the Gilbert Police Department; City of Glendale, Arizona (GLENDALE), a municipal corporation duly organized and existing under the laws of the State of Arizona, for and on behalf of the Glendale Police Department; City of Goodyear, Arizona (GOODYEAR), a municipal corporation duly organized and existing under the laws of the State of Arizona, for and on behalf of the Goodyear Police Department; Maricopa County (COUNTY), a political subdivision duly organized and existing under the laws of the State of Arizona, for and on behalf of the Maricopa County Office of the Medical Examiner; City of Mesa, Arizona (MESA), a municipal corporation duly organized and existing under the laws of the State of Arizona, for and on behalf of the Mesa Police Department; City of Peoria, Arizona (PEORIA), a municipal corporation duly organized and existing under the laws of the State of Arizona, for and on behalf of the Peoria Police Department; City of Scottsdale, Arizona (SCOTTSDALE), a municipal corporation duly organized and existing under the laws of the State of Arizona, for and on behalf of the Scottsdale

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Police Department; City of Surprise, Arizona (Surprise), a municipal corporation duly organized and existing under the laws of the State of Arizona, for and on behalf of the Surprise Police Department; City of Tempe, Arizona (TEMPE), a municipal corporation duly organized and existing under the laws of the State of Arizona, for and on behalf of the Tempe Police Department; and the City of Phoenix, Arizona (PHOENIX), a municipal corporation duly organized and existing under the laws of the State of Arizona, for and on behalf of the Phoenix Police Department. AVONDALE, CHANDLER, GILBERT, GLENDALE, GOODYEAR, COUNTY, MESA, PEORIA, SCOTTSDALE, SURPRISE, TEMEP and PHOENIX may also referred to individually as 'PARTY' or collectively as 'PARTIES'.

RECITALS

WHEREAS, the PARTIES have become entitled to certain grant funds through the Edward Byrne Memorial Justice Assistance Grant (JAG) Program; and

WHEREAS, a disparity exists between the funding eligibility of the PARTIES as determined by 42 USC § 3755 (d)(3)(4); and

WHEREAS, Federal law requires that units of local government within a group of jurisdictions identified as disparate to agree upon an allocation process; and

WHEREAS, the PARTIES believe it to be in their best interests to reallocate the JAG funds to resolve said disparity;

NOW THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the PARTIES hereby agree as follows:

SECTION 1

The purpose of this AGREEMENT is to reallocate the funds available to the PARTIES from the Edward Byrne Memorial Justice Assistance Grant (JAG) Program and to resolve disparities in compliance with 42 USC § 3755 (d)(3)(4). In compliance therewith the PARTIES agree PHOENIX shall receive all the funds and distribute the funds to AVONDALE, CHANDLER, GILBERT, GLENDALE, GOODYEAR, COUNTY, MESA, PEORIA, SCOTTSDALE, SURPRISE, AND TEMPE as follows:

1. PHOENIX agrees to receive **\$1,554,900** from the JAG award for the PHOENIX JAG Program; and
2. PHOENIX agrees to pay AVONDALE a total of **\$19,247** of JAG funds; and
3. PHOENIX agrees to pay CHANDLER a total of **\$44,750** of JAG funds; and
4. PHOENIX agrees to pay GILBERT a total of **\$17,090** of JAG funds; and
5. PHOENIX agrees to pay GLENDALE a total of **\$78,712** of JAG funds; and

6. PHOENIX agrees to pay GOODYEAR a total of **\$14,181** of JAG funds; and
7. PHOENIX agrees to pay COUNTY a total of **\$71,537** of JAG funds; and
8. PHOENIX agrees to pay MESA a total of **\$136,382** of JAG funds; and
9. PHOENIX agrees to pay PEORIA a total of **\$29,308** of JAG funds; and
10. PHOENIX agrees to pay SCOTTSDALE a total of **\$29,890** of JAG funds; and
11. PHOENIX agrees to pay SURPRISE a total of **\$10,254** of JAG funds ; and
12. PHOENIX agrees to pay TEMPE a total of **\$65,088** of JAG funds; and
13. PHOENIX shall retain **\$1,038,461** for the JAG Program (collectively “allocated funds”).
14. PHOENIX agrees to make all payments to AVONDALE, CHANDLER, GILBERT, GLENDALE, GOODYEAR, COUNTY, MESA, PEORIA, SCOTTSDALE, SURPRISE, AND TEMPE within thirty (30) days after receipt of the JAG funds by PHOENIX.

SECTION 2

The PARTIES agree to use allocated funds for the JAG Program on or before September 30, 2024.

SECTION 3

- 1. Term.** The term of this AGREEMENT shall commence simultaneously with the FY2021 JAG grant program year on October 1, 2020 and continue until September 30, 2024 unless terminated sooner in accordance with the terms of the grant, and such reasonable time thereafter as may be needed to complete the administration of the grant.
 - A. Obligations of PHOENIX.** PHOENIX agrees to administer the Funds as provided in Section 1, and shall:
 - (a) Ensure that the funds received by PHOENIX are dispersed to AVONDALE, CHANDLER, GILBERT, GLENDALE, GOODYEAR, COUNTY, MESA, PEORIA, SCOTTSDALE, SURPRISE, AND TEMPE in accordance to this AGREEMENT; and
 - (b) Collect and transmit to the appropriate Federal funding authorities all financial and program reports as required by the terms and conditions of the grant and applicable Federal regulations.
 - B. Obligations of AVONDALE, CHANDLER, GILBERT, GLENDALE, GOODYEAR, COUNTY, MESA, PEORIA, SCOTTSDALE, SURPRISE, AND TEMPE.** During the term of this AGREEMENT, AVONDALE, CHANDLER, GILBERT, GLENDALE, GOODYEAR, COUNTY, MESA, PEORIA, SCOTTSDALE, SURPRISE, AND TEMPE:

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- (a) Agree that PHOENIX will administer the Funds as provided in Section 1; and
 - (b) Will maintain and provide to PHOENIX all financial and program reports as required by the terms and conditions of the grant and applicable Federal regulations; and
 - (c) Will be responsible for the actions of their respective employees in providing services under this AGREEMENT and shall hold harmless the PARTIES to this AGREEMENT from any liability that may arise from the furnishing of the services by the other PARTIES.
- 2. DISCLAIMER.** This AGREEMENT is not intended to and will not constitute, create, give rise to, or otherwise recognize a joint venture, agency, partnership or formal business association or organization of any kind among the PARTIES, and the rights and obligations of the PARTIES shall be only those expressly set forth in this AGREEMENT.
- 3. NON-AVAILABILITY OF FUNDS.** Each payment obligation of the PARTIES created hereby is conditioned on the availability of funds. The PARTIES recognize that the continuation of this AGREEMENT after the close of any of their respective fiscal years shall be subject to the approval of their respective governing bodies providing an appropriation covering this item as an expenditure. None of the PARTIES represent that said budget items will be actually adopted.

SECTION 4

The PARTIES to this AGREEMENT do not intend for any third party to obtain a right by virtue of this AGREEMENT.

SECTION 5

Notice is given that pursuant to A.R.S. 38-511 the PARTIES may cancel any AGREEMENT without penalty or further obligation within three years after execution of the AGREEMENT, if any person significantly involved in initiating, negotiating, securing, drafting or creating the AGREEMENT on behalf of the PARTY is at any time while the AGREEMENT or any extension of the AGREEMENT is in effect, an employee or agent of any other party to the AGREEMENT in any capacity or consultant to any other party of the AGREEMENT with respect to the subject matter of the AGREEMENT. Additionally, pursuant to A.R.S. 38-511 the PARTIES may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the AGREEMENT on behalf of the PARTIES from any other party to the AGREEMENT arising as the result of the AGREEMENT.

SECTION 6

By entering into this AGREEMENT, the PARTIES do not intend to create any obligations express or implied other than those set out herein. Further, this AGREEMENT shall not create any rights in any party not a signatory hereto.

SECTION 7

The PARTIES warrant they are in compliance with the provisions in A.R.S. §41-4401 (e-verify).

SECTION 8

Each PARTY (as “Indemnitor”) agrees to indemnify, defend, and hold harmless the other PARTY (as “Indemnitee”) from and against all claims, losses, liability, costs, or expenses (including reasonable attorneys’ fees, expert witnesses’ fees and other litigation costs) (hereinafter collectively referred to as “Claims”) arising out of bodily injury (including death) of any person or property damage, but only to the extent that such claims, which result in vicarious liability to the Indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

SECTION 9

Each PARTY agrees to comply with the federal certifications regarding lobbying, debarment, suspension and other responsibility matters, and drug free workplace requirements for this grant.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the PARTIES certify that:

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

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Pursuant to Executive Order 12549, Debarment and Suspension, implemented at 2 CFR Part 2867, for prospective participants in primary covered transactions, as defined at 2 CFR Section 2867.20(a), and other requirements:

A. The PARTIES certify that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this AGREEMENT been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Have not within a two-year period preceding this AGREEMENT been convicted of a felony criminal violation under any Federal law, unless such felony criminal conviction has been disclosed in writing to the Office of Justice Programs (OJP) at Ojpcompliancereporting@usdoj.gov , and, after such disclosure, the has received a specific written determination from OJP that neither suspension nor debarment of the PARTY is necessary to protect the interests of the Government in this case.
- (d) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (e) Have not within a three-year period preceding this AGREEMENT had one or more public transactions (Federal, State, or local) terminated for cause or default.

B. Where any PARTY is unable to certify to any of the statements in this certification, said PARTY shall attach an explanation to this AGREEMENT.

3. DRUG-FREE WORKPLACE

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 83, Subpart F, for grantees, as defined at 28 CFR Sections 83.620 and 83.650:

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an on-going drug-free awareness program to inform employees about
 - (1) The dangers of drug abuse in the workplace;

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- (2) The grantee's policy of maintaining a drug-free workplace;
- (3) Any available drug counseling, rehabilitation, and employee assistance programs;
and
- (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the granting agency, and the PHOENIX Grant Administrator (Exhibit A), in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 810 7th Street, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

As the duly authorized representative of the PARTY, the undersigned hereby certify that the PARTY will comply with the above certifications.

(Remainder intentionally left blank. Signatures to follow)

CONTRACT NO _____

THE STATE OF ARIZONA
COUNTY OF MARICOPA

INTRERGOVERNMENTAL AGREEMENT
BETWEEN
CITY OF AVONDALE, CHANDLER, GILBERT, GLENDALE, GOODYEAR, COUNTY,
MESA, PEORIA, SCOTTSDALE, SURPRISE, TEMPE, AND CITY OF PHOENIX,
ARIZONA
FOR
EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
FY 2021 LOCAL SOLICITATION (CFDA #16.738)

CITY OF AVONDALE

This Agreement is in the proper legal form
and is within the powers and authority
granted under the laws of this State to those
parties represented by the undersigned legal
counsel.

By: _____

Type Name: Charles Montoya

Its: City Manager

Avondale City Attorney

Attest: _____

Type Name: Nicholle Harris

Date _____

Date: _____

CONTRACT NO _____

**THE STATE OF ARIZONA
COUNTY OF MARICOPA**

**AGREEMENT
BETWEEN
CITY OF AVONDALE, CHANDLER, GILBERT, GLENDALE, GOODYEAR, COUNTY,
MESA, PEORIA, SCOTTSDALE, SURPRISE, TEMPE, AND CITY OF PHOENIX,
ARIZONA
FOR
EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
FY 2021 LOCAL SOLICITATION (CFDA #16.738)**

CITY OF CHANDLER

This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.

By: _____

Type Name: Sean E. Duggan

Its: Chief of Police

Chandler Assistant City Attorney

Attest: _____

Type Name: Dana DeLong

Date _____

Date: _____

CONTRACT NO _____

**THE STATE OF ARIZONA
COUNTY OF MARICOPA**

**INTERGOVENMENTAL AGREEMENT
BETWEEN
CITY OF AVONDALE, CHANDLER, GILBERT, GLENDALE, GOODYEAR, COUNTY,
MESA, PEORIA, SCOTTSDALE, SURPRISE, TEMPE, AND CITY OF PHOENIX,
ARIZONA
FOR
EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
FY 2021 LOCAL SOLICITATION (CFDA #16.738)**

TOWN OF GILBERT

This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.

By: _____

Type Name: Brigette Peterson

Its: Mayor

Attest: _____

Gilbert Town Attorney

Type Name: Chaveli Herrera

Date: _____

Date _____

CONTRACT NO _____

**THE STATE OF ARIZONA
COUNTY OF MARICOPA**

**INTERGOVENMENTAL AGREEMENT
BETWEEN
CITY OF AVONDALE, CHANDLER, GILBERT, GLENDALE, GOODYEAR, COUNTY,
MESA, PEORIA, SCOTTSDALE, SURPRISE, TEMPE, AND CITY OF PHOENIX,
ARIZONA
FOR
EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
FY 2021 LOCAL SOLICITATION (CFDA #16.738)**

CITY OF GLENDALE

This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.

By: _____

Type Name: Kevin R. Phelps

Its: City Manager

Attest: _____

Glendale City Attorney

Type Name: Julie K. Bower

Date _____ **Date:** _____

CONTRACT NO _____

**THE STATE OF ARIZONA
COUNTY OF MARICOPA**

**INTERGOVENMENTAL AGREEMENT
BETWEEN
CITY OF AVONDALE, CHANDLER, GILBERT, GLENDALE, GOODYEAR, COUNTY,
MESA, PEORIA, SCOTTSDALE, SURPRISE, TEMPE, AND CITY OF PHOENIX,
ARIZONA
FOR
EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
FY 2021 LOCAL SOLICITATION (CFDA #16.738)**

CITY OF GOODYEAR

This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.

By: _____

Type Name: Julie Arendall

Its: City Manager

Attest: _____

Goodyear City Attorney

Type Name: Roric Massey

Date _____ **Date:** _____

CONTRACT NO _____

**THE STATE OF ARIZONA
COUNTY OF MARICOPA**

**INTERGOVENMENTAL AGREEMENT
BETWEEN
CITY OF AVONDALE, CHANDLER, GILBERT, GLENDALE, GOODYEAR, COUNTY,
MESA, PEORIA, SCOTTSDALE, SURPRISE, TEMPE, AND CITY OF PHOENIX,
ARIZONA
FOR
EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
FY 2021 LOCAL SOLICITATION (CFDA #16.738)**

COUNTY OF MARICOPA

This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.

By: _____

Type Name: Jack Sellers

Its: Chairman, Board of Supervisors

Attest: _____

Maricopa Deputy County Attorney

Type Name: Juanita Garza

Date _____ **Date:** _____

CONTRACT NO _____

**THE STATE OF ARIZONA
COUNTY OF MARICOPA**

**INTERGOVENMENTAL AGREEMENT
BETWEEN
CITY OF AVONDALE, CHANDLER, GILBERT, GLENDALE, GOODYEAR, COUNTY,
MESA, PEORIA, SCOTTSDALE, SURPRISE, TEMPE, AND CITY OF PHOENIX,
ARIZONA
FOR
EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
FY 2021 LOCAL SOLICITATION (CFDA #16.738)**

CITY OF MESA

This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.

By: _____

Type Name: Christopher J. Brady

Its: City Manager

Attest: _____

Mesa Police Staff Attorney

Type Name: DeeAnn Mickelsen

Date _____ **Date:** _____

CONTRACT NO _____

**THE STATE OF ARIZONA
COUNTY OF MARICOPA**

**INTERGOVENMENTAL AGREEMENT
BETWEEN
CITY OF AVONDALE, CHANDLER, GILBERT, GLENDALE, GOODYEAR, COUNTY,
MESA, PEORIA, SCOTTSDALE, SURPRISE, TEMPE, AND CITY OF PHOENIX,
ARIZONA
FOR
EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
FY 2021 LOCAL SOLICITATION (CFDA #16.738)**

CITY OF PEORIA

This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.

By: _____

Type Name: Jeff Tyne

Its: City Manager

Attest: _____

Peoria City Attorney

Type Name: Rhonda Geriminsky

Date: _____

CONTRACT NO _____

**THE STATE OF ARIZONA
COUNTY OF MARICOPA**

**INTERGOVENMENTAL AGREEMENT
BETWEEN
CITY OF AVONDALE, CHANDLER, GILBERT, GLENDALE, GOODYEAR, COUNTY,
MESA, PEORIA, SCOTTSDALE, SURPRISE, TEMPE, AND CITY OF PHOENIX,
ARIZONA
FOR
EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
FY 2021 LOCAL SOLICITATION (CFDA #16.738)**

CITY OF SCOTTSDALE

This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.

By: _____

Type Name: David Ortega

Its: Mayor

Scottsdale City Attorney

Attest: _____

Type Name: Ben Lane

Date _____ **Date:** _____

CONTRACT NO _____

THE STATE OF ARIZONA
COUNTY OF MARICOPA

INTERGOVENMENTAL AGREEMENT
BETWEEN
CITY OF AVONDALE, CHANDLER, GILBERT, GLENDALE, GOODYEAR, COUNTY,
MESA, PEORIA, SCOTTSDALE, SURPRISE, TEMPE, AND CITY OF PHOENIX,
ARIZONA
FOR
EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
FY 2021 LOCAL SOLICITATION (CFDA #16.738)

CITY OF SURPRISE

This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.

By: _____

Type Name: Michael Frazier

Its: City Manager

Attest: _____

Surprise City Attorney

Type Name: Sherry Aguilar

Date _____ Date: _____

CONTRACT NO _____

THE STATE OF ARIZONA
COUNTY OF MARICOPA

INTERGOVENMENTAL AGREEMENT
BETWEEN
CITY OF AVONDALE, CHANDLER, GILBERT, GLENDALE, GOODYEAR, COUNTY,
MESA, PEORIA, SCOTTSDALE, SURPRISE, TEMPE, AND CITY OF PHOENIX,
ARIZONA
FOR
EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
FY 2021 LOCAL SOLICITATION (CFDA #16.738)

CITY OF TEMPE

This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.

By: _____

Type Name: Corey D. Woods

Its: Mayor

Tempe City Attorney

Attest: _____

Type Name: Carla R. Reece

Date _____ Date: _____

CONTRACT NO _____

**THE STATE OF ARIZONA
COUNTY OF MARICOPA**

**INTERGOVENMENTAL AGREEMENT
BETWEEN
CITY OF AVONDALE, CHANDLER, GILBERT, GLENDALE, GOODYEAR, COUNTY,
MESA, PEORIA, SCOTTSDALE, SURPRISE, TEMPE, AND CITY OF PHOENIX,
ARIZONA
FOR
EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
FY 2021 LOCAL SOLICITATION (CFDA #16.738)**

CITY OF PHOENIX

This Agreement is in the proper legal form and is within the powers and authority granted under the laws of this State to those parties represented by the undersigned legal counsel.

By: _____

Type Name: Ed Zuercher

Its: City Manager

Attest: _____

Phoenix City Attorney

Type Name: Denise Archibald

Date _____ **Date:** _____

**EXHIBIT A
TO
INTERGOVENMENTAL AGREEMENT
BETWEEN
CITY OF AVONDALE, CHANDLER, GILBERT, GLENDALE, GOODYEAR, COUNTY,
MESA, PEORIA, SCOTTSDALE, SURPRISE, TEMPE, AND CITY OF PHOENIX,
ARIZONA
FOR
EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM
FY 2021 LOCAL SOLICITATION (CFDA #16.738)**

Notices provided under this AGREEMENT shall be directed to the following persons:

The CITY of <u>AVONDALE</u> : Name: Kimberly Martinez Address: 11485 W. Civic Center Dr. Address: Address: City/St/Zip: Avondale, AZ 85323 Phone: 623-333-7204 Fax: 623-333-0071	The CITY of <u>CHANDLER</u> : Name: Melanie R. Smith Address: Mail Stop 303M Address: P.O. Box 4008 Address: City/St/Zip: Chandler, AZ 85244-4008 Phone: 480-782-4085 Fax: 480-782-4110
The TOWN of <u>GILBERT</u> : Name: Michael Soelberg, Address: Chief of Police Address: 75 E. Civic Center Dr. Address: City/St/Zip: Gilbert, AZ 85296 Phone: 480-635-7272 Fax: 480-635-7695	The CITY of <u>GLENDALE</u>: Name: David Rice Address: 6835 N 57th Dr. Address: Address: City/St/Zip: Glendale, AZ 85301 Phone: 623-930-3296 Fax: 623-931-2103
The CITY of <u>GOODYEAR</u> : Name: Jennifer Calovini Address: 14455 W. Van Buren St. Address: Suite E-101 Address: City/St/Zip: Goodyear, AZ 85338 Phone: 623-882-7805 Fax: 623-882-3007	The County of <u>MARICOPA</u> : Name: Amy A. Rex Address: Office of the Medical Examiner Address: 701 W. Jefferson St. Address: City/St/Zip: Phoenix, AZ 85007 Phone: 602-506-8062 Fax: 602-506-1546
The CITY of <u>MESA</u> : Name: Dorothy O'Brien Address: P.O. Box 1466, MS 6610	The CITY of <u>PEORIA</u> : Name: Heather Cammarata Address: 8351 W. Cinnabar Ave.

JUSTGRANTS APPLICATION ID NUMBER: GRANT13429092 (Mandatory)

Address: Address: City/St/Zip: Mesa, AZ 85211-1466 Phone: 480-644-2331 Fax: 480-644-2857	Address: Address: City/St/Zip: Peoria, AZ 85345 Phone: 623-773-7069 Fax: 623-773-5029
The CITY of <u>SCOTTSDALE</u> : Name: Christy Alonzo Address: 8401 E. Indian School Rd. Address: Address: City/St/Zip: Scottsdale, AZ 85251 Phone: 480-312-1993 Fax:	The CITY of <u>SURPRISE</u> : Name: Benny Pina Address: Chief of Police Address: 14250 W. Statler Plaza Address: Suite 103 City/St/Zip: Surprise, AZ 85374 Phone: 623-222-4020 Fax:
The CITY of <u>TEMPE</u> : Name: Miyoung Kim Address: 120 E. 5 th St. Address: Police Department Address: City/St/Zip: Tempe, AZ 85281 Phone: 480-350-8358 Fax:	The CITY of <u>PHOENIX</u> : Name: Denise Varnell Address: Phoenix Police Department Address: 4th Floor, Suite 422 Address: 620 W. Washington St City/St/Zip: Phoenix, AZ 85003 Phone: 602-534-3622 Fax: 602-534-1613

CITY COUNCIL REPORT

SUBJECT: Resolution 1089-1021 - Intergovernmental Agreement with Maricopa County Parks and Recreation for cooperative recreational programming at Estrella Mountain Regional Park

MEETING DATE: 10/25/2021

TO: Mayor and Council

FROM: Bryan Hughes, Parks and Recreation Director, (623) 333-2411

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.

- This agreement will create outdoor recreation opportunities that support and promote healthy outdoor lifestyles within Estrella Mountain Regional Park.

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

- This agreement will result in an expansion of outdoor recreation and education opportunities for Avondale's residents and visitors with no budget impact.
-

PURPOSE:

City Council will consider a request to adopt Resolution 1089-1021 authorizing an Intergovernmental Agreement with the Maricopa County Parks and Recreation for cooperative recreational opportunities, programs, marketing, and events at the Estrella Mountain Regional Park, 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 purpose of this intergovernmental agreement is to develop a relationship between the City and County to work in harmony and reflect the mutual interest in supporting and promoting healthy outdoor lifestyles within Estrella Mountain Regional Park. If approved, agency representatives will jointly plan, coordinate, implement,

and market certain opportunities, events, recreational programs, and education programs, mutually beneficial to the County and the City.

DISCUSSION:

In conformance with initiatives outlined in the 2021 Avondale Strategic Plan, 2021 Discover Avondale Tourism Plan, 2017 Parks, Recreation and Trails Master Plan Update, the City strongly desires to promote and expand Avondale's natural assets such as parks, trails, rivers and wilderness areas to residents, visitors, and businesses. As a result, Estrella Mountain Regional Park has been identified as an asset located in the southern portion of Avondale. Maricopa County Parks and Recreation owns and operates the regional park property. This partnership will allow for City staff to create joint programs and event efforts that emphasize the nearby natural facilities. Outdoor recreation programs such as hiking, mountain biking, horseback riding, and desert education will be promoted to Avondale residents and visitors to enjoy while allowing Avondale to better capture the value of this significant natural asset.

BUDGET IMPACT:

Additional programming can be covered in Parks and Recreation's current budget.

RECOMMENDATION:

Staff recommends City Council adopt a resolution authorizing an Intergovernmental Agreement with Maricopa County Parks and Recreation and authorize staff to take the necessary actions to execute terms of the agreement.

RESOLUTION NO. 1089-1021

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING THE INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY RELATING TO THE PROVISION OF SHARED EVENTS AT ESTRELLA MOUNTAIN REGIONAL PARK.

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

SECTION 1. The Intergovernmental Agreement with Maricopa County for shared recreational opportunities, programs, marketing, and events at Estrella Mountain Regional Park (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 cause the execution of the Agreement and to 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, October 25, 2021.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 1089-1021

[Agreement]

See following pages.

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
MARICOPA COUNTY
AND
THE CITY OF AVONDALE
C-_____**

**FOR SHARED RECREATIONAL OPPORTUNITIES, PROGRAMS, MARKETING, AND
EVENTS AT ESTRELLA MOUNTAIN REGIONAL PARK**

This Intergovernmental Agreement ("Agreement") is made and entered into between Maricopa County, Arizona, a political subdivision of the State of Arizona ("County"), and the City of Avondale, Arizona, a Municipal Corporation ("City"); the County and the City are collectively referred to herein as the Parties or individually as Party.

WITNESSETH

WHEREAS, the County and the City are authorized to enter into this Agreement pursuant to A.R.S. §§ 11-951 through 11-954 as amended; and

WHEREAS, the County, through its Parks and Recreation Department ("MCPRD") provides recreational opportunities and programs to the public; and

WHEREAS, the City provides recreational, opportunities and programs to the public; and

WHEREAS, the County through a series of land patents with the Bureau of Land Management (02-66-0070 dated December 30, 1965; 02-72-0037 dated December 9, 1971; 02-76-0037 dated July 28, 1976); Warranty Deeds; and State Land Patents (6352,6353 and 6354 dated February 27, 1976) became entitled to use of the lands described as a recreational park and related facilities and currently known as Estrella Mountain Regional Park ("EMRP"), a map of which is attached hereto as Exhibit A and made a part hereof; and

WHEREAS, EMRP is a cost of recovery operation, all programs and events must provide reasonable economic returns to sustain park operations; and

WHEREAS, the City annexed a portion of the property within EMRP by Ordinance 441 dated July 25, 1987, Ordinance 448 dated April 27, 1989 and Ordinance 481 dated July 18, 1990; and

WHEREAS, the City desires to perform certain opportunities to include, but not limited to, recreational programs, educational programs, events, and the marketing thereof, as described in a Statement of Work ("SOW"), attached hereto as Exhibit B and made a part hereof, to be presented from time to time and subject to the terms and conditions hereinafter set forth; and

WHEREAS, the County and City desire to perform certain joint recreational programs, educational programs, events and the marketing thereof, as described in a SOW, to be presented from time to time and subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing recitals, the promises and covenants set forth below, and other good and valuable consideration, receipt, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. RECITALS

The Recitals herein, by this reference, are hereby incorporated into this Agreement.

2. PURPOSE OF AGREEMENT

The purpose of this Agreement is

- A. To develop a relationship between the Parties to work in harmony to reflect the mutual interest in supporting and promoting healthy outdoor lifestyles within EMRP.
- B. To jointly plan, coordinate, implement, and market certain opportunities, events, recreational programs, and education programs ("Activities"), mutually beneficial to the County and the City through the use of the SOW(s).
- C. To work together when appropriate to develop marketing campaigns that promote the SOW, features, events, and programs offered at EMRP. This may be done through, but not limited to, advertising, branding, events, campaigns, photo libraries, sponsorships, social media, and other forms of marketing, promotions, and communications.

3. SCOPE OF WORK

This Agreement will enable the Parties to conduct Activities as described in each SOW, including but not limited to marketing/promotions that will benefit the public and the community in support of the MCPRD's mission of "providing recreational and educational opportunities while protecting park resources for residents and visitors so they can enjoy a safe and meaningful outdoor experience."

- A. Activities will be conducted at EMRP only upon the City's submission of the SOW and the subsequent approval by the MCPRD's Director and the City's Director of Parks and Recreation, or their delegees.
- B. Each SOW will be negotiated for fees (i.e., participant costs, gross revenue, authorized deductions) and will follow a cost of recovery model to determine the appropriate funds paid to MCPRD, by the City and/or the general public.
- C. The City recognizes potential impacts and conflicts between its Activities and those offered by the County and its Concessionaires within the boundaries of EMRP. All consideration of program impacts, revenue projections and existing County Concessionaire contractual obligations within the boundaries of EMRP will be detailed and addressed in each SOW.
- D. Joint Responsibilities.
 - i. Plan and develop, on a yearly basis, a platform for collaboration and cooperation of the Activities through the completion of an annual SOW.
 - ii. For joint programs both Parties will develop a written SOW. Once the SOW is approved by both Parties, the schedule can be determined at the MCPRD level in writing or e-mail prior to implementation.
 - iii. Plan and develop a SOW operations plan for each joint program.

- iv. Agree upon costs and cost of recovery for each SOW. Each Party suggests a fee schedule for participants of the program. Approval of the fee schedule is dependent upon each Party's policies or procedures and the budget.
 - v. Agree upon details of each Party's portion or participation in the Activity as described in the SOW.
 - vi. Responsible for the providing of sufficient staff members for their portion of the Activity for which they are responsible.
 - vii. Each Party will coordinate with the other for emergency preparedness and coverage, and as may be required, i.e. Maricopa County Sheriff's Department, City of Avondale Fire Department during an emergency.
- E. City Responsibilities.
- i. Complete the SOW for proposed Activities and work with County staff on the SOW operation plan.
 - ii. Coordinate with the EMRP Park Supervisor and staff prior to the Activity as to off-limit areas, reservations, etc.
 - iii. Responsible for costs associated with the operation of the Activity, agreed EMRP costs/use fees and maintenance of City's own equipment, which includes, but is not limited to, maintenance of equipment, insurance and removal of debris inside and outside of the storage facility or area used in support of the Activity.
 - iv. May encounter or encourage fee-based programs to its participants to cover cost of recovery fees due to County fees or due to City recreation expenses.
 - v. Provide advertising and notice to the public on the City's website, flyers or notices, for information pertaining to the Activity. Both Parties name drops will be on any media including "Estrella Mountain Regional Park managed by Maricopa County Parks and Recreation Department."
 - vi. Provide information to the public intending to access EMRP using the trail system or access within EMRP that the EMRP is a fee-based recreation area and that all members of the public entering the EMRP are subject to paying the current applicable entrance fees.
- F. County Responsibilities.
- i. Provide and coordinate the use of MCPRD's facilities as agreed in the SOW.
 - ii. Provide City with a day of storage of equipment to support programs immediately adjacent in time and proximity to the program being offered. The County assumes no liability for lost stolen or damaged items during the temporary storage. Longer storage, such as a matter of days before or after an event, may be coordinated with and at the discretion of the EMRP Park Supervisor.
 - iii. Provide required staff in support of Activities as designated in each SOW.
 - iv. Provide cost and fee information for and invoice (See Section 9) the City within thirty (30) days from the end date of each SOW occurrence, as applicable.
 - v. Provide advertising and notice to the public on the MCPRD's website and on flyers or notices in the EMRP, of information pertaining to Activity. Both agencies name drops will be on any media including "Estrella Mountain Regional Park managed by Maricopa County Parks and Recreation Department."
 - vi. At no time during the term of such SOW will the County be responsible for the providing or maintaining of any additional facilities, amenities, personnel, or utilities other than agreed to within the SOW.

4. TERM AND TERMINATION

- A. The term of this Agreement shall be Five (5) years ("Term"), commencing on the date it is fully executed by the Parties ("Effective Date").

- B. The Agreement shall automatically renew for one (1) additional five (5) year period thereafter, unless either Party gives notice at least sixty (60) days prior to the expiration of the Term of the Agreement that it does not want to renew or unless terminated sooner as provided herein.
- C. Conflict of Interest. This Agreement is subject to the provisions of A.R.S. § 38-511.
- D. Termination without Cause. Either Party may, at any time, terminate this Agreement by giving the other Party not less than thirty (30) days prior written notice. In the event this Agreement is terminated by either Party pursuant to this Section, the City shall remain responsible for payment to the County for all work performed through the date of termination and for reimbursement to the County of all non-cancelable commitments incurred in the conduct of the Activities. Non-cancelable commitments shall include, but not be limited to, employment or equipment rental commitments. Should such termination ultimately be effective, it will not eliminate any obligations of any Party under Section 5.0 of this Agreement. If this Agreement is terminated without cause pursuant to this Section, each Party shall be liable for its own costs, except as specifically stated herein.
- E. Termination for Non-Appropriations.

Each Party recognizes that performance by the other Party depends upon appropriation of funds. This Agreement may be terminated or reduced by City or County at the end of any fiscal year due to non-appropriation of funds without any penalty or liability to either Party for such termination or reduction. County and state fiscal years end June 30, Federal fiscal year ends September 30. If the County fails to appropriate necessary funds, or if appropriation is reduced during the fiscal year, the County may reduce the scope of this Agreement, if appropriate, or cancel this Agreement, without further duty or obligation and without penalty or liability.

5. DEFAULT

Each of the following shall constitute a 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.

6. GENERAL PROVISIONS

- A. Modification or Amendment. Modifications or amendments of the Agreement shall be binding only if in writing, signed and dated by both Parties.
- B. Laws, Rules and Regulations. Both Parties shall, and shall cause, its agents to comply at all times with all applicable federal, state, county, local and city statutes, laws, ordinances, rules, regulations and instructions, including, without limitation, environmental health safety and regulations respecting the premises used, in effect now or as may be amended

or added. This compliance shall be at each Party's sole cost and expense. MCPRD Rules are attached hereto as Exhibit B and made a part hereof.

- C. Independent Contractor. The County and City are independent contractors and shall be free to exercise their discretion and independent judgment as to the method and means of performance of their work hereunder. Employees of each Party shall not be considered employees of the other Party, and a Party's personnel will not, by virtue of this Agreement, be entitled or eligible, by reason of this Agreement, to participate in any benefits or privileges given or extended by the other Party to its employees. Each Party assumes full responsibility for the actions of its personnel while performing services under this Agreement, and shall be solely responsible for their supervision, daily direction and control, payment of salary (including withholding income taxes and social security), worker's compensation and disability benefits.
- D. Nondiscrimination. The Parties agree to comply with all applicable state and federal laws, rules, regulations, and executive orders governing equal employment opportunity, immigration, nondiscrimination and affirmative action.
- E. Marketing.
 - i. The County may not use the name of the City in news releases, publicity, advertising, or other promotion, without the prior written consent of the City, such as but not limited to when referencing recreation at EMRP, except for documents used for internal consumption by the County.
 - ii. The City may not use the name of the County in news releases, publicity, advertising, or other promotion, without the prior written consent of the County, such as but not limited to when referencing recreation at EMRP, except for documents used for internal consumption by the City.
- F. Confidentiality. Parties shall not be responsible for the protection of confidential or proprietary information belonging to the other Party.

7. LIABILITY INSURANCE AND INDEMNIFICATION

- A. The Parties acknowledge that Maricopa County is self-insured as provided in A.R.S. §11-981 and that this self-insurance fully complies with the insurance requirements of this License.
- B. The City maintains general liability insurance and worker's compensation coverage as required by state law and pertinent federal laws and regulations under the City of Avondale.
- C. Indemnification. By entering into this Agreement, the Parties agree that 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, nonperformance or misconduct 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 or misconduct 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 action, the damages which are the subject of this indemnity shall include costs, expenses of litigation, and reasonable attorney's fees.

- D. The terms of this Agreement and its insurance and indemnification provisions do not apply to participants who engage in any activity outside the scope of this Agreement.
- E. Binding Effect. The obligation set for the in this Section 6.0 shall be binding upon the Parties and extend beyond the termination of this Agreement.
- F. Environmental Compliance.
 - i. Regulated Use.
 - a) The City shall provide to the County, in writing, a complete list identifying all hazardous materials or petroleum products initially to be brought on site. Thereafter, the City shall provide written notice to the County only when other hazardous material or petroleum products which were not initially identified are brought on the site.
 - b) Additionally, the City will prepare and implement any necessary remediation action plan in accordance with all applicable federal, state, county, city and local statutes, laws, ordinances, rules, and regulations. The City shall keep Material Safety Data documents, or the equivalent thereof, on site for those materials and products.
 - c) The City shall report to the County within twenty-four (24) hours of knowledge of any event or occurrence at the site which may or does result in pollution or contamination adversely affecting lands, water or facilities owned or managed by County.
 - ii. Regulated Disposal.
 - a) The City shall protect, defend, indemnify and hold harmless the County and Reclamation from and against all liabilities, costs, charges and expenses, including civil or criminal penalties, attorney's fees and court costs arising out of, or related to, an activity involving or use of a regulated substance under any applicable federal, state, or local environmental laws, regulations, ordinances or amendments thereto because of: (a) any such substance that came to be located on EMRP or temporary facilities due to the City's use or occupancy of the site after the signing of this Agreement; or (b) any release, threatened release or escape of any substance in, on, under or from said site that is caused in whole or in part, by any conduct, action or negligence of the City.
 - b. For the purposes of this Agreement, the term "regulated substances" shall include substances defined as "regulated substances," "hazardous waste," "hazardous substances," "hazardous materials," "toxic substances" or "pesticides" in the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984, the Comprehensive Environmental Response, Compensation and Liability Act, as amended in 1986 to include Superfund Amendments and Reauthorization Act, the Hazardous Materials Transportation Act, the Toxic Substance Control Act, the Federal Insecticide, Fungicide and Rodenticide Act, the relevant local and state environmental laws, and the regulations, rules and ordinances adopted and publications promulgated pursuant to the local, state and federal laws. This indemnification shall include, without limitation, claims or damages arising out of any violations of applicable environmental laws, regulations, ordinances, rules, or subdivisions thereof. This environmental indemnity shall survive the expiration or termination of this Agreement.
 - c. The City accepts sole responsibility and liability for all wastes produced by its operation, activities and occupation of the site and shall comply with all applicable laws concerning such wastes, including federal, state, county, and local regulatory requirements. Any such waste must be disposed of in compliance with the above.
 - d. The City further hereby represents and warrants to the County that the City, its agents, employees, and contractors, shall be solely responsible for and assume any

responsibility for generating, storing, releasing, placing or allowing to remain on the property any hazardous substances, hazardous wastes, or toxic substances (hereinafter collectively referred to as "Hazardous Substances"), as those terms are defined and regulated under C.E.R.C.L.A., 42 U.S.C. 9601 *et seq.*, R.C.R.A., 42 U.S.C. 6901 *et seq.*, or T.S.C.A., 15 U.S.C. 2601 *et seq.* The City agrees to comply with all environmental laws and regulations and to take such other actions as may be reasonably required to protect against environmental liabilities. Any such "Hazardous Substances" must be disposed of pursuant to and in compliance with all required laws, rules and regulations concerning the use and disposal of such substances.

- e. Management and proper disposal of all hazardous material, including Hazardous Substances, is the responsibility of the City. The City must keep appropriate and required documentation relating to the management and disposal of Hazardous Substances.
- f. The County will provide the City with environmental information specific to EMRP so that it may assist in training their staff such as but not limited to flora, fauna, and geography.

8. ARBITRATION

This Agreement shall be construed in accordance with and shall be governed, interpreted and regulated by, the laws of the State of Arizona, and arbitration proceedings, if applicable, or suit to enforce any provision of this Agreement or to obtain any remedy with respect hereto will be brought in the Superior Court of the State of Arizona, Maricopa County, and for this purpose each Party hereby expressly and irrevocably consents to the jurisdiction of said Court.

8. ASSIGNMENT

No Party has the right or the power to assign this Agreement, in whole or in part, without a ninety (90) day prior written consent of the other Party.

9. COMPENSATION

County shall invoice the City according to an individually authorized SOW. Invoices are due and payable within thirty (30) days of the date of invoice.

10. NOTICES

All notices required under this Agreement shall be in writing and given by email delivery and read receipt, or United States Post Office certified mail, return receipt requested, or by commercial courier served with a receipt, or by hand delivery, to each Party's following address, or to such other address as either Party may notify the other in writing as provided herein. Any such notice shall be considered served when communication is received and signed for or delivery is refused or returned to sender as unclaimed.

Maricopa County: Maricopa County Parks and Recreation Department
Attn: Director
41835 N. Castle Hot Springs Road
Morristown, AZ 85342
Phone: 602-506-9500

Email: rj.cardin@maricopa.gov

City of Avondale: City of Avondale
Attn: Director, Parks and Recreation
11465 W. Civic Center Drive, Suite 280
Avondale, AZ 82323
Phone: 623-333-2411
Email: bhughes@avondale.gov

11. RECORD RETENTION AND INSPECTION

The Parties agree to retain all books, accounts, reports, files and other records relating to this Agreement and to make such records available at all reasonable times for inspection and audit by the Parties or the Auditor General of the State of Arizona, or their agents, during the term of and for a period of six (6) years (Retention Schedule) after the termination of this Agreement, or Retention Schedule as amended by the Arizona State Library, Archives and Public Records Retention Schedule.

12. E-VERIFY

To the extent applicable under A.R.S. § 41-4401, each Party and its contractors and subcontractors warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under A.R.S. § 23-214(A). A breach of the above-mentioned warranty by any Party or its contractors or subcontractors shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by the non-breaching Party. Each Party retains the legal right to randomly inspect the papers and records of the other Party's or its contractors' or subcontractors' employees who work on the Activities to ensure that the other Party and its contractors and subcontractors are complying with the above-mentioned warranty.

13. BOYCOTT OF ISREAL

To the extent applicable under A.R.S. § 35-393.01, the Parties certify that they are not currently engaged in, and for the duration of this Agreement agree not to engage in, a boycott of Israel as defined in A.R.S. § 35-393.

14. NON-EXCLUSIVE AGREEMENT

Each Party may enter into similar agreements with other institutions or entities, provided that such agreements do not materially interfere with the ability of each Party to carry out its obligations hereunder.

15. INVALIDITY OF PART OF THIS AGREEMENT

The Parties agree that should any part of this Agreement be held to be invalid or void by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect and shall be binding upon the Parties.

16. AUTHORITY

- A. Each Party covenants and warrants to the other Party that: (a) it is duly authorized to execute this Agreement; and (b) the execution of this Agreement has been duly authorized by the applicable Party.
- B. MCPRD Director shall administer this Agreement.

17. COUNTERPARTS

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 one and the same instrument. Faxed and copied signatures are acceptable as original signatures.

18. ENTIRE AGREEMENT

Entire Agreement. This Agreement, including the SOW(s), embodies the entire understanding of the Parties and supersedes any other agreement or understanding between the Parties relating to the subject matter.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by its duly authorized representatives.

CITY OF AVONDALE

MARICOPA COUNTY

Mayor Date

Chairman Date
Board of Supervisors

ATTEST

City Clerk Date

Clerk of the Board Date

Approved as to Form:

Approved as to Form:

City Attorney Date

Deputy County Attorney Date

EXHIBIT A – ESTRELLA MOUNTAIN REGIONAL PARK

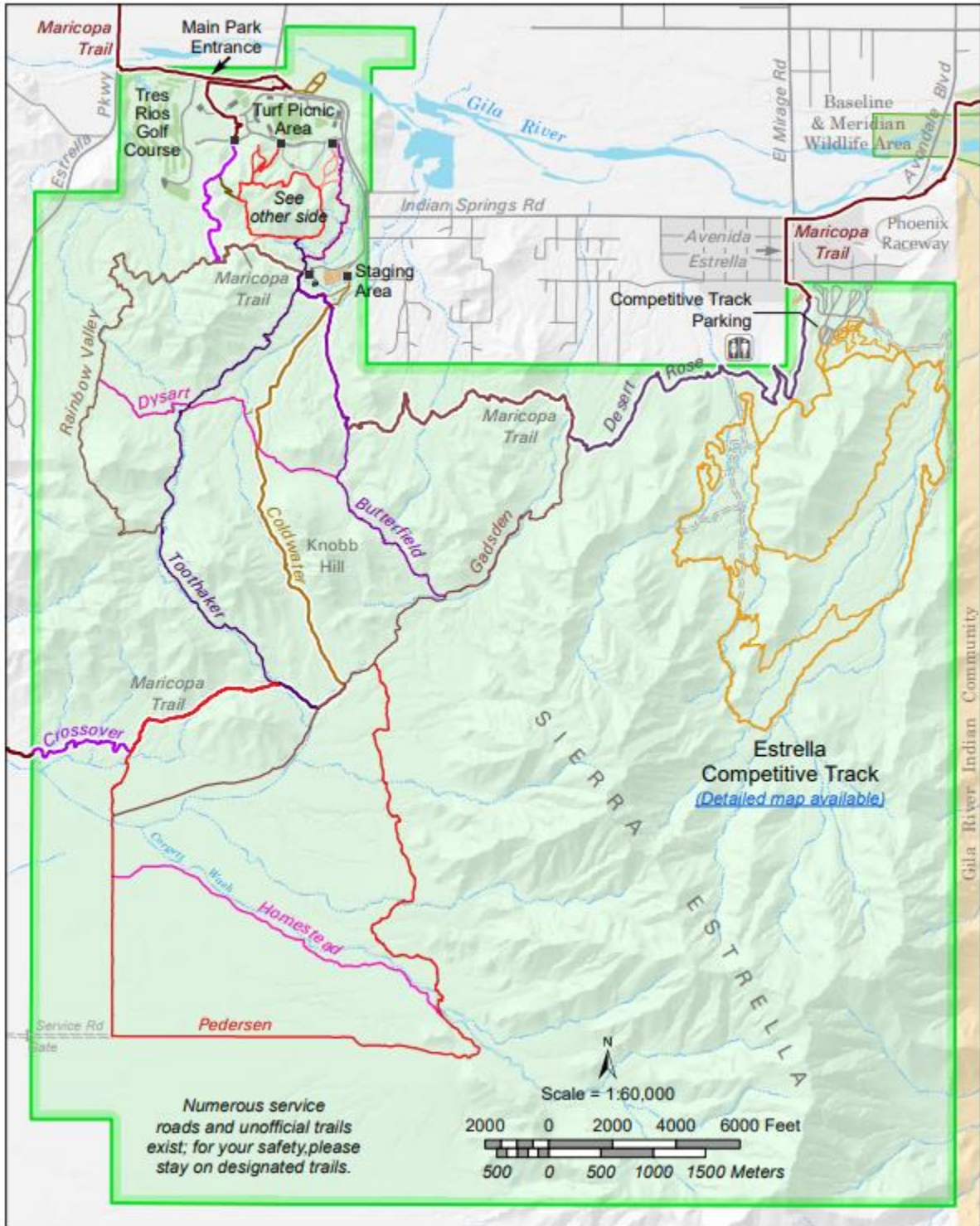


EXHIBIT B – STATEMENT OF WORK (SOW)

This Exhibit represents the SOW template to be associated with this Agreement. Proposed SOW's must be approved by both Parties. The items contained herein shall be considered and incorporated where appropriate. The purpose of this SOW is the coordination with and support of Activities at EMRP. The focus provides the opportunity of expanding the participants' recreational experiences in the hopes of their continuation of activities in the outdoors. The Parties shall retain complete control over such programs, services, and responsibilities of its own that are outside the scope of this Agreement or SOW. The effective date of each SOW is the date approved by both the County and the City.

EXHIBIT B STATEMENT OF WORK ("SOW")						
This SOW is made pursuant to the InterGovernmental Agreement between Maricopa County (hereinafter referred to as County) by and through its Parks and Recreation Department (hereinafter referred to as "MCPRD") and the City of Avondale (hereinafter referred to as "City") (the "Agreement"). This SOW may include a multitude of Activities (recreational opportunities, commercial tours, commercial sales, stewardship events, programs, promotions, and special events, including but not limited to planning, coordinating, implementing, promoting, sponsoring, educating, and marketing). All terms not defined in this SOW have the meaning ascribed to them in the Agreement. Upon completion of the SOW, MCPRD's will contact City for additional information required for the Activity(ies) SOW operation plan (SOW-OP).						
Contact Information						
Points of Contact. The parties designate the following persons as their respective points of contact in connection with the Activities described in this SOW:						
City Point of Contact			MCPRD Point of Contact			
Name:			Name:			
Phone:			Phone:			
Email:			Email:			
Activities (may be multiple)						
Activities. _____ will conduct the following Activities at Parks as indicated (Dates of Activity(s) are subject to mutual agreement by both parties):						
Activity Type	Name of Activity	Facility Rentals	Proposed Date(s) Time(s)	Staffing	Vendors	Activity Description
Submitted By:			Received for Review by MCPRD			
Signature	Date				Date	

CITY COUNCIL REPORT

SUBJECT: Resolution 1090-1021 - Amendment to the Intergovernmental Agreement with Litchfield Park

MEETING DATE: 10/25/2021

TO: Mayor and Council

FROM: Lindsey Duncan, Deputy City Manager, (623) 333-1012

THROUGH: Cherlene Penilla, Assistant 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.
-

PURPOSE:

City Council will consider a request to adopt Resolution 1090-1021, approving an amendment to the Intergovernmental Agreement with Litchfield Park relating to the annexation/deannexation of Wigwam Creek 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 Litchfield Park strip annexed along the southern edge and eastern edge of a number of residential communities known as Wigwam Creek South, Bel Fleur, and Remington Ranch which currently lie within the boundaries of Maricopa County. These are generally located south of Camelback Road and north of Indian School Road, east of Dysart Road and west of El Mirage Road, along the western boundary of the Rio Crossing community in Avondale. The strip annexation was executed to secure within Litchfield Park, the commercial area at the southwest corner of Camelback Road and El Mirage Road. While the residents of the community have previously expressed a desire to be annexed into the City of Avondale, the annexation cannot be executed unless Litchfield Park removes a portion of the strip. Litchfield Park has agreed to remove a portion of the strip along the northern boundary of Indian School.

In April 2012, staff presented an Intergovernmental Agreement between Avondale and Litchfield Park which outlined the actions each city would take to enable the residents of Wigwam Creek South to begin the annexation process. On July 2, 2012, City Council adopted Resolution 3059-712, approving the Intergovernmental Agreement including the following terms:

- The City of Avondale was to remit a portion of the City construction sales tax generated through future

commercial development.

- The City of Litchfield Park was slated to retain the Albertsons shopping center located at the northeast corner of Indian School Road and Dysart Road.
- The City of Litchfield Park was slated to retain the other business properties located at the southeast corner of Camelback Road and Dysart Road.
- The City of Avondale would annex what is now Monument Point Business Park, located at the southwest corner of Camelback Road and El Mirage Road.
- The City of Litchfield Park would annex the United States Postal Service facility and approximately 25 acres located at the corner of Osborn Road and Indian School Road.
- The City of Litchfield Park would then change the annexation lines to allow the City of Avondale to annex Wigwam Creek South and the adjacent residential communities.

DISCUSSION:

Due to changes within development since the adoption of the intergovernmental agreement, an amendment is being proposed to revise the terms and conditions as follows:

- The construction sales tax clause will be removed. The cities no longer desire to exchange commercial properties, thus this term is no longer warranted.
- The City of Litchfield Park retains the Albertson's shopping center, located at the northwest corner of Indian School Road and Dysart Road.
- The City of Litchfield Park retains the commercial properties located at the southeast corner of Camelback Road and Dysart Road.
- The City of Litchfield Park retains the Monument Point Business Park, located at the southwest corner of Camelback Road and El Mirage Road.
- The City of Avondale retains the United States Postal Service facility and surrounding 25-acre commercial property.
- The City of Litchfield Park would change annexation lines to allow Avondale to annex Wigwam Creek South and the adjacent residential communities.
- Avondale and Litchfield Park agree to share the maintenance cost of Camelback Road between Dysart Road and El Mirage Road. A separate maintenance agreement will be executed between Litchfield Park and Avondale. Avondale will contribute a maximum of \$112,500, at the time Litchfield Park determines a mill and overlay is necessary.

Full performance of the terms of the intergovernmental agreement is dependent upon the City of Avondale obtaining 51% of votes from the property owners in the residential annexation area.

The City of Avondale would provide Police and Fire-Medical services for the residents upon annexation. As a county island, the residents currently purchase fire protection from Rural Metro and police service is provided by the County Sheriff. Residents would also have access to the City's recreational amenities and programming as well as services through the City's Neighborhood and Family Services Department.

According to the City's records, there are approximately 1,200 single family homes and one 300 unit multi-family complex in the proposed annexation area. According to the United States Census Bureau, Avondale averages 3.24 residents per household. As such, the annexation is likely to result in an increase in Avondale's population by 4,800 to 5,000 residents.

BUDGET IMPACT:

The City of Avondale would share in the cost of maintenance of Camelback Road from Dysart Road to El Mirage Road, with Avondale's cost not to exceed \$112,500. Avondale would also incur additional costs to serve the area with Public Safety and other City Services.

Annexation of these residences will lead to an increase in revenue from primary and secondary property taxes

and the City's share of Voter Approved Local Revenues for state sales tax, income tax, vehicle license tax, and highway user revenue funds (HURF).

RECOMMENDATION:

Staff recommends City Council adopt a Resolution approving an amendment to the Intergovernmental Agreement with Litchfield Park relating to the annexation/deannexation of Wigwam Creek and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

RESOLUTION NO. 1090-1021

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF LITCHFIELD PARK RELATING TO THE ANNEXATION/DEANNEXATION OF WIGWAM CREEK.

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

SECTION 1. The First Amendment to the Intergovernmental Agreement with the City of Litchfield Park relating to the annexation/deannexation of Wigwam Creek (the “First Amendment”) is hereby approved in substantially the form and substance attached hereto as Exhibit A.

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 First Amendment and to 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, October 25, 2021.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 1090-1021

[First Amendment]

See following pages.

**FIRST AMENDMENT TO
INTERGOVERNMENTAL AGREEMENT BETWEEN
CITY OF LITCHFIELD PARK AND CITY OF AVONDALE**

THIS FIRST AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT (the “Amendment”) is made and entered into on _____, 2021 (the “Effective Date”) by and between the City of Litchfield Park, a municipal corporation organized and existing under and by virtue of the laws of the State of Arizona (hereinafter referred to as “Litchfield Park”), and the City of Avondale, a municipal corporation organized and existing under and by virtue of the laws of the State of Arizona (hereinafter referred to as “Avondale”). Avondale and Litchfield Park may be referred to herein individually as a “Party” or collectively as the “Parties.”

RECITALS

A. Avondale and Litchfield Park are parties to that certain Intergovernmental Agreement, effective August 15, 2012, and recorded as Document No. 20120923003 with the Maricopa County Recorder (the “Agreement”) for the facilitation of the annexation and deannexation of certain property and rights-of-way identified in the Agreement.

B. The Agreement remains in effect and Avondale continues to seek the annexation of an area of residential development situated in unincorporated Maricopa County located northeast of the intersection of Indian School Road and Dysart Road, commonly referred to as “Wigwam Creek South.”

C. Avondale and Litchfield Park desire to amend the Agreement to eliminate the deannexation of certain identified properties and associated obligations related to the same and to generally update the provisions of the Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

AMENDED TERMS

Paragraph 1.1 – Purpose and Intent is amended to read as follows:

1.1 Purpose and Intent. The purpose and intent of this Agreement is to set forth the procedures and obligations of Litchfield Park and Avondale with respect to (i) the deannexation from Litchfield Park and annexation into Avondale of a portion of Litchfield Park’s annexed strip, and (ii) the annexation of Wigwam Creek South into Avondale.

Paragraph 4 – Annexation of County Right-of-Way by Litchfield Park is deleted in its entirety.

Paragraph 5 - Deannexation of Territory by Litchfield Park and Annexation by Avondale is deleted in its entirety.

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 Section. Notices shall be deemed received (i) when delivered to the Party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (iii) 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.

Paragraph 9.13 – Scrutinized Businesses is deleted in its entirety and replaced as follows.

9.13 Israel. For any agreement with a value of One Hundred Thousand Dollars or greater (\$100,000.00), the Parties certify that neither is currently engaged in, and agrees for the duration of this IGA that it will not engage in a "boycott," as that term is defined in Ariz. Rev. Stat. § 35-393, of Israel.

All remaining terms and conditions of the Agreement between the Parties not specifically amended herein shall remain in full force and effect.

IN WITNESS WHEREOF, the City of Litchfield Park and the City of Avondale have executed this Amendment effective the date first above written.

CITY OF LITCHFIELD PARK:

CITY OF AVONDALE:

By: _____
Thomas L. Schoaf, Mayor

By: _____
Kenneth N. Weise, Mayor

ATTEST:

ATTEST:

By: _____
Terri Roth, City Clerk

By: _____
Marcella Carrillo, City Clerk

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

APPROVALS AS TO FORM

In accordance with the requirements of Ariz. Rev. Stat. § 11-952(D), the undersigned attorneys acknowledge that (i) they have reviewed the above Agreement on behalf of their respective clients and that (ii) as to their respective clients only, each attorney has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

By: _____
Joseph D. Estes, Gust Rosenfeld, PLC
Attorney for the City of Litchfield Park

By: _____
Nicholle Harris, City Attorney

CITY COUNCIL REPORT

SUBJECT: Ordinance 2055-1021 - City Code Amendment - Chapter 19 – Preliminary Plats

MEETING DATE: 10/25/2021

TO: Mayor and Council

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

THROUGH: Lindsey Duncan, Deputy 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:

- 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.
-

PURPOSE:

City Council will consider a request to adopt Ordinance 2055-1021, amending Chapter 19 of the Avondale City Code related to the approval of preliminary plats and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

Currently, the Avondale City Code requires all Preliminary Plats to be approved by both the Planning Commission and the City Council. In order to be consistent with communities in and around the Phoenix metropolitan area, staff is looking to streamline the platting process by amending the subdivision ordinance by allowing the Planning Commission final approval of Preliminary Plats. Final Plats will still be submitted to Council for final approval.

DISCUSSION:

Staff is proposing to authorize Preliminary Plat approval by the Planning Commission. This authority will allow applicants to proceed with final engineering plans and final plat preparation, which will then be brought forward to City Council for approval. The proposed Ordinance also includes various administrative changes to include an update to the "City master planning documents" definitions.

BUDGET IMPACT:

This item has no budget impact.

RECOMMENDATION:

Staff recommends City Council adopt an Ordinance amending Chapter 19 of the Avondale City Code related to the approval of preliminary plats and authorize the Mayor, City Attorney and City Clerk to execute the necessary documents.

ORDINANCE NO. 2055-1021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE AVONDALE CITY CODE, CHAPTER 19 (PLANNING AND DEVELOPMENT), ARTICLE VI (SUBDIVISION REGULATIONS) RELATING TO PRELIMINARY PLAT REGULATIONS AND APPROVALS.

SECTION 1. The Avondale City Code, Chapter 19 (Planning and Development), Article VI, Division 1 (In General), Section 19-105 (Definitions) is hereby amended as follows:

19-105 – Definitions.

. . .

"Arterial route" is a general term including freeways, expressways, major AND MINOR arterial streets ~~and interstate~~, state or county highways, and as otherwise defined in the city's adopted Transportation Plan.

. . .

“City engineering standards” means that the most recently-adopted (by the city) editions of the following:

(a) THE CITY TRANSPORTATION PLAN

~~(a)~~(b) The City General Engineering Requirements Manual (GER).

~~(b)~~(c) The City of Avondale Supplement to Maricopa Association of Governments (MAG) Standard Specifications and Details for Public Works.

~~(c)~~(d) The City Traffic Impact Analysis (TIA) Procedures.

~~(d)~~(e) The International Fire Code AND THE CITY OF AVONDALE AMENDMENTS TO THE INTERNATIONAL FIRE CODE.

~~(e) The City of Avondale Amendments to the International Fire Code.~~

. . .

(L) THE WATER MASTER PLAN.

(M) THE SEWER MASTER PLAN.

"City master planning documents" means the latest editions (adopted by the city) of the following documents:

(a) The General Plan.

~~(b) The Transportation Plan.~~

~~(c) The Water Master Plan.~~

~~(d) The Sewer Master Plan.~~

~~(e)(b) City Center~~ THE BOULEVARD Specific Plan.

~~(f)(c) Freeway Corridor~~ Specific Plan.

~~(g)(d) North Avondale~~ Specific Plan.

~~(h)(e) Tres Rios Greenway~~ Specific Plan.

~~(i)(f) Public Art~~ Master Plan.

~~(j) Parks, Recreation Facility & Trails~~ Master Plan.

~~(k) City Center Design~~ Guidelines.

~~(l)(g) Commercial/ AND Industrial/Multi-Family~~ Design Manual.

~~(m)(h) Single-Family Residential~~ Design Manual.

(i) MULTI-FAMILY RESIDENTIAL DESIGN MANUAL

~~(n)(j) Street Tree~~ Master Plan.

~~(o) Healthy Lifestyle~~ Plan.

~~(p)(k) Historic Avondale Design and Development~~ GUIDELINES SPECIFIC AREA PLAN FOR OLD TOWN, CASHION, AND LAS LIGAS/RIO VISTA.

. . .

"Engineering plans" means plans, profiles, cross sections, specifications and other details of construction of public improvements, prepared by an Arizona registered engineer in accordance

with the approved ~~preliminary plat~~ FINAL PLAT and in compliance with city engineering standards.

. . .

“Preliminary plat approval” means approval of a preliminary plat ~~by the council~~ UPON RECOMMENDATION BY THE DIRECTOR OF DEVELOPMENT AND ENGINEERING SERVICES, as evidenced by ~~meeting minutes and noted upon~~ A CERTIFICATION PLACED ON copies of the plat. PRELIMINARY PLAT APPROVAL AUTHORIZES THE SUBDIVIDER TO PROCEED WITH FINAL ENGINEERING PLANS AND FINAL PLAT PREPARATION.

"Project manager" means the assigned city staff member OF THE PLANNING DIVISION who has the overall responsibility of leading the project team from submittal through approval for all development applications related to a specific project.

. . .

"Zoning administrator" means the ~~person~~ PLANNING MANAGER OF THE PLANNING DIVISION OR OTHER DESIGNEE designated by the ~~city manager~~ DEVELOPMENT AND ENGINEERING SERVICES DIRECTOR to interpret and enforce the ADOPTED zoning ordinance, SUBDIVISION REGULATIONS, AND PLANNING DOCUMENTS.

. . .

SECTION 2. The Avondale City Code, Chapter 19 (Planning and Development), Article VI, Division 2 (Platting Procedures and Requirements), Section 19-123 (Preliminary plat review.) is hereby amended as follows:

19-123 – Preliminary plat review.

(a) Prior to the ~~application for~~ APPROVAL OF a final plat, a preliminary plat application shall be submitted for review AND APPROVAL by the ~~planning commission, and approval by the city council.~~ DIRECTOR OF DEVELOPMENT AND ENGINEERING SERVICES.

. . .

(c) Proof of adequate school facilities.

. . .

(2) The applicant shall provide the planning division with ~~letters counter signed by applicable school districts indicating~~ WRITTEN CERTIFICATION that the applicant has contacted and met with the school district and summarizing the outcome of the meeting. Such ~~letters~~ CERTIFICATION shall be submitted to the planning division ~~not less than fourteen (14) days prior to the scheduled planning commission meeting.~~ PRIOR TO THE

CONSIDERATION OF THE PRELIMINARY PLAT AND APPROVAL BY THE DIRECTOR OF DEVELOPMENT AND ENGINEERING SERVICES.

(3) The applicant shall provide the planning division with a certificate of adequate school facilities filled out by the school district ~~not less than fourteen (14) days prior to the scheduled planning commission meeting.~~ PRIOR TO THE CONSIDERATION OF THE PRELIMINARY PLAT AND APPROVAL BY THE DEVELOPMENT OF DEVELOPMENT AND ENGINEERING SERVICES.

. . .

(F) EFFECTIVE DATE:

(1) THE PROVISIONS OF THIS SECTION 19-123, AS AMENDED SHALL BE EFFECTIVE FOR ALL PRELIMINARY PLATS FILED ON OR AFTER JUNE 1, 2021.

SECTION 3. The Avondale City Code, Chapter 19 (Planning and Development), Article VI, Division 2 (Platting Procedures and Requirements), Section 19-124 (Preliminary plat approval) is hereby amended as follows:

19-124 – Preliminary plat approval.

(a) When the project manager deems the review complete, the preliminary plat shall be forwarded to the ~~commission for its~~ DIRECTOR OF DEVELOPMENT AND ENGINEERING SERVICES FOR THEIR review. The project manager shall include any recommendations from the development review committee, which recommendations ~~shall be in the form of approval, approval subject to stipulations, or denial for the preliminary plat.~~ MAY INCLUDE ADDITIONAL REQUIREMENTS FOR PREPARATION OF AND APPROVAL OF THE FINAL PLAT. ~~The planning commission shall hold a meeting and forward a recommendation to the city council.~~ THE DIRECTOR OF DEVELOPMENT AND ENGINEERING SERVICES SHALL ACT UPON THE PRELIMINARY PLAT.

~~(b) The city council shall hold a meeting to consider the information presented and may accept, reject or modify the planning commission's recommendations.~~

~~(c)~~(b) If approved by the ~~city council~~ DIRECTOR OF DEVELOPMENT AND ENGINEERING SERVICES, an approved preliminary plat shall be valid for a period of two (2) years. Except as set forth below, if the final plat has not been recorded within two (2) years after the date of the preliminary plat approval, the preliminary plat shall be considered expired, and the process shall start from the beginning with a pre-application meeting. If the approved preliminary plat includes areas to be phased over time, a final plat for the first phase, or a map of dedication, must be recorded within two (2) years after preliminary plat approval; ~~thereafter any phase that does not have a corresponding final plat recorded within five (5) years after preliminary plat approval shall be considered expired.~~

. . .

SECTION 4. The Avondale City Code, Chapter 19 (Planning and Development), Article VI, Division 4 (Street and utility improvement requirements), Section 19-211 (Submittal, review and approval of engineering plans.) is hereby amended as follows:

19-211 - Submittal, review and approval of engineering plans.

Engineering plans shall be filed with the city engineer or designee simultaneously with filing of the final plat. Plans shall be reviewed by an Arizona registered engineer retained by the city and shall have a certificate of approval ~~filed with the city clerk~~ ISSUED BY THE DIRECTOR OF DEVELOPMENT SERVICES OR THEIR DESIGNEE prior to recordation of the plat. If engineering plans have not been approved within ninety (90) days after approval of the final plat, the ~~council~~ CITY ENGINEER may require that the final plat be resubmitted FOR APPROVAL.

SECTION 5. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason to be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

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

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona, October 25, 2021.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

CITY COUNCIL REPORT

SUBJECT: Ordinance 2056-1021 - License Agreement with Del Rio Ranch III Homeowners Association

MEETING DATE: 10/25/2021

TO: Mayor and Council

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

THROUGH: Lindsey Duncan, Deputy 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:

- 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.

The approval of this license agreement will allow for the expansion of quality infrastructure in Del Rio Ranch III and improve connectivity to City amenities.

PURPOSE:

City Council will consider a request to adopt Ordinance 2056-1021, authorizing a License Agreement with the Del Rio Ranch III Homeowners Association allowing an irrigation pipeline to cross the City's right-of-way and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

Staff approved a Minor Planned Area Development (PAD) Amendment for Del Rio Ranch III located at 125th Avenue and Durango Street on January 5, 2021. There currently exists a private open irrigation channel that is used by Salt River Project (SRP) to drain their pipe lateral located in Durango Street, west of El Mirage Road.

DISCUSSION:

The developer of Del Rio Ranch III, DC One Holdings, Inc., must pipe an open channel that currently drains SRP's Durango Street irrigation system into the Agua Fria River. This irrigation pipeline must cross the City's right-of-way in three locations. This license agreement will allow the pipe to cross the right-of-way and require the Del Rio Ranch III Homeowners Association to operate and maintain the pipe within the right-of-way.

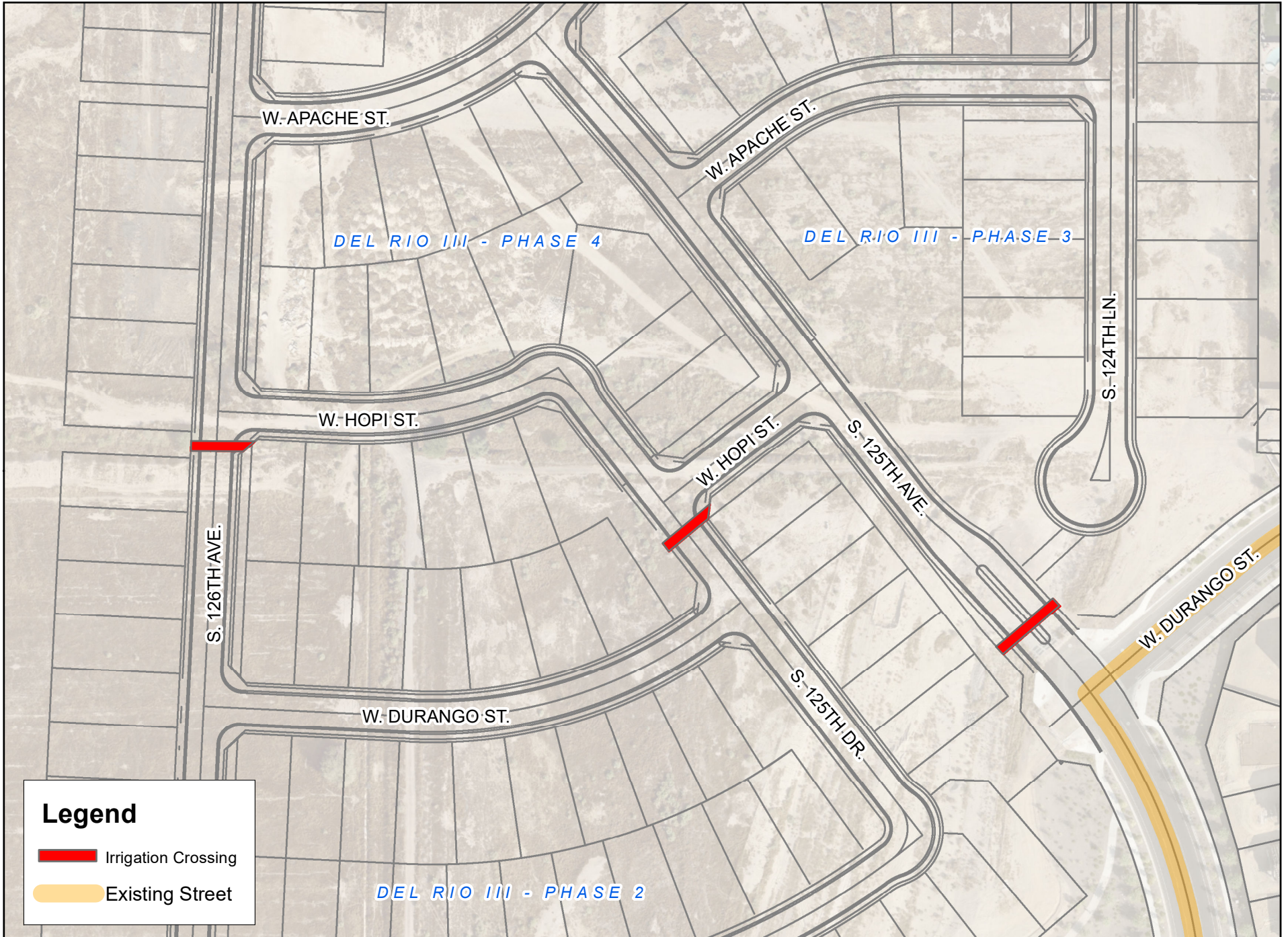
BUDGET IMPACT:

There is no impact to the budget for this action.

RECOMMENDATION:

Staff recommends the City Council adopt an Ordinance License Agreement with the Del Rio Ranch III Homeowners Association to allow an irrigation pipeline to cross the City's right-of-way and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

LICENSED AREAS FOR PRIVATE IRRIGATION PIPE CROSSINGS IN CITY RIGHT-OF-WAY



ORDINANCE NO. 2056-1021

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, GRANTING THE DEL RIO RANCH III HOMEOWNERS ASSOCIATION A LICENSE TO USE CITY PROPERTY FOR THE CONSTRUCTION, INSTALLATION, MAINTENANCE, OPERATION AND REPAIR OF A PRIVATE IRRIGATION SYSTEM.

WHEREAS, The Del Rio Ranch III Homeowners Association (“Del Rio Ranch III”) owns property adjacent to City of Avondale (the “City”) property and desires to construct and operate a private irrigation system; and

WHEREAS, the City desires to grant Del Rio Ranch III a license over certain portions of the City’s property for (i) the construction, installation, maintenance, operation and repair of irrigation distribution lines and related appurtenances thereto and (ii) the distribution of non-potable water, subject to the terms and conditions of the License Agreement between Del Rio Ranch III and the City dated October 25, 2021, a true and correct copy of which is on file in the office of the City Clerk (the “License Agreement”).

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. A license is hereby granted to Del Rio Ranch III pursuant to the License Agreement over certain portions of City property, described and depicted in Exhibit A, attached hereto and incorporated herein by reference (the “License Areas”).

SECTION 3. 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,
October 25, 2021.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 2056-1021

[License Areas]

See following pages.

EXHIBIT "A"
PRIVATE IRRIGATION CROSSING CITY RIGHT-OF-WAY DESCRIPTION

A PORTION OF LAND LOCATED IN THE SOUTHEAST OF SECTION 14, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SECTION OF SAID SECTION 14, BEING MONUMENTED BY A BRASS CAP FLUSH, FROM WHICH THE SOUTHEAST CORNER OF SAID SECTION 14, BEING MONUMENTED BY A BRASS CAP IN HANDHOLE, BEARS SOUTH 00 DEGREES 10 MINUTES 17 SECONDS WEST, 2666.82 FEET;

THENCE NORTH 88 DEGREES 56 MINUTES 07 SECONDS WEST, ALONG THE EAST-WEST MID-SECTION LINE OF SAID SECTION 14, 1609.73 FEET;

THENCE DEPARTING SAID EAST-WEST MID-SECTION LINE, SOUTH 01 DEGREES 03 MINUTES 53 SECONDS WEST, 112.64 FEET TO THE **POINT OF BEGINNING**;

THENCE NORTH 50 DEGREES 24 MINUTES 37 SECONDS EAST, 60.03 FEET;

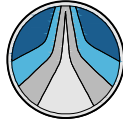
THENCE SOUTH 07 DEGREES 05 MINUTES 55 SECONDS WEST, 14.14 FEET;

THENCE SOUTH 50 DEGREES 22 MINUTES 02 SECONDS WEST, 50.02 FEET

THENCE NORTH 37 DEGREES 54 MINUTES 05 SECONDS WEST, 9.74 FEET TO SAID **POINT OF BEGINNING**;

SAID PARCEL CONTAINS 535 SQUARE FEET OR 0.0123 ACRES, MORE OR LESS.





HUBBARD
ENGINEERING

www.hubbardengineering.com

1201 S. Alma School Rd.
Suite 12000
Mesa, AZ 85210
Ph: 480.892.3313

CENTER SECTION,
SEC. 14, T1N, R1W,
FND. REBAR AFFIXED
CAP LS# 41282

E-W MID-SECTION LINE, SEC. 14, T1N, R1W
N88°56'07"W 2619.75'

P.O.C.

E. 1/4 CORNER,
SEC. 14, T1N, R1W,
FND. BCF

1010.02'

1609.73'

HOPÍ STREET

534.7277 SF
0.0123 AC

TRACT T

N50°24'37"E
60.03'

S7°05'55"W
14.14'

320

S50°22'02"W
50.02'

**PRIVATE IRRIGATION
CROSSING CITY R/W**

125TH DRIVE

319

P.O.B.

N37°54'05"W
9.74'

S0°10'17"W 2666.82'

**E. LINE, SE 1/4, SEC. 14, T1N, R1W
EL MIRAGE ROAD**

**SE CORNER,
SEC. 14, T1N, R1W,
FND. BCHH**



N.T.S.



DEL RIO III
PRIVATE IRRIGATION CROSSING CITY R/W
EXHIBIT "A"
City of Avondale, Maricopa County, Arizona

Project No.
16178

Date
07/20/21

Project Manager
ADRIAN BURCHAM

Project Eng.

Sht: 1 of 1

EXHIBIT "A"
PRIVATE IRRIGATION CROSSING CITY RIGHT-OF-WAY DESCRIPTION

A PORTION OF LAND LOCATED IN THE SOUTHEAST OF SECTION 14, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SECTION OF SAID SECTION 14, BEING MONUMENTED BY A BRASS CAP FLUSH, FROM WHICH THE SOUTHEAST CORNER OF SAID SECTION 14, BEING MONUMENTED BY A BRASS CAP IN HANDHOLE, BEARS SOUTH 00 DEGREES 10 MINUTES 17 SECONDS WEST, 2666.82 FEET;

THENCE NORTH 88 DEGREES 56 MINUTES 07 SECONDS WEST, ALONG THE EAST-WEST MID-SECTION LINE OF SAID SECTION 14, 1225.76 FEET;

THENCE DEPARTING SAID EAST-WEST MID-SECTION LINE, SOUTH 01 DEGREES 03 MINUTES 53 SECONDS WEST, 159.51 FEET TO THE **POINT OF BEGINNING**;

THENCE SOUTH 42 DEGREES 33 MINUTES 35 SECONDS EAST, 10.06 FEET;

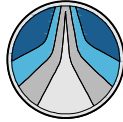
THENCE SOUTH 49 DEGREES 25 MINUTES 43 SECONDS WEST, 73.05 FEET;

THENCE NORTH 42 DEGREES 32 MINUTES 53 SECONDS WEST, 10.10 FEET

THENCE NORTH 49 DEGREES 27 MINUTES 48 SECONDS EAST, 73.05 FEET TO SAID **POINT OF BEGINNING**;

SAID PARCEL CONTAINS 736 SQUARE FEET OR 0.0169 ACRES, MORE OR LESS.





HUBBARD
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Suite 12000
Mesa, AZ 85210
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CENTER SECTION,
SEC. 14, T1N, R1W,
FND. REBAR AFFIXED
CAP LS# 41282

E-W MID-SECTION LINE, SEC. 14, T1N, R1W
N88°56'07"W 2619.75'

P.O.C.

E. 1/4 CORNER,
SEC. 14, T1N, R1W,
FND. BCF

125TH AVENUE

PRIVATE IRRIGATION
CROSSING CITY R/W

S1°03'53"W

159.51'

P.O.B.

S42°33'35"E

10.06'

N49°27'48"E
73.05'

S49°25'43"W
73.05'

TRACT T

N42°32'53"W
10.10'

DEL RIO III - PHASE 1
BK. 1426, PG. 40, M.C.R.

S0°10'17"W 2666.82'
E. LINE, SE 1/4, SEC. 14, T1N, R1W
EL MIRAGE ROAD

SE CORNER,
SEC. 14, T1N, R1W,
FND. BCHH



DEL RIO III
PRIVATE IRRIGATION CROSSING CITY R/W
EXHIBIT "A"
City of Avondale, Maricopa County, Arizona

Project No.
16178

Date
07/20/21

Project Manager
ADRIAN BURCHAM

Project Eng.

Sht: 1 of 1

EXHIBIT "A"
PRIVATE IRRIGATION CROSSING CITY RIGHT-OF-WAY DESCRIPTION

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COMMENCING AT THE EAST QUARTER CORNER OF SECTION OF SAID SECTION 14, BEING MONUMENTED BY A BRASS CAP FLUSH, FROM WHICH THE SOUTHEAST CORNER OF SAID SECTION 14, BEING MONUMENTED BY A BRASS CAP IN HANDHOLE, BEARS SOUTH 00 DEGREES 10 MINUTES 17 SECONDS WEST, 2666.82 FEET;

THENCE NORTH 88 DEGREES 56 MINUTES 07 SECONDS WEST, ALONG THE EAST-WEST MID-SECTION LINE OF SAID SECTION 14, 2074.21 FEET;

THENCE DEPARTING SAID EAST-WEST MID-SECTION LINE, SOUTH 01 DEGREES 03 MINUTES 53 SECONDS WEST, 20.57 FEET TO THE **POINT OF BEGINNING**;

THENCE SOUTH 89 DEGREES 31 MINUTES 25 SECONDS EAST, 62.26 FEET;

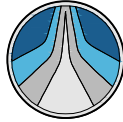
THENCE SOUTH 47 DEGREES 46 MINUTES 48 SECONDS WEST, 14.75 FEET;

THENCE NORTH 89 DEGREES 31 MINUTES 25 SECONDS WEST, 51.83 FEET

THENCE NORTH 02 DEGREES 46 MINUTES 48 SECONDS EAST, 10.01 FEET TO SAID **POINT OF BEGINNING**;

SAID PARCEL CONTAINS 570 SQUARE FEET OR 0.0131 ACRES, MORE OR LESS.





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E-W MID-SECTION LINE, SEC. 14, T1N, R1W
N88°56'07"W 2619.75'

P.O.C.

E. 1/4 CORNER,
SEC. 14, T1N, R1W,
FND. BCF

545.54'

2074.21'

S1°03'53"W

S89°31'25"E

HOPI STREET

TRACT A2

20.57'

62.26'

N2°46'48"E

N89°31'25"W

S47°46'48"W

10.01'

51.83'

14.75'

PRIVATE IRRIGATION
CROSSING CITY R/W

126TH DRIVE

397

435

396

395

434

S0°10'17"W 2666.82'

E. LINE, SE 1/4, SEC. 14, T1N, R1W
EL MIRAGE ROAD



N.T.S.



SE CORNER,
SEC. 14, T1N, R1W,
FND. BCHH

DEL RIO III

PRIVATE IRRIGATION CROSSING CITY R/W

EXHIBIT "A"

City of Avondale, Maricopa County, Arizona

Project No.
16178

Date
07/20/21

Project Manager
ADRIAN BURCHAM

Project Eng.

Sht: 1 of 1

When Recorded Mail To:

City Clerk's Office
City of Avondale
11465 West Civic Center Drive, Suite 200
Avondale, Arizona 85323

This License is exempt from recording fee
and Affidavit of Property Value pursuant to
Ariz. Rev. Stat. § 11-1134(A)(2)

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "Agreement") is entered into as of October 25, 2018, by and between the City of Avondale, an Arizona municipal corporation (the "City") and Del Rio Ranch III Homeowners Association, an Arizona non-profit corporation (the "Licensee").

RECITALS

- A. The City is the owner of certain real property contiguous to Licensee's property.
- B. Licensee is requesting a license to cross City roadways in three locations for operating its irrigation system and Licensee desires to construct an irrigation relief pipe for overflows to be discharged into the Agua Fria River (collectively referred to herein as the "Irrigation Project").
- C. City and Licensee desire to enter into this Agreement to grant to Licensee a license (the "License") upon, over, across, in, through and under portions of the City property, for the construction, installation, maintenance, repair and operation of irrigation overflow lines and related appurtenances thereto for the Irrigation Project.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the promises contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which the City and the Licensee hereby acknowledge, the City and the Licensee hereto agree as follows:

1. Grant of License. The City grants Licensee the right to occupy and use, for the purposes stated herein, those lands and property interests of the City as depicted and described in Exhibit A and incorporated herein by reference (the "License Areas and "City Property") only for the purpose set forth in Section 2 below.

2. Purpose. Licensee shall use the License Area for the purpose of constructing, installing, repairing, operating, maintaining, replacing or removing underground irrigation overflow lines and related appurtenances thereto (collectively, the “Irrigation Lines”) for the Licensee’s Irrigation Project.

3. Existing Easements and Licenses. This Agreement is subject to all existing easements, licenses and matters of record.

4. Nonexclusive Rights. This Agreement is non-exclusive and no interest whatsoever in the License Area, except as specifically expressed herein, shall pass to the Licensee, its directors, officers, employees, or agents. The City, its successors and assigns, shall retain at all times a prior and superior right of access and use of the License Area to accomplish all of the City’s purposes and nothing in this Agreement shall be construed to deny or lessen the powers and privileges granted to City by the laws of the State of Arizona. Neither Licensee nor its agents shall interfere with the use of the License Area by the City or the interest of any other individual or entity in the License Area. Nothing herein shall preclude, interfere with, or prohibit the City from controlling access to, entering upon, being upon, or using the License Area for any purposes whatsoever, or prohibit the City from permitting another entity to access or use the License Area. The City shall not be liable to Licensee for any damage to public or private property or installations located upon the License Area, unless caused by the negligent or willful misconduct of the City, its agents, employees or contractors.

5. Construction of Water Resource Project.

5.1 Installation. Licensee shall construct, install, repair, operate, maintain and replace or remove its Irrigation Lines for the Irrigation Project in substantially the same locations as set forth in the plan set approved by the City, as evidenced by encroachment permits issued by the City’s Development Services and Engineering Department.

5.2 Modification and Relocation of Irrigation Lines. Any modification or relocation of the Irrigation Lines in the License Area must be approved by the City, as evidenced by an encroachment permit issued by the City’s Development Services and Engineering Department.

5.3 Permits. Licensee shall obtain and maintain in current status all federal, state and local licenses and permits required for the construction, installation, maintenance, repair and operation of the Irrigation Project.

5.4 Licensee’s Sole Expense. Licensee’s design, construction, operation, maintenance and use of the Irrigation Project shall be at Licensee’s sole expense and shall not interfere with nor impede the City’s use of the License Area.

5.5 Licensee Qualifications; Applicable Safety Standards. Licensee shall ensure only qualified parties perform any construction work and shall not construct or install any improvements or fixtures, other than those specifically permitted herein within or upon the License Area. Any construction and/or modifications to the License Area shall be completed and maintained in conformity with all applicable safety standards, rules and regulations, and

specifically in a manner so as to avoid the creation of potentially dangerous conditions and harm to others.

5.6 Restoration of License Area. The License Area shall be restored to a condition acceptable to the City and all debris shall be removed immediately following the completion of the construction of the Irrigation Project.

5.7 Liens; Release. Licensee is not an agent of the City and has no authority to create a lien against the City, the License Area or the City Property for materials or services furnished to Licensee. Licensee shall, immediately following the completion of any construction and upon receipt of request by the City, provide the City with lien waivers or other releases satisfactory to the City to ensure that there are no mechanic's or materialmen's liens filed against the License Area.

5.8 Modification or Relocation of Irrigation Lines at City's Request. If, in the City's sole determination, modification or relocation of the Irrigation Lines is necessary to accommodate the operational needs or plans of the City, including, but not limited to, any major repair, modification, construction, or reconstruction of the City's existing or future property, Licensee, at Licensee's sole expense, shall promptly modify or relocate the Irrigation Lines within 90 days after notice from the City.

6. Maintenance of License Area. Licensee, at Licensee's sole expense, shall maintain the Irrigation Lines, License Area and City Property and public areas, in good, sanitary and safe condition, as conclusively determined by the City. Licensee, at its sole cost and expense shall replace any City Property or landscaping damaged by Licensee. Licensee shall indemnify the City against any and all claims related to Licensee's use of the License Area, unless caused by the negligent or willful misconduct of the City, its agents, employees or contractors. Notwithstanding the foregoing, the City has no obligation to inspect the License Area or the Irrigation Lines, nor to report the condition of same to Licensee or others.

7. Release.

7.1 Release from Liability. Licensee shall release the City from liability for any and all damages arising out of any delay, whether reasonable or unreasonable, or foreseeable or unforeseeable, by the City in permitting or inspecting any work on the License Area. The provisions of this Section shall survive termination of this Agreement.

8. Environmental Compliance

8.1 Definitions. For purposes of this Agreement, "Environmental Laws" shall mean all federal, state, local and foreign laws and regulations relating to pollution or protection of human health or the environment (including without limitation ambient air, surface, water, ground water, land surface or subsurface strata), including without limitation laws and regulations relating to emissions, discharges, Release or threatened Release of Hazardous Materials or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials. Environmental Laws include but are not limited to the Comprehensive Environmental Response, Compensation and Liability

Act, 42 U.S.C. S 9601 et seq., as amended (CERCLA), Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), the Resource Conservation and Recovery Act, as amended (RCRA) the Superfund Amendments and Reauthorization Act of 1986, as amended (SARA), the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended (CWA) and the Toxic Substances Control Act, as amended (TSCA). "Hazardous Materials" shall mean chemicals, pollutants, contaminants, wastes and toxic substances, including without limitation (A) solid or hazardous waste, as defined in RCRA or in any Environmental Law; (B) hazardous substances, as defined in CERCLA or in any Environmental Law; (C) toxic substances, as defined in TSCA or in any Environmental Law; (D) insecticides, fungicides, or rodenticides, as defined in FIFRA or in any Environmental Law; and (E) gasoline or any other petroleum product or byproduct, polychlorinated biphenyls, asbestos and urea formaldehyde.

8.2 License Area. To the City's actual knowledge, (A) the License Area does not contain any Hazardous Substances (as defined herein) in violation of any existing Environmental Laws, (B) there have been no releases of Hazardous Substances from or upon the License Area, (C) the License Area has not, at any time, been used for the generation, transportation, management, handling, treatment, storage, manufacture, emission, disposal or deposit of any Hazardous Substances or fill or other materials containing Hazardous Substances in excess of levels permitted under applicable law, and (D) the License Area is in compliance with all related Environmental Laws. "Hazardous Substances" means any industrial waste, toxic waste, hazardous materials, chemical, contaminant or other substance which, as of the date of this Agreement, is designated as hazardous or toxic under any federal, state or local legislation applicable to the License Area or is defined as hazardous, or toxic by any governmental authority having jurisdiction over the License Area (including, without limitation, petroleum and petroleum products). Licensee shall not (except in the ordinary course of Licensee's operation of its Water Resources Project and then, only in accordance with applicable laws) use or allow the License Area to be used for the Release, storage, use, treatment, disposal or other handling of any Hazardous Substances, without the prior consent of the City. The term "Release" shall have the same meaning as is ascribed to it in CERCLA. Except for the use of Hazardous Substances in the ordinary course of Licensee's Water Resources Project and in accordance with applicable laws, and the receiving, storing, and dispensing activities contemplated for Licensee's operation of the Water Resources Project (in accordance with all applicable laws), Licensee shall give prior notice to the City of any other activity or operation to be conducted by Licensee on the License Area which involves or has the potential to involve the Release, use, handling, generation, treatment, storage or disposal of any Hazardous Substances ("Licensee's Hazardous Substance Activity").

8.3 Remediation. Licensee shall (A) comply with all federal, state and local laws, codes, ordinances, regulations, permits and licensing conditions governing the use, Release, discharge, emission or disposal of any Hazardous Substances and prescribing methods for or other limitations on storing, handling transporting, generating or otherwise managing Hazardous Substance, (B) at its own expense, promptly contain and remediate any Release of Hazardous Substances arising from any conduct, activity, act, omission or operation involving the use, handling, generation, treatment, storage, disposal or Releases of any Hazardous Substances in, from or to the License Area or the City Property, unless caused by the negligence or willful misconduct of the City, its agents, employees, and contractors, and to remediate and pay for any resultant damage to the License Area, City Property, persons and/or the environment,

(C) give prompt notice to the City and all appropriate regulatory authorities of any Release of any Hazardous Substances on, in or under the License Area or City Property arising from any conduct, activity, act, omission or operation involving the use, handling, generation, treatment, storage, disposal or Releases of any Hazardous Substances in, from or to the Water Resources Project, except to the extent caused by the negligence or willful misconduct of the City, its agents, employees, and contractors, which Release is not made pursuant to and in conformance with the terms of any permit or license duly issued by appropriate governmental authorities, any such notice to include a description of measures taken or proposed to be taken by Licensee to contain and remediate the Release and any resultant damage to the License Area, City Property, persons or the environment,

8.4 Audit. Upon the City's request the Licensee shall execute and deliver to the City, affidavits and representations concerning Licensee's best knowledge and belief regarding the presence of Hazardous Substances on, in or under the License Area. Upon expiration or termination of this Agreement, Licensee shall ensure execute and deliver to the City, affidavits and representations that the License Area is free from the presence and contamination of any Hazardous Substances arising from any conduct, activity, act, omission or operation of the Water Resource Project involving the use, handling, generation, treatment, storage, disposal or Releases of any Hazardous Substances in, from or to the License Area, except to the extent caused by the negligence or willful misconduct of the City, its agents, employees, and contractors. Not more frequently than once per calendar year, the City may retain an independent engineer or other qualified consultant or expert acceptable to the City, to conduct an environmental study or audit of the License Area and immediate surrounding areas. If any such study or audit reveals that Licensee has caused or permitted a violation of the Environmental Laws, Licensee shall reimburse the City for the cost of the study or audit, and shall promptly cause any Release of Hazardous Substances to be remediated in accordance with all legal requirements and subsection 8.3.

8.5 Indemnification. To the fullest extent permitted by law, Licensee shall indemnify, defend and hold harmless the City and each council member, officer, employee or agent thereof (the City and any such person being herein called an "Indemnified Party") for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by, or based upon any Hazardous Substances affecting the License Area and the City Property or violation of any Environmental Laws to the extent attributable to or caused by Licensee's, its officers', employees' or agents' or any person or entity acting on behalf of, or at the direction of the Licensee use of the License Area or the City Property, unless caused by the negligent or willful misconduct of the City, its agents, employees or contractors. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnification in this Section. The provisions of this subsection shall survive the termination of this Agreement.

9. Insurance.

9.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Licensee, Licensee shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies authorized to do business in the State of Arizona pursuant to ARIZ. REV. STAT. § 20-206, as amended, with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the City. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option.

B. No Representation of Coverage Adequacy. By requiring insurance herein, the City does not represent that coverage and limits will be adequate to protect Licensee. The City reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Licensee from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

C. Additional Insured. All insurance coverage and self-insured retention or deductible portions, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Agreement.

D. Coverage Term. All insurance required herein shall be maintained in full force and effect throughout the term of this Agreement.

E. Primary Insurance. Licensee's insurance shall be primary insurance with respect to performance of this Agreement and in the protection of the City as an Additional Insured.

F. Claims Made. In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three years past completion and acceptance of the services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

G. Waiver. All policies, except for Professional Liability, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the City, its agents, representatives, officials, officers and employees for any claims arising out of the activities of Licensee within the License Area. Licensee shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

H. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect

to the policy limits provided to the City. Licensee shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any right under this Agreement is sublet or partially or wholly assigned in any way, Licensee shall execute written agreements with its subtenants/assignees containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the City and Licensee. Licensee shall be responsible for executing any agreements with its subtenants/assignees and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any construction or installation of the Water Resource Project under this Agreement, Licensee will provide the City 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 Licensee'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 City 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. If any of the policies required by this Agreement expire during the life of this Agreement, it shall be Licensee's responsibility to forward renewal certificates and declaration page(s) to the City 30 days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified by referencing this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate reference to this Agreement. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate reference to this Agreement will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

(1) The City, its agents, representatives, officers, directors, officials and employees are Additional Insureds as follows:

(a) Commercial General Liability – Under Insurance Services Office, Inc., (“ISO”) Form CG 20 10 03 97 or equivalent.

(b) Auto Liability – Under ISO Form CA 20 48 or equivalent.

(c) Excess Liability – Follow Form to underlying insurance.

(2) Licensee's insurance shall be primary insurance as respects performance of this Agreement.

(3) All policies, except for Professional Liability, including Workers' Compensation, waive rights of recovery (subrogation) against City, its agents, representatives, officers, officials and employees for any claims arising out of work or services performed by Licensee under this Agreement.

(4) ACORD certificate of insurance form 25 (2014/01) is preferred. If ACORD certificate of insurance form 25 (2001/08) is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

9.2 Required Insurance Coverage.

A. Commercial General Liability. Licensee shall maintain "occurrence" form Commercial General Liability insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as ISO policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured's clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, officials and employees shall be cited as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10 03 97, or equivalent, which shall read "Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you." If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

B. Vehicle Liability. Licensee shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Licensee's owned, hired and non-owned vehicles assigned to or used in the use of the License Area under this Agreement. Coverage will be at least as broad as ISO coverage code "1" "any auto" policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials and employees shall be cited as an Additional Insured under ISO Business Auto policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

C. Workers' Compensation Insurance. Licensee shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Licensee's employees engaged in the use of the License Area under this Agreement and shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

9.3 Cancellation and Expiration Notice. Insurance required herein shall not expire, be canceled, or materially change without 30 days' prior written notice to the City.

10. Termination.

10.1 No later than 180 days after the termination of this Agreement, Licensee shall remove the Irrigation Lines from the License Area and restore the License Area to a condition acceptable to the City. If Licensee fails to remove the Irrigation Lines from the License Area, the Licensee shall reimburse the City for twice the cost and expense of such removal, as conclusively determined by the City, within 30 days after the City presents the Licensee with a statement of such cost and expense. In addition to the indemnification provisions in Section 11 below, Licensee hereby releases the City from all claims of damages resulting to Licensee from such removal.

10.2 Conflict of Interest. This Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511. The City may cancel this Agreement without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the City or any of its departments or agencies is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a consultant to any other party of the Agreement with respect to the subject matter of the Agreement.

11. Indemnification. To the fullest extent permitted by law, Licensee shall indemnify, defend and hold harmless the City and each council member, officer, employee or agent thereof (the City and any such person being herein called an "Indemnified Party"), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the use of the License Area or City Property by Licensee, its officers, employees, agents, or any person or entity acting on behalf of, or at the direction of the Licensee, unless caused by the negligent or willful misconduct of the City, its agents, employees or contractors. The amount and type of insurance coverage requirements set forth above will in no way be construed as limiting the scope of the indemnity in this Section. The provisions of this Section shall survive termination of this Agreement.

12. Sublease or Assignment. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto to the same extent and effect as the same are binding upon and inure to the benefit of the parties hereto. Licensee shall not sublet or assign this Agreement or the rights and privileges herein, in whole or in part, without prior, written consent of the City signed by the City Manager, which may be withheld for any reason and, absent such consent, any attempted assignment shall be void.

13. Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in the Maricopa County, Arizona.

14. Notices and Requests. 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 (i) delivered to the party at the address set forth below, (ii) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (iii) given to a recognized and reputable overnight delivery service, to the address set forth:

If to the City: City of Avondale
 11465 West Civic Center Drive
 Avondale, Arizona 85323
 Attn: Charles Montoya, City Manager

With copy to: City of Avondale
 11465 West Civic Center Drive
 Avondale, Arizona 85323
 Attn: Nicholle Harris, City Attorney

If to Licensee: Del Rio Ranch III Homeowners Association
 450 North Dobson Road, Suite 201
 Mesa, Arizona 85201
 Attn: Don Switzenberg, President

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 section. Notices shall be deemed received (i) when delivered to the party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (iii) 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.

15. Amendments. This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the City and the Licensee.

16. Provisions Required by Law. Each and every provision of law and any clause required by law to be in the Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Agreement will promptly be physically amended to make such insertion or correction.

17. Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a court of competent jurisdiction shall not

affect any other provision or application of the Agreement which may remain in effect without the invalid provision or application.

18. Relationship of the Parties. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever.

19. Entire Agreement; Interpretation; Parol Evidence. This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting the Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.

20. Rights and Remedies. No provision in this Agreement shall be construed, expressly or by implication, as waiver by the City of any existing or future right and/or remedy available by law in the event of any claim of default or breach of this Agreement. The failure of the City to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the City's acceptance of and payment for services, shall not release the Licensee from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of this Agreement.

21. Attorneys' Fees. In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date and year set forth below.

“City”

CITY OF AVONDALE, an Arizona
municipal corporation

Charles A. Montoya, City Manager

ATTEST:

Marcella Carrillo, City Clerk

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2021, before me personally appeared Charles A. 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 in and for the State of Arizona

(affix notary seal here)

“Licensee”

DEL RIO RANCH III HOMEOWNERS ASSOCIATION,
an Arizona non-profit corporation

Don Switzenberg, President

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2021, before me personally appeared Don Switzenberg, the President of DEL RIO RANCH III HOMEOWNERS ASSOCIATION, an Arizona non-profit 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 Del Rio Ranch III Homeowners Association.

Notary Public in and for the State of Arizona

(affix notary seal here)

EXHIBIT A
TO
LICENSE AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
DEL RIO RANCH III HOMEOWNERS ASSOCIATION

[License Areas and City Property]

See following pages.

EXHIBIT "A"
PRIVATE IRRIGATION CROSSING CITY RIGHT-OF-WAY DESCRIPTION

A PORTION OF LAND LOCATED IN THE SOUTHEAST OF SECTION 14, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SECTION OF SAID SECTION 14, BEING MONUMENTED BY A BRASS CAP FLUSH, FROM WHICH THE SOUTHEAST CORNER OF SAID SECTION 14, BEING MONUMENTED BY A BRASS CAP IN HANDHOLE, BEARS SOUTH 00 DEGREES 10 MINUTES 17 SECONDS WEST, 2666.82 FEET;

THENCE NORTH 88 DEGREES 56 MINUTES 07 SECONDS WEST, ALONG THE EAST-WEST MID-SECTION LINE OF SAID SECTION 14, 1609.73 FEET;

THENCE DEPARTING SAID EAST-WEST MID-SECTION LINE, SOUTH 01 DEGREES 03 MINUTES 53 SECONDS WEST, 112.64 FEET TO THE **POINT OF BEGINNING**;

THENCE NORTH 50 DEGREES 24 MINUTES 37 SECONDS EAST, 60.03 FEET;

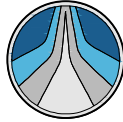
THENCE SOUTH 07 DEGREES 05 MINUTES 55 SECONDS WEST, 14.14 FEET;

THENCE SOUTH 50 DEGREES 22 MINUTES 02 SECONDS WEST, 50.02 FEET

THENCE NORTH 37 DEGREES 54 MINUTES 05 SECONDS WEST, 9.74 FEET TO SAID **POINT OF BEGINNING**;

SAID PARCEL CONTAINS 535 SQUARE FEET OR 0.0123 ACRES, MORE OR LESS.





HUBBARD
ENGINEERING

www.hubbardengineering.com

1201 S. Alma School Rd.
Suite 12000
Mesa, AZ 85210
Ph: 480.892.3313

CENTER SECTION,
SEC. 14, T1N, R1W,
FND. REBAR AFFIXED
CAP LS# 41282

E-W MID-SECTION LINE, SEC. 14, T1N, R1W
N88°56'07"W 2619.75'

P.O.C.

E. 1/4 CORNER,
SEC. 14, T1N, R1W,
FND. BCF

1010.02'

1609.73'

HOPÍ STREET

534.7277 SF
0.0123 AC

TRACT T

N50°24'37"E
60.03'

S7°05'55"W
14.14'

320

S50°22'02"W
50.02'

**PRIVATE IRRIGATION
CROSSING CITY R/W**

125TH DRIVE

319

P.O.B.

N37°54'05"W
9.74'

S0°10'17"W 2666.82'

**E. LINE, SE 1/4, SEC. 14, T1N, R1W
EL MIRAGE ROAD**

**SE CORNER,
SEC. 14, T1N, R1W,
FND. BCHH**



N.T.S.



DEL RIO III
PRIVATE IRRIGATION CROSSING CITY R/W
EXHIBIT "A"
City of Avondale, Maricopa County, Arizona

Project No.
16178

Date
07/20/21

Project Manager
ADRIAN BURCHAM

Project Eng.

Sht: 1 of 1

EXHIBIT "A"
PRIVATE IRRIGATION CROSSING CITY RIGHT-OF-WAY DESCRIPTION

A PORTION OF LAND LOCATED IN THE SOUTHEAST OF SECTION 14, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SECTION OF SAID SECTION 14, BEING MONUMENTED BY A BRASS CAP FLUSH, FROM WHICH THE SOUTHEAST CORNER OF SAID SECTION 14, BEING MONUMENTED BY A BRASS CAP IN HANDHOLE, BEARS SOUTH 00 DEGREES 10 MINUTES 17 SECONDS WEST, 2666.82 FEET;

THENCE NORTH 88 DEGREES 56 MINUTES 07 SECONDS WEST, ALONG THE EAST-WEST MID-SECTION LINE OF SAID SECTION 14, 1225.76 FEET;

THENCE DEPARTING SAID EAST-WEST MID-SECTION LINE, SOUTH 01 DEGREES 03 MINUTES 53 SECONDS WEST, 159.51 FEET TO THE **POINT OF BEGINNING**;

THENCE SOUTH 42 DEGREES 33 MINUTES 35 SECONDS EAST, 10.06 FEET;

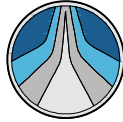
THENCE SOUTH 49 DEGREES 25 MINUTES 43 SECONDS WEST, 73.05 FEET;

THENCE NORTH 42 DEGREES 32 MINUTES 53 SECONDS WEST, 10.10 FEET

THENCE NORTH 49 DEGREES 27 MINUTES 48 SECONDS EAST, 73.05 FEET TO SAID **POINT OF BEGINNING**;

SAID PARCEL CONTAINS 736 SQUARE FEET OR 0.0169 ACRES, MORE OR LESS.





HUBBARD
ENGINEERING

www.hubbardengineering.com

1201 S. Alma School Rd.
Suite 12000
Mesa, AZ 85210
Ph: 480.892.3313

CENTER SECTION,
SEC. 14, T1N, R1W,
FND. REBAR AFFIXED
CAP LS# 41282

E-W MID-SECTION LINE, SEC. 14, T1N, R1W
N88°56'07"W 2619.75'

P.O.C.

E. 1/4 CORNER,
SEC. 14, T1N, R1W,
FND. BCF

125TH AVENUE

PRIVATE IRRIGATION
CROSSING CITY R/W

S1°03'53"W

159.51'

P.O.B.

S42°33'35"E

10.06'

N49°27'48"E
73.05'

S49°25'43"W
73.05'

TRACT T

N42°32'53"W
10.10'

DEL RIO III - PHASE 1
BK. 1426, PG. 40, M.C.R.

S0°10'17"W 2666.82'
E. LINE, SE 1/4, SEC. 14, T1N, R1W
EL MIRAGE ROAD

SE CORNER,
SEC. 14, T1N, R1W,
FND. BCHH



DEL RIO III
PRIVATE IRRIGATION CROSSING CITY R/W
EXHIBIT "A"
City of Avondale, Maricopa County, Arizona

Project No.
16178

Date
07/20/21

Project Manager
ADRIAN BURCHAM

Project Eng.

Sht: 1 of 1

EXHIBIT "A"
PRIVATE IRRIGATION CROSSING CITY RIGHT-OF-WAY DESCRIPTION

A PORTION OF LAND LOCATED IN THE SOUTHEAST OF SECTION 14, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SECTION OF SAID SECTION 14, BEING MONUMENTED BY A BRASS CAP FLUSH, FROM WHICH THE SOUTHEAST CORNER OF SAID SECTION 14, BEING MONUMENTED BY A BRASS CAP IN HANDHOLE, BEARS SOUTH 00 DEGREES 10 MINUTES 17 SECONDS WEST, 2666.82 FEET;

THENCE NORTH 88 DEGREES 56 MINUTES 07 SECONDS WEST, ALONG THE EAST-WEST MID-SECTION LINE OF SAID SECTION 14, 2074.21 FEET;

THENCE DEPARTING SAID EAST-WEST MID-SECTION LINE, SOUTH 01 DEGREES 03 MINUTES 53 SECONDS WEST, 20.57 FEET TO THE **POINT OF BEGINNING**;

THENCE SOUTH 89 DEGREES 31 MINUTES 25 SECONDS EAST, 62.26 FEET;

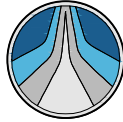
THENCE SOUTH 47 DEGREES 46 MINUTES 48 SECONDS WEST, 14.75 FEET;

THENCE NORTH 89 DEGREES 31 MINUTES 25 SECONDS WEST, 51.83 FEET

THENCE NORTH 02 DEGREES 46 MINUTES 48 SECONDS EAST, 10.01 FEET TO SAID **POINT OF BEGINNING**;

SAID PARCEL CONTAINS 570 SQUARE FEET OR 0.0131 ACRES, MORE OR LESS.





HUBBARD
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CENTER SECTION,
SEC. 14, T1N, R1W,
FND. REBAR AFFIXED
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E-W MID-SECTION LINE, SEC. 14, T1N, R1W
N88°56'07"W 2619.75'

P.O.C.

E. 1/4 CORNER,
SEC. 14, T1N, R1W,
FND. BCF

545.54'

2074.21'

S1°03'53"W

S89°31'25"E

HOPI STREET

TRACT A2

20.57'

62.26'

N2°46'48"E

N89°31'25"W

S47°46'48"W

10.01'

51.83'

14.75'

PRIVATE IRRIGATION
CROSSING CITY R/W

126TH DRIVE

397

435

396

395

434

S0°10'17"W 2666.82'

E. LINE, SE 1/4, SEC. 14, T1N, R1W
EL MIRAGE ROAD



N.T.S.



SE CORNER,
SEC. 14, T1N, R1W,
FND. BCHH

DEL RIO III

PRIVATE IRRIGATION CROSSING CITY R/W

EXHIBIT "A"

City of Avondale, Maricopa County, Arizona

Project No.
16178

Date
07/20/21

Project Manager
ADRIAN BURCHAM

Project Eng.

Sht: 1 of 1

CITY COUNCIL REPORT

SUBJECT: Omni Avondale Self-Storage – Re-Plat – Application PL-21-0152

MEETING DATE: 10/25/2021

TO: Mayor and Council

FROM: Kevin Murphy, Development & Engineering Services Director

THROUGH: Lindsey Duncan, Deputy City Manager, (623) 333-1012

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

STRATEGIC PLAN:

OUTCOME AREA: Creative and Sustainable Community Development.

STRATEGY: Increase sustainability initiatives such as renewable clean energy or sustainable design and construction.

PURPOSE:

City Council will consider a request by Jason Sanks, Sanks and Associates, on behalf of the property owner Lower Buckeye and Avondale LLC, for approval of a Re-Plat. The proposed Re-Plat divides an 8.67 gross-acre subject property into three (3) parcels and dedicates an eighteen (18) inch private utility easement. The site is located approximately 323 feet north of the northeast corner of Avondale Boulevard and Lower Buckeye Road. The Council will take appropriate action.

BACKGROUND:

The site is located approximately 323 feet north of the northeast corner of Avondale Boulevard and Lower Buckeye Road, (Exhibits A and B). The property was annexed into the City's corporate limits on April 14, 1999 (Ordinance No. 693-99) and rezoned to Durango Park Planned Area Development (PAD) case number Z-98-361A.

The property is designated by the General Plan 2030 Land Use Map as Local Commercial. The Local Commercial land use designation is primarily intended to provide the daily needs of goods and services for residents residing within the surrounding area. The types of uses allowed in this category specifically for local residents may include grocery stores, gas stations, neighborhood/retail services, and office and medical uses serving consumers residing in adjacent residential areas, which promotes a walkable community.

The property has 257.47 feet of frontage on Avondale Boulevard and 491.72 feet of frontage on Lower Buckeye Road.

There is a concurrent request to allow for a Conditional Use Permit to allow for a mini-storage and personal storage facility on the property (PL-21-0151).

The existing uses and zoning of surrounding properties include:

NORTH: Durango Park, a single-family residential subdivision zoned PAD.

EAST: Durango Park, a single-family residential subdivision zoned PAD.

SOUTH of LOWER BUCKEYE ROAD: Raceway Ranchos, a residential subdivision located in the jurisdiction of Maricopa County. South of the project is a planned McDonald's to be constructed in 2022 on the immediate northeast corner of Avondale Boulevard and Lower Buckeye Road.

WEST of AVONDALE BOULEVARD: A 12.2-acre vacant, commercial corner of Del Rio Ranch, zoned PAD.

DISCUSSION:

SUMMARY OF REQUEST:

The applicant is requesting approval of the Omni-Avondale Re-Plat (Exhibit D). The proposed Re-Plat splits an 8.58 gross-acre parcel into (3) lots (Lots 1, Lot 2, and Lot 3) as follows:

- Lot 1: 3.65 acres
- Lot 2: 1.58 acres
- Lot 3: 3.35 acres

The Re-Plat also dedicates an eighteen (18) inch private utility easement.

PUBLIC PARTICIPATION:

Public notification is not required for Re-Plat applications.

PLANNING COMMISSION ACTION:

The Planning Commission does not review Re-Plat applications.

ANALYSIS:

The proposed Re-Plat has been reviewed by the City's contracted Registered Land Surveyor and the document has been confirmed as geometrically accurate and in conformance with Arizona Statutes governing the subdivision of real property. The proposed Re-Plat is in conformance with the City of Avondale Zoning Ordinance and Subdivision Regulations. The proposed Re-Plat splits an 8.58 net-acre parcel into three (3) parcels (Lot 1, Lot 2, and Lot 3) and dedicates an eighteen (18) inch private utility easement.

DISCUSSION:

1. The proposed Re-Plat is in conformance with the City of Avondale Zoning Ordinance and Subdivision Regulations.
2. The condition of approval is 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:

No budget impacts.

RECOMMENDATION:

Staff recommends that City Council **APPROVE** application PL-21-0152 Omni Avondale Self-Storage Re-Plat, subject to the following one (1) condition of approval:

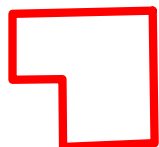
1. Development shall conform to the Omni Avondale Self-Storage Re-Plat submitted August 5, 2021.

PROPOSED MOTION:

I move that City Council **APPROVE** Application PL-21-0152 Omni Avondale Self-Storage, subject to one (1) recommended condition of approval as listed in the staff report.

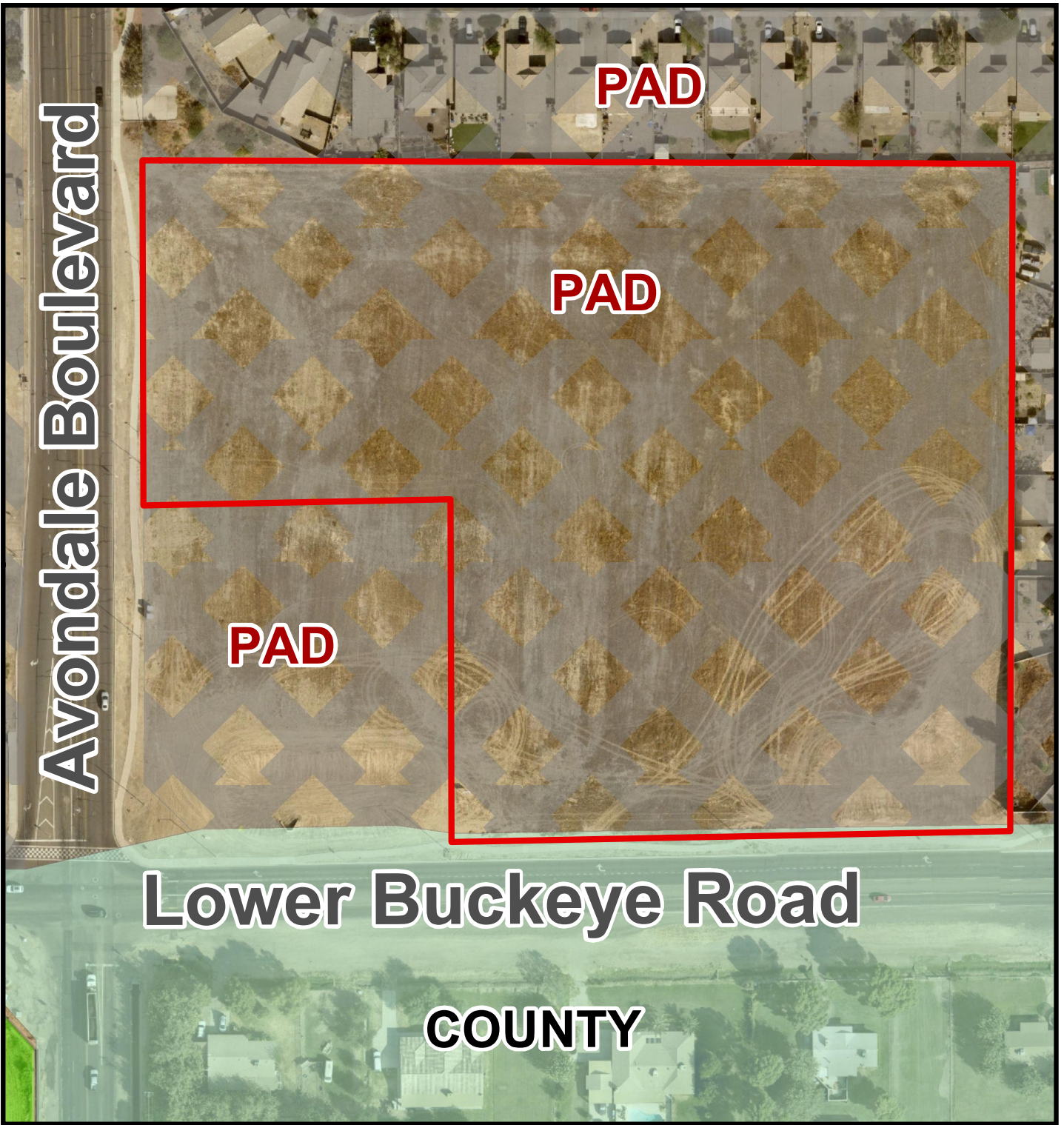


Aerial Photograph

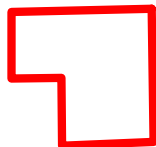


Project Location



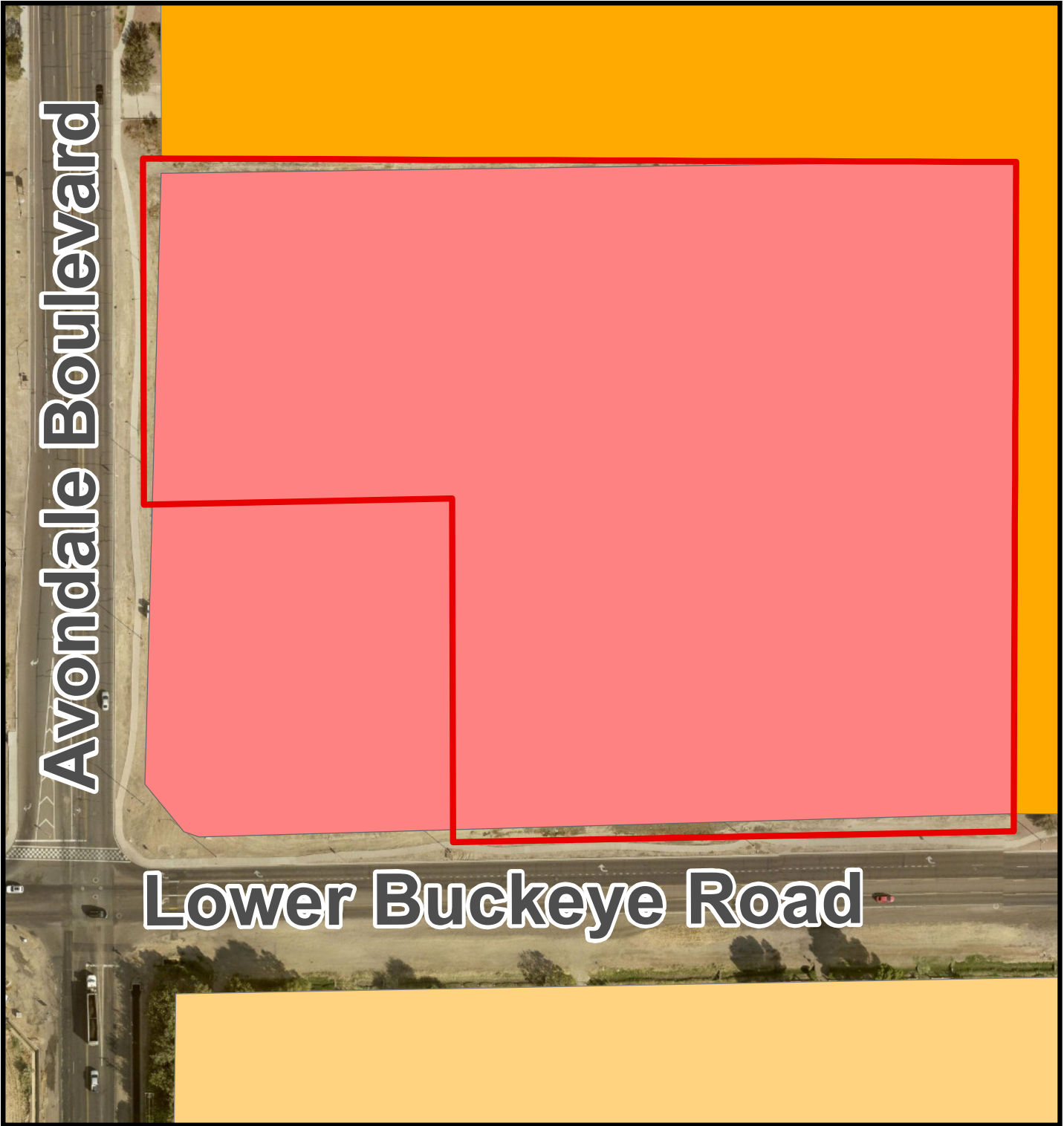


Zoning Vicinity Map

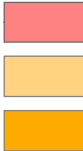


Project Location





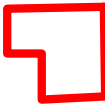
General Plan Land Use Map



Local Commercial

Estate/Low Density Residential

Medium Density Residential



Project
Location



Exhibit D

Re-Plat

CITY COUNCIL REPORT

SUBJECT: Authorization to Proceed with Annexation – Shadow Ridge - Application PL-21-0100

MEETING DATE: 10/25/2021

TO: Mayor and Council

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

THROUGH: Lindsey Duncan, Deputy City Manager, (623) 333-1012

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

STRATEGIC PLAN:

Strategic Outcome Area: Creative and Sustainable Community Development.

Strategic Goal: Avondale is committed to creating a sense of place, a community of residents and local businesses unified by pride and common values.

PURPOSE:

City Council will consider a request by Cindy Paddock of HILGARTWILSON, on behalf of property owner EIEIO LLC, to begin the annexation process of approximately 116.78 acres generally located at the southeast corner of Avondale Boulevard and Miami Avenue. The Council will take appropriate action.

BACKGROUND:

The proposed annexation request includes two (2) parcels of land totaling approximately 116.78 acres generally located at the southeast corner of Avondale Boulevard and Miami Avenue (Exhibit A). The boundary of the annexation includes two (2) parcels:

- **APN 101-21-003C**, owned by EIEIO LLC: Located at the southeast corner of Avondale Boulevard and Miami Avenue, this parcel totals approximately 113.57 acres and is anticipated to develop with the “Shadow Ridge” master planned community. The proposed Shadow Ridge rezoning to Planned Area Development (PAD) would allow for development of the 113.57 acres with single-family residential for a total of 430 dwelling units consisting of four (4) different minimum lot sizes (45’ x 120’, 50’ x 115’/120’, 55’ x 120’ and 63’ x 120’) at a density of 3.6 dwelling units per acre, 25 percent open space including amenity areas and trails. This parcel is undeveloped and is currently being farmed.
- **APN 101-23-004D**, owned by BW 147 LLC: Located approximately 2549 feet south of the southeast corner of Avondale Boulevard and Miami Avenue, and 380 feet east of Avondale Boulevard, this parcel totals approximately 1.88 acres and is adjacent to a City of Goodyear pump station to the west. The property contains a canal that is not part of the Shadow Ridge project.

The annexation request does not include any portions of public rights-of-way. The south half of Miami Avenue is not included in the proposed annexation, as it is planned for this street to remain in Maricopa County’s

jurisdiction and is not built to City standards.

Approximately 113.57 acres subject to the annexation request is zoned Maricopa County Residential Unit Plan of Development (R1-6/RUPD), which allows for development of 6,000 square foot single-family residential lots within the County (Exhibit B). The remainder of the land is zoned Maricopa County Rural-43 (RU-43), a district that allows for agricultural and large lot single-family residential uses. As noted previously, upon annexation, it is anticipated that approximately 113.57 acres will be rezoned to City zoning equivalent to the existing County zoning then rezoned to Planned Area Development to accommodate the proposed Shadow Ridge master planned community. The remainder of land would be given City zoning equivalent to the existing County zoning.

The current land use designation of the property is Estate Low Density Residential which allows for one-and-a-half to two-and-a-half (1.5-2.5) dwelling units/acre and there is a concurrent request to change the designation to Medium Density Residential, which allows up to two-and-a-half to four (2.5-4) dwelling units/acre.

The existing uses and zoning of adjacent properties that are not included in the annexation request are:

- **North of Miami Avenue:** Several unincorporated parcels, generally 1.2 acres in size, mostly developed with single-family residences and related accessory structures. These properties are zoned County RU-43 (Rural-43).
- **East:** Entrada, a master planned community, zoned Planned Area Development and approved for 625 single-family dwelling units with lot sizes of 45' X 110', 50' X 115', and 55' X 120'. The property is undeveloped and the construction timeline is unknown.
- **South:** The master planned community, Entrada as described above, and a pump station owned by the City of Goodyear zoned Rural Residential (RR-43).
- **West of Avondale Boulevard:** Several undeveloped parcels in agricultural production which includes two (2) projects: Fleming Farms, a platted Planned Area Development (allows for single-family use and includes a commercial component zoned Z-05-18) and Diamond P Ranch Planned Area Development (allows for single-family uses and includes a commercial component zoned Z-07-4)

A Major General Plan Amendment is scheduled to be heard before Planning Commission on October 20, 2021 and November 17, 2021, and the City Council on December 13, 2021. Rezoning of these parcels to PAD zoning is scheduled for the November 17, 2021 Planning Commission and the December 13, 2021 City Council.

SUMMARY OF REQUEST:

The project applicant, Cindy Paddock of HILGARTWILSON, is requesting that the City Council provide City Staff with "authorization to proceed" with the proposed annexation of 116.78 acres as described in the legal description and map exhibit attached to this report as Exhibit E.

At this time, Staff expects that the required public hearing will be held during the November 15, 2021 City Council meeting, with adoption of the annexation Ordinance anticipated at the December 13, 2021 City Council meeting.

DISCUSSION:

Receiving "authorization to proceed" from City Council is the first step in the annexation of properties. Once authorized, Staff will begin completing all statutorily mandated steps towards annexation of property, including obtaining property owner and valuation information from the Maricopa County Assessor and State of Arizona Department of Revenue, scheduling the annexation for a required public hearing before City Council and a separate City Council meeting for adoption, recording a blank petition, completing all required notifications, obtaining property owner signatures, and preparing an Ordinance for the proposed Annexation.

Providing authorization to proceed does not obligate the City Council to approve the proposed annexation when the item does come back to a future Council meeting for adoption.

BUDGET IMPACT:

The annexation application included the required \$6,000.00 fee that will be used towards costs related to the processing of the annexation. As noted previously, providing authorization to proceed does not obligate the City Council to approve the proposed annexation at a future meeting.

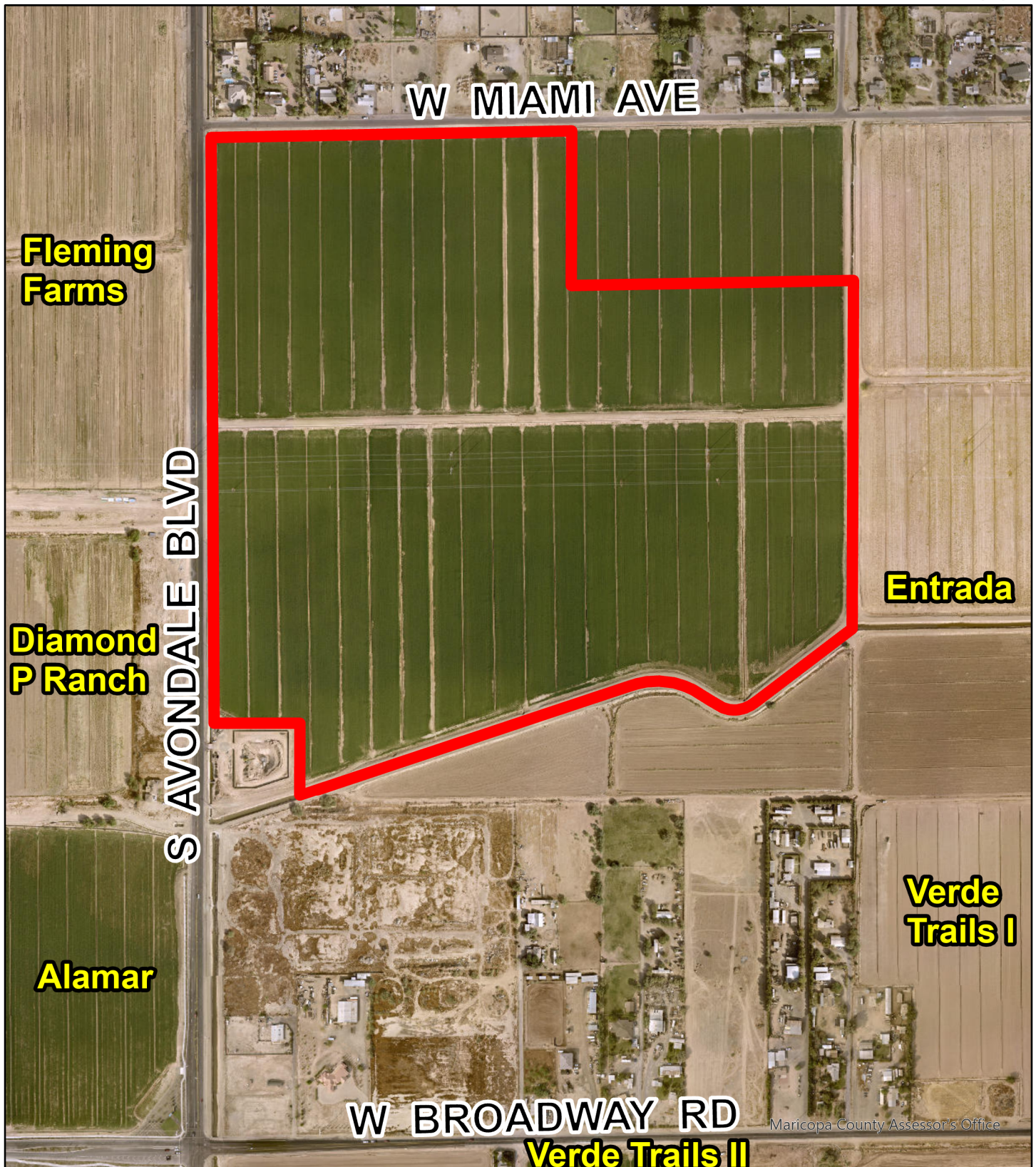
If the proposed annexation is approved at a future meeting and the properties are developed within the City, revenue from construction sales tax, property tax, sales tax, water and sewer fees, and development impact fees can be expected. Conversely, the City will incur costs of serving the property with Avondale services, including, but not limited to, water, sewer, sanitation, police, fire, and street services.

RECOMMENDATION:

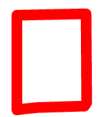
City Council will **AUTHORIZE** City Staff to proceed with the process of annexing approximately 116.78 acres generally located at the southeast corner of Avondale Boulevard and Miami Avenue.

PROPOSED MOTION:

I move that City Council **AUTHORIZE** City Staff to proceed with the process of annexing approximately 116.78 acres generally located at the southeast corner of Avondale Boulevard and Miami Avenue.

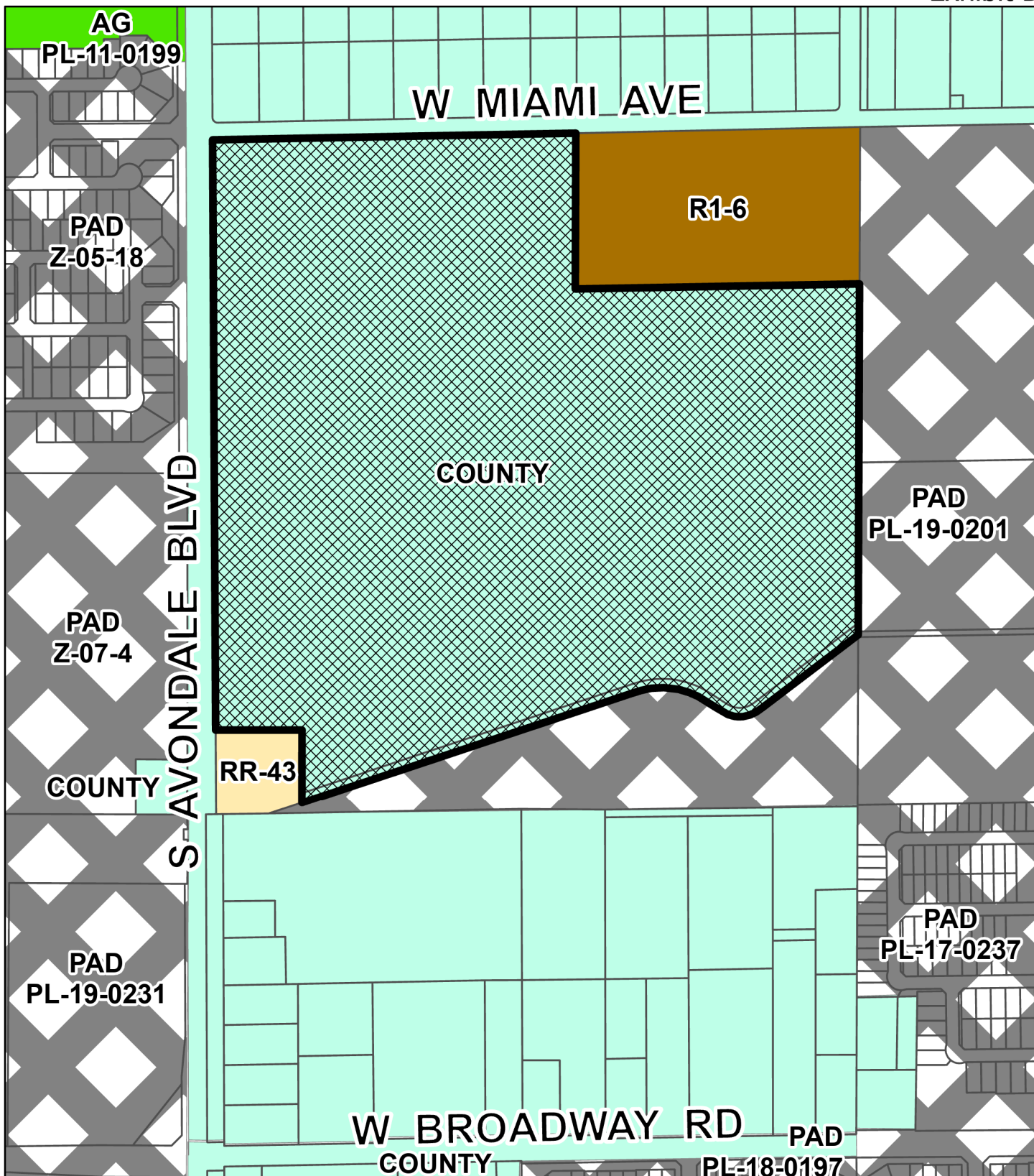


Aerial Photograph



Subject Property



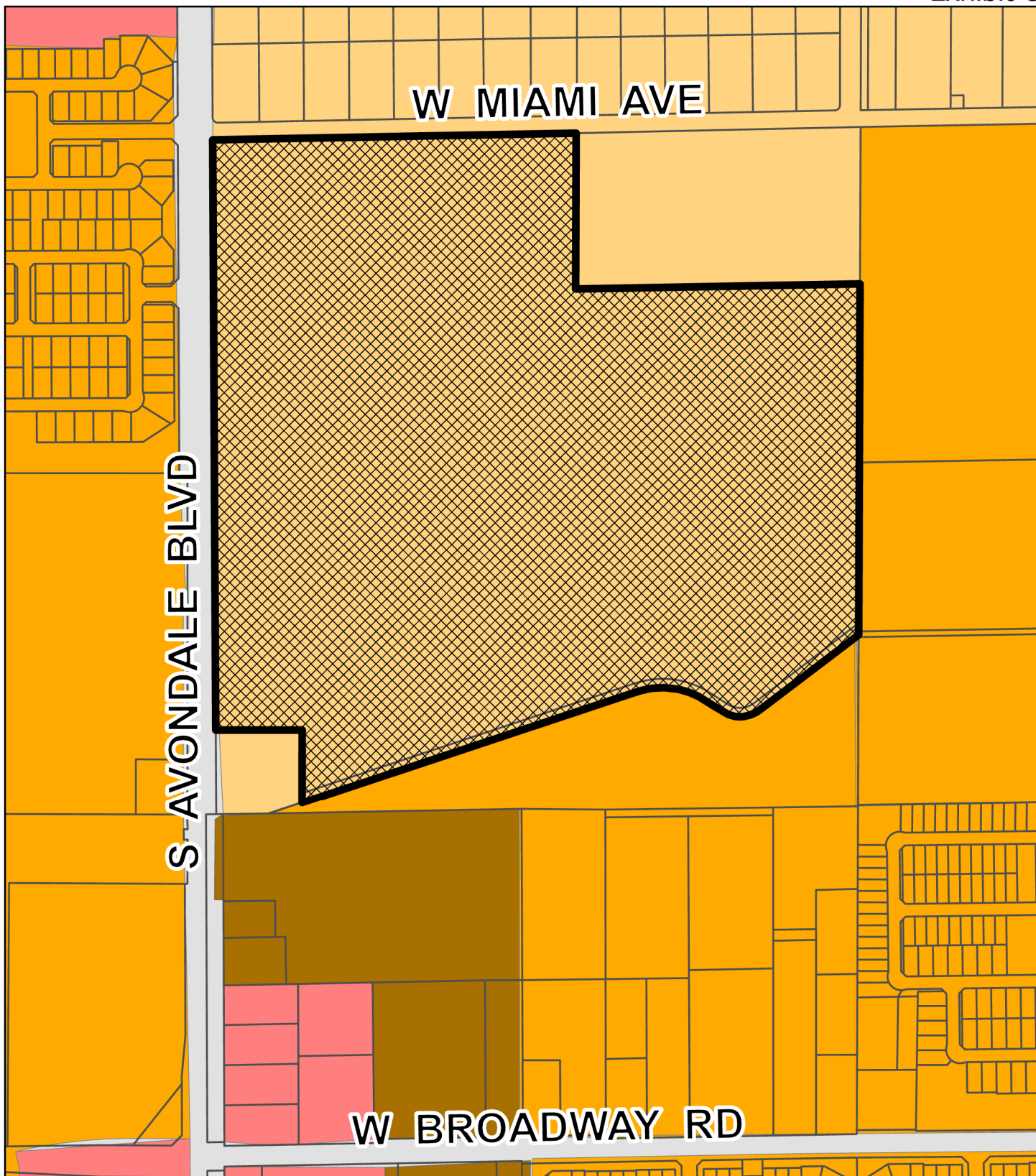


Zoning Vicinity



Subject Property





General Plan Land Use



- Local Commercial
- Estate/Low Density Residential
- Medium Density Residential
- High Density Residential



Subject Property



*SUMMARY OF RELATED FACTS
APPLICATION PL-21-0100*

<i>THE PROPERTY</i>	
PROPERTY SIZE	Approximately 116.78 acres
LOCATION	Southeast corner of Avondale Boulevard and Miami Avenue
PHYSICAL CHARACTERISTICS	Vacant, undeveloped, generally flat, and in agricultural production
GENERAL PLAN LAND USE DESIGNATION	Estate Low Density Residential
EXISTING ZONING	County R1-6/RUPD

<i>SURROUNDING ZONING AND LAND USE</i>	
NORTH OF MIAMI AVE.	Several unincorporated parcels, generally 1.2 acres in size, mostly developed with single-family residences and related accessory structures. These properties are zoned County RU-43 (Rural-43).
EAST	Entrada, a master planned community, zoned Planned Area Development and approved for 625 single-family dwelling units with lot sizes of 45' X 110', 50' X 115', and 55' X 120'. The property is undeveloped and the construction timeline is unknown.
SOUTH	The master planned community, Entrada as described above, and a pump station owned by the City of Goodyear zoned Rural Residential (RR-43).
WEST OF AVONDALE BLVD.	Several undeveloped parcels in agricultural production which includes two (2) projects: Fleming Farms, a platted Planned Area Development (allows for single-family use and includes a commercial component zoned Z-05-18) and Diamond P Ranch Planned Area Development (allows for single-family uses and includes a commercial component zoned Z-07-4)

<i>PUBLIC SCHOOLS</i>	
SCHOOL DISTRICT(S)	Littleton School District, Tolleson Union High School
ELEMENTARY SCHOOL	Students' choice
HIGH SCHOOL	La Joya School District

<i>STREETS</i>	
Miami Avenue	
Classification	Collector
Existing half street right-of-way	33
Standard half street right-of-way	County standards
Existing half street improvements	One travel lane
Standard half street improvements	County standards

<i>STREETS</i>	
Avondale Boulevard	
Classification	Minor Arterial
Existing half street right-of-way	70
Standard half street right-of-way	50
Existing half street improvements	Two travel lanes
Standard half street improvements	Two travel lanes, half center turn lane, sidewalk, curb, gutter, streetlights

<i>UTILITIES</i>
City of Avondale is the water and sewer provider for this parcel once annexed. There is a 16-inch water line in and 36-inch sewer line in Avondale Boulevard and a 6-inch water line in Miami Avenue. SRP provides electrical service to this area.

**SHADOW RIDGE
CITY OF AVONDALE ANNEXATION
LEGAL DESCRIPTION**

That portion of the West half of Section 19, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, recorded as Special Warranty Deed 2019-0116450 and Quit-Claim Deed 2020-0980647, Records of Maricopa County, Arizona, being more particularly described as follows:

COMMENCING at the Northwest corner of said Section 19, being a found 3" brass cap flush marked "LS 21782" from which a found MCDOT brass cap in hand hole accepted as the West quarter corner thereof bears South 00 degrees 15 minutes 28 seconds East 2644.64 feet;

Thence South 00 degrees 15 minutes 28 seconds East, 1355.32 feet along the West line of the Northwest quarter of said Section 19;

Thence leaving said west line, North 88 degrees 59 minutes 52 seconds East, 70.01 feet to the **POINT OF BEGINNING**;

Thence North 88 degrees 59 minutes 52 seconds East 1405.70 feet to the westerly line of Ordinance #2025-0820;

Thence along said westerly line the following 11 courses:

Thence South 00 degrees 13 minutes 03 seconds West, 601.99 feet parallel with the east line of the Northwest quarter of Section 19;

Thence North 88 degrees 59 minutes 52 seconds East, 1100.00 feet parallel with the North line of the Southeast quarter of the Northwest quarter of Section 19 to the East line of the Northwest quarter of Section 19;

Thence South 00 degrees 13 minutes 03 seconds West, 690.63 feet along said East line to the Center of Section 19;

Thence continuing South 00 degrees 13 minutes 03 seconds West, 666.97 feet along the East line of the Southwest quarter of Section 19 to the centerline of the St. John's Ditch, recorded in Book 161 of Deeds, Page 231, also being the southerly line of the property as described in said Quit-Claim Deed;

Thence, for the next five (5) courses along the centerline of said St. John's Ditch;

Thence South 52 degrees 38 minutes 31 seconds West, 482.06 feet to the beginning of a tangent curve, whose radius bears North 37 degrees 21 minutes 29 seconds West a distance of 125.00 feet;

Thence westerly along said curve through a central angle of 70 degrees 10 minutes 31 seconds a distance of 153.10 feet to a point of tangency;

Thence North 57 degrees 10 minutes 58 seconds West, 82.73 feet to the beginning of a tangent curve, whose radius bears South 32 degrees 49 minutes 02 seconds West a distance of 300.00 feet;

Thence westerly along said curve through a central angle of 51 degrees 03 minutes 18 seconds a distance of 267.32 feet to a point of tangency;

Thence South 71 degrees 45 minutes 44 seconds West, 1369.12 feet to the west line of said Quit-Claim Deed, also being the east line of the property as described in the Special Warranty Deed as recorded in Document No. 2019-0226874, Records of Maricopa County, Arizona;

Thence leaving said centerline and along said east line, North 00 degrees 00 minutes 00 seconds East, 283.56 feet to the northeast corner of said Special Warranty Deed;

Thence along the north line of said Special Warranty Deed, North 90 degrees 00 minutes 00 seconds West, 334.99 feet to a line that is parallel with and 70.00 feet east of the west line of the Southwest quarter of said Section 19, said line also being the easterly line of Ordinance #1708-1019;

Thence along said parallel line and along said easterly line, North 00 degrees 13 minutes 47 seconds West, 991.00 feet to a line that is parallel with and 70.00 feet east of the west line of the Northwest quarter of said Section 19;

Thence continuing along said easterly line and along last said parallel line, North 00 degrees 15 minutes 28 seconds West, 1290.24 feet to the **POINT OF BEGINNING**.

The above described parcel contains a computed area of 5,040,567 sq. ft. (115.7155 acres) more or less and being subject to any easements, restrictions, rights-of-way of record or otherwise.

The description shown hereon is not to be used to violate any subdivision regulation of the state, county and/or municipality or any land division restrictions.

Prepared by: HILGARTWILSON, LLC
2141 E. Highland Avenue, Suite 250
Phoenix, AZ 85016
Project No. 2297
Date: September 2021



NORTHWEST CORNER
SECTION 19, T1N, R1E
FOUND 3" BRASS CAP
FLUSH LS 21782
POINT OF COMMENCEMENT



MARICOPA
COUNTY

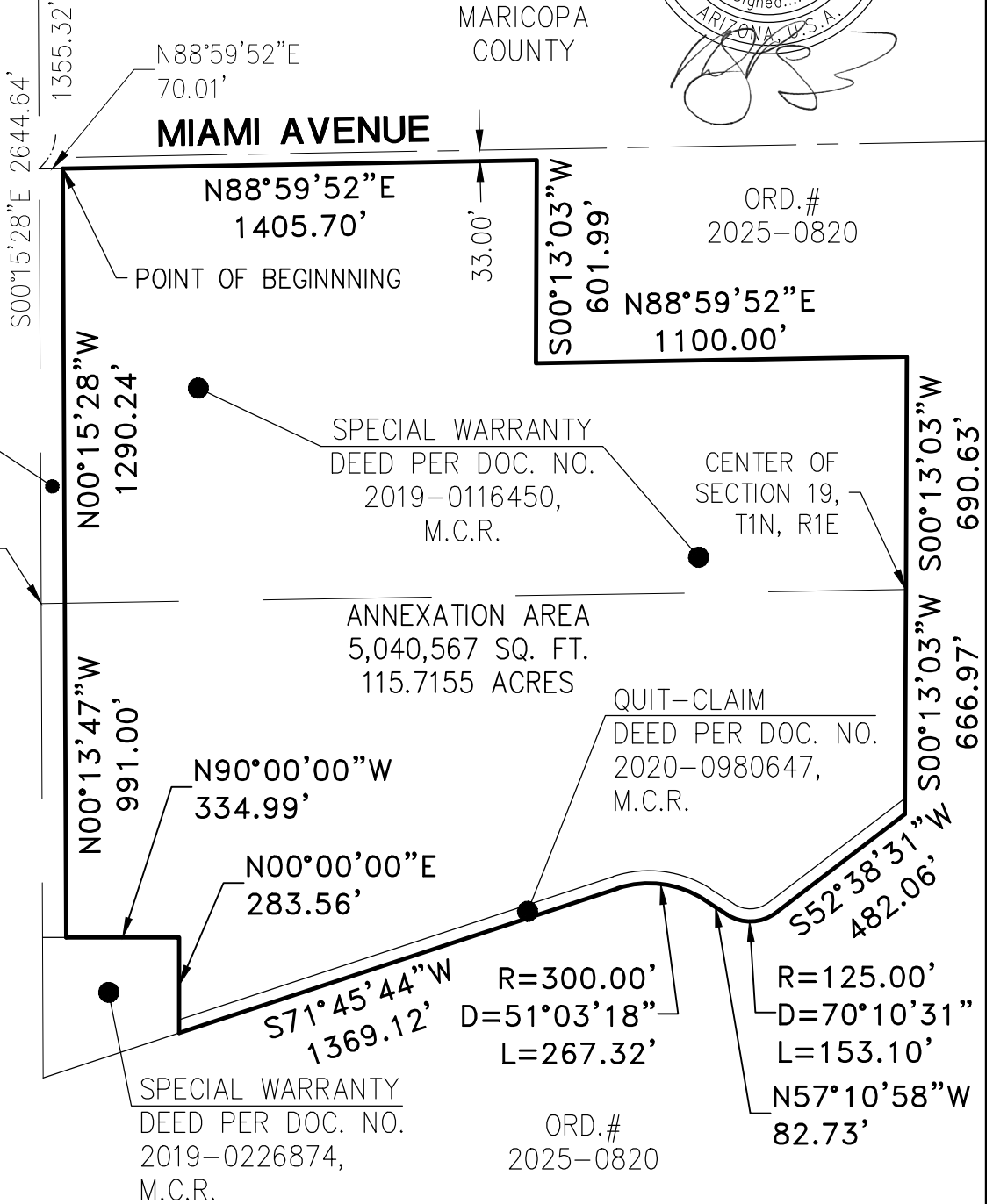
AVONDALE BLVD

MIAMI AVENUE

ORD.#
2025-0820

ORD.#
1708-1019

WEST QUARTER
CORNER SECTION 19,
T1N, R1E
FOUND MCDOT BCHH



PROJ.NO.: 2297
DATE: SEP 2021
SCALE: NTS
DRAWN BY: KM/JDL
CHECKED BY: KJP

SHADOW RIDGE
CITY OF AVONDALE ANNEXATION
MARICOPA COUNTY, AZ
EXHIBIT

HILGARTWILSON
2141 E. HIGHLAND AVE., STE. 250
PHOENIX, AZ 85016
P: 602.490.0535 / F: 602.368.2436

CITY COUNCIL REPORT

SUBJECT: Public Hearing - Omni Avondale Self-Storage – Conditional Use Permit – Application PL-21-0151

MEETING DATE: 10/25/2021

TO: Mayor and Council

FROM: Kevin Murphy, Development & Engineering Services Director

THROUGH: Lindsey Duncan, Deputy City Manager, (623) 333-1012

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

STRATEGIC PLAN:

OUTCOME AREA: Creative and Sustainable Community Development.

- **STRATEGY:** Increase sustainability initiatives such as renewable clean energy or sustainable design and construction
-

PURPOSE:

City Council will hold a public hearing and consider a request by Jason Sanks, Sanks and Associates, on behalf of the property owner Lower Buckeye and Avondale LLC, for approval of a Conditional Use Permit to allow for the operation of a mini-storage warehouse and personal storage facility in the Durango Park Planned Area Development (PAD) that allows for C-2 (Community Commercial) uses on the 8.57-acre subject property. The Council will take appropriate action.

BACKGROUND:

The site is located approximately 323 feet north of the northeast corner of Avondale Boulevard and Lower Buckeye Road, (Exhibits A and B). The project is proposed on a vacant 3.65-acre portion of an 8.57-acre parcel. There is an accompanying request to create a separate lot for the storage facility (PL-21-0152) and the remaining portion will be part of a future separate development. The property was annexed into the City's corporate limits on April 14, 1999 (Ordinance No. 693-99) and rezoned to Durango Park Planned Area Development (PAD) case number Z-98-361A.

The property is designated by the General Plan 2030 Land Use Map as Local Commercial. The Local Commercial land use designation is primarily intended to provide for the daily needs of goods and services for residents residing within the surrounding area. The types of uses allowed in this category specifically for local residents may include grocery stores, gas stations, neighborhood/retail services, office and medical uses serving consumers residing in adjacent residential areas, which promotes a walkable community.

The existing uses and zoning of surrounding properties include:

NORTH: Durango Park, a single-family residential subdivision zoned (PAD)

EAST: Durango Park, a single-family residential subdivision zoned PAD

SOUTH of LOWER BUCKEYE ROAD: Raceway Ranchos, a residential subdivision located in the jurisdiction of Maricopa County. South of the project is a planned McDonald's to be constructed in 2022 on the immediate northeast corner of Avondale Boulevard and Lower Buckeye Road.

WEST of AVONDALE BOULEVARD: A 12.2-acre vacant, commercial corner of Del Rio Ranch, zoned PAD.

SUMMARY OF REQUEST:

The applicant is requesting approval of a Conditional Use Permit (CUP) for construction of a new mini-storage warehouse and personal storage facility that will provide 613 units (Exhibit E). Mini-storage warehouses and personal storage is a conditionally permitted use within the C-2 zoning district requiring CUP approval by City Council.

The proposed development (Exhibit F) includes construction of one (1) office building and four (4) storage buildings, with a combined square footage of 76,604 as follows:

- Building A (Office) – 980 square feet
- Building B (Exterior units) – 7,805 square feet
- Building C (Exterior units) – 5,202 square feet
- Building D (Exterior units) – 6,808 square feet
- Building E (Exterior units and interior, climate-controlled units) – 55,799 square feet

Along the perimeter of the site adjacent to an existing residential area, the buildings will have heights of twelve (12) feet, extending up to seventeen (17) feet for the tallest building on the interior of the site which is needed to screen rooftop equipment from the public view.

The proposed hours of operation will be daily from 9:00 A.M. to 6:00 P.M. for the office and daily 5:00 A.M. to 10:00 P.M. for the gate. Select customers, on an as-needed and limited basis, may be granted access outside of those standard hours. Each customer will have a unique gate code to monitor access into the facility.

Screening of the site includes a six (6) foot tall decorative block wall which will screen the storage buildings from the view of residences in the area; a 25-foot landscape buffer is provided to the north, and to the east is a 58-foot landscape buffer. Along the front of Building C and the south end of Building D, a 20-foot landscape buffer is provided, which will screen the facility from future commercial development. All landscaping areas will be fully landscaped with shrubs and trees. Additionally, along the northern property line (adjacent to residential), buildings are setback 25 feet. From the east property line, also adjacent to residential, the buildings are setback in excess of 70 feet.

PUBLIC PARTICIPATION:

A Neighborhood Meeting to discuss the proposal with neighboring property owners and other interested parties was held at 6:00 P.M. on July 28, 2021. Due to the ongoing Covid-19 pandemic, the meeting was held virtually via Zoom. All notices of the meeting, including mailings to owners within 1,000 feet of the site, public hearing notice signs on the property, and display ads in the Southwest Valley Arizona Republic, were completed in at least fifteen days prior to the meeting as required. In addition to City Staff and the applicant's team, two (2) people attended the virtual meeting including one (1) Councilmember and one (1) Planning Commissioner (Exhibit I). The applicant gave an overview presentation on the project including the hours of operation, landscaping, layout, floor plans, access, architecture, parking, trip generation, security, and general operations of the facility. Discussion was primarily related to the following topics:

- Mitigation of impacts of the facility in terms of architecture, lighting, and landscaping. The applicant responded that the architecture will complement the surrounding area and be a buffer for the residences from uses like McDonald's, lighting will be provided for security, but it will meet standards in the Avondale Zoning Ordinance for photometric plans, and described the proposed landscape buffers.
- What happens to the emergency access to the south once the parcel gets developed? The applicant responded that a gate with access will need to be installed. Access will be reviewed during the Site

Plan and Design Review process for the remaining vacant pads.

- The proliferation of self-storage facilities in the area and the sales tax revenue that is generated not as high as retail uses. The applicant responded that self-storage facilities generate rental sales tax revenue and there will still be opportunities for commercial uses on the site that will have prominent frontage on the arterial streets.
- What are the proposed uses on the remaining adjacent parcels? The applicant responded that the hard corner is to be developed with a McDonald's in 2022, and the rest of the vacant pads are most likely to be developed with future retail or restaurant uses.

Three (3) comments pertaining to the proposal were posted on the City's aVOICE/Polco digital forum, as follows:

- As long as it isn't more houses that I have to pay to build schools and staff with teachers it is just fine to build a storage facility!!
- Build it as soon as you can.
- There are too many storage facilities as is. Please court some nice restaurants instead of warehouses, coffee shops and fast food. Thank you so much.

No additional public comments have been received to date.

All required notifications for the Planning Commission and City Council public hearings were completed. All property owners within 1,000 feet of the subject site were notified of the time, date, and location of the Planning Commission and City Council meetings via postcards. The meetings were advertised in the Southwest Valley Arizona Republic, and a public hearing notice sign identifying meeting dates, times, and locations were installed on the property. All notifications included Zoom meeting information and links.

No persons spoke about this item during the September 15, 2021 Planning Commission public hearing.

PLANNING COMMISSION ACTION:

At the September 15, 2021, Planning Commission meeting the Commission conducted a public hearing and voted 5-0 to recommend approval of the proposed CUP subject to six (6) recommended conditions. The Commission did not have any comments or questions regarding the project.

ANALYSIS:

In order to grant a Conditional Use Permit, five (5) findings must be met as outlined in Zoning Ordinance Section 108.B. The burden of proof is on the applicant. Each finding is presented below along with Staff's analysis.

1. That the proposed use (a) is consistent with the land use designation set forth in the general plan, (b) will further the City's general guidelines and objectives for development of the area, as set forth in the general plan and (c) will be consistent with the desired character for the surrounding area.

The subject property is designated as Local Commercial by the General Plan, which is primarily intended for providing for daily needs of goods and services to the residents residing within the surrounding area. The types of uses allowed in this category specifically for local residents may include grocery stores, gas stations, neighborhood/retail services, and office and medical uses serving consumers residing in adjacent residential areas, which promotes a walkable community. A mini-storage warehouse and personal storage is a use that aligns with the Local Commercial designation.

The property's C-2/PAD zoning is consistent with the Local Commercial designation. The purpose of the C-2 district is to accommodate the development of commercial complexes providing goods and services to a communitywide trade area. The proposed mini-storage warehouse is a low-intensity use that will provide a service to the nearby neighborhood.

2. That the use will be (a) compatible with other adjacent and nearby land uses and (b) will not be detrimental to persons residing or working in the area, adjacent property, the neighborhood or the public welfare in general.

Mini-storage warehouses and personal storage generate minimal amounts of traffic, do not tax City water and sewer services, and do not create any significant noise or light impact on surrounding properties. In terms of architecture, the proposed buildings and walls feature a contemporary design with quality materials that will enhance the area and complement the future McDonald's on the corner. There will be a landscape buffer adjacent to all sides of the development, and the storage facility itself will act as a buffer between the residences to the north and the future commercial development, which allows for more intense uses than mini-storage such as restaurants or retail.

Furthermore, the proposed facility will provide a needed service to existing and future residents in the surrounding neighborhoods in south Avondale. The project narrative (Exhibit E) indicates that as the population becomes more transitory (moving often), there is a need for secure temporary storage of personal items in a location that is convenient.

3. That the site is adequate in size and shape to accommodate the proposed use, allow safe on-site circulation, and meet all required development standards including, but not limited to, setbacks, parking, screening, and landscaping.

The proposed development meets the development standards for setbacks, buffering, parking, on-site circulation, landscaping, and screening as required by the Zoning Ordinance. Development of the site per the submitted plan (Exhibit F) will result in a functional, attractive development that contributes to the local economy and provides a benefit to the surrounding area.

4. That the site has appropriate access to public streets with adequate capacity to carry the type and quantity of traffic generated by the proposed use.

All public access to the facility will be from Avondale Boulevard, a major arterial road, via a planned, full access driveway. All circulation internal to the site meets City requirements. Adequate width is provided to allow City fire trucks to enter and exit the site, if necessary. A secondary fire access is also provided, along with a twenty-six (26) foot fire access gate with access to Lower Buckeye Road.

According to the project's parking demand study, the demand for parking is fourteen (14) spaces for visitors. The project will provide for ten (10) parking spaces before the security access gate, near the leasing office and four (4) parking spaces within the storage facility, two (2) of which are covered. Additionally, customers typically will park alongside their drive-up storage unit to load and unload, so the site will be able to accommodate the anticipated traffic. According to the project narrative, daily vehicle traffic trips are projected to be less than 24, the majority of which will be generated by passenger cars and pick-up trucks.

5. That adequate conditions have been incorporated into the approval to ensure that any potential adverse effects will be mitigated.

Staff's recommended conditions, several of which are standard for development of this type, address the following:

- a. Ensuring the proposed use develops in accordance with the site plan, landscape plan, narrative and building elevations provided to the City and attached as exhibits to this staff report.
- b. Per the Zoning Ordinance, the Conditional Use Permit will expire within two (2) years if the use has not commenced on the property.
- c. A Re-Plat, splitting the parcel and dedicating an eighteen (18) foot private utility easement, shall be recorded prior to the issuance of a permit for development of the subject property.
- d. The developer shall complete all required improvements to Avondale Boulevard as part of the first phase of development.
- e. Provide a recorded copy of a vehicular cross access/shared access easement between the McDonald's and

the proposed self-storage facility properties; notate and show the easement(s) on the site plan as part of the Site Plan and Design Review process approval.

f. The monument sign is required to be a multi-tenant monument sign and must be located south of the drive aisle on Avondale Boulevard. The final location of the sign will be determined before Site Plan and Design Review approval.

DISCUSSION:

Staff recommends approval of the CUP request for the following reasons:

1. The proposed land use meets the five (5) required findings for a CUP in Section 108 B. of the Zoning Ordinance.
2. Approval of the proposal will result in a development compatible with the Local Commercial General Plan designation, the Durango Park PAD, and existing development in the area.
3. The proposed land use will not be detrimental to persons residing or working in the area, on adjacent properties, or to the public welfare in general.
4. The proposed land use will provide a needed service to current and future residents in Avondale.

BUDGET IMPACT:

No budget impacts.

RECOMMENDATION:

The City Council will **APPROVE** Application PL-21-0151 Omni Avondale Self-Storage, a request for approval of a Conditional Use Permit to allow for the operation of a mini-storage warehouse and personal storage facility within the Durango Park Planned Area Development C-2 (Community Commercial) zoning district, subject to the following six (6) conditions of approval:

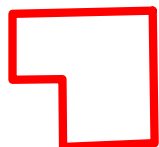
1. Development and use of the site shall generally conform to the CUP narrative (submitted on August 30, 2021) , site plan (submitted on August 31, 2021), landscape plan (submitted on August 31, 2021), and building elevations (submitted on August 31, 2021), attached to the staff report as Exhibits E, F, G, and H respectively.
2. In accordance with Section 108 of the Zoning Ordinance, the CUP shall expire within two (2) years from the date of approval if the use has not commenced.
3. A Re-Plat, splitting the parcel and dedicating an eighteen (18) foot private utility easement, shall be recorded prior to the issuance of a permit for development of the subject property.
4. All required off-site improvements to Avondale Boulevard shall be completed as part of the first phase of development prior to the issuance of a Certificate of Occupancy or Certificate of Completion.
5. Provide a recorded copy of a vehicular cross access/shared access easement between the McDonald's and the proposed self-storage facility properties; notate and show the easement(s) on the site plan as part of the Site Plan and Design Review process.
6. The monument sign is required to be a multi-tenant monument sign and must be located south of the drive aisle on Avondale Boulevard. The final location of the sign will be determined before Site Plan and Design Review approval.

PROPOSED MOTION:

I move that City Council **APPROVE** Application PL-21-0151 Omni Avondale Self-Storage, to allow for the operation of a mini-storage warehouse and personal storage facility within the Durango Park Planned Area Development C-2 (Community Commercial) zoning district subject to six (6) recommended conditions of approval as listed in the staff report.

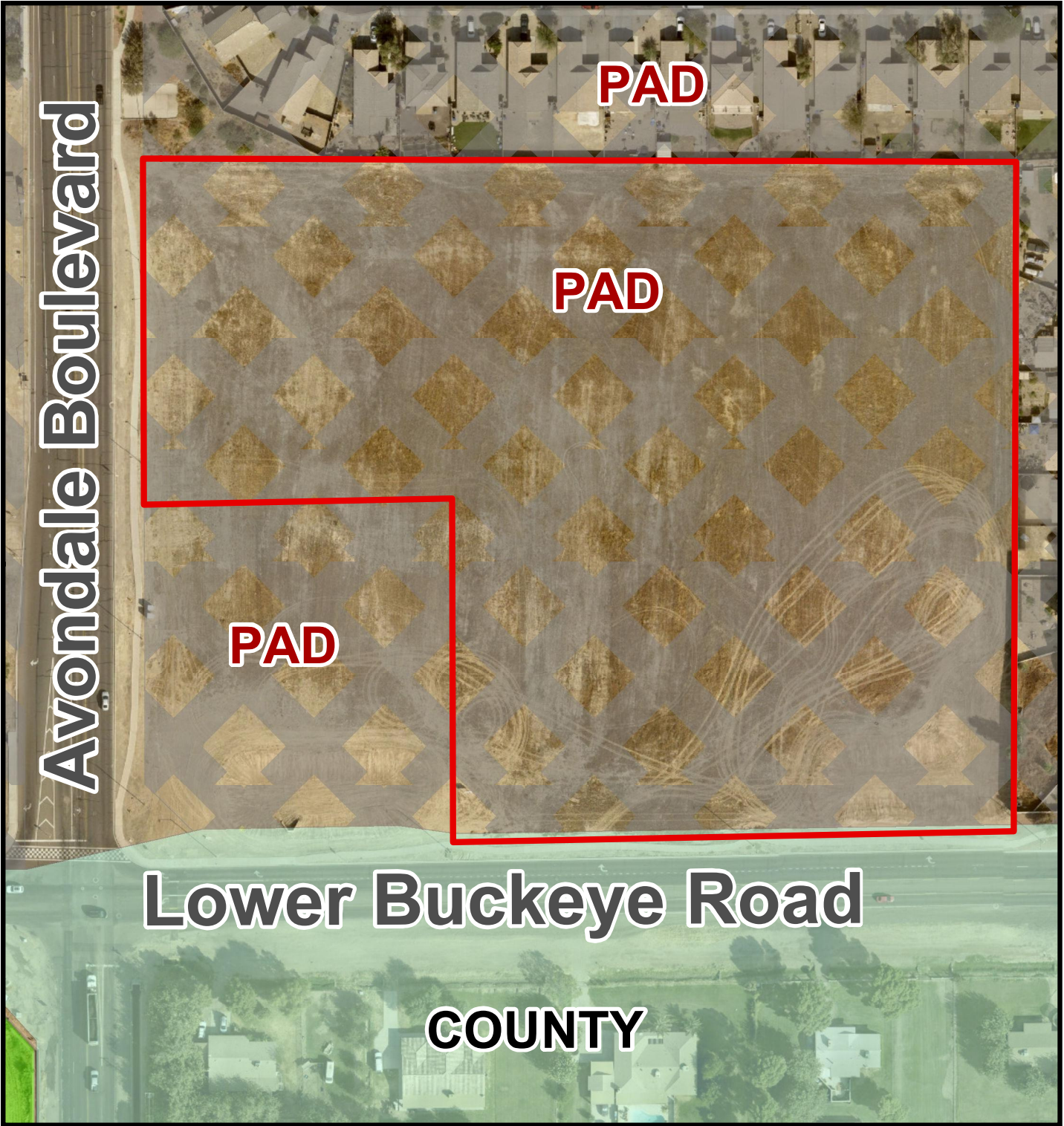


Aerial Photograph

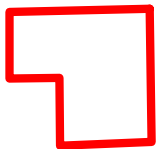


Project Location



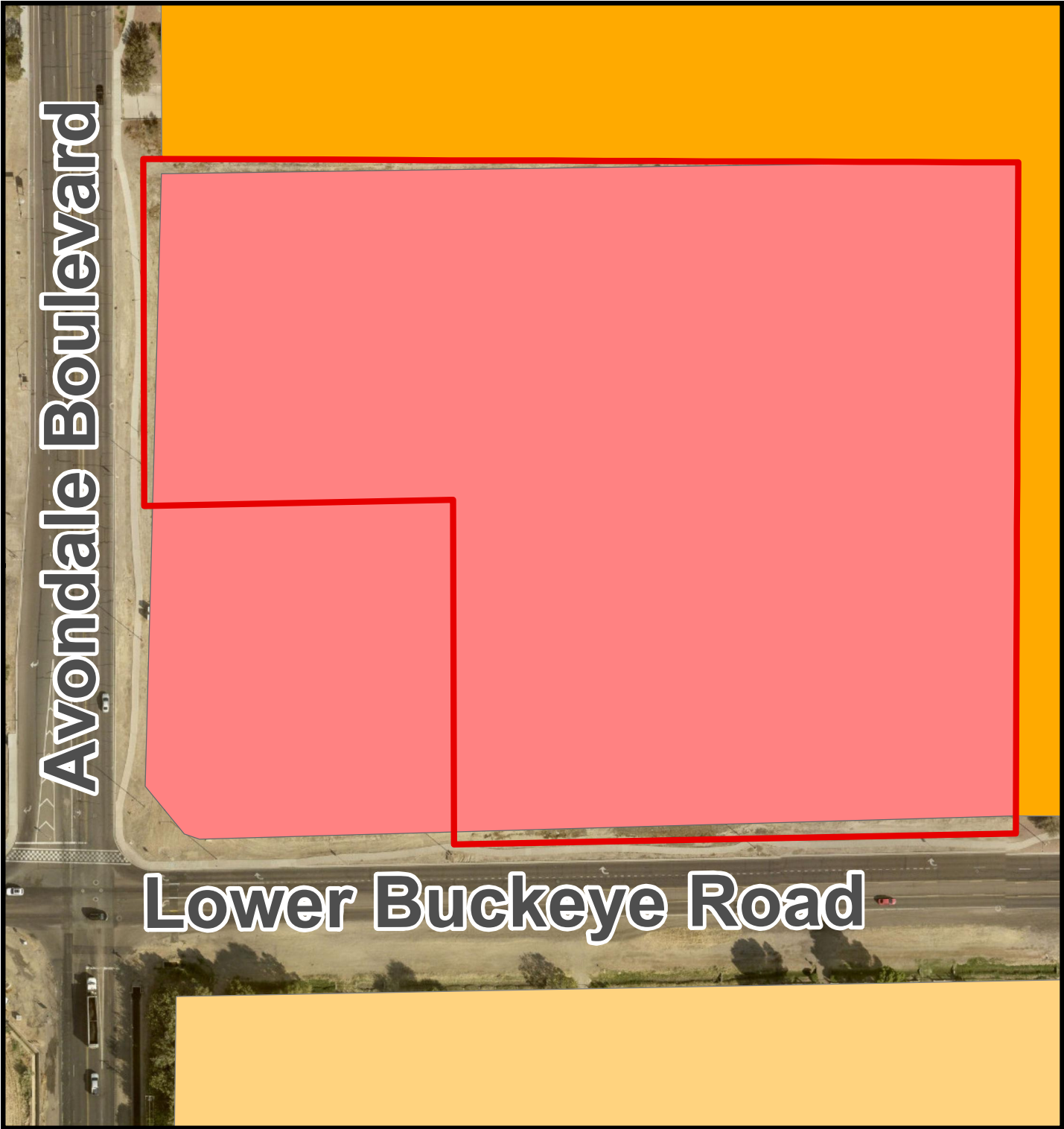


Zoning Vicinity Map



Project Location

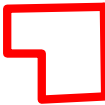




General Plan Land Use Map



-  Local Commercial
-  Estate/Low Density Residential
-  Medium Density Residential



Project
Location



*SUMMARY OF RELATED FACTS
APPLICATION PL-21-0151*

<i>THE PROPERTY</i>	
PROPERTY SIZE	Approximately 8.57 acres
LOCATION	Approximately 323 feet north of the northeast corner of Avondale Boulevard and Lower Buckeye Road
PHYSICAL CHARACTERISTICS	The L-shaped subject property is vacant and undeveloped.
GENERAL PLAN LAND USE DESIGNATION	Local Commercial
EXISTING ZONING	Durango Park Planned Area Development - C-2 (Community Commercial)
ZONING HISTORY	The property was annexed into the City's corporate limits on April 14, 1999 (Ordinance No. 693-99) and rezoned to Durango Park Planned Area Development case number Z-98-361A.

<i>SURROUNDING ZONING AND LAND USE</i>	
NORTH	Durango Park, a single-family residential subdivision zoned Planned Area Development (PAD).
EAST	Durango Park, a single-family residential subdivision zoned PAD.
SOUTH OF LOWER BUCKEYE RD.	Raceway Ranchos, a residential subdivision located in the jurisdiction of Maricopa County. South of the project also includes a future McDonald's, planned to be constructed in 2022 on the immediate northeast corner of Avondale Boulevard and Lower Buckeye Road.
WEST OF AVONDALE BLVD.	A 12.2-acre, vacant, commercial corner of Del Rio Ranch, zoned PAD.

<i>PUBLIC SCHOOLS</i>	
SCHOOL DISTRICT(S)	Littleton Elementary #65, Tolleson Union
ELEMENTARY SCHOOL	Quentin Elementary
HIGH SCHOOL	La Joya High School

<i>STREETS</i>	
Lower Buckeye Road	
Classification	Arterial
Existing half street right-of-way	55-65
Standard half street right-of-way	65
Existing half street improvements	Two travel lanes, half center turn lane, right turn lane, sidewalk, curb, gutter, streetlights

Standard half street improvements	Two travel lines, half center turn lane, sidewalk, curb, gutter, streetlights
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<i>STREETS</i>

Avondale Boulevard

Classification	Arterial
Existing half street right-of-way	65
Standard half street right-of-way	65
Existing half street improvements	Two travel lanes, half center turn lane, sidewalk, curb, gutter, streetlights
Standard half street improvements	Two travel lanes, half center turn lane, sidewalk, curb, gutter, streetlights

<i>UTILITIES</i>

City of Avondale is the water and sewer provider for this parcel. SRP provides electrical service to this area.

Exhibit E

Project Narrative

Omni Avondale Self-Storage

Conditional Use Permit (CUP)

Project Narrative

NEC of Avondale Blvd. and Lower Buckeye Rd.



Submitted To

City of Avondale Development Services Department

Submitted: May 7, 2021

Revised: August 4, 2021

Applicant / Representative:

Jason Sanks / Sanks and Associates, LLC

Development Team

Property Owner:	Lower Buckeye and Avondale, LLC 11811 N. Tatum Boulevard Phoenix, AZ 85028
Developer & Applicant:	Scott Fey, CCIM Omni Avondale Self-Storage, LLC 6615 N. Scottsdale Road, Suite 207 Scottsdale, AZ 85250
Planner & Applicant Representative:	Jason Sanks Sanks and Associates, LLC 2410 E. Paraiso Drive Phoenix, AZ 85024 jason@sanksassociates.com 602.326.0581 cell
Architect:	Tony Tang Tony Tang Architect 3304 N. Valencia Lane Phoenix, AZ 85018
Civil Engineer:	Jennifer Smith SBL Engineering, LLC 1957 E. Sunburst Lane Tempe, AZ 85284
Landscape Architect:	Jason Harrington Harrington Planning + Design 1921 S. Alma School Road, Suite 204 Mesa, AZ 85210
Comprehensive Sign Plan:	Gary Johnson Signs Plus 9200 Valley Road Prescott Valley, AZ 86314

Conformance with the Avondale 2030 General Plan Update

This property is designated as “Local Commercial” on the General Plan and within the “Avondale Boulevard Employment and Commercial Corridor”. The proposed use is consistent with this land use designation. Local Commercial is used primarily for the “daily needs of goods and services to residents” and located near the arterial intersection of Avondale Boulevard and Lower Buckeye Road. In respect to the “Avondale Boulevard Employment and Commercial Corridor”, the site has been purposely designed to have a narrow frontage on Avondale Boulevard with a beautifully designed office/retail building while placing the storage buildings behind what will ultimately be higher intensity commercial land uses along Avondale Boulevard and Lower Buckeye Road as desired by the community. The bold architecture of the facility is in the spirit of the corridor and will provide the interest and quality expected of the plan along Avondale Boulevard.

As a land use, the image of self-storage in the general community has improved significantly over the last 25 years. First, the quality of self-storage facilities like the one proposed by Omni reflects the desire for quality architecture and attention to mitigating the inherent building massing issues of large buildings that cannot reasonably have many windows. Further, as housing values outpace incomes and the population becomes ever more transitory (moving often), the need for secure temporary storage of personal items has become a necessary neighborhood use within the community. Our customers do not want to drive several miles to an industrial area that feels unsafe and inconvenient to retrieve personal items they keep in storage.

Self-storage facilities also adapt to their surroundings over time. Our company has built facilities in downtown Phoenix and subsequently adapted to the needs of residents in a dense urban environment. This may include the development of daily bike locker facilities or other urban adapted services as the community changes.

Customers like having convenient, secure locations for their belongings near their homes so they know that those items are safe, near, and accessible to them. For this reason, we find that we are “promoting neighborhood-serving businesses” as stated in the Executive Summary of the General Plan. The General Plan also focuses on the need to reduce reliance on fossil fuel intensive uses and self-storage generates very low traffic trips. Further electrification of passenger vehicles and larger trucks means that self-storage as a land use will have relatively no reliance upon fossil fuels as the City looks forward to a future without fossil fuels. Our facility will include one electric vehicle charging station to further this goal.

Self-storage is commonly overlooked as an economically sustainable land use. While at first glance, communities may perceive that retail is what is desired on a commercial parcel to generate retail sales tax, retail has proven somewhat cyclical and less reliant upon land use with online shopping trends. Self-storage also generates tax revenue, but rather “rental sales tax” revenue, which is relatively stable since most facilities generally maintain stable occupancy levels. This rental tax revenue comes at a relatively low cost to the City itself, as the demands on police, fire, traffic, parks, and other community services are nearly unaffected by the land use compared to retail shopping centers or entertainment venues that generally receive higher calls for service related to police or

fire. Storage facilities are by their very nature designed to be self-policing: Enclosed/gated, protected with surveillance cameras, alarms, secure with individual renter access codes, professionally managed, well-lit, and with limited hours of operations. The facility seeks the most security for the safety of its renters' and their belongings as possible. Further, lease agreements ensure that the units themselves are not stored with dangerous items nor can anyone live in or run businesses out of units. The onsite management office staff ensures that these aspects of the facility are carefully complied with for everyone's benefit.

Land Use Compatibility with Adjacent Residentially Designated Property

This self-storage facility is proposed to be a completely single-story facility with building heights of 12' on the perimeter adjacent to residential, then extending up to 17' for the larger storage building on the interior of the site. This somewhat taller building height in the middle of the site is to accommodate screening of roof mounted air conditioning units from public view with parapets. The 12' tall perimeter buildings will nearly entirely block the view of the 17' tall building in the middle which is still relatively short compared to the allowed 30' of building height in the C-2 zoning district. The buildings and site layout have been designed in a way to buffer the Durango Park neighborhood from what is anticipated to be higher intensity commercial land uses along both arterial frontages (Retail, fast food, personal services). The facility is one of the quietest commercial land uses possible, with very low customer traffic and activity. Daily vehicle traffic trips for routine operations related to the facility are projected to be less than two dozen. Although vehicular traffic may include U-Haul style trucks, most of our customer vehicle traffic is generated by passenger cars and pick-up trucks.

Self-storage also creates one of the most private environments possible for those residents directly backing to our project, so that they may enjoy their rear home windows and yard areas with practically a guarantee that there is nobody on the other side of their rear wall looking into their properties or walking around near their yards. The area is lit just enough to be secure, heavily landscaped to beautify the area, and building heights are low enough that they will be barely visible from those residences. A "Line of Site" exhibit was prepared for this project to depict what an average height adult would see from their home to the north. In essence, the self-storage facility provides a sense of barrier and relief from what could otherwise occur on the C-2 zoned property, even without a Conditional Use Permit.

The rental office has a higher building height due to its purposefully unique design. It is important to note that this proposed building is located directly adjacent to an open space tract within Durango Park and not immediately behind a residence.

The use will not generate any smoke, light, glare, or noise as these are items commonly considered in the evaluation of a CUP. While lighting is provided for security and visibility purposes, light levels at property lines are maintained at acceptable City allowed levels as shown on the included "Photometric Plan."

Typical Business Operations

Due to the proximity of the nearby residential homes, the design of the facility will remain 1-story and will not have any outdoor vehicle storage. The facility will also be professionally managed with a state-of-the-art security system to monitor perimeter and internal activity. Elements of the security system include:

- Unique security code required for each customer to enter and exit
- Full camera coverage on the interior
- Full camera coverage of the entrance

The self-storage facility, due to its unique quiet and secure nature, provides a natural physical buffer to the new McDonald's approved for the immediate corner and anticipated future commercial build out of the entire C-2 zoned corner.

Hours of Operation

The office of the self-storage facility is anticipated to be open daily from 9:00am to 6:00pm. The gated and secured storage area will allow customers to access their storage units using their private access codes every day from 5:00am to 10:00pm. Select customers, on an as needed and limited basis, may be granted access outside of those standard hours. Since every customer has a specific code for their access, the facility is aware of who is entering and leaving the facility. Camera surveillance is also provided at all times for the safety of our customers, their property, and the general community.

Architectural Compatibility

Our architectural team's approach to compatibility with the Durango Park development largely focused on incorporating colors and materials of the recently approved McDonald's drive through restaurant to be constructed on the immediate northeast corner of the intersection. The contemporary theme of the restaurant was relatively simple to compliment, and we have proposed to include several identical colors and materials from the McDonald's restaurant.

Further, our design team seeks to bring additional colors and materials to the project to improve its overall quality while also addressing the unique nature of the linear mass of storage buildings that by design and logic, do not have exterior windows or access for security of customer belongings.

Compliance with Setback Requirements

The project meets all C-2 building setback requirements for a self-storage facility. The storage buildings are 25' away from the adjacent residential properties to the north and east (Section 305.D.4) while maintaining a 0' setback from the proposed interior commercial lot lines. These lot lines will be created through a separate replat application of the existing larger commercial parcel. A 45' landscape setback has been provided between Avondale Road and the first parking stall outside of the leasing office, which exceeds the 30' setback requirement for parking from the arterial roadway

Landscape and Open Space Area Design

The landscape requirements of this project comply with the City of Avondale's requirements for tree, shrub, and ground cover calculations as depicted on the Preliminary Landscape Plan. The plant palette and granite color and type has been designed to complement the approved McDonald's project on the same commercially zoned corner.

Special care has been taken to buffer adjacent residences with evergreen trees and a planting pattern to well screen the storage facility from view. Further, based on City requirements, 20' of landscape buffering has been provided on the west and south sides of the buildings lining the interior west and south property lines of the new parcel.

Ingress and Egress / Cross-Access Easements

The self-storage facility will take access from Avondale Boulevard and provide cross access to the commercial parcel to the south that will further connect to the approved McDonald's project on the hard corner of the intersection. Emergency access will be provided by an "emergency cross access easement" with an improved surface across proposed Lot 3 to allow emergency vehicles to enter/exit Lower Buckeye Road until which time that parcel builds out with a completed project. At the time of future development of Lot 3, it is anticipated the proposed easement will be modified to accommodate the proposed site plan and accomplish the same purpose of emergency access.

Perimeter Wall Design / Screening

The existing neighborhood perimeter wall for Durango Park along our northern and eastern property lines will provide the necessary wall separation between our development and those residences. New landscaping will be provided in a manner to visually buffer the single-story storage buildings. The landscape plan provided details the quantity and size of evergreen trees that will provide year round visual buffering for those residents living nearby the facility.

Interior to the rest of the future commercial development, the storage buildings themselves will serve as the primary screening mechanism to the west and south as is typical for this land use. Per Avondale requirements, an additional 20' of landscaping will be provided immediately adjacent to those buildings on the parcel edges to soften their appearance to the rest of the commercial center. The Preliminary Landscape Plan details that this requirement has been met.

The exterior building and site design creates the "wall" of the facility on the west and south which is inspired by the approved McDonald's fast food restaurant color and materials palette, but enhanced to accommodate the needs of our office and larger storage buildings. The self-storage buildings have inherently longer building mass and need additional features to mitigate their length and mass compared to the relatively small building area of the restaurant. The single-story nature of this facility helps to prevent large massing issues since the storage buildings themselves are short (12' to 14'10") in

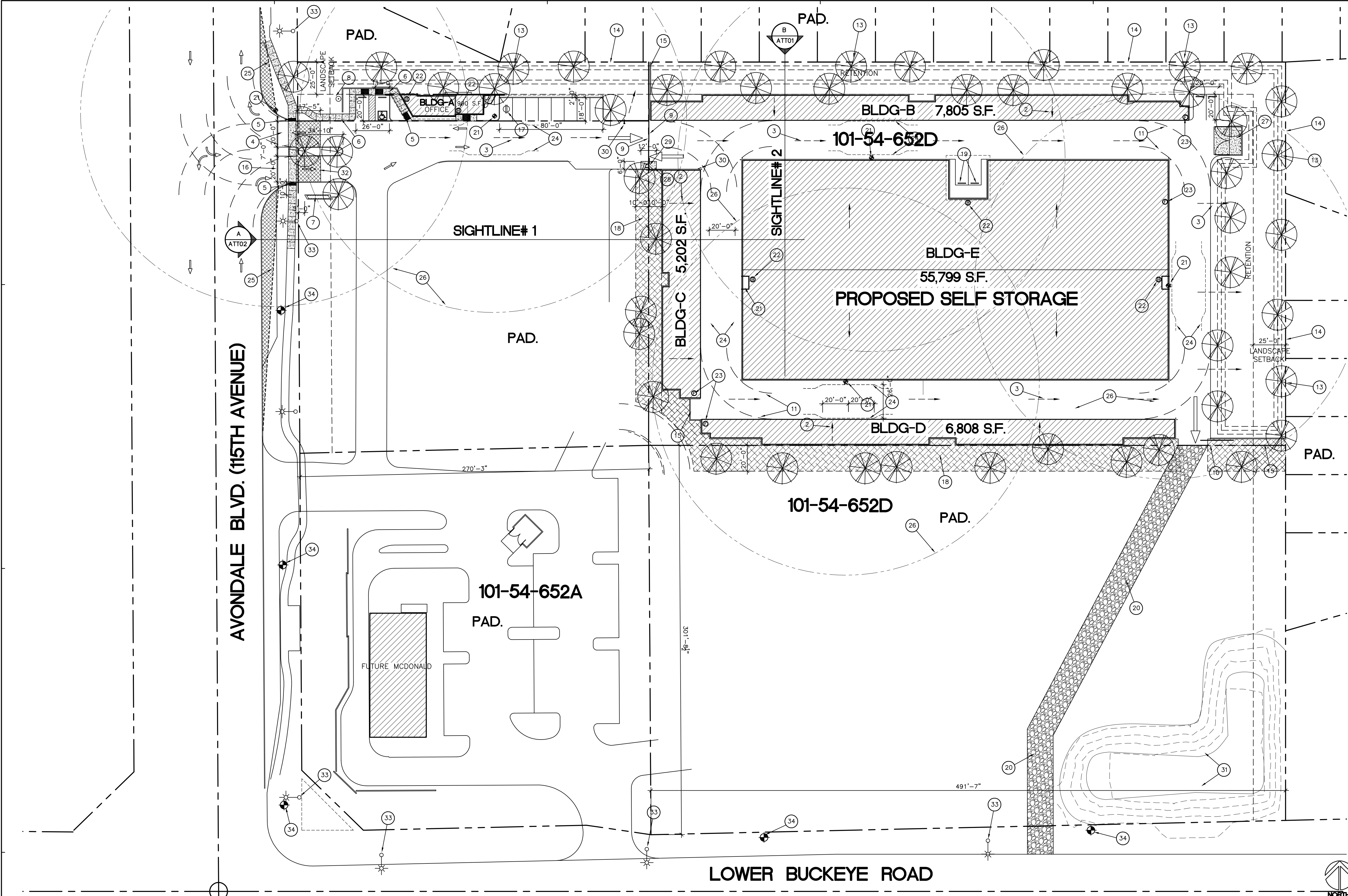
comparison to typical commercial buildings that require higher clearances for retailers and restaurants. The portions of the building that extend up to 14'10" are small faux tower elements that have been incorporated into the overall design to break both the vertical and horizontal building mass and linear roof lines.

Conclusion

The Omni team finds this project meets the goals, policies, and objectives of Avondale's 2030 General Plan update and further ensures that it will not be materially detrimental to adjacent property owners or the overall neighborhood. Rather, it will provide a useful neighborhood use and serve as a land use transitional buffer between the Durango Park residences and future, more intense commercial development on the remaining portion of this commercially zoned corner.

Exhibit F

Site Plan



PROJECT DATA		
SITE AREA:	146,562 S.F. (3.36 AC.)	
STORAGE SITE AREA:	12,265 S.F. (0.28 AC.)	
OFFICE SITE AREA:	158,827 S.F. (3.65 AC.)	
TOTAL SITE AREA:	(GROSS & NET THE SAME)	
ZONING:	PAD	
A.P.N.#:	101-54-652D	
MAX. BLDG. HT.:	26'-6"	
TOTAL STORAGE UNIT COUNT:	613 UNITS	
BUILDING AREA:		
BLDG-A	SINGLE STORY	990 S.F.
BLDG-B	SINGLE STORY	7,805 S.F.
BLDG-C	SINGLE STORY	5,202 S.F.
BLDG-D	SINGLE STORY	6,808 S.F.
BLDG-E	SINGLE STORY	55,799 S.F.
TOTAL AREA:		76,604 S.F.
ESTIMATED LEASABLE:	30250(A/C)+31150(NON)=	61,400 S.F.
ESTIMATED A/C STO. %:	30250/61400=	49.26%
LEASABLE EFFECIENCY:	61400/75614=	81.20%
SITE COVERAGE:	76604+1492 (COVER ROOF) =	49.17%
	158,827 S.F.	
PARKING:	ADA PARKING:	1
	STANDARD PARKING:	11
	COVERED STD. PARKING:	2
	TOTAL PARKING:	14

CITY OF AVONDALE LANDSCAPE REQUIREMENT CALCULATIONS		
REQUIREMENT	REQUIRED	PROVIDED
PARKING LOT LANDSCAPE 15% OF PARKING LOT AREA TO BE LANDSCAPED. PER SECTION 12-C-2	15% LANDSCAPE COVERAGE	30% LANDSCAPE COVERAGE
BUILDING FRONTAGE LANDSCAPE MIN. OF 50% OF BUILDING FRONTAGE SHALL BE LANDSCAPED PER SECTION 12-C-8	50% LANDSCAPE COVERAGE	55% LANDSCAPE COVERAGE
STREET FRONTAGE (AVONDALE) 9 TREES AND 90 SHRUBS FOR EVERY 100 LINEAR FEET	TOTAL FRONTAGE LF = 40 FT. 3.6 TREES 32.4 SHRUBS	4 TREES 46 SHRUBS
PERIMETER LANDSCAPE 1 TREE / 3 SHRUBS PER 15FT. OF PROPERTY BOUNDARY PER SECTION 12-C-5-d	EAST BOUNDARY = 317 FT. 21.3 TREES 63.4 SHRUBS NORTH BOUNDARY = 410 FT. 27.3 TREES 82 SHRUBS	21 TREES 170 SHRUBS 47 TREES 202 SHRUBS

- ### KEYNOTES
- BUILDING ROOF RIDGE LINE.
 - ROOF DRAINAGE DIRECTION.
 - CONCEPTUAL WATER DRAINAGE DIRECTION.
 - NEW CONCRETE SIDE WALK TO ALIGN EXISTING SIDEWALK.
 - NEW RAMP WITH ADA TEXTURE SURFACE.
 - NEW CONCRETE SIDEWALK.
 - NEW MONUMENT SIGN, WILL REQUIRE SEPARATE PERMIT PROCESS.
 - NEW 40' FLAGPOLE WITH UPLIGHT.
 - AUTOMATIC ROLLING GATE WITH CARD ACCESS.
 - FIRE DEPARTMENT ACCESS GATE WITH FIRE DEPARTMENT KNOX PADLOCK AND SOLID PANEL.
 - TRUCK TURNING RADIUS.
 - POTENTIAL ADDITIONAL ACCESS GATE.
 - CONCEPTUAL TREE LOCATION, SEE LANDSCAPE PLAN FOR EXACT PLANTING DESIGN.
 - EXISTING RESIDENTIAL 6'-0" SCREEN WALL, FULFILL THE 6' SCREEN WALL REQUIREMENT.
 - NEW 6' CMU SCREEN WALL, COLOR AND TEXTURE SHALL MATCH NEW BUILDING.
 - NEW DRIVEWAY ENTRANCE WITH 7' LANDSCAPE MEDIAN.
 - ELECTRICAL VEHICLE PARKING SPACE WITH CHARGING STATION.
 - 20' DEEP REQUIRED LANDSCAPE BUFFER.
 - COVERED PARKING SPACE.
 - TEMPORARY 20' WIDE GRAVEL FIRE TRUCK ACCESS ROAD. FIELD VERIFY EXACT LOCATION AS TO AVOID EXISTING RETENTION BASIN.
 - PROPOSED FIRE HYDRANT LOCATION.
 - BUILDING ACCESS
 - FIRE RISER ROOM ACCESS
 - FIRE TRUCK APPROACH TO HYDRANT.
 - SITE VISIBILITY LINE.
 - FIELD VERIFY EXACT LOCATION AS TO AVOID EXISTING RETENTION BASIN.
 - PROPOSED FIRE HYDRANT REACH.
 - DOUBLE TRASH ENCLOSURE WITH SOLID GATE PER CITY STANDARD.
 - CONCRETE PAD AT THE MAN GATE ENTRANCE.
 - 3' WIDE MAN GATE WITH KEYPAD ACCESS.
 - GATE KEYPAD ACCESS.
 - EXISTING RETENTION BASIN TO REMAIN.
 - STAMPED CONCRETE PAVEMENT PATTERN TO MATCH DRIVEWAY PATTERN IN MCDONALD PROJECT.
 - EXISTING STREET POLE LIGHT.
 - EXISTING FIRE HYDRANT.

SITE PLAN NOTES

A. ALL UTILITY LINES LESS THAN 69 KV SHALL BE UNDERGROUNDED WITH THE FIRST PHASE OF DEVELOPMENT.

B. ALL GROUND-MOUNTED EQUIPMENT SHALL BE SCREENED/CONCEALED FROM STREET VIEW.

C. PLANTS LOCATED WITHIN REQUIRED AASHTO SIGHT VISIBILITY TRIANGLES SHALL BE PRUNED REGULARLY TO PERMIT UNOBSTRUCTED VISION. PLANT MATERIALS SHALL BE MAINTAINED TO BE LOWER THAN 2' (SHRUBS) OR TALLER THAN 7' (BOTTOM OF TREE CANOPY).

D. FUTURE DEVELOPMENT PADS WITHIN MASTER PLANNED DEVELOPMENTS SHALL BE COVERED WITH A MINIMUM OF 2" THICK DECOMPOSED GRANITE FOR DUST CONTROL AT TIME OF DEVELOPMENT.

E. ALL DEVELOPMENTS SHALL BE MAINTAINED IN CONFORMANCE WITH THE APPROVED SITE PLAN AND LANDSCAPE PLAN. ANY CHANGES THERETO SHALL REQUIRE APPROVAL OF THE CITY OF AVONDALE.

F. THIS PROJECT IS SUBJECT TO THE CURRENT AVONDALE GENERAL ENGINEERING REQUIREMENTS (AND MAG SUPPLEMENTAL REGULATIONS), COMMERCIAL/INDUSTRIAL/MULTI-FAMILY DESIGN MANUAL, ZONING ORDINANCE, GENERAL PLAN, AVONDALE STREET TREE MASTER PLAN, AND ANY APPLICABLE SPECIFIC PLANS.

PROJECT TEAM

LAND OWNER: LOWER BUCKEYE AND AVONDALE LLC.
11811 N. TATUM BLVD. #1051
PHOENIX, ARIZONA 85028
TEL: (602) 373-4502
CONTACT: NICO HOWARD
EMAIL: NICOHOWARD@GMAIL.COM

DEVELOPER: OMNI AVONDALE SELF-STORAGE LLC.
6615 N. SCOTTSDALE RD. SUITE 207
SCOTTSDALE, AZ 85250
TEL: 480-216-1140

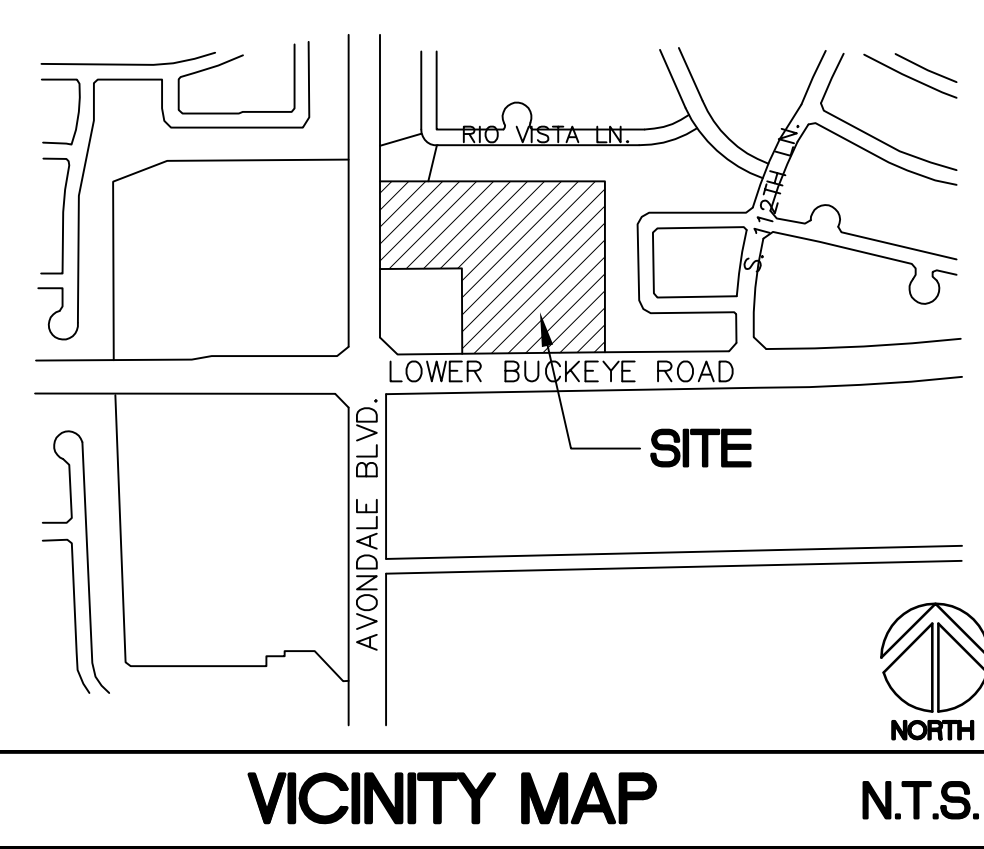
ARCHITECT: TONY TANG ARCHITECT, LTD.
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SCOTTSDALE, AZ 85254
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MESA, ARIZONA 85210
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ELECTRICAL: RLM DESIGNS LLC.
1167 E. COMMONWEALTH PL.
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CONTACT: BOBBY MARIN
EMAIL: RLMDesigns@cox.net



VICINITY MAP N.T.S.

PRELIMINARY NOT FOR CONSTRUCTION

2019013

tony tang architect

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sheet title:

PRELIMINARY SITE PLAN

project:

OMNI AVONDALE SELF STORAGE
NEC AVONDALE BLVD + LOWER BUCKEYE RD
AVONDALE, AZ 85353

date: 2021APR05
job no.: 2019013
revision:

20168 KWAN CHUER TANG
11/27/2021
EXP 30SEP2022

A1.01
2019013

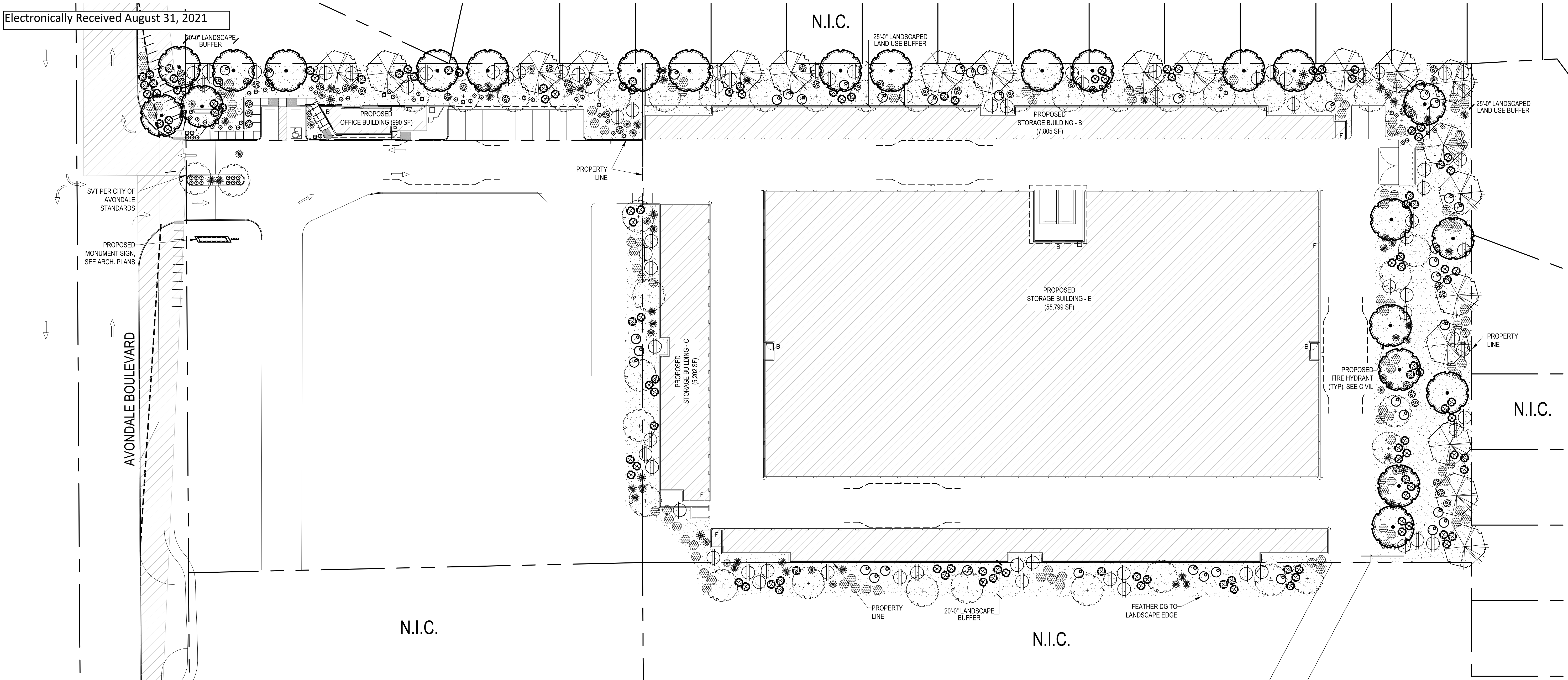
Exhibit G

Landscape Plan

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Electronically Received August 31, 2021



PLANTING MATERIAL LEGEND

TREES	SIZE	NOTES	QTY
Ulmus parvifolia Chinese Elm Caliper Size: 1.5"	24" Box H 5'-7" W 3'-4"	*ADWR	23
Eucalyptus papuana Ghost Gum Caliper Size: 1.5"	24" Box H 5'-7" W 3'-4"	*ADWR	20
Acacia aneura Mulga Caliper Size: 1.5"	24" Box H 6'-7" W 2'-3"	*ADWR	40
GROUNDCOVERS			QTY
Myoporum parvifolium Myoporum	5 Gallon	*ADWR	108
New Gold Lantana Trailing Lantana 'Gold'	5 Gallon	*ADWR	122
SHRUBS / ACCENTS			QTY
Tecoma alata Orange Jubilee	5 Gallon	*ADWR	76
Leucophyllum frutescens Green Cloud Sage	5 Gallon	*ADWR	42
Russelia equisetiformis Coral Fountain	5 Gallon	*ADWR	40
Dasyliroia wheeleri Desert Spoon	5 Gallon	*ADWR	70
Hesperaloe parviflora 'Yellow' Yellow Yucca	5 Gallon	*ADWR	79
LANDSCAPE MATERIALS			
Decomposed Granite, 1" minus, Table Mesa Brown 2" deep in planting areas per plan.			49,930 sq.ft.

*ADWR = Arizona Department of Water Resources Approved Low-Water Use Plant

*SVT = Sight Visibility Triangle

CITY OF AVONDALE LANDSCAPE REQUIREMENT CALCULATIONS

REQUIREMENT	REQUIRED	PROVIDED
PARKING LOT LANDSCAPE 15% OF PARKING LOT AREA TO BE LANDSCAPED. PER SECTION 1204-C-6-A	15% LANDSCAPE COVERAGE	30% LANDSCAPE COVERAGE
BUILDING FRONTAGE LANDSCAPE MIN. OF 50% OF BUILDING FRONTAGE SHALL BE LANDSCAPED PER SECTION 1204-C-8	50% LANDSCAPE COVERAGE	55% LANDSCAPE COVERAGE
STREET RIGHT-OF-WAY (AVONDALE BOULEVARD) 1 TREES AND 10 SHRUBS FOR EVERY 25 LINEAR FEET PER SECTION 1204-C-2	TOTAL FRONTAGE LF = 45 FT. 1.8 TREES 18 SHRUBS	2 TREES 23 SHRUBS
LAND USE BUFFER LANDSCAPE 1 TREE / 3 SHRUBS PER 15FT. OF PROPERTY BOUNDARY PER SECTION 1204-C-5	EAST BOUNDARY = 317 FT. 21.3 TREES 63.4 SHRUBS	22 TREES 170 SHRUBS
	NORTH BOUNDARY = 410 FT. 27.3 TREES 82 SHRUBS	47 TREES 202 SHRUBS
MINIMUM LANDSCAPE C-2 DISTRICT = 20% LANDSCAPE PER SECTION 1204-C-1	20%	31.4%
LANDSCAPE BUFFER (AVONDALE BLVD) 1 TREE AND 10 SHRUBS FOR EVERY 20 LINEAR FEET OF STREET FRONTAGE	TOTAL FRONTAGE LF = 45 FT. 2.25 TREES 22.5 SHRUBS	2 TREES 23 SHRUBS

CITY OF AVONDALE GENERAL LANDSCAPE NOTES

- ALL SINGLE-TRUNK TREES REQUIRED ON SITE SHALL BE TWO (2) INCH CALIPER AVERAGE SIZE. TREE CALIPERS FOR SINGLE-TRUNK TREES SHALL BE MEASURED AT 12" ABOVE THE GROUND. ALL MULTI-TRUNK TREES SHALL BE ONE AND ONE-HALF (1-1/2") INCH CALIPER MINIMUM. TREE CALIPER FOR MULTI-TRUNK TREES SHALL BE MEASURED TWELVE (12) INCHES ABOVE GROUND IF ALL TRUNKS ORIGINATE FROM THE SOIL. CALIPER OF MULTI-TRUNK TREES SHALL BE DETERMINED BY TAKING THE AVERAGE CALIPER OF ALL ITS TRUNKS. MULTI-TRUNK TREES SHALL HAVE NO MORE THAN THREE (3) TRUNKS.
- TREE CALIPER AND HEIGHT SHALL GOVERN OVER ANY OTHER PLANTING SIZE INFORMATION PROVIDED ON THE DRAWINGS. TREES SPECIFIED BY CONTAINER SIZES ONLY SHALL NOT BE ACCEPTED.
- A 3-FOOT CLEAR SPACE IS REQUIRED AROUND ALL FIRE SUPPRESSION EQUIPMENT. NO PLANTS MAY BE INSTALLED THAT WILL ENCROACH UPON THIS CLEAR SPACE WHEN MATURE.
- PLANTINGS WITHIN ANY SIGHT VISIBILITY EASEMENT SHALL BE MAINTAINED SO THAT NO LIMBS HAND LOWER THAN SEVEN (7) FEET AND SHRUBS OR OTHER PLANTS PLANTED WITHIN ANY SIGHT VISIBILITY EASEMENT SHALL BE NO TALLER THAN TWO (2) FEET AT FULL GROWTH.
- NOTE: ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF AVONDALE SUPPLEMENT TO MAG SPECIFICATIONS & STANDARD DETAILS CURRENTLY ON FILE AND AVAILABLE AT THE CITY OF AVONDALE ENGINEERING DEPARTMENT.

LANDSCAPE ARCHITECT

HARRINGTON PLANNING + DESIGN (HP+D)
1921 S. ALMA SCHOOL ROAD
MESA, ARIZONA 85210
JASON HARRINGTON, RLA, ASLA, ASIC, APWA
(480) 250-0116
JASON@HARRINGTONPLANNINGDESIGN.COM

ARCHITECT

TONY TANG ARCHITECT
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(602) 295-9651
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OWNER CONTACT

LOWER BUCKEYE AND AVONDALE LLC
11811 N. TATUM BOULEVARD
SUITE 1051
PHOENIX, ARIZONA 85028
ATTN: NICO HOWARD
(602) 373-4502
NICOHOWARD@GMAIL.COM

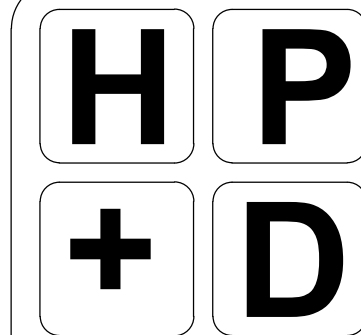
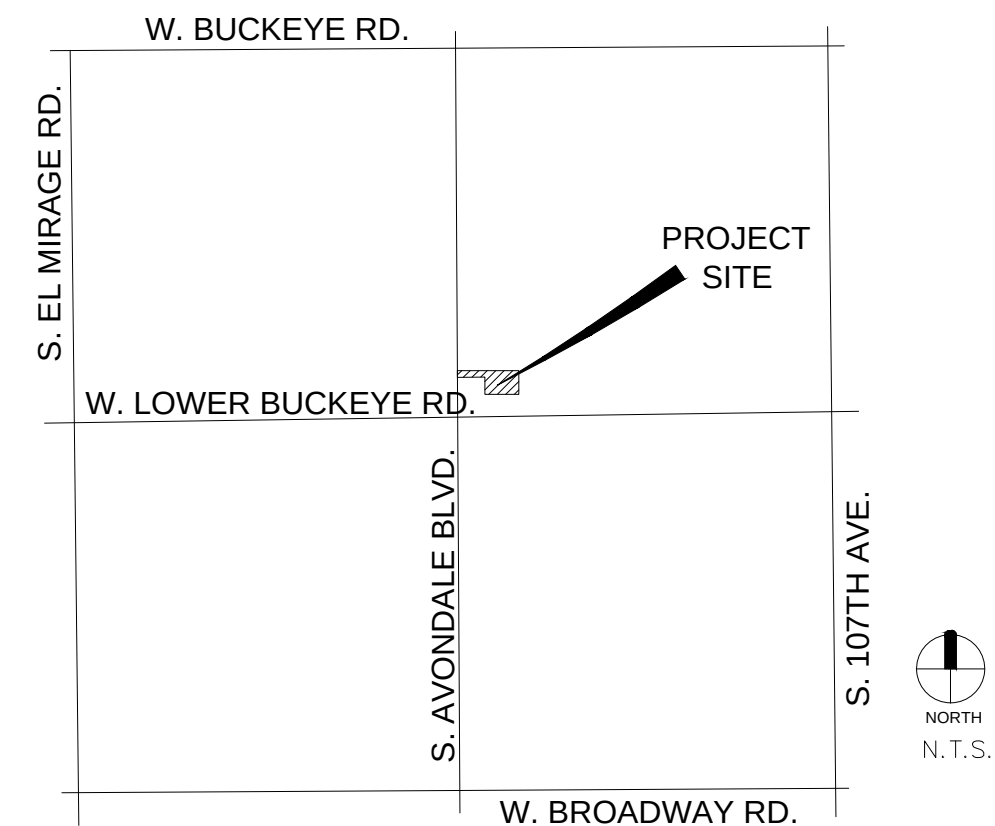
DEVELOPER

OMNI AVONDALE SELF STORAGE, LLC
4521 N. 39TH PLACE
PHOENIX, ARIZONA 85018
ATTN: SCOTT FEY
(480) 216-1140
SCOTT@OMNICAPITALLLC.COM

SITE ADDRESS

NEC AVONDALE BLVD. & LOWER BUCKEYE RD.
AVONDALE, ARIZONA 85323
APN: 101-54-652D

VICINITY MAP



HARRINGTON
PLANNING + DESIGN

1921 S Alma School Rd, Suite 204
Mesa, Arizona 85210
Tel: 480-250-0116
www.HarringtonPlanningDesign.com

PRELIMINARY
NOT FOR CONSTRUCTION



OMNI AVONDALE
SELF-STORAGE, LLC

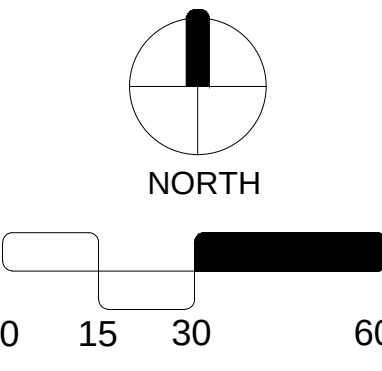
Avondale Boulevard & Lower Buckeye Road
Avondale, Arizona 85323

REV.	COMMENT	DATE

REV.	COMMENT	DATE

LANDSCAPE PACKAGE

September 01, 2021
DRAWN BY: TKW
CHECK BY: JEK
PROJ. NO.: 2021-012
CASE NO.: -



PRELIMINARY
LANDSCAPE PLAN

L1.1

1 of 1

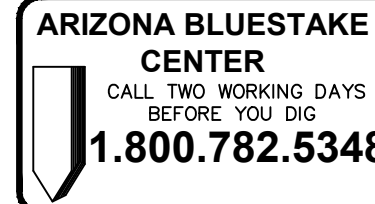


Exhibit H

Building Elevations



VIEW FROM ENTRANCE DRIVEWAY



SIDEWALK ENTRANCE TO OFFICE



ENTRANCE DRIVE WITH MULTI-TENANT MONUMENT SIGN



BIRDSEYE VIEW FROM AVONDALE

OMNI
AVONDALE SELF STORAGE



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CLIENT
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SCOTTSDALE, AZ 85250

COLOR
3D
MODELS

ISSUE
2019JAN30
REVISION:
2020JAN17
2020MAR09
DRAWN BY
TONY T.



EXP. 2022 JUN 29

A0.1



BLDG-A NORTH ELEVATION

SCALE : 1/8" = 1'-0"



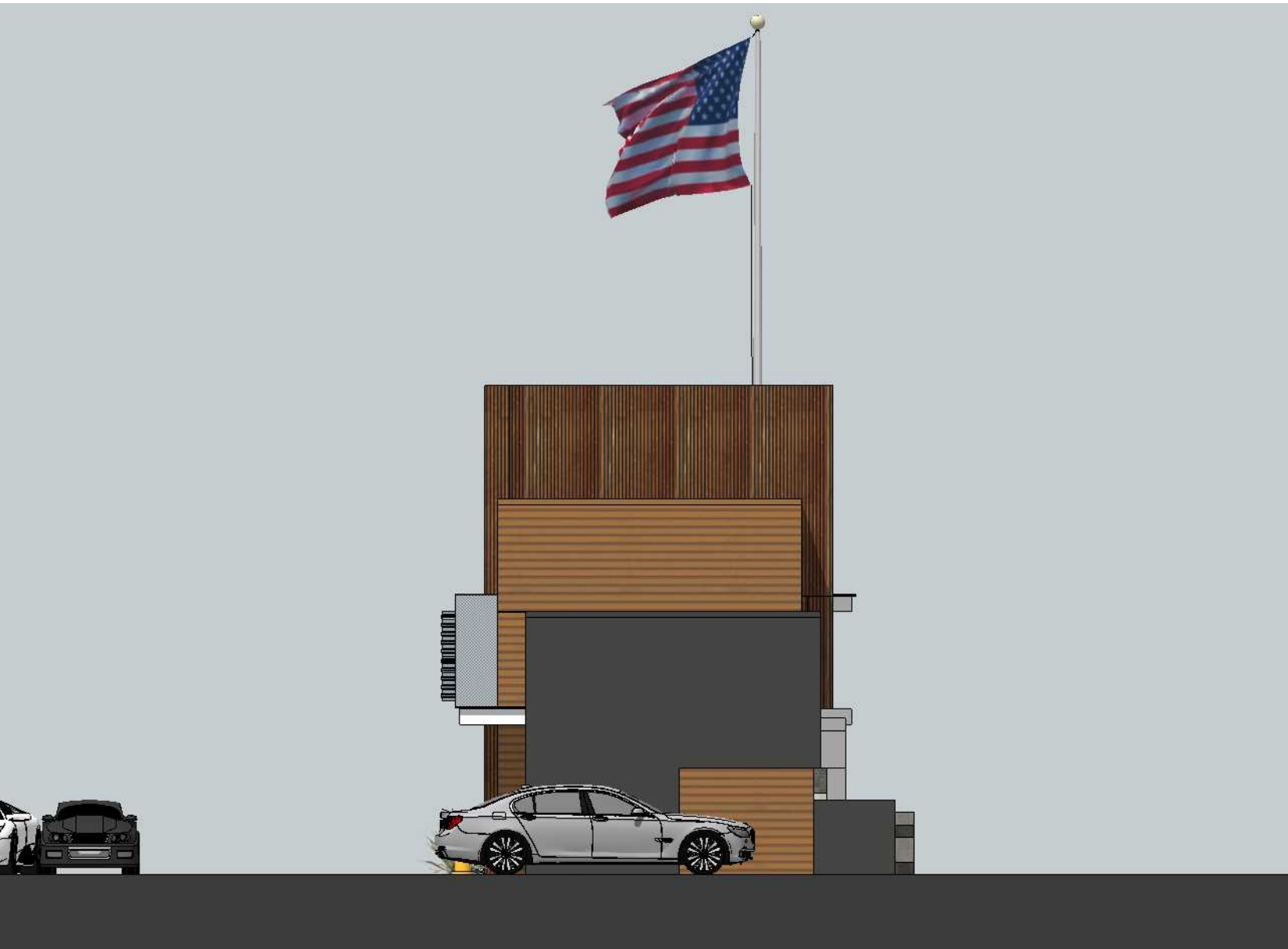
BLDG-A SOUTH ELEVATION

SCALE : 1/8" = 1'-0"



BLDG-A WEST ELEVATION

SCALE : 1/8" = 1'-0"



BLDG-A EAST ELEVATION

SCALE : 1/8" = 1'-0"

COLOR SCHEDULE

BASED ON SHERWIN WILLIAMS AND BENJAMIN MOORE SYSTEMS

IRON ORE SW 7069 MATCH MCDONALD	NAVEL SW 6887
FAIRVIEW TAUPE BM HC-85 MATCH MCDONALD	PURE WHITE SW 7005 MATCH MCDONALD
ALUM. BATTEN SYSTEM "AWNEX - WOOD GRAIN" SUBSTRATE - RAL 7022 MATCH MCDONALD	RIBBED PERFORATED METAL PANEL WITH GALVUM FINISH AND 50% OPENING
HARDIE PLANK - COLONIAL SMOOTH WITH SW 7718 OAK CREEK PAINT	SPLIT FACE CMU WALL BASE SUPERLITE HUNTINGTON GREY (L)
CLEAR ANODIZED FRAME	SPLIT FACE CMU WALL BASE SUPERLITE BLACK MOUNTAIN (M)
GLAZING PPG SOLEXIA	
MIS METAL PERSIMMON DE5293 (N)	

OMNI AVONDALE SELF STORAGE
tony tang architect ltd.



TONY TANG ARCHITECT LTD.
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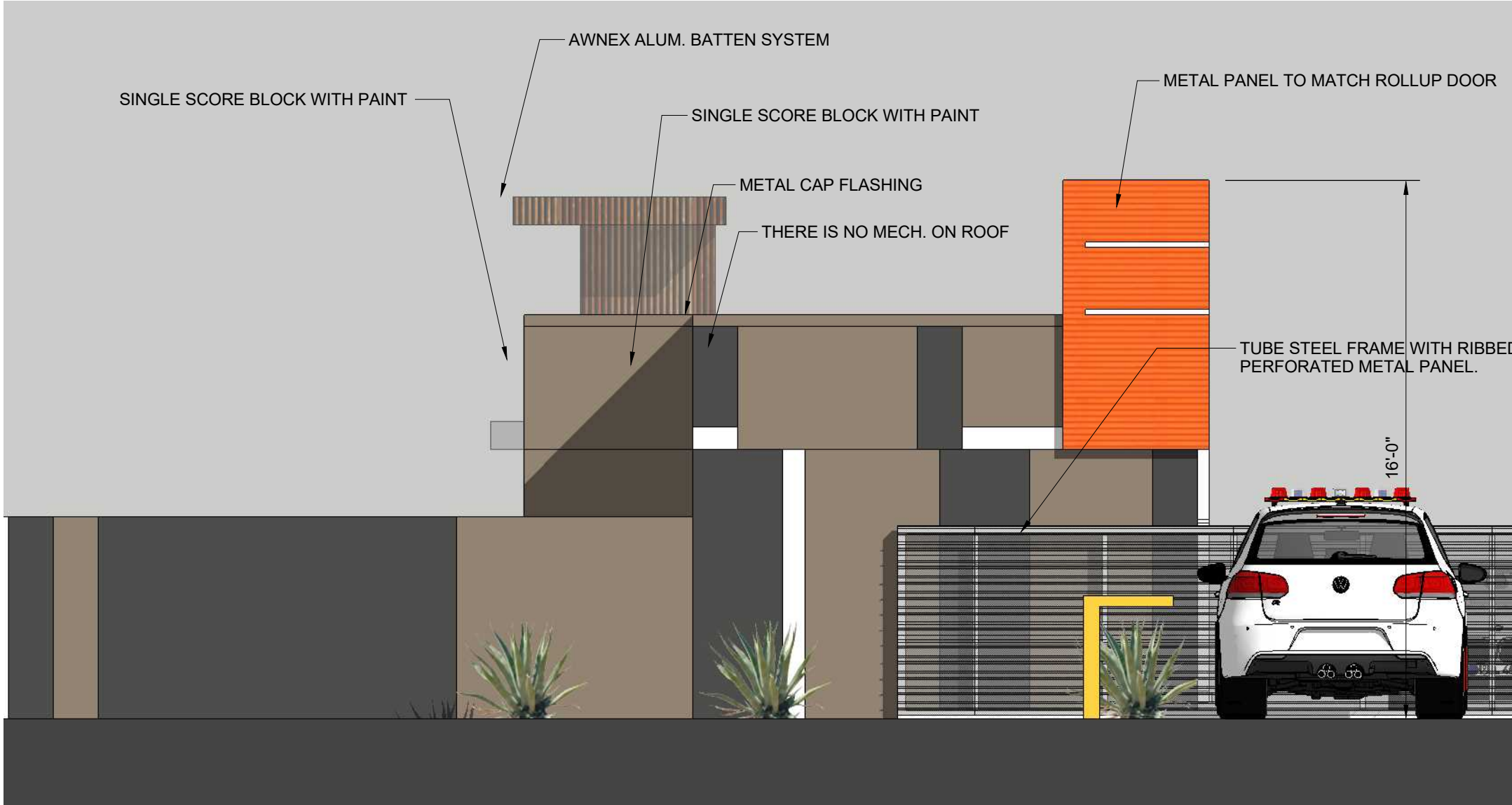
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2021MAR31
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BLDG-A COLOR ELEVATIONS

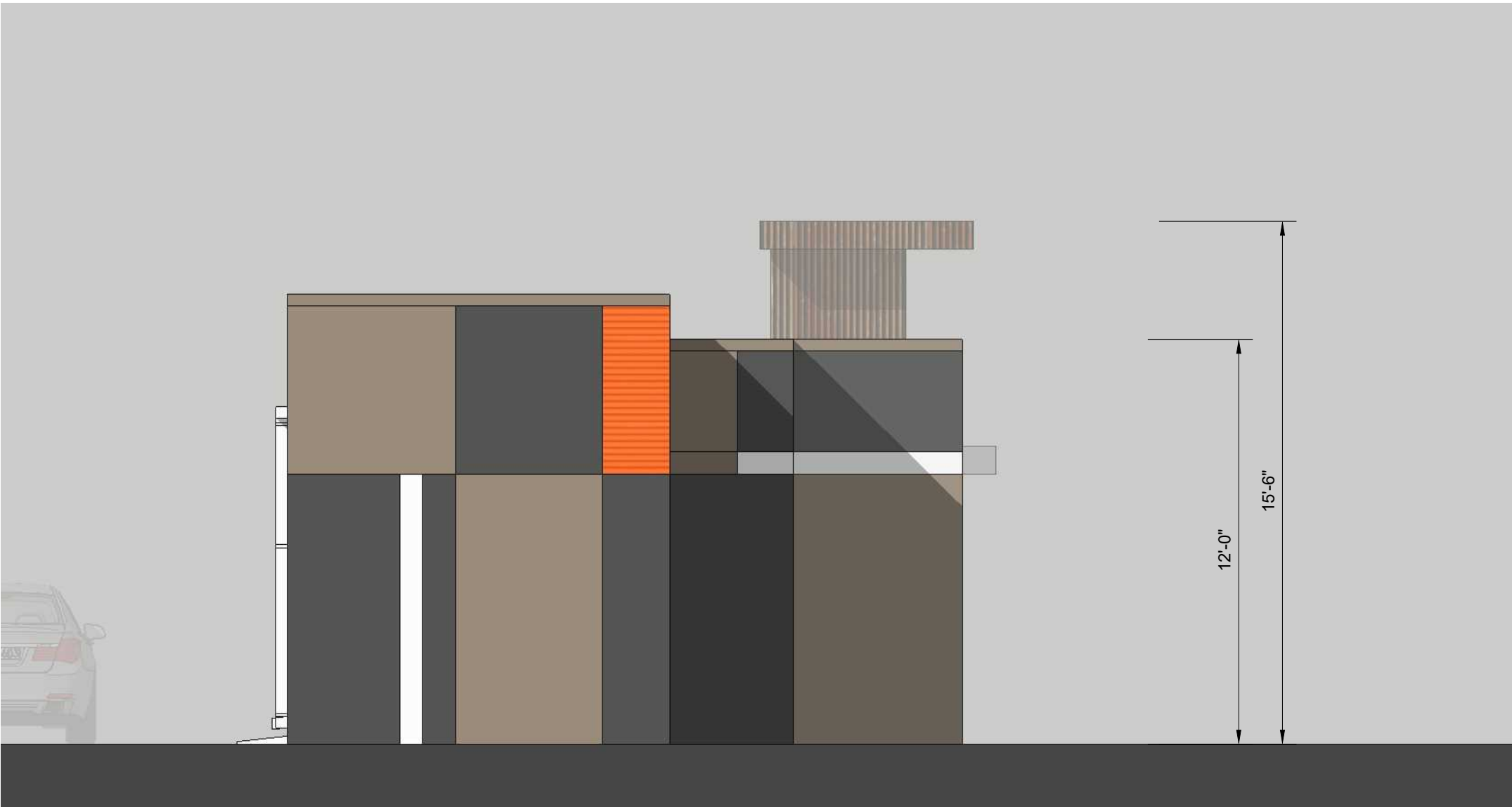
20159
KWAN CHIEU-
TANG
7/27/23
PHOENIX, U.S.A.

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A3.1C



BUILDING-B WEST ELEVATION



BUILDING-B EAST ELEVATION



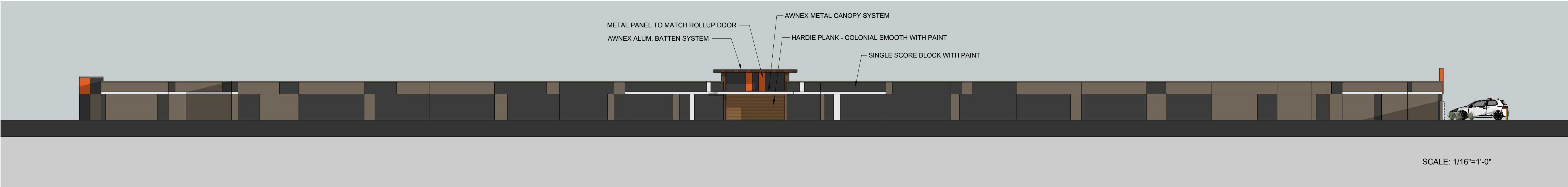
AVONDALE SELF STORAGE

COLOR SCHEDULE

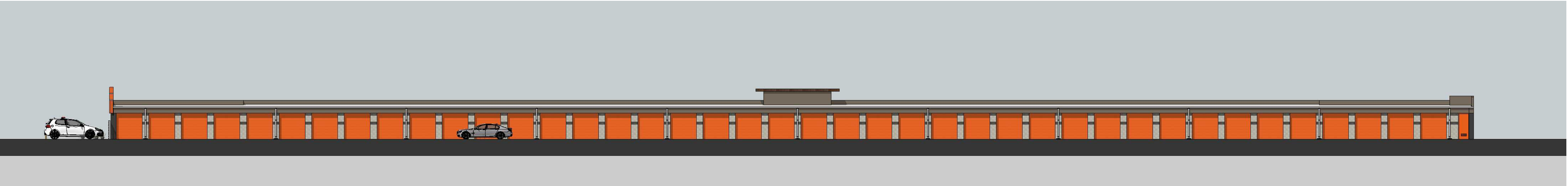
BASED ON SHERWIN WILLIAMS AND BENJAMIN MOORE SYSTEMS

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BUILDING-B NORTH ELEVATION



BUILDING-B SOUTH ELEVATION



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BLDG-B COLOR ELEVATIONS

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BLDG-C SOUTH ELEVATION

SCALE: 1/4"=1'-0"



BLDG-C NORTH ELEVATION

SCALE: 1/4"=1'-0"



AVONDALE SELF STORAGE



BLDG-C WEST ELEVATION (AVONDALE FRONTAGE)

SCALE: 1/8"=1'-0"



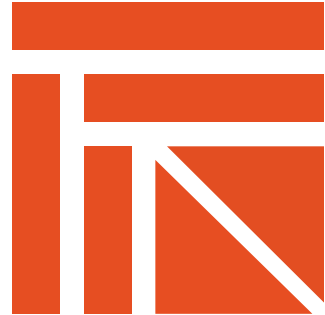
BLDG-C PARTIAL EAST ELEVATION (INTERIOR)

COLOR SCHEDULE

BASED ON SHERWIN WILLIAMS AND BENJAMIN MOORE SYSTEMS

IRON ORE SW 7069 MATCH MCDONALD	NAVEL SW 6887
FAIRVIEW TAUPE BM HC-85 MATCH MCDONALD	PURE WHITE SW 7005 MATCH MCDONALD
ALUM. BATTEN SYSTEM "AWNEX - WOOD GRAIN" SUBSTRATE - RAL 7022 MATCH MCDONALD	RIBBED PERFORATED METAL PANEL WITH GALVLUM FINISH AND 50% OPENING
HARDIE PLANK - COLONIAL SMOOTH WITH SW 7718 OAK CREEK PAINT	SPLIT FACE CMU WALL BASE SUPERLITE HUNTINGTON GREY (L)
CLEAR ANODIZED FRAME	SPLIT FACE CMU WALL BASE SUPERLITE BLACK MOUNTAIN (M)
GLAZING PPG SOLEX A	
MIS METAL PERSIMMON DE5293 (N)	

OMNI AVONDALE SELF STORAGE
tony tang architect ltd.



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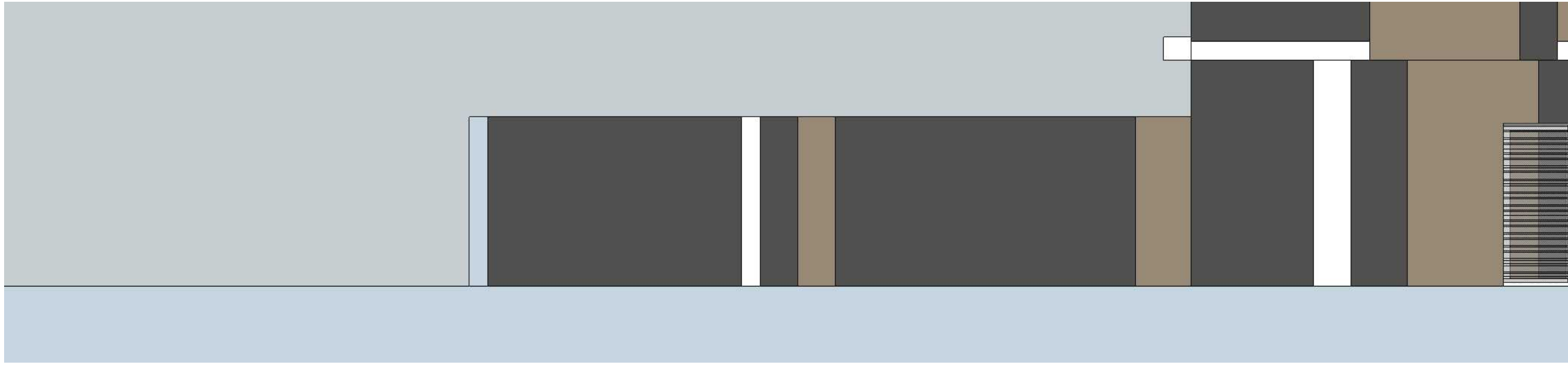
BLDG-C COLOR ELEVATIONS

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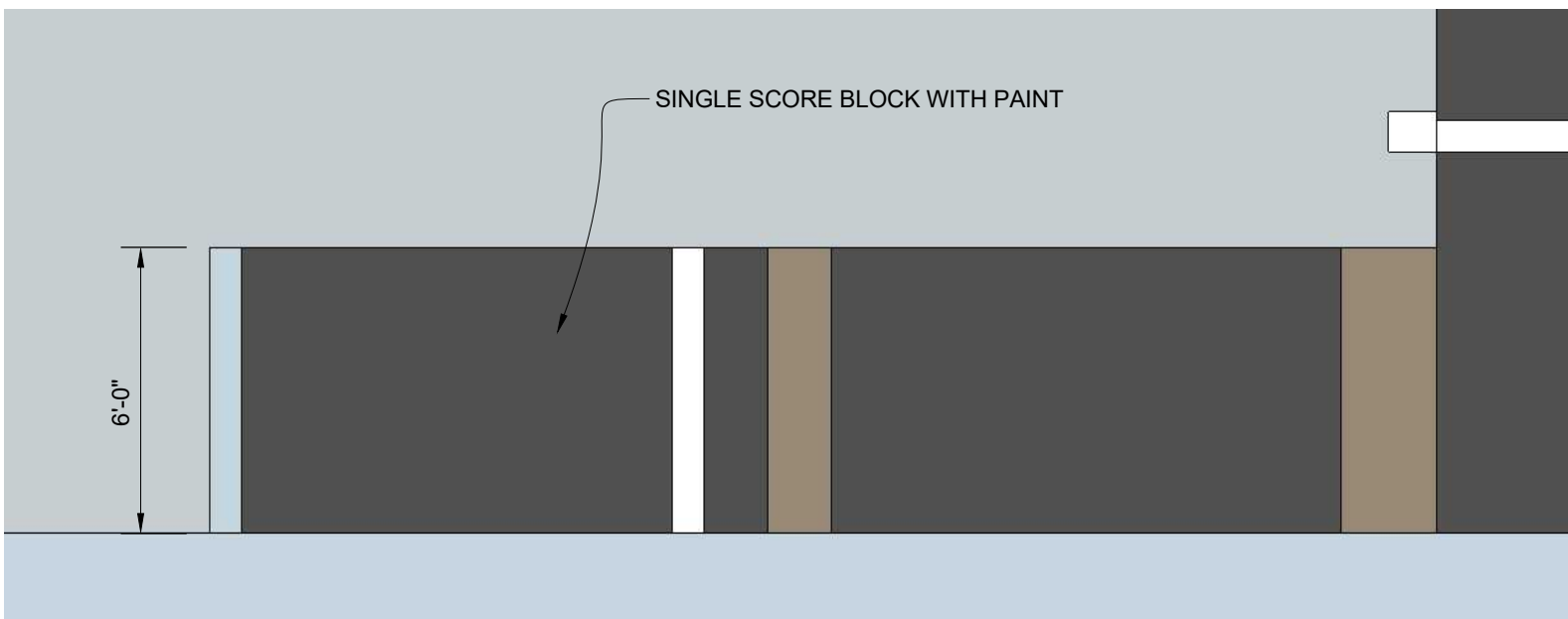
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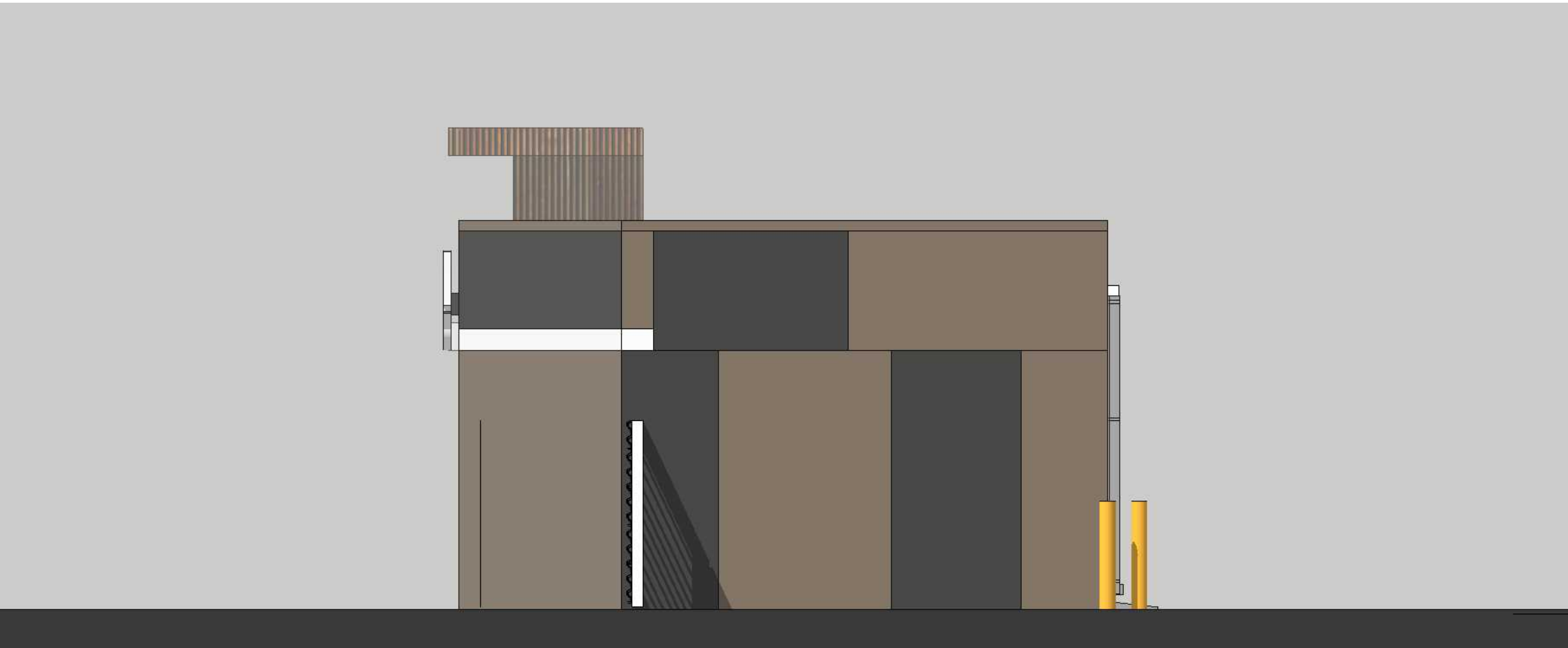
SITE WEST SCREEN WALL ELEVATION

SCALE: 1/4"=1'-0"



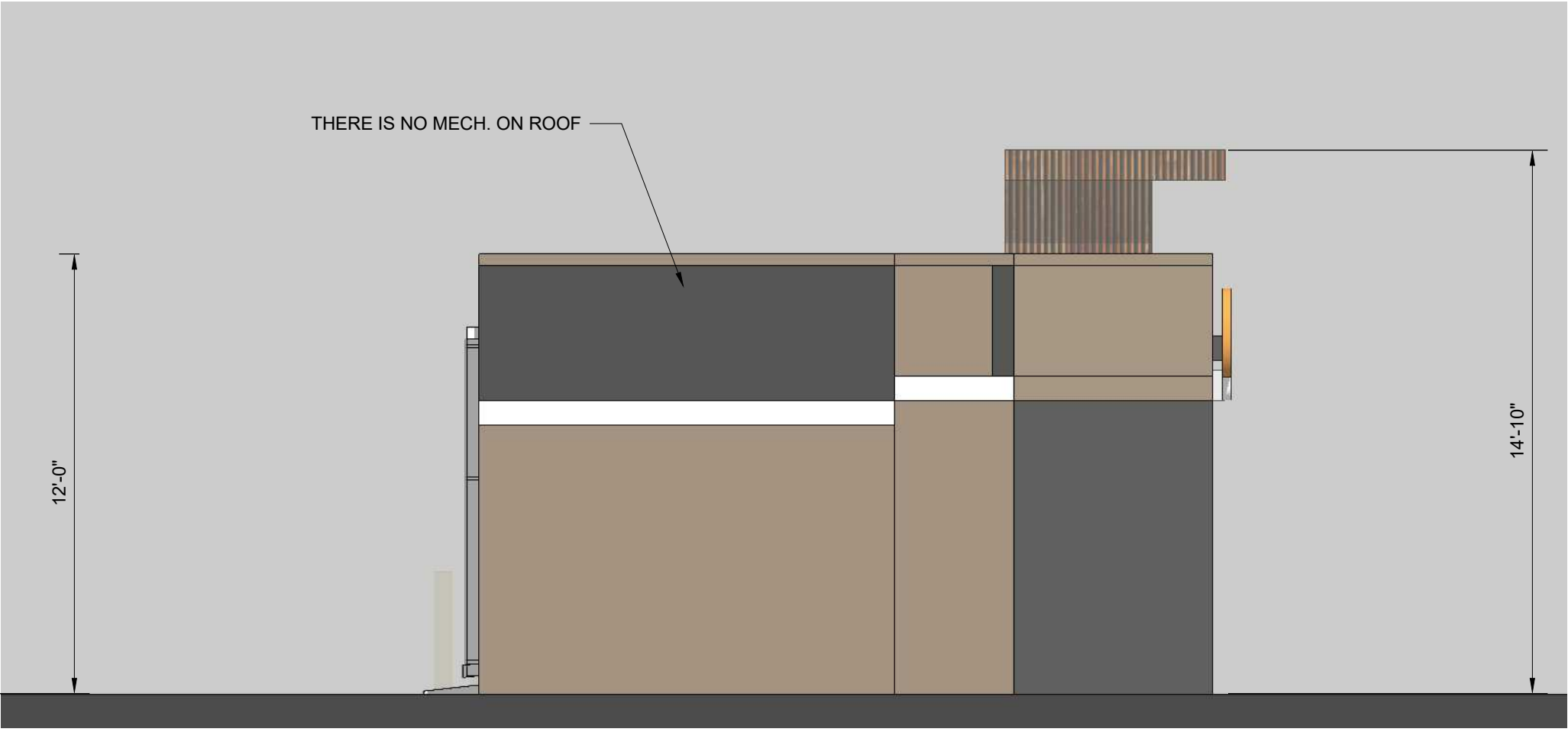
SITE SOUTH SCREEN WALL ELEVATION

SCALE: 1/4"=1'-0"



BLDG-D EAST ELEVATION

SCALE: 1/4"=1'-0"



BLDG-D WEST ELEVATION

SCALE: 1/4"=1'-0"



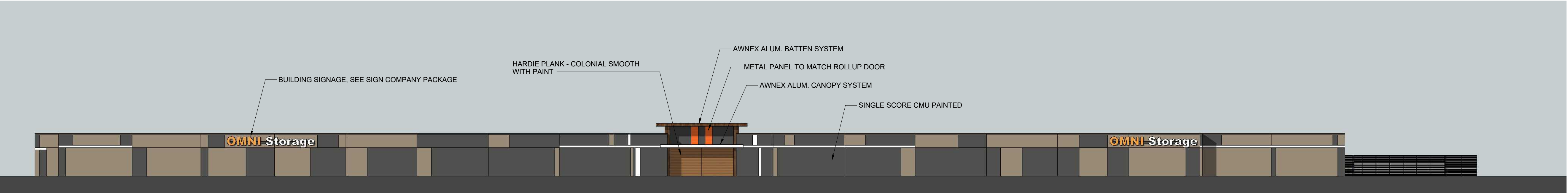
AVONDALE SELF STORAGE

COLOR SCHEDULE

BASED ON SHERWIN WILLIAMS AND BENJAMIN MOORE SYSTEMS

IRON ORE SW 7069 MATCH MCDONALD	NAVEL SW 6887
FAIRVIEW TAUPE BM HC-85 MATCH MCDONALD	PURE WHITE SW 7005 MATCH MCDONALD
ALUM. BATTEN SYSTEM "AWNEX - WOOD GRAIN" SUBSTRATE - RAL 7022 MATCH MCDONALD	RIBBED PERFORATED METAL PANEL WITH GALVLUM FINISH AND 50% OPENING
HARDIE PLANK - COLONIAL SMOOTH WITH SW 7718 OAK CREEK PAINT	SPLIT FACE CMU WALL BASE SUPERLITE HUNTINGTON GREY (L)
CLEAR ANODIZED FRAME	SPLIT FACE CMU WALL BASE SUPERLITE BLACK MOUNTAIN (M)
GLAZING PPG SOLEXIA	
MIS METAL PERSIMMON DE5293 (N)	

OMNI AVONDALE SELF STORAGE
tony tang architect ltd.



BLDG-D SOUTH ELEVATION (SOUTH PROPERTY LINE FRONTAGE)

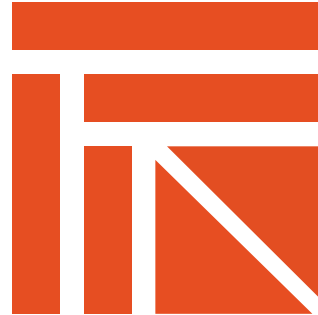
SCALE: 1/16"=1'-0"



BLDG-D NORTH ELEVATION (INTERIOR)

SCALE: 1/16"=1'-0"

SCALE: 1/8"=1'-0"



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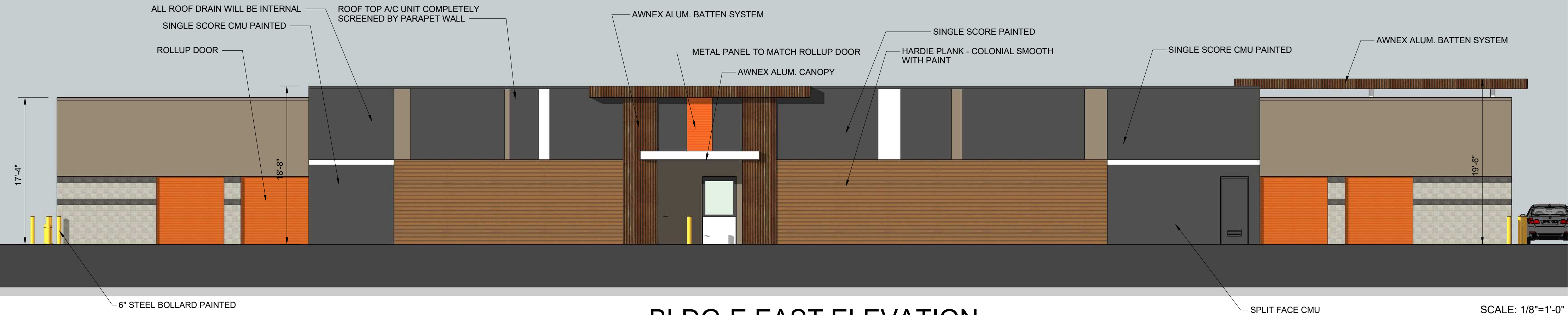
BLDG-D COLOR ELEVATIONS

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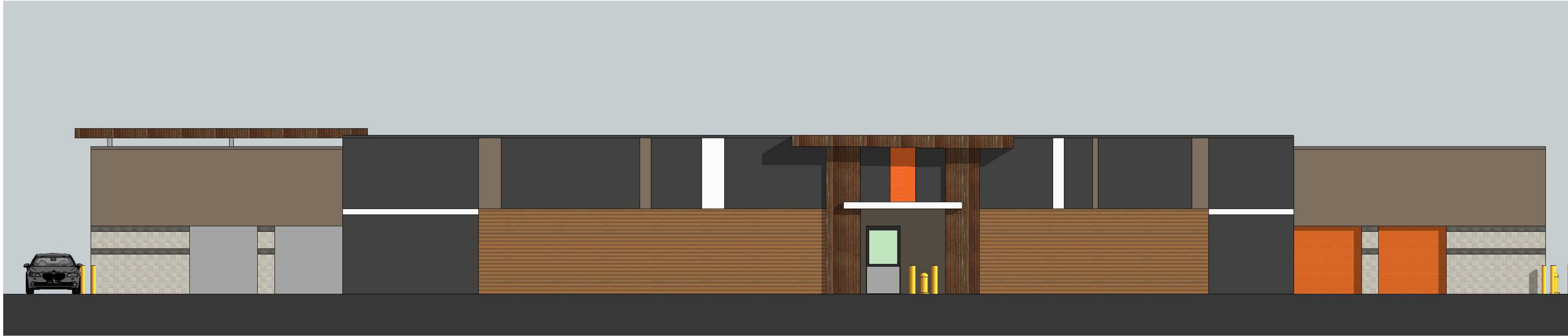


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A3.4C



BLDG-E EAST ELEVATION



BLDG-E WEST ELEVATION



AVONDALE SELF STORAGE

COLOR SCHEDULE

BASED ON SHERWIN WILLIAMS AND BENJAMIN MOORE SYSTEMS

IRON ORE SW 7069 MATCH MCDONALD	NAVEL SW6887
FAIRVIEW TAUPE BM HC-85 MATCH MCDONALD	PURE WHITE SW 7005 MATCH MCDONALD
ALUM. BATTEN SYSTEM "AWNEX - WOOD GRAIN" SUBSTRATE - RAL 7022 MATCH MCDONALD	RIBBED PERFORATED METAL PANEL WITH GALVLUM FINISH AND 50% OPENING
HARDIE PLANK - COLONIAL SMOOTH WITH SW 7718 OAK CREEK PAINT	SPLIT FACE CMU WALL BASE SUPERLITE HUNTINGTON GREY (L)
CLEAR ANODIZED FRAME	SPLIT FACE CMU WALL BASE SUPERLITE BLACK MOUNTAIN (M)
GLAZING PPG SOLEXIA	
MIS METAL PERSIMMON DE5293 (N)	

OMNI AVONDALE SELF STORAGE
tony tang architect ltd.



BLDG-E SOUTH ELEVATION (WITH COVERED PARKING SPACE)

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SCOTTSDALE, AZ 85250

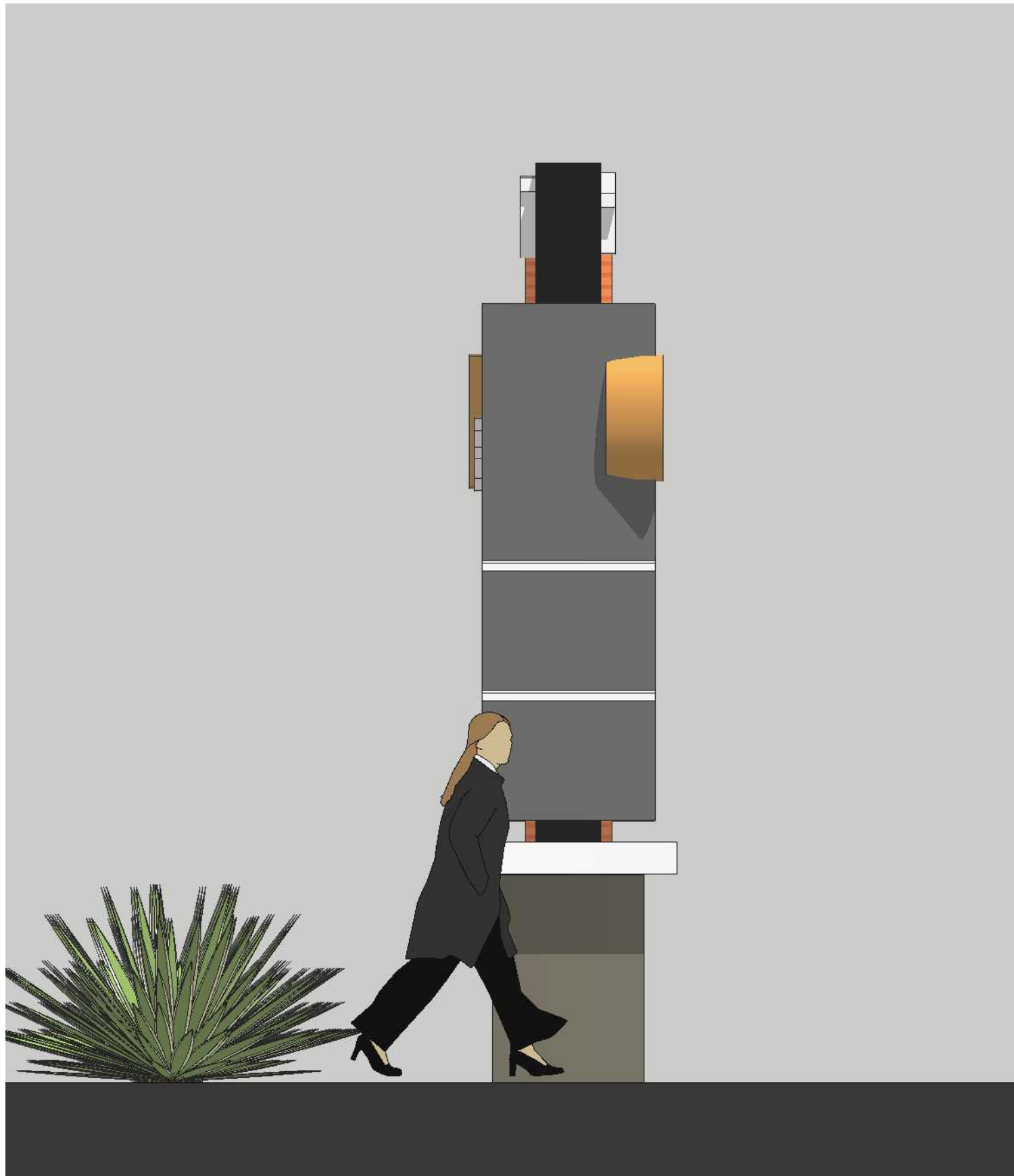
BLDG-E COLOR ELEVATIONS

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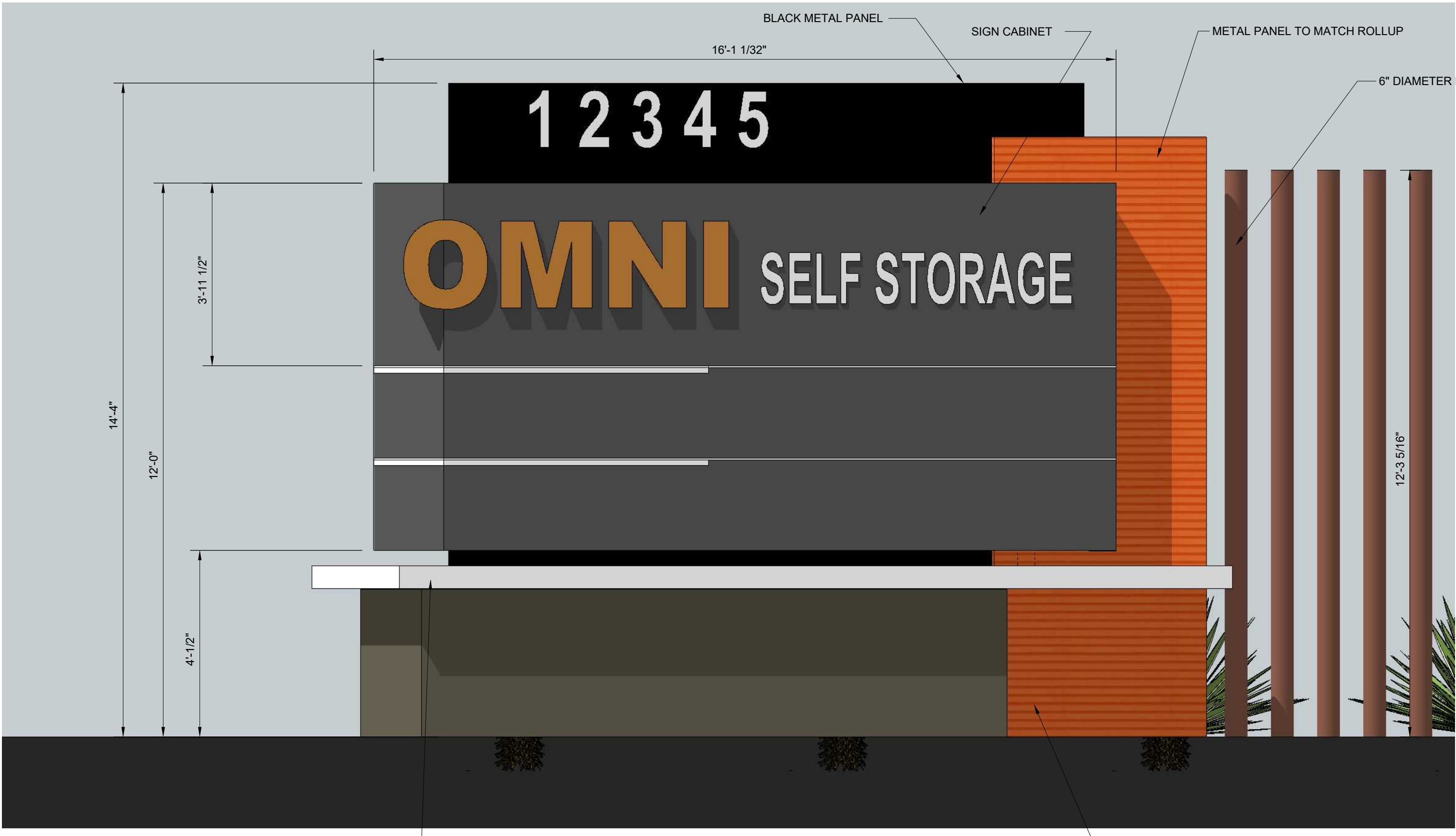
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TANG
7/27/21
PHOENIX, U.S.A.

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A3.5C



MONUMENT SIGN WEST ELEVATION
SCALE: 1/2"=1'-0"



MONUMENT SIGN SOUTH ELEVATION
SCALE: 1/2"=1'-0"

COLOR SCHEDULE

BASED ON SHERWIN WILLIAMS AND BENJAMIN MOORE SYSTEMS

IRON ORE SW 7069 MATCH MCDONALD	NAVEL SW 6887
FAIRVIEW TAUPE BM HC-85 MATCH MCDONALD	PURE WHITE SW 7005 MATCH MCDONALD
ALUM. BATTEN SYSTEM "AWNEX-WOOD GRAIN" SUBSTRATE - RAL 7022 MATCH MCDONALD	BLACK MAGIC SW 6991 ON ALUM. PANEL FOR SIGN
HARDIE PLANK - COLONIAL SMOOTH WITH SW 7718 OAK CREEK PAINT	SPLIT FACE CMU WALL BASE SUPERLITE HUNTINGTON GREY (L)
CLEAR ANODIZED FRAME	SPLIT FACE CMU WALL BASE SUPERLITE BLACK MOUNTAIN (M)
GLAZING PPG SOLEXIA	
MIS METAL PERSIMMON DE5293 (N)	

OMNI AVONDALE SELF STORAGE
tony tang architect ltd.



OFFICE ENTRANCE SIGN
SCALE: 1/2"=1'-0"



AVONDALE SELF STORAGE



STORAGE ENTRY GATE SIGN
SCALE: 1/2"=1'-0"



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SCOTTSDALE, AZ 85250

MASTER SIGN PACKAGE

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SI-1.0C

Exhibit I

Neighborhood Meeting Summary

Neighborhood Meeting Summary – CUP/Site Plan/Design Review

Omni Avondale Self Storage

Case # PL-21-0151

Date: Wednesday, July 28, 2021

Time: 6:00 PM

Location: **Zoom teleconference only

Meeting ID: 605 902 7693

<https://avondaleaz.zoom.us/j/6059027693>

Dial in: + 1 669 900 9128

**In Attendance: Jason Sanks, Sanks and Associates (Applicant and Presenter)
Scott Fey, Omni Capital (Developer)
Fritz Beesemyer, Omni Capital (Developer)**

**Michelle Simerdla, Senior Planner (City of Avondale)
Pat Dennis, Council Member
Larry White, Planning Commissioner
No neighbors attended the meeting**

Meeting Notice was mailed by the City of Avondale to approximately 275 property owners surrounding the property within a 1000' radius, per City of Avondale notification requirements. Additionally, a Public Notification Sign was placed on the property and newspaper ad placed in the Arizona Republic Zone 5 (SW Edition) a minimum of 15 days prior to the meeting.

The meeting started at 6:00pm via Zoom video conference, general discussion began around 6:10pm to provide an opportunity for neighbors to join the meeting. No neighbors joined the meeting.

The applicant, Jason Sanks, provided a presentation of the project to Commissioner White and Council Member Dennis and shared via Zoom video the exhibits related to the Conditional Use Permit needed for the self-storage facility, including the colorized landscape plan, building elevations, and site plan of the project. The presentation provided an overview of the details of the request, the surrounding zoning and development, and detailed steps of the entitlements and development process. Mr. Sanks noted that the project was designed to compliment the approved McDonald's restaurant on the hard corner, while providing additional colors and materials to better mitigate the storage buildings' inherently longer building masses.

Mr. Sanks explained the developer and design team's efforts to buffer the adjacent residential homes with a dense landscape buffer and highlighted the low building heights of the storage buildings which are all single-story, ranging in height from 14' to 17'. Mr. Sanks explained that primary access would be taken from Avondale Boulevard, with cross-access provided to the south and connecting to the approved McDonald's fast-food restaurant (not yet built). Additional temporary emergency access is proposed across the vacant property connecting the storage facility to Lower Buckeye Road if ever necessary. Mr. Sanks noted to Commissioner White that the relatively odd diagonal configuration of the emergency access was due to the existing temporary retention basin on the outparcel and that it would be revised with permanent emergency cross access at the time that parcel develops.

Both the Council Member and the Planning Commissioner asked Mr. Sanks a series of questions related to the project, largely discussing the efforts related to mitigating the impacts of the facility, architecture, lighting, and landscaping of the project. Some concern was expressed regarding the proliferation of self-storage facilities in the area in general – suggesting that the land use was not as retail-oriented as shopping and restaurant uses are. Mr. Sanks acknowledged this concern but did re-iterate that the project would still generate rental sales tax revenue for the City while demanding relatively few City resources since it was highly secure by its own design and generated very few traffic trips. Mr. Sanks explained that the property was utilizing a relatively narrow frontage of Avondale Boulevard for access which would allow the rear balance of the property to have a useful purpose as self-storage while leaving the more prominent arterial frontages remaining for other, retail and restaurant uses that need the better visibility.

Mr. Sanks explained the security measures that the facility would provide to protect customer's belongings and negate any concerns of general security of the site related to the neighborhood. He advised that the rental contracts prohibited customers from storing hazardous materials or from living/working out of the storage units. He reviewed the facility's hours of operation and further noted that most customers reserve and pay for their rental storage units online and do not visit the facility very often, just at times to check on or load/unload their personal belongings. The parking ratios and allocation on the site were also discussed.

Mr. Sanks also noted that it was anticipated that the remaining parcels, aside from the McDonald's restaurant, would likely develop with retail and restaurant uses as the commercial corner builds out.

SUMMARY

Generally, the meeting was a productive exchange of information between Mr. Sanks, the developer, City Staff, Council Member Coburn, and Planning Commissioner White. The meeting ended with a brief discussion of prospective meeting dates for PZ and CC that would ultimately be determined by City Staff upon completion of their 2nd review of the project's submittal.