



City of Avondale
City Council Meeting
Monday, July 22, 2019

Mayor and Council

Kenn Weise, Mayor

Pat Dennis, Vice Mayor

Tina Conde, Council Member | Bryan Kilgore, Council Member
Veronica Malone, Council Member | Curtis Nielson, Council Member
Mike Pineda, Council Member

Administration

Charles A. Montoya, City Manager
Gina Montes, Assistant City Manager
Michael Wawro, City Attorney
Marcella Carrillo, City Clerk

City Council Chambers

11465 West Civic Center Drive
Avondale, AZ 85323



City Council Meeting
Agenda
Monday, July 22, 2019

CITY COUNCIL CHAMBERS | 11465 WEST CIVIC CENTER DRIVE | AVONDALE, AZ 85323

WORK SESSION
6:00 PM

CALL TO ORDER BY MAYOR

1. ROLL CALL BY THE CITY CLERK

2. APS UPDATE ON NEW TRANSMISSION LINES

A representative from Arizona Public Service (APS) will provide an update to City Council on potential alignments of new transmission lines.

3. CITY COUNCIL EDUCATION SUPPORT FUNDING

Staff will present an updated recommendation regarding the utilization of funding allocated during the fiscal year 2019 budget process for the purpose of supporting the academic success of students in Avondale. Input and feedback is requested from City Council.

4. MULTI-FAMILY RESIDENTIAL DESIGN MANUAL UPDATE (APPLICATION PL-19-0074)

Staff will present Application PL-19-0074, a request by the City's Planning Division to update the design manual for Multi-Family Residential development. The update is intended to refine development design guidelines reflecting local best practices in design standards, new development trends, increased attention to sustainability in the development process, and changes to industry standards as well as to reflect the City's current level of expectation for quality development in Avondale.

5. ADJOURNMENT

Request to Speak: Anyone wishing to address the Council regarding items listed on the agenda or under unscheduled public appearance should fill out a card located at the back of the Council Chambers and hand it to the City Clerk prior to consideration of that agenda item.

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

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

3. RECOGNITION ITEMS

a. EXCEPTIONAL READERS RECOGNITION

The Mayor and City Council will recognize the exceptional readers who participated in the Read 365! Program and the 1,000 Books Before Kindergarten Program for their achievement in reading.

b. RECOGNITION OF DIVISION CHIEF AARON GLASS FOR SUCCESSFUL COMPLETION OF THE NATIONAL FIRE ACADEMY'S EXECUTIVE FIRE OFFICER PROGRAM

The Mayor and City Council along with the Avondale Fire and Medical Department, will recognize Fire Division Chief Aaron Glass on his completion of the four-year Executive Fire Officer Program from the National Fire Academy in Emmitsburg, Maryland and present Chief Glass with his Official Certificate of Completion.

c. PROCLAMATION - HONORING JOE "PEP" GUZMAN

Mayor and Council will issue a Proclamation recognizing Joe "Pep" Guzman for his years of leadership and dedicated service to the Avondale community.

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 March 25, 2019 and April 8, 2019 City Council Meeting Minutes. The Council will take the appropriate action.

b. SERIES 10 LIQUOR LICENSE - PIZZA HUT #27001

City Council will consider a request to approve an application for a Series 10 (Beer and Wine Store) Liquor License submitted by Theresa June Morse to sell beer and wine at the Pizza Hut located at 10685 West Indian School Road, #J, in Avondale, and authorize the Mayor and City Clerk to execute the necessary documents. The Council will take appropriate action.

c. SERIES 10 LIQUOR LICENSE - PIZZA HUT #30991

City Council will consider a request to approve an application for a Series 10 (Beer and Wine Store) Liquor License submitted by Theresa June Morse to sell beer and wine at the Pizza Hut located at 1450 North Dysart Avenue, #A10-A11, in Avondale, and authorize the Mayor and City Clerk to execute the necessary documents. The Council will take appropriate action.

d. DESIGNATION OF CHIEF FINANCIAL OFFICER FOR THE UNIFORM EXPENDITURE REPORTING SYSTEM

City Council will consider a request to designate the Finance and Budget Director as the Chief Financial Officer for the submittal of the annual expenditure limitation report. The Council will take appropriate action.

e. CONTRIBUTIONS ASSISTANCE PROGRAM FISCAL YEAR 2019-2020 FUNDING RECOMMENDATIONS

City Council will consider a request to approve the funding recommendations made by the City Council Subcommittee for distribution of the proposed \$110,000 Contributions Assistance Program fund. The Council will take appropriate action.

f. ORDINANCE 1696-719 - AMENDING CITY CODE CHAPTER 4.5 CABLE TELEVISION SYSTEMS - UNIFORM VIDEO SERVICE LICENSE AGREEMENTS

City Council will consider a request to adopt Ordinance 1696-719, amending City Code Chapter 4.5 Cable Television Systems pertaining to video service license agreements and authorize the Mayor and City Clerk to execute the necessary documents. The Council will take appropriate action.

g. ORDINANCE 1697-719 - AMENDING CITY CODE CHAPTER 21 - FIBER CONDUIT

City Council will consider a request to adopt Ordinance 1697-719 amending Chapter 21 of the City Code, pertaining to the installation of fiber conduit and authorize the Mayor, or City Manager and City Clerk to execute the appropriate documents. The Council will take appropriate action.

h. CONTRACT AMENDMENT ONE WITH TIGHTLINE SYSTEMS, INC. FOR SPECIAL EVENTS PLANNING AND SERVICES

City Council will consider a request to approve Contract Amendment One with Tightline Systems, Inc. dba Goosebump Marketing and Events, to provide event planning and management services in the amount not to exceed \$2,175,000 over the duration of the contract, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

i. CONSTRUCTION MANAGER AT RISK CONTRACT AWARD WITH ACHEN GARDNER FOR SEWER REPAIR PROJECTS

City Council will consider a request to approve a Construction Manager at Risk Agreement with Achen Gardner Construction, LLC for sewer repair services in the amount of \$76,796.70 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

j. COOPERATIVE PURCHASING AGREEMENT WITH THE HOME DEPOT FOR MAINTENANCE, REPAIR, AND SUPPLIES

City Council will consider a request to approve a Cooperative Purchasing Agreement (CPA) with The Home Depot for maintenance, repair, operating supplies, industrial supplies, and related products and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents. The Council will take the appropriate action.

k. SECOND AMENDMENT TO COOPERATIVE PURCHASING AGREEMENT WITH EATON SALES & SERVICE, LLC FOR FUEL TANK SERVICES

City Council will consider a request to approve a Second Amendment to the Cooperative Purchasing Agreement with Eaton Sales & Service, LLC for petroleum storage tank repair, maintenance and installation increasing compensation by \$20,000 for a maximum aggregate not to exceed \$91,330.51 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

l. PROFESSIONAL SERVICES AGREEMENT WITH GHD, INC. FOR THE RILEY LIFT STATION DESIGN

City Council will consider a request to approve a Professional Service Agreement with GHD, Inc. to provide professional consulting and engineering services related to the design of the Riley Lift Station in the amount of \$74,795 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

m. PROFESSIONAL SERVICES AGREEMENT WITH NCS ENGINEERS FOR THE COLDWATER WEST RESERVOIR REHAB DESIGN

City Council will consider a request to approve a Professional Services Agreement with NCS Engineers to provide professional consulting and engineering services related to the Coldwater West Tank Rehabilitation project in the amount of \$95,975 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

n. PROFESSIONAL SERVICES AGREEMENT WITH M&J TROPHIES AND APPAREL FOR CITYWIDE PROMOTIONAL PRODUCTS AND SERVICES

City Council will consider a request to approve a contract with M&J Trophies and Apparel for citywide promotional products and services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action. This is one of two multiple service awards for promotional products and services.

o. PROFESSIONAL SERVICES AGREEMENT WITH TOUCHDOWN SPORTS FOR CITYWIDE PROMOTIONAL PRODUCTS AND SERVICES

City Council will consider a request to approve a contract with Touchdown Sports for citywide promotional products and services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action. This is one of three multiple awards for citywide promotional print products and services.

p. PROFESSIONAL SERVICES AGREEMENT WITH 4IMPRINT INC. FOR CITYWIDE PROMOTIONAL PRODUCTS AND SERVICES

City Council will consider a request to approve a contract with 4imprint, Inc., for citywide Promotional Products and Services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action. This is one of three multiple awards for Citywide Promotional Print Products and Services.

q. PROFESSIONAL SERVICES AGREEMENT WITH CENTURY GRAPHICS, INC FOR CITYWIDE COMMERCIAL PRINTING AND MAILING SERVICES

City Council will consider a request to award a contract to Century Graphics, Inc for citywide commercial printing and mailing services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

r. PROFESSIONAL SERVICES AGREEMENT WITH CAPITOL LITHO CORPORATION FOR CITYWIDE COMMERCIAL PRINTING AND MAILING SERVICES

City Council will consider a request to award a contract to Capitol Litho Corporation for citywide commercial printing and mailing services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

s. PROFESSIONAL SERVICES AGREEMENT WITH COURIER GRAPHICS CORPORATION FOR CITYWIDE COMMERCIAL PRINTING AND MAILING SERVICES

City Council will consider a request to award a contract to Courier Graphics Corporation for citywide commercial printing and mailing services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

t. PROFESSIONAL SERVICES AGREEMENT WITH IMAGE CRAFT, LLC FOR LARGE FORMAT PRINTING SERVICES

City Council will consider a request to approve a contract with Image Craft, LLC for large format printing services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

u. PROFESSIONAL SERVICES AGREEMENT WITH AZPRO SIGNS INC. FOR LARGE FORMAT PRINTING SERVICES

City Council will consider a request to approve a contract with AZPRO Signs Inc for large format printing services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

v. FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT WITH DIBBLE & ASSOCIATES FOR THE LARGE DIAMETER SEWER DESIGN

City Council will consider a request to approve a First Amendment to the Professional Service Agreement with Dibble & Associates Consulting Engineers, Inc. for additional design services related to the 4th Street Sewer System Repair project increasing compensation by \$5,639 for a contract total of \$55,093 and authorize the Mayor, or City Manager and City Clerk to execute the contract documents. The Council will take appropriate action.

w. FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH CAPITALEDGE ADVOCACY FOR FEDERAL ADVOCACY SERVICES

City Council will consider a request to approve Contract Amendment No. 1 to the Professional Services Agreement with CapitalEdge Consulting for federal advocacy and information services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

x. CAMPOS MINOR LAND DIVISION (APPLICATION PL-19-0060)

City Council will consider a request by Dejan Knezevic, Miller Land Surveying, for approval of a Minor Land Division. The site is located at the southwest corner of Elwood Street and 127th Avenue, which is north of Broadway Road and west of El Mirage Road. (Exhibits A, B, C). The proposed Minor Land Division will divide an existing 0.43-acre parcel into two (2) lots, dedicate eight (8) foot Public Utility Easements (PUEs), and 40 feet of right-of-way along Elwood Street and 127th Avenue. The Council will take appropriate action.

5. REGULAR AGENDA

a. AVONDALE CITY CENTER NAMING

City Council will consider a request for a new name for Avondale City Center as the city moves ahead with future development for the area. The Council will take appropriate action.

6. DISCUSSION ITEMS

Council will discuss items listed below and possibly give direction to city staff to research and prepare item for future meeting.

a. CITY CENTER SPECIFIC PLAN UPDATE (APPLICATION PL-19-0075)

This is an update from staff to discuss application PL-19-0075, a request by the City's Planning Division to update the City Center Specific Plan. The update is to reflect evolving conditions impacting the implementation of the adopted Vision for the Avondale City Center. The intent of the update is to reflect the City's current level of expectation for a quality, unique, and pedestrian-friendly City Center that will create a place of significance in Avondale.

b. BILLY MOORE DAYS EVENT NAMING

City Council will consider renaming the Billy Moore Days special event.

7. ADJOURNMENT

8. EXECUTIVE SESSION

The Council may hold an executive session pursuant to: (a) Ariz. Rev. Stat. § 38-431.03(A)(3) for discussion or consultation for legal advice with the City Attorney; and (b) Ariz. Rev. Stat. § 38-431.03(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 potential litigation.

Council Members of the City of Avondale will attend either in person or by telephone conference call.

Los miembros del Concejo de la Ciudad de Avondale participaran ya sea en persona o por medio de llamada telefonica.

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.

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: APS update on new transmission lines

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Jessica Blazina, Intergovernmental Affairs Administrator, 623-333-1612

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

PURPOSE:

A representative from Arizona Public Service (APS) will provide an update to City Council on potential alignments of new transmission lines.

BACKGROUND:

Arizona Public Service recently held a public meeting on June 19, 2019 at the Desert Star Elementary School to discuss the proposed 230kV transmission line project to be built on steel single-circuit monopoles. The 230Kv transmission line project will be built to serve the Airport Commerce Center in the City of Goodyear, located at the southwest corner of Lower Buckeye and Litchfield Road. APS will provide an update to the City Council on the results from the public meeting. APS is also planning to provide 69kV power line service for the property located at the southeast corner of Lower Buckeye and Litchfield Road in the City of Avondale for a future development project proposed on the 80 acres.

DISCUSSION:

APS met with the City of Avondale to provide information regarding recent plans and potential alignments of new transmission lines to serve customers in Avondale and surrounding jurisdictions. The properties along Litchfield Road south of Lower Buckeye Road are planned for future data centers and will therefore need additional capacity from APS. The site located at the south east corner within the City of Avondale will be served by 69kV. City staff has been in discussions with APS on the most appropriate alignment to serve the site and has recommended that the alignment of the power lines be along the Agua Fria levee instead of Lower Buckeye Road. An important component of the siting process is to receive input from residents, tenants, property owners, and businesses within the study area. APS will provide an update to the City Council on the two projects, explain the siting process, route alternatives, and explain the purpose and need for the project.

BUDGET IMPACT:

There is no budgetary impact.

RECOMMENDATION:

This item is for information and discussion only.



CITY COUNCIL REPORT

SUBJECT: City Council Education Support Funding

MEETING DATE: 7/22/2019

TO: Mayor and Council

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

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

PURPOSE:

Staff will present an updated recommendation regarding the utilization of funding allocated during the fiscal year 2019 budget process for the purpose of supporting the academic success of students in Avondale. Input and feedback is requested from City Council.

BACKGROUND:

Funding in the amount of \$50,000 was allocated during the FY19 budget process for the purpose of supporting the academic success of Avondale's students in grades K-12. On February 4, 2019 staff provided a presentation to Council and recommended the creation of the Aspire and Achieve Projects. The initiative was developed to direct \$50,000 of funding into five focus areas that included: STEAM (science, technology, engineering, art and math), Workforce Readiness, Art & Music, Civic Engagement & College Success. Although Council was supportive of many elements of the proposed project, it was requested that staff incorporate some changes to better reflect Council's priorities for use of the funding.

DISCUSSION:

In an effort to ensure that students see a direct benefit from the resources allocated, staff are recommending the creation of the Aspire and Achieve Projects. This initiative will direct \$50,000 of funding into five focus areas that include: STEAM (science, technology, engineering, art and math), Workforce Readiness, Art & Music, Civic Engagement & College Success. The proposed projects have been modified to incorporate the feedback provided by City Council. The following is a brief summary of the recommend projects:

School Based STEAM Projects - Provide funding to support school-based STEAM projects. Funding will be utilized to purchase supplies and material in support of special student led STEAM projects. Project leaders will be encouraged to collaborate with AmeriCorps VISTA members serving within the City of Avondale. Through the AmeriCorps VISTA program, the Neighborhood and Family Services Department is working closely with school districts and community partners by assisting with the delivery of STEAM (science, technology, engineering art and mathematics) activities geared toward improving academic performance in the areas of literacy and mathematics.

STEAM Fest Enhancements - The Neighborhood and Family Services Department, Library Division will partner with local K-8 School Districts and other community partners to enhance STEAM Fest. Funding will be used for student awards, event supplies and services.

Youth Workforce and Education - Enhance the City of Avondale Summer Youth Employment Program by offering summer employment opportunities to youth whose household income is above the current program requirements established by the CDBG (Community Development Block Grant).

Student Music & Visual Art Exhibition - The Neighborhood and Family Services Library Division and Revitalization Division will conduct a Student Music & Art Exhibition at the Sam Garcia Library and Sernas Plaza Amphitheater to showcase student art and provide an opportunity for schools to generated resources to support their respective programs.

Instrument Loan Program - The Neighborhood and Family Services Library Division will purchase a variety of musical instruments to expand the existing Beyond Books Program. Instruments will be made available for loan to Avondale students at both the Sam Garcia and Civic Center Libraries. This program was added based on input provided by City Council.

Civic Engagement Scholarships - Promote civic engagement and post-secondary education by offering scholarships to youth that serve on the Avondale Youth Advisory Commission or Police Explorers Program for 2 or more years and have demonstrated and outstanding commitment to service and civic engagement. Based on input provided by City Council, participants in the Avondale Police Explorers would also be eligible to apply for this scholarship.

The Neighborhood and Family Services Department will work closely with the Community Relations team to develop a marketing plan to effectively promote these opportunities to parents, students and schools. Marketing methods will include direct outreach to public, private and charter schools that serve Avondale residents. In addition to this, staff will utilize various other communication channels including social media, print, the RAVE and events to promote these opportunities.

BUDGET IMPACT:

Funding for this project is in the non-departmental fund, 101-5300-00-6991

RECOMMENDATION:

Staff recommends that City Council provide direction to implement the program components to include School Based STEAM Projects, STEAM Fest Enhancements, Youth Workforce and Education, Student Music & Visual Art Exhibition, Instrument Loan Program Civic Engagement Scholarships.

CITY COUNCIL REPORT

SUBJECT: Multi-Family Residential Design Manual update (Application PL-19-0074)

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Tracy Stevens, Development & Engineering Services Department Director

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

PURPOSE:

Staff will present Application PL-19-0074, a request by the City's Planning Division to update the design manual for Multi-Family Residential development. The update is intended to refine development design guidelines reflecting local best practices in design standards, new development trends, increased attention to sustainability in the development process, and changes to industry standards as well as to reflect the City's current level of expectation for quality development in Avondale.

BACKGROUND:

The City's Commercial/Industrial/Multi-Family Design Manual was adopted in February 2008 serving as a policy document with guidelines for the City's building architecture and site design expectations. This Manual supplements the City's Zoning Ordinance site development standards. With new development coming forth in Avondale, it is an appropriate time to update the Design Manual with new development design expectations in alignment with current building and site design practices.

The proposed design guidelines are divided into two separate manuals; the Commercial and Industrial Design Manual and the Multi-Family Residential Design Manual. The guidelines include criteria from environmental sustainability, such as green building and low impact development, to building design and crime prevention.

DISCUSSION:

The Multi-Family Residential Design Manual ("this Manual") is intended to promote quality developments incorporating health and sustainability in the design of Multi-Family Residential projects. The City of Avondale encourages the creative and innovative use of current and emerging development practices and seeks to strike a balance between the needs of the multi-family residential industry, the City, and the resident. The Multi-Family Residential Design Manual seeks to provide project designers the City's expectations for multi-family residential development.

Avondale's Strategic Plan outlines the desire to foster sustainable community development that creates a sense of place for residents and local businesses that are unified by pride and common values. This Manual provides a framework so that multi-family residential developments offer a variety of diverse and attractive building architecture, site design, and functionality; encouraging uniquely designed developments throughout the City; eliminating redundancy by encouraging a variety of architectural styles and site design elements; and promote architectural variety and diversity with contextualism for mass, scale, and material. In addition, design criteria include providing shaded areas and a pedestrian-oriented environment.

This Manual furthers the goals and policies in the City's General Plan 2030 and Strategic Plan. This includes emphasizing visual character, health, environmentally conscious design, and pedestrian-friendly opportunities to establish a healthy sustainable community. This Manual encourages environmentally-sensitive green building and site design. Compliance with this Manual is required and will be evaluated during the entitlement and design review process.

PUBLIC PARTICIPATION:

Planning Staff provided a copy of the draft Multi-Family Residential Design Manual to the Arizona Multihousing Association. We received feedback requesting changes to several items and have since revised this Manual addressing most of their comments which are attached to this report.

The Arizona Multihousing Association provided a letter conveying they are unable to support this Manual as proposed which is attached to this report. Items removed from this Manual to address their comments include numbers 2, 6, 9, 10, 11, 16, 21, 22, 25, and 27. The items revised include numbers 4, 10, 13, 17, 18, 23, 24, and 29.

In addition, a copy of the draft Manual has been posted on the City's website on the Development & Engineering Services Department page and on aVOICE. Interested development clientele have also received a copy of the draft Manual.

BUDGET IMPACT:

No budget impacts.

RECOMMENDATION:

The Design Manual update is provided to the City Council for information, feedback, and direction.



MULTI-FAMILY RESIDENTIAL DESIGN MANUAL

DRAFT VERSION 07/01/2019

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RESOLUTION NO.

INTRODUCTION

The City of Avondale encourages the creative and innovative use of current and emerging development practices and seeks to strike a balance between the needs of the multi-family residential development industry and the consumer. The Multi-Family Residential Design Manual (this “Manual”) seeks to provide project designers the City’s expectations for multi-family residential development.

PURPOSE AND INTENT

This Manual is designed to further the goals and policies in the Avondale General Plan 2030. This includes emphasizing visual character, health, environmentally conscious design, and pedestrian-friendly opportunities to establish a healthy sustainable community. The City’s Strategic Plan stresses the desire for neighborhoods to become more sustainable by promoting walkable, livable communities that enhance a resident’s quality of life. This can be accomplished through plentiful parks and open space, trails, bike paths, active recreational opportunities, conditioned space, and a quality multi-family residential product. Compliance with this Manual is required and will be evaluated during the entitlement and design review process. This Manual is applicable citywide including the within the City Center planning area.

Every project is unique and requires some decisions to be made on a case-by-case basis. While some provisions of this Manual include quantitative standards, most require qualitative interpretation. The Zoning Administrator has the latitude to interpret this Manual and to permit flexibility so long as proposed projects meet the intent of this Manual.

Serving in conjunction with the General Plan, Strategic Plan, Zoning Ordinance, and General Engineering Requirements, this Manual was prepared to promote and create a sense of community, livability, and unique identity for the residents of Avondale. The intent of this Manual is to provide a set of specific criteria that will achieve the City’s design expectations by:

- Providing a framework so that multi-family residential developments offer a variety of diverse and attractive building types, floor plans, and architectural styles with attractive building architecture, site design, and functionality.
- Eliminating redundancy within developments, by encouraging a variety of building sizes, building heights, amenities, open spaces, and providing a sense of arrival through entry features, building orientation, building materials and colors, rooflines, theme walls, and entrance gates.
- Providing innovative site design standards that create walkable, safe, pedestrian-friendly, family-friendly, and sustainable developments with usable open space and various amenities.
- Ensuring streets follow the City's hierarchy of classifications and are designed to conform to the City's General Engineering Requirements, maintaining arterial and collector grid systems that are designed to meet the half-mile and one-mile spacing standards.

- Promote unique development design in lieu of a traditional multi-family site layout and building design.
- Provide urban form site and building designs within the City Center planning area with a pedestrian-oriented focus and contemporary and modern urban design that interfaces with and creates a presence on adjacent streets.
- Encourage multi-family residential developments to orient buildings for solar efficiency.
- Provide the option to include a minimum continuous load of 4800VA as part of the electrical service load calculations to allow the inhabitant(s) the installation of a charging station for electric vehicles without the need of upgrading the electrical service of the dwelling. In addition to the spare power capacity, the premise's electrical panel should have at least two spare spaces for the installation of a two-pole breaker for the charging station and conduit routed from the electrical panel to the garage, unless wiring and receptacle for such use are installed.

SUSTAINABLE AND HEALTHY DESIGN

The City of Avondale has a commitment to protecting the environment, improving quality of life, and promoting sustainability. Through the City's General Plan 2030 and the Strategic Plan, sustainable development is a priority which also promotes physical activity and health through design. Conventional design and construction methods produce buildings that can negatively impact the environment as well as occupant health and productivity. These buildings are expensive to operate and contribute to excessive resource consumption, waste generation, and pollution. Architects and designers can help to significantly improve the health and well-being of City of Avondale's population through design. Avondale encourages environmentally-sensitive green building and site design.

The City promotes the following criteria designed to encourage the development of "green" buildings without forcing excessive costs or other burdens upon developers, building owners, or occupants. It is recommended that all projects utilize energy-efficient components and building materials to conserve energy, promote sustainability, and meet the goals and objectives of the City's Strategic Plan and General Plan.

Green Building Options

A "green" building places a high priority on health, environmental, and resource conservation performance over its life-cycle. These priorities expand and complement the classical building design concerns of economy, function, durability, and attractive appearance. Green design emphasizes environmental, resource, and occupant health concerns such as reducing human exposure to noxious materials; conserve non-renewable energy and scarce materials; minimize life-cycle ecological impact of energy and materials used; use renewable energy and materials that are sustainably harvested; protect and restore local air, water, soils, flora, and fauna; and support pedestrians, bicycles, mass transit, and other alternatives to fossil-fueled vehicles. Most green buildings are high-quality buildings that last longer and provide greater occupant satisfaction than

standard developments. The City promotes projects building green by incorporating building and site design elements described in this Manual.

Daylight, Views, and Natural Cooling

Examples of design elements that encourage passive renewable energy use are as follows:

- Floor plan depth is the most important single consideration that affects the potential for daylighting, exterior views, and natural ventilation. Floor plans with relatively narrow wings, such as I-, H-, U-, or T-shaped plans are good examples of design that ensures most interior spaces have good access to natural light and winds. Courtyards and atria can also be used to bring light and air to surrounding narrow spaces.

Solar

- Where site conditions permit, provide landscaping or other shade structures to reduce the amount of sun on the building as an effective method of solar control.
 - Locate buildings toward the southwest, south, or west sides of a site to provide shade for lower floors from neighboring buildings.
 - Orient buildings so that the short wall, narrowest portion of the building, faces west or southwest for the least solar gain in the summer.
-
- Place vertical space used for circulation and services such as staircases, elevators, electrical cables, water pipes, and risers at the southwest or west ends to buffer interior spaces from afternoon solar gain.
 - Solar access should be addressed when designing roofs, walls, windows, and external shading devices.
 - Consider solar generation products designed to be incorporated into wall and roof assemblies such as “solar shingles”, panels designed to integrate into curtain walls, and etching techniques designed to be used as sunshades.

Water Infrastructure Finance Authority Finance Authority of Arizona (WIFA) Green Project Reserve

WIFA's green criteria are based on EPA's Clean Water and Drinking Water State Revolving Fund Green Project Reserve criteria. While many traditional projects are intended to protect the environment, these do not necessarily meet the criteria to be considered green. Green projects may be for planning, design, and/or construction activities. Either the entire project or only a component of the project can be identified as green. Multi-family residential developments are highly encouraged to incorporate green stormwater elements. WIFA's Green Stormwater Project examples include:

- Green infrastructure, low impact development, porous pavement, green roofs, stormwater reuse, harvesting, bioretention, curb cuts, riparian improvements, and planter boxes. For more information visit the Environmental Protection Agency (EPA) Green Infrastructure website for design and implementation tools, <https://www.epa.gov/green-infrastructure>
- Limited water resources can be a barrier to green infrastructure in arid and semiarid regions. Projects should include the following Xeriscape principles to conserve water resources:
 - **Create a plan** that balances water usage, rainwater supply, and demand such as an annual and monthly water budget for native and exotic plant maintenance.
 - **Install low water use plants** to reduce, if not eliminate, the irrigation requirements of green infrastructure practices by using native and drought-tolerant plants.
 - **Install efficient irrigation systems** and group plants according to their water needs, adjusting the frequency and depth of irrigation according to plant type, plant maturity, and season.
 - **Consider soil** amendments by adding organic material to poor soil to aide in retaining soil moisture, sustaining vegetation, and treating stormwater runoff.
 - **Install organic mulches** to increase water retention and pollutant removal while building soil structure and suppressing weeds for desert plantings that are mulch tolerant.

Green Stormwater Infrastructure

Green stormwater infrastructure (GSI) is a cost-effective, resilient approach to manage stormwater by reducing and treating stormwater at its source while delivering environmental, social, and economic benefits. Projects that incorporate GSI, which is a low impact development application, further the City of Avondale's sustainability goals.

- Right-of-way design features



- Bioretention



- Bioswales



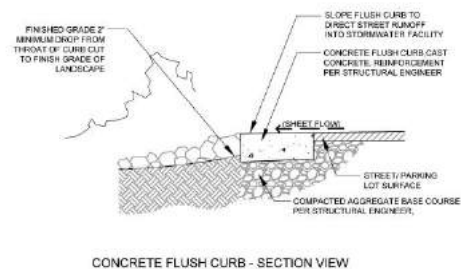
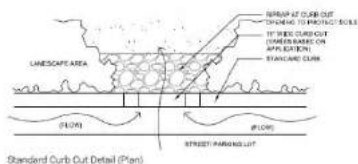
University of Arizona retrofitted their parking lot landscape buffer with a swale to capture runoff.



- Curb cuts or flush curbs



A Standard Curb Cut allows runoff to enter a lower landscaped area.



- Riparian improvements
- Active rainwater harvesting

For more information visit the Environmental Protection Agency (EPA) Green Infrastructure website for design and implementation tools, <https://www.epa.gov/green-infrastructure>

Green Pavement Surfaces

- Utilize impervious pavement, concrete and asphalt, only where regular car, bus, and/or truck traffic is expected. In other locations, install surfaces that encourage non-automobile traffic and allow stormwater infiltration.
- For parking and highly used bicycle and pedestrian areas, utilize porous asphalt, paver blocks, or large aggregate concrete. Crushed stone or brick is recommended for lightly used pedestrian paths.
- Where impervious surfaces are required, recycled asphalt and recycled concrete are encouraged.

- Provide curb cuts and slope hardscape landscaping features to allow water flow to permeable surfaces.

Sustainable Roof

Consider the following parameters for designing a sustainable roof by incorporating at least one of the following.

- For a minimum of seventy-five (75) percent of the total roof surface, a Solar Reflectance Index (SRI) of 78 or higher for a roof with a slope of 2:12 or less, or 29 or higher for a roof with a slope greater than 2:12.
- For a minimum of fifty (50) percent of the total roof surface, a vegetated roof.
- For a minimum of fifty (50) percent of the total roof surface, a rainwater collection system connected to an irrigation system or other building system through piping.
- For a minimum of seventy-five (75) percent of the total roof surface, provide a combined vegetated roof with rainwater collection system and SRI compliant roof.

DESIGN REVIEW

An applicant who desires to change only a portion of their existing building should comply with all design guidelines related to the portion changed. If proposed modifications affect more than fifty (50) percent of any façade visible to public parking areas or public right-of-way, or City staff determines that the proposed changes are significant, the project will be evaluated to determine if all items discussed in this Manual have been considered.

The following will require submittal of a site plan and design review application:

- Changes to a site's grading and drainage
- Installation of new or changes to existing site or building lighting
- Re-configuration or modifications of parking and circulation areas
- Exterior building alterations, including paint color changes
- New fences and walls
- Changes to landscape design, except for dead plant replacement

Appeals

An appeal of the City's Development Review Committee's design review decision may be submitted to the Planning Division within fifteen (15) business days of Committee's decision and accompanied by a nonrefundable application fee. Upon written request of the applicant, the Zoning Administrator shall schedule the appeal hearing for a regularly scheduled Planning Commission. The Planning Commission shall review the site plan and design review application and make a decision as to whether the required findings have been met and approve, approve with stipulations,

or deny the appeal. A majority vote of the Planning Commission shall be necessary to make a finding on the appeal.

SITE DESIGN

Providing a unique sense of place with each multi-family residential development should be taken into consideration during the design process. Appropriately scaled buildings that transition from existing and planned land uses and concentrate on the natural environment and outdoor venues that promote a neighborhood feel and community interaction is the priority.



The following site and building design elements include written and illustrated design concepts related to the basic quality of site layout and building architecture to achieve high quality multi-family residential development.

This portion of the Manual addresses each of these elements in general terms and establishes the basic principles for good design which should be incorporated into all projects. Items contained in this section should not be viewed as standing alone but rather in concert with the more specific guidelines found in the subsequent sections of this Manual. Developers will be provided flexibility in how to arrange their projects to best utilize space and optimize project features.

- A. Design entrances with a strong sense of arrival and place incorporating decorative gates, walls, pavement, landscape planters, and the like.
- B. Streets should be designed to contain entry landscape medians at all collector/arterial, collector/collector, and collector/local intersections.
- C. Maximize the number of units that front onto common open spaces and maximize opportunities for view corridors.
- D. When siting buildings, highlight view corridors of prominent natural features, such as the Estrella Mountains, from streets, backyards, and open space.
- E. Stagger buildings throughout a development to avoid a monotonous streetscape and incorporate patios, courtyards, porches, and other design features.
- F. Site buildings within the City Center planning area to strongly interface with streets and provide direct pedestrian access to plazas, open spaces, retail, office, and activity areas.
- G. Locate activity centers, parks, or plazas central to the project allowing for a short walk to the City of Avondale's Zoom service, transit bus stop and/or bus shelter.

- H. Plan streets to efficiently connect all parts of the neighborhood, integrate all modes of transportation, simplify circulation patterns, and connect with adjacent streets through shaded corridors.
- I. Use traffic calming measures such as islands or traffic circles to slow vehicular speeds.
- J. Provide trash receptacles, benches, and pedestrian scale lighting along trails, near barbecues, playgrounds, sports courts, and other active open spaces.
- K. Incorporate residentially-scaled LED street lights and accent paving at entries and crosswalks throughout the development and incorporate LED lights in all common areas.
 - Provide decorative lighting on all buildings and pedestal lighting throughout the project.
 - Design site lighting and parking area lighting so that it does not shine on adjacent uses.
- L. Provide direct access for pedestrians to parks, commercial centers, and schools without exiting onto the main roadway. Place pedestrian gates appropriately to ensure safe pedestrian access. Discretion and flexibility in choosing how and where to install pedestrian connections will be provided.
- M. Incorporate accent paving material at all entrances and auto courts.
- N. Enhance the transition between multi-family residential and existing single-family residential areas to achieve maximum compatibility through height transitions, setbacks, buffers, and screening.
- O. Provide amenities such as community centers, pools, splash pads, sports activities, internal trails, event spaces, dog parks, and other unique features.
 - Centrally locate multi-purpose buildings, community swimming pools, and other amenities so all units are in close – proximity and allow residents ease of access.
- P. Incorporate trees with wide canopies in close proximity to pedestrian seating areas.
- Q. Provide appropriate guest parking spaces and parking areas for useable open space areas in addition to required parking for individual units.
- R. Provide loading and/or delivery areas for package deliveries, mobile order deliveries, and ride sharing services.
- S. Screen parking areas from street views with solid masonry screen walls. Screening needs to include walls a minimum of three (3) feet up to four (4) feet in height, three (3) foot high berms, or a combination of both.
- T. All walls need to be architecturally integrated with the development's architectural style

through materials, paint colors, form, and character.

- U. Provide covered parking canopies designed with colors, forms, and/or materials consistent with the building architecture.
- V. Provide garages for developments with more than 100 units. Garages should be attached and account for a minimum of twenty-five (25) percent of the required parking, excluding guest parking. Incorporate a portion of the garages under the living quarters to minimize standalone, long garage buildings.

LOW IMPACT DEVELOPMENT

Low Impact Development (LID) is an approach to land development or redevelopment that works with nature to manage stormwater as close to its source as possible. LID looks at stormwater as a resource rather than a waste product and employs strategies such as bioretention facilities, rain gardens, vegetated rooftops, rain barrels, and permeable pavements to create functional and appealing site drainage. By implementing LID principles and practices, water can be managed in a way that reduces the impact of built areas and promotes the natural movement of water within an ecosystem or watershed.

LID practices provide multiple benefits for the environment and the community to maximize mutual environmental, social, and economic benefits. A LID feature may benefit property value and increase customer attraction, provide services which contribute to ecosystem health, and can be utilized as a community gathering or recreational space for residents.



GI/LID Practices	REDUCES STORM-WATER RUNOFF		INCREASES AVAILABLE WATER SUPPLY		IMPROVES COMMUNITY LIVABILITY			
	Reduces Flooding	Improves Stormwater Quality	Reduces Potable Water Demand	Provides Storage for Future Use	Reduces Urban Heat Island	Provides Vegetation for Shade	Improves Aesthetics	Provides Wildlife Habitat
STORMWATER HARVESTING BASINS	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
SWALES	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
BIORETENTION SYSTEMS	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
INFILTRATION TRENCHES	Yes	Yes	In Some Cases	No	In Some Cases	In Some Cases	In Some Cases	In Some Cases
DRY WELLS	Yes	Yes	No	No	No	No	No	No
CISTERNS	In Some Cases	In Some Cases	Yes	Yes	No	In Some Cases	No	No
PERVIOUS PAVEMENT	Yes	Yes	No	No	In Some Cases	No	In Some Cases	No

Yes
 In Some Cases
 No

Design Features

Multi-family residential developments should consider the following retention basin design elements.

- Incorporate rain gardens placed between buildings to collect stormwater from rooftops and parking areas.
- Meander retention areas paired with recreational pathways through the development to create a connected green-space amenity such as a greenbelt to encourage maximum recreational use.



- Contour the sides and bottoms of the basins to create a natural looking appearance. Use varied slopes and curvilinear edges to create a more natural looking facility instead of rectangular forms and long stretches.



- Avoid water features at entry areas unless it is specifically a rainwater harvesting feature designed to reduce on-site potable water demands.
- Incorporate plants and design themes to support naturalistic landscapes that provide a sense of place in concert with the local natural environment.



- Utilize low water use native or desert-adapted drought tolerant plants incorporating at least seventy-five (75) percent of selected plants being local native species to promote a sense of place.
- All man-made slopes should receive erosion control from plantings and from terracing.
 - Incorporate one (1) Xeriscape landscape example into open spaces.
 - Each valve should irrigate a landscape zone with similar site, slope and soil conditions and plant materials with similar watering needs. Turf and non-turf areas needs to be irrigated on separate valves as well as drip emitters and sprinklers.
 - Irrigation system layout, irrigation type, zone treatment for trees, and water use need to be part of the site plan review process.



Landscape

- All new developments need to be designed in accordance with the Street Tree Master Plan and provide full canopy coverage over walkways.
- Provide enhanced landscaping, including large specimen trees, and landscaped medians at entries.

- C. To ensure effective management of stormwater and healthy growth of native vegetation, all landscape areas should, to the extent practicable, be part of the drainage infrastructure and make all conveyance features landscape amenities utilizing LID design.
- D. Provide a minimum twelve (12) foot wide landscape tract, inclusive of public utility easement, along buildings adjacent to a street side yard.
- E. Provide a variety of planting palettes that soften the development, reinforce the building design and add variety to the streetscape.

Open Space and Amenities

The City expects developments to provide residents a special and unique sense of place with open space that takes advantage of the natural environment that surrounds Avondale, including the Estrella Mountains, the Gila and Agua Fria Rivers, and other beautiful natural landscapes. Multi-family residential communities can create an outdoor lifestyle with useable open spaces, community centers, community pools, sports activities, and internal trails. Open space is considered the common area portion of a multi-family residential development, located outside of required setbacks, where there are no buildings, driveways, or parking. Usable open space is considered any area on a site that is designed to be used for recreational or gathering purposes, viewed as an amenity to the residents, not solely a retention basin, and matches the scale of the development.



- A. A multigenerational approach should be considered when designing open space to promote recreation for all age groups. Co-locating physical activity spaces for children and parents or guardians can simultaneously promote physical activity in different age groups.
- B. Devote a minimum of twenty (20) percent of the site area to usable open space.
- C. Preserve or create natural terrain in children's outdoor play areas.
- D. Aggregate open space in one large area rather than dispersing into smaller pieces and provide residents with access to open space within a 5-minute walk.
- E. Provide drinking fountains to encourage the consumption of tap water for rehydration.
- F. Turf should only be used in open space areas and not used on slopes greater than four feet of horizontal distance per one-foot vertical change (4:1).
- G. Locate tree plantings adjacent to all roadways throughout a development in common areas to soften the streetscapes.

- H. Usable open space may include:
1. Community pools and splash pads
 2. Clubhouses/community center
 3. Play areas
 4. Private parks and trails
 5. Community gardens
 6. Dedicated park sites
 7. Multi-use paths
 8. Improved utility corridors
 9. Sports courts
 10. Seating areas
 11. Picnic ramada areas with barbecues outside of retention areas
 12. Pickle ball, putting greens, or other similar sports amenities
 13. Tot lots
 14. Resort-style amenities, entertainment areas
 15. Rooftop entertainment spaces
- I. Provide a clubhouse and community pool for developments over 50 units.
- J. Provide parking in proximity to a main, centralized community open space.
- K. Design multi-use trails a minimum of (ten) 10 feet in width, lighted with low level security lights, and connect through the neighborhood as a greenbelt.
- L. Provide pedestrian amenities such as benches, trash receptacles, bicycle racks, and pedestrian scale lighting along trails and near the tot lots, sport courts, and other active open spaces.
- M. Plant tree species with wide canopies near pedestrian seating to provide cover from the sun and cover all playground areas with shade structures.
- N. Locate LED decorative lighting throughout the development in open space areas.



BUILDING DESIGN

The design and style of multi-family residential developments have evolved into full service, resort-style luxury living where clubhouses and pools, and community space is the central feature of the project. In general, this section is intended to promote that type of project in Avondale where high-quality architecture is the priority and enhances the living experience for residents, promotes a sense of community and interaction, and establishes a unique neighborhood identity. Creativity and variety are encouraged to create a sense of place that residents enjoy. Multi-family residential in the context of urban development centers should be designed to create visually interesting, consistent, and high-quality development linking commercial land uses with residential development and creating a walkable neighborhood near local amenities and services.



Special attention needs to be given to roof styles, asymmetrical design, building massing, window and door treatments, building materials, paint colors, private open space through balconies and patios, stairwell integration, garage door design, garage access, shade features, and rooftop amenities. Defining and establishing the character of a development can be addressed through many design elements as described below.

- A. Design buildings with multiple unit square footages and number of bedrooms that accommodate a variety of choices for the prospective homeowner or renter.
- B. Articulate all façades, including variation in massing, roof forms, and wall planes, as well as surface articulation with a separation of twenty (20) feet or more between buildings.
- C. Multi-family units need to step-down/step-back in height when adjacent to detached single-family residential subdivisions.
- D. Incorporate architectural elements and details that add visual interest, scale, and character to all four-sides of buildings.
- E. Vary building elevation designs having differences in the horizontal and vertical massing elements, building composition, building elements, building materials, and paint colors; however, design theme and architectural style may warrant more similar looking buildings.
- F. Design buildings within the City Center planning area to be attractive and present contemporary and modern style architectural designs using materials appropriate for this style of architecture. Natural materials, vertical and horizontal elements, unique forms, and vibrant colors are encouraged.

G. Incorporate pavers or other similar treatments to all driveways.

H. Utilize contrasting, but complementary, colors for trim, windows, doors, and key architectural elements.

I. Roof materials and colors need to be consistent with the desired architectural style and may include clay tile, slate, barrel, flat, or cool roof tile.

J. The roofline may be changed by the following options:

- a. Alternating the ridgeline between parallel and perpendicular to the street.
- b. Alternating the roof type between gable and hip.
- c. Alternating the roofline pitch by a minimum of three units vertical, for example 3:12 to 6:12.
- d. Alternating between two- to three-story units.



K. The design, color, and materials of accessory structures needs to be architecturally tied to the main structure.

L. Metal flashing, vents, pipes, gutters, electrical panels and other exposed metal must be painted to match the color of the house and avoid exposed metal flues.

M. Design chimneys as an architectural element.

N. Buildings located along public streets need to be designed to give prominence to the street frontages, especially at the corner of two street frontages. This prime exposure warrants greater architectural design.

O. Design entries as the dominant feature, clearly articulated, with enhanced pedestrian space that reflects the style of the building.



P. Wrap balconies and porches around corner units to enhance the side elevations.

- Q. Mixed-use buildings with multi-family residential and commercial uses should include first floor window fenestration with greater amounts of glazing, and floor heights should be at least 15 feet or greater floor-to-floor.
- R. Compose a building to appear as multiple buildings or units through use of different building materials and paint colors to emphasize the appearance that smaller buildings were built next to one another rather than a single building.
- S. Make stairs wide enough to accommodate travel in groups and in two directions and incorporate appealing finishes, and LED lighting.
- T. Increase stair use by locating a highly visible and appealing stair within the building orientation areas and points of decision and along the principal paths of travel.
- U. Provide for fire-rated glass enclosures for stairs instead of traditional opaque enclosures.
- V. For attached multi-family housing types such as townhomes and condominiums, locate units' primary entrance on front elevations.
- W. Incorporate balconies, porches, and patios onto or within the building form, providing a minimum of eighty (80) square feet for each balcony or patio per unit.
- X. Incorporate stylized garage doors reflecting the building's architectural style.

Architectural Elements and Details

Each building should utilize a variety of the following elements to enhance the building's character:

- | | |
|--|---|
| 1. Recessed or projecting balconies | and brackets |
| 2. Awnings | 16. Load-bearing masonry, brick or stone |
| 3. Porches | 17. Neutral stone in full-size blocks, not veneer |
| 4. Columns | 18. Copper or galvanized metal gutters, roof drain downspouts, metal roofing on awnings |
| 5. Decorative doors and windows | 19. Tie and rod assembly metal canopies for shade |
| 6. Exterior moldings | 20. Board and batten or concrete-composite siding. |
| 7. Roof overhangs | 21. Reveal lines |
| 8. Stucco | 22. Decorative metal fence panels for accent elements and/or plantings |
| 9. Masonry | |
| 10. Wood or metal accents | |
| 11. Decorative lighting | |
| 12. Ledges | |
| 13. Arched windows | |
| 14. Shutters | |
| 15. Treated heavy timber exposed rafters | |

Walls and Entry Areas

- A. Entry features need to reflect the overall architectural identity, character, and theme of the development.
- B. Design entry landscape medians at a minimum of seven (7) feet wide to accommodate planting of trees, LID design, and stormwater retention.
- C. Design entry gates and walls to be compatible with overall design intent of the development and create a dramatic identify for the community.
- D. Include enhanced wall materials such as stone, brick, tile, metal, cladding, or other sustainable materials on entry features and perimeter walls.
- E. Other unique identifying features may be proposed subject to approval by the Zoning Administrator.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

Crime Prevention Through Environmental Design, or CPTED (pronounced sep-ted), is a crime prevention philosophy based on the theory that proper design and effective use of the built environment can lead to a reduction in the fear and incidence of crime. It focuses on the positive use of a space and natural elements to maintain a sustainable quality of life for intended users, while offering a sense of security by increasing the difficulty for criminal or abnormal activities. The principles of CPTED, which are natural access control, natural surveillance, territoriality, and maintenance, when integrated with the principles of physical security present a unique approach to minimizing crime opportunities. This may be accomplished through the design elements described in this Manual.

Natural Surveillance

Design the placement of physical features and design for informal and/or programmed activities in such a way as to maximize visibility and foster positive social interaction and activity among legitimate users of the space. Creating environments that allow the opportunity for people to engage in their normal behavior and to observe the space around them limits the potential for crime to occur.

Natural Access Control

Strategically locate entrances and exits, fencing, lighting, and landscaping to control or limit the flow of or access. Most criminal intruders will try to find a way into an area where they will not be easily observed. Limiting access and increasing natural surveillance keeps them out altogether or marks them as an intruder.

Natural Territorial Reinforcement

Design buildings, fences, pavement, signs, lighting, and landscaping to express ownership and define public, semi-public and private spaces, so that natural territorial reinforcement occurs. An environment designed to clearly delineate private space does two things. First, it creates a sense of ownership. Owners or renters have vested interest and are more likely to challenge intruders or

report them to the police. Second, the sense of ownership within a community or space creates an environment where “strangers” or “intruders” stand out and are more easily identified.

Maintenance

CPTED and the "Broken Window Theory" suggests that one "broken window" or nuisance, if allowed to exist, will lead to others, and ultimately to the decline of an entire neighborhood. Neglected and poorly maintained properties, lighting, landscaping, or open space areas can increase the level for criminal activity.

Site features within a multi-family residential development must be maintained always to include paving surfaces, landscaping, walls, gates, entry features, light poles, signs, paint, stone or brick, seating furniture, and other related items typically found within multi-family residential developments.

The best time to apply this philosophy is in the design phase before a building is constructed. These elements can be successfully applied later but retrofitting an existing environment can sometimes be costly. The use of CPTED standards will deter crime and reduce fear by minimizing criminal opportunity and fostering positive social interaction throughout a community.



Capitol Consulting, LLC

June 27, 2019

City of Avondale
11465 Civic Center Dr.
Avondale, AZ 85323

RE: Proposed Multi- Family Design Manual

To the City of Avondale,

On behalf of my client, the Arizona Multihousing Association (AMA), I would like to thank City staff for including our industry in this process and making multiple changes to the initially proposed Multi- Family Design Manual. I truly appreciate the city's efforts to work with us during this update and feel that the current draft of the document is a marked improvement over the initial draft.

While we greatly appreciate Avondale's efforts to address some of our concerns, we are unable to support the Design Manual in its current form.

Although we recognize that the provisions of this document are guidelines and not necessarily mandated city requirements, we believe that some of these guidelines are overly prescriptive and would have the ultimate effect of limiting a developer's ability to bring unique, creative and cost effective developments to Avondale.

Our primary concerns include designating specific roof designs on page 11 and page 20. Page 14 requires attached garages for all multi- family developments in Avondale. Page 17 suggests that developers should incorporate rain gardens, xeriscapes and green belts between buildings in apartment developments. Page 18 charges apartment communities with the task of designating at least 20% of the site area to "multigenerational" open space amenities in order to "create an outdoor lifestyle with useable open spaces, community centers, community pools, sports activities, and internal trails". There are also various references to specific material types that are permissible, colors that may or may not be used and complicated landscaping requirements that will confuse the development process.

When taken as a whole, these guidelines will limit developers' creative ability while also adding significant costs to housing in Avondale.

The AMA would like to encourage the City to consider the effect of these guidelines on housing affordability. Arizona is currently experiencing an affordable housing crisis. The lack of affordability across the state stems from an overall shortage in housing; there simply aren't enough units to house the growing population. Despite the fact that Maricopa County is the fastest growing county in the country, developers are only producing a fraction of the number of units that they were in the 1980's. The cost of developing new housing is at an all-time high due to fact that land and construction prices are high, and the cost is continually being driven up by new, more restrictive development regulations.

A recent study by the National Multihousing Council details that between 32.1% - 42.6% of the total cost of new development is due to government regulation. These costs are passed directly to everyday Arizonans who are already struggling to afford housing. We feel that various items in the proposed Design Manual will further exacerbate this problem.

We urge the City to consider the creative limitations and the increased housing costs that will be passed to residents through the adoption of this document.

Thank you for your time and consideration.

Sincerely,

Jack Horton
Capitol Consulting, LLC

CC:
Courtney Gilstrap LeVinus
Jake Hinman
Jodie Novak
Tracy Stevens



April 30, 2019

To: Ms. Tracy Stevens

Development and Engineering Services Department

11465 W. Civic Center Drive, #110

Avondale, AZ 85323

From: The Arizona Multihousing Association

Re: Multi- Family Residential Design Manual

Dear Ms. Stevens,

On behalf of the Arizona Multihousing Association (AMA), we respectfully submit our comments and recommendations regarding the City of Avondale Multi- Family Residential Design Manual.

The AMA is a statewide trade association for the apartment and rental housing industry. The AMA protects the interests of ethical rental housing providers in legislative, regulatory and legal matters throughout Arizona, and enhances the environment for the rental housing industry to provide quality and affordable housing opportunities.

The AMA represents the owners, operators and developers of multifamily communities. To date the AMA has over 2,200 members and represents 270,000 rental units statewide. Our comments below are based on the assessments, practical knowledge and expertise from our members who own, manage and most importantly develop the majority of the apartment communities in Avondale and throughout Arizona.

We greatly appreciate your time and consideration of our industry's perspective on this issue.

General Comments:

Throughout the Draft Quality Design Guidelines there are several indications that the city wishes to encourage creative, unique and innovative developments. This of course, is reasonable and certainly aligns with the interests of modern apartment developers and the residents who live in apartments. In recent years the multifamily market has almost unilaterally gone in this direction. Newly built apartment communities are attractive, unique and modern, they offer innovative amenities, quality design inside and out, and provide a high standard of living for their residents. The City of Avondale and apartment residents alike are enjoying the new style of apartment development and the market has responded accordingly.

While attempting to encourage and codify this creativity and innovation, the guidelines are often overly prescriptive and seem to conflict with the overall mission of the City. We believe that some of these guidelines would have the ultimate effect of limiting a developer's ability bring unique and creative developments to Avondale. Examples of this include requiring white shelves, 6'-8' perimeter walls, and discouraging the use of pastels yet requiring the use of earth tone colored roof tiles on all roofs. When applied to every apartment development in Avondale it is clear to see how these guidelines can effectively disable unique design.

Perhaps more importantly, the AMA would like to encourage the City to consider the effect of these guidelines on housing affordability. Arizona is currently experiencing an affordable housing crisis. The lack of affordability across the state stems from an overall shortage in housing; there simply aren't enough units to house the growing population. Despite the fact that Maricopa County is the fastest growing county in the country, developers are only producing a fraction of the number of units that they were in the 1980's. The cost of developing new housing is at an all-time high due to fact that land and construction prices are high, and the cost is continually being driven up by new, more restrictive development regulations.

On Page 5 the city encourages green development "without forcing excessive costs or other burdens on developers, building owners, or *occupants*". Yet on Page 20 the city states "The design and style of multi-family residential developments have evolved into *full service, resort style luxury living*... this section is intended to promote that type of project in Avondale". While we appreciate and share the city's desire to build high quality projects in Avondale, we must also face the reality that "resort style luxury living" is not always a viable option for a family that is struggling to make ends meet.

A recent study by the National Multihousing Council details that between 32.1% - 42.6% of the total cost of new development is due to government regulation. These costs are passed directly to every day Arizonans who are already struggling to afford housing. We urge the City to consider affordability and the costs that will ultimately be passed to residents while updating these guidelines.

Specific Comments:

IN BLUE, CITY COMMENTS REGARDING CHANGES AND CURRENT DESIGN MANUAL PAGE NUMBER.

1. **Pages 4-11: Sustainable and Healthy Design, Green Building Objectives, Green Building Strategies; Daylight, Views, and Natural Cooling; WIFA Green Project Reserve; Green Stormwater Infrastructure; Green Pavement Surfaces; Sustainable Roof**

Current Language:

Entire Sections

Explanation:

It is unclear whether the items under these sections should be considered requirements or optional. It is unclear what the intent of including these sections is or how they will be used when projects are evaluated to determine compliance with the guidelines. Suggestions within these sections are very broad and difficult to interpret. Suggestions throughout sections do not reference cost implications to residents who live in the communities or for developers.

2. **[See Page 6] Page 6: Daylight, Views, and Natural Cooling**

Current Language:

- Floor plan depth is the most important single consideration that affects the potential for daylighting, exterior views, and natural ventilation. Floor plans with relatively narrow wings, such as I-, H-, U-, or T-shaped plans ensure that most interior spaces have good access to natural light and winds. Courtyards and atria can also be used to bring light and air to surrounding narrow spaces.
- Incorporate light shelves, prismatic glazing, and other reflective systems to redirect daylight and extend naturally lit interior space to 30 to 35 feet deep.

City removed these two bullet points:

- Incorporate light shelves, prismatic glazing, and other reflective systems to redirect daylight and extend naturally lit interior space to 30 to 35 feet deep.
- Bring outdoor air into one side of a space and exhausting it on an adjacent or opposite side for narrow floor plans to increase the potential for effective cross-ventilation and achieve a well-designed natural cooling strategy.

Explanation:

Guideline is excessive and overreaching. Cities should not regulate interior floor plans. Multifamily developers must have flexibility with interior design. Suggestions throughout section do not account for specific project conditions such as room size, building orientation or adjacent landscape or construction. Guideline will significantly harm development in Avondale.

3. **Page 11: Sustainable Roof**

Current Language:

- For a minimum of seventy-five (75) percent of the total roof surface, a Solar Reflectance Index (SRI) of 78 or higher for a roof with a slope of 2:12 or less, or 29 or higher for a roof with a slope greater than 2:12.
- For a minimum of fifty (50) percent of the total roof surface, a vegetated roof.
- For a minimum of fifty (50) percent of the total roof surface, a rainwater collection system connected to an irrigation system or other building system through piping.
- For a minimum of seventy-five (75) percent of the total roof surface, provide a combined vegetated roof with rainwater collection system and SRI compliant roof.

Explanation:

Guideline is excessive and overreaching. Multifamily developers should have flexibility in how to design their buildings. Guideline is overly prescriptive and specific roof designs do not account for different site conditions or overall design. Guideline will significantly harm housing affordability in Avondale.

4. [SEE PAGES 12-13] Pages 12-13: Site Design

Current Language:

G. Plan streets to efficiently connect all parts of the neighborhood, integrate all modes of transportation, simplify circulation patterns, and connect with adjacent streets through shaded corridors.

I. Provide direct vehicular, bicycle, and pedestrian connections to adjacent residential and nonresidential areas through trail development and buffered bike lanes.

L. Provide direct access for pedestrians to parks, commercial centers, and schools without exiting onto the main roadway. Place pedestrian gates appropriately to ensure safe pedestrian access.

M. Internal pathways need to directly connect to schools, parks, community buildings, or open space.

City removed items G and I above. L was revised to read:

Provide direct access for pedestrians to parks, commercial centers, and schools without exiting onto the main roadway. Place pedestrian gates appropriately to ensure safe pedestrian access. Discretion and flexibility in choosing how and where to install pedestrian connections will be provided.

Explanation:

Guidelines are excessive and overreaching and do not account for specific site conditions.

Incorporating multifamily developments into all adjoining neighborhoods, developments, bus stops, bike paths etc. may not be ideal in all circumstances from a security standpoint.

Multifamily developers understand and appreciate the benefits of pedestrian and bicycle connectivity as integrating into the surrounding community is a benefit of living in apartment communities. However, multifamily communities are also charged with providing a safe and secure living environment for their residents. Because of this security issue we request that the city allow developers discretion and flexibility in choosing how and where to install pedestrian connections.

In item G. it is unclear what “shaded corridors” means or how that must be implemented. In item L. it is unclear what will be required in order to comply with “without exiting onto the main roadway”. Are multifamily developers now responsible for building bike lanes and pedestrian connectivity outside of their own property?

Guidelines will significantly harm housing affordability in Avondale.

5. Page 13: Site Design

Current Language:

P. Provide amenities such as community centers, pools, splash pads, sports activities, internal trails, event spaces, dog parks, and other unique features.

- Centrally locate multi-purpose buildings, community swimming pools, and other amenities so all units are in close – proximity and allow residents ease of access.

Explanation:

Guideline is excessive and overreaching. Guideline does not account for specific site conditions such as community type, lot size or lot shape. Developers need flexibility in how to arrange their projects to best utilize space and optimize project features. Guidelines are overly broad and include significant cost burdens.

6. [SEE PAGE 14] Page 13-14: Site Design

Current Language:

U. Perimeter walls on property lines around the development need to be a minimum of six (6) feet up to eight (8) feet in height.

City removed U.

Explanation:

Guideline conflicts with aforementioned connectivity requirements on Pages 12-13 under sections G, I, L, M by requiring large walls around the perimeter of a property and also requiring bike paths and pedestrian connections. Large perimeter walls also impede efforts required by other guidelines to make buildings visible to the public attractive. Guideline will hinder efforts to bring unique and creative developments to Avondale.

7. Page 14: Site Design

Current Language:

X. Garages are required for developments with more than 100 units. Garages should be attached and account for a minimum of twenty-five (25) percent of the required parking, excluding guest parking.

Explanation:

Guideline is excessive and overreaching. Multifamily developers need flexibility in how and where parking is arranged depending on specific lot conditions. Guideline does not account for other types of parking, building orientation, street orientation, project location, surrounding development or lot size. Guideline stifles unique development in Avondale. Garages are not

appropriate or necessary for all multifamily developments and developers should be allowed flexibility in the decision to include them or not. Guideline is burdensome will significantly harm housing affordability for residents in Avondale.

8. Pages 14-16: Low Impact Development

Current Language:

Entire Sections

Explanation:

It is unclear whether the items under these sections should be considered requirements or optional. It is unclear what the intent of including these sections is or how they will be used when projects are evaluated to determine compliance with the guidelines. Suggestions within these sections are very broad and difficult to interpret. Suggestions throughout sections do not reference cost implications to tenants or developers.

9. [SEE PAGES 15-16] Page 15: Low Impact Development

Current Language:

- Utilize permeable pavers for parking spaces to allow stormwater to seep directly through the pavers into the underground storage system.

City removed this bullet point and another bullet point after it:

- Maximize water permeability by minimizing soil disturbance and compaction in planned landscape areas, reducing paved areas, using permeable paving materials, and preserving open space drainageways when feasible.

Explanation:

Guideline is excessive and overreaching. Permeable pavement surfaces cause significant difficulties for developments as they create erosion underneath pavement and in surrounding areas. It is unclear what “underground storage system” means and whether all projects are required to have an underground storage system.

The overall goal of reducing paved areas and minimizing soil disturbance and compaction conflicts directly with requirements to build pedestrian connectivity, exterior walls, clubhouses, pools and parking garages.

10. [SEE PAGE 16] Pages 16-17: Design Features

Current Language:

- B. Group plants with similar water needs together.
- C. Incorporate one (1) Xeriscape landscape example into open spaces.
- F. Each valve needs to irrigate a landscape zone with similar site, slope and soil conditions and plant materials with similar watering needs. Turf and non-turf areas needs to be irrigated on separate valves. Drip emitters and sprinklers need to be placed on separate valves.

City removed B. F (now C) was revised as follows:

Each valve needs to irrigate a landscape zone with similar site, slope and soil conditions and plant materials with similar watering needs. Turf and non-turf areas needs to be irrigated on separate

valves. Drip emitters and sprinklers need to be placed on separate valves.

Explanation:

Guidelines are excessive and overreaching. Developers should be allowed flexibility in how they landscape properties. Developers should also be allowed flexibility in how they construct irrigation systems. Valve requirements will create significant difficulty in creating efficient irrigation systems and will tie the hands of a developer who is trying to build a functional-

system. Reducing paved areas and minimizing soil disturbance and compaction conflicts directly with pedestrian connectivity, exterior wall, clubhouse, pool and parking garage requirements.

11. [SEE PAGE 18] Page 17: Design Features

Current Language:

D. All common landscaped areas, tracts and retention basins need to be owned and maintained by the Property Management Company or Property Owners Association (POA).

City removed D.

Explanation:

Management companies often do not own the properties they manage and properties are also not always owned by a POA. Guideline needs to be rewritten.

12. [SEE PAGE 16] Page 17: Design Features

Current Language:

E. Maximize water permeability by reducing paved areas using permeable paving materials and preserving open space drainage ways when feasible.

City removed E.

Explanation:

Guideline conflicts with numerous other guidelines. Reducing paved areas and minimizing soil disturbance and compaction conflicts directly with pedestrian connectivity, exterior wall, clubhouse, pool and parking garage requirements. It is unreasonable to assume that all multifamily properties in Avondale will be able to include all of these design features on every apartment development in the city.

13. [SEE PAGE 16] Page 17: Landscape

Current Language:

B. Provide enhanced landscaping including six (6) large specimen trees and landscaped medians at entries.

City revised B as follows:

Provide enhanced landscaping, including large specimen trees, and landscaped medians at entries.

Explanation:

Guideline is overly prescriptive and does not consider specific site conditions such as size, building orientation, or project layout. Guideline may not be practicable in more densely populated urban areas. Guideline will limit the overall creative ability of a developer to design unique developments in Avondale.

14. Page 17: Landscape

Current Language:

D. Grade all hardscapes to direct stormwater to the nearest adjacent landscape designed to manage stormwater flows.

Explanation:

Guideline is excessive and overreaching. Guideline does not account for specific site conditions, overall drainage plans, or size and location of landscaping plans. Guideline is likely not possible to implement in large percentage of multifamily developments.

15. Page 17: Landscape

Current Language:

E. Provide a minimum twelve (12) foot wide landscape tract, inclusive of public utility easement, along buildings' adjacent to a street side yard.

Explanation:

Guideline is overly broad and prescriptive. Guideline does not account for specific site conditions including lot size, lot shape, building orientation or existing neighboring development. Developers need the ability to design and incorporate different features into different projects with individual circumstances.

16. [SEE PAGE 17] Page 17: Landscape

Current Language:

G. For greater shading and cooling, plant a multi-layered composition of shrubs and small trees with a minimum height of ten (10) feet and a width of four (4) feet next to buildings

City removed G.

Explanation:

Guideline is in direct conflict with Page 16 "B. Group plants with similar water needs together". Guideline conflicts with requirements to utilize drought tolerant plants. Guideline does not account for specific site conditions including lot size, lot shape, building orientation or existing neighboring development. It is unclear what "multi-layered composition" means.

17. [SEE PAGE 17] Page 18: Open Space and Amenities

Current Language:

A. A multigenerational approach should be considered when designing open space to promote resident interaction and community choice. Include multiple recreation and passive recreation open spaces accommodating children and adults, events, and community gatherings.

B. Co-locating physical activity spaces for children and parents or guardians can simultaneously

promote physical activity in different age groups

City revised A and B (now A) combining these items as follows:

A multigenerational approach should be considered when designing open space to promote recreation for all age groups. Co-locating physical activity spaces for children and parents or guardians can simultaneously promote physical activity in different age groups.

Explanation:

Guidelines are extremely broad and overreaching. What is a “multigenerational approach”? How many is “multiple”? What is “passive recreation”? The idea that multifamily properties are responsible for promoting “resident interaction and community choice” is unreasonable and impossible to interpret as a design guideline. Multifamily developers should not be required to host events and community gatherings, such activities are not suitable for all living situations.-

Multifamily developers are not responsible for promoting “physical activity in different age groups”. Guidelines will significantly harm housing affordability for residents in Avondale.

18. [SEE PAGE 17] Page 18: Open Space and Amenities

Current Language:

C. A minimum of twenty (20) percent of the site area needs to be devoted to usable open space.

City revised C (now B) as follows:

Devote a minimum of twenty (20) percent of the site area to usable open space.

Explanation:

Guideline is excessive and overreaching. Guideline does not account for specific site conditions including lot size, lot shape or project location. Developers need the ability to design and incorporate different features into different projects with individual circumstances. Guideline will hinder a developer’s ability to increase density which is the fundamental driver of housing affordability. Guideline will significantly harm housing affordability in Avondale and may render certain properties undevelopable.

19. Page 18: Open Space and Amenities

Current Language:

E. Provide ground markings in park settings to stimulate children’s play

Explanation:

Guideline is an overreach. It is unclear what this guideline means. Multifamily developers are not responsible for “stimulating children’s play”. Design of specific features of play areas should be left to the developer.

20. Page 18: Open Space and Amenities

Current Language:

G. Provide drinking fountains to encourage the consumption of tap water for rehydration.

Explanation:

Guideline is excessive and overreaching. Multifamily developers are not responsible for encouraging “consumption of tap water for rehydration”.

21. [SEE PAGE 17] Page 18: Open Space and Amenities

Current Language:

H. New playgrounds should also be designed to reflect the changing knowledge about injury prevention.

City removed H.

Explanation:

Guideline is overly broad and excessive. It is unclear what this guideline means. Design of specific features of play areas should be left to the developer. Developers are not medical-

professionals and the field of injury protection is subject to broad interpretation and ever changing opinions.

22. [SEE PAGE 18] Page 19: Open Space and Amenities

Current Language:

N. Site buildings at a maximum of one-quarter of a mile from a park or usable open space amenity.

City removed N.

Explanation:

Guideline is excessive and overreaching. It is unclear what the term “useable open space” means. Guideline does not account for specific site conditions or project location. Has the city built parks within one- quarter of a mile of all multifamily zoned properties in Avondale? Guideline will significantly harm housing affordability in Avondale.

23. [SEE PAGE 18] Page 19: Open Space and Amenities

Current Language:

Q. Playground tree species with wide canopies need to be planted near pedestrian seating to provide cover from the sun.

City combined and revised Q along with R (now M) below as follows:

Plant tree species with wide canopies near pedestrian seating to provide cover from the sun and cover all playground areas with shade structures.

Explanation:

Guideline conflicts with requirement to utilize drought tolerant plants. Guideline does not account for specific site conditions such as location of playground or location of buildings.

24. [SEE PAGE 18] Page 19: Open Space and Amenities

Current Language:

R. Cover all playground equipment with shade structures and locate trees with wide canopies close by.

City combined and revised R along with Q (now M) above as follows:

Plant tree species with wide canopies near pedestrian seating to provide cover from the sun and cover all playground areas with shade structures.

Explanation:

Guideline is overly prescriptive. Guideline conflicts with requirement to utilize drought tolerant plants. Guideline does not account for specific site conditions such as location of playground or location of buildings.

25. [SEE PAGE 19] Page 20: Building Design

Current Language:

D. Incorporate carriage style garages or tuck under designs to reduce standalone, long garage buildings.

City removed D.

Explanation:

Guideline is excessive and overreaching. Developers need flexibility in designing project features. It is unclear what is meant by “carriage style garages or tuck under designs”. - Guideline does not account for specific site conditions such as lot size, lot shape or project location. Guideline will significantly harm housing affordability in Avondale.

26. Page 20: Building Design

Current Language:

E. Incorporate architectural elements and details that add visual interest, scale, and character to all four-sides of buildings.

Explanation:

Guideline will significantly harm housing affordability in Avondale. Requiring the sides and rears of buildings to be designed to the same standards as street facing facades will result decreased quality and effort throughout the entire development due to the effort and expense incurred constructing costly facades where they will not be seen.

27. [SEE PAGE 20] Page 21: Building Design

Current Language:

H. Utilize high-quality, durable, natural materials. Synthetic materials are acceptable if they are sustainable products.

City removed H.

Explanation:

Guideline is unnecessary and limiting. Developers have a direct interest in utilizing high quality materials and should not be limited to the listed materials. Developers should have the ability to utilize the full range of building materials in order to create a quality product. Guideline will limit the ability of a developer to build unique and creative developments. Guideline will significantly harm housing affordability in Avondale.

28. Page 21: Building Design

Current Language:

I. Utilize contrasting, but complementary, colors for trim, windows, doors, and key architectural elements. Pastels are discouraged.

1. The colors of roofing materials need not be altered by staining or painting.

Explanation:

Guideline is excessive, unnecessary and limiting. Developers should have the ability to utilize the full range of building materials and colors in order to create a quality product. It is unclear what “pastel” means. Guideline will limit the ability of a developer to build unique and creative developments in Avondale.

29. [SEE PAGE 20] Page 21: Building Design

Current Language:

J. The roofline may be changed by the following options:

- a. Alternating the ridgeline between parallel and perpendicular to the street.
- b. Alternating the roof type between gable and hip.
- c. Alternating the roofline pitch by a minimum of three units vertical, for example 22 3:12 to 6:12.
- d. Alternating between two- to three-story units.

City removed these two items:

1. The colors of roofing materials need not be altered by staining or painting.
2. Roof materials need to exhibit earth-tone colors and be non-reflective in muted tones. Acceptable roof materials include: clay tile, slate tile, barrel tile, flat tile, cool roof tile.

Explanation:

Guidelines are excessive and overreaching. Developers need flexibility in how do design projects in order to create unique and desirable developments. Guidelines do not account for specific site conditions. Guidelines will eliminate a developers ability to bring variety in the type of projects they bring to Avondale.

30. Page 22: Building Design

Current Language:

L. Metal flashing, vents, pipes, gutters, electrical panels and other exposed metal must be painted to match the color of the house and avoid exposed metal flues.

Explanation:

Guideline is excessive and overreaching. Developers need flexibility in how do design projects in order to create unique and desirable developments. Guideline will limit the ability of a developer to build unique and creative developments.

31. Page 25: Maintenance

Current Language:

Entire Section

Explanation:

Maintenance requirements should not be included in design guidelines. Crime prevention is an extremely important aspect of all multifamily developments however rules about property maintenance are misplaced inside of this document and should be asserted elsewhere.

We appreciate your consideration of our industry's comments and recommendations. If you have any questions regarding our position or comments, please do not hesitate to contact me at (520) 904-3198 or jack@azcapitolconsulting.com.

Respectfully,

Jack Horton

Capitol Consulting, LLC

On behalf of: The Arizona Multihousing Association

CC.

Courtney LeVinus

Jake Hinman

CITY COUNCIL REPORT

SUBJECT: Exceptional Readers Recognition

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Christopher Lopez, Director, NFS, (623) 333-2711

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

PURPOSE:

The Mayor and City Council will recognize the exceptional readers who participated in the Read 365! Program and the 1,000 Books Before Kindergarten Program for their achievement in reading.

BACKGROUND:

In August of 2017, the Avondale Public Library initiated a year-round reading program called Read 365! The initiative was born out of feedback from the community that indicated readers of all ages wanted a reading program to continue beyond the annual Summer Reading Program. Within the program, a sub-program called 1,000 Books Before Kindergarten was also added to challenge families with a goal of reading 1,000 books to or with their preschooler before they reached kindergarten.

DISCUSSION:

The Read! 365 and the 1,000 Books Before Kindergarten programs have revealed some very exceptional readers. The reading goal for participants of READ 365! is 5,000 minutes in nine months. This is approximately the equivalent of reading nearly twenty minutes a day. Out of the 192 participants in the 2019 Read 365! Program, three adults and two teens reached the special milestone of reading at least 10,000 minutes. They are:

Adults: Andrea Diaz, Cynthia Bonner, and Leah Hansen

Teens: Addison Diaz and Harley Diaz

The 2019 1,000 Books Before Kindergarten finisher is Cruz Calderon. At just 4 years old, Cruz was able to complete his reading journey of 1,000 books in just under a year. Cruz's favorite books to read include titles by Dr. Seuss and anything with Batman. This accomplishment can easily take 3 years to complete so his dedication to reading is remarkable. Reading 1,000 books before Kindergarten establishes a great foundation for success in school. His parents also deserve kudos for their commitment to ensuring a strong start for Cruz.

BUDGET IMPACT:

None.

RECOMMENDATION:

This item is for information and discussion only.



CITY COUNCIL REPORT

SUBJECT: Recognition of Division Chief Aaron Glass for successful completion of the National Fire Academy's Executive Fire Officer Program

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Larry Rooney, Interim Fire Chief, (623) 333-6101

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

PURPOSE:

The Mayor and City Council along with the Avondale Fire and Medical Department, will recognize Fire Division Chief Aaron Glass on his completion of the four-year Executive Fire Officer Program from the National Fire Academy in Emmitsburg, Maryland and present Chief Glass with his Official Certificate of Completion.

BACKGROUND:

The Fire and Medical Department provides its members with professional development opportunities by supporting efforts in both the pursuit of academic degrees and professional certifications. Fire Division Chief Aaron Glass applied and was accepted to the Executive Fire Officer Program. Chief Glass attended four college level courses for two weeks out of each year on campus and then followed them up with an applied research paper on topics that dealt specifically on issues facing the Avondale Fire and Medical Department. Each paper was graded by academy faculty and if the paper was considered exceptional, it was published and placed in to the National Fire Academy's Learning Resources Center. Each of Chief Glass's three papers were published and now rest in the National Fire Academy for future fire students to learn from.

DISCUSSION:

The require executive-level courses that Chief Glass 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. Chief Glass's applied research papers were Avondale specific and covered the different topics of Implementing a Comprehensive and NFPA Compliant Pre-Incident Plan Program at Avondale Fire & Medical. Comprehensive Risk Reduction Strategies for Mobile/Manufactured Home Fires in Avondale, Arizona and Championing a New Emergency Management Culture at the City of Avondale, Arizona.

BUDGET IMPACT:

This item has no budget impact.

RECOMMENDATION:

This item is for information only.

Proclamation Honoring Joe “Pep” Guzman

A proclamation of the council of the City of Avondale, Arizona, honoring Joe “Pep” Guzman for his years of leadership and dedicated service to the Avondale community.

WHEREAS, Joe “Pep” Guzman answered the call to public service, serving in the capacity of Avondale City Council between 1983 and 1991; and

WHEREAS, he has served as the Justice of the Peace for the Agua Fria Precinct since his appointment in May of 1991; and

WHEREAS, Pep Guzman has served with honor and integrity, not only as Justice of the Peace, but also as chairman of the Maricopa County Community Service Commission, vice-president of the board of the Avondale Neighborhood Housing Services and an advisory board member of the Southwest Human Development Inc.; and

WHEREAS, he has been dedicated to the community working as an educator, juvenile caseworker for Maricopa County, community education specialist for Friendly House and a legal researcher; and

WHEREAS, Judge Guzman remains committed to the community serving as Justice of the Peace and is an active member of the Arizona Justices of the Peace Association and the Arizona Minority Judges Caucus; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, that the City of Avondale hereby wishes to express its sincere gratitude and appreciation to Judge Joe “Pep” Guzman for his years of leadership and dedication to the Valley.

Mayor

ATTEST:

City Clerk



CITY COUNCIL REPORT

SUBJECT: Minutes

MEETING DATE: 7/22/2019

TO: Mayor and Council

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

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

PURPOSE:

City Council will consider a request to approve the March 25, 2019 and April 8, 2019 City Council Meeting Minutes. The Council will take the appropriate action.

BUDGET IMPACT:

This item has no budget impact.

RECOMMENDATION:

Staff recommends City Council approval of the March 25, 2019 and April 8, 2019 City Council Meeting minutes.

MINUTES OF THE AVONDALE CITY COUNCIL
CITY OF AVONDALE, ARIZONA
CITY COUNCIL CHAMBER
March 25, 2019

A **Work Session** of the City Council of the City of Avondale, Arizona was convened at 11465 Civic Center Drive in open and public session at 6:30 p.m.

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

Members Absent: None.

Other Municipal Officials Present: Charles Montoya, City Manager; Gina Montes, Assistant City Manager; Andrew McGuire, City Attorney; Marcella Carrillo, City Clerk; Paul Adams, Fire Chief; Cindy Blackmore, Public Works Director; Dan Davis, Economic Development Services Director; Lindsey Duncan, Finance and Budget Director; Kirk Haines, Parks and Recreation Director; Chris Lopez, Neighborhood and Family Services Director; Dale Nannenga, Police Chief; Tracy Stevens, Development and Engineering Services Director; Jeffrey Scheetz, Chief Information Officer; Charity Callahan, City Clerk Specialist; and Pier Simeri, Community Relations and Public Affairs Director.

1. ROLL CALL BY THE CITY CLERK

2. CAPITAL BUDGET DISCUSSION

Lindsey Duncan, Director of Finance and Budget, presented a general overview of the City's capital improvement program (CIP) as part of the fiscal year 2020 budget preparation process.

Ms. Duncan provided the following highlights of the presentation as:

- Capital projects estimated at \$91.2 million for the current year
- Improvements designed, and sources of funding reviewed, and review and categorize projects by area
- Capital improvements are generally greater than \$100,000 and have a useful life of at least five years, so asset replacement is included because this has the same funding source
- All capital improvement projects are identified through staff analysis, based upon master plans and other documents, contractual obligations, and Council direction
- A multi-year approach is always taken in order to make for the best future planning processes, since some projects take more than one year to complete
- Though funding is identified in a multi-year plan, Council typically appropriates funding through the end of the current fiscal year
- As part of the process, individual construction projects are brought forward to Council throughout the fiscal year

- Full project lifecycle is considered, in order to ensure that not only the initial project is affordable, but the operation and maintenance of it is also affordable
- For fiscal year 2019, 31% of the funds are carried over from prior years
- Second largest portion of the plan was set aside as Improvement District Funds (specific expenditure authority for a \$40 million project for a drainage canal that is not anticipated to be needed in the near future). Staff will continue working with that team until needs are better identified
- May find some of that appropriation authority for Festival Fields, for the second GMP (identified in the General Fund) – will see on a future budget amendment
- Transfers from other funds, representation 14%, and bonds at 10%, and development impact fees at 8%
- Fund transfers are largely from the Operations Fund (i.e. General Fund, Water Operations Fund, Wastewater Operations Fund)
- Half-cent dedicated sales tax can be used for water, sewer, streets and transportation projects
- Construction sales tax is cyclical funding that is generally one-time, so is usually dedicated to a one-time project and transferred to the Capital Fund
- For fiscal year 2019 there were \$16.7 million in budgeted fund transfers: \$6.9 million from the General Fund, \$4.6 million from Utility Operations, \$3.9 million from Other, and \$1.3 million from the Half-Cent Dedicated Sales Tax
- The half-cent sales tax that staff is looking to utilize for bonds to sell for historic Avondale on the water side
- General obligation bonds are backed by the credit of Avondale (by secondary property tax so staff always ensures that there is enough levied in secondary property tax to pay the interest and principal on those bonds). Will be selling shortly this spring for parks, resource center, and property and evidence facility
- Revenue bonds are backed by specific revenue sources such as water revenues
- Budgeted bonds:
 - o \$7.2 million for parks development
 - o One-time project fund, general obligation bonds, planned for the Resource Center
 - o \$40 million Improvement District that staff does not intend to recommend to Council for this fiscal year
- Amount pulled forward for Police Property and Evidence Facility from funds planned for next fiscal year, so it could be issued all at once and take advantage of best pricing
- Development impact fees are collected on the issuance of new development building permits, but are restricted use by type, i.e., cannot use streets fees for water projects; only attributable to growth of new projects that are driven by new residents and new businesses; there are debt service responsibilities such as the library development impact fee; the key driver is generally housing
- Budgeted impact fees for fiscal year 2019 are a significant source of the \$10 million budget
- Other sources, existing fund balance, and grants, which are most generally available for transportation, but staff will seek out other sources

- Inter-governmental Agreements (IGA) and developer agreements so sometimes commitments with third parties are entered to construct capital; investment earnings
- Interest income is a little better than in the past, but this funding is generally on the shorter side
- For fiscal year 2020:
 - o Capital improvement uses by category – 15% in general government, 10% public safety, 21% parks and library, 17% for transportation, and 37% for utilities
 - o Numbers are all tentative as staff is refining budget, and they may also be changed as carry forward amounts of the current fiscal year are considered, but have resource center, as well as court and finance department improvements, for a total of \$12.1 million
 - o Asset replacement side utilizes the same funding as maintenance as well as construction of new facilities, so outlined future projects in this area total \$2.7 million, the total five-year request is \$20.4 million
- Public Safety:
 - o Police is \$8.9 million for fiscal year 2020, and a five-year request of \$21.9 million
 - o Fire Department is \$800,000 for fiscal year 2020, and a five-year request of \$8.3 million
- Priority Projects (listed in order of priority by staff, based on Council direction, strategic plans, master plans, and any contractual agreements):
 - o Police Department - Property and evidence room – project is well under way, staff will evaluate funds needed for next fiscal year, detention center and police substation, command vehicle, Alamar substation, and a third substation
 - o Fire Department – Fire apparatus refurbishment, command vehicle, replacement of the training facility support building, relocation and reconstruction of Fire Station 171, and Alamar fire station design
- All listed items were shared with the Citizens' CIP Committee and the Committee recommended moving forward on all proposed projects
- Staff plans to identify any available funding for the projects, and work down the list, from top to bottom
- Parks and Library - Parks projects total \$19.3 million and library projects (civic center library study) total \$100,000
- Parks priority:
 - o Neighborhood parks enhancement, community center repurposing, Festival Fields, Friendship Park enhancements, Crystal Gardens trail improvements, sand volleyball courts, sports field lighting, monument signage, Goodyear Farms Cemetery improvements, future park improvements at Alamar Developments (with developer contributions)
- Transportation Proposed Capital Projects:
 - o \$15 million total requested, with Transportation at \$500,000
 - o Total five-year request is \$60.2 million

- o Many projects have been discussed with Council, including Historic Avondale improvements, as well as projects around 107th Avenue and McDowell
- Streets and Transportation Asset Replacement: needs for preventative street maintenance, pedestrian street ramps and sidewalks, street drainage and street light replacements
- Utilities requested capital improvements:
 - o Water \$19 million
 - o Sewer \$11 million
 - o Sanitation \$300,000
- Water capital priorities:
 - o Historic Avondale improvements (utilizes funding received through revenue bond issuance)
 - o White Mountain Apache Tribe Settlement
 - o North Avondale Water Supply (utilizes funding received through revenue bond issuance)
 - o Well at 107th Avenue and Encanto
 - o Reservoir coating repairs and rehab
 - o Rio Vista waterline replacement
 - o Rancho Santa Fe reservoir
 - o McDowell Road 16-inch waterline
 - o Northside arsenic treatment rehab
 - o Gateway nitrate treatment replacement
 - o Dysart Road water line
 - o Well number seven site improvements
- Sewer capital priorities:
 - o Historic Avondale Improvements
 - o Relocate Riley Lift Station
 - o Large Diameter Sewer Line Repair
 - o Dysart Rd Sewer Replacement
 - o 10th Street Lift Station
 - o WRF Grit System and Odor Control
 - o Lift Station Rehab Program
 - o Water Reclamation Facility Building
 - o Citywide Sewer Improvements
 - o Sewer System Improvement Projects
 - o Lift Station Security System Upgrades
 - o McDowell Road Sewer line Replacement
- Sanitation capital priorities:
 - o Sanitation equipment purchase
- Budget Calendar:
 - o Staff will bring the recommended budget to Council on April 8, 2019, with tentative budget adoption on May 6, 2019, and the hearing and final budget adoption on June 3, 2019; the second Council meeting in June will be the final property tax levy

Mayor Weise opened the floor to questions from Council.

Vice Mayor Dennis inquired on department assets and replacement funding mechanisms of the assets. Ms. Duncan stated replacement issues are being addressed through conversations with the Parks and Recreation department and the Police Department, as many departments have standing asset replacement schedules. The Fire Department has also been identified as a department to utilize asset replacement schedules. Staff intend to take inventory of items that wear out such as lawn mowing equipment, furniture and appliances in the fire stations.

Vice Mayor Dennis inquired on the future construction of the Alamar Fire Station. Ms. Duncan explained the construction of the police substation and fire station will be based on growth patterns and call volumes; staff will work closely with the Police and Fire chiefs on an annual basis.

Vice Mayor Dennis questioned about the White Mountain Apache Tribe Settlement matter, and Cindy Blackmore, Public Works Director, stated that settlement was still in negotiations, but the City is still currently contractually bound through the work that was done in the past. She added that the date that settlement should occur is unknown, and funding is added to the budget every year to be prepared for the settlement, whenever it occurs. Ms. Blackmore stated that funds would be rolled over to the next fiscal year if settlement did not occur in the current one. She believed that 3% per year was the escalation factor on that and it was carried over every year.

Mayor Weise asked about the Thomas Road bridge design, observing other needs in the southern part of the city and wondered whether it might be cheaper to do a study to include those issues at the same time. Mr. Charles Montoya, City Manager, stated that because of the complex nature of the bridge it might be best to have it studied alone, and the total cost should be somewhere around \$40 million. The other bridges needed downtown might be a little bit easier to fund. Mr. Montoya recommended looking at multiple items at once, and Vice Mayor Dennis agreed.

Councilman Curtis Nielson asked about the asset management system, and whether a software system was used to track replacement of assets. Ms. Duncan stated she would check into asset replacement software. She noted that the Finance Department is currently using homegrown databases, although other departments have different systems, and much is being tracked manually.

Council Member Malone asked about the driving factor of the construction of the Alamar Fire Station. Mr. Montoya stated that the number of calls and time between calls would drive the need for new sub-stations.

Councilman Malone asked about the status of the bridge at Lower Buckeye Road and El Mirage Road, questioning if staff should start looking at the bridge due to the construction of the Alamar development. Mr. Montoya responded that the mentioned bridge is lower

on the priority list and the El Mirage Road bridge near the ISM Raceway is currently a higher priority due to the recent flooding in the area.

3. ADJOURNMENT

There being no further business before the Council, Council Member Nielson moved to adjourn the meeting; seconded by Council Member Conde.

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

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

Meeting adjourned at 6:56 p.m.

A **Regular Meeting** of the City Council of the City of Avondale, Arizona was convened at 11465 Civic Center Drive in open and public session at 7:01 p.m.

Mayor Kenn Weise led the Pledge of Allegiance and asked for a moment of silent reflection in remembrance of Officer Rutherford with the Phoenix Police Department, Spc. Joseph P. Collette, of the 242nd Ordnance Battalion, 71st Explosive Ordnance Disposal Group, and Sgt. 1st Class Will D. Lindsay, assigned to 2nd Battalion, 10th Special Forces Group (Airborne).

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

Members Absent: None.

Other Municipal Officials Present: Charles Montoya, City Manager; Gina Montes, Assistant City Manager; Andrew McGuire, City Attorney; Marcella Carrillo, City Clerk; Paul Adams, Fire Chief; Cindy Blackmore, Public Works Director; Dan Davis, Economic Development Services Director; Lindsey Duncan, Finance and Budget Director; Kirk Haines, Parks, Recreation and Libraries Director; Chris Lopez, Neighborhood and Family Services Director; Dale Nannenga, Police Chief ; Tracy Stevens, Development & Engineering Services Director; Jeffrey Scheetz, Chief Information Officer; Charity Callahan, City Clerk Specialist; and Pier Simeri, Community Relations and Public Affairs Director.

Audience: Approximately four members of the public were present.

1 ROLL CALL AND STATEMENT OF PARTICIPATION BY THE CITY CLERK

2 RECOGNITION ITEMS (MAYOR PRESENTATIONS)

a. RESOLUTION 3528-319 – HONORING CITY ATTORNEY ANDREW J. MCGUIRE

Mayor Weise read Resolution 3528-319 honoring Andrew McGuire for 19 years of dedicated service to the City of Avondale and presented Mr. McGuire with a plaque.

Mayor Weise thanked City Attorney, Andrew McGuire for 19 years of service to Avondale, stating that:

“Whereas, Andrew J McGuire was hired in 2000 by the Mayor and Council of the City of Avondale to serve as chief legal advisor to the City and to provide legal services to the City Council, the City Manager, all departments, employees, as well as the City’s boards, commissions and committees; and

Whereas, Andrew J. McGuire brought to his role in Avondale extensive experience in the areas of development/utility impact fees, condemnation, code enforcement, annexation law, election law, contract and procurement law, public bidding, open meeting law, employment law and improvement districts; and

Whereas, it was during his tenure as Avondale’s City Attorney, that the city saw unprecedented growth, with the advent of many new housing, retail and industrial developments, such as the Avondale Civic Center campus, the Avondale Automall, Gateway Pavilions, the Randall McDaniel Sports Complex, and Coldwater Depot; and

Whereas, Andrew McGuire worked closely with the City’s executive leadership team to carry out the City Council’s goals and objectives; and

Whereas, Andrew McGuire always represented the City’s interest with utmost integrity and professionalism, and sought to provide the Mayor & Council with the best legal advice in making sound decisions on behalf of the City; and

Whereas, he was instrumental in helping to shape policy and legislation on behalf of Avondale and Arizona’s 91 cities and towns through his participation on committees at the League of Arizona Cities & Towns especially in negotiations regarding Impact Fee legislation as well as development related legislative issues; and

Whereas, he also actively participated in community special events and activities in Avondale, and annually presented at Avondale Citizens Leadership Academy; and

Whereas, the Avondale City Council seeks to recognize the many contributions of Andrew J. McGuire during his tenure as Avondale's City Attorney,"

Now therefore, be it resolved by the Council of Avondale, Arizona, that the City of Avondale hereby wishes to thank and honor Andrew J. McGuire for his years of dedicated service, and to wish him well in his future endeavors."

Motion was made by Council Member Kilgore, seconded by Council Member Pineda, to approve Resolution 3528-319 honoring City Attorney Andrew J. McGuire.

Upon vote, the motion carried unanimously 7 to 0.

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

Mr. McGuire shared a few stories and commented on the tremendous growth of the city, stating he is honored to work with amazing people who encouraged the development of Avondale and privileged to serve the citizens of Avondale for 19 years. Mr. McGuire stated he looked forward to working with Avondale again in future.

Mayor Weise attributed Mr. McGuire for being the force behind the growth and development behind the Avondale Auto Mall and Harkins Theaters among other businesses within Avondale.

Vice Mayor Dennis thanked Mr. McGuire for his tremendous work ethic and hard work and for his community engagement afterhours.

Council Member Malone expressed gratitude to Mr. McGuire for guiding the City of Avondale over the past 19 years.

Council Member Kilgore thanked Mr. McGuire for his eye-opening advice after being appointed. Expressing his appreciation for everything Mr. McGuire has done for the city.

Mayor Weise shared a story about the open meeting law advice shared by Mr. McGuire to all appointed and election Council Members.

The City Council of the City of Avondale, Arizona took a recess at 7:12 p.m.

The City Council of the City of Avondale, Arizona reconvened at 7:25 p.m.

3 UNSCHEDULED PUBLIC APPEARANCES

None.

4 CONSENT AGENDA

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

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

Upon vote, the motion carried unanimously 7 to 0.

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

a. **APPROVAL OF MINUTES**

City Council approved the January 14, 2019 and January 22, 2019 City Council Meeting minutes.

b. **SERIES 12 (RESTAURANT) LIQUOR LICENSE – RAUL AND THERESA’S RESTAURANT**

City Council approved an application for a Series 12 (Restaurant) Liquor License submitted by Martin Alonso to sell all spirituous liquors at Raul and Theresa’s Restaurant located at 519 West Main Street in Avondale and authorized the Mayor and City Clerk to execute the necessary documents.

c. **PROFESSIONAL SERVICES AGREEMENT WITH ARCHITEKTON INC. FOR THE DESIGN OF THE NEW SENIOR AND RESOURCE CENTER**

City Council approved a request to enter into a Professional Service Agreement with Architekton Inc. for Architectural and Engineering Design of the new City Resource and Senior Center in the amount of \$990,684.00, and authorized the Mayor or City Manager and City Clerk to execute the contract documents.

d. **PROFESSIONAL SERVICES AGREEMENT WITH ARCHITEKTON INC. FOR THE DESIGN OF THE POLICE BUILDING EXPANSION PROJECT**

City Council approved a request to enter into a Professional Service Agreement with Architekton Inc. for Architectural and Engineering Design of the Police

Expansion Project in the amount of \$665,401.00 and authorized the Mayor or City Manager and City Clerk to execute the contract documents.

e. **PROFESSIONAL SERVICES AGREEMENT WITH WOOD ENVIRONMENT & STRUCTURAL SOLUTIONS, INC. FOR THE DEVELOPMENT OF THE GADEN LAKES PARKWAY CORRIDOR STUDY**

City Council approved a request to approve a Professional Services Agreement with Wood Environment & Structural Solutions, Inc. to develop and complete the Garden Lakes Parkway Corridor Study for an amount not to exceed \$80,863.00 and authorized the Mayor or City Manager and City Clerk to execute the necessary documents.

f. **MULTIPLE CONTRACT AWARD – GRANULAR ACTIVATED CARBON SLURRY REPLACEMENT SERVICES**

City Council approved a request to award contracts to Carbon Activated Corporation; Prominent Systems, Inc.; and Calgon Carbon Corporation to provide Granular Activated Carbon Slurry Replacement Services in a collective price not to exceed \$76,151.00 annually and a collective aggregate amount not to exceed \$228,453.00 over the five-year contract term and to authorized the Mayor or City Manager and City Clerk to execute the necessary documents.

g. **COOPERATIVE PURCHASING AGREEMENT FIFTH AMENDMENT WITH CARESCAPE INC. FOR LANDSCAPE SERVICES**

City Council approved the Fifth Amendment to the Cooperative Purchasing Agreement with Carescape, Inc. for landscape, irrigation, and pest control services in an aggregate amount not to exceed \$2,657,215.00 for the term of the agreement, and authorized the Mayor or City Manager and City Clerk to execute the necessary documents.

h. **MEMORANDUM OF UNDERSTANDING WITH ARIZONA'S CHILDREN ASSOCIATION**

City Council approved a request to approve the Memorandum of Understanding with Arizona's Children Association to assign a trauma therapist to the Southwest Family Advocacy Center at no direct cost to the City of Avondale, and authorized the Mayor or City Manager and City Clerk to execute the necessary documents.

i. **RESOLUTION 3529-319 – AUTHORIZING BANKING & INVESTING AUTHORITY**

City Council approved a request to adopt Resolution 3527-319 authorizing certain city officials and staff to execute and endorse checks and other items for and on behalf of the City, authorizing certain city staff to authorize certain electronic payments and transfers of funds, authorizing certain city staff to open investment and safekeeping accounts, invest city funds, and execute contracts, agreements or transactions in connection with such investment accounts, and declared an emergency; and authorized the Mayor and City Manager and City Clerk to execute the necessary documents.

5 REGULAR AGENDA

5a. PUBLIC HEARING – PLANNED AREA DEVELOPMENT (PAD) ZONING TIME EXTENSION – AVONDALE COMMERCE PARK (APPLICATION PL-19-0018)

City Council held a public hearing to consider a request by Stephen C. Earl with Earl, Curley, and Lagarde, P.C., to approve a two-year PAD zoning time extension for Avondale Commerce Park located on approximately 80 acres at the northeast corner of 103rd Avenue and Van Buren Street.

Jodie Novak, Planning Manager, presented an overview regarding the Planned Area Development Zoning Time Extension – Avondale Commerce Park (Application PL-19-0018). Ms. Novak started the discussion indicating that the current contract is set to expire on April 1st, 2019 and stating the request is for a two-year extension.

Ms. Novak provided the following highlights:

- PAD Zoning time extension request for a two-year approval of property located on the northeast corner of 103rd Avenue and Van Buren Street, and is 80 acres total, with 40 acres on the southern end and 40 acres on the northern end
- The current time extension expires on April 1, 2019
- Aerial map provided to show property, with an auto mall to the north, vacant land to the west planned for commerce park industrial and County courts, to the east additional industrial and a fast-food drive-thru restaurant, and to the south is Van Buren Street and the City of Tolleson
- Zoning in the area indicated as planned area development (PAD), commerce park, and agricultural
- The property was annexed into the city March of 1986 and zoned agricultural (AG). In 2008, City Council approved a rezoning request to PAD, a PAD for industrial zoning was granted with a one-year time extension on four separate occasions and came in for approval from 2011 and 2014
- In 2016, the property came in again for a time extension, but at the same time, the City was amending the zoning ordinance regarding properties on PAD. The approval for that ordinance change was that time extensions were increased from a one-year approval to a two-year with an automatic zone extension granted to all PADs at that time
- The applicant has received ten extensions but has not developed in the required timeframe
- Consistent with the goals and objectives of the General Plan 2030
- If the PAD zoning time extension is not granted, then the City Council, in a separate hearing can revert to the original agricultural zoning
- This property has an active development proposal submitted by Seefried Development, who are in the process of purchasing 40 acres
- The development proposal is for two industrial buildings totaling 650,000 square feet. The approval of the construction plan submittals is contingent upon the approval of the planned area development zoning time extension

- Southern 40 acres is up for sale, and not sure at this point if Seefried will be interested in purchasing that portion as the applicant's law firm who is representing the time extension component informed the city that the southern 40 acres is still questionable
- Planning staff's recommendations of approval of the time extension with eight conditions included in the packet, and an additional condition within condition number three

Ms. Novak provided additional information on condition number three within the staff report, regarding a 20-foot multi-use path easement along Van Buren Street to the City. The condition requires the developer and the City to agree to the form of Easement prior to approval of the PAD extension, at which time the property owner will agree to construct the multi-use path at the time of adjacent site development. Ms. Novak added additional information regarding the form of Easement drafted by the City Attorney, as required in condition number three. Ms. Novak read the condition within the easement to which the disagreement is in regarding into the record.

Condition number nine (9) of the mentioned easement that the City is requesting be removed is as followed:

"As this Easement is being granted prior to Grantor developing and operating the its adjacent property, Grantee agrees to respond in good faith to reasonable requests by Grantor to modify this Easement to facilitate the development and operation of Grantor's adjacent property."

Mr. McGuire provided additional information regarding the drafted form of Easement. Mr. McGuire explained the Easement being discussed is the document sent on Monday, March 25, 2019 at 5:30 PM, which includes a provision that creates a condition and creates a covenant of good faith and fair dealing on an easement modification, which is not advisable as the property is not designed yet. The broad language within the form of easement is not advisable and Mr. McGuire requested the City approve the Easement minus the mentioned condition number nine.

Mayor Weise inquired on the deadline for the time extension. In response, Ms. Novak explained the current time extension expires on April 1, 2019.

Mayor Weise suggested a special meeting be called to deal with requests within four days, as he wanted to be sure that the City Attorney was comfortable with the language that would be decided upon before having Council vote. Mayor Weise stated that he would still open the public hearing this evening. Mr. Montoya explained a Special City Council Meeting can be scheduled to provide both parties ample time to settle the disagreement regarding the form of Easement.

Mayor Weise opened the Public Hearing and mentioned one member of the audience, Taylor Earl with Earl, Curley, and Lagarde, P.C., has requested to speak.

Mr. Taylor Earl, 3101 North Central Avenue, stated that he believed an understanding had been reached, as the only difference was to remove language about the liability, and go with the City's wording. Mr. Earl explained the change from the easement agreement

sent on Friday, March 22, 2019 and the agreement sent on Monday, March 25, 2019 at 5:30 p.m. was the removal of liability language and language referenced by Ms. Novak but agrees of the removal of that language read into the record.

Mr. McGuire said that he was not necessarily comfortable with referring to Friday's version. He stated that the version received at 5:30 p.m. this evening, minus condition 9, was something that he was comfortable with. Mr. Earl said he was good with agreeing to the points in the copy provided Monday at 5:30 p.m., with the removal of condition 9.

Mr. Earl explained they are excited to see the project move forward and stated they are grateful for staff and Mr. McGuire for working through the last-minute issues.

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

Mayor Weise stated that this had been a long timeline on this project, and he said that it was an important piece of property. He added that he would like a resolution made this evening by a Council Member, so the motion would be appropriately worded to match the information just agreed upon by the City and Mr. Earl.

Vice Mayor Dennis inquired on the different version being discussed. Ms. Novak explained condition number 3 of the zoning condition is what staff is referencing. The form of Easement mentioned within condition number 3 is not included as part of the agenda packet. Ms. Novak explained the Public Trail Easement document will be administered through a separate administrative process.

Mr. Montoya stated that suggest continuing this item until the next two items on the agenda were complete to provide staff time to printing the discussed documents.

Mr. McGuire reviewed the document that had been crafted by staff before the tabling of this item until later in the meeting. He noted that the easement area would be included in the development setbacks and noted that the things that would normally be impacted and future power easements, maintenance, language that was discussed earlier, and noted City staff was comfortable with the language of the presented form of Easement except number 9.

Upon presentation and explanation of the form of easement by Mr. McGuire, Vice Mayor Dennis confirms that the only item to be omitted from the form of Easement is condition number nine (9).

Mayor Weise made the motion to approve Application PL-19-0018, Planned Area Development Zoning Time Zoning Time Extension, Avondale Commerce Park, as recommended by staff, subject to eight recommendations of approval, including the recommended public trail easement, minus item 9, and authorize the Mayor to executive the agreement at the appropriate time, seconded by Council Member Pineda.

Upon vote, the motion carried unanimously 7 to 0.

Council Member Conde Aye

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

Clerks Note: Items 5b & 5c were presented together.

5b. RESOLUTION 3529-319 – MINOR GENERAL PLAN AMENDMENT, WOO PROPERTY (PL-18-0261)

City Council held a public hearing to consider a request by Mr. David Kenyon with Kenyon Architectural Studio, to adopt Resolution 3526-319 amending the General Plan Land Use Map for approximately 2.5 acres of land located on the southwest corner of Buckeye Road and El Mirage Road from Medium Density Residential to Local Commercial.

Rick Williams, Senior Planner, presented an overview of the request, to include the background, staff analysis, and the Planning Commissions' recommendation.

Mr. Williams provided the following highlights:

- Considering a request to amend the 2030 General Plan Land Use Map changing 2.5 acres of land from Medium Density Residential to Local Commercial and a request to rezone 2.5 acres of land from R1-6 (Single-Family Residential) to C-2 (Community Commercial)
- Area of request was defined
- Subject area is currently zoned as R1-6 (Single-Family Residential), as were the surrounding businesses to the west. The Coldwater Springs PAD is also surrounding the property
- Land was annexed in 1976 and the area was zoned as R1-6 sometime between 1976 and 1990. Typically, when properties are annexed, they are given an equivalent zoning.
- Upon annexation, Fiesta Barn was already in business under a different name.
- Legal non-conforming use on this site
- The desire to have a drive-thru on this site is triggering the two agenda items
- General Plan 2030 is currently medium density residential with four dwelling units per acre but would change to local commercial which are typical C-2 uses
- Consistent with the goals and objectives of the General Plan 2030
- The amendments would bring the existing uses into conformance, not only with current zoning but the general plan designation as well, and provides standards for future development moving along and it will be an immediate aesthetic improvement to the site with the addition to the drive-thru
- All required notices were met, not only for the neighborhood meeting but for the Planning Commission and Council meeting
- Neighborhood meeting was conducted on January 29, with neighbors showing up for discussion, centering around traffic on El Mirage Road, overall aesthetics of the site, and a neighbor to the south who had an issue with rodent infestation

- Worked closely to address those concerns and believe the future development will take care of aesthetic issues
- Great conversation with respect to relocating the weekend swap meet to improve the traffic impact on El Mirage Road
- Worked closely with the neighbor to the south, and Mr. Woo had submitted a plan that would not only abate the problem, but continue to monitor it moving forward
- Staff recommends approving the applications, subject to six (6) recommended conditions of approval

Mayor Weise opened the Public Hearing and mentioned one member of the audience, Michael Talbot, Canyon Architectural Studios, has requested to speak.

Mr. Talbot, on behalf of the architect, stated he had worked with the architect, David Canyon, and thanked City Council and staff for being helpful to the project, commenting on the owner's dedication to this project.

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

Vice Mayor Dennis stated that in the beginning the current leases were not concurrent, which might cause a minor General Plan amendment, and inquired if both uses would then be compliant. Mr. Williams clarified that the Fiesta Barn Market would then become compliant with the general plan and current zoning, but the swap meet would remain in legal non-conforming use. Vice Mayor Dennis expressed concerns in reference to managing the legal non-conforming uses. Mr. Williams explained staff is under the impression that the swap meet will continue, and they have been cooperating to address parking and traffic related issues on El Mirage Road. Mr. Williams stated, at this point in time, there is no desire from the City to eliminate the swap meet. Vice Mayor Dennis asked the City Attorney what his stance is on non-conforming leases, and if there is a way to address mitigating the issues. Mr. McGuire explained non-conforming use properties are legal in their capacity until the law changes to make them illegal. Mr. McGuire stated that this issue was a little unusual, explaining the legal non-conforming use was, in the past, appropriate for the property and the swap meet use has since retracted to the property that is under consideration. Mr. McGuire explained the property as re-zoned would not change the legal non-conforming use on the property. Mr. McGuire advised City Council that the City can only enforce and remove the legal non-conforming use if the use itself changed in a way where it was discontinued, modified or changed in a way that was inconsistent to the City Code.

In response to a concern from Vice Mayor Dennis regarding future access requirements, Mr. McGuire explained there has not been a request for additional access within the area. Mr. McGuire stated when a request is submitted, that is when staff would address if the change is consistent with the legal non-conforming use standards to consider banning the use.

Mr. Williams stated that a conditional use permit and a site plan submittal will come before the Council at a later date. A traffic impact study will be conducted by the City Engineer.

Vice Mayor Dennis expressed safety concerns of a drive-thru in the same vicinity of a swap meet. Mr. Williams assured Mayor and Council that the traffic concerns will be address through a traffic impact study.

Council Member Pineda asked if the knowledge of non-compliance causes any liability to the City, and Mr. McGuire responded that the use of the property does not change or increase the liability, but more so the conditions around the property, such as traffic or road conditions. He noted that since the swap meet was existing when it was annexed into the city, the use could still function as long as it was functional and safe. Mr. McGuire advised the group that when approving the site plan in the future, City Council will be required to evaluate the turn movements not only as they relate to the use request for rezoning but also the use of the swap meet.

Council Members Pineda and Malone both stated they were in favor of the swap meet.

Council Member Malone asked how right-of-way to the property would be affected when improvements were made to El Mirage and Buckeye Roads. Mr. Williams stated that the future Capital Improvement Project would take care of the right turn lane and intersection improvements. He added that staff is working with the applicant on a minor land division that will dedicate additional right-of-way to the City for future expansion on the street. At this point in time, there are no street improvements other than a request to dedicate a right-of-way to the City.

Council Member Malone commended the owners for cleaning up the property at the end of the day on the weekend.

Mayor Weise stated that he had also observed the owner managing the property and said having the property improved would help the community.

Council Member Nielson made the motion, seconded by Council Member Malone, to approve Resolution 3529-319 – Minor General Plan Amendment, Woo Property (PL018-0261), with staff’s recommendations and considerations.

Upon vote, the motion carried unanimously 7 to 0.

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

5c. ORDINANCE 1688-319 – REZONING WOO PROPERTY (APPLICATION PL-18-0262) BUCKEYE ROAD AND EL MIRAGE ROAD

City Council held a public hearing to consider a request by Mr. David Kenyon with Kenyon Architectural Studios, to adopt Ordinance 1688-319 rezoning approximately 2.5 acres of land located on the southwest corner of Buckeye and El Mirage roads from R1-6 (Single-Family Residential) to Community Commercial (C-2).

Mayor Weise opened the public hearing and asked if any members of the public wished to speak on the item. Having no members of the public present to speak, Mayor Weise closed the public hearing and opened the floor for comments from Council.

Council Member Pineda moved to adopt Ordinance 1688-319, approving application PL-18-0262 Woo Rezoning, subject to six (6) recommended conditions of approval; seconded by Council Member Malone.

Upon vote, the motion carried unanimously 7 to 0.

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

5d. PUBLIC HEARING – PROPOSED DEVELOPMENT FEES

City Council held a public hearing on the City's proposed development impact fees assessed on new development. Ms. Duncan noted that tonight is the scheduled public hearing on the adoption of the proposed development fees.

Mayor Weise opened the public hearing and asked if any members of the public wished to speak on the item. Having no members of the public present to speak, Mayor Weise closed the public hearing and opened the floor for comments from Council. No comments were made from Council.

Council Member Kilgore made a motion, seconded by Council Member Nielson. Ms. Duncan clarified that this item is for a public hearing only and no vote is needed.

6 EXECUTIVE SESSION

City Council held an executive session pursuant to: (i) Ariz. Rev. Stat 38-431.03(A)(7) for discussion or consultation with the City Manager in order to consider its position and instruct the City Manager regarding negotiations for the acquisition of real property; (ii) Ariz. Rev. Stat. 38-431.03(A)(4) for discussion or consultation with the City Attorney in order to consider its position and instruct the City Attorney regarding potential litigation relating to real property; and (iii) Ariz. Rev. Stat. 38-431.03(A)(3) for discussion or consultation for legal advice with the City Attorney; all relating to the Van Buren Street multi-use path project.

ADJOURNMENT

There being no further business before the Council, Council Member Kilgore moved to adjourn the meeting into Executive Session; Council Member Malone seconded the motion.

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

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

Meeting adjourned at 8:14 p.m.

Mayor Kenn Weise

CERTIFICATION AND ATTESTATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Work Session and Regular Meeting of the Council of the City of Avondale held on the 25th day of March 2019. I further certify that the meeting was duly called and held and that the quorum was present.

Marcella Carrillo, CMC
City Clerk

MINUTES OF THE AVONDALE CITY COUNCIL
CITY OF AVONDALE, ARIZONA
CITY COUNCIL CHAMBER
April 8, 2019

A **Work Session** of the City Council of the City of Avondale, Arizona was convened at 11465 Civic Center Drive in open and public session at 6:33 p.m.

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

Members Absent: Council Members Bryan Kilgore and Tina Conde.

Other Municipal Officials Present: Gina Montes, Assistant City Manager; Michael Wawro, City Attorney; Marcella Carrillo, City Clerk; Paul Adams, Fire Chief; Cindy Blackmore, Public Works Director; Jessica Blazina, Intergovernmental Affairs Administrator; Dan Davis, Economic Development Services Director; Lindsey Duncan, Finance and Budget Director; Kirk Haines, Parks and Recreation Director; Dale Nannenga, Police Chief; Jeffrey Scheetz, Chief Information Officer; and Pier Simeri, Community Relations and Public Affairs Director.

Audience: One member of the public was present.

1. ROLL CALL

Note: Council Members Bryan Kilgore and Tina Conde arrived at the meeting at 6:35 p.m.

2. CONTRIBUTIONS ASSISTANCE PROGRAM FISCAL YEAR 2019-2020 UPDATE AND PROGRAM RECOMMENDATIONS

Sheryl Steele, Family Services Manager, presented the eligibility requirements, funding priorities and evaluation criteria for the Fiscal Year 2019-2020 Contributions Assistance Program.

Ms. Steele provided the following highlights of the Contributions Assistance Program:

- The program has traditionally funded up to \$100,000 to local non-profits with 501(C)(3) status who are supporting health and human services in Avondale.
- The purpose of the presentation is to review current eligibility criteria, to consider and discuss one additional criteria item, and to review agencies funded in fiscal year 2019.
- Council Members Conde, Malone, and Nielson were selected for the Council Subcommittee.
- The program level funding for fiscal year 2019 of \$100,000 is included in the proposed Non-Departmental Budget.
- In fiscal year 2019, 29 agencies (list provided) were funded with 35 applications received from a wide range of agencies providing vital services such as food and shelter.

- Current criteria:
 - o Provision of direct services that will improve health and welfare of Avondale residents.
 - o Timely and accurate reports from current recipients.
 - o Ability to generate revenue from other sources, looking at leveraging of funds.
 - o Priority will be given to special projects. However, requests for operating support towards direct and measurable services will be considered. Administrative costs will not be eligible for this funding.
 - o Priority will be given to services and initiatives that support and address City Council goals.
 - o Services provided at the Care1st Avondale Resource Center will be given priority.
 - o Organizations that received funding in the previous year will participate in a mid-year review and demonstrate satisfactory progress towards stated goals and objectives.
 - o All awards should be at or above the minimum amount requested by the organization. The minimum amount is established to provide adequate funding to effectively complete the project or the proposal.

Ms. Steele asked for comments or questions. Mayor Weise thanked Ms. Steele and expressed his appreciation for the update. Mayor Weise stated he remembers sitting on the subcommittee and there were times where the requests were coming in high. He asked how staff achieve their goal of meeting or exceeding what is requested. In response, Ms. Steele explained it is a difficult process, mentioning last year was a share the wealth type of goal, where many different agencies were getting a little bit of funding, which came from a very good place. Ms. Steele presented an example of the mentioned challenge, explaining one agency submitted a funding request of \$5,000 for an early literacy program for staff, books, training and teaching, with a minimum request of \$3,000. The organization was funded at around \$1,500 but later called asking to do a book program because they did not have quite enough funding but thanked the city for the generous offer. Ms. Steele explained this happened with a few different agencies, not for lack of trying to help but it spread the wealth a little too thin. Ms. Steele explained, after talking with the department staff, the department thought it was something to take a little stronger look at, funding a little bit more with a lesser amount.

Mayor Weise stated he does not disagree with that and it makes sense to have a larger impact with the people you are dealing with. Mentioning he believes there are times when an organization puts in a request of what they really need from the city and if the city cuts it in half or cuts it by a little bit more, then the organization will no longer be able to do what they planned on doing, acknowledging staff for having these conversations with the applying groups, having a pretty good idea. Mayor Weise asked Council Member Malone if that is where she is looking for too on this topic.

Council Member Malone responded, stating last year the subcommittee received the information a little late in the game so they were not able to read up on the information and felt that they wanted to just give. When the subcommittee pulled away because they

thought they were duplicating efforts, they found there was an applicant who started her own program who was fifteen years old and the subcommittee missed out on the opportunity by not having the information in front of them, but also understood they are overlapping and spreading the funding too thin. Going forward, they want to look at that so each of the non-profits have the adequate amount of funding that they need to process and push forward the program or the request that they need for funding.

Council Member Conde agreed with Council Member Malone, thanking staff for bringing this to their attention, stating it is important to maximize the funding and also looking at the non-profits that make the greatest impact for the City. She said that this year they would be more mindful of those points, commenting on getting information before decisions are made and have staff share information with the subcommittee and explain more about each of the non-profits. She shared her appreciation for staff's direction and information and stated she was looking forward to this year's applications.

Council Member Nielson noted on comments from Council Members Malone and Conde from the past and one concern from last year is the small amount of time they have to give. He commented on having more time to review and talk with staff. He expressed interest in a mid-year review update from staff to Council on the progress of the success of the agencies.

Vice Mayor Dennis addressed administrative costs not being eligible and stated that is a small concern because every program has administrative costs. She would like the subcommittee to consider allowing administrative costs if not this year, but next year because the administrative accountability is important, and not funding those activities puts the onus on the recipient organizations to make up the difference.

Council Member Pineda thanked staff for the presentation and asked if an information piece regarding the criteria was available when agencies apply for the assistance. Ms. Steele said that the criteria is listed very clearly on the front of the application, and she and other staff answer questions year-round, to reiterate the education piece. She believed applicants were very clear by the time they got to the level of completing the application and noted that staff tries to educate the applicants as best as they can. Additionally, Ms. Steele agreed with Vice Mayor Dennis with respect to allowing administrative cost funding.

Council Member Kilgore thanked Ms. Steele for the presentation and stated providing the funding to the community is huge. He has heard from the community that they are excited for the opportunity to have the funds. He commented on past recipients, Pastor Robinson and Pastor Jack, who are grateful for the funding they have received. He asked if there was a possibility in future to increase funding levels. Ms. Steele stated she will always say yes to the question.

Mayor Weise stated that he recalled that when he first started on Council there was \$100,000 to be awarded, and at one time after that, \$60,000 was the amount available. He added that the goal was to always get up to \$100,000. He had no issue going above \$100,000 if the need is there, but it should be one-time funds. He thought it might be too

late for this year, but going forward, he believed further discussion on this would be helpful.

Council Member Kilgore provided reasoning as to why he asked the question, stating there are major developments coming which will generate revenue for the City.

Council Member Malone inquired on the timeline, and Ms. Steele provided the following:

- April 11, 2019 at 9:00 a.m. – Applications will be available online
- April 12, 2019 through May 9, 2019 – Staff available to answer any programmatic questions and computer troubleshooting
- May 9, 2019 at 5:00 p.m. – application acceptance will close online
- May 31, 2019 – Application review process completed by staff sub-committee
- June 6, 2019 – Application review meeting for the staff sub-committee (all ratings compiled, and recommendations made for Council sub-committee)
- June 12, 2019 – Council Subcommittee meeting in the Mesquite Room
- July 22, 2019 – Tentative City Council presentation
- August 12, 2019 – Tentative City Council check presentation

Council Member Conde thanked Ms. Steele and staff for walking applicants through the application process, noting that she heard comments from applicants who had applied at other cities how staff assisted them through the application process.

Council Member Malone asked if staff had reached out to Gail from Experience Matters, and Ms. Steele stated she would find out and get back to her.

Council Member Pineda stated that Council Member Conde's comment was what he was looking for as far as the education piece of the application process to assure smaller agencies have the same opportunities.

3. ADJOURNMENT

There being no further business before the Council, Council Member Malone moved to adjourn the meeting; seconded by Council Member Nielson.

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

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

Meeting adjourned at 6:49 p.m.

A **Regular Meeting** of the City Council of the City of Avondale, Arizona was convened at 11465 Civic Center Drive in open and public session at 7:00 p.m.

Mayor Kenn Weise led the Pledge of Allegiance followed by a moment of silent reflection in remembrance Summer Bell Brown who was tragically killed last week in Phoenix.

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

Members Absent: None.

Other Municipal Officials Present: Gina Montes, Assistant City Manager; Michael Wawro, City Attorney; Marcella Carrillo, City Clerk; Paul Adams, Fire Chief; Cindy Blackmore, Public Works Director; Jessica Blazina, Intergovernmental Affairs Administrator; Dan Davis, Economic Development Services Director; Lindsey Duncan, Finance and Budget Director; Kirk Haines, Parks and Recreation Director; Dale Nannenga, Police Chief; Tracy Stevens, Development and Engineering Services Director; Jeffrey Scheetz, Chief Information Officer; Linda Mendenhall, Deputy City Clerk; and Pier Simeri, Community Relations and Public Affairs Director.

Audience: Members of the public were present.

1 ROLL CALL AND STATEMENT OF PARTICIPATION BY THE CITY CLERK

2 RECOGNITION ITEMS (MAYOR PRESENTATIONS)

a. RESOLUTION 3530-419 – HONORING CHIEF FARRIS ON THE OCCASION OF HIS RETIREMENT

Paul Adams, Fire Chief, introduced the agenda item, stating retirements are bittersweet occasions, and this case, the retirement of Battalion Chief Jeff Farris, retiring from active service on March 22, 2019, after more than 30 years of service with the City of Avondale. He added that the City wished to commend him for his years of service and wish him all the best on his retirement.

Mayor Weise asked Chief Farris to come forward, and then read the resolution as follows:

“Resolution No. 3530-419:

A Resolution of the Council of the City of Avondale, Arizona, honoring Battalion Chief Jeff Farris, for 30 years of dedicated service to the City of Avondale,

Whereas, on November 18, 1988 Battalion Chief Jeff Farris began his career with the City of Avondale as a Firefighter; and

Whereas, Chief Farris served the City as a Firefighter, Paramedic, Technical Rescue Specialist, Engineer, Captain and most recently as a Battalion Chief; and

Whereas, over the course of his career Chief Farris saw significant growth in the city and in the emergency service demands placed on the department; and

Whereas, Chief Farris served with distinction and made significant contributions to the Avondale Fire and Medical Department; and

Whereas, during his tenure Chief Farris was instrumental in initiating the department's Technical Rescue program, was deployed for 30 days as part of the national emergency response to Hurricane Katrina, served as a recruit training officer and served as the official representative of Santa for a variety of city and department events; and

Whereas, fellow employees have embraced Chief Farris as a team member and friend; and

Whereas, Chief Farris has demonstrated integrity and professionalism throughout his career and has faithfully served the City during periods of transition and growth; and

Whereas, the Council of the City of Avondale wishes to express its appreciation for his hard work, dedication and years of service and to honor Battalion Chief Jeff Farris on the occasion of his retirement after thirty years of exemplary service to the citizens of Avondale.

Now, therefore. Be it resolved by the Council of the City of Avondale, Arizona that the City of Avondale does hereby thank Battalion Chief Jeff Farris for his thirty years of loyal, dedicated service to the City of Avondale and its citizens and wishes him success and happiness in all his future endeavors.

Mayor Weise called for a motion.

Motion was made by Council Member Conde, seconded by Council Member Nielson, to adopt Resolution 3530-419 recognizing Chief Farris on the occasion of his retirement. Upon vote, the motion carried unanimously 7 to 0.

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

Mayor Weise

Aye

Chief Farris thanked Council and stated it has been a pleasure working for the City of Avondale.

b. PROCLAMATION – WATER PROFESSIONALS APPRECIATION WEEK

Cindy Blackmore, Public Works Director, introduced the agenda item, stating in attendance to the meeting are some of the 50 certified water operators in the Public Water Department who work very hard to protect the city's water resources and supply; manage the infrastructure, as well as expertly manage water and wastewater systems while providing outstanding customer service. Ms. Blackmore said staff always goes the extra mile and she is proud to work with them.

Mayor Weise recognized April 14 through April 20, 2019 as Water Professionals Week by reading the following City of Avondale Proclamation:

“Avondale Water Professionals Appreciation Week, April 14-20, 2019:

Whereas, Arizona has diverse water resources, including groundwater preserved in vast underground aquifers, runoff from mountain rainfall and snowmelt collected in reservoirs, Colorado River water moved through hundreds of miles of canals around the State of Arizona and recycled wastewater treated to drinking water standards; and

Whereas, every sector of Avondale's economy, and every aspect of our Citizen's quality of life requires safe and reliable water to thrive; and

Whereas, Avondale's streams, springs, rivers and riparian corridors, such as the Base & Meridian Wildlife Area and Crystal Gardens Wetlands, are important water-dependent environmental resources that contribute to Avondale's natural beauty and unique recreational opportunities; and

Whereas, Avondale has been a leader in sustainable management of groundwater resources including innovations such as water banking, wetlands treatment, aquaculture, and water recharge to expand the reuse of treated wastewater to replenish aquifers and improve local water supply reliability; and

Whereas, Avondale invests annually in local water-related programs and projects that provide drinking water and sanitary services, protect public health and the environment, improve our local water supply reliability and replenish groundwater basins; and

Whereas, protecting our precious water resources is essential to Avondale's future and requires a well-trained workforce of certified operators in water distribution, wastewater collection, water treatment,

water production, water reclamation, water recharge and wetlands management; and

Whereas, the Public Works Department's water and wastewater professionals are dedicated to ensuring our water resources are safe and reliable and are well managed for future generations. And

Now therefore, I Kenneth Weise, by virtue of the authority vested in me as Mayor of the City of Avondale, Arizona do hereby proclaim April 14-20, 2019 as Water Professionals Appreciation Week and extend sincere gratitude and appreciation to the certified water operators who are on the front line of the delivery of Avondale's safe and reliable water supply."

Vice Mayor Dennis stated she was very excited about the proclamation and working towards preserving future water needs, with the federal government reviewing federal legislation to approve the packet approved by all the states, with Avondale a major leader in bringing that forward with Arizona. She thanked all involved.

3 UNSCHEDULED PUBLIC APPEARANCES

None.

4 CONSENT AGENDA

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

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

Upon vote, the motion carried unanimously 7 to 0.

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

a. APPROVAL OF MINUTES

City Council approved the February 4, 2019 and February 11, 2019 City Council Meeting minutes.

b. **CONTRACT AWARD WITH ARTISTIC LAND MANAGEMENT INC.**

City Council approved a request to award a contract to Artistic Land Management Inc. to provide site clean-up services of various sites on an as needed basis for the city's Clean and Lien Program in the amount of \$19,000 with up to four successive renewals for an aggregate amount not to exceed \$95,000, and authorize the Mayor, or City Manager and City Clerk to execute the contract documents.

c. **COOPERATIVE PURCHASING AGREEMENT - RUSH TRUCK CENTERS - EQUIPMENT, PRODUCTS AND SERVICES**

City Council approved a Cooperative Purchasing Agreement with Rush Truck Centers of Arizona, Inc. to provide medium and heavy duty cabs, chassis, buses, products and services in an annual amount not to exceed \$15,000 and a maximum aggregate amount not to exceed \$75,000 over the term of the contract and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

d. **FIRST AMENDMENT - COOPERATIVE PURCHASING AGREEMENT WITH NORWOOD EQUIPMENT, LLC FOR STREET SWEEPER EQUIPMENT AND PARTS**

City Council approved a first amendment to the Cooperative Purchasing Agreement with Norwood Equipment, LLC to provide the City with sewer vacuum, hydro-excavation and street sweeper equipment, related accessories and supplies to extend the contract term to February 20, 2023, increase the maximum aggregate amount over the term of the agreement to \$406,000, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

e. **PROFESSIONAL SERVICES AGREEMENT WITH PROJECT ENGINEERING CONSULTANTS, LTD. FOR SEWER REPAIR PROJECTS**

City Council approved a Professional Services Agreement with Project Engineering Consultants, Ltd. to provide design services for two sewer repair projects at the Dysart Road and 4th Avenue alignment in the amount of \$278,994.73 and authorize Mayor, or City Manager and City Clerk to execute the necessary documents.

f. **PURCHASE AND SERVICES AGREEMENT - CAPITAL PUMP AND EQUIPMENT, LLC - VAUGHAN PUMPS, PARTS AND SERVICES**

City Council approved a Purchase and Services Agreement with Capital Pump and Equipment, LLC to provide Vaughan brand pumps, parts and related services in an annual amount not to exceed \$75,000 and a maximum aggregate amount not to exceed \$375,000 over the term of the contract and authorize the Mayor or, City and City Clerk to execute the necessary documents.

g. **SECOND AMENDMENT TO THE DESIGN-BUILD AGREEMENT #14805C WITH HAYDON BUILDING CORP FOR FESTIVAL FIELDS PHASE II**

City Council approved a budget amendment utilizing appropriation authority from the improvement district line item in the amount of \$9,000,000 with funding from the general obligation bonds and general fund savings for the full scope of work

on Festival Fields project costs and approve the Second Amendment to the Design-Build Agreement #14805C with Haydon Building Corp. to establish the Guaranteed Maximum Price No. 2 for the Festival Fields Phase II Design-Build Project in the amount of \$9,250,352 and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents

h. MINOR LAND DIVISION - AVONDALE RECYCLING - APPLICATION PL-18-0332

City Council approved a request by Mr. Adrian Barraza, Basurto General Contractor, and approved a Minor Land Division for 1.5 net acres of property located on the southwest corner of Brinker Drive and Eliseo C. Felix Jr. Way. The proposed Minor Land Division will dedicate an 8' public utility easement (PUE) adjacent to both Brinker Drive and Eliseo C. Felix Jr. Way, and a 15'x15' right-of-way visibility triangle at the intersection of Brinker Drive and Eliseo C. Felix Jr. Way.

5 REGULAR AGENDA

a. RESOLUTION 3541-319 - NAMING OF THE CARE1ST AVONDALE RESOURCE AND SENIOR CENTER BUILDING

Mayor Weise stated that a combination Care1st Facility and Senior Center would be constructed within the next few months, with Council showing a real willingness to move forward and put a lot of energy into this project. He added that when the project came up, he had a chance to discuss this with former Mayor Marie Lopez Rogers, and tonight's resolution was a culmination of that.

Mayor Weise asked former Mayor Marie Lopez Rogers to come forward, and then read the resolution as follows:

"Resolution No. 3541-319:

A Resolution of the Council of the City of Avondale, Arizona, naming the building which will house the City's Resource and Senior Center in honor of former Mayor Marie Lopez Rogers.

Whereas, Mayor Marie Lopez Rogers served in the capacity of Avondale Council Member and Vice Mayor from January 1996 to 2006 whereupon she was appointed as the City's 19th Mayor, serving in that capacity till May of 2014; and

Whereas, during her tenure she represented Avondale with leadership roles on numerous regional committees, including the Maricopa Association of Governments, the League of Arizona Cities and Towns, the Greater Phoenix Economic Council, the Luke West Valley Council and others; and

Whereas, Mayor Lopez Rogers rose in the ranks at the national level, serving as President of the National League of Cities; and

Whereas, Mayor Lopez Rogers was recognized as a leader in public service and was awarded, among several awards, the Public Service Award by the Hispanic Leadership Institute-West, the Valle Del Sol Profiles of Success Special Recognition Award and the Jacque Steiner Public Leadership Award, and

Whereas, through her leadership and commitment to increasing education opportunities for our youngest residents, Mayor Lopez Rogers embraced the Kids At Hope philosophy, making Avondale the first Kids at Hope city nationwide, and

Whereas, during her tenure in public service, Mayor Lopez Rogers was a champion for promoting the well-being of all Avondale residents, especially the city's most vulnerable population, thus prompting the City to establish the Neighborhood and Family Services Department, and

Whereas, she continued her commitment to human services by advocating and supporting the City's partnership with Care1st Health Plan of Arizona to form a Resource Center dedicated to helping residents of the Southwest Valley through a variety of housing and human services, and

Whereas, the City of Avondale will continue its partnerships with Care1st and First Things First to build a new Resource Center that will be the hub for health, human and housing, and

Whereas, the City Council has committed funding to construct a dedicated facility that will expand the City's capability to serve the human service needs of residents, and

Whereas, the Avondale City Council seeks to honor the contributions of former Mayor Marie Lopez Rogers for Making Lives Better for the residents of Avondale by fostering a spirit of unity and compassion.

Now therefore, be it resolved by the Council of Avondale, Arizona, that the City of Avondale hereby wishes to name the building that will house the City's Resource and Senior Center in honor of Mayor Marie Lopez Rogers."

Motion was made by Vice Mayor Dennis to adopt Resolution 3541-319, naming the building that will house the City's Care1st Avondale Resource and Senior Center in honor of former Mayor Marie Lopez Rogers; seconded by Council Member Malone.

Vice Mayor Dennis commended former Mayor Marie Lopez Rogers on her involvement in the community. She stated she could not express enough of her love for the leadership of former Mayor Lopez Rogers.

Upon vote, the motion carried unanimously 7 to 0.

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

Mayor Weise stated that former Mayor Lopez Rogers had become Mayor during the downturn of the economy and she led the City through dark times, noting that she was the perfect Mayor for the perfect time. He added that the Care1st Facility is the single proudest accomplishment he has ever been a part of, as it impacts 70,000 people a year. Mayor Weise noted that when a bigger one was built it will impact even more lives. He stated that when Ms. Lopez Rogers was Mayor, she had ensured that fellow Council Members were always involved in running the City, and she respected them and relied on what they had to say, and even when under attack, the personal example that she set was inspiring for young people throughout the City and the entire West Valley. Mayor Weise stated that she had taught him to put his ego aside and reach out to others.

Council Member Malone thanked the former Mayor for her service. She said she was very happy that the facility would be named after former Mayor Lopez Rogers as her leadership and advice was still sought after, and she is always willing to listen. She thanked the former Mayor.

Council Member Pineda stated that former Mayor Lopez Rogers has many accomplishments, although he knew that she had not gotten into political life in order to have a building named after her. He added that this is truly a great honor to her legacy in the City of Avondale, and for the lives she has touched and will continue to touch for years to come through the services that will be provided.

Council Member Kilgore recalled that before he was on Council the former Mayor would show up at events, and to see her dedication showing up at event after event, for the people, so they could see her presence. He noted that he had a scholarship in her name, and now the mighty building will be named in her honor. He noted that her legacy lives on, thanking her and also Mr. Rogers for his support.

Council Member Conde recalled that when she was a new Council Member in 2017, she had contacted the former Mayor to meet for coffee. She was impressed with her excitement. Council Member Conde stated that the feedback from the former Mayor had been so helpful, and she appreciated her authenticity and encouragement, making her feel that anything is possible. She also applauded Ms. Lopez Rogers for starting the Avondale Inter-Faith Council, which she now chairs and takes great pride in doing so. She thanked former Mayor for laying the groundwork.

Council Member Nielson stated that former Mayor Lopez Rogers had influenced many people, as she built up people and brought them up as she went through life. He added the importance of appreciating what she and others had done throughout their lives, and he commended her accomplishments in the time she had worked in Avondale.

Former Mayor Marie Lopez Rogers stated that she could not have achieved anything without her family behind her. She discussed the past events and achievements of Avondale, noting being able to watch her children and grandchildren grow up in Avondale. She noted that every child in an Avondale home has the potential to be a City Council Member one day, and that remembering those people and what the City can do for them. She gave a heartfelt “thank you” to Council for the honor.

The City Council of the City of Avondale, Arizona took a break at 7:35 p.m.

The City Council of the City of Avondale, Arizona reconvened at 7:48 p.m.

6 DISCUSSION ITEMS

Council will discuss items listed below and possibly give direction to city staff to research and prepare item for future meeting.

a. RESULTS OF THE 2018 CITIZEN SURVEY

Pier Simeri, Community Relations and Public Affairs Director, along with Tim Miller, National Research Center, Inc, reported on the results of the 2018 National Citizen Survey, conducted this past fall in Avondale.

Presentation by Ms. Simeri included:

- Background Information
 - o Gathered citizen input from the community because it was an important component from the Council goal-setting retreat and budget process.
 - o Survey allowed all residents an opportunity to be heard and provide input, as well as give feedback to management to use for improvement.
 - o Between 2004 and 2016 citizen surveys were conducted in-house via Community Relations Department, with feedback gathered during Resident Appreciation Night and online.
 - o Good response and pertinent information were provided but the surveys did not show how Avondale was doing in comparison to other communities.
 - o In 2016, Assistant City Manager Gina Montez sought the services of the National Research Center through the International City Management Association, which has conducted the National Citizens’ Survey in communities around the country.
 - o Feedback from the 2016 survey laid the foundation for the survey conducted last year.

Ms. Simeri introduced Tom Miller, Ph.D., President and C.E.O. of the National Research Center, Inc, noting that he has worked in state and local government for 20 years. He has authored books and research papers on citizens surveys and founded the National Research Center in 1994 which developed the National Citizen Survey.

Dr. Miller commended Council on their remarkable heartfelt emotion to Former Maria Lopez Rogers and thanked Ms. Simeri and Ms. Montes for their help to National Research Center. He stated that the citizen survey is an example of fundamental best business practices and noted private sector businesses survey their customers all the time to sound customers on their quality of products or services delivered. The survey had been completed in over 500 jurisdictions in the country, which revealed that the survey was not only for the City Council, but also for other organizations in the community who would be able to use the results, such as non-profits, businesses, and residents, who are all stakeholders. Dr. Miller highlighted the following results of the 2018 survey:

- Eight facets of community livability with overall quality of life being the ninth facet of characteristics of Avondale.
- First set of data collected through probability sample (households selected without bias systematically and person in the household selected without bias), with an 11% response rate (low end).
- Response rates are going down across the country, but a representative and predictive sample was still achieved.
- Response rates are low by phone and generally higher by mail.
- The mail survey for Avondale was augmented by a web survey (opt-in).
- The online and mail surveys were compared, and it was found that they were close enough to be compiled as one result set (which are being reported tonight).
- Results are statistically weighted to give a fair representation of the Avondale as census data shows.
- Data in four districts (trash zones) and results shown for the entire city and separately in each zone to see geographic and demographic differences.
- Data was collected in fall of 2018.
- Benchmark comparisons schematic shows representative sample of residents around the country are being asked the same questions.
- Half of households had children, 40% identified as Latino and 30% were renters.

Dr. Miller stated that he would answer any questions throughout the presentation, and Mayor Weise opened the floor for discussion. Council did not present any questions or comments at that time.

Dr. Miller continued his report:

- The comparison of 125 questions have a value to responses for Avondale in comparison to other places around the country.
- The goal is not to be higher than the benchmark on every category but rather it is dependent on the goals or strategic plan.
- Comparison results between 2016 and 2018 show that a change occurred (towards improvement in every case) in areas such as:
 - o Crime prevention

- o Opportunities for jobs
 - o Recreation programs
 - o And 20 other areas
- Citizens believed focus areas for the next two years should be the same as in 2016:
 - o Economy and safety (highest priorities – this is typical across the country)

Mayor Weise asked whether people have a tendency to focus on their own local situation or what they perceive to be the national view?

Dr. Miller stated that the question was worded about the “sense of local safety”. He discussed the three key findings from a higher level:

- Quality of life was rated positively with a rating of 75%, compared to 68% in 2016.
- Quality of neighborhoods, place to live and raise children was scored with 7 or 8 out of 10 people giving positive ratings which also improved over 2016.
- Majority of respondents stated they would recommend Avondale as a place to live with a rating of 82%, compared to 75% in 2016.
- Majority of respondents stated they plan to remain in Avondale for the next five years with a rating of 82%.
- Safety and its importance were very positive with ratings for police and fire increasing since 2016.
- Overall safety, safety in own neighborhood, and safety downtown was rated lower than what is seen in other places, which is the same from 2016.

Vice Mayor Dennis asked about the comparison on the 61% overall feeling of safety to 2016 and Dr. Miller stated it was about the same. Vice Mayor Dennis inquired on any clarifying questions to see how they got to that statement and Dr. Miller stated that they do not have a good explanation on what people were thinking but it is helpful to know the same question is asked in other locations to have the ability to compare to other areas. Vice Mayor clarified that she was asking because although it is nice to get the overall perspective, depending on the area and improvements made, knowing the difference is important. She said that if the questionnaires were done down the road, perhaps a sub-set might give more details. Dr. Miller stated that on alternating years, Council or staff could decide upon those areas and the survey could be more in-depth in those areas.

Mayor Wiese stated the information is important and it is a big deal for him that 82% of residents feel safe in the neighborhood and 61% have an overall feeling of safety but what is driving the lower percentage perception. He stated he would like to dial down next year and see what their perception is and what causes the percentage to be lower. He stated it is the job of Council to take the numbers and improve on them but understands improvements on everything cannot be done but progress can be made, seeing what tools can be provided to the Police department to improve in this area.

Dr. Miller stated he believes there could be traumatic external events that impact the residents’ perspective and these numbers may be a perception rather than a reality.

Council Member Kilgore asked about street repair being at 56%, and whether it was known how many residents answered the survey that were north or south of the I-10. Dr.

Miller explained that the trash service areas were used as the survey boundaries but was unable to answer the question due not being familiar with the geography of the area. Council Member Kilgore asked if it was known which trash zone responded the most. Dr. Miller stated the responses were in direct proportion to the percentage of households in each of the four areas, which were not equal. Roughly 45% of responses were from Zone 3. He added that the weighting system brought the entire survey sample to the right percentage. Council Member Kilgore asked about the percentage from 2016 and Dr. Miller responded the overall score for that question was very similar, according to the trend column.

Dr. Miller summarized the results:

- Crime prevention, emergency preparedness and fire prevention were the same as shown in the benchmark but have improved since 2016.
- Economy improvement was an important item for Council to consider. Overall economic health had almost two-thirds of responders giving an excellent or good rating, which was quite an improvement since 2016.
- Various economy trends went up from 2018 with Avondale as a place to visit the remaining the same.
- Cost of living and affordable housing got high ratings compared to other places.
- Overall conclusion is a summary of what was presented:
 - o People in Avondale value the quality of community life
 - o Safety is important and is an area for opportunity
 - o Economy health is on the rise
 - o Housing and cost of living seem to be better than seen in other places
- Overall sense of community had less than half of the respondents giving an excellent or good rating.
 - o Culture, arts and music had improved since 2016
 - o Educational opportunities and neighborliness were below benchmark
 - o Participation in clubs or attending events, using recreation centers and libraries were somewhat lower and were aspects of the sense of community needing some focus, although no huge concern but something for Council to pay attention to

Dr. Miller said that these types of surveys were just a window into what residents are saying and uncover what is already there. Most of the people who responded to the surveys do not typically attend city council meetings.

Mayor Weise stated that the lighter blue columns in the aspects of participation within the provided report show items such as “walk or bike instead of driving” or “use public transportation,” but noted that not everyone would answer yes or positive to those questions as they do not do those activities. He requested a work session in the next 60 days to give staff and leadership a chance to look at the numbers and dive deeper. He added that the question about drinking water jumped out at him, with the results showing 44% of the respondents think drinking water was good or excellent in the City of Avondale. He wondered if that was the nature of Avondale’s drinking water or the Valley’s drinking water as a whole. Mayor Weise believed this area warranted further investigation. He

added that he would like staff to also review this information. He noted that it is important to clarify how people perceive public safety in their neighborhoods and in general.

Vice Mayor Dennis stated that the overall feeling of safety in the neighborhood is a benchmark that went down from 2016, so that is a concern to pay attention to. In reference to use of public transportation, she was not sure what more could be done in the area of education and getting people more aware of what types of transportation is available in Avondale, and the biking trails. She said she saw this on Facebook, with citizens stating that there were not enough bike lanes, or they were not large enough, and drivers do not yield to cyclists appropriately. Vice Mayor Dennis added that the safety of bicycling in Avondale is a tough area that could be addressed in working on next year's budget.

Mayor Weise agreed with Vice Mayor Dennis, stating these issues could not be dealt with tonight, and recommended a work session. Overall image is another concerning category, not just because of the residents who live here but also for the overall image for those who visit Avondale and shop at the businesses. He sometimes sees the bus stop on the south side of McDowell Road, just before Dysart Road full of trash and shopping carts. City staff do as good of a job as possible to try and maintain that area although it is in another jurisdiction but the bus top in Goodyear nearby is not left in the same manner. Mayor Weise stated these were items to consider. He noted that one-time funds or some other plan should work for taking care of such items. He concluded that perhaps an hour work session in the next 60 days would be appropriate.

Council Member Kilgore commented regarding drinking water being rated 44%. He stated he has heard comments since 2014 about the water from people sitting on boards and commissions, visitors, and residents. Comments have been made on why the water looked and tasted a certain way. He would like to know what the city can do to increase the quality of the taste, stating these comments have been made numerous times and he has defended the city each time. He stated we cannot ignore this issue especially when comments are being made from residents from Phoenix. He stated this is an issue that needs to be looked at.

Council Member Conde asked about the low response level to the surveys, what might be done to increase the response, and how have people been directed to complete the opt-in survey online. Dr. Miller stated that a link was posted on the Avondale website which directed people to the survey. Ms. Simeri said email blasts were sent, inviting people to complete the survey as well as postings on social media. Nextdoor was used for the first time and received a good response using Nextdoor.

Mayor Weise said that Nextdoor is an important tool, but like any other tool should be used wisely. He commended Police Chief Nannenga and staff on carrying out their duties but noted that he did not think Avondale residents understand that crime has decreased in Avondale every year for several years. Figuring out why they were not getting that message is important. Mayor Weise added that the next 60 days will give everyone a chance to address what should be tackled for next year. He stated it was impressive the scores were up over 2016 results, but Avondale cannot stop there.

b. 2019 LEGISLATIVE UPDATE

Jessica Blazina, Intergovernmental Affairs Administrator, presented a legislative update to City Council.

Ms. Blazina presented the following highlights:

- Senator Steve Pearce was appointed to replace Representative David Stringer who resigned. Mr. Pearce is known to be friendly to cities and towns, is familiar with the legislative process, and will not have a learning curve.
- Over 1200 bills were introduced this year, despite the Governor's plea for fewer in his State of the State address.
- 47 bills passed with 46 bills signed, although more could be signed after today.

Overview of Bills:

- Senate Bill 1143 - Tax Conformity Internal Revenue Code - was vetoed and has caused debate at the Capitol.
 - o Every year a perfunctory update of that state tax codes has to be done to align with any changes made at the federal level, but in 2018 when the federal government made some changes to taxes, the State did not take action and still has not, so as a result, a big pot of money is coming to the state, which is creating a debate and Governor wants to put the money into the rainy-day fund.
 - o Senator J.D. Mesnard, who was the Speaker of the House last year (transitioned over to the Senate), would like to see some of that money come back to taxpayers in the form of tax breaks.
 - o No further update at this time.
 - o Whether or not the 1.5 million Arizonans who had already filed would need to amend taxes if a tax break were given, was not known and largely depended on what happens with the sales tax rates bill.
 - o The tax issue complicates budget discussions because we should be in full budget discussions, but this issue is still pending.
- Senate Bill 1460 TPT – Digital Goods and Services – exempts software as a service, which happens to be the largest growing segment of this type of service, with severe impacts not only to cities, counties and the state but also to proposition 301 which is used for education funding, so those stakeholders have engaged.
 - o Avondale is recommending continuing to oppose this bill and it saw its last action on February 26th, when it was heard in the Senate Rules Committee and came out with no further action and still needs to be heard by the Senate.
 - o President Fann is reluctant to put it up on the board because currently there are not enough votes to pass the bill.
 - o This bill will likely somehow get incorporated into the budget, so staff is keeping an eye on it, and continuing to communicate with legislators about concerns, hoping to prevent hamstringing cities and towns in the ability to collect sales taxes in the future.

- o Senate bill 1515 and 2633 are similar and revenue neutral and would codify the current practice. Avondale recommends supporting those bills and have language ready to propose once budget discussions proceed and amendments can be proposed.
- House Bill 2318 - Texting and Distracted Driving - was a “strike everything” amendment that would prohibit the use of mobile devices except for when in hands-free operation.
 - o The League Executive Committee and Avondale recommended supporting this bill.
 - o Bill is now awaiting action in the Senate but has widespread support.
 - o Floor action has been a little slow, but no problems are anticipated with it.
- House Bill 2320 - Highway Safety Fee - would reduce the highway safety fee to \$18 and would not be required to fully fund the Department of Public Safety Highway Patrol. Avondale recommends continuing to oppose the bill.
- Senate Bill 1001 - Highway Safety Fee – would repeal the \$32 registration fee that individuals are paying now and is being used to fund the Department of Public Safety Highway Patrol and preventing a sweep of the Highway User Revenue Fund for DPS which has been seen in the past several years.
 - o Heard in the House Transportation Committee, the House Transportation Chair, Representative Noel Campbell from LD1 stated that he wanted to let the Governor decide which demonstrated contention between the Governor and the Legislature (the Governor has built his budget, including the \$32 registration fee), and he said publicly that he is not inclined to sign this bill so it is likely that if it came to his desk he would have to sign or veto.
- Senate Bill 1047 – Tobacco Products, Vapor Products - was a “strike everything” amendment with broad pre-emption of local ordinances, including where smoking could be allowed.
 - o Because of the broad pre-emptions, staff recommends opposing the bill, as it would impact not only the ability of a city or town to regulate where cigarettes or vaping products could be utilized but would do the same for other government buildings.

Mayor Weise stated that he believed the Legislature would go past June. He noted that there had been a lot of support received from Legislative District 19 and they had been checking in to see what Avondale needed for their support. He asked if Ms. Blazina had any concerns. Ms. Blazina stated that Digital Goods would likely be tied into the budget in some way, and that is a huge concern for her. She stated that the Wayfair case allowed taxation of online purchases, and the bigger stores are largely doing it and some more independent websites are not. She noted that it could be tied into the budget as well, so it is being monitored. Ms. Blazina stated that Governor Ducey stated he was going to be the Governor who cuts regulations and cuts taxes. Another concern was a misconception with the Wayfair case being a windfall of sales tax revenue. Ms. Blazina said she did not believe that would be the case, and she was a bit concerned that something in the budget would address that idea. She stated conversations were being held with legislators across the state. Ms. Blazina stated that cities and towns had a friend in President Karen Fann (a former mayor), and there were thin margins that were not in place last year. She added

that Legislative District 19 Representatives have been fantastic, very responsive and willing to meet at the Capitol.

7 EXECUTIVE SESSION

The Council held an executive session pursuant to: (i) Ariz.Rev.Stat. § 38-431.03(A)(6) for discussion of negotiations by a city with members of a tribal council, or its designated representatives, of an Indian reservation located within or adjacent to the city; (ii) Ariz.Rev.Stat. § 38--431.03(A)(7) for discussion or consultation with the City Manager in order to consider its position and instruct the City Manager regarding negotiations for the acquisition of real property; (iii) Ariz.Rev.Stat. § 38--431.03(A)(4) for discussion or consultation with the City Attorney in order to consider its position and instruct the City Attorney regarding contracts that are the subject of negotiations; and (iv) Ariz.Rev.Stat. § 38--431.03(A)(3) for discussion or consultation for legal advice with the City Attorney; all relating to property acquisition.

8 ADJOURNMENT

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

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

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

Meeting adjourned at 8:41 p.m.

Mayor Kenn Weise

CERTIFICATION AND ATTESTATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Work Session and Regular Meeting of the Council of the City of Avondale held on the 8th day of April 2019. I further certify that the meeting was duly called and held and that the quorum was present.

Marcella Carrillo, CMC
City Clerk



CITY COUNCIL REPORT

SUBJECT: Series 10 Liquor License - Pizza Hut #27001

MEETING DATE: 7/22/2019

TO: Mayor and Council

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

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

PURPOSE:

City Council will consider a request to approve an application for a Series 10 (Beer and Wine Store) Liquor License submitted by Theresa June Morse to sell beer and wine at the Pizza Hut located at 10685 West Indian School Road, #J, in Avondale, and authorize the Mayor and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

Pizza Hut is an existing restaurant that specializes in pizza and is located in the Avondale Plaza Shopping Center. The restaurant primarily caters to carry-out and delivery customers, with only one small table provided in the restaurant's public area for dining. The requested Series 10 (Beer and Wine Store) license will allow the business to sell beer and wine to its carry-out and delivery customers for consumption off-premises. Consumption will not be permitted on-premise under the terms of the license.

State Statute requires a Series 10 liquor license to be separated a minimum of 300 feet from K-12 schools or church buildings. The State of Arizona does not consider a parking lot as part of a school property for purposes of liquor licensing. The fenced football field for Westview High School is the nearest use requiring separation, located approximately 538 feet from the nearest point of the Pizza Hut suite.

The General Plan designates the property as Local Commercial and the current zoning is Planned Area Development (PAD). The use of the property as a restaurant is compatible with both the General Plan designation and PAD zoning.

DISCUSSION:

Staff has received an application from Theresa June Morse for a Series 10 (Beer and Wine Store) Liquor License to sell beer and wine at the Pizza Hut located at 10685 W. Indian School Road, #J, in Avondale.

The fees in the amount of \$950.00 have been paid in full.

As required by state law and city ordinance, the application was posted for the required period of time, beginning on June 26, 2019. A notice was published in the Southwest Valley Republic on July 3, 2019 and July 5, 2019. No comments have been received.

The Arizona Department of Liquor License and Control has accepted the submitted application as complete. The Police, Fire, Development Services and Finance Departments have reviewed the application and are recommending approval. Their comments are attached.

BUDGET IMPACT:

No budget impact.

RECOMMENDATION:

Staff is recommending approval of a request to approve an application for a Series 10 (Beer and Wine) Liquor License submitted by Theresa June Morse to sell beer and wine at the Pizza Hut located at 10685 W. Indian School Road, #J, in Avondale.

State of Arizona
Department of Liquor Licenses and Control

Created 05/24/2019 @ 02:05:34 PM

Local Governing Body Report

LICENSE

Number:		Type:	010 BEER AND WINE STORE
Name:	PIZZA HUT #27001		
State:	Pending		
Issue Date:		Expiration Date:	
Original Issue Date:			
Location:	10685 W INDIAN SCHOOL ROAD #J AVONDALE, AZ 85392 USA		
Mailing Address:	[REDACTED] USA		
Phone:	(623)772-1553		
Alt. Phone:	[REDACTED]		
Email:	[REDACTED]		

AGENT

Name:	THERESA JUNE MORSE
Gender:	Female
Correspondence Address:	[REDACTED] USA
Phone:	[REDACTED]
Alt. Phone:	[REDACTED]
Email:	[REDACTED]

OWNER

Name: HOT PIZZAS LLC
Contact Name: THERESA JUNE MORSE
Type: LIMITED LIABILITY COMPANY
AZ CC File Number: L16171749 State of Incorporation: AZ
Incorporation Date: 07/30/2010
Correspondence Address: [REDACTED]

USA

Phone: [REDACTED]
Alt. Phone:
Email: [REDACTED]

Officers / Stockholders

Name:	Title:	% Interest:
KRYSTAL BURGE DYNASTYTRUST PIZZA HUT DATED DECEMBER 28, 2012	Stockholder	40.00
MARK PETERSON DYNASTY TRUST PIZZA HUT DATED DECEMBER 28, 201	Stockholder	40.00
MARK TODD PETERSON	Member, Stockholder	10.00
KRYSTAL KAY BURGE	Member, Stockholder	10.00

HOT PIZZAS LLC - Stockholder

Name: MARK PETERSON DYNASTY TRUST PIZZA HUT DATED DECEMBER 28, 201
Contact Name: MARK PETERSON DYNASTY TRUST PIZZA HUT DATED DECEMBER 28, 201
Type: TRUST
AZ CC File Number: State of Incorporation:
Incorporation Date:
Correspondence Address: [REDACTED]

USA

Phone: [REDACTED]
Alt. Phone:
Email:

HOT PIZZAS LLC - Stockholder

Name: KRYSTAL BURGE DYNASTYTRUST PIZZA HUT DATED DECEMBER 28, 2012
Contact Name: THERESA JUNE MORSE
Type: TRUST
AZ CC File Number: State of Incorporation:
Incorporation Date: 12/01/2017
Correspondence Address: [REDACTED]

USA

Phone: [REDACTED]
Alt. Phone:
Email:

HOT PIZZAS LLC - Member,Stockholder
KRYSTAL BURGE DYNASTYTRUST PIZZA HUT
DATED DECEMBER 28, 2012 - Trustee
MARK PETERSON DYNASTY TRUST PIZZA HUT
DATED DECEMBER 28, 201 - Trustee

Name: KRYSTAL KAY BURGE
Gender: Female
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone:
Email: [REDACTED]

MARK PETERSON DYNASTY TRUST PIZZA HUT
DATED DECEMBER 28, 201 - Trustee

Name: KARA ELISE PETERSON
Gender: Female
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone:
Email: [REDACTED]

HOT PIZZAS LLC - Member,Stockholder
KRYSTAL BURGE DYNASTYTRUST PIZZA HUT
DATED DECEMBER 28, 2012 - Trustee
MARK PETERSON DYNASTY TRUST PIZZA HUT
DATED DECEMBER 28, 201 - Trustee

Name: MARK TODD PETERSON
Gender: Male
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone:
Email: [REDACTED]

KRYSTAL BURGE DYNASTYTRUST PIZZA HUT
DATED DECEMBER 28, 2012 - Trustee

Name: EVERETT LAWRENCE BURGE JR.
Gender: Male
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone:
Email: [REDACTED]

MANAGERS

Name: MARK ALAN RUSSELL
Gender: Male
Correspondence Address:

USA

Phone:
Alt. Phone:
Email:

Name: KRISTINA LARAYNE SEVALL
Gender: Female
Correspondence Address:

USA

Phone:
Alt. Phone:
Email:

Name: ELICIA KATHLEEN ROY
Gender: Female
Correspondence Address:

USA

Phone:
Alt. Phone:
Email:

Name: NIMAT CRYSTAL MAYO
Gender: Female
Correspondence Address:

USA

Phone:
Alt. Phone:
Email:

Name: JESSICA ANN SHEEHAN
Gender: Female
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email:

Name: ANDREW BRAXTON CANNON
Gender: Male
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email:

Name: JAMES WILLIAM HESTER
Gender: Male
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email:

Name: CELESTE RACHELLE BENDEL
Gender: Female
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email:

Name: JONNATHAN TODD BARNHART
Gender: Male
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email:

Name: KIRT DANIEL FOSTER
Gender: Male
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email:

Name: EDWARD WILLIAM WRIGHT
Gender: Male
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email:

Name: CRAIG JOSEPH HENDRICKS
Gender: Male
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email:

Name: LYNN DEE FRYE

Gender: Female

Correspondence Address:

[REDACTED]

USA

Phone:

[REDACTED]

Alt. Phone:

Email:

Name: CESAR GUERRA GONZALEZ

Gender: Male

Correspondence Address:

[REDACTED]

USA

Phone:

[REDACTED]

Alt. Phone:

Email:

Name: AMANDA GENE BRAVO

Gender: Female

Correspondence Address:

[REDACTED]

USA

Phone:

[REDACTED]

Alt. Phone:

Email:

Name: ADAM NICHOLAS JOHNSON

Gender: Male

Correspondence Address:

[REDACTED]

USA

Phone:

[REDACTED]

Alt. Phone:

Email:

Name: ALEJANDRO ROJOS RIOS

Gender: Male

Correspondence Address:

[REDACTED]
USA

Phone:

[REDACTED]

Alt. Phone:

Email:

[REDACTED]

Name: GEVERGEN GHARGHANI TOROSIAN

Gender: Male

Correspondence Address:

[REDACTED]
USA

Phone:

[REDACTED]

Alt. Phone:

Email:

Name: JANA E MARIE BARBRICK

Gender: Female

Correspondence Address:

[REDACTED]
USA

Phone:

[REDACTED]

Alt. Phone:

Email:

Name: ELISHA VERONICA JAQUEZ

Gender: Female

Correspondence Address:

[REDACTED]
USA

Phone:

[REDACTED]

Alt. Phone:

Email:

Name: TIFFANY DANIELLE REDHORSE
Gender: Female
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone:
Email:

Name: ZACHARY JOHN SISNEROS
Gender: Male
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone:
Email:

Name: JULIE ANN RIVAS
Gender: Female
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone:
Email:

Name: DONALD GERALD FLETCHER
Gender: Male
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone:
Email:

Name: KIMBERLY PHILLIPS
Gender: Female
Correspondence Address:

[REDACTED]

USA

Phone:
Alt. Phone:
Email:

[REDACTED]

Name: AMANADA JO TATMAN
Gender: Female
Correspondence Address:

[REDACTED]

USA

Phone:
Alt. Phone:
Email:

[REDACTED]

Name: JOSHUA EVANS BRIT
Gender: Male
Correspondence Address:

[REDACTED]

USA

Phone:
Alt. Phone:
Email:

[REDACTED]

Name: ADAM DANIEL JOLICOEUR
Gender: Male
Correspondence Address:

[REDACTED]

USA

Phone:
Alt. Phone:
Email:

[REDACTED]

Name: LYNN MARIE SCHILLING

Gender: Female

Correspondence Address:

[REDACTED]

USA

Phone:

[REDACTED]

Alt. Phone:

Email:

[REDACTED]

APPLICATION INFORMATION

Application Number: 65755

Application Type: New Application

Created Date: 05/24/2019

QUESTIONS & ANSWERS

010 Beer and Wine Store

- 1) If you intend to operate the business while your application is pending you will need an interim permit pursuant to A.R.S.§4-203.01. Would you like to apply for an Interim Permit?
If yes, after completing this application, please go back to your Licensing screen, under New License Application choose "Interim Permit" from the drop-down window.
No
- 2) Have you submitted a questionnaire? Each person listed must submit a questionnaire and mail in a fingerprint card along with a \$22. processing fee per card.
Yes
- 3) Please provide name, address, and Distance of nearest school.
GARDEN LAKES ELEMENTARY SCHOOL
10825 W GARDEN LAKES PARKWAY AVONDALE AZ 85392
1,584 FT
- 4) Please provide name, address, and distance of nearest church.
CHURCH OF JESUS CHRIST OF LATER DAY SAINTS
10930 W GARDEN LAKES PARKWAY AVONDALE AZ 85392
2,100 FT
- 5) Are you a tenant? (A person who holds the lease of a property; a lessee)
Yes
A Document of type LEASE is required.
- 6) Is there a penalty if lease is not fulfilled?
Yes
What is the penalty?
LANDLORD REMEDIES
- 7) Are you a sub-tenant? (A person who holds a lease which was given to another person (tenant) for all or part of a property)
No
- 8) Are you the owner?
No
- 9) Are you a purchaser?
No

- 10) Are you a management company?
No
- 11) Is the Business located within the incorporated limits of the city or town of which it is located?
Yes
- 12) What is the total money borrowed for the business not including the lease?
Please list lenders/people owed money for the business.
ZERO
- 13) Have you provided a diagram of your premises?
Yes
- 14) Is there a drive through window on the premises?
No
- 15) If there is a patio please indicate contiguous or non-contiguous within 30 feet.
NONE
- 16) Is your licensed premises now closed due to construction, renovation or redesign or rebuild?
No

Amendment

Pizza hut #27001 Avondale

SECTION 11 Proximity to Church or School - Questions to be completed by 6, 7, 9, 10 and 12G applicants.

A.R.S. §4-207. (A) and (B) state that no retailer's license shall be issued for any premises which are at the time the license application is received by the director, within three hundred (300) horizontal feet of a church, within three hundred (300) horizontal feet of a public or private school building with kindergarten programs or grades one (1) through (12), or within three hundred (300) horizontal feet of a fenced recreational area adjacent to such school building.

The above paragraph DOES NOT apply to:

- a) Restaurants that do not sell growlers (A.R.S. §4-205.02) Series 12
- b) Hotel/motel license (A.R.S. §4-205.01) Series 11
- c) Microbrewery (A.R.S. §4-205.08) Series 03
- d) Craft Distillery (A.R.S. §4-205.10) Series 18

- e) Government license (A.R.S. §4-205.03) Series 05
- f) Playing area of a golf course (A.R.S. §4-207 (B)(5))
- g) Wholesaler/Distributor Series 04
- h) Farm Winery Series 13
- i) Producer Series 01

1. Distance to nearest School: 538 FT
(If less than one (1) mile, note footage)

Name of School: WESTVIEW HIGH SCHOOL

Address: 10850 W. Garden Lakes Parkway Avondale, AZ 85353

2. Distance to nearest Church: 2,100 FT
(If less than one (1) mile, note footage)

Name of Church: CHURCH OF JESUS CHRIST OF LATER DAY SAINTS

Address: 10930 W GARDEN LAKES PKWY AVONDALE AZ 85392

SECTION 12 Business Financials A.R.S. §4-202(F)

1. I am the:

- ☒ Tenant: a person who holds the lease of a property; a lessee.
- ☐ Sub-tenant: a person who holds a lease which was given to another person (tenant) for all or part of a property.
- ☐ Owner
- ☐ Purchaser
- ☐ Management Company

2. If the premises is leased give lessors:

Name: 107TH & INDIAN SCHOOL RD

Address: 2710 E CAMELBACK RD #210 PHOENIX AZ 85016

Street

City

State

Zip

3. What is the penalty if the lease is not fulfilled? \$ _____ or Other: LANDLORD REMEDIES

4. Total money borrowed for the Business, not including lease? \$ ZERO

Please List Lenders/People you owe money to for business.

Last	First	Middle	Amount Owed	Mailing Address	City	State	Zip

(Attach additional sheet if necessary)

5. Has a license or a transfer license for the premises on this application been denied by the state within the past year?

☐ Yes ☒ No

If yes, attach explanation.

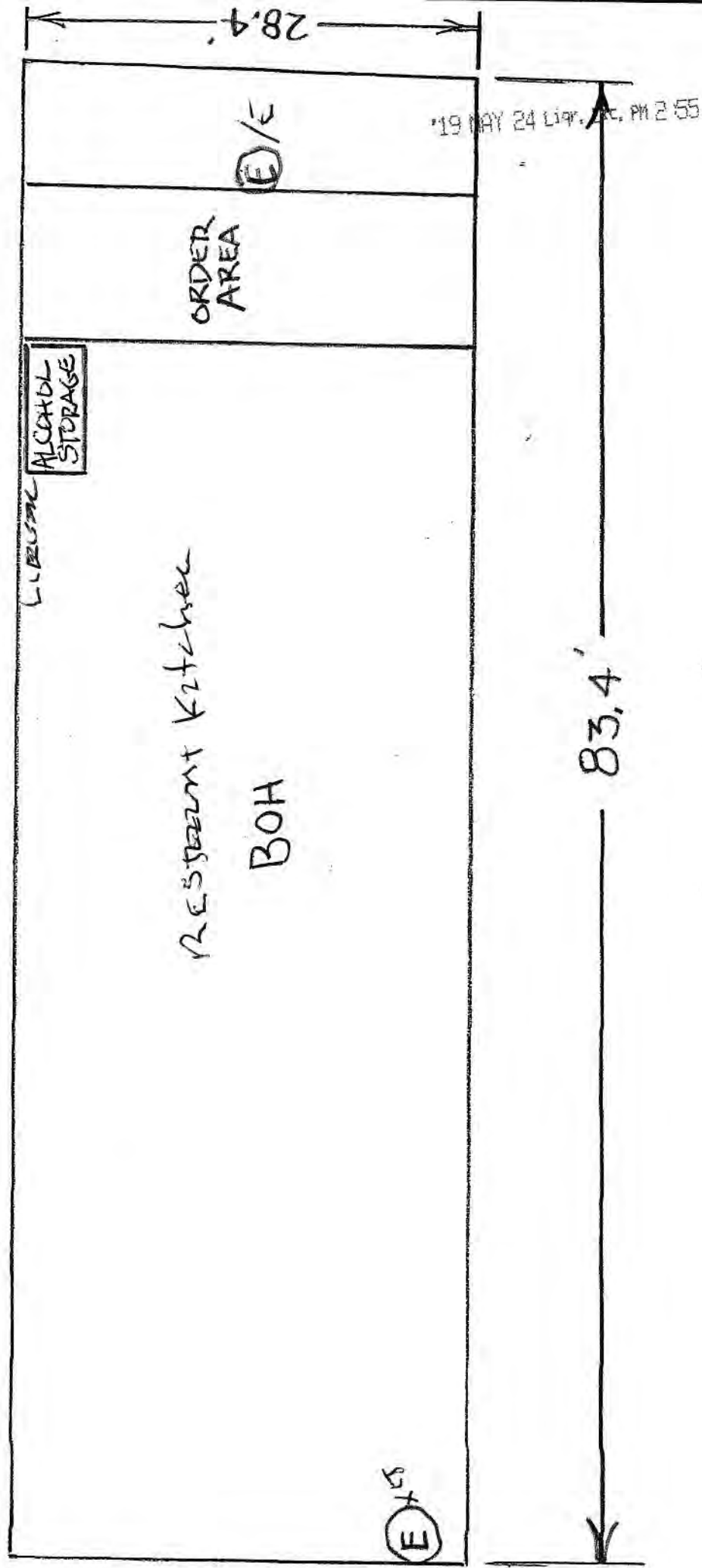
6. Does any spirituous liquor manufacturer, wholesaler, or employee have an interest in your business?

☐ Yes ☒ No

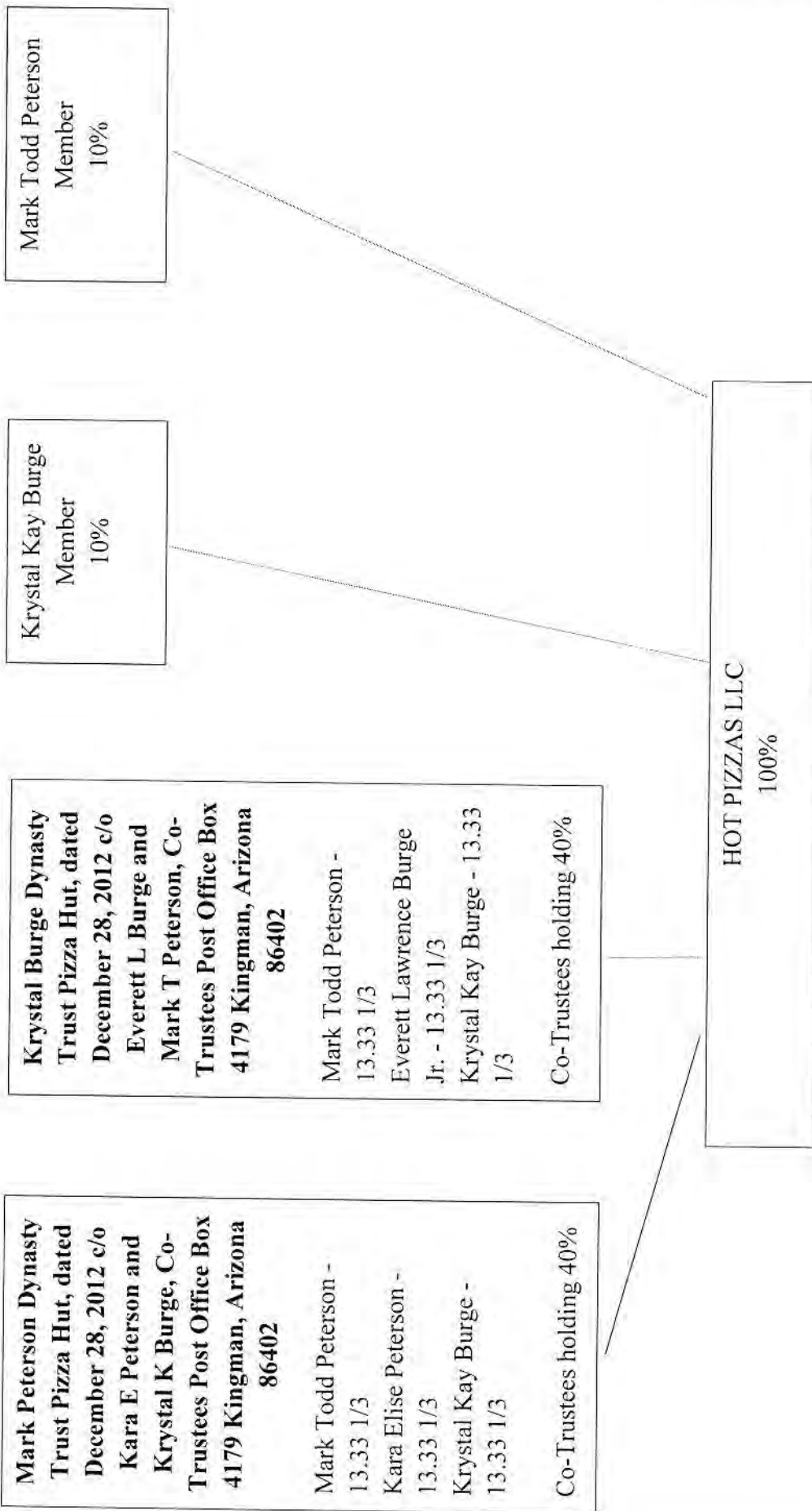
If yes, attach explanation.

Notes - No Patio
2370 - Sq Footage
Store # - 27001

10685 W. INDIAN SCHOOL RD
#J
AVONDALE, AZ.



19 MAY 24 11:41:13 AM 2:55





Arizona Department of Liquor Licenses and Control
800 W Washington 5th Floor
Phoenix, AZ 85007-2934
www.azliquor.gov
(602) 542-5141

QUESTIONNAIRE

A.R.S. § 4-202, 4-210

Type or Print with **Black Ink**

The fees allowed by R19-1-102 will be charged for all dishonored checks.

FP Current 7-7-17

ATTENTION APPLICANT: This is a legally binding document. Please type or print in **black ink**. An investigation of your background will be conducted. Incomplete applications will not be accepted. False or misleading answers may result in the denial or revocation of a license or permit and could result in criminal prosecution.

Attention local governments: Social security and birth date information is confidential. This information may be given to law enforcement agencies for background checks only.

QUESTIONNAIRE IS TO BE COMPLETED BY EACH CONTROLLING PERSON, AGENT AND MANAGER BEING DISCLOSED TO THE DEPARTMENT. EACH PERSON COMPLETING THIS FORM MUST SUBMIT A **BLUE OR BLACK LINED FINGERPRINT CARD** ALONG WITH A \$22 FEE. FINGERPRINTS MUST BE DONE BY A LAW ENFORCEMENT AGENCY OR BONA FIDE FINGERPRINT SERVICE. FOR AN ADDITIONAL \$13 FEE, FINGERPRINTS MAY BE DONE AT THE DEPARTMENT OF LIQUOR WHEN ACCOMPANIED BY A COMPLETED APPLICATION.

Liquor License#: 65755

1. Check the
Appropriate
Box →

☐ Controlling Person

☒ Agent

☐ Premises Manager

(complete all questions except #12)

2. Name: MORSE THERESA JUNE Birth Date: / /
Last First Middle (NOT a public record)

3. Social Security #: Driver License #: State: ARIZONA

4. Place of birth: DETROIT MI USA Height: 501 Weight: 165 Eyes: HZ Hair: BLN
City State COUNTRY (not county)

5. Name of current/most recent spouse: Birth Date: / /
Last First Middle (NOT a public record)

6. Are you a bona fide resident of Arizona? ☒ Yes ☐ No If yes, what is your date of residency: 6-1-11

7. Daytime telephone number: E-mail address:

8. Business Name: PIZZA HUT #27001 Business Phone: 623, 772, 1553

9. Business Location Address: 10685 W INDIAN SCHOOL RD #J AVONDALE MARICOPA 85392
Street (do not use PO Box) City State County Zip

10. List your employment or type of business during the past five (5) years. If unemployed, retired, or student, list residence address.

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYERS NAME OR NAME OF BUSINESS (Street Address, City, State & Zip)
02/2007	CURRENT	CONSULTANT / TRAINER	

(ATTACH ADDITIONAL SHEET IF NECESSARY)

11. Provide your residence address information for the last five (5) years: A.R.S. §4-202(D)

FROM Month/Year	TO Month/Year	RESIDENTIAL Street Address
12/2006	CURRENT	[REDACTED]

(ATTACH ADDITIONAL SHEET IF NECESSARY)

12. As a Controlling Person or Agent, will you be physically present and operating the licensed premises?
If you answered YES, then answer #13 below. If NO, skip to #14. ☐ Yes ☒ No
13. Have you attended a DLLC approved Basic & Management Liquor Law Training Course within the past 3 years? ☐ Yes ☐ No
14. Have you been cited, arrested, indicted, convicted, or summoned into court for violation of ANY criminal law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past five (5) years? ☐ Yes ☒ No
15. Are there ANY administrative law citations, compliance actions or consents, criminal arrests, indictments or summonses pending against you? (Do not include civil traffic tickets.) A.R.S. §4-202, 4-210 ☐ Yes ☒ No
16. Has anyone EVER obtained a judgement against you the subject of which involved fraud or misrepresentation? ☐ Yes ☒ No
17. Have you had a liquor application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No
18. Has an entity in which you are or have been a controlling person had an application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No

If you answered "YES" to any Question 14 through 18 **YOU MUST** attach a signed statement.
Give complete details including dates, agencies involved and dispositions.

CHANGES TO QUESTIONS 14-18 MAY NOT BE ACCEPTED

NOTARY

I (Print Full Name) THERESA JUNE MORSE hereby declare that I am the Agent/ Controlling Person / Premises Manager filing this application. I have read this document and verify the contents and all statements are true, correct and complete to the best of my knowledge.

Signature

[REDACTED SIGNATURE]

State of

ARIZONA

County of

MARICOPA

The foregoing instrument was acknowledged before me this

My Commission Expires on:



10

Day of

MAY

2019

Date

[REDACTED DATE]

The Licensee has authorized the person named on this questionnaire to act as manager for the above License.

PRINT NAME: _____

SIGNATURE: _____

QUESTIONNAIRE
A.R.S. § 4-202, 4-210
Type or Print with Black Ink

FP Current 6-8-18

QUESTIONNAIRE IS TO BE COMPLETED BY EACH CONTROLLING PERSON, AGENT AND MANAGER BEING DISCLOSED TO THE DEPARTMENT. EACH PERSON COMPLETING THIS FORM MUST SUBMIT A BLUE OR BLACK LINED FINGERPRINT CARD ALONG WITH A \$22 FEE. FINGERPRINTS MUST BE DONE BY A LAW ENFORCEMENT AGENCY OR BONA FIDE FINGERPRINT SERVICE. FOR AN ADDITIONAL \$13 FEE, FINGERPRINTS MAY BE DONE AT THE DEPARTMENT OF LIQUOR WHEN ACCOMPANIED BY A COMPLETED APPLICATION.

1. Check the Appropriate Box

☒ Controlling Person ☐ Agent	☐ Premises Manager (complete all questions except #12)
--	--

10. List your employment or type of business during the past five (5) years. If unemployed, retired, or student, list residence address.

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYERS NAME OR NAME OF BUSINESS (Street Address, City, State & Zip)
08/2017	CURRENT	CO-TRUSTEE / OWNER	
02/1982	08/2017	OWNER	

Individuals requiring ADA accommodations please call (602) 542-2999

11. Provide your residence address information for the last five (5) years: A.R.S. §4-202(D)

FROM Month/Year	TO Month/Year	RESIDENTIAL Street Address
03/2013	CURRENT	[REDACTED]
05/2004	Current	

(ATTACH ADDITIONAL SHEET IF NECESSARY)

12. As a Controlling Person or Agent, will you be physically present and operating the licensed premises?
If you answered YES, then answer #13 below. If NO, skip to #14. ☐ Yes ☒ No
13. Have you attended a DLLC approved Basic & Management Liquor Law Training Course within the past 3 years? ☐ Yes ☐ No
14. Have you been cited, arrested, indicted, convicted, or summoned into court for violation of ANY criminal law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past five (5) years? ☐ Yes ☒ No
15. Are there ANY administrative law citations, compliance actions or consents, criminal arrests, indictments or summonses pending against you? (Do not include civil traffic tickets.) A.R.S. §4-202,4-210 ☐ Yes ☒ No
16. Has anyone EVER obtained a judgement against you the subject of which involved fraud or misrepresentation? ☐ Yes ☒ No
17. Have you had a liquor application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No
18. Has an entity in which you are or have been a controlling person had an application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No

If you answered "YES" to any Question 14 through 18 **YOU MUST** attach a signed statement.
Give complete details including dates, agencies involved and dispositions.

CHANGES TO QUESTIONS 14-18 MAY NOT BE ACCEPTED

NOTARY

I (Print Full Name) **MARK TODD PETERSON** hereby declare that I am the Agent/ Controlling Person / Premises Manager filing this application. I have read this document and verify the contents and all statements are true, correct and complete.

Signature: [REDACTED] State of Arizona County of Mohave
The foregoing instrument was acknowledged before me this

My Commission Expires on: 10/14/2019 Date

24th Day of April, 2019
Day Month Year



Notary Public State of Arizona
Mohave County
Terri Chavez
My Commission Expires 10/14/2019

[REDACTED] Signature of Notary

The Licensee has authorized the person named on this questionnaire to act as manager for the above License.

PRINT NAME: _____ SIGNATURE: _____

19 MAY 24 147. Lic. PM 2:55



Arizona Department of Liquor Licenses and Control
800 W Washington 5th Floor
Phoenix, AZ 85007-2934
www.azliquor.gov
(602) 542-5141

QUESTIONNAIRE
A.R.S. § 4-202, 4-210
Type or Print with **Black Ink**

The fees allowed by R19-1-102 will be charged for all dishonored checks. **FP Current 12-1-17**

ATTENTION APPLICANT: This is a legally binding document. Please type or print in **black ink**. An investigation of your background will be conducted. Incomplete applications will not be accepted. False or misleading answers may result in the denial or revocation of a license or permit and could result in criminal prosecution.

Attention local governments: Social security and birth date information is confidential. This information may be given to law enforcement agencies for background checks only.

QUESTIONNAIRE IS TO BE COMPLETED BY EACH CONTROLLING PERSON, AGENT AND MANAGER BEING DISCLOSED TO THE DEPARTMENT. EACH PERSON COMPLETING THIS FORM MUST SUBMIT A BLUE OR BLACK LINED FINGERPRINT CARD ALONG WITH A \$22 FEE. FINGERPRINTS MUST BE DONE BY A LAW ENFORCEMENT AGENCY OR BONA FIDE FINGERPRINT SERVICE. FOR AN ADDITIONAL \$13 FEE, FINGERPRINTS MAY BE DONE AT THE DEPARTMENT OF LIQUOR WHEN ACCOMPANIED BY A COMPLETED APPLICATION.

Liquor License#: **65755**

1. Check the
Appropriate
Box →

☒ Controlling Person

☐ Agent

☐ Premises Manager

(complete all questions except #12)

2. Name: **PETERSON KARA ELISE** Birth Date: _____
Last First Middle (NOT a public record)

3. Social Security #: _____ Driver License #: _____ State: **ARIZONA**

4. Place of birth: **WHITTIER CA USA** Height: **507** Weight: **130** Eyes: **GRN** Hair: **BRO**
City State COUNTRY (not county)

5. Name of current/most recent spouse: _____ Birth Date: _____
Last First Middle (NOT a public record)

6. Are you a bona fide resident of Arizona? ☒ Yes ☐ No If yes, what is your date of residency: **1995**

7. Daytime telephone number: _____ E-mail address: _____

8. Business Name: **PIZZA HUT #27001** Business Phone: **623 772 1553**

9. Business Location Address: **10685 W INDIAN SCHOOL RD #J AVONDALE MARICOPA 85392**
Street (do not use PO Box) City State County Zip

10. List your employment or type of business during the past five (5) years. If unemployed, retired, or student, list residence address.

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYERS NAME OR NAME OF BUSINESS (Street Address, City, State & Zip)
08/2017	CURRENT	CO-TRUSTEE	
12/1997	08/2017	CLERICAL	

(ATTACH ADDITIONAL SHEET IF NECESSARY)

11. Provide your residence address information for the last five (5) years: A.R.S. §4-202(D)

FROM Month/Year	TO Month/Year	RESIDENTIAL Street Address
03/2013	CURRENT	[REDACTED]
05/2004	Current	

(ATTACH ADDITIONAL SHEET IF NECESSARY)

12. As a Controlling Person or Agent, will you be physically present and operating the licensed premises?
If you answered YES, then answer #13 below. If NO, skip to #14. ☐ Yes ☒ No
13. Have you attended a DLLC approved Basic & Management Liquor Law Training Course within the past 3 years? ☐ Yes ☐ No
14. Have you been cited, arrested, indicted, convicted, or summoned into court for violation of ANY criminal law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past five (5) years? ☐ Yes ☒ No
15. Are there ANY administrative law citations, compliance actions or consents, criminal arrests, indictments or summonses pending against you? (Do not include civil traffic tickets.) A.R.S. §4-202, 4-210 ☐ Yes ☒ No
16. Has anyone EVER obtained a judgement against you the subject of which involved fraud or misrepresentation? ☐ Yes ☒ No
17. Have you had a liquor application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No
18. Has an entity in which you are or have been a controlling person had an application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No

**If you answered "YES" to any Question 14 through 18 YOU MUST attach a signed statement.
Give complete details including dates, agencies involved and dispositions.**

CHANGES TO QUESTIONS 14-18 MAY NOT BE ACCEPTED

NOTARY

I (Print Full Name) KARA ELISE PETERSON, hereby declare that I am the Agent/ Controlling Person / Premises Manager filing this application. I have read this document and verify the contents and all statements are true, correct and [REDACTED] e.

Signature: [REDACTED] State of Arizona County of Mohave
The foregoing instrument was acknowledged before me this

My Commission Expires on: 10/14/2019 Date 24th Day of April, 2019
Day Month Year



Notary Public State of Arizona
Mohave County
Terri Chavez
My Commission Expires 10/14/2019

The Licensee has authorized the person named on this questionnaire to act as manager for the above License.

PRINT NAME: _____ SIGNATURE: _____

19 MAY 24 11:17 AM 2 55



Arizona Department of Liquor Licenses and Control
800 W Washington 5th Floor
Phoenix, AZ 85007-2934
www.azliquor.gov
(602) 542-5141

QUESTIONNAIRE
A.R.S. § 4-202, 4-210
Type or Print with Black Ink

The fees allowed by R19-1-102 will be charged for all dishonored checks. FPCurrent 12-1-17

ATTENTION APPLICANT: This is a legally binding document. Please type or print in black ink. An investigation of your background will be conducted. Incomplete applications will not be accepted. False or misleading answers may result in the denial or revocation of a license or permit and could result in criminal prosecution.

Attention local governments: Social security and birth date information is confidential. This information may be given to law enforcement agencies for background checks only.

QUESTIONNAIRE IS TO BE COMPLETED BY EACH CONTROLLING PERSON, AGENT AND MANAGER BEING DISCLOSED TO THE DEPARTMENT. EACH PERSON COMPLETING THIS FORM MUST SUBMIT A BLUE OR BLACK LINED FINGERPRINT CARD ALONG WITH A \$22 FEE. FINGERPRINTS MUST BE DONE BY A LAW ENFORCEMENT AGENCY OR BONA FIDE FINGERPRINT SERVICE. FOR AN ADDITIONAL \$13 FEE, FINGERPRINTS MAY BE DONE AT THE DEPARTMENT OF LIQUOR WHEN ACCOMPANIED BY A COMPLETED APPLICATION.

Liquor License#: 65755

1. Check the Appropriate Box

☒ Controlling Person

☐ Agent

☐ Premises Manager

(complete all questions except #12)

2. Name: BURGE JR EVERETT LAWRENCE Birth Date: _____
Last First Middle (NOT a public record)

3. Social Security #: _____ Driver License #: _____ State: ARIZONA

4. Place of birth: HASTINGS NEBRASKA USA Height: 600 Weight: 180 Eyes: BRO Hair: BRO
City State COUNTRY (not country)

5. Name of current/most recent spouse: _____ Birth Date: ____/____/____
Last First Middle (NOT a public record)

6. Are you a bona fide resident of Arizona? ☒ Yes ☐ No If yes, what is your date of residency: 1967

7. Daytime telephone number: _____ E-mail address: _____

8. Business Name: PIZZA HUT #27001 Business Phone: 623 / 772 / 1553

9. Business Location Address: 10685 W INDIAN SCHOOL RD #J AVONDALE MARICOPA 85392
Street (do not use PO Box) City State County Zip

10. List your employment or type of business during the past five (5) years. If unemployed, retired, or student, list residence address.

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYERS NAME OR NAME OF BUSINESS (Street Address, City, State & Zip)
08/2017	CURRENT	CO-TRUSTEE	
04/2003	08/2017	ASSISTANT	

(ATTACH ADDITIONAL SHEET IF NECESSARY)

11. Provide your residence address information for the last five (5) years: A.R.S. §4-202(D)

FROM Month/Year	TO Month/Year	RESIDENTIAL Street Address
10/1990	CURRENT	[REDACTED]

(ATTACH ADDITIONAL SHEET IF NECESSARY)

12. As a Controlling Person or Agent, will you be physically present and operating the licensed premises?
If you answered YES, then answer #13 below. If NO, skip to #14. ☐ Yes ☒ No
13. Have you attended a DLLC approved Basic & Management Liquor Law Training Course within the past 3 years? ☐ Yes ☐ No
14. Have you been cited, arrested, indicted, convicted, or summoned into court for violation of ANY criminal law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past five (5) years? ☐ Yes ☒ No
15. Are there ANY administrative law citations, compliance actions or consents, criminal arrests, indictments or summonses pending against you? (Do not include civil traffic tickets.) A.R.S. §4-202, 4-210 ☐ Yes ☒ No
16. Has anyone EVER obtained a judgement against you the subject of which involved fraud or misrepresentation? ☐ Yes ☒ No
17. Have you had a liquor application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No
18. Has an entity in which you are or have been a controlling person had an application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No

**If you answered "YES" to any Question 14 through 18 YOU MUST attach a signed statement.
Give complete details including dates, agencies involved and dispositions.**

CHANGES TO QUESTIONS 14-18 MAY NOT BE ACCEPTED

NOTARY

I (Print Full Name) EVERETT LAWRENCE BURGE JR. hereby declare that I am the Agent/ Controlling Person / Premises Manager filing this application. I have read this document and verify the contents and all statements are true, correct and complete, to the best of my knowledge.

Signature [REDACTED]

State of Arizona County of Mohave
The foregoing instrument was acknowledged before me this

My Commission Expires on: 10/14/2019

24th Day of April, 2019
Day Month Year



[REDACTED]
Signature of Notary

The Licensee has authorized the person named on this questionnaire to act as manager for the above License.

PRINT NAME: _____ SIGNATURE: _____

11. Provide your residence address information for the last five (5) years: A.R.S. §4-202(D)

FROM Month/Year	TO Month/Year	RESIDENTIAL Street Address
10/1990	CURRENT	[REDACTED]

(ATTACH ADDITIONAL SHEET IF NECESSARY)

12. As a Controlling Person or Agent, will you be physically present and operating the licensed premises?
If you answered YES, then answer #13 below. If NO, skip to #14. ☐ Yes ☒ No
13. Have you attended a DLLC approved Basic & Management Liquor Law Training Course within the past 3 years? ☐ Yes ☐ No
14. Have you been cited, arrested, indicted, convicted, or summoned into court for violation of ANY criminal law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past five (5) years? ☐ Yes ☒ No
15. Are there ANY administrative law citations, compliance actions or consents, criminal arrests, indictments or summonses pending against you? (Do not include civil traffic tickets.) A.R.S. §4-202, 4-210 ☐ Yes ☒ No
16. Has anyone EVER obtained a judgement against you the subject of which involved fraud or misrepresentation? ☐ Yes ☒ No
17. Have you had a liquor application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No
18. Has an entity in which you are or have been a controlling person had an application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No

If you answered "YES" to any Question 14 through 18 **YOU MUST** attach a signed statement.
Give complete details including dates, agencies involved and dispositions.

CHANGES TO QUESTIONS 14-18 MAY NOT BE ACCEPTED

NOTARY

I (Print Full Name) KRYSTAL KAY BURGE hereby declare that I am the Agent/ Controlling Person / Premises Manager filing this application. I have read this document and verify the contents and all statements are true, correct and complete, to the best of my knowledge.

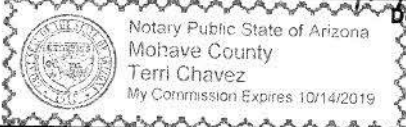
Signature

[REDACTED SIGNATURE]

State of Arizona County of Mohave
The foregoing instrument was acknowledged before me this

My Commission Expires on: 10/14/2019

24th Day of April, 2019
Day Month Year



[REDACTED]

The Licensee has authorized the person named on this questionnaire to act as manager for the above License.

PRINT NAME: _____ SIGNATURE: _____

19 MAY 24 14:14:14 PM 2 56



Arizona Department of Liquor Licenses and Control
800 W Washington 5th Floor
Phoenix, AZ 85007-2934
www.azliquor.gov
(602) 542-5141

QUESTIONNAIRE
A.R.S. § 4-202, 4-210
Type or Print with **Black Ink**

The fees allowed by R19-1-102 will be charged for all dishonored checks.

804-736

ATTENTION APPLICANT: This is a legally binding document. Please type or print in **black ink**. An investigation of your background will be conducted. Incomplete applications will not be accepted. False or misleading answers may result in the denial or revocation of a license or permit and could result in criminal prosecution.

Attention local governments: Social security and birth date information is confidential. This information may be given to law enforcement agencies for background checks only.

QUESTIONNAIRE IS TO BE COMPLETED BY EACH CONTROLLING PERSON, AGENT AND MANAGER BEING DISCLOSED TO THE DEPARTMENT. EACH PERSON COMPLETING THIS FORM MUST SUBMIT A **BLUE OR BLACK LINED FINGERPRINT CARD** ALONG WITH A \$22 FEE. FINGERPRINTS MUST BE DONE BY A LAW ENFORCEMENT AGENCY OR BONA FIDE FINGERPRINT SERVICE. FOR AN ADDITIONAL \$13 FEE, FINGERPRINTS MAY BE DONE AT THE DEPARTMENT OF LIQUOR WHEN ACCOMPANIED BY A COMPLETED APPLICATION.

Liquor License#: 65755

1. Check the
Appropriate
Box →

☐ Controlling Person

☐ Agent

☒ Premises Manager

(complete all questions except #12)

2. Name: SCHILLING LYNN MARIE Birth Date: _____
Last First Middle (NOT a public record)

3. Social Security #: _____ Driver License #: _____ State: ARIZONA

4. Place of birth: ABILENE TEXAS USA Height: 510 Weight: 185 Eyes: GRN Hair: BRO
City State COUNTRY (not county)

5. Name of current/most recent spouse: _____ Birth Date: _____
Last First Middle (NOT a public record)

6. Are you a bona fide resident of Arizona? ☒ Yes ☐ No If yes, what is your date of residency: 07/1976

7. Daytime telephone number: _____ E-mail address: _____

8. Business Name: PIZZA HUT #27001 Business Phone: 623, 772, 1553

9. Business Location Address: 10685 W INDIAN SCHOOL RD #J AVONDALE MARICOPA 85392
Street (do not use PO Box) City State County Zip

10. List your employment or type of business during the past five (5) years. If unemployed, retired, or student, list residence address.

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYERS NAME OR NAME OF BUSINESS (Street Address, City, State & Zip)
10/2010	CURRENT	RESTAURANT	

(ATTACH ADDITIONAL SHEET IF NECESSARY)

1. Provide your residence address information for the last five (5) years: A.R.S. §4-202(D)

FROM Month/Year	TO Month/Year	RESIDENTIAL Street Address
07/2001	CURRENT	[REDACTED]

(ATTACH ADDITIONAL SHEET IF NECESSARY)

12. As a Controlling Person or Agent, will you be physically present and operating the licensed premises?
If you answered YES, then answer #13 below. If NO, skip to #14. ☒ Yes ☐ No
13. Have you attended a DLLC approved Basic & Management Liquor Law Training Course within the past 3 years? ☒ Yes ☐ No
14. Have you been cited, arrested, indicted, convicted, or summoned into court for violation of ANY criminal law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past five (5) years? ☐ Yes ☒ No
15. Are there ANY administrative law citations, compliance actions or consents, criminal arrests, indictments or summonses pending against you? (Do not include civil traffic tickets.) A.R.S. §4-202,4-210 ☐ Yes ☒ No
16. Has anyone EVER obtained a judgement against you the subject of which involved fraud or misrepresentation? ☐ Yes ☒ No
17. Have you had a liquor application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No
18. Has an entity in which you are or have been a controlling person had an application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No

If you answered "YES" to any Question 14 through 18 **YOU MUST** attach a signed statement.
Give complete details including dates, agencies involved and dispositions.

CHANGES TO QUESTIONS 14-18 MAY NOT BE ACCEPTED

NOTARY

I (Print Full Name) LYNN MARIE SCHILLING hereby declare that I am the Agent/ Controlling Person / Premises Manager filing this application. I have read this document and verify the contents and all statements are true, correct and complete, to the best of my knowledge.

Signature: [REDACTED]

State of Arizona County of Mohave
The foregoing instrument was acknowledged before me this

My Commission Expires on: 10/14/2019 Date

24th Day of April, 2019
Day Month Year



[REDACTED]
Signature of Notary

The Licensee has authorized the person named on this questionnaire to act as manager for the above License.

PRINT NAME: Theresa June Mars

SIGNATURE: [REDACTED]

19 MAY 24 1998

Certificate of Completion
For
Title 4 **BASIC** Liquor Law Training

☒ On-sale
☒ Off-sale
☐ On- and off-sale

A Certificate of Completion must be on a form provided by the Arizona Department of Liquor. Certificates are completed by a state-approved training provider and, when issued, the Certificate is signed by the course participant.

The State requires BASIC Title 4 training only as a prerequisite for MANAGEMENT Title 4 training or as a result of a liquor law violation. Persons required to have BASIC Title 4 training are listed at the base of this Certificate. Licensees sometimes require BASIC Title 4 Training a condition of employment.

A replacement Certificate of Completion for Title 4 training must be available through the training provider for two years after the training completion date.

Student Information

Lynn Marie Schilling

(please print)

Signature

Training Completion Date

9/29/18

Certificate Expiration Date

9/29/21

(three years from completion date)

Training Provider Information

ABC - Arizona Business Council for Alcohol Education

Company Name

8155 North 24th Avenue, Suite A; Phoenix, Arizona 85021

Mailing Address

(602) 285-1396

Daytime Contact Phone Number

I, Jesus Altamirano

Instructor Name (please print)

certify that the above named individual did successfully complete Title 4 BASIC Training in accordance with A.R.S. §4-112(G)(2) and Arizona Administrative Code (A.A.C.) R19-1-103 using training course content and materials approved by the Arizona Department of Liquor Licenses and Control. I understand that misuse of this Certificate of Completion can result in the revocation of State-approval for the Title 4 Training Provider name [redacted] by A.A.C. R19-1-103(E) and (F).

29 / 9 / 18
Day Mo Year

Persons required to complete BASIC & MANAGEMENT Title 4 training: 1) owner(s) actively involved in the daily business operations of a liquor-licensed business of a series listed below
2) licensees, agents and managers actively involved in the daily business operations of a liquor-licensed business of a series listed below

In-state Microbrewery (series 3)
Conveyance (series 8)
Restaurant (series 12)

Government (series 5)
Liquor Store (series 9)
In-state Farm Winery (series 13)

Bcr (series 6)
Private Club (series 14)

Beer & Wine Bar (series 7)
Hotel/Motel w/restaurant (series 11)
Beer & Wine Store (series 10)

Liquor license applications (initial and renewal) are not complete until valid Certificates of Completion for all required persons have been submitted to the Department of Liquor.

The questionnaire (which designates a manager to a location) and the agent change form (which assigns a new agent to active liquor licenses) are not complete until valid Certificates of Completion for all required persons have been submitted to the Department of Liquor.

Certificate of Completion
For
Title 4 **MANAGEMENT** Liquor Law Training

A Certificate of Completion must be on a form provided by the Arizona Department of Liquor. Certificates are completed by a state-approved training provider and, when issued, the Certificate is signed by the course participant.

Basic Title 4 training is a prerequisite for MANAGEMENT Title 4 training. A valid Certificate of Completion for BASIC Title 4 training must be on file at the Department of Liquor and satisfactory completion of a State-approved BASIC Title 4 course must be verified by the training provider prior to issuing a Certificate of Completion for MANAGEMENT Title 4 training.

A replacement Certificate of Completion for Title 4 training must be available through the training provider for two years after the training completion date.

Student Information

Lynn Marie Schmitt

Signature

Training Completion Date

9/29/18 1912

Certificate Expiration Date

(three years from completion date)

9/29/21

Training Provider Information

ABC - Arizona Business Council for Alcohol Education

Company Name

8155 North 24th Avenue, Suite A; Phoenix, Arizona 85021

Mailing Address

(602) 285-1396

Daytime Contact Phone Number

I, Jesus Altamirano

Instructor Name (please print)

certify that the above named individual did successfully complete Title 4 MANAGEMENT Training in accordance with A.R.S. §4-112(G)(2) and Arizona Administrative Code (A.A.C.) R19-1-103 using training course content and materials approved by the Arizona Department of Liquor Licenses and Control. I understand that misuse of this Certificate of Completion can result in the revocation of State-approval for this training. [Redacted] in this section as provided by A.A.C. R19-1-103(E) and (F).

29 / 9 / 18

Day Mo Year

Persons required to complete BASIC & MANAGEMENT Title 4 training: 1) owner(s) actively involved in the daily business operations of a liquor-licensed business of a series listed below
2) licensees, agents and managers actively involved in the daily business operations of a liquor-licensed business of a series listed below

In-state Microbrewery (series 3)
Conveyance (series 8)
Restaurant (series 12)

Government (series 5)
Liquor Store (series 9)
In-state Farm Winery (series 13)

Bcr (series 6)
Private Club (series 14)

Beer & Wine Bar (series 7)
Hotel/Motel w/restaurant (series 11)
Beer & Wine Store (series 10)

Liquor license applications (initial and renewal) are not complete until valid Certificates of Completion for all required persons have been submitted to the Department of Liquor.

The questionnaire (which designates a manager to a location) and the agent change form (which assigns a new agent to active liquor licenses) are not complete until valid Certificates of Completion for all required persons have been submitted to the Department of Liquor.

DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

☒ SERIES 10 – BEER & WINE STORE

ROUTING:

☐ POLICE DEPARTMENT

☒ FIRE DEPARTMENT

☐ DEVELOPMENT SERVICES

☐ FINANCE DEPARTMENT

APPLICANT'S NAME: THERESA JUNE MORSE

BUSINESS NAME: PIZZA HUT #27001

BUSINESS ADDRESS: 10685 W INDIAN SCHOOL ROAD #J

CITY: AVONDALE **STATE:** AZ **ZIP CODE:** 85392

DEPARTMENTAL COMMENTS:

No further comments

☒ APPROVED

☐ DENIED

J. Naper

SIGNATURE

Fire Marshal

TITLE

6/25/19

DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: JULY 22, 2019
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JULY 1ST, 2019



DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

☒ SERIES 10 – BEER & WINE STORE

ROUTING:

☐ POLICE DEPARTMENT

☐ FIRE DEPARTMENT

☐ DEVELOPMENT SERVICES

☒ FINANCE DEPARTMENT

APPLICANT'S NAME: THERESA JUNE MORSE

BUSINESS NAME: PIZZA HUT #27001

BUSINESS ADDRESS: 10685 W INDIAN SCHOOL ROAD #J

CITY: AVONDALE **STATE:** AZ **ZIP CODE:** 85392

DEPARTMENTAL COMMENTS: No concerns

☒ APPROVED

☐ DENIED

Daniel Vazquez

SIGNATURE

Privilege Tax Auditor

TITLE

6/25/19

DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: **JULY 22, 2019**
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: **JULY 1ST, 2019**

DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

☒ **SERIES 10 – BEER & WINE STORE**

ROUTING:

☐ **POLICE DEPARTMENT**

☐ **FIRE DEPARTMENT**

☒ **DEVELOPMENT SERVICES**

☐ **FINANCE DEPARTMENT**

APPLICANT'S NAME: **THERESA JUNE MORSE**

BUSINESS NAME: **PIZZA HUT #27001**

BUSINESS ADDRESS: **10685 W INDIAN SCHOOL ROAD #J**

CITY: **AVONDALE** **STATE:** **AZ** **ZIP CODE:** **85392**

DEPARTMENTAL COMMENTS:

☒ **APPROVED**
☐ **DENIED**



SIGNATURE
DIVISION LEAD PLANNER

TITLE

6/26/2019

DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: JULY 22, 2019
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JULY 1ST, 2019



Development Services & Engineering Department

DATE: June 26, 2019

TO: Marcella Carrillo, City Clerk

PREPARED BY: Ken Galica, Division Lead Planner (623) 333-4019

SUBJECT: Series 10 (Beer and Wine Store) Liquor License
Pizza Hut #27001
10685 West Indian School Road, Suite J

Pizza Hut is an existing restaurant in the Westwind Plaza shopping center located at the southeast corner of 107th Avenue and Indian School Road. The suite occupied by Pizza Hut is located in the in-line shops building near the southwest corner of the shopping center, west of the Fry's Food Store. The restaurant primarily caters to carry-out and delivery customers, with only one small table provided in the restaurant's public area for on-site dining. The requested Series 10 (Beer & Wine Store) license will allow the business to sell beer and wine (no liquor) to its carry-out and delivery customers for consumption off-premises. Consumption will not be permitted on-premises under the terms of the license.

State Statute requires a Series 10 liquor license to be separated a minimum of 300 feet from K-12 schools or church buildings. It also requires 300 feet of separation from fenced recreational areas that are part of a school building. The State of Arizona does not consider parking lots as part of a school property for purposes of liquor licensing. The fenced football field for Westview High School is the nearest use requiring separation, located approximately 538 feet from the nearest point of the Pizza Hut suite, exceeding the minimum 300-foot separation requirement.

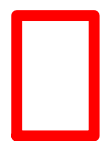
The General Plan designates the property as Local Commercial and the current zoning is Planned Area Development (PAD). The use of the property as a restaurant is compatible with both the General Plan designation and PAD zoning.

Staff recommends approval of this request.

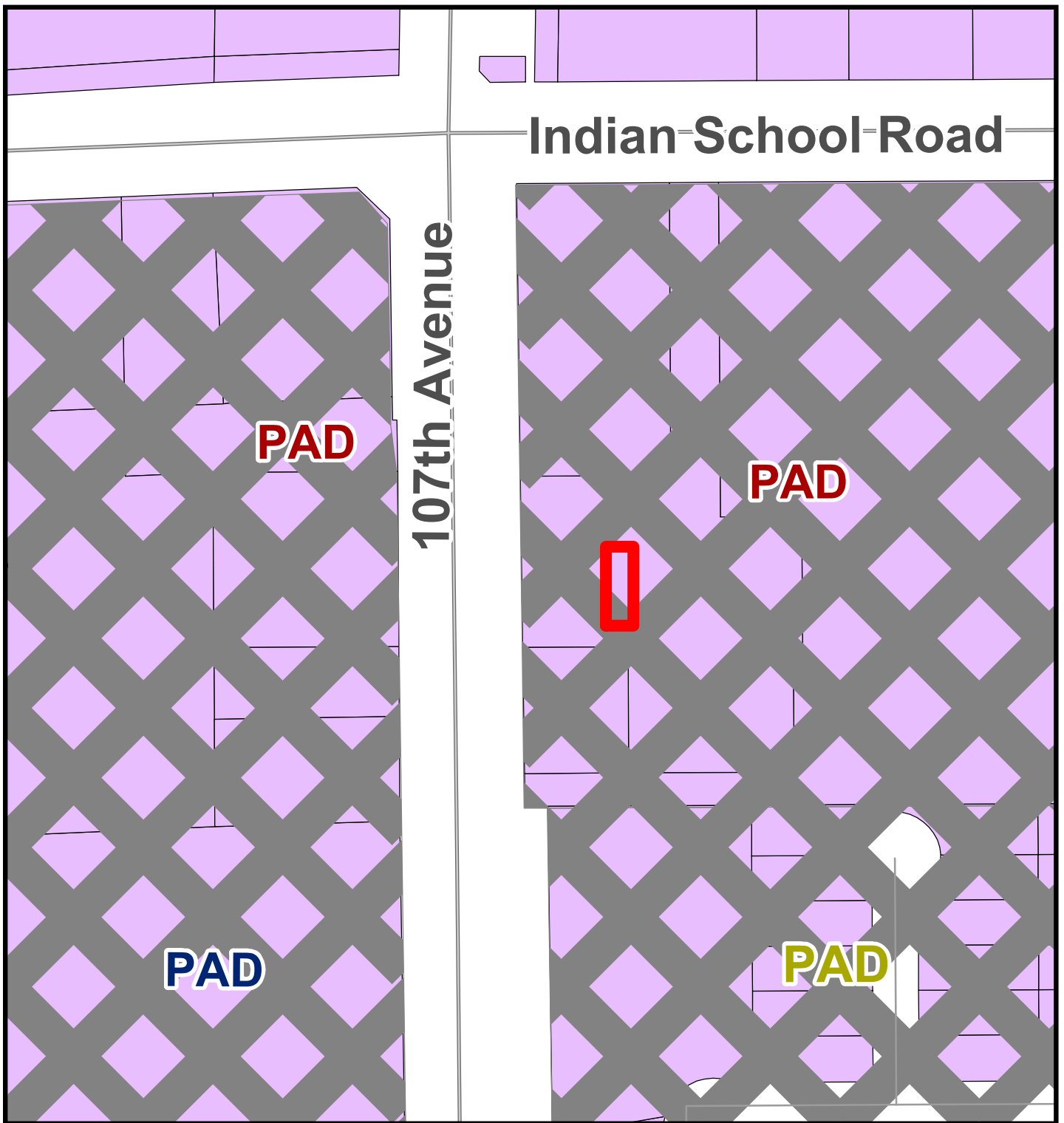
Attachment: Aerial Photograph
Zoning Vicinity Map
300-Foot Separation Map



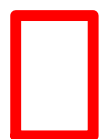
Aerial Photograph



Business Location



Zoning Vicinity Map



Business Location

300-Foot Separation Map

The blue shaded area represents a 300-foot buffer around the proposed licensed premises. No schools, churches or fenced recreational yards associated with schools or churches can be located within the mandatory buffer area. The Westview H.S. parking lot, which is not considered to be part of the school for the purposes of liquor licensing, is located just outside of the 300-foot buffer; the fenced football field, which does require separation, is located approximately 538 feet away in compliance with the requirement.



NOTICE

APPLICATION TO SELL ALCOHOLIC BEVERAGES
DATE POSTED: JUNE 26, 2019

A HEARING ON A LIQUOR LICENSE APPLICATION
SHALL BE HELD BEFORE THE **AVONDALE CITY COUNCIL**

LOCATION: 11485 WEST CIVIC CENTER DRIVE
DATE: JULY 22, 2019
AT 7:00 PM.

HEARING DATE SUBJECT TO CHANGE.
TO VERIFY CALL: 623-315-1300

SERIES 10: BEER AND WINE STORE

THE LOCAL GOVERNMENT'S RESPONSIBILITY TO THE STATE LIQUOR BOARD
IS TO REVIEW THE APPLICATIONS FOR THE STATE LIQUOR BOARD
AND TO RECOMMEND TO THE STATE LIQUOR BOARD THE LOCAL
GOVERNMENT'S POSITION ON THE APPLICATIONS. THE LOCAL
GOVERNMENT SHALL NOT BE RESPONSIBLE FOR THE STATE LIQUOR BOARD'S
DECISIONS. THE LOCAL GOVERNMENT SHALL NOT BE RESPONSIBLE FOR THE
STATE LIQUOR BOARD'S DECISIONS. THE LOCAL GOVERNMENT SHALL
NOT BE RESPONSIBLE FOR THE STATE LIQUOR BOARD'S DECISIONS.

PIZZA HUT #27001
10685 W INDIAN SCHOOL ROAD #J
AVONDALE, AZ 85392

THIS APPLICATION IS SUBJECT TO THE STATE LIQUOR BOARD'S REVIEW AND
APPROVAL. THE LOCAL GOVERNMENT SHALL NOT BE RESPONSIBLE FOR THE
STATE LIQUOR BOARD'S DECISIONS. THE LOCAL GOVERNMENT SHALL
NOT BE RESPONSIBLE FOR THE STATE LIQUOR BOARD'S DECISIONS.

Form with multiple sections and checkboxes, likely a checklist or application form. The text is small and mostly illegible due to the image quality. It appears to be a form for the application process, possibly a checklist for the applicant to complete before the hearing.

06.26.2019 04:09



06.26.2019 04:09



0 0.125 0.25 0.5
Miles

PIZZA HUT #27001
10685 W INDIAN SCHOOL #J
1 Mile Buffer

- Legend**
- PLACES OF WORSHIP
 - SCHOOLS
 - Liquor License**
 - SERIES 3
 - SERIES 5
 - SERIES 6
 - SERIES 7
 - SERIES 9
 - SERIES 9S
 - SERIES 10
 - SERIES 11
 - SERIES 12
 - SERIES 14
 - SERIES 15
 - SERIES 16



CITY COUNCIL REPORT

SUBJECT: Series 10 Liquor License - Pizza Hut #30991

MEETING DATE: 7/22/2019

TO: Mayor and Council

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

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

PURPOSE:

City Council will consider a request to approve an application for a Series 10 (Beer and Wine Store) Liquor License submitted by Theresa June Morse to sell beer and wine at the Pizza Hut located at 1450 North Dysart Avenue, #A10-A11, in Avondale, and authorize the Mayor and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

Pizza Hut is an existing restaurant that specializes in pizza and is located in the Avondale Plaza shopping center located at the southwest corner of Van Buren and Dysart Road. The restaurant primarily caters to carry-out and delivery customers, with only one small table provided in the restaurant's public area for dining. The requested Series 10 (Beer and Wine Store) license will allow the business to sell beer and wine to its carry-out and delivery customers for consumption off-premises. Consumption will not be permitted on-premise.

State Statute requires a Series 10 liquor license to be separated a minimum of 300 feet from K-12 schools or church buildings. There are no church buildings, K-12 school buildings, or fenced recreational areas associated with K-12 schools within 300-feet of the Pizza Hut location.

The General Plan designates the property as Local Commercial and the current zoning is C2 (Community Commercial). The use of the property as a restaurant is compatible with both the General Plan designation and C-2 zoning.

DISCUSSION:

Staff has received an application from Theresa June Morse for a Series 10 (Beer and Wine Store) Liquor License to sell beer and wine at the Pizza Hut located at 1450 N. Dysart Avenue, #A10-A-11, in Avondale.

The fees in the amount of \$850.00 have been paid in full.

As required by state law and city ordinance, the application was posted for the required period of time, beginning on June 19, 2019. A notice was published in the Southwest Valley Republic on July 3, 2019 and July 5, 2019. No comments have been received.

The Arizona Department of Liquor License and Control has accepted the submitted application as complete. The Police, Fire, Development Services and Finance Departments have reviewed the application and are recommending approval. Their comments are attached.

BUDGET IMPACT:

No budget impact.

RECOMMENDATION:

Staff is recommending approval of a request to approve an application for a Series 10 (Beer and Wine) Liquor License submitted by Theresa June Morse to sell beer and wine at the Pizza Hut located at 1450 N. Dysart Avenue, #A10-A11, in Avondale.

State of Arizona
Department of Liquor Licenses and Control

Created 05/24/2019 @ 02:09:31 PM

Local Governing Body Report

LICENSE

Number:		Type:	010 BEER AND WINE STORE
Name:	PIZZA HUT #30991		
State:	Pending		
Issue Date:		Expiration Date:	
Original Issue Date:			
Location:	1450 N DYSART AVENUE #A10 & 11 AVONDALE, AZ 85323 USA		
Mailing Address:	[REDACTED] USA		
Phone:	(623)925-5810		
Alt. Phone:	[REDACTED]		
Email:	[REDACTED]		

AGENT

Name:	THERESA JUNE MORSE
Gender:	Female
Correspondence Address:	[REDACTED] USA
Phone:	[REDACTED]
Alt. Phone:	
Email:	[REDACTED]

OWNER

Name: HOT PIZZAS LLC
Contact Name: THERESA JUNE MORSE
Type: LIMITED LIABILITY COMPANY
AZ CC File Number: L16171749 State of Incorporation: AZ
Incorporation Date: 07/30/2010
Correspondence Address: [REDACTED]

USA

Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email: [REDACTED]

Officers / Stockholders

Name:	Title:	% Interest:
KRYSTAL BURGE DYNASTYTRUST PIZZA HUT DATED DECEMBER 28, 2012	Stockholder	40.00
MARK PETERSON DYNASTY TRUST PIZZA HUT DATED DECEMBER 28, 201	Stockholder	40.00
MARK TODD PETERSON	Member, Stockholder	10.00
KRYSTAL KAY BURGE	Member, Stockholder	10.00

HOT PIZZAS LLC - Stockholder

Name: MARK PETERSON DYNASTY TRUST PIZZA HUT DATED DECEMBER
28, 201
Contact Name: MARK PETERSON DYNASTY TRUST PIZZA HUT DATED DECEMBER
28, 201
Type: TRUST
AZ CC File Number: State of Incorporation:
Incorporation Date:
Correspondence Address: [REDACTED]

USA

Phone: [REDACTED]
Alt. Phone:
Email:

HOT PIZZAS LLC - Stockholder

Name: KRYSTAL BURGE DYNASTYTRUST PIZZA HUT DATED DECEMBER
28, 2012
Contact Name: THERESA JUNE MORSE
Type: TRUST
AZ CC File Number: State of Incorporation:
Incorporation Date: 12/01/2017
Correspondence Address: [REDACTED]

USA

Phone: [REDACTED]
Alt. Phone:
Email:

HOT PIZZAS LLC - Member, Stockholder
KRYSTAL BURGE DYNASTY TRUST PIZZA HUT
DATED DECEMBER 28, 2012 - Trustee
MARK PETERSON DYNASTY TRUST PIZZA HUT
DATED DECEMBER 28, 201 - Trustee

Name: KRYSTAL KAY BURGE
Gender: Female
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email: [REDACTED]

MARK PETERSON DYNASTY TRUST PIZZA HUT
DATED DECEMBER 28, 201 - Trustee

Name: KARA ELISE PETERSON
Gender: Female
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email: [REDACTED]

HOT PIZZAS LLC - Member, Stockholder
KRYSTAL BURGE DYNASTY TRUST PIZZA HUT
DATED DECEMBER 28, 2012 - Trustee
MARK PETERSON DYNASTY TRUST PIZZA HUT
DATED DECEMBER 28, 201 - Trustee

Name: MARK TODD PETERSON
Gender: Male
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email: [REDACTED]

KRYSTAL BURGE DYNASTY TRUST PIZZA HUT
DATED DECEMBER 28, 2012 - Trustee

Name: EVERETT LAWRENCE BURGE JR.
Gender: Male
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email: [REDACTED]

MANAGERS

Name: MARK ALAN RUSSELL

Gender: Male

Correspondence Address:

USA

Phone:

Alt. Phone:

Email:

Name: KRISTINA LARAYNE SEVALL

Gender: Female

Correspondence Address:

USA

Phone:

Alt. Phone:

Email:

Name: ELICIA KATHLEEN ROY

Gender: Female

Correspondence Address:

USA

Phone:

Alt. Phone:

Email:

Name: NIMAT CRYSTAL MAYO

Gender: Female

Correspondence Address:

USA

Phone:

Alt. Phone:

Email:

Name: JESSICA ANN SHEEHAN
Gender: Female
Correspondence Address: [REDACTED]

USA

Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email: [REDACTED]

Name: ANDREW BRAXTON CANNON
Gender: Male
Correspondence Address: [REDACTED]

USA

Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email: [REDACTED]

Name: JAMES WILLIAM HESTER
Gender: Male
Correspondence Address: [REDACTED]

USA

Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email: [REDACTED]

Name: CELESTE RACHELLE BENDEL
Gender: Female
Correspondence Address: [REDACTED]

USA

Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email: [REDACTED]

Name: JONNATHAN TODD BARNHART
Gender: Male
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email: [REDACTED]

Name: KIRT DANIEL FOSTER
Gender: Male
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email: [REDACTED]

Name: EDWARD WILLIAM WRIGHT
Gender: Male
Correspondence Address: [REDACTED]
Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email: [REDACTED]

Name: CRAIG JOSEPH HENDRICKS
Gender: Male
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone: [REDACTED]
Email: [REDACTED]

Name: LYNN DEE FRYE

Gender: Female

Correspondence Address:

USA

Phone:

Alt. Phone:

Email:

Name: CESAR GUERRA GONZALEZ

Gender: Male

Correspondence Address:

USA

Phone:

Alt. Phone:

Email:

Name: AMANDA GENE BRAVO

Gender: Female

Correspondence Address:

USA

Phone:

Alt. Phone:

Email:

Name: ADAM NICHOLAS JOHNSON

Gender: Male

Correspondence Address:

USA

Phone:

Alt. Phone:

Email:

Name: ALEJANDRO ROJOS RIOS
Gender: Male
Correspondence Address:

USA

Phone:
Alt. Phone:
Email:

Name: GEVERGEN GHARGHANI TOROSIAN
Gender: Male
Correspondence Address:

USA

Phone:
Alt. Phone:
Email:

Name: JANA E MARIE BARBRICK
Gender: Female
Correspondence Address:

USA

Phone:
Alt. Phone:
Email:

Name: ELISHA VERONICA JAQUEZ
Gender: Female
Correspondence Address:

USA

Phone:
Alt. Phone:
Email:

Name: TIFFANY DANIELLE REDHORSE
Gender: Female
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone:
Email:

Name: ZACHARY JOHN SISNEROS
Gender: Male
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone:
Email:

Name: JULIE ANN RIVAS
Gender: Female
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone:
Email:

Name: DONALD GERALD FLETCHER
Gender: Male
Correspondence Address: [REDACTED]
USA
Phone: [REDACTED]
Alt. Phone:
Email:

Name: KIMBERLY PHILLIPS
Gender: Female
Correspondence Address:

[REDACTED]

USA

Phone:
Alt. Phone:
Email:

[REDACTED]

Name: AMANADA JO TATMAN
Gender: Female
Correspondence Address:

[REDACTED]

USA

Phone:
Alt. Phone:
Email:

[REDACTED]
[REDACTED]

Name: JOSHUA EVANS BRIT
Gender: Male
Correspondence Address:

[REDACTED]

USA

Phone:
Alt. Phone:
Email:

[REDACTED]

Name: ADAM DANIEL JOLICOEUR
Gender: Male
Correspondence Address:

[REDACTED]

USA

Phone:
Alt. Phone:
Email:

[REDACTED]

Name: LYNN MARIE SCHILLING

Gender: Female

Correspondence Address:

USA

Phone:

Alt. Phone:

Email:

APPLICATION INFORMATION

Application Number: 65758

Application Type: New Application

Created Date: 05/24/2019

QUESTIONS & ANSWERS

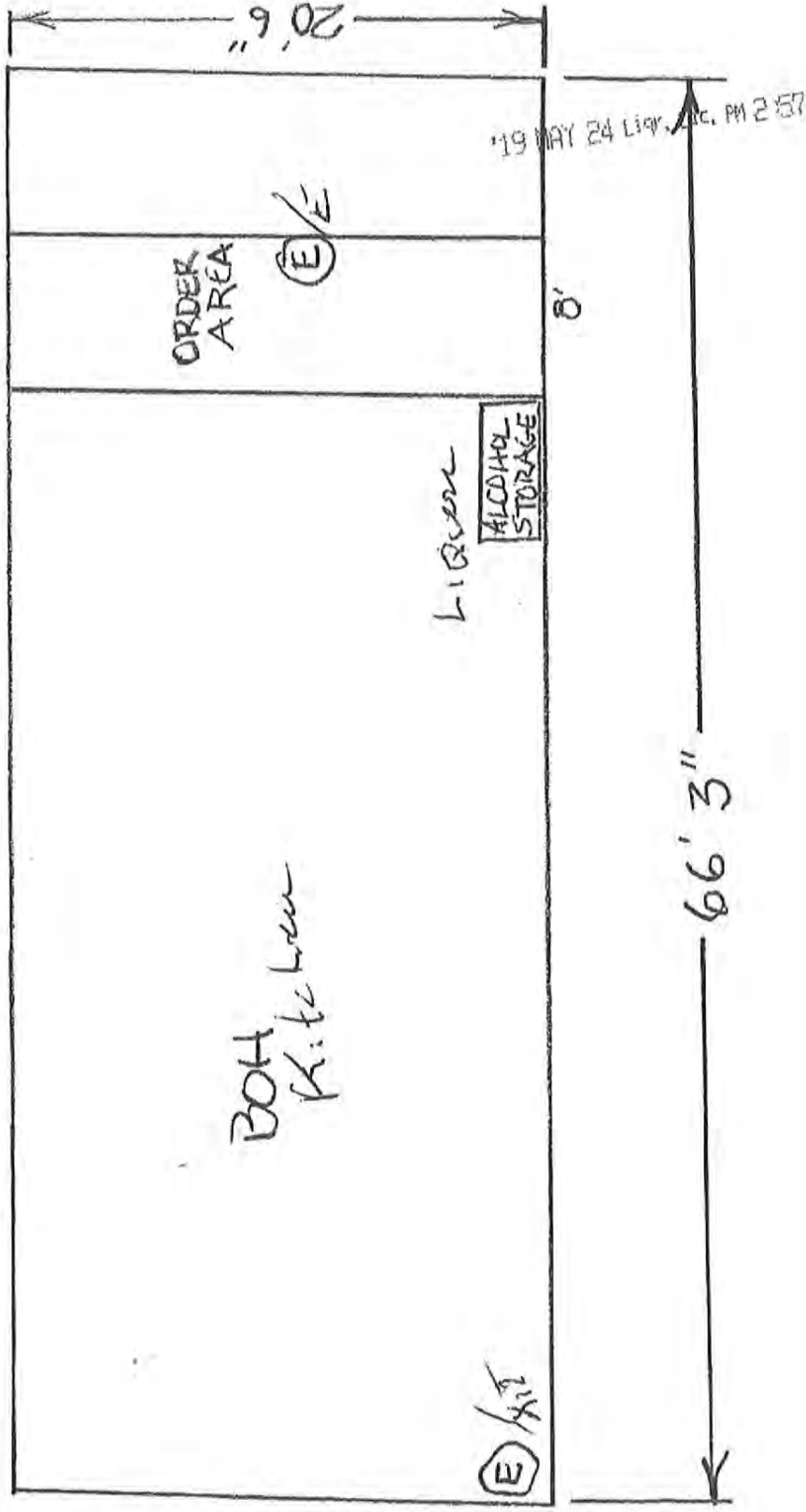
010 Beer and Wine Store

- 1) If you intend to operate the business while your application is pending you will need an interim permit pursuant to A.R.S. §4-203.01. Would you like to apply for an Interim Permit?
If yes, after completing this application, please go back to your Licensing screen, under New License Application choose "Interim Permit" from the drop-down window.
No
- 2) Have you submitted a questionnaire? Each person listed must submit a questionnaire and mail in a fingerprint card along with a \$22. processing fee per card.
Yes
- 3) Please provide name, address, and Distance of nearest school.
AGUA FRIA UNION HIGH SCHOOL
1481 N ELISEO FELIX JR WAY AVONDALE AZ 85323
1,0151 FT
- 4) Please provide name, address, and distance of nearest church.
WORD OF LIFE CHRISTIAN CENTER
1325 N CENTRAL AVE AVONDALE AZ 85323
2,010FT
- 5) Are you a tenant? (A person who holds the lease of a property; a lessee)
Yes
A Document of type LEASE is required.
- 6) Is there a penalty if lease is not fulfilled?
Yes
What is the penalty?
LANDLORD REMEDIES
- 7) Are you a sub-tenant? (A person who holds a lease which was given to another person (tenant) for all or part of a property)
No
- 8) Are you the owner?
No
- 9) Are you a purchaser?
No

- 10) Are you a management company?
No
- 11) Is the Business located within the incorporated limits of the city or town of which it is located?
Yes
- 12) What is the total money borrowed for the business not including the lease?
Please list lenders/people owed money for the business.
ZERO
- 13) Have you provided a diagram of your premises?
Yes
- 14) Is there a drive through window on the premises?
No
- 15) If there is a patio please indicate contiguous or non-contiguous within 30 feet.
NONE
- 16) Is your licensed premises now closed due to construction, renovation or redesign or rebuild?
No

Notes - No Patio
1362 - Sq footage
Store # - 30991

1450 N. DYSPORT RD
SEE. A-10 & 11
AVONDALE, AZ.



19 MAY 24 Ltr. Lic. PM 2 57

Mark Todd Peterson
Member
10%

Krystal Kay Burge
Member
10%

Krystal Burge Dynasty
Trust Pizza Hut, dated
December 28, 2012 c/o
Everett L Burge and
Mark T Peterson, Co-
Trustees Post Office Box
[REDACTED]
Mark Todd Peterson -
13.33 1/3
Everett Lawrence Burge
Jr. - 13.33 1/3
Krystal Kay Burge - 13.33
1/3
Co-Trustees holding 40%

Mark Peterson Dynasty
Trust Pizza Hut, dated
December 28, 2012 c/o
Kara E Peterson and
Krystal K Burge, Co-
Trustees Post Office Box
[REDACTED]
Mark Todd Peterson -
13.33 1/3
Kara Elise Peterson -
13.33 1/3
Krystal Kay Burge -
13.33 1/3
Co-Trustees holding 40%

HOT PIZZAS LLC
100%

19 MAY 24 Ltr. Lic. PM 2:57



Arizona Department of Liquor Licenses and Control
800 W Washington 5th Floor
Phoenix, AZ 85007-2934
www.azliquor.gov
(602) 542-5141

QUESTIONNAIRE
A.R.S. § 4-202, 4-210
Type or Print with Black Ink

The fees allowed by R19-1-102 will be charged for all dishonored checks.

FP current 7-7-17

ATTENTION APPLICANT: This is a legally binding document. Please type or print in black ink. An investigation of your background will be conducted. Incomplete applications will not be accepted. False or misleading answers may result in the denial or revocation of a license or permit and could result in criminal prosecution.

Attention local governments: Social security and birth date information is confidential. This information may be given to law enforcement agencies for background checks only.

QUESTIONNAIRE IS TO BE COMPLETED BY EACH CONTROLLING PERSON, AGENT AND MANAGER BEING DISCLOSED TO THE DEPARTMENT. EACH PERSON COMPLETING THIS FORM MUST SUBMIT A BLUE OR BLACK LINED FINGERPRINT CARD ALONG WITH A \$22 FEE. FINGERPRINTS MUST BE DONE BY A LAW ENFORCEMENT AGENCY OR BONA FIDE FINGERPRINT SERVICE. FOR AN ADDITIONAL \$13 FEE, FINGERPRINTS MAY BE DONE AT THE DEPARTMENT OF LIQUOR WHEN ACCOMPANIED BY A COMPLETED APPLICATION.

Liquor License#: 65758

1. Check the
Appropriate
Box →

☐ Controlling Person	☒ Agent	☐ Premises Manager (complete all questions except #12)
---	---	--

2. Name: MORSE THERESA JUNE Birth Date: / /
Last First Middle (NOT a public record)

3. Social Security #: Driver License #: State: ARIZONA

4. Place of birth: DETROIT MI USA Height: 501 Weight: 165 Eyes: HZ Hair: BLN
City State COUNTRY (not county)

5. Name of current/most recent spouse: Birth Date: / /
Last First Middle (NOT a public record)

6. Are you a bona fide resident of Arizona? ☒ Yes ☐ No If yes, what is your date of residency: / /

7. Daytime telephone number: E-mail address:

8. Business Name: PIZZA HUT #30991 Business Phone:

9. Business Location Address: 1450 N DYSART AVE STE A10 & 11 AVONDALE ARIZONA MARICOPA 85323
Street (do not use PO Box) City State County Zip

10. List your employment or type of business during the past five (5) years. If unemployed, retired, or student, list residence address.

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYERS NAME OR NAME OF BUSINESS (Street Address, City, State & Zip)
02/2007	CURRENT	CONSULTANT / TRAINER	

(ATTACH ADDITIONAL SHEET IF NECESSARY)

11. Provide your residence address information for the last five (5) years: A.R.S. §4-202(D)

FROM Month/Year	TO Month/Year	RESIDENTIAL Street Address
12/2006	CURRENT	[REDACTED]

(ATTACH ADDITIONAL SHEET IF NECESSARY)

12. As a Controlling Person or Agent, will you be physically present and operating the licensed premises?
If you answered YES, then answer #13 below. If NO, skip to #14. ☐ Yes ☒ No
13. Have you attended a DLLC approved Basic & Management Liquor Law Training Course within the past 3 years? ☐ Yes ☐ No
14. Have you been cited, arrested, indicted, convicted, or summoned into court for violation of ANY criminal law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past five (5) years? ☐ Yes ☒ No
15. Are there ANY administrative law citations, compliance actions or consents, criminal arrests, indictments or summonses pending against you? (Do not include civil traffic tickets.) A.R.S. §4-202.4-210 ☐ Yes ☒ No
16. Has anyone EVER obtained a judgement against you the subject of which involved fraud or misrepresentation? ☐ Yes ☒ No
17. Have you had a liquor application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No
18. Has an entity in which you are or have been a controlling person had an application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No

If you answered "YES" to any Question 14 through 18 YOU MUST attach a signed statement.
Give complete details including dates, agencies involved and dispositions.

CHANGES TO QUESTIONS 14-18 MAY NOT BE ACCEPTED

NOTARY

I (Print Full Name) THERESA JUNE MORSE hereby declare that I am the Agent/ Controlling Person / Premises Manager filing this application. I have read this document and verify the contents and all statements are true, correct and complete, to the best of my knowledge.

Signature [REDACTED]

Date of

ARIZONA County of MARICOPA

The foregoing instrument was acknowledged before me this

10

Day of

MAY

2019

Day [REDACTED]

My Commission Expires on:



The Licensee has authorized the person named on this questionnaire to act as manager for the above license.

PRINT NAME:

Theresa June Morse

SIGNATURE:

[REDACTED]



Arizona Department of Liquor Licenses and Control
800 W Washington 5th Floor
Phoenix, AZ 85007-2934
www.azliquor.gov
(602) 542-5141

QUESTIONNAIRE
A.R.S. § 4-202, 4-210
Type or Print with Black Ink

The fees allowed by R19-1-102 will be charged for all dishonored checks.

FP CURRENT 6-8-18

ATTENTION APPLICANT: This is a legally binding document. Please type or print in black ink. An investigation of your background will be conducted. Incomplete applications will not be accepted. False or misleading answers may result in the denial or revocation of a license or permit and could result in criminal prosecution.

Attention local governments: Social security and birth date information is confidential. This information may be given to law enforcement agencies for background checks only.

QUESTIONNAIRE IS TO BE COMPLETED BY EACH CONTROLLING PERSON, AGENT AND MANAGER BEING DISCLOSED TO THE DEPARTMENT. EACH PERSON COMPLETING THIS FORM MUST SUBMIT A BLUE OR BLACK LINED FINGERPRINT CARD ALONG WITH A \$22 FEE. FINGERPRINTS MUST BE DONE BY A LAW ENFORCEMENT AGENCY OR BONA FIDE FINGERPRINT SERVICE. FOR AN ADDITIONAL \$13 FEE, FINGERPRINTS MAY BE DONE AT THE DEPARTMENT OF LIQUOR WHEN ACCOMPANIED BY A COMPLETED APPLICATION.

Liquor License#: 65758

1. Check the
Appropriate
Box →

☒ Controlling Person

☐ Agent

☐ Premises Manager
(complete all questions except #12)

2. Name: BURGE KRYSTAL KAY Birth Date: _____
Last First Middle (NOT a public record)

3. Social Security #: _____ Driver License #: _____ State: ARIZONA

4. Place of birth: HOLDREGE NEBRASKA USA Height: 504 Weight: 140 Eyes: GRN Hair: BRO
City State COUNTRY (not county)

5. Name of current/most recent spouse: _____ Birth Date: _____
Last First Middle (NOT a public record)

6. Are you a bona fide resident of Arizona? ☒ Yes ☐ No If yes, what is your date of residency: 1963

7. Daytime telephone number: _____ E-mail address: _____

8. Business Name: PIZZA HUT #30991 Business Phone: 623 / 925 / 5810

9. Business Location Address: 1450 N DYSART AVE STE A10 & 11 AVONDALE ARIZONA MARICOPA 85323
Street (do not use PO Box) City State County Zip

10. List your employment or type of business during the past five (5) years. If unemployed, retired, or student, list residence address.

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYERS NAME OR NAME OF BUSINESS (Street Address, City, State & Zip)
08/2017	CURRENT	CO-TRUSTEE / OWNER	
03/1982	08/2017	OWNER	

(ATTACH ADDITIONAL SHEET IF NECESSARY)

11. Provide your residence address information for the last five (5) years: A.R.S. §4-202(D)

FROM Month/Year	TO Month/Year	RESIDENTIAL Street Address
10/1990	CURRENT	[REDACTED]

(ATTACH ADDITIONAL SHEET IF NECESSARY)

12. As a Controlling Person or Agent, will you be physically present and operating the licensed premises?
If you answered YES, then answer #13 below. If NO, skip to #14. ☐ Yes ☒ No
13. Have you attended a DLLC approved Basic & Management Liquor Law Training Course within the past 3 years? ☐ Yes ☐ No
14. Have you been cited, arrested, indicted, convicted, or summoned into court for violation of ANY criminal law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past five (5) years? ☐ Yes ☒ No
15. Are there ANY administrative law citations, compliance actions or consents, criminal arrests, indictments or summonses pending against you? (Do not include civil traffic tickets.) A.R.S. §4-202, 4-210 ☐ Yes ☒ No
16. Has anyone EVER obtained a judgement against you the subject of which involved fraud or misrepresentation? ☐ Yes ☒ No
17. Have you had a liquor application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No
18. Has an entity in which you are or have been a controlling person had an application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No

If you answered "YES" to any Question 14 through 18 **YOU MUST** attach a signed statement.
Give complete details including dates, agencies involved and dispositions.

CHANGES TO QUESTIONS 14-18 MAY NOT BE ACCEPTED

NOTARY

I (Print Full Name) **KRYSTAL KAY BURGE** hereby declare that I am the Agent/ Controlling Person / Premises Manager filing this application. I have read this document and verify the contents and all statements are true, correct and complete, to the best of my knowledge.

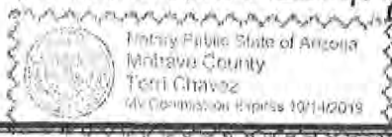
Signature

[REDACTED]

State of Arizona County of Mohave
The foregoing instrument was acknowledged before me this

My Commission Expires on: 10/14/2019 Date

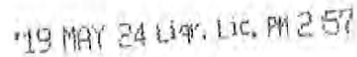
24th Day of April, 2019
Day Month Year



[REDACTED]

The Licensee has authorized the person named on this questionnaire to act as manager for the above License.

PRINT NAME: _____ SIGNATURE: _____



QUESTIONNAIRE
A.R.S. § 4-202, 4-210
Type or Print with Black Ink

FP Current 13-1-17

QUESTIONNAIRE IS TO BE COMPLETED BY EACH CONTROLLING PERSON, AGENT AND MANAGER BEING DISCLOSED TO THE DEPARTMENT. EACH PERSON COMPLETING THIS FORM MUST SUBMIT A BLUE OR BLACK LINED FINGERPRINT CARD ALONG WITH A \$22 FEE. FINGERPRINTS MUST BE DONE BY A LAW ENFORCEMENT AGENCY OR BONA FIDE FINGERPRINT SERVICE. FOR AN ADDITIONAL \$13 FEE, FINGERPRINTS MAY BE DONE AT THE DEPARTMENT OF LIQUOR WHEN ACCOMPANIED BY A COMPLETED APPLICATION.

65758

1. Check the Appropriate Box

☒ Controlling Person☐ Agent☐ Premises Manager

(complete all questions except #12)

2. Name: BURGE JR EVERETT LAWRENCE Birth Date: 1 1 1
Last First Middle (NOT a public record)

3. Social Security #: _____ Driver License #: _____ State: **ARIZONA**

4. Place of birth: HASTINGS NEBRASKA USA Height: 600 Weight: 180 Eyes: BRO Hair: BRO
City State COUNTRY (not county)

5. Name of current/most recent spouse: _____ Birth Date: _____
Last First Middle (NOT a public record)

6. Are you a bona fide resident of Arizona? ☒ Yes ☐ No If yes, what is your date of residency: 1967

7. Daytime telephone number: [REDACTED] E-mail address: [REDACTED]

8. Business Name: PIZZA HUT #30991 Business Phone: 623 / 925 / 5810

9. Business Location Address: 1450 N DYSART AVE STE A10 & 11 AVONDALE ARIZONA MARICOPA 85323

10. List your employment or type of business during the past five (5) years. If unemployed, retired, or student, list residence address.

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYERS NAME OR NAME OF BUSINESS (Street Address, City, State & Zip)
08/2017	CURRENT	CO-TRUSTEE	
04/2003	08/2017	ASSISTANT	

(ATTACH ADDITIONAL SHEET IF NECESSARY)

11. Provide your residence address information for the last five (5) years: A.R.S. §4-202(D)

FROM Month/Year	TO Month/Year	RESIDENTIAL Street Address
10/1990	CURRENT	[REDACTED]

(ATTACH ADDITIONAL SHEET IF NECESSARY)

12. As a Controlling Person or Agent, will you be physically present and operating the licensed premises?
If you answered YES, then answer #13 below. If NO, skip to #14. ☐ Yes ☒ No
13. Have you attended a DLLC approved Basic & Management Liquor Law Training Course within the past 3 years? ☐ Yes ☐ No
14. Have you been cited, arrested, indicted, convicted, or summoned into court for violation of ANY criminal law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past five (5) years? ☐ Yes ☒ No
15. Are there ANY administrative law citations, compliance actions or consents, criminal arrests, indictments or summonses pending against you? (Do not include civil traffic tickets.) A.R.S. §4-202, 4-210 ☐ Yes ☒ No
16. Has anyone EVER obtained a judgement against you the subject of which involved fraud or misrepresentation? ☐ Yes ☒ No
17. Have you had a liquor application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No
18. Has an entity in which you are or have been a controlling person had an application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No

If you answered "YES" to any Question 14 through 18 **YOU MUST** attach a **signed statement**.
Give complete details including dates, agencies involved and dispositions.

CHANGES TO QUESTIONS 14-18 MAY NOT BE ACCEPTED

NOTARY

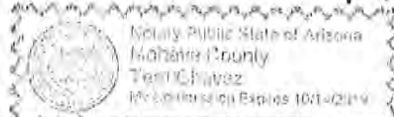
I (Print Full Name) EVERETT LAWRENCE BURGE JR. hereby declare that I am the Agent/ Controlling Person / Premises Manager filing this application. I have read this document and verify the contents and all statements are true, correct and complete, to the best of my knowledge.

Signature: [REDACTED]

State of Arizona County of Mohave
The foregoing instrument was acknowledged before me this

My Commission Expires on: 10/14/2019 Date

24th Day of April, 2019
Day Month Year



The Licensee has authorized the person named on this questionnaire to act as manager for the above license.

PRINT NAME: _____ SIGNATURE: _____

QUESTIONNAIRE
A.R.S. § 4-202, 4-210
Type or Print with Black Ink

FRCURRENT 12-1-17

QUESTIONNAIRE IS TO BE COMPLETED BY EACH CONTROLLING PERSON, AGENT AND MANAGER BEING DISCLOSED TO THE DEPARTMENT. EACH PERSON COMPLETING THIS FORM MUST SUBMIT A BLUE OR BLACK LINED FINGERPRINT CARD ALONG WITH A \$22 FEE. FINGERPRINTS MUST BE DONE BY A LAW ENFORCEMENT AGENCY OR BONA FIDE FINGERPRINT SERVICE. FOR AN ADDITIONAL \$13 FEE, FINGERPRINTS MAY BE DONE AT THE DEPARTMENT OF LIQUOR WHEN ACCOMPANIED BY A COMPLETED APPLICATION.

165758

1. Check the Appropriate Box

☒ Controlling Person☐ Agent☐ Premises Manager

(complete all questions except #12)

2. Name: PETERSON KARA ELISE Birth Date: (NOT a public record)

3. Social Security #: _____ Driver License #: _____ State: **ARIZONA**

4. Place of birth: WHITTIER CA USA Height: 507 Weight: 130 Eyes: GRN Hair: BRO

5. Name of current/most recent spouse: _____ Birth Date: _____
Last First Middle (NOT a public record)

6. Are you a bona fide resident of Arizona? ☒ Yes ☐ No. If yes, what is your date of residency: 1995

7. Daytime telephone number: [REDACTED] E-mail address: [REDACTED]

8. Business Name: PIZZA HUT #30991 Business Phone: 623 / 925 / 5810

7. Business Location Address: 1450 N DYSART AVE STE A10 & 11 AVONDALE ARIZONA MARICOPA 85323

Street (do not use PO Box)	City	State	County	Zip
1450 N DYSART AVE STE A10 & 11	AVONDALE	ARIZONA	MARICOPA	85323

10. List your employment or type of business during the past five (5) years. If unemployed, retired, or student, list residence address.

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYERS NAME OR NAME OF BUSINESS (Street Address, City, State & Zip)
08/2017	CURRENT	CO-TRUSTEE	[REDACTED]
12/1997	08/2017	CLERICAL	

(ATTACH ADDITIONAL SHEET IF NECESSARY)

11. Provide your residence address information for the last five (5) years: A.R.S. §4-202(D)

FROM Month/Year	TO Month/Year	RESIDENTIAL Street Address
03/2013	CURRENT	[REDACTED]
05/2004	Current	

(ATTACH ADDITIONAL SHEET IF NECESSARY)

12. As a Controlling Person or Agent, will you be physically present and operating the licensed premises?
If you answered YES, then answer #13 below. If NO, skip to #14. ☐ Yes ☒ No
13. Have you attended a DLLC approved Basic & Management Liquor Law Training Course within the past 3 years? ☐ Yes ☐ No
14. Have you been cited, arrested, indicted, convicted, or summoned into court for violation of ANY criminal law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past five (5) years? ☐ Yes ☒ No
15. Are there ANY administrative law citations, compliance actions or consents, criminal arrests, indictments or summonses pending against you? (Do not include civil traffic tickets.) A.R.S. §4-202, 4-210 ☐ Yes ☒ No
16. Has anyone EVER obtained a judgement against you the subject of which involved fraud or misrepresentation? ☐ Yes ☒ No
17. Have you had a liquor application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No
18. Has an entity in which you are or have been a controlling person had an application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No

If you answered "YES" to any Question 14 through 18 **YOU MUST** attach a signed statement.
Give complete details including dates, agencies involved and dispositions.

CHANGES TO QUESTIONS 14-18 MAY NOT BE ACCEPTED

NOTARY

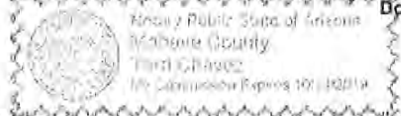
I (Print Full Name) **KARA ELISE PETERSON** hereby declare that I am the Agent/ Controlling Person / Premises Manager filing this application. I have read this document and verify the contents and all statements are true, correct and complete, to the best of my knowledge.

Signatures: [REDACTED]

State of Arizona County of Mohave
The foregoing instrument was acknowledged before me this

My Commission Expires on: 10/14/2019
Date

24th Day of April, 2019
Day Month Year



The Licensee has authorized the person named on this questionnaire to act as manager for the above License.

PRINT NAME: _____

SIGNATURE: _____

19 MAY 24 11:47 AM



Arizona Department of Liquor Licenses and Control
800 W Washington 5th Floor
Phoenix, AZ 85007-2934
www.azliquor.gov
(602) 542-5141

QUESTIONNAIRE
A.R.S. § 4-202, 4-210
Type or Print with Black Ink

The fees allowed by R19-1-102 will be charged for all dishonored checks.

FP current 6-8-18

ATTENTION APPLICANT: This is a legally binding document. Please type or print in black ink. An investigation of your background will be conducted. Incomplete applications will not be accepted. False or misleading answers may result in the denial or revocation of a license or permit and could result in criminal prosecution.

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Liquor License#: 65758

1. Check the
Appropriate
Box

☒ Controlling Person ☐ Agent

☐ Premises Manager
(complete all questions except #12)

2. Name: PETERSON MARK TODD Birth Date: (NOT a public record)
Last First Middle

3. Social Security #: Driver License #: 1 State: ARIZONA

4. Place of birth: HOLDREGE NEBRASKA USA Height: 600 Weight: 185 Eyes: BLU Hair: BRO
City State COUNTRY (not county)

5. Name of current/most recent spouse: Birth Date: (NOT a public record)
Last First Middle

6. Are you a bona fide resident of Arizona? ☒ Yes ☐ No If yes, what is your date of residency: 1963

7. Daytime telephone number: E-mail address:

8. Business Name: PIZZA HUT #30991 Business Phone: 623, 925, 5810

9. Business Location Address: 1450 N DYSART AVE STE A10 & 11 AVONDALE ARIZONA MARICOPA 85323
Street (do not use PO Box) City State County Zip

10. List your employment or type of business during the past five (5) years. If unemployed, retired, or student, list residence address.

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYERS NAME OR NAME OF BUSINESS (Street Address, City, State & Zip)
08/2017	CURRENT	CO-TRUSTEE / OWNER	
02/1982	08/2017	OWNER	

(ATTACH ADDITIONAL SHEET IF NECESSARY)

11. Provide your residence address information for the last five (5) years: A.R.S. §4-202(D)

FROM Month/Year	TO Month/Year	RESIDENTIAL Street Address
03/2013	CURRENT	
05/2004	Current	

(ATTACH ADDITIONAL SHEET IF NECESSARY)

12. As a Controlling Person or Agent, will you be physically present and operating the licensed premises?
If you answered YES, then answer #13 below. If NO, skip to #14. ☐ Yes ☒ No
13. Have you attended a DLLC approved Basic & Management Liquor Law Training Course within the past 3 years? ☐ Yes ☐ No
14. Have you been cited, arrested, indicted, convicted, or summoned into court for violation of ANY criminal law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past five (5) years? ☐ Yes ☒ No
15. Are there ANY administrative law citations, compliance actions or consents, criminal arrests, indictments or summonses pending against you? (Do not include civil traffic tickets.) A.R.S. §4-202, 4-210 ☐ Yes ☒ No
16. Has anyone EVER obtained a judgement against you the subject of which involved fraud or misrepresentation? ☐ Yes ☒ No
17. Have you had a liquor application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No
18. Has an entity in which you are or have been a controlling person had an application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No

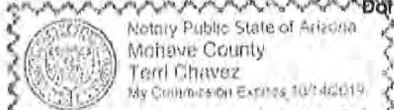
If you answered "YES" to any Question 14 through 18 **YOU MUST** attach a signed statement.
Give complete details including dates, agencies involved and dispositions.
CHANGES TO QUESTIONS 14-18 MAY NOT BE ACCEPTED

NOTARY

I (Print Full Name) **MARK TODD PETERSON** hereby declare that I am the Agent/ Controlling Person / Premises Manager filing this application. I have read this document and verify the contents and all statements are true, correct and complete, to the best of my knowledge.

Signature: [Redacted] State of Arizona County of Mohave
The foregoing instrument was acknowledged before me this

My Commission Expires on: 10/14/2019 24th Day of April, 2019
Date Day Month Year



The Licensee has authorized the person named on this questionnaire to act as manager for the above License.

PRINT NAME: _____ SIGNATURE: _____

19 MAY 24 Lgr. Lic. # 257



Arizona Department of Liquor Licenses and Control
800 W Washington 5th Floor
Phoenix, AZ 85007-2934
www.azliquor.gov
(602) 542-5141

QUESTIONNAIRE
A.R.S. § 4-202, 4-210
Type or Print with Black Ink

The fees allowed by R19-1-102 will be charged for all dishonored checks.

804-736

ATTENTION APPLICANT: This is a legally binding document. Please type or print in black ink. An investigation of your background will be conducted. Incomplete applications will not be accepted. False or misleading answers may result in the denial or revocation of a license or permit and could result in criminal prosecution.

Attention local governments: Social security and birth date information is confidential. This information may be given to law enforcement agencies for background checks only.

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Liquor License#: 65758

1. Check the
Appropriate
Box →

☐ Controlling Person

☐ Agent

☒ Premises Manager
(complete all questions except #12)

2. Name: SCHILLING LYNN MARIE Birth Date: _____
Last First Middle (NOT a public record)

3. Social Security #: _____ Driver License #: _____ State: ARIZONA

4. Place of birth: ABILENE TEXAS USA Height: 510 Weight: 185 Eyes: GRN Hair: BRO
City State COUNTRY (not county)

5. Name of current/most recent spouse: _____ Birth Date: _____
Last First Middle (NOT a public record)

6. Are you a bona fide resident of Arizona? ☒ Yes ☐ No If yes, what is your date of residency: 07/1976

7. Daytime telephone number: _____ E-mail address: _____

8. Business Name: PIZZA HUT #30991 Business Phone: 623 / 925 / 5810

9. Business Location Address: 1450 N DYSART AVE STE A10 & 11 AVONDALE ARIZONA MARICOPA 85323
Street (do not use PO Box) City State County Zip

10. List your employment or type of business during the past five (5) years. If unemployed, retired, or student, list residence address.

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYERS NAME OR NAME OF BUSINESS (Street Address, City, State & Zip)
10/2010	CURRENT	RESTAURANT	

(ATTACH ADDITIONAL SHEET IF NECESSARY)

11. Provide your residence address information for the last five (5) years: A.R.S. §4-202(D)

FROM Month/Year	TO Month/Year	RESIDENTIAL Street Address
07/2001	CURRENT	[REDACTED]

(ATTACH ADDITIONAL SHEET IF NECESSARY)

12. As a Controlling Person or Agent, will you be physically present and operating the licensed premises?
If you answered YES, then answer #13 below. If NO, skip to #14. ☒ Yes ☐ No
13. Have you attended a DLLC approved Basic & Management Liquor Law Training Course within the past 3 years? ☒ Yes ☐ No
14. Have you been cited, arrested, indicted, convicted, or summoned into court for violation of ANY criminal law or ordinance, regardless of the disposition, even if dismissed or expunged, within the past five (5) years? ☐ Yes ☒ No
15. Are there ANY administrative law citations, compliance actions or consents, criminal arrests, indictments or summonses pending against you? (Do not include civil traffic tickets.) A.R.S. §4-202, 4-210 ☐ Yes ☒ No
16. Has anyone EVER obtained a judgement against you the subject of which involved fraud or misrepresentation? ☐ Yes ☒ No
17. Have you had a liquor application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No
18. Has an entity in which you are or have been a controlling person had an application or license rejected, denied, revoked or suspended in or outside of Arizona within the last five years? A.R.S. §4-202(D) ☐ Yes ☒ No

If you answered "YES" to any Question 14 through 18 **YOU MUST** attach a **signed statement**.
Give complete details including dates, agencies involved and dispositions.

CHANGES TO QUESTIONS 14-18 MAY NOT BE ACCEPTED

NOTARY

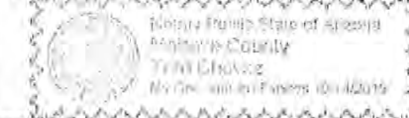
I (Print Full Name) LYNN MARIE SCHILLING hereby declare that I am the Agent/ Controlling Person / Premises Manager filing this application. I have read this document and verify the contents and all statements are true, correct and complete, to the best of my knowledge.

Signature: [REDACTED]

State of Arizona County of Mohave
The foregoing instrument was acknowledged before me this

My Commission Expires on: 10/14/2019 Date

24th Day of April, 2019
Day Month Year



[REDACTED]

The Licensee has authorized the person named on this questionnaire to act as manager for the above License.

PRINT NAME: Theresa Jane Morse

SIGNATURE: [REDACTED]

19 MAY 24 1977

Certificate of Completion
For
Title 4 **BASIC** Liquor Law Training

☒	On-sale
☒	Off-sale
☐	On- and off-sale

A Certificate of Completion must be on a form provided by the Arizona Department of Liquor. Certificates are completed by a state-approved training provider and, when issued, the Certificate is signed by the course participant.

The State requires BASIC Title 4 training only as a prerequisite for MANAGEMENT Title 4 training or as a result of a liquor law violation. Persons required to have BASIC Title 4 training are listed at the base of this Certificate. Licensees sometimes require BASIC Title 4 training a condition of employment.

A replacement Certificate of Completion for Title 4 training must be available through the training provider for two years after the training completion date.

Student Information

Lynn Marie Schilling

(please print)

Signature

Training Completion Date

9/29/18

Certificate Expiration Date

(three years from completion date)

9/29/21

Training Provider Information

ABC – Arizona Business Council for Alcohol Education

Company Name

Mailing Address

Daytime Contact Phone Number

Jesus Altamirano

Instructor Name (please print)

I, Jesus Altamirano, certify that the above named individual did successfully complete

Title 4 BASIC Training in accordance with A.R.S. §4-112(G)(2) and Arizona Administrative Code (A.A.C.)R19-1-103 using training course content and materials approved by the Arizona Department of Liquor Licenses and Control.

I understand that misuse of this Certificate of Completion can result in the revocation of State-approval for the Title 4 Training Provider named in this section as provided by A.A.C. R19-1-103(E) and (F).

Instructor Signature

29/9/18

Day Mo Year

Persons required to complete BASIC & MANAGEMENT Title 4 training: 1) owner(s) actively involved in the daily business operations of a liquor-licensed business of a series listed below

2) licensees, agents and managers actively involved in the daily business operations of a liquor-licensed business of a series listed below

In-state Microbrewery (series 3)

Government (series 5)

Bar (series 6)

Beer & Wine Bar (series 7)

Conveyance (series 8)

Liquor Store (series 9)

Private Club (series 14)

Hotel/Motel w/restaurant (series 11)

Restaurant (series 12)

In-state Farm Winery (series 13)

Beer & Wine Store (series 10)

Liquor license applications (initial and renewal) are not complete until valid Certificates of Completion for all required persons have been submitted to the Department of Liquor.

The questionnaire (which designates a manager to a location) and the agent change form (which assigns a new agent to active liquor licenses) are not complete until valid Certificates of Completion for all required persons have been submitted to the Department of Liquor.

Certificate of Completion
For
Title 4 **MANAGEMENT** Liquor Law Training

A Certificate of Completion must be on a form provided by the Arizona Department of Liquor. Certificates are completed by a state-approved training provider and, when issued, the Certificate is signed by the course participant.

Basic Title 4 training is a prerequisite for MANAGEMENT Title 4 training. A valid Certificate of Completion for BASIC Title 4 training must be on file at the Department of Liquor and satisfactory completion of a State-approved BASIC Title 4 course must be verified by the training provider prior to issuing a Certificate of Completion for MANAGEMENT Title 4 training.

A replacement Certificate of Completion for Title 4 training must be available through the training provider for two years after the training completion date.

Student Information

Lynn Marie Schilling

(print)

9/29/18
Training Completion Date

9/29/21
Certificate Expiration Date
(three years from completion date)

Training Provider Information

ABC - Arizona Business Council for Alcohol Education

Company Name

Mailing Address

Daytime Contact Phone Number

I, Jesus Altamirano certify that the above named individual did successfully complete

Instructor Name (please print)

Title 4 **MANAGEMENT** Training in accordance with A.R.S. § 4-112(G)(2) and Arizona Administrative Code (A.A.C.) R19-1-103 using training course content and materials approved by the Arizona Department of Liquor Licenses and Control. I understand that misuse of this Certificate of Completion can result in the revocation of State-approval for the Title 4 Training Provider named in this section as provided by A.A.C. R19-1-103(E) and (F).

[Signature]
Instructor Signature

29 9 18
Day Mo Year

Persons required to complete BASIC & MANAGEMENT Title 4 training: 1) owner(s) actively involved in the daily business operations of a liquor-licensed business of a series listed below
2) licensees, agents and managers actively involved in the daily business operations of a liquor-licensed business of a series listed below

In-state Microbrewery (series 3)
Conveyance (series 8)
Restaurant (series 12)

Government (series 5)
Liquor Store (series 7)
In-state Farm Winery (series 13)

Bar (series 6)
Private Club (series 14)

Beer & Wine Bar (series 7)
Hotel/Motel w/restaurant (series 11)
Beer & Wine Store (series 10)

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The questionnaire (which designates a manager to a location) and the agent change form (which assigns a new agent to active liquor licenses) are not complete until valid Certificates of Completion for all required persons have been submitted to the Department of Liquor.



DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

☒ SERIES 10 – BEER & WINE STORE

ROUTING:

- ☒ POLICE DEPARTMENT
☐ FIRE DEPARTMENT
☐ DEVELOPMENT SERVICES
☐ FINANCE DEPARTMENT

APPLICANT'S NAME: THERESA JUNE MORSE

BUSINESS NAME: PIZZA HUT #30991

BUSINESS ADDRESS: 1450 N DYSART AVENUE #A10 – A11

CITY: AVONDALE **STATE:** AZ **ZIP CODE:** 85323

DEPARTMENTAL COMMENTS:

☒ APPROVED

☐ DENIED



SIGNATURE

6/18/19

DATE

POLICE LIEUTENANT

TITLE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: JULY 22, 2019
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JUNE 27, 2019

DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

☒ SERIES 10 – BEER & WINE STORE

ROUTING:

☐ POLICE DEPARTMENT

☒ FIRE DEPARTMENT

☐ DEVELOPMENT SERVICES

☐ FINANCE DEPARTMENT

APPLICANT'S NAME: THERESA JUNE MORSE

BUSINESS NAME: PIZZA HUT #30991

BUSINESS ADDRESS: 1450 N DYSART AVENUE #A10 – A11

CITY: AVONDALE **STATE:** AZ **ZIP CODE:** 85323

DEPARTMENTAL COMMENTS:

No Further Comments

☒ APPROVED

☐ DENIED

J. Napier

SIGNATURE

Fire Marshal

TITLE

6/24/19

DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: JULY 22, 2019
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JUNE 27, 2019

DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

☒ **SERIES 10 – BEER & WINE STORE**

ROUTING:

☐ **POLICE DEPARTMENT**

☐ **FIRE DEPARTMENT**

☒ **DEVELOPMENT SERVICES**

☐ **FINANCE DEPARTMENT**

APPLICANT'S NAME: THERESA JUNE MORSE

BUSINESS NAME: PIZZA HUT #30991

BUSINESS ADDRESS: 1450 N DYSART AVENUE #A10 – A11

CITY: AVONDALE **STATE:** AZ **ZIP CODE:** 85323

DEPARTMENTAL COMMENTS:

☒ **APPROVED**
☐ **DENIED**



SIGNATURE

Division Lead Planner

TITLE

6-18-19

DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: **JULY 22, 2019**
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: **JUNE 27, 2019**



Development Services & Engineering Department

DATE: June 18, 2019

TO: Marcella Carrillo, City Clerk

PREPARED BY: Ken Galica, Division Lead Planner (623) 333-4019

SUBJECT: Series 10 (Beer and Wine Store) Liquor License
Pizza Hut
1450 North Dysart Road, Suites A10 & A11

Pizza Hut is an existing restaurant in the Avondale Plaza shopping center located at the southwest corner of Van Buren Street and Dysart Road. The suites occupied by Pizza Hut are adjacent to Van Buren Street near the northwest corner of the shopping center. The restaurant primarily caters to carry-out and delivery customers, with only one small table provided in the restaurant's public area for on-site dining. The requested Series 10 (Beer & Wine Store) license will allow the business to sell beer and wine (no liquor) to its carry-out and delivery customers for consumption off-premises. Consumption will not be permitted on-premises.

State Statute requires a Series 10 liquor license to be separated a minimum of 300 feet from K-12 schools or church buildings. It also requires 300 feet separation from fenced recreational areas that are part of a school building. There are no church buildings, K-12 school buildings, or fenced recreational areas associated with K-12 schools within 300-feet of the Pizza Hut location.

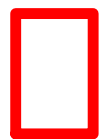
The General Plan designates the property as Local Commercial and the current zoning is C-2 (Community Commercial). The use of the property as a restaurant is compatible with both the General Plan designation and C-2 zoning.

Staff recommends approval of this request.

Attachment: Aerial Photograph
Zoning Vicinity Map
300-Foot Separation Map



Aerial Photograph



Business Location

City of Goodyear

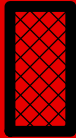
Van Buren Street

Dysart Road

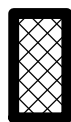
C-2

C-2

R-4

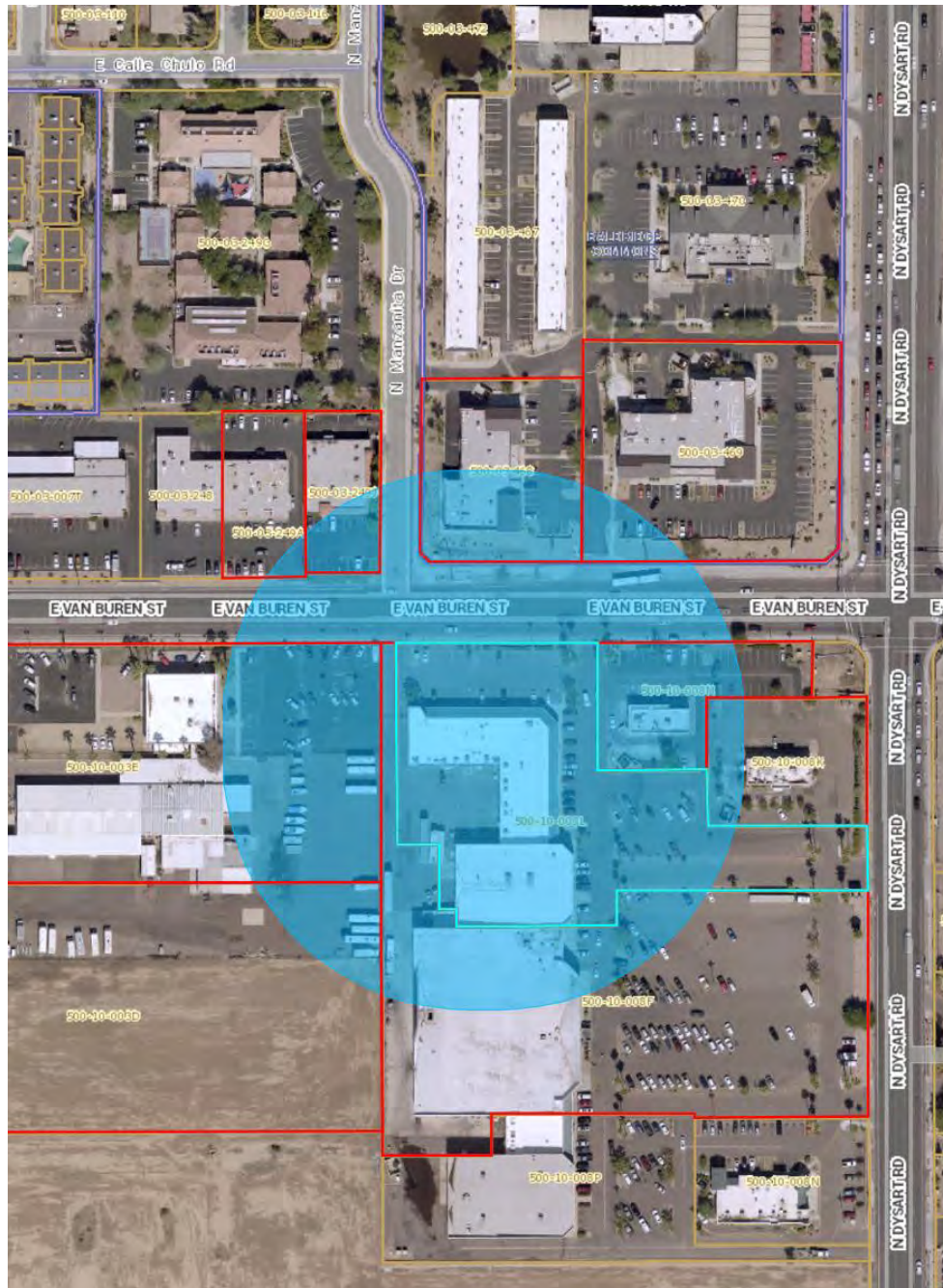


Zoning Vicinity Map



Business Location

The blue shaded area represents a 300-foot buffer around the proposed licensed premises. No schools, churches or fenced recreational yards associated with schools or churches are located within the mandatory buffer area.





DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

☒ SERIES 10 – BEER & WINE STORE

ROUTING:

☐ POLICE DEPARTMENT

☐ FIRE DEPARTMENT

☐ DEVELOPMENT SERVICES

☒ FINANCE DEPARTMENT

APPLICANT'S NAME: THERESA JUNE MORSE

BUSINESS NAME: PIZZA HUT #30991

BUSINESS ADDRESS: 1450 N DYSART AVENUE #A10 – A11

CITY: AVONDALE **STATE:** AZ **ZIP CODE:** 85323

DEPARTMENTAL COMMENTS: No concerns

☒ APPROVED

☐ DENIED

Daniel Vazquez

SIGNATURE

Privilege Tax Auditor

TITLE

6/19/19

DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: JULY 22, 2019
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JUNE 27, 2019







NOTICE

APPLICATION TO SELL ALCOHOLIC BEVERAGES
DATE POSTED: JUNE 19, 2019

A HEARING ON A LIQUOR LICENSE APPLICATION
SHALL BE HELD BEFORE THE AVONDALE CITY COUNCIL.

LOCATION: 11465 WEST CIVIC CENTER DRIVE
DATE: APRIL 22, 2019
AT 7:00 P.M.

(HEARING DATES SUBJECT TO CHANGE;
TO VERIFY CALL: 623-333-1200)

SERIES 10: BEER AND WINE STORE

THE LOCAL GOVERNING BODY WILL RECOMMEND TO THE STATE LIQUOR BOARD
WHETHER THE BOARD SHOULD GRANT OR DENY THE LICENSE. THE STATE LIQUOR
BOARD MAY HOLD A HEARING TO CONSIDER THE RECOMMENDATION OF THE LOCAL
GOVERNING BODY. ANY PERSON PERSONS OR FIRM OR FIRM'S EMPLOYEE
WHO IS A LIQUOR LICENSEE OR WHO IS A LIQUOR LICENSEE'S EMPLOYEE
SHALL BE REQUIRED TO PROVIDE INFORMATION REGARDING ANY
SOURCES BEFORE THE BOARD AND NOTICE OF ANY BOARD HEARING REGARDING

PIZZA HUT #30991
1450 N DYSART AVENUE #A10-A11
AVONDALE, AZ 85323

THIS APPLICATION, CONTACT 623-333-1200, 9:00 AM - 5:00 PM, MONDAY - FRIDAY
FOR INFORMATION. 42 ARIZONA STATUTES, 42-1501, 42-1502, 42-1503, 42-1504, 42-1505, 42-1506, 42-1507, 42-1508, 42-1509, 42-1510, 42-1511, 42-1512, 42-1513, 42-1514, 42-1515, 42-1516, 42-1517, 42-1518, 42-1519, 42-1520, 42-1521, 42-1522, 42-1523, 42-1524, 42-1525, 42-1526, 42-1527, 42-1528, 42-1529, 42-1530, 42-1531, 42-1532, 42-1533, 42-1534, 42-1535, 42-1536, 42-1537, 42-1538, 42-1539, 42-1540, 42-1541, 42-1542, 42-1543, 42-1544, 42-1545, 42-1546, 42-1547, 42-1548, 42-1549, 42-1550, 42-1551, 42-1552, 42-1553, 42-1554, 42-1555, 42-1556, 42-1557, 42-1558, 42-1559, 42-1560, 42-1561, 42-1562, 42-1563, 42-1564, 42-1565, 42-1566, 42-1567, 42-1568, 42-1569, 42-1570, 42-1571, 42-1572, 42-1573, 42-1574, 42-1575, 42-1576, 42-1577, 42-1578, 42-1579, 42-1580, 42-1581, 42-1582, 42-1583, 42-1584, 42-1585, 42-1586, 42-1587, 42-1588, 42-1589, 42-1590, 42-1591, 42-1592, 42-1593, 42-1594, 42-1595, 42-1596, 42-1597, 42-1598, 42-1599, 42-1600, 42-1601, 42-1602, 42-1603, 42-1604, 42-1605, 42-1606, 42-1607, 42-1608, 42-1609, 42-1610, 42-1611, 42-1612, 42-1613, 42-1614, 42-1615, 42-1616, 42-1617, 42-1618, 42-1619, 42-1620, 42-1621, 42-1622, 42-1623, 42-1624, 42-1625, 42-1626, 42-1627, 42-1628, 42-1629, 42-1630, 42-1631, 42-1632, 42-1633, 42-1634, 42-1635, 42-1636, 42-1637, 42-1638, 42-1639, 42-1640, 42-1641, 42-1642, 42-1643, 42-1644, 42-1645, 42-1646, 42-1647, 42-1648, 42-1649, 42-1650, 42-1651, 42-1652, 42-1653, 42-1654, 42-1655, 42-1656, 42-1657, 42-1658, 42-1659, 42-1660, 42-1661, 42-1662, 42-1663, 42-1664, 42-1665, 42-1666, 42-1667, 42-1668, 42-1669, 42-1670, 42-1671, 42-1672, 42-1673, 42-1674, 42-1675, 42-1676, 42-1677, 42-1678, 42-1679, 42-1680, 42-1681, 42-1682, 42-1683, 42-1684, 42-1685, 42-1686, 42-1687, 42-1688, 42-1689, 42-1690, 42-1691, 42-1692, 42-1693, 42-1694, 42-1695, 42-1696, 42-1697, 42-1698, 42-1699, 42-1700, 42-1701, 42-1702, 42-1703, 42-1704, 42-1705, 42-1706, 42-1707, 42-1708, 42-1709, 42-1710, 42-1711, 42-1712, 42-1713, 42-1714, 42-1715, 42-1716, 42-1717, 42-1718, 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CITY COUNCIL REPORT

SUBJECT: Designation of Chief Financial Officer for the Uniform Expenditure Reporting System

MEETING DATE: 7/22/2019

TO: Mayor and Council

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

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

PURPOSE:

City Council will consider a request to designate the Finance and Budget Director as the Chief Financial Officer for the submittal of the annual expenditure limitation report. The Council will take appropriate action.

BACKGROUND:

The city is required to complete an annual expenditure report using the state Auditor General's uniform reporting system. This reporting system demonstrates the city's compliance with the statutory expenditure limitation.

DISCUSSION:

The city is required to designate an individual as the Chief Financial Officer who is responsible for the submission of the required reports. This action names the city's Finance and Budget Director, Lindsey Duncan as the Chief Financial Officer for these purposes.

BUDGET IMPACT:

There is no budgetary impact associated with this action.

RECOMMENDATION:

Staff recommends the approval of the designation the Finance and Budget Director as the Chief Financial Officer for the submission of the annual expenditure limitation report.



CITY COUNCIL REPORT

SUBJECT: Contributions Assistance Program Fiscal Year 2019-2020 Funding Recommendations

MEETING DATE: 7/22/2019

TO: Mayor and Council

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

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

PURPOSE:

City Council will consider a request to approve the funding recommendations made by the City Council Subcommittee for distribution of the proposed \$110,000 Contributions Assistance Program fund. The Council will take appropriate action.

BACKGROUND:

The Contributions Assistance Program was established by City Council to provide a supplemental funding source to organizations providing services to the residents of the City of Avondale. The adopted budget for fiscal year 2019-20 allocates \$110,000 for the Contributions Assistance Program, which includes \$10,000 that is specifically designated to support administrative costs associated with each project. City Council has appointed members to the Council Subcommittee for this process. The Council Subcommittee for FY 2019-20 includes Councilmember Tina Conde, Councilmember Veronica Malone and Councilmember Curtis Nielson.

This program continues to be in demand by organizations serving Avondale residents. For fiscal year 2019-20, applications were received from 31 non-profit agencies requesting a total amount of \$245,108.

DISCUSSION:

The Subcommittee reviewed applications on June 12, 2019 based on the following criteria:

- Provision of direct services which improve the health and welfare of Avondale residents
- Current, timely and accurate reports from previous recipients
- Ability to generate revenue from other sources
- Services and initiatives that support and address City Council goals
- Services provided at the Care1st Avondale Resource and Housing Center

The Subcommittee has made the following funding recommendations:

- A New Leaf, Inc. Siemer-\$6,000
- Agua Fria Food Bank-\$8,000
- AZ Burn Foundation-\$1,600
- Benevilla-\$2,500

- Boys and Girls Clubs of Metropolitan Phoenix-\$3,400
- Chicanos por la Causa-\$2,500
- Community Bridges-\$8,500
- Cornerstone Community Development \$2,500
- Diana Gregory Outreach-\$3,000
- Helping Families in Need-\$8,000
- Homeless Youth Connection-\$3,500
- Jobs for Arizona Graduates-\$2,500
- Lutheran Social Services-\$7,500
- Mission of Mercy-\$4,000
- Mutts on a Mission-\$1,000
- New Life Center-\$5,000
- Pendergast Elementary Community Foundation-\$5,000
- Phoenix Cancer Support Network-\$1,000
- Southwest Human Development-\$3,000
- Southwest Valley YMCA-\$4,000
- St. John Vianney Pantry-\$5,000
- St. Mary's Food Bank Alliance-\$5,000
- Teen Lifeline-\$2,500
- Trellis-\$5,000

An additional 10 percent will be added to each of these amounts to support the administrative cost associated with each project.

BUDGET IMPACT:

The budget for fiscal year 2019-20 allocates \$110,000 for the Contributions Assistance Program. Ten percent of this funding has been designated for administrative costs. Funding for the Program is in the non-departmental fund, 101-5300-00-6200.

RECOMMENDATION:

Staff recommends that City Council approve the funding recommendations made by the Council subcommittee and an additional 10 percent each for distribution from the Contributions Assistance Program Fund for fiscal year 2019/20.



CITY COUNCIL REPORT

SUBJECT: Ordinance 1696-719 - Amending City Code Chapter 4.5 Cable Television Systems
- Uniform Video Service License Agreements

MEETING DATE: 7/22/2019

TO: Mayor and Council

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

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

PURPOSE:

City Council will consider a request to adopt Ordinance 1696-719, amending City Code Chapter 4.5 Cable Television Systems pertaining to video service license agreements and authorize the Mayor and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

In 2018, the Arizona State Legislature enacted uniform video service license legislation that requires cities and towns to adopt a standard uniform video service license agreement and application for the uniform license by July 1, 2019.

Senate Bill 1140 (Laws 2018, Ch. 331) preempts city and town regulation of the licensing of video service providers and the use of video service. The legislation mandated that cities and towns issue uniform video service licenses to video service providers beginning July 1, 2019. Municipalities were required to adopt a standard license agreement and a standard form of application and affidavit signed by one of the principal executive officers or general partners of the applicant. A video service provider means any person that provides or offers to provide video service over a video service network to subscribers in Arizona and includes incumbent cable operators (those already providing video service in Arizona through a local license on December 31, 2019 who choose to terminate the local license). A.R.S. § 9-1401.

On June 27, 2019, City Council adopted the uniform video service license agreement to comply with the July 1st legislative deadline. Additionally, an amendment to the existing City Code Chapter 4.5 - Cable Television System is being amended to provide before and after guidance as some agreements may elect to continue with the previous structure and others may elect the new standard. The amendment to the City Code, unlike the Uniform License Agreement, was not required to be adopted by the July 1st legislative deadline.

DISCUSSION:

Incumbent Cable Operators and Holdover Cable Operators

From January 1, 2020 until June 30, 2020, incumbent cable operators may elect to continue to operate pursuant to the local license or terminate the local license and apply for a uniform video service license. If the incumbent cable operator obtains a uniform video service license, the local license is terminated when the uniform license is issued and the operator operates within the service area defined in the local license. A.R.S. § 9-1412. If the operator does not timely elect to terminate a local license, the person continues to operate the cable system as a holdover cable operator pursuant to the local license. A.R.S. § 9-1413. Following the

natural termination of the local license, the holdover cable operator must apply for a uniform video service license at least one month prior to the expiration of the local license.

Application and Affidavit Requirements

The legislation requires the application and affidavit to include the service area, the uniform license agreement provisions, the term of the license, and an agreement to pay any fees and charges. The application and affidavit must be filed with the municipal clerk and must contain the service area where the applicant intends to provide video service, contact information and the date when service will begin (if not an incumbent provider), the term of the license, and an agreement to pay all lawful fees and charges imposed by the municipality. The city or town has fifteen business days to make an initial determination and reject the application and affidavit if incomplete or otherwise deficient (by written notice). A.R.S. § 9-1414.

Uniform Video Service License Agreement

The uniform video services license agreement contains sixteen separate provisions including the date on which the provider expects to provide video services in the area, a description of the service area to be served, a requirement that the provider will pay the license fees and all other lawful charges imposed by cities and towns, and requirements that the provider comply with federal, state and local laws, consumer privacy mandates and public, education and government programming requirements. .A.R.S § 9-1411. The city or town must issue the uniform license to the applicant thirty days after the filing of a completed application and affidavit. .A.R.S § 9-1415.

Code Amendment

This request will provide before and after guidance as some agreements may elect to continue with the previous structure and others may elect the new standard.

BUDGET IMPACT:

This item has no budget impact.

RECOMMENDATION:

Staff recommends City Council adopt an Ordinance amending City Code Chapter 4.5 Cable Television Systems pertaining to video service license agreements and authorize the Mayor and City Clerk to execute the necessary documents.

ORDINANCE NO. 1696-719

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING CHAPTER 4.5 OF THE AVONDALE CITY CODE BY AMENDING SECTION 4.5-1 PERTAINING TO DEFINITIONS; AND AMENDING SECTION 4.5-2 PERTAINING TO PROCEDURES FOR GRANTING, RENEWING, TRANSFERRING AND ACQUIRING BY CITY OF CABLE TELEVISION LICENSES; AND AMENDING SECTION 4.5-3 PERTAINING TO INITIAL AND RENEWAL LICENSE REQUIREMENTS; AND AMENDING SECTION 4.5-5 PERTAINING TO REGULATIONS PERTAINING TO USE OF CITY STREETS AND PUBLIC RIGHT-OF-WAY; AND AMENDING SECTION 4.5-7 PERTAINING TO ADMINISTRATION AND ENFORCEMENT PROVISIONS; AND PROVIDING FOR SEVERABILITY AND FOR AN EFFECTIVE DATE.

WHEREAS, Arizona Senate Bill 1140, passed into law in 2018, declared Video Service Provider licensing a matter of statewide concern and requires local authorities to adopt the new Arizona Uniform Video Service License Agreement, Uniform Video Service License Application and Affidavit before July 1, 2019; and

WHEREAS, the City Council desires to adopt the new Arizona Uniform Video Service License Agreement, Uniform Video Service License Application and Affidavit before July 1, 2019 to ensure that the city complies with State law.

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. Chapter 4.5 of the Avondale City Code is amended by amending Section 4.5-1 pertaining to Definitions and which shall read as follows:

4.5-1. - Definitions.

For a video services license granted on or after January 1, 2020, the words, terms, abbreviations, and their derivations shall have the same meaning ascribed in A.R.S. § 9-1401, as amended. Video services licenses granted on or after January 1, 2020 shall also be subject to the words, terms, abbreviations, and their derivations in Section 4.5-1, as amended, that are not inconsistent or conflict with those set forth in A.R.S. § 9-1401. For a cable license granted on or before December 31, 2019, the following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context

clearly indicates a different meaning, another division of this chapter provides a different meaning, or an existing license/franchise or use agreement has specific definitions approved as part of its terms:

Access channel shall mean a channel dedicated in whole or in part for local non-commercial programming which is not originated by a cable licensee; provided that such access programming shall not include (i) the retransmission of local television broadcast signals or (ii) programming produced by persons unaffiliated with the cable licensee under the provisions of Section 612 of the Cable Act.

Affiliate means any person who owns or controls, is owned by or controlled by, or is under common ownership or control with licensee.

Applicant means a person, as defined in this section, who submits a proposal to provide cable service to the City.

Basic service shall mean the tier that includes the retransmission of local television broadcast signals.

Cable Act means the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992 and including the Telecommunication Act of 1996, as the same may be amended from time to time.

Cable license means that ordinance or resolution which contains the right, authority or grant, given by the City enabling a person to construct, operate and maintain a cable system.

Cable service means the transmission to subscribers of video programming or other programming service and subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service.

Cable system means any facility consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community. Cable system does not include:

- (1) A facility that serves fewer than fifty (50) subscribers.
- (2) A facility that serves subscribers without using any public street, road or alley.
- (3) A facility that serves only to retransmit the television signals of one (1) or more television broadcast stations.
- (4) A facility of a common carrier that is subject, in whole or in part, to 47 United States Code Sections 201 through 276, except that the facility is considered a cable system, other than for purposes of 47 United States Code Section 541(c), to the extent the facility is used in the transmission of video programming directly to subscribers, unless the extent of the use is solely to provide interactive on-demand services.
- (5) An open video system that complies with 47 United States Code Section 573.
- (6) A facility of an electric utility that is used solely for operating its electric utility system.

City shall mean the City of Chandler, a municipal corporation of the State of Arizona, in its present incorporated form or in any later reorganized, consolidated, enlarged or

reincorporated form.

City building means a building that is both (a) occupied by the City or owned by the City and (b) used for municipal purposes.

City Council shall mean the present governing body of the City or any future Council constituting the legislative body of the City.

City Manager shall mean the City Manager of the City of Chandler or the City Manager's designee.

Commercial mobile radio services means two-way voice commercial mobile radio services as defined by the Federal Communications Commission in 47 United States Code Section 157.

Completion of construction or *complete construction* shall mean "satisfactorily complete" and "fully activate." In each instance, these terms shall mean that strand has been put up and all necessary cable (including trunk and feeder cable) has been lashed, for underground construction, that all cable has been laid and trenches refilled, all road surfaces restored and, except as prevented by weather conditions or delayed because of seasons, landscaping restored; that all amplifier housings and modules have been installed, that power supplies have been installed, that construction of the head ends or hubs has been completed and all necessary processing equipment has been installed; and that any and all other construction necessary for the cable system to be ready to deliver cable service to subscribers has been completed. Final balancing shall have been conducted on each otherwise completed segment of the cable system before direct marketing of that segment begins. It is expected that segments of less than the entire cable system will be activated and final balanced when completed.

Construction of any segment or of the entire cable system will not be considered complete until final balance has been conducted on such segment (or in the case of the entire cable system, until final balancing and proof of performance tests have been conducted on all segments of corrected.) The term "completion of construction" does not include marketing and installation of subscriber service.

Days shall mean calendar days, unless otherwise specified.

Department means that Department, Division or City employee to whom responsibility for the administration of this chapter has been delegated by the City Manager. Generally the Department will be the designated City Engineer or the Director of the Development Services Department and persons seeking permits pursuant to this chapter may obtain necessary forms and information from the permit counter in the Development Services Department.

Downtown means the land area bounded by Chandler Boulevard on the north, Frye Road on the south, Dakota Street on the west and the Union Pacific railroad tracks on the east.

Downtown business means a commercial establishment in the downtown.

Encroach or *encroachment* includes, but is not limited to, the performance of any of the following acts:

(1) Excavating, filling or disturbing the surface.

(2) Erecting or maintaining any flag, banner, decoration, post, sign, pole, fence, guardrail, wall, loading platform, news stand, mailbox, pipe, conduit, wire or other structure on,

over or under the surface of any public place, highway or watercourse.

(3) Planting any tree, shrub, grass or other growing thing.

(4) Placing or leaving any rubbish, brush, earth or other material of any nature whatsoever.

(5) Constructing, placing, maintaining on, over or under the surface of any public place, right-of-way, street, pathway, sidewalk, driveway, curb, gutter, paving or other surface or subsurface drainage structure or facility, any pipe, conduit, wire, cable or telecommunication facility.

(6) Traveling by any vehicle or combination of vehicles or object of dimension, weight or other characteristic prohibited by law without a permit.

(7) Lighting or building a fire.

(8) Constructing, placing, planting or maintaining any structure, embankment, excavation or other objects adjacent to a right-of-way or watercourse which causes or will cause an encroachment.

(9) The application of paint or other marking materials to any pavement or curb.

(10) Providing valet parking, including without limitation the establishment of a valet parking station and/or a valet parking zone or the storing of downtown business patrons' vehicles.

Encroachment permit means that document submitted to/and issued by the City in relation to specific in City right-of-way related to Chapter 46 activity.

Facilities means the plant, equipment, and property, including but not limited to boxes, poles, wires, pipe, conduits, pedestals, antenna, and other appurtenances placed in, on, or under highways.

FCC means the Federal Communications Commission, or a designated representative.

Fiber optic license means a license related to interstate services and other communication facilities that are excluded from the definition of "telecommunications" in Division IV of this chapter.

Franchise shall mean the same as defined under Article XIII of the Arizona Constitution.

Gross revenues means all cash, credits, property of any kind or nature, or other consideration, less related bad debt not to exceed one and one-half (1.5) percent annually, that is received directly or indirectly by the cable licensee or its affiliates, or any person in which the cable licensee has a financial interest or that has a financial interest in the cable licensee and that is derived from the cable licensee's operation of its cable system to provide cable service in the City. Gross revenues include all revenue from charges for cable service to subscribers and all charges for installation, removal, connection or reinstatement of equipment necessary for a subscriber to receive cable service, and any other receipts from subscribers derived from operating the cable system to provide cable service, including receipts from forfeited deposits, sale or rental of equipment to provide cable service, late charges, interest and sale of program guides. Gross revenues also include all income the cable licensee receives from the lease of its facilities located in the streets and public ways, unless services that the lessee provides over the

leased facilities are subject to a transaction privilege tax of the licensing authority. Gross revenues do not include revenues from commercial advertising on the cable system, the use or lease of studio facilities of the cable system, the use or lease of leased access channels or bandwidth, the production of video programming by the cable licensee, the sale, exchange, use or cablecast of any programming by the cable licensee in the City, sales to the licensee's subscribers by programmers of home shopping services, reimbursements paid by programmers for launch fees or marketing expense, license fees, taxes or other fees or charges that the licensee collects and pays to any governmental authority, any increase in the value of any stock, security or asset, or any dividends or other distributions made in respect of any stock or securities.

Highway means a street and public way as defined below.

Intergovernmental contract means the joint exercise of powers authorized by Arizona Revised Statutes, Title 11, Chapter 7, Article 3.

Initial activation of cable service shall mean with respect to a particular segment (as defined in any cable license issued hereunder), or with respect to a group of segments or the entire cable system, as the case may be, that, all proposed cable services and cable system capabilities as stated in the cable license are available and/or in place, construction has been completed and the completed segment or segments in question or the entire cable system, as the case may be, have been activated.

Initial license shall mean a cable license sought by, or granted to, a person who does not hold a license. Such person is an "initial licensee."

Licensee means the person granted a cable license, a fiber optics license and/or a telecommunications license.

Licensing authority means the City of Chandler.

Licensing requirements means the cable television licensing requirements in Division V of this chapter.

Licensors means the City of Chandler as represented by the City Council, City Manager or their designee acting within the scope of this authority.

Multiple dwelling units or "MDU" means any adjacent building(s) such as apartments under common ownership containing more than four (4) dwelling units used as living quarters.

Other programming service means information that a cable licensee makes available to all subscribers generally.

Outage shall exist whenever licensee's cable system experiences three (3) Subscriber complaints within any sixty-minute period of "no picture" within the same quarter (¼) section.

Permittee means the person granted an encroachment permit pursuant to Chapter 46.

Person includes any individual, partnership, association, corporation, legal entity or organization of any kind. Whenever used in any clause prescribing a penalty, the term "person" as applied to partnerships or associations includes partners or members thereof, and if applied to corporations, the officers thereof. "Person" shall not include a municipal corporation unless otherwise indicated.

Public highway or *highway* means the surface of and the space above and below of any

public road, sidewalk, street and alley.

Public place shall mean any property owned, maintained or controlled by the City.

Right-of-way means the same as streets and public ways as defined below.

Service call shall result when service problems occur relating to: (i) any "no picture" complaint, (ii) a degraded signal or picture on one (1) or more channels, (iii) property damage by licensee's employees or authorized contractors, or (iv) in-house cable equipment problems.

Service interruption means the loss of picture or sound on one (1) or more cable channels or the significant deterioration of signal or sound.

Standard drop means a cable connection that requires no more than a two hundred-foot drop measured from the nearest point of a subscriber's home or place of business to the nearest existing technically feasible point on the cable system from which an individual subscriber can be connected to the cable system. A standard drop involves only one (1) outlet and standard materials. A standard drop does not include the following (the cost of which may be assessed directly to the subscriber): (a) a wall fish; (b) custom installation work, including specific subscriber-requested work that requires non-standard materials or cable routing that requires construction methods exceeding reasonable underground or aerial work; or (c) the cost of any equipment or construction modifications necessary to provide an adequate signal over the standard drop to the subscriber's residence.

Streets and public ways means the surface of and the space above and below any public street, sidewalk, right-of-way, alley, easement, or other public way of any type whatsoever, now or hereafter existing as such within the City.

Subscriber shall mean any person receiving for any purpose the cable television service of a licensee's cable system

Subscriber complaint means any written or oral complaint by a subscriber to the City that the subscriber did not receive the cable service that the subscriber requested consistent with the requirements of this license.

Telecommunications means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received. The term does not include commercial mobile radio services, pay phone services, interstate services or cable services.

Telecommunications provider means a telecommunications corporation who constructs, installs, operates and maintains telecommunications facilities in the City.

Telecommunications corporation means any public service corporation to the extent that it provides telecommunications services in the state.

Telecommunications services means the offering of telecommunications for a fee directly to the public or to such users as to be effectively available directly to the public, regardless of the facilities used.

Two-way communication shall mean the transmission of telecommunication signals from subscriber locations or other points throughout the cable system back to the cable system's control center as well as transmission of signals from the control center to subscriber locations. A cable license may authorize switching at a level other than the control center.

User shall mean a party utilizing a cable system channel for purposes of production or transmission of material to subscribers, as contrasted with receipt in a subscriber capacity.

Valet parking means the service of parking motorized vehicles for patrons of a downtown business.

Valet parking station means the temporary, removable structure located near the valet parking zone as required by Division VIII of Chapter 46 of the City Code.

Valet parking zone means the area of the right-of-way where patrons of a downtown business served by valet parking may disembark from their vehicles.

Video programming means programming that is provided by, or generally comparable to programming provided by, a broadcast television station.

SECTION 3. Chapter 4.5 of the Avondale City Code is amended by amending Section 4.5-2 pertaining to Procedures for granting, renewing, transferring, and acquiring by the city of cable television licenses and which shall read as follows:

4.5-2 - Procedures for granting, renewing, transferring, and acquiring by city of cable television licenses.

(a) License to operate; required. A non-exclusive license to construct, operate and maintain a cable system within all or any portion of the city is required of anyone desiring to provide cable service in the city. A license may be granted by the city council to any person, whether operating under an existing license or not, who offers to furnish and provide such cable system under and pursuant to the terms and provisions of this chapter.

(1) The provisions set forth in this Chapter apply to all Cable licenses granted on or before December 31, 2019.

(2) For Video Service Licenses granted on or after January 1, 2020, the following provisions apply and are made part of the Uniform Video Services License granted by the city:

- a. Provisions of Chapter 4.5 of the Avondale city code, that are not inconsistent or conflict with those set forth in Title 9, Chapter 13 of the Arizona Revised Statutes; and
- b. Standard terms and conditions applicable to all licenses, franchises and encroachment permits; and
- c. Any special conditions set forth in this Chapter.

(b) Failure to have license, violation.

(1) From and after the effective date of this chapter, it shall be unlawful for any person to establish, operate or to carry on the business of distributing to any persons, in this city any television signals or radio signals by means of a cable system unless a license therefor has first been obtained pursuant to the provisions of this chapter and unless such license is in full force and effect.

(2) From and after the effective date of this chapter, it shall be unlawful for any

person to construct, install, or maintain within any public way in the city, or within any other public property of the city, or within any privately-owned area within the city that has not yet become a public way but is designated or delineated as a proposed public way on any preliminary subdivision map approved by the city, any equipment or facilities for distributing any television signals or radio signals through a cable system, unless a license authorizing such use of such public way or property or area has first been obtained pursuant to the provisions of this chapter, and unless such license is in full force and effect.

(3) It shall be unlawful for any person to make any unauthorized connections, whether physically, electrically, acoustically, inductively, or otherwise, with any part of a licensed cable system within this city for the purpose of enabling himself or herself or others to receive any television signal, radio signal, picture, program, sound or any other signals transmitted on the cable system, without the permission of the licensee.

(4) It shall be unlawful for any person, without the consent of the licensee, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs, sounds or any other signals transmitted on the cable system.

(5) Any person violating any part of this subsection 4.5-2(b) shall be guilty of a class one misdemeanor.

(6) Any person violating any part of this subsection 4.5-2 shall also be subject to any fees required in this chapter as though such violator were a licensee.

(c) Authorization to engage in business. Any license granted pursuant to the provisions of this chapter shall authorize and permit the licensee to engage in the business of operating and providing a cable system in the city, and for that purpose to erect, install, solicit, construct, repair, replace, reconstruct, maintain and retain in, on, over, under, upon, across and along any public way, such poles, wires, cable, conductors, ducts, conduit, vaults, manholes, amplifiers, appliances, attachments and other property as may be necessary and appurtenant to the cable system; and in addition, so to use, operate, and provide similar facilities or properties rented or leased from other persons, firms or corporations, including but not limited to any public utility or other licensee licensed or permitted to do business in the city.

(d) Limitations of license.

(1) Any license granted under this chapter shall be nonexclusive.

(2) Any privilege claimed under any license by the licensee in any public way or other public property shall be subordinate to any prior or subsequent lawful occupancy or use thereof by the city or any other governmental entity, and shall be subordinate to any prior easements therein; provided, however, that nothing shall extinguish or otherwise interfere with property rights established independently of any license issued pursuant to this chapter.

(3) Any right or power in, or duty imposed upon, any officer, employee, department or board of the city shall be subject to transfer by the city to any other officer, employee, department or board of the city.

(4) A licensee shall be subject to all requirements of city's rules, regulations and specifications heretofore or hereafter enacted or established and shall comply with all applicable state and federal laws and regulations heretofore enacted or established. There is

hereby reserved to the city the power to amend any section of this chapter so as to require additional or greater standards of construction, operation, maintenance or otherwise pursuant to the city's lawful police powers or as provided in the license.

(5) Any license granted shall not relieve the licensee of any obligation involved in obtaining pole space from any department of the city, utility company or from others lawfully maintaining poles in public ways.

(e) Acquisition by city.

(1) In accordance with Section 627 of the Cable Act, if a renewal of a license held by a licensee is denied and the city acquires ownership of the cable system or effects a transfer of ownership of a cable system to another person, any such acquisition or transfer shall be at fair market value, determined on the basis of the cable system valued as a going concern but with no value allocated to the license itself. The fair market value of the cable system shall be determined by an appraisal committee consisting of three (3) appraisers nationally recognized by training and experience as qualified to appraise the fair market value of a large, urban cable system. No appraiser shall have previously acted in any capacity for either the city or licensee. The appraisal committee shall function as an arbitration panel and shall conduct its appraisal process in Maricopa County, in accordance with the Center For Public Resources rules for non-administered arbitration of business disputes (the "rules"), supplemented by the following procedures which shall control to the extent they conflict with the rules:

a. Each party shall appoint an appraiser within thirty (30) days after the city sends notice initiating appraisal proceedings. The two (2) appraisers shall select a third appraiser within thirty (30) days after selection of the second appraiser. If the two (2) appraisers are unable to agree on the appointment of a third appraiser within such thirty-day period, either the city or the licensee may petition the presiding civil judge of the Maricopa County Superior Court, acting in his or her individual capacity, for the selection of a third appraiser.

b. Each party shall bear the cost of its own appraiser and one-half ($\frac{1}{2}$) of the cost of appointing the third appraiser and of paying the third appraiser's fee, and of any reasonable expenses incurred by the appraisers in order to carry out the appraisal process.

c. Within thirty (30) days after selection of the third appraiser, the appraisers shall meet for the purpose of determining the manner in which the parties may present by evidence that may bear upon the appraisal. Within ninety (90) days after such meeting, the appraiser shall receive and consider such evidence and enter an award determining the fair market value of the cable system consistent with the requirements of this subsection 4.5-2(e). Such award shall be final and binding upon the parties, and judgment upon the award rendered may be entered by any court having jurisdiction thereof.

(2) If a license held by a licensee is revoked for cause and the city acquires ownership of the cable system or effects a transfer of ownership of the cable system to another person, any such acquisition or transfer shall be at an equitable price. Under the term "equitable price," such matters as the harm to the community resulting from the licensee's breach of the license may be considered in determining the appropriate price. No payment shall be made by the city to the licensee that would include a value attributed to the license itself.

(3) Upon the termination of a license and the rights granted thereunder, whether by expiration or forfeiture, the city council may direct and require the licensee as provided in subsection 4.5-5(c) to remove its wires, cables, fixtures, and accessories and appurtenances from the public ways. If directed, the city shall make a claim on the letter of credit as prescribed in subsection 4.5-7(d).

(f) Rights reserved to the city.

(1) Nothing herein shall be deemed or construed to impair or affect, in any way, to any extent, the right of the city to acquire the property of the licensee, by purchase, at fair market value, which shall not include any amount for the license itself or for any of the rights or privileges granted. Nothing herein contained shall be construed to contract away or to modify or abridge, either for a term or in perpetuity, the city's right of eminent domain.

(2) There is hereby reserved to the city every right and power that is required to be herein reserved or provided by any provision of the City Charter or City Code, and a licensee shall comply with any action or requirements of the city in its exercise of such rights or power heretofore or hereafter enacted or established.

(3) Neither the granting of any license hereunder nor any of the provisions contained herein shall be construed to prevent the city from granting any identical, or similar, license to any other person, firm, or corporation, within the city.

(4) Neither the granting of any license nor the enactment of any provision in this chapter shall constitute a waiver or bar to the exercise of any governmental right or power of the city, now existing or hereafter granted.

(5) The city council may do all things that are necessary and convenient in the exercise of its jurisdiction under this chapter and may, through the city manager or through its own action, adjust, settle, compromise or otherwise resolve, pursuant to subsection 4.5-7(g) and (h), any controversy or charge arising from the operations of any licensee under this chapter.

(g) Initial license; applications.

(1) Each application for an initial license to construct, operate or maintain any cable system in the city shall be filed with the office of the city clerk in the form of a proposal for initial license as prescribed by the city. Said forms shall require, but shall not be limited to, the following information:

a. The name, address, and telephone number of the applicant;

b. A detailed statement of the corporation or business entity organization of the applicant, including but not limited to, the following and to whatever extent required by the city;

(i) The names, residence and business addresses of all officers, directors, and associates of the applicant;

(ii) The names, residence and business addresses of all officers, persons, and entities having a one (1) percent or larger share of the ownership of the applicant and the respective ownership share of each such person or entity; and

(iii) The names and addresses of any parent or subsidiary of the applicant, namely,

any other business entity owning or controlling applicant in whole or in part or owned in whole or in part by the applicant, and a statement describing the nature of any such parent or subsidiary business entity, including but not limited to cable systems owned or controlled by the applicant, its parent and subsidiary and the areas served thereby.

c. A detailed and complete financial statement of the applicant, certified by an independent certified public accountant, for the fiscal year next preceding the date of the application hereunder, and a letter or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both the applicant and the city council, setting forth the basis for a study performed by such lending institution or funding source, and a clear statement of its intent as a lending institution or funding source to provide whatever capital shall be required by the applicant to construct and operate the proposed cable system in the city, or a statement from an independent certified public accountant, certifying that the applicant has available sufficient free, net and uncommitted cash resources to construct and operate the proposed cable system in this city;

d. A detailed financial plan (pro forma) describing for each year of the initial license, projected number of subscribers, rates, all revenues, operating expenses, capital expenditures, depreciation schedules, income statements, and a sources and uses of funds statement. All information is to be presented in the format approved by the city;

e. A statement identifying, by place and date, any other cable system license(s) awarded to the applicant, its parent or subsidiary; the status of said license(s) with respect to completion thereof; the total cost of completion of such licensed cable system(s); and the amount of applicant's and its parent's or subsidiary's resources committed thereto; and

f. A detailed description of the proposed plan of operation of the applicant which shall include, but not be limited to, the following:

(i) A detailed map indicating all areas proposed to be served and a proposed time schedule for the installation of all equipment necessary to become operational throughout the entire area to be served;

(ii) A statement or schedule setting forth all proposed classifications of rates and charges to be made against Subscribers and all rates and charges as to each of said classifications, including installation charges and cable service charges;

(iii) A detailed, informative and referenced statement describing the actual equipment and operational standards proposed by the applicant;

(iv) A copy of the form of any agreement, undertaking, or other instrument proposed to be entered into between the applicant and any subscriber;

(v) A detailed statement setting forth in its entirety any and all agreements and undertakings, whether formal or informal, written, oral, or implied, existing or proposed to exist between the applicant and any person, firm, or corporation that materially relate or pertain to or depend upon the application and the granting of the initial license;

(vi) A copy of any agreement covering the license area, if existing between the applicant and the local telephone and/or electric utilities providing for the use of any facilities of the utility including but not limited to poles, lines or conduits; and

(vii) Any other details, statements, information or references pertinent to the subject matter of such application that are required or requested by the city council or by any other provision of law.

(h) Fees; application of initial license.

(1) Amount. Notwithstanding any other requirement of this chapter, each applicant for an initial license must furnish with its proposal a nonrefundable filing fee in the amount established by the council, by cash, certified or cashier's check, wire transfer or in any other manner acceptable to the city manager, made payable to the City of Avondale. No proposal for an initial license shall be considered without receipt of said fee.

(2) Deposit and use. All fees received will be deposited to an account of the city and will serve to recover expenses incurred by the city in the preparation and granting of initial licenses and regulation of licenses pursuant to this chapter.

(3) Additional fee. Any licensee under an initial license, upon acceptance of such initial license, shall reimburse all additional expenses, including, but not limited to, any and all administrative, engineering, publication or legal costs and consultants' expenses incurred in connection with the processing, evaluation and preparation of documents relating to the initial license. The city shall document all such expenses by invoice. If expenses exceed the total amount of filing fees collected from the applicant(s), the licensee shall pay to the city the excess amount within thirty days of demand of the city. All unpaid amounts at the end of thirty (30) days shall accrue interest at the rate of one and one-half (1½) percent per month.

(i) Selection of licensee; initial license.

(1) Solicitation of proposals. The city may, by advertisement or any other means, solicit and call for proposals for initial license, and may determine and fix any time period during which proposals will be received by the city and may make any other determinations and specify any other times, terms, conditions or limitations respecting the soliciting, calling for, making and receiving of such proposals.

(2) Unsolicited proposals. The city, upon receipt of an unsolicited proposal for initial license may, by advertising or other means, solicit and call for competing proposals pursuant to subsection (1) above, or may, in its sole discretion, reject such proposal as untimely.

(3) Compliance with city requirements. A person, firm or corporation submitting a proposal for initial license to operate a cable system in response to the city's request for proposals shall provide all information required by this chapter and all other information requested by city's request for proposals or otherwise required by the city. Each proposal shall be responsive to the questions soliciting the information and shall completely, accurately and materially supply all of the information so solicited. Any misrepresentation, failure, neglect or refusal to provide any of such information may, at the option of the city, render a proposal invalid. This requested information must be complete and verified as true by the applicant.

(4) Property of city. All proposals received by the city from an applicant shall become the sole property of the city.

(5) Applicant responsibility. Before submitting a proposal, each applicant shall be solely responsible for and must (i) examine this chapter and the request for proposals documents thoroughly, (ii) be familiar with local conditions which may in any manner affect

performance under the license, including but in no event limited to, community and institutional telecommunication needs, relevant demographics, topographies, pole attachment policies of appropriate utility authorities, undergrounding, and subscriber desires, (iii) be familiar with all applicable federal, state and local laws, chapters, rules, and regulations affecting performance under the license and (iv) carefully correlate all observations with the requirements of this chapter and the request for proposals documents.

(6) Investigations. The city may make such investigations as it deems necessary to determine the ability of the applicant to perform under the initial license, and the applicant shall furnish to the city all such information and data for this purpose as the city may request.

(7) Rejection. The city may reject any and all proposals from whatever source and whenever received. The city also reserves the right to waive all formalities where the best interest of the city may be served and may, if it so desires, request new or additional proposals.

(8) Public comment. If, upon receiving the city manager's report, the city council shall determine to further consider the proposals, the city clerk shall set at least one (1) public hearing for the consideration of proposals (i) fixing and setting forth a day, hour and place certain when and where any persons having any interest therein or who wish to file objections may file written comments or (ii) appear before the city council and be heard, and directing the city clerk to publish notice of such hearing at least once within ten (10) days of the passage thereof in the newspaper of general circulation within the city.

(9) Consideration. In making any determination hereunder as to any proposal for initial license, the city may consider any and all factors relevant to significant interests of the community in cable services including, but not limited to (i) the quality of the cable services proposed, (ii) areas to be served, (iii) rates to subscriber, (iv) income to the city, (v) experience, character, background and financial responsibility of any applicant and its management and owners, (vi) technical and performance quality of equipment, (vii) willingness and ability to meet construction and physical requirements, to meet all requirements set forth in this chapter, and to abide by all policy conditions, license limitations and requirements (viii) and all other matters deemed pertinent by the city for safeguarding the interests of the city and the public.

(10) Determination. At the time set for the hearing on proposals for an initial license, or at any continuance thereof, the city council shall proceed to hear all comments. Thereafter, the city council shall make one of the following determinations:

a. That such proposal be denied, which determination shall be final and conclusive;
or

b. That such proposal be accepted and that an initial license be granted in a form approved by the city council.

No provision of this chapter shall be deemed or construed so as to require the granting of an initial license.

(11) Additional information. The city may at any time demand, and applicant(s) shall provide, such supplementary, additional or other information as the city may deem reasonably necessary to determine whether the requested initial license should be granted.

(12) Awards based on public record. It is the intention of the city to award an initial

license solely on the basis of the public record. To this end, communication with the city council by those wishing to submit proposals for an initial license shall be limited to public sessions. Requests for information should be directed to the city manager.

(13) City council decisions shall be final. Any decision of the city council concerning award of an initial license pursuant to this chapter shall be final.

(j) Duration of license. The duration of the rights, privileges and authorizations granted in license pursuant to this chapter shall not exceed fifteen (15) years. A license may be renewed by the city pursuant to the procedure established in subsection 4.5-2(k) below and in accordance with the then applicable law.

(k) Renewal.

(1) Proceedings. During the six-month period that begins with the thirty-sixth month before the expiration of an existing license, the city may, on its own initiative, and shall at the request of the licensee, commence proceedings that afford the public appropriate notice and participation for the purpose of:

- a. Identifying the future cable-related community needs and interests; and
- b. Reviewing the performance of the licensee under the license during the then-current license term.

(2) Proposal.

a. Upon completion of a proceeding under subsection 4.5-2(k)(1) above, the licensee seeking a renewal license may, on its own initiative and shall at the request of the city, submit a proposal for renewal license.

b. Subject to Section 624 of the Cable Act, such proposal shall contain such material as the city may require, including proposals for an upgrade of the cable system.

c. The city may establish a date by which such proposal shall be submitted.

(3) Fees. Notwithstanding any other requirement of this chapter, each applicant for a license renewal must furnish with its proposal a nonrefundable filing fee in the amount established by the city council, by cash, certified or cashier's check, wire transfer, or in any other manner acceptable to the city manager made payable to the city. No proposal for a license renewal shall be considered without receipt of said fee. The fee will be used for the purpose of covering the city's cost in consideration of a renewal license proposal. The fee shall be handled in the same manner as provided for an initial license fee in subsection 4.5-2(h) of this chapter and shall, upon granting of a renewal license, be a credit against licensee fees under this chapter.

(4) Renewal assessment.

a. Upon licensee's submittal of a renewal license proposal to the city, the city shall provide prompt public notice of such renewal license proposal and, during the four-month period that begins on the completion of any proceedings under subsection 4.5-2(k)(1) above (i) issue a renewal license or (ii) issue a preliminary assessment that the license should not be renewed and, at the request of the licensee or on its own initiative commence an administrative proceeding in accordance with subsection 4.5-2(k)(4)b. A preliminary determination that a license should not be renewed shall be in writing addressing whether;

(i) The licensee has substantially complied with the material terms of the existing license and with applicable law;

(ii) The quality of the licensee's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix, quality, or level of cable services or other services provided over the cable system, has been reasonable in light of community needs;

(iii) The licensee has the financial, legal, and technical ability to provide the services, facilities, and equipment as set forth in the licensee's proposal; and

(iv) The licensee's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

b. A renewal license proposal shall be placed on a city council agenda for public comment in the manner set forth in subsection 4.5-2(i)(8) above. The licensee shall be afforded adequate notice and the licensee and the licensor shall be afforded fair opportunity for full participation including the right to introduce evidence (including evidence related to issues raised in the proceeding under subsection 4.5-2(k)(1)), require the production of evidence, and to question witnesses. A transcript shall be made of any such proceeding.

c. At the completion of a proceeding under subsection 4.5-2(k)(4)b. above, the city shall (i) issue a written decision granting or denying the renewal license proposal based upon the record of such proceeding and (ii) transmit a copy of such decision to the licensee. Such decision shall state the reasons therefor.

(5) Denial. Any denial of a renewal license proposal shall be based on one (1) or more adverse findings made with respect to the factors described in subsections 4.5-2(k)(4)a.(i) through (iv) above, pursuant to the record of the proceeding. The city may not base a denial of a renewal license on a failure to substantially comply with the material terms of the license under subsection 4.5-2(k)(4)a.(i) or on events considered under subsection 4.5-2(k)(4)a.(ii) unless the city has provided the licensee with notice and the opportunity to cure, or in any case in which it is documented that the city has waived its right to object or has effectively acquiesced.

(6) Appeal. Any licensee whose renewal license proposal has been denied by a final decision of the city made pursuant to subsection 4.5-2(k)(5) above, or has been adversely affected by a failure of the city to act in accordance with the procedural requirements of this subsection 4.5-2(k), may appeal such final decision or failure pursuant to the provisions of Sections 626 and 635 of the Cable Act.

(7) Informal process. Notwithstanding the provisions of subsections 4.5-2(k)(1) and 4.5-2(k)(5) above, the licensee may submit a renewal license proposal, together with the required fee, pursuant to this subsection 4.5-2(k)(7) at any time, and the city may, after affording the public adequate notice and opportunity for comment, grant or deny such renewal license proposal at any time (including after proceedings pursuant to this subsection 4.5-2(k) have commenced). The provisions of subsections 4.5-2(k)(1) and 4.5-2(k)(5) shall not apply to a decision to grant or deny a renewal license proposal under this subsection 4.5-2(k)(7). The denial of a renewal license pursuant to this subsection 4.5-2(k)(7) shall not affect action on a renewal license proposal that is submitted in accordance with subsections 4.5-2(k)(1) and 4.5-

2(k)(5).

(8) Renewal not to affect revocation. Notwithstanding the provisions of subsections 4.5-2(k)(1) through (7) above, any lawful action to revoke this license for cause shall not be negated by the subsequent initiation of renewal proceedings by the licensee under this subsection 4.5-2(k).

(l) Transfers and assignments.

(1) A license shall not be sold, assigned, or transferred, either in whole or in part, or leased, sublet, or mortgaged in any manner, nor shall title thereto, either legal or equitable or any right, interest or property therein, pass to or vest in any person, except an affiliate of licensee, without prior written consent of the city, which consent shall not be unreasonably withheld. Such consent shall not be required for a transfer in trust, mortgage, or other hypothecation in whole or in part to secure an indebtedness. The proposed assignee must show that the transfer will not cause any increased risks of nonperformance of the license or any loss to the city of its bargained-for consideration in the license. The assignee's showings must, at a minimum, detail facts sufficient to show the assignee's technical ability, financial capability, legal qualifications, general character qualifications and such other qualifications as determined by the city. The assignee must agree to comply with all provisions of the license.

(2) No change, transfer, or acquisition of control of the licensee shall occur without prior written consent of the city, which consent shall not be unreasonably withheld. The licensee shall promptly notify the city of any actual or proposed change in, transfer to or acquisition by, any other party of control of the licensee. The word "control" as used herein is not limited to major stockholders but includes actual working control in whatever manner exercised. The sale or transfer of the license to an affiliate of a licensee does not require prior approval of the city as long as (i) the sale or transfer of the existing or newly created equity interest in the licensee does not result, directly or indirectly, in a transfer of control of the licensee and (ii) the transferee already holds an ownership interest in the licensee of twenty-five (25) percent or more.

(3) A rebuttable presumption that transfer of control has occurred shall arise upon the acquisition or accumulation by any person, or group of persons (other than an affiliate of licensee), owning more than twenty-five (25) percent of the voting interest of the licensee or of the person exercising management authority over the licensee.

(4) Except in the case of an assignment of the license to an affiliate of licensee, upon written notification by the licensee to the city of a proposed assignment of the license, or transfer of control or ownership of the licensee company, the city manager shall issue a written notice fixing and setting forth the day, hour and place certain when and where the city council will hold a public hearing to consider the transfer and any persons having any interest therein may appear and be heard. The city clerk shall cause such notice to be published in a newspaper of general circulation within the city. The city clerk also shall cause a copy of such notice to be mailed to the licensee at least ten (10) days prior to the date specified for the hearing. At the time set for such hearing, or at any continuation thereof, the city council shall proceed to hear the matter. At such hearing, the city council shall determine whether the assignment of the license or transfer of control or ownership of the licensee company will be detrimental or injurious to the best interests and welfare of the subscribers and users or the city council. City

council consent to the assignment of the license or transfer of control or ownership of the licensee company shall be by resolution at a public meeting held subsequent to the public hearing thereon. Such resolution shall thereupon become and shall be a part of any license granted under this chapter and affected thereby.

(5) The consent or approval of the city council to any transfer of a license shall not constitute a waiver or release of the rights of the city in and to the streets, and any transfer shall, by its terms, be expressly subordinate to the terms and conditions of the license.

(6) In the absence of extraordinary circumstances, the city council will not approve any transfer or assignment of a license within three (3) years after, and in no event prior to, substantial completion of construction of a proposed cable system.

(7) Notwithstanding any other requirement of this chapter, each applicant for a transfer or assignment must furnish with its request a nonrefundable filing fee in the amount established by the council, by cash, certified or cashier's check, wire transfer, or in any other manner acceptable to the city manager made payable to the City of Avondale. No proposal for a transfer or assignment of license shall be considered without receipt of said fee. The fee will be used for the purpose of covering the city's cost in consideration of a transfer or assignment of license. The fee shall be handled in the same manner as provided for an initial license fee in subsection 4.2-5(h) of this chapter and shall, upon granting the assignment or transfer, be a credit against license fees under this chapter.

(8) The city may reserve in the license a right of first refusal to purchase a licensee's cable system.

(9) In no event shall a transfer of ownership be approved without the successor-in-interest becoming a signatory to the license.

(10) As long as a grant, rent, or lease does not amount to a transfer as defined in this subsection 4.2-5(i) and is made in the ordinary course of business with prior notice to the city, a licensee in the normal course of providing cable services or other telecommunication services may grant, rent, or lease use of its cable system to other persons. Any such use shall be restricted to and consistent with such uses as the licensee is authorized in this chapter and the license or under other applicable law. Any such use shall be in compliance with applicable federal and state law. Any such grants, lease, or rent by the licensee shall not, however, thereby relieve licensee of any requirement or obligation under its license as to its use of the public ways, and any such grant, rent, or lease shall require that such other person comply with the appropriate provisions of this chapter and the license as such use warrants. The grant, lease, or rent shall expressly provide for the authority of the city under applicable law to regulate the use provided by the grant, lease, or rent (including but not limited to the authority to protect the public welfare, safety and health) and to enforce compliance with any applicable standards established by this chapter or the license.

SECTION 6. Chapter 4.5 of the Avondale City Code is amended by amending Section 4.5-3 pertaining to Initial and renewal license requirements and which shall read as follows:

4.5-3 – Initial and renewal license requirements.

- (a) Effect of award of license.
 - (1) Binding effect. Upon award of an initial or a renewal license pursuant to this chapter, a licensee shall agree to be bound by all the terms and conditions contained in this chapter.
 - (2) Incorporation by reference of proposal for initial or renewal license. A licensee under an initial or renewal license also agrees to provide all of the cable services specifically set forth in its proposal, if provided, to provide cable services within the corporate limits of the city and by its acceptance of the initial or renewal license, the licensee specifically agrees that its proposal is hereby incorporated by reference and made a part of the initial or renewal license. If such proposal or the provisions of a license conflict with the provisions of this chapter, the provisions of this chapter shall prevail.
- (b) Payment of license fee.
 - (1) For the reasons that (i) the public ways that are used by the licensee in the operation of its cable system within the boundaries of the city are valuable public properties acquired and maintained by the city at great expense to its taxpayers, (ii) the grant to the licensee for the use of said public ways is a valuable property right without which the licensee would be required to invest substantial capital in right-of-way costs and acquisition and (iii) the city will incur costs in regulating and administering the license, the licensee shall pay to the city an amount no less than five (5) percent of licensee's gross revenues during the term of the license (the "license fee").
 - (2) Licensee agrees and acknowledges that the city is currently prohibited by federal law from changing a license fee greater than five (5) percent. Should federal regulations be amended in the future to allow the city to receive a fee greater than five (5) percent of licensee's gross revenues, the city shall have the right to increase the fee as specified in the license.
 - (3) The payment of the license fee by the licensee to the city shall be made quarterly by delivery of the same to the city manager on or before the thirtieth (30th) day following the end of such quarter. If such payment is not timely made, the city may impose interest at a rate of one and one-half (1½) percent per month commencing from the date payment should have been made and continuing until full payment is made. Fractions of a month shall be considered to constitute a full month for the purpose of computing interest. In addition to interest that may be assessed under this subsection 4.5-3(b)(3), if licensee fails to pay any license fee when due, licensee shall be subject to the following civil penalties:
 - a. A licensee who fails to pay the license fee or any portion thereof within the time prescribed shall pay a penalty of ten (10) percent of the unpaid fee each month.
 - b. A licensee who fails or refuses to pay a license fee or any portion thereof after notice and demand by the city shall pay an additional penalty of twenty-five (25) percent of the unpaid fee.

- c. If the cause of failure to pay the licensee fee or any portion thereof is determined by the city to be due to civil fraud or evasion of the license fee, the licensee shall pay an additional penalty of fifty (50) percent of the amount of deficiency.
- (4) The city shall have the right to (i) inspect the licensee's financial records and (ii) audit and recompute any amounts determined to be payable under this chapter; provided, however, that such audit of financial records from a specific licensee fiscal year shall take place within thirty-six (36) months following the close of that same licensee fiscal year. Any additional amount due to the city as a result of the audit shall be paid within thirty (30) days following written notice to the licensee by the city. Said notice shall include a copy of the audit report; provided, however, that licensee shall not be required to pay such deficiency until thirty (30) days after completion of the administrative review process if licensee commences such process pursuant to subsection 4.5-7(g)(1)c. If there is a deficiency in the payment of license fees to the city of ten (10) percent or more, the city may assess the cost of the audit to the licensee. Adjustments for any overpayment by licensee will be credited to subsequent license fee payments.
- (5) The cost to licensee of any city right-of-way construction permit, inspection, zoning review, and other fees that the city imposes under City Code requirements on licensee's construction activities shall be included in the license fee.
- (c) Use of telephone facilities. If the licensee of any license granted hereunder uses a telephone company's cable system distribution channels furnished to the licensee pursuant to tariff or contract on file with a regulatory body having jurisdiction and said licensee makes no use of the public ways independent of such telephone-company-furnished facilities, said licensee remains fully bound by the terms of its license and this chapter.
- (d) Required services and facilities.
 - (1) A license shall include a description of (i) proposed cable system design, (ii) the initial programming and cable services to be offered, (iii) facilities proposed for local programming and (iv) facilities to be offered to various community institutions.
 - (2) A licensee shall maintain the mix, level and quality of programming within the broad categories of video programming or other services set forth in its license.
 - (3) A license shall include a provision for the licensee to provide channel capacity for community programming on terms and conditions specified in the license.
- (e) Subscriber services; rates.
 - (1) Initial rates. A licensee under an initial or renewal license may establish initial rates for its cable services in accordance with the rates contained in such licensee's proposal for an initial or renewal license.
 - (2) Authority to regulate rates. To the extent permitted, the city may regulate the rates for cable service in accordance with federal and state law.

- (3) Notice of rates. Notice of rates shall be given in accordance with subsection 4.5-6(d) of this chapter.
- (f) Access and public safety channels.
 - (1) Channel capacity. The licensee shall provide channel capacity for a minimum of one public safety channel dedicated to the city fire and police departments, one government access channel dedicated to the city, and one education access channel dedicated to all schools within the city.
 - (2) Channel management. The operation of the public safety channel, the government access channel, and the education access channel shall be the responsibility of the city.
 - (3) Excess capacity. The licensee may be permitted to utilize unused access channel capacity under rules and procedures established by the city.
- (g) Area-wide interconnection of cable systems.
 - (1) Interconnection required. Subject to the limitations of applicable federal and state law, licensee shall interconnect government or educational access channels of the cable system with any or all other cable systems owned by a licensee or an affiliate as may be provided in the license.
 - (2) Cost. Subject to the limitation of applicable federal and state law, when such interconnection is required within the city limits, the cost shall be borne by all licensees to be interconnected. If licensees cannot establish a cost sharing formula for interconnection or cannot resolve technical issues, the city manager may establish a cost sharing formula and resolve technical issues and his decision shall be final and conclusive.
 - (3) Relief. A licensee may be granted reasonable extensions of time to interconnect or the city may rescind its order to interconnect upon petition by the licensee to the city. The city shall grant said request if it finds that a licensee negotiated in good faith and failed to obtain an approval from another cable system(s), governmental entity or educational institution of the proposed interconnection.
- (h) Changes in cable technology.
 - (1) The city and licensee shall meet at least once every three (3) years or upon request of either to discuss changes in cable television laws, regulations, technology, competing services, the needs of the community and other factors impacting cable television. As a result of these discussions, this license may be modified by the city and the licensee to respond to the change in laws, regulations, technology, competing services, the needs of the community or other factors impacting cable television.
 - (2) If any of the following conditions occur, and upon written request of either licensee or the city, the city manager and licensee agree to meet and discuss in good faith the terms of a mutually agreeable license amendment:

- a. Cable service similar to cable television service offered by licensee is provided by any entity using the public ways that is not subject to similar licensing requirements of the city.
 - b. Any other significant event occurs, including but not limited to changes of federal or state law or a final non-appealable order or judgment by a court of competent jurisdiction, which either licensee or the city believes may impact the current terms and conditions of the license.
- (3) The purpose of the meeting and discussion is to use best efforts to reach mutually acceptable agreement for recommendation to the city council for proposed city council action within ninety (90) days of such written request to relieve the city or the licensee from any commercial impracticability that arises from the condition in question. This provision shall not require that the license be amended. However, it is intended to facilitate a process whereby the parties may reach a mutually acceptable agreement.
- (i) Time is of the essence. For any license entered into pursuant to this chapter, time shall be deemed of the essence and any failure of the licensee to perform within the time allotted, or within a reasonable time if a period is not specified, shall be sufficient grounds for the city to invoke liquidated damages or revocation of a license in accordance with subsection 4.5-7(f) and (i) below.
- (j) Acceptance and effective date of license.
- (1) No license granted pursuant to the provisions of this chapter shall become effective unless and until all provisions required in this section 4.5-3 and subsections 4.5-7(c), (d) and (e) below are done and completed, all of such provisions being hereby declared to be conditions precedent to the effectiveness of any such license granted hereunder. If any of such provisions are not done and completed in the time and manner required, the license shall be null and void.
- (2) Within twenty (20) days after approval by the city council of any license, or within such extended period of time as the city council in its discretion may authorize, the licensee shall file with the city clerk the fully executed license, in form satisfactory to the city manager~~attorney~~, together with the letter of credit, construction bond and insurance policies required by pursuant to subsection 4.5-7(c)(2), (d) and (e), respectively, and its license to be bound by and to comply with and to do everything that is required of the licensee by the provisions of this chapter and the applicable license. Such acceptance shall be acknowledged by the licensee before a notary public, and shall, in form and content, be satisfactory to and approved by the city manager~~attorney~~.

SECTION 7. Chapter 4.5 of the Avondale City Code is amended by amending Section 4.5-7 pertaining to Administration and enforcement provisions and which shall read as follows:

4.5-7 - Administration and enforcement provisions.

- (a) Reports.

- (1) Each year the licensee shall brief the offices of the city manager, no later than one hundred twenty (120) days after the end of the licensee's fiscal year. The briefing shall include a description of all major activities applicable to its operation during the preceding twelve-month period. At the briefing, licensee shall submit a written report that includes the following information, specific to the city: (i) number of homes passed, (ii) number of cable plant miles, (iii) number of subscribers for each type of cable service offered and (iv) the gross revenues from each source attributable to the operations of licensee from within the city. An officer of the licensee shall verify this report as being correct. There shall be submitted along with this report such other information reasonably related to license compliance as the city shall reasonably request.
 - (2) Upon request, there shall be provided to the city copies of any communications and reports submitted by licensee to the Federal Communications Commission or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting construction or operation of a cable system in the city.
 - (3) Licensee shall provide the city with regular reports, as needed, to establish licensee's compliance with the various standards and other provisions of this chapter.
- (b) Inspection of property and records.
- (1) At all reasonable times, the licensee shall permit any duly authorized representative of the city to examine all property of the licensee, together with any appurtenant property of the licensee situated within or without the city, and to examine and transcribe any and all maps and other records kept or maintained by the licensee or under its control that relate to license compliance and deal with the operations, affairs, transactions, or property of the licensee.
 - (2) The licensee shall at all times make and keep full and complete plans and records showing the exact location of all cable system equipment installed for use in public ways and other places in the city and make them available to the city for review upon request.
 - (3) The licensee shall provide the city manager maps or sets of maps drawn to scale, showing the location of the licensee's underground and above ground facilities. Upon request, such maps or sets of maps shall be provided in an electronic format compatible with the current city electronic format.
- (c) Protection of city against liability.
- (1) Indemnification.
 - a. Licensee shall fully indemnify, defend, and hold harmless the city, its officers, boards, commissions, elected officials, agents, attorneys, representatives, servants, and employees from and against any and all costs, damages, expenses, claims, suits, actions, liabilities, and judgments for damages, including but not limited to, expenses for legal fees, whether suit be brought or not, and disbursements and liabilities incurred or assumed by city in connection with:

- (i) Damage to persons or property, in any way arising out of or through the acts or omissions of licensee, its servants, officials, agents, attorneys, representatives, or employees;
 - (ii) Requests for relief arising out of any licensee action or inaction which results in a claim for invasion of right of privacy, for defamation of any person, firm, or corporation; for the violation or infringement of any copyright, trademark, trade name, service mark, or patent; or of any other right of any person, firm, or corporation;
 - (iii) Any and all claims arising out of licensee's failure to comply with the provisions of this chapter or a license or any federal, state or local law or regulation applicable to licensee or the cable system;
 - (iv) Any and all disputes arising out of a claim by any party other than city wherein damages or other relief is sought as a result of (a) the city's cable system licensing of licensee or (b) the renewal or non-renewal of licensee's cable system license.
- b. If a lawsuit covered by the provisions of subsection 4.5-7(c)(1) is brought against city, either independently or jointly with a licensee, or with any other person or municipality; the licensee, upon notice given by city, shall defend city at the cost of the licensee. If final judgment is obtained against city, either independently or jointly with licensee or any other defendants, the licensee shall indemnify city and pay such judgment with all costs and attorneys fees and satisfy and discharge the same.
- c. The city shall cooperate with the licensee and reserves the right to participate in the defense of any litigation.
- d. The city is in no manner or means waiving any governmental immunity it may enjoy or any immunity for its agents, officials, servants, attorneys, representatives, and/or employees.
- e. A licensee shall make no settlement in any matter identified above without the city's written consent, which shall not be unreasonably withheld. Failure to inform the city of settlement shall constitute a breach of the license and the city may seek any redress available to it against the licensee whether set forth in this chapter or under any other municipal, state or federal laws.
- f. All rights of the city, pursuant to indemnification, insurance, letter of credit, or performance bond(s), as provided for by this chapter, are in addition to all other rights the city may have under this chapter or any other code, rule, regulation or law.
- g. The city's exercise of or failure to exercise all rights pursuant to any section of this chapter shall not affect in any way the right of the city subsequently to exercise any such rights or any other right of city under this chapter or any other code, rule, regulation or law.
- h. It is the purpose of this section 4.5-7 to provide maximum indemnification to the city under the terms and conditions expressed and, if there is a dispute, this section 4.5-7 shall be construed (to the greatest extent permitted by law) to provide for the indemnification of the city by the licensee.

- i The provisions of this section 4.5-7 shall not be dependent or conditioned upon the validity of this chapter or the validity of any of the procedures or agreements involved in the award or renewal of a license, but shall be and remain a binding right and obligation of the city and a licensee even if part or all of this chapter, or the grant or renewal of a license, is declared null and void in a legal or administrative proceeding. It shall be expressly stated in a license that it is the intent of the licensee and city, upon the effective date of the license, that the provisions of this section 4.5-7 survive any such declaration and shall be a binding obligation of and inure to the benefit of the licensee and city and their respective successors and assigns, if any.

(2) Comprehensive liability insurance.

- a. Upon acceptance of a license, the licensee shall file with the city clerk and shall thereafter during the entire term of such license maintain in full force and effect, at its own expense, a general comprehensive liability insurance policy or policies, which shall insure licensee and provide primary coverage for the city, its officers, elected officials, boards, commissions, agents, and employees, against liability for loss or liability for personal injury, death, property damage (both automobile and non-automobile caused), or other damages. Such policy or policies shall include insurance against damages from unfair competition, copyright infringement (common law or statutory), and a failure of licensee to secure consents, occasioned by any activity or operation of licensee under such license, and regardless of any claimed or actual activities of city, its officers, boards, commissions, agents and employees. The city council, in any license granted, may waive the requirement for insurance from one or more perils mentioned in the last preceding sentence upon a finding that such insurance cannot be procured or cannot be procured at a reasonable cost, such reasonable cost to be determined by the city council in its sole discretion, and in connection there with may reduce the otherwise required limits on coverage hereafter set forth. Such policy or policies shall be issued by a company duly licensed by the State of Arizona with an AM Best, Inc. rating of B ++ 6 or above ~~and shall be in a form approved by the city attorney~~, with minimum combined single limits of liability coverage in the amount of three million dollars (\$3,000,000.00). The policy or policies shall name the city, its officers, elected officials, boards, commissions, agents, and employees as additional insured and contain a provision that a written notice of any cancellation, modification or reduction in coverage of said policy shall be delivered to the city clerk thirty (30) days in advance of the effective date thereof. No license granted under this chapter shall be effective unless and until each of the foregoing policies of insurance as required herein has been delivered to the city clerk. Any substitute policy or policies shall be subject to the same approvals and shall comply with all of the provisions of this subsection.
- b. The city council may require increases in the amount of types of coverage no more frequently than every three years so as to ensure full protection of the city and the public. Such increases shall be based upon the change in the

Consumer Price Index, Western Division, 1982-84=100 (the "Index" as published by the U.S. Department of Labor's Bureau of Labor Statistics or the most closely equivalent successor thereto in the event the Index is terminated or changed). The licensee shall have six (6) months from the date of notification from the city manager to comply with any increase.

- c. A licensee may self insure the above described policy coverages if such licensee or its parent is of sufficient financial standing to reasonably provide such insurance. A licensee that elects to self insure shall file with the city a certificate of insurance as specified by the city.
- (d) Letter of credit.
- (1) Within thirty (30) days after the award or renewal of a license, a licensee shall deposit with the city an irrevocable letter of credit in an amount not to exceed twenty-five thousand dollars (\$25,000.00) issued by a federally insured commercial lending institution. The form and substance of said letter of credit shall be used to ensure licensee's (i) faithful performance of all provisions of this chapter and resulting license and (ii) compliance with all orders, permits, and directions of any agency, commission, board, department, division, or office of the city having jurisdiction over its acts or defaults under a license and the payment by the licensee of any penalties, liquidated damages, claims, liens and taxes due to the city which arise by reason of the construction, operation, or maintenance of the cable system, including cost of removal or abandonment of any property of the licensee.
- (2) The letter of credit may be drawn upon by the city by presentation of a draft at sight on the lending institution, accompanied by a written certificate signed by the city manager (i) certifying that the licensee has been found to have failed to comply with its license or this chapter, (ii) stating the nature of noncompliance and (iii) stating the amount being drawn. Examples of the nature of the noncompliance for drawing upon the letter of credit include, but are not limited to, the following:
 - a. Licensee's failure to pay to the city any license fees or taxes after ten (10) days' written notice of delinquency.
 - b. Licensee's failure to pay to the city, after ten (10) days' written notice, after all judicial remedies have been exhausted, any amounts due and owing the city by reason of the indemnity provisions of subsection 4.5-7(c) above;
 - c. Licensee's failure to pay to the city any liquidated damages due and owing to the city pursuant to the license.
- (3) The letter of credit shall be structured in such a manner so that if the city at any time draws upon the letter of credit, upon notice to the licensee by the issuing lending institution, licensee shall increase immediately the amount of available credit to the extent necessary to replenish that portion of the available credit exhausted by honoring the city's draft. The lending institution shall notify the city of the replenishment by licensee. The intent of this subsection is to make available to the city at all times a letter of credit in the amount of twenty-five thousand dollars (\$25,000.00).

- (4) The rights reserved to the city with respect to the letter of credit are in addition to all other rights of the city, whether reserved by a license or authorized by law, and no action proceeding against a letter of credit shall affect any other right the city may have.
- (e) Construction bond.
 - (1) Within thirty (30) days after the award or renewal of a license, a licensee shall obtain and maintain throughout the period of cable system construction, at its cost and expense, and file with the city clerk, a corporate surety bond issued by a company authorized to do business in the State of Arizona, ~~and found acceptable by the city attorney,~~ in an amount established in a license agreement solely for the purpose of guaranteeing the timely construction and/or reconstruction of the cable system and the safeguarding of private property during construction and/or reconstruction. The bond shall provide, but not be limited to, the following condition: There shall be recoverable by the city, jointly and severally from the principal and surety, any and all damages, losses, or costs suffered by the city resulting from the failure of a licensee to satisfactorily complete construction and/or reconstruction of its cable system throughout the license area pursuant to the terms and conditions of this chapter and such licensee's license.
 - (2) City authorization is required for any extension of the prescribed construction or reconstruction time limit. The construction bond shall be available throughout any such extension period.
 - (3) The construction bond shall be terminated only after the city manager finds that a licensee has satisfactorily completed initial construction and activation or reconstruction of its cable system pursuant to the terms and conditions of this chapter and such licensee's license.
 - (4) The rights reserved to the city with respect to the construction bond are in addition to all other rights of the city, whether reserved by this chapter or authorized by law, and no action, proceeding or exercise of a right with respect to such construction bond shall affect any other rights the city may have.
 - (5) The construction bond shall contain the following endorsement:

It is hereby understood and agreed that this bond may not be canceled by the surety nor the intention not to renew be stated by the surety until 60 days after receipt by the City, by registered mail, or written notice of such intent to cancel or not to renew.
- (f) Liquidated damages.
 - (1) Each license granted by the city shall state that a licensee understands and shall agree that failure to comply with any time and performance requirements as stipulated in this chapter and the license will result in damage to the city, and that it is and will be impracticable to determine the actual amount of such damage caused by delay or nonperformance; the license shall include provisions for liquidated damages to be paid by the licensee, in amounts set forth in the license and chargeable to the letter of credit for the following concerns:

- a. Failure to complete system construction or reconstruction in accordance with this chapter and/or the license, unless the city council specifically approves the delay by motion or resolution;
 - b. Failure to provide a cable connection within the time(s) set forth in subsection 4.5-4(c) above;
 - c. Failure to properly restore the public right-of-way or to correct related violations of specifications, code or standards after having been notified by the city to correct such defects;
 - d. Failure to comply with subscriber service standards of this chapter;
 - e. Failure to test, analyze and report on the performance of the cable system following a written request pursuant to subsection 4.5-4(e)(1);
 - f. Failure to provide in a continuing manner the type of services proposed in the accepted proposal for initial license or in the initial or renewal license unless the city council specifically approves modification of a licensee's obligation;
 - g. Failure to cure any violation of subsection 4.5-6(c), following notice and an opportunity to cure pursuant to the provisions of that subsection; and
 - h. Any other action or non-action by the licensee, regarding a requirement of a license to which none of the above apply, and set forth in the license.
- (2) If the city manager concludes that a licensee is in fact liable for liquidated damages pursuant to this subsection, he/she shall issue to licensee by certified mail a notice of intention to assess liquidated damages. The notice shall set forth the nature of the violation and the amount of the proposed assessment. The licensee shall, within thirty (30) days of receipt of such notice:
- a. Respond to the city in writing, contesting the city's assertion of violation and providing such information or documentation as may be necessary to support licensee's position; or
 - b. Cure any such violation (and provide written evidence of the same), or, if, by the nature of the violation, such violation cannot be cured within such thirty-day period, take reasonable steps to cure said violation and diligently continue such efforts until said violation is cured. Licensee shall report to the city, in writing, at thirty-day intervals as to licensee's efforts, indicating the steps taken by licensee to cure said violation and reporting licensee's progress until such violation is cured.
- (3) If licensee contests the city's assertion of a violation, within 15 days of notice of such contest the city shall schedule a hearing in accordance with the procedures set forth in subsection 4.5-7(g) below.
- (g) Administrative hearing.
- (1) Within fifteen (15) days of:
- a. Receipt of notice of contest pursuant to 4.5-7(f)(2)a. above;

- b. Expiration of the response time referred to in subsections 4.5-6(c)(7) above or 4.5-7(g)(3) below; or
- c. Notice from licensee that it contests an audit determination of license fees under subsection 4.5-3(b)(4);

an administrative hearing shall be scheduled by the city manager. Licensee shall be afforded an opportunity to be heard and to present evidence. Within fifteen (15) days after the conclusion of such hearing, the city manager shall issue a determination. In that determination the city manager may:

- a. Find that licensee is not in violation of the terms of the license or this chapter;
 - b. Find that the licensee is in violation, but that such violation was with just cause and waive any liquidated damages that might otherwise be imposed;
 - c. Find that licensee is in violation of the terms of the license or this chapter, take corrective action and foreclose on all or any appropriate part of the letter of credit provided pursuant to subsection 4.5-7(d) above;
 - d. Find that licensee is in violation of the terms of the license or this chapter and impose liquidated damages; or
 - e. In the case of a material violation of its license or this chapter, recommend that the city council terminate the license, provided that the city council may take action on any such recommendation only after a public hearing as set forth in subsection 4.5-7(h) below.
- (2) If the city manager determines that licensee has committed a violation, the determination shall be accompanied by a detailed statement of reasons for the determination, including findings of fact.
- (3) The decision of the city manager shall become final unless licensee requests a public hearing before the city council within fifteen (15) days of its receipt of the statement of reasons and findings of fact by the city manager.
- (h) Hearing by city council. If a public hearing before the city council is requested by licensee or is held pursuant to subsections 4.5-7(g)(1)e. or 4.5-7(g)(3), it shall be de novo and it shall convene within thirty (30) days of the request therefor. The city council may designate three (3) of its members to act as a hearing subcommittee to collect all evidence in the matter and to present written findings of fact and conclusions of law to the entire city council. Formal rules of evidence shall not apply. The city council's decision, which shall include findings of fact, shall be made not later than forty-five (45) calendar days after the conclusion of the hearing. In that decision, the city council may:
- (1) Find that licensee is not in violation of the terms of the license or this chapter;
 - (2) Find that licensee is in violation but that such violation was with just cause and waive any liquidated damages or penalty that may otherwise be imposed;
 - (3) Find that licensee is in violation of the terms of the license or this chapter, take corrective action and foreclose on all of any appropriate part of the letter of credit provided pursuant to subsection 4.5-7(d) above to pay the cost thereof;

- (4) Find that licensee is in violation of the terms of the license or this chapter and impose liquidated damages; or
- (5) In the case of a material violation of the license or this chapter within the meaning of subsection 4.5-7(i) below, declare the licensee in violation and revoke the license.
- (i) Revocation.
- (1) In addition to all other rights and powers retained by the city council under this chapter or otherwise, the city council shall have the right to revoke the license and all rights and privileges of the licensee thereunder upon a material breach of the license terms and conditions or violation of this chapter, which substantially affects (i) the provision or quality of cable services, (ii) the city's ability to effectively regulate the licensee or (iii) the city's collection of all fees and charges. The power of revocation shall not be used if the breach is a result of force majeure. The breaches appearing on the list set forth below shall be considered material breaches. The list is not exhaustive:
 - a. Willful or grossly negligent repeated violations of this chapter, the license or the representations made in the proposal, or any rule, order, or regulation of the city made pursuant to this chapter;
 - b. An attempt to dispose of any of the facilities or property of the cable system authorized by the license to prevent city from acquiring it, as provided for herein;
 - c. Attempt to evade any material provision of the license or practice any fraud or deceit upon the city or its subscribers or customers;
 - d. Failure to begin or complete cable system construction, reconstruction, or cable system extension as provided under the license;
 - e. Failure to provide the types of categories of programming and cable services promised;
 - f. Recurrent failures to restore service on the entire or a substantial portion of the cable system after ninety-six (96) consecutive hours of interruption;
 - g. Recurrent service outages of the entire cable system or a substantial portion thereof which, in the aggregate, exceed ten (10) days in any thirty-day period;
 - h. Recurrent failures after notice by the city manager to provide service to any part of the licensee service area, consistent with subsection 4.5-4(c);
 - i. Unlawful acts or omissions by licensee or its servants, officials, agents, representatives or employees, which result in the city's refusal to award a license to any other person, partnership, corporation or other legal entity.
- (2) Before proceeding with a revocation hearing, the city manager shall make a written demand that the licensee comply. If a violation by the licensee continues for a period beyond that set forth in the written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the city council may revoke the license as provided in subsection 4.5-7(i).

- (j) Continuity of service mandatory.
 - (1) It shall be the right of all subscribers to continue receiving cable service insofar as their financial and other obligations to a licensee are honored.
 - (2) If the license terminates, the licensee shall cooperate with the city to ensure continuity of cable service to all subscribers for a period not to exceed ninety (90) days. Said period may be extended by mutual agreement between the City and licensee. During such period, licensee shall be entitled to the revenues for any period during which it operates the cable system.
 - (3) If licensee fails to operate the cable system for ninety-six (96) consecutive hours without prior approval of the city or without just cause, the city may, at its option, operate the cable system or designate an operator until such time as licensee restores cable services under conditions acceptable to the city or a new permanent operator is selected. If the city is required to fulfill this obligation for a licensee, the licensee shall reimburse the city for all reasonable costs or damages that are the result of the licensee's failure to perform.
- (k) Failure of city to enforce a license; no waiver of the terms thereof. A licensee shall not be excused from complying with any of the terms and conditions of a license or this chapter by any failure of the city upon any one or more occasions to insist upon or to seek compliance with any such terms or conditions.
 - (l) Waivers.
 - (1) Any provision of this chapter may be waived, at the sole discretion of the city, by resolution of the city council.
 - (2) Licensee may submit a request for waiver to the city council at any time during the license term. Such request for waiver may, at the sole discretion of the city council, be set for public hearing and a decision shall be made within one hundred twenty (120) days following its submission.
 - (3) The city council may authorize the economic, technical or legal evaluation of such licensee's waiver request and the licensee shall be required to reimburse the city for all expenditures incurred by the city in connection with such evaluation. The city may require that licensee deposit with the city an amount estimated by the city to cover the city's expenditures incurred in connection with such evaluation.
 - (4) This subsection 4.5-7(l) is enacted solely for the convenience and benefit of the city and shall not be construed in such a manner as to create any right or entitlement for the licensee.
 - (m) Validity of license. Licensee shall acknowledge as a condition of acceptance of a license, that licensee was represented throughout the negotiations of any license award or renewal by its own attorneys and had opportunity to consult with its own attorneys about its rights and obligations regarding the license.
 - (n) Miscellaneous provisions.
 - (1) When not otherwise prescribed herein, all matters herein required to be filed with the city shall be filed with the office of the city clerk.

- (2) Neither licensee nor any of its officers or employees shall receive referral fees or gratuities from any television or radio sales or repair business.
- (3) Unless otherwise provided for in this chapter, any notice or other communication required or permitted to be given under this chapter shall be in writing and shall be deemed to have been duly given if (i) delivered to the office of the city manager or the address indicated by licensee for such notices, as applicable, (ii) deposited in the U.S. Mail, registered or certified, return receipt requested, to the office of the city manager or the address indicated by licensee for such notices, as applicable, (iii) given to a recognized and reputable overnight delivery service, to the office of the city manager or the address indicated by licensee for such notices, as applicable or (iv) delivered by facsimile transmission to the office of the city manager or the facsimile number indicated by licensee for such notices, as applicable, or at such other address, and to the attention of such other person or officer, as the city or the licensee may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (i) when delivered to the receiving party, (ii) three (3) business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (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, or (iv) when received by facsimile transmission during the normal business hours of the recipient. 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.
- (o) Force majeure. With respect to any provision of this chapter or any license granted pursuant thereto, the violation or noncompliance with which could result in the imposition of a financial penalty, liquidated damages, forfeiture, or other sanction upon a licensee, such violation or noncompliance shall be excused where such violation or noncompliance is the result of Acts of God, war, civil disturbance, strike or other labor unrest, or similar events, the occurrence of which was not reasonably foreseeable by licensee and is beyond its reasonable control.

SECTION 4. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. This is an emergency measure and is necessary for the immediate preservation of the public property. Without immediate regulatory action to comply with the provisions of the newly enacted provisions of Title 9, Chapter 13 of the Arizona Revised Statutes requiring the city to adopt the new Arizona Uniform Video Service License Agreement, License Application and Affidavit, the city code could conflict with State law. If passed by an affirmative vote of at least six (6) members of City Council, this Ordinance shall be effective immediately.

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

PASSED AND ADOPTED by the Council of the City of Avondale, July 22, 2019.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City

Clerk APPROVED AS

TO FORM:

Michael S. Wawro, City Attorney



CITY COUNCIL REPORT

SUBJECT: Ordinance 1697-719 - Amending City Code Chapter 21 - Fiber Conduit

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Tracy Stevens, Development and Engineering Services Director, (623) 333-4012

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

PURPOSE:

City Council will consider a request to adopt Ordinance 1697-719 amending Chapter 21 of the City Code, pertaining to the installation of fiber conduit and authorize the Mayor, or City Manager and City Clerk to execute the appropriate documents. The Council will take appropriate action.

BACKGROUND:

Fiber is the foundation for today's Smart City as they need expanded bandwidth, speeds, and scalability. Technology and technology driven applications such as management of self-driving vehicles, traffic, 5G networks, and smart homes are all dependent on fiber optic networks. Fiber makes our community desirable for both consumers and businesses, becoming one of the underlying drivers for economic development, and is influential when making a stay-or-go decision.

As the City of Avondale continues to install fiber conduit as part of its Capital Improvement Plan, the City is seeking an Amendment to the City Code which will require private developers to install fiber conduit as part of their standard street improvements.

DISCUSSION:

With the passage of this Code Amendment, the City would require fiber conduit to be installed as part of public improvement projects and developments in order to accommodate anticipated future demand for access to telecommunications services. This will assist the City in responsibly managing such facilities and areas by reducing or eliminating the need for excavation within public streets and rights-of-way when telecommunications service providers seek to locate underground telecommunications facilities within such streets and public property, easements, and rights-of-way in the future. This would reduce or eliminate the traffic disruption that occurs whenever excavation occurs within or around these areas. This would also reduce or eliminate the loss of pavement integrity and diminishment of the useful life of pavement that occurs whenever paved or improved streets and rights-of-way are cut and excavated.

The City is working towards expanding its Fiber optic network. Currently, the City traffic signals along Dysart Road are all connected by fiber to our Traffic Operation Center, which allows traffic staff to remotely monitor and control signal timing. Fiber optic cabling provides speed and reliability, along with a scalable internet. Utilizing fiber optic cabling, internet speeds can reach over 10Gb. Fiber optic cabling along with proper failover solutions will have a 99.99% uptime, with multiple network connections, and does not see the slowdown that is common with other technologies.

Currently, the City is providing materials (conduit and pull boxes) to private developers, for their installation as part of their right of way improvements. If the Code Amendment is approved, the developers would be responsible for providing the materials, as well as installation of same where appropriate.

The proposed City Code Amendment would modify Chapter 21-10 "Mandatory minimum development requirements", adding a new subsection which requires developers to be responsible to install fiber conduit and related infrastructure along arterial and/or collector road frontages abutting their property to City specifications, standards and guidelines. It should be noted that this Amendment does not affect the single home developer, who is building a home on a local street. It is intended for subdivision developers and developers of commercial properties having frontage along City arterial and collector roads to be responsible to install conduit for fiber along their frontage.

STRATEGIC PLAN ALIGNMENT

INITIATIVE:

Foster Sustainable Community Development

GOAL:

Maintain and expand infrastructure and improve connectivity to City amenities

OBJECTIVE:

Amend the City Code to require private developers to supply and install fiber conduit and related infrastructure, along with other required improvements, in the City's Rights-of-way, to help the City facilitate expansion of its fiber network.

BUDGET IMPACT:

When adopted, the City will no longer need to supply fiber conduit and related materials to private developers for installation in the City right of way. It will become the responsibility of the developer to supply and install all of the materials associated with the fiber conduit infrastructure.

RECOMMENDATION:

Staff recommends that City Council adopt an Amendment to Chapter 21 of the City Code, requiring private developers to be responsible for installing fiber conduit where appropriate, and authorize the Mayor, or City Manager and City Clerk, to execute the necessary documents.

Chapter 21 - STREETS AND SIDEWALKS

Article II - STREET STANDARDS

21-10 - Mandatory minimum development requirements.

Any person developing or otherwise improving a parcel of land in the city shall comply with the following minimum street standards. These minimum standards shall not preclude the city engineer or designee from imposing additional and/or increased standards as may be provided in the city's general plan, specific plans, specifications, standards and guidelines:

- (a) Provide access to a dedicated public right-of-way.
- (b) Dedicate the minimum required city right-of-way required under the city's subdivision regulations.
- (c) Install paving, curb, gutter, required street, safety and regulatory signs and sidewalk abutting property to city specifications, standards and guidelines. In lieu of requiring the improvements under this section, the city manager or designee may enter into a development agreement to provide that the improvements may be made in conjunction with other improvements or through participation in an improvement district or under such other requirements as deemed acceptable to the city manager or designee and in a form approved by the city attorney.
- (d) Design and construct required street lights and dedicate street lights to the city in Arizona Public Service service areas. In Salt River Project service areas, the owner or developer shall pay the investment fee charged by the Salt River Project for the street lights.
- (e) Participate in the construction of required piping, box culverts and drainage facilities required to convey existing sheet flows from the property as determined by the city engineer or designee. (Ord. No. 1215-1106, § 2, 11-20-06)
- (f) Install fiber conduit and related infrastructure along arterial and/or collector road frontages abutting property to city specifications, standards and guidelines.

21-11 - Streets; dedication and improvement requirements; initial analysis.

Notwithstanding the provisions of section 21-10 above, the city engineer or designee may require an initial analysis of any parcel of land to determine if the city should require additional right-of-way dedications and street improvements.

- (a) The initial analysis shall consist of a trip generation study performed, signed and sealed by an Arizona registered professional engineer, in a form acceptable to the city engineer or designee. Such study shall be at the applicant's sole cost and expense, and shall include an analysis of existing roadway capacity and impacts of the proposed project on access, visibility, traffic load and turning movements.
- (b) Based on the initial analysis, the city engineer or designee may impose the following additional requirements:

- (1) Additional right-of-way dedication up to the maximum provided under the city's transportation plan and/or general plan.

- (2) Additional building-restricted areas for view corridors.
- (3) Additional walls and building-restricted areas for truck traffic mitigation.
- (4) Deceleration lanes and dedicated turn lanes.
- (5) Bus bays and bus shelters.
- (6) Additional paving and paving repairs.
- (7) Traffic signals and/or other traffic control devices.
- (8) Fiber conduit and related infrastructure
- (89) Additional street lighting on major and minor arterial roadways.
- (910) Restrictions on access to roadway and/or traffic medians to restrict left hand turning movements.
- (1011) Drainage facilities for street drainage.
- (1112) Any other requirement that the city engineer or designee determines necessary to provide for traffic safety, pedestrian access and vehicular access and to mitigate impacts on street capacity and maintenance. (Ord. No. 1215-1106, § 2, 11-20-06)

ORDINANCE NO. 1697-719

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING CHAPTER 21 OF THE AVONDALE CITY CODE BY AMENDING SECTION 21-10 PERTAINING TO MANDATORY MINIMUM DEVELOPMENT REQUIREMENTS; AND AMENDING SECTION 21-11 PERTAINING TO STREETS; DEDICATION AND IMPROVEMENT REQUIREMENTS; INITIAL ANALYSIS; AND AMENDING SECTION 21-52 PERTAINING TO STREET LIGHTING SYSTEM, ELECTRIC UTILITY COMPANIES; STANDARDS;

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

SECTION 1. Chapter 21 of the Avondale City Code is amended by amending Section 21-10 pertaining to Mandatory minimum development requirements and which shall read as follows:

21-10 - Mandatory minimum development requirements.

Any person developing or otherwise improving a parcel of land in the city shall comply with the following minimum street standards. These minimum standards shall not preclude the city engineer or designee from imposing additional and/or increased standards as may be provided in the city's general plan, specific plans, specifications, standards and guidelines:

- (a) Provide access to a dedicated public right-of-way.
- (b) Dedicate the minimum required city right-of-way required under the city's subdivision regulations.
- (c) Install paving, curb, gutter, required street, safety and regulatory signs and sidewalk abutting property to city specifications, standards and guidelines. In lieu of requiring the improvements under this section, the city manager or designee may enter into a development agreement to provide that the improvements may be made in conjunction with other improvements or through participation in an improvement district, or under such other requirements as deemed acceptable to the city manager or designee, ~~and in a form approved by the city attorney.~~
- (d) Design and construct required street lights and dedicate street lights to the city in Arizona Public Service service areas. In Salt River Project service areas, the owner or developer shall pay the investment fee charged by the Salt River Project for the street lights.
- (e) Participate in the construction of required piping, box culverts and drainage facilities required to convey existing sheet flows from the property as determined by the city engineer or designee.
- (f) Install fiber conduit and related infrastructure along the road frontage(s) abutting the property being developed or improved in accordance with city specifications standards and

guidelines. This shall apply if the abutting road(s) are either of the following:

- (1) arterial roads; or
- (2) collector roads.

SECTION 2. Chapter 21 of the Avondale City Code is amended by amending Section 21-11 pertaining to Streets; dedication and improvement requirements; initial analysis and which shall read as follows:

21-11 - Streets; dedication and improvement requirements; initial analysis.

Notwithstanding the provisions of section 21-10 above, the city engineer or designee may require an initial analysis of any parcel of land to determine if the city should require additional right-of-way dedications and street improvements.

(a) The initial analysis shall consist of a trip generation study performed, signed and sealed by an Arizona registered professional engineer, in a form acceptable to the city engineer or designee. Such study shall be at the applicant's sole cost and expense, and shall include an analysis of existing roadway capacity and impacts of the proposed project on access, visibility, traffic load and turning movements.

(b) Based on the initial analysis, the city engineer or designee may impose the following additional requirements:

(1) Additional right-of-way dedication up to the maximum provided under the city's transportation plan and/or general plan.

(2) Additional building-restricted areas for view corridors.

(3) Additional walls and building-restricted areas for truck traffic mitigation.

(4) Deceleration lanes and dedicated turn lanes.

(5) Bus bays and bus shelters.

(6) Additional paving and paving repairs.

(7) Traffic signals and/or other traffic control devices.

(8) Fiber conduit and related infrastructure.

(89) Additional street lighting on major and minor arterial roadways.

(910) Restrictions on access to roadway and/or traffic medians to restrict left hand turning movements.

(4011) Drainage facilities for street drainage.

(4412) Any other requirement that the city engineer or designee determines necessary to provide for traffic safety, pedestrian access and vehicular access and to mitigate impacts on street capacity and maintenance.

SECTION 3. Chapter 21 of the Avondale City Code is amended by amending Section 21-

52 pertaining to Street lighting system, electric utility companies; standards and which shall read as follows:

21-52 - Street lighting system, electric utility companies; standards.

The city is serviced by two (2) electric utility companies; Arizona Public Service Company and the Salt River Project. Different standards for installation and design apply in each service area.

- (a) Arizona Public Service Company ("APS") Service Area: This area includes that portion of the City of Avondale in which APS has been granted a certificate of convenience and necessity to provide electric utility service by the Arizona Corporation Commission. The street lighting in this area shall be designed by the owner's engineer and the plans submitted to the city for review and approval. The city shall impose a charge on the owner for each review and approval of the plans. Upon approval of the plans by the city, the street lighting system shall be installed by APS. The developer shall pay the design and installation costs directly to APS. The street lighting system will be inspected by the city and/or APS prior to final plat approval. If the city determines that the street lighting system meets city standards, the street lighting system will be dedicated to the city in conjunction with the final plat approval. Ownership of the street lighting system will be conveyed to the city by dedication on the final plat, which upon recording with the Maricopa County Recorder shall constitute acceptance of the dedication by the city. If the project is not a subdivision, ownership of the street lighting system shall be conveyed to the city by an instrument acceptable to the city manager ~~attorney~~ and recorded in the office of the Maricopa County Recorder.
- (b) Salt River Project ("SRP") Service Area: This includes that portion of the City of Avondale in which the Salt River Agricultural and Power Improvement District in furtherance of its water delivery functions provides electric utility service. The street lighting in this area shall be designed and installed by SRP. The developer shall pay the design, installation and energizing costs charged by SRP to the developer to the city and these costs will then be forwarded to SRP.

SECTION 4. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. This Ordinance shall become effective in the manner provided by law.

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

PASSED AND ADOPTED by the Council of the City of Avondale, July 22, 2019.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Michael S. Wawro, City Attorney



CITY COUNCIL REPORT

SUBJECT: Contract Amendment One with Tightline Systems, Inc. for Special Events Planning and Services

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Kirk Haines, Director of Parks and Recreation, (623) 333-2411

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

PURPOSE:

City Council will consider a request to approve Contract Amendment One with Tightline Systems, Inc. dba Goosebump Marketing and Events, to provide event planning and management services in the amount not to exceed \$2,175,000 over the duration of the contract, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

On July 10, 2017, City Council approved a Professional Services Agreement with Tightline Systems, Inc. (Goosebump) in the amount of \$375,000 for the first year of a five-year contract for special event planning and management services. This contract award was based on a competitive bidding process that was conducted prior to the contract award.

The contract provisions provide for extensions over a five year period, therefore, the contract extensions are available through July 9, 2022.

Goosebump has been partnering with Avondale special events since 2012. They continue to demonstrate a professional approach to planning and organizing events. Goosebump is able to secure the right number of volunteers with paid staff to control and manage our family oriented special events. Furthermore, they organize and coordinate planning sessions well in advance of each event to insure steady progression and momentum is sustained up to each event. They continue to create a consistent balance with Avondale staff to successfully implement our signature events.

DISCUSSION:

Avondale has determined the most economical and efficient method to manage special events is through a combination of existing Avondale staff and contract services provided by an outside contractor. The larger and higher-attended special events are in a category called *signature events*. Signature events require a greater amount of planning, organizing and staffing for their success. The six signature events are Billy Moore Days, Winterfest, CulturePop, Tres Rios Nature Festival, KidFest, and Fiesta Avondale. The City of Avondale has contracted with Goosebump to coordinate and manage these signature events.

In addition to the signature events, there are also numerous one-time specialty events that are also part of the special events schedule. Three of our specialty events are also managed by Goosebump because there is additional coordination with a variety of organizations and groups that require special communication and

handling. Those three specialty events are Veteran's Day 5K Run and Ceremony, Avondale Cup, and the Memorial Day Remembrance.

Additional specialty events that are solely managed by Parks and Recreation staff include movie nights in the park, the 2019 New Year's Eve event, July 4th Waterpalooza, Teen night events, and this coming year the Half-Metric Bicycle Ride in Avondale, the Grand Opening of Festival Fields Park, and others. There is workload capacity with our existing parks and recreation staff to plan, organize and implement a number of the specialty special events.

The Fiscal Year 2019-2020 budget for all special events is \$429,390. In addition to this budget, revenue of approximately \$75,000 - \$100,000 is raised each year, which allows us to increase expenditures to improve the overall quality and experience of our special events.

Because we contract with Goosebump for additional services beyond these signature and specialty events, the annual contract amount ranges between \$375,000 - \$475,000 annually. This contract amount includes a fee of \$86,500 for planning and management services per year, and all the costs for the signature events and three specialty event expenses, including traffic control, sanitation, trash collection, staffing, security services, entertainment, marketing and promotion, hydration, equipment rentals and activities. There are thousands of logistical details that go on behind the scenes that are fully managed by Goosebump.

Each year's expenditures over the next three fiscal years will rely on the City Council budget appropriation for special events. Although this contract amendment establishes a contract sum of \$2.1M, it cannot exceed each year's appropriation for these activities and services.

The partnership between Goosebump and all of the various Avondale departments involved in making every special event successful and safe continues to flourish. There is a perfect blend of Goosebump staff, volunteers, and city staff that begin with set up, implementation, and breakdown - cleanup for each event that makes the event seamless to our community.

BUDGET IMPACT:

Funds in the amount of \$429,390 have been approved in the Fiscal Year 2019-20 operating budget, Account No. 101-8125-00-6181, Parks and Recreation Department, Recreation Division for this expense.

Additionally, revenues generated in Account No. 101-8125-00-9999, Parks and Recreation Department, Recreation Division, Restricted Use account are also available toward special event program expenses.

Future years expenditures are limited to those funds that are appropriated by City Council for special events each year.

RECOMMENDATION:

Staff is recommending that City Council approve Contract Amendment One with Tightline Systems, Inc. dba Goosebump Marketing and Events, to provide event planning and management services in the amount not to exceed \$2,175,000 over the duration of the contract, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

**FIRST AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
TIGHTLINE SYSTEMS, INC. D/B/A/GOOSEBUMP MARKETING & EVENTS**

THIS FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (this "First Amendment") is entered into as of the last dated signature below, between the City of Avondale, an Arizona municipal corporation (the "City"), and Tightline Systems, Inc., an Arizona corporation d/b/a Goosebump Marketing & Events (the "Contractor")

RECITALS

A. The City and the Contractor entered into Professional Services Agreement No. 14561C, dated July 10, 2017, for Contractor to provide event coordination and management services (the "Agreement"). All capitalized terms not otherwise defined in this First Amendment have the same meanings as set forth in the Agreement.

B. The City has determined that additional Services by the Contractor are necessary (the "Additional Services").

C. The City and the Contractor desire to enter into this First Amendment to (i) extend the term of the Agreement to allow the Contractor to complete the Additional Services and (ii) provide for an increase in compensation to the Contractor for the Additional Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and 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 City and the Contractor hereby agree as follows:

1. Term. The Term of the Agreement is hereby extended and shall remain in full force and effect until July 9, 2020, unless terminated as otherwise provided pursuant to the terms and conditions of the Agreement.

2. Scope of Work. The Contractor shall provide the Additional Services in accordance with the Scope of Work in the Agreement.

3. Compensation. The City shall increase the compensation to Contractor by \$1,800,000.00 for the Additional Services at the rates set forth in the Agreement, resulting in an increase of the aggregate not-to-exceed compensation from \$375,000.00 to \$2,175,000.00.

4. Effect of Amendment. The Agreement is affirmed and ratified and, except as expressly modified herein, all terms and conditions of the Agreement shall remain in full force and effect.

5. Non-Default. By executing this First Amendment, the Contractor affirmatively asserts that (i) the City is not currently in default, nor has been in default at any time prior to this First Amendment, under any of the terms or conditions of the Agreement and (ii) any and all Contractor claims, known and unknown, relating to the Agreement and existing on or before the date of this First Amendment are forever waived.

6. Conflict of Interest. This First Amendment and the Agreement may be canceled by the City pursuant to ARIZ. REV. STAT. § 38-511.

[SIGNATURES ON FOLLOWING PAGES]

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

“City”

CITY OF AVONDALE,
an Arizona municipal corporation

Charles A. Montoya, City Manager

Date

ATTEST:

Marcella Carrillo, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2019, 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

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

"Contractor"

TIGHTLINE SYSTEMS, INC.,
an Arizona corporation,
d/b/a/ GOOSEBUMP MARKETING & EVENTS

By: _____

Name: _____

Title: _____

Date: _____

(ACKNOWLEDGMENT)

STATE OF Arizona
COUNTY OF Maricopa) ss.

On July 1, 2019, before me personally appeared Stacey Annette Lindsay, the owner of TIGHTLINE SYSTEMS, INC., an Arizona corporation, d/b/a GOOSEBUMP MARKETING & EVENTS, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the corporation.



Notary Public _____

(Affix notary seal here)

CITY COUNCIL REPORT

SUBJECT: Construction Manager at Risk Contract Award with Achen Gardner for Sewer Repair Projects

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Cindy Blackmore, Public Works Director, (623) 333-4410

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

PURPOSE:

City Council will consider a request to approve a Construction Manager at Risk Agreement with Achen Gardner Construction, LLC for sewer repair services in the amount of \$76,796.70 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

The City's Integrated Utility Master Plan identified two locations requiring sewer repairs or replacements. The first is the Dysart Road Sewer Project which begins near the Dysart Rd. & Riley Dr. intersection and runs south to 7th Street & Corral St. . The second is the 4th Avenue Sewer project located at Buckeye Rd east of Litchfield Rd. These projects are in close proximity to each other and are very complex in nature. They require coordinating with the Union Pacific Railroad as the sewer runs under the tracks at both locations. This complexity is best addressed by utilizing the construction manager at risk (CMAR) delivery method and utilizing one contractor to complete the construction. The City has budgeted for these projects across two fiscal years FY2019 and FY2020.

DISCUSSION:

A Request for Qualifications was released on January 23, 2019 seeking contractors interested in providing preconstruction services and the construction of new sewer lines at the two locations within the City. Final submittals were due February 20, 2019. A total of three (3) firms submitted proposals for evaluation.

The CMAR selection process took into account the contractors' prior performance, understanding of the scope of work, project timeline and ability to add value to the project. Through this evaluation process the panel determined that Achen Gardner was best able to provide the construction management services for the sewer repair and design project.

At this time, staff is seeking to award the pre-construction services scope of work to Achen Gardner. This work will include the following:

- Program Estimate, Evaluation and Reporting
- Flow Bypass Design, Evaluation
- Bypass Pumping and Hauling Plans
- Construction Management Planning and Oversight
- Master Project Scheduling

- Cost Modeling
- Development of GMP Proposal(s)
- Stakeholder Outreach/Coordination

Staff will return to City Council to request approval of amendments to fund GMP contracts for the physical improvements, once the project details and costs have been determined as part of this pre-construction services agreement.

BUDGET IMPACT:

Funding for these projects were approved by Council in the current Capital Improvement Plan in line item 513-1389-00-8620, Dysart Road Sewer Replacement, Riley to Corral and 513-1356-00-8610, Large Diameter Pipe Rehabilitation.

RECOMMENDATION:

Staff recommends that the City Council approve a Construction Manager at Risk Agreement with Achen Gardner Construction, LLC to perform design phase review and complete construction services for Sewer Repair Services in the amount of \$76,796.70 and authorize the Mayor or City Manager and City Clerk to execute the contract documents.

**CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
CITY OF AVONDALE
AND
ACHEN GARDNER CONSTRUCTION, LLC**

THIS CONSTRUCTION MANAGER AT RISK AGREEMENT (this "Agreement") is made July 22, 2019, by and between the City of Avondale, an Arizona municipal corporation (the "City"), and Achen Gardner Construction, LLC, an Arizona limited liability company (the "Construction Manager"), for design phase review and complete construction services related to Sewer Repair Services, which begins at 611 North Dysart Road and 218 West Main Street, both in Avondale, Arizona and other items as deemed necessary by the City (the "Project"). The City and the Construction Manager are referred to herein individually as a "Party" and collectively as the "Parties."

**ARTICLE 1
GENERAL**

1.1 Project Summary. The Construction Manager shall perform all pre-construction services set forth in Article 2 below (the "Pre-Construction Services") and, subject to Section 1.2 below, management and construction services set forth in Article 4 below (the "Construction Services") (the Pre-Construction Services and the Construction Services are collectively referred to as the "Services"), including providing all material, equipment, tools and labor necessary to complete the Work (as defined below) described herein and reasonably inferable from the Contract Documents (as defined below), including the upgrades and improvements to be encompassed in the Project. The Construction Manager will also coordinate with and provide comments to Project Engineer Consultants, Ltd. (the "Project Designers") to ensure that the Project design is constructible within the established budget.

1.2 Phased Agreement. The Services contemplated by this Agreement shall be carried out in several distinct phases. The initial Services shall be to provide Pre-Construction Services including (A) such environmental investigation services as applicable pursuant to Section 2.1 below, (B) review of the Project Designers' Construction Documents pursuant to Section 2.2 below and (C) the Pre-Construction Phase General Services, pursuant to Section 2.3 below (the "Pre-Construction Phase General Services"). The Construction Manager shall be compensated on an hourly basis, at the agreed-upon hourly rates and a stipulated not-to-exceed total fee, for the Pre-Construction Services as set forth in Section 7.1 below, provided that such services may extend through the construction phase for various components of the Project. At the point in the Pre-Construction Services as determined by the City, the City may, in its sole discretion, request that the Construction Manager submit a proposal for a guaranteed maximum price ("GMP") for construction of the Project, which may be submitted as a single GMP or as multiple GMPs at the City's sole discretion. The Construction Manager shall prepare and submit the GMP Proposals pursuant to Article 3 below. If the City and the Construction Manager agree upon the respective GMP Proposals, the Construction Manager shall furnish, with respect to each GMP Proposal (A) such environmental investigation services as applicable pursuant to Section 2.1 below and (B) the Construction Services set forth in Article 4 below. If the City and the Construction Manager

cannot, after good faith efforts, agree on the GMP, the City may, in its sole discretion, terminate this Agreement (subject to the terms and conditions set forth in Section 12.2 below).

1.3 Definitions.

A. "Additional Services" means services not initially included as part of the Work, but which are later identified as necessary or desirable by the City, as more fully described in Section 4.17 below.

B. "Applicable Law" means any law, rule, code, regulation, requirement, action, determination, guideline, or order of, or any legal entitlement issued by, any governmental body having jurisdiction, applicable or relating to the design, permitting, construction, equipping, financing, ownership, possession, or any other transaction or matter contemplated hereby relating to the design and construction of the Project.

C. "Change Directive" means a written order prepared and signed by the City and the Construction Manager, approving a change in the Work that does not require an adjustment in the Contract Price or the Contract Time.

D. "Change Order" means a contract amendment issued after execution of this Agreement or future GMP Amendments signed by the City, Construction Manager and other parties, as may be required or appropriate, agreeing to an addition, deletion or revision in the scope of Work, an adjustment to the Contract Price, an adjustment to the Contract Time or other modifications to Contract terms.

E. "City's Contingency" means a fund used at the discretion of the City, usually for costs that result from City-directed changes.

F. "Construction Documents" means the plans, Specifications and drawings prepared by the Project Designers after correcting for permit review requirements, and as approved by the City Manager or authorized designee. The Construction Documents, once approved by the City as 100% complete, shall be attached hereto as Exhibit A and incorporated herein by reference.

G. "Construction Fee" means the portion of Construction Manager's compensation not related to Direct Construction Costs, as set forth in Subsection 3.4 below.

H. "Contract Documents" means all of the following:

1. Change Orders and written amendments to this Agreement, including the amendments, if any, relating to the respective GMPs (the "GMP Amendments"), signed by both the City and the Construction Manager, attached hereto as Exhibit B and incorporated herein by reference.

2. This Agreement.

3. The Construction Documents.

4. The Construction Manager's Guaranteed Maximum Price Proposals (the "GMP Proposals"), attached hereto as Exhibit C and incorporated herein by reference, including but not limited to:

a. The Construction Manager's proposed scope of services and fee breakdown for each GMP Proposal (the "Scope").

b. The Master Schedule relating to the applicable Scope developed in accordance with Subsection 2.3(C) below and updated as set forth in this Agreement, attached hereto as Exhibit D and incorporated herein by reference.

5. The City's Request for Qualifications (the "RFQ") attached hereto as Exhibit E and incorporated herein by reference.

6. The Construction Manager's response to the City's RFQ attached hereto as Exhibit F and incorporated herein by reference.

In case of any inconsistency, conflict or ambiguity among the Contract Documents, the documents shall govern in the order in which they are listed above.

I. "Contract Price" means the total compensation to be paid to the Construction Manager, as more fully described in Article 7 below.

J. "Contract Time" means the Days, as set forth in Article 6, indicating the period of time, including authorized adjustments, allotted in the Contract Documents to achieve Substantial Completion of the Work.

K. "Cost Model" means the detailed cost information for the Project as described in Subsection 2.3(D) below.

L. "Cost of the Work" means the portion of Direct Construction Costs necessarily incurred by the Construction Manager in the proper performance of the Work as more specifically set forth in Section 3.3(B) below.

M. "Critical Path" means the sequence of activities from the start of the Work to Substantial Completion of the Project for which any delay in the completion of these activities will delay achieving Substantial Completion.

N. "Day(s)" means calendar day(s) unless otherwise specifically noted in the Contract Documents.

O. "Differing Site Conditions" means concealed or latent physical conditions or subsurface conditions at the Site that (1) materially differ from the conditions indicated in the Contract Documents or (2) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized in the area of the Site as inherent in the Work.

P. "Direct Construction Costs" means General Conditions Costs and Cost of the Work as set forth in Section 3.3 below.

Q. "Environmental Conditions" means collectively, Hazardous Materials and Underground Storage Tanks.

R. "Environmental Damages" means all claims, judgments, damages, losses, penalties, fines, liabilities, encumbrances, liens, costs and expenses of investigation and defense of any claim, including, without limitation, attorney's fees, that are incurred at any time as a result of the existence of Environmental Conditions upon, about or beneath the Project Site or migrating or threatening to migrate to or from the Site, and including, without limitation:

1. Damages for personal injury, or injury to property or to natural resources occurring upon or off the Site.

2. Fees incurred for the services of attorneys, consultants, the Construction Manager, experts, laboratories and all other costs incurred in connection with the investigation or remediation of such Environmental Conditions or violation of Environmental Requirements.

3. Liability to any third party or governmental agency or political subdivision to indemnify such party, agency or political subdivision for costs expended in connection with the items listed in Subsections 1.3(R)(1) and (2) above.

S. "Environmental Requirements" means all applicable laws, statutes, regulations, rules, ordinances, common law codes, licenses, permits, orders and similar items of all governmental agencies or other instrumentalities of the United States, the State of Arizona, Maricopa County and all applicable, judicial, administrative and regulatory decrees, judgments and orders relating to the protection of human health or the environment, including, without limitation:

1. (a) Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") (42 U.S.C. § 9601, *et seq.*), as amended by the Superfund Amendments and Reauthorization Act of 1986, and as further amended from time to time, and regulations promulgated thereunder; (b) defined as a "regulated substance" within the meaning of Subtitle I of the Resource Conservation and Recovery Act ("RCRA") (42 U.S.C. § 6691 *et seq.*), as amended from time to time, and regulations promulgated thereunder; (c) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act (33 U.S.C. § 1321), as amended from time to time, and the regulations promulgated thereunder, or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. § 1317), as amended from time to time, and the regulations promulgated thereunder; (d) the Clean Air Act (42 U.S.C. § 7401 *et seq.*), as amended from time to time, and regulations promulgated thereunder; (e) regulated under the Toxic Substances Control Act (15 U.S.C. § 2601, *et seq.*); (f) Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. § 136 *et seq.*); (g) the Solid Waste Disposal Act (42 U.S.C. § 6901 *et seq.*), as amended from time to time, and regulations promulgated thereunder; or (h) defined as

“hazardous”, “toxic”, or otherwise regulated, under any Environmental Requirements adopted by the state in which the Site is located, or its agencies or political subdivisions.

2. Asbestos or asbestos-containing materials.

3. All requirements, including but not limited to, those pertaining to reporting, licensing, permitting, investigation and remediation of emissions, discharges, releases or threatened releases of Hazardous Materials into the air, surface water, ground water or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials.

4. All requirements pertaining to the protection of the health and safety of employees or the public.

T. “Final Completion” means completion of the Project, including Punch List items, by the Construction Manager in accordance with the Contract Documents, certified to the City by the Construction Manager.

U. “Float” means the number of Days by which an activity can be delayed without lengthening the Critical Path and extending the Substantial Completion date.

V. “General Conditions Costs” means a portion of the costs incurred by Construction Manager during the construction phase, as set forth in Section 3.3(A) below.

W. “Hazardous Materials” means any substance as defined under Environmental Requirements including:

1. The presence of which requires notification, investigation or remediation under federal, state or local law, statute, regulation, ordinance, order, action, policy or common law.

2. Which is or becomes defined as a “hazardous waste”, “hazardous substance”, pollutant or contaminant under any federal, state or local law, statute, regulation, rule or ordinance or amendments thereto.

3. Which is petroleum, petroleum products, including crude oil or any fraction thereof not otherwise designated as a “hazardous substance” under CERCLA, including without limitation gasoline, diesel fuel or other petroleum hydrocarbons; and, ethanol, methyl tertiary butyl ether or derivatives or constituents of or vapors from any of the foregoing.

4. Which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority or instrumentality of the United States or the State of Arizona.

5. The presence of which on the Project Site causes or threatens to cause a nuisance upon the Project Site or to the adjacent properties or poses or threatens to pose a hazard to the health or safety of persons on or about the Project Site.

6. The presence of which on adjacent properties could constitute a trespass by the Construction Manager or the City.

X. "Master Schedule" is defined as set forth in Subsection 2.3(C) below.

Y. "Project Record Document(s)" means the document(s) created pursuant to Section 4.12.

Z. "Punch List" means that list of items provided by City to the Construction Manager at the time of Substantial Completion indicating items to be completed or corrected, including the time for completion or correction by the Construction Manager after Substantial Completion.

AA. "Shop Drawings" means drawings, diagrams, schedules and other data specially prepared for the Work by the Construction Manager or a Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

AB. "Site" means the land or premises on which the Project is located.

AC. "Specifications" means the part(s) of the Contract Documents for the construction phase consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.

AD. "Subcontractor" means a person or entity employed or engaged by the Construction Manager or any person or entity directly or indirectly in privity with the Construction Manager to perform any portion of the Work. The term Subcontractor does not include any separate contractor employed by the City.

AE. "Substantial Completion" means construction has been completed in accordance with the Contract Documents to the extent that the City can use or occupy the entire Project, or the designated portion of the Project for the use intended without any outstanding, concurrent construction at the Site, except as may be required to complete or correct Punch List items.

AF. "Underground Storage Tank" shall have the definition assigned to that term by § 9001 of RCRA, 42 U.S.C. § 6991, as amended, and also shall include: (1) any tank of 1,100 gallons or less capacity used for storing motor fuel; (2) any tank used for storing heating oil for consumption on the premises where stored; (3) any tank used for storing waste oil; (4) any septic tank; and (5) any pipes with oil dispensers connected to items listed in clauses 1.3(AA)(1) and 1.3(AA)(2) above.

AG. The "Work" means, collectively, the (1) environmental investigation set forth in Section 2.1 below, (2) Review of Construction Documents and design remedies set forth in Section 2.2 below, (3) Pre-construction Phase General Services set forth in Section 2.3 below, (4) Construction Services provided in accordance with Article 4 below, if applicable, (5) Additional Services that may be provided pursuant to an approved Change Directive or Change Order in accordance with Article 8 below and (6) other services that are necessary to complete the Project in accordance with and reasonably inferable from the Contract Documents.

1.4 Cooperative Relationship. The City and the Construction Manager agree to proceed with the Project on the basis of trust, good faith and fair dealing, and shall take all actions reasonably necessary to perform this Agreement in an economical and timely manner, but without sacrificing quality. The City and the Construction Manager agree to consider design modifications and alternative materials or equipment if necessary to permit the Project to be constructed by the dates of Substantial Completion and Final Completion, as established by the mutually-agreed-upon Master Schedule attached hereto.

1.5 City Representations.

A. Project Designer Selection. The City has contracted separately with the Project Designers to provide engineering and design for the Project.

B. City's Project Manager. City has either designated a City staff member to act as City's Project Manager and/or has contracted separately with a person, firm or corporation to act as City's Project Manager. The City's Project Manager has no design responsibilities of any nature. None of the activities of City's Project Manager supplant or conflict with the design, budget, or any other services and responsibilities furnished by the Construction Manager, the Project Designers or sub-consultants. All instructions by the City relating to this Agreement will be issued or made through the City's Project Manager. All communications and submittals of Construction Manager to the City shall be issued or made through the City's Project Manager unless the City or the City's Project Manager shall otherwise direct. The City's Project Manager shall not unreasonably withhold approval for the Construction Manager to communicate directly with other City officials or the Project Designers. Throughout the term of this Agreement the City's Project Manager shall have the authority to establish procedures, consistent with this Agreement, to be followed by the Construction Manager and to call periodic conferences to be attended by the Construction Manager and the Construction Manager's Subcontractors.

C. Limited Project Management. None of the City's project management activities are intended to supplant or conflict with the design, budget, or any other services and responsibilities customarily furnished by the Construction Manager or its Subcontractors, except as otherwise specifically modified by this Agreement.

D. No Third Party Relationships. The Construction Manager assumes responsibility to City for the proper performance of the work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between City and any level of Subcontractor, including but not limited to any third-party beneficiary rights. Nothing contained

in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against the City or the Construction Manager.

E. Requests for Information. The City shall examine requests for information/direction submitted by the Construction Manager and shall render decisions thereto promptly. The City shall furnish required information and approvals and perform its responsibilities and activities in a timely manner to facilitate orderly progress of the Work (1) in cooperation with the Construction Manager, (2) consistent with this Agreement and (3) in accordance with the planning and scheduling requirements and budgetary restraints of the Project as determined by the City.

F. Notice to Construction Manager of Defect. If the City observes or otherwise becomes aware of any fault or defect in the Project or nonconformity with the Contract Documents, the City shall give written notice thereof to the Construction Manager.

G. Approvals. The City shall secure, submit and pay for necessary approvals, easements, assessments, permits and charges required for the Project.

H. Communication. The City, its representatives and consultants shall communicate with the Subcontractors only through the Construction Manager unless otherwise directed or permitted by the Construction Manager.

I. Notices. The City shall send to the Construction Manager, and shall require the Project Designers to send to the Construction Manager, copies of all notices and communications sent to or received by the City or the Project Designers relating to the Construction Manager's Services with respect to the Project.

1.6 Construction Manager Representations.

A. Standards. The Construction Manager shall provide the professional management and construction services for the Project in accordance with the terms and conditions of this Agreement. The Construction Manager covenants with the City to furnish its skill and judgment with due care and in accordance with the highest standards of its profession and with Applicable Law in effect on the date of this Agreement or as subsequently amended.

B. Subcontractor Selection Program. In conjunction with its response to the City's RFQ, the Construction Manager submitted to the City a written procedure in conformance with ARIZ. REV. STAT. § 34-601 *et seq.*, as amended, for qualifications-based selection of Subcontractors to be utilized in completion of the Project (the "Subcontractor Selection Program"), which is attached hereto as Exhibit G and incorporated herein by reference. The Construction Manager shall conduct a telephone and correspondence campaign to attempt to create interest among Subcontractors. The Construction Manager shall develop and coordinate procedures to provide answers to Subcontractors' questions. The Construction Manager shall use best efforts to utilize minority business enterprises, woman business enterprises and local contractors or suppliers. The Construction Manager shall ensure that each Subcontractor has secured the required business licenses, permits, insurance and bonds. The Construction Manager shall be solely responsible for ensuring that (1) the Subcontractor Selection Program is in conformance with

Applicable Law and (2) all Subcontractors are selected in accordance with the Subcontractor Selection Program. The Construction Manager shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees for, from and against all claims, damages, losses and expenses (including, but not limited to, attorney fees, court costs and the cost of appellate proceedings) relating to, arising out of, or alleged to have resulted from the Construction Manager's failure to appropriately select its Subcontractors. Additionally, as part of the Construction Manager's submittal of any GMP Proposal under this Agreement, the Construction Manager shall utilize the Subcontractor Selection Program to meet its requirements under Section 3.7 below.

C. Key Personnel. The Construction Manager shall provide to the City a list of the proposed key project personnel of the Construction Manager and its Subcontractors to be assigned to the Project. This list shall include such information on the professional background of each of the assigned individuals as may be requested by the City. Such key personnel and consultants shall be satisfactory to the City and shall not be changed except with the consent of the City. The Construction Manager will maintain an adequate number of competent and qualified persons, as determined by the City, to ensure acceptable and timely completion of the Services described in this Agreement. If the City objects, with reasonable cause, to any of the Construction Manager's staff, the Construction Manager will take prompt corrective action acceptable to the City and, if required, remove such personnel from the Project and replace with new personnel with qualifications acceptable to the City. Additionally, the City shall have the right to request that the Construction Manager personnel be removed from the Project if, in the City's sole discretion, such personnel are detrimental to the Project delivery process. Upon receipt of such request, the Construction Manager shall remove such personnel unless the Construction Manager can provide the City with sufficient documentation to prove it is commercially impractical to replace the personnel with similarly qualified personnel. The City's approval of substituted personnel shall not be unreasonably withheld.

D. Site Conditions. The Construction Manager represents that it has taken steps reasonably necessary to ascertain the nature and location of the Work related to the Project, and that it has investigated and satisfied itself as to the general and local conditions and constraints that are applicable to the Work such as (1) conditions bearing on transportation, disposal, handling and storage of materials, (2) the availability of labor, water, power and roads, (3) normal weather conditions, (4) observable physical conditions at the Site, (5) the surface conditions of the ground and (6) the character of equipment and facilities needed prior to and during the performance of the Work. To the extent the Construction Manager encounters subsurface or concealed conditions that differ materially from those which could reasonably have been determined from a Site surface investigation by the Construction Manager on the date of this Agreement or from those ordinarily found to exist and generally recognized as inherent in the activities of the character provided in the Contract Documents, then the Construction Manager shall give notice to the City promptly before conditions are disturbed and in no event later than seven Days after the first observance of the conditions if a Change Order is contemplated by the Construction Manager due to such conditions. Such materially different conditions, if discovered after a GMP is approved, may entitle the Construction Manager to an equitable adjustment in the applicable GMP or schedule pursuant to the Change Order provisions set forth in Article 8 below.

1.7 City and Subcontractors. The City will require the Construction Manager to contract directly with such Subcontractors as may be necessary for construction or supply of the Project. All such contracts shall be issued consistent with (A) the applicable provisions of this Agreement and (B) Applicable Law, including, but not limited to, the requirements of ARIZ. REV. STAT. § 34-603(N) relating to inclusion of the Project's physical location in all subcontracts.

1.8 Construction Manager to Other Project Participants. In providing the Services described in this Agreement, the Construction Manager shall endeavor to maintain a working relationship with the Project Designers. The Project Designers are solely responsible for the Project design and shall perform in accordance with their respective agreements with the City. Nothing in this Agreement shall be construed to mean that the Construction Manager is responsible for the design of the Project or that the Construction Manager assumes any of the contractual or customary responsibilities or duties of the Project Designers or any other persons or parties not specified by this Agreement; provided, however, that the Construction Manager shall provide comment and input in the form of a value analysis and constructability review with respect to the Project Designers' designs as set forth in Section 2.2 below.

1.9 Data Confidentiality.

A. Data Defined. As used in this Agreement, "data" means all information, whether written or verbal, including plans, photographs, studies, investigations, audits, analyses, samples, reports, calculations, internal memos, meeting minutes, data field notes, work product, proposals, correspondence and any other similar documents or information prepared by or obtained by the Construction Manager in the performance of this Agreement.

B. Confidentiality. The Parties agree, subject to Arizona public records law, that all data, including originals, images, and reproductions, prepared by, obtained by, or transmitted to the Construction Manager in connection with the Construction Manager's performance of this Agreement is confidential and proprietary information belonging to the City.

C. Use of Data. The Construction Manager will not divulge data to any third party without prior, written consent of the City. The Construction Manager will not use the data for any purposes except to perform the Services required under this Agreement. These prohibitions will not apply to any of the following data, provided the Construction Manager has first given the required notice to the City:

1. Data that was known to the Construction Manager prior to its performance under this Agreement, unless such data was acquired in connection with work performed for the City.

2. Data that was acquired by the Construction Manager in its performance under this Agreement, and which was disclosed to the Construction Manager by a third party, who to the best of the Construction Manager's knowledge and belief, had the legal right to make such disclosure and the Construction Manager is not otherwise required to hold such data in confidence.

3. Data that is required to be disclosed by the Construction Manager by virtue of law, regulation, or court order.

D. Disclosure Notice. In the event the Construction Manager is required or requested to disclose data to a third party, or any other information to which the Construction Manager became privy as a result of any other contract with the City, the Construction Manager will first notify the City as set forth in this section of the request or demand for the data. The Construction Manager will timely give the City sufficient facts, such that the City can have a meaningful opportunity to either first give its consent or take such action that the City may deem appropriate to protect such data or other information from disclosure.

E. Return After Completion. The Construction Manager, unless prohibited by law, within 10 Days after completion of services for a third party on real or personal property owned or leased by the City, will promptly deliver, as set forth in this Section, a copy of all data to the City. All data will continue to be subject to the confidentiality requirements of this Agreement.

F. Construction Manager Responsible. The Construction Manager assumes all liability for maintaining the confidentiality of the data in its possession and agrees to compensate the City if any of the provisions of this Section are violated by the Construction Manager, its employees, agents or Subcontractors. For the purposes of seeking injunctive relief, it is agreed that a breach of this Section will be deemed to cause irreparable harm that justifies injunctive relief in court.

ARTICLE 2 PRE-CONSTRUCTION SERVICES

2.1 Environmental Investigation

A. Discovery. Upon written notice from the City or upon the Construction Manager's discovery of Environmental Conditions on the Site, the Construction Manager shall recommend, for execution by the City, one or more contracts ("Environmental Contracts") with suitably qualified consultants and/or engineers ("Environmental Engineers"), each of which Environmental Engineer and which form of Environmental Contract shall be subject to the approval of the City, for purposes of performing an investigation and analysis of the Site prior to demolition and excavation activities, to determine the presence of any Environmental Conditions on, in or under the Site. The Environmental Contracts shall provide for a commercially reasonable scope of investigation and costs approved by the City, and may provide for conducting the investigation and testing in phases acceptable to the City. The Environmental Contracts shall also provide that the Environmental Engineers shall begin their tests and inspections at the Site as soon as the City is able to arrange access to the Site, or any portions thereof, for such purposes. The Environmental Contracts shall provide that the Construction Manager, acting as agent of the City, shall coordinate the activities of the Environmental Engineers with the Work.

B. Assessment; Remediation Analysis. The Environmental Contracts shall provide that the Environmental Engineers shall prepare such reports, feasibility studies and remedial plans in accordance with applicable local, state, and federal rules, regulations, and laws,

including the federal "all appropriate inquiry" Standard and American Society for Testing and Materials, ASTM E §1527-13 ("Environmental Assessments") as may be reasonably necessary in order to identify and explain the quantity, scope and nature of the Environmental Conditions found to exist at the Site. The Environmental Assessments shall contain a detailed analysis of the Environmental Conditions discovered, and the actions ("Remedial Actions") required for the response, removal, cleanup or remediation of such Environmental Conditions (1) that are required by Environmental Requirements, or (2) that are reasonably necessary to mitigate Environmental Damages.

C. Impact on Master Schedule. The Environmental Contracts shall provide that the Environmental Engineers shall promptly provide the City and the Construction Manager with a copy of each Environmental Assessment, together with any other reports and test results generated pursuant to the Environmental Contracts. The Construction Manager shall, promptly after receipt of the foregoing matters from the Environmental Engineers, prepare and submit to the City a written report setting forth the Construction Manager's understanding of whether and to what extent any recommended Remedial Actions may result in an amendment to the Master Schedule and the progress of the Work.

D. Notice; Permitting. The Environmental Contracts shall require the Environmental Engineers to (1) give notice to the City of the presence of Environmental Conditions, (2) only upon the written consent of the City, give any necessary notice to the Federal government and the State of Arizona or other agencies of the presence of any Environmental Conditions, (3) assist the City in negotiations with Federal and Arizona agencies concerning preparation and approval of a plan for clean-up to the extent required and (3) obtain all necessary permits to perform any Remedial Actions.

E. Remediation Contractors. If so instructed by the City, based upon the results of the Environmental Assessments, the Construction Manager shall assist the City with obtaining bids from remediation contractors ("Remediation Contractors") suitably qualified and approved by the City to perform the Remedial Actions selected by the City. If the City elects to go forward with all or any portion of the Remedial Actions covered by the bids submitted, the City will so advise the Construction Manager in a written notice on or before the date that is 60 Days after receipt of the foregoing matters from the Construction Manager. Thereafter, the City shall execute contracts with the selected Remediation Contractors ("Remediation Contracts").

F. Coordination. Unless otherwise instructed, the Construction Manager, as agent for the City, shall be responsible for coordinating the work and services performed by the Remediation Contractors with the Work.

G. Payment for Remediation. The City will make all payments due under the Environmental Contracts and the Remediation Contracts directly to the Environmental Engineers and the Remediation Contractors. Such payments will be based on requisitions, which requisitions shall be approved by the Construction Manager prior to submission to the City. All payments due under the Environmental Contracts, the Remediation Contracts and for Environmental Damages, shall not be a part of the applicable GMP, and shall be the sole responsibility of the City, except as expressly provided otherwise.

H. Additional Discovery. If, in the course of performance of the Work, the Construction Manager encounters on the Site any Environmental Conditions not previously disclosed and remediated by the Environmental Engineers or the Remediation Contractors, the Construction Manager shall immediately suspend the Work in the area affected and promptly thereafter report the condition to the City.

I. Construction Manager Responsibility. Except as set forth in Subsection 2.1(L) below, it is understood and agreed that with respect to any Environmental Conditions existing on the Site, the Construction Manager is not, and shall not be deemed to be, a generator, arranger, owner, operator, treater, storer, transporter or disposer of, or otherwise responsible for, any such Environmental Conditions. It is understood and agreed that the Construction Manager shall have no right to direct the means or methods of performance of any Environmental Engineer or Remediation Contractor.

J. City Indemnity. To the extent that the Construction Manager or the Subcontractors are not in violation of Subsection 2.1(L) below and to the extent sufficient appropriations are made pursuant to Section 14.18 below, the City shall indemnify, defend and hold harmless the Construction Manager, the Subcontractors, and the directors, officers, agents and employees of each (the "Construction Manager Indemnitees"), for, from and against any Environmental Damages asserted against or sustained by such parties as a result of any of the Construction Manager Indemnities being deemed or determined to be a generator, arranger, owner, operator, treater, storer, transporter or disposer of, or otherwise responsible for, any such Environmental Conditions.

K. Delay for Remedial Actions. The City acknowledges and agrees that the Construction Manager shall not commence or continue any demolition or construction activities on any portion of the Site on or in which Remedial Actions are to be performed until such Remedial Actions are to the point where construction activities will not interfere with such Remedial Actions, as evidenced by appropriate certification by the applicable Environmental Engineer and/or Remediation Contractor and any required approvals of any applicable government agencies. The Construction Manager agrees to use good faith efforts to adjust and reschedule its activities at the Site so as to minimize, to the extent reasonably practical, the adverse effect on the progress of the Work resulting from any Remedial Actions.

L. Hazardous Materials Prohibited. The Construction Manager shall not bring Hazardous Materials to the Site, and shall not include Hazardous Materials in any construction materials, unless permitted by Environmental Requirements. The Construction Manager shall comply, and shall cause the Subcontractors to comply, with all Environmental Requirements regarding the generation, handling, storage, treatment and disposal of Hazardous Materials.

M. Construction Manager Indemnity. The Construction Manager shall indemnify, defend and hold harmless the City, its agents, representatives, officers and employees for, from and against any Environmental Damages asserted against or sustained by such parties as a result of any violation by the Construction Manager or the Subcontractors of any Environmental Requirements arising out of Subsection 2.1(L) above.

2.2 Review of Construction Documents; Design Remedies.

A. Program Evaluation. The Construction Manager will provide to the City a written evaluation of the City's proposed Project and Project budget, with recommendations as to the appropriateness of each, and an analysis as to how each contribute to successfully achieving the City's goal for the Project.

B. Design Document Review. The Construction Manager shall assist the City in reviewing the Construction Documents for clarity, consistency, constructability and coordination among the various contractors. The Construction Manager's first review of the Construction Documents shall occur at the 30% stage of the design for each component of the Project as designated by the City and shall be ongoing until 100% plans are final and complete for all phases of the Project. If the Construction Manager recognizes that portions of the Construction Documents are (1) in violation of Applicable Law or (2) in any way inadequate to achieve the intended result of the Project, the Construction Manager shall immediately notify the City in writing, describing the apparent violation or inadequacy.

1. The Construction Manager will periodically evaluate the availability of labor, materials/equipment, building systems, cost-sensitive aspects of the design, and other factors that may impact the Cost Model, GMP Proposals and/or the Master Schedule.

2. The Construction Manager will identify those additional surface and subsurface investigations that are required to provide the necessary information for the Construction Manager to construct the Project. After completion of pre-construction services, the Construction Manager may provide additional investigations to improve the adequacy and completeness of the Site condition information and data made available with the Construction Documents. The Construction Manager will be responsible for the time and cost required to obtain such additional investigations, except as otherwise provided by specific Additional Services.

3. The Construction Manager will meet with the Project team as required to review designs during their development. The Construction Manager will thoroughly familiarize itself with the evolving documents through conceptual design, preliminary design, and development of the Construction Documents (detailed design). The Construction Manager will proactively advise the Project team and make recommendations on factors related to construction costs, and concerns pertaining to the feasibility and practicality of any proposed means and methods, selected materials, equipment and building systems, and, labor and material availability. The Construction Manager will also advise the Project team on proposed Site improvements, excavation and foundation considerations, as well as, concerns that exist with respect to coordination of the Construction Documents. The Construction Manager will recommend cost effective alternatives.

C. Constructability and Bidability Reviews. The Construction Manager will conduct constructability and bidability reviews of the Construction Documents. The reviews will attempt to identify all discrepancies and inconsistencies in the Construction Documents, especially those related to clarity, consistency, and coordination of Work of Subcontractors and suppliers. The Construction Manager shall provide the City with a written report containing, at a minimum,

(i) a summary of the research and analysis conducted, (ii) a detailed description of any constructability issues or challenges and (iii) recommendations for correcting any constructability issues or challenges.

1. Constructability Review. The Construction Manager will evaluate whether (a) the Construction Documents are configured to enable efficient construction, (b) design elements are standardized, (c) construction efficiency is properly considered in the Construction Documents, (d) module/preassembly design are prepared to facilitate fabrication, transport and installation, (e) the design promotes accessibility of personnel, material and equipment and facilitates construction under adverse weather conditions, (f) sequences of Work required by or inferable from the Construction Documents are practicable, and (g) the design has taken into consideration, efficiency issues concerning access and entrance to the Site, laydown and storage of materials, staging of Site facilities, construction parking, and other similar pertinent issues.

2. Bidability Review. The Construction Manager will check cross-references and complementary Project drawings and sections within the Construction Documents and evaluate whether (a) the plans and Specifications are sufficiently clear and detailed to minimize ambiguity and to reduce scope interpretation discrepancies, (b) named materials and equipment are commercially available and are performing well or otherwise, in similar installations, (c) the design provides as-built data, (d) Specifications include alternatives in the event a requirement cannot be met in the field, (e) and the Project is likely to be subject to Differing Site Conditions considering the data on subsurface conditions, physical conditions of existing surface and subsurface facilities and physical conditions of underground utilities made available by the design or resulting from conditions inherent to work similar to the Work.

3. Reports. The results of the reviews will be provided to the City in written reports clearly identifying all discovered discrepancies and inconsistencies in the Project, plans and Specifications with notations and recommendations made on the plans, Specifications and other Construction Documents. If requested by the City, the Construction Manager will meet with the City's Project Manager and Project Designers to discuss any findings and to review reports.

D. Notification of Variance or Deficiency. Construction Manager is responsible for assisting the Project Designers in ascertaining that the Construction Documents are in accordance with applicable laws, statutes, ordinances, building codes, rules and regulations. If the Construction Manager recognizes that portions of the Construction Documents are at variance with applicable laws, statutes, ordinances, building codes, rules and regulations it will promptly notify the Project Designers and City in writing, describing the apparent variance or deficiency.

E. Value Analysis. The Construction Manager shall make recommendations to the City and the Project Designers with respect to constructability, construction cost, sequence of construction, construction duration, possible means and methods of construction, time for construction and separation of the Project into contracts for various categories of the Work. Construction Manager shall evaluate all design options to provide value analysis services and cost savings recommendations to the City. The Construction Manager shall consider options most

effective in first costs as well as long term operational costs and life cycle costs when evaluating each design option. The Construction Manager shall submit to the City and Project Designers (1) written cost studies, (2) cost-benefit evaluations of each cost studies, (3) a formal report to the design team, (4) a final written analysis study document and (5) a tracking report for the increases or decreases in Project cost due to value engineering or scope changes. The City will decide which alternatives will be incorporated into the Project. The Project Designers will have full responsibility for the incorporation of the alternatives into the Contract Documents. The Construction Manager will include the cost of the alternatives into the Cost Model and any GMP Proposals.

F. Certification. At the completion of its review of the Construction Documents for each phase of the Project, the Construction Manager shall certify, without assuming engineering responsibility therefore, that the Construction Documents are sufficient and complete to build the respective portion of the Project within (1) the time available before the respective Substantial Completion date and (2) the Project budget. The Construction Manager's assistance in reviewing the Project design, Construction Documents and in making recommendations as provided herein is only for the purpose of providing advice to the City. Nothing in this Subsection shall relieve the Project Designers of their respective responsibility for the Construction Documents.

G. Construction Manager Not Responsible for Design. Notwithstanding the foregoing, the Construction Manager is not responsible for providing, nor does the Construction Manager control, the Project design and contents of the Construction Documents. By assisting with the reviews described herein, the Construction Manager is not acting in a manner so as to assume responsibility or liability, in whole or in part, for all or any part of the Project design and Construction Documents.

2.3 Pre-Construction Phase General Services.

A. Personnel; Project Meetings; Project Analysis. The Construction Manager will meet with the City, the Project Designers and all the other Project stakeholders to fully understand the program, the Construction Documents and all other aspects of the Project. The Construction Manager shall attend the regularly scheduled meetings with the City and the Project Designers to advise the City on matters of Site use, improvements, selection of materials, building methods, construction details, building systems, equipment, phasing and sequencing.

1. The Construction Manager will provide pre-construction services, described herein, in a proactive manner and consistent with the intent of the most current Construction Documents. The Construction Manager will promptly notify the City in writing whenever the Construction Manager determines that any Construction Documents are inappropriate for the Project and or cause changes in the scope of Work requiring an adjustment in the Cost Model, Master Schedule, GMP Proposals and/or in the Contract Time for the Work, to the extent such are established.

2. The Construction Manager, when requested by the City or at its own initiative, if sanctioned by the City, will attend, make presentations and participate as may be appropriate in public agency and/or community meetings, germane to the Project. The

Construction Manager will assist the Project Designers in the preparation of drawings, schedule diagrams, budget charts and other materials describing the Project, when their use is required or appropriate in any such public agency meetings.

B. Construction Management Plan.

1. Preparing Plan. The Construction Manager will prepare a construction management plan (the "Management Plan"), that will detail, but not necessarily be limited to, the Construction Manager's determinations concerning: (a) Project milestone dates and the Master Schedule, including the broad sequencing of the design and construction of the Project; (b) investigations, if any, to be undertaken to ascertain subsurface conditions and physical conditions of existing surface and subsurface facilities and underground utilities; (c) alternate strategies for fast-tracking and/or phasing the construction; (d) separate bidding documents/packages and strategies for the early procurement of long-lead equipment and/or materials; (e) the number of separate subcontracts to be awarded to Subcontractors and suppliers for the Project construction; (f) permitting strategy; (g) safety and training programs; (h) construction quality control; (i) the Project Cost Model and basis of the model; (j) a matrix summarizing each Project team member's responsibilities and roles related to the Services; and (k) construction security.

2. Maintaining Plan. The Contract Manager shall keep the Management Plan current throughout the pre-construction services phase so that the Management Plan is ready for implementation at the start of the construction phase. The update/revisions will take into account: (a) revisions in Construction Documents; (b) the Construction Manager's examination of the results of any additional investigatory reports of subsurface conditions, drawings of physical conditions of existing surface and subsurface facilities and documents depicting underground utilities placement and physical condition, whether obtained by the City, Project Designers or the Construction Manager; (c) unresolved permitting issues, and significant issues, if any, pertaining to the acquisition of land and rights-of-way; (d) the fast-tracking (if any) of the construction, or other chosen construction delivery methods; (e) the requisite number of separate bidding documents to be advertised; (f) the status of the procurement of long-lead time equipment and/or materials; and (g) funding issues identified by the City.

C. Schedule Development. In accordance with the Management Plan, the Construction Manager shall prepare a master schedule for the Project (the "Master Schedule"). In preparing the Master Schedule, the Construction Manager shall establish: (i) detailed Critical Path Method ("CPM") schedules for the pre-construction/design phase and the construction phase of the Project with concurrence of the City and the Project Designers, (ii) monitor the Project schedules during the pre-construction phase and ensure that the Master Schedule is updated as necessary and advise the City of any schedule deficiencies. The Construction Manager shall utilize Microsoft Project scheduling software to prepare, provide and maintain the detailed CPM schedules unless the City requests use of a different scheduling product.

1. Each Project team member is responsible for its compliance with the Master Schedule requirements. The Construction Manager will update and maintain the Master Schedule on behalf of and to be used by the Project team based on input from other

team members. The Master Schedule will be consistent with the most recent revised/updated Management Plan. The Master Schedule will be presented in graphical and tabular reports as agreed upon by the Project team. The Master Schedule will include all tasks and deliverables required by each member of the Project team to identify long lead items, real property transactions, utility relocation activity, permitting requirements, etc. If Project phasing as described below is required, the Master Schedule will indicate milestone dates for the phases. The Master Schedule's activities will directly correlate with the Schedule of Values (as defined in Subsection 2.3(D)(4) below). The Master Schedule shall include resource loading for manpower and cash flow. The manpower loading shall include the daily manpower required to complete the task as shown on the Master Schedule.

2. The Construction Manager will include and integrate in the Master Schedule the services and activities required of the City's Project Manager, Project Designers and Construction Manager, including all construction phase activities. The Master Schedule will detail activities to the extent required to show: (a) the coordination between conceptual design, schematic design, and development of the Construction Documents (detailed design), (b) separate long-lead procurements, (c) permitting issues, (d) land and right-of-way acquisition, if any, (e) bid packaging strategy and awards to Subcontractors and suppliers, (f) major stages of construction, (g) start-up, and (h) occupancy of the completed Work by the City. The Master Schedule will include, by example and not limitation, proposed activity sequences and durations for design, procurement, construction and testing activities, milestone dates for actions and decisions by the Project team, preparation and processing of Shop Drawings and samples, delivery of materials or equipment requiring long-lead time procurement, milestone dates for various construction phases, total Float for all activities, relationships between the activities, City's occupancy requirements showing portions of the Project having occupancy priority, and proposed dates for Substantial Completion and when the Work would be ready for final acceptance.

3. The Master Schedule will be updated and maintained by the Construction Manager with assistance from the Project team throughout the pre-construction services phase such that it will not require major changes at the start of the construction phase to incorporate Construction Manager's plan for the performance of the construction phase Work. The Construction Manager will provide updates and/or revisions to the Master Schedule for use by the Project team, whenever required, but no less often than monthly; provided, however, that no such changes shall alter the date of Substantial Completion without the City's prior, written approval. The Construction Manager will include with such submittals a narrative describing its analysis of the progress achieved versus that planned, any concerns regarding delays or potential delays, and any recommendations regarding mitigating actions.

4. Prior to transmitting Contract Documents to Subcontractors, the Construction Manager shall prepare a pre-proposal construction schedule for each part of the Project and make the schedule available to the Subcontractors. The Construction Manager shall provide a copy of the Master Schedule to the Subcontractors. As part of the notice of award by the Construction Manager to each Subcontractor, the Construction Manager shall inform each Subcontractor of the requirements for the preparation of the

Master Schedule. Each Subcontractor shall prepare its own Subcontractor construction schedule in accordance with the requirements of the Contract Documents.

D. Cost Models; Cost Estimates and Schedule of Values. The Construction Manager shall provide the City with detailed cost information for all aspects of the Project. Each cost model will contain a detailed estimate of the direct cost (including materials, labor and equipment) pertaining to each aspect of the Project along with the cost of the contract bonds, the cost of the Project's required insurance, the cost of all applicable taxes, Construction Manager's general conditions, Construction Manager's fee and the amount of Construction Manager's Contingency and shall be consistent with such requirements as determined by the City or the Project Designers. The individual aspect cost models shall be collectively referred to as the "Cost Model."

1. As soon as practical during the conceptual design phase, the Construction Manager will review all available information regarding the design and scope of the Project, and based on the Construction Manager's experience in performing similar work, develop a Cost Model for review and approval by the City. Once approved by the City, the Cost Model will be continually updated and kept current as the design progresses throughout the pre-construction phase until a final GMP for the entire Project is established. The Cost Model will be the Construction Manager's best representation of the complete functional Project's construction costs. The Construction Manager will communicate to the Project team any assumptions made in preparing the Cost Model. The Cost Model will support the Construction Manager's construction cost estimates and may be broken down initially as dictated by the available information. The Cost Model will also include allowances as agreed to by the Project team, including but not limited: (a) allowances for potential additional quantities and/or additional Work that the City may require, and (b) any costs related to investigations described in Subsection 2.1.

2. After receipt of the Project Designers' most current documents from certain specified design milestones, the Construction Manager will provide a detailed written report to the Project team regarding the impact of and changes to the Cost Model based on the Construction Manager's review of Construction Documents made available at the specified design milestone. The City's Project Manager, Project Designers and the Construction Manager will reconcile any disagreements on the estimate to arrive at an agreed upon estimate for the construction costs based on the scope of the Project through that specified design milestone. The design milestones applicable to this paragraph are: conceptual design completion, schematic design completion, and detailed design completion at 30%, 60%, 90% and 100%. If no consensus is reached, the City will make the final determination. If the Project team requires additional updates of the Cost Model beyond that specified in this Subsection, the Construction Manager will provide the requested information in a timely manner.

3. If, at any point, the estimate submitted to the City exceeds previously-accepted estimates or other key aspects of the Cost Model or the City's Project budget, the Construction Manager will make appropriate recommendations to the City's Project Manager and Project Designers on means/methods, materials, and/or other design

elements that it believes will reduce the estimated construction costs, (without altering the City's basic program) such that it is equal to or less than the established Project budget.

4. Near completion of the 60% detailed design review and included with the associated report, the Construction Manager will also submit to the City for review and approval a "Schedule of Values" which complies with the following requirements. The Schedule of Values will highlight significant variances from any previously submitted preliminary Schedule of Values. The Schedule of Values will be directly related to the breakdowns reflected in the Management Plan and the Construction Manager's Cost Model. In addition, the Schedule of Values will: (a) detail unit prices and quantity take-offs, (b) segregate Work covered by any changes to construction phase Work already in progress, (c) reconcile used and remaining Construction Manager's Contingency (as defined in Subsection 3.3(D)(1) below) allowance, (d) detail all other allowances and unit price Work shown and specified in the detailed Construction Documents and (e) material and equipment costs, labor costs, General Conditions costs, hourly labor rates, payment for pre-construction services and total cost. Labor costs in the Schedule of Values will include employee benefits, payroll taxes and other payroll burdens. The total cost for any portion of the Work to be performed by Subcontractors will include Subcontractor overhead and profit.

5. The Construction Manager will submit to the City a final Schedule of Values based on the 100% detailed design set of Construction Documents for the entire Project or any portion thereof, which final Schedule of Values will also be included in any proposed GMP(s).

6. Upon request by the City, the Construction Manager will submit to the City a cash flow projection for the Project based on the current updated/revised Master Schedule and the anticipated level of payments for the Construction Manager during the pre-construction and construction phases. In addition, if requested by the City and based on information provided by the City, the Construction Manager will prepare a cash flow projection for the entire Project based on historical records for similar types of projects to assist the City in the financing process.

E. Traffic Control/Sequencing Plans. The Construction Manager shall provide the City with (1) a detailed traffic control plan, in accordance with Subsection 4.5(R) below and (2) construction sequencing plans. Upon approval by the City, the traffic control plan and the construction sequencing plan shall be attached hereto as Exhibit H, and incorporated herein by reference.

F. Phasing; Long Lead Procurement. The Construction Manager shall review the Construction Documents and make recommendations to the City with respect to the phase issuance of the Construction Documents to facilitate phased construction of the Work, if appropriate. The Construction Manager will take into consideration such factors as natural and practical lines of work severability, sequencing effectiveness, access and availability constraints, total time for completion, construction market conditions, labor and materials availability, and any other factors pertinent to saving time and cost. The Construction Manager may also recommend

to the City and to the Project Designers a list and a schedule for purchasing items necessary for the Project which may require substantial lead time for procurement (the "Long Lead Items"), which may be separately procured by the City or included as a separate GMP in this Agreement, at the discretion of the City. The Construction Manager shall make such adjustments to the Master Schedule as necessary to accommodate the procurement process for the Long Lead Items. Upon purchase, the Construction Manager shall safeguard the Long Lead Items until installed as part of the Project.

G. Other Deliverables; Pre-Construction Progress Payments. The Construction Manager shall provide the City with written plans for the pre-qualification of Subcontractors (according to the Subcontractor Selection Program), subcontract bid packages, project safety, quality control, owner training and commissioning. The Construction Manager will prepare and submit monthly pay applications to the City for work performed during the specific payment period for the pre-construction phase of the Project.

ARTICLE 3 GUARANTEED MAXIMUM PRICE PROPOSAL

3.1 GMP Submittal Process. At the stage of the pre-construction phase services as determined by the City, the Construction Manager shall, if requested by the City, submit a GMP Proposal, which shall be the sum of the estimated Cost of the Work relating to completion of the Scope for the Project and the Construction Fee relating to the Project based upon the most-current version of the Cost Model. Each GMP Proposal shall include, in the Cost of the Work, those taxes that are applicable at the time the GMP is established. Each GMP is the total cost of the applicable portion of the Project including the cost of labor, equipment, supplies, materials, services and allowances to complete the applicable portion of the Project. The cost data is directly correlated to the specific Construction Documents in existence at the time each GMP Proposal is prepared. The assumptions used in the preparation of the GMP Proposal shall be identified by the Construction Manager as part of the GMP Proposal. In submitting this proposal, Construction Manager represents that:

A. Document Review. Construction Manager has examined and carefully studied the Contract Documents for the construction phase, including all addenda.

B. Site Visit. Construction Manager has visited the Site and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, performance and furnishing of the Work.

C. Laws and Regulations. Construction Manager is familiar with and is satisfied as to all Applicable Laws that may affect cost, progress, performance and furnishing of the Work, including, but not limited to, ARIZ. REV. STAT. § 42-5075(P), which applies to the Project contemplated within this Agreement.

D. Reports; Subsurface Conditions. Construction Manager has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site which have been identified in the Contract Documents for the

construction phase. Construction Manager acknowledges that such new reports may not be complete for Construction Manager's purposes. Construction Manager acknowledges that City and Project Designers do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents for the construction phase with respect to underground facilities at or contiguous to the Site. Construction Manager has obtained and carefully studied (or assumes responsibility for having done so) all such additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and underground facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by Construction Manager and safety precautions and programs incident thereto. Construction Manager does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the determination of this GMP Proposal for performance and furnishing of the Work in accordance with the times, price and other terms and conditions of the Contract Documents for the construction phase.

E. Work by Others. Construction Manager is aware of the general nature of Work to be performed by City and others at the Site that relates to Work for which the GMP Proposal is submitted as indicated in the Contract Documents for the construction phase.

F. Conditions and Plans Correlated. Construction Manager has correlated the information known to Construction Manager, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents for the construction phase and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents for the construction phase.

G. Inconsistencies Resolved. Construction Manager has given Project Designers written notice of all conflicts, errors, ambiguities or discrepancies that Construction Manager has discovered in the Contract Documents for the construction phase and the written resolution thereof by Project Designers is acceptable to Construction Manager, and the Contract Documents for the construction phase are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which the GMP Proposal is submitted.

H. No Improper Actions. The proposal is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Construction Manager has not directly or indirectly induced or solicited any person, firm or corporation to refrain from proposing; and Construction Manager has not sought collusion to obtain for itself any advantage over any other contractor or over the City.

3.2 Acknowledged Construction Documents. The Construction Manager, in preparing any GMP Proposal, will obtain from the Project Designers three sets of signed, sealed, and dated Construction Documents (including all addenda). The Construction Manager will prepare its GMP Proposal in accordance with the City's requirements and the most-current completed Construction Documents at that time. The Construction Manager will mark the face of each document of each set upon which its GMP Proposal is based. The Construction Manager will send one set of those

documents to the City's Project Manager, keep one set and return the third set to the Project Designers.

3.3 Direct Construction Costs. Direct Construction Costs means the sum of the amounts that the Construction Manager actually and necessarily incurs constructing the Work in strict compliance with the Contract Documents. Direct Construction Costs include only the cost categories set forth in this Article and does not include the Pre-Construction Phase Fees or the Construction Phase Fees unless specifically noted.

A. General Conditions Costs. Construction Manager is entitled to receive reimbursement for the actual cost of the allowable General Conditions items incurred between issuance of the applicable Notice to Proceed and 30 days after the date scheduled for Substantial Completion. Construction Manager is entitled to reimbursement for General Conditions Costs incurred before receipt of the Notice to Proceed, or after Substantial Completion, only with prior written approval of the City. "Allowable General Conditions Cost Line Items" are identified below and in Exhibit I, attached hereto and incorporated herein by reference. These items shall be included in the General Conditions Cost amount shown as a line item in the applicable GMP Proposal and as detailed on the Schedule of Values. Items not specifically included below or in Exhibit I will not be allowed as a General Condition Costs.

1. Personnel costs, which include wages paid for Construction Manager's hourly employees and salaries of Construction Manager's salaried personnel when (a) stationed at the field office located at the Site and working on matters directly related to the Project, in whatever capacity employed; (b) engaged on the road expediting the production or transportation of material and equipment; and (c) performing functions directly related to the Work from the principal or branch office. The project manager's salary may be included in the General Conditions Costs only when the project manager is directly managing the Project. Personnel costs also include the cost of all employee benefits and taxes including but not limited to, unemployment compensation, Social Security, health, welfare, retirement and other fringe benefits as required by law, labor agreements, or paid under the Construction Manager's standard personnel policy. All personnel costs are subject to audit to determine the actual cost of the wages, salaries and allowable employer contributions incurred by the Construction Manager for services performed for the Project.

2. Reasonable transportation, travel and hotel expenses of the Construction Manager's personnel incurred in connection with the Work.

3. Costs of long-distance telephone calls, telegrams, postage, package delivery and courier service, hardwired telephone service, and reasonable expenses of Construction Manager's jobsite office if incurred at the Site and directly and solely in support of the Work.

4. Costs of materials, supplies, temporary facilities, equipment, and hand tools (except those customarily owned by construction workers), supplied to the Site by Construction Manager, if such items are fully consumed in the construction of the Work and are included in the list of Allowable General Conditions Cost Line Items set forth in

Exhibit I. Cost for used items shall be based on fair market value and may include transportation, installation, and minor maintenance costs, and removal costs. If an item is not fully consumed in the construction of the Work, its recoverable cost under this Contract shall be based on the original cost of the item less its fair market salvage value.

5. Rental charges for temporary facilities, equipment, and hand tools (except those customarily owned by construction workers), supplied to the Site by Construction Manager, provided they are included in the list of Allowable General Conditions Cost Line Items set forth in Exhibit I and the City has approved the rentals and the rental rates in advance and in writing. Rental rates may include transportation, installation, and minor maintenance costs, and removal costs. For tools, machinery or construction equipment rented directly from the Construction Manager, the rental rate, including freight and delivery costs and all operating expenses except labor, shall be approved in advance by the City and shall be in accordance with either the "Rental Rate Blue Book for Construction Mobilization Costs" published by Primedia, latest edition, or the most-recent rates provided by Equipmentwatch.com, but no higher than the prevailing competitive rates for rental of similar equipment in the Project vicinity.

6. The aggregate rental cost of any item charged to the City shall not exceed 75% of the purchase price and maintenance cost of the item. If the anticipated aggregate rental cost for an item of equipment exceeds 75% of the purchase and maintenance price, Construction Manager shall purchase the equipment and turn it over to the City upon final completion of the Work or, at the City's option, credit the City with the fair market resale value of the item.

7. Permit and inspection fees paid by Construction Manager where the City is exempt will not be reimbursed by the City.

8. Cost of premiums for normal and customary Construction Manager's Subcontractor default insurance at the rate of 1.25% of the cost of subcontracts and Subcontractor's liability, workman's compensation and builders risk insurance as required pursuant to Article 10 below, which shall be identified as separate line items within the applicable GMP. If the Construction Manager intends to utilize Subcontractor Liability Wrap-up Coverage (Z-25), it will be reimbursed at the rate of 1.5% of the Subcontract amount, and credited from the Subcontractor bids. Commercial General Liability Insurance shall be reimbursed at the rate of 1.1% of the applicable GMP amount; Builders Risk Insurance shall be reimbursed at the rate of 0.47% of the applicable GMP amount; Performance and Payment Bonds shall be reimbursed at 0.76% of the applicable GMP amount. All amounts shall be identified as separate line items within the applicable GMP.

9. Cost of bond premiums to the extent directly attributable to the Project.

10. Governmental transaction privilege sales and use taxes directly attributable to the General Conditions Items that are not subject to exemption, in the form and at the rates legally enacted on the date of the first GMP, whether such taxes are

effective or scheduled to go into effect. Such taxes paid on materials or services that were entitled to tax exemption will not be reimbursed by the City as Direct Construction Costs.

B. Cost of the Work. Construction Manager is entitled to receive payment for the actual cost of the allowable Cost of the Work items incurred after receipt of the City's written Notice to Proceed with the Construction Phase Work through Final Completion of the Project. Construction Manager is not entitled to reimbursement for Cost of the Work costs incurred before receipt of the City's written Notice to Proceed. Cost of the Work includes the following:

1. Costs of materials, supplies and equipment purchased directly by the Construction Manager and incorporated into or consumed in the performance of the Work, including transportation charges, to the extent such costs of materials, supplies and equipment are not included in the General Conditions Costs.

2. Costs of removal and disposal in accordance with all applicable laws and regulations of Site debris, non-hazardous substances and waste materials, if not otherwise included in General Conditions.

3. Payments made by Construction Manager to Subcontractors and their vendors or suppliers for the subcontract work in accordance with the Construction Documents and the requirements of the subcontracts with the Subcontractors, vendors or suppliers.

4. Payments earned by Construction Manager for self-performed subcontract work, other than General Conditions work, in accordance with the Construction Documents and the terms of this Contract and approved by the City.

5. Fees and expenses for design services procured by the Construction Manager related to necessary modifications to the Construction Documents.

6. Intellectual property royalties and licenses for items specifically required by the Construction Documents which are, or will be, incorporated into the Work.

7. All costs associated with establishing, equipping, operating, maintaining and demobilizing the field office at the Site.

8. All water, power and fuel costs necessary for the Work.

9. Costs incurred due to an emergency affecting the safety of persons and/or property, excluding such costs related to the negligence or willful acts of the Construction Manager or any person or entity for whom the Construction Manager is responsible.

10. All costs directly incurred in the performance of the Work or in connection with the Project, and not included in the Contract Price as set forth in Article 7 below, which are reasonably inferable from the Contract Documents as necessary to

produce the intended results, subject to the maximum price limitation established by the respective GMP.

11. Costs related to the Construction Manager's safety program related to the Project.

C. Exclusions from General Conditions Costs and Cost of the Work. The General Conditions Costs and Cost of the Work shall not include the following:

1. Any professional fees paid by the City to the Project Designers or other consultants retained directly by the City.

2. Any costs paid directly by the City to Subcontractors or suppliers retained directly by the City and outside the scope of all GMPs.

3. Any additional service costs as defined herein.

4. Any other costs not within the control of the Construction Manager or identified as being not within any GMP.

5. Any fees paid to the Construction Manager except those fees that may be paid to Construction Manager for Pre-construction Phase Services above.

D. Construction Manager's Contingency.

1. The GMP Proposal may include an amount (the "Construction Manager's Contingency") to be used to fund increases in the Direct Construction Costs of the Project identified through the refinement, development and completion of the Construction Documents or procurement of the Work. The Construction Manager's Contingency shall be negotiated between the Parties and it shall reflect the risk inherent in the state of completion of the Construction Documents at the time the GMP Proposal is submitted.

2. Any re-allocation of funds from the Construction Manager's Contingency to cover increases in the Direct Construction Costs must be approved by the City in advance and in writing, which approval shall not to be unreasonably withheld. In written requests to use the Construction Manager's Contingency, the Construction Manager shall provide detailed documentation of the scope of work affected and the basis for any increases in costs resulting in the need to use Construction Manager's Contingency funds.

3. As the Construction Documents are finalized and the buyout of the Work progresses the Construction Manager's Contingency amount shall be reduced by mutual agreement of the City and Construction Manager. The buyout shall occur within the first 20% of the construction duration for each Notice to Proceed issued for construction. Should savings occur after the buyout stage, such savings, and related

reductions to the Construction Manager's Contingency amount, will be retained by the City.

E. Calculation Methods; Audits.

1. The City and the Construction Manager understand and agree that any GMP agreed to under this Project will be administered as a measured quantity/unit price guaranteed not-to-exceed contract. This not-to-exceed amount is defined by the individual work items and their associated competitively bid and/or negotiated unit prices plus negotiated on-site general conditions, fee structures, markups and Construction Manager's Contingency. Final contract price/payout will be based on field measured final completed quantities, approved unit prices and approved Change Directives and Change Orders. Furthermore, the term "actual cost" is defined as the final negotiated unit prices (costs) mutually agreed to by the City and Construction Manager. The City and the Construction Manager understand and agree that individually priced, "self-performed" items may include the cost associated with the risk of delivering the work.

2. The City and the Construction Manager understand and agree that the City, its authorized representatives, and/or the appropriate federal or state agencies may audit the Construction Manager's records to verify the accuracy and appropriateness of all pricing data, including data used to negotiate any GMP, and including, but not limited to, self-performed items, qualifications-only selected Subcontractor items, Change Orders, use of allowance funds and use of Construction Manager's Contingency funds. The City and its authorized representatives shall have access, during normal working hours, to all necessary Construction Manager and Subcontractor facilities, and shall be provided adequate and appropriate workspace, in order to conduct audits in compliance with the provisions of this Subsection. The City shall give Construction Manager or Subcontractor reasonable advance notice of intended audits.

F. Discounts. All discounts for prompt payment shall accrue to the City to the extent such payments are made directly by the City. To the extent payments are made with funds of the Construction Manager, all cash discounts shall accrue to the Construction Manager. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Work.

3.4 Construction Fee. The "Construction Fee" is the maximum amount payable to the Construction Manager for any cost or profit expectation incurred in the performance of the Work that is not specifically identified as being eligible for reimbursement by the City elsewhere in this Agreement. The Construction Fee includes, but is not limited to, the following items.

A. Profit. All profit, profit expectations and costs associated with profit sharing plans such as personnel bonuses, incentives, and rewards; company stock options; or any other like expenses of the Construction Manager, which shall not exceed 7.5% of the total applicable GMP amount, excluding Construction Manager's Contingency.

B. Salaries. Salaries of Construction Manager's officers, project manager(s), estimators, schedulers and all other employees not stationed at the Project site and performing services directly related to the Project.

C. Overhead. Any and all overhead, labor or general expenses of any kind unless specifically allowed under General Conditions. These costs include, but are not limited to: costs for the purchase, lease, rental, allowance or maintenance of vehicles, radios/communication equipment, jobsite computers, copiers and other business equipment, specialized telephone systems and cellular/digital phones; home office operations and support staff (i.e. accounting, purchasing); trade or professional association dues; costs for hiring and/or relocation of any of the Construction Manager's personnel; and travel, per diem and subsistence expense of Construction Manager, its officers or employees except as specifically allowed under General Conditions, which shall not exceed 5.0% of the total applicable GMP amount, excluding Construction Manager's Contingency.

D. Financial Costs. Any financial costs incurred by the Construction Manager including the cost of capital or interest on capital, regardless of whether it is related to the Project, and costs associated with construction warranty reserves.

E. Professional Fees. Any legal, accounting, professional or other similar costs incurred by the Construction Manager, including costs incurred in connection with the prosecution or defense any dispute, mediation, arbitration, litigation or other such proceeding related to or arising from the Project.

F. Taxes. Any Federal and/or State income and franchise taxes paid by Construction Manager. Any levies, assessments, fines, penalties, sanctions or other impositions made by any governmental body against Construction Manager.

G. Damages and Related Costs. Any cost arising out of a breach of this Agreement or the fault, failure or negligence of Construction Manager, its Subcontractors, or any person or entity for whom they may be liable. These costs include, without limitation: costs to remedy defective, rejected, or nonconforming work, materials or equipment; costs due to failure to coordinate the Work or meet CPM schedule milestones; costs arising from Construction Manager's contractual indemnification obligations; liquidated or actual damages imposed by the City for failure to complete the Work within the Contract Time; costs due to the bankruptcy or insolvency of any Subcontractor; and damage or losses to persons or property.

H. Insurance Deductibles. The cost of any and all insurance deductibles payable by the Construction Manager and costs due to the failure of Construction Manager or any Subcontractor to procure and maintain insurance as and to the extent required by the Contract Documents.

I. Costs in Excess of GMP. Any and all costs that would cause the Guaranteed Maximum Price to be exceeded.

J. Other Unidentified Costs. Any and all costs not specifically identified as an element of the Direct Construction Costs.

3.5 Competitive Bidding and Sub-Bids.

A. Subcontractor Selection. The Construction Manager will develop Subcontractor interest, submit the names of a minimum of three qualified Subcontractors for each trade in the Project for approval by the City and solicit bids for the various Work categories. If there are not three qualified Subcontractors available for a specific trade, the Construction Manager will request approval by the City's Project Manager to submit less than three names. No change in the City approved Subcontractors will be allowed without prior, written approval by the City.

B. City Objections. If, prior to receipt of sub-bids or prior to award of Subcontractors or suppliers, the City objects to any nominated Subcontractor or supplier or to any self-performed Work for good reason, the Construction Manager will nominate a substitute Subcontractor or supplier, preferably if such option is still available, from those who submitted sub-bids for the Work affected. Once such substitute Subcontractors and suppliers are consented to by the City, the Construction Manager's proposed GMP for the Work or portion thereof will be correspondingly adjusted to reflect any higher or lower costs from any such substitution.

C. Documents; Pre-bid Conference. The Construction Manager will distribute Construction Documents, and when appropriate, conduct a pre-bid conference with prospective Subcontractors.

D. Subcontractor Bid Submittal. The Construction Manager, at the required time, will close the bidding and collect all sub-bids received within the prescribed deadline for receipt of sub-bids. Promptly, after the closing of sub-bids, the Construction Manager will (in the presence of the City's Project Manager and Project Designers) open and read all properly and timely submitted sub-bids. The Construction Manager will submit a completed Sub-Bid tabulation form to the City's Project Manager within a reasonable time after the closing of the sub-bid opening proceedings.

E. Subcontractor Bid Evaluation. The Construction Manager, upon opening of sub-bids will evaluate them including, but not limited to, the evaluation of lower tier Subcontractors, Subcontractor qualification submittals and prospective suppliers selected by each apparent low sub-bidder. The Construction Manager will resolve any sub-bid withdrawal, protest or disqualification in connection with the award at no increase in the Cost of the Work.

F. Notice of Intent for Subcontracts. Within 15 Days after sub-bid opening, the Construction Manager will deliver to the City's Project Manager a written notice of intent to award subcontracts, itemizing the Subcontractors and suppliers selected by the Construction Manager. The notice of intent to award subcontracts will detail (1) for each Subcontract the amount of the sub-bid and the corresponding Subcontractor or supplier, (2) the sum of sub-bids received for all intended Subcontract, (3) trade work that the Construction Manager intends to self-perform, if any.

G. Pre-award Conference. Promptly after receipt of the notice of intent to award subcontracts, the City will conduct a pre-award conference with the Construction Manager

and other Project team members. At the pre-award conference, the Construction Manager will (1) review the nominated slate of Subcontractors and suppliers and discuss any concerns with or objections that the City has to any nominated Subcontractor or supplier; (2) discuss City concerns relating to any proposed self-performed Work; (3) review the Construction Manager's proposed Contract Price for the Work during the construction phase; (4) resolve possible time frames for the commencement date of the Contract Time for the construction phase Work; (5) schedule the pre-construction conference; and (6) discuss other matters as necessary.

3.6 Submittal Requirements. The Construction Manager shall include with each GMP Proposal a written statement of its basis, which shall include:

A. Detailed Scope. A detailed scope of services related to the respective GMP Proposal, including a breakdown of the GMP as it relates to the applicable part of the overall Scope.

B. Documents. A list of the Construction Documents, including all addenda, that were used in preparation of the respective GMP Proposal.

C. Allowances. A list of allowances and a statement of their basis.

D. Assumptions. A list of the assumptions and clarifications made by the Construction Manager in the preparation of the respective GMP Proposal to supplement the information contained in the Construction Documents.

E. Substantial Completion. The Substantial Completion date, if applicable, upon which the respective GMP Proposal is based and the Master Schedule for the Work upon which the respective Substantial Completion date is based, including a clear statement of the number of rain delay days included within the Master Schedule.

F. Alternate Prices. A schedule of applicable alternate prices.

G. Unit Prices. A schedule of applicable unit prices.

H. Additional Services. A statement of Additional Services included, if any.

I. Acceptance Period. The time limit for acceptance of the GMP Proposal.

3.7 GMP Proposal Review. The Construction Manager shall meet with the City and the Project Designers to review each GMP Proposal. In the event that the City discovers any inconsistencies or inaccuracies in the information presented, the City shall give written notice to the Construction Manager, who shall make appropriate adjustments to the GMP, its basis or both.

A. Independent Estimate. Upon receipt of any GMP Proposal from the Construction Manager, the City may submit the same documents that were used by Construction Manager in developing its GMP to an independent third party or to the Project Designers for review

and verification. The third party or Project Designers will develop an independent estimate of the Cost of the Work and review the Master Schedule for the associated scope of the GMP Proposals.

B. GMP Exceeding Independent Estimate. If the Construction Manager's GMP Proposal is greater than the independent third party or Project Designers' estimate, the City may require the Construction Manager to reconfirm its GMP Proposal. The Construction Manager will accept the independent third party's or Project Designer's estimate for the Cost of the Work as part of its GMP or present a written request, within seven Days of receiving the estimates, to the City identifying, explaining and substantiating the differences. The Construction Manager may be requested to, or at its own discretion may, submit a revised GMP Proposal for consideration by the City. At that time the City may do one of the following.

1. Accept the Construction Manager's original or revised GMP Proposal, if within the City's budget, without comment.
2. Accept the Construction Manager's original or revised GMP Proposal that exceeds the City's budget, and indicate in writing to the Construction Manager that the Project budget has been increased to fund the differences.
3. Reject the Construction Manager's original or revised GMP Proposal because it exceeds either or both the City's budget and the independent third party's or Project Designers' estimate, in which event, the City may terminate this Agreement.

C. Design Changes During Negotiation. If, during the review and negotiation of GMP Proposals, design changes are required, the City will authorize and cause the Project Designers to revise the Construction Documents to the extent necessary to reflect the agreed-upon assumptions and clarifications contained in the final approved GMP Proposal. Such revised Construction Documents will be furnished to the Construction Manager. The Construction Manager will promptly notify the Project Designers and City's Project Manager if any such revised Construction Documents are inconsistent with the agreed-upon assumptions and clarifications.

3.8 No Prior Costs. Prior to the City's acceptance of a GMP Proposal, the Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work related to such GMP Proposal, except as provided in this Agreement or as the City may specifically authorize in writing.

3.9 Acceptance; Effect. Upon acceptance by the City of each GMP Proposal, the GMP contained therein and its basis shall be set forth in the applicable GMP Amendment. Once established, the GMP and the corresponding Substantial Completion date shall be subject to modification only as provided in Articles 6 and 8 below. The City's approval of the GMP Amendment will include the amount of the City's Contingency. The amount of the City's Contingency will be set solely by the City and will be in addition to the Project costs included in the Construction Manager's GMP Proposals. Use and management of the City's Contingency is at the City's sole direction.

3.10 GMP Effective Date. Each GMP Proposal shall not become a part of this Agreement until the City accepts such GMP Proposal in writing by executing the applicable GMP Amendment, on or before the date specified in each such GMP Proposal for such acceptance.

3.11 Failure to Agree Upon GMP. If the City and the Construction Manager do not agree to any provisions of the GMP Proposal, including the designated Default Neutral Arbitrator, all references in this Agreement to the GMP shall not be applicable, and the Parties shall proceed on the basis of reimbursement as provided in Article 7 below.

ARTICLE 4 CONSTRUCTION SERVICES

4.1 Control of Construction. After the date any Amendment to this Agreement is executed by the City and the Construction Manager approving a GMP Proposal, the Construction Manager shall become responsible for the means, methods, sequences and procedures used in the construction of the portion of the Project related to such GMP Proposal and shall proceed with the Construction Manager's Construction Services related to the GMP Proposal under this Agreement.

4.2 Completeness and Accuracy of Construction Manager Work. The Construction Manager will be responsible for the completeness and accuracy of its reviews, reports, supporting data, and other pre-construction deliverables prepared or compiled pursuant to its obligations under this Agreement and will at its sole own expense correct its work or deliverables. The fact that the City has accepted or approved the Construction Manager's work or deliverables will in no way relieve the Construction Manager of any of its responsibilities under the Agreement, nor does this requirement to correct the work or deliverable constitute a waiver of any claims or damages otherwise available by law or contract to the City.

4.3 Alteration in Character of Work. In the event an alteration or modification in the character of work or deliverable materially increases or decreases the scope of service, cost of performance, or Master Schedule as determined by the City, the Work or deliverable will nonetheless be performed as directed by the City. However, before any altered or modified work begins, a Change Directive or Change Order must be approved and executed by the City and the Construction Manager to address such change. Such Change Directive or Change Order will not be effective until approved by the City. Additions to, modifications to, or deletions from the Project provided herein may be made, and the compensation to be paid to the Construction Manager may be adjusted accordingly, only by mutual agreement of the Parties. No claim for extra work done or materials furnished by the Construction Manager will be allowed by the City except as provided herein, nor will the Construction Manager do any work or furnish any material(s) not covered by this Agreement unless such work or material is first authorized in writing by the City. Work or material(s) furnished by the Construction Manager without such prior written authorization will be the Construction Manager's sole jeopardy, cost, and expense, and the Construction Manager hereby agrees that, without prior written authorization, no claim for compensation for such work or materials furnished will be made.

4.4 Construction Phase General Services. The Construction Manager shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities required to perform all Work for the construction of the Project, and to completely and totally construct the

same and install the material therein for the City. All Work will be performed in a good and workmanlike and substantial manner according to the standards set forth in Subsection 1.6(A) above. The Work shall be to the satisfaction of the City and strictly pursuant to and in conformity with the Project's Contract Documents, as modified and agreed to by the City. Construction Manager's Representative shall be reasonably available to City and shall have the necessary expertise and experience required to supervise the Work. Construction Manager's Representative shall communicate regularly with City but not less than once each week and shall be vested with the authority to act on behalf of Construction Manager. Construction Manager's Representative may be replaced only with the written consent of City.

A. Government Approvals and Permits.

1. The Construction Manager shall be primarily responsible to obtain all necessary permits, approvals and licenses required for the prosecution of the Work from any government or quasi-government entity having jurisdiction over the Project. The Contractor is specifically reminded of the need to obtain the necessary environmental permits or file the necessary environmental notices. The City will be the applicant for the following permits; however, the Construction Manager shall be responsible for any work associated with obtaining the permits, as directed by the City:

- a. Aquifer Protection Permit (APP) No. P-100573
- b. MAG 208 Amendment
- c. Maricopa County Environmental Services Department
 - i. Approval to Construct
 - ii. Approval of Construction
 - iii. Air Quality Permit 980869, for plant operations and generators
- d. Well Drilling Permit
- e. Flood Plain Use Permit
- f. Arizona Pollution Discharge Elimination Systems (AZPDES), AZ0023281
- g. Architectural Approval; Site Plan/Conditional Use Permit Approval; Building Permit
- h. Stormwater Multi-Sector General Permit (AZMSG2010-002) relating to the WRF's industrial operations; provided that any construction permit necessary in conjunction with this permit shall be obtained by the Construction Manager.

2. Copies of the required permits and notices must be provided to the City's Representative prior to starting the permitted activity. In the case of Fire Department permits, a copy of the application for permit shall also be provided to the City's Representative. This provision does not constitute an assumption by the City of an obligation of any kind for violation of said permit or notice requirements.

3. City shall be responsible for permit(s) and fees for building and demolition permits. City will also pay review fees for grading and drainage, water, sewer, and landscaping. City shall also pay for utility design fees for permanent services.

4. Construction Manager shall be responsible for all other permits and review fees not specifically listed in Subsection 4.4(A)(1) above.

5. Construction Manager is responsible for all water bills on the Project meters until Substantial Completion of the Project. Arrangements for construction water are the Construction Manager's responsibility.

B. Pre-construction Activities.

1. Prior to the commencement of any Work, the City's Representative will schedule a pre-construction conference. The purpose of this conference is to establish a working relationship between the Construction Manager, utility firms, various City agencies and other entities as may be appropriate or beneficial. The agenda will include critical elements of the Work and Master Schedule, submittal schedule, cost breakdown of major lump sum items, payment requests and processing, coordination with the involved utility firms, the level of Project Record Documents required and emergency telephone numbers for all representatives involved in the course of construction. Minimum attendance at the preconstruction conference shall be the Construction Manager's Representative, the job superintendent, the Construction Manager's safety officer and the individuals deemed necessary by the City.

2. The Notice to Proceed date will be set by the City. At or after the pre-construction conference and upon delivery of the required bonds and insurance in a City-approved format or at such other time as the City may elect, a Notice to Proceed letter will be issued confirming the construction start date, the Contract Time and the Substantial Completion date. Failure by the Construction Manager to provide the properly executed bond and insurance forms in a timely manner may delay the construction start date; however, it will not alter the proposed Substantial Completion date nor be a basis for any time extension request or other claims.

3. The Construction Manager shall update the Schedule of Values based on the categories used in the buy out of the Work but not greater than the approved GMP; the update shall identify the Construction Manager's Contingency. The Schedule of Values will subdivide the Work into all items comprising the Work.

C. Project Management.

1. The Construction Manager shall refine the Management Plan for the Project. In refining the Management Plan, the Construction Manager shall consider the City's schedule, cost and design requirements for the Project. The Construction Manager shall then develop various alternatives for the sequencing and management of the Project and shall make recommendations to the City. The Management Plan shall also include a description of the various proposal packages recommended for the Project. The Management Plan shall be presented to the City for acceptance.

2. The Construction Manager shall conduct periodic Project meetings attended by the City's Representative, the Project Designers and other necessary parties. Such meetings shall serve as a forum for the exchange of information concerning the Project and the view of construction progress. The Construction Manager shall prepare and distribute minutes of these meetings to the City's Representative, the Project Designers and others in attendance.

3. The Construction Manager shall coordinate transmittal of documents to regulatory agencies for review and shall advise the City of potential problems in completing such reviews.

4. The Construction Manager shall assist the City in public relations activities and shall prepare information for and attend public meetings regarding the Project.

D. Reports.

1. The Construction Manager shall prepare and distribute design phase change reports monthly to the City that shall list all City-approved Change Directives and Change Orders as of the date of the report and shall state the effect of the Change Directives and Change Orders on the Project budget and the Master Schedule.

2. The Construction Manager shall prepare and distribute schedule maintenance reports monthly to the City comparing the actual and scheduled dates for Subcontractors' contract awards and completion of each such Subcontractor's portion of the Project.

3. The Construction Manager shall prepare and distribute the Project cost reports monthly to the City specifying actual award prices and construction costs for each of the individually awarded components of the Project as compared to the Project budget.

4. The Construction Manager shall prepare and distribute cash flow reports monthly to the City specifying actual cash flow for each of the individually awarded components of the Project as compared to the projected cash flow.

5. The requirements for filing reports set forth in this Subsection 4.4(D) shall not be deemed to meet the requirements for requests for extensions of time or

requests for Change Directives and Change Orders as set forth in Section 6 and Section 8 below.

4.5 Work Management.

A. Construction Manager Resources. Unless otherwise provided in the Contract Documents to be the responsibility of City or a separate contractor, Construction Manager shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit Construction Manager to complete the Work according to the Contract Documents. The Construction Manager shall provide and maintain a management team on the Site to provide contract administration. The Construction Manager shall establish and implement coordination and communication procedures among the Construction Manager, the City, the Project Designers and Subcontractors.

B. Means, Methods and Techniques. Construction Manager shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. Construction Manager shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

C. Supervisor Presence. Construction Manager's Representative or the Construction Manager's Superintendent shall be present at the Site at all times that construction activities are taking place.

1. All elements of the Work shall be under the direct supervision of a foreman or his designated representative on the Site who shall have the authority to take actions required to properly carry out that particular element of the Work.

2. In the event of noncompliance with this Subsection, the City may require the Construction Manager to stop or suspend the Work in whole or in part.

D. Manufacturer Requirements. Where the Contract Documents require that a particular product be installed and/or applied by an applicator approved by the manufacturer, it is the Construction Manager's responsibility to ensure the Subcontractor employed for such work is approved by the manufacturer.

E. Measurements. Before ordering materials or doing work, the Construction Manager and each Subcontractor shall verify measurements at the Site and shall be responsible for the accuracy of such measurements. No extra charge or compensation will be allowed because of differences between actual dimensions and the dimensions indicated on the plans; differences shall be submitted to the City for resolution before proceeding with the Work.

F. Field Measurements and Conditions. The Construction Manager shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Construction Manager with the

Construction Documents before commencing activities. Errors, inconsistencies or omissions discovered shall be reported to the City immediately.

G. Grades, Lines, Levels and Bench Marks. The Construction Manager shall establish and maintain all building and construction grades, lines, levels, and bench marks, and shall be responsible for accuracy and protection of same. This Work shall be performed or supervised by a civil engineer or surveyor licensed as such in the State of Arizona.

H. Proper Employee Conduct. Any person employed by the Construction Manager or any Subcontractor who, in the opinion of the City, does not perform his work in a proper, skillful and safe manner or is intemperate or disorderly or is otherwise found to be inappropriate due to the setting of the Site, shall, at the written request of the City, be removed from the Site by Construction Manager or Subcontractor employing such person, and the person shall not be employed again in any portion of Work without the written approval of the City. The Construction Manager or Subcontractor shall hold the City harmless from damages or claims which may occur in the enforcement of this Subsection.

I. Coordination of Activities. Construction Manager shall coordinate the activities of all Subcontractors. If City performs other work on the Project or at the Site with separate contractors under City's control, Construction Manager agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

J. Change Processing. The Construction Manager shall establish and implement procedures for expediting and processing requests for information, Shop Drawings, material and equipment sample submittals, contract schedule adjustments, Change Directives, Change Orders, substitutes, payment requests and the maintenance of logs. The Construction Manager shall maintain daily job reports. The Construction Manager shall be the party to whom requests for information, submittals, Subcontractor schedule adjustments, substitutions, Change Directive requests, Change Order requests and payment requests shall be submitted.

K. Subcontractor Meetings. Periodically, the Construction Manager shall conduct meetings at the Site with each Subcontractor. The Construction Manager shall conduct coordination meetings with all Subcontractors. The Construction Manager shall record, transcribe and distribute minutes to all attendees, the City and the Project Designers.

L. Coordination of Inspections and Testing. Technical inspection and testing provided by the Project Designers or others who are not Subcontractors shall be coordinated with the Construction Manager. The Construction Manager shall be provided a copy of all inspection and testing reports on or before the next business day after the inspection or test. The Construction Manager is not responsible for providing, nor does the Construction Manager control, the actual performance of such technical inspection and testing. The Construction Manager is performing a coordination function and is not acting in a manner so as to assume responsibility or liability, in whole or in part, for all or any part of such inspection and testing.

M. Self-Performed Work. The Construction Manager shall perform, with its own forces, construction work that amounts to not less than 45% of the total Contract Price for

construction of the Project. For the purposes of this paragraph, the total Contract Price for construction of the Project (1) includes the total of the GMP amounts as agreed upon by the Construction Manager and the City and (2) does not include the cost of preconstruction services, design services or any other related services or the costs to procure any right-of-way or other costs of condemnation.

N. No Subcontractor Reliance. Construction Manager shall ensure that each Subcontractor (1) has inspected the Site and has thoroughly reviewed this Agreement as the same may be revised by the City, and is not relying on any opinions or representations of the City, (2) agrees to perform and complete the Work in strict accordance with this Agreement and under the Construction Manager's direction, (3) agrees that any exclusions of any Work must be approved in writing by the Construction Manager prior to acceptance of any agreement between Construction Manager and a Subcontractor or same shall not be excluded hereunder, (4) is responsible for all safety precautions and programs and shall provide all protection and necessary supervision to implement said precautions and programs as set forth in Section 4.13 below, (5) shall provide all competent supervision necessary to execute all Work and any work incidental thereto in a thorough, first-class, workmanlike manner and (6) has acknowledged that it is Subcontractor's responsibility that all of the Work and any work incidental thereto conforms to, and is performed in accordance with, Applicable Law.

O. Subcontractor Change Request. The Construction Manager shall review the contents of a request for changes to the subcontract time or price submitted by a Subcontractor, assemble information concerning the request and endeavor to determine the cause of the requests. In instances where the Construction Manager's analysis reveals that the request is valid, the Construction Manager shall prepare a detailed report to the City for approval in accordance with Articles 6 and 8 below, as applicable. The Construction Manager shall also prepare and timely deliver a detailed report to the City of other such requests and requests found to be invalid and timely inform the Subcontractor of any such determination. The Construction Manager shall prepare the necessary change documents for signature by the Subcontractor.

P. Quality Control. The Construction Manager shall establish and implement a program to monitor the quality of construction by itself and by Subcontractors. The purpose of the program shall be to protect the City against defects and deficiency in the Work of the Construction Manager or the Subcontractors. The Construction Manager shall reject the Work and transmit to the Subcontractor a notice of nonconforming work when the Construction Manager believes the Work does not conform to the requirements of the Contract Documents. Except for minor variations as stated herein, the Construction Manager is not authorized as part of this service to change, enlarge, relax, alter, or release any requirement of the Contract Documents or to approve or accept any portion of the Work not performed in accordance with the Contract Documents.

Q. Subcontractor Document Request. The Construction Manager shall coordinate and expedite submittals of information from the Subcontractors for record drawings and specification preparations and shall coordinate and expedite the transmittal of Project Record Documents to the City.

R. Traffic Control. All traffic affected by the Work under this Agreement shall be regulated in accordance with the most recent revision of the United States Department of

Transportation *Manual on Uniform Traffic Control Devices* (the "MUTCD") and the City of Phoenix Traffic Barricade Manual (the "Barricade Manual") (the MUTCD and the Barricade Manual are collectively referred to herein as the "Traffic Control Requirements"), which are incorporated herein by reference; provided, however, that this Agreement shall govern in a conflict with the terms of the MUTCD or the Barricade Manual. At the time of the pre-construction conference, each Subcontractor shall designate an employee who is well qualified and experienced in construction traffic control and safety to be responsible for implementing, monitoring and altering traffic control measures, as necessary. At the same time the Construction Manager will designate a representative who will be responsible to see that all traffic control and any alterations are implemented and monitored to the extent that traffic is carried through the Work area in an effective manner and that motorists, pedestrians, bicyclists and workers are protected from hazard and accidents. The Construction Manager shall ensure that Subcontractors adhere to the following:

1. All traffic control devices and advance warning signs (such as REDUCE SPEED, LOOSE GRAVEL, 25 MPH SPEED LIMIT and DO NOT PASS) required for the Work under this Agreement shall be placed in accordance with the Traffic Control Requirements.

2. The Subcontractor provide, erect and maintain all necessary flashing arrow boards, barricades, suitable and sufficient warning lights, signals and signs and shall take all necessary precautions for the protection of the Work and safety of the public. The Subcontractor shall provide, erect and maintain acceptable and adequate detour signs at all closures and along detour routes.

3. All barricades and obstructions shall be illuminated at night, and all safety lights shall be kept burning from sunset until sunrise. All barricades and signs used by the Subcontractor shall conform to the standard design generally accepted for such purposes and payment for all such services and materials shall be considered as included in the other pay items of the Agreement.

4. The Subcontractor shall ensure that all existing traffic signs are erect, clean and in full view of the intended traffic at all times. Street name signs at major street intersections shall be maintained erect at all times. If these signs should interfere with construction, the Subcontractor shall notify the City at least 48 hours in advance for City personnel to temporarily relocate said signs. The City will direct the Subcontractor as to the correct positions to re-set all traffic and street name signs to permanent locations when notified by the Subcontractor that construction is complete.

5. When construction activities or traffic hazards at the Site require the use of flagmen, it shall be the Subcontractor's responsibility to provide trained flagmen to direct traffic safely.

6. Manual traffic control shall be in conformity with the MUTCD, except that the designated liaison officer shall be contacted at the Avondale Police Department.

7. When traffic hazards at the Site warrant the use of certified police personnel to direct traffic, arrangements must be made with the liaison officer at the Avondale Police Department.

8. The assembly and turnarounds of the Subcontractor's equipment shall be accomplished using adjacent local streets when possible.

9. Equipment used and/or directed by the Subcontractor shall travel with traffic at all times. Supply trucks shall travel with traffic except when being spotted. Subcontractor shall provide a flagman or off-duty, uniformed law enforcement officer to assist with spotting.

10. During construction, it may be necessary to alter traffic control. Any such alterations shall be in accordance with the Traffic Control Requirements.

11. No street within the Project area may be closed to through traffic or to local emergency traffic without prior written approval of the City. The City may give written approval at its sole discretion and only if sufficient time exists to allow for notification of the public at least two Days in advance of such closing. Partial closure of streets within the Project shall be done in strict conformity with the City's written directions.

12. Caution should be used when excavating near intersections with traffic signal underground cable. Subcontractor shall notify the City 24 hours in advance of any work at such intersections. The Subcontractor shall install and maintain temporary overhead traffic signal cable as specified by the City when underground conduit is to be severed by excavations at intersections. The Subcontractor shall provide an off-duty uniformed City of Avondale police officer to direct traffic while the traffic signal is turned off and the wiring is transferred. All damaged or modified traffic signal overhead and underground items shall be repaired and restored to the City's satisfaction. Magnetic detector loops shall, under no circumstances, be spliced.

13. The Subcontractor shall accommodate local access to adjacent properties in accordance with the specification set forth below.

14. Where crossings of existing pavement occurs, no open trenches shall be permitted overnight, but plating may be permitted if conditions allow, as determined by the City or its authorized representative in his sole discretion. If plates cannot be used, crossings shall either be back-filled or the Subcontractor shall provide a detour.

4.6 Control of the Work Site.

A. Debris Removal. Throughout all phases of construction, including suspension of Work, Construction Manager shall keep the Site reasonably free from debris, trash and construction wastes to permit Construction Manager to perform its Construction Services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or an agreed upon portion of the Work, Construction Manager shall

remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit City to occupy the Project or an agreed upon portion of the Project for its intended use.

B. Dust Control. Construction Manager shall take whatever steps, procedures or means necessary to prevent any dust nuisance due to construction operations. The dust control measures shall be maintained at all times to the satisfaction of the City and in accordance with the requirements of Applicable law and such other Specifications as the Parties may agree to in writing.

C. Accessibility. Construction Manager shall maintain "ADA" and "ANSI" accessibility requirements during construction activities in an occupied building or facility. ADA and ANSI accessibility requirements shall include, but not be limited to, parking, building access, entrances, exits, restrooms, areas of refuge, and emergency exit paths of travel. Construction Manager shall be responsible for the coordination of all work to minimize disruption to building occupants and facilities.

D. Material and Equipment Storage. Only materials and equipment that are to be used directly in the Work shall be brought to and stored on the Site by the Construction Manager. When equipment or materials are no longer required for the Work, each shall be removed promptly from the Site.

E. Protection of Site. Protection of the Work, the Site, and construction materials and equipment stored at the Site from weather, theft, damage and all other adverse conditions is solely the responsibility of the Construction Manager.

4.7 Time Management.

A. Master Schedule Updates. The Construction Manager shall, not less than monthly, adjust and update the Master Schedule and distribute copies to the City and the Project Designers. All adjustments to the Master Schedule must be (1) made for the benefit of the Project and (2) acceptable to the City; provided, however, that such adjustments or updates shall not extend the time for performance of the Work beyond the Substantial Completion date unless such extension is requested by the Construction Manager and approved by the City in accordance with Section 6 below.

B. Subcontractor Schedule Verification. The Construction Manager shall review each Subcontractor's construction schedule and shall verify that the schedule is prepared in accordance with the requirements of the Contract Documents and that it establishes completion dates that comply with the requirements of the Master Schedule.

C. Subcontractor Progress Monitoring. The Construction Manager shall (1) review the progress of construction of each Subcontractor on a monthly basis, (2) evaluate the percentage completion of each construction activity as indicated in the Subcontractor's construction schedule and (3) review such percentages with the Subcontractor. This evaluation shall serve as data for input to the periodic construction schedule report that the Construction Manager shall prepare and distribute to the appropriate Subcontractor, the City's Representatives

and the Project Designers. The report shall serve as the basis for (i) determining the actual progress compared to scheduled progress and (ii) determining the progress payment due to the Subcontractor. The Construction Manager shall determine and implement alternative courses of action that may be necessary to achieve contract compliance by the Subcontractor.

D. Change Evaluation. The Construction Manager shall, prior to the issuance of a Change Directive or Change Order, determine the effect on the Master Schedule of time extensions requested by a Subcontractor. The Construction Manager may require a Subcontractor to prepare and submit a recovery schedule in the event the Subcontractor fails to meet the Master Schedule.

E. Minor Schedule Revisions. The Master Schedule shall be revised as required by conditions and progress of the Work, but such revisions shall not relieve the Construction Manager of its obligations to complete the Work within the Contract Time, as such dates may be adjusted in accordance with the Contract Documents.

F. Payment Requests. An updated Master Schedule shall be submitted monthly to the City as part of the Payment Request.

1. The Construction Manager shall provide City with a monthly status report for the Master Schedule detailing the progress of the Work, including (a) if the Work is proceeding according to schedule, (b) any discrepancies, conflicts, or ambiguities found to exist in the Contract Documents that require resolution, and (c) other items that require resolution so as not to jeopardize ability to complete the Work as presented in the applicable GMP and within the Contract Time.

2. With each schedule submittal the Construction Manager shall include a transmittal letter including the following:

- a. Description of problem tasks (referenced to field instructions and requests for information), as appropriate.
- b. Current and anticipated delays including:
 - i. Cause of the delay.
 - ii. Corrective action and schedule adjustments to correct the delay.
 - iii. Known or potential impact of the delay on other activities, milestones, and the Substantial Completion date.
- c. Changes in construction sequence.
- d. Pending items and status thereof including but not limited to:

- i. Time Extension requests.
 - ii. Other items.
- e. Substantial Completion date status:
 - i. If ahead of schedule, the number of Days ahead.
 - ii. If behind schedule, the number of Days behind.
- f. Other project or scheduling concerns.

G. City Review. City's review of and response to the Master Schedule is only for general conformance with the scheduling requirements of the Contract Documents. The review shall not: (1) relieve the Construction Manager from (a) compliance with the requirements of the Contract Documents or (b) the time extension request process set forth in Section 6 below; or (2) be construed as relieving the Construction Manager of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.

H. CPM Diagram. The updated Master Schedule shall include a CPM diagram schedule that shows the sequence of activities, the interdependence of each activity and indicate the Critical Path.

1. The CPM diagram schedule shall be in Days and indicate duration, earliest and latest start and finish dates for all activities, and total Float times for all activities except critical activities. The CPM diagram shall be presented in a time scaled graphical format for the Project as a whole.

2. The CPM diagram schedule shall indicate all relationships between activities.

3. The activities making up the Master Schedule shall be in sufficient detail to ensure that adequate planning has been done for proper execution of the Work and such that it provides an appropriate basis for monitoring and evaluating the progress of the Work.

4. The CPM diagram schedule shall be based upon activities that coincide with the Schedule of Values.

5. The CPM diagram schedule shall show all submittals associated with each Work activity and the review time for each submittal.

6. The schedule shall show milestones, including milestones for City-furnished information, and shall include activities for City-furnished equipment and furniture when those activities are interrelated with the Construction Manager activities.

7. The schedule shall include a Critical Path activity that reflects anticipated rain and weather delay during the performance of the Agreement. The duration shall reflect the average climatic range and usual industrial conditions prevailing in the locality of the Site. Weather data shall be based on information provided by the National Weather Services or other source approved in writing by the City.

I. Occupancy Consideration. The Master Schedule shall consider the City's occupancy requirements showing portions of the Project having occupancy priority.

J. Float Time. Float time shall be as prescribed below:

1. The total Float within the overall Master Schedule, is not for the exclusive use of either the City or the Construction Manager, but is jointly owned by both and is a resource available to and shared by both Parties as needed to meet contract milestones and the Project completion dates.

2. The Construction Manager shall not sequester shared Float through such strategies as extending activity duration estimates to consume available Float, using preferential logic, or using extensive crew/resource sequencing. Float time within the schedule is jointly owned; no time extensions will be considered or granted nor delay damages considered or paid until a delay occurs that extends the Work beyond the Substantial Completion date.

3. City-caused delays on the Project may be offset by City-caused time savings (i.e., Critical Path submittals returned in less time than anticipated by the Master Schedule; approval of substitution requests and credit changes which result in savings of time to the Construction Manager). In such an event, the Construction Manager shall not be entitled to have considered or receive a time extension or delay damages until all City-caused time savings are exceeded, and the Substantial Completion date is also exceeded.

K. Occupancy/Use Plan. The Construction Manager shall prepare an occupancy plan for the Project. This plan shall be provided to the City not later than 60 Days prior to the scheduled Substantial Completion date.

4.8 Cost Management.

A. Subcontract Schedule of Values. The Construction Manager shall, in participation with the Subcontractors, determine a Schedule of Values for each of the construction subcontracts. The Schedule of Values shall be the basis for the allocation of the Contract Price to the activities shown on the Subcontractors' construction schedule. The City shall approve the subcontract Schedule of Values before acceptance for progress billings.

B. Contract Price Allocation Each Subcontractor's construction schedule shall have the applicable portions of the Contract Price allocated among the Subcontractor's scheduled activities so that each of the Subcontractor's activities shall be allocated a price and the sum of the prices of the activities shall equal to or less than the total Contract Price. The Construction

Manager shall review the Contract Price allocations and verify that such allocations are made in accordance with the requirements of the Contract Documents. Progress payments to a Subcontractor and Construction Manager shall be based on the Subcontractor's percentage of completion of the scheduled activities as set out in each Subcontractor's construction schedule report and the Subcontractor's compliance in accordance with the Contract Documents.

C. Additional Information. In instances where a lump sum or unit price is not determined prior to performing Work described in a request for changes to the Contract Price, the Construction Manager shall request from the Subcontractor records for the cost of payroll, materials and equipment and the amount of payments to its Subcontractors, if any, incurred by the Subcontractor in performing the Work.

D. Trade-off Studies. The Construction Manager shall provide trade-off studies for various minor construction components. The results of the trade-off studies shall be in report form and distributed to the City's Representative and the Project Designers.

E. Payment Applications. In consultation with the Project Designers, the Construction Manager shall review the payment applications submitted by each Subcontractor and determine whether the amount requested reflects the progress of the Subcontractor's work. The Construction Manager shall make appropriate adjustments to each payment application and shall prepare and forward a progress payment report to the City. The progress payment report shall state the total Contract Price, payments to date, current payment requested, retainage and actual amounts owed for the current period. Included in this report shall be a certificate for payment that shall be signed by the Construction Manager and delivered to the City. The Construction Manager shall keep the Project and the Site free and clear of all liens and claims from its Subcontractors, suppliers or materialmen.

4.9 Shop Drawings, Product Data and Samples.

A. Purpose. Shop Drawings, product data, samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required the way the Construction Manager proposes to conform to the information given and the design concept expressed in the Contract Documents.

B. Review. The Construction Manager shall review, approve, verify, and submit to the Project Designers five copies of each Shop Drawing, product data, sample, and similar submittal required by the Contract Documents as to cause no delay in the Work or in the activities of the City or of separate contractors. Submittals made by the Construction Manager that are not required by the Contract Documents may be returned without action.

C. Project Designer Approval. The Construction Manager shall perform no portion of the Work requiring submittal and review of Shop Drawings, product data, samples, or similar submittals until the respective submittal has been approved by the Project Designers. Such Work shall be in accordance with approved submittals.

D. Construction Manager Verification. By approving, verifying and submitting Shop Drawings, product data, samples and similar submittals, the Construction

Manager represents that the Construction Manager has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

E. No Deviation Approval; Errors. The Construction Manager shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Project Designer's approval of Shop Drawings, product data, samples or similar submittals unless the Construction Manager has specifically informed the Project Designer in writing of such deviation at the time of submittal and the Project Designer has given written approval to the specific deviation. The Construction Manager shall not be relieved of responsibility for errors or omissions in Shop Drawings, product data, samples, or similar submittals by the Project Designer's approval thereof.

F. Highlight Changes. The Construction Manager shall direct specific attention, in writing or on resubmitted Shop Drawings, product data, samples, or similar submittals, to revisions other than those requested by the Project Designers on previous submittals.

G. Informational Submittals. Informational submittals upon which the Project Designer is not expected to take responsive action may be so identified in the Contract Documents.

H. Other Certifications. When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the Project Designer shall be entitled to rely upon the accuracy and completeness of such calculations and certifications.

4.10 Quality Control, Testing and Inspection.

A. New Materials. All materials used in the Work shall be new and unused, unless otherwise noted, and shall meet all quality requirements of the Contract Documents.

B. Inspection and Approval. All construction materials to be used in the Work or incorporated into the Work, equipment, plant, tools, appliances or methods to be used in the Work may be subject to the inspection and approval or rejection by the City or the Project Designers. Any material rejected by the City or the Project Designers shall be removed immediately and replaced in an acceptable manner.

C. Test Methods. The procedures and methods used to sample and test material will be determined by the Project Designers. Unless otherwise specified, samples and tests shall be made in accordance with MAG 700 Series and the standard methods of AASHTO or ASTM as referenced in the MAG 700 Series.

D. Testing Facility. The Construction Manager will select a pre-qualified independent testing laboratory and will pay for initial City acceptance testing.

1. When the first and subsequent tests indicate noncompliance with the Contract Documents, the cost associated with that noncompliance and retesting will be paid

for by the Construction Manager. Construction Manager's Contingency cannot be utilized for the cost of re-testing.

2. When the first and subsequent tests indicate noncompliance with the Contract Documents, all retesting shall be performed by the same testing agency.

E. Cooperation. The Construction Manager will cooperate with the selected testing laboratory and all others responsible for testing and inspecting the Work and shall provide the laboratory's employees or agents access to the Work at all times.

F. At-source Approval. At the option of the City, materials may be approved at the source of supply before delivery.

G. Code Compliance. Code compliance testing and inspections required by codes or ordinances, or by a plan approval authority shall be the responsibility of and shall be paid by the Construction Manager, unless otherwise provided in the Contract Documents.

H. Responsibility. Construction Manager's quality control testing and inspections shall be the sole responsibility of the Construction Manager and shall be paid solely by the Construction Manager.

4.11 Trade Names and Substitutions.

A. Substitutions. Substitute or alternate items to Contract Document references to equipment, materials or patented processes by manufacturer, trade name, make or catalog number may be permitted, unless indicated that no substitutions are permitted, and if permitted are subject to the following:

1. The substitution shall be submitted by Construction Manager in writing to the Project Designers.

2. The Construction Manager shall certify that the substitution will perform the functions and achieve the results called for by the general design, be similar and of equal substance, and be suited to the same use as that specified.

3. The submittal shall outline any required changes in the Contract Documents to adapt the design to the proposed substitution.

4. The submittal shall contain an itemized estimate of all costs and credits that will result directly and indirectly from the acceptance of such substitution, including cost of design, license fees, royalties, and testing. Also, the submittal shall include any request for adjustment in the Contract Time created by the substitution.

B. Samples; Additional Information. The Construction Manager, if requested by the Project Designers, shall submit samples or any additional information that may be necessary to evaluate the acceptability of the substitution.

C. Project Designer Determination. The Project Designers will make the final decision and will notify the Construction Manager in writing as to whether the substitution has been accepted or rejected.

D. Presumed Rejection. If the Project Designers do not respond in a timely manner, the Construction Manager shall continue to perform the Work in accordance with the Contract Documents and the substitution will be considered rejected.

4.12 Project Record Documents.

A. Redline Prints. During the construction period, the Construction Manager shall maintain at the Site a set of redline, blueline or blackline prints of the Construction Documents and Shop Drawings for Project Record Document purposes. The Construction Manager will certify that these documents are up to date when it submits its monthly pay application. The Construction Manager shall also:

1. Mark these drawings to indicate the actual installation where the installation varies appreciably from the original Construction Documents and give particular attention to information regarding concealed elements that would be difficult to identify or measure and record later. Items required to be marked include, but are not limited to:

- Dimensional changes to the drawings.
- Revisions to details shown on drawings.
- Depths of foundations below first floor.
- Locations and depths of underground utilities.
- Revisions to routing of piping and conduits.
- Revisions to electrical circuitry.
- Actual equipment locations.
- Duct size and routing.
- Locations of concealed internal utilities.
- Changes made by Change Order or Change Directive.
- Details not on original Contract Documents.
- Similar deviations, variations and modifications.

2. Mark completely and accurately Project Record Documents or Shop Drawings, whichever is the most capable of indicating the actual physical condition. Where Shop Drawings are marked, show cross-reference on the Construction Documents.

3. Mark Project Record Document sets with red erasable colored pencil.

4. Note Change Order or Change Directive numbers, as required to identify the source of the change to the Construction Documents.

5. As a condition of Substantial Completion, submit Project Record Documents and Shop Drawings to the City Representative for review and comment.

B. Corrections. Upon receipt of the reviewed Project Record Documents from the City, the Construction Manager shall correct any deficiencies and/or omissions to the drawings and prepare the following for submission to the City within 14 Days:

1. A complete set of electronic Project Record Documents prepared in AutoCAD format compatible with City CADD technology. The Project Designers will provide files of the original Construction Documents to the Construction Manager for the use of preparing these final Project Record Documents or the Construction Manager may contract with the Project Designers to revise and update the electronic drawing files. Each drawing shall be clearly marked with "As-Built Document."

2. The original copy of the Project Record Documents (including all redline mark-ups).

4.13 Project Safety. Construction Manager recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto.

A. Responsibility. Construction Manager assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work.

B. Safety Representative. Construction Manager shall, prior to commencing construction, designate a safety representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, Construction Manager's safety representative shall be an individual stationed at the Site who may have other responsibilities on the Project in addition to safety.

C. Daily Inspections. The safety representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with Construction Manager's personnel, Subcontractors and others as applicable. Construction Manager shall provide the City

copies of daily inspection reports and weekly safety meeting minutes, with the monthly payment applications.

D. Legal Requirements. Construction Manager and Subcontractors shall comply with Applicable Law relating to safety, as well as any City-specific safety requirements set forth in the Contract Documents, provided that such City-specific requirements do not violate Applicable Law. If Construction Manager believes a City-specific requirement violates Applicable Law, the Construction Manager shall notify the City of such violation within 24 hours of discovery.

E. Reporting. Construction Manager will immediately report in writing any safety-related injury, loss, damage or accident arising from the Work to City's Representative and, to the extent mandated by Applicable Law, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

F. Subcontractor Responsibility. Construction Manager's responsibility for safety under this Section is not intended in any way to relieve Subcontractors of their own contractual and legal obligations and responsibility for (1) complying with Applicable Law, including those related to health and safety matters, and (2) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injury, losses, damages or accidents resulting from their performance of the Work.

4.14 Substantial Completion. When the Construction Manager considers that the Work has reached Substantial Completion, it shall submit a request to the City's Project Manager for a certificate of Substantial Completion. Substantial Completion must occur not later than the date set forth in the applicable GMP Amendment, subject to modification by changes in the Contract Time according to Article 6 below. A prerequisite for Substantial Completion, over and above the extent of construction completion required, is receipt by the City of acceptable documentation that Construction Manager has successfully tested and demonstrated all systems for their intended uses. In consultation with the Project Designers, the City shall determine when the Project and the Construction Manager's Work is substantially complete. The Substantial Completion date shall be confirmed by a Certificate of Substantial Completion signed by the City and Construction Manager. The Certificate of Substantial Completion shall state the respective responsibilities of the City and the Construction Manager for security, maintenance and damage to the work and insurance. The Certificate of Substantial Completion shall also include the Punch List as created by the Construction Manager and modified by the Project Designers in consultation with the City and establish the time for completion and correction of all Punch List items. The Construction Manager shall proceed promptly to complete and correct Punch List items. Failure to include an item on the Punch List does not alter the responsibility of the Construction Manager to complete all Work in accordance with the Contract Documents. If the City and the Construction Manager cannot agree as to the appropriate Substantial Completion date, such issue shall be submitted for dispute resolution in accordance with the procedures set forth in Article 13 below. Notwithstanding such disagreement, the Construction Manager shall diligently proceed with completion of the Punch List items. Warranties required by the Contract Documents shall commence on the Substantial Completion date or designated portion thereof unless otherwise provided in the Contract Documents.

4.15 Final Completion. In consultation with the Project Designers, the City shall determine when the Project and the Construction Manager's Work has reached Final Completion. Final Completion must occur not later than 60 Days after the Substantial Completion date, subject to modification by changes in the Contract Time in Article 6 below. Final Completion shall be achieved only upon the City's written acceptance of (A) the construction, (B) all testing, (C) demonstration by the Construction Manager that the Work functions as required by the Contract Documents and meets all Contract Document requirements, (D) resolution of all outstanding system deficiencies and Punch List items, if any, (E) delivery of all as-built documentation, drawings, completed Project Record Documents (with revisions made after Substantial Completion), annotated submittals and design document deliverables, (F) submittal, acceptance, and delivery of the 100% complete O&M manuals, (G) delivery of warranties, inspection certificates, bonds and all other required documents, (H) all pre-requisites for final payment and (I) submittal of Construction Manager's request for final payment and acceptance enclosing all required documentation. Upon Final Completion the City shall issue a Certificate of Final Completion to the Construction Manager on behalf of the City. Following receipt of payment from the City, the Construction Manager shall make all payments due to the Subcontractors.

4.16 Correction of Defective Work.

A. During the Work. During the Work, Construction Manager shall take meaningful steps to commence correction of such nonconforming Work as notified by the City. This includes the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work.

B. During Warranty Period. Construction Manager agrees to correct any Work that is found to not be in conformance with the Contract Documents within the warranty period described in Subsection 5.6(A) below, or within such longer period to the extent required by the Contract Documents or as may be allowed by law. A progress payment, or partial or entire use or occupancy of the Project by the City, shall not constitute acceptance of Work not in accordance with the Contract Documents.

C. Commencement by Construction Manager. Construction Manager shall take meaningful steps to commence correction of nonconforming Work subject to Subsections 4.16(A) and (B) above within seven Days of receipt of written notice from the City. This includes the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If Construction Manager fails to commence the necessary steps within such seven-Day period, the City, in addition to any other remedies provided under the Contract Documents or allowed by law, may provide Construction Manager with written notice that the City will commence correction of such nonconforming Work with its own forces. If the City corrects such nonconforming Work with its own forces, the GMP will be adjusted to deduct the cost to the City. If the City performs corrective Work after final payment, Construction Manager shall be responsible for all reasonable costs incurred by the City in performing such correction.

D. Emergencies. In the event nonconforming Work creates an emergency requiring an immediate response, the Construction Manager will respond and initiate corrections within 24 hours.

E. No Effect on Limitations Period. The two-year period referenced in Subsection 5.6(A) below applies only to Construction Manager's obligation to correct nonconforming Work as provided in this Section and is not intended to constitute a period of limitations for any other rights or remedies the City may have regarding Construction Manager's obligations under the Contract Documents or as may be allowed by law.

4.17 Additional Services. Any Additional Services must be authorized in advance by the City in writing; the Construction Manager shall furnish or obtain from others such authorized services. The Construction Manager shall be paid for these Additional Services by the City as herein provided to the extent they exceed reasonably inferable obligations of the Construction Manager under this Agreement. Potential Additional Services include:

A. Planning. Providing additional planning surveys or alternative site evaluations other than as required or reasonably inferred in this Article 4.

B. Future/Outside of Project Design. Providing design services relative to future facilities, systems and equipment that are not intended to be constructed as part of the Project, other than general planning and master planning for future work as indicated by the City's Project program. Providing design and engineering of any work outside the Site if said work is not expressly identified and included in the Scope.

C. Major Document Revisions/Additional Documents. Making major revisions in the construction documents, or other documents when such revisions are inconsistent with written approvals or instructions previously given by the City or are due to causes beyond the control and without the fault and negligence or partial fault or negligence of the Construction Manager or its consultants or agents. Preparing additional documents for alternate, separate, or sequential bids or providing services in connection with bidding, negotiation, or construction prior to the completion of the construction phase, other than as required or reasonably inferred in this Article 4. Making revisions to Construction Documents after the City has approved them when revisions are due to causes beyond the control and not the fault or partial fault of the Construction Manager.

D. Advanced Soils Analysis. Providing additional soils sampling, classification, and analysis other than as required or reasonably inferred in the foregoing sections of Article 4. Construction Manager is entitled to rely upon the soils analysis and recommendations as provided by a geotechnical consultant, however, Construction Manager is responsible for interpretation of such data for the purpose of establishing the means and methods of construction and such interpretation shall not be considered Additional Services during the design phase or the construction phase.

E. Expert Testimony. Preparing to serve or serving as an expert witness for the City in connection with any public hearing, arbitration proceeding, or legal proceeding wherein the Construction Manager or Subcontractor of the Construction Manager is not a party or allegedly at fault; provided, however, preparing to serve or serving as a fact witness for the City or rendering testimony necessary to secure governmental approval for the Project shall not constitute an additional service.

F. Survey. Providing surveying services such as platting, mapping, subdivision agreements, or recording subdivision plats other than as required or reasonably inferred in this Article 4.

G. Additional Travel. Providing Additional Services and costs necessitated by out-of-town travel required of and approved in writing by the City other than visits to the Project and other than for travel required to accomplish the Work.

H. Unrelated Services. Providing any other services not otherwise included in this Agreement, not reasonably inferred by this Agreement or not customarily furnished in accordance with generally accepted contractual practices consistent with the term of this Agreement.

I. Replacement Work. Providing consultation concerning replacement of Work damaged by fire or other causes and not due in whole or in part to Construction Manager's action or inaction during construction, or furnishing services required in connection with the replacement of such work.

J. Special Studies. Providing additional special surveys, environmental studies, and submissions required for approvals of governmental authorities or others having jurisdiction over the Project, other than as required or reasonably inferred in this Article 4.

K. O&M Analysis. Providing analyses of operating and maintenance costs other than as required for value analysis in Subsection 2.2(E) above, unless provided for in the Scope.

L. Assisting with City-Performed Work. Designing, and providing other services supporting the procurement of materials to be obtained, or work, if any, to be performed by the City, that are not a part of the Work.

ARTICLE 5 POST-CONSTRUCTION PHASE

5.1 Final Accounting and Close-out. At the conclusion of the Project, the Construction Manager shall prepare final Project accounting and close-out reports.

5.2 Occupancy Plans. The Construction Manager shall prepare and distribute reports as necessary associated with the occupancy plan.

5.3 Certificates. The Construction Manager shall secure required certificates of inspection, testing or approval and deliver them to the City.

5.4 Manufacturer Manuals and Warranties. The Construction Manager shall require the Subcontractors to provide manufacturers' operations and maintenance manuals, warranties and guarantees for materials and equipment installed in the Project. Prior to Final Completion of the Project, the Construction Manager shall compile such manuals, warranties and guarantees, bind

same in an organized manner and deliver the bound materials to the City; the City shall not be required to issue the final payment to the Construction Manager pursuant to Section 9.6 below until after the compiled manuals, warranties and guarantees have been delivered to the City. At the discretion of the City, electronic records may be substituted for the bound materials required in this section.

5.5 Inspection and Testing. With the assistance of the City's maintenance personnel, the Construction Manager shall direct the inspection of utilities and operations of systems and equipment for readiness, and assist in their initial start-up and testing.

5.6 Warranties.

A. Warranty for the Work. Construction Manager or its assignee shall give to the City a two-year warranty against deficiencies in material and workmanship for all Work on the Project or other such warranty as required by the City Engineer, which warranty shall begin on the Substantial Completion date. Any material deficiencies in material or workmanship identified by City staff during the two-year warranty period shall be brought to the attention of the Construction Manager or its assignee that provided the warranty, which both shall promptly remedy or cause to be remedied such deficiencies to the reasonable satisfaction of the City Engineer. Continuing material deficiencies in a particular portion of the Work shall be sufficient grounds for the City to require (1) an extension of the warranty for an additional two-year period and (2) the proper repair of or the removal and reinstallation of, that portion of the Work that is subject to such continuing deficiencies. Regardless of whether the applicable warranty period has expired, the Construction Manager agrees to repair any damage to the Work caused by construction activities on the Site. Nothing contained herein shall prevent the City or the Construction Manager from seeking recourse against any other third party for damage to the Work caused by such third party.

B. New Materials. The Construction Manager warrants that all materials and equipment furnished under construction phase(s) of this Agreement are (1) new unless otherwise specified and approved by the City, (2) of good quality, (3) in conformance with the Contract Documents and (4) free from defective workmanship, defective materials and Hazardous Materials. Warranties shall commence on the date of Substantial Completion of the Work or of a designated portion if the warranted items are fully installed, operational and available for use and if not, at such time after the date of Substantial Completion as they are fully installed, operational and available for use.

C. Actions by Others. Construction Manager's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Work by persons other than Construction Manager or anyone for whose acts Construction Manager may be responsible and/or liable.

D. No Limitation on Other Warranties. Nothing in this warranty is intended to limit any manufacturer's warranty that provides City with greater warranty rights than set forth in this Section or the Contract Documents.

E. No Limitation on Legal Remedies. Nothing in this warranty is intended to limit any other remedy at law that may be available to the City.

ARTICLE 6 CONTRACT TIME

6.1 Progress and Completion. The City and the Construction Manager agree the time limits stated in the Contract Documents, as the same may be amended and updated by the Parties, are of the essence of this Agreement.

6.2 Commencement of the Work. The Work, except for the (A) environmental investigation services set forth in Section 2.1 above, (B) review of Construction Documents and design remedies services set forth in Section 2.2 above, and (C) Pre-Construction Phase General Services set forth in Section 2.3 above, shall commence on the Notice to Proceed date of the applicable GMP Amendment, and shall proceed in general accordance with the Schedule for the Work set forth therein. Each GMP Amendment shall establish a separate Notice to Proceed date, Substantial Completion date and portion of the Contract Time applicable to that GMP. The Substantial Completion dates may be sequential or may run consecutively.

6.3 Prosecution of the Work. The Construction Manager shall prosecute the Work so that the portion of the Work completed at any point in time shall be not less than as required by the Master Schedule. If the delay is an Inexcusable Delay, as defined below, the Construction Manager shall prepare a recovery schedule for the City's review and approval, showing how the Construction Manager will compensate for the delays and achieve Substantial Completion by the date shown on the Master Schedule. If the Construction Manager is unable to demonstrate how it will overcome Inexcusable Delays, the City may order the Construction Manager to employ such extraordinary measures as are necessary to bring the Work into conformity with the date of Substantial Completion set forth therein, the costs of which shall be included as part of the Cost of the Work. If the delay is an Excusable Delay, as defined below, the City shall either (A) authorize an equitable extension in the Master Schedule to account for such delay, and equitably adjust the GMP on account of such delay or (B) request that the Construction Manager prepare a recovery schedule showing how (if possible) the Construction Manager can achieve Substantial Completion by the date shown on the Master Schedule, and equitably adjust the applicable GMP in accordance with the Change Order provisions of this Agreement related to any extraordinary activities required of the Construction Manager on account of such recovery schedule.

6.4 Critical Path Activities. To the extent the Construction Manager completes activities on the Critical Path earlier than scheduled, the savings in time on account thereof shall belong solely to the Construction Manager.

6.5 Construction Activities. At such time as the Construction Documents, or any portion thereof, are complete, the Construction Manager shall submit a revised Master Schedule to the City for incorporation into the Contract Documents, which will expand the Master Schedule approved to date, but which will not, in and of itself, change the Substantial Completion date for the Project. This revised Master Schedule shall be based upon a CPM and shall show in complete detail starting and completion time of detail activities, the sequence of the Work and all significant activities.

6.6 Extensions of Time.

A. Limited to Excusable Delay. An extension in the scheduled Substantial Completion date will only be granted in the event of Excusable Delays affecting Work activities on the Critical Path. The Construction Manager shall be entitled to general condition costs and extra costs related to the Excusable Delay for idle labor, equipment inefficiency and lost productivity of the performance of the Work; however, the Construction Manager must submit evidence reasonably satisfactory to the City substantiating such costs. Such adjustment to the contract sum and Substantial Completion date shall be issued in an amendment to this Agreement.

B. Excusable Delays. To the extent any of the following events results in an actual delay in the Work affecting activities on the Critical Path, such shall constitute an "Excusable Delay" (to the extent not set forth below, a delay will be considered an "Inexcusable Delay"):

1. Delays resulting from Force Majeure events. The term "*Force Majeure*" means an occurrence that is beyond the control of the Party affected and occurs without its fault or negligence. Without limiting the foregoing, Force Majeure includes acts of God, acts of the public enemy, war, riots, strikes, mobilization, labor disputes, civil disorders, fire, floods, lockouts, injunctions-intervention-acts or failures or refusals to act by government authority, and other similar occurrences beyond the control of the Party declaring Force Majeure which such Party is unable to prevent by exercising reasonable diligence. The Force Majeure shall be deemed to commence when the Party declaring Force Majeure notifies the other Party, in accordance with Subsection 14.6, of the existence of the Force Majeure and shall be deemed to continue as long as the results or effects of the Force Majeure prevent the Party from resuming performance in accordance with this Agreement. Force Majeure shall not include: (a) late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies or similar occurrences, or (b) late performance by a Subcontractor unless the delay arises out of a Force Majeure occurrence in accordance with this Subsection 6.6(B). Any delay or failure in performance by either Party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by Force Majeure. The delayed Party shall cause such delay to cease as soon as practicable and shall notify the other Party in writing. The time of Substantial Completion or Final Completion shall be extended by written amendment for a period of time equal to the time that the results or effects of such delay prevent the delayed Party from performing in accordance with this Agreement.

2. Differing, unusual or concealed Site conditions that could not reasonably have been anticipated by the Construction Manager in preparing the Master Schedule, including, without limitation, archaeological finds and unusual soil conditions (including rock or other geological conditions), underground foundations, abandoned or not properly identified utility lines and water conditions.

3. Delays resulting from the existence or discovery of Hazardous Materials on the Site not brought to the Site by or on behalf of the Construction Manager.

4. Delays resulting from changes in Applicable Law occurring after the date of execution of this Agreement.

5. Delays occurring due to the acts or omissions of the City and those within the control of the City.

6. Delays occurring due to the acts or omissions of a utility, so long as Construction Manager has coordinated with the utility causing the delay and the delay occurs despite reasonable steps taken by Construction Manager to avoid the delay.

7. Delays resulting from weather conditions that make it unreasonable to perform the Work in accordance with the Master Schedule.

C. Process for Requesting Extension of Time. In order to obtain an extension of time due to an Excusable Delay, the Construction Manager must comply with the following requirements: The Construction Manager shall notify the City of the Excusable Delay as soon as practicable, but in no event more than seven Days after the Construction Manager becomes aware of the occurrence of the Excusable Delay. Such notice shall describe the Excusable Delay and shall state the approximate number of Days the Construction Manager expects to be delayed. After the cessation of the Excusable Delay, the Construction Manager shall notify the City of the number of Days the Construction Manager believes that its activities were in fact delayed by the Excusable Delay. In the event that the delay arises as a result of a Change Order request by the City, the request for an extension of time contained in the resulting Change Order proposal or amendment to this Agreement, as applicable, shall be deemed sufficient for purposes of this Subsection.

D. City Determination. Within 10 Days after cessation of an event giving rise to either an Excusable Delay or Inexcusable Delay, the Parties will use good faith efforts to agree on the extent to which the Work has been delayed and whether the delay is an Excusable Delay or an Inexcusable Delay. In the absence of agreement between the Parties as to the then-current status of Excusable Delays and Inexcusable Delays, the City will provide the Construction Manager with written notice of City's determination of the number of Days of Excusable Delay and/or Inexcusable Delay within 10 Days after receipt by the City of the Construction Manager's written request for such determination. The Construction Manager shall not, however, deem an issuance by the City of such a determination to be a concurrence with any matters set forth in the Construction Manager's request. The Construction Manager may invoke the dispute resolution procedures set forth in Article 13 below with respect to such determination.

6.7 Concurrent Delays. To the extent the Construction Manager may be entitled to an extension of time due to an Excusable Delay, but the performance of the Work would have been suspended, delayed or interrupted by the fault or neglect of the Construction Manager or by an Inexcusable Delay, the Construction Manager shall not be entitled to any additional costs for the period of such concurrency.

6.8 Weather Delays. The Construction Manager shall include and clearly identify an appropriate number of Days of weather-related delays within (A) the aggregate Master Schedule for the Work and within the portions of the Master Schedule submitted with each GMP Proposal

relating to any phase of the Project and (B) each GMP Amendment. If the Construction Manager experiences additional weather-related delays beyond the number of Days set forth in the Master Schedule and the GMP Amendment, the Construction Manager shall be entitled to commensurate extension of time and reimbursement of costs associated with such delay; provided such requests for extensions of time are submitted and approved according to the process set forth in Section 6.6 above. If the Construction Manager fails to include an appropriate number of Days of weather-related delays within the applicable GMP Proposal for any portion of the Project, the Construction Manager shall not be eligible for any extension of time or reimbursement of costs related to otherwise Excusable Delays relating to weather for the applicable GMP Proposal.

6.9 Liquidated Damages.

A. Established. The Construction Manager and the City acknowledge that in the event that the Construction Manager fails to achieve Substantial Completion or Final Completion of the Project by the dates established therefore in the applicable GMP Amendment, as adjusted, the City will incur substantial damages and the extent of such damages shall be incapable of accurate measurement. Nonetheless, the Parties acknowledge that on the date of this Agreement, the amount of liquidated damages set forth below represents a good faith estimate as to the actual potential damages that the City would incur as a result of late Substantial Completion or Final Completion of the Project. Such liquidated damages shall be the sole and exclusive remedy of the City for late completion of the Project, and the City hereby waives all other remedies available at law or in equity with respect to losses resulting from late completion. The amount of the liquidated damages calculated hereunder does not include any penalty.

B. Amount of Liquidated Damages.

1. If the Construction Manager fails to achieve Substantial Completion of for that portion of the Work applicable to a particular GMP Proposal on or before the Substantial Completion date set forth in the applicable GMP Proposal, as adjusted, for any reason other than Excusable Delays, the Construction Manager shall pay to the City liquidated damages in the amount per Day as determined by the Maricopa Association of Governments specifications existing on the date this Agreement is approved by the City Council (the "MAG Specifications") for each Day Substantial Completion is delayed beyond the Substantial Completion date set forth in the applicable GMP Amendment.

2. If the Construction Manager fails to achieve Final Completion of for that portion of the Work applicable to a particular GMP Proposal on or before the Final Completion date, as adjusted, for any reason other than Excusable Delays, the Construction Manager shall pay to the City liquidated damages in the amount per Day as determined by MAG Specifications for each Day Final Completion is delayed beyond the Final Completion date established according to the applicable GMP Amendment.

3. In no case may the amount of liquidated damages due under this Subsection 6.9(B) for any single Day of delay exceed the highest amount, as determined according to MAG Specifications, that would be charged for any single Inexcusable Delay existing on such Day.

4. Payment of liquidated damages is to be made contemporaneously with any required payment to the Construction Manager, and such payments may be offset against each other.

ARTICLE 7 CONTRACT PRICE

7.1 Pre-construction Phase Compensation.

A. Project Designers' Services Not Included. The cost of services performed directly by the Project Designers are not included in the Construction Manager's compensation.

B. Amount. The City shall pay the Construction Manager an amount not to exceed \$76,796.70 for services performed during the Pre-construction Phase, as set forth in Article 2 above, and as more particularly described in the Pre-Construction cost summary, attached hereto as Exhibit J and incorporated herein by reference, including all cost items, allowances and reimbursable expenses.

C. Equitable Adjustment. Compensation of Pre-construction Services shall be equitably adjusted if such services extend beyond December 30, 2019, for reasons beyond the reasonable control and not the fault or partial fault of the Construction Manager or as provided in Section 8.2 below. For changes in Pre-construction Services, compensation shall be adjusted as mutually agreed upon by the City and the Construction Manager at the time of such extended services.

D. Payments. Payments for Pre-construction Services shall be due and payable within 30 Days following approval of the Construction Manager's monthly invoice by the City. Payments due the Construction Manager that are unpaid for more than 30 Days from the due date of the invoice shall bear interest at the statutory rate.

7.2 Construction Phase Compensation. The portion of Contract Price applicable to the Construction Services shall be the aggregate of all approved GMP Amendments.

A. GMP. The Guaranteed Maximum Price is composed of the Direct Construction Costs and the Construction Fee. The Construction Manager is at risk to cover any additional Project costs. To the extent the combined total of the Direct Construction Costs and the Construction Fee at the conclusion of the Project is less than the GMP, the difference shall be retained by the City.

B. GMP Adjustment. If a GMP requires an adjustment due to changes in the Work, the cost of such changes is determined subject to Article 8. The markups permitted on such changes shall be no greater than the markups delineated in the approved GMP.

C. City's Contingency. City's Contingency funds are to be used at the discretion of the City to cover any increases in Project costs that result from City-directed changes or unforeseen Site conditions. City's Contingency will be approved in conjunction with the applicable GMP Amendment but will not be included in the full Contract Price. Markups for

Construction Fee and taxes will be applied by the Construction Manager at the time that City's Contingency is used. The amount of contingency for each GMP amendment will be negotiated separately.

D. Payment Data. The Construction Manager shall submit to the City, upon request, all payrolls, reports, estimates, records and any other data concerning the Work performed or to be performed or concerning materials supplied or to be supplied, as well as Subcontractor or Consultant payment applications or invoices and such Subcontractor's or Consultant progress payment checks. The requirements of this Section shall be included in all contracts between the Construction Manager and its Subcontractors and Consultants. The City may exercise its rights under this Section as often as reasonably necessary in the City's sole judgment to ensure the City has a complete and accurate understanding of all Project costs.

7.3 Adjustment in the Contract Price. Adjustment to the respective components of the Contract Price shall be made as follows:

A. Changes in the Work. For changes in the Work as provided in Article 8 below, the applicable Contract Price shall be adjusted as mutually agreed by the Parties, in writing, prior to commencement of any work pursuant to such changes.

B. Delays in the Work. For delays in the Work not caused, in whole or in part, by the Construction Manager, Subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, there will be an equitable adjustment in the Contract Price to compensate the Construction Manager for increased expenses due to unforeseeable circumstances, according to the requirements of Article 6 above.

C. Replacement Work. If the Construction Manager is placed in charge of managing the replacement of an insured or uninsured loss not caused by or the fault of the Construction Manager or other parties identified in Subsection 7.3(B) above, the Construction Manager shall be paid an additional fee in the same proportion that the applicable portion of the Contract Price bears to the estimated applicable Cost of the Work, or as otherwise agreed to by the Parties.

ARTICLE 8 CHANGES IN THE WORK

8.1 Prescribed Methods for Changes. Changes in Construction Manager's Services shall only be made by a written Change Directive or Change Order to this Agreement signed by the City and the Construction Manager. Changes involving (A) a change in the lump sum for the Pre-Construction Services set forth in Section 7.1 above or (B) a change in any GMP, shall be considered a Change Order and must be approved as an amendment to this Agreement and executed by the City and the Construction Manager. The Construction Manager shall not (A) perform any additional Services or (B) eliminate any duties included in the Services until a written amendment addressing the Change Order has been properly approved and executed by both Parties. The Construction Manager shall proceed to perform the Services required by the Change Order only after receiving written notice from the City directing the Construction Manager to proceed.

8.2 Change Control System. The Construction Manager shall establish and implement a change control system. All proposed changes shall first be described in detail in writing by the requesting party. The requesting party shall submit detailed information to the Construction Manager for evaluation concerning the costs and time adjustments, if any, necessary to perform the proposed changed work. The Construction Manager shall discuss the proposed change with the appropriate Subcontractor and endeavor to determine the Subcontractor's basis for the cost to perform the work and the effect, if any, on the applicable GMP. The Construction Manager shall make a recommendation to the City pursuant to this Article 8 prior to the City's acceptance of all change requests.

8.3 Change Directives; Change Orders; GMP Adjustments. Changes in the Work that are within the general scope of this Agreement may be accomplished by Change Directive without invalidating this Agreement; provided, however, that any change in the Work that will result in an increase to a GMP or extension of the Substantial Completion date shall be pursuant to a Change Order approved by a written amendment to this Agreement clearly delineating the amounts attributable to compensation for the General Conditions Costs, the Construction Fee and other Cost of the Work.

8.4 Determination of Cost. An increase or decrease in a GMP resulting from a change in the Work shall be determined by one or more of the following methods:

- A. Unit prices set forth in this Agreement or as subsequently agreed.
- B. Mutually accepted, itemized lump sum.
- C. Costs determined as defined in Article 3 above.

D. If an increase or decrease cannot be agreed to as set forth in Subsections 8.4(A) and (B) and the City issues a written order for the Construction Manager to proceed with the change, the cost of the change in the Work shall be determined by the reasonable expense or savings of the performance of the Work resulting from the change.

8.5 No Obligation to Perform. The Construction Manager shall not be obligated to perform changed Work until a Change Directive or a Change Order/amendment to this Agreement, as applicable, has been executed by the City and the Construction Manager, except as provided in Subsection 8.4(D) above.

8.6 Adjustment of Unit Prices. If a proposed change alters original quantities to a degree that application of previously agreed to unit prices would be inequitable to either the City or the Construction Manager, the unit prices shall be equitably adjusted and, if the result is an increase to a GMP, an amendment to this Agreement shall be executed.

8.7 Unknown Conditions. If, in the performance of the Work, the Construction Manager or its Subcontractor finds latent, concealed or subsurface physical conditions that (A) differ from the conditions the Construction Manager or its Subcontractor should have reasonably anticipated, (B) differ substantially from available soils reports or (C) differ substantially and

materially from those normally encountered and generally recognized as inherent in the kind of work provided for in this Agreement at this location (occurrence of shifting and expansive soils, including clay soils and sandstone expressly noted as commonly occurring in the Project area), then the applicable GMP compensation and/or the Substantial Completion date may be equitably adjusted only if the Construction Manager notifies the City within seven Days after the conditions are first observed in accordance with Article 6 above.

8.8 Emergencies. In any emergency affecting the safety of persons and/or property, the Construction Manager shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in a GMP, compensation for Pre-construction Services, the Contract Price and/or extension of the Substantial Completion date on account of emergency work shall be determined as provided in this Agreement.

ARTICLE 9 PAYMENT

9.1 Progress Payments.

A. Submittal Process. On or before the 15th day of each month after the construction phase has commenced, the Construction Manager shall submit to the City an "Application for Payment" consisting of the Cost of the Work performed up to the end of the prior month, including the cost of material stored on the Site or at other locations approved by the City, along with a proportionate share of the Construction Fee. For the purpose of audit, prior to submission of the next Application for Payment, the Construction Manager shall make available at the request of the City a statement accounting for the disbursement of funds received under the previous Application. The form and extent of such statement shall be as agreed upon between the City and Construction Manager.

B. City's Payment. Within seven Days after approval of each monthly Application for Payment, the City shall pay directly to the Construction Manager the appropriate amount for which Application for Payment is made, less amounts (1) previously paid by the City, (2) sufficient to pay expenses the City reasonably expects to incur in correcting deficiencies that are set forth in writing and provided to the Construction Manager and (3) any retainage as set forth in Section 9.2 below.

C. No Liens. The Construction Manager warrants and guarantees that the title to all Work, materials and equipment covered by an Application for Payment, whether incorporated in the Project or not, will pass to the City upon receipt of such payment by the Construction Manager free and clear of all liens, claims, security interests or encumbrances.

D. Non-Conforming Work. The City's progress payment, occupancy or use of the Project, whether in whole or in part, shall not be deemed as acceptance of any Work not conforming to the requirements of this Agreement or the Contract Documents.

E. Unfinished Items. Upon Substantial Completion of the Work, the City shall pay the Construction Manager the unpaid balance of the Cost of the Work, General Conditions Costs and the Construction Fee, less a sum equal to the Construction Manager's estimated cost of

completing any unfinished items as agreed to between the City and the Construction Manager as to extent and time for completion. The City thereafter shall pay the Construction Manager monthly the amount retained for unfinished items as each item is completed.

9.2 Retainage.

A. Exceptions to Retainage Requirement. No retainage shall be withheld with respect to gross receipts tax and premiums for bonds and insurance.

B. Amount Retained. With respect to the Work, the City shall retain 10% of the amount of each estimate until Final Completion and acceptance of all material, equipment and work covered by the Contract Documents.

1. Any securities submitted by Construction Manager in lieu of retainage as may be allowed by law, shall be deposited in an escrow account by the City. The City shall be listed as payee or multiple payee with Construction Manager on all such securities.

2. When the Work is 50% completed, one-half of the amount retained including any securities substituted pursuant to Subsection 9.2(B)(1) shall be paid to the Construction Manager upon the Construction Manager's request, provided the Construction Manager is making satisfactory progress on the Work and there is no specific cause or claim requiring a greater amount to be retained. After the construction Work is 50% completed, no more than 5% of the amount of any subsequent progress payments made under the Contract Documents may be retained, provided the Construction Manager is making satisfactory progress on the Project. If, at any time, the City determines satisfactory progress is not being made, 10% retention shall be reinstated for all progress payments made under the Contract Documents after the determination.

9.3 Payment for On-site and Off-site Stored Materials. Payment shall be made on account of materials and equipment delivered and suitably stored at the Site for subsequent incorporation in the Work. Payment may similarly be made for materials and equipment suitably stored off the Site, conditioned upon the Construction Manager furnishing evidence to the Owner that (A) title to the materials and equipment will pass to the City upon payment therefore, (B) the materials and equipment are adequately insured and (C) such other matters as the City may reasonably request in order to protect its interests.

9.4 Title to Construction Work. The Construction Manager warrants that title to all Work covered by an Application for Payment shall pass to the City no later than the time of payment. The Construction Manager further warrants that, upon submittal of an Application for Payment, all Work for which Applications for Payment have been previously issued and payments received from the City shall be free and clear of liens, claims, security interests or encumbrances in favor of the Construction Manager, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

9.5 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the City may offset against any money due to the Construction Manager any amounts Construction Manager owes to the City for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The City may offset against any money due to the Construction Manager any amounts Construction Manager owes to the City for delinquent fees, transaction privilege use taxes and property taxes, including any interest or penalties.

9.6 Final Payment.

A. Fully Completed Work. Final payment, consisting of the unpaid balance of (1) the Cost of the Work, (2) compensation for Pre-Construction Services and (3) the Construction Fee, shall be due and payable when the Work is fully completed and accepted by the City. Before issuance of final payment, the City may request satisfactory evidence that all payrolls, materials bills and other indebtedness connected with the Work have been paid or otherwise satisfied.

B. Waiver of Claims. In making final payment, the City waives all claims against the Construction Manager except for:

1. Outstanding liens.
2. Improper workmanship or defective materials.
3. Work not in conformance with the Contract Documents or work not completed.
4. Terms of any special warranties required by the Contract Documents.
5. Delivery to City of all warranties, operation and maintenance manuals, record drawings and other documents as required by the Contract Documents.
6. Right to audit Construction Manager records for a period of three years.
7. Claims previously made in writing that remain unsettled.

C. Acceptance as Waiver. Acceptance of final payment by the Construction Manager shall constitute a waiver of affirmative claims by the Construction Manager against the City, its employees, elected officials and agents, except those previously made in writing and identified as unsettled at the time of final payment.

9.7 Payments to Subcontractors.

A. The Construction Manager shall pay its Subcontractors or suppliers within seven Days of receipt of each progress payment from the City and as required by Arizona law. The Construction Manager shall pay for the amount of Work performed or materials supplied by each Subcontractor or Supplier as accepted and approved by the City with each progress payment. In addition, any reduction of retention by the City to the Construction Manager shall result in a corresponding reduction to Subcontractors or suppliers who have performed satisfactory work. The Construction Manager shall pay Subcontractors or suppliers the reduced retention within 14 Days of the payment of the reduction of the retention to the Construction Manager. No Contract between the Construction Manager and its Subcontractors and suppliers may materially alter the rights of any Subcontractor or supplier to receive prompt payment and retention reduction as provided herein or by Arizona law.

B. Failure to Timely Pay. The Construction Manager agrees that if it fails to make payments in accordance with these provisions, the City may take any one or more of the following actions:

1. Hold the Construction Manager in default under this Agreement.
2. Withhold future payments, including retention, until proper payment has been made to Subcontractors or suppliers in accordance with these provisions.
3. Reject all future offers to perform work for the City from the Construction Manager for a period not to exceed one year from Substantial Completion date of this Project.
4. Terminate this Agreement.
5. Make a claim against the bonds required pursuant to Article 11.

C. No Waiver. Should the City fail or delay in exercising or enforcing any right, power, privilege, or remedy under this Section, such failure or delay shall not be deemed a waiver, release, or modification of the requirements of this Section or of any of the terms or provisions thereof.

D. Inclusion in Subcontracts. The Construction Manager shall include these prompt payment provisions in every subcontract, including procurement of materials and leases of equipment for this Agreement.

9.8 Record Keeping and Finance Controls.

A. Retention Requirement. Records of the Construction Manager's direct personnel payroll, reimbursable expenses pertaining to this Project and records of accounts between the City and the Construction Manager shall be kept on a generally recognized accounting basis and shall be available for three years after Final Completion of the Project.

B. Audit Rights. The City, its authorized representative, and/or the appropriate federal agency, reserve the right to audit the Construction Manager's records to verify the accuracy

and appropriateness of all pricing data, including data used to negotiate Contract Documents and any Change Orders.

C. Pricing Data Inaccuracies. The City reserves the right to decrease Contract Price and/or payments made on this Agreement, in an amount determined by the City in its sole discretion, if, upon audit of the Construction Manager's records, the audit discloses the Construction Manager has provided false, misleading, or inaccurate cost and pricing data.

D. Inclusion in Subcontracts. The Construction Manager shall include a similar provision in all of its agreements with Subconsultants and Subcontractors providing services under the Contract Documents to ensure the City, its authorized representative, and/or the appropriate federal agency, has access to the Subconsultants' and Subcontractors' records to verify the accuracy of cost and pricing data.

E. City Remedies. The City reserves the right to decrease Contract Price and/or payments made under this Agreement, in an amount determined by the City in its sole discretion, if the above provision is not included in Subconsultant's and Subcontractor's contracts, and one or more Subconsultants and/or Subcontractors do not allow the City to audit their records to verify the accuracy and appropriateness of pricing data.

ARTICLE 10 INSURANCE AND INDEMNITY

10.1 Insurance Representations and Requirements.

A. General.

1. Insurer Qualifications. Without limiting any obligations or liabilities of the Construction Manager, the Construction Manager 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.

2. No Representation of Coverage Adequacy. By requiring insurance herein, the City does not represent that coverage and limits will be adequate to protect the Construction Manager. 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 Construction Manager 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.

3. Additional Insured. All insurance coverage, 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 Named Insured as specified under the respective coverage sections of this Agreement.

4. Coverage Term. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.

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

6. 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 and necessary endorsements citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

7. Waiver. All policies, excluding Professional Liability but 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 work or services of Construction Manager. Construction Manager shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

8. 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. Construction Manager shall be solely responsible for any such deductible or self-insured retention amount.

9. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Construction Manager shall execute written agreements with its subcontractors containing the indemnification provisions set forth below and insurance requirements set forth herein protecting the City and Construction Manager. Construction Manager shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

10. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Construction Manager 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 Construction Manager'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 Construction Manager'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 a reference to this Agreement. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing 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:

a. The City, its agents, representatives, officers, directors, officials and employees are Additional Insureds as follows:

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

ii. Auto Liability – Under ISO Form CA 20 48 or equivalent.

iii. Excess Liability – Follow Form to underlying insurance.

b. Construction Manager's insurance shall be primary insurance with respect to performance of this Agreement.

c. 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 Construction Manager under this Agreement.

d. 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.

11. Endorsements. Construction Manager shall provide the City with the necessary endorsements to ensure City is provided the insurance coverage set forth in this Article.

B. Required Insurance Coverage.

1. Commercial General Liability. Construction Manager 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.

2. Vehicle Liability. Construction Manager shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Construction Manager's owned, hired and non-owned vehicles assigned to or used in the performance of the Construction Manager's work or services 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.

3. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Construction Manager engages in any professional services or work in any way related to performing the work under this Agreement, the Construction Manager shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Construction Manager, or anyone employed by the Construction Manager, or anyone for whose negligent acts, mistakes, errors and omissions the Construction Manager is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

4. Workers' Compensation Insurance. Construction Manager shall maintain Workers' Compensation insurance to cover obligations imposed by federal and

state statutes having jurisdiction over Construction Manager's employees engaged in the performance of work or services 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.

5. Builder's Risk Insurance. Unless expressly waived by the City in a written amendment to this Agreement, the Construction Manager shall be responsible for purchasing and maintaining insurance to protect the Project from perils of physical loss. The insurance shall provide for the full cost of replacement for the entire Project at the time of any loss. The insurance shall include as named insureds the City, the Construction Manager, and the Construction Manager's Subcontractors and shall insure against loss from the perils of fire and all-risk coverage for physical loss or damage due to theft, vandalism, collapse, malicious mischief, transit, flood, earthquake, testing, resulting loss arising from defective design, negligent workmanship or defective material. The Construction Manager shall increase the coverage limits as necessary to reflect changes in the estimated replacement cost.

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

10.2 Indemnity. To the fullest extent permitted by law, the Construction Manager shall indemnify 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") to the extent that such Claims (or actions in respect thereof) are caused by the negligent acts, recklessness or intentional misconduct of the Construction Manager, its officers, employees, agents, or any tier of subcontractor in connection with Construction Manager's work or services in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

ARTICLE 11

BONDS

11.1 Performance Bond. After the City and the Construction Manager have agreed to a GMP but prior to commencing the Construction Services attributable to such GMP, the Construction Manager shall be required to furnish the City with an irrevocable security binding the Construction Manager to provide faithful performance of the Agreement in the amount of 100% of the percentage of the GMP attributable to the Construction Services, payable to the City, and shall not include the cost of any design services, preconstruction services, finance services, maintenance services, operations services or any other related services. Performance security shall be in the form of a performance bond, certified check or cashier's check. If the Construction Manager fails to execute the security document as required, the Construction Manager may be found in material default of this Agreement, permitting the City to terminate this Agreement for cause as set forth in Section 12 below. In case of default the City reserves all rights. All performance bonds shall be executed on the form attached hereto as Exhibit K, duly executed by

the Construction Manager as Principal and having as Surety thereon a Surety company approved by the City and holding a Certificate of Authority issued by the Arizona Department of Insurance to transact surety business in the State of Arizona. Individual sureties are unacceptable. All Insurers and Sureties shall have at the time of submission of the proposal an A.M. Best's Key Rating Guide of "A-" or better as currently listed in the most recent Best Key Guide, published by the A.M. Best Company.

11.2 Payment Bond. After the City and the Construction Manager have agreed to a GMP but prior to commencing the Construction Services attributable to such GMP, the Construction Manager shall be required to furnish the City with an irrevocable security for the protection of claimants supplying labor or materials to the Construction Manager or any Subcontractor in the prosecution of the construction and not for the protection of persons providing any design services, preconstruction services, finance services, maintenance services, operations services or other related services related to the Agreement. Payment security shall be in the amount of 100% of the portion of the GMP attributable to the Construction Services and be payable to the City. Payment security shall be in the form of a payment bond, certified check or cashier's check. If the Construction Manager fails to execute the security document as required, the Construction Manager may be found in material default of this Agreement, permitting the City to terminate this Agreement for cause as set forth in Section 12 below. All payment bonds shall be executed on a the form attached hereto as Exhibit L, duly executed by the Construction Manager as Principal and having as Surety thereon a Surety company approved by the City and holding a Certificate of Authority issued by the Arizona Department of Insurance to transact surety business in the State of Arizona. Individual sureties are unacceptable. All Insurers and Sureties shall have at the time of submission of the proposal an A.M. Best's Key Rating Guide of "A-" or better as currently listed in the most recent Best Key Guide, published by the A.M. Best Company.

ARTICLE 12 TERMINATION AND SUSPENSION

12.1 Termination by the Construction Manager.

A. Procedure. Upon 30 Days' written notice to the City of one of the reasons set forth below, and if the City fails to cure or initiate reasonable action to cure within 30 Days of receipt of said notice, the Construction Manager may terminate this Agreement for any of the following:

1. If the Work has been stopped for a 60-Day period:
 - a. Under court order or order of other governmental authorities having jurisdiction; or
 - b. As a result of the declaration of a national emergency or other governmental act during which, through no act or fault of the Construction Manager, materials are not available.
2. If the Work is suspended by the City for more than 60 Days.

3. If the City materially delays the Construction Manager in the performance of the Work.

4. If the City otherwise materially breaches this Agreement.

B. Payment to Construction Manager. Upon termination by the Construction Manager in accordance with Subsection 12.1(A) above, the Construction Manager shall be entitled to recover from the City payment for all Work completed to the date of termination plus reasonable demobilization costs, subcontract and purchase order termination costs, reasonable overhead, extended general conditions and profit on the Work performed. The City may subtract reasonable estimates of costs for deficient work from the payments noted above.

12.2 Termination by the City for Cause.

A. Construction Manager Default. If the Construction Manager refuses or fails, except in cases for which extension of time is provided, to supply sufficient properly skilled staff or proper materials, or disregards laws, ordinances, rules, regulations, or orders of any public authority jurisdiction, or otherwise substantially violates or materially breaches any term or provision of this Agreement, and such nonperformance or violation continues without cure for 15 Days after the Construction Manager receives written notice of such nonperformance or violation from the City, then the City may, without prejudice to any right or remedy otherwise available to the City, terminate this Agreement.

B. Construction Manager Insolvency. Upon the appointment of a receiver for the Construction Manager, or if the Construction Manager makes a general assignment for the benefit of creditors, the City may terminate this Agreement, without prejudice to any right or remedy otherwise available to the City, upon giving three Days' written notice to the Construction Manager. If an order for relief is entered under the bankruptcy code with respect to the Construction Manager, the City may terminate this Agreement by giving three Days' written notice to the Construction Manager unless the Construction Manager or the trustee does all of the following:

1. Promptly cures all breaches within such three-Day period.
2. Provides adequate assurances of future performance.
3. Compensates the City for actual pecuniary loss resulting from such breach(es).
4. Assumes the obligations of the Construction Manager within the established time limits.

C. Failure to Agree on a GMP. If the City and the Construction Manager fail, after good faith efforts, to agree upon a GMP, this Agreement may be terminated upon 15 Days' notice from either Party to the other. In the event of a termination for failure to agree on a GMP, the Construction Manager's sole and exclusive right and remedy shall be to be paid for all Work performed and to receive equitable adjustment for all Work performed through the date of

termination plus reasonable demobilization costs, subcontract and purchase order termination costs, reasonable overhead and profit on the Work performed. The Construction Manager shall not be entitled to be paid any amount as profit for unperformed Work or Services or consideration for the termination under this Subsection.

12.3 Termination by the City for Convenience. The City may, upon 30 Days' written notice to the Construction Manager, terminate this Agreement, in whole or in part, for the convenience of the City, without prejudice to any right or remedy otherwise available to the City. Upon receipt of such notice, the Construction Manager shall immediately discontinue all services affected unless such notice directs otherwise. In the event of a termination for convenience of the City, the Construction Manager's sole and exclusive right and remedy shall be to be paid for all Work performed and to receive equitable adjustment for all Work performed through the date of termination plus reasonable demobilization costs, subcontract and purchase order termination costs, reasonable overhead and profit on the Work performed. The Construction Manager shall not be entitled to be paid any amount as profit for unperformed Work or Services or consideration for the termination of convenience by the City.

12.4 Set Off. Upon termination of this Agreement by the City, the City shall be entitled to furnish or have furnished the Services to be performed hereunder by the Construction Manager by whatever method the City may deem expedient. Also, in such case, the Construction Manager shall not be entitled to receive any further payment until completion of the Work and the total compensation to the Construction Manager under this Agreement shall be the amount that is equitable under the circumstances. If the City and the Construction Manager are unable to agree on the amount to be paid under the foregoing sentence, the City shall fix an amount, if any, that it deems appropriate in consideration of all of the circumstances surrounding such termination, and shall make payment accordingly. The Construction Manager may dispute the City's assessment of the termination amount by the method of dispute resolution under Article 13 of this Agreement.

12.5 Suspension by the City for Convenience.

A. Procedure. The City may order the Construction Manager in writing to suspend, delay or interrupt all or any part of the Work without cause for such period of time as the City may determine to be appropriate for its convenience, but not in abrogation of the rights given Construction Manager in Section 12.1 above.

B. Adjustments to GMP and Schedule. Adjustments caused by suspension, delay or interruption shall be made for increases in the applicable GMP and/or the applicable Substantial Completion date. No adjustment shall be made if the Construction Manager is or otherwise would have been responsible for the suspension, delay or interruption of the Work, or if another provision of this Agreement is applied to render an equitable adjustment.

ARTICLE 13 DISPUTE RESOLUTION

13.1 Scope. Notwithstanding anything to the contrary provided elsewhere in the Contract Documents, except for Subsection 13.4 (G) below, the alternative dispute resolution ("ADR") process provided for herein shall be the exclusive means for resolution of claims or

disputes arising under, relating to or touching upon the Agreement, the interpretation thereof or the performance or breach by any party thereto, including but not limited to original claims or disputes asserted as cross claims, counterclaims, third party claims or claims for indemnity or subrogation, in any threatened or ongoing litigation or arbitration with third parties, if such disputes involve parties to agreements containing this ADR provision.

13.2 Neutral Evaluator, Arbitrators. The City will select a Neutral Evaluator to serve as set forth in this ADR process. The City and Construction Manager shall each select an arbitrator to serve as set forth in this ADR process. Each arbitrator selected shall be a member of the State Bar of the State of Arizona and shall have experience in the field of construction law. None of the arbitrators nor any of the arbitrator's firms shall have presently, or in the past, represented any party to the arbitration.

13.3 Neutral Evaluation Process. If the Parties have been unable to resolve the disputes after discussions and partnering, the following neutral evaluation process shall be used to resolve any such dispute.

A. Notification of Dispute. The City shall notify the Neutral Evaluator in writing of the existence of a dispute within 10 Days of the City or the Construction Manager declaring need to commence the neutral evaluation process.

B. Non-Binding Informal Hearing. The Neutral Evaluator shall schedule a non-binding informal hearing of the matter to be held within seven Days from receipt of notification of the existence of a dispute. The Neutral Evaluator may conduct the hearing in such manner as he deems appropriate and shall notify each party of the hearing and of its opportunity to present evidence it believes will resolve the dispute. Each party to the dispute shall be notified by the Neutral Evaluator that it shall submit a written outline of the issues and evidence intended to be introduced at the hearing and the proposed resolution of the dispute to the Neutral Evaluator before the hearing commences. Arbitrators shall not participate in such informal hearing or proceedings process. The Neutral Evaluator is not bound by the rules of evidence when admitting evidence in the hearing and may limit the length of the hearing, the number of witnesses or any evidence introduced to the extent deemed relevant and efficient.

C. Non-Binding Decision. The Neutral Evaluator shall render a non-binding written decision as soon as possible, but not later than five Days after the hearing.

13.4 Binding Arbitration Procedure. The following binding arbitration procedure, except as provided in Subsection 13.4(G) below, shall serve as the exclusive method to resolve a dispute if any party chooses not to accept the decision of the Neutral Evaluator. The party requesting binding arbitration shall notify the Neutral Evaluator in writing within three Days of receipt of the Neutral Evaluator's decision of a request for arbitration. If the Construction Manager requests arbitration it shall post a cash bond with the Neutral Evaluator in an amount agreed upon by the Parties or, in the event of no agreement, the Neutral Evaluator shall establish the amount of the cash bond to defray the cost of the arbitration as set forth in Subsection 13.4(M) and the proceeds from the bond shall be allocated in accordance with Subsection 13.4(M) by the Arbitration Panel.

A. Arbitration Panel. The Arbitration Panel shall consist of three arbitrators: the City's appointed arbitrator, the Construction Manager's appointed arbitrator and a third arbitrator (or "Neutral Arbitrator") who shall be selected by the Parties' arbitrators as set forth in Subsection 13.4(B) below. If one or more Subcontractor(s) is (are) involved in a dispute, the Subcontractors shall agree on an appointee to serve as arbitrator on behalf of all such Subcontractors. The Neutral Evaluator shall not participate in the proceedings.

B. Selection of Neutral Arbitrator. The Parties' arbitrators shall choose the Neutral Arbitrator within five Days of receipt of notification of a dispute from the Neutral Evaluator. The Neutral Arbitrator shall have the same qualifications as those of the arbitrators set forth in Section 13.2 above. In the event that the selected arbitrators cannot agree on the Neutral Arbitrator as set forth above, the Neutral Arbitrator shall be the "Default Neutral Arbitrator." The Default Neutral Arbitrator shall be selected as follows: the City and the Construction Manager shall each submit two names to the presiding judge of the Maricopa County Superior Court, who shall select one person to serve as the Default Neutral Arbitrator.

C. Expedited Hearing. The Parties have structured this procedure with the goal of providing for the prompt, efficient and final resolution of all disputes falling within the purview of this ADR process. To that end, any Party can petition the Neutral Evaluator to set an expedited hearing. If the Neutral Evaluator determines that the circumstances justify it, the Neutral Evaluator shall contact the selected Arbitration Panel and arrange for scheduling of the arbitration at the earliest possible date. In any event, the hearing of any dispute not expedited will commence as soon as practical but in no event later than 20 Days after notification of request for arbitration having been submitted. This deadline can be extended only with the consent of all the Parties to the dispute, or by decision of the Arbitration Panel upon a showing of emergency circumstances.

D. Procedure. The Arbitration Panel will select a chairman and will conduct the hearing in such a manner that will resolve disputes in a prompt, cost-effective manner giving regard to the rights of all parties. Each Party shall supply to the Arbitration Panel a written pre-hearing statement which shall contain a brief statement of the nature of the claim or defense, a list of witnesses and exhibits, a brief description of the subject matter of the testimony of each witness who will be called to testify, and an estimate as to the length of time that will be required for the arbitration hearing. The Arbitration Panel shall review and consider the Neutral Evaluator decision. The chairman shall determine the nature and scope of discovery, if any, and the manner of presentation of relevant evidence consistent with deadlines provided herein, and the Parties' objective that disputes be resolved in a prompt and efficient manner. No discovery may be had of any materials or information for which a privilege is recognized by Arizona law. The chairman, upon proper application, shall issue such orders as may be necessary and permissible under law to protect confidential, proprietary or sensitive materials or information from public disclosure or other misuse. Any Party may make application to the Maricopa County Superior Court to have a protective order entered as may be appropriate to confirm such orders of the chairman.

E. Hearing Days. In order to effectuate Parties' goals, the hearing once commenced, will proceed from Day to Day until concluded, absent a showing of emergency circumstances.

F. Award. The Arbitration Panel shall, within 10 Days from the conclusion of any hearing, by majority vote issue its award. The award shall include an allocation of fees and costs pursuant to Subsection 13.4(M) below. The award is to be rendered in accordance with this Agreement and the laws of the State of Arizona.

G. Scope of Award. The Arbitration Panel shall be without authority to award punitive damages, and any such punitive damage award shall be void. The Arbitration Panel shall be without any authority to issue an award against any individual Party in excess of 20% of the original Agreement amount, but in no event shall any award exceed \$2,000,000, exclusive of interest, arbitration fees, costs and attorneys' fees. If an award is made against any individual Party in excess of \$100,000, exclusive of interest, arbitration fees, costs and attorneys' fees, it must be supported by written findings of fact, conclusions of law and a statement as to how damages were calculated. Any claim in excess of 20% of the original Agreement amount or in excess of \$2,000,000 shall be subject to the jurisdiction of the Superior Court of Arizona, Maricopa County. Any Party may contest the validity of the amount claimed if an action is filed in the Superior Court.

H. Jurisdiction. The Arbitration Panel shall not be bound for jurisdictional purposes by the amount asserted in any Party's claim, but shall conduct a preliminary hearing into the question of jurisdiction upon application of any Party at the earliest convenient time, but not later than the commencement of the arbitration hearing.

I. Entry of Judgment. Any Party can make application to the Maricopa County Superior Court for confirmation of an award, and for entry of judgment on it.

J. Severance and Joinder. To reduce the possibility of inconsistent adjudications, the Neutral Evaluator or the Arbitration Panel, may: (1) at the request of any Party, join and/or sever Parties, and/or claims arising under other contracts containing this ADR provision and (2) the Neutral Evaluator, on his own authority, or the Arbitration Panel may, on its own authority, join or sever Parties and/or claims subject to this ADR process as they deem necessary for a just resolution of the dispute, consistent with the Parties' goal of the prompt and efficient resolution of disputes; provided, however, that the Construction Manager, the Project Designers and other Project professionals shall not be joined as a Party to any claim made by a Subcontractor. Nothing herein shall create the right by any Party to assert claims against another Party not germane to the Agreement or not recognized under the substantive law applicable to the dispute. Neither the Neutral Evaluator nor the Arbitration Panel is authorized to join to the proceeding Parties not in privity with the City. The Construction Manager cannot be joined to any pending arbitration proceeding, without the Construction Manager's express written consent, unless the Construction Manager is given the opportunity to participate in the selection of the non-City appointed arbitrator.

K. Appeal. Any party may appeal (1) errors of law by the Arbitration Panel if, but only if, the errors arise in an award in excess of \$100,000, (2) the exercise by the chairman or Arbitration Panel of any powers contrary to or inconsistent with this Agreement or (3) on the basis of any of the grounds provided in ARIZ. REV. STAT. § 12-1512. Appeals shall be to the Maricopa County Superior Court within 15 Days of entry of the award. The standard of review in such cases shall be that applicable to the consideration of a motion for judgment notwithstanding the verdict, and the Maricopa County Superior Court shall have the authority to confirm, vacate, modify or

remand an award appealed under this Section, but not to conduct a trial, entertain the introduction of new evidence or conduct a hearing *de novo*.

L. Uniform Arbitration Act. Except as otherwise provided herein, binding arbitration pursued under this provision shall be governed by the Uniform Arbitration Act as codified in Arizona in ARIZ. REV. STAT. § 12-1501, *et seq.*

M. Fees and Costs. Each Party shall bear its own fees and costs in connection with any informal hearing before the Neutral Evaluator. All fees and costs associated with any arbitration before the Arbitration Panel, including without limitation the Arbitration Panelists' fees, and the prevailing Party's reasonable attorneys' fees, expert witness fees and costs, will be paid by the non-prevailing Party, except as provided for herein. In no event shall any Arbitrator's hourly fees be awarded in an amount in excess of \$200 per hour and (1) costs shall not include any travel expenses in excess of mileage at the rate paid by the City, not to exceed a one way trip of 150 miles, and (2) all travel expenses, including meals, shall be reimbursed pursuant to the travel policy of the City in effect at the time of the hearing. The determination of prevailing and non-prevailing Parties, and the appropriate allocation of fees and costs, will be included in the award by the Arbitration Panel. Fees for the Neutral Evaluator shall be paid by the City.

N. Confidentiality. Any proceeding initiated under ADR shall be deemed confidential to the maximum extent allowed by Arizona law and no Party shall, except for disclosures to a Party's attorneys or accountants, make any disclosure related to the disputed matter or to the outcome of any proceeding except to the extent required by law, or to seek interim equitable relief, or to enforce an agreement reached by the Parties or an award made hereunder.

O. Equitable Litigation. Notwithstanding any other provision of ADR to the contrary, any Party can petition the Maricopa County Superior Court for interim equitable relief as necessary to preserve the status quo and prevent immediate and irreparable harm to a Party or to the Project pending resolution of a dispute pursuant to ADR provided herein. No court may order any permanent injunctive relief except as may be necessary to enforce an order entered by the Arbitration Panel. The fees and costs incurred in connection with any such equitable proceeding shall be determined and assessed in ADR.

P. Change Order. Any award in favor of the Construction Manager against the City or in favor of the City against the Construction Manager shall be reduced to a Change Order amendment to this Agreement and executed by the Parties in accordance with the award and the provisions of this Agreement.

Q. Merger and Bar. Any claim asserted pursuant to this ADR process shall be deemed to include all claims, demands, and requests for compensation for costs and losses or other relief, including the extension of the Agreement performance period which reasonably should have or could have been brought against any Party that was or could have been brought into this ADR process, with respect to the subject claim. The Arbitration Panel shall apply legal principles commonly known as merger and bar to deny any claim or claims against any Party regarding which claim or claims recovery has been sought or should have been sought in a previously adjudicated claim for an alleged cost, loss, breach, error, or omission.

R. Inclusion in Other Contracts. The Construction Manager shall cooperate with the City in efforts to include this ADR provision in all other Project subcontracts. The Construction Manager agrees that any modification to this ADR provision that is included in the construction or other subcontracts shall also apply to the Construction Manager. It is the intent of the Parties that any changes to this ADR provision in later contracts will be evolutionary and designed to incorporate the terms of this ADR provision without material changes to the substance or procedure of this ADR provision.

ARTICLE 14 ADDITIONAL PROVISIONS

14.1 Confidentiality. The Construction Manager shall not disclose or permit the disclosure of any confidential information except to its agents, employees and Subcontractors who need such confidential information in order to properly perform their duties relative to this Agreement.

14.2 Limitation and Assignment. The City and the Construction Manager each bind themselves, their successors, assigns and legal representatives to the terms of this Agreement. Neither the City nor the Construction Manager shall assign or transfer its interest in this Agreement without the written consent of the other, except that the Construction Manager may assign accounts receivable to a commercial bank for securing loans without approval of the City. Nothing contained in this Section shall prevent the Construction Manager from employing such consultants, associates or Subcontractors as the Construction Manager may deem appropriate to assist in performance of the Services hereunder.

14.3 Entire Agreement. This Agreement represents the entire and integrated agreement between the City and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the City and the Construction Manager. Nothing contained in this Agreement is intended to benefit any third party. Subcontractors, if any, and the Project Designers are not intended third-party beneficiaries of this Agreement.

14.4 Severability. If any provision of this Agreement is held as a matter of law to be unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be enforceable without such provision.

14.5 Meaning of Terms. References made in the singular shall include the plural and the masculine shall include the feminine or neuter.

14.6 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 (A) delivered to the Party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

With copies to: City of Avondale
 11465 West Civic Center Drive

Avondale, Arizona 85323
Attn: Michael Wawro, City Attorney
Attn: Tiffany Copp, Procurement Administrator

If to Project Designers: Project Engineering Consultants, Ltd.
2310 West Mission Lane, Suite 4
Phoenix, Arizona 85021
Attn: Tom Braatelen, P.E.

If to Construction Manager: Achen Gardner Construction, LLC
550 S. 79th Street
Chandler, Arizona 85226
Attn: Brien Froelich, P.M.

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 (A) when delivered to the Party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) 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.

14.7 Governing Law. This Agreement shall be governed by the laws of the State of Arizona and venue shall be in Maricopa County.

14.8 No Waiver of Performance. The failure of either Party to insist, in any one or more instances, on the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition right with respect to further performance.

14.9 Headings. The headings given to any of the provisions of this Agreement are for ease of reference only and shall not be relied upon or cited for any other purpose.

14.10 Asbestos Free Materials. The Project is to be constructed by the Construction Manager with asbestos free materials. A written, notarized statement on company letterhead shall be submitted to the City by the Construction Manager with the final payment request certifying that the Construction Manager has incorporated no asbestos material into the Project. Final payment shall be withheld until such statement is submitted. The Construction Manager shall agree that if materials containing asbestos are subsequently discovered at any future time to have been included in the construction done by the Construction Manager or any of its Subcontractors or agents and were not specified in the design or required by the Contract Documents, the Construction Manager shall be liable for all costs related to the abatement of such asbestos and damages or claims against the City notwithstanding any statute of limitations or other legal bar to any claim by the City.

14.11 Cancellation. This Agreement may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

14.12 Survival of Representations and Warranties. Notwithstanding any other provision of this Agreement, the representations, warranties and covenants herein shall survive termination of this Agreement.

14.13 Endangered Hardwoods Prohibited. Construction Manager shall ensure that products containing endangered wood species shall not be utilized in the construction of the Project unless exempted pursuant to ARIZ. REV. STAT. § 34-201(J), as amended.

14.14 Records and Audit Rights. Construction Manager's and its Subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Construction Manager and its Subcontractors' employees who perform any work or Services pursuant to this Agreement to ensure that the Construction Manager and its Subcontractors are complying with the warranty under Subsection 14.15 below (all the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Construction Manager's and its Subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Construction Manager's and its Subcontractors' compliance with the Arizona employer sanctions laws referenced in Subsection 14.15 below. To the extent necessary for the City to audit Records as set forth in this Subsection, Construction Manager and its Subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City shall have access to said Records, even if located at its Subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the City to Construction Manager pursuant to this Agreement. Construction Manager and its Subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this Subsection. The City shall give Construction Manager or its Subcontractors reasonable advance notice of intended audits. Construction Manager shall require its Subcontractors to comply with the provisions of this Subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

14.15 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Construction Manager and its Subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Construction Manager's or its Subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

14.16 Israel. Consultant certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in, a boycott of Israel, as that term is defined in ARIZ. REV. STAT. § 35-393.

14.17 Independent Contractor. The Construction Manager is and will be an independent contractor and whatever measure of control the City exercises over the work or deliverable pursuant to the Contract will be as to the results of the work only. No provision in this Agreement will give or be construed to give the City the right to direct the Construction Manager as to the details of accomplishing the work or deliverable. These results will comply with all applicable laws and ordinances.

14.18 Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the City's then-current fiscal year. The City's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the City concerning budgeted purposes and appropriation of funds. Should the City Council elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the City shall be relieved of any subsequent obligation under this Agreement. The Parties agree that the City has no obligation or duty of good faith to budget or appropriate the payment of the City's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The City Council shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The City shall keep Construction Manager informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. Construction Manager hereby waives any and all rights to bring any claim against the City from or relating in any way to the City's termination of this Agreement pursuant to this Section.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first set forth above.

“City”

CITY OF AVONDALE,
an Arizona municipal corporation

Charles A. Montoya, City Manager

ATTEST:

Marcella Carrillo, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2019, 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

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

"Construction Manager"

ACHEN GARDNER CONSTRUCTION, LLC

a(n) Arizona limited liability company

By: _____

Name: ROBERT PIERCE

Title: PRESIDENT

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
COUNTY OF MARICOPA) ss.

On 2 JULY 2019, before me personally appeared ROBERT PIERCE, the PRESIDENT of ACHEN-GARDNER CONSTRUCTION a(n) LIMITED LIABILITY Co., whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the COMPANY.



Notary Public

(Affix notary seal here)

EXHIBIT A
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
CITY OF AVONDALE
AND
ACHEN GARDNER

[Construction Documents]

See following pages.

EXHIBIT B
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
CITY OF AVONDALE
AND
ACHEN GARDNER

[Amendments]

See following pages.

EXHIBIT C
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
CITY OF AVONDALE
AND
ACHEN GARDNER

[GMP Proposals]

See following pages.

EXHIBIT D
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
CITY OF AVONDALE
AND
ACHEN GARDNER

[Master Schedule]

See following pages.

ATTACHMENT 5: REVISED PRELIMINARY SOQ SCHEDULE 06.27.19

Achen-Gardner has a comprehensive understanding of the project's constraints, including infrastructure conditions, funding availability, public transit, and impacts to local schools, businesses, and residents. We have developed a sequence that best accommodates these varied constraints and divides the project into constructible segments. The schedule (below) summarizes our proposed pre-construction and construction phases. We are prepared to work closely with the City of Avondale's team to develop final phasing and sequencing that best meets the project's goals.

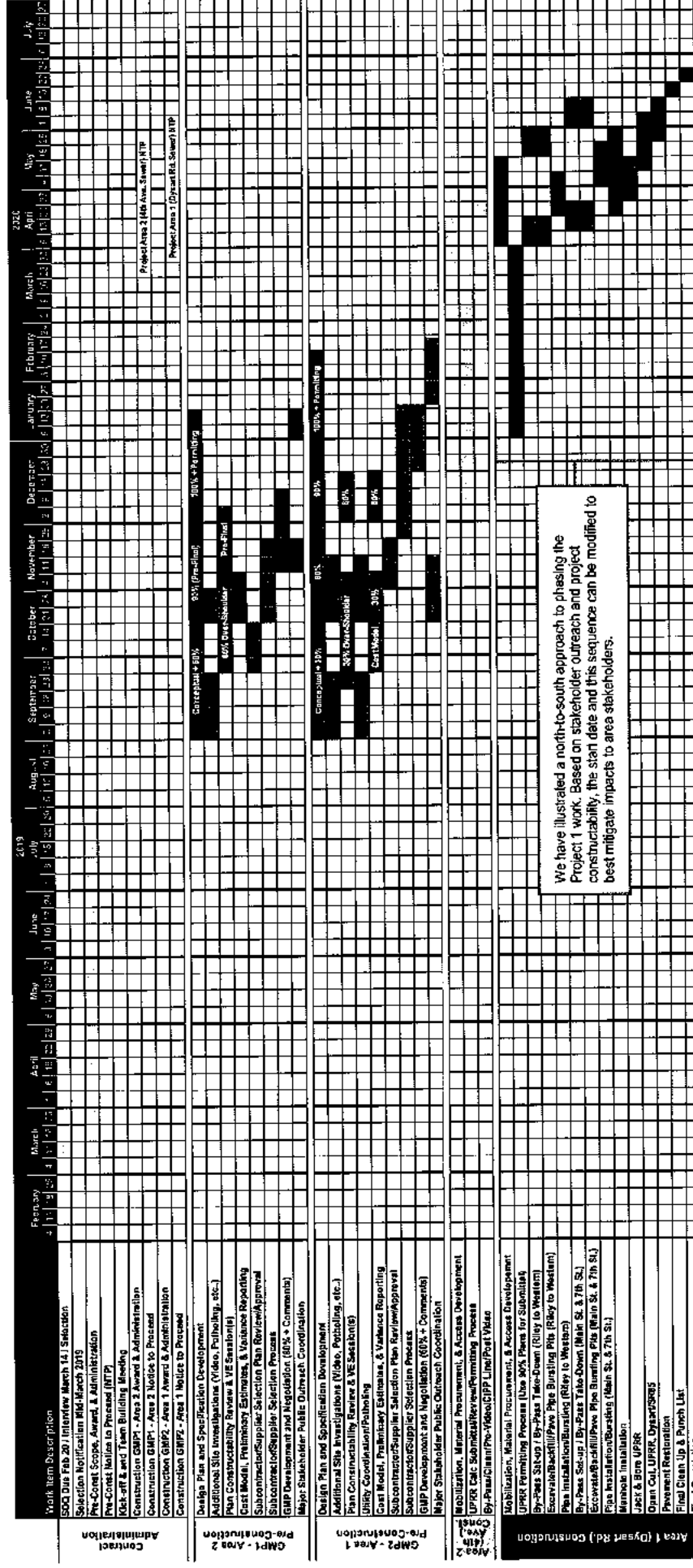


EXHIBIT E
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
CITY OF AVONDALE
AND
ACHEN GARDNER

[The City's RFQ]

See following pages.

**REQUEST FOR
STATEMENTS OF QUALIFICATIONS
FOR
CONSTRUCTION MANAGER AT RISK (CMAR):
SEWER REPAIR AND DESIGN SERVICES**

City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323

SOLICITATION INFORMATION AND SELECTION SCHEDULE

Solicitation Number:	RFQ PW 19-015
Solicitation Title:	CMAR- Sewer Repair Services
Release Date:	January 23, 2019
NON-MANDATORY Pre-Submittal Conference:	January 30, 2019 9:00 a.m. (local time, Phoenix, Arizona) Avondale Civic Center 11465 West Civic Center Drive Avondale, Arizona 85323
Final Date for Inquiries:	February 04, 2019
SOQ Due Date and Time:	February 20, 2019 3:00 p.m. (local time, Phoenix, Arizona)
Letters to Final Listed Firms:	March 06, 2019 (anticipated)
Oral Interviews:	March 14, 2019
Target City Council Award Date:	April 22, 2019
Anticipated Agreement Start Date:	April 29, 2019
RFQ Administrator:	Tiffany Copp tcopp@avondale.org 623-333-4213

* The City of Avondale reserves the right to amend the solicitation schedule as necessary.

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PART I. RFQ PROCESS; AWARD OF AGREEMENT

1.1 Purpose; Scope of Work. The City of Avondale (the "City") is issuing this Request For Qualifications (this "RFQ") seeking statements of qualifications ("SOQ") from qualified, licensed Construction Manager at Risk firms ("CMAR Firms") interested in providing preconstruction services and the construction of new sewer lines at two locations within the City (the "Services"), as more particularly described in Subsection 1.1(A) below. This will be a one-step, qualifications-based process as authorized by ARIZ. REV. STAT. § 34-601 *et. seq.* A separate Request for Proposal will not be issued. In accordance with the City's Procurement Code, the City will accept sealed SOQ for the Services.

A. Background. The City's Integrated Utility Master Plan ("IUMP") identifies two locations requiring sewer repairs or replacements. The first is the Dysart Road Sewer which begins at 611 North Dysart Road in Avondale, Arizona. It runs under Dysart Road from Riley Drive south to Main Street and under 7th Street from Main Street south to Corral Street, ending at 305 South 7th Street in Avondale, Arizona. The second is referred to as the Western Avenue Collector on the original drawings and is located at 218 West Main Street in Avondale, Arizona. The City has budgeted for these projects across two fiscal years, as further detailed in the attached Scope of Work.

B. Design Review. The City is currently in the process of procuring a consultant (the "Consultant") to design the Improvements. The design and construction documents for the Improvements will be approximately 30% complete at the time the CMAR Firm is selected. The CMAR Firm will immediately conduct a thorough review of the 30% documents and subsequent refinements according to the CMAR Agreement.

C. Reference Materials. A copy of the vicinity maps of the project area and all other reference materials can be accessed from the City's procurement website at: www.avondaleaz.gov/procurement.

1.2 Preparation/Submission of SOQ. CMAR Firms are invited to participate in the competitive selection process for the Services outlined in this RFQ. Responding parties shall review their SOQ submissions to ensure the following requirements are met.

A. Irregular or Non-responsive SOQ. The City shall consider as "irregular" or "non-responsive" and reject any SOQ not prepared and submitted in accordance with this RFQ, or any SOQ lacking sufficient information to enable the City to make a reasonable determination of compliance to the minimum qualifications. Unauthorized conditions, limitations, or provisions may be cause for rejection. An SOQ may be deemed non-responsive at any time during the evaluation process if, in the sole opinion of the City, any of the following are true:

- (1) CMAR Firm does not meet the minimum required skill, experience or requirements to perform or provide the Services.

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(2) CMAR Firm has a past record of failing to fully perform or fulfill contractual obligations.

(3) CMAR Firm cannot demonstrate financial stability.

(4) CMAR Firm's SOQ contains false, inaccurate or misleading statements that, in the opinion of the City Manager or authorized designee, are intended to mislead the City in its evaluation of the SOQ.

B. Submittal Quantities. Interested CMAR Firms must submit **one hardcopy original and one PDF copy** of the SOQ on a CD-ROM or similar electronic storage device. The PDF file must be in one file. Failure to adhere to the submittal quantity criteria shall result in the Proposal being determined non-responsive.

C. Required Submittal. The SOQ shall be a maximum of **12** pages to address the SOQ criteria (excluding cover letter, resumes and the Vendor Information Form, but including the materials necessary to address Project understanding, general information, organizational chart, photos, tables, graphs, and diagrams). Each page side (maximum 8 1/2" x 11") with criteria information shall be counted. However, one page may be substituted with an 11" x 17" sheet of paper, folded to 8 1/2" x 11", showing a proposed Project schedule or organizational chart and only having information on one side. Cover, back, table of contents and tabs may be used and shall not be included in the page count, unless they include additional project-specific information or SOQ criteria responses. Vendors are encouraged to utilize recyclable materials and endeavor to be considerate of the environment in preparation of the SOQ. The minimum allowable font for the SOQ is **11 pt, Arial or Times New Roman**. Failure to adhere to the page limit, size and font criteria and shall result in the SOQ being determined non-responsive. Each SOQ shall be submitted with the documents necessary to meet all of the requirements of this solicitation, including the information required in Part II and the following:

(1) Cover letter with an **original ink signature** by a person authorized to bind the Vendor. Proposals submitted without a cover letter with an **original ink signature** by a person authorized to bind the Vendor may be determined non-responsive.

(2) CMAR Firm Information Form, with **original ink signature**.

(3) References.

(4) Project Schedule.

(5) Resumes, Licenses and Certifications (if any).

(6) Acknowledgment page, with an **original ink signature**, for any Addendum received.

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D. CMAR Firm Responsibilities. All CMAR Firms shall (1) examine the entire RFQ, (2) seek clarification of any item or requirement that may not be clear, (3) check all responses for accuracy before submitting an SOQ and (4) submit the entire SOQ by the official SOQ Due Date and Time. A late SOQ will not be accepted. A CMAR Firm submitting a late SOQ shall be so notified. Negligence in preparing an SOQ shall not be good cause for withdrawal after the SOQ Due Date and Time.

E. Sealed Submittals. All SOQ shall be sealed and clearly marked with the SOQ number and title, **(PW19-015) CMAR- Sewer Repair Services** on the lower left-hand corner of the mailing envelope. A return address must also appear on the outside of the sealed SOQ. The City is not responsible for the pre-opening of, post-opening of, or the failure to open, any SOQ not properly addressed or identified.

F. Address. All SOQ shall be directed to the following address: Tiffany Copp c/o City Clerk, 11465 West Civic Center Drive, Suite 200, Avondale, Arizona 85323. Proposals must be received in the City Clerk's office by the SOQ Due Date and Time indicated on the cover page of this RFQ. Telegraphic (facsimile), electronic (e-mail) or mailgram SOQ will not be considered.

G. Amendment/Withdrawal of SOQ. At any time prior to the specified SOQ Due Date and Time, a CMAR Firm (or designated representative) may amend or withdraw its SOQ. Any erasures, interlineations, or other modifications in the SOQ shall be initialed in **original ink** by the authorized person signing the SOQ.

1.3 Cost of SOQ Preparation. The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. An SOQ submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The CMAR Firm is responsible for all costs incurred in responding to this RFQ. All materials and documents submitted in response to this RFQ become the property of the City and will not be returned.

1.4 Inquiries.

A. Written/Verbal Inquiries. Any question related to the RFQ shall be directed to the RFQ Administrator whose name appears on the cover page of this RFQ. Questions shall be submitted in writing, via e-mail or hard copy, by the close of business on the Final Date for Inquiries indicated on the cover page of this RFQ. Any inquiries related to this RFQ shall refer to the title and number, page and paragraph. Any Vendor found to be communicating with any member of City staff about this solicitation shall be prohibited from submitting a SOQ, or if a SOQ is received, such SOQ shall be deemed non-responsive.

B. Inquiries Answered. All inquiries must be directed to the RFQ Administrator. Verbal or telephone inquiries **will not be answered** and Vendors attempting to do so will be directed to submit written inquiries. The RFQ Administrator shall provide a compilation of all inquiries received in writing with official answers that will be made available

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on the City's website at <https://www.avondaleaz.gov/procurement>. The RFQ Administrator shall endeavor to post the compilation not later than five days after the inquiry deadline.

C. Pre-Submittal Conference. A Pre-Submittal Conference may be held. If scheduled, the date and time of this conference will be indicated on the cover page of this RFQ. If the Pre-Submittal Conference is designated mandatory, failure to attend shall render that CMAR Firm's SOQ non-responsive. The purpose of this conference will be to clarify the contents of this RFQ in order to prevent any misunderstanding of the City's requirements. Any doubt as to the requirements of this RFQ or any apparent omission or discrepancy should be presented to the City at this conference. The City may issue a written amendment or addendum to this RFQ. Oral statements or instructions are provided for informational purposes only and do not become a part of this RFQ. Any changes to the RFQ shall be made in the form of an addendum.

1.5 Addenda. Any addendum issued as a result of any change in this RFQ shall become part of the RFQ and must be acknowledged in the SOQ submittal. Failure to indicate receipt of any addendum may result in the SOQ being rejected as non-responsive. It shall be the CMAR Firm's responsibility to check for addenda issued to this RFQ. Any addendum issued by the City with respect to this RFQ will be available on the City's website at: www.avondaleaz.gov/procurement

1.6 Public Record. All SOQ shall become the property of the City and shall become a matter of public record available for review, subsequent to the award notification, in accordance with the City's Procurement Code.

1.7 Confidential Information. If a CMAR Firm believes that an SOQ or protest contains information that should be withheld from the public record, a statement advising the RFQ Administrator of this fact shall accompany the submission and the information shall be clearly identified. The information identified by the CMAR Firm as confidential shall not be disclosed until the City Manager, or authorized designee, makes a written determination. The City Manager, or authorized designee shall review the statement and information with the City Attorney and shall determine in writing whether the information shall be withheld. If the City Attorney determines that it is proper to disclose the information, the RFQ Administrator shall inform the CMAR Firm in writing of such determination.

1.8 CMAR Firm Licensing and Registration. Prior to the award of the Agreement, the successful CMAR Firm shall (A) be registered with the Arizona Corporation Commission and authorized to do business in Arizona and (B) have a completed Vendor Registration Packet on file with the City Finance and Budget Department. The CMAR Firm shall provide licensure information with the SOQ. Corporations and limited liability companies shall be able to provide a Certificate of Good Standing from the Arizona Corporation Commission.

1.9 Certification. By submitting an SOQ, the CMAR Firm certifies:

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A. No Collusion. The submission of the SOQ did not involve collusion or other anti-competitive practices.

B. No Discrimination. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246.

C. No Gratuity. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor or service to a City employee, officer or agent in connection with the submitted SOQ. It (including the CMAR Firm's employees, representatives, agents, lobbyists, attorneys, and subcontractors) has refrained, under penalty of disqualification, from direct or indirect contact for the purpose of influencing the selection or creating bias in the selection process with any person who may play a part in the selection process, including the Selection Committee, elected officials, the City Manager, Assistant City Managers, Department Heads, and other City staff, unless such person is designated as a City Representative. All inquiries must be addressed to the City's RFQ Administrator. Any attempt to influence the selection process by any means shall void the submitted SOQ and any resulting Agreement.

D. Financial Stability. It is financially stable, solvent and has adequate cash reserves to meet all financial obligations including any potential costs resulting from an award of the Agreement.

E. No Signature/False or Misleading Statement. The signature on the cover letter of the SOQ and the CMAR Firm Information Form is genuine, and the person signing has the authority to bind the CMAR Firm. Failure to sign the cover letter and the CMAR Firm Information Form, or signing either with a false or misleading statement, shall void the submitted SOQ and any resulting Agreement.

F. Construction Manager at Risk Agreement. In addition to reviewing and understanding the submittal requirements, it has reviewed the attached sample Construction Manager at Risk Agreement and agrees to be bound by its terms.

1.10 Award of Agreement.

A. Evaluation; Selection. A Selection Committee composed of representatives from the City will conduct the selection process according to the schedule on the cover page of this RFQ. The Selection Committee will create a final ranking of the CMAR Firms based upon its evaluation of (1) the SOQ, (2) information provided by references and (3) criteria outlined in this RFQ. The Selection Committee may select up to three finalists that will be invited for oral interviews with the Selection Committee. The City will conduct the oral interviews with the selected CMAR Firms and upon completion of the final tabulation of points for scored components, will create a final list, in order of preference, of the most qualified CMAR Firms. The RFQ Administrator will enter negotiations with the highest scoring CMAR Firm from the final list.

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B. Form of Agreement. The selected CMAR Firm will be required to execute the City's standard Construction Manager at Risk Agreement in a form acceptable to the City Attorney. A sample of the Construction Manager at Risk Agreement is included with this RFQ. The City reserves the right to terminate the selection process at any time.

C. Waiver; Rejection; Reissuance. Notwithstanding any other provision of this RFQ, the City expressly reserves the right to: (1) waive any immaterial defect or informality, (2) reject any or all SOQ or portions thereof and (3) cancel or reissue an RFQ.

D. Protests. Any CMAR Firm may protest this RFQ, the proposed award of an Agreement, or the actual award of an Agreement. All protests will be considered in accordance with the City Procurement Code.

1.11 Offer. An SOQ submittal is an offer to contract with the City based upon the terms, conditions and specifications contained in this RFQ, including the sample Construction Manager at Risk Agreement, and the CMAR Firm's responsive SOQ, unless any of the terms, conditions, or specifications are modified by a written addendum or agreement amendment. Provided, however, that no contractual relationship shall be established until the CMAR Firm has signed, and the City has approved, a Construction Manager at Risk Agreement between the City and the CMAR Firm in the form acceptable to the City Attorney.

PART II. STATEMENT OF QUALIFICATIONS FORMAT; SCORING

2.1 Evaluation Process. Each submittal will be reviewed for compliance with the submittal requirements and scored by the Selection Committee.

2.2 Proposal Format and Scoring. The SOQ shall be organized and submitted in the format as outlined below. Failure to conform to the designated format, standards and minimum requirements shall result in a determination that the SOQ is non-responsive. Additionally, the Selection Committee will evaluate and award points to each SOQ based upon the evaluation criteria as outlined in this document. Points listed below are the maximum number of points possible for each criteria.

A. General Information - 5 pts.

(1) One-page cover letter as described in Subsection 1.2(C) (Required Submittal).

(2) Provide CMAR Firm identification information. Explain the CMAR Firm's legal organization including the legal name, address, identification number and legal form of the CMAR Firm (e.g., partnership, corporation, joint venture, limited liability company, sole proprietorship). If a joint venture, identify the members of the joint venture and provide all of the information required under this section for each member. If a limited liability company, provide the name of the member or members authorized to act on the company's behalf. If the CMAR Firm is a wholly owned

subsidiary of another company, identify the parent company. If the corporation is a nonprofit corporation, provide nonprofit documentation. Provide the name, address and telephone number of the person to contact concerning the SOQ.

(3) Identify the location of the CMAR Firm's principal office, the local work office, if different from the principal office and the percent of work expected to be done locally. Include any documentation that supports the CMAR Firm's authority to provide services in Arizona.

(4) Provide a general description of the CMAR Firm that is proposing to provide the Services, including years in business.

(5) Identify any contract or subcontract held by the CMAR Firm or officers of the CMAR Firm that has been terminated within the last five years. Briefly describe the circumstances and the outcome.

(6) Identify any claims arising from a contract that resulted in litigation or arbitration within the last five years. Briefly describe the circumstances and the outcome.

(7) Provide the Arizona professional and contractor license numbers held by the CMAR Firm/team and the key personnel who will be assigned to this Project; please indicate if the individual or the firm holds the license.

(8) CMAR Firm Information Form, with an **original ink signature** (may be attached as separate appendix).

(9) CMAR Firms selected as finalists for this Project will be required to provide a statement from a surety company licensed to do business in Arizona with an A.M. Best rating of not less than A- to verify the Firm's bonding capacity.

B. Experience and Qualifications of the CMAR Firm - 20 pts.

(1) List at least three comparable projects in which the CMAR Firm served as Construction Manager at Risk during design and construction phases (without providing construction services), as the Builder in a Design-Build project, and/or General Contractor. Special consideration will be given to CMAR Firms that have provided Construction Manager at Risk services on similar successful projects. For each project, provide:

(a) Project description. Include details about how your project is similar to the one described in this SOQ.

(b) Role of the CMAR Firm (i.e. Construction Manager at Risk, Construction Manager, or General Contractor). If

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Construction Manager at Risk or General Contractor, state the percent and type of work self-performed for each project. Specify services provided during the design phase, i.e. cost estimating, scheduling, value engineering and other services.

- (c) Describe the CMAR Firm's experience in sewer pipeline rehabilitation.
- (d) Project's original contracted construction cost and final construction cost.
- (e) Project's original completion date and final completion date.
- (f) Project owner.
- (g) Project references, including telephone number and email address.

(2) List all Arizona projects, whether completed, ongoing, or selected, but not yet under contract, where the CMAR Firm/team provided either Construction Manager at Risk, Builder in a Design-Build project, or general construction services in the last three years.

(3) The City's representative may conduct any investigation deemed necessary to determine the CMAR Firm's ability to perform the Project. CMAR Firms may be requested to submit additional documentation within 72 hours (or as specified) to assist the City in its evaluation.

C. Key Positions - 30 pts.

(1) Provide an organizational chart showing key personnel to be involved in this Project and CMAR Firm affiliation. At a minimum, identify the following:

- (a) Project Manager for Preconstruction Services.
- (b) Project Manager during construction.
- (c) Construction Engineer.
- (d) Superintendent.
- (e) Other key personnel as desired.

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(2) Identify the home office location of key personnel, length of time with the firm and the percent of work to be done locally.

(3) If a subcontractor will be used for all work of a certain type, include information on this subcontractor. A detailed plan for providing supervision must be included.

(4) Attach a résumé and evidence of certification, if any, for each key personnel member and/or subcontractor to be involved in this Project, including experience in construction manager at risk projects. At a minimum, the listed projects should include two comparable projects, the project name, project owner, location, key person's role, reference information and brief description of the work. Résumés should be attached together as a single appendix at the end of the SOQ and will not count toward the SOQ page limit. However, each resume shall not exceed two pages in length.

D. Project Understanding and Approach - 35 pts.

(1) Discuss your understanding of this Project. Include major issues your firm/team has identified and how you intend to address those issues.

(2) Describe your approach to performing the required Services in the Scope of Work described in the Construction Manager at Risk Agreement in Exhibit B, including the following processes:

- (a) Planning.
- (b) Estimating.
- (c) Scheduling.
- (d) Cost controls.
- (e) Project management and team organization during design and construction phase services.
- (f) Bid package management.
- (g) Management of overhead costs.
- (h) Managing subcontractors.
- (i) Quality control.
- (j) Safety.
- (k) Dispute resolution.

(3) Submit a subcontractor selection plan that meets ARIZ. REV. STAT. § 34-601 *et seq.* requirements. Discuss the benefits that your selection provides to the Project.

E. Project Schedule - 10 pts.

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Provide a project schedule showing key project milestones and deliverables. The schedule shall demonstrate CMAR Firm's ability to meet the designated milestones as listed below. Assumptions used in developing the schedule shall be identified and at a minimum the proposed schedule shall include the following dates:

- | | | |
|-----|------------------------------|------------|
| (1) | Contract Award Date | April 2019 |
| (2) | Notice to Proceed Date | April 2019 |
| (3) | Proposed Kick-Off Meeting | |
| (4) | Start Date for Project No. 1 | |
| (5) | Start Date for Project No. 2 | |
| (6) | Substantial Completion Date | |
| (5) | Final Completion Date | |

Total Possible Points for SOQ Submittal:

100

PART III. ORAL INTERVIEWS; SCORING

Three CMAR Firms may be selected for oral interviews. The selected CMAR Firms will be invited to participate in discussions with the Selection Committee on the date indicated on the cover page of this RFQ and awarded points based upon the criteria as outlined below. CMAR Firms may be given additional information for these oral interviews.

Oral Interview

- | | |
|------------|---|
| 30 | Experience and Qualifications of the CMAR Firm |
| 40 | Key Positions |
| <u>30</u> | Project Approach |
| 100 | Total Possible Points for Oral Interview |

Total Points Possible for this RFQ:

200

PART IV. CMAR FIRM INFORMATION FORM

By submitting your Statement of Qualifications, the submitting CMAR Firm certifies that it has reviewed the administrative information and draft of the Construction Manager at Risk Agreement's terms and conditions and, if awarded the Agreement, agrees to be bound thereto.

CMAR FIRM SUBMITTING SOQ

FEDERAL TAX ID NUMBER

PRINTED NAME AND TITLE

AUTHORIZED SIGNATURE

ADDRESS

TELEPHONE

FAX #

CITY STATE ZIP

DATE

WEB SITE:

EMAIL ADDRESS:

ARIZONA CORPORATION COMMISSION FILE NO.:

MINORITY/WOMEN-OWNED SMALL BUSINESSES (check appropriate item):

- _____ Disadvantaged Business Enterprise (DBE)
- _____ Women-Owned Business Enterprise (WBE)
- _____ Minority Business Enterprise (MBE)
- _____ Small Business Enterprise (SBE)

Has your firm been certified by any jurisdiction in Arizona as a minority or woman owned business enterprise?

If yes, please provide details and documentation of the certification.

EXHIBIT A
TO
REQUEST FOR STATEMENTS OF QUALIFICATIONS
FOR
CONSTRUCTION MANAGER AT RISK

[Scope of Work]

See following pages.

SCOPE OF WORK

CMAR Sewer Repair Services PW19-015

1. Introduction.

- 1.1 The City's Integrated Utility Master Plan ("IUMP") identified two locations requiring sewer repairs or replacement:
- A. The Dysart Road Sewer ("Project No. 1") begins at 611 North Dysart Road in Avondale, Arizona. It runs under Dysart Road from Riley Drive south to Main Street and under 7th Street from Main Street south to Corral Street, ending at 305 South 7th Street in Avondale, Arizona. A summary of Project No. 1 is set forth in Section 2 below, and a vicinity map is attached hereto as Attachment 1 and incorporated herein by reference.
 - B. The 4th Avenue Sewer ("Project No. 2"), which is referred to as the Western Avenue Collector on the original drawings, is located at 218 West Main Street in Avondale, Arizona. A summary of Project No. 2 is set forth in Section 3 below and a vicinity map is attached hereto as Attachment 2 and incorporated herein by reference.

2. Project No. 1.

- 2.1 Pursuant to the IUMP, this project calls for upsizing 3,035 feet of 10-inch sewer line with 12-inch sewer to provide capacity for future development upstream.
- 2.2 The line was originally constructed in 1959 per the as-built drawings (PlanRef S5-105, sheet 15). The original design drawings call for a 260-foot section of ductile iron pipe ("DIP") to be jacked under the railway crossing. A recent CCTV inspection revealed the existing vitrified clay pipe ("VCP") sewer line transitions to a DIP line under the Union Pacific railroad tracks. The DIP section is in extremely poor shape and constricted.
- 2.3 Major considerations and challenges for the design/construction of Project No. 1:
- A. Dysart Road is a high traffic volume arterial street. A high school and large mobile home developments generate a large amount of traffic in the area.
 - B. A new 12-inch waterline was constructed in recent years on the west side of Dysart, north of Western Avenue.
 - C. The City recently undergrounded the overhead power line in the area. Therefore, a new conduit duct-bank exists on the east side of Dysart Road.
 - D. Multiple stormwater pipelines cross Dysart Road at Western Ave.

- E. Western Avenue is offset at the intersection of Dysart Road creating traffic control issues.
 - F. The existing line crosses under a railway track.
 - G. The Dysart Road and MC-85 (Buckeye/Main Street) intersection is an important and heavily used traffic connection. There are 17,000 vehicles trips per day on Dysart and 20,000 vehicle trips per day on MC-85.
 - H. There are multiple utilities, including a large gas line in MC-85.
 - I. 7th Street is a local street that has residential water and sewer connections on both sides of the street.
- 2.4 A stub be inserted for two future utility projects that are planned in the immediate vicinity of the Dysart Road and Buckeye Road intersection. The projects include the upsizing and extension of the waterline in MC 85 from 7th Street to the west and consolidating the existing sewer lines currently on either side of MC 85 from Dysart Road to the east into one larger line.

3. Project No. 2.

- 3.1 The original 15-inch sewer line was constructed in 1959 per the as-built drawings (PlanRef S5-105, sheet 32). The as-built drawings indicate 68 feet of 36-inch casing pipe jacked under the railway. The material of the casing pipe is not listed in the drawings. The drawings identify the 15-inch sewer line as Cast-In-Place (CIP) pipe. However, a recent CCTV inspection of this 15-inch sewer line revealed a VCP sewer line that transitions to a DIP line under the Union Pacific railroad tracks. The DIP section is in extremely poor shape and constricted.
- 3.2 Major considerations and challenges for the design/construction of Project No. 2:
- A. The line crosses under a railway track.
 - B. There are multiple jurisdictions along or near the line in need of coordination including Maricopa County Department of Transportation (“MCDOT”) and the City of Goodyear.
 - C. The work required is in or adjacent to MC-85.
 - D. The work will require coordination with private land owners.

4. General Scope of Work- CMAR.

- 4.1 Preconstruction services: This will include providing constructability reviews, offering value engineering suggestions and providing construction cost estimates during the design-phase of the project.
 - 4.2 Construction. At a mutually determined point prior to construction, the CMAR shall assume the risk of delivering the project through a Guaranteed Maximum Price contract.
 - 4.3 The CMAR shall be responsible for construction means and methods.
 - 4.4 The CMAR shall be required to pre-qualify and competitively bid subcontractors' work as required per A.R.S. § 34-603.
 - 4.5 Due to the nature of the project to be constructed, single or multiple design and construction packages may be prepared based on the recommendations of the selected CMAR contractor.
 - 4.6 The CMAR shall be required to work with the Designer to prepare the most cost efficient and least disruptive method of installed the new 12-inch sewer line in Dysart Road (Project 1) and repairing the existing 15-inch sewer-line under the Union Pacific railway tracks (Project 2). The specific deliverables should include:
 - A. Develop project cost model at the 30% Design Submittal to ensure the project funding is
 - B. Connect additional potholes information, if required, to ensure the constructability of the project.
 - C. Develop the bypass pumping designs for each project. The Designer will collect flow monitoring information under their scope
5. Project Financing and Schedule. There are separate budgets for each project as listed below. The design phase and construction costs for each will have to be billed separately.
- 5.1 Project No. 1:
 - 1). For fiscal year ending June 30, 2019: \$250,000 is available for the design and CMAR pre-construction.
 - 2). For fiscal year ending June 30, 2020: \$2,000,000 is available for construction.
 - 5.2 Project No. 2: Funding for both design and construction is available during the fiscal year ending June 30, 2019. Construction of this project can start to start immediately after permits are obtained.
6. Available Resources:
- 6.1 Images from CCTV Inspections.
 - 6.2 Original as-built drawings (PlanRef S5-105, sheets 15 and 32).

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT, _____ (hereinafter called Principal), as Principal, and _____, a corporation organized and existing under the laws of the State of _____, with its principal office in the City of _____ (hereinafter called the Surety), as Surety, are held and firmly bound unto the City of Avondale (hereinafter called the Obligee) in the amount of _____ (Dollars) (\$ _____), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the Obligee, dated the _____ day of _____, 20____, for the material, service or construction described as _____ which Contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal promptly pays all monies due to all persons supplying labor or materials to the Principal or the Principal's Subcontractors in the prosecution of the Work provided for in the Contract, this obligation is void. Otherwise it remains in full force and effect.

PROVIDED, however, that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions, conditions and limitations of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, to the same extent as if they were copied at length in this agreement.

The prevailing party in a suit on this bond shall recover as a part of the judgment reasonable attorney fees that may be fixed by a judge of the Court.

Witness our hands this _____ day of _____, 20____.

Principal Seal

By: _____

Surety Seal

By: _____

Agency of Record

EXHIBIT F
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
CITY OF AVONDALE
AND
ACHEN GARDNER

[Construction Manager's Response to the RFQ]

See following pages.

STATEMENT OF QUALIFICATIONS 02.20.19
Achen-Gardner Construction

SEWER REPAIR AND DESIGN SERVICES

CITY OF AVONDA - Solicitation # 163

A. GENERAL INFORMATION

A.1. Cover Letter

City of Avondale, City Clerk
11465 West Civic Center Drive
Avondale, AZ 85323



RE: Construction Manager at Risk (CMAR): Sewer Repair and Design Services

Dear Members of the Selection Committee:

Achen-Gardner Construction, LLC (Achen-Gardner) is pleased to submit our Statement of Qualifications (SOQ) for the Sewer Repair and Design Services CMAR project. We understand the completion of this project is critical to meeting the needs of the City of Avondale's development and ensuring the underground infrastructure can meet the needs of this growth.

In 2019, Achen-Gardner is celebrating 30 years of providing high-quality pre-construction and construction services. We are a leader in building partnerships with Arizona agencies/owners and working together as a team to complete projects safely, on-time, below budget, and to the highest level of quality.

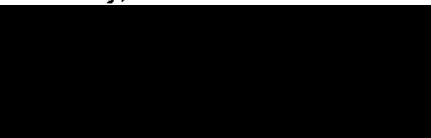
Achen-Gardner has:

- Completed more than 70 CMAR projects for 20 Arizona agencies/owners.
- Installed more than one million lineal feet of wet utility in the past five years.
- Installed and rehabilitating pipelines under railroad right of way, canals, and utility congested roadways and intersections.
- Installed more than 12,000 LF of pipe using jack and bore or horizontal directional drilling methods in the past five years
- Self-performed the installation of more than 300,000 LF of Reline America Alphaliner ultraviolet light cured-in-place pipe to structurally rehabilitate sewer lines.

Our understanding of the processes required to work within railroad right of way, history working with local utility representatives, experience in trenchless construction (including CIPP, pipe bursting, and sliplining), management of sewer bypass pumping, and expertise in delivering similar projects separates us from the competition.

We are confident the approach outlined in the following SOQ will exceed your expectations and we look forward to working with the City of Avondale. If you have any questions or need additional information, please contact me at 480.403.9432 or dsplitza@achen.com.

Sincerely;



Dan Spitza, PE, AVS / Vice President / 480.403.9432 / dsplitza@achen.com

ACHEN-GARDNER CONSTRUCTION, LLC | www.achen.com

550 SOUTH 79TH STREET | CHANDLER, AZ 85226 | P: 480.940.1300 | P: 800.580.5548 | F: 480.940.4576

A.2. Firm Description and Legal Organization

Achen-Gardner Construction, LLC (Achen-Gardner) is an Arizona limited liability construction company and our headquarters is located at 550 South 79th Street, Chandler, AZ 85226. On January 31, Achen-Gardner merged with Emery Sapp & Sons and became a 100% employee-owned ESOP. Achen-Gardner's name and identity remains the same and we will continue to operate under our existing licenses. Robert Pierce (President), Dan Spitzza (Vice President), and Kevin Nunez (Vice President) are all authorized to act on the company's behalf. Dan Spitzza will be the contact person for this SOQ. If you have any questions you can contact him at the address above or call 480-403-9432. Our Arizona Corporation Commission (ACC) registration number is L15625807.

A.3. Principal Office Location and Percent of Work to be Done Locally

Achen-Gardner's home office is in the City of Chandler. All key personnel are local and 100% of work on this project will be performed by local work forces. An on-site field office will house our project team during construction. Proof of our ACC registration and a letter of good standing can be found in the Appendix.

A.4. General Description of the Firm

Achen-Gardner specializes in wet utility and roadway construction. We have been in business for 30 years and in that time we have become an industry leader in delivering complex, time-sensitive projects for almost every public agency in Arizona. Our extensive experience completing projects using the CMAR, Job Order Contracting (JOC), and Design-Build (DB) delivery methods sets us apart from our competition.

A.5. and A.6. Contract History

No contracts or subcontracts held by Achen-Gardner or officers of the company have ever been terminated, nor have there been any claims from a contract that resulted in litigation or arbitration.

A.7. Firm and Key Personnel Professional Licenses

261745 A: Commercial General Engineering held by John Walstrom, Achen-Gardner

261746 B-1: Commercial General Contractor held by John Walstrom, Achen-Gardner

261747 B-4: Residential General Engineering held by John Walstrom, Achen-Gardner

24434: Professional Civil Engineer held by Dan Spitzza, Achen-Gardner Vice President

A.8. Firm Information Form (See Appendix)

A.9. Bonding Capacity and Surety Statement (Available Upon Request)

B. FIRM EXPERIENCE AND QUALIFICATIONS

B.1. Comparable Project Experience

The following CMAR and JOC projects illustrate firm and key team member experience similar to the Sewer Repair and Design Services Project. All of these projects included pre-construction/design phase services such as cost estimating, value engineering, constructability review, public outreach assistance, master scheduler, phasing, multiple GMP submittals, potholing and utility designation, developer coordination, permit procurement, and specialty subcontractor bid/award/selection.

FIESTA TECH SEWER & LIFT STATION CMAR

Project Description: This multi-phased (two GMPs) project consisted of wet utility improvements in and around the Fiesta Tech business center. All work required extensive business and residential coordination to minimize impacts.

GMP 1: Achen-Gardner installed 3,481 LF of water lines (12") and eight valves (12").

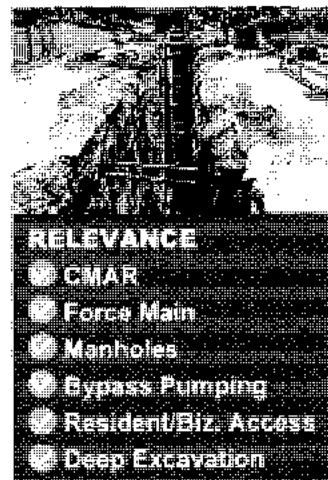
GMP 2: Achen-Gardner installed 10,816 LF of 6" force main, 106 LF of dual 6" force main that was jack and bored under the UPRR, 1,982 LF of 12" gravity sewer, 367 LF of new 12" DIP water lines, and a new 0.56 MGD lift station.

Role of Firm: CMAR/Prime Contractor **Self-Perform:** 79% (Wet Utility Work)

Construction Cost: Original: \$5.4M and Final: \$5.5M (Owner-Added Scope)

Construction Dates: 03/16 to 5/18 (Completed on Schedule)

Project Owner/References: Town of Gilbert / Aaron Kaminski, Town of Gilbert Water Department, 480.266.6370, aaron.kaminski@gilbertaz.gov; Ricky Holston, Sunrise Engineering (Designer) Project Manager, 480.768.8600, rholston@sunrise-eng.com



BOULDERS FORCE MAIN AND LIFT STATION CMAR

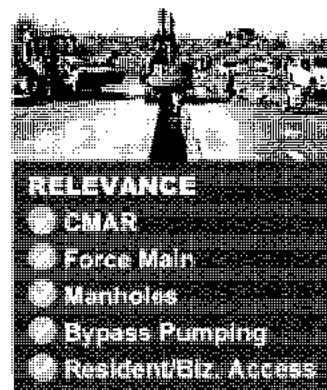
Project Description: This project was located within the City of Scottsdale, Town of Carefree, and the Boulders Resort property. Total quantities included: 12,100 LF of 6" PVC sewer force main, 1,100 LF of 6" DIP sewer force main, 4,400 square yards of pavement replacement, 33,000 square yards of asphalt slurry seal coat, and a new sewer lift station.

Role of Firm: CMAR/Prime Contractor **Self-Perform:** 90% (Wet Utility Work)

Construction Cost: Original: \$5.3M and Final: \$5.3M

Construction Dates: 05/18 to 10/18 (Completed on Schedule)

Project Owner/References: Liberty Utilities / Matthew Garlick, Liberty Utilities AZ and TX President, 602.757.2821, matthew.garlick@libertyutilities.com; Andrea Kagie, Wood (Designer) Senior Engineer, 602.733.6149, andrea.kagie@woodplc.com



DOWNTOWN INFRASTRUCTURE IMPROVEMENTS CMAR

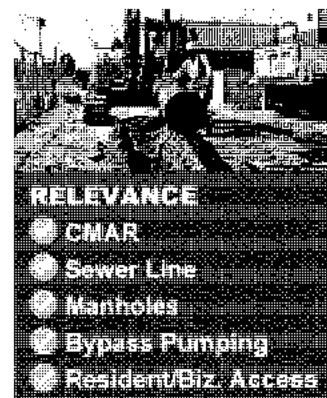
Project Description: This multi-phased (four GMPs) project included the replacement and upsizing of aged water lines and sanitary sewer infrastructure. We installed 12,353 LF of pipe including 8" and 10" sanitary sewer mains and laterals, new manholes, rehabilitation of an existing manhole, new 6", 8", and 10" water mains, services, and 14 fire hydrants.

Role of Firm: CMAR/Prime Contractor **Self-Perform:** 80% (Wet Utility & Roadway Imps)

Construction Cost: Original: \$8.6M and Final: \$8.1M

Construction Dates: 06/15 to 05/18 (Completed on Schedule)

Project Owner/References: City of Chandler / John Knudson, City of Chandler Municipal Utilities Director, 480.782.3590, john.knudson@chandleraz.gov; Melanie Sikes, Former Carollo (Designer) Project Manager, 602.216.7247, melanie.sikes@ghd.com



2017-21 WASTEWATER CONVEYANCE JOC

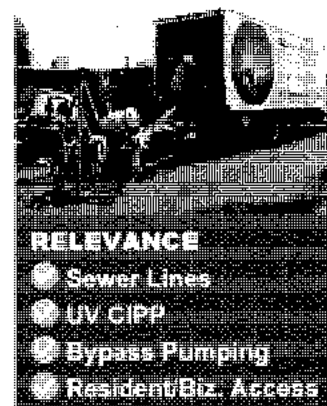
Project Description: This project involves the repair/upgrade of existing facilities by varying methods. Total quantities to date: 34 excavation point repairs, 410 LF of new sanitary sewer pipe, 1,036 LF of pipe removal and replacement, 41,254 LF of ultraviolet light cured-in-place-pipe, 20 manhole adjustments, 13 manhole rehabs, 15 new manholes, 22 UV point repairs, 2,452 SY of pavement, and various structures.

Role of Firm: JOC/Prime Contractor **Self-Perform:** 75% (Wet Utility & CIPP Rehab)

Construction Cost: Original: \$8.7M and Final: \$8.7M (85 Job Orders to Date)

Construction Dates: 07/17 to 07/21 (All Job Orders Completed on Schedule)

Project Owner/References: Pima County / Shawn Tillson, Pima County Project Manager, 520.419.8548, shawn.tillson@pima.gov; David Badger, Pima County Project Manager, 520.724.3470, david.badger@pima.gov



BELL ROAD FORCE MAIN IMPROVEMENTS CMAR

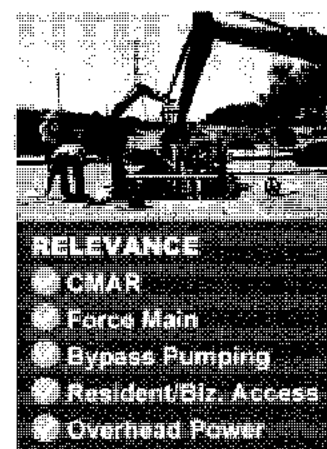
Project Description: This multi-phased (three GMPs) and award-winning project included the installation of 17,634 LF of 18", 20", and 22" HDPE sewer force main. Horizontal directional drilling was used at three locations including 1,600 LF crossing under the Agua Fria River. The scope also included the installation of 400 LF of 18" and 24" storm drain, line valves (4 each 18"), air release valves (2 each 2"), modifying one existing vault, and 694 square yards of asphalt (remove and replace).

Role of Firm: CMAR/Prime Contractor **Self-Perform:** 75% (Wet Utility Work)

Construction Cost: Original: \$7M and Final: \$6.2M

Construction Dates: 06/16 to 12/16 (Completed on Schedule)

Project Owner/References: EPCOR Water / Chad Talbot, EPCOR Water Project Manager, 623.445.2404, ctalbot@epcor.com; Frederick Tack, GHD (Designer) Project Manager, 602.216.7206, frederick.tack@ghd.com



B.2 Arizona Project Experience (Past Three Years)

As Arizona's leading wet utility contractor, Achen-Gardner has completed or is working on many relevant projects. We have installed more than 700,000 lineal feet of pipe in the past three years and the majority of that work was successfully completed using the CMAR delivery method. The following table illustrates our current workload and past three-year Arizona project experience in delivering CMAR, JOC, DB, and Design-Bid-Build (DBB) projects. All of these projects include similar wet utility construction and street improvement scopes.

FIRM/TEAM PAST THREE-YEAR PROJECTS

Achen-Gardner Key Personnel

Brian Froelich (Project Manager), Stephen Bacon (Project Superintendent), Andy Mortensen (Senior Estimator), Abby Goode (Project Engineer), Ken Kawamoto (Pre-Construction Services Manager), and Jason DeCarlo (Director of Pipeline Rehabilitation)

Section B.1. Projects Relevant Experience

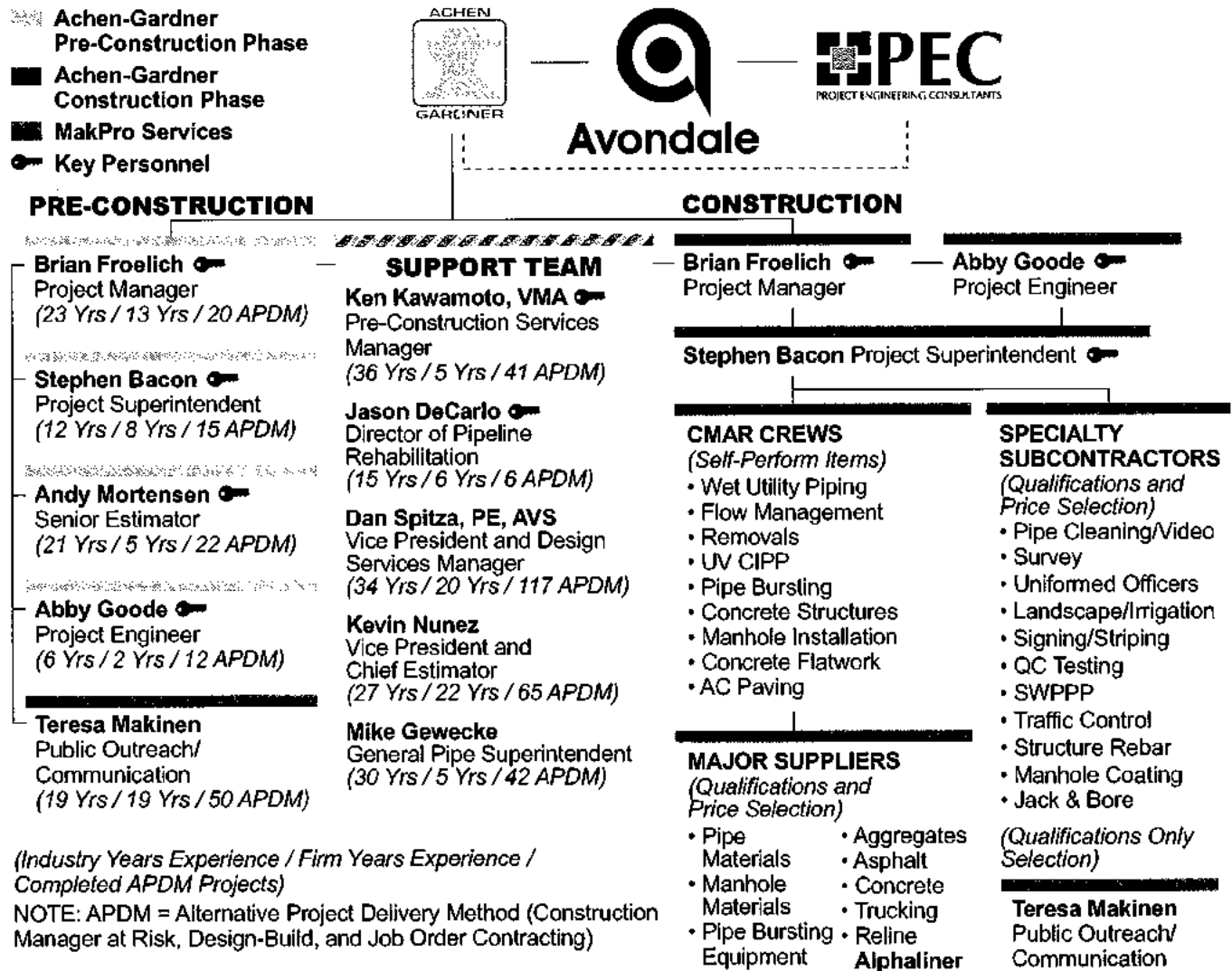
YEAR	PROJECT / OWNER / DELIVERY / COST	Brian Froelich	Stephen Bacon	Andy Mortensen	Abby Goode	Ken Kawamoto	Jason DeCarlo	Job Orders/GMPs	Self-Performed Wet Utility (LF)	CIPP Lining	Wastewater Bypass	Sanitary Sewer	Jack & Bore	Public Outreach	Utility Coord.
2019-24	Small Valve Replacement / Phoenix / JOC / TBD	X	X					TBD	TBD					X	X
2019-20	Raintree Drive Extension / Scottsdale / CMAR / TBD							TBD	7,764			X		X	X
2019	Price Rd WL & Driveway / Chandler / DBB / \$2.8M (est)			X				1	543			X		X	X
2018-22	Zone 3D & 4A Imps / Phoenix / CMAR / TBD			X				TBD	13,200				X	X	X
2018-20	Scenario 16B Imps / Phoenix / CMAR / \$10M (est)	X	X	X				TBD	5,280					X	X
2018-20	PVC-Lined Sewer Rehab / Phoenix / CMAR / \$16M (est)							2	22,300	X	X	X		X	X
2018-20	Underground Imps / Glendale / JOC / \$269K							2	550					X	X
2018-19	Twin Peaks Sewer / Pima Co / DB / \$10M (est)						X	3	25,000		X	X	X	X	X
2018-19	Salt River Siphon Repair / CAP / DB / \$6.1M (est)			X		X		4	8,500					X	X
2018-19	Link Pipeline Repair / Ak-Chin Comm / DB / \$2.1M			X		X		1	348						
2018-19	Wet Utility Emergency Repair / Mesa / JOC / \$8K	X						2	10	X	X	X		X	X
2018	Flood Irrigation Imps / Tempe / DBB / \$770K							1	4,247	X				X	X
2018	Main St & Lindsay Rd Sewer / Mesa / DBB / \$1.8M			X				1	6,116		X	X			X
2018	Boulders Force Main / Liberty Utilities / CMAR / \$5.3M	X	X	X	X			1	13,200		X	X	X	X	X
2018	Loop 101 Waterline / West Valley REI / CMAR / \$2.1M			X				1	4,487				X	X	X
2018	Price Rd Utility Relocations / Chandler / CMAR / \$4.9M			X		X		1	4,105		X	X		X	X
2018	Hunt & Empire Widening / Queen Creek / CMAR / \$4.5M							1	10,265		X	X	X	X	X
2017-22	Master Service Agreement / EPCOR / JOC / \$350K					X		65	1,000					X	X
2017-21	Wastewater Conveyance / Pima Co / JOC / \$8.7M			X			X	85	41,254	X	X	X		X	X
2017-20	Sanitary Sewer Repair / Phoenix / JOC / \$460K							1	50	X	X	X		X	X
2017-20	Street General Construction / Phoenix / JOC / \$1M (est)							2	2,205					X	X
2017-20	Ritz Road Imps / Paradise Valley / CMAR / \$10M (est)							2	1,920		X	X		X	X
2017-19	Water Main and Valve / Chandler / JOC / \$1.8M (est)			X				3	Misc.					X	X
2017-19	Emergency Pipeline Repair / Scottsdale / JOC / \$21K			X				3	25					X	X
2017-19	Sanitary Sewer Rehab / Tempe / CMAR / \$3M (est)							3	3,820	X	X	X		X	X
2017-19	Val Vista TM Rehab / Phoenix / CMAR / \$17.6M			X		X		2	7,109					X	X
2017-18	Canal 1 & MAR 1B / Gila River Comm / DBB / \$3.9M					X		1	5,608		X				
2017-18	Waterline Replacement / Tempe / CMAR / \$10.7M			X	X			2	49,433					X	X
2017-18	Wet Utility Imps / Goodyear / JOC / \$1.1M							2	5,239		X	X		X	X
2017-18	Salt River Outfall Rehab / Phoenix / CMAR / \$9.5M				X			2	14,000		X	X			X
2017	Sun City Sewer Rehab / EPCOR / DBB / \$1.2M							1	5,398	X	X	X			X
2017	Morenci Sewer / Freeport McMoran / CMAR / \$175K			X		X	X	1	1,100	X	X	X		X	X
2017	Toledo St. Waterline Repair / Chandler / JOC / \$0.4M			X				1	1,200					X	X
2017	47th Avenue Storm Drain / Glendale / DBB / \$1M			X				1	2,950					X	X
2017	Tempe Streetcar / Valley Metro / CMAR Sub / \$1M				X			1	12,060		X	X		X	X
2017	Sanitary Sewer Rehab / Casa Grande / CMAR / \$0.2M							1	435	X	X	X			X
2016-19	ROW Water Main Replace / Phoenix / JOC / \$1.8M			X				2	2,264					X	X
2016-19	Water Main Inspect & Assess / Phoenix / JOC / \$4.5M	X	X		X			8	N/A					X	X
2016-18	Waterline Imps. Ph 1-3 / Glendale / CMAR / \$9M			X				3	25,460					X	X
2016-18	Fiesta Tech. Phases 1&2 / Gilbert / CMAR / \$5.5M	X	X					2	16,646		X	X	X	X	X
2016-17	Edison Road Extension / Maricopa / CMAR / \$4.5M							1	9,589			X		X	X
2016-17	Irrigation Facilities Construction / RID / JOC / \$0.4M	X	X					1	1,200						X
2016-17	Marabella Ranch / Liberty Utilities / DBB / \$0.8M	X						1	4,057						X
2016	Sanitary Sewer Rehab / Fountain Hills / DBB / \$0.5M							1	2,819	X	X	X		X	X
2016	Bell Road Force Main Imps / EPCOR / CMAR / \$6.2M							1	18,034		X	X			X
2015-20	Horizontal Construction / Flagstaff / JOC / \$152K					X		1	160		X	X		X	X
2015-20	Wet Infrastructure Imps / Scottsdale / JOC / \$3.8M			X				10	9,560	X	X	X	X	X	X
2015-20	Water-Wastewater Imps / Tempe / JOC / \$5.3M	X	X	X				27	9,273	X	X	X	X	X	X
2015-19	Scenario 16A TM. Ph 1&2 / Phoenix / CMAR / \$17.7M	X	X		X			4	13,590					X	X
2015-18	Downtown Infrastructure / Chandler / CMAR / \$8.1M		X	X				4	12,353		X	X		X	X
2015-16	Hayden & Thunderbird WL / Scottsdale / CMAR / \$4.3M			X		X		1	44,713					X	X
2015-16	Broadway Road Improvements / Tempe / DBB / \$4.4M							1	4,068			X		X	X
2015-16	Deer Valley & 67th WL / Glendale / CMAR / \$2.5M		X	X				2	615					X	X
2015-16	Emergency WL Repair / Glendale / JOC / \$0.4M							2	770					X	X
2014-19	Wet Utility Pipeline / Peoria / JOC / \$2.7M	X	X		X			5	3,169	X	X	X		X	X
2014-19	Sanitary Sewer Rehab / Scottsdale / JOC / \$190K			X				1	170	X	X	X		X	X
2014-16	Valencia Road Imps / Pima Co / DBB / \$11.7M							1	2,949					X	X
2014-16	Water Utility Pipe & Infrastructure / Buckeye / JOC / \$5.7M	X	X		X			3	27,749			X		X	X
2013-17	Wastewater Conveyance / Pima Co / JOC / \$28.7M		X				X	215	212,474	X	X	X		X	X

497 GMPs/JOs 702,403 LF

C. KEY POSITIONS

C.1. Organization Chart

Our firm offers the City of Avondale a dynamic team of seasoned professionals uniquely qualified to provide CMAR services for the Sewer Repair and Design Services project. Our organization chart (below) shows our key team members (☛), their roles, and lines of responsibility during the pre-construction and construction phases.



C.2. Key Personnel Home Office Location, Time With Firm, and Percent of Local Work

All key personnel are local and they will work out of our home office in the City of Chandler. 100% of work on this project will be performed locally. See the organization chart above for the amount of time each of the key personnel (☛) has been with the firm. See resumes in Appendix for additional experience.

C.3. Proposed Subcontractor

We propose to utilize MakPro Services (MakPro) based on qualifications alone to provide public outreach services. MakPro's home office location is 2036 North Gentry, Mesa, AZ. For the past 19 years Teresa Makinen (owner) and her team have been providing public involvement and outreach services for most of the municipalities/agencies in Arizona, including the City of Avondale. Achen-Gardner has teamed with MakPro on more than 30 projects over the past ten years.



C.4. Resumes and Team Experience on Relevant CMAR Projects (See Appendix)

D. PROJECT UNDERSTANDING AND APPROACH

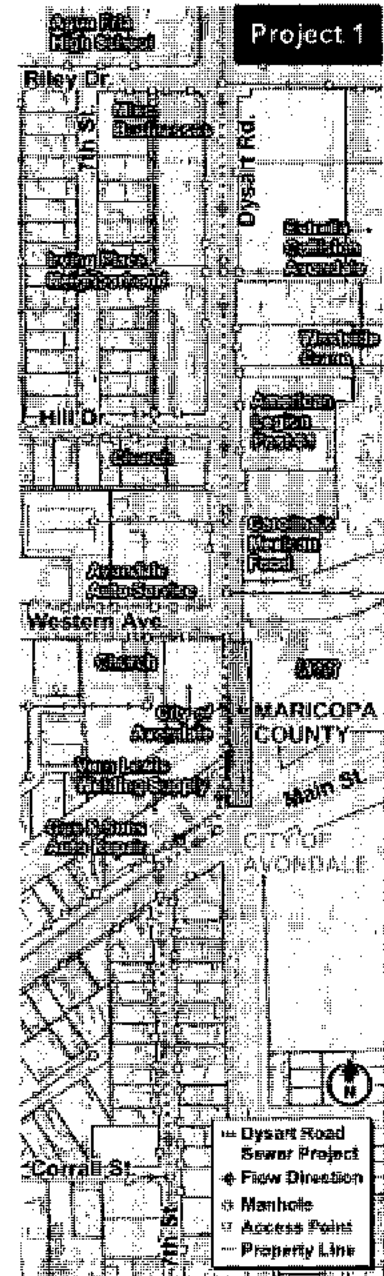
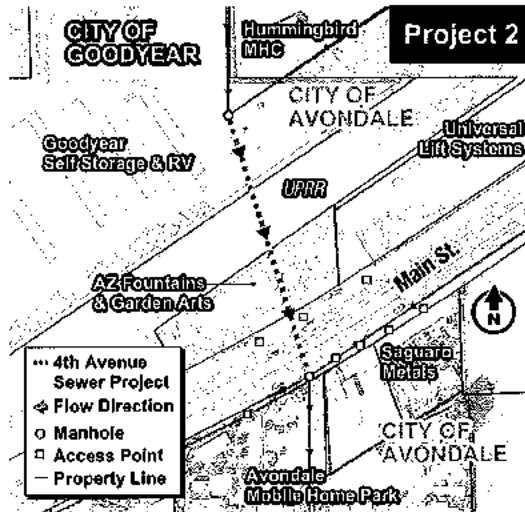
D.1.1. Understanding of the Project

The City of Avondale has identified two project areas in their sanitary sewer system that require critical improvements, and they are seeking a qualified CMAR to provide best value design support and construction services for these projects under a single contract.

PROJECT 1. DYSART ROAD SEWER: This project involves upsizing approximately 2,750 LF of existing 8-inch and 10-inch sewer to a new 12-inch line. This area runs along Dysart Road from Riley Drive to Main Street and then shifts west and extends south on 7th Street from Main Street to Corral Street. The work area is near the Agua Fria High School and will affect numerous business and residential access points. A new jack and bore undercrossing is planned at the UPRR right of way north of Main Street. The proposed alignment contains existing water, sewer, storm drain, natural gas, and other dry utilities and will require accurate plan and profile details to avoid conflicts with the new construction. Funding for this project will be available in 2020 and construction schedules should take into consideration the seasonal cycle at the high school.

PROJECT 2. 4TH AVENUE

SEWER: This project will address a badly deteriorated section of 15-inch sewer line located under the UPRR and MC-85 rights of way. Video inspections of the existing ductile iron section of this sewer line show extensive buildup of debris and solid deposits inside the line. Though a new jack and bore crossing may ultimately be required, it is not a preferred option due to right of way and easement acquisition cost and time impacts. A trenchless rehabilitation of the pipeline is preferred. Funding for this project is currently available and work on this section of sewer line should be done as soon as feasible to preclude potential for a catastrophic failure of the existing pipe.



D.1.2. Approach to Major Issues

Achen-Gardner has visited both projects, we have obtained and analyzed existing utility maps for the areas including City of Avondale water, sewer and storm drains, Southwest Gas, APS, Centurylink, and Cox Communications, and we have reviewed all documents, pipe inspection videos, and as-built plans provided by the City as part of the Request for Qualifications package. We understand the City's goal to complete this work while ensuring:

- Optimum innovation and value.
- Efficient and high quality project delivery.
- Minimum interruptions to the traveling public.
- Maximum business and residential access.
- Safety to the traveling public and workers.
- Safety to the environment (odor and noise).

We have managed and constructed many similar pipe rehabilitations and replacements utilizing alternative technologies such as CIPP lining, specialty coatings, and trenchless construction. Most of these projects were completed utilizing CMAR and JOC delivery methods. Our team has the proven experience, industry knowledge, relationships, training, procedures, and technical tools necessary to excel in the delivery of your project. We have identified the following critical challenges and considerations necessary to ensure the City's goals are met and the project is completed on time, safely, economically, and to the highest level of quality.

ASSIST IN ADDITIONAL DATA COLLECTION: We already have an extensive understanding of the size, alignment, elevation, and connectivity of the existing City of Avondale sanitary sewer, but it is critical that some additional investigations take place to allow for refinement of the design, ensure constructability, and avoid unnecessary delays during construction. These include:

Avoiding Utility Conflicts: Achen-Gardner will need to confirm that existing utilities will not impede the work progress or cause a safety hazard. We will:

- Ensure proper vertical clearance for a possible bursting option for Project 1 and open cut areas such as those in the area of Western Avenue (i.e. existing storm drain crossing).
- Ensure proper horizontal (lateral) clearances can be achieved to allow for new manhole construction in Dysart Road. Parallel utilities pose the greatest concern and will impact shoring requirements, constructability, and associated productions.
- Optimize the vertical and horizontal alignment of the proposed new UPRR crossing in Dysart Road right of way to best allow for constructability and tie in to the Main Street segment.

We propose the following methods:

- **Utility Potholing by Achen-Gardner:** We propose to actively assist in, and even perform, the necessary utility designation (potholing). We have found that potholing and designation services performed by Achen-Gardner and/or coordinated with the designer reduces delays related to utility conflicts and costs during construction. This approach will allow us to take ownership of these designs.
- **Design Phase Blue Staking:** We have found that completing Blue Staking in critical utility crossing areas during the design phase and holding on-site meetings to confirm locations of existing facilities establishes lines of communication and results in conflict avoidance.



One of Achen-Gardner's vacuum trucks on the City of Tempe Waterline Replacement CMAR project. We self-performed 454 potholes on this project.

Confirming Pipeline Condition and Rehabilitation Scope: We have reviewed the available videos but we recommend some additional video inspection should be performed. This investigation will confirm the limits of DIP vs. VCP for Project 2 which will allow for the proper evaluation of the relative cost benefit of open cut, CIPP, sliplining, and/or combination of these three options in this Project 2 crossing.

Metering Existing Sewer Flows: Bypass (or wastewater flow management) plan installation, operation, and removal makes up a large portion of any sewer rehab project's cost. Based on review of the as-builts, current pipeline slopes, and inspection videos, we have determined the following approximate bypass design criteria:

Project 1 - Dysart Road

DESIGN FLOW	ESTIMATED FLOW	PUMPS	PIPES
Peak	429 gpm	1 ea x 4"	1 ea 6"
Peak + 50%	643 gpm	1 ea 6"	1 ea 6"

Project 2 - 4th Avenue

DESIGN FLOW	ESTIMATED FLOW	PUMPS	PIPES
Peak	551 gpm	1 ea 6"	1 ea 6"
Peak + 50%	826 gpm	1 ea 6"	1 ea 8"

(Please note that redundancy of pipes and pumps is not accounted for.)

We will work with PEC to evaluate necessary pump and pipe redundancy and work with Teresa Makinen (MakPro) to develop a bypass piping alignment that minimizes impacts and disruption. Our research shows the bypass for Project 1 would be best located on the west side of Dysart Road.

We will evaluate options for Project 2's pumping+piping vs. utilizing tankers trucks and temporary tanks to manage the flows. This will ultimately be determined by the final design and construction duration.



Overley's fleet of well maintained vacuum tankers are capable of handling hazardous and non-hazardous liquid waste. The carrying capacity ranges from 5,000 to 5,500 gallons.

Completing Diggability and Geotechnical Investigations: Existing soil conditions will directly impact equipment size and type, jack and bore drilling equipment, size of trench, bursting details, shoring for excavations and pits, work area, backfill material requirements, and constructability relative to existing traffic and utilities throughout the project. We propose to review the engineer's geotechnical investigation and complete additional diggability potholes throughout the project area to confirm existing geotechnical conditions and necessary equipment and work area requirements. As part of the solicitation process, we will invite potential specialty subcontractors to mandatory site visits to observe these investigations. This approach has been successful in helping to avoid "subsurface changed condition" type claims during construction.

MANAGE LONG-LEAD UPRR CROSSING PERMIT PROCESS: Having recently completed similar UPRR crossings, we are prepared to work with PEC and the City to accelerate the process summarized below.

Complete Permitting: We will serve as master scheduler and drive the following processes.

UPRR PERMITTING TASKS	DURATION
UPRR Pipeline Crossing Agreement	Up To 3 Months
On-Site Pre-Construction Meeting	Up To 2 Weeks
Coordinate On-Site Inspection	Up To 1 Week
"Call Before You Dig" Ticket	48 Hours
Schedule a Flagger*	Up To 2 Weeks

*Can be requested when all tasks are completed.

Maximize Alignment: We will work closely with PEC and the City to develop and evaluate alternative alignments, such as utilizing the City's property in the northwest corner of the crossing area to facilitate the jack and bore of a new alignment.

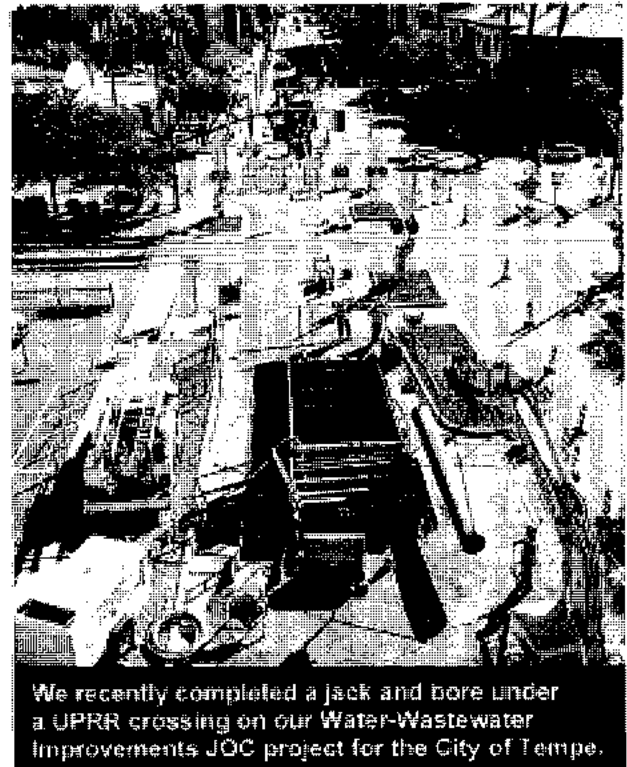
Leverage Relationships: We will utilize the best value qualifications and price selection process to solicit the following jack and bore specialty contractors:

- Horizontal Boring / Tunneling, Inc.
- Specialized Services Company, Inc.
- Pacific Boring
- Pipe Jacking Unlimited
- Golden State Boring and Pipe Jacking, Inc.

In the current market, finding subcontractors who are both qualified and have available resources will be key to ensuring a best value selection.

Leverage Experience: As the leading underground contractor in the Valley, we have the experience and industry relationships necessary to expedite this project's associated jack and bore constructability review, possible tunneling option, subcontractor solicitation and selection, and construction management scopes. The table (below) highlights Achen-Gardner's past five-year jack and bore experience.

YEAR	PROJECT / DELIVERY / OWNER	CASING SIZE	USE/JACK & BORE UNDER	TOTAL LF	BORES
2015-20	Water-Wastewater Imps / JOC / Tempe	24"	UPRR and utilities	107	1
2018	Force Main & LS / CMAR / Liberty Utilities	24"	Storm drain box culverts	170	4
2018	Loop 101 WL / CMAR / WVREI	48"	Loop 101	386	1
2016-18	Fiesta Tech / CMAR / Gilbert	20"	UPRR	140	1
2014-15	Water Utility / JOC / Buckeye	36"	SR85, APS WL, Canal	793	3
2014-15	Zone 1 TMs / CMAR / Phoenix	60" & 36"	UPRR, Utilities, Intersects	807	12
2011-14	Gilbert Rd Imps / CMAR / Chandler	Various	RWCD	1,274	20
2010-15	Wet Infrastructure / JOC / Scottsdale	24" & 36"	Park Features	1,051	3



We recently completed a jack and bore under a UPRR crossing on our Water-Wastewater Improvements JOC project for the City of Tempe.

OPTIMIZE DESIGN DETAILS: Our approach to developing a detailed cost model and schedule of values, evaluating options and value engineering opportunities, and negotiating GMPs will allow us to quickly evaluate the following design considerations. This approach will expedite the development of comprehensive design deliverables that will promote the flexible delivery of the project. We have identified the following innovations and opportunities that we will assist the team in evaluating.

Leverage Designer Relationship: Achen-Gardner has a strong working relationship with PEC, having collaborated with them on four CMAR projects over the past five years. We are prepared to leverage this relationship and proven collaborative environment to expedite design and permitting.

Evaluate Project 1 - Bursting vs. Open Cut: Our team has evaluated the potential for using trenchless installation technology on portions of this project, especially for the longer runs. It appears that pipe bursting may be a viable option in these areas. Pipe bursting is performed using a cutting device that is inserted or pulled through the host pipe, splitting the existing pipe while simultaneously pulling in a new, often larger, replacement pipe. Burst segments are typically 350'-400' in length. For sewer replacements such as this project the existing manhole locations are used as insertion and receiving pits, with new manholes installed immediately after the new pipeline is in place.

Pipe bursting is often an effective means to avoid excavating trenches in paved roadways where existing utilities and high traffic flows are factors. Interruptions to traffic flow are reduced, access to businesses and residences is more easily maintained, and asphalt removal and replacement quantities are minimized. The 1,335 LF section of sewer from Riley Drive to Western Avenue appears to be a very good candidate for bursting and the 690 LF run from Main Street to Corral Street may qualify as well, depending on the exact number and location of service laterals. Achen-Gardner has discussed this project in detail with HammerHead Trenchless, the nation's premiere provider of pipe bursting equipment and technical assistance for bursting operations, and we are prepared to continue those discussions with PEC and the City to evaluate how this technology can benefit the project.

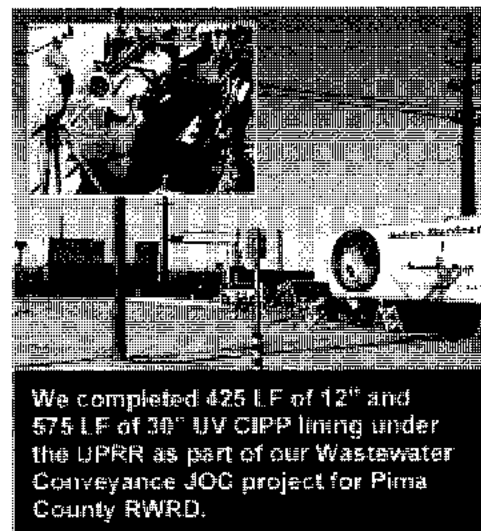


Evaluate Project 2 - Fiberglass Reinforced UV Light Cured CIPP vs. Conventional Polyester Fiber Reinforced Heat Cured CIPP:

Achen-Gardner has managed the selection and installation of more than 670,000 LF of similar CIPP liners and more than 340,000 LF of this was self-performed. We have the experience and cost history to quickly develop preliminary estimates.

Achen-Gardner is the exclusive Arizona installer for Reline America, Inc.'s (Reline) Alphaliner product and we have previously designed and permitted the rehabilitation of a similar DIP gravity sewer for UPRR and Pima County.

The structural characteristics will effectively eliminate the risk associated with potential breaching of the existing DIP during cleaning and its unmatched installation times will mitigate the cost of associated bypass flow management. Alphaliner is fiberglass reinforced, a process that is similar to rebar reinforcement in concrete. Pipe rehabilitation with this product results in higher strength and a 50-60% reduction in wall thickness as compared to polyester-felt liners.



Develop Odor and Noise Control Options: We have typically utilized a list of best practices that is consistent with recent PEC designed projects we have completed. A majority of these projects' odor and noise control issues are handled this way. There are instances where chemical injection or other means are required, and we propose to develop allowances for these items and manage them on an as-needed basis to mitigate unnecessary costs associated with relatively unknown risks.

Complete SAVE Certified Cost Benefit Analysis: Working closely with the City and PEC, Ken Kawamoto, VMA (Pre-Construction Services Manager), will help facilitate and complete a cost benefit analysis to evaluate these various design options. We also have an additional SAVE certified Associate Value Specialist available to assist as necessary (Dan Spitz, PE, AVS / Vice President and Design Services Manager).

MINIMIZE TRAFFIC IMPACTS AND ENSURE PUBLIC SAFETY: We will use the following procedures to optimize traffic flow, access, and safety.

Traffic Control Permitting and Methods: We will establish a relationship with the City, County, and traffic control permitting and inspection teams. We propose to meet with them early during our design phase to evaluate specific methods of controlling traffic in and around construction areas, plan and schedule restrictions, and assess utilization of flaggers, uniformed officers, and/or temporary signals to promote traffic flow. We will propose alternate access corridors and signage to ease congestion in and around the work area and evaluate best value opportunities as they relate to safety, production, and cost.

Temporary Access: We will evaluate and discuss the use of temporary asphalt pavement or walkways to maintain travel lanes and pedestrian access to facilitate phased construction, utility crossings, and driveway/street access. The proper phasing of the project will minimize the number of driveway impacts at any one time and maximize access to businesses, homes, and other area stakeholders.

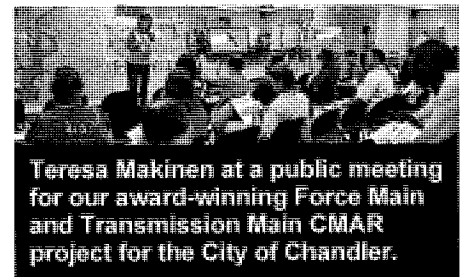
Work Schedule: Work hours will be a major consideration in achieving the project goals. Night and weekend work will be considered to facilitate transverse pavement crossings, intersection work, and any other highly restricted operations. We will only propose this option after all other methods have been exhausted and night work has been coordinated and communicated through the project's public outreach program. We also have the flexibility to provide multiple crews if necessary to accommodate the schedule.

Intersection Closures: Pre-scheduled and approved weekend intersection closures may be necessary to expedite some of the street crossings and mitigate the impact time to local traffic access points.

Roadway Closures: Where roadway right of way is limited, we will evaluate the use of full closures to accommodate associated pipeline construction activities.

Summary: Our experience working in active traffic areas and coordinating work in public right of way, along with our attention to detail in traffic control planning, will reduce construction duration and refine the design and/or phasing to minimize cost and deliver a best value product.

STAKEHOLDER AND PUBLIC COMMUNICATION: Our team recognizes the importance of providing information and communicating effectively during construction to inform residents and businesses of upcoming work and how they may be impacted. We propose to use MakPro Services (Teresa Makinen) to assist the team with identifying critical project stakeholders during design, developing a communication plan, and implementing the plan during construction.



We will work closely with the City of Avondale Development and Engineering Services, Public Works, Community Relations and Public Affairs departments, and PEC to identify all project stakeholders. We will meet with area stakeholders, including the City of Goodyear, whose boundary extends into the area of Project 2. We have an excellent relationship with the City of Goodyear developed through our current Wet Utility Improvements JOC. We will strive to best accommodate any critical stakeholder access issues and/or concerns early during plan development. We will establish a project website where businesses, residents, and travelers can find current project information and have an opportunity to e-mail us directly with concerns. The use of weekly e-mail blasts to affected residents, businesses, and City management has proven invaluable to getting the word out on upcoming activities. We will also use methods such as newsletters, flyers, postcards, and door hangers.

D.2. Approach to Performing the Required Services (re: Exhibit B - CMAR Agreement)

PLANNING: Project planning begins with a comprehensive pre-construction program to ensure a successful project and a positive team experience. Achen-Gardner will:

- Provide a CMAR flow chart outlining anticipated tasks during all phases.
- Prepare estimates using estimating and scheduling software to plan the project during design and construction.
- Create an action item list detailing task descriptions, responsibilities, and due dates.
- Monitor the project design through construction to ensure efficiency and budget compliance.

ESTIMATING: We anticipate the self-performed scope of work to be 75-85% of the contract value. In addition to competing to self-perform critical scopes, we use a qualification and competitive price selection process for major material and service components of proposed self-performed items. The resulting self-performed items include a 60-70% price competitive component. This approach historically results in lower overall project costs. Our CMAR process for cost model and GMP development is based on an agreed upon schedule of values using line item unit costs, supported by an "open book" method of establishing and reviewing the estimates with the owner, which ensures complete transparency of cost development.

SCHEDULING: The GMP is processed in HCSS job management software and Primavera scheduling software to develop and refine a CPM schedule. This schedule will be monitored daily and updated on a weekly basis. A detailed three-week look-ahead schedule will be presented and reviewed weekly with the construction team, PEC, and the City of Avondale. This focus on schedule ensures all project goals are exceeded.

COST CONTROLS: We have used the following process elements on all of our previous and current CMAR projects to assign and control costs and deliver the project under budget: develop a comprehensive schedule of values, establish agreed upon general conditions and fee structures, provide detailed cost item breakdowns, include comprehensive variance reporting to document design evolutions impact on costs, and use allowances and contingencies when beneficial to equitably managing risks.

PROJECT MANAGEMENT AND TEAM ORGANIZATION: Our approach to management is goal-focused and action-oriented. We select managers and supervisors with appropriate CMAR and wet utility construction project experience. We believe a key to our success lies in our ability to facilitate a collaborative environment among the CMAR project team members and make personal contact on a regular basis with those stakeholders most directly impacted by our construction. This allows us to identify any potential issues and resolve them as quickly as possible. See the organization chart on Page 4 for our team organization during design and construction.

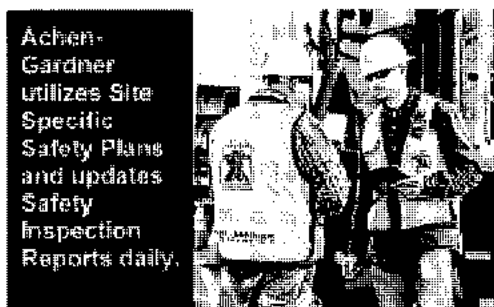
BID PACKAGE MANAGEMENT: See our Subcontractor Selection Plan on Page 11.

MANAGEMENT OF OVERHEAD COSTS: The project's speed of delivery and durations will drive the final percent utilization of our project manager, project superintendent, and project engineer. We will work closely with the City of Avondale to evaluate the best value approach and to reach maximum utilization of the individuals assigned as project supervisors. We have used this team approach on past CMAR projects and our experience shows it will ensure minimum cost and maximum oversight.

MANAGING SUBCONTRACTORS: Our approach to leveraging our subcontractors' experience starts when we engage firms during the pre-construction phase and finishes when we complete the project. See our Subcontractor Selection Plan on Page 11.

QUALITY CONTROL: Achen-Gardner's design philosophy will focus on construction quality, operational safety, life-cycle dependability, and ease of maintenance. Prior to beginning major tasks, we will have an on-site meeting to ensure that QA/QC, material suppliers, and/or subcontractors are all on the same page. Our Project Superintendent, Stephen Bacon, will serve as our primary construction phase quality control point of contact.

SAFETY: Working in and around intersections and live traffic requires planning and a diligent approach to safety and maintaining a safe construction project is Achen-Gardner's top priority. Cesar Martinez, Achen-Gardner's Safety Manager, will work closely with field personnel, providing continuing education as to proper procedures required for performing the work safely. He will also help tailor our Site Specific Safety Plan to accommodate any unique specific risks. Achen-Gardner's safety management and practices have resulted in more than 1.5 million man-hours worked without a lost time accident (January 1, 2013 to date). Our current Experience Modification Rate is 0.61.



1.5 Million
man-hours worked without a lost-time accident (January 1, 2013 to present).

0.61 EMR
Achen-Gardner's current Experience Modification Rate.

Zero
Achen-Gardner's Lost Work Day Case Rate.

DISPUTE RESOLUTION: We have established a resolution escalation matrix (below) that will utilize a team-building framework to resolve issues and address any situation prior to becoming a problem in the field.

	PRE-CONSTRUCTION/DESIGN PHASE	CONSTRUCTION PHASE
LEVEL 1	Brian Froelich (Project Manager)	Stephen Bacon (Project Superintendent)
LEVEL 2	Ken Kawamoto (Pre-Construction Services Manager)	Brian Froelich (Project Manager)

D.3. Subcontractor Selection Plan and Benefits

Achen-Gardner has the industry experience and relationships to quickly evaluate the project's technical, long-lead procurement, and pricing issues. As per the revised APDM legislation, our subcontractors will be selected based on qualifications only or qualifications and price. Our organization chart on Page 4 and the narrative below illustrate our plan.

SUBCONTRACTOR SELECTION BY QUALIFICATIONS AND PRICE:

- 1) Immediately after selection, we will meet with the City of Avondale and PEC to review the City's schedule and budget goals, define all potential scope requirements for the project and/or phases, develop a preliminary design deliverable schedule, and agree on a common schedule of values format.
- 2) We will prepare and submit for approval a list of potential subcontractors and suppliers and their specialty scopes and supplied materials. This will include a request for any additional subcontractors or suppliers the City may want to have included in the process.
- 3) Our team will proceed with a solicitation of interest from all the subcontractors. These solicitations will include a brief description of the scope of work and critical project dates (including: when bid documents will be made available, pre-bid and site visit date(s), bid date(s), and construction schedule requirement(s)).
- 4) Interested bidders will be provided with a set of bid documents including the following sections:
 - **Qualifications Section:** This will require experience/performance information, references, safety record, ability to insure, and ability to meet the schedule requirements. These criteria will be evaluated "pass/fail" and ranked by a panel of CMAR and City representatives. Approved subcontractors participate in a final qualifications and price selection.
 - **Best-Value Price Section:** This will require the competitive bidding of a defined scope of work. The process will include opportunities for the bidders to propose value engineering ideas. The qualified bidder with the lowest price that can meet the project's schedule and quality requirements will be recommended for award.
- 5) Final selection will be based on the City's approval of our recommendations.

SUBCONTRACTOR SELECTION BY QUALIFICATIONS ONLY: There is one specialty subcontractor that we believe should be selected to assist with critical decisions and ensure continuity from design through construction. We propose to utilize MakPro Service to provide services during pre-construction and construction phases to ensure continuity and effectiveness of stakeholder coordination on the project.

MAJOR MATERIAL SUPPLIER SELECTION BY QUALIFICATIONS AND PRICE: Our firm has always used a form of qualifications-based review as part of our major supplier selections. We anticipate use of a process similar to that previously described for the solicitation of major suppliers.

SELF-PERFORMANCE: Our approach allows Achen-Gardner to control those items critical to budget, schedule, high-quality, and safety while ensuring value through a qualifications and price selection of critical commodities (re: Materials/Services). We estimate the self-performed scope of work could amount to approximately 75-85% of the contract value of which 60%-70% would include major suppliers selected using a competitive price component.

BENEFITS SUMMARY: Our plan:

- Utilizes our unmatched wet utility experience and ability to self-perform which ensures the project is delivered on budget from conceptual design through completion.
- Allows Achen-Gardner to make the early project program commitments.
- Allows Achen-Gardner to control those items critical to schedule, quality, and safety.
- Maximizes opportunities to utilize and mentor local suppliers and specialty subcontractors.





STATEMENT OF QUALIFICATIONS 02.20.19
Achen-Gardner Construction

SEWER REPAIR AND REPLACEMENT PROJECTS CMAR

APPENDIX

CITY OF AVONDALE | SOLICITATION NUMBER 19-015

PART IV. CMAR FIRM INFORMATION FORM

By submitting your Statement of Qualifications, the submitting CMAR Firm certifies that it has reviewed the administrative information and draft of the Construction Manager at Risk Agreement's terms and conditions and, if awarded the Agreement, agrees to be bound thereto.

Achen-Gardner Construction, LLC
CMAR FIRM SUBMITTING SOQ

271394157
FEDERAL TAX ID NUMBER

Dan Spitz, Vice President
PRINTED NAME AND TITLE


AUTHORIZED SIGNATURE

550 South 79th Street
ADDRESS

480.940.1300
TELEPHONE

480.940.4576
FAX #

Chandler Arizona 85226
CITY STATE ZIP

02/20/19
DATE

WEB SITE: www.achen.com

EMAIL ADDRESS: dspitza@achen.com

MINORITY/WOMEN-OWNED SMALL BUSINESSES (check appropriate item):

☐ Disadvantaged Business Enterprise (DBE)
☐ Women-Owned Business Enterprise (WBE)
☐ Minority Business Enterprise (MBE)
☐ Small Business Enterprise (SBE)

Has your firm been certified by any jurisdiction in Arizona as a minority or woman owned business enterprise? **No**

If yes, please provide details and documentation of the certification.

Entity Information

Search Date and Time:
2/19/2019 10:02:42 AM

Entity Details

Entity Name:	ACHEN-GARDNER CONSTRUCTION, L.L.C.	Entity ID:	LL5625807
Entity Type:	Domestic LLC	Entity Status:	Active
Formation Date:	11/5/2009	Reason for Status:	In Good Standing
Approval Date:	11/18/2009	Status Date:	
Original Incorporation Date:	11/5/2009	Life Period:	Perpetual
Business Type:	Any legal purpose	Last Annual Report Filed:	
Domicile State:	AZ	Annual Report Due Date:	
		Years Due:	
Original Publish Date:			

Statutory Agent Information

Name:	CT CORPORATION SYSTEM	Appointed Status:	Active 2/4/2019
Attention:		Address:	3800 NORTH CENTRAL AVENUE, SUITE 460, PHOENIX, AZ 85012, USA
Agent Last Updated:	2/4/2019	E-mail:	
Attention:		Mailing Address:	
County:	Maricopa		

Principal Information

Title	Name	Attention	Address	Date of Taking Office	Last Updated
Member			2301 I-70 DRIVE NW, COLUMBIA, MO, 65202, USA	1/29/2019	2/4/2019
Manager	OLEN ROBERTSON		2301 I-70 DRIVE NW, COLUMBIA, MO, 65202, USA	1/29/2019	2/4/2019
Manager	KEITH BENNETT		2301 I-70 DRIVE NW, COLUMBIA, MO, 65202, USA	1/29/2019	2/4/2019

Page 1 of 1, records 1 to 3 of 3

Entity Known Place of Business

Attention:	Address: 550 S 79TH STREET, CHANDLER, AZ, 85226, USA	County: Maricopa	Last Updated:
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Entity Principal Office Address

Attention:	Address:	County:	Last Updated:
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Back	Return to Search	Return to Results
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[Document History](#) [Name/Restructuring History](#) [Pending Documents](#)
[Microfilm History](#)

STATE OF ARIZONA



Office of the CORPORATION COMMISSION

CERTIFICATE OF GOOD STANDING

To all to whom these presents shall come, greeting:

I, Ted Vogt, Executive Director of the Arizona Corporation Commission, do hereby certify that

*****ACHEN-GARDNER CONSTRUCTION, L.L.C.*****

a domestic limited liability company organized under the laws of the State of Arizona, did organize on the 5th day of November 2009.

I further certify that according to the records of the Arizona Corporation Commission, as of the date set forth hereunder, the said limited liability company is not administratively dissolved for failure to comply with the provisions of A.R.S. section 29-601 et seq., the Arizona Limited Liability Company Act; and that the said limited liability company has not filed Articles of Termination as of the date of this certificate.

This certificate relates only to the legal existence of the above named entity as of the date issued. This certificate is not to be construed as an endorsement, recommendation, or notice of approval of the entity's condition or business activities and practices.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Arizona Corporation Commission. Done at Phoenix, the Capital, this 12th day of February, 2018, A. D.



Ted Vogt, Executive Director

By: 1827889

IMPORTANT NOTICE

YOU MUST:

- 1.) REPORT DISSOCIATION OF QUALIFYING PARTY IN WRITING WITHIN 15 DAYS. [SEE A.R.S. § 32-1154(A)(18)]
- 2.) REPORT A CHANGE OF ADDRESS IN WRITING WITHIN 30 DAYS. [SEE A.R.S. § 32-1122(B)(1)]
- 3.) REPORT ANY TRANSFER OF OWNERSHIP OF 50% OR MORE IMMEDIATELY [SEE A.R.S. § 32-1151.01]
- 4.) REPORT ANY CHANGE IN LEGAL ENTITY, SUCH AS ANY CHANGE OF THE OWNERSHIP IN A SOLE PROPRIETORSHIP OR CHANGE OF A PARTNER IN A PARTNERSHIP OR THE CREATION OF A NEW CORPORATE ENTITY. [SEE A.R.S. § 32-1124(B)(F) § RULE R-4-9-110]

Achen Gardner Construction LLC

550 S 79th St
Chandler, AZ 85226-4706

THIS IS YOUR IDENTIFICATION CARD
DO NOT DESTROY



LICENSE EFFECTIVE THROUGH: 01/31/2020
STATE OF ARIZONA
Registrar of Contractors CERTIFIES THAT
Achen Gardner Construction LLC



CONTRACTORS LICENSE NO. 261745 CLASS A
General Engineering

THIS CARD MUST BE
PRESENTED UPON DEMAND

JEFF FLEETHAM, DIRECTOR

IMPORTANT NOTICE

YOU MUST:

- 1.) REPORT DISSOCIATION OF QUALIFYING PARTY IN WRITING WITHIN 15 DAYS. [SEE A.R.S. § 32-1154(A)(18)]
- 2.) REPORT A CHANGE OF ADDRESS IN WRITING WITHIN 30 DAYS. [SEE A.R.S. § 32-1122(B)(1)]
- 3.) REPORT ANY TRANSFER OF OWNERSHIP OF 50% OR MORE IMMEDIATELY [SEE A.R.S. § 32-1151.01]
- 4.) REPORT ANY CHANGE IN LEGAL ENTITY, SUCH AS ANY CHANGE OF THE OWNERSHIP IN A SOLE PROPRIETORSHIP OR CHANGE OF A PARTNER IN A PARTNERSHIP OR THE CREATION OF A NEW CORPORATE ENTITY. [SEE A.R.S. § 32-1124(B)(F) § RULE R-4-9-110]

Achen Gardner Construction LLC

550 S 79th St
Chandler, AZ 85226-4706

THIS IS YOUR IDENTIFICATION CARD
DO NOT DESTROY



LICENSE EFFECTIVE THROUGH: 01/31/2020
STATE OF ARIZONA
Registrar of Contractors CERTIFIES THAT
Achen Gardner Construction LLC



CONTRACTORS LICENSE NO. 261746 CLASS B-1
General Commercial Contractor

THIS CARD MUST BE
PRESENTED UPON DEMAND

JEFF FLEETHAM, DIRECTOR

IMPORTANT NOTICE

YOU MUST:

- 1.) REPORT DISSOCIATION OF QUALIFYING PARTY IN WRITING WITHIN 15 DAYS. [SEE A.R.S. § 32-1154(A)(18)]
- 2.) REPORT A CHANGE OF ADDRESS IN WRITING WITHIN 30 DAYS. [SEE A.R.S. § 32-1122(B)(1)]
- 3.) REPORT ANY TRANSFER OF OWNERSHIP OF 50% OR MORE IMMEDIATELY [SEE A.R.S. § 32-1151.01]
- 4.) REPORT ANY CHANGE IN LEGAL ENTITY, SUCH AS ANY CHANGE OF THE OWNERSHIP IN A SOLE PROPRIETORSHIP OR CHANGE OF A PARTNER IN A PARTNERSHIP OR THE CREATION OF A NEW CORPORATE ENTITY. [SEE A.R.S. § 32-1124(B)(F) § RULE R-4-9-110]

Achen Gardner Construction LLC

550 S 79th St
Chandler, AZ 85226-4706

THIS IS YOUR IDENTIFICATION CARD
DO NOT DESTROY



LICENSE EFFECTIVE THROUGH: 01/31/2020
STATE OF ARIZONA
Registrar of Contractors CERTIFIES THAT
Achen Gardner Construction LLC



CONTRACTORS LICENSE NO. 261747 CLASS B-4
General Residential Engineering Contractor

THIS CARD MUST BE
PRESENTED UPON DEMAND

JEFF FLEETHAM, DIRECTOR

DETAILS FOR
ACHEN GARDNER CONSTRUCTION LLC
LICENSE NUMBER ROC 261746
MONDAY JANUARY 14, 2019 09:01:00 AM

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CONTRACTOR

NAME / ADDRESS / PHONE

Achen Gardner Construction LLC

550 S 79th St
Chandler, AZ 85226-4706
Phone: (480) 940-1300

STATUS / ACTION

Active

LICENSE

CLASS & DESCRIPTION

General Commercial B-1 General Commercial Contractor

ENTITY TYPE

LLC

ISSUED / RENEWAL

First Issued: 2010-01-04
Renewed Through: 2020-01-01

QUALIFYING PARTY & PERSONNEL

The Qualifying Party listed below is associated with this license. All other persons named, if any, are associated with the company. They are not all necessarily associated with this license.

Name: John Robert Walstrom
Position: Member, Qualifying Party
Other Licenses:

261745 (Achen Gardner Construction LLC)
261747 (Achen Gardner Construction LLC)
151541 (Achen Gardner Engineering LLC)
153519 (Achen Gardner Engineering LLC)
186588 (Achen Gardner Engineering LLC)

Name: Dennis Anthony Troggio
Position: Member
Other Licenses:

151541 (Achen Gardner Engineering LLC)
153519 (Achen Gardner Engineering LLC)
186588 (Achen Gardner Engineering LLC)
261745 (Achen Gardner Construction LLC)
261747 (Achen Gardner Construction LLC)

Name: Kevin James Nunez
Position: FORMER Member
Disassociation Date: 2018-02-20

Name: Daniel Joseph Spitz
Position: FORMER Member
Disassociation Date: 2018-02-20

Name: Gardner Capital Partners
Position: Related Entity, Subsidiary

COMPLAINT INFORMATION

Complaints against this contractor are listed below. Complaints that were cancelled, resolved or settled without a corrective work order or dismissed are not included. Contact the Registrar of Contractors at 602-542-1525 or toll-free statewide at 1-877-My AZROC (1-877-692-9762) to identify the ROC office location you need to visit to view complete complaint documentation.

CLOSED CASES

0
Open Cases ①

0
Disciplined Cases ①

0
Resolved / Settled Cases ①

BOND INFORMATION

How to collect from a license bond

Bond Type: SURETY

Bond Number: 105349392

Effective Date: 2010-06-16

Bond Company: TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA

Amount: \$ 0.00

Paid: \$ 0.00

Available: \$ 100000.00

Status: ACTIVE

DETAILS FOR
ACHEN GARDNER CONSTRUCTION LLC
LICENSE NUMBER ROC 261745
MONDAY JANUARY 14 2019 09:01:31 AM

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CONTRACTOR

NAME / ADDRESS / PHONE

Achen Gardner Construction LLC

550 S 79th St

Chandler, AZ 85226-4706

Phone: (480) 940-1300

STATUS / ACTION

Active

LICENSE

CLASS & DESCRIPTION

General Commercial A General Engineering

ENTITY TYPE

LLC

ISSUED / RENEWAL

First Issued: 2010-01-04

Renewed Through: 2020-01-31

QUALIFYING PARTY & PERSONNEL

The Qualifying Party listed below is associated with this license. All other persons named, if any, are associated with the company. They are not all necessarily associated with this license.

Name: John Robert Walstrom

Position: Member, Qualifying Party

Other Licenses:

261746 (Achen Gardner Construction LLC)

261747 (Achen Gardner Construction LLC)

151541 (Achen Gardner Engineering LLC)

153519 (Achen Gardner Engineering LLC)

186588 (Achen Gardner Engineering LLC)

Name: Dennis Anthony Troggio

Position: Member

Other Licenses:

151541 (Achen Gardner Engineering LLC)

153519 (Achen Gardner Engineering LLC)

186588 (Achen Gardner Engineering LLC)

261746 (Achen Gardner Construction LLC)

261747 (Achen Gardner Construction LLC)

Name: Kevin James Nunez

Position: FORMER Member

Disassociation Date: 2018-02-20

Name: Daniel Joseph Spilza

Position: FORMER Member

Disassociation Date: 2018-02-20

Name: Gardner Capital Partners

Position: Related Entity, Subsidiary

COMPLAINT INFORMATION

Complaints against this contractor are listed below. Complaints that were cancelled, resolved or settled without a corrective work order or dismissed are not included. Contact the Registrar of Contractors at 602-542-1525 or toll-free statewide at 1-877-My AZROC (1-877-692-9762) to identify the ROC office location you need to visit to view complete complaint documentation.

CLOSED CASES

0
Open Cases ①

0
Disciplined Cases ①

0
Resolved / Settled Cases ①

BOND INFORMATION

How to collect from a license bond

Bond Type: SURETY

Bond
Number: 105349391

Effective
Date: 2010-06-15

Bond TRAVELERS CASUALTY AND SURETY
Company: COMPANY OF AMERICA

Amount: \$ 0.00

Paid: \$ 0.00

Available: \$ 100000.00

Status: ACTIVE

DETAILS FOR
ACHEN GARDNER CONSTRUCTION LLC
LICENSE NUMBER ROC 261747
MONDAY, JANUARY 14, 2019 9:01:29 AM

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CONTRACTOR

NAME / ADDRESS / PHONE

Achen Gardner Construction LLC

550 S 79th St

Chandler, AZ 85226-4706

Phone: (480) 840-1300

STATUS / ACTION

Active

LICENSE

CLASS & DESCRIPTION

General Residential B-4 General Residential Engineering Contractor

ENTITY TYPE

LLC

ISSUED / RENEWAL

First Issued: 2010-01-04

Renewed Through: 2020-01-31

QUALIFYING PARTY & PERSONNEL

The Qualifying Party listed below is associated with this license. All other persons named, if any, are associated with the company. They are not all necessarily associated with this license.

Name: John Robert Walstrom

Position: Member, Qualifying Party

Other Licenses:

261745 (Achen Gardner Construction LLC)

261746 (Achen Gardner Construction LLC)

151541 (Achen Gardner Engineering LLC)

153519 (Achen Gardner Engineering LLC)

186508 (Achen Gardner Engineering LLC)

Name: Dennis Anthony Treggio

Position: Member

Other Licenses:

151541 (Achen Gardner Engineering LLC)

153519 (Achen Gardner Engineering LLC)

186508 (Achen Gardner Engineering LLC)

261745 (Achen Gardner Construction LLC)

261746 (Achen Gardner Construction LLC)

Name: Kevin James Nunez

Position: FORMER Member

Disassociation Date: 2018-02-20

Name: Daniel Joseph Spitz

Position: FORMER Member

Disassociation Date: 2018-02-20

Name: Gardner Capital Partners

Position: Related Entity, Subsidiary

COMPLAINT INFORMATION

Complaints against this contractor are listed below. Complaints that were cancelled, resolved or settled without a corrective work order or dismissed are not included. Contact the Registrar of Contractors at 602-542-1525 or toll-free statewide at 1-877-My AZROC (1-877-692-9762) to identify the ROC office location you need to visit to view complete complaint documentation.

CLOSED CASES

0
Open Cases ⓘ

0
Disciplined Cases ⓘ

0
Resolved / Settled Cases ⓘ

BOND INFORMATION

How to collect from a license bond

Bond Type: SURETY

Bond Number: 105349395

Effective Date: 2010-06-16

Bond Company: TRAVELERS CASUALTY AND SURETY
COMPANY OF AMERICA

Amount: \$ 0.00

Paid: \$ 0.00

Available: \$ 15000.00

Status: ACTIVE

EXPERIENCE • 13 Years with Achen-Gardner • 23 Years in the Industry
• 20 APDM Projects Completed
EDUCATION • Bachelor of Science - Construction Technology,
Southern Illinois University



Brian Froelich

PROJECT MANAGER

Brian has an impressive background as project manager, estimator, and field operations manager. His experience and knowledge allow him to skillfully tackle all phases of a given project. Since joining Achen-Gardner, Brian's invaluable leadership has contributed greatly to the company's continuing success. He has extensive experience with Construction Manager at Risk, Job Ordering Contracting, Design-Build, and Design-Bid-Build projects ranging from \$1M to \$39M.

Comparable CMAR Project Experience

FIESTA TECH SEWER & LIFT STATION / Town of Gilbert / CMAR

Project Description: This multi-phased (two GMPs) project consisted of wet utility improvements in and around the Fiesta Tech business center. All work required extensive business and residential coordination.

GMP 1: Achen-Gardner installed 3,481 LF of water lines (12") and eight valves (12").

GMP 2: Achen-Gardner installed 10,816 LF of 6" force main, 106 LF of 14" force main that was jack and bored under the UPRR, 1,982 LF of 12" gravity sewer, 367 LF of new 12" DIP water lines, and a new 0.56 MGD lift station. We also tied into existing sewer and water services for local businesses.

Brian's Role: Project Manager **Construction Cost:** Original: \$5.4M and Final: \$5.5M (Owner-Added Scope)

Project Owner/References: Town of Gilbert / Aaron Kaminski, Town of Gilbert Water Department, 480.266.6370, aaron.kaminski@gilbertaz.gov; Ricky Holston, Sunrise Engineering (Designer) Project Manager, 480.768.8600, rholston@sunrise-eng.com

BOULDERS FORCE MAIN & LIFT STATION / Liberty Utilities / CMAR

Project Description: This project was located within the City of Scottsdale, Town of Carefree, and the Boulders Resort and Spa. Total quantities included: 12,100 LF of 6" PVC sewer force main, 1,100 LF of 6" DIP sewer force main, 4,400 square yards of pavement replacement, 33,000 square yards of asphalt slurry seal coat, and a new sewer lift station.

Brian's Role: Project Manager **Construction Cost:** Original: \$5.3M and Final: \$5.3M

Project Owner/References: Liberty Utilities / Matthew Garlick, Liberty Utilities AZ and TX President, 602.757.2821, matthew.garlick@libertyutilities.com; Andrea Kagie, Wood (Designer) Senior Engineer, 602.733.6149, andrea.kagie@woodplc.com

Additional Project Experience

- Underground Utility Construction and Water-Wastewater Imps (JOC), City of Tempe - \$5.3M
- Wet Utility Pipeline Projects (JOC), City of Peoria - \$0.6M
- Broadway Road Sewer (CMAR), City of Phoenix - \$3.8M
- Water Utility Pipeline and Infrastructure (JOC), City of Buckeye - \$5.7M
- Scenario 16A Transmission Main Rehabilitation (CMAR), City of Phoenix - \$17.7M
- Western Refining Facility Improvements (CMAR), Western Refining - \$2.4M

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ARIZONA: 261745 A, 261746 B-1, 261747 B-4 | COLORADO: 20101257887 | NEW MEXICO: 365027



Additional Project Experience (CONTINUED)

- ASU Perimeter Water Metering and Rural Road Water Main (CMAR), City of Tempe - \$3.4M
- Water Transmission Main Inspection and Assessment (JOC), City of Phoenix - \$4.5M
- Horizontal Construction (JOC), City of Flagstaff - \$0.2M
- Irrigation Facilities Construction (JOC), Roosevelt Irrigation District - \$0.4M
- Utilities & Roadway Improvements - Elliot & Signal Butte Roads (CMAR), City of Mesa - \$9.5M
- Signal Butte Road Improvements (DBB), City of Mesa - \$4.1M
- Taxiway A Intersections at Phx Goodyear Airport, Phases 1-3 (DB), City of Phoenix - \$4.1M
- Pima Road Improvements, Phase 1-3 (CMAR), City of Scottsdale - \$39.1M
- Deer Valley Road Widening & Drainage (CMAR), City of Peoria - \$5.5M
- Indian School Road Improvements, Phases 1 & 2 (CMAR), City of Scottsdale - \$16.9M
- Silverstone Improvements (CMAR), Silverstone Development LLC - \$20.2M
- Loop 101 Frontage Road (DBB), ADOT - \$4.1M
- 107th Avenue & Camelback Road (DBB), City of Phoenix - \$6.7M
- Crismon Business Park (DBB), City of Mesa - \$4.1M
- 75th Avenue Waterline (DBB), City of Peoria - \$2.2M
- Greenfield Road Improvements (CMAR), Town of Gilbert - \$2.8M

Professional Training

- 30-hour OSHA Construction Health and Safety Class
- Project Management in Oracle Primavera P6
- AGC-ADOT Erosion Control Coordinator Training
- Excavation Safety for Competent Person Training
- Basic Dust Control Certification
- American Traffic Safety Services Association (ATSSA) – Traffic Control Technician
- American Traffic Safety Services Association (ATSSA) – Traffic Control Supervisor

EXPERIENCE • 8 Years with Achen-Gardner • 12 Years in the Industry
• 15 APDM Projects Completed



Stephen Bacon

PROJECT SUPERINTENDENT

Stephen has more than 11 years of experience in the construction industry and has been with Achen-Gardner for more than 7 years. His direct involvement and supervision of field personnel has allowed him to successfully complete projects on time and within budget.

Stephen's experience includes construction techniques, personnel management, safety programs, construction coordination, scheduling, and cost control. His knowledge and expertise with similar sanitary sewer installation and rehabilitation projects makes him a valuable asset to this project team.

Comparable CMAR Project Experience

FIESTA TECH SEWER & LIFT STATION / Town of Gilbert / CMAR

Project Description: This multi-phased (two GMPs) project consisted of wet utility improvements in and around the Fiesta Tech business center. All work required extensive business and residential coordination.

GMP 1: Achen-Gardner installed 3,481 LF of water lines (12") and eight valves (12").

GMP 2: Achen-Gardner installed 10,816 LF of 6" force main, 106 LF of 14" force main that was jack and bored under the UPRR, 1,982 LF of 12" gravity sewer, 367 LF of new 12" DIP water lines, and a new 0.56 MGD lift station. We also tied into existing sewer and water services for local businesses.

Stephen's Role: Project Superintendent

Construction Cost: Original: \$5.4M and Final: \$5.5M (Owner-Added Scope)

Project Owner/References: Town of Gilbert / Aaron Kaminski, Town of Gilbert Water Department, 480.266.6370, aaron.kaminski@gilbertaz.gov; Ricky Holston, Sunrise Engineering (Designer) Project Manager, 480.768.8600, rholston@sunrise-eng.com

DOWNTOWN IMPROVEMENTS / City of Chandler / CMAR

Project Description: This multi-phased (four GMPs) project included the replacement and upsizing of aged water lines and sanitary sewer infrastructure. We installed 12,353 LF of pipe including 8" and 10" sanitary sewer mains and laterals, new manholes, rehabilitation of an existing manhole, new 6", 8", and 10" water mains, services, and 14 fire hydrants.

Stephen's Role: Project Superintendent

Construction Cost: Original: \$8.6M and Final: \$8.1M

Project Owner/References: City of Chandler / John Knudson, City of Chandler Municipal Utilities Director, 480.782.3590, john.knudson@chandleraz.gov; Melanie Sikes, Former Carollo (Designer) Project Manager, 602.216.7247, melanie.sikes@ghd.com

Additional Project Experience

- Ocotillo Pipelines - Force Main and Transmission Main (CMAR), City of Chandler - \$20.9M
- OWRP/AWRP Lift Station and Sanitary Sewer (CMAR), City of Chandler - \$22.9M
- Frye Road Sewer Manhole Rehab (DBB), City of Chandler - \$0.7M
- Broadway Road Sewer (CMAR), City of Phoenix - \$3.8M
- Toledo Street Emergency Water Line Repair (JOC), City of Chandler - \$318,112
- Deer Valley Road & 67th Avenue Waterline Improvements (CMAR), City of Glendale - \$1.7M

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ARIZONA: 261745 A, 261746 B-1, 261747 B-4 | COLORADO: 20101257887 | NEW MEXICO: 365027



Additional Project Experience (CONTINUED)

- Northsight Boulevard Extension (CMAR), City of Scottsdale - \$7.3M
- Western Refining Facility Improvements (CMAR), Western Refining - \$2.4M
- Gilbert Road Improvements (CMAR), City of Chandler - \$29.1M
- Lower Buckeye Paving and Storm Drain (CMAR), City of Phoenix - \$3.7M
- 2010-15 Wet Utility Infrastructure (JOC), City of Scottsdale - \$11M
- Scottsdale Road Streetscape - Roosevelt Street to Earl Drive (DBB), City of Scottsdale - \$6.2M
- South Arizona Avenue Improvements (CMAR), City of Chandler - \$9.3M
- Indian School Road Improvements, Phases 1 & 2 (CMAR), City of Scottsdale - \$16.9M
- Pima Road Improvements, Phase 1-3 (CMAR), City of Scottsdale - \$39.1M
- Deer Valley Road Widening & Drainage (CMAR), City of Peoria - \$5.5M
- 83rd Ave. & Pinnacle Peak Drainage (DBB), Flood Control District of Maricopa Co. - \$9.6M
- Downtown Revitalization Waterline (CMAR), City of Scottsdale - \$5.9M

Professional Training

- Certified Traffic Control Technician
- Confined Space Training
- Certified in First Aid and CPR
- Comprehensive Dust Control Certification
- 30-hour OSHA Construction Health and Safety Class
- Excavation Competent Person Awareness Training

EXPERIENCE • 5 Years with Achen-Gardner • 21 Years in the Industry
• 22 APDM Projects Completed

EDUCATION • Bachelor of Science - Construction Management,
Arizona State University



Andy Mortensen

SENIOR ESTIMATOR

With more than 21 years experience in both the Arizona and Midwest markets, Andy possesses an impressive degree of talent and experience. He is a skilled estimator with a specialty in mechanical piping and underground utilities, plant work, and heavy civil construction. Andy has worked as a laborer, foreman, surveyor, field engineer, project engineer, and pipe superintendent. He has a strong background in construction management, construction techniques, and field operations. His extensive knowledge of field work and project understanding gives him a high level of expertise with an aptitude for value engineering and thinking outside the box to achieve a wide variety of project goals.

Comparable CMAR Project Experience

BOULDERS FORCE MAIN & LIFT STATION / Liberty Utilities / CMAR

Project Description: This project was located within the City of Scottsdale, Town of Carefree, and the Boulders Resort and Spa. Total quantities included: 12,100 LF of 6" PVC sewer force main, 1,100 LF of 6" DIP sewer force main, 4,400 square yards of pavement replacement, 33,000 square yards of asphalt slurry seal coat, and a new sewer lift station.

Andy's Role: Senior Estimator **Construction Cost:** Original: \$5.3M and Final: \$5.3M

Project Owner/References: Liberty Utilities / Matthew Garlick, Liberty Utilities AZ and TX President, 602.757.2821, matthew.garlick@libertyutilities.com; Andrea Kagie, Wood (Designer) Senior Engineer, 602.733.6149, andrea.kagie@woodplc.com

DOWNTOWN IMPROVEMENTS / City of Chandler / CMAR

Project Description: This multi-phased (four GMPs) project included the replacement and upsizing of aged water lines and sanitary sewer infrastructure. We installed 12,353 LF of pipe including 8" and 10" sanitary sewer mains and laterals, new manholes, rehabilitation of an existing manhole, new 6", 8", and 10" water mains, services, and 14 fire hydrants.

Andy's Role: Senior Estimator **Construction Cost:** Original: \$8.6M and Final: \$8.1M

Project Owner/References: City of Chandler / John Knudson, City of Chandler Municipal Utilities Director, 480.782.3590, john.knudson@chandleraz.gov; Melanie Sikes, Former Carollo (Designer) Project Manager, 602.216.7247, melanie.sikes@ghd.com

Additional Project Experience

- Underground Utility Construction and Water-Wastewater Imps (JOC), City of Tempe - \$5.3M
- Ocotillo Pipelines - Force Main and Transmission Main (CMAR), City of Chandler - \$20.9M
- OWRF/AWRF Lift Station and Sanitary Sewer (CMAR), City of Chandler - \$22.9M
- 2014-16 Sanitary Sewer Rehabilitation (JOC), City of Scottsdale - \$190K
- Wet Utility Infrastructure (JOC), City of Scottsdale - \$11M

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ARIZONA: 261745 A, 261746 B-1, 261747 B-4 | COLORADO: 20101257887 | NEW MEXICO: 365027



Additional Project Experience (CONTINUED)

- Wet Utility Pipeline Projects (JOC), City of Peoria - \$0.3M
- Scenario 16B Transmission Main Improvements (CMAR), City of Phoenix - \$10M
- Loop 101 Waterline Extension (CMAR), West Valley RE Investments - \$2.1M
- 2017-21 Wastewater Conveyance Job Order Master Agreement (JOC), Pima County - \$6M
- 2017-19 Water Main and Valve Repair (JOC), City of Chandler - \$400K
- Val Vista Transmission Main Rehabilitation (CMAR), City of Phoenix - \$18.5M
- Utilities & Roadway Improvements - Elliot & Signal Butte Roads (CMAR), City of Mesa - \$9.5M
- Emergency Waterline Repairs (CMAR), City of Glendale - \$0.4M
- Water Transmission Main Inspection and Assessment (CMAR), City of Phoenix - \$4.5M
- 2015-20 Wet Utility Infrastructure (JOC), City of Scottsdale - \$3.7M
- Hayden & Thunderbird Roads Waterline Replacements (CMAR), City of Scottsdale - \$4.3M
- Water Utility Pipeline and Infrastructure (JOC), City of Buckeye - \$5.7M
- 56th Street Improvements (CMAR), Town of Paradise Valley - \$2.4M
- Scenario 16A Transmission Main Rehabilitation (CMAR), City of Phoenix - \$17.8M
- Southwest Zone 1 Transmission Mains (CMAR), City of Phoenix - \$16.4M
- 2013-17 Wastewater Conveyance Job Order Master Agreement (JOC), Pima County - \$28.2M
- ASU Perimeter Water Metering and Rural Road Water Main (CMAR), City of Tempe - \$3.4M
- 2010-15 Wet Utility Infrastructure (JOC), City of Scottsdale - \$11M
- Camelback Core Water Improvements (CMAR), City of Phoenix - \$6.4M

Professional Training

- CPR and First Aid Certified
- Alliance for Construction Excellence - Partners In Construction Industry
- Alliance for Construction Excellence - BIM Training
- AutoBid Mechanical Training

EXPERIENCE • 2 Years with Achen-Gardner • 6 Years in the Industry
• 12 APDM Projects Completed

EDUCATION • Bachelor of Science, Civil Engineering, San Diego State University



Abby Goode

PROJECT ENGINEER

Abby has more than six years of industry experience as a Project Engineer and Estimator. In that time she has provided many critical services in support of projects ranging from \$1M to \$42M. Among her many duties, Abby has:

- Issued letters informing owner and subcontractor of potential delays and impacts.
- Priced change order work, force account analysis, and estimates.
- Performed takeoffs from bid and followed through until the end of construction.
- Attended high level owner-contractor meetings.
- Provided weekly project schedules.
- Coordinated traffic control implementation and removal.
- Approved payment for invoices, payroll, and change orders.
- Processed all payroll corrections and issued correction checks.
- Obtained quotes for bids and provided cost analysis comparisons.
- Wrote award applications for both state and national awards.

Comparable CMAR Project Experience

BOULDERS FORCE MAIN & LIFT STATION / Liberty Utilities / CMAR

Project Description: This project was located within the City of Scottsdale, Town of Carefree, and the Boulders Resort and Spa. Total quantities included: 12,100 LF of 6" PVC sewer force main, 1,100 LF of 6" DIP sewer force main, 4,400 square yards of pavement replacement, 33,000 square yards of asphalt slurry seal coat, and a new sewer lift station.

Abby's Role: Project Engineer **Construction Cost:** Original: \$5.3M and Final: \$5.3M

Project Owner/References: Liberty Utilities / Matthew Garlick, Liberty Utilities AZ and TX President, 602.757.2821, matthew.garlick@libertyutilities.com; Andrea Kagie, Wood (Designer) Senior Engineer, 602.733.6149, andrea.kagie@woodplc.com

WATERLINE REPLACEMENT: BRENTWOOD MANOR & ROYAL PALMS / City of Tempe / CMAR

Project Description: This multi-phased project included approximately 8.8 miles of 4", 6", 8", and 12" waterline replacements throughout two neighborhoods and along two high-volume arterial streets (Rural Rd. and Southern Ave.) Work also included service connections, fire hydrants, other appurtenances, sidewalks, curbs, gutters, pavement replacement, etc.

Abby's Role: Project Engineer **Construction Cost:** Original: \$10.7M, Final: \$10.7M

Project Owner/References: City of Tempe (COT) / Jerome Guzman, COT Engineering Associate, 480.350.8413; Ryan Williams, CWCE Construction Inspector, 480.415.3742

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ARIZONA: 261745 A, 261746 B-1, 261747 B-4 | COLORADO: 20101257887 | NEW MEXICO: 365027



Additional Project Experience (CONTINUED)

- Underground Utility Construction and Water-Wastewater Imps (JOC), City of Tempe - \$5.3M
- Tempe Streetcar, Wet Utility Construction (CMAR Subcontractor), Valley Metro - \$1M
- SROG Salt River Outfall Interceptor Rehabilitation (CMAR), City of Phoenix - \$10M
- Bell Road Interchange (Design-Build), ADOT - \$42M
- Buckeye Flood Control Structure Rehab (CMAR), Maricopa County Flood Control District - \$24M
- Maryland Avenue HOV Ramp (Design-Build), ADOT - \$12M

Certifications/Professional Training

- Traffic Control Supervisor – Arizona (state specific)
- CPR and First Aid Certification
- Erosion Control Coordinator Training
- Safe Zone Training
- Confined Space Training

EXPERIENCE • 6 Years with Achen-Gardner • 37 Years in the Industry
• 45 APDM Projects Completed
EDUCATION • Bachelor of Science, University of Wyoming



Ken Kawamoto, VMA

PRE-CONSTRUCTION SERVICES MANAGER

Ken has been actively involved in the Arizona construction industry since 1984 and has acquired an extensive background in earth moving, grading, underground utility installation, water and wastewater treatment plant construction, process mechanical equipment and piping systems installation, and general civil improvements. For more than 15 years Ken has served in both pre-construction and construction phase Project Manager roles and has participated in more than \$100M worth of CMAR, JOC, and DB construction projects.

Comparable CMAR Project Experience

FIESTA TECH SEWER & LIFT STATION / Town of Gilbert / CMAR

Project Description: This multi-phased (two GMPs) project consisted of wet utility improvements in and around the Fiesta Tech business center. All work required extensive business and residential coordination.

GMP 1: Achen-Gardner installed 3,481 LF of water lines (12") and eight valves (12").

GMP 2: Achen-Gardner installed 10,816 LF of 6" force main, 106 LF of 14" force main that was jack and bored under the UPRR, 1,982 LF of 12" gravity sewer, 367 LF of new 12" DIP water lines, and a new 0.56 MGD lift station. We also tied into existing sewer and water services for local businesses.

Brian's Role: Project Manager **Construction Cost:** Original: \$5.4M and Final: \$5.5M (Owner-Added Scope)

Project Owner/References: Town of Gilbert / Aaron Kaminski, Town of Gilbert Water Department, 480.266.6370, aaron.kaminski@gilbertaz.gov; Ricky Holston, Sunrise Engineering (Designer) Project Manager, 480.768.8600, rholston@sunrise-eng.com

BOULDERS FORCE MAIN & LIFT STATION / Liberty Utilities / CMAR

Project Description: This project was located within the City of Scottsdale, Town of Carefree, and the Boulders Resort and Spa. Total quantities included: 12,100 LF of 6" PVC sewer force main, 1,100 LF of 6" DIP sewer force main, 4,400 square yards of pavement replacement, 33,000 square yards of asphalt slurry seal coat, and a new sewer lift station.

Brian's Role: Project Manager **Construction Cost:** Original: \$5.3M and Final: \$5.3M

Project Owner/References: Liberty Utilities / Matthew Garlick, Liberty Utilities AZ and TX President, 602.757.2821, matthew.garlick@libertyutilities.com; Andrea Kagie, Wood (Designer) Senior Engineer, 602.733.6149, andrea.kagie@woodplc.com

Additional Project Experience

- Scenario 16B Transmission Main Improvements (CMAR), City of Phoenix - \$10M
- Morenci Townsite Sewer Repairs (CMAR), Freeport McMoRan - \$175K
- Salt River Siphon Repair (DB), Central Arizona Water Conservation District - \$6.1M
- Link Pipeline Repair and Mitigation (DB), Ak-Chin Indian Community - \$2.1M
- Price Road Utility Relocations (CMAR), City of Chandler - \$4.9M

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ARIZONA: 261745 A, 261746 B-1, 261747 B-4 | COLORADO: 20101257887 | NEW MEXICO: 365027



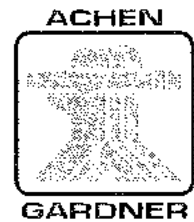
Additional Project Experience (CONTINUED)

- Broadway Road Improvements (DBB), City of Tempe - \$4.4M
- Val Vista Transmission Main Rehabilitation (CMAR), City of Phoenix - \$18.5M
- Water Transmission Main Inspection and Assessment (CMAR), City of Phoenix - \$4.5M
- Scenario 16A Transmission Main Rehabilitation (CMAR), City of Phoenix - \$17.8M
- Hayden & Thunderbird Roads Waterline Replacements (CMAR), City of Scottsdale - \$4.3M
- Water Utility Pipeline and Infrastructure (JOC), City of Buckeye - \$5.7M
- Kyrene Road Extension (DBB), Lone Butte Development Corp./
Gila River Indian Community - \$0.7M
- OWRF/AWRF Lift Station and Sanitary Sewer (CMAR), City of Chandler - \$22.9M
- Sundance Arsenic Treatment Facility (CMAR), City of Buckeye - \$9.M
- JGM Water Treatment Facility Upgrades (CMAR), City of Tempe - \$43.2M
- Miscellaneous Horizontal (JOC), City of Tempe - \$2.2M
- Water Utilities Security Upgrades (CMAR), City of Tempe - \$5.8M
- Rio Salado Project - 3 Phases (DBB), City of Phoenix - \$2M
- Green Valley WWTP (DBB) City of Green Valley - \$7.6M
- 23rd Avenue Odor Control Improvements (DBB) City of Phoenix - \$1.2M
- Ocotillo Recharge Facility ASR Well Expansion (DBB), City of Chandler - \$4.6M
- Pumping Plant Trashrake Replacement Bouse Hills/Little Harquahala Pumping Stations
(CMAR), Central Arizona Project - \$2M

Professional Training

- SAVE International Value Methodology Associate
- National Envision Sustainability Professional
- Nationally Registered STS-C Safety Supervisor
- ACE CMAR Training
- Maricopa County AQD Dust Control Coordinator
- CPR/First Aid/AED Certified
- 30-hour OSHA Construction Health and Safety Class

EXPERIENCE • 6 Years with Achen-Gardner • 15 Years in the Industry
• 6 APDM Projects Completed



Jason DeCarlo

DIRECTOR OF PIPELINE REHABILITATION

Jason has a strong background in construction management, construction techniques, field operations, and estimating. He has been a project manager, project superintendent, or pipe superintendent on more than 100 projects. His direct involvement and supervision of field personnel has enabled him to successfully complete projects on time and within budget. As the Director of Pipeline Rehabilitation, Jason will leverage his extensive experience managing similar wet utility infrastructure projects, UV CIPP operations, and other complex pipeline rehabilitation projects.

Comparable Project Experience

2017-21 WASTEWATER CONVEYANCE / Pima County RWRD / JOC

Project Description: This project involves the repair/upgrade of existing facilities by varying methods. Total quantities to date: 34 excavation point repairs, 410 LF of new sanitary sewer pipe, 1,036 LF of pipe removal and replacement, 41,254 LF of ultraviolet light cured-in-place-pipe, 20 manhole adjustments, 13 manhole rehabs, 15 new manholes, 22 UV point repairs, 2,452 SY of pavement, and various structures.

Jason's Role: Project Manager **Construction Cost:** Original: \$8.7M and Final: \$8.7M (85 Job Orders to Date)

Project Owner/References: Pima County / Shawn Tillson, Pima County Project Manager, 520.419.8548, shawn.tillson@pima.gov; David Badger, Pima County Project Manager, 520.724.3470, david.badger@pima.gov

TWIN PEAKS-BLUE BONNET ROAD GRAVITY SEWER / Pima County RWRD / DB

Project Description: This multi-phased project will install a gravity sewer line near the Twin Peaks Road/Blue Bonnet Road alignment in order to connect future developments to the gravity sewer system. The line will extend north to the PCRWRD Tangerine Pump Station. Significant coordination with PCRWRD, private developers, and stakeholders is required, and the project follows a strict schedule in order to facilitate the construction of planned developments. Quantities for the first phase of construction included 7,181 LF of 15" gravity sewer, 12 concrete manholes, and one polymer junction manhole.

Jason's Role: Area Manager **Construction Cost:** Original: \$8.7M and Final: \$8.7M (85 Job Orders to Date)

Project Owner/References: Pima County / David Badger, Pima County Project Manager, 520.724.3470, david.badger@pima.gov; Carrie Coté, EEC (Designer) Project Manager, 602.451.9932, ccote@eecphx.com

Additional Project Experience

- North Rillito Interceptor Relief Sewer (DBB), Pima County - \$2.4M
- Morenci Townsite Sewer Repairs (CMAR), Freeport McMoRan - \$175K
- 2013-17 Wastewater Conveyance Job Order Master Agreement (JOC), Pima County - \$28.2M
- 2012 Wastewater Conveyance (JOC), Pima County - \$2.4M
- Sanitary Sewer Collection System Rehabilitation Program / CMAR / City of Tempe / \$1M
- Sanitary Sewer Rehabilitation / DBB / Town of Fountain Hills / \$0.5M
- Kortsen Road Sewer Reconstruction / CMAR / City of Casa Grande / \$0.2M
- Wilmont Road and Interstate 10 Manhole Rehab (DBB), Pima County - \$1M

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ARIZONA: 261745 A, 261746 B-1, 261747 B-4 | COLORADO: 20101257887 | NEW MEXICO: 365027



Additional Project Experience

- Sanitary Sewer CIPP - 22nd-Congress & Osborn-Toole (DBB), Pima County - \$330,000
- Sanitary Sewer CIPP - Helen-Elm & 6th-1st (DBB), Pima County - \$500,000
- McCartney Center Development (DBB), Turner-Dunn Development - \$10M
- Peart Road Improvements (DBB), City of Casa Grande - \$3.5M
- Ash Avenue and Schultz Street Improvements (DBB), City of Casa Grande - \$1.5M
- Peters Road Imps at Santa Cruz Wash and Milligan Road Imps (DBB), Pinal County - \$1M
- Signal Peak Road, From Woodruff Road to Val Vista Road (DBB), Pinal County - \$1.5M
- Daisy Brand Commerical Plant Infrastructure (DBB), Dennis Group - \$11M
- Central Arizona Commerce Park Infrastructure (DBB), GSS Group - \$3.5M
- Valero Off-Site Improvements (DBB), SMP Development/City Of Casa Grande - \$1.5M
- Corner Stone Crossing Off-Site Improvements (DBB), ADOT - \$1.5M
- Casa Grande Union High School Transportation Facility (DBB), Sundt Corp - \$1.5M
- Commons at Palm Creek Infrastructure (DBB), Esi Corp - \$ 2.5M
- Diamond Plastics Pipe Plant (DBB), GSS Group - \$ 2M
- Dominion Creek Infrastructure (DBB), Royce Builders - \$ 3M
- Esperanza Residential Subdivision Infrastructure (DBB), Landdev Corp - \$4M
- Tuscany of Casa Grande (DBB), Worley Group - \$3.5M

Professional Training

- 30-hour OSHA Construction Health and Safety Class, July 2014
- NASSCO Certification Program
- Certified in First Aid and CPR, July 2012
- OSHA Excavation and Competent Person Awareness Training, July 2012
- Confined Space Training, 2009

EXHIBIT G
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
CITY OF AVONDALE
AND
ACHEN GARDNER

[Subcontractor Selection Program]

See following pages.

EXHIBIT H
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
CITY OF AVONDALE
AND
ACHEN GARDNER

[Traffic Control/Construction Sequencing]

See following pages.

EXHIBIT I
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
CITY OF AVONDALE
AND
ACHEN GARDNER

[Allowable General Conditions Cost Line Items]

See following pages.

ALLOWABLE GENERAL CONDITIONS COST LINE ITEMS

On-Site Project Management Staff

Safety Coordinator/Assistant(s)
Project Executive
Office Engineer(s)
Project Expeditor(s)
Assistant Superintendent(s)

CPM Scheduler
Superintendent(s)
Project Manager(s)
Project Support Staff
Out-of-State Project Specific Travel*

Bonds and Insurance

Builder's Risk Insurance
General Liability Insurance
Payment and Performance Bonds
Other Project Insurance as Required by Contract

Temporary Project Utilities

Non-LEED Recycling Dumpsters
Project Electricity
Monthly Telephone / Internet Service
Street Rental and Barricades
Fencing and Covered Walkways
Site Erosion Control (BMP) and Project Entrance(s)

Temporary Toilets
Temporary Fire Protection
Telephone / Internet System Installation
Temporary Water Distribution and Meters
Temporary Electrical Distribution and Meters
Project Water, Ice and Supplements to Prevent Dehydration

Field Offices & Office Supplies

Partnering Costs
Job Photos/Videos
Project Specific Signage
Postage/Special Shipping
Project/As-Built (Record) Drawings
Project Milestone Event(s)*
Move-In/Out and Office Setup
Employee Identification System
Small Tools and Storage Trailers
Monthly Office Trailer Rental Costs
Mobilization and Demobilization (Equipment Only)

First Aid Supplies
Reproduction Services
Monthly Office Supplies
Remote Parking Expenses
Project Reference Manuals
Security System/Watchman
Safety Material and Equipment
Drinking Water and Accessories (Including Ice)
Office Clean-Up/Janitorial Services
Field Engineering

- * Specific justification and all estimated costs shall be submitted and approved by the City prior to any travel or event.

EXHIBIT J
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
CITY OF AVONDALE
AND
ACHEN GARDNER

[Pre-Construction Cost Summary]

See following pages.



Emailed: 5-14-19
mnavabi@avondaleaz.gov (Michael Navabi)

May 14, 2019

City of Avondale
Public Works Engineering Department
399 East Lower Buckeye Road
Avondale, AZ 85323

Attn: Michael Navabi P.E., Project Manager

Re: Sewer Repair and Design CM@R (PW19-015)

Subj: Achen-Gardner Pre-Construction Phase Proposal

Dear Mr. Navabi:

Achen-Gardner Construction, LLC (Achen-Gardner) respectfully submits for your review and approval our Pre-Construction Services Proposal (Proposal) for the referenced project. We propose to perform the scope and services detailed and qualified herein, for the **not-to-exceed amount of \$76,796.70** as summarized as follows:

• Base Hourly Pre-Construction Services (Project 1) =	\$39,069.40
• Allowances and Reimbursables (Project 1) =	\$ 6,500.00
Subtotal Project 1 =	\$45,569.40
• Base Hourly Pre-Construction Services (Project 2) =	\$30,027.30
• Allowances & Reimbursables (Project 2) =	\$ 1,200.00
Subtotal Project 2 =	\$31,227.30

Included with this document you will find the following proposal components:

- Attachment 1.1: Project 1 Pre-Construction Phase CMAR Scope and Estimate dated 5-14-2019
- Attachment 1.2: Project 2 Pre-Construction Phase CMAR Scope and Estimate dated 5-14-2019
- Attachment 2: Rate Summary
- Attachment 3: Achen-Gardner Proposal Qualifications dated 5-14-19
- Attachment 4: MakPro Services Proposal dated 3-15-19

Please feel free to contact me with any questions or comments. We are looking forward to working with the City of Avondale on this project.

Sincerely;
ACHEN-GARDNER CONSTRUCTION, LLC

Brian Froelich, Project Manager
Attachments
Cc: Project/DS/KK/

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550 SOUTH 79TH STREET | CHANDLER, AZ 85226 | P: 480.940.1300 | P: 800.560.5548 | F: 480.940.4576

ARIZONA: 261745 A, 261746 B-1, 261747 B-4 | COLORADO: 20101257B87 | NEW MEXICO: 365027

Achen-Gardner Construction, LLC 550 South 79th Street Chandler, AZ 85226-4706 Office: 480-940-1300 / Fax: 480-940-4576 PROJECT: Sewer Repair and Design Services-Protect 1-Dysart Road Sewer ACHEN-GARDNER PROJECT NO: 3773100										CITY OF AVONDALE PRE-CONSTRUCTION PHASE SERVICES ESTIMATE Attachment 1.1 Date: 5/14/2019 Revision: 1									
PROJECT SCOPE ESTIMATE (Estimated Duration = 4 Mos.) Cost Type (See Note 4) Unit Rate Total (\$/HR)																			
ACHEN-GARDNER HOURLY SERVICES																			
1	Program Estimate, Evaluation and Report	2.2.A	1 EA	2.00	4.00	4.00	2.00	2.00	2.00	18.00									2,951.00
2	Data Collection/Flow Estimation Support (Support PEC)	2.2.B	1 EA	2.00	4.00	4.00	2.00	2.00	2.00	4.00									2,496.20
3	Flow Bypass Design and Evaluation (Flow Cakes or Meter Data by Others)	2.2.B	1 EA	2.00	4.00	4.00	2.00	2.00	2.00	4.00									2,496.20
4	Alternative Systems Evaluations (Bursting vs Open Trench; Manhole System Options)	2.2.B	1 EA	6.00	8.00	8.00	2.00	2.00	2.00	8.00									3,506.20
5	Pipe Zone Soil Investigations	2.2.B	1 EA	2.00	4.00	4.00	2.00	2.00	2.00	4.00									1,609.80
6	Prepare Bypass Pumping/Hauling Plans	2.2.B	1 EA	4.00	6.00	6.00	2.00	2.00	2.00	4.00									2,564.40
7	Design Document Reviews (Constructability & Bidability) (60% / 100%) (2ea)	2.2.B/C	2 EA	4.00	4.00	4.00	2.00	2.00	2.00	4.00									2,640.80
8	Value Analysis and Report	2.2.E	1 EA	4.00	2.00	2.00	2.00	2.00	2.00	2.00									1,045.00
9	Meeting Preparations and Post Meeting Follow Up (8 ea)	2.3	8 EA	8.00	8.00	8.00	2.00	2.00	2.00	8.00									2,024.00
10	Monthly Team Meetings (4 Mo x 1 / Mo = 4 @ 2 hrs / ea)	2.3	4 EA	8.00	8.00	8.00	2.00	2.00	2.00	8.00									3,172.00
11	Special Project Meetings (4 Mo x 1 / Mo = 4 @ 2 hrs / ea)	2.3	4 EA	8.00	8.00	8.00	2.00	2.00	2.00	8.00									3,172.00
12	Misc Site Visits (2 ea @ 4 hrs / ea)	2.3	2 EA	4.00	8.00	8.00	2.00	2.00	2.00	4.00									2,766.00
13	Construction Management Plan and Updates	2.3.B	EXC1																2,814.00
14	Project Master Schedule Orig. & Phased Updates (60%, 100%, GMP 1) (2 ea)	2.3.C	2 EA	2.00	4.00	4.00	2.00	2.00	2.00	4.00									1,841.00
15	Cost Model / Preliminary Estimate (60%) (1ea)	2.3.D	1 EA	6.00	6.00	6.00	2.00	2.00	2.00	4.00									6,421.40
16	GMP Proposal (Final Documents) (1ea)	2.3.D	1 EA	4.00	6.00	6.00	2.00	2.00	2.00	4.00									8,160.40
17	Review and Approval of GMP Proposal (Re: Included in Other Proposal Items)	2.3.D	Incl.																-
18	Sub and Supplier Selection (Re: Cost Model / Preliminary Estimate, and GMP Proposal)	2.3.G	Incl.																-
19	Utility Designation / Coordination / Review	Misc.	Incl.																-
20	Monthly Management, Clerical & Administrative	Misc.	1 EA	8.00	16.00	16.00	4.00	4.00	4.00	6.00									3,423.60
21	Credit (Concurrent Services with Project 2)	Misc.	1 EA	(12.00)	(20.00)	(20.00)	(4.00)	(4.00)	(4.00)	(20.00)									(8,387.20)
SUBTOTAL (1) = Achen-Gardner Hourly Services =										58.00	76.00	76.00	12.00	26.00	26.00	132.00	4.00	8.00	39,069.40
TOTAL BASIC SERVICES HOURS (HRS)										58.00	76.00	76.00	12.00	26.00	26.00	132.00	4.00	8.00	12.00
SUBTOTAL - BASIC SERVICES TOTAL (\$'s)										\$8,710.60	\$8,793.20	\$8,793.20	\$984.00	\$3,135.60	\$3,214.80	\$14,552.00	\$513.20	\$515.20	\$520.80
ALLOWANCES / REIMBURSABLES:																			
22	Sub-Consultant - MakPro Services (Proposal Dated 3-18-18)											9.24%	10.80%	1.70%	3.89%	18.75%	5.57%	1.14%	1.70%
TOTAL - PRECONSTRUCTION PHASE SERVICES (Excludes Sales Tax)										\$8,710.60	\$8,793.20	\$8,793.20	\$984.00	\$3,135.60	\$3,214.80	\$14,552.00	\$513.20	\$515.20	\$520.80
SUBTOTAL - ALLOWANCES / REIMBURSABLES (\$'s)																			
TOTAL - PRECONSTRUCTION PHASE SERVICES (Excludes Sales Tax)																			

Brian Froelich, Project Manager
 Date: 5/14/19

Achen-Gardner Construction, LLC

550 South 79th Street
Chandler, AZ 85226-4706
Office: 480-940-1300 / Fax: 480-940-4576

PROJECT: Sewer Repair and Design Services-Project 2-4th Avenue Sewer

ACHEN-GARDNER PROJECT NO: 3773100

CITY OF AVONDALE PRE-CONSTRUCTION PHASE SERVICES ESTIMATE

Attachment 1.2

Date: 5/14/2019
Revision: 1

Task No.	PROJECT SCOPE ESTIMATE (Estimated Duration = 3 Mos.)											
	Contract Article	QTY	PCM	PM	PE	PS	GS	SE	CE	PA	AA	TOTAL
			\$115.70	\$115.70	\$82.00	\$720.60	\$124.80	\$111.00	\$128.30	\$64.40	\$43.40	
ACHEN-GARDNER HOURLY SERVICES												
1	Program Estimate, Evaluation and Report	2.2.A	1 EA	2.00	4.00	2.00	4.00	8.00	1.00		1.00	\$ 2,494.30
2	Data Collection/Flow Estimation Support (Support PEC/Western Technologies)	2.2.B	1 EA	2.00	4.00	2.00	4.00	8.00				\$ 2,496.20
3	Flow Bypass Design and Evaluation (Flow Calcs or Meter Data by Others)	2.2.B	1 EA									\$ -
4	Alternative Systems Evaluations (UV CIPP or Spiral PVC)	2.2.B	1 EA	6.00	2.00		4.00	8.00				\$ 2,312.80
5	Not Used	NA	NA									
6	Prepare Bypass Pumping/Hauling Plans	2.2.B	1 EA	4.00	6.00	4.00	2.00	4.00			1.00	\$ 2,376.40
7	Design Document Reviews (Constructability & Blotability) (60% / 100%) (2ms)	2.2.B/C	2 EA	4.00	4.00	2.00	4.00	8.00			2.00	\$ 2,640.80
8	Value Analysis and Report	2.2.E	1 EA	4.00	2.00	2.00	4.00	2.00			2.00	\$ 1,003.00
9	Meeting Preparations and Post Meeting Follow Up (6 ea)	2.3	6 EA	8.00	6.00	2.00	2.00	4.00			3.00	\$ 1,518.60
10	Monthly Team Meetings (3 Mo x 1 / Mo = 3 @ 2 hrs / ea)	2.3	3 EA	6.00	6.00	2.00	2.00	4.00				\$ 2,487.20
11	Special Project Meetings (3 Mo x 1 / Mo = 3 @ 2 hrs / ea)	2.3	3 EA	6.00	6.00	2.00	2.00	4.00				\$ 2,082.00
12	Misc Site Visits (2 ea @ 4 hrs / ea)	2.3	2 EA	4.00	8.00	4.00	4.00	4.00				\$ 2,614.00
13	Construction Management Plan and Updates (3 ea) (Excluded)	2.3.B	EXCL									\$ -
14	Project Master Schedule Orig. & Phased Updates (60% / 100% GMP) (2 ea)	2.3.C	2 EA	2.00	8.00	2.00	2.00	36.00	2.00		2.00	\$ 5,977.40
15	Cost Model / Preliminary Estimate (60% / 100%) (1ea)	2.3.D	1 EA	4.00	6.00		2.00	40.00	2.00		2.00	\$ 5,940.40
16	GMP Proposal (Final Documents) (1ea)	2.3.D	1 EA	4.00	6.00							\$ -
17	Review and Approval of GMP Proposal (Rt: Included in Other Proposal Items)	2.3.D	Incl									\$ -
18	Sub and Supplier Selection (Rt: Cost Model / Preliminary Estimate, and GMP Proposal)	2.3.G	Incl.									\$ -
19	Utility Designation / Coordination / Review	Misc.	Incl.									\$ -
20	Monthly Management, Clerical & Administrative	Misc.	1 EA	6.00	12.00					6.00	6.00	\$ 2,729.40
21	Credit (Concurrent Services with Project 1)	Misc.	1 EA	(18.00)	(20.00)	(2.00)	(8.00)	(20.00)		(4.00)	(4.00)	\$ (8,676.20)
	SUBTOTAL (1) = Achen-Gardner Hourly Services =			44.00	96.00	12.00	18.00	22.00	98.00	5.00	15.00	\$ 30,027.30

5/14/19
Date

Brian Froelich, Project Manager

Attachment 3: Proposal Qualifications dated 5-14-19 (Page 1/3)

Sewer Repair and Design Construction Manager at Risk (CMAR)

Pre-Construction Services Proposal

City of Avondale Project No. PW 19-015

Achen-Gardner Project No. 3773100

List of Documents – Proposal is based on the following documents included by reference and as qualified here in.

City of Avondale RFQ and any Addendums.

Achen-Gardner's SOQ dated 2-20-19 (including Subcontractor/Supplier Selection Plan).

City of Avondale Exhibit B/Construction Manager at Risk Sample Agreement as included with the Project RFQ package dated 1-23-19.

Achen-Gardner Pre-Construction Services Proposal dated 5-14-19.

Draft Pre-Construction Agreement Qualifications – Proposal is based on the following clarifications.

Re: Article 2 – Article 2.1 Environmental Investigation. Achen-Gardner excludes any services associated with this Article.

Re: Article 2 – Article 2.3.C Schedule Development. The Project Schedule and the subsequent updates will not require resource, manpower nor cash flow loading.

Re: Article 3 – Guaranteed Maximum Price Proposal – Article 3.3.A.8. Delete rates and replace with "TBD". Achen-Gardner acknowledges that rates for insurance and bond will be required. Final rates to be negotiated during the preliminary estimate and final GMP negotiations.

Re: Article 3 – Guaranteed Maximum Price Proposal - Article 3.4. Achen-Gardner acknowledges and accepts the rates as set forth for Profit and Overhead fee structure and calculations.

Schedule qualifications – Proposal is based on following Attachment 3 clarifications.

- 1) CMAR has assumed a 4-month Pre-Construction Services duration starting approximately April 1, 2019 and extending through July 2019. Should extensions occur, hourly rates are subject to possible inflationary increases after 12-31-19. This 4-month duration assumes the delivery of a two GMPs, one for Project 1 and one for Project 2.
- 2) Proposal assumes that PEC (design engineering firm) will be under contract with the City of Avondale approximately April 19, 2019 and that design deliverables for both Project 1 and Project 2 will occur thereafter.

Attachment 3: Proposal Qualifications dated 3-20-19 (Page 2/3)
Sewer Repair and Design Construction Manager at Risk (CMAR)
Pre-Construction Services Proposal
City of Avondale Project No. PW 19-015
Achen-Gardner Project No. 3773100

Scope Clarifications - Proposal is based on following scope clarifications

- 3) Re: Task Descriptions – Descriptions, Spec Section References, and Quantities shall serve to qualify the assumed scope of services.
- 4) Re: Task 2– CMAR excludes flow metering or modeling of existing flow (to be done by others). CMAR will assist with flow evaluations and will provide field support for opening sewer manholes and performing visual flow assessments to aid in development of final flow management plan.
- 5) Re: Task 3 – CMAR will use estimated flow data to evaluate bypass design options which may include pumping and/or "hold/haul" options using sewage tanker trucks.
- 6) Re: Task 5 – CMAR will work with the City and PEC to evaluate existing pipe zone material/conditions relative to suitability for pipe bursting operations.
- 7) Re: Task 6 – CMAR will detail routes and flow rates for various bypass or sewage hauling options as part of the bypass plan.
- 8) Re: Task 13 – A formal CMP is excluded. However, CMAR will endeavor to organize and house the Project's associated CMAR deliverable in a format that will satisfy CMP's documentation requirement as it relates to organizing deliverables and reports in such a way that the Project team can easily refer to these as required during construction.
- 9) Re: Task 18 – CMAR assumes that two GMPs will be developed utilizing the Subcontractor/Supplier Selection Plan outlined in the SOQ based on 100% Plans.
- 10) Re: Video Inspections – CMAR excludes performance of video inspections of sewer lines in our scope. This proposal does include reviews of inspections performed by others.
- 11) Re: UPRR Crossing Permits and Costs – CMAR will collaborate with the City and PEC to acquire the necessary permits to allow associated investigation in the UPRR ROW (as required). Proposal excludes associated UPRR Permit, flagger fees, and additional insurance requirements.

Attachment 3: Proposal Qualifications dated 5-14-19 (Page 3/3)
Sewer Repair and Design Construction Manager at Risk (CMAR)
Pre-Construction Services Proposal
City of Avondale Project No. PW 19-015
Achen-Gardner Project No. 3773100

- 12) Re: Meeting Minutes – CMAR excludes development of regular design coordination meeting minutes. It does include developing meeting minutes for any special meetings it will be scheduling and taking a lead on.
- 13) Re: Markups and Fees – All proposed Hourly Rates (re: Attachments 1.1 and 1.2) include a 10% fee and excludes sales tax, bond, and insurance. The Allowance excludes fee, sales tax, bond, and insurance.



ATTACHMENT 4

MakPro Services, LLC
2036 N. Gentry • Mesa, AZ 85213

Office: 480-890-1927
Fax: 480-964-7555
Email: teresa@makprosvc.com

March 15, 2019

Mr. Ken Kawamoto
Achen-Gardner Engineering
550 S. 79th Street
Chandler, Arizona 85226

Dear Ken:

MakPro Services, LLC (MakPro) is pleased to provide the following proposal for public outreach services during pre-construction for the City of Avondale's Dysart Road Sewer Project and 4th Avenue Sewer Project.

The **Dysart Road Sewer Project** will install approximately 3000 LF of new sewer main/manholes and sewer bypass pumping will be needed. The majority of the work may be pipe bursting rather than open trench, but impacts to motorists, business access, and residents will occur. In addition, the work is near an area high school and will need to coordinate with City of Avondale special events. Design phase will be approximately 4 months, and construction phase about 3 months with some time for permitting.

The **4th Avenue Sewer Project** will rehabilitate approximately 160 LF of existing sewer line under MC85 and the UPRR right-of-way. There may be some minimal outreach needed to a couple of nearby property owners and possibly some assistance with ADOT and UPRR permitting. Design phase will be very short and construction will be approximately one week.

Public outreach is an important element in projects such as these that take place in major corridors and provides a link between the project and the community it impacts.

This scope of work for the public outreach effort is based on the information you provided, and our previous experience working together on similar projects. This cost estimate includes:

Dysart Road Sewer Project:

- **Notifications, scheduling, preparation and attendance at one public meeting** during design. 12 hrs for notifications and public meeting + \$800/postage & printing)
- **Miscellaneous meetings / coordination** for project (8 hrs)
- **Project meetings** (6 ea @ 2 hrs/each = 12 hrs)
- **Stakeholder outreach / Coordination** for project to include coordination with high school and special events (16 hrs)

Dysart Road Sewer Pre-Construction Services: 48 hrs X \$120/hr + \$740 = \$6,500

4th Avenue Sewer Project:

- **Stakeholder outreach / Coordination** for project (8 hrs)
- **Miscellaneous meetings / coordination** for project (2 hrs)

4th Avenue Sewer Pre-Construction Services: 10 hrs X \$120/hr = \$1,200

Mr. Ken Kawamoto, Achen-Gardner

March 15, 2019

Public Outreach Services for Pre-Construction – Avondale's Dysart Road & 4th Avenue Sewer Projects

This estimate includes incidental meeting preparation and facilitation, materials and equipment. Estimated hours include efficiencies across tasks, so elimination or adjustment of hours in individual tasks may require adjustment of hours in other associated tasks. **The estimated hours for this effort are identified in each task at an hourly labor rate of \$120/hr, along with any reimbursable costs associated with that task. The total project costs as identified above should not exceed \$6,500.00 for Dysart Sewer Pre-Construction Services, and \$1,200.00 for 4th Avenue Sewer Pre-construction Services.**

This estimate assumes any exhibits or renderings needed for stakeholder meetings or public outreach information will be provided by the City of Avondale or Achen-Gardner. MakPro is not responsible for project signage or traffic signage. Changes of substance to this proposal during the project may affect the final cost.

Thank you for the opportunity to work with you on this project! Should you have questions, need additional information, or wish to customize this proposal in some other way, please feel free to contact me at (480) 890-1927.

Sincerely,

Teresa Makinen

EXHIBIT K
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
CITY OF AVONDALE
AND
ACHEN GARDNER

[Performance Bond]

See following page.

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT, _____ (hereinafter called Principal), as Principal, and _____, a corporation organized and existing under the laws of the State of _____, with its principal office in the City of _____ (hereinafter called the Surety), as Surety, are held and firmly bound unto the City of Avondale (hereinafter called the Obligee) in the amount of _____ (Dollars) (\$ _____), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the Obligee, dated the _____ day of _____ 20____, for the material, service or construction described as _____ is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal faithfully performs and fulfills all of the undertakings, covenants, terms, conditions and agreements of the Contract during the original term of the Contract and any extension of the Contract, with or without notice to the Surety, and during the life of any guaranty required under the Contract, and also performs and fulfills all of the undertakings, covenants, terms, conditions and agreements of all duly authorized modifications of the Contract that may hereafter be made, notice of which modifications to the surety being hereby waived, the above obligation is void. Otherwise it remains in full force and effect.

PROVIDED, however, that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, to the extent as if it were copied at length in this agreement.

The prevailing party in a suit on this bond shall recover as part of the judgment reasonable attorney fees that may be fixed by a judge of the Court.

Witness our hands this _____ day of _____ 20____.

Principal Seal

By: _____

Surety Seal

By: _____

Agency of Record

EXHIBIT L
TO
CONSTRUCTION MANAGER
AT RISK AGREEMENT
BETWEEN
CITY OF AVONDALE
AND
ACHEN GARDNER

[Payment Bond]

See following page.

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT, _____ (hereinafter called Principal), as Principal, and _____, a corporation organized and existing under the laws of the State of _____, with its principal office in the City of _____ (hereinafter called the Surety), as Surety, are held and firmly bound unto the City of Avondale (hereinafter called the Oblige) in the amount of _____ (Dollars) (\$ _____), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the Oblige, dated the _____ day of _____ 20____, for the material, service or construction described as _____ which Contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal promptly pays all monies due to all persons supplying labor or materials to the Principal or the Principal's Subcontractors in the prosecution of the Work provided for in the Contract, this obligation is void. Otherwise it remains in full force and effect.

PROVIDED, however, that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions, conditions and limitations of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, to the same extent as if they were copied at length in this agreement.

The prevailing party in a suit on this bond shall recover as a part of the judgment reasonable attorney fees that may be fixed by a judge of the Court.

Witness our hands this _____ day of _____, 20____.

Principal Seal

By: _____

Surety Seal

By: _____

Agency of Record



CITY COUNCIL REPORT

SUBJECT: Cooperative Purchasing Agreement with The Home Depot for Maintenance, Repair, and Supplies

MEETING DATE: 7/22/2019

TO: Mayor and Council

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

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

PURPOSE:

City Council will consider a request to approve a Cooperative Purchasing Agreement (CPA) with The Home Depot for maintenance, repair, operating supplies, industrial supplies, and related products and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents. The Council will take the appropriate action.

BACKGROUND:

After a competitive procurement process, Maricopa County entered into contract No. 16154-RFP, dated January 11, 2017, with The Home Depot for maintenance, repair, operating supplies, industrial supplies, and related products. The initial term of the agreement expires December 31, 2021 and the County may renew the term of the contract for additional terms up to a maximum of five (5) additional years, (or at the County's sole discretion, extend the contract on a month-to-month basis for a maximum of six (6) months after expiration). The City is awarded the same term and renewal options.

DISCUSSION:

The City of Avondale has utilized The Home Depot for purchases of maintenance, repair, operating (MRO) supplies, industrial supplies, and related products since 1996. In 2016, Maricopa County, acting as the lead agency, solicited competitive proposals for (MRO) supplies, industrial supplies, and related products to be used by members of the Strategic Alliance for Volume Expenditures (SAVE) cooperative purchasing group on an "as needed" basis. The contract provides a rebate to of up to 5% on the City's annual net purchases.

BUDGET IMPACT:

There is no budget impact to the City.

RECOMMENDATION:

Staff recommends that the City Council approve a Cooperative Purchasing Agreement with The Home Depot for maintenance, repair, operating supplies, industrial supplies, and related products and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents and future amendments.

**COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
THE HOME DEPOT U.S.A., INC.**

THIS COOPERATIVE PURCHASING AGREEMENT (this “Agreement”) is entered into as of the last signature date as set forth below, between the City of Avondale, an Arizona municipal corporation (the “City”), and THE HOME DEPOT U.S.A, Inc., a Delaware corporation (the “Contractor”).

RECITALS

A. After a competitive procurement process, the County of Maricopa, Arizona (“Maricopa County”) entered into Contract No. 16154-RFP, dated January 11, 2017, (the “Maricopa County Contract”), for the Contractor to provide MAINTENANCE, REPAIR, OPERATING SUPPLIES, INDUSTRIAL SUPPLIES, AND RELATED PRODUCTS. A copy of the Maricopa County Contract is attached hereto as Exhibit A and incorporated herein by reference, to the extent not inconsistent with this Agreement.

B. The City is permitted, pursuant to Section 25-24 of the City Code, to purchase such services under the Maricopa County Contract, at its discretion and with the agreement of the awarded Contractor.

C. The City and the Contractor desire to enter into this Agreement for the purpose of (i) acknowledging their cooperative contractual relationship under the Maricopa County Contract and this Agreement, (ii) establishing the terms and conditions by which the Contractor may provide the City with materials and services, as more particularly set forth in Section 2 below on an “as-required” basis (the “Materials and Services”) and (iii) setting the maximum annual aggregate amount to be expended pursuant to this Agreement related to the Materials and Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and 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 City and the Contractor hereby agree as follows:

1. **Term of Agreement.**

1.1 **Initial Term.** This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until December 31, 2021 (the “Initial Term”), unless terminated as otherwise provided in this Agreement or the Maricopa County Contract.

1.2 **Renewal Terms.** After the expiration of the Initial Term, this Agreement may automatically renew for up to five successive one-year terms (each, a “Renewal Term”) so

long as the Maricopa County Contract has not been terminated and subject to availability and appropriation of funds for renewal in each subsequent year, unless the Contractor notifies the City in writing of its desire to terminate the Contract. If extended, the then-current prices shall be applicable during the subsequent Renewal Term unless the Contractor notifies the City in writing of any rate increase and the City approves the increase with an authorized signature, prior to the end of the then-current term. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

1.3 Non-Default. By consenting to a Renewal Term, Contractor shall be deemed to affirmatively assert that (i) the City is not currently in default, nor has been in default at any time prior to the Renewal Term, under any of the terms or conditions of the Agreement and (ii) any and all Contractor claims, known and unknown, relating to the Agreement and existing on or before the commencement date of the Renewal Term are forever waived.

2. Scope of Work. This is an indefinite quantity and indefinite delivery Agreement for Materials and Services under the terms and conditions of the Maricopa County Contract. The City does not guarantee any minimum or maximum number of purchases will be made pursuant to this Agreement. Purchases will only be made when the City identifies a need and proper authorization and documentation have been approved. For purchase(s) determined by the City to be appropriate for this Agreement, the Contractor shall provide the Materials and Services to the City in such quantities and configurations agreed upon between the parties, in a written invoice, quote, work order or other form of written agreement describing the work to be completed (each, a "Work Order"). Each Work Order shall (i) specially include the listed products ordered and will be tied to this Agreement and the Maricopa County Contract by way of using a properly registered form of payment in the Contractor's tracking system; and (ii) be attached hereto as Exhibit B and incorporated herein by reference. Contractor acknowledges and agrees that Work Order(s) that have been transacted containing unauthorized exceptions, conditions, limitations, or provisions in conflict with the terms of this Agreement (collectively, the "Unauthorized Conditions"), are hereby expressly declared void and shall be of no force and effect unless approved by the City buyer. Acceptance by the City of any Work Order or invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement or under the Maricopa County Contract shall not alter such terms and conditions or relieve Contractor from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement.

2.1 Inspection; Acceptance. All Materials and Services are subject to final inspection and acceptance by the City. Materials failing to conform to the requirements of this Agreement and/or the Maricopa County Contract will be held at Contractor's risk and may be returned to the Contractor consistent with the Contractor's 90-day return policy. If so returned, all costs are the responsibility of the Contractor consistent with the Contractor's 90-day return policy. Upon discovery of non-conforming Materials or Services, the City may elect to do any or all of the following by written notice to the Contractor: (i) waive the non-conformance; (ii) stop the work immediately; or (iii) return the order for a full refund in accordance with the Contractor's 90-day return policy.

2.2 Cancellation. The City reserves the right to cancel Work Orders within a reasonable period of time after issuance. Should a Work Order be canceled, the City agrees to reimburse the Contractor, but only for actual and documentable costs incurred by the Contractor due to and after issuance of the Work Order. The City will not reimburse the Contractor for any costs incurred after receipt of City notice of cancellation, or for lost profits, shipment of product prior to issuance of Work Order or for anything not expressly permitted pursuant to this Agreement.

3. Compensation. The City shall pay Contractor for the Initial Term and for each subsequent Renewal Term, if any, an annual amount not to exceed \$200,000.00 for Materials and Services at the unit rates set forth in the Maricopa County Contract which will be managed solely by the City.

4. Payments. Payment is at the time of transaction. For Home Depot Account transactions, the City shall pay the Contractor monthly, based upon acceptance and delivery of Materials and/or Services performed and completed to date, and upon submission and approval of invoices. Each invoice shall (i) have access to the information associated with this Agreement and the Maricopa County Contract and (ii) document and itemize all work completed to date. The invoice statement shall include a record of Materials delivered, time expended, and work performed in sufficient detail to justify payment. Additionally, invoices submitted without referencing this Agreement and the Maricopa County Contract will be subject to rejection and may be returned.

5. Safety Plan. Contractor shall provide the Services in accordance with a safety plan that is compliant with Occupational Safety and Health Administration, American National Standards Institute and National Institute for Occupational Safety and Health standards. If, in the Contractor's sole determination, the Services to be provided do not require a safety plan, Contractor shall notify the City, in writing, describing the reasons a safety plan is unnecessary. The City reserves the right to request a safety plan following such notification.

6. Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under Section 7 below, Contractor's and its subcontractors' books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Contractor and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City, to the extent necessary to adequately permit (i) evaluation and verification of any invoices, payments or claims based on Contractor's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (ii) evaluation of the Contractor's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in Section 7 below. To the extent necessary for the City to audit Records as set forth in this Section, Contractor and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the City to Contractor pursuant to this Agreement. Contractor and its

subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this Section. The City shall give Contractor or its subcontractors reasonable advance notice of intended audits. Contractor shall require its subcontractors to comply with the provisions of this Section by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

7. E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Contractor and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Contractor's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

8. Israel. Contractor certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

9. Conflict of Interest. This Agreement may be canceled by the City pursuant to ARIZ. REV. STAT. § 38-511.

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

11. Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the City's then current fiscal year. The City's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the City concerning budgeted purposes and appropriation of funds. Should the City elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the City shall be relieved of any subsequent obligation under this Agreement. The parties agree that the City has no obligation or duty of good faith to budget or appropriate the payment of the City's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The City shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The City shall keep Contractor informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. Contractor hereby waives any and all rights to bring any claim against the City from or relating in any way to the City's termination of this Agreement pursuant to this section.

12. Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, any amendments, any City-approved Work Orders, the Maricopa County Contract and invoices, the documents shall govern in the order listed herein.

13. Rights and Privileges. To the extent provided under the Maricopa County Contract, the City shall be afforded all of the rights and privileges afforded to Maricopa County and shall be the “Maricopa County” (as defined in the Maricopa County Contract) for the purposes of the portions of the Maricopa County Contract that are incorporated herein by reference.

14. Indemnification; Insurance. In addition to and in no way limiting the provisions set forth in Section 13 above, the City shall be afforded all of the insurance coverage and indemnifications afforded to Maricopa County to the extent provided under the Maricopa County Contract, and such insurance coverage and indemnifications shall inure and apply with equal effect to the City under this Agreement including, but not limited to, the Contractor’s obligation to provide the indemnification and insurance.

15. 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 below:

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

With copies to: City of Avondale
 11465 West Civic Center Drive
 Avondale, Arizona 85323
 Attn: Marsha Chavez, Senior Buyer

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

If to Contractor: Home Depot U.S.A., Inc.
 2455 Paces Ferry Road
 Atlanta, GA 30339
 Attn: Contract Administration

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (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.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“City”

CITY OF AVONDALE,
an Arizona municipal corporation

Charles A. Montoya, City Manager

ATTEST:

Marcella Carrillo, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2019, 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.

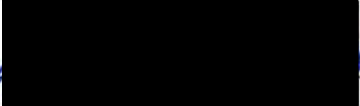
Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

"Contractor"

The Home Depot U.S.A., Inc.,
a Delaware corporation

By:  6/26/19

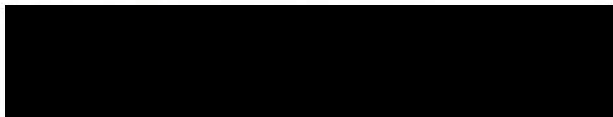
Name: Richard Nyberg

Title: Contracts Senior Manager

(ACKNOWLEDGMENT)

STATE OF Georgia)
) ss. 58-1853319
COUNTY OF Cobb)

On June 26, 2019, before me personally appeared _____
Richard Nyberg, the Contracts Senior Manager of Home Depot U.S.A., Inc.,
a(n) Delaware corporation, whose identity was proven to me on the basis of
satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she
signed the above document on behalf of the Home Depot U.S.A., Inc..


Notary Public

(Affix notary seal here)



EXHIBIT A
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
THE HOME DEPOT U.S.A., INC.

[Maricopa County Contract 16154-RFP]

See following pages.

EXHIBIT B
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
THE HOME DEPOT U.S.A, INC.

[Work Orders]

See following pages (to be attached subsequent to execution).



CITY COUNCIL REPORT

SUBJECT: Second Amendment to Cooperative Purchasing Agreement with Eaton Sales & Service, LLC for Fuel Tank Services

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Cindy Blackmore, Public Works Director, (623) 333-4410

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

PURPOSE:

City Council will consider a request to approve a Second Amendment to the Cooperative Purchasing Agreement with Eaton Sales & Service, LLC for petroleum storage tank repair, maintenance and installation increasing compensation by \$20,000 for a maximum aggregate not to exceed \$91,330.51 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

After a competitive procurement process, the State of Arizona entered into Contract No. ADSP016-109211, dated September 17, 2015 for the Eaton Sales & Service to provide the installation, repair and maintenance of petroleum storage tank systems. The State contract permits cooperative use by other governmental agencies including the City of Avondale.

The City and the Contractor entered into Cooperative Purchasing Agreement No. 14238C, dated November 16, 2015, based upon the State Contract, for the Contractor to provide the City with the installation, repair, and maintenance of petroleum storage tank systems with a maximum aggregate not to exceed amount of \$33,155.87. The Initial Agreement was amended once on May 8, 2017, to purchase additional materials and services and increase compensation by \$38,174.64 for a maximum aggregate not to exceed of \$71,330.51.

DISCUSSION:

The City owns and operates a full service fuel system with above ground storage tanks. The existing fuel pump system requires regular maintenance and repairs to ensure efficient operations and to protect the infrastructure. This amendment funds the replacement of two diesel and two gas pumps, the installation of sump pump sensors for each, two island card readers and start up dispensers. The sump pump sensors provide an important safety feature, alerting staff if gas or diesel is detected in the built in containment areas below the pumps. This amendment funds the infrastructure improvements as well as provides for ongoing routine and unexpected installation, maintenance and repairs services available under the contract from the vendor through the contract term of September 2020.

BUDGET IMPACT:

Purchases associated with this Agreement are typically charged to the following Fleet Services budget line items and are subject to annual budget authority:

606-5200-00-6320, Contractual Maintenance/Building & Grounds

606-5200-00-8060, Shop Equipment

606-5200-00-8230, Capital Outlay, Improve/Alter Existing Infrastructure

RECOMMENDATION:

Staff recommends that the City Council approve a Second Amendment to the Cooperative Purchasing Agreement with Eaton Sales & Service LLC for petroleum storage tank repair, maintenance and installation increasing compensation by \$20,000 for a maximum aggregate not to exceed \$91,330.51 and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents and amendments.

**SECOND AMENDMENT
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
EATON SALES & SERVICE LLC**

THIS SECOND AMENDMENT TO COOPERATIVE PURCHASING AGREEMENT (this "Second Amendment") is entered into as of July 22, 2019, between the City of Avondale, an Arizona municipal corporation (the "City"), and Eaton Sales & Service LLC, a Colorado limited liability company (the "Contractor").

RECITALS

A. The City and the Contractor entered into Cooperative Purchasing Agreement No. 14238C, dated November 16, 2015 (the "Agreement"), based upon the State Contract, for the Contractor to provide the City with the installation, repair, and maintenance of petroleum storage tank systems (the "Materials and Services").

C. The Initial Agreement was amended once on May 8, 2017, to purchase additional Materials and Services and increase Contractor's compensation (the "First Amendment"). The Initial Agreement and the First Amendment are collectively referred to herein as the "Agreement." All capitalized terms not otherwise defined in this Second Amendment have the same meanings as set forth in the Agreement.

D. The City has determined that additional Materials and Services by the Contractor are necessary (the "Additional Materials and Services").

E. The City and the Contractor desire to enter into this Second Amendment to provide for the increase in compensation to the Contractor for the Additional Materials and Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and 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 City and the Contractor hereby agree as follows:

1. Compensation. The City shall increase the compensation to Contractor by \$20,000.00, for the Additional Materials and Services at the rates set forth in the State Contract, resulting in (i) an increase of the aggregate not-to-exceed compensation from \$71,330.51 to \$91,330.51 and (ii) removing the annual not-to-exceed amount.

2. Effect of Amendment. The Agreement is affirmed and ratified and, except as expressly modified herein, all terms and conditions of the Agreement shall remain in full force and effect.

3. Non-Default. By executing this Second Amendment, the Contractor affirmatively asserts that (i) the City is not currently in default, nor has been in default at any time prior to this Second Amendment, under any of the terms or conditions of the Agreement and (ii) any and all Contractor claims, known and unknown, relating to the Agreement and existing on or before the date of this Second Amendment are forever waived.

4. Conflict of Interest. This Second Amendment and the Agreement may be canceled by the City pursuant to ARIZ. REV. STAT. § 38-511.

[SIGNATURES ON FOLLOWING PAGES]

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

“City”

CITY OF AVONDALE,
an Arizona municipal corporation

Charles A. Montoya, City Manager

ATTEST:

Marcella Carrillo, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2019, 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

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

"Contractor"

EATON SALES & SERVICE LLC,
a Colorado limited liability company

By: 

Name: Steve Turner

Title: Division Manager

(ACKNOWLEDGMENT)

STATE OF Arizona)
) ss.
COUNTY OF Maricopa)

On 2nd Day of July, 2019, before me personally appeared Steve Turner, the Division Manager of Eaton Sales & Service LLC a(n) Denver Colorado LLC, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the Eaton Sales & Service.


Notary Public

(Affix notary seal here)

Expires June 14, 2023



CITY COUNCIL REPORT

SUBJECT: Professional Services Agreement with GHD, Inc. for the Riley Lift Station Design

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Cindy Blackmore, Public Works Director, (623) 333-4410

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

PURPOSE:

City Council will consider a request to approve a Professional Service Agreement with GHD, Inc. to provide professional consulting and engineering services related to the design of the Riley Lift Station in the amount of \$74,795 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

The Riley Lift Station is a small package lift station located in the south sidewalk on Riley Drive and east of Dysart Road. (See Vicinity Map.) The lift station will be upgraded to meet current standards and relocated to the north side of Riley Drive. The overhead electric supply to the existing lift station will be removed to facilitate development of the property on the south side of Riley Drive. In addition, fiber will be brought in from Dysart Road for SCADA communications.

DISCUSSION:

On June 27, 2018 GHD, Inc. provided a statement of qualifications in response to the City's solicitation EN 18-111 and was selected for placement on the FY 2018-2019 Professional Consultants Selection list. Following the procurement process, GHD, Inc. was selected from the City's Professional Consultants Selection List due to their expertise with lift stations. The contract includes design services, post-design services and construction management oversight. The requested work will include the following:

- Project Management
- Data Collection
- Design Documents
- Construction Administration

The design phase of the project is expected to be complete in November 2019. The fee for the design services and providing design reviews and assistance during construction is \$74,795.

The property for the new lift station will need to be acquired. This action will be brought to Council at a later date.

BUDGET IMPACT:

Funds for this project are available in Capital Improvement Plan account 513-1391-00-8620, Relocate Riley Lift Station.

RECOMMENDATION:

Staff recommends that the City Council approve a Professional Service Agreement with GHD, Inc. to provide professional consulting and engineering services related to the design of the relocation of the Riley Lift Station in the amount of \$74,795 and authorize the Mayor, or City Manager and City Clerk to execute the contract documents.

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
GHD INC.**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of July 22, 2019, between the City of Avondale, an Arizona municipal corporation (the "City"), and GHD Inc., a(n) Arizona corporation (the "Consultant").

RECITALS

A. The City issued a Request for Qualifications, EN 18-111 "FY 2018/2019 Professional Consultants Selection List" (the "RFQ"), a copy of which is on file in the City Engineer's Office and incorporated herein by reference, seeking statements of qualifications from vendors for professional consulting services.

B. The Consultant responded to the RFQ by submitting a Statement of Qualifications (the "SOQ"), which is on file in the City Engineer's Office and which is incorporated herein by reference.

C. The City determined that the Consultant was eligible to be placed on the Professional Consultants On-Call List for "Water Distribution Systems" and the City desires to enter into an Agreement with the Consultant for professional consulting and engineering services related to the design of the relocation of the Riley Lift Station at Dysart Road and Riley Drive in Avondale, Arizona (the "Services").

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and 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 City and the Consultant hereby agree as follows:

1. Term of Agreement.

1.1 Initial Term. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until June 30, 2020 (the "Initial Term"), unless terminated as otherwise provided in this Agreement.

1.2 Non-Default. By requesting extension for a Renewal Term as set forth above, or by consenting to a Renewal Term in any manner, Consultant shall be deemed to affirmatively assert that (i) the City is not currently in default, nor has been in default at any time prior to the Renewal Term, under any of the terms or conditions of the Agreement and (ii) any and all Consultant claims, known and unknown, relating to the Agreement and existing on or before the commencement date of the Renewal Term are forever waived.

2. Scope of Work. Consultant shall provide the Services as set forth in the Scope of Work attached hereto as Exhibit A and incorporated herein by reference.
3. Compensation. The City shall pay Consultant an amount not to exceed \$74,795.00 for the Services at the rates set forth in the Fee Proposal attached hereto as Exhibit A and incorporated herein by reference.
4. Payments. The City shall pay the Consultant monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.
5. Safety Plan. Consultant shall provide the Services in accordance with a safety plan that is compliant with Occupational Safety and Health Administration ("OSHA"), American National Standards Institute and National Institute for Occupational Safety and Health standards. If, in the Consultant's sole determination, the Services to be provided do not require a safety plan, Consultant shall notify the City, in writing, describing the reasons a safety plan is unnecessary. The City reserves the right to request a safety plan following such notification.
6. Documents. All documents, including any intellectual property rights thereto, prepared and submitted to the City pursuant to this Agreement shall be the property of the City.
7. Consultant Personnel. Consultant shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Consultant agrees to assign specific individuals to key positions. If deemed qualified, the Consultant is encouraged to hire City residents to fill vacant positions at all levels. Consultant agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the City. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Consultant shall immediately notify the City of same and shall, subject to the concurrence of the City, replace such personnel with personnel possessing substantially equal ability and qualifications.
8. Inspection; Acceptance. All work shall be subject to inspection and acceptance by the City at reasonable times during Consultant's performance. The Consultant shall provide and maintain a self-inspection system that is acceptable to the City.
9. Licenses; Materials. Consultant shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Consultant. The City has no obligation to provide Consultant, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement. The City has no obligation to provide tools, equipment or material to Consultant.
10. Performance Warranty. Consultant warrants that the Services rendered will conform to the requirements of this Agreement and with the care and skill ordinarily used by

members of the same profession practicing under similar circumstances at the same time and in the same locality.

11. Indemnification. To the fullest extent permitted by law, the Consultant shall indemnify 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") to the extent that such Claims (or actions in respect thereof) are caused by the negligent acts, recklessness or intentional misconduct of the Consultant, its officers, employees, agents, or any tier of subcontractor in connection with Consultant's work or services in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

12. Insurance.

12.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Consultant, Consultant 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 Consultant. 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 Consultant 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, 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 Named 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 until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.

E. Primary Insurance. Consultant'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 and necessary endorsements 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 work or services of Consultant. Consultant 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. Consultant shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Consultant shall execute written agreements with its subcontractors containing the indemnification provisions set forth above and insurance requirements set forth herein protecting the City and Consultant. Consultant shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Consultant 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 Consultant'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 Consultant'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 the RFQ number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFQ number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFQ number and title or a reference to this Agreement, as applicable, 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) Consultant’s insurance shall be primary insurance with respect to 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 Consultant 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.

K. Endorsements. Consultant shall provide the City with the necessary endorsements to ensure City is provided the insurance coverage set forth in this Section.

12.2 Required Insurance Coverage.

A. Commercial General Liability. Consultant 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. Consultant shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Consultant's owned, hired and non-owned vehicles assigned to or used in the performance of the Consultant's work or services 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. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Consultant engages in any professional services or work in any way related to performing the work under this Agreement, the Consultant shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Consultant, or anyone employed by the Consultant, or anyone for whose negligent acts, mistakes, errors and omissions the Consultant is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

D. Workers' Compensation Insurance. If Consultant employs anyone who is required by law to be covered by workers' compensation insurance, Consultant shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Consultant's employees engaged in the performance of work or services 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.

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

13. Termination; Cancellation.

13.1 For City's Convenience. This Agreement is for the convenience of the City and, as such, may be terminated without cause after receipt by Consultant of written notice by the City. Upon termination for convenience, Consultant shall be paid for all undisputed services performed to the termination date.

13.2 For Cause. If either party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (A) provides written notice to the non-defaulting party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 90 days. In the event of such termination for cause, payment shall be made by the City to the Consultant for the undisputed portion of its fee due as of the termination date.

13.3 Due to Work Stoppage. This Agreement may be terminated by the City upon 30 days' written notice to Consultant in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Consultant for the undisputed portion of its fee due as of the termination date.

13.4 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 this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

13.5 Gratuities. The City may, by written notice to the Consultant, cancel this Agreement if it is found by the City that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Consultant an amount equal to 150% of the gratuity.

13.6 Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the City's then current fiscal year. The City's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the City concerning budgeted purposes and appropriation of funds. Should the City elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were

appropriated and budgeted for such purpose and the City shall be relieved of any subsequent obligation under this Agreement. The parties agree that the City has no obligation or duty of good faith to budget or appropriate the payment of the City's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The City shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The City shall keep Consultant informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. Consultant hereby waives any and all rights to bring any claim against the City from or relating in any way to the City's termination of this Agreement pursuant to this section.

14. Miscellaneous.

14.1 Independent Contractor. 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. The Consultant acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. Consultant, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of Consultant, its employees or subcontractors. The Consultant, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Consultant meets the requirements of its agreed Scope of Work as set forth in Section 2 above and in Exhibit B. Consultant is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Consultant do not intend to nor will they combine business operations under this Agreement.

14.2 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 Maricopa County, Arizona.

14.3 Laws and Regulations. Consultant shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Consultant is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, including, but not limited to, the following: (A) existing and future City and County ordinances and regulations, (B) existing and future State and Federal laws and (C) existing and future OSHA standards.

14.4 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 Consultant.

14.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in this 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, this Agreement will promptly be physically amended to make such insertion or correction.

14.6 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 this Agreement which may remain in effect without the invalid provision or application.

14.7 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 this 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.

14.8 Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by Consultant without prior, written permission of the City, signed by the City Manager. Any attempted assignment or delegation by Consultant in violation of this provision shall be a breach of this Agreement by Consultant.

14.9 Subcontracts. No subcontract shall be entered into by the Consultant with any other party to furnish any of the material or services specified herein without the prior, written approval of the City. The Consultant is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Consultant.

14.10 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 Consultant 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.

14.11 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.

14.12 Liens. All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.

14.13 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the City may offset from any money due to the Consultant any amounts Consultant owes to the City for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The City may offset from any money due to the Consultant any amounts Consultant owes to the City for delinquent fees, transaction privilege use taxes and property taxes, including any interest or penalties.

14.14 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 (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

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

With copies to: City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Attn: Tiffany Copp, Procurement Administrator

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

If to Consultant: GHD Inc.
4747 N. 22nd Street, Suite 200
Phoenix, Arizona 85016
Attn: Karl Tobin, PE

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) 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.

14.15 Confidentiality of Records. The Consultant shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Consultant's duties under this Agreement. Persons requesting such information should be referred to the City. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under this Agreement.

14.16 Records and Audit Rights. To ensure that the Consultant and its subcontractors are complying with the warranty under subsection 14.17 below, Consultant's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Consultant and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Consultant's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Consultant's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 14.17 below. To the extent necessary for the City to audit Records as set forth in this subsection, Consultant and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the City to Consultant pursuant to this Agreement. Consultant and its subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this subsection. The City shall give Consultant or its subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

14.17 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Consultant and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Consultant's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

14.18 Israel. Consultant certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

14.19 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, any amendments, the Scope of Work, any City-approved Purchase Order, the Fee Proposal, the RFQ and the Consultant's SOQ, the documents shall govern in the order listed herein.

14.20 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods and services from another source when necessary.

14.21 Cooperative Purchasing. Specific eligible political subdivisions and nonprofit educational or public health institutions ("Eligible Procurement Unit(s)") are permitted to utilize procurement agreements developed by the City, at their discretion and with the agreement of the awarded Consultant. Consultant may, at its sole discretion, accept orders from Eligible Procurement Unit(s) for the purchase of the Materials and/or Services at the prices and under the terms and conditions of this Agreement, in such quantities and configurations as may be agreed upon between the parties. All cooperative procurements under this Agreement shall be transacted solely between the requesting Eligible Procurement Unit and Consultant. Payment for such purchases will be the sole responsibility of the Eligible Procurement Unit. The exercise of any rights, responsibilities or remedies by the Eligible Procurement Unit shall be the exclusive obligation of such unit. The City assumes no responsibility for payment, performance or any liability or obligation associated with any cooperative procurement under this Agreement. The City shall not be responsible for any disputes arising out of transactions made by others.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“City”

CITY OF AVONDALE,
an Arizona municipal corporation

Charles A. Montoya, City Manager

ATTEST:

Marcella Carrillo, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2019, 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

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

"Consultant"

GHD INC.
a California corporation

By: 

Name: Michael A. Worlton

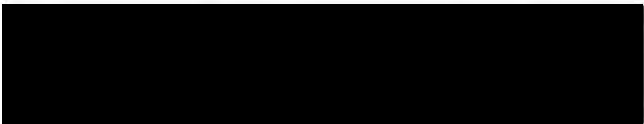
Title: Principal

(ACKNOWLEDGMENT)

STATE OF Arizona)
) ss.
COUNTY OF Maricopa)

On June 25th, 2019, before me personally appeared Michael A. Worlton, the Principal of GHD INC., a California corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of GHD INC.




Notary Public

(Affix notary seal here)

EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
GHD INC.

[Scope and Fee]

See following page(s).

Exhibit A

City of Avondale Public Works Department Scope of Services

Riley Lift Station Location

Prepared by GHD Inc.
May 5, 2019

TASK SERIES SUMMARY

Project Objective

Task Series 100 - Project Management

Task 101 – Design Meetings
Task 102 - Monitor Progress & Status Reports

Task Series 200 – Data Collection

Task 201 – Topographic Survey
Task 202 – Base Map Preparation

Task Series 300 – Design Documents

Task 301 – 30% Design
Task 302 – 90% Design
Task 303 – Final Design
Task 304 – Opinion of Cost
Task 305 – Permitting

Task Series 400 – Construction Administration

Task 401 – Bid/JOC Support
Task 402 – Submittal Reviews
Task 403 – Requests for Information (RFIs)
Task 404 – Site Visits
Task 405 – Engineer's Certificate of Completion

Allowances

Fee Summary

Project Objectives

This Exhibit describes the scope of services of the Engineer for the design and construction administration services for the relocation of the Riley Lift Station located at the intersection of Dysart Road and Riley Drive.

The City would like to relocate the existing Riley Lift Station from its current location in the sidewalk to a new parcel on the north side of the street. The project scope includes the following:

- New packaged lift station and packaged controls to match current packaged duplex chopper pump system model and size.
- Approximately 40-ft x 60-ft site with block walls, manual sliding gate, driveway, water service, flow meter, and wash down with drain to wet well.
- Pole mounted light.
- Conduit and concrete pads for future fiber optic communication/SCADA equipment.
- New APS electrical service to the site.
- Abandonment of existing lift station and electrical service.
- Approximately 100-ft of gravity sewer inlet piping into the new lift station.
- Approximately 250-ft of either force main or gravity sewer outlet piping connecting the existing gravity sewer main in Riley Drive.

Task Series 100 – Project Management

Task 101 – Design Meetings

The Engineer will conduct meetings with City staff to discuss specific technical aspects of the Project and to review City comments on deliverables. The Engineer will prepare and distribute meeting agendas and minutes for each meeting. The following meeting will be included:

- Kickoff Meeting (1)
- 30% Design Review Meeting (1)
- 90% Design Review Meeting (1)

Task 102 - Monitor Progress & Status Reports

The Engineer will prepare and submit monthly invoices using a format approved by the City. The Engineer will report the progress of all major work activities through a status summary table that is part of the spreadsheet. The Engineer will submit the status update monthly to the City. Progress and schedule tracking will consist of:

- Develop a task based project schedule in Microsoft Project.
- Monthly tracking and reporting on progress.

Task Series 200 – Data Collection

Task 201 – Topographic Survey

The Engineer shall perform a site visit and topographic survey to establish horizontal and vertical ground control and to provide base mapping information, using 1-foot contour intervals. All collected topographic information will be based on City of Avondale horizontal and vertical control monuments within one mile of the project limits. The survey will capture topography, above grade site features, vegetation, right of way adjacent to the site, and manhole inverts.

Task 202 – Base Map Preparation

The Engineer will coordinate with City staff to acquire the following data for the site:

- City GIS data including right-of-way, easements, parcels, water, sewer, reclaimed water, and storm drain improvements.
- Water, sewer, lift station, roadway as-builts.

The Engineer will coordinate with private utility companies to obtain their utility maps for the project area. The Engineer will create a base map for the existing facility in AutoCAD that incorporates the topographic survey, GIS, as-built, and utility map information. The map will be presented at scales that allow the site to be illustrated on a single site plan.

Task Series 300 – Design Documents

Task 301 – 30% Design

Engineer shall provide unsealed 30% Drawings, which will include a preliminary piping and equipment sizing and layouts for the proposed improvements, drawn to scale in a complete basemap. Construction keynotes and detailed labels will not be provided at this stage. The GHD project manager and project engineer will perform quality control reviews on the 30% deliverables prior to submission to the City.

Task 302 – 90% Design

Engineer will prepare 90% Drawings based on the comments received during the 30% design review. Review comments from the 30% submittal with written responses will be documented in a tabular format. The 90% Drawings will include detailed callouts, completed details, and horizontal control and shall be considered a progress submittal to the final design. The following sheets are estimated for the project:

<u>Drawing</u>	<u>Description</u>
G1	Cover
G2	Legend, Symbols, and Abbreviations
G3	Notes and Details
C1	Demolition, Overall Site Plan
C2	Site, Piping & Grading Plan
C3	Inlet/Outlet Piping Plan & Profile
M1	Package Lift Station & FM Details
M2	Mechanical Details
E1	Electrical Symbols & Legends
E2	Electrical Site Plan
E3	Single Line Diagram
E4	Control Schematic
E5	Electrical Details, Conduit & Cable Schedule

Engineer will submit the 90% plans to the area's utility providers and will pursue "no conflict" forms from them. If a utility does not provide a notice of conflicts or clearances, then the Engineer will refer to the City for additional follow up by the City.

Task 303 – Final Design

The Final Submittal is a completed package to the City for final approval. Previous comments to the design shall be resolved and the final documents stamped by a professional engineer registered in the State of Arizona.

Engineer shall submit four (4) 24x36 bond sets of the final design drawings. Engineer shall document review comments from the 90% submittal with written responses in a tabular format. Review comments from the 90% submittal shall be incorporated along with the results of the utility coordination efforts.

Task 304 – Opinion of Cost

An Engineer's opinion of probable construction cost will be included within the 30% submittal and will be revised for the 90% and final submittals. The estimates will be based on line items and unit costs from bid tabulations from past City and GHD projects. In addition, when bid tabulations are not available, the Engineer will use industry pricing sources and information from vendors.

Task 305 – Permitting

Engineer shall submit the 90% Drawings to Maricopa County Environmental Services Department (MCESD) for the Approval to Construction (ATC). The Engineer shall prepare the application and a three page design memorandum for the submittal. The submittal will be made for the regular review processing time. The Engineer will address MCESD comments and submit the final plans to MCESD for the ATC. The City will obtain the internal City construction permits required for construction.

Task Series 400 – Construction Administration

Task 401 – Bid/JOC Support

Engineer shall provide up to 8 hours of coordination with the City's JOC contractor or to address bidder questions if the project is low bid. Addition fees will be required if City requests bid/JOC support services beyond 8 hours of effort.

Task 402 – Submittal Reviews

GHD will review shop drawings and submittals for the improvements in electronic format. All submittals will be reviewed by City Staff and then forwarded to GHD if needed. The submittals will be reviewed for compliance with the construction documents and referenced standards. A maximum of two reviews will be provided for an item but the majority of the submittals (80%) are expected to be approved following a single review. The results of these reviews will be returned to the City by e-mail. The City will review the design team's comments and then forward them to the contractor. The anticipated submittal are listed below:

- Package Lift Station
- Manholes
- Piping

- Valves
- Concrete
- Pavement
- CMU Wall
- Gates
- Coatings
- Service Entrance Section
- Lighting
- Wiring, Devices, & Cables
- Flow Meter

Task 403 – Requests for Information (RFIs)

GHD will provide up to 12 hours to address questions from the Contractor during construction. All questions will first be heard by the City's Project Manager and Inspection Staff and then forwarded to GHD if needed. Questions will be answered using stand-alone text documents and hand sketches rather than revised construction drawings. RFI responses will be provided through e-mails. Addition fees will be required if City requests support beyond 12 hours of effort.

Task 404 – Site Visit

GHD will provide limited observations of the project's construction through field visits to the proposed sites to determine if the improvements are being installed in compliance with the contract documents and to address RFIs that require field observation to resolve. Complete field inspection or the daily presence of an inspector, who approves or directs the Contractor's work is not provided under this scope. The City will provide inspection services on this project. Field reports will not be prepared unless non-compliance is witnessed, which will be reported to the City by e-mail. GHD will attend up to 6 total site observations based on construction progress. GHD will not attend testing procedures performed during construction. A City inspector will witness and provide approval of the tests and their results. These tests are expected to include the following:

- Pressure
- Leakage
- Uniform Slope
- Deflection
- Coatings

GHD will attend a substantial completion walk through/startup of the facility after the improvements have been installed to witness the improvements in service. At that time, GHD will also prepare a punch list the Contractor must address to complete the project (one punch list per site). GHD will attend a final walkthrough of the site to verify the punch list comments were addressed. The substantial completion walk through/startup and final walkthrough are included in the 6 total site visits.

Task 405 – Engineer’s Certificate of Completion

The City’s Contractor will prepare as-builts, sealed by a Registered Land Surveyor in the State of Arizona. The Contractor’s surveyor will locate all of the newly installed improvements before they are backfilled or buried and include conditions that vary from the original design. For example, if an object or an improvement’s dimension differs from the original design, a line will be drawn through the original dimension value and a new value will be added. The Engineer will review the Contractor’s as-builts and provide comments on any items that require correction prior to the Engineer submitting the Engineer’s Certificate of Completion to MCESD for the Approval of Construction (AOC) application.

The City will also provide the passing test results list in Task 404 prior to the Engineer submitting the Engineer’s Certificate of Completion to MCESD for the Approval of Construction (AOC) application.

Once approved as-builts and passing test results are received, Engineer will complete the AOC applications for the City’s signature. The Engineer will then seal the application and submit the AOC application package to MCESD for approval.

Allowances

Reimbursable Expenses

Reimbursable expenses include reproductions and mileage reimbursement.

MCESD Permit Fees

The City shall reimburse the Engineer for the regular review time Approval to Construction permitting fees.

Utility Locating

Engineer will obtain the services of a utility locating company to locate up to three existing utilities through non-destructive vacuum excavation (potholing) to support the design of the new force main and gravity sewer in the right of way.

MCESD Generator Coordination

The existing lift station’s average flow rate is close to limit of 10,000 gallons/day, where State Statutes require a permanent standby generator. If MCESD requests a standby generator in their review comments, GHD will assist the City in coordinating with MCESD to provide technical support to remove the requirement for a standby generator.

Exclusions

- Lift station sizing and control set points. Lift station design will match existing lift station settings, sizing, and model. City will provide existing lift station settings, sizing, and model information.
- Design for RTU, PLC, Autodialer, or other communication equipment. Engineer will provide pad space and conduits only for future communication equipment as specified by the City.

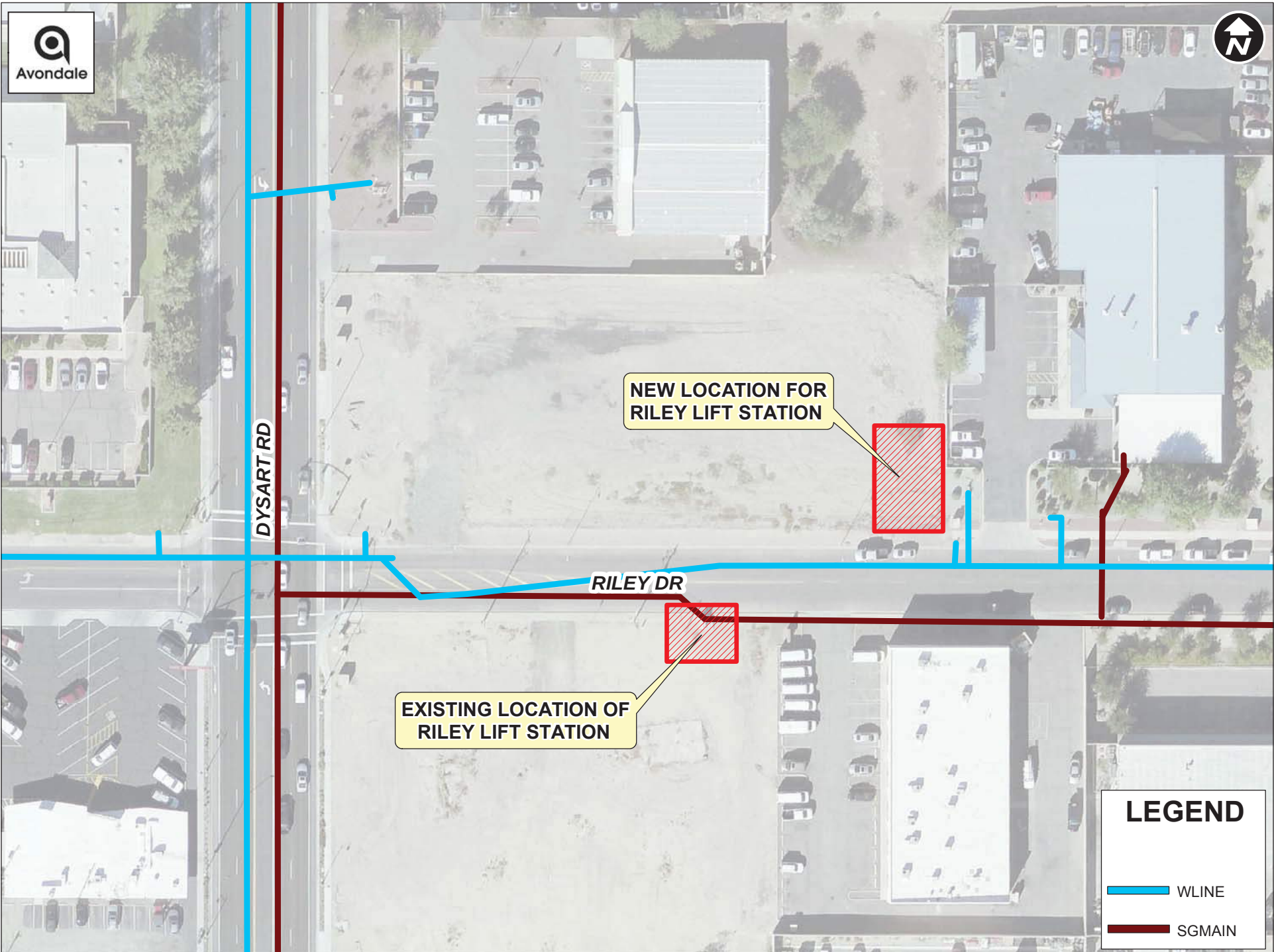
- Design for fiber optic connection to the site. Engineer will provide conduits only for the City's future fiber optic project.
- Ethernet, camera, intrusion alarm design. Engineer will provide conduits only for future City security improvements as specified by the City.
- Lift station controls. All controls and instrumentation will be included with the packaged system. This includes, but is not limited to motor controllers, level sensors, pressure transducers, pressure switches, temperature sensors, alarms, and alarm shut offs. The Engineer will include design for a flow meter, but the flow meter will not be used to control the lift station. The flow meter will only provide a local display of flow and will not communicate with the lift station control equipment. Conduits will be provided for future City communication equipment connections to the flow meter.
- Radio communication or radio path studies.
- Alta Surveys, Boundary Surveys, Legal Descriptions, parcel acquisition. The City will obtain the site parcel and provide parcel boundaries prior to permit submissions.
- Automatic gates. The site gate will be manually operated with no access control system.
- Odor control improvements.
- Custom design for wet well. It is assumed that the well will be a standard manhole or be part of the packaged system.
- Modifications to packaged system to meet fire code requirements. The packaged system specified by the City will be required to meet fire code requirements.
- Standby generator or transfer switch. A standby generator may be required if average flows exceed 10,000 gallon/day. If MCESD requires a permanent standby generator, Engineer can provide generator design services for an additional fee.
- Architectural or landscape design.
- Technical Specifications. The project will be installed per MAG Standard Specifications and City Design Standards. Any additional technical specifications for the packaged lift station will be included on the notes sheet project design drawings.
- Biological, environmental, archeological, and native plant surveys.
- City Planning and Construction Permitting. The City will obtain the required City permits for construction.
- Special inspections and green tag inspections for power provider. The City will provide these inspection services.
- Geotechnical evaluation. Wall footings, excavation recommendations, and pavement sections will be based on conservative soils information for the region. If requested by the City, Engineer can perform a geotechnical evaluation for an additional fee.
- Public outreach or public coordination.
- Preparing bid documents, contractor procurement, and evaluation of bids.

- O&M Manual review. The City will review the project O&M Manuals and will coordinate directly with the Contractor for their submission and approval.
- As-builts. The City's contractor will provide As-builts sealed by a Registered Land Surveyor in the State of Arizona for review and comment by the City and Engineer.
- Construction progress meetings. Coordination during construction will be provide through email and the site visits listed in Task 400.
- Daily Inspections and Special Inspections. The City will provide full time inspection services and will witness and provide documentation of all required tests for the MCESD AOC discussed in Task 400.

Fee Summary

TASK	DESCRIPTION	FEE
101	Design Meetings	\$1,530
102	Monitor Progress & Status Reports	\$3,665
201	Topographic Survey	\$2,980
202	Base Map Preparation	\$2,580
301	30% Design	\$14,090
302	90% Design	\$17,070
303	Final Design	\$3,680
304	Opinion of Cost	\$2,640
305	Permitting	\$4,570
	Design Subtotal	\$52,805
401	Bid/JOC Support	\$1,360
402	Submittal Reviews	\$4,740
403	Requests for Information (RFIs)	\$2,040
404	Site Visits	\$6,240
405	Engineer's Certificate of Completion	\$1,460
	Construction Admin. Subtotal	\$15,840
Allowance	Reimbursable Expenses	\$250
Allowance	MCESD Permitting	\$1,400
Allowance	Utility Locating	\$3,000
Allowance	MCESD Generator Coordination	\$1,500

PROJECT TOTAL \$74,795



CITY COUNCIL REPORT

SUBJECT: Professional Services Agreement with NCS Engineers for the Coldwater West Reservoir Rehab Design

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Cindy Blackmore, Public Works Director, (623) 333-4410

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

PURPOSE:

City Council will consider a request to approve a Professional Services Agreement with NCS Engineers to provide professional consulting and engineering services related to the Coldwater West Tank Rehabilitation project in the amount of \$95,975 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

In FY 2015-16, a condition assessment identified a number of deficiencies in the reservoir coatings and structural systems. If left uncorrected, these deficiencies could affect the safety and reliability of the water system. As a result, the City has implemented a systematic reservoir rehabilitation program. To date Rancho Santa Fe and Coldwater East Reservoirs have undergone rehabilitation. The Coldwater West Reservoir has been identified as the next priority.

The Coldwater West Reservoir is a 2.5-million-gallon welded steel storage tank. It is one of the two major City of Avondale reservoirs that supplies potable water for consumption and for firefighting. Over the years, the reservoir has experienced serious structural damage to its columns, interior shell, roofing, floor, and sidewalls. The interior has significant surface corrosion with need for coating. In addition, the reservoir needs modernized hydraulic and SCADA equipment for optimal operation.

DISCUSSION:

On June 27, 2018 NCS Engineers provided a statement of qualifications in response to the City's solicitation EN 18-111 and was selected for placement on the FY 2018-2019 Professional Consultants Selection list. NCS Engineers satisfactorily completed the design work on the Rancho Santa Fe and Coldwater East reservoir rehabilitation projects. Following the procurement process, NCS Engineers was selected from the City's Professional Consultants Selection List due to their experience and expertise.

The contract includes assessment, design services, post-design services and construction management oversight. Staff expects the design work to be complete and the project ready to bid late summer or early fall, and construction to be completed by the end 2019. The fee for the design services and providing design reviews and assistance during construction is \$95,975.

BUDGET IMPACT:

Funds for this project are available in Capital Improvement Plan account 514-1372-00-8520, Reservoir Repairs and Rehabilitation.

RECOMMENDATION:

Staff recommends that the City Council approve a Professional Services Agreement with NCS Engineers to provide professional consulting and engineering services related to the Coldwater West Tank Rehabilitation project in the amount of \$95,975 and authorize the Mayor, or City Manager and City Clerk to execute the contract documents.

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
NCS ENGINEERING**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of July 22, 2019, between the City of Avondale, an Arizona municipal corporation (the "City"), and NCS Engineering, a(n) Arizona corporation (the "Consultant").

RECITALS

A. The City issued a Request for Qualifications, EN 18-111 "FY 2018/2019 Professional Consultants Selection List" (the "RFQ"), a copy of which is on file in the City and incorporated herein by reference, seeking statements of qualifications from vendors for professional consulting services.

B. The Consultant responded to the RFQ by submitting a Statement of Qualifications (the "SOQ"), which is on file with the City and which is incorporated herein by reference.

C. The City determined that the Consultant was eligible to be placed on the Professional Consultants On-Call List for Water Distribution Systems and the City desires to enter into an Agreement with the Consultant for professional consulting and engineering services related to the Coldwater West Tank Rehabilitation project (the "Services").

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and 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 City and the Consultant hereby agree as follows:

1. Term of Agreement.

1.1 Initial Term. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until June 30, 2020 (the "Initial Term"), unless terminated as otherwise provided in this Agreement.

1.2 Non-Default. By requesting extension for a Renewal Term as set forth above, or by consenting to a Renewal Term in any manner, Consultant shall be deemed to affirmatively assert that (i) the City is not currently in default, nor has been in default at any time prior to the Renewal Term, under any of the terms or conditions of the Agreement and (ii) any and all Consultant claims, known and unknown, relating to the Agreement and existing on or before the commencement date of the Renewal Term are forever waived.

2. Scope of Work. Consultant shall provide the Services as set forth in the Scope of Work attached hereto as Exhibit A and incorporated herein by reference.

3. Compensation. The City shall pay Consultant an amount not to exceed \$95,975.00 for the Services at the rates set forth in the Fee Proposal attached hereto as Exhibit A and incorporated herein by reference.

4. Payments. The City shall pay the Consultant monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

5. Safety Plan. Consultant shall provide the Services in accordance with a safety plan that is compliant with Occupational Safety and Health Administration ("OSHA"), American National Standards Institute and National Institute for Occupational Safety and Health standards. If, in the Consultant's sole determination, the Services to be provided do not require a safety plan, Consultant shall notify the City, in writing, describing the reasons a safety plan is unnecessary. The City reserves the right to request a safety plan following such notification.

6. Documents. All documents, including any intellectual property rights thereto, prepared and submitted to the City pursuant to this Agreement shall be the property of the City.

7. Consultant Personnel. Consultant shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Consultant agrees to assign specific individuals to key positions. If deemed qualified, the Consultant is encouraged to hire City residents to fill vacant positions at all levels. Consultant agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the City. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Consultant shall immediately notify the City of same and shall, subject to the concurrence of the City, replace such personnel with personnel possessing substantially equal ability and qualifications.

8. Inspection; Acceptance. All work shall be subject to inspection and acceptance by the City at reasonable times during Consultant's performance. The Consultant shall provide and maintain a self-inspection system that is acceptable to the City.

9. Licenses; Materials. Consultant shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Consultant. The City has no obligation to provide Consultant, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement. The City has no obligation to provide tools, equipment or material to Consultant.

10. Performance Warranty. Consultant warrants that the Services rendered will conform to the requirements of this Agreement and with the care and skill ordinarily used by members of the same profession practicing under similar circumstances at the same time and in the same locality.

11. Indemnification. To the fullest extent permitted by law, the Consultant shall indemnify 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") to the extent that such Claims (or actions in respect thereof) are caused by the negligent acts, recklessness or intentional misconduct of the Consultant, its officers, employees, agents, or any tier of subcontractor in connection with Consultant's work or services in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

12. Insurance.

12.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Consultant, Consultant 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 Consultant. 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 Consultant 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, 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 Named 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 until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.

E. Primary Insurance. Consultant'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 and necessary endorsements 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 work or services of Consultant. Consultant 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. Consultant shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Consultant shall execute written agreements with its subcontractors containing the indemnification provisions set forth above and insurance requirements set forth herein protecting the City and Consultant. Consultant shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Consultant 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 Consultant'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 Consultant'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 the RFQ number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFQ number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFQ number and title or a reference to this Agreement, as applicable, 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) Consultant’s insurance shall be primary insurance with respect to 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 Consultant 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.

K. Endorsements. Consultant shall provide the City with the necessary endorsements to ensure City is provided the insurance coverage set forth in this Section.

12.2 Required Insurance Coverage.

A. Commercial General Liability. Consultant 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. Consultant shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Consultant's owned, hired and non-owned vehicles assigned to or used in the performance of the Consultant's work or services 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. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Consultant engages in any professional services or work in any way related to performing the work under this Agreement, the Consultant shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Consultant, or anyone employed by the Consultant, or anyone for whose negligent acts, mistakes, errors and omissions the Consultant is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

D. Workers' Compensation Insurance. If Consultant employs anyone who is required by law to be covered by workers' compensation insurance, Consultant shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Consultant's employees engaged in the performance of work or services 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.

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

13. Termination; Cancellation.

13.1 For City's Convenience. This Agreement is for the convenience of the City and, as such, may be terminated without cause after receipt by Consultant of written notice by the

City. Upon termination for convenience, Consultant shall be paid for all undisputed services performed to the termination date.

13.2 For Cause. If either party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (A) provides written notice to the non-defaulting party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 90 days. In the event of such termination for cause, payment shall be made by the City to the Consultant for the undisputed portion of its fee due as of the termination date.

13.3 Due to Work Stoppage. This Agreement may be terminated by the City upon 30 days' written notice to Consultant in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Consultant for the undisputed portion of its fee due as of the termination date.

13.4 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 this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

13.5 Gratuities. The City may, by written notice to the Consultant, cancel this Agreement if it is found by the City that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Consultant an amount equal to 150% of the gratuity.

13.6 Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the City's then current fiscal year. The City's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the City concerning budgeted purposes and appropriation of funds. Should the City elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the City shall be relieved of any subsequent obligation under this Agreement. The parties agree that the City has no obligation or duty of good

faith to budget or appropriate the payment of the City's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The City shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The City shall keep Consultant informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. Consultant hereby waives any and all rights to bring any claim against the City from or relating in any way to the City's termination of this Agreement pursuant to this section.

14. Miscellaneous.

14.1 Independent Contractor. 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. The Consultant acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. Consultant, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of Consultant, its employees or subcontractors. The Consultant, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Consultant meets the requirements of its agreed Scope of Work as set forth in Section 2 above and in Exhibit B. Consultant is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Consultant do not intend to nor will they combine business operations under this Agreement.

14.2 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 Maricopa County, Arizona.

14.3 Laws and Regulations. Consultant shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Consultant is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, including, but not limited to, the following: (A) existing and future City and County ordinances and regulations, (B) existing and future State and Federal laws and (C) existing and future OSHA standards.

14.4 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 Consultant.

14.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in this 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, this Agreement will promptly be physically amended to make such insertion or correction.

14.6 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 this Agreement which may remain in effect without the invalid provision or application.

14.7 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 this 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.

14.8 Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by Consultant without prior, written permission of the City, signed by the City Manager. Any attempted assignment or delegation by Consultant in violation of this provision shall be a breach of this Agreement by Consultant.

14.9 Subcontracts. No subcontract shall be entered into by the Consultant with any other party to furnish any of the material or services specified herein without the prior, written approval of the City. The Consultant is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Consultant.

14.10 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 Consultant 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.

14.11 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.

14.12 Liens. All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.

14.13 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the City may offset from any money due to the Consultant any amounts Consultant owes to the City for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The City may offset from any money due to the Consultant any amounts Consultant owes to the City for delinquent fees, transaction privilege use taxes and property taxes, including any interest or penalties.

14.14 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 (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

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

With copies to: City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Attn: Tiffany Copp, Procurement Administrator

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

If to Consultant: NCS Engineering
202 E. Earll Drive, Suite 110
Phoenix, Arizona 85012
Attn: Ramesh Narasimahn, PE

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) 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.

14.15 Confidentiality of Records. The Consultant shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Consultant's duties under this Agreement. Persons requesting such information should be referred to the City. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under this Agreement.

14.16 Records and Audit Rights. To ensure that the Consultant and its subcontractors are complying with the warranty under subsection 14.17 below, Consultant's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Consultant and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Consultant's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Consultant's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 14.17 below. To the extent necessary for the City to audit Records as set forth in this subsection, Consultant and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the City to Consultant pursuant to this Agreement. Consultant and its subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this subsection. The City shall give Consultant or its subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

14.17 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Consultant and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Consultant's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

14.18 Israel. Consultant certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

14.19 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, any amendments, the Scope of Work, any City-approved Purchase Order, the Fee Proposal, the RFQ and the Consultant's SOQ, the documents shall govern in the order listed herein.

14.20 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods and services from another source when necessary.

14.21 Cooperative Purchasing. Specific eligible political subdivisions and nonprofit educational or public health institutions ("Eligible Procurement Unit(s)") are permitted to utilize procurement agreements developed by the City, at their discretion and with the agreement of the awarded Consultant. Consultant may, at its sole discretion, accept orders from Eligible Procurement Unit(s) for the purchase of the Materials and/or Services at the prices and under the terms and conditions of this Agreement, in such quantities and configurations as may be agreed upon between the parties. All cooperative procurements under this Agreement shall be transacted solely between the requesting Eligible Procurement Unit and Consultant. Payment for such purchases will be the sole responsibility of the Eligible Procurement Unit. The exercise of any rights, responsibilities or remedies by the Eligible Procurement Unit shall be the exclusive obligation of such unit. The City assumes no responsibility for payment, performance or any liability or obligation associated with any cooperative procurement under this Agreement. The City shall not be responsible for any disputes arising out of transactions made by others.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“City”

CITY OF AVONDALE,
an Arizona municipal corporation

Charles A. Montoya, City Manager

ATTEST:

Marcella Carrillo, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2019, 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

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

“Consultant”

NCS ENGINEERING
a(n) Arizona Corporation

By: _____

Name: Ramesh Narasimhan

Title: President

(ACKNOWLEDGMENT)

STATE OF Arizona)
) ss.

COUNTY OF Maricopa

On June 28th, 2019, before me personally appeared Ramesh Narasimhan, the President of NCS ENGINEERING, a(n) Arizona corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of NCS ENGINEERING.



Notary Public

(Affix notary seal here)

EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
NCS ENGINEERING

[Scope and Fee]

See following page(s).

Celebrating 20 Spectacular Years !!
1998-2018



E N G I N E E R I N G

June 26, 2019

**CITY OF AVONDALE
COLDWATER WEST STEEL WATER STORAGE RESERVOIR (2.5 MG)
REHABILITATION DESIGN SCOPE OF SERVICES
EXHIBIT A**

BACKGROUND AND SCOPE OF WORK

The City of Avondale Public Works Department (City) operates the City's water system. The City has two welded steel potable water storage reservoirs located at their Coldwater Booster Station (CBS) site. Each of these reservoirs has a storage capacity of 2.5 million gallons (MG). In the current project, the existing 2.5 MG West reservoir will be rehabilitated.

NCS Engineers (NCS) has developed the following Scope of Work (SOW) to provide design, bid phase support, third party coating inspections, and construction phase engineering services for the 2.5 MG Coldwater West reservoir rehabilitation project. NCS (herein referred to as the "ENGINEER") presents the following list of specific tasks that comprise the SOW.

Task 1 - Data Gathering and Review

The ENGINEER will review the City's data and records of the 2.5 MG Coldwater West water storage reservoir. This review will include the reservoir dive and float down inspection reports, and as-built construction records. Data review will be followed by a field verification visit to the site. Field verification activities will confirm as-built drawing information, electrical supply, SCADA information, including the reservoir dimensions, overflow elevations, piping elevations, and any other missing data with respect to the final design records for the facility. Other items regarding the overall facility and site will also be reviewed such as cathodic protection system, and compliance with current OSHA regulations. Paint chip samples for Toxicity Characteristic Leaching Procedure (TCLP) testing will be collected and analyzed for hazardous substances. This will confirm the need for special disposal practices that may be needed during construction. To the extent possible, paint samples will also be taken to evaluate the profile of the prior interior coating systems (double inter coating without blasting versus proper blasting and single coat).

Task 2 - Pre Design Workshop

Afer reviewing the reservoir data, the ENGINEER will conduct a pre design workshop with the City to discuss the reservoir improvements and overall approach of the project including but not limited to new pax mixer hatch locations, sample taps location, contingency items, dehumidifier usage, noise barrier requirements, etc.

Task 3 - Preparation of Drawings and Specifications for Recoating and Miscellaneous Improvements

The ENGINEER will prepare a design, opinion of cost, construction drawings, and technical specifications for the recoating work and miscellaneous structural improvements.

The ENGINEER will prepare four construction drawings as follows:

- Cover sheet, index and abbreviation sheet (2 sheets)
- General notes (1 sheet)
- Site plan (1 sheet)
- Reservoir elevation and floor & roof plans showing structural removals (1 sheet)
- Reservoir elevation and floor & roof plans showing new work and details (2 sheets)
- Pax mixer equipment details for west reservoir (1 sheet)
- Typical reservoir structural and appurtenances details (2 sheets)
- Electrical sheets including general, abbreviations, electrical site plan, conduit layout, panel drawings (5 sheets)

The ENGINEER will prepare a price sheet and the technical specifications. The technical specifications will include general requirements, surface preparation and coating requirements, welded steel reservoir structural requirements, reservoir disinfection requirements, pax mixer and miscellaneous electrical.

The ENGINEER will work with the City to develop unit cost bid items, if needed, for structural repair inside the reservoir for the City to include in the bid form.

Five (5) copies of the 90% and final design level set of drawings and specifications will be provided to the City for review and comment. One electronic (pdfs on CD) version of the final set of construction drawings and specifications sealed by a professional engineer registered in Arizona will be provided for bidding purposes. The construction drawings will be prepared in Autocad format. The ENGINEER will prepare written responses to any comments that are not incorporated in the final set of construction drawings and specifications.

Task 4 - Project Meetings and Administration

The ENGINEER anticipates three (3) meetings with the City throughout the design phase of the project. The ENGINEER will prepare meeting minutes to distribute to attendees.

For the new mixers only, the drawings and specifications will be submitted to the Maricopa County Environmental Services Department for approval of construction and subsequent approval of construction (at the conclusion of the project). The ENGINEER will prepare necessary forms and permit applications to facilitate these approvals. Permit fees are included as direct expenses in the scope.

Task 5 - Bid Phase Support and Permitting

The ENGINEER will provide post-design assistance to the City during the bid process. These activities will include participating in a pre-bid meeting, responding to bidders' questions, and preparing addenda, if required.

Task 6 - Perform Magnetic Flux Evaluation of Floor and Welding Inspections

After the reservoir is drained and cleaned, NCS will perform Magnetic Flux Evaluation of the reservoir floor to evaluate its condition. Depending on its condition, the reservoir floor will be either repaired or replaced. An AWS Certified Welding Inspector (CWI), retained by NCS, will provide all necessary welding inspections.

Task 7 - Perform NACE Coating Inspections

During major surface preparation and coating work, inspections will be performed by NACE Level 3 certified inspectors retained by the ENGINEER. NACE inspectors, under the ENGINEER's direction, will perform field investigations to inspect and approve the surface preparation, and prime and finish coat applications. The ENGINEER will coordinate all required inspections with the coating inspector during the reservoir recoating construction phase.

Task 8 - Submittal Reviews

The ENGINEER will review and indicate a disposition for submittals including shop drawings, samples, test results, guarantees, and miscellaneous submittals required by the Contract Documents. The ENGINEER's review is for conformance with the design concepts of the project and compliance with the information given in the Contract Documents. Such review will not extend to means, methods, sequences, techniques or procedures of construction selected by the CONTRACTOR, or to safety precautions and programs incident thereto. It is estimated that 12 such submittals are required by the CONTRACTOR that will be reviewed for this project.

Task 9 - Issue Responses to Requests for Interpretations (RFI) and Clarifications

The ENGINEER will provide responses to CONTRACTOR RFIs and clarification requests during construction which may involve interpreting the Contract Documents and addressing actual field conditions encountered.

Task 10 - Construction Administration

The ENGINEER will prepare agendas for and chair the preconstruction conference and one construction progress meeting; record and distribute meeting minutes; participate in brief field meetings with CONTRACTOR every two weeks; review monthly progress payments and submit to City with recommendation for payment; review and negotiate CONTRACTOR requested change orders and recommend for approval or denial; and prepare certificate of substantial and final completion.

While performing these duties, The ENGINEER will not be responsible for the acts or omissions of the CONTRACTOR or subcontractor, or any of the CONTRACTOR's or subcontractor(s)' agents or employees or any other persons (except the ENGINEER's own employees and agents) at the site or otherwise performing any of the CONTRACTOR's' work; however, this will not release the ENGINEER from liability for failure to properly perform his duties in accordance with this scope of services.

Task 11 - Perform Construction Inspections

The ENGINEER will conduct part-time site inspections at periods appropriate to the various stages of construction to observe, as an experienced and qualified professional, the progress and quality of the executed work of CONTRACTOR and to determine in general if such work is proceeding in accordance with the Contract Documents. The ENGINEER will inspect the removals, and miscellaneous reservoir improvements, provide special inspections for welding, and provide general observation of the reservoir surface preparation and coating work. This task also includes performing preliminary and final punch list inspections with the CONTRACTOR and City. This proposal assumes ten (10) hours of inspection per week for five months anticipated construction period. This is an estimate for budgeting purposes based on the structural and coating work involved and will vary based on the actual work being performed. Inspections will be performed only when needed to evaluate the progress of the work and provide direction to the contractor.

On the basis of on-site examination of materials, equipment, and workmanship, the ENGINEER will keep the City informed of the progress of the work, will endeavor to identify defects and deficiencies in such work and may disapprove or reject work failing to conform to the Contract Documents. The ENGINEER's efforts will be directed toward providing a greater degree of confidence for the City that the completed work of CONTRACTOR will conform to the Contract Documents.

While performing inspections the ENGINEER will not be responsible for the means, methods, techniques, sequences or procedures of construction selected by CONTRACTOR (unless otherwise

specified in the construction contract documents) or the safety precautions and programs incident to the work of the CONTRACTOR.

Task 12 - Startup Services

The ENGINEER will also provide support services for startup and commissioning of the rehabilitated reservoir. The ENGINEER will coordinate the reservoir disinfection with the CONTRACTOR and City. The ENGINEER will also coordinate with the City on reinstalling the reservoir's CP system.

Task 13 - Prepare Record Drawings

The ENGINEER will prepare record drawings upon completion of construction. The record drawings will be prepared based on redline as-built information maintained and provided by the CONTRACTOR. Field data, information, and sketches developed by the ENGINEER will also be incorporated into the record drawings. The record drawings will include all above grade changes from the original construction drawings. Changes made to reflect the as-installed conditions will be made in the same level of detail and to the same degree of drafting quality as the original construction drawings. The following copies of the record drawings will be provided to the City: one CD with electronic files (pdf), and two copies on bond paper (22" x 34" sheet size).

FEE AND SCHEDULE

Construction drawings and specifications will be completed within four weeks after Notice to Proceed. All design tasks described in this proposal are anticipated to be completed by July 22, 2020.

NCS' fee is **\$95,975**, billed on a time and materials basis. The attached Exhibit C provides a breakdown of the fees.

Assumptions:

1. The existing Coldwater West reservoir inspection reports, including diving and float down inspections performed in 2017, will be used as the basis for the reservoir recoating and miscellaneous structural improvements design.
2. The City does not have construction drawings or shop drawings for the Coldwater West reservoir.
3. The total construction period will be five months.
6. The mixer drawings and specifications will be submitted to the Maricopa County Environmental Services Department for approval. The tank drawings will not be submitted.
7. The City would be able to take the reservoir offline without any temporary storage requirements. Accordingly, the bid documents will not include any temporary storage requirements.

Coldwater West Reservoir Rehabilitation Design
Scope fo Services
Page No. 6

8. The City will prepare the front end documents (advertisement to bid, instructions to bidders, bid form, agreement form, and bond forms) and general conditions of construction.
9. NCS will utilize Construction Specifications Institute (CSI) format for technical specifications.

We look forward to working with you on this and your other challenging and important projects.

Sincerely,



Ramesh Narasimhan, P.E.
President



City of Avondale Coldwater West Reservoir Rehabilitation Project

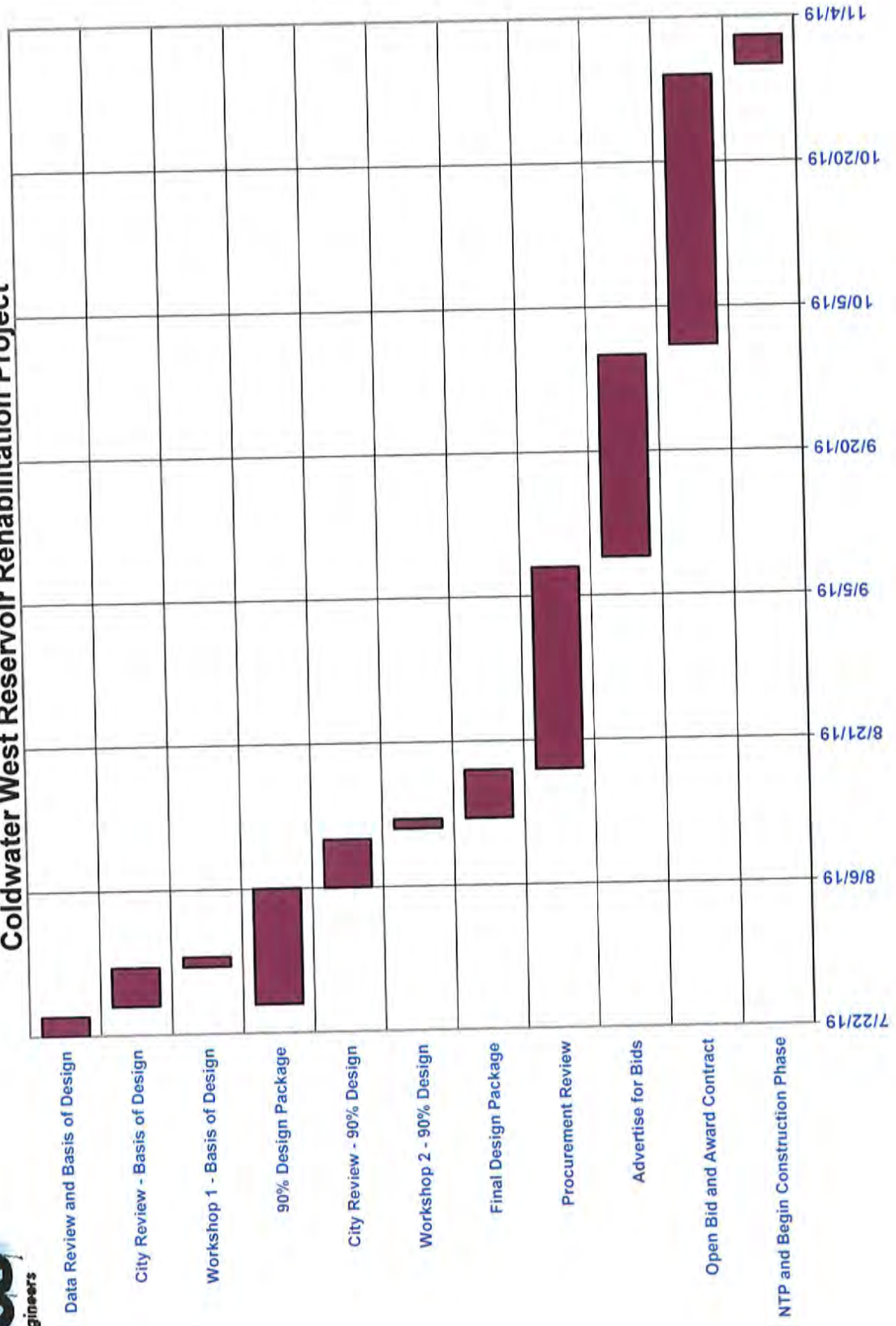


EXHIBIT C - Coldwater West Steel Water Storage Reservoir (2.5 MG) Rehabilitation

LABOR HOURS BY PERSONNEL CLASSIFICATION (NCS)

	Principal Engineer	Sr. Project Manager	Project Manager	Electrical Engineer	Staff Engineer	Certified Inspector	CAD Technician	Word Processing	Total Task Labor Costs
1 Data Gathering and Review	2	0	8	2	8	0	0	0	\$2,320
2 Pre Design Workshop	2	0	8	2	0	0	0	0	\$1,560
3 Preparation of Drawings and Specifications for Recoating and Miscellaneous Improvements	4	8	80	60	40	0	100	20	\$32,140
4 Project Meetings	4	0	8	4	0	0	0	2	\$2,230
5 Bid Phase Support	4	0	16	0	0	0	0	4	\$2,840
6 Perform Magnetic Flux Evaluation of Floor and Welding Inspections	0	0	0	0	0	100	0	0	\$7,700
7 NACE Coating Inspections	0	0	0	0	0	150	0	0	\$11,550
8 Submittal Reviews	4	0	16	0	24	0	0	0	\$4,900
9 Issue Response to RFIs	4	0	8	0	0	0	0	0	\$1,620
10 Construction Administration	8	0	40	0	0	0	0	0	\$6,240
11 Perform Construction Inspections	0	0	60	0	100	0	0	0	\$17,000
12 Startup Services	2	0	16	0	0	0	0	0	\$2,310
13 Prepare Record Drawings	1	0	4	0	4	0	16	0	\$2,315
								SUBTOTAL	\$94,725
TOTAL HOURS PER PERSONNEL CLASSIFICATION	35	8	264	68	176	250	116	26	
Average Billing Rate (\$/hr including overhead and profit)	155	140	125	125	95	77	80	55	
Direct Labor Cost Sub Totals	\$5,425	\$1,120	\$33,000	\$8,500	\$16,720	\$19,250	\$9,280	\$1,430	
LABOR TOTALS	\$94,725								
EXPENSES									
ATC Fees and Printing	\$1,250								
PROJECT FEES	\$95,975								
	(\$95,975 (Direct labor + direct expense allowances))								

VICINITY MAP



AGUA FRIA RIVER

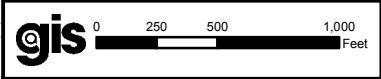


COLDWATER
BOOSTER STATION

VAN BUREN ST

ELISEO C. FELIX WAY

FAIRWAY DR



COLDWATER BOOSTER STATION



CITY COUNCIL REPORT

SUBJECT: Professional Services Agreement with M&J Trophies and Apparel for Citywide Promotional Products and Services

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Pier Simeri, Community Relations Director, (623) 333-1600.

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

PURPOSE:

City Council will consider a request to approve a contract with M&J Trophies and Apparel for citywide promotional products and services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action. This is one of two multiple service awards for promotional products and services.

BACKGROUND:

On May 8 2019, Avondale issued a Request for Proposals (RFP), CR 19-060, for Citywide Promotional Products and Services. The City advertised and invited solicitations from qualified vendors, and three firms were selected to fulfill the City's requirements for promotional products and services, based on their scored responses addressing the myriad of needs listed in the RFP from city departments.

DISCUSSION:

City departments routinely purchase items displaying the city logo/Avi brand. These items range from T-shirts, hats, uniforms and other apparel, to tote bags, pens and mugs, as well as sporting equipment and supplies in support of our parks and recreation programs. These promotional items bearing the city's logo/brand play an important role in that they help "connect" the city with our residents, businesses and stakeholders. In addition to their engagement purpose, many of these items serve an educational or public awareness function (for instance, paper fans with printed information about the upcoming Census, or pens imprinted with the city's website). Because city departments across the organization utilize a vast variety of promotional items and apparel, having more than one vendor on contract would serve to streamline the purchasing process, while ensuring that public dollars are wisely spent. Three vendors were notified of the City's intent to award multiple contracts for RFP CR 19-060.

BUDGET IMPACT:

Funding for promotional print products and services is available in department budgets.

RECOMMENDATION:

Staff recommends that Council consider and approve a contract with M&J Trophies and Apparel for citywide Promotional Products and Services, CR 19-060.

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
M&J TROPHIES AND APPAREL**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of July 22, 2019, between the City of Avondale, an Arizona municipal corporation (the "City"), and M&J Trophies and Apparel, an Arizona Corporation, (the "Contractor").

RECITALS

A. The City issued a Request for Proposals, CR 19-060 "CITYWIDE PROMOTIONAL PRINT PRODUCTS AND SERVICES" (the "RFP"), a copy of which is on file in the City's Finance Office and incorporated herein by reference, seeking proposals from vendors to provide the City with various branded promotional products used to support, market and promote the City's operations and activities (the "Services"). Services to be provided as directed by City staff for various City projects.

B. The Contractor responded to the RFP by submitting a proposal (the "Proposal"), attached hereto as Exhibit A and incorporated herein by reference, and the City desires to enter into an Agreement with the Contractor for the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and 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 City and the Contractor hereby agree as follows:

1. Term of Agreement.

1.1 Initial Term. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until July 22, 2020, (the "Initial Term"), unless terminated as otherwise provided in this Agreement.

1.2 Renewal Terms. After the expiration of the Initial Term, this Agreement may be renewed for up to four successive one-year terms (each, a "Renewal Term") if (i) it is deemed in the best interests of the City, subject to availability and appropriation of funds for renewal in each subsequent year, (ii) at least 30 days prior to the end of the then-current term of this Agreement, the Contractor requests, in writing, to extend this Agreement for an additional one-year term and (iii) the City approves the additional one-year term in writing (including any price adjustments approved as part of this Agreement), as evidenced by the City Manager's signature thereon, which approval may be withheld by the City for any reason. The Contractor's failure to seek a renewal of this Agreement shall cause this Agreement to terminate at the end of the then-current term of this Agreement; provided, however, that the City may, at its discretion and with the agreement of the Contractor, elect to waive this requirement and renew this

Agreement. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

1.3 Non-Default. By requesting extension for a Renewal Term as set forth above, or by consenting to a Renewal Term in any manner, Contractor shall be deemed to affirmatively assert that (i) the City is not currently in default, nor has been in default at any time prior to the Renewal Term, under any of the terms or conditions of the Agreement and (ii) any and all Contractor claims, known and unknown, relating to the Agreement and existing on or before the commencement date of the Renewal Term are forever waived.

2. Scope of Work. Contractor shall provide the Services as set forth in the Scope of Work attached hereto as Exhibit B and incorporated herein by reference. This is an indefinite quantity and indefinite delivery Agreement for Services, which shall only be provided when the City chooses to move forward with a pending project and proper authorization and documentation have been approved. The City does not guarantee any minimum or maximum amount of Services will be requested under this Agreement. For project(s) determined by the City to be appropriate for this Agreement, the Contractor shall provide the specific Services to the City agreed upon between the parties in a written invoice, quote, purchase order or other form of written acknowledgment describing the Services to be provided (each, a "Work Order"). Each Work Order shall (i) contain a reference to this Agreement and (ii) be attached hereto as Exhibit B and incorporated herein by reference. Work Orders submitted without referencing this Agreement will be subject to rejection. Contractor acknowledges and agrees that Work Order(s) containing unauthorized exceptions, conditions, limitations, or provisions in conflict with the terms of this Agreement (collectively, the "Unauthorized Conditions"), other than City's project-specific requirements, are hereby expressly declared void and shall be of no force and effect. Acceptance by the City of any Work Order or invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement shall not alter such terms and conditions or relieve Contractor from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement.

3. Compensation. The City shall pay Contractor for the Services at the rates set forth in the Fee Proposal attached hereto as Exhibit C and incorporated herein by reference.

4. Payments. The City shall pay the Contractor monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

5. Safety Plan. Contractor shall provide the Services in accordance with a safety plan that is compliant with Occupational Safety and Health Administration ("OSHA"), American National Standards Institute and National Institute for Occupational Safety and Health standards. If, in the Contractor's sole determination, the Services to be provided do not require a safety plan, Contractor shall notify the City, in writing, describing the reasons a safety plan is unnecessary. The City reserves the right to request a safety plan following such notification.

6. Documents. All documents, including any intellectual property rights thereto, prepared and submitted to the City pursuant to this Agreement shall be the property of the City.

7. Contractor Personnel. Contractor shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Contractor agrees to assign specific individuals to key positions. If deemed qualified, the Contractor is encouraged to hire City residents to fill vacant positions at all levels. Contractor agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the City. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Contractor shall immediately notify the City of same and shall, subject to the concurrence of the City, replace such personnel with personnel possessing substantially equal ability and qualifications.

8. Inspection; Acceptance. All work shall be subject to inspection and acceptance by the City at reasonable times during Contractor's performance. The Contractor shall provide and maintain a self-inspection system that is acceptable to the City.

9. Licenses; Materials. Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor. The City has no obligation to provide Contractor, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement. The City has no obligation to provide tools, equipment or material to Contractor.

10. Performance Warranty. Contractor warrants that the Services rendered will conform to the requirements of this Agreement and with the care and skill ordinarily used by members of the same profession practicing under similar circumstances at the same time and in the same locality.

11. Indemnification. To the fullest extent permitted by law, the Contractor 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 work or services of the Contractor, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

12. Insurance.

12.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Contractor, Contractor 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 Contractor. 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 Contractor 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, 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 Named 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 until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.

E. Primary Insurance. Contractor'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 and necessary endorsements 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 work or services of Contractor. Contractor 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. Contractor shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Contractor shall execute written agreements with its subcontractors containing the indemnification provisions set forth above and insurance requirements set forth herein protecting the City and Contractor. Contractor shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Contractor 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 Contractor'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 Contractor'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 the RFP number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFP number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFP number and title or a reference to this Agreement, as applicable, 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) Contractor's insurance shall be primary insurance with respect to 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 Contractor 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.

K. Endorsements. Contractor shall provide the City with the necessary endorsements to ensure City is provided the insurance coverage set forth in this Section.

12.2 Required Insurance Coverage.

A. Commercial General Liability. Contractor 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. Contractor shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Contractor's owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor's

work or services 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. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Contractor engages in any professional services or work in any way related to performing the work under this Agreement, the Contractor shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Contractor, or anyone employed by the Contractor, or anyone for whose negligent acts, mistakes, errors and omissions the Contractor is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

D. Workers' Compensation Insurance. If Contractor employs anyone who is required by law to be covered by workers' compensation insurance, Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Contractor's employees engaged in the performance of work or services 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.

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

13. Termination; Cancellation.

13.1 For City's Convenience. This Agreement is for the convenience of the City and, as such, may be terminated without cause after receipt by Contractor of written notice by the City. Upon termination for convenience, Contractor shall be paid for all undisputed services performed to the termination date.

13.2 For Cause. If either party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (A) provides written notice to the non-defaulting party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure

of its nonperformance. In no event shall any such cure period exceed 90 days. In the event of such termination for cause, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.

13.3 Due to Work Stoppage. This Agreement may be terminated by the City upon 30 days' written notice to Contractor in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.

13.4 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 this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a Contractor to any other party of this Agreement with respect to the subject matter of this Agreement.

13.5 Gratuities. The City may, by written notice to the Contractor, cancel this Agreement if it is found by the City that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Contractor an amount equal to 150% of the gratuity.

13.6 Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the City's then current fiscal year. The City's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the City concerning budgeted purposes and appropriation of funds. Should the City elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the City shall be relieved of any subsequent obligation under this Agreement. The parties agree that the City has no obligation or duty of good faith to budget or appropriate the payment of the City's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The City shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The City shall keep Contractor informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. Contractor hereby waives any and all rights to bring any claim against the City from or relating in any way to the City's termination of this Agreement pursuant to this section.

14. Miscellaneous.

14.1 Independent Contractor. 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. The Contractor acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. Contractor, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of Contractor, its employees or subcontractors. The Contractor, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Contractor meets the requirements of its agreed Scope of Work as set forth in Section 2 above and Exhibit B. Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Contractor do not intend to nor will they combine business operations under this Agreement.

14.2 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 Maricopa County, Arizona.

14.3 Laws and Regulations. Contractor shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Contractor is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, including, but not limited to, the following: (A) existing and future City and County ordinances and regulations, (B) existing and future State and Federal laws and (C) existing and future OSHA standards.

14.4 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 Contractor.

14.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in this 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, this Agreement will promptly be physically amended to make such insertion or correction.

14.6 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 this Agreement which may remain in effect without the invalid provision or application.

14.7 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 this 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.

14.8 Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by Contractor without prior, written permission of the City, signed by the City Manager. Any attempted assignment or delegation by Contractor in violation of this provision shall be a breach of this Agreement by Contractor.

14.9 Subcontracts. No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior, written approval of the City. The Contractor is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Contractor.

14.10 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 Contractor 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.

14.11 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.

14.12 Liens. All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.

14.13 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the City may offset from any money due to the Contractor any amounts Contractor owes to the City for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The City may offset from any money due to the Contractor any amounts Contractor owes to the City for delinquent fees, transaction privilege use taxes and property taxes, including any interest or penalties.

14.14 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 (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

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

With copies to: City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Attn: Senior Buyer, Loretta Browning

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

If to Contractor: M&J Trophies and Apparel
10802 N. 43rd Avenue, Suite 2
Glendale, AZ 85304
Attn: John Balzic

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) 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.

14.15 Confidentiality of Records. The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Contractor's duties under this Agreement. Persons requesting such information should be referred to the City. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under this Agreement.

14.16 Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under subsection 14.17 below, Contractor's and

its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Contractor and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Contractor's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Contractor's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 14.17 below. To the extent necessary for the City to audit Records as set forth in this subsection, Contractor and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the City to Contractor pursuant to this Agreement. Contractor and its subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this subsection. The City shall give Contractor or its subcontractors reasonable advance notice of intended audits. Contractor shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

14.17 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Contractor and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Contractor's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

14.18 Israel. Contractor certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

14.19 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, any amendments, the Scope of Work, any City-approved Purchase Order, the Fee Proposal, the RFP and the Contractor's Proposal, the documents shall govern in the order listed herein.

14.20 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods and services from another source when necessary.

14.21 Cooperative Purchasing. Specific eligible political subdivisions and nonprofit educational or public health institutions ("Eligible Procurement Unit(s)") are permitted to utilize procurement agreements developed by the City, at their discretion and with the agreement of the awarded Contractor. Contractor may, at its sole discretion, accept orders from Eligible Procurement Unit(s) for the purchase of the Materials and/or Services at the prices and under the

terms and conditions of this Agreement, in such quantities and configurations as may be agreed upon between the parties. All cooperative procurements under this Agreement shall be transacted solely between the requesting Eligible Procurement Unit and Contractor. Payment for such purchases will be the sole responsibility of the Eligible Procurement Unit. The exercise of any rights, responsibilities or remedies by the Eligible Procurement Unit shall be the exclusive obligation of such unit. The City assumes no responsibility for payment, performance or any liability or obligation associated with any cooperative procurement under this Agreement. The City shall not be responsible for any disputes arising out of transactions made by others.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“City”

CITY OF AVONDALE,
an Arizona municipal corporation

Charles A. Montoya, City Manager

ATTEST:

Marcella Carrillo, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2019, 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

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

"Contractor"

M&J Trophies and Apparel,
an Arizona corporation

By: _____

Name: John Balzic

Title: Member

(ACKNOWLEDGMENT)

STATE OF Arizona)
) ss.
COUNTY OF Maricopa)

On July 8th, 2019, before me personally appeared John Balzic, the Member of M&J Trophies and Apparel, an Arizona corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the M&J Trophies and Apparel.

Notary Public

(Affix notary seal here)



EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
M&J TROPHIES AND APPAREL

[Contractor's Proposal]

See following pages.

ORIGINAL

City of Avondale CR 19-060

**Citywide Promotional Products and
Services**

M&J Trophies and Apparel

10802 North 43rd Avenue Suite 2

Glendale, AZ 85304

602-548-4200

www.mjtrophies.com

john@mandjtrophies.com

A) COVER GENERAL INFORMATION

M&J Trophies and Apparel
10802 N. 43rd Avenue Suite #2
Glendale, AZ 85304
602-548-4200
john@mandjtrophies.com

To Whom it May Concern:

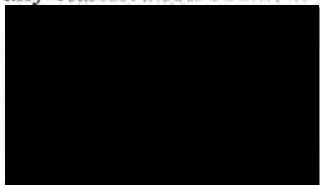
Please consider our proposal for Citywide Promotional Products and Services CR 19-060. We are a current a vendor of the City, and have built relationships with several departments including Parks, Recreation and Library, Neighborhood & Family Services, Communications and Marketing, Transit/Intergovernmental Affairs, and the City Clerk to name a few. We understand the scope of this contract is to provide custom products to both the employees and citizens of Avondale. This has been precisely what our company has done for 20 years. We can and have met the Scope of Work described in this bid. This is our core business, and something that we specialize in.

M&J Trophies and Apparel is a 20 year old company, and have been on several government and school contracts as described later. With 21 employees and decades of experience, we are poised to help the City achieve its goals. With our experience and inhouse awards, screen printing and embroidery, we can meet just about any deadline. We are the only company in the valley that does all awards, screen-printing and embroidery in house, with no subcontractor. This will benefit Avondale because of the control of delivery time, quality, and even same day service in an emergency. Our expertise in government procurement will help the City of Avondale with compliance of State Law.

Our current contracts include the State of Arizona Contract for Apparel, Awards, and Promotional Products. This is our largest contract, as other government agencies use this cooperatively. This contract allows us to serve agencies including Arizona Game and Fish, The Arizona Attorney General's Office, The Department of Public Safety, and The Department of Economic Security. These high valued clients, like the City of Avondale, require quick turn around and attention to detail when it comes to product quality and service.

I, John Balzic, will be your point of contact. My office number is 602-548-4200. We are located conveniently on 43rd Avenue and Peoria (address in header), We are an LLC, under Balzic Enterprise LLC, dba M&J Trophies and Apparel. We have never had litigation against us as a business or personally. We have never had a contract or subcontract cancelled. Please feel free to contact me for any clarification of this bid needed. Myself or Claudia Balzic may act on our behalf.

John Balzic



SECTION A

PART IV. VENDOR INFORMATION FORM

By submitting a Proposal, the submitting Vendor certifies that it has reviewed the administrative information and draft of the Professional Services Agreement's terms and conditions and, if awarded the Agreement, agrees to be bound thereto.

MSJ Trophies and Apparel
VENDOR SUBMITTING PROPOSAL

38-871-0802
FEDERAL TAX ID NUMBER

John Balzic Member
PRINTED NAME AND TITLE


AUTHORIZED SIGNATURE

10802 N. 43rd Avenue Suite 2
ADDRESS

602-548-4200 602-548-4204
TELEPHONE FAX #

Glendale, AZ 85304
CITY STATE ZIP

08/04/2018
DATE

WEB SITE: www.mandltrophies.com

E-MAIL ADDRESS: john@mandltrophies.com

ARIZONA CORPORATION COMMISSION FILE NO. LL11592468

SMALL, MINORITY, DISADVANTAGED AND WOMEN-OWNED BUSINESS
ENTERPRISES (check appropriate item(s):

- ☒ Small Business Enterprise (SBE)
☒ Minority Business Enterprise (MBE)
☐ Disadvantaged Business Enterprise (DBE)
☒ Women-Owned Business Enterprise (WBE)

Has the Vendor been certified by any jurisdiction in Arizona as a minority or woman-owned business enterprise? Yes, the City of Phoenix

If yes, please provide details and documentation of the certification.

B) EXPERIENCE AND QUALIFICATIONS

M&J Trophies and Apparel specializes in providing awards, screen printing, and embroidery to various government agencies throughout the valley. We did over \$2.1 million in sales in 2018, of that \$1.2 was government work. This includes state, cities, and school districts. With over a decade of working with various government agencies, we have become experts in state procurement laws along with the purchase order process.

Some of our current contracts include the State of Arizona Contract for Apparel, Awards, and Promotional Products. This is our largest contract, as other government agencies use this cooperatively. This contract allows us to serve agencies including Arizona Game and Fish, The Arizona Attorney General's Office, The Department of Public Safety, and The Department of Economic Security. These high valued clients, like the City of Avondale, require quick turn around and attention to detail when it comes to product quality and service. Some city municipalities we serve include the City of Phoenix, Surprise, Glendale, Scottsdale, Peoria, Goodyear, Buckeye and Avondale as previously mentioned. Although not a city, we also do most of the apparel for State Farm Stadium. The reason I mention them is that they require an extremely quick turnaround, with incredibly strict quality guidelines.

We also are fortunate enough to service several valley school districts. Some of the contracts including Phoenix Union High School District, Dysart Unified School District, Peoria Unified School District, Tempe Union High School District, Higley Unified School District, Deer Valley Unified School District, Glendale Elementary and Washington Elementary School District.

All of these entities share a common need, deadlines. If a team does not have uniforms for their first game, or awards for their banquet, the city or school looks bad, which in turn makes us look bad. We pride ourselves in making our customers look good, in a manner that is as easy on them as possible. Once an order is placed you can rest easy and be sure it will be done in a timely manner, with the quality that is expected. We understand that coaches and teachers have a job to focus on. We allow them to keep that focus on their job and not worrying about their order. This is where our value of service exceeds expectations and has been the key to our success.

Additional value is added by not charging screen, art or setup charges on orders of 24 items. Many in this industry charge less for specific items on a bid, but up the price elsewhere to cover there "loss leader" on the bid. This is one area others recapture dollars. Not M&J.

M&J Trophies and Apparel also offers custom websites. What this does is enable the city employees to order custom Avondale apparel on line. This eliminates the need for a department to take orders, collect money, and distribute. Some current customers who are taking advantage

of this is Glendale Fire Department, Arizona Department of Environmental Services, Liberty High School, and many others.

In conclusion, we have the staff, capacity, and experience to handle the volume that will be required with this contract. We feel we have proven this with the current contracts previously listed as well as past performance with the district. I feel that references (even those provided by below) are selectively picked by a bidder and in a manner to put our best foot forward. Please feel free to contact any of the customers listed above or any Avondale employees which you can access to get a broader perspective of our service. I can provide additional names if requested. These three were picked randomly because they are the three closest municipalities that we deal with by you.

REFERENCES

Peoria Sports

Franz Fuhrmann

8866 W. Thunderbird Road

Peoria, AZ 85381

623-773-7186

Franz.Fuhrmann@peoriaaz.gov

Supply awards, apparel and promo products since 2006 (\$104,000 in 2018)

Goodyear Parks and Recreation

Michael Beadle

3075 N. Litchfield Road

Goodyear, AZ 85395

602-410-1953

Michael.beadle@goodyearaz.gov

Supply awards, apparel and promo products since 2014 (\$32,000 in 2018)

Buckeye Parks and Recreation

Miranda Gomez

110 E. Irwin St.

Buckeye, AZ 85326

623-693-1578

mgomez@buckeyeaz.gov

Supply awards, apparel and promo products since 2006 (\$23,000 in 2018)

CAPACITY

We have the experience on this exact contract with Avondale since 2011. This is proof we have the experience and expertise required to successfully handle this contract. We have all the art files, event dates, and methodology to make this a smooth transition for Avondale employees. For example, knowing when an annual event, or a season ends, we have the ability to be proactive and plan a project a head of time. We do this through email reminders of things coming up that Avondale may have on the calendar from the past.

We are experts in the products sold under this contract. According to our suppliers, WE ARE THE ONLY ONES IN THE VALLEY WHO DO AWARDS, EMBROIDERY, AND SCREENPRINTING IN HOUSE, IN OUR BUILDING WITH COMPLETE CONTROL OVER TIMELINESS AND QUALITY. This has allowed us to provide same day service when necessary. For example, if there is a forgotten recipient at an awards banquet (this is common), we can produce and award within an hour. An event with a new hire needing a uniform, we can do same day service if item is in stock or an item is brought to us. This has happened a few times with State Farm Stadium. This is impossible if the work is contracted out.

In business for 20 years, established in 1999. Sales have grown every year without an outside sales staff. This growth has been accomplished through taking care of our current customers such as the City of Avondale, and the word of mouth of our great service. We have been particular not to grow too fast, we do not want to outpace our capacity. Staying ahead of the growth has been critical to our success in achieving A+ customer service. We are selective on what bids we apply for, and manage those contracts which are awarded like it is our only contract.

To keep up with this growth, we have increased our capacity with improved processes and efficiencies. We have also increased our staff each and every year. Currently employing 21 great team members. Our team has an average tenor of 7 years with us, two have been with us 20 years, and 9 have been here over 10 years. We pride ourselves on our environment. Our team loves what they do, and it is reflected in their work and low turnover.

We have the equipment infrastructure to handle this contract. Since 2010, we have added 12 heads of embroidery machines to keep up with the demand of the various contracts. We have also added 2 manual print presses and 1 automatic press along with new dryers. All of this at a cost of \$225,000. We have proven we will do whatever it takes to fulfill this contract as with past growth. This has included purchasing new equipment, hiring more people, acquiring more space, or even just staying late to get the job done. These things cannot be done when using subcontractors.

John Balzic

| john@mandjtrophies.com

Objective

- To continue to serve the community and grow M&J Trophies and Apparel

Education

BACHELOR OF SCIENCE | MAY 10TH, 1991 | ARIZONA STATE UNIVERSITY

- Major: Business, Purchasing Materials Management

Experience

OWNER | M&J TROPHIES AND APPAREL | NOVEMBER 2004 TO PRESENT

- Own and operate M&J Trophies and Apparel
- Manage 21 Team Members, and serve several thousand customers, most of which repeat.

GENERAL MANAGER | SPORTS CAGE INC | JANUARY 1995 TO NOVEMBER 2004

- Managed all aspects of 3 stores in malls located in Maricopa County
- Grew business from one store with 400,000 in sales to over \$3 million dollars in sales
- Purchasing and accounting

SOFTLINES MANAGER | KMART CORP | JUNE 1991 TO DECEMBER 1995

- Managed all aspects of softlines division
- Managed 30 people, responsible for 60% of the sales floor.
- Promoted 3 times in 4 years to larger stores with more responsibility

ARIZONA DEPARTMENT OF REVENUE
ATTN: Customer Care and Outreach
PO BOX 25032
Phoenix, AZ 85038-0032



ARIZONA DEPARTMENT OF REVENUE
TRANSACTION PRIVILEGE TAX LICENSE
NOT TRANSFERABLE

This license is issued to the business named above for the use of the business and is not to be transferred to another business. This license is issued under the provisions of A.R.S. Title 49, Chapter 4, Article 2.

2019

ISSUED TO: BALZIC ENTERPRISE LLC
2919 N 67TH PL
SCOTTSDALE AZ 85251

ALL communications and
reports MUST REFER to
THIS LICENSE NO.

LICENSE: 20048628
START DATE: 11/10/2004
ISSUED: 01/04/2019
EXPIRES: 12/31/2019

LOCATION: CODE 001
M & J TROPHIES & APPAREL
10802 N 43RD AVE STE 2
CLENDALE, AZ 85304-4100
1900054754829

BUSINESS CODE

017 - RETAIL
017 - RETAIL

REGION
MAR - MARICOPA
PX - PHOENIX

JURISDICTION
COUNTY
CITY

This license is issued to the business named above for the address shown. Licenses, by law, cannot be transferred from one person to another, nor can they be transferred from one address to another. Arizona law requires licensees to notify the Department of Revenue if there is a change in business name, trade name, location, mailing address, or any other factor. In addition, when the business ceases to operate or the business location merges and a new license is issued, the license must be returned to the Arizona Department of Revenue. According to R.S. 5-2201, the license must be destroyed in a conspicuous place.



City of Phoenix
EQUAL OPPORTUNITY DEPARTMENT

Balzac Enterprises LLC dba M&J Trophies & Apparel

IS HEREIN GRANTED

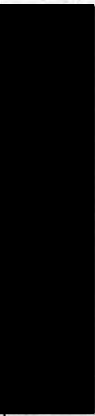
**SMALL BUSINESS ENTERPRISE (SBE)
CERTIFICATION**

In the Area(s) of:

Screen Printing Apparel, Trophies & Promotional Products

Certification Eligibility: April 29, 2014 – April 29, 2019

This certification is valid through the above date provided this firm meets the ongoing programmatic standards and fulfills the annual update requirement to remain in good standing as a SBE.


Lionel D. Lyons, Equal Opportunity Director
City of Phoenix Equal Opportunity Department

C) KEY POSITIONS

1. John Balzic Owner 602-548-4200 john@mjtrophies.com
Sales, Accounting, Bids, Management (15 years experience)
2. Claudia Balzic Owner 602-548-4200 claudia@mjtrophies.com
Sales, Accounts Receivable (15 years experience)
3. Ken McGinty Lead Graphic Artist 602-548-4200 ken@mjtrophies.com
Sales, Art (12 years experience)
4. Chris Burnett Sales/IT 602-548-4200 christopher@mjtrophies.com
Sales, IT (4 years experience)

NO SUBCONTRACTORS ARE USED FOR AWARDS AND APPAREL. Promo items may be ordered from hundreds of suppliers who supply them (items like pens, balloons, beachballs, etc)

M&J Trophies and Apparel

➤ Owners

- John Balzic (49%)
 - Grow Relationships
 - Administrative Functions
- Claudia Balzic (51%)
 - Manage Day to Day Operations
 - Sales Functions

➤ Production Departments

- Screen Printing
 - Jeremy Johnson
 - Keep Production Flowing By Staging Orders, Screens, Troubleshoot Orders, and Inventory Control
 - Jermaine, Rene, Ty, Isaac, Joe
 - Prints Orders per Ken's Vision and Jeremy's Timeline
 - Brent, JJ, Chase
 - Reclaim and Burn New Screens
 - Catch and Quality Control as needed
- Embroidery
 - Delmar
 - Quality Control
 - Communicate Customer's Vision
 - Nick
 - Quality Control
 - Keep Machine Running
 - Run Second Machine
- Awards
 - Adam B.
 - Prepare Art for Production
 - Communicate Customer's Vision
 - Adam H.
 - Prepare Orders for Production
 - Quality Check
 - Brandon
 - Trophy Assembler
- Art
 - Ken
 - Converts RAW Customer Vision
 - Oversees all Apparel Production
 - Michael
 - Converts Customer Vision into Ready for Production Artwork
 - Receiving
 - Melissa
 - Orders Product
 - Counts and Separates Orders as they arrive
 - Customer Service
 - Christopher

- Customer Service
- Alma

D) PROPOSED SERVICES PROVIDED AND PROJECT APPROACH

M&J Trophies and Apparel is a company that customizes products to a customer's specs. This type of branding includes screen printing on apparel, embroidering on apparel, hats, bags and accessories, and manufacturing and engraving awards such as crystal, acrylic, trophies, medals and plaques.

We understand the city will inspect product as it is received. Before we deliver, product is counted and inspected when received, before printing, and when final packaging takes place. Three different set of eyes. In the rare case an item is not up to a customer's standards, we will refund or replace no questions asked. Examples in the past customers have dropped awards at events, and we replaced. Customers have ordered wrong sizes, we have replaced. As expensive as this is in the short term, we have developed many long term relationships with this philosophy which has proven to pay for itself ten fold. And, it is just the right thing to do.

Branding professionally is what we do and only what we do. Our quality and service in branding is how we have grown for the past 20 years.

We have the ability to keep an online catalog of all orders, and or a website.

We will be here to support you free of charge, supporting our customers is the key to any business success.

Proofs will be provided, it is our policy for all apparel and promo items to get a proof before production. We do not like surprises. For awards, orders over \$200 automatically get a proof, or upon request. For correctons, there is no charge. We have replaced items that were complete, and approved but approved wrong. This has been done at no cost to the customer. This for all customers, not just contracts.

We have a strict policy of not doing copyright or trademarked logos without permission. Our graphic artist has become somewhat an expert in recognizing and researching this. With that said, there are hundreds of thousands of protected logos, not all are recognized. We do have a legal disclaimer on every proof explaining this. There is also a sensitivity issue when dealing with law enforcement and such. For example, Glendale Police is one of our largest accounts has strict guidelines on requesting ID, or permission from our contacts within the agency before we use any of their logos on apparel. This is critical for public safety with State customers such as the AG's office and Game and Fish. We use the uniform guide provided when doing anything for them. We also keep in close contact with agencies on logo changes. We worked closely with Cecelia the art director at Game and Fish when they changed their logo. We provided several samples, and have been instructed what can and cannot use. We helped her set a standard for

screen printing with what mesh screen and type of squeegee is best used for her application. Cecelia conveyed this information to all other screen printers to establish a brand guideline. We follow their logo usage guide to the letter. Avondale can be assured their logo will not get in the wrong hands and used inappropriately.

Our standard procedure is to box all orders with an invoice that has all information on it requested in the RFP. We can change that to packing list if requested.

We can receive the graphics in any format, but prefer vector (AI, Coral, etc). I have three artist that convert it to what we need. Email, flash drive, drop box are all acceptable ways to exchange logos.

Pricing will include all fees. We never charge to deliver from our location to Avondale.

An order form or website can be made per Avondales specifications. We can update annually.

We can suggest any product based on what the event, or purpose is. We will interview the customer to get feedback on what is needed.

M&J offers products that are sustainable, I can get MDS on items as requested. Each one will have different specifications and level of sustainability.

Design suggestions will be based on the product sold. For example, some screen printed logos will not look good shrunk down and embroidered on a visor. This is where our expertise, and communication with Avondale will make the project a success.

We deliver anywhere in Arizona.

BRANDS

We offer 100's of name brands including, Nike (limited), Adidas Golf, Ogio, Sport Tek, Eddie Bauer, American Apparel, Augusta, Holloway, Gildan, Hanes, Port Company, Cornerstone, Red Kap, North Face, Red House, Bella Canvas, New Era, Carhartt, District Threads, Champion, Russell, Richardson Cap, Pacific Headwear, Columbia, Flexfit.

We are notified by our suppliers of any recalls, and pass that info on to any one whom we have sold that product too. We keep records of every sale we have made since our inception. And can search our database by product then informing the customer of the recall.

ADDED VALUE

We add value with everything we do. Offering websites which is valuable to our customers time. This eliminates the need to collect orders, collect money, and distribute. We also add value by not charging art fees. Many tack this on to a low bid to compensate for the low price. We also don't charge fees for screens (if 24 pieces are ordered), or digitizing fees. We deliver

free of charge, resulting in savings to the city in payroll, productivity, and gas by not picking product up, or paying shipping fees.

Our firm stays informed by attending trade shows, from sales reps, and keeping an eye on trends through media and trade magazines. When there is a short term price sale, we do an email blast to our customers.

Our customer service departments helps through emails, phone calls and face to face. We really do not chase or utilize "creative" marketing messages nor do we have to. What we do have is the best customers service in the Valley. Good honest old fashion values like doing what we say we will do, when promised, with unquestionable quality at a fair price. These non gimmick values have made us extremely successful. Sometimes this is the best way to market vs other gimmick approaches. Proof is in our growth over the years. Slow and steady growth, but consistent, not out growing our capacity or service ability.

SUSTAINABILITY COMMITMENT

We recycle per the City of Phoenix guidelines. We have paper, separated from plastics and glass.

Our paper is FSC certified, and we do not print un-needed paper. We recycle all paper.

When possible, we conserve energy with timely production scheduling, and all hands on or off deck to utilize savings.

APS came to our location and switched out all of our ballist and light bulbs to save 60% on our energy usage for lights.

We have new AC units on our building, using less energy.

All chemicals used are of the highest safety standard and are California Compliant.

EXHIBIT B
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
M&J TROPHIES AND APPAREL

[Scope of Work]

See following page(s).

SCOPE OF WORK

Citywide Promotional Products and Services CR 19-060

Introduction. The City is seeking one or more Contractors to provide a wide array of Avondale branded promotional product items. The Contractor will be responsible for providing various creative, professionally printed materials on an as-needed basis. Contractor will provide one or more of the product type categories and will provide products in varying quantities. These items may include but are not limited to: writing instruments, drinkware, hats and apparel, trophies and awards, toys, packaged candy, electronic/technology giveaways, awards, and other industry specific specialty items. These items may incorporate multiple variations of artwork depending on the use.

Background Information.

In year 2014, the City of Avondale embarked on a rebranding campaign and adopted the Avondale: Aspiring, Achieving, Accelerating tagline and new Avi Logo. The City's intent of the promotional items and products pursued through this RFP are to demonstrate to its employees and the community; the values and standards the City aligns itself with every day. The City's efforts to market and sustain its brand is carried out through the use of its logo on all printed materials issued by Avondale, and furthermore, through promotional products featuring the brand. The primary products include promotional and customized giveaways, apparel, and awards.

Giveaways. Orders for giveaways will consist of smaller souvenir type items to promote and further develop public interest and attract others to Avondale as a destination for employment, business, entertainment, living, or economic development. Giveaways are generally provided at community meetings, events, or conventions.

Apparel. Various designs shall be used throughout the contract. Contractor will be responsible for providing the types of apparel as more particularly described in the Scope of Work and Specifications attached hereto Exhibit B, of the RFP.

Awards. City departments, agencies, and programs may request assorted awards throughout the year. The Parks and Recreation Department, Fire Department, Police Department and Community Relations Department have the most requests for trophies and awards due to the types of programs they host. The Parks and Recreation Department hosts adult and youth sports leagues that provide awards for various sports, such as softball, basketball, soccer and volleyball. Parks and Recreation Department also hosts a variety of youth camps and clinics for such sports as football, basketball, tennis and baseball. Other departments and agencies within the City also use an assortment of awards for a variety of recognition purposes. Contractor will be responsible for providing the types of trophies and awards as more particularly described in the Scope of Work and Specifications attached hereto Exhibit B, of the RFP.

1. Objective. Professionally branded promotional goods support a positive and professional image of the City. These items will be produced for public consumption as well as internal use. Contracted vendors will collaborate with department representatives regarding product selection, availability, budget, timeline and any specific needs as it pertains to the production of Avondale branded promotional items. These needs will vary and may be industry-specific in nature.

2. City Responsibilities. City shall be responsible for the following:

2.1 City shall assign a City Representative(s). All communications relating to the project Services shall be exchanged between the City Representative and the Contractor.

2.2 Incoming Quality Inspection: Delivery of completed jobs will be subject to inspection and approval by the ordering City department. The City reserves the right to reject or refuse acceptance of products that do not meet quality standards. City Representative will immediately notify the Contractor of any service deficiencies including, but not limited to (i) failure to perform services within the agreed upon time frame, (ii) materials delivered in damaged condition, (iii) unacceptable color variation or (iv) wrong final count. Rejected work shall be at the expense of the Contractor(s).

3. Contractor Requirements Contractor shall be required to provide, at a minimum, the following materials and Services:

3.1 Contractor shall supply all supplies and equipment necessary for the performance and prompt execution and delivery of Services.

3.2 Contractor shall supply professionally branded promotional products such as, but not limited to: writing instruments, drinkware, hats and apparel, trophies and awards, toys, packaged candy, electronic/technology giveaways and other industry specific specialty items.

3.3 Contractor shall maintain a sample reference catalog record of the City's promotional products ordered; either in electronic or a hard copy format.

3.4 Orders may be placed by various City Representatives on an "as-needed" basis. The City requests that the supply be kept as close as possible to the quantities ordered. The City has the right to increase or decrease the amount ordered prior to the final proof stage.

3.5 Contractor shall be responsible for providing all labor, equipment, material and consumables necessary to produce promotional items.

3.6 Contractor shall provide support staff to assist in establishing requirements and problem resolution, free of charge.

3.7 Product quality is to meet the highest industry standards in terms of readability, functionality and overall appearance. Acceptable quality is solely determined by the individual City Representative.

3.8 Proofs are required and are subject to City approval before print production commences. Corrections or product changes may be made up until the final stages of the production of materials. Unfortunately, these changes or corrections are often beyond the control of City Representative. The City will endeavor to ensure that changes are kept to a minimum, and/or sufficient notice is given to the Contractor when changes are necessary. These changes or corrections may include, but are not limited to, substitution due to lack of specific product availability, additional/changed text, graphics, sizing or changes in materials.

A. New proofs shall be submitted to the City for final approval if corrections are required. In most cases, a soft proof (pdf) will suffice.

B. No claims for extra work shall be entertained, and any additional work on behalf of the Contractor shall be authorized in writing prior to commencement of the work.

C. Should the Contractor require more information or clarification on any project, it shall be obtained prior to the submission of the proposed proofs.

D. Any change in production that results in additional charges to the City shall be discussed and accompanied with an email authorization, by a duly authorized employee of the City of Avondale ("City Representative") prior to the commencement of the change. No invoices for additional charges shall be accepted without written authorization.

3.9 Logos. Only the Avondale approved logos will be utilized throughout the City. Some promotional items may be theme-specific with the brand incorporated into the overall design. Other than legal requirements the name of the Contractor will not be utilized.

3.10 Any designs, drawings, pictures, raw working files, etc. provided by the City department for use in production of printed material involves property rights of the City and shall be held confidential by the Contractor(s).

3.11 Contractor shall provide City Representative or designee with a PDF file of the final approved project as requested for any design project not handled in-house by City.

3.12 All packages, boxes, and cartons shall be labeled as to contents, purchase order number, job order number, quantity and ordering department name. Packing lists shall be included with each order, and packages shall be signed for by a City Representative

3.13 All work completed will be subject to inspection and approval by the ordering City Representative. The City reserves the right to reject and refuse acceptance of final products due to; missed deadlines, product failure, manufacturing quality that falls below industry standards, imprint/customization readability, functionality or overall appearance. Rejected work shall be at the expense of the Contractor(s).

3.14 The City requires Contractor(s) to have the capability to receive compatible graphics via electronic files (email, internet, flash drive). The City generally uses

Microsoft Office and Adobe products and Contractors shall be able to produce copies from all MS Office and Adobe file formats.

3.15 Delivery locations include, but are not limited to, any City of Avondale facility or business partner. The City shall designate the appropriate mail house or distributor at time of order. The following is a list of City facilities, which may be supplemented or amended:

Facility	Delivery Address	City, State, Zip Code
City Hall	11465 W. Civic Center Dr.	Avondale, AZ 85323
City Court	11325 W. Civic Center Dr.	Avondale, AZ 85323
Civic Center Library	11350 W. Civic Center Dr.	Avondale, AZ 85323
Neighborhood and Family Services Community/Senior Center	1007 S. 3rd Street	Avondale, AZ 85323
Police Department	11485 W. Civic Center Dr.	Avondale, AZ 85323
Public Works Department	399 E. Lower Buckeye Center	Avondale, AZ 85323
Municipal Operation Services Resource Center	328 W. Western Avenue	Avondale, AZ 85323
Sam Garcia Library	495 E. Western Avenue	Avondale, AZ 85323

The above is not an exhaustive list of project delivery locations required by the City. All delivery information shall be provided at the time of order and may vary by project.

If the Contractor determines that it is unable to deliver the project on the date agreed upon at the time of the order, a designated member of the City staff shall be notified within 72 hours prior to the anticipated delivery date of the order.

3.16 Product and customization pricing must be all-inclusive. Pricing must include all set-up fees, delivery/shipping, and rush charges, if applicable. If rush fees or delivery will be charged, the Contractor must specify in the Fee Proposal how the fees will be calculated. Final payment shall not be authorized until all materials are received, inspected, and approved by the requesting City Representative.

3.17 Promotional Product Estimates. The printing project specifications included in to Exhibit C. Fee Proposal, Section I. Printing Estimates of the RFP, are provided as a guide for each print project most often requested by the City. The City reserves the right to change project specifications as needed to meet changing informational and artistic needs.

4.0 Product Ordering Tools and Guidance.

4.1 Contractor will create an order form for City standard items for efficient ordering, to include photos of standard items for reference.

4.2 Maintain City logo for quick and frequent re-orders (i.e.: pens and apparel).

4.3 Provide a new catalog annually as applicable and/or upon new product availability.

4.4 Provide guidance and/or suggestions of the products and/or promotional items that are generating customer loyalty at the lowest costs.

4.5 Provide information on availability of product options and selections that support sustainable amenity items which consist of:

- A. High post-consumer (PCW) recycled content material
- B. Readily recyclable items ("compostable" items do not count)
- C. Minimized and readily recyclable packing
- D. Nontoxic dyes or inks on Food/Liquid container items (e.g. water bottles) that does not contain Phthalates and/or Bisphenol A (BPA)

4.6 Provide suggestions for promotional item designs using the Avondale brand and provide a visualization of product with logo including:

- A. Ability to change product and logo color options.
- B. Provide anticipated minimum quantity for purchases, as well as options for ordering processes.

5.0 General Pricing Requirements.

5.1 Unit Prices for the Core Listed Items shall be fixed for the initial one (1) year term of the resultant contract. No substitution will be allowed on Core List Items unless a letter of notification is provided from the product Manufacturer. No price increases will be accepted without written request issued by Contractor accompanied with appropriate, acceptable substantiated written documentation and written acceptance and approval of price increase by City. Price increase requests (including notification of new catalog prices) shall be submitted no less than 30-days in advance of the Contract Renewal Date. Catalog price updates shall not be unreasonably withheld. Price reductions may be issued at any time. Any price adjustments shall be mutually agreed upon by City and Contractor. The Contractor shall be responsible for notifying cooperative use agencies utilizing the contract of any price increases approved by the City.

5.2 Prices for Non-Core Items shall be based on a percentage discount from List Prices. Percentage discounts are to remain firm for the duration of the contract. Percentage discounts shall be the same for all items within the same category.

5.3 Price Warranty. Contractor shall give the City the benefit of any price reductions before actual time of shipment. If the City permits shipment to be made prior to specified shipping date, the City shall have advantage of any price reductions that occur before the originally-scheduled shipping date.

EXHIBIT C
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
M&J TROPHIES AND APPAREL

[Fee Proposal]

See following page(s).

RFP Citywide Promotional Products and Services
CR 19-060
Fee Proposal

NOTE: All pricing blanks must be filled in. Empty or unfilled spaces in the Price Sheet shall be considered as a NO BID entry for that item.

Core List Items Promotional Products					
Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
1.	Stylus /Pen Barrel color preference is to match our brand colors: Orange (PMS 715), Blue (PMS 2915), Purple (PMS 258) and Green (PMS 376) Single color imprint – White or Black	250	Each	.51	\$127.50
		500	Each	.49	\$245.00
2.	Avondale Branded collared shirts for men and ladies. Shirt color preference is Black, Dark Gray, White or to approximate one of our brand colors: Orange (PMS 715), Blue (PMS 2915), Purple (PMS 258) and Green (PMS 376). Left chest embroidered logo, sizes XS – 4 XL	24	Each	13.66	\$327.84
		48	Each	13.66	\$655.68
3.	Tote Bag – 1 color imprint, 1 side; bag color to be Black, Dark Grey, or one of our brand colors: Orange (PMS 715), Blue (PMS 2915), Purple (PMS 258) and Green (PMS 376) Single color imprint – White or Black or one of our PMS colors	24	Each	4.34	\$104.16
		48	Each	4.34	\$208.32
		96	Each	4.34	\$416.64
4.	16 oz coffee mug, body color preference is to match our brand colors: orange (PMS 715), Blue (PMS 2915), Purple (PMS 258) and Green (PMS 376) Single color imprint – White or Black, one side or wrap	48	Each	\$4.39	\$210.72
		120	Each	\$4.39	\$526.80
5.	Avondale Branded T-shirts Shirt color preference is Black, Dark Gray, White or to approximate one of our brand colors: orange (PMS 715), Blue (PMS 2915), Purple (PMS 258) and Green (PMS 376). Left chest imprinted with one color Avondale brand, back of the shirt to read "STAFF" in same imprint color, adult sizes XS – 4 XL	120	Each	\$6.52	\$782.40
		180	Each	\$6.52	\$1173.60
		500	Each	\$5.43	\$2715.00
6.	Soccer glitter medal: 2.5" dia, solid antique finish silver metal, red and blue glitter resin accents, silver sub plate on back, with 7/8" quick-clip and red ribbon	120	Each	\$4.34	\$520.80
		144	Each	\$4.34	\$624.96
		204	Each	\$4.34	\$885.36

RFP Citywide Promotional Products and Services
CR 19-060
Fee Proposal

NOTE: Contract shall use this section to provide additional product offers or incentive pricing.

Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
7.	Additional Items (Contractor must specify)				
8.	Additional Items (Contractor must specify)				
9.	Additional Items (Contractor must specify)				
10.	Additional Items (Contractor must specify)				

Catalogs submitted for consideration must be provided noting (%) discount offered off list price highlighting the Page number where items are referenced. Submission of out dated price lists or catalogs may result in rejection of the response. Vendors must also provide anticipated fees/costs for logo and setup. Percentage discounts are to remain firm for the duration of the contract. Percentage discounts shall be the same for all items within the same category.

Description of Catalog/Product Category: 2019 Sanmar / Apparel and Accessories
Minimum % Discount offered: 20

Description of Catalog/Product Category: 2019 Lanco Promotional Products
Minimum % Discount offered: 20

Description of Catalog/Product Category: Airflyte / Awards
Minimum % Discount offered: 20

Please note: The City recognizes that is a common practice for manufacturers to provide its registered distributors with product catalogs that do not call out specific pricing, therefore the percentage off list price would not be evident. If this is the case with your suppliers, instead an explanation of pricing structure shall be noted herein.

The prices in the above catalog are national MSRP for the given items. We will honor 20% off those items, or any items on there websites, or our website.

Company: M&J Trophies and Apparel

Authorized Signature: _____

Date: 06/04/2019

EXHIBIT D
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND

[Sustainability Commitment Form]

See following page(s).

SUSTAINABILITY COMMITMENT

The City is committed to protecting the environment and being a successful sustainable community. Therefore, it is essential that sustainability considerations be part of all City activities and operations. This commitment is demonstrated through: compliance, environmental and social sustainability principles, commitment to continued improvement, and focus on pollution prevention. Each Contractor for the City is held to this same commitment and goal.

There are many laws and regulations relating to the protection of the environment. It is each **contractor's** responsibility to know which laws, regulations, approvals or permits relate to the work they perform for the City.

The City is pro-active in encouraging environmentally and socially sustainable practices in our operations and among our residents, businesses, and suppliers. Please review the specifications or scope of work for this solicitation for any environmental or sustainability requirements.

Check any of the following which apply to your business engages in and attach summaries to this page detailing (i) what your business does to participate in the program/practice, (ii) operation and provide reports detailing (A) compliance (if applicable), (B) performance, and (C) the tracking mechanisms used to measure results. Contractor shall also indicate how often the City will be provided reports.

- | | |
|--|--|
| ☒ Recycling | ☐ Raise awareness of sustainability |
| ☒ Energy efficiency practices (i.e. Paper Made with Renewable Energy). | ☐ Economic benefits for recipients and/or wider community |
| ☒ Environmentally preferred (i.e. Use of paper content 30% or > 5% PCW, Forest Stewardship Council (FSC) certified papers and printers, chlorine-free, recycled-content paper, use of environmentally-friendly inks) | ☐ Improved health and/or wellbeing of recipients or the wider community |
| ☐ Water/energy conservation | ☐ Contributions toward local regeneration and positive impacts on future residents |
| ☐ Air quality/greenhouse gas emissions | ☐ Contributions toward education concerning climate change/sustainability issues and methods. |
| ☒ Disposal practices | |
| ☐ Other environmentally friendly practices | |

Company Name: John Balzic

Authorized Signature:  Date: 08/04/2018



CITY COUNCIL REPORT

SUBJECT: Professional Services Agreement with Touchdown Sports for Citywide Promotional Products and Services

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Pier Simeri, Community Relations Director, (623) 333-1600.

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

PURPOSE:

City Council will consider a request to approve a contract with Touchdown Sports for citywide promotional products and services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action. This is one of three multiple awards for citywide promotional print products and services.

BACKGROUND:

On May 8 2019, Avondale issued a Request for Proposals (RFP), CR 19-060, for Citywide Promotional Products and Services. The City advertised and invited solicitations from qualified vendors, and three firms were selected to fulfill the City's requirements for promotional products and services, based on their scored responses addressing the myriad of needs listed in the RFP from city departments.

DISCUSSION:

City departments routinely purchase items displaying the city logo/Avi brand. These items range from T-shirts, hats, uniforms and other apparel, to tote bags, pens and mugs, as well as sporting equipment and supplies in support of our parks and recreation programs. These promotional items bearing the city's logo/brand play an important role in that they help "connect" the city with our residents, businesses and stakeholders. In addition to their engagement purpose, many of these items serve an educational or public awareness function (for instance, paper fans with printed information about the upcoming Census, or pens imprinted with the city's website). Because city departments across the organization utilize a vast variety of promotional items and apparel, having more than one vendor on contract would serve to streamline the purchasing process, while ensuring that public dollars are wisely spent. Three vendors were notified of the City's intent to award multiple contracts for RFP CR 19-060.

BUDGET IMPACT:

Funding for promotional print products and services is available in department budgets.

RECOMMENDATION:

Staff recommends that Council consider and approve a contract with Touchdown Sports for citywide Promotional Products and Services, CR 19-060.

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
TOUCHDOWN SPORTSWEAR & PROMOTIONS, LLC.**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of July 22, 2019, between the City of Avondale, an Arizona municipal corporation (the "City"), and Touchdown Sportswear & Promotions, LLC., an Arizona Corporation, (the "Contractor").

RECITALS

A. The City issued a Request for Proposals, CR 19-060 "CITYWIDE PROMOTIONAL PRINT PRODUCTS AND SERVICES" (the "RFP"), a copy of which is on file in the City's Finance Office and incorporated herein by reference, seeking proposals from vendors to provide the City with various branded promotional products used to support, market and promote the City's operations and activities (the "Services"). Services to be provided as directed by City staff for various City projects.

B. The Contractor responded to the RFP by submitting a proposal (the "Proposal"), attached hereto as Exhibit A and incorporated herein by reference, and the City desires to enter into an Agreement with the Contractor for the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and 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 City and the Contractor hereby agree as follows:

1. Term of Agreement.

1.1 Initial Term. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until July 22, 2020, (the "Initial Term"), unless terminated as otherwise provided in this Agreement.

1.2 Renewal Terms. After the expiration of the Initial Term, this Agreement may be renewed for up to four successive one-year terms (each, a "Renewal Term") if (i) it is deemed in the best interests of the City, subject to availability and appropriation of funds for renewal in each subsequent year, (ii) at least 30 days prior to the end of the then-current term of this Agreement, the Contractor requests, in writing, to extend this Agreement for an additional one-year term and (iii) the City approves the additional one-year term in writing (including any price adjustments approved as part of this Agreement), as evidenced by the City Manager's signature thereon, which approval may be withheld by the City for any reason. The Contractor's failure to seek a renewal of this Agreement shall cause this Agreement to terminate at the end of the then-current term of this Agreement; provided, however, that the City may, at its discretion and with the agreement of the Contractor, elect to waive this requirement and renew this

Agreement. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

1.3 Non-Default. By requesting extension for a Renewal Term as set forth above, or by consenting to a Renewal Term in any manner, Contractor shall be deemed to affirmatively assert that (i) the City is not currently in default, nor has been in default at any time prior to the Renewal Term, under any of the terms or conditions of the Agreement and (ii) any and all Contractor claims, known and unknown, relating to the Agreement and existing on or before the commencement date of the Renewal Term are forever waived.

2. Scope of Work. Contractor shall provide the Services as set forth in the Scope of Work attached hereto as Exhibit B and incorporated herein by reference. This is an indefinite quantity and indefinite delivery Agreement for Services, which shall only be provided when the City chooses to move forward with a pending project and proper authorization and documentation have been approved. The City does not guarantee any minimum or maximum amount of Services will be requested under this Agreement. For project(s) determined by the City to be appropriate for this Agreement, the Contractor shall provide the specific Services to the City agreed upon between the parties in a written invoice, quote, purchase order or other form of written acknowledgment describing the Services to be provided (each, a "Work Order"). Each Work Order shall (i) contain a reference to this Agreement and (ii) be attached hereto as Exhibit B and incorporated herein by reference. Work Orders submitted without referencing this Agreement will be subject to rejection. Contractor acknowledges and agrees that Work Order(s) containing unauthorized exceptions, conditions, limitations, or provisions in conflict with the terms of this Agreement (collectively, the "Unauthorized Conditions"), other than City's project-specific requirements, are hereby expressly declared void and shall be of no force and effect. Acceptance by the City of any Work Order or invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement shall not alter such terms and conditions or relieve Contractor from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement.

3. Compensation. The City shall pay Contractor for the Services at the rates set forth in the Fee Proposal attached hereto as Exhibit C and incorporated herein by reference.

4. Payments. The City shall pay the Contractor monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

5. Safety Plan. Contractor shall provide the Services in accordance with a safety plan that is compliant with Occupational Safety and Health Administration ("OSHA"), American National Standards Institute and National Institute for Occupational Safety and Health standards. If, in the Contractor's sole determination, the Services to be provided do not require a safety plan, Contractor shall notify the City, in writing, describing the reasons a safety plan is unnecessary. The City reserves the right to request a safety plan following such notification.

6. Documents. All documents, including any intellectual property rights thereto, prepared and submitted to the City pursuant to this Agreement shall be the property of the City.

7. Contractor Personnel. Contractor shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Contractor agrees to assign specific individuals to key positions. If deemed qualified, the Contractor is encouraged to hire City residents to fill vacant positions at all levels. Contractor agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the City. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Contractor shall immediately notify the City of same and shall, subject to the concurrence of the City, replace such personnel with personnel possessing substantially equal ability and qualifications.

8. Inspection; Acceptance. All work shall be subject to inspection and acceptance by the City at reasonable times during Contractor's performance. The Contractor shall provide and maintain a self-inspection system that is acceptable to the City.

9. Licenses; Materials. Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor. The City has no obligation to provide Contractor, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement. The City has no obligation to provide tools, equipment or material to Contractor.

10. Performance Warranty. Contractor warrants that the Services rendered will conform to the requirements of this Agreement and with the care and skill ordinarily used by members of the same profession practicing under similar circumstances at the same time and in the same locality.

11. Indemnification. To the fullest extent permitted by law, the Contractor 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 work or services of the Contractor, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

12. Insurance.

12.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Contractor, Contractor 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 Contractor. 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 Contractor 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, 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 Named 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 until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.

E. Primary Insurance. Contractor'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 and necessary endorsements 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 work or services of Contractor. Contractor 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. Contractor shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Contractor shall execute written agreements with its subcontractors containing the indemnification provisions set forth above and insurance requirements set forth herein protecting the City and Contractor. Contractor shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Contractor 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 Contractor'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 Contractor'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 the RFP number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFP number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFP number and title or a reference to this Agreement, as applicable, 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) Contractor's insurance shall be primary insurance with respect to 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 Contractor 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.

K. Endorsements. Contractor shall provide the City with the necessary endorsements to ensure City is provided the insurance coverage set forth in this Section.

12.2 Required Insurance Coverage.

A. Commercial General Liability. Contractor 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. Contractor shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Contractor's owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor's

work or services 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. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Contractor engages in any professional services or work in any way related to performing the work under this Agreement, the Contractor shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Contractor, or anyone employed by the Contractor, or anyone for whose negligent acts, mistakes, errors and omissions the Contractor is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

D. Workers' Compensation Insurance. If Contractor employs anyone who is required by law to be covered by workers' compensation insurance, Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Contractor's employees engaged in the performance of work or services 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.

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

13. Termination; Cancellation.

13.1 For City's Convenience. This Agreement is for the convenience of the City and, as such, may be terminated without cause after receipt by Contractor of written notice by the City. Upon termination for convenience, Contractor shall be paid for all undisputed services performed to the termination date.

13.2 For Cause. If either party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (A) provides written notice to the non-defaulting party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure

of its nonperformance. In no event shall any such cure period exceed 90 days. In the event of such termination for cause, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.

13.3 Due to Work Stoppage. This Agreement may be terminated by the City upon 30 days' written notice to Contractor in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.

13.4 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 this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a Contractor to any other party of this Agreement with respect to the subject matter of this Agreement.

13.5 Gratuities. The City may, by written notice to the Contractor, cancel this Agreement if it is found by the City that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Contractor an amount equal to 150% of the gratuity.

13.6 Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the City's then current fiscal year. The City's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the City concerning budgeted purposes and appropriation of funds. Should the City elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the City shall be relieved of any subsequent obligation under this Agreement. The parties agree that the City has no obligation or duty of good faith to budget or appropriate the payment of the City's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The City shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The City shall keep Contractor informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. Contractor hereby waives any and all rights to bring any claim against the City from or relating in any way to the City's termination of this Agreement pursuant to this section.

14. Miscellaneous.

14.1 Independent Contractor. 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. The Contractor acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. Contractor, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of Contractor, its employees or subcontractors. The Contractor, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Contractor meets the requirements of its agreed Scope of Work as set forth in Section 2 above and Exhibit B. Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Contractor do not intend to nor will they combine business operations under this Agreement.

14.2 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 Maricopa County, Arizona.

14.3 Laws and Regulations. Contractor shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Contractor is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, including, but not limited to, the following: (A) existing and future City and County ordinances and regulations, (B) existing and future State and Federal laws and (C) existing and future OSHA standards.

14.4 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 Contractor.

14.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in this 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, this Agreement will promptly be physically amended to make such insertion or correction.

14.6 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 this Agreement which may remain in effect without the invalid provision or application.

14.7 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 this 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.

14.8 Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by Contractor without prior, written permission of the City, signed by the City Manager. Any attempted assignment or delegation by Contractor in violation of this provision shall be a breach of this Agreement by Contractor.

14.9 Subcontracts. No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior, written approval of the City. The Contractor is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Contractor.

14.10 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 Contractor 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.

14.11 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.

14.12 Liens. All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.

14.13 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the City may offset from any money due to the Contractor any amounts Contractor owes to the City for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The City may offset from any money due to the Contractor any amounts Contractor owes to the City for delinquent fees, transaction privilege use taxes and property taxes, including any interest or penalties.

14.14 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 (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

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

With copies to: City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Attn: Senior Buyer, Loretta Browning

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

If to Contractor: Touchdown Sportswear & Promotions, LLC.
8701 W. Grand Avenue
Peoria, AZ 85345
Attn: John Balzic

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) 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.

14.15 Confidentiality of Records. The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Contractor's duties under this Agreement. Persons requesting such information should be referred to the City. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under this Agreement.

14.16 Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under subsection 14.17 below, Contractor's and

its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Contractor and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Contractor's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Contractor's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 14.17 below. To the extent necessary for the City to audit Records as set forth in this subsection, Contractor and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the City to Contractor pursuant to this Agreement. Contractor and its subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this subsection. The City shall give Contractor or its subcontractors reasonable advance notice of intended audits. Contractor shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

14.17 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Contractor and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Contractor's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

14.18 Israel. Contractor certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

14.19 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, any amendments, the Scope of Work, any City-approved Purchase Order, the Fee Proposal, the RFP and the Contractor's Proposal, the documents shall govern in the order listed herein.

14.20 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods and services from another source when necessary.

14.21 Cooperative Purchasing. Specific eligible political subdivisions and nonprofit educational or public health institutions ("Eligible Procurement Unit(s)") are permitted to utilize procurement agreements developed by the City, at their discretion and with the agreement of the awarded Contractor. Contractor may, at its sole discretion, accept orders from Eligible Procurement Unit(s) for the purchase of the Materials and/or Services at the prices and under the

terms and conditions of this Agreement, in such quantities and configurations as may be agreed upon between the parties. All cooperative procurements under this Agreement shall be transacted solely between the requesting Eligible Procurement Unit and Contractor. Payment for such purchases will be the sole responsibility of the Eligible Procurement Unit. The exercise of any rights, responsibilities or remedies by the Eligible Procurement Unit shall be the exclusive obligation of such unit. The City assumes no responsibility for payment, performance or any liability or obligation associated with any cooperative procurement under this Agreement. The City shall not be responsible for any disputes arising out of transactions made by others.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“City”

CITY OF AVONDALE,
an Arizona municipal corporation

Charles A. Montoya, City Manager

ATTEST:

Marcella Carrillo, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2019, 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.

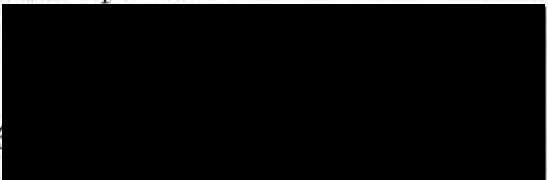
Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

"Contractor"

TOUCHDOWN SPORTSWEAR & PROMOTIONS, LLC,
an Arizona corporation

By: 

Name:

MONTE RYAN

Title:

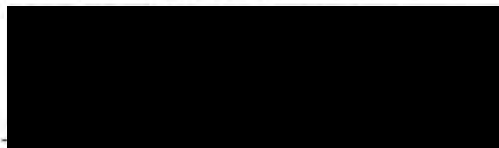
OWNER / PRES

(ACKNOWLEDGMENT)

STATE OF Arizona)
COUNTY OF Maricopa) ss.

On July 9, 2019, before me personally appeared Monte Ryan, the Owner / Pres of Touchdown Sportswear & Promotions, LLC, an Arizona corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the Touchdown Sportswear & Promotions, LLC.




Notary Public

(Affix notary seal here)

EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
TOUCHDOWN SPORTSWEAR & PROMOTIONS, LLC.

[Contractor's Proposal]

See following pages.



SPORTSWEAR & PROMOTIONS

8701 W Grand Avenue, Peoria, AZ 85345
623-773-1852 team@TouchdownSportsweat.com

COVER LETTER

Touchdown Sportsweat and Promotions was established in 1996 by Owner/President Monte Ryan engaging in the supply of imprinted and embroidered sportswear and all promotional items to schools, municipalities, corporations and small businesses. The company has been an approved vendor with many city and state municipalities since its establishment (23 years total). Monte's previous experience managing local firms in the same business totals 45 years in this industry at the local, state and government level. The company has one location at 8701 W. Grand Ave., Peoria, AZ 85345 that includes store and administrative offices.

Touchdown Sportsweat and Promotions currently holds contracts with some of the larger school districts and municipalities in the cities and state and continues to fulfill orders within those contracts in a satisfactory manner. Touchdown Sportsweat and Promotions also is an approved vendor with the United States Government.

Touchdown Sportsweat and Promotions has a staff of approximately 12 very experienced and dedicated people in the sales/production positions. Most staff members have been employed by the company 10+ years.

Touchdown Sportsweat and Promotions has established an impeccable business reputation as a leader in the supply of decorated apparel and promotional items to the customers at fair pricing with unsurpassed customer service and business integrity. Please refer to the reference page.

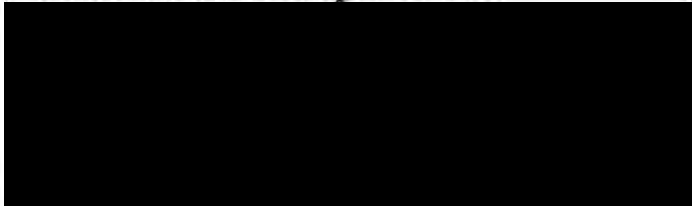
The designated contact person would be:

Monte Ryan, Owner/President.

Office Phone: 623-773-1852 Cell Phone: 602-228-0994

Email: monte@touchdownsportsweat.com

Monte Ryan, Owner/President.

A large black rectangular box redacting the signature of Monte Ryan.



SPORTSWEAR & PROMOTIONS

8701 W Grand Avenue, Peoria, AZ 85345
623-773-1852 team@TouchdownSportswear.com

GENERAL INFORMATION

1. See Separate Document
2. See Separate Document
3. Store, Production and Administrative Offices
Located at 8701 W. Grand Ave, Peoria, AZ 85345
4. Separate Document (See Cover Letter)
5. No Terminations in 23 years in Business
6. No Claims or Litigation in 23 years in Business
7. Separate Document (See Vendor Identification)



SPORTSWEAR & PROMOTIONS

8701 W Grand Avenue, Peoria, AZ 85345
623-773-1852 team@TouchdownSportswear.com

EXPERIENCE AND QUALIFICATIONS

1. Separate Document
2. References Separate Document
3. N/A
4. All Embroidery and Screen Printing Services performed In House. We have unlimited capacity to successfully fulfill any of Cities demands on this contract CR19-060.



SPORTSWEAR & PROMOTIONS

8701 W Grand Avenue, Peoria, AZ 85345
623-773-1852 team@TouchdownSportsweat.com

References:

1. Company: Peoria Unified School District
Contact Name: Cary Case, Buyer Phone: 623-412-5347
Email: ccase@pusd11.org
Type of Work: Imprinted and embroidered sportswear, team uniforms, promotional items
2. Company: City of Surprise
Contact Name: Daniel Trujillo, Buyer Phone: 623-222-1921
Email: daniel.trujillo@surpriseaz.gov
Type of Work: Imprinted and embroidered sportswear, department uniforms, promotional items
3. Company: City of Goodyear
Contact Name: Richard Ortiz, Buyer Phone: 623-882-7525
Email: richard.ortiz@goodyearaz.gov
Type of Work: Imprinted and embroidered sportswear, department uniforms, uniforms for youth and adult sports programs
4. Company: City of Peoria – Street Department
Contact Name: Mike Jones Phone: 623-773-7432
Email: mike.jones@peoriaaz.gov
Type of Work: Imprinted and embroidered sportswear, department uniforms



SPORTSWEAR & PROMOTIONS

8701 W Grand Avenue, Peoria, AZ 85345
623-773-1852 team@TouchdownSportsweat.com

VENDOR CERTIFICATE OF AWARENESS

Please be advised that Touchdown Sportsweat and Promotions has been an approved vendor of the City of Avondale for approximately 20 years. The varied scope of work as listed:

1. T-Shirts - Parks & Rec
2. T-Shirts, Polos, Staff Shirts - Neighborhood & Family
3. Promotional Items – Neighborhood & Family
4. T-Shirts – Many seasonal events

All orders in this span of years has been processed and delivered in a satisfactory manner with exemplary customer service.

References available upon request.

Monte Ryan

Owner/~~P~~resident

A large black rectangular redaction box covers the signature area below the name and title.



SPORTSWEAR & PROMOTIONS

8701 W Grand Avenue, Peoria, AZ 85345
623-773-1852 team@TouchdownSportsweat.com

KEY POSITIONS

1. Monte Ryan the Owner/President of Touchdown Sportswear and Promotions is the Contact Person. He has 45 years in the industry and 23 years as Owner/President of Touchdown Sportswear.
2. Monte Ryan will be responsible for the overseeing of all orders from start to completion ensuring timely delivery by requested date.
3. No subcontractors used on any and all orders.



METHOD OF APPROACH

Touchdown Sportsweat entering into its 23 years in business has established a very efficient order process method resulting from many years of experience. We are very much involved in a deadline type of business which demands very efficient processing of orders to insure timely delivery – from ordering of blank apparel and bringing it in for decoration, working everything into our production schedule. We are very proud of our exemplary customer service record and do everything in our power to ensure a smooth transition of orders from start to finish. If any problems arise in the process they are immediately addressed and resolved to ensure our motto and goal of “another satisfied customer”. Simply put – we very much appreciate our customers business and will stop at nothing within reason to ensure their satisfaction.

Thank you,

Monte Ryan



PROPOSED SERVICES PROVIDED AND PROJECT APPROACH

1. See Document
2. See Document
3. Hufferman, BIC, Lanco, Graphco, WOW, JIT, SanMar, Alpha, Snugz, Gold Bond – so many more to numerous to list. (We have been in business 23 years).
4. We are members of two very prestigious dealer organizations which notify us immediately on any ratifications thereof on new product and design.
5. Because of the size of our company and the longevity thereof, we are notified immediately and kept abreast of any new and unique products within the industry.

CITY COUNCIL REPORT

SUBJECT: Professional Services Agreement with 4Imprint Inc. for Citywide Promotional Products and Services

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Pier Simeri, Community Relations Director, (623) 333-1600

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

PURPOSE:

City Council will consider a request to approve a contract with 4imprint, Inc., for citywide Promotional Products and Services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action. This is one of three multiple awards for Citywide Promotional Print Products and Services.

BACKGROUND:

On May 8 2019, Avondale issued a Request for Proposals (RFP), CR 19-060, for Citywide Promotional Products and Services. The City advertised and invited solicitations from qualified vendors, and three firms were selected to fulfill the City's requirements for promotional products and services, based on their scored responses addressing the myriad of needs listed in the RFP from city departments.

DISCUSSION:

City departments routinely purchase items displaying the city logo/Avi brand. These items range from T-shirts, hats, uniforms and other apparel, to tote bags, pens and mugs, as well as sporting equipment and supplies in support of our parks and recreation programs. These promotional items bearing the city's logo/brand play an important role in that they help "connect" the city with our residents, businesses and stakeholders. In addition to their engagement purpose, many of these items serve an educational or public awareness function (for instance, paper fans with printed information about the upcoming Census, or pens imprinted with the city's website). Because city departments across the organization utilize a vast variety of promotional items and apparel, having more than one vendor on contract would serve to streamline the purchasing process, while ensuring that public dollars are wisely spent. Three vendors were notified of the City's intent to award multiple contracts for RFP CR 19-060.

BUDGET IMPACT:

Funding for promotional print products and services is available in department budgets.

RECOMMENDATION:

Staff recommends that Council consider and approve a contract with 4Imprint Inc. for citywide Promotional Products and Services, CR 19-060.

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
4IMPRINT, INC.**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of July 22, 2019, between the City of Avondale, an Arizona municipal corporation (the "City"), and 4imprint, Inc., an Arizona Corporation, (the "Contractor").

88 WISEMAN

RECITALS

A. The City issued a Request for Proposals, CR 19-060 "CITYWIDE PROMOTIONAL PRINT PRODUCTS AND SERVICES" (the "RFP"), a copy of which is on file in the City's Finance Office and incorporated herein by reference, seeking proposals from vendors to provide the City with various branded promotional products used to support, market and promote the City's operations and activities (the "Services"). Services to be provided as directed by City staff for various City projects.

B. The Contractor responded to the RFP by submitting a proposal (the "Proposal"), attached hereto as Exhibit A and incorporated herein by reference, and the City desires to enter into an Agreement with the Contractor for the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and 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 City and the Contractor hereby agree as follows:

1. **Term of Agreement.**

1.1 **Initial Term.** This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until July 22, 2020, (the "Initial Term"), unless terminated as otherwise provided in this Agreement.

1.2 **Renewal Terms.** After the expiration of the Initial Term, this Agreement may be renewed for up to four successive one-year terms (each, a "Renewal Term") if (i) it is deemed in the best interests of the City, subject to availability and appropriation of funds for renewal in each subsequent year, (ii) at least 30 days prior to the end of the then-current term of this Agreement, the Contractor requests, in writing, to extend this Agreement for an additional one-year term and (iii) the City approves the additional one-year term in writing (including any price adjustments approved as part of this Agreement), as evidenced by the City Manager's signature thereon, which approval may be withheld by the City for any reason. The Contractor's failure to seek a renewal of this Agreement shall cause this Agreement to terminate at the end of the then-current term of this Agreement; provided, however, that the City may, at its discretion and with the agreement of the Contractor, elect to waive this requirement and renew this

Agreement. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

1.3 Non-Default. By requesting extension for a Renewal Term as set forth above, or by consenting to a Renewal Term in any manner, Contractor shall be deemed to affirmatively assert that (i) the City is not currently in default, nor has been in default at any time prior to the Renewal Term, under any of the terms or conditions of the Agreement and (ii) any and all Contractor claims, known and unknown, relating to the Agreement and existing on or before the commencement date of the Renewal Term are forever waived.

2. Scope of Work. Contractor shall provide the Services as set forth in the Scope of Work attached hereto as Exhibit B and incorporated herein by reference. This is an indefinite quantity and indefinite delivery Agreement for Services, which shall only be provided when the City chooses to move forward with a pending project and proper authorization and documentation have been approved. The City does not guarantee any minimum or maximum amount of Services will be requested under this Agreement. For project(s) determined by the City to be appropriate for this Agreement, the Contractor shall provide the specific Services to the City agreed upon between the parties in a written invoice, quote, purchase order or other form of written acknowledgment describing the Services to be provided (each, a "Work Order"). Each Work Order shall (i) contain a reference to this Agreement and (ii) be attached hereto as Exhibit B and incorporated herein by reference. Work Orders submitted without referencing this Agreement will be subject to rejection. Contractor acknowledges and agrees that Work Order(s) containing unauthorized exceptions, conditions, limitations, or provisions in conflict with the terms of this Agreement (collectively, the "Unauthorized Conditions"), other than City's project-specific requirements, are hereby expressly declared void and shall be of no force and effect. Acceptance by the City of any Work Order or invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement shall not alter such terms and conditions or relieve Contractor from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement.

3. Compensation. The City shall pay Contractor for the Services at the rates set forth in the Fee Proposal attached hereto as Exhibit C and incorporated herein by reference.

4. Payments. The City shall pay the Contractor monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

5. Safety Plan. Contractor shall provide the Services in accordance with a safety plan that is compliant with Occupational Safety and Health Administration ("OSHA"), American National Standards Institute and National Institute for Occupational Safety and Health standards. If, in the Contractor's sole determination, the Services to be provided do not require a safety plan, Contractor shall notify the City, in writing, describing the reasons a safety plan is unnecessary. The City reserves the right to request a safety plan following such notification.

6. Documents. All documents, including any intellectual property rights thereto, prepared and submitted to the City pursuant to this Agreement shall be the property of the City.

7. Contractor Personnel. Contractor shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Contractor agrees to assign specific individuals to key positions. If deemed qualified, the Contractor is encouraged to hire City residents to fill vacant positions at all levels. Contractor agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the City. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Contractor shall immediately notify the City of same and shall, subject to the concurrence of the City, replace such personnel with personnel possessing substantially equal ability and qualifications.

8. Inspection; Acceptance. All work shall be subject to inspection and acceptance by the City at reasonable times during Contractor's performance. The Contractor shall provide and maintain a self-inspection system that is acceptable to the City.

9. Licenses; Materials. Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor. The City has no obligation to provide Contractor, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement. The City has no obligation to provide tools, equipment or material to Contractor.

10. Performance Warranty. Contractor warrants that the Services rendered will conform to the requirements of this Agreement and with the care and skill ordinarily used by members of the same profession practicing under similar circumstances at the same time and in the same locality.

11. Indemnification. To the fullest extent permitted by law, the Contractor 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 work or services of the Contractor, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

12. Insurance.

12.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Contractor, Contractor 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 Contractor. 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 Contractor 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, 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 Named 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 until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.

E. Primary Insurance. Contractor'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 and necessary endorsements 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 work or services of Contractor. Contractor 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. Contractor shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Contractor shall execute written agreements with its subcontractors containing the indemnification provisions set forth above and insurance requirements set forth herein protecting the City and Contractor. Contractor shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Contractor 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 Contractor'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 Contractor'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 the RFP number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFP number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFP number and title or a reference to this Agreement, as applicable, 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) Contractor's insurance shall be primary insurance with respect to 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 Contractor 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.

K. Endorsements. Contractor shall provide the City with the necessary endorsements to ensure City is provided the insurance coverage set forth in this Section.

12.2 Required Insurance Coverage.

A. Commercial General Liability. Contractor 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. Contractor shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Contractor's owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor's

work or services 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. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Contractor engages in any professional services or work in any way related to performing the work under this Agreement, the Contractor shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Contractor, or anyone employed by the Contractor, or anyone for whose negligent acts, mistakes, errors and omissions the Contractor is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

D. Workers' Compensation Insurance. If Contractor employs anyone who is required by law to be covered by workers' compensation insurance, Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Contractor's employees engaged in the performance of work or services 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.

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

13. Termination; Cancellation.

13.1 For City's Convenience. This Agreement is for the convenience of the City and, as such, may be terminated without cause after receipt by Contractor of written notice by the City. Upon termination for convenience, Contractor shall be paid for all undisputed services performed to the termination date.

13.2 For Cause. If either party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (A) provides written notice to the non-defaulting party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure

of its nonperformance. In no event shall any such cure period exceed 90 days. In the event of such termination for cause, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.

13.3 Due to Work Stoppage. This Agreement may be terminated by the City upon 30 days' written notice to Contractor in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.

13.4 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 this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a Contractor to any other party of this Agreement with respect to the subject matter of this Agreement.

13.5 Gratuities. The City may, by written notice to the Contractor, cancel this Agreement if it is found by the City that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Contractor an amount equal to 150% of the gratuity.

13.6 Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the City's then current fiscal year. The City's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the City concerning budgeted purposes and appropriation of funds. Should the City elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the City shall be relieved of any subsequent obligation under this Agreement. The parties agree that the City has no obligation or duty of good faith to budget or appropriate the payment of the City's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The City shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The City shall keep Contractor informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. Contractor hereby waives any and all rights to bring any claim against the City from or relating in any way to the City's termination of this Agreement pursuant to this section.

14. Miscellaneous.

14.1 Independent Contractor. 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. The Contractor acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. Contractor, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of Contractor, its employees or subcontractors. The Contractor, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Contractor meets the requirements of its agreed Scope of Work as set forth in Section 2 above and Exhibit B. Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Contractor do not intend to nor will they combine business operations under this Agreement.

14.2 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 Maricopa County, Arizona.

14.3 Laws and Regulations. Contractor shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Contractor is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, including, but not limited to, the following: (A) existing and future City and County ordinances and regulations, (B) existing and future State and Federal laws and (C) existing and future OSHA standards.

14.4 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 Contractor.

14.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in this 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, this Agreement will promptly be physically amended to make such insertion or correction.

14.6 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 this Agreement which may remain in effect without the invalid provision or application.

14.7 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 this 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.

14.8 Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by Contractor without prior, written permission of the City, signed by the City Manager. Any attempted assignment or delegation by Contractor in violation of this provision shall be a breach of this Agreement by Contractor.

14.9 Subcontracts. No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior, written approval of the City. The Contractor is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Contractor.

14.10 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 Contractor 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.

14.11 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.

14.12 Liens. All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.

14.13 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the City may offset from any money due to the Contractor any amounts Contractor owes to the City for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The City may offset from any money due to the Contractor any amounts Contractor owes to the City for delinquent fees, transaction privilege use taxes and property taxes, including any interest or penalties.

14.14 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 (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

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

With copies to: City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Attn: Senior Buyer, Loretta Browning

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

If to Contractor: 4imprint, Inc.
101 Commerce St.
Oshkosh, WI 54901
Attn: Shay Freund, Bid Representative

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) 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.

14.15 Confidentiality of Records. The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Contractor's duties under this Agreement. Persons requesting such information should be referred to the City. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under this Agreement.

14.16 Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under subsection 14.17 below, Contractor's and

its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Contractor and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Contractor's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Contractor's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 14.17 below. To the extent necessary for the City to audit Records as set forth in this subsection, Contractor and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the City to Contractor pursuant to this Agreement. Contractor and its subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this subsection. The City shall give Contractor or its subcontractors reasonable advance notice of intended audits. Contractor shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

14.17 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Contractor and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Contractor's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

14.18 Israel. Contractor certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

14.19 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, any amendments, the Scope of Work, any City-approved Purchase Order, the Fee Proposal, the RFP and the Contractor's Proposal, the documents shall govern in the order listed herein.

14.20 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods and services from another source when necessary.

14.21 Cooperative Purchasing. Specific eligible political subdivisions and nonprofit educational or public health institutions ("Eligible Procurement Unit(s)") are permitted to utilize procurement agreements developed by the City, at their discretion and with the agreement of the awarded Contractor. Contractor may, at its sole discretion, accept orders from Eligible Procurement Unit(s) for the purchase of the Materials and/or Services at the prices and under the

terms and conditions of this Agreement, in such quantities and configurations as may be agreed upon between the parties. All cooperative procurements under this Agreement shall be transacted solely between the requesting Eligible Procurement Unit and Contractor. Payment for such purchases will be the sole responsibility of the Eligible Procurement Unit. The exercise of any rights, responsibilities or remedies by the Eligible Procurement Unit shall be the exclusive obligation of such unit. The City assumes no responsibility for payment, performance or any liability or obligation associated with any cooperative procurement under this Agreement. The City shall not be responsible for any disputes arising out of transactions made by others.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“City”

CITY OF AVONDALE,
an Arizona municipal corporation

Charles A. Montoya, City Manager

ATTEST:

Marcella Carrillo, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2019, 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.

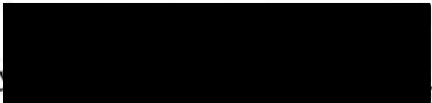
Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

"Contractor"

4IMPRINT, INC.,
an ~~Arizona~~ WISCONSIN limited liability corporation SF

By 

Name: Sprayfreund

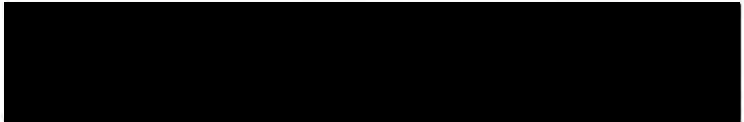
Title: Bid Representative

(ACKNOWLEDGMENT)

STATE OF Wisconsin)
) ss.

COUNTY OF Winnebago)

On July 5th, 2019, before me personally appeared Sprayfreund
SF SR. Bid Representative of 4IMPRINT, INC., an ~~Arizona~~ Wisconsin
~~limited liability~~ corporation, whose identity was proven to me on the basis of satisfactory evidence
to be the person who he/she claims to be, and acknowledged that he/she signed the above document
on behalf of the 4imprint, Inc..


Notary Public

(Affix notary seal here)

EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
4IMPRINT, INC.

[Contractor's Proposal]

See following pages.



**4imprint Inc.
101 Commerce Street
Oshkosh
WI 54901**

May 28, 2019

City of Avondale RFP CR 19-060

Cover Letter;

4imprint, Inc. is located at the above listed address with an in house embroidery department located at 2875 Atlas Avenue, Oshkosh, WI 54904.

We were established in 19845 and incorporated in 1995 in the State of Wisconsin.

We have included the following information forms with our bid submission to support our ability to help you sustain your promotional product purchase program.

1. About Us Page
2. Our 360° Guarantee
3. Reference Sheet
4. Proposed Staffing Plan
5. Proposal
6. 4imprint Quote # 18011378
7. List of Brand Names we carry

Thank you very much for the opportunity. We look forward to working with you.

Respectfully,



Shay Freund
Bid Representative
bids@4imprint.com



4imprint – About Us

Company Background

4imprint, Inc. is the top promotional products distributor in the US with over 1000 employees. We were established in 1984 and our headquarters are in Oshkosh, WI.

Our core competencies include:

- Exceptional Customer Service:
 - Dedicated Bid Team, avg. tenure of 10+ yrs.
 - Hours are M-F 7 am to 10:00 pm; Sat 9-3 pm. CST.
- Unrivaled Industry Guarantee:
 - Lowest Prices or Double the Difference Back
 - On-Time Shipment or Your Order is Free
 - 100% Customer Satisfaction
 - Free Samples, Free Art and Free Proofs
- In-house Graphic Artist Team for Brand Control and Quality Assurance
- Active member of the Fair Labor Association (FLA)
- Patented "glide™ pricing" where you only pay for what you buy and receive a price break for each additional quantity purchased.
- Process over 1 million orders each year. Highly efficient and accurate.

We are licensed with over 750 colleges & universities including the following (partial list):

- | | |
|-------------------------------|---|
| • University of Arizona | • Northwestern University |
| • Colorado State University | • Boston College |
| • Penn State University | • Syracuse University |
| • Washington State University | • Rutgers, The State University of New Jersey |
| • University of Michigan | • And many others... |
| • East Carolina University | |

We work with every federal government agency, including the US Government Printing Office and we are registered in the federal SAM purchasing system. We also work with 1000's of state and local agencies.

Product Information

Our product offering consists of our items shown in our catalog(s) and on our website at www.4imprint.com.

Our website makes ordering easy with such convenient features as:

- | | |
|--------------------------------|----------------------------|
| • Product Reviews | • 24 Hour Service |
| • Videos and 4imprint TV | • Eco-Friendly items |
| • Advanced Search capabilities | • Free Samples for preview |

- Made in the USA items
- E-Specials and E-Newsletters
- Product comparisons
- Suggested alternatives

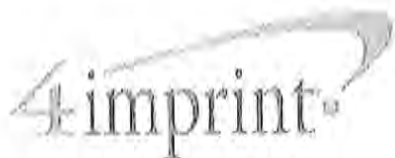
We can do research to locate items, if they are not found on our website and we can offer competitive or matching products to other websites.

We have an exclusive education team available to help during office hours and to provide custom individual care to your order as well as an exclusive government team, and a bids department.

For more information please contact:

Shay Freund
Bid Representative
4imprint, Inc.
101 Commerce St
Oshkosh, WI 54901

sfreund@4imprint.com
bids@4imprint.com



Our 360° Guarantee ® **Means you're covered from every angle.**

Satisfaction

We promise the product will meet your expectations and your imprint will be exactly as you approved it, or we'll rerun your order or refund your money - your choice.

Free & Easy

Free samples, free art assistance and lightning-fast service from people who make ordering easy.

Lowest Prices

If you find a lower advertised price within 30 days of your purchase, let us know and we'll refund double the difference in prices.

On-Time Shipment

If your event is missed because we didn't ship on time, your order is on us.

Ordering is easy, we help you every step of the way!

Need to see a sample? No problem!

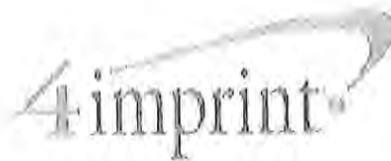
We're happy to send you **FREE** samples (with random imprints) so you can see a product before you order. Just click '**request a free sample**' on any product page or give us a call, we're happy to help!

Absolutely FREE professional art assistance.

You get **FREE** logo prep and design help on every item we sell – you don't need to do the work yourself – we'll do it for you! Whether you'd just like your logo on a product, or you'd like to add text, additional graphics or you need a complete logo created - **we'll do the work, FREE! And you'll always get a FREE 'e-proof' before we proceed with your order!**

Personal, expert service on every order.

Whether you're on the web or over the phone (we're happy to work either way!), every order is cared for by people who will make sure every detail is as you wish. **This includes an experienced promotional product expert who will work with you personally on your order and our team of professional artists.** It's like having additional members of your own marketing team whenever you need them!



Reference Sheet

Toni Martin, Purchasing
Weatherford College
225 College Park Dr
Weatherford, TX 76086
817-598-6386
accountspayable@wc.edu

Derek Gillard
Harris County Dept. Of Education
6005 Westview Dr
Houston
TX
77055-5419
dgillard@hcde-texas.org
713-696-0786

Texas A&M University
401 Joe Roult Boulevard
College Station, TX 77843
Program Manager, Collegiate Licensing
Kyle.Pope@tamu.edu
979-862-3366

Erin Clarke
VA Canteen Service
Department of Veterans Affairs
erin.clarke@va.gov
314-845-1430

Letisha Crow
Criminal Justice Technologies
letisha@crimjustech.com
770-720-9833

Brett Eden
Licensing Coordinator
University of Utah
1945 DETROBRIAND ST
FT Douglas 621
Salt Lake City, UT 84113
brett.eden@utah.edu
801-581-8298

Anthony Galindo
Purchasing Agent
Maricopa County
602-372-0679
anthony.galindo@mail.maricopa.gov

Anna Locklier
Purchasing Coordinator
University of Alabama Tuscaloosa
504 University Blvd.
Tuscaloosa, AL 35401
205-348-2258
amlocklier@ua.edu

Beth Dawson
Columbus Regional Health
812-376-5555
bdawson@crh.org



Proposed Staffing Plan

Bid Desk Representative:

Shay Freund

sfreund@4imprint.com or bids@4imprint.com

877-446-7746 ext. 8466

Direct Fax: 866-963-9311

Government Team:

You will have a dedicated team who goes above and beyond to fulfill this contract, far past the bidding process. The direct line for the government team is 877-446-7746 extension 5523. You will be working with a hand-picked 4imprint team member to make your process smooth and easy. Each member of the team is specially trained and only works with Government accounts just like yours. They are accessible Monday through Friday from 7:00am to 10:00pm CST – and one of the best parts: you will not wait in a queue whenever you choose to call.

When your awarded bid is assigned to our 4imprint Government team, you will receive the following breadth of services (along with hundreds of combined years of customer service experience):

- a. Our 360 Degree Guarantee—you will get the lowest price of your branded product anywhere in the industry (if we did not beat a competitor's price, you will get back double the difference in pricing)
- b. On-time shipment (or your order is free)
- c. 100% satisfaction (if you're not satisfied with your order, we'll either refund your money or rerun your order)
- d. Free samples (ask us about our Blue Box® mailings)
- e. An in-house graphic artist team for brand control and quality assurance
- f. Free graphic art design
- g. GlideSM pricing for non-bid items, patented by 4imprint (see <https://www.businesswire.com/news/home/20080506006632/en/4imprint-glide-SM-Reinvents-Promotional-Products-Pricing>)

SECTION A

PART IV. VENDOR INFORMATION FORM

By submitting a Proposal, the submitting Vendor certifies that it has reviewed the administrative information and draft of the Professional Services Agreement's terms and conditions and, if awarded the Agreement, agrees to be bound thereto.

4imprint, Inc.
VENDOR SUBMITTING PROPOSAL

39-1837105
FEDERAL TAX ID NUMBER

Shay Freund / Bid Representative
PRINTED NAME AND TITLE

 SIGNATURE

101 Commerce St.
ADDRESS

877-446-7746 / 866-963-9311
TELEPHONE FAX #

Oshkosh, WI 54901
CITY STATE ZIP

5/28/19
DATE

WEB SITE: www.4imprint.com

E-MAIL ADDRESS: bids@4imprint.com

ARIZONA CORPORATION COMMISSION FILE NO. N/A None

SMALL, MINORITY, DISADVANTAGED AND WOMEN-OWNED BUSINESS ENTERPRISES (check appropriate item(s):

- ☐ Small Business Enterprise (SBE)
☐ Minority Business Enterprise (MBE)
☐ Disadvantaged Business Enterprise (DBE)
☐ Women-Owned Business Enterprise (WBE)

Has the Vendor been certified by any jurisdiction in Arizona as a minority or woman-owned business enterprise? No

If yes, please provide details and documentation of the certification.



CITY OF AVONDALE
CR-19-060

Proposal

4imprint, Inc. wishes to offer you a contracted 10% discount and a code will be assigned to your organization with that value upon award of bid. You will email bid requests to bids@4imprint.com and quote or order requests to govrequests@4imprint.com using your code. This discount is available to all products found using current pricing at www.4imprint.com, including sale prices! All shipping is to be FOB destination and prepay and add. Minimum quantity requirements do apply. Terms are Net 30. This is not to be combined with any other offer. This discount is good through 4/15/2020 and is renewable in writing when signed by both parties.

This proposal supersedes any and all previous offers.

We appreciate the opportunity and look forward to working with you.

A black rectangular box redacting the signature of the representative.

Signature

Handwritten signature of Shay Freeman.

Printed Name

Handwritten date 5/28/19.

Date

EXHIBIT B
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
4IMPRINT, INC.

[Scope of Work]

See following page(s).

SCOPE OF WORK

Citywide Promotional Products and Services CR 19-060

Introduction. The City is seeking one or more Contractors to provide a wide array of Avondale branded promotional product items. The Contractor will be responsible for providing various creative, professionally printed materials on an as-needed basis. Contractor will provide one or more of the product type categories and will provide products in varying quantities. These items may include but are not limited to: writing instruments, drinkware, hats and apparel, trophies and awards, toys, packaged candy, electronic/technology giveaways, awards, and other industry specific specialty items. These items may incorporate multiple variations of artwork depending on the use.

Background Information.

In year 2014, the City of Avondale embarked on a rebranding campaign and adopted the Avondale: Aspiring, Achieving, Accelerating tagline and new Avi Logo. The City's intent of the promotional items and products pursued through this RFP are to demonstrate to its employees and the community; the values and standards the City aligns itself with every day. The City's efforts to market and sustain its brand is carried out through the use of its logo on all printed materials issued by Avondale, and furthermore, through promotional products featuring the brand. The primary products include promotional and customized giveaways, apparel, and awards.

Giveaways. Orders for giveaways will consist of smaller souvenir type items to promote and further develop public interest and attract others to Avondale as a destination for employment, business, entertainment, living, or economic development. Giveaways are generally provided at community meetings, events, or conventions.

Apparel. Various designs shall be used throughout the contract. Contractor will be responsible for providing the types of apparel as more particularly described in the Scope of Work and Specifications attached hereto Exhibit B, of the RFP.

Awards. City departments, agencies, and programs may request assorted awards throughout the year. The Parks and Recreation Department, Fire Department, Police Department and Community Relations Department have the most requests for trophies and awards due to the types of programs they host. The Parks and Recreation Department hosts adult and youth sports leagues that provide awards for various sports, such as softball, basketball, soccer and volleyball. Parks and Recreation Department also hosts a variety of youth camps and clinics for such sports as football, basketball, tennis and baseball. Other departments and agencies within the City also use an assortment of awards for a variety of recognition purposes. Contractor will be responsible for providing the types of trophies and awards as more particularly described in the Scope of Work and Specifications attached hereto Exhibit B, of the RFP.

1. Objective. Professionally branded promotional goods support a positive and professional image of the City. These items will be produced for public consumption as well as internal use. Contracted vendors will collaborate with department representatives regarding product selection, availability, budget, timeline and any specific needs as it pertains to the production of Avondale branded promotional items. These needs will vary and may be industry-specific in nature.
2. City Responsibilities. City shall be responsible for the following:
 - 2.1 City shall assign a City Representative(s). All communications relating to the project Services shall be exchanged between the City Representative and the Contractor.
 - 2.2 Incoming Quality Inspection: Delivery of completed jobs will be subject to inspection and approval by the ordering City department. The City reserves the right to reject or refuse acceptance of products that do not meet quality standards. City Representative will immediately notify the Contractor of any service deficiencies including, but not limited to (i) failure to perform services within the agreed upon time frame, (ii) materials delivered in damaged condition, (iii) unacceptable color variation or (iv) wrong final count. Rejected work shall be at the expense of the Contractor(s).
3. Contractor Requirements Contractor shall be required to provide, at a minimum, the following materials and Services:
 - 3.1 Contractor shall supply all supplies and equipment necessary for the performance and prompt execution and delivery of Services.
 - 3.2 Contractor shall supply professionally branded promotional products such as, but not limited to: writing instruments, drinkware, hats and apparel, trophies and awards, toys, packaged candy, electronic/technology giveaways and other industry specific specialty items.
 - 3.3 Contractor shall maintain a sample reference catalog record of the City's promotional products ordered; either in electronic or a hard copy format.
 - 3.4 Orders may be placed by various City Representatives on an "as-needed" basis. The City requests that the supply be kept as close as possible to the quantities ordered. The City has the right to increase or decrease the amount ordered prior to the final proof stage.
 - 3.5 Contractor shall be responsible for providing all labor, equipment, material and consumables necessary to produce promotional items.
 - 3.6 Contractor shall provide support staff to assist in establishing requirements and problem resolution, free of charge.
 - 3.7 Product quality is to meet the highest industry standards in terms of readability, functionality and overall appearance. Acceptable quality is solely determined by the individual City Representative.

3.8 Proofs are required and are subject to City approval before print production commences. Corrections or product changes may be made up until the final stages of the production of materials. Unfortunately, these changes or corrections are often beyond the control of City Representative. The City will endeavor to ensure that changes are kept to a minimum, and/or sufficient notice is given to the Contractor when changes are necessary. These changes or corrections may include, but are not limited to, substitution due to lack of specific product availability, additional/changed text, graphics, sizing or changes in materials.

A. New proofs shall be submitted to the City for final approval if corrections are required. In most cases, a soft proof (pdf) will suffice.

B. No claims for extra work shall be entertained, and any additional work on behalf of the Contractor shall be authorized in writing prior to commencement of the work.

C. Should the Contractor require more information or clarification on any project, it shall be obtained prior to the submission of the proposed proofs.

D. Any change in production that results in additional charges to the City shall be discussed and accompanied with an email authorization, by a duly authorized employee of the City of Avondale ("City Representative") prior to the commencement of the change. No invoices for additional charges shall be accepted without written authorization.

3.9 Logos. Only the Avondale approved logos will be utilized throughout the City. Some promotional items may be theme-specific with the brand incorporated into the overall design. Other than legal requirements the name of the Contractor will not be utilized.

3.10 Any designs, drawings, pictures, raw working files, etc. provided by the City department for use in production of printed material involves property rights of the City and shall be held confidential by the Contractor(s).

3.11 Contractor shall provide City Representative or designee with a PDF file of the final approved project as requested for any design project not handled in-house by City.

3.12 All packages, boxes, and cartons shall be labeled as to contents, purchase order number, job order number, quantity and ordering department name. Packing lists shall be included with each order, and packages shall be signed for by a City Representative

3.13 All work completed will be subject to inspection and approval by the ordering City Representative. The City reserves the right to reject and refuse acceptance of final products due to; missed deadlines, product failure, manufacturing quality that falls below industry standards, imprint/customization readability, functionality or overall appearance. Rejected work shall be at the expense of the Contractor(s).

3.14 The City requires Contractor(s) to have the capability to receive compatible graphics via electronic files (email, internet, flash drive). The City generally uses

Microsoft Office and Adobe products and Contractors shall be able to produce copies from all MS Office and Adobe file formats.

3.15 Delivery locations include, but are not limited to, any City of Avondale facility or business partner. The City shall designate the appropriate mail house or distributor at time of order. The following is a list of City facilities, which may be supplemented or amended:

Facility	Delivery Address	City, State, Zip Code
City Hall	11465 W. Civic Center Dr.	Avondale, AZ 85323
City Court	11325 W. Civic Center Dr.	Avondale, AZ 85323
Civic Center Library	11350 W. Civic Center Dr.	Avondale, AZ 85323
Neighborhood and Family Services Community/Senior Center	1007 S. 3rd Street	Avondale, AZ 85323
Police Department	11485 W. Civic Center Dr.	Avondale, AZ 85323
Public Works Department	399 E. Lower Buckeye Center	Avondale, AZ 85323
Municipal Operation Services Resource Center	328 W. Western Avenue	Avondale, AZ 85323
Sam Garcia Library	495 E. Western Avenue	Avondale, AZ 85323

The above is not an exhaustive list of project delivery locations required by the City. All delivery information shall be provided at the time of order and may vary by project.

If the Contractor determines that it is unable to deliver the project on the date agreed upon at the time of the order, a designated member of the City staff shall be notified within 72 hours prior to the anticipated delivery date of the order.

3.16 Product and customization pricing must be all-inclusive. Pricing must include all set-up fees, delivery/shipping, and rush charges, if applicable. If rush fees or delivery will be charged, the Contractor must specify in the Fee Proposal how the fees will be calculated. Final payment shall not be authorized until all materials are received, inspected, and approved by the requesting City Representative.

3.17 Promotional Product Estimates. The printing project specifications included in to Exhibit C. Fee Proposal, Section I. Printing Estimates of the RFP, are provided as a guide for each print project most often requested by the City. The City reserves the right to change project specifications as needed to meet changing informational and artistic needs.

4.0 Product Ordering Tools and Guidance.

4.1 Contractor will create an order form for City standard items for efficient ordering, to include photos of standard items for reference.

4.2 Maintain City logo for quick and frequent re-orders (i.e.: pens and apparel).

- 4.3 Provide a new catalog annually as applicable and/or upon new product availability.
- 4.4 Provide guidance and/or suggestions of the products and/or promotional items that are generating customer loyalty at the lowest costs.
- 4.5 Provide information on availability of product options and selections that support sustainable amenity items which consist of:
- A. High post-consumer (PCW) recycled content material
 - B. Readily recyclable items ("compostable" items do not count)
 - C. Minimized and readily recyclable packing
 - D. Nontoxic dyes or inks on Food/Liquid container items (e.g. water bottles) that does not contain Phthalates and/or Bisphenol A (BPA)
- 4.6 Provide suggestions for promotional item designs using the Avondale brand and provide a visualization of product with logo including:
- A. Ability to change product and logo color options.
 - B. Provide anticipated minimum quantity for purchases, as well as options for ordering processes.

5.0 General Pricing Requirements.

5.1 Unit Prices for the Core Listed Items shall be fixed for the initial one (1) year term of the resultant contract. No substitution will be allowed on Core List Items unless a letter of notification is provided from the product Manufacturer. No price increases will be accepted without written request issued by Contractor accompanied with appropriate, acceptable substantiated written documentation and written acceptance and approval of price increase by City. Price increase requests (including notification of new catalog prices) shall be submitted no less than 30-days in advance of the Contract Renewal Date. Catalog price updates shall not be unreasonably withheld. Price reductions may be issued at any time. Any price adjustments shall be mutually agreed upon by City and Contractor. The Contractor shall be responsible for notifying cooperative use agencies utilizing the contract of any price increases approved by the City.

5.2 Prices for Non-Core Items shall be based on a percentage discount from List Prices. Percentage discounts are to remain firm for the duration of the contract. Percentage discounts shall be the same for all items within the same category.

5.3 Price Warranty. Contractor shall give the City the benefit of any price reductions before actual time of shipment. If the City permits shipment to be made prior to specified shipping date, the City shall have advantage of any price reductions that occur before the originally-scheduled shipping date.

EXHIBIT C
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
4IMPRINT, INC.

[Fee Proposal]

See following page(s).

RFP Citywide Promotional Products and Services

CR 19-060

Fee Proposal

NOTE: All pricing blanks must be filled in. Empty or unfilled spaces in the Price Sheet shall be considered as a NO BID entry for that item.

Pricing Below does not include shipping. Please see Attached Proposal for details.

Core List Items Promotional Products					
Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
1.	Stylus / Pen Barrel color preference is to match our brand colors: Orange (PMS 715), Blue (PMS 2915), Purple (PMS 258) and Green (PMS 376) Single color imprint – White or Black #134918-8T	250	Each	.79	197.50
		500	Each	.70	350.00
2.	Avondale Branded collared shirts for men and ladies. Shirt color preference is Black, Dark Gray, White or to approximate one of our brand colors: Orange (PMS 715), Blue (PMS 2915), Purple (PMS 258) and Green (PMS 376). Left chest embroidered logo, sizes XS – 4 XL #129107	24	Each	13.95	334.80
		48	Each	12.38	594.24
3.	Tote Bag – 1 color imprint, 1 side; bag color to be Black, Dark Grey, or one of our brand colors: Orange (PMS 715), Blue (PMS 2915), Purple (PMS 258) and Green (PMS 376) Single color imprint – White or Black or one of our PMS colors #16351	24	Each	7.83	195.75
		48	Each	6.99	335.52
		96	Each	6.56	629.76
4.	16 oz coffee mug, body color preference is to match our brand colors: orange (PMS 715), Blue (PMS 2915), Purple (PMS 258) and Green (PMS 376) Single color imprint – White or Black, one side or wrap #140660	48	Each	4.01	200.72
		120	Each	3.98	424.84
5.	Avondale Branded T-shirts Shirt color preference is Black, Dark Gray, White or to approximate one of our brand colors: orange (PMS 715), Blue (PMS 2915), Purple (PMS 258) and Green (PMS 376). Left chest imprinted with one color Avondale brand, back of the shirt to read "STAFF" in same imprint color, adult sizes XS – 4 XL #107349-S	120	Each	5.44	652.80
		180	Each	4.82	867.60
		500	Each	4.16	2080.00
6.	Soccer glitter medal: 2.5" dia, solid antique finish silver metal, red and blue glitter resin accents, silver sub plate on back, with 7/8" quick-clip and red ribbon	120	Each	No Bid	07-1715
		144	Each	WEM	—
		204	Each	—	—

RFP Citywide Promotional Products and Services
CR 19-060
Fee Proposal

NOTE: Contract shall use this section to provide additional product offers or incentive pricing.

Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
7.	Additional Items (Contractor must specify)	Please See Attached Quote			
8.	Additional Items (Contractor must specify)	(Quoted @ minimum pricing)			
9.	Additional Items (Contractor must specify)	Quote # 18011378			
10.	Additional Items (Contractor must specify)				

Catalogs submitted for consideration must be provided noting (%) discount offered off list price highlighting the Page number where items are referenced. Submission of out dated price lists or catalogs may result in rejection of the response. Vendors must also provide anticipated fees/costs for logo and setup. Percentage discounts are to remain firm for the duration of the contract. Percentage discounts shall be the same for all items within the same category.

Description of Catalog/Product Category: www.4imprint.com / Entire Site
 Minimum % Discount offered: 10%*

* Please See Attached Proposal for details
 Description of Catalog/Product Category: _____
 Minimum % Discount offered: _____

Description of Catalog/Product Category: _____
 Minimum % Discount offered: _____

Please note: The City recognizes that is a common practice for manufacturers to provide its registered distributors with product catalogs that do not call out specific pricing, therefore the percentage off list price would not be evident. If this is the case with your suppliers, instead an explanation of pricing structure shall be noted herein.

Company: 4imprint, Inc

Authorized Signature: 

Date: 5/23/19



CITY OF AVONDALE
CR-19-060

Proposal

4imprint, Inc. wishes to offer you a contracted 10% discount and a code will be assigned to your organization with that value upon award of bid. You will email bid requests to bids@4imprint.com and quote or order requests to govrequests@4imprint.com using your code. This discount is available to all products found using current pricing at www.4imprint.com, including sale prices! All shipping is to be FOB destination and prepay and add. Minimum quantity requirements do apply. Terms are Net 30. This is not to be combined with any other offer. This discount is good through 4/15/2020 and is renewable in writing when signed by both parties.

This proposal supersedes any and all previous offers.

We appreciate the opportunity and look forward to working with you.

A black rectangular box redacting the signature of the representative.

Signature

Handwritten signature "Shay Freeman" in cursive script.

Printed Name

Handwritten date "5/28/19" in cursive script.

Date



101 Commerce St
PO Box 320
Oshkosh, WI 54901

www.4imprint.com

Toll Free: 877-446-7746
Free Fax: 800-355-5043

Main Address PROCUREMENT DEPARTMENT AVONDALE, CITY OF 11465 W CIVIC CENTER DR AVONDALE, AZ 85323	Invoice Address Procurement Department Avondale, City of 11465 W Civic Center Dr AVONDALE AZ 85323 USA	Shipping Address Procurement Department Avondale, City of 11465 W Civic Center Dr AVONDALE, AZ 85323 USA Tel: 623-333-2026
Quotation Number: 18011378 Quote Date: May 28, 2019 Quote Valid Until: June 27, 2019 Account No.: 1960387	Questions Call: Shay Freund Phone: 877-446-7746 Ext. 8466 Fax: 866-963-9311 Email: sfreund@4imprint.com	

Item	Jolie Pen	Colors	(Barrel, Trim): A Color Choice Required, A Color Choice Required		
Qty	Item #	Description	Unit \$	Price \$	Total \$
250	139918	Jolie Pen	0.7700	192.50	192.50
1	Coupon	Coupon Code	-23.2500	-23.25	-23.25
1	Set-Up Charge	Set-Up Charge	40.0000	40.00	40.00
		Freight		10.20	10.20
					219.45

Artwork Instructions

Product Color (Base, Trim): A Color Choice Required, A Color Choice Required
 Imprint Location: Barrel- Beside Clip
 Imprint Colors: Black (Standard)

Item	Incline Soft Touch Stylus Metal Pen - Screen	Colors	(Barrel, Trim): A Color Choice Required, A Color Choice Required		
Qty	Item #	Description	Unit \$	Price \$	Total \$
100	145467-S	Incline Soft Touch Stylus Metal Pen - Screen	1.3900	139.00	139.00
1	Coupon	Coupon Code	-17.9000	-17.90	-17.90
1	Set-Up Charge	Set-Up Charge	40.0000	40.00	40.00
		Freight		8.55	8.55
					169.65

Artwork Instructions

Imprint Location: Barrel - Diagonal From Clip
 Imprint Colors: Black

Item	Streak Performance Polo - Men's	Colors	(Polo & Stripe, Panel) : See Below		
Qty	Item #	Description	Unit \$	Price \$	Total \$
24	135295-M	Streak Performance Polo - Men's	25.5000	612.00	612.00
		24 - Size Required : A Color Choice Required, A Color C	0.0000	0.00	0.00
1	Coupon	Coupon Code	-61.2000	-61.20	-61.20
24	*Embroidery	Embroidery Run Charge	0.0000	0.00	0.00
		Freight		19.47	19.47



101 Commerce St
PO Box 320
Oshkosh, WI 54901

www.4imprint.com

Toll Free: 877-446-7746
Free Fax: 800-355-5043

Quotation Number: 18011378
Quote Date: May 28, 2019
Quote Valid Until: June 27, 2019
Account No.: 1960387

Questions Call: Shay Freund
Phone: 877-446-7746 Ext. 8466
Fax: 866-963-9311
Email: sfreund@4imprint.com

570.27

Artwork Instructions

Imprint Location: Left Sleeve
Imprint Colors: To Be Determined

Item Value Lip Balm		Colors	(Tube,Flavor): A Color Choice Required, A Color Choice Required		
Qty	Item #	Description	Unit \$	Price \$	Total \$
100	8886	Value Lip Balm	1.1500	115.00	115.00
1	Coupon	Coupon Code	-16.5000	-16.50	-16.50
1	Set-Up Charge	Set-Up Charge(Per Order Line)	50.0000	50.00	50.00
		Freight		7.04	7.04
					155.54

Artwork Instructions

Imprint Location: Label
Imprint Colors: Full Color

Item PopSockets Phone Stand - Aluminum		Colors	(Top,Stand): A Color Choice Required, A Color Choice Required		
Qty	Item #	Description	Unit \$	Price \$	Total \$
50	126487-AL	PopSockets Phone Stand - Aluminum	9.4500	472.50	472.50
1	Coupon	Coupon Code	-51.2500	-51.25	-51.25
1	Set-Up Charge	Set-Up Charge	40.0000	40.00	40.00
		Freight		7.31	7.31
					468.56

Artwork Instructions

Imprint Location: Top
Imprint Colors: Laser Engrave

Item PopSockets Phone Stand - Full Color		Colors	(Top,Stand): White, Light Gray		
Qty	Item #	Description	Unit \$	Price \$	Total \$
100	126487-FC	PopSockets Phone Stand - Full Color	6.2500	625.00	625.00
1	Coupon	Coupon Code	-66.5000	-66.50	-66.50
1	Set-Up Charge	Set-Up Charge(Per Order Line)	40.0000	40.00	40.00
		Freight		7.81	7.81
					606.31

Artwork Instructions

Product Color (Base, Trim): White,Light Gray
Imprint Location: Top
Imprint Colors: Full Color



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PO Box 320
Oshkosh, WI 54901

www.4imprint.com

Toll Free: 877-446-7746
Free Fax: 800-355-5043

Quotation Number: 18011378
Quote Date: May 28, 2019
Quote Valid Until: June 27, 2019
Account No.: 1960387

Questions Call: Shay Freund
Phone: 877-446-7746 Ext. 8466
Fax: 866-963-9311
Email: sfreund@4imprint.com

Item		Adhesive Cell Phone Wallet	Colors	(Wallet, Trim): A Color Choice Required, A Color Choice Required		
Qty	Item #	Description	Unit \$	Price \$	Total \$	
100	119373	Adhesive Cell Phone Wallet	1.4900	149.00	149.00	
1	Coupon	Coupon Code	-17.9000	-17.90	-17.90	
1	Set-Up Charge	Set-Up Charge	30.0000	30.00	30.00	
1	Delivery	3rd Party Billing per Order	0.0000	0.00	0.00	
		Freight		8.55	8.55	
					169.65	

Artwork Instructions

Product Color (Base, Trim): A Color Choice Required, A Color Choice Required
Imprint Location: Front
Imprint Colors: Black (Standard)

Item		CBUK Fairwood Polo	Colors	(Polo, Neck Tape) : See Below		
Qty	Item #	Description	Unit \$	Price \$	Total \$	
6	131997	CBUK Fairwood Polo	35.5000	213.00	213.00	
		6 - Extra Large : Atlas Blue, Atlas Blue	0.0000	0.00	0.00	
1	Coupon	Coupon Code	-24.8000	-24.80	-24.80	
6	*Embroidery	Embroidery Run Charge	0.0000	0.00	0.00	
1	*Embroidery	Tape Charge	35.0000	35.00	35.00	
		Freight		9.00	9.00	
					232.20	

Artwork Instructions

Product Color (Base, Trim): Atlas Blue, Atlas Blue
Imprint Location: Left Chest
Imprint Colors: To Be Determined

Item		Slim Webcam Privacy Cover	Colors	(Cover, Trim): A Color Choice Required, A Color Choice Required		
Qty	Item #	Description	Unit \$	Price \$	Total \$	
300	152372	Slim Webcam Privacy Cover	0.7500	225.00	225.00	
1	Coupon	Coupon Code	-26.0000	-26.00	-26.00	
1	Set-Up Charge	Set-Up Charge	35.0000	35.00	35.00	
		Freight		7.92	7.92	
					241.92	

Artwork Instructions

Product Color (Base, Trim): A Color Choice Required, A Color Choice Required



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Fax: 866-963-9311
Email: sfreund@4imprint.com

Imprint Location: Front
Imprint Colors: Full Color

Item		Drawstring Sportpack - 18" x 14"	Colors	(Sportpack, Trim): A Color Choice Required, A Color Choice Required		
Qty	Item #	Description	Unit \$	Price \$	Total \$	
72	6188-1814	Drawstring Sportpack - 18" x 14"	1.6900	121.68	121.68	
1	Coupon	Coupon Code	-15.6680	-15.67	-15.67	
1	Set-Up Charge	Set-Up Charge	35.0000	35.00	35.00	
		Freight		13.16	13.16	
					154.17	

Artwork Instructions

Imprint Location: Front
Imprint Colors: Black

Item		Stainless Steel Straw Set - Laser Engraved	Colors	(Pouch, Straw Tip): A Color Choice Required, A Color Choice Required		
Qty	Item #	Description	Unit \$	Price \$	Total \$	
100	150594-L-SET	Stainless Steel Straw Set - Laser Engraved	2.9900	299.00	299.00	
1	Coupon	Coupon Code	-34.4000	-34.40	-34.40	
1	Set-Up Charge	Set-Up Charge	45.0000	45.00	45.00	
		Freight		9.73	9.73	
					319.33	

Artwork Instructions

Imprint Location: Straw
Imprint Colors: Laser Engrave

Item		Fresh Light Sunglasses	Colors	(Frame, Mirror Lens): A Color Choice Required, A Color Choice Required		
Qty	Item #	Description	Unit \$	Price \$	Total \$	
100	139487	Fresh Light Sunglasses	1.7900	179.00	179.00	
1	Coupon	Coupon Code	-21.9000	-21.90	-21.90	
1	Set-Up Charge	Set-Up Charge	40.0000	40.00	40.00	
		Freight		12.34	12.34	
					209.44	

Artwork Instructions

Imprint Location: Right Temple
Imprint Colors: Black

Item	h2go Force Vacuum Bottle - 17 oz.	Colors	(Bottle, Trim): A Color Choice Required, A Color Choice Required		
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Quotation Number: 18011378
Quote Date: May 28, 2019
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Questions Call: Shay Freund
Phone: 877-446-7746 Ext. 8466
Fax: 866-963-9311
Email: sfreund@4imprint.com

Qty	Item #	Description	Unit \$	Price \$	Total \$
24	126434-17	h2go Force Vacuum Bottle - 17 oz.	15.6900	376.56	376.56
1	Coupon	Coupon Code	-43.6560	-43.66	-43.66
1	Set-Up Charge	Set-Up Charge	60.0000	60.00	60.00
		Freight		22.62	22.62
					415.52

Artwork Instructions

Imprint Location: Wrap
Imprint Colors: Black (Standard)

Item Two-Tone Accent Gusseted Tote Bag			Colors	(Bag,Trim): A Color Choice Required, A Color Choice Required	
Qty	Item #	Description	Unit \$	Price \$	Total \$
25	6251	Two-Tone Accent Gusseted Tote Bag	8.6900	217.25	217.25
1	Coupon	Coupon Code	-24.7250	-24.73	-24.73
1	Set-Up Charge	Set-Up Charge	30.0000	30.00	30.00
		Freight		18.22	18.22
					240.74

Artwork Instructions

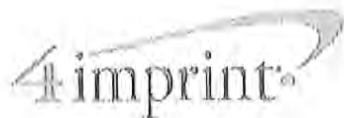
Imprint Location: Front
Imprint Colors: Black (Standard)

Item	Origins Cotton Market Tote	Colors	(Trim Color,Pattern): A Color Choice Required, A Color Choice Required		
Qty	Item #	Description	Unit \$	Price \$	Total \$
50	120102	Origins Cotton Market Tote	5.3500	267.50	267.50
1	Coupon	Coupon Code	-31.7500	-31.75	-31.75
1	Set-Up Charge	Set-Up Charge	50.0000	50.00	50.00
		Freight		14.02	14.02
					299.77

Artwork Instructions

Imprint Location: Front
Imprint Colors: Black (Standard)

Item Gusseted Cotton Sheeting Tote - Color			Colors	(Tote,Handles): A Color Choice Required, A Color Choice Required	
Qty	Item #	Description	Unit \$	Price \$	Total \$
100	1922-C	Gusseted Cotton Sheeting Tote - Color	3.5900	359.00	359.00
1	Coupon	Coupon Code	-38.9000	-38.90	-38.90
1	Set-Up Charge	Set-Up Charge	30.0000	30.00	30.00



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Email: sfreund@4imprint.com

Freight	20.99	20.99
		<u>371.09</u>

Artwork Instructions

Imprint Location: Front
Imprint Colors: Black (Standard)

Item		Big Thunder Tote - 15" x 13"	Colors	(Tote, Trim): A Color Choice Required, A Color Choice Required		
Qty	Item #	Description		Unit \$	Price \$	Total \$
100	101326-1513	Big Thunder Tote - 15" x 13"		2.2500	225.00	225.00
1	Coupon	Coupon Code		-26.5000	-26.50	-26.50
1	Set-Up Charge	Set-Up Charge (1st Color)		40.0000	40.00	40.00
		Freight			34.88	34.88
						<u>273.38</u>

Artwork Instructions

Imprint Location: Front
Imprint Colors: Black (Standard)

Item		Therm-O Tote Insulated Grocery Bag	Colors	(Tote, Trim): A Color Choice Required, A Color Choice Required		
Qty	Item #	Description		Unit \$	Price \$	Total \$
100	106542	Therm-O Tote Insulated Grocery Bag		3.8900	389.00	389.00
1	Coupon	Coupon Code		-42.9000	-42.90	-42.90
1	Set-Up Charge	Set-Up Charge (1st Color)		40.0000	40.00	40.00
		Freight			56.52	56.52
						<u>442.62</u>

Artwork Instructions

Imprint Location: Front
Imprint Colors: Black (Standard)

Grand Total 5,559.61



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Quotation Number: 18011378
Quote Date: May 28, 2019
Quote Valid Until: June 27, 2019
Account No.: 1960387

Questions Call: Shay Freund
Phone: 877-446-7746 Ext. 8466
Fax: 866-963-9311
Email: sfreund@4imprint.com

METHOD OF PAYMENT

- ☐ We previously ordered from you on open account.
☐ We are well rated with Dun & Bradstreet. My D & B number is _____.
☐ Please fax us a Credit Application. We understand that our order will not go into production until your application is approved, which may take 2-3 weeks.
☐ Enclosed is a check in the amount of \$ _____ payable to 4imprint.
☐ We will pay by credit card.

IMPORTANT To place your order please let your customer service representative know you would like to proceed along with providing any artwork or changes to the quote that are needed. If paying by credit card please call your customer service representative with your credit card details.

Please visit our website - www.4imprint.com

Shipment Details

Shipment to	Qty	Item #	Estimated Ship Date	Carrier, service	Estimated Delivery Date	Freight
Address as above.	250	139918		UPS Ground (Parcel)	May 28 2019	10.20
	100	145467-S		UPS Ground (Parcel)	May 28 2019	8.55
	24	135295-M		UPS Ground (Parcel)	May 28 2019	19.47
	100	8886		UPS Ground (Parcel)	May 28 2019	7.04
	50	126487-AL		UPS Ground (Parcel)	May 28 2019	7.31
	100	126487-FC		UPS Ground (Parcel)	May 28 2019	7.81
	100	119373		UPS Ground (Parcel)	May 28 2019	8.55
	6	131997		UPS Ground (Parcel)	May 28 2019	9.00
	300	152372		UPS Ground (Parcel)	May 28 2019	7.92
	72	6188-1814		UPS Ground (Parcel)	May 28 2019	13.16
	100	150594-L-SET		UPS Ground (Parcel)	May 28 2019	9.73
	100	139487		UPS Ground (Parcel)	May 28 2019	12.34
	24	126434-17		UPS Ground (Parcel)	May 28 2019	22.62
	25	6251		UPS Ground (Parcel)	May 28 2019	18.22
	50	120102		UPS Ground (Parcel)	May 28 2019	14.02
	100	1922-C		UPS Ground (Parcel)	May 28 2019	20.99
	100	101326-1513		UPS Ground (Parcel)	May 28 2019	34.88
	100	106542		UPS Ground (Parcel)	May 28 2019	56.52



SOME OF THE BRAND NAMES WE CARRY

Champion
Columbia
Crossland
Cutter & Buck
Eddie Bauer
Gildan
Hanes
Jerzees
New Era
Nike
The North Face
Under Armour
Koozie
High Sierra
Coleman
Wenger
Carhartt
Slazenger
Igloo
Case Logic
Camelbak
Contigo
Blender Bottle
Thermos
Coleman
Arctic Zone
refresh
Ecovessel
Ello
Tervis
BIC
Moleskine
Cross
Paper Mate
Sharpie
Uni-Ball

EXHIBIT D
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND

[Sustainability Commitment Form]

See following page(s).



CITY COUNCIL REPORT

SUBJECT: Professional Services Agreement with Century Graphics, Inc for Citywide Commercial Printing and Mailing Services

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Pier Simeri, Community Relations Director, 623-333-1600

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

PURPOSE:

City Council will consider a request to award a contract to Century Graphics, Inc for citywide commercial printing and mailing services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

On May 8 2019, Avondale issued a Request for Proposals (RFP), CR 19-058, for Citywide Commercial and Mailing Services. Several firms responded by the June 6 due date, and three were selected to fulfill the City's requirements for printing and mailing services, based on their scored responses addressing the myriad of specialized printing services listed in the RFP.

DISCUSSION:

The City of Avondale has need for printing services for a vast number of projects, ranging from business cards, posters and flyers to the RAVE Review Magazine and annual budget books, to engineering plans and more. Printing projects from city departments are largely centralized through the Community Relations Department, which oversees brand integrity to ensure that Avondale is reflected positively through its printed materials.

Due to the needs of the various departments for a variety of printing projects, staff has found it to be to the City's advantage to award more than one contract for printing services.

Three vendors were notified of the City's intent to award multiple contracts for RFP CR 19-058.

BUDGET IMPACT:

Funding for commercial printing and mailing services is available in department budgets. Last year the City spent \$180,624.77 on printing and mailing services.

RECOMMENDATION:

Staff recommend that Council approve the award of a contract for Citywide Printing and Mailing Services to Century Graphics, Inc.

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
CENTURY GRAPHICS, INC.**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of July 22, 2019, between the City of Avondale, an Arizona municipal corporation (the "City"), and Century Graphics, Inc., an Arizona corporation (the "Contractor").

RECITALS

A. The City issued a Request for Proposals, CR 19-058 "CITYWIDE COMMERCIAL PRINTING AND MAILING SERVICES" (the "RFP"), a copy of which is on file in the City's Finance Office and incorporated herein by reference, seeking proposals from vendors for provide professional, commercial printing and mailing services for the variety of printed media used to support, market and promote the City's operations, activities and programs and may include the design and layout, printing and/or mailing services (collectively the "Services"). The Services to be ordered on an as-needed basis as directed by City staff.

B. The Contractor responded to the RFP by submitting a proposal (the "Proposal"), attached hereto as Exhibit A and incorporated herein by reference, and the City desires to enter into an Agreement with the Contractor for the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and 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 City and the Contractor hereby agree as follows:

1. Term of Agreement.

1.1 Initial Term. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until July, 22, 2020 (the "Initial Term"), unless terminated as otherwise provided in this Agreement.

1.2 Renewal Terms. After the expiration of the Initial Term, this Agreement may be renewed for up to four successive one-year terms (each, a "Renewal Term") if (i) it is deemed in the best interests of the City, subject to availability and appropriation of funds for renewal in each subsequent year, (ii) at least 30 days prior to the end of the then-current term of this Agreement, the Contractor requests, in writing, to extend this Agreement for an additional one-year term and (iii) the City approves the additional one-year term in writing (including any price adjustments approved as part of this Agreement), as evidenced by the City Manager's signature thereon, which approval may be withheld by the City for any reason. The Contractor's failure to seek a renewal of this Agreement shall cause this Agreement to terminate at the end of

the then-current term of this Agreement; provided, however, that the City may, at its discretion and with the agreement of the Contractor, elect to waive this requirement and renew this Agreement. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

1.3 Non-Default. By requesting extension for a Renewal Term as set forth above, or by consenting to a Renewal Term in any manner, Contractor shall be deemed to affirmatively assert that (i) the City is not currently in default, nor has been in default at any time prior to the Renewal Term, under any of the terms or conditions of the Agreement and (ii) any and all Contractor claims, known and unknown, relating to the Agreement and existing on or before the commencement date of the Renewal Term are forever waived.

2. Scope of Work. Contractor shall provide the Services as set forth in the Scope of Work attached hereto as Exhibit B and incorporated herein by reference. This is an indefinite quantity and indefinite delivery Agreement for Services, which shall only be provided when the City chooses to move forward with a pending project and proper authorization and documentation have been approved. The City does not guarantee any minimum or maximum amount of Services will be requested under this Agreement. For project(s) determined by the City to be appropriate for this Agreement, the Contractor shall provide the specific Services to the City agreed upon between the parties in a written invoice, quote, purchase order or other form of written acknowledgment describing the Services to be provided (each, a "Work Order"). Each Work Order shall (i) contain a reference to this Agreement and (ii) be attached hereto as Exhibit B and incorporated herein by reference. Work Orders submitted without referencing this Agreement will be subject to rejection. Contractor acknowledges and agrees that Work Order(s) containing unauthorized exceptions, conditions, limitations, or provisions in conflict with the terms of this Agreement (collectively, the "Unauthorized Conditions"), other than City's project-specific requirements, are hereby expressly declared void and shall be of no force and effect. Acceptance by the City of any Work Order or invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement shall not alter such terms and conditions or relieve Contractor from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement.

3. Compensation. The City shall pay Contractor at the rates set forth in the Fee Proposal attached hereto as Exhibit C and incorporated herein by reference.

4. Payments. The City shall pay the Contractor monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

5. Safety Plan. Contractor shall provide the Services in accordance with a safety plan that is compliant with Occupational Safety and Health Administration ("OSHA"), American National Standards Institute and National Institute for Occupational Safety and Health standards. If, in the Contractor's sole determination, the Services to be provided do not require a safety plan,

Contractor shall notify the City, in writing, describing the reasons a safety plan is unnecessary. The City reserves the right to request a safety plan following such notification.

6. Documents. All documents, including any intellectual property rights thereto, prepared and submitted to the City pursuant to this Agreement shall be the property of the City.

7. Contractor Personnel. Contractor shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Contractor agrees to assign specific individuals to key positions. If deemed qualified, the Contractor is encouraged to hire City residents to fill vacant positions at all levels. Contractor agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the City. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Contractor shall immediately notify the City of same and shall, subject to the concurrence of the City, replace such personnel with personnel possessing substantially equal ability and qualifications.

8. Inspection; Acceptance. All work shall be subject to inspection and acceptance by the City at reasonable times during Contractor's performance. The Contractor shall provide and maintain a self-inspection system that is acceptable to the City.

9. Licenses; Materials. Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor. The City has no obligation to provide Contractor, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement. The City has no obligation to provide tools, equipment or material to Contractor.

10. Performance Warranty. Contractor warrants that the Services rendered will conform to the requirements of this Agreement and with the care and skill ordinarily used by members of the same profession practicing under similar circumstances at the same time and in the same locality.

11. Indemnification. To the fullest extent permitted by law, the Contractor 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 work or services of the Contractor, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

12. Insurance.

12.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Contractor, Contractor 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 Contractor. 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 Contractor 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, 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 Named 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 until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.

E. Primary Insurance. Contractor'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 and necessary endorsements 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 work or services of Contractor. Contractor 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. Contractor shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Contractor shall execute written agreements with its subcontractors containing the indemnification provisions set forth above and insurance requirements set forth herein protecting the City and Contractor. Contractor shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Contractor 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 Contractor'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 Contractor'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 the RFP number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFP number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFP number and title or a reference to this Agreement, as applicable, 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) Contractor’s insurance shall be primary insurance with respect to 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 Contractor 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.

K. Endorsements. Contractor shall provide the City with the necessary endorsements to ensure City is provided the insurance coverage set forth in this Section.

12.2 Required Insurance Coverage.

A. Commercial General Liability. Contractor 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. Contractor shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Contractor's owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor's work or services 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. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Contractor engages in any professional services or work in any way related to performing the work under this Agreement, the Contractor shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Contractor, or anyone employed by the Contractor, or anyone for whose negligent acts, mistakes, errors and omissions the Contractor is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

D. Workers' Compensation Insurance. If Contractor employs anyone who is required by law to be covered by workers' compensation insurance, Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Contractor's employees engaged in the performance of work or services 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.

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

13. Termination; Cancellation.

13.1 For City's Convenience. This Agreement is for the convenience of the City and, as such, may be terminated without cause after receipt by Contractor of written notice by the City. Upon termination for convenience, Contractor shall be paid for all undisputed services performed to the termination date.

13.2 For Cause. If either party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such

that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (A) provides written notice to the non-defaulting party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 90 days. In the event of such termination for cause, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.

13.3 Due to Work Stoppage. This Agreement may be terminated by the City upon 30 days' written notice to Contractor in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.

13.4 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 this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a Contractor to any other party of this Agreement with respect to the subject matter of this Agreement.

13.5 Gratuities. The City may, by written notice to the Contractor, cancel this Agreement if it is found by the City that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Contractor an amount equal to 150% of the gratuity.

13.6 Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the City's then current fiscal year. The City's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the City concerning budgeted purposes and appropriation of funds. Should the City elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the City shall be relieved of any subsequent obligation under this Agreement. The parties agree that the City has no obligation or duty of good faith to budget or appropriate the payment of the City's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The City shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The City shall keep Contractor informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. Contractor hereby waives any and all rights to bring any claim against the City from or relating in any way to the City's termination of this Agreement pursuant to this section.

14. Miscellaneous.

14.1 Independent Contractor. 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. The Contractor acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. Contractor, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of Contractor, its employees or subcontractors. The Contractor, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Contractor meets the requirements of its agreed Scope of Work as set forth in Section 2 above and Exhibit B. Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Contractor do not intend to nor will they combine business operations under this Agreement.

14.2 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 Maricopa County, Arizona.

14.3 Laws and Regulations. Contractor shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Contractor is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, including, but not limited to, the following: (A) existing and future City and County ordinances and regulations, (B) existing and future State and Federal laws and (C) existing and future OSHA standards.

14.4 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 Contractor.

14.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in this 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, this Agreement will promptly be physically amended to make such insertion or correction.

14.6 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 this Agreement which may remain in effect without the invalid provision or application.

14.7 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 this 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.

14.8 Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by Contractor without prior, written permission of the City, signed by the City Manager. Any attempted assignment or delegation by Contractor in violation of this provision shall be a breach of this Agreement by Contractor.

14.9 Subcontracts. No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior, written approval of the City. The Contractor is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Contractor.

14.10 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 Contractor 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.

14.11 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.

14.12 Liens. All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.

14.13 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the City may offset from any money due to the Contractor any amounts Contractor owes to the City for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The City may offset from any money due to the Contractor any amounts Contractor owes to the City for delinquent fees, transaction privilege use taxes and property taxes, including any interest or penalties.

14.14 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 (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

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

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

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

If to Contractor: Century Graphics Inc.
PO Box 43347
Phoenix, AZ 85080-3347
Attn: Ms. Barbara A. Knight

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) 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.

14.15 Confidentiality of Records. The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Contractor's duties under this Agreement. Persons requesting such information should be referred to the City. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under this Agreement.

14.16 Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under subsection 14.17 below, Contractor's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Contractor and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Contractor's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Contractor's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 14.17 below. To the extent necessary for the City to audit Records as set forth in this subsection, Contractor and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the City to Contractor pursuant to this Agreement. Contractor and its subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this subsection. The City shall give Contractor or its subcontractors reasonable advance notice of intended audits. Contractor shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

14.17 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Contractor and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Contractor's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

14.18 Israel. Contractor certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

14.19 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, any amendments, the Scope of Work, any City-approved Purchase Order, the Fee Proposal, the RFP and the Contractor's Proposal, the documents shall govern in the order listed herein.

14.20 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods and services from another source when necessary.

14.21 Cooperative Purchasing. Specific eligible political subdivisions and nonprofit educational or public health institutions ("Eligible Procurement Unit(s)") are permitted

to utilize procurement agreements developed by the City, at their discretion and with the agreement of the awarded Contractor. Contractor may, at its sole discretion, accept orders from Eligible Procurement Unit(s) for the purchase of the Materials and/or Services at the prices and under the terms and conditions of this Agreement, in such quantities and configurations as may be agreed upon between the parties. All cooperative procurements under this Agreement shall be transacted solely between the requesting Eligible Procurement Unit and Contractor. Payment for such purchases will be the sole responsibility of the Eligible Procurement Unit. The exercise of any rights, responsibilities or remedies by the Eligible Procurement Unit shall be the exclusive obligation of such unit. The City assumes no responsibility for payment, performance or any liability or obligation associated with any cooperative procurement under this Agreement. The City shall not be responsible for any disputes arising out of transactions made by others.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“City”

CITY OF AVONDALE,
an Arizona municipal corporation

Charles A. Montoya, City Manager

ATTEST:

Marcella Carrillo, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2019, 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

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

"Contractor"

CENTURY GRAPHICS INC.,
an Arizona Corporation

By: _____

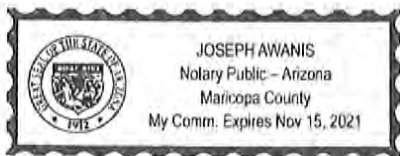
Name: BARBARA A. Knight

Title: President

(ACKNOWLEDGMENT)

STATE OF Arizona)
COUNTY OF Maricopa) ss.

On 7-5, 2019, before me personally appeared Barbara Knight, the President of CENTURY GRAPHICS INC., an Arizona corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the Century Graphics Inc.



(Affix notary seal here)

Notary Public

EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
CENTURY GRAPHICS INC.,

[Contractor's Proposal]

See following pages.



CITY COUNCIL REPORT

SUBJECT: Professional Services Agreement with Capitol Litho Corporation for Citywide Commercial Printing and Mailing Services

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Pier Simeri, Community Relations Director, (623) 333-1600.

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

PURPOSE:

City Council will consider a request to award a contract to Capitol Litho Corporation for citywide commercial printing and mailing services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

On May 8 2019, Avondale issued a Request for Proposals (RFP), CR 19-058, for Citywide Commercial and Mailing Services. Several firms responded by the June 6 due date, and three were selected to fulfill the City's requirements for printing and mailing services, based on their scored responses addressing the myriad of specialized printing services listed in the RFP.

DISCUSSION:

The City of Avondale has need for printing services for a vast number of projects, ranging from business cards, posters and flyers to the RAVE Review Magazine and annual budget books, to engineering plans and more. Printing projects from city departments are largely centralized through the Community Relations Department, which oversees brand integrity to ensure that Avondale is reflected positively through its printed materials.

Due to the needs of the various departments for a variety of printing projects, staff has found it to be to the City's advantage to award more than one contract for printing services.

Three vendors were notified of the City's intent to award multiple contracts for RFP CR 19-058.

BUDGET IMPACT:

Funding for commercial printing and mailing services is available in department budgets. Last year the City spent \$180,624.77 on printing and mailing services.

RECOMMENDATION:

Staff recommends that Council will approve the request to award a contract for Citywide Printing and Mailing Services to Capitol Litho Corporation.

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
CAPITOL LITHO CORPORATION**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of July 22, 2019, between the City of Avondale, an Arizona municipal corporation (the "City"), and Capitol Litho Corporation, an Arizona corporation (the "Contractor").

RECITALS

A. The City issued a Request for Proposals, CR 19-058 "CITYWIDE COMMERCIAL PRINTING AND MAILING SERVICES" (the "RFP"), a copy of which is on file in the City's Finance Office and incorporated herein by reference, seeking proposals from vendors for provide professional, commercial printing and mailing services for the variety of printed media used to support, market and promote the City's operations, activities and programs and may include the design and layout, printing and/or mailing services (collectively the "Services"). The Services to be ordered on an as-needed basis as directed by City staff.

B. The Consultant responded to the RFP by submitting a proposal (the "Proposal"), attached hereto as Exhibit A and incorporated herein by reference, and the City desires to enter into an Agreement with the Consultant for the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and 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 City and the Consultant hereby agree as follows:

I. **Term of Agreement.**

1.1 **Initial Term.** This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until July, 22, 2020 (the "Initial Term"), unless terminated as otherwise provided in this Agreement.

1.2 **Renewal Terms.** After the expiration of the Initial Term, this Agreement may be renewed for up to four successive one-year terms (each, a "Renewal Term") if (i) it is deemed in the best interests of the City, subject to availability and appropriation of funds for renewal in each subsequent year, (ii) at least 30 days prior to the end of the then-current term of this Agreement, the Consultant requests, in writing, to extend this Agreement for an additional one-year term and (iii) the City approves the additional one-year term in writing (including any price adjustments approved as part of this Agreement), as evidenced by the City Manager's signature thereon, which approval may be withheld by the City for any reason. The Consultant's failure to seek a renewal of this Agreement shall cause this Agreement to terminate at the end of

the then-current term of this Agreement; provided, however, that the City may, at its discretion and with the agreement of the Consultant, elect to waive this requirement and renew this Agreement. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

1.3 Non-Default. By requesting extension for a Renewal Term as set forth above, or by consenting to a Renewal Term in any manner, Consultant shall be deemed to affirmatively assert that (i) the City is not currently in default, nor has been in default at any time prior to the Renewal Term, under any of the terms or conditions of the Agreement and (ii) any and all Consultant claims, known and unknown, relating to the Agreement and existing on or before the commencement date of the Renewal Term are forever waived.

2. Scope of Work. Consultant shall provide the Services as set forth in the Scope of Work attached hereto as Exhibit B and incorporated herein by reference. This is an indefinite quantity and indefinite delivery Agreement for Services, which shall only be provided when the City chooses to move forward with a pending project and proper authorization and documentation have been approved. The City does not guarantee any minimum or maximum amount of Services will be requested under this Agreement. For project(s) determined by the City to be appropriate for this Agreement, the Consultant shall provide the specific Services to the City agreed upon between the parties in a written invoice, quote, purchase order or other form of written acknowledgment describing the Services to be provided (each, a "Work Order"). Each Work Order shall (i) contain a reference to this Agreement and (ii) be attached hereto as Exhibit B and incorporated herein by reference. Work Orders submitted without referencing this Agreement will be subject to rejection. Consultant acknowledges and agrees that Work Order(s) containing unauthorized exceptions, conditions, limitations, or provisions in conflict with the terms of this Agreement (collectively, the "Unauthorized Conditions"), other than City's project-specific requirements, are hereby expressly declared void and shall be of no force and effect. Acceptance by the City of any Work Order or invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement shall not alter such terms and conditions or relieve Consultant from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement.

3. Compensation. The City shall pay Consultant at the rates set forth in the Fee Proposal attached hereto as Exhibit C and incorporated herein by reference.

4. Payments. The City shall pay the Consultant monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

5. Safety Plan. Consultant shall provide the Services in accordance with a safety plan that is compliant with Occupational Safety and Health Administration ("OSHA"), American National Standards Institute and National Institute for Occupational Safety and Health standards. If, in the Consultant's sole determination, the Services to be provided do not require a safety plan,

Consultant shall notify the City, in writing, describing the reasons a safety plan is unnecessary. The City reserves the right to request a safety plan following such notification.

6. Documents. All documents, including any intellectual property rights thereto, prepared and submitted to the City pursuant to this Agreement shall be the property of the City.

7. Consultant Personnel. Consultant shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Consultant agrees to assign specific individuals to key positions. If deemed qualified, the Consultant is encouraged to hire City residents to fill vacant positions at all levels. Consultant agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the City. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Consultant shall immediately notify the City of same and shall, subject to the concurrence of the City, replace such personnel with personnel possessing substantially equal ability and qualifications.

8. Inspection; Acceptance. All work shall be subject to inspection and acceptance by the City at reasonable times during Consultant's performance. The Consultant shall provide and maintain a self-inspection system that is acceptable to the City.

9. Licenses; Materials. Consultant shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Consultant. The City has no obligation to provide Consultant, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement. The City has no obligation to provide tools, equipment or material to Consultant.

10. Performance Warranty. Consultant warrants that the Services rendered will conform to the requirements of this Agreement and with the care and skill ordinarily used by members of the same profession practicing under similar circumstances at the same time and in the same locality.

11. Indemnification. To the fullest extent permitted by law, the Consultant 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 work or services of the Consultant, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

12. Insurance.

12.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Consultant, Consultant 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 Consultant. 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 Consultant 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, 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 Named 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 until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.

E. Primary Insurance. Consultant'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 and necessary endorsements 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 work or services of Consultant. Consultant 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. Consultant shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Consultant shall execute written agreements with its subcontractors containing the indemnification provisions set forth above and insurance requirements set forth herein protecting the City and Consultant. Consultant shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Consultant 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 Consultant'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 Consultant'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 the RFP number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFP number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFP number and title or a reference to this Agreement, as applicable, 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) Consultant’s insurance shall be primary insurance with respect to 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 Consultant 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.

K. Endorsements. Consultant shall provide the City with the necessary endorsements to ensure City is provided the insurance coverage set forth in this Section.

12.2 Required Insurance Coverage.

A. Commercial General Liability. Consultant 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. Consultant shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Consultant's owned, hired and non-owned vehicles assigned to or used in the performance of the Consultant's work or services 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. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Consultant engages in any professional services or work in any way related to performing the work under this Agreement, the Consultant shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Consultant, or anyone employed by the Consultant, or anyone for whose negligent acts, mistakes, errors and omissions the Consultant is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

D. Workers' Compensation Insurance. If Consultant employs anyone who is required by law to be covered by workers' compensation insurance, Consultant shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Consultant's employees engaged in the performance of work or services 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.

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

13. Termination; Cancellation.

13.1 For City's Convenience. This Agreement is for the convenience of the City and, as such, may be terminated without cause after receipt by Consultant of written notice by the City. Upon termination for convenience, Consultant shall be paid for all undisputed services performed to the termination date.

13.2 For Cause. If either party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such

that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (A) provides written notice to the non-defaulting party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 90 days. In the event of such termination for cause, payment shall be made by the City to the Consultant for the undisputed portion of its fee due as of the termination date.

13.3 Due to Work Stoppage. This Agreement may be terminated by the City upon 30 days' written notice to Consultant in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Consultant for the undisputed portion of its fee due as of the termination date.

13.4 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 this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

13.5 Gratuities. The City may, by written notice to the Consultant, cancel this Agreement if it is found by the City that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Consultant an amount equal to 150% of the gratuity.

13.6 Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the City's then current fiscal year. The City's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the City concerning budgeted purposes and appropriation of funds. Should the City elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the City shall be relieved of any subsequent obligation under this Agreement. The parties agree that the City has no obligation or duty of good faith to budget or appropriate the payment of the City's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The City shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The City shall keep Consultant informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. Consultant hereby waives any and all rights to bring any claim against the City from or relating in any way to the City's termination of this Agreement pursuant to this section.

14. Miscellaneous.

14.1 Independent Contractor. 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. The Consultant acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. Consultant, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of Consultant, its employees or subcontractors. The Consultant, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Consultant meets the requirements of its agreed Scope of Work as set forth in Section 2 above and Exhibit B. Consultant is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Consultant do not intend to nor will they combine business operations under this Agreement.

14.2 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 Maricopa County, Arizona.

14.3 Laws and Regulations. Consultant shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Consultant is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, including, but not limited to, the following: (A) existing and future City and County ordinances and regulations, (B) existing and future State and Federal laws and (C) existing and future OSHA standards.

14.4 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 Consultant.

14.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in this 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, this Agreement will promptly be physically amended to make such insertion or correction.

14.6 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 this Agreement which may remain in effect without the invalid provision or application.

14.7 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 this 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.

14.8 Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by Consultant without prior, written permission of the City, signed by the City Manager. Any attempted assignment or delegation by Consultant in violation of this provision shall be a breach of this Agreement by Consultant.

14.9 Subcontracts. No subcontract shall be entered into by the Consultant with any other party to furnish any of the material or services specified herein without the prior, written approval of the City. The Consultant is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Consultant.

14.10 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 Consultant 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.

14.11 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.

14.12 Liens. All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.

14.13 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the City may offset from any money due to the Consultant any amounts Consultant owes to the City for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The City may offset from any money due to the Consultant any amounts Consultant owes to the City for delinquent fees, transaction privilege use taxes and property taxes, including any interest or penalties.

14.14 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 (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

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

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

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

If to Consultant: Capitol Litho Corporation
 2301 N. 16th Street
 Phoenix, AZ 85006
 Attn: Mr. Ernie Garcia

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) 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.

14.15 Confidentiality of Records. The Consultant shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Consultant's duties under this Agreement. Persons requesting such information should be referred to the City. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under this Agreement.

14.16 Records and Audit Rights. To ensure that the Consultant and its subcontractors are complying with the warranty under subsection 14.17 below, Consultant's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Consultant and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Consultant's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Consultant's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 14.17 below. To the extent necessary for the City to audit Records as set forth in this subsection, Consultant and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the City to Consultant pursuant to this Agreement. Consultant and its subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this subsection. The City shall give Consultant or its subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

14.17 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Consultant and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Consultant's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

14.18 Israel. Consultant certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

14.19 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, any amendments, the Scope of Work, any City-approved Purchase Order, the Fee Proposal, the RFP and the Consultant's Proposal, the documents shall govern in the order listed herein.

14.20 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods and services from another source when necessary.

14.21 Cooperative Purchasing. Specific eligible political subdivisions and nonprofit educational or public health institutions ("Eligible Procurement Unit(s)") are permitted

to utilize procurement agreements developed by the City, at their discretion and with the agreement of the awarded Consultant. Consultant may, at its sole discretion, accept orders from Eligible Procurement Unit(s) for the purchase of the Materials and/or Services at the prices and under the terms and conditions of this Agreement, in such quantities and configurations as may be agreed upon between the parties. All cooperative procurements under this Agreement shall be transacted solely between the requesting Eligible Procurement Unit and Consultant. Payment for such purchases will be the sole responsibility of the Eligible Procurement Unit. The exercise of any rights, responsibilities or remedies by the Eligible Procurement Unit shall be the exclusive obligation of such unit. The City assumes no responsibility for payment, performance or any liability or obligation associated with any cooperative procurement under this Agreement. The City shall not be responsible for any disputes arising out of transactions made by others.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“City”

CITY OF AVONDALE,
an Arizona municipal corporation

Charles A. Montoya, City Manager

ATTEST:

Marcella Carrillo, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2019, 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

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

“Consultant”

CAPITOL LITHO CORPORATION,
an Arizona Corporation

By: _____

Name: DIANA MORALES

Title: VICE PRESIDENT

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
COUNTY OF MARICOPA) ss.

On July 12, 2019, before me personally appeared DIANA MORALES, the VICE PRESIDENT of CAPITOL LITHO CORPORATION, an Arizona corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of CAPITOL LITHO.

Notary Public

(Affix notary seal here)



EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
CAPITOL LITHO CORPORATION

[Consultant's Proposal]

See following pages.



Response to:

City of Avondale

RFQ Number: CR 19-058

2301 North 16th Street

Phoenix, AZ 85006

602-252-6141

- D. A dedicated account representative will be available throughout the lifecycle of all work completed. All questions, concerns and escalations will be managed by this individual. He/She will be accessible by all major methods of communications including all voice and digital channels.
- E. Technical Assistance for art file formats and file transfer is available through your assigned contact. In general, we can receive art files through most FTP services, including Hightail, Dropbox and zipped files via email
- F. Plant inspections may be arranged through your assigned contact, preferably with at least a 24 hour notice.
- G. Custom printing is our forte'. We consider all projects assigned to us as "custom" as they each require the attention to detail that is necessary to produce the quality our clients expect.



Response to:

City of Avondale

RFQ Number: cr 19-058

2301 North 16th Street

Phoenix, AZ 85006

602-252-6141



2301 N. 16th Street • Phoenix, AZ 85006
602.252.6141 • www.capitololitho.com

City of Avondale Vendor Review For RFQ CR 19-058

Having thoroughly reviewed the Solicitation # 2019204, I believe that Capitol Litho Corporation is uniquely equipped to provide the services specified in the Solicitation.

Due to recently acquired equipment we are now able to offer our clients many services "in-house", which were previously only available through outside sources. This means faster turn-around, reinforcing our commitment to completing even the most complicated project within the specified time frame. Delivery on or before the due date is our goal with each and every project assigned to Capitol Litho Corporation.

Further, our prepress specialist and our Production Manager are always available to help with any issues you may have.

Your Designated Project Manager:

Verne Marler

Phone: 602-252-6141

Email: customerservice@clprintingaz.com

Pre-Press Operator:

Robert Ayala

Phone: 602-252-6141

Email: prepressmac@clprintingaz.com

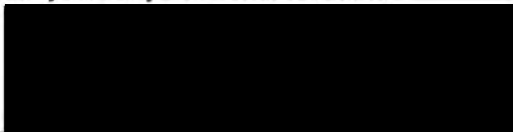
General Manager:

Ernie Garcia, President

Phone: 602-252-6141, Cell: 602-684-5927

Email: ernie@clprintingaz.com

Thank you for your consideration.



Ernie Garcia, President & GM



A. GENERAL INFORMATION

RFQ CR 19-058



2301 N. 16th Street • Phoenix, AZ 85006
602.252.6141 • www.capitololitho.com

Capitol Litho Corporation is a Closely Held Arizona Corporation located at:

2301 N. 16th Street

Phoenix, AZ 85006

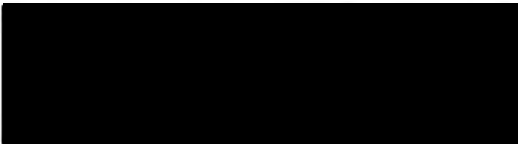
Federal Id # 81-3329826

Your Designated Contact is:

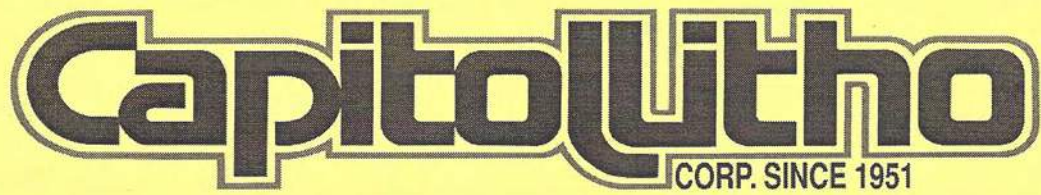
Verne Marler

602-252-6141

customerservice@clprintingaz.com



Ernie Garcia, President & GM



B. EXPERIENCE AND QUALIFICATIONS

RFQ CR 19-058



2301 N. 16th Street • Phoenix, AZ 85006
602.252.6141 • www.capitololitho.com

Capitol Litho has been in business in Phoenix since 1951 and is recognized as a leader in the printing industry. Specializing in high quality color reproduction, Capitol Litho takes pride in customer satisfaction and service. By purchasing only the best equipment in the industry and employing craftsmen with training and experience to match, we can give your project that "special" look that will get it the attention it deserves.

Capitol has continued to enjoy steady growth over the past 66 plus years based on the original values of hard work, superior craftsmanship, and a primary mission of pleasing their customers with outstanding on-time performance.

Due to recently acquired equipment we are now able to offer our clients many services "in-house", which were previously only available through outside sources. This means faster turn-around and more competitive pricing than we were able to offer previously.

Having thoroughly reviewed the RFQ # CR 19-058, I believe that Capitol Litho Corporation is uniquely equipped to provide the printing services required.

Today, Capitol Litho Corporation is proud to offer ONE - STOP service throughout the Southwest. Beginning with a competent, seasoned sales staff; highly trained customer service representatives, through the production and delivery process; state of the art pre-press; and an efficient bindery, our experienced staff of 16 take pride in providing the quality that is expected by our clients.

Capitol Litho has not had any contracts terminated nor any claims raised against it in the past five years.



2301 N. 16th Street • Phoenix, AZ 85006
602.252.6141 • www.capitololitho.com

References:

- U-Haul International, Randy Engen, 602-263-6151, Randy-Engen@Uhaul.com, P.O. Box 21502
Phoenix, AZ 85036-1502
 - Services – Commercial Printing, digital printing, prepress, bindery, fulfillment, mailing abilities.
Doing business since 2007.
- Phoenix Art Museum, Felicia Penza 602-257-2117, Felicia.penza@phxart.org, 1625 N. Central Ave, Phoenix, AZ 85004
 - Services – Commercial Printing, Letterpress, Perfect binding, collating, drilling/hole punching, padding etc.
Doing business since 2008
- Inter-Tribal Council of AZ, Inc., Elva Yazzie 602-258-4822, Elva.yazzie@itconline.com, 2214 N. Central Ave Phoenix, AZ 85004
 - Services – Printing, Folding, Die Cutting, Numbering, Pre-press, mailing, etc.
Doing business since 2008
- Valley Metro, Mick Webber 602-523-607 mwebber@valleymetro.org, 101 N. 1st Avenue, Phoenix, AZ 85003
 - Services – Printing, Folding, Die Cutting, Numbering, Pre-press, mailing, etc.
Doing business since 2008
- AZ. State Parks & Trails, Ken Sliwa 602-542-6928, ksliwa@azstarteparks.gov, 23751 N. 23rd Avenue, # 190
Phoenix, AZ 85085
 - Services – Printing, Folding, Die Cutting, Numbering, Pre-press, mailing, etc.
Doing business since 2018

SECTION A

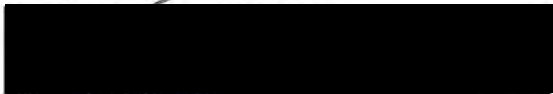
PART IV. VENDOR INFORMATION FORM

By submitting a Proposal, the submitting Vendor certifies that it has reviewed the administrative information and draft of the Professional Services Agreement's terms and conditions and, if awarded the Agreement, agrees to be bound thereto.

Capitol Litho Corporation
VENDOR SUBMITTING PROPOSAL

81-3329826
FEDERAL TAX ID NUMBER

Ernie Garcia, President
PRINTED NAME AND TITLE


AUTHORIZED SIGNATURE

2301 N. 16th Street
ADDRESS

602-252-6141
TELEPHONE

602-252-0018
FAX #

Phoenix, AZ 85006
CITY STATE ZIP

June 5, 2019
DATE

WEB SITE: Under Construction

E-MAIL ADDRESS: customerservice@clprintingaz.com

ARIZONA CORPORATION COMMISSION FILE NO. 21093305

SMALL, MINORITY, DISADVANTAGED AND WOMEN-OWNED BUSINESS
ENTERPRISES (check appropriate item(s)) :

- ☒ Small Business Enterprise (SBE)
☐ Minority Business Enterprise (MBE)
☐ Disadvantaged Business Enterprise (DBE)
☐ Women-Owned Business Enterprise (WBE)

Has the Vendor been certified by any jurisdiction in Arizona as a minority or woman-owned business enterprise? NO

If yes, please provide details and documentation of the certification.



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602.252.6141 • www.capitololitho.com

QUALIFICATIONS RFQ CR 19-058

Capitol Litho has 66 year history of producing high quality print media, from advertising pieces to fine art reproductions. Our seasoned team of 15 production specialists, many of whom have been with us for over 9 years, will take every step to ensure that any piece rolling off our presses will meet your exacting specifications. We value the opportunity to partner with all of our clients to support a wide variety of printing needs. From a single copy to large volume jobs, we apply the same high standards to produce quality outcomes with fair pricing and efficient turnaround.

Our long-term relationship with major companies and public entities, such as U-Haul International, Best Western International, Valley Metro, Phoenix Aviation and respected local organizations such as Phoenix Art Museum and Inter-Tribal Council of AZ, Inc. speaks to our ability to complete both complicated and high-quality projects with the results expected by discerning clients.

EQUIPMENT

Our state-of-the-art equipment includes a 4 color 40" Heidelberg press, a Digital HP Indigo, 8 Color Komori 40" Perfector and a 6-color Komori with a coater. With our fully updated bindery, and our computerized pre-press department staffed with highly experienced operators, we offer complete finishing for most print projects:

Folding, stock and custom die-cutting, banners, UV coating, numbering, signs, gluing, drilling, saddle stitching, cutting, scoring, display banners, table runners, and variable data printing.

A complete equipment list is attached for your convenience.

EXPERIENCE AND EXPERTISE

Capitol Litho has a long history of printing 4 color magazines. Corporate annual reports, quarterly and monthly publications have been a staple of sales throughout our history. One such quarterly publication is "Over the Front", a high-quality magazine dedicated to World War I history. This publication is distributed world wide and has become a collector's item for many veterans.

Quality is our trademark, and this ideal is carried into the production of all projects we are tasked to produce.

Your specifications will be our guidelines. Our prepress, pressman and bindery work together to insure the information you are providing is presented in the format you desire. With precise crossovers and colors that pop to emphasize your message.



2301 N. 16th Street • Phoenix
602.252.6141 • www.capitol

Plant Equipment List

Press Room

- Heidelberg 102 CD 4 Color 40"
- Komori 8 Color 40" Perfector
- Komori 6 Color 28" W/Coater L628
- Komori 2 Color 28" Perfector
- 2 Ryobi 3302M 13" X 17" 2 Color

Envelope Printing

- 2 Color Perfecting Envelope Press

Digital Printing

- 1 HP Indigo Digital 4-color
- 4 Black & White 13" X 19"

Die Cutting, Foil, & Embossing

- 2 Heidelberg SBG Cylinder Diecut
- 2 Heidelberg Windmill With Foil
- 1 Miehle Vertical Die Cutter, Numbering

Bindery

- MBO B20 W/Knife Folder
- MBO B26 Folder Stream Feed
- 2 Morgana Autocreater 50 / w-folder
- 6-Pocket Muller Martini Saddle Stitcher
- 20 Station Horizon Collator, Stitch, Fold, Trim
- Rollem Number, Slit, Perf, Score
- Morgana Auto Fold Pro
- Saber -37" Cutter, w/ Jogger, Lift
- Polar - 54" Paper Cutter, w/-Jogger, Lift

Mailing

- 2 Buskro Tab, Ink Jet, Addressing

Finishing

- 2 UV Flood Coaters

Fulfillment

- Warehousing



C. KEY POSITIONS

RFQ CR 19-058



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Management

Ernie Garcia

Owner, General Manager

Employed in printing at an early age, Successfully owned and managed multiple printing businesses for twenty years.

Jim Sands

Production Manager

Five years as Production Manager at Capitol Litho, fifteen years as pressman.

Sales Persons

Thom Meaker

Well known in the printing community
Has long term clients in industry, graphic arts and marketing firms

Estimating and Customer Service

Jeanne Van Dorin

Lead Estimator/Customer Service

Two plus years with Capitol Litho.
Twenty years experience in the printing industry production and customer service and estimating.

Verne Marler

Customer Service/Estimating Support

Twenty years with Capitol Litho in various capacities, customer service, bookkeeping & administration duties.

Production Personnel

Robert Ayala

Prepress Technician

Ten Years experience in prepress operations, expert in all software related to prepress & print production.

Lester Slade

Master Pressman

Joined Capitol Litho in 2008 bringing ten years of pressroom experience on multiple presses

Louis Stout

Press Technician

Joined Capitol Litho in 2010 Experienced in pressroom and Bindery operations

Theresa Wilson

Press Technician

Multiple years experience in Pressroom operations. Capable of operating various presses as needed.

Francisco Ruiz

Bindery & Fulfillment Specialist

Thirteen years experience in bindery operations, eight years in fulfillment and shipping.

Jose Peraza

Bindery Specialist

Five years experience in bindery operations. Specializing in machinery setup, operation & maintenance.



D. PROPOSED SERVICES

RFQ CR 19-058



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BUSINESS METHODOLOGY:

City of Avondale RFQ CR 19-058

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- A. Our duties and responsibilities include providing services as per customer requirements, close partnership with the Client Representatives to ensure clear alignment, timely and quality production as well as continual process reviews to ensure customer satisfaction. The Client representatives will be responsible for providing appropriate artwork (print-ready with all dependent digital assets, fonts, etc.), quantity, and specifications including, but not limited to, the following: physical dimensions, type of paper, proper resolution, proper file format, proper bleed, trim area, spelling errors (proofing). Sign-off of preproduction proofs will signify alignment of the work to be produced.
- B. Once an order is received from Department, your assigned representative will contact you to discuss receiving your artwork (typically via email, FTP site, or USB) and to ensure a clear understanding of the timeframes and postproduction needs. After artwork is received it is turned over to the pre-press department where we begin our pre-production validation. The artwork is review and adjusted to provide the best print quality possible. If no issues occur a proof is generated in the form of a PDF and/or Color Digital Proof which is sent to your designated representative for review and approval. The instant it is approved it goes directly into the production process.
- C. After customer alignment and approval, the production process consists of 3 major steps:
1. **Review:** The best option for producing the desired outcome is selected and the media required for that option is produced. Examples of this include but are not limited to high quality digital file preparation for copy work or the creation of plates for press work.
 2. **Execution & Quality Control:** Depending on the production method selected, this could include copies, small-run press printing or large, multi-color large web-press printing. We monitor sample outputs throughout the process to ensure the production of consistent, high-quality outcomes.
 3. **Post-production finishing:** This again depends on the needs identified in the initial job review process with our customers and can span a variety of bindery, packaging and shipping options. Capitol Litho has a full-service bindery, ensuring that most projects can be completed within our location. Fulfillment and Storage are available as needed.

Our 6,000 sq. ft. warehouse will accommodate most quantities that are awaiting shipment.

EXHIBIT B
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
CAPITOL LITHO CORPORATION

[Scope of Work]

See following page(s).

SCOPE OF WORK

Citywide Commercial Printing & Mailing Services CR 19-058

1. Introduction. The City of Avondale is seeking from qualified, licensed firms (“Vendors”) to provide professional, commercial printing and mailing services for the of variety of printed media, including but not limited to, brochures, flyers, carbonless forms, posters, letterhead, envelopes, catalogues, magazines, invitations and calendars and other printed materials used to support, market and promote the City’s operations, activities and programs and may include the design and layout, printing and/or mailing services (collectively the “Services”).

1.1 The Services are to be ordered on a per “Print Project” as-needed basis. This RFP has been divided into two (2) Task Groups, including:

- A. Printing Services
- B. Mailing Services

1.2 The required Services are often routine forms and communication materials used in the normal course of City operations and therefore Services will be requested on a per project or as-needed basis. Proposers may issue a proposal to provide one or both required Services groups.

2. Objective. Printing and/or Mailing Services are responsible for supporting a positive and professional image of City materials produced for public consumption as well as those developed for internal use. Contracted vendors will print, collate, fold, trim and/or otherwise finish each order and deliver it to the City or US Post Office, depending on the distribution plan. Services are to be provided in a timely manner as-needed, while coordinating these efforts under the guidance of the City Representative.

3. City Responsibilities. City shall be responsible for the following:

3.1 City shall assign a City Representative. All communications relating to the project Services shall be exchanged between the City Representative and the Contractor.

3.2 Incoming Quality Inspection: Delivery of completed jobs will be subject to inspection and approval by the ordering City department. The City reserves the right to reject or refuse acceptance of products that do not meet quality standards. City Representative will immediately notify the Contractor of any service deficiencies including, but not limited to (i) failure to perform services within the agreed upon time frame, (ii) materials delivered in damaged condition, (iii) unacceptable color variation, (iv) incorrect paper stock, (v) incorrect bindery work or (vi) wrong final count. Rejected work shall be at the expense of the Contractor(s).

3.3 Upon notice of final postage total, the City will provide payment for postage fees in the form of a check made payable to the US Postmaster. The City will do its best to have a check available for the vendor to pick up prior to print/bindery production completion.

4. Print Services Requirements. Contractor shall be required to provide, at a minimum, the following materials and Services:

4.1 Contractor shall supply all supplies and equipment necessary for the performance and prompt execution and delivery of Services.

4.2 Print a variety of media, including, but not limited to, brochures, flyers, carbonless forms, posters, letterhead, envelopes, catalogues, magazines, signage, invitations and calendars.

4.3 Contractor shall maintain a sample reference catalogue of the City's standard printed materials, electronically and as a hard copy.

4.4 Orders will be placed by various City departments on an "as-needed" basis. The City requests that the supply be kept as close as possible to the quantities ordered. The City has the right to increase or decrease the amount ordered prior to the final proof stage.

4.5 Contractor shall be responsible for providing all labor, equipment, material and consumables necessary to produce printed material by copying and/or offset printing.

4.6 Contractor shall provide support staff to assist in establishing requirements and problem resolution, free of charge.

4.7 Product quality is to meet the highest industry standards in terms of readability and overall appearance. Acceptable quality is solely determined by the individual City department.

4.8 Proofs are required and are subject to City approval before print production commences. Corrections or product changes may be made up until the final stages of the production of materials. Unfortunately, these changes or corrections are often beyond the control of City staff. The City will endeavor to ensure that changes are kept to a minimum, and/or sufficient notice is given to the contractor when changes are necessary. These changes or corrections may include, but are not limited to additional text, graphics or photographs, sizing or changes in materials.

A. New proofs shall be submitted to the City for final approval if corrections are required. In most cases, a soft proof (pdf) will suffice.

B. No claims for extra work shall be entertained, and any additional work on behalf of the contracted printing firm shall be authorized in writing prior to commencement of the work.

C. Should the contracted printing firm require more information or clarification on any project, it shall be obtained prior to the submission of the proposed proofs.

D. Any change in production that results in additional charges to the City shall be discussed and accompanied with an email authorization, by a duly authorized employee of the City of Avondale ("City Representative") prior to the commencement of the

change. No invoices for additional charges shall be accepted without written authorization.

4.9 Any designs, drawings, pictures, raw working files, etc. provided by the City department for use in production of printed material involves property rights of the City and shall be held confidential by the Contractor(s).

4.10 Provide City Representative or designee with a PDF file of the final approved project as requested for any design project not handled in-house by City staff.

4.11 Contractor must work with the designated City Representative regarding content of print or mailing projects.

4.12 All packages, boxes, and cartons shall be labeled as to contents, purchase order number, job order number and ordering department name. Packaging instructions shall be included with each order, and packages shall be signed for by duly authorized personnel of the City.

4.13 All work completed will be subject to inspection and approval by the ordering City department and the City reserves the right to reject and refuse acceptance of work. Rejected work shall be at the expense of the Contractor(s).

4.14 The City requires Contractor(s) to have the capability to receive compatible graphics via electronic files (email, internet, flash drive). The City generally uses Microsoft Office and Adobe products and Contractors shall be able to produce copies from all MS Office and Adobe file formats.

4.15 Delivery locations include, but are not limited to, any City of Avondale facility or business partner. The City shall designate the appropriate mail house or distributor at time of order. The following is a list of City facilities, which may be supplemented or amended:

Facility	Delivery Address	City, State, Zip Code
City Hall	11465 W. Civic Center Dr.	Avondale, AZ 85323
City Court	11325 W. Civic Center Dr.	Avondale, AZ 85323
Civic Center Library	11350 W. Civic Center Dr.	Avondale, AZ 85323
Neighborhood and Family Services Community/Senior Center	1007 S. 3rd Street	Avondale, AZ 85323
Police Department	11485 W. Civic Center Dr.	Avondale, AZ 85323
Public Works Department Municipal Operation Services Resource Center	399 E. Lower Buckeye Center 328 W. Western Avenue	Avondale, AZ 85323 Avondale, AZ 85323
Sam Garcia Library	495 E. Western Avenue	Avondale, AZ 85323

The above is not an exhaustive list of printing project delivery locations required by the City. All delivery information shall be provided at the time of order and may vary by project.

A. If the Contractor determines that it is unable to deliver the project on the date agreed upon at the time of the order, a designated member of the City staff shall be notified within 72 hours prior to the anticipated delivery date of the order.

4.16 Print services pricing must be all-inclusive. Pricing must include pick up, delivery, and rush charges, if applicable. If rush fees or delivery will be charged, the Contractor must specify in the Fee Proposal how the fees will be calculated. Final payment shall not be authorized until all materials are received, inspected, and approved by the requesting City Department.

4.17 Printing Estimates. The printing project specifications included in to Exhibit C. Fee Proposal, Section I. Printing Estimates of the RFP, are provided as a guide for each print project most often requested by the City. The City reserves the right to change project specifications as needed to meet changing informational and artistic needs.

5. Mailing Services Requirements. Contractor shall be required to provide, at a minimum, the following mailing services:

5.1 Contractor must have the capability to prep presort standard mail and first-class mail. It is preferred that the vendor is also able to handle EDDM projects. Commonly mailed City items include: the RAVE magazine, announcement postcards, publicity pamphlets and other ancillary items as-needed.

5.2 Contractor is responsible for confirming mailing panel artwork meets all US Postal Service requirements prior to running the job. Contractor is responsible for costs associated with revisions or re-running the job(s) if the artwork is run without US Postal Service approval.

5.3 Contractor must have the ability to develop and supply a mailing list based on demographics requested by the ordering department, or process mailings via a City-supplied mailing list.

5.4 Contractor-supplied mailing lists must use the most current data available at the time of the mailing.

5.5 Contractor shall use the U.S. Postal Service standard delivery or other City approved service, for delivery of all print projects.

5.6 Contractor shall mail items utilizing the Contractor-owned indicia, at a U.S. Post Office unless an alternative method of postage or mailing facility has been approved by City Representative.

5.7 Contractor is responsible for providing reconciling documentation to City for each mailing project within three (3) business days of the mailing. The documentation shall

include copies of receipts from the Post Office that specify the number of pieces, class of mail, postage on each, total postage paid, and fees paid.

5.8 Contractor shall notify the City immediately regarding any potential and actual delays in any mailing. *Any delays caused by the Contractor's schedule, will be the responsibility of the Contractor.*

5.9 For those mailings that are recurring and use a pre-printed "shell," Contractor will be required to store all City inventory used to complete any mailing projects covered under the Agreement.

5.10 Contractor shall provide the City Representative final counts for each mailing provided to the U.S. Post Office.

5.11 Contractor shall deliver all items to be included in each respective mailing, on the date as specified by City. Unless otherwise approved by the City Representative, items shall not be mailed prior to the original City requested date.

5.12 Mailing Estimates. Contractor will be required to comply with the mailing estimates provided under Exhibit C. Fee Proposal Section II. Mailing Estimates.

6.0 Election Material Printing and Mailing Requirements.

6.1 The following specification requirements apply for publicity and other election related print materials.

A. Pursuant to Arizona Revised Statutes 19-141, publicity pamphlets may be mailed over a period of days, but shall be delivered prior to the earliest early ballots are received by registered voters.

B. A penalty shall be paid by the Contractor for each day the publicity pamphlet mailing occurs on or after the earliest date for receipt of requested early ballots. The penalty shall be one cent for each household with a registered voter for each day of late mailing, and the monies shall be paid to the office of the officer in charge of elections. Pamphlets shall not be mailed or carried less than ten days before the election at which the measures are to be voted upon. Supplemental mailings of the publicity pamphlets are not subject to the one cent penalty.

7.0 General Pricing Requirements.

7.1 Unit Prices for the Core Listed Items shall be fixed for the initial one (1) year term of the resultant contract. No substitution will be allowed on Core List Items unless a letter of notification is provided from the product distributor. No price increases will be accepted without written request issued by Contractor accompanied with appropriate, acceptable substantiated written documentation and written acceptance and approval of price increase by City. Price increase requests shall be submitted no less than 30-days in advance of the Contract Renewal Date. Price updates shall not be unreasonably withheld. Price reductions may be issued at any time. Any price adjustments shall be mutually agreed upon by City and Contractor. The

Contractor shall be responsible for notifying cooperative use agencies utilizing the contract of any price increases approved by the City.

7.2 Price Warranty. Contractor shall give the City the benefit of any price reductions before actual time of shipment. If the City permits shipment to be made prior to specified shipping date, the City shall have advantage of any price reductions that occur before the originally-scheduled shipping date.

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EXHIBIT C
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
CAPITOL LITHO CORPORATION

[Fee Proposal]

See following page(s).

Citywide Commercial Printing & Mailing Services

Fee Proposal Section I. Printing Project Estimates

NOTE: All pricing blanks must be filled in. Empty or unfilled spaces in the Price Sheet shall be considered as a NO BID entry for that item. The following is a Core List of Projects anticipated under the resultant contract.

Part A. Citywide Usage					
Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
1.	Bookmarks 2" X 8" Printed 4/4 on 14 Pt Cover with UV Coating Both Sides	1,000	Each	.093	93.40
		2,500	Each	.065	162.90
2.	Brochures 8.5" X 11" Printed 4/4 on 100# Gloss Book with AQ Coating, Tri-Fold	1,000	Each	.261	261.00
		2,500	Each	.168	420.83
3.	Business Cards 3.5" X 2", Printed 4/4 on Recycled White 14 Pt Cover Stock	250	Each	.139	34.75
		500	Each	.083	41.67
		1,000	Each	.049	48.87
4.	Door Hangers 4.25" X 11" Printed 4/4 on 14 Pt Cover, Standard Die Cut	1,000	Each	.233	233.49
		2,500	Each	.141	352.95
		5,000	Each	.106	532.4
5.	Flyers 8.5" X 11" Printed 4/4 on 100# Gloss Book	500	Each	.25	124.89
		1,000	Each	.244	244.35
		2,500	Each	.148	369.24
6.	Flyers 8.5" X 5.5" Printed 4/4 on 100# Gloss Book	1,000	Each	.125	124.89
		5,000	Each	.062	311.68
		10,000	Each	.058	525.58
7.	Posters 11" X 17" Full Color Print on Gloss Photo Paper	100	Each	.706	70.59
8.	Posters 22" X 28" Full Color Print on Gloss Photo Paper	5	Each	48.87	244.35

Part B. Citywide Usage					
Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
1.	Rack Cards 4" X 9" Printed 4/4 on 100# Gloss Cover Stock	1,000	Each	.112	111.86
		2,500	Each	.075	187.34
		5,000	Each	.064	320.37
2.	Stickers 2.5" Circle, Printed Full Color with UV/Coating	1,000	Each	.141	141.18
3.	Trading Cards 2.5" X 3.5", Printed 4/4 on 14 Pt Cover with UV Coating on Front Only	250	Each	.033	81.45
		500	Each	.25	124.89
4.	RAVE Magazine 9"X11" Finished Printed 4/4 #70 Gloss Book 36 Page, Self-cover	5,000	Each	.858	4289.70
		31,000	Each	.434	13,466.40
5.	City Envelopes with Return Address: #10 Window Envelope (B/W) SIZE: 4.125 X 9.5	500	Each	.122	60.82
		1,000	Each	.085	84.71
		2,500	Each	.05	124.89
		5,000	Each	.035	173.76
		10,000	Each	.032	342.52
6.	City Envelopes with Return Address: #10 Regular Envelope (B/W)	500	Each	.115	57.50
		1,000	Each	.081	81.45
		2,500	Each	.049	122.18
		5,000	Each	.034	168.33
		10,000	Each	.033	331.23
7.	City Envelopes with Return Address: #10 Regular Envelope 1/0 PMS (Any Designs-1 color)	500	Each	.126	62.99
		1,000	Each	.081	81.45
		2,500	Each	.049	122.18
		5,000	Each	.034	168.33
		10,000	Each	.033	331.23
8.	City Letterhead 8.5"X11" Prints 4/0 on 70# Opaque Smooth	1,000	Each	.130	130.32
		2,500	Each	.093	233.49

Part D. City Courts Department					
Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
1.	City Court Notice (Insert & Envelope) Insert 8.5" X 11", Prints 4/4 on 20# bond, folds to 8.5" X 3.66" (Tri-Fold) #10 Reg. Envelope , 24# White wove prints Black ink, both sides, include envelope stuffing labor	10,000	Each	.147	1466.10
2.	8.5 X 11" 2-Part Carbonless Forms Prints 1/0, W/C, edge glued at top Bail Bond Info Bond Poster Notice Notice of Right to Counsel No Contest Plea Continued Court Date Payment Order Order Fingerprint Order	500	Each	.148	73.85
		1,000	Each	.125	124.89
		3,000	Each	.103	309.57
3.	8.5 X 11" 2-Part Carbonless Forms Prints 1/1, W/C, edge glued at top Judgements & Orders Application to Set Aside Judgment	500	Each	.169	84.21
		1,000	Each	.157	157.47
		4,500	Each	.098	439.83
4.	8.5 X 11" 3-Part Carbonless Forms Prints 1/0, W/C/P, edge glued at top Civil Hearing Date Notice General Motion Order	500	Each	.185	92.31
		1,000	Each	.182	182.45
5.	8.5 X 5.5" 3-Part Carbonless Forms Prints 1/0, W/C/P, edge glued at top Release (Short Form)	1,000	Each	.103	103.17
6.	8.5 X 11" 3-Part Carbonless Forms Prints 1/1, W/C/P, edge glued at top Judgment & Sentence Order (3) 3-part forms = one (1) 6-page set	3,000	Each	.185	553.86
7.	8.5 X 11" 4-Part Carbonless Forms Prints 2/0 (Y & K), W/C/P/G, edge glued at top Declaration of Service	1,000	Each	.261	260.64
8.	8.5 X 11" 4-Part Carbonless Forms Prints 1/0, W/C/P/G, edge glued at top Hearing Order Notice of Hearing Notice of Pre-issuance Hearing Request for Hearing Release Order Commitment Order Motion to Dismiss Motion to Continue	500	Each	.358	179.19
		1,000	Each	.228	228.06
9.	8.5 X 11" 4-Part Carbonless Forms Prints 1/1, W/C/P/G, edge glued at top Motion to set Trial	500	Each	.413	206.34

Part E. Development and Engineering Services Department					
Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
1.	Building Inspection Stickers 4" X 3" Black Ink on Standard Fluorescent GREEN Stock	5,000	Each	.058	287.99
3.	Building Inspection Stickers 4" X 3" Black Ink on Standard Fluorescent RED Stock	2,000	Each	.078	156.38
4.	Over the Counter Cards-Trading Cards 2.5" X 3.5", Printed 4/4 on 14 Pt. Cover with UV Coating on 4-Color Sides	500	Each	.25	124.89
Part F. Finance and Budget Department					
1.	Partial Receiving Tickets 3 Part, 1/0 (Blk), W/C/P, 7" X 8.5"	250	Each	.252	62.99
2.	Travel Authorization Forms 2 Part, 1/0 (Blk), W/C, 8.5" X 11"	200	Each	3.26	65.16
3.	Annual Budget and Financial Plan - Front Cover: Laminate Front Cover, Card Stock 110# - Body: Approximately 310 pages, 8.5" x 11", print 2-sided on 24# paper, 9" x 11" labeled divider tabs on 110# paper - Binding: Black plastic comb binding, with text printed on comb.	1-35	Each	49.17	1716.97

Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
4.	Comprehensive Annual Financial Report (CAFR) - front and back covers, body (216 pages), 7 tabs, and spiral binding. • <u>Front Cover</u>: Print, 8.5" x 11", color front, blank rear, in 110 #. Bright White paper or similar color and quality. Laminate cover front and back and trim laminate flush with cover. • <u>Back Cover</u>: No print, 8.5" x 11", Black, • <u>Body</u>: Print seven (7) 9" x 11" labeled divider tabs in 110 #. White paper, or similar color and quality. Laminate tab titles (ink covered, no printing on laminate) and then trim flush with tabs. All tab descriptions must be visible and readable from the face of CAFR (no overlapping of tabs). The tab titles follow: ○ <i>INTRODUCTORY SECTION</i> ○ <i>FINANCIAL SECTION</i> ○ <i>BASIC FINANCIAL STATEMENTS</i> ○ <i>NOTES TO THE FINANCIAL STATEMENTS</i> ○ <i>SUPPLEMENTARY INFORMATION</i> ○ <i>STATISTICAL SECTION</i> ○ <i>SINGLE AUDIT SECTION</i> • Print 216 pages (187 Black and White pages and 29 color pages) in 24 #. White paper or similar color and quality. Report pages are two-sided and may contain color images/print on one side and Black print on the other side. • Binding: Black plastic spiral binding.	20	EA.	46.37	927.44
5.	Budget-in-Brief (Booklet): • 8.5 x 11 finished • 8 page • Prints 4/4 with bleeds • 100# gloss book • Saddle-stitch	125	EA	999	124.89

Part G. Public Works Department					
1.	Annual Water Report (Calendar Format) 8.5" X 11" 32 Pages, Printed 4/4 on 80# Matte Book, 1/8" Hole-drilled, Folded and Saddle- Stitched	28,000	Each	.456	12,771.86
Part H. Clerk Department					
1.	Voter Information Pamphlet, 8.375" x 10.875" booklet, 20 pages, printed on 35# hi-brite, 1/1, saddle stitched	21,000	Each	.159	3339.45
2.	Voter Information Pamphlet, 8.5" x 11" booklet, 20 pages, printed on 60# White opaque offset, 1/1, saddle stitched	21,000	Each	.163	3420.90
Part I. Code Enforcement Division					
1.	Avondale PROUD Postcards, 9" x 6" postcard, printed 4/4 w/bleeds on 14 pt uncoated cover	10,000	Each	.1074	738.48
		31,000	Each	.064	1990.64

Part J. Police Department					
Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
9.	Property & Evidence Receipts 11" X 8.5", Standard Weight 3-Part Carbonless Prints 1/1 Blk, Backer Screened at 60%, Edge Glued at Top (11" Side), Boxed in 250's, then Carton Packed	5,000	Each	.116	581.01
10.	Towing Forms 8.5 X 11, 4-Part Carbonless Form, Standard. Wt., Prints 1/1, Blk Backer Screened At 40%, Snap-out, Cello Wrap in 100's	2,000	Each	.223	445.26
11.	Mandatory Fingerprint Compliance Form 8.5 X 11, 3-Part Carbonless Form, (W/W/W - All white pages) Std Wt., Prints in 1/0.	1,000	Each	.215	215.03
12.	AZ Traffic Ticket & Complaint Forms 8.5" X 11.75", Std. Wt., 4-Part Carbonless, W/P/W/W, Stubs Top & Bottom, Prints 1/1 Blk, w/Red Marginals, (2) Face Plate Changes, (2) Backer Plate Changes, Desensitizing Ink on Ply 4 and No Backer Ply 4, Backer At 40% on Plys 1-3, Wrap Around Books in 25s, Consecutive Numbering	120 books (3,000 Citations)	BOOKS Each	18.73 .749	2248.02
13.	FI Cards 5" X 3" Prints 1/1, Blk on 90# White Index, Padded in 25's with Chipboard	400 pads (10,000 cards)	PADS Each	1.724 .049	689.61
14.	Accident Exchange Card 5" X 3" 90# Blue Index, Prints 1/1 Blk, Edge Glued at Top Padded in 25's	40 pads (1,000 cards)	PADS Each	2.987 .119	119.46
15.	Parking Citation with Envelope 4.25" x 9.5", 3-Part Carbonless with self-seal envelope as 3 rd Part. Prints 2/0, Blk & Red, Consecutive Numbering, Wrap-around Books in 25's; Cover Prints 1/0, Blk, with Numbering Range in Red	100 Books (2,500 sets)	BOOKS Each	20.363 .815	2036.25

Citywide Commercial Printing & Mailing Services

Fee Proposal Section II. Mailing Usage Costs

NOTE: All pricing blanks must be filled in. Empty or unfilled spaces in the Price Sheet shall be considered as a NO BID entry for that item. All costs shall include shipping, permit fees/indicia usage and sales tax as applicable.

Print Item #	Project Name	Quantity	Description	Frequency	Mail Prep Fee per /M
Part B. Item 12	RAVE Magazine	31,000	9" x 11" booklet printed 4/4 w/bleeds on #70 gloss book, 36-page self-cover, saddle-stitched	3 times per year, mailed to every resident & business in 2 zip codes, plus additional mailing list provided by the City (<1,000 addresses)	38. ⁰⁰
Part H. Item 32	Voter Information Pamphlet	21,000	8.375" x 10.875" booklet, 20 pages, printed on 35# hi-brite, 1/1, saddle stitched	1 time per year, per mailing list supplied by Maricopa County Voter Registration	48. ⁰⁰
Part H. Item 33	Voter Information Pamphlet	21,000	8.5" x 11" booklet, 20 pages, printed on 60# white opaque offset, 1/1, saddle stitched	1 time per year, per mailing list supplied by Maricopa County Voter Registration	48. ⁰⁰
Part I. Item 34	Avondale PROUD Postcards	31,000 Annually	9" x 6" postcard, printed 4/4 w/bleeds on 14 pt uncoated cover	Monthly, per City-supplied mailing list for areas being inspected	38. ⁰⁰

Citywide Commercial Printing & Mailing Services

Section III.

Mailing Services Prep Service Fees

Direct Mailing	Cost Per Item
Process/ Validation	\$ 65.00
Pre-sorting List(s)	\$ 65.00
Inkjet Setup and addressing	\$ 18.00 per 1000
Post Office Delivery	\$ 35.00
Every Door Direct Mailing ("EDDM")	Is your firm equipped and able to provide EDDM Services? Yes ☒ No ☐
	Cost Per Item
Tabbing Fees	\$ 8.00 per 1000
Additional Fees for Revising Master List	\$ 65.00

Company Name: CAPITO LITHO CORP

Authorized Signature: _____

Date: JUNE 6, 2019

EXHIBIT D
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND

[Sustainability Commitment Form]

See following page(s).

SUSTAINABILITY COMMITMENT

The City is committed to protecting the environment and being a successful sustainable community. Therefore, it is essential that sustainability considerations be part of all City activities and operations. This commitment is demonstrated through; compliance, environmental and social sustainability principles, commitment to continued improvement, and focus on pollution prevention. Each Contractor for the City is held to this same commitment and goal.

There are many laws and regulations relating to the protection of the environment. It is each contractor's responsibility to know which laws, regulations, approvals or permits relate to the work they perform for the City.

The City is pro-active in encouraging environmentally and socially sustainable practices in our operations and among our residents, businesses, and suppliers. Please review the specifications or scope of work for this solicitation for any environmental or sustainability requirements.

Check any of the following which apply to your business engages in and attach summaries to this page detailing (i) what your business does to participate in the program/practice, (ii) operation and provide reports detailing (A) compliance (if applicable), (B) performance, and (C) the tracking mechanisms used to measure results. Contractor shall also indicate how often the City will be provided reports.

- | | |
|---|--|
| ☒ Recycling | ☐ Raise awareness of sustainability |
| ☒ Energy efficiency practices (i.e. Paper Made with Renewable Energy), | ☐ Economic benefits for recipients and/or wider community |
| ☒ Environmentally preferred (i.e. Use of paper content 30% or > % PCW, Forest Stewardship Council (FSC) certified papers and printers, chlorine-free, recycled-content paper, use of environmentally-friendly inks) | ☐ Improved health and/or wellbeing of recipients or the wider community |
| ☐ Water/energy conservation | ☐ Contributions toward local regeneration and positive impacts on future residents |
| ☒ Air quality/greenhouse gas emissions | ☐ Contributions toward education concerning climate change/sustainability issues and methods. |
| ☒ Disposal practices | |
| ☐ Other environmentally friendly practices | |

Company Name: CADILLAC LITHO CORP

Authorized Signature: 

Date: JUNE 6, 2019



2301 N. 16th Street • Phoenix, AZ 85006
602.252.6141 • www.capitololitho.com

SUSTAINABILITY COMMITMENT:

Capitol Litho participates in recycling of all paper products, not only those produced by production operations, but also by office and administration usage.

Paper products used in production are generally specified by the client and are not chosen by Capitol Litho. When we do have a choice, we always consider environmentally friendly products.

Our trash disposal service is dedicated to recycling all waste products possible and disposing of non-recyclable items in the most responsible manner.



CITY COUNCIL REPORT

SUBJECT: Professional Services Agreement with Courier Graphics Corporation for Citywide Commercial Printing and Mailing Services

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Pier Simeri, (623) 333-1600

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

PURPOSE:

City Council will consider a request to award a contract to Courier Graphics Corporation for citywide commercial printing and mailing services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

On May 8 2019, Avondale issued a Request for Proposals (RFP), CR 19-058, for Citywide Commercial and Mailing Services. Several firms responded by the June 6 due date, and three were selected to fulfill the City's requirements for printing and mailing services, based on their scored responses addressing the myriad of specialized printing services listed in the RFP.

DISCUSSION:

The City of Avondale has need for printing services for a vast number of projects, ranging from business cards, posters and flyers to the RAVE Review Magazine and annual budget books, to engineering plans and more. Printing projects from city departments are largely centralized through the Community Relations Department, which oversees brand integrity to ensure that Avondale is reflected positively through its printed materials.

Due to the needs of the various departments for a variety of printing projects, staff has found it to be to the City's advantage to award more than one contract for printing services.

Three vendors were notified of the City's intent to award multiple contracts for RFP CR 19-058.

BUDGET IMPACT:

Funding for commercial printing and mailing services is available in department budgets. Last year the City spent \$180,624.77 on printing and mailing services.

RECOMMENDATION:

Staff recommends that Council approve a contract for Citywide Printing and Mailing Services to Courier Graphics Corporation.

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
COURIER GRAPHICS CORPORATION**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of July 22, 2019, between the City of Avondale, an Arizona municipal corporation (the "City"), and Courier Graphics Corporation, an Arizona corporation (the "Contractor").

RECITALS

A. The City issued a Request for Proposals, CR 19-058 "CITYWIDE COMMERCIAL PRINTING AND MAILING SERVICES" (the "RFP"), a copy of which is on file in the City's Finance Office and incorporated herein by reference, seeking proposals from vendors for provide professional, commercial printing and mailing services for the variety of printed media used to support, market and promote the City's operations, activities and programs and may include the design and layout, printing and/or mailing services (collectively the "Services"). The Services to be ordered on an as-needed basis as directed by City staff.

B. The Contractor responded to the RFP by submitting a proposal (the "Proposal"), attached hereto as Exhibit A and incorporated herein by reference, and the City desires to enter into an Agreement with the Contractor for the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and 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 City and the Contractor hereby agree as follows:

1. **Term of Agreement.**

1.1 **Initial Term.** This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until July, 22, 2020 (the "Initial Term"), unless terminated as otherwise provided in this Agreement.

1.2 **Renewal Terms.** After the expiration of the Initial Term, this Agreement may be renewed for up to four successive one-year terms (each, a "Renewal Term") if (i) it is deemed in the best interests of the City, subject to availability and appropriation of funds for renewal in each subsequent year, (ii) at least 30 days prior to the end of the then-current term of this Agreement, the Contractor requests, in writing, to extend this Agreement for an additional one-year term and (iii) the City approves the additional one-year term in writing (including any price adjustments approved as part of this Agreement), as evidenced by the City Manager's signature thereon, which approval may be withheld by the City for any reason. The Contractor's failure to seek a renewal of this Agreement shall cause this Agreement to terminate at the end of

the then-current term of this Agreement; provided, however, that the City may, at its discretion and with the agreement of the Contractor, elect to waive this requirement and renew this Agreement. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

1.3 Non-Default. By requesting extension for a Renewal Term as set forth above, or by consenting to a Renewal Term in any manner, Contractor shall be deemed to affirmatively assert that (i) the City is not currently in default, nor has been in default at any time prior to the Renewal Term, under any of the terms or conditions of the Agreement and (ii) any and all Contractor claims, known and unknown, relating to the Agreement and existing on or before the commencement date of the Renewal Term are forever waived.

2. Scope of Work. Contractor shall provide the Services as set forth in the Scope of Work attached hereto as Exhibit B and incorporated herein by reference. This is an indefinite quantity and indefinite delivery Agreement for Services, which shall only be provided when the City chooses to move forward with a pending project and proper authorization and documentation have been approved. The City does not guarantee any minimum or maximum amount of Services will be requested under this Agreement. For project(s) determined by the City to be appropriate for this Agreement, the Contractor shall provide the specific Services to the City agreed upon between the parties in a written invoice, quote, purchase order or other form of written acknowledgment describing the Services to be provided (each, a "Work Order"). Each Work Order shall (i) contain a reference to this Agreement and (ii) be attached hereto as Exhibit B and incorporated herein by reference. Work Orders submitted without referencing this Agreement will be subject to rejection. Contractor acknowledges and agrees that Work Order(s) containing unauthorized exceptions, conditions, limitations, or provisions in conflict with the terms of this Agreement (collectively, the "Unauthorized Conditions"), other than City's project-specific requirements, are hereby expressly declared void and shall be of no force and effect. Acceptance by the City of any Work Order or invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement shall not alter such terms and conditions or relieve Contractor from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement.

3. Compensation. The City shall pay Contractor at the rates set forth in the Fee Proposal attached hereto as Exhibit C and incorporated herein by reference.

4. Payments. The City shall pay the Contractor monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

5. Safety Plan. Contractor shall provide the Services in accordance with a safety plan that is compliant with Occupational Safety and Health Administration ("OSHA"), American National Standards Institute and National Institute for Occupational Safety and Health standards. If, in the Contractor's sole determination, the Services to be provided do not require a safety plan,

Contractor shall notify the City, in writing, describing the reasons a safety plan is unnecessary. The City reserves the right to request a safety plan following such notification.

6. Documents. All documents, including any intellectual property rights thereto, prepared and submitted to the City pursuant to this Agreement shall be the property of the City.

7. Contractor Personnel. Contractor shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Contractor agrees to assign specific individuals to key positions. If deemed qualified, the Contractor is encouraged to hire City residents to fill vacant positions at all levels. Contractor agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the City. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Contractor shall immediately notify the City of same and shall, subject to the concurrence of the City, replace such personnel with personnel possessing substantially equal ability and qualifications.

8. Inspection; Acceptance. All work shall be subject to inspection and acceptance by the City at reasonable times during Contractor's performance. The Contractor shall provide and maintain a self-inspection system that is acceptable to the City.

9. Licenses; Materials. Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor. The City has no obligation to provide Contractor, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement. The City has no obligation to provide tools, equipment or material to Contractor.

10. Performance Warranty. Contractor warrants that the Services rendered will conform to the requirements of this Agreement and with the care and skill ordinarily used by members of the same profession practicing under similar circumstances at the same time and in the same locality.

11. Indemnification. To the fullest extent permitted by law, the Contractor 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 work or services of the Contractor, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

12. Insurance.

12.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Contractor, Contractor 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 Contractor. 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 Contractor 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, 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 Named 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 until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.

E. Primary Insurance. Contractor'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 and necessary endorsements 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 work or services of Contractor. Contractor 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. Contractor shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Contractor shall execute written agreements with its subcontractors containing the indemnification provisions set forth above and insurance requirements set forth herein protecting the City and Contractor. Contractor shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Contractor 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 Contractor'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 Contractor'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 the RFP number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFP number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFP number and title or a reference to this Agreement, as applicable, will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

(I) 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) Contractor’s insurance shall be primary insurance with respect to 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 Contractor 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.

K. Endorsements. Contractor shall provide the City with the necessary endorsements to ensure City is provided the insurance coverage set forth in this Section.

12.2 Required Insurance Coverage.

A. Commercial General Liability. Contractor 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. Contractor shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Contractor's owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor's work or services 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. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Contractor engages in any professional services or work in any way related to performing the work under this Agreement, the Contractor shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Contractor, or anyone employed by the Contractor, or anyone for whose negligent acts, mistakes, errors and omissions the Contractor is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

D. Workers' Compensation Insurance. If Contractor employs anyone who is required by law to be covered by workers' compensation insurance, Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Contractor's employees engaged in the performance of work or services 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.

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

13. Termination; Cancellation.

13.1 For City's Convenience. This Agreement is for the convenience of the City and, as such, may be terminated without cause after receipt by Contractor of written notice by the City. Upon termination for convenience, Contractor shall be paid for all undisputed services performed to the termination date.

13.2 For Cause. If either party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such

that it cannot reasonably be cured within 30 days, then the defaulting party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (A) provides written notice to the non-defaulting party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 90 days. In the event of such termination for cause, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.

13.3 Due to Work Stoppage. This Agreement may be terminated by the City upon 30 days' written notice to Contractor in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.

13.4 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 this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a Contractor to any other party of this Agreement with respect to the subject matter of this Agreement.

13.5 Gratuities. The City may, by written notice to the Contractor, cancel this Agreement if it is found by the City that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Contractor an amount equal to 150% of the gratuity.

13.6 Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the City's then current fiscal year. The City's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the City concerning budgeted purposes and appropriation of funds. Should the City elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the City shall be relieved of any subsequent obligation under this Agreement. The parties agree that the City has no obligation or duty of good faith to budget or appropriate the payment of the City's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The City shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The City shall keep Contractor informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. Contractor hereby waives any and all rights to bring any claim against the City from or relating in any way to the City's termination of this Agreement pursuant to this section.

14. Miscellaneous.

14.1 Independent Contractor. 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. The Contractor acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. Contractor, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of Contractor, its employees or subcontractors. The Contractor, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Contractor meets the requirements of its agreed Scope of Work as set forth in Section 2 above and Exhibit B. Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Contractor do not intend to nor will they combine business operations under this Agreement.

14.2 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 Maricopa County, Arizona.

14.3 Laws and Regulations. Contractor shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Contractor is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, including, but not limited to, the following: (A) existing and future City and County ordinances and regulations, (B) existing and future State and Federal laws and (C) existing and future OSHA standards.

14.4 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 Contractor.

14.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in this 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, this Agreement will promptly be physically amended to make such insertion or correction.

14.6 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 this Agreement which may remain in effect without the invalid provision or application.

14.7 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 this 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.

14.8 Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by Contractor without prior, written permission of the City, signed by the City Manager. Any attempted assignment or delegation by Contractor in violation of this provision shall be a breach of this Agreement by Contractor.

14.9 Subcontracts. No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior, written approval of the City. The Contractor is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Contractor.

14.10 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 Contractor 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.

14.11 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.

14.12 Liens. All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.

14.13 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the City may offset from any money due to the Contractor any amounts Contractor owes to the City for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The City may offset from any money due to the Contractor any amounts Contractor owes to the City for delinquent fees, transaction privilege use taxes and property taxes, including any interest or penalties.

14.14 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 (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

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

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

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

If to Contractor: Courier Graphics Corporation
2621 S. 37th Street
Phoenix, AZ 85007
Attn: Ms. Carrie Myhre

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) 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.

14.15 Confidentiality of Records. The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Contractor's duties under this Agreement. Persons requesting such information should be referred to the City. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under this Agreement.

14.16 Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under subsection 14.17 below, Contractor's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Contractor and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Contractor's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Contractor's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 14.17 below. To the extent necessary for the City to audit Records as set forth in this subsection, Contractor and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the City to Contractor pursuant to this Agreement. Contractor and its subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this subsection. The City shall give Contractor or its subcontractors reasonable advance notice of intended audits. Contractor shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

14.17 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Contractor and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Contractor's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

14.18 Israel. Contractor certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

14.19 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, any amendments, the Scope of Work, any City-approved Purchase Order, the Fee Proposal, the RFP and the Contractor's Proposal, the documents shall govern in the order listed herein.

14.20 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods and services from another source when necessary.

14.21 Cooperative Purchasing. Specific eligible political subdivisions and nonprofit educational or public health institutions ("Eligible Procurement Unit(s)") are permitted

to utilize procurement agreements developed by the City, at their discretion and with the agreement of the awarded Contractor. Contractor may, at its sole discretion, accept orders from Eligible Procurement Unit(s) for the purchase of the Materials and/or Services at the prices and under the terms and conditions of this Agreement, in such quantities and configurations as may be agreed upon between the parties. All cooperative procurements under this Agreement shall be transacted solely between the requesting Eligible Procurement Unit and Contractor. Payment for such purchases will be the sole responsibility of the Eligible Procurement Unit. The exercise of any rights, responsibilities or remedies by the Eligible Procurement Unit shall be the exclusive obligation of such unit. The City assumes no responsibility for payment, performance or any liability or obligation associated with any cooperative procurement under this Agreement. The City shall not be responsible for any disputes arising out of transactions made by others.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“City”

CITY OF AVONDALE,
an Arizona municipal corporation

Charles A. Montoya, City Manager

ATTEST:

Marcella Carrillo, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2019, 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

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

"Contractor"

COURIER GRAPHICS CORPORATION
an Arizona Corporation

By 

Name: Carrie Myhre

Title: Account Executive

(ACKNOWLEDGMENT)

STATE OF Arizona)
) ss.
COUNTY OF Maricopa)

On 7/8, 2019, before me personally appeared Carrie J. Myhre, the Account Executive of COURIER GRAPHICS CORPORATION., an Arizona corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the Courier Graphics Corporation.


Notary Public

(Affix notary seal here)

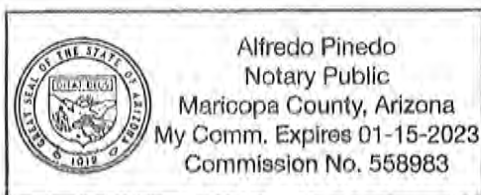


EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
COURIER GRAPHICS CORPORATION

[Contractor's Proposal]

See following pages.



MAY 14, 2019

REQUEST FOR PROPOSAL

SOLICITATION NUMBER: CR 19-058

SOLICITATION TITLE: CITYWIDE COMMERCIAL PRINTING & MAILING SERVICES

ATTN: PROCUREMENT ADMINISTRATOR: LORETTA BROWNING, EXT. 2029

SUBMITTED BY:
COURIER GRAPHICS

Proposal due date: June 6th, 2019

Can We Help? Let's talk about Print! 602-437-9700 Or visit us online at CourierGraphics.com | Info@CourierGraphics.com



A.) General Information

(1) One-page cover letter as described in Part I, Subsection 1.2(C) (Required Submittal).

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

Dear Loretta,

I would like to thank you for the opportunity to provide Citywide Commercial Printing & Mailing Services to the City of Avondale as outlined in CR 19-058.

We appreciate the opportunity to be a vendor for the City of Avondale. Courier Graphics is honored to be a vendor of the City of Phoenix, City of Scottsdale, City of Peoria as well as many other cities and look forward to partnering with the City of Avondale.

Courier Graphics Corporation is a local, family and woman owned commercial printer that has been serving the valley since 1976.

We have proven quality printing and exceptional customer service. We have prepared a comprehensive response in the following pages that address your request for proposal. We believe that Courier Graphics is the best choice for meeting your high-volume printing needs.

Over the 40+ years that Courier Graphics has been in business, our greatest asset has been the ability to provide products and services that meet and exceed the needs of our clients. This commitment has allowed us to establish long-term relationships that have grown to be mutually rewarding. We have established that same commitment with the City of Avondale.

On behalf of Courier Graphics and our 83 employees, we wish to thank you for this opportunity to partner together.

Sincerely,

Carrie Myhre
Courier Graphics
Account Executive



- (2) Provide Vendor identification information. Explain the Vendor's legal organization including the legal name, address, identification number and legal form of the Vendor (e.g., partnership, corporation, joint venture, limited liability company, sole proprietorship). If a joint venture, identify the members of the joint venture and provide all of the information required under this section for each member. If a limited liability company, provide the name of the member or members authorized to act on the company's behalf. If the Vendor is a wholly-owned subsidiary of another company, identify the parent company. If the corporation is a nonprofit corporation, provide nonprofit documentation. Provide the name, address and telephone number of the person to contact concerning the Proposal.

Courier Graphics, Inc. (Corporation)

Carrie Myhre
Courier Graphics
2621 S. 37th Street Phoenix, AZ 85007
Phone: 602-437-9700

- (3) Identify the location of the Vendor's principal office and the local work office, if different. Include any documentation that supports the Vendor's authority to provide services in Arizona.

Principal office and local office are located at: 2621 S. 37th Street Phoenix, AZ 85007

- (4) Provide a general description of the Vendor's organization, including years in business.

Courier Graphics has been offering high quality printing services for 37 years, while working with some of the most notable companies that Arizona has. As a result, we are currently one of the largest Web and Sheetfed printers here in Arizona. Darrel Smith, the founder of Courier Graphics, built this company on a very basic set of values: do what you say you're going to do, do it in a timely manner and operate with the necessary equipment and facilities to produce these results. Today Courier Graphics is owned and operated by his daughter, Pam Carritt; we still operate with the same core values that Darrel set down over 30 years ago. Our success is the product of good business practices. We take pride in our work, facilities and equipment to provide the most efficient, timely and high-quality work to suit our client's needs.

CERTIFICATIONS

A company's qualifications are not measured solely on its machinery, Courier is proud to say that we are certified as a G-7 Master Printer which gives us an elite status among top commercial printers nationwide. G-7 is a qualification program set up by The International Digital Enterprise Alliance that ensures that the printer uses the most modern technology, techniques and process controls required to produce high-quality commercial print.

- (5) Identify any contract or subcontract held by the Vendor or officers of the Vendor that have been terminated within the last five years. Briefly describe the circumstances and the outcome.

N/A



(6) Identify any claims arising from a contract which resulted in litigation or arbitration within the last five years. Briefly describe the circumstances and the outcome.

N/A

(7) Vendor Information Form, with an **original ink signature** (may be attached as separate appendix).

See Appendix 1.

B.) Experience and Qualifications of the Vendor

- (1) Provide a detailed description of the Vendor's experience in providing similar services to municipalities or other entities of a similar size to the City, specifically relating experience with respect to professional printing & mailing services (on an as-needed basis).

Courier Graphics is very familiar with the type of work outlined in this RFP. Courier's clients include the City of Phoenix (Election Pamphlets), City of Scottsdale (currently we print their Parks and Rec magazine) and City of Peoria. Additionally, Courier prints with many schools and school districts including the Scottsdale Unified School District's Scottsdale Showcase magazine, Arizona State University's Thrive magazine and University of Arizona's Alumni magazine.

The company has produced thousands of similar jobs and is extremely qualified for the production. On a regular basis Courier Graphics produces a wide range of materials including, but not limited to; flyers, poster, brochures, magazines, catalogs, promotional materials, pocket folders, reports, mailers, pamphlets, envelopes and stationary. Many of these projects include various fulfillment requirements like saturation mailing, list mailing, freight shipments, local shipments, nationwide shipments and international shipments.

- (2) Provide a list of at least three (3) organizations of a similar size or similar operation to the City in which work has been performed. This list shall include, at a minimum, the following information:



(a) Name of company or organization.

(b) Contact name.

(c) Contact address, telephone number and e-mail address.

(d) Type of services provided.

(e) Dates of contract initiation and expiration.

These references will be checked, and it is Vendor's responsibility to ensure that all information is accurate and current. Vendor authorizes the RFP Administrator to verify all information from these references and releases all those concerned from any liability in connection with the information they provide. Inability of the City to verify references may result in the Proposal being considered non-responsive.

(3) The RFP Administrator may conduct any investigation deemed necessary to determine the Vendor's ability to perform the project. Vendors may be requested to submit additional documentation within 72 hours (or as specified) to assist the City in its evaluation.

Similar Clients and Projects

- a.) Cave Creek Unified School District No. 93
- b.) Contact: Kent Frison, Associate Superintendent of Operations and Finance
- c.) 33016 N. 60th St. Scottsdale, AZ 85266; 480-575-2020; KFrison@ccusd93.org
- d.) Courier produces a 3 panel, folded tax credit brochure and annual report mailers once yearly when chosen and handles the mailing services f
- e.) 2012-present

- a.) National Speaker's Association
- b.) Matt Longdon, Sr. Associate, Marketing & Communications
- c.) 1500 S Priest Dr, Tempe, AZ 85281; (480) 968-2552; Matt@nsaspeaker.org
- d.) Courier Graphics has worked with National Speaker's Association over the past year printing a monthly (now bimonthly) 48-page magazine that mails, printed their conference program, as well as postcards for them.
- e.) First magazine project was in September 2018. Contract expires in October 2019.

- a.) Synergy Homecare
- b.) Contact: Tony Polanco Jr., Multimedia Designer
- c.) 1757 E Baseline Rd, Bldg 6, Ste 124, Gilbert, AZ 85233; Phone: 480-659-7771; tonypolanco@synergyhomecare.com
- d.) Courier Graphics has produced a quarterly magazine for over the past year
- e.) No contract – first project February 2018 - present



C. Key Positions

(1) Identify each key personnel member that will render services to the City including title and relevant experience required.

Carrie Myhre will be the City of Avondale's sole point of contact. She will interface with the client on all projects.

(2) Indicate the roles and responsibilities of each key position. Include senior members of the Vendor only from the perspective of what their roles will be in providing services to the City.

Company owner: Pam Carritt, in printing services for 40 years
*Courier Graphics is a WBEC certified woman-owned business

Account manager:

Name: Carrie Myhre

Years of print experience: 6.5 years

Years at Courier Graphics: 1.5 years

Marketing experience: 5 years

Graduated with marketing degree

Project manager:

Name: Scott Carritt

Years of print experience: 8 years

Years with Courier: 8 years

Years as Customer Service: 8 years

Account management / project management 2009 to present

Online ordering site manager & fulfillment manager 2014 to present

Handles \$2 million dollars in sales

Expert in web sheetfed and bindery

Pressroom Supervisor

Name: John Myers

24 years at Courier Graphics

36 in the printing industry

Scheduler

Name: Tony DeGregorio

9 years at Courier Graphics

39 in the printing industry

Main Press Operators:

Operator #1

Name: Eric Sites

Years of printing experience: 20 years

Years of experience with type of press being used: 2 years

Years working with Courier: 9 years

Operator #2



COURIER GRAPHICS

CORPORATION

Name: Oscar Ortiz

Years of printing experience: 20 years

Years of experience with type of press being used: 2 years

Years working with Courier: 8 years

Operator #3

Name: Mike Satterlec

Years of printing experience: 22 years

Years of experience with type of press being used: 2 years

Years working with Courier: 17 years

*Note: all above pressman have worked on the original 16-page Manroland many years prior to the installation of the new 32-page Manroland in 2014.

- (3) If a subcontractor will be used for work of a certain type, include information on this subcontractor.

The contractor that we use most frequently to fulfill the mailing services listed above is Advantage Mail. Courier Graphics has been working with this company for over 13 years. They have been in business since 1988 and have been our preferred mail house as they can handle a wide range of services and large quantities. Their mail services include mail processing, mail prep, inkjet labeling, CASS Certification, presort lists, variable printing, metering and they work directly with post offices in specific zip codes to get us the best postage rates possible. We work directly with the owner and have a very close relationship that gives us quick quote turnaround and clear direct communication specific to the client's needs.

Advantage Mail

Main Contact: Brian Cosner, Owner

480-948-3928

Brian@advantagemail.net

- (4) Attach a résumé and evidence of certification, if any, for each key personnel member and/or subcontractor to be involved in this project. Résumés should be attached together as a single appendix at the end of the Proposal and will not count toward the Proposal page limit. However, each resume shall not exceed two pages in length.

See Carrie Myhre's resume attached in Appendix 2.

D. Proposed Services Provided and Project Approach

- (1) Provide a description of the type of services proposed. Include a description of the proposed Services and schedule of operations as it relates to the Scope of Work.

Rave magazine, Voter Information Pamphlet and Annual Water Report printing

It is Courier's firm belief that the best way to do business is to invest heavily in efficient, high-tech equipment in order to deliver the highest quality possible. The most recent example of this philosophy was the purchase of a new Man Roland Lithoman 5 Unit Heatset Web press in 2014. This press has a 32-page signature which is twice the size of normal web presses and requires less plate, make readies and finishing work as it can print, fold and even perforate inline. It also includes a new advanced Closed Loop Color and Register Control with continuous scanning and monitoring that maintains optimal color control. This press also has an automated unit switching that allows imprint changes to occur on the fly without changing the plates and stopping the press. With operation speeds of 80,000 impressions per hour it greatly cuts back on overall production time.

For the binding of the Rave magazine, Annual Water Report and Voter Information Pamphlet, we have a full bindery with a Muller Premera E140 Full Auto Saddle Stitcher with Signature recognition. We also have a Muller perfect Binder high-speed 16 pocket with automatic three-knife trimmer and signature recognition. In addition to the new perfect binder we have also began using PUR glue. We have found that this glue is much more durable and lasts much longer than typical perfect binding glues. Especially, in the summer time here in Arizona, once the glue has dried it will not soften or melt in the heat. Additionally our bindery is also equipped with a Rollem scoring and combination folder, MBO Folder, shrink-wrap system and programmable cutters with auto downloaders.

Proud postcards would be printed on our Komori Lithrone GL-540 H-UV Sheetfed Press. This is the latest example of our commitment to quality. This press was purchased new in 2016 and operates at speeds up to 16,500 impressions per hour. It also includes the Komori High performance inking system that creates an exceptionally smooth and consistent color. It also adds a wide range of coating options that were previously unavailable in house.

With the addition of these new presses Courier Graphics now has the option of using Aqueous, Varnish or UV coating of all finishes in house. Courier has an Ink Systems specialist and ink lab in house. We have the ability to customize PMS inks and create ink drawdowns on the requested paper so we can anticipate any problems ahead of time. We have run ink varieties from scented inks to fluorescent inks and nearly everything in-between. We are well versed in the combinations of inks and coatings and are able to identify combination conflicts ahead of time.

With our wide range of equipment our printing capabilities also encompass a large variety of work. We regularly print brochures, newsletters, magazines, catalogs, booklets, postcards, programs, event materials, folders and guides. We also work on posters, flyers, certificates, lanyards, packaging and other various marketing materials. Because we approach every job as a custom piece our job capabilities are limited only by those limitations of our machinery. We can print on paper from 20# bonds to 24 point covers.

The only services we would not complete inhouse for these projects are mailing services. For this service we rely mainly on some of our preferred vendors. At Courier we focus on what we do best, and what we do best is high quality offset printing. We have a set of vendors we have worked closely with for over 20 years and have earned a high priority client status. This allows us to ask for better turnarounds and special considerations as our business makes up a large portion of their own work.

Specifically, for all of our mailing services we rely on Advantage Mail. We have been working with this company for over 13 years. They have been in business since 1988 and have been our preferred mail house as they can handle a wide range of services and large quantities. Their mail services include mail processing, mail prep, inkjet labeling, CASS Certification, presort lists, variable printing, metering and they work directly with post offices in specific zip codes to get us the best postage rates possible. They also provide a number of handwork services including photocopying, inserting, collating, tabbing, stamping, sorting, folding and other specialized packaging. We work directly with the owner and have a very close relationship that gives us quick quote turnaround and clear direct communication specific to the client's needs.

Schedule of Operations:

Once the client is ready to order, they will email Courier Graphics with a signed quote, confirming that the specs are correct and the order is ready to be placed. Courier Graphics will then create a job ticket, order paper for the job, and get the files into production.

Our company is organized by departments: Sales, Project Managers, Scheduling, Press, and Bindery. Each department meets daily to ensure that your job is done correctly and on time. You will have one point of contact, Carrie Myhre, who will personally be handling the project details such as getting the quantity of materials you need, ensuring the correct paper is used, the project deadline is met, getting the mailing list (if applicable) and delivery information. After the files are received (via FTP, InSite, or upload on our website) and a job ticket is created by your salesperson (Carrie Myhre), your project manager will make sure the paper is ordered and will connect with our scheduling team to put your job on the production schedule.

The prepress department will set up your files for print, ensuring that the files are in the correct format, size, the images are high-res, etc. After the City of Avondale receives a proof of the job and approves the job, Courier will perform a final quality control check and release to plate. Then, the files will go to our production floor, where the job will be produced. Our print department includes our Komori Lithrone 40" HUV Sheetfed press, which was purchased in 2016. It also includes our 32-Page Man Roland Lithoman heatset web press. This press is considered the finest web press available and was installed in 2014. Some of the outstanding features of this commercial grade web press include high resolution 226 line screening that delivers incredible image reproduction, PECOM automated workflow which streamlines controls; pre-sets while increasing the productivity as well as the accuracy of color, set-ups for faster make readies, and more precise runs. Clients are amazed at the accuracy that is achieved at press when comparing with our G7 certified proofs. The Lithoman press is the latest in printing technology and is among the new generation of shaftless presses that remove most artifacts as compared to traditional gear driven presses. In addition to the high levels of quality achieved on this press, considerable efficiencies are achieved through the higher



speeds (up to 40,000 impressions per hour) and large footprint (32 pull pages) per cutoff. The automated plate-changers, ink washers and centralized controls make start-ups extremely efficient and reduce waste.

After the job is printed, our shipping team will ensure that the items are delivered on time and to the correct person.

Timeline:

(Day before files are ready) Client to send signed quote
Business day 1-2: Courier to create a job ticket, order paper, set up proofs
Business day 3: Email or deliver hard proofs / Receive City proof approval
Business day 4-10 Print/collate/saddle-stitch/trim/deliver
Business day: 11-12 Mailing services (If applicable)

2.) Describe the Vendor's approach to performing the required Services in the Scope of Work described in the Professional Services Agreement in Exhibit B. and its approach to contract management, including its perspective and experience and capabilities or limitations associated with small quantity reprints as well as their ability to respond to special printing and mailing, large quantity prints (measured in hundreds of thousands), and bulk-mail-only requests.

At Courier Graphics we aim to become a valuable partner to our clients by using our knowledge and experience to improve what can be improved. We go over and beyond what is typically expected because we know our clients deserve the highest quality and best service available.

We believe that contracts and repeat business is essential to our success. We treat our clients the way we want to be treated – providing great customer services and quality.

Courier Graphics specializes in high-volume commercial printing. We are the only commercial printer in Arizona that has a ManRoland full size 5-color heat-set web press, considered to be the finest web press in the industry, helping ensure the best cost efficiencies and turnaround times available.

Capabilities:

Sheet fed-max sheet size is 28x40. Minimum sheet size is 14.5x20.

Web press: max roll size is 38". Minimum roll size is 13". Max impression area: 22.36 x 37.79.

In addition to a wide variety of printing, our bindery department is one of the most complete in the industry and allows us to do the vast majority of our work inhouse.

Our printing equipment includes the latest automated plate changers, inking and registration components available in the industry. Our bindery and finishing department includes continuous feed folders, programmable cutters, automated bundling, shrinkwrapping and finishing equipment. Courier inhouse services include: perfect-binding, saddle-stitching, folding, automated counting, perforating, scoring, bundling, shrink-wrapping, trimming, boxing and distribution.

Limitations: Courier Graphics does not provide digital printing services/ small quantity printing.

(3) Describe any alternate approach that would best suit the needs of the City. Include rationale for any alternate approach and indicate how the Vendor will ensure that all efforts are coordinated with the City's representatives.

Courier Graphics recommends that the RAVE magazine be reformatted to 8.5x11 for cost-efficiency purposes.

Size at 8.5x11:

5,000=\$3,922 (savings of \$152)

31,000=\$10,649 (savings of \$564)

E. Submittal of Sample Product

Provide up to (10) hard copy samples of the proposed printing and/or mailing services, that are comparable to the print items listed in the Core List Print Projects described in the Fee Proposal provided in Exhibit B. (Samples may be included in a separate appendix and will not be included in the page count.)

**Tab A,
APPENDIX 1
Vendor
information
form**

SECTION A

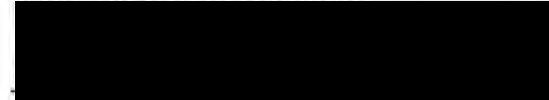
PART IV. VENDOR INFORMATION FORM

By submitting a Proposal, the submitting Vendor certifies that it has reviewed the administrative information and draft of the Professional Services Agreement's terms and conditions and, if awarded the Agreement, agrees to be bound thereto.

Courier Graphics
VENDOR SUBMITTING PROPOSAL

86-0313049
FEDERAL TAX ID NUMBER

Carrie Myhre, Account Manager
PRINTED NAME AND TITLE


AUTHORIZED SIGNATURE

2621 S. 37th Street
ADDRESS

602-437-9700 602-437-9232
TELEPHONE FAX #

Phoenix, AZ 85007
CITY STATE ZIP

May 15, 2019
DATE

WEB SITE: www.couriergraphics.com

E-MAIL ADDRESS: carrie_myhre@couriergraphics.co

ARIZONA CORPORATION COMMISSION FILE NO. 01034595

SMALL, MINORITY, DISADVANTAGED AND WOMEN-OWNED BUSINESS
ENTERPRISES (check appropriate item(s)) :

- ☐ Small Business Enterprise (SBE)
☐ Minority Business Enterprise (MBE)
☐ Disadvantaged Business Enterprise (DBE)
☒ Women-Owned Business Enterprise (WBE)

Has the Vendor been certified by any jurisdiction in Arizona as a minority or woman-owned business enterprise?

If yes, please provide details and documentation of the certification.



CITY COUNCIL REPORT

SUBJECT: Professional Services Agreement with Image Craft, LLC for Large Format Printing Services

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Pier Simeri, Community Relations Director, (623) 333-1600.

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

PURPOSE:

City Council will consider a request to approve a contract with Image Craft, LLC for large format printing services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

On May 8 2019, Avondale issued a Request for Proposals (RFP), CR 19-059, for Large Format Printing Services. Two firms were selected, based on their scored responses addressing the myriad of large format printing services listed in the RFP.

DISCUSSION:

The City of Avondale has need for services for a vast number of large format digital or screen printing projects, ranging from signs, banners, and billboards, to vehicle wraps, tradeshow displays and window clings.

Printing projects from city departments are largely centralized through the Community Relations Department, which oversees brand integrity to ensure that Avondale is reflected positively through its printed materials, including large format materials. Due to the needs of the various departments for a variety of printing projects, staff has found it to be to the City's advantage to award more than one contract for large format printing services.

Two vendors were notified of the City's intent to award multiple contracts for RFP CR 19-059.

BUDGET IMPACT:

Funding for large format printing products is available in departments budgets. Last fiscal year the City spent approximately \$15,000 on large print and miscellaneous marketing items.

RECOMMENDATION:

Staff recommends that Council award a contract to Image Craft LLC for CR 19-059, Large Format Printing Services.

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
IMAGE CRAFT, LLC**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of July 22, 2019, between the City of Avondale, an Arizona municipal corporation (the "City"), and Image Craft, LLC, an Arizona Corporation, (the "Contractor").

RECITALS

A. The City issued a Request for Proposals, CR 19-059 "CITYWIDE LARGE FORMAT PRINTING SERVICES" (the "RFP"), a copy of which is on file in the City's Finance Office and incorporated herein by reference, seeking proposals from vendors for printing a variety of large format printing products including but not limited to: banners, posters, decals, billboards, point of purchase ("POP") displays, tradeshow displays, signage, window clings, magnets, vehicle wraps and graphic installation in various settings and environments (the "Services"). Services to be provided as directed by City staff for various City projects.

B. The Contractor responded to the RFP by submitting a proposal (the "Proposal"), attached hereto as Exhibit A and incorporated herein by reference, and the City desires to enter into an Agreement with the Contractor for the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and 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 City and the Contractor hereby agree as follows:

1. **Term of Agreement.**

1.1 **Initial Term.** This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until July 22, 2020, (the "Initial Term"), unless terminated as otherwise provided in this Agreement.

1.2 **Renewal Terms.** After the expiration of the Initial Term, this Agreement may be renewed for up to four successive one-year terms (each, a "Renewal Term") if (i) it is deemed in the best interests of the City, subject to availability and appropriation of funds for renewal in each subsequent year, (ii) at least 30 days prior to the end of the then-current term of this Agreement, the Contractor requests, in writing, to extend this Agreement for an additional one-year term and (iii) the City approves the additional one-year term in writing (including any price adjustments approved as part of this Agreement), as evidenced by the City Manager's signature thereon, which approval may be withheld by the City for any reason. The Contractor's failure to seek a renewal of this Agreement shall cause this Agreement to terminate at the end of

the then-current term of this Agreement; provided, however, that the City may, at its discretion and with the agreement of the Contractor, elect to waive this requirement and renew this Agreement. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

1.3 Non-Default. By requesting extension for a Renewal Term as set forth above, or by consenting to a Renewal Term in any manner, Contractor shall be deemed to affirmatively assert that (i) the City is not currently in default, nor has been in default at any time prior to the Renewal Term, under any of the terms or conditions of the Agreement and (ii) any and all Contractor claims, known and unknown, relating to the Agreement and existing on or before the commencement date of the Renewal Term are forever waived.

2. Scope of Work. Contractor shall provide the Services as set forth in the Scope of Work attached hereto as Exhibit B and incorporated herein by reference. This is an indefinite quantity and indefinite delivery Agreement for Services, which shall only be provided when the City chooses to move forward with a pending project and proper authorization and documentation have been approved. The City does not guarantee any minimum or maximum amount of Services will be requested under this Agreement. For project(s) determined by the City to be appropriate for this Agreement, the Contractor shall provide the specific Services to the City agreed upon between the parties in a written invoice, quote, purchase order or other form of written acknowledgment describing the Services to be provided (each, a "Work Order"). Each Work Order shall (i) contain a reference to this Agreement and (ii) be attached hereto as Exhibit B and incorporated herein by reference. Work Orders submitted without referencing this Agreement will be subject to rejection. Contractor acknowledges and agrees that Work Order(s) containing unauthorized exceptions, conditions, limitations, or provisions in conflict with the terms of this Agreement (collectively, the "Unauthorized Conditions"), other than City's project-specific requirements, are hereby expressly declared void and shall be of no force and effect. Acceptance by the City of any Work Order or invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement shall not alter such terms and conditions or relieve Contractor from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement.

3. Compensation. The City shall pay Contractor for the Services at the rates set forth in the Fee Proposal attached hereto as Exhibit C and incorporated herein by reference.

4. Payments. The City shall pay the Contractor monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

5. Safety Plan. Contractor shall provide the Services in accordance with a safety plan that is compliant with Occupational Safety and Health Administration ("OSHA"), American National Standards Institute and National Institute for Occupational Safety and Health standards. If, in the Contractor's sole determination, the Services to be provided do not require a safety plan,

Contractor shall notify the City, in writing, describing the reasons a safety plan is unnecessary. The City reserves the right to request a safety plan following such notification.

6. Documents. All documents, including any intellectual property rights thereto, prepared and submitted to the City pursuant to this Agreement shall be the property of the City.

7. Contractor Personnel. Contractor shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Contractor agrees to assign specific individuals to key positions. If deemed qualified, the Contractor is encouraged to hire City residents to fill vacant positions at all levels. Contractor agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the City. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Contractor shall immediately notify the City of same and shall, subject to the concurrence of the City, replace such personnel with personnel possessing substantially equal ability and qualifications.

8. Inspection; Acceptance. All work shall be subject to inspection and acceptance by the City at reasonable times during Contractor's performance. The Contractor shall provide and maintain a self-inspection system that is acceptable to the City.

9. Licenses; Materials. Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor. The City has no obligation to provide Contractor, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement. The City has no obligation to provide tools, equipment or material to Contractor.

10. Performance Warranty. Contractor warrants that the Services rendered will conform to the requirements of this Agreement and with the care and skill ordinarily used by members of the same profession practicing under similar circumstances at the same time and in the same locality.

11. Indemnification. To the fullest extent permitted by law, the Contractor 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 work or services of the Contractor, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

12. Insurance.

12.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Contractor, Contractor 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 Contractor. 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 Contractor 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, 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 Named 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 until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.

E. Primary Insurance. Contractor'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 and necessary endorsements 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 work or services of Contractor. Contractor 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. Contractor shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Contractor shall execute written agreements with its subcontractors containing the indemnification provisions set forth above and insurance requirements set forth herein protecting the City and Contractor. Contractor shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Contractor 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 Contractor'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 Contractor'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 the RFP number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFP number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFP number and title or a reference to this Agreement, as applicable, 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) Contractor’s insurance shall be primary insurance with respect to 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 Contractor 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.

K. Endorsements. Contractor shall provide the City with the necessary endorsements to ensure City is provided the insurance coverage set forth in this Section.

12.2 Required Insurance Coverage.

A. Commercial General Liability. Contractor 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. Contractor shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Contractor's owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor's work or services 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. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Contractor engages in any professional services or work in any way related to performing the work under this Agreement, the Contractor shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Contractor, or anyone employed by the Contractor, or anyone for whose negligent acts, mistakes, errors and omissions the Contractor is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

D. Workers' Compensation Insurance. If Contractor employs anyone who is required by law to be covered by workers' compensation insurance, Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Contractor's employees engaged in the performance of work or services 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.

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

13. Termination: Cancellation.

13.1 For City's Convenience. This Agreement is for the convenience of the City and, as such, may be terminated without cause after receipt by Contractor of written notice by the City. Upon termination for convenience, Contractor shall be paid for all undisputed services performed to the termination date.

13.2 For Cause. If either party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such

additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (A) provides written notice to the non-defaulting party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 90 days. In the event of such termination for cause, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.

13.3 Due to Work Stoppage. This Agreement may be terminated by the City upon 30 days' written notice to Contractor in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.

13.4 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 this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a Contractor to any other party of this Agreement with respect to the subject matter of this Agreement.

13.5 Gratuities. The City may, by written notice to the Contractor, cancel this Agreement if it is found by the City that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Contractor an amount equal to 150% of the gratuity.

13.6 Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the City's then current fiscal year. The City's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the City concerning budgeted purposes and appropriation of funds. Should the City elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the City shall be relieved of any subsequent obligation under this Agreement. The parties agree that the City has no obligation or duty of good faith to budget or appropriate the payment of the City's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The City shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The City shall keep Contractor informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. Contractor hereby waives any and all rights to bring any claim against the City from or relating in any way to the City's termination of this Agreement pursuant to this section.

14. Miscellaneous.

14.1 Independent Contractor. 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. The Contractor acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. Contractor, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of Contractor, its employees or subcontractors. The Contractor, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Contractor meets the requirements of its agreed Scope of Work as set forth in Section 2 above and Exhibit B. Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Contractor do not intend to nor will they combine business operations under this Agreement.

14.2 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 Maricopa County, Arizona.

14.3 Laws and Regulations. Contractor shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Contractor is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, including, but not limited to, the following: (A) existing and future City and County ordinances and regulations, (B) existing and future State and Federal laws and (C) existing and future OSHA standards.

14.4 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 Contractor.

14.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in this 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, this Agreement will promptly be physically amended to make such insertion or correction.

14.6 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 this Agreement which may remain in effect without the invalid provision or application.

14.7 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 this 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.

14.8 Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by Contractor without prior, written permission of the City, signed by the City Manager. Any attempted assignment or delegation by Contractor in violation of this provision shall be a breach of this Agreement by Contractor.

14.9 Subcontracts. No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior, written approval of the City. The Contractor is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Contractor.

14.10 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 Contractor 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.

14.11 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.

14.12 Liens. All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.

14.13 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the City may offset from any money due to the Contractor any amounts Contractor owes to the City for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The City may offset from any money due to the Contractor any amounts Contractor owes to the City for delinquent fees, transaction privilege use taxes and property taxes, including any interest or penalties.

14.14 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 (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

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

With copies to: City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Attn: Senior Buyer, Loretta Browning

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

If to Contractor: Image Craft, LLC
3401 E. Broadway Road
Phoenix, AZ 85040
Attn: John Leos, General Manager

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) 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.

14.15 Confidentiality of Records. The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Contractor's duties under this Agreement. Persons requesting such information should be referred to the City. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under this Agreement.

14.16 Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under subsection 14.17 below, Contractor's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Contractor and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Contractor's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Contractor's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 14.17 below. To the extent necessary for the City to audit Records as set forth in this subsection, Contractor and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the City to Contractor pursuant to this Agreement. Contractor and its subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this subsection. The City shall give Contractor or its subcontractors reasonable advance notice of intended audits. Contractor shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

14.17 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Contractor and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Contractor's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

14.18 Israel. Contractor certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

14.19 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, any amendments, the Scope of Work, any City-approved Purchase Order, the Fee Proposal, the RFP and the Contractor's Proposal, the documents shall govern in the order listed herein.

14.20 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods and services from another source when necessary.

14.21 Cooperative Purchasing. Specific eligible political subdivisions and nonprofit educational or public health institutions ("Eligible Procurement Unit(s)") are permitted to utilize procurement agreements developed by the City, at their discretion and with the agreement

of the awarded Contractor. Contractor may, at its sole discretion, accept orders from Eligible Procurement Unit(s) for the purchase of the Materials and/or Services at the prices and under the terms and conditions of this Agreement, in such quantities and configurations as may be agreed upon between the parties. All cooperative procurements under this Agreement shall be transacted solely between the requesting Eligible Procurement Unit and Contractor. Payment for such purchases will be the sole responsibility of the Eligible Procurement Unit. The exercise of any rights, responsibilities or remedies by the Eligible Procurement Unit shall be the exclusive obligation of such unit. The City assumes no responsibility for payment, performance or any liability or obligation associated with any cooperative procurement under this Agreement. The City shall not be responsible for any disputes arising out of transactions made by others.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“City”

CITY OF AVONDALE,
an Arizona municipal corporation

Charles A. Montoya, City Manager

ATTEST:

Marcella Carrillo, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2019, 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.

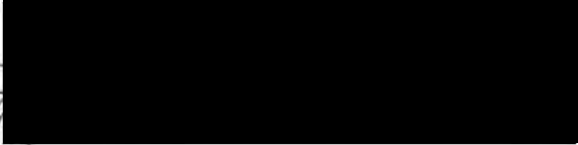
Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

"Contractor"

IMAGE CRAFT, LLC,
an Arizona limited liability corporation

By 

Name:

John A. Leos

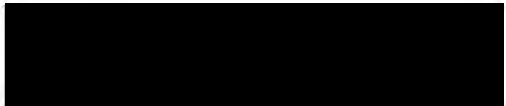
Title:

General Manager

(ACKNOWLEDGMENT)

STATE OF Arizona)
) ss.
COUNTY OF Maricopa)

On 7/8/19, 2019, before me personally appeared John Leos, the General Manager of IMAGE CRAFT, LLC, an Arizona limited liability corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the Image Craft, LLC.


Notary Public

(Affix notary seal here)



EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
IMAGE CRAFT, LLC

[Contractor's Proposal]

See following pages.



June 6, 2019

Loretta Browning; Procurement Administrator
City of Avondale – City Clerk's Office
(CR19-059) Citywide Large Format Printint Services
11465 West Civic Center Drive, Suite 200
Avondale, AZ 85323

Dear Ms. Browning

I would like to take a moment to thank you for providing Image Craft the opportunity to participate with the City of Avondale and provide large format printing services.

Image Craft is a national architectural environmental graphics solutions provider, with a clientele that includes retail, interior designers, architects, hospitality, healthcare and corporate marketing professionals. With a diverse offering of unique specialties, products and services, we offer clients a true one-stop shop for their graphics project needs.

Our capabilities span beyond the large-scale exterior building graphics, and include interior wall, window and floor graphics solutions, and artwork and interior décor fulfillment. Our catalog of unique, exclusive artwork imagery and hand-embellished fine art giclee's and photography help us create distinctive environments for our design professional clients.

For 40 years, Image Craft has relied on an innovative and collaborative spirit to go beyond the expected to deliver excellence. Combined with the right product, our quality, service and experience create a superior solution.

Should Image Craft be awarded this business, your satisfaction is our highest priority. We take a team approach to account management and you can be confident that our team's experience and expertise in servicing clients with large format graphics and installations will serve you well. Based upon the information you have provided, we are very confident we would be an excellent resource for your needs.

The entire Image Craft team is committed to ensuring the City of Avondale's large format printing program is executed with the highest standards of quality.

Best Regards,


John Leos,
General Manager



Image Craft Response to RFP Solicitation CR 19-059
Section A
Part II

2.2 – A. General Information

- (1) Cover Letter (see previous)
- (2) Vendor Identification
Image Craft LLC
3401 E Broadway Rd
Phoenix, AZ 85040
Limited Liability Company
Single Member – Douglas C. Olson
President and Owner
- (3) Headquarters and operations (all production, fabrication and shipping) happens from our Phoenix, AZ location
3401 E Broadway Rd
Phoenix, AZ 85040
Image Craft LLC operates in Arizona under sales tax ID: 07-652164-V
- (4) Image Craft is a national architectural environmental graphics solutions provider, with a clientele that includes retail, interior designers, architects, hospitality, healthcare and corporate marketing professionals. With a diverse offering of unique specialties, products and services, we offer our clients a true one-stop shop for their graphics project needs.
Our capabilities span beyond large-scale exterior building graphics, and include interior wall, window and floor graphics solutions, and artwork and interior décor fulfillment. Our catalog of unique, exclusive artwork imagery and hand-embellished fine art giclee's and photography help us create distinctive environments for our design professional clients.
For 40 years, Image Craft has relied on an innovative and collaborative spirit to go beyond the expected to deliver excellence. Combined with the right product, our quality, service and experience create a superior solution.
- (5) None
- (6) None
- (7) Vendor Information Form (see following)

SECTION A

PART IV. VENDOR INFORMATION FORM

By submitting a Proposal, the submitting Vendor certifies that it has reviewed the administrative information and draft of the Professional Services Agreement's terms and conditions and, if awarded the Agreement, agrees to be bound thereto.

<u>Image Craft LLC</u>			<u>02-0569332</u>	
<u>VENDOR SUBMITTING PROPOSAL</u>			<u>FEDERAL TAX ID NUMBER</u>	
<u>John Leos, General Manager</u>				
<u>PRINTED NAME AND TITLE</u>			<u>AUTHORIZED SIGNATURE</u>	
<u>3401 E Broadway Rd</u>			<u>(602)-305-4803</u>	<u>(602)-305-0719</u>
<u>ADDRESS</u>			<u>TELEPHONE</u>	<u>FAX #</u>
<u>Phoenix</u>	<u>AZ</u>	<u>85040</u>	<u>6/7/2019</u>	
<u>CITY</u>	<u>STATE</u>	<u>ZIP</u>	<u>DATE</u>	
<u>WEB SITE: www.imcraft.com</u>			<u>E-MAIL ADDRESS: jleos@imcraft.com</u>	
<u>ARIZONA CORPORATION COMMISSION FILE NO. L10205247</u>				

SMALL, MINORITY, DISADVANTAGED AND WOMEN-OWNED BUSINESS ENTERPRISES (check appropriate item(s):

- ☐ Small Business Enterprise (SBE)
☐ Minority Business Enterprise (MBE)
☐ Disadvantaged Business Enterprise (DBE)
☐ Women-Owned Business Enterprise (WBE)

Has the Vendor been certified by any jurisdiction in Arizona as a minority or woman-owned business enterprise?

If yes, please provide details and documentation of the certification.



Image Craft Response to RFP Solicitation CR 19-059

Section A

Part II

2.2 – B. Experience and Qualifications

(1) Image Craft was founded in 1979 and so this year, we're celebrating our 40th Anniversary. In that time we've always been innovating and investing in the latest technology. We offer a full range of large format printing and fine art/photographic reproduction services in a 70,000 square foot state of the art facility headquartered in Phoenix, AZ. As the premier graphics printer in the Southwest, our nationwide client base includes restaurants and retailers, museums and galleries, arenas and major league sports franchises, plus everything in between. At Image Craft with the redundancy of our equipment, we have at least 2 ways to produce our products, so be assured that your project will be completed on time as promised. No project is too big or too small; hence our company slogan, "Any Image. Any Size. Anywhere".

(2) References

(A) Phoenix Suns
Taylor Popish
201 E Jefferson St
Phoenix, AZ 85004
602.379.7959
tpopish@suns.com
Contract 1994 - 2020

(B) Arizona Diamondbacks
Leslie Farrell
401 E Jefferson St
Phoenix, AZ 85004
602.462.6625
lfarrell@dbacks.com
Contract 2017 - Present

(C) Discount Tire Company
Nona Gardner
20225 N Scottsdale Rd
Scottsdale, AZ 85255
480.606.5913
Client 2004 - Present

(3) Please let us know if additional information is required.



Image Craft Response to RFP Solicitation CR 19-059
 Section A
 Part II

2.2 – C. Key Positions

(1) Key Positions

Jeanne Mertz National Account Manager jmertz@imcraft.com 602.305.4822	Gus Mariscal Senior Project Manager gus@imcraft.com 602.305.4841
Douglas Madeley VP Operations dmadeley@imcraft.com 602.305.4842	Martha Vermeire Client Services Manager mvermeire@imcraft.com 602.305.4810

(2) Roles and Responsibilities

Jeanne Mertz – Jeanne is the main point of contact for your account, from defining product requirements, to pricing and standard turn times.

Gus Mariscal – Gus will be responsible for order entry and processing your order into and through the Image Craft organization. Gus makes sure your order is correct and on time.

Douglas Madeley – Doug works with the production staff to ensure product quality and on-time delivery commitments are met. Doug works with Jeanne and customers on product design when necessary.

Martha Vermeire – Martha is a member of Image Craft's senior management team, who manages the Project Management team and collaborates with our both our sales team, as well as clients on projects, estimating and sourcing materials and hardware.

(3) None

(4) Key Personnel Resumes (see following)

Jeanne Mertz – National Account Executive

- 25 years with Image Craft
- Top sales performer with an innovation, consultative approach
- Extensive experience with Grand Format products and printing technologies
- Achieves success through focus on customer satisfaction



Image Craft Response to RFP Solicitation CR 19-059

Section A

Part II

Gus Mariscal

- 2 years with Image Craft, 15 years industry experience
- Diversified knowledge of Grand Format products and production techniques
- Specialization in vehicle and fleet graphics production
- Advanced project management skills

Douglas Madeley

- 35 years' experience in a variety of printing-industry companies
- 5 years with Image Craft
- Color Management expertise
- Lean manufacturing and efficiency guru

Martha Vermeire

- 33 years with Image Craft
- 37+ years industry experience with Grand Format, Fine Art and Photographic printing
- Extensive knowledge of materials and printing methods
- Product research and development

2.2 – D. Proposed Services Provided and Project Approach

(I) Description of Services

- | | |
|--|----------------------------|
| ➤ Tradeshow Exhibits | ➤ Murals and Wall Covering |
| ➤ Interior Decor Graphics | ➤ Themed Environments |
| ➤ Menu Board Systems | ➤ Floor Graphics |
| ➤ Dimensional Signage | ➤ Window Graphics |
| ➤ Banners and Billboards | ➤ Backlit Signage |
| ➤ Vehicle Graphics | ➤ Custom Millwork |
| ➤ UV Flatbed Printing | ➤ Latex Ink Printing |
| ➤ Dye Sub Printing | ➤ Custom Framing |
| ➤ Fine Art & Photographic Reproduction | ➤ ...and Much More! |



Image Craft Response to RFP Solicitation CR 19-059

Section A

Part II

(2) Vendor's Approach

Image Craft has a management team and staff that has extensive experience in providing large format graphics solutions to a variety of companies, individuals and organizations. Our projects range from single photographic prints for professional photographers to multi-state rollouts of fleet graphics to museum quality framed art prints to be hung in galleries, hospitality, healthcare or corporate environments.

Our facilities and equipment are state of the art and we follow a program of continuous improvement to stay on top of emerging technologies, process and practices that our fast-paced industry demands. We are constantly in touch with the leading materials and product vendors to take advantage of trends in better and more cost effective materials.

We are constantly responding to the marketplace demand for a better product at a competitive price point and tight turn times. On any typical day, we are processing hundreds of product line items working through dozens of unique workflows for dozens of customers. We maintain average turn times of three to five business days by utilizing customized order and productivity systems and a well trained and experienced staff.

Our sales approach is consultative and innovative. We take into consideration production and material alternatives that will create a product that is the best fit for our customer.

Commitment to quality and customer satisfaction is part of the culture and we take pride in delivering a superior product, on time, to every customer.

- (3) We communicate weekly with our product vendors for updates on the market and materials. In addition, we have quarterly meetings where we invite vendors in for presentation to our production, sales and purchasing staff, to keep us up to date with their new offerings or techniques. There was a situation in December 2018 with a 3M product and because we used so much of that product, 3M called us directly to notify us. At that point we reached out to our clients with this information and got in-front of the recalled material situation.
- (4) We pride ourselves on being an expert on what materials to use for which application. We employ a consultative approach in understanding what the needs are, and providing all the varying methods of meeting those needs, while being mindful of all specifications.
- (5) As far as an alternate approach, if there are standard products used frequently, we could look into setting up an online store for you, making it both easier and quicker to order exactly what you need, without a conversation to determine those needs. For standard product lines, we can create work orders to make sure all information is captured for accuracy and efficiency.



Image Craft Response to RFP Solicitation CR 19-059

Section A

Part II

2.2 – E. Sample Projects

(1A) Removeable Wall Graphics/Window Graphics

(1B) Konica Minolta

(1C)



(1D) May 10, 2019.



Image Craft Response to RFP Solicitation CR 19-059
Section A
Part II

- (2A) Wall Banners/Floor Graphics/Wall Graphics
- (2B) Heard Museum
- (2C)



(2D) April 2019

3401 E. Broadway Road • Phoenix, Arizona 85040 • 602.276.2082 800.274.2422 Fax: 602.232.0719
Texas 602.393.9504



Image Craft Response to RFP Solicitation CR 19-059
Section A
Part II

- (3A) Fleet Vehicle Graphics for cars, vans and trucks
- (3B) Cox Communications
- (3C)



- (3D) Ongoing since 2010



Image Craft Response to RFP Solicitation CR 19-059
Section A
Part II

- (4A) Large Outdoor Fence Banners
- (4B) ISM Raceway
- (4C)



(4D) November 2018

2.2 – F. Pricing (Please see following pages)



Sustainability Commitment

DISPOSAL PRACTICES

Image Craft strives to maintain optimal disposal practices to lessen its impact on the environment

- 1) Disposing of Waste
 - A) Capturing waste products to assure they are directed to the correct disposal facilities.
 - B) Partnering with waste managing companies that assure compliance of environmental regulations
 - C) Procurement of "disposal containment" packaging to assure disposed items are directed to the correct disposal facilities
 - D) Operate on a consistent program of "0" negative impact on the environment.
- Image Craft maintains diligent oversight to assure consistent disposal practices.

AIR QUALITY / GREENHOUSE GAS

Image Craft consistently monitors its air quality to lessen its impact on the environment

- 2) Air Quality
 - E) Consistent monitoring of air quality during the production processes to assure minimal impact on the working environment and the environment as a whole
 - F) Procurement of modern equipment that utilizes supplies and operating procedures that assure minimal impact on air quality and the environment as a whole
 - G) Replacement of inefficient air handling / filtering equipment with high efficiency equipment to provide consistent high standards of air quality during and after production processes
 - H) Procurement of production supplies that are in high standard for the utmost in air quality during and after production processes
 - I) Maintain company vehicles to assure clean air quality operation and minimal environmental impact
 - J) Operate on a consistent program of "0" negative impact on environmental air quality
- Image Craft strives to maintain its Water / Energy Conservation Program with diligent oversight to assure consistent practices.

RECYCLING

Image Craft prides itself on the proper recycling of as many materials as possible

- 3) Material Examples
 - K) Carboards; New offcuts, used packaging, shipping boxes
 - L) Papers; Newsprint, old files, packaging papers
 - M) Plastic bottles; Soda, production, jugs, buckets
 - N) Mechanical; Computers, computer parts, decommissioned machinery
 - O) Metals; Aluminum, steel, copper, brass

Image Craft endeavors to maintain a consistent recycling program with a keen eye on new processes and green materials available to our industry.

WATER AND ENERGY COMSUMPTION

Image Craft consistently monitors its water and enery usage to lessen its impact on the environment



- 4) Water
 - P) Consistent monitoring of all municipal interior facility water supply lines to assure integrity
 - Q) Consistent monitoring of all interior water supply lines to keep track on usage
 - R) Water meters on production equipment supply lines
 - S) Replacement of outdated plumbing fixtures with high efficiency units, including sensor operated faucets and low-flow toilets
 - T) Continual monitoring of exterior irrigation systems to assure efficiency
- 5) Electrical
 - U) Consistent review of electrical energy consumption
 - V) Replacement of outdated inefficient equipment
 - W) Companywide "Power Off When Not in Use" practices for; space heaters, power strips, Monitors and computers
- 6) Company Vehicles
 - X) Assure that work performed outside the facility is completed in as efficient workflow routing as possible to reduce fuel consumption
 - Y) Maintain company vehicles to assure clear air quality operations and minimal environmental impact
 - Z) Maintain correct tire air pressure to assure optimal fuel consumption

Image Craft works hard to maintain its Water / Energy Conservation Program with diligent oversight to assure consistent practices

**CITY OF AVONDALE
ACKNOWLEDGMENT OF ADDENDA RECEIVED
REQUESTS FOR PROPOSALS**

**Large Format Printing Services
CR 19-059**

Addendum No. 1

Image Craft LLC, affirms that ADDENDUM No. 1 has been
(Name of Vendor/Designee)
received and that the information contained in ADDENDUM No. 1 has been incorporated in
formulating the Vendor's Proposal.

[Redacted Signature]

Signed

Date

6/7

2019

John Leos

Print Name

General Manager

Title

Image Craft LLC

Company Name

3401 E Broadway Rd

Address

Phoenix, AZ 85040

City, State, Zip Code

END OF ADDENDUM No. 1

**EXHIBIT B
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
IMAGE CRAFT, LLC**

[Scope of Work]

See following page(s).

SCOPE OF WORK

Citywide Large Format Printing Services CR 19-059

General Requirements. Contractor shall be required to provide, at a minimum, the following services:

1.1 Printing a variety of large format printing products including but not limited to: banners, posters, decals, billboards, POP displays, tradeshow displays, signage, window clings, magnets, vehicle wraps and graphic installation in various settings and environments.

1.2 Contracted printing firm shall maintain a sample reference catalogue of the City's standard printed materials, electronically and as hard copy.

1.3 Orders will be placed by various City departments on an "as needed" basis. The City will not be obligated to any minimum or maximum quantities. The City requests that the supply be kept as close as possible to the quantities required, and will not be financially responsible for more than the required amount. The City has the right to increase or decrease the amount ordered prior to the final proof stage.

1.4 Contractor shall be responsible for providing all labor, equipment, material and consumables necessary for the production and installation (when needed) of printed materials. Contracted printing firm shall provide qualified support staff to assist in establishing requirements and problem resolution free of charge.

1.5 Product quality is to meet the highest industry standards in terms of readability, overall appearance, functionality and durability. Acceptable quality is solely determined by the individual City department.

1.6 Proofs will be required and are subject to City approval before completion of the project.

A. Corrections or product changes may be made up until the final stages of the production of materials. Unfortunately, these changes or corrections are often beyond the control of City staff. The City will endeavor to ensure that changes are kept to a minimum, and/or sufficient notice is given to the contractor when changes are necessary. These changes or corrections may include, but are not limited to: additional text, graphics or photographs, sizing or changes in materials.

B. New proofs shall be submitted to the City for final approval if corrections are required. New PDF files shall be supplied to the City project.

C. No claims for extra work shall be entertained, and any additional work on behalf of the contracted printing firm shall be authorized in writing prior to commencement of the work.

D. Should the contracted printing firm require more information or clarification on any project, it shall be obtained prior to the submission of the proposed proofs.

E. Any change in production that results in additional charges to the City shall be discussed and accompanied with an authorization in writing, signed by a duly authorized employee of the City of Avondale prior to the commencement of the change. No invoices for additional charges shall be accepted without written authorization.

1.7 Any designs provided by the City department for use in production of printed material involves property rights of the City and shall be held confidential by the Contractor(s).

1.8 Provide City Representative or designee with a PDF file of the final approved project as requested.

1.9 Contractor must work with the City Representative or designee.

1.10 All packages, boxes, and cartons shall be labeled as to contents, purchase order number, job order number and ordering department name. Packaging instructions shall be included with each order, and packages shall be signed for by duly authorized personnel of the City.

1.11 All work completed will be subject to inspection and approval by the ordering City department and the City reserves the right to reject and refuse acceptance of work, which is not in accordance with the instructions, specifications, drawings, data or quality standards of same. Rejected work shall be at the expense of the Contractor(s).

1.12 The City requires Contractor(s) to have the capability to receive and reproduce artwork via electronic files (email, internet or flash drive). The City generally uses Microsoft Office and Adobe Creative Suite products and Contractors shall be able to produce final products from all MS Office and Adobe file formats including: Acrobat, Photoshop, Illustrator and InDesign.

1.13 Delivery locations include, but are not limited to, any City of Avondale facility or business partner. The City shall designate the appropriate mail house or distributor at time of order. The following is a list of City facilities, which may be supplemented or amended:

<u>Facility</u>	<u>Delivery Address</u>	<u>City, State, Zip Code</u>
City Hall	11465 W. Civic Center Dr.	Avondale, AZ 85323
City Court	11325 W. Civic Center Dr.	Avondale, AZ 85323
Civic Center Library	11350 W. Civic Center Dr.	Avondale, AZ 85323
Neighborhood and Family Services Community/Senior Center	1007 S. 3rd Street	Avondale, AZ 85323
Police Department	11485 W. Civic Center Dr.	Avondale, AZ 85323

Public Works Department	399 E. Lower Buckeye Center	Avondale, AZ 85323
Municipal Operation Services		
Resource Center	328 W. Western Avenue	Avondale, AZ 85323
Sam Garcia Library	495 E. Western Avenue	Avondale, AZ 85323

The above is not an exhaustive list of printing project delivery locations required by the City. All delivery information shall be provided at the time of order and may vary by project.

1.14 If the contracted printing firm determines that it is unable to deliver the project on the date agreed upon at the time of the order, a designated member of the City staff shall be notified at least one week prior to the anticipated delivery date of the order.

1.15 Print services pricing must be all-inclusive. Pricing must include pick up, delivery, hourly installation fees, and rush charges, if applicable. If rush fees will be charged, the Contractor must specify in the Fee Proposal how the fees will be calculated.

1.16 Final payment shall not be authorized until all materials are received, inspected, and approved by the requesting City Department.

2. Printed Projects. The following specifications for each printed project are provided as a guide. The City reserves the right to change project specifications as needed to meet changing informational and artistic needs.

3. Product Ordering Tools and Guidance.

3.1 Contractor will create an order form for City standard items for efficient ordering, to include photos of standard items for reference.

3.2 Maintain City logo for quick and frequent re-orders.

3.3 Provide guidance and/or suggestions of the products and items that are generating customer loyalty at the lowest costs.

3.4 Provide information on availability of product options and selections that support sustainable amenity items which consist of:

- A. High post-consumer (PCW) recycled content material
- B. Readily recyclable items ("compostable" items do not count)
- C. Minimized and readily recyclable packing
- D. Nontoxic dyes or inks on Food/Liquid container items (e.g. water bottles) that does not contain Phthalates and/or Bisphenol A (BPA)

3.5 Provide suggestions for item designs using the Avondale brand and provide a visualization of product with logo including:

- A. Ability to change product and logo color options.
- B. Provide anticipated minimum quantity for purchases, as well as options for ordering processes.

5.0 General Pricing Requirements.

5.1 Unit Prices for the Core Listed Items shall be fixed for the initial one (1) year term of the resultant contract. No substitution will be allowed on Core List Items unless a letter

of notification is provided from the product Manufacturer. No price increases will be accepted without written request issued by Contractor accompanied with appropriate, acceptable substantiated written documentation and written acceptance and approval of price increase by City. Price increases requests (including notification of new prices) shall be submitted no less than 30-days in advance of the Contract Renewal Date. Price updates shall not be unreasonably withheld. Price reductions may be issued at any time. Any price adjustments shall be mutually agreed upon by City and Contractor. The Contractor shall be responsible for notifying cooperative use agencies utilizing the contract of any price increases approved by the City.

5.2 Price Warranty. Contractor shall give the City the benefit of any price reductions before actual time of shipment. If the City permits shipment to be made prior to specified shipping date, the City shall have advantage of any price reductions that occur before the originally-scheduled shipping date.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

REQUESTS FOR PROPOSALS

**Large Format Printing Services
CR 19-059**

Addendum No. 1

Date: June 3, 2019

From: Ingrid Melle, Department Representative

Subject: Addendum No. 1 to Solicitation No. CR 19-059

Bid Deadline: June 10, 2019 (REVISED DATE), 3:00 p.m. (local time, Phoenix, Arizona)

SCOPE

This Addendum forms a part of the Contract and clarifies, corrects, or modifies the original Requests For Proposals document prepared by the City of Avondale. Acknowledge receipt of this Addendum in the space provided on the attached "Acknowledgment of Addenda Received" form; this acknowledgement must accompany the submitted proposal. Failure to do so shall subject the Proposer to disqualification.

This Addendum No. 1 consists of modifications to (i) the solicitation schedule and (ii) Exhibit C (Fee Proposal) items 28. AUTOMOTIVE WRAP, 29. AUTOMOTIVE WRAP REMOVAL and 30. ALL OTHER ADDITIONAL COSTS; as attached herein as Exhibit 1. to this this Addendum 1, for the Request for Proposals No. CR 19-059 released May 8, 2019,

ADDENDUM

1. The Final Date for Inquiries, Proposal Due Date and Time are deleted in their entirety and replaced with the following:

Final Date for Inquiries:	June 6, 2019
Proposal Due Date and Time:	June 10, 2019; 3:00 p.m.

2. Exhibit C. (Fee Proposal) is hereby deleted in its entirety and replaced with the Price Sheet attached hereto as Exhibit 1 and incorporated herein by reference.

**CITY OF AVONDALE
ACKNOWLEDGMENT OF ADDENDA RECEIVED
REQUESTS FOR PROPOSALS**

**Large Format Printing Services
CR 19-059**

Addendum No. 1

_____, affirms that ADDENDUM No. 1 has been
(Name of Vendor/Designee)
received and that the information contained in ADDENDUM No. 1 has been incorporated in
formulating the Vendor's Proposal.

_____, _____ 2019
Signed Date

Print Name

Title

Company Name

Address

City, State, Zip Code

END OF ADDENDUM No. 1

EXHIBIT C
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
IMAGE CRAFT, LLC

[Fee Proposal]

See following page(s).

EXHIBIT 1
FEE PROPOSAL
Addendum 1

Citywide Large Format Printing Services
CR 19-059
Fee Proposal

NOTE: All pricing blanks must be filled in. Empty or unfilled spaces in the Price Sheet shall be considered as a NO BID entry for that item.

Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
1.	Sanitation Truck Signs: 94"w x 30"h, printed 4C process, one side on 4 mm white Coroplast	14 Each (Includes 5 different designs)	Each	\$	\$
2.	Street Banners: 30"w x 96"h, printed 4C process on 18 oz blackout vinyl, 2-sided (same art both sides), right-reading, top & bottom pole pockets, 2 grommets on left edge.	1 – 5 (of one art)	Each	\$	\$
		6-12 (of one art)	Each	\$	\$
3.	Outdoor Fence Banners: 96"w x 48"h, printed 4/0 on 13 oz Scrim Vinyl	1 to 5 (of one art)	Each	\$	\$
4.	Outdoor Fence Banners: 96"w x 48"h, printed 4/0 on 8 oz Mesh	1 to 5 (of one art)	Each	\$	\$
5.	Outdoor Float Banner: 150"w x 60"h, printed 4C process on 18 oz scrim, double-sided, grommets every 2 feet	1	Each	\$	\$
6.	Outdoor Float Banner: 150"w x 40"h, printed 4C process on 13 oz scrim, single-sided, with pole pocket at top	1	Each	\$	\$
7.	Dry Erase Wall Calendar: 48"w x 36"h, printed 4C process on low-tac adhesive (removable) dry erase vinyl	3 to 9 (of one art)	Each	\$	\$
8.	Zoom Bus Ads: 27.8125"w x 10.9375"h, prints 4/0 on 20 pt C1S Board	14 (sets of eight ads)	Each	\$	\$

Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
9.	Large Removable Window Clings: 12"w x 18"h, printed 4C process on 8 mil clear window vinyl (maybe interior or exterior mount)	1 to 5 (of the same art)	Each	\$	\$
10.	See-thru Window Graphics: 52"w x 37"h, printed 4C process on 6 mil see-thru (clear) vinyl	1 to 3 (all different art)	Each	\$	\$
11.	A-Frame Sign Inserts: 24"w x 36"h, printed 4/0 on 14 pt matte	2 to 8 (all different art)	Each	\$	\$
12.	Outdoor Stake Signs: 24"w x 36"h, printed 4/4 on 4 mm white Coroplast, horizontal flutes, H-stakes included	2 to 8 (of the same art)	Each	\$	\$
13.	Event Podium Sign: 18" x 18", printed 4/0 on 3/16 foam core	1	Each	\$	\$
14.	Banner Stands - Indoor Use: 33" x 80" Retractable banner with stand, prints 4/0 on 10 mil polypropylene	1	Each	\$	\$
15.	Banner Stands - Indoor Use: 47" x 80" Retractable banner with stand, prints 4/0 on 10 mil polypropylene	1	Each	\$	\$
16.	Banner Stand Inserts - Indoor Use: 36" x 84" prints 4C process banner only, matte 60 oz vinyl	1	Each	\$	\$
17.	Banner Stand Inserts - Indoor Use: 60" x 84" prints 4C process banner only, matte 60 oz vinyl	1	Each	\$	\$
18.	Tabletop Display - Indoor Use: 11"w x 17"t retractable with stand, prints 4/0 on 10 mil polypropylene	1	Each	\$	\$
19.	Table Covers: 132"w x 90"h, 4-sided closed back for 6ft table, prints 4/0 on 9 oz premium polyester, 1" hem on all sides	1	Each	\$	\$
20.	Large Posters: 22"w x 28"h, prints 4/0 on 8 mil gloss photo paper (or equivalent)	1	Each	\$	\$
		5	Each	\$	\$
21.	Pop-Up Canopy: 120" x 120", prints 4/0 on 11 oz outdoor fabric (sewn) with 10'x 10' aluminum frame	1	Each	\$	\$

Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
22.	Pole Flag: 48"w x 72"h prints 4/0 on 3 oz polyester, white grommet strip, one side, with pole and bracket	1 to 5 (of the same art)	Each	\$	\$
23.	Feather Flag: 32"w x 99"h prints 4/0 on 3 oz polyester, white grommet strip, one side, with pole and bracket		Each	\$	\$
24.	Floor Decals: 22" x 28"h prints 4/0 on 4 mil flexible vinyl, gloss lamination		Each	\$	\$
25.	Wall Decals: 24"w x 36"h prints 4/0 on kiss-cut low-tac adhesive (removable) vinyl		Each	\$	\$
26.	Vehicle Magnets: 24"w x 12"h prints 4/0 on 30 mil magnet with UV coating		Each	\$	\$
27.	Automotive Decal: 4" x 4" Outdoor Adhesive Vinyl, 2 color		Each	\$	\$
28.	AUTOMOTIVE WRAP: FULL COLOR, OTHER SPECIFICATIONS WILL VARY BY VEHICLE TYPE. MUST INCLUDE 5-YEAR WARRANTY. 3M PRODUCTS OR APPROVED EQUAL. PRICING SHALL INCLUDE INSTALLATION COSTS.		SQ- FT	\$	\$
29.	AUTOMOTIVE WRAP REMOVAL SERVICES (CONTRACTOR MUST SPECIFY COST FOR REMOVAL OF OLD WRAPS)		SQ- FT	\$	\$
30.	ALL OTHER COSTS FOR ASSEMBLY OR INSTALLATION SERVICES (CONTRACTOR MUST SPECIFY ANY ADDITIONAL COSTS NOT LISTED HEREIN.)			\$	\$

Company Name: _____ **Date:** _____

Authorized Signature: _____

EXHIBIT 1
FEE PROPOSAL
Addendum 1

Citywide Large Format Printing Services
CR 19-059
Fee Proposal

NOTE: All pricing blanks must be filled in. Empty or unfilled spaces in the Price Sheet shall be considered as a NO BID entry for that item.

Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
1.	Sanitation Truck Signs: 94"w x 30"h, printed 4C process, one side on 4 mm white Coroplast	14 Each (Includes 5 different designs)	Each	\$ 46	\$ 3220
2.	Street Banners: 30"w x 96"h, printed 4C process on 18 oz blackout vinyl, 2-sided (same art both sides), right-reading, top & bottom pole pockets, 2 grommets on left edge.	1 – 5 (of one art)	Each	\$ 99	\$ 99 (1) -
		6-12 (of one art)	Each	\$ 71.40	\$ 495 (5) \$ 428.40 (6) -
3.	Outdoor Fence Banners: 96"w x 48"h, printed 4/0 on 13 oz Scrim Vinyl Reinforced hem & 12 grommets	1 to 5 (of one art)	Each	\$ 92.80	\$ 856.80 (12) \$ 92.80 (1) -
4.	Outdoor Fence Banners: 96"w x 48"h, printed 4/0 on 8 oz Mesh Reinforced hem & 12 grommets	1 to 5 (of one art)	Each	\$ 114	\$ 464.00 (5) \$ 114 (1) -
5.	Outdoor Float Banner: 150"w x 60"h, printed 4C process on 18 oz scrim, double-sided, grommets every 2 feet with Reinforced hem	1	Each	\$ 258.64	\$ 570 (5) \$ 258.64
6.	Outdoor Float Banner: 150"w x 40"h, printed 4C process on 13 oz scrim, single-sided, with pole pocket at top	1	Each	\$ 203.15	\$ 203.15
7.	Dry Erase Wall Calendar: 48"w x 36"h, printed 4C process on low-tac adhesive (removable) dry erase vinyl	3 to 9 (of one art)	Each	\$ 83.50	\$ 250.50 (3) -
8.	Zoom Bus Ads: 27.8125"w x 10.9375"h, prints 4/0 on 20 pt C1S Board	14 (sets of eight ads)	Each	\$ 9.80	\$ 751.50 (9) \$ 1,097.60 (112)

Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
9.	Large Removable Window Clings: 12"w x 18"h, printed 4C process on 8 mil clear window vinyl (maybe interior or exterior mount)	1 to 5 (of the same art)	Each	\$ 62	\$ 62 (1) - \$ 310 (5)
10.	See-thru Window Graphics: 52"w x 37"h, printed 4C process on 6 mil see-thru (clear) vinyl	1 to 3 (all different art)	Each	\$ 105	\$ 105 (1) - \$ 315 (3)
11.	A-Frame Sign Inserts: 24"w x 36"h, printed 4/0 on 14 pt matte	2 to 8 (all different art)	Each	\$ 55.20	\$ 110.40 (2) \$ 441.60 (8)
12.	Outdoor Stake Signs: 24"w x 36"h, printed 4/4 on 4 mm white Coroplast, horizontal flutes, H-stakes included	2 to 8 (of the same art)	Each	\$ 65	\$ 130 (2) - \$ 520 (8)
13.	Event Podium Sign: 18" x 18", printed 4/0 on 3/16 foam core	1	Each	\$ 72	\$ 72
14.	Banner Stands - Indoor Use: 33" x 80" Retractable banner with stand, prints 4/0 on 10 mil polypropylene	1	Each	\$ 459.36	\$ 459.36
15.	Banner Stands - Indoor Use: 47" x 80" Retractable banner with stand, prints 4/0 on 10 mil polypropylene	1	Each	\$ 272.10	\$ 272.10
16.	Banner Stand Inserts - Indoor Use: 36" x 84" prints 4C process banner only, matte 60 oz vinyl	1	Each	\$ 140	\$ 140
17.	Banner Stand Inserts - Indoor Use: 60" x 84" prints 4C process banner only, matte 60 oz vinyl	1	Each	\$ 184.32	\$ 184.32
18.	Tabletop Display - Indoor Use: 11"w x 17"t retractable with stand, prints 4/0 on 10 mil polypropylene	1	Each	\$ 90	\$ 90
19.	Table Covers: 132"w x 90"h, 4-sided closed back for 6ft table, prints 4/0 on 9 oz premium polyester, 1" hem on all sides	1	Each	\$ 407.25	\$ 407.25
20.	Large Posters: 22"w x 28"h, prints 4/0 on 8 mil gloss photo paper (or equivalent)	1	Each	\$ 57	\$ 57
		5	Each	\$ 25.65	\$ 128.25
21.	Pop-Up Canopy: 120" x 120", prints 4/0 on 11 oz outdoor fabric (sewn) with 10'x 10' aluminum frame	1	Each	\$ 1,084	\$ 1,084

Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
22.	Pole Flag: 48"w x 72"h prints 4/0 on 3 oz polyester, white grommet strip, one side, with pole and bracket to mount to wall	1 to 5 (of the same art)	Each	\$ 215	\$ 215 (1) - \$ 1,075 (5)
23.	Feather Flag: 32"w x 99"h prints 4/0 on 3 oz polyester, white grommet strip, one side, with pole and bracket	1	Each	\$ 266	\$ 266
24.	Floor Decals: 22" x 28"h prints 4/0 on 4 mil flexible vinyl, gloss lamination	2 (of same art)	Each	\$ 65	\$ 130
25.	Wall Decals: 24"w x 36"h prints 4/0 on kiss-cut low-tac adhesive (removable) vinyl	2 (of same art)	Each	\$ 70	\$ 140
26.	Vehicle Magnets: 24"w x 12"h prints 4/0 on 30 mil magnet with UV coating	2 (of same art)	Each	\$ 74	\$ 148
27.	Automotive Decal: 4" x 4" Outdoor Adhesive Vinyl, 2 color	2 (of same art)	Each	\$ 18	\$ 36
28.	AUTOMOTIVE WRAP: FULL COLOR, OTHER SPECIFICATIONS WILL VARY BY VEHICLE TYPE. MUST INCLUDE 5-YEAR WARRANTY. 3M PRODUCTS OR APPROVED EQUAL. PRICING SHALL INCLUDE INSTALLATION COSTS.	300 SF	SQ- FT	\$ 10	\$ 3,000
29.	AUTOMOTIVE WRAP REMOVAL SERVICES (CONTRACTOR MUST SPECIFY COST FOR REMOVAL OF OLD WRAPS)		Per hour	\$ 85	\$
30.	ALL OTHER COSTS FOR ASSEMBLY OR INSTALLATION SERVICES (CONTRACTOR MUST SPECIFY ANY ADDITIONAL COSTS NOT LISTED HEREIN.)		Per hour	\$ 85	\$
31.	Pickup and/or Delivery		Each	\$ 25	\$
24.	Rush Fee Determined by Project & Timeline		Each	\$	\$

Company Name:

Image Craft LLC

Date:

6/7/2019

Authorized Signature:



EXHIBIT D
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND

[Sustainability Commitment Form]

See following page(s).

SUSTAINABILITY COMMITMENT

The City is committed to protecting the environment and being a successful sustainable community. Therefore, it is essential that sustainability considerations be part of all City activities and operations. This commitment is demonstrated through; compliance, environmental and social sustainability principles, commitment to continued improvement, and focus on pollution prevention. Each Contractor for the City is held to this same commitment and goal.

There are many laws and regulations relating to the protection of the environment. It is each contractor's responsibility to know which laws, regulations, approvals or permits relate to the work they perform for the City.

The City is pro-active in encouraging environmentally and socially sustainable practices in our operations and among our residents, businesses, and suppliers. Please review the specifications or scope of work for this solicitation for any environmental or sustainability requirements.

Check any of the following which apply to your business engages in and attach summaries to this page detailing (i) what your business does to participate in the program/practice, (ii) operation and provide reports detailing (A) compliance (if applicable), (B) performance, and (C) the tracking mechanisms used to measure results. Contractor shall also indicate how often the City will be provided reports.

- | | |
|---|---|
| ☒ Recycling | ☒ Raise awareness of sustainability |
| ☒ Energy efficiency practices (<i>i.e. Paper Made with Renewable Energy</i>), | ☒ Economic benefits for recipients and/or wider community |
| ☒ Environmentally preferred (<i>i.e. Use of paper content 30% or > % PCW, Forest Stewardship Council (FSC) certified papers and printers, chlorine-free, recycled-content paper, use of environmentally-friendly inks</i>) | ☒ Improved health and/or wellbeing of recipients or the wider community |
| ☒ Water/energy conservation | ☒ Contributions toward local regeneration and positive impacts on future residents |
| ☒ Air quality/greenhouse gas emissions | ☒ Contributions toward education concerning climate change/sustainability issues and methods. |
| ☒ Disposal practices | |
| ☒ Other environmentally friendly practices | |

Company Name: Image Craft LLC

Authorized Signature: 

Date: 6/7/2019



CITY COUNCIL REPORT

SUBJECT: Professional Services Agreement with AZPRO Signs Inc. for Large Format Printing Services

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Pier Simeri, Community Relations Director (623) 333-1600

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

PURPOSE:

City Council will consider a request to approve a contract with AZPRO Signs Inc for large format printing services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

On May 8 2019, Avondale issued a Request for Proposals (RFP), CR 19-059, for Large Format Printing Services. Two firms were selected, based on their scored responses addressing the myriad of large format printing services listed in the RFP.

DISCUSSION:

Printing projects from city departments are largely centralized through the Community Relations Department, which oversees brand integrity to ensure that Avondale is reflected positively through its printed materials. Large format materials include screen printing projects, large signs, banners, billboards, vehicle wraps, trade show displays, window clings, and many other large scale marketing items.

Due to the needs of the various departments for a variety of large format printing projects, staff has found it to be to the City's advantage to award more than one contract for large format printing services.

Two vendors were notified of the City's intent to award multiple contracts for RFP CR 19-059.

BUDGET IMPACT:

Funding for large format printing products is available in departments budgets. Last fiscal year the City spent approximately \$15,000 on large print and miscellaneous marketing items.

RECOMMENDATION:

Staff recommends that Council approve a contract to AZPRO Signs Inc. for CR 19-059, Large Format Printing Services.

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
AZPRO SIGNS, INC.**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is entered into as of July 22, 2019, between the City of Avondale, an Arizona municipal corporation (the "City"), and Azpro Signs, Inc., an Arizona corporation (the "Contractor").

RECITALS

A. The City issued a Request for Proposals, CR 19-059 "CITYWIDE LARGE FORMAT PRINTING SERVICES" (the "RFP"), a copy of which is on file in the City's Finance Office and incorporated herein by reference, seeking proposals from vendors for printing a variety of large format printing products including but not limited to: banners, posters, decals, billboards, point of purchase ("POP") displays, tradeshow displays, signage, window clings, magnets, vehicle wraps and graphic installation in various settings and environments (the "Services"). Services to be provided as directed by City staff for various City projects.

B. The Contractor responded to the RFP by submitting a proposal (the "Proposal"), attached hereto as Exhibit A and incorporated herein by reference, and the City desires to enter into an Agreement with the Contractor for the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and 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 City and the Contractor hereby agree as follows:

1. Term of Agreement.

1.1 Initial Term. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until July 22, 2020, (the "Initial Term"), unless terminated as otherwise provided in this Agreement.

1.2 Renewal Terms. After the expiration of the Initial Term, this Agreement may be renewed for up to four successive one-year terms (each, a "Renewal Term") if (i) it is deemed in the best interests of the City, subject to availability and appropriation of funds for renewal in each subsequent year, (ii) at least 30 days prior to the end of the then-current term of this Agreement, the Contractor requests, in writing, to extend this Agreement for an additional one-year term and (iii) the City approves the additional one-year term in writing (including any price adjustments approved as part of this Agreement), as evidenced by the City Manager's signature thereon, which approval may be withheld by the City for any reason. The Contractor's failure to seek a renewal of this Agreement shall cause this Agreement to terminate at the end of

the then-current term of this Agreement; provided, however, that the City may, at its discretion and with the agreement of the Contractor, elect to waive this requirement and renew this Agreement. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

1.3 Non-Default. By requesting extension for a Renewal Term as set forth above, or by consenting to a Renewal Term in any manner, Contractor shall be deemed to affirmatively assert that (i) the City is not currently in default, nor has been in default at any time prior to the Renewal Term, under any of the terms or conditions of the Agreement and (ii) any and all Contractor claims, known and unknown, relating to the Agreement and existing on or before the commencement date of the Renewal Term are forever waived.

2. Scope of Work. Contractor shall provide the Services as set forth in the Scope of Work attached hereto as Exhibit B and incorporated herein by reference. This is an indefinite quantity and indefinite delivery Agreement for Services, which shall only be provided when the City chooses to move forward with a pending project and proper authorization and documentation have been approved. The City does not guarantee any minimum or maximum amount of Services will be requested under this Agreement. For project(s) determined by the City to be appropriate for this Agreement, the Contractor shall provide the specific Services to the City agreed upon between the parties in a written invoice, quote, purchase order or other form of written acknowledgment describing the Services to be provided (each, a "Work Order"). Each Work Order shall (i) contain a reference to this Agreement and (ii) be attached hereto as Exhibit B and incorporated herein by reference. Work Orders submitted without referencing this Agreement will be subject to rejection. Contractor acknowledges and agrees that Work Order(s) containing unauthorized exceptions, conditions, limitations, or provisions in conflict with the terms of this Agreement (collectively, the "Unauthorized Conditions"), other than City's project-specific requirements, are hereby expressly declared void and shall be of no force and effect. Acceptance by the City of any Work Order or invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement shall not alter such terms and conditions or relieve Contractor from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement.

3. Compensation. The City shall pay Contractor for the Services at the rates set forth in the Fee Proposal attached hereto as Exhibit C and incorporated herein by reference.

4. Payments. The City shall pay the Contractor monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. Each invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

5. Safety Plan. Contractor shall provide the Services in accordance with a safety plan that is compliant with Occupational Safety and Health Administration ("OSHA"), American National Standards Institute and National Institute for Occupational Safety and Health standards. If, in the Contractor's sole determination, the Services to be provided do not require a safety plan,

Contractor shall notify the City, in writing, describing the reasons a safety plan is unnecessary. The City reserves the right to request a safety plan following such notification.

6. Documents. All documents, including any intellectual property rights thereto, prepared and submitted to the City pursuant to this Agreement shall be the property of the City.

7. Contractor Personnel. Contractor shall provide adequate, experienced personnel, capable of and devoted to the successful performance of the Services under this Agreement. Contractor agrees to assign specific individuals to key positions. If deemed qualified, the Contractor is encouraged to hire City residents to fill vacant positions at all levels. Contractor agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the City. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Contractor shall immediately notify the City of same and shall, subject to the concurrence of the City, replace such personnel with personnel possessing substantially equal ability and qualifications.

8. Inspection; Acceptance. All work shall be subject to inspection and acceptance by the City at reasonable times during Contractor's performance. The Contractor shall provide and maintain a self-inspection system that is acceptable to the City.

9. Licenses; Materials. Contractor shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Contractor. The City has no obligation to provide Contractor, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement. The City has no obligation to provide tools, equipment or material to Contractor.

10. Performance Warranty. Contractor warrants that the Services rendered will conform to the requirements of this Agreement and with the care and skill ordinarily used by members of the same profession practicing under similar circumstances at the same time and in the same locality.

11. Indemnification. To the fullest extent permitted by law, the Contractor 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 work or services of the Contractor, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

12. Insurance.

12.1 General.

A. Insurer Qualifications. Without limiting any obligations or liabilities of Contractor, Contractor 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 Contractor. 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 Contractor 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, 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 Named 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 until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.

E. Primary Insurance. Contractor'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 and necessary endorsements 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 work or services of Contractor. Contractor 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. Contractor shall be solely responsible for any such deductible or self-insured retention amount.

I. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Contractor shall execute written agreements with its subcontractors containing the indemnification provisions set forth above and insurance requirements set forth herein protecting the City and Contractor. Contractor shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

J. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Contractor 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 Contractor'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 Contractor'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 the RFP number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFP number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFP number and title or a reference to this Agreement, as applicable, 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) Contractor’s insurance shall be primary insurance with respect to 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 Contractor 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.

K. Endorsements. Contractor shall provide the City with the necessary endorsements to ensure City is provided the insurance coverage set forth in this Section.

12.2 Required Insurance Coverage.

A. Commercial General Liability. Contractor 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. Contractor shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Contractor's owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor's work or services 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. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Contractor engages in any professional services or work in any way related to performing the work under this Agreement, the Contractor shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Contractor, or anyone employed by the Contractor, or anyone for whose negligent acts, mistakes, errors and omissions the Contractor is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate.

D. Workers' Compensation Insurance. If Contractor employs anyone who is required by law to be covered by workers' compensation insurance, Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Contractor's employees engaged in the performance of work or services 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.

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

13. Termination; Cancellation.

13.1 For City's Convenience. This Agreement is for the convenience of the City and, as such, may be terminated without cause after receipt by Contractor of written notice by the City. Upon termination for convenience, Contractor shall be paid for all undisputed services performed to the termination date.

13.2 For Cause. If either party fails to perform any obligation pursuant to this Agreement and such party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting party, such party will be in default. In the event of such default, the non-defaulting party may terminate this Agreement immediately for cause and will have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting party will have such

additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting party immediately (A) provides written notice to the non-defaulting party and (B) commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 90 days. In the event of such termination for cause, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.

13.3 Due to Work Stoppage. This Agreement may be terminated by the City upon 30 days' written notice to Contractor in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Contractor for the undisputed portion of its fee due as of the termination date.

13.4 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 this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a Contractor to any other party of this Agreement with respect to the subject matter of this Agreement.

13.5 Gratuities. The City may, by written notice to the Contractor, cancel this Agreement if it is found by the City that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover and withhold from the Contractor an amount equal to 150% of the gratuity.

13.6 Agreement Subject to Appropriation. The City is obligated only to pay its obligations set forth in this Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the City's then current fiscal year. The City's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the City concerning budgeted purposes and appropriation of funds. Should the City elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the City shall be relieved of any subsequent obligation under this Agreement. The parties agree that the City has no obligation or duty of good faith to budget or appropriate the payment of the City's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which this Agreement is executed and delivered. The City shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement. The City shall keep Contractor informed as to the availability of funds for this Agreement. The obligation of the City to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the City. Contractor hereby waives any and all rights to bring any claim against the City from or relating in any way to the City's termination of this Agreement pursuant to this section.

14. Miscellaneous.

14.1 Independent Contractor. 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. The Contractor acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. Contractor, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of Contractor, its employees or subcontractors. The Contractor, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Contractor meets the requirements of its agreed Scope of Work as set forth in Section 2 above and Exhibit B. Contractor is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Contractor do not intend to nor will they combine business operations under this Agreement.

14.2 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 Maricopa County, Arizona.

14.3 Laws and Regulations. Contractor shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Contractor is responsible abides by, and remains in compliance with, all rules, regulations, ordinances, statutes or laws affecting the Services, including, but not limited to, the following: (A) existing and future City and County ordinances and regulations, (B) existing and future State and Federal laws and (C) existing and future OSHA standards.

14.4 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 Contractor.

14.5 Provisions Required by Law. Each and every provision of law and any clause required by law to be in this 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, this Agreement will promptly be physically amended to make such insertion or correction.

14.6 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 this Agreement which may remain in effect without the invalid provision or application.

14.7 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 this 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.

14.8 Assignment; Delegation. No right or interest in this Agreement shall be assigned or delegated by Contractor without prior, written permission of the City, signed by the City Manager. Any attempted assignment or delegation by Contractor in violation of this provision shall be a breach of this Agreement by Contractor.

14.9 Subcontracts. No subcontract shall be entered into by the Contractor with any other party to furnish any of the material or services specified herein without the prior, written approval of the City. The Contractor is responsible for performance under this Agreement whether or not subcontractors are used. Failure to pay subcontractors in a timely manner pursuant to any subcontract shall be a material breach of this Agreement by Contractor.

14.10 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 Contractor 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.

14.11 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.

14.12 Liens. All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.

14.13 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the City may offset from any money due to the Contractor any amounts Contractor owes to the City for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

B. Offset for Delinquent Fees or Taxes. The City may offset from any money due to the Contractor any amounts Contractor owes to the City for delinquent fees, transaction privilege use taxes and property taxes, including any interest or penalties.

14.14 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 (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

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

With copies to: City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Attn: Senior Buyer, Loretta Browning

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

If to Contractor: Azpro Signs, Inc.
650 N. 99th Avenue, Suite 101
Avondale, AZ 85323
Attn: Scott Wellman

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) 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.

14.15 Confidentiality of Records. The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Contractor's duties under this Agreement. Persons requesting such information should be referred to the City. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under this Agreement.

14.16 Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under subsection 14.17 below, Contractor's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Contractor and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Contractor's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Contractor's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 14.17 below. To the extent necessary for the City to audit Records as set forth in this subsection, Contractor and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the City to Contractor pursuant to this Agreement. Contractor and its subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this subsection. The City shall give Contractor or its subcontractors reasonable advance notice of intended audits. Contractor shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

14.17 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Contractor and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Contractor's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

14.18 Israel. Contractor certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

14.19 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, any amendments, the Scope of Work, any City-approved Purchase Order, the Fee Proposal, the RFP and the Contractor's Proposal, the documents shall govern in the order listed herein.

14.20 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods and services from another source when necessary.

14.21 Cooperative Purchasing. Specific eligible political subdivisions and nonprofit educational or public health institutions ("Eligible Procurement Unit(s)") are permitted to utilize procurement agreements developed by the City, at their discretion and with the agreement

of the awarded Contractor. Contractor may, at its sole discretion, accept orders from Eligible Procurement Unit(s) for the purchase of the Materials and/or Services at the prices and under the terms and conditions of this Agreement, in such quantities and configurations as may be agreed upon between the parties. All cooperative procurements under this Agreement shall be transacted solely between the requesting Eligible Procurement Unit and Contractor. Payment for such purchases will be the sole responsibility of the Eligible Procurement Unit. The exercise of any rights, responsibilities or remedies by the Eligible Procurement Unit shall be the exclusive obligation of such unit. The City assumes no responsibility for payment, performance or any liability or obligation associated with any cooperative procurement under this Agreement. The City shall not be responsible for any disputes arising out of transactions made by others.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“City”

CITY OF AVONDALE,
an Arizona municipal corporation

Charles A. Montoya, City Manager

ATTEST:

Marcella Carrillo, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2019, 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

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

"Contractor"

AZPRO SIGNS, INC.,
an Arizona corporation

By: _____

Name: Scott Wellman

Title: DIRECTOR OF SALES & MARKETING

(ACKNOWLEDGMENT)

STATE OF Arizona)
) ss.
COUNTY OF Maricopa)

On July 5th, 2019, before me personally appeared Scott Wellman, the Director of Sales of AZPRO SIGNS, INC., an Arizona corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the AZPRO SIGNS, INC..



(Affix notary seal here)

Notary Public

EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
AZPRO SIGNS, INC.

[Contractor's Proposal]

See following pages.



Loretta Browning
Avondale City Hall
11465 West Civic Center Drive
Avondale, AZ 85323

Solicitation Number: CR 19-059
Solicitation Title: Large Format Printing Services

Ms. Browning:

Azpro is pleased to submit its Large Format Printing proposal through this cover letter to the City of Avondale in response to the above-referenced Request for Proposal (RFP) for Large Format Printing Services. Azpro has successfully demonstrated that it is a trusted and reliable vendor and partner and we are tremendously proud of the impacts that we have made in the community, especially with our current government clients such as the City of Goodyear and the City of Tolleson. This rich experience has allowed us to fully understand and appreciate the city's requirements under this RFP. For the past 15 years, azpro has provided its offerings to up to 5,000 clients and we believe that our response meets the requirements as called out in this Solicitation CR 19-059. Please forward any questions regarding this solicitation response to me. My contact information is provided below. On behalf of azpro, thank you for giving us the opportunity to respond to this RFP and we look forward to continuing a mutually rewarding partnership.

Sincerely,

Scott Wellman
swellman@azprogroup.com
623.500.3575

VENDOR

Arizona Pro Signs, Inc.
TIN: 20-2969263
650 N. 99th Ave. Suite 101
Avondale, AZ 85323
Contact: Scott Wellman
Phone number: 623-970-8438

PRINCIPLE OFFICE

650 N. 99th Ave. Suite 101
Avondale, AZ 85323

GENERAL DESCRIPTION & QUALIFICATIONS

In 2014, azpro moved to its current location at 650 N. 99th Ave., a 35,000 sq. ft. building that comfortably houses all of our departments – a motivated 14-person Sales Department with business development managers, eight designers with close to 90 years of professional experience, a G7 Master Certified Print and Production Department, as well as a 3M Certified installation crew. The climate-controlled shop contains seven large format printers that are capable of printing up to 12,500 sq. ft. per hour. These top-of-the-line machines allow azpro to service a growing list of partners, who mainly fall under their three niche businesses: retail pop/pos signage, corporate environments, and vehicle fleet graphics.

Among the many clients we now call partners are Shamrock Foods, Swift Transportation, Legends Entertainment District, Freightliner, Southwest Products (SWP), and Fry's Food Stores, as well as the rest of the Kroger subsidiaries.

ARIZONA CORPORATION COMMISSION/GOOD STANDING

Entity Name: AZ PRO SIGNS, INC. Entity ID: 12064598

Entity Type: Domestic For-Profit (Business) Corporation Entity Status: Active

Formation Date: 6/3/2005 Reason for Status: In Good Standing

Approval Date: 9/1/2005 Status Date:

Original Incorporation Date: 6/3/2005 Life Period: Perpetual

Business Type: SIGN AND GRAPHICS Last Annual Report Filed: 2019

Domicile State: AZ Annual Report Due Date: 6/3/2020

Years Due:

Original Publish Date: 10/3/2005

3 SIMILAR ORGANIZATIONS / REFERENCES

1) Name: City of Goodyear Fleet



Contact Name: Charles Schneider

Address, phone, email: 623-882-7195

Charles.Schneider@goodyearaz.gov

Type of service provided: exterior/interior signage, police vehicle wraps, vinyl wall murals, vinyl decals, parking and street signage

Dates of contract initiation and expiration: 2012 to present

2) Name: Arizona Fire & Medical



Contact Name: Tina Van Scoter

Address, phone, email: 623-882-7195

TVanScoter@afma.az.gov

Type of service provided: fire trucks, ambulances, battalion chief vehicles, fire station interior, exterior signage

Dates of contract initiation and expiration: 2012 to present

3) Name: Kroger



Contact Name: Matt Morgan

Address, phone, email: 602-478-2853

Matt.Morgan@sfdc.com

Type of service provided: POS, vinyl wall wraps, indoor/outdoor banners, window clings, a-frame sign inserts, podium signage, banner stands, posters, floor decals, wayfinding

Dates of contract initiation and expiration: 2008 to present

KEY PERSONNEL MEMBERS THAT WILL RENDER SERVICES



Jason Prenovost, President: Oversees all aspects of the project. Jason has always had an eye for detail and making things perfect. His attention to detail has been his forte his entire life. Luckily, with azpro as his playground he can do what he loves every day and help spread his passion for detail to everyone around him.



Scott Wellman, Client Services Director: Oversees the client experience. Scott's passion is serving his clients and he has a background in community relations, sales, and marketing.



Account Manager, as assigned: Oversees and manages the project from start to finish. With 14 account managers sharing over 72 years of experience in the print industry, you are in great hands no matter what the scope of work may be.



Robert Flanagan, Operations Director: Oversees printing, design, and production efforts on all projects. Robert is a military veteran with a passion for leadership and an eye for detail.



Phil Leyba, Installer/Supervisor: Oversees install team for all facets of install. Supervises large install projects and assists with quality control.

THE PROCESS

DESIGN & CREATION

Some clients come to us with a blank slate; they know they need something but they're not sure what. Other clients already know what they want. The fun part about our job is we get to extract those ideas, create a brand plan and help implement it.

PRINTING & FABRICATION

We use the newest large format printers from HP to produce images that are as large as your imagination! Whether you design it or leave that to us, we can print, cut and fabricate whatever it takes to get the job done on time and on budget. We have the most sophisticated, high resolution and environmentally friendly printing equipment in the large format printing game to get your project done "right the first time".

COLOR MANAGEMENT

Color management creates consistency with colors between printing devices and substrates. By utilizing ICC (International Color Consortium) profiles, we calibrate our digital presses to establish the color output mapping of all of our equipment. We are G7 certified and have a dedicated team generating consistent results you can count on.

PROJECT COORDINATION

Let us handle the design, production, shipping, and scheduled installations for you. We aim for versatility and can play as small or as large of a role as you need from us. No matter the size or location of your project, we can handle it with ease while meeting budget and deadline.

PRODUCTION & FULFILLMENT

Once a project is printed, our experienced production team can put the finishing touches required to complete your product. We offer a plethora of finishing techniques including but not limited to: digital die cutting, mounting, grommeting, sewing, and welding. We will handle all the details to ensure your finished products are packaged and shipped appropriately when needed.

INSTALLATION

From vehicle wraps to large billboard, we've got a team of installers to take care of your installation needs. **azpro** is proud to say we are a 3M certified Installation Company through the UASG (United Application Standards Group), a Master Certified Business through the PDAA (Professional Decal Application Alliance) and we employ DINOC & 3M endorsed architectural film and 3M preferred installers. Our installers are trained and experienced to coordinate the logistics to execute any job.

HOW WE DO THINGS

RECALLS

Azpro works closely with product representatives and we are in the loop on all things products daily. Rest assured azpro will notify you automatically as our inventory system; PIQ- allows us to access any job as identified by the material related to the job.

CREATIVE MEASURES

Our partnerships with our product representatives keep us up to date on the latest and greatest products and processes and our approach to our mutual relationship with our clients allows us to be in constant contact regarding new offerings. Rest assured, we've got you covered!

AN ALTERNATE APPROACH

Open communication and mutual dialogue is key as it allows for the best solution to be presented on each project. Our ability to communicate alternative methods and options ensures that it best suits the needs of the City.

SAMPLE PROJECTS

LEGENDS

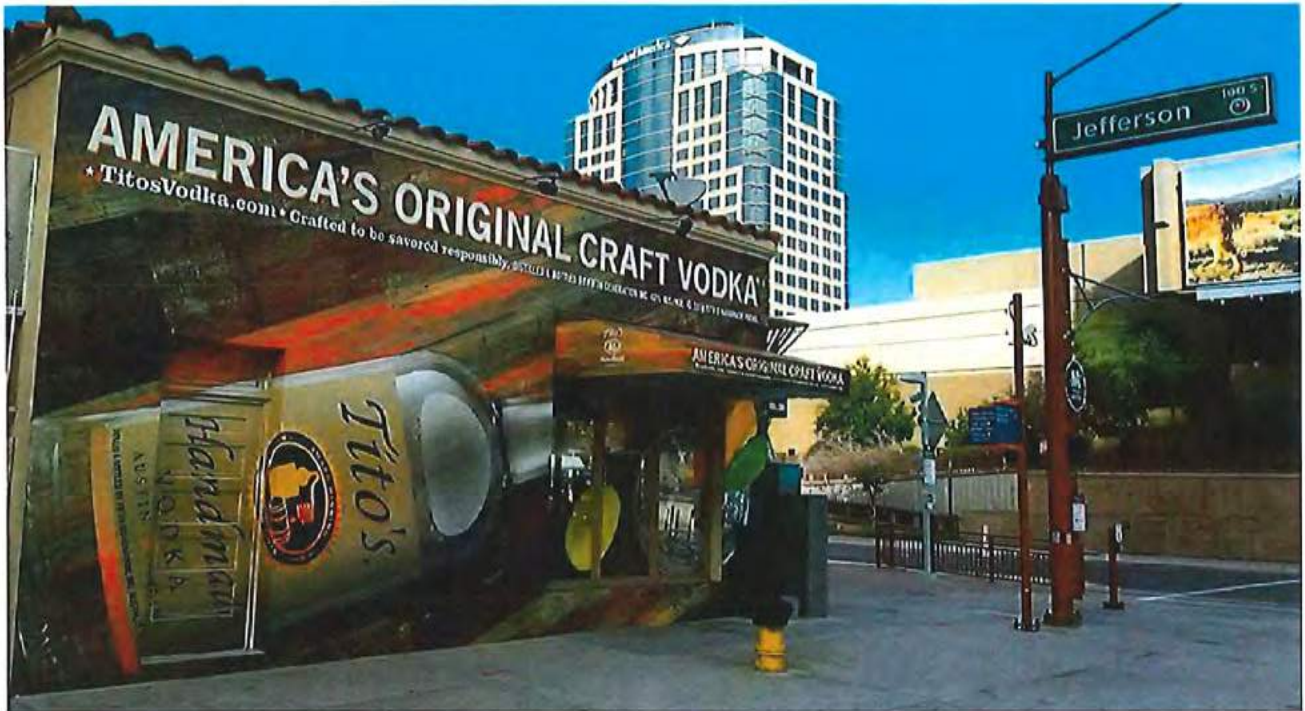
Client came to us as we have expertise in large pieces. We currently provide rough wall wrap material and large banners/frames throughout the downtown area for Legends.
(Installed 2015-present)



LEGENDS



LEGENDS



BLUE STEEL SECURITY

Rapidly expanding security firm that trusts us with installs of all of their vehicle graphics.
(Installed 2018/2019)

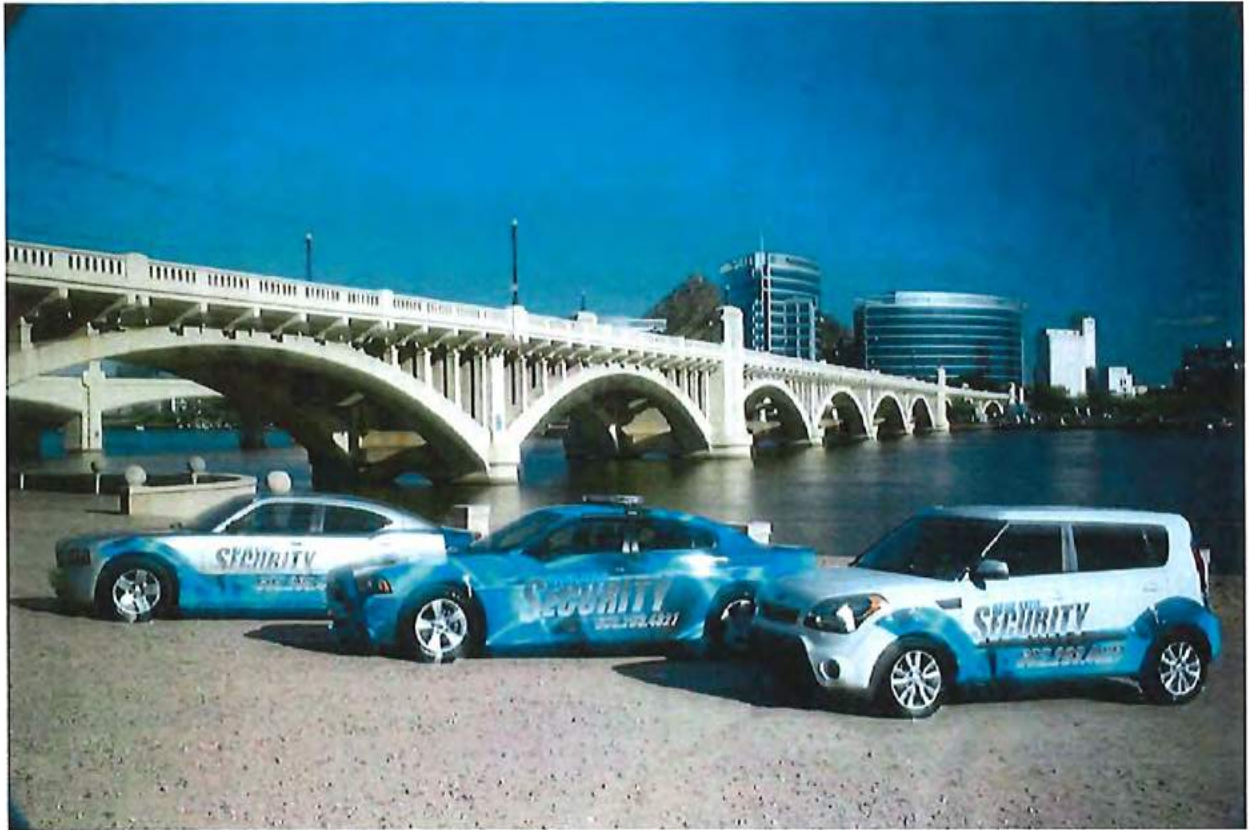
Before:



After:



BLUE STEEL SECURITY



BLUE STEEL SECURITY

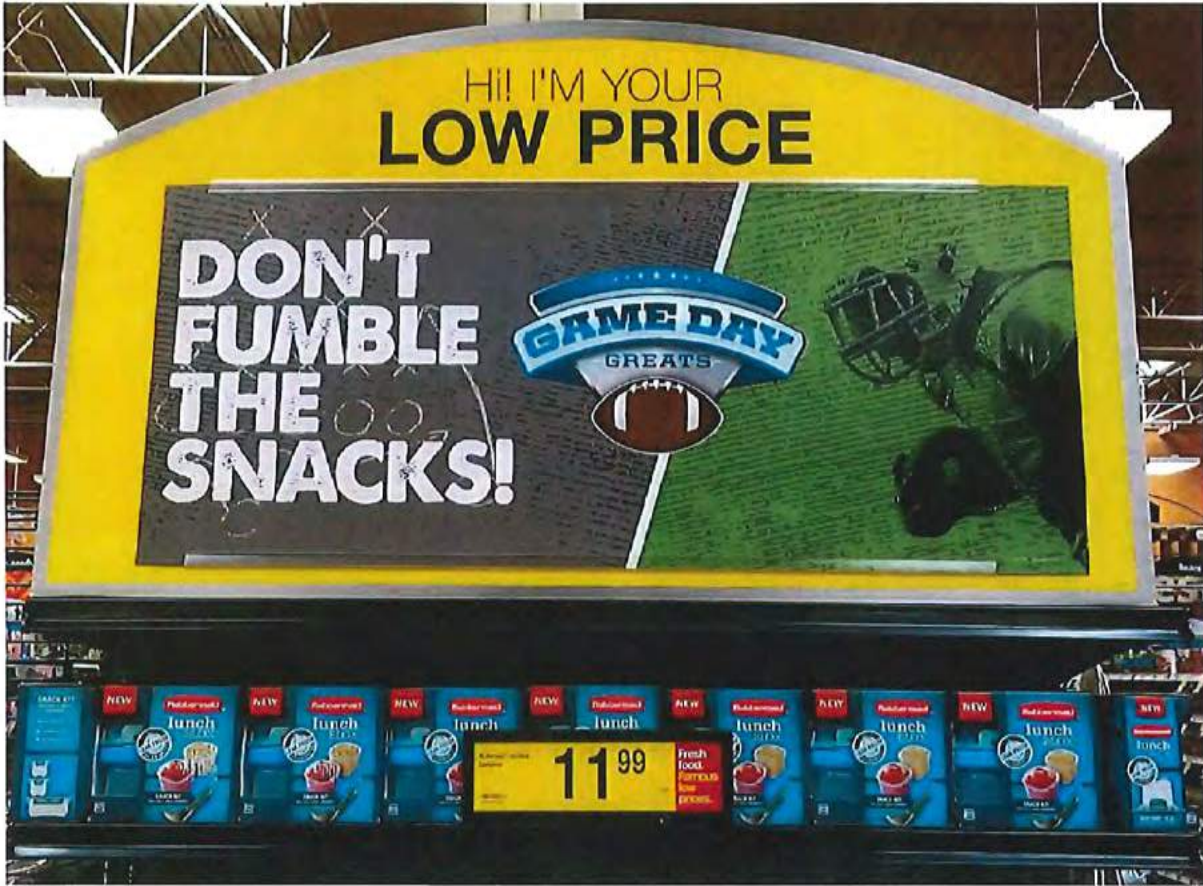


KROGER

Our service is unparalleled and has created expansion from serving the local Fry's stores to providing a wide array of large format printing services to divisions throughout the country. (Installed multiple locations (Nationwide) over the last several years)



KROGER



KROGER



SECTION A

PART IV. VENDOR INFORMATION FORM

By submitting a Proposal, the submitting Vendor certifies that it has reviewed the administrative information and draft of the Professional Services Agreement's terms and conditions and, if awarded the Agreement, agrees to be bound thereto.

AZPRO SIGNS, INC.
VENDOR SUBMITTING PROPOSAL

20-2969263
FEDERAL TAX ID NUMBER

SCOTT WELLMAN
PRINTED NAME AND TITLE


AUTHORIZED SIGNATURE

650 N. 99th AVE SUITE 101
ADDRESS

623-907-8438
TELEPHONE FAX #

AVONDALE AZ 85323
CITY STATE ZIP

6/7/2019
DATE

WEB SITE: AZPROGROUP.COM

E-MAIL ADDRESS: SWELLMAN@AZPROGROUP.COM

ARIZONA CORPORATION COMMISSION FILE NO. 12064598

SMALL, MINORITY, DISADVANTAGED AND WOMEN-OWNED BUSINESS ENTERPRISES (check appropriate item(s):

- ☐ Small Business Enterprise (SBE)
☐ Minority Business Enterprise (MBE)
☐ Disadvantaged Business Enterprise (DBE)
☐ Women-Owned Business Enterprise (WBE)

Has the Vendor been certified by any jurisdiction in Arizona as a minority or woman-owned business enterprise? NO

If yes, please provide details and documentation of the certification.



11465 W. Civic Center Drive, #270
Avondale, AZ 85323-6808

LICENSE NO: 13523

THIS NONTRANSFERABLE BUSINESS LICENSE IS ISSUED IN ACCORDANCE WITH THE CITY OF AVONDALE TAX CODE AND IS VALID ONLY WHILE OPERATING UNDER THE HEREIN SPECIFIED NAME AND LOCATION UNTIL EXPIRATION DATE. BUSINESS ACTIVITY MUST BE CONDUCTED IN COMPLIANCE WITH ALL BUILDING, FIRE AND ZONING CODES.

BUSINESS NAME: ARIZONA PRO SIGNS, INC.

EXPIRES: 12/31/19

BUSINESS LOCATION: 650 N 99th Ave #101, Avondale, AZ 85323

THIS LICENSE MUST BE DISPLAYED IN A CONSPICUOUS PLACE

ARIZONA PRO SIGNS, INC.
650 N 99TH AVE #101
AVONDALE AZ 85323

ISSUED BY:
LINDSEY DUNCAN
City of Avondale
11465 W CIVIC CENTER DR
AVONDALE AZ 85323-6803

REQUESTS FOR PROPOSALS

Large Format Printing Services CR 19-059

Addendum No. 1

Date: June 3, 2019

From: Ingrid Melle, Department Representative

Subject: Addendum No. 1 to Solicitation No. CR 19-059

Bid Deadline: June 10, 2019 (REVISED DATE), 3:00 p.m. (local time, Phoenix, Arizona)

SCOPE

This Addendum forms a part of the Contract and clarifies, corrects, or modifies the original Requests For Proposals document prepared by the City of Avondale. Acknowledge receipt of this Addendum in the space provided on the attached "Acknowledgment of Addenda Received" form; this acknowledgement must accompany the submitted proposal. Failure to do so shall subject the Proposer to disqualification.

This Addendum No. 1 consists of modifications to (i) the solicitation schedule and (ii) Exhibit C (Fee Proposal) items 28. AUTOMOTIVE WRAP, 29. AUTOMOTIVE WRAP REMOVAL and 30. ALL OTHER ADDITIONAL COSTS; as attached herein as Exhibit 1. to this this Addendum 1, for the Request for Proposals No. CR 19-059 released May 8, 2019,

ADDENDUM

1. The Final Date for Inquiries, Proposal Due Date and Time are deleted in their entirety and replaced with the following:

Final Date for Inquiries:	June 6, 2019
Proposal Due Date and Time:	June 10, 2019; 3:00 p.m.

2. Exhibit C. (Fee Proposal) is hereby deleted in its entirety and replaced with the Price Sheet attached hereto as Exhibit 1 and incorporated herein by reference.

**CITY OF AVONDALE
ACKNOWLEDGMENT OF ADDENDA RECEIVED
REQUESTS FOR PROPOSALS**

**Large Format Printing Services
CR 19-059**

Addendum No. 1

SCOTT WELLMAN / AZPRO GROUP, affirms that ADDENDUM No. 1 has been
(Name of Vendor/Designee)
received and that the information contained in ADDENDUM No. 1 has been incorporated in
formulating the Vendor's Proposal.

[REDACTED], JUNE 7, 2019
Signed Date

SCOTT WELLMAN
Print Name

CLIENT SERVICES DIRECTOR
Title

AZPRO
Company Name

650 N. 99TH AVE SUITE 101
Address

AVONDALE, AZ 85323
City, State, Zip Code

END OF ADDENDUM No. 1

You'll hear us say it time and time again; our relationship with you is just as important as getting the job done right. Our team is comprised of creative thinkers, consultants, ideators and problem solvers that are working together to drive results. Our team of goal-oriented experts is and has been committed for the past 15 years to making the process enjoyable and comfortable for our customers by welcoming them to the **azpro** family. Without our awesome team and clients, the number of high fives we give per day would be exponentially less!

THANK YOU FOR THIS OPPORTUNITY!



EXHIBIT B
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
AZPRO SIGNS, INC.

[Scope of Work]

See following page(s).

SCOPE OF WORK

Citywide Large Format Printing Services CR 19-059

General Requirements. Contractor shall be required to provide, at a minimum, the following services:

1.1 Printing a variety of large format printing products including but not limited to: banners, posters, decals, billboards, POP displays, tradeshow displays, signage, window clings, magnets, vehicle wraps and graphic installation in various settings and environments.

1.2 Contracted printing firm shall maintain a sample reference catalogue of the City's standard printed materials, electronically and as hard copy.

1.3 Orders will be placed by various City departments on an "as needed" basis. The City will not be obligated to any minimum or maximum quantities. The City requests that the supply be kept as close as possible to the quantities required, and will not be financially responsible for more than the required amount. The City has the right to increase or decrease the amount ordered prior to the final proof stage.

1.4 Contractor shall be responsible for providing all labor, equipment, material and consumables necessary for the production and installation (when needed) of printed materials. Contracted printing firm shall provide qualified support staff to assist in establishing requirements and problem resolution free of charge.

1.5 Product quality is to meet the highest industry standards in terms of readability, overall appearance, functionality and durability. Acceptable quality is solely determined by the individual City department.

1.6 Proofs will be required and are subject to City approval before completion of the project.

A. Corrections or product changes may be made up until the final stages of the production of materials. Unfortunately, these changes or corrections are often beyond the control of City staff. The City will endeavor to ensure that changes are kept to a minimum, and/or sufficient notice is given to the contractor when changes are necessary. These changes or corrections may include, but are not limited to: additional text, graphics or photographs, sizing or changes in materials.

B. New proofs shall be submitted to the City for final approval if corrections are required. New PDF files shall be supplied to the City project.

C. No claims for extra work shall be entertained, and any additional work on behalf of the contracted printing firm shall be authorized in writing prior to commencement of the work.

D. Should the contracted printing firm require more information or clarification on any project, it shall be obtained prior to the submission of the proposed proofs.

E. Any change in production that results in additional charges to the City shall be discussed and accompanied with an authorization in writing, signed by a duly authorized employee of the City of Avondale prior to the commencement of the change. No invoices for additional charges shall be accepted without written authorization.

1.7 Any designs provided by the City department for use in production of printed material involves property rights of the City and shall be held confidential by the Contractor(s).

1.8 Provide City Representative or designee with a PDF file of the final approved project as requested.

1.9 Contractor must work with the City Representative or designee.

1.10 All packages, boxes, and cartons shall be labeled as to contents, purchase order number, job order number and ordering department name. Packaging instructions shall be included with each order, and packages shall be signed for by duly authorized personnel of the City.

1.11 All work completed will be subject to inspection and approval by the ordering City department and the City reserves the right to reject and refuse acceptance of work, which is not in accordance with the instructions, specifications, drawings, data or quality standards of same. Rejected work shall be at the expense of the Contractor(s).

1.12 The City requires Contractor(s) to have the capability to receive and reproduce artwork via electronic files (email, internet or flash drive). The City generally uses Microsoft Office and Adobe Creative Suite products and Contractors shall be able to produce final products from all MS Office and Adobe file formats including: Acrobat, Photoshop, Illustrator and InDesign.

1.13 Delivery locations include, but are not limited to, any City of Avondale facility or business partner. The City shall designate the appropriate mail house or distributor at time of order. The following is a list of City facilities, which may be supplemented or amended:

Facility	Delivery Address	City, State, Zip Code
City Hall	11465 W. Civic Center Dr.	Avondale, AZ 85323
City Court	11325 W. Civic Center Dr.	Avondale, AZ 85323
Civic Center Library	11350 W. Civic Center Dr.	Avondale, AZ 85323
Neighborhood and Family Services Community/Senior Center	1007 S. 3rd Street	Avondale, AZ 85323
Police Department	11485 W. Civic Center Dr.	Avondale, AZ 85323

Public Works Department	399 E. Lower Buckeye Center	Avondale, AZ 85323
Municipal Operation Services Resource Center	328 W. Western Avenue	Avondale, AZ 85323
Sam Garcia Library	495 E. Western Avenue	Avondale, AZ 85323

The above is not an exhaustive list of printing project delivery locations required by the City. All delivery information shall be provided at the time of order and may vary by project.

1.14 If the contracted printing firm determines that it is unable to deliver the project on the date agreed upon at the time of the order, a designated member of the City staff shall be notified at least one week prior to the anticipated delivery date of the order.

1.15 Print services pricing must be all-inclusive. Pricing must include pick up, delivery, hourly installation fees, and rush charges, if applicable. If rush fees will be charged, the Contractor must specify in the Fee Proposal how the fees will be calculated.

1.16 Final payment shall not be authorized until all materials are received, inspected, and approved by the requesting City Department.

2. Printed Projects. The following specifications for each printed project are provided as a guide. The City reserves the right to change project specifications as needed to meet changing informational and artistic needs.

3. Product Ordering Tools and Guidance.

3.1 Contractor will create an order form for City standard items for efficient ordering, to include photos of standard items for reference.

3.2 Maintain City logo for quick and frequent re-orders.

3.3 Provide guidance and/or suggestions of the products and items that are generating customer loyalty at the lowest costs.

3.4 Provide information on availability of product options and selections that support sustainable amenity items which consist of:

- A. High post-consumer (PCW) recycled content material
- B. Readily recyclable items ("compostable" items do not count)
- C. Minimized and readily recyclable packing
- D. Nontoxic dyes or inks on Food/Liquid container items (e.g. water bottles) that does not contain Phthalates and/or Bisphenol A (BPA)

3.5 Provide suggestions for item designs using the Avondale brand and provide a visualization of product with logo including:

- A. Ability to change product and logo color options.
- B. Provide anticipated minimum quantity for purchases, as well as options for ordering processes.

5.0 General Pricing Requirements.

5.1 Unit Prices for the Core Listed Items shall be fixed for the initial one (1) year term of the resultant contract. No substitution will be allowed on Core List Items unless a letter

of notification is provided from the product Manufacturer. No price increases will be accepted without written request issued by Contractor accompanied with appropriate, acceptable substantiated written documentation and written acceptance and approval of price increase by City. Price increases requests (including notification of new prices) shall be submitted no less than 30-days in advance of the Contract Renewal Date. Price updates shall not be unreasonably withheld. Price reductions may be issued at any time. Any price adjustments shall be mutually agreed upon by City and Contractor. The Contractor shall be responsible for notifying cooperative use agencies utilizing the contract of any price increases approved by the City.

5.2 Price Warranty. Contractor shall give the City the benefit of any price reductions before actual time of shipment. If the City permits shipment to be made prior to specified shipping date, the City shall have advantage of any price reductions that occur before the originally-scheduled shipping date.

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REQUESTS FOR PROPOSALS

**Large Format Printing Services
CR 19-059**

Addendum No. 1

Date: June 3, 2019

From: Ingrid Melle, Department Representative

Subject: Addendum No. 1 to Solicitation No. CR 19-059

Bid Deadline: June 10, 2019 (REVISED DATE), 3:00 p.m. (local time, Phoenix, Arizona)

SCOPE

This Addendum forms a part of the Contract and clarifies, corrects, or modifies the original Requests For Proposals document prepared by the City of Avondale. Acknowledge receipt of this Addendum in the space provided on the attached "Acknowledgment of Addenda Received" form; this acknowledgement must accompany the submitted proposal. Failure to do so shall subject the Proposer to disqualification.

This Addendum No. 1 consists of modifications to (i) the solicitation schedule and (ii) Exhibit C (Fee Proposal) items 28. AUTOMOTIVE WRAP, 29. AUTOMOTIVE WRAP REMOVAL and 30. ALL OTHER ADDITIONAL COSTS; as attached herein as Exhibit 1. to this this Addendum 1, for the Request for Proposals No. CR 19-059 released May 8, 2019,

ADDENDUM

1. The Final Date for Inquiries, Proposal Due Date and Time are deleted in their entirety and replaced with the following:

Final Date for Inquiries:	June 6, 2019
Proposal Due Date and Time:	June 10, 2019; 3:00 p.m.

2. Exhibit C. (Fee Proposal) is hereby deleted in its entirety and replaced with the Price Sheet attached hereto as Exhibit 1 and incorporated herein by reference.

**CITY OF AVONDALE
ACKNOWLEDGMENT OF ADDENDA RECEIVED
REQUESTS FOR PROPOSALS**

**Large Format Printing Services
CR 19-059**

Addendum No. 1

_____, affirms that ADDENDUM No. 1 has been
(Name of Vendor/Designee)
received and that the information contained in ADDENDUM No. 1 has been incorporated in
formulating the Vendor's Proposal.

_____,
Signed Date _____ 2019

Print Name

Title

Company Name

Address

City, State, Zip Code

END OF ADDENDUM No. 1

EXHIBIT C
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
AZPRO SIGNS, INC.

[Fee Proposal]

See following page(s).

EXHIBIT 1
FEE PROPOSAL
Addendum 1

**Citywide Large Format Printing Services
CR 19-059
Fee Proposal**

NOTE: All pricing blanks must be filled in. Empty or unfilled spaces in the Price Sheet shall be considered as a NO BID entry for that item.

Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
1.	Sanitation Truck Signs: 94"w x 30"h, printed 4C process, one side on 4 mm white Coroplast	14 Each (Includes 5 different designs)	Each	\$	\$
2.	Street Banners: 30"w x 96"h, printed 4C process on 18 oz blackout vinyl, 2-sided (same art both sides), right-reading, top & bottom pole pockets, 2 grommets on left edge.	1 – 5 (of one art)	Each	\$	\$
		6-12 (of one art)	Each	\$	\$
3.	Outdoor Fence Banners: 96"w x 48"h, printed 4/0 on 13 oz Scrim Vinyl	1 to 5 (of one art)	Each	\$	\$
4.	Outdoor Fence Banners: 96"w x 48"h, printed 4/0 on 8 oz Mesh	1 to 5 (of one art)	Each	\$	\$
5.	Outdoor Float Banner: 150"w x 60"h, printed 4C process on 18 oz scrim, double-sided, grommets every 2 feet	1	Each	\$	\$
6.	Outdoor Float Banner: 150"w x 40"h, printed 4C process on 13 oz scrim, single-sided, with pole pocket at top	1	Each	\$	\$
7.	Dry Erase Wall Calendar: 48"w x 36"h, printed 4C process on low-tac adhesive (removable) dry erase vinyl	3 to 9 (of one art)	Each	\$	\$
8.	Zoom Bus Ads: 27.8125"w x 10.9375"h, prints 4/0 on 20 pt C1S Board	14 (sets of eight ads)	Each	\$	\$

Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
9.	Large Removable Window Clings: 12"w x 18"h, printed 4C process on 8 mil clear window vinyl (maybe interior or exterior mount)	1 to 5 (of the same art)	Each	\$	\$
10.	See-thru Window Graphics: 52"w x 37"h, printed 4C process on 6 mil see-thru (clear) vinyl	1 to 3 (all different art)	Each	\$	\$
11.	A-Frame Sign Inserts: 24"w x 36"h, printed 4/0 on 14 pt matte	2 to 8 (all different art)	Each	\$	\$
12.	Outdoor Stake Signs: 24"w x 36"h, printed 4/4 on 4 mm white Coroplast, horizontal flutes, H-stakes included	2 to 8 (of the same art)	Each	\$	\$
13.	Event Podium Sign: 18" x 18", printed 4/0 on 3/16 foam core	1	Each	\$	\$
14.	Banner Stands - Indoor Use: 33" x 80" Retractable banner with stand, prints 4/0 on 10 mil polypropylene	1	Each	\$	\$
15.	Banner Stands - Indoor Use: 47" x 80" Retractable banner with stand, prints 4/0 on 10 mil polypropylene	1	Each	\$	\$
16.	Banner Stand Inserts - Indoor Use: 36" x 84" prints 4C process banner only, matte 60 oz vinyl	1	Each	\$	\$
17.	Banner Stand Inserts - Indoor Use: 60" x 84" prints 4C process banner only, matte 60 oz vinyl	1	Each	\$	\$
18.	Tabletop Display - Indoor Use: 11"w x 17"t retractable with stand, prints 4/0 on 10 mil polypropylene	1	Each	\$	\$
19.	Table Covers: 132"w x 90"h, 4-sided closed back for 6ft table, prints 4/0 on 9 oz premium polyester, 1" hem on all sides	1	Each	\$	\$
20.	Large Posters: 22"w x 28"h, prints 4/0 on 8 mil gloss photo paper (or equivalent)	1	Each	\$	\$
		5	Each	\$	\$
21.	Pop-Up Canopy: 120" x 120", prints 4/0 on 11 oz outdoor fabric (sewn) with 10'x 10' aluminum frame	1	Each	\$	\$

Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
22.	Pole Flag: 48"w x 72"h prints 4/0 on 3 oz polyester, white grommet strip, one side, with pole and bracket	1 to 5 (of the same art)	Each	\$	\$
23.	Feather Flag: 32"w x 99"h prints 4/0 on 3 oz polyester, white grommet strip, one side, with pole and bracket		Each	\$	\$
24.	Floor Decals: 22" x 28"h prints 4/0 on 4 mil flexible vinyl, gloss lamination		Each	\$	\$
25.	Wall Decals: 24"w x 36"h prints 4/0 on kiss-cut low-tac adhesive (removable) vinyl		Each	\$	\$
26.	Vehicle Magnets: 24"w x 12"h prints 4/0 on 30 mil magnet with UV coating		Each	\$	\$
27.	Automotive Decal: 4" x 4" Outdoor Adhesive Vinyl, 2 color		Each	\$	\$
28.	AUTOMOTIVE WRAP: FULL COLOR, OTHER SPECIFICATIONS WILL VARY BY VEHICLE TYPE. MUST INCLUDE 5-YEAR WARRANTY. 3M PRODUCTS OR APPROVED EQUAL. PRICING SHALL INCLUDE INSTALLATION COSTS.		SQ- FT	\$	\$
29.	AUTOMOTIVE WRAP REMOVAL SERVICES (CONTRACTOR MUST SPECIFY COST FOR REMOVAL OF OLD WRAPS)		SQ- FT	\$	\$
30.	ALL OTHER COSTS FOR ASSEMBLY OR INSTALLATION SERVICES (CONTRACTOR MUST SPECIFY ANY ADDITIONAL COSTS NOT LISTED HEREIN.)			\$	\$

Company Name: _____ Date: _____

Authorized Signature: _____

EXHIBIT 1
FEE PROPOSAL
Addendum 1

Citywide Large Format Printing Services
CR 19-059
Fee Proposal

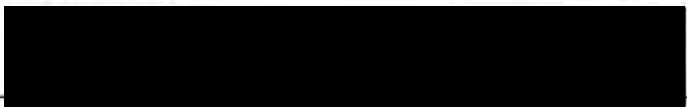
NOTE: All pricing blanks must be filled in. Empty or unfilled spaces in the Price Sheet shall be considered as a NO BID entry for that item.

Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
1.	Sanitation Truck Signs: 94"w x 30"h, printed 4C process, one side on 4 mm white Coroplast	14 Each (Includes 5 different designs)	Each	\$ 35	\$
2.	Street Banners: 30"w x 96"h, printed 4C process on 18 oz blackout vinyl, 2-sided (same art both sides), right-reading, top & bottom pole pockets, 2 grommets on left edge.	1 – 5 (of one art)	Each	\$ 96	\$
		6-12 (of one art)	Each	\$ 78	\$
3.	Outdoor Fence Banners: 96"w x 48"h, printed 4/0 on 13 oz Scrim Vinyl	1 to 5 (of one art)	Each	\$ 128	\$
4.	Outdoor Fence Banners: 96"w x 48"h, printed 4/0 on 8 oz Mesh	1 to 5 (of one art)	Each	\$ 128	\$
5.	Outdoor Float Banner: 150"w x 60"h, printed 4C process on 18 oz scrim, double-sided, grommets every 2 feet	1	Each	\$ 249	\$
6.	Outdoor Float Banner: 150"w x 40"h, printed 4C process on 13 oz scrim, single-sided, with pole pocket at top	1	Each	\$ 249	\$
7.	Dry Erase Wall Calendar: 48"w x 36"h, printed 4C process on low-tac adhesive (removable) dry erase vinyl	3 to 9 (of one art)	Each	\$ 182	\$
8.	Zoom Bus Ads: 27.8125"w x 10.9375"h, prints 4/0 on 20 pt CIS Board	14 (sets of eight ads)	Each	\$ 3.85/EA \$ BASED ON SET OF 8	\$

Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
9.	Large Removable Window Clings: 12"w x 18"h, printed 4C process on 8 mil clear window vinyl (maybe interior or exterior mount)	1 to 5 (of the same art)	Each	\$ 40	\$
10.	See-thru Window Graphics: 52"w x 37"h, printed 4C process on 6 mil see-thru (clear) vinyl	1 to 3 (all different art)	Each	\$ 50	\$
11.	A-Frame Sign Inserts: 24"w x 36"h, printed 4/0 on 14 pt matte	2 to 8 (all different art)	Each	\$ 30	\$
12.	Outdoor Stake Signs: 24"w x 36"h, printed 4/4 on 4 mm white Coroplast, horizontal flutes, H-stakes included	2 to 8 (of the same art)	Each	\$ 24	\$
13.	Event Podium Sign: 18" x 18", printed 4/0 on 3/16 foam core	1	Each	\$ 32	\$
14.	Banner Stands - Indoor Use: 33" x 80" Retractable banner with stand, prints 4/0 on 10 mil polypropylene	1	Each	\$ NO BID	\$
15.	Banner Stands - Indoor Use: 47" x 80" Retractable banner with stand, prints 4/0 on 10 mil polypropylene	1	Each	\$ NO BID	\$
16.	Banner Stand Inserts - Indoor Use: 36" x 84" prints 4C process banner only, matte 60 oz vinyl	1	Each	\$ 122	\$
17.	Banner Stand Inserts - Indoor Use: 60" x 84" prints 4C process banner only, matte 60 oz vinyl	1	Each	\$ 146	\$
18.	Tabletop Display - Indoor Use: 11"w x 17"h retractable with stand, prints 4/0 on 10 mil polypropylene	1	Each	\$ NO BID	\$
19.	Table Covers: 132"w x 90"h, 4-sided closed back for 6ft table, prints 4/0 on 9 oz premium polyester, 1" hem on all sides	1	Each	\$ NO BID	\$
20.	Large Posters: 22"w x 28"h, prints 4/0 on 8 mil gloss photo paper (or equivalent)	1	Each	\$ 50	\$
		5	Each	\$ 28	\$
21.	Pop-Up Canopy: 120" x 120", prints 4/0 on 11 oz outdoor fabric (sewn) with 10'x 10' aluminum frame	1	Each	\$ NO BID	\$

Item	Description	Quantity	Unit	Unit Price (to include tax)	Extended Price
22.	Pole Flag: 48"w x 72"h prints 4/0 on 3 oz polyester, white grommet strip, one side, with pole and bracket	1 to 5 (of the same art)	Each	\$ NO BID	\$
23.	Feather Flag: 32"w x 99"h prints 4/0 on 3 oz polyester, white grommet strip, one side, with pole and bracket		Each	\$ NO BID	\$
24.	Floor Decals: 22" x 28"h prints 4/0 on 4 mil flexible vinyl, gloss lamination		Each	\$ 52	\$
25.	Wall Decals: 24"w x 36"h prints 4/0 on kiss-cut low-tac adhesive (removable) vinyl		Each	\$ 46	\$
26.	Vehicle Magnets: 24"w x 12"h prints 4/0 on 30 mil magnet with UV coating		Each	\$ 42	\$
27.	Automotive Decal: 4" x 4" Outdoor Adhesive Vinyl, 2 color		Each	\$ 15	\$
28.	AUTOMOTIVE WRAP: FULL COLOR, OTHER SPECIFICATIONS WILL VARY BY VEHICLE TYPE. MUST INCLUDE 5-YEAR WARRANTY. 3M PRODUCTS OR APPROVED EQUAL. PRICING SHALL INCLUDE INSTALLATION COSTS.		SQ- FT	\$ 8.50	\$
29.	AUTOMOTIVE WRAP REMOVAL SERVICES (CONTRACTOR MUST SPECIFY COST FOR REMOVAL OF OLD WRAPS)	*REMOVAL AVAILABLE @ INSTALLATION RATE AND BILLED @ HOURLY RATE	SQ- FT	\$ 85/HR	\$
30.	ALL OTHER COSTS FOR ASSEMBLY OR INSTALLATION SERVICES (CONTRACTOR MUST SPECIFY ANY ADDITIONAL COSTS NOT LISTED HEREIN.)	INSTALLATION	HOURLY	\$ 85	\$

Company Name: AZ PRO SIGNS Date: 6/6/19

Authorized Signature: 



CITY COUNCIL REPORT

SUBJECT: First Amendment to Professional Services Agreement with Dibble & Associates for the Large Diameter Sewer Design

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Cindy Blackmore, Public Works Director, (623) 333-4410

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

PURPOSE:

City Council will consider a request to approve a First Amendment to the Professional Service Agreement with Dibble & Associates Consulting Engineers, Inc. for additional design services related to the 4th Street Sewer System Repair project increasing compensation by \$5,639 for a contract total of \$55,093 and authorize the Mayor, or City Manager and City Clerk to execute the contract documents. The Council will take appropriate action.

BACKGROUND:

Avondale has approximately 38.7 miles of lines greater than 15-inches in diameter in the wastewater collection system. The City lacks the internal resources to inspect and repair these large lines. The 4th Street Lift Station, located at the Municipal Operations Service Center (MOSC) on 399 E Lower Buckeye Road, is one of the City's largest lift stations and serves much of west Avondale. (See attached Vicinity Map.) The condition assessment and rehabilitation design of the sanitary sewer pipes and access manholes immediately upstream 4th Street Lift Station is a priority in the 2018-2019 Capital Improvement Plan as part of the Large Diameter Sewer Line Repair Program.

On June 27, 2018 Dibble and Associates Consulting Engineers, Inc. (Dibble) provided a statement of qualifications in response to the City's solicitation EN 18-111 and was selected for placement on the FY 2018-2019 Professional Consultants Selection (on-call) List. After review of the solicitations, the consultant was selected off the on-call list and was chosen as the most qualified to do the work. On March 21, 2019, the City entered into a Professional Services Agreement with Dibble in the amount of \$49,454 to provide a CCTV review, assessment and rehabilitation design along with construction phase services for sanitary sewer pipes and access manholes immediately upstream of the 4th Street Lift Station.

DISCUSSION:

When the assessment portion of the contract was completed, it was discovered that much of the 4th Street Lift Station sewer line infrastructure did not match the as-built drawings. As a result, more of the system needs to be replaced than originally anticipated and subsequently will require additional design services than included in the original scope of work.

Under the scope of work in this first amendment, Dibble will provide the following services for the additional infrastructure:

- Topographical survey and base mapping,
- Sewer system analysis and reconfiguration.

The fee for Amendment No. 1 is \$5,639, making the total contract for the design services and providing design reviews and assistance during construction of \$55,093. The design phase of the project is expected to be completed in November 2019.

BUDGET IMPACT:

Funding for this project was approved by Council in the current Capital Improvement Plan in line item 513-1356-00-8620, Large Diameter Sewer Repair.

RECOMMENDATION:

Staff recommends that the City Council approve a First Amendment to the Professional Service Agreement with Dibble & Associates Consulting Engineers, Inc. for additional design services related to the 4th Street Sewer System Repair project increasing compensation by \$5,639 for a contract total of \$55,093 and authorize the Mayor, or City Manager and City Clerk to execute the contract documents.

**FIRST AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
DIBBLE & ASSOCIATES CONSULTING ENGINEERS, INC.**

THIS FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (this "First Amendment") is entered into as of July 22, 2019, between the City of Avondale, an Arizona municipal corporation (the "City"), and Dibble & Associates Consulting Engineers, Inc., a(n) Arizona corporation (the "Consultant").

RECITALS

A. The City and the Consultant entered into Professional Services Agreement No. 19-056C, dated March 21, 2019, for Consultant to provide a CCTV review, assessment and rehabilitation design along with construction phase services for sanitary sewer pipes and access manholes immediately upstream of the 4th Street Lift Station (the "Agreement"). All capitalized terms not otherwise defined in this First Amendment have the same meanings as set forth in the Agreement.

B. The City has determined that additional Services by the Consultant are necessary (the "Additional Services").

C. The City and the Consultant desire to enter into this First Amendment to (i) extend the term of the Agreement, (ii) modify the scope of work to include the Additional Services and (iii) provide for the increase in compensation to the Consultant for the Additional Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and 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 City and the Consultant hereby agree as follows:

1. Term of Agreement. The term of the Agreement is hereby extended and shall remain in full force and effect until March 20, 2020 unless terminated as otherwise provided pursuant to the terms and conditions of the Agreement.

2. Scope of Work. Consultant shall provide the Additional Services as set forth in the Additional Scope of Work, attached hereto as Exhibit 1 and incorporated herein by reference.

3. Compensation. The City shall increase the compensation to Consultant by \$5,639.00 for the Additional Services, resulting in an increase of the aggregate not-to-exceed compensation from \$49,454.00 to \$55,093.00.

4. Effect of Amendment. The Agreement is affirmed and ratified and, except as expressly modified herein, all terms and conditions of the Agreement shall remain in full force and effect.

5. Non-Default. By executing this First Amendment, the Consultant affirmatively asserts that (i) the City is not currently in default, nor has been in default at any time prior to this First Amendment, under any of the terms or conditions of the Agreement and (ii) any and all Consultant claims, known and unknown, relating to the Agreement and existing on or before the date of this First Amendment are forever waived.

6. Conflict of Interest. This First Amendment and the Agreement may be canceled by the City pursuant to ARIZ. REV. STAT. § 38-511.

[SIGNATURES ON FOLLOWING PAGES]

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

“City”

CITY OF AVONDALE,
an Arizona municipal corporation

Charles A. Montoya, City Manager

ATTEST:

Marcella Carrillo, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2019, 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

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

"Consultant"

DIBBLE & ASSOCIATES CONSULTING ENGINEERS, INC.
a(n) Arizona corporation

By: _____

Name: JOSEPH GRAHAM

Title: VICE PRESIDENT

(ACKNOWLEDGMENT)

STATE OF Arizona)
) ss.
COUNTY OF Maricopa

On July 9, 2019, before me personally appeared Joseph Graham, the Vice President of DIBBLE & ASSOCIATES CONSULTING ENGINEERS, INC., a(n) Arizona corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the Consultant.



Notary Public

(Affix notary seal here)

EXHIBIT 1
TO
FIRST AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
DIBBLE & ASSOCIATES CONSULTING ENGINEERS, INC.

[Amended Scope of Work and Fee Proposal]

See following page(s).

**City of Avondale
4th Street Lift Station
Sewer Assessment, Design and Construction Administration 2019**

**ADDITIONAL SERVICES #1
SCOPE OF WORK**

ORIGINAL PROJECT DESCRIPTION

The City of Avondale (City) is requesting a CCTV review, assessment and rehabilitation design along with construction phase services for sanitary sewer pipes and access manholes immediately upstream of the 4th Street Lift Station. The City provided list of pipes to be assessed is outlined in the following Table.

PIPE ID	US MH	DS MH	Dia (in)	Material	Length (ft)
SS22132009	MH22134005	MH22132007	15"	VCP/CIPP	41.4'
SS22132012	MH22132007	MH22132006	15"	PVC	69.3'
SS22132010	MH22132006	Transition	18"	PVC	5.4'
SS22132001	MH21134004	MH22132004	15"	T-Lock	67.4'
Unknown	90° bend	MH22132005	30"	T-Lock	64.2
SS22132002	MH22132005	MH22132003	30"	T-Lock	7.5'
SS22132014	MH22132003	MH22132009	30"	T-Lock	63.1'
Unknown	MH22132009	Wet Well	30"	T-Lock	Unknown

The City will provide CCTV videos for the condition assessment.

Dibble will provide a brief condition assessment memorandum summarizing the existing conditions, observed defects, and description of recommended repairs. Dibble will also prepare design and construction documents to implement the recommended repairs and other improvements to the system. Dibble will utilize the City provided GIS geodatabase to coordinate the assessment data modified to depict the sewer investigation and condition assessment findings.

ADDITIONAL PROJECT TASKS

Assessment and Design services to be undertaken during evaluation are described as follows:

Task 105 Topographical Survey & Base Mapping: Dibble will perform a topographic survey to establish horizontal and vertical control. Project control will be provided using NAD83, International Feet (projected to ground coordinates) for horizontal datum, and NAVD88 for vertical datum. No new permanent control will be established with this project.

The survey will include horizontal and vertical locations, elevations and inverts of sewer manholes, the on-site location of the forcemain markers, and the location and elevation of the site screen wall. All topographic features will be located with an accuracy of 0.05' (±), with a confidence rating of 95%.

A base map shall be drawn in AutoCad Civil 3D 2017 showing all visible existing features and utilities based on field observations and available record data.

Task 320 Sewer System Analysis and Reconfiguration: Dibble will analyze the existing sewer flow conditions to determine velocities and required pipe sizes based on flow data included in the 2018 Integrated Utility Master Plan. Dibble will also identify geometric reconfigurations of the existing sewer and prepare options for consideration by the City. Options will include alternative sewer alignments and manhole locations that may require new construction, as well as rehabilitation of the existing sewer pipes and/or manholes.

Sewer Assessment, Design and Construction Administration

SUMMARY OF WORK

Dibble Engineering Staff Hours By Task

Task	Description	Sr Project Mgr	Land Surveyor Manager	Project Manager (PE)	Assistant Engineer (EIT)	Technician	Survey Crew	Const. Inspector	Admin Asst	Total
Phase 1 - Condition Assessment and Design										
105	Topographic Survey and Base Mapping		5				6			11
110	Project Management									
120	Meetings									
205	Data Research and Collection									
210	NASSCO PACP Condition Assessment									
220	NASSCO MACP Condition Assessment									
310	Condition Assessment Memorandum									
320	Sewer System Analysis and Reconfiguration			8	12	4				24
410	Design Drawings									
430	MCESD Permit									
	Sub-Total			8	12	4				35

Task	Description	Sr Project Mgr	QA/QC Mgr	Project Manager (PE)	Assistant Engineer (EIT)	Technician	GIS Specialist	Const. Inspector	Admin Asst	Total
Phase 2 - Construction Administration and Inspection										
210	Representation on Behalf of the City									
220	Administer the Construction Schedule									
230	Review Contractor's Submittals and Test Results									
240	Issue Interpretations and Clarifications									
250	Certify Contractor Progress Payments									
260	Substantial and Final Completion Inspection									
320	Minor Changes, Change Order Requests, and Change Orders									
340	Record Drawings and Project Documents									
410	Field Administration									
420	On-Site Inspection and Review of Work									
430	Review Pre- and Post-Rehabilitation CCTV Videos									
430	Punch List Review / Project Completion									
	Sub-Total									

City of Avondale
4th St Lift Station
Sewer Assessment, Design and Construction Administration

Additional Services #1

DETAILED STAFF HOUR MATRIX

Dibble Engineering Labor Fee By Task

		Personnel Rates (Incl. O.&P.)									
Task	Description	Sr Project Mgr	Land Surveyor Manager	Project Manager (PE)	Assistant Engineer (EIT)	Technician	Survey Crew	Const. Inspector	Admin Asst	Total	
105	Phase 1 - Condition Assessment and Design	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
110	Topographic Survey and Base Mapping	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
120	Project Management	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
205	Meetings	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
210	Data Research and Collection	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
220	NASSCO PACP Condition Assessment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
310	NASSCO MACP Condition Assessment	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
320	Condition Assessment Memorandum	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
410	Sewer System Analysis and Reconfiguration	\$ -	\$ -	\$ 1,344.00	\$ 1,608.00	\$ 452.00	\$ -	\$ -	\$ -	\$ 3,604.00	
420	Design Drawings	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
420	MCESD Permit	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Sub-Total		\$ -	\$ -	\$ 1,544.00	\$ 1,608.00	\$ 452.00	\$ -	\$ -	\$ -	\$ 5,639.00	

Task	Description	Sr Project Mgr	QA/QC Mgr	Project Manager (PE)	Assistant Engineer (EIT)	Technician	GIS Specialist	Const. Inspector	Admin Asst	Total
210	Phase 2 - Construction Administration and Inspection	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
220	Representation on Behalf of the City	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
230	Administer the Construction Schedule	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
240	Review Contractor's Submittals and Test Results	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
250	Issue Interpretations and Clarifications	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
260	Certify Contractor Progress Payments	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
320	Substantial and Final Completion Inspection	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
340	Minor Changes, Change Order Requests, and Change Orders	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
410	Record Drawings and Project Documents	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
420	Field Administration	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
430	On-Site Inspection and Review of Work	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
450	Review Pre- and Post-Rehabilitation CCTV Videos	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
450	Punch List Review / Project Completion	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Sub-Total		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

REIMBURSABLE EXPENSES AND ALLOWANCES

Task	Unit	Cost/Unit	No. of Units
Task 940.01 - Direct Costs	ALLOWANCE		
Task 940.02 - MCESD Permit Fees	ALLOWANCE		
Sub-total =		\$	\$

Fee Summary

Phase	Total
1 Phase 1 - Condition Assessment and Design	5,639.00
2 Phase 2 - Construction Administration and Inspection	5,639.00
Sub - Total	
REIMBURSABLE EXPENSES AND ALLOWANCES	
TOTAL 5,639.00	





CITY COUNCIL REPORT

SUBJECT: First Amendment to the Professional Services Agreement with CapitalEdge
Advocacy for Federal Advocacy Services

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Jessica Blazina, Intergovernmental Affairs Administrator, (623) 333-1612

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

PURPOSE:

City Council will consider a request to approve Contract Amendment No. 1 to the Professional Services Agreement with CapitalEdge Consulting for federal advocacy and information services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

CapitalEdge Consulting has been providing federal advocacy services to the City of Avondale since 2009. In 2015, the City issued a request for proposals and CapitalEdge was again successful through the bidding process, at the same rate provided since 2009.

DISCUSSION:

CapitalEdge Consulting has provided federal advocacy services to the City of Avondale since 2009 at the same cost rate. CapitalEdge is becoming more involved at the federal such as meeting the City's growing infrastructure needs, protecting the federal social safety net, preventing federal preemption of local authority, implementation of the federal Opportunity Zones program, and interactions with federal agencies that have jurisdiction over lands in the Valley. Due to the added value and services provided by CapitalEdge Consulting, it is necessary to increase the fee structure at this time.

BUDGET IMPACT:

The budgetary impact is increasing the Professional Services Agreement from the amount of \$69,000 annually to \$78,000 annually. Funding is available in account 101-5130-00-6180.

RECOMMENDATION:

Staff recommends that the City Council approve Contract Amendment No. 1 to the Professional Services Agreement with CapitalEdge Consulting from the amount of \$69,000 annually to \$78,000 annually.

**FIRST AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
CAPITAL EDGE ADVOCACY, INC.**

THIS FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT No. 14131C (this "First Amendment") is entered into as of July 22, 2019, between the City of Avondale, an Arizona municipal corporation (the "City"), and Capital Edge Advocacy, Inc., a Washington, D.C. corporation (the "Consultant").

RECITALS

A. The City and the Consultant entered into Professional Services Agreement No. 14131C, dated July 20, 2015, for Consultant to provide federal governmental relations and information consulting services (the "Agreement"). All capitalized terms not otherwise defined in this First Amendment have the same meanings as set forth in the Agreement.

B. The City and the Consultant desire to enter into this First Amendment to (i) extend the term of the Agreement, and (ii) provide for the increase in compensation to the Consultant for the Additional Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and 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 City and the Consultant hereby agree as follows:

1. Term of Agreement. The term of the Agreement is hereby extended and shall remain in full force and effect until July 19, 2020, unless terminated as otherwise provided pursuant to the terms and conditions of the Agreement.

2. Compensation. The City shall increase the compensation to Consultant by \$750.00 per month for the monthly retainer fee, resulting in an increase of the annual not-to-exceed compensation from \$69,000.00 to \$78,000.00.

3. Effect of Amendment. The Agreement is affirmed and ratified and, except as expressly modified herein, all terms and conditions of the Agreement shall remain in full force and effect.

4. Non-Default. By executing this First Amendment, the Consultant affirmatively asserts that (i) the City is not currently in default, nor has been in default at any time prior to this First Amendment, under any of the terms or conditions of the Agreement and (ii) any and all

Consultant claims, known and unknown, relating to the Agreement and existing on or before the date of this First Amendment are forever waived.

5. Israel. Consultant certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

6. Conflict of Interest. This First Amendment and the Agreement may be canceled by the City pursuant to ARIZ. REV. STAT. § 38-511.

[SIGNATURES ON FOLLOWING PAGES]

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

“City”

CITY OF AVONDALE,
an Arizona municipal corporation

Charles A. Montoya, City Manager

ATTEST:

Marcella Carrillo, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2019, 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

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

"Consultant"

CAPITAL EDGE ADVOCACY, INC.

a(n) _____

By: _____

Name: _____

Christopher F. Giglio

Title: _____

President

(ACKNOWLEDGMENT)

STATE OF _____

Virginia

) ss.

COUNTY OF _____

Arlington

On July 9th, 2019, before me personally appeared Christopher F. Giglio, the President of CAPITAL EDGE ADVOCACY, INC., a Washington, D.C. corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of Capital Edge Advocacy, Inc.

Notary Pub _____

(Affix notary seal here)



EXHIBIT 1
TO
FIRST AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
CAPITAL EDGE ADVOCACY, INC.

[Fee Proposal Letter]

See following page(s).



May 13, 2019

Mr. Charles A. Montoya
City Manager
11465 W. Civic Center Drive
Avondale, AZ 85323

Dear Charles,

Per our conversation last week, I wanted to ask for your consideration for a change in our annual compensation to provide the City with federal advocacy and information services. CapitalEdge has been serving the City of Avondale since 2009, and having been cognizant of budget limitations, never sought an increase during that time.

As the City embarks on high profile projects and initiatives in the next few years that are likely to raise Avondale's profile on the regional and national levels, we thought it was an appropriate time to seek an increase.

We would expect the City to be intimately involved in matters such as meeting the City's growing infrastructure needs, protecting the federal social safety net, preventing federal preemption of local authority, implementation of the federal Opportunity Zones program, and interactions with the scores of federal agencies that have jurisdiction over lands in the Valley, to name a few.

We would propose increasing our monthly retainer from the current \$5,750 (\$69,000 annually) to \$6,500 (\$78,000 annually) if that would be in line with your budget.

We look forward to continuing to serve the City of Avondale in Washington, DC and would be pleased to speak with you further, or provide additional information, at your convenience with regard to our services.

Sincerely,

Christopher F. Giglio

cc: Ms. Jessica Blazina, Intergovernmental Affairs Administrator

1212 New York Ave., NW Suite 250
Washington, DC 20005
202.842.4930
202.842.5051 fax
www.capitaledge.com

CITY COUNCIL REPORT

SUBJECT: Campos Minor Land Division (Application PL-19-0060)

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Tracy Stevens, Development and Engineering Services Director

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

PURPOSE:

City Council will consider a request by Dejan Knezevic, Miller Land Surveying, for approval of a Minor Land Division. The site is located at the southwest corner of Elwood Street and 127th Avenue, which is north of Broadway Road and west of El Mirage Road. (Exhibits A, B, C). The proposed Minor Land Division will divide an existing 0.43-acre parcel into two (2) lots, dedicate eight (8) foot Public Utility Easements (PUEs), and 40 feet of right-of-way along Elwood Street and 127th Avenue. The Council will take appropriate action.

BACKGROUND:

The subject property was annexed into the City of Avondale corporate limits in 1990. The property is zoned R1-6 (Urban Residential), Exhibit B, which allows for single-family home development.

The property is designated as Medium Density Residential by the General Plan 2030 Land Use Map (Exhibit C). This designation provides for a suburban lifestyle with planned, detached single-family residential communities with larger setbacks and neighborhood facilities.

The subject property has frontage on two (2) streets; Elwood Street to the north and 127th Avenue to the east. The property is surrounded by the following uses and zoning:

- North: Single-family residence zoned R1-6
- East: Single-family residence zoned R1-6
- South: Vacant land zoned R1-6
- West: Single-family residence zoned R1-6

SUMMARY OF REQUEST:

The applicant is requesting approval of a Minor Land Division (Exhibit D). The proposed Minor Land Division divides an existing 0.43-acre parcel into two (2) individual lots as follows:

- Lot 1: Approximately 8,127 square feet with 65.01' of frontage on Elwood Street and 125.03' in length
- Lot 2: Approximately 10,627 square feet with 85.02' of frontage on Elwood Street and 125.03' of

frontage on 127th Avenue

The proposed Minor Land Division dedicates 40 feet of right-of-way adjacent to Elwood Street and 127th Avenue to meet the City's half-street right-of-way standards for minor collector streets. It also dedicates eight (8) foot PUEs adjacent to Elwood Street and 127th Avenue to accommodate future utilities.

PUBLIC PARTICIPATION:

Public notification is not required for Minor Land Division applications.

PLANNING COMMISSION ACTION:

The Planning Commission does not review Minor Land Division applications.

ANALYSIS:

- The proposed Minor Land Division 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 Minor Land Division is in conformance with the City of Avondale Zoning Ordinance and Subdivision Regulations.
- Approval of the proposed Minor Land Division will dedicate right-of-way and easements necessary to serve the future development of the property.

DISCUSSION:

1. The proposed Minor Land Division is in conformance with the City of Avondale Zoning Ordinance and Subdivision Regulations.
2. The conditions of approval are reasonable to ensure conformance with the provisions as outlined in the Avondale Zoning Ordinance and all other applicable City codes, ordinances, and policies.

STRATEGIC PLAN:

INITIATIVE: Foster sustainable community development.

- STRATEGIC GOAL: Encourage build-out in residential housing opportunities that support diverse housing options.

BUDGET IMPACT:

No budget impacts.

RECOMMENDATION:

Staff recommends that City Council **APPROVE** application PL-19-0060.

PROPOSED MOTION:

Staff recommends that City Council **APPROVE** application PL-19-0060.

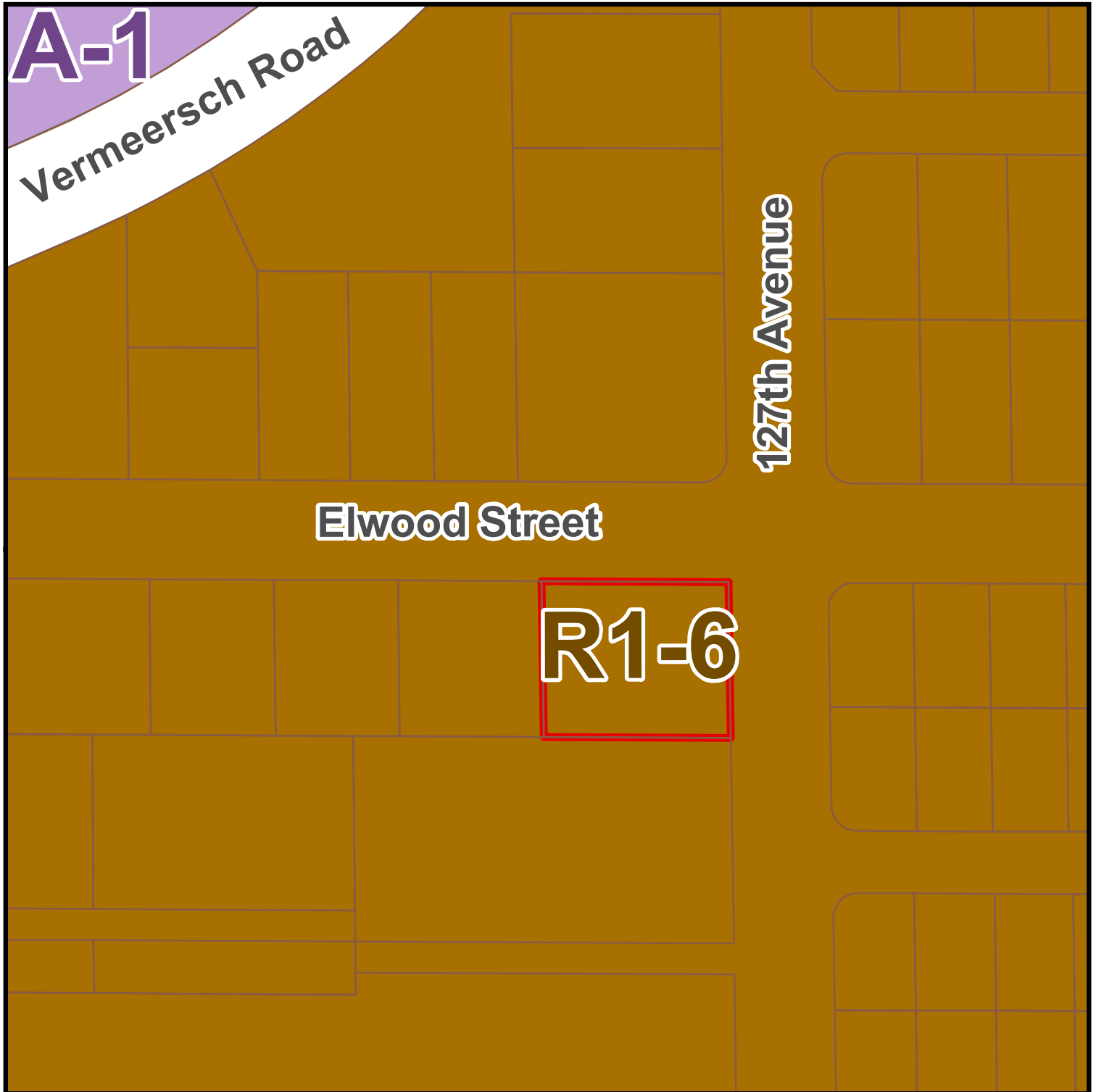


Aerial Photograph



Project Location



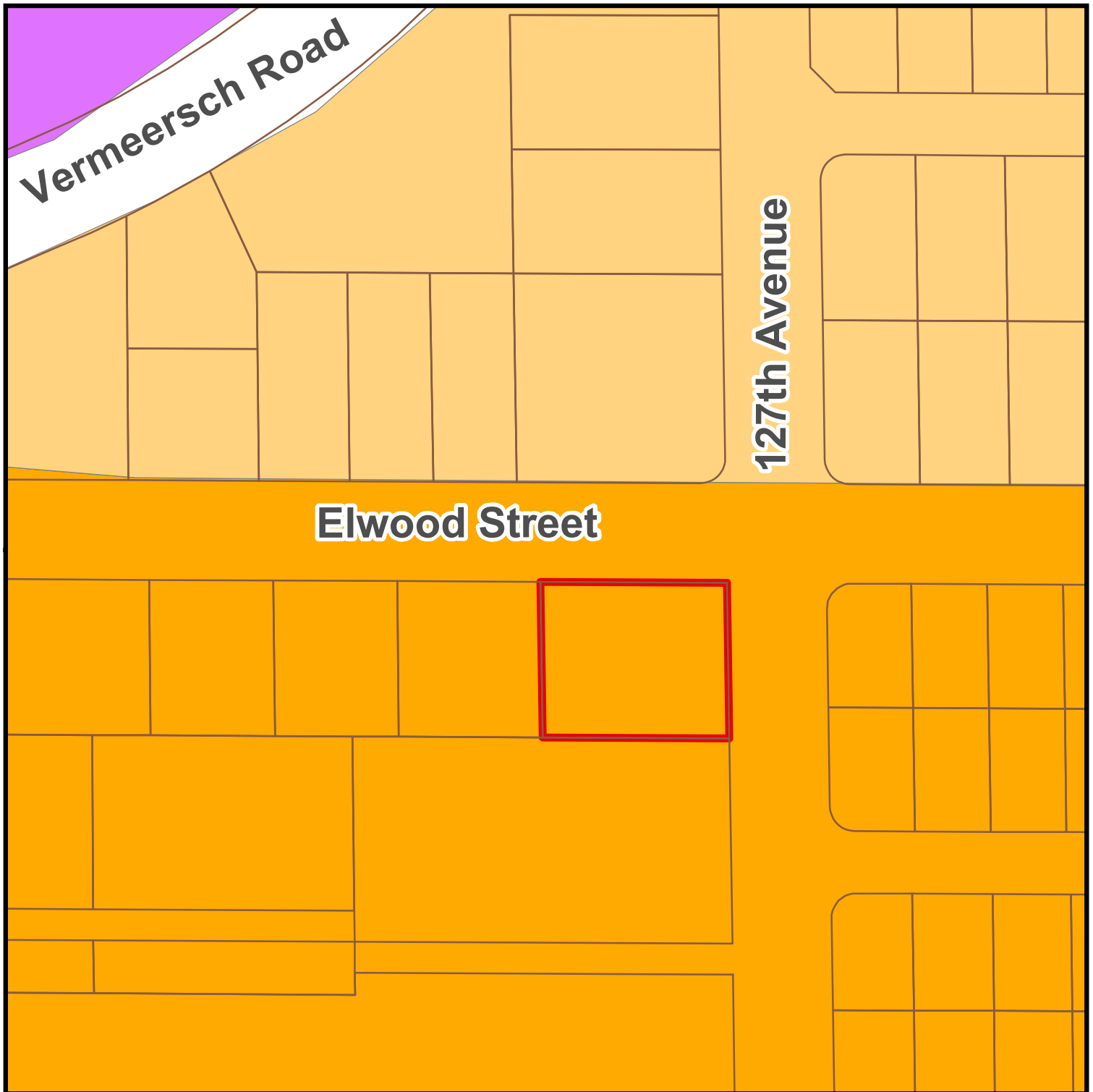


Zoning Vicinity Map



Project Location





General Plan Land Use Map

-  Estate/Low Density Residential
-  Medium Density Residential
-  Mixed Use

 Project Location



Exhibit D

Campos

Minor Land Division

MINOR LAND DIVISION
LOT SPLIT FOR MARIO A. CAMPOS SILVA
127TH AVE. & ELWOOD ST., AVONDALE, AZ
A PORTION OF THE SOUTHWEST QUARTER OF SECTION 23,
TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE GILA AND
SALT RIVER BASE & MERIDIAN, MARICOPA COUNTY, ARIZONA

DEDICATION:

STATE OF ARIZONA)
COUNTY OF MARICOPA)

KNOW ALL MEN BY THESE PRESENTS:

THAT MARIO A. CAMPOS SILVA, AN UNMARRIED MAN, AS HIS SOLE AND SEPARATE PROPERTY, AS OWNER, HAS SUBDIVIDED UNDER THE NAME "CAMPOS MINOR LAND DIVISION" LOCATED IN A PORTION OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, AS SHOWN AND PLATTED HEREON AND HEREBY PUBLISHES THIS PLAT AS AND FOR THE PLAT OF "LOT SPLIT FOR MARIO A. CAMPOS SILVA", A MINOR LAND DIVISION, AND HEREBY DECLARES THAT SAID PLAT SETS FORTH THE LOCATION AND GIVES THE DIMENSIONS OF EACH LOT, STREET AND EASEMENT CONSTITUTING THE SAME, AND THAT EACH LOT AND STREET SHALL BE KNOWN BY THE NUMBER OF LOTS GIVEN EACH RESPECTIVELY. SAID PLAT SHALL BE KNOWN BY THE NUMBER OF LOTS GIVEN EACH RESPECTIVELY SEPARATE PROPERTY, AS OWNER, HEREBY DEDICATE IN FEE ALL RIGHTS, TITLE AND INTEREST TO THE CITY FOR USE AS SUCH, THE STREET RIGHT OF WAYS AS SHOWN ON SAID MAP AND INCLUDED IN THE ABOVE DESCRIBED PREMISES. EASEMENTS ARE HEREBY DEDICATED TO THE CITY FOR THE PURPOSES SHOWN HEREON.

IN WITNESS WHEREOF: MARIO A. CAMPOS SILVA, AN UNMARRIED MAN, AS HIS SOLE AND SEPARATE PROPERTY, AS OWNER, HAS HERETO CAUSED HIS NAME TO BE AFFIXED THIS _____ DAY OF _____, 2019.

BY: _____ OWNER

ACKNOWLEDGEMENT:

STATE OF ARIZONA)
COUNTY OF MARICOPA)

BEFORE ME THIS _____ DAY OF _____, 2019, MARIO A. CAMPOS SILVA PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC WHO ACKNOWLEDGES HIMSELF TO BE THE LEGAL OWNER OF THE PROPERTY PLATTED HEREON AND ACKNOWLEDGED THAT HE, AS OWNER, EXECUTED THIS INSTRUMENT FOR THE PURPOSES HEREIN CONTAINED.

IN WITNESS WHEREOF, I HEREUNTO SET MY HAND AND OFFICIAL SEAL

NOTARY PUBLIC EXPIRES _____

APPROVALS AND ACCEPTANCE OF DEDICATION

MILD APPROVED AND DEDICATED RIGHT-OF-WAY AND EASEMENTS ACCEPTED BY THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, THIS _____ DAY OF _____, 2019.

MAYOR _____ DATE _____
ATTEST, CITY CLERK _____ DATE _____
CITY ENGINEER _____ DATE _____

OWNER:

MARIO A. CAMPOS SILVA
PHONE: (623) 340-9763
7050 W. DESERT LN.
LAVEN, AZ 85339

PROPERTY ADDRESS:

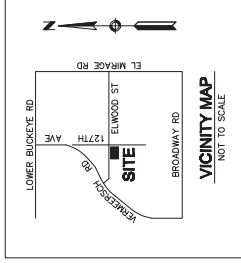
LOT 1: 12729 W. ELWOOD ST., AVONDALE, AZ 85323
LOT 2: 12725 W. ELWOOD ST., AVONDALE, AZ 85323

PARENT PARCEL LEGAL DESCRIPTION:

(PER DEED AS RECORDED IN DOCUMENT No. 2018-0214289, M.C.R.)
THE EAST 180.00 FEET OF THE NORTH 185.00 FEET OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 1 NORTH, RANGE 1 WEST OF GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;
EXCEPT THE NORTH AND THE EAST 40.00 FEET THEREOF.

ZONE INFORMATION

PARCEL CURRENTLY ZONED: R1-6
USES:
SINGLE-FAMILY DETACHED DWELLING
MIN. NET SITE AREA: 6,000 SQ. FT.
MIN. LOT SIZE: 65' WIDE X 100' DEEP
MAX. BUILDING COVERAGE: 45%
SETBACKS: 20' FRONT, 15' REAR, 10' SIDE (MINIMUM)
MAX. HEIGHT: 30'



BASIS OF BEARING:

THE NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 1 NORTH, RANGE 1 WEST, SAID BEARING BEING SOUTH 89°17'22" EAST (MEASURED).

BENCHMARK:

NATIONAL GEODETIC SURVEY CONTROL POINT "1 395",
PUBLISHED ELEVATION = 939.03 (NAVD 1988 DATUM).

REFERENCE DOCUMENTS:

- DEED AS RECORDED IN DOCUMENT No. 2018-0214289, M.C.R. (PARENT PARCEL)
- CHILCOAT PARCEL SPLIT AS RECORDED IN BOOK 399 OF MAPS, PAGE 10, M.C.R.
- RECORD OF SURVEY AS RECORDED IN BOOK 127 OF MAPS, PAGE 3, M.C.R.
- RECORD OF SURVEY AS RECORDED IN BOOK 127 OF MAPS, PAGE 3, M.C.R.

SURVEYOR'S NOTES:

- ALL DIMENSIONS ARE AS MEASURED ON THE GROUND UNLESS INDICATED OTHERWISE.
- THIS SURVEY WAS PERFORMED USING GPS AND TERRESTRIAL EQUIPMENT.
- BOTH NEW PROPERTIES HAVE ACCESS TO ELWOOD STREET.
- ZONING INFORMATION PER CITY OF AVONDALE ZONING ORDINANCE.

SURVEYOR'S CERTIFICATION:

THIS IS TO CERTIFY THAT THIS SURVEY AND SUBDIVISION OF THE PREMISES DESCRIBED AND PLATTED HEREON WAS MADE UNDER MY DIRECTION DURING THE MONTHS OF JANUARY & FEBRUARY 2019. THAT THE PLAT IS CORRECT AND ACCURATE. THAT THE SURVEYOR HAS BEEN LICENSED BY THE STATE OF ARIZONA. THAT THE SURVEYOR HAS BEEN LOCATED ON ESTABLISHED AS DESCRIBED AND THE LOT CORNERS PERMANENTLY SET.

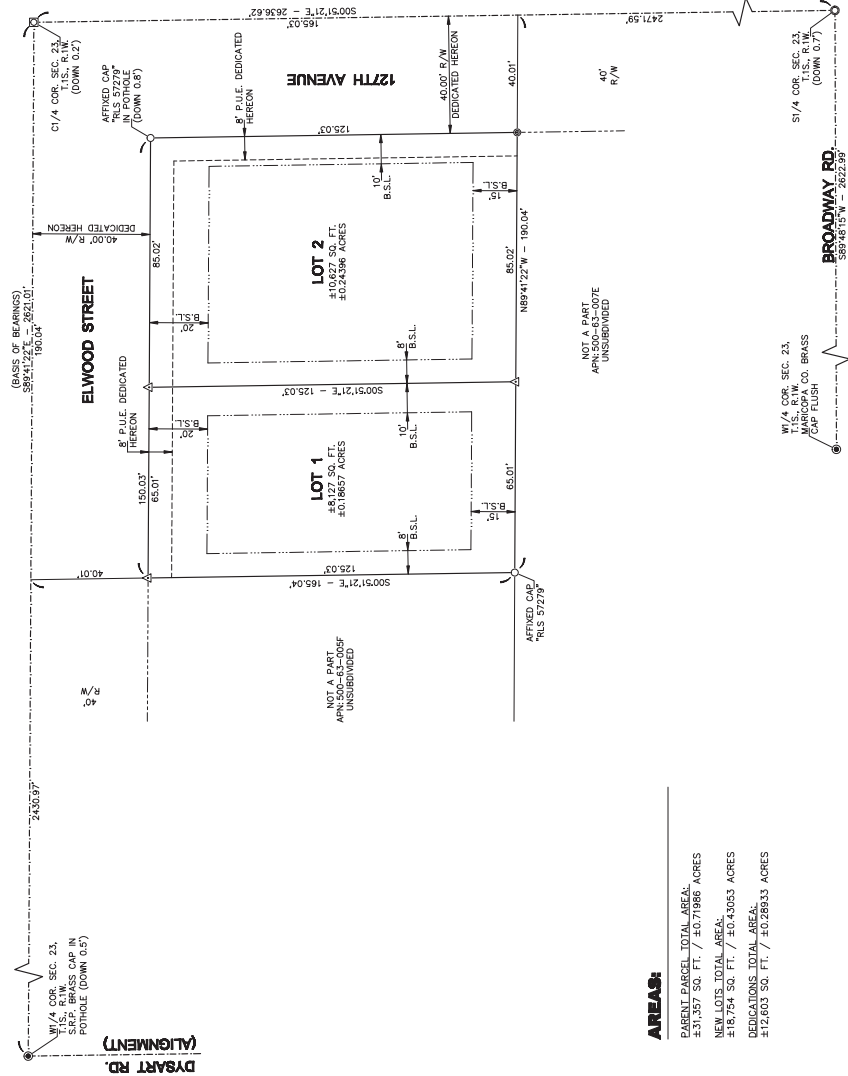
REGISTERED LAND SURVEYOR
DATE: 05/09/19
18006



MILLER LAND SURVEYING
131 S. 20TH ST.
PHOENIX, AZ 85034
602.243.7193
MINOR LAND DIVISION
SILVA - MINOR LAND DIVISION
MARIO A. CAMPOS SILVA

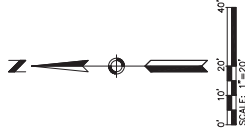
02/18/19
05/09/19
1 OF 2
18006

MINOR LAND DIVISION
LOT SPLIT FOR MARIO A. CAMPOS SILVA
127TH AVE. & ELWOOD ST., AVONDALE, AZ
A PORTION OF THE SOUTHWEST QUARTER OF SECTION 23,
TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE GILA AND
SALT RIVER BASE & MERIDIAN, MARICOPA COUNTY, ARIZONA



AREAS:

PARENT PARCEL TOTAL AREA:
±31,357 SQ. FT. / ±0.7186 ACRES
NEW LOTS TOTAL AREA:
±18,754 SQ. FT. / ±0.43053 ACRES
DEDICATIONS TOTAL AREA:
±12,603 SQ. FT. / ±0.28833 ACRES



LEGEND:

- FOUND 3" BRASS CAP IN HAND HOLE
- FOUND 3" MARICOPA CO. ALUMINUM CAP IN POT HOLE
- FOUND 2" MARICOPA CO. ALUMINUM CAP IN POT HOLE
- FOUND 1" MARICOPA CO. ALUMINUM CAP IN POT HOLE
- SET 1/4" PILE WITH TAG "RLS 57279" IN TOP OF BLOCK WALL
- SECTIONAL LINES
- NEW PROPERTY LINE
- EASEMENT LINE
- BUILDING SETBACK LINE
- M.C.R. MARICOPA COUNTY RECORDS
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- R/W RIGHT OF WAY
- I/E INGRESS/EGRESS EASEMENT
- B.S.L. BUILDING SETBACK LINE

NEW LEGAL DESCRIPTIONS:

LOT 1:
THE WEST 65.00 FEET OF THE EAST 190.00 FEET OF THE NORTH 165.00 FEET OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 1 NORTH, RANGE 1 WEST OF GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;
EXCEPT THE NORTH 40.00 FEET THEREOF.

LOT 2:
THE WEST 65.00 FEET OF THE EAST 125.00 FEET OF THE NORTH 165.00 FEET OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 1 NORTH, RANGE 1 WEST OF GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;
EXCEPT THE NORTH 40.00 FEET THEREOF.



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PHOENIX, AZ 85034
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MARIO A. CAMPOS SILVA
SILVA - MINOR LAND DIVISION
MINOR LAND DIVISION

02/18/19
05/09/19
2 OF 2
PROJECT NUMBER
19006

CITY COUNCIL REPORT

SUBJECT: Avondale City Center Naming

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Pier Simeri, Community Relations Director (623) 333-1600

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

PURPOSE:

City Council will consider a request for a new name for Avondale City Center as the city moves ahead with future development for the area. The Council will take appropriate action.

BACKGROUND:

On May 6, 2019, staff presented to Council an update on the City Center Specific Plan. The purpose of the City Center Specific Plan is to provide guidance for and create a unique, iconic and pedestrian friendly destination within the core of Avondale. The plan update is intended to reflect the City's expectations for a high quality destination that will be a place of significance in Avondale. The overriding goal of the plan is to create a vibrant sports and entertainment district that lends itself to family-oriented activities, dining, quality housing, and professional employment.

DISCUSSION:

What's in a name? Place naming or place branding is important as it brings into focus the image and reputation of a place. Just as the goal of advertising is to sell products, place naming sells itself -- whether it's to attract tourists, new development, retail or entertainment. Importantly, it serves as a point of pride for our own residents or businesses by creating a strong, coherent sense of identity.

During the May 6 meeting, Council directed staff to provide options with regard to a name for the City Center. Staff went back to the discussion notes from the many meetings that transpired between the consultants on the project, the stakeholder group meetings and staff meetings, wherein branding/naming for City Center was discussed.

Staff considered a list of possible names for City Center, and selected the following names that best reflect the "sense of place" of City Center, to bring to Council for consideration.

The BLVD: This was the preferred name that staff, consultants and the stakeholder groups first arrived at for City Center. The name itself points to its location along Avondale Boulevard; shortening it to The BLVD has an appeal to a younger demographic. The strong letters in BLVD also has great potential for gateway public art.

Meridian/The Meridian: Just a few miles south of City Center is the Base and Meridian Area, a historic location that is the center for all surveying maps in Arizona. The name "meridian" conjures up images of being at the center or hub, which describes the geographic spot of the City Center. The name resonates of an upscale area, with niche shopping, dining and living.

Victory Lane/Victory/The Vic: Victory Lane plays homage to Avondale's international racing attraction south of City Center. Staff played on that concept, shortening it to Victory, which gives the name strength, with wide appeal to a younger demographic, sports fans, millennials and visitors. Another variation on the name -- The Vic. Using the letter "V" as iconic gateway symbol also presents opportunities for public art and future economic development opportunities for NASCAR-themed uses such as a café, museum, gift shops etc.

The Dale: A shortened version of Avondale, "dale" is Middle English for Valley. It has a friendly, welcoming ring to it, and could resonate with our visitor race fans since it's also the name of the legendary racing icon, Dale Earnhardt, who has a street named after him off Avondale Boulevard. The Dale pays homage to both the namesake street as well as the City.

BUDGET IMPACT:

None at this time.

RECOMMENDATION:

This item is for information, discussion and direction.

CITY COUNCIL REPORT

SUBJECT: City Center Specific Plan Update (Application PL-19-0075)

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Tracy Stevens, Development and Engineering Services Director

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

PURPOSE:

This is an update from staff to discuss application PL-19-0075, a request by the City's Planning Division to update the City Center Specific Plan. The update is to reflect evolving conditions impacting the implementation of the adopted Vision for the Avondale City Center. The intent of the update is to reflect the City's current level of expectation for a quality, unique, and pedestrian-friendly City Center that will create a place of significance in Avondale.

BACKGROUND:

Adopted in 2008, the CCSP is comprised of 402 acres along Avondale Boulevard between Interstate 10 (I-10) and Van Buren Street. The Specific Plan establishes a framework of streets, land uses, parks, and building form intended to create an active area with a variety of residential unit types, employment centers, and various active pedestrian-oriented uses. The City Council re-established the vision for the plan in 2012 and was successful in the development of the American Sports Center and transit center.

In November 2018, the City Council provided direction to update the plan and provide a more flexible framework that will assist in attracting development to the area. The City Council's vision remains strong to see the City Center develop as a prominent entertainment destination with a strong sense of place based on current and future market conditions.

The purpose of the CCSP update is to provide guidance for and create a unique, iconic, and pedestrian-friendly destination within the core of Avondale. The intent of the update is to reflect the City's current level of expectation for a high-quality destination that will create a place of significance in Avondale. It is understood that the overriding goal of the plan and supporting documents is to create a vibrant entertainment district that lends itself to family-oriented activities, shopping, dining, professional offices, and mid to high density housing.

The proposed plan includes a mix of uses with housing options from higher density urban form apartments and townhouses to detached single-family residential; land use districts and a core to make this area a destination and an experience; gathering spaces, pedestrian and bike path linkages, access to the Van Buren multi-use path, and a central open space for gatherings and events; a day-to-night concept with a live/work/play environment; six distinct land use districts which provide individual function while also relating to one another; and pedestrian access to and from both sides of Avondale Boulevard.

A City Council Work Session was held on May 6, 2019, in which Council provided guidance on the CCSP

update. Staff revised the document to reflect the requested changes to form the proposed draft plan. In response to Council's comments, the plan focuses on several innovative ideas to drive the design framework for placemaking in City Center including: Get people out of their cars and into the space while ensuring sufficient parking is provided today and well into the future; Locate the primary gathering place interior to the core; Establish a visual connection from the edge to the core; Providing complementary land use outside of the core District; and allow for future intensification. The plan is designed with urban form (particularly on the east side of the planning area) in mind in order to attract the people and events that make a place special. The desired type of development is encouraged to be an average height of 2-story buildings or taller with a mix of uses provided horizontally or vertically on individual developments throughout the district boundary. Hotels should be designed with a minimum of 4 stories and outdoor dining options with patios that are sited onto open space. City Center is designed to take advantage of market desires today with a plan for intensification in the future, while minimizing the drive through type uses to certain areas.

The most important district that should be developed with more intense uses is the Park Avenue District, the area's core. Planning in this area should reflect the potential for street and pedestrian connectivity in the future, parking provided at lower rates per 1,000 square feet of use to respond to increased alternative transportation options, residential wrapped parking garages, or office over structured parking and a completed framework of open spaces and plazas. Commercial and residential components should interact to provide safe, comfortable, and inviting connections from the residences to the commercial businesses which is key for the success of the area.

In addition, artwork is essential for the City Center. Artistic walks or placement of art along the linear park and open space areas will create a vibrant experience which is further identified in the City of Avondale Art Master Plan. In the Park Avenue District, areas where patrons and residents can gather for a leisurely stroll, play a game of ping pong, run through a splash pad, listen to music, study, socialize, or engage in a friendly competition of Jenga or Cornhole is the vision for the area. Prominent pedestrian-oriented retail nodes area also planned at the main entries into the districts and adjacent to the intersections of Van Buren Street, Corporate Drive, Roosevelt Street, City Center Drive, and Avondale Boulevard.

Following this City Council Work Session update, the CCSP plan will be scheduled for Planning Commission's on August 15, 2019 and for City Council adoption on September 9, 2019.

PUBLIC PARTICIPATION:

A neighborhood meeting was held on May 7, 2019. There were six attendees. Four people represented the Allison Trust property which surrounds the City's corner property at Avondale Boulevard and Van Buren Street. The representatives liked the intent of the plan's revisions and are interested in marketing the land for development. A man who lives in Roosevelt Park attended to gather information and learn about what is planned for the area. A woman attended who resides in the nearby area and would like to see the area develop. Staff was asked questions regarding when will the land develop, what uses are allowed, is the new plan less restrictive, where will parking be provided, and will the plan develop as shown or can that change. All attendees seemed supportive of the plan update and seeing the area develop.

In addition, Staff has met with some individual property owners who have taken an interest in the plan update. Some owners are actively discussing development options. Two Ad-hoc meetings were also conducted with area property owners who provided valuable input into the shaping of the revised plan.

The complete CCSP draft has been placed on the department webpage and provided to City Council and property owners for review.

Following the CCSP plan update, the Zoning Ordinance will be revised creating a new Opt-In zoning process while also keeping the current City Center (CCD) zoning district in the Zoning Ordinance. Individual properties will be eligible to be rezoned to the new district or may choose to keep the existing CCD zoning. All projects

are subject to approval by the City Council and in accordance with the updated Specific Area Plan's district concepts, circulation, open space, and development form. This will allow individual properties more flexibility with customized zoning. The 80 acres immediately to the west of the proposed City Center boundary has been removed from the planning area a new application for a General Plan amendment and rezoning will be submitted separately.

DISCUSSION:

During the City Council Work Session in May the need for flexibility in how City Center develops, allowing individuality amongst projects, developing parcel by parcel, and incorporating usable amenities within the Park Avenue District was discussed. The CCSP update provides flexibility with development proposals allowing for various uses in each land use district and development form guidelines encouraging a walkable, pedestrian-friendly area. The plan includes major land uses desired including residential, retail, hospitality, and office. The new land use districts include the Gateway District, Village District, Residential District, Neighborhood District, Park Avenue District, and Promenade District. The Park Avenue District is centrally-located and includes City-owned property and buildings. A marketing plan is under development to being marketing these properties to potential developers.

The land use categories reflect development opportunities in conjunction with the market analysis. The proposed new land uses, if approved, would replace the existing land uses as well as serve as a rebranding of the area. The proposed land use plan identifies districts that define appropriate use locations to build a successful project.

In addition, an illustrative conceptual plan has been prepared to identify potential building placement, open space, circulation, and density along the east side of the specific plan area proposed as the Park Avenue District. This is only a concept and ultimate building placement and open space design will occur comprehensively as each parcel develops. Staff is also working with potential developers on both sides of the proposed planning area. During this plan update, City Staff has been contacted by prospective retail and residential developers and has been working with the existing property owners to launch preliminary concepts upon the plan's update and completion. This plan will take into consideration the recent text amendment changes to the plan for the property on the northwest corner of Avondale Boulevard and Van Buren Street. These projects would fit well within the proposed land use plan.

Staff recommends the plan's overall land area be reduced from 402 acres to approximately 356 acres removing the western 80 acres which is under one landowner. The recommendation is also to include additional property, approximately 34 acres, to the east along Roosevelt Street for a future residential development. A new name, brand, marketing program, and implementation steps will occur for the proposed area. In addition, new sections in the plan include District Concepts, Circulation, Development Form, and Implementation Strategies.

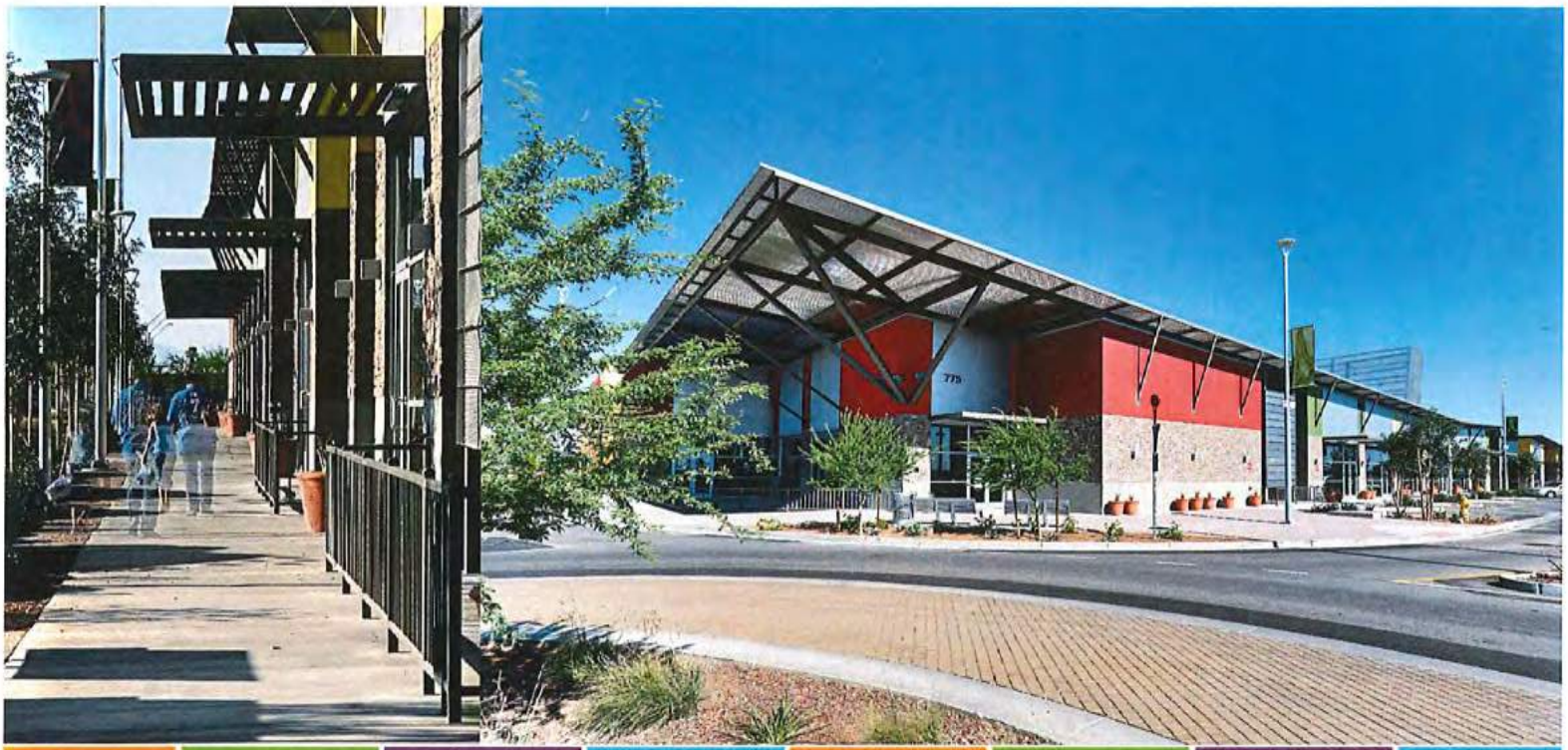
The CCSP update process included a Work Session Charette with City Council held on November 12, 2018, City Staff team meetings, outreach with CCSP Property Owners and other potential development entities, two ad hoc committee meetings with property owners and interested parties, completion of the market analysis, a Work Session discussion with City Council held on May 6, 2019, and a neighborhood meeting.

BUDGET IMPACT:

No budget impact.

RECOMMENDATION:

The City Center update presentation is provided to the City Council for information, feedback, and direction.



Avondale City Center Specific Plan Update

July 2019

Avondale City Center Specific Plan - Table of Contents

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1.0 Introduction

Overview

The City of Avondale is located 15 miles west of downtown Phoenix with access to two major freeways (Interstate 10 and State Highway Loop 101). With several hundred acres of accessible and developable greenfield land, the City of Avondale is situated to become a thriving, "18-hour edge city".

Figure 1-1 Regional Area



According to the Urban Land Institute's, 'Emerging Trends in Real Estate', the "24-hour City" concept is maturing to include urban environments that are not open in the early morning hours and instead provide an "18-hour" environment supported by a mix of jobs, shops, restaurants, and entertainment. This emerging environment has begun to spur investment in well-positioned edge cities that support the urban core.

The City of Avondale City Center Specific Plan (City Center), "the Plan", is a specific area that implements the General Plan by providing development and design guidance for new development within the planning area. The Plan is comprised of six subdistricts that make up the total planning area of approximately 356 acres and is intended to encourage land use integration that supports the development of an active, economically thriving and vibrant, mixed-use destination. Through a coordinated public and private effort, the Plan relies on four guiding principles to develop the Plan. These principles are:

- Encourage well-placed, well-designed higher density residential developments
- Create a walkable, livable, 18-hour city environment
- Encourage a broad mix of residential, office, retail, and entertainment
- Foster high-quality development reflective of present-day market conditions while preserving the opportunity for the area to intensify in the future

Through these principles, the Plan focuses on uses that will stimulate growth and establish a live, work, play environment by creating the appropriate balance of retail shops, unique restaurants, entertainment uses, expanded hotel offerings, employment opportunities, and residential uses. In short, the City Center is intended to be the heart of a thriving and vibrant core of Avondale.

Purpose

The purpose of the Avondale City Center Specific Plan is to assist in the creation of a unique, iconic, and pedestrian-friendly destination within the core of Avondale. This will be accomplished not only through sound planning guidance, but by the efforts of both public and private investment. The City Center planning area has seen public investment through the expansion of transportation and utility infrastructure as well as the development of Avondale Sports Center (ASC). This investment has spurred some limited private development investment with the emerging hospitality and supportive retail core. Additional short and long-term, public/private investment will be necessary to realize the vision of the Plan.



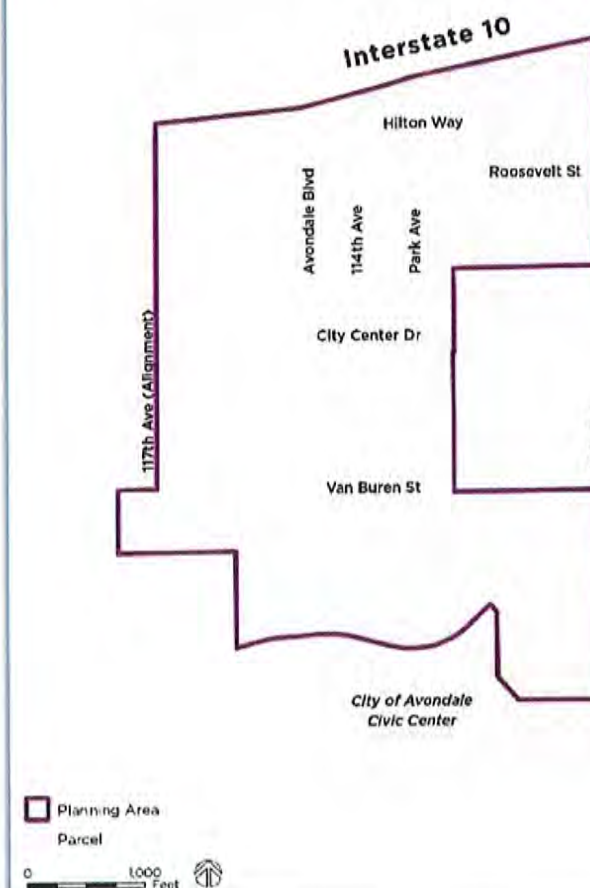
Vision

Through a coordinated public and stakeholder engagement effort, a vision for the Plan was established. The City Center is the “heart” of the Avondale community. A pedestrian-oriented district with generous landscaping, shops on the ground floor, small plazas, and parks that can provide Avondale’s growing population with an exciting mixed-use environment featuring meeting places, shopping, dining, residential office, and sports uses. Residential neighborhoods are planned where people can live in townhouses or apartments and walk to shopping and restaurants. Businesses will be attracted to the area because it provides a unique employment district where workers can walk to eat lunch, do errands, or go to meetings.

Planning Context and Character

The Plan comprises approximately 356 acres along Avondale Boulevard in a highly visible and easily accessible location within the City and the region (see Figure 1-2). The City Center has an existing arterial street system with Avondale Boulevard and Van Buren Street. Avondale Boulevard is a major thoroughfare for ISM Raceway traffic in south Avondale.

Figure 1-2 City Center Planning Area



Develop the City Center Specific Plan in order to implement the Council’s vision for Avondale Boulevard as a premier destination for shopping, restaurants, and entertainment, with exciting mixed-use development to include hotels, quality higher density housing, professional office space, an atmosphere that is fun, pedestrian-friendly and conducive to daytime and nighttime activities.

Surrounding Land Uses

Surrounding land uses to the Avondale City Center Plan include:

NORTH

The northern boundary of the planning area is formed by Interstate 10.

SOUTH

The Avondale Civic Center exists to the south of the planning area. The municipal complex includes City buildings, Council Chambers, a library, and an outdoor amphitheater. Also, the campus includes City buildings for public and private office space.

EAST

Land uses adjacent to the eastern boundary include vacant land, agricultural land, multi-family, and single-family residential development.

WEST

Land uses adjacent to the western boundary include vacant land, agricultural land, multi-family, and single-family residential development.

Existing Development within the City Center Planning Area

Existing development within the City Center planning area include the following:

RANDALL MCDANIEL SPORTS COMPLEX. American Sports Centers is the current tenant of the city-owned facility on the east side of Avondale Boulevard. ASC is the largest indoor multi-sport facility in Arizona and hosts a variety of tournaments, leagues, classes, and clinics for athletes of all ages. The ASC facility includes 6 volleyball courts, 4 basketball courts, 2 indoor soccer fields, and a 4,000 square foot multi-purpose room for special events. In addition, there are two proposed outdoor sand volleyball courts on the east side of the sports center.

AVONDALE TRANSIT CENTER. The City of Avondale completed the Avondale Transit Center, located north of the American Sports Centers, which includes 380 parking stalls, bus stops, and pedestrian-oriented amenities. Transit services available from the transit center include fixed-route bus service, park and ride, Phoenix Dial-A-Ride, and ADA Service.

RETAIL. Additionally, approximately 25,000 square feet of retail space is positioned directly in front of the sports center with anchors such as a fitness tenants, gourmet popcorn, and a restaurant.

COLDWATER SPRINGS PROMENADE This retail shopping center is located at the southwest corner of the planning area and is approximately 50% developed with retail and restaurant tenants including a retail pharmacy and a fitness center.

RESTAURANTS. One restaurant (Culver's) exist at the northeast corner of Avondale Boulevard and Roosevelt Street in proximity to the hotel uses north of Roosevelt Street.



HOTEL ACCOMMODATIONS. Two hotels exist within the planning area including the Hilton Garden Inn and Homewood Suites by Hilton. Additional hotels are planned or under construction to support the City Center area providing visitors and locals hotel accommodations while enjoying a vibrant City Center.

1.1 General Plan

In 2012, the Avondale City Council adopted, and residents ratified, the Avondale General Plan 2030. The General Plan provides broad policy guidance on growth and development including land use, circulation, parks, trails, water, wastewater, and other municipal services and infrastructure. The City Center Specific Plan was incorporated by reference and as a result, the overall City Center vision, land uses, intensities, and intended conceptual development plan for the planning area are a component of the Avondale General Plan 2030. The General Plan land use map will reflect the uses designated in this Plan.

1.2 Administration

Plan Organization

The Avondale City Center Plan lays out detailed provisions for land use, circulation, open space, and urban design, along with an implementation plan. The Plan is organized as follows:

Chapter 1 of this document, background Information, summarizes the major conclusions determined during the team's initial research about the site context and existing conditions.

Chapter 2 presents the urban design framework by establishing the land use categories/District concepts. This framework is designed to foster pedestrian-oriented mixed-use development consisting of a distinct mix of retail, restaurant, office, residential, full-service hotels, and entertainment uses.

In *Chapter 3*, the Implementation guidelines are presented.

A Policy Plan

The City Center plan is a policy plan. The provisions are guidelines which will serve as a guide for evaluating proposed developments. The quantitative provisions of the Plan establish targets and provide a basis for project review, but they are not mandatory standards. The primary goal of the Plan is to ensure that the overall desired character and intensity of development is achieved in the City Center area as projects are built over time. Applicants may submit projects that meet the overall intent of the Plan but do not comply with all the development guidelines. Any project application should include an explanation of how the project meets the overall objectives and guidelines of the Specific Plan, and a justification for any departures from the Plan.

Development Review Process

Most of the future development within the City Center Area will require one or more of the following types of applications, as described below:

- **Annexation.** Any properties that are not currently within the City limits must apply for annexation and be accepted according to the City's standard procedures.
- **Zoning.** All properties require proper zoning prior to development. The City will create a new Opt-In zoning process while also keeping the current City Center (CCD) zoning district in the Zoning Ordinance. Individual properties will be eligible to be rezoned to the new district or may choose to keep the existing CCD zoning.
- **Design Review.** An application for Site Plan and Architectural Review must be submitted and approved by the City Council prior to approval of any construction plans for new development. The site plans, building elevations, building sections, landscape plans, and other components of this application will need to be consistent with the City Center Specific Plan and comply with all zoning requirements.



2.0 City Center Specific Plan Districts

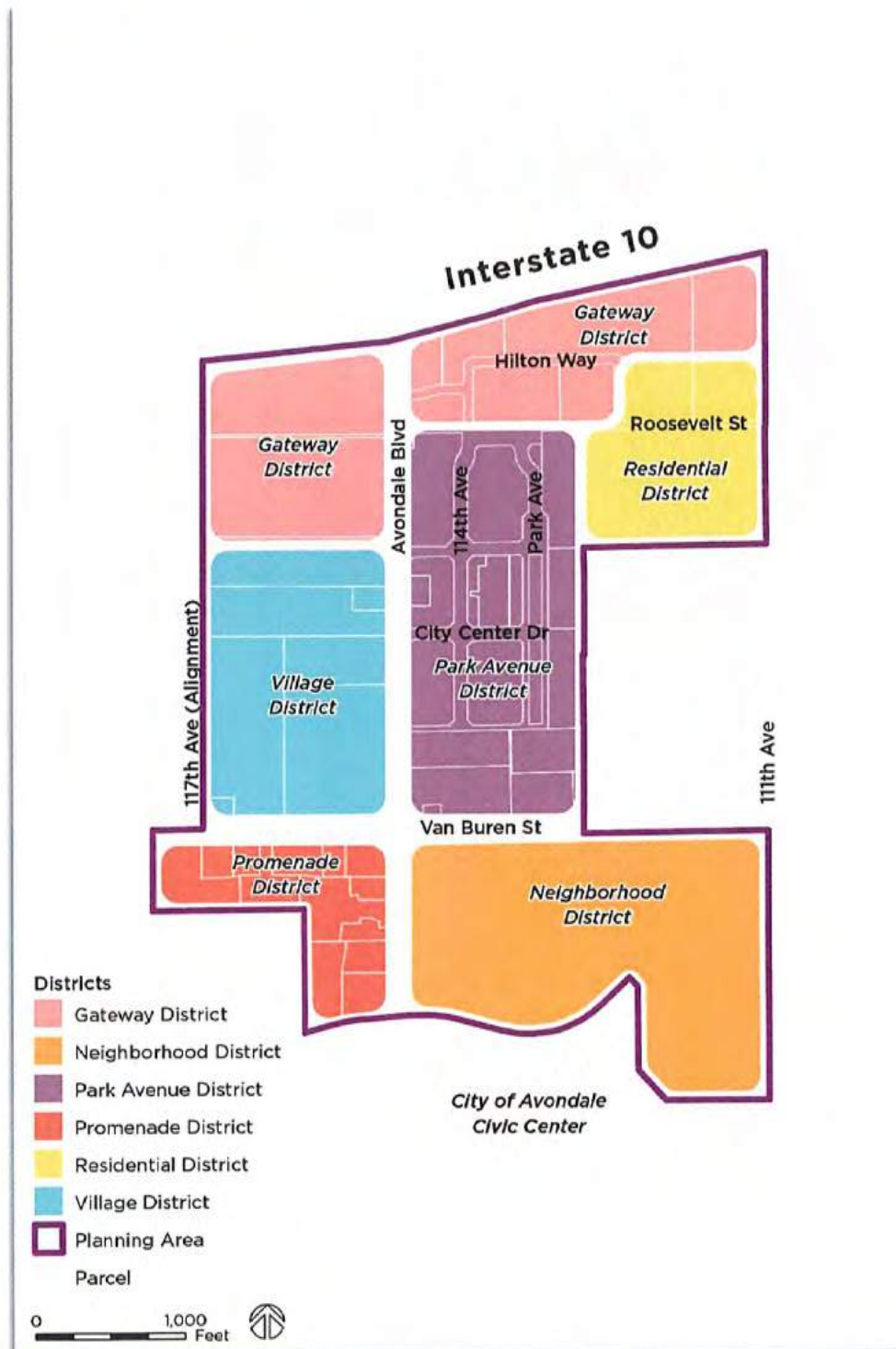
The overarching goal of the City Center is to create an active, pedestrian-friendly urban environment with a mix of uses and varying scales of density and intensity. This will be implemented using the 'Districts' concept, which is an interconnected grouping of like parcels. The six District land use categories, the definitions, and locations are identified in Figure 2-1.

District Concepts

The District concept consists of recommended land uses for the six identified Districts within the Plan. This framework is designed to foster pedestrian-oriented mixed-use development consisting of a distinct mix of retail, restaurant, office, residential, full-service hotels, and entertainment uses.

The following section provides a summary of appropriate land uses for each District. These land uses are intended to work together over time to implement the vision of the Plan. Each land use has related location criteria; factors that are considered ideal for successful implementation of the Plan. Specific land uses consistent with the implementation of this Plan are identified in Table 2-1.

Figure 2-1 Districts Plan



Gateway District

The Gateway District provides the first point of entry for most visitors to the City Center. As such, a distinctive 'catalyst' type use that can set the tone for the City Center and dramatically shorten the time frame for implementation of the vision should be encouraged to locate within this area. Catalyst projects are planned and designed to cause a corresponding and complementary development reaction on surrounding properties. These are projects that provide an opportunity for public and private investment to receive a reasonable return. Such land uses are single large users with very specific criteria such as high visibility, ease of access, and multimodal access opportunity. This District provides for a range of housing opportunities in excess of 22 du/ac, including lifestyle amenities to attract residents and employees to the area. A catalyst land use should increase employment and population in the target demographic area to support the development of City Center. Examples of catalyst land uses would include, but may not be limited to, post-secondary education campuses, medical campuses and/or hospital, resort hotels, or 4-story or greater Class-A corporate headquarters. In addition to catalyst type uses, large urban form residential developments, 2 to 4-story mid-rise offices, and retail/restaurant uses are appropriate in the Gateway District.

Village District

The Village District transitions from the more intense catalyst uses in the Gateway District, allowing opportunities for more conventional retail, office, employment, and multi-family residential uses but with a pedestrian-oriented focus and contemporary urban design that interfaces with and creates a presence on adjacent streets. The intent of this district is to generate a diversity of activity to attract as many people to the area as possible and to provide amenities that support the desired adjacent land uses. Drive-through restaurants should be minimized to only one on Van Buren Street and one on Avondale Boulevard. Residential uses should target a minimum of 18 du/ac and front directly onto Corporate Drive.



The City Center reserves pedestrian-scale plaza spaces at the intersections of Avondale Boulevard with Van Buren Street, Corporate Drive, and Roosevelt Street to identify the Village District along with preserved visual sight lines into the central gathering space. The corner plaza spaces may anchor adjacent food and beverage full-service type restaurants and the visual corridors double as pedestrian and bike linkages guiding people into the heart of the Village District.

Park Avenue District

Central to the success of the City Center is the Park Avenue District which is considered the core area of the City Center. This area is planned to be centered around a large gathering area that can accommodate events and activities as well as open-play space surrounded by retail, restaurant, food court, and other uses. Land uses within the Park Avenue District are to include a mix of hotel, retail, restaurants, sports, entertainment, theater, cultural, multi-family residential, studios, office, and education that is all designed to interface with adjacent streets in an urban manner and featuring modern, contemporary design. Retail users should offer goods and services that create a destination. Curated shopping along with food and beverage, for example, a brewery or gastropub, should be protected from competition to aid in their business survival. This allows the City Center to capture those users in a more conventional retail setting while preserving the unique quality of the Core District. Residential uses should target a minimum of 22 du/ac. Drive-through restaurants are minimized to only one stand-alone building on Avondale Boulevard and Van Buren Street, or be part of a multi-tenant building. NASCAR-themed uses such as restaurants, gift shops, or museum could also be an integral part of the synergy planned for this district.

As part of a shopping and entertainment destination, events are intended to occur that will bring local and regional residents to the City Center. The central gathering area will include a splash pad as well as other pedestrian amenities. In addition, this district offers the opportunity for bicycle and pedestrian direct access to the adjacent single-family residential subdivision Waterford Square and the Van Buren multi-use path. A live, work, shop concept is envisioned for this district.

The Park Avenue District concept includes a large central event space along with small open space gathering areas where casual and formal events could be hosted. Such events could include live music, farmer's markets, food truck events, movie nights, yoga in the park, and community gatherings.

The Central Park gathering area will serve as the social heart of the City Center and functions as the place for local casual or formal events. It is not intended to be a large space hosting large amphitheater crowds, but instead a smaller intimate space for the core area. The space should be centrally-located in the core to maximize the positive impacts of activity on adjacent uses and reduce the negative impacts of major arterial streets on events. Retail and restaurant use should be designed immediately adjacent to open space to promote pedestrian refuge areas and minimize parking immediately adjacent to the space. The area activity will serve to energize food and beverage and retail uses. The space should be well-connected by streets, pedestrian trails, and bikeways to provide a full range of mobility options.

To bring energy into this core area and to protect events from the negative impacts of high traffic volumes on Avondale Boulevard, the gathering place is located one retail block east of the main entrance to the City Center. It is important that the design of this space accommodate various events and the people they will attract in a comfortable space that works well for both large and small crowds.



Residential District

The most efficient method to activate the City Center with people is to provide higher density housing in proximity to the core. This is the intent of the Residential District which can include a broad range of options to include attached single-family, apartments, townhomes, and/or condominiums. Housing should take the form of both for-ownership and for-rent product to appeal to various lifestyle choices. The expectation for this area is to include highly-amenitized luxury living, urban form residential that fits within an urban, entertainment district. Residential options should be targeted to meet the needs of professionals that are willing to trade square footage for City Center amenities within walking distance.

"Garden apartments" and other inwardly focused residential types more common in suburban settings should be discouraged in favor of urban rowhomes, townhomes, or other residential types that are outwardly focused, more strongly interfaced with the street, and contribute to an overall sense of community within the City Center at large. The desired demographic will enjoy the social activity of the area and the ability to "lock and leave". The target density should be a minimum of 18 du/ac. Product types under 18 du/ac can occur as part of a larger mixed density/height residential development that meets the overall target density. Adjacent to the existing homes south of the Residential District, the residential uses should provide a transition of density and scale. Small lot single-family residential attached homes may be appropriate as a transitional density in this location.

Neighborhood District

The Neighborhood District will provide an opportunity for families looking to live “in close proximity” to an active urban area. The Neighborhood District will support the development of residential uses of detached single-family residential and attached townhomes with a density ranging from 4 to 12 dwelling units.

Promenade District

This commercial land use is designed to accommodate suburban-style retail, restaurant, services, and office development for residents in City Center and the surrounding area. The focus for all uses should be pedestrian-oriented and support the overall vision for the City Center while also allowing limited development of drive-through restaurants, banks, pharmacies, and similar.

Table 2-1. Permitted Use Types

City Center District	Use Types
Gateway	Post-secondary education campus (with housing, multi-family, and townhomes); Medical campus/Hospital; Large urban form residential/apartment; Lifestyle amenities; Full-service hotel/Resort hotel; 2-3 story mid-rise office; Retail/Restaurant.
Village	Retail; Office employment; Urban multi-family; Restaurants; Education campus
Park Avenue	Central gathering area for events; Indoor sports, cultural, and entertainment (ASC, Theatre/Performing Arts Center), Mixed-use, Main Street retail, Restaurants); Urban form multi-family; Office; Hotel, Education Campus
Residential	Single-family attached residential; Multi-family
Neighborhood	Single-family detached; Attached townhomes
Promenade	Community retail; Retail pad development; Transitional retail; Office

Legend

Gateway District

- Education campus (housing, multi-family & townhomes)
- Medical campus/hospital
- Large urban form residential/apartment
- Lifestyle amenities (see open space & amenities plan)
- Hotel
- Office
- Retail / restaurant

Neighborhood District

- Single-family detached
- Attached townhomes
- Limited commercial

Village District

- Retail
- Office employment
- Urban multi-family
- Restaurants
- Education campus

Park Avenue District

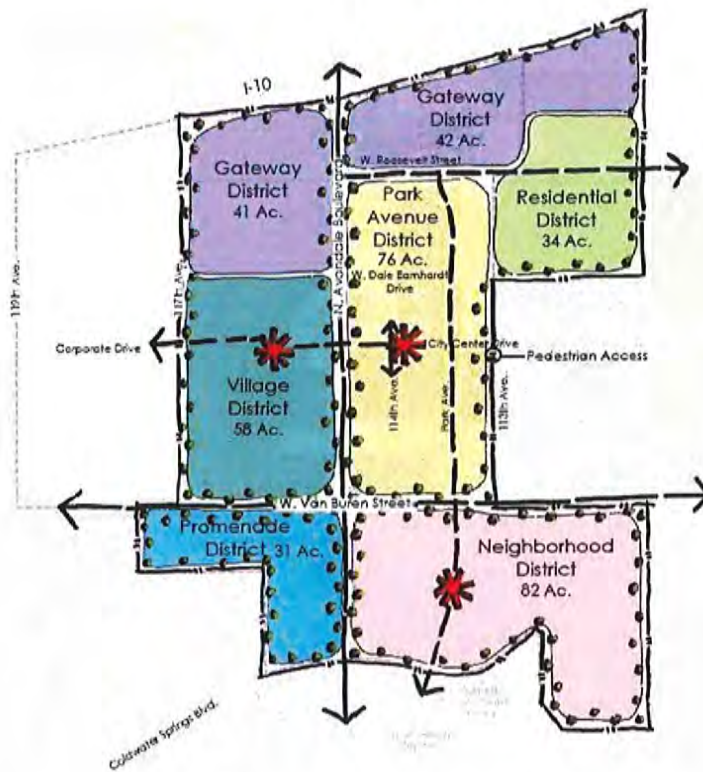
- Central gathering area for community-wide events
- Large scale sports & entertainment
 - ASC
 - Theatre/Performing Arts Center
 - Mixed-use
- Boutique mixed-use/Main Street retail
- Restaurants
- Urban form multi-family
- Office
- Education Campus

Residential District

- Single-family attached residential
- Multi-family

Promenade District

- Community retail
- Pad development
- Transitional retail
- Office



N.T.S.

Circulation

Connectivity within the Plan and between the Districts is important in encouraging safe, efficient, and convenient vehicular, pedestrian, and bicycle access to all users within the City Center. The intent of the proposed street network is to allow for a variety of mobility options within the City Center.

Avondale Boulevard is the main thoroughfare for visitors to the City especially during the NASCAR events twice a year at ISM Raceway. This street should provide a high level of beautification, promotional opportunities, quality vegetation, and wayfinding signs to welcome visitors to the City.



Multimodal Street Components

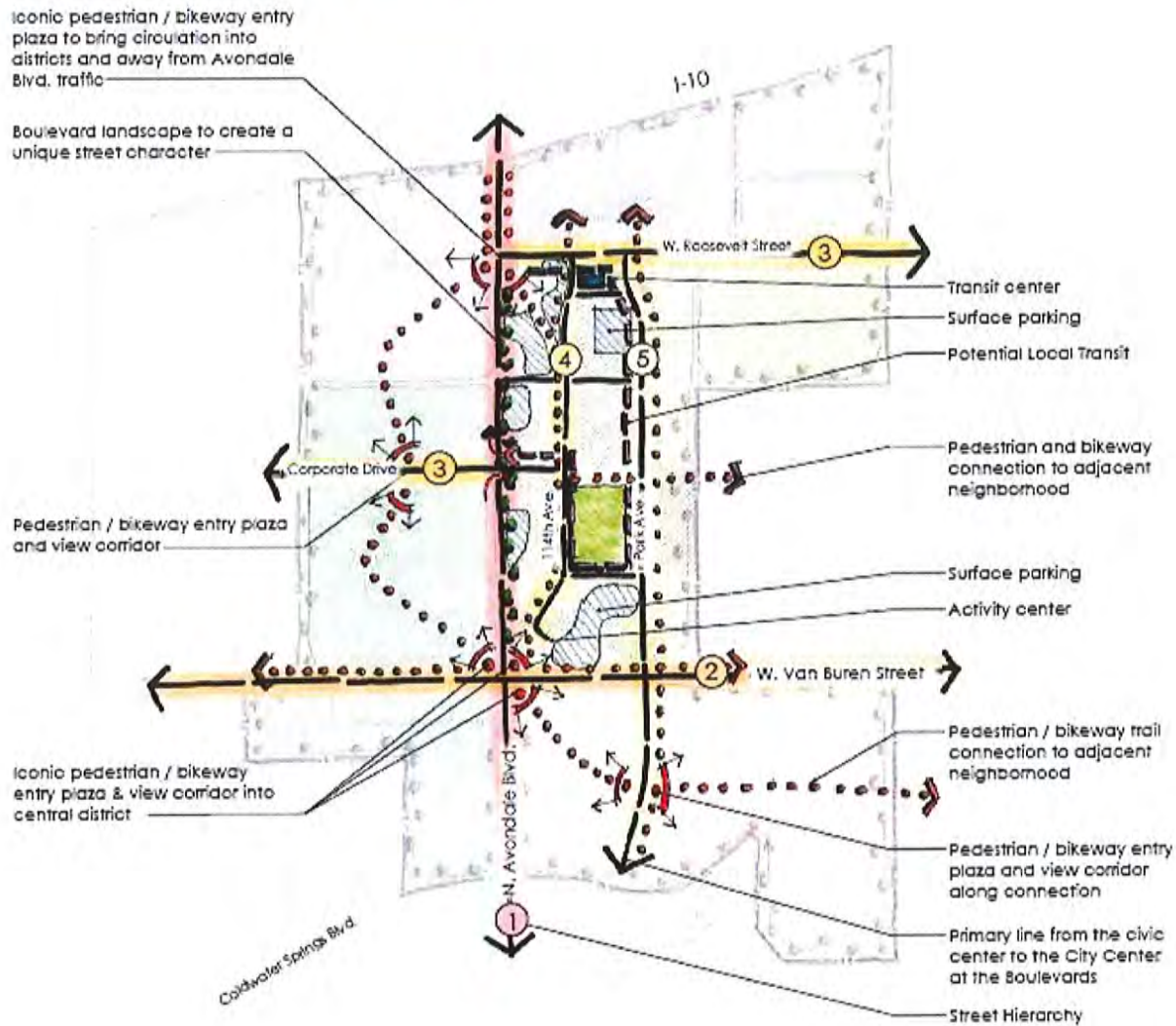
To implement a multimodal street design within City Center, the plan considers the multimodal street components depicted in Figures 2-3 and 2-4. As illustrated in Figure 2-3, a standard roadway is divided into three elements: the travel way (including vehicles and on-street bicycles), the pedestrian realm (including pedestrians, off-street bicycles, and other mobility-assistance devices), and the development realm (including the adjacent land use characteristics). The width of the overall design as well as the width of each element is dependent on the purpose of the street, whether it is for high or low volumes and high or low speeds.

Proposed Street Network

The City Center is supported by a multimodal street network intended to support local and through traffic within the area. The street network includes an arterial, collector, and local street cross-sections. The street network concept is shown in Figure 2-2 and cross-section are illustrated in Figures 2-3 to 2-8. Collector roadways will also provide options for on-street/parallel parking where needed.

In addition, it will be critical during the build-out of the City Center districts to identify a safe pedestrian crossing at a mid-block location along Avondale Boulevard and Van Buren Street to provide a safe connection for increased pedestrian traffic and residents walking to the area. A High Intensity Activated CrossWalk (HAWK) or pedestrian bridge may be considered during the build-out stage of the planned area.

Figure 2-2 Street Network Concept



N.T.S.

Cross-sections

Six roadway cross-section details are illustrated below.

Figure 2-3 Avondale Boulevard Street Cross-section 1

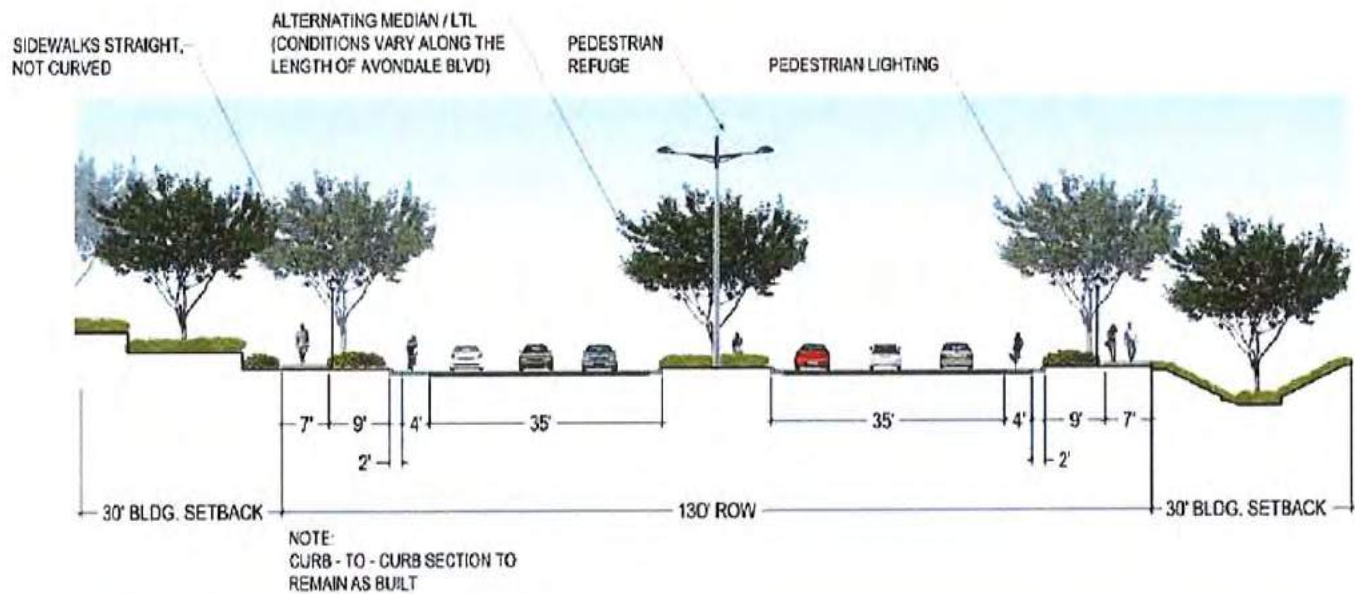


Figure 2-4 Van Buren Street Cross-section 2

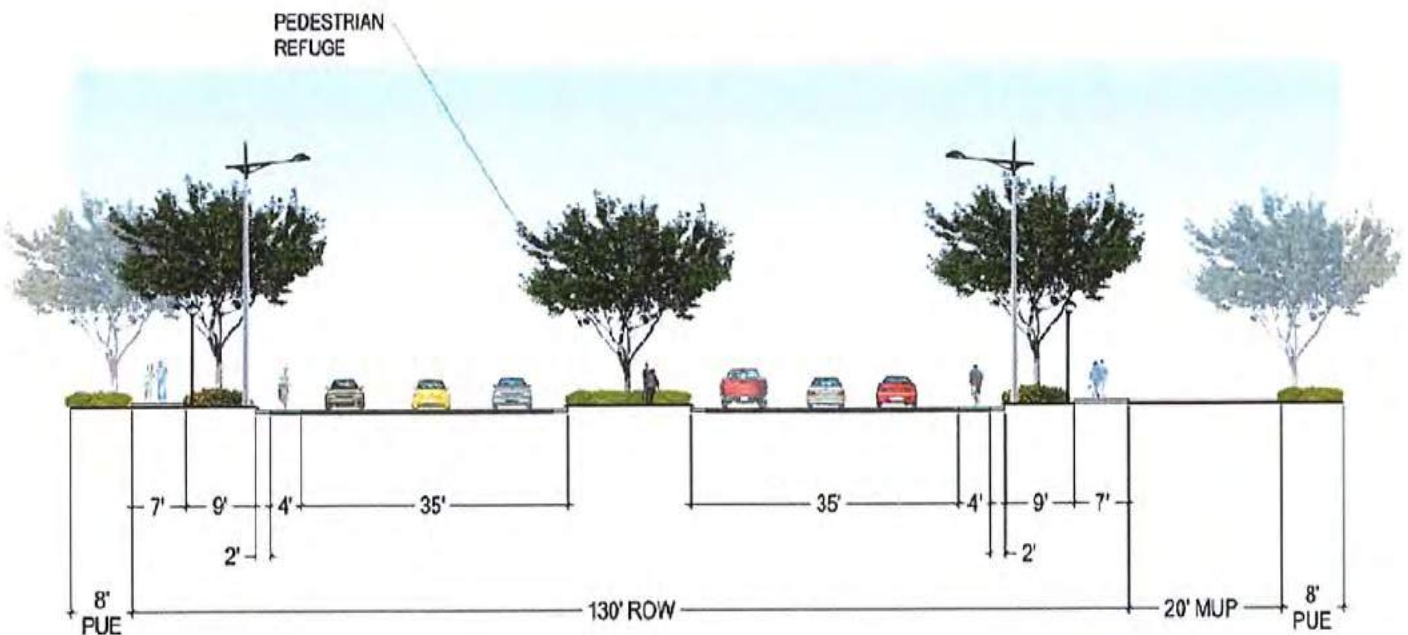


Figure 2-5 Roosevelt Street – Avondale Boulevard to 117th Avenue Cross-section 3

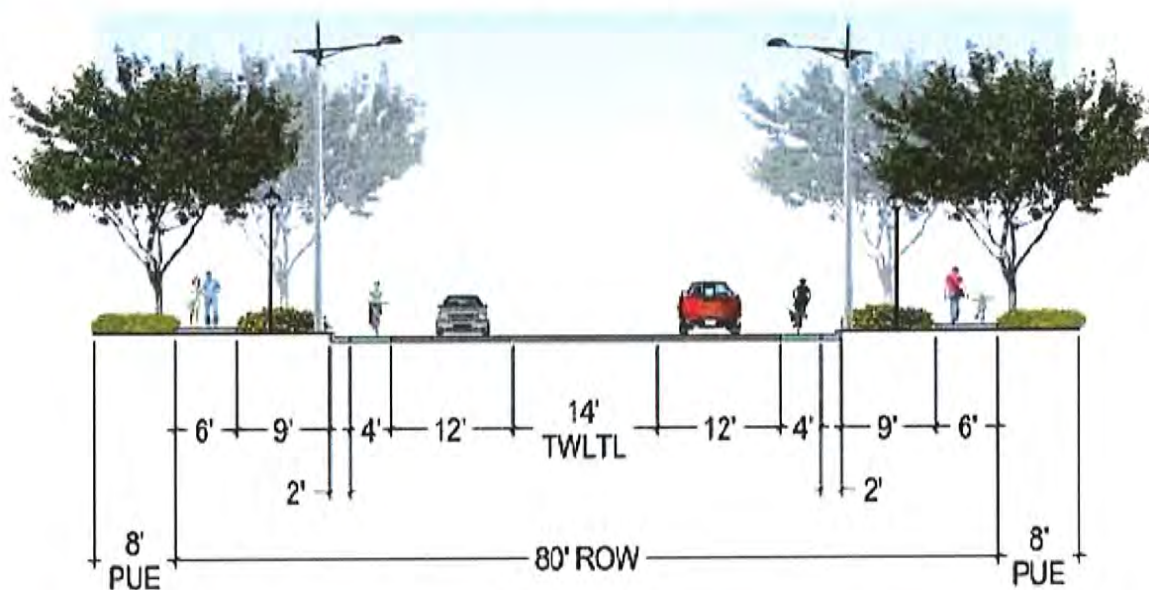


Figure 2-6 Roosevelt Street – Avondale Boulevard to 113th Avenue Cross-section 4

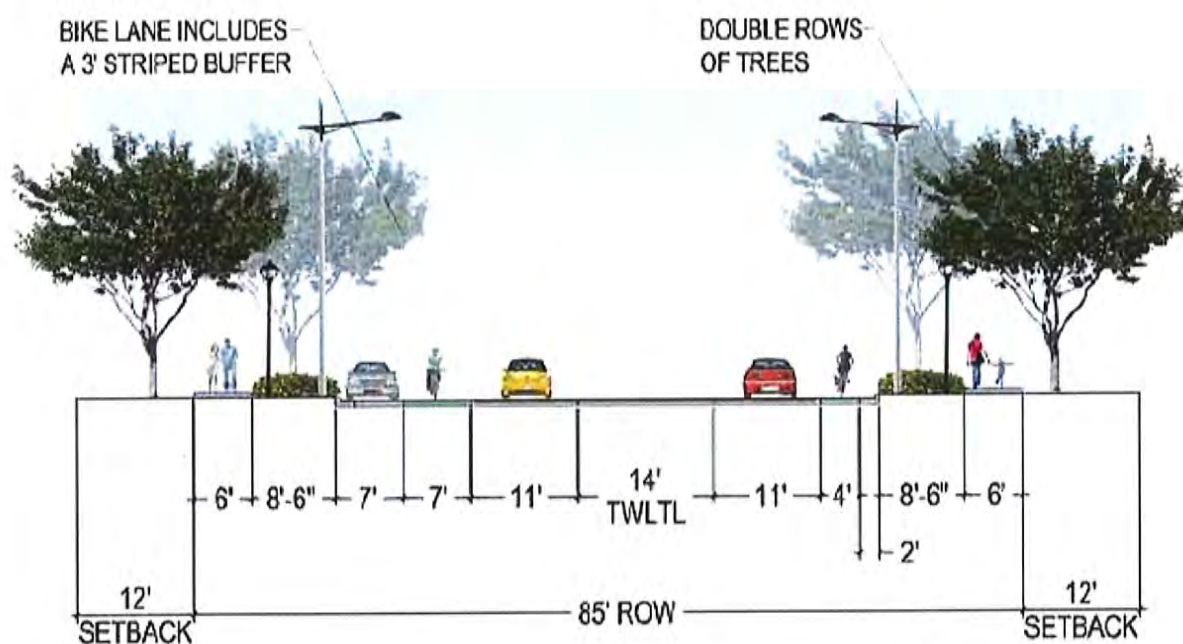


Figure 2-7 Park Avenue Cross-section 5

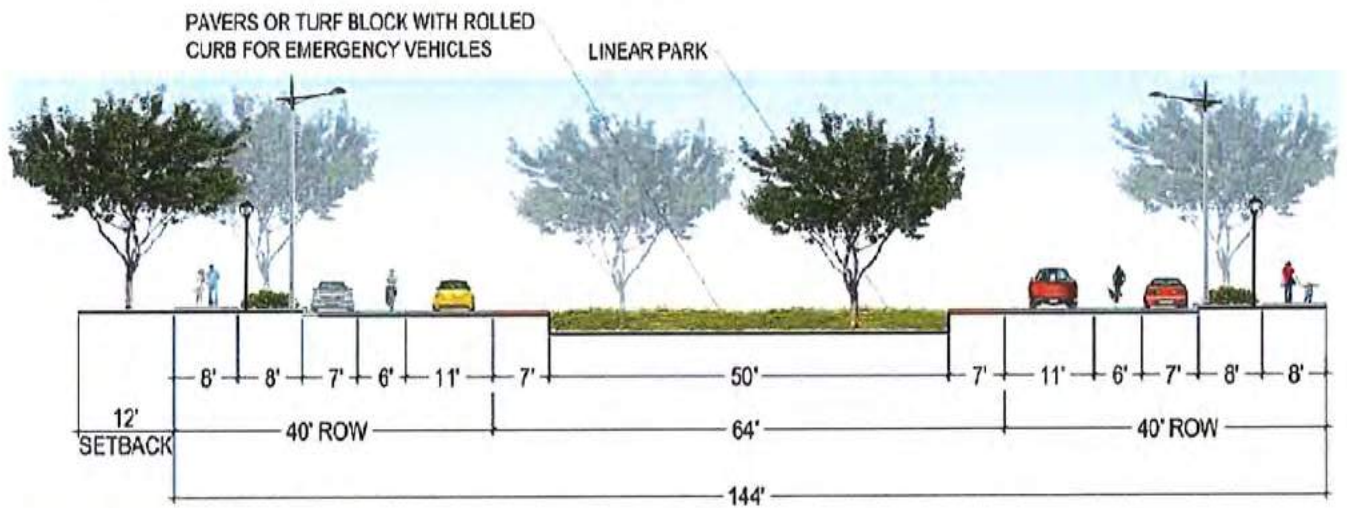
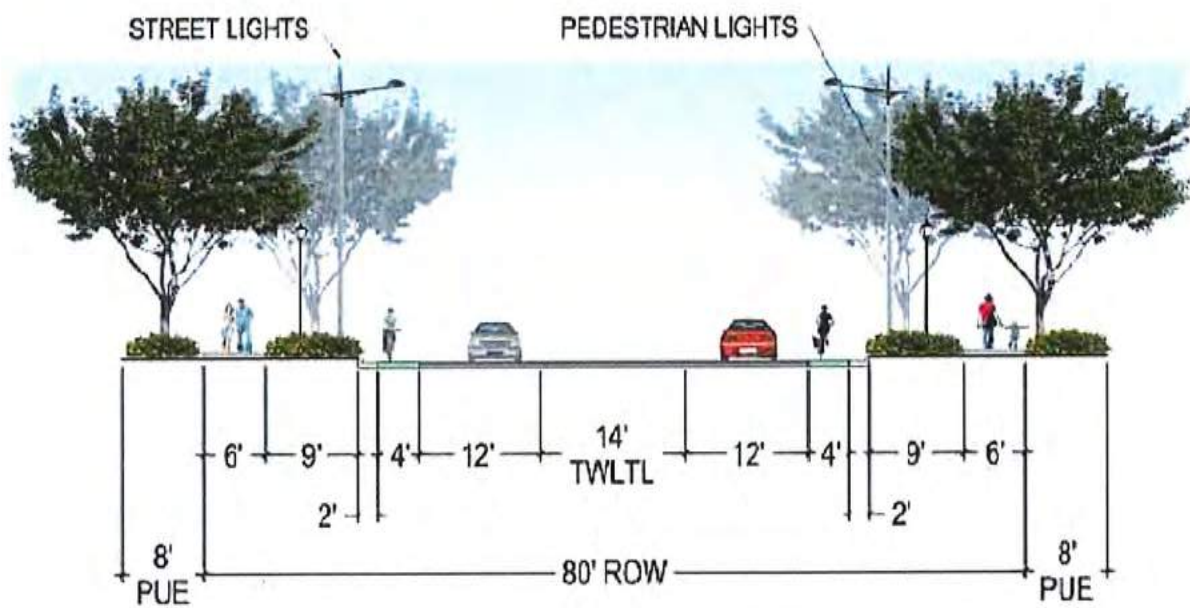


Figure 2-8 Corporate Drive Cross-section 6



2.1 Development Form

Site Planning

Knowing that placemaking is key to success and that physical space creates the places for the events in people's lives, it is necessary to establish a framework that can be built over time and provide a level of flexibility for a phased approach. The Design Concept for the City Center is that framework. Several "big ideas" drive the design of the framework.

1. **Get people out of their cars and into the space.** Dispersing smaller parking areas adjacent to existing arterial streets facilitates easy access into the core area. There is the added benefit of placing people near pedestrian-oriented spaces and encourages pedestrian movement throughout the core. This movement increases the opportunity to support retail, food, and beverage uses. Smaller parking areas are visually less intrusive, both internally and externally, and add to the safety of the pedestrian zones.
2. **Locate the primary gathering place interior to the core.** The negative impacts of traffic volume and noise outweighed the benefit of visibility of the core adjacent to Avondale Boulevard. It would diminish the variety of events that could be held in that location and impact the safety of users. Locating the gathering place internal to the core results in the energy and activity of the gathering place having a positive impact on more of the core uses.
3. **Establish a visual connection from the edge to the core.** Moving the core to the interior requires that the plan establish a connection from Avondale Boulevard to the central gathering place. This connection can be made visually by aligning a pedestrian street from the intersections of Avondale Boulevard with Van Buren Street and Roosevelt Street diagonally to the center. A small pedestrian plaza at the intersection will help brand the City Center and can provide an open space amenity for active retail ideally food and beverage use. The corner plaza spaces also act as pedestrian and bike entries into the core area from the north-south access along Avondale Boulevard.
4. **Providing complementary land uses outside of the core District.** It is important that the remaining land area with City Center compliment and not compete with the vision of the core area. Additional higher density residential, office employment, and the potential for a catalyst use, such as an education campus, would further the objectives for this area. On the east, adjacent to the existing residential community transitional residential densities are appropriate. A residential option may include for-sale townhomes.
5. **Allow for future intensification.** Given current market conditions and anticipated growth, the vision for the City Center will need to take form over time. This may necessitate a strategy that allows for land uses today, retail with surface parking, and higher density residential and employment in the future. For example, as depicted in Figure 2-9, number 6 is shown as future apartments over a parking garage where the existing transit center is located.

Figure 2-9 Park Avenue District Concept Plan



Legend

- | | | |
|--|------------------------------|---|
| 1. Avondale Sports Center | 9. Multi-Family-Garage Under | 17. Entry Features |
| 2. In-Line Retail | 10. Townhomes | 18. Activated Corner Plaza |
| 3. Office | 11. Multi-Family Amenity | 19. Landscape Screening of Parking Area |
| 4. Restaurant | 12. Relaxation Plaza | 20. Primary Pedestrian Retail Street |
| 5. Hotel | 13. Event Space | 21. Pedestrian Portal |
| 6. Future apartments over parking garage | 14. Splash Pad | 22. Sand Volleyball |
| 7. Transit Facility | 15. Great Lawn | 23. Linear Park |
| 8. Multi-Family Surface Parking | 16. Fountain Focal | |

Building Placement

Urban Form

The Vision for the City Center is one of an urban form lifestyle center and incorporates high quality dining options and exciting entertainment experiences. It is important to clearly define this area as a social and economic hub for the community and to create a synergy of uses that make the City Center a destination. Without an urban form, too often this vision becomes another "shopping center in the suburbs". With the urban form comes a certain intensity of use in order to attract the people and events that make a place special. The desired type of development is encouraged to be an average height of 2-story buildings or taller with a mix of uses provided horizontally or vertically on individual developments throughout the district boundary. Hotels should be designed with a minimum of 4 stories and outdoor dining options with patios that are sited onto open space.

History has shown that the intensity is the result of an evolution of uses over time. City Center is designed to take advantage of market desires today with a plan for intensification in the future. This suggests that specific targeted Districts need to



create development plans that can transition more quickly and economically in the future. This relates to circulation, utility services, site planning, and building design.

The most important district that should be developed with more intense uses is the Park Avenue District. Planning in this area should reflect the potential for street and pedestrian connectivity in the future, parking provided at lower rates per 1,000 square feet of use to respond to increased alternative transportation options, residential wrapped parking garages, or office over structured parking and a completed framework of open spaces and plazas. Strengthening the urban feel of the development from the perspective of Avondale Boulevard and the internal collector streets will be ideal. Accomplishing the street presence will require bringing buildings to the setback line and ensure circulation patterns mitigate any traffic congestion. Significantly enhancing the interplay between the commercial and residential components to provide safe, comfortable, and inviting connections from the residences to the commercial businesses is key for the success of the area.



Open Space and Art

An open space and amenities framework are essential to attract complimentary land uses to the area. The Park Avenue linear park provides direct access from Roosevelt Street to Van Buren Street. Both connections service the overall development and create a sense of place for the Park Avenue District.



The amenities framework when strategically located will help define the area, character, and image. Artistic walks or placement of art along the linear park and open space areas are essential to create a vibrant experience which is further identified in the City of Avondale Art Master Plan.

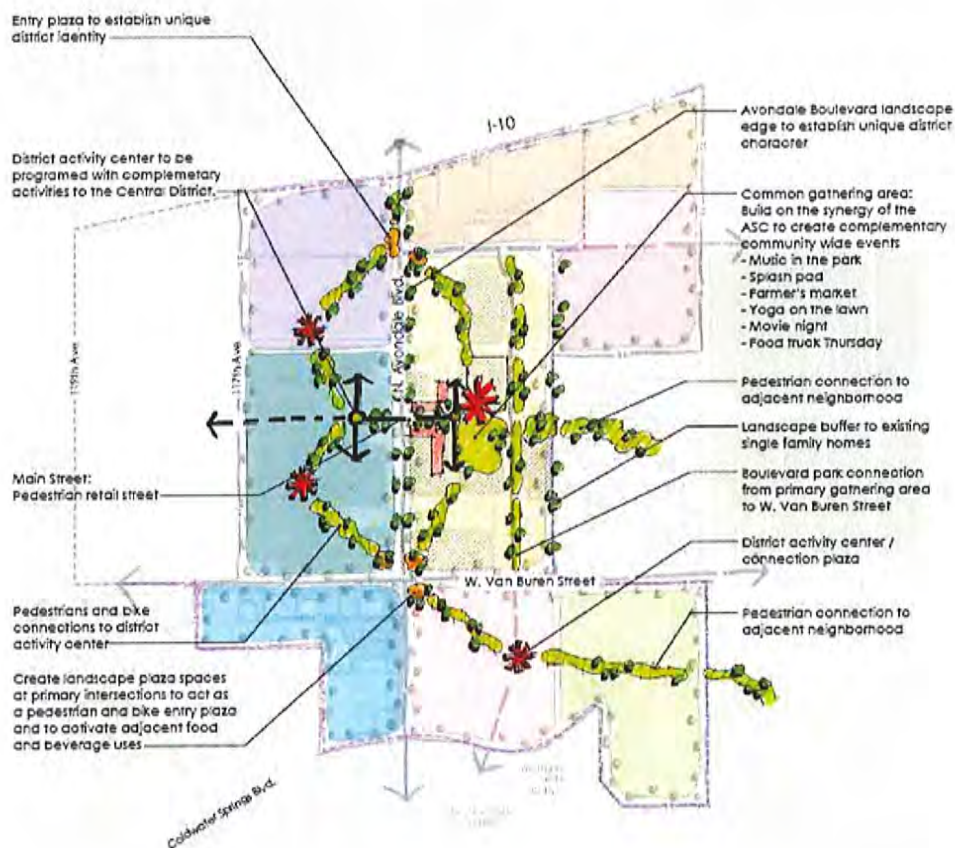
An amenities framework provides a balance of space with the higher intensity of uses that generate the necessary energy at the core. It promotes connectivity between the uses creating a synergy of activity. Areas where patrons and residents can gather for a leisurely stroll, play a game of ping pong, run through a splash pad, listen to music, study, socialize, or engage in a friendly competition of Jenga or cornhole is the vision for the area.

Prominent pedestrian-oriented retail nodes area also planned at the main entries into the districts and adjacent to the intersections of Van Buren Street, Corporate Drive, Roosevelt Street, City Center Drive, and Avondale Boulevard.



Figure 2-10 Open Space Connectivity

Note: The diagram illustrates a concept only. Final form and location of open space and amenities to be proposed by parcel developers.



N.T.S.

Landscaping and Drainage

Site landscaping is critical to development projects because it provides recreation areas, incorporates nature into higher density development, and provides areas for stormwater drainage and retention. When carefully landscaped, the setbacks, recessed areas, and pathways within a project site plan contribute significantly to the overall project design.

On-site landscaping includes landscaped setback areas, landscaped storm drainage areas, pedestrian paths through landscaped areas, courtyards, swimming pools, and other passive or active recreation areas. It does not include areas that are enclosed and assigned for exclusive private use of an individual unit or tenant.

For all landscape and parking areas Low-Impact Development (LID) design and construction should be considered throughout City Center to ensure the Avondale maintains its sustainable practices. The City Street Tree Master Plan identifies specific tree species along the arterial and collector rights-of-way throughout the City Center, as well as identifies main entry/gateways to further accentuate with dramatic landscape features.

In addition, stormwater retention should be provided in locations that allow for the retention areas to function as walking/jogging paths that will connect to the surrounding area as they develop. Direct connections to the Van Buren multi-use path should also be identified during site design to provide a safe entry into the development for walkers, joggers, and bicyclists.

Parking

Surface parking lots are sited within the City Center core to provide the most appropriate access to businesses. As the City Center intensifies, surface parking lots may be considered for replacement with parking structures to serve the parking demand needed for City Center.

The strategy of creating multiple, smaller parking areas enhances the visually quality of the area, disperses the concentration of traffic to multiple points easing ingress and egress and allows users closer pedestrian access to their destination. Smaller lots also work well for future intensification as the lots can be converted to parking garages with office above or a residential wrap on the edges depending on market demand. In this scenario, the first-generation retail would remain as a retail wrap on the lower level of the parking garage.

Strengthening the urban feel of the development from Avondale Boulevard and Van Buren Street can be accomplished through street presence. Bringing buildings to the setback line will reduce the parking visibility as well as siting longer linear buildings on the frontage in lieu of individual pad sites.

Allowing people to park in proximity to their destination will result in more people walking along the internal streets and will reduce internal vehicular traffic. This will provide a valuable pedestrian and bicycle link through the site. The plaza spaces at the primary corners of Avondale Boulevard allow for easy access into the core area. The pedestrian and bikeway can be linked to adjacent neighborhoods allowing even more pedestrian and bike traffic into the central gathering area, especially from the Van Buren multi-use path.

Buildings

Buildings within City Center need to be designed to be attractive and present contemporary and modern style architectural designs using materials appropriate for this style of architecture. Natural materials, vertical and horizontal elements, unique forms, and vibrant colors are encouraged. Building design needs to conform to the City's adopted Commercial and Industrial Design Manual and the Multi-Family Residential Design Manual.

Orientation

- Buildings should be oriented to face public streets. Building frontages should be parallel to streets, and the primary building entrances should be located on a public street. Where public streets are not provided, developments should treat private primary drive aisles in a similar fashion, fronting buildings upon these primary aisles, establishing a pedestrian-friendly "main street" environment.
- Facades facing streets, plazas, and courtyards should be lined with windows. Where blank walls are necessary, they should be architecturally enhanced and should be on side or interior facades not facing streets.
- All building facades facing streets, parks, or public open space should be designed with a unified palette of materials and architectural details, and incorporate shade elements.

Massing and Articulation

- Buildings should be well articulated with changes in roof heights and vertical planes to reduce the appearance of massing and create interesting building silhouettes.
- Buildings should provide contemporary architecture which utilizes a diverse color palette and a wide range of materials and colors that provide visual interest at a pedestrian scale that create a very distinct and unique area in the City not like any other.
- Building massing should include features that add depth, shadow, and architectural interest such as balconies, recesses, cornices, and bay windows.
- Window recesses, doorways, columns, overhangs, and other architectural elements should be substantial in depth to create shadow and architectural relief. Projections and recesses should be incorporated throughout the façade design with minimum depths of four to twelve inches.
- All building facades should have a well-defined base that incorporates design strategies such as thick walls, special materials such as form-lined concrete, richly textured materials, or deep window recesses.
- Buildings should have a recognizable roofline and parapet design that employs design strategies such as: Step-backs on upper floors, cornice treatments, roof overhangs, roof brackets, stepped parapets, special materials, or mechanical equipment screens designed as sculptural elements. For buildings over 6 stories tall, the “top” should include a minimum of the top habitable floor and the penthouse for mechanical and other equipment.
- Building design should be respectful of adjacent buildings and create transitions of appropriate height and scale.

3.0 Implementation Strategies

This plan acts as a guidebook to foster development of the City Center Specific Plan by expanding on its assets and providing implementable actions to enhance the overall sense of place and create a thriving, innovative, live-work-play environment. This is accomplished by establishing proactive goals and strategies to encourage new and expanded investment consistent with the Vision Statement and supported by a funding strategy. These goals and strategies originate from the feedback and issues identified through the public outreach efforts, stakeholder interviews, and input from staff, appointed and elected officials.

3.1 Development Goals and Strategies

The goals and strategies established for the City Center help resolve the identified issues as stated above. Goals represent an ideal end state of the City Center as reflected in the Vision, and strategies are implementable actions that assist in achieving the associated goal. Each strategy identifies the type, estimated cost, and timeframe for completion.

- Capital Improvement (CI). Capital Improvement strategies are infrastructure improvement projects and/or other city capital investments.
- Program (P). Program strategies are new, or expanded existing programs, that can be implemented within the City Center to help facilitate development.
- Regulatory (R). Regulatory strategies include modifications and/or amendments to existing City regulations, plans, guidelines, and similar to encourage development.
- Incentive (I). Incentive strategies include mutually beneficial partnership opportunities that encourage and attract new investment consistent with the Vision of this Plan.
- Marketing (M). Marketing strategies address approaches to promote the City Center to generate new investment.
- Assessment (A). Assessment strategies include areas and features where additional studies will help better inform development requirements.

The timeframe for completion is divided into three categories:

- 1-3 years: Housing and fill existing retail liner space
- 4-5 years: New retail development, more housing
- 5-7 years: Other users, perhaps office

Table 3-1. Development Goals and Strategies

Goal #	Strategy	Type	Timeframe	Order of Magnitude Cost
G1	Create a district that is a vibrant, inclusive, day-night community attracting businesses, residents, and tourists from across the region			
1a	Amend the City's General Plan, creating new land use designations based on the six districts and applying them to the Land Use Map	P	Short-Term	\$10K-\$20K Planning
1b	Amend the Zoning Ordinance to create an "Opt-In" replacement zoning district to the existing CCD zoning	P	Short-Term	\$10K-\$25K Planning
1c	Work closely with the surrounding local business and community leaders to develop a targeted marketing strategy for the City Center	CI	Short-Term	\$5K-\$15K Planning
1d	Design unique branding, wayfinding, and pedestrian amenities for the City Center that reflects the District's character and identity	CI	Mid-Term	\$50K-\$100K Planning
1e	Allow for and promote mixed housing within the the City Center, offering a variety of housing options for all ages	R	Long-Term	No cost
1f	Coordinate with local business and community leaders to hold regular events within the City Center area	P	Short-Term	\$15K per event
G2	Attract new and expanding businesses to the City Center that help drive development			
2a	Attend ICSC and other trade shows, hold meetings with local brokers, conduct site tours, and partner on business development strategies with retail tenants.	I	Short-Term	\$25-\$50K Plan and program identification
2b	Identify infrastructure improvements along key corridors, and secure funds for improvements	CI	Short-Term	\$5 mil
2c	Partner with a post-secondary education institution to locate a campus	M	Long-Term	ED Incentives
2d	Organize job and business training classes through a regional program featuring financial tips, local assistance programs, and other important information to encourage local entrepreneurship in the City Center	P	Short-Term	\$5K per year

Goal #	Strategy	Type	Timeframe	Order of Magnitude Cost
G3	Create an attractive, safe, and well-connected district that fosters walkability			
3a	Ensure ADA compliant sidewalks are along all roadways with no obstacles impairing movement	CI	Long-Term	\$25,000 per year
3b	Develop mid-block crossings along segments of major arterials that are over 450 feet in length between signalized street crossings to safely allow pedestrians to cross	CI	Long-Term	\$500K-\$1M per crossing
3c	Upgrade the Avondale Boulevard landscape median to beautify the City's roadway and enhance infrastructure on all collectors	CI, P	Mid-Term	\$100K+ Planning and Design \$500K-\$1M Construction Per mile
3d	Encourage public and private investment into public art	P	Short-Term	Varies
3e	Amend the Citywide wayfinding sign plan and tenant sign design criteria to help navigate people to and through the City Center	CI	Short-Term	\$50K+ Planning and Design \$100K-\$500K Construction Per mile
3f	Identify short and long term parking lot locations to include future parking garage needs.	CI	Long -Term	\$5K-\$25K
3g	Develop artistic entry gateways into the City Center and relocate the existing well site at the corner of Roosevelt Street and Avondale Boulevard	CI	Mid-Term	\$50K+ Planning and Design \$500K - \$1M Construction
3h	Support the establishment of a Commercial Owners Association in the Park Avenue District to ensure long-term upkeep and maintenance of the core area	CI	Mid-Term	\$50K+ Planning and Design \$100K Construction
G4	Enhance infrastructure to meet needs of 21st century businesses			
4a	Study water and sewer infrastructure demands and capacities to identify potential deficiencies and areas of improvement to support expanded needs	A	Mid-Term	\$100-\$150K
4b	Ensure roadways support multimodal transportation, including walking and biking	CI	Long-Term	\$2M-\$5M

Goal #	Strategy	Type	Timeframe	Order of Magnitude Cost
4c	Restrict truck routes through the City Center	R	Short-Term	No Cost
4d	Expand the potential of wireless networks to meet the developing technology needs, including expanding fiber optics connections throughout the City Center to provide high-speed internet capabilities	CI	Long-Term	\$10M+
G5	Facilitate development of mixed-use projects within the City Center to create a live, work, play environment			
5a	Develop a marketing strategy to inform investors of the assets and opportunities with highlighted available properties within the City Center	M	Short-Term	\$10K
5b	Support the development of obsolete sites within the core area to incorporate a mix of uses, including residential, commercial, and employment by expediting development reviews and reduced fees on a case by case basis	I	Short-Term	\$100K hard and soft costs per site
5c	Establish an incentive program to encourage property owners to strategically consolidate lots to help foster mixed-use development, with priority given to properties within the City Center core area	I	Short-Term	\$100K hard and soft costs per site
5d	Market city owned property, offer incentives, and individual development agreements for specific projects that meet the intent of the Park Avenue District.	MI	Short-Term	\$250,000 per yr
5e	Offer marketing of businesses on billboards and City owned monument signs in City Center.	MI	Short-Term	No Cost
5f	Conduct an RFP proposal for a P3 or other partnerships in the Park Avenue District.	MI	Short-Term	No Cost
G6	Ensure safe and low crime environment as the City Center develops			
6a	Encourage large developments to incorporate police/security kiosks to help patrol local areas	CI	Short-Term	\$50K-\$100K

Goal #	Strategy	Type	Timeframe	Order of Magnitude Cost
6b	Incorporate Crime Prevention Through Environmental Design (CPTED) standards for both public and private development in the City Center	R	Short-Term	No Cost
6c	Implement a community crime prevention program through education and close communication with residents to help keep their neighborhoods safe	P	Short-Term	\$50K per yr. per ½ FTE
G7	Increase homeownership rates			
7a	Encourage a wide range of housing opportunities for all ages and income levels, including move-up housing and multigenerational housing.	R	Long-Term	No cost
7b	Offer new multi-family developers a 15% impact fee reduction for projects that meet the intent of the district.	P	Short-Term	\$250,000 per yr

Table Notes:

CI – Capital Improvement

P – Program

R – Regulatory

I – Incentive

M – Marketing

A - Assessment

3.2 Funding Strategies

Implementing a specific plan over a large area, such as the City Center, is likely to require a substantial investment of capital. While some of these facility upgrades and expansions could be funded through direct investment of the property owners, some owners may require some form of financial incentive to encourage development. In addition, the City of Avondale may determine that some level of public investment is desirable to encourage development in targeted areas. This investment by the City could be in the form of utility upgrades; public amenities such as parks, sidewalks or traffic improvements; or through a development partnership to create new development on properties currently owned by the City.

This section provides an overview of some of the programs that could be used to help promote and encourage development. This section is intended to provide an overview of a selection of available programs that could be considered by the City and is not meant to be an exhaustive list of available programs.

Development Financing Opportunities

In general, financing incentives for redevelopment are typically focused on local and state programs such as improvement districts, zoning/density incentives, investment funds, economic development investments, and public financing through bonds.

Arizona Special Taxing Districts

Title 48 of the Arizona Revised Statutes authorizes a variety of special taxing districts. Specifically, Chapter 4 of Title 48 authorizes Municipal Improvement Districts for:

- Article 1 – Opening, Widening, and Closing Public Ways;
- Article 2 – General Public Improvements and Improvement Bonds;
- Article 3 – General Improvement Fund and Investment Bonds;
- Article 4 – Refunding Municipal Improvement Districts Bonds for Savings;
- Article 5 – Street and Highway Improvement Bonds; and

Among the taxing districts that could be used to support redevelopment are Articles 2 and 3.

Article 2. General Public Improvements and Improvement Bonds

This Article can be used to widen or pave streets; construct or repair conduit; construct or repair sidewalks, railroads, manholes, culverts, parking, curbs, gutters, and pipes; construct or repair sewers, drains and collection systems for sanitary and drainage purposes; construct or repair waterworks, ditches, channels and associated systems for carrying stormwater or water; construction or repair of lighting, plants, poles, wires, conduits, lamps or standards; grading, paving or other improvements to off-street parking and related entrances.

Article 3. General Improvement Fund and Investment Bonds

Article 3 allows municipalities to incur bonded indebtedness to fund a “general improvement fund”.

Government Property Lease Excise Tax Program (GPLET)

One of Arizona’s available redevelopment tools is the GPLET Program. The goal of the program is to help reduce the operating costs of a redevelopment project by replacing the real property tax with an excise tax. The program can be used for up to twenty-five year, requires that the land and buildings be transferred to a government entity, and leased back for private use. However, under current legislation, the land and the improvements must be conveyed back to the lessee after eight years. GPLET excise taxes are computed on a per square foot basis, based on the property use type.

APPENDIX - AVONDALE CITY CENTER MARKET ANALYSIS

MEMORANDUM

To: Matrix Design Group, Inc.
From: Elliott D. Pollack & Company
Date: March 28, 2019
Re: Development Opportunities for Avondale City Center

Elliott D. Pollack & Company was retained to assess the market area surrounding the Avondale City Center and report the City Center's potential opportunities to develop residential and commercial projects in the short and long term. The following assessment outlines a market-driven outlook for each major land use.

Residential

With close proximity to the I-10 freeway, residential products with medium to high density would be suitable residential products within the City Center master plan and help support additional commercial development. Development types that would have appeal to developers in today's market include multi-family, single-family rental communities, condominiums, townhomes, and clustered, small-lot single family residential. However, the sites located within the City Center are still competing with other West Valley sites as well as the broader metropolitan region. There are many sites considered superior to the City Center that will likely develop first. But the City Center is most certainly in the path of eventual residential development.

For example, apartment construction has been concentrated in the urban areas of Metro Phoenix. Of the 155 complexes built in Maricopa County since 2014, the majority (93 complexes) have been built in Phoenix, Scottsdale and Tempe. These cities also command the highest rents with complexes in the remaining suburban cities having rents generally much lower. Most of the construction activity has also occurred in either Phoenix (primarily the central city) or the East Valley. Only 18 communities (11%) have been completed in the West Valley. Two of those were in Avondale. These historical capture rates are important to understand both the potential and limitations for opportunities moving forward.

There have been positive trends in apartment development for the suburban areas of the Valley, especially for sites with freeway access. Just a few years ago, there were no active apartment projects west of the I-17. Today, there are several projects that have been built, under construction, or in the planning stages. Close proximity to the freeway is a common site selection factor for these suburban apartment projects. The recently completed 400-unit Avalon apartment community

Elliott D. Pollack & company

(located north of McDowell on 103rd Avenue, north of the Harkins and Costco anchored Gateway Pavilions shopping center) is one example of that positive trend for continued suburban and West Valley multi-family development. The absorption activity at Avalon over the next 12 to 18 months will help to prove the market for additional apartment communities in Avondale.

As of the latest projections from the Maricopa Association of Governments (MAG), modest growth in residential development is anticipated in and immediately surrounding the City Center. By 2030, MAG is projecting 300 to 350 new dwelling units in the zones that encompass the City Center. Beyond 2030, MAG expects the City Center region to experience much more robust growth, especially in the northwest area. These projections report nearly 1,350 new residential units between 2030 and 2040 and an additional 1,100 units in the decade following (2040-2050). This equates to approximately 1,000 new residents in and around City Center by 2030 (6,300 total residents) and nearly 3,600 new residents between 2030 and 2040 (9,900 total residents). By 2050, the City Center area is expected to have 12,800 residents.

The planned opening in 2019 of the first phase of Mattamy Homes' Roosevelt Park II, with 233 homes (607 total homes at build out) at the northwest corner of 107th Avenue and Van Buren will allow the immediate area to exceed MAG's initial projection for the 2020-2030 period. Additionally, proposed residential projects such as Fairway Townhomes (161 units at the SEC of Fairway and Van Buren) and further south such as Del Rio Ranch Phase III (491 homes), Verde Trails (over 1,000 homes), Alamar (3,695 homes) and Entrada (estimated 600 homes) are all positive trends for the continued growth in the southern region of Avondale.

South Avondale Development Pipeline					
Map	Project	Location	Type	Size	Status
Commercial					
1	Residence Inn by Marriott	E of SEC Avondale Blvd & I-10	Hotel	102 rooms	U/C
2	My Place Hotel	NEC Avondale Blvd & Dale Earnhardt	Hotel	63 rooms	U/C
3	Avondale 50	N of NWC 119th Ave & Van Buren	Bus. Park	49 acres	Proposed
Residential					
4	Del Rio Ranch Phase III	W of El Mirage Rd S of Buckeye Rd	SFR	491 homes	Planned 2019
5	Roosevelt Park Phase II	NWC 107th Ave & Van Buren	SFR	607 homes	Planned 2019
6	Verde Trails I & II	SWC 107th Ave & Broadway	SFR	675 homes	Planned 2019
7	Alamar Phase I	SWC Avondale Blvd & Broadway	SFR	461 homes	Planned 2020
8	Fairway Townhomes	SEC Fairway Dr & Van Buren	TH	161 homes	Proposed
9	Entrada	NWC 107th Ave & Broadway	SFR	600 homes	Proposed





It is our opinion that interest could be generated for residential projects at various City Center sites over the next several years. We recommend that the City be proactive in engaging developers and consider development agreements that may help induce development to the City Center over competing West Valley locations, especially if community benefits such as workforce housing can be incorporated. With public investment, the development timeline projected above could be accelerated, which would then accelerate the feasibility of commercial elements.

Retail

Market conditions existing today in the retail real estate sector have been severely affected by the last recession. The latest business cycle exposed significant longer-term challenges for the brick-and-mortar retail market in Greater Phoenix as well as trends that will affect how the market performs in the future. Following are some of those trends and challenges.

- **Domination:** The market has become dominated by big box retailers and power/community shopping centers. The Avondale market area illustrates a similar trend. There are numerous power centers and anchored shopping centers along I-10 from 99th Avenue to Pebble Creek Parkway, with nearly every retail and restaurant segment and brand found within these centers.
- **Obsolescence:** Retailing is constantly changing resulting in some companies going out of business as others are entering the marketplace. Currently, restaurants and value-oriented retail are the most viable in the market and actively expanding.
- **Greater Phoenix is Over-Retailed:** Because of the region's tremendous history of growth, virtually all national retail chains want to be here, resulting in more retail space than is demanded by the population.
- **Consolidation:** As retail market conditions change, consolidation of companies within the industry occurs. This trend is particularly evident in the grocery store sector.
- **Internet or E-Commerce Sales:** A long term threat to brick and mortar retailing.

Within the last 15 years, the market has seen seismic shifts in the manner in which people purchase retail goods and services. Clearly e-commerce has had a significant impact on brick-and-mortar retailers. However, the public has also shown a strong preference for purchasing goods and services at big box retailers, many of whom have transitioned into modified grocery outlets.

The Greater Phoenix retail market had a relatively healthy 2018, with both reduced vacancy and continued absorption, albeit more modest than in 2017. With the local economy remaining healthy and the housing market continuing on its path of development, expanding retailers will sustain the momentum in the market, particularly among restaurants and other small-space users that thrive when household incomes increase.

There will continue to be competition for retail tenants in the trade area surrounding Avondale City Center. In the West/Southwest submarket, there is 1.2 million square feet of retail space planned in existing and future shopping centers.

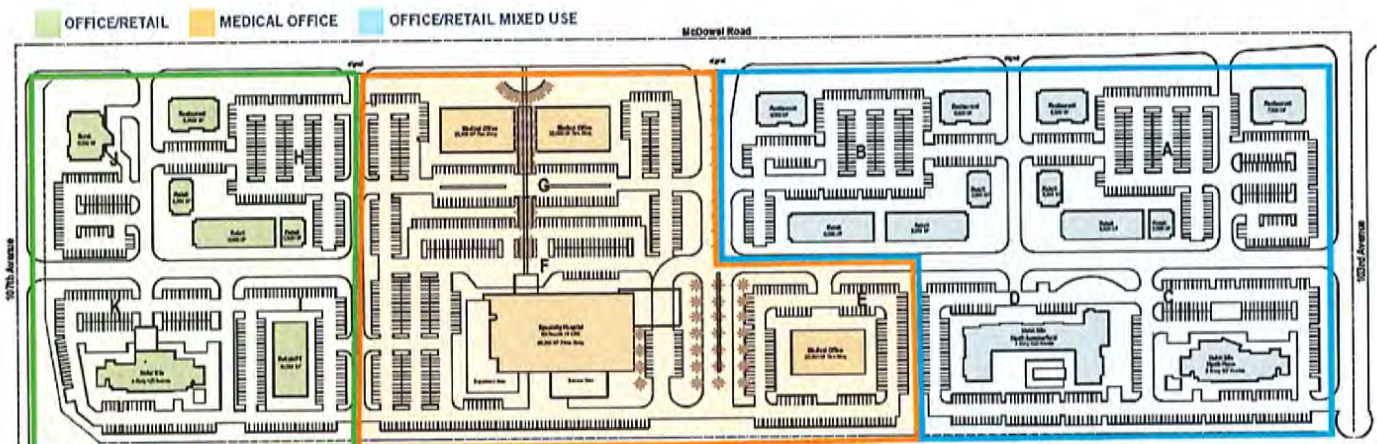


Retail Construction Phases Under Construction & Planned Q3 2018

Property Name Address	Total SF Year Built	Existing	Under Construction	Planned	Development Type
ALDI Laveen Center SE Baseline Rd/59th Ave	52,900 2019			52,900	Neighborhood Center
Canyon Trails Towne Center NE Yuma Rd Cotton Ln	700,000 2008	389,271		139,300	Power Center
EoS Fitness NE Encanto Ave/75th Ave	81,000 2018	35,000		46,000	Neighborhood Center
Estrella Commons SEC I-10/Estrella Pkwy	190,400 2019			190,400	Neighborhood Center
Laveen Park Place SW Baseline Rd/59th Ave	273,763 2018			273,763	Power Center
Maya Cinemas SW McDowell Rd/67th Ave	83,076 2019			83,076	Neighborhood Center
Park 10 SE McDowell Rd/107th Ave	146,305 2016	69,665		76,640	Retail/Office
Pebblecreek Village SW McDowell Rd Pebble Creek Pkwy	176,420 2018			176,420	Neighborhood Center
Sundance Marketplace SE Yuma Rd Watson Rd	64,151 2018			64,151	Community Center
Village Grove at Verrado NW Indian Schl Rd Jackrabbit Trl	173,557 2018			140,270	Neighborhood Center
Properties: 10	1,941,572	493,936		1,242,920	
Source: CBRE					

Centers closest to City Center include:

Park 10, a 43-acre mixed use project at the northeast corner of I-10 and 107th Avenue which is available for retail, medical and office uses. Nearly 70,000 square feet has been developed at the eastern edge of the property.

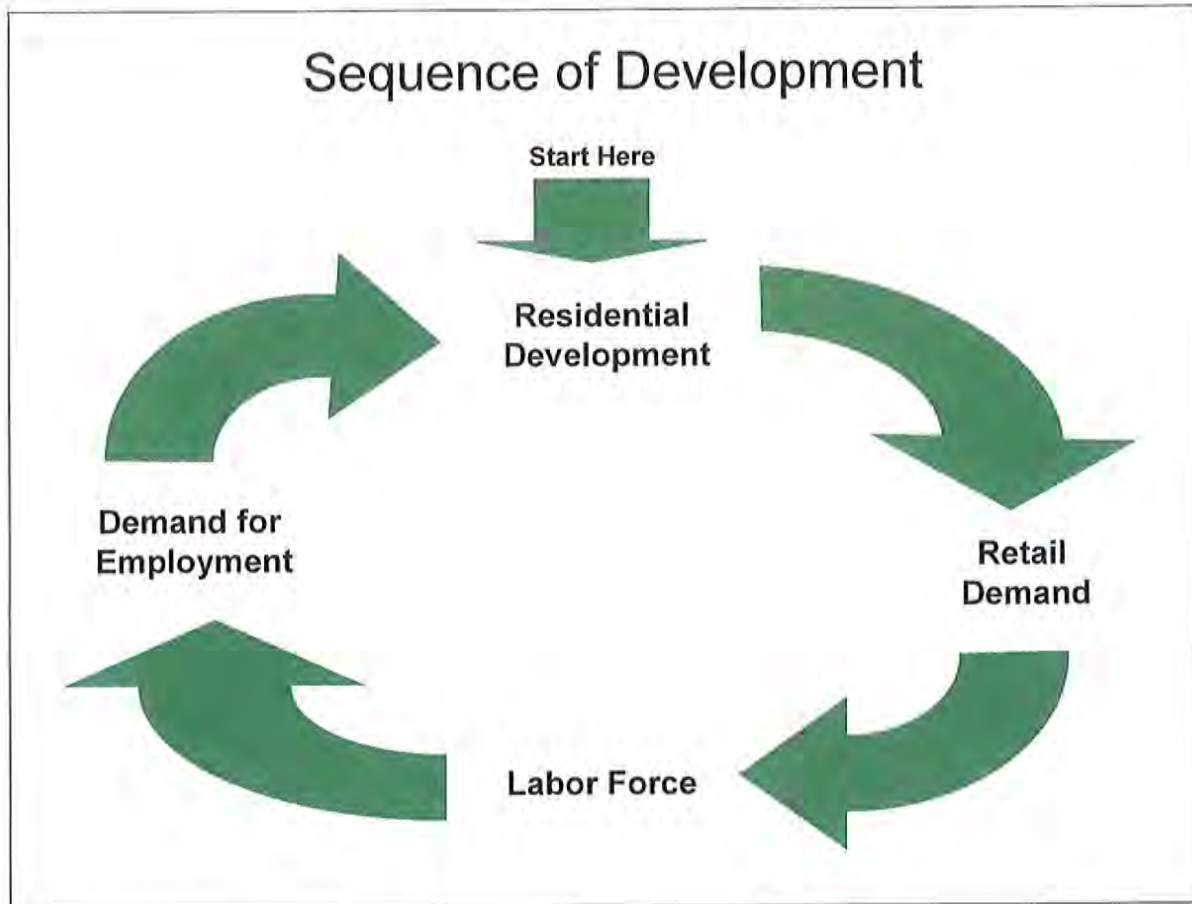


Estrella Commons, at the southeast corner of I-10 and Estrella Parkway. This is a mixed-use plan including two hotel sites, nearly 170,000 square feet of commercial space including a grocery store and theater, single family subdivisions totaling 430 homes, an apartment community and a 290-unit single family rental community.



Continued residential development in all forms within and surrounding the Avondale City Center will be critical to the eventual success of the City Center vision. As the following graphic helps to illustrate, local residents will be the main source of retail demand and also provide a local workforce for eventual office development. This residential development must come first, eventually building to a critical mass of residents to attract additional retailers.





According to ESRI demographics, there is generally a surplus of retail in the surrounding market area compared to local resident demand. However, retail gaps were identified in the immediate 1-mile radius surrounding the City Center. The 1-mile area around City Center is currently underserved in nearly every retail category, though many of these needs can be found within two miles of City Center and do not necessarily represent an opportunity for additional retail development.

The largest underserved retail categories that would have potential opportunities at City Center include food and beverage stores, food services and drinking places, and general merchandise stores. by just over 52,000 square feet. This amount of calculated space does not justify additional retail development in regard to general merchandise or food and beverage stores. However, it does indicate that there may be opportunities today for new restaurant, fast food, coffee shop, or other food away from home options, which would serve the local population, hotel guests, and patrons of the sports complex. ESRI reports a \$6.9 million leakage of restaurant demand, equating to between 13,000 and 20,000 square feet of potential restaurant development.



Retail MarketPlace Profile

Avondale City Center - 1 Mile Radius

Summary Demographics

2018 Population	8,710
2018 Households	3,003
2018 Median Disposable Income	\$44,958
2018 Per Capita Income	\$22,226

2017 Industry Group

	Demand (Retail Potential)	Supply (Retail Sales)	Retail Gap
Motor Vehicle & Parts Dealers	\$18,042,388	\$86,681,105	-\$68,638,717
Furniture & Home Furnishings Stores	\$2,821,052	\$0	\$2,821,052
Electronics & Appliance Stores	\$2,849,598	\$0	\$2,849,598
Bldg Materials, Garden Equip. & Supply Stores	\$5,304,237	\$1,431,123	\$3,873,114
Food & Beverage Stores	\$14,412,872	\$936,852	\$13,476,020
Health & Personal Care Stores	\$5,008,756	\$9,378,501	-\$4,369,745
Gasoline Stations	\$8,206,636	\$9,735,744	-\$1,529,108
Clothing & Clothing Accessories Stores	\$3,972,461	\$0	\$3,972,461
Sporting Goods, Hobby, Book & Music Stores	\$2,382,426	\$0	\$2,382,426
General Merchandise Stores	\$16,422,645	\$0	\$16,422,645
Miscellaneous Store Retailers	\$3,306,935	\$223,324	\$3,083,611
Nonstore Retailers	\$803,539	\$69,666	\$733,873
Food Services & Drinking Places	\$9,369,856	\$2,516,042	\$6,853,814

Source: Esri and Infogroup. Esri 2018 Updated Demographics. Esri 2017 Retail MarketPlace. Copyright 2018 Esri. Copyright 2017 Infogroup, Inc. All rights reserved.

Some of the most actively developed retail types in today's market include restaurants, value-oriented retail, and local services. These users may be located within shops or freestanding pads. The uses that could be marketed for the City Center include fast food restaurants, fast casual restaurants, coffee shops, fitness/pilates/yoga studios, dry cleaners, hair salons, and nail salons.

Going forward, according to MAG's projection of population in the immediate area, new population will create retail demand for approximately 27,000 square feet of space over the next decade (2020-2030). This amount of space again denotes opportunities that are limited to freestanding pads or small shops in an unanchored development.

Based on our review of residential projects in the pipeline and the opportunity to attract additional residential development within and immediately surrounding City Center, it is our opinion that the area could reasonably experience twice as much residential growth as originally forecasted by MAG over the next 10 years, equating to demand for over 63,000 square feet of retail space, or the equivalent of a small neighborhood center.

In the longer term (2030-2050), a more substantial amount of retail will be warranted due to the expected population growth in the immediate and surrounding area. The anticipated growth in population in these later years should reach a critical mass of new residents to attract an anchored



neighborhood center and other retail development in excess of 100,000 square feet of commercial space. This could include a major anchor tenant such as a grocery store or family entertainment center. With the extensive residential master planned subdivisions located further south near Broadway Road planned to begin opening in 2019 and 2020, a larger retail anchor with a draw of 3 to 5 miles may be possible at City Center.

Hospitality

Similar to residents, hotel development provides an influx of disposable income spending by visitors in categories such as transportation, restaurants, retail, personal services, and entertainment. These tourists act as a base industry sector by bringing dollars from outside the region into Avondale to spend while creating minimal need for City services. More importantly, as each new hotel project is constructed and achieves stabilized occupancy, they will incrementally create additional demand for nearby retail and restaurants. This supplements the demand from permanent residents.

Avondale has done a tremendous job leveraging its I-10 freeway access and visibility to attract hotel development. With the existing hotels of Hilton Garden Inn and Homewood Suites by Hilton and the two new hotel projects (Residence Inn by Marriott – 102 rooms, My Place Hotel – 63 rooms), the City Center is experiencing success in developing a hospitality core. Continued hotel development should be encouraged as the market grows or for differentiated hotel segments that do not cannibalize the existing hotels' market share.

Office

Typically, the office market is one of the last commercial real estate sectors to enter a suburban city. By comparison, retail development is usually the first commercial sector to enter a community after housing/residential development and when population growth reaches a critical mass. In this southern area of Avondale, a critical mass of population is still developing, and Avondale will begin to see office development only after continued significant growth in residential and retail development.

Office developers prefer to cluster office buildings in high traffic, accessible locations, preferably near amenities. Approximately 87% of all speculative office space in Maricopa County is located in three cities – Phoenix, Scottsdale and Tempe. Absorption in suburban areas is typically modest and the Avondale office market will in all likelihood experience slow growth. Given the amount of office land available along the I-10 and Loop 101, Avondale City Center will be challenged to compete with other potential office sites.

The demand for mid-rise office buildings along Avondale Boulevard is most likely still decades into the future. Based on the current demographic characteristics of the population surrounding the City Center area, competition from other West Valley communities that have similar, if not better, assets to attract office employers (including the Westgate area in Glendale along the Loop 101), and employment growth that will still take some time to mature as the West Valley shifts from blue collar employment to management and professional jobs, office development at City Center will take quite some time.



The most likely interim office/employment development opportunities for the City Center in the near term will be local serving office users that can locate in unanchored retail centers or neighborhood centers often anchored by a grocery store or other major tenant with regional name recognition. Service oriented office tenants are ideal for smaller centers. These users prefer to be located close to a population base and can include personal and medical services. These office users are well suited to occupy a modest amount of space that can be located within an in-line shop or as a freestanding pad. The most marketable users today could include:

Medical

- Dental/Orthodontic offices
- Physical Therapy
- Chiropractor
- Primary Care Physician
- Dermatology, Esthetician, Weight Loss or Other Specialization

Local Services

- Insurance Providers
- Financial Advisors
- Tax Accountants
- Real Estate Agency
- Banking

Modified SWOT Analysis

Weaknesses and Threats

1. At 402 acres in size the City Center Plan is likely too large. Downtowns of most moderately-sized cities are much smaller in size. For instance, Downtown Tempe is roughly 90 acres in area. Lifestyle centers similar to Kierland Commons or the Scottsdale Quarter are no more than 40 acres in size. The plan for the Avondale City Center has attempted to address an area that is too large in area with many divergent uses.
2. The fractured ownership of the City Center area makes it difficult to implement an overall plan of development. Projects that have endorsed many of the design objectives of the City Center Plan have been developed under a single unified ownership. This allows for creation of a lively street scene, outdoor cafes, walkability, open spaces, and other amenities. It also allows for unified planning, marketing, and phasing of the project.
3. The market area is impacted by the extent of non-residential uses, typically industrial uses, located to the east and west of Avondale Boulevard. This reduces the support for retail and other uses in the City Center.
4. To date, the City Center has developed in a haphazard manner and uses that might have benefited the City Center have developed in other locations. As a result, apart from the sports facility, the current City Center development does not have a focus or center of activity/attraction for residents. For instance, the Akos Medical Campus that is locating on McDowell Road could have served as an anchor for the City Center. Likewise, the City Hall campus that could serve as a partial anchor for the City Center is located outside of its boundaries. Making connections from City Hall to the City Center could help to mitigate this somewhat and help drive more traffic to the site.



5. The retail market surrounding the City Center is very mature and most major retailers have already located within the market area. Retail development has largely passed over Avondale Boulevard in favor of 99th Avenue, Litchfield Road, Dysart Road, and sites farther west in Goodyear. The opportunity to capture a major retail anchor appears limited. Future retail development in the City Center will likely be neighborhood serving – grocery stores, personal services, small office users (dentists, insurance, etc.), and similar uses.
6. The surrounding trade area is limited in size with moderate incomes. According to the American Community Survey 2013-2017 5-Year estimates, there are 22,758 persons in 7,128 households within one mile of the intersection of Avondale Boulevard and Van Buren. Household incomes are moderate at approximately \$49,000. By comparison, the median income in Maricopa County is \$58,580. In the near term, the limited population levels near the City Center will impede development.

Strengths and Opportunities

In spite of the above weaknesses, the longer-term opportunities for development of the City Center appear very positive.

1. The population of the market area that will support development in the City Center should grow rapidly. Some of the nearby residential subdivisions include Roosevelt Park II with 607 homes, Verde Trails with more than 1,000 homes and Alamar with nearly 3,700 homes. The Fairway Townhomes project of 161 units is also proposed on Van Buren Street and Fairway Drive.
2. The City Center area is an infill location that over time will become more valued as a potential site for mixed-use development.
3. High density residential development is key to the success of the City Center. The plan appears to have significant areas designated for such uses.
4. The City Center Plan can be designed as a phased plan that will allow for an increase in the intensity of uses over time as the market demands. The parking lots of today can be converted to structured parking to support office development in the future. The plan needs to establish implementation measures for the near-term, so development can proceed incrementally under a vision for the area that will allow for transition to more intensive uses over time.

Conclusions

While the above weaknesses are impediments to future development in the City Center, the City has recognized that some changes are needed. The amendments to the design standards for the Empire property west of Avondale Boulevard will serve to encourage near-term development in the City Center. However, the City should still promote the development of a neighborhood-serving retail center that stands out from others and provides for walkability, outdoor uses, and other design objectives. This development could jumpstart other projects as well.

An example of a traditional retail center that stands out from others is the 92,000 square foot Paseo Village in McCormick Ranch in Scottsdale. The center is now 25 years old and has



undergone changes in tenants over the years, losing a grocery store which is now occupied with a fitness center. The complex has lush landscaping and walkways within the parking lot. A gas station is even included at the northern end of the center. Adjacent to the center to the right, a church is being redeveloped into office and restaurant space.



Initial phases of commercial development at the City Center will be constrained by a limited market. It is recommended that development proposals be allowed flexibility to address these market constraints while maintaining an eye on the long-term City Center vision. This will require a collaborative effort on the part of the City leadership, staff, property owners and the development community.

Long term redevelopment of properties over time – whether as individual buildings undergoing expansion or remodels, future conversion of surface parking lots into parking structures, or adaptive reuse of buildings including possibly tear downs of buildings from early phase of



development— has a legitimate role in the long-term development of the City Center Plan over time. Redevelopment as a strategy to respond to changing market conditions over time is consistently used in city centers within communities throughout the Valley.

The City's vision for this area as an important employment center capable of accommodating retail, hotels, office buildings and high-density residential uses can be achieved in the long term. However, the implementation process must be tempered with the realities of the real estate market and the site relative to competing areas. The vision can be achieved over the long term if the underlying planning standards, guidelines and zoning are set in place to permit interim development of property in the short and intermediate terms which will benefit the City as well as property owners, and ultimate development of property at higher density and intensity as the real estate market in the West Valley matures and demand for employment expands.

From an economic perspective, the key to a successful Avondale City Center is phased development of property over the long term, much like what has occurred in other parts of the Valley where redevelopment activities are underway due to strong demand for retail or office uses. The City Center Plan must be designed to accommodate land uses based on current demand as well as future demand.

Adopting planning standards and guidelines that permit phased or staged development of retail and office sites along Avondale Boulevard will bring significant benefits to the City as well as to property owners. Conversely, forcing the area to lie fallow until demand for intensive retail or office development surfaces in the future will produce few, if any, benefits.

There are two main recommendations that could help to accelerate market demand for all types of development:

- 1. Identification of incentives and public/private partnerships that may become available to promote development of the City Center.**

Public investment by the City can help induce development on a project by project basis or by engaging a master developer for certain sites within City Center. Careful construction of development agreements, verified to be a fiscally sound investment for Avondale, can help attract development and move a project beyond past hurdles that may have been related to the cost of infrastructure, design standards, or simply the market rents compared to expected development costs.

- 2. Identification of "catalysts" that will help promote or kick-start development of the City Center.**

As the Specific Plan identifies, a major user could land in the northwest area of City Center and could include a corporate campus for a major employer, a post-secondary institution, or a major healthcare center. While expectations should be tempered (attracting a major user should be considered a low probability event), it still worth pursuing and planning efforts to make a site development ready and marketed to regional economic development agencies should be next steps.





CITY COUNCIL REPORT

SUBJECT: Billy Moore Days Event Naming

MEETING DATE: 7/22/2019

TO: Mayor and Council

FROM: Kirk Haines, Parks and Recreation Director, (623) 333-2411

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

PURPOSE:

City Council will consider renaming the Billy Moore Days special event.

BACKGROUND:

The Billy Moore Days parade and events returned to Avondale in October 2016 after a multi-year hiatus when the city decided to cut costs during the economic downturn in 2009. City Council unanimously agreed to bring back the event similar to previous years and requested that staff engage the community and business leaders in the planning process.

DISCUSSION:

City Council will discuss whether to continue with the Billy Moore Days event title.

BUDGET IMPACT:

No financial impact.

RECOMMENDATION:

Staff recommends to continue with the existing name/title of the event.