



City of Avondale
City Council Meeting
Monday, September 25, 2023

Mayor and Council

Kenneth Weise, Mayor

Mike Pineda, Vice Mayor

Tina Conde, Council Member | Curtis Nielson, Council Member

Veronica Malone, Council Member | Gloria Solorio, Council Member

Max White, Council Member

Administration

Ron Corbin, City Manager

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

Nicholle Harris, City Attorney | Marcella Carrillo, City Clerk

City Council Chambers

11465 West Civic Center Drive
Avondale, AZ 85323



City Council Meeting
Notice & Agenda
Monday, September 25, 2023

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

SPECIAL MEETING

5:30 PM

Physical Access to the Council Chambers will be available 30 minutes prior to the meeting.

CALL TO ORDER BY MAYOR

1. ROLL CALL BY THE CITY CLERK

2. SPECIAL EVENT UPDATE

City Council will receive an update from staff regarding upcoming special events. This item is for discussion only.

3. WERIDE EXPANSION AND UPDATE

City Council will receive an update from staff regarding the WeRIDE expanded services and success. This item is for discussion only.

4. INNOVATION TEAM RECOGNITION

City Council will recognize the graduates of the 2022-23 Avondale Innovation Team program. This item is for discussion only.

5. ADJOURNMENT

Request to Speak: Anyone wishing to address the Council regarding items listed on the agenda or under unscheduled public appearance should submit a Request to Speak online at <http://www.avondaleaz.gov/requesttospeak> prior to consideration of that agenda item.

REGULAR MEETING

6:00 PM

Physical Access to the Council Chambers will be available 30 minutes prior to the meeting.

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

1. ROLL CALL BY THE CITY CLERK

2. UNSCHEDULED PUBLIC APPEARANCES (Time is limited per person. Please state your name.)

3. CONSENT AGENDA

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

a. RESOLUTION 1058-0923 - INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY HUMAN SERVICES DEPARTMENT– LEGACY AVONDALE HOUSING REDEVELOPMENT PROJECT PHASE 3 AND AVONDALE INFILL HOUSING PROGRAM

City Council will consider a request to adopt Resolution 1058-0923, approving an Intergovernmental Agreement with the Maricopa County Human Services Department (MCHSD) for a grant in the amount of \$2,750,000 to support the development of affordable housing in Avondale and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

b. RESOLUTION 1059-0923 - AMENDMENTS TO THE PERSONNEL POLICIES AND PROCEDURES, CHAPTER 6 EMPLOYEE BENEFITS

City Council will consider a request to adopt Resolution 1059-0923, amending the Personnel Policies and Procedures Chapter Policy 6, Employee Benefits to add language concerning the Public Safety Homeowner Incentive Program and to revise the Administrative Leave language (Section P) and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

c. RESOLUTION 1060-0923 - AMENDMENTS TO THE PERSONNEL POLICIES AND PROCEDURES, CHAPTER AND ADMINISTRATIVE POLICY DEFINITIONS OF TERMS

City Council will consider a request to adopt Resolution 1060-0923, amending the current definition for Administrative Leave to align with proposed revisions to Avondale Chapter Policy 6, Employee Benefits and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

d. ORDINANCE 2056-0923 – ACQUISITION OF REAL PROPERTY LOCATED NORTH OF INDIAN SCHOOL ROAD AND WEST OF EL MIRAGE ROAD

City Council will consider a request to adopt Ordinance 2056-0923 authorizing the acquisition by purchase, dedication, or condemnation, of real property for public use located north of Indian School Road and west of El Mirage Road, and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

e. ORDINANCE 2057-0923 – ACQUISITION OF REAL PROPERTY LOCATED NORTH OF INDIAN SCHOOL ROAD AND EAST OF 127TH AVENUE

City Council will consider a request to adopt Ordinance 2057-0923 authorizing the acquisition, by purchase, dedication, or condemnation, of real property for public use located north of Indian School Road and east of 127th Avenue and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

f. ORDINANCE 2058-0923 - SECOND AMENDMENT TO LEASE, MAINTENANCE AND OPERATIONS AGREEMENT (AMERICAN SPORTS CENTERS AVONDALE FACILITY)

City Council will consider a request to adopt Ordinance 2058-0923 approving the Second Amendment to the Lease, Maintenance and Operations Agreement (American Sports Centers Avondale Facility) outlining the terms so the Facility may be used to accommodate emergency shelter and family assistance/reunification operations if a disaster or calamity occurs within the City or immediately surrounding area and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

g. HARVEST HOC OF AVONDALE – MINOR LAND DIVISION – APPLICATION PL-23-0016

City Council will consider a request to: a) approve Application PL-23-0016, submitted by Kimberly Schroeder, KAEKO, on behalf of the property owner 3828 Avondale LLC, for approval of a Minor Land Division that dedicates seventeen (17) feet of right-of-way and an eight (8) foot Public Utility Easement (PUE) along Vermeersch Road; and b) authorize the Mayor or City Manager, City Attorney, and City Clerk to execute the necessary documents. The approximately 2.44 net-acre site is located approximately 655 feet south of the southwest corner of Illini Street and Vermeersch Road. The Council will take appropriate action.

4. REGULAR AGENDA

a. FEDERAL LEGISLATIVE UPDATE

City Council will receive an update from Capital Edge regarding Avondale's legislative priorities, as well as an update on recently proposed federal policies. For information and discussion only.

b. RESOLUTION 1061-0923 DECLARING AS A PUBLIC RECORD AND ORDINANCE 2059-0923 - AVONDALE CITY CODE AMENDMENT, CHAPTER 11; RELATING TO COMMERCIAL SOLID WASTE PERMIT, PENALTY FEES, SOLID WASTE ACCESS STANDARDS, AND OTHER ADMINISTRATIVE CHANGES

City Council will consider a request to adopt Resolution 1061-0923, declaring as a Public Record and Ordinance 2059-0923, amending Avondale City Code Chapter 11, Solid Waste Code relating to commercial solid waste permit, penalty fees, solid waste access standards, and other administrative changes and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

5. SUMMARY OF CURRENT EVENTS FROM THE MAYOR, VICE MAYOR, AND COUNCIL MEMBERS
(5 Minutes)

6. ADJOURNMENT INTO EXECUTIVE SESSION

City Council will consider a request to adjourn the Regular Meeting and hold an Executive Session pursuant to Ariz. Rev. Stat. § 38-431.03 (A)(3) and (A)(4), discussion with the City Attorney or attorneys for the City for legal advice concerning contemplated or pending litigation and to instruct the City Attorney and attorneys for the City on such litigation for the claims and matter of :

- (i) Roberto Carranza-Vargas
- (ii) Keitha Tucker
- (iii) Charles Montoya v. City of Avondale, et.al.

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

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

CITY COUNCIL REPORT

SUBJECT: Special Event Update

MEETING DATE: 9/25/2023

TO: Mayor and Council

FROM: Bryan Hughes, Parks and Recreation Director

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

REVIEWED: Ron Corbin, City Manager, (623) 333-1011

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Areas:

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

Special events offer opportunities for residents across the community to come together and experience unique events and cultural celebrations.

PURPOSE:

City Council will receive an update from staff regarding upcoming special events. This item is for discussion only.

BACKGROUND:

Each year, staff shares updates on upcoming community and special events with the Mayor, council, and the public.

DISCUSSION:

This update will give the Mayor and Council a glimpse of the upcoming activities.

Fall 2023 Events

- Barks & Treats – Saturday, October 7th
- Billy Moore Days – Thursday, October 19th to Sunday, October 22nd
- Creepin' Candy Crawl – Tuesday, October 31st
- Winterfest – Saturday, December 2nd

Partner Fall 2023 Events

- Dia de Los Muertos with Ballet Folklorico Esperanza – Saturday, October 28th
- Avondale Championship Open – Thursday, November 2nd
- Veteran's Day Fun Run & Ceremony – Saturday, November 11th

Spring & Summer 2024 Events

- Tres Rios Nature Festival – Saturday, February 24th to Sunday, February 25th
- Family Campout – Saturday, March 16th – Sunday, March 17th
- Eggstravaganza – Thursday, March 28th, Friday, March 29th, Saturday, March 30th
- KidFest – Saturday, April 13th
- Avondale Fiesta – Saturday, May 4th
- Memorial Day Ceremony – Monday, May 27th
- June 2024 – Blank Canvas Summer Showcase
- Juneteenth – Wednesday, June 19th
- Light Up The Sky – Thursday, July 4th

2024 Running Events

- 5K & 10K Run – Spring TBD
- Aquathlon – Fall TBD

BUDGET IMPACT:

This item has no budget impact.

RECOMMENDATION:

This item is for discussion only.

Contact person for document distribution:

CITY COUNCIL REPORT

SUBJECT: WeRIDE Expansion and Update

MEETING DATE: 9/25/2023

TO: Mayor and Council

FROM: Kirk Beaty, Public Works Director

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

REVIEWED: Ron Corbin, City Manager, (623) 333-1011

STRATEGIC PLAN:

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

The expansion of the WeRIDE Microtransit service is in direct response to the usage trends of public transit in Avondale. The WeRIDE Microtransit service is an innovative public transit option that provides an ondemand transit option while ensuring services remain as cost-effective and efficient as possible.

PURPOSE:

City Council will receive an update from staff regarding the WeRIDE expanded services and success. This item is for discussion only.

BACKGROUND:

The WeRIDE Microtransit service pilot program will celebrate one year of operation in October 2023. WeRIDE has experienced increases in ridership month over month, with an average of 100 passengers using the service in Avondale daily. The service was developed in partnership with the City of Goodyear, which has also realized growing ridership over the past year. The success of WeRIDE has garnered the attention of other municipalities in the region, and just recently the City of Surprise joined the WeRIDE service contract and is also experiencing growing ridership.

Growth and expansion of the program is an indicator of its success. It is because of this success that, beginning in October 2023, WeRIDE service is expanding in Avondale to serve the area south of Interstate 10. With this expansion, the Zoom circulator service will be discontinued in October as it has become too costly to operate and does not provide the necessary level of service to meet rider needs.

DISCUSSION:

WeRIDE Microtransit will be expanding south of Interstate 10 starting in October 2023. The Avondale Zone will cover most of the city and provide over 500 virtual stops connecting residents to government and medical services, points of interest, grocery stores, shopping centers, and much more. The southern limit of the service area is generally Lower Buckeye Road. The WeRIDE contracted service provider has procured additional vehicles, including multi-passenger vans, to meet what is expected to be a large increase in demand for service. The City's public transit professionals and the WeRide contracted provider have performed extensive

outreach to inform city residents of this expanded service and notice of the discontinuance of the Zoom circulator.

Additionally, the WeRide contracted provider has expanded its operational presence. What started in one vacant office in the city's Municipal Operations Service Center (MOSC) has grown to the point that the contract provider has moved to its own operational space in nearby Goodyear, with a satellite office in Surprise, to accommodate its growing team of dedicated transit professionals providing exceptional customer service as evidenced by resounding 5 star reviews.

Continued growth and expansion is proof of concept that WeRIDE Microtransit is a needed and successful public transit service for the citizens and visitors of Avondale.

BUDGET IMPACT:

Budgetary impacts from service changes are included in the adopted FY2024 budget.

RECOMMENDATION:

This item is for discussion only.

Contact person for document distribution:

CITY COUNCIL REPORT

SUBJECT: Innovation Team Recognition

MEETING DATE: 9/25/2023

TO: Mayor and Council

FROM: Torin Sadow, Senior Management Analyst

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

REVIEWED: Ron Corbin, City Manager, (623) 333-1011

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Area:

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

City Council will recognize the graduates of the 2022-23 Avondale Innovation Team program. This item is for discussion only.

BACKGROUND:

The Innovation Team was created in October 2019 by City Management and Department Directors with the purpose of empowering Avondale employees to foster a culture of innovation that allows our staff members to create a positive, engaging work environment that helps save our internal and external stakeholders time and money. Since its inception, a total of 34 Avondale staff members across three classes have graduated from the Avondale Innovation Team program.

DISCUSSION:

Following are the Avondale staff members to be recognized as Innovation Team graduates:

2022-23 Avondale Innovation Team:

Adam Shipley, Economic Development and Tourism Department

John Reddy, Facilities Department

Jonathan Almanza, Fire and Medical Department

Marlena Pina, Neighborhood and Family Services Department

Angela Destin, Police Department

Mathew Hernandez, Public Works Department

BUDGET IMPACT:

There is no budget impact.

RECOMMENDATION:

This item is for discussion only.

Contact person for document distribution: Torin Sadow; Aneyssa Romo

CITY COUNCIL REPORT

SUBJECT: Resolution 1058-0923 - Intergovernmental Agreement with Maricopa County Human Services Department– Legacy Avondale Housing Redevelopment Project Phase 3 and Avondale Infill Housing Program

MEETING DATE: 9/25/2023

TO: Mayor and Council

FROM: Christopher Lopez, Director

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

REVIEWED: Ron Corbin, City Manager, (623) 333-1011

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Area:

Creative and Sustainable Community Development - Avondale is committed to creating a sense of place, a community of residents and local businesses unified by pride and common values.

PURPOSE:

City Council will consider a request to adopt Resolution 1058-0923, approving an Intergovernmental Agreement with the Maricopa County Human Services Department (MCHSD) for a grant in the amount of \$2,750,000 to support the development of affordable housing in Avondale and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

On December 6, 2022, the Maricopa County Board of Supervisors announced the approval of \$65 million in American Rescue Plan Act (ARPA) of 2021 State and Local Fiscal Recovery Funds for affordable housing development. The Maricopa County Human Services Department (MCHSD) sent a survey to local jurisdictions to partner and leverage local funding assets in affordable housing development projects. On April 10, 2023, the City received an ARPA funding commitment for two projects submitted to MCHSD: \$1,750,000.00 for Legacy Avondale Housing Redevelopment Project Phase 3 and \$1,000,000 for the Avondale Infill Housing Program. The total amount of funding awarded to the City is \$2,750,000.

The Legacy Avondale Housing Redevelopment Project Phase 3 (“Legacy”) is the third and final phase of a homeownership project. Phase 3 includes the construction of six (6) single-family homes on two (2) City-owned lots, purchased in 2009 with Neighborhood Stabilization Program (NSP) funds, at 305 and 309 E. Hill Drive, adjacent to Legacy Avondale Phase 1 and 2.

On January 23, 2023, Council passed Resolution 1010-0123 supporting an application for a non-profit housing developer, Newtown CDC, to apply for HOME Investment Partnerships (HOME) Community Housing Development Organization (CHDO) funds through the Maricopa County HOME Consortium. The project received a commitment of \$796,326 in CHDO funds.

The City intends to enter into a development agreement with Newtown CDC to develop the Legacy project with the CHDO and ARPA allocations from the County, along with the remaining NSP Program Income held by the City. Newtown will develop and sell the homes as part of a Community Land Trust (CLT). The CLT allows homes to be sold at a price which is affordable for low-moderate income homebuyers.

DISCUSSION:

Staff seek to enter an agreement with the MCHSD that will provide funding for the City's housing infill development projects. The funding provided by the Maricopa County Human Services Department will allow the City of Avondale Neighborhood and Family Services Department to develop city-owned properties (purchased through the Neighborhood Stabilization Program) and create new affordable housing opportunities for low-moderate income households. The funding regulations for the Legacy project allow four (4) of the homes to be sold to low-moderate income homebuyers who earn up to 120% of the Area Median Income (AMI). The remaining two (2) homes will be sold to low-moderate income homebuyers who have a household income of up to 80% of AMI. These 2 homes will be targeted to households with persons with disabilities and will meet accessibility standards issued under the Americans with Disability Act (ADA).

The ARPA funding allocation of \$1,000,000 for the Avondale Infill Housing Program consists of the development of two (2) single-family homes on vacant lots, owned by the City and purchased with NSP funds, located at 320 E. Hill Drive and 516 E. Dee Street. The City will utilize a Request for Proposal for the development of the 2 units to be sold to low-moderate income households who earn up to 120% of the AMI. The funding for development is on a reimbursement basis to the City.

BUDGET IMPACT:

The total ARPA funding provided by Maricopa County for FY24 and FY25 is \$2,750,000 to develop single-family homes in Avondale. No match is required. This item was not included in the FY2024 adopted budget and appropriation for this IGA will be transferred from the unanticipated revenue line item.

RECOMMENDATION:

Staff recommend that Council approve a resolution authorizing the City to enter into an Intergovernmental Agreement with Maricopa County Human Services Department to receive funding in the amount of \$2,750,000 to expand the development of affordable, single-family homes in Avondale.

Contact person for document distribution: Regina Marette

RESOLUTION NO. 1058-0923

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING THE INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY TO PROVIDE THE CITY WITH AMERICAN RESCUE PLAN ACT FUNDS FOR THE LEGACY INFILL PROJECT PHASE III.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVONDALE AS FOLLOWS:

SECTION 1. The Intergovernmental Agreement between the City of Avondale (the “City”) and Maricopa County (the “County”), administered by its Human Services Department, to provide the City with \$2,750,000 in American Rescue Plan Act funding for the construction of the Legacy Infill Project Phase III (the “Agreement”) is hereby approved in substantially the form and substance attached hereto as Exhibit A and incorporated herein by reference.

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

PASSED, AND ADOPTED by the City Council of the City of Avondale, Arizona, September 25, 2023.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 1058-0923

[Agreement]

See following pages.



INTERGOVERNMENTAL AGREEMENT
BETWEEN
MARICOPA COUNTY
ADMINISTERED BY ITS
HUMAN SERVICES DEPARTMENT
AND
CITY OF AVONDALE

Agreement Number: _____
Agreement Amount: \$2,750,000
Agreement Start Date: September 13, 2023
Agreement Termination Date: December 31, 2025
ALN; 21.027 American Rescue Plan Act
Unique Entity ID: GDTNM5BLN9Y4

1.0 PARTIES

This financial Intergovernmental Agreement (“Agreement”) is between City of Avondale (“City” or “Subrecipient”) and Maricopa County (“County”) administered by its Human Services Department, (“Department”). The County and the Subrecipient collectively are referred to as “Parties” and individually as the “Party.”

2.0 PURPOSE

Through this Agreement, the Parties will increase affordable housing availability in the Avondale area. The execution of this project shall assist low-income families in Maricopa County by increasing the availability of affordable housing. The County will allocate American Rescue Plan Act (ARPA) Funds to support the development of affordable housing projects throughout Maricopa County. The City shall directly or through an eligible subrecipient or developer, construct and develop affordable homes to be sold to low-income homebuyers.

3.0 TERM OF AGREEMENT

- 3.1 The term of this Agreement is September 13, 2023, through December 31, 2025.
- 3.2 This Agreement may be extended, but not beyond December 31, 2026, with the condition the Subrecipient is compliant with the terms and conditions of this Agreement. Extensions shall be processed as identified in Section 4.0 (Amendments).
- 3.3 This Agreement shall be effective upon approval and signature by both Parties.

4.0 AMENDMENTS

- 4.1 Any changes to this Agreement shall be effective only by a written amendment signed by both Parties.

5.0 ADMINISTRATIVE CHANGE ORDERS

- 5.1 The Chairman of the Board of Supervisors is authorized upon the recommendation of the County's Human Services Department Director and Legal Counsel to make changes within the general scope of the Agreement on behalf of the County through Administrative Change Orders will be effective upon approval and execution by both the Chairman of the Board of Supervisors and the Subrecipient. Administrative Change Orders may address any of the following areas:
- 5.1.1 Modifications to the projects' timeline if the last day of the project timeline is within the Agreement term including adjustments to the schedule included in Exhibit A and Exhibit B Statement of Work.
 - 5.1.2 Modifications to budget line items if the Agreement total amount remains unchanged;
 - 5.1.3 Modifications required by federal, state, or County regulations, ordinances, or policies; and/or
 - 5.1.4 Modifications to administrative requirements such as changes in reporting periods, frequency of reports, or report formats required by the U.S. Department of Treasury or local regulations, policies, or requirements.

6.0 FUNDING

The County shall provide the Subrecipient \$2,750,000 in ARPA Funds under Assistance Listing Number (ALN) 21.027 and provided to the County through the U.S. Department of Treasury.

7.0 AVAILABILITY OF FUNDS

- 7.1 This Agreement and the Parties' obligations under it shall become effective when funds assigned for the purpose of compensating the Subrecipient are available to the County for disbursement. The County shall be the sole authority in determining the availability of funds under this Agreement, and the County shall keep the Subrecipient fully informed as to the availability of funds.
- 7.2 If any action is taken by any federal, state, local agency, or any other agency or instrumentality other than the County to amend, suspend or terminate its fiscal obligation under or provided in connection with this Agreement, then the County may amend, suspend, or terminate this Agreement. In the event of termination, the County shall be liable for payment only for services rendered prior to the effective date of the termination, provided services were performed in accordance with the provisions of this Agreement. Furthermore, upon termination Subrecipient shall be released from all pending responsibilities and shall have no further obligation to perform under the Agreement unless it is expressly provided for herein as an obligation that survives termination. The County shall give written notice of their intent to suspend performance or their intent to terminate this Agreement under this Section at least ten (10) calendar days in advance.

8.0 RESPONSIBILITIES OF ORGANIZATIONS

- 8.1 The Subrecipient shall:
- 8.1.1 Complete the project descriptions in Exhibit A and Exhibit B, Statements of Work.

- 8.1.2 Ensure compliance with federal state, and County requirements as they relate to the ARPA requirements.
- 8.1.3 Ensure compliance with all laws, rules, and regulations.
- 8.1.4 Maintain sufficient qualified and trained staff to provide services under this Agreement.
- 8.1.5 Complete Quarterly Reports to the County no later than 30 days after the end of the quarter with the following information:
 - 8.1.5.1 Status updates on projects' milestones and timelines;
 - 8.1.5.2 Current quarter expenditures;
 - 8.1.5.3 Expenditure forecasting for the current quarter and duration of the projects;
 - 8.1.5.4 Anticipated delays or issues;
 - 8.1.5.5 Any significant disruptions to progress or timelines, and,
 - 8.1.5.6 Any other issues or information the Department should know.
- 8.2 The County shall:
 - 8.2.1 Provide monthly payment of Subrecipient invoices.
 - 8.2.2 Respond to Subrecipient questions in a timely manner.
 - 8.2.3 Provide technical assistance and training to Subrecipient's staff as necessary to ensure proper administration services under this Agreement.
 - 8.2.4 Report to the U.S. Department of Treasury on the Subrecipient's use of ARPA Funds, under this Agreement.
 - 8.2.5 Provide Invoice and Program Reporting template to Subrecipient.

9.0 COMPENSATION

- 9.1 This agreement is on a cost reimbursement basis. Subrecipient shall submit monthly invoices to the County for all costs associated with the projects.
- 9.2 Subrecipient must submit a Request for Reimbursement to the County of all expenditures within the same fiscal year in which the expenditures are incurred. The fiscal year is July 1st through June 30th each year. Therefore, reimbursement must be submitted no later than July 30th for the preceding fiscal year.
- 9.3 Final Reimbursement Upon Agreement Termination:
 - 9.3.1 Prior to termination of this Agreement, at the date identified on page one (1) of this Agreement, or as may be amended, the Subrecipient shall submit the final reimbursement request.
 - 9.3.2 The request shall be submitted no later than 30 calendar days after the termination date except as noted immediately below.
 - 9.3.2.1 If the termination date is between June 10th and June 30th, of any fiscal year, then the final Reimbursement Request shall be submitted to the County by July 10th.
 - 9.3.3 The final progress report, and any other required reports, that may be applicable, such as the program income report, shall be submitted with the Final Reimbursement Request.
 - 9.3.4 Late receipt of the Final Reimbursement Request (e.g., not received within 45 days following the termination date) may result in forfeiture of payment.

10.0 METHOD OF PAYMENT

- 10.1 The Subrecipient shall submit invoices to hsdfinance@maricopa.gov.
- 10.2 Funds not expended in implementing the Statement of Work or upon completion of the Statement of Work shall be returned to the ARPA unprogrammed funds account.
- 10.3 The County shall reimburse the Subrecipient on a net zero (0) payments standard.

- 10.4 Payment by the County is not to be construed as final in the event the Department of Treasury disallows payment for the activity or any portion thereof.

11.0 DISALLOWED COSTS

- 11.1 The cost principles set forth in the Code of Federal Regulations, 2 C.F.R. Part 200 Subpart E (2 C.F.R.) including later amendments and editions on file with the Arizona Secretary of State and incorporated herein by reference, shall be used to determine the allowability of incurred reimbursable costs under this Agreement.
- 11.2 Further, the Subrecipient shall follow cost principles as outlined in Office of Management and Budget (OMB) Uniform Guidance, 2 C.F.R. §§ 200, et seq.
- 11.3 Costs defined as unallowable in 2 C.F.R. shall not be submitted by the Subrecipient and will not be reimbursed by the County.

12.0 TERMINATION

- 12.1 Under A.R.S. § 38-511, the Parties may cancel this Agreement without penalty or further obligation within three (3) years after execution of this Agreement, if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of one Party at any time while this Agreement or any extension of this Agreement is in effect, is or becomes an employee or agent of any other Party to this Agreement in any capacity or consultant to any other party to this Agreement with respect to the subject matter of this Agreement.
- 12.2 Additionally, pursuant to A.R.S. § 38-511, either Party may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement on behalf of the one Party from the other Party to this Agreement arising as the result of this Agreement. A cancellation notice made under this Subparagraph shall be effective when the recipient receives a written notice of cancellation unless the notice specifies a later date.
- 12.3 Either Party may terminate this Agreement at any time by giving the other Party at least sixty (60) calendar days prior notice in writing (unless terminated by a Party under the Availability of Funds provision). Any notice shall be given by either personal delivery or registered or certified mail, postage prepaid and return receipt requested, to the persons at the addresses set forth in Section 13.0 of this Agreement.
- 12.4 In the event of termination, the Parties shall be liable for payment only for reimbursable costs incurred prior to the effective date of the termination, provided services were performed in accordance with the provisions of this Agreement. Neither Party shall be liable for any incomplete or additional performance under the Agreement unless expressly stated herein as an obligation that survives termination.
- 12.5 The County may suspend or terminate this Agreement if the Subrecipient violates any term or condition of this Agreement or if the Subrecipient fails to maintain a good-faith effort to carry out the purpose of this Agreement.
- 12.6 The Parties may terminate this Agreement for convenience upon 30 day's prior written notice. The Parties shall agree upon the termination conditions including the effective date of the termination. The Party initiating the termination shall notify the other Parties in writing stating the reasons for such termination.

13.0 NOTICES

Notifications and communications concerning this Agreement shall be directed to the following:

Subrecipient:
City of Avondale
Christopher Lopez, Neighborhood
and Family Services Director
623-333-2711
clopez@avondaleaz.gov
995 E. Riley Drive
Avondale, AZ 85323

Maricopa County
Human Services Department
Jamie Macfarlane, Housing and
Community Development Manager
602-506-5813
jamie.macfarlane@maricopa.gov
234 N. Central Avenue 3rd Floor
Phoenix, AZ 85004

14.0 EMPLOYMENT DISCLAIMER

- 14.1 This Agreement is not intended to constitute, create, give rise to, or to otherwise recognize a joint venture, partnership, or other formal business association or organization of any kind, and the rights and obligations of the Parties shall be only those expressly set forth in this Agreement.
- 14.2 The Subrecipient agrees no individual performing under this Agreement on behalf of the Subrecipient shall be considered a County agent, employee, or representative and those individuals are not entitled County civil service rights, County retirement rights, or any other rights provided under the County personnel rules, nor shall those rights accrue or apply to any such individual.
- 14.3 The Subrecipient shall have total responsibility for all salaries, wages, bonuses, retirement, withholdings, workers' compensation, occupational disease compensation, unemployment compensation, other employee benefits, and all taxes and premiums appurtenant thereto concerning such individuals shall indemnify, defend, and hold harmless the County with respect to the foregoing.
- 14.4 The County agrees no individual performing under this Agreement on behalf of County may be considered a Subrecipient agent, employee, or representative and that no rights of Subrecipient civil service, Subrecipient retirement, or Subrecipient personnel rules shall accrue or apply to any such individual.
- 14.5 The County shall have total responsibility for all salaries, wages, bonuses, retirement, withholdings, workers' compensation, occupational disease compensation, unemployment compensation, other employee benefits, and all taxes and premiums appurtenant thereto concerning such individuals and the County shall indemnify, defend, and hold harmless the Subrecipient with respect to the foregoing.

15.0 GENERAL REQUIREMENTS

- 15.1 The terms of this Agreement shall be interpreted in accordance with Arizona law and the applicable laws and regulations of ARPA. Any lawsuit arising out of this Agreement shall be brought in the appropriate court in Maricopa County, Arizona.
- 15.2 The Subrecipient shall, without limitation, obtain and maintain all licenses, permits and authority necessary to do business, render services and perform work under this Agreement, and shall comply with all laws regarding unemployment insurance, disability insurance and worker's compensation.
- 15.3 Each Party is an independent contractor under the provisions of this Agreement and no officer, employee, or agent is to be considered an officer, employee, or agent of the other Party.

- 15.4 The Subrecipient shall comply with the regulations prohibiting conflict of interest. For purposes of this Agreement the terms within this subparagraph have the meanings prescribed by A.R.S. § 38-502. Therefore, the Subrecipient shall not make any payments, either directly or indirectly, to any person, partnership, corporation, trust, or other organization that has a substantial interest in Subrecipient's organization, the County, or the project.
- 15.5 Subrecipient must make full written disclosure of any proposed payments to the County and receive written approval for the payments.

16.0 ASSIGNMENT AND SUBCONTRACTING

- 16.1 No right, liability, obligation, or duty under this Agreement may be assigned, delegated, or subcontracted, in whole or in part, without the prior written approval of the County. The Subrecipient shall bear all liability under this Agreement, even if it is assigned, delegated, or subcontracted, in whole or in part, unless the County agrees otherwise.
- 16.2 In accordance with 2 C.F.R. §200.331, the Subrecipient may make a ("Subaward") as a pass-through entity for the purpose of carrying out a portion of the federal award and General Funds. The Subrecipient will make determinations classifying recipients of federal funds as Subawards.
- 16.3 Subrecipient must ensure any Subaward recipient is compliant with all ARPA requirements, including all reporting requirements.

17.0 DISPUTES

- 17.1 Parties may attempt to informally resolve any dispute arising out of this Agreement for a reasonable time, not to exceed one-hundred-twenty (120) calendar days. Disputes not resolved in 120 days, shall be submitted in accordance with the following dispute resolution process:
 - 17.1.1 Notice of the specific grounds of a dispute shall be in writing and filed with the County Representative herein identified in section 13.0, within ten (10) business days from the date the Subrecipient knew of, or should have known of, the basis of the dispute.
 - 17.1.2 The County Representative shall respond in writing to the Subrecipient within fourteen (14) business days. The decision of the County Representative shall be final and conclusive unless, within seven (7) business days after the date the Subrecipient is served with the decision, the Subrecipient files a written Notice of Appeal with the Human Services Department Director.
 - 17.1.3 The Human Services Department Director shall provide the Subrecipient with a written response within fourteen (14) business days following receipt of the Notice of Appeal. The decision of the Human Services Department Director shall be final and not appealable.
 - 17.1.4 Pending the decision of the Human Services Department Director, the Subrecipient shall diligently proceed with its performance of this Agreement in accordance with the decision.
 - 17.1.5 In the event Subrecipient disagrees with the decision, the Subrecipient shall have every existing and future right or remedy available by law or in equity to resolve the dispute.

18.0 SEVERABILITY

Any provision of this Agreement determined by a court to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provision of this Agreement, and the remaining provisions shall remain in full force and effect.

19.0 STRICT COMPLIANCE

One Party's acceptance of the other Party's performance not in strict compliance with the terms of this Agreement shall not be deemed to waive the requirements of strict compliance for all future performance. All changes in performance obligations under this Agreement shall be in writing and signed by both Parties.

20.0 SINGLE AUDIT ACT REQUIREMENTS

The Subrecipient is in receipt of ARPA Funds through the County and is subject to the federal audit requirements of the Single Audit Act of 1984, as amended (Pub. L. No. 98-502) (codified at 31 U.S.C. § 7501, *et seq.*). The Subrecipient shall comply with 2 C.F.R. 200, Subpart F. Upon completion, such audits shall be made available for public inspection. Audits shall be submitted to the County within twelve (12) months following the close of the fiscal year. The Subrecipient shall take corrective actions within six (6) months of the date of the receipt of audit findings. The County shall consider sanctions as described in 2 C.F.R. § 200.505 if ARPA, HUD, or the County determines the Subrecipient is not in compliance with audit requirements.

21.0 AUDIT DISALLOWANCES

- 21.1 The Subrecipient shall, upon written notice, reimburse the County for any payments made under this Agreement that are disallowed by a federal, state, or County audit. Court costs and attorney and expert fees incurred will be specifically identified as applicable to the recovery of the disallowed costs in question.
- 21.2 If the County determines a cost for which payment has been made is a disallowed cost, then the County will notify the Subrecipient in writing of the disallowance and identify the required course of action, which shall be at the option of the County, either to adjust any future claim submitted by the Subrecipient by the amount of the disallowance or to require immediate repayment of the disallowed amount by the Subrecipient issuing a check payable to the County.

22.0 LIMITATION ON LIABILITY

- 22.1 The County and its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, and commissions shall not be liable for any act or omission by the Subrecipient or any and all of its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, or commissions occurring in the performance of this Agreement, nor shall the County and its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, and commissions be liable for purchases or contracts made by the Subrecipient or any and all of its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, or commissions in connection with this Agreement, except as otherwise provided by law.
- 22.2 The Subrecipient and its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, and commissions shall not be liable for any act or omission by the County or any and all of its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, or commissions occurring in the performance of this Agreement, nor shall the Subrecipient and its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, and commissions be liable for purchases or contracts made by the County or any and all of its agents,

representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, or commissions in connection with this Agreement, except as otherwise provided by law.

23.0 GENERAL INDEMNIFICATION

Each Party (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other Party and its officers, officials, employees, and agents (collectively, "Indemnitees") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney and expert fees) (collectively referred to as "claims") either arising from or related to breach of this Agreement, but only to the extent such claims are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor and any and all of its agents, representatives, officials, officers, directors, employees, volunteers, departments, agencies, boards, committees, and commissions.

24.0 INSURANCE

- 24.1 Each Party herein this Agreement is a public entity and shall provide the other Party a Certificate of Self-Insurance equal to:
- | | |
|-----------------------|-------------|
| General Aggregate | \$3,000,000 |
| Each Occurrence Limit | \$1,000,000 |
- 24.2 The Subrecipient, at Subrecipient's own expense, shall purchase and maintain, at a minimum, the herein stipulated insurance from a company or companies duly licensed by the State of Arizona and possessing an AM Best, Inc. category rating of B++. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of County. The form of any insurance policies and forms must be acceptable to County.
- 24.3 All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of County, constitute a material breach of this contract.
- 24.4 In the event the insurance required is written on a claims-made basis, Subrecipient warrants that any retroactive date under the policy shall precede the effective date of this Contract and either continuous coverage will be maintained, or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.
- 24.5 Subrecipient's insurance shall be primary insurance as respects County, and any insurance or self-insurance maintained by County shall not contribute to it.
- 24.6 Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect the County's right to coverage afforded under the insurance policies.
- 24.7 The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to County under such policies. Subrecipient shall be solely responsible for the deductible and/or self-insured retention and County, at its option, may require Subrecipient to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.
- 24.8 The insurance policies required by this contract, except Workers' Compensation and Errors and Omissions, shall name County, its agents, representatives, officers, directors, officials, and employees as additional insureds or additional loss payees as applicable.

- 24.9 The policies required hereunder, except Errors and Omissions, shall contain a waiver of transfer of rights of recovery (subrogation) against County, its agents, representatives, officers, directors, officials, and employees for any claims arising out of Subrecipient's work or service.
- 24.10 If available, the insurance policies required by this Contract may be combined with Commercial Umbrella Insurance policies to meet the minimum limit requirements. If a Commercial Umbrella insurance policy is utilized to meet insurance requirements, the Certificate of Insurance shall indicate which lines the Commercial Umbrella Insurance covers.
- 24.11 Commercial General Liability
- 24.11.1 Commercial General Liability (CGL) insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 Products/Completed Operations Aggregate, and \$4,000,000 General Aggregate Limit. The policy shall include coverage for premises liability, bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provisions which would serve to limit third party action over claims. There shall be no endorsement or modifications of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.
- 24.12 Errors and Omissions/Professional Liability Insurance
- 24.12.1 Errors and Omissions (Professional Liability) insurance which will insure and provide coverage for errors or omissions, or professional liability of the architect engaged by the Subrecipient for the Project, with limits of no less than \$2,000,000 for each claim.
- 24.13 Builder's Risk (Property) Insurance
- 24.13.1 Subrecipient shall purchase and maintain, on a replacement cost basis, Builders' Risk insurance and, if necessary, Commercial Umbrella insurance in the amount of the initial Contract amount, as well as subsequent modifications thereto for the entire work at the site. Such Builders' Risk insurance shall be maintained until final payment has been made or until no person or entity other than County has an insurable interest in the property required to be covered, whichever is earlier. This insurance shall include interests of County, Subrecipient, and all subcontractors and sub-subcontractors in the work during the life of the Contract and course of construction and shall continue until the work is completed and accepted by County. For new construction projects, Subrecipient agrees to assume full responsibility for loss or damage to the work being performed and to the structures under construction. For renovation construction projects, Subrecipient agrees to assume responsibility for loss or damage to the work being performed at least up to the full Contract amount, unless otherwise required by the Contract documents or amendments thereto. Builders' Risk insurance shall be on a special form and shall also cover false work and temporary buildings and shall insure against risk of direct physical loss or damage from external causes including debris removal, and demolition occasioned by enforcement of any applicable legal requirements and shall cover reasonable compensation for architect's service and expenses required as a result of such insured loss and other "soft costs" as required by the contract. Builders' Risk insurance must provide coverage from the time

any covered property comes under Subrecipient's control and/or responsibility, and continue without interruption during construction, renovation, or installation, including any time during which the covered property is being transported to the construction installation site and while on the construction or installation site awaiting installation. The policy will provide coverage while the covered premises or any part thereof are occupied. Builders' Risk insurance shall be primary, and any insurance or self-insurance maintained by the County is not contributory. If the Contract requires testing of equipment or other similar operations, at the option of County, Subrecipient will be responsible for providing property insurance for these exposures under a Boiler and Machinery insurance policy or the Builders' Risk Insurance policy.

24.14 Certificates of Insurance

24.14.1 Within ten (10) calendar days following the closing of construction financing for the Project, the Subrecipient shall furnish the County with valid and complete Certificates of Insurance, or formal endorsements as required by the Contract in the form provided by the County, issued by Subrecipient's insurer(s), as evidence that policies providing the required coverage, conditions and limits required by this Contract are in full force and effect. Such certificates shall identify this Contract number and title.

24.14.2 In the event any insurance policy/policies required by this Contract is (are) written on a claims-made basis, coverage shall extend for two (2) years past completion and acceptance of Subrecipient's work or services and as evidenced by annual certificates of insurance.

24.14.3 If a policy does expire during the life of the Contract, a renewal certificate must be sent to County fifteen (15) business days prior to the expiration date.

24.15 Certificate holder shall be identified as:

Maricopa County
c/o Risk Management
301 W Jefferson St., Suite 910
Phoenix, AZ 85003

24.16 Cancellation and Expiration Notice

24.16.1 Applicable to all insurance policies required within the insurance requirements of this contract, Subrecipient's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without 30 days prior written notice to Maricopa County. Subrecipient must provide to Maricopa County, within ten business days of receipt, if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to Maricopa County Human Services Department and shall be mailed, or hand delivered to 234 N. Central Avenue, Phoenix, AZ 85004, or emailed to the Human Services representative noted in the Contract.

25.0 OFFSHORE PERFORMANCE OF WORK PROHIBITED

Due to security and identity protection concerns, direct services under this Agreement shall be performed within the borders of the United States. Any services described in the scope of work that directly serve State of Arizona residents and may involve access to secure or sensitive data or personal client data or development or modification of software shall be performed within the borders of the United States. Unless specifically stated otherwise in

the specifications, this definition does not apply to indirect or “overhead” services, redundant back-up services, or services incidental to the performance of the Agreement. This provision applies to all work performed by Subrecipients or subcontractors at all tiers.

26.0 TECHNICAL ASSISTANCE

The County will provide reasonable technical assistance to the Subrecipient to assist in complying with state and federal laws, and regulations, and accountability for diligent performance and compliance with the terms and conditions of this Agreement and all applicable laws, regulations, and standards. However, this assistance in no way relieves the Subrecipient of full responsibility and accountability for its actions and performance in compliance with the terms of this Agreement.

27.0 STAFF AND VOLUNTEER TRAINING

The County may make available to the Subrecipient the opportunity to participate in any applicable training activities conducted by the County.

28.0 CLEAN AIR ACT

The Subrecipient agrees to comply with all regulations, standards and orders issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. §§ 7401, *et seq.*), to the extent any are applicable by reason of performance of this Agreement.

29.0 LOBBYING

29.1 No federal appropriated funds have been paid or will be paid by or on behalf of the Subrecipient to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal agreement, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal agreement, grant, loan, or cooperative agreement.

29.2 If any funds, other than federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any federal agreement, grant, loan or cooperative agreement, then the Subrecipient shall complete and submit OMB Form-LLL, titled “Disclosure of Lobbying Activities,” in accordance with its instructions and 31 U.S.C. § 1352.

30.0 RELIGIOUS ACTIVITIES

The Subrecipient warrants that none of its costs incurred will include any expense related to any religious activities.

31.0 POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property, or services contributed by the County under this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

32.0 COVENANT AGAINST CONTINGENT FEES

The Subrecipient warrants no persons or entities have been employed or retained by it to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. For breach or violation of this warranty, the County may immediately terminate this Agreement without liability.

33.0 RIGHTS IN DATA

Each Party shall have the use of all data and reports resulting from this Agreement without cost or other restriction, except as otherwise provided by law or applicable regulation. Each Party shall supply the other Party, upon request, any available relevant information to this Agreement and to the performance under it, except to the extent prohibited by law.

34.0 COPYRIGHTS

If this Agreement results in a book or written material, the author is free to copyright the work, but the Parties reserve a royalty-free, nonexclusive, perpetual, and irrevocable license to reproduce, publish, and otherwise use and to authorize others to use, all copyrighted material and all material that may be copyrighted as a result of this Agreement.

35.0 AGREEMENT COMPLIANCE MONITORING/AUDITING

35.1 The County will monitor the Subrecipient's compliance as needed for fiscal and programmatic performance under the terms and conditions of this Agreement and applicable regulations promulgated by ARPA and Maricopa County. On-site visits for compliance monitoring may be made by the County and/or its grantor agencies at any time during the Subrecipient's normal business hours, announced and/or unannounced. For auditing purposes, the County shall provide the Subrecipient with 30-days' advance notice of any proposed on-site visit. During an on-site visit(s), the Subrecipient shall reasonably make all its records and accounts related to work performed or services provided under this Agreement available to the County for inspection and copying.

35.2 The County shall request information for fiscal monitoring/audit per OMB Uniform Guidance 2 C.F.R. § 200, to include as applicable:

35.2.1 Financial Management 2 C.F.R. § 200.302

35.2.2 Internal Controls 2 C.F.R. § 200.303

35.2.3 Bonds 2 C.F.R. § 200.304

35.2.4 Payment and Financial Reporting 2 C.F.R. § 200.305

35.2.5 Cost Sharing or Matching 2 C.F.R. § 200.306

35.2.6 Program Income 2 C.F.R. § 200.307

35.2.7 Revision of Budget and Program Plans 2 C.F.R. § 200.308

35.2.8 Period of Performance 2 C.F.R. § 200.309

35.2.9 Insurance Coverage 2 C.F.R. § 200.310

35.2.10 Record Retention and Access 2 C.F.R. §§ 200.334 – 200.338

35.2.11 Procurement Standards 2 C.F.R. § 200.318

35.2.12 Indirect Costs 2 C.F.R. § 200.414

35.2.13 Compensation-Personal Services 2 C.F.R. § 200.430

35.2.14 Audit Requirements 2 C.F.R. §§ 200.501-200.517

36.0 CONTINGENCY RELATING TO OTHER AGREEMENTS AND GRANTS

36.1 The Subrecipient shall, within fifteen (15) business days from acceptance of this Agreement, inform the Director in writing of the award of any other agreement or grant, including any other agreement or grant awarded by the County, where the award may affect either the direct or indirect costs being paid or reimbursed under

this Agreement. The Subrecipient's failure to notify the County of any such award shall be a breach of this Agreement and the County may immediately terminate this Agreement without liability.

36.2 The Director may request, and Subrecipient shall provide within a reasonable time, which shall not exceed ten (10) business days, a copy of all such other awards or grants, when, in the opinion of the Director, the award or grant may affect the costs being paid or reimbursed under this Agreement, except to the extent prohibited by law.

36.3 If the Director determines the award to the Subrecipient from such other awards or grants has affected the costs being paid or reimbursed under this Agreement, then the Director shall prepare an amendment to this Agreement effecting a cost adjustment. If the Subrecipient disputes the proposed cost adjustment, then the dispute shall be resolved pursuant to the "Disputes" section herein this document.

37.0 MINIMUM WAGE REQUIREMENTS

The Subrecipient warrants it shall pay all its employees who are engaged in either performing work or providing services under the terms of this Agreement not less than the minimum wage specified under Section 206(a)(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §§ 201, et seq.), by law and regulation, and, as applicable, Executive Order 13658, as amended, and as specified by Arizona law.

38.0 RECOGNITION OF COUNTY SUPPORT

The Subrecipient shall give recognition to the County and ARPA for its support when the Subrecipient publishes materials or releases public information paid for in whole or in part with funds received by the Subrecipient under this Agreement.

39.0 NONDISCRIMINATION, EQUAL OPPORTUNITY, AND EQUAL ACCESS

The Subrecipient, in connection with any services or other activities under this Agreement, shall not in any way discriminate against any person on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief. The Subrecipient shall include this clause in all Subcontracts.

40.0 DISABILITY REQUIREMENTS

The Subrecipient agrees that any electronic or information technology offered under this Agreement shall comply with A.R.S. §§41-2531 and 41-2532 and Section 508 of the Rehabilitation Act of 1973, which requires that employees and members of the public shall have access to and use of information technology that is comparable to the access and use by employees and members of the public who are not individuals with disabilities.

41.0 EQUAL EMPLOYMENT OPPORTUNITY

41.1 The Subrecipient shall not discriminate against any employee or applicant for employment because of race, age, disability, color, religion, sex, sexual identity, gender identity, or national origin.

41.2 The Subrecipient shall take affirmative action to ensure applicants are employed and employees are treated during employment without regard to their race, age, disability, color, religion, sex, sexual identity, gender identity, or national origin. Such action shall include, but is not limited to, the following: employment, upgrading, demotion or transfer, recruitment, or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

- 41.3 The Subrecipient shall and shall require all subcontractors to comply with:
- 41.3.1 Title VI and VII of the Civil Rights Act of 1964, as amended (42 U.S.C. §§ 2000a, *et seq.*);
 - 41.3.2 The Rehabilitation Act of 1973, as amended (29 U.S.C. §§ 701, *et seq.*);
 - 41.3.3 The Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. §§ 621, *et seq.*);
 - 41.3.4 The Americans With Disabilities Act of 1990 (42 U.S.C. §§ 12101, *et seq.*); and
 - 41.3.5 Arizona Executive Order 2009-09, *et seq.* as amended, which mandates that all persons shall have equal access to employment opportunities.

42.0 UNIFORM ADMINISTRATIVE REQUIREMENTS

The Subrecipient agrees to comply with all applicable provisions of Title 2, Subtitle A, Chapter II, Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards contained in Title 2 C.F.R. §§ 200, *et seq.*

43.0 FINANCIAL MANAGEMENT

The Subrecipient shall establish an accounting system that assures the safeguarding and accountability of all money and assets provided under this Agreement. No part of the money deposited in the bank account shall be commingled with other funds or money belonging to the Subrecipient. All interest earned on the account shall be disbursed in the manner specified by the County in accordance with applicable State of Arizona and federal regulations. If an accounting system is used, then it shall be in accordance with generally accepted accounting principles.

44.0 RETENTION OF RECORDS

- 44.1 This provision applies to all financial and programmatic records, supporting document, statistical records, and other records of the Subrecipient that are related to this Agreement.
- 44.2 The Subrecipient shall retain all records relevant to this Agreement for six (6) years after final payment or until after the resolution of any audit questions which could be more than six (6) years, whichever is longer, and the County, federal and state auditors and any other persons duly authorized by the County shall have full access to, and the right to examine, copy, and make use of any and all of the records.

45.0 ADEQUACY OF RECORDS

If the Subrecipient's books, records and other documents related to this Agreement are not sufficient to support and document that allowable services were provided to eligible participants as determined by a court of competent jurisdiction, then the Subrecipient shall reimburse the County for the services not supported and documented.

46.0 IMMIGRATION LAWS AND REGULATIONS

- 46.1 Federal Immigration and Nationality Act
 - 46.1.1 The Subrecipient understands and acknowledges the applicability of the Immigration Reform and Control Act of 1986 (IRCA). The Subrecipient agrees to comply with the IRCA in performing under this Agreement and to permit the County to reasonably inspect personnel records to verify such compliance, to the extent required by law.
 - 46.1.2 By entering into this Agreement, the Subrecipient warrants compliance with the Federal Immigration and Nationality Act (FINA) and all other federal immigration laws and regulations related to the immigration

status of its employees. The Subrecipient shall obtain statements from their subcontractors certifying compliance and shall furnish the statements to the County upon request. These warranties shall remain in effect through the term of the Agreement. The Subrecipient and their subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor's Immigration and Control Act for all employees performing work under the Agreement. I-9 forms are available for download at USCIS.GOV.

46.1.3 The County may request verification of compliance for any employee or subcontractor performing work under the Agreement. Should the County suspect or find that the Subrecipient or any of its subcontractors are not in compliance, then the County may pursue all remedies allowed by law, including, but not limited to, suspension of work, termination of the Agreement for default, and suspension or debarment (or both) of the Subrecipient. All costs necessary to verify compliance are the responsibility of the Subrecipient or its subcontractor.

46.2 Arizona Law: The Subrecipient warrants it is compliant with A.R.S. § 41-4401 (E-Verify requirements) and further acknowledges that:

46.2.1 The Subrecipient, and its contractors and vendors, warrant their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214;

46.2.2 A breach of a warranty under this Subparagraph 46.2.2 shall be deemed a material breach of this Agreement and the County may immediately terminate this Agreement without liability; and

46.2.3 The County and any contracting government entity retain the legal right to inspect the papers and employment records of the Subrecipient or their Vendor's employees who works on this Agreement to ensure such Party or Vendor is complying with the warranty provided under this Subparagraph 46.2.3 and the Subrecipient agrees to make all papers and employment records of those employees available during normal working hours to facilitate such an inspection.

47.0 DRUG FREE WORKPLACE ACT

The Subrecipient shall comply with the Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 701, *et seq.*), which requires that Subrecipients and grantees of federal funds must certify they will provide Drug-Free workplaces. This certification is a precondition to receiving a grant or entering into this Agreement.

48.0 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

48.1 The undersigned, by signing this Agreement, represents that he/she has the authority to bind the Subrecipient to the terms of this Certification. The Subrecipient, as the primary participant in accordance with 2 C.F.R. Part 180, certifies to the best of its knowledge and belief that it and its principals:

48.1.1 Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

48.1.2 Have not within a three (3) -year period preceding the start date of this Agreement, been convicted of or had a civil judgment rendered against them for (1) the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State,

- or local) transaction or a contract under a public transaction; (2) the violation of any federal or State antitrust statutes or (3) the commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 48.1.3 Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with the commission of any of the offenses enumerated in sub-subparagraph 48.1.2 above; and
- 48.1.4 Have not, within a three (3)-year period preceding the Start Date of this Agreement, had one (1) or more public transactions (federal, state, or local) terminated for cause or default.
- 48.2 The Subrecipient agrees to include, without modification, this clause in all lower tier covered transactions (i.e., transactions with subcontractors, vendors) and in all solicitations for lower tier covered transactions related to this Agreement.

49.0 SUBRECIPIENT EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS:

- 49.1 The Subrecipient agrees this Agreement and its employees working on this Agreement will be subject to the whistleblower rights and remedies in the federal pilot program established at 41 U.S.C. § 4712 by Section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239) and Section 3.908 of the Federal Acquisition Regulation;
- 49.2 The Subrecipient shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. § 4712, as described in Section 3.908 of the Federal Acquisition Regulation. Documentation of such employee notification must be kept on file by the Subrecipient, and copies provided to County upon request; and
- 49.3 The Subrecipient shall insert the substance of this clause, including this paragraph, (herein section 49.0), in all subcontracts awarded above the agreed upon simplified acquisition threshold of \$250,000 (as of June 2021).

50.0 WRITTEN CERTIFICATION PURSUANT TO A.R.S. § 35-393.01

If the Subrecipient engages in for-profit activity and has ten (10) or more employees, and if this Agreement has a value of \$100,000 or more, then the Subrecipient certifies it is not currently engaged in and agrees for the duration of this Agreement not to engage in, a boycott of goods and services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.

51.0 SURVIVAL

The indemnification, hold harmless, defense, and non-liability provisions of this Agreement shall have full force and effect notwithstanding any other provisions in this Agreement and shall survive the termination or expiration of this Agreement.

52.0 DEFAULT AND REMEDIES FOR NONCOMPLIANCE

- 52.1 Notwithstanding anything to the contrary, this section (herein section 52.0) shall not be deleted or superseded by any other provision of this Agreement.
- 52.2 This Agreement may be immediately terminated by a Party if the other Party defaults by failing to perform any objective or breaches any obligation under this Agreement, or any event occurs that jeopardizes the other Party's ability to perform any of its obligations under this Agreement.
- 52.3 Failure to comply with the requirements of this Agreement and all the applicable federal, state, or local laws, rules, and regulations may result in suspension or

termination of this Agreement, the return of unexpended funds (less just compensation for work satisfactorily completed that, to date, had not been reimbursed), the reimbursement of funds improperly expended, or the recovery of funds improperly acquired. Noncompliance includes, but is not limited to:

- 52.3.1 Non-performance of any obligations required by this Agreement.
- 52.3.2 Noncompliance with any applicable federal, state, or local laws, rules, or regulations.
- 52.3.3 Unauthorized expenditure of funds.
- 52.3.4 Noncompliance with applicable financial record requirements, accounting principles, or standards established by OMB circulars and 2 C.F.R. §§ 200 *et seq.*
- 52.3.5 Noncompliance with recordkeeping, record retention, or reporting requirements.
- 52.4 Notwithstanding the suspension or termination of this Agreement, or the final determination of the proper disposition of funds, the Subrecipients, without intent to limit or with restrictions, are subject to the following:
 - 52.4.1 Acknowledge suspension or termination of this Agreement does not affect or terminate any rights against that Party at the time of suspension or termination, or that may accrue later. Nothing herein shall be construed to limit or terminate any right or remedy available under Agreement.
 - 52.4.2 Waiver of a breach or default of any term, covenant, or condition of this Agreement or any federal, state, or local law, rule, or regulation shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, condition, law, rule, or regulation.
- 52.5 The Subrecipient shall, upon notice or with knowledge obtained by itself or others, take any and all proactive actions necessary, and provide any and all applicable remedies to address and correct any act by itself, and any and all of its agents, representatives, officers, officials, directors, employees, volunteers, successors, assigns, or subcontractors that resulted in any wrongdoing (intentional or unintentional); misuse or misappropriation of funds; the incorrect or improper disposition of funds; any violation of any federal, state, or local law, rule, or regulation; or the breach of any certification or warranty provided in this Agreement.

53.0 ADMINISTRATIVE REQUIREMENTS

- 53.1 Accounting Standards – The Subrecipient agrees to comply with this Agreement and to adhere to the accounting principles and procedures required to utilize adequate internal controls and maintain necessary source documentation for all costs incurred, as well as any applicable federal laws and regulations. The Subrecipient further agrees to maintain an adequate accounting system that provides for appropriate grant accounting (including calculation of program income).
- 53.2 Repayment of Funds – The Subrecipient agrees to repay funds provided under this Agreement for noncompliance with the terms of this Agreement. Repayment shall be in accordance with the terms of this Agreement or the requirement of applicable laws and regulations, including continuing use compliance. The County shall specify in writing, the terms of the repayment or alternative terms in lieu of repayment. However, in no case shall repayment or compliance with the alternative terms be complete any later than sixty (60) calendar days following the written determination of noncompliance by the County.

- 53.3 Documentation and Record Keeping – The Subrecipient agrees to comply with this Agreement and the following record keeping requirements:
- 53.3.1 Records to be maintained – The Subrecipient shall maintain all financial records as required by 2 C.F.R. § 200, and OMB Circulars.
 - 53.3.2 System for Award Management – Subrecipient and all subrecipients shall have a valid Unique Entity Identifier (UEI) number and an active profile in the federal System for Award Management, or SAM.gov. Documentation of the UEI Number must be included in all project files.
 - 53.3.3 Records Retention – The Subrecipient shall retain all records pertinent to this Agreement for a period of six (6) years after all requirements have been met. In the event of litigation, a claim, or an audit is begun before the expiration of this retention period, said records shall be retained until all such action or audit findings involving the records have been resolved.
 - 53.3.4 Disclosure – The Subrecipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the County's or the Subrecipient's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service.
 - 53.3.5 Property Records – The Subrecipient shall maintain property and equipment inventory records that clearly identify properties and equipment purchased, improved, or sold. Properties and equipment retained shall continue to meet eligibility criteria and shall conform to the use of property and equipment.

54.0 UYGHUR FORCED LABOR PREVENTION ACT (UFLPA)

- 54.1 The Subrecipient warrants and certifies it does not currently, and agrees for the duration of the Agreement that it will not, use:
- 54.1.1 The forced labor of ethnic Uyghurs in the People's Republic of China.
 - 54.1.2 Any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.
 - 54.1.3 Any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.
- 54.2 If the Subrecipient becomes aware during the term of the Agreement that the Subrecipient is not in compliance with this paragraph, the Subrecipient shall notify the County within five (5) business days after becoming aware of the noncompliance. Failure of the Subrecipient to provide a written certification that the Subrecipient has remedied the noncompliance within one-hundred-eighty (180) days after notifying the public entity of its noncompliance, this Agreement shall terminate unless the Term of this Agreement shall end prior to said -hundred-eighty (180) day period.

55.0 FORCE MAJEURE

- 55.1 The Subrecipient shall be liable for failure of performance, nor incur any liability to the other Party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement if such delay or failure is caused by events, occurrences, or causes beyond the reasonable control and without negligence of the Parties. Such events, occurrences, or causes will include Acts of God/Nature (including fire, flood, earthquake, storm, hurricane, or other natural

disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, riots, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, lockout, blockage, embargo, labor dispute, strike, pandemic, and interruption or failure of electricity or telecommunication service.

- 55.2 The Subrecipient, as applicable, shall give the other Party notice of its inability to perform and particulars in reasonable detail of the cause of the inability. Each party must use best efforts to remedy the situation and remove, as soon as practicable, the cause of its inability to perform or comply.
- 55.3 The Party asserting Force Majeure as a cause for non-performance shall have the burden of proving that reasonable steps were taken to minimize delay or damages caused by foreseeable events, all non-excused obligations were substantially fulfilled, and the other Party was timely notified of the likelihood or actual occurrence that would justify such an assertion, so other prudent precautions could be contemplated.

[Signatures contained on following page]

APPROVED BY:
The City of Avondale

Executive Director	Date
--------------------	------

Attested to:

City Clerk Date

IN ACCORDANCE WITH A.R.S. §§ 9-240 AND 11-952, THIS AGREEMENT HAS BEEN REVIEWED BY THE UNDERSIGNED ATTORNEY WHO HAS DETERMINED THIS AGREEMENT IS PROPER IN FORM AND WITHIN THE POWERS AND AUTHORITY GRANTED TO THE CITY OF AVONDALE UNDER THE LAWS OF THE STATE OF ARIZONA.

IN ACCORDANCE WITH A.R.S. §§ 11-201, 11-251, AND 11-952, THIS AGREEMENT HAS BEEN REVIEWED BY THE UNDERSIGNED ATTORNEY WHO HAS DETERMINED THIS AGREEMENT IS PROPER IN FORM AND WITHIN THE POWERS AND AUTHORITY GRANTED TO MARICOPA COUNTY UNDER THE LAWS OF THE STATE OF ARIZONA.

APPROVED AS TO FORM:

APPROVED AS TO FORM:

City Attorney _____ Date _____

Kim Miles, Deputy County Attorney Date

EXHIBIT A – LEGACY AVONDALE INFILL HOUSING PHASE III STATEMENT OF WORK

1.0 Project Description:

1.1 The City of Avondale is responsible for the Legacy Avondale Infill Housing Phase III project which will utilize \$1,750,000 of ARPA funding to develop six (6) single family homes on two (2) lots previously purchased with Neighborhood Stabilization Program (NSP) funding. The City will select a nonprofit developer and will convey the two (2) lots to the developer. Four (4) of the six (6) ARPA-assisted single-family homes are to be sold to low-income households who earn up to 120% of the Area Median Income (AMI) at the time of qualification. The City will also utilize HOME CHDO funds on two (2) of the ARPA-assisted homes and those homes will sell to homebuyers who have a household income of up to 80% of the Annual Median Income (AMI). The two (2) HOME CHDO-assisted ARPA units will be single story, ADA-accessible 3 bedroom/2bath 1225 square foot units. The other four (4) ARPA units will be two (2) story, 3 bedroom/2 ½ bath 1440 square foot homes. The locations are:

- Assessor's Parcel Number (APN) 500-17-081, 305 E. Hill Drive, Avondale
- Assessor's Parcel Number (APN) 500-17-083, 309 E. Hill Drive, Avondale

1.2 The developer will use \$1,750,000 in ARPA Funding to pay for construction cost overages caused by the effects of the COVID pandemic on global supply chains and material costs. The homes will either be included in a Community Land Trust (CLT) which will maintain affordability in perpetuity or will have an affordability period of 20 years.

1.3 Funding Sources

1.3.1 \$1,750,000 – ARPA Funds for construction hard costs

1.3.2 \$600,000 – NSP Program Income to fund an environmental assessment, appraisals, market study, ALTA survey, architectural and engineering fees, and construction related expenses, including a portion of the developer fee.

1.3.3 \$796,326 – CHDO HOME Funds for construction and construction related costs, of two (2) single level units to be sold to homebuyers earning 80% AMI and below.

1.3.4 The total project budget is: \$3,146,326.

1.4 Period of Affordability and Income Restrictions – There will be six (6) ARPA Funded homes/units. Two (2) of 6 units will also receive HOME funding. It is the desire of the City to have the homes included in a Community Land Trust, in which case the homes would be affordable in perpetuity through a Land Use Restrictive Agreement (LURA) between the CLT and the City. The LURA documents the restrictions placed on the property, permanently secures the use of the property for affordable housing and grants the non-profit developer the right of first refusal if the home is sold.

1.4.1 The CLT will hold a 99-year renewable ground lease which requires that the homes remain owner-occupied and contain resale restrictions which require all future sales of the home to be sold to a low-income homebuyer and a “shared equity” provision. The “shared equity” provision limits the amount of appreciation to the seller and establishes an affordable sales price for a new buyer to acquire the home.

- 1.4.2 If it is not possible to include the 6 homes in a CLT, the period of affordability will be twenty (20) years. In accordance with the NSP regulations, the homes will be sold to families earning 120% and below of the Area Median Income (AMI) for the year in which the units are sold. Income restrictions for the 4 ARPA assisted units without HOME funding will be sold to households who earn up to 120% of the Area Median Income (AMI) and the 2 ARPA and HOME CHDO assisted units will be restricted to homebuyers earning up to 80% AMI.

- 1.5 Project and Amenities – Legacy Avondale Phase III is a new construction, infill housing project. Phases I and II consist of six (6) adjacent homes on two (2) sites completed in 2014. The dwellings included two (2) model unit designs: A and B units. Unit A is a single story, three (3) bedrooms, two (2) baths, two (2)-car garage, ADA-accessible dwelling of approximately 1225 square feet. Unit B is a two (2)-story dwelling of approximately 1440 square feet, with a visitable ground floor, three (3) bedrooms, two (2) and a half bath and a two (2)-car garage. The total number of units included two (2) “A” units and four (4) “B” units.

- 1.5.1 Legacy Avondale Phase III (the current project) will create an owner-occupied, single-family, sustainable residential development that capitalizes on its prominent urban location. The design will create functional and appropriate transitions to the existing, adjacent Phase I and II homes. The housing will take into consideration: market conditions, zoning code, and all applicable regulations, guidelines and adopted plans. The project will incorporate and implement best practices for sustainable construction and elements of energy efficiency into the design and construction of the homes.

- 1.5.2 The subject property is currently divided into two (2) parcels. 305 E. Hill Drive (APN #500-17-081) is to the west and is the larger of the two (2) at ± 14,560 square feet, or 0.33 acres. 309 E. Hill Drive (APN #500-17-083) is the smaller parcel on the eastern edge of the plot with ± 7,144 square feet or 0.17 acres. *Note that these measurements are estimates provided through the Maricopa County Assessor’s Office, and subject to verification.* Combined, the parcels are ± 0.5 acres comprising a rectangular 130’ by 167’ area.

- 1.5.3 Current zoning for both parcels is the Historic Avondale Infill Overlay (HAIO), which was established to promote and facilitate the development and redevelopment of vacant, underutilized, or abandoned properties within the City’s Historic Avondale Revitalization Area.

- 1.6 Supportive Services – Each homebuyer will be required to attend an approved homebuyer education class and homeownership counseling. The developer will also offer additional education tools such as financial counseling, coaching, and literacy classes.

2.0 Subrecipient Contributions:

The City, as the Subrecipient, will provide: the land, which has a current appraised value of \$330,000, to the developer, through a reconveyance; approximately \$600,000 in NSP Program Income; and administrative support, including Section 3 compliance, to the nonprofit developer through the Development agreement.

3.0 Project Eligibility:

- 3.1 Property Standards – Housing that is constructed or rehabilitated with ARPA funds must meet all applicable local codes, rehabilitation and construction standards, ordinances, and zoning ordinances, including Section 504 of the Rehabilitation Act of 1973 and Fair Housing Act, as amended, at the time of project completion. All work shall meet decent, safe, and sanitary housing standards consistent with HOME regulations including HUD Housing Quality Standards and Maricopa County Housing Rehabilitation Standards.
- 3.2 Occupancy Requirements – The Project staff will determine and verify income eligibility of homebuyers for the ARPA assisted-units prior to participation in the program. Eligibility will be determined using the definition in 24 CFR Part 5. The Project shall define “Annual Income” as it is defined at 24 C.F.R. Part 92 and shall document sources of income and examine eligibility to meet requirements of HOME regulations at 24 C.F.R. Part 92.203. The four (4) ARPA-assisted units without HOME funding will be sold to households whose income is at or below 120% of the AMI and the two (2) ARPA and HOME CHDO assisted units will be sold to households whose income is at or below 80% of the AMI.
- 3.3 Affordability Period – The Subrecipient will ensure all housing assisted under this Agreement meets the affordability requirements set forth in 24 C.F.R. Part 92.254. If the homes are included in a CLT, they will be affordable in perpetuity. If this is not possible, the affordability period will be 20 years.
- 3.4 Program Income – Program Income will be defined as earnings from the sale of the homes. Fifty-six percent (56%) of program income generated through completion of this activity will be recoverable by Maricopa County to reallocate to one (1) or more future affordable housing projects. Program income payments shall be made to Maricopa County within sixty (60) days after receipt by the subrecipient. The subrecipient will be required to submit an annual certification to document program income activity.

4.0 Deliverables:

Beneficiaries			
	ARPA Assisted	Non-ARPA Assisted s	Total Assisted
Number of households (units)	6	0	6

5.0 Budget:

Fund Sources	
Sources	Total
Maricopa County – ARPA Funds	\$1,750,000
Total:	\$1,750,000
Uses	
	ARPA Funds
Acquisition Costs	
Land	\$0
Building Acquisition	\$0
Other: taxes, title, recording	\$0

General Development Costs		
	Construction Hard Costs – Residential	\$1,650,000
	Construction Costs – Nonresidential	\$0
	Contractor OH, Profit, and Gen. Conditions	\$0
	Environmental –Inspection and Remediation	\$0
	Archeological reports	\$0
	Site Planning	\$0
	Architect Fees	\$0
	Engineering Fees	\$0
	Survey, Permit, Tests	\$0
	Legal Fees	\$0
	Other Professional Fees	\$0
	Accounting and Cost Certification	\$0
	Title and Recording	\$0
	Market Study/Appraisal	\$0
	Real Estate Taxes	\$0
	Insurance	\$0
	Construction Period Interest	\$0
	Construction Perm Financing Fees	\$0
	Marketing Expense	\$0
	Soft Cost Contingency	\$0
	Other: Bond financing, LIHTC fees	\$0
Developer's Fee		
	Developer's Fee	\$100,000
Homeownership Counseling		
	Counseling fee	\$0
Program Administration Costs*		
	Program Management Services	\$0
	Staff	\$0
	TOTAL	\$1,750,000

6.0 Proposed Project Schedule:

Project Milestone	Est. Completion Date	Comments
City Executes Development Agreement with Developer	10/01/2023	
Environmental Review Completion	10/1/2023	
Authority to Use Grant Funds	12/1/2023	
Plans Submitted to the Municipality	2/1/2024	
Civil Permits Issued	03/04/2024	
Construction Start	4/1/2024	
25% Completion	7/1/2024	
50% Completion	10/1/2024	
75% Completion	1/1/2025	
Certificate of Occupancy	3/1/2025-11/30/2025	
ARPA-Assisted Units Occupied	3/1/2025-11/30/2025	
100% Occupancy	3/1/2025-11/30/2025	

EXHIBIT B – AVONDALE INFILL HOUSING PROGRAM STATEMENT OF WORK

1.0 Project Description:

- 1.1 The City of Avondale is responsible for the Avondale Infill Housing Program which will utilize \$1,000,000 of ARPA funding to develop two (2) single family homes on two (2) lots previously purchased with Neighborhood Stabilization Program (NSP) funding. The City will utilize a Request for Proposal to select a nonprofit developer and then will reconvey the two (2) lots to the developer. The two (2) single family homes will be sold to low-income households who earn up to 120% of the Area Median Income at the time of qualification. The homes will be 3-4 bedroom/2 bathroom with approximately 1200-1800 square foot units located at:
 - APN 500-17-100 320 E. Hill Drive, Avondale
 - APN 500-53-068 516 E. Dee Street, Avondale
- 1.2 The developer will use \$1,000,000 in Maricopa County ARPA Funding to pay for construction cost overages caused by the effects of COVID pandemic on global supply chains and material costs. The homes will either be included in a Community Land Trust (CLT) which will maintain affordability in perpetuity or will have an affordability period of 20 years.
- 1.3 Funding Sources
 - 1.3.1 \$1,000,000 – ARPA Funds to be used for construction hard costs and contingency, environmental inspection and remediation, architect and engineering fees, survey, permit, tests, title and recording, construction contingency, and developer's fees
 - 1.3.2 \$218,000 NSP – current appraised value of land
 - 1.3.3 The total project budget is: \$1,218,000.
- 1.4 Period of Affordability and Income Restrictions – There will be two (2) ARPA-assisted homes/units. It is the desire of the City to have the two (2) homes included in a Community Land Trust, in which case the homes would be affordable in perpetuity through a Land Use Restrictive Agreement (LURA) between the Community Land Trust and the City. The LURA restrictions placed on the property permanently secure the use of the property for affordable housing and grants the non-profit developer the right of first refusal if the home is sold. The CLT will hold a 99-year renewable ground lease which requires the homes remain owner-occupied and contains resale restrictions which require all future sales of the home to be sold to a low-income homebuyer with a “shared equity” provision. The “shared equity” provision limits the amount of appreciation to the seller and establishes an affordable sales price for a new buyer to acquire the home. If it is not possible to include the two (2) homes in a CLT, the period of affordability would be 20 years. In accordance with the NSP regulations, the homes will be sold to families earning 120% and below of the Area Median Income (AMI) for the year in which the units are sold.

- 1.5 Project and Amenities – The City will request proposals using a competitive Request for Proposal process to identify one (1) or two (2) developers for the construction of two (2) single-family homes on the lots. Plans for the homes will include:
 - 1.5.1 Minimum 1200-1800 square feet
 - 1.5.2 3-5 bedrooms
 - 1.5.3 2 bathrooms
 - 1.5.4 2-car concrete parking pad
 - 1.5.5 Xeriscape landscaping
 - 1.5.6 Plans must be suitable to the area and lot size
- 1.6 The following are desirable features that might be included as standard or as options:
 - 1.6.1 2 car garage, with electricity and door opener
 - 1.6.2 High-efficiency HVAC and water heaters
 - 1.6.3 Front and back porches
 - 1.6.4 Privacy fencing and gate to the backyard
- 1.7 Supportive Services – Each homebuyer will be required to attend an approved homebuyer education class and homeownership counseling. The developer will also offer additional education tools such as financial counseling, coaching, and literacy classes.

2.0 Subrecipient Contributions:

The City, as the Subrecipient, will provide the land, which has a current appraised value of \$218,000, to the developer through a reconveyance.

3.0 Project Eligibility:

- 3.1 Property Standards – Housing that is constructed or rehabilitated with ARPA funds must meet all applicable local codes, rehabilitation and construction standards, ordinances, and zoning ordinances, including Section 504 of the Rehabilitation Act of 1973 and Fair Housing Act, as amended, at the time of project completion. All work shall meet decent, safe, and sanitary housing standards consistent with HOME regulations including HUD Housing Quality Standards and Maricopa County Housing Rehabilitation Standards.
- 3.2 Occupancy Requirements – The Project staff will determine and verify income eligibility of homebuyers for the ARPA assisted-units prior to participation in the program. Eligibility will be determined using the definition in 24 CFR Part 5. The two (2) ARPA units will be sold to households whose income is at or below 120% Area Median Income.
- 3.3 Affordability Period – The Subrecipient shall ensure all housing assisted under this Agreement meets the affordability requirements set forth in Section 1497 of the Dodd-Frank Wall Street Reform and Consumer Protection Act-Neighborhood Stabilization Program, 24 CFR part 570. If the homes are included in a CLT, they will be affordable in perpetuity. If this is not possible the affordability period will be 20 years.
- 3.4 Program Income – Program Income will be defined as earnings from the sale of the homes. Eighty-three percent (83%) of program income generated through

completion of this activity will be recoverable by Maricopa County to reallocate to one or more future affordable housing projects. Program income payments shall be made to Maricopa County within sixty (60) days after receipt by the subrecipient. The subrecipient will be required to submit an annual certification to document program income activity.

4.0 Deliverables:

Beneficiaries			
	ARPA Assisted	Non-ARPA Assisted	Total Assisted
Number of households (units)	2	0	2

5.0 Budget:

Fund Sources	
Sources	Total
Maricopa County – ARPA	\$1,000,000
Total:	\$1,000,000
Uses	
Use	ARPA Funds
Acquisition Costs	
Land	\$0
Building Acquisition	\$0
Other: taxes, title, recording	\$0
General Development Costs	
Construction Hard Costs – Residential	\$710,000
Construction Costs – Nonresidential	\$0
Contractor OH, Profit, and Gen. Conditions	\$0
Environmental – Inspection and Remediation	\$10,000
Archeological reports	\$0
Site Planning	\$0
Architect and Engineering Fees	\$100,000
Engineering Fees	\$0
Survey, Permit, Tests	\$75,000
Legal Fees	\$0
Other Professional Fees	\$0
Accounting and Cost Certification	\$0
Title and Recording	\$5,000
Market Study/Appraisal	\$0
Real Estate Taxes	\$0
Insurance	\$0
Construction Period Interest	\$0
Construction Perm Financing Fees	\$0
Marketing Expense	\$0
Soft Cost Contingency	\$0
Other: Bond financing, LIHTC fees	\$0
Developer's Fee	
Developer's Fee	\$100,000

Homeownership Counseling		
	Counseling fee	\$0
Program Administration Costs*		
	Program Management Services	\$0
	Staff	\$0
	TOTAL	\$1,000,000

6.0 Proposed Project Schedule:

Project Milestone	Est. Completion Date	Comments
RFP	10/2023	
City Will Enter Development Agreement with Developer	1/2023	
City Will Reconvey Land to Developer (Closing Date)	1/2024	
Environmental Review Completion	12/2023	
Plans Submitted to the Municipality	2/2024	
Civil Permits Issued	2/2024	February to May 2024 Permits and site prep
Building Permits Issued	3/2024	
Construction Start	4/2024	
25% Completion	7/2024	
50% Completion	9/2024	
75% Completion	12/2024	
Certificate of Occupancy	01/2025	
ARPA – Assisted Units Occupied	03/2025	
100% Occupancy	03/2025	

CITY COUNCIL REPORT

SUBJECT: Resolution 1059-0923 - Amendments to the Personnel Policies and Procedures, Chapter 6 Employee Benefits

MEETING DATE: 9/25/2023

TO: Mayor and Council

FROM: Andrew Mesquita, Human Resources Director

THROUGH: Ron Corbin, City Manager, (623) 333-1011

REVIEWED: Ron Corbin, City Manager, (623) 333-1011

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Area:

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

PURPOSE:

City Council will consider a request to adopt Resolution 1059-0923, amending the Personnel Policies and Procedures Chapter Policy 6, Employee Benefits to add language concerning the Public Safety Homeowner Incentive Program and to revise the Administrative Leave language (Section P) and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

The City has utilized the Public Safety Homeowner Incentive Program as a tool to attract and retain public safety personnel within the Police and Fire Departments by providing assistance in purchasing a home within Avondale city limits to employees in eligible positions. While the program was previously approved by City Council, it was never added to Avondale Chapter Policy 6, Employee Benefits.

Current language in Avondale Chapter Policy 6, Employee Benefits, regarding Administrative Leave, is not appropriately aligned with current business needs.

DISCUSSION:

The proposed revisions to add the Public Safety Homeowner Incentive Program (Section Y, pg. 26) ensure the program is appropriately included in Chapter Policy and provides a path for the City Manager to establish program requirements through an applicable administrative policy.

The proposed revisions for Administrative Leave (Section P, pg. 23): 1) clarifies who is specifically authorized to approve administrative leave, 2) expands the ability to place an employee on administrative leave when in

the best interest of the City as determined by the City Manager, and 3) removes the option of an employee being placed on administrative leave “without pay” as this is addressed in another Chapter policy.

BUDGET IMPACT:

There are no direct costs associated with the amendments to the City of Avondale Policies and Procedures.

RECOMMENDATION:

Staff recommends Council adopt the proposed revisions to Avondale Chapter Policy 6, Employee Benefits.

Contact person for document distribution: Andy Mesquita

RESOLUTION NO. 1059-0923

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING CHAPTER 6 OF THE PERSONNEL POLICIES AND PROCEDURES RELATING TO EMPLOYEE BENEFITS.

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

SECTION 1. Chapter 6 – Employee Benefits of the City of Avondale Personnel Policies and Procedures dated September 25, 2023 (“Chapter 6”), is hereby adopted in substantially the form and substance attached hereto as Exhibit A and incorporated herein by this reference.

SECTION 2. If any section, subsection, sentence, clause, phrase or portion of this Resolution or any part of Chapter 6 adopted herein 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 thereof.

SECTION 3. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona, September 25, 2023.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 1059-0923
[Chapter 6]
See following pages.

CHAPTER 6

Employee Benefits

A. Definitions

Throughout this policy, definitions set out in Arizona Revised Statute §23-371 are incorporated by reference. In addition, the following definitions apply:

1. City – the City of Avondale.
2. Department Director – the director of the City department to whom the employee is assigned or the department director’s designee.
3. Employee – an employee of the City.
4. Exempt employee – an employee who is deemed to be exempt from the overtime and maximum hour requirements of the Fair Labor Standards Act, 29 U.S.C. § 213, and regulations of the United States Department of Labor.
5. Family Medical Leave (FMLA) – leave allowed pursuant to the Family Medical Leave Act of 1993 and relevant statutes and regulations.
6. Full time employee – an employee who works thirty (30) hours or more per week.
7. Non-Exempt employee – an employee who is not an exempt employee.
8. Part-time employee – an employee who works less than thirty (30) hours per week.
9. Sick Leave – an approved period of absence granted to an employee according to this policy. “Sick leave” has the same meaning as “earned paid sick time” as that term is used in ARIZ. REV. STAT. §23-371.
10. Fiscal year – the 365-day period (or 366 days in the case of a leap year) that commences on July 1 and ends on the next June 30.
11. Fair Labor Standards Act (FLSA) Work Period – the time period for which overtime is calculated. The standard work period of 40 hours (Monday through Sunday) applies to all employees except for 56-hour firefighters. 56-hour firefighters have a two-week work period that coincides with the pay period.

B. Accumulation of Sick Leave

1. Regular full-time employees will accrue sick leave at the rate of 3.70 hours per biweekly pay period and these hours are accumulated without limit.

2. Regular part-time temporary, and seasonal part-time employees (working less than thirty (30) hours per week) shall receive a bank of forty (40) hours of paid sick leave per year at the commencement of the fiscal year. They shall accrue no other sick leave during the fiscal year.
3. Newly hired regular part-time, temporary, and seasonal part-time employees (working less than thirty (30) hours per week) are eligible to use sick leave from their bank on the ninetieth calendar day after commencing employment.
4. When an employee is promoted, demoted, or transferred, the employee shall retain all accrued sick leave.
5. Upon hiring any employee, a department director may request that an employee be hired with sick leave already established up to a maximum of 80 hours for employees below the rank of department directors and 120 hours for department directors and above. The Human Resources Director must review and approve this request prior to any official written offer of employment.

C. Sick Leave Usage

1. Employees may use accrued paid sick leave time for any of the following reasons:
 - a. An employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; an employee's need for preventive medical care.
 - b. Care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; care of a family member who needs preventive medical care. For purposes of sick leave usage under this section C, the term "family member" is as defined in ARIZ. REV. STAT. §23-371, which is the following:
 - 1) Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the employee stands *in loco parentis*, or an individual to whom the employee stood *in loco parentis* when the individual was a minor;
 - 2) A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse or domestic partner or a person who stood *in loco parentis* when the employee or employee's spouse or domestic partner was a minor child;
 - 3) A person to whom the employee is legally married under the laws of any state, or a domestic partner of an employee as registered under the laws of any state or political subdivision;

- 4) A grandparent, grandchild, or sibling (whether of a biological, foster, adoptive or step relationship) of the employee or the employee's spouse or domestic partner; or
 - 5) Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
 - c. Reasons related to childcare, domestic violence, sexual violence, abuse or stalking, and legal services as described in ARIZ. REV. STAT. §§23-371 and 23-373.
 - d. Closure of the employee's place of business by order of a public official due to a public health emergency or an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for oneself or a family member when it has been determined by the health authorities having jurisdiction or by a health care provider that the employee's or family member's presence in the community may jeopardize the health of others because of his or her exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease.
 - e. In the case of adoption of a minor child, an employee who is a potential or actual adoptive parent may request sick leave to include appointments with adoption agencies, social workers, attorneys, court proceedings, required travel, and any other activities necessary and related to adoption of a minor child.
- 2. An employee will not be subject to retaliation or discrimination for using sick leave, so long as the employee complies with City policy.
 - 3. An employee will not be required to search for or find a replacement worker to cover the hours during which the employee is using sick leave.
 - 4. Employees are subject to discipline for misuse or abuse of sick leave or for violation of City policy.
 - 5. Sick leave may be taken when approved by the employee's department director according to the notification and documentation procedures of City policy.
 - 6. An absence of three or more days shall be reported to the Human Resources Department to determine if FMLA leave is warranted.
 - 7. Sick leave hours taken will not count toward hours worked for purposes of computing overtime.
 - 8. Sick leave must be used in increments of not less than fifteen (15) minutes per occurrence for non-exempt employees.

D. Notification

1. An employee shall notify his/her department director as soon as he/she knows that he/she will be unable to work, but no later than the starting time of the employee's workday. The employee shall make a good faith effort to provide notice to the department to which the employee is assigned in advance and make a reasonable effort to schedule the time off in a manner that does not unduly disrupt the operations of the department.
2. An oral or written request by the employee is acceptable. The following methods may be used:
 - a. City timekeeping or scheduling system
 - b. Telephone call
 - c. Email
 - d. Text message

Employees are responsible to ensure text message or email was successfully delivered. Supervisors shall confirm receipt of notification.

3. When possible, the employee shall include the expected duration of the absence in the request.
4. An employee must notify his/her supervisor on each day of absence unless a notification includes a specific number of days required for the leave or other arrangements have been made for FMLA. All FMLA must be approved through Human Resources.
5. While on short term disability employees are required to report periodically to the Human Resources Department, at least every thirty (30) days, regarding the status of their medical condition and their intent to return to work. Employees will be required to provide medical evidence substantiating their need for continued leave to the Human Resources Department.
6. If an employee fails to return to work following any authorized leave and fails to notify Human Resources of the need for an extension, the employee will be considered to have abandoned the job.
 - a. Human Resources shall send written notice to the employee's last known address requiring the employee to return to duty within forty-eight (48) hours.
 - b. Failure to return to work within forty-eight (48) hours of receipt of the notification will be cause for immediate discharge and the employee automatically waives all appeal rights under this policy.

E. Documentation

1. For earned paid sick time of three or more consecutive workdays, a department director may require reasonable documentation that the earned paid sick time has been used for a reason or purpose set out in the definition of sick leave in this policy. Documentation signed by a health care professional indicating that earned paid sick time is necessary shall be considered reasonable documentation for purposes of this section. In cases of domestic violence, sexual violence, abuse or stalking, one of the following types of documentation selected by the employee shall be considered reasonable documentation:
 - a. A police report indicating that the employee or the employee's family member was a victim of domestic violence, sexual violence, abuse or stalking;
 - b. A protective order; injunction against harassment; a general court order; or other evidence from a court or prosecuting attorney that the employee or employee's family member appeared, or is scheduled to appear, in court in connection with an incident of domestic violence, sexual violence, abuse, or stalking;
 - c. A signed statement from a domestic violence or sexual violence program or victim services organization affirming that the employee or employee's family member is receiving services related to domestic violence, sexual violence, abuse, or stalking;
 - d. A signed statement from a witness advocate affirming that the employee or employee's family member is receiving services from a victim services organization;
 - e. A signed statement from an attorney, member of the clergy, or a medical or other professional affirming that the employee or employee's family member is a victim of domestic violence, sexual violence, abuse or stalking; or
 - f. An employee's written statement affirming that the employee or the employee's family member is a victim of domestic violence, sexual violence, abuse, or stalking, and that the leave was taken for one of the purposes of the Victim's Leave section in this policy. The employee's written statement, by itself, is reasonable documentation for absences under this paragraph. The written statement does not need to be in an affidavit format or notarized but shall be legible if handwritten and shall reasonably make clear the employee's identity, and if applicable, the employee's relationship to the family member.

F. Compensation for Unused Sick Leave upon Resignation or Retirement.

1. Compensation upon resignation will be 33.3% of accrued sick leave at the employee's current hourly rate.

2. Compensation upon retirement will be as follows:
 - a. Employees with 10 years of continuous service with the City will receive 100% of accrued sick leave up to 250 hours at the employee's current hourly rate, or 33.3% of the total balance of accrued sick leave, whichever is greater.
 - b. Employees with 15 years of continuous service with the City will receive 100% of accrued sick leave up to 375 hours at the employee's current hourly rate, or 33.3% of the total balance of accrued sick leave, whichever is greater.
 - c. Employees with 20 years of continuous service with the City will receive 100% of accrued sick leave up to 500 hours at the employee's current hourly rate, or 33.3% of the total balance of accrued sick leave, whichever is greater.
3. Employees who resign from their employment with the City but return to employment with the City within a nine (9) month period shall have any unused or unreimbursed sick leave reinstated upon rehire.
4. Employees who are involuntarily terminated from their employment are not eligible for compensation of accrued sick leave.
5. An employee may not use sick leave after their last day worked.
6. Employees who have not completed original probation will not be compensated upon separation for sick leave provided at time of hire.

G. Family and Medical Leave Act (FMLA)

1. General Provisions

It is the policy of the City to grant up to 12 weeks of FMLA leave during any 12-month period to eligible employees. The City may grant up to a maximum of 26 weeks in a 12-month period for employees taking FMLA Injured Servicemember leave. FMLA may be paid, unpaid or a combination of paid and unpaid leave depending on the circumstances of the leave and as specified in this policy. The City has the right to designate leave, paid or unpaid, as FMLA leave, even if the employee does not request leave as FMLA. Sick leave may be granted under Servicemember Leave of the FMLA and only during this time can sick leave be used.

2. Eligibility

To qualify to take FMLA leave under this policy, the employee must meet all of the following conditions:

- a. The employee must have worked for the City for 12 months or 52 weeks. The 12 months or 52 weeks need not have been consecutive. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week.

- b. The employee must have worked at least 1250 hours during the 12-month period immediately before the date when the FMLA leave is requested to commence. The principles established under the Fair Labor Standards Act (FLSA) determine the number of hours worked by an employee. The FLSA does not include time spent on paid or unpaid leave as hours worked. Consequently, these hours of leave will not be counted in determining the 1250 hours eligibility test for an employee under FMLA.

3. Types of Leave Covered

- a. To qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:
 - 1) The birth of a child and in order to care for that child;
 - 2) The placement of a child for adoption or foster care and to care for the newly placed child;
 - 3) To care for a close family member (usually a spouse, child, or parent) with serious health condition; or
 - 4) The serious health condition (described below) of the employee.
 - a) An employee may take FMLA leave due to a serious health condition that makes the employee unable to perform the functions of the employee's position. A serious health condition can include inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care or a condition which requires continuing care by a licensed health care provider. However, a serious illness may also include other ailments short of hospitalization.
 - b) This FMLA leave policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition which, if left untreated, would result in a period of incapacity of more than three days, would be considered a serious health condition.
- 5) Qualifying Exigency Leave (necessity) arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.
- 6) Servicemember Family Leave - An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember shall be entitled to a total of 26 work weeks of FMLA leave during a 12-month period to care for the servicemember. The leave described in this paragraph shall only be available during a single 12-month period. During the single 12-month period, an eligible employee shall be entitled to a combined total of 26 work weeks of leave. If both

spouses work for the City, each spouse may only take a combined total of 26 workweeks of leave.

- b. If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests unpaid FMLA leave as provided under this policy, the City may designate all or some portion of related leave taken as FMLA leave under this policy, to the extent that the earlier leave meets the necessary qualifications.
- c. Employees with questions about who and what situations are covered under this FMLA leave policy or under the City's sick leave policies are encouraged to consult with the Human Resource Department.
- d. The City requires an employee to provide a doctor's certification of the serious health condition. The certification process is outlined in this policy. The City relies heavily on the physician's assessment.
- e. An eligible employee can take up to 12 weeks of leave under this policy during any rolling 12-month period. The City will measure the 12-month period forward from the date any employee's first FMLA leave begins. Each time an employee takes leave, the City will compute the amount of leave the employee has taken under this policy and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.
- f. If spouses both work for the City, and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a child, or parent with a serious health condition, each spouse may each take 12 weeks each of leave.

4. Employee Status and Benefits During Leave

- a. While an employee is on leave, the City will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.
- b. If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the City will require the employee to reimburse the City the amount it paid for the employee's health insurance premium during the leave period.
- c. The employee pays a portion of the dependent health care premium. While on paid leave, the City will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must continue to make this payment, either in person or by mail. The payment must be received in the Finance and Budget Department by the 10th day of each month. If the payment is more than 30 days late, the employee's health care coverage may be dropped for the duration of

the leave. The City will provide 15 days' notification prior to the employee's loss of coverage.

- d. If the employee contributes to a dental plan, life insurance, disability plan or any other type of insurance plan the City will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee may request continuation of such benefits; provided, however, that the employee shall pay their portion of the premiums. If the employee does not continue these payments, the City will discontinue coverage during the leave and Consolidated Omnibus Budget Reconciliation Act (COBRA) would be offered. If the City maintains coverage, the City will recover the costs incurred for paying the employee's share of any premiums whether or not the employee returns to work.

5. Employee Status After Leave

Upon return from FMLA leave, an employee is entitled to be returned to the same position held when leave commenced, or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment.

6. Use of Paid and Unpaid Leave

- a. An employee who is taking FMLA leave because of the employee's own serious health condition or the serious health condition of a family member must use all sick leave prior to being eligible for short term disability or unpaid leave.
- b. Disability leave for the birth of a child and for an employee's serious health condition, including Workers' Compensation leave (to the extent that it qualifies), will be designated as FMLA leave and will run concurrently with FMLA leave. For example, if the City provides six weeks of pregnancy disability leave, the six weeks can be designated as FMLA leave and counted toward the employee's 12-week entitlement. The employee may then be required to substitute accrued (or earned) paid leave as appropriate before being eligible for unpaid leave for what remains of the 12-week entitlement.

7. Intermittent Leave or a Reduced Work Schedule

- a. An employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) or, under certain circumstances, may use the leave to reduce the work week or work day, resulting in a reduced hour schedule. In all circumstances, the leave may not exceed a total of 12 work weeks over a rolling 12-month period. For the birth of a child, the employee may take up to 12 consecutive work weeks.
- b. The City may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, for FMLA leave for the employee or employee's

family member that is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care.

- c. Eligible employees may take FMLA leave on an intermittent or reduced schedule basis when medically necessary due to the serious health condition of a covered family member or the employee or the serious injury or illness of a covered servicemember (see 29 CFR §825.202). Eligible employees may also take FMLA leave on an intermittent or reduced schedule basis when necessary, because of a qualifying exigency as defined in this policy.
- d. Employees using intermittent leave or leave on a reduced schedule must make a reasonable effort to avoid disrupting operations, including scheduling doctor's appointments outside of work hours, if possible.
 - 1) An employee using intermittent leave due to medical necessity should notify his/her supervisor as soon as he/she knows that he/she will be unable to work, but no later than the starting time of the employee's workday.
 - 2) An employee must notify his/her supervisor on each day of absence unless other arrangements have been made. Human Resources should be contacted if there are additional questions on intermittent leave.

8. Certification of the Serious Health Condition

- a. A serious health condition means an illness, injury, impairment or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, or continuing treatment by a health care provider.
- b. The City requires certification of a serious health condition.
 - 1) The employee shall make every effort to respond to such a request within 15 calendar days of the request or provide a reasonable explanation for the delay.
 - 2) Failure to provide certification may result in a denial of continuation of FMLA leave.
 - 3) Medical certification may be provided by using the medical certification form.
 - 4) Request for a medical certificate must be made in writing as part of the City's response to employee request for FMLA leave.
- c. If the employee plans to take intermittent FMLA leave or work a reduced schedule, the certification must also include dates and the duration of treatment as well as a statement of medical necessity for taking intermittent FMLA leave or working a reduced schedule.

- d. The City has the right to ask for a second opinion if it has reason to doubt the certification. The City will pay for the employee to get a certification from a second doctor, which the City will select. The employee will be temporarily entitled to leave and benefits under the FMLA pending the second opinion.

9. Certification related to active duty orders or call to active duty.

The City may require that a request under active duty or call to active duty be supported by either a leave certification or military orders at such time and in such manner as prescribed by Federal law. Please consult with the Human Resources Department for current Federal guidelines regarding notification and documentation.

10. Procedure for Requesting Leave

- a. All employees requesting leave under this section must provide notice with an explanation of the reason(s) for the needed leave to the Human Resources Department as soon as practicable. If the leave is foreseeable, the employee is required to provide a written request for leave and reasons(s) to the Human Resources Department. The City will provide individual notice of rights and obligations to each employee requesting leave as soon as practicable.
- b. When an employee plans to take leave under this section, the employee must give the City 30 days' notice. If it is not possible to give 30 days' notice, the employee must give as much notice as is practicable. An employee who is to undergo planned medical treatment is required to make a reasonable effort to schedule the treatment in order to minimize disruptions to the City's operations.
- c. While on leave, employees must report periodically to the Human Resources Department regarding the status of the medical condition and their intent to return to work.
- d. Employees who are unable to return to work at the end of the expected FMLA leave should notify their supervisor and Human Resources in writing at least two (2) weeks in advance or as soon as possible and must have the physician re-certify that the extended leave is medically necessary.
- e. If an employee does not provide proper notification to Human Resources, the employee will be considered to have abandoned the job and may be subject to disciplinary action up to and including termination.

11. Job Benefits and Protection

- a. For the duration of FMLA leave, the employer must maintain the employee's health coverage under the "group health plan" unless requested in writing from the employee or other legal directives given.

- b. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
- c. The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.
- d. FMLA makes it unlawful for any employer to:
 - 1) Interfere with, restrain, or deny the exercise of any right provided under FMLA.
 - 2) Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.
- e. Notwithstanding the exhaustion of FMLA leave, an employee may be granted additional leave as required under the Americans with Disabilities Act. As an accommodation, additional leave may be granted based on medical necessity and the City's requirements/ability to accommodate. Accommodations will be evaluated upon request.

12. Enforcement

- a. The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
- b. An eligible employee may bring a civil action against an employer for violations.
- c. FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law which provides greater family or medical leave rights.

H. Vacation Leave

1. Accumulation of Vacation Leave

- a. All full-time employees, excluding sworn firefighters, will accrue vacation leave as follows:

Non-Exempt	Tenure	Hours per Pay Period	Hours per Year
	0-1.99 Years	3.7	96.2
	2-4.99 Years	4.47	116.2
	5-9.99 Years	5.39	140.12
	10-14.99 Years	6.31	164.04
	15 + Years	6.93	180.16

Exempt	Tenure	Hours per Pay Period	Hours per Year
	0-1.99 Years	4.62	120.12
	2-4.99 Years	5.39	140.12
	5-9.99 Years	6.31	164.04
	10 + Years	6.93	180.16

- b. All assistant department directors will accrue vacation leave as follows:

ASSISTANT DEPARTMENT DIRECTORS		
Tenure	Hours per Pay Period	Hours per Year
First 5 Years	6.31	164.04
5+ Years	6.93	180.18

- c. All department directors, Deputy City Managers, Assistant City Managers will accrue vacation leave as follows:

Department Directors, Deputy City Managers, and Assistant City Managers	
Hours per Pay Period	Hours per Year
6.93	180.18

- d. Battalion Chiefs working a 56-hour schedule

Battalion Chiefs		
Tenure	Hours per Pay Period	Hours per Year
0-1.99 Years	11.21	291.46
2-4.99 Years	12.28	319.28
5-9.99 Years	13.57	352.30
10 + Years	14.44	375.30

- e. Upon hiring any employee, a department director may request that an employee be hired with vacation leave already established up to a maximum of 80 hours for employees below the rank of department directors and 120 hours for department directors and above. The Human Resources Director must review and approve this request prior to any official written offer of employment. Employees who have not completed original probation will not be compensated upon separation for vacation or sick leave provided at time of hire as outlined in this section.
- f. Part-time regular employees are not eligible to accrue vacation leave.

- g. Vacation leave hours taken will not count toward hours worked for purposes of computing overtime.

2. Maximum Accumulation of Vacation Time

Eligible employees have a maximum accrual of vacation time of 320 hours at the end of the calendar year. Fire Battalion Chiefs assigned to a 24-hour shift schedule will have a maximum accrual of vacation time of 448 hours at the end of the calendar year.

- a. Employees must use all hours over the maximum accrual by the end of each calendar year. Employees will lose any vacation leave hours over the maximum accrual amount not used by December 31 of each calendar year.
- b. Vacation leave accumulated in excess of 320 hours or 448 hours for Fire Battalion Chiefs as of the last day of the calendar year shall be forfeited, unless the City Manager authorizes an exception in an individual case. The application for exception submitted through the Human Resources Department shall contain a plan to use the excess hours during the following calendar year, pay the employee for the excess hours or a combination of both.

3. Use of Vacation Leave

Vacation leave shall be taken with the approval of the department director or designee (i.e., immediate supervisor).

- a. Vacation will only be granted during such time as it is not disruptive to the work schedule of the department concerned.
- b. During the original probationary period, vacation leave may be granted at the discretion of the department director.
- c. Vacation leave granted shall not exceed an employee's accrued balance.

4. Vacation Sell Back

Employees may be paid for a portion of accrued vacation. See Administrative Policy 40 (AP-40) for guidelines.

5. Compensation for Vacation Leave

- a. Compensation upon separation from the City will be 100% of accrued vacation leave at the employee's current hourly rate. An employee may not use vacation leave after their last day worked. Vacation will be paid per City policy. Employees who have not completed original probation will not be compensated upon separation for vacation leave provided at time of hire.

I. Holiday Leave Policy

1. Objectives

The objectives for the development of the holiday leave policy are:

- a. Equalize the holiday leave allocation, so that each full-time regular employee receives 96 hours of holiday leave hours per fiscal year.
- b. Identify the methods to maximize the number of days that City offices are open to serve citizens.
- c. Ensure that the adoption of a Green Friday schedule or other alternate schedule does not increase the cost of doing business for the City.
- d. Implement a system to increase the flexibility for employees to utilize their holiday compensation.

2. Accumulation of Holiday Leave

- a. The annual holiday leave bank for each full-time, regular employee is 96 hours. Part-time, temporary, and seasonal employees are not eligible for holiday compensation or holiday differential pay. For the purposes of this policy, the holiday will be defined as the 24-hour period (12:00 AM -11:59 PM) on the designated holiday.
- b. Employees will be provided with a bank of 96 hours (full-time) per fiscal year (July 1-June 30) to utilize for holiday compensation for designated holidays or floating holidays as set forth below. The leave banks will be populated during the first payroll period in July and January. The first allocation will be in July for 50 hours (full-time) the second in January for 46 hours (full-time). New hires will receive a prorated number of hours based upon their hire date.

3. Designated Holidays; Floating Holidays

A listing of City-designated holidays will be prepared for each fiscal year. This listing will be included in the Administrative Policy and posted no later than June 30 of each year. The listing will specify any and all designated holidays for the City.

- a. If a designated holiday falls on a scheduled workday, employees will be required to use their holiday leave to cover their scheduled work hours. Exceptions must be approved by the department director and approved by the HR Director before the holiday has occurred. Holiday leave bank shall be used to cover scheduled work hours unless an employee's holiday bank is exhausted, then other leave types may be used. Employees required to work on a designated holiday due to business need, or who are not scheduled to work on a designated holiday, will not be required to utilize their holiday leave. Any holiday leave hours not used for designated City holidays shall be considered floating holiday leave.

- b. In the event an employee is on paid leave when a holiday occurs, the employee shall receive no pay in addition to holiday pay. Therefore, the employee shall not be charged with applicable paid leave time (i.e., vacation or sick leave).
 - c. Floating holiday leave shall be approved to be used at such a time that is mutually agreeable to the employee and the employee's supervisor. Holiday leave will not be available for use on an unplanned or call-in basis.
4. Holidays Eligible for Differential Pay
- a. By July 1 of each year a listing will be provided of holidays that will be paid on holiday differential (see City AP 42 Holiday Schedule). Non-exempt employees who are required to work on one of the listed holidays shall be given, in addition to regular hourly rate, holiday differential pay equal to one-half of their regular straight-time hourly rate for hours worked on designated holidays. This compensation may be in overtime or compensatory time, depending on the needs of the department (compensatory time guidelines have been established in Chapter 5 of the City of Avondale Policies & Procedures Policy Manual). The additional compensation would only be for the actual day of the holiday, not the Friday or Monday before or after (example: July 4th is on a Sunday; employees working on July 4th would be eligible for additional compensation; employees working on July 3rd or 5th would not).
 - b. Exempt employees would not be eligible for any additional compensation if required to work on one of the holidays eligible for differential pay.
5. Use of Holiday Leave
- a. It will be the employees' responsibility to monitor their holiday leave usage.
 - b. In the event that the employee does not have enough holiday hours in her/his bank to cover a full day's absence, vacation hours or compensatory time will be used to make up the difference. Sick leave may not be used for City scheduled holidays.
 - c. All holiday hours not taken prior to the last day of employment with the City, shall be forfeited.
 - d. Holiday hours must be used by June 30 of each year. ALL employees must use their holiday hours, or they will be forfeited.
 - e. In the event that an exempt or non-exempt employee does not have either holiday hours, compensatory hours, or vacation hours to cover a designated holiday, they will be placed in a leave without pay (LWOP) status. This will mean that both an exempt and nonexempt employee will have the uncompensated hours deducted to cover their absence.
 - f. Holiday hours and holiday differential pay will not count toward hours worked for purposes of overtime for hourly employees.

6. Specified Police Employees Not Participating

- a. Specified Police Employees will not be participating in the holiday leave program set forth above.
 - 1) Those police employees not participating include: Patrol, Detention, Communications, and any other area as recommended by the Chief of Police and HR and approved by the City Manager.
- b. Specified Police Employees will receive 8 hours of holiday no-bank compensation for the holidays listed in AP 42 Holiday Schedule to include the day after Thanksgiving and one personal day.
- c. The eight (8) hours for a personal day will be added on July 1 of each fiscal year and loaded into their personal bank for a total of 16 hours personal.
- d. The personal day is not eligible for differential pay.
- e. These holiday hours will NOT count as hours worked for the purpose of overtime compensation.
- f. Employees who are required to work on designated holidays shall be given, in addition to regular salary, holiday differential pay equal to one-half of their regular straight-time hourly rate for hours worked on designated holidays.

SPECIFIED POLICE EMPLOYEE HOLIDAYS ELIGIBLE FOR DIFFERENTIAL PAY
INDEPENDENCE DAY LABOR DAY VETERAN'S DAY THANKSGIVING DAY AFTER THANKSGIVING CHRISTMAS DAY NEW YEAR'S DAY MARTIN LUTHER KING JR. DAY PRESIDENT'S DAY MEMORIAL DAY JUNETEENTH

J. Industrial Leave

1. Workers' Compensation Coverage

The City provides Workers' Compensation insurance coverage to employees at no cost. If an injury or illness is determined to be job related, the employee will receive medical benefits and, if eligible, temporary compensation.

2. Determination of Compensability

The City's Workers' Compensation carrier will determine compensability for workplace injuries and illnesses.

3. Separation During a Claim

An individual who separates from City employment will only be entitled to the compensation required under Arizona Workers' Compensation Law.

4. Filing a Claim

An injury or illness is covered under Workers' Compensation if it is determined to be job related. It is the employee's responsibility to make sure the injury is reported to his/her supervisor as soon as possible. A claim must be filed within one year of the date of injury. It is the employee's responsibility to ensure the claim has been filed. The supervisor will work with the Risk Management department to provide information to assist in filing the claim. Risk Management will serve as the point person for employees with questions regarding Workers' Compensation.

5. Types of Claims

There are two types of Workers' Compensation claims. One is called a "medical only" claim, which means that only medical expenses are paid. The other is called a "time lost" claim. This means that both medical expenses and temporary compensation benefits for lost wages are paid.

- a. "Medical only" claims are those types of claims for which the insurance company will pay all of the medical expenses associated with the injury, but will not pay compensation benefits for lost wages, as the employee did not lose more than seven days' time from work.
- b. "Time lost" claims are those claims in which the treating doctor states that the employee is unable to work due to their injury and employee is off work more than seven days. The employee would then be eligible for compensation for their lost wages. The days off do not have to be consecutive (in a row) but are cumulative (total). Entitlement to compensation is based on calendar days (not workdays) and includes Saturdays, Sundays and holidays.

6. Compensation for Time Lost Claims

- a. The first seven days are not paid for lost wages unless the disability extends to 14 days. For example: If the employee is off ten days, they get paid for days eight, nine and ten only. If the employee is off 14 full days, compensation is retroactive (goes back) to the date of injury and is paid for 14 days. Compensation is not generally paid for the date of injury, as the employee was working that day and was typically compensated already for that day.

- b. Compensation is based on the statutory limit set forth in the Arizona Revised Statutes. The state law establishes a maximum wage figure which can be used to calculate the average monthly wage. This compensation is tax-free to the employee. Payments will be administered through the City's payroll system and will be issued on a bi-weekly basis.
- c. Sick time or vacation time may be utilized to cover the seven-day waiting period or to supplement their Workers' Compensation payments. Employees will need to notify Payroll in writing if they wish to utilize sick time or vacation time to cover their waiting period or supplement their wages.

7. Requirements While Under Workers' Compensation

- a. An employee may not leave the state for more than two weeks while under active medical treatment without approval from the Arizona Industrial Commission. If the employee is planning to be outside the state for more than two weeks, the employee must have written approval from the Arizona Industrial Commission before the employee leaves the state.
- b. Employees are not permitted to engage in outside employment while receiving Workers' Compensation from the City of Avondale unless written permission is granted from Human Resources and Risk Management.
- c. FMLA leave, if eligible, will run consecutively while on Workers' Compensation. While under active medical care, the insurance company has the right to have the employee periodically examined, at a reasonably convenient time and place, by a doctor of its choosing. Failure to attend the examination could result in suspension of Workers' Compensation benefits and the employee could be required to pay for the cost of the missed examination.

8. Return to Work

- a. While under active medical care, a doctor may release an employee to return to modified duty or to the employee's regular job.
- b. If released to regular duty, an employee must be able to perform the essential functions of the employee's job, with or without reasonable accommodations. If an employee requires accommodations, Human Resources will coordinate an evaluation of the employee's ability to return to the workplace.
- c. If returned to work with restrictions, the physician must provide in writing a detailed outline of what the restrictions are and the duration of those restrictions. Human Resources, Risk Management, and the department will work together to determine if there is work available that meets the restrictions outlined. Modified duty is not guaranteed. It will be up to the City to determine if work is available. At no time will an employee be allowed to be on modified duty for a period of time greater than twelve

- (12) months from the date of injury or date of onset of illness. Modified duty work would no longer be available once an employee is medically able to return to his or her regular job.
- d. If an employee fails to accept a modified duty work assignment that he or she is medically capable of performing, his or her compensation benefits may be reduced or eliminated by the City.
 - e. Risk Management may require a fit for duty evaluation before an employee is returned to regular duty.

K. General Leave

1. General leave may be requested for personal reasons that are not covered by the FMLA. This leave is not intended for employees needing time away from work for their own medical condition.
 - a. General leave will last for no more than sixty (60) calendar days.
 - b. Accrued time off must be exhausted before an employee is eligible to take general leave.
 - c. General Leave is not intended for seeking employment outside of the City.
2. Requests for general leave must be approved by the employee's department director and the human resources director
 - a. Request for general leave must be in writing and include the purpose, start, and end date of the general leave.
3. General leave is unpaid and not job protected
 - a. The department may post to fill the employee's position upon commencement of general leave.
 - b. If the employee's position remains open at the end of their approved leave period, they will be reinstated to their position. If the position is no longer available, then they will be allowed a period of 28 calendar days to apply competitively for any open position as an internal candidate.
 - c. If the employee fails to return to work or communicate timely with Human Resources at the end of their approved leave period, it will be deemed job abandonment and they will be terminated.
4. While on general leave the employee may select continuation of benefits by paying the full premium for coverage (i.e., employee and employer premiums). Some benefits may not be continued.
5. Vacation and Sick leave will not accrue while the employee is on general leave.

L. Bereavement Leave

1. General

Upon the death of an employee's immediate family member, an employee may be granted paid bereavement leave not to exceed 40 work hours. Additional hours beyond the limit may be charged to an employee's sick leave or vacation leaves at the employee's discretion and with the department director's approval. Upon the death of an employee's aunt, uncle, cousin, niece, or nephew, an employee may be granted paid bereavement leave not to exceed one workday, whether the employee works 8 or 10 hours. Only full-time regular and/or probationary employees are eligible for bereavement leave. Part-time employees are not eligible for bereavement leave.

2. Immediate Family Defined

For purposes of bereavement leave, "immediate family" shall refer to a spouse, son, son in-law, daughter, daughter in-law, mother, mother in-law, father, father in-law, brother, brother in-law, sister, sister in-law, grandparent, grandparent in-law, grandchild or step-child, step-parent, step-brother or step-sister.

3. Co-workers

At the discretion of the employee's department director, an employee may be granted up to four (4) hours of bereavement leave for attendance at a co-worker's funeral or memorial service.

4. Timekeeping

The employee (or employee's supervisor, if the employee is not available) shall enter the relationship to the person they are taking bereavement leave for in the timekeeping system when making the bereavement leave request. For example, a comment of "grandparent" would suffice.

5. Additional leave

In the event the employee's bereavement leave is exhausted in addition to other paid leave types such as vacation and sick leave, the employee may be granted General Leave as outlined in this policy.

M. Military Leave

All regular employees who are or may be members of the National Guard or the Military Reserves (U.S. Armed Forces) will be entitled to leave of absence with pay (upon written request to the employees department director and submittal of appropriate documentation of military active duty orders), from their respective duties on all days during which they are employed with or without pay under the orders of or authorization of competent authority on

active duty during training or duty with troops, field exercises, or instruction for a total period not to exceed the lesser of 30 working days or hours times shift based on the Federal government fiscal year in any two consecutive years.

N. Civic Duty Leave

1. General

Upon substantiated application, an employee shall be granted leave with pay as civic duty leave while serving as a juror, complying with a subpoena, or voting.

2. Use of Civic Duty Leave

Except for voting pursuant to ARIZ. REV. STAT. § 16-401 (primary elections) or ARIZ. REV. STAT. § 16-402, (general elections) as amended, an employee granted civic duty leave shall report for work whenever the employee's presence is not required for the civic duty, unless:

- a. The distance to the work location would preclude timely reporting for the civic duty; or
- b. The employee cannot return to work at least one hour before the end of the work shift;
- c. Civic duty leave will not count towards hours worked for purpose of computing overtime.

3. General Election Day

- a. The biannual general election day (the first Tuesday following the first Monday in November of every even-numbered year) is not a legal holiday. However, every public officer or employee is entitled to have adequate time to vote, as set forth in ARIZ. REV. STAT. § 16-402, as amended. The three consecutive hours immediately after the opening or the three consecutive hours prior to the closing of the polls is provided for this purpose.
- b. Arrangements must be made with the supervisor prior to general election day and the supervisor may determine which hours are more suitable in accordance with the needs of the department.

4. Appearance as a Witness

An employee who is subpoenaed as a witness by any court or administrative, executive, or judicial body in this state may be absent with pay unless the testimony or evidence to be given relates to the employee's own personal business.

5. Jury and Witness Compensation

Employees who are granted civic duty leave when called for jury duty or subpoenaed as a witness shall remit any compensation to the City Finance and Budget Department, except for mileage allowance.

O. Victim's Leave

1. Purpose and Eligibility

The City will allow employees, who are victims of crimes, to leave work to exercise their right to be present at legal proceedings related to the crimes in accordance with Arizona State Victim's Leave Law (ARIZ. REV. STAT. §§ 8-420, 13-4439, 23- 373) as amended. Any City employee is eligible for leave under this policy, except if the employee's family member is the victim and the employee is in custody for an offense or is the accused.

2. Use of Victims Leave

A request for victim's leave must be made to the immediate supervisor providing as much notice as practical. In making this request, the employee shall provide both of the following documents:

- a. A copy of the form provided to the employee by the law enforcement agency.
- b. A copy of the notice of each scheduled proceeding that is provided to the victims by the responsible agency.

Leave records under this policy shall be maintained in a confidential manner. When using victim's leave, the eligible employee may use accrued sick leave, vacation, or time earned. Compensatory time earned may be used for non-exempt employees to remain in a pay status while absent from work. If the employee has exhausted all accrued leave balances or if the employee is not benefit eligible, the leave of absence shall be unpaid and need to be approved by the City Manager. While there is no maximum amount of time allocated for the victim's leave, the City reserves the right to limit the leave provided under state law if the employees' absence from work creates an undue hardship to City business.

P. Administrative Leave

The Human Resources Director, with the concurrence of the City Manager, may authorize administrative leave for any employee pending an administrative investigation, an internal inquiry to gather facts, or for other administrative reasons which are in the best interest of the City as determined by the City Manager.

Q. Using Leave

All leave types are intended to allow employees to continue to receive compensation (when appropriate) for their normally scheduled hours during the FLSA work period. At no time shall the use of leave hours result in compensation in excess of the scheduled hours.

For example: A non-exempt 40 hour per week employee is sick on Monday and then works 35 hours the rest of the week. That employee would use five hours of sick leave during that week.

R. Health, Dental, Life and Optional Insurances

Subject to the approval of City Council, the City provides health, dental and life insurance to regular status full-time employees. Insurance coverage begins 31 days after the first day of the month following the employee's first day of employment.

1. Medical Insurance

Employees hired in 30-40 hour positions are eligible to elect coverage under the City's medical insurance plans. Employees may elect to cover their dependents at the cost which has been negotiated by the City and the insurance carrier. The City may elect to pay a portion of the dependent's coverage. Employees hired in a position with hours less than 30 hours are not eligible to enroll in the City's medical insurance plans.

2. Dental Insurance

Employees hired in 30-40 hour positions are eligible to elect coverage under the City's dental insurance plans. Employees may elect to cover their dependents at the cost which has been negotiated by the City and the insurance carrier. The City may elect to pay a portion of the dependent's coverage. Employees hired in a position with hours less than 30 hours are not eligible to enroll in the City's dental insurance plans.

3. Life Insurance

Employees hired in 30-40 hour positions are covered by the City's basic life insurance plan. These employees may purchase additional life insurance. Employees hired in a position with hours less than 30 hours are not eligible to enroll in the City's life insurance plans.

4. Optional Insurance Benefits

The City may provide optional benefits through payroll deduction.

S. Continuation of Health Insurance under Consolidated Omnibus Budget Reconciliation Act ("COBRA")

Under the Consolidated Omnibus Budget Reconciliation Act of 1985, better known as COBRA, if an employee terminates employment with the City, the employee is entitled to continue participating in the City's group health plan for a prescribed period of time, usually 18 months. (In certain circumstances, such as an employee's divorce or death, the length of coverage period may be longer for qualified dependents.) COBRA coverage is not extended to employees terminated for gross misconduct.

If a former employee chooses to continue group benefits under COBRA, he/she must pay the total applicable premium plus a 2% administrative fee. Coverage will cease if the former employee fails to make premium payments as scheduled, becomes covered by another group plan that does not exclude pre-existing conditions, or becomes eligible for Medicare.

For detailed information or questions on COBRA, employees are requested to check with the Human Resources Department.

T. Workers' Compensation Insurance

1. General

Workers' Compensation provides a medical and hospitalization expenses benefit as well as partial payment in lieu of salary for workers injured on the job. All City employees are covered by this form of insurance at no cost to the employee from the first day of employment. Benefits are based on the statutory limit set forth in the Arizona Revised Statutes.

2. Reporting Period

All job-related personal injuries to employees must be reported to Risk Management within 24 hours of the time the accident occurred.

3. Choice of Care Provider

The City has the right to request that an employee injured on the job, seek medical assistance from a doctor of the City's choice.

U. Retirement Plans

1. Enrollment in the Arizona State Retirement System or the Public Safety Personnel Retirement System or the Correctional Officers Retirement Plan will be determined based upon eligibility. The Public Safety Personnel Retirement System is for certified peace officers and firefighters.
2. Deductions for all plans are made from each pay period. The amount of the City's contributions, as well as employee contributions, is determined by state legislation.

V. Deferred Compensation Plans

1. Under this optional plan area several types of programs governed by Internal Revenue Service (IRS) an employee may choose to defer a portion of his/her income through payroll deduction. By deferring income, an employee may lower the income tax they currently pay.
2. The City may elect to contribute funds to employee's Deferred Compensation Plan

W. Health Savings Account (HSA)

1. General

Health Savings Accounts (HSA) were created by Public Law 108-173, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. HSA is designed to help

individuals save for qualified medical and retiree health expenses on a tax-advantaged basis.

2. Employee Choice

Employees who select a high deductible health plan may be eligible to participate in an HSA.

3. City Contribution

The City may elect to contribute funds to employee's HSA accounts.

X. Flexible Spending Arrangements (FSA)

1. General

Health Flexible Spending Arrangements and Dependent Care Flexible Spending Arrangements (FSA) allow employees to be reimbursed for medical expenses.

2. Process

- a. Employees may contribute to FSA accounts up to the limit set by the City.
- b. No employment or federal income taxes are deducted from employee contributions to FSA accounts.

Y. Public Safety Homeowner Incentive Program

1. To ensure competitiveness in the recruitment and retention of critical public safety staff, the City may fund a Public Safety Homeowner Incentive Program dependent on annual funding identified during the budgeting process.
2. The City Manager will be responsible for establishing the eligibility, conditions and other requirements of the program through an applicable administrative policy.

CITY COUNCIL REPORT

SUBJECT: Resolution 1060-0923 - Amendments to the Personnel Policies and Procedures, Chapter and Administrative Policy Definitions of Terms

MEETING DATE: 9/25/2023

TO: Mayor and Council

FROM: Andrew Mesquita, Human Resources Director, (623) 333-2211

THROUGH: Ron Corbin, City Manager, (623) 333-1011

REVIEWED: Ron Corbin, City Manager, (623) 333-1011

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Area:

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

PURPOSE:

City Council will consider a request to adopt Resolution 1060-0923, amending the current definition for Administrative Leave to align with proposed revisions to Avondale Chapter Policy 6, Employee Benefits and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

The revised definition for Administrative Leave will align with proposed amendments to Avondale Chapter Policy 6, Employee Benefits.

DISCUSSION:

A revised definition for Administrative Leave is necessary to align with proposed amendments to Administrative Leave in Avondale Chapter Policy 6, Employee Benefits, Section P. The revised definition will: 1) clarify who is specifically authorized to approve administrative leave, 2) expand the ability to place an employee on administrative leave when in the best interest of the City as determined by the City Manager, and 3) remove the option of an employee being placed on administrative leave "without pay" which is addressed in another Chapter policy.

BUDGET IMPACT:

There are no direct costs associated with amendments to the City of Avondale Policies & Procedures.

RECOMMENDATION:

Staff recommends Council adopt the proposed amendments to Avondale Chapter and Administrative Policy Definition of Terms.

Contact person for document distribution: Andy Mesquita

RESOLUTION NO. 1060-0923

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE,
ARIZONA, AMENDING CHAPTER AND ADMINISTRATIVE POLICY
DEFINITIONS OF TERMS OF PERSONNEL POLICIES AND PROCEDURES.

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

SECTION 1. Chapter and Administrative Policy Definitions of Terms of the City of Avondale Personnel Policies and Procedures dated September 25, 2023, is hereby adopted in substantially the form and substance attached hereto as Exhibit A and incorporated herein by this reference.

SECTION 2. If any section, subsection, sentence, clause, phrase or portion of this Resolution or any part of Chapter and Administrative Policy Definitions of Terms adopted herein 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 thereof.

SECTION 3. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona, September 25, 2023.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 1060-0923
[Chapter and Administrative Policy Definitions of Terms]
See following pages.

CHAPTER AND ADMINISTRATIVE POLICY

DEFINITIONS of TERMS

The following words and phrases will have the meanings as indicated throughout Chapter and Administrative Policies except where the context clearly indicates otherwise.

- A. Accrual** – the accumulation or increase, typically referring to a benefit such as vacation or sick leave, that has increased from pay period to pay period.
- B. Administrative Leave** – paid leave authorized by the Human Resources Director, with the concurrence of the City Manager, for an employee pending an administrative investigation, an internal inquiry to gather facts, or for other administrative reasons which are in the best interest of the City as determined by the City Manager..
- C. Americans With Disabilities Act (ADA)** – Title I of the Americans with Disabilities Act of 1990 is part of a federal law that prohibits discrimination against someone with a disability, defined as “a physical or mental impairment that substantially limits a major life activity.” Disability is decided on a case-by-case basis and does not include conditions such as substance abuse. This law applies to the whole employment cycle, from application through advancement and termination.
- D. Anniversary Date** – the calendar date upon which employment started with the City of Avondale by a specific employee.
- E. Appeal to the Independent Hearing Officer** – a request to the Independent Hearing Officer. Such will be limited to action taken by the City which involves, as a disciplinary action, dismissal, demotion, suspension without pay of more than 40 hours, suspension without pay for more than eight hours for law enforcement officers and detention officers pursuant to Ariz. Rev. Stat. 38- 1101, reduction in pay in lieu of suspension without pay of more than 40 hours, or reduction in pay in lieu of suspension without pay for law enforcement officers and detention officers pursuant to Ariz. Rev. Stat. 38-1101. All other appeals to the Independent Hearing Officer are specifically prohibited. The right of appeal hereunder extends to all regular employees in the classified service.
- F. Appointing Authority** – an employee, or City Council, having the power of appointment and removal of subordinate positions in any office authorized by the City Council in the budget, or any group of persons having the power by other lawfully delegated authority to make appointments to specific positions in the municipal service of the City of Avondale.
- G. Appointment** – the designation of a person to a position in classified or temporary authorized by the City Council in the budget.

- H. Background Screening/Pre-employment Screening** – testing to ensure that employers are hiring qualified and honest employees and that a prospective employee is capable of performing the functions required by the job. The screening can involve criminal background checks, verification of Social Security numbers, past addresses, age or year of birth, corporate affiliations, bankruptcies, liens, drug screening, skills assessment and behavioral assessments. If an employer outsources pre-employment screening, the federal Fair Credit Reporting Act requires that there must be a consent and disclosure form separate from an employment application.
- I. Base Wage Rate (or base rate)** – the monthly salary or hourly wage paid for a job, irrespective of benefits, bonuses or overtime.
- J. City Council** – Council of the City of Avondale AZ.
- K. City Manager** – hired by the City Council, the City Manager serves as the chief executive of the city government.
- L. Class** – a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title and the same pay grade apply to each position in the group.
- M. Class Series** – the group of related classes as subsection of the occupational groups.
- N. Class Specification** – the description of the type and level of duties and responsibilities of the positions assigned to a class.
- O. Classification** – the original assignment of the position to an appropriate class on the basis of the type, difficulty and responsibility of work.
- P. Classified Service** – all regular full-time, part-time, and temporary positions.
- Q. Compensation** – any form of payment made to an individual for services rendered as an employee for an employer.
- R. Conditional Offer of Employment** – an offer of employment that is dependent on the successful completion of certain conditions typically outlined in the letter offering employment.
- S. Department** – a major functional unit of the City of Avondale governmental structure.
- T. Department Director** – the officially appointed director of any department who is directly responsible for the administration of the department.
- U. Discrimination** – the practice of unfairly treating different categories of people, especially on the grounds of ethnicity, national origin, gender, race, religion, and sexual orientation.
- V. Demotion** – a reduction in rank or movement to a lower grade position.

- W. Drug Screening** – the evaluation of urine or blood to determine if the subject has been using the drug or drugs in question.
- X. Emergency** – a sudden and unforeseen happening that requires the unscheduled service of an employee to protect the health, welfare, and safety of the community.
- Y. Emergency Appointment** – filling a critical open position when a department has a need that cannot be immediately filled through an open recruitment process or through the use of a temporary status employee.
- Z. Employee** – an employee may be defined as:
1. Regular, full-time – this person is employed on a regular schedule of greater than 30 hours throughout the year and was hired with a position control number authorized through the budget process. They are not currently serving a probationary period.
 2. Regular, part-time – this person is employed on a regular schedule less than thirty (30) hours per week throughout the year and was hired with a position control number authorized through the budget process. They are not currently serving a probationary period.
 3. Temporary – this person may be employed for any number of hours per week in positions declared to be temporary in nature. This person may be assigned to a classification temporarily vacated by a regular employee while on military duty or other authorized absence and is excluded from receiving normal fringe benefits.
- AA. Equal Employment Opportunity Commission (EEOC)** – the federal agency who is responsible for publishing guidelines, enforcing EEO laws and investigating complaints of job discrimination based on race, color, religion, sex (including pregnancy), national origin, age or disability.
- BB. Employment Certified Lists** – following a selection process, a list of individuals that would be immediately eligible for hire if a future opening would arise. These lists have a limited period of time that they are valid for use.
- CC. Exempt** – an employee who generally holds a professional, administrative, or executive position and is regularly paid a predetermined amount of money per pay period.
- DD. Fair Labor Standards Act (FLSA) of 1938** – a Federal law which covers public agencies and businesses engaged in interstate commerce or providing goods and services for commerce. The FLSA provides guidelines on employment status, child labor, minimum wage, overtime pay, and record-keeping requirements. It determines which employees are exempt from the Act (not covered by the Act) and which are non-exempt (covered by the Act). It establishes wage and time requirements when minors can work. It sets the minimum wage that must be paid, and mandates when overtime must be paid.

- EE. Grievance** – any dispute regarding the meaning, interpretation, or alleged violation of these policies and procedures.
- FF. Holiday** – the twenty-four (24) hour period starting at midnight and ending at 11:59 pm of the day observed.
- GG. Immediate Family** – husband, wife, (common-law spouse), son, daughter, mother, father, brother, sister, son-in-law, daughter-in-law, parent-in-law, brother-in-law, sister-in-law, grandparent, or grandchild of an employee or other legal dependent.
- HH. Independent Hearing Officer** – an attorney licensed and in good standing with the State Bar of Arizona with at least five years of experience and knowledge of municipal law and/or employment law that the City Manager or designee selects to hear an appeal from the City’s list of qualified independent hearing officers on a rotational basis.
- II. Independent Medical Officer** – An impartial physician who provides an expert report regarding injuries, impairment, and disabilities.
- JJ. Leave** – an authorized absence from regularly scheduled work hours, which has been approved by proper authority.
- KK. Limited Appointment** – an individual hired for a fixed or defined period of time, not to exceed 2 years in duration.
- LL. Loyalty Oath** – a pledge of allegiance to an organization, institution, or state of which an individual is a member.
- MM. Mayor** – the elected head of the City, who also serves as a member of the city council.
- NN. Merit Pay Increase** – an increase in pay from one percentage to the next higher percentage in the same pay grade of the pay schedule which is granted to any employee who is consistently proficient in his/her duties, and exceeds the standards of performance expected of a competent employee, over a period of time (usually one (1) year or more).
- OO. Merit System** – a system whereby employees are promoted or rewarded based on ability and achievement.
- PP. Nepotism** – Employment of immediate family, including step-family, in positions within the City of Avondale to include instances where immediate family members are employed in positions where one is in the supervisory chain of the other.
- QQ. Nonexempt Employees** – workers who are entitled to earn the federal minimum wage and qualify for one-and-a-half-times their hourly rate for every hour they work, above and beyond a standard 40-hour work week. This does not apply to the 56-hour employee.
- RR. Overtime** – authorized time worked by a regular full-time employee in excess of a standard workweek (more than forty (40) hours in one week). This does not apply to the 56-hour employee.

- SS. Pay Grade** – the identifying number for a single rate or a range of pay rate as established in the salary grade table.
- TT. Pay Reduction** – a decrease in pay, which may result from reduction in grade or reallocation of a position to a lower grade.
- UU. Payroll Taxes** – taxes paid on the wages and salaries of employees.
- VV. Performance Evaluation** – A written appraisal of the job performance of an employee designed to inform the employee of the manner in which he/she is meeting standards of performance established by a supervisor, department director, or the City Manager.
- WW. Personnel Action Form (PAF)** – a form that is completed before any change of employment status of an employee is official.
- XX. Promotion** – the movement of any employee from a position of one class to a position of another class in a higher maximum salary rate.
- YY. Probationary Period** – a probationary period is a period of time when an employee is first placed into a position which allows either the employer or the employee to terminate the employment for any reason. This time is for both parties to decide whether the employee is suited to the position and/or the employer's organization.
- ZZ. Promotional Probation** – the probationary period in effect immediately after an individual has been promoted within the organization.
- AAA. Recruitment** – refers to the overall process of identifying, attracting, screening, testing and interviewing suitable candidates for jobs within an organization.
- BBB. Reduction in Force** – an involuntary separation of an employee or groups of employees due to economic pressures, lack of work, organizational changes, or other reasons of business necessity which require a reduction in staff.
- CCC. Reference** – the positive or negative comments about a candidate's previous job performance provided to a prospective employer.
- DDD. Reduction in Grade** – the movement of an employee from a position in one class to a position in the same or another class having a lower maximum salary rate because of disciplinary reasons, incapacity to perform the work, inefficiency, or unsatisfactory work performance.
- EEE. Reprimand** – a formal disciplinary action designed not only to admonish or warn an employee, but also to lead, guide, direct, and instruct the employee in how to correct and avoid repeating a mistake, infraction, inefficiency, or problem.
- FFF. Retirement Contributions** – funds earmarked specifically for qualified retirement accounts. Typically taken directly from an employee's paycheck on a bi-weekly basis.

- GGG. Retirement Systems** – a system that provides retirement, disability and survivor benefits for eligible participants within the City.
- HHH. Resident** – a person whose principle place of domicile is within the corporate boundaries of the City of Avondale.
- III. Separation** – the termination of employment by reason of disqualification, end of temporary assignment, reduction in force, resignation, retirement, dismissal, or death.
- JJJ. Supervisor** – an employee having authority to, in the interest of the city, direct the work efforts of other employees and evaluate and recommend their promotions, discipline and termination.
- KKK. Suspension** – a form of discipline consisting of relieving an employee from work without pay for a specific period of time, depending upon the seriousness of the act bringing about disciplinary action.
- LLL. Temporary Appointment** – an appointment of an individual offering a limited period of time for employment.
- MMM. Termination** – the permanent separation of an employee from the City of Avondale.
- NNN. Transfer** – the movement of an employee from one department, division, or unit of municipal government to another class having the same maximum salary rate, involving the performance of similar duties and requiring essentially the same qualifications.
- OOO. Vacancy** – a duly created position which is not occupied and for which funds have been provided.
- PPP. Volunteer** – an individual who performs hours of service for civic, charitable or humanitarian reasons, without promise, expectation or receipt of compensation for services rendered.
- QQQ. Workers' Compensation Insurance** – benefits received by an employee who is hurt on the job or gets sick from a work related cause.

CHAPTER AND ADMINISTRATIVE POLICY

DEFINITIONS of TERMS

The following words and phrases will have the meanings as indicated throughout Chapter and Administrative Policies except where the context clearly indicates otherwise.

- A. Accrual** – the accumulation or increase, typically referring to a benefit such as vacation or sick leave, that has increased from pay period to pay period.
- B. Administrative Leave** – ~~employee-paid leave authorized by the Human Resources Director, with the concurrence of the City Manager, while the employer conducts an investigation regarding the employee's behavior for an employee pending an administrative investigation, an internal inquiry to gather facts, or for other administrative reasons which are in the best interest of the City as determined by the City Manager.~~ ~~May be paid or unpaid.~~
- C. Americans With Disabilities Act (ADA)** – Title I of the Americans with Disabilities Act of 1990 is part of a federal law that prohibits discrimination against someone with a disability, defined as “a physical or mental impairment that substantially limits a major life activity.” Disability is decided on a case-by-case basis and does not include conditions such as substance abuse. This law applies to the whole employment cycle, from application through advancement and termination.
- D. Anniversary Date** – the calendar date upon which employment started with the City of Avondale by a specific employee.
- E. Appeal to the Independent Hearing Officer** – a request to the Independent Hearing Officer. Such will be limited to action taken by the City which involves, as a disciplinary action, dismissal, demotion, suspension without pay of more than 40 hours, suspension without pay for more than eight hours for law enforcement officers and detention officers pursuant to Ariz. Rev. Stat. 38- 1101, reduction in pay in lieu of suspension without pay of more than 40 hours, or reduction in pay in lieu of suspension without pay for law enforcement officers and detention officers pursuant to Ariz. Rev. Stat. 38-1101. All other appeals to the Independent Hearing Officer are specifically prohibited. The right of appeal hereunder extends to all regular employees in the classified service.
- F. Appointing Authority** – an employee, or City Council, having the power of appointment and removal of subordinate positions in any office authorized by the City Council in the budget, or any group of persons having the power by other lawfully delegated authority to make appointments to specific positions in the municipal service of the City of Avondale.
- G. Appointment** – the designation of a person to a position in classified or temporary authorized by the City Council in the budget.

- H. Background Screening/Pre-employment Screening** – testing to ensure that employers are hiring qualified and honest employees and that a prospective employee is capable of performing the functions required by the job. The screening can involve criminal background checks, verification of Social Security numbers, past addresses, age or year of birth, corporate affiliations, bankruptcies, liens, drug screening, skills assessment and behavioral assessments. If an employer outsources pre-employment screening, the federal Fair Credit Reporting Act requires that there must be a consent and disclosure form separate from an employment application.
- I. Base Wage Rate (or base rate)** – the monthly salary or hourly wage paid for a job, irrespective of benefits, bonuses or overtime.
- J. City Council** – Council of the City of Avondale AZ.
- K. City Manager** – hired by the City Council, the City Manager serves as the chief executive of the city government.
- L. Class** – a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title and the same pay grade apply to each position in the group.
- M. Class Series** – the group of related classes as subsection of the occupational groups.
- N. Class Specification** – the description of the type and level of duties and responsibilities of the positions assigned to a class.
- O. Classification** – the original assignment of the position to an appropriate class on the basis of the type, difficulty and responsibility of work.
- P. Classified Service** – all regular full-time, part-time, and temporary positions.
- Q. Compensation** – any form of payment made to an individual for services rendered as an employee for an employer.
- R. Conditional Offer of Employment** – an offer of employment that is dependent on the successful completion of certain conditions typically outlined in the letter offering employment.
- S. Department** – a major functional unit of the City of Avondale governmental structure.
- T. Department Director** – the officially appointed director of any department who is directly responsible for the administration of the department.
- U. Discrimination** – the practice of unfairly treating different categories of people, especially on the grounds of ethnicity, national origin, gender, race, religion, and sexual orientation.
- V. Demotion** – a reduction in rank or movement to a lower grade position.

- W. Drug Screening** – the evaluation of urine or blood to determine if the subject has been using the drug or drugs in question.
- X. Emergency** – a sudden and unforeseen happening that requires the unscheduled service of an employee to protect the health, welfare, and safety of the community.
- Y. Emergency Appointment** – filling a critical open position when a department has a need that cannot be immediately filled through an open recruitment process or through the use of a temporary status employee.
- Z. Employee** – an employee may be defined as:
1. Regular, full-time – this person is employed on a regular schedule of greater than 30 hours throughout the year and was hired with a position control number authorized through the budget process. They are not currently serving a probationary period.
 2. Regular, part-time – this person is employed on a regular schedule less than thirty (30) hours per week throughout the year and was hired with a position control number authorized through the budget process. They are not currently serving a probationary period.
 3. Temporary – this person may be employed for any number of hours per week in positions declared to be temporary in nature. This person may be assigned to a classification temporarily vacated by a regular employee while on military duty or other authorized absence and is excluded from receiving normal fringe benefits.
- AA. Equal Employment Opportunity Commission (EEOC)** – the federal agency who is responsible for publishing guidelines, enforcing EEO laws and investigating complaints of job discrimination based on race, color, religion, sex (including pregnancy), national origin, age or disability.
- BB. Employment Certified Lists** – following a selection process, a list of individuals that would be immediately eligible for hire if a future opening would arise. These lists have a limited period of time that they are valid for use.
- CC. Exempt** – an employee who generally holds a professional, administrative, or executive position and is regularly paid a predetermined amount of money per pay period.
- DD. Fair Labor Standards Act (FLSA) of 1938** – a Federal law which covers public agencies and businesses engaged in interstate commerce or providing goods and services for commerce. The FLSA provides guidelines on employment status, child labor, minimum wage, overtime pay, and record-keeping requirements. It determines which employees are exempt from the Act (not covered by the Act) and which are non-exempt (covered by the Act). It establishes wage and time requirements when minors can work. It sets the minimum wage that must be paid, and mandates when overtime must be paid.

- EE. Grievance** – any dispute regarding the meaning, interpretation, or alleged violation of these policies and procedures.
- FF. Holiday** – the twenty-four (24) hour period starting at midnight and ending at 11:59 pm of the day observed.
- GG. Immediate Family** – husband, wife, (common-law spouse), son, daughter, mother, father, brother, sister, son-in-law, daughter-in-law, parent-in-law, brother-in-law, sister-in-law, grandparent, or grandchild of an employee or other legal dependent.
- HH. Independent Hearing Officer** – an attorney licensed and in good standing with the State Bar of Arizona with at least five years of experience and knowledge of municipal law and/or employment law that the City Manager or designee selects to hear an appeal from the City’s list of qualified independent hearing officers on a rotational basis.
- II. Independent Medical Officer** – An impartial physician who provides an expert report regarding injuries, impairment, and disabilities.
- JJ. Leave** – an authorized absence from regularly scheduled work hours, which has been approved by proper authority.
- KK. Limited Appointment** – an individual hired for a fixed or defined period of time, not to exceed 2 years in duration.
- LL. Loyalty Oath** – a pledge of allegiance to an organization, institution, or state of which an individual is a member.
- MM. Mayor** – the elected head of the City, who also serves as a member of the city council.
- NN. Merit Pay Increase** – an increase in pay from one percentage to the next higher percentage in the same pay grade of the pay schedule which is granted to any employee who is consistently proficient in his/her duties, and exceeds the standards of performance expected of a competent employee, over a period of time (usually one (1) year or more).
- OO. Merit System** – a system whereby employees are promoted or rewarded based on ability and achievement.
- PP. Nepotism** – Employment of immediate family, including step-family, in positions within the City of Avondale to include instances where immediate family members are employed in positions where one is in the supervisory chain of the other.
- QQ. Nonexempt Employees** – workers who are entitled to earn the federal minimum wage and qualify for one-and-a-half-times their hourly rate for every hour they work, above and beyond a standard 40-hour work week. This does not apply to the 56-hour employee.
- RR. Overtime** – authorized time worked by a regular full-time employee in excess of a standard workweek (more than forty (40) hours in one week). This does not apply to the 56-hour employee.

- SS. Pay Grade** – the identifying number for a single rate or a range of pay rate as established in the salary grade table.
- TT. Pay Reduction** – a decrease in pay, which may result from reduction in grade or reallocation of a position to a lower grade.
- UU. Payroll Taxes** – taxes paid on the wages and salaries of employees.
- VV. Performance Evaluation** – A written appraisal of the job performance of an employee designed to inform the employee of the manner in which he/she is meeting standards of performance established by a supervisor, department director, or the City Manager.
- WW. Personnel Action Form (PAF)** – a form that is completed before any change of employment status of an employee is official.
- XX. Promotion** – the movement of any employee from a position of one class to a position of another class in a higher maximum salary rate.
- YY. Probationary Period** – a probationary period is a period of time when an employee is first placed into a position which allows either the employer or the employee to terminate the employment for any reason. This time is for both parties to decide whether the employee is suited to the position and/or the employer's organization.
- ZZ. Promotional Probation** – the probationary period in effect immediately after an individual has been promoted within the organization.
- AAA. Recruitment** – refers to the overall process of identifying, attracting, screening, testing and interviewing suitable candidates for jobs within an organization.
- BBB. Reduction in Force** – an involuntary separation of an employee or groups of employees due to economic pressures, lack of work, organizational changes, or other reasons of business necessity which require a reduction in staff.
- CCC. Reference** – the positive or negative comments about a candidate's previous job performance provided to a prospective employer.
- DDD. Reduction in Grade** – the movement of an employee from a position in one class to a position in the same or another class having a lower maximum salary rate because of disciplinary reasons, incapacity to perform the work, inefficiency, or unsatisfactory work performance.
- EEE. Reprimand** – a formal disciplinary action designed not only to admonish or warn an employee, but also to lead, guide, direct, and instruct the employee in how to correct and avoid repeating a mistake, infraction, inefficiency, or problem.
- FFF. Retirement Contributions** – funds earmarked specifically for qualified retirement accounts. Typically taken directly from an employee's paycheck on a bi-weekly basis.

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- QQQ. Workers' Compensation Insurance** – benefits received by an employee who is hurt on the job or gets sick from a work related cause.

CITY COUNCIL REPORT

SUBJECT: Ordinance 2056-0923 – Acquisition of Real Property located North of Indian School Road and West of El Mirage Road

MEETING DATE: 9/25/2023

TO: Mayor and Council

FROM: Kirk Beaty, Interim Director/Interim City Engineer, Engineering Department

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

REVIEWED: Ron Corbin, City Manager, (623) 333-1011

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Area:

- Creative and Sustainable Community Development - Avondale is committed to creating a sense of place, a community of residents and local businesses unified by pride and common values.

The approval of this agenda item will maintain and expand quality infrastructure and improve connectivity to City amenities.

PURPOSE:

City Council will consider a request to adopt Ordinance 2056-0923 authorizing the acquisition by purchase, dedication, or condemnation, of real property for public use located north of Indian School Road and west of El Mirage Road, and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

City Well Site #7 is located on a property located north of Indian School Road and west of El Mirage Road and is further identified by APN 501-63-021H. On October 15, 1981, the City was granted an easement as recorded in Deed Book 1981, Page 0343154, of the Maricopa County Recorder's Office, for the purposes of ingress and egress, drilling, constructing, maintaining, operating, inspecting, and repairing a well, water delivery system, water mains and necessary appurtenances.

DISCUSSION:

The current owner of the property, CBC Rio Bonita, LLC (Rio), has proposed a new development for the site, Sola Communities at Rio Bonito. As part of development, Rio has agreed to donate to the City, in fee, the property that houses the existing well and its appurtenances along with additional property to allow for future expansion of the existing well site under City Project U0157. The well site will continue to have access from El Mirage Road. The proposed site contains 4,954 square feet and is further identified as Tract K as shown on "Final Plat for Sola Communities at Rio Bonito," recorded in Book of Maps 1746, Page 37, of the Maricopa County Recorder's Office.

BUDGET IMPACT:

The property will be donated so there is no associated cost for the property, however there will be minimal real estate transaction costs which will be covered by the existing budget.

RECOMMENDATION:

Staff recommends City Council adopt an Ordinance authorizing the acquisition by purchase, dedication, or condemnation of real property for public use located north of Indian School Road and west of El Mirage Road, and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

Contact person for document distribution: Yulonda Moore

ORDINANCE NO. 2056-0923

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE,
ARIZONA, AUTHORIZING THE ACQUISITION, BY DEDICATION,
PURCHASE OR CONDEMNATION, OF REAL PROPERTY FOR THE
EXPANSION OF WELL SITE #7.

WHEREAS, Article I, Section 3 of the Avondale City Charter authorizes the City of Avondale (the “City”) to acquire real property in fee simple or any lesser interest, inside or outside its corporate limits for any City purpose, as the City's interest may require; and

WHEREAS, the City Council desires to authorize the acquisition of real property for public use by purchase, dedication or condemnation of real property from the current property owner, CBC Rio Bonita, LLC, of approximately ± 0.114 acres generally located north of Indian School Road and west of El Mirage Road, Assessor’s Parcel Number 501-64-773 and further identified as Tract K on Final Plat for Sola Communities at Rio Bonito recorded in Book of Maps 1746, page 37 of the Maricopa County Recorder’s Office (the “Property”) to accommodate future expansion of the existing Well Site #7 (U0157).

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

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

SECTION 2. The acquisition by purchase, dedication or condemnation of real property totaling ± 0.114 acres, generally located north of Indian School Road and west of El Mirage Road, Assessor’s Parcel Number 501-64-773, as more particularly described and depicted on Exhibit A attached hereto and incorporated herein by reference, is hereby authorized.

SECTION 3. If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 4. 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.

[SIGNATURES ON THE FOLLOWING PAGE]

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona,
September 25, 2023.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 2056-0925

[Legal Description and Map of Real Property]

See following pages.

EXHIBIT "A"

**LEGAL DESCRIPTION
SOLA COMMUNITIES AT RIO BONITO
WELL SITE
APN 501-64-773**



That parcel of land known as Tract K as found on the Final Plat of Sola Communities at Rio Bonito described in Book 1746 of Maps, Page 37 of the Maricopa County Recorder, lying in the Southeast Quarter of Section 23, Township 2 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona being more particularly described as follows:

COMMENCING at the brass cap in hand hole found at the Southeast Corner of said Section 23, from which the brass cap in hand hole found at the South Quarter Corner of said Section 23 bears North 89 degrees 47 minutes 34 seconds West a distance of 2,623.67 feet, said line being the South line of said Southeast Quarter, and said South line being the basis of bearings for this description;

Thence along the East line of said Southeast Quarter, North 00 degrees 52 minutes 53 seconds West a distance of 604.69 feet to a point;

Thence South 89 degrees 07 minutes 07 seconds West a distance of 55.00 feet to a point on a line parallel with and 55.00 feet distant from said East line, said point being the POINT OF BEGINNING;

Thence North 89 degrees 47 minutes 34 seconds West a distance of 88.85 feet to a point;

Thence North 00 degrees 12 minutes 26 seconds East a distance of 56.10 feet to a point;

Thence South 89 degrees 47 minutes 34 seconds East a distance of 87.79 feet to a point on said parallel line being 55.00 feet distant from said East line;

Thence along said parallel line, South 00 degrees 52 minutes 53 seconds East a distance of 56.11 feet to the POINT OF BEGINNING.

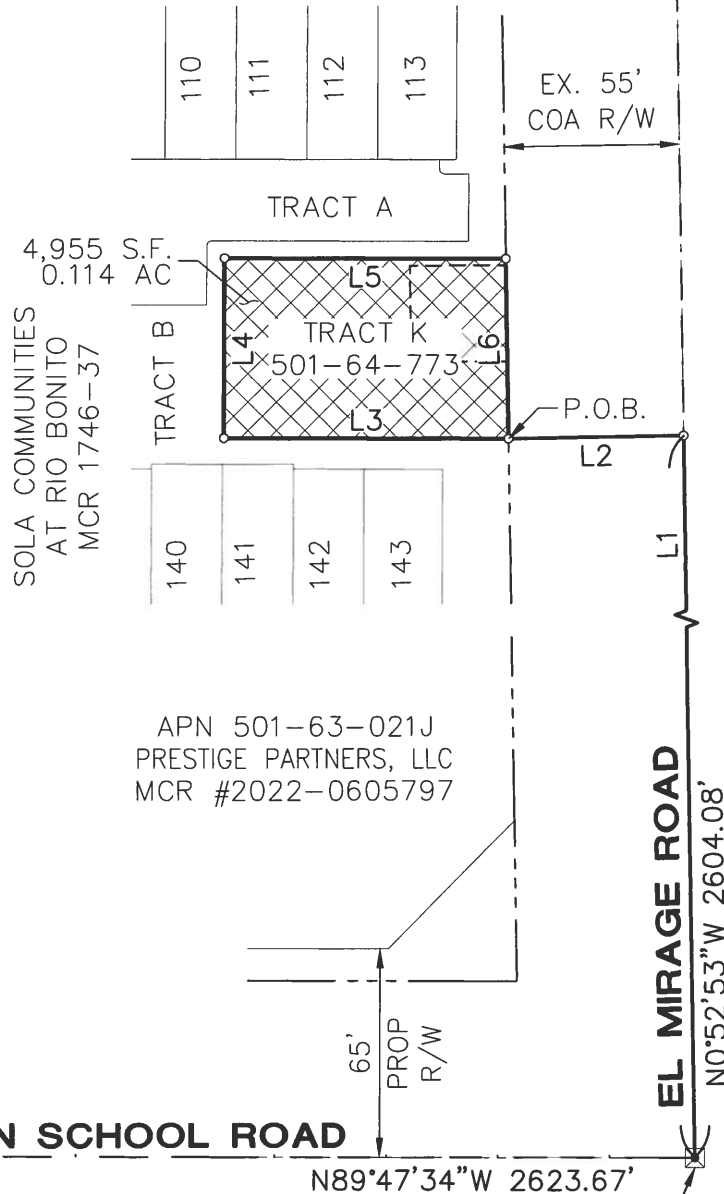
Containing an area of 4,955 square feet or 0.114 acres, more or less.

See attached Exhibit "B"

EXHIBIT "B"

PURCHASE PARCEL
TRACT K
501-64-773

FND MCDOT BCHH,
E 1/4 COR.
SEC. 23 T2N R1W



APN 501-63-021J
PRESTIGE PARTNERS, LLC
MCR #2022-0605797

INDIAN SCHOOL ROAD

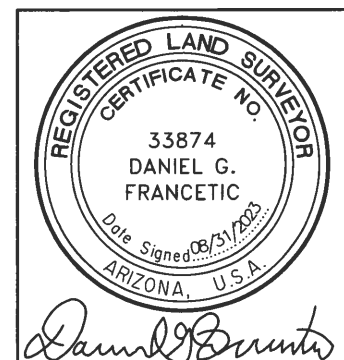
FND MCDOT BCHH,
S 1/4 COR.
SEC. 23 T2N R1W

POC FND MCDOT
BCHH, SE COR.
SEC. 23 T2N R1W

EL MIRAGE ROAD

N0°52'53\"W 2604.08'

SCALE: N.T.S.



CBC RIO BONITO, LLC

501-64-773

SECTION 23 T.2N, R1W

**PURCHASE PARCEL
TRACT K**

LINE AND CURVE TABLE

DATE: 08/31/23 REV'D:

DRAWN BY: JME CHK'D: DGF PG: 3 OF 3

FILE: 100201-TRACT K

LEGEND



PURCHASE PARCEL

BASIS OF BEARING

THE SOUTH LINE OF THE SOUTHEAST
QUARTER OF SECTION 23
BEARING N89°47'34\"W



Entellus™

3038 N. 44th Street Suite 250

Phoenix, AZ 85018.7238

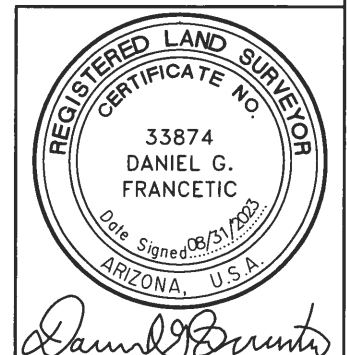
Tel 602.244.2566

Fax 602.244.8947

Website: www.Entellus.com

EXHIBIT "B"

LINE TABLE		
#	LENGTH	BEARING
L1	604.69'	N00°52'53"W
L2	55.00'	S89°07'07"W
L3	88.85'	N89°47'34"W
L4	56.10'	N00°12'26"E
L5	87.79'	S89°47'34"E
L6	56.11'	S00°52'53"E



CBC RIO BONITO, LLC

501-64-773

SECTION 23 T.2N, R1W

**PURCHASE PARCEL
TRACT L
LINE AND CURVE TABLE**

DATE: 08/31/23 REV'D:
DRAWN BY: JME CHK'D: DGF PG: 3 OF 3
FILE: 100201-TRACT K

LEGEND

 PURCHASE PARCEL

BASIS OF BEARING

THE SOUTH LINE OF THE SOUTHEAST
QUARTER OF SECTION 23
BEARING N89°47'34"W



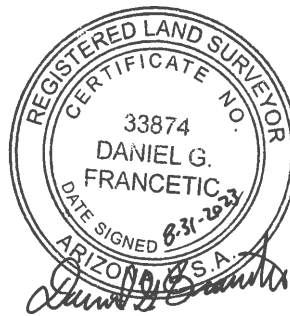
Entellus™
3033 N. 44th Street Suite 250
Phoenix, AZ 85018.7228
Tel 602.244.2566
Fax 602.244.8947
Website: www.Entellus.com

501-64-773 Tract K - Tie Line

Tue Aug 29 06:10:45 2023

Northing	Easting	Bearing	Distance
907331.807	575973.607	N 00°52'53" W 604.687	
907936.422	575964.306	S 89°07'07" W 55.00	
907935.576	575909.312		

Closure Error Distance> 607.18268 Error Bearing> S 06°04'42" E
Closure Precision> 1 in 1.1 Total Distance> 659.687



504-64-773 Tract K - Closure Report

Tue Aug 29 06:12:49 2023

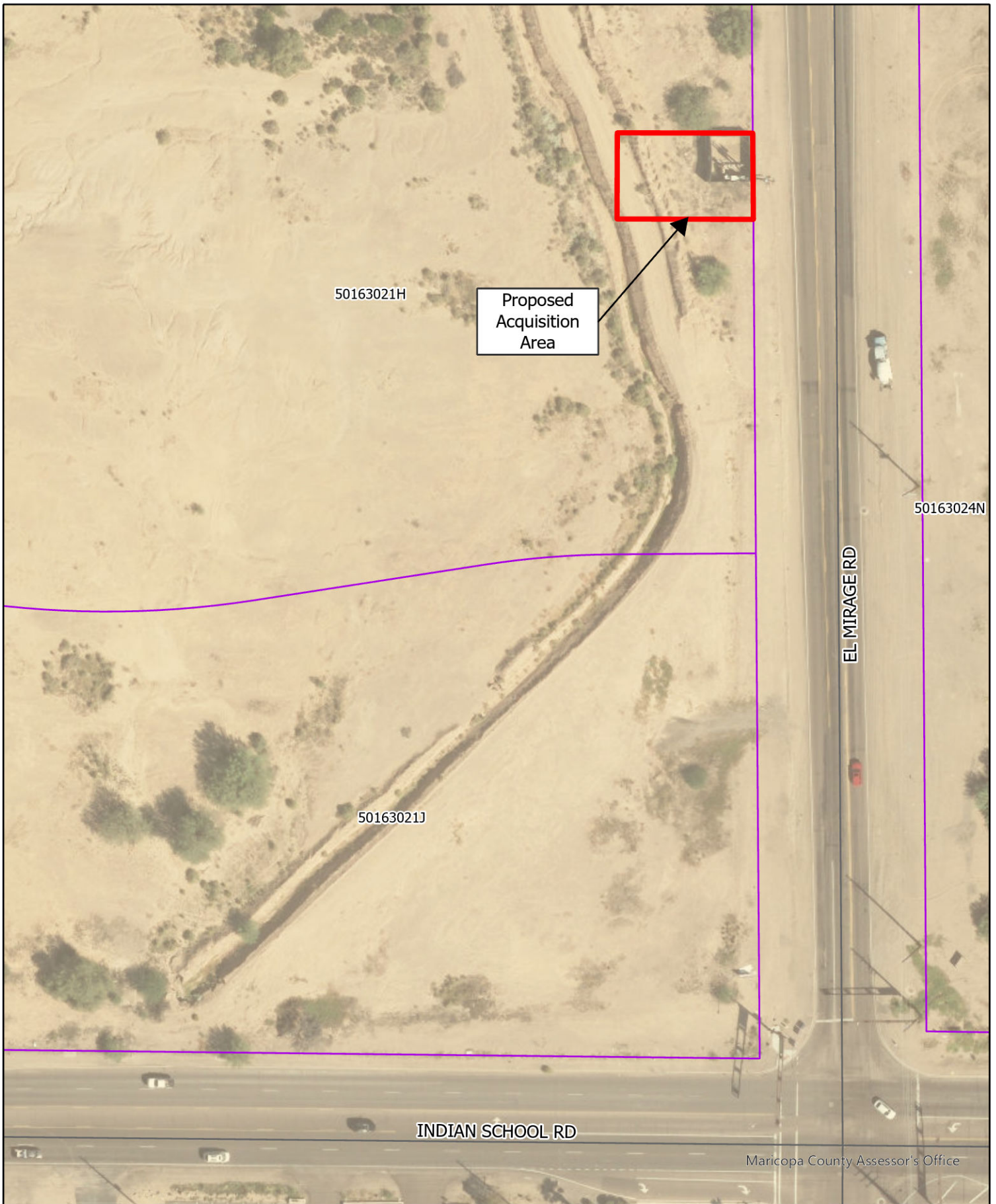
Northing	Easting	Bearing	Distance
907935.576	575909.312	N 89°47'34" W	88.854
907935.898	575820.458	N 00°12'26" E	56.1
907991.998	575820.661	S 89°47'34" E	87.788
907991.68	575908.449	S 00°52'53" E	56.11
907935.576	575909.312		

Closure Error Distance> 0

Total Distance> 288.853

Polyline Area: 4955 sq ft, .1137 acres





Not to Scale

Vicinity Map

CITY COUNCIL REPORT

SUBJECT: Ordinance 2057-0923 – Acquisition of Real Property located North of Indian School Road and East of 127th Avenue

MEETING DATE: 9/25/2023

TO: Mayor and Council

FROM: Kirk Beaty, Interim Director/Interim City Engineer, Engineering Department

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

REVIEWED: Ron Corbin, City Manager, (623) 333-1011

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Area:

- Creative and Sustainable Community Development - Avondale is committed to creating a sense of place, a community of residents and local businesses unified by pride and common values.

The approval of this agenda item will maintain and expand quality infrastructure and improve connectivity to City amenities.

PURPOSE:

City Council will consider a request to adopt Ordinance 2057-0923 authorizing the acquisition, by purchase, dedication, or condemnation, of real property for public use located north of Indian School Road and east of 127th Avenue and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

The 2018 Integrated Utility Master Plan (the "Plan") established the direction for the City's water resources, water, wastewater, and reclaimed water infrastructure to assist in implementing its vision for the future. The Plan recommended acquisition and development of future well sites to provide water for future development in the area. City Council approved the Northside Booster Well Site project (U0090) as part of the FY2024 City Budget, which provides for the purchase of land for the future well project.

DISCUSSION:

The City intends to purchase a portion of property containing 10,000 square feet from CBC Rio Bonita, LLC. The property is further identified as Tract L as shown on "Final Plat for Sola Communities at Rio Bonito," recorded in Book of Maps 1746, Page 37, of the Maricopa County Recorder's Office.

BUDGET IMPACT:

Funding in the amount of \$75,000 for land acquisition is included in the FY2024 City Budget under Project U0090 which has been approved by City Council.

RECOMMENDATION:

Staff recommends City Council adopt an Ordinance authorizing the acquisition, by purchase, dedication, or condemnation, of real property for public use located north of Indian School Road and east of 127th Avenue and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

Contact person for document distribution: Yulonda Moore



Vicinity Map

ORDINANCE NO. 2057-0923

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AUTHORIZING THE ACQUISITION, BY PURCHASE, DEDICATION OR CONDEMNATION, OF REAL PROPERTY FOR THE NORTHSIDE BOOSTER WELL SITE PROJECT.

WHEREAS, Article I, Section 3 of the Avondale City Charter authorizes the City of Avondale (the “City”) to acquire real property in fee simple or any lesser interest, inside or outside its corporate limits for any City purpose, as the City's interest may require; and

WHEREAS, Resolution 1034-0623, adopted June 5, 2023, by the Council of the City of Avondale (the “City Council”) outlined the acquisition of real property for development of future well sites to provide water for future developments within the City as outlined in the 2018 Integrated Utility Master Plan (the “Plan”); and

WHEREAS, in accordance with the Plan, the City Council desires to authorize the acquisition of real property for public use by purchase, dedication or condemnation of real property from the current property owner, CBC Rio Bonita, LLC, of approximately ± 0.230 acres generally located north of Indian School Road and east of 127th Avenue, Assessor’s Parcel Number 501-64-774, and further identified as Tract L on the Final Plat for Sola Communities at Rio Bonito recorded in Book of Maps 1746, Page 37, of the Maricopa County Recorder’s Office (the “Property”) for the Northside Booster Well Site project (U0090).

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

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

SECTION 2. The acquisition, by purchase, dedication, or condemnation of real property totaling ± 0.230 acres, generally located north of Indian School Road and east of 127th Avenue, Assessor's Parcel Number 501-64-774, as more particularly described and depicted in Exhibit A attached hereto and incorporated herein by reference, is hereby authorized.

SECTION 3. If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

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

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona, September 25, 2023.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 2057-0923

[Legal Description and Map]

See following pages.



EXHIBIT "A"

**LEGAL DESCRIPTION
SOLA COMMUNITIES AT RIO BONITO
WELL SITE
APN 501-64-774**

That parcel of land known as Tract L as found on the Final Plat of Sola Communities at Rio Bonito described in Book 1746 of Maps, Page 37 of the Maricopa County Recorder, lying in the Southeast Quarter of Section 23, Township 2 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona being more particularly described as follows:

COMMENCING at the brass cap in hand hole found at the Southeast Corner of said Section 23, from which the brass cap in hand hole found at the South Quarter Corner of said Section 23 bears North 89 degrees 47 minutes 34 seconds West a distance of 2,623.67 feet, said line being the South line of said Southeast Quarter, and said South line being the basis of bearings for this description;

Thence along said South line, North 89 degrees 47 minutes 34 seconds West a distance of 1212.83 feet to a point;

Thence North 00 degrees 12 minutes 26 seconds East a distance of 63.00 feet to a point on a line parallel with and 63.00 feet distant from said South line, said point being the POINT OF BEGINNING;

Thence along said parallel line, North 89 degrees 47 minutes 34 seconds West a distance of 100.00 feet to a point on the east line of the Final Plat of Wigwam Creek South Parcel 6 as found described in Maricopa County Recorder Book 570 of Maps, Page 11;

Thence along said east line, North 00 degrees 43 minutes 22 seconds West a distance of 100.01 feet to a point on a line parallel with and 163.00 feet distant from said South line;

Thence along last-mentioned parallel line, South 89 degrees 47 minutes 34 seconds East a distance of 100.00 feet to a point on a line parallel with and 100.00 feet distant from said east line of Wigwam Creek South Parcel 6;

Thence along last-mentioned parallel line, South 00 degrees 43 minutes 22 seconds East a distance of 100.01 feet to the POINT OF BEGINNING.

Containing an area of 10,000 square feet or 0.230 acres, more or less.

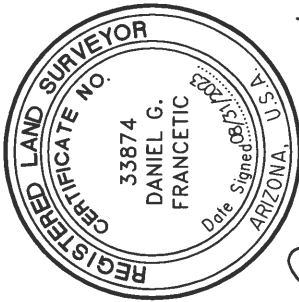
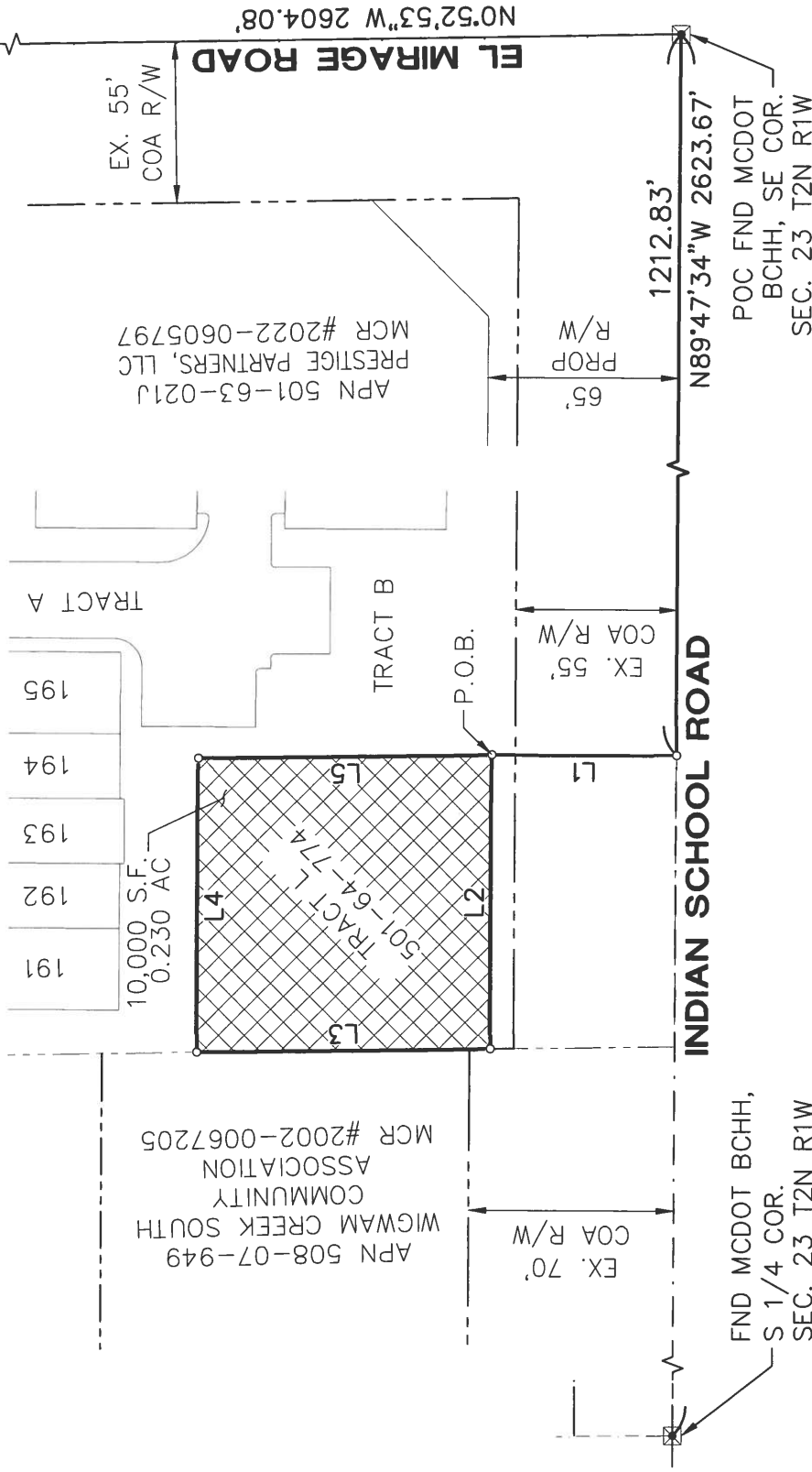
See attached Exhibit "B"

EXHIBIT "B"

PURCHASE PARCEL
TRACT L
501-64-774

SOLA COMMUNITIES
AT RIO BONITO
MCR 1746-37

FND MCDOT BCHH,
E 1/4 COR.
SEC. 23 T2N R1W



LEGEND



PURCHASE PARCEL

BASIS OF BEARING

THE SOUTHLINE OF THE SOUTHEAST
QUARTER OF SECTION 23
BEARING N 89°47'34" W



3088 N. 44th Street, Suite 250
Phoenix, AZ 85018
Tel 602.244.2566
Fax 602.244.8947
Website: www.Entellus.com

SCALE: N.T.S.

CBC RIO BONITA, LLC

501-64-774

SECTION 23 T.2N, R1W

**PURCHASE PARCEL
TRACT L
EXHIBIT**

DATE: 08/31/23 REV'D:

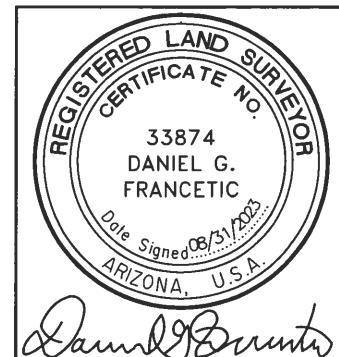
DRAWN BY: JME[CHK'D: DGF] PG:2 OF 3

FILE: 100201-TRACT L.DWG

Daniel G. Francetic

EXHIBIT "B"

LINE TABLE		
#	LENGTH	BEARING
L1	63.00'	N00°12'26"E
L2	100.00'	N89°47'34"W
L3	100.01'	N00°43'22"W
L4	100.00'	S89°47'34"E
L5	100.01'	S00°43'22"E



CBC RIO BONITO, LLC

501-64-774

SECTION 23 T.2N, R1W

**PURCHASE PARCEL
TRACT L**

LINE AND CURVE TABLE

DATE: 08/31/23 REV'D:

DRAWN BY: JME CHK'D: DGF PG: 3 OF 3

FILE: 100201-TRACT L

LEGEND



PURCHASE PARCEL

BASIS OF BEARING

THE SOUTH LINE OF THE SOUTHEAST
QUARTER OF SECTION 23
BEARING N89°47'34"W



Entellus™

3033 N. 44th Street Suite 250

Phoenix, AZ 85018.7228

Tel 602.244.2566

Fax 602.244.8947

Website: www.Entellus.com

501-64-774 Tract L - Tie Line

Tue Aug 29 06:08:19 2023

Northing	Easting	Bearing	Distance
907331.807	575973.607	N 89°47'34" W	1212.833
907336.195	574760.782	N 00°12'26" E	63.00
907399.195	574761.01		

Closure Error Distance> 1214.46791 Error Bearing> S 86°49'09" E
Closure Precision> 1 in 1.1 Total Distance> 1275.833



501-64-774 Tract L - Closure Report

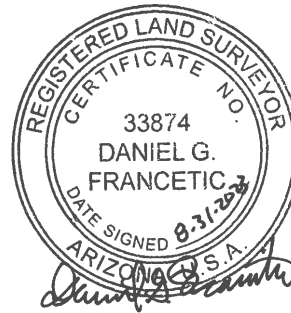
Tue Aug 29 06:10:00 2023

Northing	Easting	Bearing	Distance
907399.195	574761.01	N 89°47'34" W 100	
907399.557	574661.01	N 00°43'22" W 100.013	
907499.562	574659.749	S 89°47'34" E 100	
907499.2	574759.748	S 00°43'22" E 100.013	
907399.195	574761.01		

Closure Error Distance> 0

Total Distance> 400.026

Polyline Area: 10000 sq ft, .2296 acres



CITY COUNCIL REPORT

SUBJECT: Ordinance 2058-0923 - Second Amendment to Lease, Maintenance and Operations Agreement (American Sports Centers Avondale Facility)

MEETING DATE: 9/25/2023

TO: Mayor and Council

FROM: Bryan Hughes, Parks and Recreation Director

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

REVIEWED: Ron Corbin, City Manager, (623) 333-1011

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Areas:

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

PURPOSE:

City Council will consider a request to adopt Ordinance 2058-0923 approving the Second Amendment to the Lease, Maintenance and Operations Agreement (American Sports Centers Avondale Facility) outlining the terms so the Facility may be used to accommodate emergency shelter and family assistance/reunification operations if a disaster or calamity occurs within the City or immediately surrounding area and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

Earlier this year, the Office of Public Safety was identifying facilities in Avondale that could serve as emergency shelters. In addition to several school facilities in the city, the American Sports Center – Avondale (ASC) was identified as a facility that could be added to the available inventory for use as an emergency shelter. Due to the ASC's location and proximity to major transportation corridors, accessibility, hotels, and parking, it was determined by the Office of Public Safety that the ASC could also serve well as a local family assistance/reunification center, if needed.

DISCUSSION:

Since the City of Avondale has a Lease, Maintenance and Operations Agreement with American Sports Center – Avondale (ASC), it is necessary to amend the agreement to allow for use as an emergency shelter if it becomes necessary.

The amendment to the agreement includes two key points:

1. The City acknowledges that it will use its best reasonable efforts to utilize other available City-designated emergency shelter spaces prior to requesting use of the ASC for emergency shelter and

family assistance operations.

2. To the extent such costs are not reimbursable from another entity, the City shall reimburse ASC for the reasonable daily revenues foregone by ASC while operating an emergency shelter or family assistance/reunification operations on behalf of the City.

BUDGET IMPACT:

There is no impact the budget to designate the ASC as an emergency shelter.

RECOMMENDATION:

Staff recommends City Council adopt the Ordinance approving the Second Amendment to Lease, Maintenance and Operations Agreement (American Sports Centers Avondale Facility) and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

Contact person for document distribution: Bryan Hughes

ORDINANCE NO. 2058-0923

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING THE SECOND AMENDMENT TO THE LEASE, MAINTENANCE AND OPERATIONS AGREEMENT BETWEEN THE CITY OF AVONDALE AND ASC-AVONDALE LLC.

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

SECTION 1. The Second Amendment to the Lease, Maintenance and Operations Agreement between the City of Avondale and ASC-Avondale LLC (the “Second Amendment”) is hereby approved in substantially the form and substance attached hereto as Exhibit A and incorporated herein by reference.

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

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona, September 25, 2023.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 2058-0923

[Second Amendment]

See following pages.

**SECOND AMENDMENT
TO
LEASE, MAINTENANCE AND OPERATIONS AGREEMENT
(AMERICAN SPORTS CENTERS AVONDALE FACILITY)**

THIS SECOND AMENDMENT TO LEASE, MAINTENANCE AND OPERATIONS AGREEMENT (this “Amendment”) is made and entered into as September 11, 2023 by and between **ASC-AVONDALE LLC**, an Arizona limited liability company (“Tenant”) and **CITY OF AVONDALE**, an Arizona municipal corporation (“Landlord”). Tenant and Landlord are referred to collectively as the “Parties.” Unless otherwise defined, all capitalized terms shall have the meaning set forth in the Agreement.

RECITALS

- A. The Parties entered into that certain Lease Agreement, dated January 12, 2009 (the “Agreement”), regarding the lease of the Facility to the Landlord.\
- B. The Parties entered into that certain First Amendment to the Lease Agreement, dated September 19, 2022 (the “First Amendment”)
- C. The Parties wish to further amend the Agreement as set forth in this Amendment.

AGREEMENTS

NOW THEREFORE, in consideration of the mutual covenants set forth herein and the faith full performance thereof, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereto agree as follows:

- 1. Accuracy of Recitals. The Parties hereby acknowledge the accuracy of the Recitals which are incorporated herein by this reference.
- 2. Amendment to Agreement. The Agreement is hereby amended as follows:
 - (a) ARTICLE III (Operation Phase), Section 3.6 (Specific Operating Procedures), Item C (Scheduling City Activities) of the Agreement is hereby amended to add a new Paragraph 4 (Emergency City Operations) as follows:
- 4. **Emergency City Operations.** Notwithstanding the foregoing, the Parties mutually contemplate that the Facility may be used to accommodate emergency shelter and family assistance operations if a disaster or calamity occurs within the City or immediately surrounding area. In this event, the terms and conditions of such use shall be memorialized by separate written agreement.
 - a. Landlord acknowledges that it will use its best reasonable efforts to utilize other available City-designated emergency shelter spaces prior to requesting use of the Facility for emergency shelter and family assistance operations.

b. To the extent such costs are not reimbursable from another entity, Landlord shall reimburse Tenant for the reasonable daily revenues foregone by Tenant while operating an emergency shelter or family assistance operations on behalf of Landlord. As soon as practical after the disaster or emergency, Landlord shall provide Tenant with forms for Tenant to request reimbursement and submit proof of such lost revenues. If Tenant requests reimbursement, the City reserves the right to audit Tenant's financial records to determine the reasonableness of the reimbursement request.

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 Second Amendment, the Tenant 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 Tenant claims, known and unknown, relating to the Agreement and existing on or before the date of this Second Amendment are forever waived.

5. Conflict of Interest. This Second Amendment and the Agreement may be canceled by the City pursuant to ARIZ. REV. STAT. § 38-511.

6. Counterparts. This Amendment may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, together, shall constitute one and the same instrument.

[SIGNATURES ON THE FOLLOWING PAGES]

“Landlord”

CITY OF AVONDALE,
an Arizona municipal corporation

Ron Corbin, City Manager

ATTEST:

Marcella Carrillo, City Clerk

ACKNOWLEDGMENT

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2023, before me personally appeared Ron Corbin, the City Manager of the City of Avondale, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document on behalf of the City of Avondale.

Notary Public in and for the State of Arizona

(Affix Notary Seal Here)

CITY COUNCIL REPORT

SUBJECT: Harvest HOC of Avondale – Minor Land Division – Application PL-23-0016

MEETING DATE: 9/25/2023

TO: Mayor and Council

FROM: Jodie Novak, Director of Development Services

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

REVIEWED: Ron Corbin, City Manager, (623) 333-1011

STRATEGIC PLAN:

STRATEGIC OUTCOME: Creative and Sustainable Development

STRATEGY: Maintain and expand quality infrastructure and improve connectivity to City amenities.

PURPOSE:

City Council will consider a request to: a) approve Application PL-23-0016, submitted by Kimberly Schroeder, KAEKO, on behalf of the property owner 3828 Avondale LLC, for approval of a Minor Land Division that dedicates seventeen (17) feet of right-of-way and an eight (8) foot Public Utility Easement (PUE) along Vermeersch Road; and b) authorize the Mayor or City Manager, City Attorney, and City Clerk to execute the necessary documents. The approximately 2.44 net-acre site is located approximately 655 feet south of the southwest corner of Illini Street and Vermeersch Road. The Council will take appropriate action.

BACKGROUND:

The approximately 2.44 net-acre subject site is located at 3828 South Vermeersch Road and includes Assessor Parcel Number (APN) 500-63-011A (Exhibits A and B). The property has approximately 576.2 feet of frontage on Vermeersch Road and was annexed into the City's corporate limits on August 29, 1990 (Ordinance No. 484).

The property has been developed as the Harvest House of Cannabis, formerly known as Golden Leaf Wellness, opened for business in February 2016.

The property is zoned General Industrial (A-1). The purpose of the A-1 district is to accommodate warehousing, wholesaling, assembly, and heavy manufacturing of an intensive nature, often involving open uses and/or storage, large-scale machinery, and structures. The property is designated by the General Plan 2030 Land Use Map as Mixed Use. The Mixed Use land use designation is primarily intended for a mixture of residential and commercial areas.

The existing uses and zoning of surrounding properties include:

NORTH: Single-family residences zoned A-1.

EAST: A single-family residence zoned R1-6 (Urban Residential) and vacant land zoned Alamar Planned Area Development (PAD).

SOUTH: From west to east – utility buildings zoned Three Rivers Ranch PAD and land currently being used for farming zoned Alamar PAD.

WEST: From west to east – the Agua Fria River and vacant land zoned Three Rivers Ranch PAD.

SUMMARY OF REQUEST:

The applicant is requesting approval of the Harvest HOC of Avondale MLD (Exhibit D). The proposed MLD dedicates seventeen (17) feet of right-of-way and an eight (8) foot Public Utility Easement (PUE) along Vermeersch Road. The total acreage of the right-of-way to be dedicated is 0.64 acres.

PUBLIC PARTICIPATION:

Public notification is not required for MLD applications.

PLANNING COMMISSION ACTION:

The Planning Commission does not review MLD applications.

ANALYSIS:

The proposed MLD 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 MLD is in conformance with the City of Avondale Zoning Ordinance and Subdivision Regulations.

DISCUSSION:

1. The proposed MLD is in conformance with the City of Avondale Zoning Ordinance and Subdivision Regulations.
2. The condition of approval is reasonable to ensure conformance with the provisions as outlined in the Avondale Zoning Ordinance and all other applicable City codes, ordinances, and policies.

BUDGET IMPACT:

No budget impacts.

RECOMMENDATION:

Staff recommends that the City Council **APPROVE** application PL-23-0016 Harvest HOC of Avondale Minor Land Division, subject to the following one (1) condition of approval:

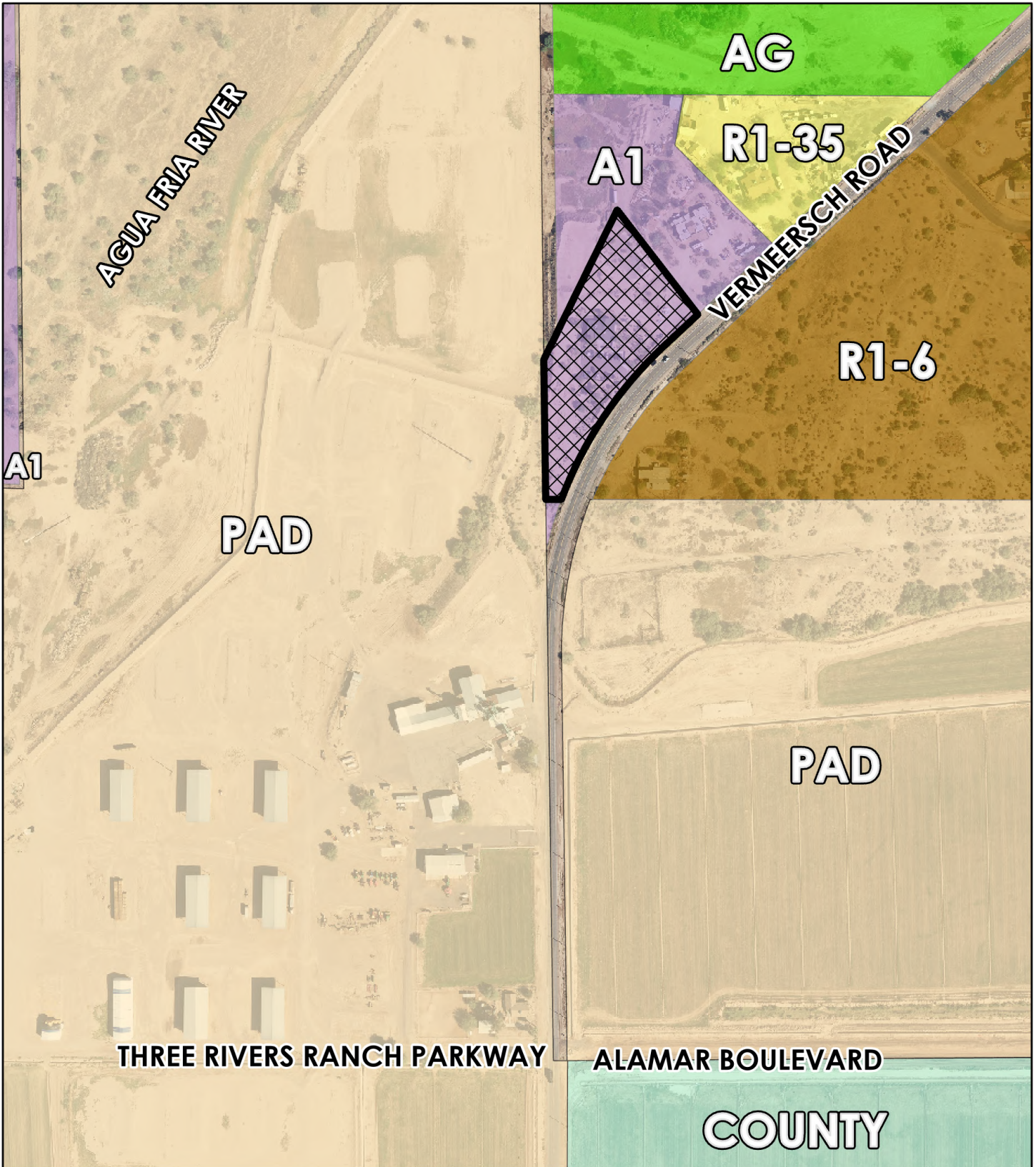
1. Development shall conform to the Harvest HOC of Avondale Minor Land Division submitted on August 10, 2023.

Contact person for document distribution: Michelle Simerdla

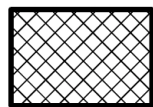


Aerial Map





Zoning Vicinity



Subject Property

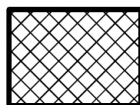




General Plan Land Use

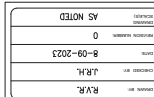


- Medium Density Residential
- Medium/High Density Residential
- Mixed Use



Subject Property





8/09/2023	-	2 OF 2	PROJECT NUMBER 7021050
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STREET CLASSIFICATION	R.O.W. DEDICATION	
	SF	AC
LOCAL		
COLLECTOR	28,066 SF	0.644 AC
ARTERIAL		

CITY COUNCIL REPORT

SUBJECT: Federal Legislative Update

MEETING DATE: 9/25/2023

TO: Mayor and Council

FROM: Liz Barker Alvarez, Intergovernmental Affairs Administrator

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

REVIEWED: Ron Corbin, City Manager, (623) 333-1011

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Area:

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

PURPOSE:

City Council will receive an update from Capital Edge regarding Avondale's legislative priorities, as well as an update on recently proposed federal policies. For information and discussion only.

BACKGROUND:

In July 2015, the Avondale Council approved the City's contract with Capital Edge, Inc. for federal advocacy services. Capital Edge, a Washington, D.C.-based advocacy and consulting firm, specializes in representing municipal government clients before Congress and federal agencies.

DISCUSSION:

Capital Edge's services to the City include:

- Advocating for (or opposing) legislation that may impact the City
- Identifying and promoting pertinent federal grant opportunities
- Influencing the regulatory activities of federal agencies
- Serving as a liaison between the City and the Congressional delegation
- Promoting city priorities through national government organizations

BUDGET IMPACT:

There is no budgetary impact.

RECOMMENDATION:

This item is for information and discussion.

Contact person for document distribution: None

CITY COUNCIL REPORT

SUBJECT: Resolution 1061-0923 Declaring as a Public Record and Ordinance 2059-0923 - Avondale City Code Amendment, Chapter 11; relating to commercial solid waste permit, penalty fees, solid waste access standards, and other administrative changes

MEETING DATE: 9/25/2023

TO: Mayor and Council

FROM: Kirk Beaty, Public Works Director

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

REVIEWED: Ron Corbin, City Manager, (623) 333-1011

STRATEGIC PLAN:

This agenda item supports the following Avondale Strategic Outcome Area:

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

The establishment of minimum standards for the safe and sanitary collection, storage, treatment, transportation, processing and disposal of solid waste protects the health and safety of the citizens of the city.

PURPOSE:

City Council will consider a request to adopt Resolution 1061-0923, declaring as a Public Record and Ordinance 2059-0923, amending Avondale City Code Chapter 11, Solid Waste Code relating to commercial solid waste permit, penalty fees, solid waste access standards, and other administrative changes and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

On January 23, 2023, Public Works staff presented proposed changes to solid waste services to include future amendments to the City's Chapter 11 Sanitation Code. Since then, the Public Works Solid Waste Division has implemented various changes to solid waste services to include a new holiday collection schedule and remapping and rerouting of bulk trash collection. The next change is to update the Avondale City Code Chapter 11, Solid Waste Code, which has not been amended since 2004.

DISCUSSION:

As presented, the amendments will change or modify the ordinance by easing some regulations while still maintaining enforcement language in an effort to keep the city healthy and safe.

Amendments to Chapter 11 of the ordinance include:

- The chapter name is changed to "Solid Waste Code."

- Removing commercial solid waste collection permit requirements.
- Establishing penalty fees for violating the ordinance.
- Establishing solid waste access standards for new development projects.
- Updating language throughout to be consistent with current industry standards.

BUDGET IMPACT:

Removing commercial solid waste collection permit requirements will result in a reduction to annual Solid Waste revenues by approximately \$25,000.

RECOMMENDATION:

Staff recommends City Council adopt a Resolution and Ordinance, amending Avondale City Code Chapter 11, Solid Waste Code relating to commercial solid waste permit, penalty fees, solid waste access standards, and other administrative changes and authorize the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

Contact person for document distribution: Kirk Beaty, Simon Lara

RESOLUTION NO. 1061-0923

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED THE "CITY OF AVONDALE SOLID WASTE ORDINANCE, AMENDED AND RESTATED SEPTEMBER 25, 2023."

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

SECTION 1. That certain document entitled the "City of Avondale Solid Waste Ordinance, Amended and Restated September 25, 2023," of which three copies are on file in the office of the City Clerk and open for public inspection during normal business hours, is hereby declared to be a public record and said copies are ordered to remain on file with the City Clerk.

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona September 25, 2023.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

CITY OF AVONDALE
SOLID WASTE ORDINANCE,
AMENDED AND RESTATED SEPTEMBER 25, 2023

Chapter 11 SOLID WASTE CODE

Articles:

Article I IN GENERAL

Sections:

11-1 Purpose and Scope.

The purpose of this chapter is to (i) protect the health and safety of the citizens of the city, (ii) protect the environment by establishing minimum standards for the safe and sanitary collection, storage, treatment, transportation, processing and disposal of solid waste as defined in Ariz. Rev. Stat. § 49-701.01 generated within the city and (iii) establish fees for the city's solid waste program, inspection, collection and disposal services to recover the city's costs to provide such services.

11-2 Definitions.

For the purposes of this chapter, the following words, terms and phrases shall have the meanings respectively ascribed to them by this section, except where the context clearly indicates a different meaning:

Alley: A public passageway affording a secondary means of access to abutting property for utility and emergency vehicles.

Animal waste: Excrement from animals and materials comingled with excrement including but not limited to bedding, compost, feed, or soil from yards, kennels, dog or cat runs, chicken pens, or other containment structures.

Ashes: All residue from the burning of any combustible material, specifically excluding ashes from medical waste or hazardous waste.

Authorized solid waste collector: The city or any contractor operating within the city with a valid solid waste permit to operate issued by Maricopa County.

Bulk trash: Residential solid waste and yard waste produced by city residents on or in their residential premises within the city, that is too large to be contained in a bin and has been properly prepared for collection by the city's residential bulk trash collection program, if any. "Bulk trash" may include but is not limited to landscape materials, home fixtures, furniture and small appliances. "Bulk trash" shall specifically exclude:

- (a) Construction and demolition materials
- (b) Commercial solid waste
- (c) Contaminated material
- (d) Recyclable materials
- (e) Residential solid waste
- (f) Dangerous or hazardous waste
- (g) Medical waste

(h) Animal waste, including pet waste and livestock and fowl waste

Business establishment: Any public or private place, building or enterprise utilized for the conduct of business or industry, including non-profit organizations, schools and multi-family residences and specifically excluding single-family residences.

Chapter: Chapter 11 of the Avondale City Code, as amended.

Commercial solid waste: Any solid waste produced by the operation of or as a byproduct of any business establishment, without regard to whether the business is licensed in the city, or whether the business activity is conducted in a public business, private residence, within the city, or any other location.

Construction and demolition materials: Building materials and rubble resulting from construction, remodeling, repair, and demolition operations whether on private, public, residential or commercial premises, whether to the primary structure or any other structure, and whether produced by the work or at the direction of the property owner, contractor, subcontractor, agent, or any other party. "Construction and demolition materials" includes but is not limited to rocks, stone, dirt, concrete, asphalt, brick, plaster, drywall, lumber scraps and shingles.

Contaminated materials: Any materials which, when prepared for one of the acceptable forms of collection described in this chapter, contain materials which are not acceptable under that particular form of collection.

Contractor: Any person or entity other than the city, who removes, collects, hauls, or transports within the city any refuse of another person or entity, including recyclable materials, hazardous materials, or medical waste, or any other types of waste, for disposal, salvage, recycling or any other purpose.

Customer: means the property owner or any person, renter, lessee, occupant, or entity responsible for payment of utility service(s) provided by the City.

Director: The director of the Public Works Department or the director's authorized designee, as applicable.

Dwelling or dwelling unit: Residential building or portion of a building designed or used by one (1) family. An attached dwelling unit refers to single-family dwellings attached in groups of two (2) or more by common vertical walls. A detached dwelling refers to a single-family dwelling that is not attached to any other dwelling by any means.

Garbage: All putrescible materials including all organic wastes that have been prepared for or intended to be used as food or have resulted from the preparation of food, including all such substances from all public and private establishments and residences.

Dangerous or hazardous waste: Any solid waste that can cause damage or injury to property, persons, or the environment and is dangerous or hazardous by reason of its pathological, explosive, flammable, reactive, radiological, or toxic nature, including, but not limited to, all wastes designated by the U.S. Environmental Protection Agency and as defined by the provisions of Arizona Administrative Code R18-13-1401. Hazardous materials include but are not limited to medical wastes, herbicides, pesticides, explosives, and radioactive, toxic, flammable or corrosive materials.

Large Household Appliances: Appliances acceptable for collection under the city's Large Household Appliances collection program, if any. Large Household Appliances shall include ovens, stoves, washers, dryers and water heaters, and shall specifically exclude:

- (a) Refrigerators, freezers, air conditions, or any items which may contain refrigerant
- (b) Smaller household appliances
- (c) Electronic equipment

Litter: All garbage, trash and debris not properly prepared for collection under this code.

Livestock and fowl waste: Animal waste resulting from animals ordinarily raised outdoors or on a farm. Livestock and fowl waste includes but is not limited to horses, cows, sheep, goat, and chickens.

Medical waste: Materials defined as medical waste by Ariz. Rev. Stat. § 49-701.

Multi-Family Residence: Two (2) or more attached or detached single-family dwelling units on one (1) parcel, or two (2) or more attached dwelling units on adjacent parcels including but not limited to duplexes, triplexes, apartments, condominiums, town homes, mobile home parks, trailer parks, rooming houses and boarding houses.

Pet waste: Animal waste resulting from dogs, cats, birds or other domestic animals traditionally found to reside inside a home or residential dwelling.

Parcel: A lot or a contiguous group of lots under common ownership and/or control that are considered a single development site.

Private premises: Any land, street and/or structure owned by any person(s) other than the United States, a state, a county, the city, or any political subdivision of the United States.

Public place: Any and all public streets, sidewalks, boulevards, alleys or other public ways, and any and all public parks, squares, spaces, grounds and buildings.

Putrescible materials: Solid waste which is capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors or gases and capable of providing food for or attracting birds, insects, snakes, rodents or animals capable of transferring a diseased bacterium or virus from one organism to another.

Recyclable materials: Solid waste that has been set aside or separated from other solid waste for the purpose of being collected and recycled, and which is, at the Director's discretion, acceptable recyclable material. "Acceptable recyclable material" may include the following materials if clean and dry: paper, cardboard, chipboard, plastic containers made from polyethylene terephthalate ("PETE") or high density polyethylene ("HDPE"), steel food cans, aluminum cans, disposable aluminum bakeware and aluminum foil. "Acceptable recyclable material" shall specifically exclude:

- (a) Garbage, dangerous or hazardous waste, animal waste, and medical waste
- (b) Plastic bags, film or sheeting
- (c) Any plastic not made from PETE or HDPE
- (d) Any organic material other than acceptable paper, newsprint, cardboard and chipboard
- (e) Contaminated materials

(f) Any other trash which, at the director's discretion, is deemed unacceptable

Recycling container: A container owned by the city for use as part of the city's recycling program, if any.

Residential solid waste: Household garbage and trash produced by city residents on or in their residential premises within the city, specifically excluding:

- (a) Commercial solid waste, whether produced at the residence or at any other location
- (b) Dangerous or hazardous waste
- (c) Medical waste
- (d) Livestock and fowl waste

Single-Family Residence: One (1) attached or detached dwelling unit on one (1) parcel.

Solid Waste: Garbage and trash acceptable for collection under the provisions of this Code, including recyclable materials.

Solid Waste container: A container owned by the city and made available for use as part of the city's automated solid waste collection program.

Solid waste inspector: Enforces the city's solid waste ordinances, rules, and regulations by inspecting sites, containers, and structures to determine compliance.

Trash: All non-putrescible solid waste, including both combustible and noncombustible solid waste material, excluding ashes, dangerous or hazardous waste and medical waste.

Yard Waste: Solid waste produced as the result of typical residential or commercial yard installation and maintenance, including grass, brush and tree trimmings, but specifically excluding lumber, rigid pipe, dirt, rock, brick, cement and concrete.

11-3 Collection agency.

The city, or other authorized solid waste collector, shall collect, remove, salvage, transport and dispose of all solid waste generated within the city.

11-4 Noise Restrictions.

The service schedule of an Authorized Solid Waste Collector shall not cause to be made any noise of such character, intensity or duration that disturbs the peace or quiet of a neighborhood, family or person between the hours of 8:00 p.m. to 6:00 a.m. Violations of this section will be determined at the discretion of the director.

11-5 Use of service required.

No person or business establishment within the city shall be permitted to avoid or refuse to accept collection service, and the failure of any party to accept such service shall not exempt that party from the payment of the charges for such service.

- (a) Substitution of service. If the director determines that the city is unable to reasonably and safely provide collection services to certain residences, establishments or areas, the director may substitute another means of collection or require the person to seek service from another source. Any person providing such service shall comply with all applicable provisions of this chapter.

- (b) Producers conditionally exempt. This chapter shall not prohibit the actual producers of solid waste, or the owners of premises upon which solid waste has accumulated, from personally salvaging, collecting, conveying and disposing of such solid waste, provided such producers or owners comply with the provisions of this chapter and with any governing law or ordinance.
- (c) Contractors conditionally exempt. Every person engaging in the business of contracting is authorized to personally collect, remove and appropriately dispose of wastes incidental to such contracting business.

11-6 Service areas.

- (a) Single family residence. The city shall provide weekly automated residential garbage collection service and weekly automated residential recycling service to single-family residences that meet 11-10 Solid Waste Access Standard Details. Each residence receiving service under this subsection shall be provided containers for individual use and curbside collection. Additionally, such residents may request additional collections and/or containers, subject to the discretion of the director. Any bulk trash services shall be provided as determined by the director.
- (b) Multi-family residence. An authorized solid waste collector shall provide residential solid waste collection service to multi-family residences, unless otherwise permitted by the director. Authorized solid waste collectors may provide residential recycling services to multi-family residences.
- (c) Business establishments. An authorized solid waste collector shall provide commercial solid waste collection service to business establishments as required by state, county and city regulations.
- (d) Miscellaneous services. The city may provide additional or variant services, including, but not limited to residential bulk trash and large household appliances collection, for a reasonable fee, as shall be determined by the director.

11-7 Collection schedule.

The days of the city solid waste collection shall be as designated by the director and shall be posted on the city website. Containers must be placed in the proper location for collection by 5:00 a.m. on the designated collection day.

11-8 Fees.

The fees for collection of solid waste shall be established by the city council as part of the annual budget process or as otherwise adopted by city council resolution.

- (a) Collection. Fees for collection of solid waste shall be collected monthly and charged against the occupant or owner of each premises within the city after such time that the occupant or owner requests collection service from the city. The city shall be authorized to collect fees in the following manner:
 - (1) Water service provided by city. On all premises where water service is provided by the city, the solid waste fees shall be added to and collected as a part of the consolidated utility bill, and such sum shall become delinquent upon the due date on the consolidated utility bill. If the balance is not paid when due, any or all utility

services to the premises may be shut off and such service shall not be restored without payment in full.

- (2) Water service not provided by city. On all premises where water service is not provided by the city, the solid waste collection fees shall be paid to the city finance department in the manner provided for the payment of utility bills.
 - (3) Failure to pay the amounts billed by the city for solid waste collection services may result in the suspension of utility service to the customer.
- (b) Penalty for late payment. A delinquent bill shall be subject to a penalty equal to one and one-half percent per month on any outstanding unpaid balance.
- (c) Lien for unpaid charges. Any charges imposed by the city pursuant to this article, if not paid by the date on which they are due, shall constitute a lien on the property, lot or tract of land to which service was rendered.
- (1) Notice of lien. Upon delinquency, the city shall give notice to the user and the owner, if known, of the property, which notice shall indicate that the city will record a lien against the subject property unless all past due charges are paid.
 - (2) Costs added; lien recorded. If delinquent charges are not paid within thirty (30) days of notice, the city shall record in the office of the Maricopa County recorder a notice and claim of lien. The city shall then promptly send by certified mail, a copy to the user, and the owner if known at their last known mailing address. The notice and claim of lien shall contain the following:
 - (A) A description of the property sufficient for identification;
 - (B) The name of the utility user and recorded owner of the property if known;
 - (C) The amount owed. At such time as the lien is recorded, the cost of preparing, processing and releasing the lien shall be added to the amount then due.
 - (3) Effect of lien. From and after the date of its recording in the office of the county recorder, the lien shall attach to the property until paid. A sale of the property to satisfy the lien shall be made upon judgment of foreclosure and order of sale. The city shall have the right to bring an action to enforce the lien in the superior court at any time after its recording, but failure to enforce the lien by such action shall not affect its validity. The recorded notice and claim of lien shall be prima facie evidence of the truth of all matters recited therein and the regularity of all proceedings prior to the recording thereof.
 - (4) Prior recording no bar to lien. A prior recording for the purposes provided in this section shall not be a bar to the subsequent recording of a lien for such purposes, and any number of such liens on the same property may be enforced and in the same action.
 - (5) No lien if account in tenant's name. Notwithstanding any provision hereof to the contrary, no lien shall be recorded against any single-family residence which is occupied by a tenant in whose name the account has been established.

- (d) Collection by civil suit. Delinquent charges may also be collected by a civil suit authorized by the city council at any time after the charges become delinquent, notwithstanding any other provision of this chapter to the contrary. The remedies provided by this article shall be cumulative and supplemental to other remedies provided under this chapter.

11-9 Containers.

All materials prepared for collection shall be stored in a city-approved container until removed by the authorized solid waste collector, unless those materials are properly prepared for the city's bulk trash collection service, if any.

- (a) City ownership of city-provided containers. The city may furnish solid waste and recyclable containers for the accumulation, storage and collection of solid waste. All such containers are owned by the city, and the city may remove or replace the container without notice to the user. Unauthorized containers will not be serviced by the city.
- (b) Users responsible for maintenance and proper use. Any user of a city-provided container shall be required to use and maintain the container as follows:
 - (1) Cleaning. The user shall be responsible for keeping the container reasonably clean. This means that the user shall maintain the container free of intense odors, evidence of flies in any stage of development, and any other nuisance or threat to public health. Cleaning shall be conducted in a manner that does not result in discharge of water, chemicals, or debris from the producer's property.
 - (2) Reporting damage or loss. The user shall be responsible for reporting any container damage or loss to the city.
 - (3) Proper and safe use. The user shall not damage the container intentionally or use the container for any purpose other than those specified in this code. The user shall not use the container in any manner which is unsafe, or which a reasonably prudent person would believe is unsafe.
 - (4) Closed lid. Lids for refuse containers must be kept down in a closed position at all times in order to prevent pests, except when a container is being filled, emptied or cleaned.
- (c) Unauthorized use. It shall be unlawful for any person to deposit, or cause to be deposited, any solid waste in any container which that person is not entitled to use as a property owner, resident or tenant.

Article II COLLECTION

Sections:

11-10 Solid waste access standard details.

Solid waste collection routes shall meet access criteria that allow collection vehicles to safely access and lift bins.

- (a) The following minimum criteria is required for city solid waste collection service:

- (1) Collection vehicle route shall be a minimum of 10'-0" wide. The required minimum width must not include parking lanes or the opposing traffic lane.
 - (2) Collection routes shall be engineered to support collection vehicles which are up to 33'-0" long, have up to a 19" wheelbase, and weigh approximately 32 tons when fully loaded;
 - (3) The collection vehicles shall be able to travel through a site once without back tracking or reversing to perform the collection;
 - (4) Collection containers must be able to be placed in the street in front of the house to which they are assigned, and materials set out for bulk trash collection must be able to be placed in the street in front of the producer's property;
 - (5) Collection routes shall be clear of all obstructions. Obstructions include, but are not limited to, vegetation, trees, curbs, mailboxes, parked vehicles, overhead wires, awnings, and building projections. Minimum overhead clearance of 15'-0" on collection route and 25'-0" unobstructed overhead clearance above service location is required;
 - (6) A solid waste collection easement is required for any portion of the collection route not located in a public right of way
- (b) The criteria under this article are minimum requirements. At the director's discretion, additional criteria may be required for the city to provide collection service.

11-11 Acceptable materials.

The city may require that materials be prepared for collection under this chapter.

11-12 Unacceptable materials.

Unacceptable materials will not be collected under this article, may subject the producer to a fine or an additional charge for collection under this chapter, and may be removed by the city at the producer's expense as set forth in this chapter.

- (a) Prohibited materials. The following materials are unacceptable for collection under any city collection program described in this chapter:
 - (1) Improperly prepared materials. No material which would be acceptable if properly prepared for collection shall be acceptable if not properly prepared for collection. "Improperly prepared for collection" shall include otherwise acceptable materials which are set out for collection at the wrong time or in the wrong place or in the wrong container. The city may charge a fee as established by the council for improperly prepared materials that are collected.
 - (2) Motorized equipment and vehicle parts. No tires or parts that contain, or previously contained, dangerous or hazardous waste, including but not limited to fuel, oil or lubricants shall be acceptable. This includes but is not limited to vehicle batteries, fuel tanks, used oil, filters and hydraulic lines.
 - (3) Gardening and landscape business waste. No landscapers, tree trimmers, lawn maintenance businesses or similar operators may dispose of yard waste or any other solid waste in solid waste containers or through bulk waste collection unless the

waste is generated solely from the grounds of the property and the property owner or manager has approved such disposal. The city may charge a fee as established by the council for excessive gardening and landscape business waste materials that are collected.

- (4) Fire hazards. No hot ashes, hot cinders, burning matter, loose sawdust, flammable or volatile liquids, or any other material which may present a fire hazard shall be acceptable.
- (5) The following materials as defined in Section 11-2 Definitions within this code:
 - (A) Dangerous or hazardous waste
 - (B) Medical waste
 - (C) Contaminated materials
 - (D) Livestock and fowl waste
- (6) Dead animals, including pets and livestock.

Special prohibitions for residential collections. Commercial solid waste shall be unacceptable for collection under any of the city's residential collection programs.

11-13 Residential garbage collection.

All materials prepared for the city's automated residential garbage collection program shall be prepared for collection and disposed of in accordance with this section.

- (a) Proper preparation for collection. All residential solid waste prepared for collection by the city's automated residential garbage collection program shall be prepared for collection as follows:
 - (1) Placement. Containers set out for collection must be placed in the street in front of the house to which they are assigned, with the wheels adjacent to the curb of the sidewalk, and the lid opening toward the street. Where there is no sidewalk, the container must be placed at the edge of the street, within two feet of the pavement or improved road, as applicable. Containers will not be collected from private property, or when placed within ten (10) feet of a vehicle, mailbox or other obstruction to safe collection as determined by the director. At no time may containers be left on the sidewalk.
 - (2) Time. Containers must be placed in the proper location for collection by 5:00 a.m. on the designated collection day. Containers set out late will not be serviced. Containers may be set out after 5:00 p.m. of the day preceding collection and must be removed from the collection location by 5:00 a.m., the day after collection.
 - (3) Lid must be closed. The lids of containers set out for residential garbage collection must be entirely closed.
 - (4) Solid Waste must be bagged. All solid waste prepared for residential garbage collection must be bagged and securely tied to exclude flies and other pests.
 - (5) Yard waste. Grass clippings, leaves and small clippings must be bagged and securely tied.

- (6) Sharp Objects. Materials with a cutting edge or point, such as glass or cacti, must be securely contained so as to prevent the exposure of any sharp points or edges.
- (7) Pet Waste. All pet waste must be securely bagged and placed in the customer's City issued container. Livestock and fowl waste shall not be placed on the curbside or in a city container and will not be collected by the city.
- (8) Construction and demolition materials. Small amounts of construction and demolition materials, except concrete or masonry, may be disposed of through residential garbage collection provided it is placed in the customer's container and meets the requirements of this Chapter.
- (9) Weight limit. The contents of the container must weigh no more than two hundred fifty (250) pounds.
- (10) Container contents. The contents of the container must be arranged so that they fall out easily when inverted by authorized collection vehicles. Residences receiving collection under any of the city's collection programs are limited to one inversion of the container being serviced, per collection day. The city shall not be required to remove any materials which remain in the container after one inversion.

11-14 Residential recycling collection.

All materials prepared for the city's automated residential recycling collection program shall be prepared for collection and disposed of in accordance with this section.

- (a) Proper preparation for collection. All residential recyclable materials prepared for collection by the city's automated residential recycling collection program shall be prepared for collection or disposal as follows:
 - (1) Placement. Containers set out for collection under this section must be placed in the same location and manner as described for the placement of containers set out for automated residential garbage collection.
 - (2) Time. Containers must be placed in the proper location for collection by 5:00 a.m. on the designated collection day. Containers set out late will not be serviced. Containers may be set out after 5:00 p.m. of the day preceding collection and must be removed from the collection location by 5:00 a.m., the day after collection.
 - (3) Lid must be closed. The lids of containers set out for residential recycling collection must be entirely closed.
 - (4) Material Preparation. Recyclables shall be reasonably clean and empty. Recyclable materials shall not be bagged and shall be placed in the container in such a manner that they separate under the normal operating procedures of the applicable materials recovery facility.
 - (5) Weight limit. The contents of the container must weigh no more than two hundred fifty (250) pounds.
 - (6) Free from obstructions. The contents of the container must be arranged so that they fall out easily when inverted by authorized collection vehicles. All boxes, carton, and crates must be collapsed/broken down before being placed in container. The

city shall not be required to remove any materials which remain in the container after one inversion.

- (7) No contamination. Only recyclable materials shall be collected by the city's residential recycling collection program.

11-15 Residential bulk trash collection.

All materials prepared for the city's residential bulk trash collection program, if such a program exists, shall be prepared for collection and disposed of in accordance with this section.

- (a) Proper preparation for collection. All residential bulk trash materials prepared for collection by the city's residential bulk trash collection program shall be prepared for collection or disposal as follows:

- (1) Placement. Materials set out for bulk trash collection must be placed in the street in front of the customer's property. At no time may bulk trash be left on the sidewalk or be placed in such a manner as to obstruct traffic flow in the street. Other than as described in this section, materials will not be collected from private property, or when placed within ten (10) feet of a vehicle, mailbox or other obstruction to safe collection as determined by the director.
- (2) Time. Materials set out for collection under this section must be placed in the proper location for collection no later than 5:00 a.m. on the first day of the designated collection period. Materials set out late will not be collected. Materials may be set out no more than twenty-four (24) hours before the first day of the designated collection period.
- (3) Large household appliances. If large household appliances collection service is provided by the city, the doors on such goods must be removed or secured. Large household appliances which may contain refrigerant, such as refrigerators and air conditioners, shall not be acceptable for collection under this section.
- (4) Yard waste. Yard waste must be properly prepared for collection as follows:
 - (A) Grass, leaves, etc. Any small, light yard waste such as grass and leaves must be secured in bags or boxes in such a manner to prevent litter.
 - (B) Brush, limbs, trunks, etc. Long items, such as tree limbs, trunks, etc., must be free of metal such as stakes, staples and wire, and must be stacked roughly parallel to the street. Other than palm fronds, each piece must be no more than four (4) feet in length, no more than six (6) inches in diameter and weigh no more than fifty (50) pounds.
 - (C) Palm fronds. Palm fronds may exceed four (4) feet in length, and must be neatly stacked, roughly parallel to the street.
 - (D) Cactus, etc. Cacti and other thorny plants must be set out for collection in cardboard boxes or other sturdy containers which are sufficiently strong to protect the public and work crews from injury. Any box or container placed out for collection under this section will be collected as part of the uncontained material.

- (5) Home fixtures, furniture and small appliances. Easily removable objects generated solely from the customer's property, including but not limited to couches, mattresses, toilets, cabinetry, and microwaves that meet the weight and volume limits and other requirements of this chapter shall be acceptable for bulk trash collection.
- (6) Animal waste. Animal waste, including pet waste and livestock and fowl waste, will not be collected through bulk trash collection.
- (7) Weight and volume limits. Any bag, box or other container set out for collection under this section, together with its contents, shall weigh no more than fifty (50) pounds and have a volume of no more than twenty (20) gallons. The volume of all materials set out for collection from a residence for any one (1) collection period shall not exceed three (3) cubic yards, excluding acceptable large household appliances. At the director's discretion, the city may not collect materials in excess of the limits described in this section.
- (8) Free from visible and hidden hazards. Any materials set out for collection must be clearly visible and identifiable. No materials shall be commingled in a way that presents a safety hazard to the public or work crews. Any glass must be set out for collection in cardboard boxes or other sturdy containers which are sufficiently strong to protect the public and work crews from injury. Any box or container placed out for collection under this section will be collected as part of the uncontained material. Any containers of glass, cactus or other sharp material must not be covered by any other material. Due to hazard risk, items containing glass that are not broken and boxed, such as glass tables, mirrors or doors with glass, will not be collected.
- (9) Unacceptable items. Items in which proper disposal shall occur through residential garbage or recycling collection.

11-16 Commercial solid waste collection service.

This section shall apply to all business establishments serviced within the City of Avondale, by any authorized solid waste collector. Business establishments shall be required to contract with an authorized solid waste collector to dispose of all trash produced onsite.

- (a) Proper preparation for collection. All commercial solid waste shall be prepared for collection or disposal as follows:
 - (1) Placement. Containers set out for collection in a manner which poses a safety hazard is prohibited and such containers shall not be serviced. The placement of commercial solid waste containers shall not interfere with pedestrian or vehicular traffic and shall be reachable by the automated collection vehicles without danger to persons or property.
 - (2) Lid(s) must be closed. The lids of containers set out for commercial solid waste collection must be entirely closed.
 - (3) Garbage and litter hazards must be bagged. All solid waste prepared for commercial solid waste collection must be bagged and securely tied to exclude flies and pests.

- (4) Container contents. The contents of the container must be arranged so that they fall out easily.
- (b) Authorized solid waste collectors shall have joint responsibility with the business establishment to keep and maintain sufficient standard commercial containers as to accommodate the disposal needs of an establishment.

11-17 Authorized Solid Waste Collector Requirements

Any authorized solid waste collector before providing any type of commercial solid waste collection service within the city must comply with the following:

- (a) Vehicle requirements. All vehicles used for solid waste collection shall meet the following requirements:
 - (1) All vehicles must be in good condition and may be subject to Maricopa County Vector Control inspections.
 - (2) Vehicles shall be maintained and operated in a clean and neat manner so as to prevent solid waste from spilling, leaking and blowing from the vehicle.
 - (3) The outside of each vehicle must be clearly identified by a number unique to the vehicle and the name and telephone number of the authorized solid waste collector operating the vehicle in letters no smaller than six (6) inches in height.
 - (4) Any open-top roll-off container must have a cover which prevents solid waste or contents from spilling or flowing onto the roadway.
 - (5) When driven and operated by one person, front loading solid waste packers used in the collection, transportation, disposal of solid waste shall be equipped with an approved backup protection device. Audible backup alarms do not meet this requirement.
 - (6) No authorized solid waste collector vehicle operated by a contractor shall be painted or identified in such a manner which may lead an ordinarily observant person to confuse such equipment with the city's solid waste division.

Article III ENFORCEMENT

Sections:

11-18 Authority.

- (a) Authority to inspect. Once the customer has placed the container on the street for collection, the customer shall cease to have a reasonable expectation of privacy in the contents of the container. Prior to collection, the city shall have the right to inspect containers and their contents. Any solid waste inspector shall have the authority to perform inspections, report violations to the director for enforcement, provide the director information for additional charges and issue civil citations pursuant to this chapter.

- (b) Authority to proceed civilly or criminally. The city may proceed civilly or criminally against a person, firm or corporation acting in violation of this code. Any solid waste inspector may issue a civil citation pursuant to this chapter.
- (c) Authority to remove container. In addition to issuing a civil citation or pursuing a complaint for criminal sanctions, the city shall have the authority to remove city owned solid waste and/or recycling containers from the property of users who fail to comply with the requirements of this chapter.
- (d) Authority to abate. The imposition of penalties herein prescribed shall not preclude the city from instituting appropriate action to restrain, correct or abate a violation of this chapter in order to terminate an existing or imminent public health hazard. The city may assess the costs of the abatement against the property of the person, firm or corporation acting in violation of this code in the form of a lien on the property. The abatement of violations of this chapter shall be conducted in accordance with the procedures set forth in the city's property maintenance code.

11-19 Threats and intimidation.

No person may, by threat or use of violence or physical force, or by threatening to do or doing any other acts that can be reasonably anticipated to cause physical harm to any person including the perpetrator, intentionally obstruct, impede, or interfere with any office, city inspector, employee, authorized solid waste collector, or authorized representative of the city who lawfully and constitutionally engaged in the enforcement or execution of the provisions of this chapter.

11-20 Violations.

Violations of this chapter include, but are not limited to:

- (a) Burning solid waste. No person shall burn solid waste, except in incinerators as may be permitted by the county and the city. Any burning of solid waste must comply with the rules and regulations established by the Arizona Department of Health Services and the U.S. Environmental Protection Agency.
- (b) Interfere with collection. It shall be unlawful for any person to interfere with authorized collection of solid waste in any way.
- (c) Mishandling dangerous or hazardous waste. No person, business, or licensee shall knowingly collect, place or cause to be placed or collected any dangerous or hazardous waste or similar materials from or in any container or from or upon any public or private property, except as specifically permitted by the Arizona Department of Environmental Quality or the Federal Environmental Protection Agency.
- (d) Failing to contain solid waste in transit. No person shall collect, transport or receive any solid waste or other wastes within or upon any public or private streets in the city, or anywhere in the city, except in leak proof containers or vehicles so constructed that no solid waste or other wastes leak or sift through, fall out or be blown from such container or vehicle. Any person collecting or transporting any solid waste or other wastes shall immediately pick up all refuse or waste which drops, spills, leaks or is blown from the collecting or transporting container or vehicle, and shall otherwise clean the place onto which any such solid waste or wastes were dropped, spilled, blown or leaked.

- (e) Contaminating recyclable materials. No person shall deposit or cause to be deposited, in any recycling container, anything other than acceptable recyclable materials.
- (f) Inspection of a recycling container that contains nonrecyclable materials shall result in no service until the nonrecyclable materials have been removed by the resident or commercial customer. Three (3) or more violations in a three hundred and sixty-five (365) day period for contamination of a recycling container shall be sufficient cause for the city to remove the recycling container. The city may elect not to restore a recycling container service to such customer until the customer has demonstrated an intent to comply with the provisions of this section and such other rules and procedures adopted by the city.

11-21 Penalty.

Unless specified otherwise, any person violating any of the provisions of this code shall be charged a fee or be guilty of a class one misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than two thousand five hundred (\$2,500.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

11-22 Civil enforcement action; penalty.

The city may enforce this chapter by the issuance of a civil citation in the manner provided for citations under the Uniform Rules for Civil Traffic Violations promulgated by the Arizona Supreme Court. A civil penalty for a violation of this Code shall be two hundred fifty dollars (\$250.00) per violation, and all penalties are subject to all surcharges and fees imposed by state law. The court shall not suspend any portion of the civil penalty provided by this subsection.

- (a) Civil citation. The civil citation shall direct the defendant to appear in municipal court within ten (10) days of the issuance of the citation or pay the fine imposed pursuant to section 11-21 of this Code. The citation shall also include the date and location of the violation, a reference to the city code provision or ordinance violated and a notice that if the defendant fails to appear as directed, a default judgment will be entered in the amount of the fine designated on the citation for the violation charged, in addition to a fine for failure to appear as set forth in subsection 11-22(c) of this Code.
- (b) Citation service. Service of the citation may be accomplished and will be deemed proper and complete by any of the following methods:
 - (1) Hand delivering a copy of the citation to the defendant;
 - (2) Mailing a copy of the citation to the defendant by certified or registered mail, return receipt requested, to the defendant's last known address;
 - (3) In the event service cannot be accomplished as set forth above, the defendant may be served by any means allowed by the Uniform Rules of Civil Traffic Violations promulgated by the Arizona Supreme Court.
- (c) Appearance; penalty for failure to appear. Within ten (10) days of the issuance of the citation, the defendant shall appear in person or through his attorney in municipal court and shall either admit or deny the allegations contained in the complaint or the defendant may proceed as provided in subsection 11-22(d) of this Code. If the defendant admits the allegations, the court shall immediately enter judgment against

the defendant in the amount of the fine for the violation charged. If the defendant denies the allegations contained in the citation, the court shall set a hearing date for trial of the matter. If the defendant fails to appear as directed on the citation, the court, upon request by the code official or authorized designee, shall enter a default judgment for the amount of the fine indicated for the violation charged. Additionally, the defendant may be fined up to one hundred dollars (\$100.00) for failure to appear at the time and place set for any trial of a matter arising under this Code.

- (d) Payment by mail. The defendant may admit the allegations in the citation and pay the fine indicated by mailing the citation, together with a check for the amount of the fine to and made payable to the Avondale City Court.
- (e) Rules of procedure. The Arizona Rules of Procedure in Civil Traffic Violation Cases shall be followed by the Avondale City Court for civil violations of this Code, except as modified or where inconsistent with the provisions of this Code, local rules of the municipal court or rules of the Arizona Supreme Court.

ORDINANCE NO. 2059-0923

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE AVONDALE CITY CODE, CHAPTER 11, SOLID WASTE CODE, RELATING TO REGULATING THE ACTIVITIES AND RESPONSIBILITIES OF THE CITY'S SOLID WASTE PROGRAM AND ADOPTING BY REFERENCE THE "CITY OF AVONDALE ORDINANCE, AMENDED AND RESTATED SEPTEMBER 25, 2023."

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

SECTION 1. That certain document known as the "City of Avondale Solid Waste Ordinance, Amended and Restated September 25, 2023" (the "Restated Solid Waste Ordinance") three copies of which are on file in the office of the City Clerk, which document was made a public record by Resolution No. 1061-0923 of the City of Avondale, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

SECTION 2. The Avondale City Code, Chapter 11, Sanitation Code, is hereby deleted in its entirety and replaced by the Restated Solid Waste Ordinance, which shall be inserted into the City Code as a new Chapter 11, Solid Waste Code.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Restated Solid Waste Ordinance adopted herein by reference is for any reason to be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

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

[SIGNATURES ON FOLLOWING PAGE]

PASSED AND ADOPTED by the Council of the City of Avondale,
September 25, 2023.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney