CITY COUNCIL AGENDA

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

WORK SESSION
August 20, 2007
6:00 PM

CALL TO ORDER BY MAYOR ROGERS

1 ROLL CALL BY THE CITY CLERK

2 LITCHFIELD PARK FIRE SERVICE IGA / EMCC LAND LEASE

The purpose of this item is to brief the Mayor and City Council on a potential Intergovernmental Agreement with the City of Litchfield Park relating to fire and emergency medical services and a related land lease with the Maricopa County Community College District for construction of a public safety facility to be located at Estrella Mountain Communty College. The Council will discuss and provide direction to staff.

3 ADJOURNMENT

Respectfully submitted,

Linda M Farris

Linda Farris, CMC
City Clerk

Any individual with a qualified disability may request a reasonable accommodation by contacting the City Clerk at 623-333-1200 at least 48 hours prior to the council meeting.

CITY COUNCIL REPORT

SUBJECT:
Litchfield Park Fire Service IGA / EMCC Land Lease

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Paul Adams, Fire Chief (623)333-6100

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff will brief the Mayor and City Council on a potential intergovernmental agreement with the City of Litchfield Park relating to fire and emergency medical services and a related land lease with the Maricopa County Community College District for construction of a public safety facility. For information, discussion and direction.

BACKGROUND:

The City of Avondale presently operates three fire stations providing a full range of both emergency and non-emergency response capabilities to the community. Our emergency response goal is to arrive on the scene of an emergency incident within five minutes from the time of dispatch. In 2006 our average response time city wide was 5 minutes 13 seconds. At the present time emergency service to the northwest portion of the city (north of I-10, west of the Agua Fria river) is provided primarily by Goodyear station 183, located on Litchfield Road just north of Thomas, through the valley fire service automatic aid agreement. The average response time for this portion of the community in 2006 was nearly 8 minutes.

DISCUSSION:

In order to meet the growing emergency service demands of the city, staff has been exploring potential site alternatives upon which to construct a future public safety (fire/police) facility in the northwest portion of the community. Over the past year several sites along Indian School Road and a site at Thomas & Rancho Santa Fe have been evaluated. During the evaluation period staff was approached by representatives from the City of Litchfield Park to explore our interest in working with them on a joint facility project which would be located in a manner that would provide fire & emergency medical service to both the northwest area of Avondale and the City of Litchfield Park.

The discussion with Litchfield Park caused the site alternative focus to shift more to the area of Dysart and Indian School, most of which is at some level of commercial development. During discussions with one developer concerning potential alternatives the city was approached by representatives from Estrella Mountain Community College to explore our interest in a land lease agreement for a northwest public safety facility that would also house some classroom space and offices for their campus security personnel.

The EMCC site, consisting of approximately 3.5 acres, would be located just off Dysart Road at the Sage Lane alignment and would access Dysart Road via a signalized intersection. The lease, which is modeled after a similar agreement between Glendale Community College and the City of Glendale for Fire Station 157, would include the City of Litchfield Park as a signator and would be for an initial period of 30 years at a cost of $10 per year. The lease includes a provision for automatic 10 year renewal periods.

In return, the public safety facility to be constructed on the site would contain two classrooms to be used for public safety related courses, classroom office space and support storage and offices for EMCC campus security. The Cities would have access to the classrooms when not being used by the college. Avondale would be responsible for designing, constructing and operating the facility. EMCC and Litchfield Park would be

intimately involved in the design process as well.

The proposed IGA with Litchfield Park would provide for joint funding and operation of a facility that would provide fire and emergency medical services to both the northwest area of Avondale and the City of Litchfield Park. Since the size, population and call load of the two areas to be served are similar the cities would divide the capital and direct operating costs of the facility equally.

The facility would include a minimum three bay fire station, adequate space for a northwest area police substation, potential housing for a Southwest Ambulance and space as required under the EMCC land lease. The cities would share equally the construction and start up costs of the facility.

A new fire pumper would be purchased for the facility and the cities would jointly own the apparatus and equipment. Fifteen personnel would be hired in order to maintain a minimum staffing level of 4 personnel per shift at the station. The Avondale Fire Prevention Bureau may provide fire code plan review and inspection services to Litchfield Park which could be paid for on an hourly basis or, as a preferred option, an additional fire inspector could be hired by Avondale to provide that level of service. Litchfield Park would be required to adopt the same fire code, with local amendments, as is in place in Avondale.

The initial term of the IGA would be for a period of 30 years with automatic 10 year renewals. The operating costs of the facility would be billed on a quarterly basis.

The project timetable, assuming all the documents are approved by the various governing bodies, would be to complete the design of the facility during FY 07/08 and begin construction by July 2008 anticipating a July 2009 opening date.

BUDGETARY IMPACT:

A total of $6.7 million has been programmed into the CIP for construction of the facility ($4 million in the Fire CIP and $2.7 million in the Police CIP) in FY 08/09 and FY 09/10. $2 million of this amount would be offset by the Litchfield Park cost share.

RECOMENDATION:

This item is for information, discussion and staff direction.

ATTACHMENTS:

Click to download

No Attachments Available

CITY COUNCIL AGENDA

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

REGULAR MEETING
August 20, 2007
7:00 PM

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

1 ROLL CALL AND STATEMENT OF PARTICIPATION BY THE CITY CLERK

2 CITY MANAGER'S REPORT

a. Introduction of New Employees

3 RECOGNITION ITEMS (MAYOR PRESENTATIONS)

a. The Fire Department would like to recognize the efforts of Karina Martinez, Tech Sgt. James Orsund, and Staff Sgt. Christopher Anderson for their rescue efforts on July 26, 2007.

4 UNSCHEDULED PUBLIC APPEARANCES

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

5 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. APPROVAL OF MINUTES
Regular meeting of August 6, 2007

b. RESCHEDULE COUNCIL MEETING - SEPTEMBER 3, 2007 - LABOR DAY
City Staff is requesting that Council approve the rescheduling of the September 3, 2007 council meeting to Tuesday, September 4, 2007 in observance of Labor Day and authorize the City Clerk to publish a notice of the meeting date change. The Council will take appropriate action.

c. AMENDMENT NO. 1 – DIBBLE ENGINEERING – STREET IMPROVEMENTS ON 9TH STREET FROM WESTERN AVENUE TO RILEY DRIVE

Staff is requesting that the City Council approve Amendment No. 1 to the professional services agreement with Dibble Engineering for the 9th Street Improvement (Coldwater Park) project in the amount of $11,415; resulting in a revised total contract amount of $60,800, authorize the transfer of $50,815 from 101-6700-00-6180 to 304-1252-00-8001, and authorize the Mayor or the City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

d. AMENDMENT 2 - CMAR CONTRACT - PCL CONSTRUCTION, INC. - PHASE 1 EXPANSION OF THE WATER RECLAMATION FACILITY
Staff is requesting that the City Council approve Amendment 2 to the Construction Manager at Risk contract with PCL Construction Inc., for the construction of Phase 1 of the Water Reclamation Facility

(WRF) Expansion, in the amount of $4,130,401 and authorize the Mayor, or City Manager and City Clerk to execute the contract documents. The Council will take appropriate action.

e. **LEASE AGREEMENT - REGIONAL FAMILY ADVOCACY CENTER - AVONDALE, BUCKEYE AND GOODYEAR POLICE DEPARTMENTS**
Staff is requesting that the City Council approve a lease agreement for the former medical office suite located at 140 N. Litchfield Road, Suite 106, as the location to begin operations for the Family Advocacy Center serving victims in Avondale, Buckeye and Goodyear. The Council will take appropriate action.

f. **PROFESSIONAL SERVICE AGREEMENT WITH D&L ENGINEERING & CONTROLS TO PREPARE A SCADA SYSTEM MASTER PLAN**
Staff is requesting that the City Council approve a professional services agreement with DL Engineering & Controls to prepare the Water Resources Master SCADA Five Year Plan in an amount not to exceed $75,442 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

g. **PURCHASE X26 TASERS FOR ALL SWORN POLICE OFFICERS**
Staff is requesting Council approval for the purchase of 100 new model X26 Tasers at a total cost of $143,316. The Council will take appropriate action.

h. **TRANSIT SERVICE AGREEMENT - VALLEY METRO/RPTA FOR FISCAL YEARS 2008 – 2012 & ADA REIMBURSEMENT APPROVAL FOR FY2007/2008**
Staff is requesting that the City Council approve the FY2008-2012 Transit Service Agreement between the City of Avondale and Valley Metro/RPTA to allow Avondale the opportunity to seek reimbursement, for an amount not to exceed $155,231, from Valley Metro/RPTA for FY2007/2008 ADA expenses. The Council will take appropriate action.

i. **RESOLUTION 2665-807 - INTERGOVERNMENTAL AGREEMENT - THE CITY OF PHOENIX - FEDERAL TRANSIT ADMINISTRATION OPERATING ASSISTANCE GRANT**
Staff is requesting that City Council adopt a resolution approving an intergovernmental agreement with the City of Phoenix for a Federal Transit Administration Operating Assistance Grant (Grant No. AZ-90-X080) for 2007 services. The Council will take appropriate action.

j. **RESOLUTION 2675-807 - INTERGOVERNMENTAL AGREEMENT - CITY OF GOODYEAR FOR FY2007/2008 TRANSIT SERVICES**
The Council will consider a resolution authorizing an intergovernmental agreement with the City of Goodyear for FY2007/2008 Transit Services. The Council will take appropriate action.

k. **RESOLUTION 2677-807 - INTERGOVERNMENTAL AGREEMENT - CITY OF LITCHFIELD PARK FOR FY2007/2008 TRANSIT SERVICES**
The Council will consider a resolution authorizing an intergovernmental agreement with the City of Litchfield Park for FY 2007/2008 Transit Services. The Council will take appropriate action.

l. **RESOLUTION 2674-807 - INTERGOVERNMENTAL AGREEMENT - CITY OF TOLLESON FOR FY2007/2008 TRANSIT SERVICES**
The Council will consider a resolution authorizing an intergovernmental agreement with the City of Tolleson for FY 2007/2008 Transit Services. The Council will take appropriate action.

m. **RESOLUTION 2676-807 - INTERGOVERNMENTAL AGREEMENT - MARICOPA COUNTY HUMAN SERVICES - SPECIAL TRANSPORTATION SERVICE PROGRAM**
The Council will consider a resolution approving an intergovernmental agreement with Maricopa County Human Services to provide the Special Transportation Service Program to Avondale residents for FY 2007/2008 for an amount not to exceed $60,000. The Council will take appropriate action.

n. **RESOLUTION 2664-807 AUTHORIZING AN AMENDED SUBCONTRACT WITH THE UNITED STATES AND THE CENTRAL ARIZONA WATER CONSERVATION DISTRICT - PURCHASE OF WATER**
The Council will consider a resolution authorizing an amendment to the subcontract between the United States (Department of the Interior, Bureau of Reclamation), the Central Arizona Water Conservation District (CAWCD), and the City of Avondale which provides for the purchase of Water via the Central Arizona Project (CAP) Canal, and authorizing the Mayor or City Manager and City Clerk to execute the

contract document. The Council will take appropriate action.

o. **RESOLUTION 2673-807 SUPPORTING A HOUSING TRUST FUND GRANT APPLICATION - ARIZONA DEPARTMENT OF HOUSING AND ADOPTING THE AVONDALE OWNER-OCCUPIED EMERGENCY HOME REPAIR POLICIES**
Staff is requesting that the City Council adopt a resolution authorizing the submission of a $300,000 Housing Trust Fund (HTF) grant application to the Arizona Department of Housing (ADOH) and adopting the Avondale Owner-Occupied Emergency Home Repair Policies. The Council will take appropriate action.

p. **SPECIAL EVENT LIQUOR LICENSE - SOUTHWEST HISPANIC CULTURE ASSOSCIATION**
Staff is requesting that Council consider a request for a special event liquor license from the Southwest Hispanic Culture Association, P.O. Box 1744, Avondale, for September 21, 2007 to September 23, 2007 to be used in conjunction with Fiestas Patrias event at Festival Fields. The Council will take appropriate action.

6 AMENDMENT NO. 4 - SUNDT CONSTRUCTION, INC. - OLD TOWN LIBRARY

Staff is requesting that the City Council approve Amendment 4 to the design-build agreement with Sundt Construction, Inc. for construction phase services to build the Avondale Old Town Library at a cost of $4,563,781, and authorize the Mayor or City Manager and City Clerk to execute the contract documents. The Council will take appropriate action.

7 PUBLIC HEARING AND RESOLUTIONS 2671-807 AND 2672-807 - MAJOR GENERAL PLAN AMENDMENT AND SPECIFIC PLAN AMENDMENT FOR SUMMIT POINT

The Council will hold a public hearing and will consider resolutions for a Major General Plan amendment and Specific Plan amendment from Employment to Mixed Use, approximately 44.6 acres located on the southwest corner of 117th Avenue and I-10. The Council will take appropriate action.

8 PUBLIC HEARING AND RESOLUTIONS 2669-807 AND 2670-807 - MAJOR GENERAL PLAN AMENDMENT AND SPECIFIC PLAN AMENDMENT FOR PASADERA (GP-07-3 & SP-07-2)

The Council will hold a public hearing and will consider resolutions approving a major general plan amendment and specific plan amendment for Passadera, approximately 40.5 acres located southeast of the southeast corner of Dysart and Indian School Roads. The Council will take appropriate action.

9 PUBLIC HEARING- CONDITIONAL USE PERMIT : CU-07-8 AVONDALE RECYCLING

The Council will hold a public hearing and will consider a request for a Conditional Use Permit for a recycling facility, 22,387.5 square feet located at 940 East Brinker. The Council will take appropriate action.

10 PUBLIC HEARING - CONDITIONAL USE PERMIT FOR SANCTUARY PAD-POPEYES (CU-07-4)

The Council will hold a public hearing and will consider a request for a Conditional Use Permit for a drive-thru restaurant located at the northwest corner of 107th Avenue and Lower Buckeye Road within the Sanctuary Shopping Center. The Council will take appropriate action.

11 ADJOURNMENT

Respectfully submitted,

Linda M Farris

Linda Farris, CMC
City Clerk

Any individual with a qualified disability may request a reasonable accommodation by contacting the City Clerk at 623-333-1200 at least 48 hours prior to the council meeting.

CITY COUNCIL REPORT

SUBJECT:
Introduction of New Employees

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Linda Farris

THROUGH: Charlie McClendon, City Manager

ATTACHMENTS:

Click to download

No Attachments Available

CITY COUNCIL REPORT

SUBJECT:
Fire Department Recognition Item

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Sammi Curless, Assistant to the Mayor and Council (623)333-1613

THROUGH: Charlie McClendon, City Manager

ATTACHMENTS:

Click to download

No Attachments Available

CITY COUNCIL REPORT

SUBJECT:
Approval of Minutes

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Linda Farris

THROUGH: Charlie McClendon, City Manager

ATTACHMENTS:

Click to download

No Attachments Available

CITY COUNCIL REPORT

SUBJECT:
RESCHEDULE COUNCIL MEETING - SEPTEMBER 3, 2007 - LABOR DAY

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Linda Farris, City Clerk (623)333-1211

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council reschedule the September 3, 2007 Council meeting to September 4, 2007 in observance of Labor Day.

BACKGROUND:

The Council meeting scheduled for Monday, September 3, 2007 falls on the Labor Day holiday. Staff is requesting Council authorization to reschedule this meeting to Tuesday, September 4, 2007. The City Charter requires that any change in the regular meeting day, time or place be published in a paper of general circulation. In order to comply with this requirement and to notify the citizens of this meeting change, city staff will publish this change in the West Valley View.

RECOMENDATION:

Staff recommends that the City Council approve the rescheduling of the September 3, 2007 Council meeting to Tuesday, September 4, 2007 and authorize the City Clerk to publish a notice of the meeting date change.

ATTACHMENTS:

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- PUBLIC NOTICE - LABOR DAY 2007

PUBLIC NOTICE

NOTICE IS HEREBY GIVEN THAT THE CITY OF AVONDALE REGULAR COUNCIL MEETING SCHEDULED FOR MONDAY, SEPTEMBER 3, 2007 HAS BEEN RESCHEDULED TO TUESDAY, SEPTEMBER 4, 2007 IN OBSERVANCE LABOR DAY.

PUBLISHED: AUGUST 21, 2007, AUGUST 24, 2007, AND AUGUST 28, 2007

CITY COUNCIL REPORT

SUBJECT:
Amendment No. 1 – Dibble Engineering – Street Improvements on 9th Street from Western Avenue to Riley Drive

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: David Fitzhugh, P.E.,Interim City Engineer (623)333-1014

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council approve Amendment No. 1 to the Professional Services Agreement with Dibble Engineering for the 9th Street Improvement (Coldwater Park) project in the amount of $11,415; resulting in a revised total contract amount of $60,800, authorize the transfer of $50,815 from 101-6700-00-6180 to 304-1252-00-8001, and authorize the Mayor or the City Manager and City Clerk to execute the necessary documents.

BACKGROUND:

On May 21, 2007, the City Manager approved a professional services agreement with Dibble Engineering in the amount of $49,385 to provide professional engineering services for the design and preparation of construction documents for street improvements on 9th Street from Western Avenue to Riley Drive. This agreement covered design services related to construction, drainage improvements, and an 8-inch sewer line. Prior to the street design, the Water Resources Department completed the design of a 12-inch waterline within the project limits.

DISCUSSION:

The waterline was designed based on the assumption that the future roadway alignment would be centered on the common property line. After negotiations between the city and the future dveloper of the city property, it was decided that the entire right-of-way take would come from the remainder of the city property resulting in constructing the waterline three (3) feet behind the west curb, in conflict with other items necessitating it's relocation. The change in alignment required the redesign of the waterline to be located in our standard location, in the travel lane of the street.

The revised roadway alignment also conflicted with an existing catch basin on Western Avenue which will need to be relocated. A survey is required in order to correctly move the catch basin and tie into the existing system. Staff negotiated a change order with Dibble to conduct the additional survey work.

The scope of services for Amendment No. 1 includes the following elements:

- Additional Survey
- Waterline Alignment
- Waterline Profile
- Water Service/Meter Locations
- Connection Details, Construction Plans, Specifications, and Estimates

SCHEDULE:

Amendment No. 1 will not affect the original schedule. Listed below is the schedule for design and construction:

Design:
Notice to Proceed – June 2007
Final Design – October 2007

Construction:

Construction of this project will be contingient on the sale of the city property to the developer. It will take approximately 8 months to complete the construction of this project. Staff recommends that we proceed with the completion of the contract documents and have the project ready to build at such time as the development project commits to the site. Should the time to sell the property and begin development extend greater than one-year from the time the documents are completed it may be necessary to update the plans.

BUDGETARY IMPACT:

The original contract was approved by the City Manager in the amount of $49,385. Funding for the street design was to be provided through the sale of the property, which was expected to occur within a short period of time, and deposited in the Unanticipated Revenues account. The sale has not yet occured, therefore it is necessary to fund the design through a different account. Since this project is related to economic development, the Economic Development's Professional Services fund will finace the street portion of the design contract.
Funding for the street portion of this project in the amount of $50,815, inclusive of the original $49,385 plus the additional $1,430 for the catch basin survey included in Amendment No. 1, is available in the Economic Development Department's Other Professional Services Line Item No. 101-6700-00-6180 and will be transferred to Street Fund Line Item No. 304-1252-00-8001, 9th Street Improvements (Coldwater Park).
Funding for the redesign of the waterline in the amount of $9,985 is available in Water Fund Line Item No. 514-1120-00-8520, Miscellaneous Water System Improvements.

RECOMENDATION:

Staff recommends that the City Council approve Amendment No. 1 to the Professional Services Agreement with Dibble Engineering for the 9th Street Improvement (Coldwater Park) project in the amount of $11,415; resulting in a revised total contract amount of $60,800, authorize the transfer of $50,815 from 101-6700-00-6180 to 304-1252-00-8001, and authorize the Mayor or the City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

- First Amendment to Professional Services Agreement
- Vicinity Map

FIRST AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
DIBBLE & ASSOCIATES CONSULTING ENGINEERS, INC.

THIS FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (this "First Amendment") is made as of August 20, 2007, between the City of Avondale, an Arizona municipal corporation (the "City") and Dibble & Associates Consulting Engineers, Inc., an Arizona corporation (the "Consultant").

RECITALS

A. The City and the Consultant entered into a Professional Services Agreement dated May 21, 2007, for the Coldwater Park Roadway Design Project (the "Agreement").

B. The City has determined that additional services are needed with respect to the project (the "Additional Services").

C. The City and the Consultant desire to amend the Agreement to provide for the Additional Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, and the following mutual covenants and conditions, the City and the Consultant hereby agree to amend the Agreement as follows:

1. Scope of Services. The Consultant shall provide the Additional Services as set forth in the Scope and Fee Proposal attached hereto as Exhibit A and incorporated herein by reference.

2. Compensation. The Consultant's total compensation under the Agreement shall be increased by no more than $11,415.00 from $49,385.00 to $60,800.00 as consideration for the Additional Services as more particularly set forth in Exhibit A.

3. Effect of Amendment. In all other respects, the Agreement is affirmed and ratified and, except as expressly modified herein, all terms and conditions of the Agreement shall remain in full force and effect.

4. Non-Default. By executing this First Amendment, the Consultant affirmatively asserts that the City is not currently in default, nor has been in default at any time prior to this First Amendment, under any of the terms or conditions of the Agreement.

5. Conflict of Interest. This First Amendment may be cancelled pursuant to ARIZ. REV. STAT. § 38-511.

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

"**City**"

CITY OF AVONDALE, an Arizona municipal corporation

_____
Charles P. McClendon, City Manager

ATTEST:

_____
Linda M. Farris, City Clerk

"**Consultant**"

DIBBLE & ASSOCIATES CONSULTING ENGINEERS, INC., an Arizona corporation

By:_____

Name:_____

Title:_____

(ACKNOWLEDGEMENTS)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2007, by Charles P. McClendon, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, on behalf of the City of Avondale.

_____
Notary Public in and for the State of Arizona

My Commission Expires:

_____

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2007, by _____ as _____ of DIBBLE & ASSOCIATES CONSULTING ENGINEERS, INC., an Arizona corporation, on behalf of the corporation.

_____
Notary Public in and for the State of Arizona

My Commission Expires:

_____

EXHIBIT A
TO
FIRST AMENDMENT
TO THE
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
DIBBLE & ASSOCIATES CONSULTING ENGINEERS, INC.

[Scope and Fee Proposal]

See following pages.

Dibble Engineering™

7500 North Dreamy Draw Drive
Suite 200
Phoenix, Arizona 85020
phone 602.957.1155
fax 602.957.2838
www.dibblecorp.com

July 3, 2007

Mr. Chris Hamilton
Engineering Project Manager
City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323

Re: 9th Street Improvements
Contract Modification #1
Additional Survey Scope

Dear Mr. Hamilton:

Dibble Engineering completed a full topographic survey under the previous project, Coldwater Park Waterline Design. As the design of the 9th Street Improvement project progresses, it has come to our attention that additional survey data at the intersection of 9th Street and Western Avenue will be required to complete the roadway and drainage design.

Attached is our proposal for Contract Modification No. 1. This contract modification provides for support services to provide additional field surveys necessary to complete this project. These modifications will be prepared per the requirements of the Professional Services Agreement, dated May 21, 2007.

It is proposed that this work be completed for a lump sum amount of $1,430.00. The total contract amount, including allowances and this contract modification is $50,815.00.

Enclosed are copies of the Scope of Work Clarification and the Staff Hours and Fee Estimate.

The proposed work will be accomplished within the provisions of our contract and the project schedule. If you have any questions, please call me at (602) 957-1155.

Very truly yours,

DIBBLE ENGINEERING

Susan H. Detwiler, P.E.
Project Manager

Kent M. Dibble, P.E./R.L.S.
Principal of the Firm

Enclosures

9th Street Improvements

SCOPE OF WORK CLARIFICATION
CONTRACT MODIFICATION NO. 1

July 3, 2007

Dibble Engineering will provide design and drafting support to the City of Avondale by performing additional contract work related to final construction document preparation for the 9th Street Improvements construction project. Dibble Engineering's contract modification work for this additional scope will be prepared per the requirements of the Professional Services Agreement, dated May 21, 2007. The following items are in addition to the document noted above:

1. Dibble's survey crews are requested to provide topographic survey of the catch basin and pipe at the intersection of 9th Street and Western Avenue. Survey data will also be collected on the ditch, south of Western Avenue.

2. Dibble's survey crews are requested to provide topographic survey of the pavement at the intersection of 9th Street and Western Avenue.

3. Dibble's survey crews will incorporate new topographic survey into the AutoCAD base files.

END OF SCOPE

City of Avondale
Coldwater Park Roadway Design

STAFF HOURS AND FEE ESTIMATE

Dibble & Associates Staff Hours By Task

Task	Design Phase Services	Project Manager	QA/AC Manager	Project Engineer	Assistant Engineer	CAD Technician	Survey Manager RLS	Land Surveyor RLS	Survey Technician LSIT	Survey Technician CAD	2-Man Survey Crew	Admin Assistant	Total
Roadway Design - Western Avenue to E. Riley Drive													
	DESIGN PHASE SERVICES												
1	Data Collection												
2	Field Surveys							2		4	8		14
3	Base Mapping												
4	Utility Coordination												
5.1	Drainage Analysis/Design												
5.2	Drainage Report												
6	Sewer Design												
7.1	Schematic (15%) Design Submittal												
7.2	Preliminary (30%) Design Submittal												
7.3	Final (95%) Design Submittal												
7.4	Bid Document (100%) Submittal												
8	Right-of-Way Legals												
9	Bidding Assistance												
10	Project Management/Coordination & Meetings												
	Subtotal, Design Phase Services							2		4	8		14
Total								2		4	8		14

Dibble & Associates Labor Fee By Task

Task	Design Phase Services	Project Manager	QA/AC Manager	Project Engineer	Assistant Engineer	CAD Technician	Survey Manager RLS	Land Surveyor RLS	Survey Technician LSIT	Survey Technician CAD	2-Man Survey Crew	Admin Assistant	Total
	Personnel Rates (Incl. O.&P.)	$ 115.00	$ 105.00	$ 105.00	$ 85.00	$ 70.00	$ 100.00	$ 95.00	$ 80.00	$ 70.00	$ 120.00	$ 45.00	
Roadway Design - Western Avenue to E. Riley Drive													
	DESIGN PHASE SERVICES												
1	Data Collection												
2	Field Surveys							$190		$280	$960		$1,430
3	Base Mapping												
4	Utility Coordination												
5.1	Drainage Analysis/Design												
5.2	Drainage Report												
6	Sewer Design												
7.1	Schematic (15%) Design Submittal												
7.2	Preliminary (30%) Design Submittal												
7.3	Final (95%) Design Submittal												
7.4	Bid Document (100%) Submittal												
8	Right-of-Way Legals												
9	Bidding Assistance												
10	Project Management/Coordination & Meetings												
	Subtotal, Design Phase Services							$190		$280	$960		$1,430
Total								$190		$280	$960		$1,430

Dibble & Associates Direct Costs and Fee Summary

DIRECT COSTS				
Item	Unit	Qty	Price	Total
n/a				
TOTAL, Direct Costs				$ -

FEE SUMMARY	
Labor Cost	$1,430
Direct Costs	
Total	$1,430

Dibble Engineering™

7500 North Dreamy Draw Drive
Suite 200
Phoenix, Arizona 85020
phone 602.957.1155
fax 602.957.2838
www.dibblecorp.com

July 3, 2007

Mr. Chris Hamilton
Engineering Project Manager
City of Avondale
11465 W. Civic Center Drive
Avondale, AZ 85323

Re: 9th Street Waterline Relocation
Contract Modification #2
Waterline Re-alignment Design

Dear Mr. Hamilton:

Dibble Engineering previously designed and prepared construction documents for approximately 1,100 linear feet of 12-inch water distribution main between Western Avenue and Riley Drive along an alignment designated as 9th Street and approximately 225 linear feet of 12-inch water distribution main along Riley Drive between 9th Street alignment and Eliseo C. Felix Jr. Way. Subsequent to the completion of this design, the City has elected to complete design of 9th Street along a different alignment and with a different roadway section from the alignment designated during the waterline design.

As a result of the modifications to the 9th Street alignment and roadway section and the decision to incorporate the waterline and roadway designs into a single bid package, revisions to the previously completed and permitted waterline construction documents are required.

Attached is our proposal for Contract Modification No. 2. This contract modification provides for support services necessary to complete the waterline design for this project. These modifications will be prepared per the requirements of the Professional Services Agreement, dated May 21, 2007.

Dibble Engineering will complete this proposed work for the lump sum amount of $9,985.00.

Enclosed are copies of the Scope of Work Clarification and the Staff Hours and Fee Estimate.

We look forward to proceeding with this design work and appreciate the opportunity to continue our service to the City. Please don't hesitate to contact us should you have any questions or concerns.

Sincerely,

DIBBLE ENGINEERING

Susan Detwiler, P.E.
Project Manager

Kent M. Dibble, P.E./R.L.S.
Principal of the Firm

9th Street Improvements

SCOPE OF WORK CLARIFICATION
CONTRACT MODIFICATION NO. 2

July 3, 2007

Dibble Engineering will provide design and drafting support to the City of Avondale by performing additional contract work related to final construction document preparation for the 9th Street Improvements construction project. Dibble Engineering's contract modification work for this additional scope will be prepared per the requirements of the Professional Services Agreement, dated May 21, 2007. The following items are in addition to the document noted above:

1. Dibble will design the realigned waterline in accordance with project design standards required for the original water line design.

2. Project schedule and deliverables for the waterline design will be concurrent with the roadway and sanitary sewer design. Roadway, drainage, sanitary sewer and waterline construction will be included in a single set of construction documents.

3. The alignment of the waterline will be a straight line between Western Avenue and Riley Drive.

4. Due to the waterline re-alignment, review by Maricopa County Environmental Services Department (expedited review) will be required.

5. Reimbursable expenses, including MCESD permit review fees and additional plotting/reproduction costs are included in this scope of work clarification.

END OF SCOPE

City of Avondale
Coldwater Park Waterline Relocation
Design Revision

STAFF HOURS AND FEE ESTIMATE

Dibble Engineering Staff Hours By Task

Task	Design Phase Services	Project Manager	QA/AC Manager	Project Engineer	Assistant Engineer	CAD Technician	Admin Assistant	Total
12-Inch Water Distribution Main Design Revision								
	DESIGN PHASE SERVICES							
1	Data Collection							
2	Field Surveys							
3	Base Mapping							
4	Utility Coordination							
5.1	Drainage Analysis/Design							
5.2	Drainage Report							
6	Sewer Design							
7.1	Schematic (15%) Design Submittal	1	1	2	8	4	1	17
7.2	Preliminary (30%) Design Submittal	2	1	2	8	8	1	22
7.3	Final (95%) Design Submittal	2	1	2	8	8	1	22
7.4	Bid Document (100%) Submittal	2	1	2	8	4	1	18
8	Right-of-Way Legals							
9	Bidding Assistance							
10	Project Management/Coordination & Meetings	4		2				6
Total		**11**	**4**	**10**	**32**	**24**	**4**	**85**

Dibble Engineering Labor Fee By Task

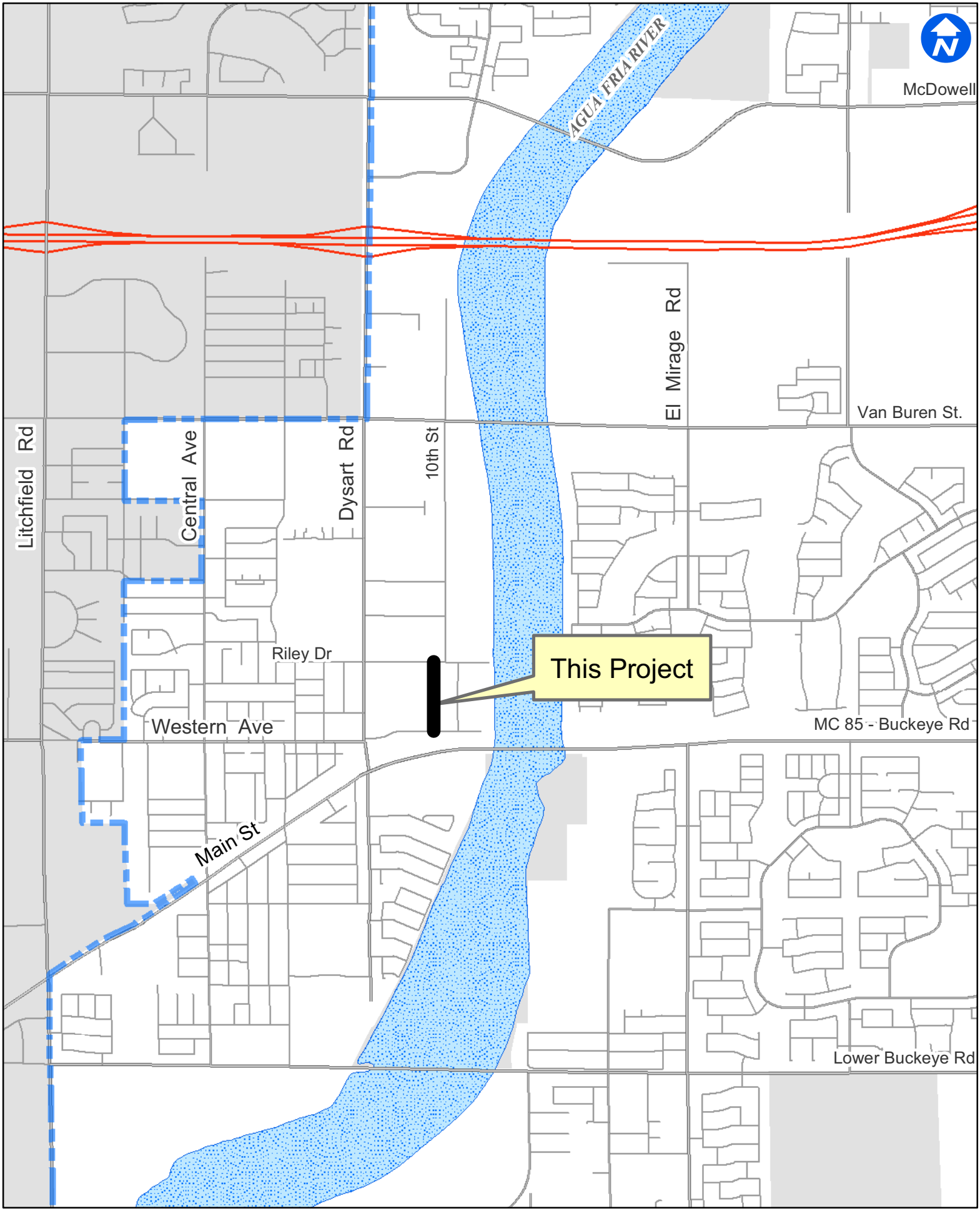
	Personnel Rates (Incl. O.&P.)	$ 125.00	$ 115.00	$ 110.00	$ 85.00	$ 75.00	$ 45.00	
Task	**Design Phase Services**	**Project Manager**	**QA/AC Manager**	**Project Engineer**	**Assistant Engineer**	**CAD Technician**	**Admin Assistant**	**Total**
12-Inch Water Distribution Main Design Revision								
	DESIGN PHASE SERVICES							
1	Data Collection							
2	Field Surveys							
3	Base Mapping							
4	Utility Coordination							
5.1	Drainage Analysis/Design							
5.2	Drainage Report							
6	Sewer Design							
7.1	Schematic (15%) Design Submittal	$125	$115	$220	$680	$300	$45	$1,485
7.2	Preliminary (30%) Design Submittal	$250	$115	$220	$680	$600	$45	$1,910
7.3	Final (95%) Design Submittal	$250	$115	$220	$680	$600	$45	$1,910
7.4	Bid Document (100%) Submittal	$250	$115	$220	$680	$300	$45	$1,610
8	Right-of-Way Legals							
9	Bidding Assistance							
10	Project Management/Coordination & Meetings	$500		$220				$720
Total		**$1,375**	**$460**	**$1,100**	**$2,720**	**$1,800**	**$180**	**$7,635**

Dibble & Associates Direct Costs and Fee Summary

DIRECT COSTS				
Item	**Unit**	**Qty**	**Price**	**Total**
MCESD Permit Fees	Lump Sum	1	$2,200	$2,200
Reproduction/Plotting/Mylars	Set	15	$10	$150
TOTAL, Direct Costs				**$2,350**

FEE SUMMARY	
Labor Cost	$7,635
Direct Costs and Allowances	$2,350
Total	**$9,985**

VICINITY MAP



City of Avondale

ST 1252 - 9th St Improvement Project

CITY COUNCIL REPORT

SUBJECT:
Amendment 2 - CMAR Contract - PCL Construction, Inc. - Phase 1 Expansion of the Water Reclamation Facility

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Daniel Davis, Acting Water Resources Director (623)333-2411

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council approve Amendment No. 2 to the CMAR contract with PCL Construction Inc., for the construction of Phase 1 of the Water Reclamation Facility (WRF) Expansion, in the amount of $4,130,401 and authorize the Mayor, or City Manager and City Clerk to execute the contract documents.

BACKGROUND:

On October 10, 2005, the recommendations of the Wastewater Treatment and Reclaimed Water Master Plan (Master Plan) were presented to the City Council in a work session. The recommendations of the Master Plan include improvements necessary to meet the required sewer treatment capacity for the build-out of the City. The Master Plan recomended WRF improvement be constructed in multiple phases. The current Phase 1 improvements will increase the plant's treatment capacity to 9.0 mgd.

In July 2006, the City Council approved a contract with Damon S. Williams Associates, LLC (DSWA) to provide design and construction management services for the Phase 1 improvements. In April 2006 the City Council approved the Construction Manager at Risk (CMAR) agreement with PCL Construction, Inc. to provide pre-construction services (i.e. cost modeling, value analysis, and constructability reviews) and guaranteed maximum price packages for the construction of the Water Reclamation Facility improvements.

DISCUSSION:

The Phase 1 improvements will be constructed over a two (2) year time frame, and will include three separate packages which will be awarded as three (3) amendments to the CMAR contract. Each Amendment will provide a Guaranteed Maximum Price (GMP). Package-1 is comprised of the conversion of an aeration basin; Package-2 will include major equipment and other long-lead items; and Package-3 is comprised of the remaining construction improvements.

On June 4, 2007 City Council approved Amendment No. 1 to the contract with PCL Construction, Inc., for the construction of Package-1 in the amount of $2,658,842.

<u>Phase 1 (Package-2) – Procurement of Long Lead Items</u>
The City's project staff believes it is in the best interest of the project to procure long lead items that have the potential to increase in cost or items that require several months to be manufactured and delivered to the project site. Ordering these long lead items in advance of installation minimizes the potential of schedule impacts due to late delivery. Specific pieces of equipment that will be ordered as long lead item are listed below:

- Specification 11212 – Vertical Turbine Pumps
- Specification 11288 – Fabricated Stainless Steel Slide Gates
- Specification 11289 – Cast Iron Slide Gates
- Specification 11313 – Vertical Centrifugal Chopper Pumps

- Specification 11324 – Grit Collection Equipment
- Specification 11332 – Step Screens and Washer/Compactor System
- Specification 11336 – Circular Tank Sludge Collectors, Spiral Type
- Specification 11355 – Rotary Drum Thickener
- Specification 13125 – Packaged Odor Control Scrubber System
- Specification 13232 – Digester Steel Cover and Accessories
- Specification 13233 – Aluminum Cover System
- Specification 16412 – Automatic Transfer Switches
- Specification 16413- Standby Power Generator Set
- Specification 11382 – Heat Exchangers

SCHEDULE:

The schedule to complete the recommended improvements is as follows: Approval of GMP for Phase 1 (Package-2) August 2007 Issue Notice-to-Proceed September 2007 Order Equipment November 2007 Deliver Equipment June 2009
Install Equipment October 2009

BUDGETARY IMPACT:

Funding for Phase 1 is available in the Sewer Enterprise Fund Line Item No. E513-1109-00-8610. The Amendments to the CMAR contract represented as the three packages comprising Phase 1 are listed below:

Phase 1	Estimated	Actual
· Amendment No. 1	$2,658,842	$2,658,842
· Amendment No. 2	$5,100,000	$4,130,401
· Amendment No. 3	$32,241,158	$33,210,757

RECOMENDATION:

Staff recommends that the City Council approve Amendment No. 2 to the CMAR contract with PCL Construction Inc., for the early procurement of long-lead items of Phase 1 of the Water Reclamation Facility (WRF) Expansion, in the amount of $4,130,401 and authorize the Mayor, or City Manager and City Clerk to execute the contract documents.

ATTACHMENTS:

Click to download

- PCL Second Amendment

SECOND AMENDMENT
TO
CONSTRUCTION MANAGER AT RISK AGREEMENT
BETWEEN
CITY OF AVONDALE
AND
PCL CONSTRUCTION, INC.

THIS SECOND AMENDMENT TO CONSTRUCTION MANAGER AT RISK AGREEMENT (this "Second Amendment") is made August 20, 2007, by and between the City of Avondale, an Arizona municipal corporation (the "City") and PCL Construction, Inc., a Colorado corporation (the "Construction Manager").

RECITALS:

A. The City and the Construction Manager entered into that certain Construction Manager at Risk Agreement, approved by the City Council on April 3, 2006, for final design and complete construction of Phase I of substantial modifications to and expansion of the City's Water Reclamation Facility located at 4800 S. Dysart Road (the "Initial Agreement"). The Initial Agreement was amended once on June 11, 2007 to establish the Treatment GMP (the "First Amendment"). The Initial Agreement and the First Amendment are collectively referred to herein as the "Agreement." Unless otherwise defined in this Second Amendment, all capitalized terms herein shall have the meanings ascribed to them in the Agreement.

B. Pursuant to Section 3.4 of the Agreement, (i) the City may request that the Construction Manager submit the Long Lead Proposal and (ii) the City and the Construction Manager may agree upon a guaranteed maximum price for the Long Lead Time Items required for the Project.

C. The Construction Manager has submitted, and the City has accepted, the Long Lead Proposal. Accordingly, the City and the Construction Manager desire to establish the guaranteed maximum price for purchasing the Long Lead Time Items for the Project.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated as if fully set forth herein, the promises and covenants set forth below and other such good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Construction Manager hereby agree as follows:

1. The Construction Manager's guaranteed maximum price for purchasing the Long Lead Time Items related to the Work (the "Long Lead GMP"), including the Cost of the Work as defined in Article 8 of the Agreement (excluding the Pre-Construction Phase Compensation set forth in Section 7.1, but specifically including the Construction Phase Compensation as set forth in Section 7.2) is hereby agreed to be $4,130,401.00. The Long Lead GMP is the total compensation from the City to the Construction Manager for purchasing the Long Lead Time Items related to the Work in accordance with Contract Documents set forth in the Agreement, including the exhibits thereto attached to this Second Amendment.

2. The following exhibits are hereby approved and included in the Agreement:

a. Exhibit B-1-1 – Construction Manager's Long Lead Proposal.

b. Exhibit B-1-2 – Long Lead Scope.

3. Exhibit C to the Agreement, List of Design Documents, is hereby deleted in entirety and replaced with the new Exhibit C attached to this Amendment.

4. In all other respects, the Agreement is affirmed and ratified, and, except as expressly modified herein, all terms and conditions of the Agreement shall remain in full force and effect.

5. By executing this Second Amendment, the Construction Manager affirmatively asserts that 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.

6. This Second Amendment and the Agreement may be cancelled for a conflict of interest pursuant to ARIZ. REV. STAT. § 38-511.

EXECUTED as of the date first set forth above.

"**City**"

CITY OF AVONDALE, an Arizona municipal corporation

By:_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Linda M. Farris, City Clerk

"**Construction Manager**"

PCL CONSTRUCTION, INC., a Colorado corporation

By:_____
Luis Ventoza
Vice President and District Manager

(ACKNOWLEDGMENTS)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before on _____, 2007, by Marie Lopez Rogers, the Mayor of the CITY OF AVONDALE, an Arizona municipal corporation, on behalf of the City of Avondale.

_____
Notary Public in and for the State of Arizona

My Commission Expires:

_____

STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 2007, by Luis Ventoza, the Vice President and District Manager of PCL CONSTRUCTION, INC., a Colorado corporation, on behalf of the corporation.

_____
Notary Public in and for the State of _____

My Commission Expires:

_____

EXHIBIT B-1-1
TO
SECOND AMENDMENT
TO
CONSTRUCTION MANAGER AT RISK AGREEMENT
BETWEEN
CITY OF AVONDALE
AND
PCL CONSTRUCTION, INC.

[Construction Manager's Long Lead Proposal]

See following pages.

CONSTRUCTION LEADERS

August 9, 2007

Mr. Scott Tkach, P.E.
CITY OF AVONDALE
Water Resources Department
399 E. Lower Buckeye Rd., Ste. 100
Avondale, AZ 85323

RE: City of Avondale Water Reclamation Facility – Phase 1
GMP 2 – Long-lead Item Procurement

Dear Mr. Tkach,

PCL Construction, Inc. is pleased to submit a Guaranteed Maximum Price (GMP), in the amount of $4,130,401, for the procurement of the following long-lead items:

Specification	Description	Manufacturer
Section 11212	Vertical Turbine Pumps	Peerless
Section 11288	Fabricated Stainless Steel Slide Gates	Fontaine
Section 11289	Cast Iron Slide Gates	Fontaine
Section 11313	Horizontal Centrifugal Chopper Pumps	Vaughn
Section 11324	Grit Collection Equipment	Jones & Attwood
Section 11332	Step Screens and Washer/Compactor System	Vulcan
Section 11336	Circular Tank Sludge Collectors, Spiral Type	Walker
Section 11355	Rotary Drum Thickener	Vulcan
Section 11382	Sludge Heat Exchanger	Walker
Section 13125	Packaged Odor Control Scrubber System	Siemens
Section 13232	Digester Steel Cover and Accessories	Walker
Section 13233	Aluminum Cover System	Conservatek
Section 16412	Automatic Transfer Switches	Kohler Power Syst
Section 16413	Standby Power Generator Set	Kohler Power Syst

The above equipment is being procured in accordance with the "Agency Review" contract documents for the referenced project which were issued by DSWA (Volumes 1 thru 4) dated July 2007. The cost for this GMP (*see Attachment A for a further breakdown of costs*) is based on purchasing the equipment from the above listed manufacturers and includes applicable mark-ups, bonds, insurance, and taxes. This GMP excludes unloading, storing and installation. If any questions arise, please feel free to contact us at (480)829-6333.

Yours truly,

PCL CONSTRUCTION, INC.

Thomas R. O'Donnell
Pre- Construction Manager

PCL CONSTRUCTION, INC.
1711 W. Greentree Drive, Suite 201
Tempe, Arizona 85284
Telephone (480)829-6333 ~ Fax (480)829-8252
Arizona ROC 215820

PCL CONSTRUCTION, INC.
City of Avondale Water Reclamation Facility Phase 1
GMP 2 - Long Lead Item Procurement

Schedule of Values (Attachment A for GMP 2)

Item No.	Section	Description	Quantity	Value
1	11212	Vertical Turbine Pumps	1 Lumpsum	$426,784
2	11288	Fabricated Stainless Steel Slide Gates	1 Lumpsum	$66,849
3	11289	Cast Iron Slide Gates	1 Lumpsum	$22,283
4	11313	Horizontal Centrifugal Chopper Pumps	1 Lumpsum	$22,138
5	11324	Grit Collection Equipment	1 Lumpsum	$262,830
6	11332	Step Screens and Washer/Compactor System	1 Lumpsum	$491,232
7	11336	Circular Tank Sludge Collectors, Spiral Type	1 Lumpsum	$203,726
8	11355	Rotary Drum Thickener	1 Lumpsum	$501,371
9	11382	Sludge Heat Exchanger	1 Lumpsum	$276,202
10	13125	Packaged Odor Control Scrubber System	1 Lumpsum	$498,251
11	13232	Digester Steel Cover and Accessories	1 Lumpsum	$351,405
12	13233	Aluminum Cover System	1 Lumpsum	$428,839
13	16412	Automatic Transfer Switches	1 Lumpsum	Included w/16413
14	16413	Standby Power Generator Set	1 Lumpsum	$578,491
			Total for GMP 2:	$4,130,401

Please note that this GMP includes only the following:

1. Purchase cost of the above equipment
2. PCL's Mark-up and the cost of bonds/insurance/taxes

PCL Construction is specifically not including the costs associated with unloading, storing and installing the equipment in the price above. These costs will be carried in a forthcoming GMP which will reflect the remaining scope of the project.

Submitted by: _____
Thomas R. O'Donnell, Pre-construction Manager

Date: August 09, 2007

EXHIBIT B-1-2
TO
SECOND AMENDMENT
TO
CONSTRUCTION MANAGER AT RISK AGREEMENT
BETWEEN
CITY OF AVONDALE
AND
PCL CONSTRUCTION, INC.

[Long Lead Scope]

See following pages.

Proprietary and Confidential

Date	August 08, 2007
Time	03:49:14 PM
BE Number	BE070067
District File No	
Owner File No	
Estimator	P. (Brent) Edwards

PCL Civil Constructors, Inc.

Civil Southwest

GENERAL ESTIMATE SUMMARY

Project	**Avondale Water Reclamation Facility - GMP 2**	Bid Closing	**August 09, 2007**
	Avondale, AZ		**1:00 p.m. MST**

BE Number BE070067
District File No
Owner File No
Project **Avondale Water Reclamation Facility - GMP 2**
Location Avondale, AZ

PCL Civil Constructors, Inc.
Civil Southwest

GENERAL ESTIMATE SUMMARY

August 08, 2007
03:49:14 PM

P. (Brent) Edwards

Proprietary and Confidential

Description	Quantity	Labor			Equipment			Tools & Supplies		Perm. Materials		Subcontract		Total Cost	
		Hours	Rate	Cost	Hours	Rate	Total	Unit	Total	Unit	Total	Unit	Total	Unit	Total
DIRECT COSTS															
Procurement of Equipment	1.00 LS	---	---	---	---	---	---	---	---	---	3,322,297	---	384,900	---	3,707,197
DIRECT COSTS	---	---		---	---		---		---		3,322,297		384,900		3,707,197

GC, Bonds, Insurance & Taxes	---														
General Conditions															
General Conditions	1.00 LS	---	---	---	---	---	---	---	---	---	---	---	---	---	---
General Conditions	1.00 LS	---	---	---	---	---	---	---	---	---	---	---	---	---	---
	---														
Bonds and Insurance															
Bonds and Insurance	100.00 %	---	---	---	---	---	---	1,456.81	145,681	---	---	---	---	1,456.81	145,681
Bonds and Insurance	1.00 LS	---	---	---	---	---	---	---	145,681	---	---	---	---	---	145,681

Taxes															
Taxes	100.00 %	---	---	---	---	---	---	437.27	43,727	---	---	---	---	437.27	43,727
Taxes	1.00 LS	---	---	---	---	---	---	---	43,727	---	---	---	---	---	43,727

GC, Bonds, Insurance & Taxes	5.11% T.D.C	---		---	---		---		189,408		---		---		189,408

TOTAL COST		---		---	---		---		189,408		3,322,297		384,900		3,896,605

Fee	6.00% T.C.														233,796

TOTAL BID															4,130,401

F01-01S

BE Number BE070067
District File No
Owner File No
Project **Avondale Water Reclamation Facility - GMP 2**
Location Avondale, AZ

PCL Civil Constructors, Inc.
Civil Southwest
ITEM ANALYSIS SHEET

August 08, 2007
03:49:14 PM
P. (Brent) Edwards

Procurement of Equipment 1 LS 1

Proprietary and Confidential

No.	Description	Quantity	Production Rate	Manhrs. per Unit	Labor Hours	Labor $ / hr	Labor Cost	Equipment $ / hr	Equipment Total	Tools & Supplies $/ItemUnit	Tools & Supplies Total	Perm. Materials $/ItemUnit	Perm. Materials Total	Subcontract $/ItemUnit	Subcontract Total	Total Cost Unit	Total Cost Total
	11212 - Effluent Pump (2,2a)			**5.00**	**EA**												
	Purchase Equipment:																
1	3750 gpm Effluent Pump	3.00 EA	---	---	---	---	---	---	---	---	---	89489	268,467	---	---	89,489.00	268,467
1	Dyna Tech Analysis	1.00 LS	---	---	---	---	---	---	---	---	---	---	16,294	---	---	---	16,294
1	600gpm NPW Vertical Turbine Pump	2.00 EA	---	---	---	---	---	---	---	---	---	41500	83,000	---	---	41,500.00	83,000
1	Dyna Tech Analysis	1.00 LS	---	---	---	---	---	---	---	---	---	---	15,294	---	---	---	15,294
	11212 - Effluent Pump (2,2a)	5.00 EA	---	---	---	---	---	---	---	---	---	76611	383,055	---	---	76,611.00	383,055
	11288 - Fabricated Slide Gates (5)			**3.00**	**EA**												
	Purchase Equipment:																
1	Sluice/Slide Gates	1.00 LS	---	---	---	---	---	---	---	---	---	---	60,000	---	---	---	60,000
	11288 - Fabricated Slide Gates (5)	3.00 EA	---	---	---	---	---	---	---	---	---	20000	60,000	---	---	20,000.00	60,000
	11289 - Cast Iron Slide Gates (6)			**2.00**	**EA**												
	Purchase Equipment:																
1	Sluice/Slide Gates	1.00 LS	---	---	---	---	---	---	---	---	---	---	20,000	---	---	---	20,000
	11289 - Cast Iron Slide Gates (6)	2.00 EA	---	---	---	---	---	---	---	---	---	10000	20,000	---	---	10,000.00	20,000
	11313 - Horizontal Centrifugal Chopper Pumps (11)			**2.00**	**EA**												

BE Number BE070067
District File No
Owner File No
Project **Avondale Water Reclamation Facility - GMP 2**
Location Avondale, AZ

PCL Civil Constructors, Inc.
Civil Southwest
ITEM ANALYSIS SHEET

August 08, 2007
03:49:14 PM
P. (Brent) Edwards

Proprietary and Confidential

Procurement of Equipment 1 LS 1

No.	Description	Quantity	Production Rate	Manhrs. per Unit	Labor Hours	Labor $ / hr	Labor Cost	Equipment $ / hr	Equipment Total	Tools & Supplies $/ItemUnit	Tools & Supplies Total	Perm. Materials $/ItemUnit	Perm. Materials Total	Subcontract $/ItemUnit	Subcontract Total	Total Cost Unit	Total Cost Total
	Purchase Equipment:																
1	Horizontal End Suction Chopper Pumps (Digester Heated Sludge Reci Pumps)	2.00 EA	---	---	---	---	---	---	---	---	---	9,935.00	19,870	---	---	9,935.00	19,870
	11313 - Horizontal Centrifugal Chopper Pumps (11)	2.00 EA	---	---	---	---	---	---	---	---	---	9,935.00	19,870	---	---	9,935.00	19,870
	11324 - Grit Collection Equipment (16)			**1.00**	**EA**												
	Purchase Equipment:																
1	Grit Collection Equipment	1.00 EA	---	---	---	---	---	---	---	---	---	235900	235,900	---	---	235900	235,900
	11324 - Grit Collection Equipment (16)	1.00 EA	---	---	---	---	---	---	---	---	---	235900	235,900	---	---	235900	235,900
	11332 - Step Screen (17)			**2.00**	**EA**												
	Purchase Equipment:																
1	In-line Screen	2.00 EA	---	---	---	---	---	---	---	---	---	220450	440,900	---	---	220450	440,900
1	Bypass Channel	1.00 EA	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
	11332 - Step Screen (17)	2.00 EA	---	---	---	---	---	---	---	---	---	220450	440,900	---	---	220450	440,900
	11336 - Primary Sludge Collectors (19)			**1.00**	**EA**												
	Purchase Equipment:																
1	100' Seconday Clarifiers	1.00 EA	---	---	---	---	---	---	---	---	---	182852	182,852	---	---	182852	182,852
	11336 - Primary Sludge Collectors (19)	1.00 EA	---	---	---	---	---	---	---	---	---	182852	182,852	---	---	182852	182,852

BE Number BE070067
District File No
Owner File No
Project **Avondale Water Reclamation Facility - GMP 2**
Location Avondale, AZ

PCL Civil Constructors, Inc.
Civil Southwest
ITEM ANALYSIS SHEET

August 08, 2007
03:49:14 PM
P. (Brent) Edwards

Procurement of Equipment 1 LS 1

Proprietary and Confidential

No.	Description	Quantity	Production Rate	Manhrs. per Unit	Labor Hours	Labor $ / hr	Labor Cost	Equipment $ / hr	Equipment Total	Tools & Supplies $/ItemUnit	Tools & Supplies Total	Perm. Materials $/ItemUnit	Perm. Materials Total	Subcontract $/ItemUnit	Subcontract Total	Total Cost Unit	Total Cost Total
	11355 - Rotary Drum Thickners (21)			**2.00**	**EA**												
	Purchase Equipment:																
1	Rotary Drum Thickners	2.00 EA	---	---	---	---	---	---	---	---	---	225000	450,000	---	---	225000	450,000
	Polymer Feed Equipment is included in the RDT package Price																
	11355 - Rotary Drum Thickners (21)	2.00 EA	---	---	---	---	---	---	---	---	---	225000	450,000	---	---	225000	450,000
	11382 - Sludge Heat Exchangers/Boilers			**1.00**	**LS**												
	Purchase Equipment:																
1	Sludge Heat Exchangers/Boilers	1.00 LS	---	---	---	---	---	---	---	---	---	---	247,902	---	---	---	247,902
	11382 - Sludge Heat Exchangers/Boilers	1.00 LS	---	---	---	---	---	---	---	---	---	---	247,902	---	---	---	247,902
	13125 - Primary Odor Control System (24)			**1.00**	**LS**												
	Purchase Equipment:																
1	Primary Odor Control System	1.00 LS	---	---	---	---	---	---	---	---	---	---	447,200	---	---	---	447,200
	13125 - Primary Odor Control System (24)	1.00 LS	---	---	---	---	---	---	---	---	---	---	447,200	---	---	---	447,200

BE Number BE070067
District File No
Owner File No
Project **Avondale Water Reclamation Facility - GMP 2**
Location Avondale, AZ

PCL Civil Constructors, Inc.
Civil Southwest
ITEM ANALYSIS SHEET

August 08, 2007
03:49:14 PM
P. (Brent) Edwards

Proprietary and Confidential

Procurement of Equipment 1 LS 1

No. Description	Quantity	Production Rate	Manhrs. per Unit	Labor Hours	Labor $ / hr	Labor Cost	Equipment $ / hr	Equipment Total	Tools & Supplies $/ItemUnit	Tools & Supplies Total	Perm. Materials $/ItemUnit	Perm. Materials Total	Subcontract $/ItemUnit	Subcontract Total	Total Cost Unit	Total Cost Total
13232 - Digester Steel Cover and Accessories (27)			**2.00**	**EA**												
Purchase Equipment:																
1 Digester Steel Cover 2ea 65'	2.00 EA	---	---	---	---	---	---	---	---	---	157700	315,400	---	---	157700	315,400
13232 - Digester Steel Cover and Accessories (27)	2.00 EA	---	---	---	---	---	---	---	---	---	157700	315,400	---	---	157700	315,400
13233 - Aluminum Cover (28)			**1.00**	**EA**												
Purchase Equipment:																
1 Aluminum Cover (Flat with Exposed Truss)	1.00 EA	---	---	---	---	---	---	---	---	---	---	---	384900	384,900	384900	384,900
13233 - Aluminum Cover (28)	1.00 EA	---	---	---	---	---	---	---	---	---	---	---	384900	384,900	384900	384,900
16413 - Standby Genset (32)			**1.00**	**EA**												
Purchase Equipment:																
1 2250 KW Genset w/ATS	1.00 EA	---	---	---	---	---	---	---	---	---	519218	519,218	---	---	519218	519,218
16413 - Standby Genset (32)	1.00 EA	---	---	---	---	---	---	---	---	---	519218	519,218	---	---	519218	519,218
Procurement of Equipment	1.00 LS	---	---	---	---	---	---	---	---	---	---	3,322,297	---	384,900	---	3,707,197

BE Number BE070067
District File No
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Project **Avondale Water Reclamation Facility - GMP 2**
Location Avondale, AZ

PCL Civil Constructors, Inc.
Civil Southwest
ITEM ANALYSIS SHEET

August 08, 2007
03:49:14 PM
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General Conditions 1 LS

Proprietary and Confidential

No.	Description	Quantity	Production Rate	Manhrs. per Unit	Labor			Equipment		Tools & Supplies		Perm. Materials		Subcontract		Total Cost	
					Hours	$ / hr	Cost	$ / hr	Total	$/ItemUnit	Total	$/ItemUnit	Total	$/ItemUnit	Total	Unit	Total
	No General Conditions required in GMP2																
General Conditions		1.00 LS	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---

General Conditions 1 LS

U1C

BE Number BE070067
District File No
Owner File No
Project **Avondale Water Reclamation Facility - GMP 2**
Location Avondale, AZ

PCL Civil Constructors, Inc.
Civil Southwest
ITEM ANALYSIS SHEET

August 08, 2007
03:49:14 PM
P. (Brent) Edwards

Proprietary and Confidential

Bonds and Insurance 100 %

No.	Description	Quantity	Production Rate	Manhrs. per Unit	Labor Hours	Labor $ / hr	Labor Cost	Equipment $ / hr	Equipment Total	Tools & Supplies $/ItemUnit	Tools & Supplies Total	Perm. Materials $/ItemUnit	Perm. Materials Total	Subcontract $/ItemUnit	Subcontract Total	Total Cost Unit	Total Cost Total
	US CONTRACT BOND Class B			**100.00 %**													
1	US CONTRACT BOND Class B	4130401 TB	---	---	---	---	---	---	---	0.010	41,304	---	---	---	---	0.010	41,304
	US CONTRACT BOND Class B	100.00 %	---	---	---	---	---	---	---	413.04	41,304	---	---	---	---	413.04	41,304
	Subcontract Bonds			**100.00 %**													
1	Process Equipment Bonds	3322297 EA	---	---	---	---	---	---	---	0.012	39,868	---	---	---	---	0.012	39,868
1	Subcontract Bonds	384,900.00 SC	---	---	---	---	---	---	---	0.012	4,619	---	---	---	---	0.012	4,619
	Subcontract Bonds	100.00 %	---	---	---	---	---	---	---	444.86	44,486	---	---	---	---	444.86	44,486
	General Liability			**100.00 %**													
1	Gen Liab-USA	4130401 TB	---	---	---	---	---	---	---	0.011	45,434	---	---	---	---	0.011	45,434
	General Liability	100.00 %	---	---	---	---	---	---	---	454.34	45,434	---	---	---	---	454.34	45,434
	Builders Risk Insurance			**100.00 %**													
1	Builders Risk	4130401 TB	---	---	---	---	---	---	---	0.004	14,456	---	---	---	---	0.004	14,456
	Builders Risk Insurance	100.00 %	---	---	---	---	---	---	---	144.56	14,456	---	---	---	---	144.56	14,456
	Bonds and Insurance	100.00 %	---	---	---	---	---	---	---	1,456.81	145,681	---	---	---	---	1,456.81	145,681

BE Number BE070067
District File No
Owner File No
Project **Avondale Water Reclamation Facility - GMP 2**
Location Avondale, AZ

PCL Civil Constructors, Inc.
Civil Southwest
ITEM ANALYSIS SHEET

August 08, 2007
03:49:14 PM
P. (Brent) Edwards

Taxes 100 %

Proprietary and Confidential

No.	Description	Quantity	Production Rate	Manhrs. per Unit	Labor Hours	Labor $ / hr	Labor Cost	Equipment $ / hr	Equipment Total	Tools & Supplies $/ItemUnit	Tools & Supplies Total	Perm. Materials $/ItemUnit	Perm. Materials Total	Subcontract $/ItemUnit	Subcontract Total	Total Cost Unit	Total Cost Total
	TAXES			**100.00**	%												
1	Arizona Gross Receipts Tax	4130401 TB	---	---	---	---	---	---	---	0.054	223,496	---	---	---	---	0.054	223,496
1	Equipment AZ GRT Deduction	-3322297 EA	---	---	---	---	---	---	---	0.054	-179,769	---	---	---	---	0.054	-179,769
	TAXES	100.00 %	---	---	---	---	---	---	---	437.27	43,727	---	---	---	---	437.27	43,727
	Taxes	100.00 %	---	---	---	---	---	---	---	437.27	43,727	---	---	---	---	437.27	43,727

Taxes 100 %

U1C

EXHIBIT C
TO
SECOND AMENDMENT
TO
CONSTRUCTION MANAGER AT RISK AGREEMENT
BETWEEN
CITY OF AVONDALE
AND
PCL CONSTRUCTION, INC.

[List of Design Documents]

List of Design Documents

1. City of Avondale Water Reclamation Facility Phase 1 Contract Document Specifications, Package 1-Aeration Basin Modifications, Divisions 1-17, Volumes 1-2 issued by DSWA and dated April 2007.

2. City of Avondale Water Reclamation Facility Phase 1, Package 1 Aeration Basin Modifications drawing set issued and DSWA and dated 4/3/2007.

3. City of Avondale Vactor Truck Solids Storage Facility drawing set issued and DSWA and dated August 2006.

4. Addendum 1 dated April 20, 2007.

5. Addendum 2 dated May 7, 2007.

6. DSWA's Response to Pre-bid RFI's for Phase I, Package 1 dated May 9, 2007.

7. City of Avondale Water Reclamation Facility Phase 1 Contract Document Specifications, Package 2-Detailed Design, Agency Review, Divisions 1-11, Volume 1 of 4 issued by DSWA and dated July 2007.

8. City of Avondale Water Reclamation Facility Phase 1 Contract Document Specifications, Package 2-Detailed Design, Agency Review, Divisions 13-17, Volume 2 of 4 issued by DSWA and dated July 2007.

9. City of Avondale Water Reclamation Facility Detailed Design Phase 1 Expansion Agency Review Submittal, Volume 3 of 4, drawing set issued by DSWA and dated July 2007.

10. City of Avondale Water Reclamation Facility Detailed Design Phase 1 Expansion Agency Review Submittal, Volume 4 of 4, drawing set issued by DSWA and dated July 2007.

CITY COUNCIL REPORT

SUBJECT:
Lease agreement - regional Family Advocacy Center - Avondale, Buckeye and Goodyear Police Departments

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Kevin Kotsur, Chief of Police (623)333-7201

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council approve a lease agreement for the former medical office suite located at 140 N. Litchfield Road, Suite 106, as the location to begin operations for the Family Advocacy Center serving victims in Avondale, Buckeye and Goodyear.

BACKGROUND:

On June 19th, 2006 representatives from the Avondale, Buckeye, and Goodyear police departments presented the concept of creating a regional FAC to the Council. This concept suggested the creation of a regional facility that would serve and assist victims of sexual assault, child abuse, domestic violence and aggravated assault in a timely fashion, and at the same time, improve the overall quality of police investigation into such crimes. The facility would be staffed by employees from all three police departments. The concept was presented and supported by the Councils in Avondale, Buckeye and Goodyear. The City of Avondale has been selected as the jurisdiction responsible for managing all administrative functions associated with operating the FAC. One of these functions is to review and approve the lease agreement for the location where the FAC will begin operations. It is recommended that the former medical office site located at 140 N. Litchfield Road, Suite 106 be approved as the site for the FAC.

DISCUSSION:

The Avondale, Buckeye and Goodyear police departments have reviewed and agreed that the recommended office site at 140 N. Litchfield Road, Suite 106, is both the most cost effective and centralized location available at this time. If approved, all three jurisdictions will share equally in the monthly rent of $34,471.50 or $ 11,490.50 per department per month. The term of this Lease shall be sixty (60) months, commencing on November 1, 2007 and expiring on the 30th day of September, 2012.

BUDGETARY IMPACT:

Funding for Avondale's portion of this partnership is available in the 2006/07 operational budget.

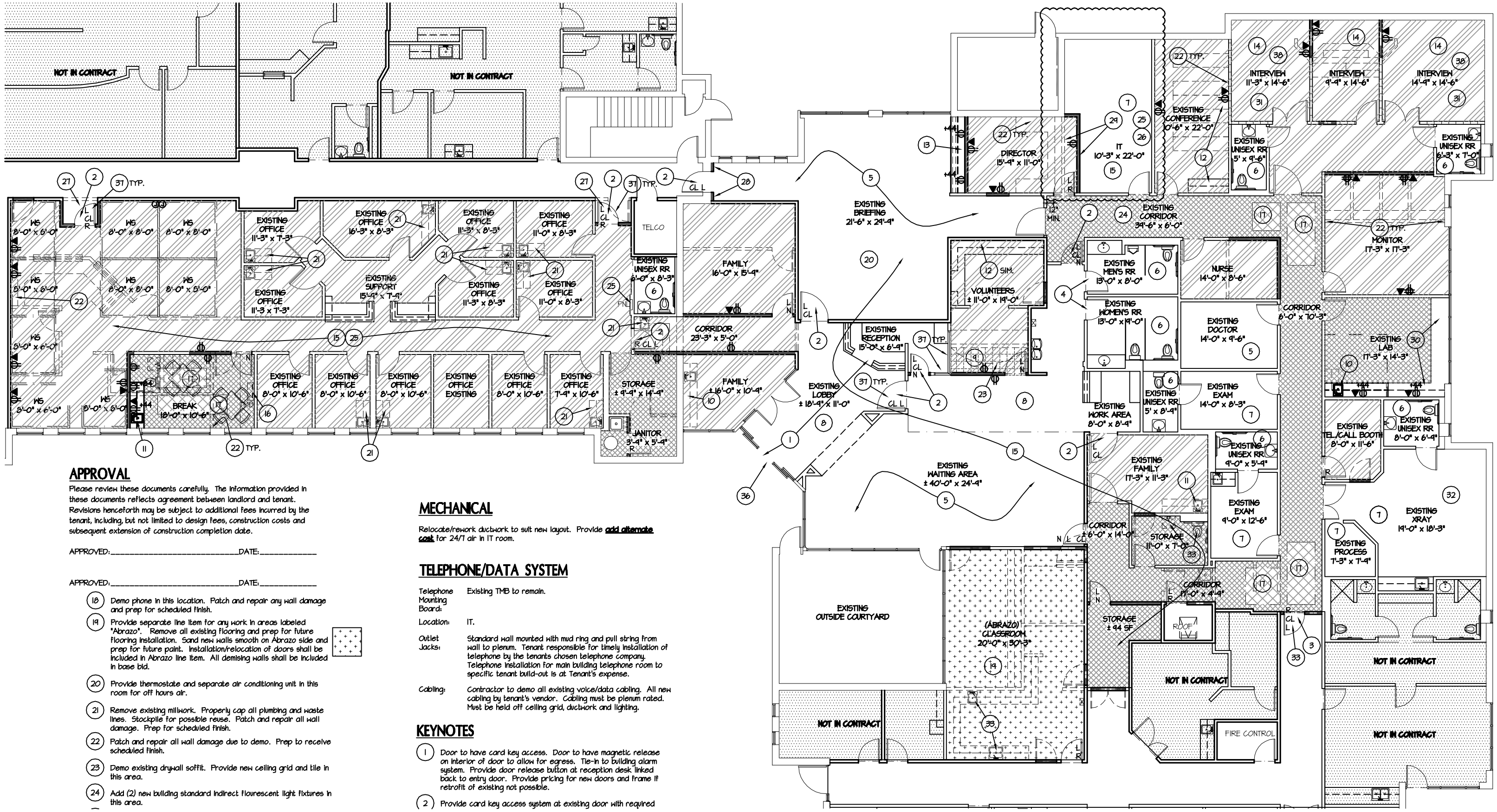
RECOMENDATION:

Staff recommends that the City Council approve a lease agreement for the former medical office suite located at 140 N. Litchfield Road, Suite 106, as the location to begin operations for the Family Advocacy Center serving victims in Avondale, Buckeye and Goodyear.

ATTACHMENTS:

Click to download

- building schematics
- building schematics
- building schematics
- Avondale Advocacy Center Lease Agreement



APPROVAL

Please review these documents carefully. The information provided in these documents reflects agreement between landlord and tenant. Revisions henceforth may be subject to additional fees incurred by the tenant, including, but not limited to design fees, construction costs and subsequent extension of construction completion date.

APPROVED:_____DATE:_____

APPROVED:_____DATE:_____

(18) Demo phone in this location. Patch and repair any wall damage and prep for scheduled finish.

(19) Provide separate line item for any work in areas labeled "Abrazo". Remove all existing flooring and prep for future flooring installation. Sand new walls smooth on Abrazo side and prep for future paint. Installation/relocation of doors shall be included in Abrazo line item. All demising walls shall be included in base bid.

(20) Provide thermostate and separate air conditioning unit in this room for off hours air.

(21) Remove existing millwork. Properly cap all plumbing and waste lines. Stockpile for possible reuse. Patch and repair all wall damage. Prep for scheduled finish.

(22) Patch and repair all wall damage due to demo. Prep to receive scheduled finish.

(23) Demo existing dry-wall soffit. Provide new ceiling grid and tile in this area.

(24) Add (2) new building standard indirect flourescent light fixtures in this area.

MECHANICAL

Relocate/rework ductwork to suit new layout. Provide **add alternate cost** for 24/7 air in IT room.

TELEPHONE/DATA SYSTEM

Telephone Mounting Board:	Existing TMB to remain.
Location:	IT.
Outlet Jacks:	Standard wall mounted with mud ring and pull string from wall to plenum. Tenant responsible for timely installation of telephone by the tenants chosen telephone company. Telephone installation for main building telephone room to specific tenant build-out is at Tenant's expense.
Cabling:	Contractor to demo all existing voice/data cabling. All new cabling by tenant's vendor. Cabling must be plenum rated. Must be held off ceiling grid, ductwork and lighting.

KEYNOTES

(1) Door to have card key access. Door to have magnetic release on interior of door to allow for egress. Tie-in to building alarm system. Provide door release button at reception desk linked back to entry door. Provide pricing for new doors and frame if retrofit of existing not possible.

(2) Provide card key access system at existing door with required

APPROVAL

Please review these documents carefully. The information provided in these documents reflects agreement between landlord and tenant. Revisions henceforth may be subject to additional fees incurred by the tenant, including, but not limited to design fees, construction costs and subsequent extension of construction completion date.

APPROVED:_____DATE:_____

APPROVED:_____DATE:_____

18 Demo phone in this location. Patch and repair any wall damage and prep for scheduled finish.

19 Provide separate line item for any work in areas labeled "Abrazo". Remove all existing flooring and prep for future flooring installation. Sand new walls smooth on Abrazo side and prep for future paint. Installation/relocation of doors shall be included in Abrazo line item. All demising walls shall be included in base bid.

20 Provide thermostate and separate air conditioning unit in this room for off hours air.

21 Remove existing millwork. Properly cap all plumbing and waste lines. Stockpile for possible reuse. Patch and repair all wall damage. Prep for scheduled finish.

22 Patch and repair all wall damage due to demo. Prep to receive scheduled finish.

23 Demo existing drywall soffit. Provide new ceiling grid and tile in this area.

24 Add (2) new building standard indirect flourescent light fixtures in this area.

25 Recircuit/rework electrical so service runs back to panels in IT room. Remove/abandon existing panel.

26 Add panel/transformer as required to accommodate consolidation of tenant's electrical service.

27 Extend corridor finishes into entry. Extend ceiling grid into entry and provide new ceiling tile as required.

28 Furr out as necessary to accommodate new card key access system wiring.

29 Field verify locations of IT equipment/panels/wiring. Demo and relocate wall if able.

30 Existing 30" high counter and uppers to remain.

31 Remove wallcovering this room and prep wall for scheduled finish.

32 Contractor to clean/repair wallcovering as needed inthis room. Provide **add alternate cost** to remove wallcovering this room and prep wall for scheduled finish.

33 Properly demo and cap all plumbing/waste lines.

34 NOT USED.

35 Demo millwork to accommodate new door. Repair millwork as needed and provide new end panels and new counters. Demo sink, properly cap plumbing and waste lines. All repair materials shall match existing. Patch/repair any damage from demo and prep for scheduled finish.

36 Ensure doors have required emergency pop-out glass, per code.

37 Provide Llumar NRM PS2 frosted film to any interior windows / door lites.

38 Remove existing xray/medical equipment. Patch/repair any floor damage and prep for scheduled finish.

39 NOT USED.

40 NOT USED.

MECHANICAL

Relocate/rework ductwork to suit new layout. Provide **add alternate cost** for 24/7 air in IT room.

TELEPHONE/DATA SYSTEM

Telephone Mounting Board:	Existing TMB to remain.
Location:	IT.
Outlet Jacks:	Standard wall mounted with mud ring and pull string from wall to plenum. Tenant responsible for timely installation of telephone by the tenants chosen telephone company. Telephone installation for main building telephone room to specific tenant build-out is at Tenant's expense.
Cabling:	Contractor to demo all existing voice/data cabling. All new cabling by tenant's vendor. Cabling must be plenum rated. Must be held off ceiling grid, ductwork and lighting.

KEYNOTES

1 Door to have card key access. Door to have magnetic release on interior of door to allow for egress. Tie-in to building alarm system. Provide door release button at reception desk linked back to entry door. Provide pricing for new doors and frame if retrofit of existing not possible.

2 Provide card key access system at existing door with required electronic hardware. Provide pricing for new door and frame if retrofit of existing not possible.

3 Rekey door and provide closer.

4 Provide manual cypher lock this location

5 Provide **add alternate** cost for new building standard carpet in this area.

6 Existing finishes to remain. Contractor to clean and ensure all fixtures are in working order.

7 Provide **add alternate** cost for new VCT and rubber base in this room.

8 Existing tile flooring to remain. Contractor to clean tile and grout, and reseal.

9 Remove slate tile this location. Float/patch concrete floor as required. Provide new building standard carpet. Provide Schleuter or equal metal transition strip at doorway.

10 Remove existing millwork. Properly cap all plumbing and waste lines. Patch and repair all wall damage, and prep for scheduled finish. Reinstall millwork and sink in Lab - adjust to fit if necessary.

11 Remove existing millwork. Properly cap all plumbing and waste lines. Patch and repair all wall damage, and prep for scheduled finish. Reinstall millwork and sink in Break.

12 Existing millwork to remain. Contractor to clean and repair as required. Demo existing rolling files. Repair/float floors as required and prep for new building standard carpet.

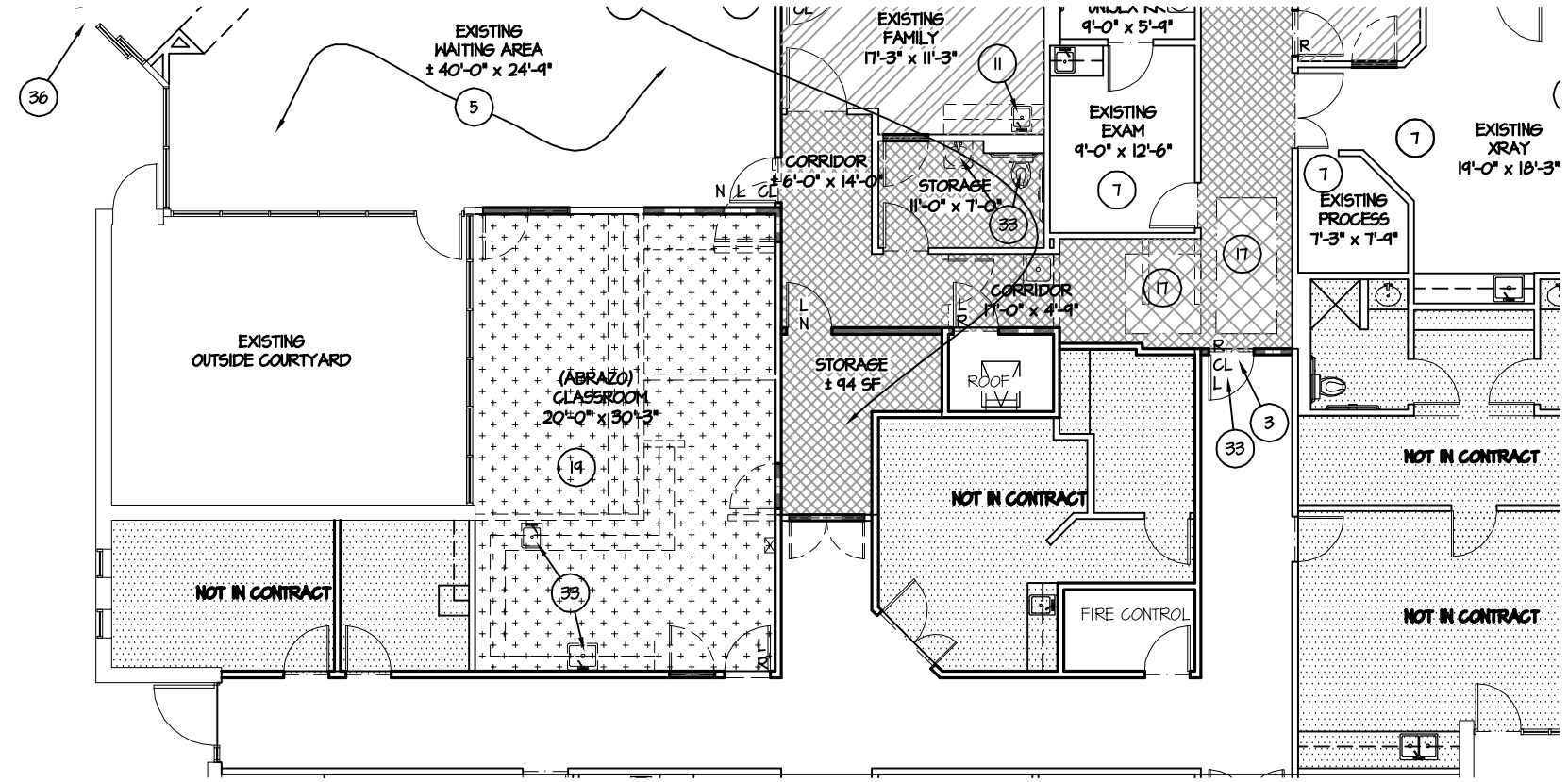
13 Install uppers and 36" high base from demo'd stock to this location. Provide new counter.

14 This room will be digitally recorded. Walls shall be to deck with insulation. Blow in insulation in existing walls. Extend existing walls to deck with insulation. Provide a sound boot on the mechanical ductwork.

15 This entire space will be a 24/7 operation. Contractor to provide the ability for tenant to have after hours air.

16 Demo existing TMB and wiring. Provide new TMB at IT room.

17 Provide accent color VCT this location.



CEILING ASSEMBLIES

Existing ceiling grid and tile to remain. Contractor to rework/repair damaged section of grid as necessary. Replace stained or damaged tile with building standard tile. Existing soffits to remain, u.n.o. Repaint all soffits/headers.

FIRE PROTECTION

Sprinkler Heads:	Relocate/provide new as needed.
Fire Extinguisher Cabinets:	Provide one every 75 feet, per code, hook mounted.
Fire Alarm:	Provide horns and strobes as required by Code. Interface with building fire alarm system.

LIGHTING

Existing building standard 2x2 indirect light fixtures to remain. Rework, recircuit, reswitch as required to suit new layout. Provide new building standard fixtures as required (approximately four).

Contractor to clean all existing fixtures.

ELECTRICAL

Electrical Service:	Modify/combine service as necessary so that tenant's electrical service is consolidated. Run all service back to panels in IT room.
Electrical Switches:	Recircuit and reswitch to suit new layout. Provide new as needed.
Exit Signs:	Relocate/provide new to suit new layout. Match existing.

DOORS AND HARDWARE

Contractor to rekey all existing doors.

Typical Interior Door:	Solid Core Size: 3'-0" x 7'-0" (VFY) Veneer: Match existing
Frame:	Match existing Size: 3'-0" x 7'-0" Finish: Satin Black
Hinges:	Match existing
Passage Set:	Manufacturer: Schlage Design: Saturn Lever Finish: Brushed Chrome
Lock Set:	Manufacturer: Schlage Design: Saturn Lever Finish: Brushed Chrome Cylinder: Sargent

MILLWORK

Preserve all millwork at demolition stage for reuse/rework as applicable to new layout. Rework and reinstall as per keynotes. Clean and repair reworked millwork as necessary. Dispose of remaining millwork after build-out completed and approved.

WINDOW TREATMENT

Existing treatments at exterior windows to remain. Clean and repair as necessary.

Provide new translucent window film at all existing tenant entry doors. Verify spec with architect.

PROJECT DATA

TENANT NAME:	CRISIS CENTER
PROJECT ADDRESS:	140 N. Litchfield Rd Goodyear, Arizona 85338
CONSTRUCTION TYPE:	
FIRE SPRINKLERS:	YES
FIRE ALARM SYSTEM:	YES
EMERGENCY LIGHTING:	YES
SUITE NUMBER:	106
SUITE AREA:	11,046 USF
AREA OF IMPROVEMENT:	11,046 USF
OCCUPANCY TYPE:	B

BUILDING AGENT
TRANSWESTERN PROPERTY CO.
8620 N 22nd Ave, Suite 103
Phoenix AZ 85021
Teri-Lynn Meeker (602) 674.6739
FAX: (602) 674.6710

INTERIOR ARCHITECT
PHOENIX DESIGN ONE
80 E. Rio Salado Parkway, Suite 101
Tempe, AZ 85281
Victoria Fearey (602) 254-3558
Tracey Marshall (602) 254-3558
FAX: (602) 258-9261

GENERAL INFORMATION

This document is a general outline of tenant standards and a physical layout of the proposed space. Do not build from this document. Any estimates prepared from this document must be done with complete knowledge of the building site conditions, attic stock items, operating rules and expected timelines, as well as other tenant specifics.

This plan is preliminary and not for construction. Room sizes shown are approximate. Furnishings shown are for scale purposes and are not in contract unless noted otherwise.

SYMBOL LEGEND

Existing building standard door, frame and hardware. NOTE: Contractor to rekey all existing doors.

New duplex outlet

▲ New telephone or data mud ring and string

L Denotes lockset hardware

CL Denotes closer

R Denotes relocated

N Denotes new

PARTITION TYPES

EXISTING PARTITION TO BE REMOVED

EXISTING PARTITION TO REMAIN

INTERIOR PARTITION TO BOTTOM OF CEILING +/-9'-0"
3-5/8" 25 ga, steel studs at 24" o.c. to bottom of ceiling grid set in 362 T 125-18 top and bottom channel with 5/8" type "X" gyp. board on both sides. Limiting height of 13'-9" with L/120 deflection. The partition will extend to the underside of suspended lay-in ceiling or penetrate grid at tenant's option. Partition taped, bedded, sanded and finished to light knockdown texture with eggshell paint finish.

PARTITION EXTENSION TO DECK
3-5/8" 25 ga, steel studs at 24" o.c. to underside of deck set in 362 T 125-18 top and bottom channel with 5/8" type "X" gyp. board. Limiting height of 15'-4" with L/120 deflection. Partition taped, bedded, sanded and finished to light knockdown texture with eggshell paint finish. Provide 3-1/2" batt insulation full height and 2'-0" out above in each direction.

PARTITION TO DECK
3-5/8" 25 ga, steel studs at 24" o.c. to underside of deck set in 362 T 125-18 top and bottom channel with 5/8" type "X" gyp. board. Limiting height of 15'-4" with L/120 deflection. Partition taped, bedded, sanded and finished to light knockdown texture with eggshell paint finish. Provide 3-1/2" batt insulation full height and 2'-0" out above in each direction.

FINISHES

Paint	Manufacturer:	Dunn Edwards
	Color:	TBD
	Sheen:	Eggshell
	Location:	Typical U.N.O.
VCT 1	Manufacturer:	Armstrong
	Series:	Standard Excelon
	Color:	TBD
	Size:	12"x12"
	Location:	Typical U.N.O.
VCT 2	Manufacturer:	Armstrong
	Series:	Standard Excelon
	Color:	TBD
	Size:	12"x12"
	Location:	As Noted.
Carpet	Manufacturer:	Patcraft
	Series:	28oz. Allow $17/yd.
	Color:	TBD
	Location:	As Noted.
Rubber Base	Manufacturer:	Roppe
	Color:	TBD
	Height:	4"
	Location:	Typical U.N.O.
	Note:	Coved at VCT, Straight at Carpet

NOTE: Provide metal transition strips (Schleuter or equal) at all carpet to tile transitions.

Phoenix Design One
INTERIOR ARCHITECTURE
80 E. Rio Salado Parkway, Suite 101
Tempe, Arizona 85281
(602) 254.3558 Fax (602) 258.9261

TENANT IMPROVEMENT FOR SUITE 106 – CRISIS CENTER AT THE WEST VALLEY EMERGENCY CENTER
140 N LITCHFIELD RD
GOODYEAR, ARIZONA 85338

NOTE
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JOB NUMBER
5513

DATE
02.06.07

DRAWN BY TLM
CHECKED BY VSF

SHEET TITLE
SPACE PLAN & NTOES

REVISIONS
Tenant Comments 02.07.07 & 02.09.07
IT Room Division 02.26.07
Tenant Comments 04.04.07
IT Room Growth 07.23.07 & 07.30.07

DRAWING NUMBER
SP1

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease"), made and effective as of _____, 2007 (the "Effective Date") is by and between Hospital Development of West Phoenix, Inc. ("Landlord") and City of Avondale ("Tenant").

RECITALS:

WHEREAS, Landlord is the lessee of that certain professional office building known as 140 N. Litchfield (the "Building"), located at 140 N. Litchfield Road, Goodyear, Arizona; and

WHEREAS, Tenant desires to lease office space in the Building.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements set forth below, the parties agree as follow

AGREEMENT:

1. *Leased Premises*. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, a portion of the Building designated as Suite 106 which the parties stipulate consists of 12,348 rentable square feet for all purposes under this Lease (and which shall not be subject to adjustment upward or downward), located on the 1st floor, as more particularly outlined for descriptive purposes only on Schedule 1 (the "Premises"). Tenant acknowledges and agrees that it is accepting the Premises shown on the floor plan and that for purposes herein the Premises shall be deemed to contain 12,348 rentable square feet regardless of how the Premises might be measured under alternative systems and regardless of structural columns or other interior appurtenances which might affect useable space.

2. *Parking and Common Areas*. In addition to the Premises, Tenant shall have nonexclusive use of the common areas of the Building, including parking areas, corridors, lobbies, elevators and rest rooms, for Tenant and Tenant's employees, clients and patrons, subject to the reasonable rules and regulations adopted from time to time by Landlord. Tenant's use and enjoyment of the parking and other common areas shall be subject to the rules and regulations of Landlord applicable to all tenants of the Building generally.

3. *Term*.

(a) The term ("Term") of this Lease shall be sixty (60) months, commencing on the earlier to occur of (i) substantial completion of the initial Tenant Improvements (as defined in the Addendum to Lease Agreement) or (ii) November 1, 2007 (the "Commencement Date"), and expiring on the 30th day of September, 2012, unless sooner terminated as provided herein. For purposes of this Lease, "substantial completion" with respect to the construction of the initial Tenant Improvements shall mean that (x) construction of the initial Tenant Improvements is substantially complete in accordance with the plans and specifications approved in accordance with the Addendum to Lease Agreement and (y) the City of Goodyear has issued its certificate of completion or equivalent for the construction of the initial Tenant Improvements.

(b) If the Premises is not surrendered at the end of the Term, Tenant shall indemnify Landlord against any loss or liability resulting from delay by Tenant in so surrendering the Premises, including without limitation, any claims made by any succeeding tenant based on such delay. If Tenant (or any successor-in-interest of Tenant), should remain in possession of the Premises after the expiration of this Lease, then: (a) such holding over shall be construed as a tenancy from month-to-month, subject to all the provisions of this Lease except that payments required by Tenant (including Rent) shall be subject to automatic increase to: (1) one hundred and six percent (106%) of the amounts paid (including Rent) payable in the last full calendar month of the Term for the first ninety (90) days of such holdover period;and (2) one hundred and fifty percent (150%) fo the amounts paid in the last full calendar month of the Term for any holdover period following such initial ninety (90) day holdover period; and (b) Tenant shall timely pay the above adjusted Rent and other sums at the times otherwise due if the Term had not so expired. Nothing contained herein shall be construed as Landlord's permission for Tenant to hold over or as limiting Landlord's remedies as to such holdover.

(c) Tenant shall vacate the Premises in the same condition and repair as received on the Commencement Date, casualty and ordinary wear and tear excepted, and, *provided* that Tenant is not in default under the terms hereof, shall remove from the Premises all Tenant's personal property in order that Landlord can repossess the Premises on the day this Lease or any extension hereof expires or is sooner terminated. Any removal of Tenant's property by Tenant shall be accomplished in a manner that will minimize any damage or injury to the Premises, and Tenant shall promptly repair any such damage or injury at its sole cost and expense.

4. *Base Rent.*

(a) If and when Tenant obtains approval of this Lease for any fiscal year and the full amount needed to make the necessary rental payments during such fiscal year is included in Tenant's budget, Tenant agrees to timely pay in full the rental payments for such fiscal year and initiate such administrative processes as are necessary to make such payments, including without limitation the requesting of a warrant for the payment of such rental payments. Each rental payment shall be for the use of the Premises for the period from the date of such payment through the end of the day immediately preceding the due date of the next rental payment. None of the provisions contained herein shall be deemed to represent or to constitute indebtedness or a general obligation of Tenant, and the full faith and credit of Tenant is not pledged to the payment of rental payments hereunder. This Lease, and all payments to be made by Tenant hereunder, are subject to annual appropriation and inclusion in Tenant's budget by Tenant. This Lease does not constitute a pledge of the general taxing authority of Tenant and Tenant shall not use general fund monies for payments unless: (i) the same shall have been duly budgeted by Tenant according to law, (ii) such

payment or payments shall be within the budget or expenditure limitations of the Constitution and laws of the State of Arizona, and (iii) such payment is not in conflict with the Constitution and laws of the State of Arizona. Subject to the foregoing, Tenant shall pay to Landlord as base rent, without notice or demand and without abatement, deduction or setoff, except as elsewhere provided herein, the total sum of $413,658.00 or $33.50 per square foot of rented space per year. Said base rent shall be paid in advance in equal monthly installments of $34,471.50 on the first day of each and every calendar month during the term of this Lease; *provided* that, in the event the Commencement Date is other than the first day of a calendar month, Tenant shall pay to Landlord upon the Commencement Date a pro-rata portion of monthly base rent for that portion of the calendar month remaining from the Commencement Date to the first day of the next following calendar month. The base rent and any other sums required by this Lease to be paid by Tenant are collectively referred to in this Lease as rent.

(b) The base rent shall be increased on each anniversary of the Commencement Date (the "adjustment date"), by three (3) percent of the previous year's annual base rent.

(c) No payment by Tenant or receipt by Landlord of an amount less than the full amount of rent due monthly under this Lease shall be considered anything other than a payment on account of the earliest rent due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as rent be deemed an accord and satisfaction. Landlord may accept such payment without prejudice to its right to recover the balance of the rent and to pursue any other remedy provided for in this Lease, or otherwise available at law or in equity.

(d) All rent due under this Lease shall be made payable to, and mailed or personally delivered to, Landlord at the following address, or such other place as may be designated in writing by Landlord:

Transwestern @ Abrazo Health Care
8620 N. 22nd Avenue, Suite 103
Phoenix, AZ 85021
Attn: Teri Lynn Meeker

(e) If any rent or other payment under this Lease is not paid when due, it shall bear interest at the rate of 15% per annum until paid, and any rental payment not paid on or before the tenth day of each month shall be subject to a late service charge of $25.00 per month. However, this provision shall not relieve Tenant from any default.

(f) The obligation of Tenant to pay rental payments and other payments due hereunder does not represent or constitute a general obligation of Tenant for which Tenant is obligated to levy or pledge any form of taxation and does not constitute an indebtedness of Tenant, the State of Arizona or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restrictions.

5. *Additional Rent*. All costs and such taxes, charges, costs and expenses that Tenant assumes or agrees to pay hereunder, together with all interest and penalties that may accrue thereon in the event of failure of Tenant to pay those items, and all other damages, costs, expenses and sums that Landlord may suffer or incur, or that may become due, by reason of any default of Tenant or failure by Tenant to comply with the terms and conditions of this Lease, shall be deemed to be additional rent, and, in the event of nonpayment, Landlord shall have all rights and remedies as herein provided for failure to pay rent.

6. *Delivery of Premises*. Tenant will receive the Premises "as-is". If the initial Tenant Improvements (as defined in the Addendum to Lease Agreement) are not substantially complete on or before the Commencement Date, this Lease shall not be void or voidable, but rent will commence upon the Commencement Date. If Tenant takes possession of the Premises and begins conducting business in the Premises before the Commencement Date, such possession shall be subject to the terms and conditions of this Lease and Tenant shall pay a pro rata portion of the monthly base rent to Landlord for each day of possession before the Commencement Date. Such occupancy shall not change the termination date.

7. *Security Deposit*. Intentionally Deleted.

8. *Use of Premises.*

(a) Tenant shall use and occupy the Premises throughout the term of the Lease solely for the purpose of operating and maintaining a municipal crisis and advocacy center for examining, counseling and treating individuals and investigatory purposes, and for no other purpose whatsoever. Tenant recognizes that these restrictions on the use of the Premises are a material consideration and inducement for Landlord to enter into this Lease.

(b) Tenant shall comply with all applicable laws, ordinances, rules, regulations and codes of all municipal, county, state and federal authorities pertaining to the use and occupation of the Premises. No use shall be made or permitted to be made of the Premises, nor acts done, that will increase the existing rate of insurance upon the Building, or cause a cancellation of any insurance policy covering the Building or any part thereof, nor shall Tenant keep, use or sell, or permit to be kept, used or sold, in or about the Premises, any article which may be prohibited by the standard form of fire insurance policies. Tenant shall not commit, or suffer to be committed, any waste upon the Premises, any public or private nuisance, or any other act or thing that may disturb the quiet enjoyment of any other tenant in the Building, nor shall Tenant allow the Premises to be used for any improper, immoral, unlawful or objectionable purpose. Tenant shall not use any apparatus, machinery or device in or about the Premises that makes any noise or sets up any vibration or that increases in any way the amount of electricity, water or compressed air agreed to be furnished or supplied under this Lease, if any, and Tenant shall not connect with electric wires, water or air pipes any apparatus, machinery or device without the consent of Landlord.

9. *Environmental Compliance.*

(a) "Hazardous Materials" means any chemical, pollutant, contaminant, waste, toxic substance, petroleum or petroleum product, material, substance or waste, the generation, ownership, control, use, presence, handling, storage, transportation, discharge or disposition of which is or hereafter becomes regulated by any federal, state or local governmental law, regulation, ordinance or authority, including, without limitation, petroleum, PCBs, asbestos, materials known to cause cancer or reproductive problems, infectious waste, medical waste, potentially infectious biomedical waste, low-level nuclear materials, special nuclear materials or nuclear-byproduct materials (within the meaning of the Atomic Energy Act of 1954), and substances defined as "hazardous substances," "hazardous materials," "toxic substances" or "hazardous wastes" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9601 *et seq*., the Hazardous Materials Transportation Act, 49 U.S.C. §1801, *et seq*., the Resource Conservation and Recovery Act, 42 U.S.C. § 6903 *et seq*., or any other law, and any law, ordinance or regulation dealing with underground storage tanks; and in the regulations adopted, published or promulgated pursuant to said laws, and in any other environmental law, regulation or ordinance now existing or hereinafter enacted (collectively, "Hazardous Materials Laws").

(b) Tenant and Tenant's officers, directors, employees, representatives, agents, contractors, subcontractors, successors, assigns, sublessees, concessionaires, invitees and any other occupants of the Premises (collectively, "Tenant Representatives") shall not use, generate, manufacture, refine, produce, process, store or dispose of, on, under or about the Premises or transport to or from the Premises any Hazardous Materials, except in compliance with applicable Hazardous Materials Laws. Furthermore, Tenant shall at its own expense procure, maintain, and comply with all conditions of, any and all permits, licenses and other governmental and regulatory approvals required for the storage, use or disposal by Tenant or any of Tenant's Representatives of Hazardous Materials on the Premises, including without limitation, discharge of materials or wastes into or through any sanitary sewer serving the Premises.

(c) If at any time during the term, any contamination of the Premises by Hazardous Materials shall occur where such contamination is caused by the act or omission of Tenant or Tenant's Representatives ("Tenant Contamination"), then Tenant, at Tenant's sole cost and expense, shall promptly and diligently remove such Hazardous Materials from the Premises or the property or the groundwater underlying the Premises in accordance with the requirements of the applicable Hazardous Materials Laws and industry standards then prevailing in the Hazardous Materials management and remediation industry in the state in which the Premises are located. Tenant shall not take any required remedial action in response to any Tenant's Contamination in or about the Premises or enter into any settlement agreement, consent, decree or other compromise in respect to any claims relating to any Tenant's Contamination without first notifying Landlord and any mortgagee of Tenant's intention to do so and affording Landlord and such mortgagee the opportunity to appear, intervene or otherwise appropriately assert and protect their respective interests with respect thereto. In addition to all other rights and remedies of Landlord hereunder, if Tenant does not promptly and diligently take all steps to prepare and obtain all necessary approvals of a remediation plan for any Tenant's Contamination, and thereafter commence the required remediation of any Hazardous Materials released or discharged in connection with Tenant's Contamination within 30 days after Landlord has approved Tenant's remediation plan and all necessary approvals and consents have been obtained and thereafter continue to prosecute said remediation to completion in accordance with the approved remediation plan, then Landlord, at its sole discretion, shall have the right, but not the obligation, to cause said remediation to be accomplished and, within 15 days after Landlord's demand therefor, Tenant shall reimburse Landlord all amounts paid or incurred by Landlord (together with interest on such amounts at the highest lawful rate until paid), when demand is accompanied by proof of payment by Landlord of the amounts demanded. Tenant shall promptly deliver to Landlord copies of hazardous waste manifests reflecting the legal and proper disposal of all Hazardous Materials removed from the Premises as part of Tenant's remediation of any Tenant's Contamination.

(d) Except as discharged into the sanitary sewer or otherwise removed from the Premises in strict accordance and conformity with all applicable Hazardous Materials Laws, Tenant shall cause any and all Hazardous Materials removed from the Premises as part of the required remediation of Tenant's Contamination to be removed and transported solely by duly licensed haulers to duly licensed facilities for final disposal of such materials and wastes.

(e) Each party hereto (a "Notifying Party") shall immediately notify the other party (a "Notice Recipient") in writing of: (i) any enforcement, clean-up, removal or other governmental or regulatory action instituted, contemplated or threatened concerning the Premises pursuant to any Hazardous Materials Laws; (ii) any claim made or threatened by any person against the Notifying Party or the Premises relating to damage contribution, cost recovery, compensation, loss or injury resulting from or claimed to result from any Hazardous Materials on or about the Premises; and (iii) any reports made to any environmental agency arising out of or in connection with any Hazardous Materials in or removed from the Premises, including any complaints, notices, warnings or asserted violations in connection therewith, all upon receipt by the Notifying Party of actual knowledge of any of the foregoing matters. Notifying Party shall also supply to Notice Recipient as promptly as possible, and in any event within five business days after Notifying Party first receives or sends the same, with copies of all claims, reports, complaints, notices, warnings or asserted violations relating in any way to the Premises or Tenant's use thereof.

(f) Landlord shall indemnify, defend (by counsel reasonably acceptable to Tenant), protect, and hold Tenant, and each of Tenant's employees, officers, directors, shareholders, affiliates, agents, attorneys, sublessees, successors and assigns, free and harmless from and against any and all claims, actions, causes of action, liabilities, penalties, forfeitures, costs, judgments, losses or expenses (including, without limitation, court costs and attorneys' fees) or death of or injury to any person or damage to any

property whatsoever, arising from or caused in whole or in part, directly or indirectly, by (i) the presence in, on, under or about the Premises or the release or discharge in or from the Premises of any Hazardous Materials, except for Hazardous Materials that are brought into the Premises by or at the direction of Tenant and except for any Tenant's Contamination, (ii) the failure by Landlord, any agent, employee, contractor or representative of Landlord to comply with any Hazardous Materials Laws. Landlord's obligations hereunder shall not include any relocation costs and loss of revenue arising out of any interruption of the business of Tenant or any other occupant of the Premises caused by the presence of Hazardous Materials on, under or about the Premises. For purpose of this indemnity provision, any acts or omissions of Landlord, or by employees, agents, assignees, contractors or subcontractors of Landlord or others acting for or on behalf of Landlord (whether or not they are negligent, intentional, willful or unlawful) shall be strictly attributable to Landlord. The indemnification by Landlord contained in this Section shall not apply to any Tenant's Contamination or any violation by Tenant or any of Tenant's Representatives of any Hazardous Materials Laws.

(g) To the extent permitted by law, Tenant shall indemnify, defend (by counsel reasonably acceptable to Landlord), protect, and hold Landlord, and each of Landlord's partners (if applicable), employees, agents, attorneys, successors and assigns, free and harmless from and against any and all claims, actions, causes of action, liabilities, penalties, forfeitures, losses or expenses (including, without limitation, attorneys' fees and costs) or death of or injury to any person or damage to any property whatsoever, arising from or caused in whole or in part, directly or indirectly by (i) any Tenant's Contamination, or (ii) Tenant's failure to comply with any Hazardous Materials Laws with respect to the Premises. Tenant's obligations hereunder shall include, without limitation, and whether foreseeable or unforeseeable, all costs of any required or necessary repair, clean-up or detoxification or decontamination of the Premises, and the preparation and implementation of any closure, remedial action or other required plans in connection therewith. For purposes of the indemnity provisions hereof, any acts or omissions of Tenant, or by employees, agents, assignees, contractors or subcontractors of Tenant or others acting for or on behalf of Tenant (whether or not they are negligent, intentional, willful or unlawful) shall be strictly attributable to Tenant. The foregoing indemnification by Tenant shall not apply for conditions other than Tenant's Contamination, so that, without limitation, the indemnification contained in this Section shall not extend to conditions existing prior to the commencement of the Lease term.

(h) The allocations of responsibility between, obligations and liabilities undertaken by, and indemnifications given by, Landlord and Tenant under this Section shall be the exclusive provisions under this Lease applicable to the subject matter treated in this Section, and any other conflicting or inconsistent provisions contained in this Lease shall not apply with respect to said subject matter.

10. *Utilities and Services.*

(a) So long as Tenant is not in default under any provision of this Lease, and subject to the rules and regulations of the Building, Landlord shall furnish the Premises with heat and air conditioning during reasonable and customary business hours, as determined by Landlord in its reasonable discretion, but, at a minimum, shall provide such services from 7:00 a.m. through 5:00 p.m., Monday through Friday; provided, however, that heating and air conditioning shall be available at other times as needed, upon request and for no additional charge. Landlord shall furnish elevator services, if installed, normal water and normal electric current for lighting ordinary medical and/or business equipment and business appliances, such as electric system. Landlord may impose a reasonable charge for any utilities and services, including without limitation, air conditioning, electrical current, and water, provided by Landlord by reason of any use beyond that which Landlord agrees herein to furnish or because of special electrical, cooling and ventilating needs created by Tenant's telephone equipment, computers and other equipment or uses. Landlord shall maintain and repair the plumbing within the Premises, except where a repair is needed as a result of Tenant's, its employees' or invitees' negligence or misuse, and Tenant agrees to pay for all other services supplied to the Premises not enumerated in this Section. Landlord shall be responsible for the removal of Tenant's trash upon request by Tenant, but Tenant shall place said trash in containers within Tenant's Premises. Landlord shall maintain in good order and repair and in a clean and orderly condition the roof, exterior walls and public areas in the Building, together with any parking area owned by Landlord adjacent to the Building. Landlord shall provide cleaning services five days per week. Landlord, however, shall not be liable for the failure to furnish any of the foregoing when such failure is caused by conditions beyond the control of Landlord, or by accidents, repairs or strikes, nor shall such failure constitute an eviction; nor shall Landlord be liable under any circumstances for loss of or injury to property, however, occurring, through or in connection with or incidental to the furnishing of any of the foregoing.

(b) Notwithstanding any of the provisions of Section 10(a), Tenant shall be responsible for the lawful removal and cost of removing any infectious waste from the Premises.

11. *Tenant's Taxes and Assessments*. Tenant covenants and agrees to pay promptly when due all personal property taxes or other taxes and assessments levied and assessed by any governmental authority upon the property of Tenant in, upon or about the Premises.

12. *Alteration of Premises*. Tenant shall maintain the Premises in good condition and shall not alter, repair or change the Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld. Unless otherwise provided by written agreement, all alterations, improvements and changes that may be required shall be done either by or under the direction of Landlord, but at the expense of Tenant. Such alterations, improvements and changes shall remain a part of and be surrendered with the Premises unless Landlord directs, at the time the alterations, improvements or changes are made, the Premises to be restored to the original condition. Such restoration shall be accomplished within 30 days after the expiration of the Lease term at the expense of Tenant.

13. *Insurance*.

(a) Landlord, at its sole expense, shall maintain in full force and effect throughout the entire term of this Lease general fire and extended coverage insurance including vandalism and general comprehensive liability insurance, covering the Building.

(b) Tenant agrees to take out and keep in force during the term hereof, without expense to Landlord, comprehensive public liability insurance against liability for injury to or death of persons resulting from any occurrence in or about the Premises and for damage to property with limits of not less than $1,000,000 per claim and $3,000,000 annual aggregate, or such other limits that Landlord may reasonably determine from time to time are customary for insuring similar risks in the same area. Tenant shall procure such insurance from an insurance company that has a general policy holder's rating of not less than A- and a financial rating of not less than Class X as rated in the most current Best's Insurance Reports, and that is qualified to do business in the state in which the Premises are located, or another company acceptable to Landlord. All such insurance shall be issued in Tenant's name and name Landlord as an additional insured thereunder. Upon request, Tenant shall deliver to Landlord certificates of insurance evidencing the insurance described above and showing that premiums thereon have been paid. All such policies shall provide that they shall not be canceled nor coverage reduced by the insurer without first giving at least 30 days prior written notice to Landlord. If Tenant fails to procure and keep in force such insurance, Landlord may procure it, in which event the cost thereof with interest at the maximum lawful rate shall be payable immediately by Tenant to Landlord as additional rent. Such insurance may be provided by a blanket insurance policy covering the Premises, so long as the coverage on the Premises is at all times at least as great as that otherwise required by this Subsection. Notwithstanding the foregoing, Tenant shall provide all required insurance coverage hereunder through Tenant's self-insurance program so long as all of the foregoing risks are covered.

(c) To the extent of any and all insurance maintained by either Landlord or Tenant in any way connected with the Premises, Landlord and Tenant hereby waive on behalf of their respective insurance carrier any right of subrogation that may exist or arise as against the other party to this Lease.

(d) To the extent Landlord also maintains any insurance in any way connected with the Premises, Landlord's insurance shall be excess coverage and Tenant's insurance shall be primary coverage.

14. *Indemnification of Landlord*.

(a) Tenant, as a material part of the consideration to be rendered to Landlord under this Lease, hereby waives all claims against Landlord for damages to goods, wares and merchandise in and about the Premises and for injuries to persons in or about the Premises, from any cause beyond Landlord's control. Tenant shall save Landlord harmless for and on account of any and all damage or injury to any person or to the goods, wares or merchandise of any person arising from the failure of Tenant to keep the Premises to the extent Tenant is required to do so hereunder. To the extent permitted by law, Tenant shall indemnify, protect, defend and hold harmless Landlord from and against any and all claims, liabilities, losses, damages and suits arising from Tenant's use, occupancy or enjoyment of the Premises and its facilities or the conduct of Tenant's business or from any activity, work or thing done, permitted or suffered by Tenant, its agents or employees in or about the Premises, and Tenant shall further indemnify, protect, defend and hold harmless Landlord from and against any and all claims arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease or arising from any negligence of Tenant, or any of its agents, contractors, employees, invitees or licensees, and from and against all costs, attorneys' fees, expenses and liabilities of any kind incurred in or about any such claim or any action or proceeding brought thereon; and in case any action or proceeding be brought against Landlord by reason of any such claim, Tenant, upon notice from Landlord, shall defend the same at Tenant's sole cost and expense by counsel reasonably satisfactory to Landlord. Landlord shall not be liable to Tenant for any damage resulting from the negligence of any co-tenant or other occupant of the same Building or by any owner or occupant of adjoining or contiguous property. Tenant agrees to pay for all damages to the Building as well as all damage to Tenants or occupants thereof caused by Tenant's negligence, or misuse, or neglect of the Premises, its apparatus or appurtenances. The benefits of Tenant's indemnification of Landlord hereunder shall extend to the owner of the Building and any mortgagee of the Building or of the Premises. Tenant's indemnification obligations hereunder shall not extend to matters arising out of Landlord's or Landlord's agents' gross negligence or intentional conduct.

(b) In case Landlord shall, without fault on its part, be made a party to any litigation commenced by or against Tenant, Tenant shall pay all costs and reasonable attorney's fees incurred by such litigation and Tenant shall also pay all costs and reasonable attorney's fees incurred by or against Landlord in obtaining possession of the Premises upon the expiration or earlier termination of the term of this Lease or enforcing any other covenant of Tenant herein contained.

15. *Mechanic's Liens*. Tenant shall not suffer or permit any mechanic's liens or materialman's liens to be filed against the real property of which the Premises form a part or against Tenant's leasehold interest in the Premises. Landlord shall have the right at all reasonable times to post and keep posted on the Premises any notices that it deems necessary for protection from such liens. If such liens are so filed, Landlord, at its election, may pay and satisfy the same and, in such event the sums so paid by Landlord, and all actual and other expenses, including attorney's fees, so paid by Landlord, with interest thereon at the rate of ten percent per annum from the date of payment, shall be deemed to be additional rent due and payable by Tenant at once without notice or demand.

16. *Abandonment of Premises*. Tenant shall not vacate or abandon the Premises for a period longer than 60 days at any time during the term of this Lease and if Tenant shall abandon, vacate or surrender the Premises, or be dispossessed by process of law, or otherwise, any personal

property belonging to Tenant and left on the Premises shall be deemed abandoned, at the option of Landlord.

17. *Landlord's Right of Entry*. Landlord and its agents shall have the right to enter the Premises at reasonable times in order to examine it, to show it to prospective tenants, lenders, ground lessors, and purchasers, or to make such decorations, repairs, alterations, improvements or additions as Landlord shall deem necessary or desirable, including, but not limited to, the construction or improvement of offices adjacent to or above the Premises. Landlord will give Tenant reasonable notice of its requirements, and will be responsible for conducting such work so as not to impair Tenant's use and enjoyment of the Premises. Landlord shall be allowed to take all material into and upon the Premises that may be required therefor without the same constituting an eviction of Tenant in whole or in part. Tenant's rent shall be abated while Landlord is making decorations, repairs, alterations, improvements or additions only when there is a loss or interruption of the business of Tenant and only when such abatement is warranted by the circumstances. Landlord must approve the granting of such abatement in writing prior to the start of any improvements. If during the last month of the term Tenant has removed all or substantially all of Tenant's property from the Premises, Landlord may immediately enter and alter, renovate and redecorate the Premises without elimination or abatement of rent and without liability to Tenant for any compensation, and such acts shall have no effect upon this Lease. If Tenant is not personally present to open and permit any entry into the Premises at any time when for any reason an entry therein shall be necessary or permissible, Landlord or its agents may enter the Premises without rendering Landlord or such agents liable therefor, and without in any manner affecting the obligations and covenants of this Lease. Landlord's right to re-entry shall not be deemed to impose upon Landlord any obligation, responsibility or liability for the care, supervision or repair of the Premises other than as herein provided, except that Landlord shall use reasonable care to prevent loss or damage to Tenant's property resulting from Landlord's entry.

18. *Destruction of Premises; Eminent Domain.*

(a) In the event of a partial destruction of the Premises during the term of this Lease from any cause, Landlord shall forthwith repair the same, *provided* that such repair can be made within six months under laws and regulations, and in such event rent will be abated until the damage is repaired, in proportion to the part of the Premises that is rendered untenantable, unless such damage was a result, in whole or in part, of the negligence or willful misconduct of Tenant. In addition, if the Building is destroyed to the extent of not less than 33-1/3% of the replacement cost thereof, Landlord may elect to terminate this Lease, whether or not the Premises are insured, by giving written notice thereof to Tenant. A total destruction of the Building shall terminate this Lease as of the date of destruction. Notwithstanding the aforesaid provisions, in the event the damage caused by the partial destruction of the Premises cannot be repaired within six months from the happening of such damage, then either Landlord or Tenant may terminate this Lease by giving written notice thereof to the other.

(b) For the purposes of this Lease, the word "condemned" is coextensive with the phrase "right to eminent domain," that is, the right of the people or government to take property for government use, and shall include the intention to condemn expressed in writing, the filing of any action or proceeding for condemnation and the granting of a deed in lieu of condemnation. If any action or proceeding is commenced for the condemnation of the Premises or any portion thereof, or if Landlord is advised in writing by any federal, state or local governmental agency or department or bureau, or any entity or body having the right or power of condemnation, of its intention to condemn all or any portion of the Premises, or if all or any portion of the Premises is condemned through such action, then and in any of said events: (i) Landlord may, without any obligation or liability to Tenant and without affecting the validity and existence of this Lease other than as hereafter expressly provided, agree to sell and/or convey to the condemnor, without first requiring that any action or proceeding be instituted, or if such action or proceeding shall have been instituted, without requiring any trial or hearing thereof, and Landlord is expressly empowered to stipulate to judgment therein, the part and portion of the Premises sought by the condemnor, free from this Lease and the rights of Tenant hereunder; (ii) Tenant shall have no claim against Landlord or be entitled to any part or portion of the amount that may be paid or awarded as a result of the sale, for the reasons as aforesaid, or condemnation of the Premises or any part or portion thereof. Tenant hereby assigns, transfers and sets over unto Landlord any interest, if any, which Tenant would, but for this provision, have in, to, upon or against the Premises or any part or portion thereof, or the amount agreed to be paid and/or awarded and paid to Landlord, excepting only Tenant shall be entitled to seek to recover as against the condemnor, and Landlord shall have no claim for or thereto, for Tenant's trade fixtures and any removable structures and improvements erected and made by Tenant to or upon the Premises which Tenant is entitled to remove at the expiration of this Lease. If only a part of the Premises is condemned and taken, and the remaining portion is not suitable for the purposes for which Tenant has leased the Premises, either Landlord or Tenant shall have the option to terminate this Lease at the time of such taking. If by such condemnation and taking only a part of the Premises is taken, and the remaining part thereof is suitable for the purposes for which Tenant has leased the Premises, this Lease shall continue, but the rental shall be reduced in an amount proportionate to the percentage that the floor area of the portion of the Premises taken by eminent domain bears to the floor area of the entire Premises prior to the taking.

19. Intentionally Deleted.

20. Intentionally Deleted.

21. *Bankruptcy*. If Tenant makes a general assignment for the benefit of creditors, or takes any action under any insolvency or bankruptcy act, or if a receiver is appointed to take possession of all or substantially all of the assets of Tenant (and Tenant fails to terminate such receivership within 60 days after such appointment), or if Tenant is adjudicated a bankrupt, then this Lease shall terminate upon the occurrence of any such event and shall expire as fully and completely as if the day of the occurrence of such contingency were the date specified in

this Lease for the expiration thereof. Tenant will then quit and surrender the Premises to Landlord.

22. *Default*. If Tenant fails to pay any rent or other sum due hereunder at the time set forth in this Lease, and if Tenant continues to fail to pay same within five days after written notice from Landlord, or if Tenant fails to perform or observe any other covenant to be performed by Tenant under this Lease and continues to fail to perform or observe same for a period of 15 days after receipt of written notice from Landlord pertaining thereto (or a reasonable period of time, using the due diligence, if such default cannot be cured within said 15 day period), then Tenant shall have breached this Lease and Landlord, at its option, may have any one or more of the following remedies, in addition to other rights or remedies it may have at law or in equity:

(a) Continue this Lease in effect by not terminating Tenant's right of possession of the Premises, and thereby be entitled to enforce all Landlord's rights and remedies under this Lease, including the right to recover the rent specified in this Lease as it becomes due under this Lease; or

(b) Terminate Tenant's right to possession of the Premises, thereby terminating this Lease, and recover as damages from Tenant:

(1) The worth at the time of award of the unpaid rent that had been earned at the time of termination of the Lease;

(2) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination of the Lease until the time of award exceeds the amount of rental loss that Tenant proves could have been reasonably avoided;

(3) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of rental loss that Tenant proves could be reasonably avoided; and

(4) Any other amount necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform its obligations under this Lease; or

(c) In lieu of, or in addition to, bringing an action for any or all of the recoveries described in Section 23(b), bring an action to recover and regain possession of the Premises in the manner provided by the laws of unlawful detainer then in effect in the state in which the Premises are located.

(d) Landlord shall not be in default of any of its obligations hereunder unless and until Landlord shall have failed to perform such obligations within thirty (30) days after written notice to Landlord from Tenant, specifically describing such failure. Anything in this Lease to the contrary notwithstanding, Landlord shall also be in default in the event of (i) the filing of a petition by or against Landlord under the Federal Bankruptcy Code or any state bankruptcy or insolvency law (unless, in the case of a petition filed against Landlord, Landlord contests such petition and obtains a dismissal thereof within sixty (60) days after the filing); (ii) Landlord making any general assignment for the benefit of its creditors; (iii) the appointment of a trustee for or receiver of Landlord to take possession of the Premises or Landlord's interest under the Lease (unless Landlord contests such appointment and obtains repossession of the same within sixty (60) days; or (iv) Landlord's acknowledgement in writing that it is insolvent or generally unable to pay its obligations as they fall due.

23. *Surrender of Lease*. The voluntary or other surrender of this Lease by Tenant, or mutual cancellation thereof, shall not cause a merger at law and shall, at the option of Landlord, terminate all or any existing subleases or subtenancies, or may, at the option of Landlord, operate as an assignment of any or all such subleases or subtenancies to Landlord.

24. *Rules and Regulations*. Tenant shall comply with all reasonable non-discriminatory rules and regulations now or hereinafter adopted by Landlord during the existence of this Lease posted in or about the Building, or otherwise brought to the notice of Tenant in writing, both in regard to the Building as a whole and to the Premises. Current rules and regulations governing conduct in the Building are attached hereto as Exhibit A.

25. *Notice*. All notices or consents required or permitted under this Lease shall be given in writing and delivered in person or by United States mail, by certified or registered mail, return receipt requested, in which case it shall be deemed delivered three days after deposit in the U.S. mail. Notice to Landlord, if mailed, shall be addressed as follows:

Abrazo Health Care
8620 N. 22nd Avenue, Suite 103
Phoenix, AZ 85021
Attn: Sally Aubrey

All notices to be given to Tenant shall be addressed as follows:

City of Avondale
Attn.: City Manager
11465 West Civic Center Drive, Suite 220
Avondale, Arizona 85323

Any change of address for Tenant or Landlord shall be effective when given in accordance with this Section. Notice need be sent to only one person where Tenant consists of multiple persons.

26. *Assignment and Subletting*. Tenant shall not assign this Lease or sublease all or any part of the Premises under this Lease, except with the prior written consent of Landlord.

27. *Attorney's Fees*. If either party takes any legal or equitable action to enforce this Lease, the prevailing party shall be entitled to recover all fees, costs and expenses, together with reasonable attorney's fees, incurred in connection with such action. The fees, costs and expenses so recovered shall include those incurred in prosecuting or defending any appeal and shall be awarded for any

supplemental proceedings until final judgment is satisfied in full. The prevailing party shall also be entitled to reasonable attorney's fees incurred to collect or enforce the judgment.

28. *Governing Law*. The laws of the state in which the Premises are located shall govern this Lease.

29. *Brokers*. Tenant and Landlord each warrants to the other that it has had no dealings with any real estate broker or agent in connection with the negotiation of this Lease, excepting only Transwestern, and that it knows of no other real estate broker or agent who is or might be entitled to a commission in connection with this Lease.

30. *Judgment Costs*. Should Landlord, without fault on Landlord's part, be made a party to any litigation instituted by or against Tenant, or by or against any person holding the Premises by license of Tenant, or for foreclosure of any lien for labor or material furnished to or for Tenant, or any such person, or otherwise arising out of or resulting from any act or transaction of Tenant, or of any such person, Tenant covenants to pay to Landlord, the amount of any judgment rendered against Landlord or the Premises or any part thereof, and all costs and expenses, including actual attorney's fees incurred by Landlord in connection with such litigation.

31. *Subordination of Lease*. This Lease is subject and subordinate to any lease affecting the Building or the Premises and to all mortgages or deeds of trust that may now or hereafter be placed upon or affect the property or Building of which the Premises are a part, and to all renewals, modifications, consolidations, replacements and extensions hereof. This clause shall be self-operative, and no further instrument or subordination shall be necessary unless requested by Landlord's lessor or a mortgagee. In furtherance of such subordination, Tenant shall execute any document that Landlord or Landlord's lessor or mortgagee, if any, may reasonably request.

32. *Estoppel Certificates*. Tenant shall, at any time and from time to time, but not more than three (3) times per year upon not less than ten days prior request by Landlord, execute, acknowledge and deliver to Landlord, or to such other person who may be designated in such request, a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications) and, if so, the dates to which the rent and any other charges have been paid in advance. Any prospective purchaser, owner or mortgagee of the Building or the Premises may rely on any statement delivered pursuant to this Section. Tenant hereby appoints Landlord as attorney-in-fact to execute an estoppel certificate on behalf of Tenant if Tenant fails to execute and deliver to Landlord an estoppel certificate as described above within ten days after Landlord's request therefor.

33. *Quiet Enjoyment*. Landlord warrants that Tenant shall be granted peaceable and quiet enjoyment of the Premises free from any eviction or interference by Landlord, subject to the terms hereof, if Tenant pays the rent and other charges provided herein, and otherwise fully and punctually performs the terms and conditions imposed on Tenant.

34. *General Provisions*.

(a) The waiver by Landlord of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein. Tenant of any term, condition or covenant of this Lease hereunder shall not construe the acceptance of rent to be a waiver of any breach.

(b) It is understood and agreed that the remedies herein given to Landlord shall be cumulative, and the exercise of any one remedy of Landlord shall not be to the exclusion of any other remedy.

(c) The covenants and conditions herein contained shall, subject to the provisions as to assignment, apply to and bind the heirs, successors, executors, administrators and assigns of all of the parties hereto; and all of the parties hereto shall be jointly and severally liable hereunder.

(d) Time is of the essence of this Lease.

(e) This Lease, any exhibits referred to in this Lease, and any addendums executed concurrently with this Lease, cover in full each and every agreement of every kind or nature, whatsoever kind or nature are merged herein, and any reference to the Lease shall mean this Lease, as amended from time to time, and any and all exhibits and addendums. Landlord has made no representations or promises whatsoever with respect to the Premises, except those contained herein, and no other person, firm or corporation has at any time had any authority from Landlord to make any representations or promises on behalf of Landlord, and Tenant expressly agrees that, if any such representations or promises have been made by others, Tenant hereby waives all right to rely thereon. No verbal agreement or implied covenant shall be held to vary the provisions hereof, any statute, law or custom to the contrary notwithstanding.

(f) The captions of Sections of this Lease are for convenience only, and do not in any way limit or amplify the terms and provisions of this Lease.

(g) If any term, covenant, condition or provision of this Lease is held by a court competent of jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

35. Intentionally Deleted.

36. *Contingency*. This lease is contingent on the successful early termination of the current subtenant of Suite 106 as well as the Master Landlord's (as defined below) and Sublandlord's (as defined below) consent of this sublease. Master Landlord's consent must include an acknowledgment and approval by Master Landlord of Tenant's proposed use of the Premises as a municipal crisis and advocacy center, as well as this agreement.

Additionally, Master Landlord's and Sublandlord's consents must include an agreement by Master Landlord and Sublandlord, respectively, to provide to Tenant written notice of any default under the Master Lease or Sublease Agreement, as applicable. If current subtenant's lease has not been terminated and/or the required Landlord's and Sublandlord's consents have not been obtained and/or possession of the Premises has not been delivered to Tenant on or before November 1, 2007, Tenant or Landlord may terminate this Lease upon written notice to the other party and the parties shall thereafter have no further liability or obligation hereunder.

37. *Master Lease*. This Lease is and shall be at all times subject and subordinate to the Sublease Agreement between Samaritan Health System ("Sublandlord") and West Valley Health Center, LLC dated June 1, 1998 (the "Sublease Agreement"). The Sublease Agreement is further subject and subordinate to that certain Samaritan West Valley Health Center Lease between SGD West Valley LLC (successor to Litchvan Investments, L.L.C.) ("Master Landlord") and Samaritan Health System, an Arizona not-for-profit corporation dated as of March 4, 1997 (the "Master Lease"), as amended. West Valley Health Center, LLC's leasehold interest under the Sublease Agreement was assigned to VHS Acquisition Corporation by Assignment and Assumption of Sublease Agreement dated August 31, 1999 and was assigned to Hospital Development of West Phoenix, Inc. by Sublease Assignment and Assumption dated May 23, 2007.

38. *Provisions Regarding Master Lease and Sublease Agreement.*

(a) Notwithstanding anything to the contrary contained herein or in the Sublease Agreement, none of the terms of the Master Lease are incorporated into this Lease.

(b) Landlord represents and warrants to Tenant that, to the best of Landlord's knowledge, the early termination right set forth in Section 3.4 of the Master Lease has not been exercised.

(c) Except for those provisions of the Sublease Agreement expressly excluded and deleted from this Lease as set forth below, from and after the Commencement Date and during the Term, Tenant will assume, perform and comply with Landlord's obligations as "Sublessee" under the Sublease Agreement with respect to the Premises. Tenant shall not commit any act or omission that will violate any of the provisions of the Sublease Agreement. Anything in this Lease to the contrary notwithstanding, the following provisions of the Sublease Agreement are not incorporated into this Lease and are deleted for purposes of this Lease: (i) Section 2; (ii) Section 4; (iii) Section 7; (iv) Section 8; (v) Section 10; and (vi) Section 12.1.

(d) Landlord covenants, represents and warrants to Tenant as follows:

(i) In the event payments of rent are made to Landlord in accordance with the provisions hereof, Landlord will forward to Sublandlord such rent as is due and payable to Sublandlord pursuant to the Sublease Agreement.

(ii) Upon reasonable written notice from tenant, Landlord will use reasonable efforts to cause Sublandlord to perform any or all of Sublandlord's obligations under the Sublease Agreement, but only to the extent that such "reasonable efforts" of Landlord will not require Landlord to incur costs or to institute or defend legal proceedings.

(iii) The Sublease Agreement is in full force and effect and is valid, binding and enforceable against Landlord and, to Landlord's knowledge Sublandlord, in accordance with its terms. As of the date hereof, neither Landlord nor, to Landlord's knowledge, Sublandlord, is in default under the Sublease Agreement.

(iv) Landlord is authorized to enter into this Lease and to enter into the transactions contemplated by and to carry out its obligations under this Lease and Landlord has duly authorized and executed this Sublease.

(v) To the best of Landlord's knowledge: (a) Landlord has no notice of any violation with regard to any applicable law, ordinance, governmental rule or regulation or covenant relating to the Premises by any governmental authority or person; and (b) as of the date of this Lease, the Premises complies with all applicable building codes.

(vi) So long as no default has occurred and is then continuing under this Lease beyond any applicable notice and grace periods, Tenant shall have peaceful possession and quiet enjoyment of the Premises during the Term.

(e) Landlord shall not agree with Sublandlord to the voluntary termination of the Sublease Agreement prior to the expiration of the term of the Master Lease. Except for any amendment or waiver required by the terms of the Sublease Agreement, Landlord shall not agree to any amendment of the Sublease Agreement that (i) increases Tenant's rent in any manner, (ii) imposes upon Tenant additional obligations under this Lease, (iii) materially decreases Tenant's rights under this Lease, or (iv) waives any of Landlord's rights or remedies under the Sublease Agreement respecting the Premises without the written consent of Tenant. Without limitation of the foregoing, Landlord shall not agree to amend the Sublease Agreement to shorten the term of the Sublease Agreement without the written consent of Tenant.

39. *Annual Appropriation.* This Lease is subject to annual appropriations as specified by Arizona law. In the event Tenant does not receive the appropriation of funds necessary to continue this Lease, Tenant reserves the right to terminate this Lease upon 120 days advance written notice to Landlord. Such termination shall be without penalty or liability to Tenant of any kind provided that Tenant shall pay all amounts due through the end of such 120 day period and all amounts described in Section 3 of the Addendum to Lease Agreement executed simultaneously herewith.

40. *Cancellations.* All parties acknowledge that this Lease is subject to cancellation pursuant to A.R.S. § 38-511, as amended, the provisions of which are hereby incorporated herein.

THE PARTIES have executed this Lease in duplicate effective as of the day and year first above written.

LANDLORD: HOSPITAL DEVELOPMENT OF WEST PHOENIX, INC.

By: _____
Name: _____
Title: _____
Date signed: _____

TENANT: CITY OF AVONDALE

By: _____
Name: _____
Title: _____
Date signed: _____

SCHEDULE 1

OUTLINE OF PREMISES

EXHIBIT A

RULES AND REGULATIONS

1. The sash doors, sashes, windows, glass doors, lights and skylights that reflect or admit light into the halls or other places of the Building shall not be covered or obstructed, except as designated by Landlord. All doors opening onto public corridors shall be kept closed, except when in use for ingress and egress.

2. No sign, advertisement or notice shall be inscribed, painted or fixed on or to any part of the outside or inside of the Building unless it is of such color, size and style, and in such a place upon or in the Building, as may be designated by Landlord. Landlord will paint all signs on doors or window glass for tenants, but tenant shall pay the cost of painting.

3. Landlord shall direct the introduction and connection of electric wiring of any kind and no boring or cutting for wires will be allowed except with the consent of Landlord.

4. No tenant may place additional locks on any door in the Building unless the written consent of Landlord is first obtained. Landlord will furnish two keys for each suite, and any additional key required must be obtained from Landlord. Tenants shall be charged for additional keys at Landlord's cost. All keys shall be surrendered to Landlord upon termination of the tenancy. Tenant will not change any of its locks without first notifying Landlord in writing of such change and providing to Landlord a set of keys or the combination.

5. Tenant shall not employ any person or persons other than the janitor of Landlord for the purposes of cleaning the leased Premises without the consent of Landlord. Landlord shall be in no way responsible to any tenant for any loss of property from the leased premises, however occurring, or for any damage done to the effects of any tenants by the janitor or any other of Landlord's employees, or by any other person. Janitor's service will not include the cleaning of carpets and rugs.

6. All freight must be moved into, within and out of the Building under the supervision of Landlord, and according to such regulations as may be posted in the Office of the Building, but Landlord will not be responsible for loss or damage to such freight from any cause.

7. The requirements of tenants will be accommodated only upon application at the Office of the Building. Landlord's employees shall not perform any work or do anything outside of their regular duties unless under special instructions from the Office, and no employee shall admit any person (tenant or otherwise) to any office without instructions from the Office of the Building.

8. Landlord reserves the right to change the name of the Building, and from time to time make such alterations and repairs as deemed advisable by Landlord to the exterior of the Building and to the lobby and other public areas of which the leased premises are a part, so long as access to the premises is not materially impaired.

9. Tenant shall not use the name of the Building for any purpose other than that of business address of Tenant, and shall not use any picture or likeness of the Building in any circular, notices, advertisements or correspondence without the express written approval of Landlord.

10. The water and wash closets and other plumbing fixtures shall not be used for any purpose other than those for which they were constructed, and no sweeping, rubbish, rags or other substances shall be thrown therein. All damages resulting from any misuse of the fixtures shall be borne by Tenant who, or whose servants, employees, agents, visitors, or licensees shall have caused the same.

11. No tenant shall mark, paint, drill into, or in any way deface any part of the Premises or the Building. No boring, cutting or stringing of wires or laying of linoleum or other similar floor coverings shall be permitted, except with the prior written consent of Landlord, and as Landlord may direct. Tenant may hang pictures and plaques in the leased premises.

12. No bicycles, vehicles or animals of any kind shall be brought into or kept in or about the Premises, and no cooking shall be done or permitted by any tenant on the Premises, except that the preparation of coffee, tea, hot chocolate and similar items for tenants and their employees and the use of microwave ovens shall be permitted. No tenant shall cause or permit any unusual or objectionable odors to be produced upon or permeate from the Premises. No Tenant shall keep, store or sell intoxicating liquors in or from the Premises.

13. The leased premises shall not be used for manufacturing or for the storage of merchandise except as such storage may be incidental to the permitted use of the Premises.

14. No tenant, nor any tenant's servants, employees, agents, visitors or licensees, shall at any time bring or keep upon the Premises any inflammable, combustible or explosive fluid, chemical or substance, other than chemicals necessary for the practice of medicine.

15. Canvassing, soliciting and peddling in the Building are prohibited and each tenant shall cooperate to prevent the same.

16. At any time while the Building is in charge of a watchman, any person entering or leaving the Building may be questioned by him as to his or her business in the building; and anyone not satisfying the watchman of his or her right to enter the Building may be removed by him.

17. Landlord reserves the right to make such other and further rules and regulations as in its judgment may from time to time be reasonably necessary for the safety and cleanliness of and for the preservation of good order in the Building and the Premises therein.

18. The Building is a non-smoking facility. Smoking is prohibited within the Building. Smoking is not permitted at the front or back entrances of the Building.

ADDENDUM TO LEASE AGREEMENT
INITIAL TENANT IMPROVEMENTS

THIS ADDENDUM, entered into on the ___ day of _____, 20___, is attached to and made a part of that certain Lease dated the ___ day of _____, 20___ by and between CITY OF AVONDALE (hereinafter called "Tenant") and HOSPITAL DEVELOPMENT OF WEST PHOENIX, INC. (hereinafter called "Landlord"). In the event of any conflict between the provisions of this Addendum and the provisions of the Lease, the provisions of this Addendum shall prevail.

1. *Term Commencement Date*. The Term shall begin on the earlier to occur of (i) substantial completion of the initial Tenant Improvements or (ii) November 1, 2007.

2. *Initial Tenant Improvements*.

(a) *Tenant Improvements*. Subject to approval of final plans and specifications and payment by Tenant of any excess cost, Landlord shall construct initial tenant improvements ("Tenant Improvements") in accordance with the Improvement Allowance described in Section 2(d) of this Addendum. The Tenant Improvements shall consist of the work set forth on Exhbit "A" to this Addendum which may include wiring/cabling the Premises for phone and data equipment.

(b) *Final Plans*. Landlord shall submit to Tenant for its review and approval, which approval shall not be unreasonably withheld, final architectural working drawings and specifications (the "Final Plans") for Tenant Improvements. Tenant shall either approve or disapprove the Final Plans within ten days after receipt thereof. In the event that Tenant shall disapprove the Final Plans, Tenant shall specify in reasonable detail the reasons therefor and Landlord shall revise and resubmit the Final Plans accordingly. If Tenant shall not approve or disapprove the Final Plans within such ten-day period, as evidenced by written notice to Landlord, Tenant shall be deemed to have approved the Final Plans. Tenant Improvements shall be performed substantially in accordance with the Final Plans, and in a good workmanlike manner.

(c) *Governmental Approvals*. Landlord shall be responsible for obtaining approval of the Final Plans by all governmental agencies having jurisdiction over the premises and for obtaining all necessary licenses and permits in connection with Tenant Improvements, including temporary and permanent Certificates of Occupancy for the premises. Tenant shall reasonably cooperate with Landlord in obtaining such approvals and permits.

(d) *Improvement Allowance*. Landlord shall contribute a sum of up to $300,000.00 ("Improvement Allowance") toward the cost of said Initial Tenant Improvements and governmental approvals. Tenant shall be responsible for all costs and expenses incurred in excess of the Improvement Allowance ("Tenant's Improvement Allowance"). Tenant will also be responsible for a construction management fee of three percent (3%) of all construction costs to cover the cost of Landlord's construction supervision. The construction management fee may be taken out of the Improvement Allowance. Landlord shall not authorize the construction of any material Tenant Improvements that will result in additional costs to Tenant unless Tenant shall have approved the additional scope of work. Tenant, at its sole cost and expense, may audit the invoices and other evidence of the expenditures in order to confirm that such evidence is consistent with the other information received by Landlord and Tenant as to the projected and actual costs of Tenant Improvements, such audit to be conducted during reasonable times at Landlord's offices or such other place as the parties shall mutually agree upon.

(e) *Quality Control*. Landlord shall receive and forward as required shop drawings, material transmittals, etc., make recommendations as to approval or disapproval and, where substitutions are proposed, make recommendations as to their suitability. Final approval authority shall rest with Tenant, not to be unreasonably withheld. Landlord shall schedule and conduct pre-final and final inspections and, in conjunction with Tenant, develop punch lists and obtain their completion. Landlord shall arrange for and conduct required regulatory inspections and provide "as built" drawings.

(f) *Inspection by Tenant*. Tenant and Tenant's Representative shall at all times have free access to the Premises for inspection purposes. In addition, if the final plans, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any of the work to be inspected, tested or approved, Landlord shall give Tenant timely notice of its readiness and of the date arranged so that Tenant may observe such inspection, testing or approval. If Tenant wishes to observe the inspections, tests or approvals required hereby, it will do so or promptly waive the right thereto in writing.

(g) *Completion*. Landlord shall obtain the building permits to construct Tenant Improvements as soon as possible. Landlord shall complete the construction of Tenant Improvements as soon as reasonably possible after obtaining the necessary building permits. Landlord shall use commercially reasonable efforts to complete construction of Tenant Improvements by November 1, 2007 (the "Estimated Completion Date"). If Tenant Improvements are not completed on or before the Estimated Completion Date, the provisions of Section 6 of the Lease shall govern.

(h) *Warranty re: Improvements*. In lieu of all other warranties, express or implied concerning latent or patent defects, Landlord warrants that the Tenant Improvements will be free from defects in workmanship and/or material for a period of 90 days from the Commencement Date. If Landlord receives, within said time period, written notification from Tenant setting forth with specificity any such defects, Landlord shall promptly, at its sole cost and expense, repair the same. If Landlord does not receive written notification within said time period (time being of the essence hereof), it shall be conclusively presumed that Landlord has performed all

obligations required of it by reason of the construction of Tenant Improvements. Landlord will assign to Tenant all warranties received by Landlord on equipment installed in the Premises that is not to be maintained by Landlord. Tenant hereby reassigns said warranties to Landlord as of the expiration or earlier termination of this Lease.

3. *Default*. Notwithstanding any other provision herein or in the Lease to the contrary, if Tenant shall be in default of the Lease or if Tenant terminates this Lease pursuant to Section 39 of the Lease, then as part of Landlord's damages (and in addition to any other rights or remedies available to Landlord), Tenant shall immediately pay to Landlord an amount equal to any remaining unamortized portion of the Improvement Allowance actually paid by Landlord pursuant to Section 2(d) of this Addendum amortized at an annual six percent (6%) interest rate, which shall be calculated by multiplying 1/60th of the Improvement Allowance actually paid by Landlord, times the number of months remaining of the Term at the time of Tenant's default or termination..

THE PARTIES have executed this Addendum in duplicate as of the day and year first above written.

LANDLORD:

HOSPITAL DEVELOPMENT OF WEST PHOENIX, INC.

By: _____
Name: _____
Title: _____

TENANT:

CITY OF AVONDALE

By: _____
Name: _____
Title: _____

CITY COUNCIL REPORT

SUBJECT:
Professional service agreement with D&L Engineering & Controls to prepare a SCADA system master plan

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Daniel Davis, Acting Water Resources Director (623)333-2411

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council approve a Professional Services Agreement with DL Engineering & Controls to prepare the Water Resources Master SCADA Five Year Plan in an amount not to exceed $75,442 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

BACKGROUND:

Since the late 1990's the City's Water Production and Wastewater Treatment systems have operated with the aid of Supervisory Control and Data Acquisition (SCADA) systems. SCADA systems are computerized processes used to perform data collection from field locations, using this information to control wells, booster pumps or other operating systems within water production or wastewater treatment facilities. Our SCADA systems will also notify operators, via cell phones, of a variety of warnings and alarms associated with equipment and/or system failures.
As new facilities are constructed additional components are added to the SCADA system. With this growth, staff has identified the need to develop a master plan for the Water and Wastewater SCADA systems to ensure that as the system expands, new equipment can be fully utilized by staff and is integrated with existing infrastructure. The master plan will also provide direction for integrating the water and wastewater systems, which currently are operated as independent systems.

DISCUSSION:

In accordance with procurement rules, a selection committee was formed with representation from Water Resources Administration and Wastewater Treatment. Using the current consultants pre-qualifications list, the selection committee evaluated Statements of Qualifications from three consulting firms, DarCor, DL Engineering & Controls, and Industrial Facilities Engineering, Inc. The firms where evaluated based on a number of criteria including; previous municipal experience similar to this project, personnel qualifications and the capabilities of the consultant to complete this project. The committee unanimously ranked DL Engineering as the most qualified firm to complete the Master SCADA Five Year Plan. Staff met with representatives from DL Engineering to discuss project deliverables and project costs. The following summarizes the scope of services developed by staff and the consultant:
· Develop recommendations to optimize the master SCADA system.
· Prepare short range budget projections based on implementation schedule.
· Provide recommendations to integrate the Water and Wastewater SCADA systems.
· Create program documentation for existing controllers.
· Develop standardized specifications for future SCADA equipment.

BUDGETARY IMPACT:

Funding for this project is available, and will be shared by the water and wastewater administration operating budgets (501-9110-00-6180 and 503-9210-00-6180)

RECOMENDATION:

Staff recommends that the City Council approve a Professional Services Agreement with DL Engineering & Controls to prepare the Water Resources Master SCADA Five Year Plan in an amount not to exceed $75,442 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

- PSA - DL Engineering

PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
DL ENGINEERING & CONTROLS, INC.

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made as of August 20, 2007, between the City of Avondale, an Arizona municipal corporation (the "City") and DL Engineering & Controls, Inc., an Arizona corporation (the "Consultant").

RECITALS

A. The City issued a Request for Qualifications (the "RFQ") seeking statements of qualifications from Consultants for professional consulting services.

B. The Consultant responded to the RFQ and the City desires to enter into an Agreement with the Consultant for the City's Master SCADA Five Year Plan including the water and wastewater system (the "Services").

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, and the following mutual covenants and conditions, the City and the Consultant hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until December 21, 2007.

2. Scope of Work. Consultant shall provide the Services as set forth in the Scope of Work, attached hereto as Exhibit A and incorporated herein by reference.

3. Compensation. The City shall pay Consultant a price not to exceed $75,442.00 for the Services as set forth Exhibit A.

4. Payments. The City shall pay the Consultant monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. The invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

5. Documents. All documents prepared and submitted to the City pursuant to this Agreement shall be the property of the City.

6. Consultant Personnel. Consultant shall provide adequate, experienced personnel, capable of and devoted to the successful completion of the Services to be performed under this Agreement. Consultant agrees to assign specific individuals to key positions. Consultant agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the City. If key personnel are

not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Consultant shall immediately notify the City of same and shall, subject to the concurrence of the City, replace such personnel with personnel of substantially equal ability and qualifications.

7. Inspection; Acceptance. All work shall be subject to inspection and acceptance by the City at reasonable times during Consultant's performance. The Consultant shall provide and maintain a self-inspection system that is acceptable to the City.

8. Licenses; Materials. Consultant shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Consultant. The City has no obligation to provide Consultant, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement. The City has no obligation to provide tools, equipment or material to Consultant.

9. Performance Warranty. Consultant warrants that the Services rendered will conform to the requirements of this Agreement and to the highest professional standards in the field.

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

11. Insurance.

11.1 General.

a. Insurer Qualifications. Without limiting any obligations or liabilities of Consultant, Consultant shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies duly licensed by the State of Arizona with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the City. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option.

b. No Representation of Coverage Adequacy. By requiring insurance herein, the City does not represent that coverage and limits will be adequate to protect Consultant. The City reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement but has no obligation to do so. Failure to

demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

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

d. Coverage Term. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.

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

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

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

h. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the City. Consultant shall be solely responsible for any such deductible or self-insured retention amount.

i. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Consultant shall execute written agreement with Subcontractor containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the City and Consultant. Consultant shall be responsible for executing the agreement with Subcontractor and obtaining certificates of insurance verifying the insurance requirements.

j. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Consultant shall furnish the City with certificate(s) of insurance, or formal endorsements as required by this Agreement, issued by Consultant's insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. If a certificate of insurance is submitted as verification of coverage, the City shall reasonably rely upon the certificate of insurance as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the above-cited policies expire during the life of this Agreement, it shall be Consultant's responsibility to forward renewal certificates within ten days after the renewal date containing all the aforementioned insurance provisions. Additionally certificates of insurance submitted without referencing a contract number will be subject to rejection and returned or discarded. Certificates of insurance shall specifically include the following provisions:

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

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

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

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

(2) Consultant's insurance shall be primary insurance as respects performance of the Agreement.

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

(4) A 30-day advance notice cancellation provision. If ACORD certificate of insurance form is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

11.2 Required Insurance Coverage.

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

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

c. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Consultant engages in any professional services or work adjunct or residual to performing the work under this Agreement, the Consultant shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Consultant, or anyone employed by the Consultant, or anyone for whose negligent acts, mistakes, errors and omissions the Consultant is legally liable, with an unimpaired liability insurance limit of $2,000,000 each claim and $2,000,000 all claims. In the event the Professional Liability insurance policy is written on a "claims made" basis, coverage shall extend for three years past completion and acceptance of the Services, and the Project Manager shall be required to submit certificates of insurance evidencing proper coverage is in effect as required above.

d. Workers' Compensation Insurance. Consultant shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state

statutes having jurisdiction over Consultant's employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than $500,000 for each accident, $500,000 disease for each employee and $1,000,000 disease policy limit.

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

12. Applicable Law; Venue. In the performance of this Agreement, Consultant shall abide by and conform to any and all laws of the United States, State of Arizona and City of Avondale, including but not limited to, federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this Agreement. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in the State of Arizona.

13. Termination; Cancellation.

13.1 For City's Convenience. This Agreement is for the convenience of the City and, as such, may be terminated without cause after receipt by Consultant of written notice by the City. Upon termination for convenience, Consultant shall be paid for all undisputed services performed to the termination date.

13.2 For Cause. This Agreement may be terminated by either party upon 30 days' written notice should the other party fail to substantially perform in accordance with this Agreement's terms, through no fault of the party initiating the termination. In the event of such termination for cause, payment shall be made by the City to the Consultant for the undisputed portion of its fee due as of the termination date.

13.3 Due to Work Stoppage. This Agreement may be terminated by the City upon 30 days' written notice to Consultant in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Consultant for the undisputed portion of its fee due as of the termination date.

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

13.5 Gratuities. The City may, by written notice to the Consultant, cancel this Agreement if it is found by the City that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant to any officer, agent or employee of the City for the purpose of securing this

Agreement. In the event this Agreement is cancelled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Consultant an amount equal to 150% of the gratuity.

14. Miscellaneous.

14.1 Independent Contractor. The Consultant acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. Consultant, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of Consultant, its employees or subcontractors. The Consultant, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Consultant meets the requirements of its agreed scope of work as set forth in Section 2 above. Consultant is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Consultant do not intend to nor will they combine business operations under this Agreement.

14.2 Laws and Regulations. The Consultant shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Consultant is responsible remains in compliance with all rules, regulations, ordinances, statutes or laws affecting the Services, including the following: (a) existing and future City and County ordinances and regulations, (b) existing and future state and federal laws and (c) existing and future Occupational Safety and Health Administration ("OSHA") standards.

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

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

14.5 Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of the Agreement which may remain in effect without the invalid provision or application.

14.6 Relationship of the Parties. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Consultant is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and Consultant agrees to be fully and solely responsible for the payment of such taxes or any other tax applicable to this Agreement.

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

14.8 Assignment. No right or interest in this Agreement shall be assigned by Consultant without prior, written permission of the City signed by the City Manager and no delegation of any duty of Consultant shall be made without prior, written permission of the City signed by the City Manager. Any attempted assignment or delegation by Consultant in violation of this provision shall be a breach of this Agreement by Consultant.

14.9 Subcontracts. No subcontract shall be entered into by the Consultant with any other party to furnish any of the material or services specified herein without the prior written approval of the City. The Consultant is responsible for performance under this Agreement whether or not subcontractors are used.

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

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

14.12 Liens. All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.

14.13 Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered to the party at the address set forth below, (b) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, (c) given to a recognized and reputable overnight delivery service, to the address set forth below or (d) delivered by facsimile transmission to the number set forth below:

If to the City:	City of Avondale 11465 West Civic Center Drive Avondale, Arizona 85323 Facsimile: 623-333-0100 Attn: Charles P. McClendon, City Manager
With copy to:	GUST ROSENFELD, P.L.C. 201 East Washington, Suite 800 Phoenix, Arizona 85004-2327 Facsimile: 602-340-1538 Attn: Andrew J. McGuire, Esq.
If to Consultant:	DL Engineering & Controls 3550 North Central Avenue, Suite 1900 Phoenix, Arizona 85012 Facsimile: 602-266-4953 Attn: Eric Hardwick, Engineering Manager

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

14.14 Confidentiality of Records. The Consultant shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Consultant's duties under this Agreement. Persons requesting such information should be referred to the City. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under this Agreement.

14.15 Conflicting Terms. In the event of a conflict between the RFQ, the Consultant's response to the RFQ, the Scope of Work and this Agreement, the terms of this Agreement shall govern.

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

"**City**"

CITY OF AVONDALE, an Arizona municipal corporation

_____
Charles P. McClendon, City Manager

ATTEST:

_____
Linda M. Farris, City Clerk

"**Consultant**"

DL ENGINEERING & CONTROLS, INC., an Arizona Corporation

By:_____

Name:_____

Its:_____

(ACKNOWLEDGEMENTS)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2007, by Charles P. McClendon, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, on behalf of the City of Avondale.

_____
Notary Public in and for the State of Arizona

My Commission Expires:

_____

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2007, by _____ as _____ of DL ENGINEERING & CONTROLS, INC., an Arizona corporation, on behalf of the corporation.

_____
Notary Public in and for the State of Arizona

My Commission Expires:

_____

EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
DL ENGINEERING & CONTROLS, INC.

[Scope of Work]

See following pages.

DL engineering & controls
Innovative Control Solutions...By Design

Electrical Engineering
Construction Management
Integration and Support Services

DL Engineering & Controls, Inc. • 3550 North Central Avenue, Suite 1900 • Phoenix, Arizona 85012 • voice 602.266.4658 • fax 602.266.4953

Fee Proposal

Date: 7/16/07
Attn: Lisa Johnson
Client: City of Avondale
Address: 399 E Lower Buckeye Road, Suite 100
City, State, Zip: Avondale, AZ 85323
Phone: (623) 333-4400
Fax: (623) 333-0440

☐ Fax ☐ Mail ☑ Email ☐ Courier ☐ Hand Delivery

The Client agrees that the technical methods, techniques and pricing information contained in any proposal submitted by DLEC pertaining to this project or in this Agreement or any addendum thereto, are to be considered confidential and proprietary, and shall not be released or otherwise made available to any third party without the express written consent of DLEC.

Project Description: City of Avondale Water Resources Master SCADA Five Year Plan Revised 07/16/07
DLEC Reference #: 2007.05.0115
DLEC Project #: 639.01

Study Report (Task 600):

Design Tasks $75,442

Total Design Services: **$75,442**

Grand Total: **$75,442**

☐ Lump Sum Fee
☑ Hourly, Time and Material Fee

Eric Hardwick

Eric Hardwick, P.E.
Engineering Manager

Scope of Services

Project Description

1.0 This project consists of providing consultant services for a preliminary design study and report for the City of Avondale Water Resource Master SCADA Five Year Plan to accomplish full monitoring and controls of the City's water including the water and wastewater system. The existing City of Avondale Water Master SCADA consists of a radio communication system. The infrastructure of the Master SCADA system is mostly in place. The focus of the preliminary design study and report will be a) to recommend how best to utilize the Master SCADA system, b) provide recommendations of SCADA personnel accessibility, c) define the requirements to achieve SCADA optimization, d) provide budgetary cost estimates for implementation, e) prepare a recommended implementation schedule, and f) provide recommendations for integration of the water and waste water SCADA systems into a centralized SCADA system.

2.0 Provide up to three (3) four (4) hour work shops at City's facility for defining and prioritizing City requirements.

3.0 Provide up to eight (8) hours of on site interviews with City water operations personnel.

4.0 Provide up to eight (8) hours of on site interviews with City wastewater operations personnel.

5.0 Develop a standard specification for SCADA related equipment that can be used in contractor bidding which consists of a) defining RTU hardware and software requirements, b) SCADA hardware and software requirements, c) minimum monitoring and control function requirements for each type of facility, and d) standard graphics per site type and standard equipment faceplates.

6.0 Provide up to seventy-two (72) hours of site visits for identifying the thirty-six (36) existing PLC controllers and hardware in RTU panels. The site visit information will be used as the basis of making recommended changes for the final proposed SCADA upgrades that are requested from the workshops.

7.0 Provide up to fifty-four (54) hours of programming documentation from the thirty-six (36) existing RTU controllers which consists of accessing retrievable RTU PLC programs and documentation. Non-retrievable programs and documentation will be identified and provided in the report.

Responsibilities of Others

1.0 CLIENT shall furnish available electrical, P&ID's, and RTU control panel fabrication drawings of sites that require additional program documentation.

Deliverables

1.0 DLEC will provide CLIENT with a draft report for review prior to submitting the final report.

2.0 Upon completion of the preliminary design study and report and after addressing all draft report comments, DLEC will provide CLIENT with five (5) sets of final sealed report bearing the signature of a registered electrical engineer.

3.0 Additionally, DLEC will prepare meeting minutes following each workshop to be submitted in draft form for review prior to finalizing minutes.

4.0 DLEC will provide three (3) sets of program documentation printouts for each site, three (3) CD's of programs with revised documentation.

Exclusions and Exceptions

1.0 The aforementioned scope of services and level of effort is limited to the hours detailed on the attached Proposal Worksheets, and does not include designs prepared by others.

2.0 PLC program documentation will be provided based on the information available to DLEC. DLEC shall endeavor to document the existing PLC programs, but may not be able to describe all functions in detail as originally intended, nor will DLEC be liable for any inaccurate for faulty PLC programming logic that my exist.

3.0 This fee proposal is based on DLEC standards. Plans, specifications, and other deliverable documents will be prepared following DLEC drafting and CAD standards, and text document formatting. If significant changes to the DLEC standards are required, DLEC reserves the right to request additional time and fees to convert to a new set of standards.

DL Engineering & Controls, Inc. **Proposal Worksheet**

Project Number: 2007.05.0115 Date: 16-Jul-07

Project Name: City of Avondale Water Resources Master SCADA Five Year Plan Revised 07/16/07

#	Sub-Task	Principal Eng.	Project Mgr.	Prog. PM	Const. Mgr.	Designer IV	Prog. IV	Designer II	CAD Mgr.	Cler.	Tot. Hrs.	Section Subtot.
	Task 600 - Study											
1	Project Kickoff Meeting(s)	3.0	3.0	3.0		3.0	3.0			1.0	16.0	
1	Workshops	21.0	27.0	27.0						1.0	76.0	
2	Interviews		19.0	19.0						1.0	39.0	
2	Site Investigations		12.0	12.0		57.0	57.0				138.0	
3	Prepare Report	16.0	24.0	8.0		80.0	24.0			4.0	156.0	
4	Utility Coordination											
5	Electrical Calculations											
6	Prepare P&IDs (0 sheets est.)											
7	Prepare Elec. Dwgs (0 sheets est.)											
8	Prepare Control Descriptions											
9	Prepare SCADA Specs	3.0	12.0	42.0		30.0	102.0			6.0	195.0	
10	Prepare Electrical Specs											
11	Cost Estimate	2.0	4.0			12.0					18.0	
12	Client Review Meetings	8.0	8.0	8.0						2.0	26.0	
13	Project Management											
14	Generator Sizing Calcs											
15	Lighting Design											
16	Quality Assurance Review	2.0	12.0	6.0							20.0	
	Design Fees Sub Total:	**52.0**	**118.0**	**122.0**		**179.0**	**183.0**			**14.0**	**668.0**	**$74,453**
	Design Expenses:											**$989**
	Total Design & Expenses:											**$75,442**
	Totals:	**52.0**	**118.0**	**122.0**		**179.0**	**183.0**			**14.0**	**668.0**	
	Std Hourly Rates:	**$165.00**	**$122.00**	**$111.00**	**$110.00**	**$105.00**	**$100.00**	**$90.00**	**$95.00**	**$60.00**		
	Total Fees:	$8,580	$14,396	$13,542		$18,795	$18,300			$840	**$74,453**	

Total Expenses: **$989**

Grand Total: **$75,442**

CITY COUNCIL REPORT

SUBJECT:
Purchase X26 Tasers for all sworn Police Officers

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Kevin Kotsur, Chief of Police

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting Council approval for the purchase of 100 new model X26 Tasers at a total cost of $143,316 from Davidson's Supply.

BACKGROUND:

The Avondale Police Department currently deploys a total of thirteen Tasers for the entire department. The Tasers are kept in a central location and then checked out by officers on a daily basis. There are 98 sworn police officer positions allocated to the police department, as a result there are times when a Taser may have been needed for police use of force encounters with suspects and the Taser was not available or it was not operational. By purchasing a Taser for all sworn police officers, it limits the odds that a Taser will not be available when needed and it reduces the chance that the Taser will not be operational.

DISCUSSION:

Staff reviewed the less lethal technology currently available to police officers and determined the model X26 manufactured by Taser International to be the most effective. Each unit is equipped with video capability which, when deployed, captures the use of force encounter for administrative and criminal purposes. If approved, an Officer will be trained to become a Taser instructor responsible for training all officers, and administering the program. This model is available through cooperative purchase on the Department of Public Safety's contract L4-016-001 with Davidson's Supply in Prescott, Arizona. The total cost to purchase Tasers for all police officers is $143,316. This includes the cost of 100 Tasers, holsters, Taser replacement cartridges and video cartridges. Funding for this purchase was previously approved by the Council in the 2007/08 budget process when $50,700 was included in the police department operational budget. The remaining balance of $92,616 will be paid from existing Racketeering Influenced and Corrupt Organizations (RICO) funds available to the police department.

BUDGETARY IMPACT:

Funding for this purchase is included in the police department operational budget and from available RICO funds.

RECOMENDATION:

Staff recommends Council approve the purchase of 100 X26 Tasers manufactured by Taser International in the amount of $143,316 through cooperative purchase agreement with Davidson's supply.

ATTACHMENTS:

Click to download

- PA - Davidson's

PURCHASE AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
DAVIDSON'S, INC.

THIS PURCHASE AGREEMENT (this "Agreement") is entered into as of August 20, 2007, between the City of Avondale, an Arizona municipal corporation (the "City") and Davidson's, Inc., an Arizona corporation ("Contractor").

RECITALS

A. After a competitive procurement process, the Department of Public Safety ("Public Safety") entered into Contract No. L4-016-001 with the Contractor for the purchase of Taser products (the "Public Safety Contract"). The Public Safety Contract is attached hereto as Exhibit A and incorporated herein by reference.

B. The City is permitted to purchase the Taser products under the Public Safety Contract without further public bidding, and the Public Safety Contract permits its cooperative use by other governmental agencies including the City.

C. The City desires to purchase the Taser products under the Public Safety Contract for a lower cost than would otherwise be available.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, and the covenants and promises contained herein, the parties hereby agree as follows:

1. Contractor shall deliver the Taser products under the terms and conditions of the Public Safety Contract in the quantities as set forth in purchase orders not to exceed in aggregate a total of $150,000.00.

2. This Agreement may be cancelled pursuant to ARIZ. REV. STAT. § 38-511.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

"**City**"

CITY OF AVONDALE, an Arizona municipal corporation

By:_____
Charles P. McClendon, City Manager

ATTEST:

_____
Linda M. Farris, City Clerk

"**Contractor**"

DAVIDSON'S, INC.,
an Arizona corporation

By:_____

Name:_____

Its:_____

(ACKNOWLEDGEMENTS)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2007, by Charles P. McClendon, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, on behalf of the City of Avondale.

_____
Notary Public in and for the State of Arizona

My Commission Expires:

_____

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2007, by _____ as _____ of DAVIDSON'S, INC., an Arizona corporation, on behalf of the corporation.

_____
Notary Public in and for the State of Arizona

My Commission Expires:

_____

EXHIBIT A
TO
PURCHASE AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
DAVIDSON'S, INC.

[Public Safety Contract]

See following pages.

TASER EQUIPMENT CONTRACT SUMMARY
Contract L4-016-001

Contract Term: 10/31/06 to 10/30/07

Shipping Terms: See Below

Contract Officer: Carol Wilson – Department of Public Safety

Telephone: (602) 223-2452

General Information

Contract requirements: Statewide contract type; for use only by law enforcement departments, agencies, and State of Arizona cooperative purchasing membership. FOB destination to user agency within the normal trade area (30 mile radius) of Phoenix, Tucson and Coolidge. Shipments to other locations shall be FOB destination freight prepaid – with transportation charges allowed and added as a separate item on the invoice.

Contractor	Terms	Product Line(s)
No. L4-016-001 Davidson's Supply 6100 Wilkinson Drive Prescott, Arizona 86301 John Werkhoven Phone: (800) 367-5855 Fax: (928) 445-3468	M26 30 Days ARO X26 60 Days ARO Net 30 Days	The entire Taser product line has been added to the contract. Attached are four (4) pages of Taser products. **NOTE:** Free Master Instructor classes are no longer available through Davidson's. All instructor classes available through Taser direct. Please contact Jami Hill at 800-978-2727, extension 2016 or Jami@Taser.com for details and current costs.

DAVIDSON'S® LAW ENFORCEMENT

CONTRACT PRICE LIST

(800) 367-5855

2006 Law Enforcement Pricing - M26		
Model	Product Description	Contract Price
Advanced TASER® M26 w/ integrated laser sight, dataport download capability, color kit		
44000	Advanced TASER® M26 Black / Yellow labels	$399.95 ea
44005	Advanced TASER® M26 Yellow / Black labels	$399.95 ea
Holsters		
44830	Ballistic Nylon Thigh Holster *Rt Hand	$39.95 ea
44835	Ballistic Nylon Thigh Holster *Lt Hand	$39.95 ea
44838	Ballistic Nylon Thigh Holster w/ Hood *Rt Hand	$39.95 ea
44839	Ballistic Nylon Thigh Holster w/ Hood *Lt Hand	$39.95 ea
44831	Ballistic Nylon Thigh Holster Belt Clip Only	$6.00 ea
44852	Blade-Tech® Paddle Holster *Rt Hand	$74.95 ea
44871	Blade-Tech® Paddle Holster *Lt Hand	$74.95 ea
44853	Blade-Tech® Paddle Holster w/ Thumb Break *Rt Hand	$89.95 ea
44872	Blade-Tech® Paddle Holster w/ Thumb Break *Lt Hand	$89.95 ea
44854	Blade-Tech® Tek-Lok® Holster *Rt Hand	$74.95 ea
44874	Blade-Tech® Tek-Lok® Holster *Lt Hand	$74.95 ea
44855	Blade-Tech® Tek-Lok® Holster w/ Thumb Break *Rt Hand	$89.95 ea
44875	Blade-Tech® Tek-Lok® Holster w/ Thumb Break *Lt Hand	$89.95 ea
44856	Blade-Tech® Thigh Holster w/ Thumb Break and Dual Cartridge Holder *Rt Hand	$119.95 ea
44878	Blade-Tech® Thigh Holster w/ Thumb Break and Dual Cartridge Holder *Lt Hand	$119.95 ea
44877	Blade-Tech® Thigh Holster w/ Hood and Dual Cartridge Holder *Rt Hand	$129.95 ea
44876	Blade-Tech® Thigh Holster w/ Hood and Dual Cartridge Holder *Lt Hand	$129.95 ea
44930	Blade-Tech® Tek-Lok® Holster w/ Hood *Lt Hand	$99.95 ea
44931	Blade-Tech® Tek-Lok® Holster w/ Hood *Rt Hand	$99.95 ea
44942	Blade-Tech® Holster w/ Thumb Break, 3" Belt Attachment Clip, Single Cartridge Pouch *Rt Hand	$99.95 ea
44943	Blade-Tech® Holster w/ Thumb Break, 3" Belt Attachment Clip, Single Cartridge Pouch *Lt Hand	$99.95 ea
44944	Blade-Tech® Tek-Lok® Holster w/ Thumb Break and Dual Cartridge Pouch *Rt Hand	$109.95 ea
44945	Blade-Tech® Tek-Lok® Holster w/ Thumb Break and Dual Cartridge Pouch *Lt Hand	$109.95 ea
44946	Blade-Tech® Holster w/ Thumb Break, 3" Belt Attachment Clip, Dual Cartridge Pouch *Rt Hand	$109.95 ea
44947	Blade-Tech® Holster w/ Thumb Break, 3" Belt Attachment Clip, Dual Cartridge Pouch *Lt Hand	$109.95 ea
44948	Blade-Tech® Paddle Holster w/ Thumb Break and Single Cartridge Pouch *Rt Hand	$99.95 ea
44949	Blade-Tech® Paddle Holster w/ Thumb Break and Single Cartridge Pouch *Lt Hand	$99.95 ea
44956	Blade-Tech® Paddle Holster w/ Thumb Break and Dual Cartridge Pouch *Rt Hand	$109.95 ea
44957	Blade-Tech® Paddle Holster w/ Thumb Break and Dual Cartridge Pouch *Lt Hand	$109.95 ea
44958	Blade-Tech® Holster w/ Thumb Break and 3" Belt Attachment Clip *Rt Hand	$89.95 ea
44959	Blade-Tech® Holster w/ Thumb Break and 3" Belt Attachment Clip *Lt Hand	$89.95 ea
44960	Blade-Tech® Tek-Lok® Holster w/ Thumb Break and Single Cartridge Pouch *Rt Hand	$99.95 ea
44961	Blade-Tech® Tek-Lok® Holster w/ Thumb Break and Single Cartridge Pouch *Lt Hand	$99.95 ea
44933	Blade-Tech® Single Cartridge Pouch Attachment (Mounts to Blade-Tech® Holsters)	$19.95 ea
44934	Blade-Tech® Single Cartridge Pouch w/ Tek-Lok® Belt Attachment Clip	$19.95 ea
44935	Blade-Tech® Dual Cartridge Pouch w/ Tek-Lok® Belt Attachment Clip	$29.95 ea
26899	Tek-Lok® Belt Attachment Clip	$8.95 ea
44932	Blade-Tech® 3" Belt Attachment Clip	$8.95 ea
NiMH Batteries and Advanced TASER® Battery Charger		
44700	8 - NiMH Batteries w/ Magazine	$24.95 ea
40403	NiMH Battery - Single Battery	$2.99 ea
44710	NiMH Battery Charger	$65.95 ea
44705	NiMH Battery Charger and 8 - NiMH Batteries w/ Magazine	$86.95 ea
Extended Warranty		
Warranty	4 Year Extended Warranty *Must purchase at the time of initial M26 purchase	$60.00 ea
Accessories		
44860	Secondary Cartridge Clip *Holds 1 cartridge on M26	$19.95 ea
44500	M26 USB Dataport Download Kit *Windows® 98se, NT, 2000, XP compatible	$149.95 ea
44840	ADVANCED TASER® Nylon Waist Pack	$39.95 ea
44900	Secure Kevlar Storage Case	$149.97 ea
80002	Practice Target *Single Target / Training Use	$6.95 ea
85002	M26/X26 Maintainance and Cleaning Kit	$59.95 ea
85000	Air Cartridge w/ alligator clips *Training Use	$45.00 ea
44550	TASER® Simulation Training Suit - For scenario based training exercises *New and improved	$425.00 ea
80100	Custom Laser Engraving *For M26 and X26 handles / Minimum order quantity of 10	$6.50 ea

DAVIDSON'S® LAW ENFORCEMENT

CONTRACT PRICE LIST

(800) 367-5855

Air Cartridges		
34200	15ft (4.57m) *Yellow Blast Door / Training Use	$16.50 ea
44200	21ft (6.4m) *Silver Blast Door / Field Use	$18.50 ea
44203	25ft (7.62m) XP (Extra Penetration) *Green Blast Door / Field Use	$21.50 ea
44206	35ft (10.67m) XP (Extra Penetration) *Non-Reversible / Orange Blast Door / Tactical Field Use	$24.75 ea
44205	21ft (6.4m) Non-Conductive Simulation *Blue/Blue Blast Door / Training Use	$17.50 ea
ADVANCED TASER® MX w/ integrated laser sight, dataport download capability, color kit		
88000	ADVANCED TASER® MX RED *Large animal use only / Liability waiver required	$1,499.95 ea

DAVIDSON'S® LAW ENFORCEMENT

CONTRACT PRICE LIST

(800) 367-5855

2006 Law Enforcement Pricing - X26E		
Model	Product Description	Contract Price
X26E w/ integrated laser sight, low-intensity lights, Digital Power Magazine (DPM), dataport download capability		
26000	X26E Black / Silver grip plates w/ eXoskeleton holster	$799.95 ea
26001	X26E Black / Black grip plates w/ eXoskeleton holster	$799.95 ea
26011	X26E Black / Silver grip plates w/ Blade-Tech® Tek-Lok® holster	$799.95 ea
26014	X26E Black / Black grip plates w/ Blade-Tech® Tek-Lok® holster	$799.95 ea
26006	X26E Yellow / Silver grip plates w/ eXoskeleton holster	$799.95 ea
26005	X26E Yellow / Black grip plates w/ eXoskeleton holster	$799.95 ea
26026	X26E Yellow / Silver grip plates w/ Blade-Tech® Tek-Lok® holster	$799.95 ea
26023	X26E Yellow / Black grip plates w/ Blade-Tech® Tek-Lok® holster	$799.95 ea
26004	X26E Clear / Silver grip plates w/ eXoskeleton holster	$799.95 ea
26003	X26E Clear / Black grip plates w/ eXoskeleton holster	$799.95 ea
26020	X26E Clear / Silver grip plates w/ Blade-Tech® Tek-Lok® holster	$799.95 ea
26017	X26E Clear / Black grip plates w/ Blade-Tech® Tek-Lok® holster	$799.95 ea
X26E w/ integrated laser sight, low-intensity lights, Extended Digital Power Magazine (XDPM), dataport download capability		
26013	X26E Black / Silver grip plates w/ eXoskeleton holster	$804.95 ea
26016	X26E Black / Black grip plates w/ eXoskeleton holster	$804.95 ea
26012	X26E Black / Silver grip plates w/ Blade-Tech® Tek-Lok® holster	$804.95 ea
26015	X26E Black / Black grip plates w/ Blade-Tech® Tek-Lok® holster	$804.95 ea
26028	X26E Yellow / Silver grip plates w/ eXoskeleton holster	$804.95 ea
26025	X26E Yellow / Black grip plates w/ eXoskeleton holster	$804.95 ea
26027	X26E Yellow / Silver grip plates w/ Blade-Tech® Tek-Lok® holster	$804.95 ea
26024	X26E Yellow / Black grip plates w/ Blade-Tech® Tek-Lok® holster	$804.95 ea
26022	X26E Clear / Silver grip plates w/ eXoskeleton holster	$804.95 ea
26019	X26E Clear / Black grip plates w/ eXoskeleton holster	$804.95 ea
26021	X26E Clear / Silver grip plates w/ Blade-Tech® Tek-Lok® holster	$804.95 ea
26018	X26E Clear / Black grip plates w/ Blade-Tech® Tek-Lok® holster	$804.95 ea
Holsters		
26800	eXoskeleton holster *Rt Hand	$39.95 ea
26801	eXoskeleton holster *Lt Hand	$39.95 ea
44952	Blade-Tech® Tek-Lok® holster *Rt Hand	$39.95 ea
44953	Blade-Tech® Tek-Lok® holster *Lt Hand	$39.95 ea
44920	Blade-Tech® Thigh holster w/ Dual Cartridge holder *Rt Hand	$69.95 ea
44921	Blade-Tech® Thigh holster w/ Dual Cartridge holder *Lt Hand	$69.95 ea
44922	Blade-Tech® Paddle holster w/ Single Cartridge Pouch *Rt Hand	$49.95 ea
44923	Blade-Tech® Paddle holster w/ Single Cartridge Pouch *Lt Hand	$49.95 ea
44924	Blade-Tech® Tek-Lok® holster w/ Dual Cartridge Pouch *Rt Hand	$59.95 ea
44925	Blade-Tech® Tek-Lok® holster w/ Dual Cartridge Pouch *Lt Hand	$59.95 ea
44926	Blade-Tech® Tek-Lok® holster w/ Single Cartridge Pouch *Rt Hand	$49.95 ea
44927	Blade-Tech® Tek-Lok® holster w/ Single Cartridge Pouch *Lt Hand	$49.95 ea
44928	Blade-Tech® Paddle holster *Rt Hand	$39.95 ea
44929	Blade-Tech® Paddle holster *Lt Hand	$39.95 ea
44936	Blade-Tech® holster w/ 3" Belt Attachment Clip *Right Hand	$39.95 ea
44937	Blade-Tech® holster w/ 3" Belt Attachment Clip *Left Hand	$39.95 ea
44938	Blade-Tech® holster w/ 3" Belt Attachment Clip and Single Cartridge Pouch *Rt Hand	$49.95 ea
44939	Blade-Tech® holster w/ 3" Belt Attachment Clip and Single Cartridge Pouch *Lt Hand	$49.95 ea
44940	Blade-Tech® holster w/ 3" Belt Attachment Clip and Dual Cartridge Pouch *Rt Hand	$59.95 ea
44941	Blade-Tech® holster w/ 3" Belt Attachment Clip and Dual Cartridge Pouch *Lt Hand	$59.95 ea
44933	Blade-Tech® Single Cartridge Pouch Attachment *Attaches to Blade-Tech® holsters	$19.95 ea
44934	Blade-Tech® Single Cartridge Pouch w/ Tek-Lok® Belt Attachment Clip	$19.95 ea
44935	Blade-Tech® Dual Cartridge Pouch w/ Tek-Lok® Belt Attachment Clip	$29.95 ea
44962	Blade-Tech® Thigh holster Attachment w/ Dual Cartridge holder *Non Quick Release / Rt Hand	$29.95 ea
44963	Blade-Tech® Thigh holster Attachment w/ Dual Cartridge holder *Non Quick Release / Lt Hand	$29.95 ea
26899	Tek-Lok® Belt Attachment Clip *Can be attached to Blade-Tech® and eXoskeleton holsters	$8.95 ea
44932	Blade-Tech® 3" Belt Attachment Clip	$8.95 ea
26802	Dual Cartridge holder w/o Tek-Lok® Belt Attachment Clip	$19.95 ea
26804	Quad Cartridge holder w/ Tek-Lok® Belt Attachment Clip	$39.95 ea
Batteries DPM / XDPM		

DAVIDSON'S® LAW ENFORCEMENT

CONTRACT PRICE LIST

(800) 367-5855

Model	Product Description	Contract Price
26700	DPM - Digital Power Magazine *195 5-second firings at room temp	$29.95 ea
26701	XDPM - Extended Digital Power Magazine *195 5-second firings at room temp	$34.95 ea
Extended Warranty Batteries DPM / XDPM		
26711	DPM w/ One year extended warranty	$79.95 ea
26714	DPM w/ Four year extended warranty	$174.95 ea
26721	XDPM w/ One year extended warranty	$84.95 ea
26724	XDPM w/ Four year extended warranty	$179.95 ea
Accessories		
26750	TASER Cam™ Audio/Video recording for enhanced accountability (United States)	$399.95 ea
85001	X-Rail - Rifle Attachment Clip *Mounts X26 to Piccatinny Rail / For X26E only	$125.00 ea
26500	X26E USB Dataport Download Kit *Windows® 98se, NT, 2000, XP compatible	$149.95 ea
80002	Practice Target *Single Target / Training Use	$6.95 ea
85002	M26/X26 Maintainance and Cleaning Kit	$59.95 ea
85000	Air Cartridge w/ alligator clips *Training Use	$45.00 ea
44550	TASER® Simulation Training Suit *For scenario based training exercises / New and improved	$425.00 ea
80100	Custom Laser Engraving *For M26 and X26 handles / Minimum order quantity of 10	$6.50 ea
Air Cartridges		
34200	15ft (4.57m) *Yellow Blast Door / Training Use	$16.50 ea
44200	21ft (6.4m) *Silver Blast Door / Field Use	$18.50 ea
44203	25ft (7.62m) XP (Extra Penetration) *Green Blast Door / Field Use	$21.50 ea
44206	35ft (10.67m) XP (Extra Penetration) *Non-Reversible / Orange Blast Door / Tactical Field Use	$24.75 ea
44205	21ft (6.4m) Non-Conductive Simulation *Blue/Blue Blast Door / Training Use	$17.50 ea
ADVANCED TASER® MX w/ integrated laser sight, dataport download capability, color kit		
88000	ADVANCED TASER® MX RED *Large animal use only / Liability waiver required	$1,499.95 ea

CITY COUNCIL REPORT

SUBJECT:
Transit Service Agreement - Valley Metro/RPTA for Fiscal Years 2008 – 2012 & ADA Reimbursement Approval for FY2007/2008

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Jess Segovia, Transit Administrator (623)333-1030

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council approve the FY2008-2012 Transit Service Agreement between the City of Avondale and Valley Metro/RPTA to allow Avondale the opportunity to seek reimbursement, for an amount not to exceed $155,231, from Valley Metro/RPTA for FY2007/2008 ADA expenses.

BACKGROUND:

In 2005, Maricopa County voters approved Proposition 400, or the Regional Transportation Plan (RTP), a Transportation tax that provides funding for highways, roads and public transit services. An updated agreement between the City of Avondale and Valley Metro/RPTA is necessary in order to request reimbursement for RTP-funded services and to continue receiving local grant funds.

DISCUSSION:

The Transit Service Agreement provides the City of Avondale the opportunity to annually seek reimbursement of RTP funds for ADA Dial-a-Ride services. These funds can also be spent on trips provided by Maricopa County Special Transportation Services to ADA-certified individuals. Staff may invoice Valley Metro/RPTA for up to $155,231 in ADA expenses for FY2007/2008.

RECOMENDATION:

Staff recommends the City Council approve the Tranist Service Agreement between the City of Avondale and Valley Metro/RPTA.

ATTACHMENTS:

Click to download

- RES - 2678-807 RPTA

RESOLUTION NO. 2678-807

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH THE REGIONAL PUBLIC TRANSPORTATION AUTHORITY RELATING TO PUBLIC TRANSPORTATION SERVICES.

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

SECTION 1. That the Intergovernmental Agreement between the City of Avondale and Regional Public Transportation Authority relating to public transportation services is hereby approved in the form attached hereto as Exhibit A and incorporated herein by reference.

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

PASSED AND ADOPTED by the Council of the City of Avondale, August 20, 2007.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Linda M. Farris, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2678-807

[Intergovernmental Agreement]

See following pages.

TRANSIT SERVICE AGREEMENT
(The "Agreement")

Contract # 106-34-2008

BETWEEN: THE City of Avondale, a Municipal Corporation (hereinafter referred to as the "CITY")

AND: THE REGIONAL PUBLIC TRANSPORTATION AUTHORITY (of Maricopa County), a public agency established pursuant to A.R.S. Section 48-5101, et seq., (hereinafter referred to as the "RPTA").

WHEREAS: The RPTA is authorized to contract for the provision of public transportation services pursuant to A.R.S. Sections 48-5122 and 48-5123; and

WHEREAS: The CITY is authorized to contract for the provision of public transportation services pursuant to the City of Avondale Code; and

WHEREAS: The CITY and the RPTA together with other Maricopa County cities desire to provide a regional public transportation system; and

WHEREAS: CITY has been authorized by its CITY Council and RPTA has been authorized by its Board of Directors to enter into this Agreement; and

WHEREAS: The RPTA has established a network of regional public transportation services within Maricopa County; and

WHEREAS: The CITY, a municipal corporation, and the RPTA, a public agency, have authority in accordance with A.R.S. 11-952 to enter into intergovernmental agreements;

NOW, THEREFORE IT IS AGREED by and between the parties, as follows:

Regional Transit Services: means a public system for the transport of passengers by any means but not including community-funded transportation services.

ADA Paratransit Service: ADA Paratransit Service means services provided by CITY to transport persons certified by Valley Metro as eligible for ADA Complementary Paratransit Service.

Public Transportation Service: Public Transportation Service means Regional Transit Services and ADA Paratransit Services.

Service specifications: A detailed description of the Regional Transit Services funded by RPTA and covered by the agreement, including:

- a street by street description of routes;
- times of operations;
- route name and number;
- frequency;
- days of operation;
- first and last trip times;
- connections with other routes;
- timing points;
- boarding and alighting policies; and
- estimates of revenue hours and miles on weekly hours.

Transit stop: any location or structure and any ancillary facilities the purpose of which is to enable passengers to board or alight from transit vehicles

SECTION 1: SERVICE AREA AND TRANSIT SERVICES

The boundaries of the CITY which are lawfully in effect on the 1st day of July, 2007 shall designate and define the limits of the service area for the purposes of the Agreement.

SECTION 2: TERM AND RENEWAL

This agreement shall commence on July 1, 2007, and shall terminate on June 30, 2012, unless terminated earlier by one of the parties, in which case, written notice of termination shall be required no less than thirty (30) days prior to the proposed termination date. Funding levels for this Agreement shall be determined annually and shall be incorporated into this Agreement through the amendment of Schedule A. Upon termination of this Agreement any and all property used in connection with this Agreement will be promptly returned to the party holding title thereto.

SECTION 3: RPTA RESPONSIBILITY

3.1 With respect to Regional Transit Services, the RPTA shall:

a. approve annual operating budgets for the provision of Regional Transit Service hereunder;

b. recommend service specifications in consultation with the CITY;

c. determine, set and amend the fare structure for transit services provided hereunder;

d. recommend (subject to CITY approval) functional standards for construction and establishment of transit stops and capital projects, such as park and ride and transit exchange facilities. Provided, however, CITY shall not be bound by such recommendation and shall act upon its independent judgment and discretion;

e. coordinate the negotiation of operating agreements with operating companies for the provision of transit service hereunder;

f. provide marketing and merchandising of transit service provided hereunder;

g. provide administrative services, equipment, personnel and management services necessary to provide the CITY with local bus scheduled, fixed route transit service. Scheduled transit services will be delivered by independent contractor(s) selected and approved by the RPTA. The RPTA shall ensure that the contractor(s) are duly qualified, licensed, trained, and have adequate equipment to perform services under this Agreement;

h. provide quarterly reports on ridership and revenue collected; and

i. provide professional staff, as requested, to assist the CITY in developing, evaluating and adjusting services.

3.2 With respect to ADA Paratransit services, the RPTA shall transfer to the CITY funds allocated by the Board of the RPTA, and specified in Schedule A, for the purposes of reimbursing CITY for the cost to provide ADA Paratransit services. The CITY shall submit a PTF Reimbursement Request Form, Attachment A, certifying that the costs have been incurred and are eligible for reimbursement.

3.3 The RPTA may conduct service and financial audits for services operated with any funding from the RPTA.

SECTION 4: CITY RESPONSIBILITY

4.1(a). The CITY expressly acknowledges, understands and agrees that:

(i). any recommendation provided by RPTA to the CITY pursuant to this Agreement or otherwise (including, but not limited to, any recommended service specifications or functional standards for construction and establishment of transit stops and any capital project) are simply general recommendations that the RPTA makes available to certain political subdivisions of the State of Arizona.

(ii). all such recommendations must be tailored to the specific requirements of the CITY;

(iii). the RPTA makes no representation or warranty to CITY that any such representation is sufficient or adequate to meet the specific requirements of the CITY;

(iv). it is the CITY's sole responsibility to review, approve or modify as appropriate any recommendation of the RPTA hereunder, including (but not limited to) any recommendation concerning pedestrian and traffic control.

a. With respect to services provided hereunder, the CITY shall provide traffic control and transit priority measures such as turning movements, on CITY streets.

b. The CITY shall purchase and install bus stop signs, and

c. The CITY shall provide advice to the RPTA and to any operator providing service required by this Agreement in the preparation and amendment of service plans.

4.2 The CITY shall provide reasonable financial and operational data to the RPTA with respect to all regional transportation services, as requested from time to time.

4.3 CITY shall expend a certain percent of its Local Transportation Assistance Funds (LTAF) on transit as required by ARS Section 48-5104.

4.4 The CITY shall agree to abide by the RPTA Transit Life Cycle Program Policies and Procedures.

4.5 Provide a written ninety (90) calendar day notice for major service changes

SECTION 5:

5.1 Records

The Federal Transit Administration (FTA), the Arizona Department of Transportation, the Comptroller General of the United States, or any designee shall have access to any books, documents, papers and records which are pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcriptions. All required records shall be maintained for a minimum of three years after all pending matters are closed.

5.2 Covenant Against Contingent Fees

Both parties warrant that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of Congress, CITY Council, the RPTA Board or any employee of CITY or RPTA, has any interest, financially or otherwise, in this Agreement.

5.3 Alteration in Character of Work

Minor alterations in the character of work shall be authorized in writing by RPTA and acknowledged by CITY by letter.

5.4 Termination

RPTA and CITY hereby agree to full performance of the covenants and obligations contained herein, except that each reserves the right, at its option and sole discretion, to terminate or abandon the service provided for in this Agreement, or any portion thereof.

Termination of this Agreement may be at any time and for any reason, with or without cause, upon providing thirty (30) calendar days prior written notice. Termination shall be effected by delivery of a Notice of Termination specifying the extent to which performance of work under the Agreement is terminated, and the date upon which such termination becomes effective.

Upon termination, RPTA shall calculate actual expenses incurred up to and including the date of termination together with any penalty or costs imposed by other funding sources and any costs attributing to Section 13(c) of the Federal Transit Act of 1964, as amended, the total of which is hereinafter referred to as "termination costs." If CITY has paid RPTA sums in excess of the termination costs, RPTA shall refund the excess; if CITY has paid RPTA an amount less than the termination costs, then CITY shall pay to RPTA an amount equal to the difference between the termination costs and the amount that CITY has already paid under this Agreement.

5.5 Additional Work

Additional work, when authorized by executed Contract Change Order or Supplement Agreement, shall be compensated for by a fee, mutually agreed upon by both parties.

5.6 Successors and Assigns

This Agreement shall not be assignable, except at the written consent of the parties hereto; and it shall extend to and be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

5.7 Title VI Assurances

The parties hereby agree that as a condition of this Agreement, they will comply with Title VI of the Civil Rights Act of 1964, and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, to the end that no person in the United States shall, on the grounds of race, color sex or national origin be subjected to discrimination under any program or activity that receives federal assistance from the Department of Transportation, including the Federal Transit Administration.

SECTION 6: INDEMNIFICATION

Each party to this Agreement agrees to defend, indemnify, save and hold harmless the other (and each of their respective directors, officers, agents and employees) from and against all liabilities, suits, obligations, claims, demands, damages, fines, costs and expenses (including reasonable attorney's fees) arising under this Agreement to the extent that such are attributable, directly or indirectly, to the indemnifying party's negligence, error, omission or intentional act. An indemnifying party's negligence, error, omission or intentional act, as that phrase is used herein, includes the negligence, error, omission or intentional act of its officers, agents and employees. This provision shall survive the termination of this Agreement.

SECTION 7: AMENDMENT

This Agreement may be amended in whole or in part by written agreement of the parties.

SECTION 8: RELATIONSHIP OF PARTIES

Each party to this Agreement shall act in its individual capacity and not as an agent, employee, partner, joint venturer, associate, or any other representative capacity of the other. Each party shall be solely and entirely responsible for its acts or the acts of its agents and employees during the performance of this Agreement.

SECTION 9: INTEGRATION

This agreement represents the entire agreement of the parties with respect to the subject matter hereof, and all agreements entered into prior hereto with respect to the subject matter hereof are revoked and superseded by this Agreement, and no representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements. This Agreement may not be changed, modified or rescinded except in writing, signed by all parties hereto, and any attempt at oral modification of this Agreement shall be void and of no effect.

SECTION 10: ATTORNEYS' FEES

In the event suit is brought or an attorney is retained by any party to this Agreement to enforce the terms of this Agreement or to collect any moneys due hereunder, or to collect money damages for breach hereof, the prevailing party shall be entitled to recover, in addition to any other remedy, reimbursement for reasonable attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith.

SECTION 11: SEVERABILITY

If any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed from this Agreement, which shall otherwise remain in full force and effect.

SECTION 12: NO ASSIGNMENT

This Agreement is personal to each of the parties hereto, and neither party may assign or delegate any of its rights or obligations hereunder without first obtaining the written consent of the other; provided, however, that RPTA may assign its rights and delegate its obligations hereunder to a successor in interest without obtaining such consent.

SECTION 13: WAIVER

Failure of any party to exercise any right or option arising out of a breach of this Agreement shall not be deemed a waiver of any right or option with respect to any subsequent or different breach, or the continuance of any existing breach.

SECTION 14: COUNTERPARTS

This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed an original hereof.

SECTION 15: CAPTIONS

Captions and section heading used herein are for convenience only and are not a part of this Agreement and shall not be deemed to limit or alter any provisions hereof and shall not be deemed relevant in construing this Agreement.

SECTION 16: CANCELLATION

This agreement is subject to cancellation pursuant to A.R.S. Section 38-511.

This Agreement shall be in full force and effect after it has been approved by the RPTA Board of Directors, after it has been executed by the duly authorized officials of the parties and after it has been filed with the County Recorder and the Secretary of State if necessary as provided by A.R.S. 11-952.

SECTION 17: NOTICES

Any notice, consent or other communication ("Notice") required or permitted under this Agreement shall be in writing and either delivered in person, sent by facsimile transmission, deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, or deposited with any commercial air courier or express service addressed as follows:

If to RPTA:

Regional Public Transportation Authority
302 North 1st Ave., Suite 700
Phoenix, Arizona 85004
(Attention: David A. Boggs, Executive Director)

If to CITY:

City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323

Notices shall be deemed received at the time it is personally served, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express service or, if mailed, ten (10) days after the Notice is deposited in the United States mail as above provided. Any time period stated in a Notice shall be computed from the time the Notice is deemed received. Either party may change its mailing address or the person to receive Notice by notifying the other Party as provided in this paragraph. Notices sent by facsimile transmission shall also be sent by regular mail to the recipient at the above address. This requirement for duplicate notice is not intended to change the effective date of the notice sent by facsimile transmission.

INTERGOVERNMENTAL AGREEMENT DETERMINATION

In accordance with the requirements of A.R.S. Section 11-952(D), each of the undersigned attorneys acknowledge that: (1) they have reviewed the above Agreement on behalf of their respective clients; and, (2) as to their respective clients only, each attorney has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

For the City of Avondale	Attorney for RPTA

IN WITNESS WHEREOF, the parties have executed this Agreement as of the ___ day of

_____, 2007.

By: _____
Marie Lopez Rogers
Mayor

By: _____
David A Boggs
Executive Director

ATTEST: _____
Avondale City Clerk

ATTEST: _____
Jon Medwin
Contracts and Procurement Manager

ATTEST: _____
Christopher Curcio
Deputy Executive Director Finance

SCHEDULE A

For the period of July 1, 2007 to June 30, 2008 it is estimated that the City of Avondale may request reimbursement from Regional Public Transportation Authority a maximum of $155,231 for ADA Paratransit service in Avondale. This amount is contingent upon approval of RPTA's fiscal year 2007-2008 budget by the RPTA Board of Directors.

Reimbursements must be requested by CITY on a PTF Reimbursement Request Form, attachment A, and certified by the CITY's chief financial officer or designee. RPTA will reimburse CITY within thirty (30) business days based upon availability of funds. CITY may request that reimbursements be made electronically. Wire transfers must be pre arranged through the RPTA Finance Department.

Attachment A

Regional Public Transportation Authority

PTF Expenditure Reimbursement Request

The information provided will be used by the Regional Public Transportation Authority (RPTA) to monitor designated lead agency cash flow to ensure compliance with ARS 48-5103. No further monies may be paid out under this program unless this report is completed and filed as required.

RECIPIENT ORGANIZATION NAME AND ADDRESS	PROJECT AGREEMENT NUMBER	REQUEST NO.
	REPORTING PERIOD (Dates) FROM:	TO:

	TOTAL	PTF SHARE
TOTAL ELIGIBLE COSTS	$ -	$ -
TOTAL PREVIOUS PAYMENTS	$ -	$ -
CURRENT PAYMENT REQUESTED	$ -	$ -
REMAINING FUNDING	$ -	$ -

REQUIRED SIGNATURE

This document must be signed by the recipient's Chief Financial Officer or their designated representative.

CERTIFICATION

I certify the financial expenditures submitted for reimbursement with this report, including supporting documentation, are eligible and allowable expenditures consistent with the project goals and requirements, have not been previously requested, and that payment is due. I also certify that all matching requirements have been met and sufficient documentation exists in our files and are available upon request or in the event of an audit.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	DATE REQUEST SUBMITTED
TYPED OR PRINTED NAME AND TITLE	TELEPHONE

Instructions

1. Keep a copy of everything submitted.
2. All project records, including financial records, must be maintained for 3 years beyond project completion.

For RPTA use only

Date request received:	Life cycle compliance review (signature/date)
Approved for funds availability (signature/date)	Date of funds transfer (signature/date)

Comments

Project	WBS	Phase	Activity	GL Account (Finance Only)	Amount
			7901		
			7901		
			7901		
			7901		

CITY COUNCIL REPORT

SUBJECT:
Resolution 2665-807 - Intergovernmental Agreement - The City of Phoenix - Federal Transit Administration Operating Assistance Grant

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Jess Segovia, Transit Administrator (623)333-1030

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that City Council adopt a resolution approving an Intergovernmental Agreement between the City of Avondale and the City of Phoenix for a Federal Transit Administration Operating Assistance Grant (Grant No. AZ-90-X080) for 2007 services.

BACKGROUND:

The City of Phoenix annually applies for a Federal Transit Administration Operating Assistance Grant on behalf of the Avondale Urbanized Area cities (Avondale, Goodyear, Tolleson and Litchfield Park). The Avondale Urbanized Area qualifies for Federal Operating Assistance due to the results of the 2005 Census; which reported that the Avondale Urbanized Area has fewer than 200,000 residents. Urbanized areas with over 200,000 residents do not qualify for Federal Operating Assistance. It is expected that the Urbanized Area will lose this Capital Funding source after the next census and will only qualify for Federal Capital Assistance after the year 2010.

DISCUSSION:

The federal operating funds allocated under this Grant Pass-through Agreement shall not exceed $958,078 for 2007 services. These funds are used for the various fixed-route and Dial-a-Ride services provided to the residents of Avondale, Goodyear, Litchfield Park and Tolleson. Avondale Urbanized Area cities shall provide the required local match of $958,078.

BUDGETARY IMPACT:

The total eligible project cost is $1,916,156. The grant must be spent within thirty (30) months of the grant award date. Avondale's Transit Budget includes these federal dollars as a revenue source for transit services.

RECOMENDATION:

Staff recommends that City Council adopt a resolution approving an Intergovernmental Agreement between the City of Avondale and the City of Phoenix for a Federal Transit Administration Operating Assistance Grant (Grant No. AZ-90-X080) for 2007 services.

ATTACHMENTS:

Click to download

- RES - 2665-807 Phoenix

RESOLUTION NO. 2665-807

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX FOR FEDERAL TRANSIT ADMINISTRATION FUNDING.

WHEREAS, the Avondale Urbanized Area Transit Plan (the "Plan") was approved by the Council of the City of Avondale (the "City Council") on November 17, 2003; and

WHEREAS, the City of Phoenix ("Phoenix") has submitted a grant application for Federal Transit Administration funding ("Grant Funds") that incorporates the funding needs identified in the Plan; and

WHEREAS, the City of Avondale was designated as a sub-recipient of in Phoenix's application for Grant Funds; and

WHEREAS, the City Council desires to enter into an intergovernmental agreement with Phoenix for the administration of Grant Funds (the "Agreement").

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

SECTION 1. That the Agreement is hereby approved in the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. That the City Council hereby authorizes expenditure of matching funds as required under the terms of the Agreement.

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

[SIGNATURES ON FOLLOWING PAGE]

PASSED AND ADOPTED by the Council of the City of Avondale, August 20, 2007.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Linda M. Farris, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2665-807

[Intergovernmental Agreement]

See following pages.

AGREEMENT NO. _____

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PHOENIX AND THE CITY OF AVONDALE

(Grant Pass-through Agreement)
(Grant No. AZ-90-X080)

THIS AGREEMENT is made and entered into this ____ day of _____, 20__, by and between the City of Phoenix, a municipal corporation duly organized and existing under the laws of the state of Arizona (hereinafter referred to as "PHOENIX") and the City of Avondale, a municipal corporation, duly organized and existing under the laws of the state of Arizona (hereinafter referred to as "SUB-RECIPIENT").

RECITALS

WHEREAS, the City Manager of PHOENIX, is authorized and empowered by provisions of the City Charter to execute contracts; and,

WHEREAS, PHOENIX has Charter authority to provide transit services and Charter and statutory authority to enter into Agreements with other entities within the Phoenix Urban Area to provide transit services [A.R.S. Section 11-951, et seq.; Chapter 2, Section 2, Subsections (c)(i) and (l), Charter of the City of Phoenix, 1969]; and,

WHEREAS, SUB-RECIPIENT has broad Charter and statutory authority to engage in all of the activities and endeavors allowed under the laws of the state of Arizona and to enter into intergovernmental agreements with other governmental entities (Article I, Section 3, Charter of the City of Avondale; A.R.S. Section 11-951, et seq.); and,

WHEREAS, the laws of the state of Arizona authorize municipalities to: (1) "engage in any business or enterprise which may be engaged in by persons by virtue of a franchise from the municipal corporation, . . ." [A.R.S. Section 9-511 (A)]; (2) to "appropriate and spend public monies" on activities that "will assist in the creation or retention of jobs or will otherwise improve or enhance the economic welfare of (its) inhabitants . . ." (A.R.S. Section 9-500.11); and, (3) to "be vested with all of the powers of incorporated towns as set forth in title 9, in addition to all powers vested in them pursuant to their respective charters or other provisions of law . . ." (A.R.S. Section 9-499.01); and,

WHEREAS, transit activities are one of the types of activities authorized pursuant to the aforementioned statutory and Charter authority and such powers do not conflict with any of the provisions of SUB-RECIPIENT's charter; and,

WHEREAS, Chapter 53 of 49 United States Code (formerly the Federal Transit Act of 1964, as amended), makes financial aid available to municipalities and local units of government showing a substantial effort toward the preservation, improvement and operation of mass transit systems; and,

WHEREAS, PHOENIX successfully applied to the Federal Transit Administration (FTA) for a FTA grant for the purpose of capital assistance and same was awarded as Grant No. AZ-90-X080; and,

WHEREAS, SUB-RECIPIENT shall receive funds from said Grant and perform the work as required therein all as set forth in Exhibit "A" hereto which Exhibit is, by this reference, incorporated herein as though fully set forth; and,

WHEREAS, PHOENIX and SUB-RECIPIENT have been authorized by their respective Councils to enter into this Agreement; NOW, THEREFORE,

AGREEMENT

IT IS HEREBY AGREED, by and between the parties, as follows:

1. Grant Reimbursement. PHOENIX agrees to reimburse SUB-RECIPIENT for the federal share of the purchase of item/services shown in the "Project Description" box on Exhibit "A." Reimbursement shall not exceed the federal funds allocated to SUB-RECIPIENT, unless approved in writing by PHOENIX. The federal funds allocated to SUB-RECIPIENT under this Agreement shall not exceed $958,078. SUB-RECIPIENT shall provide the required local match for these projects. No reimbursements shall be made unless all required reports have been submitted. To be eligible for reimbursement, projects must be completed and reimbursement must be requested within thirty (30) months of the grant award by the FTA, i.e., the FTA obligation date. Funding for uncompleted and unbilled projects will be reassigned at the discretion of PHOENIX, as needed to close out the grant.

   A. Application for reimbursement of federal share.

      SUB-RECIPIENT shall submit their application for reimbursement of federal share to:

      City of Phoenix
      Public Transit Department
      Fiscal Services Division, Accounts Payable Section
      City of Phoenix

302 North First Avenue; Suite 900
Phoenix, AZ 85003

The cover letter must identify the City of Phoenix contract number and the period for which the application is submitted.

B. Backup Documentation.

The application for reimbursement must be accompanied by detailed backup documentation for all eligible expenses. At a minimum the documentation shall include, but is not limited to, the following.

1. A listing of all invoiced costs with vendors and payment dates.
2. Copies of paid invoices received from vendors for purchases of supplies and services.
3. All purchases of vehicles shall be accompanied with "Vehicle Inventory Record" form.
4. All other asset purchases shall be accompanied with a "Capital Asset Purchase" form.

2. Exhibits and Incorporation by Reference. Attached hereto are the following Exhibits each of which is, by this reference, incorporated herein as though fully set forth.

Exhibit	A	Federal Grant Pass Thru Agreement Detail Summary
Exhibit	B	Required Reports
Exhibit	C	Required Federal Provision
Exhibit	D	Partial List of Applicable Laws
Exhibit	E	Master Grant Agreement, Table of Contents
Exhibit	F	Required Local Provisions

3. Sub-recipient Performance. SUB-RECIPIENT shall complete the project for which grant funds have been awarded in a proper and timely manner.

4. Notice. Any notice, consent, or other communication ("NOTICE") required or permitted under this Agreement shall be in writing and either delivered in person, sent by facsimile transmission, deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, or deposited with any commercial air courier or express service addressed as follows:

If intended for SUB-RECIPIENT:

Charles McClendon
City Manager
11465 W. Civic Center Drive, Suite 220
Avondale, AZ 85323
Telephone: (623) 333-1000
FAX: (623) 333-0100

If intended for PHOENIX:

Debbie Cotton
Public Transit Director
Public Transit Department
City of Phoenix
302 North First Avenue, Suite 900
Phoenix, Arizona 85003
Telephone: (602) 262-7242
FAX: (602) 495-2002

Notice shall be deemed received at the time it is personally served or, on the day it is sent by facsimile transmission, on the second day after its deposit with any commercial air courier or express service or, if mailed, ten (10) days after the notice is deposited in the United States mail as above provided. Any time period stated in a notice shall be computed from the time the notice is deemed received. Either party may change its mailing address, FAX number, or the person to receive notice by notifying the other party as provided in this section.

Notice sent by facsimile transmission shall also be sent by regular mail to the recipient at the above address. This requirement for duplicate notice is not intended to change the effective date of the notice sent by facsimile transmission.

5. Effective Date: This Agreement shall be in full force and effect upon approval of the Councils of PHOENIX and SUB-RECIPIENT, when executed by their duly authorized officials, and when filed with the County Recorder pursuant to A.R.S. § 11-952(G).

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

CITY OF PHOENIX, ARIZONA
Frank Fairbanks, City Manager

By_____
Debbie Cotton
Public Transit Director

ATTEST:

_____
City Clerk - PHOENIX

APPROVED AS TO FORM:

_____
Acting City Attorney - PHOENIX

APPROVED BY PHOENIX CITY COUNCIL BY FORMAL ACTION ON OCTOBER 18, 2006

CITY OF AVONDALE, ARIZONA
A Municipal Corporation

By_____

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney for

APPROVED BY SUB-RECIPIENT'S GOVERNING BODY BY FORMAL ACTION ON:
_____

INTERGOVERNMENTAL AGREEMENT DETERMINATION

In accordance with the requirements of Section 11-952(D), Arizona Revised Statutes, each of the undersigned attorneys acknowledge: (1) that they have reviewed the above Agreement on behalf of their respective clients; and, (2) that, as to their respective clients only, each attorney has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

_____	_____
Attorney for PHOENIX	Attorney for SUB-RECIPIENT

EXHIBIT "A"

2007
FEDERAL GRANT PASS THRU AGREEMENT

AGREEMENT NUMBER:

GRANT NUMBER: AZ-90-X080

GRANT RECIPIENT: CITY OF PHOENIX

GRANT SUB- RECIPIENT'S NAME: CITY OF AVONDALE

GRANT SUB- RECIPIENT'S ADDRESS:
Charles McClendon
City Manager
11465 W. Civic Center Drive, Suite 220
Avondale, AZ 85323
Telephone: (623) 333-1000
FAX: (623) 333-0100

TOTAL ELIGIBLE PROJECT COST (TEPC): $1,916,156

- Federal Share of TEPC : $ $958,078
- Local Share/Match of TEPC: $ $958,078

PROJECT(S) DESCRIPTION:

ALI Code	Project Description	Local	Federal	Total
AVN07-701T	Operating Assistance	958,078	$958,078	$1,916,156

EXHIBIT "A"

EXHIBIT "B"

Required Reports

SUB-RECIPIENT agrees to submit reports and statements or plans as now or hereafter required by PHOENIX or the FTA. Quarterly reports are due on or before the 15th of the month following the end of the quarter, i.e., October 15, January 15, April 15 and July 15; and annual reports are due ninety days (except NTD Report which shall be due 150 days) after the end of the fiscal year (July 1 - June 30). Drug and Alcohol Reports are due January 31 for the previous calendar year.

REPORT	FREQUENCY	DESCRIPTION
DBE Report	Quarterly	Utilization of Disadvantaged Business Enterprise (DBE)
Grant Status Report	Quarterly	Status of each project by grant number
NTD Report	Annually	Copy for information only
Fixed Assets Status Report	Annually	Inventory of all FTA funded assets
Single Audit Report	Annually	Copy of federally required audit
Drug and Alcohol Reports	Annually	FTA Drug and Alcohol Testing

The reports and required submissions listed above may be increased, revised, reorganized, deleted or changed as required by FTA guidelines**. All reports must be current before any FTA funds will be disbursed by PHOENIX.**

EXHIBIT "B"

EXHIBIT "C"

Required Federal Provisions

1. SUB-RECIPIENT shall permit the authorized representatives of PHOENIX, the United Stated Department of Transportation , and the Controller General of the United States to inspect and audit all data, books, records and reports relating to this Agreement and SUB-RECIPIENT's performance hereunder. PHOENIX's audit shall be at SUB-RECIPIENT's sole cost and expense. All required records shall be maintained for a minimum of three years, after the grant has been formally closed.

2. Both parties warrant that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and, further, that no member or delegate to Congress, the City Council or any employee of PHOENIX or SUB-RECIPIENT, has any interest, financial or otherwise, in this Agreement.

3. SUB-RECIPIENT shall fully comply with the Disadvantaged Business Enterprise (DBE) Regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26 and with the FTA-approved goal and program submitted annually by PHOENIX as the recipient on behalf of the region. The Transit Civil Rights Officer of the City of Phoenix Public Transit Department and representative(s) of the City of Phoenix Equal Opportunity Department will meet annually with SUB-RECIPIENT to cooperatively determine DBE participation for all FTA assisted projects.

4. In performing the services for which federal funding is provided under this Agreement, SUB-RECIPIENT agrees to comply with all laws, rules, regulations, standards, orders or directives (hereinafter "Laws") applicable to this Agreement, to the services provided pursuant to this Agreement, and to PHOENIX as the designated recipient of FTA funding. The Laws referred to above include federal, state and local laws, and include, but is not limited to, those items set forth in Exhibit "D."

5. The parties acknowledge that federal funds are being used for the work, services and/or operations provided under this Agreement. In that regard the City of Phoenix, as the designated grant recipient, is obligated to accept and comply with all of the terms and conditions set forth in the Federal Transit Administration (FTA) Master Grant Agreement. In order for SUB-RECIPIENT to receive funding under this Agreement with the City of Phoenix, SUB-RECIPIENT is required to similarly accept and comply with all such terms and conditions and SUB-RECIPIENT does hereby specifically agree to be bound thereby. A copy of the Master Grant Agreement has been provided to SUB-RECIPIENT and additional copies are available from the City of Phoenix. The Master Grant Agreement for FY2007 and any subsequent revisions are, by this reference, incorporated herein as though fully set forth. Further, a summary of some of the terms of the Master Grant Agreement, as set forth its Table of Contents, are attached hereto as Exhibit "E" and are, by this reference, incorporated herein. The items listed in Exhibit "E" are illustrative only and are set forth in the Exhibit for SUB-RECIPIENT's ease of reference; SUB-RECIPIENT is solely responsible for complying with all of the terms and conditions of the Master Grant Agreement and any subsequent revisions whether or not they are set forth in Exhibit "E".

6. SUB-RECIPIENT understands and acknowledges the applicability of the Immigration Reform and Control Act of 1986 (IRCA) and agrees to comply with the IRCA in the performance of this Agreement.

EXHIBIT "D"

Partial List of Applicable Laws

A. Federal Codes. SUBRECIPIENT shall comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to U.S.C. 2000d-4 (hereinafter referred to as the Act) and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which SUBRECIPIENT receives federal financial assistance, directly or indirectly, from the Department of Transportation, including the Federal Transit Administration, and hereby gives assurance that it will promptly take any measures necessary to effectuate this Agreement. This assurance is required by Subsection 21.7(a)(1) of the Regulations.

More specifically and without limiting the above general assurance, SUBRECIPIENT hereby gives the following specific assurances with respect to the project:

1. SUB-RECIPIENT shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with a project under 49 U.S.C. chapter 53 and, in adapted form in all proposals for negotiated agreements:

   CONTRACTOR, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, non-discrimination in federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders and proposers that it will affirmatively ensure that in

regard to any contract or procurement entered into pursuant to this advertisement, Disadvantaged Business Enterprise will be afforded full opportunity to submit bids and proposals in response to this invitation and will not be discriminated against on the grounds of race, color, sex or national origin in consideration for an award.

2. If SUB-RECIPIENT carries out a program of training under Section 5312 of Title 49, United States Code chapter 53, the assurance shall obligate SUB-RECIPIENT to make selection of the trainee or fellow without regard to race, color, sex or national origin.

3. Where SUB-RECIPIENT receives federal financial assistance to carry out a program under Title 49, United States Code chapter 53, the assurance shall obligate SUB-RECIPIENT to assign transit operators and to furnish transit operators without regard to race, color, sex or national origin.

4. Where SUB-RECIPIENT carries out a program under Title 49, United States Code chapter 53, routing, scheduling, quality of service, frequency of service, age and quality of vehicles assigned to routes, quality of stations serving different routes and location of routes may not be determined on the basis of race, color, sex or national origin.

5. This assurance obligates SUB-RECIPIENT for the period during which federal financial assistance is extended to the project.

6. SUB-RECIPIENT shall provide for such methods of administration for the program as are found by PHOENIX to give reasonable guarantee that it, its contractors, sub-contractors, transferee's, successors in interest and other participants under such program will comply with all requirements imposed or pursuant to 49 U.S.C. chapter 53, the Regulations and this assurance.

7. SUB-RECIPIENT agrees that PHOENIX has a right to seek judicial enforcement with regard to any matter arising under 49 U.S.C. chapter 53, the Regulations and this assurance.

B. Compliance with FTA Regulations. During the performance of this Agreement, SUB-RECIPIENT, for itself, its assignees and successors in interest agrees as follows:

1. SUB-RECIPIENT shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (DOT), Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are incorporated herein by this reference and made a part of this contract.

2. With regard to the work performed by it during the contract, SUB-RECIPIENT shall not discriminate on the grounds of race, color, sex or national origin in the selection and retention of sub-contractors, including procurement and leases of equipment.

3. In all solicitations, either by competitive bidding or negotiation, made by SUB-RECIPIENT for work to be performed under a sub-contract, including procurement of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by SUB-RECIPIENT of the sub-contractor's obligations under this Agreement and the Regulations relative to non-discrimination on the grounds of race, color, sex or national origin.

4. SUB-RECIPIENT shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by PHOENIX or the FTA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of SUB-RECIPIENT is in the exclusive possession of another who fails or refuses to furnish this information, SUB-RECIPIENT shall so certify to PHOENIX, or the FTA, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. In the event of SUB-RECIPIENT's noncompliance with the nondiscrimination provisions of this contract, PHOENIX shall impose such contract sanctions as it or the FTA may determine to be appropriate, including, but not limited to:

   a) Withholding of payments to SUB-RECIPIENT under the grant award until SUB-RECIPIENT complies; and/or,

   b) Cancellation, termination or suspension of this Agreement, in whole or in part.

6. SUB-RECIPIENT shall include the FTA provisions included in paragraphs 1 through 5 of Section B, in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. SUB-RECIPIENT shall take such action with respect to any sub-contract or procurement as PHOENIX or the FTA may direct as a means of enforcing such provisions, including sanctions for noncompliance: provided, however, that, in the event SUB-RECIPIENT becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, SUB-RECIPIENT may request that PHOENIX enter into such litigation to protect the interests of PHOENIX, and, in addition, SUB-RECIPIENT may request the United States to enter into such litigation to protect the interests of the United States.

7. SUB-RECIPIENT shall comply with the following Statutes and Regulations:

   18 U.S.C. 1001

   Section 5323(d) of 49 U.S.C. chapter 53

   Section 5323(f) of 49 U.S.C. chapter 53

   Section 5307(k) of 49 U.S.C. chapter 53

Section 5309(h) of 49 U.S.C. chapter 53

Section 5301 of 49 U.S.C. chapter 53

Section 5333 of 49 U.S.C. chapter 53 which requires compliance with applicable labor requirements.

Section 5310 of 49 U.S.C. chapter 53 which provides, among other things, for the planning and design of mass transportation facilities to meet the special needs of senior persons and persons with disabilities.

Section 5332 of 49 U.S.C. chapter 53 which, among other things, prohibits discrimination on the basis of race, color, creed, national origin, sex or age.

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d which, among other things, prohibits discrimination on the basis of race, color or national origin by recipients of federal financial assistance.

Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e which, among other things, prohibits discrimination in employment.

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 which, among other things, prohibits discrimination on the basis of disability.

49 CFR Part 600 et seq. regulations promulgated by FTA.

49 CFR Parts 21, 23, 25 and 27 regulations promulgated by the Department of Transportation governing Title VI, Minority Business Enterprise (Disadvantaged Business Enterprise/ Women's Business Enterprise), Relocation and Land Acquisition and Nondiscrimination on the basis of disability, respectively.

46 CFR Part 381 regulations promulgated by the Maritime Administration governing cargo preference requirements.

36 CFR Part 800 regulations promulgated by the Advisory Council on Historic Preservation.

31 CFR part 205 regulations promulgated by the Department of the Treasury governing letter of credit.

40 CFR Part 15 regulations promulgated by the Environmental Protection Agency pertaining to administration of clean air and water pollution requirements.

29 CFR Parts 5 and 215 regulations promulgated by the Department of Labor pertaining to construction labor and transit employee protections.

C. Drug and Alcohol Testing. SUB-RECIPIENT shall have in place, maintain, and implement a plan and a program for compliance with U.S. DOT Drug and Alcohol Regulations, as specified in 49 CFR 40, 49 CFR 653 and 49 CFR 654. Said plan and program shall be modified to incorporate and comply with such other regulations as were adopted in the USDOT and published in the Federal Register as of February 14, 1994 and any subsequent changes thereto.

EXHIBIT "E"

MASTER AGREEMENT

For Federal Transit Administration Agreements authorized by
49 U.S.C. chapter 53, Title 23, United States Code (Highways),
the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, the Transportation Equity Act for the 21st Century, as amended,
the National Capital Transportation Act of 1969, as amended,
or other Federal laws that FTA administers.

FTA MA(13)
October 1, 2006
http://www.fta.dot.gov/documents/13-Master.doc

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EXHIBIT "F"

Required Local Provisions

1. Transactional Conflicts of Interest. All parties hereto acknowledge that this Agreement is subject to cancellation by either party pursuant to the provisions of A.R.S. Section 38-511.

2. Assignability; Successors and Assigns. This Agreement, and any rights or obligations hereunder, shall not be transferred or assigned by SUB-RECIPIENT without the prior written consent of PHOENIX. Any attempt to assign without such prior written consent shall be void.

3. Employment and Organization Disclaimer. This Agreement is not intended to, and will not, constitute, create, give rise to, or otherwise recognize a joint venture, partnership, or formal business association or organization of any kind as existing between the parties, and the rights and the obligations of the parties shall be only those expressly set forth herein. Neither party is the agent of the other and neither party is authorized to act on behalf of the other party. SUB-RECIPIENT shall be liable to PHOENIX for any financial liability arising from any finding to the contrary by any forum of competent jurisdiction.

4. Entire Agreement; Modification (No Oral Modification). This Agreement, and any Exhibits, Attachments, or Schedules attached hereto, constitute the full and complete understanding and agreement of the parties. It supersedes and replaces any and all previous representations, understandings, and agreements, written or oral, relating to its subject matter. There shall be no oral alteration or modification of this Agreement; this Agreement and its terms, may not be modified or changed except in writing signed by both parties.

5. Invalidity of Any Provisions. This Agreement shall remain in full force and effect even if one or more of its terms or provisions have been held to be invalid or unenforceable. Such a holding shall result in the offending term or provision being ineffective to the extent of its invalidity or unenforceability without invalidating the remaining terms and provisions hereof; this Agreement shall thereafter be construed as though the invalid or unenforceable term or provision were not contained herein.

6. Compliance with Laws, Permits and Indemnity. SUB-RECIPIENT shall comply with all applicable laws, ordinances, regulations and codes of federal, state and local governments. Further, SUB-RECIPIENT shall be solely responsible for obtaining all approvals and permits necessary to perform the work called for under this Agreement. In addition, SUB-RECIPIENT shall indemnify, defend, save and hold harmless PHOENIX from all loss, cost and damage by reason of any violation of the provisions of this paragraph and from any liability including, but not limited to, fines, penalties and other costs arising therefrom.

7. Applicable Law and Litigation. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Arizona. Any and all litigation between the parties arising from this Agreement shall be litigated solely in the appropriate state court located in Maricopa County, Arizona.

8. Inspection and Audit. The provisions of Section 35-214, Arizona Revised Statutes, shall apply to this Agreement. CITY shall perform the inspection and audit function specified therein.

9. Non-waiver. Should PHOENIX fail or delay in exercising or enforcing any right, power, privilege or remedy under this Agreement such failure or delay shall not be deemed a waiver, release or modification of the requirements of this Agreement or of any of the terms or provisions thereof.

10. Labor Protective Provisions. SUB-RECIPIENT shall fully cooperate with PHOENIX in meeting the legal requirements of the labor protective provisions of Section 5333(b) of Title 49 U.S. Code [formerly Section 13(c) of the Federal Transit Act of 1964, as amended (49 U.S.C. 1609)] and the Labor Agreements and side letters currently in force and certified by the United States Department of Labor. Changes, including changes in service and any other changes that may adversely affect transit employees, shall be made only after due consideration of the impact of such changes on Section 5333(b) protections granted to employees. SUB-RECIPIENT shall defend and indemnify PHOENIX from any and all claims and losses due, or alleged to be due, in whole or in part, to the consequences of changes made by SUB-RECIPIENT, that were not requested by PHOENIX which result in grievances, claims and/or liability.

CITY COUNCIL REPORT

SUBJECT:
Resolution 2675-807 - Intergovernmental Agreement - City of Goodyear for FY2007/2008 Transit Services

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Jess Segovia, Transit Administrator (623)333-1030

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council adopt a resolution approving an Intergovernmental Agreement with the City of Goodyear for FY2007/2008 Transit Services.

BACKGROUND:

The City of Avondale entered into an Intergovernmental Agreement in FY 2003/2004 (No. 104703), on behalf of the Avondale Urbanized Area (AUA) cities (Avondale, Goodyear, Tolleson and Litchfield Park), for transit services. This agreement has been renewed and amended annually since 2003. The City of Phoenix will provide following services, on behalf of the Avondale Urbanized Area, in FY 2007/2008:

- Route 3 - Van Buren Street
- Route 17 - McDowell Road (beginning January 2008)
- Route 41 - Indian Schoold Road
- Green Line - Thomas Road and Avondale Blvd.
- ADA Dial-a-Ride service adjacent to the fixed routes

The City of Avondale is a recipient of Federal Transit Administration (FTA) grant funds on behalf of the Avondale Urbanized Area cities. The AUA is receiving an estimated $1.25 million in FTA Operating Assistance in FY2007/2008. These funds require a 100% local match. The local match for routes 3, 17, 41 and Green Line is paid for by City of Phoenix's share. Since Phoenix is not a recipient of FTA Operating Assistance, their proportionate share counts as the AUA's local match.

**The new Route 17 (McDowell) is scheduled to begin service in mid to late January 2008. The estimated cost reflects approximately half a year's service.*

The START route is also eligible for Job Access and Reverse Commute (JARC) grant funds. These funds are available annually by the State of Arizona and are distributed by ADOT. Should the AUA receive JARC funds, these funds will replace FTA Operating Assistance funds, which will then be rolled into a future year's use.

ADA Dial-a-Ride services will no longer be paid using FTA Operating Assistance Funds. With the passage of the Regional Transportation Plan, an ADA fund was established to allow reimbursement to cities for any Paratransit trips provided to ADA-certified individuals. Each city will independently seek reimbursement from Valley Metro/RPTA for ADA costs.

Refer to Attachment A for an estimate of the cost for service and funding for each of the routes for FY2007-2008.

DISCUSSION:

The City of Goodyear's proportionate share of FY2007/2008 Transit Services is $114,347; $80,322 for bus

services and $34,025 for ADA Dial-a-Ride service. Goodyear will be invoiced on a quarterly basis (July 1, 2007, October 1, 2007, January 1, 2008, and April 1, 2008) in the amount of $28,586.75.

Refer to Attachment B for a breakdown on each city's proportionate share.

BUDGETARY IMPACT:

The estimated FY2007/2008 Transit costs have been adequately budgeted for in the City Budget. If necessary, a year-end adjustment will be made according to actual expenses incurred. If it is determined that the City of Goodyear has paid more than its share of the cost of service, the City will receive a refund; if the City has underpaid it will be billed for the actual cost of the service.

RECOMENDATION:

Staff recommends that the City Council adopt a resolution approving an Intergovernmental Agreement with the City of Goodyear for FY2007/2008 Transit Services.

ATTACHMENTS:

Click to download

- Service Contract
- Attachment B
- RES - 2675-807 Goodyear Transit IGA

Avondale Service Contract
Contract Estimate
July 1, 2007 through June 30, 2008

Route	Miles Per Day	Service Days	Annual Miles/Hrs	Rate Per Mile/Hr	Annual Cost	Estimated Revenue	Net Cost
Weekday:							
3 A	155.8	255	39,730	$4.7740	$189,700	($12,880)	$176,820
3 G	6.7	255	1,710	$4.7740	$8,200	($670)	$7,530
3 P	750.0	255	191,250	$4.7740	$913,000	($90,680)	$822,320
3 T	121.8	255	31,060	$4.7740	$148,300	($3,230)	$145,070
Saturday:							
3 A	155.8	52	8,100	$4.7740	$38,700	($1,490)	$37,210
3 G	6.7	52	350	$4.7740	$1,700	($40)	$1,660
3 T	121.8	52	6,330	$4.7740	$30,200	($380)	$29,820
Weekday:							
17 A	136.0	110	14,960	$4.7740	$71,400	($7,500)	$63,900
17 G	102.0	110	11,220	$4.7740	$53,600	($6,000)	$47,600
Saturday:							
17 A	112.0	22	2,460	$4.7740	$11,700	($1,500)	$10,200
17 G	84.0	22	1,850	$4.7740	$8,800	($1,000)	$7,800
Weekday:							
41 A	59.5	255	15,170	$4.7740	$72,400	($11,750)	$60,650
Saturday:							
41 A	56.9	52	2,960	$4.7740	$14,100	($1,180)	$12,920
Weekday:							
Green	152.9	255	38,990	$4.7740	$186,100	($11,070)	$175,030
Saturday:							
Green	122.0	52	6,340	$4.7740	$30,300	($1,330)	$28,970
Dial-a-Ride		307	3,300	$53.4188	$176,000	($22,040)	$153,960

Grant/Administrative Support Services			$80,000
Total Service Cost			$1,781,460
	Total All Costs		$1,861,460
FTA Operating Assistance @ 50%			$845,180
Avondale Share of Cost			$153,960
Phoenix Local Share (Over Match)			$862,320
	Total All Sources		$1,861,460

Route 131 Costs by Jurisdiction FY 2008:

Weekday:							
Avondale	269.1	255	68,620	$6.8375	$469,190	($29,900)	$439,290
Goodyear	64.1	255	16,350	$6.8375	$111,790	($7,510)	$104,280
Litchfield Pk	13.9	255	3,540	$6.8375	$24,200	($670)	$23,530
Phoenix	64.0	255	16,320	$6.8375	$111,590	($18,580)	$93,010
Tolleson	96.0	255	24,480	$6.8375	$167,380	($7,580)	$159,800
Total	507.1		129,310		$884,150	($64,240)	$819,910

Job Access and Reverse Com. @ 50%	$0
FTA Operating Assist. @ 50% of Balance	$409,955
Total Local Share	$409,955

Route 131 Funding Split Fiscal Year 2008:		
Avondale	58.60%	$212,982
Goodyear	22.10%	$80,322
Litchfield Park	4.55%	$16,537
Phoenix	0.00%	$46,505
Tolleson	14.75%	$53,609
Totals	100.0%	$409,955

Source of All Funds:	
FTA Operating Assistance	$1,255,135
Job Access Reverse Communte	$0
Local Funds West Valley	$517,410
Local Funds Phoenix	$908,825
Total All Sources	$2,681,370

Attachment B – The following tables show each Avondale Urbanized Area city's proportionate share.for fiscal year 2007/2008.

Route 131 Funding Split Fiscal Year 2008:		
Avondale	58.60%	$212,982
Goodyear	22.10%	$80,322
Litchfield Park	4.55%	$16,537
Tolleson	14.75%	$53,609
Totals	100.0%	$363,450

Southwest Valley ADA Costs		
Avondale	58.60%	$90,221
Goodyear	22.10%	$34,025
Litchfield Park	4.55%	$7,005
Tolleson	14.75%	$22,709
Totals	100.0%	$153,960

TOTAL FUNDING SPLIT FISCAL YEAR 2008:		
Avondale	**58.60%**	**$303,203**
Goodyear	**22.10%**	**$114,347**
Litchfield Park	**4.55%**	**$23,542**
Tolleson	**14.75%**	**$76,318**
Totals	**100.0%**	**$517,410**

RESOLUTION NO. 2675-807

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF GOODYEAR RELATING TO TRANSIT SERVICES.

WHEREAS, the City of Avondale ("Avondale") and the City of Phoenix ("Phoenix") entered into an Intergovernmental Agreement on August 20, 2007, in which Avondale agreed to pay Phoenix for transit services to be provided to the Avondale Urbanized Area for fiscal year 2007-2008; and

WHEREAS, the Intergovernmental Agreement between Avondale and Phoenix designated Avondale as the lead agency for the Avondale Urbanized Area; and

WHEREAS, the City of Goodyear ("Goodyear") is part of the Avondale Urbanized Area and benefits from the transit services provided by Phoenix; and

WHEREAS, Avondale and Goodyear desire to enter into an Intergovernmental Agreement to provide bus transit services to the residents of Avondale and Goodyear by providing for the operation of Route 3, Route 17, Route 41, the Green Line, Route 131 (START) and Dial-A-Ride; and

WHEREAS, Goodyear will reimburse Avondale on a quarterly basis for Goodyear's prorated annual cost of $114,347.00 for Route 131 (START) and ADA Dial-a-Ride services. The quarterly invoice amount will be $28,586.75.

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

SECTION 1. That the Intergovernmental Agreement between Avondale and Goodyear with respect to the reimbursement of funds for transit services (the "Agreement") is hereby approved in the form attached hereto as Exhibit A.

SECTION 2. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps necessary to cause the execution of the Agreement and to 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, August 20, 2007.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Linda M. Farris, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2675-807

[Intergovernmental Agreement]

See following pages.

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
THE CITY OF TOLLESON
RELATING TO TRANSIT SERVICES

THIS INTERGOVERNMENTAL AGREEMENT (this "Agreement") is made as of August 20, 2007, between the City of Avondale, an Arizona municipal corporation ("Avondale") and the City of Tolleson, an Arizona municipal corporation ("Tolleson").

RECITALS

A. Avondale and the City of Phoenix ("Phoenix") entered into an Intergovernmental Agreement on August 20, 2007 for FY 2007-2008 for transit services ("Phoenix IGA") with Avondale acting as the fiscal and responsible agent for the Avondale Urbanized Area.

B. Tolleson is part of the Avondale Urbanized Area and benefits from the transit services provided by the Phoenix IGA.

C. Avondale and Tolleson seek to serve their respective residents through public transportation by starting Route 17 (McDowell Route) service and continuing the operation of Route 3, Route 41, the Green Line, Route 131 (START) and Dial-A-Ride services.

D. Tolleson agrees to reimburse Avondale for Tolleson's prorated cost of operation for the transit services provided by the Phoenix IGA for Route 131 (START).

E. Avondale and Tolleson have authority to enter into the Agreement pursuant to ARIZ. REV. STAT. § 11-952.

F. Avondale is authorized to contract for public transportation services pursuant to Article 1, Section 3 of the Avondale City Charter.

G. Tolleson is authorized to contract for public transportation services pursuant to Section 2-5 of the Tolleson City Code.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, and the following mutual covenants and conditions, Avondale and Tolleson hereby agree as follows:

1. Service Area and Transit Services.

a. The corporate limits of Tolleson which are lawfully in effect on the July 1, 2007, shall designate and define the limits of the service area for the purpose of this Agreement.

b. The services provided are outlined in the Phoenix IGA in accordance with those specified in Valley Metro Bus Book.

2. Term. This Agreement shall commence on August 20, 2007 and shall terminate on June 30, 2008. Upon termination of this Agreement any and all property used in connection with this Agreement will be promptly returned to the party holding title thereto.

3. Avondale Responsibilities. Avondale shall:

a. Prepare and amend service specifications as published in the Valley Metro Bus Book in consultation with Tolleson.

b. Serve as the fiscal representative with Phoenix for Route 3, Route 17, Route 41, the Green Line, Dial-A-Ride, and Route 131 (START), and perform the necessary service actions and financial processes as required by the Phoenix IGA.

c. Invoice Tolleson an amount of $19,079.50 on a quarterly basis (July 1, 2007, October 1, 2007, January 1, 2008, and April 1, 2008).

4. Tolleson Responsibilities. Tolleson shall:

a. Continue to provide traffic control and transit facilitation measures, such as turning movements, on city streets as mutually agreed upon with Phoenix and Avondale.

b. Purchase, install and maintain bus stop signs as needed.

c. Retain all books, accounts, reports, files and other records relating to this Agreement for a period of five years from the termination of this Agreement. Such records shall be the subject to audit and inspection at any time during the term of this Agreement or within five years after the termination thereof.

d. Reimburse Avondale quarterly (July 1, 2007, October 1, 2007, January 1, 2008, and April 1, 2008) for an amount of $19,079.50 ($76,318.00 annually) for Tolleson's pro-rata portion of those net costs incurred by Avondale in the operation of Route 131 (START) and ADA Dial-a-Ride services.

5. Reconciliation. In the event that Tolleson's portion of the costs is more or less than $114,347.00 at the end of the term, Avondale shall recoup or reimburse the difference in cost.

6. Capital and Operating Expenditures; Budget. Nothing in this Agreement shall be construed as committing Avondale to incur capital expenditures for equipment, facilities, or otherwise, or to incur expenses not expressly set forth in this Agreement.

7. Indemnification. To the extent permitted by law, each party (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other party and its officers, employees, and elected or appointed officials (as "Indemnitee") for from and against any and all claims, losses,

liability, costs or expenses, including reasonable attorneys' fees (collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage relating to the Indemnitor's performance of its duties under this Agreement, but only to the extent that such Claims are caused by the negligence, misconduct, intentional act or other fault of the Indemnitor, its officers, employees, contractors, elected or appointed officials.

8. Amendment. This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of Avondale and the Tolleson.

9. Relationship of the Parties. Each party to this Agreement shall act in its individual capacity and not as an agent, employee, partner, joint venture, associate, or any other representative capacity of the other. Each party shall be solely and entirely responsible for its acts or acts of its agents and employees during the performance of this Agreement.

10. Integration. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof, and all agreements entered into prior hereto with respect to the subject matter hereof and revoked and superseded by this Agreement, and not representations, warranties, inducements, or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements. This Agreement may not be changed modified, or rescinded except in writing, signed by all parties hereto, and any attempt at oral modification of this Agreement shall be void and of no effect.

11. Attorneys' Fees. In the event legal action is brought or an attorney is retained by any party to this Agreement to enforce the terms of this Agreement or to collect any monies due hereunder, or to collect money damages for breach thereof, the prevailing party shall be entitled to recover, in addition to any other remedy, reimbursement for reasonable attorneys' fees, court cost of investigation and other related expenses incurred in connection therewith.

12. Severability. If any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed form this Agreement, which shall otherwise remain in full force and effect.

13. No Assignment. Neither party may assign or delegate any of its rights or obligations hereunder without first obtaining the written consent of the other.

14. Waiver. Failure of any party to exercise any right or option arising out of a breach of this Agreement shall not be deemed a waiver of any right or option with respect to any subsequent or different breach, or the continuance of any existing breach.

15. Counterparts. This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed original hereof.

16. Captions. Captions and section headings used herein are for convenience only and are not a part of this Agreement and shall not be deemed to limit or alter any provisions hereof and shall no be deemed relevant to construing this Agreement.

17. Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered to the party at the address set forth below, (b) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, (c) given to a recognized and reputable overnight delivery service, to the address set forth below or (d) delivered by facsimile transmission to the number set forth below:

If to Avondale: City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Facsimile: 623-478-3802
Attn: Charles P. McClendon, City Manager

If to Tolleson: City of Tolleson Public Works Department
9501 West Pima Street
Tolleson, Arizona 85353
Facsimile: 623-907-0902
Attn: Jason Earp, Public Works Director

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

18. Cancellation. This Agreement may be cancelled by either party for conflict of interest pursuant to ARIZ. REV. STAT. § 38-511.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first written above.

"**Avondale**"

CITY OF AVONDALE, an Arizona municipal corporation

Marie Lopez Rogers, Mayor

ATTEST:

Linda M. Farris, City Clerk

"**Tolleson**"

CITY OF TOLLESON, an Arizona municipal corporation

Adolfo F. Gamez, Mayor

ATTEST:

Chris Hagen, City Clerk

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

Andrew J. McGuire
Avondale City Attorney

Scott W. Ruby
Tolleson City Attorney

CITY COUNCIL REPORT

SUBJECT:
Resolution 2677-807 - Intergovernmental Agreement - City of Litchfield Park for FY2007/2008 Transit Services

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Jess Segovia, Transit Administrator (623)333-1030

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council adopt a resolution approving an Intergovernmental Agreement with the City of Litchfield Park for FY2007/2008 Transit Services.

BACKGROUND:

The City of Avondale entered into an Intergovernmental Agreement in FY 2003/2004 (No. 104703), on behalf of the Avondale Urbanized Area (AUA) cities (Avondale, Goodyear, Tolleson and Litchfield Park), for transit services. This agreement has been renewed and amended annually since 2003. The City of Phoenix will provide following services, on behalf of the Avondale Urbanized Area, in FY 2007/2008:

- Route 3 – Van Buren Street
- Route 17 – McDowell Road (beginning January 2008)
- Route 41 –Indian School Road
- Green Line –Thomas Road and Avondale Blvd.
- ADA Dial-a-Ride service adjacent to the fixed routes

The City of Avondale is a recipient of Federal Transit Administration (FTA) grant funds on behalf of the Avondale Urbanized Area cities. The AUA is receiving an estimated $1.25 million in FTA Operating Assistance in FY2007/2008. These funds require a 100% local match. The local match for routes 3, 17, 41 and Green Line is paid for by City of Phoenix's share. Since Phoenix is not a recipient of FTA Operating Assistance, their proportionate share counts as the AUA's local match.

**The new Route 17 (McDowell) is scheduled to begin service in mid to late January 2008. The estimated cost reflects approximately half a year's service.*

The START route is also eligible for Job Access and Reverse Commute (JARC) grant funds. These funds are available annually by the State of Arizona and are distributed by ADOT. Should the AUA receive JARC funds, these funds will replace FTA Operating Assistance funds, which will then be rolled into a future year's use.

ADA Dial-a-Ride services will no longer be paid using FTA Operating Assistance Funds. With the passage of the Regional Transportation Plan, an ADA fund was established to allow reimbursement to cities for any Paratransit trips provided to ADA-certified individuals. Each city will independently seek reimbursement from Valley Metro/RPTA for ADA costs.

Attachment A is an estiamte of the cost for service and funding for each of the routes for fiscal year 2007-2008.

DISCUSSION:

The City of Litchfield Park's proportionate share of FY2007/2008 Transit Services is $23,542; $16,537 for bus services and $7,005 for ADA Dial-a-Ride service. Litchfield Park will be invoiced on a quarterly basis (July 1, 2007, October 1, 2007, January 1, 2008, and April 1, 2008) in the amount of $5,885.50.

Attachment B are tables showing each Avondale Urbanized Area city's proportionate share.

BUDGETARY IMPACT:

The estimated FY2007/2008 Transit costs have been adequately budgeted for in the City Budget. If necessary, a year-end adjustment will be made according to actual expenses incurred. If it is determined that the City of Litchfield Park has paid more than its share of the cost of service, the City will receive a refund; if the City has underpaid it will be billed for the actual cost of the service.

RECOMENDATION:

Staff recommends that the City Council adopt a resolution approving an Intergovernmental Agreement with the City of Litchfield Park for FY2007/2008 Transit Services.

ATTACHMENTS:

Click to download

- Service Contract Estimate for FY2007-2008
- Attachment B Funding Split
- Attachment A - Cost of Services
- RES - 2677-807 Litchfield Park

Avondale Service Contract
Contract Estimate
July 1, 2007 through June 30, 2008

Route	Miles Per Day	Service Days	Annual Miles/Hrs	Rate Per Mile/Hr	Annual Cost	Estimated Revenue	Net Cost
Weekday:							
3 A	155.8	255	39,730	$4.7740	$189,700	($12,880)	$176,820
3 G	6.7	255	1,710	$4.7740	$8,200	($670)	$7,530
3 P	750.0	255	191,250	$4.7740	$913,000	($90,680)	$822,320
3 T	121.8	255	31,060	$4.7740	$148,300	($3,230)	$145,070
Saturday:							
3 A	155.8	52	8,100	$4.7740	$38,700	($1,490)	$37,210
3 G	6.7	52	350	$4.7740	$1,700	($40)	$1,660
3 T	121.8	52	6,330	$4.7740	$30,200	($380)	$29,820
Weekday:							
17 A	136.0	110	14,960	$4.7740	$71,400	($7,500)	$63,900
17 G	102.0	110	11,220	$4.7740	$53,600	($6,000)	$47,600
Saturday:							
17 A	112.0	22	2,460	$4.7740	$11,700	($1,500)	$10,200
17 G	84.0	22	1,850	$4.7740	$8,800	($1,000)	$7,800
Weekday:							
41 A	59.5	255	15,170	$4.7740	$72,400	($11,750)	$60,650
Saturday:							
41 A	56.9	52	2,960	$4.7740	$14,100	($1,180)	$12,920
Weekday:							
Green	152.9	255	38,990	$4.7740	$186,100	($11,070)	$175,030
Saturday:							
Green	122.0	52	6,340	$4.7740	$30,300	($1,330)	$28,970
Dial-a-Ride		307	3,300	$53.4188	$176,000	($22,040)	$153,960

Grant/Administrative Support Services			$80,000
Total Service Cost			$1,781,460
	Total All Costs		$1,861,460
FTA Operating Assistance @ 50%			$845,180
Avondale Share of Cost			$153,960
Phoenix Local Share (Over Match)			$862,320
	Total All Sources		$1,861,460

Route 131 Costs by Jurisdiction FY 2008:

Weekday:							
Avondale	269.1	255	68,620	$6.8375	$469,190	($29,900)	$439,290
Goodyear	64.1	255	16,350	$6.8375	$111,790	($7,510)	$104,280
Litchfield Pk	13.9	255	3,540	$6.8375	$24,200	($670)	$23,530
Phoenix	64.0	255	16,320	$6.8375	$111,590	($18,580)	$93,010
Tolleson	96.0	255	24,480	$6.8375	$167,380	($7,580)	$159,800
Total	507.1		129,310		$884,150	($64,240)	$819,910

Job Access and Reverse Com. @ 50%	$0
FTA Operating Assist. @ 50% of Balance	$409,955
Total Local Share	$409,955

Route 131 Funding Split Fiscal Year 2008:		
Avondale	58.60%	$212,982
Goodyear	22.10%	$80,322
Litchfield Park	4.55%	$16,537
Phoenix	0.00%	$46,505
Tolleson	14.75%	$53,609
Totals	100.0%	$409,955

Source of All Funds:	
FTA Operating Assistance	$1,255,135
Job Access Reverse Communte	$0
Local Funds West Valley	$517,410
Local Funds Phoenix	$908,825
Total All Sources	$2,681,370

Attachment B – The following tables show each Avondale Urbanized Area city's proportionate share.for fiscal year 2007/2008.

Route 131 Funding Split Fiscal Year 2008:		
Avondale	58.60%	$212,982
Goodyear	22.10%	$80,322
Litchfield Park	4.55%	$16,537
Tolleson	14.75%	$53,609
Totals	100.0%	$363,450

Southwest Valley ADA Costs		
Avondale	58.60%	$90,221
Goodyear	22.10%	$34,025
Litchfield Park	4.55%	$7,005
Tolleson	14.75%	$22,709
Totals	100.0%	$153,960

TOTAL FUNDING SPLIT FISCAL YEAR 2008:		
Avondale	**58.60%**	**$303,203**
Goodyear	**22.10%**	**$114,347**
Litchfield Park	**4.55%**	**$23,542**
Tolleson	**14.75%**	**$76,318**
Totals	**100.0%**	**$517,410**

Attachment A –An estimate of the cost for service and funding for each of the routes for fiscal year 2007/2008.

COST ESTIMATES FOR FY2007/2008

Service	Annual Cost	Fare Revenue	Net Cost
Route 3	$416,800	$18,690	$398,110
Route 3 (Phoenix)	$913,000	$90,680	$822,320
Route 17*	$145,500	$16,000	$129,500
Route 41	$86,500	$12,930	$73,570
Route Green	$216,400	$12,400	$204,000
Dial-A-Ride	176,000	$22,040	$153,960
START 131	$884,150	$64,240	$819,910
Subtotal	*$2,838,350*	*$236,980*	*$2,601,370*
Grant/Administrative Support Services (from Phoenix)			$80,000
TOTAL			**$2,681,370**

FUNDING SOURCES FOR FY2007/2008

Fund Source	Amount
FTA Operating Assistance	$1,255,135
Local Match (Phoenix's Route 3/START Route/Grant Services)	$908,825
Local Match (Avondale Urbanized Area Bus & Dial-a-Ride costs)	$517,410
TOTAL	**$2,681,370**

RESOLUTION NO. 2677-807

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF LITCHFIELD PARK RELATING TO TRANSIT SERVICES.

WHEREAS, the City of Avondale ("Avondale") and the City of Phoenix ("Phoenix") entered into an Intergovernmental Agreement on August 20, 2007, in which Avondale agreed to pay Phoenix for transit services to be provided to the Avondale Urbanized Area for fiscal year 2007-2008; and

WHEREAS, the Intergovernmental Agreement between Avondale and Phoenix designated Avondale as the lead agency for the Avondale Urbanized Area; and

WHEREAS, the City of Litchfield Park ("Litchfield Park") is part of the Avondale Urbanized Area and benefits from the transit services provided by Phoenix; and

WHEREAS, Avondale and Litchfield Park desire to enter into an Intergovernmental Agreement to provide bus transit services to residents of Avondale and Litchfield Park by providing for the operation of Route 3, Route 41, the Green Line, Route 560, Dial-A-Ride and Route 131 (START) benefiting Litchfield Park residents; and

WHEREAS, Litchfield Park will reimburse Avondale on a quarterly basis for Litchfield Park's prorated annual cost of $23,542.00 for Route 131 (START) and ADA Dial-a-Ride services. The quarterly invoice amount will be $5,885.50.

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

SECTION 1. That the Intergovernmental Agreement between Avondale and Litchfield Park with respect to the reimbursement of funds for transit services (the "Agreement") is hereby approved in the form attached hereto as Exhibit A.

SECTION 2. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps necessary to cause the execution of the Agreement and to 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, August 20, 2007.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Linda M. Farris, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2677-807

[Intergovernmental Agreement]

See following pages.

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
THE CITY OF LITCHFIELD PARK
RELATING TO TRANSIT SERVICES

THIS INTERGOVERNMENTAL AGREEMENT (this "Agreement") is made as of August 20, 2007, between the City of Avondale, an Arizona municipal corporation ("Avondale") and the City of Litchfield Park, an Arizona municipal corporation ("Litchfield Park").

RECITALS

A. Avondale and the City of Phoenix ("Phoenix") entered into an Intergovernmental Agreement on August 20, 2007 for FY 2007-2008 for transit services ("Phoenix IGA") with Avondale acting as the fiscal and responsible agent for the Avondale Urbanized Area.

B. Litchfield Park is part of the Avondale Urbanized Area and benefits from the transit services provided by the Phoenix IGA.

C. Avondale and Litchfield Park seek to serve their respective residents through public transportation by starting Route 17 (McDowell Route) service and continuing the operation of Route 3, Route 41, the Green Line, Route 131 (START) and Dial-A-Ride services.

D. Litchfield Park agrees to reimburse Avondale on a quarterly basis for Litchfield Park's prorated cost of operation ($5,885.50) for the transit services provided by the Phoenix IGA for Route 131 (START) and ADA Dial-a-Ride services.

E. Avondale and Litchfield Park have authority to enter into the Agreement pursuant to ARIZ. REV. STAT. § 11-952.

F. Avondale is authorized to contract for public transportation services pursuant to Article 1, Section 3 of the Avondale City Charter.

G. Litchfield Park is authorized to contract for public transportation services pursuant to Section 2-5 of the Litchfield Park City Code.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, and the following mutual covenants and conditions, Avondale and Litchfield Park hereby agree as follows:

1. Service Area and Transit Services.

a. The corporate limits of Litchfield Park which are lawfully in effect on the July 1, 2007 shall designate and define the limits of the service area for the purpose of this Agreement.

b. The services provided are outlined in the Phoenix IGA in accordance with those specified in Valley Metro Bus Book.

2. Term. This Agreement shall commence on July 1, 2007 and shall terminate on June 30, 2008. Upon termination of this Agreement any and all property used in connection with this Agreement will be promptly returned to the party holding title thereto.

3. Avondale Responsibilities. Avondale shall:

a. Prepare and amend service specifications as published in the Valley Metro Bus Book in consultation with Litchfield Park.

b. Serve as the fiscal representative with Phoenix for Route 3, Route 17, Route 41, the Green Line, Dial-A-Ride, and Route 131 (START), and perform the necessary service actions and financial processes as required by the Phoenix IGA.

c. Invoice Litchfield Park an amount of $5,885.50 on a quarterly basis (July 1, 2007, October 1, 2007, January 1, 2008, and April 1, 2008).

4. Litchfield Park Responsibilities. Litchfield Park shall:

a. Continue to provide traffic control and transit facilitation measures, such as turning movements, on city streets as mutually agreed upon with Phoenix and Avondale.

b. Purchase, install and maintain bus stop signs as needed.

c. Retain all books, accounts, reports, files and other records relating to this Agreement for a period of five years from the termination of this Agreement. Such records shall be the subject to audit and inspection at any time during the term of this Agreement or within five years after the termination thereof.

d. Reimburse Avondale quarterly (July 1, 2007, October 1, 2007, January 1, 2008, and April 1, 2008) for an amount of $5,885.50 ($23,542.00 annually) for Litchfield Park's pro-rata portion of those net costs incurred by Avondale in the operation of Route 131 (START) and ADA Dial-a-Ride services.

5. Reconciliation. In the event that Litchfield Park's portion of the costs is more or less than $114,347.00 at the end of the term, Avondale shall recoup or reimburse the difference in cost.

6. Capital and Operating Expenditures; Budget. Nothing in this Agreement shall be construed as committing Avondale to incur capital expenditures for equipment, facilities, or otherwise, or to incur expenses not expressly set forth in this Agreement.

7. Indemnification. To the extent permitted by law, each party (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other party and its officers, employees, and elected or appointed officials (as "Indemnitee") for from and against any and all claims, losses, liability, costs or expenses, including reasonable attorneys' fees (collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage relating to the Indemnitor's performance of its duties under this Agreement, but only to the extent that such Claims are caused by the negligence, misconduct, intentional act or other fault of the Indemnitor, its officers, employees, contractors, elected or appointed officials.

8. Amendment. This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of Avondale and Litchfield Park.

9. Relationship of the Parties. Each party to this Agreement shall act in its individual capacity and not as an agent, employee, partner, joint venture, associate, or any other representative capacity of the other. Each party shall be solely and entirely responsible for its acts or acts of its agents and employees during the performance of this Agreement.

10. Integration. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof, and all agreements entered into prior hereto with respect to the subject matter hereof and revoked and superseded by this Agreement, and not representations, warranties, inducements, or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements. This Agreement may not be changed modified, or rescinded except in writing, signed by all parties hereto, and any attempt at oral modification of this Agreement shall be void and of no effect.

11. Attorneys' Fees. In the event legal action is brought or an attorney is retained by any party to this Agreement to enforce the terms of this Agreement or to collect any monies due hereunder, or to collect money damages for breach thereof, the prevailing party shall be entitled to recover, in addition to any other remedy, reimbursement for reasonable attorneys' fees, court cost of investigation and other related expenses incurred in connection therewith.

12. Severability. If any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed from this Agreement, which shall otherwise remain in full force and effect.

13. No Assignment. Neither party may assign or delegate any of its rights or obligations hereunder without first obtaining the written consent of the other.

14. Waiver. Failure of any party to exercise any right or option arising out of a breach of this Agreement shall not be deemed a waiver of any right or option with respect to any subsequent or different breach, or the continuance of any existing breach.

15. Counterparts. This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed original hereof.

16. Captions. Captions and section headings used herein are for convenience only and are not a part of this Agreement and shall not be deemed to limit or alter any provisions hereof and shall no be deemed relevant to construing this Agreement.

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If to Avondale: City of Avondale
11465 W. Civic Center Drive
Avondale, Arizona 85323
Facsimile: 623-478-3802
Attn: Charles P. McClendon, City Manager

If to Litchfield Park: City of Litchfield Park Community Services
214 West Wigwam Blvd.
Litchfield Park, Arizona 85340
Facsimile: 623-935-5427
Attn: Sonny Culbreth, Director of Community Services

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

18. Cancellation. This Agreement may be cancelled by either party for conflict of interest pursuant to ARIZ. REV. STAT. § 38-511.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first written above.

"Avondale"

CITY OF AVONDALE, an Arizona municipal corporation

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Linda M. Farris, City Clerk

"Litchfield Park"

CITY OF LITCHFIELD PARK, an Arizona municipal corporation

_____
Thomas L. Schoaf, Mayor

ATTEST:

_____
Mary Rose Evans, City Clerk

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

_____
Andrew J. McGuire,
Avondale City Attorney

_____
Susan D. Goodwin
Litchfield Park City Attorney

CITY COUNCIL REPORT

SUBJECT:
Resolution 2674-807 - Intergovernmental Agreement - City of Tolleson for FY2007/2008 Transit Services

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Jess Segovia, Transit Administrator (623)333-1030

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council adopt a resolution approving an Intergovernmental Agreement with the City of Tolleson for FY2007/2008 Transit Services.

BACKGROUND:

The City of Avondale entered into an Intergovernmental Agreement in FY 2003/2004 (No. 104703), on behalf of the Avondale Urbanized Area (AUA) cities (Avondale, Goodyear, Tolleson and Litchfield Park), for transit services. This agreement has been renewed and amended annually since 2003. The City of Phoenix will provide the following services, on behalf of the Avondale Urbanized Area, in FY 2007/2008:

- Route 3 – Van Buren Street
- Route 17 – McDowell Road (beginning January 2008)
- Route 41 –Indian School Road
- Green Line –Thomas Road and Avondale Blvd.
- ADA Dial-a-Ride service adjacent to the fixed routes

The City of Avondale is a recipient of Federal Transit Administration (FTA) grant funds on behalf of the Avondale Urbanized Area cities. The AUA is receiving an estimated $1.25 million in FTA Operating Assistance in FY2007/2008. These funds require a 100% local match. The local match for routes 3, 17, 41 and Green Line is paid for by City of Phoenix's share. Since Phoenix is not a recipient of FTA Operating Assistance, their proportionate share counts as the AUA's local match.

**The new Route 17 (McDowell) is scheduled to begin service in mid to late January 2008. The estimated cost reflects approximately half a year's service.*

The START route is also eligible for Job Access and Reverse Commute (JARC) grant funds. These funds are available annually by the State of Arizona and are distributed by ADOT. Should the AUA receive JARC funds, these funds will replace FTA Operating Assistance funds, which will then be rolled into a future year's use.

ADA Dial-a-Ride services will no longer be paid using FTA Operating Assistance Funds. With the passage of the Regional Transportation Plan, an ADA fund was established to allow reimbursement to cities for any Paratransit trips provided to ADA-certified individuals. Each city will independently seek reimbursement from Valley Metro/RPTA for ADA costs.

Attachment A is the FY 2007-2008 estimate of costs for service and funding for each of the routes.

DISCUSSION:

The City of Tolleson's proportionate share of FY2007/2008 Transit Services is $76,318; $53,609 for bus services and $22,709 for ADA Dial-a-Ride service. Tolleson will be invoiced on a quarterly basis (July 1, 2007,

October 1, 2007, January 1, 2008, and April 1, 2008) in the amount of $19,079.50.
Attachment B shows each Avondale Urbanized Area city's proportionate share.

BUDGETARY IMPACT:

The estimated FY2007/2008 Transit costs have been adequately budgeted for in the City Budget. If necessary, a year-end adjustment will be made according to actual expenses incurred. If it is determined that the City of Tolleson has paid more than its share of the cost of service, the City will receive a refund; if the City has underpaid it will be billed for the actual cost of the service.

RECOMENDATION:

Staff recommends that the City Council adopt a resolution approving an Intergovernmental Agreement with the City of Tolleson for FY2007/2008 Transit Services.

ATTACHMENTS:

Click to download

- Service COntract Estimate FY07-08 Tolleson
- Attachment B City's proportionate share
- Attachment A - Cost of Services
- RES - 2674-807 Tolleson

Avondale Service Contract
Contract Estimate
July 1, 2007 through June 30, 2008

Route	Miles Per Day	Service Days	Annual Miles/Hrs	Rate Per Mile/Hr	Annual Cost	Estimated Revenue	Net Cost
Weekday:							
3 A	155.8	255	39,730	$4.7740	$189,700	($12,880)	$176,820
3 G	6.7	255	1,710	$4.7740	$8,200	($670)	$7,530
3 P	750.0	255	191,250	$4.7740	$913,000	($90,680)	$822,320
3 T	121.8	255	31,060	$4.7740	$148,300	($3,230)	$145,070
Saturday:							
3 A	155.8	52	8,100	$4.7740	$38,700	($1,490)	$37,210
3 G	6.7	52	350	$4.7740	$1,700	($40)	$1,660
3 T	121.8	52	6,330	$4.7740	$30,200	($380)	$29,820
Weekday:							
17 A	136.0	110	14,960	$4.7740	$71,400	($7,500)	$63,900
17 G	102.0	110	11,220	$4.7740	$53,600	($6,000)	$47,600
Saturday:							
17 A	112.0	22	2,460	$4.7740	$11,700	($1,500)	$10,200
17 G	84.0	22	1,850	$4.7740	$8,800	($1,000)	$7,800
Weekday:							
41 A	59.5	255	15,170	$4.7740	$72,400	($11,750)	$60,650
Saturday:							
41 A	56.9	52	2,960	$4.7740	$14,100	($1,180)	$12,920
Weekday:							
Green	152.9	255	38,990	$4.7740	$186,100	($11,070)	$175,030
Saturday:							
Green	122.0	52	6,340	$4.7740	$30,300	($1,330)	$28,970
Dial-a-Ride		307	3,300	$53.4188	$176,000	($22,040)	$153,960

Grant/Administrative Support Services			$80,000
Total Service Cost			$1,781,460
	Total All Costs		$1,861,460
FTA Operating Assistance @ 50%			$845,180
Avondale Share of Cost			$153,960
Phoenix Local Share (Over Match)			$862,320
	Total All Sources		$1,861,460

Route 131 Costs by Jurisdiction FY 2008:

Weekday:							
Avondale	269.1	255	68,620	$6.8375	$469,190	($29,900)	$439,290
Goodyear	64.1	255	16,350	$6.8375	$111,790	($7,510)	$104,280
Litchfield Pk	13.9	255	3,540	$6.8375	$24,200	($670)	$23,530
Phoenix	64.0	255	16,320	$6.8375	$111,590	($18,580)	$93,010
Tolleson	96.0	255	24,480	$6.8375	$167,380	($7,580)	$159,800
Total	507.1		129,310		$884,150	($64,240)	$819,910

Job Access and Reverse Com. @ 50%	$0
FTA Operating Assist. @ 50% of Balance	$409,955
Total Local Share	$409,955

Route 131 Funding Split Fiscal Year 2008:		
Avondale	58.60%	$212,982
Goodyear	22.10%	$80,322
Litchfield Park	4.55%	$16,537
Phoenix	0.00%	$46,505
Tolleson	14.75%	$53,609
Totals	100.0%	$409,955

Source of All Funds:	
FTA Operating Assistance	$1,255,135
Job Access Reverse Communte	$0
Local Funds West Valley	$517,410
Local Funds Phoenix	$908,825
Total All Sources	$2,681,370

Attachment B – The following tables show each Avondale Urbanized Area city's proportionate share.for fiscal year 2007/2008.

Route 131 Funding Split Fiscal Year 2008:		
Avondale	58.60%	$212,982
Goodyear	22.10%	$80,322
Litchfield Park	4.55%	$16,537
Tolleson	14.75%	$53,609
Totals	100.0%	$363,450

Southwest Valley ADA Costs		
Avondale	58.60%	$90,221
Goodyear	22.10%	$34,025
Litchfield Park	4.55%	$7,005
Tolleson	14.75%	$22,709
Totals	100.0%	$153,960

TOTAL FUNDING SPLIT FISCAL YEAR 2008:		
Avondale	**58.60%**	**$303,203**
Goodyear	**22.10%**	**$114,347**
Litchfield Park	**4.55%**	**$23,542**
Tolleson	**14.75%**	**$76,318**
Totals	**100.0%**	**$517,410**

Attachment A –An estimate of the cost for service and funding for each of the routes for fiscal year 2007/2008.

COST ESTIMATES FOR FY2007/2008

Service	Annual Cost	Fare Revenue	Net Cost
Route 3	$416,800	$18,690	$398,110
Route 3 (Phoenix)	$913,000	$90,680	$822,320
Route 17*	$145,500	$16,000	$129,500
Route 41	$86,500	$12,930	$73,570
Route Green	$216,400	$12,400	$204,000
Dial-A-Ride	176,000	$22,040	$153,960
START 131	$884,150	$64,240	$819,910
Subtotal	*$2,838,350*	*$236,980*	*$2,601,370*
Grant/Administrative Support Services (from Phoenix)			$80,000
TOTAL			**$2,681,370**

FUNDING SOURCES FOR FY2007/2008

Fund Source	Amount
FTA Operating Assistance	$1,255,135
Local Match (Phoenix's Route 3/START Route/Grant Services)	$908,825
Local Match (Avondale Urbanized Area Bus & Dial-a-Ride costs)	$517,410
TOTAL	**$2,681,370**

RESOLUTION NO. 2674-807

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF TOLLESON RELATING TO TRANSIT SERVICES.

WHEREAS, the City of Avondale ("Avondale") and the City of Phoenix ("Phoenix") entered into an Intergovernmental Agreement on August 20, 2007, in which Avondale agreed to pay Phoenix for transit services to be provided to the Avondale Urbanized Area for fiscal year 2007-2008; and

WHEREAS, the Intergovernmental Agreement between Avondale and Phoenix designated Avondale as the lead agency for the Avondale Urbanized Area; and

WHEREAS, the City of Tolleson ("Tolleson") is part of the Avondale Urbanized Area and benefits from the transit services provided by Phoenix; and

WHEREAS, Avondale and Tolleson desire to enter into an Intergovernmental Agreement to provide bus transit services to the residents of Avondale and Tolleson by providing for the operation of Route 3, Route 17, Route 41, the Green Line, Route 131 (START) and Dial-A-Ride services.

WHEREAS, Tolleson will reimburse Avondale on a quarterly basis for Tolleson's prorated annual cost of $76,318 for Route 131 (START) and ADA Dial-a-Ride services. The quarterly invoice amount will be $19,079.50.

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

SECTION 1. That the Intergovernmental Agreement between Avondale and Tolleson with respect to the reimbursement of funds for transit services (the "Agreement") is hereby approved in the form attached hereto as Exhibit A.

SECTION 2. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps necessary to cause the execution of the Agreement and to 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, August 20, 2007.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Linda M. Farris, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2674-807

[Intergovernmental Agreement]

See following pages.

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
THE CITY OF TOLLESON
RELATING TO TRANSIT SERVICES

THIS INTERGOVERNMENTAL AGREEMENT (this "Agreement") is made as of August 20, 2007, between the City of Avondale, an Arizona municipal corporation ("Avondale") and the City of Tolleson, an Arizona municipal corporation ("Tolleson").

RECITALS

A. Avondale and the City of Phoenix ("Phoenix") entered into an Intergovernmental Agreement on August 20, 2007 for FY 2007-2008 for transit services ("Phoenix IGA") with Avondale acting as the fiscal and responsible agent for the Avondale Urbanized Area.

B. Tolleson is part of the Avondale Urbanized Area and benefits from the transit services provided by the Phoenix IGA.

C. Avondale and Tolleson seek to serve their respective residents through public transportation by starting Route 17 (McDowell Route) service and continuing the operation of Route 3, Route 41, the Green Line, Route 131 (START) and Dial-A-Ride services.

D. Tolleson agrees to reimburse Avondale for Tolleson's prorated cost of operation for the transit services provided by the Phoenix IGA for Route 131 (START).

E. Avondale and Tolleson have authority to enter into the Agreement pursuant to ARIZ. REV. STAT. § 11-952.

F. Avondale is authorized to contract for public transportation services pursuant to Article 1, Section 3 of the Avondale City Charter.

G. Tolleson is authorized to contract for public transportation services pursuant to Section 2-5 of the Tolleson City Code.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, and the following mutual covenants and conditions, Avondale and Tolleson hereby agree as follows:

1. Service Area and Transit Services.

a. The corporate limits of Tolleson which are lawfully in effect on the July 1, 2007, shall designate and define the limits of the service area for the purpose of this Agreement.

b. The services provided are outlined in the Phoenix IGA in accordance with those specified in Valley Metro Bus Book.

2. Term. This Agreement shall commence on August 20, 2007 and shall terminate on June 30, 2008. Upon termination of this Agreement any and all property used in connection with this Agreement will be promptly returned to the party holding title thereto.

3. Avondale Responsibilities. Avondale shall:

a. Prepare and amend service specifications as published in the Valley Metro Bus Book in consultation with Tolleson.

b. Serve as the fiscal representative with Phoenix for Route 3, Route 17, Route 41, the Green Line, Dial-A-Ride, and Route 131 (START), and perform the necessary service actions and financial processes as required by the Phoenix IGA.

c. Invoice Tolleson an amount of $19,079.50 on a quarterly basis (July 1, 2007, October 1, 2007, January 1, 2008, and April 1, 2008).

4. Tolleson Responsibilities. Tolleson shall:

a. Continue to provide traffic control and transit facilitation measures, such as turning movements, on city streets as mutually agreed upon with Phoenix and Avondale.

b. Purchase, install and maintain bus stop signs as needed.

c. Retain all books, accounts, reports, files and other records relating to this Agreement for a period of five years from the termination of this Agreement. Such records shall be the subject to audit and inspection at any time during the term of this Agreement or within five years after the termination thereof.

d. Reimburse Avondale quarterly (July 1, 2007, October 1, 2007, January 1, 2008, and April 1, 2008) for an amount of $19,079.50 ($76,318.00 annually) for Tolleson's pro-rata portion of those net costs incurred by Avondale in the operation of Route 131 (START) and ADA Dial-a-Ride services.

5. Reconciliation. In the event that Tolleson's portion of the costs is more or less than $114,347.00 at the end of the term, Avondale shall recoup or reimburse the difference in cost.

6. Capital and Operating Expenditures; Budget. Nothing in this Agreement shall be construed as committing Avondale to incur capital expenditures for equipment, facilities, or otherwise, or to incur expenses not expressly set forth in this Agreement.

7. Indemnification. To the extent permitted by law, each party (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other party and its officers, employees, and elected or appointed officials (as "Indemnitee") for from and against any and all claims, losses,

liability, costs or expenses, including reasonable attorneys' fees (collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage relating to the Indemnitor's performance of its duties under this Agreement, but only to the extent that such Claims are caused by the negligence, misconduct, intentional act or other fault of the Indemnitor, its officers, employees, contractors, elected or appointed officials.

8. Amendment. This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of Avondale and the Tolleson.

9. Relationship of the Parties. Each party to this Agreement shall act in its individual capacity and not as an agent, employee, partner, joint venture, associate, or any other representative capacity of the other. Each party shall be solely and entirely responsible for its acts or acts of its agents and employees during the performance of this Agreement.

10. Integration. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof, and all agreements entered into prior hereto with respect to the subject matter hereof and revoked and superseded by this Agreement, and not representations, warranties, inducements, or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements. This Agreement may not be changed modified, or rescinded except in writing, signed by all parties hereto, and any attempt at oral modification of this Agreement shall be void and of no effect.

11. Attorneys' Fees. In the event legal action is brought or an attorney is retained by any party to this Agreement to enforce the terms of this Agreement or to collect any monies due hereunder, or to collect money damages for breach thereof, the prevailing party shall be entitled to recover, in addition to any other remedy, reimbursement for reasonable attorneys' fees, court cost of investigation and other related expenses incurred in connection therewith.

12. Severability. If any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed form this Agreement, which shall otherwise remain in full force and effect.

13. No Assignment. Neither party may assign or delegate any of its rights or obligations hereunder without first obtaining the written consent of the other.

14. Waiver. Failure of any party to exercise any right or option arising out of a breach of this Agreement shall not be deemed a waiver of any right or option with respect to any subsequent or different breach, or the continuance of any existing breach.

15. Counterparts. This Agreement may be executed in any number of counterparts, all such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed original hereof.

16. Captions. Captions and section headings used herein are for convenience only and are not a part of this Agreement and shall not be deemed to limit or alter any provisions hereof and shall no be deemed relevant to construing this Agreement.

17. Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered to the party at the address set forth below, (b) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, (c) given to a recognized and reputable overnight delivery service, to the address set forth below or (d) delivered by facsimile transmission to the number set forth below:

If to Avondale: City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Facsimile: 623-478-3802
Attn: Charles P. McClendon, City Manager

If to Tolleson: City of Tolleson Public Works Department
9501 West Pima Street
Tolleson, Arizona 85353
Facsimile: 623-907-0902
Attn: Jason Earp, Public Works Director

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

18. Cancellation. This Agreement may be cancelled by either party for conflict of interest pursuant to ARIZ. REV. STAT. § 38-511.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date first written above.

"**Avondale**"

CITY OF AVONDALE, an Arizona municipal corporation

Marie Lopez Rogers, Mayor

ATTEST:

Linda M. Farris, City Clerk

"**Tolleson**"

CITY OF TOLLESON, an Arizona municipal corporation

Adolfo F. Gamez, Mayor

ATTEST:

Chris Hagen, City Clerk

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

Andrew J. McGuire
Avondale City Attorney

Scott W. Ruby
Tolleson City Attorney

CITY COUNCIL REPORT

SUBJECT:
Resolution 2676-807 - Intergovernmental Agreement - Maricopa County Human Services - Special Transportation Service Program

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Jess Segovia, Transit Administrator (623)333-1030

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council adopt a resolution approving an Intergovernmental Agreement (IGA) with Maricopa County Human Services to provide the Special Transportation Service (STS) Program to Avondale residents for FY 2007-08 for an amount not to exceed $60,000.

BACKGROUND:

The City of Avondale has contracted with the Maricopa County Human Services Department for transportation services for over twenty (20) years. The Special Transportation Services program provides assisted, door-to-door, advance reservation transportation to elderly, low-income, and disabled residents, at no cost to the user. Trip destinations include medical/dialysis appointments, social service trips, shopping, personal errands, social/recreational activities, employment, and adult day-care.

STS differs from ADA Paratransit services in the following ways:

- Free of charge to recipients
- Targets Low to Moderate income population
- Provides door to door service
- Drivers perform a safety check on the recipient and report any emergency on changes
- Has the ability to provide service that are not on the fixed transit routes

Eight year funding history:

- FY2000/2001 = $28,000
- FY2001/2002 = $28,000
- FY2002/2003 = $38,437
- FY2003/2004 = $25,680
- FY2004/2005 = $33,900
- FY2005/2006 = $55,000
- FY2006/2007 = $60,000
- FY2007/2008 = $60,000 (requested)

STS provided 3,288 trips to Avondale residents in FY2005/2006; 48% more trips than in FY2006/2007. The program experienced such a significant reduction in demand due to a 2006 service policy change. Demand for STS service was so high that a policy to provide medical trips, exclusively, was implemented. This has had a lasting affect on STS demand. Staff expects demand to steadily increase to pre-2006 levels by FY2009/2010.

DISCUSSION:

Special Transportation Services is seeking support from the City of Avondale to continue providing transit services. Staff believes that there is significant unmet demand for such trips. STS provided 1,933 trips to Avondale residents during FY2006/2007. The majority of these trips were within the Southwest Valley; however, STS does have the ability to provide longer distance trips. Staff is working with STS to increase the number of long distance trips available to Avondale residents. Upcoming technological improvements by STS should result in a steady increase in ridership over the next few years. At the current per trip rate of $16.26, STS can provide up to 3,689 trips annually.

BUDGETARY IMPACT:

City Council budgeted $60,000 for STS service during FY2007/2008. This is the same level of funding as the previous fiscal year. The City of Avondale will only pay for actual trips provided.

RECOMENDATION:

Staff recommends that Council adopt a resolution authorizing an Intergovernmental Agreement (IGA) with the Maricopa County Human Services Department Special Transportation Service (STS) Program for FY2007/2008 in the amount of $60,000.

ATTACHMENTS:

Click to download

- SYS FY2008 Proposal for Services
- FY2007 STS Stats
- RES - 2676-807 MC STS

City of Avondale
FY 2007-2008

Service Proposal
AND
Funding Request

Maricopa County Human Services Department

Special Transportation Services Program

February 14, 2007

Proposal for Special Needs Transportation Services

Fiscal Year July 1, 2007 – June 30, 2008

Maricopa County Human Services Department, Special Transportation Services Division (STS) is seeking support from the City of Avondale to continue to provide transportation services to eligible residents. STS is recommending a total of $60,000 to cover service costs for next year's services.

The Need for Specialized Transportation in the City of Avondale

STS serves low-income, elderly and disabled Avondale residents. These populations often need specialized transportation services because they:

- Do not have access to other transportation resources
- Cannot afford or are unable to access other public or private transit services
- Physically require personalized, door-to-door assistance
- Cannot wait long periods for pick-up, especially in excessive heat or inclement weather
- Cannot manage the transfer from one vehicle to another.

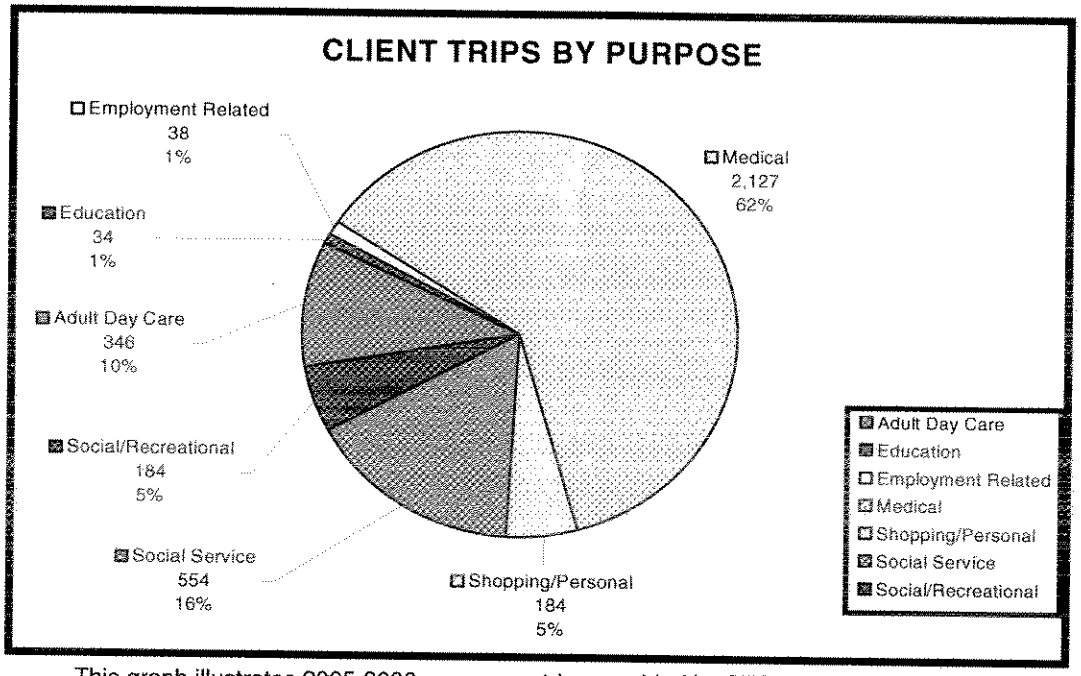
For many transit dependent individuals, especially those with special needs or mobility limitations, STS is an essential transportation resource, and a key to self-reliance and independence.

STS Service Facts

STS provides that key by providing personalized and assisted door-to-door transportation service for eligible clients to and from:

- Medical appointments
- Senior Centers
- Social Services
- Adult day care
- Shopping/Personal
- Social/Recreational
- Employment
- Employment Related

In Fiscal Year 2005-2006, STS provided a total of 3,288 one-way passenger trips to eligible residents through funding provided by the City of Avondale.



This graph illustrates 2005-2006 passenger trips provided by STS in Avondale, by type.

Special Transportation Service's Extranet Site

STS reports are available at any time by accessing our extranet site. The extranet site provides detailed monthly reports regarding trip and demographics information. Customized reports can also be developed to suit the specific needs of the City of Avondale. The site can be accessed at http://www.hsd.maricopa.gov/sts_extranet. If you require more information regarding this site such as how to get access or information on how to request a customized report, you may contact our Data Analyst, Aaron Sneddon, at (602) 506-4126.

Service Objectives for Fiscal Year 2007-2008

STS recommends that the City provide 3,389 one-way, unlinked passenger trips to their residents. At our FY08 per trip rate of $17.70, this represents a total cost to the City of $59,985.30. However, should the Regional Public Transportation Authority's Transit Lifecycle program cover Maricopa County's local match for fleet replacement as anticipated, this per trip rate will be reduced to $16.26[1]. This reduction in pricing would result in a cost savings of $4,880.16 or an increase of 300 trips for the City and its residents.

Additional services STS provides to the residents of Avondale, but at no cost to the City:

- Home delivered meals
- Transportation to senior centers
- Employment related transportation

[1] Advance cancellations will not be billed to the City of Avondale. However, due to program costs, cancellations at the door will be.

Funding Required to Provide Services in the City of Avondale

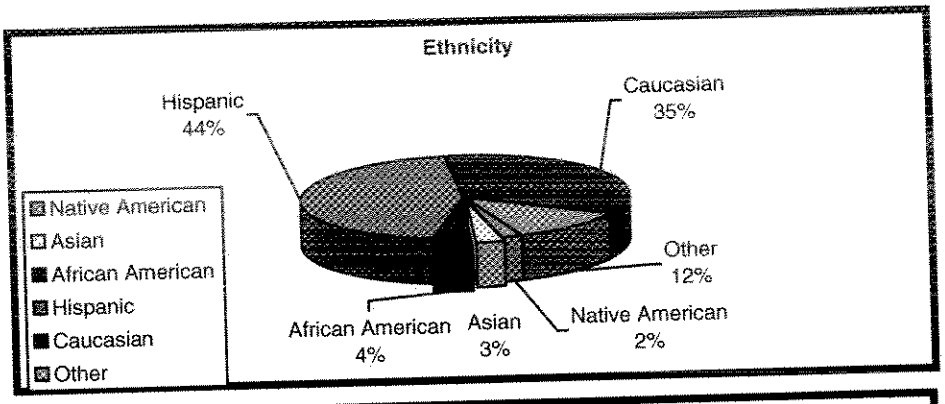
STS provides cost effective transportation solutions for the most transit dependent population in the region. All services are subsidized by grants and donations, however, STS relies upon a service fee from local communities to maintain program service levels. The following table illustrates the total proposed STS budget for FY 2007 - 2008.

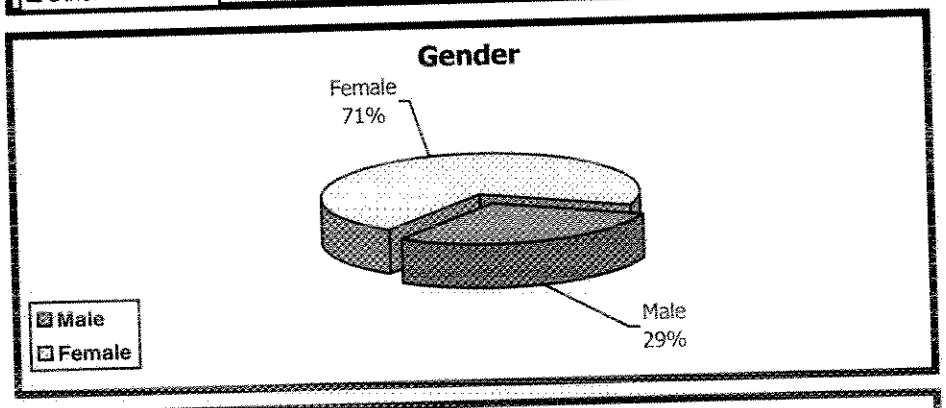
Maricopa County Special Transportation Services proposed FY2007-2008 budget

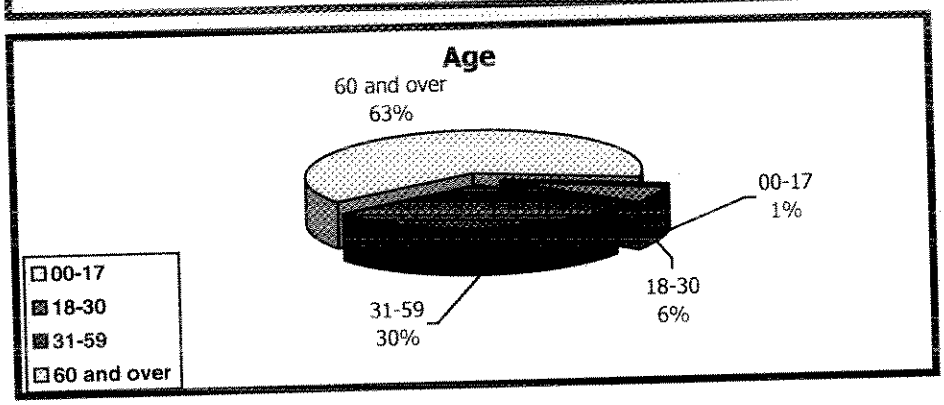
FY2007-2008		Core STS	Non-Cities & towns Funding
Revenues			
AREA AGENCY ON AGING			$ 152,647
CITY & TOWN FUNDING		$ 700,000	
DONATIONS			$ 12,000
GENERAL FUND MONEY			$ 282,000
XO74 Assoc Cap Maintenance			$ 47,600
HEAD START			$ 2,000
LTAF FY08 5 year average			$ 229,155
LTAF II FY 07 carry over			$ 168,767
Prop 400 ADA			$ 95,000
CITIES & TOWNS CARRY OVER			$ 160,824
ACDS CAPITAL ACCOUNT 20%			$ 6,500
XO ACDS 80%			$ 26,000
	Total	**$ 700,000**	**$ 1,182,492**
Expenditures			
Salary		301,160	508,741
ERE		127,351	215,130
Professional and Outside services		4,537	7,663
Travel		1,432	2,418
Space		10,136	17,122
Equipment		167,923	283,668
Equipment ACD		12,085	20,415
Material and Supplies		6,687	11,296
Operating Services		12,882	21,761
Indirect Costs		55,809	94,277
	Total	**700,000**	**1,182,492**

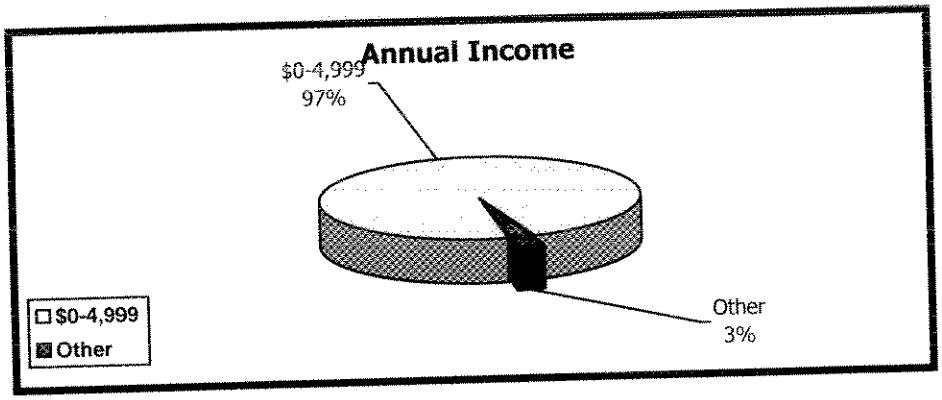
STS Client Demographics for the City of Avondale

Demographics of Avondale STS users in Fiscal Year 2005-2006 are illustrated in the graphs below. Categories listed below are not mutually exclusive.









Special Transportation Services

Monthly Service Report

Reporting to: AVONDALE
Service Period: June 2007

1) Summary of Performed Trips Provided to Avondale Clients by Purpose

	Trips		Clients		Miles	
ADULT DAY CARE	26	17%	1	7%	120	19.1%
DIALYSIS	44	29%	4	30%	120	19.1%
MEDICAL	28	18%	4	30%	118	18.7%
RECREATIONAL	13	8%	3	23%	55	8.7%
SHOPPING	2	1%	1	7%	5	0.7%
SOCIAL SERVICE	37	24%	1	7%	213	33.7%
Total	**150**	**100%**	**13**	**100%**	**631**	**100.0%**

Contract(s) with Avondale in FY2007

FY 2007 Cost per Trip: $16.86

Program	Budget	Trips	Trips per Mth
Avondale Transit	$60,000.00	3,559	297
Total	**$60,000.00**	**3,559**	**297**

2) Year To Date Summary of Performed Trips Provided to Avondale Clients by Purpose

	7/2006	8/2006	9/2006	10/2006	11/2006	12/2006	1/2007	2/2007	3/2007	4/2007	5/2007	6/2007	Total Trips
ADULT DAY CARE	20	22	20	20	17	19	21	19	21	15	21	26	**241**
DIALYSIS	87	112	103	84	86	69	73	63	70	60	59	44	**910**
MEDICAL	17	15	11	13	13	5	3	8	1	17	52	28	**183**
RECREATIONAL	3	5	0	0	4	5	7	4	2	6	13	13	**62**
SHOPPING	0	6	4	4	5	6	10	8	8	0	0	2	**53**
SOCIAL SERVICE	48	50	46	48	41	38	47	36	5	42	44	37	**482**
WORK	0	2	0	0	0	0	0	0	0	0	0	0	**2**
Total Trips	**175**	**212**	**184**	**169**	**166**	**142**	**161**	**138**	**107**	**140**	**189**	**150**	**1933**

3) Summary of Performed Trips Provided to Avondale Clients by Origin/Destination City

Origin \ Destination	AVONDALE	GOODYEAR	PHOENIX	TOLLESON	Total Trips
AVONDALE	68	27	3	13	**111**
GOODYEAR	24	0	0	0	**24**
PHOENIX	2	0	0	0	**2**
TOLLESON	13	0	0	0	**13**
Total Trips	**107**	**27**	**3**	**13**	**150**

4) Year to Date Denied & Refused Trips

These trips are not billed to the city/town/agency.

	7/2006	8/2006	9/2006	10/2006	11/2006	12/2006	1/2007	2/2007	3/2007	4/2007	5/2007	6/2007	Total
Denial	5	6	2	7	4	9	17	6	7	13	19	3	**98**
Refusal	0	2	0	1	2	2	2	0	2	0	0	3	**14**
Total	**5**	**8**	**2**	**8**	**6**	**11**	**19**	**6**	**9**	**13**	**19**	**6**	**112**

5) Year to Date Cancellations

These trips are not billed to the city/town/agency.

	7/2006	8/2006	9/2006	10/2006	11/2006	12/2006	1/2007	2/2007	3/2007	4/2007	5/2007	6/2007	Total
Advance Cancellation	4	3	8	9	14	17	0	2	17	6	5	18	**103**
Cancelled at the Door	4	3	0	4	5	7	0	2	3	6	3	2	**39**
Cancelled Same Day	15	5	6	9	6	9	6	5	17	7	7	10	**102**
Cancelled Site Closure	5	0	11	11	14	0	9	8	0	0	10	0	**68**
Late Cancellation	17	13	6	18	8	10	6	4	22	3	7	18	**132**
Missed Trip but Transp	0	0	0	0	0	0	0	0	0	1	0	0	**1**
No-Show	3	2	3	7	0	1	1	3	1	2	2	5	**30**
Total	**48**	**26**	**34**	**58**	**47**	**44**	**22**	**24**	**60**	**25**	**34**	**53**	**475**

RESOLUTION NO. 2676-807

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY TO PROVIDE SPECIAL TRANSPORTATION SERVICES FOR FY 2007–2008.

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

SECTION 1. That the Intergovernmental Agreement (the "Agreement") between the City of Avondale and Maricopa County to provide special transportation services for senior citizens and handicapped individuals is hereby approved in the form attached hereto as Exhibit A and incorporated herein by reference.

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

PASSED AND ADOPTED by the Council of the City of Avondale, August 20, 2007.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Linda M. Farris, City Clerk

APPROVED:

_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2676-807

[Intergovernmental Agreement]

See following page.

INTERGOVERNMENTAL AGREEMENT
BETWEEN CITY OF AVONDALE
AND MARICOPA COUNTY
July 1, 2007 through June 30, 2008

THIS AGREEMENT, entered into by the CITY of Avondale, hereinafter referred to as CITY, and Maricopa County, hereinafter referred to as CONTRACTOR.

NOW THEREFORE, it is agreed between the parties thereto that;

I. SCOPE OF SERVICE

Activities

The CONTRACTOR will be responsible for administering a Special Transportation Services program that provides limited transportation, free of charge, for qualified elderly (individuals age 60 and older), low-income (individuals whose income is no more than 150% of the federal poverty level) and disabled residents of the CITY. CITY is expected to provide a map identifying all boundary lines of CITY. If no map is provided, the CONTRACTOR will use another reputable source.

CONTRACTOR will provide monthly detailed information to CITY regarding all STS trips (Trip origination & destination, client name, trip date(s) and purpose).

II. TERM AND RENEWAL

This agreement shall commence on July 1, 2007, and shall terminate on June 30, 2008 unless terminated earlier by one of the parties, in which case, written notice of termination shall be required no less than sixty (60) days prior to the proposed termination date. In the event either party elects to terminate this Agreement, all rights and duties set forth in this Agreement shall immediately terminate, and neither party shall be liable to the other party for any damages resulting from the termination. In the event of early termination CONTRACTOR shall be entitled to receive payment for all service provided to the CITY prior to the termination.

III. PAYMENT

It is expressly agreed and understood that the total amount paid by the CITY under this Agreement shall not exceed $60,000 at the per trip rate of $16.26. The CONTRACTOR will only submit a claim(s) for those trips that are provided, or for any trip that results in a no show/cancellation at the designated point of pick up.

IV. NOTICES

Notices shall be deemed effective upon receipt. Communication and details concerning this Agreement shall be directed to the following representatives:

City of Avondale:
Jess Segovia
Transit Administrator
City of Avondale
11465 W. Civic Center Dr.
Avondale, AZ 85323

Maricopa County:
Salvatore La Puma III
STS Program Coordinator
Maricopa County Human Services Dept/STS
234 N. Central Avenue, 3rd Floor
Phoenix, Arizona 85004

V. GENERAL CONDITIONS

General Compliance

The CONTRACTOR agrees to comply with all applicable federal, state, and local laws and regulations governing the funds provided under this Agreement.

The CONTRACTOR agrees to comply with the United States Department of Transportation, Federal Transit Administration Master Agreement, which is hereby incorporated into this Intergovernmental Agreement by reference. The contract administrator for the Human Services Department Special Transportation Service Program maintains a copy of the Agreement on file.

VI. ADMINISTRATIVE REQUIREMENTS

Documentation and Recordkeeping

1. Records to Be Maintained

   CONTRACTOR shall maintain all records required by the federal regulations specified in 24 CFR Part 570.506 and that are pertinent to the activities to be funded under this Agreement.

2. Retention

   The CONTRACTOR shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years after the termination of all activities funded under this Agreement or after the resolution of all federal audit findings, whichever occurs later. Records for non-expendable property acquired with funds under this Agreement shall be retained for five (5) years after final disposition of such property.

3. Audits and Inspections

   All CONTRACTOR records with respect to any matters covered by this Agreement shall be made available to the CITY, or the Federal Government, at any time during normal business hours with reasonable notice to CONTRACTOR, as often as the CITY reasonably deems necessary, to audit, examine and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the CONTRACTOR within 30 days after receipt by the CONTRACTOR. Failure of the CONTRACTOR to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of any future payments. The CONTRACTOR hereby agrees to have an annual agency audit conducted in accordance with current policy concerning CONTRACTOR audits.

4. Payment Procedures

   The CITY will pay to the CONTRACTOR funds available under this Agreement based upon information submitted by the CONTRACTOR and consistent with any approved budget and CITY policy concerning payment. The CITY shall pay the CONTRACTOR an amount not to exceed $60,000, upon submission of a properly executed claim(s). If demand exceeds annual budget the CITY may agree to continue services at current rate, however, if CITY is unable to pay for service the program

CONTRACTOR may terminate services until funds are available.

VII. BUDGET

The CONTRACTOR shall establish and maintain a budget for the work contemplated by this Agreement.

VIII. CANCELLATION

This Agreement is subject to the provisions of A.R.S. 38-511.

IX. TERMINATION

This Agreement may be terminated by either party within 60 days written notice. All amounts due or other obligations required through the date of termination shall be performed within 60 days of the date of termination.

X. INDEMNIFICATION AND INSURANCE

The CONTRACTOR agrees to hold the CITY harmless from all claims and liability arising out of the activities of the CONTRACTOR, its agents, and employees engaged in the performance of provisions of this Agreement. CONTRACTOR warrants and represents that it is self-insured. Coverage through a self-insured program shall be sufficient to meet insurance requirements.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above:

CITY:
CITY OF AVONDALE

_____
Charles McClendon
City Manager

_____
Linda Farris
City Clerk

APPROVED AS TO FORM:

_____
Andrew McGuire
City Attorney

CONTRACTOR:
MARICOPA COUNTY

_____
Fulton Brock
Chairman, Board of Supervisors

_____
Fran McCarroll
Clerk, Board of Supervisors

APPROVED AS TO FORM:

_____
Martin Demos
Maricopa County Attorney
Deputy County Attorney

CITY COUNCIL REPORT

SUBJECT:
Resolution 2664-807 authorizing an amended subcontract with the United States and the Central Arizona Water Conservation District - purchase of water

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Marilyn DeRosa, Water Resources Planning Manager (623)333-4411

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council adopt a resolution authorizing the approval of an amended subcontract between the United States (Department of the Interior, Bureau of Reclamation), the Central Arizona Water Conservation District (CAWCD), and the City of Avondale which provides for the purchase of Water via the Central Arizona Project (CAP) Canal, and authorize the Mayor or City Manager and City Clerk to execute the contract document.

BACKGROUND:

The City entered into a subcontract with the CAWCD in October, 1986, and approved two subsequent amendments, for delivery of CAP Municipal & Industrial water to Avondale via the CAP Canal. Since entering the subcontract, developing the requisite agreements, and constructing the necessary infrastructure for use of the supply, the City has been able to put the CAP water to beneficial use without interruption since 1997. The current subcontract, however, only required these deliveries for a period of 50 years. In addition, the subcontract includes ambiguous criteria for sharing of shortages, and calls out certain restrictions to effluent exchange agreements. The recently approved Arizona Water Settlements Act, Section 104(d), Pub. L. 108-451, directed the Secretary of the Interior to offer amended subcontracts for CAP Municipal and Industrial water providers, and requires the amended subcontracts to address these shortcomings. As a result, the amended subcontract provides for permanent service of Colorado River water with an initial delivery term of 100 years. In addition, the amended subcontract conforms to the shortage sharing criteria described in the Tohono O'odham settlement agreement, and eliminates the original limitations on effluent exchanges. These changes represent significant improvements over the existing CAP Municipal & Industrial subcontract.

BUDGETARY IMPACT:

There is no financial impact for this action.

RECOMENDATION:

Staff recommends that the City Council adopt a resolution authorizing the approval of an amended subcontract between the United States (Department of the Interior, Bureau of Reclamation), the Central Arizona Water Conservation District (CAWCD), and the City of Avondale which provides for the purchase of Water via the Central Arizona Project (CAP) Canal, and authorize the Mayor or City Manager and City Clerk to execute the contract document.

ATTACHMENTS:

Click to download

- RES - 2664-807 CAWCD

RESOLUTION NO. 2664-807

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING A SUBCONTRACT WITH THE UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF RECLAMATION AND THE CENTRAL ARIZONA WATER CONSERVATION DISTRICT RELATING TO PROVISION OF WATER SERVICE.

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

SECTION 1. That the Subcontract among the United States, the Central Arizona Water Conservation District and the City of Avondale (the "Subcontract") relating to the provision of water service is hereby approved in the form attached hereto as Exhibit A and incorporated herein by this reference.

SECTION 2. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps necessary to cause the execution of the Subcontract, together with any other necessary or desirable instruments related thereto, on behalf of the City of Avondale and to take all steps necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Council of the City of Avondale, August 20, 2007.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Linda M. Farris, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2664-807

[Subcontract]

See following pages.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

SUBCONTRACT AMONG THE UNITED STATES,
THE CENTRAL ARIZONA WATER CONSERVATION DISTRICT,
AND THE CITY OF AVONDALE
PROVIDING FOR WATER SERVICE

CENTRAL ARIZONA PROJECT

1. PREAMBLE:

THIS SUBCONTRACT, made this ____ day of _____, 200___, in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, including but not limited to the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057), as amended, the Reclamation Project Act of August 4, 1939 (53 Stat. 1187), as amended, the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), and particularly the Colorado River Basin Project Act of September 30, 1968 (82 Stat. 885), as amended, and the Arizona Water Settlements Act (118 Stat. 3478), all collectively hereinafter referred to as the "Federal Reclamation Laws," among the UNITED STATES OF AMERICA, hereinafter referred to as the "United States" acting through the Secretary of the Interior, the CENTRAL ARIZONA WATER CONSERVATION DISTRICT, hereinafter referred to as the "Contractor," a water conservation district organized under the laws of Arizona, with its principal place of business in Phoenix, Arizona, and the CITY OF AVONDALE, hereinafter referred to as the "Subcontractor," with its principal place of business in Avondale, Arizona;

WITNESSETH, THAT:

2. EXPLANATORY RECITALS:

WHEREAS, the Colorado River Basin Project Act provides, among other things, that for the purposes of furnishing irrigation and municipal and industrial water supplies to water deficient areas of Arizona and western New Mexico through direct diversion or exchange of water, control of floods, conservation and development of fish and wildlife resources, enhancement of recreation opportunities, and for other purposes, the Secretary of the Interior shall construct, operate, and maintain the Central Arizona Project; and

WHEREAS, pursuant to the provisions of Arizona Revised Statutes §§ 48-3701, *et seq.*, the Contractor has been organized with the power to enter into a contract or contracts with the Secretary of the Interior to accomplish the purposes of Arizona Revised Statutes, §§ 48-3701, *et seq.*; and

WHEREAS, pursuant to Section 304(b)(1) of the Colorado River Basin Project Act, the Secretary of the Interior has determined that it is necessary to effect repayment of the cost of constructing the Central Arizona Project pursuant to a master contract and that the United States, together with the Contractor, shall be a party to contracts that are in conformity with and subsidiary to the master contract; and

WHEREAS, the United States and the Contractor entered into Contract No. 14-06-W-245, Amendment No. 1, dated December 1, 1988, hereinafter referred to as the "Repayment Contract," a copy of which is attached hereto as Exhibit "A" and by this reference made a part hereof, whereby the Contractor agrees to repay to the United States the reimbursable costs of the Central Arizona Project allocated to the Contractor; and

WHEREAS, the Subcontractor is in need of a water supply and desires to subcontract with the United States and the Contractor for water service from water supplies available under the Central Arizona Project; and

WHEREAS, upon completion of the Central Arizona Project, water shall be available for delivery to the Subcontractor;

NOW THEREFORE, in consideration of the mutual and dependent covenants herein contained, it is agreed as follows:

3. **DEFINITIONS**:

Definitions included in the Repayment Contract are applicable to this subcontract; provided, however, that the terms "Agricultural Water" or "Irrigation Water" shall mean water used for the purposes defined in the Repayment Contract on tracts of land operated in units of more than 5 acres. The first letters of terms so defined are capitalized herein. As heretofore indicated, a copy of the Repayment Contract is attached as Exhibit "A." In addition, the following definitions shall apply to this subcontract:

(a) "Available CAP Supply" shall mean for any given Year all Fourth Priority Water available for delivery through the Central Arizona Project, water available from CAP dams and reservoirs other than Modified Roosevelt Dam, and return flows captured by the Secretary for CAP use.

(b) "Fourth Priority Water" shall mean Colorado River water available for delivery within the State of Arizona for satisfaction of entitlements: (1) pursuant to contracts, Secretarial reservations, perfected rights, and other arrangements between the United States and water users in the State entered into or established subsequent to September 30, 1968, for use on Federal, State, or privately owned lands in the State (for a total quantity not to exceed 164,652 acre-feet of diversions annually); and (2), after first providing for the delivery of water under 43 U.S.C. §1524(e), pursuant to the Repayment Contract for the delivery of Colorado River water for the CAP including use of Colorado River water on Indian lands.

4. DELIVERY OF WATER:

4.1 Obligations of the United States. Subject to the terms, conditions, and provisions set forth herein and in the Repayment Contract, during such periods as it operates and maintains the Project Works, the United States shall deliver Project Water for M&I use by the Subcontractor. The United States shall use all reasonable diligence to make available to the Subcontractor the quantity of Project Water specified in the schedule submitted by the Subcontractor in accordance with Article 4.4. After transfer of OM&R to the Operating Agency, the United States shall make deliveries of Project Water to the Operating Agency which shall make subsequent delivery to the Subcontractor as provided herein.

4.2 Term of Subcontract. This subcontract shall become effective upon the later of: (i) the date on which it is confirmed as provided for in Article 6.12; (ii) the date on which the Secretary of the Interior publishes in the Federal Register the statement of findings described in section 207(c)(1) of the Arizona Water Settlements Act, 118 Stat. 3478; and (iii) the date on which the Subcontractor has paid or provided for payment of past M&I water service capital charges as required by the Contractor. This subcontract shall be for permanent service as that term is used in Section 5 of the Boulder Canyon Project Act of 1928, 43 U.S.C. §617d. Project Water shall be delivered under the terms of this subcontract for a period of 100 years beginning January 1 of the Year following that in which the subcontract becomes effective; provided, that this subcontract may be renewed upon written request by the Subcontractor upon terms and conditions of renewal to be agreed upon not later than 1 year prior to the expiration of this subcontract; and provided, further, that such terms and conditions shall be consistent with Article 9.9 of the Repayment Contract.

* * * *

* * * *

4.3 Conditions Relating to Delivery and Use. Delivery and use of water under this subcontract is conditioned on the following, and the Subcontractor hereby agrees that:

(a) All uses of Project Water and Return Flow shall be consistent with Arizona water law unless such law is inconsistent with the Congressional directives applicable to the Central Arizona Project.

(b) The system or systems through which water for Agricultural, M&I (including underground storage), and Miscellaneous purposes is conveyed after delivery to the Subcontractor shall consist of pipelines, canals, distribution systems, or other conduits provided and maintained with linings adequate in the Contracting Officer's judgment to prevent excessive conveyance losses.

(c) The Subcontractor shall not pump, or within its legal authority, permit others to pump ground water from within the exterior boundaries of the Subcontractor's service area, which has been delineated on a map filed with the Contractor and approved by the Contractor and the Contracting Officer, for use outside of said service area unless such pumping is permitted under Title 45, Chapter 2, Arizona Revised Statutes, as it may be amended from time to time, and the Contracting Officer, the Contractor, and the Subcontractor shall agree, or shall have previously agreed, that a surplus of ground water exists and drainage is or was required; provided, however, that such pumping may be approved by the Contracting Officer and the Contractor, and approval shall not be unreasonably withheld, if such pumping is in accord with the Basin Project Act and upon submittal by the Subcontractor of a written certification from the Arizona Department of Water Resources or its successor agency that the pumping and transportation of ground water is in accord with Title 45, Chapter 2, Arizona Revised Statutes, as it may be amended from time to time.

(d) The Subcontractor shall not sell, lease, exchange, forbear or otherwise transfer Project Water; provided, however, that this does not prohibit exchanges of Project Water within the State of Arizona covered by separate agreements; and provided, further, that this does not prohibit effluent exchanges with Indian tribes pursuant to Article 6.2; and provided, further, that this does not prohibit the resale or exchange of Project Water within the State of Arizona pursuant to Subarticle 4.3(e).

(e)(i) Project Water scheduled for delivery in any Year under this subcontract may be used by the Subcontractor or resold, or exchanged by the Subcontractor pursuant to appropriate agreements approved by the Contracting Officer and the Contractor. If said water is resold or exchanged by the Subcontractor for an amount in excess of that which the Subcontractor is obligated to pay under this subcontract, the excess amount shall be paid forthwith by the Subcontractor to the Contractor for application against the Contractor's Repayment Obligation to the United States; provided, however, that the Subcontractor shall be entitled to recover actual costs of transportation, treatment, and distribution, including but not limited to capital costs and OM&R costs.

(ii) Project Water scheduled for delivery in any Year under this subcontract that cannot be used, resold, or exchanged by the Subcontractor may be made available by the Contracting Officer and Contractor to other users. If such Project Water is sold to or exchanged with other users, the Subcontractor shall be relieved of its payments hereunder only to the extent of the amount paid to the Contractor by such other users, but not to exceed the amount the Subcontractor is obligated to pay under this subcontract for said water.

(iii) In the event the Subcontractor or the Contracting Officer and the Contractor are unable to sell any portion of the Subcontractor's Project

Water scheduled for delivery and not required by the Subcontractor, the Subcontractor shall be relieved of the pumping energy portion of the OM&R charges associated with the undelivered water as determined by the Contractor.

(f) Notwithstanding any other provision of this subcontract, Project Water shall not be delivered to the Subcontractor unless and until the Subcontractor has obtained final environmental clearance from the United States for the system or systems through which Project Water is to be conveyed after delivery to the Subcontractor at the Subcontractor's Project turnout(s). Such system(s) shall include all pipelines, canals, distribution systems, treatment, storage, and other facilities through or in which Project Water is conveyed, stored, or treated after delivery to the Subcontractor at the Subcontractor's Project turnout(s). In each instance, final environmental clearance will be based upon a review by the United States of the Subcontractor's plans for taking and using Project Water and will be given or withheld by the United States in accordance with the Final Environmental Impact Statement -- Water Allocations and Water Service Contracting (FES 82-7, filed March 19, 1982) and the National Environmental Policy Act of 1969 (83 Stat. 852). Any additional action(s) required on behalf of the Subcontractor in order to obtain final environmental clearance from the United States will be identified to the Subcontractor by the United States, and no Project Water shall be delivered to the Subcontractor unless and until the Subcontractor has completed all such action(s) to the satisfaction of the United States.

4.4 Procedure for Ordering Water.

(a) At least 15 months prior to the date the Secretary expects to issue the Notice of Completion of the Water Supply System, or as soon thereafter as is practicable, the Contracting Officer shall announce by written notice to the Contractor the amount of Project Water available for delivery during the Year in which said Notice of Completion is issued (initial Year of water delivery) and during the following Year. Within

30 days of receiving such notice, the Contractor shall issue a notice of availability of Project Water to the Subcontractor. The Subcontractor shall, within a reasonable period of time as determined by the Contractor, submit a written schedule to the Contractor and the Contracting Officer showing the quantity of water desired by the Subcontractor during each month of said initial Year and the following Year. The Contractor shall notify the Subcontractor by written notice of the Contractor's action on the requested schedule within 2 months of the date of receipt of such request.

(b) The amounts, times, and rates of delivery of Project Water to the Subcontractor during each Year subsequent to the Year following said initial Year of water delivery shall be in accordance with a water delivery schedule for that Year. Such schedule shall be determined in the following manner:

(i) On or before June 1 of each Year beginning with the Year following the initial Year of water delivery pursuant to this subcontract, the Contracting Officer shall announce the amount of Project Water available for delivery during the following Year in a written notice to the Contractor. In arriving at this determination, the Contracting Officer, subject to the provisions of the Repayment Contract, shall use his best efforts to maximize the availability and delivery of Arizona's full entitlement of Colorado River water over the term of this subcontract. Within 30 days of receiving said notice, the Contractor shall issue a notice of availability of Project Water to the Subcontractor.

(ii) On or before October 1 of each Year beginning with the Year following said initial Year of water delivery, the Subcontractor shall submit in writing to the Contractor and the Contracting Officer a water delivery schedule indicating the amounts of Project Water desired by the Subcontractor during each month of the following Year along with a preliminary estimate of Project Water desired for the succeeding 2 years.

(iii) Upon receipt of the schedule, the Contractor and the Contracting Officer shall review it and, after consultation with the Subcontractor, shall make only such modifications to the schedule as are necessary to ensure that the amounts, times, and rates of delivery to the Subcontractor are consistent with the delivery capability of the Project, considering, among other things, the availability of water and the delivery schedules of all subcontractors; provided, that this provision shall not be construed to reduce annual deliveries to the Subcontractor.

(iv) On or before November 15 of each Year beginning with the Year following said initial Year of water delivery, the Contractor shall determine and furnish to the Subcontractor and the Contracting Officer the water delivery schedule for the following Year which shall show the amount of water to be delivered to the Subcontractor during each month of that Year, contingent upon the Subcontractor remaining eligible to receive water under all terms contained herein.

(c) The monthly water delivery schedules may be amended upon the Subcontractor's written request to the Contractor. Proposed amendments shall be submitted by the Subcontractor to the Contractor no later than 15 days before the desired change is to become effective, and shall be subject to review and modification in like manner as the schedule. The Contractor shall notify the Subcontractor and the Contracting Officer of its action on the Subcontractor's requested schedule modification within 10 days of the Contractor's receipt of such request.

(d) The Contractor and the Subcontractor shall hold the United States, its officers, agents, and employees, harmless on account of damage or claim of damage of any nature whatsoever arising out of or connected with the actions of the Contractor regarding water delivery schedules furnished to the Subcontractor.

(e) In no event shall the Contracting Officer or the Contractor be required to deliver to the Subcontractor from the Water Supply System in any one month

a total amount of Project Water greater than eleven percent (11%) of the Subcontractor's maximum entitlement; provided, however, that the Contracting Officer may deliver a greater percentage in any month if such increased delivery is compatible with the overall delivery of Project Water to other subcontractors as determined by the Contracting Officer and the Contractor and if the Subcontractor agrees to accept such increased deliveries.

4.5 Points of Delivery--Measurement and Responsibility for Distribution of Water.

(a) The water to be furnished to the Subcontractor pursuant to this subcontract shall be delivered at turnouts to be constructed by the United States at such point(s) on the Water Supply System as may be agreed upon in writing by the Contracting Officer and the Contractor, after consultation with the Subcontractor.

(b) Unless the United States and the Subcontractor agree by contract to the contrary, the Subcontractor shall construct and install, at its sole cost and expense, connection facilities required to take and convey the water from the turnouts to the Subcontractor's service area. The Subcontractor shall furnish, for approval of the Contracting Officer, drawings showing the construction to be performed by the Subcontractor within the Water Supply System right-of-way 6 months before starting said construction. The facilities may be installed, operated, and maintained on the Water Supply System right-of-way subject to such reasonable restrictions and regulations as to type, location, method of installation, operation, and maintenance as may be prescribed by the Contracting Officer.

(c) All water delivered from the Water Supply System shall be measured with equipment furnished and installed by the United States and operated and maintained by the United States or the Operating Agency. Upon the request of the Subcontractor or the Contractor, the accuracy of such measurements shall be

investigated by the Contracting Officer or the Operating Agency, Contractor, and Subcontractor, and any errors which may be mutually determined to have occurred therein shall be adjusted; provided, that in the event the parties cannot agree on the required adjustment, the Contracting Officer's determination shall be conclusive.

(d) Neither the United States, the Contractor, nor the Operating Agency shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project Water beyond the delivery point(s) agreed to pursuant to Sub-article 4.5(a). The Subcontractor shall hold the United States, the Contractor, and the Operating Agency harmless on account of damage or claim of damage of any nature whatsoever for which there is legal responsibility, including property damage, personal injury, or death arising out of or connected with the Subcontractor's control, carriage, handling, use, disposal, or distribution of such water beyond said delivery point(s).

4.6 Temporary Reductions. In addition to the right of the United States under Subarticle 8.3(a)(iv) of the Repayment Contract temporarily to discontinue or reduce the amount of water to be delivered, the United States or the Operating Agency may, after consultation with the Contractor, temporarily discontinue or reduce the quantity of water to be furnished to the Subcontractor as herein provided for the purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or any part thereof necessary for the furnishing of water to the Subcontractor, but so far as feasible the United States or the Operating Agency shall coordinate any such discontinuance or reduction with the Subcontractor and shall give the Subcontractor due notice in advance of such temporary discontinuance or reduction, except in case of emergency, in which case no notice need be given. Neither the United States, its officers, agents, and employees, nor the Operating Agency, its officers, agents, and employees, shall be liable for damages when, for any reason whatsoever, any such temporary discontinuance or reduction in delivery of water occurs. If any such

discontinuance or temporary reduction results in deliveries to the Subcontractor of less water than what has been paid for in advance, the Subcontractor shall be entitled to be reimbursed for the appropriate proportion of such advance payments prior to the date of the Subcontractor's next payment of water service charges or the Subcontractor may be given credit toward the next payment of water charges if the Subcontractor should so desire.

4.7 Priority in Case of Shortage. On or before June 1 of each Year, the Secretary shall announce the Available CAP Supply for the following Year in a written notice to the Contractor.

(a) Prior to January 1, 2044, a time of shortage shall exist in any Year in which the Available CAP Supply for that Year is insufficient to satisfy all of the entitlements set forth in subparagraphs (i) through (iii) below:

(i) Three hundred forty-three thousand seventy-nine (343,079) acre-feet of CAP Indian Priority Water;

(ii) Six hundred thirty-eight thousand eight hundred twenty-three (638,823) acre-feet of CAP M&I Priority Water; and

(iii) Up to one hundred eighteen (118) acre-feet of CAP M&I Priority Water converted from CAP NIA Priority Water under the San Tan Irrigation District's CAP Subcontract.

(b) On or after January 1, 2044, a time of shortage shall exist in any Year in which the Available CAP Supply for that Year is insufficient to satisfy all of the entitlements as set forth in subparagraphs (i) through (iv) below:

(i) Three hundred forty-three thousand seventy-nine (343,079) acre-feet of CAP Indian Priority Water;

(ii) Six hundred thirty-eight thousand eight hundred twenty-three (638,823) acre-feet of CAP M&I Priority Water;

(iii) Up to forty-seven thousand three hundred three (47,303) acre-feet of CAP M&I Priority Water converted from CAP NIA Priority Water pursuant to the Hohokam Agreement; and

(iv) Up to one hundred eighteen (118) acre-feet of CAP M&I Priority Water converted from CAP NIA Priority Water under the San Tan Irrigation District's CAP Subcontract.

(c) Initial distribution of water in time of shortage.

(i) If the Available CAP Supply is equal to or less than eight hundred fifty-three thousand seventy-nine (853,079) acre-feet, then 36.37518% of the Available CAP Supply shall be available for delivery as CAP Indian Priority Water and the remainder shall be available for delivery as CAP M&I Priority Water.

(ii) If the Available CAP Supply is greater than eight hundred fifty-three thousand seventy-nine (853,079) acre-feet, then the quantity of water available for

delivery as CAP Indian Priority Water shall be determined in accordance with the following equation and the remainder shall be available for delivery as CAP M&I Priority Water:

$$I = \{[32{,}770 \div (E - 853{,}079)] \times W\} + (343{,}079 - \{[32{,}770 \div (E - 853{,}079)] \times E\})$$

where

I = the quantity of water available for delivery as CAP Indian Priority Water

E = the sum of the entitlements to CAP Indian Priority Water and CAP M&I Priority Water as described in subparagraphs 4.7(a) or (b), whichever is applicable; and

W = the Available CAP Supply

Example A. If, before January 1, 2044, the sum of the entitlements to CAP Indian Priority Water and CAP M&I Priority Water as described in subparagraph 4.7(a) is nine hundred eighty-one thousand nine hundred two (343,079 + 638,823 + 0) acre-feet, then the quantity of water available for delivery as CAP Indian Priority Water would be ninety-three thousand three hundred three (93,303) acre-feet plus 25.43800% of the Available CAP Supply.

Example B. If, after January 1, 2044, the sum of the entitlements to CAP Indian Priority Water and CAP M&I Priority Water as described in subparagraph 4.7(b) is one million twenty-nine thousand three hundred twenty-three (1,029,323) acre-feet (343,079 + 638,823 + 47,303 + 118), then the quantity of water available for delivery as CAP Indian Priority Water would be one hundred fifty-one thousand six hundred ninety-one (151,691) acre-feet plus 18.59354% of the Available CAP Supply.

(d) In time of shortage unscheduled CAP Water shall be redistributed as follows:

(i) Any water available for delivery as CAP Indian Priority Water that is not scheduled for delivery pursuant to contracts, leases or exchange agreements for the delivery of CAP Indian Priority Water shall become available for delivery as CAP M&I Priority Water.

(ii) CAP M&I Priority Water shall be distributed among those entities with contracts for the delivery of CAP M&I Priority Water in a manner determined by the Secretary and the CAP Operating Agency in consultation with M&I water users to fulfill all delivery requests to the greatest extent possible. Any water available for delivery as CAP M&I Priority Water that is not scheduled for delivery pursuant to contracts, leases or exchange agreements for the delivery of

CAP M&I Priority Water shall become available for delivery as CAP Indian Priority Water.

(e) Any water remaining after all requests for delivery of CAP Indian Priority Water and CAP M&I Priority Water have been satisfied shall become available for delivery as CAP NIA Priority Water.

(f) Nothing in this paragraph 4.7 shall be construed to allow or authorize any CAP Contractor or CAP Subcontractor to receive, pursuant to such contracts, CAP water in amounts greater than such contractor's entitlement.

4.8 Secretarial Control of Return Flow.

(a) The Secretary reserves the right to capture all Return Flow flowing from the exterior boundaries of the Contractor's Service Area as a source of supply and for distribution to and use of the Central Arizona Project to the fullest extent practicable. The Secretary also reserves the right to capture for Project use Return Flow which originates or results from water contracted for from the Central Arizona Project within the boundaries of the Contractor's Service Area if, in his judgment, such Return Flow is not being put to a beneficial use. The Subcontractor may recapture and reuse or sell its Return Flow; provided, however, that such Return Flow may not be sold for use outside Maricopa, Pinal, and Pima Counties; and provided, further, that this does not prohibit effluent exchanges with Indian tribes pursuant to Article 6.2. The Subcontractor shall, at least 60 days in advance of any proposed sale of such water, furnish the following information in writing to the Contracting Officer and the Contractor:

* * * *

* * * *

(i) The name and address of the prospective buyer.

(ii) The location and proposed use of the Return Flow.

(iii) The price to be charged for the Return Flow.

(b) The price charged for the Return Flow may cover the cost incurred by the Subcontractor for Project Water plus the cost required to make the Return Flow usable. If the price received for the Return Flow is greater than the costs incurred by the Subcontractor, as described above, the excess amount shall be forthwith returned by the Subcontractor to the Contractor for application against the Contractor's Repayment Obligation to the United States. Costs required to make Return Flow usable shall include but not be limited to capital costs and OM&R costs including transportation, treatment, and distribution, and the portion thereof that may be retained by the Subcontractor shall be subject to the advance approval of the Contractor and the Contracting Officer.

(c) Any Return Flow captured by the United States and determined by the Contracting Officer and the Contractor to be suitable and available for use by the Subcontractor may be delivered by the United States or Operating Agency to the Subcontractor as a part of the water supply for which the Subcontractor subcontracts hereunder and such water shall be accounted and paid for pursuant to the provisions hereof.

(d) All capture, recapture, use, reuse, and sale of Return Flow under this article shall be in accord with Arizona water law unless such law is inconsistent with the Congressional directives applicable to the Central Arizona Project.

4.9 Water and Air Pollution Control. The Subcontractor, in carrying out this subcontract, shall comply with all applicable water and air pollution laws and regulations of the United States and the State of Arizona and shall obtain all required permits or licenses from the appropriate Federal, State, or local authorities.

4.10 Quality of Water. The operation and maintenance of Project facilities shall be performed in such manner as is practicable to maintain the quality of water made available through such facilities at the highest level reasonably attainable as determined by the Contracting Officer. Neither the United States, the Contractor, nor the Operating Agency warrants the quality of water and is under no obligation to construct or furnish water treatment facilities to maintain or better the quality of water. The Subcontractor waives its right to make a claim against the United States, the Operating Agency, the Contractor, or another subcontractor because of changes in water quality caused by the commingling of Project Water with other water.

4.11 Exchange Water.

(a) Where the Contracting Officer determines the Subcontractor is physically able to receive Colorado River mainstream water in exchange for or in replacement of existing supplies of water from surface sources other than the Colorado River, the Contracting Officer may require that the Subcontractor accept said mainstream water in exchange for or in replacement of said existing supplies pursuant to the provisions of Section 304(d) of the Basin Project Act; provided, however, that a sub-contractor on the Project aqueduct shall not be required to enter into exchanges in which existing supplies of water from surface sources are diverted for use by other subcontractors downstream on the Project aqueduct.

(b) If, in the event of shortages, the Subcontractor has yielded water from other surface water sources in exchange for Colorado River mainstream water supplied by the Contractor or the Operating Agency, the Subcontractor shall have first priority against other users supplied with Project Water that have not yielded water from other surface water sources but only in quantities adequate to replace the water so yielded.

4.12 Entitlement to Project M&I Water.

(a) The Subcontractor is entitled to take a maximum of 5,416 acre-feet of Project Water for M&I uses including but not limited to underground storage.

(b) If at any time during the term of this subcontract there is available for allocation additional M&I Project Water, or Agricultural Water converted to M&I use, it shall be delivered to the Subcontractor at the same water service charge per acre-foot and with the same priority as other M&I Water, upon execution or amendment of an appropriate subcontract among the United States, the Contractor, and the Subcontractor and payment of an amount equal to the acre-foot charges previously paid by other subcontractors pursuant to Article 5.2 hereof plus interest. In the case of Agricultural Water conversions, the payment shall be reduced by all previous payments of agricultural capital charges for each acre-foot of water converted. The interest due shall be calculated for the period between issuance of the Notice of Completion of the Water Supply System and execution or amendment of the subcontract using the weighted interest rate received by the Contractor on all investments during that period.

4.13 Delivery of Project Water Prior to Completion of Project Works. Prior to the date of issuance of the Notice of Completion of the Water Supply System by the Secretary, water may be made available for delivery by the Secretary on a "when available" basis at a water rate and other terms to be determined by the Secretary after consultation with the Contractor.

5. PAYMENTS:

5.1 Water Service Charges for Payment of Operation, Maintenance, and Replacement Costs. Subject to the provisions of Article 5.4 hereof, the Subcontractor shall pay in advance for Project OM&R costs estimated to be incurred by the United States or the Operating Agency. At least 15 months prior to first delivery of Project Water, or as soon thereafter as is practicable, the Contractor shall furnish the Subcontractor with an estimate of the Subcontractor's share of OM&R costs to the end of the initial Year of water delivery and an estimate of such costs for the following Year. Within a reasonable time of the receipt of said estimates, as determined by the Contractor, but prior to the delivery of water, the Subcontractor shall advance to the Contractor its share of such estimated costs to the end of the initial month of water delivery and without further notice or demand shall on or before the first day of each succeeding month of the initial Year of water delivery and the following Year advance to the Contractor in equal monthly installments the Subcontractor's share of such estimated costs. Advances of monthly payments for each subsequent Year shall be made by the Subcontractor to the Contractor on the basis of annual estimates to be furnished by the Contractor on or before June 1 preceding each said subsequent Year and the advances of payments for said estimated costs shall be due and payable in equal monthly

payments on or before the first day of each month of the subsequent Year. Differences between actual OM&R costs and estimated OM&R costs shall be determined by the Contractor and shall be adjusted in the next succeeding annual estimates; provided, however, that if in the opinion of the Contractor the amount of any annual OM&R estimate is likely to be insufficient to cover the above-mentioned costs during such period, the Contractor may increase the annual estimate of the Subcontractor's OM&R costs by written notice thereof to the Subcontractor, and the Subcontractor shall forthwith increase its remaining monthly payments in such Year to the Contractor by the amount necessary to cover the insufficiency. All estimates of OM&R costs shall be accompanied by data and computations relied on by the Contractor in determining the amounts of the estimated OM&R costs and shall be subject to joint review by the Subcontractor and the Contractor.

5.2 M&I Water Service Charges.

(a) Subject to the provisions of Article 5.4 hereof and in addition to the OM&R payments required in Article 5.I hereof, the Subcontractor shall, in advance of the delivery of Project M&I Water by the United States or the Operating Agency, make payment to the Contractor in equal semiannual installments of an M&I Water service capital charge based on a maximum entitlement of 5,416 acre-feet per year multiplied by the rate established by the Contractor for that year.

(b) The M&I Water service capital charge may be adjusted periodically by the Contractor as a result of repayment determinations provided for in the Repayment Contract and to reflect all sources of revenue, but said charge per acre-foot shall not be greater than the amount required to amortize Project capital costs allocated

to the M&I function and determined by the Contracting Officer to be a part of the Contractor's Repayment Obligation. Such amortization shall include interest at 3.342 percent per annum. If any adjustment is made in the M&I Water service capital charge, notice thereof shall be given by the Contractor to the United States and to the Subcontractor on or before June 1 of the Year preceding the Year the adjusted charge becomes effective. The M&I Water service capital charge payment for the initial Year shall be advanced to the Contractor in equal semiannual installments on or before December 1 preceding the initial Year and June 1 of said initial Year; provided, however, that the payment of the initial M&I Water service capital charge shall not be due until the Year in which Project Water is available to the Subcontractor after Notice of Completion of the Water Supply System is issued. Thereafter, for each subsequent Year, payments by the Subcontractor in accordance with the foregoing provisions shall be made in equal semiannual installments on or before the December 1 preceding said subsequent Year and the June 1 of said subsequent Year as may be specified by the Contractor in written notices to the Subcontractor.

(c) Payment of all M&I Water service capital and corresponding OM&R charges becoming due hereunder prior to or on the dates stipulated in Articles 5.1 and 5.2 is a condition precedent to receiving M&I Water under this subcontract.

(d) All payments to be made to the Contractor or the United States under Articles 5.1 and 5.2 hereof shall be made by the Subcontractor as such payments fall due from revenues legally available to the Subcontractor for such payment from the sale of water to its water users and from any and all other sources which might be legally available; Provided, That no portion of the general taxing authority of the

Subcontractor, nor its general funds, nor funds from ad valorem taxes are obligated by the provisions of this subcontract, nor shall such sources be liable for the payments, contributions, and other costs pursuant to this subcontract, or to satisfy any obligation hereunder unless duly and lawfully allocated and budgeted for such purpose by the Subcontractor for the applicable budget year; and Provided, further, That no portion of this agreement shall ever be construed to create an obligation superior in lien to or on a parity with the Subcontractor's revenue bonds now or hereafter issued. The Subcontractor shall levy and impose such necessary water service charges and rates and use all the authority and resources available to it to collect all such necessary water service charges and rates in order that the Subcontractor may meet its obligations hereunder and make in full all payments required under this subcontract on or before the date such payments become due.

5.3 Loss of Entitlement. The Subcontractor shall have no right to delivery of water from Project facilities during any period in which the Subcontractor may be in arrears in the payment of any charges due the Contractor. The Contractor may sell to another entity any water determined to be available under the Subcontractor's entitlement for which payment is in arrears; provided, however, that the Subcontractor may regain the right to use any unsold portion of the water determined to be available under the original entitlement upon payment of all delinquent charges plus any difference between the subcontractual obligation and the price received in the sale of the water by the Contractor and payment of charges for the current period.

5.4 Refusal to Accept Delivery. In the event the Subcontractor fails or refuses in any Year to accept delivery of the quantity of water available for delivery to

and required to be accepted by it pursuant to this subcontract, or in the event the Subcontractor in any Year fails to submit a schedule for delivery as provided in Article 4.4 hereof, said failure or refusal shall not relieve the Subcontractor of its obligation to make the payments required in this subcontract.

5.5 Charge for Late Payments. The Subcontractor shall pay a late payment charge on installments or charges that are received after the due date. The late payment charge percentage rate calculated by the Department of the Treasury and published quarterly in the Federal Register shall be used; provided, that the late payment charge percentage rate shall not be less than 0.5 percent per month. The late payment charge percentage rate applied on an overdue payment shall remain in effect until payment is received. The late payment rate for a 30-day period shall be determined on the day immediately following the due date and shall be applied to the overdue payment for any portion of the 30-day period of delinquency. In the case of partial late payments, the amount received shall first be applied to the late charge on the overdue payment and then to the overdue payment.

6. GENERAL PROVISIONS:

6.1 Repayment Contract Controlling. Pursuant to the Repayment Contract, the United States has agreed to construct and, in the absence of an approved Operating Agency, to operate and maintain the works of the Central Arizona Project and to deliver Project Water to the various subcontractors within the Project Service Area; and the Contractor has obligated itself for the payment of various costs, expenses, and other amounts allocated to the Contractor pursuant to Article 9 of the Repayment Contract. The Subcontractor expressly approves and agrees to all the terms presently set out in the Repayment Contract including Subarticle 8.8(b)(viii) thereof, or as such

terms may be hereafter amended, and agrees to be bound by the actions to be taken and the determinations to be made under that Repayment Contract, except as otherwise provided herein.

6.2 Effluent Exchanges. The Subcontractor may enter into direct effluent exchanges with Indian entities that have received an allocation of Project Water and receive all benefits from the exchange.

6.3 Notices. Any notice, demand or request authorized or required by this subcontract shall be deemed to have been given when mailed, postage prepaid, or delivered to the Regional Director, Lower Colorado Region, Bureau of Reclamation, P.O. Box 61470, Boulder City, Nevada 89006-1470, on behalf of the Contractor or Subcontractor; to the Central Arizona Water Conservation District, P. O. Box 43020, Phoenix, Arizona 85080, on behalf of the United States or Subcontractor; and to the City of Avondale, 11465 W. Avondale Blvd., Avondale, Arizona 85323, on behalf of the United States or Contractor. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this Article for other notices.

6.4 Water Conservation Program.

(a) While the contents and standards of a given water conservation program are primarily matters of State and local determination, there is a strong Federal interest in developing an effective water conservation program because of this subcontract. The Subcontractor shall develop and implement an effective water conservation program for all uses of water that is provided from or conveyed through Federally constructed or Federally financed facilities. That water conservation program

shall contain definite goals, appropriate water conservation measures, and time schedules for meeting the water conservation objectives.

(b) A water conservation program, acceptable to the Contractor and the Contracting Officer, shall be in existence prior to one or all of the following: (1) service of Federally stored/conveyed water; (2) transfer of operation and maintenance of the Project facilities to the Contractor or Operating Agency; or (3) transfer of the Project to an operation and maintenance status. The distribution and use of Federally stored/conveyed water and/or the operation of Project facilities transferred to the Contractor shall be consistent with the adopted water conservation program. Following execution of this subcontract, and at subsequent 5-year intervals, the Subcontractor shall resubmit the water conservation plan to the Contractor and the Contracting Officer for review and approval. After review of the results of the previous 5 years and after consultation with the Contractor, the Subcontractor, and the Arizona Department of Water Resources or its successor, the Contracting Officer may require modifications in the water conservation program to better achieve program goals.

6.5 Rules, Regulations, and Determinations.

(a) The Contracting Officer shall have the right to make, after an opportunity has been offered to the Contractor and Subcontractor for consultation, rules and regulations consistent with the provisions of this subcontract, the laws of the United States and the State of Arizona, to add to or to modify them as may be deemed proper and necessary to carry out this subcontract, and to supply necessary details of its administration which are not covered by express provisions of this subcontract. The Contractor and Subcontractor shall observe such rules and regulations.

(b) Where the terms of this subcontract provide for action to be based upon the opinion or determination of any party to this subcontract, whether or not stated to be conclusive, said terms shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. In the event that the Contractor or Subcontractor questions any factual determination made by the Contracting Officer, the findings as to the facts shall be made by the Secretary only after consultation with the Contractor or Subcontractor and shall be conclusive upon the parties.

6.6 Officials Not to Benefit.

(a) No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this subcontract or to any benefit that may arise herefrom. This restriction shall not be construed to extend to this subcontract if made with a corporation or company for its general benefit.

(b) No official of the Subcontractor shall receive any benefit that may arise by reason of this subcontract other than as a water user within the Project and in the same manner as other water users within the Project.

6.7 Assignment Limited--Successors and Assigns Obligated. The provisions of this subcontract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this subcontract or any part or interest therein shall be valid until approved by the Contracting Officer.

6.8 Judicial Remedies Not Foreclosed. Nothing herein shall be construed (a) as depriving any party from pursuing and prosecuting any remedy in any appropriate court of the United States or the State of Arizona which would otherwise be

available to such parties even though provisions herein may declare that determinations or decisions of the Secretary or other persons are conclusive or (b) as depriving any party of any defense thereto which would otherwise be available.

6.9 Books, Records, and Reports. The Subcontractor shall establish and maintain accounts and other books and records pertaining to its financial transactions, land use and crop census, water supply, water use, changes of Project works, and to other matters as the Contracting Officer may require. Reports thereon shall be furnished to the Contracting Officer in such form and on such date or dates as he may require. Subject to applicable Federal laws and regulations, each party shall have the right during office hours to examine and make copies of each other's books and records relating to matters covered by this subcontract.

6.10 Equal Opportunity. During the performance of this subcontract, the Subcontractor agrees as follows:

(a) The Subcontractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Subcontractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Subcontractor agrees to post in conspicuous places, available to employees and applicants for

employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(b) The Subcontractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Subcontractor, state that all qualified applicants shall receive consideration for employment without discrimination because of race, color, religion, sex, or national origin.

(c) The Subcontractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising said labor union or workers' representative of the Subcontractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Subcontractor shall comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Subcontractor shall furnish all information and reports required by said amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to its books, records, and accounts by the Contracting Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Subcontractor's noncompliance with the nondiscrimination clauses of this subcontract or with any of such rules, regulations, or

orders, this subcontract may be canceled, terminated, or suspended, in whole or in part, and the Subcontractor may be declared ineligible for further Government contracts in accordance with procedures authorized in said amended Executive Order and such other sanctions may be imposed and remedies invoked as provided in said amended Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Subcontractor shall include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such provisions shall be binding upon each subcontractor or vendor. The Subcontractor shall take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a Subcontractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Subcontractor may request the United States to enter into such litigation to protect the interest of the United States.

6.11 Title VI, Civil Rights Act of 1964.

(a) The Subcontractor agrees that it shall comply with Title VI of the Civil Rights Act of July 2, 1964 (78 Stat. 241), and all requirements imposed by or pursuant to the Department of the Interior Regulation (43 CFR 17) issued pursuant to that title to the end that, in accordance with Title VI of that Act and the Regulation, no person in the United States shall, on the grounds of race, color, or national origin be

excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Subcontractor receives financial assistance from the United States and hereby gives assurance that it shall immediately take any measures to effectuate this agreement.

(b) If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Subcontractor by the United States, this assurance obligates the Subcontractor, or in the case of any transfer of such property, any transferee for the period during which the real property or structure is used for a purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance obligates the Subcontractor for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the Subcontractor for the period during which the Federal financial assistance is extended to it by the United States.

(c) This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts, or other Federal financial assistance extended after the date hereof to the Subcontractor by the United States, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Subcontractor recognizes and agrees that such Federal financial assistance shall be extended in reliance on the representations and agreements made in this assurance, and that the United States shall reserve the right to seek judicial enforcement of this assurance. This assurance is binding on the Subcontractor, its successors, transferees, and assignees.

6.12 Confirmation of Subcontract. The Subcontractor shall promptly seek a final decree of the proper court of the State of Arizona approving and confirming the subcontract and decreeing and adjudging it to be lawful, valid, and binding on the Subcontractor. The Subcontractor shall furnish to the United States a certified copy of such decree and of all pertinent supporting records. This subcontract shall not be binding on the United States, the Contractor, or the Subcontractor until such final decree has been entered.

6.13 Contingent on Appropriation or Allotment of Funds. The expenditure or advance of any money or the performance of any work by the United States hereunder which may require appropriation of money by the Congress or the allotment of funds shall be contingent upon such appropriation or allotment being made. The failure of the Congress to appropriate funds or the absence of any allotment of funds shall not relieve the Subcontractor from any obligation under this subcontract. No liability shall accrue to the United States in case such funds are not appropriated or allotted.

IN WITNESS WHEREOF, the parties hereto have executed this subcontract No._____ the day and year first above-written.

Legal Review and Approval

By:_____
Field Solicitor
Phoenix, Arizona

THE UNITED STATES OF AMERICA

By:_____
Regional Director
Lower Colorado Region
Bureau of Reclamation

CENTRAL ARIZONA WATER
CONSERVATION DISTRICT

Attest:_____
Secretary

By: _____
President

CITY OF AVONDALE

Attest:_____

Title:_____

By: _____

Title:_____

ATTEST: _____
CITY CLERK

CITY COUNCIL REPORT

SUBJECT:
Resolution 2673-807 supporting a Housing Trust Fund grant application - Arizona Department of Housing and adopting the Avondale Owner-Occupied Emergency Home Repair Policies

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Andrew Rael, CDBG Program Manager (623)333-2715

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council adopt a resolution authorizing the submission of a $300,000 Housing Trust Fund (HTF) grant application to the Arizona Department of Housing (ADOH) and adopting the Avondale Owner-Occupied Emergency Home Repair Policies. The HTF grant will provide additional funding to the existing City of Avondale Emergency Home Repair Program. ADOH requires City Council authorization of all grant applications and program policies.

BACKGROUND:

City Council authorized the Consolidated Plan in May of 2006 which contained as a strategy the creation of a single-family housing rehabilitation program. City Council approved a contract on May 21, 2007 with F.S.L Home Improvements Inc. (FSL) to operate the single-family housing rehabilitation program to complete three (3) Substantial Rehabilitation projects and twelve (12) Emergency Home Repair projects. Emergency Home Repair is funded with $194,320 in CDBG funds and Substantial Rehabilitation is funded with $170,772 in HOME funds. A high demand for the Emergency Home Repair Program and excellent productivity from FSL will expend the Emergency Repair funds by the end of the 2007. HTF is the only other currently available source of funds that can be used for Emergency Home Repair. HTF funds will be necessary to keep the program operational on a continuous basis. The contract with FSL can be amended to add the additional funds. The Avondale Owner-Occupied Emergency Home Repair Policies provide further guidance to the contractual relationship between the City of Avondale and FSL.

DISCUSSION:

Success in obtaining the $300,000 grant depends largely upon the ability of Avondale to demonstrate a demand for the program as well as the capacity to successfully spend the grant. It is expected that sufficient demand can be demonstrated both by the volume of persons that are referred to FSL by the Neighborhood and Family Services Department (NFSD) case workers which is an average of 5 clients a week. In addition, the large quantity of housing in poor condition in Avondale's low-income neighborhoods also demonstrates the need. It is expected the capacity can be demonstrated by the performance of FSL to date. A total of 5 homes have received emergency repair, and an additional 5 are currently in process in the third month of the program. Until the rehabilitation program was created NFSD case workers had very limited resources to assist distressed low-income homeowners with cooler repair, dangerous wiring, leaking roofs, plumbing repair and other basic housing repair needs. The Emergency Repair program is a vital part of the emergency services that are necessary in Avondale's low-income neighborhoods. If Avondale is successful in obtaining the HTF grant it is expected that the funds will be available by the end of November 2007.

BUDGETARY IMPACT:

No City of Avondale funding is necessary from grant or general fund resources.

RECOMENDATION:

Staff recommends that the City Council adopt a resolution authorizing the submission of a $300,000 Housing Trust Fund (HTF) grant application to the Arizona Department of Housing (ADOH) and adopting the Avondale Owner-Occupied Emergency Home Repair Program Policies.

ATTACHMENTS:

Click to download

- Emergency Home Repair Policies
- RES - 2673-807 HTF

AVONDALE OWNER-OCCUPIED EMERGENCY HOME REPAIR PROGRAM POLICIES

1. The Program Design/Goals/Objectives:

The Emergency Home Repair Program is designed to provide emergency repairs to very low-income owner-occupied households located in Avondale. The maximum amount of emergency repair assistance is $10,000 and the minimum investment is $1,000. The service is provided in the form of a grant to the homeowner therefore no recapture periods are required.

2. Marketing and Advertising Method:

Most recipients of Emergency Home Repair are referred through the City of Avondale Neighborhood and Family Services Department. Program staff also provides informal meetings/presentations at senior centers, Community Action Program offices, and other social service centers throughout Avondale. This is done to enhance the marketing and advertising efforts for the Housing Trust Fund (HTF) Owner-Occupied Emergency Repair Program as well as to provide information on the Fair Housing Act. The marketing and advertising will also focus on persons with disabilities and Limited-English Speaking homeowners. Program literature is available in Spanish as necessary.

3. Staffing/The Administrative Structure:

The Owner-Occupied Emergency Home Repair Program is operated by the City of Avondale out of the Neighborhood and Family Services Department, CDBG Management Section. The Director of the Neighborhood and Family Services Department is Gina Montes. The CDBG Manager is Andrew Rael. The City of Avondale will enter into a Subrecipient contract with FSL Home Improvements Inc. (FSL) to operate the Emergency Home Repair Program. The FSL Home Improvement team for this emergency repair program consists of JoAnn Thorpe, Rehabilitation Specialist, and key FSL Management accounting staff that will perform the cost reimbursement billing reports for the Arizona Department of Housing. The Program Director, Carrie Smith, provides direct supervision/support to the Rehabilitation Specialist who provides direct service coordination of the contracting and repair process. FSL Accounting Department staff performs all accounting functions. FSL employees receive training in the areas of cultural diversity, communicating with diverse clients and general human relations during their introductory employment period. FSL employs Spanish-speaking staff to assist each department as needed. Most forms and applications can be offered in Spanish. In addition, FSL has a TDD phone number to assist individuals with hearing impairments.

4. Application and waiting list procedures:

Candidates complete an application and provide income eligibility documentation. Program staff will verify original income documents and copies will be obtained for the program file. Proof of home ownership and verification of permanent residency and any other documentation required to determine eligibility for HOME/HTF funds

will be obtained for the program file. If necessary a formal waiting list will be maintained. All eligible applicants will be placed on this list in the order in which the application was received. If necessary, staff will prioritize immediate health and safety hazards.

5. Housing Counseling and Homeownership Maintenance Education:
The Rehabilitation Specialist educates each homeowner as to the proper use of newly repaired or installed equipment and provides home maintenance educational information to homeowners.

6. Method of determining scope of work.
Rehabilitation Specialist will inspect each property for housing quality standards (HQS) issues and/or building code violations and will meet with homeowner to discuss emergency needs. The scope of work shall address immediate emergency repairs that affect the safety and habitability of the home. Examples of repairs include roofing, heating and cooling, plumbing and electrical issues.

7. Unit Inspections, Work Write-Ups and Bidding Processes
After determining income eligibility, the Rehabilitation Specialist inspects the property to determine the emergency repair need, writes a cost-estimate and scope of work according to UBC or local code and prepares a public bid package. The Rehabilitation Specialist reviews the scope of work with the homeowner prior to assigning to a contractor or sending out the bid packages. Program staff also maintains a list of contractors eligible to bid. All contractors are required to complete a contractor application and provide the following: a copy of the Arizona Registrar of Contractors license, liability and workers compensation insurances prior to submitting bids. Each contractor is check against the HUD debarment list. Procurement procedures will be as follows: Due to the extreme nature of emergency repairs, the Rehabilitation Specialist will assign the job to a qualified, licensed contractor if the job is under $2,000. For non-life threatening repairs which are between $2,000-$5,000, program staff will obtain a minimum of three (3) verbal or faxed bids and select the lowest bidder. Any repair estimated to exceed $5,000 should be hand delivered or mailed by the contractor to the Program office in a sealed envelope with the name of the project and bid opening date on the front. All bids shall be opened at the time of the bid opening. Bids are reviewed with the homeowner and awarded to the lowest bidder.

8. Construction Inspection Process
The Rehabilitation Specialist monitors construction throughout the process and will perform a final inspection to ensure that work performed meets HQS and local building code. Homeowner will be asked to sign off on a project completion certificate indicating that work was performed to homeowner's satisfaction and that all warranty documentation has been provided.

9. Method of Determining after Emergency Repair Value:
The Rehabilitation Specialist obtains a copy of the most recent Maricopa County Assessors tax valuation report on the property and adds the cost of the emergency repair to determine the after emergency repair value. The amount is compared to the most recent FHA 203 (b) Insuring Limits for Single Family Properties amount to ensure that after repair values do not exceed limit.

10. Loan Servicing Policy/Procedures Including Lien Releases:
This program is a "grant" to the homeowner and not a deferred loan. The Rehabilitation Specialist performs a limited title search to ensure that the property is free of restrictions or encumbrances that unduly restrict the good and marketable nature of the ownership interest, such as liens and non owner-occupants named on the deed. Each performing contractor signs a lien release upon completion of project and prior to payment for services. A copy is maintained in the emergency repair file.

11. Program Income Policy/Procedures including Accounting Procedures
The Rehabilitation Specialist obtains income/asset documentation from all members of the household and follows the HUD Section 8 guidelines as defined in 24 CFR to determine the household's annual income and eligibility status. Required documentation can include but is not limited to; tax returns, checking and savings account statements, IRA and other retirement account statements, Interest, Dividends and other net income, Pensions, Social Security, Disability or Death Benefits, Wages (paycheck stubs), and alimony/child support.

In the event that program staff acquires any recaptured or repayment of assisted amounts from the beneficiaries it will be documented in the bi-monthly report in a current contract period or a notification to the Arizona Department of Housing will be sent. The notification to the Arizona Department of Housing will have the recaptured or repayment amount information attached along with repayment check.

12. Temporary Relocation Policy
Program staff will offer temporary relocation to homeowners when lead abatement activities require the homeowners to be off site during abatement activities. In addition, the homeowner is relocated if the house will be without utilities for more than 24 hours. All relocation costs shall be a covered as part of the total maximum emergency repair cost per unit.

13. Lead Based Paint Activities
Program staff will follow the HUD Lead Based Paint Regulations (24 CFR Part 35). All homes built prior to 1978 will receive a lead based paint test and risk assessment to determine lead hazards. If hazards are present, a licensed lead abatement contractor, prior to other contractors performing the emergency repairs, performs abatement or interim controls and obtains clearance test results. Homeowners are given a copy of the *Protect your Family from Lead* Pamphlet, the test results, risk assessment report as well as any clearance test reports.

14. Grievance and Quality Assurance Procedures:
All complaints must be submitted in writing to the CDBG Manager. The CDBG Manager will have ten (10) working days to respond in writing. If response from the CDBG Manager is not satisfactory, complaint should be forwarded to the Neighborhood and Family Services Director. The Neighborhood and Family Services Director will have ten (10) working days to respond in writing. If response is not satisfactory, complaint shall be submitted in writing to the Assistant City Manager. The Assistant City Manager will have ten (10) working days to respond in writing. All decisions from the Assistant City Manager are final.

In addition to a final inspection and meeting with the homeowner to ensure quality of work performed, each homeowner will be asked to complete a satisfaction survey. Results are reviewed and any issues are addressed.

15. Homeownership Maintenance Policy:
Upon completion of the emergency repair, program staff will provide education to the homeowner that at a minimum will address the need to budget for home repairs, the importance of timely mortgage payments if applicable, and the importance of maintaining homeowners insurance.

RESOLUTION NO. 2673-807

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO THE ARIZONA DEPARTMENT OF HOUSING FOR STATE HOUSING FUNDS AVAILABLE THOUGH THE HOME INVESTMENT PARTNERSHIP PROGRAM AND THE STATE HOUSING TRUST FUND.

WHEREAS, the Arizona Department of Housing ("ADOH") is accepting proposals from state and local agencies for project funding relating to low income and affordable housing development programs; and

WHEREAS, the Council of the City of Avondale (the "City Council") desires to submit a grant application to be considered by ADOH for funding for the City of Avondale (the "City") emergency repair program (the "Application"); and

WHEREAS, ADOH procedures require that the City Council certify, by resolution, (i) its approval of submission of the Application in support of the City of Avondale Emergency Home Repair Program (the "Project"), (ii) that the Project meets the City's housing and community development needs and the requirements of the State Housing Program and (iii) that the City will comply with all State Housing Fund Program Guidelines, State and Federal Statutes and regulations applicable to the State Housing Fund Program and the certifications contained in the Application.

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

SECTION 1. That the City Council hereby approves the submission of the Application to ADOH for consideration for funding in support of the Project.

SECTION 2. That the City Council hereby finds and determines that the Project meets the City's housing and community development needs and the requirements of the State Housing Program.

SECTION 3. That the City Council hereby warrants that the City will comply with all State Housing Fund Program Guidelines, State and Federal Statutes and regulations applicable to the State Housing Fund Program and the certifications contained in the Application.

SECTION 4. That the City Manager or his authorized designee is hereby authorized and directed to take all steps necessary and execute and submit all documents in connection with the Application.

SECTION 5. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to execute and submit all documents and any other necessary or desirable instruments in connection with the Application and to take all steps necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Council of the City of Avondale, August 20, 2007.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Linda M. Farris, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

CITY COUNCIL REPORT

SUBJECT:
Special Event Liquor License - Southwest Hispanic Culture Assosciation

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Linda Farris

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that Council consider a request for a special event liquor license from Ms. Elsa Lopez representing the Southwest Hispanic Culture Association, P.O. Box 1744, Avondale, for the Fiestas Patrias event to be held on September 21, 2007 to September 23, 2007 at Festival Fields.

DISCUSSION:

The City Clerk's Office has received an application for a special event liquor license from Elsa Lopez, representing the Southwest Hispanic Culture Association, to be used in conjunction with the Fiestas Patrias celebration, to be held on September 21, 2007 to September 23, 2007 at Festival Fields.

Staff has reviewed this application using the 14 factors set forth in Ordinance 1031-04. The findings are as noted below:

1) The event will be open to the public.
2) A background check of the organizer, Ms. Elsa Lopez, revealed no contact with the Avondale Police Department
3) The nature of the event includes mariachis, live bands, and cultural entertainment.
4) The Police Department has reviewed the security plan and is requiring officers for the interior of the event.
5) & 6) Beer will be sold at the event in disposable cups and cans.
7) A check of calls for service from last year shows no contacts.
8) Festival Fields is located in an area of light industrial use. All activities will be confined to the Park location other than the parade. The Park is surrounded by A-1 (light industrial) and AG (agricultural).
9) The event will occur on Friday, September 21, 2007 from 5:00 p.m. to 11:00 p.m., Saturday, September 22, 2007 from 12:00 p.m. to 11:00 p.m., and Sunday, September 23, 2007 from 12:00 p.m. to 10:00 pm.
10) The City of Avondale will be providing sanitation facilities (portable toilets) for the event.
11) Zoning is A-1 General Industrial. Planning has indicated that the proposed use will not result in incompatible land uses.
12) The anticipated total daily attendance for the event is 1500 on Friday and 2800 on Saturday and 1500 on Sunday.
13) Two "EAW" KF 300 speakers and power station console will be used for the amplification of music.
14) No traffic control measures are necessary per the Chief of Police.

The required fees have been paid.

RECOMENDATION:

Staff is recommending that Council approve a special event liquor license for the Southwest Hispanic Culture

Association, for Fiestas Patrias, September 21, 2007 to September 23, 2007 at Festival Fields.

ATTACHMENTS:

Click to download

- Special Event Liquor License State application
- Comments from Police and Fire Departments

Addendum H

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

800 W Washington 5th Floor
Phoenix AZ 85007-2934
(602) 542-5141

400 W Congress #521
Tucson AZ 85701-1352
(520) 628-6595

APPLICATION FOR SPECIAL EVENT LICENSE

Fee = $25.00 per day, for 1-10 day events only
A service fee of $25.00 will be charged for all dishonored checks (A.R.S.§ 44-6852)

PLEASE NOTE: THIS DOCUMENT MUST BE FULLY COMPLETED OR IT WILL BE RETURNED.

DEPT USE ONLY
LIC#

****APPLICATION MUST BE APPROVED BY LOCAL GOVERNMENT**

1. Name of Organization: Southwest Hispanic Culture Assn
2. Non-Profit/I.R.S. Tax Exempt Number: 86-0968118
3. The organization is a: (check one box only)
   - ☑ Charitable
   - ☐ Fraternal (must have regular membership and in existence for over 5 years)
   - ☐ Civic
   - ☐ Political Party, Ballot Measure, or Campaign Committee
   - ☐ Religious
4. What is the purpose of this event? Fundraiser / Cultural Event
5. Location of the event: 101 E. Lower Buckeye Rd Avondale, Az 85323
   Address of physical location (Not P.O. Box) | City | County | Zip

Applicant must be a member of the qualifying organization and authorized by an Officer, Director or Chairperson of the Organization named in Question #1. (Signature required in section #18)

6. **Applicant**: Lopez (Last) Elsa (First) O. (Middle) _____ (Date of Birth)
7. Applicant's Mailing Address: P.O. Box 1744 (Street) Avondale (City) Az (State) 85323 (Zip)
8. Phone Numbers: ~~(623) 205-9487~~ (623) 333-2400 REC. (Site Owner #) (623) 205-9487 (Applicant's Business #) (602) 687-9009 (Applicant's Home #)
9. Date(s) & Hours of Event: (Remember: you *cannot* sell alcohol before 10:00 a.m. on Sunday)

	Date	Day of Week	Hours from A.M./P.M.	To A.M./P.M.
Day 1:	9/21/07	F	5P	11P
Day 2:	9/22/07	SA	12P	11P
Day 3:	9/23/07	SU	12P	10P
Day 4:				
Day 5:				
Day 6:				
Day 7:				
Day 8:				
Day 9:				
Day 10:				

Lic 0106 05/2004

***Disabled inividuals requiring special accommodations, please call (602) 542-9027**

10. Has the applicant been convicted of a felony in the past five years, or had a liquor license revoked?
☐ YES ☒ NO (attach explanation if yes)

11. This organization has been issued a special event license for 4 days this year, including this event (not to exceed 10 days per year).

12. Is the organization using the services of a promoter or other person to manage the event? ☐ YES ☒ NO
If yes, attach a copy of the agreement.

13. List all people and organizations who will receive the proceeds. Account for 100% of the proceeds.
THE ORGANIZATION APPLYING MUST RECEIVE 25% of the gross revenues of Alcoholic Beverage Sales.

Name	Address	Percentage
SouthWest Hispanic Culture Association		100%

(Attach additional sheet if necessary)

14. Knowledge of Arizona State Liquor Laws Title 4 is important to prevent liquor law violations. If you have any questions regarding the law or this application, please contact the Arizona State Department of Liquor Licenses and Control for assistance.

NOTE: ALL ALCOHOLIC BEVERAGE SALES MUST BE FOR CONSUMPTION AT THE EVENT SITE ONLY.
"NO ALCOHOLIC BEVERAGES SHALL LEAVE SPECIAL EVENT PREMISES."

15. What security and control measures will you take to prevent violations of state liquor laws at this event?
(List type and number of security/police personnel and type of fencing or control barriers if applicable)

✓ # Police ☒ Fencing
✓ # Security personnel ☒ Barriers

4 Proof OF AGE / WRIST BANDS
DESIGNATED BEER GARDEN AREA / VIP AREA

16. Is there an existing liquor license at the location where the special event is being held? ☐ YES ☒ NO
If yes, does the existing business agree to suspend their liquor license during the time period, and in the area in which the special event license will be in use? ☐ YES ☐ NO
(ATTACH COPY OF AGREEMENT)

N/A (_____) _____
Name of Business Phone Number

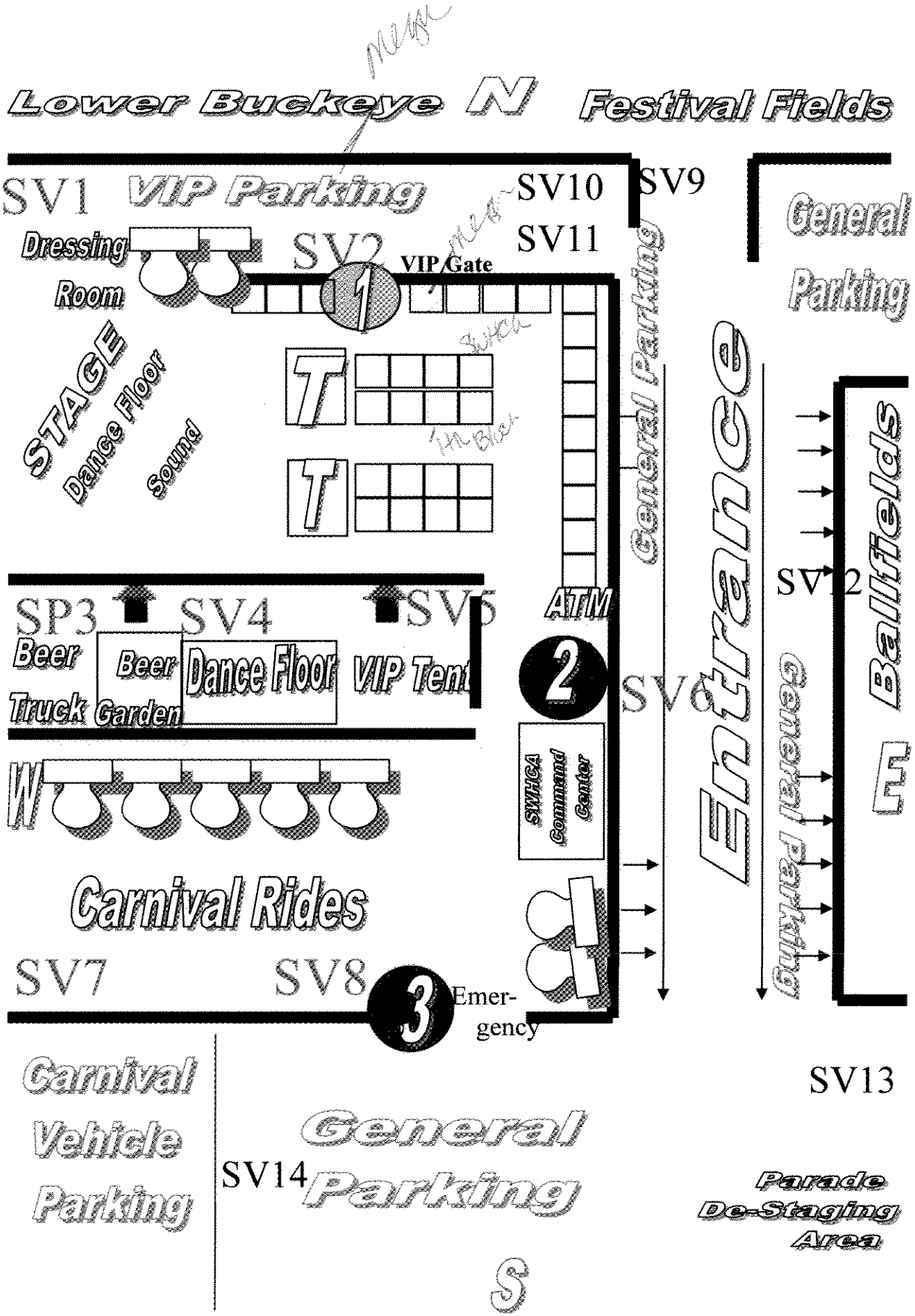
17. Your licensed premises is that area in which you are authorized to sell, dispense, or serve spirituous liquors under the provisions of your license. The following page is to be used to prepare a diagram of your special event licensed premises. Please show dimensions, serving areas, fencing, barricades or other control measures and security positions.

SPECIAL EVENT LICENSED PREMISES DIAGRAM
(This diagram must be completed with this application)

Special Event Diagram: (Show dimensions, serving areas, and label type of enclosure and security positions)
NOTE: Show nearest cross streets, highway, or road if location doesn't have an address.

N↑

SEE ATTACHED


Lower Buckeye
N
Festival Fields
SV1
VIP Parking
SV10
SV9
SV11
General Parking
Dressing Room
SV2
VIP Gate
1
STAGE
Dance Floor
Sound
T
T
General Parking
Entrance
SV12
Ballfields
SP3
SV4
SV5
ATM
Beer Truck
Beer Garden
Dance Floor
VIP Tent
2
SV6
SWHGA Command Center
General Parking
E
W
Carnival Rides
SV7
SV8
3
Emer-gency
Carnival Vehicle Parking
SV13
General Parking
SV14
Parade De-Staging Area
S

THIS SECTION TO BE COMPLETED ONLY BY AN OFFICER, DIRECTOR OR CHAIRPERSON OF THE ORGANIZATION NAMED IN QUESTION #1

18. I, Elsa Lopez (Print full name), declare that I am an **Officer/Director/Chairperson** appointing the applicant listed in Question 6, to apply on behalf of the foregoing organization for a Special Event Liquor License.

X _____ (Signature) Board Treasurer (Title/Position) 7-20-07 (Date) (623) 205-9487 (Phone #)

NOTARY PUBLIC
STATE OF ARIZONA
Maricopa County
SYLVIA FOLKS
My Appointment Expires 11/27/10

State of Arizona County of Maricopa
The foregoing instrument was acknowledged before me this
20th (Day) July (Month) 2007 (Year)

My Commission expires on: 11-27-2010 (Date) _____ (Signature of NOTARY PUBLIC)

THIS SECTION TO BE COMPLETED ONLY BY THE APPLICANT NAMED IN QUESTION #6

19. I, Elsa Lopez (Print full name), declare that I am the APPLICANT filing this application as listed in Question 6. I have read the application and the contents and all statements are true, correct and complete.

X _____ (Signature)

State of Arizona County of Maricopa
The foregoing instrument was acknowledged before me this
20th (Day) July (Month) 2007 (Year)

NOTARY PUBLIC
STATE OF ARIZONA
Maricopa County
SYLVIA FOLKS
My Appointment Expires 11/27/10

My commission expires on: 11-27-2010 (Date) _____ (Signature of NOTARY PUBLIC)

You must obtain local government approval. City or County *MUST* recommend event & complete item #20. The local city or county jurisdiction may require additional applications to be completed and additional licensing fees before approval may be granted.

LOCAL GOVERNING BODY APPROVAL SECTION

20. I, _____ (Government Official) _____ (Title) hereby recommend this special event application

on behalf of _____ (City, Town or County) _____ (Signature of OFFICIAL) _____ (Date)

FOR DLLC DEPARTMENT USE ONLY

Department Comment Section:

_____

_____ (Employee) _____ (Date)

☐ APPROVED ☐ DISAPPROVED BY: _____

_____ (Title) (Date)

City of Avondale
CITY CLERK'S OFFICE

DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:
☒ SPECIAL EVENT LIQUOR LICENSE

ROUTING:
☐ POLICE DEPARTMENT
☒ FIRE DEPARTMENT

APPLICANT'S NAME: ELSA LOPEZ

ORGANIZATIONS NAME: SOUTHWEST HISPANIC CULTURE ASSOCIATION

EVENT ADDRESS: FESTIVAL FIELDS, 101 EAST LOWER BUCKEYE ROAD

CITY: AVONDALE **STATE:** AZ **ZIP CODE:** 85323

PURPOSE OF EVENT: FIESTA PATRIAS 2007

DEPARTMENTAL COMMENTS:

☒ **APPROVED**
☐ **DENIED**

Steve Stevens 7-31-2007
SIGNATURE **DATE**

Assistant Fire Marshal
TITLE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: AUGUST 20, 2007
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JULY 31, 2007

City of Avondale
CITY CLERK'S OFFICE

DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:
☒ SPECIAL EVENT LIQUOR LICENSE

ROUTING:
☒ POLICE DEPARTMENT
☐ FIRE DEPARTMENT

APPLICANT'S NAME: ELSA LOPEZ

ORGANIZATIONS NAME: SOUTHWEST HISPANIC CULTURE ASSOCIATION

EVENT ADDRESS: FESTIVAL FIELDS, 101 EAST LOWER BUCKEYE ROAD

CITY: AVONDALE **STATE:** AZ **ZIP CODE:** 85323

PURPOSE OF EVENT: FIESTA PATRIAS 2007

DEPARTMENTAL COMMENTS:

☑ APPROVED
☐ DENIED

SIGNATURE

7/25/07
DATE

TITLE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: AUGUST 20, 2007
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JULY 31, 2007

CITY COUNCIL REPORT

SUBJECT:
Amendment No. 4 - Sundt Construction, Inc. - Old Town Library

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Christopher Reams, Acting Director of Parks, Recreation & Libraries (623)333-2412

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council approve Amendment No. 4 to the Design-Build Agreement with Sundt Construction, Inc. for construction phase services to build the Avondale Old Town Library at a cost of $4,563,781, and authorize the Mayor or City Manager and City Clerk to execute the contract documents.

BACKGROUND:

Council awarded a Design-Build contract to Sundt Construction, Inc. on June 20, 2005 for preconstruction services relating to the Civic Center and Old Town Branch Libraries, including master-planning and design services. On November 20, 2006 Council approved Amendment No. 2 to the Design-Build Contract in the amount $583,665. On May 11, 2007 Council approved Amendment No. 3 which increased the pre-construction services in the amount of $63,449 for additional design services. Council reviewed the Old Town Library Conceptual Design on January 16, 2007 and provided staff with direction to construct a 12,500 square foot facility.

Since then, Sundt Construction, Inc. and their architect, Smith Group (the Design-Build team) have completed the construction documents to a level sufficient to prepare the Guaranteed Maximum Price (GMP) for the construction phase of the project.

DISCUSSION:

The scope of work for the Construction Phase of this design-build contract includes the construction of a 12,500 square foot library, which will be located at 495 E. Western Avenue. The facility is designed to replace the current Avondale Old Town Library located at 328 W. Western Avenue. The project will also include modification to Sernas Plaza.

Sundt Construction, Inc. solicited bids from a number of specialty sub-contractors as the basis for their GMP. During the development of the construction documents, staff determined that the city could perform certain tasks more efficiently and at a reduced cost. Through separate contracts, staff will purchase all furniture, equipment, communications, computers and security equipment.

BUDGETARY IMPACT:

The project budget of $6,200,000 includes $4.4 million dollars from the Library CIP line item 311-1031-00-8230 and a transfer of funds and appropriation of $1.8 million dollars is required from the General Fund Contingency line item 101-5300-00-9900. The total project cost is summarized below:

Construction	$4,563,781
Design	$ 647,114
Owner F F & E	$ 668,105
Land	$ 321,000
Total	$6,200,000

The schedule for the above described work is summarized below

GMP approval:	August 20, 2007
Construction:	September 2007
Construction completed:	September 2008
F F & E/shelving	October 2008
Opening	November 2008

RECOMENDATION:

Staff recommends that the City Council approve Amendment No. 4 to the Design-Build Agreement with Sundt Construction, Inc. for construction phase services to build the Avondale Old Town Library at a cost of $4,563,781, approve the transfer of contingency funds in the amount of $1,800,000, and authorize the Mayor or City Manager and City Clerk to execute the contract documents.

ATTACHMENTS:

Click to download

- 4th Amednment

FOURTH AMENDMENT
TO DESIGN-BUILD AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
SUNDT CONSTRUCTION, INC.

THIS FOURTH AMENDMENT TO DESIGN-BUILD AGREEMENT (this "Fourth Amendment") is made as of August 20, 2007, between the City of Avondale, an Arizona municipal corporation (the "City") and Sundt Construction, Inc., an Arizona corporation ("Contractor").

RECITALS

A. The City and the Contractor entered into that certain Design-Build Agreement, dated June 20, 2005 (the "Original Agreement"), for the purpose of (i) remodeling and expanding the City's existing Western Avenue Library and (ii) completing the design and subsequently constructing the City's new library at the Avondale Civic Center (collectively, the "Project").

B. The Original Agreement was amended three times, on October 17, 2005 (the "First Amendment"), to establish the Civic Center GMP, as set forth in the Original Agreement, on November 20, 2006, to provide for the fixed amount of compensation to the Contractor for the Pre-construction Phase Services for the Western Avenue Replacement Library portion of the Project (the "Second Amendment") and on May 11, 2007, to (i) approve certain change orders and reduce the Civic Center GMP, (ii) increase the compensation to be paid to the Contractor for additional Pre-Construction Phase Services related to City-requested design changes to the Western Avenue Replacement Library and (iii) extend the date of Substantial Completion for the Civic Center Library until January 11, 2007 (the "Third Amendment"). The Original Agreement, the First Amendment, the Second Amendment and the Third Amendment are collectively referred to herein as the "Agreement." Unless otherwise defined in this Fourth Amendment, all capitalized terms herein shall have the meanings ascribed to them in the Agreement.

C. The City and the Contractor desire to further amend the Agreement to establish the Western Avenue Library GMP and a date of Substantial Completion for the Western Avenue Library portion of the Project.

AGREEMENT

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

1. The Contractor's guaranteed maximum price for the Western Avenue Replacement Library portion of the Work (the "Western Avenue Library GMP"), including the Cost of the Work as defined in Article 8 of the Agreement and the Construction Phase Fee as set

forth in subsection 7.2(B) of the Agreement, but specifically excluding the Pre-Construction Phase Fee set forth in subsection 7.1(B) of the Agreement, is hereby agreed to be $4,563,781.00. The Western Avenue Library GMP is the total compensation from the City to the Contractor for its fee and for the performance of the Western Avenue Replacement Library portion of the Work in accordance with Contract Documents set forth in the Agreement and pursuant to any of the following documents, as applicable:

a. Assumptions and Clarifications, dated August 8, 2007, 14 pages attached hereto as Exhibit 1.

b. The Schedule of Work related to the Western Avenue Replacement Library, dated August 7, 2007, six pages, attached hereto as Exhibit 2.

2. The following exhibits are hereby approved and included in the Agreement:

a. Exhibit B-2 – Western Avenue Proposal

b. Exhibit C-2 - List of Design Development Documents.

c. Exhibit B-4 to the Agreement is hereby deleted in its entirety and replaced by the scope items contained within Exhibit B-2 attached hereto. Exhibit B-4 shall not otherwise be separately included in the Agreement.

3. Exhibit C-1 to the Agreement, List of Schematic Design Documents, will not be included in the Agreement and Exhibit C-3 to the Agreement, List of Construction Documents, will be agreed upon by the parties and appended to the Agreement subsequent to the date of this Fourth Amendment.

4. The date of Substantial Completion of the Work is September 15, 2008.

5. In all other respects, 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.

6. By executing this Fourth Amendment, the Contractor affirmatively asserts that the City is not currently in default, nor has been in default at any time prior to this Fourth Amendment, under any of the terms or conditions of the Agreement.

7. This Fourth Amendment and the Agreement may be cancelled for a conflict of interest pursuant to ARIZ. REV. STAT. § 38-511.

[SIGNATURES ON FOLLOWING PAGE]

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

"**City**"

CITY OF AVONDALE, an Arizona municipal corporation

By:_____
Charles P. McClendon, City Manager

ATTEST:

_____
Linda M. Farris, City Clerk

"**Contractor**"

SUNDT CONSTRUCTION, INC., an Arizona corporation

By:_____
Eric Hedlund, Senior Vice President

(ACKNOWLEDGMENTS)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2007, by Charles P. McClendon, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, on behalf of the City of Avondale.

_____
Notary Public in and for the State of Arizona

My Commission Expires:

_____

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2007, by Eric Hedlund, the Senior Vice President of SUNDT CONSTRUCTION, INC., an Arizona corporation, on behalf of the corporation.

_____
Notary Public in and for the State of Arizona

My Commission Expires:

_____

EXHIBIT 1
TO
FOURTH AMENDMENT TO
DESIGN-BUILD AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
SUNDT CONSTRUCTION, INC.

[Assumptions and Clarifications]

See following pages.

SUNDT
CONSTRUCTION, INC.

GMP

CLARIFICATIONS

For

CITY OF AVONDALE

Western Avenue Replacement Library

August 8, 2007

PREPARED BY: Gene Plum
Sundt Construction, Inc.
Tempe, Arizona
August 8, 2007

SUNDT
CONSTRUCTION, INC.

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I. PROJECT OVERVIEW

A. INTENT

1. This scope document, together with the Design Development drawings dated June 27, 2007; and the GMP Estimate; define the general scope of the work for the Western Avenue Replacement Library in Avondale, Arizona utilizing the services of Sundt Construction, Inc. and the SmithGroup as a Design Build team.

B. GENERAL PROJECT SCOPE

1. The general project scope is listed as follows:
   a. Site Size — 1 acre
   b. Gross Square feet of Library building — 12,700 sq. ft.
2. Regulatory Requirements:
   a. The City of Avondale shall secure all governmental approvals and permits related to the design and construction of the proposed project.
   b. Costs for the following permits and fees are **not** included in the COST ESTIMATE, and are to be paid or waived by the City of Avondale.
      1) All Construction Permits & Plan Check Fees.
      2) Sewer Assessment Fees.
      3) Water Meter Fees.
      4) Off-Site Permit & Plan Check Fees.
      5) Utility Company Fees.
      6) Gas Company Plan and Development Fees.
      7) Cable TV/Internet Plan and Development Fees.
      8) Right of way, abandonment and utility relocation permits.

C. INFORMATION REQUIRED TO DEVELOP THE LAND

1. City of Avondale shall provide Property Survey (ie: Alta, Topographic, Boundary).
2. City of Avondale shall provide a Geotechnical Report.
3. City of Avondale shall provide a Environmental Assessment Report.
4. City of Avondale shall provide a Hazardous Materials Report.
5. City of Avondale shall provide Soil Percolation Reports.
6. Right of way, abandonment and utility relocation permits.

D. QUALITY ASSURANCE

1. Sundt Construction, Inc., shall coordinate a quality assurance program, which will be paid for through an allowance. The program shall include the following:
   a. Earthwork observation and testing by an independent agency.
   b. Bituminous observation and testing by an independent agency.
   c. Cast-in-place concrete observation and testing by an independent agency.
   d. Masonry observation and testing by an independent agency.
   e. Structural steel observation by an independent agency.
2. Sundt Construction, Inc. / SmithGroup shall provide materials testing through allowance. See Allowances.

E. DESIGN/CONSTRUCTION SCHEDULE

1. Sundt Construction, Inc., has prepared and attached a progress schedule with run date of August 7, 2007 for the project. This schedule indicates the dates for starting and completion of the various stages of design and construction, and shall be updated on a regular basis to reflect the actual progress of the work.

F. TEMPORARY CONSTRUCTION

1. Sundt Construction, Inc., shall provide all required temporary construction, temporary facilities and temporary utilities required to complete project construction including temporary roadways and parking areas, erosion control structures, material storage areas, enclosures for tools and other equipment, a heated and air conditioned field office, temporary utility services for construction usage, and temporary toilet facilities as required.

G. CLEAN-UP

1. Sundt Construction, Inc., shall be responsible for construction trash removal and shall at all times keep the building and site free from accumulation of debris. Upon completion, the building shall be turned over to Owner in clean condition, glass cleaned, parking lot swept.

H. INSURANCE

1. Sundt Construction, Inc., shall maintain Workmen's Compensation Insurance, Comprehensive Public Liability Insurance. Builder's Risk Insurance, ("All Risk") form, and Professional Liability for this project for the duration of the work in accordance with the contract.

I. WARRANTY ~~SUBSTANTIAL COMPLETE~~

1. Sundt Construction shall repair or replace any defective or faulty work for a period of two years from the date of substantial completion or certificate of occupancy, which ever is earlier.
2. Twenty-two (22) months after substantial completion, Sundt Construction, Inc., and the City of Avondale will inspect the project and identify any defects, which shall be corrected immediately.

J. BUILDING TURNOVER

1. The building turnover will include the following:
   a. Three copies of Operation and Maintenance Manual within 30 Days after substantial completion.
   b. Once set of Record Drawings and a CD within 30 Days after Building Turnover.
   c. Equipment Training.
   d. Commissioning.

II. SYSTEMS DESCRIPTION

A. SITEWORK

1. Demolition.
   a. The site includes an existing AC parking lot at the car wash, concrete hardscape and site features at the existing plaza area.
   b. Sundt Construction, Inc. will demolish and remove any structures occupying the car wash site.
   c. Sundt Construction, Inc. will complete the demolition and removals for all paving surfaces, landscape and structures located on the Project Site (Car Wash Site, Fifth Street from Belmont Avenue to Western Avenue and the Plaza East of Fifth Street).
   d. This proposal assumes the City of Avondale will provide all utility relocations and/or abandonment's prior commencement of work.

2. Earthwork.
   a. Sundt Construction, Inc., shall provide all required site clearing, mass excavation, filling, structural excavation, backfilling and grading as required for the proposed building structure, paved areas, site concrete work, screen walls, utilities and proper site drainage.
   b. Sundt Construction, Inc., has included earthwork required for a complete project contingent upon the following conditions:
      1) Non-expansive fill, from on-site sources, will be used at the building pads.
      2) Existing soil conditions suitable for a bearing capacity of 2,500 P.S.F. utilizing spread footings at normal foundation

depths, pavement subgrades, and utility installation without soil correction.

3) Ground water levels are lower than planned excavations for foundations and utilities.

4) Building pad and adjacent grade elevations are based on Dibble & Assoc. sketch dated 7/27/07.

3. Utilities.

a. Electrical Service.

1) The serving electrical utility company will place and connect all required equipment on the proposed site.

b. Gas Service.

1) No Natural Gas service has been provided.

c. Site Electrical.

1) As indicated on the Design Development Documents

3) Conduits to SES.

4) Conduits for Telecom

5) Conduit for CATV.

6) Utility design Fees are included (Utility Company Design/Permit Fees Excluded.)

7) Permits and taxes not included.

8) The City of Avondale shall purchase a Telephone/Cable Television provider to install the required service, including all wiring, terminations and equipment.

d. Sanitary Sewer.

1) Sanitary sewer service shall be extended from existing stub or relocated utilities.

e. Water.

1) Water service shall be provided to the building for domestic water and fire protection systems complete including connection to the water main and on-site water main to the building.

2) Water service shall be extended from existing or relocated water meter provided and installed by City. Material shall be C-900 Class 150.

3) Fire Protection service shall be extended from the existing stub or relocated utilities to the Library Building.

4) Irrigation service shall be provided for Landscaping from existing stub.

f. Storm Sewer.

1) Surface drainage shall be utilized for storm water.

2) 40 feet of 8" HDPE has been included for connection of roof drain leader to storm water system.

3) Underground Storm Water Retention System is excluded from the scope of this proposal.

4. Bituminous and Concrete Paving.
   a. Bituminous Paving.
      1) Bituminous paving shall be provided complete including curb cuts.
      2) Parking area striping and traffic markings shall be provided as indicated on the plans.
      3) Patching, refurbishing or repair of existing street due to City relocation of existing utilities is excluded from the scope of this proposal.
   b. Concrete Paving.
      1) Concrete curb and gutter shall be provided at the perimeter of all paved parking and drive areas as shown on the project drawings.
      2) Included are the sidewalks along and between Western and Belmont Avenues.
      3) Sidewalks shall be constructed with 3000 p.s.i., 4" unreinforced concrete over compacted existing sub grade. Sidewalks to vary from grey to integral color with broom or exposed aggregate finish as shown on the project drawings. Control joints shall be sawcut.
      4) Concrete paving at trash enclosure shall consist of 3000 p.s.i. Concrete.
5. Landscaping.
   a. Landscaping.
      1) Site landscaping shall be designed and installed in accordance with the requirements of the City of Avondale.
      2) Maintenance of landscape is excluded.
6. Site Exterior Lighting.
   a. Site Lighting.
      1) Building mounted fixtures will be utilized where possible.
      2) Landscape Lighting and/or relocation of existing streetlights have been provided as shown.
7. Site Signage.
   a. Exterior Signage.
      1) Exterior signage will be provided by allowance of $12,000.
8. Site Walls.
   a. Site/Seat Walls.
      1) Seat and planter walls will be provided as indicated on the project drawings.
      2) Precast concrete caps have been included at walls where indicated on project drawings.

B. SUBSTRUCTURE

1. Concrete.
   a. Concrete Foundations.
      1) Concrete foundations shall be spread and continuous footings as noted on the drawings.
   b. Concrete Slabs.
      1) Office Area Floors.
         (a) Slab on grade 4" thick 3000 p.s.i. Unreinforced concrete.
         (b) 4" ABC base.
         (c) Saw cut control joints shall be provided for the control of shrinkage cracking.
         (d) Concrete slabs shall be treated with liquid applied dissipating curing compound.
         (e) Moisture barrier is not included under slab on grade.

C. SUPERSTRUCTURE

1. Metals.
   a. Structural Steel.
      1) The structural framing system for the building shall consist of steel columns & beams. Acoustical roof deck shall be provided as noted on the plans.
      2) Perforated metal panels shall be 20ga standard stock list from McNichols or equal at all locations noted on plans.
2. Concrete.
   a. Concrete slabs shall be treated with liquid applied dissipating curing compound.

D. EXTERIOR SKIN

1. Exterior Walls.
   a. Masonry
      1) Masonry is based on using: "Mesa Stone" block, by Trenwyth.
   b. Exterior Insulation Finish System (EIFS).
      1) EIFS system shall include steel stud and "DenseGlas" wall sheathing substrate, expanded polystyrene insulation, synthetic base coat, reinforcing fabric and finish color coat.

2. Exterior Window System.
   a. Windows shall be 1" thick insulated glass, set in aluminum frames.
   b. Metal frame and trim to be clear anodized finish.

3. Exterior Doors.
   a. Main Entrance Door Frame.
      1) Finish shall match window-framing system.
      2) Aluminum thresholds shall be provided for exterior doors.
   b. Exterior Hollow Metal Doors.
      1) Exterior hollow metal doors shall be 3'-0" x 7'- 0", flush face panel design.
      2) Exterior hollow metal doors shall be insulated and weather-stripped.
      3) Hollow metal doors shall be painted.
4. Perforated Metal Panels.
   a. Perforated Metal Panels and support framing will be included as indicated on the Design Development drawings.
   b. Perforated metal panels shall be 20ga standard stock list from McNichols or equal at all locations noted on plans.
5. Exterior Soffits.
   a. Exterior insulation finish system (EIFS) as indicated on Design Development documents at the north and west elevations.

E. ROOFING

1. Roof.
   a. Roof System.
      1) A foam roofing system shall be used on all roof areas of the Library. The foam roofing system shall also serve as the roof insulation system.
      2) Foam thickness to be minimum of 4"
      3) Includes taper application of foam for drainage.
      4) Includes spray-applied crickets at noted locations.
      5) The roofing system manufacturer shall guarantee the roofing system materials free from defects for a period of 10 years directly to the Owner.
   b. Green Roof System
      1) A Garden Roof Assembly is no longer part of the Design Development documents at the second level. This small Roof area has a foam roof with rock ballast.

c. Roof Drainage.

1) Internal roof drains with overflow scuppers shall be provided for flat roof areas and will discharge to surface flow.

d. Roof Access

1) One (1) ladder and access hatch shall go to the roof level to provide for roof access.

F. INTERIOR CONSTRUCTION

1. Carpentry and Millwork.

a. Restroom Vanities.

1) Restroom vanities shall be solid surface with 4" splash at sides and rear with a P/Lam front apron.

b. Millwork.

1) Library

(a) P/Lam tops on BOH millwork.

(b) Solid Surface tops at public areas.

(c) Book Shelving and Storage are to be provided with FF&E.

2. Interior Doors, Frames & Hardware shall be per the Design Development Documents.

3. Metal Framing and Gypsum Board Partitions shall be per the Design Development Documents.

a. Partitions shall be constructed with metal studs and one (1) layer of 5/8" gypsum wallboard on each side.

b. Private office partitions shall be of similar construction and run 6" through the ceiling and insulated.

c. Perimeter walls and columns shall be furred with 1 5/8" metal studs and 5/8" gypsum wallboard and insulated.

d. Gypsum board ceilings shall consist of metal stud framing and 5/8" gypsum board.

e. Gypsum board soffits shall consist of metal stud framing and 5/8" gypsum board.

G. INTERIOR FINISHES

1. Acoustical Ceilings & Panels

a. Acoustical Ceilings & Panels shall be per the Design Development Documents, ACT-1 thru ACT-4.

2. Floor Finishes shall be per the Design Development Documents.

a. Ground Concrete and Sealed Concrete will be provided at locations indicated in the Design Development Documents.

b. Schedule delays due to excessive moisture in slab on grades are not included in this proposal. Moisture test will be provided GC.

c. Carpeting.

1) Vinyl Cushion Tufted Textile Carpet shall be installed by the direct glue method.

d. Resilient Flooring & Base

1) Rubber Sheet, color and pattern to be selected, has been included where shown on the Design Development Documents.

2) Resilient Base shall be 4" high vinyl, adhesive applied to walls with straight profile.

3) Stainless Steel base will be provided at areas indicated in the Design Development Documents.

4) Tile base will be provided at areas indicated in the project drawings.

3. Wall Covering Systems.

a. Painting

1) Gypsum board shall be prime coated and receive two coats of paint.

2) Doorframes, metal doors, and miscellaneous metals shall be painted unless provided with factory finish.

b. Tile shall be installed by the thin-set method at restroom walls.

4. Marker and Tackable Surface wall covering will be provided at the community and break room.

5. Window Treatments.

a. No window treatments have been included. An ADD for Mini-Blinds is provided within the Design Evolution Log.

H. BUILDING SPECIALTIES

1. Toilet Partitions and Accessories.

a. Toilet partitions and accessories will be provided at public restrooms.

b. A Projection Screen is included in the community room.

2. Fire Extinguishers.

a. Fire extinguishers shall be provided as required by local fire codes.

b. Fire extinguishers shall be housed in painted metal cabinets in finished areas and surface mounted in unfinished areas.

4. Interior Signage is included as an allowance. See estimate.

5. Residential Appliances.

c. Residential Refrigerator and Microwave Oven will be by Owner. Dishwasher and Garbage Disposal will be provided at the break room.

I. EQUIPMENT & FURNISHINGS

1. Book Handling Equipment
   a. No Book handling equipment is included.
   b. No furniture and or equipment or fixtures are included in this cost estimate.
   c. This proposal assumes the City of Avondale to carry all window coverings in their FF&E Budget.
   d. This proposal excludes any entrance foot grids that may be shown on drawings.

J. CONVEYING EQUIPMENT

1. Elevator
   a. Two-stop hydraulic elevator will be provided as indicated in the Design Development Documents design documents.
   b. Entrances will be stainless steel with standard car finishes to be selected by architect.

K. FIRE PROTECTION

1. Fire Protection System.
   a. A complete wet automatic fire protection system shall be provided for the facility in accordance with the requirements with NFPA standards, the local Fire Marshall and applicable codes.
   b. Semi-recessed chrome sprinkler head shall be provided for the office areas and public spaces. Brass upright or pendant heads shall be provided in areas without a finished ceiling.

L. PLUMBING

1. Plumbing System
   a. A complete plumbing system will be provided per the Design Development Documents, including all underground piping to public mains, sanitary waste piping, sanitary vent piping, domestic hot and cold water piping installed to all fixtures and roof drains in accordance with all applicable codes.

M. HVAC

1. Heating, Ventilating and Air Conditioning (HVAC)
   a. A complete Heating, Ventilating and Air Conditioning (HVAC) system will be provided per the Design Development Documents.
   b. Test and Balance
      1) Air systems will be balanced to values indicated on the final design documents
      2) A certified and independent T&B contractor will provide test and balance in accordance with National Environmental Balancing Bureau (NEBB) or (AABC) standards.

N. ELECTRICAL SYSTEMS

1. Electrical Systems will be provided per the Design Development Documents.
2. Electrical power and distribution service will be provided per the Design Development Documents.
   a. Included power for dishwasher, refrigerator, disposal, and microwave.
   b. Included power for HVAC air-handling units.
   c. Low voltage control of HVAC system to be provided and installed by division 15.
   d. Included power for Security system.
   e. Included power for Audio / Visual equipment.
   f. All devices to be installed per ADA requirements.

3. Communications, Tele/Data, Security System, Audio Visual & CATV
   a. Tele/Data conduit to be ¾" with a pull string stubbed above ceiling space.
   b. Included Telephone backboards in telecom room.
   c. Devices, equipment, wire & termination are not included in this price.
4. Fire Alarm
   a. Sundt Construction, Inc., shall provide a Fire Alarm system.
   b. The system shall be wired as required by local codes.

5. UPS & Emergency Power Systems
   a. No UPS or Emergency Power Systems are included.
6. Commissioning of electrical equipment is included.

III. EXCLUSIONS

A. The following items are not included in the scope of work proposed herein:

1. Removal of hazardous materials from site.
2. Trash compactors for building refuse.
3. Furniture, Fixtures, and Equipment (interior and exterior) including design, selection, and installation of loose furniture and shelving.
4. Modular furniture or open office landscape partitions design, selection and installation, including finial electrical connections.
5. High density filing systems.
6. Equipment associated with the Library building (Book monitoring and checkout systems, book reference systems, book shelves).
7. Fire pump or on-site water storage facilities.
8. Special fire protection systems such as in-rack sprinklers, halon or dry sprinkler systems.
9. Telephone equipment, telephones and communication wiring. Sundt Construction will install conduit and back boxes with pull string. City of Avondale is responsible for all trim related to this work.
10. Security and CCTV systems. Sundt Construction will install conduit and back boxes with pull strings.
11. Security Access systems for parking lots and building entry.
12. Computer wiring. Sundt will install conduit and back boxes with pull strings.
13. Audio Visual systems. Sundt will install conduit and back boxes with pull strings.
14. Potted plants or artwork, both interior and exterior.
15. UPS systems.
16. Maintenance of landscape. It is assumed that the City of Avondale will provide.

IV. ALLOWANCES

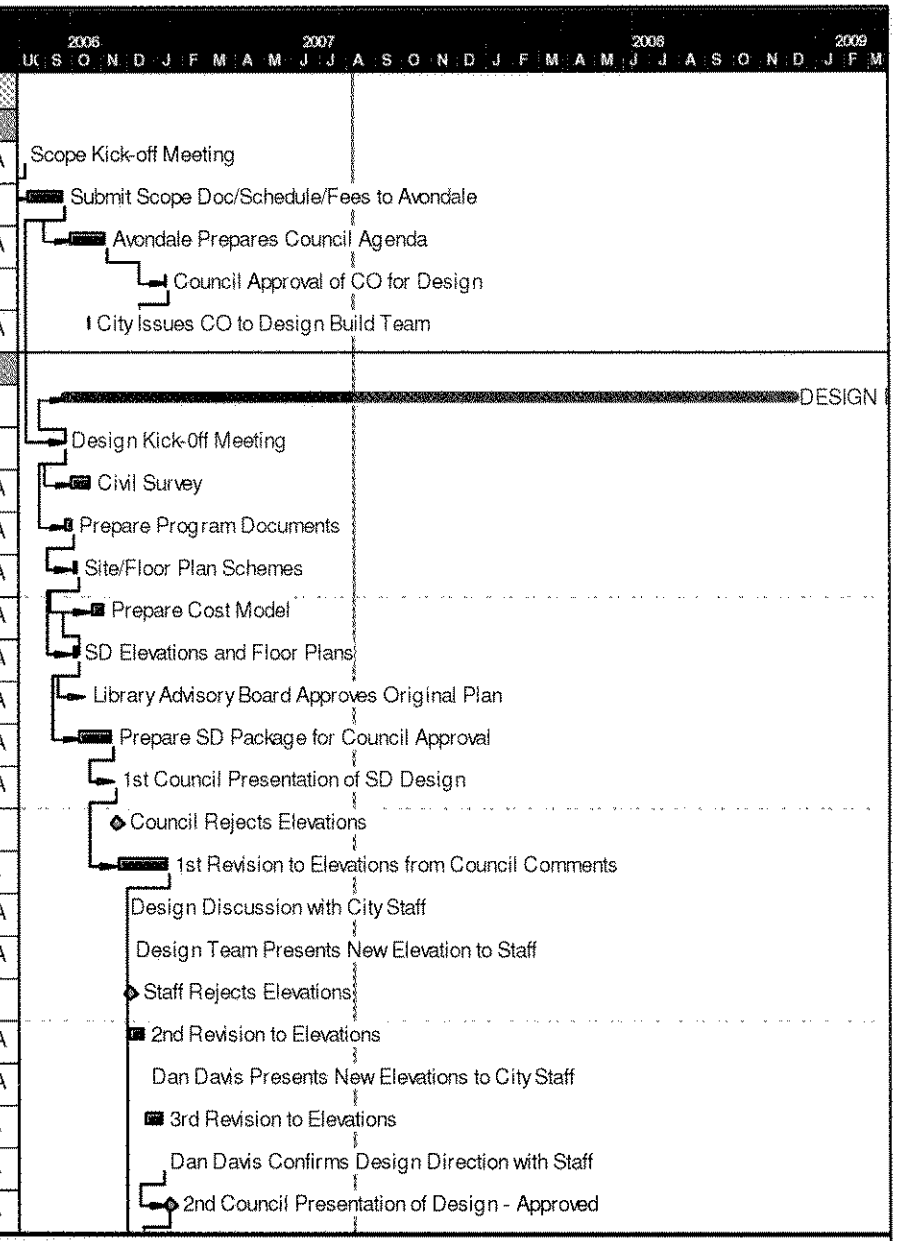
A.	Exterior Signage	$12,000.00
B.	Interior Signage	$ 8,000.00
C.	Testing & Quality Assurance	$ 7,800.00
D.	Material Testing & Special Inspection	$16,000.00

EXHIBIT 2
TO
FOURTH AMENDMENT TO
DESIGN-BUILD AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
SUNDT CONSTRUCTION, INC.

[Schedule]

See following pages.

Act ID	Description	Orig Dur	Rem Dur	Early Start	Early Finish
PRE-CONSTRUCTION					
CONTRACT EXECUTION					
1000	Scope Kick-off Meeting	1d	0	11AUG06 A	11AUG06 A
1010	Submit Scope Doc/Schedule/Fees to Avondale	30d	0	14AUG06 A	26SEP06 A
1020	Avondale Prepares Council Agenda	10d	0	02OCT06 A	10NOV06 A
1030	Council Approval of CO for Design	1d	0	15JAN07 A	15JAN07 A
1040	City Issues CO to Design Build Team	5d	0	16JAN07 A	23OCT06 A
DESIGN					
2000	DESIGN PHASE	58d2h	5d2h	26SEP06 A	08DEC08
2010	Design Kick-Off Meeting	1d	0	26SEP06 A	26SEP06 A
2020	Civil Survey	10d	0	02OCT06 A	25OCT06 A
2030	Prepare Program Documents	6d	0	26SEP06 A	03OCT06 A
2040	Site/Floor Plan Schemes	6d	0	04OCT06 A	10OCT06 A
2050	Prepare Cost Model	5d	0	24OCT06 A	07NOV06 A
2060	SD Elevations and Floor Plans	5d	0	04OCT06 A	10OCT06 A
2070	Library Advisory Board Approves Original Plan	6d	0	18OCT06 A	18OCT06 A
2080	Prepare SD Package for Council Approval	15d	0	11OCT06 A	17NOV06 A
2090	1st Council Presentation of SD Design	1d	0	20NOV06 A	20NOV06 A
2095	Council Rejects Elevations	0	0	20NOV06 A	
2100	1st Revision to Elevations from Council Comments	38d	0	21NOV06 A	15JAN07 A
2110	Design Discussion with City Staff	1d	0	29NOV06 A	29NOV06 A
2115	Design Team Presents New Elevation to Staff	1d	0	04DEC06 A	04DEC06 A
2117	Staff Rejects Elevations	0	0	04DEC06 A	
2118	2nd Revision to Elevations	10d	0	05DEC06 A	21DEC06 A
2120	Dan Davis Presents New Elevations to City Staff	1d	0	21DEC06 A	21DEC06 A
2125	3rd Revision to Elevations	1d	0	22DEC06 A	10JAN07 A
2130	Dan Davis Confirms Design Direction with Staff	1d	0	11JAN07 A	11JAN07 A
2140	2nd Council Presentation of Design - Approved	0	0		16JAN07 A



Start date	11AUG06
Finish date	08DEC08
Data date	07AUG07
Run date	07AUG07
Page number	1A

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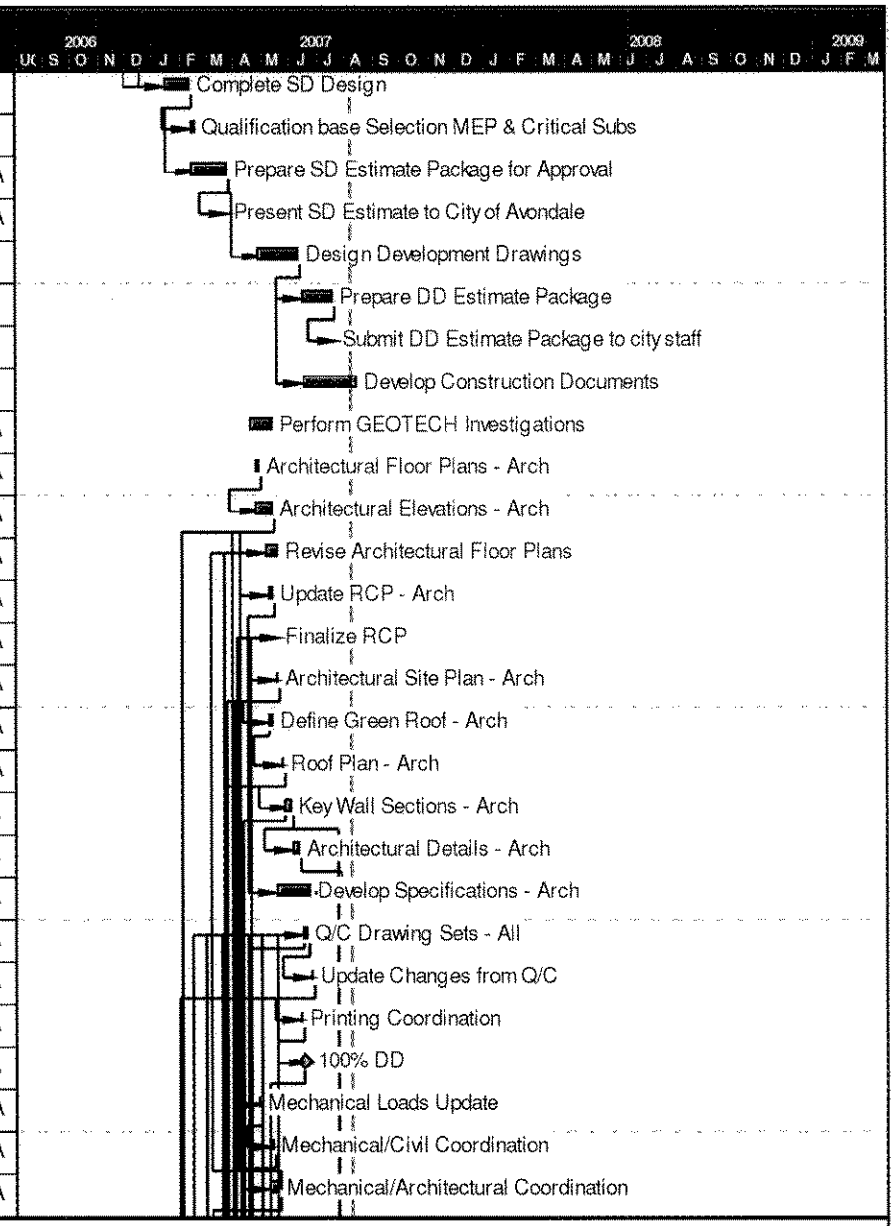
Sundt Construction
Western Avenue Replacement Library
GMP Schedule

- Early bar
- Target bar
- Progress bar
- Critical bar
- Summary bar
- Start milestone point
- Finish milestone point

Act ID	Description	Orig Dur	Rem Dur	Early Start	Early Finish
2150	Complete SD Design	20d	0 *	17JAN07 A	15FEB07 A
2155	Qualification base Selection MEP & Critical Subs	5d	0	14FEB07 A	20FEB07 A
2160	Prepare SD Estimate Package for Approval	23d	0 *	16FEB07 A	26MAR07 A
2165	Present SD Estimate to City of Avondale	1d	0	27MAR07 A	27MAR07 A
2170	Design Development Drawings	40d	0 *	30APR07 A	15JUN07 A
2180	Prepare DD Estimate Package	24d	0 *	18JUN07 A	23JUL07 A
2190	Submit DD Estimate Package to city staff	2d	0 *	25JUL07 A	25JUL07 A
2200	Develop Construction Documents	44d	8d *	18JUN07 A	17AUG07
2205	Perform GEOTECH Investigations	30d	0	19APR07 A	17MAY07 A
2210	Architectural Floor Plans - Arch	2d	0	25APR07 A	02MAY07 A
2215	Architectural Elevations - Arch	1d	0 *	27APR07 A	17MAY07 A
2217	Revise Architectural Floor Plans	1d	0	08MAY07 A	23MAY07 A
2220	Update RCP - Arch	3d	0	10MAY07 A	17MAY07 A
2222	Finalize RCP	2d	0	21MAY07 A	23MAY07 A
2225	Architectural Site Plan - Arch	4d	0	18MAY07 A	23MAY07 A
2230	Define Green Roof - Arch	2d	0	11MAY07 A	17MAY07 A
2235	Roof Plan - Arch	2d	0	24MAY07 A	28MAY07 A
2240	Key Wall Sections - Arch	5d	0	29MAY07 A	06JUN07 A
2245	Architectural Details - Arch	7d	0	05JUN07 A	13JUN07 A
2250	Develop Specifications - Arch	15d	0	18MAY07 A	27JUN07 A
2255	Q/C Drawing Sets - All	4d	0	18JUN07 A	22JUN07 A
2257	Update Changes from Q/C	4d	0	25JUN07 A	29JUN07 A
2258	Printing Coordination	2d	0	15JUN07 A	18JUN07 A
2260	100% DD	0	0 *		18JUN07 A
2265	Mechanical Loads Update	2d	0 *	30APR07 A	02MAY07 A
2270	Mechanical/Civil Coordination	1d	0	14MAY07 A	15MAY07 A
2275	Mechanical/Architectural Coordination	3d	0	10MAY07 A	21MAY07 A



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Sundt Construction
Western Avenue Replacement Library
GMP Schedule

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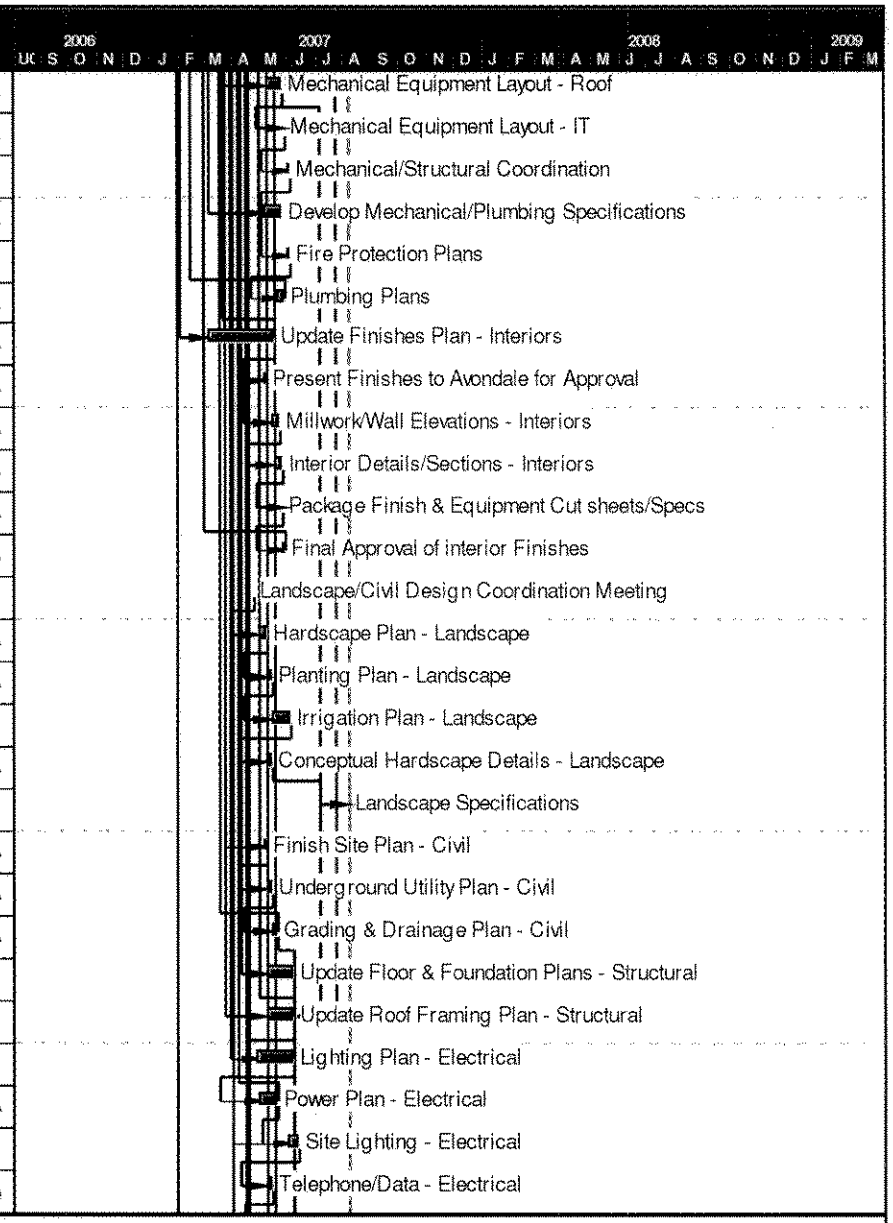
Act ID	Description	Orig Dur	Rem Dur	Early Start	Early Finish
2280	Mechanical Equipment Layout - Roof	2d	0	10MAY07 A	29MAY07 A
2285	Mechanical Equipment Layout - IT	3d	0	30MAY07 A	31MAY07 A
2290	Mechanical/Structural Coordination	2d	0	04JUN07 A	04JUN07 A
2295	Develop Mechanical/Plumbing Specifications	6d	0	08MAY07 A	29MAY07 A
2300	Fire Protection Plans	1d	0	04JUN07 A	06JUN07 A
2310	Plumbing Plans	5d	0	23MAY07 A	30MAY07 A
2320	Update Finishes Plan - Interiors	5d	0	07MAR07 A	18MAY07 A
2322	Present Finishes to Avondale for Approval	1d	0	09MAY07 A	09MAY07 A
2330	Millwork/Wall Elevations - Interiors	3d	0	15MAY07 A	25MAY07 A
2340	Interior Details/Sections - Interiors	5d	0	18MAY07 A	29MAY07 A
2350	Package Finish & Equipment Cut sheets/Specs	1d	0	29MAY07 A	29MAY07 A
2360	Final Approval of interior Finishes	1d	0	29MAY07 A	30MAY07 A
2370	Landscape/Civil Design Coordination Meeting	1d	0	25APR07 A	25APR07 A
2380	Hardscape Plan - Landscape	4d	0	02MAY07 A	10MAY07 A
2390	Planting Plan - Landscape	2d	0	14MAY07 A	16MAY07 A
2400	Irrigation Plan - Landscape	2d	0	16MAY07 A	05JUN07 A
2410	Conceptual Hardscape Details - Landscape	3d	0	10MAY07 A	15MAY07 A
2420	Landscape Specifications	1d	0 *	07AUG07	07AUG07
2430	Finish Site Plan - Civil	1d	0	09MAY07 A	10MAY07 A
2440	Underground Utility Plan - Civil	3d	0	10MAY07 A	15MAY07 A
2450	Grading & Drainage Plan - Civil	5d	0	15MAY07 A	22MAY07 A
2460	Update Floor & Foundation Plans - Structural	14d	0	11MAY07 A	08JUN07 A
2470	Update Roof Framing Plan - Structural	14d	0	11MAY07 A	08JUN07 A
2480	Lighting Plan - Electrical	3d	0	30APR07 A	08JUN07 A
2490	Power Plan - Electrical	3d	0	03MAY07 A	23MAY07 A
2500	Site Lighting - Electrical	2d	0	04JUN07 A	14JUN07 A
2510	Telephone/Data - Electrical	2d	0	11MAY07 A	15MAY07 A



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Western Avenue Replacement Library
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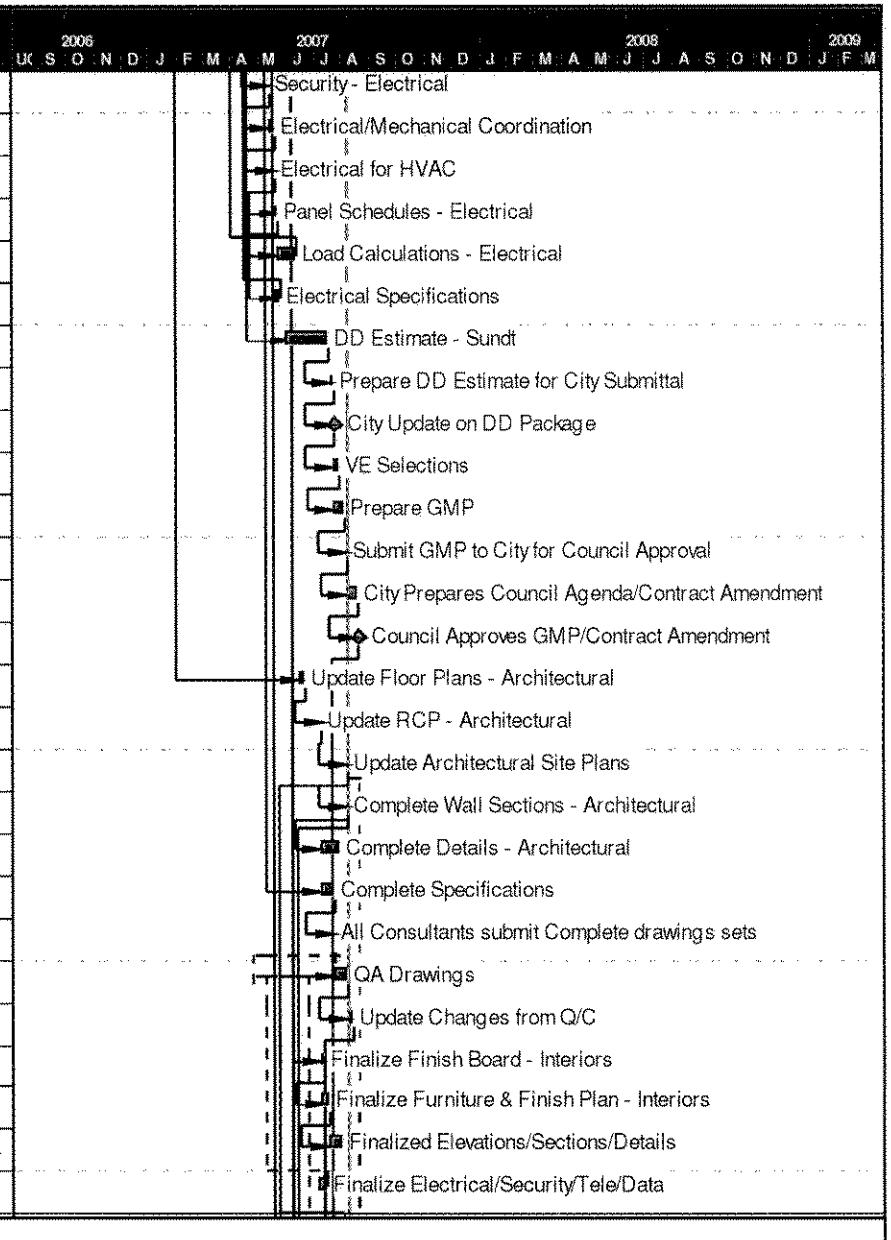
Act ID	Description	Orig Dur	Rem Dur	Early Start	Early Finish
2520	Security - Electrical	2d	0	15MAY07 A	17MAY07 A
2530	Electrical/Mechanical Coordination	2d	0	17MAY07 A	21MAY07 A
2540	Electrical for HVAC	2d	0	21MAY07 A	23MAY07 A
2550	Panel Schedules - Electrical	2d	0	23MAY07 A	25MAY07 A
2560	Load Calculations - Electrical	3d	0	25MAY07 A	13JUN07 A
2570	Electrical Specifications	3d	0	23MAY07 A	28MAY07 A
2580	DD Estimate - Sundt	33d	0 *	04JUN07 A	20JUL07 A
2590	Prepare DD Estimate for City Submittal	2d	0	23JUL07 A	24JUL07 A
2600	City Update on DD Package	0	0		25JUL07 A
2612	VE Selections	1d	0	25JUL07 A	31JUL07 A
2614	Prepare GMP	9d	0 *	26JUL07 A	07AUG07 A
2616	Submit GMP to City for Council Approval	1d	1d	08AUG07	08AUG07
2618	City Prepares Council Agenda/Contract Amendment	8d	8d	09AUG07	20AUG07
2619	Council Approves GMP/Contract Amendment	0	0		20AUG07
2620	Update Floor Plans - Architectural	4d	0	18JUN07 A	22JUN07 A
2630	Update RCP - Architectural	1d	0	12JUL07 A	11JUL07 A
2640	Update Architectural Site Plans	1d	0	07AUG07	07AUG07
2650	Complete Wall Sections - Architectural	3d	1h	08AUG07	08AUG07
2660	Complete Details - Architectural	13d	0	11JUL07 A	30JUL07 A
2670	Complete Specifications	10d	0	10JUL07 A	24JUL07 A
2680	All Consultants submit Complete drawings sets	1d	0	24JUL07 A	25JUL07 A
2690	QA Drawings	5d	0 *	26JUL07 A	07AUG07
2695	Update Changes from Q/C	4d	4d	08AUG07	14AUG07
2700	Finalize Finish Board - Interiors	2d	0	10JUL07 A	12JUL07 A
2710	Finalize Furniture & Finish Plan - Interiors	5d	0	12JUL07 A	19JUL07 A
2720	Finalized Elevations/Sections/Details	10d	0	19JUL07 A	02AUG07 A
2730	Finalize Electrical/Security/Tele/Data	5d	0	09JUL07 A	16JUL07 A



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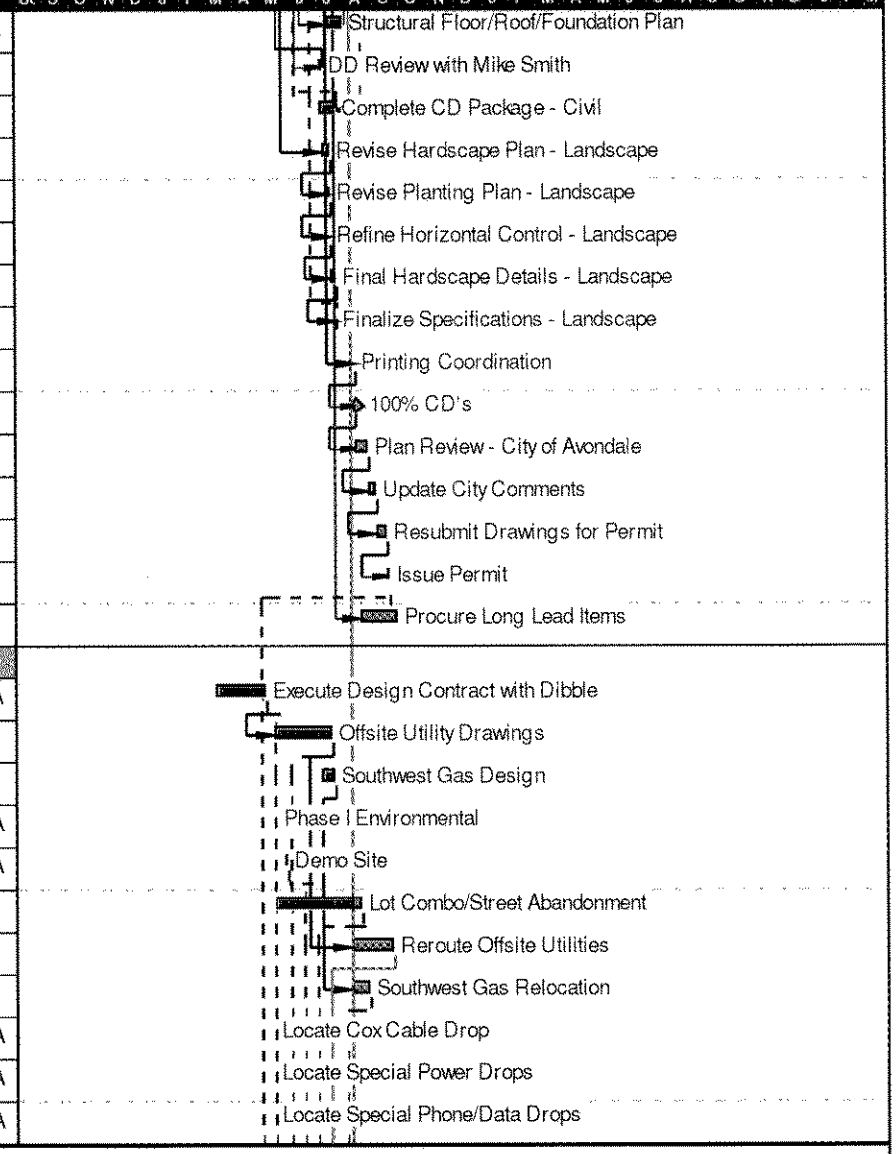
Act ID	Description	Orig Dur	Rem Dur	Early Start	Early Finish
2740	Structural Floor/Roof/Foundation Plan	14d	0	16JUL07 A	03AUG07 A
2750	DD Review with Mike Smith	1d	0	09JUL07 A	10JUL07 A
2760	Complete CD Package - Civil	10d	0	09JUL07 A	25JUL07 A
2770	Revise Hardscape Plan - Landscape	4d	0	11JUL07 A	20JUL07 A
2780	Revise Planting Plan - Landscape	2d	0	17JUL07 A	19JUL07 A
2790	Refine Horizontal Control - Landscape	1d	0	19JUL07 A	20JUL07 A
2800	Final Hardscape Details - Landscape	3d	0	20JUL07 A	25JUL07 A
2810	Finalize Specifications - Landscape	1d	0	25JUL07 A	26JUL07 A
2815	Printing Coordination	2d	2d	14AUG07	16AUG07
2817	100% CD's	0	0		16AUG07
2820	Plan Review - City of Avondale	10d	10d	16AUG07	30AUG07
2830	Update City Comments	5d	5d	30AUG07	06SEP07
2840	Resubmit Drawings for Permit	10d	10d	06SEP07	20SEP07
2850	Issue Permit	1d	1d	20SEP07	21SEP07
2900	Procure Long Lead Items	30d	30d	21AUG07	01OCT07
AVONDALE SCOPE					
3000	Execute Design Contract with Dibble	15d	0	12MAR07 A	07MAY07 A
3020	Offsite Utility Drawings	15d	0	16MAY07 A	20JUL07 A
3025	Southwest Gas Design	30d	0	09JUL07 A	23JUL07 A
3030	Phase I Environmental	35d	0	18MAY07 A	18MAY07 A
3040	Demo Site	5d	0	28MAY07 A	31MAY07 A
3050	Lot Combo/Street Abandonment	60d	9d	15MAY07 A	20AUG07
3060	Reroute Offsite Utilities	35d	35d	08AUG07	25SEP07
3065	Southwest Gas Relocation	15d	15d	08AUG07	28AUG07
3070	Locate Cox Cable Drop	5d	0	15MAY07 A	17MAY07 A
3080	Locate Special Power Drops	5d	0	15MAY07 A	17MAY07 A
3090	Locate Special Phone/Data Drops	5d	0	15MAY07 A	17MAY07 A



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Western Avenue Replacement Library
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Act ID	Description	Orig Dur	Rem Dur	Early Start	Early Finish
3100	Locate Special Floor box Locations	5d	0	15MAY07 A	17MAY07 A
3110	City Art Requirement Coordination	15d	15d	08AUG07	28AUG07
3120	FF&E Coordination	15d	0	10APR07 A	25JUL07 A
CONSTRUCTION					
SITE CONSTRUCTION					
5000	CONSTRUCTION PHASE	57d2h	7d2h	17SEP07	15SEP08
5010	Sundt Construction - Mobilize	10d	10d	17SEP07	28SEP07
5020	Demo Remainder of Site	15d	15d	01OCT07	19OCT07
5030	Main Library - Earthwork & Utilities	20d	20d	22OCT07	16NOV07
5040	Site Lighting	10d	10d	19NOV07	30NOV07
OFFSITE CONSTRUCTION					
6050	Offsite Demo	5d	5d	22OCT07	26OCT07
6060	AC Patch Offsite Utilities	5d	5d	01OCT07	05OCT07
PARK CONSTRUCTION					
5500	Park Construction	65d	65d	03DEC07	04MAR08
BUILDING CONSTRUCTION					
7050	Foundations	30d	30d	19NOV07	31DEC07
7060	Superstructure & Skin (Shell)	100d	100d	02JAN08	20MAY08
7070	Interior Construction & Finishes	80d	80d	02MAY08	25AUG08
7080	Building Systems Check	5d	5d	25AUG08	01SEP08
7090	Final Inspections	10d	10d	01SEP08	15SEP08
7100	Substantial Completions (C of O)	0	0		15SEP08
POST CONSTRUCTION					
CLOSE OUT					
10020	Punch List	30d	30d	15SEP08	27OCT08
10050	Owner FF&E	60d	60d	15SEP08	08DEC08
10060	Owner Training	5d	5d	15SEP08	22SEP08
10080	Owner Move-in	5d	5d	15SEP08	22SEP08

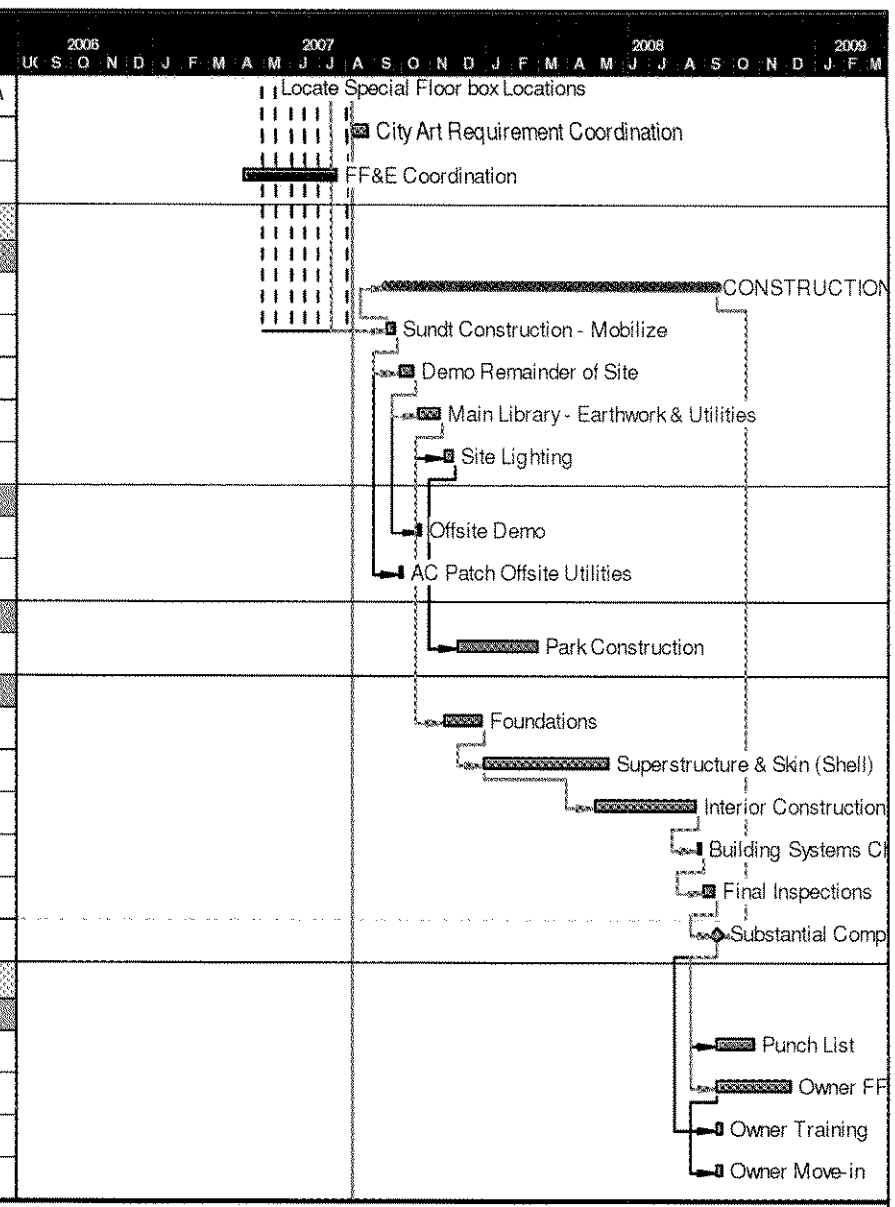

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EXHIBIT B-2
TO
DESIGN-BUILD AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
SUNDT CONSTRUCTION, INC.

[Western Avenue Proposal]

See following pages.

Avondale, AZ 85323

495 E. Western Avenue, Avondale AZ 85323

CSI Budget Reconciliation

Summary Page

SUNDT CONSTRUCTION, INC.

PROJECT GROSS AREA = 12,700

CSI DIV	DESCRIPTION	DD BUDGET	ADJUSTED DD BUDGET	TOTAL SCOPE REQ.	CONTRACT ALLOWANCES	GMP TOTAL	GROSS COST/S.F.	NET CHANGE	COMMENTS
1	Division 1 (General Requirements)	248,800	248,800	225,000	23,800	248,800	19.59	0	
2	Sitework	482,659	247,057	307,314	0	307,314	24.20	60,257	
3	Concrete	141,565	338,318	412,486	0	412,486	32.48	74,168	
4	Masonry	148,440	151,860	139,650	0	139,650	11.00	(12,210)	
5	Metals	310,142	345,242	390,254	0	390,254	30.73	45,012	
6	Wood & Plastics	114,550	114,550	110,550	0	110,550	8.70	(4,000)	
7	Waterproofing	96,970	96,970	93,905	0	93,905	7.39	(3,065)	
8	Doors & Windows	290,723	290,723	268,163	0	268,163	21.12	(22,560)	
9	Finishes	364,485	364,814	447,429	0	447,429	35.23	82,615	
10	Specialties	42,482	42,482	17,381	21,600	38,981	3.07	(3,500)	
11	Equipment	5,200	5,200	3,400	0	3,400	0.27	(1,800)	
12	Furnishings	0	0	0	0	0	0.00	0	
13	Special Construction	0	0	0	0	0	0.00	0	
14	Conveying Systems	64,000	64,000	64,000	0	64,000	5.04	0	
15	Mechanical	424,350	424,350	424,350	0	424,350	33.41	(0)	
16	Electrical	421,267	421,267	395,820	0	395,820	31.17	(25,447)	
	Design Contingency	94,669	94,669	40,000		40,000	3.15	(54,669)	
	Total Direct Costs	3,250,302	3,250,302	3,339,702	45,400	3,385,102	266.54	134,800	
	Indirect Costs								
	General Conditions	279,000	279,000	279,000	0	279,000	21.97	0	
	PL & PD Ins	46,206	46,206	47,377	594	47,971	3.78	1,765	
	Builders Risk Ins	13,442	13,442	13,782	173	13,955	1.10	513	
	Z-25 Insurance	36,335	36,335	38,704	270	38,704	3.05	2,369	
	Subcontractor Default Insurance	36,335	36,335	38,704	270	38,704	3.05	2,369	
	G C Bond	51,667	51,667	52,976	665	53,640	4.22	1,973	
	Contractors Contingency	126,017	126,017	129,209	1621	130,830	10.30	4,813	
	Sales Tax	240,273	240,273	246,359	3091	249,450	19.64	9,177	
	Contractors Fee	210,098	210,098	215,542	2682	218,224	17.18	8,126	
	Total Indirect Costs	1,039,373	1,039,373	1,061,653	9,366	1,070,479	84.29	31,106	
	Total Construction Costs	4,289,675	4,289,675	4,401,354	54,766	4,455,581	350.83	165,906	
	Total Soft Costs (Construction Adm	0	108,200	108,200	0	108,200	8.52	0	
	Total Project Costs	4,289,675	4,397,875	4,509,554	54,766	4,563,781	359	165,906	

Avondale Old Town Library

495 E. Western Avenue, Avondale AZ 85323

GMP Detail Sheet

Printed: 8/16/07 12:10 PM

Updated: 8/9/07 3:30 PM

SUNDT CONSTRUCTION, INC.

DIV	SECT.	DESCRIPTION	DD Estimate 7 / 24 / 08	DISPERSMENTS ITEM	DISPERSMENTS AMOUNT	ADJUSTED DD BUDGET	"A" BID AMOUNT	SUBCONTRACTOR	ITEMS NOT BID AND ADJUSTMENTS	"B" AMOUNT	CONTRACT ALLOWNCES DESCRIPTION	CONTRACT ALLOWNCES AMOUNT	COMMENTS
1		**DIVISION 1 (General Requirements)**											
		General Requirements	225,000			225,000	225,000	Sundt General Requirements					
						-							
		Testing & Quality Assurance	7,800			7,800					Testing & Quality Assurance	7,800	
		Materials Testing & Inspection	16,000			16,000			Mock Up allowance		Materials Testing & Inspection	16,000	
						-			Shoring				
						-			Testing				
						-			Parking Fees				
						-			Record Documents				
						-			Commisioning				
						-							
		Total	248,800			248,800	225,000			0		23,800	
												Total Scope Requirements (Bid + Adjust. + Allw)	248,800
												Net Change	0
		Total Division 1 (General Requirements)	**248,800**			**248,800**	**225,000**		**Total Scope Requirements (A+B)**	**225,000**	**Total Contract Allowances**	**23,800**	
2		**SITEWORK**											
						-							
		Demolition				-	64,957	BCS Demolition					
		Demo Ramada Canopy	2,400			2,400							
		Remove Trees	300			300							
		Demo Canopy Footings at Ramada	600			600							
		Demo Light Poles/Bases	600			600							
		Misc Elect/Plumbg Site Demo	2,950			2,950							
		Remove Trees at Plaza	1,600			1,600			Traffic control	2,171			
		Misc Elect/Plumbg Site Demo - Plaza	2,050			2,050							
		Demo Wash/Vacuum footings	2,520			2,520	***Demolition Completed by Others***		Demo Wash/Vacuum footings	(2,520)			
		Demo small bldg	3,024			3,024	***Demolition Completed by Others***		Demo small bldg	(3,024)			
		Demo CMU Screen Wall	1,890			1,890	***Demolition Completed by Others***		Demo CMU Screen Wall	(1,890)			
		Demo Kiosk	128			128							
		Remove AC Paving - Street	5,513			5,513							
		Remove AC Paving - Carwash	5,220			5,220	***Demolition Completed by Others***		Remove AC Paving - Carwash	(5,220)			
		Remove AC paving - At Curbs Plaza	1,073			1,073							
		Remove AC paving - At Curbs	1,430			1,430							
		Remove concrete paving - Plaza	16,000			16,000							
		Remove concrete paving	6,000			6,000							
		Remove Concrete Seatwalls	5,610			5,610							
		Remove curb and gutter - Plaza	871			871							
		Remove curb and gutter	2,071			2,071							
		Remove Planter Walls	1,608			1,608							
		Saw cut asphalt - Plaza	300			300							
		Saw cut asphalt	600			600							
						-							
		Total Demolition	64,957			64,957	64,957			(10,483)		0	
												Total Scope Requirements (Bid + Adjust. + Allw)	54,474
												Net Change	10,483
		Earthwork				-							
		Clear & Grub Site	2,500			2,500			Site Prep	6,110			
		Tree Protection Fence	12,125	*Moved to Landscaping*	(12,125)	-					***Tree Protection Fence Moved to Landscape***		
		Over Ex & Recompact Building Pad	16,500			16,500			Over Ex & Recompact Building Pad	13,840			
		Fine Grade Building Pad	6,000			6,000			Fine Grade Building Pad	Included			
		Rough Grade Site - Plaza	5,274			5,274			Rough Grade Site - Plaza	2,050			
		Rough Grade Site	6,300			6,300			Rough Grade Site	1,063			
		Finish Grade Site	4,200			4,200			Finish Grade Site	18,112			
						-							
		Fine Grade Planting Areas	4,886			4,886			Fine Grade Planting Areas	Included			
						-			Build - UP PAD & SITE ~ ADD 12"	24,961			SITE ELEVATIONS ARE BEING RAISED by 12"
						-							
		Total Earthwork	57,785			45,660	0			66,136		0	
												Total Scope Requirements (Bid + Adjust. + Allw)	66,136
												Net Change	(20,476)

Avondale Old Town Library

495 E. Western Avenue, Avondale AZ 85323

GMP Detail Sheet

Printed: 8/16/07 12:10 PM

Updated: 8/9/07 3:30 PM

SUNDT CONSTRUCTION, INC.

DIV	SECT.	DESCRIPTION	DD Estimate 7 / 24 / 08	DISPERSMENTS ITEM	DISPERSMENTS AMOUNT	ADJUSTED DD BUDGET	"A" BID AMOUNT	SUBCONTRACTOR	ITEMS NOT BID AND ADJUSTMENTS	"B" AMOUNT	CONTRACT ALLOWNCES DESCRIPTION	CONTRACT ALLOWNCES AMOUNT	COMMENTS
		SITE UTILITIES											
						-			*Sanitary Sewer*	*8,509*			
		4' Dlameter precast manhole	4,800			4,800			Storm Sewer	9,817			
		2 1/2" Water Service to Building	4,000			4,000			Water & Fire Lines	34,381			Revisions to Meters and Street Connections
		Fire Service to Building	6,000			6,000							
		6" Sanitary Sewer to Building	4,050			4,050			City tie-ins				
		8" RDL Connection to Storm Retentio	3,200			3,200			Meter fees				
		Asphalt Base Course & Pavement Re	3,200			3,200			Asphalt patch	3,200			
						-			Survey & layout				
						-			Building tie-ins				
						-			Haul off spoils				
						-							
		Total for Site Utilities	25,250			25,250	0			55,907		0	
												Total Scope Requirements (Bid + Adjust. + Allw)	55,907
												Net Change	(30,657)
		Paving, Curbs & Gutters											
		Asphalt Base Course & Pavement	3,200			3,200			Asphalt Base Course & Pavement	3,200			
		Parking line striping	800			800			Parking line striping	800			
		MAG 222-A Curb - Plaza	2,810	*Moved to Division 3 - Concrete*	(2,810)	-							
		MAG 220-B Ribbon Curb	1,311	*Moved to Division 3 - Concrete*	(1,311)	-							
		MAG 222-A Curb	3,044	*Moved to Division 3 - Concrete*	(3,044)	-							
		Concrete Header - Plaza	3,279	*Moved to Division 3 - Concrete*	(3,279)	-							
		MAG 220-C Roll Curb & Gutter	3,372	*Moved to Division 3 - Concrete*	(3,372)	-							
		Scupper	5,527	*Moved to Division 3 - Concrete*	(5,527)	-			Pole bases				
		Close Mesh Bar Grating - Galvanized	5,400	*Moved to Division 5 - Metals*	(5,400)	-							
		MAG 220-A Vert Curb & Gutter	1,967	*Moved to Division 3 - Concrete*	(1,967)	-							
		Handicap Ramps (1 + 1 Double Widt	3,934	*Moved to Division 3 - Concrete*	(3,934)	-			Cleaning prior to painting				
						-							
		Total Paving, Curbs & Gutters	34,646			4,000	0			4,000		0	
												Total Scope Requirements (Bid + Adjust. + Allw)	4,000
												Net Change	0
		TERMITE CONTROL											
						-							
		Termite Pretreat		Moved from Substructure	1,800	1,800			Termite Pretreatment	1,800			
						-							
		Total Termite Control	0			1,800	0			1,800		0	
												Total Scope Requirements (Bid + Adjust. + Allw)	1,800
												Net Change	0
		LANDSCAPE & IRRIGATION					76,664	Grounds Control					
		Landscape	18,769			18,769							
		Landscape	43,795			43,795							
		Tree Protection Fence		*Moved from Earthwork*	12,125	12,125	12,125	D E Log # 02-02	Salvage & Replant 6 - 8 Mexican Palms	12,008	***Tree Protection Fence Moved to Landscape***		
		Irrigation	9,870			9,870							
		Irrigation	4,230			4,230							
						-							
		Landscaping & Pots				-		D E Log # 06-01	Delete Landscaping & Pots Overstructure				
		Beach Pebble Mulch Over Structure				-			Beach Pebble Mulch Over Structure				
		Drip Irrigation (Over Structure)				-		D E Log # 06-01	Delete Landscaping & Pots Overstructure				
						-							
		Total Landscape & Irrigation	76,664			88,789	88,789			12,008		0	
												Total Scope Requirements (Bid + Adjust. + Allw)	100,797
												Net Change	(12,008)

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SUNDT CONSTRUCTION, INC.

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		SITE CONCRETE											
		Decorative Hardscape		*Moved to Division 3 - Concrete*		-		*Moved to Division 3 - Concrete*					
		Concrete Paving (Integral Color Broom Finish) - Plaza	24,731	*Moved to Division 3 - Concrete*	(24,731)	-							
		pe 2 Concrete Paving (No Color Broom Finish) - Plaza	29,508	*Moved to Division 3 - Concrete*	(29,508)	-							
		Concrete Paving (Integral Color Exposed Agg) - Plaza	3,653	*Moved to Division 3 - Concrete*	(3,653)	-							
		Type 1 Concrete Paving (Integral Color Exposed Agg)	2,698	*Moved to Division 3 - Concrete*	(2,698)	-							
		Type 2 Concrete Paving (No Color Broom Finish)	13,771	*Moved to Division 3 - Concrete*	(13,771)	-							
		Type 3 Concrete Paving (Integral Color Broom Finish)	11,991	*Moved to Division 3 - Concrete*	(11,991)	-							
		Type 4 Concrete Pavement (No Color Broom Finish)	16,394	*Moved to Division 3 - Concrete*	(16,394)	-							
		Recycled Concrete Paving From Stockpile	11,100	*Moved to Division 3 - Concrete*	(11,100)	-							
						-							
		Surveying Allowance	13,000		0	13,000			Survey	13,000			
						-							
		Site Concrete				-		*Moved to Division 3 - Concrete*					
		Concrete Site Planter Box Walls	17,564	*Moved to Division 3 - Concrete*	(17,564)	-							
		Concrete Seat Blocks	3,747	*Moved to Division 3 - Concrete*	(3,747)	-							
		Concrete Seat / Steps	26,229	*Moved to Division 3 - Concrete*	(26,229)	-							
		Continuous Footings	7,869	*Moved to Division 3 - Concrete*	(7,869)	-							
						-							
		Total Site Concrete	182,254			13,000	0			13,000		0	
												Total Scope Requirements (Bid + Adjust. + Allw)	13,000
												Net Change	0
		SITE FURNISHING											
		Trash Enclosure				-							
		Slab at Trash Enclosure	1,289	*Moved to Division 3 - Concrete*	(1,289)	-							
		Trash Enclosure Footings	973	*Moved to Division 3 - Concrete*	(973)	-							
		Gate at Trash Enclosure	7,100	*Moved to Division 5 - Metals*	(7,100)	-							
		Install Pipe Bollards	1,790	*Moved to Division 3 - Concrete*	(1,790)	-							
						-							
		Perforated Panels & Support Framing	22,600	*Moved to Division 5 - Metals*	(22,600)	-		*Moved to Division 5 - Metals*					
						-							
		Paint Trash Enclosure	329	*Moved to Division 9 - Painting*	(329)	-							
						-							
		CMU Trash Enclosure	2,780	*Moved to Division 4 - Masonry*	(2,780)	-							
		CMU Stems at Trash Enclosure	640	*Moved to Division 4 - Masonry*	(640)	-							
						-							
		Precast Seatwall Tops	3,600			3,600			Precast Seat Tops (18 Each)	7,200			
						-							
						-		D E Log # 02-03	ADD "Skater" Buttons to CIP Benches	4,000			
						-							
		Total Site Furnishings	41,101			3,600	0			11,200		0	
												Total Scope Requirements (Bid + Adjust. + Allw)	11,200
												Net Change	(7,600)
		TOTAL SITEWORK	**482,658**			**247,056**	**153,746**		**Total Scope Requirements (A+B)**	**307,314**	**Total Contract Allowances**	**0**	

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3	CONCRETE												
		CAST IN PLACE CONCRETE						Sundt Concrete					
						-							
		Decorative Hardscape		**Decorative Hardscape**		-							
		Type 3 Concrete Paving (Integral Color Broom Finish) - Plaza			24,731	24,731							
		Type 2 Concrete Paving (No Color Broom Finish) - Plaza			29,508	29,508							
		Type 1 Concrete Paving (Integral Color Exposed Agg) - Plaza			3,653	3,653							
		Type 1 Concrete Paving (Integral Color Exposed Agg)			2,698	2,698							
		Type 2 Concrete Paving (No Color Broom Finish)			13,771	13,771							
		Type 3 Concrete Paving (Integral Color Broom Finish)			11,991	11,991							
		Type 4 Concrete Pavement (No Color Broom Finish)			16,394	16,394							
		Recycled Concrete Paving From Stockpile			11,100	11,100			Spoils Removal	4,722			
						-			Lay out Plaza	1,500			
		Site Concrete		**Site Concrete**		-	265,940	Sundt Concrete ~ SITE					
			Concrete Site Planter Box Walls		17,564	17,564							
				Concrete Seat Blocks	3,747	3,747							
				Concrete Seat / Steps	26,229	26,229							
				Continuous Footings	7,869	7,869							
						-							
		Paving, Curbs & Gutters		**Paving, Curbs & Gutters**		-							
			MAG 222-A Curb - Plaza		2,810	2,810							
			MAG 220-B Ribbon Curb		1,311	1,311							
				MAG 222-A Curb	3,044	3,044							
			Concrete Header - Plaza		3,279	3,279							
			MAG 220-C Roll Curb & Gutter		3,372	3,372							
				Scupper	5,527	5,527							
			MAG 220-A Vert Curb & Gutter		1,967	1,967							
			Handicap Ramps (1 + 1 Double Width)		3,934	3,934							
						-							
		Trash Enclosure Concrete		**Trash Enclosure Concrete**		-							
			Slab at Trash Enclosure		1,289	1,289							
			Trash Enclosure Footings		973	973							
				Install Pipe Bollards	1,790	1,790							
						-							
		Substructure				-	140,324	Sundt Concrete ~ Library					
		Continuous Footings	26,700			26,700							
		Isolated Column Footings	8,400			8,400							
		Slab on Grade	50,400			50,400							
		Elevator Pit	8,424			8,424							
		Termite Pretreat	1,800	Moved to Site	(1,800)	-							
						-							
		Superstructure				-							
		Concrete on Deck	31,500			31,500							
						-							
		Exterior Enclosure				-							
		Exterior concrete sill	4,500			4,500							
						-							
		Interior Construction				-							
		Concrete at Metal Pan Stairs	9,841			9,841							
						-							
		Total Cast In Place Concrete	141,565			338,318	406,264			6,222		0	
												Total Scope Requirements (Bid + Adjust. + Allw)	412,486
												Net Change	(74,169)
		TOTAL CONCRETE	**141,565**			**338,318**	**406,264**		**Total Scope Requirements (A+B)**	**412,486**	**Total Contract Allowances**	**0**	

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4	**MASONRY**												
		MASONRY					126,650	Vickers / Hari Masonry					
			Trash Enclosure Masonry			-		"Mesa Stone" by Trenwyth					
				CMU Trash Enclosure	2,780	2,780							
			CMU Stems at Trash Enclosure		640	640							
		Masonry Site Walls				-							
		10'-8" CMU Wall	23,040			23,040							
						-							
		Substructure				-							
		CMU Stem Wall	8,400			8,400							
						-							
		Exterior Enclosure				-							
		12'-8" CMU Wall	79,200			79,200							
		30'-0" CMU Wall (12'-6 to 30'-0)	37,800			37,800							
						-			Shoring & Bracing	2,200			
						-			Reinforcing				
						-			Lintels				
						-			Scaffolding				
						-			Layout of embeds				
						-			Mock-up				
						-			Sealer	10,800			
						-			Acid wash				
						-							
						-							
		Total Masonry	148,440			151,860	126,650			13,000		0	
												Total Scope Requirements (Bid + Adjust. + Allw)	139,650
												Net Change	12,210
		TOTAL MASONRY	**148,440**			**151,860**	**126,650**		**Total Scope Requirements (A+B)**	**139,650**	**Total Contract Allowances**	**0**	
5	**METALS**												
		STRUCTURAL STEEL											
						-							
		Superstructure				-	273,242	APEX Steel Services					
		Structural steel frame	179,324			179,324							
		Metal roof deck (Acoustical Deck)	34,500			34,500							
		Metal floor deck	37,500			37,500							
						-							
		MISC STEEL					*Included by APEX*						
		Sitework	**Sitework Cover over Scupper**			-							
			Close Mesh Bar Grating - Galvanized		5,400	5,400			Close Mesh Bar Grating - Galvanized	5,400			
						-							
		Perforated Panels & Support Framing		Site Trelli	22,600	22,600	22,600	APEX Steel Services					
						-							
				Gate at Trash Enclosure	7,100	7,100	7,100	D E Log #02-05 Reduce Perforated Metal Trellis Overhang's (50%)		(4,068)			
						-							
		Exterior Closure				-							
		Perforated Panel & Supports at Mechanical Screens	27,500			27,500	*Progress CD's 20 ga Perf Metal 'ONE TYPE', **NOT** alternating perforations !*			76,580		Progress CD's 20 ga Perf Metal 'ONE TYPE', NOT alternating perforations !	
						-							
		Miscellaneous security grille support	6,400			6,400			Miscellaneous security grille support	6,400			
		Miscellaneous Brackets & Supports	3,000			3,000			Miscellaneous Brackets & Supports	3,000			
		Steel Stair	6,974			6,974	*Included by APEX*						
		Steel monumental stair	14,944			14,944	*Included by APEX*						
						-							
		Total Misc Steel	310,142			345,242	302,942			87,312		0	
												Total Scope Requirements (Bid + Adjust. + Allw)	390,254
												Net Change	(45,012)
		TOTAL METALS	**310,142**			**345,242**	**302,942**		**Total Scope Requirements (A+B)**	**390,254**	**Total Contract Allowances**	**0**	

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6	WOOD & PLASTICS												
		ROUGH CARPENTRY											
						-							
		Roof blocking	14,700			14,700			Roof blocking	14,700			
		Parapet Cap Blocking	7,900			7,900			Parapet Cap Blocking	7,900			
		Roof Curb	3,150			3,150			Roof Curb	3,150			
						-							
		Total Rough Carpentry	25,750.00			25,750	0			25,750		0	
													Total Scope Requirements (Bid + Adjust. + Allw) 25,750
													Net Change 0
		MILLWORK					80,800	European Techniques, Revised 8/4/7					
		Millwork	25,000			25,000							
		Millwork	20,000			20,000							
		Shelving	3,000			3,000							
		Break, WorkRm PLam Upper & Lowe	6,800			6,800							
		Coffee Shop Base cabinets w/counte	8,000			8,000		D E Log # 07-03 Delete "CAFE" Millwork leave as Shell Space		(4,000)			
		Childrens Area Banquett Seating	18,000			18,000							
		Solid Surface RR Vanity Top	8,000			8,000			Solid Surface RR Vanity Top	8,000			
						-			Fabric Seating, Wall Mounted Games, Visplay Wall			0	Should be part of FF&E
						-							
		Total Millwork	88,800			88,800	80,800			4,000		0	
													Total Scope Requirements (Bid + Adjust. + Allw) 84,800
													Net Change 4,000
		TOTAL WOOD & PLASTICS	**114,550**			**114,550**	**80,800**		**Total Scope Requirements (A+B)**	**110,550**	**Total Contract Allowances**	**0**	
7	WATERPROOFING												
		INSULATION											
		Exterior Closure				-			Building Insulation	5,800			
		6" batt insulation	3,800			3,800							
		6" batt insulation	2,000			2,000							
						-							
		Total Insulation	5,800			5,800	0			5,800		0	
													Total Scope Requirements (Bid + Adjust. + Allw) 5,800
													Net Change 0
		ROOFING & WATERPROOFING											
		Green Roof Area				-							
		Foam Roof	63,180			63,180			Foam Roof	63,180			
		Denseglass @ Roof	10,125			10,125			Denseglass @ Roof	10,125			
		Painted Sheet Metal Parapet Cap	10,800			10,800			Painted Sheet Metal Parapet Cap	10,800			
						-							
		Landscaping & Pots	2,700			2,700	2,700	D E Log # 06-01 Delete Landscaping & Pots Overstructure		(2,700)			
		Beach Pebble Mulch Over Structure	4,000			4,000			Beach Pebble Mulch Over Structure	4,000			
		Drip Irrigation (Over Structure)	365			365	365	D E Log # 06-01 Delete Landscaping & Pots Overstructure		(365)			
		Total Roofing & Waterproofing	91,170			91,170	3,065			85,040		0	
													Total Scope Requirements (Bid + Adjust. + Allw) 88,105
													Net Change 3,065
		TOTAL WATERPROOFING	**96,970**			**96,970**	**3,065**		**Total Scope Requirements (A+B)**	**93,905**	**Total Contract Allowances**	**0**	

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8	DOORS & WINDOWS													
		DOORS, FRAMES and HARDWARE												
		Hollow Metal Frame- Welded 8' Max	840			840			Hollow Metal Frame- Welded 8' Max	840				
		Hollow Metal Flush Door 8' Max	1,260			1,260			Hollow Metal Flush Door 8' Max	1,260				
		Single Ext. Entry / Exit Hardware	2,400			2,400			Single Ext. Entry / Exit Hardware	2,400				
						-								
		HM frame	2,520			2,520			HM frame	2,520				
		SC wood door	1,261			1,261			SC wood door	1,261				
		SC wood door - Interior	5,042			5,042			SC wood door - Interior	5,042				
		Finish hardware allowance	7,200			7,200			Finish hardware allowance	7,200				
						-			Unload					
						-			Create storage room for hardware					
						-			Protect doors					
						-			Repair doors & frames					
						-			Security provisions					
		Total Doors , Frames & Hardware	20,523			20,523	0			20,523		0		
													Total Scope Requirements (A+B)	20,523
													Net Change W/ Allowances	0
		OVERHEAD DOORS												
		Security Roll-Up Grille	3,600			3,600			Security Roll-Up Grille	3,600				
		Security Side Folding Grille	12,600			12,600			Security Side Folding Grille	12,600				
						-								
		Total Overhead Doors	16,200			16,200	0			16,200		0		
													Total Scope Requirements (Bid + Adjust. + Allw)	16,200
													Net Change	0
		GLASS & GLAZING						Carlson Glass, Inc.						
		Glazed Pressure Plate Aluminum Window System	187,300			187,300	187,000	D E Log Item # 05-01	Remove Reqmts / Non-Thermal Framing	(9,300)				
		Shade Element at Exterior Windows	2,000			2,000	2,300	Carlson Glass, Inc.						
						-		D E Log Item # 05-02	Change Storefront depth to 4 1/2" vs 6"	(5,160)				
		Glass Handrail @ Balcony	42,300			42,300	42,300	D E Log Item # 07-01	Change Glass Railings	(8,100)				
						-								
		Interior storefront	22,400			22,400	22,400	Carlson Glass, Inc.						
						-			Testing					
						-			Breakage					
						-			Cleaning					
						-			Security provisions					
		Total Glass & Glazing	254,000			254,000	254,000			(22,560)		0		
													Total Scope Requirements (Bid + Adjust. + Allw)	231,440
													Net Change	22,560
		TOTAL DOORS & WINDOWS	**290,723**			**290,723**	**254,000**		**Total Scope Requirements (A+B)**	**268,163**	**Total Contract Allowances**	**0**		
9	FINISHES													
		E.I.F.S., DRYWALL, METAL STUDS, SCAFFOLDING					201,810	NKW, Inc.						
						-								
		Exterior Closure				-								
		Metal Framing at Walls	35,100			35,100	*Included by N K W, Inc.*							
		Metal Framing at Soffits	9,000			9,000	*Included by N K W, Inc.*							
						-								
		DenseGlas Sheathing	10,500			10,500	*Included by N K W, Inc.*							
		EIFS Exterior Insulation Wall System	77,001			77,001	73,000	Diversified Interiors	EIFS Sealants	4,000				
						-			Exterior Closure Consultant	*with Design Services*				
		Metal Framing & Drywall Soffit	6,400			6,400	*Included by N K W, Inc.*							
		Metal Framing & Drywall Ceilings	13,000			13,000	*Included by N K W, Inc.*							
		Metal Framing & Drywall Partitions	49,200			49,200	*Included by N K W, Inc.*							
						-								
						-								
		Partition insulation	12,031			12,031			Partition insulation	6,200				
		Caulk Door frame	208			208			Caulk Door frame	200				
						-			Layout					
						-			Install H.M. Frames	1,400				
						-			Hoisting					
						-			Scaffolding					
						-			Install access doors	600				
						-			Acoustic sealant					
		Total EIFS, Drywall, Metal Studs & Scaffolding	212,440			212,440	274,810			12,400		0		
													Total Scope Requirements (Bid + Adjust. + Allw)	287,210
													Net Change	(74,770)
		CERAMIC TILE												
						-								
		Tile Walls	19,800			19,800			Tile Walls	19,800				

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		Tile Base	4,500			4,500			Tile Base	4,500				
						-								
		Total Ceramic Tile	24,300			24,300	0			24,300		0		
													Total Scope Requirements (Bid + Adjust. + Allw)	24,300
													Net Change	0
		TERRAZZO												
						-								
		Sealed Concrete	500			500			Sealed Concrete	500				
		Colored Ground Concrete	23,200			23,200			Colored Ground Concrete	23,200				
						-								
						-			Protect existing work					
						-			Water supply					
						-			Clean-up					
						-								
		Total Terrazzo	23,700			23,700	0			23,700		0		
													Total Scope Requirements (Bid + Adjust. + Allw)	23,700
													Net Change	(0)
		ACOUSTIC CEILINGS						Barrett-Homes						
						-								
		ACT-1 Acoustical Ceilings	4,665			4,665	4,665	D E Log Item # 08-01	Change ACT-1 to 9/16" Suprafine	(665)				
		ACT-2 Acoustical Ceilings	2,825			2,825	2,825							
		ACT-3 Acoustical Panels	5,860			5,860	5,860							
		ACT-4 Tectum Clouds	4,945			4,945	4,945	E Log Item # 08-04	Change Quantity of TECTUM Panels to 56 Each	(1,172)				
						-								
		Total Acoustic Ceilings	18,295			18,295	18,295			(1,837)		0		
													Total Scope Requirements (Bid + Adjust. + Allw)	16,458
													Net Change	1,837
		FLOORING					42,986	Resource Flooring						
						-								
		Stainless Steel Base	4,980			4,980			Stainless Steel Base	4,980				
		Rubber Tile Flooring - 2	1,419			1,419	*Included by Resource Flooring*							
		Rubber Tile Flooring	1,419			1,419	*Included by Resource Flooring*							
		Resilient Base	222			222	*Included by Resource Flooring*							
		Resilient Base	2,308			2,308	*Included by Resource Flooring*							
		Resilient Base	444			444	*Included by Resource Flooring*							
		VCTT - 4	1,109			1,109	*Included by Resource Flooring*							
		VCTT - 2	961			961	*Included by Resource Flooring*		Floor sealer - moisture control					
		VCTT - 3	850			850	*Included by Resource Flooring*							
		VCTT - 1	31,964			31,964	*Included by Resource Flooring*		Cleaning					
		VCTT - 5	443			443	*Included by Resource Flooring*		Wax & buff					
		VCTT - 6	1,848			1,848	*Included by Resource Flooring*		Elevator flooring					
						-								
		Total Flooring	47,966			47,966	42,986			4,980		0		
													Total Scope Requirements (Bid + Adjust. + Allw)	47,966
													Net Change	0

Avondale Old Town Library

495 E. Western Avenue, Avondale AZ 85323

GMP Detail Sheet

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SUNDT CONSTRUCTION, INC.

DIV	SECT.	DESCRIPTION	DD Estimate 7 / 24 / 08	DISPERSMENTS ITEM	DISPERSMENTS AMOUNT	ADJUSTED DD BUDGET	"A" BID AMOUNT	SUBCONTRACTOR	ITEMS NOT BID AND ADJUSTMENTS	"B" AMOUNT	CONTRACT ALLOWNCES DESCRIPTION	CONTRACT ALLOWNCES AMOUNT	COMMENTS
		PAINTING					44,795	NKW, Inc.					
						-							
		Wall Covering	3,000			3,000			Wall Covering	3,000			
		Paint ceiling and walls	24,200			24,200	*Included by N K W, Inc.*						
		Paint exposed structure	9,624			9,624	*Included by N K W, Inc.*						
				Paint Trash Enclosure	329	329	*Included by N K W, Inc.*						
		Paint Interior Dr Frame	960			960	*Included by N K W, Inc.*						
						-							
						-							
	7190	Water Repellents				-			Stencils				
						-			MP& E requirements				
						-			Special coatings				
						-			Touchup				
						-							
		Total Painting	37,784			38,113	44,795			3,000		0	
												Total Scope Requirements (Bid + Adjust. + Allw)	47,795
												Net Change	(9,682)
		TOTAL FINISHES	**364,485**			**364,813**	**380,886**		**Total Scope Requirements (A+B)**	**447,429**	**Total Contract Allowances**	**0**	

10 SPECIALTIES

		TOILET PARTITIONS and ACCESSORIES						Beach Products					
						-	D E Log Item # 09-01	Change Toilet Partitions from solid plastic to painted metal		(3,500)	*Included in Beach Quote*		
		Floor mounted toilet compartment	11,200			11,200			Floor mounted toilet compartment	11,200			
		Urinal screen	800			800			Urinal screen	800			
		Janitor's shelf and mop holder	303			303			Janitor's shelf and mop holder	303			
		Grab bar	979			979			Grab bar	979			
		Surface mtd double roll toilet paper hol	1,240			1,240			Surface mtd double roll toilet paper hold	1,240			
		Surface mounted snd	239			239			Surface mounted snd	239			
		54" ptd/waste combo	2,046			2,046			54" ptd/waste combo	2,046			
		Seat Cover Dispenser	494			494			Seat Cover Dispenser	494			
		Baby Changing Station	794			794			Baby Changing Station	794			
		Liquid soap dispenser	1,094			1,094			Liquid soap dispenser	1,094			
						-							
		Total Toilet Partitions & Accessories	19,190			19,190	0			15,690		0	
												Total Scope Requirements (Bid + Adjust. + Allw)	15,690
												Net Change	3,500
		SPECIALTIES											
						-							
		Marker Boards				-							
		Marker / Tackable Wall Covering	1,600			1,600				Marker / Tackable Wall ALLOWANCE		1,600	
						-							
						-							
	10400	**Signage & Graphics**				-							
		Exterior / Site Signage & Graphics Allowance	12,000			12,000				Exterior / Site Signage & Graphics Allowance		12,000	
		Signage/Graphics Allowance	8,000			8,000					Signage/Graphics Allowance	8,000	
						-							
	10500	**Fire Extinguishers & Cabinets**				-							
		Fire extinguisher	381			381			Fire extinguisher	381			
		Wall mounted fire extinguisher	216			216			Wall mounted fire extinguisher	216			
		Fire extinguisher cabinet	1,094			1,094			Fire extinguisher cabinet	1,094			
						-							
						-							
		Knox box				-			Knox box				
						-							
						-							
		Total Specialties	23,291			23,291	0			1,691		21,600	
												Total Scope Requirements (Bid + Adjust. + Allw)	23,291
												Net Change	0
		TOTAL SPECIALTIES	**42,482**			**42,482**	**0**		**Total Scope Requirements (A+B)**	**17,381**	**Total Contract Allowances**	**21,600**	

Avondale Old Town Library

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SUNDT CONSTRUCTION, INC.

DIV	SECT.	DESCRIPTION	DD Estimate 7 / 24 / 08	DISPERSMENTS ITEM	DISPERSMENTS AMOUNT	ADJUSTED DD BUDGET	"A" BID AMOUNT	SUBCONTRACTOR	ITEMS NOT BID AND ADJUSTMENTS	"B" AMOUNT	CONTRACT ALLOWNCES DESCRIPTION	CONTRACT ALLOWNCES AMOUNT	COMMENTS
11	EQUIPMENT												
		EQUIPMENT											
						-							
		Projection Screen Electric Operated	2,200			2,200			Projection Screen Electric Operated	2,200			
						-							
		Break Room Appliances				-			**Break Room Appliances**				
		Refrigerator	1,303			1,303			Refrigerator	0			Deleted per D E Log Item # 09-02 - By Owner
		Dishwasher	947			947			Dishwasher (Change to ADA Counter Height)	1,200			
		Garbage Disposal (with Plbg.)				-			Garbage Disposal (with Plbg.)				
		Microwave Oven	750			750			Microwave Oven	0			Deleted per D E Log Item # 09-02 - By Owner
		Total Equipment	5,200			5,200	0			3,400		0	
													Total Scope Requirements (Bid + Adjust. + Allw) 3,400
													Net Change 1,800
		TOTAL EQUIPMENT	**5,200**			**5,200**	**0**		**Total Scope Requirements (A+B)**	**3,400**	**Total Contract Allowances**	**0**	
12	FURNISHINGS												
		FURNISHINGS											
						-							
	12600	Floor Mats				-							
	12700	Blinds				-			Deleted - By Owner				Deleted per D E Log Item # 09-03 - By Owner
		Total Equipment	0			-	0			0		0	
													Total Scope Requirements (A+B) 0
													Net Change W/ Allowances 0
		TOTAL FURNISHINGS	**0**			**-**	**0**		**Total Scope Requirements (A+B)**	**0**	**Total Contract Allowances**	**0**	
13	SPECIAL CONSTRUCTION												
		SPECIAL CONSTRUCTION											
		Total Special Construction	0			-	0			0		0	
													Total Scope Requirements (A+B) 0
													Net Change W/ Allowances 0
		TOTAL SPECIAL CONSTRUCTION	**0**			**-**	**0**		**Total Scope Requirements (A+B)**	**0**	**Total Contract Allowances**	**0**	
14	CONVEYING SYSTEMS												
		ELEVATORS											
						-							
	14400	**Elevators**				-	64,000	Thyssen- Krupp					
		Hydraulic Passenger Elevator	64,000			64,000							
						-			Cab finishes				
						-			Rail support				
						-			Hoisting				
						-			Security provisions				
		Total Elevators	64,000			64,000	64,000			0		0	
													Total Scope Requirements (Bid + Adjust. + Allw) 64,000
													Net Change 0
		TOTAL CONVEYING SYSTEMS	**64,000**			**64,000**	**64,000**		**Total Scope Requirements (A+B)**	**64,000**	**Total Contract Allowances**	**0**	
15	MECHANICAL												
		FIRE SPRINKLERS											
						-							
	15300	**Fire Protection**				-	36,800	Areo Automatic Sprinklers					
		Full wet sprinkler system	36,800			36,800							
		Total Fire Sprinklers	36,800			36,800	36,800			0		0	
													Total Scope Requirements (Bid + Adjust. + Allw) 36,800
													Net Change 0

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SUNDT CONSTRUCTION, INC.

DIV	SECT.	DESCRIPTION	DD Estimate 7 / 24 / 08	DISPERSMENTS ITEM	DISPERSMENTS AMOUNT	ADJUSTED DD BUDGET	"A" BID AMOUNT	SUBCONTRACTOR	ITEMS NOT BID AND ADJUSTMENTS	"B" AMOUNT	CONTRACT ALLOWNCES DESCRIPTION	CONTRACT ALLOWNCES AMOUNT	COMMENTS
		PLUMBING											
						-							
	15400	**Plumbing**				-	99,400	Plam Valley Plumbing					
		Plumbing	99,400			99,400							
		GARBAGE DISPOSAL	100			100			GARBAGE DISPOSAL	100			
		ICEMAKER CONNECTION	300			300			ICEMAKER CONNECTION	300			
		DISHWASHER CONNECTION	100			100			DISHWASHER CONNECTION	100			
						-			Connect to bubbler box				
		Total Plumbing	99,900			99,900	99,400			500		0	
												Total Scope Requirements (Bid + Adjust. + Allw)	99,900
												Net Change	0
		H.V.A.C.											
						-							
	15500	**HVAC**				-	287,650	T C K Mechanical					
		Heating, Ventilation & Air Conditionin	276,460			276,460							
		TEST & BALANCE	5,108			5,108							
		COMMISSIONING	6,081			6,081							
						-			Access doors				
						-			As-builts				
						-			Pipe labeling				
						-			Commissioning				
						-			Firesafing				
		Total HVAC	287,650			287,650	287,650			0		0	
												Total Scope Requirements (Bid + Adjust. + Allw)	287,650
												Net Change	(0)
		TOTAL MECHANICAL	**424,350**			**424,350**	**423,850**		**Total Scope Requirements (A+B)**	**424,350**	**Total Contract Allowances**	**0**	
16	**ELECTRICAL**												
		ELECTRICAL											
						-	0	Security & Access Controls by ASSI					Deleted ASSI Security Access & Controls (Work By Owner)
	16000	**Electrical**				-	70,412	Wilson Electric ~ SITE	D E Log Item # 16-04 "SITE" Electrical per Wilson Rev. # 3, 8/2/07 Included in New Quote from Wilson				
		Electrical (West Site) around Library	53,898			53,898							
		Electrical (East Site Courtyard) Plaza	24,520			24,520							
		Electrical Systems	342,849			342,849	325,408	Wilson Electric ~ Library	D E Log Item # 16-03 "Library" Electrical per Wilson Rev. # 3, 8/2/07 Included in New Quote from Wilson				
						-			Fire alarm				
						-			Stockpile light fixtures				
						-			Access doors				
						-			As-builts				
						-			Patch & repair				
						-			Fire safing				
						-							
		Total Electrical	421,267			421,267	395,820			0		0	
												Total Scope Requirements (Bid + Adjust. + Allw)	395,820
												Net Change	25,447
		TOTAL ELECTRICAL	**421,267**			**421,267**	**395,820**		**Total Scope Requirements (A+B)**	**395,820**	**Total Contract Allowances**	**0**	
22	**SOFT COST**												
		SOFT COSTS											
		TOTAL SOFT COSTS	**0**			**-**	**0**		**Total Scope Requirements (A+B)**	**0**	**Total Contract Allowances**	**0**	

Old Town Library

Design Evolution Log

SUNDT CONSTRUCTION, INC.

DATE: 13-Aug-07

Program S.F.	12,500
Schematic S.F.	12,700
Current S.F.	12,700
Delta	-200

DD Estimate ~ 07/24/07	4,397,877
ACCEPTED CHANGES:	165,904
CURRENT BUDGET:	4,563,781
TARGET BUDGET:	4,500,000
BUDGET STATUS:	63,781
Excludes "Indirects" ---> REMAINING POTENTIAL:	(14,990)
Excludes "Indirects" ---> REJECTED:	(103,919)

	DIRECT COSTS:	Design Development ESTIMATE	ACCEPTED CHANGES	CURRENT BUDGET	TOTAL CHANGE	% CHANGE
01	Division 1 (General Requirements)	248,800	0	248,800	0	0.00%
02	SITEWORK	517,698	55,378	573,076	55,378	10.70%
03	SUBSTRUCTURE	104,124	79,046	183,170	79,046	75.92%
04	SUPERSTRUCTURE	282,826	45,012	327,838	45,012	15.92%
05	EXTERIOR WALL	480,202	13,330	493,532	13,330	2.78%
06	ROOFING	116,920	(3,065)	113,855	(3,065)	-2.62%
07	INTERIOR CONSTRUCTION	292,479	22,670	315,149	22,670	7.75%
08	INTERIOR FINISH	151,086	7,845	158,931	7,845	5.19%
09	SPECIALTIES	51,882	(3,500)	48,382	(3,500)	-6.75%
10	EQUIPMENT & FURNISHINGS	0	(1,800)	(1,800)	(1,800)	
11	SPECIAL CONSTRUCTION	0	0	0	0	
12	CONVEYING SYSTEM	64,000	0	64,000	0	0.00%
13	FIRE SPRINKLER	36,800	0	36,800	0	0.00%
14	PLUMBING	99,900	0	99,900	0	0.00%
15	MECHANICAL	287,650	0	287,650	0	0.00%
16	ELECTRICAL	421,267	(25,447)	395,820	(25,447)	-6.04%
	Labor Escalation	0	0	0	0	
	Material Escalation	0	0	0	0	
	Design Contingency	94,669	(54,669)	40,000	(54,669)	-57.75%
	Subtotal	**3,250,302**	**134,800**	**3,385,102**	**134,800**	**4.15%**
	INDIRECTS:					
	General Conditions	279,000	0	279,000	0	0.00%
	PL & PD Ins	46,206	1,765	47,971	1,765	3.82%
	Builders Risk Ins	13,442	513	13,955	513	3.82%
	Subcontractor Default Insurance	36,335	2,368	38,704	2,368	6.52%
	G C Bond	51,667	1,973	53,640	1,973	3.82%
	Contractors Contingency	126,017	4,813	130,830	4,813	3.82%
	Sales Tax	240,273	9,177	249,450	9,177	3.82%
	Contractors O.H. & P.	210,098	8,126	218,224	8,126	3.87%
	Subtotal	**1,039,375**	**31,104**	**1,070,479**	**31,104**	**2.99%**
	SOFT COSTS					
	Permits & Plan Check Fees	0	0	0	0	
	Construction Administration	108,200		108,200	0	0.00%
	Utility & City Assessments	0	0	0	0	
	Testing & Quality Assurance	Moved to Division 1 (General Requirements)				
	Subtotal	**108,200**	**0**	**108,200**	**0**	**0.00%**
	Total	**$4,397,877**	**$165,904**	**$4,563,781**	**$165,904**	

Old Town Library

Design Evolution Log - System Breakdown

SUNDT CONSTRUCTION, INC.

Date	Sys	Item	Description		Status	BUDGET REVISIONS Accepted	Potential	Rejected	Comments
	01		**Division 1 (General Requirements)**	Value					
08/08/07			Material Testing & Inspection Allowance			0	0	0	Moved from Soft Costs
				Subtotal --->		0	0	0	
	02		**SITEWORK**	Value					
07/24/07		01	Change Broken Concrete Pavers to regular Grey Concrete Walks	(4,879)	A	(4,879)	0	0	
08/08/07			Credit for Demolition Completed By Others	(12,654)	A	(12,654)	0	0	
07/24/07		02	Salvage & Replant 6 ~ 8 Mexican Palms	12,008	A	12,008	0	0	
07/24/07		03	ADD Skater "Buttons" to Concrete Benches & Seatwalls	4,000	A	4,000	0	0	
07/24/07		04	Delete Concrete Planter Box Walls	(17,565)	R	0	0	(17,565)	
07/24/07		05	Reduce Perforated Metal Trellis Overhang's (50%)		A	0	0	0	Moved to Division 5 Metals
07/24/07		06	Delete Perforated Metal Trellis	(22,600)	R	0	0	(22,600)	
08/08/07			Earthwork Revisions	22,647	A	22,647	0		Raised Site Grades adding 12" to Design Grades
08/08/07			Revised Site Utilities Added Meters & Connections	30,657	A	30,657	0	0	
08/08/07			Revised Precast Seat Tops	3,600	A	3,600	0	0	
				Subtotal --->		55,378	0	(17,565)	
	03		**SUBSTRUCTURE**	Value					
08/08/07			Concrete	79,046	A	79,046	0	0	
				Subtotal --->		79,046	0	0	

Old Town Library

Design Evolution Log - System Breakdown

SUNDT CONSTRUCTION, INC.

Date	Sys	Item	Description		Status	BUDGET REVISIONS Accepted	Potential	Rejected	Comments
	04		**SUPERSTRUCTURE**	Value					
08/08/07			Revised Mechanical Screen Wall	49,080	A	49,080	0	0	Moved to Exterior Wall
07/24/07	**02**	05	Reduce Perforated Metal Trellis Overhang's (50%)	(4,068)	A	(4,068)	0	0	Moved from Sitework
				Subtotal --->		45,012	0	0	
	05		**EXTERIOR WALL**	Value					
07/24/07		01	Remove Requirement for Non-Thermal Framing	(9,300)	A	(9,300)	0	0	
07/24/07		02	Change Storefront depth to 4 1/2 " vs 6 "	(5,160)	A	(5,160)	0	0	
07/24/07		03	Reduce the Perforated Metal Mechanical Screens	(7,500)	R	0	0	(7,500)	
07/24/07		04	Reduce the Parapet Height from 30'-0 to 28'-0	(14,990)	R	0	0	(14,990)	
08/08/07			Revised Mechanical Screen Wall		A	0	0	0	Moved from Superstructure
08/08/07			Revised Masonry to "Mesa Stone" by Trenwyth	(12,210)	A	(12,210)	0	0	
08/08/07			Framing & Drywall Revisions (EIFS)	40,000	A	40,000	0	0	
				Subtotal --->		13,330	(14,990)	(7,500)	
	06		**ROOFING**	Value					
07/24/07		01	Delete Landscaping & Pots Overstructure	(3,065)	A	(3,065)	0	0	
				Subtotal --->		(3,065)	0	0	
	07		**INTERIOR CONSTRUCTION**	Value					
07/24/07		01	Revise Glass Balcony Rail	(8,100)	A	(8,100)	0	0	
07/24/07		02	Change Glass Rails to Perforated Metal Panels	(26,100)	R	0	0	(26,100)	
07/24/07		03	Delete 'CAFÉ' Build-Out & leave as "Unfinished Shell"	(4,000)	A	(4,000)	0	0	
08/08/07			Framing & Drywall Revisions (EIFS)	34,770	A	34,770	0	0	
				Subtotal --->		22,670	0	(26,100)	

Old Town Library

Design Evolution Log - System Breakdown

SUNDT CONSTRUCTION, INC.

Date	Sys	Item	Description		Status	BUDGET REVISIONS Accepted	Potential	Rejected	Comments
	08		**INTERIOR FINISH**	Value					
07/24/07		01	Change ACT-1 Grid from 9/16" white "silhouette" to 9/16" white steel "suprafine" grid	(665)	A	(665)	0	0	
07/24/07		02	Change ACT-2 Optima Panels & Tegular Otima Panel in Techzone	(1,425)	R	0	0	(1,425)	
07/24/07		03	Reduce Quantity of 1" Thick Hanging Tectum Baffels	(2,511)	R	0	0	(2,511)	Reduce Quantity from 70 each to 40 each!
07/31/07		04	Reduce Quantity of 1" Thick Hanging Tectum Baffels	(1,172)	A	(1,172)	0	0	Reduce Quantity from 70 each to 56 each!
08/08/07			Painting & Wallcovering Proposal	9,682	A	9,682	0	0	
				Subtotal --->		7,845	0	(3,936)	
	09		**SPECIALTIES**	Value					
07/24/07		01	Change Toilet Partitions from solid plastic to painted metal	(3,500)	A	(3,500)	0	0	
07/24/07		03	ADD Window Blinds (Mini-Blinds) to Exterior Windows	12,600	R	0	0	12,600	Delete Window Coverings from Construction Budget, Owner may provide later as FFE
				Subtotal --->		(3,500)	0	12,600	
	10		**EQUIPMENT & FURNISHINGS**	Value					
07/24/07	**09**	02	Delete Break Room Frig. & Microwave, Provide ADA counter height Dishwasher	(1,800)	A	(1,800)	0	0	Keep ADA counter height Dishwasher
				Subtotal --->		(1,800)	0	0	
	11		**SPECIAL CONSTRUCTION**	Value					
				Subtotal --->		0	0	0	
	12		**CONVEYING SYSTEM**	Value					
				Subtotal --->		0	0	0	
	13		**FIRE SPRINKLER**	Value					
				Subtotal --->		0	0	0	
	14		**PLUMBING**	Value					
07/24/07		01	Change Water Closets from Wall Hung to Floor Mounted	(3,000)	R	0	0	(3,000)	
				Subtotal --->		0	0	(3,000)	
	15		**MECHANICAL**	Value					

Old Town Library

Design Evolution Log - System Breakdown

SUNDT CONSTRUCTION, INC.

Date	Sys	Item	Description		Status	BUDGET REVISIONS Accepted	Potential	Rejected	Comments
				Subtotal --->		0	0	0	
	16		**ELECTRICAL**	Value					
07/24/07		01	Revise Building Interior Light Fixture Package	(30,000)	R	0	0	(30,000)	
07/24/07		02	Revise SITE Light Fixture Package	(28,418)	R	0	0	(28,418)	
08/08/07		03	"Library" Electrical per Wilson Rev. # 3, 8/2/07	(17,441)	A	(17,441)	0	0	
08/08/07		04	"SITE" Electrical per Wilson Rev. # 3, 8/2/07	(8,006)	A	(8,006)	0	0	
08/08/07			ADDED Security & Access System by ASSI	17,784	R	0	0	17,784	
				Subtotal --->		(25,447)	0	(58,418)	

SUNDT
CONSTRUCTION, INC.

WESTERN AVENUE REPLACEMENT LIBRARY

PERSONNEL REIMBURSEMENT SCHEDULE

DATED 08/08/07

Salaried and Administrative Personnel

	10/1/2006	10/1/2007
Operation Manager	$120.40	$124.61
Project Director	$101.50	$105.05
Project Manager	$89.13	$92.25
Sr. Project Superintendent	$87.98	$91.06
Project Superintendent	$78.73	$81.48
Field Superintendent	$79.56	$82.34
Project Engineer	$64.17	$66.42
Sr. Estimator	$71.76	$74.27
Estimator	$58.45	$60.50
Program Coordinator	$39.52	$40.90
Field Engineer	$57.10	$59.10
Office Manager	$46.38	$48.00
Project Administrator	$36.09	$37.35
Clerical Personnel	$34.74	$35.95

Craft Personnel

General Foreman	$56.78	$58.77
Foreman	$41.70	$43.16
Laborer	$27.07	$28.02
Carpenter	$29.22	$30.24
Cement Finisher	$29.22	$30.24
Operator	$29.22	$30.24

EXHIBIT B-4
TO
DESIGN-BUILD AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
SUNDT CONSTRUCTION, INC.

[Western Avenue Replacement Library Scope]

See following page.

SEE EXHIBIT B-2

EXHIBIT C-2
TO
DESIGN-BUILD AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
SUNDT CONSTRUCTION, INC.

[List of Design Development Documents]

See following pages.

SUNDT
CONSTRUCTION, INC.

DOCUMENT LIST

Plans and Specifications prepared by SmithGroup, Architects

Project Drawings

NUMBER	TITLE	DATE
G0.1	Project Directory, Sheet Index, Project General Notes Vicinity Map	06/27/07
G0.2	First Floor Fire and Life Safety Plan Project Summary	06/27/07
G0.3	Second Floor Fire and Life Safety Plan Project Code Summary	06/27/07
C1.0	Cover Sheet	06/27/07
C1.1	Note Sheet	06/27/07
C1.2	Note Sheet	06/27/07
C4.1	Site Plan	06/27/07
C5.1	Grading Plan	06/27/07
C6.1	Utility Plan	06/27/07
C7.1	Details	06/27/07
L1.1	Hardscape Keynote Plan	06/27/07
L1.2	Hardscape Details	06/27/07
L1.3	Hardscape Details	06/27/07
L2.0	Planting Legend and Notes	06/27/07
L2.1	Planting Plan	06/27/07
L2.2	Planting Details	06/27/07
L3.1	Irrigation Plan	06/27/07
L3.2	Irrigation Details	06/27/07
S1.1	General Structural Notes	06/27/07
S1.2	Typical Details	06/27/07
S1.3	Typical Details	06/27/07
S2.1	Foundation Plan	06/27/07
S2.2	Floor Framing Plan	06/27/07
S2.3	Roof Framing Plan	06/27/07
S3.1	Foundation Details	06/27/07
S4.1	Floor Framing Details	06/27/07
S4.2	Floor Framing Details	06/27/07
S5.1	Roof Framing Details	06/27/07
S6.1	Stair Framing Details	06/27/07
A0.1	Architectural Abbreviations, General Notes, & Symbols	06/27/07
A1.0	Site Plan	06/27/07
A1.3	Enlarged Plans, Elevations, and Details	06/27/07
A2.1	First Level & Second Level Floor Plans	06/27/07

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NUMBER	TITLE	DATE
A2.1.1	First Level & Second Level Dimension Plans	06/27/07
A2.3	Roof Plan	06/27/07
A3.1	First Level & Second Level Reflected Ceiling Plan	06/27/07
A4.1	Exterior Building Elevations	06/27/07
A4.2	Building Sections	06/27/07
A4.3	Wall Sections	06/27/07
A4.4	Wall Sections	06/27/07
A4.5	Wall Sections	06/27/07
A7.1	Toilet Room Plans & Elevations	06/27/07
SA8.1	Interior Elevations and Enlarged Plans	06/27/07
A8.2	Interior Elevations and Enlarged Plans	06/27/07
A8.3	Interior Elevations and Enlarged Plans	06/27/07
A9.2.1	Wall Types	06/27/07
A9.2.2	Typical Partitions Framing Details	06/27/07
A9.3.1	Door and Interior Opening Schedule	06/27/07
A9.3.2	Door Types and Frame Elevations	06/27/07
A9.6.1	Millwork Details	06/27/07
A9.9.1	Flooring Transition Details	06/27/07
AI2.1	First Level & Second Level Finish Plans	06/27/07
AF2.1	First Level & Second Level Furniture Plans	06/27/07
M0.1	Mechanical Symbols and Abbreviations	06/27/07
M2.1	First Level & Second Level Mechanical Plans	06/27/07
M2.2	Mechanical Roof Plan	06/27/07
M3.1	First Level & Second Level Air Distribution & Zoning Plans	06/27/07
M4.1	Mechanical Schedules	06/27/07
M5.1	Mechanical Details	06/27/07
M6.1	Mechanical Controls	06/27/07
P2.1	First Level & Second Level Waste Plans	06/27/07
P3.1	First Level & Second Level Domestic Water Plans	06/27/07
P4.1	Plumbing Schedules	06/27/07
P5.1	Plumbing Schematics	06/27/07
P6.1	Plumbing Details	06/27/07
FP2.1	First Level & Second Level First Protection Plans	06/27/07
FP3.1	Fire Protection Details	06/27/07
E3.0	Electrical Symbols, General Notes & Lighting Fixture Schedule	06/27/07
E.1	Electrical Site Plan	06/27/07
E.2	First Level & Second Level Electrical Power Plans	06/27/07
E.3	First Level & Second Level Electrical Lighting Plans	06/27/07
E.4	First Level & Second Level HVAC Plans	06/27/07
E.5	First Level & Second Level Electrical Fire Alarm Plans	06/27/07
E.6	First Level & Second Level Electrical Special Systems	06/27/07

SUNDT
CONSTRUCTION, INC.

NUMBER	TITLE	DATE
E.7	Electrical One Line Diagram Load Calc's Feeder Schedule	06/27/07
E.8	Panel Schedules & Fault Calculation	06/27/07

DEVELOPMENT SERVICES

SUBJECT:
Public Hearing and Resolutions 2671-807 and 2672-807 - Major General Plan Amendment and Specific Plan Amendment for Summit Point

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Scott Wilken, Senior Planner (623)333-4016

THROUGH: Charlie McClendon, City Manager

REQUEST: 1) Amend the General Plan Land Use Map from Employment to Mixed Use.
2) Amend the Freeway Corridor Specific Plan Land Use Map from Employment to Mixed Use.

PARCEL SIZE: Approximately 44.6 acres

LOCATION: Southwest corner of 117th Avenue and Interstate 10

APPLICANT: Dustin C. Jones and Shaine Alleman, Tiffany & Bosco, P.A.

OWNER: Seven Investment Holdings, LLC

BACKGROUND:

In June of 1991, Council approved the Freeway Corridor Specific Plan, which assigned a land use designation to the subject property of Commercial and Drainage/Open Space.

In April of 1997, the City Council annexed the subject property.

On June 17, 2002, Council approved the General Plan, which assigned a land use designation of Employment to the subject property.

The first Planning Commission hearing for this proposed General Plan Amendment was held on May 24, 2007. The second Planning Commission hearing was held on June 21, 2007.

SUMMARY OF REQUEST:

1. The applicant is requesting to amend the General Plan land use map to change the land use designation of the approximately 44.6 acre subject property from Employment to Mixed Use. The current General Plan designation of Employment is intended to provide employment opportunities, such as general office and enclosed industrial uses. The Mixed Use designation is intended to provide a mix of high intensity uses with a retail commercial emphasis, and may include up to 45% residential use.
2. The applicant is also requesting an amendment of the Freeway Corridor Specific Plan land use map to change the land use designation from Employment to Mixed-Use.

PARTICIPATION:

Notifications of a 60-day review period for an application for a major amendment of the General Plan were mailed on March 8, 2007 to: Members of City Council; members of the Planning Commission; the planning authorities of City of Phoenix, City of Tolleson, City of Goodyear, City of Litchfield Park and Maricopa County; the Maricopa Association of Governments (MAG); and the superintendents of the Tolleson Union

High School District and the Littleton Elementary School District. The notifications contained a description of the request, maps and aerials, and a copy of the applicant's project narrative. No agencies had comments at this time, but some requested an opportunity to comment as the plan developed further.

The applicant held a neighborhood meeting on Tuesday, May 8, 2007, at City Hall. The neighborhood meeting was advertised in the West Valley View on April 17, 2007. The property was posted with a sign, at the south end of the property on Van Buren Street, on April 17, 2007. Notices were mailed to a total of 15 property owners within 500 feet of the property on April 17, 2007. No residents attended the meeting.

Notice of the first Planning Commission hearing was published for one week in the West Valley View starting on May 8, 2007. The property was posted with a sign, at the south end of the property on Van Buren Street on May 8, 2007. Notices of the Planning Commission meeting were mailed to a total of 15 property owners within 500 feet of the property on May 8, 2007.

The May 24, 2007 Planning Commission hearing had 14 people sign the sign-in sheet for the meeting. One person spoke regarding the application, neither in opposition nor in favor of the proposed amendment. Two people submitted cards in favor of the item and did not wish to speak (Exhibit H).

Notice of the June 21, 2007 Planning Commission hearing was published in the West Valley View on June 5, 2007. Letters to 15 property owners were mailed on June 5, 2007. The property was posted June 5, 2007.

The Planning Commission held a public hearing on June 21, 2007. There were no requests to speak during the public hearing (Exhibit I)

A notice of the City Council hearing of August 20, 2007 was published in the West Valley View on July 31, 2007. Letters were mailed out to 15 property owners on July 31, 2007. The property was posted on July 31, 2007. No comments have been received to date.

PLANNING COMMISSION ACTION:

The Planning Commission conducted the first of two public hearings on May 24, 2007 and voted 4-0 to **CONTINUE** the request to the June 21, 2007 Planning Commission meeting.

The Planning Commission conducted a second public hearing on June 21, 2007 and voted 4-2 to recommend **DENIAL** of this request.

ANALYSIS:

The City Council must determine that the proposed amendment meets four findings prior to recommending approval. The burden of proof rests with the applicant. Staff's analysis of each of the required findings is presented below.

1. The development pattern contained on the Land Use Plan inadequately provides the appropriate optional sites for the use and/or change proposed in the amendment.

Staff estimates that approximately 3.05% of the land in the City is designated as Mixed Use on the General Plan land use map. This land is almost entirely along either 1) Van Buren Street between Avondale Boulevard and the Agua Fria River or 2) 99th Avenue between McDowell Road and Indian School Road. The vast majority of the land designated as Mixed Use is undeveloped.

Staff estimates that approximately 8.42% of the land in the City is designated as Employment. This land includes 1) the area around Phoenix International Raceway; 2) the southeast corner of Lower Buckeye Road and Litchfield Road; 3) the Eliseo C. Felix Jr. Way corridor between Interstate 10 and Western Avenue; and 4) almost the entire south freeway frontage of Interstate 10 between 99th Avenue and the Agua Fria River. Of this land, less than half has been developed, including approximately half of the land fronting Interstate 10, including the subject property.

The proposed amendment would result in approximately 8.28% of the City designated as Employment and approximately 3.19% of the City designated as Mixed Use.

Currently there is no property along the Interstate 10 frontage designated as Mixed Use. The proposed amendment would provide opportunity for Mixed Use development along the freeway.

2. The amendment constitutes an overall improvement in the 2002 Plan and is not solely for the good or benefit of a particular landowner or owners.

The applicant's narrative discusses the proposed amendment providing additional opportunities for mixed-use developments that include retail, employment, and residential uses.

The current General Plan designation is designed more for office and enclosed industrial uses, rather than a diverse mix of uses.

The current designation is generally not appropriate for residential uses, while the Mixed Use designation allows the City Council, if it chooses, to entitle the property to have up to 45% of the development be residential. This could take the form of upper-floor residential integrated into a retail or office building, or stand-alone residential developments, including apartments, condominiums, or detached single-family residential. A designation of Mixed Use does not entitle the developer to any residential use; the inclusion of residential is entirely at the discretion of the City Council.

The City is currently conducting a study to create an area plan for the City Center area, immediately to the east of the subject property. If the request is approved, the entire western boundary of the City Center area between Van Buren Street and Interstate 10 would be adjacent to Mixed Use, which could act as a transition from the high-intensity uses of the City Center to the lower intensity employment uses along the freeway to the west.

3. The amendment will not adversely impact the community as a whole and/or a portion of the community by (1) significantly altering acceptable land use patterns; (2) requiring large and more expensive public infrastructure improvements including, but not limited to roads, water, wastewater, and public safety facilities than would other wise be needed without the proposed change, or (3) adversely impacting the existing land use.

The proposed amendment will not alter the existing pattern of land use in the area. Mixed Use provides an opportunity for a logical transition from the Freeway Commercial and City Center area to the Employment area to the west.

Prior to development, the subject property will be required to rezone based on its General Plan designation, either its current designation or the proposed designation. At that time, staff, the Planning Commission, and the City Council will have an opportunity to ensure that any development on the subject property is compatible with the surrounding land use patterns.

Staff's review of the proposed land use change shows that, when developed, the subject property would cause an increase in traffic of 28%. At the time of development the developer will be required to submit a full traffic impact study. Any improvements to existing or future roads required by the findings of the traffic study will be built by the developer.

Sufficient water and sewer service capacity exists in the area to accommodate the request. Any extension of water and sewer lines, if required, would be borne by the developer.

4. The amendment is consistent with the overall intent of the 2002 Plan and other adopted plans, codes, and ordinances.

<u>General Plan</u>

The applicant's narrative discusses the compatibility of the proposed amendment with the goals of the General

Plan by allowing the subject property to be developed as a "unique mixed-use development" that is not only sustainable, but attempts to blend with the surrounding development.

The narrative also states that the proposed designation would not adversely affect public services in the area by not significantly increasing the demand over that of the current land use designation.

The narrative states that the proposed amendment will allow the developer to create a development that will be a regional draw, and attract customers from a larger area to the City.

Staff believes that the proposed Mixed Use designation will be an improvement to the General Plan, and through the rezoning and site plan review process, the development will be in conformance with the overall intent of the 2002 General Plan.

Specific Plan

The Freeway Corridor Specific Plan lists Mixed Use Potential as one of its objectives.

The proposed amendment would allow the property to be developed with a mix of various uses described in the Specific Plan, including employment and housing uses along the freeway.

The applicant's narrative discusses the economic impact potential of the proposed amendment as a regional draw, rather than a localized employment-only development.

Staff believes that the proposed amendment is compatible with the objectives of the Specific Plan.

FINDINGS:

- The current General Plan provides a limited number of sites for Mixed Use in the City in general and no sites along Interstate 10 in particular. The proposed amendment appears to meet Finding 1.
- The amendment to Mixed Use will provide a transitional area between the City Center's Freeway Commercial to the Employment area along the freeway. The proposed amendment appears to meet Finding 2.
- The proposed amendment will not alter the established land use pattern, significantly affect public infrastructure and services, or be incompatible with adjacent and nearby land uses. The proposed amendment appears to meet Finding 3.
- The proposed amendment is consistent with the objectives of the Freeway Corridor Specific Plan. The proposed amendment appears to meet Finding 4.

RECOMMENDATION:

The City Council should conduct a public hearing and recommend **APPROVAL** of the proposed Major General Plan amendment.

The City Council should conduct a public hearing and recommend **APPROVAL** of the proposed Freeway Corridor Specific Plan amendment.

PROPOSED MOTION:

I move that the City Council accept the findings and **ADOPT** the resolution approving Application GP-07-2, a request to amend the General Plan from Employment to Mixed Use.

I move that the City Council accept the findings and **ADOPT** the resolution approving Application SP-07-1, a request to amend the Freeway Corridor Specific Plan from Employment to Mixed Use.

ATTACHMENTS:

Click to download

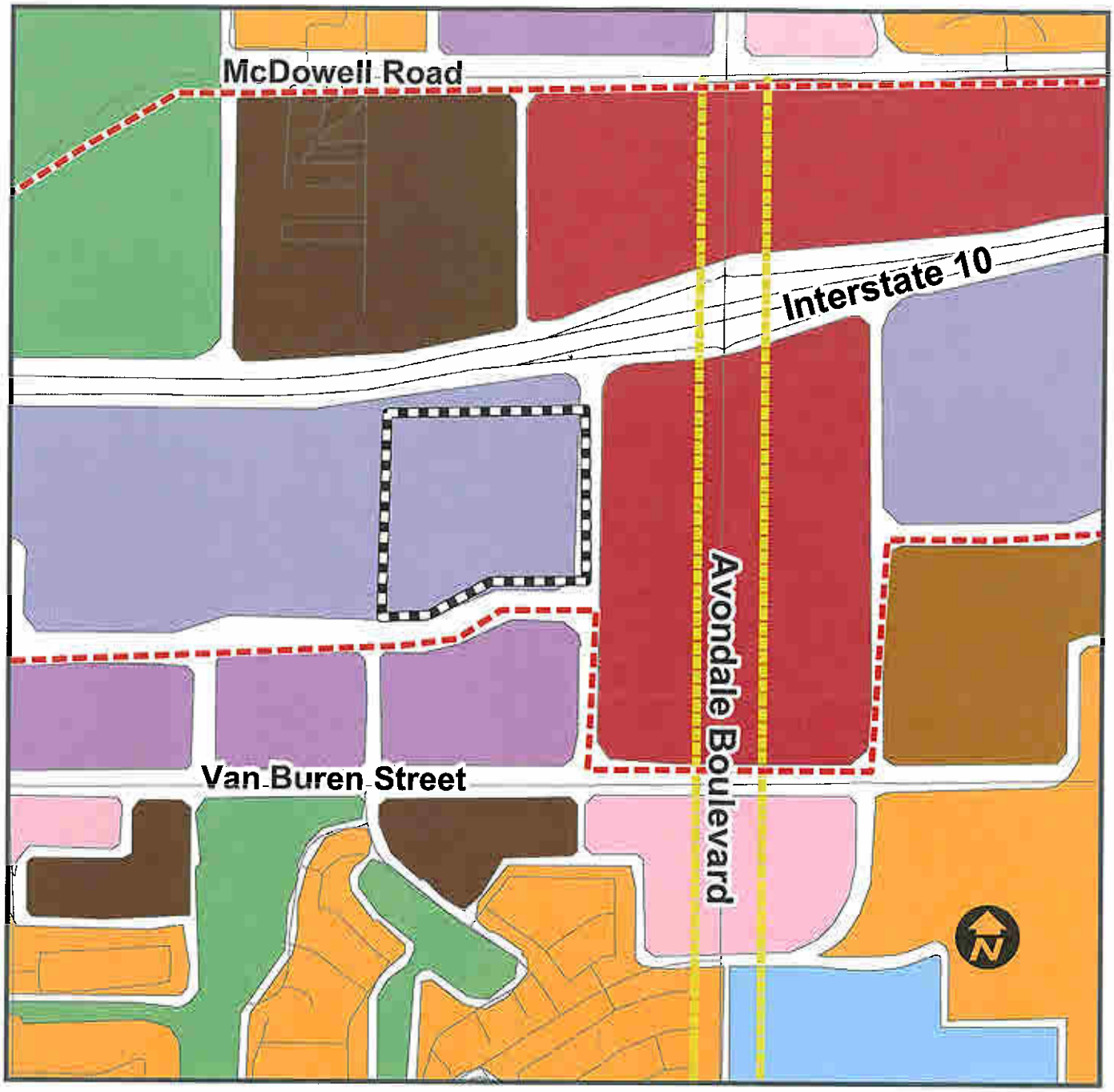
- GP-07-2 and SP-07-1 Summit Point GPA and SPA Exhibits A-I
- RES - 2671-807 Summit GP

RES - 2672-807 Summit SP

PROJECT MANAGER:

Scott Wilken, Senior Planner, 623-333-4016

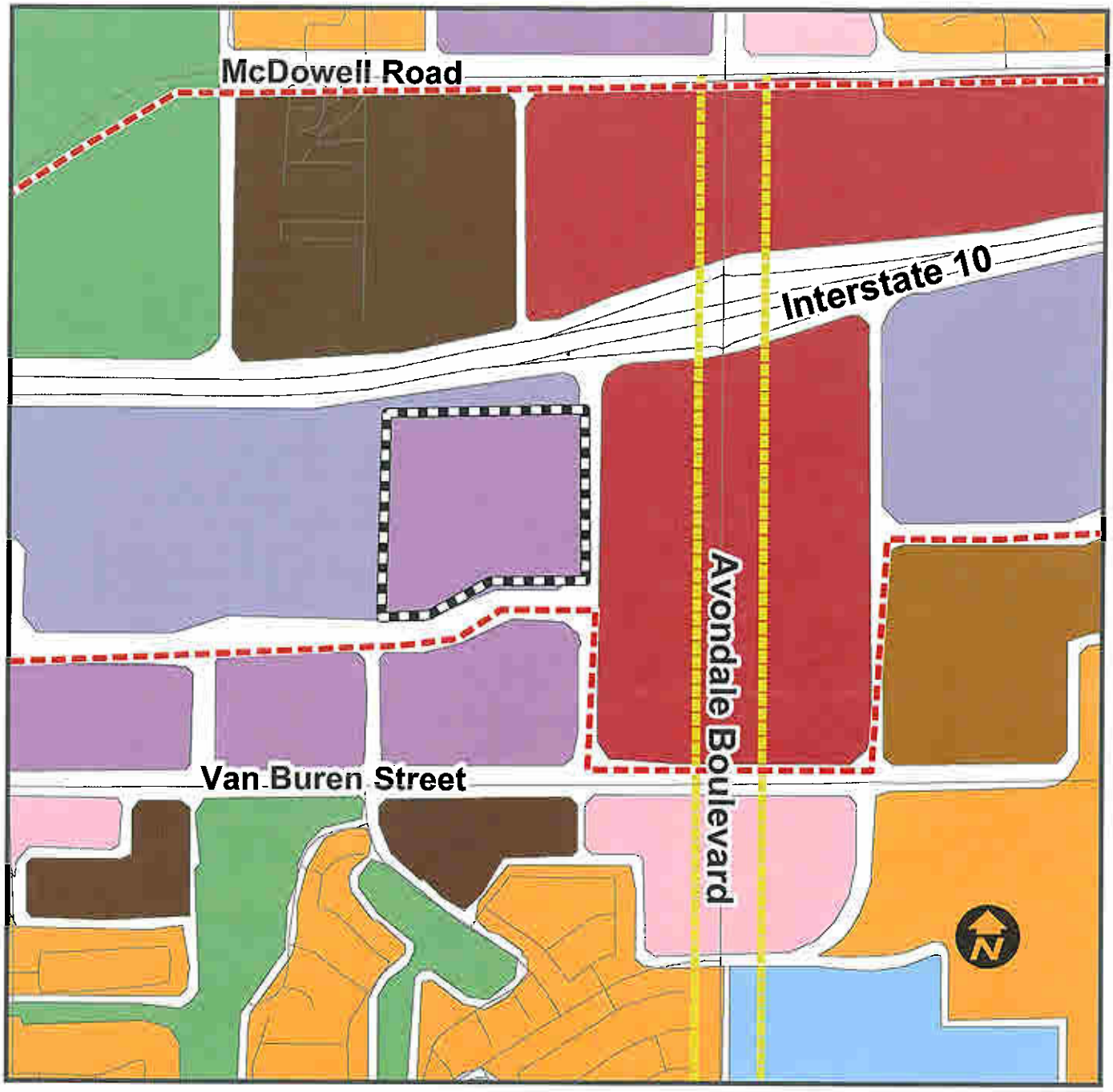
Exhibit A



Existing General Plan Land Use Map - GP-07-2

- Commercial
- Employment
- Freeway Commercial
- Medium Density Residential
- Medium High Density Residential
- Mixed Use
- Multi Family Residential
- Open Space
- Public Facilities
- Subject Property
- Growth Area
- Commercial Corridor

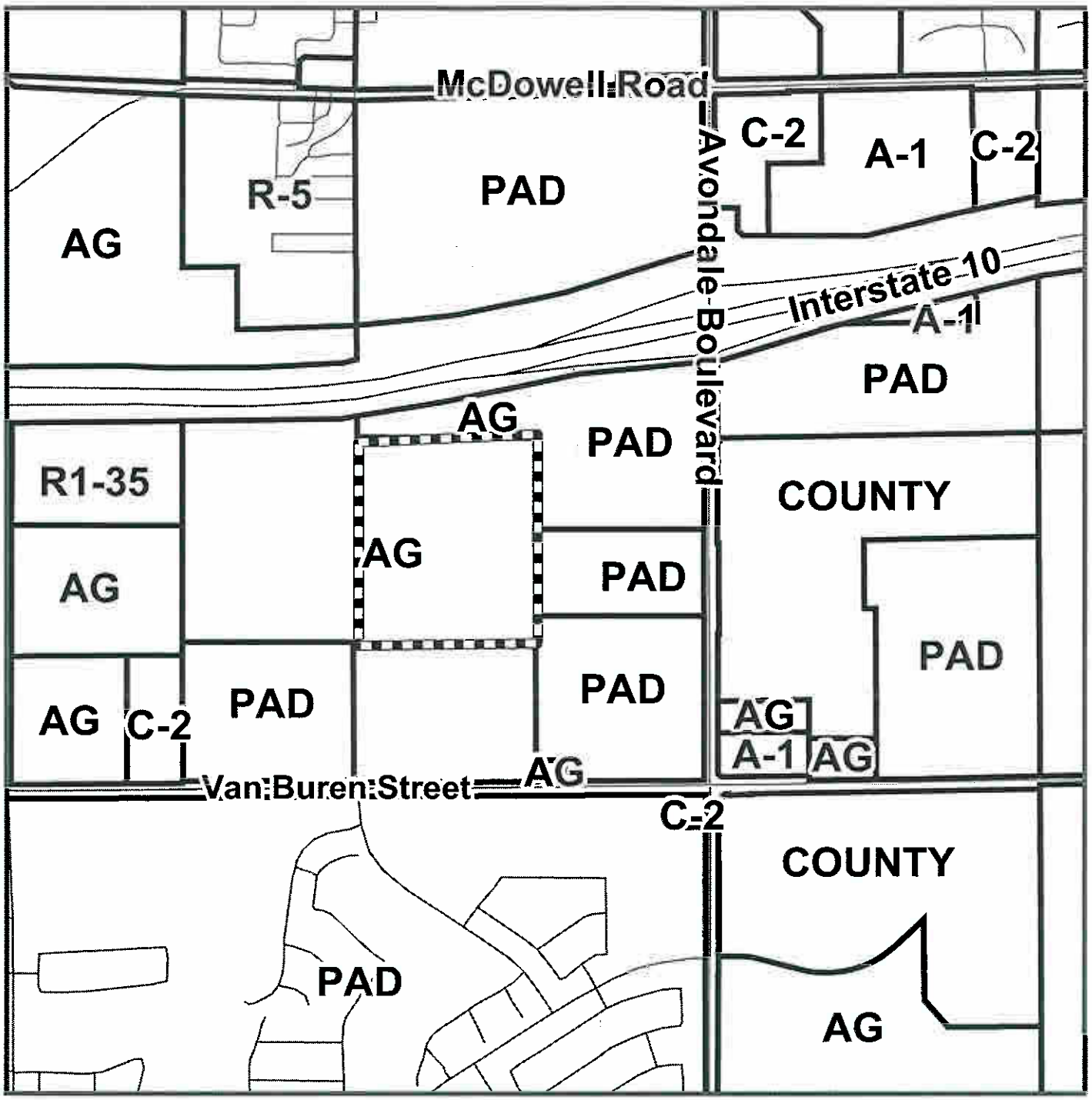
Exhibit B



Proposed General Plan Land Use Map - GP-07-2

- Commercial
- Employment
- Freeway Commercial
- Medium Density Residential
- Medium High Density Residential
- Mixed Use
- Multi Family Residential
- Open Space
- Public Facilities
- Subject Property
- Growth Area
- Commercial Corridor

Exhibit C

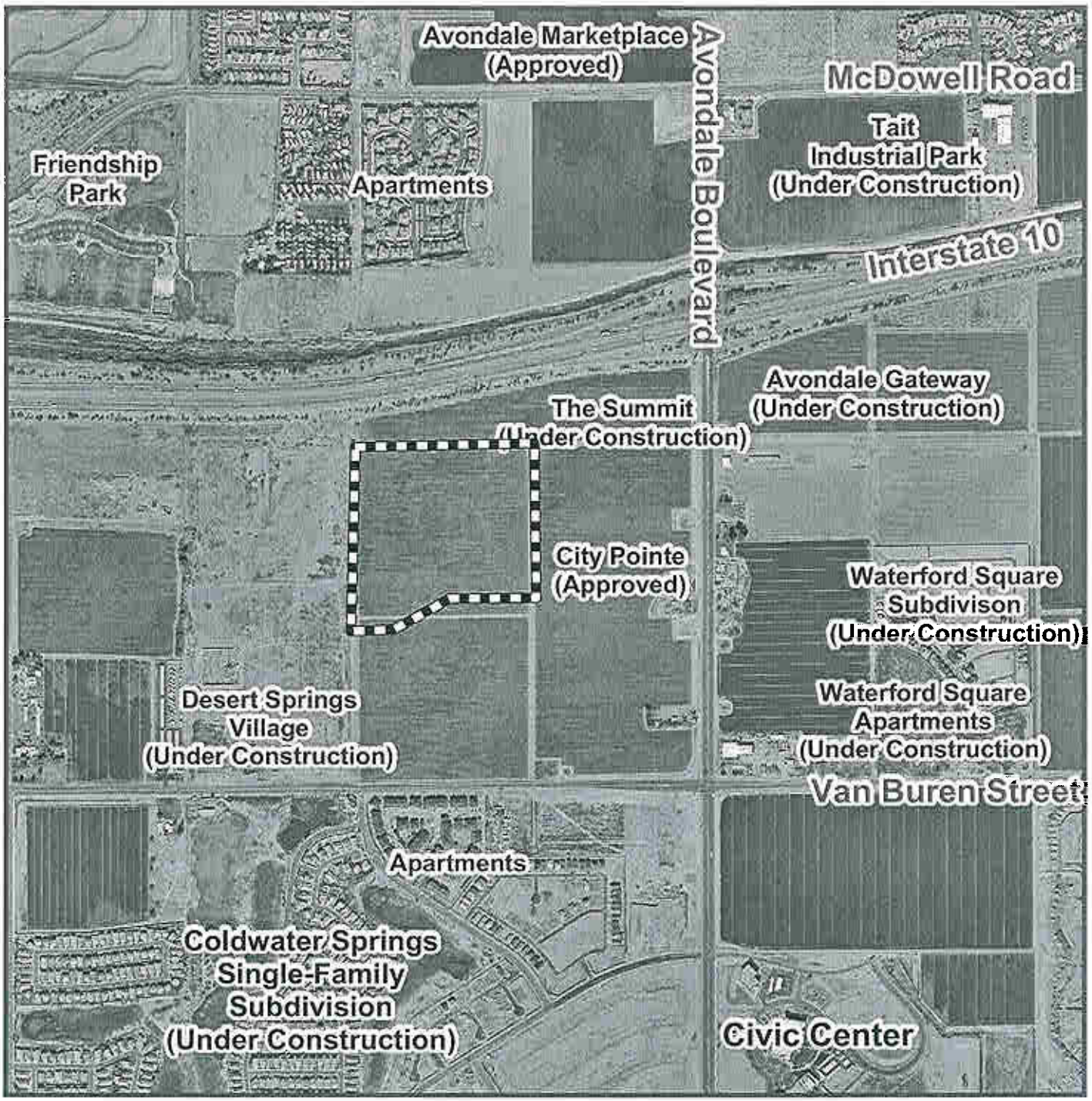


Zoning Vicinity Map
GP-07-2 & SP-07-1

Avondale

Subject Site

Exhibit D



Aerial Photo 2006
GP-07-2 & SP-07-1

Avondale

Subject Site

EXHIBIT E

TIFFANY & BOSCO
P.A.

DATE: 05.09.07
FROM: Shaine T. Alleman – Tiffany & Bosco, P.A.

PROJECT: B2B Markets – Summit Point Project
RE: General & Specific Plan Amendment Neighborhood Mtg. Summary held May 8, 2007

A neighborhood meeting was held for the Summit Point General and Specific Plan Amendment applications on May 8, 2007. The meeting was held at the City of Avondale located at 11465 W. Civic Center Drive, Avondale, Arizona 85323-6804 in the Mohave Room at 600 p.m. The purpose of the meeting was to discuss the proposed general and specific plan amendment applications that have been submitted to the City of Avondale.

I was in attendance along with Scott Wilken, Avondale Planner. No property owners or citizens attended.

Summit Point – General & Specific Plan Amendment
Neighborhood Meeting

City of Avondale – Mohave Room
11465 W. Civic Center Drive, Avondale, Arizona 85323
May 8, 2007, 6:00 p.m.

Name	Address	Phone	Email

Exhibit F

Summit Point

Major General Plan Amendment Submittal

Submitted by: Tiffany & Bosco, P.A.
On behalf of: Seven Investment Holdings, LLC
Avonnam LLC

PLANNING DIVISION
RECEIVED
JUN 2007

First Submittal: January 30, 2007
Second Submittal: May 4, 2007
Third Submittal: June 13, 2007

Narrative

Summit Point General Plan Amendment
The subject property is approximately 44.6 acres and is generally located at the northeast corner of Van Buren Street and 119th Avenue (specifically located north of proposed Corporate Drive and south of Interstate 10) (see General Plan Land Use Exhibit for detail). The property currently contains a General Plan Land Use designation of Employment and is currently zoned Agricultural (AG). The Summit Point General Plan Amendment requests a change in the land use designation on the subject property from Employment to Mixed-Use. The Summit Point development will provide an opportunity to introduce a project that will be diverse in its uses and be able to contribute to the economic viability of the community.

Legal Description
The West Half of the Southeast Quarter of Section 1, Township 1 North Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

Formal Review Criteria:

(1) Please explain how the proposed amendment may potentially impact or support the City's transportation system.
Access to the site will be from 117th and 119th Avenues off of Van Buren Street to the south, as well as from the proposed Corporate Drive from the east and another road that will be a part of the development known as "The Summit of Avondale" to the east. It is envisioned that the increase in traffic congestion by changing the Land Use designation from Employment to Mixed-Use will be relatively minor to having no effect. Mixed use projects are able to provide multiple uses on a property, which allows residents to access multiple uses at one location. This creates a reduction of automobile trips that would otherwise be created by accessing these separate uses within different areas of the City. Many of the uses allowed in the mixed use designation are the focus of the employment land use designation, which would result in a similar amount of trips generated. Furthermore, mixed use land use designations generally promote the use of transit options.

The approval of a mixed use land use designation in this area would also be appropriate given that it is located near an interstate freeway and near the City's Commercial Growth Corridor. This intensity of land use would support the vision of the General Plan in creating high density corridors and activity centers that "promote the use of transit and justify the expansion of existing service." (Avondale General Plan, page 70) The subject property is part of a development that includes the mixed-use designated property to the south. There is currently a transit route that runs along Van Buren Street and this development will be able to take advantage of the use of Avondale's transit and promote the use of alternative forms of transportation.

During the subsequent rezoning of this property the applicant will work with City staff and provide additional information regarding the specific uses that will be allowed on the property. This will in turn result in calculating possible trip generations for the property. The applicant will also comply with the City's current engineering policies and standards and work to provide solutions that will enhance the City's transportation networks.

(2) How many potential jobs will be created or lost by approving and implementing the proposed

amendment?
The proposed General Plan Amendment does not propose to eliminate any commercial or employment-related opportunities on the subject property. Also, the land use change will not have a negative impact on the City's current job-to-population ratio of .29. The subject property currently has a General Plan Land Use designation of Employment, which allows for general office and enclosed industrial uses that generate employment, along with retail and commercial uses that support these primary uses. The proposed land use designation Is Mixed Use, which allows for a high intensity of land uses including neighborhood and community retail, residential (maximum of 45%), hotel/motel, and employment.

It is anticipated that this amendment will not result in a reduction of employment opportunities, but rather that the employment opportunities will be more varied than what the property is currently designated. This will allow for the addition of numerous professional and service employment positions, and a unique activity center that will promote a multifarious employment environment for the City of Avondale.

(3) How many potential housing units would be created or lost by approving and implementing the proposed amendment?
The current General Plan Land Use designation of Employment does not allow any residential uses on the property. The approval of the Mixed Use Land Use would allow for the site to have no more than 45% of the acreage as residential. It would be impossible to determine the number of housing units that would be created with this development since residential uses and densities would need to be discussed with the City Staff during the rezoning process of this property, and subsequently approved by the City Council. However, it is not anticipated at this time for the subject property to take full advantage of the maximum percentage of residential use allowed under the mixed use designation.

(4) Is there a need for the proposed use(s) or density (ies) in the requested location? Explain.
Currently, there is only 3% of the land that is designated as Mixed Use in the General Plan. The approval of this proposal will increase the amount of land available for mixed use projects, which will support the General Plan vision of promoting economic stability by providing employment opportunities of all types and supporting an area that will support the socioeconomic goals of the City.

It will also allow a development that promotes commercial activities that are sustainable and compatible with the surrounding environment of this property. The Avondale Boulevard corridor is slated to become an important generator of commercial activities for the City. With the proximity of the subject property to the Freeway corridor and Commercial corridor Growth Areas, the unique location of this property provides the opportunity for a development that provides a diversity of employment and commercial land uses that will enhance this essential area of the City. Furthermore, this development will have the opportunity to serve as a catalyst for furthering Avondale's economy and enhancing community activity as part of this mixed use development.

(5) How will the proposed amendment affect the character and image of the adjacent area and neighborhood?
The proposed amendment will allow for an area that will enhance the character and image of the adjacent areas. As discussed previously, the subject property is uniquely located in the Freeway Corridor Growth Area and adjacent to the Commercial Corridor Growth Area. A mixed-use land designation will provide a diversity and intensity of land uses that support surrounding land uses. By providing a mixture of

commercial office and retail, residential, industrial, and employment uses in this area, there will be an opportunity to provide an attractive, vibrant, and active mixed-use area that will be home to a diverse climate that enhances the area.

The Summit Point development will work with City staff in the rezoning stage to ensure that appropriate transitions are maintained between adjacent land uses so that the image and character of this area will be maintained.

(6) Please explain how the proposed amendment may potentially impact the natural environment, including, but not limited to, hillsides, riparian areas, and floodways.

The proposed amendment will not negatively impact the natural environment as the subject property is currently vacant and has been used for agricultural production for unknown length of time. The subject property is generally flat, thereby posing no threat to hillsides. The subject property is not adjacent to a riparian area, and the subject property is located outside of the 100-year flood zone.

(7) How would the proposed amendment contribute to achieving the job to population ratio, square foot per capita ratio, and multi-family housing ratio identified within the 2002 Plan?

The proposed General Plan Amendment will not have a negative impact on the City's current job-to-population ratio of .29. The proposed General Plan Amendment does not propose to eliminate any commercial or employment-related opportunities on the subject property, but rather it is meant to provide a balance of retail, commercial, and employment land uses, thus providing an increase of diverse jobs that will help meet Avondale's goal of providing .5 jobs per resident. The inclusion of any residential land use on this property will be in accordance with Avondale's goals and policies and will be aimed at furthering employment opportunities that are sustainable for the community. This General Plan states that, "retail activities add to the job base and provide sales tax that contributes revenue to the general fund to help pay for services...(a) mix of employment provided by all of these commercial uses can also help to shorten commute times, reduce environmental pollution, and reduce traffic congestion by creating a variety of employment opportunities available to residents within Avondale."(page 31) The proposed amendment of mixed-use will be aimed at promoting this goal in the City.

It is anticipated that this amendment will not result in a reduction of employment opportunities, but rather that the employment opportunities will be increased and be more varied than what the property is currently designated. This will allow for the addition of numerous professional and service employment positions that will serve to achieve the employment goals as stated in the General Plan.

(8) What impact would the proposed amendment have on City services and facilities, including, but not limited to, police, fire, water, and wastewater?

The proposed General Plan Amendment should not have a significant negative impact on Avondale's City services. There will be a slight increase of services needed because of the nature of the intensity of mixed use developments. However, the proposed amendment will not burden the City of Avondale with regards to needing additional extensions of utility infrastructure since there is an existing 36" water line with adequate capacity in Van Buren and an existing 36" sewer line with adequate capacity in 119th Avenue.

Adequate connections to serve the project will be built at the developer's cost. These exact locations and the size of the infrastructure for the property will be determined during the Master Site Plan phase.

(9) How would the proposed amendment contribute to accomplishing the goals of the 2002 Plan?
The proposed amendment would compliment the following Goals of the 2002 General Plan:

General Plan Vision (page 10)

- **Employment Opportunities of all types providing economic stability.**
- **Commercial activities that are sustainable and compatible with our neighborhoods and environment.**
- **Creating a commercial corridor along 115th Avenue to provide employment for residents and services to residents and visitors.**
- **Reserving land along I-10 and 99th Avenue for commercial and industrial development that provide a range of employment opportunities for our residents and contribute to our City's economy.**

All of these statements are promoted within this proposed General Plan amendment. It is the goal of the applicant to have the opportunity to provide a unique development that will have diverse land uses including retail, commercial, industrial, residential, and employment. This diversity will add to a stable and sustainable economy that will enhance the City of Avondale.

Land Use Element – Goal 1:
Maintain a demographically and culturally diverse sustainable community that celebrates its heritage.
The proposed General Plan Amendment works to encourage the development of a unique area within the City. The convergence of the Freeway and Commercial Corridor growth areas at this property provides opportunity for an intense mixed area that will promote diversity and sustainability.

Land Use Element – Goal 2:
Ensure land uses meet the long-term social and economic goals of the community.
Avondale is changing rapidly and the applicant is aware of the importance of considering the long-term benefits of land use designations. The proposed General Plan Amendment seeks to provide a unique mixed-use development that will adhere to the goals of the General Plan and Freeway Corridor Specific Plan.

Land Use Element – Goal 3:
Plan land uses to minimize conflicts between them.
The proposed General Plan Amendment will not adversely impact adjacent land uses, but will provide for a high-quality, mixed-use development that is compatible with the intensity that is envisioned along the I-10 Corridor. The nearest residential community is southwest of the site and this will be considered in all rezoning and planning of the development on this property. This will be accomplished with development standards, landscaping, and perimeter walls adjacent to any incompatible uses. It is the intent of the applicant to effectively blend in with and compliment this area of the City, thus enhancing the character and image of Avondale. Furthermore, the approved land use will be positive complement to the development located to the east, known as "The Summit at Avondale."

Land Use Element – Goal 4:

Encourage development patterns that use land in an efficient and sustainable way.

This General Plan Amendment proposes that an intense mixed use land designation is an ideal land use designation at this location in Avondale. This area is envisioned as a higher density, intensely developed area that will promote the goals of the City. The proposed amendment will allow for a more efficient and sustainable use of land than the typical conventional commercial land designations that typically provide for one type of land use. By allowing a Mixed Use land use designation, the development will be able to provide a mixture of uses that will allow residents to access multiple uses at one location. This creates a reduction of automobile trips that would otherwise be created by accessing these separate uses within different areas of the City.

Cost of Development Element – Goal 2:

Preserve and enhance the existing level of public services for residents and businesses.

The proposed General Plan Amendment will not have a negative impact on the existing level of public services. The subject property currently has adequate services to the property for providing the necessary services.

Land Use Element – Goal 6:

Promote regional land use planning and coordination within neighboring communities in order to provide more sustainable land use patterns.

The applicant is ready and willing to work on a regional scale to promote land uses that will benefit communities on a regional scale. Planning will be done in a way that minimizes land use conflicts across jurisdictional boundaries. It is the intent of the property owner to pursue regional-type business that will contribute to the social and economic goals of the City.

Economic Element – Goal 1:

Plan land uses to support a diverse range of sustainable economic opportunity.

The proposed General Plan Amendment seeks to diversify the employment opportunities of Avondale by providing a mixed-use development that provides a variety of employment opportunities through a mixture of commercial, office, retail, industrial, and residential land uses. The existing land use designation of employment focuses on limited types of employment, while the proposal will create a variety of employment, retail, and living opportunities for new and existing residents. This diversity will add to the stability and sustainability of Avondale's economy.

Economic Element – Goal 2:

Continue to participate in regional economic development efforts.

The proposed General Plan Amendment is aimed at promoting economic development that will participate in the regional economic efforts of the West Valley. It is anticipated that the mixed-use development that will be allowed by the approval of this amendment, will increase the City's sales tax revenues by tapping into nearby regional "captive" markets for retail, commercial, and industrial uses. The property owner is pursuing ready to pursue regional-type land uses and will work with the City to ensure that these efforts are properly coordinated with City staff.

The proposed General Plan Amendment will not have a negative impact on the remainder of the goals

outlined in the City's General Plan.

(10) Why does the development pattern contained on the Land Use Plan inadequately provide the appropriate optional sites for the use and/or change you are proposing?

Currently, there is only 3% of the land that is designated as Mixed Use in the General Plan. This does not provide many sites that fit this land use category. Most of the Mixed Use land designations are aligned near the I-10 Freeway Corridor and the approval of this proposal will merely increase the amount of land available in this area for mixed use projects. This will further support the General Plan by providing a location for new retail and employment uses that will be appropriate for the intense areas near the freeway. The I-10 corridor is also a prime location for maximum exposure for the retail emphasis of mixed-use developments. The approval will also further the General Plan by providing an area for an attractive and unique development that will provide a "destination" place in an area that is unique to the City. This development has very few areas within the City that it could locate in order to make it successful. The access to the freeway, arterials of Van Buren and Avondale Boulevard, and the proximity to the Commercial Corridor provide an extraordinary opportunity for providing a quality mixed-use development for the City of Avondale.

(11) How does the amendment constitute an overall improvement to the 2002 Plan? Provide proof that the proposed amendment is not solely for the good or benefit of a particular landowner or owners.

The proposed amendment will definitely constitute an overall improvement to the 2002 General Plan. The subject property is in a unique location of being in the Freeway corridor and adjacent to the Commercial corridor Growth Areas of the City. It is also located adjacent to the development to the east, "The Summit at Avondale", and will be an added benefit to the area. This provides an opportunity for the City to capitalize on an area that can be an important economic generator for increasing tax revenues.

The development of a mixture of uses at this location will provide a destination that can provide the business, shopping, entertainment, residential, community, social, and cultural elements that attract a full range of market and community oriented interest that will serve the existing and future residents of the local area and surrounding region. Furthermore, the approval of this proposed general plan amendment will provide the opportunity to create a sustainable community that offers employment for new and existing resident alike.

This will in turn maximize the City's sales tax revenues and increase funding for City facilities and services, while also being able to develop in an efficient manner that maximizes infrastructure.

(12) Please explain how the proposed amendment will not adversely impact the community as a whole or a portion of the community by: a. significantly altering the acceptable land use patterns; b. requiring larger and more expensive public infrastructure improvements; and, c. adversely impacting the existing land uses.

This has been a focus throughout the proceeding narrative as many of the Goals, Objective, and Policies of the General Plan have been discussed. In summary, the proposed amendment would include a minor increase of intensity of land use compared to the previous land use designation of Employment. However, the Mixed Use category allows for a decrease in the generation of trips and the ability to internally capture

some of the trips from any approved residential in the development. The proposed amendment will not significantly alter the current acceptable land use patterns surrounding the subject property, thereby posing no adverse impact on the community as a whole, or on the portion of the community surrounded by the subject property. It is the intent to provide a development that is compatible and complimentary to surrounding land uses. The applicant will work with City staff during the rezoning and site planning stages to ensure that any adverse impacts are mitigated.

(13) Is the proposed amendment consistent with the overall intent of the 2002 Plan and other adopted plans, codes, and ordinance? If not, how?

The Summit Point General Plan Amendment recognizes the importance of the public review process and the correlation with the Goals, Objectives, and Policies outlined in the City of Avondale's General Plan and Freeway Corridor Specific Plan. The proposed amendment is consistent with the overall spirit and intent of the 2002 General Plan, the Freeway Corridor Specific Plan, and with the City's codes and Ordinances as outlined in the above answered questions.

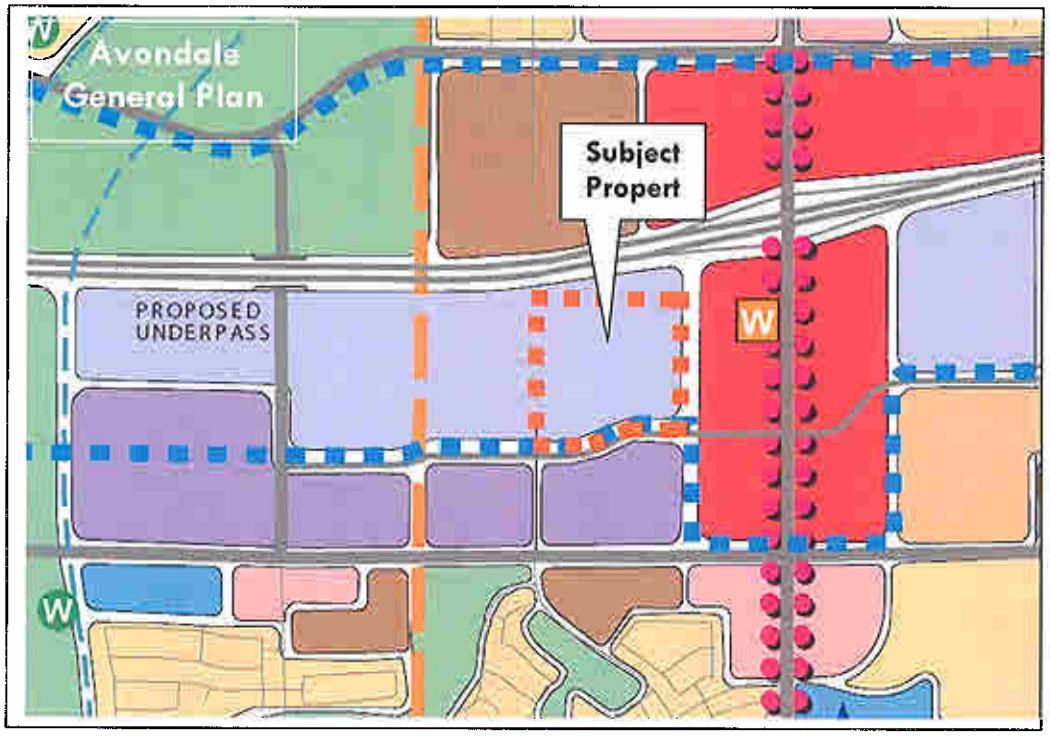
The Summit Point development is committed to working with City staff in the rezoning and site planning stages to ensure that all Goals, Objectives, and Policies are incorporated in the development of the property.

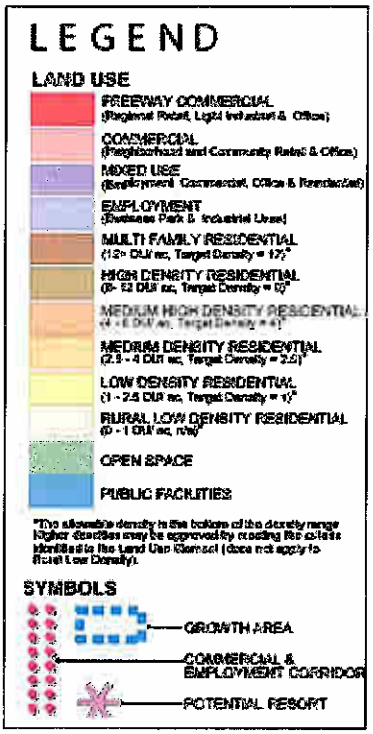
Flood Zone determination

The portion of the parcel that is the subject of this request is located outside of the 100-year flood plain and is classified as Zone A.

GENERAL PLAN LAND USE

Project Location	Generally located at the northeast corner Van Buren Street and 119th Avenue (specifically located north of proposed Corporate Drive, south of Interstate 10)
Current Land Use Designation	Employment (Business Park & Industrial Uses)
Proposed Land Use Designation	Mixed Use (Employment, Commercial, Retail & Office)





CONTEXT PLAN

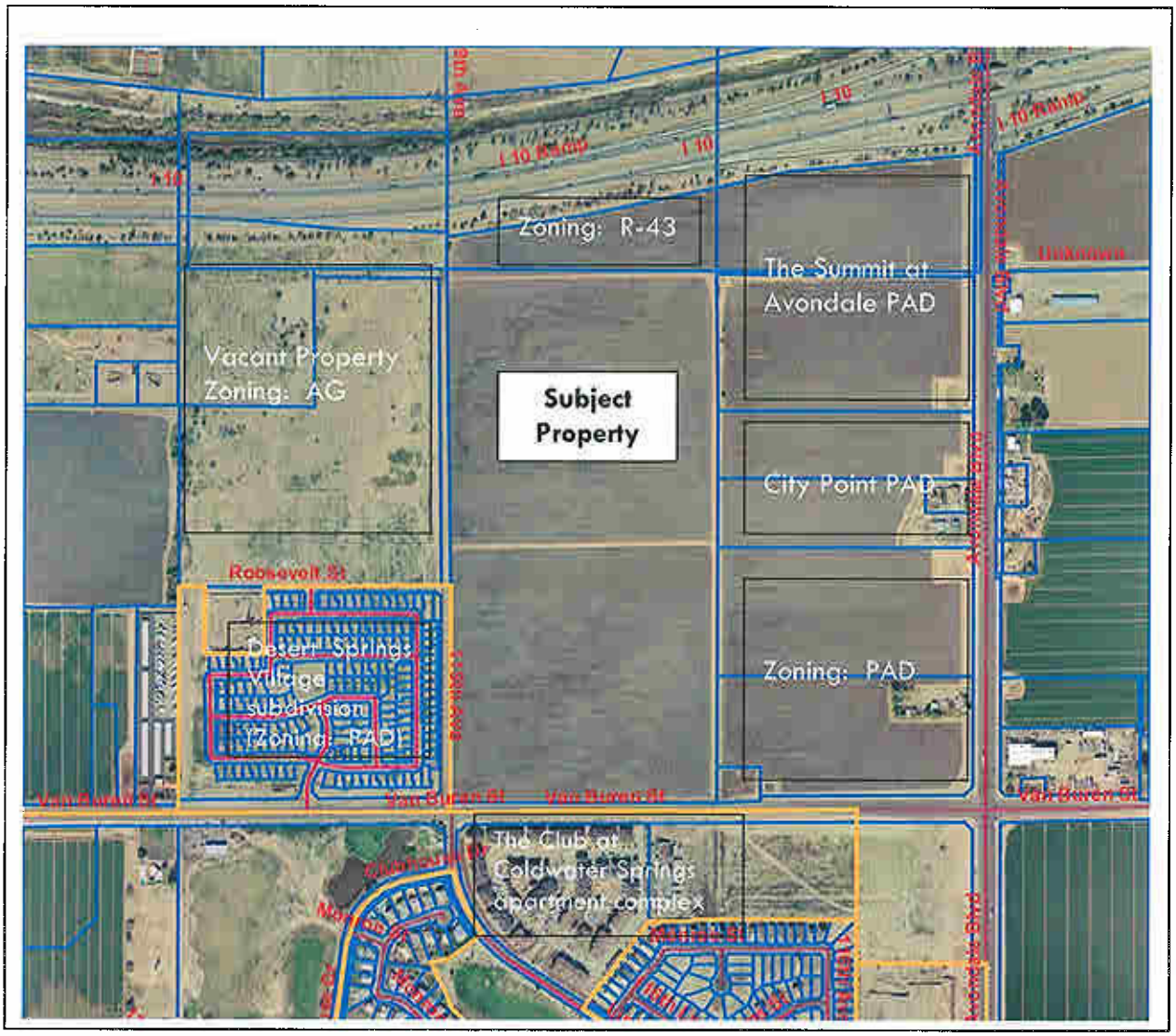


Exhibit G

Summit Point

Freeway Corridor Specific Plan Amendment Submittal

Submitted by: Tiffany & Bosco, P.A.
On behalf of: Seven Investment Holdings, LLC
Avonnam LLC

PLANNING DIVISION
RECEIVED
JUN 2007

First Submittal: January 30, 2007
Second Submittal: May 4, 2007
Third Submittal: June 13, 2007

Narrative

Summit Point General Plan Amendment
The subject property is approximately 44.6 acres and is generally located at the northeast corner of Van Buren Street and 119th Avenue (specifically located north of proposed Corporate Drive and south of Interstate 10) (see General Plan Land Use Exhibit for detail). The property currently contains a General Plan Land Use designation of Employment and is currently zoned Agricultural (AG). The Summit Point General Plan Amendment requests a change in the land use designation on the subject property from Employment to Mixed-Use. The Summit Point development will provide an opportunity to introduce a project that will be diverse in its uses and be able to contribute to the economic viability of the community.

Legal Description
The West Half of the Southeast Quarter of Section 1, Township 1 North Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

Formal Review Criteria:

(1) Please explain how the proposed amendment may potentially impact or support the City's transportation system.
Access to the site will be from 117th and 119th Avenues off of Van Buren Street to the south, as well as from the proposed Corporate Drive from the east and another road that will be a part of the development known as "The Summit of Avondale" to the east. It is envisioned that the increase in traffic congestion by changing the Land Use designation from Employment to Mixed-Use will be relatively minor to having no effect. Mixed use projects are able to provide multiple uses on a property, which allows residents to access multiple uses at one location. This creates a reduction of automobile trips that would otherwise be created by accessing these separate uses within different areas of the City. Many of the uses allowed in the mixed use designation are the focus of the employment land use designation, which would result in a similar amount of trips generated. Furthermore, mixed use land use designations generally promote the use of transit options.

The approval of a mixed use land use designation in this area would also be appropriate given that it is located near an interstate freeway and near the City's Commercial Growth Corridor. This intensity of land use would support the vision of the General Plan in creating high density corridors and activity centers that "promote the use of transit and justify the expansion of existing service." (Avondale General Plan, page 70) The subject property is part of a development that includes the mixed-use designated property to the south. There is currently a transit route that runs along Van Buren Street and this development will be able to take advantage of the use of Avondale's transit and promote the use of alternative forms of transportation.

During the subsequent rezoning of this property the applicant will work with City staff and provide additional information regarding the specific uses that will be allowed on the property. This will in turn result in calculating possible trip generations for the property. The applicant will also comply with the City's current engineering policies and standards and work to provide solutions that will enhance the City's transportation networks.

(2) How many potential jobs will be created or lost by approving and implementing the proposed amendment?

The proposed General Plan Amendment does not propose to eliminate any commercial or employment-related opportunities on the subject property. Also, the land use change will not have a negative impact on the City's current job-to-population ratio of .29. The subject property currently has a General Plan Land Use designation of Employment, which allows for general office and enclosed industrial uses that generate employment, along with retail and commercial uses that support these primary uses. The proposed land use designation Is Mixed Use, which allows for a high intensity of land uses including neighborhood and community retail, residential (maximum of 45%), hotel/motel, and employment.

It is anticipated that this amendment will not result in a reduction of employment opportunities, but rather that the employment opportunities will be more varied than what the property is currently designated. This will allow for the addition of numerous professional and service employment positions, and a unique activity center that will promote a multifarious employment environment for the City of Avondale.

(3) How many potential housing units would be created or lost by approving and implementing the proposed amendment?

The current General Plan Land Use designation of Employment does not allow any residential uses on the property. The approval of the Mixed Use Land Use would allow for the site to have no more than 45% of the acreage as residential. It would be impossible to determine the number of housing units that would be created with this development since residential uses and densities would need to be discussed with the City Staff during the rezoning process of this property, and subsequently approved by the City Council. However, it is not anticipated at this time for the subject property to take full advantage of the maximum percentage of residential use allowed under the mixed use designation.

(4) Is there a need for the proposed use(s) or density (ies) in the requested location? Explain.

Currently, there is only 3% of the land that is designated as Mixed Use in the General Plan. The approval of this proposal will increase the amount of land available for mixed use projects, which will support the General Plan vision of promoting economic stability by providing employment opportunities of all types and supporting an area that will support the socioeconomic goals of the City.

It will also allow a development that promotes commercial activities that are sustainable and compatible with the surrounding environment of this property. The Avondale Boulevard corridor is slated to become an important generator of commercial activities for the City. With the proximity of the subject property to the Freeway corridor and Commercial corridor Growth Areas, the unique location of this property provides the opportunity for a development that provides a diversity of employment and commercial land uses that will enhance this essential area of the City. Furthermore, this development will have the opportunity to serve as a catalyst for furthering Avondale's economy and enhancing community activity as part of this mixed use development.

(5) How will the proposed amendment affect the character and image of the adjacent area and neighborhood?

The proposed amendment will allow for an area that will enhance the character and image of the adjacent areas. As discussed previously, the subject property is uniquely located in the Freeway Corridor Growth Area and adjacent to the Commercial Corridor Growth Area. A mixed-use land designation will provide a diversity and intensity of land uses that support surrounding land uses. By providing a mixture of commercial office and retail, residential, industrial, and employment uses in this area, there will be an opportunity to provide an attractive, vibrant, and active mixed-use area that will be home to a diverse

climate that enhances the area.

The Summit Point development will work with City staff in the rezoning stage to ensure that appropriate transitions are maintained between adjacent land uses so that the image and character of this area will be maintained.

(6) Please explain how the proposed amendment may potentially impact the natural environment, including, but not limited to, hillsides, riparian areas, and floodways.

The proposed amendment will not negatively impact the natural environment as the subject property is currently vacant and has been used for agricultural production for unknown length of time. The subject property is generally flat, thereby posing no threat to hillsides. The subject property is not adjacent to a riparian area, and the subject property is located outside of the 100-year flood zone.

(7) Please explain the impact the proposed amendment would have on the following: a. police services; b. fire services; and, c. water services/wastewater services.

The proposed Specific Plan Amendment should not have a significant negative impact on Avondale's City services. There will be a slight increase of services needed because of the nature of the intensity of mixed use developments. However, the proposed amendment will not burden the City of Avondale with regards to needing additional extensions of utility infrastructure since there is an existing adequate water line in Van Buren and an existing adequate sewer line in 119th Avenue. Adequate connections to serve the project will be built at the developer's cost. These exact locations and the size of the infrastructure for the property will be determined during the Master Site Plan phase.

(8) How would the proposed amendment contribute to accomplishing the goals of the Freeway Corridor Specific Plan?

The proposed amendment would compliment the following Goals of the Freeway Corridor Specific Plan:

<u>II. Specific Plan Objectives (page 3)</u>

A. **Mixed Use Potential**
B. **Community Identity**
C. **Economic Development**

All of these objectives are promoted and encouraged within this proposed Specific Plan amendment. It is the goal of the applicant to have the opportunity to provide a unique mixed-use development that will have diverse land uses including retail, commercial, industrial, residential, and employment. This diversity of land uses will add to a stable and sustainable economy that will enhance both the Community Identity and Economic Development of the City of Avondale.

<u>Land Use Element</u>

The proposed Specific Plan Amendment works to encourage the development of a unique area within the City. The convergence of the Freeway and Commercial Corridor growth areas at this property provides opportunity for an intense mixed area that will encourage a full spectrum of regional and community services, employment opportunities, to establish a "destination" location where people can live in close proximity to their work.

The Freeway Corridor Specific Plan explicitly refers to the freeway corridor as being appropriate for high intensity mixed-use development. Avondale is changing rapidly and the applicant is aware of the importance of considering the long-term benefits of the land use designations that are discussed in the Specific Plan. This amendment will not adversely impact adjacent land uses, but will provide for a high-quality, mixed-use development that is compatible with the intensity that is envisioned along the I-10 Corridor. It is the intent of the applicant to effectively blend in with and compliment this area of the City, thus enhancing the character and image of Avondale. Furthermore, the approved land use will be positive complement to the development located to the east, known as "The Summit at Avondale."

This Specific Plan Amendment proposes that an intense mixed use land designation is an ideal area to provide for the highest and best economic development of the property. This area is expected to promote the Specific Plan by function as the economic heart of Avondale with intensive office uses, community and regional retail uses, and some residential.

This use will help to realize the goal of transforming this area into a "gateway" to the Phoenix metropolitan area. The Specific Plan also encourages regional uses in this area that will reach outside a 5-mile radius by providing national or regionally based users that will attract customers to the City of Avondale. The proposed amendment will allow this property to accommodate these types of users and increase the economic vitality of the City. The applicant is ready and willing to work on a regional scale to promote land uses that will benefit the community on a regional scale and increase the tax revenues of the City.

The proposed amendment will allow for a more efficient and sustainable use of land than the typical conventional commercial land designations that typically provide for one type of land use. By allowing a Mixed Use land use designation, the development will be able to provide a mixture of uses that will allow residents to access multiple uses at one location. This creates a reduction of automobile trips that would otherwise be created by accessing these separate uses within different areas of the City.

Circulation Element

The proposed Specific Plan Amendment area is located in a unique are that will contribute to the goals related to transportation and circulation. By allowing for a mixed use designation on this property, this unique development will be able to adhere to the Circulation goals of capitalizing on Avondale's interstate and metropolitan advantages. The exposure of this property to the I-10 freeway will be beneficial to increasing the economic benefits that will be available to the mixture of uses that will be allowed on the property.

Mixed use projects are able to provide multiple uses on a property, which allows residents to access multiple uses at one location. This creates a reduction of automobile trips that would otherwise be created by accessing these separate uses within different areas of the City. The potential for meeting the goals of transit in the Specific Plan are also greater with a mixed-use designation because of the intensity and increased residents that are using the development.

The proposed Specific Plan Amendment will not have a negative impact on the remainder of the goals outlined in the Freeway Corridor Specific Plan.

(9) Why does the development pattern contained on the Land Use Plan inadequately provide the appropriate optional sites for the use and/or change you are proposing?
Currently, there is only 3% of the land that is designated as Mixed Use in the General Plan. This does not provide many sites that fit this land use category. Most of the Mixed Use land designations are aligned near the I-10 Freeway Corridor and the approval of this proposal will merely increase the amount of land available in this area for mixed use projects. This will further support the General Plan by providing a location for new retail and employment uses that will be appropriate for the intense areas near the freeway. The I-10 corridor is also a prime location for maximum exposure for the retail emphasis of mixed-use developments. The approval will also further the General Plan by providing an area for an attractive and unique development that will provide a "destination" place in an area that is unique to the City. This development has very few areas within the City that it could locate in order to make it successful. The access to the freeway, arterials of Van Buren and Avondale Boulevard, and the proximity to the Commercial Corridor provide an extraordinary opportunity for providing a quality mixed-use development for the City of Avondale.

(10) How does the amendment constitute an overall improvement to the Specific Plan? Provide proof that the proposed amendment is not solely for the good or benefit of a particular landowner or owners.
The proposed amendment will definitely constitute an overall improvement to the 2002 General Plan. The subject property is in a unique location of being in the Freeway corridor and adjacent to the Commercial corridor Growth Areas of the City. It is also located adjacent to the development to the east, "The Summit at Avondale", and will be an added benefit to the area. This provides an opportunity for the City to capitalize on an area that can be an important economic generator for increasing tax revenues.

The development of a mixture of uses at this location will provide a destination that can provide the business, shopping, entertainment, residential, community, social, and cultural elements that attract a full range of market and community oriented interest that will serve the existing and future residents of the local area and surrounding region. Furthermore, the approval of this proposed general plan amendment will provide the opportunity to create a sustainable community that offers employment for new and existing resident alike.

This will in turn maximize the City's sales tax revenues and increase funding for City facilities and services, while also being able to develop in an efficient manner that maximizes infrastructure.

(11) Please explain how the proposed amendment will not adversely impact the Specific Plan area by: a. significantly altering the acceptable land use patterns; b. requiring larger and more expensive public infrastructure improvements; and, c. adversely impacting the existing land uses.
This has been a focus throughout the proceeding narrative as many of the Goals, Objective, and Policies of the Specific and General Plan have been discussed. In summary, the proposed amendment would include a minor increase of intensity of land use compared to the previous land use designation of Employment. However, the Mixed Use category allows for a decrease in the generation of trips and the ability to internally capture some of the trips from any approved residential in the development. The proposed amendment will not significantly alter the current acceptable land use patterns surrounding the subject property, thereby posing no adverse impact on the community as a whole, or on the portion of the

community surrounded by the subject property. It is the intent to provide a development that is compatible and complimentary to surrounding land uses. The applicant will work with City staff during the rezoning and site planning stages to ensure that any adverse impacts are mitigated.

(12)Please explain how the proposed amendment is consistent with the overall intent of the Specific Plan, 2002 Plan and other adopted plans, codes, and ordinance.

The Summit Point Specific Plan Amendment recognizes the importance of the public review process and the correlation with the Goals, Objectives, and Policies outlined in the City of Avondale's General Plan and Freeway Corridor Specific Plan. The proposed amendment is consistent with the overall spirit and intent of the 2002 General Plan, the Freeway Corridor Specific Plan, and with the City's codes and Ordinances as outlined in the above answered questions.

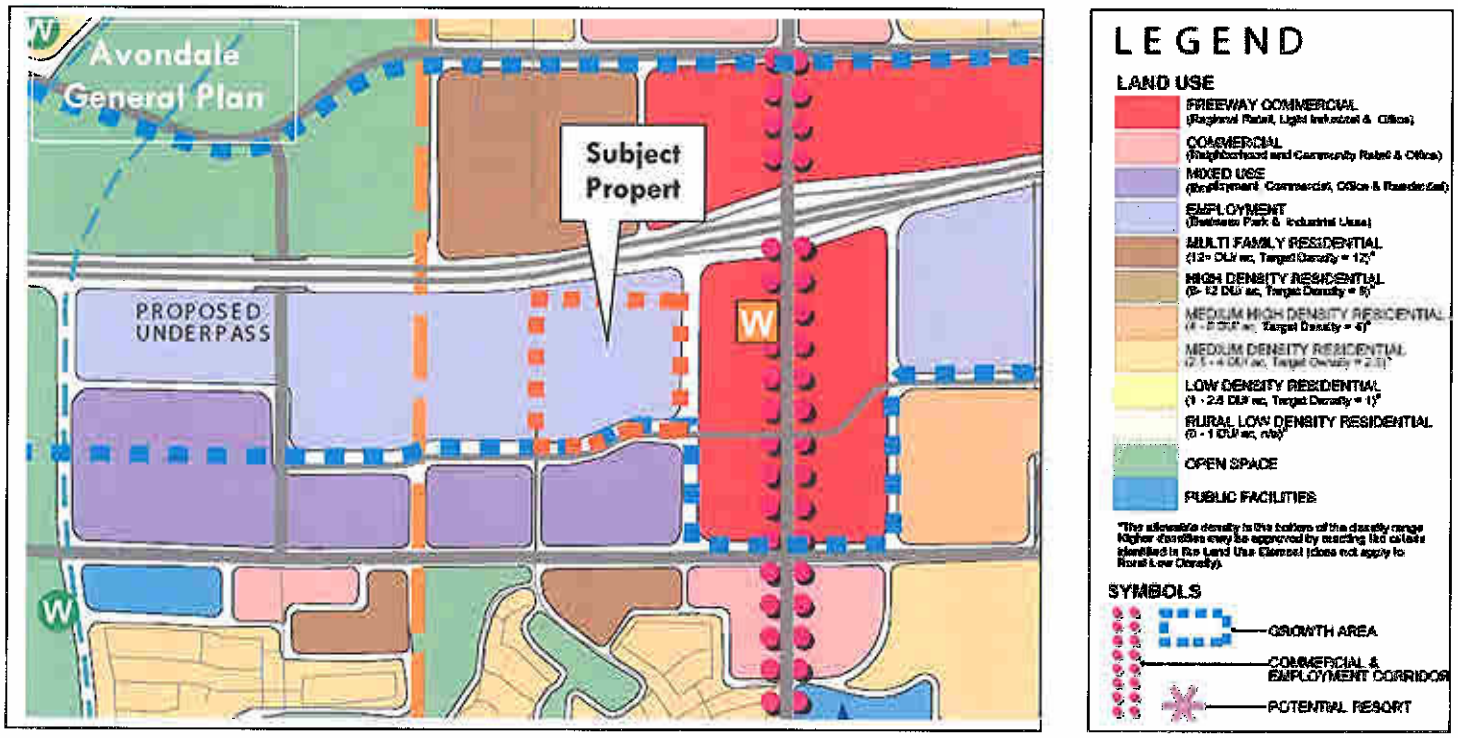
The Summit Point development is committed to working with City staff in the rezoning and site planning stages to ensure that all Goals, Objectives, and Policies are incorporated in the development of the property.

Flood Zone determination

The portion of the parcel that is the subject of this request is located outside of the 100-year flood plain and is classified as Zone A.

GENERAL PLAN LAND USE

Project Location	Generally located at the northeast corner Van Buren Street and 119th Avenue (specifically located north of proposed Corporate Drive, south of Interstate 10)
Current Land Use Designation	Employment (Business Park & Industrial Uses)
Proposed Land Use Designation	Mixed Use (Employment, Commercial, Retail & Office)



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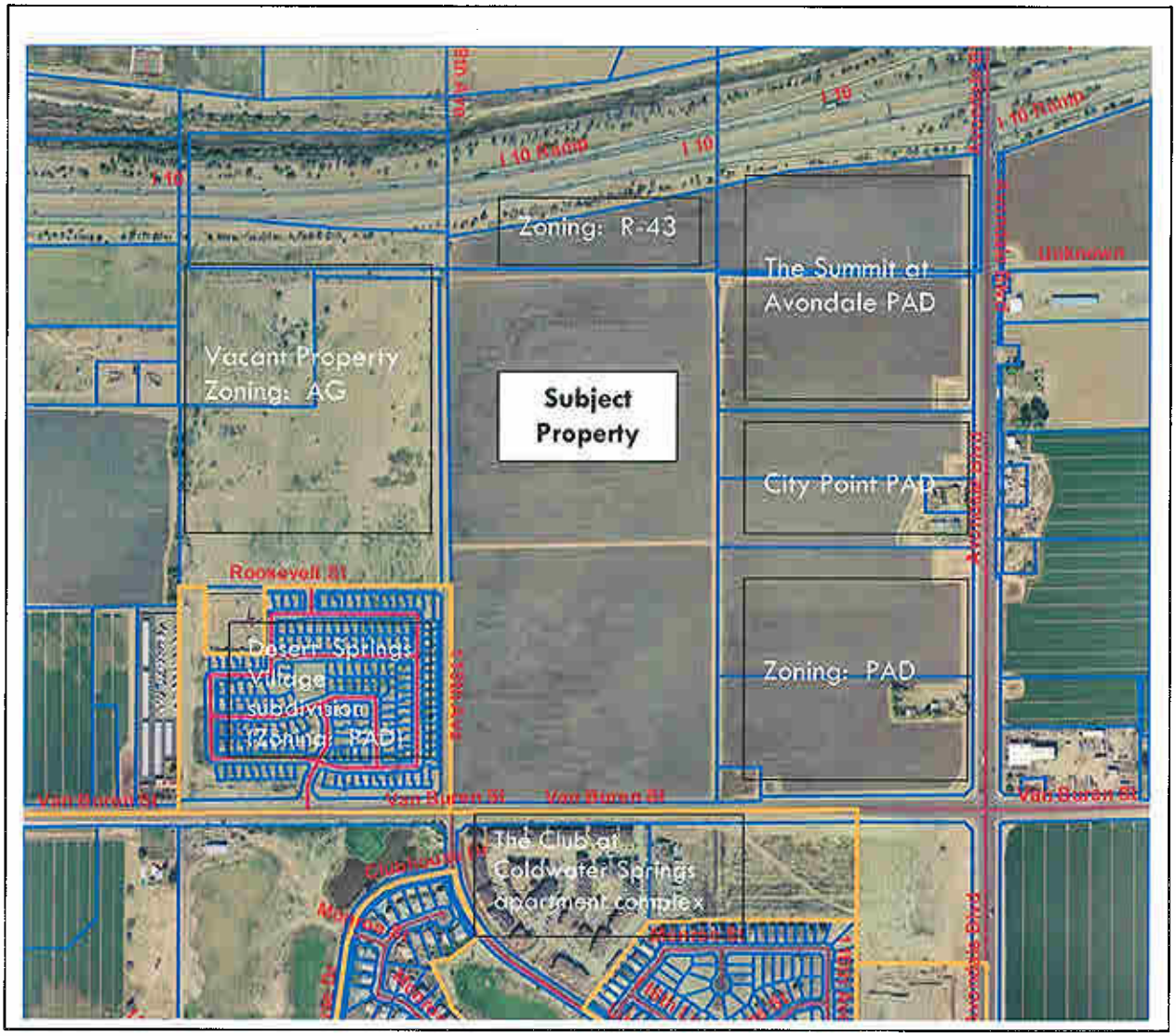


EXHIBIT H

Excerpt of the Minutes of the special Planning Commission meeting held May 24, 2007 at 7:00 p.m. in the Public Safety Building.

COMMISSIONERS PRESENT
Lisa Copeland, Commissioner
David Iwanski, Commissioner
Edward Meringer, Commissioner
Alan Lageschulte, Chairperson

COMMISSIONERS ABSENT
Michael Alcorn, Commissioner
Linda Webster, Commissioner
Kevin Grimsley, Commissioner

CITY STAFF PRESENT
Scott Wilken, Senior Planner
Eric Morgan, Planner II
Dean Svoboda, Long Range Planning Director

APPLICATIONS GP-07-2 and SP-07-1

APPLICANT Mr. Dustin Jones
Tiffany and Bosco, PA
2525 E. Camelback Rd. Phoenix, AZ 85016-4237

REQUEST The applicant is requesting a major general plan amendment and a specific plan amendment for approximately 44.6 acres located at the southwest corner of Interstate 10 and 117th Avenue. The amendment request is to change the land use designation from Employment to Mixed Use. Staff Contact: Scott Wilken (623) 333-4016.

Scott Wilken, Senior Planner, stated the purpose of tonight's meeting is to present this request to the Planning Commission and to the public, and then for the Planning Commission to tell Staff what information it will need to make its recommendation at the next hearing. Mr. Wilken gave the background on application GP-07-2 and SP-07-1 and stated that the Planning Commission must determine that the proposed amendment request meets four findings prior to recommending approval: 1) The development pattern contained in the Land Use Plan inadequately provides the appropriate optional sites for the use and/or change proposed in the amendment. 2) The amendment constitutes an overall improvement in the 2002 Plan and is not solely for the good or benefit of a particular landowner or owners. 3) The amendment will not adversely impact the community as a whole and/or a portion of the community. 4) The amendment is

consistent with the overall intent of the 2002 Plan and other adopted plans, codes, and ordinances. He then showed the Planning Commission an aerial photograph of the area and detailed the surrounding land uses and the employment and mixed-use areas. Mr. Wilken informed the Planning Commission that the applicant would later be applying for re-zoning for the entire property. He stated ADOT had requested to be kept abreast on further development of the project. Mr. Wilken stated the applicant was present and would like to make a presentation discussing their justification for this amendment. He stated Staff was recommending that the Planning Commission conduct a public hearing and then continue this item to the June 2007 Planning Commission meeting, and Staff will provide additional information and analysis prior to the second hearing.

Chairperson Lageschulte asked if there were any questions for the Staff.

Commissioner Copeland asked what the current employment and mixed-use percentage areas were in the City, and Mr. Wilken responded that currently the City has approximately 8.25-8.50 percent designated for employment and showed the Planning Commission a slide depicting the mixed-use area, which is approximately 3 percent.

Chairperson Lageschulte invited any other questions. There were none. He thanked Mr. Wilken for his presentation. Chairperson Lageschulte invited the applicants, Mr. Dustin C. Jones and Shaine Alleman, to address the Planning Commission.

Dustin C. Jones, Tiffany & Bosco, came forward to address the Planning Commission. He showed the Planning Commission slides of the property and talked about the language in the General Plan regarding Employment and Mixed-Use. He stated their proposal would not do away with employment, but would bring a little bit of retail along the freeway corridor, allowing for visibility for the retail. He added that office uses alone do not typically generate a great deal of sales tax, while retail does.

Chairperson Lageschulte invited questions for the applicant.

Commissioner Iwanski asked what the numbers would be in terms of net jobs per square foot from a shift from employment to mixed use, and Mr. Jones responded that was completely unknown at this point because they did not have a Land Use Plan.

Chairperson Lageschulte invited additional questions. There were none. Chairperson Lageschulte opened the item up for a public hearing.

Chairperson Lageschulte informed the Planning Commission that Charles and Susan Runge, 12946 W. Clarendon Avenue, and Edward Griswold, 12818 W. Fairmont Avenue, had filled out cards indicating they were in favor of the item, but did not wish to speak. Chairperson Lageschulte indicated a Ms. Lisa Dubas was not present, but someone was present in the audience who would read a statement for Ms. Dubas.

Chairperson Lageschulte commented if the applicant was interested in putting retail in that area and the City was interested in a pedestrian-friendly corridor, the applicant should work very closely with the City to try to blend the retail in.

Commissioner Copeland concurred with Chairperson Lageschulte, in that changing this area from an employment use to mixed-use makes sense, and because there is limited space, she too encouraged the applicant to work closely with the City. She thanked the applicant for choosing the City of Avondale for their development project.

Commissioner Meringer asked that thought be given to unique, specific retailers.

Commissioner Copeland added she would like to encourage the developers be friendly to small businesses.

Chairperson Lageschulte added he was on the General Plan Committee when they went over the General Plan and everyone on the Committee had viewed the Freeway Corridor as premium land, and he believes that mixed use is what the General Plan is designed for. He stated that mainly what the Committee had wanted to stay away from is residential homes along the freeway.

Eric Greene, 12827 W. Mulberry Dr., Avondale, Arizona, addressed the Planning Commission, stating he had seen a couple of projects go up, on the northeast corner of Thomas Road and Dysart and along Litchfield Road, and they were so nice that he would like to see the City not let boxy-type buildings go up, such as the Wal-Mart building or other warehouse-type buildings.

Chairperson Lageschulte thanked the public for coming to the Commission meeting tonight.

Chairperson Lageschulte called for a motion. Commissioner Copeland moved that the public hearing on this application be continued to the June 21, 2007 Planning Commission meeting. Commissioner Meringer seconded the motion. The motion passed by a vote of 4 to 0.

EXHIBIT I

Excerpt of the Minutes of the Planning Commission meeting held June 21, 2007 at 7:00 p.m. in the Council Chambers.

COMMISSIONERS PRESENT
David Iwanski, Commissioner
Michael Alcorn, Commissioner
Linda Webster, Commissioner
Kevin Grimsley, Commissioner
Alan Lageschulte, Chairperson
Lisa Copeland, Commissioner

COMMISSIONERS ABSENT
Edward Meringer, Commissioner

CITY STAFF PRESENT
Scott Wilken, Senior Planner
Eric Morgan, Planner II
Brian Berndt, Development Services Director

APPLICATIONS GP-07-2 and SP-07-1

APPLICANT Mr. Dustin Jones
Tiffany and Bosco, PA
2525 E. Camelback Rd. Phoenix, AZ 85016-4237

REQUEST The applicant is requesting a major general plan amendment and a specific plan amendment for approximately 44.6 acres located at the southwest corner of Interstate 10 and 117th Avenue. The amendment request is to change the land use designation from Employment to Mixed Use. Staff Contact: Scott Wilken (623) 333-4016.

Scott Wilken, Senior Planner, Development Services Department, gave the presentation on Items GP-07-1 and GP-07-2, stating the subject property is within the Freeway Corridor Plan. He pointed out that the subject property is adjacent to the City Center Study Area, which is currently under review to be hopefully adopted by Council this fall, but while the property is not included in the study area, the consultant has looked at surrounding land uses and the potential effect this property would have on the City Center. Mr. Wilken described the surrounding land uses and stated the proposed amendment would change approximately 45 acres from Employment to Mixed Use and designate the entire property of approximately 80 acres as Mixed Use, and the applicant would later apply for rezoning of the entire property. He indicated provisions had been taken with the Summit at Avondale project and this property to make sure a 10 acre sliver

of land adjacent to the property is not isolated. Mr. Wilken stated Mixed Use provides for a mix of use with retail/commercial emphasis and the Council may approve up to 45 percent of the development to be residential, and Mixed Use gives no inherent right to any stand-alone residential. He stated the Planning Commission must determine four findings are met: 1) The Land Use Plan does not provide adequate area for the proposed land use. 2) The amendment is an overall improvement to the General Plan. 3) The amendment will not harm the City Land Use patterns, public infrastructure, or existing land uses. 4) The amendment is consistent with the original intent of the Plan and the City's goals. Mr. Wilken stated Staff estimates approximately 8.25 percent of the City is currently designated as Employment, 3.05 percent of the City is designated as Mixed Use, and the proposed amendment would result in approximately 8.28 percent of the City being Employment and 3.19 percent as Mixed Use. He stated Staff believes the amendment is an improvement to the General Plan as it allows the subject property to act as a buffer between the City Center and the employment to the west along the freeway, and Staff believes the amendment will not harm the City's land use pattern, infrastructure, or existing land uses. Mr. Wilken stated the City's Traffic Engineer estimates traffic will increase by about 28 percent; however, the roads in the area and the roads that will be built are adequate to handle the increased traffic and that sewer and water lines are adequate. He concluded that Staff believes the amendment is consistent with the original intent of the General Plan and the City's goals as it allows for more intense uses along the freeway and it will possibly allow for some residential near the City Center. Mr. Wilken stated the majority of the Freeway Corridor Plan is Employment, Mixed Use or Freeway/Commercial with an emphasis on employment along the freeway, and this property could act as a transitional area from the City Center to the employment within the Freeway Corridor Plan. He then covered the citizen review process for the Commission, stating to date there had been no opposition from neighboring municipalities, agencies or citizens. He stated Staff is recommending approval of the proposed Land Use amendment.

Chairperson Lageschulte invited questions for Staff.

Commissioner Grimsley asked with more residential being built, would this be in the Tolleson Elementary and La Joya High School districts and could these schools accommodate more students. Mr. Wilken responded this would be in the Littleton Elementary School and La Joya High School districts, and the General Plan amendment was sent to the General Superintendent of both school districts, and so far Staff has not received correspondence back from them. He added that any residential is entirely at the Council's discretion, and if not appropriate for residential, the site may end up as all employment and retail.

Commissioner Copeland stated she was still not clear on the 10 acre sliver of land that Mr. Wilken had mentioned. Mr. Wilken referred to the site plan for the Summit at Avondale and stated 117th Avenue is required to go all the way up to that property and end in a cul-de-sac so that property will be accessed from 117th Avenue directly south to Van Buren, and also when Summit Point develops, 119th Avenue will also make similar

provisions. He stated it was possible to have a sub-street or driveway directly to that land through Summit Point. He added that the developer of Summit Point had attempted to acquire the 10 acres and was unsuccessful. Commissioner Copeland asked if the City had been in communication with the property owner of the 10 acres to ascertain the property owner's intent. Mr. Wilken responded that Planning Staff had not had direct contact with that property owner, but other members of City Staff had talked to them. He stated Staff believes there are viable options for that property incorporated into this, but at this time the biggest concern has been taking steps to avoid isolating that piece of property. Commissioner Copeland stated the City had already encountered two other areas of land the City cannot develop because it was in pieces and she would not like to continue down that road.

Commissioner Alcorn expressed his concern that Staff follow-up on that 10 acres of land. He inquired regarding the residential, asking did the Commission need to wait for City Council, and could the Commission put in a provision saying they want less residential, as the Commission has gone to a lot of trouble not to put housing next to the freeway, and now they are, and he does not like it. Mr. Wilken responded that at this point Staff was looking at land use designation only and suggested if the Commission feels strongly, to make it clear tonight, as the applicant's representatives are here. He added the Commission would get another chance to look at the issue.

Commissioner Iwanski stated a 28 percent increase in traffic flow sounded like a big increase and he wanted to be sure Staff was comfortable with that. Mr. Wilken responded that the figure had come from the City's Traffic Engineer who believes that Van Buren and 117th Avenue and 119th Avenue will be adequate. He stated they would get a much more detailed traffic study as the development moves forward and they will know exactly what uses will occur and will take provisions at that time. Commissioner Iwanski stated he appreciated Mr. Wilken's candor.

Chairperson Lageschulte asked for further questions, and hearing none, invited the applicant, Dustin C. Jones, to address the Commission.

Dustin C. Jones, Tiffany & Bosco, 2525 E. Camelback Rd., Phoenix, AZ, stated he was present on behalf of his client, Seven Investment Holdings, LLC. He stated he appreciated the time Staff had been involved in the General Plan amendment application. Mr. Jones showed the Commission a slide of the 10 acre sliver of property, stating it is owned by a farming family and it was their farm before the freeway went through it and they are not interested in selling it. Commissioner Alcorn stated if the property would stay AG, that was fine with him. Mr. Jones continued with his presentation, stating they wanted to change the use from Employment to Mixed Use because they are finding many retail developments would like to come to the area and there are limited locations along the freeway, while general offices do not need the marketing advantages of being right on the freeway. He clarified their request is not to do away with employment, but to introduce an emphasis on retail and commercial uses along the freeway. He stated they are working on a PAD zoning application and no residential uses are being proposed on

the north side of the site near the freeway, so while the mixed use allows for residential, that is because they do not want to be exclusively commercial or exclusively office and industrial. He reiterated they have met the four findings for a General Plan amendment and request that the Planning Commission endorse Staff's recommendation for approval and request City Council approve this application for a General Plan amendment for Mixed Use.

Chairperson Lageschulte invited questions for the applicant.

Commissioner Alcorn stated 45 percent of 100 is still nearly half, but he would bring it up again on discussion.

Chairperson Lageschulte asked for further questions for the applicant, and hearing none, thanked Mr. Jones for his presentation. Chairperson Lageschulte asked for further questions for Staff, and hearing none, opened the item for public hearing. There were no requests to speak.

Chairperson Lageschulte asked for a motion. Commissioner Copeland moved to accept the findings and recommend approval of application GP-07-2, a request to amend the General Plan from Employment to Mixed Use, and recommend approval for application SP-07-1, a request to amend the Freeway Corridor Specific Plan from Employment to Mixed Use. Commissioner Iwanski seconded the motion.

Chairperson Lageschulte opened the items for discussion.

Commissioner Alcorn stated the Commission needs to keep housing out of this corridor and 45 percent of this project could be used for apartments, condos, and town homes.

Commissioner Iwanski stated higher density residential is a very complimentary use in his opinion and he thinks this is a good project.

Chairperson Lageschulte stated he agrees with Commissioner Alcorn, in that Avondale has a limited exposure along the freeway where businesses want to be and if this applicant builds townhouses or condos, they could turn into rentals. He stated there is mixed use property right along Van Buren and if you want to build residential, go to Buckeye or Tolleson, but he is against this project. Chairperson Lageschulte stated Avondale property along the freeway is too scarce for the City to put residential there, and again, he is against this project. He added that banks and corporations are going elsewhere because Avondale has no place to put them.

Commissioner Grimsley stated he agreed, the City does not want residential along the freeway and while the applicant stated they did not currently plan for residential, this opens Pandora's Box, in that in the future there could be residential if the applicant changes their mind, and someone could buy the property from the applicant and make the area residential.

Commissioner Copeland stated Mr. Jones has been before the Planning Commission for several years and has never misled the Commission in his proposed developments, thus she would step out in faith that the developer would hear the Commission in that they did not want residential along the freeway.

Commissioner Webster stated the first question that occurred to her was why they were even considering housing along the freeway or even allowing it on a limited basis, as they would be opening it up for future use and she does not believe they should do that.

Chairperson Lageschulte asked for a Roll Call vote on GP-07-2.

ROLL CALL VOTE

Commissioner Webster	Nay
Commissioner Copeland	Aye
Commissioner Alcorn	Nay
Chairperson Lageschulte	Nay
Commissioner Grimsley	Nay
Commissioner Iwanski	Aye

The motion failed 4 to 2.

Chairperson Lageschulte asked for a Roll Call vote on SP-07-1.

ROLL CALL VOTE

Commissioner Webster	Nay
Commissioner Copeland	Aye
Commissioner Alcorn	Nay
Chairperson Lageschulte	Nay
Commissioner Grimsley	Nay
Commissioner Iwanski	Aye

The motion failed 4 to 2.

Chairperson Lageschulte asked for a motion on Item No. 1 and Item No. 2. Commissioner Grimsley moved that the Planning Commission decline application GP-07-2, a request to amend the General Plan from Employment to Mixed Use, and also that the Planning Commission decline application SP-07-1, a request to amend the Freeway Corridor Specific Plan from Employment to Mixed Use. Commissioner Alcorn seconded the motion.

Chairperson Lageschulte asked for a Roll Call vote on GP-07-2.

ROLL CALL VOTE

Commissioner Webster	Aye
Commissioner Copeland	Nay
Commissioner Alcorn	Aye
Chairperson Lageschulte	Aye
Commissioner Grimsley	Aye
Commissioner Iwanski	Nay

The motion passed 4 to 2.

Chairperson Lageschulte asked for a Roll Call vote on SP-07-1.

ROLL CALL VOTE

Commissioner Webster	Aye
Commissioner Copeland	Nay
Commissioner Alcorn	Aye
Chairperson Lageschulte	Aye
Commissioner Grimsley	Aye
Commissioner Iwanski	Nay

The motion passed 4 to 2.

RESOLUTION NO. 2671-807

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE CITY OF AVONDALE GENERAL PLAN REGARDING THE LAND USE DESIGNATION OF APPROXIMATELY 44.6 ACRES AT THE SOUTHWEST CORNER OF 117TH AVENUE AND INTERSTATE 10.

WHEREAS, the City of Avondale General Plan (the "General Plan") was adopted by the Mayor and Council of the City of Avondale (the "City Council") on June 17, 2002, and ratified by the qualified electors of the City of Avondale on September 10, 2002; and

WHEREAS, the General Plan establishes the authority and procedures for major amendments; and

WHEREAS, pursuant to ARIZ. REV. STAT. § 9-461.06 and the General Plan, the City of Avondale (the "City") has given notice to and provided all neighboring cities, Maricopa County, Maricopa Association of Governments, Arizona Department of Commerce and all local school districts the opportunity for comment on the amendment to the General Plan; and

WHEREAS, pursuant to ARIZ. REV. STAT. § 9-461.06 and the General Plan, the City has consulted with, advised and provided the public with the opportunity for comment on the amendment to the General Plan; and

WHEREAS, pursuant to ARIZ. REV. STAT. § 9-461.06 and the General Plan, the City Planning Commission (i) held one public hearing in the Public Safety Building on May 24, 2007 on the proposed General Plan amendment, (ii) held a second public hearing in the City Council Chambers on June 21, 2007 on the proposed General Plan amendment, and (iii) provided notice of such hearings by publication of said notices in the *West Valley View* on May 8, 2007 and June 5, 2007, respectively; and

WHEREAS, pursuant to ARIZ. REV. STAT. § 9-461.06 and the General Plan, the City Council (i) held a public meeting in the City Council Chambers on the proposed General Plan amendment on August 20, 2007 and (ii) provided notice of such hearing by publication of said notice in the *West Valley View* on July 31, 2007; and

WHEREAS, the City Council finds and determines that (i) proper notice has been given in a manner required by ARIZ. REV. STAT. § 9-461 *et seq.* of the proposed General Plan amendment and that each of the required publications have been made; and

WHEREAS, the City Council desires to amend the General Plan to change the land use designation for approximately 44.6 acres of real property generally located at the southwest corner of 117th Avenue and Interstate 10 from Employment to Mixed Use.

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

SECTION 1. That the General Plan is hereby amended to change the land use designation for approximately 44.6 acres of real property generally located at the southwest corner of 117th Avenue and Interstate 10 from Employment to Mixed Use, as set forth in Exhibit A attached hereto and incorporated herein by reference.

SECTION 2. That 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, August 20, 2007.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Linda M. Farris, City Clerk

APPROVED AS TO FORM:

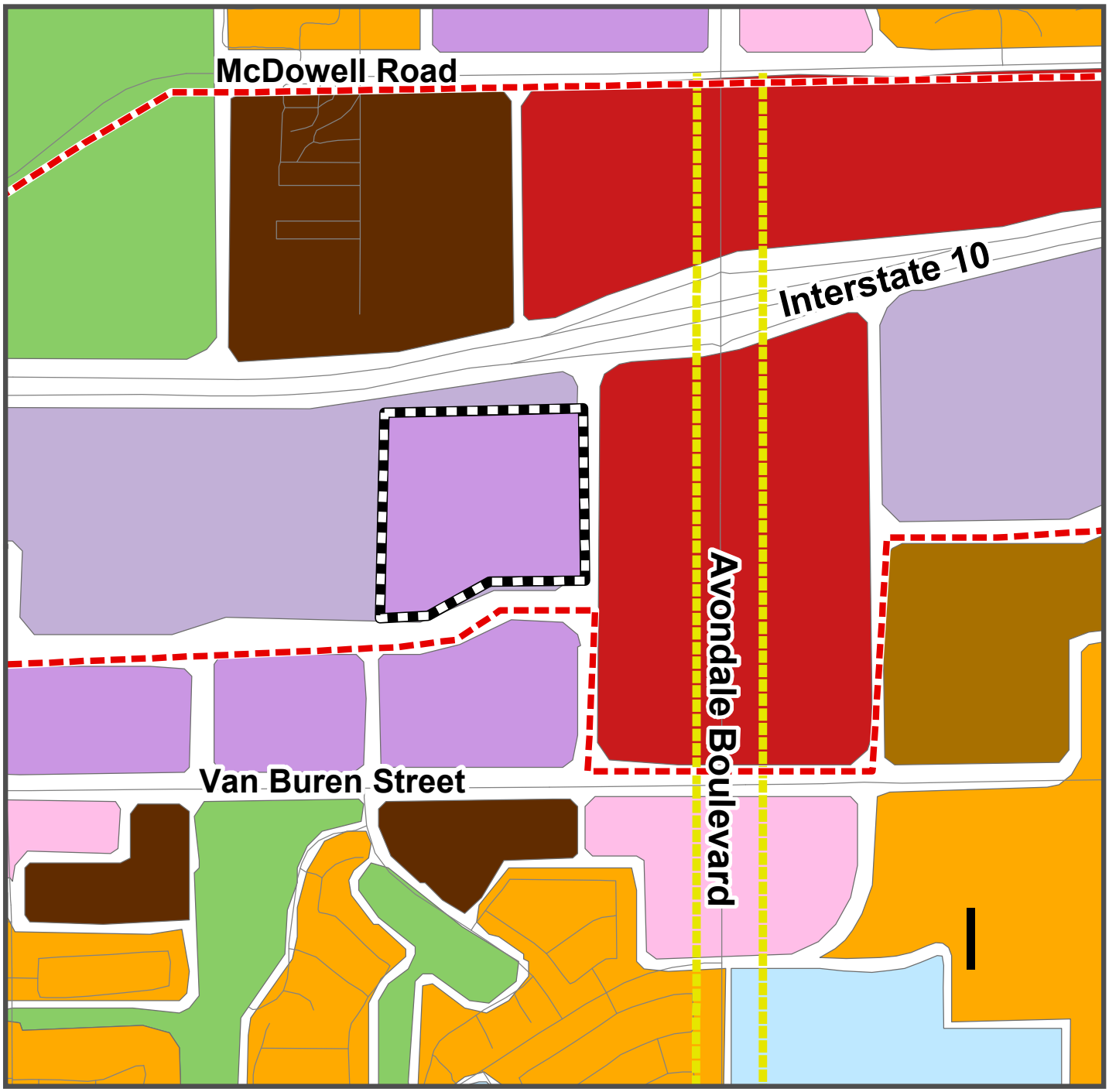
_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2671-807

[General Plan Amendment Land Use Map]

See following page.

General Plan Amendment Land Use Map



- Commercial
- Employment
- Freeway Commercial
- Medium Density Residential
- Medium High Density Residential
- Mixed Use
- Multi Family Residential
- Open Space
- Public Facilities
- Subject Property
- Growth Area
- Commercial Corridor

RESOLUTION NO. 2672-807

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE CITY OF AVONDALE FREEWAY CORRIDOR SPECIFIC PLAN REGARDING THE LAND USE DESIGNATION OF APPROXIMATELY 44.6 ACRES AT THE SOUTHWEST CORNER OF 117TH AVENUE AND INTERSTATE 10.

WHEREAS, the City of Avondale Freeway Corridor Specific Plan (the "Specific Plan") was adopted by the Council of the City of Avondale (the "City Council") in June 1991 and updated on June 17, 2002; and

WHEREAS, the Specific Plan establishes the authority and procedures for amendments; and

WHEREAS, the City of Avondale (the "City") has given notice to and provided all neighboring cities, Maricopa County, Maricopa Association of Governments, Arizona Department of Commerce, and all local school districts the opportunity for comment on the amendment to the Specific Plan; and

WHEREAS, pursuant to ARIZ. REV. STAT. § 9-461.09 and the General Plan, the City has consulted with, advised and provided the public with the opportunity for comment on the amendment to the Specific Plan; and

WHEREAS, pursuant to ARIZ. REV. STAT. § 9-461.09 and the Specific Plan, the City Planning Commission (i) held one public hearing in the Public Safety Building on May 24, 2007 on the proposed Specific Plan amendment, (ii) held a second public hearing in the City Council Chambers on June 21, 2007 on the proposed Specific Plan amendment, and (iii) provided notice of such hearings by publication of said notices in the *West Valley View* on May 8, 2007 and June 5, 2007, respectively; and

WHEREAS, pursuant to ARIZ. REV. STAT. § 9-461.09 and the Specific Plan, the City Council (i) held a public meeting in the City Council Chambers on the proposed Specific Plan amendment on August 20, 2007 and (ii) provided notice of such hearing by publication of said notice in the *West Valley View* on July 31, 2007; and

WHEREAS, the City Council finds and determines that (i) proper notice has been given in a manner required by ARIZ. REV. STAT. § 9-461 *et seq.* of the proposed Specific Plan amendment and that each of the required publications have been made; and

WHEREAS, the City Council desires to amend the Specific Plan to change the land use designation for approximately 44.6 acres of real property generally located at the southwest corner of 117th Avenue and Interstate 10 from Employment to Mixed Use.

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

SECTION 1. That the Freeway Corridor Specific Plan is hereby amended to change the land use designation for approximately 44.6 acres of real property generally located at the southwest corner of 117th Avenue and Interstate 10 from Employment to Mixed Use, as set forth in Exhibit A attached hereto and incorporated herein by reference.

SECTION 2. That 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, August 20, 2007.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Linda M. Farris, City Clerk

APPROVED AS TO FORM:

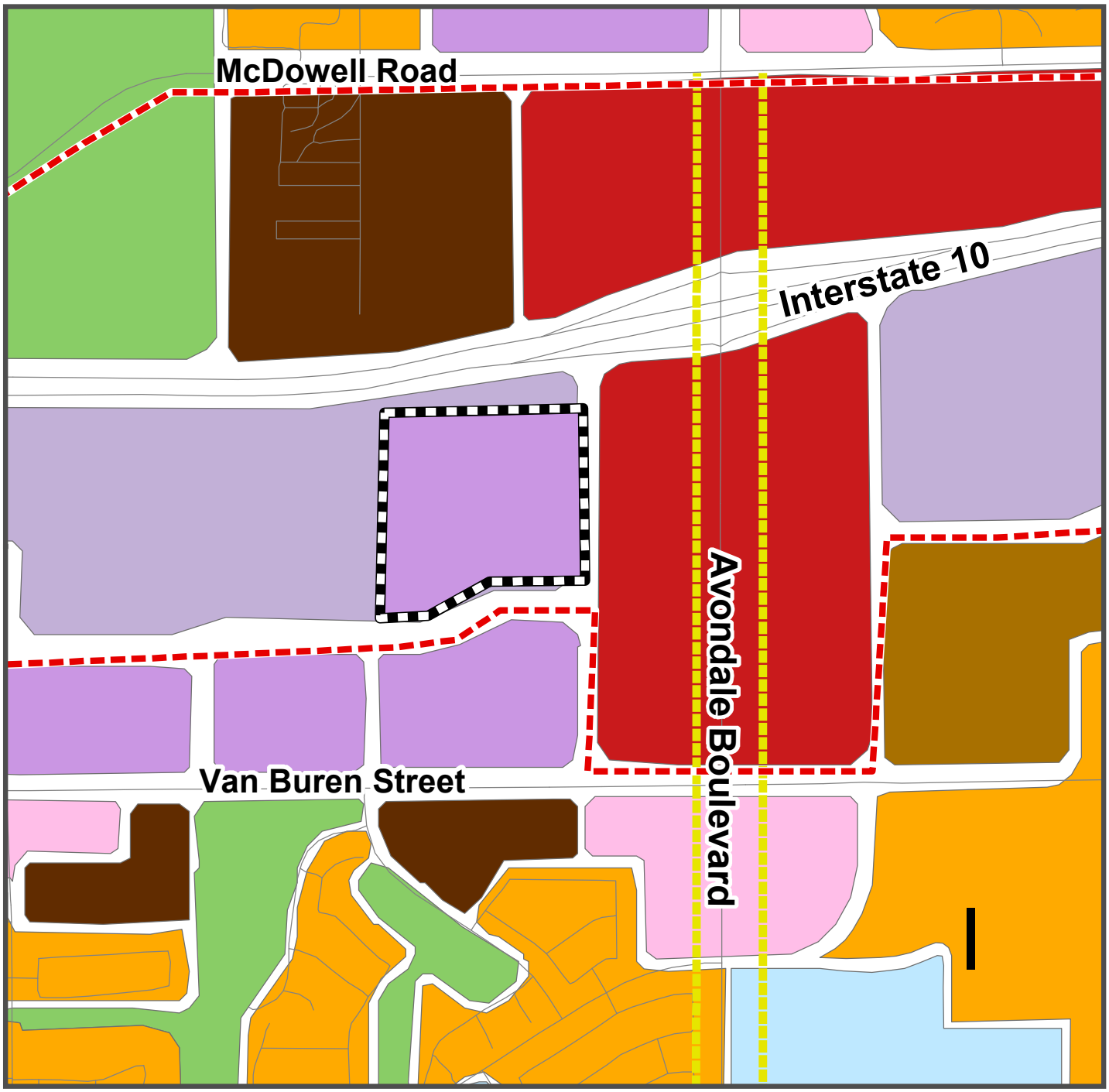
_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2672-807

[Freeway Corridor Specific Plan Amendment Land Use Map]

See following page.

Freeway Corridor Specific Plan Amendment Land Use Map



- Commercial
- Employment
- Freeway Commercial
- Medium Density Residential
- Medium High Density Residential
- Mixed Use
- Multi Family Residential
- Open Space
- Public Facilities
- Subject Property
- Growth Area
- Commercial Corridor

DEVELOPMENT SERVICES

SUBJECT:
Public Hearing and Resolutions 2669-807 and 2670-807 - Major General Plan Amendment and Specific Plan Amendment for Pasadera (GP-07-3 & SP-07-2)

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Brian O. Berndt, Development Services Director (623) 333-4013

THROUGH: Charlie McClendon, City Manager

REQUEST: 1) Amend the General Plan Land Use Map from Commercial to Mixed Use and Public Facilities.
2) Amend the North Avondale Specific Plan Land Use Map from Commercial to Mixed Use and Public Facilities.

PARCEL SIZE: Approximately 40.5 acres

LOCATION: Southeast of the Southeast corner of Dysart and Indian School Roads

APPLICANT: Dustin C. Jones and Shaine Alleman

OWNER: Rose Properties Southwest, LLC

BACKGROUND:

On June 29, 1992, Council approved the North Avondale Specific Plan, which assigns a land use designation to the subject property of Commercial and Drainage/Open Space.

On August 2, 1993, Council approved a Development Agreement between the City of Avondale and SunCor Development Company regarding the future Palm Valley-Avondale PAD.

On September 7, 1993, Council approved annexation of an area containing the subject property.

On September 6, 1994, Council approved a case to rezone to PAD for the Palm Valley-Avondale PAD (case Z94-284). The approved PAD designates the uses for the subject property as Mixed Use Commercial (MUC) but does not define the term.

On January 7, 2002, Council approved a third amendment to the Development Agreement that established that MUC shall mean Community Commercial (C-2) uses.

On June 17, 2002, Council approved the General Plan, which assigns a land use designation of Commercial to the subject property.

May 24, 2007, the Planning Commission conducted the first of two required hearings on this request. On June 21, 2007, the Planning Commission conducted the second hearing on the request.

SUMMARY OF REQUEST:

1. The applicant is requesting to amend the General Plan land use map to change the land use designation of the approximately 40.5 acre subject property from Commercial to approximately 37 acres of Mixed Use and

approximately 3.5 acres of Public Facilities.

The current General Plan designation of Commercial provides for the daily needs of goods and services to the residents within the surrounding area on a neighborhood to regional scale. The Mixed Use designation is intended to provide a mix of high intensity uses with a retail commercial emphasis, and may include up to 45% residential use. The Public Facilities designation can provide a variety of public facilities for the healthy, safety, and welfare of the City's residents. This typically results in a traditional single family subdivision with detached units.

2. The applicant is also requesting an amendment of the North Avondale Specific Plan land use map from Commercial to Mixed Use and Public Facilities.

3. Staff is recommending that the General Plan and North Avondale Specific Plan land use designation for the entire subject property (approximately 40.5 acres) be changed from Commercial to Mixed Use. The applicant is in agreement with staff's recommendation.

The original rationale for inclusion of 3.5 acres of Public Facilities was that the City was considering locating a joint Police and Fire public safety complex on the east side of the subject property. The City is still examining this location, along with others. Staff recommends that the Public Facility land use change be removed because if the City public safety facility is not located on the subject property, the owner would be stuck with a land use designation that he could not then reasonably utilize. If the entire subject property is designated Mixed Use, the City may still choose to locate the public safety complex on a portion of the subject property.

PARTICIPATION:

Notifications of a 60-day review period for an application for a major amendment of the General Plan were mailed on March 7, 2007 to: Members of City Council; member of the Planning Commission; the planning authorities of City of Phoenix, City of Tolleson, City of Goodyear, City of Litchfield Park and Maricopa County; the Maricopa Association of Governments (MAG); and the superintendents of the Agua Fria Union High School District and the Tolleson Elementary School District. The notifications contained a description of the request, maps and aerials, and a copy of the applicant's project narrative. No comments were received back from any recipients within the 60-day review period. No comments have been received beyond the 60-day review period either.

The neighborhood meeting was advertised in the West Valley View on April 17, 2007 and run for one week. The property was posted with two signs, one along Indian School Road and one along Dysart Road, on April 17, 2007.

Notices were mailed to a total of 225 property owners within 500 feet of the property on April 17, 2007. The applicant conducted a neighborhood meeting from 7 to 8:30 pm on Wednesday, May 2, 2007 at the Estrella Mountain Community College. According to the sign-in sheet, 16 citizens attended the meeting. Concerns raised by the residents were regarding type of development and height, especially along the property line with Sage Creek; connection to an internal local street with Sage Creek; increased population placing additional burdens upon schools; additional traffic created; increased crime and safety; and, what assurance can be given that the actual development will be of as high quality as that shown on the plans. The applicant's summary of the meeting is attached to this report (Exhibit E).

Notice of the first Planning Commission hearing was published in the West Valley View on May 8, 2007 and the ad run for a week. The property was posted with two signs, one along Indian School Road and one along Dysart Road, on May 7, 2007. Notices of the Planning Commission meeting were mailed to a total of 225 property owners within 500 feet of the property on May 8, 2007.

The May 24, 2007 Planning Commission fourteen speaker cards were filled-out for both items of this request. Six citizens spoke on the case, and one read a statement on behalf of someone who could not attend. Concerns expressed included: overcrowding of schools and busing children further away as a result; increased traffic on Indian School and Dysart Roads, as well as internal to Sage Creek subdivision; the ability of the market to support more apartments; that if unsuccessful, the apartments could be converted to low-

income housing; pricing of apartment/condo units high enough to keep them high quality, but not so high they are vacant or unaffordable to students; and, the height of three-story apartments looking into adjacent backyards. No one spoke in opposition to the existing commercial designation of the property.

Notice of the June 21, 2007 Planning Commission hearing was published in the West Valley View on June 5, 2007 and the ad was run for a week. The property was posted with two signs, one along Indian School Road and one along Dysart Road, on May 7, 2007. Notices of the Planning Commission meeting were mailed to a total of 225 property owners within 500 feet of the property on June 5, 2007.

On June 21, 2007, the Planning Commission held a public hearing on the request for major amendment to the General Plan (case GP-07-3). Speakers cards were filled out for sixteen people, twelve of whom spoke during the meeting. Of the 16 people who filled out speaker cards and/or spoke at the meeting, four were in favor of the project, 11 were opposed and one was neutral. Those in favor expressed opinions that the more intensive and high quality development would be good for Avondale. Those who opposed the request focused primarily on the multifamily aspect. Some of those opposed spoke against multifamily because they might be rental units, but seemed to be alright with them if they would be owner-occupied. Others opposed multifamily because of perceived overcrowding of schools and affects on local streets with regard to traffic. Minutes of the June 21, 2007 Planning Commission are available online at www.avondale.org in the "Archive Center."

On June 21, 2007, the Planning Commission held a public hearing on the request for an amendment to the North Avondale Specific Area Plan (case SP-07-2). Many of the speaker cards filled out were for both cases. Four people got up to address the Planning Commission, all four opposed for the same reasons they had been opposed to the major amendment to the General Plan.

A notice of the City Council hearing of August 20, 2007 was published in the West Valley View on July 31, 2007. Letters were mailed out to 225 property owners on July 31, 2007. The property was posted on July 31, 2007. One letter was received August 2, 2007 from Mack Ferrick president of the Sage Creek Homeowners Association on behalf of the HOA in support of the requested land use change (Exhibit H).

PLANNING COMMISSION ACTION:

The Planning Commission conducted the first of two public hearings on May 24, 2007 and voted 4-0 to CONTINUE the request to the June 21, 2007 Planning Commission meeting.
The Planning Commission conducted a second public hearing on June 21, 2007 and voted 5-1 to recommend APPROVAL of staff's recommendation that the land use designation of the entire approximately 40.5 acre property be changed to Mixed Use.

FINDINGS:

The City Council must determine that the proposed amendment meets four findings prior to recommending approval. The burden of proof rests with the applicant. Staff's analysis of each of the required findings is presented below.

1. The development pattern contained on the Land Use Plan inadequately provides the appropriate optional sites for the use and/or change proposed in the amendment.

— The proposed change is to allow for a development with integrated retail, office, restaurant and residential uses. Mixed use developments exhibit a higher degree of pedestrian interconnectivity between the residential and non-residential uses than traditional commercial and residential development located adjacent.

— Approximately 3% of the City's acreage is designated as Mixed Use.

— Currently, all properties with a Mixed Use land use designation in the City are either developed or are in the development process.

— Thus, the Land Use Plan inadequately provides the appropriate optional site for the use and/or change proposed in the amendment.

2. The amendment constitutes an overall improvement in the 2002 Plan and is not solely for the good or benefit of a particular landowner or owners.

— The General Plan describes Mixed Use as a mix of high intensity uses with a retail commercial emphasis. These types of developments are typically situated in areas of higher densities and on major travelways.

— North Avondale is predominantly Medium Density Residential (2.5 - 4 dwelling units/acre) land use with corners of Commercial land use. This land use pattern is especially true for the northwest portion of Avondale, except for approximately 80 acres of Medium High Density Residential (4 - 8 dwelling units/acre) that exists due east of the subject property.

— The subject property is not in an area of high densities such as along Interstate 10 and at the Avondale City Center. The subject property is located along two arterial roadways, Indian School and Dysart Roads, and is positioned at the north and west entry gateway to Avondale as identified in the North Avondale Specific Plan.

— The purpose for the requested amendment is to allow for the possibility of stand alone residential uses on the subject property. Residential uses above ground floor retail are allowed under existing land use and zoning with an approved Conditional Use Permit.

— Because the character of North Avondale is primarily residential, the addition of residential to the subject property through a Mixed Use land use designation would not be out of character for North Avondale. However, high-density residential would be a new precedent.

— The amendment constitutes an overall improvement of the 2002 Plan and is not solely for the good or benefit of a particular landowner or owners because the Mixed Use category gives greater flexibility in the development entitlement process to follow. Mixed Use allows for the *possibility* of stand alone residential uses, but it does not in-and-of-itself grant these. The uses, as well as the densities, site layout, materials and colors, are granted through zoning and site plan approval. Changing the land use designation to Mixed Use allows for the possibility of stand alone residential on the subject property should that be the City Council's intention.

3. The amendment will not adversely impact the community as a whole and/or a portion of the community by:

a. Significantly altering acceptable land use patterns;

· Land use patterns for the area comprise lower densities and intensities as compared to areas to the east and south, such as along 99th Avenue and along Interstate 10.

· The Mixed Use land use designation is a combination of other land use designations - commercial, residential, employment. Because of this, it generally fits into typical land use patterns.

· The amendment will not adversely impact the community as a whole or a portion of the community by significantly altering acceptable land use patterns.

b. Requiring large and more expensive public infrastructure improvements including, but not limited to roads, water, wastewater, and public safety facilities than would other wise be needed without the proposed change; or

· Indian School and Dysart Roads are identified in the City Transportation Plan as arterial roadways calling for six vehicular lanes of travel. The developer of the subject property is required to construct his/her portion of these roadways abutting their property.

· The City is in the process of acquiring property in the northwest portion of Avondale in order to construct a public safety facility for police and fire.

· Adequate potable water for daily consumption needs currently exists to service the uses allowed by the Mixed Use designation. Residential uses consume more water compared to commercial uses.

· Adequate sanitary sewer capacity currently exists to service the uses allowed by the Mixed Use designation. Residential uses requires a greater capacity compared to commercial uses.

· The amendment will not adversely impact the community as a whole or a portion of the community by requiring expensive infrastructure improvements.

c. Adversely impacting the existing land use.

· Existing land use within the immediate vicinity of the subject property include single family detached residential, churches, a water treatment facility, a ministorage facility, small retail centers, and a community college.

· The amendment will not adversely impact the community as a whole or a portion of the community by adversely impacting the existing land use.

4. The amendment is consistent with the overall intent of the 2002 Plan and other adopted plans, codes, and ordinances.

General Plan

- The overall intent of the 2002 Plan is to provide for orderly development and re-development of the City in the most beneficial way to the most citizens for the near term and long term vitality and sustainability of the City.
- The requested amendment would allow for the possibility of stand alone residential on the subject property in addition to the commercial uses already allowed.
- The addition of residential to the subject property would not be contrary to the overall intent of the 2002 Plan.

Specific Plan

- The overall intent of the North Avondale Specific Plan is to provide for the orderly development of the northern part of Avondale. North Avondale is characterized as predominantly residential with pockets of commercial at major intersections and travel corridors. The existing commercial is of the neighborhood and community intensity and is characterized by the absence of more intense commercial as found along Interstate 10 further south. There is an absence of manufacturing, except along the river.
- The addition of stand alone residential on the subject property is not contrary to the intent of the North Avondale Specific Plan. The density of stand alone residential and the uses and intensity of the commercial would be determined later, in conformance to the intent of the North Avondale Specific Plan and other codes.

Conclusions:

· The current General Plan provides a limited number of sites for Mixed Use in the City in general and all Mixed Use sites are currently developed or in the development process. The proposed amendment appears to meet Finding 1.

· The amendment to Mixed Use allows for the possibility of stand alone residential on the subject property,

and of a higher intensity residential and commercial, at a major entry corridor to the City and at the intersection of two major travelways in the City. The proposed amendment appears to meet Finding 2.

· The proposed amendment will not alter the established land use pattern, significantly affect public infrastructure and services, or be incompatible with adjacent and nearby land uses. The proposed amendment appears to meet Finding 3.

· The proposed amendment is consistent with the objectives of the 2002 Plan, North Avondale Specific Plan and other codes and ordinances. The proposed amendment appears to meet Finding 4.

RECOMMENDATION:

The City Council should conduct a public hearing and recommend APPROVAL of the Major General Plan amendment as proposed by staff and agreed to by the applicant - that the land use designation of the entire subject property be Mixed Use.

The City Council should conduct a public hearing and recommend APPROVAL of the North Avondale Specific Plan amendment as proposed by staff and agreed to by the applicant - that the land use designation of the entire subject property be Mixed Use.

PROPOSED MOTION:

I move that the City Council accept the findings and ADOPT the resolution approving Application GP-07-3, a request to amend the General Plan from Commercial to Mixed Use as proposed by staff and agreed to by the applicant.

I move that the City Council accept the findings and ADOPT the resolution approving Application SP-07-2, a request to amend the North Avondale Specific Plan from Commercial to Mixed Use as proposed by staff and agreed to by the applicant.

ATTACHMENTS:

Click to download

- Exhibit A - Existing Land Use
- Exhibit B - Proposed Land Use
- Exhibit C - Vicinity Zoning
- Exhibit D - Aerial Photo 2006
- Exhibit E - Neighborhood Meeting summary
- Exhibit H - Correspondence from Concern Citizens
- RES - SP
- RES - GP

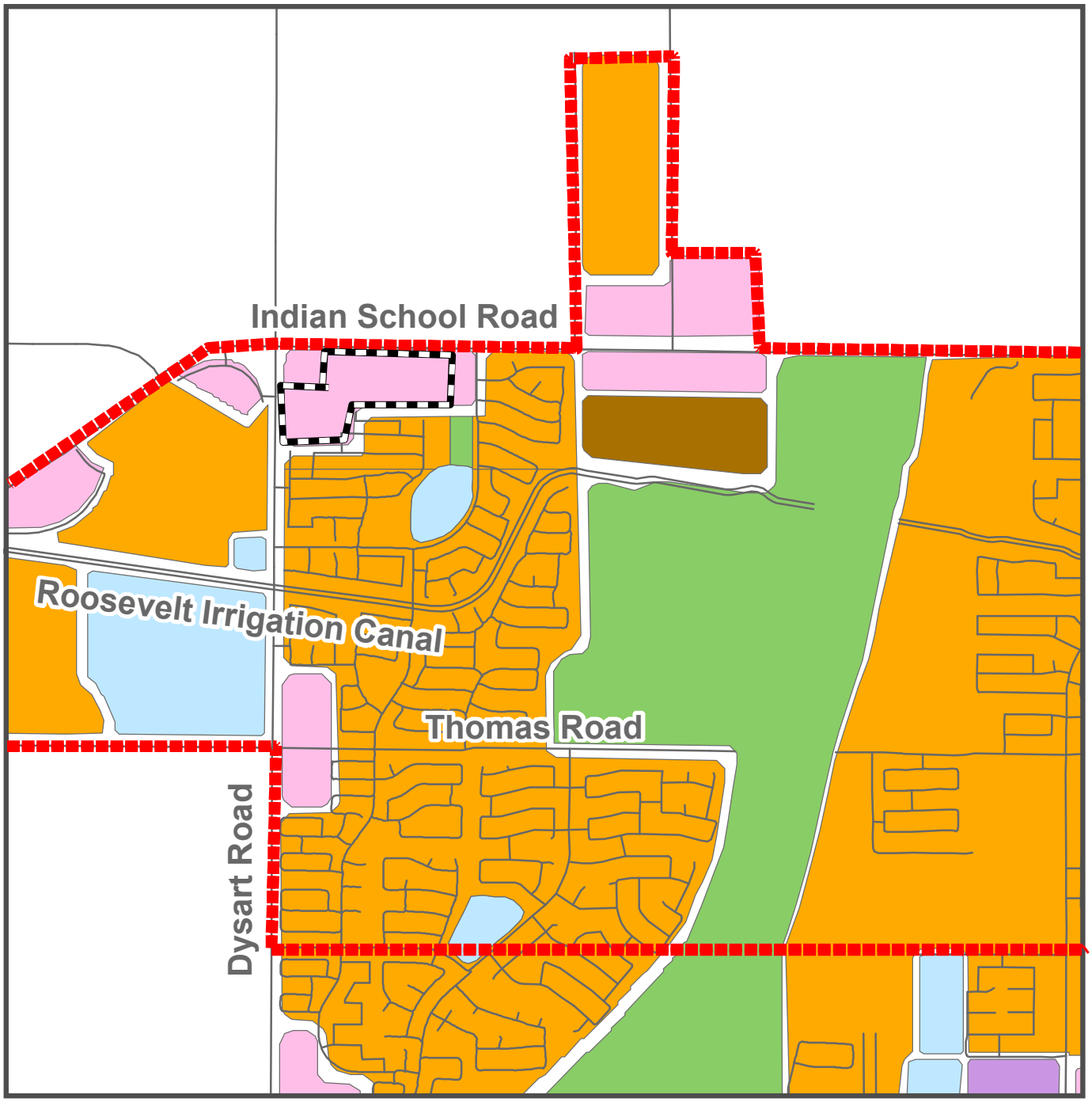
FULL SIZE COPIES (Council Only):

Exhibit F & Exhibit G

PROJECT MANAGER:

Eric Morgan, Planner II (623) 333-4017

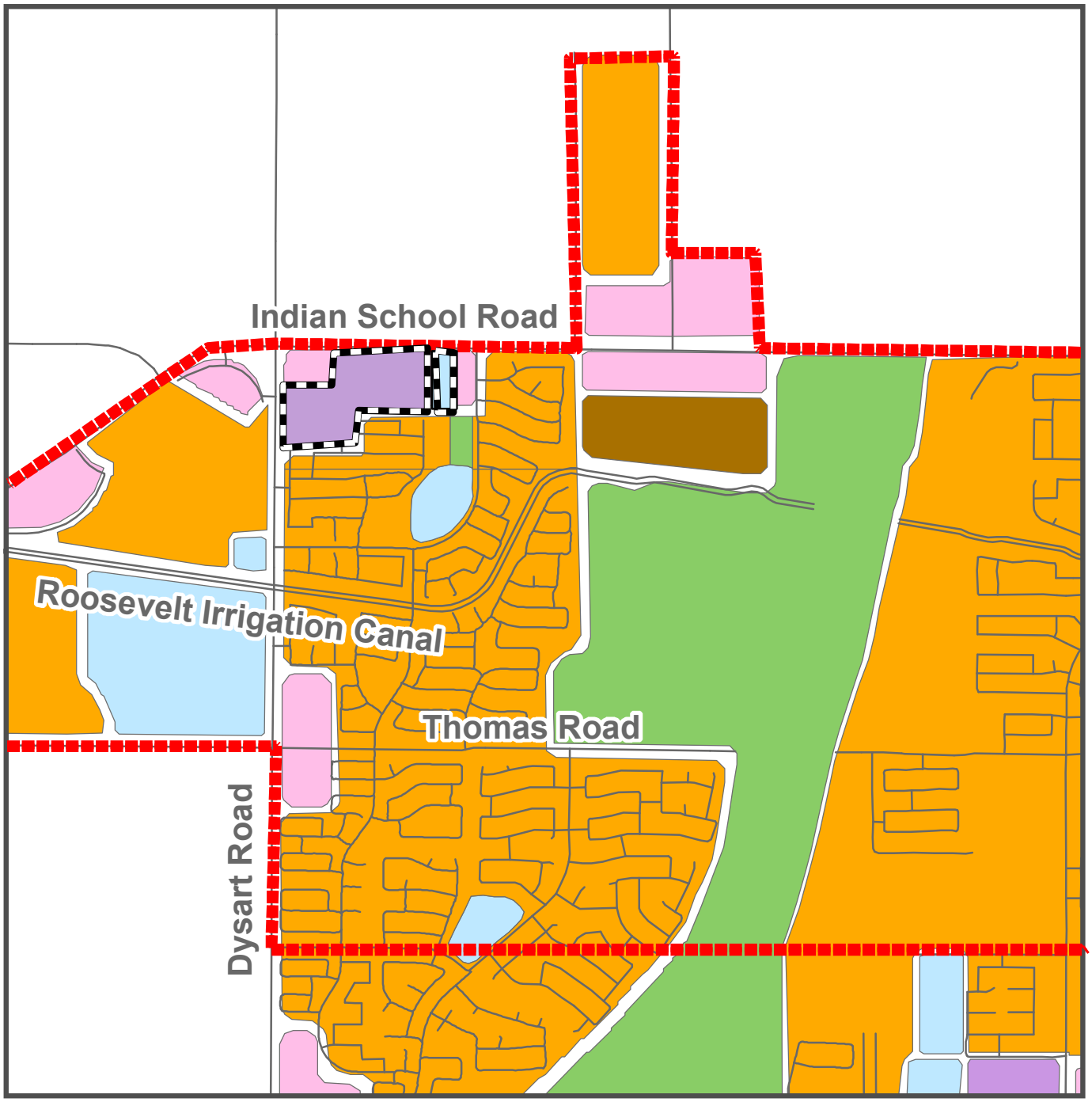
Pasadera
GP-07-3 and SP-07-2



Existing - General Plan Land Use

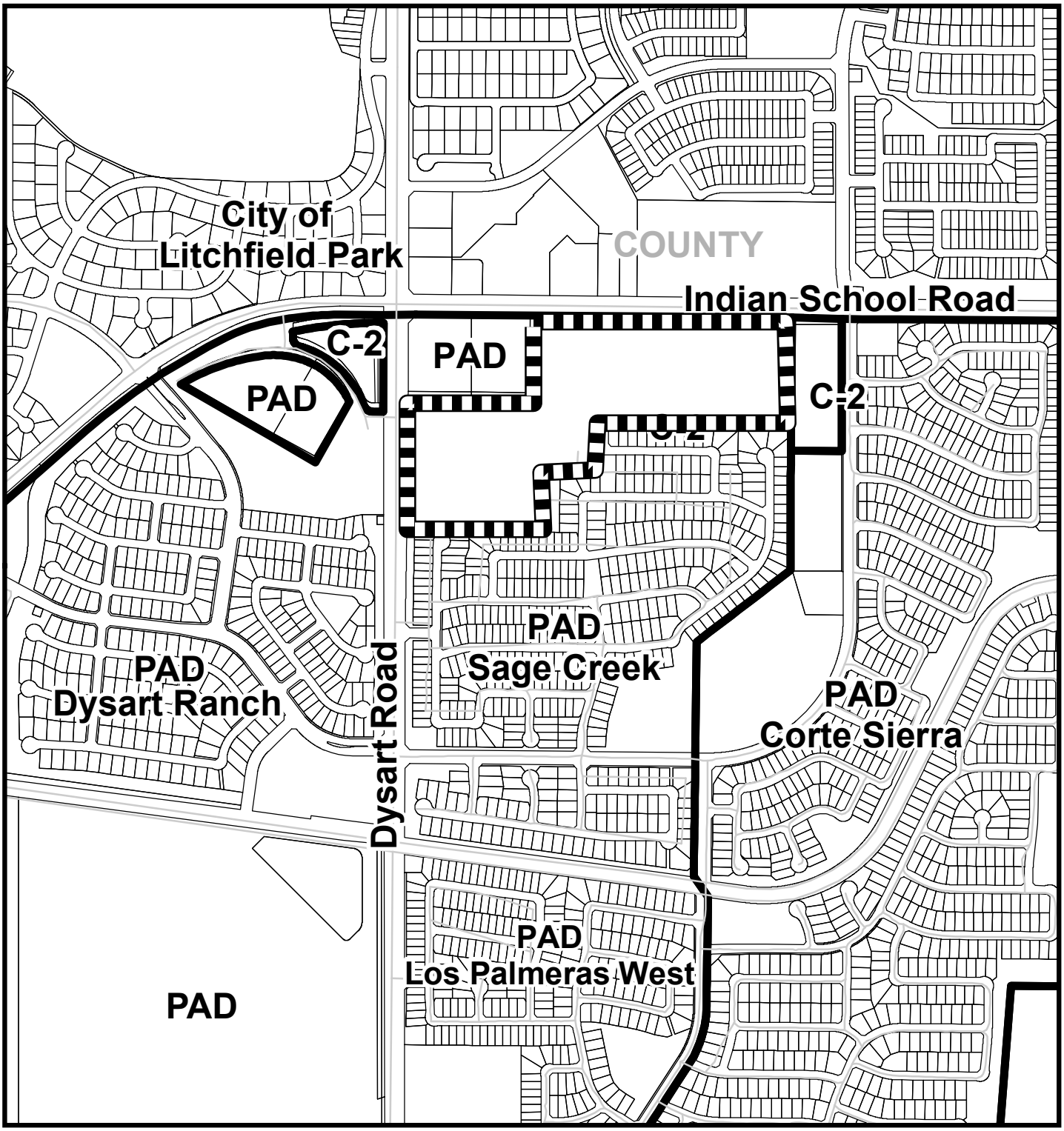
- Commercial
- Employment
- Freeway Commercial
- High Density Residential
- Low Density Residential
- Medium Density Residential
- Medium High Density Residential
- Mixed Use
- Multi Family Residential
- Open Space
- Public Facilities
- Subject Property
- North Avondale Specific Plan Area

Pasadera
GP-07-3 and SP-07-2



Proposed - General Plan Land Use

- Commercial
- Employment
- Freeway Commercial
- High Density Residential
- Low Density Residential
- Medium Density Residential
- Medium High Density Residential
- Mixed Use
- Multi Family Residential
- Open Space
- Public Facilities
- Subject Property
- North Avondale Specific Plan Area



Zoning Vicinity Map

Avondale

Subject Property

GP-07-3/SP-07-2 Pasadera
Air Photo 2006

Avondale

Subject Property

EXHIBIT E

TIFFANY & BOSCO
P.A.

DATE: 05.04.07
FROM: Shaine T. Alleman – Tiffany & Bosco, P.A.

PROJECT: Rose Properties – Pasadera (SEC of Dysart & Indian School Rd.)
RE: General & Specific Plan Amendment Neighborhood Mtg. Summary held May 2, 2007

The following is a summary of the Neighborhood Meeting for the General and Specific Plan Amendment applications of the Pasadera project (Case # GP-07-03 & SP-07-02) held on May 2, 2007. The meeting was held at the Estrella Mountain Community College located at 3000 North Dysart Road, Avondale, AZ 85323 from 700 p.m. to 830 p.m. The purpose of the meeting was to discuss the proposed general and specific plan amendment applications that have been submitted to the City of Avondale.

The following were in attendance from the Pasadera development team:
Leslie Wade, Wade Communications
John Ruggieri, Rose Properties Southwest, LLC
Gonzalo Mosquera, Rose Properties Southwest, LLC
Jerry Davis, Vision Residential Group, LLC
Shaine Alleman, Tiffany & Bosco, P.A.

The attached sign-in sheets reflects property owners and interested citizens that were present at the meeting. From discussions with property owners, many of them were present due to an additional notification flyer that was sent out through the neighborhood from Lisa Dubas. There were no representatives from the City of Avondale present at the meeting.

Presentation boards exhibiting the conceptual site plan and conceptual building elevations were placed around the room, which were used in the presentation and dialogue of the proposed project. There were also handouts given out to those present to explain the vision of the Pasadera project.

Leslie Wade and John Ruggieri led the discussion with a power point presentation. Mr. Ruggieri gave an overview of Rose Properties Southwest and the development they are currently involved with in the West Valley, and specifically in Avondale. He also explained Rose Properties' commitment to creating quality development and providing a community that the City of Avondale would be proud of. Mr. Rugierri and Ms. Wade then explained the proposed general and specific plan amendments and the proposed development that Rose Properties envisions for the property. Findings of the market study were also included in the presentation, which explain what land uses would be appropriate for this property and what would be economically feasible for the City of Avondale.

This lead into the discussion of the proposed vision for the Pasadera development, which was explained as a mixed-use development consisting of retail, office, and residential uses that will be attractively landscaped and infused with pedestrian-friendly open spaces that will create a vibrant community. Conceptual drawings were used to exhibit the possible configuration of land uses that would be allowed under the proposed land use change. There was also a presentation of potential gateway improvements that are proposed for the southeast corner of Dysart and Indian School Roads.

The presentation concluded with a description of the entitlement process in the City of Avondale and an explanation of the General and Specific Plan Amendment process that the Pasadera development is currently going through. There was also an assurance that the applicant is aware of the neighborhood meeting process and is willing to work with the neighbors as the development process continues to move forward.

After the presentation, the floor was opened up for questions and comments from those present. The following is a summary of that feedback and the responses given from those representing the applicant.

- COMMENT: What will be the building heights along the southern boundary and their setback/relationship to existing residential homes? This included comments related to building heights, setbacks from existing residential, the types of uses that will occur behind the adjacent neighbors.
    - RESPONSE: It was explained that through the current zoning on the property, buildings can have a maximum height of 30' with a setback of 50' (25' setback for 15' buildings) from the existing residential. Due to the current configuration of conventional development, this will most likely be the rear of commercial uses (loading areas, delivery bays, etc.) It was explained that through the PAD rezoning process the applicant will work with City Staff and property owners to ensure that there is sufficient buffering/landscaping, and appropriate building heights that will not be offensive to existing neighborhoods. A conceptual Site Plan was also shown in the presentation that showed possible configurations of buildings and their relationships to the neighboring property owners (including building siting and heights, setbacks, and landscaping buffering).

- COMMENT: What will be the configuration of access on the southern boundary with the exisiting dead-end road in the Sage Creek neighborhood?
    - RESPONSE: It was discussed with the property owners as to what they would like to have for access. It was the general consensus that a road thoroughfare was not desired, but that a gated pedestrian access maintained by the HOA would be appropriate for access.

- COMMENT: There were general comments related to the concern of the high-density residential creating additional students that will overcrowd the schools in the area.
    - RESPONSE: It was explained that the applicant has not yet spoken to school officials. However, these discussions are currently being scheduled to discuss the development with the school superintendents. It was explained that the proposed housing products for Pasadera have been shown to produce less students than conventional apartment complexes and single-family housing. In previous conversations with Avondale superintendents they are aware of these trends. The proposed market for the housing products were also emphasized (baby boomers, professionals/executives, empty nesters, etc.), clarifying that this markets has smaller numbers of children per households.

- COMMENT: What about traffic? Will this development produce additional traffic that will be a burden for the area?
    - RESPONSE: It was explained that the applicant has produced a traffic study that has

concluded that there will not be a significant impact on the area in regards to traffic. The property owners were also told that the applicant will have to continue to work with City staff, including Traffic Engineers, to produce more thorough traffic analysis that will ensure that there is not a negative impact on the area. These studies will occur in the subsequent rezoning and site plan phases of the development.

- COMMENT: Some property owners mentioned the break-in of automobile vehicles in other residential development in the area and were concerned if this development would add to that perceived trend. How will this development secure the parking areas?
    - RESPONSE: It was explained that the applicant has proposed internally protected parking areas for the residential areas through the means of a secured parking garage. Only those that are meant to access the development will be able to use this garage. It is anticipated that this configuration of residential parking will add to the security of the development.

- COMMENT: What will happen to the property if Rose Properties ends up selling the property to another development? Will they develop it the same way that Rose Properties envisions?
    - RESPONSE: It was explained that the current applications are for amendments to the General and Specific Plan only. This is primarily a land use change that focuses on what that change will do for the community. In the subsequent Rezoning application, the development standards will be set and the applicant will be stipulated to certain provisions. It was explained that Rose Properties will be submitting that Rezoning application before the Planning and Zoning Hearings for the GPA/SPA applications and will begin to be stipulated to specific development and design criteria. Once the rezoning application is finalized and approved, whoever develops the property will need to adhere to this document.

Information Sign-up Sheet

Neighborhood Meeting, May 2, 2007

PASADERA

Name	Mailing Address	Phone	Email
Kim Leggio	12926 W. Whitton Ave, Avondale 85323	(623)5361110	
Keith Kgaucki	870 N. Villanova Dr. Litchfield	623 9355195	
Susan Runge	12646 W. Clarendon	623 5494746	
Charles Runge	12946 W. Clarendon	6235494746	
David Csicsak	3529 N. 127th Dr	623 337 3736	
Brian Peterson	3717 N. 128TH AVE. AVONDALE 85323	623-748-9799	
Andrea Bodem	3729 N. 127th Dr Avondale 85323	623-536-7360	
Ed Grisewold	12818 W. Fairmount Ave Avondale	623 979 0043	
Lisa Dubas	12943 West Whitton Ave	6235363011	
Alphonso Tyson	12858 W. Indianola Ave Avondale	(623) 535-5491	
Sharron O'Bannon	3701 N. 127TH DR AVONDALE	623 935-0857	
Nancy Acuna	12854 W Indianola Av	623 935 6599	
Pat Buzadzija	80 E. Rio Salado Pkwy Tempe	480/659-4664	
Deborah Lucey	12840 W Weldon Ave	623 535-3044	
David Cook	12814 W. Fairmount Ave	623-466-0298	ileah@scoutten.com

Information Sign-up Sheet

Neighborhood Meeting, May 2, 2007

PASADERA

Name	Mailing Address	Phone	Email
MIKE DESMITH	12802 W FAIRMONT AVE AVONDALE 85323	623-935-7760	

Exhibit H

June 2007

City of Avondale
11465 Civic Center Drive
Avondale, AZ 85323

RE: PASADERA PROJECT, GP-07-3 & SP-07-2

As residents of Avondale, we want to see a quality project built on the southeast corner of Indian School and Dysart roads.

We do not want to see a discount shopping center built there and support the idea of a mixed-use development with housing, offices, stores and restaurants.

We like the idea of residential units for professionals and seniors, but do not want to see low-income housing or family housing in the development.

Finally, we would like to see 129th Street blocked from automobile traffic and some type of security gate and/or wall to prevent strangers from walking into the Sage Creek neighborhood.

Sincerely,

Signature Elizabeth W. Grace
Print Name Elizabeth W. Grace
Address 12811-W. Fairmont Ave

Signature Angela Tyson
Print Name Angela Tyson
Address 12858 W. Indianola Ave.

Signature Charles J. Ringe
Print Name Charles Ringe
Address 12946-W. Clarendon

Signature Margaret J. Erickson
Print Name 3721 N. 129th Dr
Address 623-935-3796

Signature Susan A. Ringe
Print Name Susan A. Ringe
Address 12946 W. Clarendon

Signature Don Keels
Print Name Don Keels
Address 12759 W. Indianola Ave

Signature Alphonse L. Tyson
Print Name Alphonse L. Tyson
Address 12858 W. Indianola Ave

Signature Gayle Mullins
Print Name Gayle Mullins
Address 3625 N. 27 Dr

June 21, 2007

Planning Commission
City of Avondale
11465 W. Civic Center Drive
Avondale, AZ 85323

Re: GP-07-3 and SP-07-2 – Dysart & Indian School Roads

Dear Commissioners:

My wife and I own a home immediately adjacent to the Pasadera project by Rose Properties Southwest.

We strongly support the rezoning of the property from commercial to mixed-use and believe the project will make a positive contribution to our neighborhood.

We believe the project will beautify the entryway to Avondale at Indian School and Dysart roads. The lot has been vacant for too long and the existing LPSCP facility is an eyesore.

We also like the concept of a walkable, mixed-use village, which will allow our family to walk to the shops and restaurants without having to get into our car to drive there.

The undeveloped property is a liability, so we hope that you will approve the Pasadera concept and allow development to proceed there as quickly as possible.

Sincerely,

Alphonso and Angela Tyson
12858 Indianola Avenue
Avondale, AZ 85323

June 20, 2007

City of Avondale
Planning Division

Dear Planning Commissioners:

I am writing regarding case #GP-07-3, the Pasadera project, near my home in northwestern Avondale.

I am a resident of Sage Creek and will not be able to attend the hearing tomorrow because I work in the evenings.

I am very supportive of the Pasadera project that Rose Properties is talking about building at Dysart Road and Indian School. I believe it will be better for our neighborhood than another strip mall.

As long as the rental units are very nice and not built as affordable housing, I think a mix of uses will work very well. I also like the idea of a gate that would let Sage Creek residents walk to the restaurants and stores there, rather than having to drive.

I hope you support the project.

Sincerely,

Ramon Rentería
13017 Weldon Avenue
Avondale, AZ 85[illegible]

Sage Creek Community Association

Mack Ferrick
PO Box 7751
Surprise, AZ 85374
June 20, 2007

John Ruggieri
Rose Properties Southwest
3090 N. Litchfield Road
Goodyear, AZ 85338

Dear John,

On behalf of the Sage Creek Home Owners Association Board of Directors, we would like to thank you and Leslie for attending our H.O.A. meeting on April 26. We appreciate your openness for input on the Pasadera Project to be developed on the 40 acres at the S.E. corner of Dysart and Indian School.

On May 24, our board voted 4-1 in favor of supporting the Mixed Use Zoning with residential town houses, upscale rental units and urban style lofts mixed in with the businesses. This concept is being used in many places with much success. We think it is a very desirable concept and would add property value to our homes in Sage Creek.

We are looking forward to working with you on the site planning of this project to insure a positive relationship with our community. We are particularly interested in the following issues:

- We would like to see space developed in this project for Police and Fire protection.
- The landscaping of this property is also very important to our community.
- The short street of 129th, that now dead ends at your property line, is an area of particular concern. We need to protect our property from unwanted vehicle traffic as well as foot traffic into or thru our property.
- We would not want to see affordable or family –orientated residential units that would impact our already overcrowded schools.

We will continue to encourage input from our residents, especially, along the north end of our neighborhood where their homes are along two property lines. Again, thank you for including Sage Creek in this very important project.

Thank you,

Mack Ferrick
President, Sage Creek H O A.

West Valley Hospital
An Affiliate of Abrazo Health Care

June 18, 2007

The Honorable Marie Lopez Rogers
and City Council Members
City of Avondale
11465 West Civic Center Drive
Avondale, AZ 85323

Re: Pasadera GP-07-3 and SP-07-2

Dear Mayor Lopez Rogers and Honorable Council Members:

It has come to my attention that the Avondale City Council is working toward innovative planning solutions in its Civic Center area and elsewhere in the city – planning solutions that may allow for mixed-use developments with attached housing products for rent and for sale.

On behalf of the West Valley Hospital, I applaud efforts that will create more housing diversity in the Southwest Valley. Our hospital employs more than 450 people, many of whom commute from elsewhere in the Valley because they don't have suitable housing choices near our facility.

Many of our doctors, interns, nurses and administrators would welcome the opportunity to live in a high-quality apartment or loft environment, such as that proposed in Rose Properties Southwest's Pasadera project in northwestern Avondale and envisioned elsewhere in the city.

As we work to attract and recruit talent from other regions, the availability of convenient and attractive transitional housing is extremely important, as well.

I applaud your vision and encourage your support of projects such as Pasadera that will provide more diverse housing options for those who work in and near the City of Avondale.

Thank you for your consideration.

Sincerely,

James R. Resendez, FACHE
President and CEO
West Valley Hospital

cc: City of Avondale Planning Commission
Mr. Charlie McClendon, City Manager
Mr. Brian Berndt, Director of Planning

13677 W. McDowell Road Goodyear, AZ 85338
623/882-1500 623/882-1510 (fax)

www.whospital.com

May 24th, 2007

City of Avondale
Planning Commission
Cases GP-07-3 and SP-07-2 Pasadera

Eric Morgan

As property owners adjacent to the subject land, we support the proposed land use designation from Commercial to Mixed use and Public Facilities.

We would sincerely hope that the entrances be few and the use of Limited Access Roads be used. The intersection of Dysart and Indian School Roads is very busy and can only grow much busier.

It would also be great if a Police Outpost and Fire Station be included in the Recommendation to the City Council.

It is our belief that any restaurants be on the Indian School or North side of the property and the residential units will be on the South side of the property.

Thanks for your Consideration

Charles Runge & Susan Runge
12946 West Clarendon Road
Avondale
Residential Phone 623 547 4746

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Subject: Pasadera Project
From: "Mack Ferrick" <mackferrick@gmail.com>
Date: Wed, May 23, 2007 11:19 am
To: johnr@ropertiessw.com (more)
Cc: "Betty Lynch" <blynch@avondale.org> (more)
Priority: Normal
Options: View Full Header | View Printable Version | Download this as a file

On behalf of the Sage Creek Home Owners Association Board of Directors, we would like to thank you John and Leslie for attending our H.O.A. meeting on April 26. We appreciate your openness for input on the Pasadera Project to be developed on the 40 acres at the S.E. Corner of Dysart and Indian School. We certainly support the Mixed Zoning with residential condos and urban style lofts mixed in with the businesses, this concept is being used in many places with much success. We think it is a very desirable concept and would add property value to our properties in Sage Creek.
We would like to see space developed in this project for Police and Fire protection, and we are looking forward to working with you on the site planning of this project to insure a positive relationship with our Community. The landscaping of this property is also very important to our community and again looking forward to working with you in this area.
The short street of 130th that now dead ends at your property line is another area of great concern. We need to protect our property of unwanted vehicle traffic as well as foot traffic into or through our property.
We will continue to encourage input from our residents, especially, along the north end of our neighborhood where their homes are along the two property lines.

Again thank you for including Sage Creek in this very important Project.

Thank you

Mack Ferrick
President Sage Creek H.O.A.

Attachments:

untitled-[2] **1.6 k** [text/html] Download | View

Take Address

Eric Morgan

From: kleggio [kleggio@cox.net]
Sent: Saturday, May 19, 2007 8:29 AM
To: Email Planning; Kenneth Galica; Eric Morgan
Cc: azbzbees@yahoo.com
Subject: May 24, 2007 Planning Commission, Special Meeting

This email is in response to the Planning Commission Meeting scheduled for May 24, 2007 at 6:00 p.m. I am an original resident of the Sage Creek Community and have concerns about the plan to rezone the corner property of Indian School Road and Dysart (Case GP-07-3 and SP-07-2).

I would like to see the development on that corner property to be developed in such a manner that will add value to the properties located in Sage Creek while also preserving the quiet, safe community life that we have come to expect.

I did attend the neighborhood meeting sponsored by Rose Properties on May 2, 2007 that explained their vision for the Pasadera project. There are some aspects of the projects that I liked and some that I did not. These aspects include:

- The Sage Creek Community is very quiet. There is currently no through traffic on our streets. It is easy to spot those that do not belong in our community. Our children can run and play within our neighborhood without worry of being hit by a speeding vehicle. The corner of Dysart and Indian School is very heavy with traffic. I am concerned that a through street may connect either Dysart or Indian School with our community. I am opposed to this type of plan.
- I do like the idea of a police and fire substation added to the corner. This only adds an extra layer of safety to our community. I would ask that if this does occur and a connecting street must be added to our community that it be gated so that only emergency personnel can access the Sage Creek Community.
- The Pasadera Project calls for luxury rentals, condos for rent and urban style lofts. I am against this plan. I am concerned that once the zoning would be changed, that apartments would be built on the corner. I am against the addition of rental units so close to the Sage Creek Community. This will only increase traffic, crime and place an additional burden on our already overcrowded schools. While Rose Properties may be looking for additional rental properties to accommodate the upcoming Super Bowl, your current Avondale residents have been here before the Super Bowl and will still be here after the Super Bowl.
  There was talk of "Urban lofts". This is not an urban loft community and would detract from the neighborhood.
- If residential areas are truly needed on this property, can the zoning be changed to restrict it to luxury patio homes? This may be a good compromise that would encourage owner occupied living and still keep the value of the community.
- I do like the idea of having a "mixed use" facility that includes a "walkable village made vibrant by its mix of shops, restaurants and offices". However, the property must be made of a design that matches the community. I have seen several new plazas and buildings in other areas recently built with a design that includes very bright, contrasting colors that really are an eyesore that cheapens the community. The colors and design must match. The new plaza that has been built on Thomas and Dysart matches the surrounding community and the Community College. This design does not detract from property values.
- I am also concerned about the types of businesses that would be going into this corner. I am against any "low brow" type of shop such as a dollar store or check cashing center. These types of shops will detract from our property values.

I am not able to attend the Public Hearing on May 24th due to another commitment, but I respectfully ask that my concerns be voiced. I would like to see the corner of Dysart & Indian School developed, but in a manner that will add to our community value, not detract from it. It would not be in our cities best interest to develop that corner property in such a way that it detracts from the Sage Creek property values.

Sincerely,

Kim Leggio
12926 W. Whitton Ave.
Avondale, Arizona 85323
azbzbees@yahoo.com

PLANNING DIVISION
RECEIVED
APR 2007

May 19, 2007

City of Avondale
Planning Commission
11465 W. Civic Center Drive
Suite 110
Avondale, Az. 85323

Re: Cases GP-07 and SP-07 Pasadera

I am writing to express my opposition to the proposed zoning change sought by Rose Development for the land at Indian School and Dysart.

I attended a meeting hosted by Rose Development along with approximately 40 other homeowners in Sage Creek and we all shared the same concerns. While all of us would like to the property developed and landscaped no one is in favor of 3 story residential units adjoining the perimeter of our community. There is no way to completely screen buildings of that height from the surrounding homes. We were told landscaping would be in place but I do not feel that would be enough of a barrier to offset the loss of privacy, and increased noise.

Other issues that were not satisfactorily addressed concerned the traffic impact and the potential impact on our local schools. Rose Development quoted 300 units to be part of their mixed use plan. They told us their targets demographic are empty nesters looking to down size and support staff for the Tigers baseball organization needing short term housing. These units would be rental with a possible conversion to condos at a future date. All the parking for these units is open with no garage or direct access to the residences. The apartment complex at Indian School and Santa Fe Trail has had an on going problem with car theft as a result of open parking behind a gated complex. I don't want to invite this problem into our neighborhood. Without garages and direct access they will not be attractive to the type of tenet they are seeking. The condo development in Litchfield Park has these features and would more likely capture buyers than a condo conversion without a garage. Once the units are rented I believe they will always remain rentals to families with children which would increase the demand for enrollment in our schools.

There was no mention for a traffic plan for Indian School and Dysart with the addition of 300 residences and 600 cars (most families tend to have 2 cars). It is already difficult to

access the left turn lane from the Albertsons center to south bound Dysart during peak traffic.

Based on the above issues I am opposed to the change in zoning and would prefer it remain commercial.

Sincerely,

Sharron O'Bannon

Sharron O'Bannon
Resident Lot 32
Sage Creek, Avondale

GuyCor Development
6412 E. Maverick Rd.
Paradise Valley, AZ 85253
Phone: 602-319-6785
Fax: 480-948-7105
guyettedev@cox.net

CITY OF AVONDALE
MAY 9 2007
DEVELOPMENT SERVICES

5/5/2007

City of Avondale Planning Division
ATTN Eric Morgan
11465 W. Circle Center Drive
Suite # 110
Avondale, AZ 85323

Attn: Eric Morgan

RE: General Plan and Specific Plan Amendments; Pasadera

Dear Mr. Morgan;

As the owner of Palm Desert Plaza located at the corner of Indian School Road and Santa Fe Trail, we form the east boundary of the proposed "Pasadera" project. In designing and developing this property, it was stipulated that a stub-out would be constructed on the property for cross-access with future commercial development to the west. This was to allow access to Palm Desert Plaza by automobiles traveling west on Indian School Rd.

Enclosed is a copy of the ordinance No. 747-00 outlining this agreement dated August 21st, 2000. (Section 1: Amendment of the Zoning Map; Stipulation No. 4). Also enclosed is a site plan showing the stub-out.

I am forwarding this information to you so that this access can be incorporated into the Pasadera design.

Sincerely,

Robert F. Guyette

CC: Dustin C. Jones
Leslie Wade

Pasadera

Eric Morgan

From: Lori Waltz [lwaltz@royaloakslife.com]
Sent: Thursday, May 17, 2007 3:58 PM
To: Eric Morgan
Cc: John
Subject: Re-Zoning of Commerical Land at corners of Indian School and Dysart Roads

May 17, 2007

Dear Eric Morgan,

My husband and I are brand new residents in the Sage Creek subdivision. We just received a copy (from a neighbor) of a notice about a re-zoning meeting that was apparently held on May 2, 2007 at Estrella College concerning a proposed change of zoning for the vacant land located south of Indian School and east of Dysart roads from Commercial to Mixed Use. We are concerned because this proposed change was not pointed out to us prior to the May 4, 2007 closing on our property. The back wall of our yard is directly next to the vacant land on Indian School. My husband and I may not have made the home purchase if we thought anything other than commercial properties would ever be built on that land directly behind us. **Specifically, we would not be in favor of any residential housing of an apartment or condominium configuration**. We strongly feel that those types of structures de-value the neighborhood and would negatively increase the traffic flow through our currently quiet streets.

We just wanted to be heard if it is not too late to weigh in on this decision. We certainly hope that the City of Avondale will carefully review the possible negative ramifications for the city, and will vote to keep the current "commercial only" designation for that land.

Thank you for your time and consideration,

John and Lori Waltz
12826 W. Fairmount Avenue
Avondale, AZ 85323

Lwaltz@royaloakslife.com
enviroquest@core.com

Confidentiality Statement:
This message may contain protected health information (PHI) or other information which may be confidential or legally privileged. If you are not the intended recipient, you may not use, copy, disseminate or disclose this communication or its contents to anyone. If you have received this message in error, please advise the sender by replying and delete this message. Thank you.

August 3, 2007

From: Sage Creek Home Owners Association

To: Planning Division
11465 West Civic Center Drive
Suite 110
Avondale, Arizona, 85323

Attention: Eric Morgan, Planner 11

Reference: Cases GP-07-03 Pasadera and SP-07-2 Pasadera

Dear Sir,

This letter is a point of clarification to any and all letters, emails sent to the City Council or any other organization concerning the Multipurpose Proposal of the 40 acres just north of Sage Creek Community, cross roads of Dysart and Indian School.

Our five Board Members, as home owners, agree and support the Multipurpose Proposal of the development of the 40 acres just west of our community on Dysart and Indian School. We have encouraged input from the community to the City Council in this decision making process.

The one issue of concern is the height of the design of the buildings, apartments or condos. Two floor verses three or more seems to be the issue at this point. I would hope that further input in the future will address those issues.

I would like to thank Rose Properties for coming to our Board meeting and explaining the project and seeking our community input. And the willingness to come back for further discussion as the project moves forward.

Sincerely,

Mack Ferrick
President, Sage Creek Home Owners Association

RESOLUTION NO. 2670-807

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE CITY OF AVONDALE NORTH AVONDALE SPECIFIC PLAN REGARDING THE LAND USE DESIGNATION OF APPROXIMATELY 40.5 ACRES SOUTHEAST OF THE SOUTHEAST CORNER OF INDIAN SCHOOL ROAD AND DYSART ROAD.

WHEREAS, the City of Avondale North Avondale Specific Plan (the "North Avondale Plan") was adopted by the Council of the City of Avondale (the "City Council") in June 1991 and updated on June 17, 2002; and

WHEREAS, the North Avondale Plan establishes the authority and procedures for amendments; and

WHEREAS, the City of Avondale (the "City") has given notice to and provided all neighboring cities, Maricopa County, Maricopa Association of Governments, Arizona Department of Commerce, and all local school districts the opportunity for comment on the amendment to the North Avondale Plan; and

WHEREAS, the City has consulted with, advised and provided the public with the opportunity for comment on the amendment to the North Avondale Plan; and

WHEREAS, pursuant to ARIZ. REV. STAT. § 9-461.09 and the North Avondale Plan, the City Planning Commission (i) held one public hearing in the Public Safety Building on May 24, 2007 on the proposed North Avondale Plan amendment, (ii) held a second public hearing in the City Council Chambers on June 21, 2007 on the proposed North Avondale Plan amendment, and (iii) provided notice of such hearings by publication of said notices in the *West Valley View* on May 8, 2007 and June 5, 2007, respectively; and

WHEREAS, pursuant to ARIZ. REV. STAT. § 9-461.09 and the North Avondale Plan, the City Council (i) held a public meeting in the City Council Chambers on the proposed North Avondale Plan amendment on August 20, 2007, and (ii) provided notice of such hearing by publication of said notice in the *West Valley View* on July 31, 2007; and

WHEREAS, the City Council finds and determines that (i) proper notice has been given in a manner required by ARIZ. REV. STAT. § 9-461 *et seq.* of the proposed North Avondale Plan amendment and that each of the required publications have been made; and

WHEREAS, the City Council desires to amend the North Avondale Plan to change the land use designation for approximately 40.5 acres of real property generally located southeast of the southeast corner of Indian School Road and Dysart Road from Commercial to Mixed Use.

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

SECTION 1. That the North Avondale Specific Plan is hereby amended to change the land use designation for approximately 40.5 acres of real property generally located southeast of the southeast corner of Indian School Road and Dysart Road from Commercial to Mixed Use, as set forth in Exhibit A attached hereto and incorporated herein by reference.

SECTION 2. That 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, August 20, 2007.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Linda M. Farris, City Clerk

APPROVED AS TO FORM:

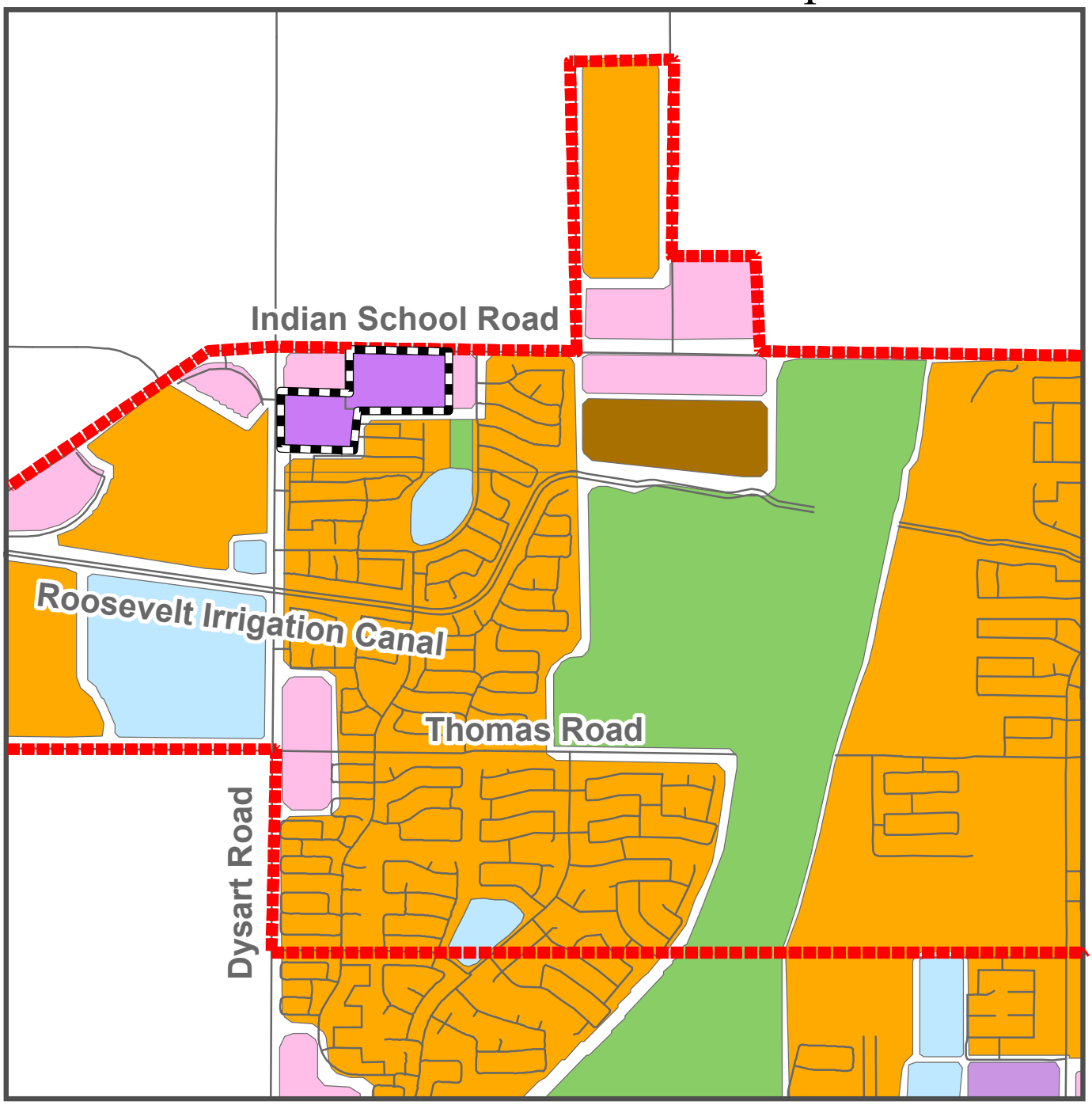
_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2670-807

[North Avondale Plan Amendment Land Use Map]

See following page.

North Avondale Specific Plan Amendment Land Use Map



Existing - General Plan Land Use

- Commercial
- Employment
- Freeway Commercial
- High Density Residential
- Low Density Residential
- Medium Density Residential
- Medium High Density Residential
- Mixed Use
- Multi Family Residential
- Open Space
- Public Facilities
- Subject Property
- North Avondale Specific Plan Area

RESOLUTION NO. 2669-807

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE CITY OF AVONDALE GENERAL PLAN REGARDING THE LAND USE DESIGNATION OF APPROXIMATELY 40.5 ACRES SOUTHEAST OF THE SOUTHEAST CORNER OF INDIAN SCHOOL ROAD AND DYSART ROAD.

WHEREAS, the City of Avondale General Plan (the "General Plan") was adopted by the Mayor and Council of the City of Avondale (the "City Council") on June 17, 2002, and ratified by the qualified electors of the City of Avondale on September 10, 2002; and

WHEREAS, the General Plan establishes the authority and procedures for major amendments; and

WHEREAS, pursuant to ARIZ. REV. STAT. § 9-461.06 and the General Plan, the City of Avondale (the "City") has given notice to and provided all neighboring cities, Maricopa County, Maricopa Association of Governments, Arizona Department of Commerce and all local school districts the opportunity for comment on the amendment to the General Plan; and

WHEREAS, pursuant to ARIZ. REV. STAT. § 9-461.06 and the General Plan, the City has consulted with, advised and provided the public with the opportunity for comment on the amendment to the General Plan; and

WHEREAS, pursuant to ARIZ. REV. STAT. § 9-461.06 and the General Plan, the City Planning Commission (i) held one public hearing in the Public Safety Building on May 24, 2007 on the proposed General Plan amendment, (ii) held a second public hearing in the City Council Chambers on June 21, 2007 on the proposed General Plan amendment, and (iii) provided notice of such hearings by publication of said notices in the *West Valley View* on May 8, 2007 and June 5, 2007, respectively; and

WHEREAS, pursuant to ARIZ. REV. STAT. § 9-461.06 and the General Plan, the City Council (i) held a public meeting in the City Council Chambers on the proposed General Plan amendment on August 20, 2007 and (ii) provided notice of such hearing by publication of said notice in the *West Valley View* on July 31, 2007; and

WHEREAS, the City Council finds and determines that (i) proper notice has been given in a manner required by ARIZ. REV. STAT. § 9-461 *et seq.* of the proposed General Plan amendment and that each of the required publications have been made; and

WHEREAS, the City Council desires to amend the General Plan to change the land use designation for approximately 40.5 acres of real property generally located southeast of the southeast corner of Indian School Road and Dysart Road from Commercial to Mixed Use.

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

SECTION 1. That the General Plan is hereby amended to change the land use designation for approximately 40.5 acres of real property generally located southeast of the southeast corner of Indian School Road and Dysart Road from Commercial to Mixed Use, as set forth in Exhibit A attached hereto and incorporated herein by reference.

SECTION 2. That 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, August 20, 2007.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Linda M. Farris, City Clerk

APPROVED AS TO FORM:

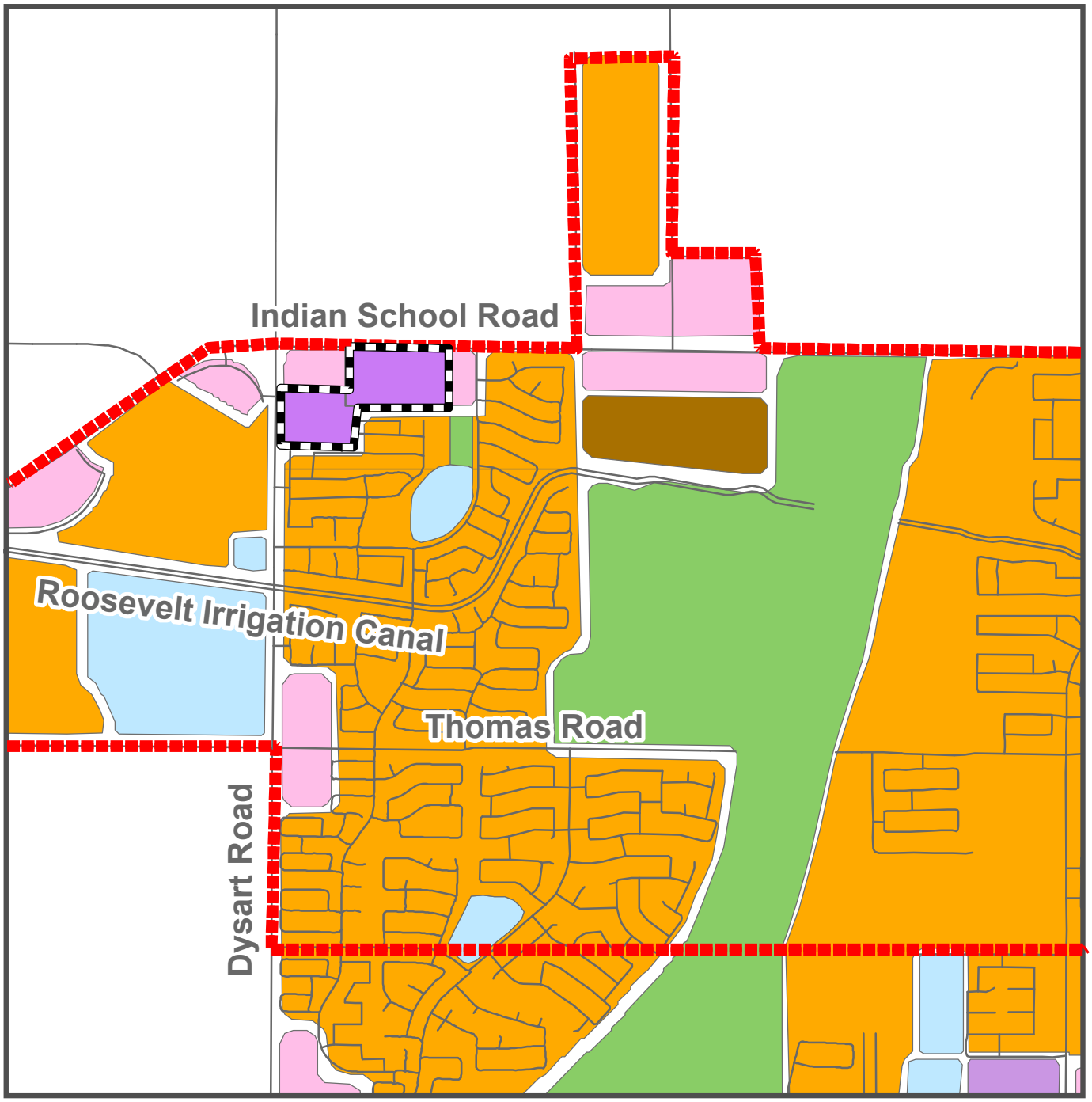
_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2669-807

[General Plan Amendment Land Use Map]

See following page.

General Plan Amendment



Existing - General Plan Land Use

- Commercial
- Employment
- Freeway Commercial
- High Density Residential
- Low Density Residential
- Medium Density Residential
- Medium High Density Residential
- Mixed Use
- Multi Family Residential
- Open Space
- Public Facilities
- Subject Property
- North Avondale Specific Plan Area

DEVELOPMENT SERVICES

SUBJECT:
Public Hearing- Conditional Use Permit : CU-07-8
Avondale Recycling

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Scott Wilken, Senior Planner (623)333-4016

THROUGH: Charlie McClendon, City Manager

REQUEST: Conditional use permit for a recycling facility in the A-1 (General Industrial) zoning district

PARCEL SIZE: 22,387.5 square feet

LOCATION: 940 E. Brinker - northwest corner of Brinker Drive and Eliseo C. Felix Jr. Way (Exhibits A and B)

APPLICANT: Jack Townley, Alliance Construction Services

OWNER: Avondale Recycling

BACKGROUND:

The subject property was annexed in 1960 and zoned A-1 (General Industrial) prior to 1990. The A-1 zoning district allows recycling facilities with a conditional use permit.

The property contains an existing 5,490 square foot building, which has been used for a variety of industrial and manufacturing uses in the past.

Avondale Recycling currently maintains a recycling facility at 229 E. Main Street in Avondale. The owners intend to close that operation and move to the subject property.

SUMMARY OF REQUEST:

1. The applicant is requesting Conditional Use Permit approval for a recycling facility at the northwest corner of Brinker Drive and Eliseo C. Felix Jr. Way (Exhibit D).

2. The applicant plans to use the existing 5,490 square foot building, which will be used for offices, storage, and weighing of recyclable materials. The business will be open Monday through Saturday from 8 AM to 5 PM.

3. No outdoor storage or display is proposed. All materials will be collected at the proposed loading and unloading area on the east side of the building, and will be sorted and stored inside the building.

4. If the conditional use permit is approved, the applicant will submit a site plan for administrative review. The site plan will be required to comply with the Zoning Ordinance development standards, and any applicable conditions of the conditional use permit.

PARTICIPATION:

The applicant conducted a neighborhood meeting on June 13, 2007 at City Hall. The neighborhood meeting was advertised in the West Valley View on May 29, 2007. The property was posted on May 29,

2007. Notification letters were mailed out to 14 property owners on May 29, 2007. According to materials presented by the applicant, no residents attended the meeting.

A notice of the Planning Commission hearing was published in the West Valley View on July 3, 2007. The property was posted on July 3, 2007. Notification letters were mailed out to 14 property owners on July 3, 2007. Staff received three letters of opposition from an owner of property on Eliseo C. Felix Jr. Way, north of the subject property (Exhibit E).

A notice of the Council hearing was published in the West Valley View on July 31, 2007. The property was posted on July 31, 2007. Notification letters were mailed out to 14 property owners on July 31, 2007. No comments have been received to date.

PLANNING COMMISSION ACTION:

The Planning Commission conducted a public hearing on July 19, 2007 and voted 5-0 to recommend APPROVAL of this request subject to the following stipulations:

1. The development of the site shall conform to the site plan and the project narrative date stamped July 10, 2007.

2. In accordance with Section 108 of the Zoning Ordinance, the Conditional Use Permit shall expire within two years from the date of approval if the use has not commenced.

3. All outdoor storage shall be prohibited.

4. Prior to the issuance of a building permit, the applicant shall receive administrative site plan approval. The site plan shall include sufficient measures to buffer the proposed use from surrounding development, including, but not limited to, an 8' tall masonry wall and landscaping on the north side of the subject property.

5. The existing Avondale Recycling facility at 229 E. Main Street shall be completely cleaned up with all material removed within 6 months of approval of the certificate of occupancy for the subject property.

ANALYSIS:

The City Council must determine that the proposed use meets five findings prior to granting a Conditional Use Permit. The burden of proof rests with the applicant. Each finding is presented below along with staff's analysis.

1. That the proposed use (i) is consistent with the land-use designation set forth in the General Plan, (ii) will further the City's general guidelines and objectives for development of the area, as set forth in the General Plan and (iii) will be consistent with the desired character for the surrounding area.

The subject property is designated as Employment on the General Plan Land Use Map. The existing A-1 zoning is consistent with the Employment designation of the General Plan. The proposed use is allowed in the A-1 zoning district subject to a conditional use permit.

2. That the use will be (i) compatible with other adjacent and nearby land uses and (ii) will not be detrimental to (1) persons residing or working in the area, (2) adjacent property, (3) the neighborhood or (4) the public welfare in general.

The proposed use will not adversely affect the surrounding area. The majority of the area is currently or proposed to be used for industrial uses. The subject property has operated for decades as enclosed industrial uses, and the proposed recycling facility will be very similar in nature. The operation and storage of the facility will take place indoors, with no storage or sorting taking place outside of the existing building.

To the north of the subject property is a manufactured housing park. As part of the site plan approval, the site will be upgraded to provide sufficient sight and noise buffer for the residents to the north, including a new 8' tall CMU wall and landscaping. A stipulation has been included to require this.

3. That the site is adequate in size and shape to accommodate the proposed use, allow safe onsite circulation, and meet all required development standards including, but not limited to setbacks, parking, screening and landscaping.

The proposed site provides adequate parking and on-site circulation. The site will be improved to include paved parking area, striped parking spaces, and new one-way driveways. The eastern end of the site will include a one-way entrance and a one-way exit will be included closer to the existing building. This will ensure sufficient ingress and egress for patrons of the site to drop off recyclable materials without causing traffic to back up onto the surrounding streets.

The existing building will be maintained and improved for the proposed use. As part of the site plan process, sufficient measures will be included to mitigate any adverse impacts on the surrounding area because of the building's size and location. Additionally, an existing garage door on the south side of the building will not be used by patrons and will be used infrequently for service by the recycling facility staff. This garage door will be marked as "no entrance."

4. That the site has appropriate access to public streets with adequate capacity to carry the type and quantity of traffic generated by the proposed use.

Primary access to the will be from Brinker Drive. The eastern end of the site will include a one-way entrance and a one-way exit will be included closer to the existing building. The site will have no access from Eliseo C. Felix Jr. Way.

5. That adequate conditions have been incorporated into the approval to insure that any potential adverse effects will be mitigated.

Two routine stipulations have been included in the staff recommendation. In addition, staff is recommending a stipulation to specifically prohibit outdoor storage, a stipulation requiring that a site plan be approved by the Planning staff prior to the issuance of a building permit, and a stipulation requiring the site plan to include sufficient buffering measures for the surrounding area.

Additionally, a stipulation has been included to ensure that the existing Avondale Recycling facility on Main Street will be vacated and cleaned up as a part of this project.

FINDINGS:

The proposed conditional use appears to meet the required findings for approval.

RECOMMENDATION:

The City Council should conduct a public hearing and **APPROVE** the Conditional Use Permit subject to the five stipulations recommended by the Planning Commission.

PROPOSED MOTION:

I move that the City Council accept the findings and **APPROVE** application CU-07-8, a request for a Conditional Use Permit for a recycling facility in the A-1 zoning district subject to the five stipulations recommended by the Planning Commission.

ATTACHMENTS:

Click to download

- Avondale Recycling Exhibits A-F

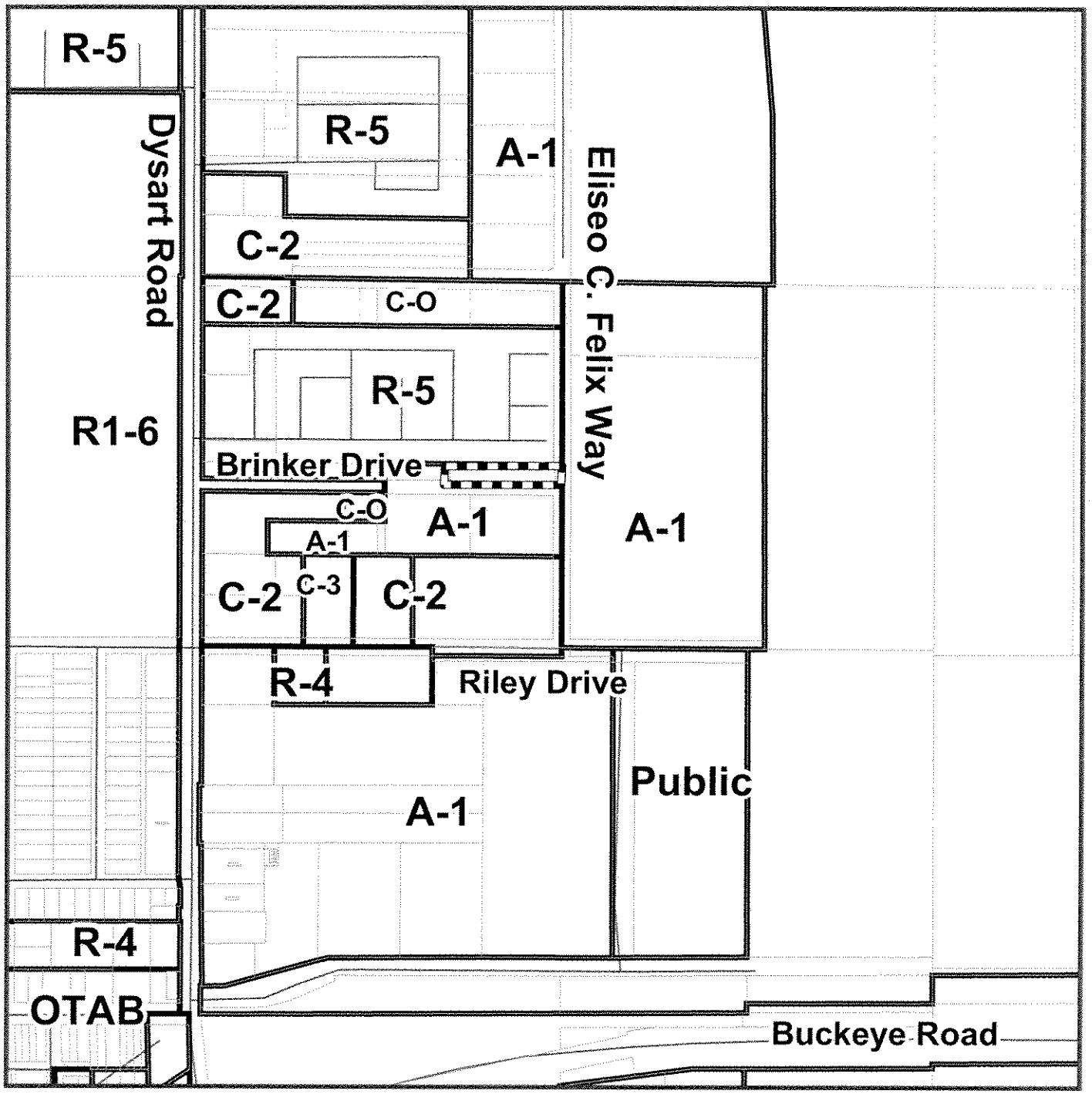
FULL SIZE COPIES (Council Only):

Site Plan dated July 10, 2007 (City Council only)

PROJECT MANAGER:

Scott Wilken, Senior Planner (623) 333-4016

Exhibit A

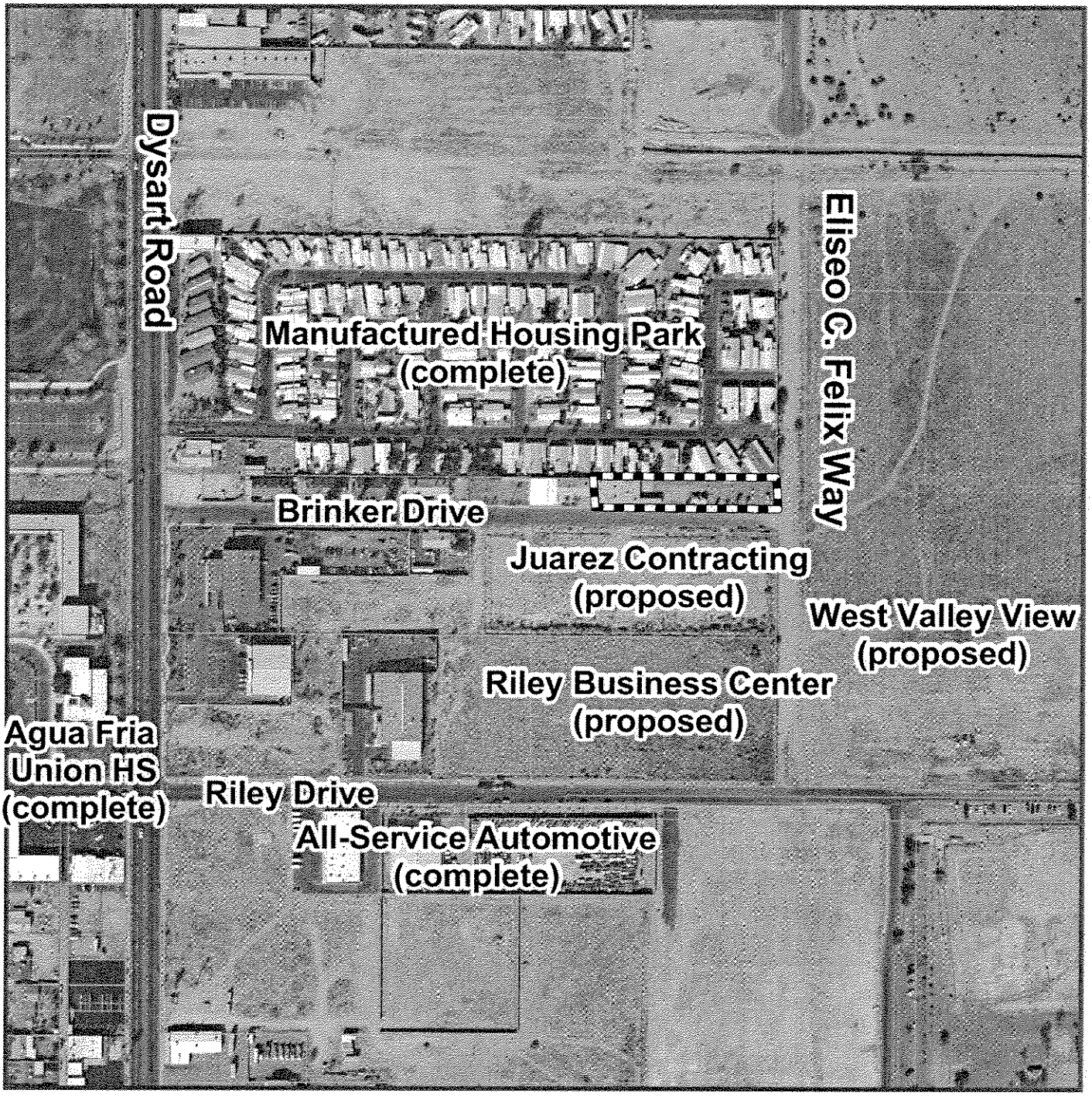


Zoning Vicinity Map
CU-07-8

Avondale

Subject Site

Exhibit B



Aerial Photo 2006
CU-07-8

Avondale

Subject Site

Exhibit C

SUMMARY OF RELATED FACTS

APPLICATION CU-07-8

THE PROPERTY	
PARCEL SIZE	0.51 acres
LOCATION	Northwest corner of Brinker Drive and Eliseo C. Felix Jr. Way
PHYSICAL CHARACTERISTICS	The site is relatively flat
EXISTING LAND USE	Vacant industrial building
EXISTING ZONING	General Industrial District (A-1)
ZONING HISTORY	Annexed in 1960 and zoned A-1 prior to 1990.
DEVELOPMENT AGREEMENT	None

SURROUNDING ZONING AND LAND USE	
NORTH	R-5 Mobile Home Park (existing mobile home park)
EAST	A-1 Industrial (vacant)
SOUTH	A-1 Industrial (approved for contractor storage yard)
WEST	A-1 Industrial (auto repair shop)
GENERAL PLAN	
The subject property is designated as Employment on the General Plan Land Use Map.	

PUBLIC SCHOOLS	
SCHOOL DISTRICT(S)	Avondale Elementary School District Agua Fria Union High School District
ELEMENTARY SCHOOL	Lattie Coor (K-8)
JUNIOR HIGH SCHOOL	Lattie Coor (K-8)
HIGH SCHOOL	Agua Fria High School

STREETS	
Brinker Drive	
Classification	Collector
Existing half street ROW	30 feet
Standard half street ROW	30 feet
Existing half street improvements	2 paved lanes, curb, gutter, sidewalk
Standard half street improvements	1 traffic lanes, curb, gutter, sidewalk, landscaping and streetlights.
Eliseo C. Felix Jr. Way	
Classification	Collector Street
Existing half street ROW	30 feet
Standard half street ROW	30 feet
Existing half street improvements	2 paved lanes, curb, gutter, sidewalk, streetlights
Standard half street improvements	2 paved lanes, curb, gutter, sidewalk, streetlights

UTILITIES
There is an existing 6" waterline along the property in Brinker Drive to the south of the property, and an existing 8" waterline in Eliseo C. Felix Jr. Way to the east of the property. There is an existing 8" sewer line along the property in Brinker Drive to the south of the property, and an existing 10" sewer line in Eliseo C. Felix Jr. Way to the east of the property.

EXHIBIT D

ACS

Alliance Construction Services
894 W. Tiffany Place
Chino Valley, Arizona 86323
Ph: 928-541-9301; Fx: 928-541-9302; Cl: 928-848-0031

City of Avondale
Development Services Dept.
11465 W. Civic Center Dr. Ste 110
Avondale, AZ 85323

May 18, 2007

Re: Avondale Recycling
APN #500-22-004-W
Project Narrative – Conditional Use Permit Application

This narrative, application and attachments are for the above captioned project requesting that a Conditional Use Permit be granted for a Change of Occupancy from the existing S-1 occupant, Automobile Repair Garage, to an S-2 occupancy, storage of metals in the course of a metals recycling business, Avondale Recycling. The applicant has an existing metals recycling business located within the City of Avondale, at 229 E. Main Street, and intends to relocate that business to this location in total.

The proposed new location will utilize the same recycling materials as are currently being bought and sold, principally, aluminum, copper and brass in small lots. 90% of all materials are purchased from individuals. The new location will include a small, metals compactor that will allow the company to reduce the volume of materials handled and make it easier for the company to then transport the materials to the larger recycling yards for disposal.

Points for consideration in granting this application are:

1. The proposed use is consistent with the General Plan. There is no known Specific Plan regarding this parcel.

2. The proposed use is consistent with the existing zoning of Industrial-1.

3. The proposed use is compatible with the adjacent property uses with proper screening and landscaping.

4. The existing building can be utilized without changes of any kind, with the exception of updating the electrical panel and connection of metals compactor.

5. The proposed ingress/egress drive locations meet current separation requirements from existing intersections and adjacent parcels.

6. The proposed plan provides for a one-way circulation for all vehicular travel to and from the site. The drive, parking and aisle widths all meet current requirements.

7. Pedestrian and alternative vehicle access to and from the site will not require changes from the proposed plan.

CU-07-8

8. The applicant expects that a similar to slightly higher volume of traffic will be able to utilize the site due to the interior stacking aisle, offstreet parking and general easier access to and from the site than that of the existing location. Expected traffic during daylight, business hours, is expected to be from 3 to 5 vehicles per hour of the passenger car and light pickup trucks and 1 to 2 commercial vehicles per day of the 1 to 2 ton medium duty flat bed trucks.

9. All vehicle parking, loading and unloading will be done inside the screened yard with no on-street parking required or allowed.

10. No changes to the electrical service to the building are required. No changes to the sewer or water utilities will be required or made. There will be no more than 5 employees required to operate the business and no impact on the school systems or City recreation facilities will be required or adversely affected by the business move.

11. Per the site plan, an 8' high 8" CMU wall will be built around the entire yard and parking areas with 8' wrought iron gates at both access drives. No equipment, yard storage or business operations will be in view from the adjacent properties.

12. There will be no outside storage of materials – all metals will be moved into the warehouse where it will be compacted, weighed and readied for shipment. All materials received the previous day will be shipped the following day on company flat bed trucks.

13. The business will operate from 8:00 AM to 5:00 PM, Monday through Saturday.

14. No exterior lighting will be required or installed. There are existing wall mounted exterior lights adjacent to the doors which will remain.

15. Since the only piece of equipment is a small fork lift and no heavy equipment used to load and unload the vehicles, there will be no equipment noise, smoke, dust, odor, vibration or night lighting generated to proposed. The extra propane tanks used to power the forklift will be placed in an approved enclosed area 20' clear of the building. Storage of the fuel and operation of the fork lift will be in compliance with the International Fire Code.

16. Per City requirements, one way signs, 5 foot walks shall be installed if/where not existing and no parking signs shall be installed where required.

17. The existing curb cut and overhead door on the south of the building will be used to access the interior of the building to install and service compacting equipment but not to serve as a public entrance. It is the only existing overhead door that is large enough to accommodate the intended use. Signage will be posted as 'Building Service Entrance Only' or per City requirements.

We look forward to working with you on this project.

Respectfully submitted,

Jack Townley, Principal
Alliance Construction Services

EXHIBIT E

June 11, 2007

Via Fax 623-333-0400
Original Mail

Planning Division
Scott Wilken
11465 W Civic Center Drive Suite 110
Avondale, AZ 85323

Remar Construction LLC
19848 N. Cave Creek Rd.
Phoenix, AZ. 85024
602-482-2717

Re: Case CU-07-8
Brinker Drive and Eliseo C Felix Jr. Way

To Whom It May Concern:

We, as land owners of the property Lot 7, Rio Estrella Commerce Park, on C. Felix Eliseo Jr. Drive are writing to express our serious concern regarding the recycling facility. We strongly oppose the permitting of this property located @ 940 E Brinker Drive.

While we recognize the need for growth, we feel that a recycling facility on that property would only contribute to more theft and would certainly not be a compatible match for the community.

We urge you to not issue a permit to this site facility.

Yours truly,

Remar Construction LLC Members

June 11, 2007

Via Fax 623-333-0400
Original mail

Planning Division
Scott Wilken
11465 W Civic Center Drive Suite 110
Avondale, AZ 85323

Cherry Development LLC
19848 N. Cave Creek Rd.
Phoenix, AZ. 85024
602-482-2717

Re: Case CU-07-8
Brinker Drive and Eliseo C Felix Jr. Way

To Whom It May Concern:

We, as land owners of the property Lot 7, Rio Estrella Commerce Park, on C. Felix Eliseo Jr. Drive are writing to express our serious concern regarding the recycling facility. We strongly oppose the permitting of this property located @ 940 E Brinker Drive.

While we recognize the need for growth, we feel that a recycling facility on that property would only contribute to more theft and would certainly not be a compatible match for the community.

We urge you to not issue a permit to this site facility.

Yours truly,

Cherry Development LLC Members

June 11, 2007

Via Fax 623-333-0400
Original mail

Planning Division
Scott Wilken
11465 W Civic Center Drive Suite 110
Avondale, AZ 85323

Avondale 7 LLC.
19848 N. Cave Creek Rd.
Phoenix, AZ. 85024
602-482-2717

Re: Case CU-07-8
Brinker Drive and Eliseo C Felix Jr. Way

To Whom It May Concern:

We, as land owners of the property Lot 7, Rio Estrella Commerce Park, on C. Felix Eliseo Jr. Drive are writing to express our serious concern regarding the recycling facility. We strongly oppose the permitting of this property located @ 940 E Brinker Drive.

While we recognize the need for growth, we feel that a recycling facility on that property would only contribute to more theft and would certainly not be a compatible match for the community.

We urge you to not issue a permit to this site facility.

Yours truly,

Avondale 7 LLC Members

EXHIBIT F

Excerpt of the Draft Minutes of the regular Planning Commission meeting held July 19, 2007 at 7:00 p.m. in the Council Chambers.

COMMISSIONERS PRESENT
Linda Webster, Commissioner
David Iwanski, Commissioner
Edward Meringer, Vice Chair
Michael Alcorn, Commissioner
Kevin Grimsley, Commissioner

COMMISSIONERS ABSENT
Alan Lageschulte, Chairperson
Lisa Copeland, Commissioner

CITY STAFF PRESENT
Scott Wilken, Senior Planner, Development Services
Eric Morgan, Planner II, Development Services
Brian Berndt, Development Services Director

APPLICATION CU-07-8

APPLICANT Jack Townley, Alliance Construction Services
894 W. Tiffany Pl.
Chino Valley, AZ 86323

REQUEST A Conditional Use Permit for a recycling facility, 940 E. Brinker. The subject site is located at the northwest corner of Brinker Drive and Eliseo C. Felix Jr. Way. Staff contact: Scott Wilken (623) 333-4016

Scott Wilken, Senior Planner, stated the subject property is zoned A-1, as well as the properties to the east, west, and south, while the property to the north is zoned R-5. He described the subject property as an unpaved parking lot with an existing building, and described the surrounding property uses. Mr. Wilken showed the Commission slides of the Site Plan, stating the applicant is requesting a Conditional Use Permit for storage, weighing and sorting of recyclable materials, not to include outdoor storage. He stated the applicant is required to submit a Site Plan for Staff approval prior to starting the recycling business, and as part of the review, the applicant will be required to pave the parking lot, replace the existing chain link fence with an 8' high block wall, relocate one of the driveway curb cuts, and install landscaping in the parking lot and throughout the perimeter of the site. Mr. Wilken stated the business will be open Monday through

Saturday from 8 a.m. to 5 p.m. He assured the Commission that during the Site Plan review Staff would ensure there is sufficient buffering to mitigate adverse effects. Mr. Wilken informed the Commission that the owner currently operates a recycling facility at 229 E. Main Street, Avondale, and the applicant will close that operation and move it to this subject property.

Mr. Wilken summarized the five findings necessary to grant a Conditional Use Permit for the Commission: 1) It must be consistent with the General Plan and the character of the area. The subject property is designated as Employment to include industrial uses. 2) It must be compatible with nearby properties. The site will be required to undergo alterations to be compatible with surrounding properties, particularly the manufactured housing park to the north. The property is zoned A-1, which does allow heavy industrial uses without a Conditional Use Permit, while in this case, the City has the opportunity to require changes to the site to make it more compatible with the surrounding area. 3) The site must be of adequate size and shape to allow safe circulation and it must meet the required development standards. The site is very narrow and best suited for one-way traffic, and this site is planned for a one-way drive in to unload and then exit out on another drive, and the site will be required to meet all development standards in the Zoning Ordinance. 4) The site must have appropriate access to all public streets. This site will have appropriate access. 5) Adequate conditions have been incorporated into the approval to ensure that any potential adverse effects will be mitigated. Staff has recommended five stipulations. Mr. Wilken informed the Commission that Staff believes that the proposal meets the objectives of the General Plan, is in conformance with the A-1 zoning district and with the required Site Plan and development standards, and the site will be in conformance with the City of Avondale Zoning Ordinance.

Mr. Wilken stated Staff is recommending approval of the Conditional Use Permit with five stipulations: 1) The development of the site shall conform to the Site Plan and the project narrative date stamped July 10, 2007. 2) In accordance with Section 108 of the Zoning Ordinance, the Conditional Use Permit shall expire within two years from the date of approval if the use has not commenced. 3) All outdoor storage shall be prohibited. 4) Prior to the issuance of a building permit, the applicant shall receive administrative Site Plan approval. The Site Plan shall include sufficient measures to buffer the proposed use from surrounding development, including, but not limited to, an 8' tall masonry wall and landscaping on the north side of the subject property. 5) The existing Avondale Recycling facility at 229 E. Main Street shall be completely cleaned up with all material removed within 6 months of approval of the Certificate of Occupancy for the subject property.

Vice Chair Meringer invited questions for Staff.

Commissioner Alcorn asked if the Fire Marshal had inspected the property for sprinklers in the building and adequate hydrants in the area. Mr. Wilken replied they had routed this item to the Fire Marshal's office, who had signed off with conditions that the

property be brought up to the Fire Code, and when the applicant comes in with their final Site Plan, the Fire Marshal inspectors will visit the property and ensure the sprinklers and hydrants are adequate.

Commissioner Grimsley inquired if there was sufficient room for fire trucks and emergency vehicles to maneuver on the lot. Mr. Wilken responded that the Fire Marshal's office will make the final determination on that issue as part of the final Site Plan analysis. Commissioner Grimsley asked if primarily passenger to pickup trucks to one-ton vehicles accessed this type of business, or would there be box trucks or medium duty trucks requiring access to this lot. Mr. Wilken informed the Commission that the applicant stated they expect 90% of their customers to be single users in passenger vehicles and pickup trucks.

Vice Chair Meringer invited the applicant, Jack Townley, Alliance Construction Services, to address the Commission.

Jack Townley, Alliance Construction Services, said he would like to add that the driveway widths are 20' wide and gate widths are 20' wide, which were revisions per the Fire Department, as well as the Knox-Box type equipment for emergency entrance on the gates.

Vice Chair Meringer invited questions for the applicant.

Commissioner Iwanski asked regarding the requirement for Mr. Townley to "completely clean up" his facility at 229 E. Main Street, and he asked did Mr. Townley have any intention to re-establish recycling activities on the site on Main Street. Mr. Townley stated the Main Street site will be completely vacated, and as to the level of clean up, that would be stipulated by the City and he would comply.

Commissioner Alcorn asked what Mr. Townley intended to recycle. Mr. Townley replied nonferrous metals, aluminum cans, and copper radiator cores would comprise approximately 90% of the business, and he would not recycle paper, cardboard, plastics or glass. Commissioner Alcorn inquired what size trucks remove the product from Mr. Townley's business establishment. Mr. Townley responded they were one-ton flatbeds.

Vice Chair Meringer inquired if Mr. Townley was concerned with the recent copper thefts, and Mr. Townley replied no, as the product would be maintained inside the warehouse and he believed the Fire Marshal would require an alarm system, which would coexist with a burglar alarm.

Commissioner Grimsley asked if the facility would be used primarily for public or private recycling. Mr. Townley replied 85 percent of the primary business was individuals in their cars and pickups with aluminum cans, and occasionally the City of Avondale recycles items such as copper or wire through his facility. Commissioner

Grimsley inquired if this establishment was primarily a collection center, and Mr. Townley replied that was correct, it was an intermediate collection facility. Commissioner Grimsley asked with the number of copper thefts in the Valley and the letters in opposition to the CUP from nearby property owners, what type of tracking Mr. Townley performed on the copper to ensure it was not stolen. Mr. Townley responded there was no current regulation, but his client does work with the Police Department, and materials that come through are inspected on a fairly regular basis. Commissioner Grimsley wanted confirmation that Mr. Townley's business did not have any regulations to check for stolen copper, and Mr. Townley replied that was correct.

Commissioner Alcorn suggested that since the State Legislature was intending to address the copper theft issue in the near future, that Mr. Townley ought to start taking pictures of the copper that comes into his business to protect himself. Mr. Townley replied that was a very good idea and it was not very expensive to install a video camera at the same time as the security system. He added he would not mind a stipulation to that effect. Commissioner Alcorn clarified he was not requesting a stipulation.

Vice Chair Meringer requested further questions for the applicant, and hearing none, opened the item for public hearing. There were no requests to speak.

Vice Chair Meringer asked for a motion. Commissioner Webster made a motion that the Planning Commission accept the findings and recommend approval of application CU-07-8, a request for a Conditional Use Permit for a recycling facility in the A-1 General Industrial Zoning District subject to the five Staff-recommended stipulations. Commissioner Alcorn seconded the motion.

Vice Chair Meringer opened the floor for discussion.

Commissioner Iwanski thanked Mr. Townley for his willingness to look at security cameras. He pointed out that since Mr. Townley stated he would agree to a sixth stipulation, while he would not suggest a sixth stipulation, perhaps Staff might want to require in the future video surveillance or recording of license plates or driver's licenses to protect from metal thefts. Vice Chair Meringer reiterated the applicant would agree to a sixth stipulation.

Mr. Townley interjected that when he had returned to his seat, he learned a security system was installed at the current facility and they would move it over to the new facility.

Vice Chair Meringer stated he would add the five stated stipulations, as well as the sixth stipulation pursuant to Mr. Townley's willingness to install security cameras. Vice Chair Meringer asked for a motion. Commissioner Webster moved that the Planning Commission accept the findings and recommend approval of application CU-07-8, a request for a Conditional Use Permit for a recycling facility in the A-1 General Industrial

Zoning District subject to the existing five Staff-recommended stipulations and the added sixth stipulation regarding security. Commissioner Alcorn seconded the motion.

Vice Chair Meringer opened the floor for discussion.

Commissioner Grimsley stated that since there were three nearby property owners in opposition to this Conditional Use Permit, he wished they were present tonight to discuss this so the Commission could better understand their opposition. He stated digital cameras and recording of license plate numbers are excellent ideas and he applauds the applicant for having that already in place, but he wonders if there should be paperwork in place for customers dropping off items. Mr. Townley stated they already have that procedure in place. Commissioner Grimsley then stated he sees no reason why the Commission would not approve this item.

Vice Chair Meringer closed the discussion.

Vice Chair Meringer asked for a Roll Call vote.

Commissioner Webster	Aye
Commissioner Copeland	Absent
Vice Chair Meringer	Aye
Commissioner Alcorn	Aye
Chairperson Lageschulte	Absent
Commissioner Grimsley	Aye
Commissioner Iwanski	Aye

The motion passed unanimously.

DEVELOPMENT SERVICES

SUBJECT:
Public Hearing - Conditional Use Permit for Sanctuary PAD-Popeyes (CU-07-4)

MEETING DATE:
August 20, 2007

TO: Mayor and Council

FROM: Brian O. Berndt, Development Services Director (623) 333-4013

THROUGH: Charlie McClendon, City Manager

REQUEST: Conditional Use Permit for a drive-thru restaurant

PARCEL SIZE: Approximately 0.91

LOCATION: Northwest corner of 107th Avenue and Lower Buckeye Road (Sanctuary Shopping Center)

APPLICANT: William Lally, Withey Morris PLC

OWNER: 107th Avenue Partners, LLC

BACKGROUND:

The subject property is a pad within the 7.28± acre Sanctuary Shopping Center, which is a commercial parcel within the approximately 152.6 acre Sanctuary Planned Area Development (PAD) residential single family lotted subdivision. The subject property was annexed and zoned PAD by Ordinance 714-99 on August 30, 1999. The approved PAD zoning did not provide for development standards for the commercial parcel. On September 18, 2002, a staff memo was issued that made the determination that the permitted uses for the commercial parcel would be the same as the C-1 (Neighborhood Commercial) zoning district. On July 7, 2003, the Site Plan for CVS Pharmacy was approved, located at the southeast corner of the shopping Center (the northwest corner of 107th Avenue and Lower Buckeye Road). The approval is for 13,000 square feet of retail with a drive-thru on 1.67 acres. The site was not constructed and the site plan approval has expired. On March 16, 2005, the Site Plan for a 5.02 acre Terrazona Retail Shopping Center (aka Sanctuary Shopping Center) was approved (DR-05-5) (Appendix E, lower right corner sheet A1.0). The approval applied to a multi-suite retail building (Sanctuary Bldg 1) and a single tenant retail building (Sanctuary Bldg 2). Pads A and B remained for future site plan approval. Pad A was shown as a future bank with a drive-thru, and Pad B was shown as a future restaurant without a drive-thru. Pad A is the subject property of this application.

SUMMARY OF REQUEST:

1. The applicant is requesting Conditional Use Permit approval for a drive-thru attached to a restaurant on the subject property (Exhibit F).

PARTICIPATION:

The applicant conducted a Neighborhood Meeting beginning at 7 p.m. on June 21, 2007 at City Hall. The Neighborhood Meeting was advertised in the West Valley View on June 5, 2007, and the property was also posted for a Neighborhood Meeting on June 5, 2007. Notification letters were mailed out to 102 property owners on June 5, 2007. No residents attended the meeting (Exhibit G). A notice of the Planning Commission hearing was published in the West Valley View on July 10, 2007, and the property was also posted on July 10, 2007. Notification letters were mailed out to 102 property owners on July 10, 2007. No written comments have been received to date. No member of the public spoke on the issue at the meeting. A notice of the City Council hearing of August 20, 2007 was published in the West Valley View on July 31, 2007. Letters were

mailed out to 102 property owners on July 31, 2007. The property was posted on July 31, 2007. No written comments have been received to date.

PLANNING COMMISSION ACTION:

The Planning Commission conducted a public hearing on July 19, 2007 and voted 5-0 to recommend APPROVAL of the request with the four stipulations recommended by staff.

FINDINGS:

The City Council must determine that the proposed use meets five findings of Section 108.C.2 of the Zoning Ordinance prior to granting a Conditional Use Permit. The burden of proof rests with the applicant. Each finding is presented below along with staff's analysis.

1. That the proposed use (i) is consistent with the land-use designation set forth in the General Plan, (ii) will further the City's general guidelines and objectives for development of the area, as set forth in the General Plan and (iii) will be consistent with the desired character for the surrounding area.

The proposed use of a drive-thru restaurant is consistent with the land use designation of the General Plan. The General Plan land use designation is Medium Density Residential, which allows neighborhood commercial to serve the immediate area if it is generally under 5 acres (page 24, Land Use Theme). The commercial parcel is 7.28 acres. The site was annexed and zoned for commercial in 1999 prior to adoption of the General Plan in 2002. Though the current 7.28 acre commercial parcel exceeds what would be approved today, the use of a restaurant with a drive-thru is consistent with a neighborhood commercial use of the General Plan and Zoning Ordinance.

The proposed use furthers the City's guidelines and objectives for development of the area. in that the proposed use will provide goods and services to the immediate area and will contribute to the City's sale tax revenue.

The proposed use will be consistent with the desired character for the surrounding area by being convenient to both vehicular and pedestrian traffic, building height being limited to single story, hours of operation being limited to 10 am to 11 pm Sunday through Thursday and 10 am to midnight on Friday and Saturday. In addition, the building architecture, materials and colors will conform to that already approved for the rest of the shopping center, which was reviewed and approved by City Council as appropriate for the surrounding area.

Staff recommends that this required Finding is met.

2. That the use will be (i) compatible with other adjacent and nearby land uses and (ii) will not be detrimental to (1) persons residing or working in the area, (2) adjacent property, (3) the neighborhood or (4) the public welfare in general.

The proposed restaurant with a drive-thru will be compatible to the surrounding uses in the Sanctuary shopping center, which is a neighborhood commercial retail center oriented for both vehicular and pedestrian traffic.

The proposed use will not be detrimental to persons residing or working in the area, the adjacent property, the neighborhood or the public welfare in general. These types of restaurants do not have reputations of attracting undesirable clientele or of generating excessive undesirable noise, vibration, or smells.

Staff recommends that this required Finding is met.

3. That the site is adequate in size and shape to accommodate the proposed use, allow safe onsite circulation, and meet all required development standards including, but not limited to setbacks, parking, screening and landscaping.

A final Site Plan will be required for this project. See the attached site plan and landscaping plan (Exhibits F). As proposed, the site plan and landscaping plan meet the requirements of the PAD, the approved master site plan for the whole shopping center, and the Zoning Ordinance.

Staff recommends that this required Finding is met.

4. That the site has appropriate access to public streets with adequate capacity to carry the type and quantity of traffic generated by the proposed use.

Staff's analysis of the site plan, proposed uses and traffic impact statement provided by the applicant (Exhibit E) has determined there is need for an additional traffic control device at the ingress/egress point onto 107th Avenue. This traffic control device would eliminate left turns into and out of the site, creating a right-in/right-out access. The particulars of this need will be more fully addressed at Site Plan approval. Staff is recommending a stipulation that a traffic control device be installed to the satisfaction of the City at Site Plan.

Staff recommends that this required Finding is met.

5. That adequate conditions have been incorporated into the approval to insure that any potential adverse effects will be mitigated.

Staff is also recommending a stipulation that the project conform to the site plan, landscape plan and narrative, that the development conform to the approved design guidelines for the shopping center, and that the Conditional Use Permit approval expire within 2 years of approval.

Conclusions:

The proposed drive-thru for a proposed restaurant appears to meet all five required Findings for approval, per Section 108.C.2 of the Zoning Ordinance.

RECOMMENDATION:

The City Council should conduct a public hearing and recommend APPROVAL of the Conditional Use Permit to allow a restaurant with a drive-thru with the following four stipulations:

1. The development of the site shall conform to the project narrative, site plan and landscape plan submitted with this application Planning stamp dated July 10, 2007.

2. The architectural style, building materials and building colors shall conform to the Master Site Plan design guidelines approved as a part of DR-05-5 Terrazona Shopping Center; and site signage shall conform to the Master Sign Program approved for this shopping center as Ordinance 1184-506.

3. A traffic control device limiting ingress/egress on 107th Avenue to a right-in/right-out turning movement shall be installed with City staff approval as part of the site plan approval for the subject site.

4. In accordance with Section 108 of the Zoning Ordinance, the Conditional Use Permit shall expire within two years from the date of approval.

PROPOSED MOTION:

I move that the City Council accept the findings and APPROVE application CU-07-4, a request for a Conditional Use Permit for a restaurant with a drive-thru in the PAD district, subject to the four stipulations recommended by the Planning Commission.

ATTACHMENTS:

Click to download

- Exhibit A - Zoning Map
- Exhibit B - Aerial Photo 2007 area
- Exhibit C - Summary of Facts
- Exhibit G - Planning Commission draft minutes 7.19.2007

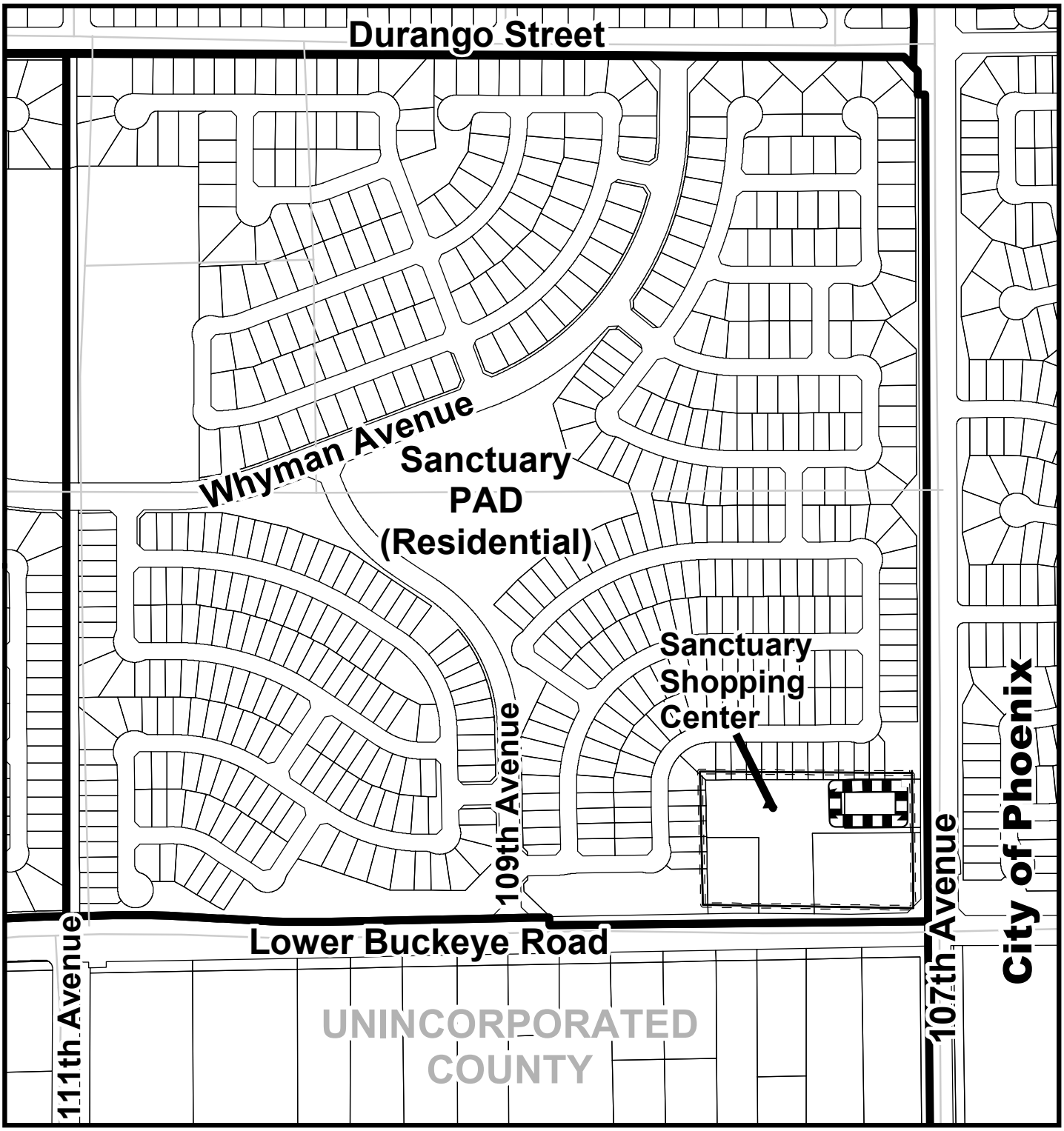
FULL SIZE COPIES (Council Only):

Exhibits D, E and F

PROJECT MANAGER:

Eric Morgan, Planner II (623) 333-4017

Exhibit A



Sanctuary PAD/Popeyes
CU-07-4
Zoning Vicinity Map

Avondale

Subject Property

Exhibit B

Sanctuary PAD/Popeyes CU-07-4
Air Photo January 2007

Avondale

Subject Property

SUMMARY OF RELATED FACTS
APPLICATION CU-07-4

THE PROPERTY	
PARCEL SIZE	Approximately 0.91 acres
LOCATION	Sanctuary Shopping Center (northwest corner of 107th Avenue and Lower Buckeye Road)
PHYSICAL CHARACTERISTICS	A relatively flat, rectangular shaped parcel visible from 107th Avenue but not direct access
EXISTING LAND USE	Vacant
EXISTING ZONING	PAD (Planned Area Development)
ZONING HISTORY	Annexed and Zoned PAD August 30, 1999. Staff memo issued September 18, 2002 determined that uses were C-1 (Neighborhood Commercial).
DEVELOPMENT AGREEMENT	N/A

SURROUNDING ZONING AND LAND USE	
NORTH	Single Family Residential, zoned PAD (Sanctuary)
EAST	Single Family Residential, CITY OF TOLLESON
SOUTH	Single Family Residential, COUNTY
WEST	Single Family Residential, zoned PAD (Sanctuary)

GENERAL PLAN
Medium Density Residential (2.5-4 dwelling units/acre)

PUBLIC SCHOOLS	
SCHOOL DISTRICT(S)	Littleton Elementary School District & Tolleson Union High School District
ELEMENTARY SCHOOL	Quentin Elementary School
HIGH SCHOOL	La Joya Community High School

STREETS	
107th Avenue	
Classification	Arterial
Existing half street ROW	65 feet
Standard half street ROW	65 feet
Existing half street improvements	Two traffic lanes with a center turn lane, bike lane, curb-and-gutter, sidewalk, landscaping and street lights.
Standard half street improvements	Same as above.

Lower Buckeye Road	
Classification	Arterial
Existing half street ROW	65 Feet
Standard half street ROW	65 Feet
Existing half street improvements	One traffic lane with a center turn lane, curb-and-gutter, detached sidewalk and streetlights.
Standard full street improvements	Two traffic lanes with a center turn lane, bike lane, curb-and-gutter, sidewalk, landscaping and street lights.

Utilities
A 12" potable water line is located in 107th Avenue and Lower Buckeye Road. The shopping center taps water from Lower Buckeye Road. A 10" sanitary sewer line is located in Lower Buckeye Road. The shopping center taps the line with an 8" line.

Exhibit G

draft

PLANNING COMMISSION
REGULAR MEETING

CITY COUNCIL CHAMBERS
11465 W. CIVIC CENTER DR.
AVONDALE, AZ 85323

Thursday, July 19, 2007
7:00 P.M.

I. CALL TO ORDER

The regular meeting was called to order at approximately 7:00 p.m. by Vice Chair Meringer.

II. ROLL CALL

The following members and representatives were present:

COMMISSIONERS PRESENT
Linda Webster, Commissioner
David Iwanski, Commissioner
Edward Meringer, Vice Chair
Michael Alcorn, Commissioner
Kevin Grimsley, Commissioner

COMMISSIONERS ABSENT
Alan Lageschulte, Chairperson
Lisa Copeland, Commissioner

CITY STAFF PRESENT
Scott Wilken, Senior Planner, Development Services
Eric Morgan, Planner II, Development Services
Brian Berndt, Development Services Director

III. APPROVAL OF MINUTES

- **June 21, 2007 Regular Meeting**

Commissioner Iwanski noted a correction on Page 18. Commissioner Iwanski made a motion to approve the minutes of the June 21, 2007 regular meeting with the correction on Page 18, last paragraph, second line, with "Ms. Jones" corrected to "Mr. Jones." Commissioner Alcorn seconded the motion. The motion passed unanimously.

IV. BUSINESS FROM THE FLOOR

There was none.

V. OPENING STATEMENT

Vice Chair Meringer read the Opening Statement.

VI. WITHDRAWALS AND CONTINUANCES

There were none.

VII. PUBLIC HEARING ITEMS

1. CU-07-8: Jack Townley, of Alliance Construction Services, is requesting a Conditional Use Permit for a recycling facility, 940 E. Brinker. The subject site is located at the northwest corner of Brinker Drive and Eliseo C. Felix Jr. Way. Staff contact: Scott Wilken.

Scott Wilken, Senior Planner, stated the subject property is zoned A-1, as well as the properties to the east, west, and south, while the property to the north is zoned R-5. He described the subject property as an unpaved parking lot with an existing building, and described the surrounding property uses. Mr. Wilken showed the Commission slides of the Site Plan, stating the applicant is requesting a Conditional Use Permit for storage, weighing and sorting of recyclable materials, not to include outdoor storage. He stated the applicant is required to submit a Site Plan for Staff approval prior to starting the recycling business, and as part of the review, the applicant will be required to pave the parking lot, replace the existing chain link fence with an 8' high block wall, relocate one of the driveway curb cuts, and install landscaping in the parking lot and throughout the perimeter of the site. Mr. Wilken stated the business will be open Monday through Saturday from 8 a.m. to 5 p.m. He assured the Commission that during the Site Plan review Staff would ensure there is sufficient buffering to mitigate adverse effects. Mr. Wilken informed the Commission that the owner currently operates a recycling facility at 229 E. Main Street, Avondale, and the applicant will close that operation and move it to this subject property.

Mr. Wilken summarized the five findings necessary to grant a Conditional Use Permit for the Commission: 1) It must be consistent with the General Plan and the character of the area. The subject property is designated as Employment to include industrial uses. 2) It must be compatible with nearby properties. The site will be required to undergo alterations to be compatible with surrounding properties, particularly the manufactured housing park to the north. The property is zoned A-1, which does allow heavy industrial uses without a Conditional Use Permit, while in this case, the City has the opportunity to require changes to the site to make it more compatible with the surrounding area. 3) The site must be of adequate size and shape to

allow safe circulation and it must meet the required development standards. The site is very narrow and best suited for one-way traffic, and this site is planned for a one-way drive in to unload and then exit out on another drive, and the site will be required to meet all development standards in the Zoning Ordinance. 4) The site must have appropriate access to all public streets. This site will have appropriate access. 5) Adequate conditions have been incorporated into the approval to ensure that any potential adverse effects will be mitigated. Staff has recommended five stipulations. Mr. Wilken informed the Commission that Staff believes that the proposal meets the objectives of the General Plan, is in conformance with the A-1 zoning district and with the required Site Plan and development standards, and the site will be in conformance with the City of Avondale Zoning Ordinance.

Mr. Wilken stated Staff is recommending approval of the Conditional Use Permit with five stipulations: 1) The development of the site shall conform to the Site Plan and the project narrative date stamped July 10, 2007. 2) In accordance with Section 108 of the Zoning Ordinance, the Conditional Use Permit shall expire within two years from the date of approval if the use has not commenced. 3) All outdoor storage shall be prohibited. 4) Prior to the issuance of a building permit, the applicant shall receive administrative Site Plan approval. The Site Plan shall include sufficient measures to buffer the proposed use from surrounding development, including, but not limited to, an 8' tall masonry wall and landscaping on the north side of the subject property. 5) The existing Avondale Recycling facility at 229 E. Main Street shall be completely cleaned up with all material removed within 6 months of approval of the Certificate of Occupancy for the subject property.

Vice Chair Meringer invited questions for Staff.

Commissioner Alcorn asked if the Fire Marshal had inspected the property for sprinklers in the building and adequate hydrants in the area. Mr. Wilken replied they had routed this item to the Fire Marshal's office, who had signed off with conditions that the property be brought up to the Fire Code, and when the applicant comes in with their final Site Plan, the Fire Marshal inspectors will visit the property and ensure the sprinklers and hydrants are adequate.

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Vice Chair Meringer closed the discussion.

Vice Chair Meringer asked for a Roll Call vote.

Commissioner Webster Aye

Commissioner Copeland	Absent
Vice Chair Meringer	Aye
Commissioner Alcorn	Aye
Chairperson Lageschulte	Absent
Commissioner Grimsley	Aye
Commissioner Iwanski	Aye

The motion passed unanimously.

2. CU-07-4: William Lally, of Withey Morris, is requesting a Conditional Use Permit for a drive-thru attached to a restaurant. The subject site is located in the Sanctuary Shopping Center, which is located at the northwest corner of 107th Avenue and Lower Buckeye Road. Staff contact: Eric Morgan.

Eric Morgan, Planner II, Development Services, stated this is a request for a Conditional Use Permit (CUP) for a drive-thru restaurant and planned area development zoning with C-1 Neighborhood Commercial uses. He described the subject property and surrounding properties, stating the zoning was approved for the 152.6 acre Sanctuary Planned Area Development on August 30, 1999, and the 7.28 acre out parcel was identified in the approved zoning, but no uses or development standards were assigned at that time. He stated on July 7, 2003, Staff determined that the uses would be equivalent to C-1 Neighborhood Community Uses; therefore, the drive-thru restaurant required a CUP. Mr. Morgan showed the Commission slides of the property and surrounding properties, and stated CVS Pharmacy received approval of a Site Plan a few years ago, which had since expired. He pointed out that on PAD B is a Sonic Drive-Thru, which required a CUP and was approved. Mr. Morgan then covered the five findings that must be met for the Planning Commission to grant a Conditional Use Permit. 1) The proposed use is consistent with the General Plan. While the General Plan is Medium Density Residential, it has provisions for small commercial out parcels as long as they are abutting major roadways, which this proposal would meet. 2) The use must be compatible with the nearby properties. The nearby properties are retail commercial properties, (a Sonic Drive-Thru, a daycare), the development will be a one-story building, and the architecture and material will conform to the overall shopping center which was approved by City Council, and the hours of operation and speaking box will not interfere with the surrounding properties. 3) The Site Plan complies with the Zoning Ordinance and all other requirements. The Site Plan meets all setbacks, all parking requirements, the drive-thru is located on the opposite side of the building from the residential, and the landscape plan exceeds the minimum 10% of the site area. Mr. Morgan added that a final Site Plan must be approved subsequent to this existing Site Plan. 4) The site has adequate access to public streets. He pointed out the access on the slides to the Commission. He stated there could potentially be a problem with the turning movement onto 107th Avenue regarding left turns, of which the details will be worked out at Site Plan approval. He added that in the future when 107th Avenue is rebuilt, there will be a median in the road which will resolve the issue. 5) Adequate conditions have been incorporated into the approval to ensure that any potential

adverse effects will be mitigated. Staff finds adequate conditions have been imposed and there are no special conditions recommended. Mr. Morgan summarized, stating Staff finds all five findings have been met, and Staff recommends approval based on the five findings having been met with the four stipulations. He stated the applicant, Mr. William Lally, from Withey Morris, PLC, was present tonight.

Vice Chair Meringer invited questions for staff. Hearing none, he invited the applicant to address the Commission.

William Lally, Withey Morris, PLC, attorney for the applicant, wished to add that they had conducted a Neighborhood Meeting, as well as an open house on site for the shopping center, inviting the residents of the area, and they had received a number of petition signatures in support of the project. He revealed they also went to all of the neighbors in the notice area, as well as mailed many notices in the City of Phoenix area and received a number of petition signatures, close to 200; therefore, he thinks the use is supported. Mr. Lally stated they agree with everything Staff has to say with one caveat, that is, that a traffic control device limiting ingress from, and egress to, 107th Avenue to a right-in/right-out turning movement be installed. He stated the stipulation would require them to put a pork chop or other condition that would be temporary until the median is built, and this is an improvement on CVS's property and it puts them in a difficult position if CVS does not agree. He added there was no condition added for the Sonic Drive-Thru or the Sanctuary Shopping Center itself. Mr. Lally stated that while they agree to the stipulation, they offer an alternative stipulation tonight which reads that when CVS brings their site plan in, they will agree through stipulation to support a pork chop or other measure and agree at their Site Plan to do a pork chop measure. He stated it was his understanding that CVS will not agree to an improvement on their property until they go through their Site Plan process again. Mr. Lally stated the Staff stipulation that exists already gives them the flexibility to move forward until they can figure out what the improvement will be; however, tonight they are asking to remove the stipulation and/or replace it with their alternate stipulation to prevent them being held up by CVS.

Vice Chair Meringer invited questions for the applicant.

Commissioner Iwanski stated he appreciated Mr. Lally's presentation. He asked Mr. Morgan for Staff's response to the offsite improvement on another private property owner's land. Mr. Morgan responded if the applicant cannot get the pork chop in, Staff's position is there should be no development, as the preliminary traffic study bears out there will be traffic difficulties. He stated that CVS perhaps needs to realize this is not a stipulation merely because this is a drive-thru, but the stipulation will be a requirement for any project coming in on PAD A. He added Staff will not do something unsafe until another project comes in, and Staff believes this needs to go forward at the Site Plan stage and CVS needs to agree, or this CUP does not need to be approved. Commissioner Iwanski asked was there any way the City could help resolve the issue of requiring one applicant to put an offsite improvement on the private property of another landowner in the same project, as this was subjecting one property owner to another property

owner. Mr. Morgan responded this is a drive aisle and though the property line might go to the middle of the drive aisle, it is for the use of everyone there, and Staff's position is that safety does not stop because one property is held hostage to another and Staff would rather see development stop than develop something demonstrated to be unsafe. Mr. Morgan stated a pork chop had not been finally determined, and if there was any way to do this without having CVS sign off, Staff would be amendable to that. He added Staff would communicate to CVS that when they resubmit their application, they would be required to install the same traffic measure, while this applicant will probably pay for all of it if they come in now. Commissioner Iwanski stated Mr. Morgan's explanation was very helpful and thanked him for helping him understand the issue.

Commissioner Grimsley asked if the CUP has expired for CVS, would they not have to return for Site Plan approval and then will be required to pay for the traffic measure at that time. He stated if CVS has a problem with this issue, try coming back before the Planning Commission for their new Conditional Use Permit.

Mr. Lally inquired if CVS would have to pay for half of the pork chop if half of it is on their site line. Mr. Morgan replied that the actual pork chop is not very expensive and he does not think cost is the issue, but this is just a spirit of meanness. He stated the entire pork chop has to go in before PAD A or CVS is approved, and CVS or whoever is on the corner does have to come through the Planning Commission and the City Council for approval.

Commissioner Grimsley stated as far as he was concerned, this is an open and shut case, in that if something needs to be put there, someone has to pay for it. Mr. Lally thanked Commissioner Grimsley for that clarification.

Commissioner Alcorn commended Mr. Lally, in that if he had to pay for improvements on someone else's property, he would not do it either, and this is what this issue is. He stated if this issue were to wind up in court two years later, the judge would say, you put it in there, sorry. Commissioner Alcorn asked if Staff could put a stipulation on to say that whoever develops the site should pay the other party the construction cost for the safety device that they put in willingly so that they can get their business going. He reiterated it was not correct to ask someone to do something for someone else and then expect no recompense, and it did not sound legal to him, and as well, the other property owner could tear it out as it is their property. Commissioner Alcorn stated while he understands the safety issue, it seems that Staff can put a stipulation that whoever develops PAD A will reimburse this applicant for installing the traffic safety measure.

Commissioner Grimsley stated when the Sonic Drive-Thru was approved, a major concern was the amount of traffic impacting the daycare facility. He asked with another drive-thru facility, how that would impact the daycare facility. Mr. Lally responded they performed a traffic report on the entire site and many Site Plans had been approved prior without any sort of pork chop. He stated their traffic study reveals that a pork chop or a restricted access condition will move folks into the full access point onto Lower Buckeye, essentially adding traffic to the daycare

area. He stated his position was Stipulation No. 3 as written requires them as a condition of their development to get CVS's agreement to develop something on their site, and if they do not get their agreement, they cannot develop. Mr. Lally stated the worst case condition was CVS would say, for a million dollars you can build it on our site, or they could say no, or you cannot develop until we go through Site Plan approval and we are told by the City there has to be a pork chop. He stated their alternate stipulation puts on record their support for working together on a traffic measure which will be enforced when the current CVS parcel comes in for Site Plan approval, at which point the applicant will work with them. Commissioner Grimsley asked for clarification that the stance of the applicant was that the pork chop would hinder or worsen the traffic for the daycare facility. Mr. Lally replied that was what their traffic report demonstrates. Commissioner Grimsley stated it appears that only southbound and westbound traffic will have access to the site. Mr. Lally responded that was correct. Commissioner Grimsley stated there was a similar situation at the intersection of Avondale Blvd. and McDowell where a gas station is missing out on half of their customers, and he asked when the traffic measure was built, how would that impact their business. Mr. Lally replied that was certainly not the optimal condition, but the site is narrow and the traffic report dictates that once the entire area develops which will generate the traffic to the corner, that is when traffic safety measures need to go in, and it will not be easy to get into the site and they will have to live with it. Commissioner Grimsley inquired if the property owners on the site were willing to live with the fact that half of their clients could not access them. Mr. Lally responded that he thought their position was if it was the City's position to put a median in, they were fully supportive of it and their only position was they did not wish to be subject to another private property owner's position. Commissioner Grimsley asked what the status of the CVS site was. Mr. Lally replied they had conversations today with CVS, and CVS is keeping that information close to the vest.

Commissioner Alcorn thanked Mr. Lally for speaking in lay terms.

Vice Chair Meringer opened the public hearing. There were no requests to speak. Vice Chair Meringer closed the public hearing.

Commissioner Webster inquired what the City of Avondale's responsibility would be if they allowed the development to go forward without proper traffic controls and a serious injury or death occurred. Mr. Morgan stated he believed some liability could be placed on the City if they blatantly or knowingly approved something not abiding to the technical advice of the Traffic Engineer. He stated in both cases he thinks there is a stipulation that could remedy this situation and he thinks the applicant is not stating they are trying to avoid complying, but it will just be a matter of time.

Vice Chair Meringer asked where Staff stood on the alternative stipulation. Mr. Morgan stated Staff was not in favor of the alternative stipulation because it allows the potential for Popeye's Restaurant to be operating and traffic making left turns, and the question of liability exists with a delay in putting the pork chop in.

Mr. Lally interjected they could set a time, such as 12 months or so, not necessarily waiting until approval, and if something does not come in, then they build the pork chop as required.

Commissioner Grimsley stated the ultimate stipulation would read "The applicant be required to work with the property owner of Parcel 101-54-927A during the Site Plan approval of that parcel to determine the appropriate traffic control device along 107th Avenue with City Staff approval." He asked could it not be stipulated that "The applicant shall be required to work with the property owner of Parcel No. 101-54-927A, currently CVS, during the Site Plan approval of the parcel to construct the appropriate traffic control device along 107th Avenue with City Staff approval," and would that not technically solve both problems. Mr. Morgan replied it would not solve the problem as it leaves it open to when CVS comes in. He added he does not understand why CVS would hold out in this case. Commissioner Grimsley asked would an acceptable stipulation read "The applicant shall work with the property owner of Parcel No. 101-54-927A, that during the Site Plan approval for Popeye's, to construct the appropriate traffic control device along 107th Avenue with City Staff approval." Mr. Morgan stated the current stipulation proposed by Staff reads the first one to come in is the first one to build the traffic control measure, and the stipulations being considered tonight would only apply to Popeye's because it is the only one that needs a Conditional Use Permit, and is not even at the Site Plan stage yet. He stated a condition cannot be imposed on the CVS site because this application is only for the Popeye's Conditional Use for a drive-thru. Commissioner Grimsley asked could Staff retroactively state that CVS as the property owner of the site, even though they have not developed, they have to pay for the traffic control device because they are on half of the property. Mr. Morgan responded the City cannot tell CVS to pony up any money; all the City can say is now that a traffic study has been done, they are in the same position.

Commissioner Alcorn stated the properties to the south on Lower Buckeye were somewhat rural residential and he does not see much traffic coming from that direction. He asked was this stipulation absolutely necessary for this CUP to go forward. Mr. Morgan replied this was the recommendation from the Traffic Engineer. He stated Staff could go back and ask the Traffic Engineer if there were any alternatives to pursue, such as signage. Commissioner Alcorn stated earlier in the year the Commission had heard on a project at Van Buren and Avondale Blvd. where the Commission had disagreed with the traffic study and he merely wished to state he is unsure as to the traffic study.

Mr. Lally interjected that their traffic report expressed this condition, and there is a four way stop and the unsafe condition is when people are headed north at a high rate of speed trying to cut over and take a left, or when someone was trying to take a left out of their location north and there are cars moving at a high rate of speed. He stated there is about 250' between the intersection and the drive aisle and there is a four way stop. Mr. Lally stated their Traffic Engineer's position is because there is a stop, everyone has to come to a stop and the speeds of northbound cars coming out of the intersection would not be an unsafe condition. He stated what would trigger the unsafe condition is when you do have a light, so you potentially have people getting a green light with people trying to slow down and turn left; thus when a light goes in, a

median should be required. Mr. Lally stated their Traffic Engineer's recommendation today is that signage on their property and/or striping in the intersection and on their property is sufficient. He stated there is an ultimate condition of concern that needs to be stipulated, that is, "The applicant shall be required to construct their proportionate share of a traffic control device along 107th Avenue with City approval at the time said parcel comes through Site Plan approval." Mr. Lally stated he believes this language gives the Commission the confidence that the applicant is committed, as well as a timeframe.

Commissioner Alcorn stated his appreciation for Mr. Lally's input.

Vice Chair Meringer asked for further questions for Staff or the applicant, and hearing none, asked for a motion.

Commissioner Alcorn moved that the Planning Commission accept the findings and recommend approval of application of CU-07-4, a request for a Conditional Use Permit for a drive-thru attached to a proposed restaurant in the Sanctuary Shopping Center subject to the four Staff-recommended stipulations. Commissioner Iwanski seconded the motion.

Vice Chair Meringer opened the item for discussion.

Commissioner Alcorn stated the problem seemed to be Party A did not want to build on Party B's property and then told to pound sand when they want to get their money and he understands 100%. He stated it seems Staff is asking Party A to do it and they have no way of forcing Party B to pay, and he believes Staff can find a way around this, as this is for public safety. Commissioner Alcorn stated as the applicant is willing to pay their part, then Staff should be able to add a stipulation to where whoever comes before the Commission for site approval pays their portion and not be allowed to hold another party at bay.

Commissioner Iwanski stated he had a lot of faith in Staff's stipulations in terms of making public safety a priority and he appreciates Mr. Lally's efforts at coming up with an alternative to satisfy his client. However, he would support the existing stipulations as written, but he would also go on record as saying Mr. Lally and his client had done everything humanly possible to try to do the right thing and that deposit into the bank of goodwill is going to be significant in his judgment when they move forward with the project regardless of what CVS does.

Mr. Lally asked if the issue came down to northbound traffic, so the deceleration lane coming southbound, if there were no left turn signs on the east side of 107th Avenue and some sort of pork chop, would that be sufficient until the light and everything else is put in. Mr. Morgan responded the actual pork chop, signage, and striping has not been determined, and what had triggered this issue was the applicant's own traffic study which showed an issue with left turns into and out of the site. He stated Staff would like to work with the applicant's Traffic Engineer to determine what the appropriate level for safety is, and also what is the minimum amount so that the applicant is not unduly burdened. Mr. Morgan stated that is all Staff's stipulation states

at this point, that something will be installed to address these turning movements. He stated he would send a letter tomorrow to CVS stating they are in the same position and are not doing themselves any favors by holding up the boat on somebody else's project. Mr. Morgan again clarified the Commission should not approve something here that is unsafe, but we do not know that a pork chop is needed, as it could just be signage or striping or nothing, as a further traffic study is needed.

Commissioner Grimsley asked was the traffic study at issue tonight conducted for the original site or for Popeye's. Mr. Morgan stated traffic studies had not been required previously and this study was the first traffic study for this property. Commissioner Grimsley stated it was his understanding that Popeye's standpoint was if the Sonic, the daycare, and the CVS did not have to put in the traffic measure, that was because there was no traffic study, so in 2007 we have new rules and regulations and they have to live under those rules, and while half of the area in question is not on the applicant's property, half of it is. Commissioner Grimsley stated he applauds the applicant's efforts to satisfy Popeye's without putting any undue burden on them or on this current project, but this is July 19, 2007 and we have to live with these rules and we have to move forward with the way the motion has been stipulated.

Vice Chair Meringer asked for a Roll Call vote.

Commissioner Webster	Aye
Commissioner Copeland	Absent
Vice Chair Meringer	Aye
Commissioner Alcorn	Aye
Chairperson Lageschulte	Absent
Commissioner Grimsley	Aye
Commissioner Iwanski	Aye

The motion passed unanimously.

VIII. OTHER BUSINESS

There was no other business.

Commissioner Iwanski made a motion that Chairperson Lageschulte and Commissioner Copeland be excused for cause. Vice Chair Meringer seconded the motion. The motion passed unanimously.

IX. PLANNING STAFF REPORT

- Mr. Morgan introduced the new Planning Commission Alternate, Page Hannah. The Commission welcomed Ms. Hannah.

X. COMMISSION COMMENTS AND SUGGESTIONS

Vice Chair Meringer asked for Comments and Suggestions.

Commissioner Iwanski stated Brian Berndt, Development Services Direction, and his Staff had done a terrific job tonight as always and he hoped they all had a chance to take a vacation, and that he appreciated the hard work and dedicated service they provided to the citizens of Avondale.

Commissioner Grimsley asked for an update on what the City Council did last month based on the Planning Commission's recommendations from last month's meeting, particularly regarding the hot button topics. Brian Berndt, Development Services Director, responded that the two General Plan amendments are going on to August 20, 2007, and the Massage Therapy and the Estrella Reception Center were approved, and the Fleming Farms Preliminary Plat was approved as well.

Vice Chair Meringer stated on the Conditional Use Permit for the drive-thru attached to a restaurant in the Sanctuary Shopping Center PAD, the location was noted at the northeast corner of Avondale Blvd. and Lower Buckeye, and should read 107th Avenue rather than Avondale Blvd. He informed the Commission the next meeting would be on August 16, 2007.

XI. ADJOURNMENT

With no further business, Commissioner Alcorn made a motion for adjournment. Commissioner Iwanski seconded the motion.

Vice Chair Meringer asked for a Roll Call vote.

Commissioner Webster	Aye
Commissioner Copeland	Absent
Vice Chair Meringer	Aye
Commissioner Alcorn	Aye
Chairperson Lageschulte	Absent
Commissioner Grimsley	Aye
Commissioner Iwanski	Aye

The motion passed unanimously.

The meeting concluded at approximately 8:29 P.M.

NEXT MEETING: August 16, 2007 – Council Chambers

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Staff Signature