CITY COUNCIL AGENDA

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

WORK SESSION
December 17, 2007
6:00 PM

CALL TO ORDER BY MAYOR ROGERS

1 ROLL CALL BY THE CITY CLERK

2 DISCUSSION OF ALLOCATION - FEDERAL HOME PROGRAM INCOME FUNDS.

The City Council wil discuss staff recommendations for HOME fund allocation in Federal HOME Investment Partnership Program (HOME) Income received from the sale of Edgewater Apartments in June of 2006. For information, discussion and direction.

3 UPDATE AND REVIEW OF MAG ISSUES

Staff will update the Council on recent MAG issues and discussions occurring among regional stakeholders regarding a state wide transportation plan. For information, discussion and direction only.

4 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:
Discussion of Allocation - Federal HOME Program Income Funds.

MEETING DATE:
December 17, 2007

TO: Mayor and Council

FROM: Andrew Rael, CDBG Manager (623)333-2715

THROUGH: Charlie McClendon, City Manager

PURPOSE:

City Council approval is sought to allocate $691,458 in Federal HOME Investment Partnership Program (HOME) Income received from the sale of Edgewater Apartments in June of 2006. The program income originates from a 1995 HOME grant that was used to rehabilitate Edgewater Apartments and provide 25 affordable housing units. Staff is recommending that the HOME funds be allocated to existing programs as follows: Housing Rehabilitation - $215,065; Homebuyer Assistance - $220,000; Acquisition/Rehabilitation of Homes - $220,000, Administration - $36,393.

BACKGROUND:

In 1995 Community Services of Arizona (CSA), a non-profit housing builder, successfully applied to the Maricopa County HOME Consortia for a HOME grant to rehabilitate Edgewater Apartments. Federal law requires that HOME assisted housing carry a minimum 20 year affordability period. If a HOME assisted property is sold prior to the end of the affordability period, HOME funds must be recaptured. As the administrator of the grant, the City of Avondale secured the beneficial interest and recaptured $691,458 from the sale proceeds. The City of Avondale has until June 2008 to commit the funds and until June 2011 to spend the funds. City staff investigated several options for allocating the funds including new ventures that would further City redevelopment goals. New development and redevelopment options carry higher risk related to meeting expenditure deadlines especially given the uncertainty of obtaining the additional necessary funding sources. Staff determined that adding HOME funds to existing HOME funded programs is the most practical option both in terms of the speed with which the funds can be put into service as well as the increase that the funds will have in program impact -- doubling production.

DISCUSSION:

The current HOME allocation to the Substantial Housing Rehabilitation program is $170,772 which enables 3 homes to be rehabilitated. An additional allocation of $215,065 in HOME program income allows 4 additional homes to be rehabilitated for a total of 7. The Foundation for Senior Living (FSL) has been operating the Housing Rehabilitation program under contract with the City since May 2007 and is meeting all of its contract obligations. FSL has 3 projects underway and additional funds are required to serve a growing waiting list of homeowners needing substantial rehabilitation.
The current HOME allocation to the Homebuyer Assistance Program is $145,910 which enables 3 homebuyers to be assisted. An additonal allocation of $220,000 in HOME program income allows an additional 5 homebuyers to be assisted for a total of 8. Neighborhood Housing Services of Southwest Maricopa County (NHS) has been operating the Homebuyer Assistance Program under contract with the City since May 2007 and is meeting all of its conract obligations. NHS has assisted one homebuyer and will close an additional loan in December. There is substantial interest in the program and a growing waiting list of potential homebuyers. The current two Homebuyer Assistance Program recipients are also participants in the City's Individual Development Account Program (IDA). The IDA program is a financial education program that matches participant savings accounts 3 to 1 (up to $15,000) toward the purchase of a home. In most cases IDA funds are not sufficient to assist the IDA buyers and HOME funds are required to complete the purchase. The

continuation of the IDA program is dependent upon the continuation of the HOME funded Homebuyer Assistance Program.

The current HOME allocation to the Acquisition\Rehabilitation Program is $300,000 (from the 2007 Maricopa County HOME Consortia CHDO funds) enabling 4 homes to be acquired, rehabilitated and sold to low income homebuyers. An additional allocation of $220,000 in HOME program income allows an additional 3 homes to be acquired, rehabilitated and sold. CSA is operating the Acquisition\Rehabilitation Program for the City through a contract between Maricopa County and CSA in which the City of Avondale is the Contract Administrator. CSA is in the process of identifying properties for acquistion.

Pursuant to HOME regulations Avondale is allowed to use 5% of the program income for administrative expenses. An allocation of $36,393 in HOME program income to administration will be necessary to fund a portion of the salary of the IDA Coordinator. Increasing funding for Avondale's core housing programs as suggested in this report is necessary to expand their effectiveness such that they meaningfully compliment Code Enforcement and Economic Development Planning efforts. The alleviation of substandard housing conditions and increased homeownership are key to attaining Avondale's neighborhood revitalization goals.

BUDGETARY IMPACT:

HOME program income does not require matching funds therefore there will be no new general funds required.

RECOMENDATION:

Staff is recommending that the HOME funds be allocated to existing programs as follows: Housing Rehabilitation - $215,065; Homebuyer Assistance - $220,000; Acquisition/Rehabilitation of Homes - $220,000, Administration – 36,393.

This item is for discussion and direction. Formal Council action is scheduled for January 7, 2008.

ATTACHMENTS:

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- REsolution Allocating $691,458 in HOME Program Income

RESOLUTION NO.

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE ALLOCATING $691,458 IN HOME PROGRAM INCOME.

WHEREAS, Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended, establishes a the HOME Investment Partnership Program (HOME) to increase the number of families served with decent, safe, sanitary and affordable housing, principally for persons of low and moderate income; and

WHEREAS, the City of Avondale recaptured $691,458 in 1995 Maricopa County Consortia HOME funds from the sale of Edgewater Apartments in 2006 pursuant to 24 CFR Part 92.252.e; and

WHERAS, the City of Avondale desires to reallocate the funds to projects in the community that have been identified as priorities in the Consolidated Plan.

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

SECTION 1. The City of Avondale approves the allocation of $691,458 in HOME program income funding to the activities described below.

HOME Activity	**HOME Allocation**
Owner Occupied Housing Rehabilitation	$215,065
Homebuyer Assistance	$220,000
Acquisition/Rehabilitation and Sale of Owner Occupied Housing	$220,000
Administration	$36,393
HOME Totals	$691,458

SECTION 3. The City of Avondale and its officials are authorized and directed to assume full responsibility for assuring that its community development program is carried out in full compliance with the provisions of the acts implementing the programs and all regulations of HUD issued pursuant thereto and authorizing appropriate city officials to execute any documents with HUD to implement the program.

PASSED AND ADOPTED by the Council of the City of Avondale, November 5, 2007

_____

Marie Lopez-Rogers, Mayor

ATTEST:

_____

Linda M. Farris, City Clerk

_____

Andrew J. McGuire, City Attorney

CITY COUNCIL REPORT

SUBJECT:
Update and Review of MAG issues

MEETING DATE:
December 17, 2007

TO: Mayor and Council

FROM: Shirley Gunther

THROUGH: Charlie McClendon, City Manager

PURPOSE:

To update the City Council on recent transportation policy activities and discussions occurring among regional stakeholders regarding a state wide transportation plan.

BACKGROUND:

- Over the past year various stakholders and policy leaders have been meeting in diffrent forums to discuss a statewide transportion plan. Following is list of the stakeholders and brief discription of their efforts. Maricopa Association of Governments(MAG) and the Councils of Governments (COGs) - Over the past year, the Arizona Councils of governments and Metropolitan Planning Organizations Association has been meeting to discuss growth and transportion issues. As a result of these meetings, a statewide Reconnaissance Study has been initiated and in July 2007, the Arizona Department of Transportion authorized $7 million for transportion framework studies. ADOT is hiring the consultant and developing a schedule for the studies. In addition, ADOT intends to work on a preliminary list of critical needs that would be completed in May 2008. The purpose of the studies is to define the transportion needs and potential solutions for the transportion challenges facing Arizona.
- Blue Ribbon Study Committee - Laws 2007, Chapter 296 established a 10-member Blue Ribbon Transportation Committee for the purpose of making recommendations on legislative issues that should be addressed in the next legislative session. To date, the Committee has met three times; Legisaltive staff is preparing a final report which will include the Committee's findings and recommendations.
- T.I.M.E. Coalition - Transportation & Infrastructure MovingAZ's Economy or the TIME Coalition consists of a group of business from across the state. TIME believes the current transportation congestion problem translates into negative economic impacts on the state and the business operating in the state. Therefore, they are advocating for a statewide transportation plan that will improve transportation needs across the state.

DISCUSSION:

Recently, Governor Napolitano stated that she was considering a ballot initiative in 2008 or 2009 that would advance a statewide transportation plan. There has been some disagreement between local and state leaders regarding the time frame in which to move forward with an initiative. Some are suggesting there is not enough information in the plan to move forward with 2008 election, while others disagree.

RECOMENDATION:

Staff is seeking input and direction from Council regarding the possibility of supporting a 2008 statewide transportation ballot initiative.

ATTACHMENTS:

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No Attachments Available

CITY COUNCIL AGENDA

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

REGULAR MEETING
December 17, 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 UNSCHEDULED PUBLIC APPEARANCES

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

3 CONSENT AGENDA

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

a. APPROVAL OF MINUTES

a. Regular meeting of December 3, 2007
b. Work Session of December 3, 2007

b. CLAIMS FOR OCTOBER AND NOVEMBER 2007

c. RESCHEDULING OF JANUARY 7, 2008 COUNCIL MEETING TO 6:00 P.M.

City Staff is requesting Council authorization to reschedule the regular January 7, 2008 Council meeting to 6:00 p.m. the same night. The Council will take appropriate action.

d. AMENDMENT NO. 3 - CONSTRUCTION MANAGER AT RISK AGREEMENT - FELIX CONSTRUCTION - DEL RIO RESERVOIR AND WATER BOOSTER PUMP STATION

Staff is requesting that the City Council approve Amendment No. 3 to the Construction Manager at Risk Agreement with Felix Construction Company for the Del Rio Ranch Reservoir and Water Booster Pump Station in an amount not to exceed $958,636 (which includes a $25,000 owner's contingency) for a total contract amount of $6,202,462 and authorize the Mayor and Council or City Manager and City Clerk to execute the necessary documents.

e. AWARD A CONSTRUCTION CONTRACT TO STANDARD CONSTRUCTION COMPANY INC, FOR VAN BUREN STREET & DYSART ROAD INTERSECTION IMPROVEMENTS

Staff is requesting that the City Council award a construction contract to Standard Construction Company Inc., for roadway and traffic improvements at the intersection of Van Buren Street and Dysart Road in the amount of $330,771.03, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

f. PROFESSIONAL SERVICES AGREEMENT - DLT&V SYSTEMS ENGINEERS, INC. - RANCHO SANTA FE BOOSTER STATION

Staff is requesting that the City Council approve a professional services agreement with DLT&V Systems Engineers, Inc . for design and programming services associated with the Rancho Santa Fe PLC

upgrade, in an amount not to exceed $68,373, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

g. **WASTEWATER AND WATER SCADA COMPUTER EQUIPMENT PURCHASE**
Staff is requesting the City Council approve the purchase of server and network equipment for the Wastewater and Water SCADA (Supervisory Controls and Data Acquisition) systems not to exceed $141,851.00 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

h. **ORDINANCE - CORRECTION OF SCRIVENER'S ERROR CONTAINED IN ORDINANCE NO. 1269-1007**

i. **RESOLUTION 2711-1207 INTERGOVERNMENTAL AGREEMENT - SPECIAL EVENT STAFFING**
The Council will consider a resolution approving an intergovernmental agreement with cities, towns and fire districts relating to special event staffing. The Council will take appropriate action.

j. **ORDINANCE 1279-1207 ACCEPTING A WATER AND SEWER EASEMENT AT THE SWC OF 119TH AVE. AND MCDOWELL ROAD**
The Council will consider an ordinance approving a water and sewer easement agreement with HMC-PT, LLC located south of McDowell Road and east of 199th Avenue. The Council will take appropriate action.

4 LIQUOR LICENSE - SUPER CARNICERIA Y PESCADERIA LOS ALAMOS #2

Staff is requesting that the City Council consider a request by Mr. Efren Gutierrez-Rodriguez for a Series 10 - Retailers license to sell beer and wine at Super Carniceria y Pescaderia Los Alamos #2, 10730 West Lower Buckeye Road. The Council will take appropriate action.

5 APPOINTMENTS TO THE CIP COMMITTEE, IPMC BOARD OF APPEALS, MUNICIPAL ARTS COMMITTEE, SOCIAL SERVICES ADVISORY BOARD AND WATER WASTEWATER ADVIOSRY BOARD

The Council will consider Sub-committee recommendations for appointments to the CIP Committee, IPMC Board of Appeals, Municipal Arts Committee, Social Services Advisory Board and Water Wastewater Adviosry Board. The Council will take appropriate action.

6 LAND LEASE AGREEMENT WITH MARICOPA COUNTY COMMUNITY COLLEGE DISTRICT

Staff is requesting that the Mayor and Council approve a land lease agreement with the Maricopa County Community College District to allow for construction of public safety facility. The Council will take appropriate action.

7 RESOLUTION 2710-1207 APPROVING AN INTERGOVERNMENTAL AGREEMENT - LITCHFIELD PARK - FIRE

Staff is requesting that the Mayor and Council adopt a resolution approving an intergovernmental agreeement with the City of Litchfield Park relating to the provision of fire and emergency medical services. The Council will take appropriate action.

8 SITE PLAN APPROVAL FOR PANDA EXPRESS AT COLDWATER SPRINGS PROMENADE (DR-07-25)

The Council will consider a request for site plan approval for the 0.92 acre Panda Express pad site (pad #4) at Coldwater Springs Promenade, southwest corner of Van Buren Street and Avondale Blvd. The Council will take appropriate action.

9 PUBLIC HEARING AND ORDINANCE 1285-1207 REZONE FROM MOBILE HOME PARK (R-5) TO PLANNED AREA DEVELOPMENT (PAD) FOR ASHTON POINTE (Z-07-6)

The Council will hold a public hearing and will consider an ordinance rezoning from Mobile Home Park (R-5) to Planned Area Development (PAD) approximately 15.58 acres abutting and east of Friendship Park, south of McDowell Road. The Council will take appropriate action.

10 MASTER SITE PLAN AND FINAL SITE PLAN APPROVAL FOR ASHTON POINTE (DR-07-9)

The Council will consider a request for Master Site Plan approval and Final Site Plan approval for Ashton Pointe, 15.58 acres east of and abutting Friendship Park, south of McDowell Road. The Council will take appropriate action.

11 CONDITIONAL USE PERMIT FOR JUST BRAKES (CU-07-9)

The Council will consider a request for a Conditional Use Permit for an auto service and diagnostic facility in the Palm Valley Planned Area Development (PAD) zoning district. The Council will take appropriate action.

12 PUBLIC HEARING AND ORDINANCE – VALLEY GOLF CENTER - SPECIAL USE DISTRICT OVERLAY (SU-07-1)

The Council will hold a public hearing and will consider an ordinance approving a Special Use District Overlay for approximately 13.4 acres located at the southeast corner of El Mirage Road alignment and Indian School Road. The Council will take appropriate action.

13 PUBLIC HEARING AND RESOLUTION 2709-1207 - NORTH AVONDALE SPECIFIC PLAN BUILDING HEIGHT AMENDMENT (SP-07-03)

The Council will hold a public hearing and will consider a resolution amending the North Avondale Specific Plan to increase the allowed building height along a portion of 99th Avenue. The study area is generally located between 99th Avenue and 103rd Avenue from Indian School Road to Encanto Boulevard. The Council will take appropriate action.

14 PUBLIC HEARING AND RESOLUTION 2708-1207 - FREEWAY CORRIDOR SPECIFIC PLAN - BUILDING HEIGHT AMENDMENT (SP-07-04)

The Council will hold a public hearing and consider a resolution amending the Freeway Corridor Specific Plan to increase the building height allowed along portions of the I-10 corridor. The study area is generally located between 99th Avenue and 103rd Avenue from Encanto Boulevard to McDowell Road, and between 99th Avenue and Dysart Road from McDowell Road to Van Buren Street. The City Council will take appropriate action.

15 ADJOURNMENT

Respectfully submitted,

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:
Approval of Minutes

MEETING DATE:
December 17, 2007

TO: Mayor and Council

FROM: Linda Farris

THROUGH: Charlie McClendon, City Manager

ATTACHMENTS:

Click to download

No Attachments Available

CITY COUNCIL REPORT

SUBJECT:
Claims for October and November 2007

MEETING DATE:
December 17, 2007

TO: Mayor and Council

FROM: Linda Farris

THROUGH: Charlie McClendon, City Manager

ATTACHMENTS:

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No Attachments Available

CITY COUNCIL REPORT

SUBJECT:
Rescheduling of January 7, 2008 Council Meeting to 6:00 p.m.

MEETING DATE:
December 17, 2007

TO: Mayor and Council

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

THROUGH: Charlie McClendon, City Manager

PURPOSE:

City Staff is requesting Council authorization to reschedule the regular January 7, 2008 Council meeting to 6:00 p.m. the same night.

BACKGROUND:

In compliance with the Council Rules of Procedure, the City Council shall hold Regular Meetings at 7:00 p.m. on the first and thrid Monday of each month, or another date or time as determined by the City Council. Any change must be published with a seven day notice.

In order to accommodate the process of swearing in the new council members and electing a Vice Mayor and holding a reception for new members, the staff is requesting authorization to reschedule the regular January 7, 2008 Council meeting to 6:00 p.m. the same night. This will allow the new Council Members to take the oath of office, select a Vice Mayor and hold a reception in a reasonable time schedule.

RECOMENDATION:

Staff recommends that Council reschedule the January 7, 2008 Council Meeting to 6:00 p.m. and authorize the City Clerk to publish this change.

ATTACHMENTS:

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No Attachments Available

CITY COUNCIL REPORT

SUBJECT:
Amendment No. 3 - Construction Manager at Risk Agreement - Felix Construction - Del Rio Reservoir and Water Booster Pump Station

MEETING DATE:
December 17, 2007

TO: Mayor and Council

FROM: Wayne Janis, Water Resources Director (623)333-4444

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council approve Amendment No. 3 to the Construction Manager at Risk Agreement with Felix Construction Company for the Del Rio Ranch Reservoir and Water Booster Pump Station in an amount not to exceed $958,636 (which includes a $25,000 owner's contingency) for a total contract amount of $6,202,462 and authorize the Mayor and Council or City Manager and City Clerk to execute the necessary documents.

BACKGROUND:

The 2005 Water Master Plan confirmed the need for the development of the Del Rio Ranch Reservoir and Booster Pump Station Improvement Project (Del Rio Water Facility) which will ultimately include 7.0 million gallons (MG) of storage and a booster pump station with the capacity of 12,000 gallons per minute (gpm). The project will be constructed in two phases. The first phase is being constructed in conjunction with the Del Rio Ranch Subdivision and includes 3.5 million gallons of storage and booster pump station capacity of 8,000 gallons per minute. Phase 1 will be completed in June 2008. Additional storage and pumping capacity will be installed in fiscal year 2011-2012 or as demand requires.

City Council awarded a Construction Manager at Risk contract to Felix Construction on May 15, 2006 to provide pre-construction related services. GMP No.1 authorizing construction of the 3.5 MG reservoir was awarded to Felix by City Council on September 18, 2006. GMP No. 2 includes the construction of the remaining infrastructure within the booster facility and was approved by Council on April 2, 2007. The construction of the storage reservoir was completed in June 2007. The Construction Manager at Risk, Felix Construction began construction of the booster pump facilities in April 2007, with a final completion date of June 2008.

DISCUSSION:

The initial water source for the Del Rio Water Facility will be Well 21 located at the southeast corner of Durango Street and El Mirage Road. A second well, being planned in conjunction with Salt River Project, will be sited within the booster facility. The Water Master Plan recommends developing additional wells to supply the Del Rio Water Facility, as the property to the south of Lower Buckeye is converted from agricultural to urban uses.
To meet projected water demands and provided needed backup supply it is necessary to expedite the construction of well 21. The well will be completed in conjunction with the Del Rio Water Facility. To expedite construction, additional construction services are required from Felix Construction. These services will include:

- Construction Management and scheduling.
- Site Improvements - grading, paving, and construction of perimeter wall and gates.
- Installation of the required piping and electrical and communication equipment, including an emergency

standby generator.

· Installation of well equipment

· Preparation of record drawings (“as-builts”) to document the completed work.

· Preparation of Operation and Maintenance Manuals for operator training.

· Owner’s Contingency Owner’s contingency is only payable to the contractor after authorization by staff and provides a funding source for unexpected or complementary work or tasks. The contingency will be authorized after the contractor complies with the competitive bid process for considered work.

Utilities Department Staff and CVL have reviewed Felix Construction’s GMP No. 3 and found it complete and in accordance with the procurement process for the Construction Manager at Risk delivery method. The construction cost to complete the Del Rio Booster Pump Station and Reservoir Facility is as follows:

Pre-construction Services	$ 68,974
GMP No.1 (reservoir)	$ 1,106,000
GMP No. 2 (booster station)	$ 4,018,852
Owners Contingency (booster station)	$ 50,000
GMP No. 3 (well 21)	$ 933,636
Owners Contingency (well site)	$ 25,000
Project total	$6,202,462

SCHEDULE (well 21):

City Council Approval:	December 17, 2007
Construction starts:	January 18, 2008
Substantial completion:	May 2, 2008
Final acceptance:	June 2, 2008

BUDGETARY IMPACT:

Funding for the well site construction phase of this project is currently available within the Water Improvement Fund, Southeast Reservoir and Booster, 514-1077-00-8520.

RECOMENDATION:

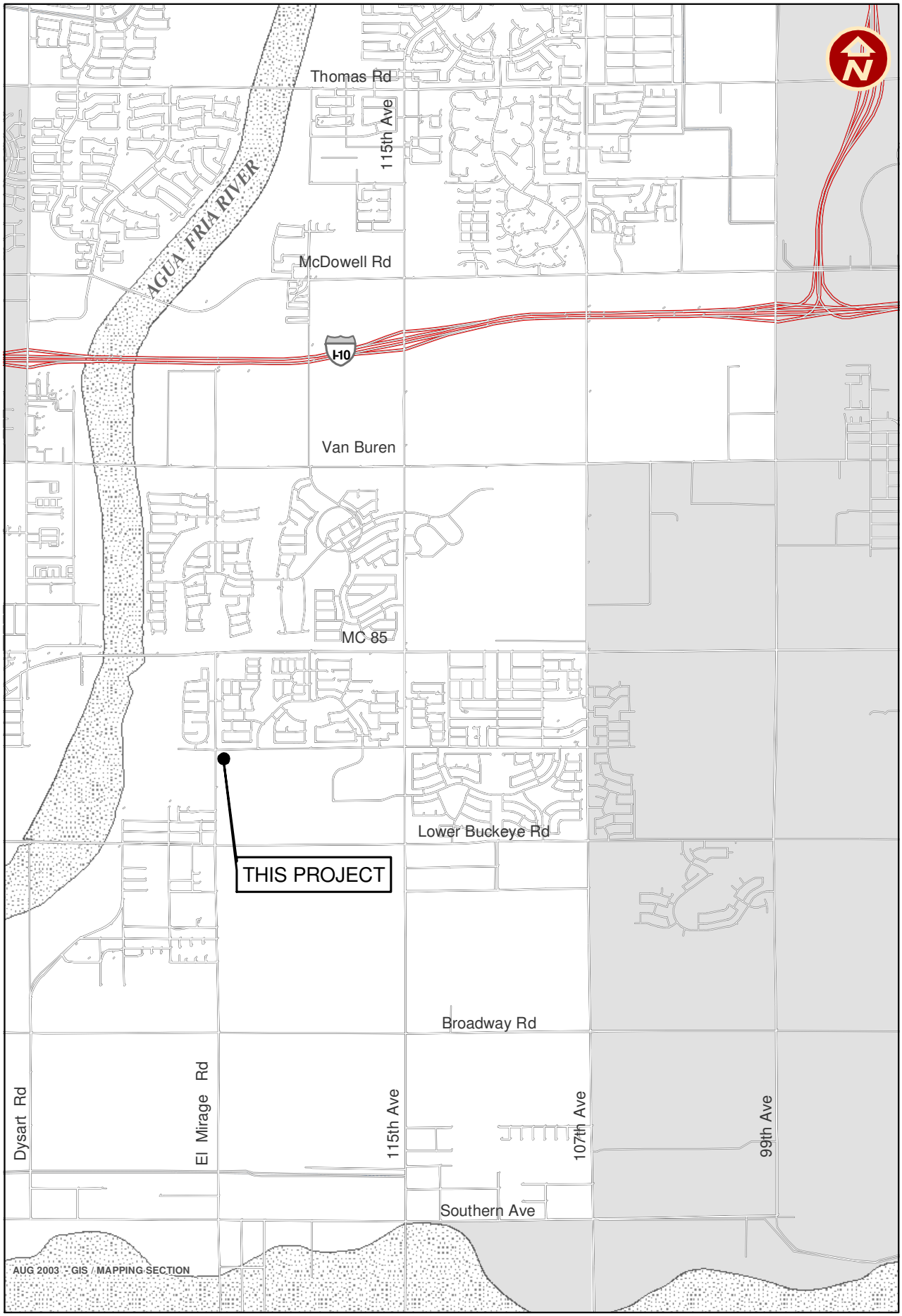
Staff recommends that the City Council approve Amendment No. 3 to the Construction Manager at Risk Agreement with Felix Construction Company for the Del Rio Ranch Reservoir and Water Booster Pump Station in an amount not to exceed $958,636 (which includes a $25,000 owner's contingency) for a total contract amount of $6,202,462 and authorize the Mayor and Council or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

- vicinity map
- A3

VICINITY MAP



CITY OF AVONDALE

Proposed Well 21

THIRD AMENDMENT
TO
CONSTRUCTION MANAGER AT RISK AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
FELIX CONSTRUCTION COMPANY

THIS THIRD AMENDMENT TO CONSTRUCTION MANAGER AT RISK AGREEMENT (this "Third Amendment") is made as of December 17, 2007, between the City of Avondale, an Arizona municipal corporation (the "City") and Felix Construction Company, an Arizona corporation (the "Construction Manager").

RECITALS

A. The City and the Construction Manager entered into that certain Construction Manager At Risk Agreement, dated May 15, 2006, for design phase assistance and complete construction services for the Del Rio Ranch Reservoir and Water Booster Pump Station located within the proposed Del Rio Ranch Subdivision at the northwest corner of 117th Avenue and Whyman Avenue (the "Original Agreement").

B. The Original Agreement was amended twice on September 18, 2006, to establish the Long Lead GMP (the "First Amendment") and on April 16, 2007, to establish the WBS GMP (the "Second Amendment"). The Original Agreement, the First Amendment and the Second Amendment are collectively referred to herein as the "Agreement." Unless otherwise set forth herein, all capitalized terms used in this Third Amendment shall have the meanings ascribed to them in the Agreement.

C. The City has determined that it is in the City's best interest to have the Construction Manager complete site construction and install a municipal potable water well ("Well 21") at the location the City had previously drilled near the Del Rio Ranch Reservoir and Water Pump Station (the "Well 21 Improvements").

D. The Construction Manager has submitted, and the City has approved, a proposal for the Well 21 Improvements. The City and the Construction Manager desire to establish the guaranteed maximum price for the Well 21 Improvements.

AGREEMENT

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

1. The Construction Manager's guaranteed maximum price (the "Well 21 GMP") for the portion of the Work related to the Well 21 Improvements (the "Well 21 Work"), including

the applicable portions of the Cost of the Work as defined in Article 8 of the Agreement and the applicable portion of the Construction Phase Fee as set forth in subsection 7.2(A) of the Agreement, but specifically not including (a) the Pre-Construction Phase Fee set forth in subsection 7.1(B) of the Agreement, (b) the Long Lead GMP or any portion thereof relating to the WBS Improvements and (c) the WBS GMP, is hereby agreed to be $933,636.00, resulting in an aggregate total GMP for all portions of the Project (including the Long Lead GMP, the WBS GMP, the Well 21 GMP and all owner's contingency amounts) of $6,202,462.00. The Well 21 GMP is the total compensation from the City to the Construction Manager for its fee and for the performance of the Well 21 Work in accordance with Contract Documents set forth in the Agreement and pursuant to the following documents:

a. Assumptions and Clarifications, two pages, dated December 12, 2007, attached hereto as Exhibit 1 and incorporated herein by reference.

b. The Schedule of Work for the Well 21 Improvements, attached hereto as Exhibit 2 and incorporated herein by reference.

c. The schedule of applicable unit prices, one page, attached hereto as Exhibit 3.

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

a. Exhibit B-3-1 – Construction Manager's Well 21 Proposal.

b. Exhibit B-3-2 – Well 21 Scope.

c. Exhibit C -1 – List of Design Documents relating to the Well 21 Improvements.

3. The date of Substantial Completion of the Well 21 Work shall be May 9, 2008, as more particularly set forth in the Schedule of Work included in Exhibit 2 hereto.

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 Third 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 Third Amendment, under any of the terms or conditions of the Agreement.

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

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment as of the date and year first written above.

"**City**"

CITY OF AVONDALE, an Arizona municipal corporation

_____
Charles P. McClendon, City Manager

ATTEST:

_____
Linda M. Farris, City Clerk

"**Construction Manager**"

FELIX CONSTRUCTION COMPANY, an Arizona corporation

By:_____

Name:_____

Title:_____

(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 _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 2007, by _____, the _____ of FELIX CONSTRUCTION COMPANY, an Arizona corporation, on behalf of the corporation.

_____
Notary Public in and for the State of _____

My Commission Expires:

_____

EXHIBIT 1
TO
THIRD AMENDMENT
TO
CONSTRUCTION MANAGER AT RISK AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
FELIX CONSTRUCTION COMPANY

[Assumptions and Clarifications]

See following pages.

FELIX
CONSTRUCTION COMPANY

309 East 10th Drive
Mesa, Arizona 85210-8706

PHONE (480) 464-0011
FAX (480) 464-0078
info@felixconstruction.com

AZ LICENSES:
070935 – CLASS A
083020 – CLASS B-01
172036 – CLASS L-11

Wednesday, December 12, 2007

City of Avondale Public Works
399 East Buckeye Road
Avondale, Arizona 85323

Attn: Steve Ruppenthal

Re: Del Rio Ranch Reservoir and Booster Pump Station

Subject: GMP No. 3 (Well Site No. 21)

Mr. Ruppenthal,

Please find attached additional clarification on our GMP No. 3 proposal (as required by page 12, Paragraph D of our contract with the City).

1. Please find attached the stamped coversheet and specification table of contents from the contract documents used to bid the project (a complete list of drawings and a copy of the project's specifications is to be provided by CVL).
   i. Cover Page Stamp: Brad Richards – 10.23.07
   ii. Specifications Stamp: Brad Richards – 10.23.07, Zane Wilsterman – 10.19.07
2. Felix Construction is caring $40,000 for security work as the design for this portion of the project is not yet complete.
3. Felix Construction made the following assumptions when preparing GMP No. 3;
   i. Felix specifically excluded any and all permit fees, developer fees, and utility company fees.
   ii. Flushing / temp piping costs are to be taken from Owner's Contingency.
   iii. No site security costs are included in GMP.
   iv. Surveying work to be carried out under the existing contract at the BPS (CVL).
   v. Assumed a four (4) hour pump test in Cost Model in lieu of 48 hours specified.
4. Please see the attached overall project schedule for use in referencing both substantial and final completion of the contract (based upon an assumed NTP of December 24, 2007).
5. Please see the previously submitted detailed breakdown for applicable "unit prices".
6. At this time Felix Construction does not foresee the need for "Additional Services" in the contract documents. In the event that we encounter unforeseen conditions or the owner would like work performed beyond the scope of the contract documents, Felix recommends the work be performed on a Time and Materials (T&M) basis. Please see the attached time and materials worksheet with our company's rates. As is noted on the matrix these rates do not include mark-up for overhead or profit. Felix construction would defer to MAG standards for acceptable mark-up rates.

7. Please provide Felix Construction official notice of acceptance of GMP No. 3 no later than December 24th, 2007 at 5:00 pm.

If you have any questions or wish to discuss this matter further please contact me at (480) 464-0011 or mobile (602) 625-4811.

Sincerely,

David J. Giannetto
Felix Construction Company
Project Manager

Xc: FCC Project Files

EXHIBIT 2
TO
THIRD AMENDMENT
TO
CONSTRUCTION MANAGER AT RISK AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
FELIX CONSTRUCTION COMPANY

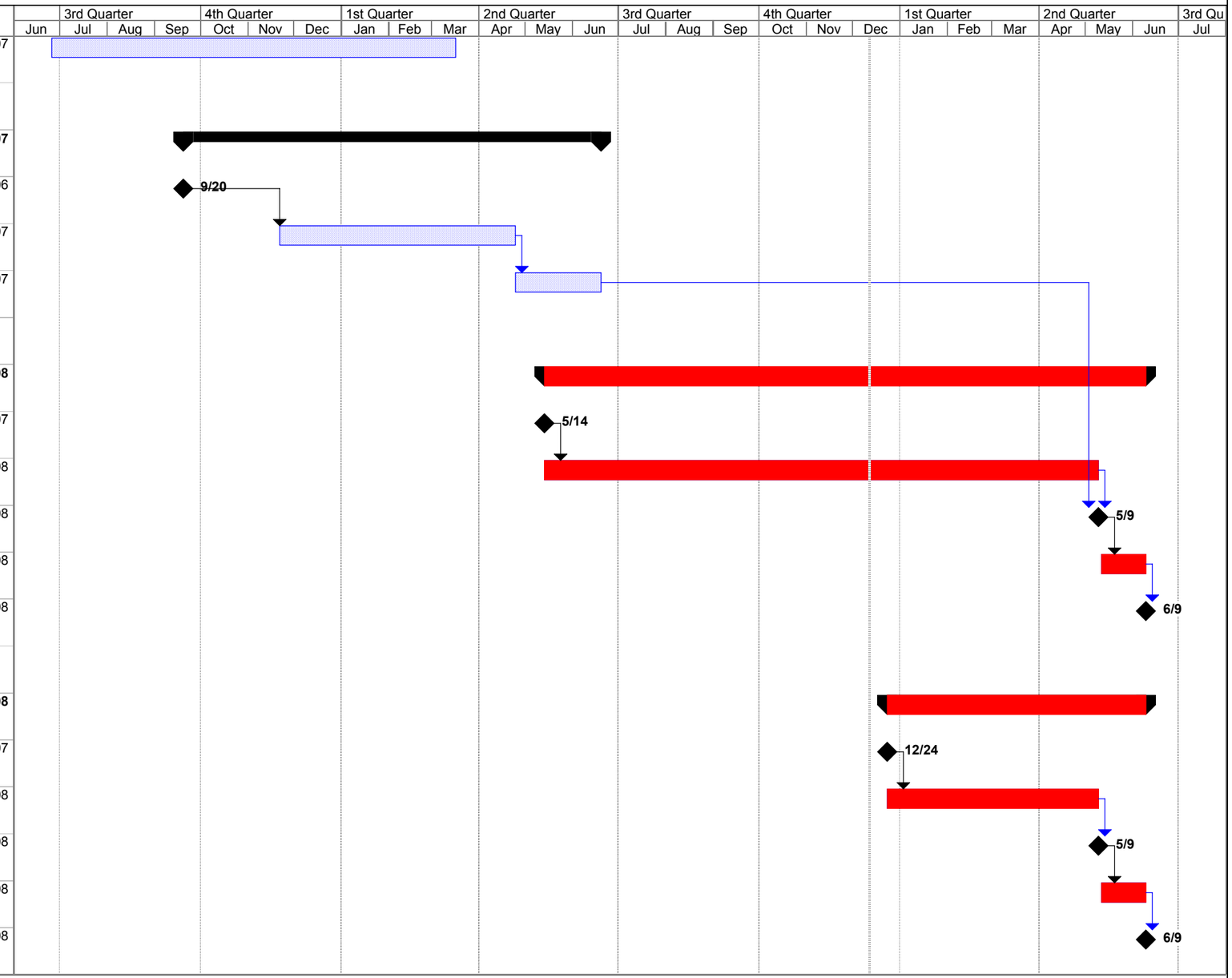
[Schedule of Well 21 Work]

See following page.

Del Rio Ranch BPS
Project Schedule (CPM)

Project Manager: David Giannetto (602.625.4811)
Project Superintendent: Doug Mortemore (602.550.0323)

ID	Task Name	Duration	Start	Finish
1	Preconstruction Services	190 days	Mon 6/26/06	Fri 3/16/07
2				
3	**GMP 1 (3.5 MG Reservoir Work)**	**195 days**	**Wed 9/20/06**	**Tue 6/19/07**
4	Notice to Proceed	0 days	Wed 9/20/06	Wed 9/20/06
5	Construction Tank	110 days	Wed 11/22/06	Tue 4/24/07
6	Paint Tank	40 days	Wed 4/25/07	Tue 6/19/07
7				
8	**GMP 2 (Remainder of Station)**	**281 days**	**Mon 5/14/07**	**Mon 6/9/08**
9	Notice to Proceed	0 days	Mon 5/14/07	Mon 5/14/07
10	Construction	260 days	Mon 5/14/07	Fri 5/9/08
11	Substantial Completion	0 days	Fri 5/9/08	Fri 5/9/08
12	Punchlist & Training	21 days	Mon 5/12/08	Mon 6/9/08
13	Finally Complete	0 days	Mon 6/9/08	Mon 6/9/08
14				
15	**GMP 3 (Well Site No. 21)**	**121 days**	**Mon 12/24/07**	**Mon 6/9/08**
16	Notice to Proceed	0 days	Mon 12/24/07	Mon 12/24/07
17	Construction	100 days	Mon 12/24/07	Fri 5/9/08
18	Substantial Completion	0 days	Fri 5/9/08	Fri 5/9/08
19	Punchlist & Training	21 days	Mon 5/12/08	Mon 6/9/08
20	Finally Complete	0 days	Mon 6/9/08	Mon 6/9/08



Project: Del Rio Ranch Preconstructio
Date: Wed 12/12/07

Task		Progress		Summary		External Tasks		Deadline	
Split		Milestone		Project Summary		External Milestone		Critical Path	

EXHIBIT 3
TO
THIRD AMENDMENT
TO
CONSTRUCTION MANAGER AT RISK AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
FELIX CONSTRUCTION COMPANY

[Schedule of Unit Prices]

See following page.

Time and Materials Worksheet

FELIX CONSTRUCTION CO.

Labor & Equipment Rate Sheet

Below Values are based upon Felix Average Rates on 04/22/05 and EQ Rated adjusted 08/31/06

LABOR:	Rate (reg)	Rate (ot)	Unit
Project Manager	$ 68.25	$ 102.38	hr
Superintendent	$ 68.25	$ 102.38	hr
Foreman	$ 39.00	$ 58.50	hr
Craftsman / Journeyman	$ 34.50	$ 51.75	hr
Laborer	$ 28.50	$ 42.75	hr
Misc	-	$ -	hr

Notes:

For T & M work - Use standard cover page form (attached) which enters labor and equipment at these rates and adds O & P at the bottom.

EQUIPMENT:	Rate (reg)	Rate (ot)	Unit	EQUIPMENT #s Included in this Category:
Pick-up	$ 18.00	$ 18.00	hr	210, 211, 212, 213, 214, 217, 218, 222, 225, 228, 229
Pick-up w/ Tools	$ 22.00	$ 22.00	hr	215, 216, 219, 221, 223, 224, 226, 227
Flatbed Truck	$ 18.00	$ 18.00	hr	220
Back Hoe	$ 40.00	$ 40.00	hr	510, 511, 512, 513
Boom Truck	$ 50.00	$ 50.00	hr	290, 291
Loader (CAT 950)	$ 80.00	$ 80.00	hr	810
Dump Truck (with driver)	$ 80.00	$ 80.00	hr	NA
Excavator (CAT 325)	$ 97.50	$ 97.50	hr	910
Water Truck	$ 40.00	$ 40.00	hr	250
Compactor CAT	$ 50.00	$ 50.00	hr	710
Ext Reach Forklift	$ 40.00	$ 40.00	hr	610
Grading Tractor (Case 480)	$ 40.00	$ 40.00	hr	410
Water Wagon	$ 18.00	$ 18.00	hr	311
Jumping Jack	$ 9.00	$ 9.00	hr	n/a
Misc Tools / Supplies	$ 7.00	$ 7.00	hr	n/a
Misc Other	$ -	$ -	hr	

Note: Rates Noted Above Do Not Include Overhead or Mark-up.

Overtime Rate (Labor) = Above Rate x 1.5

Overtime Rate (Equipment) = Reg & Overtime Rates are Same

EXHIBIT B-3-1
TO
CONSTRUCTION MANAGER AT RISK AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
FELIX CONSTRUCTION COMPANY

[Construction Manager's Well 21 Proposal]

See following page.

FELIX CONSTRUCTION COMPANY

Project: Del Rio Ranch Avondale Well No. 21
Cost Model Development

#	Description	% Plans	90	Plan Date	23-Oct-07	% Plans	GMP		23-Oct-07		
				Date of Est.	6-Nov-07				3-Dec-07	Change	
		Quant	Unit	Unit Price	Total price	Quant	Unit	Unit Price	Total price	from Prior	Comments
1	**DIVISION 2 - SITEWORK**				-				-	-	
2	Demo	1	LS	5,085	5,085	1	LS	5,085	5,085	-	
3	Mass grading - onsite	1	LS	7,258	7,258	1	LS	8,978	8,978	1,720	
4	Finish grading	1	LS	2,082	2,082	1	LS	2,994	2,994	912	
5	DG / ABC Drive - onsite	1	LS	11,178	11,178	1	LS	11,178	11,178	-	
6	DG / ABC Drive - offsite	1	LS	6,222	6,222	-			-	(6,222)	**Removed from scope**
7	DG surfacing	1	LS	6,360	6,360	1	LS	6,360	6,360	-	
8	Grouted Riprap	1	LS	2,146	2,146	1	LS	2,146	2,146	-	
9	Landscaping repairs	1	LS	3,082	3,082	1	LS	3,082	3,082	-	Existing landscaping around site will be disturbed and repaired
10	AC Pavement replacement	1	LS	2,991	2,991	1	LS	2,991	2,991	-	
11	**Subtotal**				**46,404**				**42,814**	**(3,590)**	
12	**DIVISION 3 - CONCRETE**				-				-	-	
13	Well pump pad	1	LS	4,512	4,512	1	LS	4,740	4,740	228	
14	Other Misc Pads	1	LS	14,588	14,588	1	LS	15,811	15,811	1,223	
15	Tower base pad	1	LS	8,870	8,870	1	LS	8,870	8,870	-	No design in documents
16	Concrete entry @ temp drive	1	LS	3,500	3,500	-			-	(3,500)	**Removed from scope**
17	Gate runner pad	1	LS	3,886	3,886	1	LS	4,114	4,114	228	
18	Other misc	1	LS	3,359	3,359	1	LS	4,537	4,537	1,178	
19					-				-	-	
20	**Subtotal**				**38,715**				**38,072**	**(643)**	
21	**DIVISION 4 - MASONRY**				-				-	-	
22	Site wall - Footing	1	LS	19,538	19,538	1	LS	19,788	19,788	250	Civil work for Footer = $4914; Conc = $14874
23	Site wall - CMU	1	LS	39,720	39,720	1	LS	40,720	40,720	1,000	
24	Site wall - antigrafitti	1	LS	4,000	4,000				-	(4,000)	100 % amount is in Line 40 below
25	Site wall - Paint	1	LS	7,500	7,500				-	(7,500)	100 % amount is in Line 40 below
26	**Subtotal**				**70,758**				**60,508**	**(10,250)**	
27	**DIVISION 5 - METALS**				-				-	-	
28	Entry Gate - Rolling	1	LS	24,000	24,000	1	LS	17,542	17,542	(6,458)	
29	Mandoor	1	LS	1,200	1,200	1	LS	1,260	1,260	60	
30	Bollards	1	LS	3,400	3,400	1	LS	3,470	3,470	70	
31	Sunshade	0	LS		-	1	LS	4,180	4,180	4,180	Included in Electrical in 90% Cost Model
32	Deadman	1	LS	650	650	1	LS	650	650	-	
33	Other misc	1	LS	800	800	1	LS	800	800	-	
34	**Subtotal**				**30,050**				**27,902**	**(2,148)**	
35	**DIVISION XX - BUILDING TRADES**				-				-	-	
36	Building - xxx				-				-	-	
37					-				-	-	
38	**Subtotal**				**-**				**-**	**0**	
39	**DIVISION 9 - FINISHES**				-				-	-	90% Cost Model Wall paint is in Line 25
40	Paint - Piping	1	LS	6,000	6,000	1	LS	18,800	18,800	12,800	100 % GMP Wall paint is in Line 40
41	Paint - Gates & misc	1	LS	4,500	4,500				-	(4,500)	
42	**Subtotal**				**10,500**				**18,800**	**8,300**	
43	**DIVISION 11 - EQUIPMENT**				-				-	-	
44	Well pump	1	LS	75,000	75,000	1	LS	57,682	57,682	(17,318)	
45	Desander	1	LS	22,000	22,000	1	LS	50,775	50,775	28,775	
46	Swag / plug well	1	LS	18,000	18,000	1	LS	17,900	17,900	(100)	
47	**Subtotal**				**115,000**				**126,357**	**11,357**	
48	**DIVISION 13 - SPECIAL CONSTRUCTION**				-				-	-	
49					-				-	-	
50	**Subtotal**				**-**				**-**	**0**	
51	**DIVISION 15 - MECHANICAL**				-				-	-	
52	Well site piping - buy	1	LS	45,000	45,000	1	LS	46,563	46,563	1,563	
53	Mechanical labor	1	LS	42,223	42,223	1	LS	50,447	50,447	8,224	
54					-				-	-	
55	Other Misc Items	1	LS	9,175	9,175	1	LS	9,280	9,280	105	
56	**Subtotal**				**96,398**				**106,290**	**9,892**	
57	**DIVISION 16 - ELECTRICAL**				-	1	LS	287,828	287,828	(124,268)	100% GMP Electrical Sub - Low Bid
58	Low profile gear - buy	1	LS	84,000	84,000				-		
59	Generator - buy	1	LS	42,000	42,000				-		
60	Communication / Telemetry	1	LS	108,294	108,294				-		
61	Security	1	LS	37,904	37,904	1	LS	40,000	40,000	2,096	Allowance determined by Avondale
62	Shade canopy / other Elect fabrications	1	LS	15,648	15,648				-		
63	Electrical Other	1	LS	162,154	162,154				-		
64	**Subtotal**				**450,000**				**327,828**	**(122,172)**	
65	**DIVISION 17 - INSTRUMENTATION**				-				-	-	Included in DIV 16 above
66					-				-	-	
67					-				-	-	
68	**Subtotal**				**-**				**-**	**0**	
69	**DIVISION 1 - GENERAL REQUIREMENTS**				-				-	-	No security, dumpster, etc
70	Mobilization	1	LS	750	750	1	LS	750	750	-	
71	Permits	1	LS	365	365	1	LS	365	365	-	Dust permit
72	FCC Trailers - Storage and Office	1	LS	600	600	1	LS	900	900	300	
73	Engineer's office			-	-				-	-	
74	Temporary Utilities			-	-				-	-	
75	J-Jon, Water/Ice, misc	1	LS	640	640	1	LS	960	960	320	
76	Construction water	1	LS	1,200	1,200	1	LS	1,200	1,200	-	
77	Temp fence	1	LS	1,638	1,638	1	LS	1,902	1,902	264	
78	Surveying			-	-				-	-	
79	Construction Testing			-	-				-	-	
80	PE Design			-	-				-	-	
81	Dumpster, dump fees	1	LS	4,020	4,020	1	LS	6,030	6,030	2,010	
82	Liquidated Damages			-	-				-	-	
83	Traffic Control	1	LS	400	400	1	LS	400	400	-	
84	O&M Manuals			-	-				-	-	
85	Security			-	-				-	-	
86	Builder's Risk Insurance	1	LS	94	94	1	LS	84	84	(10)	
87	Other	1	LS	1,232	1,232	1	LS	1,241	1,241	8	-
88	**Subtotal**				**10,940**				**13,832**	**2,892**	
89	**Future Water Treatment**	**EXCLUDED**			-	**EXCLUDED**			-	-	
90	**Exterior Landscape**	**EXCLUDED**			-	**EXCLUDED**			-	-	
91	**Irrigation System**	**EXCLUDED**			-	**EXCLUDED**			-	-	
92					-				-	-	
93	**SUBTOTAL ABOVE**				**$ 868,765**				**$ 762,404**	**(106,361)**	
94	**PROJECT TEAM**				-				-		
95	Project Management (Incl Pick-up)	200	Hr	87.25	17,450	248	Hr	87.25	21,638	4,188	
96	Supervision (Include Pick-up)	300	Hr	87.25	26,175	344	Hr	87.25	30,014	3,839	
97	Project Engineer	80	Hr	55.00	4,400	88	Hr	55.00	4,840	440	
98	Administrative	20	Hr	35.00	700	25	Hr	35.00	875	175	
99	**Subtotal**				**48,725**				**57,367**	**8,642**	
100	Construction Manager fee	6	%	62,849	62,849	6	%	56,155	56,155	(6,694)	
101	Bond	1	%	10,475	10,475	1	%	9,359	9,359	(1,116)	
102	Tax	8.8%	%	0.65	56,675	8.8%	%	0.65	50,638	(6,036)	
102	**Subtotal**				**129,999**				**116,153**	(13,846)	
103	**TOTAL**				**$ 1,047,489**				**$ 935,924**	(111,565)	
104	Contingency - Contractor's	1	LS		-				-	-	
105	Contingency - Owner's		%		-				-	-	
106	**TOTAL**				**$ 1,047,489**				**$ 935,924**	(111,565)	
								Less Tax Credit:	**(2,288)**	**Pipe 4" and larger**	
								Total	**933,636**		

ESTIMATE SUMMARY SHEET

Job: Del Rio Ranch Well Site No. 21
Bid Date: 12-03-07
Estimator: JF

Project Duration (Months): 6
Liquidated Damages:
Job to be Bonded (Y/N)? y

Bid Item	Description	Labor	Company Equipment	Permanent Material	Sub-Contractors	Rental Costs	Division 1 Costs	TOTAL
01	Division 1						13,832	13,832
02	Civil - Site Work	11,493	11,336	20,274	4,625	-		47,728
03	Concrete	12,280	4,953	35,714	-	-		52,947
04	Masonry	-	-	-	40,720	-		40,720
05	Struct Steel / Misc Metals	-	-	6,180	21,722	-		27,902
09	Painting / Coating	-	-	-	18,800	-		18,800
13	Mechanical Equipment	-	-	50,775	75,582	-		126,357
15	Mechanical Piping	23,718	22,904	49,763	625	-		97,010
16	Electrical	-	-	-	327,828	-		327,828
30	Miscellaneous Items	-	-	9,280	-	-		9,280
	TOTAL COST OF WORK	47,491	39,193	171,986	489,902	-	13,832	762,404

State/County Tax Rate	6.30%
City Tax Rate	2.50%
Total Tax Rate	8.80%
Tax Burden	5.72%

ESTIMATE SUMMARY

Cost of Work:	762,404
Project Team	57,367
Contractor Fee:	56,155
Subtotal:	875,926
Bond	9,359
Tax:	50,638
SubTotal Estimate:	935,924
less tax credit	(2,288)
TOTAL	933,636

Risks / Exclusions / Clarifications:

4 hour pump test in Cost Model- not 48 hours as shown in specs
No site security costs are included
We will utilize surveying contract from BPS

Flushing / temp piping costs are to be taken from Owner's Contingency

Job: Del Rio Ranch Well Site No. 21
Project Duration (Months): 6

Project Team Worksheet

	Description	Months	Monthly Rate	Hours	Hourly Rate	TOTAL	Comment
	Project Management		-	248	68.25	**16,926**	
	Project Manager Vehicle		-	248	19.00	**4,712**	
	Superintendence		-	344	68.25	**23,478**	
	Superintendent Vehicle		-	344	19.00	**6,536**	
	Project Engineering		-	88	55.00	**4,840**	
	Administrative		-	25	35.00	**875**	
						-	
						-	
						-	
						-	
						-	
					TOTAL PROJECT TEAM:	**57,367**	

EXHIBIT B-3-2
TO
CONSTRUCTION MANAGER AT RISK AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
FELIX CONSTRUCTION COMPANY

[Well 21 Scope]

See following pages.

Del Rio Ranch Well Site No. 21

Division 1 **BY: JF**

#	DESCRIPTION	QUANT	UNIT	UNIT COST	AMOUNT	Comments
1.	**Mobilization/Demobilization:**				-	
	- Company Equipment	2	ea	$ 375	750	
	- Trailers				-	
	- Rental Equipment				-	
	- Equipment Delivery				-	
	- Other				-	
2.	**Permits:**				-	
	- Local	1	LS	$ 365	365	
	- County				-	
	- Railroad				-	
	- Other				-	
3.	**Trailers:**				-	
	- FCC - storage	6	Mo	$ 150	900	
	- FCC - office				-	
	- Engineer's office				-	
4.	**Temporary/Cellular Phone**				-	
5.	**Temporary Power:**				-	
	- Set-up				-	
	- Construction - monthly				-	
	- Trailer - construction mo.				-	
	- Trailer - Engineer mo.				-	
6.	**J-Jon/Sanitation Facilities**	6	Mo	$ 95	570	
7.	**Water - drinking/ice**	6	Mo	$ 65	390	
8.	**Water - construction**	1	LS	$ 1,200	1,200	
9.	**Temporary Fencing:**				-	
	- Set-up	600	LF	$ 1.85	1,110	
	- Monthly Charges	3600	LF/mo	$ 0.22	792	
10.	**Surveying/Construction Staking**				-	
11.	**Subcontractor Bonds**				-	
12.	**Construction Testing**				-	
13.	**Design/P.E. Stamp**				-	
14.	**Dumpster - monthly**	6	Mo	$ 375	2,250	
	Dump fees	12	ea	$ 315	3,780	
15.	**Clean-up**				-	
16.	**AGC Fees (1/10 OF 1%)**	1	LS	$ 936	936	
17.	**STS**				-	
18.	**Liquidated Damages**				-	
19.	**Traffic Control:**	1	LS	$ 400	400	
	Traffic plates				-	
	Traffic officer				-	
20.	**Subsistence**				-	
21.	**Courier Fees**	1	LS	$ 180	180	$15 each way for courier (5 Star)
22.	**Reprographics**				-	Plan Sheet Reduction & Copies
23.	**O&M Costs**				-	Time & Binder Materials
	OCR Recognition				-	
24.	**Security Costs**		Mo	$ 2,200	-	Capture Cam
25.	**Insurance - Builders Risk**	1	Mo	$ 84	84	
26.	**Other**				-	
	Photos	1	LS	$ 125	125	
					-	
					-	
					-	
					-	
					-	
					-	
					-	
					-	
	TOTAL				**13,832**	

Del Rio Ranch Well Site No. 21

#	Civil - Site Work Description	Quant	Unit	Unit Labor	Total Labor	Unit Equip	Total Equip	Unit Fixed Matrl	Total Fixed Matrl	Unit Other Material	Total Other Material	Unit Sub Cost	Total Sub Cost	Unit Rental Cost	Total Rental Cost	Unit Total	Total Total	Comments
1	Civil - Site Work Sheet A TOTALS	1	LS	11,493	11,493	11,336	11,336	20,274	20,274			4,625	4,625	-	-	47,728	47,728	
2	Civil - Site Work Sheet B TOTALS	1	LS	-	-	-	-	-	-			-	-	-	-	-	-	
3					-		-		-		-		-		-	#DIV/0!	-	
4					-		-		-		-		-		-	#DIV/0!	-	
5					-		-		-		-		-		-	#DIV/0!	-	
6					-		-		-		-		-		-	#DIV/0!	-	
7					-		-		-		-		-		-	#DIV/0!	-	
8					-		-		-		-		-		-	#DIV/0!	-	
9					-		-		-		-		-		-	#DIV/0!	-	
10					-		-		-		-		-		-	#DIV/0!	-	
11					-		-		-		-		-		-	#DIV/0!	-	
12					-		-		-		-		-		-	#DIV/0!	-	
13					-		-		-		-		-		-	#DIV/0!	-	
14					-		-		-		-		-		-	#DIV/0!	-	
15					-		-		-		-		-		-	#DIV/0!	-	
16					-		-		-		-		-		-	#DIV/0!	-	
17					-		-		-		-		-		-	#DIV/0!	-	
18					-		-		-		-		-		-	#DIV/0!	-	
19					-		-		-		-		-		-	#DIV/0!	-	
20					-		-		-		-		-		-	#DIV/0!	-	
21					-		-		-		-		-		-	#DIV/0!	-	
22					-		-		-		-		-		-	#DIV/0!	-	
23					-		-		-		-		-		-	#DIV/0!	-	
24					-		-		-		-		-		-	#DIV/0!	-	
25					-		-		-		-		-		-	#DIV/0!	-	
26					-		-		-		-		-		-	#DIV/0!	-	
27					-		-		-		-		-		-	#DIV/0!	-	
28					-		-		-		-		-		-	#DIV/0!	-	
29					-		-		-		-		-		-	#DIV/0!	-	
30					-		-		-		-		-		-	#DIV/0!	-	
31					-		-		-		-		-		-	#DIV/0!	-	
32					-		-		-		-		-		-	#DIV/0!	-	
33					-		-		-		-		-		-	#DIV/0!	-	
34					-		-		-		-		-		-	#DIV/0!	-	
35					-		-		-		-		-		-	#DIV/0!	-	
36					-		-		-		-		-		-	#DIV/0!	-	
37					-		-		-		-		-		-	#DIV/0!	-	
38					-		-		-		-		-		-	#DIV/0!	-	
39					-		-		-		-		-		-	#DIV/0!	-	
40					-		-		-		-		-		-	#DIV/0!	-	
	Total				11,493		11,336		20,274		-		4,625		-	#DIV/0!	47,728	

Manhours ~ 308

Bid: **Del Rio Ranch Well Site No. 21**

Bid Item **Civil - Site Work - SHEET A** By: **JF**

#	Description	Info	HRS Fore	HRS Journey	HRS Labor	HRS Truck	HRS Hoe	HRS Boom	HRS Excv	HRS Loader	HRS H20 Tk	HRS H20 Wgn	HRS Cmpctr	HRS Tamper	HRS Dump Tk	$ Subs	ABC TONS	Other $	$ Total For Line	Comments	#
1	Dust Control																		-		1
2																			-		2
3	Mass grading		24	24	48	24				16		16	16		16				7,302		3
4	Demo existing wall		8	8	16	8			8						8			1,500	3,974		4
5	DG		8			8												5,778	6,360		5
6	On-site drive surfacing		8			8												10,596	11,178		6
7																			-		7
8	Landscaping repairs to existing		8			8										2,500			3,082		8
9	Sawcut / demo AC for waterline tie-in		8			4										625			1,111		9
10	Grouted Riprap in retention basin		8	8	8	8	8											700	2,146		10
11	Pavement replacement @ tie-in		4			4										1,500		1,200	2,991		11
12	Erosion control			16		16						16						500	1,676		12
13																			-		13
14	Footer - excv / bf		24	24	24	24	24					24		24					4,914		14
15																			-		15
16																			-		16
17	Finish grading		8	8	16	8	8			8		8	8						2,994		17
18																			-		18
19																			-		19
20																			-		20
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42																			-		42
43																			-		43
44																			-		44
45																			-		45
75																			-		75
	Total Column		108	88	112	120	40	-	8	24	-	64	24	24	24	4,625	-	20,274	47,728		
	Unit Cost		$ 48.75	$ 34.50	$ 28.50	$ 24.00	$ 45.00	$ 55.00	$ 100.00	$ 75.00	$ 60.00	$ 15.00	$ 75.00	$ 9.00	$ 45.00		$ 16.00				
	Total Cost $		$ 5,265	$ 3,036	$ 3,192	$ 2,880	$ 1,800	$ -	$ 800	$ 1,800	$ -	$ 960	$ 1,800	$ 216	$ 1,080	$ 4,625	$ -	$ 20,274	**$ 47,728**		

308	**Total Man Hours**
$ 11,493	**Labor Total**
$ 11,336	**Equipment Total**
$ 20,274	**Other Total**
$ 4,625	**Subs Total**
$ -	**Rental Total**
$ 47,728	**Total Above**
$ 47,728	**Check**

Del Rio Ranch Well Site No. 21

Concrete				Unit		Unit		Unit	Total	Unit	Total	Unit	Total	Unit	Total	Unit	Total	Comments
#	Description	Quant	Unit	Labor	Total Labor	Equip	Total Equip	Fixed Matrl	Fixed Matrl	Other Material	Other Material	Sub Costs	Sub Costs	Rental Costs	Rental Costs	Total	Total	
1	Concrete Costs A TOTALS	1	LS	12,280	12,280	4,953	4,953	33,688	33,688	1,426	1,426	-	-	-	-	52,347	52,347	
2	Concrete Costs B TOTALS	1	LS	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
3					-		-		-		-		-		-	#DIV/0!	-	
4					-		-		-		-		-		-	#DIV/0!	-	
5	Misc junction box bases	1	LS		-		-	600	600		-		-		-	600	600	
6					-		-		-		-		-		-	#DIV/0!	-	
7					-		-		-		-		-		-	#DIV/0!	-	
8					-		-		-		-		-		-	#DIV/0!	-	
9					-		-		-		-		-		-	#DIV/0!	-	
10					-		-		-		-		-		-	#DIV/0!	-	
11					-		-		-		-		-		-	#DIV/0!	-	
12					-		-		-		-		-		-	#DIV/0!	-	
13					-		-		-		-		-		-	#DIV/0!	-	
14					-		-		-		-		-		-	#DIV/0!	-	
15					-		-		-		-		-		-	#DIV/0!	-	
16					-		-		-		-		-		-	#DIV/0!	-	
17					-		-		-		-		-		-	#DIV/0!	-	
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19					-		-		-		-		-		-	#DIV/0!	-	
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39					-		-		-		-		-		-	#DIV/0!	-	
40					-		-		-		-		-		-	#DIV/0!	-	
	Total				12,280		4,953		34,288		1,426		-		-		52,947	
				Manhours ~	335													

Bid: Del Rio Ranch Well Site No. 21

Bid Item Concrete - A By: **JF**

#	Description	Act Qty	Pour Qty	HRS Fore	HRS Journey	HRS Labor	HRS Truck	HRS Hoe	HRS Boom	HRS H20 Tk	HRS H20 Wgn	HRS Cmpctr	HRS Crane	HRS Forklift	HRS Tamper	HRS Dump Tk	HRS	HRS Rent	$ Subs	ABC TONS	Rebar #	Forms $	Other $	$ Total For Line	Comments	#
1			-																			-		-		1
2	Xfmr pad	3.70	4	8		8	8	2			2				2					10	540	32		2,178		2
3			-																		-	-		-		3
4			-																		-	-		-		4
5	SES / MCC pad	8.00	9	8	8	8	8	2			2				2					21	1,215	72		3,953		5
6	Generator pad	4.44	5	8	8	8	8	2			2				2					6	675	40		2,655		6
7	Gate track pad	7.44	9	8	8	16	8	2			2				2					16	1,215	72		4,114		7
8	Concrete stoop @ man door	0.93	1	8	8	8	8	2			2				2					3	135	8		1,532		8
9	Wall footer	39.26	43	16	16	16	16	8							8					109	4,730	344	250	14,874		9
10	Pipe support pads	0.52	1		8	8	8	4			4				2					1	135	8		1,244		10
11	Sand filter pad	2.22	3	8	8	8	8	4			4				2					6	405	24		2,242		11
12	Well pad + pedestal	10.07	11	8	8	16	8	4			4				2					15	1,485	88		4,740		12
13	Oiler pad	1.04	2	1	1	1	1	1			1				1					3	270	16		784		13
14			-																		-	-		-		14
15			-																		-	-		-		15
16	Splash pad for disch piping	1.56	2	4	4	4	4	1			1				2					4	270	16		1,223		16
17	Communications tower pad	22.22	24	16	16	16	16	2			2				2					10	3,240	192		8,870		17
18	Light pole base	0.46	1	4		4	4	1			1									3	135	8		786		18
19			-																		-	-		-		19
20	Slurry backfill for street tie in	5.93	7	8	8	8	8														945	56	200	3,152		20
21			-																			-		-		21
22			-																			-		-		22
23			-																			-		-		23
24			-																			-		-		24
25			-																			-		-		25
26			-																			-		-		26
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44			-																			-		-		44
45			-																			-		-		45
46			-																			-		-		46
47			-																			-		-		47
48			-																			-		-		48
49			-																			-		-		49
50			-																			-		-		50
	Total Column	108	122	105	101	129	113	35	-	-	27	-	-	-	29	-	-	-	-	208	15,395	976	450	52,347		
	Unit Cost		110.00	$ 48.75	$ 34.50	$ 28.50	$ 24.00	$ 45.00	$ 55.00	$ 60.00	$ 15.00	$ 75.00	$ 100.00	$ 45.00	$ 9.00	$ 45.00		$ 1.00		$ 16.00	$ 1.10	1				
	Total Cost $		13,420	$ 5,119	$ 3,485	$ 3,677	$ 2,712	$ 1,575	$ -	$ -	$ 405	$ -	$ -	$ -	$ 261	$ -	$ -	$ -	$ -	$ 3,333	$ 16,935	$ 976	$ 450	**$ 52,347**		

Total $/CY	485.63
Total Man Hours	**335**

$	**12,280**	**Labor Total**
$	**4,953**	**Equipment Total**
$	**33,688**	**Materials Total**
$	**1,426**	**Other Total**
$	**-**	**Subs Total**
$	**-**	**Rental Total**
$	**52,347**	**Total Above**

Del Rio Ranch Well Site No. 21

Masonry				Unit		Unit		Unit	Total	Unit	Total	Unit	Total	Unit	Total	Unit	Total	
#	Description	Quant	Unit	Labor	Total Labor	Equip	Total Equip	Fixed Matrl	Fixed Matrl	Other Material	Other Material	Sub Costs	Sub Costs	Rental Costs	Rental Costs	Total	Total	Comments
1	Masonry Labor Worksheet	1	LS	-	-	-	-	-	-			-	-	-	-	-	-	
2	CHECKLIST TOTALS	1	LS									40,720	40,720			40,720	40,720	
3					-		-		-		-		-		-	#DIV/0!	-	
4					-		-		-		-		-		-	#DIV/0!	-	
5					-		-		-		-		-		-	#DIV/0!	-	
6					-		-		-		-		-		-	#DIV/0!	-	
7					-		-		-		-		-		-	#DIV/0!	-	
8					-		-		-		-		-		-	#DIV/0!	-	
9					-		-		-		-		-		-	#DIV/0!	-	
10					-		-		-		-		-		-	#DIV/0!	-	
11					-		-		-		-		-		-	#DIV/0!	-	
12					-		-		-		-		-		-	#DIV/0!	-	
13					-		-		-		-		-		-	#DIV/0!	-	
14					-		-		-		-		-		-	#DIV/0!	-	
15					-		-		-		-		-		-	#DIV/0!	-	
16					-		-		-		-		-		-	#DIV/0!	-	
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19					-		-		-		-		-		-	#DIV/0!	-	
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39					-		-		-		-		-		-	#DIV/0!	-	
40					-		-		-		-		-		-	#DIV/0!	-	
	Total				-		-		-		-		40,720		-		40,720	

Manhours ~ -

Del Rio Ranch Well Site No. 21 **BY:** ALP

BI #4 - MASONRY CHECKLIST **BID DATE 12-03-07**

#	DESCRIPTION	BY MASON	BY OTHERS	NOT APP	Maldonado Masonry	Sunnyside Masonry	Hochstetler Masonry
1	Masonry work per plans and specs	XXX			XXX	XXX	XXX
2	Foundation - exc and bk		XXX		XXX	XXX	XXX
3	Foundation - concrete and rebar		XXX		XXX	XXX	XXX
4	CMU for : Site Wall	XXX			XXX	XXX	XXX
5	CMU for :				XXX	XXX	XXX
6	CMU for :				XXX	XXX	XXX
7	Rebar for CMU	XXX			XXX	XXX	XXX
8	Horizontal Wire Reinforcing	XXX			XXX	XXX	XXX
9	Grout and solid grout as applicable	XXX			XXX	XXX	XXX
10	Control joints w/ filler	XXX			XXX	XXX	XXX
11	Caulk control joints			XXX	XXX	XXX	XXX
12	Integral color CMU			XXX	XXX	XXX	XXX
13	Stain			XXX	XXX	XXX	XXX
14	Sealer		XXX		XXX	XXX	XXX
15	Stucco			XXX	XXX	XXX	XXX
16	Waterproofing		XXX		XXX	XXX	XXX
17	Paint		XXX		XXX	XXX	XXX
18	Masonry lintels		XXX		XXX	XXX	XXX
19	Steel lintels	XXX			XXX	XXX	XXX
20	Embeds	Install	Furnish		XXX	XXX	XXX
21	Reglets			XXX	XXX	XXX	XXX
22	Set door frames		XXX		XXX	XXX	XXX
23	Screens for screened openings		XXX		XXX	XXX	XXX
24	Gates		XXX		XXX	XXX	XXX
	General:						
25	Submittals,samples,certs	XXX			XXX	XXX	XXX
26	Coordinate CMU inspections	XXX			XXX	XXX	XXX
27	Scaffold as req'd	XXX			XXX	XXX	XXX
28	Fall protection and safety	XXX			XXX	XXX	XXX
29	Bracing, shoring of CMU as req'd	XXX			XXX	XXX	XXX
30	Provide dumpster		XXX		XXX	XXX	XXX
31	Clean block as required	XXX			XXX	XXX	XXX
32	Cleanup trash and rebound	XXX			XXX	XXX	XXX
33	Anchor bolts and embeds	Install	Furnish		XXX	XXX	XXX
34	Provide water source		XXX		XXX	XXX	XXX
35	Get water from source to work	XXX			XXX	XXX	XXX
36	Taxes		XXX		XXX	XXX	XXX
37	Bonds		XXX		XXX	XXX	XXX
38	(2) mobilizations	XXX			1000	XXX	XXX
39	OCIP requirements			XXX	XXX	XXX	XXX
				ADDERS/DEDUCTS	1000	0	0
				MASONRY BID	39,720	40,808	70,702
				TOTAL	40,720	40,808	70,702

Maldonado - Olson Masonry, Inc.

14401 N. 5th Place Phoenix, AZ 85022

Licensed, Bonded & Insured

Specializing in Commercial - Custom Homes - Retaining Walls

(602) 993-5528 Fax (602) 866-9073

K31 License # ROC172680

Felix Construction 11/20/2007

480-464-0011

sent via fax 480-464-0078

Attn: Andy Perkins

RE: DEL RIO WELL SITE NO. 21

410 LF of 8' high CMU perimeter walls	**$**	**30,030.00**
24 LF of 6' high CMU perimeter walls	**$**	**1,440.00**
8 CMU columns, 2'8" square	**$**	**8,250.00**
Alternate: Solid grouted walls add	**$**	**8,400.00**

CMU's figured as gray medium weight block w/ no dry block.
Dry block is extra. Integral color block is extra.
Footings, stain, paint, sealants, gates and gate hardware by others.
Additional mobilizations $500.00 each.

Proposal is subject to the following conditions:

Contract is subject to agreeable terms & conditions. We may withdraw this proposal if not accepted within 30 days. Upon acceptance, this proposal shall become part of any contract. Any additional wording on insurance certificates not included.

_____ _____

SUNNYSIDE MASONRY

7124 WEST FRIER DRIVE, SUITE #102, GLENDALE, AZ 85303-1207 623-376-6500 Fax: 623-376-6501

October 16, 2007

FELIX CONSTRUCTION
309 EAST 10th DRIVE
MESA, AZ. 85210
480-464-0011 Fax: 480-464-0078

Attn: ANDY/DAVID

Re: DEL RIO WELL # 21 Job #[07-572]

Dear ANDY/DAVID,

We propose to do the masonry work and specifications for the above referenced project:

For the sum of: $40,808.45 (Forty Thousand, Eight Hundred Eight and 45/100 Dollars).

The following qualifications are a part of this proposal:

1. SCOPE OF WORK:
   1] 8-END COLUMNS
   2] 25 L/F X 7'-4" FROM FOOTING
   3] 80 L/F X 9'-4" FROM FOOTING 8X8X16 REG
   4] 340 L/F X 9'-4" FROM FOOTING THEME WALL WITH 2 PATTERNS.

2. INCLUDED: MW REG,SCORED,SPLIT GREY CMU RE-BAR AND GROUT.

3. EXCLUDED : TAX, BOND, EMBEDS, WATER PROOFING,STAIN, FOOTING, AND TRASH REMOVAL.

4. NOTE: [THIS PROPOSAL TO BE ATTACHED TO THE SUB. CONTRACT AGREEMENT]

5. THIS PROPOSAL GOOD FOR 30 DAYS, CALL EARLY FOR SCHEDULE. ANY QUESTIONS PLEASE CALL 623-376-6500 FOR CHARLEY.

Hochstetler
Masonry, Inc.
Glass Block • Brick • Block
Stone • Concrete
216 Market Ave. #140
Boerne, TX 78006
Phone # 830-249-2919

PROPOSAL

DATE	ESTIMATE NO.
10/18/2007	1863

CUSTOMER:

FELIX CONSTRUCTION CO.
309 E. 10th Drive
Mesa, AZ 85210-8706

PROJECT:

Auga Fria Well Site #21

DESCRIPTION	QTY	COST	Total
Perimeter Fence as per plan	1	70,702.00	70,702.00
NOTE: All block are standard grey in color			
EXCLUSIONS: Footings, caulking, stucco, all miscellaneous steel embed items, pay and performance bonds, sales tax, sealers, dry block admix.			
	Total		$70,702.00

Del Rio Ranch Well Site No. 21

Struct Steel / Misc Metals				Unit		Unit		Unit	Total	Unit	Total	Unit	Total	Unit	Total	Unit	Total	Comments
#	Description	Quant	Unit	Labor	Total Labor	Equip	Total Equip	Fixed Matrl	Fixed Matrl	Other Material	Other Material	Sub	Sub	Rental	Rental	Total	Total	
1	From Worksheet	1	LS	-	-	-	-	-	-			-	-	-	-	-	-	
2					-		-		-		-		-		-	#DIV/0!	-	
3	Deadman anchor w/ 1/2 yard conc	1	ea		-		-	650	650		-		-		-	650	650	
4	Removable bollards	2	ea		-		-	755	1,510		-		-		-	755	1,510	
5	27' sliding gate	1	LS		-		-		-		-	17,542	17,542		-	17,542	17,542	
6	Mandoor	1	ea		-		-	1,260	1,260		-		-		-	1,260	1,260	
7	Bollards @ gate	4	ea		-		-	490	1,960		-		-		-	490	1,960	
8	Misc steel lintels	1	LS		-		-	250	250		-		-		-	250	250	
9	Oil stand	1	ea		-		-	550	550		-		-		-	550	550	
10					-		-		-		-		-		-	#DIV/0!	-	
11					-		-		-		-		-		-	#DIV/0!	-	
12	Sunshade - Alumaline	1	ea		-		-		-		-	4,180	4,180		-	4,180	4,180	
13					-		-		-		-		-		-	#DIV/0!	-	
14					-		-		-		-		-		-	#DIV/0!	-	
15					-		-		-		-		-		-	#DIV/0!	-	
16					-		-		-		-		-		-	#DIV/0!	-	
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38					-		-		-		-		-		-	#DIV/0!	-	
39					-		-		-		-		-		-	#DIV/0!	-	
40					-		-		-		-		-		-	#DIV/0!	-	
	Total				**-**		**-**		**6,180**		**-**		**21,722**		**-**		**27,902**	
				Manhours ~	-													

PHOENIX FENCE

P.O. Box 21183 - Phoenix, AZ 85036-1183
3626 S. 16th St. - Phoenix, AZ 85040-1311
Tel: (602) 276-4283 - Fax: (602) 276-0638

FACSIMILE COVER SHEET

TO: FELIX CONSTRUCTION
JOEL FELIX

DATE: 11-26-07
FAXED TO: 480-464-0078
FAXED FROM: (602) 276-0638
OF PAGES: 3
(INCLUDING THIS COVER SHEET)

FROM: PAUL MASTIN

RE:

- ☐ REPLY REQUESTED
- ☐ NO REPLY NEEDED
- ☒ AS REQUESTED
- ☒ FOR YOUR USE
- ☐ ORIGINAL BEING MAILED

PHOENIX FENCE

PHOENIX FENCE COMPANY

P.O. BOX 21183
PHOENIX, AZ 85036-1183

November 26, 2007

Felix Construction Company
309 E. 10th Drive
Mesa, AZ 85210

Attn: Mr. Joel Felix

Re: Well Site
Avondale, AZ

We are pleased to submit this proposal for your consideration. Complete installation of all items listed is included unless otherwise noted.

SECTION ONE
ORNAMENTAL IRON:

1 E.A. 8' X 27' PINCH ROLLER SLIDE GATE
- TO MATCH DETAIL PROVIDED (SAME AS DEL RIO BOOSTER)
- EPOXY PRIMER / EXCLUDES FINISH PAINT

CONCRETE WORK:

54 L.F. CONCRETE V-TRACKING SYSTEM
- PER DETAIL PROVIDED
- FELIX CONSTRUCTION TO ASSIST WITH POUR AND FINISHING

SECTION TWO

EQUIPMENT:

1 E.A. HY-SECURITY MODEL 222-SS SLIDE GATE OPERATOR
2 E.A. RENO A&E MODEL BXC-4 VEHICLE DETECTOR

FIRE DEPARTMENT REQUIREMENTS:

1 E.A. KNOX MODEL 3502 FIRE DEPARTMENT KEY SWITCH
1 E.A. TOMAR MODEL 1790 STROBE SWITCH DETECTOR

PHOENIX FENCE

PHOENIX FENCE COMPANY

P.O. BOX 21183
PHOENIX, AZ 85036-1183

CONCRETE WORK:

1 E.A. CONCRETE OPERATOR PAD

MISCELLANEOUS:

3 E.A. LOOPS (2 SAFETY, 1 FREE EXIT)

EXCLUSIONS:

CONTROLS, ADDITIONAL FENCING / GATES, PERMITS, BOND, ELECTRICAL

BID BREAKDOWN:

SECTION ONE:

SUB TOTAL:	$7,739.00
TAX:	EXCLUDED
TOTAL:	**$7,739.00**

SECTION TWO:

SUB TOTAL:	$9,803.00
TAX:	EXCLUDED
TOTAL:	**$9,803.00**

TERMS: **PER SUBCONTRACT AGREEMENT**

If you require any additional information, please do not hesitate to call.

Sincerely,
Phoenix Fence Company

Paul Mastin
Manager / Access Control Div.

3626 S. 16th STREET • PHOENIX, AZ 85040-1311 • TEL: (602) 276-4283 • FAX: (602) 276-0638

Proposal

ALUMA-LINE, INC.
529 E. Juanita Ave.
Mesa, AZ 85204
(480) 926-3831 • Fax (480) 545-9623
Mesa - Tempe 480 Phoenix - Sun City 480

PROPOSAL SUBMITTED TO: Foley Construction Co	PHONE: 464-0011	FAX: 464-0078	DATE: 11-30-07
STREET: 309 E 10th DR	JOB NAME: Avondale Well 21		
CITY, STATE, and ZIP CODE: Mesa, Az 85210-8706	JOB LOCATION: Del Rio Ranch		
CONTACT: Attn: Joel		JOB PHONE	

We hereby submit specifications and estimates for:

21' x 10' Shade Cover 9' Tall

3" sq Steel Posts - set on Slab

2" sq Steel Frame

95% Sunsine Material

21' x 8' Back Panel - 95% Sunsine

Installed

Price does not include Stamped Engineering

We Propose hereby to furnish material and labor - complete in accordance with specifications below, for the sum of:

Four thousand one hundred eighty dollars ($ 4180.00).

Payment to be made as follows:

~~40% Deposit~~

Balance due Net 30 days

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from specifications below involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

Authorized Signature [signature]

Note: This proposal may be withdrawn by us if not accepted within 60 days.

Acceptance of Proposal - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature _____

Date of Acceptance: _____

Signature _____

Del Rio Ranch Well Site No. 21

Painting / Coating				Unit		Unit		Unit	Total	Unit	Total	Unit	Total	Unit	Total	Unit	Total	Comments
#	Description	Quant	Unit	Labor	Total Labor	Equip	Total Equip	Fixed Matrl	Fixed Matrl	Variable Material	Variable Material	Sub Costs	Sub Costs	Rental Costs	Rental Costs	Total	Total	
1	Paint Labor Worksheet	1	LS	-	-	-	-	-	-			-	-	-	-	-	-	
2	Paint Checklist Total (plug)	1	LS									-	-			-	-	
3					-		-		-		-		-		-	#DIV/0!	-	
4					-		-		-		-		-		-	#DIV/0!	-	
5					-		-		-		-		-		-	#DIV/0!	-	
6					-		-		-		-		-		-	#DIV/0!	-	
7					-		-		-		-		-		-	#DIV/0!	-	
8					-		-		-		-		-		-	#DIV/0!	-	
9					-		-		-		-		-		-	#DIV/0!	-	
10					-		-		-		-		-		-	#DIV/0!	-	
11					-		-		-		-		-		-	#DIV/0!	-	
12	Paint Sub - AO painting	1			-		-		-		-	18800	18,800		-	18,800	18,800	
13					-		-		-		-		-		-	#DIV/0!	-	
14					-		-		-		-		-		-	#DIV/0!	-	
15					-		-		-		-		-		-	#DIV/0!	-	
16					-		-		-		-		-		-	#DIV/0!	-	
17					-		-		-		-		-		-	#DIV/0!	-	
18					-		-		-		-		-		-	#DIV/0!	-	
19					-		-		-		-		-		-	#DIV/0!	-	
20					-		-		-		-		-		-	#DIV/0!	-	
21					-		-		-		-		-		-	#DIV/0!	-	
22					-		-		-		-		-		-	#DIV/0!	-	
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24					-		-		-		-		-		-	#DIV/0!	-	
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38					-		-		-		-		-		-	#DIV/0!	-	
39					-		-		-		-		-		-	#DIV/0!	-	
40					-		-		-		-		-		-	#DIV/0!	-	
	Total				-		-		-		-		18,800		-		18,800	
				Manhours ~	-													

PAINTING - COATING PROPOSAL

Date: November 29, 2007
Proposal submitted to: Joel Felix
Company: Felix Construction
Address: 309 E. 10th Dr.
City: Mesa **State:** AZ **Zip Code:** 85210-8706
Telephone: (480) 464-1000 **Fax:** (480) 464-0078

Job Name: DEL RIO RANCH/AVONDALE WELL NO. 21
Location: Durango & El Mirage Rd, Avondale, AZ

We hereby submit this estimate:

Please find price to accomplish painting as itemized below:

Items Included:

1. Perimeter Wall
   a. Interior Painting Only
   b. Apply Paint and Anti-Graffiti Coating to Exterior
2. Rolling Gate
3. Door
4. Well Piping
5. Desander
   a. Piping

Exclusions:

- Electrical Gear

This price includes: Labor, Equipment and Material

for the sum of: Eighteen Thousand Eight Hundred Dollars & 00/100's **$** 18,800 .00 .

This proposal and agreement must be accepted by _____. If no date is inserted in the previous sentence, this proposal will expire 30 days from the date executed by Contractor. Terms (unless otherwise agreed): Cash Net 30 days after completion of work. Interest at 1½ % per month on past due accounts. Customer agrees to pay costs and reasonable lawyer fees when legal action is necessary for collection.

Buyer
Accepted by: _____ **Date:** _____
Name Printed: _____
Its: _____

A-O Painting, Inc.
Signed: Paul **Date:** 11/29/07
Name Printed: Paul Ortega
Its: Vice President

PAINTING AND DECORATING CONTRACTORS OF AMERICA

AMERICAN SUBCONTRACTORS ASSOCIATION of Arizona, Inc.

3237 East President St. • Tucson, AZ 85714 • P (520) 573-0051 • F (520) 294-8353 • Website: aopaintinginc.com
E-mail: info@aopaintinginc.com • ROC-095603 L-34 / ROC-129492 L-05

Del Rio Ranch Well Site No. 21

Mechanical Equipment																		
#	Description	Quant	Unit	Unit Labor	Total Labor	Unit Equip	Total Equip	Unit Fixed Matrl	Total Fixed Matrl	Unit Other Material	Total Other Material	Unit Sub Costs	Total Fixed Sub	Unit Rental Costs	Total Rental Costs	Unit Total	Total Total	Comments
1	From Worksheet	1	LS	-	-	-	-	-	-			-	-	-	-	-	-	
2					-		-		-		-		-		-	#DIV/0!	-	
3	Well pump	1	LS		-		-		-		-	57682	57,682		-	57,682	57,682	
4					-		-		-		-		-		-	#DIV/0!	-	
5	Swag and patch well	1	LS		-		-		-		-	17900	17,900		-	17,900	17,900	
6					-		-		-		-		-		-	#DIV/0!	-	
7					-		-		-		-		-		-	#DIV/0!	-	
8					-		-		-		-		-		-	#DIV/0!	-	
9	Desander	1	LS		-		-	46125	46,125		-		-		-	46,125	46,125	
10	Solenoid system for desander	1	ea		-		-	2900	2,900		-		-		-	2,900	2,900	
11	Desander freight	1	LS		-		-	1750	1,750		-		-		-	1,750	1,750	
12					-		-		-		-		-		-	#DIV/0!	-	
13					-		-		-		-		-		-	#DIV/0!	-	
14					-		-		-		-		-		-	#DIV/0!	-	
15					-		-		-		-		-		-	#DIV/0!	-	
16					-		-		-		-		-		-	#DIV/0!	-	
17					-		-		-		-		-		-	#DIV/0!	-	
18					-		-		-		-		-		-	#DIV/0!	-	
19					-		-		-		-		-		-	#DIV/0!	-	
20					-		-		-		-		-		-	#DIV/0!	-	
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23					-		-		-		-		-		-	#DIV/0!	-	
24					-		-		-		-		-		-	#DIV/0!	-	
25					-		-		-		-		-		-	#DIV/0!	-	
26					-		-		-		-		-		-	#DIV/0!	-	
27					-		-		-		-		-		-	#DIV/0!	-	
28					-		-		-		-		-		-	#DIV/0!	-	
29					-		-		-		-		-		-	#DIV/0!	-	
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31					-		-		-		-		-		-	#DIV/0!	-	
32					-		-		-		-		-		-	#DIV/0!	-	
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35					-		-		-		-		-		-	#DIV/0!	-	
36					-		-		-		-		-		-	#DIV/0!	-	
37					-		-		-		-		-		-	#DIV/0!	-	
38					-		-		-		-		-		-	#DIV/0!	-	
39					-		-		-		-		-		-	#DIV/0!	-	
40					-		-		-		-		-		-	#DIV/0!	-	
	Total				-		-		50,775		-		75,582		-		126,357	
				Manhours ~	-													

Felix Construction Company

Scope of Bid

Project : Avondale Well No. 21

Scope of Work for : Deep Well Pump **Date: Nov 30th, 2:00 pm**

#	Activity	By Sub	By Others	Navajo Pump	Layne Christensen
	Deep Well pump	x		x	x
	1200 gpm @ 281 ft* head	x		x	x
	Setting - 230'	x		x	x
	Discharge head size: 8"	x		x	x
	Motor	x		x	x
	HP - 125	x		x	x
	Max RPM : 1800	x		x	x
	Anticondensation heaters	x		x	x
	RTDs	x		x	x
	Delivery to jobsite	x		x	x
	Unload/stack/stab column & shaft	x		x	x
	Extend / Trim casing as req'd	x		**1200**	x
	Foundation plate 1" thick	x		x	x
	Anchor bolts for plate and head	x		x	x
	Casing vent penetration	x		**250**	x
	Casing vent piping beyond casing penetration		x	x	x
	Sanitary seal		x	x	x
	Installation	x		x	x
	Delivery to jobsite	x		x	x
	Unload/stack/stab column & shaft	x		x	x
	Disinfect column/shaft at installation	x		**450**	x
	Silicone seal @ foundation plate	x		x	x
	Sounding tube	x		**450**	x
	Spiders	x		x	x
	3/8" Brass Air line	x		x	x
	Lubrication system	x		x	x
	Oil barrel	**Furnish**	**Install**	x	x
	Oil barrel stand	**Furnish**	**Install**	x	x
	Oiler solenoid	**Furnish**	**Install**	x	x
	Oiler piping	**Furnish**	**Install**	x	x
	Concrete pump pad		x	x	x
	Oiler pad		x	x	x
	Electrical to conduit box on motor		x	x	x
	Cone Strainer and suction pipe	x		x	**excluded**
	Testing - Field	x		x	x
	Temporary piping for test piping		x	x	x
	Factory testing (Certified)	x		**1000**	x
	Startup	x		x	x
	Training	x		x	x
	Submittals per spec	x		x	x
	O&M manuals per spec	x		x	x
	Certified pump curve	x		x	x
	Non witness testing	x		x	x
			ADDERS/DEDUCTS	3,350	-
			BID	54,332	63,569
			TOTAL	57,682	63,569

PO BOX 798
TOLLESON, ARIZONA 85353
OFFICE-623-979-2324
FAX-623-979-2399

Navajo Pump & Supply, Inc.

Fax

To:	JOEL FELIX	From:	DAN WADDELL
Company:	FELIX CONSTRUCTION	Pages:	2
Phone:	480-464-0011	Date:	11/29/07
Fax:	480-464-0078	Re:	QUOTE

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

● Comments

Navajo Pump & Supply, Inc.

P.O. Box 1299, Peoria, AZ, 85380-1299
Located at: 7700 West Olive
(623) 979-2324 FAX: (623) 979-2399

Proposal

To: Customer: FELIX CONSTRUCTION
Contact: JOEL FELIX
Phone: 480-464-0011
Fax: 480-464-0078

LICENSE # 082755

DEL RIO RANCH
AVONDALE WELL NO 21

Date Submitted 11/28/07

Quote Valid for 30 Days

Product Pricing and Information

Req. Qty.	Product Description	Unit Price	Extended Price
	PUMP PERFORMANCE 1200 GPM @281 TDH, 85.9%		
1	VERTICAL TURBINE PUMP COMPLETE - CONSISTING OF: 1 - 125 HP ELECTRIC V.H.S. MOTOR 1 - FF8 - 150# X 16.5" GOULDS DISCHARGE HEAD 230' - 10" X 2 1/2" X 1 1/2" COLUMN, TUBE & SHAFT ASSY 230' - 3/8" BRASS AIRLINE 1 - 4 STAGE 121 CHC GOULDS BOWL ASSY 1 - NON - WITNESS BOWL PREFORMANCE TEST 1 - LUBRICATION SYSTEM COMPLETE (BARREL, STAND, ETC.) 1 - 1" FOUNDATION PLATE VERTICAL TURBINE PUMP COMPLETE		49,832.00
	LABOR TO DELIVER & INSTALL PUMP		4,500.00
	NOTE: NO AIRLINE OR SOUNDING TUBE QUOTED ALSO, NO WORK ON WELL OR PUMP PAD QUOTED		

If you have any questions regarding this quote please contact: DAN WADDELL

Quote Total $54,332.00

Freight Charges will be added at the time of shipment based on the weight of products shipped. Sales taxes will be added where applicable.

The Above Line Item Component Prices Are Valid For This Quote Only

Layne Christensen Company
12030 E. Riggs Road
Chandler, Arizona 85249
Office: 480.895.9404
Fax: 480.895-8699

Cover

Company:	Felix Construction	Date:	November 29, 2007
To:	Joel Felix	Pages Incl. Cover Sheet:	2
Fax #:	480-464-0078		
Phone#:	480-464-0011		
From:	David Paszli		

Comments:

Proposal For Pump Installation

City of Avondale

Well Site No. 21

Del Rio Ranch

PLEASE CALL IF THERE IS A PROBLEM WITH YOUR COPY

Layne Christensen Company
12030 E. Riggs Rd, Chandler, Arizona 85249
Water Supply Division
OFFICE: (480) 895-9404
FAX: (480) 895-8699

PROPOSAL

COMPANY:	Felix Construction	DATE:	11/27/2007
CONTACT:	Joel Felix	PROJECT :	Avondale Well #21
ADDRESS:	309 E. 10th Drive	LOCATION:	Avondale
CITY:	Mesa	ESTIMATED BY:	David Paszli
STATE:	Arizona	PROPOSAL NUMBER:	Q1114-625
ZIP CODE:	85210	JOB NUMBER:	
PHONE:	480-464-0011	PROJECT TYPE:	Equipment
FAX:	480-464-0078		
CONTACT MOBILE:			
CONTACT TITLE:			

ITEM	DESCRIPTION	EST QTY	UNITS	UNIT COST	TOTAL COST
	MATERIALS				
1	Goulds 12CHC (4 Stages) 1200/GPM @ 281/FT To Include: 1.) Head (Fabricated) - FF8-150# X 16.5 / With Tenemic Coating 2.) Strainer, Cone 3.) Dynamically Balanced Impeller - Adder 4.) Head Coupling (AR Type) 5.) Exterior Of Bows - 8-Mill type 1- Tenemic 140 (NSF Approved)	1	LUMP	$10,664.00	$10,664.00
2	Motor - USEM, Type TUCS, 125Hp 1800RPM, W/ Heaters & RTD's	1	EACH	$16,346.00	$16,346.00
3	Motor - Extra Large Entry Box - Adder	1	EACH	$1,187.00	$1,187.00
4	Foundation Plate 1"	1	EACH	$906.00	$906.00
5	8"- .322X 20' With 2-1/2" X 1-1/2" Tube & Shaft Assembly **With Tenemic Coating on OD of Column & OD of Tube**	11	EACH	$1,608.00	$17,688.00
6	8"- .322X 10' With 2-1/2" X 1-1/2" Tube & Shaft Assembly **With Tenemic Coating on OD of Column & OD of Tube**	1	EACH	$850.00	$850.00
7	Oil Barrel, Stand, Solenoid, Associated Piping	1	LUMP	$1,863.00	$1,863.00
8	Rubber Spider 8" X 2-1/2"	6	EACH	$11.00	$66.00
9	Sounding Line	1	LS	$350.00	$350.00
10	Red Brass Airline 3/8" With Coupling	230	FT	$11.00	$2,530.00
11	Banding - Materials, Consumables	1	LS	$225.00	$225.00
	INSTALLATION LABOR				
12	Extend Well Casing To Grade -Install Air Vent Piping To Surface	1	LS	$850.00	$850.00
13	Delivery To Jobsite - Unload, Stage, Stab Column & Shaft	1	LS	$2,100.00	$2,100.00
14	Disinfection Of Pumping Equipment - During Installation	1	LS	$450.00	$450.00
15	Installation Of Lineshaft Pumping system	24	HR	$175.00	$4,200.00
16	Machine Labor	1	LS	$825.00	$825.00
	TESTING / CERTIFICATION				
17	Start-Up, Training, Submittals Per Spec, O&M Manuels Per Spec	1	LS	$1,500.00	$1,500.00
18	Performance Testing With Certified Non Witness Pump Curve ONLY	1	LS	$969.00	$969.00
				Total Estimated Cost	**$63,569.00**

1) P 11214-2, Sec. 1.02C Manufacturer Will Not Supply Certification Of Installation
2) P11214-2, Sec 1.02, D Manufacturers Training Shall Be By Layne - A Goulds Auth. Dealer
3) P11214-7 , Sec 2.02, G NoSuction Pipe Not Provided - Column Length & Intake Do Not allow
4) P11214-8, Sec3.02 A Through C Field Testing & Start Up Shall Be Done By Layne
5) Storage, transport and disposal of waste generated from the well by others.

Acceptance of Proposal:

The above prices, specification and conditions are satisfactory and are hereby accepted.
You are authorized to do the work as specified.

Date of Acceptance:_____ Signature_____ Title_____

From: Mike Longmire [mailto:mwlongmire@gmail.com]
Sent: Thursday, November 01, 2007 4:56 PM
To: andyp@felixconstruction.com
Subject: Quote Del Rio Ranch Well # 21

Andy,

Quote for Del Rio Ranch Well # 21

Install 16" I.D. patch's @ 259'-301'	
Video to confirm footage-	$600
42' of 16" patch @ $400Ft-	$16800
Video to confirm patch location & condition	$500
Total-	$17900

Michael Longmire
Longmire Well Service
P.O. BOX 759
Willcox,Arizona 85644

Cell 520-507-7855
Cell 602-531-3660
Fax 520-384-0816

FLSmidth Krebs
5505 W Gillette Rd • Tucson, AZ 85743-9501 • USA
Tel +1 520 744 8200 • Fax +1 520 744 8300
www.krebs.com

November 26, 2007

Felix Construction
309 E. 10th Drive
Mesa, AZ 85210

Proposal No.: BLP-706211-02

Reference: Del Rio Well #21

Attention: Mr. Joel Felix

We propose to furnish the following equipment and services in accordance with the prices and terms specified below. This proposal is firm for 30 days from its date.

ITEM	QTY.	DESCRIPTION
1	1	KREBS MODEL W20U-gMAX-3166 DESANDER complete with fabricated unlined carbon steel body, a replaceable unlined carbon steel vortex finder, a replaceable unlined abrasion resistant steel cone, and removable unlined carbon steel accumulator tanks. The inlet, overflow, and solids discharge connections are standard 150# flanged connections. Also included are pressure gauges for the inlet and overflow. The desanders are designed, built and stamped in accordance to ASME code specifications section VIII, Division I. The design pressure is 150 psig, the design temperature is 150°F. The unit will be hydrostatically tested to 1.5 times the design pressure.

References: Similar to Drawing No. S3166
Similar to Parts List: PL 5206

Fittings:

The inlet connection is 6”.

The overflow connection is 8”.

The solids discharge connection is 2”.

The vortex finder diameter is to be determined.

PRICE:

AT $46,125.00 EACH, THE TOTAL FOR
THE ABOVE ITEM 1, F.O.B. TUCSON,
ARIZONA, EXCLUSIVE OF ALL SALES, USE,
OR OTHER APPLICABLE TAXES IS. $46,125.00

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Tel +1 520 744 8200 • Fax +1 520 744 8300
www.krebs.com

ITEM	QTY.	DESCRIPTION
2	1	Automatic solids discharge system complete with a two inch diameter diaphragm valve, solenoid, and timer system to control the length and the frequency of the accumulator tank purges.

PRICE:

AT $2,900.00 EACH, THE TOTAL FOR
THE ABOVE ITEM 2, F.O.B. TUCSON,
ARIZONA, EXCLUSIVE OF ALL SALES, USE,
OR OTHER APPLICABLE TAXES IS. $2,900.00

SHIPMENT:

Shipment of the above described equipment can be made within 12 weeks after the receipt of an order or approval drawings if they are required.

Approval drawings can be sent 3 weeks after the receipt of an order.

Final drawings can be sent 2 weeks after the receipt of the approval drawings.

The above shipment schedule is subject to verification at the time an order is placed. The shipment time could vary, depending on the prevailing engineering and production loads.

TERMS OF PAYMENT:

Net cash 30 days upon approval of credit. When an order is placed please send three customer references and one bank reference.

FLSmidth Krebs
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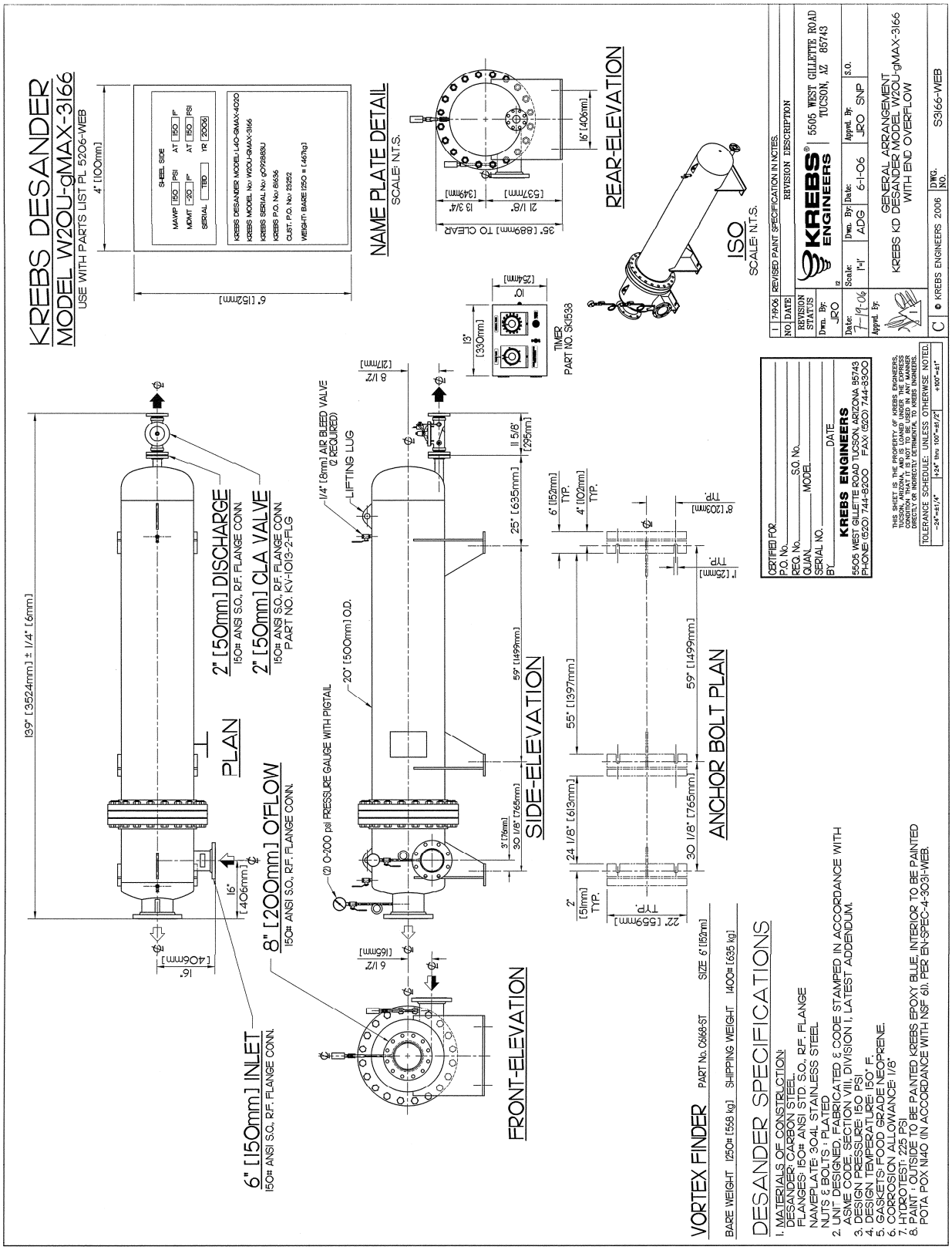
www.krebs.com



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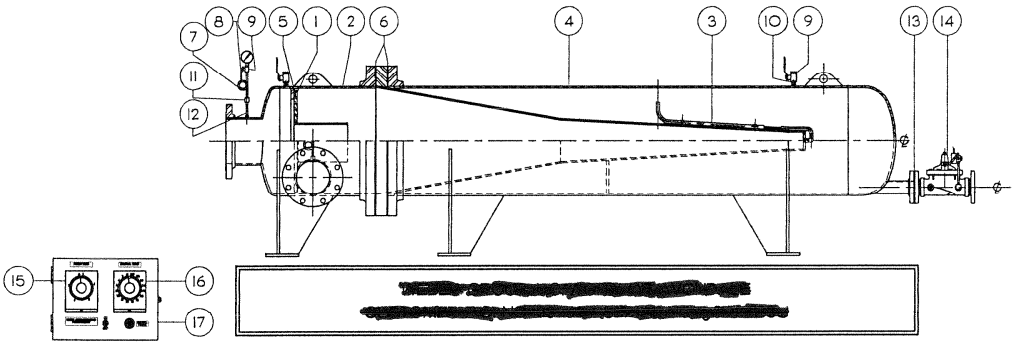
PL 5206-WEB-g092883U

REVISION 0

KREBS DESANDER PARTS LIST

MODELW20U-g092883U (W20U-gMAX-3166) KREBS KD DESANDER



[redacted]

DATE: MAY 22, 2006

ITEM No.	PART NUMBER	DESCRIPTION
1.	C6168-ST-6-WEB	VORTEX FINDER, 6" SIZE, STEEL. SIZES AVAILABLE: 4", 6", 8", & 10".
2.	C6300-ST-WEB	INLET HEAD WITH 6" INLET AND 8" OVERFLOW STD. FLG. CONN., STEEL.
3.	C6302-AR-WEB	CONE, AR PLATE.
4.	C6301-ST-WEB	ACCUMULATOR TANK WITH 2" STD. FLG. CONN. DISCHARGE, STEEL.
5.	C5055G-RF	GASKET, FOOD GRADE NEOPRENE.
6.	C5060G-20-RF	GASKET, FOOD GRADE NEOPRENE. 2 REQUIRED.
7.	1/4 PIGTAIL	PIGTAIL FOR INLET & OVERFLOW, .25" SIZE, STEEL, 2 REQ'D.
8.	PI-GAUGE-200	PRESSURE GAUGE, BOURDON TUBE TYPE, WITH 3.5" DIA. DIAL, 0-200 PSI GRADUATIONS. 2 REQUIRED.
9.	KV-BV-BR-.25	BALL VALVE, .25" SIZE, BRONZE. 2 REQUIRED.
10.	PF-CN-.25-GA	CLOSE NIPPLE, .25" SIZE, GALVANIZED STEEL. 2 REQUIRED.
11.	PF-FC-.25	FULL COUPLING, .25" SIZE, STEEL, 2 REQ'D.
12.	PF-NIP-.25X3GA	NIPPLE, .25" SIZE X 3" LONG, GALVANIZED STEEL. 2 REQUIRED.
13.	C5060G-2-RF	GASKET, FOOD GRADE NEPRENE.
14.	KV-1013-2-FLG	CLA VALVE, 2" SIZE, 136EG-01 A-2 WITH THREADED FLG. CONN.
15.	KV-EAGL-HP53A6	5 MINUTE TIMER INSERT, 120V/60HZ.
16.	KV-EAGL-HP510A6	30 HOUR TIMER INSERT, 120V/60HZ.
17.	KV-EAGLTIMERBX	SPLASH PROOF TIMER BOX.

STANDARD MATERIAL OF CONSTRUCTION
CARBON STEEL AND A.R. PLATE.

PAINT PER: EN-SPEC-4-3031-WEB

FILENAME: SERIES99										
Material Symbols: (10-26-05)	CC: 90% Alumina	CMC: Ceramic Metal Composite	KR: KalRez	PP: Polypropylene	RCS: Royal Cast/Urethane	RH: Nitrile	RP: Hypalon	RV75: 75 Duro. Viton	SI: 625 Inconel
A59: Alloy 59	CG: Silicon Carbide Composite	ML: Monel	NH: Nihard	PT: Teflon	RD: Compressed Non-Asbestos	RI: High Temp. Urethane Compound 9150	RQ: Food Grade Rubber	RV90: 90 Duro. Viton	SS: Stainless Steel
AL: Aluminum	CI: Cast Iron	CX: Reaction Bonded Silicon Carbide	NK: Nickel	PA: Plastic	RE: EPDM		RT90: 90 Durometer Ultrane II (Food Grade)	RW: Ultrane II	SSB: Boride Coated SS
AR: AR Plate	CQ: Super Refrax-K	CZ: Sintered Alpha Silicon Carbide	NR: Niresist	PS: SDR Polyethylene	RF: Food Grade Neoprene(white)	RJ: White Nitrile	RU: 90 Durometer Urethane	RX: Silicon Rubber	SS6: AL-6XN
AT: Alloy 20	CR: Nitride Bonded Silicon Carbide	G: Gasket	NC: Nitronic	PV: PVC	RFB: Food Grade Neoprene(black)	RK: Ultrane HT	RU7: Urethane	RY: Ultrane II (93)	SDB: Boride Coated SD
BG: Black Gold	CS: Cast Steel	GF: Gylon Fawn	PC: Polycarbonate	RA: Vibrathane Compound 6063	RG: Gum Rubber	RM: White Urethane(95)	RU95: 95 Duro. Urethane	RZ: Ultrane Y	ST: Carbon Steel
BPC: BPC Rubber	CPVS: CPVC	HC: High Chrome (Kreballoy)	PE: HDPE	RB: Chlorobutyl	RNF: Food Grade Neoprene Gasket	RN: Neoprene	RV: Viton	SA: Hastelloy	TI: Titanium
CB: 96% Alumina			PF: FRP	RC: Royal Cast				SC: CD4MCU	ZZ: Corrosion Resist. Units
			PK: Kynar PVDF					SD: Stainless Duplex	ZI: Zirconia Alumina
			PN: Nylon						Ceramic (ZAC 1681-3)

ADG

PLEASE SPECIFY PART NUMBER AND CYCLONE SERIAL NUMBER WHEN ORDERING PARTS.

KREBS ENGINEERS

CORPORATE OFFICES - TUCSON, USA
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FAX: (56-2) 463-8383
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KREBS ENGINEERS PACIFIC
PHONE: (63-2) 687-9251
FAX: (63-2) 687-4461
krebspacific@krebs.com

KREBS ENGINEERS
EXCLUSIVE TERMS AND CONDITIONS OF SALE

1. **Binding Effect:** These terms and conditions of sale supersede the terms and conditions of any purchase orders or similar documents submitted by Customer with respect to the purchase of the products described on the reverse side hereof or in any proposal submitted herewith (the "Products"). No terms or provisions of any purchase orders or similar documents submitted by Customer and no waiver, alteration or modification of any of the provisions of these terms and conditions shall be effective or binding upon Krebs Engineers ("Krebs") unless in writing and signed by an authorized officer of Krebs. Acceptance of delivery of the Products by Customer constitutes agreement by Customer to be bound by these terms and conditions.

2. **LIMITED WARRANTY AND DISCLAIMER: CUSTOMER ACKNOWLEDGES THAT THE PRODUCTS ARE OF A DESIGN APPROVED BY CUSTOMER. KREBS WARRANTS FOR A PERIOD OF ONE YEAR COMMENCING WITH THE DATE OF SHIPMENT THAT THE PRODUCTS ARE FREE OF MANUFACTURING DEFECTS BY KREBS. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF SUCH WARRANTY SHALL BE TO RETURN SUCH PRODUCTS F.O.B. CUSTOMER'S PLANT TOGETHER WITH A WRITTEN EXPLANATION OF THE MANUFACTURING DEFECT WITHIN SUCH ONE YEAR AND KREBS WILL REPLACE, EX-WORKS ITS PLANT, DEFECTIVE PRODUCTS. DECOMPOSITION BY CHEMICAL ACTION AND WEAR CAUSED BY THE PRESENCE OF ABRASIVE MATERIALS SHALL NOT CONSTITUTE MANUFACTURING DEFECTS. REPAIRS TO ANY PRODUCTS BY ANY PARTY OTHER THAN KREBS SHALL VOID THIS LIMITED WARRANTY EXCEPT AS SET FORTH IN THIS SECTION OR AS SPECIFICALLY SET FORTH IN ANY WRITTEN PROPOSAL SUBMITTED BY KREBS HEREWITH, THE PRODUCTS ARE PROVIDED WITHOUT ANY OTHER WARRANTY OF ANY NATURE WHATSOEVER. KREBS DOES NOT MAKE AND DISCLAIMS ANY REPRESENTATION, GUARANTEE, WARRANTY OR COVENANT, EXPRESS OR IMPLIED, WITH RESPECT TO THE DESIGN, CONDITION, DURABILITY, SUITABILITY, FITNESS FOR USE, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY OF THE PRODUCTS IN ANY RESPECT. UNDER NO CIRCUMSTANCES, AND IN NO EVENT WHETHER AS A RESULT OF BREACH OF CONTRACT OR WARRANTY, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE, SHALL KREBS BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO LOST PROFITS OR OTHER ECONOMIC LOSS REGARDLESS OF WHETHER KREBS HAS BEEN NOTIFIED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES. THE REMEDIES PROVIDED IN THIS SECTION 2 ARE CUSTOMER'S SALE AND EXCLUSIVE REMEDIES AND THE LIMITATIONS CONTAINED IN THIS SECTION ARE A MATERIAL CONDITION OF KREBS' PROVIDING THE PRODUCTS TO CUSTOMER.**

3. **Delivery:** Unless specifically set forth on the reverse side hereof or in any proposal submitted herewith, an additional pacing charge shall be assessed against and paid by Customer for any packing requested other than Krebs' normal domestic packing. Krebs shall not be liable for any loss or damage by reason of any delay or failure to ship any Products. Customer agrees to pay all delivery, handling, shipping and insurance and similar charges. Customer assumes and shall bear the risk of all loss or damage to the Products from every cause whatsoever, whether or not insured, and title to such Products shall pass to Customer upon Krebs' delivery of the Products to the common carrier of Krebs' choice, or the carrier specified in writing by Customer, for shipment to Customer. Any claims for breakage, loss delay or damage shall be made to the carrier and Krebs will render Customer reasonable assistance in prosecuting such claims.

4. **Acceptance:** Customer shall inspect the Products promptly upon receipt of delivery. Unless Customer objects in writing within five (5) business days thereafter, Customer shall be deemed to have accepted the Products. All claims for damages, errors, or shortage in Products delivered shall be made by Customer in writing within such five- (5) business days period. Failure to make any claim timely shall constitute acceptance of the Products.

5. **Payment:** Customer agrees to provide timely payment for the Products in accordance with the terms of payment set forth on the reverse side hereof or in any proposal submitted herewith. If any payment is not paid on or before its due date, Customer shall pay interest on such late payment from the due date until paid at the lesser of 12% per annum or the maximum rate allowed by law.

6. **Sales Taxes:** Prices on the Products are exclusive of all city, state and federal excise, sales, use and similar taxes. Wherever applicable, any tax or taxes will be added to the invoice as a separate charge and paid by Customer.

7. **Patents:** So long as a Product is used in a manner authorized by Krebs, if an action is brought against Customer based on a claim that a Product infringes a valid United States patent, Krebs will defend Customer at Krebs' expense but only if (i) Customer notifies Krebs promptly upon learning that the claim might be asserted, (ii) Krebs has sole control of the defense of the claim and any negotiations for its settlement or compromise, (iii) Customer has taken no action that is contrary to Krebs' interest and (iv) Customer permits Krebs, at Krebs' option and expense, either to (a) procure the right to continue using the infringing Product, (b) replace or modify the infringing Product to eliminate the infringement while providing functionally equivalent performance or (c) accept the return of the Product in exchange for a payment equal to the purchase price paid by Customer for the infringing Product, less depreciation computed on a five-year, straight-line depreciation basis commencing as of shipment to Customer. Notwithstanding the foregoing, Krebs will not have any indemnity obligation to customer if the patent infringement claim is based upon (i) combination of the Product with any item or device not supplied by Krebs or patents covering systems or methods where the Product is used as part or step thereof, (ii) modification of the Product by a party other than Krebs, (iii) failure to promptly install any update or revision supplied by Krebs or (iv) the use of the Product in a manner for which it was not designed. Indemnification under this Section 7 shall be Customer's sole and exclusive remedy and Krebs' sole liability for any infringement by a Product of a United States patent.

8. **Miscellaneous Provisions:** This agreement has been made in and shall be governed by the laws of the State of Arizona. These terms and conditions and the description of the Products on the reverse side hereof or in any proposal submitted herewith constitute the entire agreement and understanding of the parties with respect to this sale and supersede all prior and contemporaneous agreements or understandings, inducements or representations, expressed or implied, written or oral, between the parties with respect hereto. Any term or provision of this Agreement may be amended, and any observance of any term of this Agreement may be waived, only by a writing signed by the party to be bound. The waiver by a party of any breach shall not be deemed to constitute a waiver of any other breach. Should suit be brought on this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and other costs of suite including costs and attorneys' fees incurred on appeal or in collection of any judgment. The Products shall be at all times used solely for commercial (and not consumer) purposes.

Submitted this 26th day of November, 2007

By BPalma_____
Benjamin Palma

Del Rio Ranch Well Site No. 21

Mechanical Piping				Unit		Unit		Unit	Total	Unit	Total	Unit	Total	Unit	Total	Unit	Total	
#	Description	Quant	Unit	Labor	Total Labor	Equip	Total Equip	Fixed Matrl	Fixed Matrl	Other Material	Other Material	Sub Costs	Sub Costs	Rental Costs	Rental Costs	Total	Total	Comments
1	BI 15 Labor Worksheet	1	LS	23,718	23,718	22,904	22,904	3,200	3,200			625	625	-	-	50,447	50,447	
2	Pipe Takeoff Sheet Total	1	LS					46,563	46,563							46,563	46,563	
3					-		-		-		-		-		-	#DIV/0!	-	
4					-		-		-		-		-		-	#DIV/0!	-	
5					-		-		-		-		-		-	#DIV/0!	-	
6					-		-		-		-		-		-	#DIV/0!	-	
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10					-		-		-		-		-		-	#DIV/0!	-	
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37					-		-		-		-		-		-	#DIV/0!	-	
38					-		-		-		-		-		-	#DIV/0!	-	
39					-		-		-		-		-		-	#DIV/0!	-	
40					-		-		-		-		-		-	#DIV/0!	-	
	Total				23,718		22,904		49,763		-		625		-		97,010	
				Manhours ~	637													

Bid: Del Rio Ranch Well Site No. 21

Bid Item Mechanical Piping By: **JF**

#	Description	Info	HRS Fore	HRS Journey	HRS Labor	HRS Truck	HRS Hoe	HRS Boom	HRS Excv	HRS Loader	HRS H20 Tk	HRS H20 Wgn	HRS Cmpctr	HRS Crane	HRS Forklift	HRS Tamper	HRS Dump Tk	HRS	HRS Rent	$ Subs	ABC TONS	Other $	$ Total For Line	Comments	#
1																							-		1
2																							-		2
3	Misc above ground piping		32	32	32	32	8	32														250	6,714		3
4	Equipment installation		24	24	24	24		24															4,578		4
5	Underground piping - dig		16		16	16	16				16					16					132		5,549		5
6	Undergroung piping - lay		16		16	16																	1,620		6
7	Underground piping - BF		16	16	16	16	16				16					16							3,996		7
8	Small dia trim piping		8		16	8																	1,038		8
9	Misc testing		32	24	24	32	24				24												6,360		9
10	Cart / load / sort		16		16	16		16															2,500		10
11	Flushing / disinfection labor		24	24	24	24	24				24											325	6,103		11
12	Clean up		16	16	16	8		8									16					520	3,660		12
13																							-		13
14	Misc other		32	32	32	32	32				32									625			8,329		14
15																							-		15
16																							-		16
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45																							-		45
46																							-		46
47																							-		47
48																							-		48
49																							-		49
50																							-		50
	Total Column		232	168	232	224	120	80	-	-	112	-	-	-	-	32	16	-	-	625	132	1,095	50,447		
	Unit Cost		$ 48.75	$ 34.50	$ 28.50	$ 24.00	$ 45.00	$ 55.00	$ 100.00	$ 75.00	$ 60.00	$ 15.00	$ 75.00	$ 100.00	$ 45.00	$ 9.00	$ 45.00		$ 1.00		$ 16.00				
	Total Cost $		$ 11,310	$ 5,796	$ 6,612	$ 5,376	$ 5,400	$ 4,400	$ -	$ -	$ 6,720	$ -	$ -	$ -	$ -	$ 288	$ 720	$ -	$ -	$ 625	$ 2,105	$ 1,095	**$ 50,447**		

632	**Total Man Hours**
$ 23,718	**Labor Total**
$ 22,904	**Equipment Total**
$ 3,200	**Other Total**
$ 625	**Subs Total**
$ -	**Rental Total**
$ 50,447	**Total Above**
50,447	**Check**

Project: **Del Rio Ranch Well Site No. 21**
Estimator: **JF**

									HD-Hughes Supply		Dana Kepner		SPS	
Line	SIZE	x	Length	DESCRIPTION	Int	Ext	QTY	UNIT	UNIT COST	TOTAL COST	UNIT COST	TOTAL COST	UNIT COST	TOTAL COST
0010			**Well Pump to Desander**							-		-		-
0020	12x4			FL Tee	CMNT	PRMD	1	each	593.06	593.06	704.48	704.48	621.60	621.60
0030	4"			Blind Flange		PRMD	1	each	43.84	43.84	52.08	52.08	45.95	45.95
0040	2"			Well Service Air Valve w/ Throttling Device		PRMD	1	each	488.57	488.57	491.10	491.10	425.88	425.88
0050	12"	x	2'-0"	PExFL DIP	CMNT	PRMD	1	each	184.80	184.80	325.20	325.20	173.86	173.86
0060	12			Flexible Restrained Coupling		Factory	2	each	720.00	1,440.00	405.19	810.38	404.55	809.09
0070	12"	x	6'-0"	PExFL DIP	CMNT	PRMD	1	each	520.00	520.00	894.60	894.60	504.00	504.00
0080	1"			Tru-Union Ball Valve			2	each	42.33	84.66	465.20	930.40	20.73	41.46
0090	1"			Misc SST Nipples & Fittings			1	LS	125.00	125.00	125.00	125.00	138.89	138.89
0100	0-1/2"			Pressure Gauge			1	each	240.00	240.00	234.43	234.43	240.00	240.00
0110	0-1/4"			Pressure Switch			1	each	500.00	500.00	491.54	491.54	500.00	500.00
0120	12"			Mag Meter		Factory	1	each	4,200.00	4,200.00	4,203.00	4,203.00	4,200.00	4,200.00
0130	12"	x	2'-0"	FLxFL DIP Spool	CMNT	PRMD	1	each	274.40	274.40	325.20	325.20	263.64	263.64
0140	12x8			FL Tee	CMNT	PRMD	1	each	756.00	756.00	1,934.67	1,934.67	698.74	698.74
0150	12"	x	1'-0"	PExFL DIP	CMNT	PRMD	2	each	139.20	278.40	181.80	363.60	148.86	297.73
0160	12"			Solenoid Controlled Check Valve			1	each	10,769.23	10,769.23	7,122.07	7,122.07	7,651.09	7,651.09
0170	12"	x	2'-0"	FLxFL DIP Spool	CMNT	PRMD	1	each	274.40	274.40	325.20	325.20	263.64	263.64
0175	12"			FL Tee	CMNT	PRMD	1	each	600.13	600.13	1,683.92	1,683.92	629.01	629.01
0180	12x6			FL Ecc Reducer	CMNT	PRMD	1	each	420.99	420.99	614.88	614.88	542.54	542.54
0190	6"			Gate Valve FL		Factory	1	each	461.59	461.59	488.48	488.48	415.91	415.91
0200	12"			Bolt and Nut Kit			10	each	20.49	204.86	125.40	1,254.00	17.11	171.11
0210	12"			Gasket			10	each	11.94	119.43	57.69	576.90	6.67	66.67
0220	6"			Bolt and Nut Kit			2	each	8.64	17.29	52.46	104.92	7.22	14.44
0230	6"			Gasket			2	each	4.21	8.43	32.31	64.62	2.22	4.44
0240	4"			Bolt and Nut Kit			1	each	5.59	5.59	28.51	28.51	4.67	4.67
0250	4"			Gasket			1	each	3.46	3.46	23.08	23.08	1.89	1.89
0260			**Well Pump Manifold Discharge to Waste Piping**							-		-		-
0270	8"			Pump Control Valve			1	each	10,512.82	10,512.82	6,064.19	6,064.19	6,523.91	6,523.91
0280	12x8			FL Ecc Reducer	CMNT	PRMD	1	each	455.87	455.87	596.40	596.40	526.24	526.24
0290	12"	x	13'-0"	FLxFL DIP Spool	CMNT	PRMD	1	each	779.20	779.20	929.77	929.77	600.00	600.00
0300	12"			FL 45 Bend	CMNT	PRMD	1	each	359.70	359.70	427.28	427.28	377.01	377.01
0310	12"			Bolt and Nut Kit			2	each	20.49	40.97	125.40	250.80	17.11	34.22
0320	12"			Gasket			2	each	11.94	23.89	57.69	115.38	6.67	13.33
0330	8"			Bolt and Nut Kit			2	each	8.89	17.77	52.46	104.92	7.44	14.89
0340	8"			Gasket			2	each	6.20	12.40	34.31	68.62	3.33	6.67
0350			**Desander & Bypass Piping**							-		-		-
0360	12"			Gate Valve		Factory	1	each	1,383.90	1,383.90	1,464.55	1,464.55	1,221.11	1,221.11
0370	12"	x	1'-6"	PExFL DIP	CMNT	PRMD	2	each	162.00	324.00	307.20	614.40	159.09	318.18
0380	12"			Flexible Restrained Coupling		Factory	1	each	720.00	720.00	405.19	405.19	404.55	404.55
0390	12"			FL 90 Bend	CMNT	PRMD	1	each	401.66	401.66	477.12	477.12	420.99	420.99
0400	12"	x	1'-6"	FLxFL DIP Spool	CMNT	PRMD	1	each	251.60	251.60	307.20	307.20	248.86	248.86
0410	12"			Gate Valve		Factory	1	each	1,383.90	1,383.90	1,464.55	1,464.55	1,221.11	1,221.11
0420	12x8			FL Tee	CMNT	PRMD	1	each	672.00	672.00	1,934.67	1,934.67	677.56	677.56
0430	0-1/2"			Air Release Valve			1	each	75.09	75.09	73.06	73.06	174.39	174.39
0435				Misc trim piping for ARV			1	LS	50.00	50.00	50.00	50.00	55.56	55.56
0440	8"			Gate Valve		Factory	1	each	721.30	721.30	763.33	763.33	651.14	651.14
0450	8"			Check Valve		Factory	1	each	8,000.00	8,000.00	3,778.26	3,778.26	4,175.56	4,175.56
0451	8"	x	1'-0"	PExFL DIP	CMNT	PRMD	2	each	87.60	175.20	104.40	208.80	147.73	295.45
0452	8"			Flexible Restrained Coupling		Factory	1	each	396.00	396.00	654.47	654.47	193.48	193.48
0460	12"	x	1'-6"	FLxFL DIP Spool	CMNT	PRMD	1	each	251.60	251.60	307.20	307.20	248.86	248.86
0480	12"			FL 90 Bend	CMNT	PRMD	1	each	212.61	212.61	477.12	477.12	420.99	420.99
0481	12"	x	12'	PExFL DIP	CMNT	1/2 PRMD	1	each	644.00	644.00	656.40	656.40	479.55	479.55
0482	12"			MJ 90 Bend	CMNT	ASPH	2	each	212.61	425.23	270.60	541.20	222.85	445.69
0483	12"			Megalug			9	each	64.27	578.40	63.57	572.13	56.47	508.24
0484	12"			MJ Access Kit, Less Gland			9	each	17.00	153.00	17.96	161.64	12.94	116.47
0485	12"			MJ Solid Sleeve	CMNT	ASPH	1	each	136.24	136.24	173.40	173.40	142.80	142.80
0486	12"			TJ DIP	CMNT	ASPH	18	LF	22.92	412.52	20.62	371.16	20.84	375.14
0487	12"			MJ Lock Gasket Kit			1	LF	104.50	104.50	108.42	108.42	95.45	95.45
0488	12"			MJ Cap	CMNT	ASPH	1	each	96.64	96.64	114.80	114.80	101.29	101.29
0489	2"			Corp stop			1	each	121.89	121.89	151.55	151.55	130.67	130.67
0490	2"			Blow off pipe			1	LS	125.00	125.00	125.00	125.00	138.89	138.89
0491	12"			Bolt and Nut Kit			9	each	20.49	184.37	125.40	1,128.60	12.22	110.00
0492	12"			Gate Valve - MJ		Factory	1	each	1,396.71	1,396.71	1,478.09	1,478.09	1,232.22	1,232.22
0493				Valve box / cover - incl riser and dirt ring		Factory	1	each	126.60	126.60	352.64	352.64	104.44	104.44

Project: **Del Rio Ranch Well Site No. 21**
Estimator: **JF**

Line	SIZE	x	Length	DESCRIPTION	Int	Ext	QTY	UNIT	HD-Hughes Supply UNIT COST	HD-Hughes Supply TOTAL COST	Dana Kepner UNIT COST	Dana Kepner TOTAL COST	SPS UNIT COST	SPS TOTAL COST
0494				5' riser for valve nut		Factory	1	each	157.14	157.14	127.08	127.08	117.53	117.53
0500	12"			Gasket			9	each	11.94	107.49	57.69	519.21	6.67	60.00
0510	8"			Bolt and Nut Kit			4	each	8.89	35.54	52.46	209.84	7.44	29.78
0520	8"			Gasket			4	each	6.20	24.80	34.31	137.24	3.33	13.33
0530			**Desander Discharge to Waste**							-		-		-
0540	2"			Dielectric Companion Flange			1	each	53.36	53.36	86.43	86.43	25.00	25.00
0540	2"			Dielectric Companion Flange			1	each	53.36	53.36	86.43	86.43	25.00	25.00
0550	2"			Galvanized Steel Pipe Threaded 90 Bend			2	each	3.94	7.89	9.40	18.80	3.25	6.50
0560	2"			Galvanized Steel Pipe Threaded 45 Bend			1	each	4.19	4.19	10.00	10.00	3.38	3.38
0570	2"	x	10'	Galvanized Steel Pipe Threaded			4	each	67.14	268.57	5.82	23.28	4.32	17.27
0580	2"			Galvanized Steel Pipe Threaded Couplings			2	each	3.17	6.34	7.58	15.16	2.33	4.66
0660			**Water Service to Cla Valves**							-		-		-
0670	12"			Taping Saddle w/ 3/4" Corpstop			1	each	158.21	158.21	155.20	155.20	176.47	176.47
0680				Misc Copper Fittings / Reducers			1	LS	475.00	475.00	475.00	475.00	527.78	527.78
0690	0-3/4"			Curb Stop			1	each	51.49	51.49	52.06	52.06	46.25	46.25
0700	0-3/4"			Metering Coupling			1	each	21.43	21.43	8.88	8.88	36.25	36.25
0710	0-1/2"			Backflow Preventer			1	each	415.40	415.40	181.51	181.51	169.41	169.41
0720				Backflow Preventer Insulated Cover			1	each	730.97	730.97	565.00	565.00	69.41	69.41
0730	1"			Yard Hydrant			1	each	136.84	136.84	125.45	125.45	96.34	96.34
0740	0-3/4"			Rolled Copper "K" Type			80	LF	4.67	373.33	5.69	455.20	9.70	776.36
0750	0-1/2"			Rolled Copper "K" Type			120	LF	2.67	320.00	2.62	314.40	5.26	631.36
0760										-		-		-
0770				Misc Field Adjustment Fittings			1	LS	2,200.00	2,200.00	2,200.00	2,200.00	2,200.00	2,200.00
0780										-		-		-
1490										-		-		-
1500										-		-		-
DO NOT ENTER DATA ON THIS LINE DO NOT ENTER DATA ON THIS LINE														
									TOTAL	$ 59,942	**TOTAL**	$ 57,411	**TOTAL**	$ 46,563

Del Rio Ranch Well Site No. 21

Electrical				Unit		Unit		Unit	Total	Unit	Total	Unit	Total		Total	Unit	Total	
#	Description	Quant	Unit	Labor	Total Labor	Equip	Total Equip	Fixed Matrl	Fixed Matrl	Variable Material	Variable Material	Sub Costs	Sub Costs	Rental Costs	Rental Costs	Total	Total	Comments
1	Electrical Worksheet	1	LS	-	-	-	-	-	-			-	-	-	-	-	-	
2	Electrical Checklist Totals (Plug)	1	LS									-	-			-	-	
3					-		-		-		-		-		-	#DIV/0!	-	
4					-		-		-		-		-		-	#DIV/0!	-	
5					-		-		-		-		-		-	#DIV/0!	-	
6					-		-		-		-		-		-	#DIV/0!	-	
7					-		-		-		-		-		-	#DIV/0!	-	
8					-		-		-		-		-		-	#DIV/0!	-	
9					-		-		-		-		-		-	#DIV/0!	-	
10	Electrical Bid	1			-		-		-		-	287,828	287,828		-	287,828	287,828	
11					-		-		-		-		-		-	#DIV/0!	-	
12	Security Allowance	1			-		-		-		-	40000	40,000		-	40,000	40,000	
13					-		-		-		-		-		-	#DIV/0!	-	
14					-		-		-		-		-		-	#DIV/0!	-	
15					-		-		-		-		-		-	#DIV/0!	-	
16					-		-		-		-		-		-	#DIV/0!	-	
17					-		-		-		-		-		-	#DIV/0!	-	
18					-		-		-		-		-		-	#DIV/0!	-	
19					-		-		-		-		-		-	#DIV/0!	-	
20					-		-		-		-		-		-	#DIV/0!	-	
21					-		-		-		-		-		-	#DIV/0!	-	
22					-		-		-		-		-		-	#DIV/0!	-	
23					-		-		-		-		-		-	#DIV/0!	-	
24					-		-		-		-		-		-	#DIV/0!	-	
25					-		-		-		-		-		-	#DIV/0!	-	
26					-		-		-		-		-		-	#DIV/0!	-	
27					-		-		-		-		-		-	#DIV/0!	-	
28					-		-		-		-		-		-	#DIV/0!	-	
29					-		-		-		-		-		-	#DIV/0!	-	
30					-		-		-		-		-		-	#DIV/0!	-	
31					-		-		-		-		-		-	#DIV/0!	-	
32					-		-		-		-		-		-	#DIV/0!	-	
33					-		-		-		-		-		-	#DIV/0!	-	
34					-		-		-		-		-		-	#DIV/0!	-	
35					-		-		-		-		-		-	#DIV/0!	-	
36					-		-		-		-		-		-	#DIV/0!	-	
37					-		-		-		-		-		-	#DIV/0!	-	
38					-		-		-		-		-		-	#DIV/0!	-	
39					-		-		-		-		-		-	#DIV/0!	-	
40					-		-		-		-		-		-	#DIV/0!	-	
	Total				-		-		-		-		327,828		-		327,828	
				Manhours ~	-													

FELIX CONSTRUCTION COMPANY
CM@RISK

ELECTRICAL SCOPE FOR:

Del Rio Ranch Well Site 21 - City of Avondale

#	DESCRIPTION	BY ELECT	BY OTHERS	N/A	FCC EIC	Ludvik	K&F	Comment
1	Electrical per plans and specs	xx			xx	xx	xx	
2	Trenching and backfill	xx			xx	xx	xx	
3	Secondary conduits	xx			xx	xx	xx	
4	Primary electric		xx		xx	xx	xx	
5								
6	Formed concrete		xx		xx	xx	xx	Xfmr pad, generator pad,
7	Light pole concrete bases		xx		xx	xx	xx	
8	Light pole	xx			xx	xx	xx	
9	Gate Operator & Loop detectors		xx		xx	1000	xx	Elect to bring power to gate
10								
11								
12	Pressure instrument taps and piping		xx		xx	xx	xx	
13	Pressure instruments	xx			xx	xx	xx	
14								
15	Generator - 150 kw	xx			xx	xx	xx	
16	Generator - 12 hour tank	xx			xx	xx	xx	
17	Generator - 2007 EPA emission standards	xx			xx	xx	xx	
18	Generator - factory testing	xx			xx	xx	xx	
19	Generator - initial fill of fuel and testing fuel	xx			xx	xx	xx	
20	Generator - sound enclosure - 75 dBA @ 7 meter	xx			xx	xx	xx	
21	Generator warranty - 2 years	xx			xx	xx	xx	
22	Auto Transfer switch - 400 Amp	xx			xx	xx	xx	
23	ATS - 2 year warranty	xx			xx	xx	xx	
24								
25	Contracting with CSI	xx			xx	xx	xx	See below
26	Contracting with SSI	xx			xx	xx	xx	See below
27								
28	Instruments in Division 17	xx			xx	xx	xx	
29								
30	RTU	xx			xx	xx	xx	
31	SCADA / telemetry	xx			xx	xx	xx	
32	UPS	xx			xx	xx	xx	
33	PLC	xx			xx	xx	xx	
34	Programming	xx			xx	xx	xx	
35	Calibrate/certify instruments	xx			xx	xx	xx	
36								
37	Submittals - tailored to project	xx			xx	xx	xx	
38	Conduit and wire markers	xx			xx	xx	xx	
39	Start up	xx			xx	xx	xx	
40	Testing as specified	xx			xx	xx	xx	
41	30 day acceptance test	xx			xx	xx	xx	
42	Training	xx			xx	xx	xx	
43	Bonds			xx	xx	xx	xx	Mark on Bid Form Bond Rate
44	Warranty per specs	xx			xx	xx	xx	
45	Spare parts	xx			xx	xx	xx	
46	Power Company fees		xx		xx	xx	xx	
47	Phone company fees		xx		xx	xx	xx	
48	Taxes		xx		xx	xx	xx	
49	Davis-Bacon wage requirements			xx	xx	xx	xx	
50								
				ADDERS/DEDUCTS	0	1000	0	
				ELECT BID	287,828	328,770	346,000	
				TOTAL	287,828	329,770	346,000	

CSI: (Communications Subcontractor)

Southwest LAN Connections
Rich Gonzales
4357 S. Marion Place
Chandler, AZ 85249
(480) 895-9832
(602) 751-4505 – mobile
Email: rich@swlanconnection.com

SSI: (Security Subcontracor)

Access Security Systems, International
Tom Burke
21602 N. 20th Ave
Phoenix, AZ 85027
(623) 581-0101 x 20
Email: tom@assiaz.com

Bid Form

Bid for: City of Avondale
Del Rio Ranch Well No. 21

Due: **Friday, November 30th 2:00 pm**

To: **Felix Construction Company**
309 E 10th Drive
Mesa, AZ 85210
c/o David Giannetto

SCOPE OF WORK: **Electrical, Instrumentation and Controls**

Bid: All work as described in the "Scope of Work Attachment" $ 287,828.00
(in numbers)

Bid in Words

Two hundred eighty seven thousand eight hundred twenty eight **Dollars** 00 **Cents**

Bidder (Company Name): Felix Construction Company

Signed by: Dana Watts **Date:** 11/30/2007

Print Name / Title: Dana Watts / Electrical Division Mgr.

Arizona Contractor's License:

Classification L11 / Electrical

License Number ROC172036

Bond Rate (if needed by City) 1%

Bidder acknowledges 1 **addenda.**

Please attach any clarifications, assumption, exclusions as necessary.

1. Per Add #1 - Gate power cost - $450 and is included in the above Bid.
2. We have not included the shade canopy in the Bid.

Bid Form

Bid for: City of Avondale
Del Rio Ranch Well No. 21

Due: Friday, November 30th 2:00 pm

To: Felix Construction Company
309 E 10th Drive
Mesa, AZ 85210
c/o David Giannetto

SCOPE OF WORK: Electrical, Instrumentation and Controls

Bid: All work as described in the "Scope of Work Attachment" $ 328,770.00 (in numbers)

Bid in Words THREE HUNDRED TWENTY EIGHT THOUSAND SEVEN HUNDRED SEVENTY Dollars — Cents

Bidder (Company Name): LUDVIK ELECTRIC Co.

Signed by: Michael Lipsky Date: NOVEMBER 30, 2007

Print Name / Title: MICHAEL LIPSKY, V.P.

Arizona Contractor's License:

Classification L11, A17

License Number 088575 127121

Bond Rate (if needed by City) 1%

Bidder acknowledges 1 addenda.

Please attach any clarifications, assumption, exclusions as necessary.

ALTERNATE # 1 ADD $1,000.00

ATTACHMENT – BID PROPOSAL EXCEPTIONS AND CLARIFICATIONS

November 30, 2007

Felix Construction Company
309 East 10th Drive
Mesa, AZ 85210

Attention: Joel Felix

Reference: City of Avondale, Del Rio Ranch Well No. 21

Subject: Bid Proposal

EXCLUSIONS AND CLARIFICATIONS:

1. Tower foundation and foundation design are not included.
2. Alternate 1 is based on MCC panel and transformer being changed to 120-208V 3-PH for a 208V gate operator.
3. Permits are not included.
4. Painting is not included.

Sincerely,
LUDVIK ELECTRIC CO.

Thomas E. Spackman
Chief Estimator

LUDVIK ELECTRIC

444 West 21st Street, Suite 101, Tempe, AZ 85282-2090 • Telephone (480) 921-0809 • (480) 921-0840
Estimating Fax (480) 921-0847
AZ Licenses: 088575 (L-11); 127121 (A-17)

Bid Form

Bid for: **City of Avondale**
Del Rio Ranch Well No. 21

Due: Friday, November 30th 2:00 pm

To: Felix Construction Company
309 E 10th Drive
Mesa, AZ 85210
c/o David Giannetto

SCOPE OF WORK: Electrical, Instrumentation and Controls

Bid: All work as described in the "Scope of Work Attachment" $346,000
(in numbers)

Bid in Words Three hundred forty six Thousand
Dollars Cents

Bidder (Company Name): K & F Electric, Inc.

Signed by: John Fritz Date: November 30, 2007

Print Name / Title: John Fritz, General Manager

Arizona Contractor's License:

Classification Electrical

License Number L-11-119595, A-17-119594
~~C-11-119596, A-179~~379

Bond Rate (if needed by City) 1.5%

Bidder acknowledges 1 addenda.
Alternate #1 Add $ 750

Please attach any clarifications, assumption, exclusions as necessary.

Shade Structure is included

Southwest LAN Connections

networking solutions for the 21st century business

Quote Request For	Southwest LAN Connections
Felix EIC **Redline Communication AN-50E Microwave Radio** **Well 21** **Hardware and Installation estimate**	**4357 South Marion Place** **Chandler, AZ 85249** **ROC 184330** **Quote BGCOAF112907**

QTY	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
	Hardware per (Section 17500 General Instrumentation per 1.01-H) and installation services outlined within		
Equipment Installation	Redline AN-50 IDU (Indoor Unit) and Cisco network equipment. Installation services include installing wireless, UPS and Cisco equipment at required location. .		
Cable Installation	Installation of type RG6 coaxial cable between the IDU and the outdoor radio transceiver and antenna. Cabling shall be installed in existing conduit system. Cabling installations includes grounding IF cable, antenna and surge suppressors.		
Tower Installation	Installation services shall consist of installation for the specified 45' Rohn 45G series self supporting communication structure. 45' of 1" conduit shall also be installed vertically up the tower to protect the IF cabling system. All grounding to the tower using a # 2 Solid Ground HALO *** Foundation design to be provided by other***		
	Project estimated Cost		**$22,500.00**

Southwest LAN Connections is a Licensed Contractor-- L-67 184330.

Taxes if applicable are not included in this estimate

Shipping is included in this estimate

Price doesn't include underground or overhead conduit or raceway system to communication tower

Estimate provided is in response to Part 1 General on 1.01 System Description section H

Southwest LAN Connections

networking solutions for the 21st century business

Quote Request For	Southwest LAN Connections
Felix EIC	**4357 South Marion Place** **Chandler, AZ 85249** **ROC 184330**
Redline Communication AN-50E Microwave Radio **Well 21** **Hardware Wireless and Network**	**Quote BGCOAF112907**

DESCRIPTION

Wireless equipment and related hardware

Section 17500 General Instrumentation 1.01-H

1. 45' Rohn 45G series tower

Tower base not included, shall be provided by contractor

Foundation design to be provided by other

2. 18Mbps, 5.8 GHz, (P2MP), 20 dBm, 110/220VAC, 1-phase
3. P2MP Configuration for communication with radio on Freedom Park
4. 24" Flat panel antenna, 5.8 GHz, 28dBi gain, 4.5 degree beamwidth
5. APC Smart-UPS 1000 VA Uninterruptible Power Supply (APCC Part # SUA750RM1U)
6. Integrated Service Router with Voice Bundler and AC Power Supply

(Cisco Part # Cisco2811-SRST/K9)

7. 4- Port 10/100 Base T Ethernet switches with Power over Ethernet

(Cisco Part # HWIC-4ESW-POE)

8. Cisco AC IP P/S (PWR-2811-AC-IP)
9. 4-Port Voice Interface Card (Cisco Part # VIC2-4FXO)
10. Cisco SMARTNET PKG 8X5X NBD
11. RG6 Cable Assembly, F-male to F-male, 100 Feet (Redline Part # RDLIF100)
12. 4 Year Warranty on radio equipment
13. Weather seal connections at each exterior location
14. IF and RF Surge Suppressors as recommended by manufacturer
15. All required grounding for all components of the wireless communication system in

accordance of the National Electric Code (NEC) and equipment manufacturer

16. All required software and licenses
17. Channel plan allocation, spectrum analysis prior to turn-up and radio configuration for p2MP system
18. Submittals included within this estimate.
19. Shipping included within this estimate

Del Rio Ranch Well Site No. 21

#	Miscellaneous Items / Description	Quant	Unit	Unit Labor	Total Labor	Unit Equip	Total Equip	Unit Fixed Material	Total Fixed Material	Unit Variable Material	Total Variable Material	Unit Fixed Sub	Total Fixed Sub	Unit Variable Sub	Total Variable Sub	Unit Rental Cost	Total Rental Cost	Unit Total	Total Total	Comments	#
1	From Worksheet	1	LS	-	-	-	-	-	-			-	-			-	-	-	-		1
2					-		-		-		-		-		-		-	#DIV/0!	-		2
3					-		-		-		-		-		-		-	#DIV/0!	-		3
4	Mandoor hardware	1	LS		-		-	310	310		-		-		-		-	310.00	310		4
5	Cyberlock @ rolling gate	1	LS		-		-	365	365		-		-		-		-	365.00	365		5
6	Knox box	1	LS		-		-	375	375		-		-		-		-	375.00	375		6
7	Stanchion / card reader for gate	1	LS		-		-	655	655		-		-		-		-	655.00	655		7
8	Signs on gate	1	LS		-		-	730	730		-		-		-		-	730.00	730		8
9	Pipe supports (14 ea)	14	ea		-		-	325	4,550		-		-		-		-	325.00	4,550		9
10	Grout / anchors for pipe supports	1	LS		-		-	225	225		-		-		-		-	225.00	225		10
11	Grout / anchors for pump	1	LS		-		-	75	75		-		-		-		-	75.00	75		11
12	Oiler assembly	1	LS		-		-	665	665		-		-		-		-	665.00	665		12
13	Steel sole plate for well pump	1	LS		-		-	275	275		-		-		-		-	275.00	275		13
14	Yard hydrant concrete and gravel	1	LS		-		-	65	65		-		-		-		-	65.00	65		14
15	Misc signs (6)	6	ea		-		-	165	990		-		-		-		-	165.00	990		15
16					-		-		-		-		-		-		-	#DIV/0!	-		16
17					-		-		-		-		-		-		-	#DIV/0!	-		17
18					-		-		-		-		-		-		-	#DIV/0!	-		18
19					-		-		-		-		-		-		-	#DIV/0!	-		19
20					-		-		-		-		-		-		-	#DIV/0!	-		20
21					-		-		-		-		-		-		-	#DIV/0!	-		21
22					-		-		-		-		-		-		-	#DIV/0!	-		22
23					-		-		-		-		-		-		-	#DIV/0!	-		23
24					-		-		-		-		-		-		-	#DIV/0!	-		24
25					-		-		-		-		-		-		-	#DIV/0!	-		25
26					-		-		-		-		-		-		-	#DIV/0!	-		26
27					-		-		-		-		-		-		-	#DIV/0!	-		27
28					-		-		-		-		-		-		-	#DIV/0!	-		28
29					-		-		-		-		-		-		-	#DIV/0!	-		29
30					-		-		-		-		-		-		-	#DIV/0!	-		30
31					-		-		-		-		-		-		-	#DIV/0!	-		31
32					-		-		-		-		-		-		-	#DIV/0!	-		32
33					-		-		-		-		-		-		-	#DIV/0!	-		33
34					-		-		-		-		-		-		-	#DIV/0!	-		34
35					-		-		-		-		-		-		-	#DIV/0!	-		35
36					-		-		-		-		-		-		-	#DIV/0!	-		36
37					-		-		-		-		-		-		-	#DIV/0!	-		37
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39					-		-		-		-		-		-		-	#DIV/0!	-		39
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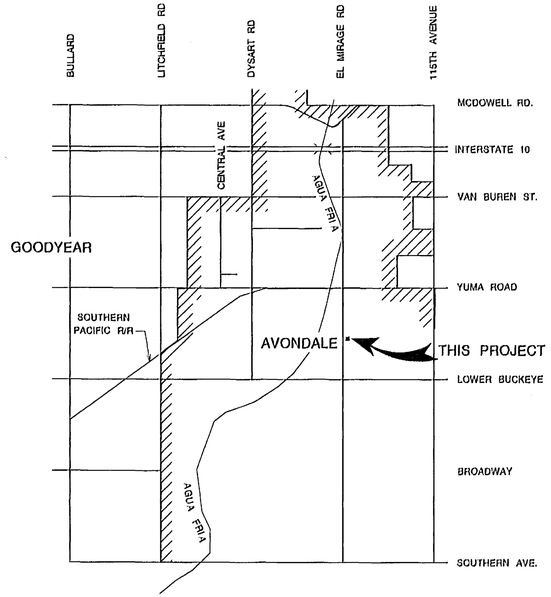
42					-		-		-		-		-		-		-	#DIV/0!	-		42
43					-		-		-		-		-		-		-	#DIV/0!	-		43
44					-		-		-		-		-		-		-	#DIV/0!	-		44
45					-		-		-		-		-		-		-	#DIV/0!	-		45
46					-		-		-		-		-		-		-	#DIV/0!	-		46
47					-		-		-		-		-		-		-	#DIV/0!	-		47
48					-		-		-		-		-		-		-	#DIV/0!	-		48
49					-		-		-		-		-		-		-	#DIV/0!	-		49
50					-		-		-		-		-		-		-	#DIV/0!	-		50
	Total				-		-		9,280		-		-		-		-		9,280		

Manhours ~ -

EXHIBIT C-1
TO
CONSTRUCTION MANAGER AT RISK AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
FELIX CONSTRUCTION COMPANY

[List of Well 21 Design Documents]

See following pages.



VICINITY MAP
NTS

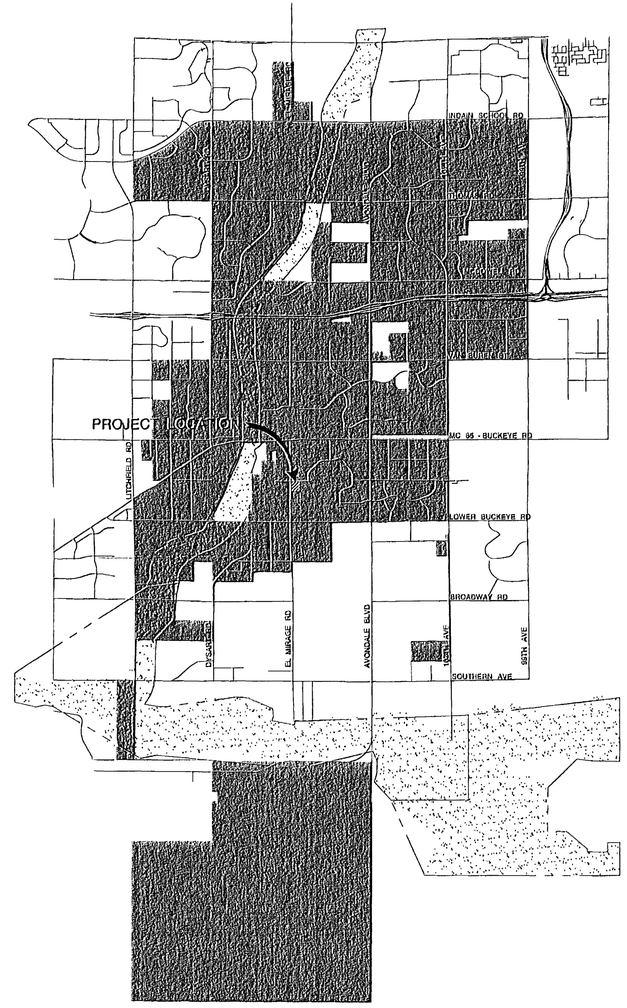
NORTH

CITY OF AVONDALE WELL SITE No. 21
DURANGO & EL MIRAGE ROAD
DEL RIO RANCH

Section 13, Township 1 N., & Range 1 W.

AREA MAP
NTS

NORTH



CITY OF AVONDALE

MAYOR
MARIE LOPEZ-ROGERS

VICE MAYOR
CHARLES WOLF

COUNCIL MEMBERS
BETTY LYNCH
FRANK SCOTT
JASON EARP
JIM BUSTER
KENNETH WEISE

CITY MANAGER
CHARLIE MCCLENDON

CITY CLERK
LINDA FARRIS

ENGINEER
COE & VAN LOO CONSULTANTS, INC.
CONTACT PERSON: BRAD RICHARDS, P.E.
4550 N. 12TH ST.
PHOENIX, AZ 85014
PHONE: (602) 264-6831
FAX: (602) 264-0928

OWNER
CITY OF AVONDALE
DAVID FITZHUGH, P.E. (ACTING CITY ENGINEER)
11465 W CIVIC CENTER DRIVE
AVONDALE, ARIZONA 85323
PHONE: (623) 333-4200
FAX: (623) 333-0420

SURVEYOR
COE & VAN LOO CONSULTANTS, INC.
FRED KLEIN, R.L.S.
4550 N. 12TH ST.
PHOENIX, AZ 85014
PHONE: (602) 264-6831
FAX: (602) 264-0928

BENCHMARK
DATE SHOT: APROX. 02/01
NGS CONTROL POINT A520-DV2315
ELEVATION = 949.35 NAVD88 VERTICAL DATUM
NGS BRASS CAP MARKED "A 520 1992" LOCATED NEAR THE NORTHWEST EDGE OF THE CONCRETE FOOTING FOR A HIGH LINE TOWER 198.5 FT SOUTH OF LOWER BUCKEYE ROAD CENTERLINE WEST SIDE OF AGUA FRIA RIVER CHANNEL

BENCHMARK EQUATION
NAVD88 ELEVATION OF 949.35
MINUS 2.10' EQUALS NVDG 29
ELEVATION OF 947.25
CITY OF AVONDALE DATUM

APPROVALS

Steve Burgerhart — 12/10/07
CITY WATER RESOURCES DEPARTMENT — DATE

T.S. Chisholm 074325 — 12/5/07
MARICOPA COUNT ENVIRONMENTAL SERVICES — DATE
1101 N CENTRAL #150
PHOENIX, AZ 85334
TOM CHISOLM (602) 506-6671

N/A
CITY OF AVONDALE FIRE DEPARTMENT — DATE
REQUIRED FIRE FLOW _____ GPM

"AS-BUILT CERTIFICATION"

I HEREBY CERTIFY THAT THE "AS BUILT" INFORMATION SHOWN HEREON WAS OBTAINED UNDER MY DIRECT SUPERVISION AND IS CORRECT AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

REGISTERED LAND SURVEYOR/ ENGINEER

REGISTRATION NUMBER — DATE
COMPANY NAME:
ADDRESS:
PHONE NUMBER:

INDEX	
DWG. NO.	TITLE
	CIVIL
G1	COVER
G2	GENERAL NOTES, LEGEND AND ABBREVIATIONS
C1	SITE PLAN
C2	GATE DETAILS
C3	MASONRY WALL DETAILS
	MECHANICAL
M1	WELL PLAN & SECTION
M2	MISCELLANEOUS PIPING DETAILS
M3	DESANDER DETAILS
	ELECTRICAL
E1	ELECTRICAL COVER SHEET
E2	ELECTRICAL SITE PLAN
E3	SINGLE LINE DIAGRAM
E4	CONTROL SCHEMATICS
E5	ELECTRICAL DETAILS
I1	P&ID I
I2	P&ID-II

NOTE:
ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF AVONDALE CONSTRUCTION SPECIFICATIONS CURRENTLY ON FILE AND AVAILABLE AT THE CITY OF AVONDALE ENGINEERING DEPARTMENT

COE AND VAN LOO L.L.C.
4550 NORTH 12TH STREET
PHOENIX, ARIZONA 85014
TELEPHONE (602) 264-6831

CITY OF AVONDALE WELL SITE No. 21
DEL RIO RANCH

COVER SHEET

REVISIONS	DATE	BY

DESIGNED	MVW	
DRAWN	MVW	
CHECKED	BER	
DATE	10-22-07	

REGISTERED PROFESSIONAL ENGINEER (CIVIL)
32840
BRADLEY E. RICHARDS
10-23-07
ARIZONA, U.S.A.

DRAWING
G1

040027-01

OVERALL CONST. DOC.#
(1 OF)

CALL FOR THE BLUE STAKES
602-263-1100
1-800-STAKE-IT
(STATEWIDE ARIZONA STAKES)

DATE:- 28 NOV 2007
TIME:- 15:26:46
FILE:- n:\040027\land\well\w01g1.dgn
Mark

COE & VAN LOO
CONSULTANTS, INC.

CITY OF AVONDALE
WELL SITE NO. 21
DEL RIO RANCH

TECHNICAL SPECIFICATIONS

PRELIMINARY

OCTOBER 2007

PREPARED FOR:

CITY OF AVONDALE
WATER RESOURCES DEPARTMENT
399 E. LOWER BUCKEYE ROAD
AVONDALE, AZ 85323
(623) 333-4400

Prepared by:

COE & VAN LOO CONSULTANTS, INC.
4550 N. 12TH ST.
PHOENIX, AZ 85014
602.264.6831

CVL PROJECT NO.: 1.01.040027

CITY OF AVONDALE
WELL SITE NO. 21 – DEL RIO RANCH
TECHNICAL SPECIFICATIONS

TABLE OF CONTENTS

SPECIFICATION SECTION — **DESCRIPTION**

Division 1

01010 ..... SUMMARY OF WORK
01050 ..... FIELD ENGINEERING
01060 ..... REGULATORY REQUIREMENTS
01070 ..... ABBREVIATIONS
01071 ..... STANDARD REFERENCES
01210 ..... PRE-CONSTRUCTION CONFERENCE
01300 ..... SUBMITTALS
01380 ..... CONSTRUCTION PHOTOGRAPHS
01400 ..... QUALITY CONTROL
01500 ..... CONSTRUCTION FACILITIES AND TEMPORARY CONTROLS
01600 ..... MATERIAL AND EQUIPMENT
01650 ..... TESTING, BALANCING AND START-UP OF EQUIPMENT AND SYSTEMS
01660 ..... EQUIPMENT AND SYSTEM PERFORMANCE AND OPERATIONAL TESTING
01710 ..... CLEANING
01720 ..... RECORD DOCUMENTS
01705 ..... RESTORATION OF IMPROVEMENTS
01730 ..... OPERATION AND MAINTENANCE DATA
01750 ..... SPARE PARTS
01999 ..... REFERENCE FORMS

Division 2

02215 ..... WATERING
02220 ..... EARTHWORK
02260 ..... FINISH GRADING

Division 3 Not Used
Division 4 Not Used
Division 5 Not Used
Division 6 Not Used
Division 7 Not Used
Division 8 Not Used

Division 9

09900 ..... PAINTING AND FINISHING

Division 10

10410 ..... ACCIDENT PREVENTION SIGNS

Division 11

11010 ..... GENERAL PROVISIONS FOR MECHANICAL WORK
11214 ..... VERTICAL TURBINE PUMPS

Division 12 Not Used

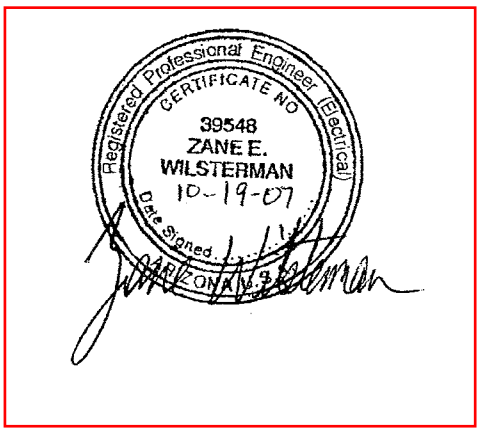
Division 13 Not Used

Division 14 Not Used

Registered Professional Engineer (Civil)
CERTIFICATE NO. 32846
BRADLEY E. RICHARDS
Date Signed 10-23-07
ARIZONA, U.S.A.

DEL RIO RANCH
CITY OF AVONDALE WELL SITE No.21
ELECTRICAL SPECIFICATIONS
TABLE OF CONTENTS

16010 ..... Basic Electrical Requirements
16110 ..... Raceways
16120 ..... Wires and Cables (600V or Less)
16130 ..... Boxes
16140 ..... Wiring Devices
16195 ..... Electrical Identification
16250 ..... Diesel Engine Generator
16260 ..... Automatic Transfer Switch
16400 ..... Service Entrance Section
16450 ..... Grounding
16470 ..... Panelboards
16475 ..... Overcurrent Protective Devices
16481 ..... Motor Controllers
16482 ..... Motor Control Centers
16500 ..... Lighting



CITY COUNCIL REPORT

SUBJECT:
Award a Construction Contract to Standard Construction Company Inc, for Van Buren Street & Dysart Road Intersection Improvements

MEETING DATE:
December 17, 2007

TO: Mayor and Council

FROM: Dave Fitzhugh, P.E.,Interim City Engineer, 623-333-4211

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council award a construction contract to Standard Construction Company Inc., for roadway and traffic improvements at the intersection of Van Buren Street and Dysart Road in the amount of $330,771.03, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

BACKGROUND:

The Dysart Road and Van Buren Street Intersection Improvement project is an approved project in the 2007-2008 Capital Improvement Program (CIP). It is to construct a dual left turn lane for eastbound to northbound traffic that will improve the level of service at the intersection. Currently during peak hours, the back up of traffic in the left turn lane does not always make it entirely through the intersection during one signal cycle, meaning the eastbound to northbound left turning movement is saturated. The signal cycle is currently maximized as much as possible for Van Buren Street traffic while still allowing safe green time for all directions on both Dysart Road and Van Buren Street. A professional services contract with Dibble and Associates was approved by Council on March 05, 2007 with no amendments. On December 03, 2007, Council approved an Intergovernmental Agreement (IGA) with the City of Goodyear for their contribution of 30% toward the costs of the design and construction of the total cost of the project. The City of Goodyear Council approved the IGA on November 13, 2007.

DISCUSSION:

The limits of the project extend approximately 550 feet west on Van Buren Street from Dysart Road and end approximately 250 feet east of the intersection on Van Buren Street. Existing sidewalks, curb and gutter, catch basin, and concrete deceleration lane will need to be removed and replaced to accommodate the dual left turn. New pedestrian ramps will be constructed around two existing 69-kv power lines. This project will also include:

- Install asphalt concrete pavement
- Install concrete bay/deceleration lane
- Reconstruct pedestrian ramps
- Install video detection on east & westbound lanes
- Install Fire Hydrant
- Replace in kind existing landscaping & irrigation along Baldwin Commons
- Signing & pavement marking

BID PROCESS:

Requests-for-Bid notices were published in the West Valley View on October 19 and October 23, 2007; the

Arizona Business Gazette on October 18, 2007; and the Arizona Informant on October 19, 2007. The Engineering Department held a pre-bid meeting on November 15, 2007. Nine (9) bids were received and opened on November 29, 2007. Each bid package was reviewed and all except one (1) bidder met the bidding requirements. The eight (8) remaining firms submitting responsive bids and the amount of their bids (corrected and adjusted) are as follows:

BIDDER	BID AMOUNT	M/DBE
J. Banicki Contruction	$335,334.57	No
Standard Construction	$330,771.03	No
Prime Contracting	$347,819.30	No
Down to Earth	$349,564.47	No
BluCor Contracting	$351,124.77	No
Asphalt Services	$355,672.52	No
DCS Contracting	$374,386.24	No
ALR Construction	$503,690.52	No

See the attached Bid Tabulation Sheet for a detailed, bid item breakdown of each submitted bid. Standard Construction Inc., with a bid of $330,771.03, was determined to have submitted the lowest, responsive, and qualified bid. Staff was able to contact three (3) of the required three (3) references and Standard Construction Inc., received positive recommendations. Staff believes Standard Construction Inc., to be competent and qualified for this project. Standard Construction Inc., has successfully completed similar work for the City of Avondale and other local government agencies. Staff has also contacted the Registrar of Contractors and found no claims on file against this contractor.

SCHEDULE:

A tentative construction schedule is as follows:

PROJECT MILESTONES	TARGET DATES
Issue Notice of Award	12/18/07
Pre-Construction Conference	1/07/08
Issue Notice -to- Proceed	1/2/08
Begin Construction	1/14/08
Project Completion	4/14/08

BUDGETARY IMPACT:

Funding for this project is available in the Street Fund Line Item No. 304-1129-00-8001 in the amount of $ 330,771.03.

RECOMENDATION:

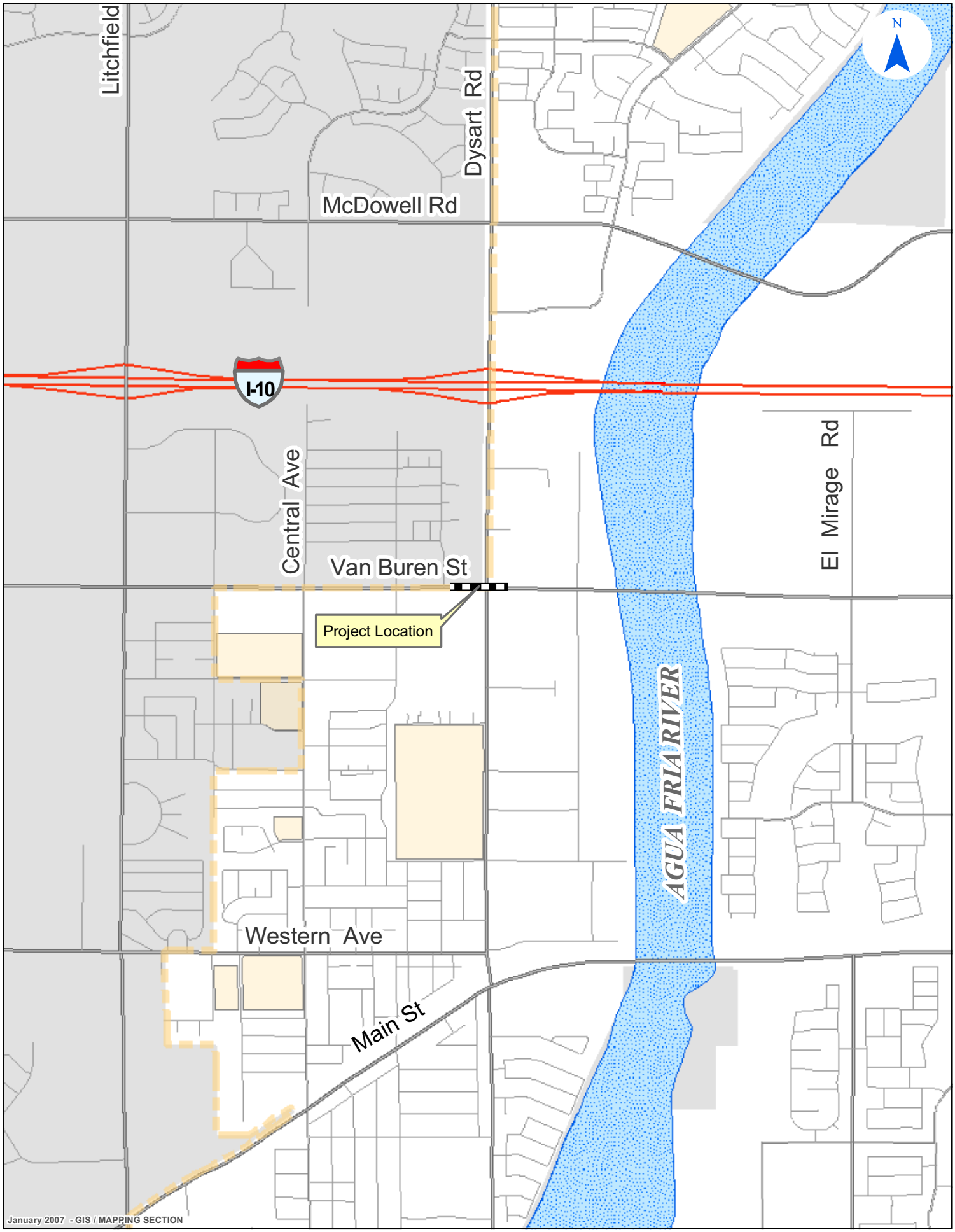
Staff is requesting that the City Council award a construction contract to Standard Construction Company Inc., for roadway and traffic improvements at the intersection of Van Buren Street and Dysart Road in the amount of $330,771.03, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

- Vicinity Map
- Bid Tabulation Sheet

VICINITY MAP



CITY OF AVONDALE

ST-1129 Van Buren St. @ Dysart Rd. Intersection

BID TABULATION
ST1129 Van Buren & Dysart Improvement Project
BID DATE: November 29, 2007

				TALIS CONSTRUCTION CORP		J. Banicki Construction		Standard Construction		Prime Contracting		Down to Earth		BLUCOR		Asphalt Services		DCS Contracting		ALR Construction		Engineer's Estimate	
				Unit	Total	Unit	Total	Unit	Total	Unit	Total	Unit	Total	Unit	Total	Unit	Total	Unit	Total	Unit	Total	Unit	Total
		Qty	Unit	Price	Price	Price	Price	Price	Price	Price	Price	Price	Price	Price	Price	Price	Price	Price	Price	Price	Price	Price	Price
107.01000	Construction Staking, Surveying and Layout	1	LS	$ 6,000.00	$ 6,000.00	$ 10,000.00	$ 10,000.00	$ 8,000.00	$ 8,000.00	$ 14,000.00	$ 14,000.00	$ 7,600.00	$ 7,600.00	$ 10,761.00	$ 10,761.00	$ 14,375.00	$ 14,375.00	$ 5,650.00	$5,650.00	$ 19,000.00	$ 19,000.00	$ 8,000.00	$ 8,000.00
107.01100	As-Builts Preperation	1	LS	$ 1,500.00	$ 1,500.00	$ 5,000.00	$ 5,000.00	$ 600.00	$ 600.00	$ 1,500.00	$ 1,500.00	$ 1,650.00	$ 1,650.00	$ 1,993.00	$ 1,993.00	$ 1,150.00	$ 1,150.00	$ 1,850.00	$1,850.00	$ 3,000.00	$ 3,000.00	$ 8,000.00	$ 8,000.00
107.01500	Community Relations	1	LS	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00
109.09000	Mobilization/Demobilization	1	LS	$ 1,500.00	$ 1,500.00	$ 7,000.00	$ 7,000.00	$ 5,000.00	$ 5,000.00	$ 47,415.00	$ 47,415.00	$ 29,144.00	$ 29,144.00	$ 28,621.00	$ 28,621.00	$ 11,500.00	$ 11,500.00	$ 15,000.00	$15,000.00	$ 15,000.00	$ 15,000.00	$ 40,000.00	$ 40,000.00
110.00000	Miscellaneous Reimburstments Allowance	1	LS	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00	$ 60,000.00
301.01000	Subgrade Preparation	539	SY	$ 7.20	$ 3,880.80	$ 8.00	$ 4,312.00	$ 15.00	$ 8,085.00	$ 75.00	$ 40,425.00	$ 13.40	$ 7,222.60	$ 9.00	$ 4,851.00	$ 10.35	$ 5,578.65	$ 30.00	$16,170.00	$ 35.00	$ 18,865.00	$ 7.50	$ 4,042.50
310.03200	Aggregate Base Course, (12")	327	TON	$ 61.00	$ 19,947.00	$ 23.00	$ 7,521.00	$ 40.00	$ 13,080.00	$ 15.00	$ 4,905.00	$ 31.50	$ 10,300.50	$ 18.00	$ 5,886.00	$ 20.70	$ 6,768.90	$ 21.50	$7,030.50	$ 75.00	$ 24,525.00	$ 45.00	$ 14,715.00
321.00202	2" AC Surface Course, 12.5mm	62	TON	$ 158.00	$ 9,796.00	$ 99.00	$ 6,138.00	$ 135.00	$ 8,370.00	$ 30.00	$ 1,860.00	$ 132.00	$ 8,184.00	$ 119.00	$ 7,378.00	$ 115.00	$ 7,130.00	$ 114.00	$7,068.00	$ 350.00	$ 21,700.00	$ 120.00	$ 7,440.00
321.01301	3" AC Base Course 19.0 mm	93	TON	$ 156.00	$ 14,508.00	$ 96.00	$ 8,928.00	$ 135.00	$ 12,555.00	$ 30.00	$ 2,790.00	$ 132.00	$ 12,276.00	$ 103.00	$ 9,579.00	$ 115.00	$ 10,695.00	$ 98.00	$9,114.00	$ 350.00	$ 32,550.00	$ 100.00	$ 9,300.00
340.01110	6" Vertical Curb & Gutter, MAG 220 Type A	472	LF	$ 16.00	$ 7,552.00	$ 24.00	$ 11,328.00	$ 20.00	$ 9,440.00	$ 20.00	$ 9,440.00	$ 15.50	$ 7,316.00	$ 13.00	$ 6,136.00	$ 16.10	$ 7,599.20	$ 14.75	$6,962.00	$ 25.00	$ 11,800.00	$ 19.00	$ 8,968.00
340.01210	4" Thick Sidewalk, MAG 230	3,247	SF	$ 4.00	$ 12,988.00	$ 4.00	$ 12,988.00	$ 5.00	$ 16,235.00	$ 6.50	$ 21,105.50	$ 3.65	$ 11,851.55	$ 3.00	$ 9,741.00	$ 4.60	$ 14,936.20	$ 3.45	$11,202.15	$ 7.00	$ 22,729.00	$ 5.00	$ 16,235.00
340.01299	Pedestrian Ramp, MAG 231, (R<25'	2	EA	$ 1,500.00	$ 3,000.00	$ 2,100.00	$ 4,200.00	$ 2,200.00	$ 4,400.00	$ 2,000.00	$ 4,000.00	$ 2,400.00	$ 4,800.00	$ 1,761.00	$ 3,522.00	$ 2,875.00	$ 5,750.00	$ 1,600.00	$3,200.00	$ 3,000.00	$ 6,000.00	$ 3,000.00	$ 6,000.00
340.01900	Pedestrian Ramp COG G-3250	1	EA	$ 1,400.00	$ 1,400.00	$ 3,200.00	$ 3,200.00	$ 2,400.00	$ 2,400.00	$ 2,000.00	$ 2,000.00	$ 2,400.00	$ 2,400.00	$ 1,344.00	$ 1,344.00	$ 2,875.00	$ 2,875.00	$ 2,120.00	$2,120.00	$ 3,500.00	$ 3,500.00	$ 2,000.00	$ 2,000.00
340.20502	Bus Shelter Pad , COP P1269 MODIFIED (NO PAVERS)	435	SF	$ 10.50	$ 4,567.50	$ 9.00	$ 3,915.00	$ 7.00	$ 3,045.00	$ 6.50	$ 2,827.50	$ 6.05	$ 2,631.75	$ 7.50	$ 3,262.50	$ 9.20	$ 4,002.00	$ 6.20	$2,697.00	$ 12.00	$ 5,220.00	$ 16.00	$ 6,960.00
340.20503	Concrete Bus Bay, MAG 252 (Modified), 9"	3,607	SF	$ 6.20	$ 22,363.40	$ 8.00	$ 28,856.00	$ 7.50	$ 27,052.50	$ 6.50	$ 23,445.50	$ 6.90	$ 24,888.30	$ 4.00	$ 14,428.00	$ 11.50	$ 41,480.50	$ 7.80	$28,134.60	$ 18.00	$ 64,926.00	$ 25.00	$ 90,175.00
345.02000	Adjust NO.5 Pullbox to Grade	2	EA	$ 400.00	$ 800.00	$ 500.00	$ 1,000.00	$ 400.00	$ 800.00	$ 400.00	$ 800.00	$ 125.00	$ 250.00	$ 453.00	$ 906.00	$ 115.00	$ 230.00	$ 460.00	$920.00	$ 750.00	$ 1,500.00	$ 500.00	$ 1,000.00
350.01301	Sawcut & Remove Existing AC	212	SY	$ 14.00	$ 2,968.00	$ 10.00	$ 2,120.00	$ 11.00	$ 2,332.00	$ 15.00	$ 3,180.00	$ 9.10	$ 1,929.20	$ 17.00	$ 3,604.00	$ 5.75	$ 1,219.00	$ 35.05	$7,430.60	$ 10.00	$ 2,120.00	$ 3.00	$ 636.00
350.01400	Remove Catch Basin	1	EA	$ 1,500.00	$ 1,500.00	$ 800.00	$ 800.00	$ 700.00	$ 700.00	$ 1,000.00	$ 1,000.00	$ 1,790.00	$ 1,790.00	$ 2,700.00	$ 2,700.00	$ 575.00	$ 575.00	$ 520.00	$520.00	$ 1,500.00	$ 1,500.00	$ 2,000.00	$ 2,000.00
350.01401	Remove Scupper	1	EA	$ 1,300.00	$ 1,300.00	$ 300.00	$ 300.00	$ 1,500.00	$ 1,500.00	$ 1,000.00	$ 1,000.00	$ 1,320.00	$ 1,320.00	$ 1,943.00	$ 1,943.00	$ 575.00	$ 575.00	$ 515.00	$515.00	$ 1,250.00	$ 1,250.00	$ 2,000.00	$ 2,000.00
350.01801	Remove Existing Concrete Single Curb, or Curb and Gutter	760	LF	$ 4.00	$ 3,040.00	$ 2.00	$ 1,520.00	$ 10.00	$ 7,600.00	$ 7.00	$ 5,320.00	$ 2.80	$ 2,128.00	$ 8.00	$ 6,080.00	$ 5.75	$ 4,370.00	$ 6.00	$4,560.00	$ 10.00	$ 7,600.00	$ 7.00	$ 5,320.00
350.01901	Remove Existing Sidewalk, Driveway, Valley Gutter, or Concrete Slab	8,445	SF	$ 2.50	$ 21,112.50	$ 1.00	$ 8,445.00	$ 3.00	$ 25,335.00	$ 1.50	$ 12,667.50	$ 1.70	$ 14,356.50	$ 2.00	$ 16,890.00	$ 1.50	$ 12,667.50	$ 5.00	$42,225.00	$ 2.50	$ 21,112.50	$ 6.00	$ 50,670.00
350.01905	REMOVE EXISTING CONCRETE LIGHT FOUNDATION	1	EA	$ 850.00	$ 850.00	$ 400.00	$ 400.00	$ 400.00	$ 400.00	$ 1,000.00	$ 1,000.00	$ 480.00	$ 480.00	$ 938.00	$ 938.00	$ 575.00	$ 575.00	$ 635.00	$635.00	$ 1,000.00	$ 1,000.00	$ 1,000.00	$ 1,000.00
351.30000	Relocate Bus Shelter and Appurtena	1	EA	$ 2,400.00	$ 2,400.00	$ 6,000.00	$ 6,000.00	$ 1,650.00	$ 1,650.00	$ 3,100.00	$ 3,100.00	$ 1,675.00	$ 1,675.00	$ 3,798.00	$ 3,798.00	$ 3,450.00	$ 3,450.00	$ 730.00	$730.00	$ 5,000.00	$ 5,000.00	$ 4,000.00	$ 4,000.00
351.46000	Sign Relocation	4	EA	$ 250.00	$ 1,000.00	$ 300.00	$ 1,200.00	$ 300.00	$ 1,200.00	$ 400.00	$ 1,600.00	$ 385.00	$ 1,540.00	$ 335.00	$ 1,340.00	$ 402.50	$ 1,610.00	$ 460.00	$1,840.00	$ 500.00	$ 2,000.00	$ 500.00	$ 2,000.00
410.01000	Traffic Control	1	LS	$ 9,500.00	$ 9,500.00	$ 18,000.00	$ 18,000.00	$ 15,000.00	$ 15,000.00	$ 6,000.00	$ 6,000.00	$ 16,940.00	$ 16,940.00	$ 26,780.00	$ 26,780.00	$ 28,750.00	$ 28,750.00	$ 24,400.00	$24,400.00	$ 25,000.00	$ 25,000.00	$ 25,000.00	$ 25,000.00
401.01100	UNIFORMED OFF-DUTY OFFICER (ALLOWANCE)	1	LS	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00	$ 5,000.00
430.01000	Landscaping (Plant and Irrigation Removal, Decomposed Granite, etc)	1	LS	$ 3,500.00	$ 3,500.00	$ 8,000.00	$ 8,000.00	$ 6,000.00	$ 6,000.00	$ 5,000.00	$ 5,000.00	$ 12,666.00	$ 12,666.00	$ 3,240.00	$ 3,240.00	$ 3,737.00	$ 3,737.00	$ 9,330.00	$9,330.00	$ 15,000.00	$ 15,000.00	$ 3,000.00	$ 3,000.00
460.01000	Obliterate Existing Striping	11,421	LF	$ 1.00	$ 11,421.00	$ 0.63	$ 7,195.23	$ 0.60	$ 6,852.60	$ 0.67	$ 7,652.07	$ 1.12	$ 12,791.52	$ 0.40	$ 4,568.40	$ 0.54	$ 6,167.34	$ 0.90	$10,278.90	$ 0.75	$ 8,565.75	$ 0.50	$ 5,710.50
460.01100	Obliterate Existing Symbols	2	EA	$ 100.00	$ 200.00	$ 80.00	$ 160.00	$ 65.00	$ 130.00	$ 50.00	$ 100.00	$ 132.00	$ 264.00	$ 2,120.00	$ 4,240.00	$ 69.00	$ 138.00	$ 75.00	$150.00	$ 100.00	$ 200.00	$ 100.00	$ 200.00
461.01100	4" White Thermoplastic Stripe (Equivalent)	5,886	LF	$ 0.75	$ 4,414.50	$ 0.60	$ 3,531.60	$ 0.50	$ 2,943.00	$ 0.33	$ 1,942.38	$ 0.45	$ 2,648.70	$ 0.75	$ 4,414.50	$ 0.52	$ 3,060.72	$ 0.45	$2,648.70	$ 0.60	$ 3,531.60	$ 0.75	$ 4,414.50
461.01200	4" Yellow Thermoplastic Stripe (Equivalent)	6,239	LF	$ 0.75	$ 4,679.25	$ 0.60	$ 3,743.40	$ 0.50	$ 3,119.50	$ 0.33	$ 2,058.87	$ 0.40	$ 2,495.60	$ 1.31	$ 8,173.09	$ 0.52	$ 3,244.28	$ 0.45	$2,807.55	$ 0.60	$ 3,743.40	$ 0.75	$ 4,679.25
462.01511	Preformed White Thermoplastic Left-Turn Arrow	6	EA	$ 170.00	$ 1,020.00	$ 200.00	$ 1,200.00	$ 200.00	$ 1,200.00	$ 155.00	$ 930.00	$ 220.00	$ 1,320.00	$ 706.76	$ 4,240.56	$ 172.50	$ 1,035.00	$ 205.00	$1,230.00	$ 200.00	$ 1,200.00	$ 400.00	$ 2,400.00
462.01512	Preformed White Thermoplastic Right-Turn Arrow	1	EA	$ 170.00	$ 170.00	$ 200.00	$ 200.00	$ 200.00	$ 200.00	$ 155.00	$ 155.00	$ 220.00	$ 220.00	$ 4,240.53	$ 4,240.53	$ 172.50	$ 172.50	$ 205.00	$205.00	$ 200.00	$ 200.00	$ 400.00	$ 400.00
476.90000	Video Detection System	1	LS	$ 36,000.00	$ 36,000.00	$ 46,000.00	$ 46,000.00	$ 35,000.00	$ 35,000.00	$ 35,000.00	$ 35,000.00	$ 37,149.00	$ 37,149.00	$ 41,508.22	$ 41,508.22	$ 41,175.00	$ 41,175.00	$ 42,500.00	$42,500.00	$ 41,000.00	$ 41,000.00	$ 35,000.00	$ 35,000.00
505.06520	Scupper with Curb Opening, Anchor	1	EA	$ 1,800.00	$ 1,800.00	$ 7,000.00	$ 7,000.00	$ 3,750.00	$ 3,750.00	$ 2,500.00	$ 2,500.00	$ 3,750.00	$ 3,750.00	$ 5,456.78	$ 5,456.78	$ 8,625.00	$ 8,625.00	$ 3,125.00	$3,125.00	$ 3,000.00	$ 3,000.00	$ 3,500.00	$ 3,500.00
505.13625	Concrete Catch Basin, P1569-1 (Modified), Type M2, L=6, V<4	1	EA	$ 4,000.00	$ 4,000.00	$ 6,000.00	$ 6,000.00	$ 3,750.00	$ 3,750.00	$ 2,000.00	$ 2,000.00	$ 4,048.00	$ 4,048.00	$ 4,611.32	$ 4,611.32	$ 5,175.00	$ 5,175.00	$ 3,625.00	$3,625.00	$ 5,500.00	$ 5,500.00	$ 6,000.00	$ 6,000.00
610.08505	Remove Fire Hydrant and Cap Wate	1	EA	$ 800.00	$ 800.00	$ 800.00	$ 800.00	$ 750.00	$ 750.00	$ 2,000.00	$ 2,000.00	$ 1,980.00	$ 1,980.00	$ 552.63	$ 552.63	$ 977.00	$ 977.00	$ 600.00	$600.00	$ 1,500.00	$ 1,500.00	$ 500.00	$ 500.00
610.08511	Install Fire Hydrant, Pipe, Valve, Box and Cover	1	EA	$ 3,800.00	$ 3,800.00	$ 9,000.00	$ 9,000.00	$ 3,000.00	$ 3,000.00	$ 5,000.00	$ 5,000.00	$ 7,700.00	$ 7,700.00	$ 3,416.98	$ 3,416.98	$ 3,450.00	$ 3,450.00	$ 6,060.00	$6,060.00	$ 4,000.00	$ 4,000.00	$ 2,500.00	$ 2,500.00
618.20218	18" RGRCP Class IV	7	LF	$ 350.00	$ 2,450.00	$ 170.00	$ 1,190.00	$ 200.00	$ 1,400.00	$ 300.00	$ 2,100.00	$ 135.00	$ 945.00	$ 140.37	$ 982.59	$ 230.00	$ 1,610.00	$ 228.00	$1,596.00	$ 300.00	$ 2,100.00	$ 200.00	$ 1,400.00
	SUBTOTAL WITHOUT TAX				$ 297,727.95		$ 317,191.23		$ 312,874.60		$ 347,819.32		$ 330,651.22		$ 332,127.10		$ 336,428.79		354,130.00		$ 476,438.25		$ 455,165.75
	TAX				17,030.04		18,143.34		17,896.43		19,895.27		18,913.25		18,997.67		19,243.73		20256.236		27,252.27		$26,035.48
	TOTAL CALCULATED BY STAFF				**$314,757.99**		**$335,334.57**		**$330,771.03**		**$367,714.59**		**$349,564.47**		**$351,124.77**		**$355,672.52**		**$374,386.24**		**$503,690.52**		$481,201.23
	TOTAL SUBMITTED BY BIDDER				**$297,727.95**		**$317,191.33**		**$312,874.60**		**$347,819.30**		**$330,651.22**		**$328,193.17**		**$337,162.96**		$354,130.00		$476,438.25		

CITY COUNCIL REPORT

SUBJECT:
Professional Services agreement - DLT&V Systems Engineers, Inc. - Rancho Santa Fe Booster Station

MEETING DATE:
December 17, 2007

TO: Mayor and Council

FROM: Wayne Janis, Water Resources Director (623)333-4444

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council approve a Professional Services Agreement with DLT&V Systems Engineers, Inc . for design and programming services associated with the Rancho Santa Fe PLC upgrade, in an amount not to exceed $68,373, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

BACKGROUND:

The Rancho Santa Fe Booster Station, generally located on the northeast corner of Rancho Santa Fe Blvd. and McDowell Road, was placed in service in 1994 to provide water supplies to the newly developed Rancho Santa Fe subdivision, as well commercial properties developing north of I-10. This facility is fed by five wells, has a total storage capacity of 2.75 million gallons and 8,400 gallons per minute (GPM) of discharge capacity. This site continues to serve as the lead production and distribution facility for the City.
At the time of construction, this facility took advantage of the best available technology. This includes the Programmable Logic Controls (PLC), which acts at the operating system, controlling well and booster pump operations.

DISCUSSION:

Recently staff has begun experiencing programming issues with the PLC, and due to the age of the equipment, it is becoming increasingly difficult to find service representatives to make programming changes, or replacement parts for this equipment. Due to the importance of this facility, it is critical that all equipment is in proper working order, for this reason, staff is recommending that this equipment is replaced with new, up to date programmable controls.
DLT& V System Engineers was selected, based on their qualifications, using the Pre-Qualified On-Call Services list for professional services. DLT&V has successfully completed a number of projects for the City, and is currently under contract to complete the Water Resource Department SCADA five year master plan.

Under the scope of this project, DLT&V will complete the following tasks:

- Provide a design and bid documents for the new PLC controls and enclosure
- Assist during bidding process
- Construction inspection services
- Programming upon completion of the new equipment

Tentative Schedule:

- Council authorize PSA with DLT&V December 17, 2007

- Notice to proceed issued to DLT&V December 18, 2007
- Design complete/bid project February 18, 2008
- Council award construction contract April 7, 2008

Construction/programming complete June 30, 2008

BUDGETARY IMPACT:

Funding for this project is provided in the Water Production Operating Budget (503-9122-00-8630)

RECOMENDATION:

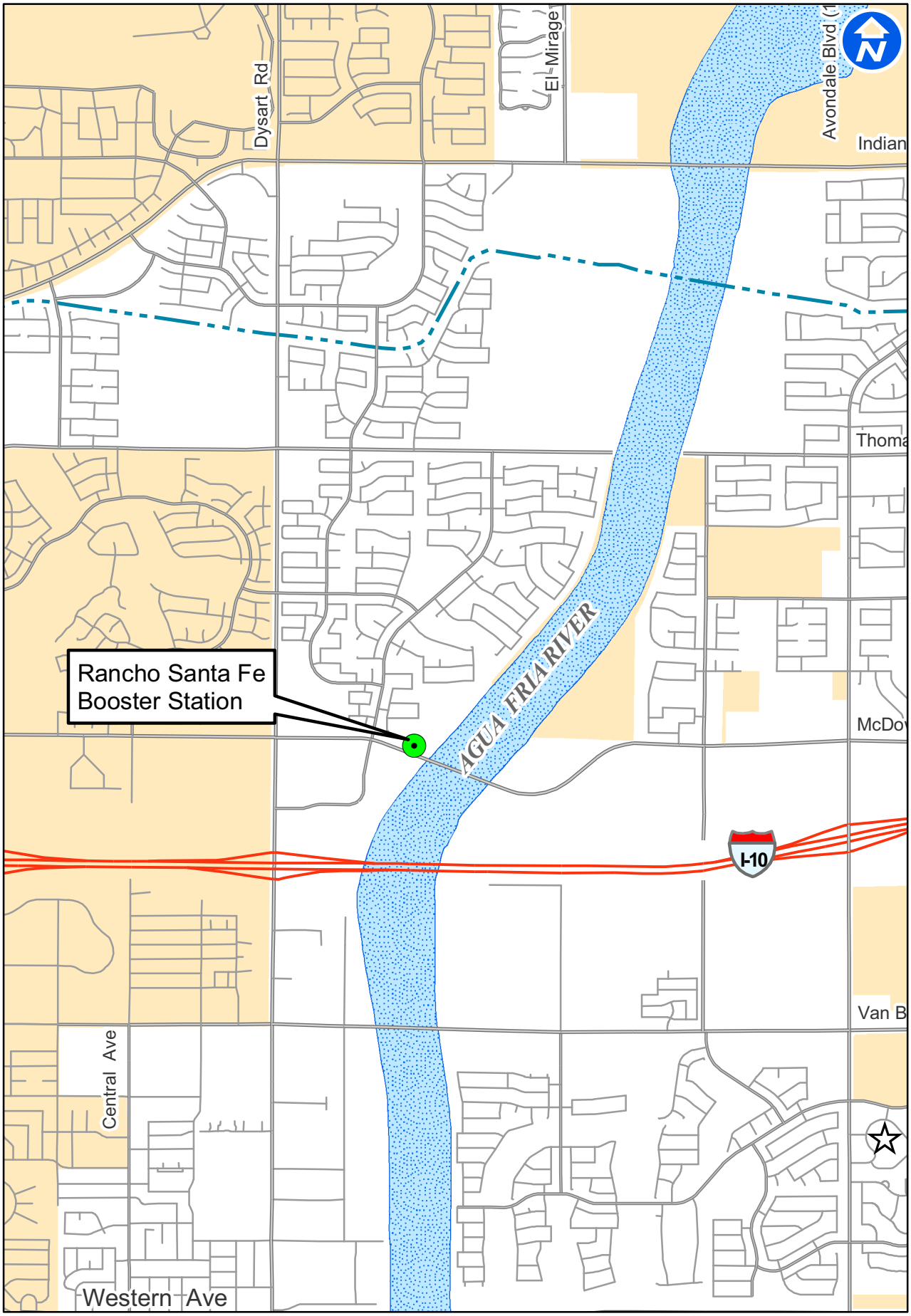
Staff recommends that the City Council approve a Professional Services Agreement with DLT&V Systems Engineers, Inc . for design and programming services associated with the Rancho Santa Fe PLC upgrade, in an amount not to exceed $68,373, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

- Vicinity Map
- PSA - DLT&V

VICINITY MAP



June 2007 - GIS / MAPPING SECTION

CITY OF AVONDALE

Rancho Santa Fe Booster Pump Station
PLC Upgrades

PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
DLT&V SYSTEMS ENGINEERING, INC.

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made as of December 17, 2007, between the City of Avondale, an Arizona municipal corporation (the "City") and DLT&V Systems Engineering, 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 electrical design and programming for the Rancho Santa Fe Pump Station Programmable Logic Controller and Operator Interface Terminal Replacement project (the "Services").

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 is hereby acknowledged, 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 March 17, 2008.

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 $68,373.00 for the Services as set forth in the Fee Estimate, attached hereto as Exhibit A and incorporated herein by reference.

4. Payments. The City shall pay the Consultant monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. 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 Street, Suite 800 Phoenix, Arizona 85004-2327 Facsimile: 602-340-1538 Attn: Andrew J. McGuire, Esq.
If to Consultant:	DLT&V Systems Engineering, Inc. 3550 North Central Avenue, Suite 1900 Phoenix, Arizona 85012 Facsimile: 602-266-4953 Attn: Hong Nguyen, P.E.

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, the Fee Estimate 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**"

DLT&V SYSTEMS ENGINEERING, 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 DLT&V SYSTEMS ENGINEERING, 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
DLT&V SYSTEMS ENGINEERING, INC.

[Scope of Work and Consultant's Compensation]

See following pages.

DLT&V SYSTEMS ENGINEERING

DESIGN
CONSTRUCTION
INTEGRATION

3550 NORTH CENTRAL AVENUE ◆ SUITE 1900 ◆ PHOENIX, ARIZONA 85012
VOICE 602.266.4658 ◆ FAX 602.266.4953 ◆ TOLL FREE 888.893.5437

Fee Proposal

Date: 11/6/07
Attn: Steve Ruppenthal
Client: City of Avondale
Address: 399 E Lower Buckeye Road, Suite 100
City, State, Zip: Avondale, AZ 85323
Phone: (623) 333-4433
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 DLT&V 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 DLT&V.

Project Description: City of Avondale Rancho Santa Fe Pump Station PLC and OIT Replacement
DLT&V Project Number: 1332

Design (Task 100):		
Design Tasks	$16,457	
Total Design Services:		**$16,457**
RTU Fabrication Drawings (Task 101):		
Design Tasks	$8,386	
Total RTU Fabrication Drawings:		**$8,386**
Construction Services (Task 200):		
Construction Services	$12,672	
Total Construction Services:		**$12,672**
Programming Services (Task 300):		
Programming Tasks	$30,858	
Total Programming Services:		**$30,858**
	Grand Total:	**$68,373**

☑ Lump Sum Fee
☐ Hourly, Time and Material Fee

Hong Nguyen, P.E.
Engineering Project Manager

Estimated Drawing List

Electrical/Instrumentation Design 24"x36"

E001	Notes, Symbols and Legend
E002	Site Plan
E003	Circuit/Conduit Schedule and Panel Schedule
E004	Schem./Connection Diagrams
E005	Conduit Block Diagram - Sheet 1
E006	Standard Details - Sheet 1

RTU Fabrication Dwgs 11"x17"

EC1	Cover Sheet
EC2	Drawing Index
EC3	Electrical Symbols and Abbr.
EC4	Electrical Legend and ISA Table
EC5	Bill of Materials
EC6	PLC Cabinet Enclosure Layout
EC7	PLC Cabinet Panel Layout
EC8	Terminal Block and Device Details
EC9	Network Communication Diagram
EC10	120VAC Power Distribution Schematic
EC11	24VDC Power Distribution Schematic
EC12	Discrete Input Card No. 1 Schematic
EC13	Discrete Input Card No. 2 Schematic
EC14	Discrete Input Card No. 3 Schematic
EC15	Discrete Output Card No. 1 Schematic
EC16	Discrete Output Card No. 2 Schematic
EC17	Analog Input Card No. 1 Schematic
EC18	Analog Input Card No. 2 Schematic
EC19	Analog Output Schematic

Scope of Services

Project Description

1.0 This project consists of providing electrical design and programming for the City of Avondale Rancho Santa Fe Pump Station Programmable Logic Controller (PLC) and Operator Interface Terminal (OIT) Replacement project. The electrical design consists of replacing the existing Modicon 984 PLC with the new standard Modicon M340 PLC, and replacing the existing PanelMate OIT with the new standard Wonderware Color Panel Computer OIT. The new PLC I/O capacity and OIT shall be designed and programmed to include all of the existing equipment and also to accommodate a) a well head treatment expansion, b) intrusion switches at well head hatch such that the booster pumps shut down on intrusion, c) conversion of Well 19 Clortec chlorine residual chart recorder to SCADA, and d) a minimum of 10% spare I/O.

2.0 The RTU drawings will be prepared on 11"x17" bond paper, and will be scaled drawings with bill of materials, and wire numbers, suitable for bidding the fabrication of the RTU expansion.

3.0 Programming services will consist of PLC/RTU programming, SCADA HMI programming, and assisting the electrical contractor during startup testing of the control system for the existing equipment I/O and up to seventeen (17) additional I/O points. We will also attend and assist during factory acceptance testing of the PLC/RTU prior to shipment, and train operators and maintenance staff.

Responsibilities of Others

1.0 CLIENT shall furnish existing electrical, P&ID's, and RTU control panel fabrication drawings.

2.0 CLIENT shall verify that all field wiring is installed and terminated at the PLC-based control panels, field instruments, and any other packaged control systems that will be integrated in to the plant SCADA system being programmed by DLT&V, prior to scheduling DLT&V personnel for initial system testing and startup.

3.0 The CLIENT shall allocate sufficient time in the project schedule for field wiring terminations, loop testing, calibration, and commissioning of instrumentation and PLC-based control panels prior to any scheduled startup and demonstration dates required by the Contract Documents. The main purpose of this time period is to allow DLT&V personnel to assist with testing and commissioning of the PLC-based control panels that we will be programming on this project, before scheduling inspections by the Owner's Engineer or Representative, and before any required startup or demostration listed in the Contract Documents.

Deliverables

1.0 DLT&V will provide CLIENT with one set of review documents in reproducible form for Agency Review and 100% submittals. Upon receipt of comprehensive submittal review comments, DLT&V will produce and submit a Submittal Comment Review Log addressing every comment and will revise the design documents in accordance with the resolution of this Submittal Comment Review Log. Any additional submittal requirements and design changes requested by the CLIENT that are not included herein may be considered beyond the scope and fee of this proposal. CLIENT will be responsible for duplicating documents for submittal to the Owner.

2.0 Upon completion of the design and after incorporating all the 100% submittal review comments, DLT&V will provide CLIENT with one set of final sealed documents bearing the signature of a registered electrical engineer. Please specify in advance if the plans are to be plotted on bond, vellum, or mylar.

3.0 DLT&V 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 DLT&V will not obtain any permits.

2.0 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.

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

Accepted for Client:

Signature: Print name: Date:

Project Number: 1332 Date: 06-Nov-07

Project Name: City of Avondale Rancho Santa Fe Pump Station PLC and OIT Replacement

#	Sub-Task	Principal Eng.	Project Mgr.	Prog. PM	Const. Mgr.	Designer IV	Prog. IV	Designer II	CAD Mgr.	Cler.	Tot. Hrs.	Section Subtot.
	Task 100 - Design											
1	Pre-design Meeting	2.0	2.0								4.0	
2	Site Work		4.0			4.0					8.0	
3	Preliminary Design											
4	Utility Coordination											
5	Electrical Calculations	1.0	2.0			1.0					4.0	
6	Prepare P&IDs (sheets est.)											
7	Prepare Elec. Dwgs (6 sheets est.)	2.0	5.0			23.0		23.0	18.0	2.0	73.0	
8	Prepare Control Descriptions	1.0	6.0			3.0				2.0	12.0	
9	Prepare Instrumentation Specs											
10	Prepare Electrical Specs	1.0	6.0			3.0				2.0	12.0	
11	Cost Estimate											
12	Client Review Meetings	4.0	4.0								8.0	
13	Project Management		3.0								3.0	
14	Generator Sizing Calcs											
15	Lighting Design											
16	Quality Assurance Review	2.0	3.0								5.0	
	Bid Assistance											
17	Pre-bid Meeting											
18	Contractor Questions		3.0								3.0	
19	Addenda Preparation											
20	Prepare Conformed Bid Docs.											
	Design Fees Sub Total:	**13.0**	**38.0**			**34.0**		**23.0**	**18.0**	**6.0**	**132.0**	**$15,216**
	Design Expenses:											**$1,241**
	Total Design & Expenses:											**$16,457**
	Task 101 - Panel Fab. Or Loop Drawings											
1	Prepare Fab. Dwgs (19 sheets est.)	2.0	4.0			22.0		22.0	22.0	2.0	74.0	
2	Quality Assurance Review	4.0									4.0	
	Sub Total:	**6.0**	**4.0**			**22.0**		**22.0**	**22.0**	**2.0**	**78.0**	**$8,386**

Project Number: 1332 Date: 06-Nov-07

Project Name: City of Avondale Rancho Santa Fe Pump Station PLC and OIT Replacement

#	Sub-Task	Principal Eng.	Project Mgr.	Prog. PM	Const. Mgr.	Designer IV	Prog. IV	Designer II	CAD Mgr.	Cler.	Tot. Hrs.	Section Subtot.
	Task 200 - Construction											
1	Electrical Observations (3 trips)	1.0	1.0		13.0					1.0	16.0	
2	Review Submittals (10 sets)	2.0	5.0		10.0					3.0	20.0	
3	Project Meetings (2 ea)		1.0		4.0					1.0	6.0	
4	Startup Testing (1 days)	1.0	2.0		8.0						11.0	
5	Prepare Punchlist		1.0		3.0					1.0	5.0	
6	Review Record Drawings (0 shts)											
7	Prepare Record Drawings (25 shts)	3.0	4.0		4.0				13.0	3.0	27.0	
8	Review O&M Manuals (1 sets)		1.0		2.0					1.0	4.0	
9	Generator Testing (0 days)											
10	Factory Acceptance Test (1 days)		1.0		8.0					1.0	10.0	
11	Respond to RFIs (4 sets)	1.0	1.0		6.0					1.0	9.0	
	Construction Fees Sub Total:	**8.0**	**17.0**		**58.0**				**13.0**	**12.0**	**108.0**	**$12,344**
	Construction Expenses:											**$328**
	Total Construction & Expenses:											**$12,672**

Project Number: 1332 Date: 06-Nov-07

Project Name: City of Avondale Rancho Santa Fe Pump Station PLC and OIT Replacement

#	Sub-Task	Principal Eng.	Project Mgr.	Prog. PM	Const. Mgr.	Designer IV	Prog. IV	Designer II	CAD Mgr.	Cler.	Tot. Hrs.	Section Subtot.
	Task 300 - Programming											
1	Control Description	1.0	1.0	2.0			1.0			1.0	6.0	
2	PLC Software Develop.		3.0	57.0			29.0			3.0	92.0	
3	PLC Testing/Debug		1.0	19.0			10.0				30.0	
4	Communications/Hardware Setup			10.0			10.0				20.0	
5	PLC Training			4.0							4.0	
6	HMI Database			10.0			15.0				25.0	
7	HMI Graphics	1.0	1.0	10.0			15.0			1.0	28.0	
8	HMI Testing			10.0			15.0				25.0	
9	HMI Training			4.0							4.0	
10	Trends			10.0			15.0				25.0	
11	Historical Data			2.0			3.0				5.0	
12	Alarm Software Config.			2.0			3.0				5.0	
13	OIT Programming											
14	OIT Testing											
15	OIT Training											
16	Factory Testing			4.0							4.0	
17	On-site Validation Testing			3.0			3.0				6.0	
18	Documentation	1.0	1.0	2.0						2.0	6.0	
19	Continuing Support	1.0	1.0	2.0			3.0			1.0	8.0	
	Programming Fees Sub Total:	**4.0**	**8.0**	**151.0**			**122.0**			**8.0**	**293.0**	**$30,745**
	Programming Expenses:											**$113**
	Total Programming & Expenses:											**$30,858**
	Totals:	**31.0**	**67.0**	**151.0**	**58.0**	**56.0**	**122.0**	**45.0**	**53.0**	**28.0**	**611.0**	
	Std Hourly Rates:	**$173.00**	**$128.00**	**$117.00**	**$116.00**	**$110.00**	**$89.00**	**$95.00**	**$100.00**	**$63.00**		
	Total Fees:	$5,363	$8,576	$17,667	$6,728	$6,160	$10,858	$4,275	$5,300	$1,764	**$66,691**	

Total Expenses: **$1,682**

Grand Total: **$68,373**

CITY COUNCIL REPORT

SUBJECT:
Wastewater and Water SCADA Computer Equipment purchase

MEETING DATE:
December 17, 2007

TO: Mayor and Council

FROM: Kevin Hinderleider, IT Director (623)333-5007

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting the City Council approve the purchase of server and network equipment for the Wastewater and Water SCADA (Supervisory Controls and Data Acquisition) systems not to exceed $141,851.00 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

BACKGROUND:

The Water Resources Department currently utilizes a distributed measurement and control system called SCADA (Supervisory Controls and Data Acquisition) to monitor & control the water treatment plant and water production facilities. The actual application that has been installed to conduct the monitoring and controls is called Wonderware. To ensure that the SCADA system and Wonderware application for these two facilities operates at peak performance, the Water Resources Department secured the services of D&L Engineering to establish a five year SCADA master plan.
Upon completion of this five year master plan a number of recommendations were brought forth. One of the first recommendations was to upgrade the computer equipment currently being utilized at the Waste Water Treatment Plant and the Coldwater Booster Station. The equipment currently in use at these two locations is insufficient and too out-dated to support increased utilization of the SCADA system.

To provide the proper computing infrastructure, Water Resources and the Information Technology staff have been working with a consultant from D&L Engineering to design the most appropriate system for both water treatment and water production. As a part of this design it has been determined that waste water and water production SCADA systems should be maintained as separate systems. This separate design will ensure that the failure of one system will not render the other site inoperable. To meet the criteria of separate systems, one system will be located at the Waste Water Treatment Plant and the other system will be located at Coldwater Booster Station.

To meet the business continuance objective for redundancy and hardware failure protection, each SCADA system will have a primary and secondary server at each site. This design solution also includes redundant networking components to ensure no single points of failure in the system.

To meet the daily reporting requirements both waste water and water production SCADA systems will share one historical data server. This server will reside at City Hall due to the extensive amount of data it will collect about each facility. From this single location Water Resources staff will be able to produce reports about both facilities.

DISCUSSION:

The proposed equipment purchase is for 5 servers, battery backup equipment and necessary networking components. Two servers will be located at the Waste Water Treatment Plant, two servers will be located at the Coldwater Booster Station and one server will reside at City Hall. Both the Waste Water Treatment Plant and the Coldwater Boosters Station will receive updated networking equipment to minimize system failures due to

aged networking equipment. Redundant servers will cost the Waste Water Treatment Plant and Water Productions each $26,104.11. The server for historical data will cost $4,804.61. Associated with the new servers will be networking equipment which will cost the Waste Water Treatment Plant and Water Productions each $32,786.50. This project also includes a $10,000 contingency for unforeseen issues that may arise when configuring the servers or the network equipment.

Associated with the installation of this new equipment is the necessity to move security and network wiring from a small broom closet at the Wastewater Treatment Plant to the SCADA room inside the treatment plant administration building. The cost to relocate the security equipment and network cabling is $9,265.20.

For this project Council is only required to approve the purchase of the server equipment from Hewlett Packard totaling $57,013.00 and the networking equipment from Insight totaling $75,573.00.

BUDGETARY IMPACT:

Funding for the proposed servers and network equipment is available in the Wastewater Treatment Plant budget line item number 503-9230-00-8012 and Water Production budget line item number 501-9122-00-8012.

The Hewlett Packard servers will be purchased utilizing the Western States Contracting Alliance, contract number A63309. The networking equipment will be purchased utilizing the State of Arizona state contract number EPS060043-28-A4.

RECOMENDATION:

Staff recommends the City Council approve the purchase of server and network equipment, for the Water and Wastewater SCADA (Supervisory Controls and Data Acquisition) applications not to exceed $141,851.00 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

- Hewlett Packard Historian Server
- Hewlett Packard Primary and Backup Server - Waste Water
- Hewlett Packard Primary and Backup Server - Water Production
- Insight Network Equipment Quote - Waste Water
- Insight Network Equipment Quote - Water Production
- PA - Insight
- PA - HP

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Commonwealth Net Fo Legislation

ONLINE PRICE QUOTATION

Quote Number: 1459909

Today's Date : 11/5/2007 12:06:27 PM

Created By:
justin.mcdonald@zunesis.com

Quote Name: Avondale BL35p + Windows

Quote Created Date : 11/5/2007 11:59:30 AM

Contract: WESTERN STATES CONTRACTING ALLIANCE (A63309)

Product availability and product discontinuation are subject to change without notice. The prices in this quotation are valid for 30 days from quote date above. Please include the quote number and contract from this quote on the corresponding purchase order.

items/description	part no	unit price	qty	ext price
-Configurable-HP ProLiant BL35p Server Blade	Base	$3,433.01	1	$3,433.01
HP ProLiant BL35p Server	382734-405			
2 Dual Core AMD® Opteron™ 280 2.4GHz Processors	399602-2CP			
4GB REG PC3200 4x1GB Memory	376639-4G1			
Dual-Port Fibre Channel Adapter (2-Gb) Kit	354054-B21			
Two (2) PCI-X Gigabit NICs with WOL and PXE	Included			
One (1) 10/100T NIC (embedded) dedicated to iLO management				
Two 2.5-inch non-hot plug ATA 100 drive bays	Included			
2 USB, 1 video port, 1 ILO port and kernel debug port	Included			
BL25/35p Mezzanine network card	382850-B21			
HP Standard Limited Warranty - Year 1: Parts and on-site Labor; Years 2-3 - Parts Only, Parts: 1 to 5 Business Days, Labor: Next Business Day	Included			
HP Care Pack 3-year, 4-hour, 24x7, ProLiant Server Blade Hardware Support - electronic	UD188E	$233.00	1	$233.00
Windows Server 2003 R2 Standard Edition 5 Client Access Licenses and media	409167-B21	$750.00	1	$750.00

SubTotal : $4,416.01

City of Avondale Sales Tax @ 8.8% $388.60
Total : $4,804.61

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To access the HP Public Sector Online Store where this quote was created, go to: http://gem.compaq.com/gemstore/entry.asp?SiteID=1020

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State Local Govt:	888-202-4682	Federal Govt:	800-727-5472
Fax:	800-825-2329	Returns:	800-888-3224

* For detailed warranty information, please go to www.hp.com/go/specificwarrantyinfo . Sales taxes added where applicable. Freight is FOB Destination.

2- Primary + Backup Servers

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ONLINE PRICE QUOTATION

Quote Number: 1460251

Quote Name: Avondale - 2x DL385G2 + Rack/Console - High CPU

Today's Date : 11/5/2007 2:34:56 PM

Quote Created Date : 11/5/2007 2:20:47 PM

Created By:
justin.mcdonald@zunesis.com

Contract: WESTERN STATES CONTRACTING ALLIANCE (A63309)

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items/description	part no	unit price	qty	ext price
HP 10642 G2 Pallet Universal Rack	AF001A	$867.00	1	$867.00
HP 10642 G2 Side Panel	AF054A	$249.00	1	$249.00
HP 10000 Rack Roof Mount Fan (110V) Kit	257413-B21	$215.00	1	$215.00
HP 24A Low Voltage PDU HP Modular Power Distribution Units (mPDU), Low Volt Model, 24A (100-127 VAC) (NA, Japan)	Base 252663-D71	$321.00	2	$642.00
HP TFT7600 Rackmount Keyboard and Monitor	AG052A	$1,525.00	1	$1,525.00
HP 0x2x16 Server Console Switch with Virtual Media	AF600A	$1,040.00	1	$1,040.00
HP KVM USB2 1 pack Interface Adapter	AF603A	$90.00	2	$180.00

HP 12ft Qty 8 KVM CAT5 Cable	263474-B23	$31.00	1	$31.00
-Configurable- HP ProLiant DL385 G2 - Rack Server	Base	$8,896.01	2	$17,792.02
HP ProLiant DL385 G2 Server	414109-B21			
AMD Opteron™ Processor 2222 (3.0 GHz, 95 Watts)	451649-L21			
AMD Opteron™ Processor 2222 (3.0 GHz, 95 Watts)	451649-B21			
HP 4GB REG PC2-5300 2x2GB 2Rank Memory	408853-B21			
Microsoft® Windows® Server 2003 R2, Enterprise Edition + 25 CALS (Not Installed)	409171-B21			
SlimLine DVD-ROM Drive (8x/24x) Option Kit	264007-B21			
HP Smart Array P400/256 PCIe Controller	405132-B21			
RAID 5 drive set (requires matching 3 hard drives)	339779-B21			
HP 72GB Hot Plug 2.5 SAS 15,000 rpm Hard Drive	431935-B21			
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HP 72GB Hot Plug 2.5 SAS 15,000 rpm Hard Drive	431935-B21			
HP 1000-W Hot-Plug Power Supply	Included			
HP 1000-W Redundant Hot-Plug Power Supply (NEMA)	399771-001			
HP Redundant Hot-Plug Fans	Included			
Dual embedded NC373i Multifunction Gigabit Network Adapters	Included			
HP Integrated Lights Out (iLO) Advanced Pack 1 Server License	452141-B21			
Integrated Lights Out 2 (iLO 2) Standard Management	Included			
3 years parts, labor and onsite service (3/3/3) standard warranty. Certain restrictions and exclusions apply.	Included			
HP Care Pack, 3 Years, 4 Hours, 24x7, Hardware, ProLiant DL380	U4545E	$726.00	2	$1,452.00

SubTotal : $23,993.02
City of Avondale Sales Tax @ 8.8% $2,111.39
Total : $26,104.41

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invent

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Insight PUBLIC SECTOR

Insight Public Sector
6820 South Harl Ave
Tempe,AZ,85283-4318
US
Tel: 8004674448

SOLD-TO PARTY

City Of Avondale
11465 W CIVIC CENTER DR
AVONDALE, AZ 85323-6803

SHIP-TO ADDRESS

City Of Avondale
11465 W CIVIC CENTER DR
AVONDALE AZ 85323-6803

Quotation

Quotation Number 210241469

Creation Date 10/24/2007

PO Number / Date :

Customer No. : 10133195
Sales Rep : JOHN BRIGGS
Email : jbriggs@insight.com
Telephone : 800-467-4448 X 5190
Sales Rep 2 : LORELL MILLER
Email 2 : lmiller1@insight.com
Telephone 2 : 800-827-6100 X 6300

Dear Kevin Hinderleider,
Thank you for considering Insight to be your trusted partners in addressing your evolving IT needs. We appreciate being considered as your solution source and look forward to making IT work for you.

We deliver according to the following terms:

Terms of Payment : Net 30 days
Ship Via : AIT Freight Systems / LTL
Terms of Delivery : FOB DESTINATION
Currency : USD

Material	Description	Qty	UnitPrice	Extended Price
CISCO2821-SRST/K9	**Cisco 2821 Voice Bundle - router**	1	3,210.03	3,210.03
	STATE OF ARIZONA - NETWORKS, EQUIPMENT & SERVICES(# EPS060043-28-A4)			
HWIC-1GE-SFP	**Cisco - Network adapter - Gigabit EN**	1	2,082.50	2,082.50
	STATE OF ARIZONA - NETWORKS, EQUIPMENT & SERVICES(# EPS060043-28-A4)			
HWIC-4ESW-POE	**Cisco EtherSwitch HWIC - switch - 4 ports**	1	342.13	342.13
	STATE OF ARIZONA - NETWORKS, EQUIPMENT & SERVICES(# EPS060043-28-A4)			
VIC-4FXS/DID	**Cisco - Voice / fax module - plug-in module - FXS / 4 analog port(s)**	1	476.00	476.00
	STATE OF ARIZONA - NETWORKS, EQUIPMENT & SERVICES(# EPS060043-28-A4)			
VIC2-4FXO	**Cisco - Voice interface card - plug-in module - FXO / 4 analog port(s)**	1	476.00	476.00
	STATE OF ARIZONA - NETWORKS, EQUIPMENT & SERVICES(# EPS060043-28-A4)			

Insight PUBLIC SECTOR

Quotation Number / Creation Date

210241469 / 10/24/2007

Material	Description	Qty	UnitPrice	Extended Price
PVDM2-32U64	**Cisco - Voice / fax module - removable plug-in module (64 channels)**	1	892.50	892.50
	STATE OF ARIZONA - NETWORKS, EQUIPMENT & SERVICES(# EPS060043-28-A4)			
CON-STLOC	**8X5NBD SVC.**	1	0.00	0.00
	CONTACT NAME: KEVIN HINDERLEIDER CONTACT PHONE: 6234783004 CONTACT EMAIL: KHINDERLEIDER@AVONDALE.ORG			
	OPEN MARKET			
WS-C3560G-48PS-S	**Cisco Catalyst 3560G-48PS SMI - switch - 48 ports**	3	5,649.53	16,948.59
	STATE OF ARIZONA - NETWORKS, EQUIPMENT & SERVICES(# EPS060043-28-A4)			
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GLC-SX-MM=	**Cisco - Transceiver module - SFP - Gigabit EN - 1000Base-SX - 850 nm**	3	297.50	892.50
	STATE OF ARIZONA - NETWORKS, EQUIPMENT & SERVICES(# EPS060043-28-A4)			
GLC-T=	**Cisco - Transceiver module - SFP - Gigabit EN - 1000Base-T**	3	235.03	705.09
	STATE OF ARIZONA - NETWORKS, EQUIPMENT & SERVICES(# EPS060043-28-A4)			
SUA3000RMXL3U	**APC Smart-UPS 3000VA XL - UPS - 2.7 kW - 3000 VA**	1	1,298.00	1,298.00
	STATE OF AZ - STATE PROCUREMENT OFFICE - UPS EQUIPMENT(# EPS070086-2-A1)			
SUA48RMXLBP3U	**APC Smart-UPS XL 48V Battery Pack - battery enclosure - lead acid**	3	597.52	1,792.56
	STATE OF AZ - STATE PROCUREMENT OFFICE - UPS EQUIPMENT(# EPS070086-2-A1)			
AP9619	**APC Network Management Card EM - remote management adapter**	1	372.81	372.81
	STATE OF AZ - STATE PROCUREMENT OFFICE - UPS EQUIPMENT(# EPS070086-2-A1)			
AP7900	**APC Switched Rack PDU power distribution strip**	2	420.54	841.08
	STATE OF AZ - STATE PROCUREMENT OFFICE - UPS EQUIPMENT(# EPS070086-2-A1)			

Sub Total	**30,329.79**
Tax	**2,456.71**
TOTAL	**32,786.50**

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Insight PUBLIC SECTOR

Quotation Number / Creation Date

210241469 / **10/24/2007**

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Sincerely,
JOHN BRIGGS
800-467-4448 **Ex: 5190**
jbriggs@insight.com

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TOTAL	**32,786.50**

Please contact us with any questions or for additional information about Insight Public Sector's complete IT solution offering. Again, thank you for considering Insight Public Sector!

Insight PUBLIC SECTOR

Quotation Number / Creation Date

210241469 / **10/24/2007**

Material	Description	Qty	UnitPrice	Extended Price

Sincerely,
JOHN BRIGGS
800-467-4448 **Ex: 5190**
jbriggs@insight.com

Subject to IPS Terms and Conditions online at http://www.ips.insight.com/site/static/legal.cfm

PURCHASE AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
INSIGHT PUBLIC SECTOR, INC.

THIS PURCHASE AGREEMENT (this "Agreement") is entered into as of December 17, 2007, between the City of Avondale, an Arizona municipal corporation (the "City") and Insight Public Sector, Inc., an Illinois company ("Contractor").

RECITALS

A. After a competitive procurement process, the State of Arizona entered into Contract No. EPS060043-28 dated as of July 17, 2006, as amended by that certain First Amendment to Contract dated as of July 27, 2006, by that certain Second Amendment to Contract dated as of January 2, 2007, by the certain Third Amendment to Contract dated as of January 11, 2007 and by that certain Fourth Amendment to Contract dated as of October 15, 2007, with the Contractor to provide computer networks, equipment and services (the "State Contract"). The State Contract is attached hereto as Exhibit A and incorporated herein by reference.

B. The City is permitted by Section 25-24 of the City Code to make purchases under the State Contract without any further public bidding when, in the opinion of the purchasing director, a separate bidding process is not likely to result in a lower price than would be available under the State Contract.

C. The purchasing director has made the determination that a separate bidding process is not likely to result in a lower price than would be available under the State Contract. The City desires to utilize the services of the Contractor for a lower cost than would otherwise be available.

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 is hereby acknowledged, the parties 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 July 16, 2009.

2. Scope of Work. Contractor shall provide computer networks and equipment and perform services under the terms and conditions of the State Contract in the quantities as set forth in Exhibit B attached hereto and incorporated herein by reference, in an amount not to exceed in aggregate a total of $65,573.00.

3. 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**"

INSIGHT PUBLIC SECTOR, INC., an Illinois company

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 _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 2007, by _____ as _____ of INSIGHT PUBLIC SECTOR, INC., an Illinois company, on behalf of the corporation.

_____
Notary Public in and for the State of _____

My Commission Expires:

_____

EXHIBIT A
TO
PURCHASE AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
INSIGHT PUBLIC SECTOR, INC.

[State Contract]

See following pages.

Contract EPS060043-28-A4

NETWORKS, EQUIPMENT AND SERVICES

IN ACCORDANCE WITH A.R.S. 41-2501, ET SEQ, AND UNDER THE AUTHORITY OF THE STATE OF ARIZONA, DEPARTMENT OF ADMINISTRATION, STATE PROCUREMENT OFFICE DIVISION, HEREBY ESTABLISHES THE FOLLOWING ARIZONA STATE CONTRACT.

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	Contract Contract No.: EPS060043-28-A4 Vendor: Insight Public Sector, Inc.	**State of Arizona** **State Procurement Office** 100 N 15th Ave., Suite 104 Phoenix, AZ 85007

Requisition Number:	**ADSM-6J7M3Y**
Solicitation Number:	**EPS060043-A4**
Solicitation Title:	**NETWORKS, EQUIPMENT AND SERVICES**
Vendor Name:	**Insight Public Sector, Inc.**
Proposal Number:	**ADSM-6J7M3Y**
Contract Number:	**EPS060043-28-A4**
Type:	**Statewide**
Status:	**Complete**
Contract Start Date:	**7/17/2006**
Contract End Date:	**7/16/2009**
Max Extensions:	**2 Years**
Procurement Officer:	**Doug Milford** **(602) 542-9121** **doug.milford@azdoa.gov**
Procurement Manager:	**James Scarboro**
Procurement Administrator:	**Jean Clark**

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Table of Contents

Contract No.: EPS060043-28-A4
Vendor: Insight Public Sector, Inc.

State of Arizona
State Procurement Office
100 N 15th Ave., Suite 104
Phoenix, AZ 85007

1. TERMS AND CONDITIONS 1

1.1. CONTRACT INTERPRETATION 1
1.2. PRICES AND PRICING 5
1.3. ORDERING PROCESS 7
1.4. ORDER MODIFICATION OR CANCELLATION 8
1.5. BILLING AND PAYMENTS 9
1.6. NONCONFORMING TENDER 9
1.7. DISPUTE RESOLUTION 10
1.8. ADMINISTRATION 10
1.9. REMEDIES 13
1.10. RISK AND LIABILITIES 15
1.11. QUALITY 19
1.12. SERVICE LEVELS 20
1.13. GENERAL 21

2. SCOPE OF WORK 24

2.1. BACKGROUND 24
2.2. OBJECTIVES 24
2.3. SCOPE 25

3. PRICING 27

3.1. PRODUCTS 27
3.2. HOURLY SERVICES 27
3.3. ANNUAL SERVICES 28

4. KEY PERSONNEL 37

4.1. KEY PERSONNEL (CONTRACT CONTACT) 37
4.2. KEY PERSONNEL (ORDERING – NEW CUSTOMERS) 37
4.3. KEY PERSONNEL (BILLING – CURRENT CUSTOMERS) 37
4.4. KEY PERSONNEL (CUSTOMER SERVICE – SERVICE PROBLEMS, OUTAGES, SLA ISSUES) 37

5. SUBCONTRACTORS 39

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1. Terms and Conditions

1.1. Contract Interpretation

The Contract shall be interpreted as provided herein.

1.1.1. Offer and Acceptance

Contract offer and acceptance form is as set forth herein.

1.1.2. Definitions

Agency	Means an organizational entity within the executive branch of the State Government of Arizona.
Arizona Executive Branch Entities	Means all agencies, departments, boards, etc. that are governed by the Executive branch of the State of Arizona. Arizona Executive Branch Entities does not include political subdivisions (including the State's Universities, Community Colleges, K-12 School Districts, Counties, Cities, Libraries, etc.).
ARS or A.R.S.	Means Arizona Revised Statutes
Attachment or Contract Attachment	Part of the Contract document containing terms, conditions or requirements of a more granular or procedural level of detail.
Contract	The Terms and Conditions and Attachments as offered by the Contractor and accepted by the State, as well as applicable documents exchanged throughout the solicitation process, including the Solicitation Instructions and Questionnaires, and the Offerors responses to such.
Contract Amendment	A written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.
Contract Term	The time period, defined in the Contract as revised, during which the Contract is in force.
Contractor/Qwest	Means Qwest Interprise America, Inc.
Customer	Any specific individual subdivision of the Arizona State government (including all 3 (three) branches and all Agencies, Departments, Boards, etc.) and any Political Subdivision (including the State's Universities, Community Colleges, K-12 School Districts, Counties, Cities, Libraries, etc.) and any qualifying non-profit organization.
Days	Means calendar days unless otherwise specified.
Economic Price Adjustment	An adjustment in price made to a good or service as changes in industry and/or technology warrant.
EPS	Means Enterprise Procurement Services Division, a division of the Arizona Department of Administration.
Exhibit	An example of something articulated in the Solicitation, Offer or resulting any Contract. Exhibits do not contain terms, conditions or requirements.
Fixed Price	All pricing shall remain fixed for the term of the Contract except as warranted by the changes in industry and/or technology that require an Economic Price Adjustment.

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Force Majeure	An occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts ; injunctions -intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.
Gratuity	A payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received
Manufacturer	A third-party manufacturer of equipment that Contractor is reselling to the State under this Contract.
Materials	All property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.
MPOP	Means Main Point of Presence. The physical location at which the Contractor provides the specific Services for the Customer.
Net Effective Services Price	"Base-offer price" minus the "term discount" minus the "volume discount," where both the term discount and the volume discount are subtracted directly from the "base-offer price." For example if the Contractor offered a "term discount" of 20% and a "volume discount" of 15%, then the "Net effective Services price" equals 65% of the "base-offer pricing."
Node	Any location that has Contractor provided Services.
Offer	A bid, proposal or quotation submitted by an Offeror in response to a Solicitation.
Offeror	A person or entity who responds to the Solicitation.
Performance Period	The term of any authorized CSO.
Procurement Officer	The person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.
Products	Hardware, software and materials provided in accordance with the Scope of Work.
Proposal	The response submitted by an Offeror in response to a Request for Proposals (RFP).
QoS	Means Quality of Service
Requested Services Delivery Date	The earliest date that the Contractor shall initiate recurring charges for new Services.
Services	Offerings from Qwest that (a) install, maintain, or manage Products; or (b) support Customer network management objectives.
Solicitation	An Invitation for Bids ('IFB'), a Request for Proposals ('RFP'), or a Request for Quotations ('RFQ').
Solicitation Amendment	A written document that is signed by the Procurement Officer and issued for the purpose of making changes to the Solicitation.

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State	The State of Arizona and Department or State Entity that executes the Contract.
State Fiscal Year	The period beginning with July 1 and ending June 30,
Subcontractor	An entity acting as a subcontractor, partner or referral partner that will team with Contractor to provide the Services and Products to the State and Customers.

1.1.3. Authority to Contract
The Contract is issued under the authority of the Procurement Officer designated herein.

Procurement Officer: Doug Milford
E-mail: doug.milford@azdoa.gov
Phone: (602) 542-9121

1.1.4. Customers
The Contract shall be available for use by the following Customers.

1.1.4.1. Mandatory Customers
The Contract is for the exclusive use of all Arizona State agencies, boards and commissions (Agencies). See http://www.azeps.az.gov/ProcurementPartners/index.htm.

1.1.4.2. Permissive Customers
In accordance with ARS 41-2642, et seq., the Contract is also available for use by all members of the Arizona State Procurement Cooperative (Cooperative Members). See http://www.azeps.az.gov/ProcurementPartners/index.htm.

1.1.5. Non-Exclusivity
The Contract is for the sole convenience of the State. State shall obtain like supplies and/or services from other sources and authorize off-contract purchases as it determines necessary. Such determinations shall be made at the discretion of the State or its authorized delegate. Off-contract authorization shall be granted as provided for under the Arizona Procurement Code.

1.1.6. Type
In accordance with R2-7-363(C), the Contract shall be Fixed-pPrice with price adjustment.

1.1.7. Contract Term
The term of the Contract shall commence State Input and shall remain in effect for a term of three (3) years, unless terminated, canceled or extended as otherwise provided herein. At its option, the State may unilaterally extend the Contract for additional periods of time such that the initial term and all subsequent extensions do not exceed five (5) years in length.

1.1.8. Quantities
The quantities of supplies and services available under the contract are considerable but indefinite.

1.1.9. Jurisdiction
The Contract shall be subject to the Laws of the State of Arizona, and where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

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1.1.10. Order of Precedence

The terms and conditions as responded to by Qwest with specificity should prevail over the Contract Terms and Conditions; however, if by "as amended" the State expresses its intent to modify the Contract Terms and Conditions to incorporate the negotiated responses to the Offer Forms, then Qwest can accept the Contract Terms and Conditions taking precedence over the Offer Forms.

1.1.11. Relationship of Parties

Contractor is an independent contractor. Neither party to the Contract shall be deemed to be the employee or agent of the other party to the Contract.

1.1.12. Implied Terms

Each provision of law and any terms required by law to be in the Contract are a part of the Contract as if fully stated in it.

1.1.13. Severability

The provisions of the Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

1.1.14. Parole Evidence

The Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

1.1.15. Waiver

Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

1.1.16. Clarifications

The State shall clarify the Contract in writing as necessary, and such written clarification shall govern in case of conflict with the applicable terms and conditions or attachment requirements. In all other matters not affected by the written clarification, if any, the Contract as amended shall govern.

1.1.17. Ownership

Any materials, including reports, computer programs and other deliverables, created by the State or Contractor under this Contract and deemed work-made-for-hire, are the sole property of the State. Ownership of any such materials created in whole or in part by a Manufacturer will be determined independently by the Manufacturer and the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.

1.1.18. Intellectual Property

Any and all intellectual property, including but not limited to copyright, invention, and/or patents paid for by the State and created by the Contractor specifically for the State pursuant to or as a result of this contract ("Work Product"), shall be work made for hire and the State shall be considered the owner of such Intellectual Property. Contractor will notify the State, within 30 days, of the creation of any Work Product which is deemed work for hire. Contractor agrees to execute any and all documents necessary to assure ownership of the Work Product vests in the State and will take no affirmative actions that might have the effect of vesting all or part of the Work Product in any entity other than the State. The Work Product will not be disclosed by the Contractor to any entity not the State, unless disclosure is necessary for the performance of this Contract, without express written consent of the State. The State will have full ownership and title to the Work Product, subject to any restrictions of any third party materials embodied in the Work Product and disclosed to State. Contractor and Manufacturer(s) will have a perpetual, transferable, non-exclusive paid-up right and license to use, copy, modify and prepare derivative works of the Work Product for the purposes set forth in this Contract during the Term of this Contract and as necessary to comply with its regulatory requirements.

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Contractor may utilize or develop intellectual property in its performance hereunder which is owned or licensed by Contractor as part of its commercial offerings ("Contractor's Intellectual Property"). Contractor hereby grants to State a non-transferable (except to authorized subcontractors and agents under this Contract), non-exclusive paid-up right and license to use, copy, modify and prepare derivative works of the Contractor's Intellectual Property for the purposes set forth in this Contract during the Term of the Contract.

In no event shall Contractor or Manufacturer(s) be precluded from developing for itself, or for others, materials which are competitive with, or similar to, the Work Product. In addition, each party shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques that are acquired or used in the course of providing the Products and Services. Nothing set forth herein shall be deemed to transfer ownership of any preexisting intellectual property of either party or of a Manufacturer.

1.2. Prices and Pricing

Contractor shall comply with all prices and pricing requirements set forth herein.

1.2.1. Product Percent of List Price

Contractor shall offer a percent of list price for the entire manufacturer line within Offer Form 1 – Content of the RFP Proposal. Partial list discount and volume discounts shall not apply. The Contractor may offer promotional or volume discounts at any time during the Contract such that the price is at or below the percent of list price within the Contract.

1.2.2. Service Pricing

Any proposal for services shall include coverage to all geographic regions within the State of Arizona. Service areas are divided into two sections, urban and rural, illustrated in "Illustration I: Service Area Map". The Offeror may establish a single price for Rural areas and a single price for Urban areas. All cities specified as Rural shall consider the entire city as Rural regardless if any portion of the city is beyond the specified radius. The four urban areas are;

- Flagstaff with a 20 mile radius from city center
- Yuma with a 20 mile radius from city center
- Tucson with a 25 mile radius from city center
- Phoenix with a 30 mile radius from city center
    - Avondale, Chandler, El Mirage, Glendale, Goodyear, Litchfield Park, Mesa, Peoria, Scottsdale, Tempe, Tolleson

Illustration I: Service Area Map

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http://www.seds.org/~spider/spider/az/arizona.jpg

1.2.3. Applicable Taxes

Contractor shall be responsible for paying all applicable taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the Customer does not relieve the seller from its obligation to remit taxes. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation. 4.3.4 IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

1.2.4. Federal Excise Tax

The State of Arizona is exempt from certain Federal Excise Tax on manufactured goods. Exemption Certificates will be provided by the State.

1.2.5. Expenses

Contractor shall be responsible for facilitator/consultant/instructor expenses. Contractor may bill for certain in-state and out-of-state travel expenses on a case-by-case basis. Contractor shall seek Customer approval before billing for any in-state or out-of-state travel expenses. The Contractor shall not be reimbursed for travel time. If approved by the Customer, in-state and out-of-state travel expenses shall be reimbursed in accordance with State of Arizona Travel Policy. The travel policy may be accessed via the internet at the State of Arizona General Accounting Office website

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(http://www.gao.state.az.us/travel/). Off-site travel is defined as any location outside a 35-mile radius of the Contractor's business or residence. Actual receipts for travel must be submitted for reimbursement of allowable direct costs (lodging, communications, etc.). For those offering services to the Arizona Department of Transportation Partnering Office the following shall apply: Out-of-state travel expenses to and from Arizona shall not be reimbursed. Contractor shall be compensated for travel time to and from off-site assignments at one-half the consulting service hourly rate unless otherwise determined by the Agency.

1.3. Ordering Process

Orders shall be placed by the Customer to the Contractor. Customers may require the Contractor to assist in Order preparation by providing necessary product and services descriptions, operating parameters, and interface information. Contractor shall provide this assistance at no added cost to the Customer. Each Order shall be approved and issued by the Customer or its authorized representative, as follows:

1.3.1. Quote Request

1.3.1.1. Quote Request Form

Customers may request quotes for the specific products and/or services available under the Contract, through the issuance of a Contract Quote or Purchase Quote (Quote Request) to the Contractor. Quote shall include, at a minimum, the following information: 1) Date the quote was requested; 2) Quote Number; 3) Customer information, to the individual department, division or office as applicable; 4) Customer contact person; 5) Term of the Service, including Service start date, expiration date – if applicable, and installation date – if applicable; 6) Total cost to the Customer; and 7) A list or description specifying the quantity, type and special options and/or provisions of the Service. Quote Requests shall cite the Contract number and shall be limited to those products and/or services available under the Contract only.

1.3.1.2. E-Rate Availability

Contractor shall provide E-Rate SPIN number to all Customers as requested.

1.3.1.3. Quote Request Recipient

Contractor, unless otherwise assigned as permitted herein, shall receive all Quote Requests submitted under the Contract.

1.3.1.4. Order Form Format

The Contractor may use any format for the Order Form subject that all requirements by the State are represented on the form. No additional terms and conditions may be present on the form unless the State Procurement Officer provides written authorization.

1.3.2. Purchase Order

1.3.2.1. Purchase Order Form

Orders must cite the Contract number and shall include, expressly or by reference, the cost to the Customer and the Customer's requirements for supplies and/or services available under the contract. Orders shall include, at a minimum, the following information: 1) Date of the Order; 2) Order Number; 3) Setup of Customer's Account (including Customer's profile as required for specific Service, billing, etc.); 4) Term of the Order, including Service start date, termination date (if applicable), and installation date (if applicable); 5) Customer billing address and instructions; 6) Reference to related Orders; 7) Total cost to the Customer; and 8) A list or description specifying the quantity, type and special options and/or provisions of the Service.

1.3.2.2. Customer Provided Equipment and Facilities

Customer may provide at its own expense certain equipment and facilities necessary to receive Services under the Contract, e.g. terminating equipment, floor space, electricity, wall space, and support structures. Contractor shall

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identify requirements for Customer provided equipment and facilities and Customer assumes responsibility for providing same unless otherwise agreed.

1.3.2.3. Extra-contractual Products and Services Prohibited

Any attempt to use an Order to represent any products and/or services not specifically awarded and cited in the Contract as being included in the Contract is a violation of the Contract and the Arizona Procurement Code. Any such action is subject to the legal and contractual remedies available to the State, inclusive of but not limited to Contract termination for default, suspension and/or debarment of the Contractor.

1.3.2.4. Order Delivery

Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

1.3.2.5. Acceptance

Contractor shall acknowledge acceptance of all Orders. Contractor shall notify the Customer, in writing or electronically, within five (5) days of Order receipt. Orders that are not accepted or not specifically rejected by the Contractor within the five (5) days shall be considered accepted. Customers may accept verbal Order acceptance when time and circumstances require. Order acceptance shall include the reservation of all elements necessary to deploy the Ordered and accepted products and services.

Upon receipt of Products and Services, and/or commencement of continual Services, the Customer shall determine whether all delivered Products and Services meet the applicable Product and Services specifications and quality requirements established herein. Unless otherwise agreed upon in writing between Customer and Contractor, Customer agrees that Qwest has provided the Products and Services herein when the Product is received by Customer. Customer will notify Qwest in writing of any portion of product that is unacceptable. Failure to notify Qwest within 30 days of actual delivery date, or such shorter period as a Manufacturer may impose upon Qwest (in which case the shorter notification period will be binding upon the State), constitutes final acceptance. Qwest will have a 30 day right to cure any portion of the Product that has been rejected. Any portion that is not rejected and which is functionally divisible may be invoiced separately.

No payment shall be made for any Products and Services until the Customer has accepted the Products and Services ordered.

1.3.2.6. Order Acknowledgement

Contractor shall acknowledge receipt of all Orders. Contractor shall notify the Customer, in writing or electronically, within two (2) days of Order receipt. Customers may accept verbal Order acknowledgment when time and circumstances require.

1.3.3. Product Catalog

Product Catalogs contained within the contract may contain products that are outside the scope of this contract. Customers shall verify that products being purchased through this contract are within the scope of the contract before any transaction is performed. Catalogs were kept whole during the solicitation to prevent partial manufacturer line submissions.

1.4. Order Modification or Cancellation

1.4.1. Modification or Cancellation prior to Order Acceptance

Customer may, at any time prior to Order acceptance, modify or cancel the Order, in whole, or in part. Customer shall have no liability for making such modifications or cancellations.

1.4.2. Modification or Cancellation after Order Acceptance

Customer may modify or cancel an Order after Order acceptance. Contractors may modify Orders as authorized by the Customer. Modifications or cancellations shall be executed in writing or electronically. Any unauthorized modification or cancellation by Contractor shall constitute a material breach of the Contract and, at the Customer's option, cause the Order

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to be void. Customer liability for modifications or cancellation made after Offer acceptance shall be limited to the full cost of all non-recoverable expenses, including without limitation amounts actually paid or payable by Qwest to Manufacturers, caused by the modification, not to exceed the charges for products and services in the Order which would be payable had the order not been modified or cancelled by the Customer. Customers may cancel an Order due to Contractor's failure to perform in accordance with the Order notification, and/or the service level agreements contained in the Contract that are related to that Order. Cancellation for Contractor default on an Order shall limit Customer liability to the reoccurring and non-reoccurring costs already accepted and in use by Customer.

1.5. Billing and Payments

Contractor shall comply with the following billing and payment requirements.

1.5.1. Billing and Payment Periods

Within thirty (30) days of receipt and acceptance of products or services, the Contractor shall submit to the Customer a complete and accurate invoice for payment. In accordance with A.R.S. Titles 35 and 41, Customer payments shall be due to the Contractor within thirty (30) days upon receipt of an accurate and complete invoice.

1.5.2. Billing Address

Unless otherwise indicated in the Order, invoices shall be addressed to the Customer.

1.5.3. Billing Media

Qwest invoices are only available in hard copy paper format.

1.5.4. Billing Detail

Invoices submitted for payment shall contain the same description detail as provided in the Quote Form, at a minimum, shall identify all products and services, the unit price, units of quantity, extended price, service address or location of Service, and invoice total, for both paper and electronic media. .

1.5.5. Billing Pro-Rated Services

All Services billings shall be based on a pro-ration of the total monthly Services charge rate.

1.5.6. Billing Adjustments

Billing adjustments and/or revised invoices shall be documented in writing in accordance with the Billing Adjustments section of the Dispute Resolution process contained herein.

1.5.7. Billing Disputes

Billing disputes shall be addressed in accordance with the Billing Disputes section of the Dispute Resolution process contained herein. Contractor shall work with Customer, or their designee (which may be an approved Subcontractor), to automate the dispute process between Contractor and Customer authorized computer systems. Contractor shall provide a responsibility matrix identifying representatives, their phone number and email address, for questions and resolution of issues, including escalation of unresolved disputes.

1.5.8. Billing Agent

Contractor may use an Agent (designated herein as a Subcontractor) to prepare and submit invoices and receive Customer payments, on behalf of but in the Contractor's name. Contractor shall remain responsible for the accuracy and correctness of the invoices issued and payments collected by any billing Agent. If Contractor exercises this option, Contractor shall promptly notify Customer in writing of such arrangement for invoicing and collection, including name, mailing and street addresses, and telephone number for the firm and the individual person responsible for this function, and any changes thereto.

1.6. Nonconforming Tender

Materials or services supplied under this Contract shall materially comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not materially comply, which non-compliance is not cured within 30 days of

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notification will constitute a breach of contract and the State may terminate the Contract for default exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it, all as subject to the limitations set forth in this Contract.

1.7. Dispute Resolution

1.7.1. Operation Dispute

Customers may submit a fully documented Contractor Performance Report (CPR) to the Procurement Officer. Documentation to accompany the CPR shall include the Contractor's acknowledgement and resolution plan (if applicable), and a statement confirming that the resolution plan was not met or an explanation why the resolution plan was not acceptable. CPRs and accompanying documentation will serve as a foundation to any further recourse in accordance with the Remedies provisions established herein. CPRs can be found at the following URL.

http://www.azeps.az.gov/PoliciesDocuments/index.htm

1.7.2. Billing Dispute Resolution

Contractor and Customers shall use the following process in identifying and mitigating performance issues or problems associated with billing issues under the Contract.

1.7.2.1. Billing Adjustments

Revised invoices or billing adjustments shall apply only to Contractor's Services that can be verified by the Customer, and requests for such adjustments must be submitted in writing to the Customer within 60 days of invoice delivery; shall reference the original invoice in which the error was made, and contain sufficient level of detail to make a reasonable determination of fact. Billing Adjustments, once determined to be fact, shall be documented in writing on all forms of billing, paper and electronic, in the next billing cycle.

1.7.2.2. Billing Disputes

Failure by Customer to pay any portion of or the entire invoiced amount based on Contractor billing errors or disputed charges shall not constitute default under this Contract. Customer will pay undisputed portions of disputed or incorrect invoices where Customer can easily identify the undisputed portion. Payment of an amount less than the total amount due on all unpaid invoices shall be credited as directed by Customer. In no event shall Contractor apply any payment or portion thereof to any particular amount or item that is subject to any claim of error or dispute between the parties.

1.8. Administration

Contractor shall cooperate with the Procurement Officer in the administration of the Contract in accordance with the following requirements.

1.8.1. Contract File

Contractor shall cooperate with the Procurement Officer in the administration of the Contract, to create a record of Contractor performance to be documented and maintained within a Contract File. In addition to the Contract Document, including all terms, conditions and attachment requirements herein, the Contract File shall also include.

1.8.1.1. Solicitation Documents

Solicitation documents shall include the State's RFP as amended, the Contractor's Offer as revised, documentation of Discussions, and evaluation documents resulting in the formation of the Contract.

1.8.1.2. Contract Amendment Documents

Contract changes shall include all requests for changes, analysis and justifications for changes, any formal determinations or authorizations for changes and all Contract Amendments associated with each change or set of changes made to the Contract.

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1.8.1.3. Contract Correspondences

Contract correspondences shall include all relevant e-mails, letters, fliers, circulars and announcements from the State, Contractor, Customers or other interested parties regarding the Contract.

1.8.2. Usage Reports and Documents

Usage documentation shall include all reports, analysis, Customer surveys and applicable statistics regarding the consumption activity under the Contract. Contractor shall, on a quarterly basis and within thirty (30) days of the quarter's end, submit to the Procurement Officer a usage and service level report regarding the purchase of products and services, and the level of service performance provided under the Contract. The format, electronic and hard-copy, of all such reports shall be approved by the State and shall include the quantity and the dollar value of each Contract item by Customer and any further subdivisions within each as required by the State. If Usage Reports required herein are submitted more than thirty (30) days late, are incomplete, or are late or incomplete more than three (3) times throughout the Contract's term, the State may seek remedies available to it herein including Temporary Suspension, Stop Work Order or Termination for Default.

1.8.2.1. State Summary

Contractor's report shall include a summary of activity of all State Customers using the Contract, what they are purchasing and how much they are spending per product and/or service, and in aggregate.

1.8.2.2. Cooperative Member Summary

Contractor's report shall include summary of activity of all Cooperative Member Customers using the Contract, what they are purchasing and how much they are spending per product and/or service, and in aggregate.

1.8.2.3. Geographic Volumes

Contractor's report shall include a summary of activity of all Customers statewide by product and service, by geographic area, e.g., City any County

1.8.2.4. Compliance and Performance

Contractor's report shall include a summary of Contractor activities performance-related metrics demonstrating ongoing compliance with the terms and conditions and requirements of the Contract as well as satisfactory levels of customer satisfaction, complaint documentation and resolution, benefits realization and other issues and action items. Related documentation shall include any commendations, complaints, and all documents resulting from problem resolution activities.

1.8.2.5. Benefits Realization

Contractor's report shall include a summary of benefits realized by the State and its Customers through the continued utilization of the Contract. Benefits shall at a minimum include, savings from standard government rates aggregate for the Contract, for State Customers and for Cooperative Member Customers. Benefits may also include other value-added services, Customer incentives and examples of superior Customer support.

1.8.3. Performance Management

Contractor shall cooperate with the Procurement Officer in the administration of the Contract, to review performance indicators, to identify performance issues before, or promptly after, a problem occurs, and to address and resolve performance problems in a timely and responsible manner.

1.8.3.1. Annual and Semi-annual Meetings

Contractor shall, at least once annually and more frequently as required by the State, meet with the Procurement Officer and/or members of delegated representatives in the State's TPO, to review Contractor performance against the terms, conditions and requirements of the Contract.

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1.8.3.2. Issue and Problem Resolution

When an issue or problem requires notice and mitigation steps by the parties, the State and Contractor shall follow the same Dispute Resolution process as set forth herein. Depending on the severity of the issue or problem, the State may at its discretion, bypass the Dispute Resolution process herein and precede directly to the Remedies provisions of the Contract.

1.8.3.3. Responsibility Documentation

Contractor's past performance is a standard determinant of Offeror Responsibility in the award of Arizona State Contracts. Contractor performance, as documented in the Contract File, may positively or negatively effect future proposals submitted in response to solicitations conducted by the State of Arizona, its agencies, boards or commissions, as well as members of the State Purchasing Cooperative.

1.8.4. Amendments

Notwithstanding any other references hereto, the Contract may be modified only through a bilateral Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the State in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes. The State may unilaterally amend and/or revise the Contract to update certain Attachments herein that apply to information subject to periodic changes that do not directly affect the Scope of the Contract such as but not limited to Contact Personnel and Eligible Customers. Contract amendments shall be effective as of the date of the executed amendment unless otherwise stipulated therein

1.8.4.1. Term Extensions

It shall be the State's option to unilaterally extend the Contract beyond this initial term for two (2) additional one (1) year terms, or any other shorter or longer periods, such that the total aggregate contract term does not exceed five (5) years in length. In the event the State exercises its option to extend the contract, all terms, conditions and provisions of the original contract shall remain the same and apply during the extended term.

1.8.4.2. Changes, Products and Services

The State, at its sole discretion may allow new products announced by manufactures represented on the Contract to be incorporated. The request may be submitted at any time during the Contract's term and shall be supplemented with the following information. Failure to supply any of the following information with the request shall result in the State not considering the request: 1) A formal announcement from the Contractor stating that the product(s) are new and were not available at the time of Contract award; 2) Documentation from the manufacturer that cites the effected products by item number and description; 3) Documentation that provides clear evidence that the new products are those that are within an established contract group. No other products will be allowed; 4) Documentation that states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the materials or services involved and that will be sold at the existing discount (percents %) of list price as existing products. Approval shall be in the form of a Contract Amendment and shall become effective on the date specified in the amendment. Upon approval by the State, the Contractor shall make available all electronic and hard catalog/price list updates to all Customers at no additional cost to the State.

1.8.4.3. Price Adjustment

1. Decreases (Increases in Discount)

In accordance with R2-7-363(C)(1) and (2), the State may allow an increase of the percentage discount off of list price at any time during the contract's term.

2. Increases (Decrease in Discount)

In accordance with R2-7-363(C)(1) and (2), any decrease to discounts off the Manufacturer's published list price may be allowed by the State only after the Contract has been in place for at least one (1) year. Contractor shall submit all requests for such discount decreases in writing, electronic or hard copy formats.

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1.9. Remedies

1.9.1. Demand for Assurance

If the State has reason to believe that the Contractor does not intend to, is unable to perform or continue performing under this Contract, the Procurement Officer may issue a formal Demand for Assurance letter demanding written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of days specified in the demand may, at the State's option, be the basis for terminating the Contract or other rights and remedies available by law or provided by the Contract.

1.9.2. Temporary Suspension

In addition to the rights reserved in the Contract, the State may temporarily suspend the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required usage reports, insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the temporary suspension and the reasons for it to the Contractor.

1.9.3. Claims

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted there under.

1.9.4. Right of Offset

The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

1.9.5. Termination

1.9.5.1. Default

In addition to the rights reserved in the Contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any material term or condition of the Contract. The Procurement Officer shall provide written notice of the State's intent to terminate together with a description of the material breach to the Contractor and the Contractor shall have thirty (30) days to cure the breach. In the event of termination under this paragraph and to the extent considered work-made-for-hire, and subject to Sections 1.17 and 1.18 herein, documents, data and reports created by the Contractor under the Contract shall become the property of and be delivered to the State upon demand.

In the event of a material breach by the Contractor with respect to a particular Product or Service under the Contract, which is not cured within the 30 day cure period, Contractor shall be liable to the State for costs of cover incurred by the State in procuring a replacement product or service so long as the State: (1) procures a substantially similar product or service under the same terms and conditions as provided in the Contract, and (2) otherwise takes all reasonable steps to mitigate the amount of costs incurred.

1.9.5.2. Conflict of Interest

Pursuant to A.R.S. § 38-511, the State may terminate this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.

1.9.5.3. Gratuities

The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the

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Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

1.9.5.4. Suspension or Debarment

The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an Offer or execution of a Contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.

1.9.5.5. Convenience

The State reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the State without penalty or recourse, except as set forth below. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph and to the extent considered work-made-for-hire, and subject to Sections 1.17 and 1.18 herein, documents, data and reports created by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply.

1.9.5.6. Availability of Funds

I. Current State Fiscal Year

Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may accept a decrease in price offered by the Contractor, cancel the Contract or cancel the Contract and re-solicit the requirements.

II. Next State Fiscal Year

Funds may not presently be available for performance under this Contract beyond the current State fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current State Fiscal Year until funds are made available for performance of this Contract.

1.9.5.7. Continuation of Performance beyond Expiration or Termination

Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in any termination notice.

I. Continuation of Contractor's Representations and Warranties

All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that to the extent required by A.R.S. § 12-510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

II. Continuation of Orders

Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

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1.9.5.8. Arbitration

After exhausting applicable administrative review, the parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes (Title 41).

1.9.5.9. Non-Exclusive Remedies

The rights and the remedies of the State under this Contract are not exclusive.

1.10. Risk and Liabilities

1.10.1. Risk of Loss

Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance.

1.10.2. Indemnification

The parties to this contract agree that the State of Arizona, its' departments, agencies, boards and commissions shall be indemnified and held harmless by the Contractor for the vicarious liability of the State as a result of the negligent acts or omissions of Contractor. However, the parties further agree that the State of Arizona, its' departments, agencies, boards and commissions and Customers shall be responsible for their own negligence and conduct. Each party to this contract is responsible for its' own negligence.

1.10.3. Patent and Copyright

Qwest will defend and may settle, at its own expense, any third party claim or suit against the State alleging that any Qwest Products and Services furnished under this Contract when used in conformity with all instructions and documentation, infringe any valid United States patent, issued as of the Effective Date, or United States copyright. Qwest will also pay all damages and costs that by final judgment may be assessed against State due to such infringement. Qwest's obligations are expressly conditioned upon the following: (1) that State shall promptly notify Qwest in writing of any allegation or notice of alleged infringement; (2) that Qwest shall have sole control of the defense or settlement; (3) that State shall cooperate with Qwest in a reasonable way to facilitate the settlement or defense; and (4) that the action does not arise from modifications made by a party other than Qwest, or from incorrect use of or combinations of Products provided by Qwest with products provided State by others or transmission of customer supplied content, data, or other information which gives rise to the claim. If the Qwest Product becomes , or in Qwest's opinion is likely to become the subject of a claim of infringement, Qwest will, at its option: (1) procure for State the right to continue using the applicable Product; (2) replace or modify the Product to provide State with a non-infringing product that is functionally equivalent in all material respects; (3) or if (1) or (2) are not reasonably achievable by Qwest, remove the Product and refund State the price as amortized or depreciated by an equal annual amount over the lifetime of the product as determined by Qwest. Qwest's obligation to defend, settle and pay judgment regarding such an infringement claim shall not apply to systems, Services, Products, equipment or software not created or manufactured by Qwest, notwithstanding that such other provider or Manufacturer is engaged on Customer's behalf by Qwest TO THE EXTENT PERMISSABLE BY STATE LAW, THIS SUBSECTION SETS FORTH THE SOLE AND EXCLUSIVE REMEDY OF CUSTOMER, AND THE ENTIRE OBLIGATION AND LIABILITY OF QWEST, AS TO ANY CLAIMS OF INFRINGEMENT OR MISAPPROPRIATION OF THIRD PARTY PROPRIETARY RIGHTS IN CONNECTION WITH ANY SERVICES PROVIDED HEREUNDER.

1.10.4. Force Majeure

Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of Force Majeure. Force Majeure shall not include the following occurrences: Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market; late performance by a subcontractor unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition; or Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits. If either party is delayed at any time in the progress of the work by Force Majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a

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specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by Force Majeure.

1.10.5. Third Party Antitrust Violations

Contractor shall assign to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

1.10.6. Performance Bond

The contractor may be required to furnish an annually renewable performance bond to the State of Arizona, binding the contractor to provide faithful performance of the contract. This performance bond will be at the discretion of the project manager requesting and overseeing the task order once awarded and shall be effective for the duration of the specific task that was quoted. The project manager requesting the performance bond may set the bond value to any amount up to the value of the project or $500,000, whichever is less. The security shall be a pass thru charge and must be quoted separately with each task quote to offer the project manager an option to accept or decline. Performance security shall be in the form of a performance bond, certified check or cashier's check. This security, if required by the project manager, must be in the possession of the state within ten (10) calendar days from receipt of notice of award. If the contractor fails to execute the security document, as required, the contractor may be found in default and contract terminated by the state. In case of default, the state reserves all rights to recover as provided by law.

1.10.7. Safety Standards

All supplies and/or services purchased under the Contract shall at a minimum comply with the current applicable occupational safety and health standards of the State of Arizona Industrial Commission, the National Electric Code, and the National Fire Protection Association Standards, as applicable.

1.10.8. Year 2000

Notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that all products delivered and all services rendered under this Contract shall comply in all respects to performance and delivery requirements of the specifications and shall not be adversely affected by any date-related data Year 2000 issues. This warranty shall survive the expiration or termination of this Contract. In addition, the defense of force majeure shall not apply to the Contractor's failure to perform specification requirements as a result of any date-related data Year 2000 issues. Additionally, notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that each hardware, software, and firmware product delivered under this Contract shall be able to accurately process date/time data (including but not limited to calculation, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other information technology utilized by the State in combination with the information technology being acquired under this Contract properly exchanges date-time data with it. If this Contract requires that the information technology products being acquired perform as a system, or that the information technology products being acquired perform as a system in combination with other State information technology, then this warranty shall apply to the acquired products as a system. The remedies available to the State for breach of this warranty shall include, but shall not be limited to, repair and replacement of the information technology products delivered under this Contract. In addition, the defense of force majeure shall not apply to the failure of the Contractor to perform any specification requirements as a result of any date-related data Year 2000 issues.

1.10.9. Insurance

Contractor shall provide insurance and otherwise indemnify the State in accordance with the following requirements.

1.10.9.1. Insurance Indemnification Clause

Contractor shall indemnify, defend, save and hold harmless the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees (hereinafter referred to as “Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys’ fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as “Claims”) for bodily injury or

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personal injury (including death), or loss or damage to tangible property caused, or alleged to be caused, in whole or in part, by and to the extent of the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising from and to the extent of the negligent or willful acts or omissions of the Indemnitee, be indemnified by Contractor from and against any and all claims as specified herein. It is agreed that Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Contractor agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents and employees for losses arising from the work performed by the Contractor for the State of Arizona to the extent such loss is caused by the negligent or willful act or omission of the Contractor.

1.10.9.2. Insurance Requirements

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in conjunction with the performance of the work due to the negligent acts or omissions by the Contractor, his agents, representatives, employees or subcontractors under this Contract. The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

1.10.9.3. Minimum Commercial General Liability

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage as provided under ISO Form CG 0001 10 01 or equivalent.

General Aggregate	$5,000,000
Products – Completed Operations Aggregate	$5,000,000
Personal and Advertising Injury	$5,000,000
Blanket Contractual Liability – Written and Oral	$1,000,000
Fire Legal Liability	$ 50,000
Each Occurrence	$1,000,000

The policy shall be endorsed or equivalent to include the following additional insured language: "The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability for damages for personal injury, bodily injury and property damage arising out of the activities performed by or on behalf of the Contractor under this Contract". Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses caused by and to the extent of Contractor's negligent acts or omissions arising from work performed by or on behalf of the Contractor under this Contract.

1.10.9.4. Minimum Automobile Liability

Bodily Injury and Property Damage for any Contractor owned, hired, and/or non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL)	$2,000,000

The policy shall be endorsed or equivalent to include the following additional insured language: "The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insureds with respect to liability for damages for personal injury, bodily injury and property damage arising out of the activities performed by or on behalf of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor".

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Minimum Worker's Compensation and Employer's Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	$ 500,000
Disease – Each Employee	$ 500,000
Disease – Policy Limit	$1,000,000

Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses caused by and to the extent of the negligent acts or omissions of Contractor and for those whom Contractor is responsible arising from work performed by or on behalf of the Contractor under this Contract. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. 23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

1.10.9.5. Minimum Professional Liability (Technology Errors and Omissions Liability)

Each Claim	$1,000,000
Annual Aggregate	$2,000,000

Technology Errors and Omissions Liability Insurance, otherwise known as Professional Liability Insurance covering Contractor's liability for acts, errors, or omissions arising out of Contractor's operations or services with limits of $1,000,000 and $2,000,000 in the aggregate and providing coverage for amounts Contractor is legally required to pay as damages for covered losses that result from Contractor's electronic and information technology products or services that are caused by an actual or alleged error, omission or negligent act by the Contractor. Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed. Policy shall contain a waiver of subrogation against the State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses caused by and to the extent of the negligent acts or omissions of Contractor arising from work performed by or on behalf of the Contractor under this Contract.

1.10.9.6. Additional Insurance Requirements

The policies shall include, or be endorsed to include, the following provisions. The State of Arizona, its departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees wherever additional insured status is required such additional insured shall be covered to the limits of liability required by this Contract. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources but only for the actions of Contractor and for those whom Contractor is responsible. The fulfillment of the insurance obligations under this Contract shall not otherwise relieve the Contractor of any liability assumed under the indemnification provisions of this Contract.

1.10.9.7. Notice of Cancellation

Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage as is provided under standard ISO Forms CG 0001 10 01 and CA 0001 10 01 or in limits below the limits required under this Agreement except after thirty (30) days prior written notice has been given to the State of Arizona. Such notice shall be sent directly to the Contract Administrator in the Enterprise Procurement Services Division of the State of Arizona Department of Administration.

1.10.9.8. Acceptability of Insurers

Insurance is to be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

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1.10.9.9. Subcontractors

Contractor shall require Subcontractor to furnish to the State of Arizona separate certificates and endorsements evidencing Subcontractor's insurance. If a Subcontractor is unable to so certify, Contractor shall provide the State with adequate protection. All coverages for subcontractors shall be subject to the minimum requirements identified above.

1.10.9.10. Approval

Any modification or variation from the insurance requirements in this Contract shall be made by the Department of Administration, Risk Management Section, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

1.10.9.11. Exceptions

In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

1.10.9.12. Verification of Coverage – Certificate of Insurance

Contractor shall furnish the State of Arizona with Certificate(s) of Insurance (ACORD form or equivalent approved by the State of Arizona which approval shall not be unreasonably withheld) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf or by an insurance broker who issues the certificate. All certificates and endorsements are to be received and approved by the State of Arizona before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract. All certificates required by this Contract shall be sent directly to the Contract Administrator in the Enterprise Procurement Services Division of the State of Arizona Department of Administration. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time for review only at a mutually agreeable Contractor location in Phoenix, AZ. DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT SECTION.

1.11. Quality

EXCEPT AS MAY BE SPECIFICALLY SET FORTH IN THIS AGREEMENT, THE PRODUCTS ARE PROVIDED WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. NO ADVICE OR INFORMATION GIVEN BY QWEST, ITS AFFILIATES, AGENTS, OR CONTRACTORS OR THEIR RESPECTIVE EMPLOYEES WILL CREATE A WARRANTY. Qwest is not responsible for any defects or damages resulting from mishandling, abuse, misuse, accident, electrical power surges or current fluctuations, Force Majeure events, improper storage, or operation, including use in conjunction with equipment electrically or mechanically incompatible with or of inferior quality to the supplied equipment or failure to maintain the environmental conditions specified by the Manufacturer or Qwest.

1.11.1. Warranty

Qwest will pass-through and assign to Customer all applicable warranties provided by the Manufacturer of the applicable Product to the Customer, or in the alternative will provide such other warranty(ies) as the Manufacturer may permit Qwest to offer to resale end-users. Such pass-through warranties and other warranties Qwest is permitted by Manufacturer to offer will be for at least one year at no additional charge to Customer. All Products purchased from Qwest are subject to the terms and conditions set forth in the Manufacturer's warranty, end-user license or agreement applicable to the Product, with no warranty of any kind from Qwest. Qwest disclaims any liability for loss, damage or injury to any party as a result of any defects, latent or otherwise, in any Product. Qwest is not: (a) a manufacturer of any Product; (b) a party to any agreement between Customer and a Manufacturer for Products or Services provided directly by the Manufacturer to Customer (e.g., maintenance and extended warranty services); and (c) bound by or liable for any representation, warranty, or promise made by a Manufacturer. All warranty coverage periods start on the date the Product is shipped from the manufacturer unless manufacturer warranty card included with Product states otherwise. Warranty claim support is provided at the discretion of Qwest and is subject to change without notice. UNDER NO CIRCUMSTANCE WILL QWEST'S SUPPORT OF ANY CUSTOMER WARRANTY CLAIM EXCEED THE SUPPORT OF ANY CUSTOMER WARRANTY CLAIM EXCEED THE

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SUPPORT, POLICIES, OR PROCESSES EXTENDED TO QWEST BY PRODUCT MANUFACTURER. Qwest will provide all warranties to Customer for all Products Qwest provides under this contract through Qwest's 24 hour CPE Repair and Maintenance center at 800-421-2271 for Voice and Video CPE and 800-227-2218 for Data CPE.

1.11.1.1. Liens

Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens

1.11.1.2. Fitness

Contractor warrants that any Material supplied to the State shall fully conform to all requirements of the Contract.

1.11.1.3. Inspection and Testing

The warranties set forth in subparagraphs 1.1. through 1.2. of this paragraph are not affected by inspection or testing of or payment for the materials by the State.

1.12. Service Levels

The State and the Contractor may agree to some service level agreements ("SLAs") which do not give rise to liquidated damages upon service level non-performance. These service levels must nonetheless be measured, managed, and reported as set forth in the Contract as amended. Service level non-performance can also create material breach of the contract in the event of chronic, repeated failures. In the event that, during any consecutive thirty (30) day period, the contractor fails to perform any required service, or any defined vendor service level falls one (1) percentage point or more below the target levels for the affected service established as agreed upon by the contractor and the State upon negotiations which will be conducted by Contractor and State or Customer on an order by order basis, the contractor shall pay liquidated damages to the State, to compensate for the service level nonperformance. The amount of the liquidated damages ("SLA credits") and the target levels will be determined and set forth, if applicable, in final purchase order and will vary on the basis of the relative importance of the applicable required service or service level and per the negotiations between Contractor and State or Customer.

1.12.1. Service Level Nonperformance – Liquidated and Other Damages

The State and the Contractor may agree to some service level standards which do not give rise to liquidated damages upon service level non-performance. These service levels must nonetheless be measured, managed, and reported as set forth in the Contract as amended. Service level non-performance can also create material breach of the contract in the event of chronic, repeated failures. In the event that, during any consecutive thirty (30) day period, the contractor fails to perform any required service, or any defined vendor service level falls one (1) percentage point or more below the target levels established as agreed upon by the contractor and the State, the contractor shall pay liquidated damages to the State, to compensate for the service level nonperformance. The amount of the liquidated damages will be determined based upon a formula to be set forth in the final definitive contract and will vary on the basis of the relative importance of the applicable required service or service level, and shall be a reasonable estimate of the damages incurred by the State due to the service level nonperformance.

1.12.2. Service Level Nonperformance – Root Cause Analysis and Remediation

In the event of the Contractor's failure to perform required services or meet agreed upon service levels or other Contractor service agreements as required by the State under this Contract, the Contractor shall perform an analysis of the cause of the service level problem and implement remediation steps as appropriate. The Contractor shall supply documentation of the analysis and the remediation steps to the affected Customer. The affected Customer shall have the right to review the analysis and approve the remediation steps including the schedule prior to or subsequent to their implementation, as deemed appropriate by the affected Customer.

1.12.3. Contract Restructure After Award

The State may clarify any Contract following award. This clarification shall not substantially alter the contents of the Contract, but shall only edit and reformat the Contract in a manner that will facilitate ease of use, contract administration, and concurrence of the Parties.

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1.13. General

1.13.1. Notices

Notices between the State and Contractor regarding the Contract, shall occur between the Procurement Officer and the Contractor's Contract Contact Person as designated herein Offer Form – Key Personnel, as revised.

1.13.2. Manufacturer Full-line Evidence

The State may at any time during the solicitation or after Contract award require evidence that the Vendor is authorized to sell and distribute the full line of products offered by any manufacturer the Vendor is Offering or awarded. This evidence may include a letter from the manufacturer verifying the Vendor's full line authorization.

1.13.3. Key Personnel

Contractor shall provide an adequate staff of experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under the Contract. Contractor shall assign specific individuals to key positions in support of the Contract. Once assigned to work under the Contract, Key Personnel shall not be removed or replaced without written notice to-the State. If Contractor's Key Personnel are removed or replaced during the Term, Contractor shall make reasonable efforts to facilitate a smooth transition and shall replace such Key Personnel with personnel who are equally qualified to perform the functions required by such Key Personnel under this Agreement. As requested by the State, Contractor shall remove and/or replace Key Personnel from performance under the Contract. Notices of changes to Key Personnel shall include: the name of Key Personnel; their relevant qualifications and experience; their specific responsibilities under the Contract; and all contact data including telephone number(s) and e-mail address.

It is Qwest's goal to provide the State with a consistent on-going Account Team with as little turnover as possible and we will make every reasonable effort to maintain your Account Team. Qwest is open to a request from the State to make a change to the Account Team.

Qwest asks to provide notice to the State as opposed to approval of the State if an employee is removed and or replaced. It is the employee's prerogative and outside of Qwest's control should an employee wish to leave the Account Team. Therefore the State's approval or disapproval would likely have no impact on the employee's decision to leave the Account Team. Qwest will provide as much advance notice as possible to the State in the event of a change to the Account Team, including the requested details above.

1.13.4. Subcontracts and Subcontractors

1.13.4.1. Approval Process

Contractor shall not enter into any Subcontract for the performance of the Contract without the advance written approval of the State. If the Contractor adds a Subcontractor, the Contractor shall clearly list all proposed Subcontractors and the Subcontractors' proposed responsibilities under the Contract. All Subcontracts, current or subsequently added, shall incorporate by reference the terms and conditions of the Contract.

1.13.4.2. Limitation of Products

Subcontractors shall only be available to sell products that the Contractor has been awarded unless otherwise authorized in writing by the Procurement Officer.

1.13.5. Assignments and Delegations

Contractor shall not assign any right nor delegate any duty under the Contract without the prior written approval of the State. The State shall not unreasonably withhold approval.

1.13.6. Records

In accordance with A.R.S. § 35-214 and § 35-215, the Contractor shall retain and shall contractually require each Subcontractor to retain all data and other 'records' relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

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1.13.7. Licenses

Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of a business conducted by the Contractor.

1.13.8. Security

Contractor's current and subsequent personnel, as well as those of their duly recognized Subcontractors, shall comply with all applicable statutes, administrative regulation, policies, practices and procedures while providing supplies and/or services under the contract. Notwithstanding any additional security requirements in the Scope of Work, as deemed necessary by the State, certain personnel with access to sensitive information and/or infrastructure of the State or an Eligible Agency, shall be subject to background checks.

1.13.9. Audit

In accordance with ARS § 35-214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

1.13.10. Facilities Inspection and Materials Testing

Contractor agrees to permit access to its facilities, and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The inspector must be escorted by a Qwest employee to inspect any Qwest owned facilities for security purposes. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

1.13.11. Confidentiality (End-users)

Notwithstanding aggregate usage statistics used for reporting purposes, Contractor shall keep confidential all information concerning individual end-users. Contractor shall not, under any conditions, resell, transfer or convey information about end-users to any third party, except as required and only to the extent necessary in its performance hereunder or as allowed under applicable law or regulation. Contractor shall not retain or reuse information about the end-users, except as required in its performance hereunder and only to the extent necessary or as allowed under applicable law or regulation.

1.13.12. Confidentiality of Records

Contractor shall establish and maintain procedures and controls acceptable to the State for the purpose of assuring that information or data in its possession is not mishandled, misused, released, disclosed, or used in an inappropriate manner by it, its agents, officers, or employees, including information contained in its records obtained from the State or others, necessary for contract performance. Persons requesting such information shall be referred to the State. Contractor shall take all reasonable steps and precautions to safeguard this information and data and shall not divulge the information or data to parties other than those needed for the performance of duties under the contract. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of the contractor as needed for the performance of duties under the contract, unless otherwise agreed to in writing by the State.

1.13.13. Offshore Performance of Work Prohibited

Due to security and identity protection concerns, all services under this contract shall be performed within the borders of the United States. All storage and processing of information shall be performed within the borders of the United States. This provision applies to work performed by subcontractors at all tiers.

1.13.14. Advertising and Promotion of Contract

Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.

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1.13.15. Non-discrimination

Contractor shall comply with State Executive Order No. 99-4 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

1.13.16. Compliance with Applicable Laws

The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable licenses and permit requirements.

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2. Scope of Work

The State of Arizona, its agencies, boards and commissions (State) as well as participating members of the State Purchasing Cooperative (Cooperative), have an ongoing requirement for various Products and Services as described herein. The purpose of the Solicitation is to conduct a competitive process, in accordance with Arizona Revised Statutes (ARS) 41-2501 et seq., to create a contract or contracts from which the State and its Cooperative members may acquire these Products and Services.

2.1. Background

The State currently holds separate contracts for Local & Wide Area Network Equipment (AD000187), Internet Firewall and URL Filtering Software (AD010226), Small Telephone Systems (AD000033), and Fixed Wireless Systems and Related Services (AD020020). Each of these contracts established a minimum set of product-specific, standards-based technology requirements and specifications for manufacturer's equipment to be included under a contract award. Awarded contractors were permitted to propose multiple manufacturer's products and services. During the contract term of these contracts, some products and services have become obsolete, products and services have changed, and overlap of products and services has evolved as manufacturer's expanded and enhanced their offerings.

2.2. Objectives

2.2.1. Products and Services

The State desires to consolidate contracts for what has been traditionally referred to as Local & Wide Area Network Equipment, Internet Firewall and URL Filtering Software, Small Telephone Systems, and certain unlicensed Fixed Wireless Systems. The State acknowledges that the networking/telecommunications industry and it's suppliers is changing rapidly, and as such desires to establish manufacturer-based contracts for Data, Voice, and Multimedia Network-based, Network-embedded Products and Services to include all converged and traditional-separate voice, data, and video network products and services primarily designed, and defined by applicable industry standards, for transporting/receiving data (data, voice, and multimedia) between connection points, destinations or endpoints, rather than product-specific technology requirements, allowing for flexibility to accommodate open-standards-based products, new technologies, and next generation networks.

2.2.2. Management

The State intends to consider Value-Added-Reseller, distributor, as well as manufacturer-direct proposals and may award multiple manufacturer offerings to a successful Value-Added-Reseller and/or distributor. The State desires to obtain vendors who represent multiple manufacturers as well as vendors who represent manufacturers that product specialize products.

2.2.3. Technology

To proactively embrace the changing networking/telecommunications industry, the evolution and improvement of network-based, network-embedded products and services, the expanding importance of networks and connectivity relative to the effective and efficient delivery of government services, and the State's goal of convergence, it is in the State's best interest to establish manufacturer-based contracts rather than contracts that are product-specific, point-in-time technology-based. In reference to the desire for improved flexibility and new technologies described above, the State has adopted industry-wide, open standards and best practices where possible as well as moving towards Internet Protocol (IP) standards, services, and convergence. These standards have been incorporated into Statewide Policies, Standards and technology roadmaps, maintained by the Government Information Technology Agency (GITA). Where possible, the State intends to require evaluations of compliance with accepted standards for the products and services provided by a manufacturer under this contract. Products and services that are certified as compliant with adopted Industry and statewide standards will be granted a greater degree of flexibility as to how they are listed on and provided for under the contract.

2.2.4. E-Rate Compliant:

An objective of this contract is that it be E-Rate compliant and to cohere to all requirements that this compliance entails

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2.3. Scope

2.3.1. Objectives:

The Objectives for this section are to provide for:

- Value-Added-Reseller, distributor, as well as manufacturer-direct proposals
- Network-based, Network-embedded Manufacturer products and services used with both converged and traditional-separate voice, data, and multimedia networks to securely transport/receive information (voice, data, multimedia), rather than specifying product-specific, technology requirements
- Flexible products and services that will evolve to include changing technologies and fully utilize next generation networks
- Products and services that embrace and support the converged network architecture of the State

2.3.2. Scope of Products and Services:

The Scope for Data, Voice, and Multimedia Network-based, Network-embedded Products and Services under this contract includes all converged and traditional-separate voice, data, and video network products and services primarily designed, and defined by applicable industry standards, for transporting/receiving data (data, voice, and multimedia) between connection points, destinations or endpoints. This scope does not include products and services primarily designed to store or process (compute) data, such as mass storage devices, general-purpose servers, midrange or mainframe computer systems, as well as consumer electronic hardware and component parts and accessories.

The Data, Voice, and Multimedia Network-based, Network-embedded Products and Services under this Contract include (1) the actual manufacturer's product or service and all labor, materials, transportation, equipment and other activities for, and reasonably incidental to the installation, integration, and implementation, including engineering analysis, design and configuration, of the manufacturer's product or service, (2) the software and/or hardware maintenance of the manufacturer's product or service, (3) ancillary services in conjunction with the implementation, or extension of a manufacturer's product. Offerors shall make available a complete family or line of business of a manufacturer's products at a "single percentage-of-list-price." Offerors shall make available a similar "single percentage-of-list-price" for hardware/software maintenance within a complete family or line of business of a manufacturer's products.

2.3.3. Specific items included:

The following Data, Voice, and Multimedia Network-based, Network-embedded Products and Services, previously defined and available under the following contracts, are specifically included in this procurement are:

- Networking products and services, such as routers, gateways, switches, modems, CSU/DSU, access devices and servers, concentrators, network-embedded security solutions, caching and content management devices
- Network firewalls, filtering software, and security solutions
- Network Management Products such as management, monitoring, testing, analyzing, and traffic-simulating equipment
- Wireless Products such as IEEE 802.11x (Wireless Local Area Network (WLAN)), IEEE 802.15 (Wireless Personal Area Network (WPAN)), IEEE 802.16 (Wireless Metropolitan Area Network (WMAN)), and Fixed Wireless Equipment and related services, such as access points, transfer points, and controllers, other than microwave, radio, or television antennas and towers, microwave or radio frequency core equipment, designed to receive/transmit data.

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- Video and Audio conferencing equipment, other than audio and visual presentation and composing equipment and consumer electronics, designed to transmit multimedia data

- Telephony products and services, such as IP Telephony systems, PBX and key systems, voice mail and unified messaging systems, teleconferencing, call management systems including Automatic Call Distribution (ACD), Interactive Voice Response (IVR), Computer Telephony Integration (CTI), call accounting, and the associated end-user telephone devices, other than mobile telephones, two-way radios, PDA's, etc., and

- Telephony management, monitoring, testing, analyzing, and traffic-simulating equipment

- Services used in conjunction with the design and analysis, configuration, implementation, installation, training, maintenance, and support of Data, Voice, and Multimedia Network-based, Network-embedded Products and Services

2.3.4. Items not included:

- The following items specifically are not included in this procurement:

- Building Wiring Systems (BWS) and structured cabling systems

- Microcomputer Hardware, Software and Related Services including desktop PC-based firewall and virtual private network (VPN) client-only products and services

- Fixed Wireless Systems and Related Services such as point-to-point and multi-point radios, cabling, antennas, towers, power, frequency coordination, licensing, etc.

- UNIX Workstations & Servers, general purpose

- Disaster Recovery Services

- Value-Added-Software not specifically designed to support and secure the transport of data (as defined above)

- Radio related Products and Services, including Public Safety Communication Equipment, 2-way radios, 900MHz Digital Microwave Radio Systems, and Digital Microwave Radio Equipment

- Wireless Services (Cellular, Data, PDA'S, Pagers)

- Disk Data Storage Hardware, including Network Attached Storage and Storage Area Network

- General Information Technology Research & Advisory Service and IT Consultant Services

- Video and Audio Products, such as audio and visual presentation and composing equipment, cameras, monitors, VCRs and consumer electronics

- Carrier Services, both regulated and unregulated

2.3.5. Usage:

This contract includes Data, Voice, and Multimedia Network-based, Network-embedded Products and Services, defined herein, used by the 3 branches of State government and all Political Subdivisions (including the State's Universities, Community Colleges, K-12 School Districts, Counties, Cities, libraries, etc). Executive Branch entities are required to purchase Data, Voice, and Multimedia Network-based, Network-embedded Products and Services via the resulting Contract(s). All other entities may but are not required to purchase their Data, Voice, and Multimedia Network-based, Network-embedded Products and Services needs via the resulting Contract(s).

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3. Pricing

3.1. Products

The "Percent of List Price" shall apply to all products specified in the manufacturer catalog excluding products outside the scope of this solicitation. To determine the State's price for any product, multiply the "Percent of List Price" to the list price. For example, if the "Percent of List Price" is 60% and the list price for the product is $100, the State's price would be $60 (60%*100).

3Com – 77% of List

Cisco – 59.5% of List

D-Link – 70% of List

Hewlett-Packard – 63% of List

Netgear – 63% of List

Nortel – 62% of List

SonicWall – 67% of List

Tipping Point – 87% of List

WatchGuard – 70% of List

3.2. Hourly Services

	$ Rate Per Hour		Response Time (hrs)	
Service	**Urban**	**Rural**	**Urban**	**Rural**
Design and analysis	**95.00**	**104.50**	**4**	**8**
Configuration	**75.00**	**82.50**	**4**	**8**
Implementation	**65.00**	**71.50**	**4**	**8**
Installation	**65.00**	**71.50**	**4**	**8**
Training	**50.00**	**55.00**	**4**	**8**
Maintenance	**65.00**	**71.50**	**4**	**8**
Support of Data	**65.00**	**71.50**	**4**	**8**
Support of Voice	**65.00**	**71.50**	**4**	**8**
Support of Multimedia Network-based, Network-embedded Products	**75.00**	**82.50**	**4**	**8**

3.2.1. Manufacturers Represented

List out the manufacturer product lines this offer shall provide services for.

Insight is offering the above services for Cisco, HP and 3Com brands.

3.2.2. Maintenance Options

Maintenance programs for installed hardware and software are available from Insight on a prepaid basis at the rates outlined above. Maintenance for hardware and software can be decoupled. This service is described below.

As part of the service plan option, Insight will provide second level troubleshooting support of hardware and system software as outlined in a discovery and requirements document and located at specified locations outlined in the support contract with the client, utilizing trained and certified second level consultants that have significant experience in providing a wide range of infrastructure support. Insight's support service delivers the following:

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- Pager access (via a tech support line) to the named and knowledgeable support consultant familiar with the client environment
- 24x7 phone support for a contract term for the determined sites / locations
- Two (2) hour call back response time (measured from the time the page is received)
- Experienced remote troubleshooting and configuration skills
- Insight will put forth continuous effort to provide timely onsite support if necessary (process for dispatch of onsite support outlined in support contract)
- Regularly scheduled site visit to provide critical patch and or upgrades as recommended by manufacturer, a report on system health and upkeep as well as recommendations on potential upgrades, version releases or performance enhances.

As part of the service plan option, Insight also provides proactive critical patch and application level health checks of hardware and system software as outlined in a discovery and requirements document and located at specified locations outlined in the support contract with the client. Insight's support service delivers the following:

- Regularly scheduled site visit to provide critical patch and or upgrades as recommended by manufacturer.
- A report on system health and upkeep.
- Recommendations on potential upgrades, version releases or performance enhancements.

This support service is a comprehensive reactive and proactive support offering for tier 2, tier 3 and ongoing maintenance of networking, switching, routing and IP communications systems and related sub-systems designed for maximum up-time and client return on investment in these technologies.

3.3. Annual Services

3.3.1. 3COM

3.3.1.1. Description of Annual Service Plan

3Com's GuardianSM service is a comprehensive on-site support or ExpressSM service for advance hardware replacement. Both maintenance service plans include help with technical queries, software upgrades, and web-based support tools. Software Upgrades Service is a standalone service that provides access to incremental software functionality provided by new software releases (limitations apply).

3Com® Guardian Service:
This extended warranty service offers a choice of response times for on-site assistance and hardware replacement. Telephone technical support engineers promptly answer your questions. One predictable annual fee includes download of software upgrades (limitations apply) and access to Web-based troubleshooting and status tools.

3Com® Express Service:
This extended warranty service offers a choice of response times for advance hardware replacement. Telephone technical support engineers promptly answer your questions. One predictable annual fee includes download of software upgrades(limitations apply). Includes software upgrades that are not available from 3Com as a separately orderable product.

Software Upgrades Service:
Software Upgrades extended warranty service includes feature enhancements, incremental functionality, maintenance and bug fixes for each 3Com product you purchase. The standalone Software Upgrades offering, as well as software upgrades included in 3Com's bundled Express and Guardian extended warranty packages, enable you to take advantage of incremental software functionality provided by new software releases. It does not include software that is released by 3Com as a separately ordered product.

Software Application Support Service:
For customers with 3Com software applications this service provides the assistance they need to ensure ongoing system performance and stability. This responsive service provides easy access to 24x7 telephone technical support, bug fixes, software upgrades, and 3Com web services.

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3Com also offers a wide range of service packages in 8x5, 24x7 and 24x7x4 options.

3.3.1.2. Percent of Manufacturer List Price

84%

3.3.1.3. Is the Annual Service Plan for maintenance performed by software? If so, indicate if the software is a product of the manufacturer or the vendor.

The annual service plans are offered as both software and hardware warranty programs outlined in the Annual service plan materials provided above. Service Plans outlined above that can be performed by software are a 3Com product.

Insight has provided as an attachment to our response a 3Com Services MSRP Price List for your review.

3.3.2. Cisco Systems

3.3.2.1. Description of Annual Service Plan

Cisco Systems is the market leader in integrated service offerings providing an array of solutions to meet client needs ranging from phone-based support to onsite technicians through a variety of support options. Insight is proud to partner with Cisco Systems in offering both Insight's service plan as outlined in the Hourly Services Offering as well as Cisco's manufacturer based warranty support plan's outlined in the matrix below. The combination of these programs ensures business and support continuity that is critical to the success of any operation and the return on the investment in communications technologies.

Key Features at a Glance

Product	Assistance Center (TAC) Telephone Hotline	Cisco.com Web Support	Software Upgrades	Hardware Replacement (Without Engineer)	Engineer Onsite	Equipment Covered
SMARTnet	Unlimited	Full Access	OS	Next Business Day 4 hours, 5 or 7 Days a Week 2 Hours 7 Days a Week	No	All
SMARTnet Onsite	Unlimited	Full Access	OS	Next Business Day 4 hours, 5 or 7 Days a Week 2 Hours 7 Days a Week	Next Business Day 4 hours, 5 or 7 Days a Week 2 Hours 7 Days a Week	All
SMB Support Assistant	Within 1 Business Day from SMB TAC	SMB Support Assistant Portal	OS Minor Software Updates	Next Business Day or Same Day Ship Where Available	No	Limited
Software Application Support (SAS)	Unlimited	Full Access	Minor Releases	Not Applicable	Not Applicable	Not Applicable
Software Application Support Plus Upgrades (SASU)	Unlimited	Full Access	Major Releases	Not Applicable	Not Applicable	Not Applicable

3.3.2.2. Percent of Manufacturer List Price

79.5%

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3.3.2.3. Is the Annual Service Plan for maintenance performed by software? If so, indicate if the software is a product of the manufacturer or the vendor.

The annual service plans are offered as both software and hardware warranty programs outlined in the Annual service plan materials provided above. Service Plans outlined above that can be performed by software are a Cisco product.

Per the Cisco representative, all vendors were to use the full Cisco price list as the submitted price list. This price list includes the Smartnet and other service plan part numbers. Upon award or short-listing, Insight will work with Cisco to separate the hardware and services sku's for easier review.

3.3.3. D-Link

3.3.3.1. Description of Annual Service Plan

D-Link® Network Services programs offer smart and affordable protection of your networking infrastructure investment. Adding turnkey maintenance services to your D-Link hardware purchase adds unmatched value over competitive offerings. With most feature-for-feature product comparisons, the total cost of ownership of D-Link hardware with Network Services protection is still much less than competitor's unprotected hardware cos ts alone.

Flexible Program Options
D-Link hardware maintenance solutions are available in a variety of service plans, coverage options and pricing plans. Choose the coverage and response time options that fit the individual business requirements. Select from the available options:

- 24 x 7 x 4 Onsite - Around the clock telephone access along with a 4 hour onsite response for product replacement delivery.
- 9 x 5 x Next Business Day Onsite - Business hour telephone access along with a next business day onsite response for product replacement delivery.
- 9 x 5 x Next Business Day Advanced Hardware Replacement - Business hour telephone access along with a next business day door-to-door delivery of replacement parts and equipment.
- 24 x 7 x 365 Help Desk - Around the clock telephone access to D-Link service representatives eager to help and empowered to act.

3.3.3.2. Percent of Manufacturer List Price

75%

3.3.3.3. Is the Annual Service Plan for maintenance performed by software? If so, indicate if the software is a product of the manufacturer or the vendor.

The annual service plans are offered as both software and hardware warranty programs outlined in the Annual service plan materials provided above. Service Plans outlined above that can be performed by software are a D-Link product.

Insight has provided as an attachment to our response a D-Link Services Price List for your review.

3.3.4. Hewlett-Packard

3.3.4.1. Description of Annual Service Plan

HP provides a range of Warranty based services to protect your network infrastructure investment included under the menu of HP Care Pack services. These packaged services are designed to augment the coverage offered by Insight's own service plan and are supported by ProCurve Networking's industry-leading warranty. HP Care Packs for ProCurve products let you choose support levels that meet your business requirements from the menu described below:

Next Business Day:

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- Remote problem diagnosis and support - HP Services uses electronic remote support tools to isolate your problem and facilitate resolution.
- Next business day onsite response - For issues that cannot be resolved remotely, an authorized HP Services representative arrives at your site the next day after your call has been logged and for which you have a contracted service window. HP Services returns your ProCurve Networking product(s) to operational condition, repairing or replacing components or entire units as necessary. Your coverage includes all required parts and materials.
- Coverage window options
    - Standard business hours, standard business days: Service is available 8:00 am - 5:00 pm, Monday through Friday, excluding holidays.
    - Extended business hours, standard business days: Service is available 8:00 am - 9:00 pm, Monday through Friday, excluding holidays.
    - 24x7: Service is available round-the-clock, including all holidays
- Travel zones - All response times apply only if your site is located within 100 miles (160 km) of your primary HP Support Responsible Office. Travel to sites located within 200 miles (320 km) of your primary HP Support Responsible Office is provided at no additional charge. If your site is more than 200 miles (320 km) from the primary HP Support Responsible Office, you will be charged for travel based on the distance to your location.
- Travel zones and charges may vary in some geographic locations.
- Response times to sites located more than 100 miles (160 km) from a primary HP Support Responsible Office will have modified response times for extended travel.

4-Hour Same Day:

- Remote problem diagnosis and support - HP Services uses electronic remote support tools to isolate your problem and facilitate resolution.
- 4-hour onsite response - For issues that cannot be resolved remotely, an authorized HP Services representative arrives at your site within 4 hours after your call has been logged, if this time falls within your contracted service window. HP Services returns your covered hardware to operational condition, repairing or replacing components or entire units as necessary. Your coverage includes all required parts and materials.
- Coverage window options
    - Standard business hours, standard business days: Service is available 8:00 am - 5:00 pm, Monday through Friday, excluding holidays.
    - Extended business hours, standard business days: Service is available 8:00 am - 9:00 pm, Monday through Friday, excluding holidays.
    - 24x7: Service is available round-the-clock, including all holidays
- Travel zones - All response times apply only if your site is located within 100 miles (160 km) of your primary HP Support Responsible Office. Travel to sites located within 200 miles (320 km) of your primary HP Support Responsible Office is provided at no additional charge. If your site is more than 200 miles (320 km) from the primary HP Support Responsible Office, you will be charged for travel based on the distance to your location.
- Travel zones and charges may vary in some geographic locations.
- Response times to sites located more than 100 miles (160 km) from a primary HP Support Responsible Office will have modified response times for extended travel.

4-Hour 24X7 Same Day:

- Remote problem diagnosis and support - HP Services uses electronic remote support tools to isolate your problem and facilitate resolution.
- 4-hour onsite response 24x7x365 - For issues that cannot be resolved remotely, an authorized HP Services representative arrives at your site within 4 hours after your call has been logged. Service is available around-the-clock every day, including all holidays. HP Services returns your covered hardware to operational condition, repairing or replacing components or entire units as necessary. Your coverage includes all required parts and materials.
- Travel zones - All response times apply only if your site is located within 100 miles (160 km) of your primary HP Support Responsible Office. Travel to sites located within 200 miles (320 km) of your primary HP Support Responsible Office is provided at no additional charge. If your site is more than 200 miles (320 km) from the primary HP Support Responsible Office, you will be charged for travel based on the distance to your location.
- Travel zones and charges may vary in some geographic locations.
- Response times to sites located more than 100 miles (160 km) from a primary HP Support Responsible Office will have modified response times for extended travel.

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6-Hour call-to-repair:

- Remote problem diagnosis and support - HP Services uses electronic remote support tools to isolate your problem and facilitate resolution.
- Onsite hardware support - For critical issues that cannot be resolved remotely, an HP-certified customer engineer is sent to your site to return your covered hardware to operational condition, repairing or replacing components or entire units as necessary. Your coverage includes all required parts and materials.
- 6-hour repair-time commitment - HP commits to correcting hardware malfunctions in less than 6 hours from your initial call to the HP Response Center; available up to 50 miles (80km) from a primary HP support office (8-hour commitment for systems located within 51-100 miles (81-160km) of a primary HP support office).
- Round-the-clock coverage - Service is available 24x7x365.
- Travel zones - HP Hardware Support Onsite Call-to-Repair is available for sites located within 50 miles (80 km) of a primary HP Support Office. For sites that are located within 51 to 100 miles of a primary HP Support Office an eight-hour hardware call-to-repair time commitment is provided.
- Travel zones may vary in some geographic locations.

Software Support:
24X7 technical support:

- 24x7x365 access to technical resources - Connect with HP Response Center engineers via telephone, electronic communication, or FAX for assistance in resolving software implementation or operations problems. Service is available around the clock every day, including all holidays.
- Problem analysis and resolution - HP Services provides corrective support to resolve identifiable and reproducible software product problems, and to help you identify problems that are difficult to reproduce. You can also receive assistance in trouble-shooting problems and setting configuration parameters.
- Software features and operational support - HP provides information on the latest product features and known problems and solutions, plus operational advice and assistance.
- Escalation management - Established escalation procedures enlist specialized expertise from HP and selected third-parties.
- Electronic software information - Access HP's electronic support facility for software patches, a symptom-solution database, product descriptions, specifications, technical literature, and more.

Premium hardware/software services:
Support Plus:

- Telephone software support - An HP Networking Response Center engineer provides problem-analysis and problem-resolution support within 2 hours after your call is logged. The Center also offers help with trouble-shooting problems and setting configuration parameters, as well as usage assistance for applications, operating systems, and utilities.
- 4-hour response onsite hardware support - For issues that cannot be resolved remotely, HP Services delivers onsite technical support to return your covered hardware products to operational condition, repairing or replacing components or entire units as necessary. An HP authorized representative arrives at your site within 4 hours after your call is logged. Your coverage includes all required parts and materials.
- Extended business hours coverage - Onsite and remote services are available 8:00 am - 9:00 pm, Monday through Friday, excluding holidays. Calls received outside this service window will be logged on the next standard business day.
- Travel zones - All response times apply only if your site is located within 100 miles (160 km) of your primary HP Support Responsible Office. Travel to sites located within 200 miles (320 km) of your primary HP Support Responsible Office is provided at no additional charge. If your site is more than 200 miles (320 km) from the primary HP Support Responsible Office, you will be charged for travel based on the distance to your location.
- Travel zones and charges may vary in some geographic locations.
- Response times to sites located more than 100 miles (160 km) from a primary HP Support Responsible Office will have modified response times for extended travel:

Support Plus 24:

- Telephone software support - An HP Response Center engineer provides problem-analysis and problem-resolution support within 2 hours after your call is logged. The Center also offers help with trouble-shooting problems and setting configuration parameters, as well as usage assistance for applications, operating systems, and utilities.

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- 4-hour response onsite hardware support - For issues that cannot be resolved remotely, HP Services delivers onsite technical support to return your covered hardware products to operational condition, repairing or replacing components or entire units as necessary. An HP authorized representative arrives at your site within 4 hours after your call is logged. Your coverage includes all required parts and materials.
- 24x7x365 coverage - Onsite and remote services are available around the clock, including all holidays.
- Travel zones - All response times apply only if your site is located within 100 miles (160 km) of your primary HP Support Responsible Office. Travel to sites located within 200 miles (320 km) of your primary HP Support Responsible Office is provided at no additional charge. If your site is more than 200 miles (320 km) from the primary HP Support Responsible Office, you will be charged for travel based on the distance to your location.
- Travel zones and charges may vary in some geographic locations.
- Response times to sites located more than 100 miles (160 km) from a primary HP Support Responsible Office will have modified response times for extended travel:

Proactive 24 Service:
Service level management

- Assigned account manager
- Account support plan
- Onsite support planning meetings
- Quarterly activity reviews
- One HP technical service engagement for selected hardware environments

Availability management

- Site environmental survey
- System healthcheck assessment for your central server

Configuration, change, and release management

- Semi-annual operating systems patch analysis and management
- Semi-annual firmware updates and micro-code recommendations
- Remote monitoring for event notification

Incident and problem management

- 24x7 coverage
- 2-hour callback on software issues
- Phone number for problem resolution
- 4-hour onsite response for hardware

Travel zones - All response times apply only if your site is located within 100 miles (160 km) of your primary HP Support Responsible Office. Travel to sites located within 200 miles (320 km) of your primary HP Support Responsible Office is provided at no additional charge. If your site is more than 200 miles (320 km) from the primary HP Support Responsible Office, you will be charged for travel based on the distance to your location.
Travel zones and charges may vary in some geographic locations.
Response times to sites located more than 100 miles (160 km) from a primary HP Support Responsible Office will have modified response times for extended travel.

HP Contractual Support Services
HP Services' newly integrated portfolio for your ProCurve Networking by HP products includes both HP Care Pack packaged services as well as HP contractual support services.

Contractual support services provide ProCurve customers with the ultimate in service portfolio choice and flexibility, including mission critical services, wireless LAN services, and multi-vendor networking services.

3.3.4.2. Percent of Manufacturer List Price

88%

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3.3.4.3. Is the Annual Service Plan for maintenance performed by software? If so, indicate if the software is a product of the manufacturer or the vendor.

The annual service plans are offered as both software and hardware warranty programs outlined in the Annual service plan materials provided above. Service Plans outlined above that can be performed by software are an HP product.

3.3.5. Nortel Networks

3.3.5.1. Description of Annual Service Plan

With a Nortel Technical Support and Repair Services agreement, you are provided with easy access to the technical and hardware support necessary to enable your network to continue to deliver full value to you and your customers, and at a predictable, competitive and affordable price.

Nortel Technical Support Services includes Emergency Recovery – a 24x7x365 emergency response technical support service you can call on for immediate and continuous assistance on critical service-affecting issues. Nortel uses streamlined processes to connect you quickly and reliability to the Emergency Recovery technical experts.

Nortel Repair Services are designed to make your network hardware repairs quick and easy. If you experience a hardware fault involving a Field Replaceable Unit (FRU), you simply exchange the faulty FRU with a replacement from your own spare parts inventory and return the defective FRU to Nortel.

Key Features:

- Protection of critical revenue stream infrastructure
- Dependable and efficient remote technical support
- Flexible hardware repair service level options
- Reduced risk of network downtime and customer affecting outages
- Network infrastructure investment protection

To keep your network and business-critical systems powering on at high performance, Nortel Software Services provide for ongoing access to the latest releases and upgrades to network operational and applications software. Offered in conjunction with Nortel Technical Support and Repair Services, Software Services help you to ensure that your software is kept current with regular and periodic upgrades – not just implemented as 'workarounds' and software patches, but integrated into the overall network design to improve system functionality and robustness.

Key Features:

- Up-to-date operational and applications software
- Increased network supportability and dependability
- Regular advances in network functionality
- Access to expert assistance and guidance
- Lower cost of ownership and improved software cost control

A key factor in maintaining your network performance and reliability is having the right spare parts available when and where they're needed, and with minimal delay.

Managing your own dedicated spare parts inventory may not suit your particular business case. You may have numerous sites in diverse locations, each with differing requirements for spares. Or you may simply choose not to invest time and resources in establishing procedures to store, manage, and distribute spare parts, as well as hire and train technical staff for the on-site replacement of faulty hardware components.

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Nortel Managed Spares Service allows you to place inventory ownership and management responsibility in our hands. In case of a Field Replaceable Unit (FRU) hardware failure, you contact us to request a replacement and we'll arrange to deliver a replacement to any site covered by the Managed Spares Agreement that you purchase.

Nortel Managed On-Site with Spares Service is an option that takes the Managed Spares Services one step further, by having a Nortel field technician dispatched to arrive along with the replacement FRU at your premises to perform the physical FRU component exchange for you.

SERVICES AVAILABLE

- Spares inventory
- Nortel Managed Spares call center support 24X7 (logistics coordination)
- Spares warehousing and inventory management
- Replacement FRU dispatch and delivery
- Defective FRU return process
- Escalation management and mitigation
- Contract administration

Key Features:

- Reduced CAPEX for inventory management
- Eliminates dedicated spares inventory
- No financing of non-revenue generating spares inventory required
- No inventory management tools, storage cabinets and warehousing
- Guaranteed delivery of replacement parts
- Provides inventory planning, administration, tacking, baseline control and delivery

NORTEL ENHANCED TECHNICAL SUPPORT
Today's converged networks present unique service challenges. As disparate network environments and applications become one, many customers ask, how can I realize the same level of performance, security and reliability from my new converged environment that I had with my traditional voice network?

Furthermore, with applications and networks becoming more complex, customers need to be assured that Nortel and the customer's Nortel Channel Partner are working closely together to provide customers with the streamline and coordinated service delivery to support their new environment demands? Nortel understands these new service demands, and we understand that converged network environments are critical to their business success.

Nortel's Enhanced Technical Support Service is designed to complement the customer's existing maintenance program delivered by their Nortel Channel Partner and to address the additional challenges associated with convergence. The goals of the Nortel Enhanced Technical Support Services are to work with the Nortel Channel Partner to deliver services that will drive increased network availability and efficiency while reducing the quantity and severity of network issues. The Nortel Enhanced Technical Support service includes:

- Software performance audits
- Priority response to network outages
- Access to online support center
- Direct access to Nortel Service Advisors

3.3.5.2. Percent of Manufacturer List Price

95%

3.3.5.3. Is the Annual Service Plan for maintenance performed by software? If so, indicate if the software is a product of the manufacturer or the vendor.

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The annual service plans are offered as both software and hardware warranty programs outlined in the Annual service plan materials provided above. Service Plans outlined above that can be performed by software are a Nortel product.

Insight has provided as an attachment to our response a Nortel Services Price List for your review.

3.3.6. Tipping Point, a division of 3Com

3.3.6.1. Description of Annual Service Plan

Tipping Point offers a variety of annual and 3-year maintenance plans for their products, as well as Vaccine Gold or Digital Vaccine with maintenance for the X505.

3.3.6.2. Percent of Manufacturer List Price

95%

3.3.6.3. Is the Annual Service Plan for maintenance performed by software? If so, indicate if the software is a product of the manufacturer or the vendor.

The annual service plans are offered as both software and hardware warranty programs outlined in the Annual service plan materials provided above. Service Plans outlined above that can be performed by software are a Tipping Point/3Com product.

Insight has provided as an attachment to our response a Tipping Point Services MSRP Price List for your review.

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4. Key Personnel

4.1. Key Personnel (Contract Contact)

Name: Dawn Bielski

Telephone No.: 800-321-2437 x6849

E-Mail: dbielski@insight.com

Mailing Address: 444 Scott Drive

City: Bloomingdale

State: IL Zip: 60108-3111

Contract Responsibility: Responsible for contract administration, procuring authorized signatures, contract modifications, etc.

4.2. Key Personnel (Ordering – New Customers)

Name: John Briggs

Telephone No.: 800-359-2970

E-Mail: jbriggs@insight.com

Mailing Address: 6820 S. Harl Ave.

City: Tempe

State: AZ Zip: 85283

Contract Responsibility: John, as the Territory Account Executive, will develop account strategies and programs unique to each client to ensure that communication with Insight and the delivery of products and services exceed customer expectations. John will meet frequently with the State, IT staff and end-users and serves as a single point of contact for all Insight/Arizona issues. John will be available for pre- and post sales consultation.

4.3. Key Personnel (Billing – Current Customers)

Name: Lauren Hartman

Telephone No.: 800-467-4448 x5231

E-Mail: lhartman@insight.com

Mailing Address: 6820 S. Harl Avenue

City: Tempe

State: AZ Zip: 85283

Contract Responsibility: Lauren will be responsible providing quotes, processing orders, ordering and invoicing questions, assistance in alternate sourcing options , relating product knowledge to solution based selling, facilitating product delivery, furnishing specifications, configurations and pricing to end-users, maintaining high customer satisfaction.

4.4. Key Personnel (Customer Service – Service Problems, Outages, SLA Issues)

Name: Alan Hahn

Telephone No.: 800-467-4448 x5015

E-Mail: ahahn@insight.com

Mailing Address: 6820 S. Harl Ave.

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City: Tempe

State: AZ Zip: 85283

Contract Responsibility: Alan will provide pre-sales services consultation to end-users, supplying requested service reports, facilitating service delivery, notify the state of any service issues before they occur, provide service offerings and information to the State, meet with the State's key players to discuss technology support assistance as well as any other issues that may arise, assist with any problem resolution, work with Service Management for alternate sourcing options, maintain high customer satisfaction.

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5. Subcontractors

Insight does not at this time anticipate the utilization of any subcontractors on this contract.

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FCC Form

Approval by OMB
3060-0806

470

Schools and Libraries Universal Service Description of Services Requested and Certification Form

Estimated Average Burden Hours Per Response: 4.0 hours

This form is designed to help you describe the eligible telecommunications-related services you seek so that this data can be posted on the Fund Administrator website and interested service providers can identify you as a potential customer and compete to serve you.

Please read instructions before beginning this application. (To be completed by entity that will negotiate with providers.)

Block 1: Applicant Address and Identifications

Form 470 Application Number: 971330000583303

Applicant's Form Identifier: EPS060043

Application Status: CERTIFIED

Posting Date: 04/06/2006

Allowable Contract Date: 05/04/2006

Certification Received Date: 03/13/2006

1. Name of Applicant:
ARIZONA STATE PROCUREMENT OFFICE

2. Funding Year:
07/01/2006 - 06/30/2007

3. Your Entity Number
214994

4a. Applicant's Street Address, P.O.Box, or Route Number
100 NORTH 15TH AVE

City	State	Zip Code
PHOENIX	AZ	85007

b. Telephone number
(602) 542- 9121

c. Fax number
(602) 542- 5508

5. Type Of Applicant

- [ ] Individual School (individual public or non-public school)
- [ ] School District (LEA;public or non-public[e.g., diocesan] local district representing multiple schools)
- [ ] Library (including library system, library outlet/branch or library consortium as defined under LSTA)
- [x] Consortium (intermediate service agencies, states, state networks, special consortia of schools and/or libraries)

6a. Contact Person's Name: DOUG MILFORD

*First, if the Contact Person's Street Address is the same as in **Item 4** above, check this box. If not, please complete the entries for the Street Address below.*

6b. Street Address, P.O.Box, or Route Number
100 NORTH 15TH AVE
SUITE 104

City	State	Zip Code
PHOENIX	AZ	85007

Check the box next to your preferred mode of contact and provide your contact information. One box MUST be checked and an entry provided.

- ☐ **6c.** Telephone Number (602) 542- 9121
- ☐ **6d.** Fax Number (602) 542- 5508
- ☐ **6e.** E-mail Address DOUG.MILFORD@AZDOA.GOV

Block 2: Summary Description of Needs or Services Requested

7 This Form 470 describes (check all that apply):

a. ☐ Tariffed or month-to-month services to be provided without a written contract. A new Form 470 must be filed for non-contracted tariffed or month-to-month services for each funding year.

b. ☑ Services for which a new written contract is sought for the funding year in Item 2.
Check if you are seeking ☑ a multi-year contract and/or ☐ a contract featuring voluntary extensions

c. ☐ A multi-year contract signed on or before 7/10/97 but for which no Form 470 has been filed in a previous funding year.

NOTE: Services that are covered by a signed, written contract executed pursuant to posting of a Form 470 in a previous funding year OR a contract signed on/before 7/10/97 and previously reported on a Form 470 as an existing contract do NOT require filing of a new Form 470.

What kinds of service are you seeking: Telecommunications Services, Internet Access, Internal Connections Other than Basic Maintenance, or Basic Maintenance of Internal Connections? Refer to the Eligible Services List at www.sl.universalservice.org for examples. Check the relevant category or categories (8, 9, 10 and/or 11 below), and answer the questions in each category you select.

8 ☐ **Telecommunications Services**
Do you have a Request for Proposal (RFP) that specifies the services you are seeking ? If you check YES, your RFP must be available to all interested bidders for at least 28 days. If you check YES and your RFP is not available to all interested bidders, or if you check NO and you have or intend to have and RFP, you risk denial of your funding requests.

a ☐ **YES**, I have released or intend to release an RFP for these services. It is available or will become available on the Web at at or via (check one):
☐ the Contact Person in Item 6 or ☐ the contact listed in Item 12.

b ☐ **NO** , I have not released and do not intend to release an RFP for these services.

Whether you check YES or NO, you must list below the Telecommunications Services you seek. Specify each **service or function** (e.g., local voice service) and quantity and/or capacity (e.g., 20 existing lines plus 10 new ones). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Telecommunications services. Remember that only eligible telecommunications providers can provide these services under the universal service support mechanism. Attach additional lines if needed.

c ☐ **Check this box if you prefer discounts on your bill.**	☐ **Check this box if you prefer reimbursement after paying your bill in full.**	☐ **Check this box if you do not have a preference.**

9 ☐ **Internet Access**
Do you have a Request for Proposal (RFP) that specifies the services you are seeking ? If you check YES, your RFP must be available to all interested bidders for at least 28 days. If you check YES and your RFP is not available to all interested bidders, or if you check NO and you have or intend to have

and RFP, you risk denial of your funding requests.

a ☐ **YES**, I have released or intend to release an RFP for these services. It is available or will become available on the Web at or via (check one):
☐ the Contact Person in Item 6 or ☐ the contact listed in Item 12.

b ☐ **NO** , I have not released and do not intend to release an RFP for these services.

Whether you check YES or NO, you must list below the Internet Access Services you seek. Specify each **service or function** (e.g., monthly Internet service) and quantity and/or capacity (e.g., for 500 users). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Telecommunications services. Remember that only eligible telecommunications providers can provide these services under the universal service support mechanism. Attach additional lines if needed.

c ☐ **Check this box if you prefer discounts on your bill.**	☐ **Check this box if you prefer reimbursement after paying your bill in full.**	☐ **Check this box if you do not have a preference.**

10 ☑ Internal Connections Other than Basic Maintenance
Do you have a Request for Proposal (RFP) that specifies the services you are seeking ? If you check YES, your RFP must be available to all interested bidders for at least 28 days. If you check YES and your RFP is not available to all interested bidders, or if you check NO and you have or intend to have and RFP, you risk denial of your funding requests.

a ☐ **YES**, I have released or intend to release an RFP for these services. It is available or will become available on the Web at **HTTPS://WWW.SPIRIT.AZ.GOV** or via (check one):
☐ the Contact Person in Item 6 or ☐ the contact listed in Item 12.

b ☐ **NO** , I have not released and do not intend to release an RFP for these services.

Whether you check YES or NO, you must list below the Internal Connections Services you seek. Specify each **service or function** (e.g., a router, hub and cabling) and quantity and/or capacity (e.g., connecting 1 classroom of 30 students). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Telecommunications services. Remember that only eligible telecommunications providers can provide these services under the universal service support mechanism. Attach additional lines if needed.

c ☐ **Check this box if you prefer discounts on your bill.**	☐ **Check this box if you prefer reimbursement after paying your bill in full.**	☐ **Check this box if you do not have a preference.**

Service or Function:	Quantity and/or Capacity:
NETWORKING, EQUIPMENT AND SERVICE	MULTIPLE AGENCIES/GOVERNMENTS

11 ☑ Basic Maintenance of Internal Connections
Do you have a Request for Proposal (RFP) that specifies the services you are seeking ? If you check YES, your RFP must be available to all interested bidders for at least 28 days. If you check YES and your RFP is not available to all interested bidders, or if you check NO and you have or intend to have and RFP, you risk denial of your funding requests.

a ☐ **YES**, I have released or intend to release an RFP for these services. It is available or will become available on the Web at **HTTPS://WWW.SPIRIT.AZ.GOV** or via (check one):
☐ the Contact Person in Item 6 or ☐ the contact listed in Item 12.

b ☐ **NO** , I have not released and do not intend to release an RFP for these services.

Whether you check YES or NO, you must list below the Basic Maintenance Services you seek. Specify each **service or function** (e.g.,basic maintenance of routers) and quantity and/or capacity (e.g., for 10 routers). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Telecommunications services. Remember that only eligible telecommunications providers can provide these

services under the universal service support mechanism. Attach additional lines if needed.

c ☐ **Check this box if you prefer discounts on your bill.**	☐ **Check this box if you prefer reimbursement after paying your bill in full.**	☐ **Check this box if you do not have a preference.**

Service or Function:	**Quantity and/or Capacity:**
NETWORK MAINTENANCE	**MULTIPLE AGENCIES/GOVERNMENTS**

12 (Optional) Please name the person on your staff or project who can provide additional technical details or answer specific questions from service providers about the services you are seeking. This need not be the contact person listed in Item 6 nor the Authorized Person who signs this form.

Name:	Title:

Telephone number
() -

Fax number
() -

E-mail Address

13a. ☑ Check this box if there are any restrictions imposed by state or local laws or regulations on how or when service providers may contact you or on other bidding procedures. Please describe below any such restrictions or procedures, and/or a Web address where they are posted and provide a contact name and telephone number.

THERE ARE NO RESTRICTIONS ON COMMUNICATIONS WITH THE ARIZONA STATE PROCUREMENT OFFICE REGARDING SOLICITATION PROCEDURES.

☐ Check this box if no state and local procurement/competitive bidding requirements apply to the procurement of services sought on this Form 470.

13b. If you have plans to purchase additional services in future years, or expect to seek new contracts for existing services, you may summarize below(including the likely timeframes). If you are requesting services for a funding year for which a Form 470 cannot yet be filed online, include that information here.

THE RFP IS FOR MULTI-YEAR CONTRACT(S) TO BE AVAILABLE TO AZ COOPERATIVE SCHOOLS AND LIBRARIES.

Block 3: Technology Resources

14. ☐ **Basic telephone service only:** If your application is for basic telephone service and voice mail only, check this box and skip to Item **16**. Basic telephone service is defined as wireline or wireless single line voice service (local, cellular/PCS, and/or long distance) and mandatory fees associated with such service (e.g., federal and state taxes and universal service fees).

15. Although the following services and facilities are ineligible for support, they are usually necessary to make effective use of the eligible services requested in this application. Unless you indicated in Item 14 that your application is ONLY for basic telephone service, you must check at least one box in (a) through (e). You may provide details for purchases being sought.

a. Desktop software: Software required ☑ has been purchased; and/or ☑ is being sought.

b. Electrical systems: ☑ adequate electrical capacity is in place or has already been arranged; and/or ☑ upgrading for additional electrical capacity is being sought.

c. Computers: a sufficient quantity of computers ☑ has been purchased; and/or ☑ is being sought.

d. Computer hardware maintenance: adequate arrangements ☑ have been made; and/or ☑ are being sought.

e. Staff development: ☑ all staff have had an appropriate level of training /additional training has already been scheduled; and/or ☑ training is being sought.

f. Additional details: Use this space to provide additional details to help providers to identify the services you desire.

Block 4: Recipients of Service

16. Eligible Entities That Will Receive Services:

Check the ONE choice (Item **16a, 16b or 16c)** that best describes this application and the eligible entities that will receive the services described in this application.You will then list in Item **17** the entity/entities that will pay the bills for these services.

a. ◉ **Individual school or single-site library.**

b. ◉ **Statewide application for (enter 2-letter state code) AZ representing (check all that apply):**

- ☑ All public schools/districts in the state:
- ☑ All non-public schools in the state:
- ☑ All libraries in the state:

If your statewide application includes INELIGIBLE entities, check here. ☐ **If checked, complete Item 18.**

c. ◉ **School district, library system, or consortium application to serve multiple eligible entities:**

Number of eligible sites	
For these eligible sites, please provide the following	
Area Codes (list each unique area code)	**Prefixes associated with each area code (first 3 digits of phone number) separate with commas, leave no spaces**

17. Billed Entities

17. Billed Entities: List the entity/entities that will be paying the bills directly to the provider for the services requested in this application. These are known as Billed Entities. At least one line of this item must be completed. If a Billed Entity cited on your Form 471 is not listed below, funding may be denied for the funding requests associated with this Form 470.

Entity	Entity Number
PHOENIX COUNTRY DAY SCHOOL	97374
ARIZONA DEPARTMENT OF ADMINISTRATION	155373
All Eligible Libraries in State AZ	
All Non-Public Schools in State AZ	

All Public Schools/Districts in State AZ	

18. Ineligible Participating Entities
List the names of any entity/entities here for whom services are requested that are not eligible for the Universal Service Program.

Ineligible Participating Entity	Area Code	Prefix

Block 5: Certification and Signature

19. ☑ I certify that the applicant includes:(Check one or both.)
a. ☑ schools under the statutory definitions of elementary and secondary schools found in the **No Child Left Behind Act of 2001, 20 U.S.C.Secs.7081(18) and (38)**, that do not operate as for-profit businesses, and do not have endowments exceeding $50 million; and/or
b. ☑ libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any school (including, but not limited to elementary and secondary schools, colleges and universities).

20. ☑ I certify that all of the individual schools, libraries, and library consortia receiving services under this application are covered by technology plans that are written, that cover all 12 months of the funding year, and that have been or will be approved by a state or other authorized body, an SLD-certified technology plan approver, prior to the commencement of service. The plans were written at the following level(s):
a. ☑ individual technology plans for using the services requested in the application, and/or
b. ☑ higher-level technology plans for using the services requested in the application, or
c. ☐ no technology plan needed; application requests basic local, cellular, PCS, and/or long distance telephone service and/or voice mail only

21. ☑ I certify that I will post my Form 470 and (if applicable) make my RFP available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted will be carefully considered and the bid selected will be for the most cost-effective service or equipment offering, with price being the primary factor, and will be the most cost-effective means of meeting educational needs and technology plan goals. I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the status and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.

22. ☑ I certify that the services the applicant purchases at discounts provided by 47 U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. Sec. 54.500(k). Additionally, I certify that the entity or entities listed on this application have not received anything of value or a promise of anything of value, other than the services and equipment sought by means of this form, from the service provider, or any representative or agent thereof or any consultant in connection with this request for services.

23. ☑ I acknowledge that support under this support mechanism is conditional upon the school(s) and/or library(ies) I represent securing access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support.

24. ☑ I certify that I am authorized to order telecommunications and other supported services for the eligible entity (ies). I certify that I am authorized to submit this request on behalf of the eligible entity(ies) listed on this application, that I have examined this request, and to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

25. ☑ I certify that I have reviewed all applicable state and local procurement/competitive bidding requirements and that I have complied with them. I acknowledge that persons willfully making false statements on this form can be punished by fine or forfeiture, under the Commissions Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

26. ☑ I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program.

27. Signature of authorized person: ☑

28. Date (mm/dd/yyyy): **03/13/2006**

29. Printed name of authorized person: **DOUG MILFORD**

30. Title or position of authorized person: **PROCUREMENT OFFICER**

31a. Address of authorized person: **100 N. 15TH. AVE., SUITE 104**
City: **PHOENIX** State: **AZ** Zip: **85007**

31b. Telephone number of authorized person: **(602) 542 - 9121**

31c. Fax number of authorized person: **()**

31d. E-mail address number of authorized person: **DOUG.MILFORD@AZDOA.GOV**

31e. Name of authorized person's employer: **STATE OF ARIZONA, ADOA**

Service provider involvement with preparation or certification of a Form 470 can taint the competitive bidding process and result in the denial of funding requests. For more information, refer to the SLD web site at www.sl.universalservice.org or call the Client Service Bureau at 1-888-203-8100.

NOTICE: Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to file this Description of Services Requested and Certification Form (FCC Form 470) with the Universal Service Administrator. 47 C.F.R. § 54.504. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.504. All schools and libraries planning to order services eligible for universal service discounts must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of any applicable statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, information provided in or submitted with this form or in response to subsequent inquiries may also be subject to disclosure consistent with the Communications Act of 1934, FCC regulations, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law.

If you owe a past due debt to the federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

Please submit this form to:

SLD-Form 470
P.O. Box 7026
Lawrence, Kansas 66044-7026
1-888-203-8100

For express delivery services or U.S. Postal Service, Return Receipt Requested, mail this form to:

SLD Forms
ATTN: SLD Form 470
3833 Greenway Drive
Lawrence, Kansas 66046
1-888-203-8100

FCC Form 470
November 2004

New Search | Return To Search Results

FORM 470-Receipt Notification Letter
(Funding Year 2006: 07/01/2006--06/30/2007)

April 10, 2006

DOUG MILFORD
ARIZONA STATE PROCUREMENT OFFICE
100 NORTH 15TH AVE
PHOENIX, AZ 85007

Re: Applicant's Form Identifier: EPS060043
Form 470 Application Number: 971330000583303
Entity Number: 214994
Date Form 470 Posted: 04/06/2006
Allowable Vendor Selection/Contract Date: 05/04/2006

Dear DOUG MILFORD:

This letter is to notify you that the Schools and Libraries Division (SLD) has received your FCC Form 470, "Description of Services Requested and Certification Form," and your signed certification. This letter provides important information about program rules. Please read this letter carefully and retain it for your records and future reference.

The Form 470 Application Number listed above has been assigned by the SLD and will be used to track your Form 470. This number must be provided on each FCC Form 471, "Services Ordered and Certification Form," Block 5 Funding Request that cites this Form 470. Any applicant who relies on this Form 470 will need to know this Form 470 Application Number. You may wish to share this number with those schools and/or libraries featured in this application to assist them in their preparation of the Form 471.

The purpose of the Form 470 is to open a competitive bidding process for the services desired. The Form 470 applicant is responsible for ensuring an open, fair competitive process and selecting the most cost-effective provider of the desired services with price being the primary factor. The Form 470 must be completed by the entity that will negotiate with potential service providers. A service provider who will participate in the competitive bidding process as a bidder cannot complete it. Please be aware that if a service provider was involved in the preparation or certification of your Form 470, this involvement could taint the competitive bidding process and result in the denial of your funding requests.

FCC rules require that requests for non-contracted tariffed or month-to-month services and requests for new contractual services be posted on the SLD section of the USAC web site for a period of at least 28 days before selecting a vendor in order to provide for a competitive bidding process. If you indicated on your Form 470 that you have an RFP, that RFP must also be available to potential bidders for at least 28 days before selecting a vendor. In addition, if you are seeking support on your Form 470 for the first time for services delivered under a multi-year contract signed on or before July 10, 1997, the SLD cannot process your Form 471 until the 28-day waiting period has elapsed. State or local laws may require a longer procurement cycle. This 28-day waiting period must occur before

you may execute any contracts for contracted services, before you select your vendor for non-contracted tariffed or month-to-month service, and before you sign and submit your Form 471.

The "Allowable Vendor Selection/Contract Date" featured above is the earliest date that you may execute any contracts for contracted services; select your vendor for non-contracted tariffed or month-to-month services; and sign and submit your Form 471.

The FCC's Fifth Report & Order (FCC 04-190, released August 13, 2004) requires that documents demonstrating compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts must be retained for a period of at least five years after the last day of service delivered. See "Document Retention Requirements" in the Order for a descriptive list of many of the documents you must retain.

You must follow all applicable state and local procurement laws. You must also be able to demonstrate compliance with these laws.

Your Form 470 and RFP, if applicable, MUST define the specific services or functions (and quantity and/or capacity) for which funding will be sought. You MUST obtain specific cost information, including prices for products and services to be provided. Failure to adhere to these rules violates the requirement to choose the most cost-effective provider. Moreover, you cannot seek discounts for services in a category of service on the Form 471 if those services in those categories were not indicated on a Form 470.

Requests for Proposals (RFPs) or other solicitation methods must be tailored specifically to your needs and circumstances, and based directly on your technology plan. Use of a generic RFP used successfully by another applicant, for example, does not comply with the Commission's competitive bidding requirements. RFPs and competitive bidding processes that are structured to favor one service provider undermine the competitive process.

FCC rules require your service provider to offer you the option of requesting discounts on bills, or of paying the bills in full and then receiving reimbursement. We recommend that you include your preferred method for receiving discounts when considering bids and discuss that with your service provider.

Beginning with Funding Year 2005, FCC rules restrict funding of Internal Connections Other than Basic Maintenance to only twice every five years. This rule does not apply to Basic Maintenance of Internal Connections.

A technology plan that covers all 12 months of the funding year is required for all services except basic local, cellular, PCS, and/or long distance telephone service and/or voice mail only. The technology plan must have been written before the Form 470 is filed, and must be approved by a state or other authorized body that is an SLD-certified Technology Plan Approver prior to the commencement of discounted services.

To assist us in evaluating the impact of new technology on the nation's schools and libraries, you will be asked to provide the National Center for Education Statistics (NCES) or Federal-State Cooperative System (FSCS) code for any recipient of service. Please continue to review the web site for additional information.

FCC Registration Numbers may be obtained through the FCC Registration Number Commission Registration System (CORES) at www.fcc.gov. The FCC's "Red Light Rule" became effective November 1, 2004. The FCC adopted Section 1.1910 of the rules to implement the Debt Collection Improvement Act of 1996 (DCIA), and amended 47 C.F.R. Secs 1.8002 and 1.8003 "to require all entities that participate in the schools and libraries universal service support mechanism to obtain an FCC Registration Number." Please continue to review the SLD section of the USAC web site for additional guidance.

Complete information about the filing window for the Funding Year 2006 Form 471, is posted to the SLD web site.

It is important to remember that not all requested services will necessarily be approved for discounts. Your Form 471 will be subject to review by the SLD for a determination of funding eligibility before funds are committed. This review will consider all program rules, including eligibility of discount recipients and the eligibility of services for which discounts are requested. In addition, availability of funds will be a factor in funding decisions. Therefore, you should consider the possibility of a denial of funding or a level of funding below your request, and include appropriate contingencies in contracts for any or all of the requested services.

Thank you for your interest in the Schools and Libraries program. If you have any questions, please contact the SLD Client Service Bureau by e-mail using the "Submit a Question" link on the web site, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.

Schools and Libraries Division
Universal Service Administrative Company

USAC

Schools and Libraries Division
Correspondence Unit
100 South Jefferson Road
P.O. Box 902
Whippany, New Jersey 07981

TIME SENSITIVE MATERIAL

00006
DOUG MILFORD
ARIZONA STATE PROCUREMENT OFFICE
100 NORTH 15TH AVE
PHOENIX, AZ 85007

IMPORTANT REMINDERS & DEADLINES

Entity Number: 214994
Applicant Name: ARIZONA STATE PROCUREMENT OFFICE

The following information is provided to assist you throughout the application process. We recommend that you keep it in an easily accessible location and that you share it with the appropriate members of your organization.

28-DAY POSTING REQUIREMENT - FCC Rules require that requests for non-contracted tariffed or month-to-month services and requests for new contractual services be posted on the SLD section of the USAC web site for a period of at least 28 days before selecting a vendor. If you indicate on your Form 470 that you have an RFP, RFPs must also be available to potential bidders for at least 28 days before selecting a vendor.

FORM 471 APPLICATION FILING WINDOW - It is your responsibility to check the SLD section of the USAC web site or contact the SLD Client Service Bureau (CSB) to obtain the filing window dates.

OBLIGATION TO PAY NON-DISCOUNT PORTION - Applicants are required to pay the non-discount portion of the cost of the products and/or services. Service providers are required to bill applicants for the non-discount portion. The FCC stated that requiring applicants to pay their share ensures efficiency and accountability in the program. The FCC's Fifth Order (FCC 04-190 released August 3, 2004) concluded that a reasonable timeframe for a beneficiary to pay its non-discount share is 90 days after the delivery of service. If you are using a trade-in as part of your non-discount portion, please refer to the web site for more information.

TECHNOLOGY PLAN - When a technology plan is required, it must cover all 12 months of the funding year, must have been written before the Form 470 is filed, and must be approved prior to commencement of discounted services. Technology plans are not required for basic local, cellular, PCS, and/or long distance telephone service and/or voice mail only.

RETAIN DOCUMENTATION - FCC rules require that documents demonstrating compliance with the statute and Commission rules must be retained for a period of at least five years after the last day of service delivered. See "Document Retention Requirements" in FCC 04-190 for a descriptive list of many of the documents you must retain.

FREE SERVICES ADVISORY - Applicants and service providers are prohibited from using the Schools and Libraries Support Mechanism to subsidize the procurement of ineligible or unrequested products and services, or from participating in arrangements that have the effect of providing a discount level to applicants greater than that to which applicants are entitled.

FCC REGISTRATION NUMBERS - Effective November 1, 2004, E-rate program participants must have an FCC Registration Number. Please continue to review the SLD section of the USAC web site for additional guidance.

Complete program information - including more information on these reminders - is posted to the SLD section of the USAC web site at www.sl.universalservice.org. You may also contact CSB by e-mail using the "Submit a Question" link on the web site, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.

Contract

Solicitation # EPS060043−A4

Document Information

Type:	Supplier	Amendment:	Yes	Amend #:	1
Requisition #:	ADSM−6J7M3Y	Solicitation #:	EPS060043−A4	Contract #:	EPS060043−28−A1
PO Assigned:	Doug Milford/ADSM−5KAM9N		Date Completed:	07/27/2006	
PM Assigned:	James Scarboro/ADSM−5KAM9N		PA Assigned:	Jean Clark/ADSM−5KAM9N	
Supplier Name:	Insight Public Sector, Inc.		Proposal #:	ADSM−6MPKGZ−1	
Gov't Entity:	Arizona State Procurement Office		Type:	Statewide	
Process Status:	Complete		Status:	Complete	
Total/Not to Exceed Cost:	0		External Contract:		

Contract Information

NOTE: As a State Agency, you are only allowed to use contracts that are either Statewide Contracts or contracts that are assigned to your Agency. You are not allowed to use other Agency Contracts.

Start Date:	7/17/06	End Date:	7/16/09
Term:	3 Year(s)	FOB:	As specified
Payment Terms:	Net 30 Days	Delivery:	30A.R.O. Days
Contract Extension Allowed		Max Extension:	2 Year(s)

Amendment Information

AMENDMENT NO. 1

The Contract is hereby amended to display only the Manufacturer Product Lines and Services awarded under this Contract illustrated in attachment "EPS060043 EVALUATION TOOL AND AWARD DETERMINATION.xls" to facilitate ease of Customer use and Contract Administration. Products or Services that fall outside the scope of this Contract or that were not awarded under this Contract are not available for purchase regardless if they are displayed in any given document or file within this Contract.

All other Terms and Conditions remain in effect.

Contract Reassignment

N/A

Contractor Amendment Approval

Contract Amendment approved by Pam Potter/000002163 (7/25/06 2:03:54 PM)

Solicitation Information

Title: NETWORKS, EQUIPMENT AND SERVICES Type: RFP

Description:

NETWORKS, EQUIPMENT AND SERVICES

Special Instructions

Additional Special Instructions

Offerors shall see the Attachments within the Solicitation for Additional Special Instructions associated with this Solicitation. Disregard all other Instructions and Terms and Conditions within this document as the valid Instructions and Terms and Conditions are detailed in the following two documents located in the Solicitation Attachment section.

EPS060043, Instructions for Proposal.doc
EPS060043, Terms and Conditions

Federal Immigration and Nationality Act 2

By signing of the offer, the offeror warrants that both it and all proposed subcontractors are in compliance with federal immigration laws and regulations (FINA) relating to the immigration status of their employees. The State may, at its sole discretion require evidence of compliance during the evaluation process. Should the State request evidence of compliance, the offeror shall have 5 days from receipt of the request to supply adequate information. Failure to comply with this instruction or failure to supply requested information within the timeframe specified shall result in the offer not being considered for contract award.

Offshore Performance of Work

Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or 'overhead' services, redundant back–up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers. Offerors shall declare all anticipated offshore services in the proposal.

Proposals: SPIRIT Submission Requirement

In accordance with the Uniform Instructions 3.1, Forms: No Facsimile, Telegraphic or Electronic Mail Offers; proposals to this solicitation shall be submitted in an acceptable electronic format, as described herein, using the State's online eProcurement application SPIRIT. Submission of offers by means other than the SPIRIT system will not be accepted. Potential offerors with questions in this regard shall contact the State Procurement Office prior to the solicitations due date and time.

Special Terms and Conditions

Offshore Performance of Work Prohibited

Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or 'overhead' services, redundant back–up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

Contract

Solicitation # EPS060043−A4

Uniform Instructions

1 Definition of Terms

As used in these Instructions, the terms listed below are defined as follows:

1.2 Contract

the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers, and any Solicitation Amendments or Contract Amendments and any terms applied by law.

1.3 Contract Amendment

a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

1.4 Contractor

any person who has a Contract with the State

1.5 Days

calendar days unless otherwise specified.

1.6 Exhibit

any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation

1.7 Offer

bid, proposal or quotation.

1.8 Offeror

a vendor who responds to a Solicitation.

1.9 Procurement Officer

the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

1.10 Solicitation

an Invitation for Bids ('IFB'), a Request for Proposals ('RFP'), or a Request for Quotations ('RFQ').

1.11 Solicitation Amendment

a written document that is signed by the Procurement Officer and issued for the purpose of making changes to the Solicitation.

1.12 Subcontract

means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

1.13 State

the State of Arizona and Department or Agency of the State that executes the Contract.

2 Inquiries

Inquiries

2.1 Duty to Examine

It is the responsibility of each Offeror to examine the entire Solicitation, seek clarification in writing (inquiries), and examine its' Offer for accuracy before submitting the Offer. Lack of care in preparing an Offer shall not be grounds for modifying or withdrawing the Offer after the Offer due date and time, nor shall it give rise to any Contract claim.

2.2 Solicitation Contact Person

Any inquiry related to a Solicitation, including any requests for or inquiries regarding standards referenced in the Solicitation, shall be directed solely to the Solicitation contact person. The Offeror shall not contact or direct inquiries concerning this Solicitation to any other State employee unless the Solicitation specifically identifies a person other than the Solicitation contact person as a contact.

2.3 Submission of Inquiries

The Procurement Officer or the person identified in the Solicitation as the contact for inquiries mayexcept at the Pre−Offer Conference, require that an inquiry be submitted in writing. Any inquiry related to a Solicitation shall refer to the appropriate Solicitation number, page and paragraph. Do not place the Solicitation number on the outside of the envelope containing that inquiry, since it may then be identified as an Offer and not be opened until after the Offer due date and time. The State shall consider the relevancy of the inquiry but is not required to respond in writing.

2.4 Timeliness

Any inquiry or exception to the solicitation shall be submitted as soon as possible and should be submitted at least seven days before the Offer due date and time for review and determination by the State. Failure to do so may result in the inquiry not being considered for a Solicitation Amendment.

2.5 No Right to Rely on Verbal Responses

An offeror shall not rely on verbal responses to inquiries. A verbal reply to an inquiry does not constitute a modification of the

solicitation.

2.6 Solicitation Amendments

The Solicitation shall only be modified by a Solicitation Amendment.

2.7 Pre−Offer Conference

If a pre−Offer conference has been scheduled under this Solicitation, the date, time and location shall appear on the Solicitation cover sheet or elsewhere in the Solicitation. Offerors should raise any questions about the Solicitation or the procurement at that time. An Offeror may not rely on any verbal responses to questions at the conference. Material issues raised at the conference that result in changes to the Solicitation shall be answered solely through a written Solicitation Amendment.

2.8 Persons With Disabilities

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Solicitation contact person. Requests shall be made as early as possible to allow time to arrange the accommodation.

3 Offer Preparation

Offer Preparation

3.1 Forms: No Facsimile, Telegraphic or Electronic Mail Offers

Telegraphic or Electronic Mail Offers. An Offer shall be submitted either on the forms provided in this Solicitation or their substantial equivalent. Any substitute document for the forms provided in this Solicitation must be legible and contain the same information requested on the forms, unless the solicitation indicates otherwise. A facsimile, telegraphic, mailgram or electronic mail Offer shall be rejected if submitted in response to requests for proposals or invitations for bids, unless the solicitation indicates otherwise.

3.2 Typed or Ink; Corrections

The Offer shall be typed or in ink. Erasures, interlineations or other modifications in the Offer shall be initialed in ink by the person signing the Offer. Modifications shall not be permitted after Offers have been opened except as otherwise provided under applicable law.

3.3 Evidence of Intent to be Bound

The Offer and Acceptance form within the Solicitation shall be submitted with the Offer and shall include a signature (or acknowledgement for electronic submissions, when authorized) by a person authorized to sign the Offer. The signature shall signify the Offeror's intent to be bound by the Offer and the terms of the Solicitation and that the information provided is true, accurate and complete. Failure to submit verifiable evidence of an intent to be bound, such as an original signature, shall result in rejection of the Offer.

3.4 Exceptions to Terms and Conditions

All exceptions included with the Offer shall be submitted in a clearly identified separate section of the Offer in which the Offeror clearly identifies the specific paragraphs of the Solicitation where the exceptions occur. Any exceptions not included in such a section shall be without force and effect in any resulting Contract unless such exception is specifically accepted by the Procurement Officer in a written statement. The Offeror's preprinted or standard terms will not be considered by the State as a part of any resulting Contract.

i. Invitation for Bids. An Offer that takes exception to a material requirement of any part of the Solicitation, including terms and conditions, shall be rejected. [ALL]

ii. Request for Proposals. All exceptions that are contained in the Offer may negatively affect the State's proposal evaluation based on the evaluation criteria stated in the Solicitation or result in rejection of the Offer. An offer that takes exception to any material requirement of the solicitation may be rejected.

3.5 Subcontracts

Offeror shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities in the Offer.

3.6 Cost of Offer Preparation

The State will not reimburse any Offeror the cost of responding to a Solicitation.

3.7 Solicitation Amendments

Each Solicitation Amendment shall be signed with an original signature by the person signing the Offer, and shall be submitted no later than the Offer due date and time. Failure to return a signed (or acknowledgment for electronic submission, when authorized) copy of a Solicitation Amendment may result in rejection of the Offer.

3.8 Federal Excise Tax

The State of Arizona is exempt from certain Federal Excise Tax on manufactured goods. Exemption Certificates will be provided by the State.

3.9 Provision of Tax Identification Numbers

Offerors are required to provide their Arizona Transaction Privilege Tax Number and/or Federal Tax Identification number in the space provided on the Offer and Acceptance Form.

3.10 Employee Identification

Offeror agrees to provide an employee identification number or social security number to the Statefor the purposes of reporting to appropriate taxing authorities, monies paid by the Stateunder this contract. If the federal identifier of the offeror is a social security number, this number is being requested solely for tax reporting purposes and will be shared only with

appropriate state and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.

3.11 Identification of Taxes in Offer

The State of Arizona is subject to all applicable state and local transaction privilege taxes. All applicable taxes shall be identified as a separate item offered in the solicitation when applicable, the tax rate and amount shall be identified on the price sheet. At all times, payment of taxes and the determination of applicable taxes are the sole responsibility of the contractor.

3.12 Disclosure

If the firm, business or person submitting this Offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any Federal, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall include a letter with its Offer setting forth the name and address of the governmental unit, the effective date of this suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.

3.13 Solicitation Order of Precedence

In the event of a conflict in the provisions of this Solicitation, the following shall prevail in the order set forth below:

3.13.1 Special Terms and Conditions;
3.13.2 Uniform Terms and Conditions;
3.1.3 Statement or Scope of Work;
3.13.4 Specifications;
3.13.5 Attachments;
3.13.6 Exhibits;
3.13.7 Special Instructions to Offerors;
3.13.8Uniform Instructions to Offerors.3.13.9 Other documents referenced or included in the Solicitation.

3.14 Delivery

Unless stated otherwise in the Solicitation, all prices shall be F.O.B. Destination and shall include all freight, delivery and unloading at the destination(s).

4 Submission of Offer

Submission of Offer

4.1 Sealed Envelope or Package

Except for electronic submissions, when authorized, each Offer shall be submitted to the submittal location identified in this Solicitation. Offers should be submitted in a sealed envelope or container. The envelope or container should be clearly identified with name of the Offeror and Solicitation number. The State may open envelopes or containers to identify contents if the envelope or container is not clearly identified.

4.2 Offer Amendment or Withdrawal

An Offer may not be amended or withdrawn after the Offer due date and time except as otherwise provided under applicable law.

4.3 Public Record

All Offers submitted and opened are public records and must be retained by the State. Offers shall be open to public inspection after Contract award, except for such Offers deemed to be confidential by the State. If an Offeror believes that information in its Offer should remain confidential, it shall indicate as confidential the specific information and submit a statement with its Offer detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise. The State shall determine whether the identified information is confidential pursuant to the Arizona Procurement Code.

4.4 Non–collusion, Employment, and Services

By signing the Offer and Acceptance Form or other official contract form, the Offeror certifies that:

4.4.1 i. The Offeror did not engage in collusion or other anti–competitive practices in connection with the preparation or submission of its Offer; and

4.4.2 ii.The Offeror does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and that it complies with all applicable Federal, state and local laws and executive orders regarding employment.

5 Evaluation

Evaluation

1. Equipment and Desirable Technical Requirements
2. Capacity of Offeror
3. Cost
4. Conformance to Terms &Conditions and to Scope of Work
5. Compliance with Submittal information

5.1 Unit Price Prevails
In the case of discrepancy between the unit price or rate and the extension of that unit price or rate, the unit price or rate shall govern.

5.2 Taxes
Arizona transaction privilege and use taxes shall not be considered for evaluation.

5.3 Late Offers
An Offer submitted after the exact Offer due date and time shall be rejected.

5.4 Disqualification
An Offeror (including anyof its' principals) who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity shall have its offer rejected.

5.5 Offer Acceptance Period
An Offeror submitting an Offer under this Solicitation shall hold its Offer open for the number of days from the Offer due date that is stated in the Solicitation. If the Solicitation does not specifically state a number of days for Offer acceptance, the number of days shall be one hundred–twenty (120). If a Best and Final Offer is requested pursuant to a Request for Proposals, an Offeror shall hold its Offer open for one hundred–twenty (120) days from the Best and Final Offer due date.

5.6 Waiver and Rejection Rights
Notwithstanding any other provision of the Solicitation, the State reserves the right to:

5.6.1 Waive any minor informality;
5.6.2 Reject any and all Offers or portions thereof; or
5.6.3 Cancel the Solicitation.

6 Award
Award

6.1 Number or Types of Awards
The State reserves the right to make multiple awards or to award a Contract by individual line items or alternatives, by group of line items or alternatives, or to make an aggregate award, or regional awards, whichever is most advantageous to the State. If the Procurement Officer determines that an aggregate award to one Offeror is not in the State's best interest, 'all or none' Offers shall be rejected.

6.2 Contract Inception
An Offer does not constitute a Contract nor does it confer any rights on the Offeror to the award of a Contract. A Contract is not created until the Offer is accepted in writing by the Procurement Officer's signature on the Offer and Acceptance Form. A notice of award or of the intent to award shall not constitute acceptance of the Offer.

6.3 Effective Date
The effective date of this Contract shall be the date that the Procurement Officer signs the Offer and Acceptance form or other official contract form, unless another date is specifically stated in the Contract.

7 Protests
A protest shall comply with and be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9 and rules adopted thereunder. Protests shall be in writing and be filed with both the Procurement Officer of the purchasing agency and with the State Procurement Administrator. A protest of a Solicitation shall be received by the Procurement Officer before the Offer due date. A protest of a proposed award or of an award shall be filed within ten (10) days after the protester knows or should have known the basis of the protest. A protest shall include:

7.1 The name, address and telephone number of the protester;
7.2 The signature of the protester or its representative;
7.3 Identification of the purchasing agency and the Solicitation or Contract number;
7.4 A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
7.5 The form of relief requested.

8 Comments Welcome
The State Procurement Office periodically reviews the Uniform Instructions to Offerors and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 104, Phoenix, Arizona, 85007.

Contract

Solicitation # EPS060043–A4

Uniform Terms and Conditions

1 Definition of Terms

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

1.1 Attachment

any item the Solicitation requires the Offeror to submit as part of the Offer.

1.2 Contract

the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.

1.3 Contract Amendment

a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

1.4 Contractor

any person who has a Contract with the State.

1.5 Days

calendar days unless otherwise specified

1.6 Exhibit

any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.

1.7 Gratuity

a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

1.8 Materials

all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.

1.9 Procurement Officer

the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

1.10 Services

the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.

1.11 Subcontract

any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

1.12 State

the State of Arizona and Department or Agency of the State that executes the Contract.

1.13 State Fiscal Year

the period beginning with July 1 and ending June 30,

2 Contract Interpretation

Contract Interpretation

2.1 Arizona Law

The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

2.2 Implied Contract Terms

Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

2.3 Contract Order of Precedence

In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:

2.3.1 Special Terms and Conditions;
2.3.2 Uniform Terms and Conditions;
2.3.3 Statement or Scope of Work;
2.3.4 Specifications;
2.3.5 Attachments;
2.3.6 Exhibits;
2.3.7 Documents referenced or included in the Solicitation.

2.4 Relationship of Parties

The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

2.5 Severability

The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

2.6 No Parole Evidence

This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

2.7 No Waiver

Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3 Contract Administration and Operation

Contract Administration and Operation.

3.1 Records

Under A.R.S. § 35–214 and § 35–215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other 'records' relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

3.2 Non–Discrimination

The Contractor shall comply with State Executive Order No. 99–4 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

3.3 Audit

Pursuant to ARS § 35–214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

3.4 Facilities Inspection and Materials Testing

The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non–compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

3.5 Notices

Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.

3.6 Advertising, Publishing and Promotion of Contract

The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.

3.7 Property of the State

Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.

3.8 Ownership of Intellectual Property

Any and all intellectual property, including but not limited to copyright, invention, trademark, tradename, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ('Intellectual Property'), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor (s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

4 Costs and Payments

Costs and Payments

4.1 Payments

Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.

4.2 Delivery

Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

4.3 Applicable Taxes

4.3.1 Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

4.3.2 State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

4.3.3 Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4.3.4 IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

4.4 Availability of Funds for the Next State Fiscal Year

Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

4.5 Availability of Funds for the Current State Fiscal Year

Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:

4.5.1 Accept a decrease in price offered by the contractor;

4.5.2 Cancel the Contract

4.5.3 Cancel the contract and re−solicit the requirements.

5 Contract Changes

Contract Changes

5.1 Amendments

This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.2 Subcontracts

The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

5.3 Assignment and Delegation

The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6 Risk and Liability

Risk and Liability

6.1 Risk of Loss

The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

6.2 Indemnification

6.2.1 Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its' departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its' departments, agencies, boards and commissions shall be responsible for its' own negligence. Each party to this contract is responsible for its' own negligence.

6.2.2 Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable

attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its' officers, officials, agents, employees, or volunteers.'

6.3 Indemnification – Patent and Copyright

The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41–621 and § 35–154, this section shall not apply.

6.4 Force Majeure

6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term 'force majeure' means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions–intervention–acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2 Force Majeure shall not include the following occurrences:

6.4.2.1 Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.4.2.3 Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.4.3 If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified–return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.4.4 Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

6.5 Third Party Antitrust Violations

The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7 Warranties

Warranties

7.1 Liens

The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

7.2 Quality

Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:

7.2.1 Of a quality to pass without objection in the trade under the Contract description;

7.2.2 Fit for the intended purposes for which the materials are used;

7.2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

7.2.4 Adequately contained, packaged and marked as the Contract may require; and

7.2.5 Conform to the written promises or affirmations of fact made by the Contractor.

7.3 Fitness

The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.

7.4 Inspection/Testing

The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.

7.5 Year 2000

7.5.1 Notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that all products delivered and all services rendered under this Contract shall comply in all respects to performance and delivery requirements of the specifications and shall not be adversely affected by any date−related data Year 2000 issues. This warranty shall survive the expiration or termination of this Contract. In addition, the defense of force majeure shall not apply to the Contractor's failure to perform specification requirements as a result of any date−related data Year 2000 issues.

7.5.2 Additionally, notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that each hardware, software, and firmware product delivered under this Contract shall be able to accurately process date/time data (including but not limited to calculation, comparing, and sequencing) from, into, and between the twentieth and twenty−first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other information technology utilized by the State in combination with the information technology being acquired under this Contract properly exchanges date−time data with it. If this Contract requires that the information technology products being acquired perform as a system, or that the information technology products being acquired perform as a system in combination with other State information technology, then this warranty shall apply to the acquired products as a system. The remedies available to the State for breach of this warranty shall include, but shall not be limited to, repair and replacement of the information technology products delivered under this Contract. In addition, the defense of force majeure shall not apply to the failure of the Contractor to perform any specification requirements as a result of any date−related data Year 2000 issues.

7.6 Compliance With Applicable Laws

The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

7.7 Survival of Rights and Obligations after Contract Expiration or Termination

7.71 Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12−510, except as provided in A.R.S. § 12−529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

7.7.2 Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8 State's Contractual Remedies

State's Contractual Remedies

8.1 Right to Assurance

If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2 Stop Work Order

8.2.1 The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

8.2.2 If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3 Non−exclusive Remedies

The rights and the remedies of the State under this Contract are not exclusive.

8.4 Nonconforming Tender

Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or

remedy available to it.

8.5 Right of Offset

The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non−conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9 Contract Termination

Contract Termination

9.1 Cancellation for Conflict of Interest

Pursuant to A.R.S. § 38−511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38−511.

9.2 Gratuities

The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

9.3 Suspension or Debarment

The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.

9.4 Termination for Convenience

The State reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the State without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2−7−701 shall apply.

9.5 Termination for Default

9.5.1 In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

9.5.2 Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.

9.5.3 The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

9.6 Continuation of Performance Through Termination

The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10 Contract Claims

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

11 Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12−1518, except as may be required by other applicable statutes (Title 41).

Contract

Solicitation # EPS060043–A4

Offer

TO THE STATE OF ARIZONA:
The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, specifications and amendments in the Solicitation and any written exceptions in the offer. Signature also certifies Small Business status.

Tax Information			
Arizona Transaction (Sales) Privilege Tax License No.		07675462U	
Federal Employer Identification No.		363949000	
Location Information			
Supplier Number:	2163		
Company Name:	Insight Public Sector, Inc.		
Address:	6820 S. Harl Ave. Tempe, AZ 85283		
Clarification Information			
Name:	Pam Potter		
Phone:	(800) 321–2437	Fax:	(630) 924–6694
Signature			
Name:	Pam Potter	Date:	7/12/06 9:18:58 AM
Title:	Proposal Manager		
Signature:	_____		

Status: Accepted

Certification

By Accepting below, the bidder certifies:

1. The submission of the offer did not involve collusion or other anti–competitive practices.
2. The bidder shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 75.5 or A.R.S. §§ 41–1461 through 1465.
3. The bidder has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The bidder certifies that the above referenced organization [ ]is not[ ] a small business with less than 100 employees or has gross revenues of $4 million or less.

Acceptance

The Offer is hereby accepted.
The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor?s Offer as accepted by the State.
This contract shall henceforth be referred to as Contract No.Entry not found in index. The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order, contact release document or written notice to proceed.

Award Date TBD

Contract

Solicitation # EPS060043–A4

Line Items

LI #	CM Code # CM Code Item #	Commodity Code Description Commodity Code Item Description	Manufacturer	Pricing	Qty	%	Unit Price	Ext Price
1	0206–0064 0206–0064–0001	Network Components: Adapter Cards, Bridges, Connectors, Expansion Modules/Ports, Hubs, Line Drivers, MSAUs, Routers, Transceivers, etc. Network Equipment, Local Area – LAN, Wireless.		FP	0		$0.00	$0.00

Contract

Solicitation # EPS060043−A4

Document Information

Type:	Supplier	Amendment:	Yes	Amend #:	2
Requisition #:	ADSM−6J7M3Y	Solicitation #:	EPS060043−A4	Contract #:	EPS060043−28−A2
PO Assigned:	Doug Milford/ADSM−5KAM9N		Date Completed:	01/02/2007	
PM Assigned:	James Scarboro/ADSM−5KAM9N		PA Assigned:	Jean Clark/ADSM−5KAM9N	
Supplier Name:	Insight Public Sector, Inc.		Proposal #:	ADSM−6MPKGZ−1	
Gov't Entity:	Arizona State Procurement Office		Type:	Statewide	
Process Status:	Complete		Status:	Complete	
Total/Not to Exceed Cost:	0		External Contract:		

Contract Information

NOTE: As a State Agency, you are only allowed to use contracts that are either Statewide Contracts or contracts that are assigned to your Agency. You are not allowed to use other Agency Contracts.

Start Date:	1/1/09	End Date:	12/31/11
Term:	3 Year(s)	FOB:	As specified
Payment Terms:	Net 30 Days	Delivery:	30A.R.O. Days
Contract Extension Allowed		Max Extension:	2 Year(s)

Amendment Information

AMENDMENT NO. 2
This Contract is hereby amended to add Benson Security
Systems as an authorized subcontract for Insight Public Sector, Inc

All other terms and conditions remain the same.

Contract Reassignment

N/A

Contractor Amendment Approval

Contract Amendment approved by Pam Potter/000002163 (1/2/07 6:38:36 AM)

Solicitation Information

Title:	NETWORKS, EQUIPMENT AND SERVICES	Type:	RFP

Description:
NETWORKS, EQUIPMENT AND SERVICES

Special Instructions

Additional Special Instructions

Offerors shall see the Attachments within the Solicitation for Additional Special Instructions associated with this Solicitation. Disregard all other Instructions and Terms and Conditions within this document as the valid Instructions and Terms and Conditions are detailed in the following two documents located in the Solicitation Attachment section.

EPS060043, Instructions for Proposal.doc
EPS060043, Terms and Conditions

Federal Immigration and Nationality Act 2

By signing of the offer, the offeror warrants that both it and all proposed subcontractors are in compliance with federal immigration laws and regulations (FINA) relating to the immigration status of their employees. The State may, at its sole discretion require evidence of compliance during the evaluation process. Should the State request evidence of compliance, the offeror shall have 5 days from receipt of the request to supply adequate information. Failure to comply with this instruction or failure to supply requested information within the timeframe specified shall result in the offer not being considered for contract award.

Offshore Performance of Work

Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or 'overhead' services, redundant back–up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers. Offerors shall declare all anticipated offshore services in the proposal.

Proposals: SPIRIT Submission Requirement

In accordance with the Uniform Instructions 3.1, Forms: No Facsimile, Telegraphic or Electronic Mail Offers; proposals to this solicitation shall be submitted in an acceptable electronic format, as described herein, using the State's online eProcurement application SPIRIT. Submission of offers by means other than the SPIRIT system will not be accepted. Potential offerors with questions in this regard shall contact the State Procurement Office prior to the solicitations due date and time.

Special Terms and Conditions

Offshore Performance of Work Prohibited

Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or 'overhead' services, redundant back–up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

Uniform Instructions

1 Definition of Terms
As used in these Instructions, the terms listed below are defined as follows:

1.2 Contract
the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers, and any Solicitation Amendments or Contract Amendments and any terms applied by law.

1.3 Contract Amendment
a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

1.4 Contractor
any person who has a Contract with the State

1.5 Days
calendar days unless otherwise specified.

1.6 Exhibit
any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation

1.7 Offer
bid, proposal or quotation.

1.8 Offeror
a vendor who responds to a Solicitation.

1.9 Procurement Officer
the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

1.10 Solicitation
an Invitation for Bids ('IFB'), a Request for Proposals ('RFP'), or a Request for Quotations ('RFQ').

1.11 Solicitation Amendment
a written document that is signed by the Procurement Officer and issued for the purpose of making changes to the Solicitation.

1.12 Subcontract
means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

1.13 State
the State of Arizona and Department or Agency of the State that executes the Contract.

2 Inquiries
Inquiries

2.1 Duty to Examine
It is the responsibility of each Offeror to examine the entire Solicitation, seek clarification in writing (inquiries), and examine its' Offer for accuracy before submitting the Offer. Lack of care in preparing an Offer shall not be grounds for modifying or withdrawing the Offer after the Offer due date and time, nor shall it give rise to any Contract claim.

2.2 Solicitation Contact Person
Any inquiry related to a Solicitation, including any requests for or inquiries regarding standards referenced in the Solicitation, shall be directed solely to the Solicitation contact person. The Offeror shall not contact or direct inquiries concerning this Solicitation to any other State employee unless the Solicitation specifically identifies a person other than the Solicitation contact person as a contact.

2.3 Submission of Inquiries
The Procurement Officer or the person identified in the Solicitation as the contact for inquiries mayexcept at the Pre−Offer Conference, require that an inquiry be submitted in writing. Any inquiry related to a Solicitation shall refer to the appropriate Solicitation number, page and paragraph. Do not place the Solicitation number on the outside of the envelope containing that inquiry, since it may then be identified as an Offer and not be opened until after the Offer due date and time. The State shall consider the relevancy of the inquiry but is not required to respond in writing.

2.4 Timeliness
Any inquiry or exception to the solicitation shall be submitted as soon as possible and should be submitted at least seven days before the Offer due date and time for review and determination by the State. Failure to do so may result in the inquiry not being considered for a Solicitation Amendment.

2.5 No Right to Rely on Verbal Responses
An offeror shall not rely on verbal responses to inquiries. A verbal reply to an inquiry does not constitute a modification of the

solicitation.

2.6 Solicitation Amendments

The Solicitation shall only be modified by a Solicitation Amendment.

2.7 Pre−Offer Conference

If a pre−Offer conference has been scheduled under this Solicitation, the date, time and location shall appear on the Solicitation cover sheet or elsewhere in the Solicitation. Offerors should raise any questions about the Solicitation or the procurement at that time. An Offeror may not rely on any verbal responses to questions at the conference. Material issues raised at the conference that result in changes to the Solicitation shall be answered solely through a written Solicitation Amendment.

2.8 Persons With Disabilities

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Solicitation contact person. Requests shall be made as early as possible to allow time to arrange the accommodation.

3 Offer Preparation

Offer Preparation

3.1 Forms: No Facsimile, Telegraphic or Electronic Mail Offers

Telegraphic or Electronic Mail Offers. An Offer shall be submitted either on the forms provided in this Solicitation or their substantial equivalent. Any substitute document for the forms provided in this Solicitation must be legible and contain the same information requested on the forms, unless the solicitation indicates otherwise. A facsimile, telegraphic, mailgram or electronic mail Offer shall be rejected if submitted in response to requests for proposals or invitations for bids, unless the solicitation indicates otherwise.

3.2 Typed or Ink; Corrections

The Offer shall be typed or in ink. Erasures, interlineations or other modifications in the Offer shall be initialed in ink by the person signing the Offer. Modifications shall not be permitted after Offers have been opened except as otherwise provided under applicable law.

3.3 Evidence of Intent to be Bound

The Offer and Acceptance form within the Solicitation shall be submitted with the Offer and shall include a signature (or acknowledgement for electronic submissions, when authorized) by a person authorized to sign the Offer. The signature shall signify the Offeror's intent to be bound by the Offer and the terms of the Solicitation and that the information provided is true, accurate and complete. Failure to submit verifiable evidence of an intent to be bound, such as an original signature, shall result in rejection of the Offer.

3.4 Exceptions to Terms and Conditions

All exceptions included with the Offer shall be submitted in a clearly identified separate section of the Offer in which the Offeror clearly identifies the specific paragraphs of the Solicitation where the exceptions occur. Any exceptions not included in such a section shall be without force and effect in any resulting Contract unless such exception is specifically accepted by the Procurement Officer in a written statement. The Offeror's preprinted or standard terms will not be considered by the State as a part of any resulting Contract.

i. Invitation for Bids. An Offer that takes exception to a material requirement of any part of the Solicitation, including terms and conditions, shall be rejected. [ALL]

ii. Request for Proposals. All exceptions that are contained in the Offer may negatively affect the State's proposal evaluation based on the evaluation criteria stated in the Solicitation or result in rejection of the Offer. An offer that takes exception to any material requirement of the solicitation may be rejected.

3.5 Subcontracts

Offeror shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities in the Offer.

3.6 Cost of Offer Preparation

The State will not reimburse any Offeror the cost of responding to a Solicitation.

3.7 Solicitation Amendments

Each Solicitation Amendment shall be signed with an original signature by the person signing the Offer, and shall be submitted no later than the Offer due date and time. Failure to return a signed (or acknowledgment for electronic submission, when authorized) copy of a Solicitation Amendment may result in rejection of the Offer.

3.8 Federal Excise Tax

The State of Arizona is exempt from certain Federal Excise Tax on manufactured goods. Exemption Certificates will be provided by the State.

3.9 Provision of Tax Identification Numbers

Offerors are required to provide their Arizona Transaction Privilege Tax Number and/or Federal Tax Identification number in the space provided on the Offer and Acceptance Form.

3.10 Employee Identification

Offeror agrees to provide an employee identification number or social security number to the Statefor the purposes of reporting to appropriate taxing authorities, monies paid by the Stateunder this contract. If the federal identifier of the offeror is a social security number, this number is being requested solely for tax reporting purposes and will be shared only with

appropriate state and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.

3.11 Identification of Taxes in Offer

The State of Arizona is subject to all applicable state and local transaction privilege taxes. All applicable taxes shall be identified as a separate item offered in the solicitation when applicable, the tax rate and amount shall be identified on the price sheet. At all times, payment of taxes and the determination of applicable taxes are the sole responsibility of the contractor.

3.12 Disclosure

If the firm, business or person submitting this Offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any Federal, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall include a letter with its Offer setting forth the name and address of the governmental unit, the effective date of this suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.

3.13 Solicitation Order of Precedence

In the event of a conflict in the provisions of this Solicitation, the following shall prevail in the order set forth below:

3.13.1 Special Terms and Conditions;
3.13.2 Uniform Terms and Conditions;
3.1.3 Statement or Scope of Work;
3.13.4 Specifications;
3.13.5 Attachments;
3.13.6 Exhibits;
3.13.7 Special Instructions to Offerors;
3.13.8Uniform Instructions to Offerors.3.13.9 Other documents referenced or included in the Solicitation.

3.14 Delivery

Unless stated otherwise in the Solicitation, all prices shall be F.O.B. Destination and shall include all freight, delivery and unloading at the destination(s).

4 Submission of Offer

Submission of Offer

4.1 Sealed Envelope or Package

Except for electronic submissions, when authorized, each Offer shall be submitted to the submittal location identified in this Solicitation. Offers should be submitted in a sealed envelope or container. The envelope or container should be clearly identified with name of the Offeror and Solicitation number. The State may open envelopes or containers to identify contents if the envelope or container is not clearly identified.

4.2 Offer Amendment or Withdrawal

An Offer may not be amended or withdrawn after the Offer due date and time except as otherwise provided under applicable law.

4.3 Public Record

All Offers submitted and opened are public records and must be retained by the State. Offers shall be open to public inspection after Contract award, except for such Offers deemed to be confidential by the State. If an Offeror believes that information in its Offer should remain confidential, it shall indicate as confidential the specific information and submit a statement with its Offer detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise. The State shall determine whether the identified information is confidential pursuant to the Arizona Procurement Code.

4.4 Non−collusion, Employment, and Services

By signing the Offer and Acceptance Form or other official contract form, the Offeror certifies that:

4.4.1 i. The Offeror did not engage in collusion or other anti−competitive practices in connection with the preparation or submission of its Offer; and

4.4.2 ii.The Offeror does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and that it complies with all applicable Federal, state and local laws and executive orders regarding employment.

5 Evaluation

Evaluation

1. Equipment and Desirable Technical Requirements
2. Capacity of Offeror
3. Cost
4. Conformance to Terms &Conditions and to Scope of Work
5. Compliance with Submittal information

5.1 Unit Price Prevails

In the case of discrepancy between the unit price or rate and the extension of that unit price or rate, the unit price or rate shall govern.

5.2 Taxes

Arizona transaction privilege and use taxes shall not be considered for evaluation.

5.3 Late Offers

An Offer submitted after the exact Offer due date and time shall be rejected.

5.4 Disqualification

An Offeror (including anyof its' principals) who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity shall have its offer rejected.

5.5 Offer Acceptance Period

An Offeror submitting an Offer under this Solicitation shall hold its Offer open for the number of days from the Offer due date that is stated in the Solicitation. If the Solicitation does not specifically state a number of days for Offer acceptance, the number of days shall be one hundred–twenty (120). If a Best and Final Offer is requested pursuant to a Request for Proposals, an Offeror shall hold its Offer open for one hundred–twenty (120) days from the Best and Final Offer due date.

5.6 Waiver and Rejection Rights

Notwithstanding any other provision of the Solicitation, the State reserves the right to:

5.6.1 Waive any minor informality;
5.6.2 Reject any and all Offers or portions thereof; or
5.6.3 Cancel the Solicitation.

6 Award

Award

6.1 Number or Types of Awards

The State reserves the right to make multiple awards or to award a Contract by individual line items or alternatives, by group of line items or alternatives, or to make an aggregate award, or regional awards, whichever is most advantageous to the State. If the Procurement Officer determines that an aggregate award to one Offeror is not in the State's best interest, 'all or none' Offers shall be rejected.

6.2 Contract Inception

An Offer does not constitute a Contract nor does it confer any rights on the Offeror to the award of a Contract. A Contract is not created until the Offer is accepted in writing by the Procurement Officer's signature on the Offer and Acceptance Form. A notice of award or of the intent to award shall not constitute acceptance of the Offer.

6.3 Effective Date

The effective date of this Contract shall be the date that the Procurement Officer signs the Offer and Acceptance form or other official contract form, unless another date is specifically stated in the Contract.

7 Protests

A protest shall comply with and be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9 and rules adopted thereunder. Protests shall be in writing and be filed with both the Procurement Officer of the purchasing agency and with the State Procurement Administrator. A protest of a Solicitation shall be received by the Procurement Officer before the Offer due date. A protest of a proposed award or of an award shall be filed within ten (10) days after the protester knows or should have known the basis of the protest. A protest shall include:

7.1 The name, address and telephone number of the protester;
7.2 The signature of the protester or its representative;
7.3 Identification of the purchasing agency and the Solicitation or Contract number;
7.4 A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
7.5 The form of relief requested.

8 Comments Welcome

The State Procurement Office periodically reviews the Uniform Instructions to Offerors and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 104, Phoenix, Arizona, 85007.

Contract

Solicitation # EPS060043–A4

Uniform Terms and Conditions

1 Definition of Terms

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

1.1 Attachment

any item the Solicitation requires the Offeror to submit as part of the Offer.

1.2 Contract

the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.

1.3 Contract Amendment

a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

1.4 Contractor

any person who has a Contract with the State.

1.5 Days

calendar days unless otherwise specified

1.6 Exhibit

any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.

1.7 Gratuity

a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

1.8 Materials

all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.

1.9 Procurement Officer

the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

1.10 Services

the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.

1.11 Subcontract

any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

1.12 State

the State of Arizona and Department or Agency of the State that executes the Contract.

1.13 State Fiscal Year

the period beginning with July 1 and ending June 30,

2 Contract Interpretation

Contract Interpretation

2.1 Arizona Law

The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

2.2 Implied Contract Terms

Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

2.3 Contract Order of Precedence

In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:

2.3.1 Special Terms and Conditions;
2.3.2 Uniform Terms and Conditions;
2.3.3 Statement or Scope of Work;
2.3.4 Specifications;
2.3.5 Attachments;
2.3.6 Exhibits;
2.3.7 Documents referenced or included in the Solicitation.

2.4 Relationship of Parties

The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

2.5 Severability

The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

2.6 No Parole Evidence

This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

2.7 No Waiver

Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3 Contract Administration and Operation

Contract Administration and Operation.

3.1 Records

Under A.R.S. § 35–214 and § 35–215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other 'records' relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

3.2 Non–Discrimination

The Contractor shall comply with State Executive Order No. 99–4 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

3.3 Audit

Pursuant to ARS § 35–214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

3.4 Facilities Inspection and Materials Testing

The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non–compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

3.5 Notices

Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.

3.6 Advertising, Publishing and Promotion of Contract

The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.

3.7 Property of the State

Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.

3.8 Ownership of Intellectual Property

Any and all intellectual property, including but not limited to copyright, invention, trademark, tradename, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ('Intellectual Property'), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor (s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

4 Costs and Payments

Costs and Payments

4.1 Payments

Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.

4.2 Delivery

Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

4.3 Applicable Taxes

4.3.1 Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

4.3.2 State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

4.3.3 Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4.3.4 IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

4.4 Availability of Funds for the Next State Fiscal Year

Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

4.5 Availability of Funds for the Current State Fiscal Year

Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:

4.5.1 Accept a decrease in price offered by the contractor;

4.5.2 Cancel the Contract

4.5.3 Cancel the contract and re−solicit the requirements.

5 Contract Changes

Contract Changes

5.1 Amendments

This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.2 Subcontracts

The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

5.3 Assignment and Delegation

The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6 Risk and Liability

Risk and Liability

6.1 Risk of Loss

The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

6.2 Indemnification

6.2.1 Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its' departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its' departments, agencies, boards and commissions shall be responsible for its' own negligence. Each party to this contract is responsible for its' own negligence.

6.2.2 Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable

attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its' officers, officials, agents, employees, or volunteers.'

6.3 Indemnification – Patent and Copyright

The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41–621 and § 35–154, this section shall not apply.

6.4 Force Majeure

6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term 'force majeure' means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions–intervention–acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2 Force Majeure shall not include the following occurrences:

6.4.2.1 Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.4.2.3 Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.4.3 If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified–return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.4.4 Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

6.5 Third Party Antitrust Violations

The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7 Warranties

Warranties

7.1 Liens

The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

7.2 Quality

Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:

7.2.1 Of a quality to pass without objection in the trade under the Contract description;

7.2.2 Fit for the intended purposes for which the materials are used;

7.2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

7.2.4 Adequately contained, packaged and marked as the Contract may require; and

7.2.5 Conform to the written promises or affirmations of fact made by the Contractor.

7.3 Fitness

The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.

7.4 Inspection/Testing

The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.

7.5 Year 2000

7.5.1 Notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that all products delivered and all services rendered under this Contract shall comply in all respects to performance and delivery requirements of the specifications and shall not be adversely affected by any date−related data Year 2000 issues. This warranty shall survive the expiration or termination of this Contract. In addition, the defense of force majeure shall not apply to the Contractor's failure to perform specification requirements as a result of any date−related data Year 2000 issues.

7.5.2 Additionally, notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that each hardware, software, and firmware product delivered under this Contract shall be able to accurately process date/time data (including but not limited to calculation, comparing, and sequencing) from, into, and between the twentieth and twenty−first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other information technology utilized by the State in combination with the information technology being acquired under this Contract properly exchanges date−time data with it. If this Contract requires that the information technology products being acquired perform as a system, or that the information technology products being acquired perform as a system in combination with other State information technology, then this warranty shall apply to the acquired products as a system. The remedies available to the State for breach of this warranty shall include, but shall not be limited to, repair and replacement of the information technology products delivered under this Contract. In addition, the defense of force majeure shall not apply to the failure of the Contractor to perform any specification requirements as a result of any date−related data Year 2000 issues.

7.6 Compliance With Applicable Laws

The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

7.7 Survival of Rights and Obligations after Contract Expiration or Termination

7.71 Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12−510, except as provided in A.R.S. § 12−529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

7.7.2 Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8 State's Contractual Remedies

State's Contractual Remedies

8.1 Right to Assurance

If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2 Stop Work Order

8.2.1 The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

8.2.2 If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3 Non−exclusive Remedies

The rights and the remedies of the State under this Contract are not exclusive.

8.4 Nonconforming Tender

Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or

remedy available to it.

8.5 Right of Offset

The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non−conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9 Contract Termination

Contract Termination

9.1 Cancellation for Conflict of Interest

Pursuant to A.R.S. § 38−511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38−511.

9.2 Gratuities

The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

9.3 Suspension or Debarment

The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.

9.4 Termination for Convenience

The State reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the State without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2−7−701 shall apply.

9.5 Termination for Default

9.5.1 In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

9.5.2 Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.

9.5.3 The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

9.6 Continuation of Performance Through Termination

The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10 Contract Claims

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

11 Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12−1518, except as may be required by other applicable statutes (Title 41).

Contract

Solicitation # EPS060043–A4

Offer

TO THE STATE OF ARIZONA:
The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, specifications and amendments in the Solicitation and any written exceptions in the offer. Signature also certifies Small Business status.

Tax Information			
Arizona Transaction (Sales) Privilege Tax License No.		07675462U	
Federal Employer Identification No.		363949000	
Location Information			
Supplier Number:	2163		
Company Name:	Insight Public Sector, Inc.		
Address:	6820 S. Harl Ave. Tempe, AZ 85283		
Clarification Information			
Name:	Pam Potter		
Phone:	(800) 321–2437	Fax:	(630) 924–6694
Signature			
Name:	Pam Potter	Date:	7/12/06 9:18:58 AM
Title:	Proposal Manager		
Signature:	_____		

Status: Accepted

Certification

By Accepting below, the bidder certifies:

1. The submission of the offer did not involve collusion or other anti–competitive practices.
2. The bidder shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 75.5 or A.R.S. §§ 41–1461 through 1465.
3. The bidder has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The bidder certifies that the above referenced organization [ ]is not[ ] a small business with less than 100 employees or has gross revenues of $4 million or less.

Acceptance

The Offer is hereby accepted.
The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor?s Offer as accepted by the State.
This contract shall henceforth be referred to as Contract No.Entry not found in index. The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order, contact release document or written notice to proceed.

Award Date TBD

Contract

Solicitation # EPS060043–A4

Line Items

LI #	CM Code # CM Code Item #	Commodity Code Description Commodity Code Item Description	Manufacturer	Pricing	Qty	%	Unit Price	Ext Price
1	0206–0064 0206–0064–0001	Network Components: Adapter Cards, Bridges, Connectors, Expansion Modules/Ports, Hubs, Line Drivers, MSAUs, Routers, Transceivers, etc. Network Equipment, Local Area – LAN, Wireless.		FP	0		$0.00	$0.00

Contract

Solicitation # EPS060043–A4

Document Information

Type:	Supplier	Amendment:	Yes	Amend #:	3
Requisition #:	ADSM–6J7M3Y	Solicitation #:	EPS060043–A4	Contract #:	EPS060043–28–A3
PO Assigned:	Doug Milford/ADSM–5KAM9N		Date Completed:	01/11/2007	
PM Assigned:	James Scarboro/ADSM–5KAM9N		PA Assigned:	Jean Clark/ADSM–5KAM9N	
Supplier Name:	Insight Public Sector, Inc.		Proposal #:	ADSM–6MPKGZ–1	
Gov't Entity:	Arizona State Procurement Office		Type:	Statewide	
Process Status:	Complete		Status:	Complete	
Total/Not to Exceed Cost:	0		External Contract:		

Contract Information

NOTE: As a State Agency, you are only allowed to use contracts that are either Statewide Contracts or contracts that are assigned to your Agency. You are not allowed to use other Agency Contracts.

Start Date:	7/17/06	End Date:	7/16/09
Term:	3 Year(s)	FOB:	As specified
Payment Terms:	Net 30 Days	Delivery:	30A.R.O. Days
Contract Extension Allowed		Max Extension:	2 Year(s)

Amendment Information

AMENDMENT 3

This amendment is to correct an error in contract dates created in Amendment #2.

All other terms and conditions remain the same.

Contract Reassignment

N/A

Contractor Amendment Approval

Contract Amendment approved by Dawn Rickert/000002163 (1/9/07 3:38:41 PM)

Solicitation Information

Title: NETWORKS, EQUIPMENT AND SERVICES Type: RFP

Description:

NETWORKS, EQUIPMENT AND SERVICES

Special Instructions

Additional Special Instructions

Offerors shall see the Attachments within the Solicitation for Additional Special Instructions associated with this Solicitation. Disregard all other Instructions and Terms and Conditions within this document as the valid Instructions and Terms and Conditions are detailed in the following two documents located in the Solicitation Attachment section.

EPS060043, Instructions for Proposal.doc
EPS060043, Terms and Conditions

Federal Immigration and Nationality Act 2

By signing of the offer, the offeror warrants that both it and all proposed subcontractors are in compliance with federal immigration laws and regulations (FINA) relating to the immigration status of their employees. The State may, at its sole discretion require evidence of compliance during the evaluation process. Should the State request evidence of compliance, the offeror shall have 5 days from receipt of the request to supply adequate information. Failure to comply with this instruction or failure to supply requested information within the timeframe specified shall result in the offer not being considered for contract award.

Offshore Performance of Work

Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or 'overhead' services, redundant back–up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers. Offerors shall declare all anticipated offshore services in the proposal.

Proposals: SPIRIT Submission Requirement

In accordance with the Uniform Instructions 3.1, Forms: No Facsimile, Telegraphic or Electronic Mail Offers; proposals to this solicitation shall be submitted in an acceptable electronic format, as described herein, using the State's online eProcurement application SPIRIT. Submission of offers by means other than the SPIRIT system will not be accepted. Potential offerors with questions in this regard shall contact the State Procurement Office prior to the solicitations due date and time.

Special Terms and Conditions

Offshore Performance of Work Prohibited

Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or 'overhead' services, redundant back–up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

Uniform Instructions

1 Definition of Terms
As used in these Instructions, the terms listed below are defined as follows:

1.2 Contract
the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers, and any Solicitation Amendments or Contract Amendments and any terms applied by law.

1.3 Contract Amendment
a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

1.4 Contractor
any person who has a Contract with the State

1.5 Days
calendar days unless otherwise specified.

1.6 Exhibit
any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation

1.7 Offer
bid, proposal or quotation.

1.8 Offeror
a vendor who responds to a Solicitation.

1.9 Procurement Officer
the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

1.10 Solicitation
an Invitation for Bids ('IFB'), a Request for Proposals ('RFP'), or a Request for Quotations ('RFQ').

1.11 Solicitation Amendment
a written document that is signed by the Procurement Officer and issued for the purpose of making changes to the Solicitation.

1.12 Subcontract
means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

1.13 State
the State of Arizona and Department or Agency of the State that executes the Contract.

2 Inquiries
Inquiries

2.1 Duty to Examine
It is the responsibility of each Offeror to examine the entire Solicitation, seek clarification in writing (inquiries), and examine its' Offer for accuracy before submitting the Offer. Lack of care in preparing an Offer shall not be grounds for modifying or withdrawing the Offer after the Offer due date and time, nor shall it give rise to any Contract claim.

2.2 Solicitation Contact Person
Any inquiry related to a Solicitation, including any requests for or inquiries regarding standards referenced in the Solicitation, shall be directed solely to the Solicitation contact person. The Offeror shall not contact or direct inquiries concerning this Solicitation to any other State employee unless the Solicitation specifically identifies a person other than the Solicitation contact person as a contact.

2.3 Submission of Inquiries
The Procurement Officer or the person identified in the Solicitation as the contact for inquiries mayexcept at the Pre−Offer Conference, require that an inquiry be submitted in writing. Any inquiry related to a Solicitation shall refer to the appropriate Solicitation number, page and paragraph. Do not place the Solicitation number on the outside of the envelope containing that inquiry, since it may then be identified as an Offer and not be opened until after the Offer due date and time. The State shall consider the relevancy of the inquiry but is not required to respond in writing.

2.4 Timeliness
Any inquiry or exception to the solicitation shall be submitted as soon as possible and should be submitted at least seven days before the Offer due date and time for review and determination by the State. Failure to do so may result in the inquiry not being considered for a Solicitation Amendment.

2.5 No Right to Rely on Verbal Responses
An offeror shall not rely on verbal responses to inquiries. A verbal reply to an inquiry does not constitute a modification of the

solicitation.

2.6 Solicitation Amendments

The Solicitation shall only be modified by a Solicitation Amendment.

2.7 Pre−Offer Conference

If a pre−Offer conference has been scheduled under this Solicitation, the date, time and location shall appear on the Solicitation cover sheet or elsewhere in the Solicitation. Offerors should raise any questions about the Solicitation or the procurement at that time. An Offeror may not rely on any verbal responses to questions at the conference. Material issues raised at the conference that result in changes to the Solicitation shall be answered solely through a written Solicitation Amendment.

2.8 Persons With Disabilities

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Solicitation contact person. Requests shall be made as early as possible to allow time to arrange the accommodation.

3 Offer Preparation

Offer Preparation

3.1 Forms: No Facsimile, Telegraphic or Electronic Mail Offers

Telegraphic or Electronic Mail Offers. An Offer shall be submitted either on the forms provided in this Solicitation or their substantial equivalent. Any substitute document for the forms provided in this Solicitation must be legible and contain the same information requested on the forms, unless the solicitation indicates otherwise. A facsimile, telegraphic, mailgram or electronic mail Offer shall be rejected if submitted in response to requests for proposals or invitations for bids, unless the solicitation indicates otherwise.

3.2 Typed or Ink; Corrections

The Offer shall be typed or in ink. Erasures, interlineations or other modifications in the Offer shall be initialed in ink by the person signing the Offer. Modifications shall not be permitted after Offers have been opened except as otherwise provided under applicable law.

3.3 Evidence of Intent to be Bound

The Offer and Acceptance form within the Solicitation shall be submitted with the Offer and shall include a signature (or acknowledgement for electronic submissions, when authorized) by a person authorized to sign the Offer. The signature shall signify the Offeror's intent to be bound by the Offer and the terms of the Solicitation and that the information provided is true, accurate and complete. Failure to submit verifiable evidence of an intent to be bound, such as an original signature, shall result in rejection of the Offer.

3.4 Exceptions to Terms and Conditions

All exceptions included with the Offer shall be submitted in a clearly identified separate section of the Offer in which the Offeror clearly identifies the specific paragraphs of the Solicitation where the exceptions occur. Any exceptions not included in such a section shall be without force and effect in any resulting Contract unless such exception is specifically accepted by the Procurement Officer in a written statement. The Offeror's preprinted or standard terms will not be considered by the State as a part of any resulting Contract.

i. Invitation for Bids. An Offer that takes exception to a material requirement of any part of the Solicitation, including terms and conditions, shall be rejected. [ALL]

ii. Request for Proposals. All exceptions that are contained in the Offer may negatively affect the State's proposal evaluation based on the evaluation criteria stated in the Solicitation or result in rejection of the Offer. An offer that takes exception to any material requirement of the solicitation may be rejected.

3.5 Subcontracts

Offeror shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities in the Offer.

3.6 Cost of Offer Preparation

The State will not reimburse any Offeror the cost of responding to a Solicitation.

3.7 Solicitation Amendments

Each Solicitation Amendment shall be signed with an original signature by the person signing the Offer, and shall be submitted no later than the Offer due date and time. Failure to return a signed (or acknowledgment for electronic submission, when authorized) copy of a Solicitation Amendment may result in rejection of the Offer.

3.8 Federal Excise Tax

The State of Arizona is exempt from certain Federal Excise Tax on manufactured goods. Exemption Certificates will be provided by the State.

3.9 Provision of Tax Identification Numbers

Offerors are required to provide their Arizona Transaction Privilege Tax Number and/or Federal Tax Identification number in the space provided on the Offer and Acceptance Form.

3.10 Employee Identification

Offeror agrees to provide an employee identification number or social security number to the Statefor the purposes of reporting to appropriate taxing authorities, monies paid by the Stateunder this contract. If the federal identifier of the offeror is a social security number, this number is being requested solely for tax reporting purposes and will be shared only with

appropriate state and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.

3.11 Identification of Taxes in Offer

The State of Arizona is subject to all applicable state and local transaction privilege taxes. All applicable taxes shall be identified as a separate item offered in the solicitation when applicable, the tax rate and amount shall be identified on the price sheet. At all times, payment of taxes and the determination of applicable taxes are the sole responsibility of the contractor.

3.12 Disclosure

If the firm, business or person submitting this Offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any Federal, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall include a letter with its Offer setting forth the name and address of the governmental unit, the effective date of this suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.

3.13 Solicitation Order of Precedence

In the event of a conflict in the provisions of this Solicitation, the following shall prevail in the order set forth below:

3.13.1 Special Terms and Conditions;
3.13.2 Uniform Terms and Conditions;
3.1.3 Statement or Scope of Work;
3.13.4 Specifications;
3.13.5 Attachments;
3.13.6 Exhibits;
3.13.7 Special Instructions to Offerors;
3.13.8Uniform Instructions to Offerors.3.13.9 Other documents referenced or included in the Solicitation.

3.14 Delivery

Unless stated otherwise in the Solicitation, all prices shall be F.O.B. Destination and shall include all freight, delivery and unloading at the destination(s).

4 Submission of Offer

Submission of Offer

4.1 Sealed Envelope or Package

Except for electronic submissions, when authorized, each Offer shall be submitted to the submittal location identified in this Solicitation. Offers should be submitted in a sealed envelope or container. The envelope or container should be clearly identified with name of the Offeror and Solicitation number. The State may open envelopes or containers to identify contents if the envelope or container is not clearly identified.

4.2 Offer Amendment or Withdrawal

An Offer may not be amended or withdrawn after the Offer due date and time except as otherwise provided under applicable law.

4.3 Public Record

All Offers submitted and opened are public records and must be retained by the State. Offers shall be open to public inspection after Contract award, except for such Offers deemed to be confidential by the State. If an Offeror believes that information in its Offer should remain confidential, it shall indicate as confidential the specific information and submit a statement with its Offer detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise. The State shall determine whether the identified information is confidential pursuant to the Arizona Procurement Code.

4.4 Non−collusion, Employment, and Services

By signing the Offer and Acceptance Form or other official contract form, the Offeror certifies that:

4.4.1 i. The Offeror did not engage in collusion or other anti−competitive practices in connection with the preparation or submission of its Offer; and

4.4.2 ii.The Offeror does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and that it complies with all applicable Federal, state and local laws and executive orders regarding employment.

5 Evaluation

Evaluation

1. Equipment and Desirable Technical Requirements
2. Capacity of Offeror
3. Cost
4. Conformance to Terms &Conditions and to Scope of Work
5. Compliance with Submittal information

5.1 Unit Price Prevails
In the case of discrepancy between the unit price or rate and the extension of that unit price or rate, the unit price or rate shall govern.

5.2 Taxes
Arizona transaction privilege and use taxes shall not be considered for evaluation.

5.3 Late Offers
An Offer submitted after the exact Offer due date and time shall be rejected.

5.4 Disqualification
An Offeror (including anyof its' principals) who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity shall have its offer rejected.

5.5 Offer Acceptance Period
An Offeror submitting an Offer under this Solicitation shall hold its Offer open for the number of days from the Offer due date that is stated in the Solicitation. If the Solicitation does not specifically state a number of days for Offer acceptance, the number of days shall be one hundred–twenty (120). If a Best and Final Offer is requested pursuant to a Request for Proposals, an Offeror shall hold its Offer open for one hundred–twenty (120) days from the Best and Final Offer due date.

5.6 Waiver and Rejection Rights
Notwithstanding any other provision of the Solicitation, the State reserves the right to:

5.6.1 Waive any minor informality;
5.6.2 Reject any and all Offers or portions thereof; or
5.6.3 Cancel the Solicitation.

6 Award
Award

6.1 Number or Types of Awards
The State reserves the right to make multiple awards or to award a Contract by individual line items or alternatives, by group of line items or alternatives, or to make an aggregate award, or regional awards, whichever is most advantageous to the State. If the Procurement Officer determines that an aggregate award to one Offeror is not in the State's best interest, 'all or none' Offers shall be rejected.

6.2 Contract Inception
An Offer does not constitute a Contract nor does it confer any rights on the Offeror to the award of a Contract. A Contract is not created until the Offer is accepted in writing by the Procurement Officer's signature on the Offer and Acceptance Form. A notice of award or of the intent to award shall not constitute acceptance of the Offer.

6.3 Effective Date
The effective date of this Contract shall be the date that the Procurement Officer signs the Offer and Acceptance form or other official contract form, unless another date is specifically stated in the Contract.

7 Protests
A protest shall comply with and be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9 and rules adopted thereunder. Protests shall be in writing and be filed with both the Procurement Officer of the purchasing agency and with the State Procurement Administrator. A protest of a Solicitation shall be received by the Procurement Officer before the Offer due date. A protest of a proposed award or of an award shall be filed within ten (10) days after the protester knows or should have known the basis of the protest. A protest shall include:

7.1 The name, address and telephone number of the protester;
7.2 The signature of the protester or its representative;
7.3 Identification of the purchasing agency and the Solicitation or Contract number;
7.4 A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
7.5 The form of relief requested.

8 Comments Welcome
The State Procurement Office periodically reviews the Uniform Instructions to Offerors and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 104, Phoenix, Arizona, 85007.

Contract

Solicitation # EPS060043–A4

Uniform Terms and Conditions

1 Definition of Terms

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

1.1 Attachment

any item the Solicitation requires the Offeror to submit as part of the Offer.

1.2 Contract

the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.

1.3 Contract Amendment

a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

1.4 Contractor

any person who has a Contract with the State.

1.5 Days

calendar days unless otherwise specified

1.6 Exhibit

any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.

1.7 Gratuity

a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

1.8 Materials

all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.

1.9 Procurement Officer

the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

1.10 Services

the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.

1.11 Subcontract

any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

1.12 State

the State of Arizona and Department or Agency of the State that executes the Contract.

1.13 State Fiscal Year

the period beginning with July 1 and ending June 30,

2 Contract Interpretation

Contract Interpretation

2.1 Arizona Law

The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

2.2 Implied Contract Terms

Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

2.3 Contract Order of Precedence

In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:

2.3.1 Special Terms and Conditions;
2.3.2 Uniform Terms and Conditions;
2.3.3 Statement or Scope of Work;
2.3.4 Specifications;
2.3.5 Attachments;
2.3.6 Exhibits;
2.3.7 Documents referenced or included in the Solicitation.

2.4 Relationship of Parties

The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

2.5 Severability

The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

2.6 No Parole Evidence

This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

2.7 No Waiver

Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3 Contract Administration and Operation

Contract Administration and Operation.

3.1 Records

Under A.R.S. § 35–214 and § 35–215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other 'records' relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

3.2 Non–Discrimination

The Contractor shall comply with State Executive Order No. 99–4 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

3.3 Audit

Pursuant to ARS § 35–214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

3.4 Facilities Inspection and Materials Testing

The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non–compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

3.5 Notices

Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.

3.6 Advertising, Publishing and Promotion of Contract

The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.

3.7 Property of the State

Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.

3.8 Ownership of Intellectual Property

Any and all intellectual property, including but not limited to copyright, invention, trademark, tradename, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ('Intellectual Property'), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor (s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

4 Costs and Payments

Costs and Payments

4.1 Payments

Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.

4.2 Delivery

Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

4.3 Applicable Taxes

4.3.1 Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

4.3.2 State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

4.3.3 Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4.3.4 IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

4.4 Availability of Funds for the Next State Fiscal Year

Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

4.5 Availability of Funds for the Current State Fiscal Year

Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:

4.5.1 Accept a decrease in price offered by the contractor;

4.5.2 Cancel the Contract

4.5.3 Cancel the contract and re−solicit the requirements.

5 Contract Changes

Contract Changes

5.1 Amendments

This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.2 Subcontracts

The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

5.3 Assignment and Delegation

The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6 Risk and Liability

Risk and Liability

6.1 Risk of Loss

The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

6.2 Indemnification

6.2.1 Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its' departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its' departments, agencies, boards and commissions shall be responsible for its' own negligence. Each party to this contract is responsible for its' own negligence.

6.2.2 Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable

attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its' officers, officials, agents, employees, or volunteers.'

6.3 Indemnification – Patent and Copyright

The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41–621 and § 35–154, this section shall not apply.

6.4 Force Majeure

6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term 'force majeure' means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions–intervention–acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2 Force Majeure shall not include the following occurrences:

6.4.2.1 Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.4.2.3 Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.4.3 If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified–return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.4.4 Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

6.5 Third Party Antitrust Violations

The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7 Warranties

Warranties

7.1 Liens

The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

7.2 Quality

Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:

7.2.1 Of a quality to pass without objection in the trade under the Contract description;

7.2.2 Fit for the intended purposes for which the materials are used;

7.2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

7.2.4 Adequately contained, packaged and marked as the Contract may require; and

7.2.5 Conform to the written promises or affirmations of fact made by the Contractor.

7.3 Fitness

The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.

7.4 Inspection/Testing

The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.

7.5 Year 2000

7.5.1 Notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that all products delivered and all services rendered under this Contract shall comply in all respects to performance and delivery requirements of the specifications and shall not be adversely affected by any date−related data Year 2000 issues. This warranty shall survive the expiration or termination of this Contract. In addition, the defense of force majeure shall not apply to the Contractor's failure to perform specification requirements as a result of any date−related data Year 2000 issues.

7.5.2 Additionally, notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that each hardware, software, and firmware product delivered under this Contract shall be able to accurately process date/time data (including but not limited to calculation, comparing, and sequencing) from, into, and between the twentieth and twenty−first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other information technology utilized by the State in combination with the information technology being acquired under this Contract properly exchanges date−time data with it. If this Contract requires that the information technology products being acquired perform as a system, or that the information technology products being acquired perform as a system in combination with other State information technology, then this warranty shall apply to the acquired products as a system. The remedies available to the State for breach of this warranty shall include, but shall not be limited to, repair and replacement of the information technology products delivered under this Contract. In addition, the defense of force majeure shall not apply to the failure of the Contractor to perform any specification requirements as a result of any date−related data Year 2000 issues.

7.6 Compliance With Applicable Laws

The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

7.7 Survival of Rights and Obligations after Contract Expiration or Termination

7.71 Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12−510, except as provided in A.R.S. § 12−529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

7.7.2 Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8 State's Contractual Remedies

State's Contractual Remedies

8.1 Right to Assurance

If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2 Stop Work Order

8.2.1 The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

8.2.2 If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3 Non−exclusive Remedies

The rights and the remedies of the State under this Contract are not exclusive.

8.4 Nonconforming Tender

Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or

remedy available to it.

8.5 Right of Offset

The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non−conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9 Contract Termination

Contract Termination

9.1 Cancellation for Conflict of Interest

Pursuant to A.R.S. § 38−511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38−511.

9.2 Gratuities

The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

9.3 Suspension or Debarment

The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.

9.4 Termination for Convenience

The State reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the State without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2−7−701 shall apply.

9.5 Termination for Default

9.5.1 In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

9.5.2 Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.

9.5.3 The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

9.6 Continuation of Performance Through Termination

The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10 Contract Claims

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

11 Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12−1518, except as may be required by other applicable statutes (Title 41).

Contract

Solicitation # EPS060043–A4

Offer

TO THE STATE OF ARIZONA:
The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, specifications and amendments in the Solicitation and any written exceptions in the offer. Signature also certifies Small Business status.

Tax Information			
Arizona Transaction (Sales) Privilege Tax License No.		07675462U	
Federal Employer Identification No.		363949000	
Location Information			
Supplier Number:	2163		
Company Name:	Insight Public Sector, Inc.		
Address:	6820 S. Harl Ave. Tempe, AZ 85283		
Clarification Information			
Name:	Pam Potter		
Phone:	(800) 321–2437	Fax:	(630) 924–6694
Signature			
Name:	Pam Potter	Date:	7/12/06 9:18:58 AM
Title:	Proposal Manager		
Signature:	_____		

Status: Accepted

Certification

By Accepting below, the bidder certifies:

1. The submission of the offer did not involve collusion or other anti–competitive practices.
2. The bidder shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 75.5 or A.R.S. §§ 41–1461 through 1465.
3. The bidder has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The bidder certifies that the above referenced organization [ ]is not[ ] a small business with less than 100 employees or has gross revenues of $4 million or less.

Acceptance

The Offer is hereby accepted.
The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor?s Offer as accepted by the State.
This contract shall henceforth be referred to as Contract No.Entry not found in index. The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order, contact release document or written notice to proceed.

Award Date TBD

Contract

Solicitation # EPS060043–A4

Line Items

LI #	CM Code # CM Code Item #	Commodity Code Description Commodity Code Item Description	Manufacturer	Pricing	Qty	%	Unit Price	Ext Price
1	0206–0064 0206–0064–0001	Network Components: Adapter Cards, Bridges, Connectors, Expansion Modules/Ports, Hubs, Line Drivers, MSAUs, Routers, Transceivers, etc. Network Equipment, Local Area – LAN, Wireless.		FP	0		$0.00	$0.00

Contract

Solicitation # EPS060043–A4

Document Information

Type:	Supplier	Amendment:	Yes	Amend #:	4
Requisition #:	ADSM–6J7M3Y	Solicitation #:	EPS060043–A4	Contract #:	EPS060043–28–A4
PO Assigned:	Don Ellwanger/ADSM–5KAM9N		Date Completed:	10/15/2007	
PM Assigned:	Doug Milford/ADSM–5KAM9N		PA Assigned:	James Scarboro/ADSM–5KAM9N	
Supplier Name:	Insight Public Sector, Inc.		Proposal #:	ADSM–6MPKGZ–1	
Gov't Entity:	Arizona State Procurement Office		Type:	Statewide	
Process Status:	Complete		Status:	Complete	
Total/Not to Exceed Cost:	0		External Contract:		

Contract Information

NOTE: As a State Agency, you are only allowed to use contracts that are either Statewide Contracts or contracts that are assigned to your Agency. You are not allowed to use other Agency Contracts.

Start Date:	7/17/06	End Date:	7/16/09
Term:	3 Year(s)	FOB:	As specified
Payment Terms:	Net 30 Days	Delivery:	30A.R.O. Days
Contract Extension Allowed		Max Extension:	2 Year(s)

Amendment Information

AMENDMENT NO. 4
The Contract is hereby amended to reorganize the content to facilitate ease of use.

All other Terms and Conditions remain in effect.
––
AMENDMENT NO. 3
This amendment is to correct an error in contract dates created in Amendment #2.

All other terms and conditions remain the same.
––
AMENDMENT NO. 2
This Contract is hereby amended to add Benson Security
Systems as an authorized subcontract for Insight Public Sector, Inc

All other terms and conditions remain the same.
––
AMENDMENT NO. 1
The Contract is hereby amended to display only the Manufacturer Product Lines and Services awarded under this Contract illustrated in attachment "EPS060043 EVALUATION TOOL AND AWARD DETERMINATION.xls" to facilitate ease of Customer use and Contract Administration. Products or Services that fall outside the scope of this Contract or that were not awarded under this Contract are not available for purchase regardless if they are displayed in any given document or file within this Contract.

All other Terms and Conditions remain in effect.

Contract Reassignment

N/A

Contractor Amendment Approval

Contract Amendment approved by Dawn Rickert/000002163 (10/12/07 14:32:18)

Solicitation Information

Title:	NETWORKS, EQUIPMENT AND SERVICES	Type:	RFP

Description:
NETWORKS, EQUIPMENT AND SERVICES

Special Instructions

Additional Special Instructions

Offerors shall see the Attachments within the Solicitation for Additional Special Instructions associated with this Solicitation. Disregard all other Instructions and Terms and Conditions within this document as the valid Instructions and Terms and Conditions are detailed in the following two documents located in the Solicitation Attachment section.

EPS060043, Instructions for Proposal.doc
EPS060043, Terms and Conditions

Federal Immigration and Nationality Act 2

By signing of the offer, the offeror warrants that both it and all proposed subcontractors are in compliance with federal immigration laws and regulations (FINA) relating to the immigration status of their employees. The State may, at its sole discretion require evidence of compliance during the evaluation process. Should the State request evidence of compliance, the offeror shall have 5 days from receipt of the request to supply adequate information. Failure to comply with this instruction or failure to supply requested information within the timeframe specified shall result in the offer not being considered for contract award.

Offshore Performance of Work

Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or 'overhead' services, redundant back–up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers. Offerors shall declare all anticipated offshore services in the proposal.

Proposals: SPIRIT Submission Requirement

In accordance with the Uniform Instructions 3.1, Forms: No Facsimile, Telegraphic or Electronic Mail Offers; proposals to this solicitation shall be submitted in an acceptable electronic format, as described herein, using the State's online eProcurement application SPIRIT. Submission of offers by means other than the SPIRIT system will not be accepted. Potential offerors with questions in this regard shall contact the State Procurement Office prior to the solicitations due date and time.

Special Terms and Conditions

Offshore Performance of Work Prohibited

Due to security and identity protection concerns, direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or 'overhead' services, redundant back–up services or services that are incidental to the performance of the contract. This provision applies to work performed by subcontractors at all tiers.

Uniform Instructions

1 Definition of Terms
As used in these Instructions, the terms listed below are defined as follows:

1.2 Contract
the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers, and any Solicitation Amendments or Contract Amendments and any terms applied by law.

1.3 Contract Amendment
a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

1.4 Contractor
any person who has a Contract with the State

1.5 Days
calendar days unless otherwise specified.

1.6 Exhibit
any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation

1.7 Offer
bid, proposal or quotation.

1.8 Offeror
a vendor who responds to a Solicitation.

1.9 Procurement Officer
the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

1.10 Solicitation
an Invitation for Bids ('IFB'), a Request for Proposals ('RFP'), or a Request for Quotations ('RFQ').

1.11 Solicitation Amendment
a written document that is signed by the Procurement Officer and issued for the purpose of making changes to the Solicitation.

1.12 Subcontract
means any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

1.13 State
the State of Arizona and Department or Agency of the State that executes the Contract.

2 Inquiries
Inquiries

2.1 Duty to Examine
It is the responsibility of each Offeror to examine the entire Solicitation, seek clarification in writing (inquiries), and examine its' Offer for accuracy before submitting the Offer. Lack of care in preparing an Offer shall not be grounds for modifying or withdrawing the Offer after the Offer due date and time, nor shall it give rise to any Contract claim.

2.2 Solicitation Contact Person
Any inquiry related to a Solicitation, including any requests for or inquiries regarding standards referenced in the Solicitation, shall be directed solely to the Solicitation contact person. The Offeror shall not contact or direct inquiries concerning this Solicitation to any other State employee unless the Solicitation specifically identifies a person other than the Solicitation contact person as a contact.

2.3 Submission of Inquiries
The Procurement Officer or the person identified in the Solicitation as the contact for inquiries mayexcept at the Pre−Offer Conference, require that an inquiry be submitted in writing. Any inquiry related to a Solicitation shall refer to the appropriate Solicitation number, page and paragraph. Do not place the Solicitation number on the outside of the envelope containing that inquiry, since it may then be identified as an Offer and not be opened until after the Offer due date and time. The State shall consider the relevancy of the inquiry but is not required to respond in writing.

2.4 Timeliness
Any inquiry or exception to the solicitation shall be submitted as soon as possible and should be submitted at least seven days before the Offer due date and time for review and determination by the State. Failure to do so may result in the inquiry not being considered for a Solicitation Amendment.

2.5 No Right to Rely on Verbal Responses
An offeror shall not rely on verbal responses to inquiries. A verbal reply to an inquiry does not constitute a modification of the

solicitation.

2.6 Solicitation Amendments

The Solicitation shall only be modified by a Solicitation Amendment.

2.7 Pre−Offer Conference

If a pre−Offer conference has been scheduled under this Solicitation, the date, time and location shall appear on the Solicitation cover sheet or elsewhere in the Solicitation. Offerors should raise any questions about the Solicitation or the procurement at that time. An Offeror may not rely on any verbal responses to questions at the conference. Material issues raised at the conference that result in changes to the Solicitation shall be answered solely through a written Solicitation Amendment.

2.8 Persons With Disabilities

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Solicitation contact person. Requests shall be made as early as possible to allow time to arrange the accommodation.

3 Offer Preparation

Offer Preparation

3.1 Forms: No Facsimile, Telegraphic or Electronic Mail Offers

Telegraphic or Electronic Mail Offers. An Offer shall be submitted either on the forms provided in this Solicitation or their substantial equivalent. Any substitute document for the forms provided in this Solicitation must be legible and contain the same information requested on the forms, unless the solicitation indicates otherwise. A facsimile, telegraphic, mailgram or electronic mail Offer shall be rejected if submitted in response to requests for proposals or invitations for bids, unless the solicitation indicates otherwise.

3.2 Typed or Ink; Corrections

The Offer shall be typed or in ink. Erasures, interlineations or other modifications in the Offer shall be initialed in ink by the person signing the Offer. Modifications shall not be permitted after Offers have been opened except as otherwise provided under applicable law.

3.3 Evidence of Intent to be Bound

The Offer and Acceptance form within the Solicitation shall be submitted with the Offer and shall include a signature (or acknowledgement for electronic submissions, when authorized) by a person authorized to sign the Offer. The signature shall signify the Offeror's intent to be bound by the Offer and the terms of the Solicitation and that the information provided is true, accurate and complete. Failure to submit verifiable evidence of an intent to be bound, such as an original signature, shall result in rejection of the Offer.

3.4 Exceptions to Terms and Conditions

All exceptions included with the Offer shall be submitted in a clearly identified separate section of the Offer in which the Offeror clearly identifies the specific paragraphs of the Solicitation where the exceptions occur. Any exceptions not included in such a section shall be without force and effect in any resulting Contract unless such exception is specifically accepted by the Procurement Officer in a written statement. The Offeror's preprinted or standard terms will not be considered by the State as a part of any resulting Contract.

i. Invitation for Bids. An Offer that takes exception to a material requirement of any part of the Solicitation, including terms and conditions, shall be rejected. [ALL]

ii. Request for Proposals. All exceptions that are contained in the Offer may negatively affect the State's proposal evaluation based on the evaluation criteria stated in the Solicitation or result in rejection of the Offer. An offer that takes exception to any material requirement of the solicitation may be rejected.

3.5 Subcontracts

Offeror shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities in the Offer.

3.6 Cost of Offer Preparation

The State will not reimburse any Offeror the cost of responding to a Solicitation.

3.7 Solicitation Amendments

Each Solicitation Amendment shall be signed with an original signature by the person signing the Offer, and shall be submitted no later than the Offer due date and time. Failure to return a signed (or acknowledgment for electronic submission, when authorized) copy of a Solicitation Amendment may result in rejection of the Offer.

3.8 Federal Excise Tax

The State of Arizona is exempt from certain Federal Excise Tax on manufactured goods. Exemption Certificates will be provided by the State.

3.9 Provision of Tax Identification Numbers

Offerors are required to provide their Arizona Transaction Privilege Tax Number and/or Federal Tax Identification number in the space provided on the Offer and Acceptance Form.

3.10 Employee Identification

Offeror agrees to provide an employee identification number or social security number to the Statefor the purposes of reporting to appropriate taxing authorities, monies paid by the Stateunder this contract. If the federal identifier of the offeror is a social security number, this number is being requested solely for tax reporting purposes and will be shared only with

appropriate state and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.

3.11 Identification of Taxes in Offer

The State of Arizona is subject to all applicable state and local transaction privilege taxes. All applicable taxes shall be identified as a separate item offered in the solicitation when applicable, the tax rate and amount shall be identified on the price sheet. At all times, payment of taxes and the determination of applicable taxes are the sole responsibility of the contractor.

3.12 Disclosure

If the firm, business or person submitting this Offer has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any Federal, state or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the Offeror shall fully explain the circumstances relating to the preclusion or proposed preclusion in the Offer. The Offeror shall include a letter with its Offer setting forth the name and address of the governmental unit, the effective date of this suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above shall be provided.

3.13 Solicitation Order of Precedence

In the event of a conflict in the provisions of this Solicitation, the following shall prevail in the order set forth below:

3.13.1 Special Terms and Conditions;
3.13.2 Uniform Terms and Conditions;
3.1.3 Statement or Scope of Work;
3.13.4 Specifications;
3.13.5 Attachments;
3.13.6 Exhibits;
3.13.7 Special Instructions to Offerors;
3.13.8Uniform Instructions to Offerors.3.13.9 Other documents referenced or included in the Solicitation.

3.14 Delivery

Unless stated otherwise in the Solicitation, all prices shall be F.O.B. Destination and shall include all freight, delivery and unloading at the destination(s).

4 Submission of Offer

Submission of Offer

4.1 Sealed Envelope or Package

Except for electronic submissions, when authorized, each Offer shall be submitted to the submittal location identified in this Solicitation. Offers should be submitted in a sealed envelope or container. The envelope or container should be clearly identified with name of the Offeror and Solicitation number. The State may open envelopes or containers to identify contents if the envelope or container is not clearly identified.

4.2 Offer Amendment or Withdrawal

An Offer may not be amended or withdrawn after the Offer due date and time except as otherwise provided under applicable law.

4.3 Public Record

All Offers submitted and opened are public records and must be retained by the State. Offers shall be open to public inspection after Contract award, except for such Offers deemed to be confidential by the State. If an Offeror believes that information in its Offer should remain confidential, it shall indicate as confidential the specific information and submit a statement with its Offer detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise. The State shall determine whether the identified information is confidential pursuant to the Arizona Procurement Code.

4.4 Non−collusion, Employment, and Services

By signing the Offer and Acceptance Form or other official contract form, the Offeror certifies that:

4.4.1 i. The Offeror did not engage in collusion or other anti−competitive practices in connection with the preparation or submission of its Offer; and

4.4.2 ii.The Offeror does not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, or disability, and that it complies with all applicable Federal, state and local laws and executive orders regarding employment.

5 Evaluation

Evaluation

1. Equipment and Desirable Technical Requirements
2. Capacity of Offeror
3. Cost
4. Conformance to Terms &Conditions and to Scope of Work
5. Compliance with Submittal information

5.1 Unit Price Prevails
In the case of discrepancy between the unit price or rate and the extension of that unit price or rate, the unit price or rate shall govern.

5.2 Taxes
Arizona transaction privilege and use taxes shall not be considered for evaluation.

5.3 Late Offers
An Offer submitted after the exact Offer due date and time shall be rejected.

5.4 Disqualification
An Offeror (including anyof its' principals) who is currently debarred, suspended or otherwise lawfully prohibited from any public procurement activity shall have its offer rejected.

5.5 Offer Acceptance Period
An Offeror submitting an Offer under this Solicitation shall hold its Offer open for the number of days from the Offer due date that is stated in the Solicitation. If the Solicitation does not specifically state a number of days for Offer acceptance, the number of days shall be one hundred–twenty (120). If a Best and Final Offer is requested pursuant to a Request for Proposals, an Offeror shall hold its Offer open for one hundred–twenty (120) days from the Best and Final Offer due date.

5.6 Waiver and Rejection Rights
Notwithstanding any other provision of the Solicitation, the State reserves the right to:

5.6.1 Waive any minor informality;
5.6.2 Reject any and all Offers or portions thereof; or
5.6.3 Cancel the Solicitation.

6 Award
Award

6.1 Number or Types of Awards
The State reserves the right to make multiple awards or to award a Contract by individual line items or alternatives, by group of line items or alternatives, or to make an aggregate award, or regional awards, whichever is most advantageous to the State. If the Procurement Officer determines that an aggregate award to one Offeror is not in the State's best interest, 'all or none' Offers shall be rejected.

6.2 Contract Inception
An Offer does not constitute a Contract nor does it confer any rights on the Offeror to the award of a Contract. A Contract is not created until the Offer is accepted in writing by the Procurement Officer's signature on the Offer and Acceptance Form. A notice of award or of the intent to award shall not constitute acceptance of the Offer.

6.3 Effective Date
The effective date of this Contract shall be the date that the Procurement Officer signs the Offer and Acceptance form or other official contract form, unless another date is specifically stated in the Contract.

7 Protests
A protest shall comply with and be resolved according to Arizona Revised Statutes Title 41, Chapter 23, Article 9 and rules adopted thereunder. Protests shall be in writing and be filed with both the Procurement Officer of the purchasing agency and with the State Procurement Administrator. A protest of a Solicitation shall be received by the Procurement Officer before the Offer due date. A protest of a proposed award or of an award shall be filed within ten (10) days after the protester knows or should have known the basis of the protest. A protest shall include:

7.1 The name, address and telephone number of the protester;
7.2 The signature of the protester or its representative;
7.3 Identification of the purchasing agency and the Solicitation or Contract number;
7.4 A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
7.5 The form of relief requested.

8 Comments Welcome
The State Procurement Office periodically reviews the Uniform Instructions to Offerors and welcomes any comments you may have. Please submit your comments to: State Procurement Administrator, State Procurement Office, 100 North 15th Avenue, Suite 104, Phoenix, Arizona, 85007.

Contract

Solicitation # EPS060043–A4

Uniform Terms and Conditions

1 Definition of Terms

As used in this Solicitation and any resulting Contract, the terms listed below are defined as follows:

1.1 Attachment

any item the Solicitation requires the Offeror to submit as part of the Offer.

1.2 Contract

the combination of the Solicitation, including the Uniform and Special Instructions to Offerors, the Uniform and Special Terms and Conditions, and the Specifications and Statement or Scope of Work; the Offer and any Best and Final Offers; and any Solicitation Amendments or Contract Amendments.

1.3 Contract Amendment

a written document signed by the Procurement Officer that is issued for the purpose of making changes in the Contract.

1.4 Contractor

any person who has a Contract with the State.

1.5 Days

calendar days unless otherwise specified

1.6 Exhibit

any item labeled as an Exhibit in the Solicitation or placed in the Exhibits section of the Solicitation.

1.7 Gratuity

a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

1.8 Materials

all property, including equipment, supplies, printing, insurance and leases of property but does not include land, a permanent interest in land or real property or leasing space.

1.9 Procurement Officer

the person, or his or her designee, duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract.

1.10 Services

the furnishing of labor, time or effort by a contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.

1.11 Subcontract

any Contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of the Contract.

1.12 State

the State of Arizona and Department or Agency of the State that executes the Contract.

1.13 State Fiscal Year

the period beginning with July 1 and ending June 30,

2 Contract Interpretation

Contract Interpretation

2.1 Arizona Law

The Arizona law applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.

2.2 Implied Contract Terms

Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.

2.3 Contract Order of Precedence

In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:

2.3.1 Special Terms and Conditions;
2.3.2 Uniform Terms and Conditions;
2.3.3 Statement or Scope of Work;
2.3.4 Specifications;
2.3.5 Attachments;
2.3.6 Exhibits;
2.3.7 Documents referenced or included in the Solicitation.

2.4 Relationship of Parties

The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.

2.5 Severability

The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.

2.6 No Parole Evidence

This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

2.7 No Waiver

Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.

3 Contract Administration and Operation

Contract Administration and Operation.

3.1 Records

Under A.R.S. § 35–214 and § 35–215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other 'records' relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.

3.2 Non–Discrimination

The Contractor shall comply with State Executive Order No. 99–4 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

3.3 Audit

Pursuant to ARS § 35–214, at any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the State and, where applicable, the Federal Government, to the extent that the books and records relate to the performance of the Contract or Subcontract.

3.4 Facilities Inspection and Materials Testing

The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this Contract. The State shall also have the right to test, at its own cost, the materials to be supplied under this Contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the State determines non–compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the State for testing and inspection.

3.5 Notices

Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the Offer and Acceptance form submitted by the Contractor unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to the Solicitation Contact Person indicated on the Solicitation cover sheet, unless otherwise stated in the Contract. An authorized Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice to the other and an amendment to the Contract shall not be necessary.

3.6 Advertising, Publishing and Promotion of Contract

The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the Procurement Officer.

3.7 Property of the State

Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of the State. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of the State.

3.8 Ownership of Intellectual Property

Any and all intellectual property, including but not limited to copyright, invention, trademark, tradename, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ('Intellectual Property'), shall be work made for hire and the State shall be considered the creator of such Intellectual Property. The agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract shall own (for and on behalf of the State) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the State, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor (s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the State and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the State. The Intellectual Property shall not be disclosed by contractor or its subcontractor(s) to any entity not the State without the express written authorization of the agency, department, division, board or commission of the State of Arizona requesting the issuance of this contract.

4 Costs and Payments

Costs and Payments

4.1 Payments

Payments shall comply with the requirements of A.R.S. Titles 35 and 41, Net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the State within thirty (30) days.

4.2 Delivery

Unless stated otherwise in the Contract, all prices shall be F.O.B. Destination and shall include all freight delivery and unloading at the destination.

4.3 Applicable Taxes

4.3.1 Payment of Taxes. The Contractor shall be responsible for paying all applicable taxes.

4.3.2 State and Local Transaction Privilege Taxes. The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect such taxes from the buyer does not relieve the seller from its obligation to remit taxes.

4.3.3 Tax Indemnification. Contractor and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

4.3.4 IRS W9 Form. In order to receive payment the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona, unless not required by law.

4.4 Availability of Funds for the Next State Fiscal Year

Funds may not presently be available for performance under this Contract beyond the current state fiscal year. No legal liability on the part of the State for any payment may arise under this Contract beyond the current state fiscal year until funds are made available for performance of this Contract.

4.5 Availability of Funds for the Current State Fiscal Year

Should the State Legislature enter back into session and reduce the appropriations or for any reason and these goods or services are not funded, the State may take any of the following actions:
4.5.1 Accept a decrease in price offered by the contractor;
4.5.2 Cancel the Contract
4.5.3 Cancel the contract and re−solicit the requirements.

5 Contract Changes

Contract Changes

5.1 Amendments

This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment within the scope of the Contract. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procurement officer in writing or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

5.2 Subcontracts

The Contractor shall not enter into any Subcontract under this Contract for the performance of this contract without the advance written approval of the Procurement Officer. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The Subcontract shall incorporate by reference the terms and conditions of this Contract.

5.3 Assignment and Delegation

The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

6 Risk and Liability

Risk and Liability

6.1 Risk of Loss

The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

6.2 Indemnification

6.2.1 Contractor/Vendor Indemnification (Not Public Agency) The parties to this contract agree that the State of Arizona, its' departments, agencies, boards and commissions shall be indemnified and held harmless by the contractor for the vicarious liability of the State as a result of entering into this contract. However, the parties further agree that the State of Arizona, its' departments, agencies, boards and commissions shall be responsible for its' own negligence. Each party to this contract is responsible for its' own negligence.

6.2.2 Public Agency Language Only Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable

attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its' officers, officials, agents, employees, or volunteers.'

6.3 Indemnification – Patent and Copyright

The Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of Contract performance or use by the State of materials furnished or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the contractor is insured pursuant to A.R.S. § 41–621 and § 35–154, this section shall not apply.

6.4 Force Majeure

6.4.1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term 'force majeure' means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions–intervention–acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

6.4.2 Force Majeure shall not include the following occurrences:

6.4.2.1 Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;

6.4.2.2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or

6.4.2.3 Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

6.4.3 If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified–return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

6.4.4 Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.

6.5 Third Party Antitrust Violations

The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor, toward fulfillment of this Contract.

7 Warranties

Warranties

7.1 Liens

The Contractor warrants that the materials supplied under this Contract are free of liens and shall remain free of liens.

7.2 Quality

Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the State of the materials, they shall be:

7.2.1 Of a quality to pass without objection in the trade under the Contract description;

7.2.2 Fit for the intended purposes for which the materials are used;

7.2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

7.2.4 Adequately contained, packaged and marked as the Contract may require; and

7.2.5 Conform to the written promises or affirmations of fact made by the Contractor.

7.3 Fitness

The Contractor warrants that any material supplied to the State shall fully conform to all requirements of the Contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the Contract.

7.4 Inspection/Testing

The warranties set forth in subparagraphs 7.1 through 7.3 of this paragraph are not affected by inspection or testing of or payment for the materials by the State.

7.5 Year 2000

7.5.1 Notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that all products delivered and all services rendered under this Contract shall comply in all respects to performance and delivery requirements of the specifications and shall not be adversely affected by any date−related data Year 2000 issues. This warranty shall survive the expiration or termination of this Contract. In addition, the defense of force majeure shall not apply to the Contractor's failure to perform specification requirements as a result of any date−related data Year 2000 issues.

7.5.2 Additionally, notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that each hardware, software, and firmware product delivered under this Contract shall be able to accurately process date/time data (including but not limited to calculation, comparing, and sequencing) from, into, and between the twentieth and twenty−first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other information technology utilized by the State in combination with the information technology being acquired under this Contract properly exchanges date−time data with it. If this Contract requires that the information technology products being acquired perform as a system, or that the information technology products being acquired perform as a system in combination with other State information technology, then this warranty shall apply to the acquired products as a system. The remedies available to the State for breach of this warranty shall include, but shall not be limited to, repair and replacement of the information technology products delivered under this Contract. In addition, the defense of force majeure shall not apply to the failure of the Contractor to perform any specification requirements as a result of any date−related data Year 2000 issues.

7.6 Compliance With Applicable Laws

The materials and services supplied under this Contract shall comply with all applicable Federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

7.7 Survival of Rights and Obligations after Contract Expiration or Termination

7.71 Contractor's Representations and Warranties. All representations and warranties made by the Contractor under this Contract shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12−510, except as provided in A.R.S. § 12−529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S., Title 12, Chapter 5.

7.7.2 Purchase Orders. The Contractor shall, in accordance with all terms and conditions of the Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Procurement Officer, including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

8 State's Contractual Remedies

State's Contractual Remedies

8.1 Right to Assurance

If the State in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract.

8.2 Stop Work Order

8.2.1 The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the State after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

8.2.2 If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

8.3 Non−exclusive Remedies

The rights and the remedies of the State under this Contract are not exclusive.

8.4 Nonconforming Tender

Materials or services supplied under this Contract shall fully comply with the Contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services, the State may terminate the Contract for default under applicable termination clauses in the Contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or

remedy available to it.

8.5 Right of Offset

The State shall be entitled to offset against any sums due the Contractor, any expenses or costs incurred by the State, or damages assessed by the State concerning the Contractor's non−conforming performance or failure to perform the Contract, including expenses, costs and damages described in the Uniform Terms and Conditions.

9 Contract Termination

Contract Termination

9.1 Cancellation for Conflict of Interest

Pursuant to A.R.S. § 38−511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38−511.

9.2 Gratuities

The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including the making of any determination or decision about contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

9.3 Suspension or Debarment

The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the contractor is not currently suspended or debarred. If the contractor becomes suspended or debarred, the contractor shall immediately notify the State.

9.4 Termination for Convenience

The State reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the State without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the State. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2−7−701 shall apply.

9.5 Termination for Default

9.5.1 In addition to the rights reserved in the contract, the State may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

9.5.2 Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the State on demand.

9.5.3 The State may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the State for any excess costs incurred by the State in procuring materials or services in substitution for those due from the Contractor.

9.6 Continuation of Performance Through Termination

The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

10 Contract Claims

All contract claims or controversies under this Contract shall be resolved according to A.R.S. Title 41, Chapter 23, Article 9, and rules adopted thereunder.

11 Arbitration

The parties to this Contract agree to resolve all disputes arising out of or relating to this contract through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12−1518, except as may be required by other applicable statutes (Title 41).

Contract

Solicitation # EPS060043–A4

Offer

TO THE STATE OF ARIZONA:
The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, specifications and amendments in the Solicitation and any written exceptions in the offer. Signature also certifies Small Business status.

Tax Information	
Arizona Transaction (Sales) Privilege Tax License No.	07675462U
Federal Employer Identification No.	XXXXXXXXX

Location Information	
Supplier Number:	2163
Company Name:	Insight Public Sector, Inc.
Address:	6820 S. Harl Ave. Tempe, AZ 85283

Signature			
Name:	Pam Potter	Date:	7/12/06 9:18:58
Title:	Proposal Manager		
Signature:	_____		

Status: Accepted

Certification

By Accepting below, the bidder certifies:

1. The submission of the offer did not involve collusion or other anti–competitive practices.
2. The bidder shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 75.5 or A.R.S. §§ 41–1461 through 1465.
3. The bidder has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The bidder certifies that the above referenced organization [ ]is not[ ] a small business with less than 100 employees or has gross revenues of $4 million or less.

Acceptance

The Offer is hereby accepted.
The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor?s Offer as accepted by the State.
This contract shall henceforth be referred to as Contract No.Entry not found in index. The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order, contact release document or written notice to proceed.

Award Date TBD

Contract

Solicitation # EPS060043–A4

Line Items

LI #	CM Code # CM Code Item #	Commodity Code Description Commodity Code Item Description	Manufacturer	Pricing	Qty	%	Unit Price	Ext Price
1	0206–0064 0206–0064–0001	Network Components: Adapter Cards, Bridges, Connectors, Expansion Modules/Ports, Hubs, Line Drivers, MSAUs, Routers, Transceivers, etc. Network Equipment, Local Area – LAN, Wireless.		FP	0		$0.00	$0.00

EXHIBIT B
TO
PURCHASE AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
INSIGHT PUBLIC SECTOR, INC.

[Scope of Work]

See following pages.

Insight PUBLIC SECTOR

Insight Public Sector
6820 South Harl Ave
Tempe,AZ,85283-4318
US
Tel: 8004674448

SOLD-TO PARTY

City Of Avondale
11465 W CIVIC CENTER DR
AVONDALE, AZ 85323-6803

SHIP-TO ADDRESS

City Of Avondale
11465 W CIVIC CENTER DR
AVONDALE AZ 85323-6803

Quotation

Quotation Number 210241469

Creation Date 10/24/2007

PO Number / Date :

Customer No. : 10133195
Sales Rep : JOHN BRIGGS
Email : jbriggs@insight.com
Telephone : 800-467-4448 X 5190
Sales Rep 2 : LORELL MILLER
Email 2 : lmiller1@insight.com
Telephone 2 : 800-827-6100 X 6300

Dear Kevin Hinderleider,
Thank you for considering Insight to be your trusted partners in addressing your evolving IT needs. We appreciate being considered as your solution source and look forward to making IT work for you.

We deliver according to the following terms:

Terms of Payment : Net 30 days
Ship Via : AIT Freight Systems / LTL
Terms of Delivery : FOB DESTINATION
Currency : USD

Material	Description	Qty	UnitPrice	Extended Price
CISCO2821-SRST/K9	**Cisco 2821 Voice Bundle - router**	1	3,210.03	3,210.03
	STATE OF ARIZONA - NETWORKS, EQUIPMENT & SERVICES(# EPS060043-28-A4)			
HWIC-1GE-SFP	**Cisco - Network adapter - Gigabit EN**	1	2,082.50	2,082.50
	STATE OF ARIZONA - NETWORKS, EQUIPMENT & SERVICES(# EPS060043-28-A4)			
HWIC-4ESW-POE	**Cisco EtherSwitch HWIC - switch - 4 ports**	1	342.13	342.13
	STATE OF ARIZONA - NETWORKS, EQUIPMENT & SERVICES(# EPS060043-28-A4)			
VIC-4FXS/DID	**Cisco - Voice / fax module - plug-in module - FXS / 4 analog port(s)**	1	476.00	476.00
	STATE OF ARIZONA - NETWORKS, EQUIPMENT & SERVICES(# EPS060043-28-A4)			
VIC2-4FXO	**Cisco - Voice interface card - plug-in module - FXO / 4 analog port(s)**	1	476.00	476.00
	STATE OF ARIZONA - NETWORKS, EQUIPMENT & SERVICES(# EPS060043-28-A4)			

Insight PUBLIC SECTOR

Quotation Number / Creation Date

210241469 / 10/24/2007

Material	Description	Qty	UnitPrice	Extended Price
PVDM2-32U64	**Cisco - Voice / fax module - removable plug-in module (64 channels)**	1	892.50	892.50
	STATE OF ARIZONA - NETWORKS, EQUIPMENT & SERVICES(# EPS060043-28-A4)			
CON-STLOC	**8X5NBD SVC.**	1	0.00	0.00
	CONTACT NAME: KEVIN HINDERLEIDER CONTACT PHONE: 6234783004 CONTACT EMAIL: KHINDERLEIDER@AVONDALE.ORG			
	OPEN MARKET			
WS-C3560G-48PS-S	**Cisco Catalyst 3560G-48PS SMI - switch - 48 ports**	3	5,649.53	16,948.59
	STATE OF ARIZONA - NETWORKS, EQUIPMENT & SERVICES(# EPS060043-28-A4)			
CON-STLOC	**8X5NBD SVC.**	3	0.00	0.00
	CONTACT NAME: KEVIN HINDERLEIDER CONTACT PHONE: 6234783004 CONTACT EMAIL: KHINDERLEIDER@AVONDALE.ORG			
	OPEN MARKET			
GLC-SX-MM=	**Cisco - Transceiver module - SFP - Gigabit EN - 1000Base-SX - 850 nm**	3	297.50	892.50
	STATE OF ARIZONA - NETWORKS, EQUIPMENT & SERVICES(# EPS060043-28-A4)			
GLC-T=	**Cisco - Transceiver module - SFP - Gigabit EN - 1000Base-T**	3	235.03	705.09
	STATE OF ARIZONA - NETWORKS, EQUIPMENT & SERVICES(# EPS060043-28-A4)			
SUA3000RMXL3U	**APC Smart-UPS 3000VA XL - UPS - 2.7 kW - 3000 VA**	1	1,298.00	1,298.00
	STATE OF AZ - STATE PROCUREMENT OFFICE - UPS EQUIPMENT(# EPS070086-2-A1)			
SUA48RMXLBP3U	**APC Smart-UPS XL 48V Battery Pack - battery enclosure - lead acid**	3	597.52	1,792.56
	STATE OF AZ - STATE PROCUREMENT OFFICE - UPS EQUIPMENT(# EPS070086-2-A1)			
AP9619	**APC Network Management Card EM - remote management adapter**	1	372.81	372.81
	STATE OF AZ - STATE PROCUREMENT OFFICE - UPS EQUIPMENT(# EPS070086-2-A1)			
AP7900	**APC Switched Rack PDU power distribution strip**	2	420.54	841.08
	STATE OF AZ - STATE PROCUREMENT OFFICE - UPS EQUIPMENT(# EPS070086-2-A1)			

Sub Total	**30,329.79**
Tax	**2,456.71**
TOTAL	**32,786.50**

Please contact us with any questions or for additional information about Insight Public Sector's complete IT solution offering. Again, thank you for considering Insight Public Sector!

Insight PUBLIC SECTOR

Quotation Number / Creation Date

210241469 / **10/24/2007**

Material	Description	Qty	UnitPrice	Extended Price

Sincerely,
JOHN BRIGGS
800-467-4448 **Ex: 5190**
jbriggs@insight.com

Subject to IPS Terms and Conditions online at http://www.ips.insight.com/site/static/legal.cfm

Insight PUBLIC SECTOR

Insight Public Sector
6820 South Harl Ave
Tempe,AZ,85283-4318
US
Tel: 8004674448

SOLD-TO PARTY

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CON-STLOC	**8X5NBD SVC.**	3	0.00	0.00
	CONTACT NAME: KEVIN HINDERLEIDER CONTACT PHONE: 6234783004 CONTACT EMAIL: KHINDERLEIDER@AVONDALE.ORG			
	OPEN MARKET			
GLC-SX-MM=	**Cisco - Transceiver module - SFP - Gigabit EN - 1000Base-SX - 850 nm**	3	297.50	892.50
	STATE OF ARIZONA - NETWORKS, EQUIPMENT & SERVICES(# EPS060043-28-A4)			
GLC-T=	**Cisco - Transceiver module - SFP - Gigabit EN - 1000Base-T**	3	235.03	705.09
	STATE OF ARIZONA - NETWORKS, EQUIPMENT & SERVICES(# EPS060043-28-A4)			
SUA3000RMXL3U	**APC Smart-UPS 3000VA XL - UPS - 2.7 kW - 3000 VA**	1	1,298.00	1,298.00
	STATE OF AZ - STATE PROCUREMENT OFFICE - UPS EQUIPMENT(# EPS070086-2-A1)			
SUA48RMXLBP3U	**APC Smart-UPS XL 48V Battery Pack - battery enclosure - lead acid**	3	597.52	1,792.56
	STATE OF AZ - STATE PROCUREMENT OFFICE - UPS EQUIPMENT(# EPS070086-2-A1)			
AP9619	**APC Network Management Card EM - remote management adapter**	1	372.81	372.81
	STATE OF AZ - STATE PROCUREMENT OFFICE - UPS EQUIPMENT(# EPS070086-2-A1)			
AP7900	**APC Switched Rack PDU power distribution strip**	2	420.54	841.08
	STATE OF AZ - STATE PROCUREMENT OFFICE - UPS EQUIPMENT(# EPS070086-2-A1)			

Sub Total	**30,329.79**
Tax	**2,456.71**
TOTAL	**32,786.50**

Please contact us with any questions or for additional information about Insight Public Sector's complete IT solution offering. Again, thank you for considering Insight Public Sector!

Insight PUBLIC SECTOR

Quotation Number / Creation Date

210241469 / **10/24/2007**

Material	Description	Qty	UnitPrice	Extended Price

Sincerely,
JOHN BRIGGS
800-467-4448 **Ex: 5190**
jbriggs@insight.com

Subject to IPS Terms and Conditions online at http://www.ips.insight.com/site/static/legal.cfm

PURCHASE AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
HEWLETT PACKARD COMPANY

THIS PURCHASE AGREEMENT (this "Agreement") is entered into as of December 17, 2007, between the City of Avondale, an Arizona municipal corporation (the "City") and Hewlett Packard Company, a Delaware company ("Contractor").

RECITALS

A. After a competitive procurement process, the Western States Contracting Alliance entered into Contract No. A63309 dated as of July 9, 2004 as amended by that certain First Amendment to Contract dated as of October 4, 2004, by that certain Second Amendment to Contract dated as of May 5, 2005, by that certain Third Amendment to Contract dated as of January 23, 2006, by the certain Fourth Amendment to Contract dated as of March 2, 2006, by that certain Fifth Amendment to Contract dated as of September 27, 2006, by that certain Sixth Amendment to Contract dated as of January 25, 2007 and by that certain Seventh Amendment to Contract dated as of June 15, 2007, with the Contractor to provide computer equipment, software, peripherals and related services (the "Western States Contract"). The Western States Contract is attached hereto as Exhibit A and incorporated herein by reference.

B. The City is permitted by Section 25-24 of the City Code to make purchases under the Western States Contract without any further public bidding when, in the opinion of the purchasing director, a separate bidding process is not likely to result in a lower price than would be available under the Western States Contract.

C. The purchasing director has made the determination that a separate bidding process is not likely to result in a lower price than would be available under the Western States Contract. The City desires to utilize the services of the Contractor for a lower cost than would otherwise be available.

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 is hereby acknowledged, the parties 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 August 31, 2009.

2. Scope of Work. Contractor shall provide computer equipment, software and peripherals and perform related services under the terms and conditions of the Western States Contract in the quantities as set forth in Exhibit B attached hereto and incorporated herein by reference, in an amount not to exceed in aggregate a total of $57,013.43.

3. 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**"

HEWLETT PACKARD COMPANY
a Delaware company

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 _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 2007, by _____ as _____ of HEWLETT PACKARD COMPANY, a Delaware company, on behalf of the corporation.

_____
Notary Public in and for the State of _____

My Commission Expires:

_____

EXHIBIT A
TO
PURCHASE AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
HEWLETT PACKARD COMPANY

[Western States Contract]

See following pages.

WESTERN STATES CONTRACTING ALLIANCE

MASTER PRICE AGREEMENT
for
COMPUTER EQUIPMENT, SOFTWARE, PERIPHERALS AND RELATED SERVICES

HEWLETT PACKARD COMPANY

Number A63309

This Agreement is made and entered into by Hewlett Packard Company, 20555 SH 249, Houston, TX 77070-2698, ("Contractor") and the Department of Administration ("State") on behalf of the State of Minnesota, participating members of the National Association of State Procurement officials (NASPO), members of the Western States Contracting Alliance (WSCA) and other authorized Participating States and Participating Entities.

RECITALS

WHEREAS, the State has the need to purchase and the Contractor desire to sell; and,

WHEREAS, the State has the authority to offer contracts to CPV members of the State of Minnesota and to other states.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

INTENT AND PURPOSE

The intent and purpose of this Agreement is to establish a contractual relationship with equipment manufacturers to provide, warrant, and offer maintenance services on **ALL** products proposed in their response to the RFP issued by the State of Minnesota. The Contractor may use subcontractors to provide the warranty and/or maintenance services; however the Contractor will be responsible for working with the equipment manufacturer on behalf of the Purchasing Entity and for the timeliness and quality of all services provided. No type of Lease transactions are allowed through this Agreement.

The Agreement is **NOT** for the purchase of major, large hardware or hardware and software offerings. In general, individual units/configurations should not exceed $50,000 each. It is the expressed intent of some of the Participating States to set this level at not to exceed $25,000 each. This **IS NOT** a restriction on how many units/configurations can be purchased, but on the value of each individual unit/configuration. Individual Participating States and Participating Entities may set specific limits in a participating addendum, with the prior approval of the WSCA Directors.

Contractors may offer, but participating states and entities do not have to accept, limited professional services related **ONLY** to the equipment and configuration of the equipment purchased through the Agreement.

1. **Definitions**

   "Announced Promotional Price" are prices offered nationally to specific categories of customers (Consumer, Business or government) for defined time periods under predefined terms and conditions.

   "Contract" means an agreement for the procurement of items of tangible personal property or services.

   "Contract Administrator" means an individual appointed by the State to administer this Agreement on behalf of the State of Minnesota, the participating NASPO and WSCA members, and other authorized purchasers.

"Contractor" shall mean successful Responder who enters into a binding Master Price Agreement. The Contractor is responsible for all sales, support, warranty, and maintenance services for the products included in this Agreement. The Contractor must manufacture or take direct, non-assignable, legal responsibility for the manufacture of the equipment and warranty thereof.
"Consumables" that are required for the operation of Equipment offered or supplied are included – printer cartridges, batteries, projector bulbs, etc. *Consumables such as magnetic media, paper and generally available office supplies are excluded.*
"CPV Member" is any governmental unit having independent policy making and appropriating authority, that is a member of Minnesota's Cooperative Purchasing Venture (CPV) program.
"CPV Program" The Cooperative Purchasing Venture (CPV) program, as established by Minn. Stat. § 16C.03, subd. 10, authorizes the Commissioner of Administration to "enter into a cooperative purchasing agreement for the provision of goods, services, and utilities with [governmental entities] ..., as described in section 471.59, subdivision 1." Based on this authority, the commissioner of Administration, through the Materials Management Division (MMD), enters into a joint powers agreement that designates MMD as the authorized purchasing agent for the governmental entity. It is not legal for governmental entities that are not members of the CPV program to purchase from a State contract. Vendors are free to respond to other solicitations with the same prices they offer under a contract, but that is not considered use of the "State contract price."
"Cumulative Volume Discount" means a contractual, cumulative, permanent volume discount based on dollars resulting from the cumulative purchases by all governmental purchasers for the duration of their Master Price Agreement.
"Documentation" refers to manuals, handbooks, and other publications listed in the PSS, or supplied with products listed in the PSS, or supplied in connection with services. Documentation may be provided on magnetic media or may be downloaded from the Contractor's web site.
"E-Rate" is a program sponsored by the Federal Communications Commission whereby educational and other qualifying institutions may purchase authorized technology at reduced prices.
"Educational Discount Price" means the price offered in a nationally announced promotion, which is limited to educational customers only, as defined by the Contractor.
"Energy Star®" is a voluntary energy efficiency program sponsored by the U.S. Environmental Protection Agency. The Energy Star program makes identification of energy efficient computers easy by labeling products that deliver the same or better performance as comparable models while using less energy and saving money. Energy Star qualified computers and monitors automatically power down to 15 watts or less when not in use and may actually last longer than conventional products because they spend a large portion of time in a low-power sleep mode. For additional information on the Energy Star program, including product specifications and a list of qualifying products, visit the Energy Star website at http://www.energystar.gov.
"Equipment" means workstations, desktop, laptop (includes Tablet PC's), and handheld (PDA) devices, servers, computing hardware, including upgrade components such as memory, storage drives, and spare parts.
"FCC" means the Federal Communications Commission or successor federal agency. In the event of deregulation, this term applies to one or more state regulatory agencies or other governing bodies charged to perform the same, or similar, role.
"General Price Reduction Price" means the price offered to consumer, business or governmental purchaser at prices lower than PSS pricing. General price reduction prices will be reflected in the PSS as soon as practical.
"ISO 14001" is the conformance standard within the family of ISO 14000 documents developed by the International Organization for Standardization (ISO) in Geneva, Switzerland. Similar in structure to the ISO 9000 quality management system standard, ISO 14001 outlines key requirements companies should comply with in order to operate in an environmentally responsible manner. Utilizing ISO 14001, companies can merge environmental programs into one coherent system to efficiently manage all environmental activities. In short, ISO 14001 provides organizations with a way to demonstrate to their customers that their environmental processes and impact are effectively managed, continually improving, and part of the corporate management system. For more information, please refer to www.iso.org .
"Lead State" means the State conducting this cooperative solicitation and centrally administering any resulting Master Price Agreement(s). For this solicitation, the Lead State is Mnnesota.

"Mandatory" The terms "must" and "shall" identify a mandatory item or factor.
"Manufacturer" means the company that designs, assembles, and markets computer equipment including workstations, desktop computers, laptop (includes Tablet PC's) computers, handheld (PDA) devices, servers, printers, and storage solutions/auxiliary storage devices. The manufacturer's name(s) shall appear on the computer equipment. The Contractor shall provide warranty service and maintenance for equipment covered by this Agreement as well as a Takeback Program.
"Master Price Agreement" means the contract that MMD will approve that contains the foundation terms and conditions for the acquisition of Contractor's products and/or services by Purchasing Entities. The "master price agreement" is a permissive price agreement. In order for a Purchasing Entity to participate in a Master Price Agreement, the appropriate state procurement official or other designated procurement official must be a Participating State or Participating Entity.
"Materials Management Division" or **"MMD"** means the procurement official for the State of Minnesota or a designated representative.
"NASPO" means the National Association of State Procurement Officials
"Participating Addendum" means a bilateral agreement executed by the Contractor and a Participating State or political subdivision of a State that clarifies the operation of the price agreement for the State or political subdivision concerned, e.g. ordering procedures specific to a State or political subdivision and other specific language or other requirements. Terms and conditions contained in a Participating Addendum shall take precedence over the corresponding terms in the master price agreement. Additional terms and conditions may be added via the Participating Addendum. However, a Participating Addendum may not alter the scope of this Agreement or any other Participating Addendum. ***Unless otherwise specified, the Participating Addendum shall renew consecutively with the Master Price Agreement.*** One physically or digitally signed copy of each Participating Addendum shall be filed by the Contractor with the Contract Administrator within five (5) days after execution.
"Participating State" or **"Participating Entity"** means a member of NASPO (Participating State) or a political subdivision of a NASPO member (Participating Entity) who has indicated its intent to participate by signing an Intent to Participate, or who subsequently signs a Participating Addendum where required, or another state or political subdivision of another state authorized by the WSCA Directors to be a party to the resulting Master Price Agreement through the execution of a participating addendum.
"PDA" means a Personal Digital Assistant. Refers to a wide variety of handheld and palm-size PCs, and electronic organizers. PDA's usually can store phone numbers, appointments, and to-do lists. PDA's can have a small keyboard, and/or have only a special pen that is used for input and output. The PDA can also have a wireless fax modem. Files can be created on a PDA which are later entered into a larger computer. **NOTE: For this Agreement, all Tablet PC's are NOT considered PDA's.**
"Peripherals" include but are not limited to storage, printers (including multifunction network print/fax/scanner/copying devises), scanners, monitors, keyboards, cameras (digital and video used in conjunction with computing equipment), projectors, uninterruptible power supplies and accessories. Adaptive/Assistive technology devices are included as well as configurations for education. Peripherals may be manufactured by a third party, however, Contractor shall not offer any peripherals manufactured by another contractor holding a Master Price Agreement without the prior approval of the Contract Administrator.
"Per Transaction Multiple Unit Discount" means a contractual volume discount based on dollars in a single purchase order or combination of purchase orders submitted at one time by a Purchasing Entity or multiple entities conducting a cooperative purchase.
"Political Subdivision" means local pubic governmental subdivisions of a state, as defined by that state's statutes, including instrumentalities and institutions thereof. Political subdivisions include cities, counties, courts, public schools and institutions of higher education.
"Price Agreement" means an indefinite quantity contract that requires the Contractor to furnish products or services to a Purchasing Entity that issues a valid Purchase Order.
"Procurement Manager" means the person or designee authorized by MMD to manage the relationships with WSCA, NASPO, and Participating States/Participating Entities.
"Product(s)" means personal computer equipment, peripherals, LAN hardware Software, and Network Storage devices, but not unrelated services.

"Products and Services Schedule Prices" mean the maximum prices offered to Participating Entities exclusive of Announced Promotional Prices, Education Discount Prices, General Price Reductions, or Large Order Negotiated Prices. All such products and services shall be listed on the Contractor's web site accessible via a URL.
"Purchase Order" means an electronic or paper document issued by the Purchasing Entity that directs the Contractor to deliver Products or Services pursuant to a Price Agreement.
"Purchasing Entity" means a Participating State or another legal entity, such as a political subdivision, properly authorized by a Participating State to enter into a Agreement for the purchase of goods described in this solicitation. Unless otherwise limited by statute, in this solicitation or in a Participating Addendum, political subdivisions of Participating States are Purchasing Entities and authorized to purchase the goods and/or services described in this solicitation.
"Services" are broadly classed as installation/de-installation, maintenance, support, training, migration, and optimization of products offered or supplied under the Master Price Agreement. These types of services may include, but are not limited to: warranty services, maintenance, installation, de-installation, factory integration (software or equipment components), asset management, recycling/disposal, training and certification, pre-implementation design, disaster recovery planning and support, service desk/help desk, and any other directly related technical support service required for the effective operation of a product offered or supplied. *General consulting and all forms of application development and programming services are excluded.*
"Servicing Subcontractor" or **"Reseller Agent"** or **"Subcontractor"** means a Contractor authorized and state-approved subcontractor who may provide local marketing support or other authorized services on behalf of the Contractor in accordance with the terms and conditions of the Contractor's Master Price Agreement. A wholly owned subsidiary or other company providing warranty or other technical support services qualifies as a Servicing Subcontractor. Local business partners may qualify as Servicing Subcontractors. Servicing Subcontractors may not directly accept Purchase Orders or payments for Products or Services from Purchasing Entities, unless otherwise provided in a Participating Agreement. Servicing Subcontractors shall be named individually or by class in the Participating Addendum. **The Contractor actually holding the Master Price Agreement shall be responsible for Servicing Subcontractor's providing warranty service and maintenance for equipment on a Master Price Agreement as well as the Take back Program**.
"Standard Configurations" mean deeply discounted standard configurations that are available to Purchasing Entities using the Master Price Agreement only. This specification includes a commitment to maintain and upgrade (keep pace with the advance of technology) the standard configurations for a stated period of time or intervals.
"State Procurement Official" means the director of the central purchasing authority of a state.
"Storage Solution/Auxiliary Storage" means the technology and equipment used for storage of large amounts of data or information. This includes technologies such as: Network Attached Storage (NAS); Storage Area Networks (SAN); Content Addressed Storage (CAS); and/or Clustered Network Storage (CNS).
"Takeback Program" means the Contractor's process for accepting the return of the equipment or other products at the end of life.
"Trade In" refers to the exchange of used Equipment for new Equipment at a price reduced by the value of the used Equipment.
"Travel" means expenses incurred by authorized personnel directly related to the performance of a Service. All such expenses shall be documented in a firm quotation for the Purchasing Entity prior to the issuance and acceptance of a Purchase Order. Travel expenses will be reimbursed in accordance with the purchasing entities allowances, if any, as outlined in the PA.
"Universal Resource Locator" or **"URL"** means a standardized addressing scheme for accessing hypertext documents and other services using the WWW browser.
"WSCA" means the Western States Contracting Alliance, a cooperative group contracting consortium for state procurement officials, representing departments, institutions, agencies, and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming.

2. **Scope of Work**
The Contractor, or its approved subcontractor, shall accept purchase orders from and deliver computing system Products and services to Purchasing Entities in accordance with the terms of this Agreement. This Agreement is a "Master Price Agreement". Accordingly, the Contractor shall provide Products or Services only upon the issuance and acceptance by the Contractor of valid "Purchase Orders". Purchase Orders may be issued to purchase the license for software or to purchase products listed on the Contractor's PSS. A Purchasing Entity may purchase any quantity of Product or Service listed in the Contractor's PSS at the prices in accordance the Paragraph 13, Price Guarantees. Subcontractor participation is governed by the individual Participating State procurement official. The Contractor is required to provide warranty and maintenance services on equipment that is purchased. The Contractor shall offer a Takeback Program for all products covered by this Agreement.

3. **Title Passage**
The Contractor must pass unencumbered title to any and all products purchased under this Agreement upon receipt of the product by the Purchasing Entity. This obligation on the part of the Contractor to transfer all ownership rights does not apply to proprietary materials owned or licensed by the Contractor or its subsidiaries, subcontractors or licensor, or to unmodified commercial software that is available to the State on the open market. Ownership rights to such materials shall not be affected in any manner by this Agreement.

4. **Permissive Price Agreement and Quantity Guarantee**
This Agreement is not an exclusive agreement. Purchasing Entities may obtain computing system Products and services from other sources during the agreement term. The State of Minnesota, NASPO and WSCA make no express or implied warranties whatsoever that any particular number of Purchase Orders will be issued or that any particular quantity or dollar amount of Products or Services will be procured.

5. **Order of Precedence**
Each Purchase Order that is accepted by the Contractor shall become a part of the Agreement as to the Products and Services listed on the Purchase Order only; no additional terms or conditions conflicting with this Agreement or the Participating Addendum will be added to this Agreement as the result of acceptance of a Purchase Order. The Contractor agrees to accept all valid Purchase Orders. In the event of any conflict among these documents, the following order of precedence shall apply:
A. Executed Participating Addendum(s);
B. Terms and conditions of this Agreement;
C. Exhibits and amendments to this Agreement;
D. The list of products and services contained in the purchase order;
E. The request for proposals document P-1331 and Addenda thereto; and
F. Contractor's proposal including any written clarifications and/or best and final offer.

6. **Payment Provisions**
All payments under this Agreement are subject to the following provisions:
A. **Acceptance**
A Purchasing Entity shall determine whether all Products and Services delivered meet the Contractor's published specifications. No payment shall be made for any Products or Services until the Purchasing Entity has accepted the Products or Services. The Purchasing Entity will make every effort to notify the Contractor within thirty (30) calendar days following delivery of non-acceptance of a product or service. In the event that the Contractor has not been notified within 30 days from delivery of product or completion of service, the product and/or service will be deemed accepted on the 31st day after delivery of product or completion of service.

B. **Payment of Invoice**
1. Payments shall be submitted to the Contractor at the address shown on the invoice, as long as the Contractor has exercised due diligence in notifying the State of Minnesota and/or the Purchasing Entity of any changes to that address. Payments shall be made in accordance with the applicable laws of the Purchasing Entity.

2. For Minnesota, per Minn. Stat. § 16A.124, payment shall be made to the Contractor within thirty (30) days following receipt of an undisputed invoice, merchandise or service whichever is later. After the thirtieth day, interest may be paid on the unpaid balance due to the Contractor at the rate of one and one-half percent per month. The Purchasing Entity shall make a good-faith effort to pay within thirty (30) days on all undisputed invoices. Payments may be made via a Purchasing Entity's "Purchasing Card".

3. In the event an order is shipped incomplete (partial), the Purchasing Entity shall pay for each shipment as invoiced by the Contractor unless the Purchasing Entity has clearly specified "No Partial Shipments" on each Purchase Order.

C. Payment of Taxes

Payment of taxes for any money received under this agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's federal and state tax identification numbers. If a Purchasing Entity is not exempt from sales, gross receipts, or local option taxes for the transaction, the Contractor shall be reimbursed by the Purchasing Entity to the extent of any tax liability assessed.

The State of Minnesota State agencies are subject to paying Minnesota sales and use taxes. Taxes for State agencies will be paid directly to the Department of Revenue using Direct Pay Permit #1114.

D. Invoices

Invoices shall be submitted to the Purchasing Entity at the address shown on the Purchase Order. Contractor shall provide a commercial invoice. The Contractor shall also provide a packing slip/list for each system to identify the components included within the configuration. Invoices shall match the line items on the Purchase Order.

7. Agreement Term

Pursuant to Minnesota law, the term of this Agreement shall be effective upon the date of final execution by the State of Minnesota or on September 1, 2004, whichever is later, through August 31, 2007 (3 years). The Agreement may be mutually renewed for two (2) additional one-year terms unless terminated pursuant to the terms of this Agreement.

8. Termination

The following provisions are applicable in the event that the agreement is terminated.

A. Termination for Convenience

At any time, the State may terminate this agreement, in whole or in part, by giving the Contractor (30) days written notice; provided, however, neither the State nor a Purchasing Entity has the right to terminate a specific purchase order for convenience after it has been issued if the product is ultimately accepted. At any time, the Contractor may terminate this Agreement, in whole or in part, by giving the Contract Administrator sixty (60) days written notice. Such termination shall not relieve the Contractor of warranty or other Service obligations incurred under the terms of this Agreement. In the event of a cancellation, the Contractor shall be entitled to payment, determined on a pro rata basis, for work or services satisfactorily performed and accepted.

B. Termination for Cause

Either party may terminate this Agreement for cause based upon material breach of this Agreement by the other party, provided that the non-breaching party shall give the breaching party written notice specifying the breach and shall afford the breaching party a reasonable opportunity to correct the breach. If within thirty (30) days after receipt of a written notice the breaching party has not corrected the breach or, in the case of a breach that cannot be corrected in thirty (30) days, begun and proceeded in good faith to correct the breach, the non-breaching party may declare the breaching party in default and terminate the Agreement effective immediately. The non-breaching party shall retain any and all other remedies available to it under the law.

C. **A Purchasing Entity's Rights**
In the event this Agreement expires or is terminated for any reason, a Purchasing Entity shall retain its rights in all Products and services accepted prior to the effective termination date.

D. **The Contractor's Rights**
In the event this Agreement expires or is terminated for any reason, a Purchasing Entity shall pay the Contractor all amounts due for Products and services ordered and accepted prior to the effective termination date or ordered before the effective termination date and ultimately accepted.

9. **Non-Appropriation**
The terms of this Agreement and any purchase order issued for multiple years under this Agreement is contingent upon sufficient appropriations being made by the Legislature or other appropriate governing entity. Notwithstanding any language to the contrary in this Agreement or in any purchase order or other document, a Purchasing Entity may terminate its obligations under this Agreement, if sufficient appropriations are not made by the governing entity at a level sufficient to allow for payment of the goods or services due for multiple year agreements, or if operations of the paying entity are being discontinued. The Purchasing Entity's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final and binding.

A Purchasing Entity shall provide sixty (60) days notice, if possible, of its intent to terminate for reason cited above. Such termination shall relieve the Purchasing Entity, its officers and employees from any responsibility or liability for the payment of any further amounts under the relevant Purchase Order.

10. **Shipment and Risk of Loss**
A. All deliveries shall be F.O.B. destination, prepaid and allowed, with all transportation and handling charges included in the price of the product and paid by the Contractor. Responsibility and liability for loss or damage shall remain with the Contractor until delivery to the identified ship to address when responsibility and liability for loss shall pass to the Purchasing Entity except as to latent defects, fraud and Contractor's warranty obligations.

B. Whenever a Purchasing Entity does not accept Products and returns them to the Contractor, all related documentation furnished by the Contractor shall be returned also. Unless otherwise agreed upon by the Purchasing Entity, the Contractor is responsible for the pick-up of returned Products. The Contractor shall bear all risk of loss or damage with respect to returned Products except for loss or damage directly attributable to the negligence or wrongful intentional act or omission of the Purchasing Entity.

C. Unless otherwise arranged between the Purchasing Entity and Contractor, all shipments of Products should be shipped within three-to-five days by a reliable and insured shipping company.

11. **Warranties**
A. The Contractor agrees to warrant and assume responsibility for each Product that it licenses or sells to the Purchasing Entity under this Agreement in accordance with the Contractor's standard warranties. The Contractor acknowledges that the Uniform Commercial Code applies to this Agreement covering Warranty. In general, the Contractor warrants that:
1. The Product will conform with the specific technical information about the Contractor's products which is published in the Contractor's product manuals or data sheets.
2. The Product will be suitable for the ordinary purposes for which such Product is intended,
3. The Product will meet any mandatory specifications provided in writing to the Contractor prior to reliance by the Participating Entity on the Contractor's skill or judgment when it advised the Purchasing Entity about the Product's ability to meet those mandatory specifications.
4. The Product has been properly designed and manufactured for its intended use, and
5. The Product is free of significant defects in material and workmanship.

6. Exhibit A contains additional warranties in effect as of the date of this Agreement. The warranties will be limited in duration to the time period(s) provided in Exhibit A. The warranties will not apply to use of a Product other than as anticipated and intended by the Contractor, to a problem arising after changes or modifications to the Products or operating system by any party other than the Contractor (unless expressly authorized in writing by the Contractor), or to use of a Product in conjunction or combination with other products or software not authorized by the Contractor. The following is a list of the warranties attached as **Exhibit A**:
   a) HP global limited warranty statement for NonStop products which can be found on the Contractor's website at: http://H71033.www7.hp.com/page/WARRANTY.html. This warranty is for Unix Products.
   b) HP All other product Hardware Limited warranty can be found on the Contractor's website at: http://h20000.www2.hp.com/bizsupport/TechSupport/ProductRoot.jsp?

B. Contractor may modify the warranties described in Exhibit A from time to time with 30 days prior written approval of the Contract Administrator.

C. Warranty documents for Products manufactured by a third party shall be delivered to the Purchasing Entity with the Products, as provided by the Manufacturer.

12. Patent, Copyright, Trademark and Trade Secret Indemnification

A. The Contractor shall defend, at its own expense, the State of Minnesota, Participating States, Participating Entities, Purchasing Entities against any claim that any Product or Service provided under this Agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against a Purchasing Entity based upon the Contractor's trade secret infringement relating to any Product or Service provided under this Agreement, the Contractor agrees to reimburse the Purchasing Entity for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the Lead State or Participating or Purchasing Entity shall:
   1. Give the Contractor prompt written notice of any claim;
   2. Allow the Contractor to control the defense or settlement of the claim; and
   3. Cooperate with the Contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any Products or Service becomes, or in the Contractor's opinion is likely to become the subject of a claim of infringement, the Contractor shall at its option and expense:
   1. Provide a Purchasing Entity the right to continue using the Products or Services;
   2. Replace or modify the Products or Services so that it becomes non-infringing; or
   3. Accept the return of the Products or Service and refund an amount equal to the depreciated value of the returned Products or Service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any Products or Services modified by the Purchasing Entity to the extent such modification is the cause of the claim.

C. The Contractor has no obligation for any claim of infringement arising from:
   1. The Contractor's compliance with the Purchasing Entity's or by a third party on the Purchasing Entity's behalf designs, specifications, or instructions;
   2. The Contractor's use of technical information or technology provided by the Purchasing Entity;
   3. Product modifications by the Purchasing Entity or a third party;
   4. Product use prohibited by Specifications or related application notes; or
   5. Product use with products that are not the Contractor branded.

13. Price Guarantees

The Purchasing Entities shall pay the lower of the prices contained in the PSS or an Announced Promotion Price, Educational Discount Price, General Price Reduction price, Trade-In price, Per Transaction Multiple Unit Discount Price, or Standard Configuration Price . Only the General Price Reduction price decreases will apply to all subsequent Purchase Orders accepted by Contractor after the date of the issuance of the General Price Reduction prices.

The initial Cumulative, Per Transaction Multiple Unit, and Standard Configurations Discounts shall be submitted to the Contract Administrator in a format agreeable to both parties prior to signing the Agreement. Once a cumulative volume has been reached, the increased price discount will apply to all future orders, until the next level of cumulative volume is reached.

14. Product and Service Schedule

The Contractor agrees to maintain the PSS in accordance with the following provisions:

A. The PSS prices for Products and services will conform to the guaranteed price discount levels on file with the Contract Administrator for the following Products:
Band 1: File/Print Servers, Mid-Range Servers
Band 2: Desktops, Laptops, Tablet PCs,
Band 3: Printers, High speed; Medium speed; Desktop; Laptop
Band 4: Storage Solutions
Band 5: PDA's
LAN equipment and related software.
General Purpose Software

B. The Contractor may change the price of any Product or Service at any time, based upon documented baseline price changes, but the guaranteed price discount levels shall remain unchanged during the agreed period unless or until prior approval is obtained from the Contract Administrator. The Contractor agrees that the PSS on the State's administration website shall contain a single, uniform WSCA price for configurations and items. Failure to comply with this requirements will be grounds for further action to be taken against the Contractor.

C. The Contractor may make model changes; add new Products, and Product upgrades or Services to the PSS in accordance with Item 15. Product Substitutions, below. The pricing for these changes shall incorporate, to the extent possible, comparable price discount levels approved by the Contract Administrator for similar Products or Services.

D. The Contractor agrees to delete obsolete and discontinued Products from the PSS on a timely basis.

E. The Contractor shall maintain the PSS on a Contractor supplied Internet web site.

15. Product Substitutions

A. Substitution of units/configurations

MMD and the WSCA Directors acknowledge that individual units and configurations may stop being produced during the life of the resulting Agreements. Substitution of different units and configurations will be permitted with the prior written approval of the Contract Administrator. This substitution is at the sole discretion of the Contract Administrator, subject only to review and approval of the Contract Administrator.

B. Addition of units/configurations

MMD and the WSCA Directors acknowledge that with the evolution of technology, new, emerging units and configurations will develop. Addition of these new, emerging units to the PSS may be permitted, with the prior approval of the Contract Administrator and the WSCA Directors. The addition of new, emerging units and configurations is at the sole discretion of the Contract Administrator, subject only to review and approval of the WSCA Directors.

16. Technical Support

The Contractor agrees to maintain a toll-free technical support telephone line. The line shall be accessible to Purchasing Entity personnel who wish to obtain competent technical assistance regarding the hardware and software installation or operation of Contractor-supplied Products during the product warranty period or during a support agreement.

17. Take back/Environment/Energy Efficiency Programs

The Contractor agrees to maintain for the term of this Agreement, and all renewals/extensions thereof, programs as described in their response to the RFP, including but not limited to:

A. Take back/Recycling of CPUs, servers, monitors, flat panel displays, notebook computers, and printers. Costs are listed on the web site.

B. Environment: Compliance with the European Unions' Directives, or other international directives; reduction/minimization/avoidance of the use of toxic and hazardous constituents; certification by independent third party eco-labeling programs (TCO, Blue Angel, and Nordic Swan); ISO 14001 certification; and the use of recyclable, nontoxic packaging.

C. Energy Efficiency: Products meet the Energy Star or other recognized programs for energy efficiency.

D. Product labeling of compliance with Items B & C above, as well as identification of such information on the web site.

The Contractor will notify the Contract Administrator, in writing, of any additions/changes/deletions to the above programs.

18. Product Delivery

Contractor agrees to make reasonable efforts to deliver Products to Purchasing Entities within 20 business days or less after receipt of a valid Purchase Order, or in accordance with the schedule in the Purchasing Entity's Purchase Order where the timeframe for required delivery is greater than 20 business days or as otherwise mutually agreed to by the Purchasing Entity and Contractor.

19. Force Majeure

Neither party hereto shall be considered in default in the performance of its obligations hereunder to the extent that performance of any such obligations is prevented or delayed by acts of God, war, strike, riot, industry-wide constraints, or other catastrophes beyond the reasonable control of the party unless the act or occurrence could have been reasonably foreseen and reasonable action could have been taken to prevent the delay or failure to perform. A party defaulting under this provision must provide the other party prompt written notice of the default and take all necessary steps to bring about performance as soon as practicable.

20. Records and Audit

Per Minn. Stat. § 16C.05, Subd. 5, the books, records, documents, and accounting procedures and practices of the Contractor and its employees, agents, or subcontractors relevant to the Minnesota transactions must be made available and subject to examination by the contracting agency or its agents, the Legislative Auditor and/or the State Auditor for a minimum of six years after the end of the Contract or transaction.

Unless otherwise required by other than Minnesota Purchasing Entity governing law, such records relevant to other Purchasing Entity transactions shall be subject to examination by appropriate government authorities for a period of three years from the date of acceptance of the Purchase Order.

21. Independent Contractor

The Contractor and its agents and employees are independent contractors and are not employees of the State of Minnesota or of any participating entity. The Contractor has no authorization, express or implied to bind the Lead State, NASPO, WSCA or any Participating Entity to any agreements, settlements, liability or understanding with other third parties whatsoever, and agrees not to perform any acts as agent for the Lead State, NASPO, WSCA, or Participating Entity, except as expressly set forth herein. The Contractor and its agents and employees shall not accrue leave, retirement,

insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the Lead State or Participating Entity as a result of this Agreement.

22. Use of Servicing Subcontractors

The Contractor may subcontract services and purchase order fulfillment and/or support in accordance with the following paragraphs. However, the Contractor shall remain solely responsible for the performance of this Agreement.

A. Reseller/Agent, Service Provider or Servicing Subcontractors shall be identified individually or by class in the applicable Participating Addendum, or as noted in the Participating Addendum on the Purchasing Entities extranet site. The ordering and payment process for Products or Services shall be defined in the Participating Addendum.

23. Payments to Subcontractors

In the event the Contractor hires subcontractors to perform all or some of the duties of this Agreement, the Contractor understands that Minn. Stat. § 16A.1245 requires that any such subcontractor be paid within ten (10) days of the Contractor's receipt of payment from the State for undisputed services provided by the subcontractor. The Contractor agrees to take all steps necessary to comply with said statute. A consultant is a subcontractor under this Agreement. In the event the Contractor fails to make timely payments to a subcontractor, the State may, at its sole option and discretion, pay a subcontractor any amounts due from the Contractor for work performed under this Agreement and deduct said payment from any remaining amounts due the Contractor. Before any such payment is made to a subcontractor, the State shall provide the Contractor written notice that payment will be made directly to a subcontractor. The Contractor shall ensure that the subcontractor transfers all intellectual or industrial property rights, including but not limited to any copyright it may have in the work performed under this Agreement, consistent with the intellectual property rights and ownership sections of this Agreement. In the event the Contractor does not obtain the intellectual property rights of the subcontractor consistent with the transfer of rights under this Agreement, the State may acquire such rights directly from the subcontractor. Any and all costs associated with such a direct transfer may be deducted from any amount due the Contractor.

24. Indemnification

The Contractor shall hold the Lead State, Participating Entities and its agencies and employees harmless and shall indemnify the Lead State, Participating Entities and its agencies and employees against any and all claims, suits, actions, liabilities and costs of any kind, including attorney's fees for personal injury or damage to real property or tangible personal property arising from the negligent or willful acts or omissions of the contractor, its agents, officers, employees or subcontractors. Contractor shall not be liable for damages that are the result of negligence by the Lead State, Participating Entity, or its employees.

25. Amendments

Agreement amendments shall be negotiated by the State with the Contractor whenever necessary to address changes in the terms and conditions, costs, timetable, or increased or decreased scope of work. This Agreement shall be amended only by written instrument executed by the parties. An approved Agreement amendment means one approved by the authorized signatories of the Contractor and the State as required by law.

26. Scope of Agreement

This Agreement incorporates all of the agreements of the parties concerning the subject matter of this Agreement. No prior agreements, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

27. Severability

If any provision of this Agreement, including items incorporated by reference, is found to be illegal, unenforceable, or void, by a court of competent jurisdiction then both the State and the Contractor shall be relieved of all obligations arising under such provision. If the remainder of this Agreement is legally valid, it shall not be affected by such declaration or finding and shall be fully performed.

28. Enforcement of Agreement/Waivers

A. No covenant, condition, duty, obligation, or undertaking contained in or made a part of this Agreement shall be waived except by the written consent of the parties. Forbearance or indulgence in any form or manner by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed, or discharged by the other party. Until complete performance or satisfaction of all such covenants, conditions, duties, obligations, and undertakings, the forebearing/indulging party shall have the right to invoke any remedy available under law or equity, notwithstanding any such forbearance or indulgence.

B. Waiver of any breach of any provision of this Agreement shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Agreement shall be held to be waived, modified, or deleted except by an instrument, in writing, signed by the parties hereto.

C. Neither party's failure to exercise any of its rights under this Agreement will constitute or be deemed a waiver or forfeiture of those rights.

29. Web Site Maintenance

A. The Contractor agrees to maintain and support an Internet website linked to the State's administration website for access to the PSS, service selection assistance, problem resolution assistance, billing concerns, configuration assistance, Product descriptions, Product specifications and other aids in accordance with reasonable instructions provided by the Contract Administrator. The Contractor agrees that the PSS on the State's administration website shall contain a single, uniform WSCA price for configurations and items. Failure to comply with this requirements will be grounds for further action to be taken against the Contractor.

B. The Contractor agrees to maintain and support Participating State and Entity Internet website for access to the specific Participating Entity PSS, as well as all other items listed in Item 29.A. listed above. The website shall have the ability to hold quotes for 45 days, as well as the ability to change the quote.

C. The Contractor may provide electronic commerce assistance for the electronic submission of Purchase Orders, purchase order tracking and reporting.

30. Equal Opportunity Compliance

The Contractor agrees to abide by federal laws and the laws, regulations, and executive orders of the state in which its primary place of business is located pertaining to equal employment opportunity. In accordance with such laws, regulations, and executive orders, the Contractor agrees that no person in the United States shall, on the grounds of race, color, religion, national origin, sex, age, veteran status or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed by the contractor under this Agreement. If the Contractor is found to be not in compliance with these requirements during the life of this Agreement, the Contractor agrees to take appropriate steps to correct these deficiencies.

The Contractor certifies that it will remain in compliance with Minn. Stat. § 363.073 during the life of the Agreement.

31. Limitation of Liability

Unless prohibited by state law, or otherwise mutually agreed by the Contractor and Participating Entity or Participating State under a Participating Addendum, the Contractor's liability to a Purchasing Entity for any cause whatsoever shall be limited to the purchase price paid to the Contractor for the products and services that are the subject of the Purchasing Entity's claim. The foregoing limitation does not apply to Paragraphs 12 and 24 of this Agreement or to damages resulting from personal injury caused by the Contractor's negligence. In no event shall the Contractor be liable for any indirect, special, punitive, or consequential damages arising out of this Agreement or the use of the Products or Services purchased by the Purchasing Entity hereunder.

32. Governing Law

This Agreement shall be governed and construed in accordance with the laws of the Lead State. The construction and effect of any Participating Addendum or order against this Agreement shall be governed by and construed in accordance with the laws of the Purchasing Entity's state. Venue for any claim, dispute or action concerning the construction and effect of the Agreement shall be in the Lead State. Venue for any claim, dispute or action concerning an order placed against this Agreement or the effect of a Participating Addendum or shall be in the Purchasing Entity's state.

33. Change in Contractor Representatives

Contractor shall appoint a primary representative to work with the Contract Administrator to maintain, support and market this Agreement. The Contractor shall notify the Contract Administrator of changes in any Contractor key personnel, in writing, and in advance, if possible. The State reserves the right to require a change in Contractor's then-current primary representative if the assigned representative is not, in the opinion of the State, adequately serving the needs of the Lead State and the Participating Entities.

34. Release

The Contractor, upon final payment of the amount due under this Agreement, releases the Lead State and Participating Entities, its officers and employees, from all contractual liabilities, claims and obligations whatsoever arising from or under this Agreement, except as expressly provided in Paragraph 41. Survival, below. The Contractor agrees not to purport to bind the Lead State or any Participating Entity to any obligation, unless the Contractor has express written authority to do so, and then only within the strict limits of the authority.

35. Data Practices

A. The Contractor and the State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data provided by the State to the Contractor and all data provided to the State by the Contractor. In addition, the Minnesota Government Data Practices Act applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor in accordance with this Agreement that is private, nonpublic, protected nonpublic, or confidential as defined by the Minnesota Government Data Practices Act, Ch. 13.

B. In the event the Contractor receives a request to release the data referred to in this article, the Contractor must immediately notify the State. The State will give the Contractor instructions concerning the release of the data to the requesting party before the data is released. The civil remedies of Minn. Stat. § 13.08, apply to the release of the data referred to in this article by either the Contractor or the State.

C. The Contractor agrees to indemnify, save, and hold the State, its agents and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation of any provision of the Minnesota Government Data Practices Act, including legal fees and disbursements paid or incurred to enforce this provision of the Agreement. In the event that the Contractor subcontracts any or all of the work to be performed under the Agreement, the Contractor shall retain responsibility under the terms of this paragraph for such work.

D. The Contractor agrees to be bound by the data practices requirements as outlined in the Participating Addendum of a Participating State or Participating Entity.

36. Organizational Conflicts of Interest

A. The Contractor warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances which could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons:

- a Contractor is unable or potentially unable to render impartial assistance or advice to the State;
- the Contractor's objectivity in performing the work is or might be otherwise impaired; or
- the Contractor has an unfair competitive advantage.

B. The Contractor agrees that if an organizational conflict of interest is discovered after award, an immediate and full disclosure in writing shall be made to the Assistant Director of the Department of Administration's Materials Management Division that shall include a description of the action the Contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the State may, at its discretion, cancel the Agreement. In the event the Contractor was aware of an organizational conflict of interest prior to the award of the Agreement and did not disclose the conflict to the Contract Administrator, the State may terminate the Agreement for default. The provisions of this clause shall be included in all subcontracts for work to be performed, and the terms "Agreement," "Contractor," and "Contract Administrator" modified appropriately to preserve the State's rights.

37. Replacement Parts

Unless otherwise restricted in a Participating Addendum or maintenance service agreement, replacement parts may be refurbished.

38. FCC Certification

The Contractor agrees that Equipment supplied by the Contractor meets all applicable FCC Certifications. Improper, falsely claimed or expired FCC certifications are grounds for termination of this Agreement for cause.

39. Site Preparation

A Purchasing Entity shall prepare and maintain its site in accordance with written instructions furnished by the Contractor prior to the scheduled delivery date of any Products and Services and shall bear the costs associated with the site preparation.

40. Assignment

The Contractor shall not sell, transfer, assign, or otherwise dispose of this Agreement or any portion hereof or of any right, title, or interest herein without the prior written consent of the State's authorized agent. This Agreement is a manufactured-direct solicitation and Agreement. Assignment to an entity that is not a manufacturer, as defined in this Agreement, is **NOT** within the Scope of this Agreement. Such consent shall not be unreasonably withheld. The Contractor shall give written notice to the State's authorized agent of such a possibility at least 30 days prior to the sale, transfer, assignment, or other disposition of this Agreement. Failure to do so may result in the Contractor being held in default. This consent requirement includes reassignment of this Agreement due to a change in ownership, merger, or acquisition of the Contractor or its subsidiary or affiliated corporations. This section shall not be construed as prohibiting the Contractor's right to assign this Agreement to corporations to provide some of the services hereunder. Notwithstanding the foregoing acknowledgment, the Contractor shall remain solely liable for all performance required and provided under the terms and conditions of this Agreement. The Contractor may assign payments in accordance with specific provisions stated in a Participating Addendum.

41. Survival

Certain paragraphs of this agreement including but not limited to Patent, Copyright, Trademark, and Trade Secret Indemnification; Indemnification; Limitation of Liability; Governing Law; Audits; and Publicity shall survive the expiration of this agreement. Software licenses, warranty and service agreements that were entered into under the terms and conditions of this Agreement shall survive this Agreement.

42. Succession

This Agreement shall be entered into and be binding upon the successors and assigns of the parties.

43. Notification

A. If one party is required to give notice to the other under the Agreement, such notice shall be in writing and shall be effective upon receipt. Delivery through the US Postal service shall be deemed as delivered three business days after being mailed. Delivery may be by certified United States mail, or by hand, in which case a signed receipt shall be obtained. A facsimile transmission shall constitute sufficient notice, provided the receipt of the transmission is

confirmed by the receiving party. All notices shall be addressed as follows:

To MMD:

Department of Administration
Materials Management Division
Bernadette Kopischke, CPPB
Acquisition Management Specialist
50 Sherburne Avenue
112 State Administration Building
St. Paul, MN 55155
Fax: 651.297.3996
Email: bernie.kopischke@state.mn.us

To Contractor:

Debra Lee
Public Sector Contract Manager
Hewlett Packard Company
2055 SH 249
Houston, TX 77070
Tel: 847.537.0344
Fax: 281.927.5213
Email: Debra.Lee@hp.com

Copy to:
Todd Reed
Public Sector Contract Manager
Hewlett Packard Company
2055 SH 249
Houston, TX 77070
Tel: 281.927.3808
Fax: 281.927.8883
Email: Todd.Reed@hp.com

B. Either party may change its representative or address above by written notice to the other in accordance with the terms of this Paragraph 44. The carrier for mail delivery and notices shall be the agent of the sender.

44. Reporting and Fees

A. Administration Reporting and Fees

1. The Contractor agrees to provide periodic utilization reports to the Contract Administrator in accordance with the following schedule:

Period End	Report Due
June 30	July 31
September 30	October 30
December 31	January 31
March 31	April 30

2. The periodic report shall include, but not be limited to the net (gross sales minus returns, credits, and deductions) sales for the period subtotaled by Purchasing Entity name, within the Purchasing Entity's state name. A standard format of data elements shall be developed for the report. The Contractor shall submit a check payable to Western States Contracting Alliance for an amount equal to one-twentieth of one percent (0.0005) of the net sales for the period.

3. The Contractor agrees to include all Reseller Agent sales in the periodic utilization reports described above. In addition, the Contractor agrees to include in the utilization report a Reseller Agent utilization report of the net sales for the period subtotaled by Purchasing Entity name, within Purchasing Entity state name by Reseller Agent Name.

4. The Contractor agrees to provide with the quarterly utilization report a supplemental report of the credits associated with the units taken back in a format to be mutually agreed to.

5. The utilization reports shall be submitted to the Contract Administrator via electronic mail in a Microsoft Excel spreadsheet format, or other methods such as direct access to Internet or other databases.

6. If requested by the Contract Administrator, the Contractor agrees to provide supporting Purchase Order detail records on a mutually agreed magnetic media in a mutually agreed format. Such requests shall not exceed twelve per year.

7. The failure to file the utilization reports and fees on a timely basis shall constitute grounds for the removal of the Contractor's primary representative, suspension of this Agreement or termination of this Agreement for cause.

8. The Contract Administrator shall be allowed access to all reports from all Purchasing Entities.

B. Participating Entity Reports and Fees

1. Participating Entities may require an additional fee be paid directly to the State on purchases made by Purchasing Entities within that State. For all such requests, the fee level, payment method and schedule for such reports and payments shall be incorporated in a Participating Addendum that is made a part of this Agreement. The Contractor may adjust PSS pricing accordingly for purchases made by Purchasing Entities within the jurisdiction of that State. All such agreements shall have no effect whatsoever on the WSCA fee or the prices paid by the Purchasing Entities outside the jurisdiction of the State requesting the additional fee.

2. The Contractor agrees to provide additional reports to Purchasing Entities upon agreement by both parties as to the content and delivery method of the report. Methods of delivery may include direct access to Internet or other databases.

3. Each State Purchasing Entity shall be allowed access to reports from all entities within that State.

45. Default and Remedies

A. Any of the following shall constitute cause to declare this Agreement or any order under this Agreement in default:
   1. Consistent nonperformance of contractual requirements; or
   2. A material breach of any term or condition of this Agreement.

B. A written notice of default, and an opportunity to cure within 30-days notification of the written notice, shall be issued by the party claiming default, whether the Lead State (in the case of breach of the entire Agreement), a Participating Entity (in the case of a breach of the participating addendum), the Purchasing Entity (with respect to any order), or the Contractor. Time allowed for cure shall not diminish or eliminate any liability for liquidated or other damages.

C. If the default remains after the opportunity for cure, the non-defaulting party may:
   1. Exercise any remedy provided by law or equity;

2. Terminate the Agreement, a Participating Addendum, or any portion thereof, including any Purchase Orders issued against the Agreement;
3. Impose liquidated damages as mutually agreed by the parties, as specified in an Amendment to a Participating Addendum;
4. In the case of default by the Contractor, and to the extent permitted by the law of the Participating State or Purchasing Entity, suspend Contractor from receiving future solicitations from within the Participating Entity's jurisdiction.

46. Audits

A. The Contractor agrees to assist the Contract Administrator or designee with web site Product and pricing audits based on mutually acceptable procedures.

1. The product audit will closely monitor the products and services listed on the website to insure they comply with the approved products and services. The addition of products or services not approved by the Contract Administrator will not be tolerated and may be considered a material breach of this Agreement.

B. Upon request, the Contractor agrees to assist Participating Entities with invoice audits to ensure that the Contractor is complying with this Agreement in accordance with mutually agreed procedures set forth in the Participating Addendum.

47. Extensions

If specifically authorized by provision in a Participating Addendum, the Contractor may, at the sole discretion of the Contractor and in compliance with the laws of the Participating State, offer Products and services to non-profit organizations, private schools, Native American governmental entities, government employees and students within the governmental jurisdiction of the entity completing the Participating Addendum with the understanding that the State has no liability whatsoever concerning payment for products or services.

48. Sovereign Immunity

The State does not waive its sovereign immunity by entering into this Agreement and fully retains all immunities and defenses provided by law with regard to any action based on this Agreement.

49. Ownership

A. **Ownership of Documents/Copyright.** Any reports, studies, photographs, negatives, databases, computer programs, or other documents, whether in tangible or electronic forms, prepared by the Contractor in the performance of its obligations under the Agreement and paid for by the State shall be the exclusive property of the State and all such material shall be remitted to the State by the Contractor upon completion, termination or cancellation of the Agreement. The Contractor shall not use, willingly allow or cause to allow such material to be used for any purpose other than performance of the Contractor's obligations under the Agreement without the prior written consent of the State.

B. **Rights, Title and Interest.** All rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trade marks, and service marks in the said documents that the Contractor conceives or originates, either individually or jointly with others, which arise out of the performance of the Agreement and are ordered as a work product, will be the property of the State and are, by the Agreement, assigned to the State along with ownership of any and all copyrights in the copyrightable material. The Contractor also agrees, upon the request of the State, to execute all papers and perform all other acts necessary to assist the State to obtain and register copyrights on such materials. Where applicable, works of authorship created by the Contractor for the State in performance of the Agreement shall be considered "works for hire" as defined in the U.S. Copyright Act. Nothing in this Agreement shall be construed as transferring any right, title, or interest in any of the Contractor's or their third party's confidential information, trademarks, copyrights, intellectual property or other proprietary interest.

50. Prohibition Against Gratuities

A. The State may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this Agreement if it is found by the State that gratuities in the form of entertainment, gifts, or otherwise were offered or given by the Contractor or any employee, agent, or representative of the Contractor to any officer or employee of the State with a view toward securing this Agreement, or securing favorable treatment with respect to the award or amendment of this Agreement, or the making of any determinations with respect to the performance of this Agreement.

B. The Contractor certifies that no elected or appointed official or employee of the State has benefitted or will benefit financially or materially from this Agreement. This Agreement may be terminated by the State if it is determined that gratuities of any kind were either offered to or received by any of the aforementioned individuals from the Contractor, its agent, or its employees.

51. Antitrust

The Contractor hereby assigns to the State any and all claims for overcharges as to goods and/or services provided in connection with this Agreement resulting from antitrust violations which arise under antitrust laws of the United States and the antitrust laws of the State.

52. Right to Publish

A. Any publicity given to the program, publications or services provided resulting from the Agreement, including but not limited to notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Contractor, or its employees individually or jointly with others, or any subcontractors or resellers shall identify the State as the sponsoring agency and shall not be released, unless such release is a specific part of an approved work plan included in the Agreement prior to its approval by the Contract Administrator.

B. The Contractor shall not make any representations of the State's opinion or position as to the quality or effectiveness of the products and/or services that are the subject of this Agreement without the prior written consent of the Agreement Administrator. Representations include any publicity, including but not limited to advertisements, notices, press releases, reports, signs, and similar public notices.

53. Performance While Dispute is Pending

Notwithstanding the existence of a dispute, the parties shall continue without delay to carry out all of their responsibilities under this Agreement that are not affected by the dispute. If a party fails to continue without delay to perform its responsibilities under this Agreement, in the accomplishment of all undisputed work, any additional cost incurred by the other parties as a result of such failure to proceed shall be borne by the responsible party.

54. Hazardous Substances

To the extent that the goods to be supplied to the Purchasing Entity by the Contractor contain or may create hazardous substances, harmful physical agents or infectious agents as set forth in applicable State and federal laws and regulations, the Contractor must provide the Purchasing Entity with Material Safety Data Sheets regarding those substances (including mercury). A copy must be included with each delivery.

55. Customer Satisfaction/Complaint Resolution

A. The Contractor's process for resolving complaints concerning products, support, and billing problems is attached as **Exhibit B**.

B. The Contractor will submit a format for a survey for approval by the Contract Administrator. The Contractor will survey its customers in each Participating State two (2) months prior to the annual meeting with the Contract Administrator.

56. Value Added Services

The Contractor is expected to provide such services as installation, training, and software imaging upon request of the Purchasing Entity. Additional Value Added Services offered by the Contractor are attached as **Exhibit C**, including relative costs associated with those services.

57. E-Rate Program

The Contractor's E-Rate identification number is 143007617.

E-Rate qualifying products are as follows:

HP ProLiant servers for use as DHCP servers, Domain name servers, E-mail servers, Terminal servers, and Web servers (for external users).

HP ProCurve network electronics: Routers, Switches, Hubs, and Wireless networking products.

HP Services: Installation services for eligible products, Maintenance services for eligible products, Infrastructure design and project support for E-rate eligible projects.

Other enterprise offerings: Rapid Deployment Pack for assistance in server installation, UPS when used in conjunction with eligible servers, NICs when used in conjunction with eligible servers, Factory Express configuration of eligible servers, Insight Manager 7 SP2/NIMBUS training for personnel tasked with server installation and maintenance

The Contractor shall make every effort to continue its involvement in this program and to add products as applicable.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of execution by the State of Minnesota, Commissioner of Administration, below.

1. HEWLETT PACKARD COMPANY
The Contractor certifies that the appropriate person(s) have executed this Agreement on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.

By: _____

Title: Contracts Mgr

Date: July 8th 2004

By: _____

Title: _____

Date: _____

2. MATERIALS MANAGEMENT DIVISION
In accordance with Minn. Stat. § 16C.03, Subd. 3.

By: Bernadette Kopischke

Title: Acquisition Management Specialist

Date: 7/9/07

3. COMMISSIONER OF ADMINISTRATION
Or delegated representative.

By: _____

Date: 9 JUL 04

EXHIBIT A - ADDITIONAL WARRANTIES

HP Global Limited Warranty Statement for NonStop Products can be found on the Contractor's website at: http://H71033.www7.hp.com/page/WARRANTY.html. This warranty is for Unix products. CarePags, installation and implementation services, maintenance, support, extended or uplifted warranty is based on HP's standard Support terms and conditions.

All other product standard warranty can be found on the Contractor's website at: http://h20000.www2.hp.com/bizsupport/TechSupport/ProductRoot.jsp?

The following warranties also apply.

A. WARRANTY

a) Product warranty period and additional information is available with Products, on quotations, or upon request.

b) Products purchased from HP will receive the standard warranty in the country of purchase. If Customer moves such Products to another country where HP has Support presence, then Customer will receive the destination country standard warranty.

c) Customer may receive a different warranty when the Product is purchased as part of a system. HP reserves the right to change the warranty. Such changes will affect only new orders.

d) The warranty period begins on the date of Delivery, or the date of installation if installed by HP. If Customer schedules or delays installation by HP more than thirty (30) days after Delivery, the warranty period begins on the 31st day after Delivery.

e) If Customer transfers a Product to another user, warranty service is available to that user for the remainder of the warranty period.

f) HP warrants HP hardware Products against defects in materials and workmanship. HP further warrants that HP hardware Products conform to Specifications.

g) HP warrants that Software will not fail to execute its programming instructions due to defects in materials and workmanship when properly installed and used on the Device designated by HP. HP further warrants that HP owned standard Software will substantially conform to Specifications. HP does not warrant that Software will operate in hardware and software combinations selected by Customer, or meet requirements specified by Customer.

h) HP does not warrant that the operation of Products will be uninterrupted or error free.

i) If HP receives notice of defects or non-conformance to hardware Specifications, or substantial non-conformance to HP owned standard Software Specifications during the warranty period, HP will, at its option, repair or replace the affected Products. If HP is unable, within a reasonable time, to repair, replace or correct a defect or non-conformance in a Product to a condition as warranted, Customer will be entitled to a refund of the purchase price upon prompt return of the Product to HP. Customer will pay expenses for return of such Products to HP. HP will pay expenses for shipment of repaired or replacement Products.

j) HP warrants that HP Support will be provided in a professional and workmanlike manner.

k) Some newly manufactured HP Products may contain and HP Support may use remanufactured parts which are equivalent to new in performance.

l) The warranties provided herein will apply only to those Products and Support which are branded by HP with an HP trademark ("HP Branded"). HP does not warrant any third party Products or Support even if included with other HP Branded Products or Support. Furthermore, HP provides all such third party Products and Support AS IS. However, the original manufacturers of suppliers may provide their own warranties as specified in the documentation accompanying such third party Products and Support.

m) The above warranties do not apply to defects resulting from:
   1) improper or inadequate maintenance by Customer;
   2) Customer or third party supplied software, interfacing or supplies;
   3) unauthorized modification;
   4) improper use or operation outside of the Specifications for the Product;
   5) abuse, negligence, accident, loss or damage in transit;
   6) improper site preparation; or
   7) unauthorized maintenance or repair.

n) THE ABOVE WARRANTIES ARE EXCLUSIVE AND NO OTHER WARRANTY, WHETHER WRITTEN OR ORAL, IS EXPRESSED OR IMPLIED. TO THE EXTENT PERMITTED BY LAW, HP SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NONINFRINGEMENT.

B. Support services and Uplift and Extended Warranty

1. DEFINITIONS AND SERVICES INCLUDED
   a) "HP System Support Upfront Services", "HP System Support Options", "HP Care Pack", or simply "HP Upfront Services" refers to HP's offerings for hardware, software, network, SAN (Storage Area Network), and Mission Critical support. HP Upfront Services are available for purchase by the PURCHASER either at the time of Product purchase, or prior to installation of such Products for which HP Upfront Services are being purchased.
   b) HP System Support Services", "Compaq Services" or simply "HP System Support" refers to HP's offerings for hardware, software, network, SAN (Storage Area Network), and Mission Critical support. HP System Support is available on a contractual basis either for a fixed period or on an open-ended ("evergreen") basis (note that these are not part of HP's Upfront Services offering, as defined above.) HP System Support Services are also referred to as "contractual support".
   c) Certain features of HP Upfront Services and HP System Support Services are optional and may be purchased upon request by PURCHASER. Standard and optional features for HP System Support Upfront Services and HP System Support Service, covering HP and specified non-HP systems, are described in the applicable Technical Data sheet and/or Service Description and will be provided pursuant to the specifications set out therein. Such Technical Data sheets and/or Service Descriptions become an integral part of this Exhibit.
   d) "Support Services" will mean the collective service offering described in 1. a) and 1. b) above.

2. PREREQUISITES
   HP, in its reasonable opinion, will make a determination regarding whether PURCHASER adequately meets the prerequisites for Support Services as outlined in this Exhibit.
   a) Uniform Coverage. Unless otherwise agreed by HP, all hardware and software products that constitute the minimum system configuration (a collection of hardware and software that is designated to operate as a functional unit), along with all other such hardware and software products that may be included or attached to such system configuration, must be covered at the same Support Services coverage level. Similarly, the duration period must be the same for all hardware and software products in a particular system for which Support Services is purchased. (i.e., must be coterminous).
   b) Connectors and Cables. All products covered under Support Services must be interconnected by cables or connectors listed in the appropriate manufacturer's documentation as compatible with the system. For products that do not meet this requirement, service is available at the applicable standard service rates for such products.
   c) Software Support. All HP systems for which execution of diagnostic tests is software-dependent must, at a minimum, be covered by Support Services that provide periodic software updates.
   d) Right to Copy Documentation. PURCHASER may copy documentation updates for use with other systems covered by the Support Service that provides software support.
   e) Software Licenses. PURCHASER can purchase Support Services only for HP software for which PURCHASER has rightfully acquired an appropriate HP software license (pursuant to licensing terms outlined above).
   f) Designated Callers and Training Requirements. All Response Center callers must be generally knowledgeable and trained in system administration, system management, and if applicable, network administration/network management in order to be an authorized caller. HP has the right to review and discuss an authorized caller's prior training and/or experience to determine initial eligibility. In addition, if issues should arise during Response Center interaction that, in HP's reasonable opinion, may be a result of such caller's lack of general experience and/or training, HP reserves the right to request replacement of such caller. Access to HP's Response Center is limited to: PURCHASER system manager(s) for the operating system and subsystem software, if applicable, the network operator for the network, and for Support Services that include SAN coverage; after normal business hours authorized caller; including storage network operator and alternate; if applicable, application software manager and alternate; and if applicable, additional HP Response Center callers, which may be subject

to an additional charge. In the absence of any of these managers, the HP Response Center is available for their designated alternates. In the event of a change to the designated caller(s), PURCHASER will inform HP of such replacement within a reasonable time. All Response Center callers must have the proper system identifier, such as the system handle or system serial number, when initiating a call to the Response Center.

g) Remote Support. For HP to provide remote support, PURCHASER must give authorization and provide access to a remote support connection, either internet based or qualified modem, as well as access to one voice-grade telephone line and one data-quality telephone line or network with terminations, or equivalent, near the system. For storage devices using Continuous Track or Instant Support Enterprise Edition, a data quality phone line must be provided for "phone-home" diagnostic technology capability. For some service levels, PURCHASER must allow HP to install and provide HP adequate space for and access to HP-provided equipment, as well as provide connectivity as specified in the applicable Technical Data sheet and/or Service Description for the Support Service.

h) HP IT Resource Center. HP IT Resource Center is available via the worldwide web for certain Support Services. With a Web browser, PURCHASER can access the specified areas of the HP IT Resource Center. FTP access is required for some electronic services. Designated callers who submit HP Response Center calls via the HP IT Resource Center must meet the same training requirements set forth in 2. f) above. Use of HP support tools available via the HP IT Resource Center requires agreement to the HP Support Tool License Terms.

i) Country Boundaries. All systems supported by one PURCHASER system manager must be located within the same country.

j) Eligibility. To be eligible for certain coverage levels and Support Services offerings, PURCHASER may be required to meet a minimum monthly billing amount specified by HP.

k) Central Order Group (selected products ONLY). This provision only applies to PURCHASERS who have purchased certain Support Services in regards to the designation of the Central Order Group by HP. The Central Order Group is defined as the particular system within a grouping of systems in a PURCHASER's environment that has the fastest processor speed and largest number of users. The Central Order Group must have only one PURCHASER system manager. Unless otherwise agreed, HP will designate which system constitutes the Central Order Group based upon the criteria defined above. Except for certain designated mission critical environments, both the Central Order Group and add-on order groups (connected systems) must be of the same HP or non-HP product family and must collectively have the same PURCHASER system manager.

3. SERVICE LIMITATIONS

a) Hardware, Software, SAN and Network Support. Any services involving hardware, software or network-related problems not covered by Support Services, will be subject to the applicable standard services rates for such products.

b) Maximum Use Limitations. For those products that have a maximum usage limit, such as a specified page limit, as set forth in the applicable Operating Manual, Technical Data Sheet, or Service Description, any such Products operated in excess of their maximum usage rate are not eligible for Support Services, but can be serviced at the applicable standard service rates for such products.

c) Interfaces and Accessories. HP may cover cables, connectors, accessories and interfaces under the same hardware service level purchased for the products with which they are used.

d) Supported Software Versions. Unless otherwise agreed by HP, HP provides HP Support Services only for the current and immediately preceding versions of HP software, and only when the software is used with hardware that is included in HP-specified configurations. A version is defined as a release of a software product that contains new features, enhancements, and maintenance updates. If support coverage lapses, additional fees may be required to resume support coverage. HP will support specified versions of selected non-HP software, but will not support the software any longer than the vendor supports it. For non-HP software, HP provides Support Services only for software versions that are documented as supported on specified configurations. HP will be under no obligation to provide Support Services should it be required due to alterations or modifications to code.

e) Non-HP Software. For non-HP Software, Support Services are limited, unless otherwise specified by HP, to telephone assistance, and if available to HP from the third-party software vendor or other appropriate provider, patches, workarounds, and updates.

f) HP Software on Non-HP Systems. Support Services for certain HP software products used with designated non-HP systems is limited to the support deliverables specified in the applicable Technical

Data Sheet and/or Service Description. PURCHASERS must maintain HP-supported non-HP software at a code revision level specified by HP.

g) Network Software Coverage without Network Support. Support for HP network software that provides multivendor node connectivity is limited to product-usage and problem-solving assistance and software update materials, unless network support is purchased.

h) Travel Zones. PURCHASER sites located beyond one hundred (100) miles (160 kilometers), with the exception of HP's mission critical Support Services offering, in which case for those sites located beyond fifty (50) miles, of a primary HP support office may be subject to travel charges, longer response times, reduced restoration or repair commitments, and reduced coverage hours.

i) Availability. Some Support Services features and coverage levels are subject to local availability.

j) Consumables, User Replaceable Parts, Maintenance Kits, and other Supplies. Support Services do not include the provision, return/replacement, or installation of supplies or other consumable items including but not limited to, accessories, operating supplies, magnetic media, print heads, ribbons, toner, and batteries.

k) Out of Coverage Hours. PURCHASER requests for Support Services, or for HP installation and configuration services, that are scheduled after HP's locally defined, standard business hours may be subject to HP standard after hours service rates (unless PURCHASER has specifically purchased the applicable after hours coverage for such Support Service).

4. PURCHASER RESPONSIBILITIES

a) Product List. PURCHASER will be responsible for the overall listing of hardware and software products under Support Services, including the accuracy of such listing, the location of the products, serial numbers, the HP-designated system handle(s), and their associated coverage levels, including any subsequent changes to such listing, as required, throughout the applicable Support Services coverage period.

b) Access. PURCHASER must provide HP with the following:

1) Access to the products covered under HP Upfront Services and HP System Support.

2) Adequate working space and facilities within a reasonable distance of the products.

3) Access to and use of all information, internal resources, and facilities determined necessary by HP to service the products.

4) For the scheduled support level, PURCHASER must designate a single work area acceptable to HP at PURCHASER site. This area must include shelves or racks for incoming and outgoing products, adequate open bench workspace, adequate power and lighting, and access to a telephone. Before having a product serviced under the scheduled support level, PURCHASER must:

a) Maintain a written log of model number, serial number, and current failure symptoms and be prepared to provide this information to HP upon request.

b) Locate all failed units to be repaired during a scheduled visit at the designated work area before the HP PURCHASER Engineer arrives.

c) Call HP the workday before the day of the scheduled visit to provide information regarding the number and type of products requiring repair.

c) Operating Procedures. PURCHASER must follow routine operating procedures as specified in the manufacturer's product operation manual(s).

d) Diagnostic/Maintenance Software (selected products). HP will require the use of certain system and network diagnostic and maintenance programs (herein after referred to as "Proprietary Service Tools") for delivery of Support Services under certain coverage levels. These Proprietary Service Tools which remain the sole and exclusive property of HP, are provided "as is," and include, but are not limited to, remote fault management software, High Availability Observatory ("HAO"), Insight Manager, Instant Support ("IS"), and Instant Support Enterprise Edition ("ISEE"). Such tools may reside on the PURCHASER's system(s) or site(s), and PURCHASER may only use such tools for the purposes covered by HP's permission, and only during the term of the applicable Support Service coverage period. PURCHASER may not sell, transfer, assign, pledge, or in any way encumber or convey these Proprietary Service Tools. PURCHASER will also be required to:

1. allow HP to keep such Proprietary Tools resident on PURCHASER's system(s) or site(s), and assist HP in running these Proprietary Service Tools,

2. install, maintain, and support such Proprietary Service Tools, including any required updates and patches,

3. use the electronic data transfer capability to inform HP of events identified by the software, and
4. if required, purchase HP-specified modem and/or data sets for systems having remote diagnosis service. Upon termination of Support Services, PURCHASER will return the Proprietary Service Tools and/or allow HP to remove these Proprietary Service Tools.

e) Revision Levels. PURCHASER must maintain all associated system hardware and firmware at the latest HP-specified configuration and code revision level.

f) Telecommunication Charges. PURCHASER is responsible for all telecommunication charges associated with using HP IT Resource Center and with installing and maintaining ISDN links and Internet connection, or HP-approved alternatives, to the HP Response Center, including as they relate to the HAO, or other Proprietary Service Tools.

g) Temporary Procedures. PURCHASER is responsible for implementing temporary procedures or workarounds while permanent solutions are being sought.

5. SOFTWARE LICENSE AND COPYRIGHTS

a) Updates. Software updates or revisions furnished in connection with Support Services are subject to the license terms in effect for such Software on the date HP ships the update to the PURCHASER. Any standard commercial software product furnished under such Support Services is subject to the standard commercial Software license terms applicable to the product.

b) HP Update Ownership. PURCHASER acknowledges that it does not own and has no right to, title to, or interest in the updates except as set forth in the applicable HP Software License Terms.

c) Copyright and Trademark Notices. PURCHASER agrees to reproduce and conspicuously affix copyright and trademark notices from the original software or documentation on each copy of an update that PURCHASER makes or obtains from an electronic data source.

6. MULTIVENDOR NETWORK COVERAGE

a) Affiliates. HP has developed working relationships with select vendors, known as Affiliates, who assist in the delivery of multivendor support. For purposes of HP's appointment as a Special Agent during multivendor coverage, non-Affiliate refers to other vendors of products in PURCHASER's network.

b) Performance of Affiliates and Non-Affiliates. HP is not liable for performance or non-performance of Affiliates and non-Affiliates, their products, or their support services.

c) Operational Network. HP must verify PURCHASER's network as fully operational before Support Services, including LAN/WAN network, and Storage Network Environmental support coverage begins. This prerequisite is deemed met if Support Services coverage commences upon completion of HP's network configuration or assessment services. Otherwise, HP performs verification at the applicable standard service rates for such products.

d) Supported Connections. HP must agree upon all network connections and products covered under Support Services with network coverage.

e) Service Requests. Prior to or after placing a service request with HP, PURCHASER will run HP or non-HP product or network diagnostic self-test programs, as appropriate. PURCHASER must then contact the appropriate product vendor if a specific product is found to be at fault. Upon request from HP during a service call, PURCHASER will enable the connection to HP via the network support tool if applicable.

f) Network Information. PURCHASERS without the HP network support tool installed must identify current product version numbers and system configuration information for all products on the network. PURCHASER must notify HP when major topology changes occur on the network.

g) Non-HP Service Contracts. To take advantage of Support Services benefits, PURCHASER must purchase service contracts from Affiliates and non-Affiliates that maintain appropriate support service levels for non-HP products.

7. MULTIVENDOR NETWORK/WARRANTY MAINTENANCE MANAGEMENT

Should PURCHASER purchase Support Services that include multivendor network coverage and/or warranty maintenance management services that require HP to act as a special agent, additional terms and conditions will apply. PURCHASER and HP will negotiate in good faith such mutually agreeable additional terms. HP will be under no obligation to act as PURCHASER's special agent until such time as these additional terms are agreed upon and executed between the parties.

8. MISCELLANEOUS

a) SubHPs. Notwithstanding anything to the contrary in the terms of the contract, HP reserves the right and PURCHASER consents to HP's use of subHPs to assist in the provision of Support Services as HP deems appropriate, without notice to PURCHASER.

b) Replacement Parts. Replacement parts provided under Support Services may include new parts, equivalent to new parts, parts that are functionally equivalent or superior to the replaced part, or whole unit replacements. Replaced parts become the property of HP, unless otherwise agreed, and provided that PURCHASER pays the applicable charge(s) associated for retaining such replaced part(s).

c) Attachments. For certain Support Services, PURCHASER may be required to execute additional Attachments to this Exhibit.

d) Order of Precedence. The order of precedence will be as follows: The contract terms and conditions, this Exhibit, the Technical Data Sheet(s), and the Service Description(s).

e) HP Product Warranty Upgrade for ninety (90) cay on-site warranty or one (1) year "Return to HP" converted to ninety (90) Day on-site warranty. If PURCHASER purchases HP Upfront System Support Services or HP System Support Options for a HP hardware product that carries either a ninety (90) day on-site or a one (1) year return-to-HP warranty converted to ninety (90) day on-site warranty, and the associated Upfront System Support Services or System Support Option service level purchased by PURCHASER does not provide a better service level than the base ninety (90) day warranty, the service level associated with the base warranty will apply for such ninety (90) days. Thereafter, the service level and response time will revert to those defined by the Upfront System Support Services or HP System Support Option purchased by the PURCHASER. A one (1) year return-to-HP warranty must be converted to a ninety (90) day on-site warranty to qualify. Additionally, days of coverage and on-site response times can be upgraded for an additional charge during the warranty period for most hardware products.

f) Warranty Status of Non-HP Products. Irrespective of a particular non-HP product's warranty status, such Non-HP product(s) under Support Services will be serviced in accordance with this Exhibit, and any applicable Attachments.

g) Cancellation. In the event any prepaid Support Services are canceled, PURCHASER will receive a pro-rata refund only for the unused prepaid services, less any applicable early termination fees, if such fees apply as set forth in an executed addendum or attachment to this Exhibit.

h) Financing. If Support Services are financed as part of an HP Financing Agreement, the HP Financing Agreement terms and conditions regarding cancellation will govern.

EXHIBIT B - COMPLAINT RESOLUTION

HP will work with the WSCA states to customize the procedures to the states' specific escalation requirements. HP's formal service escalation procedure is described in detail below.

A. Order and Billing Escalation Procedures

HP's Customer Services Account Teams place a high emphasis on effectively managing our customers' open orders. We have developed internal processes and training efforts to address this important subject. Customer Services ASRs (Account Support Representatives) are trained to effectively manage the variety of open order reports available through HP's order management system. Team Leaders work with their Customer Services Account Teams to ensure all team members are knowledgeable and comfortable with the multiple sourcing options available to them.

Account Support Representatives are required to spend part of each day reviewing and working all open order reports. When the ASRs have completed their first pass through these reports, they are required to inform their supervisor that they have completed their review and then get help with any issues needing expediting. Team Leaders are required to check this process as part of their daily checklist.

Customer Services team members continuously monitor manufacturing issues with customer orders. The Customer Services Account Team works to resolve product issues as soon as possible. If the issue is not completely resolved within 24 hours of e-mail receipt, the team will notify the appropriate HP Direct manager.

Customer Services management and sales staff meet regularly to identify and resolve any order management outstanding issues. Issues are logged, resolutions proposed, and follow-up tracked. The goal of these meetings is to set the HP "team" expectations or vision, review issues keeping us from realizing that vision, and then put plans in place that get us to the level of service and confidence we and our customers demand.

Turnaround for return processing can be impacted by many factors that make it difficult to measure on average. For straightforward items that don't require a return shipment, it may take up to five days for processing. When items are returned in shipment via a call tag, the product needs to be returned within 30 days. The Account Support team is charged with ensuring that all returns processing and related issues are completed within sixty days.

Generally credits are applied directly against the open amount they represent on the order invoice. When credits are issued for invoices that have already been paid, the credit will be applied to another open invoice. If a Purchasing Entity needs to apply credits to specific open invoices, the Account Support Team will work with the Purchasing Entity and a Credit Manager to coordinate these specific designations. The Account Support Team will act as the first point of contact for credit issues.

B. Invoicing

Just as the purchase order information follows the path of the product during fulfillment, this information is also used to process the invoice. Once the order information is electronically entered by either the Purchasing Entity or its Customer Services Account Team, depending on how the purchase order is submitted, this same electronic order information is directed to the invoice, eliminating the potential for manual errors during processing. Immediately prior to invoice processing, the electronic delivery information from the purchase order is provided to the chosen carrier. Once the product is with the carrier, the invoice is processed and sent to the Purchasing Entity. At this time, HP can also send an automated e-mail notification to the Purchasing Entity informing you of the expected delivery date.

Special contract pricing is maintained on a per customer basis within the order fulfillment system. Since invoices are generated from the order management system, which uses the same information provided at the time of the order submittal and includes all of the subsequent processing information, HP fully expects that our invoices will be 100 percent accurate.

Billing for customization services, such as imaging and asset tagging services, may be billed either as part of the configuration price, or as a separate line item on the same invoice. As with other billing disputes for product and product-related services, the Customer Services Account Team is the primary point of contact.

C. Service Escalation Procedures

HP makes provision for two types of escalation. The first type, referred to as call escalation, relates to escalating specific service events for more timely resolution. The second type, referred to as issue resolution, relates to customer satisfaction issues pertaining to the contract. Both types of escalation are described in the paragraphs that follow.

1. Call Escalation

   HP's call escalation procedures provide a mechanism for involving successively higher levels of management within its Customer Services organization. These procedures are automated and non-discretionary and ensure the fastest possible resolution. If a service call logged during coverage hours exceeds a predetermined limit for on-site repair time, the call escalation process is automatically activated and management is notified. The Service Delivery Manager and the Service Account Manager review the situation, and additional resources are applied as necessary until the problem is resolved to the customer's satisfaction. Each system and peripheral has its own strategy and procedure, with established parameters for escalation.

   If necessary, the escalation process continues through the development of customized action plans and timelines, formal management reviews, and engagement of territory- or corporate-level resources. At the upper levels, there are daily reviews and updates until closure.

D. Issue Resolution

In the event of a customer satisfaction issue, the customer's first point of contact is normally the program manager or the account manager. This individual engages the necessary resources in the local service delivery unit, obtains the support of management in the local customer business district, and keeps the concerned sales organization apprised of the progress of the resolution. Most issues are resolved readily at the local level. If necessary, the situation is elevated to executive management at the territory or U.S. level.

EXHIBIT C - VALUE ADDED SERVICES

Contact the Contractor for more details on these services. Costs are shown on the Contractor's PSS.

A. Customer Services

1. Implementation Planning and Roll-out
2. Asset Management
3. Environmentally Safe Reclamation/Disposal of Used Parts
4. Installation, Setup, and Test
5. On-Site/Off-Site hardware and software support
6. Extended Warranties with enhanced services and response times
7. Service Level Agreement Definision

B. Education and Training

1. Packaged Courses
2. IT Course Development
3. Customer Content Course Development
4. Virtual Classroom

EXHIBIT D - SOFTWARE LICENSE TERMS

1. DEFINITIONS
   a) "License Fee" means the fee or fees designated by HP for Use of Software. Different License Fees may apply to particular Software if more than one Software License is available for that Software.
   b) "Products" means hardware, Software, documentation, accessories, supplies, parts and upgrades that are determined by HP to be available from HP upon receipt of Customer's order.
   c) "Software" means one or more programs capable of operating on a controller, processor or other hardware Product ("Device") and related documentation. Software is either a separate Product, included with another Product ("Bundled Software"), or fixed in a Device and not removable in normal operation ("Firmware").
   d) "Software License" means the Software license grant and general license terms set forth herein. Each Software License has a corresponding License Fee.
   e) "Use" means storing, loading, installing, executing, or displaying Software on a Device.

2. LICENSE GRANT
   a) In return for the License Fee, HP grants Customer a non-exclusive license to Use the object code version of the Software listed in Customer's order in conformance with:
      1) the terms set forth herein; and
      2) Use restrictions and authorizations for the Software specified by HP in its quotation, invoice or terms that accompany the Software; and
      3) HP's third party suppliers' terms that accompany the Software.

      In the event of a conflict, the third party suppliers' terms that accompany the Software will take precedence over the Use restrictions and authorizations specified by HP and the terms set forth herein, and the Use restrictions and authorizations specified by HP will take precedence over the terms set forth herein.
   b) Unless otherwise specified, in return for the applicable License Fee, HP grants Customer a license to Use one copy of the Software on one Device at any one time.
   c) Unless otherwise specified, all Software Licenses will be perpetual unless terminated or transferred in accordance with Section 3. g).
   d) If Customer is an HP authorized reseller, Customer may sublicense the Software to an end-user for its Use or (if applicable) sublicense the Software to an HP authorized reseller for subsequent distribution to an end-user for its Use. These sublicenses must incorporate the terms of this Software License in a written sublicense agreement, which will be made available to HP upon request. If Customer is not an HP authorized reseller, Customer may not sublicense the Software unless otherwise agreed to by HP in writing.

3. GENERAL LICENSE TERMS
   a) Software is owned and copyrighted by HP or by third party suppliers. Customer's Software License confers no title or ownership and is not a sale of any rights in the Software. Third party suppliers may protect their rights in the Software in the event of any infringement.
   b) Unless otherwise permitted by HP, Customer may only make copies or adaptations of the Software for archival purposes or when copying or adaptation is an essential step in the authorized Use of the Software on a backup Device, provided that copies and adaptations are used in no other manner and provided further that the Use on the backup Device is discontinued when the original or replacement Device becomes operable.
   c) Customer must reproduce all copyright notices in or on the original Software on all permitted copies or adaptations. Customer may not copy the Software onto any public or distributed network.
   d) Bundled Software or Firmware provided to Customer may only be used when operating the associated Device in configurations as sold or subsequently upgraded by HP. Customer may transfer Firmware only upon transfer of the associated Device.
   e) Updates, upgrades or other enhancements are available under HP Support agreements. HP reserves the right to require additional licenses and fees for Use of the Software on upgraded Devices.
   f) Customer will not modify, disassemble or decompile the Software without HP's prior written consent. Where Customer has other rights under statute, Customer will provide HP with reasonably detailed information regarding any intended disassembly or decompilation. Customer will not decrypt the

Software unless necessary for legitimate use of the Software.

g) Customer's Software License is transferable subject to HP's prior written authorization and payment to HP of any applicable fee(s). Upon transfer of the Software License, Customer will immediately deliver all copies of the Software to the transferee. The transferee must agree in writing to the terms of Customer's Software License. All Software License terms will be binding on involuntary transferees, notice of which is hereby given. Customer's Software License will automatically terminate upon transfer.

h) HP may terminate Customer's or any transferee's or sublicensee's Software License upon notice for failure to comply with any applicable Software License terms. Immediately upon termination, the Software and all copies of the Software will be destroyed or returned to HP. Copies of the Software that are merged into adaptations, except for individual pieces of data in Customer's or transferee's or sublicensee's database, will be removed and destroyed or returned to HP. With HP's written consent, one copy of the Software may be retained subsequent to termination for archival purposes.

i) If the software is licensed for use in the performance of a U.S. government prime contract or subcontract, Customer agrees that, consistent with FAR 12.211 and 12.212, commercial computer software, computer software documentation and technical data for commercial items are licensed under vendor's standard commercial license.

4. GENERAL

a) Customer may not assign any rights or obligations hereunder without prior written consent from HP.

b) Customer who exports, re-exports or imports HP licensed Products, technology or technical data purchased hereunder, assumes responsibility for complying with applicable laws and regulations and for obtaining required export and import authorizations. HP may suspend performance if Customer is in violation of any applicable laws or regulations.

c) Disputes arising in connection with this Agreement will be governed by the laws of the country and locality in which HP accepts the order.

d) If any term or provision herein is determined to be illegal or unenforceable, the validity or enforceability of the remainder of the terms or provisions herein will remain in full force and effect.

e) Except as specifically provided in Section 2. a) 2), these HP Software License Terms supersede any previous communications, representations or agreements between the parties, whether oral or written, regarding transactions hereunder. Customer's additional or different terms and conditions will not apply. These HP Software License Terms may not be changed except by an amendment signed by an authorized representative of each party.

WSCA/NASPO Contract Administration
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Fax: 651.297.3996
TTY: MN Relay Service 1.800.627.3529
http://www.mmd.admin.state.mn.us

AMENDMENT NUMBER: ONE (1)
TO CONTRACT NUMBER: A63309

THIS AMENDMENT is by and between the State of Minnesota, acting through is commissioner of Administration, for the WSCA/NASPO ("Lead State") and Hewlett Packard Company (Contractor).

WHEREAS, the Lead State has a Contract with the Contractor identified as No. A63309, effective September 1, 2004, through August 31, 2007, to provide direct-from-manufacturer personal computer equipment and related devices, software and services; and

WHEREAS, Minn. Stat. § 16C.03, subd. 5, affords the commissioner of Administration, or delegate pursuant to Minn. Stat. § 16C.03, subd. 16, the authority to amend contracts.

NOW, THEREFORE, it is agree by the parties to amendment the Contract as follows:

1. Change the definition of "Peripherals" to read: "Peripherals" include but are not limited to storage, printers (including multifunction network print/fax/scanner devises), scanners (used in conjunction with computing equipment), monitors, keyboards, uninterruptible power supplies (UPS) and accessories. Adaptive/Assistive technology devices are included as well as configurations for education. A third party may manufacture peripherals. The Contractor shall provide the warranty service and maintenance for equipment on a Master Price Agreement as well as a Takeback Program.

This Amendment is effective beginning on September 1, 2004, and shall remain in effect until August 31, 2007, or until the Contract is canceled, whichever occurs first.

Except as herein amended, the provisions of the original Contract between the parties hereto are expressly reaffirmed and remain in full force and effect.

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WSCA/NASPO Contract Administration
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Fax: 651.297.3996
TTY: MN Relay Service 1.800.627.3529
http://www.mmd.admin.state.mn.us

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed intending to be bound thereby.

1. CONTRACTOR
HEWLETT PACKARD COMPANY
The Contractor certifies that the appropriate person(s) have executed this document on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.

By: _____
Title: Contracts Mgr
Date: 9-30-04

By: _____
Title: _____
Date: _____

2. LEAD STATE
MATERIALS MANAGEMENT DIVISION
In accordance with Minn. Stat. § 16C.03, Subd. 3.

By: Bernadette Kopischke
Title: Acquisition Management Specialist
Date: 10/4/04

3. LEAD STATE
COMMISSIONER OF ADMINISTRATION
Or delegated representative.

By: _____
Date: 4 OCT 04

Admin Minnesota
MATERIALS MANAGEMENT DIVISION

WSCA/NASPO Contract Administration
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Fax: 651.297.3996
TTY: MN Relay Service 1.800.627.3529
http://www.mmd.admin.state.mn.us

AMENDMENT NUMBER: TWO (2)

TO CONTRACT NUMBER: A63309

THIS AMENDMENT is by and between the State of Minnesota, acting through is commissioner of Administration, for the WSCA/NASPO ("Lead State") and Hewlett Packard Company (Contractor).

WHEREAS, the Lead State has a Contract with the Contractor identified as No. A63309, effective September 1, 2004, through August 31, 2007, to provide direct-from-manufacturer personal computer equipment and related devices, software and services; and

WHEREAS, Minn. Stat. § 16C.03, subd. 5, affords the commissioner of Administration, or delegate pursuant to Minn. Stat. § 16C.03, subd. 16, the authority to amend contracts; and

WHEREAS, the terms of the Contract specifically state that: "MMD and the WSCA Directors acknowledge that with the evolution of technology, new, emerging units and configurations will develop. Addition of these new, emerging units to the PSS may be permitted, with the prior approval of the Contract Administrator and the WSCA Directors. The addition of new, emerging units and configurations is at the sole discretion of the Contract Administrator, subject only to review and approval of the WSCA Directors."

NOW, THEREFORE, it is agree by the parties to amendment the Contract as follows:

The printer categories currently included in Band 3, Printers are: High Speed Laser, Medium Speed Laser, Desktop Laser, and Portable (Laptop) Ink.
The following printer categories are hereby added to Band 3, Printers:

- Multi-functional Desktop Laser
- Multi-Functional - Medium Speed Laser
- Multi-Functional - High Speed Laser

This Amendment is effective beginning on May 1, 2005, or upon the date that the final required signatures are obtained, whichever occurs later, and shall remain in effect until August 31, 2007, or until the Contract is canceled, whichever occurs first.

Except as herein amended, the provisions of the original Contract between the parties hereto are expressly reaffirmed and remain in full force and effect.

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Admin Minnesota
MATERIALS MANAGEMENT DIVISION

WSCA/NASPO Contract Administration
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Fax: 651.297.3996
TTY: MN Relay Service 1.800.627.3529
http://www.mmd.admin.state.mn.us

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed intending to be bound thereby.

1. HEWLETT PACKARD COMPANY	2. LEAD STATE MATERIALS MANAGEMENT DIVISION
The Contractor certifies that the appropriate person(s) have executed this document on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.	In accordance with Minn. Stat. § 16C.03, Subd. 3.
By: Patrick M. Long	By: Bernadette Kopischke
Title: Contract Manager	Title: Acquisition Management Specialist
Date: 5/02/05	Date: 5/5/05
By:	3. LEAD STATE COMMISSIONER OF ADMINISTRATION
Title: HP - pwl	Or delegated representative.
Date:	By:
	Date: 5/11/05

WSCA/NASPO Contract Administration
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Fax: 651.297.3996
TTY: MN Relay Service 1.800.627.3529
http://www.mmd.admin.state.mn.us

AMENDMENT NUMBER: 3
TO CONTRACT NUMBER: A63309

THIS AMENDMENT is by and between the State of Minnesota, acting through is commissioner of Administration, for the WSCA/NASPO ("Lead State") and Hewlett Packard Company (Contractor).

WHEREAS, the Lead State has a Contract with the Contractor identified as No. A63309, effective September 1, 2004, through August 31, 2007, to provide direct-from-manufacturer personal computer equipment and related devices, software and services; and

WHEREAS, Minn. Stat. § 16C.03, subd. 5, affords the commissioner of Administration, or delegate pursuant to Minn. Stat. § 16C.03, subd. 16, the authority to amend contracts; and

WHEREAS, the terms of the Contract specifically state that the agreement may be amended upon agreement of both parties.

NOW, THEREFORE, it is agree by the parties to amendment the Contract as follows:

The unit/configuration limit has been increased for the following bands that were part of the original RFP/Contracts:

Band 1 - Servers, to include pricing configurations for mid-range servers between $50,000 and $100,000, including file and print servers.

Band 2 - Desktop, to include high-end workstations between $50,000 and $100,000.

Band 4 - Auxiliary Storage, including NAS, SAN, CAS, and CNS, to include pricing configurations for mid-range storage solutions between $50,000 and $100,000,

This Amendment is effective beginning on January 1, 2006, or upon the date that the final required signatures are obtained, whichever occurs later, and shall remain in effect until August 30, 2007, or until the Contract is canceled, whichever occurs first.

Except as herein amended, the provisions of the original Contract between the parties hereto are expressly reaffirmed and remain in full force and effect.

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WSCA/NASPO Contract Administration
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Fax: 651.297.3996
TTY: MN Relay Service 1.800.627.3529
http://www.mmd.admin.state.mn.us

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed intending to be bound thereby.

1. HEWLETT PACKARD COMPANY

The Contractor certifies that the appropriate person(s) have executed this document on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.

By: Patricia Long

Title: Contract Manager

Date: 1-18-06

By:

Title:

Date:

2. LEAD STATE
MATERIALS MANAGEMENT DIVISION

In accordance with Minn. Stat. § 16C.03, Subd. 3.

By: Bernadette Kopischke

Title: Acquisition Management Specialist

Date: 1/23/06

3. LEAD STATE
COMMISSIONER OF ADMINISTRATION

Or delegated representative.

By:

Date: 23 Jan 06

Admin Minnesota
MATERIALS MANAGEMENT DIVISION

WSCA/NASPO Contract Administration
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Fax: 651.297.3996
TTY: MN Relay Service 1.800.627.3529
http://www.mmd.admin.state.mn.us

AMENDMENT NUMBER: 4
TO CONTRACT NUMBER: A63309

THIS AMENDMENT is by and between the State of Minnesota, acting through is commissioner of Administration, for the WSCA/NASPO ("Lead State") and Hewlett Packard Company (Contractor).

WHEREAS, the Lead State has a Contract with the Contractor identified as No. A63309, effective September 1, 2004, through August 31, 2007, to provide direct-from-manufacturer personal computer equipment and related devices, software and services; and

WHEREAS, Minn. Stat. § 16C.03, subd. 5, affords the commissioner of Administration, or delegate pursuant to Minn. Stat. § 16C.03, subd. 16, the authority to amend contracts; and

WHEREAS, the terms of the Contract specifically state that the agreement may be amended upon agreement of both parties.

NOW, THEREFORE, it is agree by the parties to amendment the Contract as follows:

The following Band 6 Education Classroom packages have been added to the Master Agreement, per the terms and conditions of the RFP that opened on October 13, 2005:

1. Configuration One - Workstation & Projector Package
2. Configuration One - Alternate - Workstation & Projector Package

This Amendment is effective beginning on March 1, 2006, or upon the date that the final required signatures are obtained, whichever occurs later, and shall remain in effect until August 30, 2007, or until the Contract is canceled, whichever occurs first.

Except as herein amended, the provisions of the original Contract between the parties hereto are expressly reaffirmed and remain in full force and effect.

Intentionally Left Blank

Admin Minnesota
MATERIALS MANAGEMENT DIVISION

WSCA/NASPO Contract Administration
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Fax: 651.297.3996
TTY: MN Relay Service 1.800.627.3529
http://www.mmd.admin.state.mn.us

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed intending to be bound thereby.

1. HEWLETT PACKARD COMPANY
The Contractor certifies that the appropriate person(s) have executed this document on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.

By: Patrick L
Title: Contract Manager
Date: 3/01/06

By:
Title:
Date:

2. LEAD STATE
MATERIALS MANAGEMENT DIVISION
In accordance with Minn. Stat. § 16C.03, Subd. 3.

By: Bernadette Kopischke
Title: Acquisition Management Specialist
Date: 3/2/06

3. LEAD STATE
COMMISSIONER OF ADMINISTRATION
Or delegated representative.

By:
Date: Original signed

MAR 0 2 2006

By Brenda Willard

Admin Minnesota
MATERIALS MANAGEMENT DIVISION

WSCA/NASPO Contract Administration
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Fax: 651.297.3996
TTY: MN Relay Service 1.800.627.3529
http://www.mmd.admin.state.mn.us

AMENDMENT NUMBER: 5
TO CONTRACT NUMBER: A63309

THIS AMENDMENT is by and between the State of Minnesota, acting through is commissioner of Administration, for the WSCA/NASPO ("Lead State") and Hewlett Packard Company (Contractor).

WHEREAS, the Lead State has a Contract with the Contractor identified as No. A63309, effective September 1, 2004, through August 31, 2007, to provide direct-from-manufacturer personal computer equipment and related devices, software and services; and

WHEREAS, Minn. Stat. § 16C.03, subd. 5, affords the commissioner of Administration, or delegate pursuant to Minn. Stat. § 16C.03, subd. 16, the authority to amend contracts; and

WHEREAS, the terms of the Contract specifically state that the agreement may be amended upon agreement of both parties.

NOW, THEREFORE, it is agree by the parties to amendment the Contract as follows:

Delete the following Band 6 Education Classroom packages from the Master Agreement, per the letter from Patrick Long dated September 13, 2006:

1. Configuration One - Workstation & Projector Package
2. Configuration One - Alternate - Workstation & Projector Package

This Amendment is effective beginning on October 1, 2006, or upon the date that the final required signatures are obtained, whichever occurs later, and shall remain in effect until August 30, 2007, or until the Contract is canceled, whichever occurs first.

Except as herein amended, the provisions of the original Contract between the parties hereto are expressly reaffirmed and remain in full force and effect.

Intentionally Left Blank

Admin Minnesota
MATERIALS MANAGEMENT DIVISION

WSCA/NASPO Contract Administration
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Fax: 651.297.3996
TTY: MN Relay Service 1.800.627.3529
http://www.mmd.admin.state.mn.us

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed intending to be bound thereby.

1. HEWLETT PACKARD COMPANY	2. LEAD STATE MATERIALS MANAGEMENT DIVISION
The Contractor certifies that the appropriate person(s) have executed this document on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.	In accordance with Minn. Stat. § 16C.03, Subd. 3.
By: [signature]	By: Bernadette Kopischke
Title: Contract Manager	Title: Acquisition ~~Management Specialist~~ Supervisor
Date: 9-26-06	Date: 9/27/06
By:	3. LEAD STATE COMMISSIONER OF ADMINISTRATION Or delegated representative.
Title:	By: Original signed
Date:	Date: SEP 27 2006
	By Jackie Finger

Admin Minnesota
MATERIALS MANAGEMENT DIVISION

WSCA/NASPO Contract Administration
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Fax: 651.297.3996
TTY: MN Relay Service 1.800.627.3529
http://www.mmd.admin.state.mn.us

AMENDMENT NUMBER: 6
TO CONTRACT NUMBER: A63309

THIS AMENDMENT is by and between the State of Minnesota, acting through is commissioner of Administration, for the WSCA/NASPO ("Lead State") and Hewlett Packard Company (Contractor).

WHEREAS, the Lead State has a Contract with the Contractor identified as No. A63309, effective September 1, 2004, through August 31, 2007, to provide direct-from-manufacturer personal computer equipment and related devices, software and services; and

WHEREAS, Minn. Stat. § 16C.03, subd. 5, affords the commissioner of Administration, or delegate pursuant to Minn. Stat. § 16C.03, subd. 16, the authority to amend contracts; and

WHEREAS, the terms of the Contract specifically state that the agreement may be amended upon agreement of both parties.

NOW, THEREFORE, it is agree by the parties to amendment the Contract as follows:

Band 7 for Monitors is hereby added to the Master Price Agreement, per the terms and conditions of the RFP that opened on September 18, 2006.

This Amendment is effective beginning on January 9, 2007, or upon the date that the final required signatures are obtained, whichever occurs later, and shall remain in effect until August 30, 2007, or until the Contract is canceled, whichever occurs first.

Except as herein amended, the provisions of the original Contract between the parties hereto are expressly reaffirmed and remain in full force and effect.

Intentionally Left Blank

Admin Minnesota
MATERIALS MANAGEMENT DIVISION

WSCA/NASPO Contract Administration
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Fax: 651.297.3996
TTY: MN Relay Service 1.800.627.3529
http://www.mmd.admin.state.mn.us

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed intending to be bound thereby.

1. HEWLETT PACKARD COMPANY The Contractor certifies that the appropriate person(s) have executed this document on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.	**2. LEAD STATE** **MATERIALS MANAGEMENT DIVISION** In accordance with Minn. Stat. § 16C.03, Subd. 3.
By: [signature] Title: Contract Manager Date: 1/24/07	By: Bernadette Kopischke Title: Acquisitions Supervisor Date: 1/25/07
By: Title: Date:	**3. LEAD STATE** **COMMISSIONER OF ADMINISTRATION** Or delegated representative. By: Brenda Willard Date: 1/25/07

Admin Minnesota
MATERIALS MANAGEMENT DIVISION

WSCA/NASPO Contract Administration
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Fax: 651.297.3996
TTY: MN Relay Service 1.800.627.3529
http://www.mmd.admin.state.mn.us

AMENDMENT NUMBER: 7
TO CONTRACT NUMBER: A63309

THIS AMENDMENT is by and between the State of Minnesota, acting through is commissioner of Administration, for the WSCA/NASPO ("Lead State") and Hewlett Packard Company (Contractor).

WHEREAS, the Lead State has a Contract with the Contractor identified as No. A63309, effective September 1, 2004, through August 31, 2007, to provide direct-from-manufacturer personal computer equipment and related devices, software and services; and

WHEREAS, Minn. Stat. § 16C.03, subd. 5, affords the commissioner of Administration, or delegate pursuant to Minn. Stat. § 16C.03, subd. 16, the authority to amend contracts; and

WHEREAS, the terms of the Contract specifically state that the agreement may be amended upon agreement of both parties.

NOW, THEREFORE, it is agree by the parties to amendment the Contract as follows:

1. That Contract No. A63309 is extended through August 31, 2009.

This Amendment is effective beginning on September 1, 2007, or upon the date that the final required signatures are obtained, whichever occurs later, and shall remain in effect until August 31, 2009, or until the Contract is canceled, whichever occurs first.

Except as herein amended, the provisions of the original Contract between the parties hereto are expressly reaffirmed and remain in full force and effect.

Intentionally Left Blank

WSCA/NASPO Contract Administration
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Fax: 651.297.3996
TTY: MN Relay Service 1.800.627.3529
http://www.mmd.admin.state.mn.us

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed intending to be bound thereby.

1. HEWLETT PACKARD COMPANY	2. LEAD STATE MATERIALS MANAGEMENT DIVISION
The Contractor certifies that the appropriate person(s) have executed this document on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.	In accordance with Minn. Stat. § 16C.03, Subd. 3.
By:	By: Bernadette Kopischke
Title: Managing Director	Title: Acquisitions Supervisor
Date: June 13, 2007	Date: 6/15/07
By:	**3. LEAD STATE COMMISSIONER OF ADMINISTRATION**
Title:	Or delegated representative.
Date:	By: Brenda Willard Original signed
	Date: JUN 18 2007
	By Brenda Willard

PARTICIPATING ADDENDUM

COMPUTER EQUIPMENT, SOFTWARE, PERIPHERALS AND RELATED SERVICES

MASTER PRICE AGREEMENT
HEWLETT PACKARD COMPANY
Number A63309

(Participating Entity Name)

1. Scope
(Briefly describe the jurisdiction of the governmental entity. If the jurisdiction includes all the governmental entities within an entire state, a statement to that effect will suffice)

2. Changes:
(Insert specific changes or a statement that no changes are required)

3. Primary Contact:
The primary participating entity contact for this participating addendum is as follows:

Name
Participating Entity Name
Address
Telephone:
Fax:
E-mail:

The primary Contractor contact for this participating addendum is as follows:

Name: Debra Lee, Public Sector Contract Manager
Contractor: Hewlett Packard Company
Address: 442 Swan Blvd., Deerfield, IL 60015
Telephone: 847.537.0344
Fax: 281.927.5213
E-mail: debra.lee@hp.com

4. Servicing Subcontractors:
Only those HP Authorized resellers and service providers attached hereto or as listed on the HP/State website _____ are eligible to support the Price Agreement under HP's Influencer Program (Reseller Agent) or Service Provider Program, as approved by the Participating Entity.

Orders and payments are to be handled by HP directly unless otherwise mutually agreed by HP and the Participating Entity as specified in this section of the Participating Addendum.

The Master Price Agreement Number MUST be shown on all Purchase Orders issued against this Agreement.

This Addendum and the Price Agreement together with its exhibits, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition

to the terms and conditions of this Addendum and the Price Agreement, together with its exhibits, shall not be added to or incorporated into this Addendum or the Price Agreement and its exhibits, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Addendum and the Price Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by Contractor below.

Signatures as required by State Statutes, Rules or Policies

EXHIBIT B
TO
PURCHASE AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
HEWLETT PACKARD COMPANY

[Scope of Work]

See following pages.

H Stolman

invent

Commonwealth Net Fo Legislation

ONLINE PRICE QUOTATION

Quote Number: 1459909

Today's Date : 11/5/2007 12:06:27 PM

Created By:
justin.mcdonald@zunesis.com

Quote Name: Avondale BL35p + Windows

Quote Created Date : 11/5/2007 11:59:30 AM

Contract: WESTERN STATES CONTRACTING ALLIANCE (A63309)

Product availability and product discontinuation are subject to change without notice. The prices in this quotation are valid for 30 days from quote date above. Please include the quote number and contract from this quote on the corresponding purchase order.

items/description	part no	unit price	qty	ext price
-Configurable-HP ProLiant BL35p Server Blade	Base	$3,433.01	1	$3,433.01
HP ProLiant BL35p Server	382734-405			
2 Dual Core AMD® Opteron™ 280 2.4GHz Processors	399602-2CP			
4GB REG PC3200 4x1GB Memory	376639-4G1			
Dual-Port Fibre Channel Adapter (2-Gb) Kit	354054-B21			
Two (2) PCI-X Gigabit NICs with WOL and PXE	Included			
One (1) 10/100T NIC (embedded) dedicated to iLO management				
Two 2.5-inch non-hot plug ATA 100 drive bays	Included			
2 USB, 1 video port, 1 ILO port and kernel debug port	Included			
BL25/35p Mezzanine network card	382850-B21			
HP Standard Limited Warranty - Year 1: Parts and on-site Labor; Years 2-3 - Parts Only, Parts: 1 to 5 Business Days, Labor: Next Business Day	Included			
HP Care Pack 3-year, 4-hour, 24x7, ProLiant Server Blade Hardware Support - electronic	UD188E	$233.00	1	$233.00
Windows Server 2003 R2 Standard Edition 5 Client Access Licenses and media	409167-B21	$750.00	1	$750.00

SubTotal : $4,416.01

City of Avondale Sales Tax @ 8.8% $388.60
Total : $4,804.61

The terms and conditions of the WESTERN STATES CONTRACTING ALLIANCE will apply to any order placed as a result of this inquiry, no other terms or conditions shall apply.

To access the HP Public Sector Online Store where this quote was created, go to: http://gem.compaq.com/gemstore/entry.asp?SiteID=1020

* The estimated lease cost is the monthly payment amount for a lease commencing on or before 12/5/2007 with a term of 36 months and a fair market value purchase option at the end of the lease term. This and other leasing and financing options are available through Hewlett-Packard Financial Service Company (HPFSC) or one of its affiliates to qualified education and state and local customers in the U.S. and subject to credit approval and execution of standard HPFSC documentation. Fees and other restrictions may apply. This is not a commitment to lease. Rates and payments are subject to change at any time without notice. Leasing and financing options for Federal governmental agencies (subject to a $50,000 minimum) are available from Hewlett-Packard Company. For more information, call Hewlett-Packard Financial Services Company at 1-888-277-5942 and talk to a financial services representative who specializes in supporting government and education entities.

* HP is not liable for pricing errors. If you place an order for a product that was incorrectly priced, we will cancel your order and credit you for any charges. In the event that we inadvertently ship an order based on a pricing error, we will issue a revised invoice to you for the correct price and contact you to obtain your authorization for the additional charge, or assist you with return of the product. If the pricing error results in an overcharge to you, HP will credit your account for the amount overcharged.

* Please contact HP Public Sector Sales with any questions or for additional information:

K12 Education:	800-888-3224	Higher Education:	877-480-4433
State Local Govt:	888-202-4682	Federal Govt:	800-727-5472
Fax:	800-825-2329	Returns:	800-888-3224

* For detailed warranty information, please go to www.hp.com/go/specificwarrantyinfo . Sales taxes added where applicable. Freight is FOB Destination.

2- Primary + Backup Servers

invent

ONLINE PRICE QUOTATION

Quote Number: 1460251

Quote Name: Avondale - 2x DL385G2 + Rack/Console - High CPU

Today's Date : 11/5/2007 2:34:56 PM

Quote Created Date : 11/5/2007 2:20:47 PM

Created By:
justin.mcdonald@zunesis.com

Contract: WESTERN STATES CONTRACTING ALLIANCE (A63309)

Product availability and product discontinuation are subject to change without notice. The prices in this quotation are valid for 30 days from quote date above. Please include the quote number and contract from this quote on the corresponding purchase order.

items/description	part no	unit price	qty	ext price
HP 10642 G2 Pallet Universal Rack	AF001A	$867.00	1	$867.00
HP 10642 G2 Side Panel	AF054A	$249.00	1	$249.00
HP 10000 Rack Roof Mount Fan (110V) Kit	257413-B21	$215.00	1	$215.00
HP 24A Low Voltage PDU HP Modular Power Distribution Units (mPDU), Low Volt Model, 24A (100-127 VAC) (NA, Japan)	Base 252663-D71	$321.00	2	$642.00
HP TFT7600 Rackmount Keyboard and Monitor	AG052A	$1,525.00	1	$1,525.00
HP 0x2x16 Server Console Switch with Virtual Media	AF600A	$1,040.00	1	$1,040.00
HP KVM USB2 1 pack Interface Adapter	AF603A	$90.00	2	$180.00

HP 12ft Qty 8 KVM CAT5 Cable	263474-B23	$31.00	1	$31.00
-Configurable- HP ProLiant DL385 G2 - Rack Server	Base	$8,896.01	2	$17,792.02
HP ProLiant DL385 G2 Server	414109-B21			
AMD Opteron™ Processor 2222 (3.0 GHz, 95 Watts)	451649-L21			
AMD Opteron™ Processor 2222 (3.0 GHz, 95 Watts)	451649-B21			
HP 4GB REG PC2-5300 2x2GB 2Rank Memory	408853-B21			
Microsoft® Windows® Server 2003 R2, Enterprise Edition + 25 CALS (Not Installed)	409171-B21			
SlimLine DVD-ROM Drive (8x/24x) Option Kit	264007-B21			
HP Smart Array P400/256 PCIe Controller	405132-B21			
RAID 5 drive set (requires matching 3 hard drives)	339779-B21			
HP 72GB Hot Plug 2.5 SAS 15,000 rpm Hard Drive	431935-B21			
HP 72GB Hot Plug 2.5 SAS 15,000 rpm Hard Drive	431935-B21			
HP 72GB Hot Plug 2.5 SAS 15,000 rpm Hard Drive	431935-B21			
HP 72GB Hot Plug 2.5 SAS 15,000 rpm Hard Drive	431935-B21			
HP 72GB Hot Plug 2.5 SAS 15,000 rpm Hard Drive	431935-B21			
HP 1000-W Hot-Plug Power Supply	Included			
HP 1000-W Redundant Hot-Plug Power Supply (NEMA)	399771-001			
HP Redundant Hot-Plug Fans	Included			
Dual embedded NC373i Multifunction Gigabit Network Adapters	Included			
HP Integrated Lights Out (iLO) Advanced Pack 1 Server License	452141-B21			
Integrated Lights Out 2 (iLO 2) Standard Management	Included			
3 years parts, labor and onsite service (3/3/3) standard warranty. Certain restrictions and exclusions apply.	Included			
HP Care Pack, 3 Years, 4 Hours, 24x7, Hardware, ProLiant DL380	U4545E	$726.00	2	$1,452.00

SubTotal : $23,993.02
City of Avondale Sales Tax @ 8.8% $2,111.39
Total : $26,104.41

The terms and conditions of the WESTERN STATES CONTRACTING ALLIANCE will apply to any order placed as a result of this inquiry, no other terms or conditions shall apply.

To access the HP Public Sector Online Store where this quote was created, go to: http://gem.compaq.com/gemstore/entry.asp?SiteID=1020

* The estimated lease cost is the monthly payment amount for a lease commencing on or before 12/5/2007 with a term of 36 months and a fair market value purchase option at the end of the lease term. This and other leasing and financing options are available through Hewlett-Packard Financial Service Company (HPFSC) or one of its affiliates to qualified education and state and local customers in the U.S. and subject to credit approval and execution of standard HPFSC documentation. Fees and other restrictions may apply. This is not a commitment to lease. Rates and payments are subject to change at any time without notice. Leasing and financing options for Federal governmental agencies (subject to a $50,000 minimum) are available from Hewlett-Packard Company. For more information, call Hewlett-Packard Financial Services Company at 1-888-277-5942 and talk to a financial services representative who specializes in supporting government and education entities.

* HP is not liable for pricing errors. If you place an order for a product that was incorrectly priced, we will cancel your order and credit you for any charges. In the event that we inadvertently ship an order based on a pricing error, we will issue a revised invoice to you for the correct price and contact you to obtain your authorization for the additional charge, or assist you with return of the product. If the pricing error results in an overcharge to you, HP will credit your account for the amount overcharged.

* Please contact HP Public Sector Sales with any questions or for additional information:

K12 Education:	800-888-3224	Higher Education:	877-480-4433
State Local Govt:	888-202-4682	Federal Govt:	800-727-5472
Fax:	800-825-2329	Returns:	800-888-3224

* For detailed warranty information, please go to www.hp.com/go/specificwarrantyinfo .
Sales taxes added where applicable. Freight is FOB Destination.

2- Primary + Backup Servers

invent

ONLINE PRICE QUOTATION

Quote Number: 1460251

Quote Name: Avondale - 2x DL385G2 + Rack/Console - High CPU

Today's Date : 11/5/2007 2:34:56 PM

Quote Created Date : 11/5/2007 2:20:47 PM

Created By:
justin.mcdonald@zunesis.com

Contract: WESTERN STATES CONTRACTING ALLIANCE (A63309)

Product availability and product discontinuation are subject to change without notice. The prices in this quotation are valid for 30 days from quote date above. Please include the quote number and contract from this quote on the corresponding purchase order.

items/description	part no	unit price	qty	ext price
HP 10642 G2 Pallet Universal Rack	AF001A	$867.00	1	$867.00
HP 10642 G2 Side Panel	AF054A	$249.00	1	$249.00
HP 10000 Rack Roof Mount Fan (110V) Kit	257413-B21	$215.00	1	$215.00
HP 24A Low Voltage PDU HP Modular Power Distribution Units (mPDU), Low Volt Model, 24A (100-127 VAC) (NA, Japan)	Base 252663-D71	$321.00	2	$642.00
HP TFT7600 Rackmount Keyboard and Monitor	AG052A	$1,525.00	1	$1,525.00
HP 0x2x16 Server Console Switch with Virtual Media	AF600A	$1,040.00	1	$1,040.00
HP KVM USB2 1 pack Interface Adapter	AF603A	$90.00	2	$180.00

HP 12ft Qty 8 KVM CAT5 Cable	263474-B23	$31.00	1	$31.00
-Configurable- HP ProLiant DL385 G2 - Rack Server	Base	$8,896.01	2	$17,792.02
HP ProLiant DL385 G2 Server	414109-B21			
AMD Opteron™ Processor 2222 (3.0 GHz, 95 Watts)	451649-L21			
AMD Opteron™ Processor 2222 (3.0 GHz, 95 Watts)	451649-B21			
HP 4GB REG PC2-5300 2x2GB 2Rank Memory	408853-B21			
Microsoft® Windows® Server 2003 R2, Enterprise Edition + 25 CALS (Not Installed)	409171-B21			
SlimLine DVD-ROM Drive (8x/24x) Option Kit	264007-B21			
HP Smart Array P400/256 PCIe Controller	405132-B21			
RAID 5 drive set (requires matching 3 hard drives)	339779-B21			
HP 72GB Hot Plug 2.5 SAS 15,000 rpm Hard Drive	431935-B21			
HP 72GB Hot Plug 2.5 SAS 15,000 rpm Hard Drive	431935-B21			
HP 72GB Hot Plug 2.5 SAS 15,000 rpm Hard Drive	431935-B21			
HP 72GB Hot Plug 2.5 SAS 15,000 rpm Hard Drive	431935-B21			
HP 72GB Hot Plug 2.5 SAS 15,000 rpm Hard Drive	431935-B21			
HP 1000-W Hot-Plug Power Supply	Included			
HP 1000-W Redundant Hot-Plug Power Supply (NEMA)	399771-001			
HP Redundant Hot-Plug Fans	Included			
Dual embedded NC373i Multifunction Gigabit Network Adapters	Included			
HP Integrated Lights Out (iLO) Advanced Pack 1 Server License	452141-B21			
Integrated Lights Out 2 (iLO 2) Standard Management	Included			
3 years parts, labor and onsite service (3/3/3) standard warranty. Certain restrictions and exclusions apply.	Included			
HP Care Pack, 3 Years, 4 Hours, 24x7, Hardware, ProLiant DL380	U4545E	$726.00	2	$1,452.00

SubTotal : $23,993.02
City of Avondale Sales Tax @ 8.8% $2,111.39
Total : $26,104.41

The terms and conditions of the WESTERN STATES CONTRACTING ALLIANCE will apply to any order placed as a result of this inquiry, no other terms or conditions shall apply.

To access the HP Public Sector Online Store where this quote was created, go to: http://gem.compaq.com/gemstore/entry.asp?SiteID=1020

* The estimated lease cost is the monthly payment amount for a lease commencing on or before 12/5/2007 with a term of 36 months and a fair market value purchase option at the end of the lease term. This and other leasing and financing options are available through Hewlett-Packard Financial Service Company (HPFSC) or one of its affiliates to qualified education and state and local customers in the U.S. and subject to credit approval and execution of standard HPFSC documentation. Fees and other restrictions may apply. This is not a commitment to lease. Rates and payments are subject to change at any time without notice. Leasing and financing options for Federal governmental agencies (subject to a $50,000 minimum) are available from Hewlett-Packard Company. For more information, call Hewlett-Packard Financial Services Company at 1-888-277-5942 and talk to a financial services representative who specializes in supporting government and education entities.

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* Please contact HP Public Sector Sales with any questions or for additional information:

K12 Education:	800-888-3224	Higher Education:	877-480-4433
State Local Govt:	888-202-4682	Federal Govt:	800-727-5472
Fax:	800-825-2329	Returns:	800-888-3224

* For detailed warranty information, please go to www.hp.com/go/specificwarrantyinfo .
Sales taxes added where applicable. Freight is FOB Destination.

DEVELOPMENT SERVICES

SUBJECT:
Ordinance - Correction of scrivener's error contained in Ordinance no. 1269-1007

MEETING DATE:
December 17, 2007

TO: Mayor and Council

FROM: Scott Wilken

THROUGH: Charlie McClendon, City Manager

BACKGROUND:

Staff is requesting that Council adopt an ordinance correcting a scrivener's error contained in Ordinance No. 1269-1007 adopted by Council on
October 1, 2007.

SUMMARY OF REQUEST:

On October 1, 2007, City Council adopted Ordinance No. 1269-1007 approving a rezoning for Entorno. Ordinance No. 1269-1007 included a legal description for the property that did not include all the properties within the rezoning. The attached ordinance amends the legal description for the rezoning.

RECOMMENDATION:

Staff recommends Council adopt an ordinance correcting a scrivener's error included in Ordinance No. 1269-1007, and authorizing the Mayor and City Clerk to execute the documents.

ATTACHMENTS:

Click to download

- ORD -1284-1207

PROJECT MANAGER:

Scott Wilken, Senior Planner

ORDINANCE NO. 1284-1207

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, CORRECTING A SCRIVENER'S ERROR IN ORDINANCE NUMBER 1269-1007, WHICH AMENDED THE OFFICIAL ZONING ATLAS OF THE CITY OF AVONDALE FOR APPROXIMATELY 160 ACRES LOCATED AT THE SOUTHWEST CORNER OF INDIAN SCHOOL ROAD AND 99TH AVENUE AS SHOWN IN FILENAME Z-06-13, REZONING SUCH PROPERTY FROM AGRICULTURAL (AG) TO PLANNED AREA DEVELOPMENT (PAD).

WHEREAS, on October 1, 2007, the Council of the City of Avondale (the "City Council") passed and adopted Ordinance No. 1269-1007 (the "Original Ordinance"), approving the amendment of the City of Avondale Zoning Atlas (the "Zoning Atlas") relating to rezoning approximately 160 acres of real property at the southwest corner of Indian School and 99th Avenue from Agricultural (AG) to Planned Area Development (PAD) (the "Rezoned Property"); and

WHEREAS, the legal description included in the Original Ordinance was incomplete and did not accurately reflect the entire Rezoned Property; and

WHEREAS, the City Council desires to correct the legal description error in the Original Ordinance by including the proper legal description.

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

SECTION 1. That the legal description included as Exhibit A in Ordinance No. 1269-1007 is hereby deleted in its entirety and replaced with the following:

"The Northeast Quarter of Section 29, Township Two North, Range One East, Gila and Salt River Base and Meridian, Maricopa County, Arizona."

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

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

PASSED AND ADOPTED by the Council of the City of Avondale, December 17, 2007.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Linda M. Farris, City Clerk

APPROVED:

_____
Andrew J. McGuire, City Attorney

CITY COUNCIL REPORT

SUBJECT:
Resolution 2711-1207 Intergovernmental Agreement - Special Event Staffing

MEETING DATE:
December 17, 2007

TO: Mayor and Council

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

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the Mayor and City Council adopt a resolution approving an Intergovernmental Agreement relating to special event staffing.

BACKGROUND:

With the continued growth of the west valley a number of venues have been added that host a wide variety of major events. Among them are the arena and stadium in Glendale and additional baseball stadiums, in addition to facilities such as Phoenix International Raceway. These facilities, and the increasing number of special events being hosted in the west valley, have created signi\ficant staffing challenges for public safety agencies.

Several valley police agencies have entered into an IGA with the City of Glendale to assist in providing law enforcement staffing for events at the arena and stadium. The valley fire departments felt that it would be appropriate to follow that model to address staffing issues not only for events at those venues but for any significant special event in the valley.

DISCUSSION:

The proposed fire department IGA is more generic than the law enforcement version and provides a mechanism for any participating agency to either request staffing assistance or provide staffing assistance to a requesting agency. While participation in the IGA is limited to automatic aid participants there is no requirement for any agency to participate.

The IGA establishes a mechanism for an agency to request staffing assistance for a special event should their own resources not be sufficient to meet all the fire & EMS needs of the event. Notice of the need for staffing assistance would be sent to other IGA participants and would detail the specifics of the need.

The IGA further provides a mechanism for reimbursing agencies that provide staffing to support an event in another jurisdiction and establishes a command and control process relating to events staffed in this manner.

Personnel will be requested, and provided, on an as-needed, as-available basis and there is no requirement for any participating agency to either request additional personnel or provide personnel in support of any particular event. An agency providing personnel will be reimbursed for those personnel at their time-and-one-half pay rate, including all benefits and specialty pays, plus an additional 5% to cover administrative costs.

The host agency will have total discretion on which personnel from an outside agency will be selected to support an event, keeping in mind operational needs and budgetary constraints. Should equipment or resources other than personnel be needed by the host agency the details of the use, maintenance and cost reimbursement for those resources will be negotiated between the agencies.

A providing agency will have total discretion as to what, if any, personnel or other resources will be offered to

a host agency to support a special event.

RECOMENDATION:

Staff recommends that the Mayor and City Council adopt a Resolution approving an Intergovernmental Agreement relating to special event staffing.

ATTACHMENTS:

Click to download

- RES - 2711-1207

RESOLUTION NO. 2711-1207

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE CITIES OF APACHE JUNCTION, CHANDLER, EL MIRAGE, GLENDALE, GOODYEAR, MESA, PEORIA, PHOENIX, SCOTTSDALE, SURPRISE, TEMPE AND TOLLESON, THE TOWNS OF BUCKEYE AND GILBERT AND THE DAISY MOUNTAIN, SUN CITY, SUN CITY WEST, SUN LAKES FIRE DISTRICTS, RELATING TO FORMATION AND OPERATION OF THE FIRE SERVICE RESOURCE CONSORTIUM.

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 the Cities of Apache Junction, Chandler, El Mirage, Glendale, Goodyear, Mesa, Peoria, Phoenix, Scottsdale, Surprise, Tempe and Tolleson, the Towns of Buckeye and Gilbert and the Daisy Mountain, Sun City, Sun City West, Sun Lakes Fire Districts, relating to formation and operation of the Fire Service Resource Consortium to provide for special event staffing assistance and other types of event support (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.

[SIGNATURES ON FOLLOWING PAGES]

PASSED AND ADOPTED by the Council of the City of Avondale, December 17, 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. 2711-1207

[Intergovernmental Agreement]

See following pages.

INTERGOVERNMENTAL AGREEMENT FORMING THE FIRE SERVICE RESOURCE CONSORTIUM FOR FIRE SERVICE RESOURCES TO SUPPORT SPECIAL EVENTS

THIS INTERGOVERNMENTAL AGREEMENT (this "Agreement") is entered into by and between the cities, towns and fire districts (collectively the "Parties", individually a "Party") as listed in Appendix A, relating to formation and operation of the Fire Service Resource Consortium (the "Consortium") to provide for special event staffing assistance and other types of event support as described under the terms of this Agreement.

RECITALS

A. ARIZ. REV. STAT. § 11-952 authorizes the Parties to enter into intergovernmental agreements for joint or cooperative actions relating to governmental services.

B. A series of agreements for automatic assistance and dispatching in providing emergency fire and EMS response (the "Aid Agreements") presently exists between and among the Parties.

C. The Parties agree that, on occasion, major special events occur within their respective jurisdictions that attract significant numbers of persons and those special events frequently create a need for additional fire and EMS resources.

D. The Parties desire to retain the services of additional fire fighter, EMS and special operations personnel and resources on an as-available, as-needed basis to support the increased need for resources necessary to provide adequate emergency service capability during significant special events.

E. The Parties desire to establish a consistent request and reimbursement process that would allow their respective entity to provide fire fighters, fire prevention services, EMS and special operations personnel and resources to support special events within other jurisdictions on an as-available, as-needed, basis.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the mutual promises and obligations set forth herein, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows.

1. Definitions.

a. "Consortium Personnel" means a qualified emergency services employee from a Providing Agency provided to a Host Agency in support of a Special Event within the Host Agency's jurisdiction.

b. "Host Agency" means the city, town or fire district having responsibility for the jurisdiction within which the Special Event occurs and making the request to Consortium members for additional resources.

c. "Providing Agency" means a Consortium member who is providing personnel or resources under the terms of this Agreement to support a Special Event within another jurisdiction.

d. "Resource" means any emergency service asset, including fire apparatus, equipment, or supplies, owned by a jurisdiction that may be used to support the intent of this Agreement.

e. "Special Event" means any activity for which the projected need for emergency service resources exceeds the ability of the city, town or fire district having jurisdiction to provide those resources.

2. Purpose. The purpose of this Agreement is to establish a fire services special event resource system among Consortium members within Maricopa County. The Parties intend to provide fire fighting, fire prevention, EMS and special operations services specifically to support major special events by maximizing cooperation, integrating departmental assets and by addressing issues including, command and control, compensation, planning and training.

3. Membership. Participation in the Consortium will be limited to those cities, towns or fire districts within Maricopa County listed on Appendix A. Additional members may be added to the Consortium, without further action by the existing members, by the new member (a) adopting this Agreement in its entirety, without any changes other than amendments approved by all of the Parties, (b) adopting all amendments approved by the simple majority of the members, (c) upon execution of this Agreement, providing an executed copy of the Agreement to Avondale, which shall keep the updated Appendix A as set forth below and shall provide all members a current copy of such Appendix A and (d) ensuring, during all times when this Agreement is in effect, that such new member is included within the Aid Agreements. Upon a new member meeting the requirements set forth in this Section, Appendix A shall be amended to include the new member.

4. Supervision and Staffing. The Parties acknowledge that command and control at a special event, including personnel and resources provided through this Agreement, shall be the duty and responsibility of the Host Agency. In carrying out this responsibility, the Host Agency will, in good faith, assign personnel provided through this Agreement to work available shifts in accordance with the operational procedures adopted in consultation with other Consortium members and in conformance with the Aid Agreements. The Parties understand that the staffing needs and levels are on an as-available, on-call, as-needed basis. However, the Host Agency will provide information about these staffing needs to all Consortium members as soon as it becomes available.

5. Consortium Personnel & Resources.

a. The Parties agree to provide personnel and resources on an as-available, as–needed, basis to provide fire fighting, fire prevention, EMS and special operations services in support of major special events.

b. The Host Agency shall determine the number and qualification of additional resources that are needed to meet the operational requirements of a particular Special Event and shall communicate the specifics of its need for outside resources to all Consortium members.

c. Each Providing Agency shall have the discretion to determine which, and how many (if any), of its fire fighters, fire inspectors, EMS and special operations personnel it will allow to apply for assignments with the Host Agency. However, personnel assignments should be made in the most cost-effective manner possible, keeping in mind the Host Agency's budgetary constraints. Consortium Personnel will continue to be employees of the Providing Agency at all times and for all purposes (subject to the Worker's Compensation limitations set forth in subsection 5(i) below) except for immediate command and control during their particular shift or duty for which the individual is provided.

d. Each Providing Agency having the capability and desire to provide personnel and resources to support a Special Event will provide to the Host Agency a list of those personnel and resources with an estimate of the associated cost for each resource.

e. The Host Agency shall have the discretion to select personnel and resources in a manner that most effectively meets its operational needs and budgetary constraints.

f. While working a Special Event pursuant to this Agreement, personnel from a Providing Agency:

(1) Will wear the authorized Class B (fatigue) uniform (including identifying badges and shoulder patches) of the Providing Agency unless otherwise required by a specialized assignment.

(2) May carry other equipment authorized by the Providing Agency or as directed by the Host Agency.

g. The Host Agency will make available to Providing Agency personnel other durable and non-durable supplies necessary to successfully complete their assigned tasks.

h. Should resources other than personnel be necessary (apparatus, equipment, etc.) they will be requested in the same manner through the Consortium as are personnel. However details relating to a non-personnel resource request (cost, maintenance, damage, etc.) will be specifically negotiated between the Host Agency and the Providing Agency.

i. The Parties further agree that they are not joint employers for the purpose of workers compensation coverage and that any Party's employee assigned to work a Special Event with a Host Agency shall remain an employee of such Party. To the extent that employees of one Party performs duties on behalf of another Party, such employee shall be deemed to be an "employee" of both public agencies while performing pursuant to this Agreement solely for purposes of ARIZ. REV. STAT. § 23-1022 and the Arizona Workers' Compensation laws. The primary employer shall be solely liable for any workers' compensation benefits, which may accrue. Each Party shall post a notice pursuant to the provisions of ARIZ. REV. STAT. § 23-1022 in substantially the following form:

> "All employees are hereby further notified that they may be required to work under the jurisdiction or control or within the jurisdictional boundaries of another public agency pursuant to an intergovernmental agreement or contract, and under such circumstances they are deemed by the laws of Arizona to be employees of both public agencies for the purposes of worker's compensation."

6. Compensation.

a. The Host Agency will reimburse the Providing Agency for any personnel or equipment provided through this Agreement. Compensation will include the time-and-one-half overtime rate for any individual provided as well the associated benefits and specialty pays to which the individual would normally be entitled as an employee of the Providing Agency. Consortium Personnel will remain as employees of the Providing Agency for compensation and benefits purposes, and will not be considered employees or independent contractors of the Host Agency. Consortium Personnel will not be entitled to any compensation or employee benefits from the Host Agency.

b. The Providing Agency will provide the workers compensation coverage for its employees during all times when such employees are working for the Host Agency pursuant to this Agreement.

c. The Host Agency will make available to Providing Agencies information about the hours worked by Consortium Personnel so that Providing Agencies may appropriately monitor and regulate the hours worked by all their personnel.

7. Reimbursement to Providing Agencies.

a. Within 30 days of receiving an invoice from a Providing Agency, the Host Agency shall reimburse the Providing Agency for the compensation paid to the Consortium Personnel as set forth in subsection 6(a) for services provided to the Host Agency pursuant to this Agreement plus an additional five percent for administrative costs incurred by the Providing Agency.

b. The Providing Agency will invoice the Host Agency for all agreed to costs related to non-personnel resources and shall be reimbursed within 30 days following receipt of the invoice by the Host Agency.

8. Insurance and Indemnification.

a. The Parties mutually agree to provide for their respective financial responsibilities as respects liability arising out of this Agreement through either the purchase of insurance or the provision of a self-funded insurance program.

b. To the extent permitted by law, each party (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other party (as 'Indemnitee") for, from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees)(hereinafter collectively referred to as "Claims"), arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

9. Media Releases and Relations. Any release of information to the media, other than a public records release, regarding the Consortium or any of its activities will be coordinated by the Host Agency with input from the Providing Agencies. No unilateral media releases will be distributed by any Providing Agency without the prior approval of the Host Agency. A copy of all public record and media releases regarding the Consortium or any of its activities shall be forwarded prior to release to the Host Agency PIO. Providing Agencies will not reveal any investigative information or operational procedures of the Consortium outside the Consortium except as required by law or competent authority. If an investigation is primarily focused upon or concerned with the actions of an individual from a Providing Agency, that Agency will be responsible for the release of information to the media relative to the incident.

10. Arizona Department of Health Services Certification.

a. With respect to personnel provided through this agreement, each Providing Agency agrees that it will be responsible to the Arizona Department of Health Services ("ADHS") for complying with all requirements mandated by ADHS for Emergency Medical Technicians (EMTs) and/or Paramedics. By way of example only, and not by way of limitation, each Providing Agency, relative to personnel it intends to provide to a Host Agency, agrees to be responsible to ADHS for the record-keeping, training and testing requirements imposed upon fire departments employing personnel in Arizona.

b. Providing Agency and Host Agency agree to cooperate to ensure any issues that arise relative to EMT or Paramedic certification are resolved in a reasonable and efficient manner.

11. Execution, Duration, Renewal and Termination.

a. This Agreement will be effective as to each Party immediately upon the approval and execution by that Party.

b. This Agreement may be executed in counterparts.

c. This Agreement will remain in full force and effect until December 31, 2010, after which it shall automatically renew for successive additional three-year periods unless terminated by mutual agreement of the parties.

d. Any Party may at any time terminate its participation in this Agreement by giving the other Parties not less than 30 days prior written notice.

12. General Provisions

a. This Agreement embodies the entire understanding of the Parties and supersedes any other agreement or understanding between the Parties relating to the subject matter. The Parties agree that should any part of this Agreement be held to be invalid or void, the remainder of the Agreement shall remain in full force and effect and shall be binding upon the Parties.

b. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona.

c. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or the breach thereof, the parties shall use their best efforts to settle the dispute, claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If that fails, the matter may be submitted to a body consisting of one representative from each Party to this agreement who will provide a non-binding recommendation to the Parties. Should the dispute not be resolved in this manner the Parties shall have recourse to any method permitted to them under law.

d. Nothing contained in this Agreement confers any right to any person, or entity not a Party to this Agreement.

e. No member, official or employee of the any of the Party may have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement that is prohibited by law. All parties hereto acknowledge that this Agreement is subject to cancellation pursuant to the provisions of ARIZ. REV. STAT. § 38-511.

f. Each Party warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services.

g. No member, official or employee of any Party will be personally liable to the other Parties, or any successor in interest, in the event of any default or breach by that Party or for any amount which may become due to another Party, or on any obligation under the terms of this Agreement.

h. Except as otherwise expressly provided in this Agreement, any failure or delay by any Party in asserting any of its rights or remedies as to any default will not operate as a waiver of any default, or of any such rights or remedies, or deprive any such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

i. If any provision of this Agreement shall be found invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement will not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law, provided that the fundamental purposes of this Agreement are not defeated by such severability.

j. The captions contained in this Agreement are merely a reference and are not to be used to construe or limit the text.

k. The provisions of this Agreement for payment of funds by the Parties shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. The Parties shall be the sole judge and authority in determining the availability of funds under this Agreement and each Party shall keep the other Parties fully informed as to the availability of funds for its program. The obligation of the Parties to make any payment pursuant to this Agreement is a current expense of the Parties, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the Parties. If the City/Town Councils or District Boards of the Parties fail to appropriate money sufficient to pay the reimbursements as set forth in this Agreement during any immediately succeeding fiscal year, this Agreement shall terminate at the end of then-current fiscal year and the Parties shall relieved of any subsequent obligation under this Agreement.

[SIGNATURE PAGES FOR ALL PARTIES FOLLOW]

DATED: _____, 2007.

CITY OF APACHE JUNCTION

_____
City Manager

ATTEST:

_____
City Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the City of Apache Junction granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____
Apache Junction City Attorney

DATED: _____, 2007.

CITY OF AVONDALE

_____
City Manager

ATTEST:

_____
City Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the City of Avondale granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____
Avondale City Attorney

DATED: _____, 2007.

TOWN OF BUCKEYE

_____
Town Manager

ATTEST:

_____
Town Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the Town of Buckeye granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____
Buckeye Town Attorney

DATED: _____, 2007.

CITY OF CHANDLER

_____
City Manager

ATTEST:

_____
City Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the City of Chandler granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____
Chandler City Attorney

DATED: _____, 2007.

DAISY MOUNTAIN FIRE DISTRICT

_____
District Manager

ATTEST:

_____
District Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the Daisy Mountain Fire District granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____
District Attorney

DATED: _____, 2007.

CITY OF EL MIRAGE

_____
City Manager

ATTEST:

_____
City Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the City of El Mirage granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____
El Mirage City Attorney

DATED: _____, 2007.

TOWN OF GILBERT

_____
Town Manager

ATTEST:

_____
Town Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the Town of Gilbert granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____
Gilbert Town Attorney

DATED: _____, 2007.

CITY OF GLENDALE

_____
City Manager

ATTEST:

_____
City Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the City of Glendale granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____
Glendale City Attorney

DATED: _____, 2007.

CITY OF GOODYEAR

_____
City Manager

ATTEST:

_____
City Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the City of Goodyear granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____
Goodyear City Attorney

DATED: _____, 2007.

CITY OF MESA

_____
City Manager

ATTEST:

_____
City Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the City of Mesa granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____
Mesa City Attorney

DATED: _____, 2007.

CITY OF PEORIA

_____
City Manager

ATTEST:

_____
City Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the City of Peoria granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____
Peoria City Attorney

DATED: _____, 2007.

CITY OF PHOENIX

_____
City Manager

ATTEST:

_____
City Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the City of Phoenix granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____
Phoenix City Attorney

DATED: _____, 2007.

CITY OF SCOTTSDALE

_____
Mayor

ATTEST:

_____
City Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the City of Scottsdale granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____
Scottsdale City Attorney

DATED: _____, 2007.

SUN CITY FIRE DISTRICT

_____
District Manager

ATTEST:

_____
District Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the Sun City Fire District granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____
District Attorney

DATED: _____, 2007.

SUN CITY WEST FIRE DISTRICT

_____
District Manager

ATTEST:

_____
District Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the Sun City West Fire District granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____
District Attorney

DATED: _____, 2007.

SUN LAKES FIRE DISTRICT

_____
District Manager

ATTEST:

_____
District Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the Sun Lakes Fire District granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____
District Attorney

DATED: _____, 2007.

CITY OF SURPRISE

_____
City Manager

ATTEST:

_____
City Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the City of Surprise granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____
Surprise City Attorney

DATED: _____, 2007.

CITY OF TEMPE

_____
City Manager

ATTEST:

_____
City Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the City of Tempe granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____
Tempe City Attorney

DATED: _____, 2007.

CITY OF TOLLESON

_____
City Manager

ATTEST:

_____
City Clerk

CERTIFICATION BY LEGAL COUNSEL

The foregoing Intergovernmental Agreement is in proper form and is within the powers and authority of the City of Tolleson granted under the laws of the State of Arizona.

APPROVED AS TO FORM AND AUTHORITY:

_____
Tolleson City Attorney

Appendix A
Fire Service Resource Consortium

City of Apache Junction
City of Avondale
Town of Buckeye
City of Chandler
Daisy Mountain Fire District
City of El Mirage
Town of Gilbert
City of Glendale
City of Goodyear
City of Mesa
City of Peoria
City of Phoenix
City of Scottsdale
Sun City Fire District
Sun City West Fire District
Sun Lakes Fire District
City of Surprise
City of Tempe
City of Tolleson

CITY COUNCIL REPORT

SUBJECT:
Ordinance 1279-1207 Accepting a Water and Sewer Easement at the SWC of 119th Ave. and McDowell Road.

MEETING DATE:
December 17, 2007

TO: Mayor and Council

FROM: Brian Berndt, Director of Development Services (623)333-4011

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the Mayor and City Council adopt an ordinance approving a water and sewer easement agreement between the City of Avondale and HMC-PT, LLC located south of McDowell Road and east of 119th Avenue.

DISCUSSION:

Ashton Pointe Apartments is a proposed development located east of Friendship Park. (See attached Vicinity Map) New city water and sewer lines must be installed in order to provide service to this development. These lines will be within a proposed 30-foot wide easement located along the southerly portion of the existing Mobile Home Park connecting to existing lines in 119th Avenue.

The Mobile Home Park currently utilizes an aging septic system, which will soon need to be abandoned. The owner has agreed to grant the City of Avondale this easement for public water and sewer across the southern portion of their property. This location benefits both properties and provides an opportunity for the Mobile Home Park to connect to the City sewer system at such time as the septic system is abandoned.

BUDGETARY IMPACT:

No financial impact to the City.

RECOMENDATION:

Staff recommends that the Mayor and City Council adopt an ordinance approving a water and sewer easement agreement between the City of Avondale and HMC-PT, LLC located south of McDowell Road and east of 119th Avenue.

ATTACHMENTS:

Click to download

- Vicinity Map
- ORD - 1279-1207

VICINITY MAP

CITY OF AVONDALE

119th Proposed Easement Location

ORDINANCE NO. 1279-1207

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, ACCEPTING THE DEDICATION OF REAL PROPERTY FOR PUBLIC USE.

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

SECTION 1. That a ± 0.405 acre parcel of real property, generally located south of McDowell Road, west of 119th Avenue, as more particularly described and depicted in Exhibit A, attached hereto and incorporated herein by reference, is hereby accepted by the City of Avondale from HMC-PT, L.L.C., for use as a water and sewer easement.

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

PASSED AND ADOPTED by the Council of the City of Avondale, December 17, 2007.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Linda M. Farris, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 1279-1207

[Legal description and map]

See following pages.

UTILITY EASEMENT
AVONDALE BLVD. AND
MCDOWELL RD.
AVONDALE, ARIZONA

APRIL 12, 2007
Job No. 07015

AN EASEMENT OVER A PORTION OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 1 NORTH, RANGE 1 WEST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A BRASS CAP IN HAND HOLE AT THE INTERSECTION OF 119TH AVENUE AND MCDOWELL ROAD, NORTH QUARTER CORNER OF SAID SECTION 1, LOCALLY ACCEPTED CORNER LOCATION, FROM WHICH A BRASS CAP IN HAND HOLE AT THE NORTHEAST QUARTER OF SAID SECTION 1, BEARS SOUTH 89 DEGREES 09 MINUTES 42 SECONDS WEST, A DISTANCE OF 2,654.33 FEET;

THENCE SOUTH 00 DEGREES 39 MINUTES 40 SECONDS EAST, ALONG THE MONUMENT LINE OF 119TH AVENUE, A DISTANCE OF 942.15 FEET;

THENCE NORTH 89 DEGREES 52 MINUTES 03 SECONDS WEST, LEAVING SAID MONUMNET LINE, A DISTANCE OF 40.00 FEET, TO THE **POINT OF BEGINNING** OF THE EASEMENT HEREIN DESCRIBED;

THENCE SOUTH 00 DEGREES 39 MINUTES 40 SECONDS EAST, A DISTANCE OF 30.00 FEET;

THENCE NORTH 89 DEGREES 52 MINUTES 03 SECONDS WEST, A DISTANCE OF 551.55 FEET;

THENCE NORTH 80 DEGREES 39 MINUTES 52 SECONDS WEST, A DISTANCE OF 37.79 FEET;

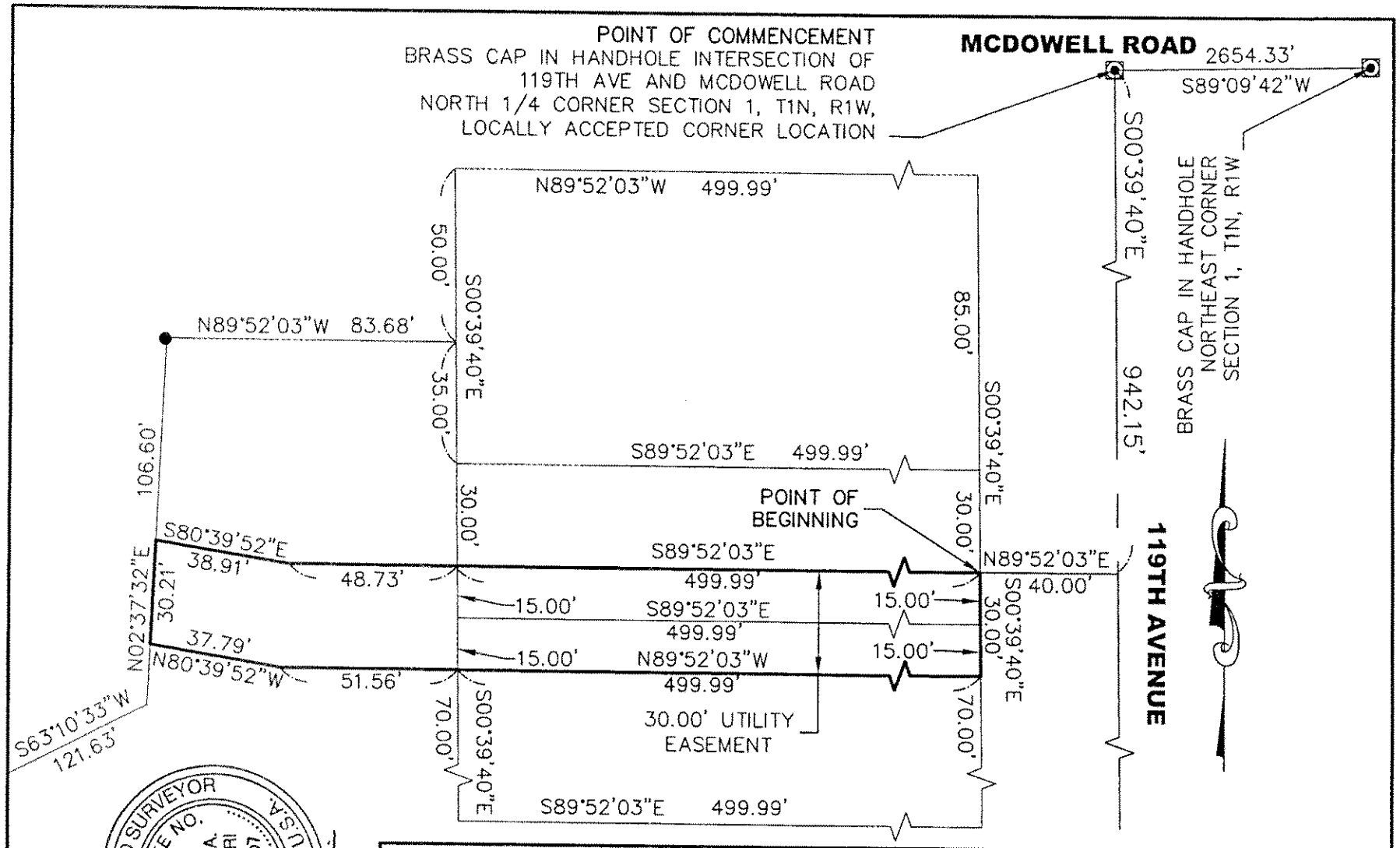
THENCE NORTH 02 DEGREES 37 MINUTES 32 SECONDS EAST, A DISTANCE OF 30.21 FEET;

THENCE SOUTH 80 DEGREES 39 MINUTES 52 SECONDS EAST, A DISTANCE OF 38.91 FEET;

THENCE SOUTH 89 DEGREES 52 MINUTES 03 SECONDS EAST, A DISTANCE OF 548.72 FEET, TO THE **POINT OF BEGINNING** OF THE **EASMENT** HEREIN DESCRIBED.

SAID EASEMENT CONTAINS 17,656 SQUARE FEET OR 0.405 ACRES, MORE OR LESS.

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
35833
JASON A.
SEGNERI
Date Signed 4/13/07
ARIZONA U.S.A.



S|I|G

SURVEY INNOVATION GROUP, INC

Ph (480) 922 0780 *Land Surveying Services* Fx (480) 922 0781

16414 N. 91st STREET, # 102, SCOTTSDALE, AZ 85260

UTILITY EASEMENT
AVONDALE BLVD. AND MCDOWELL RD.
AVONDALE, ARIZONA

JOB# 7015	DWG: 7015-UTILITY-ESMT		DATE: 4-12-07
SCALE: NTS	DRAWN: ECP	CHECK: JAS	SHEET: 1 OF 1

CITY COUNCIL REPORT

SUBJECT:
Liquor License - Super Carniceria y Pescaderia Los Alamos #2

MEETING DATE:
December 17, 2007

TO: Mayor and Council

FROM: Deann Helman

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council consider a request by Mr. Efren Gutierrez-Rodriguez, for a Series 10 – Retailers license to sell beer and wine at Super Carniceria y Pescaderia Los Alamos #2, 10730 West Lower Buckeye Road.

DISCUSSION:

The City Clerk's Office has received an application for a Series 10 – Retailers license to sell beer and wine from Mr. Efren Gutierrez-Rodriguez, 10730 West Lower Buckeye Road, Arizona. The required fee of $1,100.00 has been paid.

The Arizona Department of Liquor License and Control has accepted this application as submitted as complete. As required by state law and city ordinance, the application was posted from November 21, 2007 through December 10, 2007 and a notice was published in the West Valley View on November 30, 2007 and December 4, 2007. Staff has received signed petitions (attached) from residents surrounding the establishment both in opposition and in support of granting of this liquor license.

State Stature does not allow for a liquor license to be issued if the proposed establishment is located within 300 feet from a certified K-12 school; a day care establishment is not considered a K-12 institution. In this case, there is a day care establishment located within 300 feet. While the day care is certified to teach kindergarten, neither the day care's lease agreement nor the CUP allow for the day care to hold kindergarten classes. Consequently, the application meets the City's criteria for recommendation for approval. The Police, Planning, and Fire Departments have reviewed the application and are recommending approval. Their comments are attached.

RECOMENDATION:

City Staff is recommending that Council approve this request by Mr. Efren Gutierrez-Rodriguez, for a Series 10 – Retailers license to sell beer and wine at Super Carniceria y Pescaderia Los Alamos #2, 10730 West Lower Buckeye Road.

ATTACHMENTS:

Click to download

- Application
- Comments
- Vicinity Map
- Pictures
- Opposition
- Support
- School Map

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

800 W Washington 5th Floor
Phoenix AZ 85007-2934
(602) 542-5141

'07 NOV 15 PM 12:12

400 W Congress #521
Tucson AZ 85701-1352
(520) 628-6595

APPLICATION FOR LIQUOR LICENSE

TYPE OR PRINT WITH BLACK INK

Notice: Effective Nov. 1, 1997, All Owners, Agents, Partners, Stockholders, Officers, or Managers actively involved in the day to day operations of the business must attend a Department approved liquor law training course or provide proof of attendance within the last five years. See page 5 of the Liquor Licensing requirements.

SECTION 1 This application is for a:

- ☐ INTERIM PERMIT *Complete Section 5*
- ☒ NEW LICENSE *Complete Sections 2, 3, 4, 13, 14, 15, 16, 17*
- ☐ PERSON TRANSFER (Bars & Liquor Stores ONLY) *Complete Sections 2, 3, 4, 11, 13, 15, 16, 17*
- ☐ LOCATION TRANSFER (Bars and Liquor Stores ONLY) *Complete Sections 2, 3, 4, 12, 13, 15, 16, 17*
- ☐ PROBATE/WILL ASSIGNMENT/DIVORCE DECREE *Complete Sections 2, 3, 4, 9, 13, 15, 17* (fee not required)
- ☐ GOVERNMENT *Complete Sections 2, 3, 4, 10, 13, 15, 16, 17*

SECTION 2 Type of ownership:

- ☐ J.T.W.R.O.S. *Complete Section 6*
- ☐ INDIVIDUAL *Complete Section 6*
- ☐ PARTNERSHIP *Complete Section 6*
- ☐ CORPORATION *Complete Section 7*
- ☒ LIMITED LIABILITY CO. *Complete Section 7*
- ☐ CLUB *Complete Section 8*
- ☐ GOVERNMENT *Complete Section 10*
- ☐ TRUST *Complete Section 6*
- ☐ OTHER Explain_____

SECTION 3 Type of license and fees: LICENSE #: 10075526

1. Type of License: #10 2. Total fees attached: Department Use Only $ 124.00

APPLICATION FEE AND INTERIM PERMIT FEES (IF APPLICABLE) ARE NOT REFUNDABLE.

A service fee of $25.00 will be charged for all dishonored checks (A.R.S. 44.6852)

SECTION 4 Applicant: (All applicants must complete this section) P1052861

1. Applicant/Agent's Name: Mr./Ms. GUTIERREZ-Rodriguez EFREN ~~EFREN~~ B1038700
(Insert one name ONLY to appear on license) Last First Middle
2. Corp./Partnership/L.L.C.: SUPER CARNICERIA Y PESCADERIA LOS ALAMOS #2 LLC.
(Exactly as it appears on Articles of Inc. or Articles of Org.)
3. Business Name: SUPER CARNICERIA Y PESCADERIA LOS ALAMOS #2 B1038701
(Exactly as it appears on the exterior of premises)
4. Business Address: 10730 W LOWER BUCKEYE RD AVONDALE MARICOPA 85323
(Do not use PO Box Number) City COUNTY Zip
5. Business Phone: (623) 907-2200 Residence Phone _____
6. Is the business located within the incorporated limits of the above city or town? ☒YES ☐NO
7. Mailing Address: SAME AS ABOVE
City State Zip
8. Enter the amount paid for a **06, 07, or 09** license: $ N/A. **(Price of License ONLY)**

DEPARTMENT USE ONLY

Accepted by: CB Date: 11-15-07 Lic. # 10075526

Fees 100 — — — 24.00 $ 124.00

~~Application~~ ~~Interim Permit~~ Agent Change ~~Other~~ F. Prints TOTAL

PROCESSING APPLICATIONS TAKES APPROXIMATELY 90 DAYS, AND CIRCUMSTANCES OFTEN RESULT IN A LONGER WAITING PERIOD. YOU ARE CAUTIONED REGARDING PLANS FOR A GRAND OPENING, ETC., BEFORE FINAL APPROVAL AND ISSUANCE OF THE LICENSE.

LIC 0100 05/2004 *Disabled individuals requiring special accommodation, please call (602) 542-9027.

SECTION 5 Interim Permit:

1. If you intend to operate business while your application is pending you will need an Interim Permit pursuant to A.R.S. 4-203.01.
2. There **MUST** be a valid license of the same type you are applying for currently issued to the location.
3. Enter the license number currently at the location. _____
4. Is the license currently in use? ☐ YES ☐ NO If no, how long has it been out of use? _____

ATTACH THE LICENSE CURRENTLY ISSUED AT THE LOCATION TO THIS APPLICATION.

I, _____, declare that I am the CURRENT OWNER, AGENT, CLUB
(Print full name)
MEMBER, PARTNER, STOCKHOLDER OR LICENSEE of the stated license and location.

foregoing application State of _____ County of _____
X _____ The foregoing instrument was acknowledged before me this
(Signature)

_____ day of _____ , _____
Day Month Year

My commission expires on: _____ _____
(Signature of NOTARY PUBLIC)

SECTION 6 Individual or Partnership Owners:

EACH PERSON LISTED MUST SUBMIT A COMPLETED FORM "LIC0101", AN "APPLICANT" TYPE FINGERPRINT CARD, AND $29 FEE FOR EACH CARD.

1. Individual:

Last	First	Middle	% Owned	Residence Address	City State Zip

Partnership Name: (Only the first partner listed will appear on license) N/A.

General-Limited	Last	First	Middle	% Owned	Residence Address	City State Zip
☐ ☐						
☐ ☐						
☐ ☐						
☐ ☐						

(ATTACH ADDITIONAL SHEET IF NECESSARY)

2. Is any person, other than the above, going to share in the profits/losses of the business? ☒ YES ☐ NO
If Yes, give name, current address and telephone number of the person(s). Use additional sheets if necessary.

Last	First	Middle	Residence Address	City, State, Zip	Telephone#
RODRIGUEZ	FRANCISCO	GARCIA			

07 NOV 15 PM 1:44

SECTION 7 Corporation/Limited Liability Co.:

EACH PERSON LISTED MUST SUBMIT A COMPLETED FORM "LIC0101", AN "APPLICANT" TYPE FINGERPRINT CARD, AND $29 FEE FOR EACH CARD.

☐ CORPORATION ***Complete questions 1, 2, 3, 5, 6, 7, 8.***

☐ L.L.C. ***Complete questions 1, 2, 4, 5, 6, 7 and attach copy of Articles of Org. and Operation Agreement.***

1. Name of Corporation/L.L.C.: _____
   (Exactly as it appears on Articles of Inc. or Articles of Org.)
2. Date Incorporated/Organized: _____ State where Incorporated/Organized: _____
3. AZ Corporation Commission File No.: _____ Date authorized to do business in AZ: _____
4. AZ L.L.C. File No: _____ Date authorized to do business in AZ: _____
5. Is Corp./L.L.C. non-profit? ☐ YES ☐NO If yes, give IRS tax exempt number: _____
6. List all directors,/ officers, controlling stockholders or members in Corporation/L.L.C.:

Last First Middle	Title	Residence Address City State Zip
GUTIERREZ RODRIGUEZ EFREN		
GUTIERREZ CORRAL FRANCISCO		

(ATTACH ADDITIONAL SHEET IF NECESSARY)

7. List stockholders or controlling members owning 10% or more:

Last First Middle	% Owned	Residence Address City State Zip
GUTIERREZ RODRIGUEZ EFREN		
GUTIERREZ CORRAL FRANCISCO		

(ATTACH ADDITIONAL SHEET IF NECESSARY)

8. If the corporation/L.L.C. is owned by another entity, attach an ownership, and director/officer/members disclosure for the parent entity. Attach additional sheets as necessary in order to disclose real people.

SECTION 8 Club Applicants:

EACH PERSON LISTED MUST SUBMIT A COMPLETED FORM "LIC0101", AN "APPLICANT" TYPE FINGERPRINT CARD, AND $29 FEE FOR EACH CARD.

1. Name of Club: _____ Date Chartered: _____
   (Exactly as it appears on Club Charter or Bylaws) (Attach a copy of Club Charter or Bylaws)
2. Is club non-profit? ☐ YES ☐ NO If tax exempt, give IRS tax exempt number: _____
3. List officer and directors:

Last First Middle	Title	Residence Address City State Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

AMENDMENT

SECTION 7 Corporation/Limited Liability Co.:

EACH PERSON LISTED MUST SUBMIT A COMPLETED FORM "LIC0101", AN "APPLICANT" TYPE FINGERPRINT CARD, AND $29 FEE FOR EACH CARD.

☐ CORPORATION ***Complete questions 1, 2, 3, 5, 6, 7, 8.***

☒ L.L.C. ***Complete questions 1, 2, 4, 5, 6, 7 and attach copy of Articles of Org. and Operation Agreement.***

1. Name of Corporation/L.L.C.: SUPER CARNICERIA Y PESCADERIA LOS ALAMOS #2 LLC
(Exactly as it appears on Articles of Inc. or Articles of Org.)

2. Date Incorporated/Organized: 4-02-07 State where Incorporated/Organized: AZ

3. AZ Corporation Commission File No.: _____ Date authorized to do business in AZ: 4-02-07

4. AZ L.L.C. File No: L-1356384-4 Date authorized to do business in AZ: 4-02-07

5. Is Corp./L.L.C. non-profit? ☐ YES ☒ NO If yes, give IRS tax exempt number: N/A

6. List all directors,/ officers, controlling stockholders or members in Corporation/L.L.C.:

Last First Middle	Title	Residence Address City State Zip
GUTIERREZ EFREN RODRIGUEZ	M/MEMBER	
GUTIERREZ FRANCISCO CORRAL	M/MEMBER	

(ATTACH ADDITIONAL SHEET IF NECESSARY)

7. List stockholders or controlling members owning 10% or more:

Last First Middle	% Owned	Residence Address City State Zip
GUTIERREZ EFREN RODRIGUEZ	85	
GUTIERREZ FRANCISCO CORRAL	15	

(ATTACH ADDITIONAL SHEET IF NECESSARY)

8. If the corporation/L.L.C. is owned by another entity, attach an ownership, and director/officer/members disclosure for the parent entity. Attach additional sheets as necessary in order to disclose real people.

SECTION 8 Club Applicants:

EACH PERSON LISTED MUST SUBMIT A COMPLETED FORM "LIC0101", AN "APPLICANT" TYPE FINGERPRINT CARD, AND $29 FEE FOR EACH CARD.

1. Name of Club: _____ Date Chartered: _____
(Exactly as it appears on Club Charter or Bylaws) (Attach a copy of Club Charter or Bylaws)

2. Is club non-profit? ☐ YES ☐ NO If tax exempt, give IRS tax exempt number: _____

3. List officer and directors:

Last First Middle	Title	Residence Address City State Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

SECTION 9 **Probate, Will Assignment or Divorce Decree of an existing Bar or Liquor Store:**

1. Current Licensee's Name: _____
(Exactly as it appears on license) Last First Middle

2. Assignee's Name: _____
Last First Middle

3. License Type: _____ License Number: _____ Date of Last Renewal: _____

4. ATTACH TO THIS APPLICATION A CERTIFIED COPY OF THE WILL, PROBATE DISTRIBUTION INSTRUMENT, OR DIVORCE DECREE THAT SPECIFICALLY DISTRIBUTES THE LIQUOR LICENSE TO THE ASSIGNEE TO THIS APPLICATION.

SECTION 10 **Government: (for cities, towns, or counties only)**

1. Person to administer this license: _____
Last First Middle

2. Assignee's Name: _____
Last First Middle

A SEPARATE LICENSE MUST BE OBTAINED FOR EACH PREMISES FROM WHICH SPIRITUOUS LIQUOR IS SERVED.

SECTION 11 **Person to Person Transfer:**

Questions to be completed by CURRENT LICENSEE (Bars and Liquor Stores ONLY).

1. Current Licensee's Name: _____ Entity: _____
(Exactly as it appears on license) Last First Middle (Indiv., Agent, etc.)

2. Corporation/L.L.C. Name: _____
(Exactly as it appears on license)

3. Current Business Name: _____
(Exactly as it appears on license)

4. Current Business Address: Street _____
City, State, Zip _____

5. License Type: _____ License Number: _____ Last Renewal Date: _____

6. Current Mailing Address: Street _____
(Other than business)
City, State, Zip _____

7. Have all creditors, lien holders, interest holders, etc. been notified of this transfer? ☐ YES ☐ NO

8. Does the applicant intend to operate the business while this application is pending? ☐ YES ☐ NO If yes, complete section 5, attach fee, and current license to this application.

9. I hereby relinquish my rights to the above described license to the applicant named in this application and hereby declare that the statements made in this section are true, correct and complete.

I, _____, declare that I am the CURRENT OWNER, AGENT, CLUB MEMBER,
(Print full name)
PARTNER, STOCKHOLDER or LICENSEE of the stated license. I have read this sectionforegoing questionnaire and the contents and all statements
are true, correct and complete.

X _____
(Signature of CURRENT LICENSEE)

State of _____ County of _____
The foregoing instrument was acknowledged before me this
_____ day of _____, _____
Day Month Year

My commission expires on: _____

_____
(Signature of NOTARY PUBLIC)

SECTION 12 Location to Location Transfer: (Bars and Liquor Stores ONLY)

APPLICANTS CANNOT OPERATE UNDER A LOCATION TRANSFER UNTIL IT IS APPROVED BY THE STATE.

1. Current Business: (Exactly as it appears on license) Name _____ Address _____
2. New Business: (Do not use PO Box Number) Name _____ Address _____
3. License Type: _____ License Number: _____ Last Renewal Date: _____
4. What date do you plan to move? _____ What date do you plan to open? _____

SEE AMENDMENT

SECTION 13 Questions for all in-state applicants:

1. Distance to nearest school: 1/4 MILE (Regardless of distance) Name of school: UNDERDOWN JR HIGH SCHOOL
   Address 1642 S 107 AVE CASHION AZ 85329
2. Distance to nearest church: 1/4 MILE (Regardless of distance) Name of church: CHURCH OF ZION
   Address 10907 HOPI ST CASHION AZ 85329
3. I am the: ☒ LESSEE ☐ SUBLESSEE ☐ OWNER ☐ PURCHASER (of premises)
4. If the premises is leased give lessors: Name 107TH AVENUE PARTNERS LLC
   Address 5110 N 40TH ST SU#100 PHX, AZ 85018

4a. Monthly rental/lease rate $ 7,500 What is the remaining length of the lease? 4 yrs. 5 mos.

4b. What is the penalty if the lease is not fulfilled? $ 9,161.85 or other 0
(give details - attach additional sheet if necessary)

5. What is the total **business** indebtedness of the applicant for this license/location excluding lease? $ 0

Does any one creditor represent more than 10% of that sum? ☐ YES ☒ NO If yes, list below. Total must equal 100%.

Last	First	Middle	% Owed	Residence Address	City State Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

6. What type of business will this license be used for? (BE SPECIFIC) MINI MARKET/MEAT MARKET
7. Has a license, or a transfer license for the premises on this application been denied by the state within the past one (1) year? ☐ YES ☒ NO If yes, attach explanation.
8. Does any spirituous liquor manufacturer, wholesaler, or employee , have any interest in your business? ☐ YES ☒ NO
9. Is the premises currently licensed with a liquor license? ☐ YES ☒ NO If yes, give license number and licensee's name:
   License # N/A (Exactly as it appears on license) Name N/A

SECTION 12 **Location to Location Transfer: (Bars and Liquor Stores ONLY)**

APPLICANTS CANNOT OPERATE UNDER A LOCATION TRANSFER UNTIL IT IS APPROVED BY THE STATE.

1. Current Business: (Exactly as it appears on license) Name _____ Address _____

2. New Business: (Do not use PO Box Number) Name _____ Address _____

AMENDMENT

3. License Type: _____ License Number: _____ Last Renewal Date: _____

4. What date do you plan to move? _____ What date do you plan to open? _____

SECTION 13 Questions for all in-state applicants:

1. Distance to nearest school: 2,406 ft. (Regardless of distance) Name of school: Quentin Elementary School Address 11010 W. Whyman, Avondale

2. Distance to nearest church: 2,914 ft ft. (Regardless of distance) Name of church: Church of Zion Address 10907 Hopi St., Cashion

3. I am the: ☐ LESSEE ☐ SUB LESSEE ☐ OWNER ☐ PURCHASER (of premises)

4. If the premises is leased give lessors: Name _____ Address _____

4a. Monthly rental/lease rate $ _____ What is the remaining length of the lease? _____ yrs. _____ mos.

4b. What is the penalty if the lease is not fulfilled? $ _____ or other _____ (give details - attach additional sheet if necessary)

5. What is the total business indebtedness of the applicant for this license/location excluding lease? $ _____

Does any one creditor represent more than 10% of that sum? ☐ YES ☐ NO If yes, list below. Total must equal 100%.

Last	First	Middle	% Owed	Residence Address	City State Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

6. What type of business will this license be used for? (BE SPECIFIC) _____

7. Has a license, or a transfer license for the premises on this application been denied by the state within the past one (1) year? ☐ YES ☐ NO If yes, attach explanation.

8. Does any spirituous liquor manufacturer, wholesaler, or employee, have any interest in your business? ☐ YES ☐ NO

9. Is the premises currently licensed with a liquor license? ☐ YES ☐ NO If yes, give license number and licensee's name:

License # _____ (Exactly as it appears on license) Name _____

SECTION 14 Restaurant, or Hotel-Motel Applicants:

1. Is there a valid restaurant or hotel-motel liquor license at the proposed location? ☐ YES ☐ NO If yes, give licensee's name: _____ and license #: _____
   Last First Middle
2. If the answer to Question 1 is YES, you may qualify for an Interim Permit to operate while your application is pending; consult A.R.S. Section 4-203.01; and complete Section 5 of this application.
3. All restaurant applicants must complete a Restaurant Operation Plan (Form LIC0114) provided by the Department of Liquor.
4. Do you understand that **40% of your gross revenue** must be from food sales? ☐ YES ☐ NO

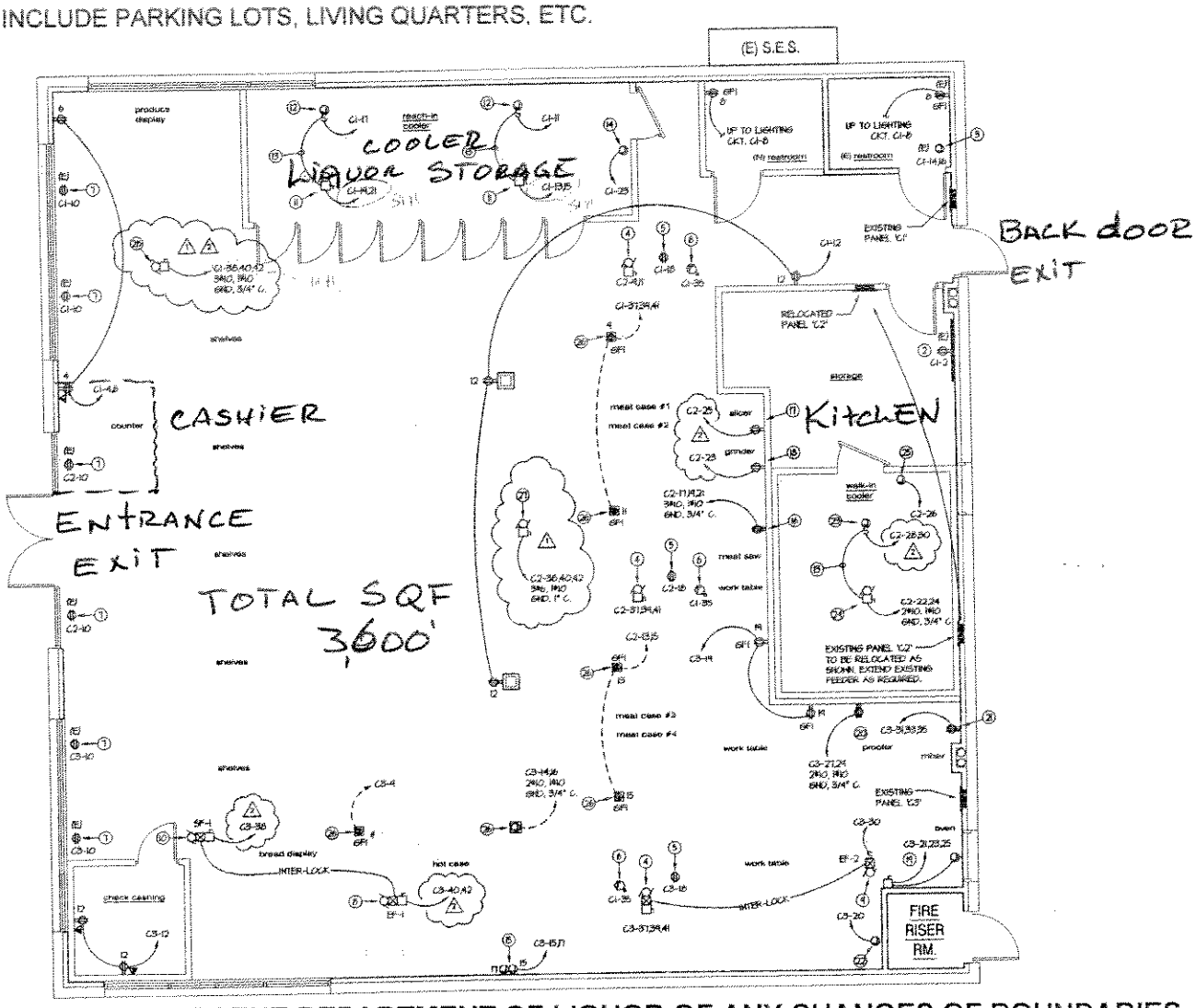
SECTION 15 Diagram of Premises: (Blueprints not accepted, diagram must be on this form)

1. Check **ALL** boxes that apply to your licensed premises:

   ☒ Entrances/Exits ☒ Liquor storage areas
   ☐ Drive-in windows ☐ Patio enclosures
   ☐ Service windows ☐ Under construction: estimated completion date _____

2. Restaurants and Hotel/Motel applicants must explicitly depict kitchen equipment and dining facilities.
3. The diagram below is the only area where spirituous liquor is to be sold, served, consumed, dispensed, possessed, or stored. Give the square footage or outside dimensions of the licensed premises.

DO NOT INCLUDE PARKING LOTS, LIVING QUARTERS, ETC.



YOU MUST NOTIFY THE DEPARTMENT OF LIQUOR OF ANY CHANGES OF BOUNDARIES, ENTRANCES, EXITS, OR SERVICE WINDOWS MADE AFTER SUBMISSION OF THIS DIAGRAM.

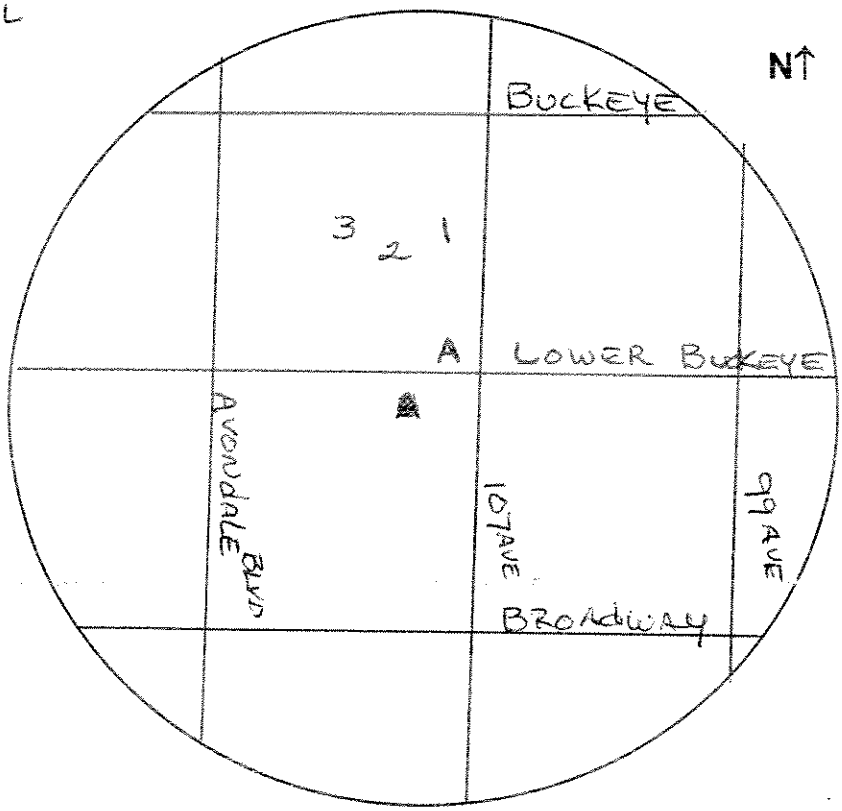
SECTION 16 **Geographical Data:** **A SAMPLE FOR THIS SECTION IS PROVIDED ON THE BACK OF THIS PAGE.**

List below the exact names of all churches, schools, and spirituous liquor outlets within a one mile radius of your proposed location. Ref. A.R.S. 4-201 (B)

SEE AMENDMENT

1. UNDERDOWN JR HIGH SCHOOL
2. CHURCH OF ZION
3. DESERT SPRINGS CHURCH.
4.
5.
6.
7.
8.
9.
10.
11.
12.
13.
14.
15.

(ATTACH ADDITIONAL SHEET IF NECESSARY)



A = Your business name and identify cross streets.

SECTION 17 **Signature Block:**

I, EFREN GUTIERREZ RODRIGUEZ declare that: 1) I am the APPLICANT (Owner, Agent, Partner, Stockholder
(Print name of APPLICANT/AGENT listed in Section 4 Question 1)
(10% or more), Member, Officer (10% or more ownership), or Club Member making this application; 2) I have read the application and the contents and all statements are true, correct and complete; 3) that this application is not being made to defraud or injure any creditor, taxing authority, regulatory authority, or transferor; 4) that no other person, firm, or corporation, except as indicated, has an interest in the spirituous liquor license for which these statements are made; and 5) that to the best of my knowledge and belief, none of the owners, partners, members, officers, directors or stockholders listed have been convicted of a felony in the past five (5) years.

x Efren Gutierrez Rodriguez
(Signature)

State of Arizona County of Maricopa
The foregoing instrument was acknowledged before me this
23rd day of October 2007
Day Month Year

My commission expires on: May 19, 2010

Michele Lopez
(Signature of NOTARY PUBLIC)

MICHELE LOPEZ
NOTARY PUBLIC - ARIZONA
MARICOPA COUNTY
My Commission Expires
May 19, 2010

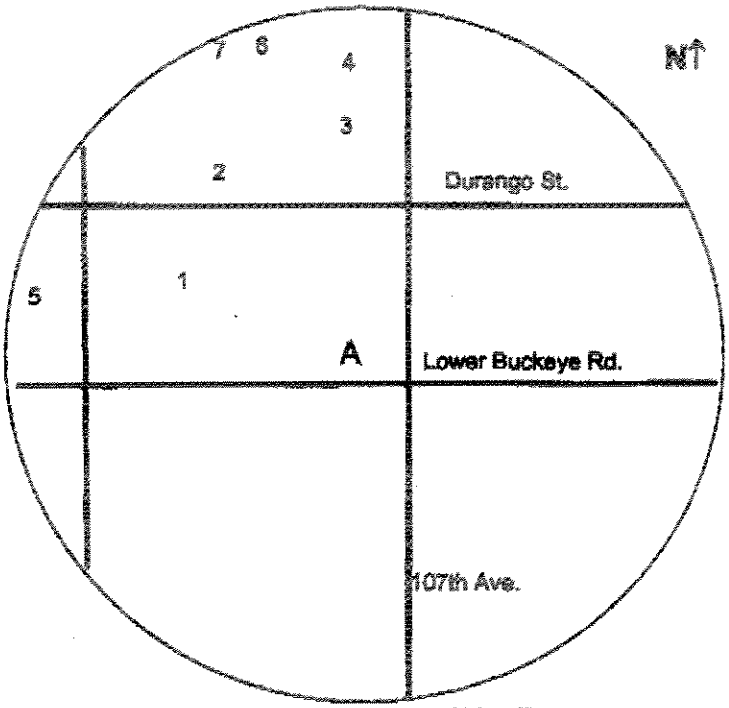
'07 DEC 12 Liq. Lic. PM 1:31

SECTION 16 **Geographical Data:** **A SAMPLE FOR THIS SECTION IS PROVIDED ON THE NEXT PAGE.**

List below the exact names of all churches, schools, and spirituous liquor outlets within one mile radius of your proposed location. Ref. A.R.S. 4-201 (B)

1. Quentin Elementary School
2. Church of Zion
3. Underdown Jr. High School
4. Templo de la Roca
5. La Joya High School
6. Food Star Market
7. Mariscos Las Playitas
8.
9.
10.
11.
12.
13.
14.
15.

ATTACH ADDITIONAL SHEET(S) IF NECESSARY



A = Your business name and identify cross streets.

SECTION 17 **Signature Block:**

I, _____, declare that: 1) I am the APPLICANT (Owner, Agent, Partner, Stockholder
(Print name of APPLICANT/AGENT listed in Section 4 Question 1)
(10% or more), Member, Officer (10% or more ownership), or Club Member making this application; 2) I have read the application and the contents and all statements are true, correct and complete; 3) that this application is not being made to defraud or injure any creditor, taxing authority, regulatory authority, or transferor; 4) that no other person, firm, or corporation, except as indicated, has an interest in the spirituous liquor license for which these statements are made; and 5) that to the best of my knowledge and belief, none of the owners, partners, members, officers, directors or stockholders listed have been convicted of a felony in the past five (5) years.

X _____
(Signature)

State of _____ County of _____
The foregoing instrument was acknowledged before me this
_____ day of _____, _____
Day Month Year

My commission expires on: _____ _____
(Signature of NOTARY PUBLIC)

SAMPLE
GEOGRAPHICAL DATA

In the area adjacent to the map provided below indicates your proposed location and the exact names Of all churches, schools, and alcoholic beverage outlets within a I mile radius of your proposed location. Ref. A.R.S. 4-201 (B) (See example below)

A = Applicant _____ Series 12

01 Pink Elephants _____ Series 06

02 Mama's Rest. _____ Series 12

O3 Corner Liquors _____ Series 09

04 Joe's Groceries _____ Series 10

05 Lions Club _____ Series 14

06 Burgers R Us _____ Series 07

07 Pizza Perfect _____ Series 07

08 Billy Bobs Bar _____ Series 06

09 St. Anthonys Church _____

10 St. Anthonys School _____

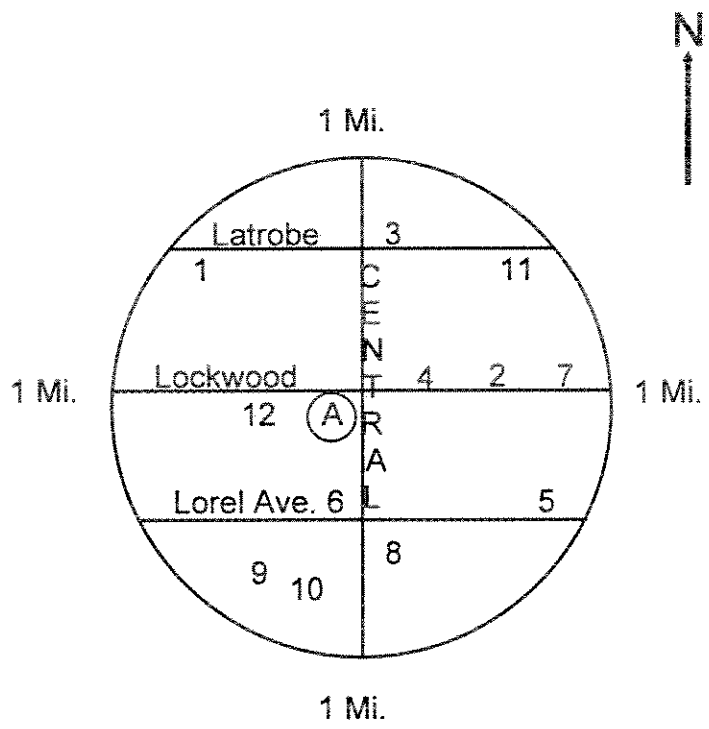
11 Burbank Middle School _____

12 First United Baptist Church _____

13 _____

14 _____

15 _____



A.R.S. Section 4-207.A reads as follows:

A. No retailers license shall be issued for any premises which are at the time the license application is received by the Director, within three hundred(300) horizontal feet of a church, within three hundred(300) horizontal feet of a public or private school building with kindergarten programs or any of grades one(1) through twelve(12) or within three hundred (300) horizontal feet of a fenced recreational area adjacent to such school building.

B. Subsection A of this section does not apply to a:
   1. Restaurant issued a license pursuant to section 4-205.02
   2. Special event license issued pursuant to section 4-203.02
   3. Hotel-motel issued a license pursuant to section 4-205.01
   4. Government license issued pursuant to section 4-205.03
   5. Fenced playing area of a golf course issued a license pursuant to this article.

FP current 8/2006

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

07 NOV 15 LIQ. LIC. #1142

800 W Washington 5th Floor
Phoenix AZ 85007-2934
(602) 542-5141

400 W Congress #521
Tucson AZ 85701-1352
(520) 628-6595

QUESTIONNAIRE

Attention all Local Governing Bodies: Social Security and Birthdate Information is Confidential. This information may be given to local law enforcement agencies for the purpose of background checks only but must be blocked to be unreadable prior to posting or any public view.

Read carefully. This instrument is a sworn document. Type or print with black ink. An extensive investigation of your background will be conducted. False or incomplete answers could result in criminal prosecution and the denial or subsequent revocation of a license or permit.

TO BE COMPLETED BY EACH OWNER, AGENT, PARTNER, STOCKHOLDER (10% OR MORE), MEMBER, OFFICER OR MANAGER. ALSO EACH PERSON COMPLETING THIS FORM MUST SUBMIT AN "APPLICANT" TYPE FINGERPRINT CARD WHICH MAY BE OBTAINED AT THE DEPT. FINGERPRINTING MUST BE DONE BY A BONA FIDE LAW ENFORCEMENT AGENCY OR A FINGERPRINTING SERVICE APPROVED BY THE DEPARTMENT OF LIQUOR. THE DEPARTMENT DOES NOT PROVIDE THIS SERVICE.

Liquor License # 10075526 **(If the location is currently licensed)**

Eff. 10/01/07 there is a $24.00 processing fee for each fingerprint card submitted.
A service fee of $25.00 will be charged for all dishonored checks (A.R.S. 44.6852)

1. **Check appropriate box** →

☐ Owner ☐ Partner ☒ Stockholder ☒ Member ☐ Officer ☒ Agent ☐ Other _____ (Complete Questions 1-20 & 24) **Licensee or Agent must complete # 25 for a Manager**	☐ **Manager(Only)** **(Complete All Questions *except* # 14, 14a & 25)** **Licensee or Agent must complete # 25**

2. Name: GUTIERREZ RODRIGUEZ (Last) EFREN (First) _____ (Middle) Date of Birth: _____ **(This Will Not Become a Part of Public Records)**

3. Social Security Number: _____ Drivers License #: _____ State: _____
(This Will Not Become a Part of Public Records)

4. Place of Birth: _____ (City) _____ (State) _____ (Country (not county)) Height: _____ Weight: _____ Eyes: _____ Hair: _____

5. Marital Status ☐ Single ☐ Married ☐ Divorced ☐ Widowed Residence (Home) Phone: (_____) _____-_____

6. Name of Current or Most Recent Spouse: _____ Date of Birth: _____
(List all for last 5 years - Use additional sheet if necessary) Last First Middle Maiden

7. You are a bona fide resident of what state? _____ If Arizona, date of residency: _____

8. Telephone number to contact you during business hours for any questions regarding this document. (_____)_____-_____

9. If you have been a resident less than three (3) months, submit a copy of driver's license or voter registration card.

10. Name of Licensed Premises: SUPER CARNICERIA Y PESCADERIA LOS ALAMOS #2 Premises Phone: (_____) _____-_____

11. Licensed Premises Address: 10730 W LOWER BUCKEYE RD (Street Address (Do not use PO Box #)) AVONDALE (City) MARICOPA (County) 85323 (Zip)

12. List your employment or type of business during the past five (5) years, if unemployed part of the time, list those dates. **List most recent 1st.**

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYER'S NAME OR NAME OF BUSINESS (Give street address, city, state & zip)
	CURRENT		

ATTACH ADDITIONAL SHEET IF NECESSARY FOR EITHER SECTION

13. Indicate your residence address for the last five (5) years:

FROM Month/Year	TO Month/Year	Rent or Own	RESIDENCE Street Address If rented, attach additional sheet giving name, address and phone number of landlord	City	State	Zip
	CURRENT					

 Disabled individuals requiring special accommodations, please call the Department. (602) 542-9027

AMENDMENT

P1052861

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

QUESTIONNAIRE

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Read carefully. This instrument is a sworn document. Type or print with black ink.
An extensive investigation of your background will be conducted. False or incomplete answers could result in criminal prosecution and the denial or subsequent revocation of a license or permit.

TO BE COMPLETED BY EACH OWNER, AGENT, PARTNER, STOCKHOLDER (10% OR MORE), MEMBER, OFFICER OR MANAGER. ALSO EACH PERSON COMPLETING THIS FORM MUST SUBMIT AN "APPLICANT" TYPE FINGERPRINT CARD WHICH MAY BE OBTAINED AT THE DEPT. FINGERPRINTING MUST BE DONE BY A BONA FIDE LAW ENFORCEMENT AGENCY OR A FINGERPRINTING SERVICE APPROVED BY THE DEPARTMENT OF LIQUOR. THE DEPARTMENT DOES NOT PROVIDE THIS SERVICE.

Liquor License # 10075526
(If the location is currently licensed)

Eff. 10/01/03 there is a $29.00 processing fee for each fingerprint card submitted.
A service fee of $25.00 will be charged for all dishonored checks (A.R.S. 44.6852)

1. Check appropriate box →

☐ Owner ☐ Partner ☒ Stockholder ☒ Member ☐ Officer ☐ Agent ☐ Other _____ (Complete Questions 1-20 & 24) Licensee or Agent must complete # 25 for a Manager	☐ Manager(Only) (Complete All Questions *except* # 14, 14a & 25) Licensee or Agent must complete # 25

2. Name: GUTIERREZ (Last) EFREN (First) RODRIGUEZ (Middle) Date of Birth: _____ (This Will Not Become a Part of Public Records)

3. Social Security Number: _____ (This Will Not Become a Part of Public Records) Drivers License _____ State: AZ

4. Place of Birth: PARRAL (City) CHI (State) MEXICO (Country (not county)) Height: 6'02" Weight: 240 Eyes: BRO Hair: BK

5. Marital Status ☐ Single ☒ Married ☐ Divorced ☐ Widowed Residence (Home) Phone: _____

6. Name of Current or Most Recent Spouse: GUTIERREZ (Last) CARMELINA (First) ACOSTA (Middle Maiden) Date of Birth: _____
(List all for last 5 years - Use additional sheet if necessary)

7. You are a bona fide resident of what state? ARIZONA If Arizona, date of residency: DEC-06

8 Telephone number to contact you during business hours for any questions regarding this document. (623) 907 - 2200

9. If you have been a resident less than three (3) months, submit a copy of driver's license or voter registration card.

10. Name of Licensed Premises: SUPER CARNICERIA y PESCADERIA Premises Phone: (623) 907 - 2200

11. Licensed Premises Address: 10730 W LOWER BUCKEYE Rd (Street Address (Do not use PO Box #)) AVONDALE (City) MARICOPA (County) 85323 (Zip)

12. List your employment or type of business during the past five (5) years, if unemployed part of the time, list those dates. **List most recent 1st.**

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYER'S NAME OR NAME OF BUSINESS (Give street address, city, state & zip)
DEC-06	CURRENT	MANAGER/MEMBER	SUPER CARNICERIA y PESCADERIA LOS ALAMOS #2 10730 W LOWER BUCKEYE RD AVONDALE AZ 85323
05-04	NOV-06	CONSTRUCTION	ERS. CONSTRUCTION 5427 E. FREMONT DENVER CO. DR 80221
01-00	04-04	CARNICERIA	CONASUPO. ~~Federal~~ ~~DENVER~~ ~~CO~~ ~~80219~~ MEXICO

ATTACH ADDITIONAL SHEET IF NECESSARY FOR EITHER SECTION

13. Indicate your residence address for the last five (5) years:

FROM Month/Year	TO Month/Year	Rent or Own	RESIDENCE Street Address If rented, attach additional sheet giving name, address and phone number of landlord	City	State	Zip
NOV-06	CURRENT	RENT				
MAY-01	OCT/06	OWN	1486 S. BEACH. CT	DENVER	CO.	80219

Disabled individuals requiring special accommodations, please call the Department. (602) 542-9027

If you checked the Manager box on the front of this form skip to # 15

14. As an Owner, Agent, Partner, Stockholder, Member or Officer, will you be physically present and operating the the licensed premises ? If you answered YES, how many hrs/day? 9 , **answer #14a below**. If NO, skip to #15. ☒YES ☐NO

14a. Have you attended a Department approved Liquor Law Training Course within the last 5 years? (Must provide proof) ☐YES ☒NO
If the answer to # 14a is "NO", course must be completed before issuance of a new license or approval on an existing license.

15. Have you EVER been ***detained, cited, arrested, indicted or summoned*** into court for violation of ANY law or ordinance (regardless of the disposition even if dismissed or expunged)? ***For traffic violations, include only those that were alcohol and/or drug related.*** ☐YES ☒NO

16. Have you EVER been ***convicted, fined, posted bond, been ordered to deposit bail, imprisoned, had sentence suspended, placed on probation or parole*** for violation of ANY law or ordinance (regardless of the disposition even if dismissed or expunged)? ***For traffic violations, include only those that were alcohol and/or drug related.*** ☐YES ☒NO

17. Are there ANY administrative law citations, compliance actions or consents, criminal arrests, indictments or summonses PENDING against you or ANY entity in which you are now involved? ☐YES ☒NO

18. Have you or any entity in which you have held ownership, been an officer, member, director or manager EVER had a business, professional or liquor ***APPLICATION OR LICENSE rejected, denied, revoked, suspended or fined*** in this or any other state? ☐YES ☒NO

19. Has anyone EVER ***filed suit or obtained a judgment against you*** in a civil action, the subject of which involved ***fraud or misrepresentation of a business, professional or liquor license***? ☐YES ☒NO

20. Are you NOW or have you EVER held ownership, been a controlling person , been an officer, member, director, or manager on ***any other liquor license*** in this or any other state? ☐YES ☒NO

If any answer to Questions 15 through 20 is "YES" YOU MUST attach a signed statement. Give complete details including dates, agencies involved and dispositions.

If you checked the Manager box on the front of this form, fill in #21-23 and 24, all others skip the following box (21-23) and go to # 24

Manager Section

21. Have you attended a Department approved Liquor Law Training Course within the last 5 years? (Must provide proof) ☐YES ☐NO
If the answer to #21 is "NO" course must be completed BEFORE ISSUANCE of a new license OR APPROVAL on an existing license.

22. Do you make payments to the licensee? ☐ YES ☐ NO If "yes", how much? $_____ per month. Total debt to licensee $_____

23. Is there a formal written contract or agreement between you and the licensee relating to the operation or management of this business? ☐ YES ☐ NO If "yes", attach a copy of such agreement

24. I, EFREN GUTIERREZ RODRIGUEZ , hereby declare that I am the APPLICANT filing this questionnaire.
(Print full name of Applicant)

I have read this questionnaire and the contents and all statements are true, correct and complete.

x Efren Gutierrez Rodriguez
(Signature of Applicant)

State of Arizona County of Maricopa
The foregoing instrument was acknowledged before me this
23rd day of October 2009
Day, Month Year

My commission expires on: May 19, 2010
Day Month Year

(Signature of NOTARY PUBLIC)

MICHELE LOPEZ
NOTARY PUBLIC - ARIZONA
MARICOPA COUNTY
My Commission Expires
May 19, 2010

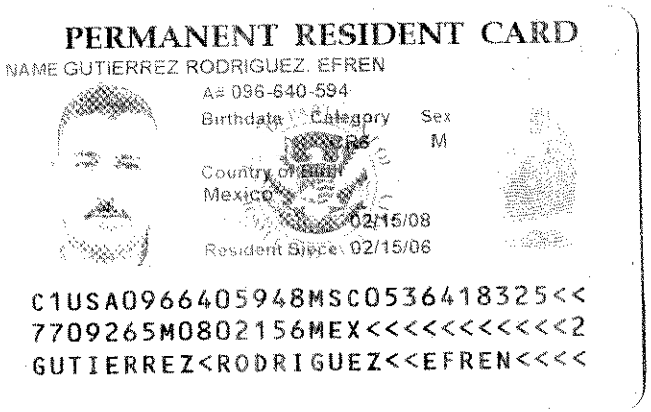
FILL IN THIS SECTION ONLY IF YOU ARE A LICENSEE OR AGENT APPROVING A MANAGER APPLICATION
Licensee or Agent Approval of Manager

25. I, (**Print** Licensee/Agent's Name):_____
Hereby authorize the applicant to act as manager for the named liquor license.

State of_____ County of_____
The foregoing instrument was acknowledged before me this

x _____ _____ day of _____ _____
(Signature of LICENSEE/AGENT) Day Month Year

My commission expires on: _____ _____
Day Month Year (Signature of NOTARY PUBLIC)



PERMANENT RESIDENT CARD

NAME GUTIERREZ RODRIGUEZ, EFREN

A# 096-640-594

Birthdate [illegible] Category [illegible] Sex M

Country of Birth Mexico

[illegible] 02/15/08

Resident Since 02/15/06

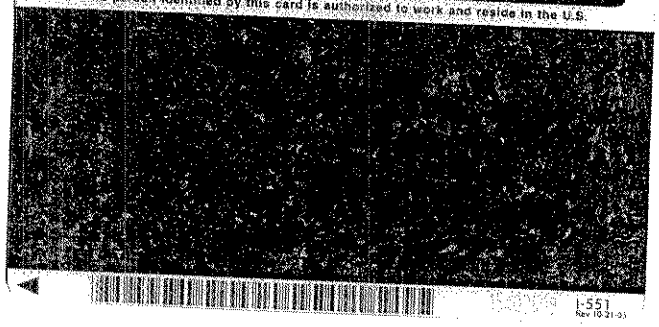
C1USA0966405948MSC0536418325<<
7709265M0802156MEX<<<<<<<<<<<2
GUTIERREZ<RODRIGUEZ<<EFREN<<<<

ok per Cuotas

UNITED STATES OF AMERICA Department of Homeland Security

PERMANENT RESIDENT CARD

The person identified by this card is authorized to work and reside in the U.S.



I-551
Rev 10-21-03

ARIZONA
Driver License
Number
Expires
Date of Birth
Issued
03/30/2007
EFREN GUTIERREZ RODRIGUEZ
1441 W MEDOWELL RD APT 1051
PHOENIX AZ 85035-4758
Class D
Sex
Eyes BRO
Height 6-02
Hair BK
Weight 240

D/L

You Must Report a Change of Address Within 10 Days

[redacted]

Number
Expires 02/15/2008
Issued 03/30/2007

Class D Operator

Endorsements NONE

Restrictions NONE

07 NOV 15 AM 11:51 ZIP 84112

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

'07 NOV 15 Liq. Lic. [illegible]

800 W Washington 5th Floor
Phoenix AZ 85007-2934
(602) 542-5141

400 W Congress #521
Tucson AZ 85701-1352
(520) 628-6586

QUESTIONNAIRE

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Liquor License # 10075526
(If the location is currently licensed)

Eff. 10/01/07 there is a $24.00 processing fee for each fingerprint card submitted.
A service fee of $25.00 will be charged for all dishonored checks (A.R.S. 44.6852)

1. Check appropriate box →

☐ Owner ☐ Partner ☒ Stockholder ☒ Member ☐ Officer ☐ Agent ☐ Other _____ (Complete Questions 1-20 & 24) Licensee or Agent must complete # 25 for a Manager	☐ Manager(Only) (Complete All Questions *except* # 14, 14a & 25) Licensee or Agent must complete # 25

2. Name: GUTIERREZ CORRAL (Last) FRANCISCO (First) _____ (Middle) Date of Birth: _____ (This Will Not Become a Part of Public Records)

3. Social Security Number: _____ (This Will Not Become a Part of Public Records) Drivers License #: _____ State: _____

4. Place of Birth: _____ (City) _____ (State) _____ (Country (not county)) Height: _____ Weight: _____ Eyes: _____ Hair: _____

5. Marital Status ☐ Single ☐ Married ☐ Divorced ☐ Widowed Residence (Home) Phone: (_____) _____-_____

6. Name of Current or Most Recent Spouse: _____ (Last) _____ (First) _____ (Middle) _____ (Maiden) Date of Birth: _____
(List all for last 5 years - Use additional sheet if necessary)

7. You are a bona fide resident of what state? _____ If Arizona, date of residency: _____

8. Telephone number to contact you during business hours for any questions regarding this document. (_____)_____-_____

9. If you have been a resident less than three (3) months, submit a copy of driver's license or voter registration card.

10. Name of Licensed Premises: SUPER CARNICERIA Y PESCADERIA LOS ALAMOS #2 Premises Phone: (_____) _____-_____

11. Licensed Premises Address: 10730 W LOWER BUCKEYE RD (Street Address (Do not use PO Box #)) AVONDALE (City) MARICOPA (County) 85323 (Zip)

12. List your employment or type of business during the past five (5) years, if unemployed part of the time, list those dates. **List most recent 1st.**

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYER'S NAME OR NAME OF BUSINESS (Give street address, city, state & zip)
	CURRENT		

ATTACH ADDITIONAL SHEET IF NECESSARY FOR EITHER SECTION

13. Indicate your residence address for the last five (5) years:

FROM Month/Year	TO Month/Year	Rent or Own	RESIDENCE Street Address If rented, attach additional sheet giving name, address and phone number of landlord	City	State	Zip
	CURRENT		AMENDMENT			

Disabled individuals requiring special accommodations, please call the Department. (602) 542-9027

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

QUESTIONNAIRE

Attention all Local Governing Bodies: Social Security and Birthdate Information is Confidential. This information may be given to local law enforcement agencies for the purpose of background checks only but must be blocked to be unreadable prior to posting or any public view.

Read carefully. This instrument is a sworn document. Type or print with black ink.
An extensive investigation of your background will be conducted. False or incomplete answers could result in criminal prosecution and the denial or subsequent revocation of a license or permit.

TO BE COMPLETED BY EACH OWNER, AGENT, PARTNER, STOCKHOLDER (10% OR MORE), MEMBER, OFFICER OR MANAGER. ALSO EACH PERSON COMPLETING THIS FORM MUST SUBMIT AN "APPLICANT" TYPE FINGERPRINT CARD WHICH MAY BE OBTAINED AT THE DEPT. FINGERPRINTING MUST BE DONE BY A BONA FIDE LAW ENFORCEMENT AGENCY OR A FINGERPRINTING SERVICE APPROVED BY THE DEPARTMENT OF LIQUOR. THE DEPARTMENT DOES NOT PROVIDE THIS SERVICE.

Liquor License # 10075526 (If the location is currently licensed)

Eff. 10/01/03 there is a $29.00 processing fee for each fingerprint card submitted.
A service fee of $25.00 will be charged for all dishonored checks (A.R.S. 44.6852)

1. Check appropriate box →

☐ Owner ☐ Partner ☒ Stockholder ☒ Member ☐ Officer ☐ Agent ☐ Other _____ (Complete Questions 1-20 & 24) Licensee or Agent must complete # 25 for a Manager	☐ Manager(Only) (Complete All Questions *except* # 14, 14a & 25) Licensee or Agent must complete # 25

2. Name: GUTIERREZ (Last) FRANCISCO (First) CORRAL (Middle) Date of Birth: ____ (This Will Not Become a Part of Public Records)

3. Social Security Number: ____ (This Will Not Become a Part of Public Records) Drivers License #: ____ State: COLORADO.

4. Place of Birth: PARRAL (City) CHI. (State) MEXICO (Country (not county)) Height: 6'00" Weight: 215 Eyes: BRO Hair: BK

5. Marital Status ☐ Single ☒ Married ☐ Divorced ☐ Widowed Residence (Home) Phone: ____

6. Name of Current or Most Recent Spouse: Rodriguez (Last) CARMEN (First) ____ (Middle) ____ (Maiden) Date of Birth: ____
(List all for last 5 years - Use additional sheet if necessary)

7. You are a bona fide resident of what state? CO. If Arizona, date of residency: ____

8. Telephone number to contact you during business hours for any questions regarding this document 720 877 4035

9. If you have been a resident less than three (3) months, submit a copy of driver's license or voter registration card.

10. Name of Licensed Premises: SUPER CANNICERIA Premises Phone: (623) 907-2206

11. Licensed Premises Address: 10730 W. LOWER BUCKEYE RD. (Street Address (Do not use PO Box #)) AVONDALE (City) MARICOPA (County) 85323 (Zip)

12. List your employment or type of business during the past five (5) years, if unemployed part of the time, list those dates. **List most recent 1st.**

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYER'S NAME OR NAME OF BUSINESS (Give street address, city, state & zip)
4/04	CURRENT	LABOR WORKER	HALMARK CONSTCO. DENVER 5040 TABOR ST WHEATRIDGE CO 80033
3/01	3/04	LABOR WORKER	WYCON CONSTRUCTION CO. 645 COMPTON ST BROOMFIELD 80020

ATTACH ADDITIONAL SHEET IF NECESSARY FOR EITHER SECTION

13. Indicate your residence address for the last five (5) years:

FROM Month/Year	TO Month/Year	Rent or Own	RESIDENCE Street Address If rented, attach additional sheet giving name, address and phone number of landlord	City	State	Zip
3/02	CURRENT	OWN				

Disabled individuals requiring special accommodations, please call the Department. (602) 542-9027

If you checked the Manager box on the front of this form skip to # 15

14. As an Owner, Agent, Partner, Stockholder, Member or Officer, will you be physically present and operating the the licensed premises ? If you answered YES, how many hrs/day?_____, **answer #14a below**. If NO, skip to #15. ☐YES ☒NO

14a. Have you attended a Department approved Liquor Law Training Course within the last 5 years? (Must provide proof) ☐YES ☒NO

If the answer to # 14a is "NO", course must be completed before issuance of a new license or approval on an existing license.

15. Have you EVER been ***detained, cited, arrested, indicted or summoned*** into court for violation of **ANY** law or ordinance (regardless of the disposition even if dismissed or expunged)? ***For traffic violations, include only those that were alcohol and/or drug related.*** ☐YES ☒NO

16. Have you EVER been ***convicted, fined, posted bond, been ordered to deposit bail, imprisoned, had sentence suspended, placed on probation or parole*** for violation of **ANY** law or ordinance (regardless of the disposition even if dismissed or expunged)? ***For traffic violations, include only those that were alcohol and/or drug related.*** ☐YES ☒NO

17. Are there **ANY** administrative law citations, compliance actions or consents, criminal arrests, indictments or summonses **PENDING** against you or **ANY** entity in which you are now involved? ☐YES ☒NO

18. Have you or any entity in which you have held ownership, been an officer, member, director or manager **EVER** had a business, professional or liquor ***APPLICATION OR LICENSE rejected, denied, revoked, suspended or fined*** in this or any other state? ☐YES ☒NO

19. Has anyone **EVER** ***filed suit or obtained a judgment against you*** in a civil action, the subject of which involved ***fraud or misrepresentation of a business, professional or liquor license***? ☐YES ☒NO

20. Are you **NOW** or have you **EVER** held ownership, been a controlling person , been an officer, member, director, or manager on ***any other liquor license*** in this or any other state? ☐YES ☒NO

If any answer to Questions 15 through 20 is "YES" YOU MUST attach a signed statement. Give complete details including dates, agencies involved and dispositions.

If you checked the Manager box on the front of this form, fill in #21-23 and 24, all others skip the following box (21-23) and go to # 24

Manager Section

21. Have you attended a Department approved Liquor Law Training Course within the last 5 years? (Must provide proof) ☐YES ☐NO

If the answer to #21 is "NO" course must be completed BEFORE ISSUANCE of a new license OR APPROVAL on an existing license.

22. Do you make payments to the licensee? ☐ YES ☐ NO If "yes", how much? $_____ per month. Total debt to licensee $_____

23. Is there a formal written contract or agreement between you and the licensee relating to the operation or management of this business? ☐ YES ☐ NO If "yes", attach a copy of such agreement

24. I, FRANCISCO GUTIERREZ CORRAL, hereby declare that I am the APPLICANT filing this questionnaire.
(Print full name of Applicant)

I have read this questionnaire and the contents and all statements are true, correct and complete.

(X) Francisco Gutierrez Corral
(Signature of APPLICANT)

State of_____ County of_____
The foregoing instrument was acknowledged before me this
_____ day of _____, _____
Day Month Year

JORGE HERRERA
Notary Public - Arizona
MARICOPA COUNTY
My Commission Expires
AUGUST 13, 2010

My commission expires on: _____
Day Month Year

Jorge Herrera 11/13/07
(Signature of NOTARY PUBLIC)

FILL IN THIS SECTION ONLY IF YOU ARE A LICENSEE OR AGENT APPROVING A MANAGER APPLICATION

Licensee or Agent Approval of Manager

25. I, (**Print** Licensee/Agent's Name): _____
Hereby authorize the applicant to act as manager for the named liquor license.

State of_____ County of_____
The foregoing instrument was acknowledged before me this

X _____ _____ day of _____ _____
(Signature of LICENSEE/AGENT) Day Month Year

My commission expires on: _____ _____
Day Month Year (Signature of NOTARY PUBLIC)

'07 NOV 15 Lier. Uc. RM1102

The Secretary of State of the United States of America hereby requests all whom it may concern to permit the citizen/national of the United States named herein to pass without delay or hindrance and in case of need to give all lawful aid and protection.

Le Secrétaire d'Etat des Etats-Unis d'Amérique prie par les présentes toutes autorités compétentes de laisser passer le citoyen ou ressortissant des Etats-Unis titulaire du présent passeport, sans délai ni difficulté et, en cas de besoin, de lui accorder toute aide et protection légitimes.

El Secretario de Estado de los Estados Unidos de América por el presente solicita a las autoridades competentes permitir el paso del ciudadano o nacional de los Estados Unidos aquí nombrado, sin demora ni dificultades, y en caso de necesidad, prestarle toda la ayuda y protección lícitas.

SIGNATURE OF BEARER / SIGNATURE DU TITULAIRE / FIRMA DEL TITULAR

NOT VALID UNTIL SIGNED

PASSPORT
PASSEPORT
PASAPORTE

UNITED STATES OF AMERICA

Type / Type / Tipo: P
Code / Code / Código: USA
Passport No. / No. du Passeport / No. de Pasaporte: 310946313
Surname / Nom / Apellidos: GUTIERREZ CORRAL
Given Names / Prénoms / Nombres: FRANCISCO
Nationality / Nationalité / Nacionalidad: UNITED STATES OF AMERICA
Date of Birth / Date de naissance / Fecha de nacimiento: 02 DEC 1970
Sex / Sexe / Sexo: M
Place of Birth / Lieu de naissance / Lugar de nacimiento: MEXICO
Date of Issue / Date de délivrance / Fecha de expedición: 21 FEB 2007
Authority / Autorité / Autoridad: United States Department of State
Date of Expiration / Date d' expiration / Fecha de caducidad: 20 FEB 2017
Amendments / Modifications / Enmiendas: SEE PAGE 24

P<USAGUTIERREZ<CORRAL<<FRANCISCO<<<<<<<<<<<<
3109463132USA4911209M1702208<<<<<<<<<<<<<<<00

'07 NOV 15 Liq. Lic. PM1:13

Colorado
Driver License

Expires: 11-20-2012
Issued: 11-14-2002

Class: R
End:
Rest:
Ht: 6'0" Wt: 215 Eyes: BRO Sex: M
Voter:

DOB:
Previous Type: A

FRANCISCO GUTIERREZ-CORRAL
2025 S HAZEL CT
DENVER CO 80219

P1047330

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

'07 NOV 15 Liqr. Lic. RM1113

800 W Washington 5th Floor
Phoenix AZ 85007-2934
(602) 542-5141

400 W Congress #521
Tucson AZ 85701-1352
(520) 628-6595

QUESTIONNAIRE

Attention all Local Governing Bodies: Social Security and Birthdate Information is Confidential. This information may be given to local law enforcement agencies for the purpose of background checks only but must be blocked to be unreadable prior to posting or any public view.

Read carefully. This instrument is a sworn document. Type or print with black ink.
An extensive investigation of your background will be conducted. False or incomplete answers could result in criminal prosecution and the denial or subsequent revocation of a license or permit.

TO BE COMPLETED BY EACH OWNER, AGENT, PARTNER, STOCKHOLDER (10% OR MORE), MEMBER, OFFICER OR MANAGER. ALSO EACH PERSON COMPLETING THIS FORM MUST SUBMIT AN "APPLICANT" TYPE FINGERPRINT CARD WHICH MAY BE OBTAINED AT THE DEPT. FINGERPRINTING MUST BE DONE BY A BONA FIDE LAW ENFORCEMENT AGENCY OR A FINGERPRINTING SERVICE APPROVED BY THE DEPARTMENT OF LIQUOR. THE DEPARTMENT DOES NOT PROVIDE THIS SERVICE.

Eff. 10/01/07 there is a $24.00 processing fee for each fingerprint card submitted.
A service fee of $25.00 will be charged for all dishonored checks (A.R.S. 44.6852)

Liquor License # 10075526
(If the location is currently licensed)

1. **Check appropriate box** →

☐ Owner ☐ Partner ☐ Stockholder ☐ Member ☐ Officer ☐ Agent ☒ Other INVESTOR /COSIGNER **(Complete Questions 1-20 & 24)** **Licensee or Agent must complete # 25 for a Manager**	☐ **Manager(Only)** **(Complete All Questions *except* # 14, 14a & 25)** **Licensee or Agent must complete # 25**

2. Name: RODRIGUEZ GARCIA (Last) FRANCISCO (First) _____ (Middle) Date of Birth: _____ **(This Will Not Become a Part of Public Records)**

3. Social Security Number: _____ Drivers License #: _____ State: _____
(This Will Not Become a Part of Public Records)

4. Place of Birth: _____ (City) _____ (State) _____ (Country (not county)) Height: _____ Weight: _____ Eyes: _____ Hair: _____

5. Marital Status ☐ Single ☐ Married ☐ Divorced ☐ Widowed Residence (Home) Phone: (_____) _____ - _____

6. Name of Current or Most Recent Spouse: _____ Date of Birth: _____
(List all for last 5 years - Use additional sheet if necessary) Last First Middle Maiden

7. You are a bona fide resident of what state? _____ If Arizona, date of residency: _____

8. Telephone number to contact you during business hours for any questions regarding this document. (_____) _____ - _____

9. If you have been a resident less than three (3) months, submit a copy of driver's license or voter registration card.

10. Name of Licensed Premises: SUPER CARNICERIA Y PESCADERIA LOS ALAMOS #2 Premises Phone: (_____) _____ - _____

11. Licensed Premises Address: 10730 W LOWER BUCKEYE RD (Street Address (Do not use PO Box #)) AVONDALE (City) MARICOPA (County) 85323 (Zip)

12. List your employment or type of business during the past five (5) years, if unemployed part of the time, list those dates. **List most recent 1st.**

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYER'S NAME OR NAME OF BUSINESS (Give street address, city, state & zip)
	CURRENT		

ATTACH ADDITIONAL SHEET IF NECESSARY FOR EITHER SECTION

13. Indicate your residence address for the last five (5) years:

FROM Month/Year	TO Month/Year	Rent or Own	RESIDENCE Street Address If rented, attach additional sheet giving name, address and phone number of landlord	City	State	Zip
	CURRENT					

LIC 0101 02/2005 **Disabled individuals requiring special accommodations, please call the Department. (602) 542-9027**

AMENDMENT

P1047330

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

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(602) 542-5141

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QUESTIONNAIRE

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An extensive investigation of your background will be conducted. False or incomplete answers could result in criminal prosecution and the denial or subsequent revocation of a license or permit.

TO BE COMPLETED BY EACH OWNER, AGENT, PARTNER, STOCKHOLDER (10% OR MORE), MEMBER, OFFICER OR MANAGER. ALSO EACH PERSON COMPLETING THIS FORM MUST SUBMIT AN "APPLICANT" TYPE FINGERPRINT CARD WHICH MAY BE OBTAINED AT THE DEPT. FINGERPRINTING MUST BE DONE BY A BONA FIDE LAW ENFORCEMENT AGENCY OR A FINGERPRINTING SERVICE APPROVED BY THE DEPARTMENT OF LIQUOR. THE DEPARTMENT DOES NOT PROVIDE THIS SERVICE.

Liquor License # 10075524 (If the location is currently licensed)

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1. Check appropriate box →

☐ Owner ☐ Partner ☐ Stockholder ☐ Member ☐ Officer ☐ Agent ☐ Other _____ (Complete Questions 1-20 & 24) Licensee or Agent must complete # 25 for a Manager	☐ Manager(Only) (Complete All Questions *except* # 14, 14a & 25) Licensee or Agent must complete # 25

2. Name: RODRIGUEZ (Last) FRANCISCO (First) GARCIA (Middle) Date of Birth: _____ (This Will Not Become a Part of Public Records)

3. Social Security Number: _____ (This Will Not Become a Part of Public Records) Drivers License #: _____ State: AZ

4. Place of Birth: TARACHI (City) SONORA (State) MEXICO (Country (not county)) Height: 5'07" Weight: 200 Eyes: BR Hair: BR

5. Marital Status ☐ Single ☒ Married ☐ Divorced ☐ Widowed Residence (Home) Phone: _____

6. Name of Current or Most Recent Spouse: RASCON (Last) GAMEZ (First) MIGDELIA (Middle) (Maiden) Date of Birth: _____
(List all for last 5 years - Use additional sheet if necessary)

7. You are a bona fide resident of what state? AZ If Arizona, date of residency: 03-02-03

8 Telephone number to contact you during business hours for any questions regarding this document. (602) 628 - 4121

9. If you have been a resident less than three (3) months, submit a copy of driver's license or voter registration card.

10. Name of Licensed Premises: SUPER CARNICERIA Y PESCADERIA LOS ALAMOS AZ Premises Phone: (623) 907-2200

11. Licensed Premises Address: 10730 W LOWER BUCKEYE (Street Address (Do not use PO Box #)) MARICOPA (County) 85323 (Zip)

12. List your employment or type of business during the past five (5) years, if unemployed part of the time, list those dates. **List most recent 1st.**

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYER'S NAME OR NAME OF BUSINESS (Give street address, city, state & zip)
09/2000	CURRENT	GENERAL PARTER	6639 W. MEDOWSCRO RD PHX 85035 SUPER CARNICERIA LAS CUATRO HILPAS
09/2000	CURRENT	OWNER	SUPER CARNICERIA LOS ALAMOS MESA 58 COUNTRY CLUB DR MESA 85204

ATTACH ADDITIONAL SHEET IF NECESSARY FOR EITHER SECTION

13. Indicate your residence address for the last five (5) years:

FROM Month/Year	TO Month/Year	Rent or Own	RESIDENCE Street Address If rented, attach additional sheet giving name, address and phone number of landlord	City	State	Zip
03/03	CURRENT	OWN				
04/93	03/03	OWN	LOOSE RANCH + NO PHYSICAL ADDRESS	TARACHI	MEXICO	

Disabled individuals requiring special accommodations, please call the Department. (602) 542-9027

If you checked the Manager box on the front of this form skip to # 15

14. As an Owner, Agent, Partner, Stockholder, Member or Officer, will you be physically present and operating the the licensed premises ? If you answered YES, how many hrs/day?_____, **answer #14a below**. If NO, skip to #15. ☐YES ☒NO

14a. Have you attended a Department approved Liquor Law Training Course within the last 5 years? (Must provide proof) ☒YES ☐NO

If the answer to # 14a is "NO", course must be completed before issuance of a new license or approval on an existing license.

15. Have you EVER been ***detained, cited, arrested, indicted or summoned*** into court for violation of **ANY** law or ordinance (regardless of the disposition even if dismissed or expunged)? ***For traffic violations, include only those that were alcohol and/or drug related.*** ☐YES ☒NO

16. Have you EVER been ***convicted, fined, posted bond, been ordered to deposit bail, imprisoned, had sentence suspended, placed on probation or parole*** for violation of **ANY** law or ordinance (regardless of the disposition even if dismissed or expunged)? ***For traffic violations, include only those that were alcohol and/or drug related.*** ☐YES ☒NO

17. Are there **ANY** administrative law citations, compliance actions or consents, criminal arrests, indictments or summonses **PENDING** against you or **ANY** entity in which you are now involved? ☐YES ☒NO

18. Have you or any entity in which you have held ownership, been an officer, member, director or manager **EVER** had a business, professional or liquor ***APPLICATION OR LICENSE rejected, denied, revoked, suspended or fined*** in this or any other state? PAID FINED UNDER LICENSE # 10074137 UNDER CUATRO MILPAS LLC. ☒YES ☐NO

19. Has anyone **EVER** ***filed suit or obtained a judgment against you*** in a civil action, the subject of which involved ***fraud or misrepresentation of a business, professional or liquor license***? ☐YES ☒NO

20. Are you **NOW** or have you **EVER** held ownership, been a controlling person , been an officer, member, director, or manager on ***any other liquor license*** in this or any other state? SUPER GANNICERIA LOS ALAMOS SUPER GANNICERIA LAS CUATRO MILPAS ☒YES ☐NO

If any answer to Questions 15 through 20 is "YES" YOU MUST attach a signed statement. Give complete details including dates, agencies involved and dispositions.

If you checked the Manager box on the front of this form, fill in #21-23 and 24, all others skip the following box (21-23) and go to # 24

Manager Section

21. Have you attended a Department approved Liquor Law Training Course within the last 5 years? (Must provide proof) ☐YES ☐NO
If the answer to #21 is "NO" course must be completed BEFORE ISSUANCE of a new license OR APPROVAL on an existing license.

22. Do you make payments to the licensee? ☐ YES ☐ NO If "yes", how much? $_____ per month. Total debt to licensee $_____

23. Is there a formal written contract or agreement between you and the licensee relating to the operation or management of this business? ☐ YES ☐ NO If "yes", attach a copy of such agreement

24. I, FRANCISCO RODRIGUEZ GARCIA, hereby declare that I am the APPLICANT filing this questionnaire.
(Print full name of Applicant)

I have read this questionnaire and the contents and all statements are true, correct and complete.

x FRANCISCO RODRIGUEZ GARCIA
(Signature of Applicant)

State of ARIZONA County of MARICOPA
The foregoing instrument was acknowledged before me this
13th day of November 07
Day Month Year

(Signature of NOTARY PUBLIC)

CONRAD PENA
NOTARY PUBLIC - ARIZONA
MARICOPA COUNTY
My Commission Expires
Oct. 11, 2010

My commission expires on: Oct 11 2010
Day Month Year

FILL IN THIS SECTION ONLY IF YOU ARE A LICENSEE OR AGENT APPROVING A MANAGER APPLICATION
Licensee or Agent Approval of Manager

25. I, (**Print** Licensee/Agent's Name):_____
Hereby authorize the applicant to act as manager for the named liquor license.

State of_____ County of_____
The foregoing instrument was acknowledged before me this

X _____ _____ day of _____ _____
(Signature of LICENSEE/AGENT) Day Month Year

My commission expires on: _____ _____
Day Month Year (Signature of NOTARY PUBLIC)

APR 0 2 2007

01946875

'07 NOV 15 Corp. Lic. #11113

FILE NO. L-1356384-4

ARTICLES OF ORGANIZATION
OF
SUPER CARNICERIA Y PESCADERIA LOS ALAMOS # 2, LLC

Pursuant to A.R.S. Title 29, the undersigned state as follows:

ARTICLE I

Name. The name of this limited liability company is SUPER CARNICERIA Y PESCADERIA LOS ALAMOS # 2, LLC

ARTICLE II

Known Place of Business. The initial address of the registered office in Arizona is:

10730 W Lower Buckeye Rd
Avondale, AZ 85323

Located in the Maricopa County.

ARTICLE III

Statutory Agent. The name and address of the statutory agent of the company is:

EFREN GUTIERREZ RODRIGUEZ
6441 W McDowell Rd # 1051
Phoenix, AZ 85035

ARTICLE IV

Management and Members. Management of this limited liability company is reserved to the members. The members at the time of the formation and their related addresses are as follows:

EFREN GUTIERREZ RODRIGUEZ
6441 W McDowell Rd # 1051
Phoenix, AZ 85035

FRANCISCO GUTIERREZ CORRAL
1486 S Beach Ct
Denver, CO 80219

ARTICLE V

Duration. The duration of this Limited Liability Company shall be for perpetual.

'07 NOV 15 [illegible]

L-13563844

ARTICLE VI

Fiscal Year. The fiscal year of the limited liability company shall be the calendar year ending December 31st.

ARTICLE VII

Acceptance of Appointment by Statutory Agent. The undersigned hereby acknowledges and accepts the appointment as statutory agent of the above-named Limited Liability Company effective this 30th day of March, 2007.

EFREN GUTIERREZ RODRIGUEZ Efren Gutierrez R.

IN WITNESS WHEREOF, the following member has signed this Articles of Organization, intending that they become effective as of this date: March 30, 2007.

Names	*Signatures*
EFREN GUTIERREZ RODRIGUEZ	Efren Gutierrez R.
FRANCISCO GUTIERREZ CORRAL	Francisco Gutierrez

'07 NOV 15 Liv. Lic. M1113

LIMITED LIABILITY COMPANY
OPERATING AGREEMENT

__SUPER CARNICERIA Y PESCADERIA LOS ALAMOS #2, L.L.C.

Arizona Limited Liability Company
(Member-Managed)

OPERATING AGREEMENT

THIS OPERATING AGREEMENT is made and entered into effective _APR 02___, 2007___, by and among, EFREN GUTIRREZ RODRIGUEZ & FRANCISCO GUTIERREZ CORRAL [list the full legal names of the LLC members] (collectively referred to in this agreement as the "Members").

SECTION 1. THE LIMITED LIABILITY COMPANY

1.1 *Formation*. Effective APR 02, 2007, the Members form a limited liability company under the name SUPER CARNICERIA Y PESCADERIA LOS ALAMOS #2, L.L.C. (the "Company") on the terms and conditions in this Operating Agreement (the "Agreement") and pursuant to the Limited Liability Company Act of the State of Arizona (the "Act"). The Members agree to file with the appropriate agency within the State of Arizona charged with processing and maintaining such records all documentation required for the formation of the Company. The rights and obligations of the parties are as provided in the Act except as otherwise expressly provided in this Agreement.

1.2 *Name*. The business of the Company will be conducted under the name SUPER CARNICERIA Y PESCADERIA LOS ALAMOS # 2, L.L.C., or such other name upon which the Members may unanimously may agree.

1.3 *Purpose*. The purpose of the Company is to engage in any lawful act or activity for which a Limited Liability Company may be formed within the State of Arizona.

1.4 *Office*. The Company will maintain its principal business office within the State of Arizona at the following address 10730 W. Lower Buckeye Rd Avondale, AZ 85323__.

1.5 *Registered Agent*. _____ is the Company's initial registered agent in the State of Arizona, and the registered office is _____ _____.

1.6 *Term*. The term of the Company commences on APR O2, 2007 [date] and shall continue perpetually unless sooner terminated as provided in this Agreement.

1.7 *Names and Addresses of Members*. The Members' names and addresses are attached as Schedule 1 to this Agreement.

1.8 *Admission of Additional Members*. Except as otherwise expressly provided in this Agreement, no additional members may be admitted to the Company through issuance by the company of a new interest in the Company without the prior unanimous written consent of the Members.

SECTION 2. CAPITAL CONTRIBUTIONS

2.1 *Initial Contributions*. The Members initially shall contribute to the Company capital as described in Schedule 2 attached to this Agreement.

2.2 *Additional Contributions*. No Member shall be obligated to make any additional contribution to the Company's capital without the prior unanimous written consent of the Members.

2.3 *No Interest on Capital Contributions*. Members are not entitled to interest or other compensation

for or on account of their capital contributions to the Company except to the extent, if any, expressly provided in this Agreement.

SECTION 3. ALLOCATION OF PROFITS AND LOSSES; DISTRIBUTIONS

3.1 *Profits/Losses.* For financial accounting and tax purposes, the Company's net profits or net losses shall be determined on an annual basis and shall be allocated to the Members in proportion to each Member's relative capital interest in the Company as set forth in Schedule 2 as amended from time to time in accordance with U.S. Department of the Treasury Regulation 1.704-1.

3.2 *Distributions.* The Members shall determine and distribute available funds annually or at more frequent intervals as they see fit. Available funds, as referred to herein, shall mean the net cash of the Company available after appropriate provision for expenses and liabilities, as determined by the Managers. Distributions in liquidation of the Company or in liquidation of a Member's interest shall be made in accordance with the positive capital account balances pursuant to U.S. Department of the Treasury Regulation 1.704.1(b)(2)(ii)(b)(2). To the extent a Member shall have a negative capital account balance, there shall be a qualified income offset, as set forth in U.S. Department of the Treasury Regulation 1.704.1(b)(2)(ii)(d).

3.3 *No Right to Demand Return of Capital.* No Member has any right to any return of capital or other distribution except as expressly provided in this Agreement. No Member has any drawing account in the Company.

SECTION 4. INDEMNIFICATION

The Company shall indemnify any person who was or is a party defendant or is threatened to be made a party defendant, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Company) by reason of the fact that he is or was a Member of the Company, Manager, employee or agent of the Company, or is or was serving at the request of the Company, against expenses (including attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding if the Members determine that he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Company, and with respect to any criminal action proceeding, has no reasonable cause to believe his/her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of "no lo Contendere" or its equivalent, shall not in itself create a presumption that the person did or did not act in good faith and in a manner which he reasonably believed to be in the best interest of the Company, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his/her conduct was lawful

SECTION 5. POWERS AND DUTIES OF MANAGERS

5.1 *Management of Company.*

5.1.1 The Members, within the authority granted by the Act and the terms of this Agreement shall have the complete power and authority to manage and operate the Company and make all decisions affecting its business and affairs.

5.1.2 Except as otherwise provided in this Agreement, all decisions and documents relating to the management and operation of the Company shall be made and executed by a Majority in Interest of the Members.

5.1.3 Third parties dealing with the Company shall be entitled to rely conclusively upon the power and authority of a Majority in Interest of the Members to manage and operate the business and affairs of the Company.

5.2 *Decisions by Members.* Whenever in this Agreement reference is made to the decision, consent, approval, judgment, or action of the Members, unless otherwise expressly provided in this Agreement, such decision, consent, approval, judgment, or action shall mean a Majority of the Members.

5.3 *Withdrawal by a Member.* A Member has no power to withdraw from the Company, except as otherwise provided in Section 8.

SECTION 6. SALARIES, REIMBURSEMENT, AND PAYMENT OF EXPENSES

6.1 *Organization Expenses.* All expenses incurred in connection with organization of the Company will be paid by the Company.

6.2 *Salary.* No salary will be paid to a Member for the performance of his or her duties under this Agreement unless the salary has been approved in writing by a Majority of the Members.

6.3 *Legal and Accounting Services.* The Company may obtain legal and accounting services to the extent reasonably necessary for the conduct of the Company's business.

SECTION 7. BOOKS OF ACCOUNT, ACCOUNTING REPORTS, TAX RETURNS, FISCAL YEAR, BANKING

7.1 *Method of Accounting.* The Company will use the method of accounting previously determined by the Members for financial reporting and tax purposes.

7.2 *Fiscal Year; Taxable Year.* The fiscal year and the taxable year of the Company is the calendar year.

7.3 *Capital Accounts.* The Company will maintain a Capital Account for each Member on a cumulative basis in accordance with federal income tax accounting principles.

7.4 *Banking.* All funds of the Company will be deposited in a separate bank account or in an account or accounts of a savings and loan association in the name of the Company as determined by a Majority of the Members. Company funds will be invested or deposited with an institution, the accounts or deposits of which are insured or guaranteed by an agency of the United States government.

SECTION 8. TRANSFER OF MEMBERSHIP INTEREST

8.1 *Sale or Encumbrance Prohibited.* Except as otherwise permitted in this Agreement, no Member may voluntarily or involuntarily transfer, sell, convey, encumber, pledge, assign, or otherwise dispose of (collectively, "Transfer") an interest in the Company without the prior written consent of a majority of the other nontransferring Members determined on a per capita basis.

8.2 *Right of First Refusal.* Notwithstanding Section 8.1, a Member may transfer all or any part of the Member's interest in the Company (the "Interest") as follows:

8.2.1 The Member desiring to transfer his or her Interest first must provide written notice (the "Notice") to the other Members, specifying the price and terms on which the Member is prepared to sell the Interest (the "Offer").

8.2.2 For a period of 30 days after receipt of the Notice, the Members may acquire all, but not less than all, of the Interest at the price and under the terms specified in the Offer. If the other Members desiring to acquire the Interest cannot agree among themselves on the allocation of the Interest among them, the allocation will be proportional to the Ownership Interests of those Members desiring to acquire the Interest.

8.2.3 Closing of the sale of the Interest will occur as stated in the Offer; provided, however, that the closing will not be less than 45 days after expiration of the 30-day notice period.

8.2.4 If the other Members fail or refuse to notify the transferring Member of their desire to acquire all of the Interest proposed to be transferred within the 30-day period following receipt of the Notice, then the Members will be deemed to have waived their right to acquire the Interest on the terms described in the Offer, and the transferring Member may sell and convey the Interest consistent with the Offer to any other person or entity; provided, however, that notwithstanding anything in Section 8.2 to the contrary, should the sale to a

third person be at a price or on terms that are more favorable to the purchaser than stated in the Offer, then the transferring Member must reoffer the sale of the Interest to the remaining Members at that other price or other terms; provided, further, that if the sale to a third person is not closed within six months after the expiration of the 30-day period describe above, then the provisions of Section 8.2 will again apply to the Interest proposed to be sold or conveyed.

8.2.5 Notwithstanding the foregoing provisions of Section 8.2, should the sole remaining Member be entitled to and elect to acquire all the Interests of the other Members of the Company in accordance with the provisions of Section 8.2, the acquiring Member may assign the right to acquire the Interests to a spouse, lineal descendent, or an affiliated entity if the assignment is reasonably believed to be necessary to continue the existence of the Company as a limited liability company.

8.3 *Substituted Parties.* Any transfer in which the Transferee becomes a fully substituted Member is not permitted unless and until:

(1) The transferor and assignee execute and deliver to the Company the documents and instruments of conveyance necessary or appropriate in the opinion of counsel to the Company to effect the transfer and to confirm the agreement of the permitted assignee to be bound by the provisions of this Agreement; and

(2) The transferor furnishes to the Company an opinion of counsel, satisfactory to the Company, that the transfer will not cause the Company to terminate for federal income tax purposes or that any termination is not adverse to the Company or the other Members.

8.4 *Death, Incompetency, or Bankruptcy of Member.* On the death, adjudicated incompetence, or bankruptcy of a Member, unless the Company exercises its rights under Section 8.5, the successor in interest to the Member (whether an estate, bankruptcy trustee, or otherwise) will receive only the economic right to receive distributions whenever made by the Company and the Member's allocable share of taxable income, gain, loss, deduction, and credit (the "Economic Rights") unless and until a majority of the other Members determined on a per capita basis admit the transferee as a fully substituted Member in accordance with the provisions of Section 8.3.

8.4.1 Any transfer of Economic Rights pursuant to Section 8.4 will not include any right to participate in management of the Company, including any right to vote, consent to, and will not include any right to information on the Company or its operations or financial condition. Following any transfer of only the Economic Rights of a Member's Interest in the Company, the transferring Member's power and right to vote or consent to any matter submitted to the Members will be eliminated, and the Ownership Interests of the remaining Members, for purposes only of such votes, consents, and participation in management, will be proportionately increased until such time, if any, as the transferee of the Economic Rights becomes a fully substituted Member.

8.5 *Death Buy Out.* Notwithstanding the foregoing provision of Section 8, the Members covenant and agree that on the death of any Member, the Company, at its option, by providing written notice to the estate of the deceased Member within 180 days of the death of the Member, may purchase, acquire, and redeem the Interest of the deceased Member in the Company pursuant to the provision of Section 8.5.

8.5.1 The value of each Member's Interest in the Company will be determined on the date this Agreement is signed, and the value will be endorsed on Schedule 3 attached and made a part of this Agreement. The value of each Member's Interest will be redetermined unanimously by the Members annually, unless the Members unanimously decide to redetermine those values more frequently. The Members will use their best efforts to endorse those values on Schedule 3. The purchase price for a decedent Member's interest conclusively is the value last determined before the death of such Member; provided, however, that if the latest valuation is more than two years before the death of the deceased Member, the provisions of Section 8.5.2 will apply in determining the value of the Member's Interest in the Company.

8.5.2 If the Members have failed to value the deceased Member's Interest within the prior two-year period, the value of each Member's Interest in the Company on the date of death, in the first instance, will be determined by mutual agreement of the surviving Members and the personal representative of the estate of

the deceased Member. If the parties cannot reach an agreement on the value within 30 days after the appointment of the personal representative of the deceased Member, then the surviving Members and the personal representative each must select a qualified appraiser within the next succeeding 30 days. The appraisers so selected must attempt to determine the value of the Company Interest owned by the decedent at the time of death based solely on their appraisal of the total value of the Company's assets and the amount the decedent would have received had the assets of the Company been sold at that time for an amount equal to their fair market value and the proceeds (after payment of all Company obligations) were distributed in the manner contemplated in Section 8. The appraisal may not consider and discount for the sale of a minority Interest in the Company. In the event the appraisers cannot agree on the value within 30 days after being selected, the two appraisers must, within 30 days, select a third appraiser. The value of the Interest of the decedent in the Company and the purchase price of it will be the average of the two appraisals nearest in amount to one another. That amount will be final and binding on all parties and their respective successors, assigns, and representatives. The costs and expenses of the third appraiser and any costs and expenses of the appraiser retained but not paid for by the estate of the deceased Member will be offset against the purchase price paid for the deceased Member's Interest in the Company.

8.5.3 Closing of the sale of the deceased Member's Interest in the Company will be held at the office of the Company on a date designated by the Company, not be later than 90 days after agreement with the personal representative of the deceased Member's estate on the fair market value of the deceased Member's Interest in the Company; provided, however, that if the purchase price are determined by appraisals as set forth in Section 8.5.2, the closing will be 30 days after the final appraisal and purchase price are determined. If no personal representative has been appointed within 60 days after the deceased Member's death, the surviving Members have the right to apply for and have a personal representative appointed.

8.5.4 At closing, the Company will pay the purchase price for the deceased Member's Interest in the Company. If the purchase price is less than $1,000.00, the purchase price will be paid in cash; if the purchase price is $1,000.00 or more, the purchase price will be paid as follows:

(1) $1,000.00 in cash, bank cashier's check, or certified funds;

(2) The balance of the purchase price by the Company executing and delivering its promissory note for the balance, with interest at the prime interest rate stated by primary banking institution utilized by the Company, its successors and assigns, at the time of the deceased Member's death. Interest will be payable monthly, with the principal sum being due and payable in three equal annual installments. The promissory note will be unsecured and will contain provisions that the principal sum may be paid in whole or in part at any time, without penalty.

8.5.5 At the closing, the deceased Member's estate or personal representative must assign to the Company all of the deceased Member's Interest in the Company free and clear of all liens, claims, and encumbrances, and, at the request of the Company, the estate or personal representative must execute all other instruments as may reasonably be necessary to vest in the Company all of the deceased Member's right, title, and interest in the Company and its assets. If either the Company or the deceased Member's estate or personal representative fails or refuses to execute any instrument required by this Agreement, the other party is hereby granted the irrevocable power of attorney which, it is agreed, is coupled with an interest, to execute and deliver on behalf of the failing or refusing party all instruments required to be executed and delivered by the failing or refusing party.

8.5.6 On completion of the purchase of the deceased Member's Interest in the Company, the Ownership Interests of the remaining Members will increase proportionately to their then-existing Ownership Interests.

SECTION 9. DISSOLUTION AND WINDING UP OF THE COMPANY

9.1 *Dissolution*. The Company will be dissolved on the happening of any of the following events:

9.1.1 Sale, transfer, or other disposition of all or substantially all of the property of the Company;

9.1.2 The agreement of all of the Members;

9.1.3 By operation of law; or

9.1.4 The death, incompetence, expulsion, or bankruptcy of a Member, or the occurrence of any event that terminates the continued membership of a Member in the Company, unless there are then remaining at least the minimum number of Members required by law and all of the remaining Members, within 120 days after the date of the event, elect to continue the business of the Company.

9.2 *Winding Up*. On the dissolution of the Company (if the Company is not continued), the Members must take full account of the Company's assets and liabilities, and the assets will be liquidated as promptly as is consistent with obtaining their fair value, and the proceeds, to the extent sufficient to pay the Company's obligations with respect to the liquidation, will be applied and distributed, after any gain or loss realized in connection with the liquidation has been allocated in accordance with Section 3 of this Agreement, and the Members' Capital Accounts have been adjusted to reflect the allocation and all other transactions through the date of the distribution, in the following order:

9.2.1 To payment and discharge of the expenses of liquidation and of all the Company's debts and liabilities to persons or organizations other than Members;

9.2.2 To the payment and discharge of any Company debts and liabilities owed to Members; and

9.2.3 To Members in the amount of their respective adjusted Capital Account balances on the date of distribution; provided, however, that any then-outstanding Default Advances (with interest and costs of collection) first must be repaid from distributions otherwise allocable to the Defaulting Member pursuant to Section 9.2.3.

SECTION 10. GENERAL PROVISIONS

10.1 *Amendments*. Amendments to this Agreement may be proposed by any Member. A proposed amendment will be adopted and become effective as an amendment only on the written approval of all of the Members.

10.2 *Governing Law*. This Agreement and the rights and obligations of the parties under it are governed by and interpreted in accordance with the laws of the State of Arizona (without regard to principles of conflicts of law).

10.3 *Entire Agreement; Modification*. This Agreement constitutes the entire understanding and agreement between the Members with respect to the subject matter of this Agreement. No agreements, understandings, restrictions, representations, or warranties exist between or among the members other than those in this Agreement or referred to or provided for in this Agreement. No modification or amendment of any provision of this Agreement will be binding on any Member unless in writing and signed by all the Members.

10.4 *Attorney Fees*. In the event of any suit or action to enforce or interpret any provision of this Agreement (or that is based on this Agreement), the prevailing party is entitled to recover, in addition to other costs, reasonable attorney fees in connection with the suit, action, or arbitration, and in any appeals. The determination of who is the prevailing party and the amount of reasonable attorney fees to be paid to the prevailing party will be decided by the court or courts, including any appellate courts, in which the matter is tried, heard, or decided.

10.5 *Further Effect*. The parties agree to execute other documents reasonably necessary to further effect and evidence the terms of this Agreement, as long as the terms and provisions of the other documents are fully consistent with the terms of this Agreement.

10.6 *Severability*. If any term or provision of this Agreement is held to be void or unenforceable, that term or provision will be severed from this Agreement, the balance of the Agreement will survive, and the balance of this Agreement will be reasonably construed to carry out the intent of the parties as evidenced by the terms of this Agreement.

10.7 *Captions*. The captions used in this Agreement are for the convenience of the parties only and will

not be interpreted to enlarge, contract, or alter the terms and provisions of this Agreement.

10.8 *Notices*. All notices required to be given by this Agreement will be in writing and will be effective when actually delivered or, if mailed, when deposited as certified mail, postage prepaid, directed to the addresses first shown above for each Member or to such other address as a Member may specify by notice given in conformance with these provisions to the other Members.

IN WITNESS WHEREOF, the parties to this Agreement execute this Operating Agreement as of the date and year first above written.

MEMBERS:

EFREN GUTIERREZ RODRIGUEZ Efren Gutierrez Rodriguez

Printed/Typed Name Signature

FRANCISCO GUTIERREZ CORRAL Francisco Gutierrez Corral

Printed/Typed Name Signature

'07 NOV 15 Liqr. Lic. 001113

Listing of Members – Schedule 1

LIMITED LIABILITY COMPANY OPERATING AGREEMENT
FOR SUPER CARNICERIA Y PESCADERIA LOS ALAMOS # 2, L.L.C.
LISTING OF MEMBERS

As of the 02 day of APRIL, 2007, the following is a list of Members of the Company:

NAME:	ADDRESS:
EFREN GUTIERREZ RODRIGUEZ	6441 W. McDOWELL Rd # 1051_ Phoenix, AZ 85035
FRANCISCO GUTIERREZ CORRAL	1486 S. Beach Ct Denver, CO 80219

Authorized by Member(s) to provide Member Listing as of this 02 day of APRIL, 2007.

EFREN GUTIERRZ RODRIGUEZ Printed/Typed Name	Efren Gutierrez Rodriguez Signature
FRANCISCO GUTIERREZ CORRAL Printed/Typed Name	Francisco Gutierrez Corral Signature
Printed/Typed Name	Signature
Printed/Typed Name	Signature

'07 NOV 15 Lic. Lic. AM11:13

AFFIDAVIT OF PUBLICATION
For Corporation Commission

WEST VALLEY BUSINESS
200 W. Wigwam Blvd., Litchfield Park, AZ 85340
Phone: (623) 535-8439 • Fax: (623) 935-2103

RECEIVED
NOV 14 2007
ARIZONA CORP. COMMISSION
CORPORATIONS DIVISION

STATE OF ARIZONA
COUNTY OF MARICOPA

I, Elliott Freireich, publisher, am authorized by the publisher as agent to make this affidavit of publication. Under oath, I state that the following is true and correct.

The West Valley Business is a newspaper which is published **(check one)** ☐ daily, ☑ weekly or more often, is of general circulation and is in compliance with the Arizona Revised Statutes §§ 10-140.34 & 39-201.A & B. (Please note, publication has to be completed within 60 days of filing.) The notice will be/has been published three (3) consecutive times in the newspaper listed above.

DATES OF PUBLICATION

1) June 12, 2007.
2) June 15, 2007.
3) June 19, 2007.

THE NAME OF THE CORPORATION Super Carniceria y Pescaderia Los Altamo #2, LLC

CORPORATE FILE NUMBER L-1356384-4
Note: This number is found on a top corner of the Commission approved document.

TYPE OF DOCUMENT Articles of Organization
Example: Merger between party a and party b; name change from/to; foreign authority with a fictitious name; articles of information; application for authority; articles of organizations; amendment; Etc..

AUTHORIZED SIGNATURE [signature]

SUBSCRIBED AND SWORN TO BEFORE ME ON THE
12 DAY OF June (Month) 2007 (YEAR)

NOTARY SIGNATURE: Rene Leeann Hartmann

NOTARY PUBLIC
STATE OF ARIZONA
Maricopa County
RENE LEEANN HARTMANN
My Appointment Expires 09/30/07

It is not necessary to attach a clip of the published notice.

W:\WV_BIZ\WVBiz Content\SBAFFIDAV.INDD

West Valley View

West Valley View
200 West Wigwam Blvd
Litchfield Park, AZ 85340-4642
Tel : (623) 535-8439

Display

Advertising

Receipt

Super Carniceria y Pescaderia
Los Alamos #2, LLC
10730 W. Lower Buckeye Rd.
Avondale, AZ
85323

Cust#	28581		
Cust Tel#	(623) 204-2859		
Ad#	99138	**Inches:**	3.5000
Date:	06/11/07	**Columns:**	1.00
Salesperson:	Legal Ads		

Edition	Insertion Date		Amount
West Valley View	06/12/07		29.65
		rounding error	-0.71
West Valley View	06/15/07		29.65
West Valley View	06/19/07		29.65

		Total:	88.24
		LP1	1.76
			0.00
		Grand Total	90.00
PAID	**06/06/07**	**Cash**	-90.00
		Balance Due	0.00

Public Notice

ARTICLES OF ORGANIZATION HAVE BEEN FILED IN THE OFFICE OF THE ARIZONA CORPORATION COMMISSION FOR

I.Name:SUPERCARNICERIA Y PESCADERIA LOS ALAMOS #2, LLC, L-1356384-4.

II. The address of the known place of business is: 10730 W. Lower Buckeye Rd., Avondale, AZ 85323.

III. The name and street address of the Statutory Agent is: Efren Gutierrez Rodriguez, 6441 W. McDowell Rd., #1051, Phoenix, AZ 85035.

B. Management of the limited liability company is reserved to the members. The names and addresses of each person who is a member are: Efren Gutierrez Rodriguez, Member/Manager, 6441 W. McDowell Rd., #1051, Phoenix, AZ 85035

Francisco Gutierrez Corral, Member/Manager, 1485 S. Beach Ct., Denver, CO 80219

Published in the West Valley View, and the West Valley Business, on June 12, June 15 and June 19, 2007.

'07 NOV 15 Liqr. Lic. AM11:13

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'07 NOV 15 Liqr. Lic. AM11:13

City of Avondale
CITY CLERK'S OFFICE

DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

- ☐ OFF TRACK BETTING
- ☒ LIQUOR LICENSE SERIES # 10
- ☐ EXTENSION OF PREMISES

ROUTING:

- ☐ POLICE DEPARTMENT
- ☐ DEVELOPMENT SERVICES
- ☒ FIRE DEPARTMENT

APPLICANT'S NAME: EFREN GUTIERREZ-RODRIGUEZ

BUSINESS NAME: SUPER CARNICERIA Y PESCADERIA LOS ALAMOS #2

ADDRESS: 10730 WEST LOWER BUCKEYE ROAD

CITY: AVONDALE **STATE:** AZ **ZIP CODE:** 85323

DEPARTMENTAL COMMENTS:

☒ APPROVED
☐ DENIED

Jerry L. Gomez
SIGNATURE

12/5/07
DATE

Assistant Fire Marshal
TITLE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: DECEMBER 17, 2007
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: DECEMBER 4, 2007

City of Avondale
CITY CLERK'S OFFICE

DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

- ☐ OFF TRACK BETTING
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ROUTING:

- ☒ POLICE DEPARTMENT
- ☐ DEVELOPMENT SERVICES
- ☐ FIRE DEPARTMENT

APPLICANT'S NAME: EFREN GUTIERREZ-RODRIGUEZ

BUSINESS NAME: SUPER CARNICERIA Y PESCADERIA LOS ALAMOS #2

ADDRESS: 10730 WEST LOWER BUCKEYE ROAD

CITY: AVONDALE **STATE:** AZ **ZIP CODE:** 85323

DEPARTMENTAL COMMENTS:

☑ APPROVED
☐ DENIED

SIGNATURE

Police Chief
TITLE

12/3/07
DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: DECEMBER 17, 2007
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: DECEMBER 4, 2007

City of Avondale
CITY CLERK'S OFFICE

DEPARTMENTAL REVIEW FORM

TYPE OF LICENSE:

- ☐ OFF TRACK BETTING
- ☒ LIQUOR LICENSE SERIES # 10
- ☐ EXTENSION OF PREMISES

ROUTING:

- ☐ POLICE DEPARTMENT
- ☒ DEVELOPMENT SERVICES
- ☐ FIRE DEPARTMENT

APPLICANT'S NAME: EFREN GUTIERREZ-RODRIGUEZ

BUSINESS NAME: SUPER CARNICERIA Y PESCADERIA LOS ALAMOS #2

ADDRESS: 10730 WEST LOWER BUCKEYE ROAD

CITY: AVONDALE **STATE:** AZ **ZIP CODE:** 85323

DEPARTMENTAL COMMENTS:

☑ APPROVED
☐ DENIED

SIGNATURE

Development Services Director
TITLE

12/4/07
DATE

THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: DECEMBER 17, 2007
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: DECEMBER 4, 2007

City of Avondale

DEVELOPMENT SERVICES

MEMORANDUM

DATE: December 3, 2007

TO: Linda Farris, City Clerk

PREPARED BY: Jennifer Fostino, Zoning Specialist (623) 333-4022

SUBJECT: Series 10 Liquor License for Super Carniceria Pescaderia Los Alamos
10730 W Lower Buckeye Road

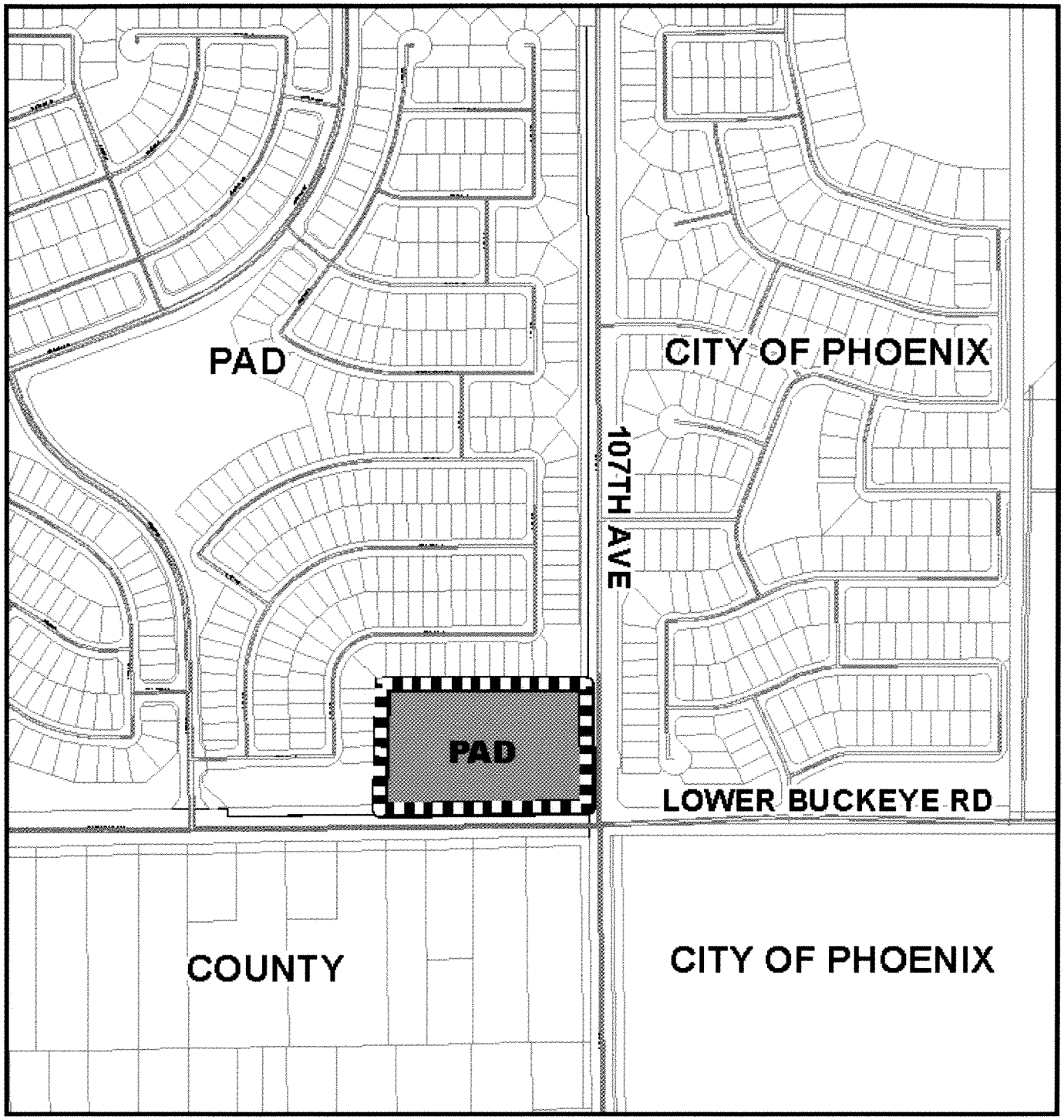
The site is located at the northwest corner of 107th Avenue and Lower Buckeye Road within the Sanctuary shopping center. The building is existing.

State Statute requires a minimum separation of 300 feet from K-12 schools or church buildings. It also requires 300 feet from fenced recreational areas that are part of a school building. There are no church buildings, K-12 school buildings, or fenced recreational areas associated with K-12 schools within 300-feet of the proposed site.

The General Plan designates the property as Commercial. The subject property is located within the Sanctuary PAD (Planned Area Development). The PAD includes areas for both residential and commercial development. The northwest corner of 107th Avenue and Lower Buckeye Road allows for C-1 (Neighborhood Commercial) uses. A meat market and grocery store is a permitted use in the C-1 Zoning District.

There are no zoning or separation issues with the site.

Attachment: 2007 Aerial Site Map
300 Foot Separation Map
Zoning Vicinity Map



Zoning Vicinity Map

Avondale

Subject Property

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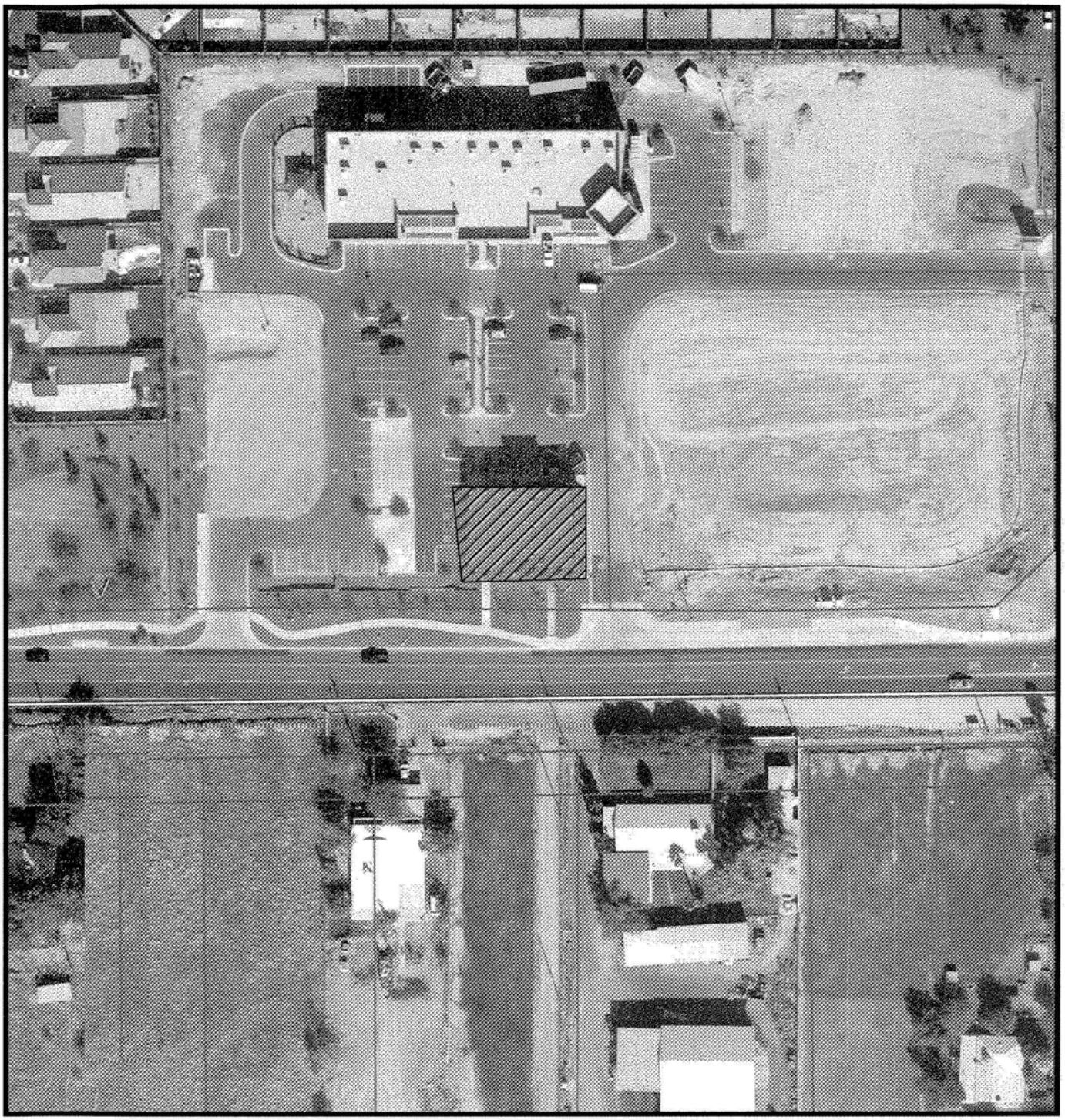

2007 Aerial Photograph

Avondale

SUPER CARNICERIA
PESCADERIA LOS ALAMOS

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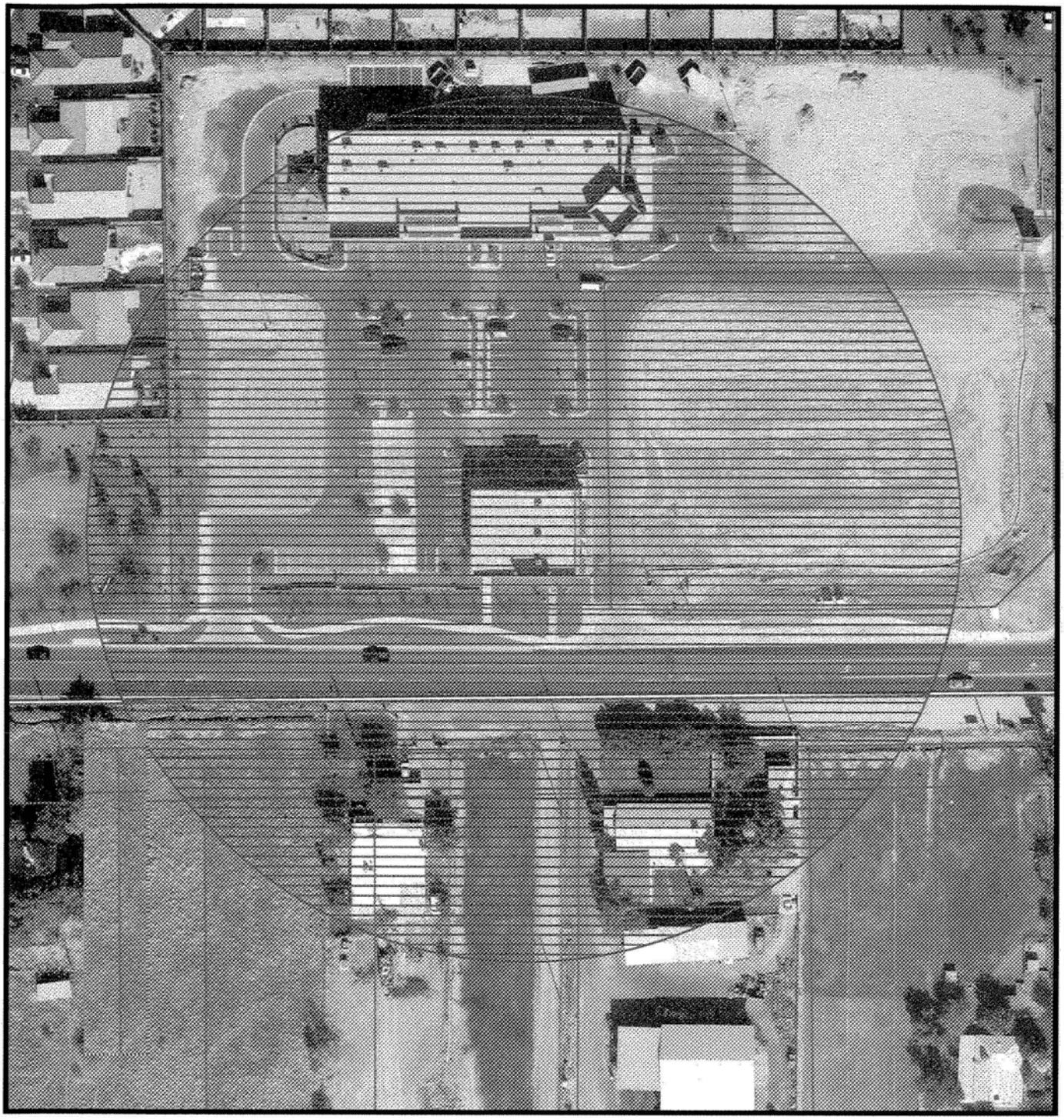
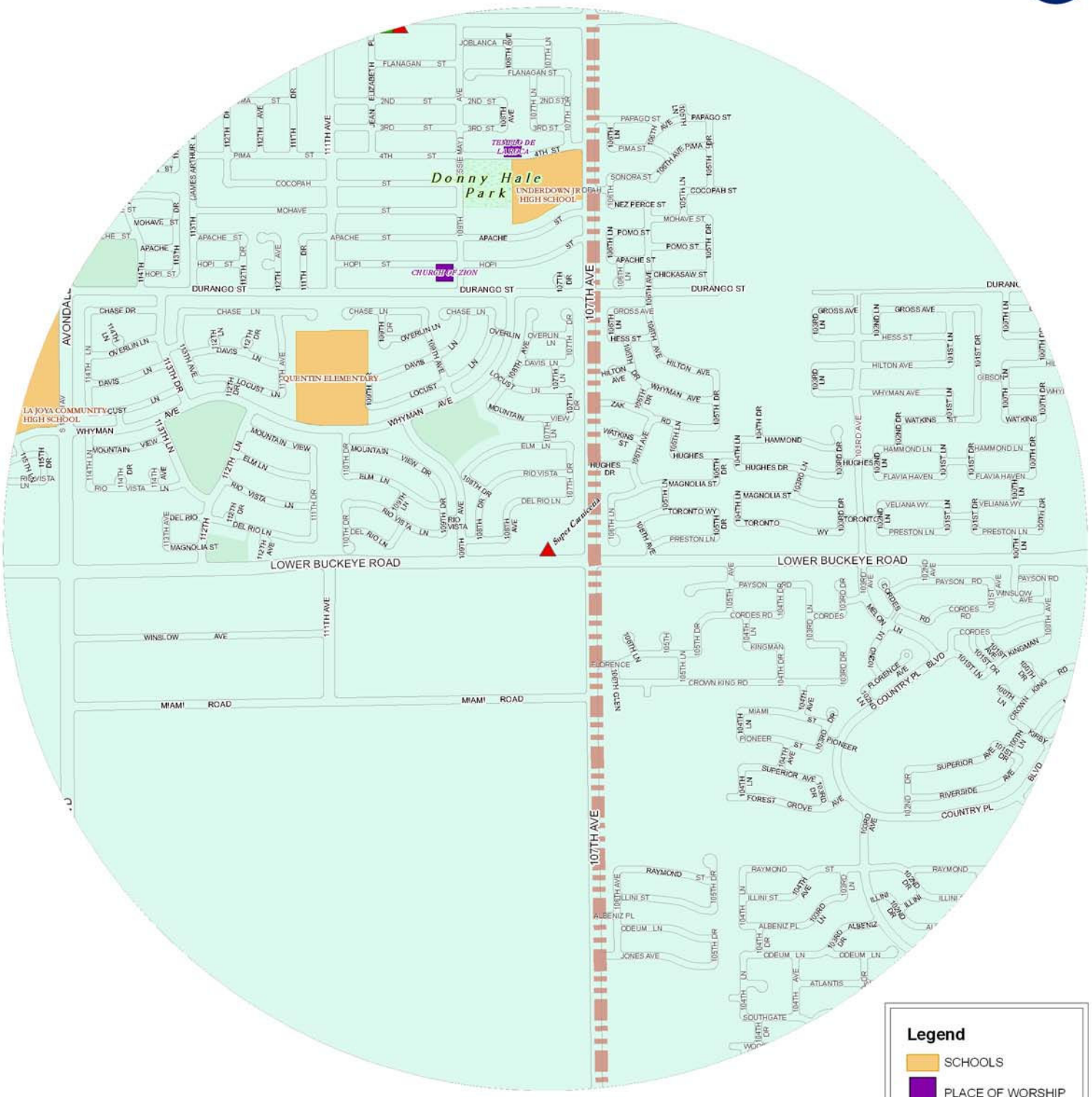


2007 Aerial Photograph

Avondale

300 FOOT SEPARATION

N


Donny Hale Park
UNDERDOWN JR HIGH SCHOOL
QUENTIN ELEMENTARY
LA JOYA COMMUNITY HIGH SCHOOL
CHURCH OF ZION
TEMPLO DE LAUREL
Super Carniceria
LOWER BUCKEYE ROAD
107TH AVE
AVONDALE
MIAMI ROAD
DURANGO ST
WHYMAN AVE
WINSLOW AVE
PAYSON RD
CORDES RD
CROWN KING RD
COUNTRY PL BLVD
RIVERSIDE AVE
SUPERIOR AVE
FOREST GROVE AVE
PIONEER ST
KINGMAN ST
FLORENCE AVE
MELON LN
RAYMOND ST
ILLINI ST
ALBENIZ PL
ODEUM LN
ATLANTIS
SOUTHGATE
JONES AVE
KIRBY
TORONTO WY
PRESTON LN
VELIANA WY
FLAVIA HAVEN
HAMMOND LN
WATKINS ST
GROSS AVE
HESS ST
HILTON AVE
GIBSON
HUGHES DR
MAGNOLIA ST
ZAK RD
CHICKASAW ST
POMO ST
NEZ PERCE ST
SONORA ST
PAPAGO ST
PIMA ST
COCOPAH ST
MOHAVE ST
APACHE ST
HOPI ST
CHASE DR
CHASE LN
OVERLIN LN
DAVIS LN
LOCUST LN
MOUNTAIN VIEW
ELM LN
RIO VISTA
DEL RIO LN
FLANAGAN ST
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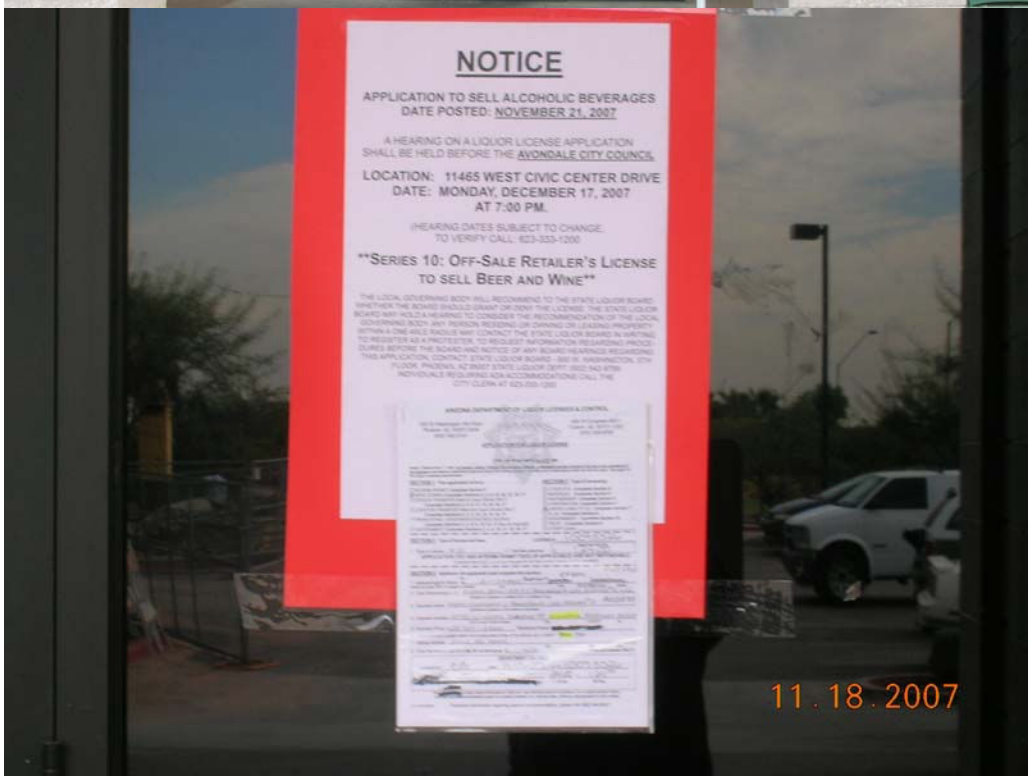
NOTICE
APPLICATION TO SELL ALCOHOLIC BEVERAGES
DATE POSTED: NOVEMBER 21, 2007
A HEARING ON A LIQUOR LICENSE APPLICATION
SHALL BE HELD BEFORE THE AVONDALE CITY COUNCIL
LOCATION: 11465 WEST CIVIC CENTER DRIVE
DATE: MONDAY, DECEMBER 17, 2007
AT 7:00 PM.
(HEARING DATES SUBJECT TO CHANGE.
TO VERIFY CALL: 623-333-1200
**SERIES 10: OFF-SALE RETAILER'S LICENSE
TO SELL BEER AND WINE**
11.18.2007

RE: Petition to oppose liquor license issuance to
Super Carniceria y Pescaderia Los Alamos #2 ,
10730 W. Lower Buckeye, Avondale

Super Carniceria is in the Sanctuary retail pad that includes Brighter Angels daycare, Hungry Howie's, State Farm, 2 hair salons, soon to open Sonic, and others. Nice for a residential area but not once you add alcohol.

We oppose the issuance of a liquor license in our neighborhood because we believe it will bring the quality of our neighborhoods down. In comparing other markets that sell liquor there is negative activity that follows. It's unsightly when patrons are walking home with 12 packs of beer, loiterers at the doors and/or in the parking lot, trash in the streets, rowdy speeders, transients, crime/police, intoxicated people, etc. There is already a drive-thru liquor store, 2 local bars, Fry's grocery store that sells beer, wine & liquor and Circle K, small restaurants that sell beer 1 mile away on Buckeye Road stretching from 107th to 115th Ave. We don't need all that activity where it is currently very residential.

The surrounding neighborhoods (Sanctuary and Sandhill Trails) have experienced enough shootings, graffiti and break-ins costing homeowners and HOA money. Residents are working hard to keep a decent quality of living to where we live. To allow the sale of alcohol in an area that is in the path of students walking home from school, also entering into the market for soda and candy, as well as the increased traffic that Sonic will bring is a bad idea. Especially in the evening hours and weekends. Please deny liquor license.

UNDERSIGNED PEOPLE OPPOSING...

Name: Monica Veronica Lomeli
Signature: [illegible]
Address: 10606 W Magnolia Tolleson 85353
Proximity: 2 blk East of Market

Name: Marilu Astudillo
Signature: Marilu Astudillo
Address: 10740 N Lower Buckeye Rd.
Proximity: Same Retail pad

Brighter Angels Learning Center.

Name: Maritza Deep Sandoval
Signature: Maritza Sandoval
Address: 10417 W Georgia Ave.
Proximity: Very close
Same retail pad.

Name: [illegible]
Signature: [illegible]
Address: 10622 S 10th Lane
Proximity: 2 blk East of Market

Name: Amy [illegible]
Signature: [illegible]
Address: ~~[illegible]~~ 10740 W Lower buckeye
Proximity: Same Retail Pad

Name: Frank Nu[illegible]
Signature: [illegible]
Address: 2729 S 108th Ave
Proximity: Back yard

RE: Petition to oppose liquor license issuance to
Super Carniceria y Pescaderia Los Alamos #2 ,
10730 W. Lower Buckeye, Avondale

Super Carniceria is in the Sanctuary retail pad that includes Brighter Angels daycare, Hungry Howie's, State Farm, 2 hair salons, soon to open Sonic, and others. Nice for a residential area but not once you add alcohol.

We oppose the issuance of a liquor license in our neighborhood because we believe it will bring the quality of our neighborhoods down. In comparing other markets that sell liquor there is negative activity that follows. It's unsightly when patrons are walking home with 12 packs of beer, loiterers at the doors and/or in the parking lot, trash in the streets, rowdy speeders, transients, crime/police, intoxicated people, etc. There is already a drive-thru liquor store, 2 local bars, Fry's grocery store that sells beer, wine & liquor and Circle K, small restaurants that sell beer 1 mile away on Buckeye Road stretching from 107th to 115th Ave. We don't need all that activity where it is currently very residential.

The surrounding neighborhoods (Sanctuary and Sandhill Trails) have experienced enough shootings, graffiti and break-ins costing homeowners and HOA money. Residents are working hard to keep a decent quality of living to where we live. To allow the sale of alcohol in an area that is in the path of students walking home from school, also entering into the market for soda and candy, as well as the increased traffic that Sonic will bring is a bad idea. Especially in the evening hours and weekends. Please deny liquor license.

UNDERSIGNED PEOPLE OPPOSING...

Name: Gabriela Gomez
Signature: [illegible]
Address: 10605 W Magnolia St Tolleson
Proximity: Duplex

Name: Kevin Koch
Signature: [illegible]
Address: 10751 W Mountain View Avondale
Proximity:

Name: DONALD FREY
Signature: Donald Frey
Address: 2639 S. 106 LANE
Proximity:

Name: Julio Lopez
Signature: [illegible]
Address: 10538 W Lower Buckeye Way
Proximity:

Name: Mary Hopkins
Signature: Mary Hopkins
Address: 5617 S 106 LN
Proximity:

Name: Gabriel Fuerza
Signature: [illegible]
Address: 2402 S 106th Lane
Proximity:

RE: Petition to oppose liquor license issuance to
Super Carniceria y Pescaderia Los Alamos #2, 10730 W. Lower Buckeye, Avondale

UNDERSIGNED PEOPLE OPPOSING…

Name: ROSALIO DE LA TORRE
Signature: [illegible]
Address: 2725 S 108TH AVE
Proximity: BACK YARD

Name: Maria S. Adame
Signature: Maria Adame
Address: 2710 S. 108TH Ave
Proximity: 1-Block

Name: Maria Rodriguez
Signature: [illegible]
Address: 10724 W del RIO
Proximity: 1-Block

Name: Lorenzo Martinez
Signature: [illegible]
Address: 2501 S. 107 Dr.
Proximity: 2 Block

Name: Aida Velez
Signature: [illegible]
Address: 10622 W Hilton AVE
Proximity: 4 Block

Name: Marco Jaramillo
Signature: Marco Jaramillo
Address: 10610 W Toronto Way
Proximity: 1 BLOCK

Name: Larri Miller
Signature: Larri Miller
Address: 10630 W Hilton Ave
Proximity: 4 Blocks

Name: Miguel Padilla
Signature: [illegible]
Address: 2421 S. 109th Dr.
Proximity: 1 Block away

Name: Heather Ortiz
Signature: [illegible]
Address: 10631 W. Hilton
Proximity: 4 Blocks

Name: William J Moore
Signature: [illegible]
Address: 10731 W Mountain View
Proximity: 1 Block

Name: ART VALLES
Signature: [illegible]
Address: 10752 W LOCUST AVE
Proximity: 3 BLOCKS

Name: Jennifer Schoes
Signature: Jennifer Schoes
Address: 10760 W Overlin Ln
Proximity: 1/4 mile

Name: Maria G Teran
Signature: [illegible]
Address: 10540 W Preston Way
Proximity: 3 BLOCKS

Name: Lee & Mary Jones
Signature: Mary Jones
Address: 10548 W Magnolia St
Proximity: 2 Blocks

RE: Petition to oppose liquor license issuance to
Super Carniceria y Pescaderia Los Alamos #2 ,
10730 W. Lower Buckeye, Avondale

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UNDERSIGNED PEOPLE OPPOSING...

Name: Gabriela Gomez
Signature:
Address: 10605 W. Magnolia St Tot 12
Proximity: 107 + Lower Buckeye

Name: Robin Peterson
Signature: Robin Peterson
Address: 10526 W. Magnolia St
Proximity: 107th & Lower Buckeye

Name: Maureen Maloney
Signature: Maureen Maloney
Address: 10614 W. Magnolia St
Proximity: 107th + LWR Buckeye

Name: Barry Maupin
Signature:
Address: 10524 W. Magnolia St.
Proximity: 107th + Lower Buckeye

Name: Natalie V. Lane
Signature:
Address: 10617 W. Magnolia St.
Proximity: 107th + Lower Buckeye

Name: Monique Gibbs
Signature:
Address: 10524 W. Magnolia St
Proximity: 107th ave & Lower Buckeye

RE: Petition to oppose liquor license issuance to
Super Carniceria y Pescaderia Los Alamos #2, 10730 W. Lower Buckeye, Avondale

UNDERSIGNED PEOPLE OPPOSING...

Name: Norma Morua
Signature: Norma Morua
Address: 10618 W Magnolia St
Proximity:

Name: P. DAHMEN
Signature: P. Dahmen
Address: 10625 W. HUGHES DR
Proximity: 107th & HUGHES

Name: Maria Meza
Signature: Maria Meza
Address: 10513 W. Toronto Way
Proximity:

Name: Amanda Valenzuela
Signature: Amanda Valenzuela
Address: 10613 W Hughes Dr
Proximity: 107th Lower Buckeye

Name: Sonal Dwivedi
Signature: Sonal Dwivedi
Address: 10605 W. Hughes Dr
Proximity: Block 107th & Lower Buckeye

Name: Dawn Helm
Signature: Dawn Helm
Address: 10617 W. Watkins St
Proximity: 107th & Zak

Name: Amy McCarty
Signature: Amy McCarty
Address: 10606 W. Hughes
Proximity: 107th & Lower Buckeye

Name: Brittany Crenshaw
Signature: Brittany Crenshaw
Address: 10630 W. Watkins St
Proximity: 107th & Watkins

Name: Laura Aguirre
Signature: Laura Aguirre
Address: 10610 W Hughes Dr
Proximity: 107th / Lower Buckeye

Name: Cindy Pelrine
Signature: Cindy Pelrine
Address: 10959 W. Mountain View
Proximity: 1/2 mile

Name:
Signature: George Walker
Address: 10619 W HUGHES
Proximity: 1/2 Block

Name: Robert Schneider
Signature: Robert Schneider
Address: 10619 W. Magnolia St
Proximity: 1/2 Block

Name: Kory Yazzie
Signature: Kory Yazzie
Address: 10622 W. Hughes
Proximity: 1/2 block

Name: THOMAS BRACKETT
Signature: [illegible]
Address: 10607 W. HUGHES DR
Proximity: 1/2 Block

RE: Petition to oppose liquor license issuance to
Super Carniceria y Pescaderia Los Alamos #2, 10730 W. Lower Buckeye, Avondale

UNDERSIGNED PEOPLE OPPOSING...

Name: Gary Phillips
Signature:
Address: 10826 W. Hughes
Proximity: 2 blocks

Name: [illegible]
Signature:
Address: 10609 W. Watkins St
Proximity: 107 - L. Buckeye

Name: Eugene Helm
Signature:
Address: 10617 W Watkins St
Proximity: 2 blocks

Name: Frank Gomez
Signature:
Address: 10602 W. Magnolia St
Proximity: 107 & Lower Buckeye

Name: M. TORRES
Signature:
Address: 2266 S 105TH DR
Proximity: 2 BLK

Name: Natalie Aguirre
Signature: Natalie Aguirre
Address: 2210 S. 105 Drive
Proximity: 107 & Buckeye

Name: Jy Hernandez
Signature:
Address: 2414 S. 105 dr.
Proximity: 3 yrs

Name: Tom Lang
Signature:
Address: 10533 W. Hilton Ave
Proximity: 5 blocks

Name: Monica Miller
Signature: 10605 W. Magnolia St.
Address: Tolleson AZ 85353
Proximity: 2 blocks

Name:
Signature:
Address:
Proximity:

Name:
Signature:
Address:
Proximity:

Name:
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Proximity:

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Name:
Signature:
Address:
Proximity:

RE: Petition to oppose liquor license issuance to
Super Carniceria y Pescaderia Los Alamos #2, 10730 W. Lower Buckeye, Avondale

UNDERSIGNED PEOPLE OPPOSING…

Name: Shyler Gibbs
Signature: [illegible]
Address: 10520 W. Magnolia
Proximity: 107th Ave

Name: Christina Navarrete
Signature: C Navarrete
Address: 10516 W. Magnolia
Proximity: 106th Ave

Name: Norma Sánchez
Signature: Norma Sánchez
Address: 10525 W Magnolia St Tolleson AZ
Proximity: 107 y Lowerbuckeye

Name: Maria Muñoz
Signature: 10544 W. Magnolia
Address: St. Tolleson
Proximity: 107th Lowerbuckeye

Name: Javier Perez
Signature: [illegible]
Address: 10557 W Toronto
Proximity: 107 & L. Buckeye

Name: Melissa Boros
Signature: Melissa Boros
Address: 10562 W Toronto Way
Proximity: 107 & Lower Buckeye

Name: Elba Figueroa
Signature: Elba Figueroa
Address: 2628 S. 106th Ave
Proximity: 107. Lower Buckeye

Name: Richard Woods
Signature: [illegible]
Address: 10553 W Toronto
Proximity: 107 Lowell Buckeye

Name: Naomi Lopez
Signature: Naomi Lopez
Address: 10538 W. Toronto Way
Proximity: 107th ave Lower Buckeye

Name: Sharon Allen
Signature: Sharon Allen
Address: 10609 W Magnolia
Proximity: 107th / L. Buckeye

Name: Israel Rizzuzzo
Signature:
Address: 2202 105 Dr.
Proximity: 1/2 mile

Name: Laura Padilla
Signature: Laura Padilla
Address: 10533 W. Hughes Dr.
Proximity: 107 Av. y ZAK.

Name: Dolores Iniguez
Signature: [illegible]
Address: 10536 & Lower Buckeye
Proximity:

Name: Raymond Duran
Signature: Raymond Duran
Address: 10535 W Toronto Way
Proximity: 107 Av y Buckeye

RE: Petition to oppose liquor license issuance to
Super Carniceria y Pescaderia Los Alamos #2, 10730 W. Lower Buckeye, Avondale

UNDERSIGNED PEOPLE OPPOSING...

Name: Cristina Ramos
Signature: Cristina Ramos
Address: 2721 S. 108th Dr.
Proximity: 2 block

Name: Allen Zimbelman
Signature:
Address: 2710 S 108th Dr
Proximity: 2 Blocks

Name: Sherri Mullah
Signature:
Address: 10755 W Del Rio Ln.
Proximity: Behind Wall

Name: Sheree Tucker
Signature:
Address: 10758 W Del Rio Ln
Proximity: Behind wall

Name: ISMAEL Perez
Signature:
Address: 10626 W PARADISE
Proximity: 1/2 MILE

Name: Don Gerhart
Signature: 10521 W. Hilton Ave
Address: Tolleson, AZ 85353
Proximity: 1/4 mile

Name: Tim Baker
Signature: Tim Baker
Address: 10537 W. Hilton Ave.
Proximity: 1/2 mile

Name:
Signature:
Address:
Proximity:

Name:
Signature:
Address:
Proximity:

Name:
Signature:
Address:
Proximity:

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Name:
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Proximity:

Name:
Signature:
Address:
Proximity:

Name:
Signature:
Address:
Proximity:

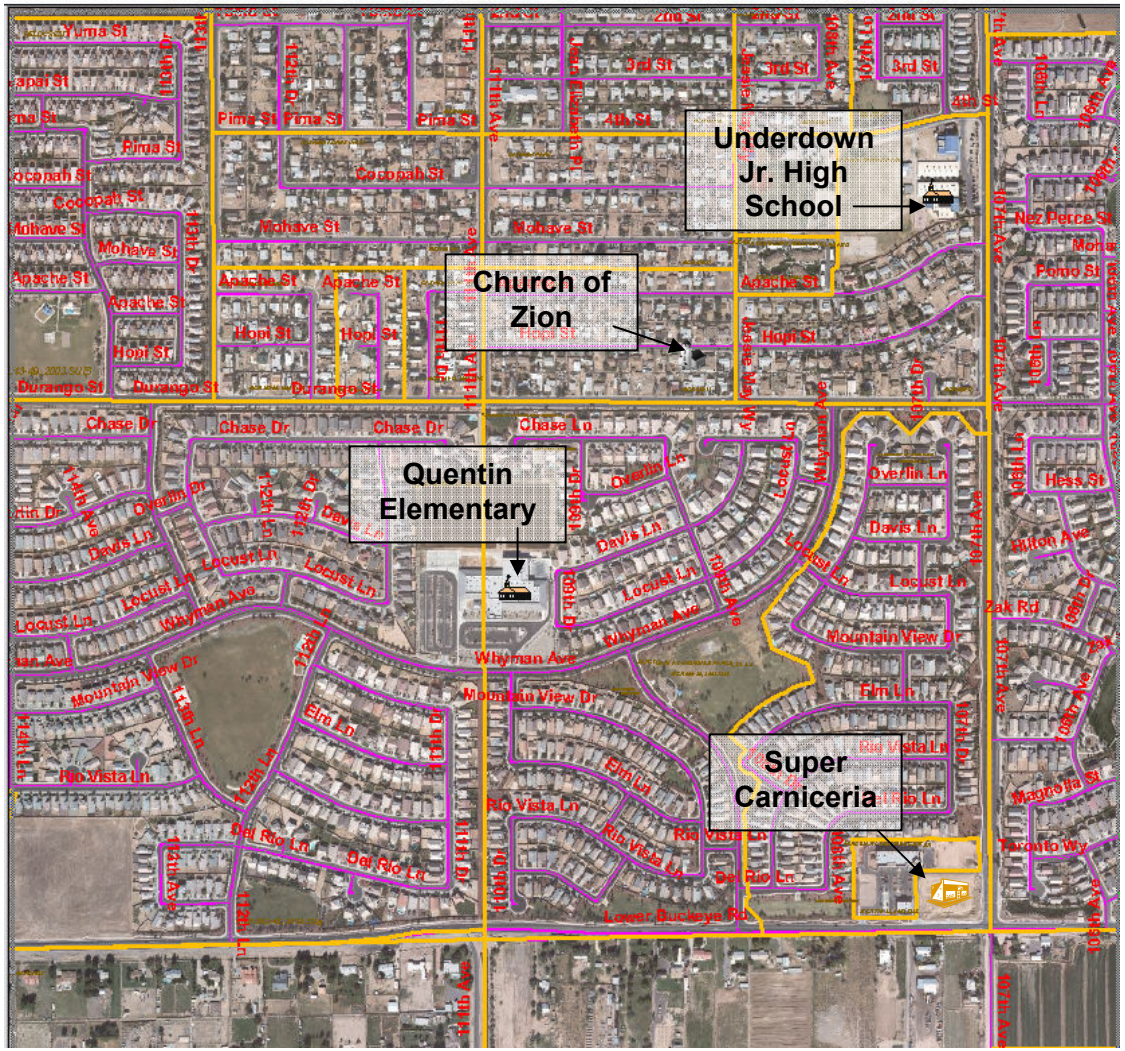
LOCAL RESIDENTS IN FAVOR OF LIQUOR LICENSE FOR SUPER CARNICERIA LOS ALAMOS #2 10730 W. LOWER BUCKEYE RD. AVONDALE, ARIZONA

NAME	ADDRESS	PHONE
Marcos Bojorquez	10880 W. Miami	623-698-3224
Gary Jensen	2173 E Morton	480-838-2274
Maria Luis	1440 W. Verna	(623) 271-6415
Jose Hernandez	10960 W. Elm	
[illegible]		
[illegible]		
Jenny Segura	10566 W Sherman	6024351904
Jesus Rodriguez	31	6024359910
Francisco	PARRA	
Jose	Beltran	
Juan San Miego		
Guadalupe Franco	7021 W. McDowell	602 643-9491
Manuel Zarates	10981 W Elm Ln	(602) 301-9731
Laine Zarates	10981 W Elm Ln	(602) 301-9731
Kathy Mueller	11030 W. Elm	623 936 9236
Alfredo Avila		602-561-0046
[illegible]	623 826 3696	
[illegible]		602-693 9601
Ricardo	480 226 3185	
Ricardo Sr.	2221 E Augusta Chandler Aus	480 226 3185
[illegible]		
[illegible]		
Dani		
[illegible]	2745 [illegible]	

Martin Bolaños C.		
Jose Muñoz		
Olivia Jaime	10515 W. Chickasaw St Tolleson	623-225-9117
Roberto Lavato	#96 W. Cordes	602-335-90-15
Amado Rodriguez		
Rick Navarrete	10309 W. Jacinto	
Joe Palma	3919 S 100 Glenn	
Joe Yurkovich	10438 W Illini Tolleson	623 875 4401
Carlos Cadena		623-688-6884
[illegible] Portillo	10113 W. Pasadena	602 4105 [illegible]
Mary Estrada	PO BOX 814 Cashion	(602) 415-8201
Cecilia Cortez	10358 W Elm Avondale	623-936-1147
Enrique Tracy	2601 S 108 TH DR	602-244-7284
Juvenal Garcia	2601 S 108 TH DR	623-878-22-32
Rosalina Gallegos	16252 W Sierra St	623 703 3169
Patricia Hidalgo	751 W Polk St	623-936-2693
Antonio Rocha	11165 W. Virginia	623-849-0182
Richie Vasquez	201 S 4th Ave	(623) 349-8834
Jesus Estrada	10540 W. Magnolia St.	(623) 261-9289
Alvaro Garcia		
Jose S Sanchez		
Mary Valdez	10018 W. 2nd Rd	602 487-7147
Omar Cera	10018 W. 2nd Rd	480-233-8237
Patricia Valdez	1812 E. St. Anne	602 487-7147
Encarnación Castillo	(602) 626-8895	3010 W Colter St Apt 51
Israel Ortega	(623) 10144 W. Elm Av	(623) 703-0268
Lucas Gomez		480 734 0824
Beatriz Perez		623 936 4557
Gregorio		
JOSE HEREDIA		

E. Portillo	(602) 877-0683	10609 W. Apache St.
Karla Garcia	1215 W. Van Buren	602-486-9735
Jose Gonzalez	(602) 510-47-92	
Juana Santoyo	(623) 474-2078	
Alan Sanchez	602 299 9978	
Daniel Ruiz	602-828-2235	
Norma Rodriguez	5212 S. 108 Ave	623-249-4291
Jose Sanchez	602 518 2781	
Oscar Felix	602 330 5042	
Abraham Jimenez		
Antonio Galindo	623-925-9709	4005 S. 99th Dr
Jorge L. Rivera	623-243-9181	5212 S 109th Dr
Susana Contreras	10207 W. Alpine Pl.	623-478-9820
MARIA ROMERO	623-936-6056	
Jared Heatherberry		928 713 2454
MARISA SILVA	(623) 206 8565	6987 W Rose Ln
Ana Pacheco	602-413-1056	
Mariano Quintana	623-204-69-69	
BENA OCHOA	602-718-5844	
Maricela Madrigal	(602) 418-4108	
Francisco Juarez		
[illegible]	602 384 7261	
Guadalupe [illegible]	602 380-9[illegible]	
[illegible]	(623) 204-1580	1324 N. [illegible]
Luz Vasquez	623 705 5572	14294 W Indian School Rd
[illegible]	623 907-3260	10740 W. Lower Buckeye Rd.
Louis Villa	623-936-0095	
Thao Tran	623 936 0095	10740 W. Lower Buckeye Rd
Alonso Mendez	623-907-9744	10740 W. LOWER BUCKEYE
Cecilia Hernandez	623 266 3535	10740 W. Lower Buckeye

Ricardo Diego	10401 w calle de oro	602 348 3463
	7049 W MONTE B	623-826-96-36
Julio Echa.	10353 w. Atlanta	623-256-6788
Pancho, Regulla	10475 W. mont B	
Reinaldo Moreira	10974 w Rio vista La	360-733 7916



Quentin Elementary – 2,406 ft (est)

Underdown Jr. High School – 3,500 ft (est)

Church of Zion – 2,914 ft (est)

CITY COUNCIL REPORT

SUBJECT:
Appointments to the CIP Committee, IPMC Board of Appeals, Municipal Arts Committee, Social Services Advisory Board and Water Wastewater Adviosry Board

MEETING DATE:
December 17, 2007

TO: Mayor and Council

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

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting approval of the Council Sub-comittee recommendations for the appointment of members to the CIP Committee, IPMC Board of Appeals, Municipal Arts Committee, Social Services Advisory Board and Water Wastewater Adviosry Board.

BACKGROUND:

On December 6, 2007 a Council Sub-commitee consisting of Vice Mayor Wolf and Council Member Lynch interviewed several citizens interested in serving on the CIP Committee, IPMC Board of Appeals, Municipal Arts Committee, Social Services Advisory Board and Water Wastewater Adviosry Board.

DISCUSSION:

Based on the interviews conducted on December 6, 2007, the sub-committee is making the following recommendations for appointment:

	Position	Term Expiration
CIP – Zone 4		
Sandi Nielson	Regular	6/30/11
IPMC Board of Appeals		
Otis Richey	Regular	12/31/10
Social Services Advisory Board		
Marjorie Stinson	Regular	12/31/10
Lawrence Thomas	Regular	12/31/10
Water Wastewater Advisory Board		
Sandi Nielson	Regular	6/30/11
Municipal Arts Committee		
Michael Arangio	Regular	12/31/10
Katherine Gillen	Regular	12/31/10
David Sours	Regular	12/31/10
Ronald Talley	Regular	12/31/10

The sub-committee will meet again on Tuesday, December 18, 2007 to interview additonal candidates. The Council will consider the sub-committee's recommendations in January.

RECOMENDATION:

Staff recommends Council approval of the sub-committee's recommendations for appointment to the City's Boards, Commissions and Committees.

ATTACHMENTS:

Click to download

No Attachments Available

CITY COUNCIL REPORT

SUBJECT:
Land Lease Agreement with Maricopa County Community College District

MEETING DATE:
December 17, 2007

TO: Mayor and Council

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

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the Mayor and Council approve a land lease agreement with the Maricopa County Community College District to allow for construction of public safety facility.

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 50 years at a cost of $10 per year. The lease includes a provision for automatic 25 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.

RECOMENDATION:

Staff recommends that the Mayor and Council approve a land lease agreement with the Maricopa County Community College District to allow for construction of public safety facility.

ATTACHMENTS:

Click to download

- Lease

LEASE AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
THE CITY OF LITCHFIELD PARK
AND
MARICOPA COUNTY COMMUNITY COLLEGE DISTRICT

THIS LEASE AGREEMENT (this "Lease") is executed January 1, 2008, between the City of Avondale, an Arizona municipal corporation ("Avondale"), the City of Litchfield Park, an Arizona municipal corporation ("Litchfield Park") and Maricopa County Community College District, a political subdivision of the State of Arizona (the "District"). Avondale, Litchfield Park and the District are referred to herein individually as a "Party" and collectively as the "Parties." Avondale and Litchfield Park are also collectively referred to herein as the "Cities".

RECITALS

A. The District is the equitable owner of the Estrella Mountain Community College located at 3000 North Dysart Road, Avondale, Arizona ("EMCC") and has authority to enter into this Lease.

B. The Cities desires to lease approximately 3.5 acres of real property at EMCC on which to construct a Public Safety building for Fire/Police facilities (the "Public Safety Building"), as more particularly described and depicted in Exhibit A attached hereto and incorporated herein by reference (the "Property").

C. The District is willing to lease the Property to the Cities on the terms and conditions specified below.

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 is hereby acknowledged, the Parties hereby agree as follows:

1. Lease; Privileges; Restrictions.

a. Lease Privileges. The District hereby leases the Property to the Cities and grants to the Cities the right to construct and operate the Public Safety Building (with incidental classrooms and offices as approved by the District as set forth fully in Section 4 below) on the Property, including all reasonable ingress and egress to the Property, whether from public rights-of-way or from the adjacent EMCC property; provided, however, that the Cities agree that the primary access to the Property for fire apparatus shall be directly from Dysart Road and that the adjacent EMCC property shall only be used for fire apparatus ingress and egress at such times when the primary Dysart Road access is unavailable.

b. Restrictions. The Cities shall not, without the written consent of the District, use the Property for any purpose other than those specified above and elsewhere in this Lease.

2. Rent. The District hereby leases the Property to the Cities in exchange for the Cities paying to the District an annual rental of Ten Dollars ($10.00) and providing the District with the use of the Classroom Space (as defined in subsection 4(a) below) in conjunction with the District's provision of justice studies and fire studies classes and the EMCC Public Safety Space (as defined in subsection 4(a) below), all at no cost to the District. The Cities agree and understand that the reduced rent under this Lease is contingent upon the Cities making the Classroom Space and the EMCC Public Safety Space available to the District for its use during the entire term of this Lease. If the Cities substantially reduce the space available to the District, the District may require an increase in the rent charged.

3. Term; Termination.

a. Term. The original term of this Lease shall be for a period of fifty (50) years commencing on January 1, 2008 and expiring on December 31, 2057, unless sooner terminated pursuant to Subsection 3(c) below.

b. Automatic Renewal. Following the original 50-year term of this Lease, this Lease shall automatically renew for successive twenty-five (25) year terms unless, not later than 180 days prior to the end of the then-current term, any Party terminates this Lease as set forth in Subsection 3(c) below. The Parties agree the annual rental for any renewal period shall not exceed Ten Dollars ($10.00), subject to the increased rental provisions set forth in Section 2 above.

c. Termination.

(1) Except as provided in Subsections 3(c)(2) and (3) below, this Lease may be terminated early only upon the express written consent of Avondale, Litchfield Park and the District.

(2) This Lease may be terminated by the District upon thirty (30) days written notice should the Cities discontinue use of the Property as a public safety (fire/police) safety building or other fire/police purpose for a period of not less than 365 consecutive days after the Cities take occupancy thereof.

(3) This Lease is subject to cancellation by any Party pursuant to the terms of ARIZ. REV. STAT. § 38-511; provided, however, that if either Avondale or Litchfield Park, but not both, elects to cancel their Lease pursuant to this paragraph, this agreement shall continue in full force and effect with respect to the non-canceling Party and the District.

(4) At the termination of this lease, title to the improvements upon the Property, including the Public Safety Building and the fixtures affixed thereto, but specifically not including any equipment located within or affixed to the Public Safety

Building or furnishings owned by the Cities and located within the Public Safety Building, shall vest in the District, and the Cites agree to execute all documents necessary to cause such title to be transferred to the District.

4. Development of the Property.

a. Building. The Cities shall be responsible for all land preparation, design and construction of the Public Safety Building. The Cities shall construct the Public Safety Building on the Property at their sole cost and expense. The Public Safety building shall contain, in addition to those facilities required by the Cities to function as a public safety building, approximately 1,100 square feet including two (2) classrooms, classroom storage space and a separate office to be used in connection with the classrooms (the "Classroom Space") and approximately 1,600 square feet of space for the EMCC Public Safety Department (the "EMCC Public Safety Space"). The classrooms in the Classroom Space shall be designed with separate entrances from those required to enter the Cities' areas or the EMCC public safety areas of the building and the separate entrances for the Classroom Space and the EMCC Public Safety Space shall be connected to the parking area adjacent to current EMCC buildings via a pedestrian walkway. The Cities shall jointly own the Public Safety Building at all times during construction and following completion, subject to the surrender provisions set forth in subsection 3(c)(4) above.

b. EMCC Design Standards. The District's planning/design standards shall be incorporated into the design and plans for the Classroom Space and the EMCC Public Safety Space in the Public Safety Building to the extent reasonably possible. EMCC's Facility Planning Division shall be included in the review of the design and plans.

c. Design; Review. Avondale shall prepare the development plan for the Public Safety Building and shall be responsible for (1) selecting the design, engineering and construction firms as it deems necessary and (2) providing for the complete design and construction of the Public Safety Building. Avondale shall provide Litchfield Park and the District the opportunity to (1) participate in the selection committee for the Public Safety building designers and builders and (2) comment on all items that affect the exterior design of the Public Safety Building or the interior configuration or design of the Classroom Space and the EMCC Public Safety Space, including all engineering studies, technical data and specifications related thereto. If Avondale receives no comments on construction drawings and specifications, including all modifications and changes thereto, within 15 days following delivery to Litchfield Park and the District, Litchfield Park and the District will be deemed to have approved the construction drawings and specifications, including all modifications and changes thereto, as applicable.

d. Equipment and Furnishings. The Cities shall be responsible for providing, at their sole cost and expense, all equipment and furnishings needed by Cities for the Public Safety Building. The Parties agree and understand that the Cities will be installing, as a necessary component of the Public Safety Building, such communications equipment, including an antennae approved by the District in its reasonable discretion, as they deem necessary to provide line-of-sight communications to the Cities' other public safety facilities and the Avondale City Hall.

e. Landscaping. The Cities shall be responsible for the cost of all landscaping of the Property.

5. Use of Improvements.

a. Classroom Use. In addition to the rental payment set forth in Section 2 above, the Cities hereby grants to the District, as further consideration for the Lease of Property to the Cities, the non-exclusive, priority right to utilize the classrooms within the Classroom Space and the exclusive right to use the non-classroom portions of the Classroom Space and the EMCC Public Safety Space. EMCC's use of the classrooms within the Classroom Space shall be limited to the instruction of courses related to Fire Science, Emergency Medical Technician Certification, Administration of Justice, Public Safety training or similar courses, unless otherwise approved in advance, in writing by Avondale. EMCC may also schedule the Classroom Space for general education courses that are (1) part of the public safety degree or certificate programs listed above and (2) approved in advance, in writing by Avondale. EMCC shall notify Avondale no later than thirty (30) days before the start of the Summer, Fall and Spring semesters (approximately December 15, May 15 and July 15 each year) of the EMCC's intended use of the classrooms within the Classroom Space during the next succeeding semester. Avondale shall have the right to use the classrooms within the Classroom Space at all other times. The District agrees that if Avondale desires to use a classroom during the time the classroom is scheduled to be used by EMCC, and Avondale gives EMCC at least twenty-four (24) hours notice of its desire to use the classroom (or a portion thereof), EMCC shall provide an acceptable alternative classroom on the EMCC campus for the Avondale's use, but only to the extent that an alternative classroom is available for use during the time requested.

b. Parking. Parking provided as part of the construction of the Public Safety Building shall be designed to meet mutual needs of the Parties, but shall be primarily designed for the Cities vehicles, the Cities employees' vehicles and EMCC Public Safety employees' vehicles. General student parking, except disabled students using disabled parking spaces, shall not be permitted in such parking area; provided, however, that the Public Safety Building shall be connected to the parking areas adjacent to the existing EMCC parking areas via pedestrian walkways.

c. District's Modifications. The District shall have the right to make minor modifications to the Classroom Space and the EMCC Public Safety Space with prior, written approval by the Cities, which approval shall not be unreasonably withheld, conditioned or delayed.

6. District's and EMCC's Responsibility. Except as otherwise set forth herein, the District and EMCC shall be responsible for providing all equipment, furnishings, communication links, supplies and other materials or services required by EMCC to utilize the Classroom Space, classroom storage, separate office space and the EMCC Public Safety Space. This includes tables and chairs for the areas used by EMCC. Avondale shall include in the design of the building all conduits required for the District and EMCC to run communication links to Classroom Space and EMCC Public Safety Space as reasonably required by the District and

EMCC; provided, however, that no such requirements shall exceed the standards for such conduits and communication links installed in the Cities' portion of the Public Safety Building.

7. Operation, Maintenance and Repairs.

a. Maintenance and Repairs. The Cities shall be solely responsible, at its costs, for all repairs and maintenance whatsoever of the Property and improvements thereon. The Cities shall be responsible for all routine and periodic cleaning for the Public Safety Building, including, but not limited to, the Classroom Space and the EMCC Public Safety Space.

b. Utilities. The Public Safety Building shall not be connected to the EMCC central plant. The Cities shall arrange for the Property to be separately metered by utility providers and shall pay for all utilities used at the Property, including any such charges attributable to the Classroom Space and the EMCC Public Safety Space.

8. Insurance; Indemnification.

a. Fire and Casualty. The Cities shall be responsible for providing insurance for fire and casualty coverage of all improvements and fixtures on the Property, in an amount not less than the full replacement value thereof.

b. General Liability. Each Party shall carry general liability insurance coverage for the Property in the amount of not less than $1,000,000 combined single limit for bodily injury or death and property damage per occurrence.

c. Self-Insurance. Any Party may satisfy its obligation to provide insurance by providing the other party with certificate of self-insurance signed by the Party's Risk Manager or Chief Executive Officer.

d. Indemnity. Each Party, to the extent permitted by law, agrees to indemnify and hold harmless any other party and its elected or appointed officials, agents, boards, commissions and employees, for, from and against all loss, damages or claims of whatever nature, including attorney's fees, expert witness fees and costs of litigation, which arise out of any act or omission of the indemnifying party or its agents or employees in connection with the indemnifying party's use or operation of the Property and which result directly or indirectly in the injury to or death of any persons or the damage to or loss of any property. The Party requesting indemnification shall give the other Parties prompt notice of any claim made or suit instituted which may subject the indemnifying Party to liability under this subsection. The Party seeking indemnification shall have the right, but not the duty or obligation, to participate in the defense of any claim or litigation with attorneys of its selection without relieving the indemnifying Party of any obligations hereunder. The obligations hereunder shall survive any termination of this Lease.

9. Miscellaneous.

a. Assignment and Subletting. The Cities shall not assign or sublease any of their interests under this Lease without the express written consent of the District. However, nothing herein shall be construed to prohibit the Cities permitting citizens or groups using the

classrooms in the Classroom Space when such classrooms are not otherwise being used by EMCC.

b. Successors and Assigns. This Lease shall inure to the benefit of, and be binding upon, the parties' successors and assigns. The Cities' right to maintain and operate the Public Safety Building on the Property shall survive EMCC ceasing to function as an educational institute or the District's sale of the Property to a third-party.

c. Surrender of Possession. Upon expiration or termination of this Lease, the Cities' right to occupy the Property and operate a Public Safety Building thereon shall cease, and the Cities shall surrender the Property and all improvements thereon, including the Public Safety Building, to the District. All fixtures, furniture, equipment and other personal property installed or placed by the Cities on the Property shall remain the property of the Cities, and the Cities shall have the right at any time during the term of this Lease, and for an additional period of thirty (30) days after its expiration or termination, to remove the same from the Property.

d. Quiet Enjoyment. Except with respect to EMCC's right to utilize the Classroom Space and the EMCC Public Safety Space as provided herein, the Cities shall have and enjoy the exclusive use of the Property and all rights and privileges granted herein.

e. Notices. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (1) delivered to the Party at the address set forth below, (2) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, (3) given to a recognized and reputable overnight delivery service, to the address set forth below or (4) delivered by facsimile transmission to the number set forth below:

If to the Avondale:	City of Avondale 11465 West Civic Center Drive, Suite 220 Avondale, Arizona 85323-6809 Facsimile: 623-478-3802 Attn: Charles P. McClendon, City Manager
With copy to:	GUST ROSENFELD, P.L.C. 201 E. Washington, Suite 800 Phoenix, Arizona 85004-2327 Facsimile: 602-254-4878 Attn: Andrew J. McGuire, Esq.
If to Litchfield Park:	City of Litchfield Park 214 West Wigwam Boulevard Litchfield Park, Arizona 85340 Facsimile: 623-935-5427 Attn: Darryl H. Crossman, City Manager

With copy to:	Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C. 501 East Thomas Road Phoenix, Arizona 85012 Facsimile: 602-393-1703 Attn: Susan Goodwin, Esq.
If to the District:	Estrella Mountain Community College 3000 North Dysart Road Avondale, Arizona 85392 Facsimile:_____ Attn: Dr. Ernie Lara
With a copy to:	Office of General Counsel Maricopa County Community College District 2411 W. 14th Street Tempe, Arizona 85281 Facsimile: 480-731-8890 Attn: Margaret E. McConnell, Esq.

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 (1) when delivered to the party, (2) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (3) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (4) 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.

f. Governing Law; Venue. This Lease shall be governed by the laws of the State of Arizona. Any action brought to enforce any provision of this Lease shall be in the Superior Court of Arizona, in and for Maricopa County.

g. Attorneys' Fees. In the event of any litigation or arbitration arising out of this Agreement, the substantially prevailing Party in such litigation or arbitration shall be entitled to recover its attorneys' fees, expert witness fees and other costs of litigation.

h. Severability. Should any provision of this Lease be declared invalid by a court of competent jurisdiction, the remaining terms shall remain effective, provided that elimination of the invalid provision does not materially prejudice either party with regard to its respective rights and obligations.

i. Entire Agreement. This Lease constitutes the entire agreement between the Parties concerning the lease of the Property and supersedes all prior negotiations, understandings and agreements between the Parties. This Lease shall be interpreted, applied and

enforced according to the fair meaning of its terms and shall not be construed strictly in favor of or against any Party, regardless of which party may have drafted any of its provisions. All Parties have been represented by legal counsel in negotiating and preparing this Lease.

j. Amendments. This Lease may be amended only by an instrument in writing signed by the Parties.

k. Waiver. The waiver of any breach of this Lease shall not be deemed to amend this Lease and shall not constitute a waiver of any other subsequent breach.

l. Headings. Headings of this Lease are for convenience only and shall not affect the interpretation of this Lease.

m. Counterparts. This Lease may be executed in multiple counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

n. Time of Essence. Time is of the essence with respect to the performance of each and every term, condition, and obligation of this Lease.

o. Further Acts. Each of the Parties hereto shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Lease.

p. Nondiscrimination. No Party shall illegally discriminate in either the provision of services, or in employment, against any person because of sex, race, disability, national origin, veteran's status, sexual preference or religion. Each party agrees to comply with all applicable federal and state laws, rules, regulations, and executive orders relating to non-discrimination, affirmative action and equal employment opportunity.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Lease on the date first written above.

"**Avondale**"

CITY OF AVONDALE, an Arizona municipal corporation

_____

Charles P. McClendon, City Manager

ATTEST:

_____

Linda M. Farris, City Clerk

"**District**"

MARICOPA COUNTY COMMUNITY COLLEGE DISTRICT, a political subdivision of the State of Arizona

_____

Margaret E. McConnell
Assistant General Counsel

APPROVED AS TO FORM:

_____

Pete Kushibab, General Counsel

"**Litchfield Park**"

CITY OF LITCHFIELD PARK, an Arizona municipal corporation

_____

Darryl H. Crossman, City Manager

ATTEST:

_____

Mary Rose Evans, City Clerk

EXHIBIT A
TO
LEASE AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
LITCHFIELD PARK
AND
MARICOPA COUNTY COMMUNITY COLLEGE DISTRICT

[Legal description and map of the Property]

See following pages.

CITY COUNCIL REPORT

SUBJECT:
Resolution 2710-1207 approving an Intergovernmental Agreement - Litchfield Park - Fire

MEETING DATE:
December 17, 2007

TO: Mayor and Council

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

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the Mayor and Council adopt a resolution approving an Intergovernmental Agreeement with the City of Litchfield Park relating to the provision of fire and emergency medical services.

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.

Over the past several months city staff has met with representatives of Litchfield Park to draft an IGA relating to the provision of fire and emergency medical services by Avondale to Litchfield Park. 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 communities.

Capital and start up costs related to the facility would be shared equally. Litchfield Park would be responsible for 1/3 of the operating costs (both direct and indirect) of the facility, including personnel, on an annual basis. The operating cost allocation was based on an evaluation of the historical emergency response data from the area, which will be re-evaluated annually.

Through this agreement Litchfield Park would become a part of the automatic aid system once the new station opens. At the end of the first year of operation of the station the Central Arizona Life Safety Response System Council (Life Safety Council), which establishes policy for the automatic aid system, will review the response data associated with this agreement to determine the overall impact of the agreement on other automatic aid departments. If, in the opinion of the Life Safety Council, the agreement has resulted in a significant negative impact on other automatic aid departments they will make recommendations to the parties to remedy the negative impact including potential revenue sharing arrangements.

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 will provide fire code plan review and inspection services to Litchfield Park as requested which would be paid for on an hourly basis. Litchfield Park will be required to adopt the same fire code, with local amendments, as is in place in Avondale.

Litchfield Park will be responsible for all dispatch system costs associated with emergency incidents within their city limits and for any dispatch infrastructure costs related specifically to Litchfield Park.

The initial term of the IGA would be for a period of 50 years with automatic 25 year renewals. The operating costs of the facility would be billed on a quarterly basis.

The project timetable would be to complete the design of the facility during 2008 and begin construction by January 2009 anticipating a January 2010 opening date. It is anticipated that the personnel to staff the station would be hired in sufficient time to begin a recruit training academy in July 2009.

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:

Staff recommends that the Mayor and Council adopt a Resolution approving an Intergovernmental Agreeement with the City of Litchfield Park relating to the provision of fire and emergency medical services.

ATTACHMENTS:

Click to download

- RES - 2710-1207

RESOLUTION NO. 2710-1207

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF LITCHFIELD PARK RELATING TO PROVISION OF FIRE AND EMERGENCY MEDICAL 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 City of Litchfield Park with respect to provision of fire and emergency medical 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, December 17, 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. 2710-1207

[Intergovernmental Agreement]

See following pages.

INTERGOVERNMENTAL AGREEMENT FOR FIRE AND EMERGENCY MEDICAL SERVICES BETWEEN THE CITY OF AVONDALE AND THE CITY OF LITCHFIELD PARK

THIS AGREEMENT ("Agreement") is entered into as of October 18, 2007, between the CITY OF AVONDALE, an Arizona municipal corporation (hereinafter "Avondale"), and the CITY OF LITCHFIELD PARK, an Arizona municipal corporation (hereinafter "Litchfield Park"). Avondale and Litchfield Park are referred to collectively in this Agreement as the "Parties" and individually as "Party."

RECITALS

A. The Avondale City Charter and A.R.S. § 11-952 authorize Avondale to enter into intergovernmental agreements to carry out municipal services.

B. A.R.S. § 11-952 authorizes Litchfield Park to enter into intergovernmental agreements to carry out municipal services.

C. Avondale and Litchfield Park agree it is in the best interest of their respective residents for Avondale to provide fire and emergency medical services (the "Services") to Litchfield Park from a new fire station to be located along Dysart Road, north of Thomas Road, pursuant to this Agreement.

D. Litchfield Park acknowledges and understands that Avondale currently participates in, and will continue to be part of, and continue to assist in, the Phoenix Regional Dispatch System and Automatic Aid System.

E. The Parties desire to provide the Services to the public in as efficient and cost effective a manner as possible and the Parties believe that this Agreement will allow each Party to enhance the level of the Services to Avondale and Litchfield Park citizens.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the mutual promises and obligations set forth herein, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows.

ARTICLE I
DEFINITIONS

A. "Apparatus" means vehicles that are specialized for rescue and fire operations, as distinguished from regular staff (fleet) vehicles, specifically including fire

pumpers, tenders, ladder (aerial) trucks, utility trucks and brush trucks, but not including fire inspector vehicles.

B. "Automatic Aid" means the fire and medical response system, operated by the Phoenix Regional Dispatch System covering the majority of Maricopa County, using satellite and computerized dispatching, and common communications and operating procedures, that provides seamless fire and emergency medical services crossing jurisdictional lines.

C. "Construction Costs" means the cost of design, construction, surveying, testing, inspections, construction management, fees and permits for the Fire Station.

D. "Contract Administrator" means the Parties' respective City Manager or designee.

E. "Coverage Area" means the geographical area set forth in Exhibit A.

F. "Day" means calendar day, without regard to whether it is a Saturday, Sunday or holiday.

G. "Direct Expenses" means expenses that are directly attributable to operating the Fire Station, including but not limited to utility costs, Furnishings, Maintenance Expenses and Personnel Expenses.

H. "Emergency" means an incident that threatens life, immediate safety and/or property.

I. "Equipment" means capital assets required to provide fire and emergency medical services, excluding the Fire Station.

J. "Fire and Emergency Medical Services" means fire suppression, incident response and other related services typically provided by the Avondale Fire Department to residents in the northwest area of Avondale.

K. "Fire Station" means the fire station to be constructed by Avondale and to be located in the general vicinity of Dysart Road and Sage Lane on the Estrella Mountain Community College Campus or other such facility serving the same Coverage Area as mutually agreed to by the Parties.

L. "Fire Station Lease" means the agreement to be entered into concurrently herewith between Avondale, Litchfield Park and the Maricopa County Community College District for leasing real property upon which the Fire Station will be constructed.

M. "Furnishings" means furniture, supplies and appliances necessary at the Fire Station for the personnel that reside and operate there.

N. "Indirect Expenses" means those costs directly attributable to Avondale administrative personnel costs, including, but not limited to, the Avondale Fire Chief and supporting Direct Expenses.

O. "Initial Capital Expenses" means the following one-time expenditures: the Construction Costs of the Fire Station and the initial purchase of the Apparatus. Future replacement of the Apparatus shall be a Subsequent Capital Expense as defined below.

P. "Maintenance Expenses" means the actual costs to maintain the Fire Station and the Apparatus, except for Major Repairs and Maintenance.

Q. "Major Repairs and Maintenance" means building repair and painting, roofing, air conditioning and heating, built-in appliances, electrical repair, paving, and providing plants for landscaping.

R. "Mutual Aid" means service by Avondale, which is rendered outside Litchfield Park, pursuant to a written agreement between Litchfield Park and another governmental agency for mutual Emergency aid, pursuant to A.R.S. Section 26-301.

S. "Operating Expenses" are Direct Expenses and Indirect Expenses less non-cash expenses such as depreciation of Equipment.

T. "Personnel Benefit Expenses" means those costs actually incurred by Avondale for fire department personnel providing fire and emergency medical services. Personnel Benefit Costs are limited to the following: employer contribution to employee retirement, including the Arizona State Retirement System; Worker's Compensation insurance attributable to an employee; employer contribution to social security for each employee; employer contribution to Medicare for each employee; employer contribution to health, dental and life insurance for each employee; and employer contribution to a long-term disability program for each employee.

U. "Personnel Expenses" means the Salary Expenses and Personnel Benefit Expenses incurred by Avondale for the provision of fire and emergency medical service by fire department personnel pursuant to this Agreement.

V. "Salary Expenses" shall mean those costs actually incurred by Avondale for the salaries and overtime compensation paid to Avondale fire department personnel providing fire and emergency medical service pursuant to this Agreement.

W. "Start Up Expenses" means those initial one-time expenses, other than the Initial Capital Expenses, necessary to equip the Fire Station and Apparatus to provide Fire and Emergency Medical Service.

X. "Subsequent Capital Expenses" means expenditures after the Initial Capital Expenses with unit costs greater than $5,000, and useful lives greater than one (1) year.

ARTICLE II
PROPERTY ISSUES

A. Joint Ownership. The lease interests in the Fire Station, the Apparatus, the Equipment and the Furnishings shall be jointly owned by the Parties, except as otherwise set forth herein. The Parties acknowledge that the lease agreement between the Maricopa County Community College District as lessor and the Cities of Avondale and Litchfield Park as lessees provides that upon termination or expiration of that lease the Fire Station becomes the property of the Maricopa County Community College District.

B. Termination of Agreement. If this Agreement is terminated, the ownership of the Fire Station, Apparatus, Equipment and Furnishings shall be governed by Paragraph VII.K of this Agreement.

ARTICLE III
DESIGNING, CONSTRUCTING AND EQUIPPING THE FIRE STATION

A. Method of Procurement of Design and Construction Services.

1. Procurement Methods Permitted. Avondale shall select and utilize a public works procurement method for the design and construction of the Fire Station as permitted by Arizona Revised Statutes, Title 34.

2. Design and Construction Options. If the Fire Station is designed and constructed pursuant to a design-bid-build or construction-manager-at-risk method of public works procurement, Avondale shall enter into and administer the contract with an architect for the design of the Fire Station and shall enter into and administer the contract with a contractor for the construction phase pursuant to the requirements of Arizona Revised Statutes, Title 34. Avondale shall make the final determination and selection of the architect and construction contractor. If the Fire Station is designed and constructed pursuant to a design-build method of procurement, Avondale shall enter into and administer the contract with a design-builder for the design and construction of the Fire Station pursuant to the requirements of Arizona Revised Statutes, Title 34. Avondale shall make the final determination and selection of the design-builder.

B. Design Phase.

1. Design Parameters. The Fire Station shall be of a design and size acceptable to Litchfield Park and Avondale, containing at least three (3) apparatus bays, sufficient dormitories, fitness area, safety items and security. Avondale shall submit to Litchfield Park the design at the 30%, 60% and 90% design stage.

2. Litchfield Park Comments. Litchfield Park shall submit its comments to Avondale within fifteen (15) days of receiving the design documents. If Litchfield Park fails to provide comments within such 15-day period, Litchfield Park shall be deemed to have approved the documents as submitted. In the event of a dispute

between Avondale and Litchfield Park with respect to such design documents, Avondale shall have final approval authority.

C. Construction Phase. Avondale shall administer the construction contract for the Fire Station according to the procurement method selected pursuant to Section III(A) above. Litchfield Park shall be an additional insured on all construction contracts.

D. Furnishings, Fixtures and Equipment. Avondale shall arrange for the purchase and installation of all initial Furnishings, fixtures and equipment to operate the Fire Station. The expenses of the Furnishings, fixtures and equipment shall be included in Start Up Expenses. All such Furnishings, fixtures and equipment shall be consistent with City of Avondale standards.

E. Financial Obligations; Ownership. Litchfield Park and Avondale shall share equally the Start Up Expenses. Litchfield Park and Avondale shall share the Initial Capital Expenses related to the construction phase of the Fire Station with Litchfield Park paying 50% of such costs and Avondale paying 50% of such costs, which shall be each Party's respective ownership share of same. Upon completion of the construction of the Fire Station, Avondale shall submit a final invoice to Litchfield Park that includes the final amount owed by Litchfield Park for its share of the Initial Capital Expenses and Start Up Expenses; provided, however, that if the construction is completed over two fiscal years, that Avondale shall invoice Litchfield Park for its proportionate share of the construction costs at the end of each fiscal year.

F. Fire Station Name. Avondale and Litchfield Park agree that the official name of the Fire Station shall include both Parties; provided, however, on a day-to-day basis the Fire Station will be referred to as "Station 174."

ARTICLE IV
AVONDALE'S RESPONSIBILITIES
RELATED TO FIRE AND EMERGENCY MEDICAL SERVICES

A. Management of Fire and Emergency Medical Services. Avondale shall provide Fire and Emergency Medical Services to Litchfield Park and its residents upon the same standards as such services are provided within the adjacent areas of Avondale. Avondale will be responsible for managing the day-to-day operations necessary for the provision of Fire and Emergency Medical Services to Litchfield Park in conjunction with similar services provided within the corporate limits of Avondale. The maximum response time for a Fire or Emergency Service call shall be as required by the Automatic Aid standards for the Phoenix Regional Dispatch System. In the event a non-contiguous county island fire district is formed in a strip-annexed area of Litchfield Park and it is determined that Litchfield Park has a legal obligation to provide fire service to such area, Avondale shall provide fire and emergency medical services to such area and Litchfield Park shall compensate Avondale for such services from the fees received from the non-contiguous county island fire district. Avondale and Litchfield Park shall mutually determine the pro-rata share of the Direct Expenses,

Indirect Expenses, Initial Capital Expenses and the Personnel Expenses attributable to the non-contiguous county island fire district (the "Non-Contiguous District Expenses"). If the amount of the Non-Contiguous District Expenses is greater than the amount received by Litchfield Park from the non-contiguous county island fire district, Litchfield Park shall be responsible to pay to Avondale the difference.

B. Operational Guidelines and Procedures. Avondale will be responsible for developing and maintaining operational guidelines and procedures to assure Fire and Emergency Medical Services operations at a similar service level as Avondale provides within its municipal boundaries.

C. Communications and Dispatch Services. Avondale will be responsible for providing Fire and Emergency Medical Services dispatch services through the Phoenix Regional Dispatch Center. Litchfield Park will ensure that all Fire and Emergency Medical Service calls received by its designated Police Agency are automatically transferred to the Phoenix Regional Dispatch Center.

D. Fire Station Staffing.

1. Minimum Staffing. Avondale will be responsible for providing the daily staffing at the Fire Station. The minimum staffing at the Fire Station will consist of:

a. One Fire Captain or qualified replacement.
b. One Fire Engineer or qualified replacement.
c. Two firefighters.
d. At least two members of the daily staffing will be Certified Emergency Paramedics (EMT-P), with all remaining staff to be Certified EMT-B.

2. Training Expenses. Avondale and Litchfield Park agree to share equally in the initial training expenses required for the fifteen personnel to be hired by Avondale to allow for the Fire Station to be fully staffed. Such initial training shall be completed on or before the date the Fire Station is completed and ready for occupancy.

E. Fire Station Housekeeping and Equipment Maintenance. Avondale will be responsible for providing housekeeping and maintenance of the Fire Station as follows: (1) cleaning and maintenance of the interior of the Fire Station and providing any associated supplies; (2) routine grounds maintenance such as mowing and trimming; and (3) maintenance of fire equipment and tools in the Fire Station and on the grounds.

F. Apparatus Maintenance. Avondale will be responsible for performing maintenance and repair on the Apparatus and related Equipment.

G. Fire Code Enforcement.

1. Fire Code Plan Review. Avondale will be responsible for conducting fire code plan review services for Litchfield Park and will assist the Litchfield Park building official with respect to fire code related issues.

2. Fire Code Inspections. Avondale will be responsible for conducting all required fire code inspections related to both new construction and existing occupancies.

H. Reporting.

1. Quarterly Review. Each quarter, Avondale and Litchfield Park shall conduct a joint activity review under the direction of Avondale's Fire Chief, or designee, and Litchfield Park's Contract Administrator or designee.

2. Annual Reports. Avondale shall include the Fire and Emergency Medical Services provided within Litchfield Park as part of its regularly prepared annual report, a copy of which shall be filed with Litchfield Park's Contract Administrator within 15 days after said report is published each year, said requirement to continue for the life of this Agreement in a format mutually agreed to by the Parties hereto which shall provide information specific to Fire and Emergency Medical Service within Litchfield Park.

I. Meetings. The Avondale Fire Chief, or designee, will attend all scheduled meetings of the Litchfield Park City Council, such other meetings as determined to be appropriate and necessary by Litchfield Park and will serve as the official Fire and Emergency Medical Service representative for Litchfield Park.

J. Community Outreach. Avondale shall provide the same level of community outreach programming to Litchfield Park residents as it provides to Avondale residents.

ARTICLE V
LITCHFIELD PARK'S RESPONSIBILITIES

A. Mutual Aid. Litchfield Park may not enter into any Mutual Aid agreements without the written, prior approval of the Avondale City Manager or Designee.

B. Automatic Aid. Litchfield Park shall become a member of the Regional Automatic Aid Consortium on the date the Fire Station opens for service and shall remain a member of the Regional Automatic Aid Consortium at all times while this Agreement is in effect. At the end of the first year following the opening of the Fire Station, the Parties agree that the Central Arizona Life Safety Response System Council (the "Life Safety Council") shall review all response data associated with this Agreement and shall determine the overall impact of the Agreement on other Automatic Aid participants, other than Avondale. If the Life Safety Council determines that the

Agreement has resulted in a significant negative impact on an Automatic Aid participant, or participants (other than Avondale), the Life Safety Council shall make appropriate recommendations to the Parties to remedy the negative impact, including potential cost sharing arrangements with such negatively impacted participants. The Parties agree to work in good faith to implement the Life Safety Council's recommendations.

C. Fire Code. Litchfield Park shall adopt the fire code and such local amendments and fee schedules as are consistent with those adopted by Avondale. Litchfield Park shall notify Avondale when it requires fire code plan review and inspections and shall pay for such services at an hourly rate of $60/hour for plan review services and $55/hour for inspection services. These hourly rates may be adjusted annually during the budget preparation provided for in Section VI(F) below.

D. Radio Equipment. Litchfield Park shall be responsible for providing radio transmitting and/or receiving equipment that may be reasonably necessary to provide standard radio coverage to most areas of Litchfield Park. Avondale may recommend additional communications system enhancements to improve radio coverage in Litchfield Park to be implemented at Litchfield Park's discretion and expense. Litchfield Park further understands that radio communications and dispatch system upgrades will occur over time. Each agency participating in the automatic aid system incurs costs for these changes, calculated in a manner that reflects the demands on these systems generated by each participant. These upgrades are planned well in advance to allow the maximum funding flexibility for system participants. Litchfield Park will share these costs according to its pro-rata share of the system.

ARTICLE VI
JOINT RESPONSIBILITIES FOR OPERATION AND MAINTENANCE

A. The Fire Station.

1. Repairs. Avondale and Litchfield Park shall be jointly responsible for the cost of Major Repairs and Maintenance. Avondale will be responsible for scheduling said repairs through its normal facility maintenance process.

2. Upgrades. In the event that Avondale desires to upgrade the station or landscaping, such upgrade shall be at Avondale's expense unless the Parties agree otherwise in writing.

3. Damage. Avondale shall notify Litchfield Park's Contract Administrator of any damage that occurs to the Fire Station or the grounds that may affect the operating budget within 24 hours after such damage.

B. Apparatus. The pumper truck to be used by the engine company at the Fire Station shall be acquired as part of the Start Up Expenses. Subsequent Apparatus purchases will also be made according to Avondale specifications. All Apparatus shall be maintained as part of the Avondale Fire Department's regular fleet. Apparatus

replacements will be made based on Avondale's replacement schedule/practices. Avondale will provide substitute Apparatus to be used when the Apparatus at the Fire Station is out of service for maintenance or repair. Such Apparatus replacement shall be considered a Subsequent Capital Expense and shall be divided in the same proportion as the Initial Capital Expenses according to Section III(E) above; Avondale and Litchfield Park shall jointly own any additional or replacement Apparatus purchased under this Agreement in the same proportion as the Initial Capital Expenses unless otherwise agreed to by Avondale and Litchfield Park in an amendment to this Agreement. The pumper truck to be used by the engine company at the Fire Station shall provide for identification of Litchfield Park in addition to the typical Avondale markings and insignia.

C. Communications and Dispatch Services. Avondale and Litchfield Park will be jointly responsible for providing and paying for the initial communication and dispatch equipment that will be installed in the Fire Station and Apparatus (an estimate of such costs is outlined in section III of Exhibit B attached hereto). Installation will be done either by the City of Phoenix or through a contract with an approved vendor that utilizes Phoenix's standard list of equipment. Litchfield Park is responsible for the full annual cost of incident dispatch services for incidents that occur in Litchfield Park (an estimate of such cost is outlined in section I of Exhibit B) and for one half the annual CAD and communications system charges (an estimate of such cost is outlined in section II of Exhibit B). The estimated costs outlined in Exhibit B are estimates of the FY2007-08 estimated costs, and it is agreed by the Parties that CAD and communication system charges are to be updated annually.

D. Financial Obligations. Avondale shall pay sixty-seven percent (67%) and Litchfield Park shall pay thirty-three percent (33%) of the Operating Expenses. Periodically, the Parties shall evaluate the percentage allocation of the Operating Expenses and shall make such adjustments thereto as the Parties mutually agree. Litchfield Park shall make quarterly payments for Litchfield Park's share of the Operating Expenses to Avondale in an amount that shall be predetermined at the start of the Agreement, and adjusted every July 1 thereafter. By July 31st of each year, Avondale shall either invoice Litchfield Park or reimburse Litchfield Park for any adjustment for Litchfield Park's share of the actual Operating Expenses versus billed Operating Expenses for the previous fiscal year. Attached hereto as Exhibit B is an example of how Operating Expenses shall be calculated pursuant to this Agreement. Invoices shall be sent by Avondale to Litchfield Park on a quarterly basis.

E. Budget. By February 1st of each year Avondale and Litchfield Park shall jointly develop a budget for the shared Operating Expenses for the provision of fire and emergency medical services for the upcoming fiscal year (beginning July 1), including details of Personnel Expenses and Operating Expenses. Avondale shall notify Litchfield Park by May 1 of each year if it is determined that the shared Operating Expenses for the then-current fiscal year will exceed the budget by 5% or more.

ARTICLE VII
GENERAL PROVISIONS

A. Audit of Records. Avondale's records (hard copy, as well as computer readable data), and any other supporting evidence deemed necessary by Litchfield Park to substantiate charges and claims related to this Agreement shall be open to inspection and subject to audit and/or reproduction by Litchfield Park's authorized representative to the extent necessary to adequately permit evaluation and verification of cost of the work, and any invoices, change orders, payments or claims submitted by Avondale or any of its payees pursuant to the execution of the agreement. Litchfield Park's authorized representative shall be afforded access, at reasonable times and places, to all of Avondale's records and personnel related to this Agreement, pursuant to the provisions of this article throughout the term of this Agreement and for a period of three (3) years after final payment.

B. Indemnification.

1. Indemnity of Litchfield Park. To the fullest extent permitted by law, Avondale, its successors, guarantors, and any assignees shall defend, indemnify and hold harmless Litchfield Park, its authorized agents, authorized representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, reasonable attorney fees, court costs, and the cost of appellate proceedings, and all reasonable fees for experts or other professionals, related to, arising from or out of, or resulting from any negligent actions or intentional misconduct by Avondale or its employees, authorized agents, authorized representatives or contractors in the course of providing services under this Agreement.

2. Indemnity of Avondale. To the fullest extent permitted by law, Litchfield Park, its successors, assigns and guarantors, shall defend, indemnify and hold harmless Avondale, its authorized agents, authorized representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, reasonable attorney fees, court costs, and the cost of appellate proceedings, and all reasonable fees for experts or other professionals, related to, arising from or out of, or resulting from negligent actions or intentional misconduct by Litchfield Park or its employees, authorized agents, authorized representatives or contractors in the course of providing services under this Agreement.

3. Indemnity's Effect on Insurance Provisions. Insurance provisions set forth in this Agreement are separate and independent from the indemnity provisions of these paragraphs and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of these paragraphs shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

C. Insurance Representations and Requirements. Each Party shall maintain insurance coverage to insure against the risks associated with the duties to be performed by each Party pursuant to the terms of the Agreement. Avondale shall meet its insurance requirements through its self-insurance program, including a self-insured retention amount of $250,000 and policies of insurance for occurrences above $250,000 in forms and amounts acceptable to the Parties. Litchfield Park shall purchase and maintain policies of insurance with at least minimum levels of coverage as mutually acceptable to the Parties. The Parties further agree that they are not joint employers for the purpose of workers compensation coverage and that either Party's employee assigned to the Fire Station shall remain an employee of such Party. To the extent that employees of one Party performs duties on behalf of another Party, such employee shall be deemed to be an "employee" of both public agencies while performing pursuant to this Agreement solely for purposes of A.R.S. § 23-1022 and the Arizona Workers' Compensation laws. Avondale shall be solely liable for any workers' compensation benefits which may accrue. Each Party shall post a notice pursuant to the provisions of A.R.S. § 23-1022 in substantially the following form:

> "All employees are hereby further notified that they may be required to work under the jurisdiction or control or within the jurisdictional boundaries of another public agency pursuant to an intergovernmental agreement or contract, and under such circumstances they are deemed by the laws of Arizona to be employees of both public agencies for the purposes of worker's compensation."

D. Amendment. The terms contained in this Agreement may only be amended with Avondale and Litchfield Park City Council approval.

E. Term; Termination. The initial term of this Agreement shall be for a period of fifty (50) years. Thereafter this Agreement will automatically renew for successive terms of twenty-five (25) years unless terminated by either Party pursuant to the termination provisions herein.

1. Following Term. Following completion of the initial term each Party shall have the right to terminate this Agreement upon three (3) years' written notice prior to the end of the initial term.

2. Avondale Breach. Litchfield Park may terminate the Agreement with 90 days' notice to Avondale if Litchfield Park determines that Avondale, in the performance of this Agreement, has (a) not managed the Fire and Emergency Medical Services in such a way that the services within the boundaries of Litchfield Park are similar to the services provided in Avondale, (b) provided a significantly diminished level of service quality, (c) failed to provide records as specified by this Agreement, or (d) allowed service standards or conditions to persist at a level that creates imminent harm to the public health and safety.

3. Litchfield Park Breach. Avondale may terminate the Agreement with 90 days' notice to Litchfield Park if Avondale determines that Litchfield Park has failed to meet its primary responsibilities pursuant to this Agreement, including but not

limited to, payment of Litchfield Park's share of the capital and operating costs as set forth in this Agreement,

F. Timing. The Parties agree that every effort will be made to ensure that construction and personnel hiring activities progress in such a manner as to allow the Fire Station to open and begin providing Fire and Emergency Medical Services on or before July 1, 2009. Fire code enforcement may begin at any time following execution of this agreement upon mutual agreement of the parties.

G. Default; Cure. In the event a Party fails to perform or otherwise act in accordance with any term or provision hereof (the "Defaulting Party") then the other Party may provide written notice to perform to the Defaulting Party. The Defaulting Party shall have 30 days to perform after written notice is received; provided, however, that if the failure is such that more than 30 days would reasonably be required to perform such action or comply with any term or provision hereof, then the Defaulting Party shall have such additional time as may be necessary to perform or comply so long as the Defaulting Party commences performance or compliance within said 30-day period and diligently proceeds to complete such performance or fulfill such obligation; provided further, however, that no such cure period shall exceed 90 days. Any written notice shall specify the nature of the default and the manner in which the default may be satisfactorily cured, if possible. The 30-day period shall not apply where an ordinance or statute requires the Avondale to perform or otherwise act in a period in excess of 30 days. In the event a default remains uncured following the 30-day period (or such extended cure period as set forth above), the only remedy permitted shall be specific performance, except as specifically allowed within this Agreement. The limitations to specific performance set forth herein shall not apply to any warranty obligations or indemnity provisions in this Agreement, which shall be enforceable by any means permitted in law or equity.

H. Dispute Resolution. The Parties recognize that from time to time, there may be disputes involving financial issues, interpretation of this Agreement, services provided and similar issues. The Parties desire to affect a timely and efficient resolution of such disputes and, adopt the mandatory, binding arbitration procedures set forth in this Section.

1. Mediation Permissible. Notwithstanding any other subsection in this Section VII(H), the Parties may mutually agree to pursue mediation prior to submitting a dispute to mandatory binding arbitration.

2. Continued Performance. The Parties shall continue to perform all of their respective obligations under this Agreement without interruption or delay during resolution of any disputes under this paragraph.

3. Arbitrator Selection. The Parties shall attempt to mutually agree on an arbitrator to hear and decide the dispute. If the Parties fail to mutually agree on an arbitrator, each Party shall select an arbitrator and such arbitrators shall select an arbitrator to hear the matter. If the arbitrators cannot agree on an arbitrator to hear the

matter, Avondale and Litchfield Park shall each submit two names to the presiding judge of the Maricopa County Superior Court, who shall select one person to serve as arbitrator. The arbitrator to be used shall be an independent attorney in good standing with the Arizona Bar Association.

4. Documents and Evidence. Each Party shall, no later than ten (10) days after the selection of an arbitrator, provide to the arbitrator a written pre-hearing statement containing a brief statement of the dispute, a list of witnesses and exhibits, a brief description of the subject matter of the testimony of each witness, and an estimate of the length of time that will be required for the arbitration hearing. Each Party shall also provide the other with a disclosure statement and copies of all relevant documentation relating to the dispute in a manner consistent with Rule 26.1 A.R.C.P.

5. Hearing. The hearing shall be held no later than thirty (30) days from the selection of the arbitrator. This deadline may be extended only with the consent of the Parties or by decision of the arbitrator upon a showing of emergency circumstances or the need for some additional discovery. The arbitration hearing, once commenced, will proceed from business day to business day until concluded, absent a showing of emergency circumstances. The hearing shall be informal and the rules of evidence shall not apply. The hearing shall be conducted in a manner as to provide both Parties an opportunity to present their reasons why the dispute should be resolved in their favor. Except as otherwise provided herein, the arbitration shall be governed by the Uniform Arbitration Act as set forth in A.R.S. § 12-1501, *et. seq.*

6. Arbitrator's Decision. The arbitrator shall, within ten (10) days from the conclusion of the hearing, issue its decision in writing. If requested by either Party prior to the conclusion of the hearing, the arbitrator shall make written findings of fact and, as applicable, conclusions of law. The decision of the arbitrator shall be final.

7. Costs and Fees. Any fees charged by the arbitrator in conjunction with an arbitration conducted pursuant to this subsection shall be split evenly by the Parties. Each Party shall otherwise bear its own costs and expenses associated with an arbitration. Notwithstanding the above, if the arbitrator makes an express finding that one of the Parties has acted in bad faith, the arbitrator shall have the discretion to charge all costs and fees on the non-prevailing Party.

8. Arbitrator's Award. The arbitrator shall not have authority to assess damages other than actual damages.

I. Nonappropriation of Funds. The provisions of this Agreement for payment of funds by the Parties shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. The Parties shall be the sole judge and authority in determining the availability of funds under this Agreement and each Party shall keep the other Party fully informed as to the availability of funds for its obligations under this Agreement. The obligation of the Parties to make any payment pursuant to this Agreement is a current expense of the Parties, payable exclusively from such annual appropriations, and is not a general obligation or

indebtedness of the Parties. If the City Councils of the Parties fail to appropriate money sufficient to pay the amounts set forth in this Agreement to provide the services contemplated herein during any immediately succeeding fiscal year, this Agreement shall terminate at the end of then-current fiscal year and the Parties shall relieved of any subsequent obligation under this Agreement.

J. Disposition of Property Upon Termination: If this Agreement is terminated, the following provisions shall apply:

1. Pursuant to Subsection VII(E)(I) or Section VIII(J). If one Party gives notice of termination pursuant to Paragraph VII(E)(1), then the Party not terminating this Agreement shall have the option to purchase the remaining percentage share of the Fire Station, Apparatus, Furnishings and Equipment from the other Party. The purchase price for the Fire Station, Apparatus, Furnishings and Equipment shall be the appraised value established by an independent appraiser chosen by the Parties. If the Parties fail to mutually agree on an appraiser, each Party shall select an appraiser and such appraisers shall select an appraiser. If the appraisers cannot agree on an appraiser to establish the appraised values of the Fire Station, Apparatus, Furnishings and Equipment, Avondale and Litchfield Park shall each submit two names to the presiding judge of the Maricopa County Superior Court, who shall select one person as the appraiser. The appraiser to be used shall be an appraiser with an MAI designation. The terminating Party shall assign its interest in the Fire Station Lease to the other Party.

2. For breach of the Agreement by a Party. If this Agreement is terminated pursuant to subsections VII(E)(2) or VII(E)(3) due to the breach of the Agreement by one Party, the Fire Station, Apparatus, Furnishings and Equipment shall become the property of the non-breaching Party. The breaching Party shall assign its interest in the Fire Station Lease to the other Party.

3. Pursuant to Section VII(I). If this Agreement is terminated due to the failure of a Party to appropriate funds as provided in Section VII(I), the Fire Station, Apparatus, Furnishings and Equipment shall become the property of the Party that appropriated funds for that year. The Party that did not appropriate the funds shall assign its interest in the Fire Station Lease to the other Party.

4. Mutual Termination or Failure to Appropriate Funds. If this Agreement is terminated by mutual agreement or for failure of both Parties to appropriate funds pursuant to Subsection VII(I), the Fire Station, Apparatus, Furnishings and Equipment shall be sold at a public auction and the proceeds shared equally by the Parties. Nothing in this paragraph shall prohibit a Party from selling its share of the Fire Station, Apparatus, Furnishings and Equipment to the other; provided however, if a mutually agreed upon price cannot be established, the procedure for establishing the appraised values shall be as set forth in subsection VII(J)(1) above.

L. Discharge. If an initiative, referendum, or other law compels Litchfield Park to establish its own fire department, Avondale acknowledges that such an event is a

supervening impracticality, renders performance impossible, renders performance illegal and frustrates the purpose of this Agreement as to fire services and fire code enforcement. In such a case Avondale, with a minimum 365-day notice, shall be excused from future performance and shall discharge Litchfield Park from this Agreement. Avondale also agrees to waive its right to recover any damages or other relief in any claim or suit against Litchfield Park or its employees for any damages arising from Litchfield Park's need to terminate the fire services contract for the reasons set forth in this Section. In the event of a discharge as described above, Litchfield Park agrees nonetheless (1) to continue to pay Avondale for all services actually rendered to date and (2) to assign Avondale all of its interests in this Agreement and the Fire Station Lease.

ARTICLE VIII
MISCELLANEOUS

A. Governing Law. This Agreement shall be governed, construed and controlled according to the laws of the State of Arizona.

B. Waiver. No delay or failure to exercise any right or remedy shall constitute a waiver thereof, and no waiver by the Parties of the breach of any provision of this Agreement shall be construed as a waiver of any other provision.

C. Severability. The terms and conditions of this Agreement are severable. If for any reason, any court of law or administrative agency should deem any provision hereof invalid or inoperative, the remaining provisions of this Agreement shall remain valid and in full force and effect.

D. Legal Fees, Costs and Expenses. In the event either Party brings any action for any relief, declaratory or otherwise, arising out of this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees, costs and expenses, as determined by the court, and which shall be deemed to have accrued on the commencement of such action. This provision shall be enforceable whether or not such action is prosecuted to judgment.

E. No Partnership. It is not intended by this Agreement that anything contained in it shall create any legally recognized partnership, legally recognized joint venture or legally recognized agency relationship between Litchfield Park and Avondale.

F. No Third Party Beneficiaries. No term or provision of this Agreement shall benefit any third person, or any other firm, organization, or corporation not a Party hereto, and no such person, firm, organization, or corporation shall have any right or cause of action hereunder.

G. Entire Agreement. This Agreement constitutes the entire Agreement of the Parties. No representations, Agreements or understandings, oral or written, other than this Agreement shall vary its terms.

H. Counterparts. This Agreement may be executed in one or more counterparts, and each originally executed duplicate counterpart of this Agreement shall be deemed to possess the full force and effect of the original.

I. Captions. The captions used in this Agreement are solely for the convenience of the Parties, do not constitute a part of this Agreement and are not to be used to construe or interpret this Agreement.

J. Conflict of Interest. Pursuant to the provisions of A.R.S. Section 38-511, Litchfield Park or Avondale may cancel this Agreement, without fee reduction or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of Litchfield Park or Avondale is at any time while the Agreement or any extension thereof is in effect an employee of any other Party to the Agreement in any capacity to any other Party to the Agreement with respect to the subject matter of the Agreement. Litchfield Park and Avondale are unaware of any such conflict as of the date of the execution of this Agreement.

K. Authority. Each Party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each Party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

L. Assignment. Neither Party may assign or delegate the rights or obligations of this Agreement except with the written consent of the other Party.

M. Liens. Litchfield Park shall not take any action that causes a lien to be placed on any Avondale property. In the event of a lien on Avondale property, Litchfield Park shall notify Avondale and take steps immediately to extinguish the lien.

N. Regulatory Compliance. Avondale and Litchfield Park agree to comply with all applicable city ordinances and state and federal laws and regulations.

O. Force Majeure. Either party shall be excused for failures and delays in performance of its respective obligations under this Agreement due to any cause beyond its control and without fault. Nevertheless, each party shall use its best efforts to avoid or remove such causes and to continue performance whenever such causes are removed, and shall notify the other party of the problem.

P. 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 (1) delivered to the party at the address set forth below, (2) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, (3) given to a recognized and reputable overnight delivery service, to the address set forth below or (4) delivered by facsimile transmission to the number set forth below:

If to Litchfield Park:	City of Litchfield Park 214 West Wigwam Boulevard Litchfield Park, Arizona 85340 Facsimile: 623-935-5427 Attn: Darryl H. Crossman, City Manager
With copy to:	Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C. 501 East Thomas Road Phoenix, Arizona 85012 Facsimile: 602-393-1703 Attn: Susan Goodwin, Esq.
If to Avondale:	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.

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 (1) when delivered to the party, (2) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (3) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (4) 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.

Q. Effective Date. This Agreement shall be effective as of the date it is executed by both parties and filed with the Maricopa County Recorder pursuant to A.R.S. § 11-952 and remain in full force and effect until all stipulations previously indicated have been satisfied except that it may be amended upon written Agreement by all Parties.

IN WITNESS WHEREOF, the parties have hereunto set their hand and seal the day and year first above written.

CITY OF LITCHFIELD PARK
an Arizona municipal corporation

_____
Darryl H. Crossman, City Manager

ATTEST:

_____
Mary Rose Evans, City Clerk

CITY OF AVONDALE,
an Arizona municipal corporation

_____
Charles P. McClendon, City Manager

ATTEST:

_____
Linda M. Farris, City Clerk

APPROVED AS TO FORM: The undersigned attorneys acknowledge that they have reviewed the above agreement on behalf of the City of Avondale and the City of Litchfield Park, and have determined that, for their respective City, this Agreement is in proper form and is within the powers and authority granted Avondale and Litchfield Park under the laws of the State of Arizona.

_____
Susan Goodwin, City Attorney
City of Litchfield Park

_____
Andrew J. McGuire, City Attorney
City of Avondale

EXHIBIT A
TO
INTERGOVERNMENTAL AGREEMENT
FOR FIRE AND EMERGENCY MEDICAL SERVICES BETWEEN THE
CITY OF AVONDALE AND THE CITY OF LITCHFIELD PARK

(Coverage Area)

See following page.

EXHIBIT B
TO
INTERGOVERNMENTAL AGREEMENT
FOR FIRE AND EMERGENCY MEDICAL SERVICES BETWEEN THE
CITY OF AVONDALE AND THE CITY OF LITCHFIELD PARK

(Fire Station and Apparatus Costs)

See following pages.

CITY OF PHOENIX FIRE DEPARTMENT
REGIONAL DISPATCH SYSTEM
FEES AND CHARGES

City of Litchfield Park

I. Basic Dispatch Service for FY2007-2008

The Dispatch Service fee for FY2007-2008 is calculated at a rate of $16.91 per dispatch based on the total number of dispatches for the previous calendar year. The total number of estimated dispatches during this period is estimated at 262 for the City of Litchfield Park. The dispatch fee for the period of July 1, 2007 through June 30, 2008 is $3,440.06, paid by Litchfield Park.

2006-2007 Dispatches

Formula	# of Dispatches	Dispatch Fee
$16.91/Dispatch	262	**$4,430.42**

II. Communication System Charges

(1) Estimated Technical Service for FY2007-2008

System	Equip Base	Per Unit Fee	Total Units Fee
Generation 2 Fire Station Dispatch Package	1	$2,000.00	$2,000.00
Mobile Computer Terminal	1	$2,500.00	$2,500.00
Automatic Vehicle Locator	1	$397.00	$397.00
AirMobile MCT Update System	1	$2,000.00	$2,000.00
Computing Infrastructure	1	$4,200.00	$4,200.00
Total Equipment Base	**5**		
CDPD	1	$618.12	$618.12
CAD Sys Maint Fee	262	$4.00	$1,048.00
Aerial Photos	4	$40.00/sqM	$160.00
Tech Services Fee			**$12,798.00**

(2) Estimated General Maintenance Fee for FY2007-2008

In FY 2007-2008, an estimated general maintenance fee is allocated at $1,838 per piece of equipment. The estimated total equipment base for the City of Litchfield Park is 4. The general maintenance fee totals $9,185.00 in FY 2007-2008.

Formula	Equipment Base	Gen Maint Fee
$1,838/piece of equipment	4	**$7,352.00**

(3) Total Combined Technical & Maintenance Fees

The estimated FY 2007-2008 total combined Technical and General Maintenance fees is **$20,150 that amount to be** split equally between Litchfield Park and Avondale ($10,075 each).

III. Initial Technology Investment

Initial technology investment fees are invoiced on the date such are received and are to be charged in accordance with the following table of estimated costs:

System	Equip Base	Initial Investment Fee	Extended Fee
Generation 2 Fire Station Dispatch Package	1	$42,000.00	$42,000.00
Mobile Computer Terminal	1	$11,000.00	$11,000.00
AirMobile MCT Update System	1	$14,000.00	$14,000.00
RMS/Computing Infrastructure	1	$10,500.00	$10,500.00
Automatic Vehicle Location Equipment	1	$3,000.00	$3,000.00
PCMSS New License	0	$240.00	$0.00
Dell Computer w/Monitor	2	$1,500.00	$3,000.00
XTS5000 VHF Portable Radio Unit	5	$4,468.46	$22,342.30
XTS5000 Vehicle Charger for Portable Radio	5	$1,000.00	$5,000.00
VHF Mobile Radio Unit	1	$4,457.91	$4,457.91
Gang Charger w/o Display	1	$1,350.00	$1,350.00
VHF Radio Infrastructure Enhancements	1	ND	ND
800MHz PRWN Initial Infrastructure Payment	1	ND	ND
Total Initial Fee			**$116,650.21**

DEVELOPMENT SERVICES

SUBJECT:
Site Plan Approval for Panda Express at Coldwater Springs Promenade (DR-07-25)

MEETING DATE:
December 17, 2007

TO: Mayor and Council

FROM: Brian Berndt, Development Services Director (623) 333-4011

THROUGH: Charlie McClendon, City Manager

REQUEST: Request for Site Plan Approval for the 0.92 acre Panda Express pad site (pad #4) at Coldwater Springs Promenade.

LOCATION: SWC of Van Buren Street and Avondale Blvd. in the Coldwater Springs Promenade development, Pad 4, Lot 6 (Exhibits A and B).

APPLICANT: Alex Ramon, Carter & Burgess

OWNER: Panda Restaurant Group, Inc.

BACKGROUND:

The Coldwater Springs Promenade property is comprised of two parcels. The west 11 acres is designated for C-2 uses by the Coldwater Springs Planned Area Development (PAD). The subject property was annexed in 1997 and zoned AG (Agriculture). It was rezoned to PAD on March 17, 1997. The eastern 8.95 acres was annexed into the city in 1999 and zoned AG (Agriculture). It was rezoned from AG to C-2 (Community Commercial) on October 2nd, 2000.

SUMMARY OF REQUEST:

Request for Site Plan Approval for the 1.82 acre Panda Express pad site (pad #4) at Coldwater Springs Promenade.

PLANNING COMMISSION ACTION:

The Planning Commission conducted a public hearing on November 15, 2007 and voted 6-0 to recommend APPROVAL of this request subject to the following stipulations: The development shall conform to the preliminary site plan date stamped October 18, 2007; the preliminary landscape plan date stamped October 18, 2007; and the elevations dated October 18, 2007; except as modified by these stipulations. All signage will require a separate permit. In accordance with Section 106.C.4 of the City of Avondale Zoning Ordinance the approval of the site plan shall expire within one year if a building permit has not been issued. Catch basins for storm water runoff are to either be curb inlets, or, if grated catch basins are used, they are to be placed in parking space area. The applicant will be responsible for all parking, curb, gutter and landscaping from the back of curb of Pad 4, Lot 6 of the Coldwater Springs Promenade development.

ANALYSIS:

General Plan: The site is designated as Commercial in the General Plan. The site is zoned PAD and C-2 and is in conformance with the uses specified.
Access, Circulation, and Parking:

Access to the site will be provided by a limited access driveway from Van Buren Street. Internal drive aisles will provide access to internal circulation and parking (Exhibt D).

Landscaping and Screening: The preliminary landscape plan features a mix of Blue Palo Verdes and Sissoo as well as six different varieties of shrubs (Exhibit E). Roughly 47 percent of the trees proposed for the site are 24-inch box and 36-inch box varieties. A 30-50 foot landscape buffer proposed along Van Buren Street on the north boundary of the site. This landscape buffer includes a combination of 24-inch box Willow Acacia trees and 24-inch box Blue Palo Verde trees planted every twenty feet on center. A three foot wall is required to screen the parking lot from the adjacent public street. The proposed screen wall meets Zoning Ordinance requirements.

Building Elevations: The proposed architecture utilized the same materials that are approved as part of the Coldwater Springs Promenade (Exhibit F). The building will be comprised of scored stucco painted in Medallion and Burst of Gold browns with columns covered with stone veneer. The building will be accented with Patina Green metal canopies and corniced parapets. All four sides of the buildings have been treated architecturally with the full range of materials used for this project. In addition, architectural details such as metal canopies and variations to the height of the parapet are proposed to add visual interest to the building. A drive through is proposed on the east side of the building. An 3 foot stucco screen wall is provided along the drive through.

Signage: A sign program has been submitted for the development. The sign program includes elevations and details of the proposed wall signs for the proposed grocery use. The proposed wall signs are a combination of internally illuminated pan channel and halo backlit reverse pan channel signs.

FINDINGS:

Staff finds that the proposed site plan meets the objectives of the General Plan and is in conformance with the zoning for the Coldwater Springs Promenade Planned Area Development as well as the City of Avondale Zoning Ordinance.

RECOMMENDATION:

Planning Commission recommends that the City Council accept the findings with the attached five stipulations and appove site plan application DR-07-25, a request to approve the site plan of Panda Express at Coldwater Springs Prominade.

PROPOSED MOTION:

"I move that the City Council accept the findings with the attached five stipulations and APPROVE application DR-07-25, a request to approve the site plan of Panda Express at Coldwater Springs Prominade."

ATTACHMENTS:

Click to download

- DR-07-25 Exhibits

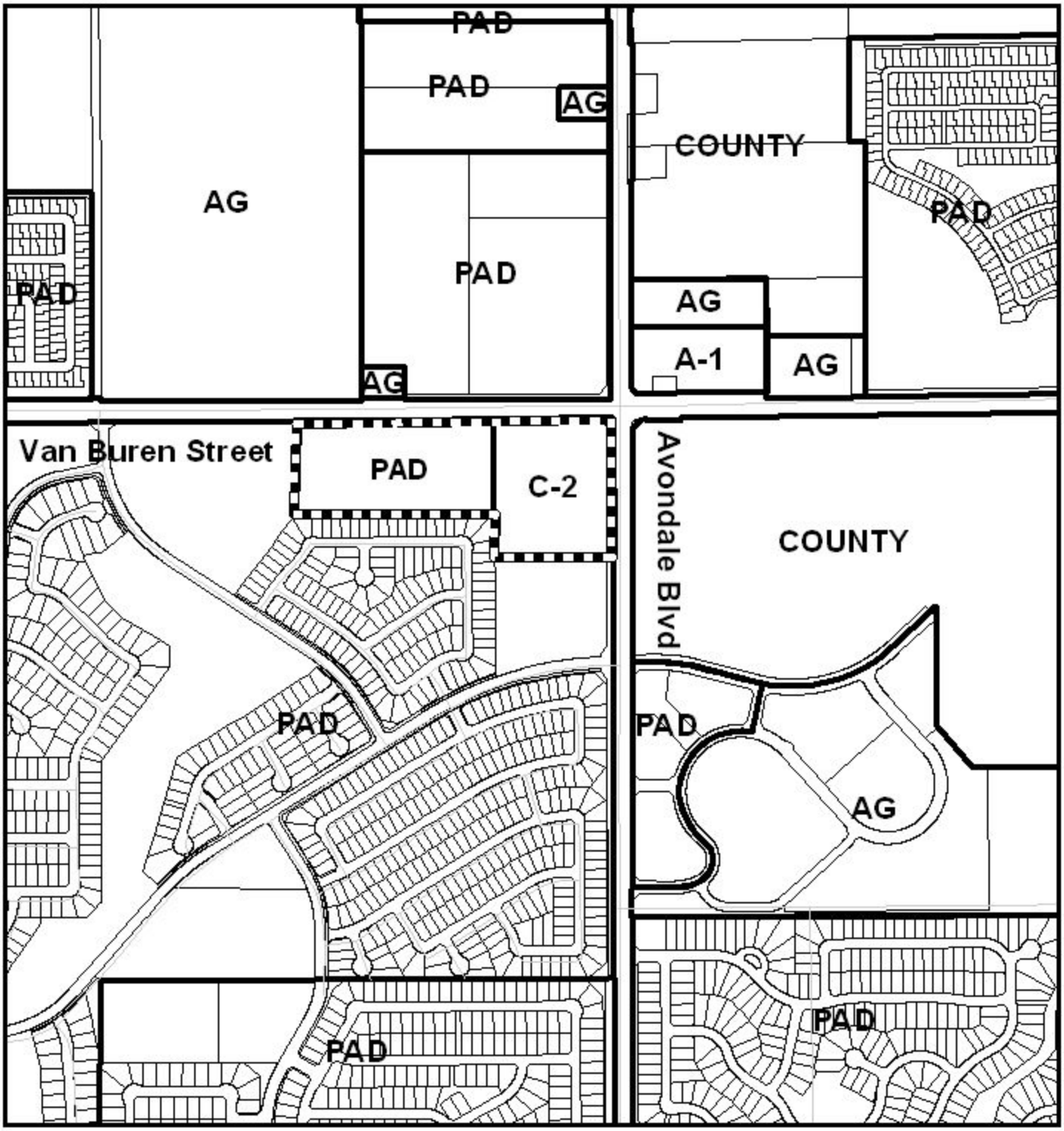
FULL SIZE COPIES (Council Only):

None

PROJECT MANAGER:

John Vater, Planner (623) 333-4014

Exhibit A



Zoning Vicinity Map
Panda Express at Coldwater Springs Promenade
DR-07-25

Avondale

Subject Property

N

Exhibit B

Aerial Photo 2007
DR-07-25

Avondale

Subject Property - CWSP

Exhibit C

SUMMARY OF RELATED FACTS

APPLICATION DR-07-25

THE PROPERTY	
PARCEL SIZE	0.92 acres
LOCATION	Southwest Corner of Avondale Boulevard and Van Buren Street
PHYSICAL CHARACTERISTICS	Site is relatively flat
EXISTING LAND USE	Vacant
EXISTING ZONING	Planned Area Development District (PAD) and Community Commercial (C-2)
ZONING HISTORY	The western parcel was rezoned from Agricultural (AG) to Planned Area Development (PAD) on March 17, 1997; the eastern parcel was rezoned from Agricultural (AG) to Community Commercial (C-2) on October 2, 2000
DEVELOPMENT AGREEMENT	The Development Agreement for the western portion of this property was approved in 1997. There are no outstanding issues affecting this proposal.

SURROUNDING ZONING AND LAND USE	
NORTH	Vacant, zoned PAD (Avondale Towne Center)
EAST	Agricultural , Maricopa County
SOUTH	Vacant, zoned PAD (Coldwater Springs)
WEST	Multi-family residential, zoned PAD (Coldwater Springs)
GENERAL PLAN	
The subject property is designated as Commercial on the General Plan Land Use Map.	

PUBLIC SCHOOLS	
SCHOOL DISTRICT(S)	Littleton and Tolleson Union Schools
ELEMENTARY SCHOOLS	Collier Elementary (K-8)
HIGH SCHOOL	La Joya Community High School

STREETS	
Van Buren Street	
Classification	Arterial
Existing half street ROW	65 feet
Standard half street ROW	65 feet
Existing half street improvements	One travel lane and ½ center turn lane.
Standard half street improvements	Three travel lanes, bike lane, curb and gutter, detached sidewalk, street lights, and landscaping.
Avondale Boulevard	
Classification	Arterial
Existing half street ROW	65 feet
Standard half street ROW	65 feet
Existing half street improvements	2.5 paved travel lanes, curb, gutter, and partial sidewalk.
Standard half street improvements	2.5 paved travel lanes, bike lane, curb, gutter, sidewalk, street lights and landscaping.

UTILITIES
Water connection will be provided to an existing a 16-inch water line in Van Buren Street and a 24-inch water line in Avondale Boulevard. Wastewater will be connected to an existing 18-inch sewer line in Avondale Boulevard.

Exhibit D

SITE PLAN

PANDA EXPRESS AT COLDWATER SPRINGS PROMENADE

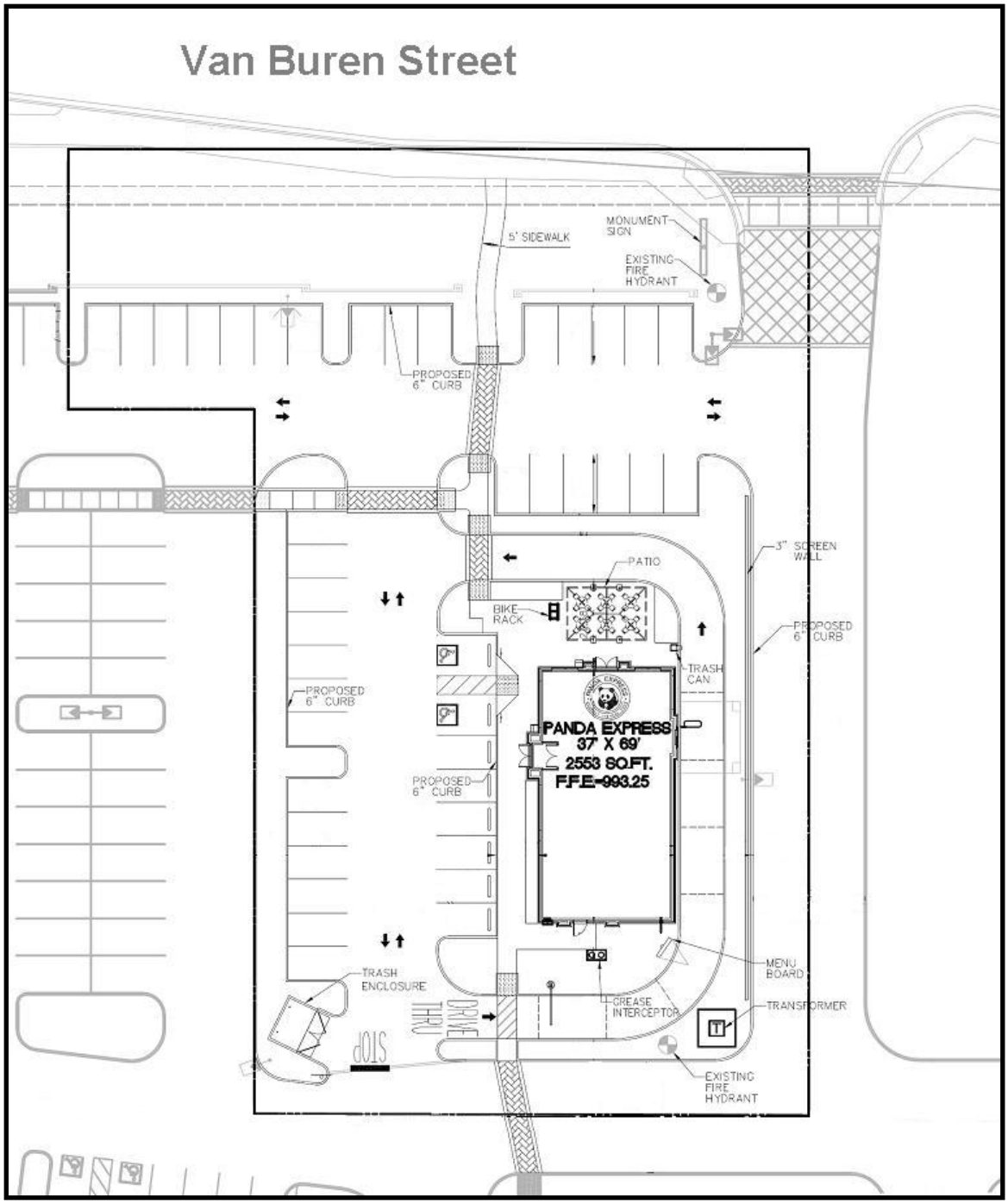


Exhibit E

LANDSCAPE PLAN

PANDA EXPRESS AT COLDWATER SPRINGS PROMENADE

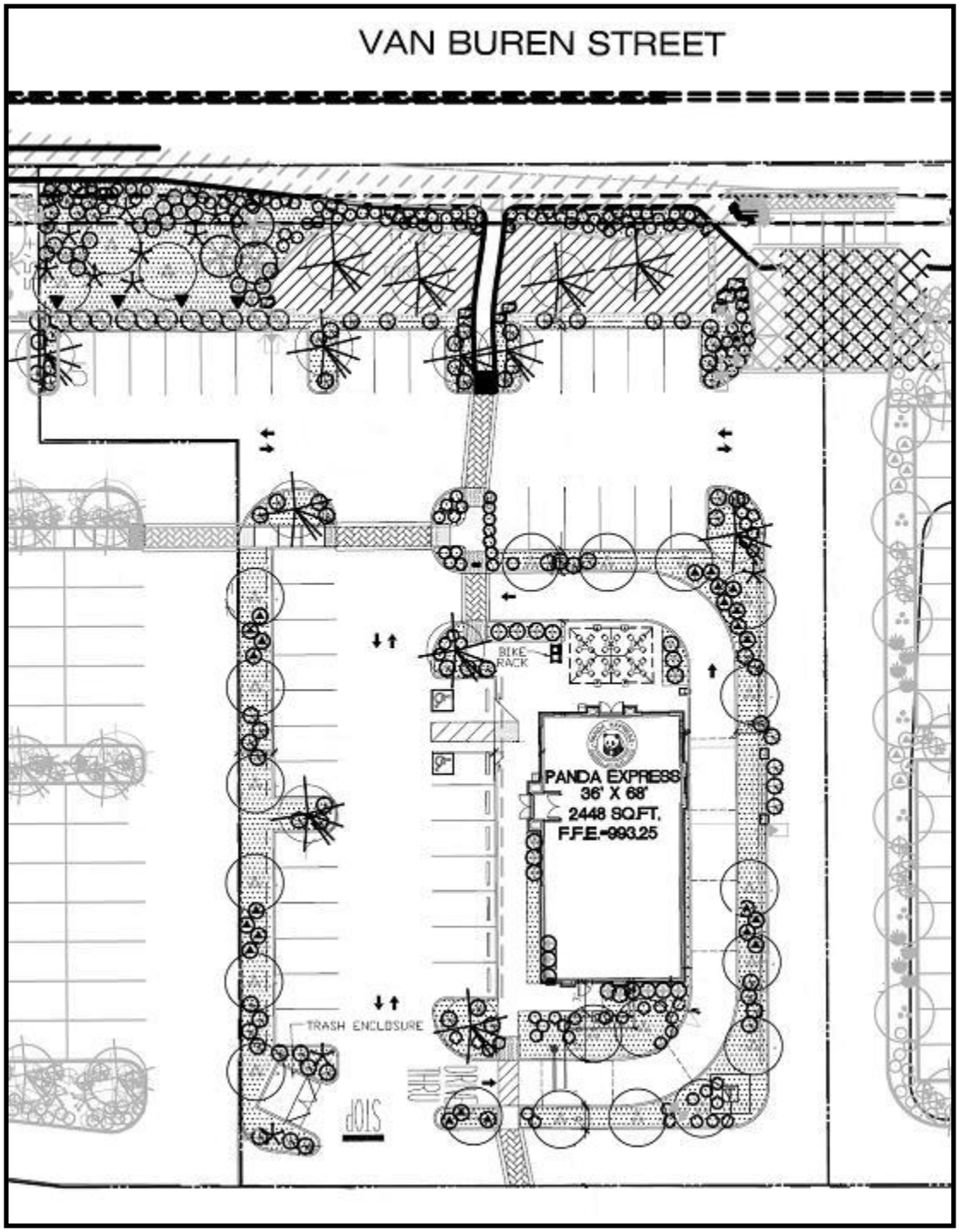


Exhibit F

ELEVATIONS

PANDA EXPRESS AT COLDWATER SPRINGS PROMENADE

Exhibit G

Excerpt of the Draft Minutes of the regular Planning Commission meeting held November 15, 2007 at 7:00 p.m. in the Council Chambers.

COMMISSIONERS PRESENT
Lisa Copeland, Commissioner
David Iwanski, Commissioner
Edward Meringer, Vice Chair
Michael Alcorn, Commissioner
Alan Lageschulte, Chairman
Kevin Grimsley, Commissioner

COMMISSIONER ABSENT
Linda Webster, Commissioner (Excused)

CITY STAFF PRESENT
Ken Galica, Planner II
Eric Morgan, Planner II
Brian Berndt, Development Services Director
John Vater, Planner I
Dean Svoboda, Long Range Planning Director

APPLICATION NO. **DR-07-25**

APPLICANT: Alex Ramon, Carter Burgess
101 N 1st Avenue, Phoenix, AZ

REQUEST: This is a request for site plan approval for Panda Express at Coldwater Springs Promenade, located at the southwest corner of Avondale Blvd. and Van Buren Street. Staff Contact: John Vater 623-333-4014.

John Vater, Planner I, stated this request is for site plan approval for Panda Express on Pad #4 at Coldwater Springs Promenade located at the southwest corner of Avondale Blvd. and Van Buren Street, partly zoned as a PAD development in 1997 and partly zoned as C-2 (Community-Commercial) in 2000. Mr. Vater described the surrounding properties as mostly residential with apartments to the west and single family homes to the southwest, undeveloped property to the north and agricultural property to the east, and the property to the south being the Avondale Coldwater I, which is a retail/office development. He stated all driveways, sidewalks and parking lots will be constructed by the developer of the Coldwater Springs Development and the applicant is only responsible for construction within the perimeter of Pad #4. He described a right-in/right-out only driveway proposed on Van Buren which will provide access to the site and internal drive aisles will provide access to internal circulation and parking. Mr. Vater informed the Planning Commission that the layout of the lot and the pad are nearly identical to the approved Master Site Plan.

He stated the applicant is proposing a 2,553 square foot restaurant with a drive-through with a length to queue nine vehicles on the east side of the building, which will be screened from view by a three foot high wall, as well as a covered outdoor eating area. The site will also include 42 parking stalls, two being ADA accessible, the parking being screened by a 3-1/2 foot wall. Mr. Vater reported the landscaping would be installed by the developer of the Coldwater Springs Development, and landscaping within the parking area will be the responsibility of the applicant. He stated the landscaping will include a 30 foot landscape buffer with integral sidewalk proposed along Van Buren Street on the north boundary, which will include a combination of 24-inch box Willow Acacia trees and 24-inch box Blue Palo Verde trees planted every 24 feet on center. He reported the architecture proposed is designed to match that of the Coldwater Springs Promenade Development, containing variation in the roof line with columns and wall caps, changes in color, and green metal canopies. He described the colors as earth tones on the walls with green for accent on the metal canopies, and the materials as stucco, stone veneer, glass and metal.

Mr. Vater reported that Staff finds that the Site Plan meets the required findings, is compatible with the objectives of the General Plan, is in conformance with the Community-Commercial Zoning District, the Zoning Ordinance, and is in conformance with the Coldwater Spring Promenade PAD Master Site Plan. He stated Staff recommends approval of the Site Plan for Panda Express with five stipulations. Mr. Vater stated he would take questions, and Mr. Alex Ramon, the applicant's representative, was also present to answer questions.

Chairperson Lageschulte invited questions of Staff.

Commissioner Alcorn inquired about the location of the drive-through. Mr. Vater explained that Staff typically tries to keep a drive-through away from the street so the drive-through cannot be viewed from the street.

Chairperson Lageschulte invited further questions, and hearing none, invited the applicant's representative, Mr. Alex Ramon, to address the Commission. He declined. Chairperson Lageschulte reported he had no speaker forms and asked if anyone in the audience would like to speak on the item. There were no requests to speak. Chairperson Lageschulte called for a motion.

Vice Chair Meringer moved that the Planning Commission accept the findings and recommend approval of application DR-07-25, a request for Site Plan approval in the PAD and Community-Commercial zoning districts. Commissioner Alcorn seconded the motion.

Chairperson Lageschulte opened the floor for discussion.

Commissioner Grimsley stated he thinks the five Staff-recommended stipulations should be addressed in the motion, and in light of that, he would have to vote nay. Chairperson Lageschulte asked Commissioner Grimsley to expand on his comment. Commissioner Grimsley reiterated that the five Staff-recommended stipulations were not addressed in the motion. Chairperson Lageschulte stated the Commission could re-do the motion. He commented that this property was in a gateway for Avondale and the Commission was trying to make this something

special to look at, and it appeared that the elevation of the building would fit in well. He asked the applicant to please keep up the area around his building.

Chairperson Lageschulte invited further discussion.

Commissioner Copeland stated she was pleased that the applicant had chose Avondale for his business, but she does not think this is the right location because it is a gateway for Avondale and she thought the vision was to put more upscale establishments in the area. She stated she would vote in favor of the item, but she is very displeased that Staff could not find this business owner a better location.

Chairperson Lageschulte stated he somewhat agreed with Commissioner Copeland. He stated the City would need a variety of eateries and that this little corner shopping center would present a real problem in trying to fill it with the right businesses, but hopefully down the road there will be more of the upscale establishments.

Commissioner Grimsley stated that he felt this was a more upscale fast food restaurant even though it has a drive-through, and with the Civic Center right across the street and other businesses adjacent to it, there would be a large need for this business so people can have lunch, so he believes this is a great location, and he thinks it is a very nice land use.

Chairperson Lageschulte asked Vice Chair Meringer to re-do the motion.

Vice Chair Meringer moved that the Planning Commission accept the findings and recommend approval of application DR-07-25, a request for Site Plan approval in the PAD and Community-Commercial zoning districts subject to the five Staff-recommended stipulations. Commissioner Alcorn seconded the motion.

Chairperson Lageschulte called for a Roll Call vote.

ROLL CALL VOTE

Commissioner Webster	Absent
Commissioner Copeland	Aye
Vice Chair Meringer	Aye
Commissioner Alcorn	Aye
Chairperson Lageschulte	Aye
Commissioner Grimsley	Aye
Commissioner Iwanski	Aye

The motion passed unanimously.

DEVELOPMENT SERVICES

SUBJECT:
Public Hearing and Ordinance 1285-1207 Rezone from Mobile Home Park (R-5) to Planned Area Development (PAD) for Ashton Pointe (Z-07-6)

MEETING DATE:
December 17, 2007

TO: Mayor and Council

FROM: Brian Berndt, Development Services Director (623) 333-4011

THROUGH: Charlie McClendon, City Manager

REQUEST: Rezone from Mobile Home Park (R-5) to Planned Area Development (PAD)

PARCEL SIZE: Approximately 15.58 acres

LOCATION: Abutting and east of Friendship Park, South of McDowell Road

APPLICANT: Greg Linaman, PB Bell Commercial Acquisitions, LLC

OWNER: McDowell Residential Properties, LLC

BACKGROUND:

The subject property was annexed into the City on January 16, 1978. At some point it was rezoned to R-5 Mobile Home Park. No development has been approved on the subject site.

SUMMARY OF REQUEST:

The applicant is requesting to rezone approximately 15.58 acres from Mobile Home Park (R-5) to Planned Area Development (PAD) for a multi-family development. The General Plan identifies land use of the site as Multi-family Residential with a density of 12+ dwelling units per acre(12+ du/ac) and a target density of 12 du/ac (Exhibit D).

The site is currently vacant. The property is bounded on the north by McDowell Road, on the west by Friendship Park, on the east by the Country Hills Mobile Home Park, and on the south by vacant land zoned Mobile Home Park (R-5). A Salt River Project (SRP) electrical transmission lines easement runs north-south along the west property line adjacent to Friendship Park, extending 130' into the subject property. Additionally, a large drainage channel and swale runs north-south along the west property line between the site and Friendship Park, west of the SRP electrical transmission lines easement.

Proposed Development Standards

The applicant proposes to adhere to the R-4 Multi-family zoning district (Section 203) as a comparable zoning district for development standards, with modification by the PAD narrative (Exhibit E). The development is also subject to the standards of the Freeway Corridor Specific Plan. The applicant does not propose deviation from any of Specific Plan's standards. A summary of the proposed development standards that deviate from the Zoning Ordinance are as follows:

Standards **LESS** restrictive than the Zoning Ordinance:

1. The Zoning Ordinance requires a minimum of 30% of required common open space to be located along

the front yard street frontage as a landscaping setback (Section 203.F.3.e). The applicant is proposing elimination of a minimum percentage and replacement with increased required front yard building and parking area setbacks.

2. The Zoning Ordinance establishes a maximum building height of 30 feet (Section 203), and the Freeway Corridor Specific Plan allows increased density and building height to 30 dwelling units to the acre (30 du/ac) and 40 feet if certain criteria are found to be met (FCSP page 35). The applicant is proposing a density of 22 du/ac and a maximum building height of three stories and 40 feet.

Standards **MORE** restrictive than the Zoning Ordinance:

1. The Freeway Corridor Specific Plan requires a minimum front yard building setback of 30 feet and a minimum front yard parking area setback of 40 feet (FCSP p. 38). The applicant is proposing a minimum front yard building setback of 40 feet and minimum front yard parking area setback of 50 feet.

2. The Zoning Ordinance establishes a maximum lot coverage by buildings of 45% (Section 203). The applicant is proposing a maximum lot coverage by building of 25%.

3. The Zoning Ordinance requires a minimum amount of open space to be provided as 1.5 times the first floor area of all buildings, up to a maximum of 45% open space (Section 203.F.3.d). The applicant is proposing a minimum of 2 times the first floor area of all buildings, with a maximum of 45%.

4. The Zoning Ordinance requires a minimum of 10% of the gross site area to be devoted to common open space that is actively usable, as a recreational amenity (Section 606.A). The applicant is proposing a minimum of 12% active usable open space.

5. The Zoning Ordinance does not establish a standard for minimum setbacks for buildings exceeding the maximum height limit. The applicant is proposing a setback of 95 feet for the three-story 40-foot height buildings.

6. The Zoning Ordinance requires a minimum of 10% of the net site to be landscaped (Section 1203.A.1). The applicant is proposing a minimum of 35%.

7. The Zoning Ordinance requires a minimum of 5% of the parking area to be landscaped (Section 1203.D.1), and the Freeway Corridor Specific Plan requires a minimum of 15% of the parking area to be landscaped within 200 feet of McDowell Road (FCSP p. 38). The applicant is proposing a minimum of 15% of the parking area to be landscaped for the entire site, and a minimum of 20% of the parking area to be landscaped within 200 feet of McDowell Road.

8. The Zoning Ordinance requires a minimum of 33% of building frontages along streets to be covered with landscaping at the building foundations (Section 1203.H). The applicant is proposing 100% of the building foundations to be landscaped fronting along McDowell Road.

9. The Zoning Ordinance requires a minimum of 1 tree per 20 linear feet along streets, and a minimum of 25% of those trees to be a minimum of 24" box in size (Section 1203.B.1) with a minimum height of 6 feet and minimum trunk diameter of 2 inches (Section 1203.A.8). The applicant is proposing 1 tree per 17 linear feet along streets, and 100% of those trees to be a minimum of 24" box in size.

PARTICIPATION:

The applicant invited 89 property owners and other interested parties to a neighborhood meeting held on September 27, 2007 to discuss the proposal. No property owners nor interested parties attended the meeting (Exhibit G).

The Planning Division has received one letter opposing the application (Exhibit G).

A notice was published in the West Valley View newspaper. The property was posted on September 4, 2007. Letters were sent to 89 property owners on September 4, 2007.

PLANNING COMMISSION ACTION:

The Planning Commission conducted a public hearing on November 15, 2007 and voted 6-0 to recommend **APPROVAL** of the request with the three stipulations recommended by staff.

ANALYSIS:

General Plan:

The General Plan designates the subject property as Multi-family Residential. Multi-family land use provides for a density range of 12+ du/ac, with a target density of 12 du/ac. The applicant is proposing a maximum of 22 du/ac. The General Plan allows for approval of developments higher than the target density if they exhibit exceptional design.

Staff finds that the proposed PAD contains adequate provision to achieve the goals of the General Plan and to ensure a development of exceptional design to warrant the increased density of 22 du/ac. The two nearest multi-family projects on McDowell Road to the site are Crystal Springs Apartments (15 du/ac) and Rio Santa Fe Apartments (20 du/ac).

Freeway Corridor Specific Plan:

The Freeway Corridor Specific Plan makes provision for multi-family developments within three-fourths of a mile of Interstate 10 and with access to arterial streets (such as McDowell Road) to achieve development densities of up to 30 du/ac and a maximum building height of 40 feet provided the development meet specific criteria (FCSP p. 35).

Staff finds that:

· The proposed PAD conforms to the intent and objectives of the Freeway Corridor Specific Plan;

· The request meets the design standards of the Freeway Corridor Specific Plan;

· The request supports the Boulevard streetscape concept and provides street and landscaping improvements that exceed the minimum requirements;

· The project exhibits extraordinary architectural design quality and distinguishes itself apart from other multi-family projects (see site plan application DR-07-9 Ashton Pointe); and

· The project possesses exceptional environmental quality in the use of open space, and creation of high quality recreational facilities, and the creation of a high quality image along the public street.

The applicant is requesting to increase building height to three-stories and 40 feet maximum, to have a development density of 22 du/ac, and to eliminate placing 30% of their required open space along McDowell Road. In mitigation of the above, the applicant is proposing to increase building and parking area setbacks along McDowell Road by an additional 10 feet, to increase the number of trees and ground cover along McDowell Road, to increase the amount of common open space throughout the property, to provide amenities above the industry standards such as two swimming pools, a multiuse trail, grassy areas for putting and bocce ball, as well as several barbeque locations.

Staff's assessment is that the applicant is proposing adequate landscaping, open space and architectural quality to mitigate potential adverse impacts from a more dense development with an additional 10 feet of building height.

Zoning Ordinance:

The staff finds that both of the required findings of the Zoning Ordinance required in order to grant a rezoning to PAD have met (A.Z.O. 608). Specifically, staff finds that:

· The PAD is in substantial conformance with the Comprehensive (sic) Plan of the city and can be coordinated with existing and planned development of surrounding areas; and

· The streets and thoroughfares proposed are suitable and adequate to serve the proposed uses and the anticipated traffic which will be generated.

FINDINGS:

The proposed rezoning meets the following findings:

1. The proposed PAD complies with the land use designation of the General Plan.

2. The proposed PAD meets the intent and goals of the General Plan.

3. The proposed PAD conforms to the intent and objectives of the Freeway Corridor Specific Plan.

4. The proposed PAD meets the design standards of the Freeway Corridor Specific Plan.

5. The proposed PAD supports the Boulevard streetscape concept and provides street and landscaping improvements that exceed the minimum requirements.

6. The proposed PAD exhibits extraordinary architectural design quality and distinguishes itself apart from other multi-family projects (see site plan application DR-07-9 Ashton Pointe).

7. The proposed PADpossesses exceptional environmental quality in the use of open space, and creation of high quality recreational facilities, and the creation of a high quality image along the public street.

8. The proposed PAD is in substantial conformance with the Comprehensive (sic) Plan of the city and can be coordinated with existing and planned development of surrounding areas.

9. The streets and thoroughfares proposed by the PAD are suitable and adequate to serve the proposed uses and the anticipated traffic which will be generated.

RECOMMENDATION:

The Planning Commission recommends that the City Council **APPROVE** of the proposed rezoning of approximately 15.58 acres from Mobile Home Park (R-5) to Planned Area Development (PAD) with the following stipulations:

1. Development shall be in substantial conformance with the development plan and narrative Planning Division date stamped November 8, 2007.

2. Public street improvements on McDowell Road shall be completed prior to receiving the first certificate of occupancy. Required improvement standards are determined by the City of Avondale Engineering Design Guidelines for Site Development and Infrastructure Development.

3. All groundwater rights shall be dedicated to the City of Avondale in conformance with Arizona Statutes prior to issuance of the first Certificate of Occupancy.

PROPOSED MOTION:

I move that the City Council accept the findings and ADOPT the Ordinance approving Application Z-07-6, a

request to rezoned approximately 15.58 acres from R-5 Mobile Home Park to Planned Area Development, subject to the three stipulations recommended by Planning Commission.

ATTACHMENTS:

Click to download

- Ashton Pointe Exhibits A - D, F & G
- Ordinance 1285-1207

FULL SIZE COPIES (Council Only):

Exhibit E - PAD Narrative

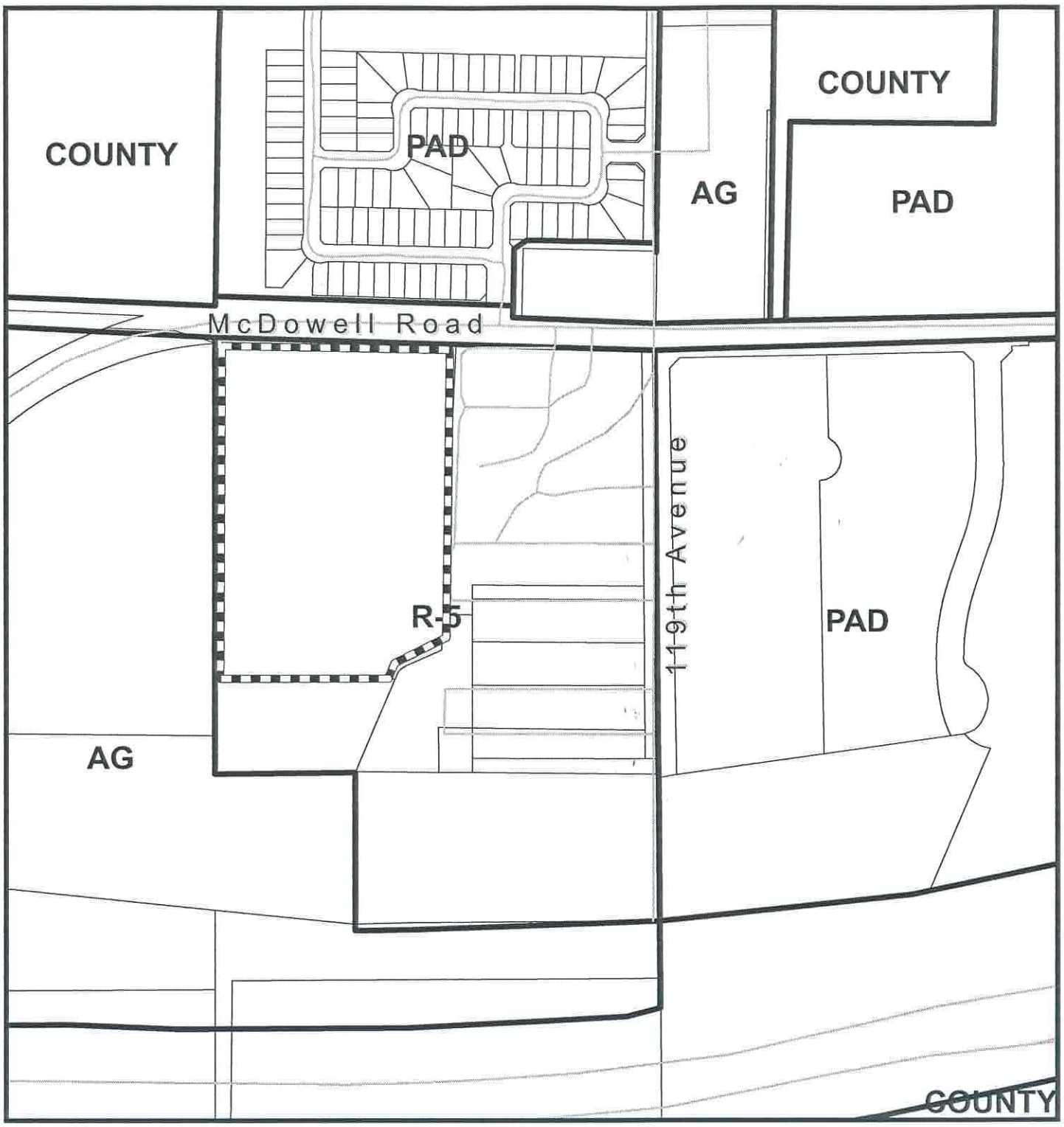
PROJECT MANAGER:

Eric Morgan, Planner II (623) 333-4017

Ashton Pointe (Z-07-6) Rezoning from R-5 to PAD

Exhibits A - D, F & G

Exhibit A

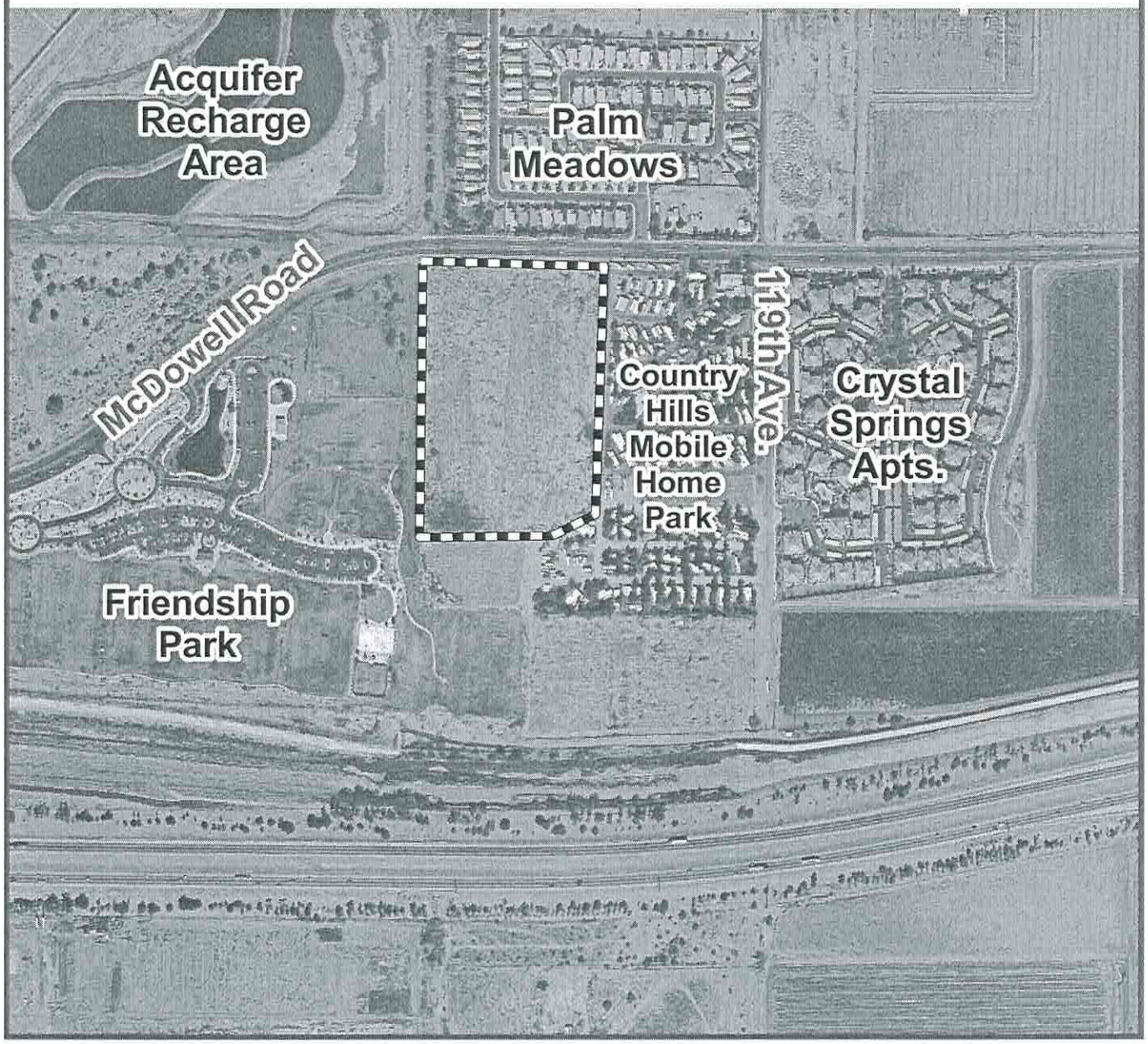


Zoning Vicinity Map
Ashton Pointe
Z-07-6

Avondale

Subject Property

Exhibit B



Air Photo 2007
Ashton Pointe
Z-07-6

Avondale

Subject Site

Exhibit C

SUMMARY OF RELATED FACTS
APPLICATION ***ASHTON POINTE Z-07-6***

THE PROPERTY	
PARCEL SIZE	Approximately 15.58 acres
LOCATION	E. of Friendship Park, S. of McDowell Rd.
PHYSICAL CHARACTERISTICS	A relatively flat, nearly rectangular shaped parcel
EXISTING LAND USE	Vacant
EXISTING ZONING	Mobile Home Park (R-5)
ZONING HISTORY	Annexed January 16, 1978. Zoned Mobile Home Park R-5.
DEVELOPMENT AGREEMENT	N/A

SURROUNDING ZONING AND LAND USE	
NORTH	PAD (Palm Meadows) - Single Family Residential Detached
EAST	R-5 (Country Hills MH Park) - Mobile Home Park
SOUTH	R-5 - vacant
WEST	AG (Friendship Park) - Public park facility

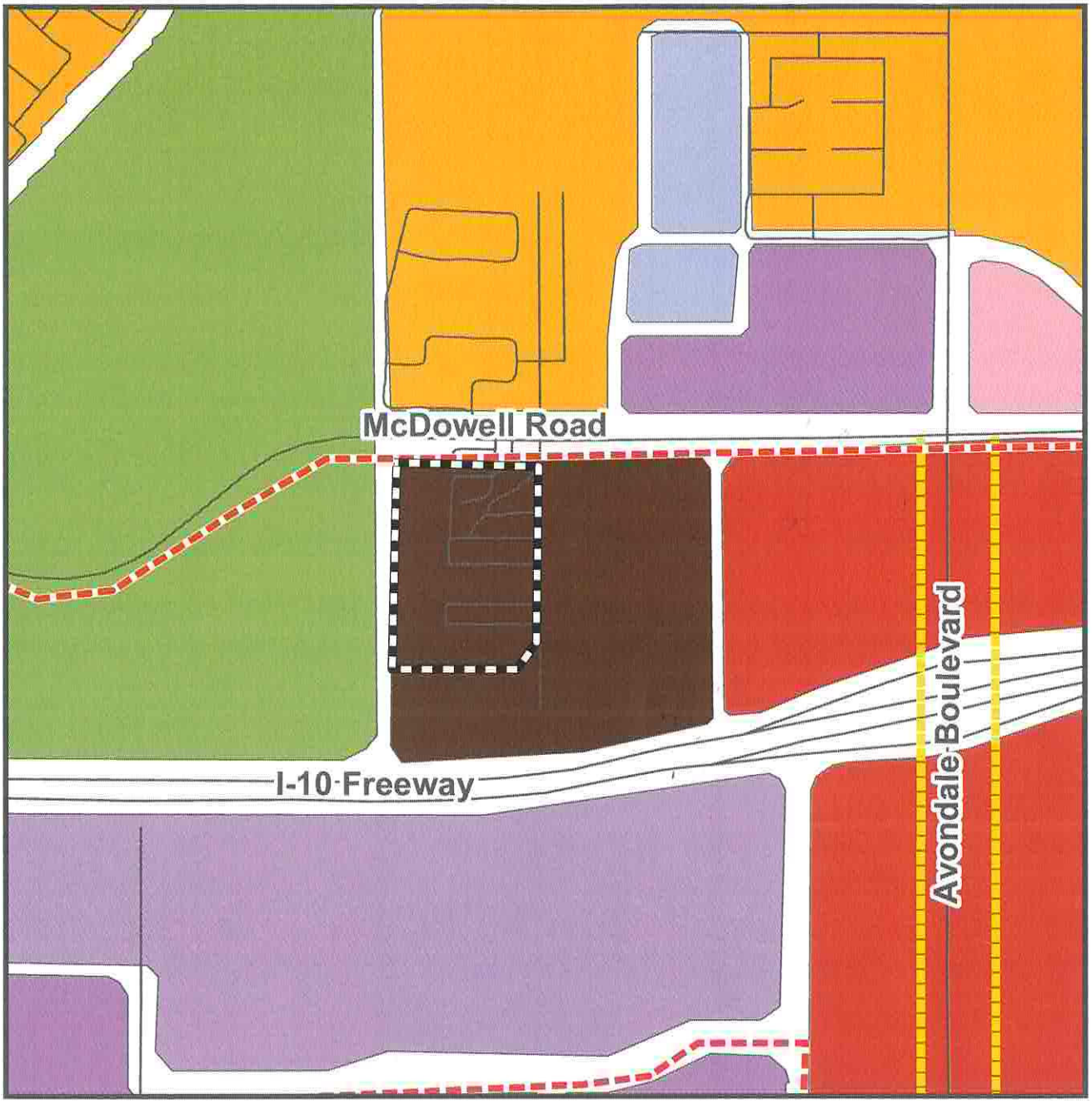
GENERAL PLAN
Multi-family Residential

PUBLIC SCHOOLS	
SCHOOL DISTRICT(S)	Littleton Elementary School District & Tolleson Union High School District
ELEMENTARY SCHOOL	Littleton Elementary School
HIGH SCHOOL	La Joya Community High School

STREETS	
McDowell Road	
Classification	Arterial
Existing half street ROW	65 feet
Standard half street ROW	65 feet (plus 15 feet turn lanes)
Existing half street improvements	2-lanes and ½ turn lane.
Standard half street improvements	3-lanes, 1 turn lane, ½ landscaped median, ROW landscaping, bike lane, street lights, sidewalk, curb & gutter

Utilities
A 10" potable water line will be brought into the SE corner of the site through an easement obtained from the Country Hills Mobile Home Park to the East. A 12" potable water line will be brought into the SE corner of the site through an easement obtained from the Country Hills Mobile Home Park to the East.

Exhibit D



General Plan Land Use

- Commercial Corridor, Commercial Corridor
- Growth Area, Growth Area
- 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

Exhibit F

WITHEY MORRIS PLC

PHONE: 602-230-0600
FAX: 602-212-1787
2525 E. Arizona Biltmore Circle, Suite A-212, Phoenix, AZ 85016

September 27, 2007

Z-07-6 & DR-07-9

Ashton Pointe Rezoning and Site Plan Applications
West of the SWC 119th Avenue & McDowell Road
Citizen Participation Summary

Meeting was held:

September 25, 2007 at 6:30 p.m.
Avondale City Hall
Ocotillo Room
11465 West Civic Center Drive

Participants:

Members of the development team were present to answer any questions:

Greg Linaman, The PB Bell Companies
Jennifer Ong, The PB Bell Companies
Jennifer Grombacher, Withey Morris PLC

No property owners attended the meeting.

Meeting Minutes:

Nothing to report.
Meeting was adjourned at 7:15 p.m.

SIGN-IN

NEAR THE SWC MCDOWELL ROAD & 119TH AVENUE

NEIGHBORHOOD MEETING
September 25, 2007

NAME (Please Print)	ADDRESS	PHONE NO.	Email Address
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			

Exhibit G

PLANNING
RECEIVED
NOV 2007
DIVISION

November 5, 2007

Eric Morgan, Planner II
Development Services
11465 W. Civic Drive, #110
Avondale, Arizona 85323

Re: Case Z-07-6 Ashton Pointe

Dear Mr. Morgan,

I am writing to you because I oppose the request to rezone approximately 15.4 acres from R-5 to Planned Area Development for multifamily uses. The subject property is located east of, and abutting, Friendship Park on the south side of McDowell Road. I oppose this new development due to the fact that two multifamily complexes already exist between Avondale Blvd and Rancho Santa Fe Blvd., on McDowell Road.

As a home owner, I am concerned that this development will cause my property value and those to surrounding homes to go down. Please do not build anymore multifamily complexes around this area.

Thanking you in advance for your consideration of this letter.

Sincerely,

Max Urtuzuastegui
11981 W. Almeria Road
Avondale, Az 85323

ORDINANCE NO. 1285-1207

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE OFFICIAL ZONING ATLAS OF THE CITY OF AVONDALE FOR APPROXIMATELY 15.58 ACRES LOCATED SOUTH OF MCDOWELL ROAD AND EAST OF FRIENDSHIP PARK AS SHOWN IN FILENAME Z-07-6, REZONING SUCH PROPERTY FROM MOBILE HOME PARK (R-5) TO PLANNED AREA DEVELOPMENT (PAD) AND IMPOSING CONDITIONS UPON SUCH CHANGE.

WHEREAS, the Council of the City of Avondale (the "City Council") desires to amend the City of Avondale Zoning Atlas (the "Zoning Atlas") pursuant to ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, all due and proper notices of public hearings on the intended amendment held before the City of Avondale Planning and Zoning Commission (the "Commission") and the City Council were given in the time, form, substance and manner provided by ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, the Commission held a public hearing on Thursday, November 15, 2007, on the amendment to the Zoning Atlas pursuant to such notices and as required by ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, the Commission recommended approval; and

WHEREAS, the City Council held a public hearing regarding the amendment to the Zoning Atlas on December 17, 2007.

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

SECTION 1. That ± 15.58 acres of real property generally located south of McDowell Road and east of Friendship Park as shown in filename Z-07-6 (the "Property"), as more particularly described and depicted in Exhibit A, attached hereto and incorporated herein by reference, are hereby rezoned from Mobile Home Park (R-5) to Planned Area Development (PAD), subject to the following conditions:

1. Development shall be in substantial conformance with the development plan and narrative Planning Division date stamped November 8, 2007.

2. Public street improvements on McDowell Road shall be completed prior to receiving the first certificate of occupancy. Required improvement standards are determined by the City of Avondale Engineering Design Guidelines for Site Development and Infrastructure Development.

3. All groundwater rights shall be dedicated to the City of Avondale in conformance with Arizona Statutes prior to issuance of the first Certificate of Occupancy.

SECTION 2. That if any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, December 17, 2007.

_____
Marie Rogers Lopez, Mayor

ATTEST:

_____
Linda M. Farris, City Clerk

APPROVED:

_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 1285-1207

[Legal Description and Map]

See following pages.

Exhibit A

All that portion of the Northeast quarter of the Northwest quarter of Section 1, Township 1 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

COMMENCING at the Northwest corner of Section 1, marked by a ½ inch rebar and cap RLS 34404;

thence along the North line of the Northwest quarter of the Northwest quarter, South 87 degrees 55 minutes 47 seconds East, a distance of 1309.61 feet to a brass cap in hand hole marking the Northwest corner of the Northeast quarter of the Northwest quarter;

thence leaving said North line, South 00 degrees 14 minutes 07 seconds West, a distance of 65.00 feet to a point on the Southerly right-of-way line of McDowell Road as conveyed in Book 2328 of Deed, page 135, said point being the TRUE POINT OF BEGINNING;

thence along the South right-of-way line of McDowell Road, South 88 degrees 58 minutes 51 seconds East, a distance of 697.99 feet;

thence leaving said right-of-way, South 02 degrees 50 minutes 49 seconds West, a distance of 931.23 feet;

thence South 65 degrees 24 minutes 06 seconds West, a distance of 121.63 feet;

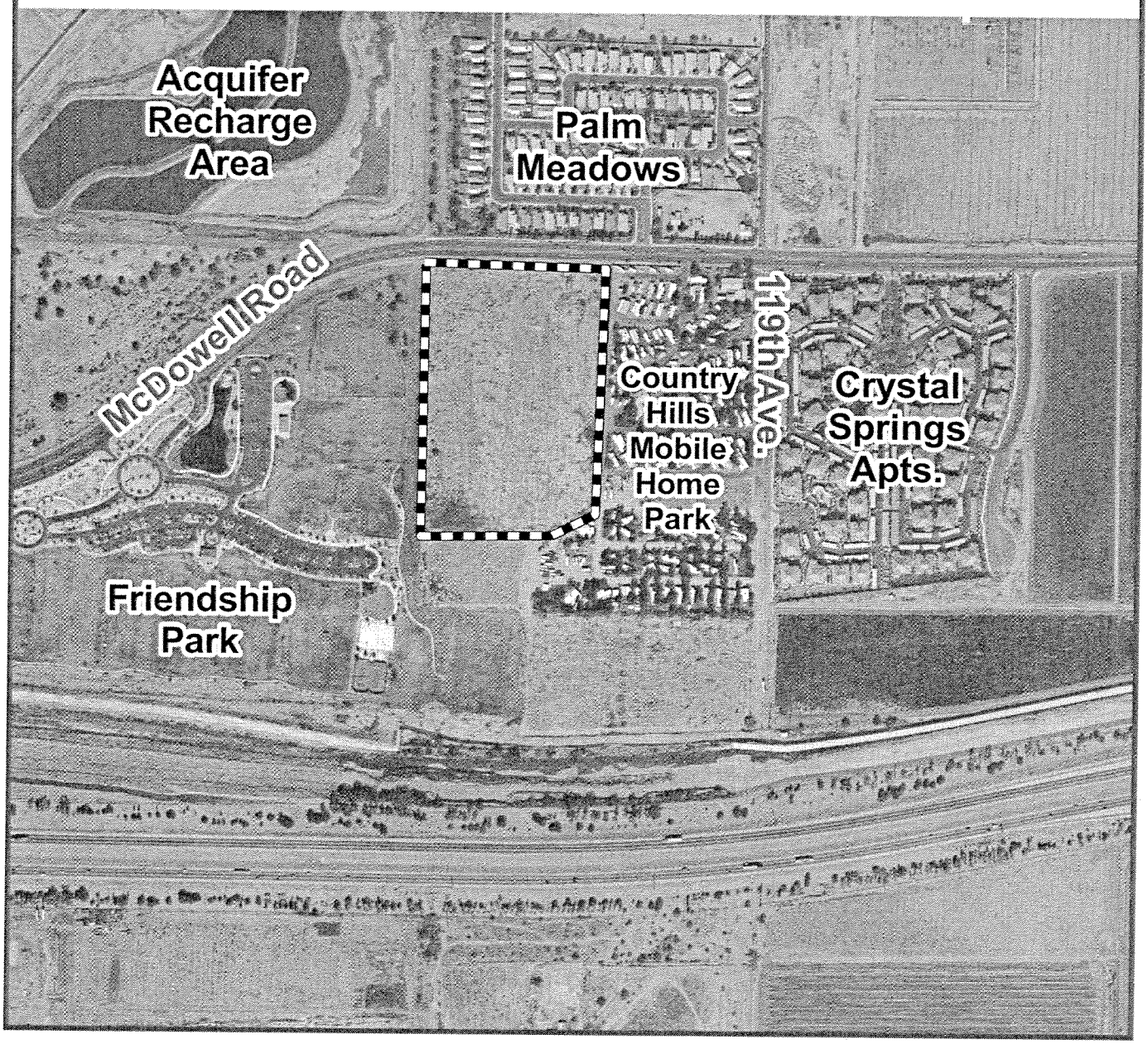
thence South 45 degrees 59 minutes 06 seconds West, a distance of 22.80 feet;

thence South 20 degrees 42 minutes 06 seconds West, a distance of 10.52 feet;

thence South 89 degrees 44 minutes 13 seconds West, a distance of 525.12 feet to a point on the West line of the Northeast quarter of the Northwest quarter;

thence along said West line, North 00 degrees 14 minutes 07 seconds East, a distance of 1021.22 feet to the TRUE POINT OF BEGINNING

Exhibit B



Air Photo 2007
Ashton Pointe
Z-07-6

Avondale

Subject Site

DEVELOPMENT SERVICES

SUBJECT:
Master Site Plan and Final Site Plan approval for Ashton Pointe (DR-07-9)

MEETING DATE:
December 17, 2007

TO: Mayor and Council

FROM: Brian Berndt, Development Services Director (623) 333-4011

THROUGH: Charlie McClendon, City Manager

REQUEST:
1. Master Site Plan approval, including architecture, materials, colors and comprehensive sign program.
2. Final Site Plan approval, including building elevations.

PARCEL SIZE: Approximately 15.58 acres

LOCATION: East of, and abutting, Friendship Park, South of McDowell Road

APPLICANT: Greg Linaman, PB Bell Commercial Acquisitions, LLC

OWNER: McDowell Residential Properties, LLC

BACKGROUND:

The subject property was annexed into the City on January 16, 1978. At some point it was rezoned to R-5 Mobile Home Park. No development has been approved on the subject site.

SUMMARY OF REQUEST:

The applicant is requesting final site plan approval of 314 multi-family development on approximately 15.58 acres at a development density of 20.15 dwelling units to the acre (20.15 du/ac). The development consists of five three-story apartment buildings, seven two-story garage & loft buildings, two separate gated swimming pool & barbeque amenity areas, a club house, a leasing office, a multiuse trail and landscaped open space. Approximately 12% of the site is active usable open space for recreation amenities, 20% of the site is covered with buildings, approximately 40% is landscaped, and approximately 45% of the site is common and private open space (active and passive combined). A total of 562 parking spaces are required by Zoning Ordinance (Section 804), and the applicant is proposing 571 parking spaces. The applicant is also requesting approval of a Comprehensive Sign Plan that includes a free standing development identification sign along McDowell Road, minor directional and informational signs internal to the development and addressing on the buildings.

The site is currently vacant except for two large Salt River Project (SRP) electrical line transmission towers located on the property along the west property line abutting Friendship Park. North of the subject property, across McDowell Road, is the Palm Meadows community comprising 183 single family lots on 51 acres at a density of 3.58 du/ac. East of the subject property is the Country Hills Mobile Home Park on approximately 20 acres. South of the subject property is vacant land zoned Mobile Home Park (R-5).

PARTICIPATION:

No public notification is required for a site plan.

PLANNING COMMISSION ACTION:

The Planning Commission reviewed the request on November 15, 2007 and voted 6-0 to recommend **APPROVAL** of the request with the six stipulations recommended by staff.

ANALYSIS:

General Plan and Freeway Corridor Specific Plan:

The site is identified as Multi-family Residential in both the General Plan and Freeway Corridor Specific Plan. Multi-family Residential has a density of 12+ du/ac, with a target density of 12 du/ac. The proposed site plan meets or exceeds all development requirements of both.

PAD and Zoning Ordinance:

The proposed site plan meets or exceeds all requirements of the PAD (case Z-07-6 Ashton Pointe) and the Zoning Ordinance.

FINDINGS:

The proposed request meets the following findings:

1. Complies with the General Plan.
2. Complies with the Zoning Ordinance.
3. Complies with the Ashton Pointe Planned Area Development (PAD) zoning district (case Z-07-6).

RECOMMENDATION:

The Planning Commission recommends that the City Council **APPROVE** of the proposed Master Site Plan and Final Site Plan with the following stipulations:

1. Development shall be in substantial conformance with the development plan and narrative Planning Division date stamped December 6, 2007.

2. The fire lane showing decorative colored granite shall be engineered to support an imposed live load of 66,000 pounds with a maximum axle load of 28,000 pounds. Alternative surface fire apparatus access roads shall be designed by an engineer registered in the State of Arizona. The engineer shall prepare a sealed design report for submittal to and approval by the Fire Department. Plans shall be sealed and submitted with the report.

3. Trees shown along this fire lane must provide a minimum vertical clearance of 13’ 6” for fire apparatus access.

4. For the porkchop islands required at the western exit-only driveway and the eastern right-in/right-out only driveway, please design per City of Phoenix Standard Details P1243-1 and p1243-2 (modified with signs installed by contractor instead of City). Can revise and submit with Civil plans. The radius, lane widths and median breaks are to be shown on the plans.

5. Signing and Striping plans are required to be submitted with Civil Plans.

6. Minor adjustments of the building elevations shall be allowed with administrative approval by staff provided that the overall character and quality is maintained or improved.

PROPOSED MOTION:

I move that the City Council accept the findings and **APPROVE** application DR-07-9, a request to approve Master Site Plan and Final Site Plan for approximately 15.58 acres zoned Planned Area Development,subject to the six stipulations recommended by Planning Commission.

ATTACHMENTS:

Click to download

- Ashton Pointe Attachments A - C

FULL SIZE COPIES (Council Only):

Exhibit D - Site Plan, Building Elevations & Comprehensive Sign Program

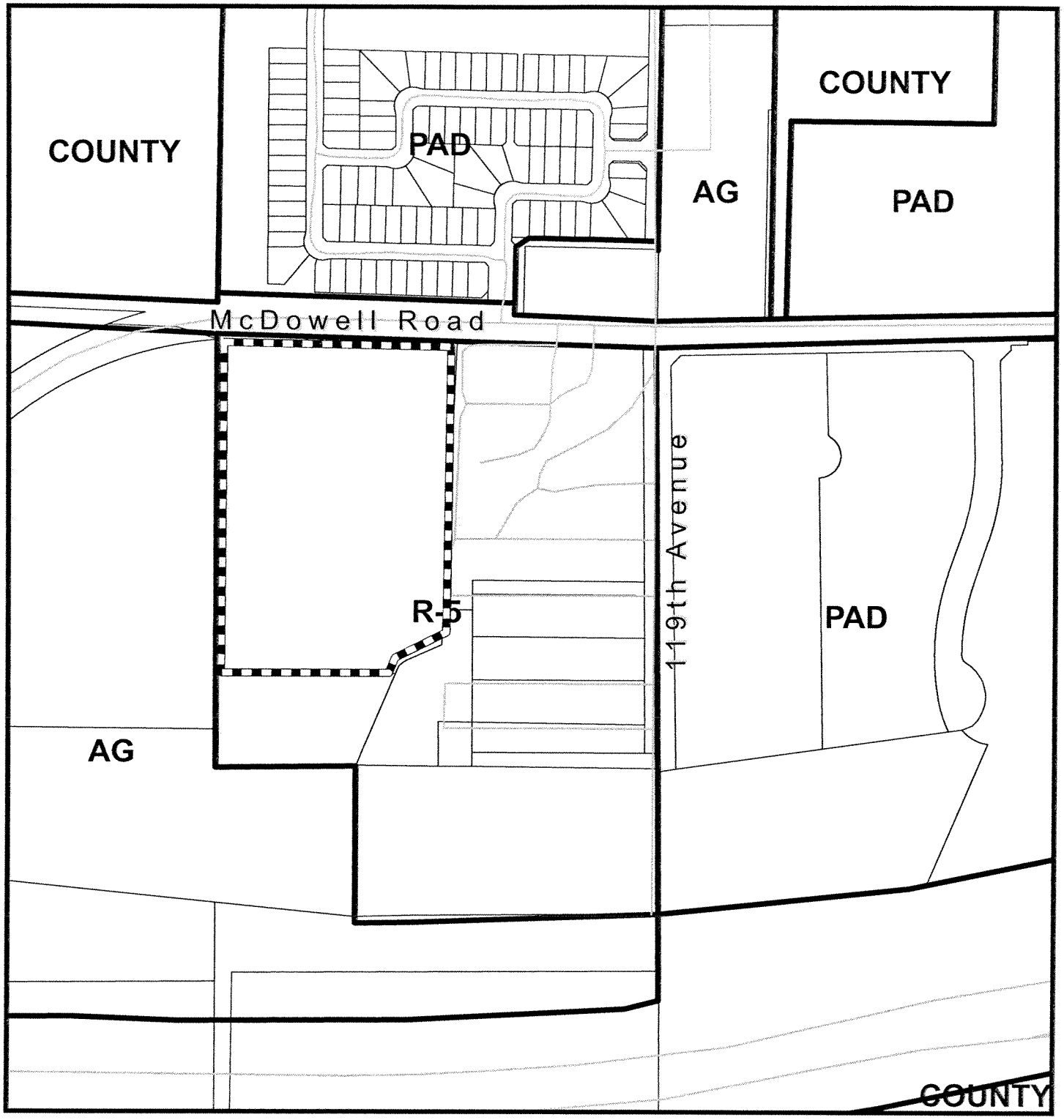
PROJECT MANAGER:

Eric Morgan, Planner II (623) 333-4017

Ashton Pointe (DR-07-9) Master Site Plan & Final Site Plan approval

Exhibits A - C

Exhibit A



Zoning Vicinity Map
Ashton Pointe
DR-07-9

Avondale

Subject Property

N

Exhibit B

Air Photo 2007
Ashton Pointe
DR-07-9

Avondale

Subject Site

SUMMARY OF RELATED FACTS
APPLICATION ***ASHTON POINTE DR-07-9***

THE PROPERTY	
PARCEL SIZE	Approximately 15.58 acres
LOCATION	E. of Friendship Park, S. of McDowell Rd.
PHYSICAL CHARACTERISTICS	A relatively flat, nearly rectangular shaped parcel
EXISTING LAND USE	Vacant
EXISTING ZONING	Mobile Home Park (R-5)
ZONING HISTORY	Annexed January 16, 1978. Zoned Mobile Home Park R-5.
DEVELOPMENT AGREEMENT	N/A

SURROUNDING ZONING AND LAND USE	
NORTH	PAD (Palm Meadows) - Single Family Residential Detached
EAST	R-5 (Country Hills MH Park) - Mobile Home Park
SOUTH	R-5 - vacant
WEST	AG (Friendship Park) - Public park facility

GENERAL PLAN
Multi-family Residential

PUBLIC SCHOOLS	
SCHOOL DISTRICT(S)	Littleton Elementary School District & Tolleson Union High School District
ELEMENTARY SCHOOL	Littleton Elementary School
HIGH SCHOOL	La Joya Community High School

STREETS	
McDowell Road	
Classification	Arterial
Existing half street ROW	65 feet
Standard half street ROW	65 feet (plus 15 feet turn lanes)
Existing half street improvements	2-lanes and ½ turn lane.
Standard half street improvements	3-lanes, 1 turn lane, ½ landscaped median, ROW landscaping, bike lane, street lights, sidewalk, curb & gutter

Utilities
A 10" potable water line will be brought into the SE corner of the site through an easement obtained from the Country Hills Mobile Home Park to the East. A 12" potable water line will be brought into the SE corner of the site through an easement obtained from the Country Hills Mobile Home Park to the East.

DEVELOPMENT SERVICES

SUBJECT:
Conditional Use Permit for Just Brakes (CU-07-9)

MEETING DATE:
December 17, 2007

TO: Mayor and Council

FROM: Brian Berndt, Development Services Director (623) 333-4011

THROUGH: Charlie McClendon, City Manager

REQUEST: Conditional Use Permit for an auto service and diagnostic facility in the Palm Valley Planned Area Development (PAD) zoning district.

PARCEL SIZE: 0.75 acres

LOCATION: Approximately 215 feet north of the northeast corner of Dysart Road and McDowell Road

APPLICANT: Mr. Wade Todd, Georgetown Development Company

BACKGROUND:

The property was annexed into the City of Avondale on January 16, 1978 and rezoned PAD (Planned Area Development) as part of Palm Valley on September 6, 1994. The third amendment to Palm Valley's development agreement, in 2002, clarified that C-2 (Community Commercial) uses would be allowed on the subject property.

The subject parcel is an undeveloped pad (Pad 2) in the Alameda Crossing Shopping Center. The master site plan for Alameda Crossing was approved by the City Council on January 18, 2001. One major amendment and two minor amendments to the Alameda Crossing master site plan have subsequently been approved.

PRIOR REVIEW:

A public hearing for this item was held during the November 19, 2007 City Council Meeting (Exhibit J). At this meeting, several Council Members expressed concern with the orientation of the proposed building to the north as well as the general compatibility of this use within the Alameda Crossing Shopping Center. The applicant requested additional time to modify the proposal to meet Council's expectations and was granted a continuance until the December 17, 2007 meeting.

In response to City Council's comments, the applicant revised the site plan to orient the service bays to the south to face the existing Full Circle Oil Change service bays, removed excess parking spaces, and provided additional landscaping area throughout the site. The applicant has agreed to study potential noise impacts on surrounding properties and, if impacts are identified, work with staff to mitigate these impacts prior to site plan approval.

SUMMARY OF REQUEST:

1. The applicant is requesting conditional use permit approval to operate a Just Brakes automobile brake sales and service facility on Pad 2 within the Alameda Crossing Shopping Center. Automobile service and diagnostic facilities are permitted in Alameda Crossing subject to a Conditional Use Permit

2. The proposed 4,080 square foot building will accommodate a sales room/waiting area, parts storage area, compressor room, and six service bays. The business will be open Monday through Saturday from 7 am to 6

pm. No outdoor storage or display is proposed.

3. Just Brakes offers a range of brake related automobile services, including inspection, adjustment, and replacement of brake systems. Just Brakes does not perform oil changes, body work, exhaust work, or any heavy automobile repairs of any kind. Service of semi-trucks or other large, commercial vehicles will not be permitted.

4. The applicant has agreed to include landscaping in excess of the Zoning Ordinance requirements. To seamlessly blend this site with the existing center, the applicant has agreed to use larger trees (2-4 inch calipers) which will be similar in size to the maturing trees found throughout the center. Additionally, the applicant has provided ample foundation landscaping by continuing the use of large, concrete pots found elsewhere within Alameda Crossing.

5. Access to the site is provided by two drive aisles on the north and east portions of the site. These drive aisles provide access to both Dysart and McDowell Roads.

6. No on-site retention is proposed. All flows for this site will be retained in basins located in common area landscaping within the Alameda Crossing site.

PARTICIPATION:

The applicant conducted a neighborhood meeting at 5:30 p.m. on September 25, 2007 at City Hall in the Sonoran conference room. The neighborhood meeting was advertised in the West Valley View on September 4, 2007. The property was posted on September 10, 2007. Notification letters were mailed to 19 property owners within 500 feet of the subject site on August 29, 2007. According to materials presented by the applicant, no citizens attended the neighborhood meeting.

A notice of the Planning Commission hearing was published in the West Valley View on October 2, 2007. The property was posted on October 2, 2007. Notification letters were mailed to 19 property owners within 500 feet of the subject site on September 24, 2007. No citizens spoke during the public hearing for this item.

Prior to the Planning Commission Meeting, staff was contacted by two representatives of the retail building directly north of the subject parcel who were concerned Just Brakes could have a potentially negative effect on their property (Exhibit G). After discussing their concerns with the applicant, the site plan was revised by relocating the building further to the southeast to reduce the impacts of this use on the adjacent retail building. Additional buffering methods were also incorporated. Representatives of the retail building are now in support of the revised site plan (Exhibit H).

A notice of the November 19th City Council hearing was published in the West Valley View on Tuesday, October 30, 2007. The property was posted on November 2, 2007. Notification letters were mailed to 10 property owners within 500 feet of the site on October 25, 2007. No citizens spoke on the item during the public hearing for this item.

PLANNING COMMISSION ACTION:

The Planning Commission conducted a public hearing on October 18, 2007, and voted 4-2 to recommend **DENIAL** of this request subject to the following stipulations:

1. The development of the site shall conform to the site plan and landscape plan date stamped October 4, 2007 and the project narrative dated September 20, 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. Service of semi-trucks, recreational vehicles, or any commercial vehicle exceeding thirty feet in length and/or with a chassis rating of greater than 5 tons shall be prohibited.

4. Exterior displays and storage shall be prohibited

5. Temporary or permanent banners shall not be displayed within the services bays.

The Planning Commission's primary reason for recommending denial was that this proposed use was not consistent with the desired character of the Alameda Crossing Shopping Center (Exhibit I). A secondary reason for recommending denial was that this project would have a detrimental impact upon safe automobile circulation within the center.

ANALYSIS:

The City Council must determine that the proposed use meets five findings prior to granting a Conditional Use Permit. 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 Freeway Commercial on the General Plan Land Use Map and the Freeway Corridor Specific Plan. The existing PAD zoning is consistent with the Freeway Commercial designation of the General Plan.

The proposed use is allowed in the PAD subject to a conditional use permit. The proposed use will not adversely affect the shopping center and is in character with the existing uses on adjacent parcels, namely the Full Circle Car Wash and Oil Change facility located on the adjacent parcel to the south.

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 Just Brakes building has been positioned so that the service bays will face towards the service bays for the Full Circle auto service facility to the south. The applicant has agreed to study potential noise impacts further and work with staff to address these impacts prior to site plan approval. Additionally, the applicant has agreed to provide heavy landscaping throughout the site for the purposes of screening and noise dispersion.

All activity will take place indoors. All storage of new and used brake materials will take place in the building and will be completely screened from view. There will be no outdoor displays of merchandise of any kind.

The service of semi-trucks, recreational vehicles, and other large scale or heavy vehicles will be prohibited at this location.

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 site is large enough to accommodate the proposed building and meet all development standards. All setbacks required for commercial development will be met by the approved site plan.

The Avondale Zoning Ordinance requires one parking space to be provided for each 250 square feet of non-retail commercial floor area (waiting room/sales counter) and one parking space for every 500 square feet of industrial floor area (service bays/storage). When applied to this project, 10 parking spaces are required. The applicant's proposal includes 11 parking spaces.

All screening requirements are met by the proposed development plans. In addition, the applicant has agreed to use three foot screen walls where appropriate to provide added screening.

The site will meet landscape area requirements and exceed tree size requirements. The applicant has agreed to

increase the size of trees throughout the site to further buffer the land uses and to provide aesthetic enhancement. Since Alameda Crossing is an existing center with maturing landscaping, the applicant proposed to increase the size and canopy of trees on the Just Brakes site to blend in with the trees in the immediate vicinity.

A pedestrian refuge will be provided on the site in a location that will be determined by staff prior to approval of the site plan.

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 shopping center is available from Dysart Road and McDowell Road. The site has full access to two adjacent internal drive aisles, along the northern and eastern property lines, that lead to Dysart Road and McDowell Road.

Just Brakes expects no more than 25 customers per day using the facility. This quantity of expected traffic will have a minimal effect on the street system or other businesses in Alameda Crossing.

5. That adequate conditions have been incorporated into the approval to insure that any potential adverse effects will be mitigated.

Six stipulations have been included in the staff recommendation. A stipulation prohibiting the service of larger vehicles at this location has been included to protect the character of the Alameda Crossing center. In addition, staff is recommending a stipulation to specifically prohibit outdoor display or storage and a stipulation prohibiting the display of banners within the service bays. Subsequent to the November 19, 2007 City Council meeting, a sixth stipulation has been added to ensure that potential noise impacts on surrounding properties are analyzed and mitigated.

FINDINGS:

For reasons described above, all required findings for Conditional Use Permit approval have been met.

RECOMMENDATION:

The Planning Commission recommends that the City Council **DENY** the Conditional Use Permit. If the City Council finds in favor of the application, staff recommends the approval be subject to the following six stipulations:

1. The development of the site shall conform to the site plan date stamped December 3, 2007 and project narrative dated September 20, 2007, except as modified by these stipulations.

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. Service of semi-trucks, recreational vehicles, or any commercial vehicle exceeding thirty feet in length and/or with a chassis rating of greater than 5 tons shall be prohibited.

4. Exterior displays and storage shall be prohibited

5. Temporary or permanent banners shall not be displayed within the services bays.

6. The applicant shall continue to study potential noise impacts on surrounding properties and, if additional impacts are identified, work with staff to mitigate these impacts prior to site plan approval.

PROPOSED MOTION:

I move that the City Council not accept the findings and recommend **DENIAL** of Application CU-07-9, a request for a Conditional Use Permit for an auto service and diagnostic facility in the Palm Valley PAD zoning district.

-OR-

I move that the City Council accept the findings and recommend **APPROVAL** of Application CU-07-9, a request for a Conditional Use Permit for an auto service and diagnostic facility in the Palm Valley PAD zoning district, subject to six stipulations.

ATTACHMENTS:

Click to download

- Exhibits A - I

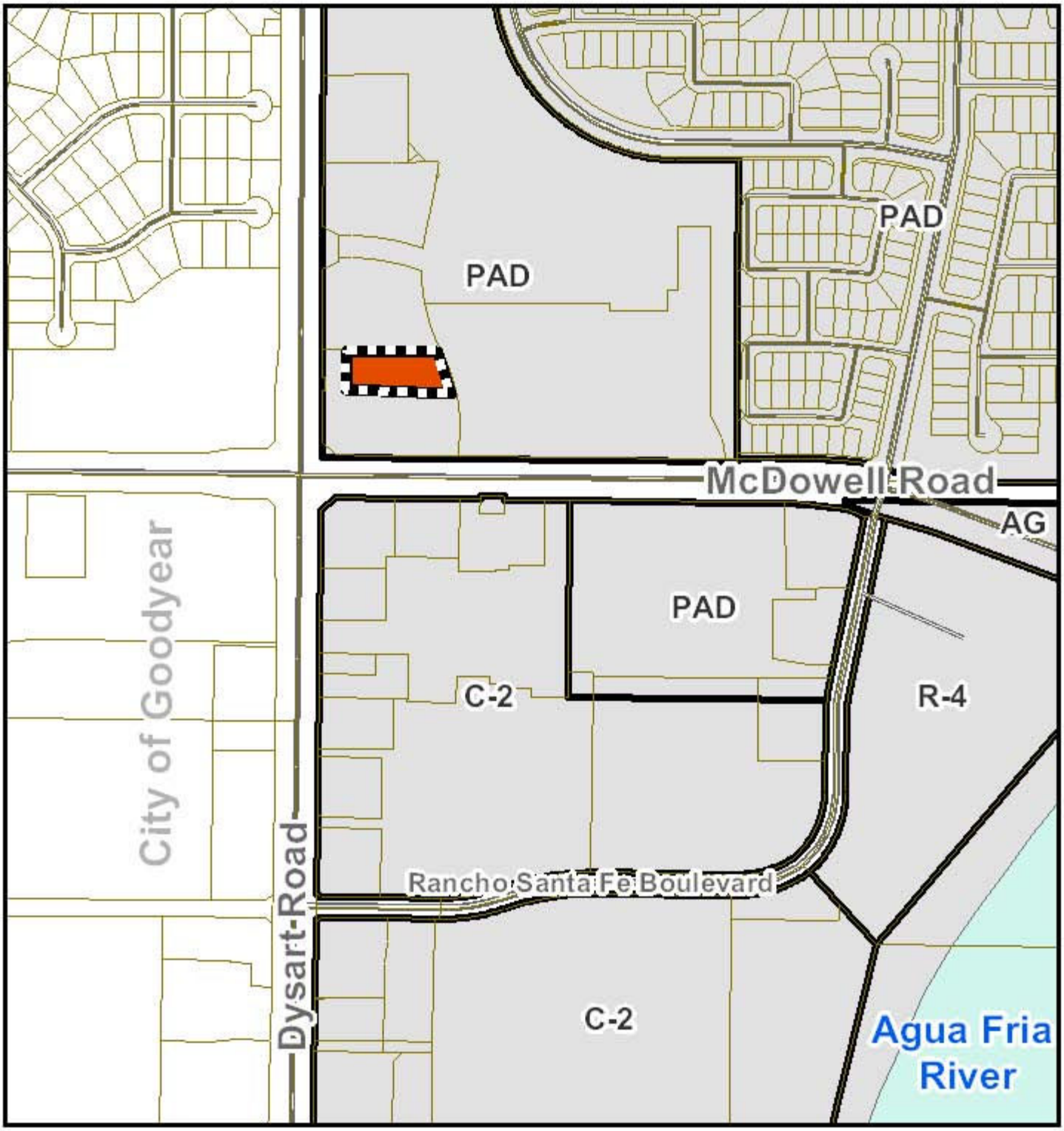
PROJECT MANAGER:

Ken Galica, Planner II (623) 333-4019

ATTACHMENTS

Exhibit A Zoning Vicinity Map
Exhibit B Aerial Photo 2007
Exhibit C Summary of related facts
Exhibit D Applicant narrative, date stamped September 20, 2007
Exhibit E Proposed site plan, date stamped December 3, 2007
Exhibit F Letter from Kara Walker, dated September 12, 2007
Exhibit G Emails from Chuck Chavez and Kara Walker, dated September 19-24
Exhibit H Draft Planning Commission Meeting Minutes from October 18, 2007
Exhibit I City Council Meeting Minutes from November 19, 2007

Exhibit A



Zoning Vicinity Map

Avondale

Subject Property

Exhibit B

2007 Aerial Photograph

Avondale

Subject Property

N

Exhibit C

SUMMARY OF RELATED FACTS

APPLICATION CU-07-9

THE PROPERTY	
PARCEL SIZE	0.75 acres
LOCATION	Approximately 215 feet north of the northeast corner of Dysart Road and McDowell Road.
PHYSICAL CHARACTERISTICS	None
EXISTING LAND USE	Vacant pad within Alameda Crossing shopping center
EXISTING ZONING	PAD/C-2 (Planned Area Development with C-2 uses)
ZONING HISTORY	Annexed on January 16, 1978; Palm Valley PAD approved on September 6, 1994.
DEVELOPMENT AGREEMENT	The City and SunCor Development entered into a development agreement in 1993. The development agreement was amended in 1997, 1998, and 2002. The third amendment to the development agreement specified C-2 (Community Commercial) uses for the subject property. There are no outstanding issues pertaining to this agreement.

SURROUNDING ZONING AND LAND USE	
NORTH	C-2 (Community Commercial) - Automotive
EAST	C-2 (Community Commercial) - Vacant
SOUTH	C-2 (Community Commercial) - Vacant
WEST	R1-6 (Single Family Residential) – Agua Fria High School
GENERAL PLAN	
The subject property is designated as Freeway Commercial on the General Plan Land Use Map.	

PUBLIC SCHOOLS	
SCHOOL DISTRICT(S)	Litchfield Elementary School District Agua Fria Union High School District
ELEMENTARY SCHOOLS	Rancho Santa Fe Elementary (K-5) Wigwam Creek Middle School (6-8)
HIGH SCHOOL	Agua Fria High School

STREETS	
Dysart Road	
Classification	Arterial Street
Existing half street ROW	65 feet
Standard half street ROW	65 feet
Existing half street improvements	Three traffic lanes with center turn lane. Curb, gutter, detached sidewalk, landscaping, and street lights.
Standard half street improvements	Three traffic lanes with center turn lane. Curb, gutter, detached sidewalk, landscaping and street lights.
McDowell Road	
Classification	Arterial Street
Existing half street ROW	65 feet
Standard half street ROW	65 feet
Existing half street improvements	Two traffic lanes with center turn lane. Bike lane. Curb, gutter, detached sidewalk, landscaping and street lights.
Standard half street improvements	Two traffic lanes with center turn lane. Bike lane. Curb, gutter, detached sidewalk, landscaping and street lights.

UTILITIES
There is an existing 6” water line running through the site connected to a 16” line in McDowell Road. There is an existing 6” sewer line running through the site connected to a 24” line in Rancho Santa Fe Boulevard.

EXHIBIT D

PLANNING RECEIVED DIVISION

PROPOSED JUST BRAKES-ALAMEDA CROSSING
Project Narrative

The applicant proposes to construct a Just Brakes on Lot 6 in the Alameda Crossing Shopping Center located at the northeast corner of North Dysart Road and West McDowell Road. Just Brakes provides only brake service, diagnosis and replacement.

1. The proposed project is consistent with the Commercial designation of the General Plan and the Freeway Corridor Specific Plan.
2. The proposed use is conditionally permitted under the C-2 zoning standards of the Alameda Crossing/Palm Valley Planned Area Development and will comply with all city codes and regulations.
3. The proposed project is compatible with the surrounding uses, and site and building design are also subject to review by the Alameda Crossing Architectural Review Committee.
4. The proposed 4080 square foot building and associated landscaping will be consistent with the design standards adopted for Alameda Crossing.
5. Ingress and egress to the property will be through the existing shopping center driveways.
6. Two additional access driveways to the shopping center driveway along the northern boundary of the site are proposed to accommodate internal circulation and to meet turning radii requirements for emergency vehicles.
7. Internal sidewalks will connect to existing sidewalks in the shopping center and will provide an accessible route.
8. The proposed use is expected to generate minimal traffic, with store volume estimated at 25 customers per day.
9. Sufficient on-site parking will be provided to meet the requirements of the ordinance, one space per 300 square feet of building area.
10. The proposed project will require minimal utility service, and will have no impact on schools or recreation facilities.
11. The bay doors will not face a public street and site landscaping will provide adequate buffer between adjacent businesses. Mature trees which match the height and caliper of trees located on the car wash parcel to the south and retail parcel to the north will be used. There are no adjoining residential parcels.
12. There will be no outdoor storage, and all work will take place within the building.
13. The proposed facility will operate from 7:00 a.m. to 6:00 p.m. Monday through Saturday.
14. Exterior lighting will be consistent with that of other businesses located in the Alameda Crossing shopping center.
15. The proposed project will produce no smoke, dust, or vibration. Just Brakes does not generate any hazardous waste, and is classified as a Conditionally Exempt Small Quantity Generator. Waste brake fluid is collected in fluid barrels and removed at regular intervals by a third party specialty waste disposal service. Waste brake pads and shoes contain no asbestos or any other hazardous chemical and are routinely discarded with regular waste.

16. The proposed project will not generate noise that will be a nuisance to surrounding businesses. Just Brakes uses AIRCAT quality pneumatic hand tools that incorporate unique patented exhaust muffler/filter technology and operate at 82 dB when measured from a distance of ten feet. Many variables affect sound outside the building, but the decibels would decrease approximately 5 dB for every additional ten feet. Additionally, sound is further dissipated by landscape buffer between the bays and adjacent buildings.

PROPOSED JUST BRAKES-ALAMEDA CROSSING
Operational Narrative

The applicant proposes to construct a Just Brakes on Lot 6 in the Alameda Crossing Shopping Center located at the northeast corner of North Dysart Road and West McDowell Road.

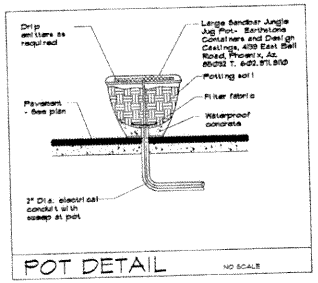
Just Brakes is an automotive brake service facility, and provides the following services:

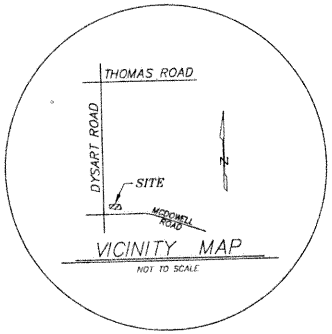
1) Inspection of automotive brake systems.
2) Adjustment of brake systems.
3) Bleeding of brake systems.
4) Replacement of worn brake pads and shoes.
5) Turning of brake rotors and drums.
6) Packing bearings.

Just Brakes does not perform oil changes, body work, exhaust work, or any other heavy automotive repairs.

PLANNING
RECEIVED
SEP 20
DIVISION

Exhibit E





SITE SUMMARY

SITE AREA: 32,817 S.F. approx.
LOT #6, ALAMEDA CROSSING SHOPPING CENTER
Lot 6, Alameda Crossing, according to Book 644 of Maps, Page 27, records of MARICOPA COUNTY, AZ
PARCEL IDENTIFICATION #508-13-006

ZONING: PAD-80 W/ C-2 STANDARDS
AUTOMITIVE SERVICE PROPOSED
REQUIRING A CONDITIONAL USE PERMIT

PROPOSED 4,080 S.F. BUILDING
MAX HEIGHT 25'-0"
12% BUILDING/ SITE COVERAGE
BUILDING SITE AREA TO BE DISTURBED 27,712 S.F.

PARKING REQUREMNETS:
645 S.F.(RETAIL) / 250 S.F. PER SPACE = 3 SPACES REQ'D
3435 S.F.(SERVICE) / 500 S.F. PER SPACE = 7 SPACES REQ'D
10 SPACES REQUIRED
11 SPACES PROVIDED

CONTACTS

DEVELOPER/OWNER: JUST BRAKES
8150 N. CENTRAL EXPRESSWAY, SUITE 1000
DALLAS, TEXAS 75206
214-276-5504
CONTACT: RICH SHOEMAKER

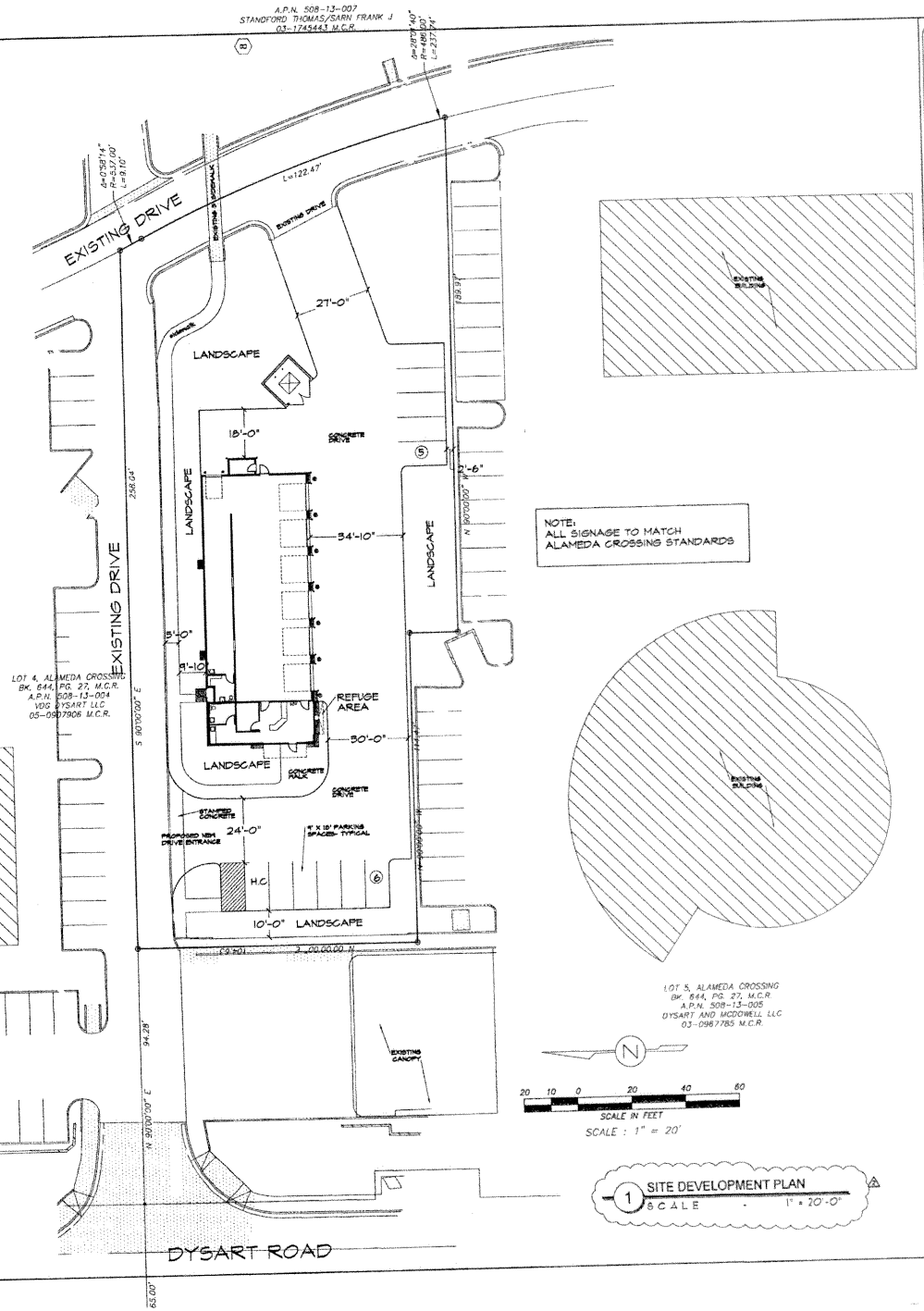
CURRENT OWNER: DYSART AND MCDOWELL, LLC.
655 E. JAVELINA #B-114
MESA, ARIZONA 85204
CONTACT: HOWARD HINTZ

GENERAL CONTRACTOR: EMBREE GROUP CONSTRUCTION
4747 WILLIAMS DRIVE
GEORGETOWN, TEXAS 78633
512-819-4722
CONTACT: CHRIS OSER

ARCHITECT: ARCHETYPE DESIGN GROUP
8010 STATE LINE ROAD, SUITE 150
LEAWOOD, KANSAS 66208
913-451-2556
CONTACT: JIM LIGHTY

CIVIL ENGINEER: KRALL CIVIL ENGINEERING, INC.
4643 EAST THOMAS ROAD, SUITE 11
PHOENIX, ARIZONA 85018
602-285-9500
CONTACT: GEORGE KRALL

LANDSCAPE ARCHITECT: MOORE/SWICK PARTNERSHIP
414 S. MILL AVENUE
TEMPE, ARIZONA 85281
480-894-4284
CONTACT: GREGORY SWICK



1 SITE DEVELOPMENT PLAN
SCALE - 1" = 20'-0"

NOTE:
ALL SIGNAGE TO MATCH
ALAMEDA CROSSING STANDARDS

PLANNING DIVISION
RECEIVED
DEC 2007

EMBREE GROUP
CONSTRUCTION
4747 WILLIAMS DRIVE
GEORGETOWN, TX. 78633
PH. (512) 819-4700
FAX (512) 869-3442

ALAMEDA CROSSING
LOT 6
AVONDALE, ARIZONA

Revisions

No.	Initials	Date
1	CITY COMMENTS	10-10-07
2	CITY COMMENTS	11-21-07
3		
4		
5		
6		

7-30-07

File	
Scale	AS NOTE
Checked By:	-DI
Checked By:	-PI
Drawn By	
Date	7-30-07

Sheet Name
SITE PLAN

Sheet No.
C-1

Exhibit F

LDL, LLC

3505 E. Harmon, Suite B, Las Vegas, Nevada 89121

September 12, 2007

Mr. Ken Galica
City of Avondale
Planning & Building Services
11465 W. Civic Center Drive, Suite 110
Avondale, AZ 85323

Dear Mr. Galica,

Please accept this letter as the owner's response to the letters we received from the City of Avondale as well as the Developer for application #DR-07-28 and CU-07-9.

It is our understanding that Just Brakes has submitted plans to build on the vacant pad to the south of our property at 1619 N. Dysart, Avondale, AZ.

Per the site plan, we noticed the roll up doors to the open bays will face north, towards our property. The back of the Just Brakes building, with no open bays, faces south towards the car wash.

This proposed layout is of concern. The noise level and unsightly exposure to the open bays raises concerns for us as a retail property owner with tenants to consider.

It is our preference if automotive is to be allowed next to our retail property, the open bays to the Just Brakes face south toward the car wash which is another other automotive use. We feel the car wash, a similar automotive use, would not be as concerned with the noise and appearance of the exposed vehicle repair as our retail tenants have expressed.

If you have any questions, please fell free to give me a call at any time.

Regards,

Kara Walker
LDL, LLC Properties
3505 E. Harmon Avenue, Suite B
Las Vegas, NV 89121

702-435-7011 Office
702-435-3494 Fax
support@ldlproperties.com

cc: Wade Todd, Georgetown Development Company

Exhibit G

Kenneth Galica

From: Chuck Chavez [Chuck.Chavez@peiwei.com]
Sent: Monday, September 24, 2007 9:50 AM
To: wttodd@hotmail.com
Cc: Avondale.0114; Maurice Bergevin; Kenneth Galica
Subject: Proposed Just Brakes-Avondale, AZ
Attachments: avondale, az.site plan.2.pdf

Wade,
Sorry it has taken me so long to get back to you. While we would prefer that the bays not face our restaurant, this plan is much better. Will 17 parking spaces will be sufficient for your customers and employees?

Thank you for addressing our concerns.

Chuck Chavez
Regional Director of Development

PEI WEI ASIAN DINER, INC.
480.888.3808 Office
chuck.chavez@peiwei.com

From: Avondale.0114
Sent: Thursday, September 20, 2007 7:09 PM
To: Chuck Chavez
Subject: FW: Proposed Just Brakes-Avondale, AZ

Chuck, Not sure if you have been getting all this communication, so I thought I would forward you the latest on the just brakes going in outside our south window. -Greg

---

From: support [mailto:support@ldlproperties.com]
Sent: Wednesday, September 19, 2007 5:28 PM
To: Avondale.0114; Tony Summers
Subject: Proposed Just Brakes-Avondale, AZ

Hi there,

The Just Brakes developer has made a change to the proposed site layout. It is attached for your review. They moved the building further back from the street and added a heavier landscape buffer. The developer also told me (via phone) they will add more mature trees, comparable in age to the trees on our property.

The line-of-site appears to be better. It is not as close. But the doors are still facing us.

We feel better about this layout but I have also requested they email me a detailed landscape plan as well.

Is there a Chuck with Pei Wei that is in the loop on this? If so, can you forward to him?

Regards,

Kara Walker
LDL, LLC Properties

Exhibit G

3505 E. Harmon Avenue, Suite B
Las Vegas, NV 89121

702-435-7011
702-435-3494 Fax
support@ldlproperties.com

----- Original Message -----
From: Wade Todd
To: support@ldlproperties.com
Cc: kgalica@avondale.org
Sent: Wednesday, September 19, 2007 4:58 PM
Subject: Proposed Just Brakes-Avondale, AZ

Kara,

Thanks for returning my call today. As promised, I've attached our revised site plan. With our building moving to the southeast, and the increased landscape buffer and screening, our project should not impact your tenants at all. There will be no noise issues either as the air wrenches Just Brakes uses produce only 82dB when measured from a distance of ten feet.

Please share this site plan with Chuck and any others who have expressed any concern. I have been trading calls with Chuck, and I left him a message again yesterday. I said I would call you on Friday, but after looking at my schedule of meetings and travel, I'll not likely be able to call you until Monday.

Thanks for your time and consideration.

Wade Todd
Georgetown Development Company
P.O. Box 33
Georgetown, Texas 78627
512-869-0188 (Office)
512-750-9658 (Mobile)
512-869-1073 (Fax)

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CONFIDENTIALITY NOTE:

This e-mail and any attachments are confidential and may be protected by legal privilege. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of this e-mail or any attachment is prohibited. If you have received this e-mail in error, please notify us immediately by returning it to the sender and delete this copy from your system.

Thank you for your cooperation.

P.F. Chang's China Bistro and Pei Wei Asian Diner
==========

Exhibit H

Excerpt of the Draft Minutes of the regular Planning Commission meeting held October 25, 2007 at 7:00 p.m. in the Council Chambers.

COMMISSIONERS PRESENT
Linda Webster, Commissioner
Lisa Copeland, Commissioner
Kevin Grimsley, Commissioner
Edward Meringer, Vice Chair
Michael Alcorn, Commissioner
Alan Lageschulte, Chairman

COMMISSIONER ABSENT
David Iwanski, Commissioner (Excused)

CITY STAFF PRESENT
John Vater, Planner, Development Services
Ken Galica, Planner II, Development Services
Brian Berndt, Development Services Director

APPLICATION NO. CU-07-9

APPLICANT: Mr. Wade Todd, Georgetown Development Company
524 Riverdown Road
Georgetown, TX 78627

REQUEST: This is a request for Conditional Use Permit approval for a Just Brakes automobile brake sales and service facility in the Palm Valley PAD zoning district. The property is located within the Alameda Crossing shopping center.

Ken Galica, Planner II, Development Services Department, stated this item was a request for a Conditional Use Permit (CUP) approval for an auto service and diagnostics facility in the Palm Valley PAD zoning district. He reported that the applicant, Just Brakes, offers a range of brake-related services, including inspection, adjustments and replacement of brake systems, but will not offer any heavy vehicle repair or service any semi trucks or large commercial vehicle trucks at this location. He described the proposed location as an undeveloped 0.75 acre parcel within the Alameda Crossing Shopping Center located at the northeast corner of Dysart Road and McDowell Road, which is part of the Palm Valley PAD and allows for C-2 types of uses; auto services and diagnostic facilities are permitted subject to approval of a CUP. Mr. Galica described the surrounding property uses to include a car wash and oil change facility to the south; a retail building occupied by several restaurants, Pei Wei, NYPD Pizza, and a dentist office to the north; and larger retailers to include Kohl's and Joann Fabrics to the east; while the City of Goodyear borders the site to the west. He described the access to the site and the proposed building as approximately 4,080 square feet which will include six service bays, a waiting area and storage areas, with no outdoor area proposed or allowed.

Mr. Galica informed the Planning Commission that the site meets the Zoning Ordinance requirements by providing 17 parking spaces, including 1 handicap stall. He noted there was an initial concern that the orientation of the building to the north could have a negative impact on the retail building adjacent to this property; thus, the Site Plan was revised and the building was relocated south and east of its original location, and with the current proposal, there is roughly a 130 foot separation between the nearest points of the two buildings. Furthermore, he pointed out that the applicant is providing a substantial quantity of mature landscaping along the northern property line and decorative screen walls for additional buffering. Mr. Galica explained: 1) That the General Plan designation for the property is Freeway Commercial, and the proposed use is consistent with the designation and is in character with the uses on the adjacent parcel, notably the car wash and oil change facility to the south. 2) He reported that careful consideration has been

Exhibit H

given to the Site Plan and Landscape Plan for this project so as not to have a detrimental impact on the surrounding properties, and the building has been positioned to allow for a maximum separation to the building to the north, and with the heavy landscaping and decorative screening provided to further reduce any impact, the use will be compatible with nearby properties in Staff's opinion. 3) The preliminary Site Plan and Landscape Plan meet all requirements of the PAD and Zoning Ordinance and the site is adequate in size and shape to accommodate the proposed use. 4) The site has access to both McDowell Road and Dysart Road. 5) The Site Plan and Landscape Plan contain adequate measures and stipulations to mitigate potentially negative impacts.

He reported that Staff is recommending approval of the application with five stipulations. Mr. Galica stated he was available for questions, as well as Mr. Wade Todd, Georgetown Development Company, representing Just Brakes.

Chairperson Lageschulte thanked Mr. Galica for his presentation and invited questions from the Commission.

Commissioner Grimsley noted there was no elevation documentation included and with two of the three walls of the building facing retail locations, he wanted to know how those walls would look. Mr. Galica explained that the review of a CUP does not include design of the building itself, and that Staff is reviewing elevations and will ensure that all four sides of the building are treated architecturally and will have different variations and color and materials that are involved in the Alameda Crossing palette. Commissioner Grimsley inquired if the design would come before the Planning Commission. Mr. Galica clarified that the design would be for administrative approval and would have to meet certain standards before Staff would approve it.

Chairperson Lageschulte invited further questions, and hearing none, invited the applicant to address the Commission.

Wade Todd, Georgetown Development Company on behalf of Just Brakes, 524 Riverdown Road, Georgetown, TX, stated he did not have a presentation, but would be happy to answer questions and would like to respond to Commissioner Grimsley's question. He reported they had one submittal of the elevations for Site Plan review, and Staff reviewed that, and they have recently resubmitted and met every condition that Staff raised pertaining to architectural enhancements of the building.

Chairperson Lageschulte invited questions for the applicant.

Commissioner Copeland thanked Mr. Todd for choosing Avondale for the Just Brakes establishment. She asked if he had considered other locations within Avondale for this business. Mr. Todd replied he was not involved in the site selection process, but brokers had worked for a number of months trying to locate sites and this site met all the criteria that seemed to work best.

Chairperson Lageschulte invited further questions for the applicant, and hearing none, opened the item for public hearing. There were no requests to speak. Chairperson Lageschulte called for a motion.

Vice Chair Meringer **MOVED** that the Planning Commission accept the findings and recommend approval of application CU-07-9, a request for a Conditional Use Permit for an auto service and diagnostics facility in the Palm Valley PAD zoning district. Commissioner Grimsley **SECONDED** the motion.

Chairperson Lageschulte noted omission of discussion of a previous item, and opened the floor for discussion on Public Hearing Item CU-06-16, a request for Conditional Use Permit approval for a social service support center in the C-2 zoning district. Hearing none, he closed the floor for discussion on this item.

Chairperson Lageschulte opened the floor for discussion on Public Hearing Item CU-07-9, a request for a Conditional Use Permit approval for a Just Brakes automobile brake sales and service facility in the Palm Valley PAD zoning district.

Exhibit H

Commissioner Copeland opined that this was not the right location for this particular business, reasoning that one of the findings necessary to grant a Conditional Use Permit is that "The use will be compatible with other adjacent and nearby land uses." She explained that even though there is a car wash on the corner, the car wash looks like a bank as one approaches it and the car wash action is on the back side away from the view of the busy intersection. She pointed out there are several eateries and anchors like Joann's and Kohl's, and within a four block radius there are Just Brake competitors. Commissioner Copeland expressed that the Planning Commission would like for the applicant's business to be in Avondale, but personally she does not think this is the right spot for this particular business because she does not believe it is compatible with the other types of establishments in that location.

Commissioner Alcorn explained his big concern was the traffic pattern in and out, and that he would love to see the building turned backwards so it faced the car wash. He reported that when he drives in between the Pei Wei and that lot right now he has almost been hit four times in the last three months. Commissioner Alcorn opined that adding the confusion of a Just Brakes business, it will add more problems than can be dealt with and the traffic pattern will be really fouled up. He pointed out the City has already had to change the signal once and he believes the City will have to change it again because it is causing a problem on Dysart Road, and this business will only add to the problem.

Commissioner Grimsley expressed he was no more a fan of this project than the other Commissioners; however, based on Staff findings on what the average daily patronage will be with a facility such as this, some type of business will have to go there, and this project will be adjacent to another auto facility. He opined that adding 25 customers on a daily basis would be adding 25 cars, and he could not think of another business which would generate less traffic. Commissioner Grimsley expressed that, with this item meeting all criteria, he really did not see how the Commission could object to it because it would not have an impact on the surrounding area.

Chairperson Lageschulte reported he agreed with the other Commissioners, in that he thinks the doors on the building are facing the wrong direction and should be facing the car wash, and he does not think this shopping center is the right location for this business. Chairperson Lageschulte stated he would have to agree with Commissioner Copeland, in that he would like to see this business in Avondale, but he does not think it is in the right spot.

Chairperson Lageschulte invited further discussion, and hearing none, called for a vote.

ROLL CALL VOTE

Commissioner Webster	Nay
Commissioner Copeland	Nay
Vice Chair Meringer	Aye
Commissioner Alcorn	Nay
Chairperson Lageschulte	Nay
Commissioner Grimsley	Aye
Commissioner Iwanski	Excused

THE MOTION FAILED 4-2

Chairperson Lageschulte called for a motion.

Commissioner Copeland **MOVED** that the Planning Commission not accept the findings and not recommend approval for the application of CU-07-9, a request for a Conditional Use Permit for an automobile service and diagnostics facility in the Palm Valley PAD zoning district. Commissioner Webster **SECONDED** the motion.

ROLL CALL VOTE

Commissioner Webster	Aye
Commissioner Copeland	Aye

Exhibit H

Vice Chair Meringer	Nay
Commissioner Alcorn	Aye
Chairperson Lageschulte	Aye
Commissioner Grimsley	Nay
Commissioner Iwanski	Excused

THE MOTION PASSED 4-2.

Exhibit I

Excerpt of the Minutes of the regular City Council meeting held November 19, 2007 at 7:00 p.m. in the Council Chambers.

PUBLIC HEARING – CONDITIONAL USE PERMIT FOR JUST BRAKES (CU-07-9

Ken Galica, Planner II, stated this is a Conditional Use Permit for an auto service and diagnostic facility in the Palm Valley PAD zoning district. He explained the applicant, Just Brakes, offers a range of brake-related automobile services including inspections, adjustments, and replacement of brake systems, and will not offer any heavy vehicle repair or service semi trucks or large commercial vehicles at this location. He stated the proposed location is an undeveloped 0.75 acre pad within the Alameda Crossing Shopping Center at the northeast corner of Dysart Rd. and McDowell Rd. Mr. Galica stated this PAD allows for C-2 types of uses, and that auto service and diagnostic facilities are a Conditional Use in a C-2 district. Mr. Galica described the surrounding uses to include a car wash and oil change facility to the south, a retail building occupied by several restaurants including Pei Wei and NYPD Pizza, as well as a dental office to the north, and large retailers to include Kohl's and Joanne Fabrics to the east, while the City of Goodyear borders the site to the west. He described the access to the site, stating the drive aisles provide access indirectly to both McDowell and Dysart Roads. Mr. Galica described the proposed building as approximately 4,080 square feet and that it will include six service bays, a waiting area, and storage area, and added that no outdoor activities will be allowed at this location.

Mr. Galica informed the Council that the site meets the Zoning Ordinance requirements by the provision of 17 parking spaces. In that there was initial concern from representatives of the Pei Wei building that the orientation of Just Brakes to the north could have a negative impact on their businesses, the Site Plan was revised and the building was located further to the south and east. With the current proposal, there is now roughly a 130 foot separation between the nearest points of the two buildings and no further comments have been received from the previously concerned citizens. Mr. Galica continued, noting the applicant is providing a substantial quantity of mature landscaping and decorative screen walls for additional buffering.

Mr. Galica reported that Staff believes that all five required findings are met. He stated the General Plan designation for the property is Freeway Commercial, and the proposed use is consistent with this General Plan designation and is in character with the uses on adjacent parcels, most notably the car wash and oil change facility to the south. He pointed out that careful consideration has been given to the Site Plan and Landscape Plan for this project so as not to have a detrimental impact on the surrounding properties, and the building has been positioned to allow for maximum separation from the building to the north, and heavy landscaping and screening are provided for further reduction of impact. He stated the preliminary Site Plan and Landscape Plan do meet all requirements of the Palm Valley PAD, as well as the Zoning Ordinance, and safe circulation is assured by the City's Traffic Engineer, and stipulations are included to mitigate potential adverse impacts. Mr. Galica reported that on October 18, 2007, the Planning Commission recommended denial, their primary source of concern being that the proposed use is not consistent with the desired character for Alameda Crossing, and a secondary reason included concern that the project would have a detrimental impact on safe circulation in the Center. He stated he was available to answer questions, and the applicant, Mr. Paul Gilbert, was also present.

Mayor Lopez Rogers invited questions and comments from Council.

Exhibit I

Council Member Lynch stated the Circle Car Wash on the corner looks more like a bank and the Council went through many reiterations to get what they wanted. She stated she believes that this site does not meet Condition No. 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." She stated that she hears that the restaurants are still not happy that this property is going in this location as it is crowding that space and no matter how much landscaping is put in, it is still a brake shop. She explained that Alameda is a community shopping center, and in talking with members of the community, they have no interest in having another brake shop, particularly on that site. Therefore, she stated she would not be voting in favor of this item.

Council Member Weise agreed with Council Member Lynch. As well, he stated he believed this facility will have an impact on the traffic and that the use is not compatible with the area because the car wash and oil change facility generate very little noise and their operations are kept to the back of the buildings. Council Member Weise stated that he believes that this business would take away from the other retail establishments and he will not be voting in favor of this project.

Council Member Buster asked how close would this business be to any residential area. Mr. Galica responded that while he could not give the exact number, the nearest residential area would be almost a quarter mile away. Council Member Buster stated this project would be totally surrounded by commercial businesses, which Mr. Galica confirmed, adding there is residential in Goodyear across Dysart Rd., but it is not directly across.

Mayor Lopez Rogers invited further questions and comments, and hearing none, opened the item for public hearing.

Vice Mayor Wolf stated it was amazing that so many bays could be fit into a 4,000 square foot building. His stated his main issue is that while 130 feet is a nice distance, even with the trees there is not a lot to buffer it, and with the way the building is orientated, it does not work with the car wash and oil change facility because it backs up to it. He expressed he is not against the use, but at the very least the building would have to be turned the other way with a stipulation that all operations be conducted behind closed doors, as this is almost a neighborhood commercial area.

Mayor Lopez Rogers invited the applicant to address the Council.

Paul Gilbert, 4800 N. Scottsdale Rd., Scottsdale, AZ, stated it is an unusual pleasure for him to stand before the Council with a Staff recommendation of approval. He pointed out that the Planning Commission vote was split 4 to 2. Mr. Gilbert stated that the main objections of the Planning Commission deal with compatibility and traffic. He informed the Council that this site will only generate 25 cars per day, while a restaurant or any other use allowed there would generate more traffic, and Staff has reviewed the internal circulation and the City Engineer has indicated that it works. Regarding the compatibility, he asked the Council to keep in mind that automotive service facilities are permitted in the ordinance at this location. He pointed out that their building is 4,080 square feet, which is very small, and the hours of operation are 7:00 a.m. to 6:00 p.m. Monday through Saturday, and all they do is brakes. He noted the adequate parking and that the landscaping will cover approximately 9,000 square feet, and they have enhanced the tree sizes. Mr. Gilbert informed the Council that they hosted a neighborhood meeting and no one showed up. He noted the Pei Wei restaurant had a concern, and they shifted the site further east to make it compatible and they are now satisfied. He pointed out it is somewhat deceiving to look at the Site Plan because the views of the Pei Wei restaurant and the other uses are of the

back end of their buildings, so the Just Brakes will be facing the back end of that building. He opined that the fact that they had the neighborhood meeting and then went back out to check with the neighbors that were immediately adjacent, underscores the fact they are compatible. He reiterated that they have agreed to additional buffering by including the three foot screen walls along the north and west parcel lines. Mr. Gilbert noted their use would be much less intense than the car wash and oil change facility. He noted all their activities will take place indoors, and again noted that they are in agreement with all of the stipulations. Next, Mr. Gilbert showed the Council slides of comparable uses in locations that are very similar in and outside of Avondale. He reported that they have a letter from SunCor Development Company, and they indicate this site is compatible. He summarized his presentation, stating that based on these facts, to say that this use is not compatible flies in the face of approval of other Conditional Uses. He asked that Council support the Staff's recommendation and agree that this Conditional Use Permit be granted.

Vice Mayor Wolf stated there is still an issue with the layout of the site. He explained there are two components to the issue of compatibility - Compatible with other adjacent and nearby land uses, and will not be detrimental. While he can buy the arguments on it will not be detrimental and that the Council can put stipulations that will reduce the potential for a detrimental impact, he stated there is still a fundamental flaw in the way the building is laid out with respect to making it compatible with the adjacent land uses, which he thinks needs to be corrected. He stated with an automotive use on the corner, the automotive uses should be tied together with all the bays opening up to each other. Mr. Gilbert responded, stating he would ask Wade Todd, a representative for Just Brakes, to explain.

Wade Todd, Georgetown Development Company, 524 Riverdown Rd., Georgetown, TX, addressed the Council, stating he was present on behalf of Just Brakes. He reported the site was laid out a number of different ways and described the various problems with each layout and the difficult time getting the parking lot to layout properly, and pointed out it is an odd site, and that eventually they mutually agreed upon the current layout with Pei Wei. Mr. Todd reported the person that would be most affected by their project would be their neighbor to the north, and on October 29th that neighbor asked if they could buy the property once it is built, indicating they are not only happy with it, but they want to buy it. Regarding the bays, Mr. Todd stated the bays of the car wash are presently visible from the north, and with the addition of landscaping, it will improve the view from the north, and with the architecture of their building and the landscape, it will enhance the layout of that corner.

Vice Mayor Wolf stated his concern was the compatibility, in that when someone looks at the site, that the Just Brakes will not look like an afterthought, but rather like it was meant to be there, and he would like to see what number of parking spaces remain after that. He expressed concern with the 25 cars a day generation, as it does not seem like that will make much money for the applicant. Mr. Todd stated the site plan is very compatible and the architecture layout compliments what is there, and as far as the noise, the pneumatic power tools generate 82 decibels measured from a distance of 10 feet. He pointed out that city traffic is 80 decibels and a lawnmower is 90 decibels. He opined that with the distance between their property and the other buildings, noise would not be an issue at all. Mr. Todd stated an oversized bay to serve RVs and larger vehicles is typically a prototype of a Just Brakes and that was given up, as well as a number of other things, and while they agree to the stipulations, they do not see how they can make it work if they have to turn the building around on the site. Vice Mayor Wolf pointed out those 82 decibels for a single unit times six or seven bays will produce noise that will travel. He noted the City shoots for 90 decibels outside of the buildings at wastewater treatment plants so the noise

Exhibit I

does not travel offsite. He summarized that regardless of the orientation of the building, he would need a stipulation with respect to operating with the doors closed, and he would still like the civil engineers to show the Council what the problem is.

Mr. Gilbert responded to the Council, stating it appeared if they do not make some adjustment to their design, it will not be favorably received. He requested a 30 day continuance to work on the design.

Council Member Lynch stated that right behind Kohl's there is a neighborhood of 1,999 homes that are very interested in this project. She reported that SunCor has sold this property, so their letter does not mean anything to her. She reported that in dealings with SunCor, they were promised an upscale shopping center, and Staff has received e-mails from residents asking what happened to their upscale shopping center. She asked based on that, how did Mr. Gilbert think the residents in the area feel. She pointed out that each of the comparable businesses that Mr. Gilbert showed to the Council are not like this site at all, are not in the same type of shopping centers, and are not in the locations that Mr. Gilbert indicated they are. Council Member Lynch stated she has a problem with the lack of compatibility and stated she gets a different story than Mr. Gilbert gets from the neighbors. Mr. Gilbert responded that rather than rebut each point, perhaps the Council could act on his request for a continuance.

Mayor Lopez Rogers closed the public hearing and asked for a motion to continue.

Vice Mayor Wolf **MOVED to CONTINUE** this item to the regularly scheduled meeting of December 17, 2007. Council Member Weise **SECONDED** the motion.

Mayor Lopez Rogers invited further discussion, and hearing none, called for a Roll Call vote.

ROLL CALL VOTE AS FOLLOWS:

Council Member Earp	Aye
Council Member Scott	Aye
Council Member Buster	Aye
Mayor Lopez-Rogers	Aye
Vice Mayor Wolf	Aye
Council Member Lynch	Aye
Council Member Weise	Aye

Motion carried unanimously.

DEVELOPMENT SERVICES

SUBJECT:
Public Hearing and Ordinance – Valley Golf Center - Special Use District Overlay (SU-07-1)

MEETING DATE:
December 17, 2007

TO: Mayor and Council

FROM: Brian Berndt, Development Services Director (623) 333-4011

THROUGH: Charlie McClendon, City Manager

REQUEST: Application of the Special Use Overlay District to the Valley Golf Center property

PARCEL SIZE: Approximately 13.4 acres

LOCATION: Southeast Corner of El Mirage Road Alignment and Indian School Road (Exhibits A, B, and C)

APPLICANT: Mr. Justin Leuth, KD Architects LLC

BACKGROUND:

The property was annexed into the City of Avondale on May 26, 1981 and zoned C-2 (Business and Highway Commercial). At the time of annexation, a golf driving range facility was in operation at this site. Golf driving ranges were permitted by the Zoning Ordinance in the C-2 district from the date of annexation until August 1990.

During the August 1990 comprehensive Zoning Ordinance re-write, the C-2 (Community Commercial) zoning district was amended to require Conditional Use Permits for golf driving ranges. Conditional Use Permits were required for all new driving ranges in the C-2 district from August 1990 until August 2001. As a result of this amendment, the use of the subject property became legal non-conforming and future expansion of the facility beyond twenty-five percent of the building ground floor area was not permitted.

In August 2001, a City Council initiated Zoning Ordinance amendment replaced the previous lists of permitted and conditional commercial uses with the land use matrix that is still largely intact today. As part of this amendment, golf driving ranges were changed from being a conditional use in the C-2 district to a conditional use in the C-3 (Major Commercial) zoning district. The subject property remained legal non-conforming and expansion beyond twenty-five percent of the building ground floor area would not be permitted.

The ordinance creating the Special Use Overlay zoning district was approved by the City Council in March 2006. The Special Use Overlay district is intended to address land uses that do not conform to the typical use categories found in traditional zoning districts. Generally speaking, application of the special use overlay is reserved for outdoor uses that require large land areas or have unique location requirements. Golf driving ranges are specifically listed as eligible for this overlay.

The northern half of the subject property adjacent to Indian School Road is designated by the General Plan Land Use Map as Commercial. The Commercial designation is intended to accommodate the daily needs of goods and services of Avondale residents. The southern half of the property is designated as Medium High Density Residential (4-8 du/ac). Additionally, the property is located within the boundaries of the North Avondale Specific Plan.

SUMMARY OF REQUEST:

1. The applicant is seeking the Special Use Overlay for approximately 13.4 acres to allow for the renovation and expansion of the existing Valley Golf Center. The facility currently includes a 13,745 square foot retail building and roughly 35-40 hitting bays. No additional uses beyond the current use of the property are proposed.

2. The applicant is proposing upgrades to the facility including the construction of a new two-tiered tee structure, expanded parking area, new putting and chipping practice area, resurfaced synthetic landing area, improved lighting, enhanced screening devices, and increased landscaping, Upon completion, the facility would accommodate approximately 60 hitting bays.

3. The applicant has submitted a Development Plan Narrative (Exhibit E) which sets the parameters for this expansion as well as any future development of the site. Development occurring on the site will be subject to the required development standards (i.e. setbacks, etc.) of the C-2 (Community Commercial) zoning district, except as follows:

- The applicant has requested a height increase from 30 feet to 31 feet to accommodate the pre-engineered two-tiered tee structure.
- The applicant is requesting that the requirement for parking lot screen walls be waived due to the severe difference in grade between Indian School Road and the subject property.
- Avondale's Zoning Ordinance does not specify a parking standard for driving ranges. The applicant is proposing to provide one parking space for each driving range bay. Area devoted to retail sales is parked at the ratio of one space per 300 square feet as required by the Zoning Ordinance.

4. The City is currently in the design phase of a project to improve the functionality of the intersection of El Mirage Road and Indian School Road. As part of city's project, the entrances to both the Valley Golf Center and Manny's Restaurant adjacent to the west will be relocated from their current locations off of Indian School Road to new locations off of the newly constructed El Mirage Road. Construction of the full improvements to the remainder of El Mirage Road, including installation of landscaping, sidewalks, bike lane, curb, and gutter, will be completed upon development of the site to the southwest.

5. A site plan (Exhibit F), landscape plan (Exhibit G), building elevations, and an architectural rendering (Exhibit H) are currently under review by staff. Approval of the site plan must be withheld until the Special Use District Overlay is approved for this property. The applicant has selected colors and materials for the proposed additions that will be compatible with the existing style of architecture on the site.

PARTICIPATION:

The applicant conducted a neighborhood meeting on August 22, 2007 in the Sonoran Conference Room at Avondale City Hall. Letters were mailed to 7 property owners within 500 feet of the Valley Golf site on August 5, 2007. A sign was posted on the property on August 8, 2007. The neighborhood meeting was advertised in the West Valley View on August 7, 2007. According to the applicant, one adjacent property owner attended the meeting and was in support of the proposed expansion (Exhibit I).

A notice of the November 15, 2007 Planning Commission hearing was published in the West Valley View on October 30, 2007. The property was posted on October 30, 2007. Letters were mailed out to 7 property owners on October 25, 2007. No comments were received and nobody spoke on this item at the Planning Commission hearing.

A notice of the December 17, 2007 City Council hearing was published in the West Valley View on Tuesday, November 27th. The public hearing sign was updated to reflect the time and date of the City Council hearing on November 30, 2007. Notification letters were mailed to 7 property owners within 500 feet of the site on November 19, 2007. No comments have been received to date.

PLANNING COMMISSION ACTION:

The Planning Commission conducted a public hearing on November 15, 2007, and voted 5-1 to recommend

APPROVAL of this request subject to the following stipulations (Exhibit L):

1. Development shall be in strict conformance with the Project Narrative date stamped October 25, 2007, and general conformance with the Site Plan, Landscape Plan, and Elevations date stamped August 24, 2007, except as modified by these stipulations.

2. Master and final site plan approval shall be obtained from the Development Services Department prior to building permit issuance. Future development on site, if any, will require an administrative amendment to the master site plan.

3. Maintenance of all landscaping in the right-of-way adjacent to the subject property shall be the responsibility of the current or future owners of the subject property.

4. Fire protection and prevention devices (i.e. sprinkler systems) may be required for the two-tiered tee structure as determined by the Fire Marshal at the time of construction document review.

5. Prior to issuance of a building permit, a slope easement for the northwest corner of the subject property shall be coordinated with the City and recorded with Maricopa County.

The Planning Commission eliminated the following two staff recommended stipulations from their recommendation:

- A contribution of $193,677.50 for infrastructure improvements to Indian School Road shall be made to the City of Avondale prior to the issuance of a building permit. (Formerly Stipulation #3)
- All above ground utility lines less than 69 KV power lines shall be placed underground prior to issuance of a Certificate of Occupancy. (Formerly Stipulation #6)

The Planning Commission expressed concern that these two stipulations imposed an unfair burden on an existing business and that existing businesses seeking to expand should be exempted from Avondale's standard development requirements. Additionally, the Planning Commission questioned the aesthetic impact that under-grounding the 12 KV transmission lines would have considering there exist other overhead lines (69 KV) that cannot be under-grounded. Lastly, the Planning Commission felt that it was unreasonable to ask the applicant to contribute to a street improvement project that is not addressed in the five year Capital Improvement Projects (CIP) budget.

ANALYSIS:

General Plan, North Avondale Specific Plan, and compatibility with adjacent properites

The subject property is designated as commercial and medium high density residential on the General Plan Land Use Map. The proposed expansion of the driving range use occurs entirely on the north half of the property and is consistent with the designation of commercial on that portion of the site.

The Valley Golf Center is currently operating at this location with no adverse impact on surrounding properties. The proposed increase in the number of hitting bays from 40 to +/- 85 is not expected to significantly affect the compatibility of this site with surrounding sites. The remainder of proposed revisions to the site are primarily intended for aesthetic enhancement.

Permitted Uses

The applicant is proposing an expansion of the existing driving range use on the property. No expansion of the existing 13,745 square foot retail space is proposed at this time.

No additional uses are proposed for the site at this time, however it is anticipated that a restaurant and/or family entertainment center may be appropriate at this location at a later time. All future phases of development, if any, will be subject to site plan review to ensure that all City requirements are met.

Development Standards

All development standards proposed by the applicant are consistent with the C-2 zoning district, with the following exceptions:

- An increase in the maximum allowable building height from 30 feet to 31 feet in order to accommodate the two-story tee structure. This slight increase is acceptable, due to the absence of residential scale buildings in the vicinity.
- Elimination of the requirement that all parking lots must be screened from street view by a block screen wall. Any wall which could achieve the desired screening effect would need to be a minimum of 8-9 feet in height. A wall of this height would have a detrimental impact on the property by creating a walled-off compound that would be uninviting to visitors to the site and would appear undesirable from street view. In lieu of the screen wall, the applicant has provided additional heavy landscaping along the northern property line for the purpose of screening the parking lot area.

Additionally, the applicant has proposed a parking standard for the driving range area of 1 required parking space for each driving range bay. This standard is consistent with other valley ordinances which specify parking standards for driving ranges.

Design Standards

The two story tee structure has been designed to complement the existing retail structure on the property. Any future development on the site will also be required to share the architectural themes and color palette of the existing retail building.

Signage

No new signage is proposed by the applicant at this time. In the event that additional signage is needed, compliance with the Avondale Sign Ordinance will be required.

On-Site and Off-Site Circulation and Improvements

The additional traffic created by the proposed expansion of the Valley Golf Center will be adequately served by the existing and planned public streets. On-site automobile and pedestrian circulation is being addressed during review of the master site plan.

El Mirage Road will be extended south past the Valley Golf Center property to provide access to a new multi-family residential development. As part of the City's El Mirage Road/Indian School Road intersection Capital Improvement Project, the entrance to the Valley Golf Center will be relocated from its current location to a new location off of El Mirage Road. For safety reasons, the existing access will be demolished and direct access to Indian School Road will not be provided. The infrastructure improvements to El Mirage Road are fully funded and will not require any contribution from the owner of the Valley Golf Center property. Construction on these improvements is expected to begin in mid 2008.

As part of the El Mirage Road improvement project, landscaping will be installed in the right-of-way adjacent to the Valley Golf Center property. Upon installation, maintenance of all right-of-way landscaping on the east side of El Mirage Road adjacent to the Valley Golf Center property will be the responsibility of the applicant. A stipulation is included to this effect.

A project to widen Indian School Road from four lanes to six lanes is also planned for the future. Improvements include additional traffic lanes, sidewalks, streetlights, and landscaping to ease congestion, and enhance both the aesthetics and pedestrian usability of the Indian School Road corridor. The City's Transportation Plan recommends widening this section of IndianSchool road to 6 lanes by 2015.

The applicant is requesting a zoning action to allow for the expansion of what is currently a legal non-

conforming land use. At the time of any zoning action, the City has the ability to require a developer to construct off-site improvements and/or make a financial contribution to fund public infrastructure improvements on roads adjacent to a property. As part of this application, City staff recommends that the property owner make a contribution in the amount of $193,677.50 toward the future improvements to Indian School Road adjacent to the Valley Golf property. The City will use these funds (estimated in Exhibit J) to construct the improvements when fully coordinated with the bridge widening project. A stipulation to this effect should be considered by City Council.

Staff's recommendation to the Planning Commission contained a stipulation requiring the applicant to place all overhead utility lines less than 69 KV underground. While under-grounding of utilities remains important to staff and is being required of all new development or re-development projects, a stipulation is not required since the Zoning Ordinance already addresses this issue in Section 12 (Exhibit K). As a result, the applicant will, without need for stipulation, be required to underground the 12 KV line on his property per relevant Zoning Ordinance sections.

FINDINGS:

The proposed application of the Special Use Overlay district meets the following findings:

- The proposal will further the objectives of the General Plan and not adversely affect the character of the community.
- The proposal is compatible with other existing and planned land uses in the immediate area.
- The proposal will be adequately served by public infrastructure and services.
- The proposal will not create excessive truck traffic or ongoing traffic congestion.

RECOMMENDATION:

The Planning Commission recommends that the City Council **APPROVE** the proposed application subject to the following five stipulations:

1. Development shall be in strict conformance with the Project Narrative date stamped October 25, 2007, and general conformance with the Site Plan, Landscape Plan, and Elevations date stamped August 24, 2007, except as modified by these stipulations.

2. Master and final site plan approval shall be obtained from the Development Services Department prior to building permit issuance. Future development on site, if any, will require an administrative amendment to the master site plan.

3. Maintenance of all landscaping in the right-of-way adjacent to the subject property shall be the responsibility of the current or future owners of the subject property.

4. Fire protection and prevention devices (i.e. sprinkler systems) may be required for the two-tiered tee structure as determined by the Fire Marshal at the time of construction document review.

5. Prior to issuance of a building permit, a slope easement for the northwest corner of the subject property shall be coordinated with the City and recorded with Maricopa County.

Staff recommends inclusion of an additional stipulation as follows:

6. A contribution of $193,677.50 for infrastructure improvements to Indian School Road shall be made to the City of Avondale prior to the issuance of a building permit.

PROPOSED MOTION:

I move that the City Council accept the findings and **ADOPT** the Ordinance approving Application SU-07-1, a request to apply the Special Use zoning overlay to the Valley Golf Center Property, subject to the five stipulations as recommended by the Planning Commission.

OR

I move that the City Council accept the findings and **ADOPT** the Ordinance approving Application SU-07-1, a request to apply the Special Use zoning overlay to the Valley Golf Center property, subject to the five stipulations recommended by Planning Commission, and an additional sixth stipulation as follows:

6. A contribution of $193,677.50 for infrastructure improvements to Indian School Road shall be made to the City of Avondale prior to the issuance of a building permit.

ATTACHMENTS:

Click to download

- Exhibits A-L
- ORD - 1283-1207

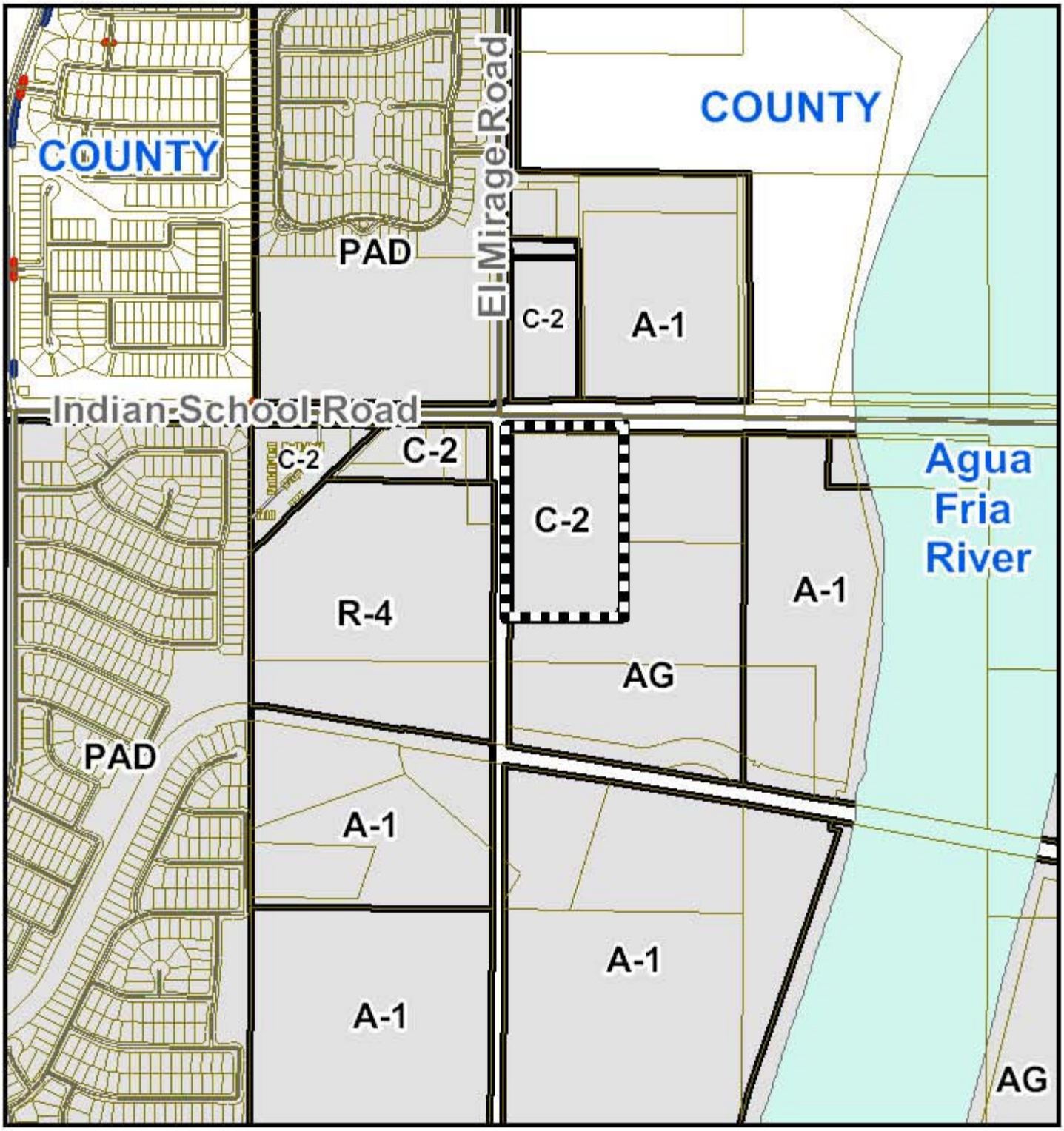
PROJECT MANAGER:

Ken Galica, Planner II (623) 333-4019

ATTACHMENTS

Exhibit A	Zoning Vicinity Map
Exhibit B	Aerial Photo 2006
Exhibit C	General Plan Land Use Map
Exhibit D	Summary of Related Facts
Exhibit E	Development Plan Narrative, date stamped October 25, 2007
Exhibit F	Preliminary site plan, date stamped August 24, 2007
Exhibit G	Preliminary landscape plan, date stamped August 24, 2007
Exhibit H	Site rendering, date stamped August 24, 2007
Exhibit I	Applicant's summary of Neighborhood Meeting held on August 22, 2007
Exhibit J	Cost estimate for Indian School Road improvements
Exhibit K	Excerpts of Zoning Ordinance requirements pertaining to utility lines.
Exhibit L	Draft Planning Commission Meeting minutes from November 15, 2007

Exhibit A



Zoning Vicinity Map

Avondale

Subject Property

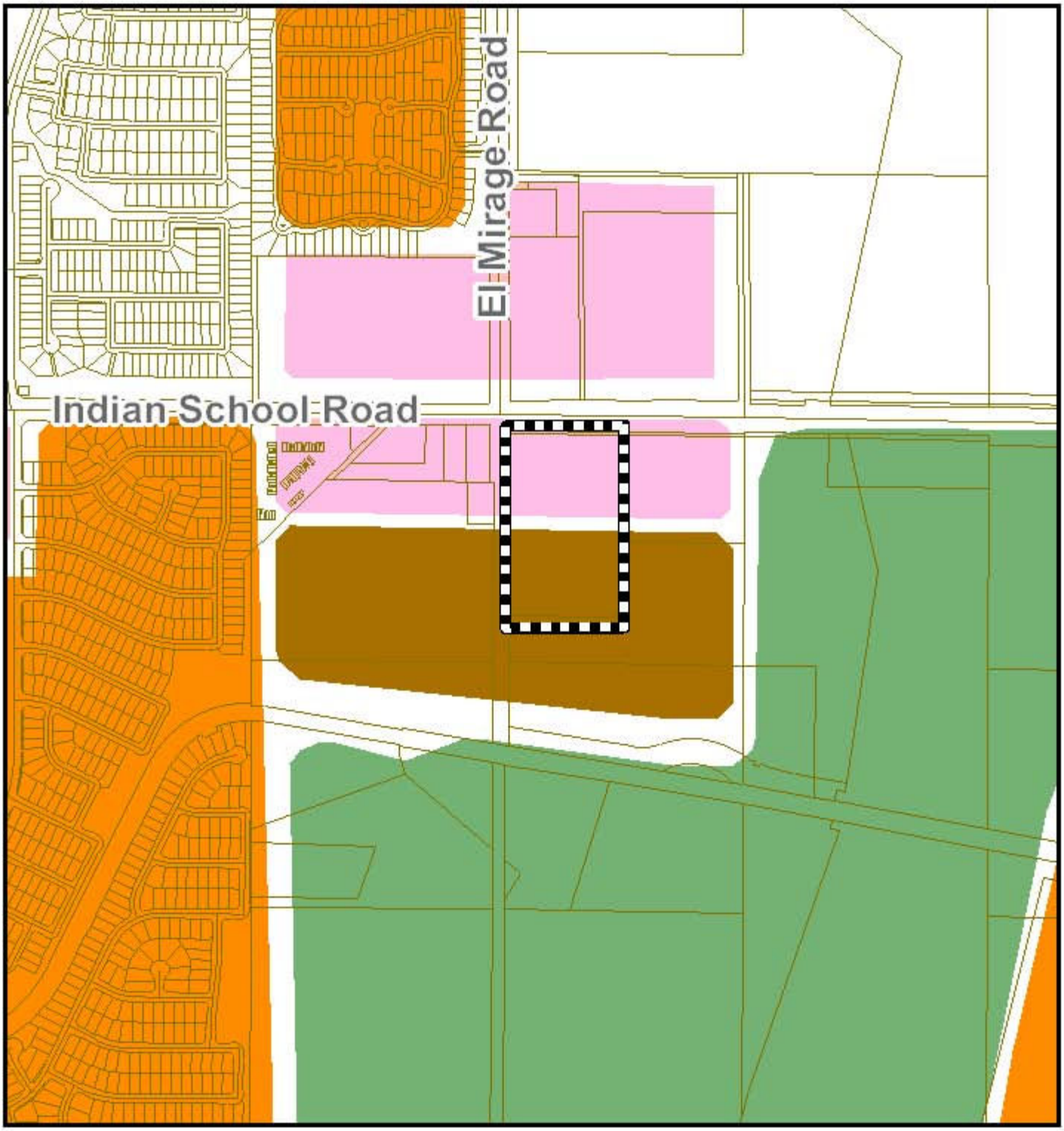
Exhibit B

2007 Aerial Photograph

Avondale

Subject Property

Exhibit C



General Plan Land Use

- Commercial Corridor, Commercial Corridor
- Growth Area, Growth Area
- 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

Exhibit D

SUMMARY OF RELATED FACTS

APPLICATION SU-07-1

THE PROPERTY	
PARCEL SIZE	13.4 acres
LOCATION	Southeast corner of Indian School Road and El Mirage Road alignment
PHYSICAL CHARACTERISTICS	There is a steep change in grade along the northern boundary of this rectangular shaped property.
EXISTING LAND USE	Retail sales and golf driving range facility
EXISTING ZONING	C-2 (Community Commercial)
ZONING HISTORY	The property was annexed on May 26, 1981 and zoned C-2. The permitted uses in the C-2 zoning district have changed several times since annexation into the city.
DEVELOPMENT AGREEMENT	None

SURROUNDING ZONING AND LAND USE	
NORTH	C-2 (Community Commercial) - Vacant
EAST	AG (Agricultural) – Sanitary Landfill
SOUTH	AG (Agricultural) – Sanitary Landfill
WEST	C-2 (Community Commercial) – Manny's Restaurant and R-4 (Multi-Family Residential) –Mirabella Luxury Apartments (Under Construction)

GENERAL PLAN
The north half of the subject property is designated as Commercial on the General Plan Land Use Map. The south half is designated as Medium High Density Residential (4-8 du/ac).

PUBLIC SCHOOLS	
SCHOOL DISTRICT(S)	Pendergast Elementary and Agua Fria Union High School District.
ELEMENTARY SCHOOL	Garden Lakes Elementary School (K-8)

HIGH SCHOOL	Agua Fria High School

STREETS	
El Mirage Road (Alignment)	
Classification	Collector
Existing half street ROW	55 feet
Standard half street ROW	55 feet
Existing half street improvements	None
Standard half street improvements	1.5 traffic lanes, curb, gutter, bike lane, detached sidewalk, streetlights, and landscaping,

Indian School Road	
Classification	Major Arterial
Existing half street ROW	80 feet
Standard half street ROW	65 feet
Existing half street improvements	2 traffic lanes and ½ center turn lane.
Standard half street improvements	3 traffic lanes, ½ center turn lane with median, curb, gutter, sidewalk, landscaping, bike lane, bus bay landscaping, and street lights. (per Maricopa County improvements)

8151 East Indian Bend Road, Suite 109
Scottsdale, AZ 85250
Office: 480 483-3366
Fax: 480 483-2823

ARCHITECTURE URBAN DESIGN LAND USE STUDIES

PROJECT NARRATIVE

Valley Golf Center

PROJECT:	Valley Golf Center	ADDRESS:	12247 West Indian School Road
CASE #:	SU-07-1	APN:	507-73-002 J

PROPERTY DESCRIPTION

The Valley Golf Center is an existing and operating golf facility located at 12247 Indian School Road in Avondale, Arizona. The site encompasses approximately 13.4 acres of land located in Section 25, Township 2 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona. The Center is bounded by Indian School Road to the north, by a decommissioned landfill to the east and south, and by an existing restaurant, City water storage tanks, and a vacant parcel where apartments are planned on the west. A planned extension of El Mirage Road south of Indian School Road adjacent to this property will commence in 2008. The property is currently zoned C-2 (Community Commercial) with surrounding parcels zoned: AG, R-4, and A-1.

PROJECT DESCRIPTION

The Valley Golf Center has been a very popular golfing equipment retail outlet and driving range practice facility for well over 30 years. Time has taken its toll on the facility and the owner, Kachina Fairways, Inc. (DBA Valley Golf Center), is anxious to move forward with a major renovation of the property.

This request is to up-grade an existing driving range to make it more appealing and engaging as a commercial practice facility for the public. Approval of the special use district overlay on this property is required for the existing facility to renovate and expand. In order to offer a state-of-the-art facility, the renovation will encompass a two-tiered 13,625 S.F. steel practice tee structure, as well as re-grading and re-turfing the driving range, putting green, and sand bunker practice area. The entire site will be upgraded including re-landscaping, installation of new safety netting screens, and also parking improvements for increased parking and loading areas. With the exception of the two-tier practice tee structures, all of the other improvements are best described as "remove and replace" type improvements. Our goal for the future is to provide a state-of-the-art golf practice facility to accompany the existing retail establishment.

PROPOSED LAND USE

The proposed use is simply an expansion and renovation of the existing use of the property: retail sales of golf equipment and apparel and a golf driving range/practice facility. It is also anticipated that future expansion and development of the property may include a restaurant and/or family entertainment and recreational type uses. The approval of this special use overlay shall allow all these uses on this property.

DEVELOPMENT STANDARDS

New development on the site will be in accordance with the commercial development standards contained in the Avondale Zoning Ordinance, with the following exceptions:

- A height increase from 30' to 31' is being requested to accommodate the two tiered tee structure.
- We are requesting that the Zoning Ordinance requirement that all parking lots be screened from

public streets by three foot walls be waived for this project. Due to the severe difference in grade between Indian School Road and our site, a three foot wall would not serve its intended purpose. In lieu of the wall, heavy landscaping will be provided along Indian School Road.

- The Zoning Ordinance does not contain a parking standard for driving ranges. The request is that one space will be provided for each structured hitting bay. The outdoor, non-structured hitting bays are not considered in these calculations, as these bays are only for teaching upper level skills to patrons of the new tee structure.

ARCHITECTURAL DESIGN CRITERIA

The new tee structure has been designed with a character and style that complements the existing retail structure. The steel-framed building will utilize exposed steel columns, trusses, and other framing elements. As shown on the color elevations and the perspective rendering, the wall surfaces will be factory finished metal panels and louvered grilles. The limited amount of wall panels will allow an abundant flow of air through the structure. Combined with the ceiling fans and misting system, the practice tees will offer a very comfortable setting to practice. The color palette was chosen to compliment the existing building and evolved from the tan/brown theme. Any future additions to the site will share these themes and color scheme.

The driving range itself will have an artificial turf material that has the appearance of real turf. The synthetic grass has a permeable base which will allow rainwater to seep through the turf and percolate into the natural soil below. Inasmuch as the entire range is covered with the 'Players Turf System' product, there will be no need to use any water on the range thus realizing a tremendous savings of this natural resource. To offer a more realistic setting and make the range more like an actual golf course, the Site will be sculpted and graded to have very natural land form contours. There will be blue colored material set into the green turf to make it appear as if a water feature exists on the range.

LANDSCAPING AND PEDESTRIAN OPEN SPACES

The Valley Golf Center driving range and retail center development will adopt a pleasing southwestern oasis theme that blends with the natural surrounding desert landscape. In areas of development and areas required for drainage or retention, any existing plant or dead materials will be removed and replaced with new desert plant materials to complement the proposed artificial turf areas of the driving range. The use of Xeriscape plantings will occur at strategic spot locations to add color and interest along entryways and retention areas.

A Sunami Tensile Fabric Canopy will be incorporated into the teaching practice area to provide shade for the golfers. Also, the transition between the existing retail building and the proposed tee-structure will include various landscape materials and a seating area.

SIGNS

The existing sign located on the site will be sufficient and no new sign will be needed. Any future signage will comply with the City of Avondale sign ordinance.

INFRASTRUCTURE

The improvements proposed include relocating the entrance to the site south along El Mirage Road. When the parcel to the south is developed as apartments, El Mirage Road will also be improved.

The circulation on site has been re-arranged to add more parking for the up-graded facility. The new plan proposes 113 parking spaces and new sidewalks throughout the site. The loading area has also been rearranged to allow for a fire truck and garbage truck turn around.

To bring the Site into compliance with the City of Avondale regulations for the improvements discussed, storm drain elements will be incorporated as part of the design. Two retention basins are

proposed to hold the 100-year, 2-hour storm volume created on-site. For the retention basins to function as designed, a pipe and drainage channel are also proposed as part of the drainage system.

Power service will be upgraded and a new SES is proposed that will be capable of servicing both the existing retail building and the new structure.

CONFORMANCE WITH PLANS

The City of Avondale's general plan identifies this site (Zoned C-2) as a Special Use District. As shown on the Site Plan Exhibit, the proposed Land Use is an extension and enhancement of the existing facility golf center.

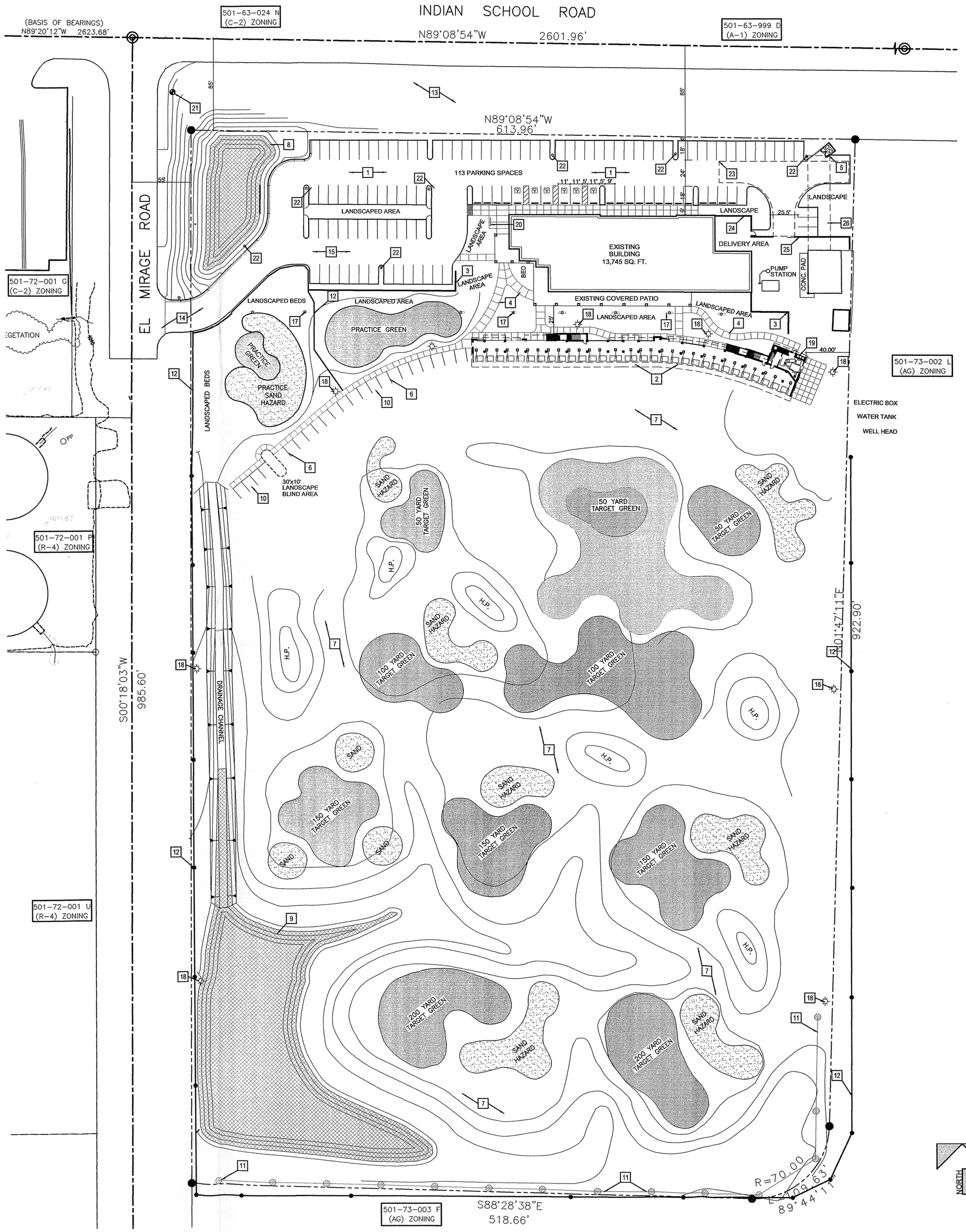
The quality of development on the site will meet the City of Avondale standards.

SITE PLAN REVIEW

All site plans, building elevations, including future development and expansion to any buildings and established uses on this property shall be approved administratively through the Development Services Department based on the City of Avondale's commercial development standards and this document

SUMMARY

Each of the Valley Golf Center's proposed improvements have been reviewed and analyzed to assure each component meets with the safety, aesthetic value, and appropriate code compliance. The Project has been presented to neighboring Property Owners, all of whom have found the improvements to be very appropriate and quite acceptable. When completed, the Valley Golf Center will reach the level of quality and the benchmarks so desired by the City of Avondale.



PROJECT INFORMATION

PROJECT DESCRIPTION:	A TWO LEVEL 13,622 SF STEEL STRUCTURE ADDITION TO EXISTING VALLEY GOLF CENTER LOCATED IN LITCHFIELD PARK, ARIZONA. STRUCTURE WILL BE USED FOR 'TEEING'.
PROJECT ADDRESS:	12247 W. INDIAN SCHOOL RD. LITCHFIELD PARK, ARIZONA 85340
OWNER/ DEVELOPER:	KEVIN O'CONNELL 12247 W. INDIAN SCHOOL RD. LITCHFIELD PARK, AZ 85340 AVONDALE JURISDICTION
SITE AREA:	GROSS: 645,050 S.F. (14.8 ACRES) NET: 593,208 S.F. (13.6 ACRES)
LOT COVERAGE:	4.4 %
BUILDING HEIGHT:	31'
ZONING:	C-2 (SPECIAL USE DISTRICT)
BUILDING AREAS:	HITTING AREA 12,470 S.F. MECH. ROOM 476 S.F. STORAGE 192 S.F. TOTAL 13,138 S.F. — THIS SUBMITTAL
EXISTNG BUILDING :	13,745 SQ. FT.
OCCUPANCY:	A-5 (ASSEMBLY) USES INTENDED FOR PARTICIPATION IN OR VIEWING OUTDOOR ACTIVITES.
LANDSCAPE OPEN SPACE AREA:	531,751 SQ. FT.
LANDSCAPE OPEN SPACE PERCENTAGE:	89.6 %

OCCUPANT LOAD: (PER TABLE 10-A)

AREA	SQ. FT.			
HITTING AREA	12,470 S.F.	@ 1/60 SF	=	207.8 OCCUPANTS
MECH. ROOM	476 S.F.	@ 1/300 SF	=	1.6 OCCUPANTS
STORAGE	192 S.F.	@ 1/300 SF	=	0.64 OCCUPANTS
TOTAL	13,138 S.F.	TOTAL	=	210.0 OCCUPANTS

CONSTRUCTION TYPE:	II-B
BASIC ALLOWABLE BUILDING AREA:	PER TABLE 503 OF THE 2003 IBC THE ALLOWABLE AREA FOR TYPE II-A CONSTRUCTION WITH A TYPE E OCCUPANCY IS 26,500 SF
BUILDING AREA PROVIDED:	18,612 SF < 26,500 SF OK
EXITS REQUIRED:	REQ'D # OF EXITS PER TABLE 1018.1 = 2. REQ'D EXIT WIDTH = 0.30" X 210 = 63" (TABLE 1005.1)
EXITS PROVIDED:	# OF EXITS PROVIDED = 2 EXIT WIDTH PROVIDED = (2) X 72" = 144" OK

PARKING CALCULATION:

RETAIL AREA	12,500 S.F./ 300 = 41
STORAGE AREA	1200 S.F./ 300 = 4
RANGE BAY AREA	1 PER BAY @ 60 BAYS = 60 SPACES
TOTAL PARKING REQUIRED:	105 SPACES
ACCESSIBLE SPACES REQUIRED	5 SPACES (PER ADA SECTION 4.6.1)

THE 23 OUTDOOR RANGE BAYS ARE NOT CONSIDERED IN THESE CALCULATIONS, AS THEY ARE ONLY FOR TEACHING UPPER LEVEL SKILLS TO PATRONS OF THE NEW 'TEE STRUCTURE.'

TOTAL PARKING PROVIDED:

STANDARD	104 SPACES
EMPLOYEE	3 SPACES
ACCESSIBLE	6 SPACES INCLUDING 1 VAN SPACE
TOTAL:	113 SPACES

APN: 501-73-002-J

SITE PLAN KEYED NOTES

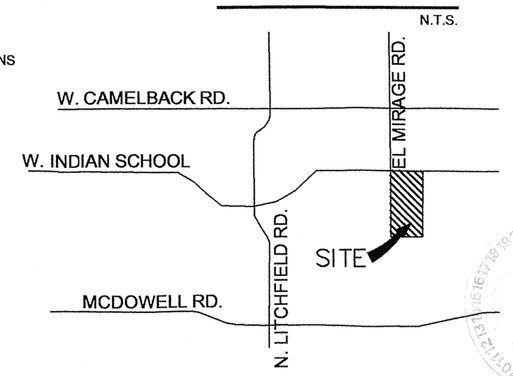
1. EXISTING ASPHALT PAVED PARKING LOT/ PARKING SPACES TO REMAIN
2. NEW TWO LEVEL 'TEE' STRUCTURE, REFER TO ENLARGED PLAN & BLDG. ELEVATIONS
3. NEW 4' HIGH MASONRY SCREEN WALL
4. NEW CONCRETE SIDEWALK
5. NEW TRASH ENCLOSURE
6. MOVABLE PARTITION BETWEEN TEACHING STATIONS.
7. MODIFIED DRIVING RANGE LANDING AREA / ARTIFICAL TURF DESIGNED PER LANDSCAPE PLANS
8. RETENTION BASIN #2, PER GRADING AND DRAINAGE
9. RETENTION BASIN #1, PER GRADING AND DRAINAGE
10. OUTDOOR TEACHING AREA
11. EXISTING NETTING LINE TO BE REMOVED
12. NEW NETTING LINE AMERICA'S NATIONWIDE NETTING, INC. COLOR: BLACK
13. HYDROSEEDED SLOPE
14. NEW 30' ASPHALT PAVED DRIVEWAY - SEE CIVIL PLANS
15. NEW ASPHALT PAVING AND PARKING SPACES.
16. NEW EMPLOYEE PARKING
17. EXISTING RANGE LIGHTING TO BE REMOVED
18. NEW RANGE LIGHTING
19. S.E.S. LOCATION
20. NEW BIKE RACK
21. EXISTING FIRE HYDRANT
22. NEW PARKING LOT LIGHTING
23. FIRE TRUCK TURN AROUND
24. NEW 6' HIGH MASONRY SCREEN WALL
25. NEW METAL GATE
26. EXISTING CANOPY TO BE REMOVED

SITE PLAN

SCALE: 1" = 40'

VICINITY MAP

N.T.S.



PLANNING RECEIVED AUG 2007 DIVISION

REGISTERED ARCHITECT CERTIFICATE NO. 42124 MARWAN GAMAL EKMUBARAK ARIZONA U.S.A.

THIS DRAWING AND ANY ELECTRONIC MEDIA IS AN INSTRUMENT OF SERVICE & SHALL REMAIN THE PROPERTY OF K-D ARCHITECTS WHETHER THE PROJECT FOR WHICH THIS DRAWING IS MADE IS EXECUTED OR NOT. THEY ARE NOT TO BE USED BY THE OWNER ON OTHER PROJECTS OR EXTENSIONS OF THIS PROJECT EXCEPT BY WRITTEN AGREEMENT AND/OR APPROPRIATE COMPENSATION TO K-D ARCHITECTS. ©

K-D architects llc
8151 E. INDIAN BEND RD. SUITE 109
tel: (480) 483-3366
SCOTTSDALE ARIZONA
fax: (480) 483-2823

VALLEY GOLF CENTER

avondale arizona

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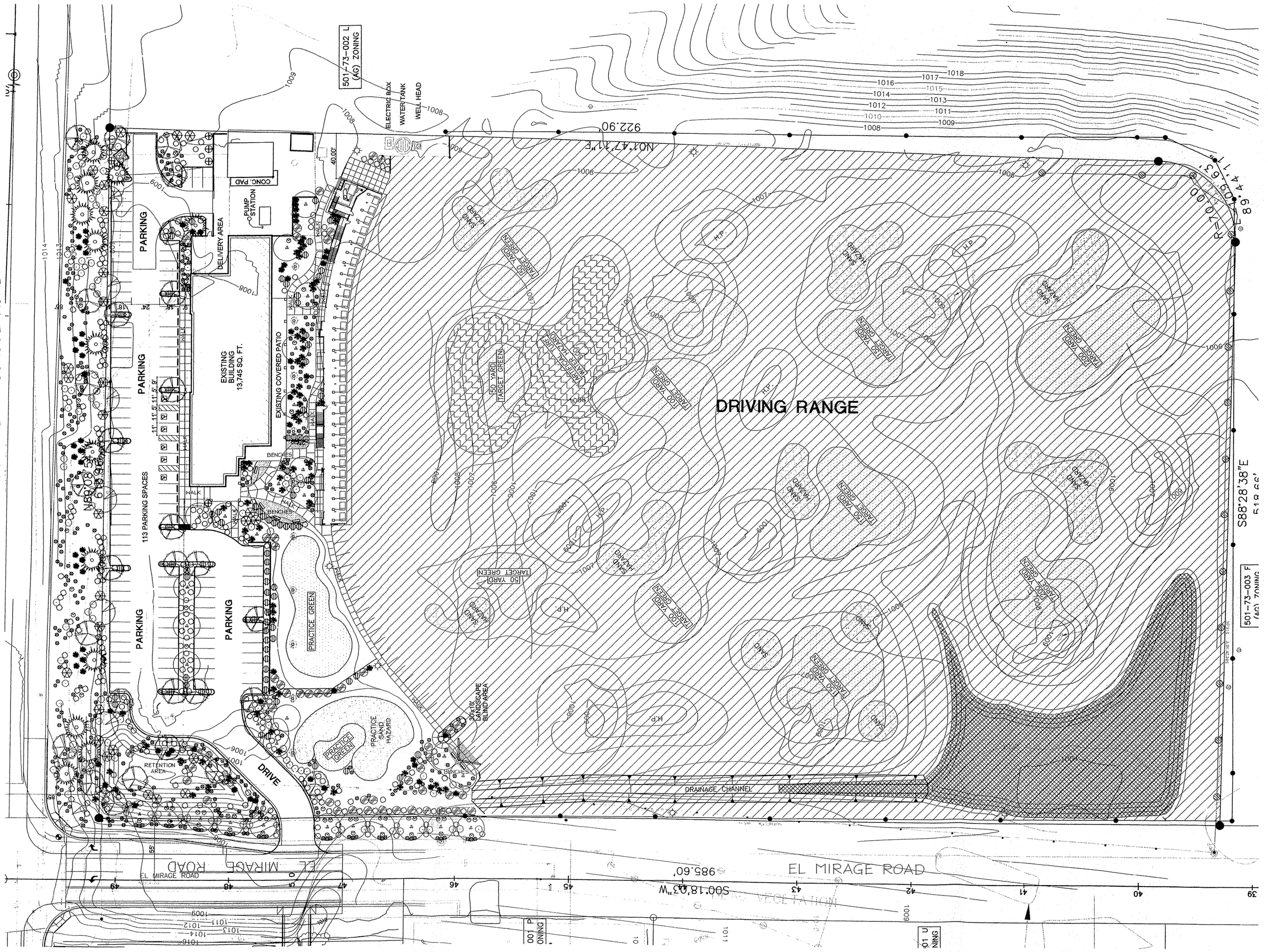
THESE DRAWINGS ARE NOT FOR CONSTRUCTION UNTIL ALL ITEMS ARE INITIALED AND DATED

	INITIAL	DATE
SUBMITTED TO CITY		
ISSUED FOR BIDDING FINAL COORDINATION & APPROVAL HAS NOT BEEN COMPLETED		
CITY APPROVAL		
ISSUED FOR CONST. G.C. SHALL REVIEW IND TO OWNER WITHIN 3 WORKING DAYS OR G.C. ASSUMES ALL CHANGES		

PROJECT NO:	07017
PROJECT MGR:	jtl
DRAWN BY:	jtl
CHECKED BY:	kd
PREP. DATE:	4/20/07

NO.	REVISION	DATE

SITE



LANDSCAPE PLAN

0 12.5 50 100

SCALE IN FEET

NORTH

LANDSCAPE LEGEND

TREES

SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	MIN SPEC	QTY.
	Acacia Salicina	Willow Acacia	15 Gal. &	1.50" Cal.	36
	Olneya tesota	Desert Ironwood	36" Box &	2.00" Cal.	13
	Parkinsonia Hybrid 'Desert Museum'	Desert Museum Palo Verde	36" Box &	2.00" Cal.	29
	Quercus virginiana ('Existing Trees at front of site to remain in place)	Southern Live Oak	48" Box	4" Cal.	7

SHRUBS/GROUNDCOVERS

SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	QTY.
	Vauquelinia Californica	Arizona Rosewood	15 Gal.	47
	Caesalpinia pulcherrima	Red bird of paradise	5 Gal.	29
	Eremophila Maculata 'Valentine'	Valentine Bush	5 Gal.	191
	Bougainvillea spectabilis (B. brasiliensis)	Purple bouganvillea	5 Gal.	5
	Convolvulus Cneorum	Bush Morning Glory	5 Gal.	83
	Leucophyllum frutescns 'Thunder Cloud'	Thunder Cloud Sage	5 Gal.	109
	Dasylirion Wheeleri	Desert Spoon	5 Gal.	51

GROUNDCOVER / PERENNIALS

SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	QTY.
	Lantana montevidensis spp.	Trailing Lantana Gold	1 Gal.	121
	Dalea capitata	Golden dalea	1 Gal.	354

CACTUS/ACCENTS

SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	QTY.
	Hesperaloe parviflora	Red yucca	5 Gal.	66
	Agave desmettiana 'Variegata'	Yellow Margined Agave Desmettiana	5 Gal.	69
	Fouquieria splendens	Ocotillo	15 Gal. 10' Ht.	2
	Carnegiea gigantea	Saguaro	8' Ht.	1
	Ferocactus acanthodes	Barrel Cactus	5 Gal.	2
	Opuntia violacea 'Santa-Rita'	Purple Prickly Pear	5 Gal.	2

LANDSCAPE MATERIALS

	Synthetic Turf	Range Turf	By Others	See Golf Plans
D.G. Not Shown	Desert Granite	Madison Gold D.G.	3/4" Minus	Madison Gold
	Brick Pavers	1.5" Concrete paver	Standard	Set on 4" of sand

LANDSCAPE FURNITURE

Landscape Forms 70" Bench	Towne Square Model	Green Color	7
Sunami Tensile Fabric Structure	G.H. Bruce Company	Red/Brown Color	1

LANDSCAPE NOTES

1. All plant material planted within site triangles shall be of species not to exceed 24" in height at maturity.
2. All landscape areas to recieve 1/2" Minus 'Madison Gold' decomposed granite at 2" depth.
3. All new landscape planting will be watered by a automatic drip system.

REGISTERED LANDSCAPE ARCHITECT
28447
EDWARD C. CORRAL
Date Signed 8/20/07
ARIZONA, U.S.A.

CALL TWO WORKING DAYS BEFORE YOU DIG.
602-263-1100
1-800-STAKE-IT
(OUTSIDE MARICOPA COUNTY)

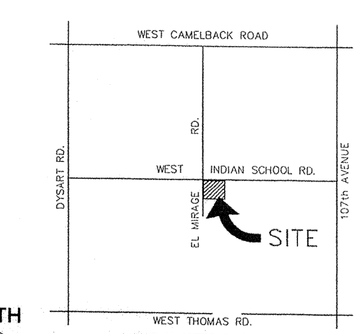
Designed by: GTP	Date: 8/20/07	Rev:	
Dwn by: GTP	Chkd by: ECC	Design file no.	
Reviewed by:		Category code:	
Submitted by:		File name: Plot date: Plot scale: 1"=50'0"	

FOR:
VALLEY GOLF CENTER
12247 WEST INDIAN SCHOOOL RD.,
LITCHFIELD PARK, AZ 85340

cdg
corral dybas group, inc
4232 So. 36th Street
Phoenix, Arizona 85040
Phone: (602) 225-9825
Fax: (602) 225-9079

VALLEY GOLF CENTER
12247 WEST INDIAN SCHOOOL RD.
LITCHFIELD PARK, AZ 85340

LANDSCAPE PLAN



NORTH

VICINITY MAP N.T.S.

Sheet Reference Number:
L-1
SHEET 1 OF 2

Valley Golf Center

AVONDALE, ARIZONA

K·D architects llc

8151 East Indian Bend Road, Suite 109
Scottsdale, AZ 85250
Office: 480 483-3366
Fax: 480 483-2823

ARCHITECTURE URBAN DESIGN LAND USE STUDIES

SUMMARY REPORT
Citizen Review Process

PROJECT: SU-07-1 VALLEY GOLF CENTER

DATE OF REPORT: August 28, 2007

OVERVIEW: This report provides results of the implementation of the Citizen Review Process regarding the application SU-07-1 and request for Special Use District approval to allow for the expansion of the existing Valley Golf Center facility (APN 501-73-002J). The proposed new driving range facility involves a complete make-over at the existing Valley Golf Center located at the southeast corner of El Mirage Road and Indian School Road. This report provides evidence that citizens, neighbors, public agencies, and interested persons have had adequate opportunity to learn about and comment on the proposed plans and actions addressed in the application.

CONTACT:

Kent Dounay, Principal
Justin T. Leuth, Project Coordinator
K-D Architects LLC
8151 East Indian Bend Road, Suite 109
Scottsdale, AZ 85250
480 483-3366 / FAX 480 438-2823

Ken Galica, Planner II
City of Avondale
11465 West Civic Center Drive
Avondale, AZ 85323
623 333-4019

PUBLIC MEETING: The citizens were invited to discuss the proposed rezoning of the Valley Golf Center at the following Citizen Participation / Neighborhood Meeting:

Date:	Wednesday, August 22nd
Time:	5:00 p.m. to 6:00 p.m.
Place:	Sonoran Room – City Complex
Location:	11465 West Civic Center Drive

ATTENDANCE: (See attached Sign-in Sheet)

- Valley Golf Center - Kevin O'Connell, Owner / Developer
- K-D Architects LLC - Kent Dounay & Justin T. Leuth
- Citizen - Jonathon Fore, Owner/Developer
  (Multi-family Apartment Project to be constructed south and west of Valley Golf Center)

MEETING DISCUSSION

The Project's site plan and rendering were presented and discussed in detail with Mr. Fore.

Mr. Fore was very pleased and excited to learn of all of the improvements proposed for the new golf center. As such, he and his development company support this Project in total.

1. **Summary of concerns, issues, and problems:**

   - None

2. **How concerns, issues, and problems were addressed:**

   - None

3. **Concerns, issues, and problems not addressed and why:**

   - None

CORRESPONDENCE AND/OR TELEPHONE CALLS:

- **Telephone Calls:** K-D Architects / Received call 08/13/07 2:54 p.m. from Tom Lowry (neighbor of Valley Golf Center) 602 528-8953. Mr. Lowry stated that he "had no complaints ... just had some questions before leaving town." Mr. Dounay was not able to talk/reach Mr. Lowry.

- **Correspondence:** None

Contact: Kent Dounay <kentd@k-darchitects.com>
Justin T. Leuth <justinl@k-darchitects.com>

PROJECT NAME: Golf Course
PROJECT NUMBER:
ESTIMATED BY: Chris Hamilton
ESTIMATION DATE:

Item #	Item Description	Unit	Quantity	Unit Cost	Total Cost
PAVING ITEMS					
1	Subgrade Preparation	sy	900	$11.00	$9,900.00
4	12" Aggregate Base Course, {Arterial}	ton	520	$30.00	$15,600.00
9	2" AC Surface Course (12.5 mm), {Arterial}	ton	100	$95.00	$9,500.00
13	3" AC Base Course (19.0 mm), {Arterial}	ton	150	$95.00	$14,250.00
16	Asphalt Emulsion Tack Coat (SS-1)	ton	1	$700.00	$700.00
19	6" Vertical Curb & Gutter, MAG 220 Type A	lf	500	$25.00	$12,500.00
25	4" Thick Sidewalk, MAG 230	sf	5000	$5.50	$27,500.00
34	Concrete Bus Bay, COP P1256, Type 1 (complete in place)	ea	1	$12,000.00	$12,000.00
38	Valve Adjustments, Type C	ea	2	$380.00	$760.00
42	Arterial Street Lights, HPS 250, 30K Lumens, (assume 150' Spacing)	ea	3	$1,800.00	$5,400.00
REMOVALS AND RELOCATION ITEMS					
51	Obliterate Existing Pavement Markings (4" Equiv.)	lf	1500	$1.00	$1,500.00
55	(Sawcut&) Remove Existing AC	sy	250	$8.00	$2,000.00
GRADING AND STORM DRAIN ITEMS					
78	Fill Construction - fill	cy	2500	$4.00	$10,000.00
				PAVING, GRADING, AND STORM DRAIN SUBTOTAL	$121,610.00
				TOTAL CONSTRUCTION COST SUBTOTAL	$121,610.00
INCIDENTALS					
1	Mobilization (5%-15%)	%	10.0	N/A	$12,161.00

2	Traffic Control (1%-15%)	%	6.0	N/A	$7,297.00
3	Construction Survey Layout & As-Built Preparation (0%-8%)	%	3.0	N/A	$3,649.00
4	Construction Administration (10%-18%)	%	0.0	N/A	$0.00
5	Public Relations (2%-12%)	%	2.0	N/A	$2,433.00
6	Permitting (0%-5%)	%	1.0	N/A	$1,217.00
7	NPDES/SWPPP (0%-5%)	%	0.0	N/A	$0.00
8	Taxes (6%)	%	6.0	N/A	$6,697.00
				INCIDENTAL SUBTOTAL	$33,454.00
PLANS SPECS AND ESTIMATES					
1	PS&E'S	%	10.0	N/A	$12,161.00
				PS&E SUBTOTAL	$12,161.00
				CONSTRUCTION, INCIDENTAL, AND PS&E SUBTOTAL	$167,225.00
				10% CONTINGENCY	$16,722.50
				TOTAL PROJECT COST LESS RIGHT OF WAY & TRANSPORTATION RELATED INCIDENTALS	$183,947.50
				% STREET FUND 100.00%	$183,948
				ROW SUBTOTAL	$0.00
OTHER TRANSPORTATION RELATED INCIDENTALS					
1	Signing and Marking (2%-8%)	%	6.0	N/A	$7,297.00
3	Landscape and Irrigation (5%-25%)	%	2.0	N/A	$2,433.00
				TRANSPORTATION RELATED INCEDENTAL SUBTOTAL	$9,730.00
				RIGHT OF WAY & TRANSPORTATION RELATED INCIDENTALS SUBTOTAL	$9,730.00
				TOTAL PROJECT COST	$193,677.50
				TOTAL CONTRIBUTION FROM STREET FUND 304	$193,678.00

EXHIBIT K

ZONING ORDINANCE AND MUNICIPAL CODE EXCERPTS

Avondale Zoning Ordinance Section 1204.D.4 (Design Standards for Commercial and Industrial Development)

Electrical utility, cable TV, and all other utility lines for buildings shall be placed underground. Overhead lines are prohibited.

Avondale Zoning Ordinance Section 609.4.c (Design review criteria for Commercial PADs)

The on-site and off-site adjacent right-of-way placement of all power utility lines (less than 69 KV) and irrigation ditches shall be underground.

Excerpt of the Draft Minutes of the regular Planning Commission meeting held November 15, 2007 at 7:00 p.m. in the Council Chambers.

COMMISSIONERS PRESENT
David Iwanski, Commissioner
Lisa Copeland, Commissioner
Kevin Grimsley, Commissioner
Edward Meringer, Vice Chair
Michael Alcorn, Commissioner
Alan Lageschulte, Chairman

COMMISSIONER ABSENT
Linda Webster, Commissioner (Excused)

CITY STAFF PRESENT
John Vater, Planner, Development Services
Ken Galica, Planner II, Development Services
Eric Morgan, Planner II, Development Services
Tracy Stevens, Planning Manager, Development Services
Brian Berndt, Development Services Director

APPLICATION NO. SU-07-1

APPLICANT: Mr. Justin Leuth, K-D Architects
8151 E. Indian Bend Road, Suite 109
Scottsdale, AZ 85250

REQUEST: This is a request to apply the Special Use zoning overlay to the Valley Golf Center property to allow for the expansion of the existing driving range facility.

Ken Galica, Planner II, stated that this item was a request to apply the Special Use District Zoning Overlay to allow for the expansion and renovation of the existing Valley Golf Center Facility. He described the 13.4 acre subject property as located at the southeast corner of Indian School Road and El Mirage Road, currently zoned C-2. He informed the Planning Commission that the Valley Golf Center was established prior to 1990 when the C-2 district allowed for driving ranges, and then the district was amended, and approval of the Special Use District Overlay is now required to develop or expand these types of facilities. Mr. Galica then described the adjacent land uses as a combination of industrial and commercial businesses, and as vacant land. He explained that two General Plan designations split the property in half. He explained the north half where the expansion is proposed to occur is designated as Commercial, and the south half where no expansion is planned is designated as Medium-High Density Residential.

He reported that the applicant is proposing to expand the driving range use by constructing a two-story tee structure, which will accommodate approximately 60 hitting bays, and the parking lot will be expanded to provide one space per hitting bay, consistent with other Valley ordinances. He informed the Planning Commission that Avondale does not have a parking standard for driving ranges at this time and will be looking at addressing this in the ordinance in the future. He stated a new short game practice area is also proposed, and an artificial turf landing area has already replaced the old dirt and turf landing area, and enhanced screening and landscaping are planned by the developer as well. Mr. Galica stated that while no additional uses are proposed at this time, the applicant does wish to keep the door open for a future restaurant or family entertainment center on the property, and should that materialize, a Site Plan review would be required. He added that a number of infrastructure improvements will be occurring in the immediate vicinity of the Valley Golf Center. Construction of the full El Mirage Road south of Indian School Road will commence in the spring and the entrance to the Valley Golf Center will be relocated to El

Mirage Road. Mr. Galica informed the Commission that the full cost of these improvements is being borne by two parties: the developer of an adjacent project and the City. He noted in the future an Indian School Road widening project is planned, and that Staff recommends a stipulation asking for a contribution toward those improvements be made by the applicant. Mr. Galica showed the Planning Commission a slide of the proposed expansion and stated the Site Plan and elevations will be approved administratively following approval of the zoning overlay.

Mr. Galica informed the Commission that Staff feels that all required findings are met by this proposal, the use of the property is consistent with the General Plan designation of Commercial zoning, and the location adjacent to industrial and commercial uses is ideal and does not have detrimental impacts on surrounding properties. He stated the proposed expansion is consistent with development standards contained in the C-2 district with 3 Staff-supported minor exceptions, and Staff believes the proposal will be beneficial to the streetscape aesthetics along Indian School Road. He summarized his presentation, stating Staff is recommending approval subject to seven stipulations.

Chairperson Lageschulte invited questions of Staff.

Commissioner Grimsley asked what the City's vision is for Indian School Road from Santa Fe Trail to the Agua Fria River from a land use perspective, particularly in light of the large power lines in the area. Mr. Galica responded that the City of Avondale limits are south of Indian School Road, except for a small portion, so the City only has control of half of the frontage on the street. He informed the Commission that the General Plan designates most of this area as Commercial, with pockets of mixed use and residential.

Commissioner Grimsley asked why some of the construction had already begun on the property before the Special Use District Overlay is approved. Mr. Galica explained that only construction currently allowed to proceed is classified as "remove and replace" procedures, such as laying the artificial turf landing surface and replacing the netting system. Approval of this application by City Council will be required before the applicant will be allowed to expand the use by constructing the new tee structure or expanding the parking lot area.

Commissioner Alcorn stated the City was asking the applicant to put forth approximately $200,000 for infrastructure on Indian School Road. He noted he remembered an apartment complex at Indian School Road and Dysart Road being built and they were not asked to put up any money. He asked why is the City concerned with the matter if the County is going to rip up Indian School Road. Mr. Galica replied that the City is responsible to fund the portion of Indian School Road improvements within its limits if it deems the widening neccessary.
Commissioner Alcorn expressed his opinion that if the County wanted to widen the road, the County should pay for it, as it is their road. Mr. Galica clarified that Indian School Road is a County road in so much as they control the flow of traffic; however, as the road does serve Avondale, the City is responsible to assist in funding when the city determines it is necessary. Commissioner Alcorn expressed he did not understand this, as if the County accepts responsibility for maintaining the road and wants to widen the road, the County has a wider tax base and thus should fund the project, and he does not see charging one small businessman $200,000 now for a project that will not occur for 15 years. Mr. Galica replied that any new project occurring along Indian School Road will also have to contribute to the widening project. Commissioner Alcorn replied the City did not see one dollar from the apartment complex at Indian School and Dysart. Mr. Galica replied the money would be forthcoming when that project applied for a rezoning.

Commissioner Copeland remarked that financial contributions for roads are standard in rezoning actions, and since this is not a rezoning action, she asked why the applicant was being asked to make a contribution. Mr. Galica replied that a Special Use Overlay District is an overlay zoning district, so while it is not changing the underlying C-2 zoning on the property, it is a rezoning action in so much as it changes the uses that are allowed to occur on the property. Without doing this, no expansion of the use would be permitted under the current zoning regulations.

Vice Chair Meringer asked regarding burying the power lines in the area, would the businesses in the area be required to contribute to that project. Mr. Galica responded that the hope of the City was that each of

those properties that develops or redevelops will take care of that portion of the power lines at that point in time.

Commissioner Copeland asked for clarification that no other property owner would have to bury their power lines until they asked for a permit to rebuild or expand. Mr. Galica verified that was the current policy. Commissioner Copeland pointed out that sometimes a property owner might not want to rebuild or expand in light of the added cost to bury the power lines because the return on the investment would not be worth it; thus, no one would want to better their business property for the City. She expressed that the City needed to find a better way to get the power lines buried, such as having all of the businesses contribute to bury the lines.

Commissioner Alcorn stated he understood what would happen with the smaller power lines and asked what would happen with the large power lines. Mr. Galica informed the Planning Commission that, due to the enormous financial burden of burying 69 KV or greater power lines, the City does allow property owners to keep those lines above ground. Commissioner Alcorn asked could the small power lines be attached to the same poles as the large lines. Mr. Galica explained it is a Zoning Ordinance requirement to underground all utility lines under certain 69 KV.

Chairperson Lageschulte remarked the City would still have about eight power lines up with three or four smaller lines underneath it, and he agrees with Commissioner Copeland that the City needs to find a better way to do this. Chairperson Lageschulte asked when Indian School road is going to be widened. Mr. Galica responded that that decision would be coordinated with the widening of the Indian School Bridge over the Agua Fria River and no specific time table had been set yet. Chairperson Lageschulte stated that nothing was even on the books yet regarding the widening of Indian School Road and he is wondering why the City will take approximately $200,000 from this businessman for something that is not in the planning scope yet. Mr. Galica explained that this is a planned project and if the City does not recoup the cost from projects as they develop, it becomes extremely difficult to recoup the cost at a later time. Chairperson Lageschulte stated he would like to see a stipulation stating that if and when Indian School Road is widened, the property owner will have to fund the money for the project along with every other property owner, and asked why the City could not do so. Chairperson Lageschulte stated this business was basically building a two-story patio and the City was asking them to do the same as a brand new business that is opening in Avondale, and he would like to come to a compromise. Chairperson Lageschulte asked if the City was doing this to every business in Avondale and wondered if this is a reason Avondale is having problems with businesses starting in the City. Mr. Galica replied that this is an unusual circumstance and it is not common for an existing business to need to go through the rezoning process to expand. Mr. Galica pointed out that this action is the only way to bring this proposal into conformance with the Avondale Zoning Ordinance.

Commissioner Grimsley asked if the contribution number of $193,677.50 for infrastructure improvements is based on the price for improvements today or the price in 15 years. Mr. Galica answered that the contribution number is today's cost estimate based on today's prices of petroleum for asphalt, labor, etc. Mr. Galica stated that the City will end up paying a portion of the infrastructure improvements when they are ultimately constructed because the cost will most certainly rise. Commissioner Grimsley asked up to what point is land the property owner owns and what part is right-of-way that the City owns. Mr. Galica pointed out on a slide where the property line is. Commissioner Grimsley asked if the property owner would be paying for the improvements of City owned right-of-way abutting the golf center property. Mr. Galica replied that was correct and it is customary for an adjacent property owner to pay for improvements in the public right-of-way at the time of development.

Commissioner Alcorn asked if there could be an agreement where the property owner puts a portion of the money into escrow, or the property owner could build 25 percent of the expansion now and 25 percent later to avoid the contribution cost. Mr. Galica replied that Staff could look into creative funding mechanisms, and noted that would involve a number of City departments. Commissioner Alcorn inquired if the money went into a general fund or a specific fund. Mr. Galica answered that he was uncertain. Commissioner Alcorn stated that Social Security used to go into its own fund and now it goes into the general fund and it is broke, and he does not want the City to do the same.

Vice Chair Meringer suggested a compromise, with the City picking up the cost of the power lines to lessen the costs the applicant would have to pay. Mr. Galica responded that Staff appreciates the unique situation of the applicant, but there comes a point where if they give one person a break, it may set a precedent which could weaken the City's position in future cases.

Commissioner Copeland stated Mr. Galica had mentioned the burden to the City to pay for the right-of-way and burying the power lines, and thinking what the burden was to a business owner, she expressed there has to be a better way to do this. Mr. Galica stated that Indian School Road within the City limit runs for miles, so the cost of this project times thousands would be the cost to the City if it does not receive any contribution from business owners.

Chairperson Lageschulte stated that as a property owner and homeowner, he has been hit twice for road improvements, and when he bought the property he was not hit up front for road improvements, but was hit at the time that they were ready to bring the graders out. He asked if the City should be working in that fashion on this project. He stated there were homes close to Indian School Road and asked was the City going to bill all those homeowners for the widening of Indian School Road. Mr. Galica replied that he did not believe there will be any levy on existing property owners that are not going to be expanding or asking for a rezoning action.

Commissioner Iwanski suggested as the City of Avondale has a franchise agreement with APS, during the next negotiations of that agreement, the undergrounding of utilities in the future should be addressed. As to assessing this property owner, Commissioner Iwanski suggested in addition to differentiating between new businesses and existing businesses looking for rezoning, that there should be a differentiation between what contributions are paid and how and when those contributions are paid.

Chairperson Lageschulte invited further questions and comments, and hearing none, thanked Mr. Galica for his presentation. He then invited the applicant to address the Commission.

Dustin Jones, 2940 N. Litchfield Rd., Goodyear, AZ, stated present with him tonight is Justin Leuth of K-D Architects, Gary Fritz of Golf Rec Development, and Kevin O'Connell, the owner of the property. Mr. Jones explained that the Valley Golf Center is located in the center of many golf course developments that have taken significant steps to improve their properties, and the Valley Golf Center has been in existence for 36 years and needs to maintain its competitive edge within this market. He showed the Planning Commission slides of the proposed two-tiered driving range and other improvements. Mr. Jones pointed out his client objects to two stipulations.

Mr. Jones stated they object to Stipulation No. 3 requesting $193,667.50 for the anticipated widening of Indian School Road. He explained that this development has been in operation for 36 years, and his client, in deciding to make the improvements to his property, did not anticipate he would have to contribute to the widening of Indian School Road. He stated that while Indian School Road does need improvements, there are mechanisms that the City and the County can employ to spread the cost of widening Indian School Road and the cost of the bridge over Indian School Road amongst developers. Mr. Jones remarked it was understood by developers that they pay for their half of the street improvements, but the distinction they note here is that this is an existing use that is Legal Nonconforming, because when it came into the City when it was annexed, C-2 zoning was granted, and then a variety of amendments were added to the Zoning Ordinance and a Special Use Overlay District was created to address driving ranges and other unique uses. He noted the distinction here is they are not proposing or establishing a driving range. He pointed out that the Staff Report states there is no increase in traffic generation, no disruption to the surrounding land uses, and there is no negative impact on the surrounding uses that would trigger the need to widen the street or to do additional improvements. Therefore, Mr. Jones declared they are requesting that Stipulation No. 3 be removed.

Next, Mr. Jones explained their objection to Stipulation No. 6 dealing with the undergrounding of the power lines. He showed the Planning Commission slides of the corridor and reported that in their discussions with APS, APS would rather the applicant not touch their lines; however, with a new

development it is understood the developer will have to work with the utility company to underground the lines. Mr. Jones expressed that in this case, the strict application of the Zoning Code is a burden to this development. He pointed out the 69 KV lines on slides to the Planning Commission and the 12 KV line which is proposed to be undergrounded, and stated his client does not understand how this will really change the aesthetics of the area, while he does understand that $80,000 is a significant contribution. Mr. Jones asked that Stipulation No. 6 be deleted as well.

Mr. Jones summarized, stating as an existing business that is a Legal Nonconforming Use, having contributed to this community for over 36 years, his client did not expect that these measures would be required. He also noted that his client also owns the property to the west, Manny's Restaurant, and access to both sites has been impacted and his client has complied. Mr. Jones stated that the $275,000 additional expense is a bit too much for his client to swallow at this point; thus, they respectfully request the deletion of Stipulations Nos. 3 and 6.

Chairperson Lageschulte invited questions of the applicant.

Commissioner Alcorn asked if the applicant's property close to Dysart and Indian School Road had all the power lines buried. Mr. Jones replied they had just submitted the zoning application, but typically the 69 KV lines are not buried, but he anticipates the lower wattage lines will be buried.

Commissioner Iwanski asked if there was discussion on other stipulations with regard to hours of operation. Mr. Jones responded he was not aware of any stipulations that would limit the hours of operation for the facility.

Commissioner Grimsley thanked Mr. Jones for his presentation. He asked if Mr. Jones claims that the expansion of this facility would not create an increase in traffic. Mr. Jones responded the analysis of Staff and of the applicant's consultants showed no increased traffic on Indian School Road that would warrant the widening, nor did Staff request a Traffic Analysis because it was a benign issue. Commissioner Grimsley clarified this would not increase traffic in general down Indian School Road, and Mr. Jones confirmed this. Commissioner Grimsley shared that he hits golf balls at the Valley Golf Center all the time and asked Mr. Jones if he has ever exited the facility after the hours of 2-3:00 p.m. toward the west. Mr. Jones replied that he had. Commissioner Grimsley inquired how quickly he was able to do that. Mr. Jones clarified that the ingress/egress point that Commissioner Grimsley is referring to will now be moved to El Mirage Road and his client will be giving a slope easement so El Mirage Road can be widened and there will be a street light.

Vice Chair Meringer stated he disagreed that there will be no increased traffic by the fact that Avondale has not built itself out yet, and with all of the planned expansions on 99th Avenue and the Freeway Specific Corridor, as well as the possibility of a restaurant or family center proposed, he does not see how that would not increase traffic. Mr. Jones replied that his client would love to have increased traffic on the site, but his point is that the increase is not so significant to warrant the contribution to the widening of Indian School Road at this point.

Commissioner Iwanski pointed out that Mr. Jones' client was spending a lot of money to enhance his facility, which would generate additional tax revenue for the City, and if the client increases his revenues, that type of business improvement from a longstanding, well-regarded business in the City of Avondale should be encouraged. He suggested stipulations should be put in place that ensure quality development, but also that make good financial sense when one weighs what contributions have to be made against the business enhancement, the investment in the community, and the additional tax revenue generated by that business. He commended the applicant for keeping his business in Avondale.

Chairperson Lageschulte invited further questions, and hearing none, opened the item for public hearing. There was one request to speak.

Page Hannah, 201 S. 122nd Dr., Avondale, AZ, explained she was not a golfer, but had questions. She commented it was great when businesses improve. She asked was the $193,000 plus the total cost of the

infrastructure improvement, or half of the total cost, or half of the City's cost. She stated she agreed with deleting Stipulations Nos. 3 and 6, but if that is not possible, she asked could the applicant deposit half of the $193,000 plus into an escrow account at approximately $10,000 a year for 10 years.

Chairperson Lageschulte asked Mr. Galica if he wished to respond to Ms. Hannah.

Mr. Galica replied that the $193,000 was for the half street and the other side of the street would be the responsibility of the property owner to the north.

Chairperson Lageschulte stated he had no other speaker forms and invited anyone in the audience to speak. No one wished to speak. Chairperson Lageschulte invited further questions of the Staff.

Commissioner Iwanski asked if the Staff was willing to continue discussions with the applicant in terms of the contributions to be made. Mr. Galica replied that Staff would be happy to continue these discussions with the applicant, especially in terms of trying to find a way to make the payments. He informed the Planning Commission that waiving the contributions entirely was a decision that was not staff's to make.

Chairperson Lageschulte hearing no other questions, called for a motion.

Commissioner Alcorn **MOVED** that the Planning Commission accept the findings and recommend approval of application SU-07-1, a request to apply the Special Use Overlay to the Valley Golf Center property. Commissioner Iwanski **SECONDED** the motion.

Chairperson Lageschulte opened the floor for discussion.

Commissioner Alcorn stated he was sure the property owner realizes that these fees must be paid eventually; however, he believes if the applicant works with the City and if the Planning Commission crafts the motion correctly, they can set it up to where the applicant does not have to pay the costs all up front or at least the money sits in a bank and the applicant draws the interest on it. He opined as far as burying the power lines, if the City has to bury the small power lines, APS will have to bury the large lines sooner or later.

Commissioner Copeland remarked that usually the stipulations are addressed within the motion and the Commission should probably address that. She commented she would not be too happy if she walked into a bank, and they told her to open up a checking account and she was going to have $80.00 in fees per month and the fees were not based on anything. She pointed out the City has not established when Indian School Road will be widened, and to charge a small business person a fee of this amount, especially when it was not in their budget, she does not find that acceptable and thinks it is bad business for the City to do this to an established business.

Commissioner Grimsley expressed that he was really torn. Regarding the power lines, he stated the reason was aesthetic and with all the power lines in the area, it is overwhelming to him that such a small piece is being asked to be buried at this time. Next, regarding assessing the fee for the road widening at the time the work is to be done, he stated that may not be feasible to the owner because the City will show up on his doorstep 15 years down the road asking for half a million dollars. Regarding the traffic generation, he vehemently disagreed that there would not be increased traffic because the applicant would not be going from 40 to 70 hitting bays and possibly a restaurant or family center without the hope of more business. Commissioner Grimsley estimated conservatively an $80,000 increase in revenue just from the additional hitting bays.

Commissioner Iwanski stated in terms of traffic flow and the El Mirage alignment, he thinks that is an improvement in ingress/egress for the facility. He stated he supports the motion with all of the stipulations, with the exception of Stipulation No. 3, and he would want to send a clear message to the City Council that improvements and related contributions for existing businesses need to be distinguished from new development.

Chairperson Lageschulte stated he agreed with just about everyone tonight. He stated with a small business, every time you add something to a business, overhead increases, so it is more than a matter of considering the increased profit to the business. He added that part of the overhead usually includes more employees, which results in more people spending money, which will help the tax base. Chairperson Lageschulte commented regarding the traffic issues, there is not a road without traffic issues in the City two times a day and Indian School is one of the better roads to drive during rush hours. He stated if he was going to improve a business and had been in the community for 36 years and the City stated it would cost $300,000 to make an improvement, he would not proceed with his plans. Chairperson Lageschulte expressed he would like Stipulations Nos. 3 and 6 deleted. He added that to bury three power lines in that area would not make a difference in the aesthetics. He stated this was poor planning in the past, as those power lines should have been buried when they were put up in the first place.

Chairperson Lageschulte invited further comments and suggestions, and hearing none, asked if anyone would like to change the motion.

Commissioner Grimsley stated the stipulations should be addressed in the motion.

Chairperson Lageschulte asked for a Roll Call vote on the motion to approve application SU-07-1.

ROLL CALL VOTE

Commissioner Webster	Absent
Commissioner Copeland	Nay
Vice Chair Meringer	Nay
Commissioner Alcorn	Nay
Chairperson Lageschulte	Nay
Commissioner Grimsley	Nay
Commissioner Iwanski	Nay

THE MOTION FAILED – 6 Nay 0 Aye

Chairperson Lageschulte asked for a new motion to include the stipulations.

Commissioner Copeland **MOVED** that the Planning Commission accept the findings and recommend approval of application SU-07-1, a request to apply the Special Use Overlay to the Valley Golf Center property with the following stipulations: Nos. 1, 2, 4, 5, 7. Commissioner Alcorn **SECONDED** the motion.

ROLL CALL VOTE

Commissioner Webster	Absent
Commissioner Copeland	Aye
Vice Chair Meringer	Aye
Commissioner Alcorn	Aye
Chairperson Lageschulte	Aye
Commissioner Grimsley	Nay
Commissioner Iwanski	Aye

THE MOTION PASSED- 5 Aye 1 Nay

ORDINANCE NO. 1283-1207

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE OFFICIAL ZONING ATLAS OF THE CITY OF AVONDALE FOR APPROXIMATELY 13.4 ACRES LOCATED AT THE SOUTHEAST CORNER OF INDIAN SCHOOL ROAD AND EL MIRAGE ROAD AS SHOWN IN FILENAME SU-07-1, BY ESTABLISHING THE SPECIAL USE DISTRICT (SUD) OVERLAY ON SUCH PROPERTY AND IMPOSING CONDITIONS UPON SUCH CHANGE.

WHEREAS, the Council of the City of Avondale (the "City Council") desires to amend the City of Avondale Zoning Atlas (the "Zoning Atlas") pursuant to ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, all due and proper notices of public hearings on the intended amendment held before the City of Avondale Planning and Zoning Commission (the "Commission") and the City Council were given in the time, form, substance and manner provided by ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, the Commission held a public hearing on Thursday, November 15, 2007, on the amendment to the Zoning Atlas pursuant to such notices and as required by ARIZ. REV. STAT. § 9-462.04; and

WHEREAS, the Commission recommended approval; and

WHEREAS, the City Council held a public hearing regarding the amendment to the Zoning Atlas on December 17, 2007.

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

SECTION 1. That ± 13.4 acres of real property generally located at the southeast corner of Indian School Road and El Mirage Road as shown in filename SU-07-1, as more particularly described and depicted in Exhibit A, attached hereto and incorporated herein by reference, are hereby designated with the Special Use District (SUD) zoning overlay, subject to the following conditions:

1. Development shall be in strict conformance with the Project Narrative date stamped October 25, 2007, and general conformance with the Site Plan, Landscape Plan, and Elevations date stamped August 24, 2007, except as modified by these stipulations.

2. Master and final site plan approval shall be obtained from the Development Services Department prior to building permit issuance. Future development on site, if any, will require an administrative amendment to the master site plan.

3. Maintenance of all landscaping in the right-of-way adjacent to the subject property shall be the responsibility of the current or future owners of the subject property.

4. Fire protection and prevention devices (i.e. sprinkler systems) may be required for the two-tiered tee structure, as determined by the Fire Marshal at the time of construction document review.

5. Prior to issuance of a building permit, the property owner and the City shall determine the location of a slope easement for the northwest corner of the subject property, which easement shall be dedicated to the City and recorded with Maricopa County.

SECTION 2. That if any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, December 17, 2007.

_____
Marie Rogers Lopez, Mayor

ATTEST:

_____
Linda M. Farris, City Clerk

APPROVED:

_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 1283-1207

[Legal Description and Map]

See following pages.

SOUTHEAST CORNER OF INDIAN SCHOOL ROAD AND EL MIRAGE ROAD

LEGAL DESCRIPTION

THE PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 25, TOWNSHIP 2 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 25, SAID POINT BEING THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL;

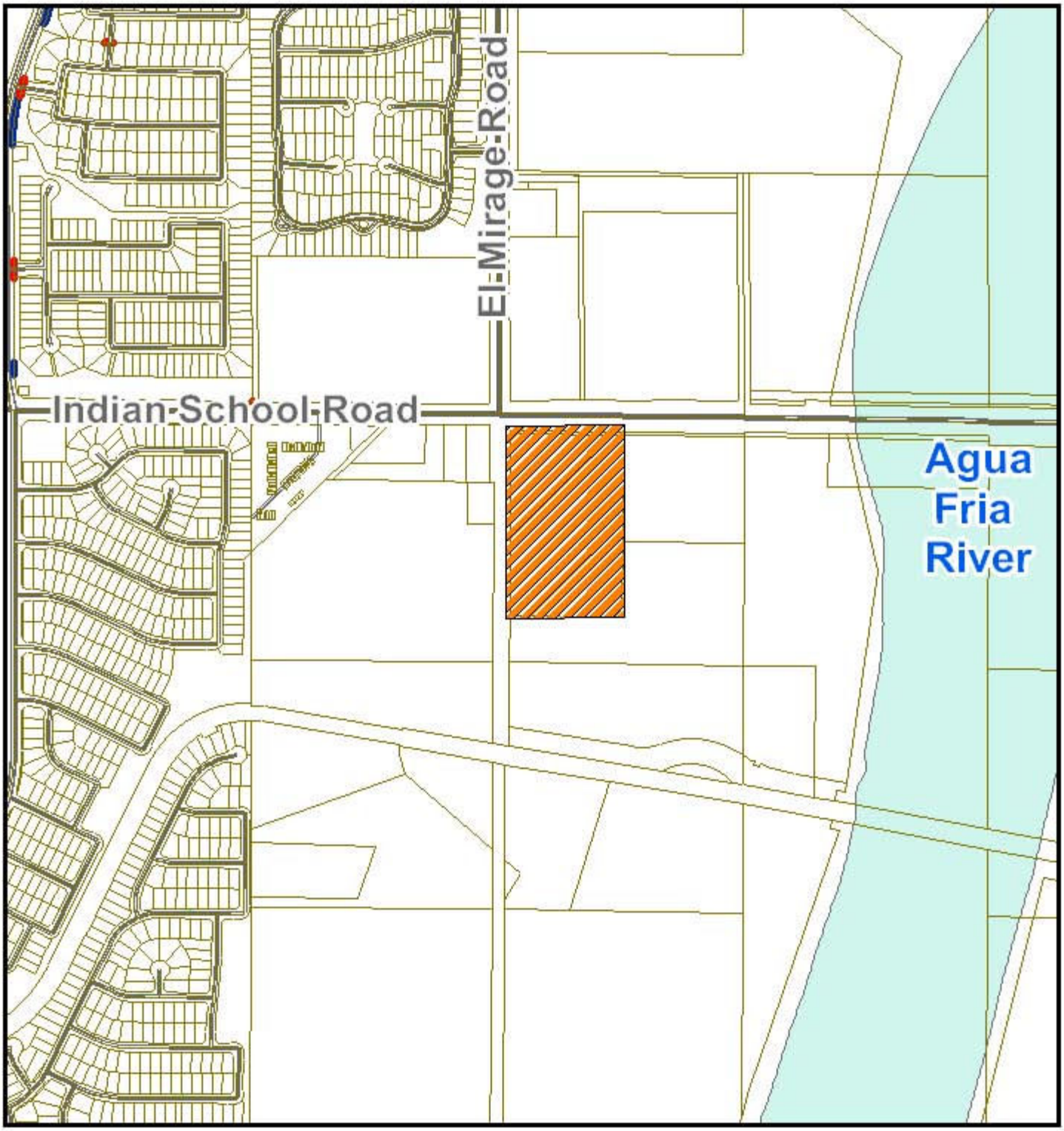
THENCE ALONG THE NORTH LINE OF SAID SECTION AND THE MONUMENT LINE OF INDIAN SCHOOL ROAD, SOUTH 89 DEGREES 48 MINUTES 32 SECONDS EAST, A DISTANCE OF 671.17 FEET;

THENCE LEAVING SAID NORTH LINE AND SAID MONUMENT LINE, SOUTH 01 DEGREES 07 MINUTES 33 SECONDS WEST, A DISTANCE OF 1007.91 FEET, TO THE BEGINNING OF A CURVE;

THENCE SOUTHERLY ALONG SAID CURVE, HAVING A RADIUS OF 70.00 FEET, CONCAVE NORTHWESTERLY THROUGH A CENTRAL ANGLE OF 89 DEGREES 44 MINUTES 11 SECONDS, A DISTANCE OF 109.63 FEET, TO THE CURVE'S END;

THENCE NORTH 89 DEGREES 08 MINUTES 16 SECONDS WEST, A DISTANCE OF 573.60 FEET, TO THE WEST LINE OF SAID SECTION;

THENCE ALONG SAID WEST LINE, NORTH 00 DEGREES 21 MINUTES 48 SECONDS WEST, A DISTANCE OF 1069.96 FEET, TO THE POINT OF THE BEGINNING.



Application SU-07-1

Avondale

Subject Property

DEVELOPMENT SERVICES

SUBJECT:
Public Hearing and Resolution 2709-1207 - North Avondale Specific Plan Building Height Amendment (SP-07-03)

MEETING DATE:
December 17, 2007

TO: Mayor and Council

FROM: Dean Svoboda, Long Range Planning Director (623)333-1035

THROUGH: Charlie McClendon, City Manager

REQUEST: Amend the North Avondale Specific Plan to increase the building height allowed along a portion of 99th Avenue.

APPLICANT: City Initiative

BACKGROUND:

This proposal was previously presented to the City Council as an information item on November 19, 2007 (Exhibit E).

The North Avondale Specific Plan covers that portion of the city located north of the Encanto Boulevard alignment (Exhibit A). The plan was first adopted in 1997. It was later amended to be consistent with the General Plan in 2002.

The primary objective of the North Avondale Specific Plan is to maintain and enhance the low to medium density residential character of the area. The Plan establishes a transition zone along 99th Avenue to act as a buffer from more intense land uses in the City of Phoenix. It also recognizes that the proximity of 99th Avenue to the Loop 101 Freeway offers an opportunity to establish a "high identity community edge". It envisions that the entry to the City at 99th Avenue and Indian School Road will be a focal point for this edge identity.

On October 1, 2007, the City Council approved PAD (Planned Area Development) zoning on 160 acres at the southwest corner of 99th Avenue and Indian School Road. The preliminary development plan for "Entorno" shows a mixed-use development with office, retail, and residential components. Included is an 8 story building set back 1400 feet from the western property line. The North Avondale Specific Plan currently provides for building heights of up to four stories. A stipulation of the PAD approval requires that the specific plan be amended before a greater building height can be achieved.

A similar building height amendment has been initiated for the Freeway Corridor Specific Plan (SP-07-04). This amendment is also on the City Council agenda this evening. Both amendments relate to the urban form of the city, but are otherwise separate and distinct policy decisions.

SUMMARY OF REQUEST:

- The maximum building height allowed by the City's standard residential and commercial zoning districts is 30 feet. This typically allows up to two stories to be built.
- The adopted North Avondale Specific Plan allows up to four stories if certain performance criteria are met. This is implemented through the PAD zoning process.
- The proposed amendment will allow up to 8 stories along 99th Avenue between Indian School Road and Thomas Road if the four story criteria is met. Any building over four stories in height must be located

within 1,200 feet of 99th Avenue (Exhibit B).
- The proposal will amend the wording of Section V, Implementation Strategy as shown by Exhibit C.

PARTICIPATION:

City staff held a public meeting on October 30, 2007 at 6:30 p.m. in the Sonoran Conference Room at City Hall. The meeting was advertised in the West Valley View on October 9, 2007. The study area was posted on October 15, 2007. Notification letters were mailed to 978 property owners within the combined study areas for SP-07-03 and SP-07-04 and within 500 feet of the combined study areas on October 12, 2007.

The public meeting for SP-07-03 and SP-07-04 was attended by 32 people. Residents from the Westwind and Glenarm Farms subdivisions questioned the need for taller buildings on 99th Avenue. The general consensus was that 4 to 6 stories might be okay, but taller buildings should be located closer to the 101 Freeway. The primary concern was that taller buildings might adversely affect the character of the existing neighborhoods.

A notice of the Planning Commission hearing was published in the West Valley View on October 30, 2007. The study area was posted on October 31, 2007. Notification letters were mailed to property owners within the combined study areas for SP-07-03 and SP-07-04 and within 500 feet of the combined study areas on October 31, 2007.

Two people spoke at the Planning Commission hearing on November 15th. One was in favor of the proposed amendment. The other stated that buildings above four stories would change the character of the residential areas and cause additional traffic (Exhibit D).

A notice of the City Council hearing was published in the West Valley View on November 27, 2007. The Council hearing was posted in advance on October 31, 2007. Notification letters were mailed to property owners within the combined study areas for SP-07-03 and SP-07-04 and within 500 feet of the combined study areas on November 30, 2007.

PLANNING COMMISSION ACTION:

The Planning Commission voted 6-0 to recommended approval of application SP-07-03 on November 15, 2007 (Exhibit D).

ANALYSIS:

- The total height of any building is dictated not only by the number of floors, but also by the distance between floors. This varies depending on the intended use and type of construction. Floor height includes the depth of the floor and supporting structure, the distance from the top of a floor to the interior ceiling, and the space reserved for mechanical ductwork and piping between the interior ceiling and the next floor. Consequently, the total height of two buildings with the same number of floors can vary considerably.
- Roof design is another factor. Flat roofs with parapets typically require less height than roofs with gables or other architectural features. The type and amount of roof mounted mechanical equipment that needs to be screened also varies.
- For the sake of comparison, a four story building might range in height from 45 to 65 feet while an 8 story building might range from 85 to 105 feet.
- The proposed height increase will help to accommodate hotel, office, and vertically integrated mixed-use buildings as the market allows. Encouraging these types of uses to locate along 99th Avenue is consistent with the General Plan and the City's adopted strategy for economic development.
- The proposed amendment is also consistent with the objectives of the North Avondale Specific Plan which identifies the 99th Avenue corridor as a transition area and a "high identity edge." Limiting the area affected by the amendment will ensure that the objective of preserving and enhancing the existing residential neighborhoods is also met.
- The distance between 99th Avenue and the nearest residential subdivision is approximately one-half mile (2,640 feet). Requiring any building over 4 stories to be located within 1200 feet of 99th Avenue will ensure a minimum separation of at least one quarter mile (1,320 feet) between a future building and the nearest single family neighborhood.

- Building placement and orientation, building design, onsite transitions in height and landscape buffers will be addressed at the time of development review to further ensure neighborhood compatibility. Infrastructure adequacy will also addressed by the development review process.
- Building heights are changing rapidly throughout the region and this trend is expected to continue in the future. Increasing the maximum building height along a portion of 99th Avenue will not guarantee the development of multi-story buildings. It will remove an unnecessary barrier to development that is not needed to protect the character of the community at this location.
- There was some interest expressed at the City Council meeting on November 19, 2007 in increasing the number of stories allowed from 8 to 10 or more. Staff believes that mid-rise buildings (5 to 10 stories) are appropriate at this location and is recommending 8 stories in deference to neighborhood concerns. Staff believes that high-rise buildings (10 + stories) should be located along the I-10 freeway corridor which is a more suitable location for the most intense development in the city.

RECOMMENDATION:

The City Council should conduct a public hearing and approve the amendment as recommended by the Planning Commission.

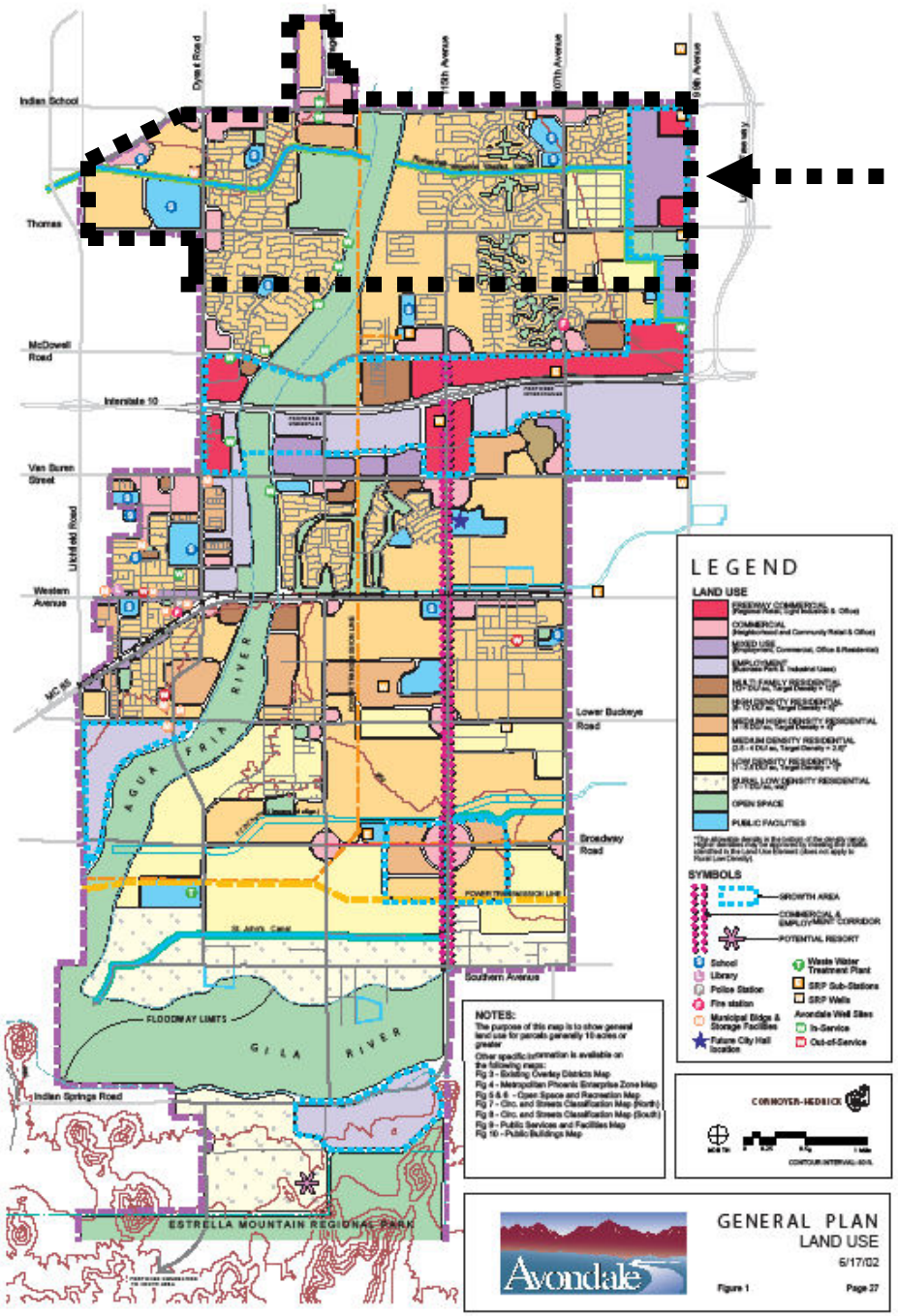
PROPOSED MOTION:

I move that the City Council ADOPT the resolution approving Application SP-07-03, a request to amend the North Avondale Specific Plan to allow additional building height along a portion of 99th Avenue.

ATTACHMENTS:

Click to download

- EXHIBIT A
- EXHIBIT B
- EXHIBIT C
- EXHIBIT D
- EXHIBIT E
- RES - 2709-1207



NORTH AVONDALE SPECIFIC PLAN

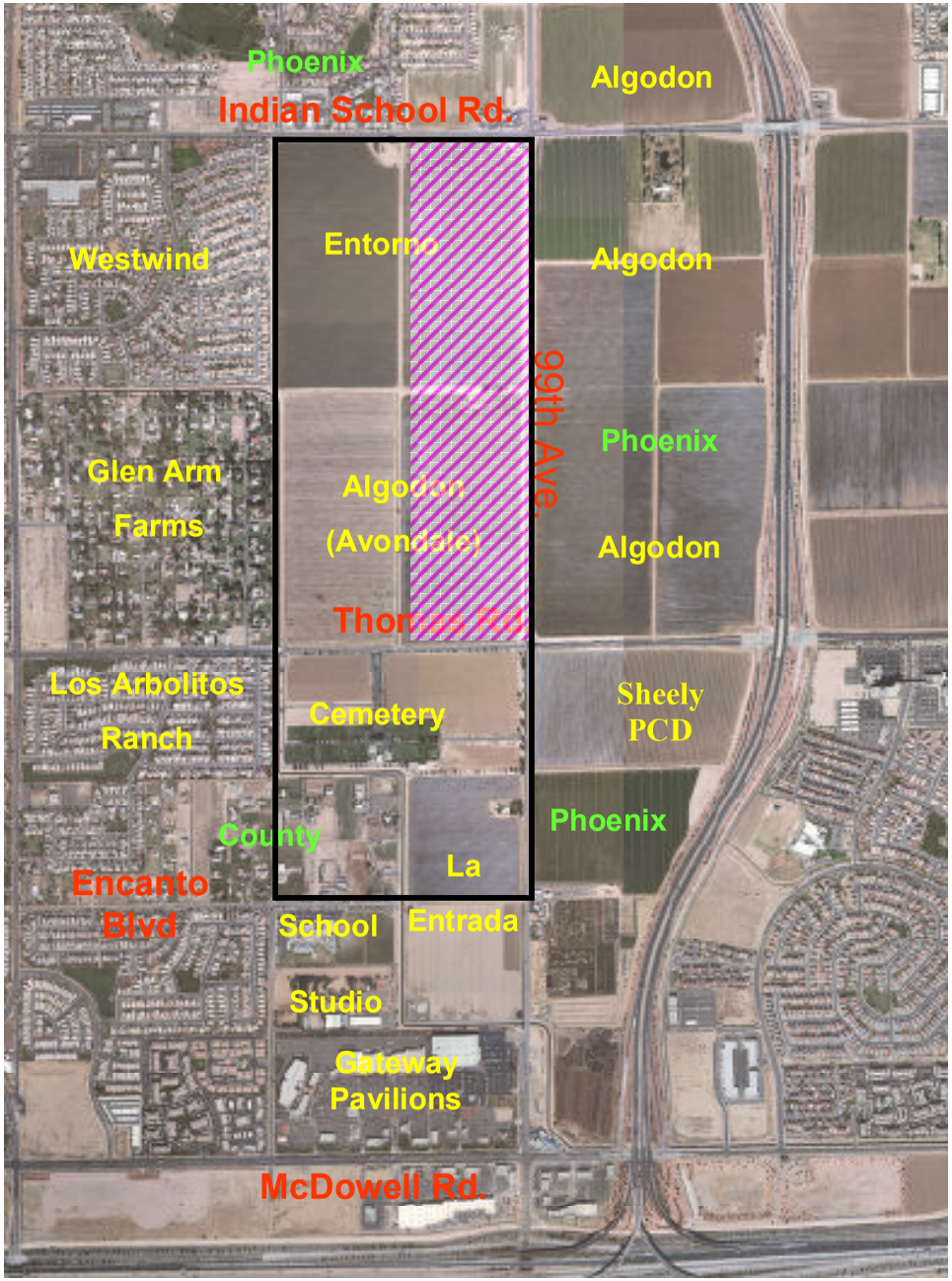
VICINITY MAP

EXHIBIT B

North Avondale

Specific Plan Amendment

SP-07-03



Study Area

From 1 – 4 stories

To 1 – 8 stories

PROPOSED
NORTH AVONDLE SPECIFIC PLAN AMENDMENT
SP-07-03

Section V. Implementation Strategy.

A. Development Guidance

2. Development Incentives

1. Increased Building Height Allowance

In the North Avondale Specific Plan area, the height of structures for qualifying uses that do not exceed 10% of site coverage may be increased by one story upon a City Council finding that the request allows reduction of building footprint, preserves view corridors, conforms to the objectives and design standards of the North Avondale Specific Plan and addresses three or more of the following performance criteria. A two- story increase may be approved for meeting the above with not less than four performance criteria.

- The project exhibits extraordinary design quality.
- "People places" with pedestrian connections among uses and parking facilities are included in site development
- Public art is incorporated into the property's open areas or plazas.
- The project provides a daycare or preschool facility primarily for employees.
- Transit stops are incorporated in or adjacent to the site.
- Planned pathways are linked through the property.

UP TO EIGHT (8) STORIES MAY BE APPROVED ALONG 99TH AVENUE BETWEEN INDIAN SCHOOL ROAD AND THOMAS ROAD IF FOUR OR MORE OF THE ABOVE PERFORMANCE CRITERIA ARE MET. ANY BUILDING WITH MORE THAN FOUR STORIES MUST BE LOCATED WITHIN 1200 FEET OF THE 99TH AVENUE RIGHT-OF-WAY AS DETERMINED AT THE TIME OF DEVELOPMENT REVIEW.

DRAFT EXCERPT
PLANNING COMMISSION MEETING MINUTES
11-15-07

The following members and representatives were present:

COMMISSIONERS PRESENT
Lisa Copeland, Commissioner
David Iwanski, Commissioner
Edward Meringer, Vice Chair
Michael Alcorn, Commissioner
Alan Lageschulte, Chairman
Kevin Grimsley, Commissioner

COMMISSIONER ABSENT
Linda Webster, Commissioner (Excused)

PUBLIC HEARING ITEMS:

3. SP-07-03: This is a public hearing before the Planning Commission to solicit public input on application SP-07-03, a city-initiated request to amend the North Avondale Specific Plan to increase the allowed building heights along the 99th Avenue corridor. The study area is generally located between 99th Avenue and 103rd Avenue from Indian School Road to the Encanto Boulevard alignment. Staff Contact: Dean Svoboda 623-333-1035.

Dean Svoboda, Long Range Planning Director, stated this was a request to amend the North Avondale Specific Plan and it is limited to the height provisions. He showed the Commission a map of the area and stated that the amendment focuses on the 99th Avenue corridor from Indian School Road down to Encanto over to the 103rd Avenue alignment. Mr. Svoboda informed the Planning Commission that the existing Specific Plan makes provisions for increased building heights and assumes that the normal height allowed by the City Zoning Ordinance is 30 feet, which is consistent with two-story developments in Commercial and Residential districts. However, it provides for additional height implemented through the PAD zoning process if certain findings and performance criteria are met, with a maximum limit encouraged of four stories.

Mr. Svoboda stated this proposed amendment would allow up to eight stories subject to meeting the performance criteria, with a caveat that in order to ensure compatibility with the residential neighborhoods to the west, the area of this amendment would be limited to properties fronting 99th Avenue between Indian School Road and Thomas Road, and any building more than four stories in height could only be located within the first 1,200 feet of the property from 99th Avenue. He explained this would ensure that any taller building over four stories will be at least a quarter mile from the nearest residential area to the west.

Mr. Svoboda informed the Commission that City Staff held a public meeting, and concerns were expressed regarding the additional building heights, which is why the building height area was trimmed back and the building heights were lowered from 10 to 8 stories. For the record, he made it clear that on the east side of 99th Avenue and the 101 Freeway, both the Algodon property and the Sheely property are targeted for mid rise or high rise development. He offered to take questions and noted that a public hearing needed to be conducted.

Chairperson Lageschulte invited questions of Staff.

Commissioner Copeland stated that a developer a couple of months back had plans for Mixed Use and a variety of elevations for that corner, and asked how would this vote tonight affects what that developer has already invested in his property. Mr. Svoboda replied that Commissioner Copeland was referring to the Entorno project located north of the John F. Long property adjacent to Indian School Road and 99th Avenue, and pointed it out on a slide. He informed the Commission that the approval for that project included a Mixed-Use area that encouraged a vertically integrated eight-story building. The way it is stipulated, the eight-story building will be located over 1,400 feet from the west property line, but it can only be developed that way if this Specific Plan is amended. He pointed out that the John F. Long property is currently zoned for Commercial development, and that the current zoning does not allow this type of height, so prior to any further entitlement of this property to allow additional height, they would have to go through the public hearing process for a zoning amendment of some sort. Mr. Svoboda clarified for the Planning Commission that the decision they are being asked to make a recommendation on this evening is a policy decision and will not change anything without further action on the John F. Long property. He explained that it will, however, affect the Entorno property in terms of whether or not a four versus an eight story building is ultimately allowed.

Commissioner Copeland asked if the developers of the Algodon and Entorno properties understand they will have to return to the Planning Commission. Mr. Svoboda replied he had talked with the representative for the John F. Long property, and at this time the development plans for that property are far off into the future, so they are not sure what they will propose there. He stated he understands that Mr. Long is reevaluating the entire Algodon development and may wish to intensify it further in the future. He stated the Entorno project will return to the Planning Commission for Site Plan review, but the zoning has already been adopted.

Commissioner Alcorn asked if parking would be integrated into the buildings. Mr. Svoboda responded that the adequacy of the parking for the development of any one of the parcels will be assured at the time of development review and will have to meet the City standards. He stated that on this plan of parcelization for Entorno, parking was taken into consideration and adequate facilities will be provided. Mr. Svoboda assured the Commission that permits will not be issued without the standards being met.

Chairperson Lageschulte invited further questions, and hearing none, opened the item for public hearing.

Roy Tanaguchi, 10414 W. Mulberry, Avondale, AZ, stated that the height limits had become a discussion in his neighborhood, Glenarm Farms, by people who selected that area for its openness. He explained that a lot of the people are elderly and are not able to come out to meetings like this, but there is a very distinct concern that with this type of development going above four stories in height, it will drastically change the complexion of their environment. Mr. Tanaguchi stated he was particularly concerned about the traffic flow, as they have problems right now on 107th Avenue, and he believes Entorno is showing a connection into the subdivision to the west, applying a bridge into that subdivision going across a small irrigation canal coming off of Clarendon, which will open into the intersection with 107th Avenue and the high school. Mr. Tanaguchi reported that the City's traffic report from 2005 did list 107th as the third busiest north-south artery within Avondale and the traffic has increased tremendously since then. He expressed his particular concern is that with a lot of the developments, there seems to be very little attention paid to the increase of traffic into the main roads, and later on it seems to be an afterthought of what to do about traffic control. He stated he hoped this would be addressed when dealing with Planned Area Developments, particularly in the north area.

Jim Gilbert, 13242 W. Jacobson, Litchfield Park, AZ, stated his family owns property in Avondale at the freeway and Avondale Blvd. on the southwest corner. He stated when the City starts talking about height restrictions and restricting jobs, development, and employment opportunities, that is a hot button for him, and he has had many discussions with City Staff regarding this. He opined nothing can be done about traffic, as it is too late. He stated the people are here and retail has come, but there are not many jobs in the West Valley. Mr. Gilbert stated he and other developers were trying to eliminate that problem and bring in jobs, and one of the ways to build the City is not to become a suburbia, which is what Avondale is today. He suggested the way to remedy that is to bring jobs to Avondale. He cautioned that any time the City restricts height and puts restriction on development, that puts restrictions on job growth and the City cannot have that if Avondale is going to have the community that the City has said they want. Mr. Gilbert explained that even though he is not associated with this particular case tonight, he wanted to express his concern about putting height restrictions in place, particularly on the freeway where his property is located, but even in an area that is not associated with his personal property because he wants job growth. He stated he has millions of dollars invested and in a few days from now he will be signing an 82.5 million dollar loan, which is only the first phase, and the bottom line is, as a developer, he is putting his money where his mouth is. He encouraged the Planning Commission to be looking at what they can do to make the City what they want it to be by not restricting growth.

Chairperson Lageschulte invited further requests to speak, and hearing none, closed the public hearing. Chairperson Lageschulte called for a motion.

Commissioner Grimsley moved that the Planning Commission recommend approval of application SP-07-03, a request to amend the North Avondale Specific Plan to allow additional building height along a portion of 99th Avenue. Vice Chair Meringer seconded the motion.

Chairperson Lageschulte opened the floor for discussion.

Commissioner Copeland asked if a no vote would keep the building height at one to four stories, and Mr. Svoboda replied that if the Commission recommends denial of the application, it will go forward to the City Council, and then there will be another public hearing and they will take final action. He stated should the City Council not approve the amendment, then yes, the building height would be restricted to four stories on the Entorno property. Commissioner Copeland asked why the amendment was for one to eight stories and not higher considering that across the street the development is going to 12-14 stories on the Phoenix side. Mr. Svoboda explained that the original application was initiated for 10 stories and when a neighborhood meeting was held, there were concerns expressed by the residents of the Westwind and the Glenarm Farms neighborhoods regarding the impact on the area. He stated the general feeling at the meeting was that the tallest buildings really belonged along the I-10 corridor, and given the fact that this property is removed from I-10, they felt that a lower height would be more appropriate. He reported the primary concern had to do with the impact on the neighborhoods directly to the west in terms of view angles, the bulk and mass of the buildings, and in deference to the neighborhood concerns, Staff lowered the height from 10 to 8 stories and also limited the area scope, using the Entorno project that had previously been reviewed as a model. Mr. Svoboda stated that with the distance that is involved between the neighborhoods and where these buildings could be located, over a quarter of a mile away, and the fact that there will be lower scale buildings closest to the neighborhoods, he doubts very much one will be able to see the taller building along 99th Avenue because the view will be blocked by the shorter buildings closer to the neighborhood, and perhaps even by the landscaping depending on the height of the trees.

Chairperson Lageschulte agreed with Mr. Svoboda, in that eight-story buildings in this area would present a type of cushion for the buildings along the freeway because some of those buildings may be rather tall, and he does not like the idea of ten stories in that area. He stated he realizes the City needs buildings that will bring job growth into the area, but in this area the eight story buildings will provide a gradual decline towards the residential area, leaving the taller buildings by the freeway. He stated he read the comments from the residents at the neighborhood meeting and they seemed to agree on the eight story buildings. He stated hopefully this development will not cause any problems for Glenarm Farms.

Chairperson Lageschulte invited further comments, and hearing none, called for a Roll Call vote.

ROLL CALL VOTE

Commissioner Webster	Absent
Commissioner Copeland	Aye
Vice Chair Meringer	Aye
Commissioner Alcorn	Aye
Chairperson Lageschulte	Aye
Commissioner Grimsley	Aye
Commissioner Iwanski	Aye

The motion passed unanimously.

EXHIBIT E

EXCERPT
CITY COUNCIL MEETING MINUTES
NOVEMBER 19, 2007

MEMBERS PRESENT

Mayor Lopez-Rogers and Council Members	Chuck Wolf, Vice Mayor
	Jim Buster
	Frank Scott
	Ken Weise
	Jason Earp
	Betty Lynch

9) FUTURE BUILDING HEIGHT ALONG 99TH AVENUE AND I-10 CORRIDOR (SP-07-03 AND SP-07-04)

Dean Svoboda, Long Range Planning Director, stated this is a City-initiated action to look at the building heights in the prominent corridors and entries into the City. He stated one application amends the North Valley Specific Area Plan and the other amends the Freeway Corridor Specific Plan. He stated these two plans essentially cover the northern third of the community, and the dividing line between the two areas is the Encanto Blvd. alignment. Mr. Svoboda reviewed that Avondale has been of a suburban scale with low rise buildings considered 1-4 stories, mid rise buildings considered 5-10 stories, and high rise buildings considered 10-13 stories and up. He explained the reason for these amendments is to take the City from the low rise standpoint into the mid rise area.

Mr. Svoboda explained the North Avondale Plan study area was from Indian School Rd. to the Encanto alignment, and from 99th Ave. to 103rd Ave. He described the area as heavily residential in the west. To the east and north in the City of Phoenix there is fairly intensive land uses planned, such as the Algodon Center and John F. Long's Master Plan with fairly tall building heights expected. South of Thomas Rd. is owned by the Sheely family and they are currently processing a General Plan and a Zoning Amendment in Phoenix that would accommodate high rise zoning with heights up to and over 250 feet. Mr. Svoboda stated in reviewing the North Valley Plan and after a neighborhood meeting, Staff proposed a modified area that would be affected, as well as a modified height, going from 10 stories to 8 stories. He stated this is consistent with the intent and purpose of the North Valley Plan, which is intended to protect and enhance the low to medium density residential character of the area, but it does provide for 99th Ave. to be a high intensity edge which will act as a gateway to the City and act as a buffer for the residential neighborhoods. He stated the proposal at this time, which was reviewed by the Planning Commission on November 15, 2007, allows up to four stories if certain performance criteria are met, which is implemented through the PAD zoning process, and the proposed amendment will allow up to eight stories along 99th Ave. between Indian

School Rd. and Thomas Rd. subject to the four story criteria. Any building over four stories in height must be located within 1,200 feet of 99th Ave. He stated this will provide over a quarter mile of buffer to the residential areas to the west, and with preliminary site line studies that have been done, it appears it will be very difficult to see an eight story building providing there are two to three story buildings in between.

Mr. Svoboda next described the Freeway Corridor Specific Plan, stating the existing plan allows a range of building heights from two to ten stories and is a conceptual height limit, not property specific. He stated the intent was for a maximum of four stories at the gateway to the City at Dysart and the freeway, and at 99th Ave. and the freeway, and a high intensity business center core called the Avondale Center at the I-10 Interchange with Avondale Blvd. Mr. Svoboda noted while this concept is very nice, it is an absolute nightmare to administer. He stated the study area affected by this amendment is between the McDowell Rd. and Van Buren St. alignments. He stated the proposed amendment will replace the conceptual height limits along the Freeway Corridor with property specific height standards. Provisions are also included to allow height exceptions if the City Council determines that this would be in the best interest of the City. Mr. Svoboda noted that the City Center area is not included in this application, and the future building heights for that area would be determined by the City Center Specific Plan. The heights starting at 99th Ave. would have a four story limit, and moving west along the freeway would go to ten stories, tapering down to two near the residential areas. On the north, the concept is for ten stories maximum along the freeway except where there are properties in close proximity to the existing residential. West of Avondale Blvd. on the northern side of the freeway starting at Avondale Blvd. will retain the ten story height, dropping down to four stories at the existing residential, with the Friendship Park area remaining at two stories. He pointed out if the Council wishes to build a 10 story ramada, this is the time to speak up. The other side of the river at Dysart Rd. will retain four stories. On the south of the freeway along Van Buren St. is suggested two stories, jumping up to four stories, and then to the City Center area where they expect the tallest building heights allowed, to be determined in the future.

Mr. Svoboda pointed out that the benefit of this concept is it is very respectful of existing residential areas, it is property specific, and Staff believes it provides flexibility for the future. He added that the text amendment would reference Exhibits E1 and E2, and it includes a provision for an extra three stories if approved by City Council anywhere that a maximum of four or a maximum of 10 stories was shown. He explained at the time of development review, the Council would assess the normal performance criteria and then must find that it meets three additional criteria: 1) It is consistent with the City's economic goals. 2) It is compatible. 3) The architecture is appropriate for a landmark building in the community. He stated the text amendment would also eliminate the standard regulation in the Specific Plan for these areas that any building over two stories have a stepped pattern, as Staff believes this should be discretionary and not mandatory.

Mr. Svoboda informed the Council that the Planning Commission looked at this item on November 15, 2007 and recommended approval unanimously of both the North Valley Specific Area Plan and the Freeway Corridor Specific Plan amendments. He stated this

item is tentatively scheduled for a hearing before the City Council on December 17, 2007.

Mayor Lopez Rogers invited questions and comments.

Council Member Lynch stated the problem she had with the neighborhood meeting was that while there were 30 some people in attendance, likely two or three of them were not from any one general area and those people had the Nimby thought and they did not want to discuss what would happen down by the freeway. She noted the interesting thing that came out of the meeting, was that as soon as the people heard that the hospital was six stories, they had no problem with the item, but they did not know that the height of the hospital is 90 feet tall, which is the height of a 10 story building. Council Member Lynch stated that Algodon is planning 10 story buildings and the 101 brings itself to that height of buildings, and with only so much land left in the City, the City should take the best advantage it can of the land for economic development. She stated that her biggest concern is that if the Council moves ahead and keeps the Plans to minimum heights, then they will be tying the hands of future councils. She suggested writing the amendments in such a way as to give future councils the opportunity to do what needs to happen when it comes to economic development.

Council Member Buster asked if the area along the 99th Ave. corridor could go up to four stories. Mr. Svoboda explained that the way the North Valley Specific Plan is written, 1-2 stories is a given, and in order to achieve 3-4 stories, there have to be certain performance criteria met. Council Member Buster stated that the Entorno Project will have residential over commercial and asked how high could those towers go. Mr. Svoboda explained that the Entorno Plan that was approved has a various number of heights, but generally it is 3-4 stories maximum through the majority of the area, and there were 2 eight story towers recommended in the middle of the project. Council Member Buster stated that would be dependent on the height amendment, which Mr. Svoboda confirmed, and added that with this proposal it was stipulated that unless the North Valley Plan is amended, the maximum height allowed would be four stories. Council Member Buster asked if the way the amendment is proposed tonight, the urban mixed-use area 1,200 feet away from the residential could still go up to eight stories. Mr. Svoboda stated that is correct, and given the fact that the zoning has already been granted, if the amendment to the North Valley Plan is ultimately approved by the Council, they will have the right to go up to eight stories on that portion of the property.

Council Member Buster stated in other areas there were two to four story recommendations next to residential, and asked how far away were those two to four story areas from the residential. Mr. Svoboda stated that the North Valley Plan was intended to protect the existing residential areas, but to allow a transition of uses from 99th Ave. into the west, and so some of the concerns that were raised at the neighborhood meeting were well taken, with the caveat that some intensity is certainly appropriate along 99th Ave. He stated many of those that attended the neighborhood meeting were from the residential areas to the west, and while they felt that taller buildings were very appropriate along the 101 Freeway, they felt that because 99th Ave. was somewhat

removed from the freeway, that there was no need for extremely tall buildings there, and most people expressed that four to six stories probably was okay. Therefore, he stated Staff felt it extremely appropriate to be sensitive to the residential area along 99th Ave.

Mr. Svoboda explained that the Freeway Corridor area is different. He pointed out that this Plan allows taller building heights to start with and is also intended to be the location of the most intense development anywhere in the City. He noted in many cases there is not a 1,200-1,400 foot distance separating some of the residential areas. He pointed out that currently on the north side of McDowell Rd., the Freeway Corridor Plan already allows four to six stories at some locations, and the proximity of two to four story developments is separated primarily by the arterial street. Council Member Buster and Mr. Svoboda discussed the separation of taller buildings from residential and Council Member Buster expressed his concern. Mr. Svoboda stated there has been an extra buffer built in reflecting the nature of the existing neighborhoods.

Council Member Weise stated while the Council had worked hard to protect the neighborhoods, Avondale was eventually going to go vertical, 8 to 10 stories, and he agrees with Council Member Lynch, in that this council should not handcuff future councils on decisions that it makes today. He pointed out Glenarm Farms, stating he thinks there is enough of a buffer there to protect them from taller buildings and the trees there are 50-60' tall. He added he does not want to do anything to stop economic development and that Avondale cannot control what Phoenix does at Algodon. He summarized that what Staff had done here with Glenarm Farms and Westwind was pretty good and he thanked the Staff for their efforts.

Vice Mayor Wolf stated a building could be 20 stories and still will not be seen 1,200 feet away from the residential area. He stated that someone wanting to build a 13 story or taller building would put in a specific Site Plan amendment, so he does not believe what Council does over the next three to four weeks is going to handcuff future councils. He pointed out there is a provision to add three stories in the Freeway Corridor Specific Plan, and he is puzzled as to why it is not considered in the North Avondale Specific Area. He stated his preference is there would be a provision for three stories in the North Avondale Specific Plan and five stories in the Freeway Corridor Specific Plan. He stated if Avondale gets the type of development it wants on Avondale Blvd., it is quite conceivable that someone will want to do 14-15 stories. Vice Mayor Wolf stated if no one on the Council wanted to entertain five stories in the Freeway Corridor Plan, he thinks the provision should be there that if the project is done correctly, that there be the flexibility for at least 10 stories in the North Avondale Specific Plan. Mr. Svoboda replied that with the geometry on the site distance, it would probably take a 30 story building before one would see it from Glenarm Farms or the subdivision to the west. He relayed that Staff's intent was that the tallest buildings would be located along Avondale Blvd. and where the Council may end up with that, will be determined by another action. He added that Staff did feel that because Avondale started out as a suburban community, that in order to avoid some of the types of battles that councils often have as buildings crop up, they felt it was important to set a realistic height limit, but also one that would step down as it comes closer to the residential areas. He stated Staff wanted to be

respectful of the urban form as well, and if the Council wants to provide additional flexibility along 99th Ave., that can be discussed at the public hearing. Vice Mayor Wolf stated that five years ago the goal was to create a single central core along Avondale Blvd., but now it must be cognizant of what is happening along the 101, and now average Class A office developers are putting projects along the 101, and the Council has to be careful not to lose that market simply because it has its eyes set on Avondale Blvd.

Mayor Lopez Rogers asked if Mr. Svoboda had enough information. Mr. Svoboda confirmed he did. Mayor Lopez Rogers asked for a motion to adjourn to Executive Session.

RESOLUTION NO. 2709-1207

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE ARIZONA, AMENDING THE CITY OF AVONDALE NORTH AVONDALE SPECIFIC PLAN TO INCREASE THE ALLOWED BUILDING HEIGHT ALONG A PORTION OF 99TH AVENUE.

WHEREAS, the North Avondale Specific Plan was adopted by the Council of the City of Avondale (the "City Council") on June 29, 1992 and updated on June 17, 2002; and

WHEREAS, the City Council desires to amend the North Avondale Specific Plan pursuant to ARIZ. REV. STAT. § 9-461.09; and

WHEREAS, all due and proper notices of pubic hearings on the proposed amendment held before the City of Avondale Planning Commission (the "Commission") and the City Council were given in the time, form, substance and manner provided by ARIZ. REV. STAT. § 9-461.09; and

WHEREAS, the Commission held a public hearing on the proposed amendment in the City Council Chambers on November 15, 2007; and

WHEREAS, the Commission recommended approval; and

WHEREAS, the City Council held a public hearing on the proposed amendment on December 17, 2007.

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

SECTION 1. That page 69 of the City of Avondale North Avondale Specific Plan Section V, Implementation Strategy, subsection A, Development Guidelines, subsection 2, Development Incentives, is hereby amended as follows:

d. ~~Additional entitlement incentives,~~ Commercial Development Options – ADDITIONAL ENTITLEMENT INCENTIVES are envisioned for employment and retail uses. Building height bonuses, similar to (but scaled-down from) Freeway Corridor standards, may be made available to office, R&D, hotel and, perhaps, other uses, such as multi-family housing, which construct slim profile buildings in order to protect view corridors for neighborhoods, major recreation expanses and the college campus. Required parking space reductions could be

allowed on an adjustable basis for spaces provided on private property adjacent to public open space or on recreational sites which the developer has dedicated to the City.

(1) Increased Building Height Allowance

In the North Avondale Specific Plan area, the height of structures for qualifying uses that do not exceed 10% of site coverage may be increased by one story upon a City Council finding that the request allows reduction of building footprint, preserves view corridors, conforms to the objectives and design standards of the North Avondale Specific Plan and addresses three or more of the following performance criteria. A two- story increase may be approved for meeting the above with not less than four performance criteria.

- The project exhibits extraordinary design quality.
- "People places" with pedestrian connections among uses and parking facilities are included in site development.
- Public art is incorporated into the property's open areas or plazas.
- The project provides a daycare or preschool facility primarily for employees.
- Transit stops are incorporated in or adjacent to the site.
- Planned pathways are linked through the property.

UP TO EIGHT (8) STORIES MAY BE APPROVED ALONG 99TH AVENUE BETWEEN INDIAN SCHOOL ROAD AND THOMAS ROAD IF FOUR OR MORE OF THE ABOVE PERFORMANCE CRITERIA ARE MET. ANY BUILDING WITH MORE THAN FOUR STORIES MUST BE LOCATED WITHIN 1200 FEET OF THE 99TH AVENUE RIGHT-OF-WAY AS DETERMINED AT THE TIME OF DEVELOPMENT REVIEW.

(2) Parking Reduction

Properties adjacent or near public open space may qualify for a reduction of up to ten percent of the required number of parking spaces upon affirmative Council findings on at least three of the above criteria. To qualify, joint use parking must be provided for public open space or recreation facilities located adjacent or within500 feet of available spaces. During normal business hours (Monday-Friday, 7:00a.m.-6:00p.m.) commercial development may use—but not exclude others' use of—these parking facilities.

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.

[SIGNATURES ON FOLLOWING PAGES]

PASSED AND ADOPTED by the Council of the City of Avondale, December 17, 2007.

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Linda M. Farris, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

DEVELOPMENT SERVICES

SUBJECT:
Public Hearing and Resolution 2708-1207 - Freeway Corridor Specific Plan - Building Height Amendment (SP-07-04)

MEETING DATE:
December 17, 2007

TO: Mayor and Council

FROM: Dean Svoboda, Long Range Planning Director (623)333-1035

THROUGH: Charlie McClendon, City Manager

REQUEST: Amend the Freeway Corridor Specific Plan to increase the building height allowed along portions of the I-10 corridor.

APPLICANT: City Initiative

BACKGROUND:

This proposal was previously presented to the City Council as an information item on November 19, 2007 (Exhibit F). The Freeway Corridor Specific Plan covers that portion of the city generally located between 99th Avenue and Dysart Road from Encanto Boulevard to Van Buren Street (Exhibit A). The plan was first adopted in 1991. It was later amended to be consistent with the General Plan in 2002.
The primary objective of the Freeway Corridor Specific Plan is to provide a high profile location for employment and other economic activities. This corridor is considered a prime location for corporate offices and other signature buildings. A major business center with the tallest buildings in the city is envisioned at the interchange of Avondale Boulevard and the Freeway.

The specific plan allows building heights ranging from two to ten stories. Four story buildings are encouraged at the 99th Avenue and Dysart Road gateways. Ten story buildings are allowed at the Avondale Boulevard interchange. Building heights were intended to decrease as the distance from each of these key locations increased. This height variation is implemented through the PAD (Planned Area Development) zoning process. (Exhibit B).

Many PADs have been approved within the Freeway Corridor to date. Two of the more recent approvals were stipulated to allow additional building height in the event that the Freeway Corridor Specific Plan was amended. This includes the "Summit at Avondale" (southwest corner of I-10 and Avondale Boulevard) and the "West 10 Corporate Center" (between McDowell Road and I-10 from 107th Avenue to 103rd Avenue).

A similar building height amendment has been initiated for the North Avondale Specific Plan (SP-07-03). This amendment is also on the City Council agenda this evening. Both amendments relate to the urban form of the city, but are otherwise separate and distinct policy decisions.

SUMMARY OF REQUEST:

- This amendment does not address all of the land within the Freeway Corridor Specific Plan. The area north of McDowell Road west of 103rd Avenue and the area south of Van Buren Street will continue to be subject to the current provisions of the specific plan. Future building heights for the area between I-10 and Coldwater Springs Boulevard from 113th Avenue to 117th Avenue will be determined by the City Center Specific Plan which is currently ongoing (Exhibit A).

- The amendment replaces a conceptual height gradient with standards that are more location specific. The maximum height currently allowed will not be decreased at any given location. It will be increased in some areas as shown on Exhibit C.

- Provisions have been included to allow an additional height increase of up to 50% when the City Council determines that this would be in the best interest of the City. This applies only where 4 or more stories would otherwise be allowed.

- The amendment will eliminate a mandatory design standard that requires the upper floors on any building with more than two stories to be "stepped back". This will become a non-mandatory "Expectation" for consideration instead.

- The proposal amends the wording of Section IV Specific Plan Elements and Section V Implementation (Exhibit D).

PARTICIPATION:

City staff held a public meeting on October 30, 2007 at 6:30 p.m. in the Sonoran Conference Room at City Hall. The meeting was advertised in the West Valley View on October 9, 2007. The study area was posted on October 15, 2007. Notification letters were mailed to 978 property owners within the combined study areas for SP-07-03 and SP-07-04 and within 500 feet of the combined study areas on October 12, 2007.
The public meeting for SP-07-03 and SP-07-04 was attended by 32 people. Many stated that they believed taller buildings were appropriate along the I-10 freeway corridor. One of the attendees questioned whether or not the subsurface geology would accommodate taller buildings, but no one expressed opposition.

A notice of the Planning Commission hearing was published in the West Valley View on October 30, 2007. The study area was posted on October 31, 2007. Notification letters were mailed to property owners within the combined study areas for SP-07-03 and SP-07-04 and within 500 feet of the combined study areas on October 31, 2007.

No one spoke in favor or opposition at the November 15, 2007 Planning Commission hearing.

A notice of the City Council hearing was published in the West Valley View on November 27, 2007. The Council hearing was posted in advance on October 31, 2007. Notification letters were mailed to property owners within the combined study areas for SP-07-03 and SP-07-04 and within 500 feet of the combined study areas on November 30, 2007.

PLANNING COMMISSION ACTION:

The Planning Commission voted 6-0 to recommended approval of application SP-07-04 on November 15, 2007 (Exhibit E).
Subsequent to the Planning Commission hearing, the height exception for areas where four or more stories would otherwise be allowed was revised. It originally allowed the City Council to grant up to 3 extra stories if three findings were met. It now allows a 50% increase in the number of stories if four findings are met.

ANALYSIS:

- The total height of any building is dictated not only by the number of stories, but also by the height between floors. This varies depending on the intended use and type of construction. Floor height includes

the depth of the floor and supporting structure, the distance from the top of a floor to the interior ceiling, and the space reserved for mechanical ductwork and piping between the interior ceiling and the next floor. Consequently, the total height of two buildings with the same number of stories can vary considerably.

- Roof design is another factor. Flat roofs with parapets typically require less height than roofs with gables or other architectural features. The type and amount of roof mounted mechanical equipment that needs to be screened also varies.

- The maximum building height allowed by the City's standard residential and commercial zoning districts is 30 feet. This typically allows up to two stories to be built. For the sake of comparison, a four story building might range in height from 45 to 65 feet while a 10 story building might range from 105 to 150 feet.

- The height gradient in the current specific plan is difficult to administer and often raises questions about the allowed height on specific parcels. The proposed amendment more clearly identifies the number of stories allowed at any given location.

- Increasing the potential height in some areas will help to accommodate hotel, office, and vertically integrated mixed-use buildings as the market dictates. This is consistent with the objectives of the Freeway Corridor Specific Plan which identifies I-10 as an appropriate location for the city's most intense scale of development. It is also consistent with the General Plan and the City's adopted strategy for economic development.

- The proposed building height pattern will help to ensure compatibility with adjacent and nearby residential areas.

- Building placement and orientation, building design, onsite transitions in height and landscape buffers will be addressed at the time of development review to further ensure compatibility. Infrastructure adequacy will also addressed by the development review process.

- Building heights are changing rapidly throughout the region and this trend is expected to continue in the future. Increasing the maximum building height along portions of the freeway corridor will not guarantee the development of multi-story buildings. It will remove an unnecessary barrier to development that is not needed to protect the character of the community at this location.

RECOMMENDATION:

The City Council should ADOPT the resolution approving the proposed amendment.

PROPOSED MOTION:

I move that the City Council ADOPT the resolution approving Application SP-07-04, a request to amend the Freeway Corridor Specific Plan to allow additional building height along portions of the I-10 freeway corridor.

ATTACHMENTS:

Click to download

- EXHIBIT A
- EXHIBIT B
- EXHIBIT C
- EXHIBIT D
- EXHIBIT E
- EXHIBIT F
- Res - 2708-1207

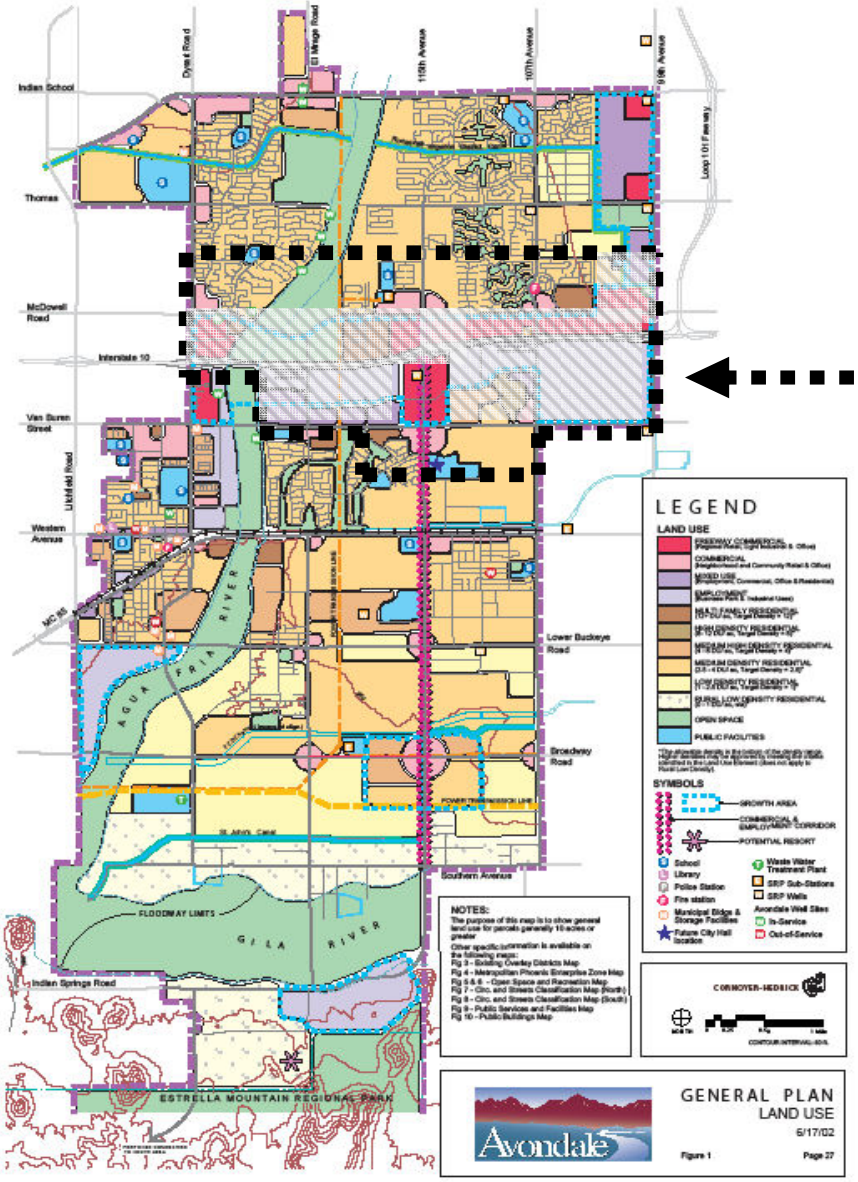


EXHIBIT A

FREEWAY CORRIDOR SPECIFIC PLAN

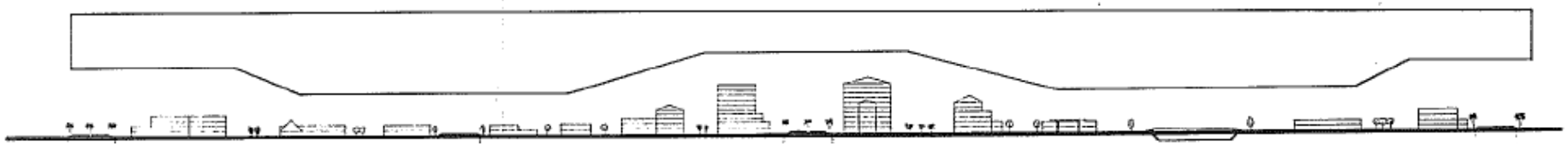
STUDY AREA

SP-07-04

VICINITY MAP

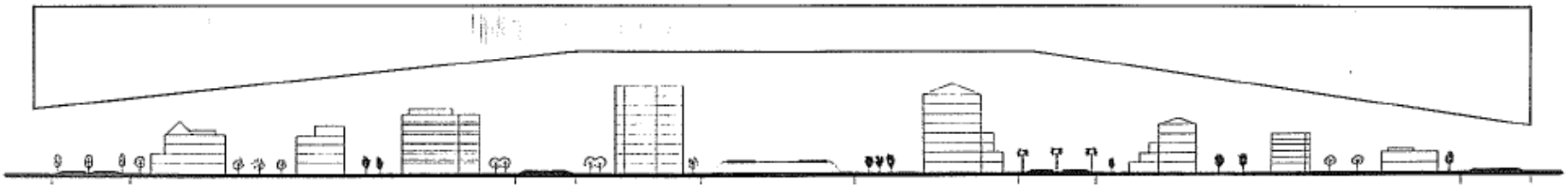
FREEWAY CORRIDOR SPECIFIC PLAN

INTENSITY OF DEVELOPMENT



99th Ave | 107th Ave | Avondale Blvd. | Agua Fria River | Dysart

CROSS-SECTION ALONG McDOWELL RD.
(LOOKING SOUTH)



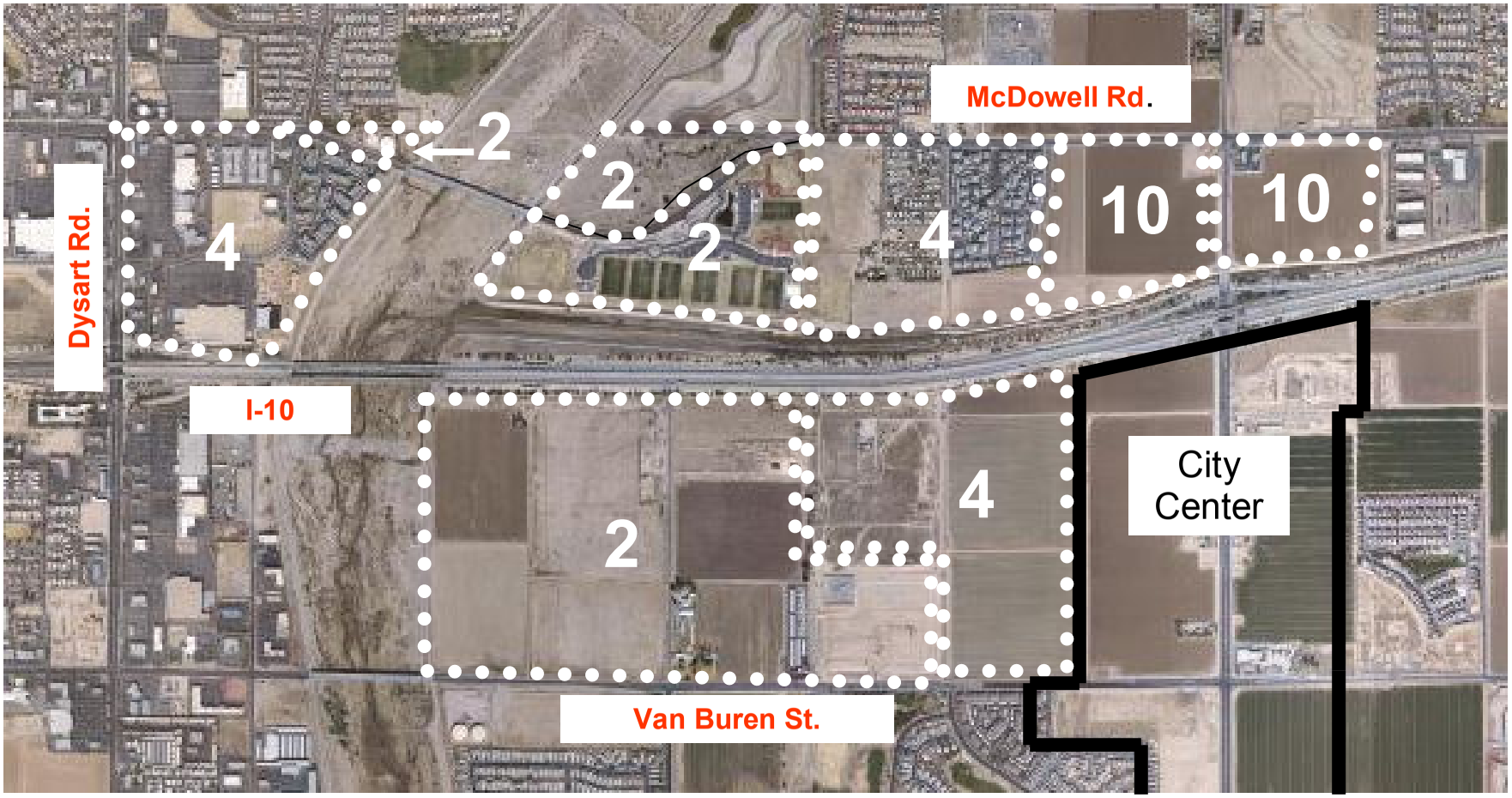
Van Buren | Roosevelt | Interstate 10 | McDowell | Encanto

CROSS-SECTION ALONG 115TH AVENUE
(LOOKING WEST)

EXHIBIT B

Proposed Maximum Building Height (stories)

EXHIBIT C1



Match Exhibit C 2

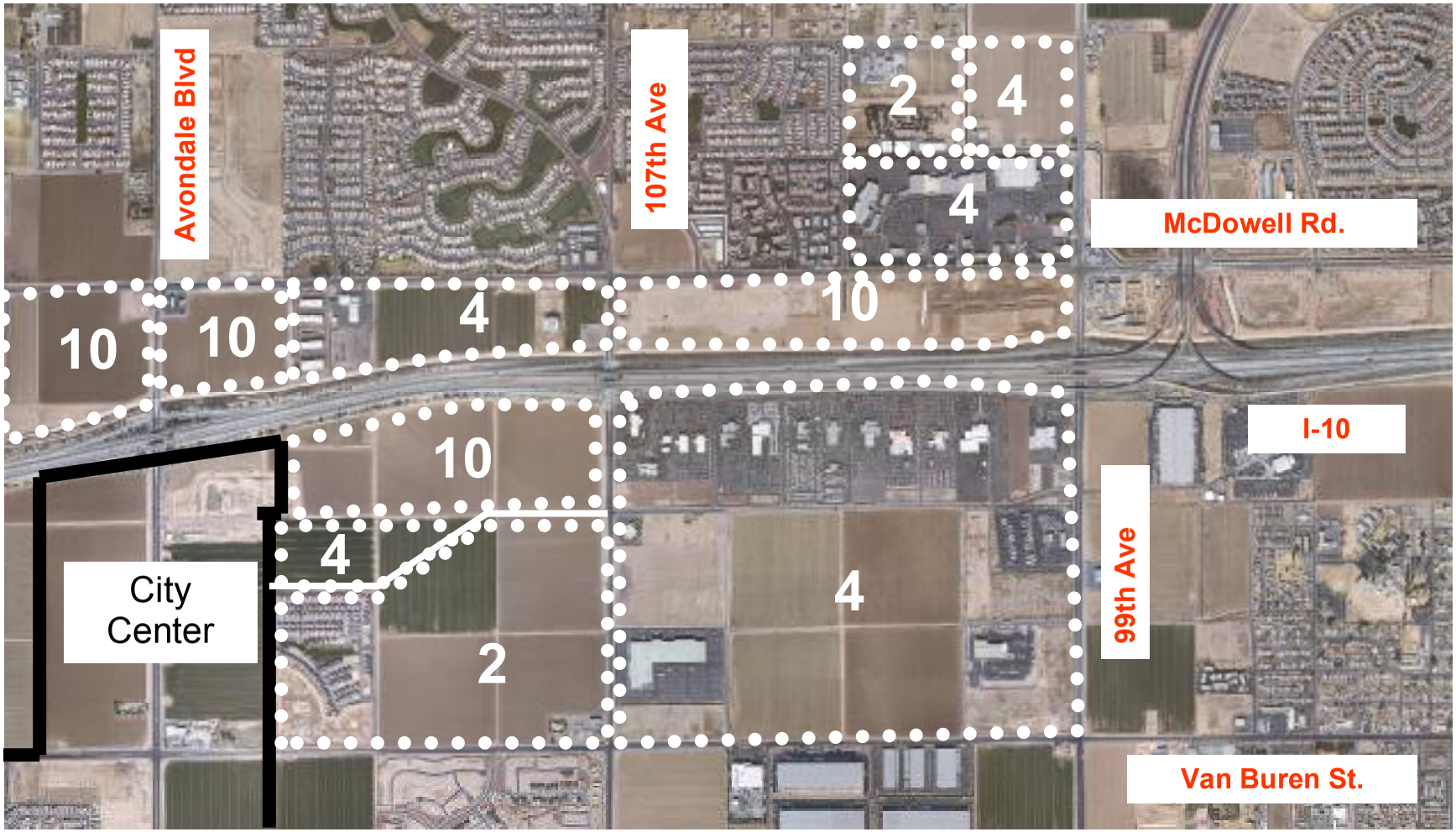
SP-07-04

N

Proposed Maximum Building Height (stories)

EXHIBIT C 2

Match Exhibit C 1



SP-07-04

N

PROPOSED AMENDMENT
FREEWAY CORRIDOR SPECIFIC PLAN
(SP-07-04)

IV. SPECIFIC PLAN ELEMENTS

B. Urban Design Element

(Page 18)
~~Office uses:~~ OfficeS, ~~uses~~ HOTELS, AND VERTICALLY INTEGRATED MIXED-USE: BUILDINGS in specified locations are permitted to exceed the maximum height established by the Zoning Ordinance (maximum of two (2) stories or 30 feet) upon meeting certain performance criteria. The locations where building heights can be increased are:

- Avondale Centre (115th Avenue / I-10:
  Maximum height of ten (10) stories, 135+ feet.

- ~~Corridor Entries as designated by the Land Use Plan:~~
  ~~Maximum height of four (4) stories, 56+ feet.~~

- SHOWN ON EXHIBITS C1 and C2.

The height of buildings within the Avondale Centre area should relate to the site's location, with the highest building situated near the I-10 Freeway and 115th Avenue. Building height should decrease as distance from the intersection increases, similar to the concept of a pyramid, shown on Intensity of Development figure (page 19).

Residential Uses: High density residential uses within three fourths of a mile of the I-10 Freeway and with direct access to an arterial street are permitted to exceed the building heights and densities established by the Zoning Ordinance (maximum of two (2) stories or 30 feet and 22 units per acre) upon meeting certain performance criteria. Building height and density may be increased to 40 feet and 30 units per acre respectively.

V. IMPLEMENTATION

B. Development Review Procedures

(Page 33)
This section describes regulatory procedures for the review of development proposals and rezonings within the Freeway Corridor area. Two primary areas for review and processing are addressed by this section: 1) those projects which desire to achieve increased height or density allowances in certain areas of the Corridor; 2) projects located within the Corridor with regard to conformance with specific design standards.

Increased height and density allowances may be granted by the City Council, upon recommendation of the Planning Commission, in accordance with the procedures for review and approval of Zoning Ordinance Amendments (Section 109 of the Avondale Zoning Ordinance) and Notification of Public Hearings (Section 111). Requests for increased height and density allowances may be combined and heard concurrently with requests for rezoning of property.

(Page 34)

1. Increased Building Height Allowance

   ~~Within the Avondale Centre Corridor Entry areas~~, ~~t~~The height of office, HOTELS, AND VERTICALLY INTEGRATED MIXED-USE buildings may be increased above the maximum height allowed by the Zoning Ordinance to the following levels:

   - Avondale Centre: Maximum of ten (10) stories or 135+ feet
   - ~~Corridor Entry Area: Maximum of four (4) stories or 56+~~ feet
   - OTHER LOCATIONS: AS SHOWN ON EXHIBITS C1 AND C2

   Approval of a request for increased height allowances shall only be granted by the City Council upon finding that:

   a. The request conforms to the intent and objectives of the Freeway Corridor Plan.
   b. The request meets the Corridor design standards and principles.
   c. The request addresses four or more of the following performance criteria.

      - The project supports the Boulevard streetscape concept and provides street and landscaping improvements which exceed the minimum requirements.
      - The project provides a mix of land uses which may, in addition to office, include retail, hotel, entertainment, and residential uses.
      - The project exhibits extraordinary architectural design quality.
      - The project provides a daycare or preschool facility primarily for employees.
      - The project provides and incorporates public art into the site.
      - The project provides cultural amenities such as libraries, museums, art galleries either on or off-site.
      - The project is “pedestrian-friendly”, providing for ease of pedestrian movement, unique pedestrian environments, or distinctive pedestrian gathering places.
      - If within a Corridor Entry area, the project incorporates unique signage, monuments, and other improvements to announce entry into the City of Avondale.
      - The project goes to extraordinary efforts to mitigate the impact of parking on the visual environment by use of structured or underground garages or exceptional landscaping treatment.
      - The project provides unique transit stops within or adjacent to the site.

~~The review of a request for an increased building height allowance is a subjective matter left to the discretion of the City Council. The performance criteria establish a framework for evaluation purposes. In review of a proposal, the City Council should consider:~~

- ~~The cost associated with the amenities provided under the performance criteria;~~
- ~~The importance and desirability of the amenities in meeting the objectives of the Freeway Corridor Specific Plan~~.

THE CITY COUNCIL MAY GRANT AN ADDITIONAL HEIGHT INCREASE OF UP TO FIFTY PERCENT (50%) IN AREAS WHERE FOUR OR MORE STORIES WOULD OTHERWISE BE ALLOWED UPON FURTHER FINDING THAT:

1. THE ADDITIONAL HEIGHT IS NEEDED TO FURTHER THE CITY'S STRATEGIC PLAN FOR ECONOMIC DEVELOPMENT;

2. BUILDINGS WILL EXHIBIT SUPERIOR DESIGN FEATURES THAT ARE APPROPRIATE FOR A COMMUNITY LANDMARK;

3. THE ADDITIONAL HEIGHT WILL NOT RESULT IN INCOMPATIBLE LAND USE RELATIONSHIPS; AND

4. THE ADDITIONAL HEIGHT WILL NOT ADVERSELY AFFECT THE FUTURE DEVELOPMENT OR ONGOING VITALITY OF THE CITY CENTER AREA ALONG AVONDALE BOULEVARD.

(Page 36)

3. Minimum Site Utilization Thresholds:

Development of Freeway Corridor sites is intended to utilize the land's full potential. Master planning is required in increments of ten acres or more. Phasing of development and demonstration of compatibility with the high intensity designations contained in both the Avondale General Plan and this Specific Plan must be indicated in all master plan submittals.

Building coverage for office development, hotels and related accessory uses in the Avondale Centre sector shall not exceed one third of the site's total planned building area. The Specific Plan does not specify minimum or maximum floor area ratios:; however, it expressly encourages structures of four stories or greater in the Centre; two to four stories for office / hotel uses elsewhere in Mixed Use or Transition sectors.

4. Development Processing – Design Standards

C**. Design Standards**

The Design Standards directly affect only a few important sub-areas within the corridor and are organized by those categories of sub-area and design element. The standards are also noted by the symbol (R) or (E). The symbol (R) indicates that the standard is a

"regulation;" i.e. it must be included in a development which is subject to the city's Site Plan Review process. Any waiver of or relief from the regulation must be approved through the variance procedures established in the Zoning Ordinance.

The symbol (E) refers to the term "expectation;" i.e. a concept or principle which should be considered in the design of a project. Adhering to expectation standards may be beneficial to the favorable acceptance of a plan by demonstrating the applicant's desire to meet the objectives of the Freeway Corridor Plan. This, in turn, may help the City to evaluate the project for a request for rezoning or for an increase building height or density allowance.

1. Boulevard Area Design Standards
   Property fronting on the "Boulevard" area or located at a Corridor Entry site shall meet the following design standards.

   <u>Building Design</u>

   a. Buildings higher than two (2) stories shall be designed with a "stepped" pattern to promote openness along the street frontage. Such a pattern creates interesting building surfaces and the opportunity to preserve view corridors.
      ~~(R)~~ (E)

DRAFT EXCERPT
PLANNING COMMISSION MEETING MINUTES
11-15-07

The following members and representatives were present:

COMMISSIONERS PRESENT
Lisa Copeland, Commissioner
David Iwanski, Commissioner
Edward Meringer, Vice Chair
Michael Alcorn, Commissioner
Alan Lageschulte, Chairman
Kevin Grimsley, Commissioner

COMMISSIONER ABSENT
Linda Webster, Commissioner (Excused)

PUBLIC HEARING ITEMS:

4. SP-07-04: This is a public hearing before the Planning Commission to solicit public input on application SP-07-04, a city-initiated request to amend the Freeway Corridor Specific Plan to increase the allowed building heights along the Interstate 10 corridor. The study area is generally located between 99th Avenue and 103rd Avenue from Encanto Boulevard to McDowell Road, and between 99th Avenue and Dysart Road from McDowell Road to Van Buren Street. Staff Contact: Dean Svoboda 623-333-1035.

Dean Svoboda, Long Range Planning Director, showed the Planning Commission a slide, stating the Freeway Corridor Specific Plan includes the area shown on the map, but pointed out that the amendment concerns only the portion from 99th Avenue to Dysart Road between the Encanto Boulevard and McDowel Road alignments and Van Buren Street. He explained that the existing Freeway Corridor Specific Plan makes provisions for a range of building heights between 2 to 10 stories. It encourages the 10 story buildings to be on the Avondale Boulevard corridor, with four story buildings at the gateways to the city at Dysart Road and 99th Avenue and the freeway. He stated that in between those areas the building heights were intended to taper down to create a nice urban form, but this was found difficult to administer and implement. This amendment will adjust those heights to be property specific, increase the heights where it makes sense to do so, and encourage further economic development and job creation along the freeway.

Mr. Svoboda stated that the proposal this evening would very clearly define where taller buildings would be allowed. He outlined that at Dysart Road and I-10, Staff has retained four stories. In single family neighborhoods and public park lands, they have retained two stories. Areas in the transition zone have gone to four stories, and the ten story buildings remain at McDowell Road and the Avondale Blvd. corridor. East of Avondale Blvd. has remained at two

stories with a transition up to ten stories from 107th Avenue over to roughly the 113th Avenue alignment along the south side of the freeway. The area for commerce park type activities will allow four stories throughout. The north side of the freeway between McDowell and the freeway will go up to a ten story limit, and from 99th Avenue over to 107th Avenue will remain at four stories along the area adjacent to the residential development to the north. North of McDowell Road up toward Encanto will remain four stories at the Gateway Pavilions area, and four stories will remain at the parcel that is part of the La Entrada project, and two stories will be adjacent to the existing residential neighborhoods. He reminded the Planning Commission that the City Center Plan will determine the building heights permitted on Avondale Blvd. from I-10 to Coldwater Springs.

He clarified for the record that the current plan includes criteria and findings similar to those in the North Avondale Plan and simply allows the maximum building heights as shown on the maps before the Planning Commission this evening. Mr. Svoboda stated that the proposed amendment adds some additional language stating that in the areas reflected for a maximum of four stories or ten stories, if the Council were to make three additional findings, then an additional three stories of extra height could be incorporated assuming that it would further the City's economic development goals, that the building would be appropriately designed as a landmark in the community, and that the additional height would not adversely affect compatible land use relationships. He also pointed out that the original design standards in the Freeway Corridor Plan make it a requirement for all buildings over two stories to have a stepped pattern. He explained that this is a technique often used to create a feeling of openness along streetscapes, add interest to buildings, and to further compatibility when attempting to transition building heights. However, given the building heights and variety within this area, he stated Staff believes this is an unnecessary and fairly onerous requirement. Mr. Svoboda offered to take questions and reminded Chairperson Lageschulte of the need to conduct a public hearing.

Chairperson Lageschulte invited questions of Staff.

Commissioner Copeland asked Mr. Svoboda to point out the Wal-Mart on the slide map. Mr. Svoboda did so. Commissioner Copeland inquired if the Wal-Mart had gone through the Site Plan stage. Mr. Svoboda explained that that property is already entitled as it was part of the Crystal Springs PAD that locked in the zoning at that location. He added that the PAD zoning on this property already allows 10 stories, and this particular amendment will not change either the existing zoning, nor does it change the height encouraged by the existing Specific Plan.

Vice Chair Meringer stated it was confusing, in that a maximum height of 10 stories is allowed, and then there will only be a one-story Wal-Mart. Mr. Svoboda put it in perspective, stating that the City needs to have regulations that protect the community, but when regulations are applied in a way that are unnecessary for that protection and they could potentially discourage the type of development the City is looking for, then they become burdensome. He reminded the Planning Commission that on the Wal-Mart site there will be other development such as a hotel or office building. Mr. Svoboda advised that throughout all of the developments, Staff does not anticipate wall-to-wall 10 story buildings, but rather an opportunity every now and then to capture a signature hotel or corporate office.

Chairperson Lageschulte inquired if a national bank came into Avondale and wanted to build a 15 story building with 3,000 jobs, could the bank get a special permit to build. Mr. Svoboda replied that under the amendment as it is written, 15 stories would be problematic. He explained that there is a little leeway provided for an additional three stories, which would allow buildings up to 13 stories. He clarified, though, that if a major corporate user came in with a 15-story building, he would be back in front of the Planning Commission very quickly with an amendment to address the issue again. Mr. Svoboda explained the reason that Staff provided flexibility for an additional three stories, is that this represents common heights for hotel type properties and some corporate users.

Commissioner Iwanski opined that with Avondale and Goodyear at close to build out, the Southwest Valley should be offered up as home to corporate clients, banks, insurance companies, and law firms, and suggested 10 stories would not get the job done. He suggested having the flexibility in the building height, but not to stop at three stories. He stated that Mr. Gilbert, being someone who is going to sign a deal for 85 million dollars, has his attention. Mr. Svoboda responded that another aspect he failed to elaborate on earlier is that essentially Avondale is a suburban community with corridors where more intense development is appropriate, such as 99th Avenue and the I-10. He stated the intent is to try to work with the market forces in terms of where they will be in 10-15 years, but everyone should keep in mind the signature location/premier address in Avondale is intended to be on Avondale Blvd. from I-10 to Van Buren. Mr. Svoboda stated he fully expects to see the highest height opportunities within the community, both from policy and market standpoints, to be located along Avondale Blvd., as that is the place where Staff would prefer to see a 20 story building. Commissioner Iwanski added that by no means does he want to discount the concerns and impact on residential neighborhoods.

Commissioner Copeland stated she was glad to see there was room for a 32-story Omni Hotel and thanked the Staff for that flexibility.

Chairperson Lageschulte invited further questions, and hearing none, invited the applicant to address the Commission. Mr. Svoboda stated he was the applicant on behalf of the City Council and declined to address the Commission further. Chairperson Lageschulte opened the item for public hearing. There were no requests to speak. Chairperson Lageschulte closed the public hearing and called for a motion.

Commissioner Iwanski moved that the Planning Commission recommend approval of application SP-07-04, a request to amend the Freeway Corridor Specific Plan to allow additional building heights along a portion of the I-10 corridor. Commissioner Alcorn seconded the motion.

Chairperson Lageschulte opened the floor for discussion, and hearing none, called for a Roll Call vote.

ROLL CALL VOTE

Commissioner Webster Absent

Commissioner Copeland	Aye
Vice Chair Meringer	Aye
Commissioner Alcorn	Aye
Chairperson Lageschulte	Aye
Commissioner Grimsley	Aye
Commissioner Iwanski	Aye

The motion passed unanimously.

EXHIBIT F

EXCERPT
CITY COUNCIL MEETING MINUTES
NOVEMBER 19, 2007

MEMBERS PRESENT

Mayor Lopez-Rogers and Council Members	Chuck Wolf, Vice Mayor
	Jim Buster
	Frank Scott
	Ken Weise
	Jason Earp
	Betty Lynch

9) FUTURE BUILDING HEIGHT ALONG 99TH AVENUE AND I-10 CORRIDOR (SP-07-03 AND SP-07-04)

Dean Svoboda, Long Range Planning Director, stated this is a City-initiated action to look at the building heights in the prominent corridors and entries into the City. He stated one application amends the North Valley Specific Area Plan and the other amends the Freeway Corridor Specific Plan. He stated these two plans essentially cover the northern third of the community, and the dividing line between the two areas is the Encanto Blvd. alignment. Mr. Svoboda reviewed that Avondale has been of a suburban scale with low rise buildings considered 1-4 stories, mid rise buildings considered 5-10 stories, and high rise buildings considered 10-13 stories and up. He explained the reason for these amendments is to take the City from the low rise standpoint into the mid rise area.

Mr. Svoboda explained the North Avondale Plan study area was from Indian School Rd. to the Encanto alignment, and from 99th Ave. to 103rd Ave. He described the area as heavily residential in the west. To the east and north in the City of Phoenix there is fairly intensive land uses planned, such as the Algodon Center and John F. Long's Master Plan with fairly tall building heights expected. South of Thomas Rd. is owned by the Sheely family and they are currently processing a General Plan and a Zoning Amendment in Phoenix that would accommodate high rise zoning with heights up to and over 250 feet. Mr. Svoboda stated in reviewing the North Valley Plan and after a neighborhood meeting, Staff proposed a modified area that would be affected, as well as a modified height, going from 10 stories to 8 stories. He stated this is consistent with the intent and purpose of the North Valley Plan, which is intended to protect and enhance the low to medium density residential character of the area, but it does provide for 99th Ave. to be a high intensity edge which will act as a gateway to the City and act as a buffer for the residential neighborhoods. He stated the proposal at this time, which was reviewed by the Planning Commission on November 15, 2007, allows up to four stories if certain performance criteria are met, which is implemented through the PAD zoning process, and the proposed amendment will allow up to eight stories along 99th Ave. between Indian

School Rd. and Thomas Rd. subject to the four story criteria. Any building over four stories in height must be located within 1,200 feet of 99th Ave. He stated this will provide over a quarter mile of buffer to the residential areas to the west, and with preliminary site line studies that have been done, it appears it will be very difficult to see an eight story building providing there are two to three story buildings in between.

Mr. Svoboda next described the Freeway Corridor Specific Plan, stating the existing plan allows a range of building heights from two to ten stories and is a conceptual height limit, not property specific. He stated the intent was for a maximum of four stories at the gateway to the City at Dysart and the freeway, and at 99th Ave. and the freeway, and a high intensity business center core called the Avondale Center at the I-10 Interchange with Avondale Blvd. Mr. Svoboda noted while this concept is very nice, it is an absolute nightmare to administer. He stated the study area affected by this amendment is between the McDowell Rd. and Van Buren St. alignments. He stated the proposed amendment will replace the conceptual height limits along the Freeway Corridor with property specific height standards. Provisions are also included to allow height exceptions if the City Council determines that this would be in the best interest of the City. Mr. Svoboda noted that the City Center area is not included in this application, and the future building heights for that area would be determined by the City Center Specific Plan. The heights starting at 99th Ave. would have a four story limit, and moving west along the freeway would go to ten stories, tapering down to two near the residential areas. On the north, the concept is for ten stories maximum along the freeway except where there are properties in close proximity to the existing residential. West of Avondale Blvd. on the northern side of the freeway starting at Avondale Blvd. will retain the ten story height, dropping down to four stories at the existing residential, with the Friendship Park area remaining at two stories. He pointed out if the Council wishes to build a 10 story ramada, this is the time to speak up. The other side of the river at Dysart Rd. will retain four stories. On the south of the freeway along Van Buren St. is suggested two stories, jumping up to four stories, and then to the City Center area where they expect the tallest building heights allowed, to be determined in the future.

Mr. Svoboda pointed out that the benefit of this concept is it is very respectful of existing residential areas, it is property specific, and Staff believes it provides flexibility for the future. He added that the text amendment would reference Exhibits E1 and E2, and it includes a provision for an extra three stories if approved by City Council anywhere that a maximum of four or a maximum of 10 stories was shown. He explained at the time of development review, the Council would assess the normal performance criteria and then must find that it meets three additional criteria: 1) It is consistent with the City's economic goals. 2) It is compatible. 3) The architecture is appropriate for a landmark building in the community. He stated the text amendment would also eliminate the standard regulation in the Specific Plan for these areas that any building over two stories have a stepped pattern, as Staff believes this should be discretionary and not mandatory.

Mr. Svoboda informed the Council that the Planning Commission looked at this item on November 15, 2007 and recommended approval unanimously of both the North Valley Specific Area Plan and the Freeway Corridor Specific Plan amendments. He stated this

item is tentatively scheduled for a hearing before the City Council on December 17, 2007.

Mayor Lopez Rogers invited questions and comments.

Council Member Lynch stated the problem she had with the neighborhood meeting was that while there were 30 some people in attendance, likely two or three of them were not from any one general area and those people had the Nimby thought and they did not want to discuss what would happen down by the freeway. She noted the interesting thing that came out of the meeting, was that as soon as the people heard that the hospital was six stories, they had no problem with the item, but they did not know that the height of the hospital is 90 feet tall, which is the height of a 10 story building. Council Member Lynch stated that Algodon is planning 10 story buildings and the 101 brings itself to that height of buildings, and with only so much land left in the City, the City should take the best advantage it can of the land for economic development. She stated that her biggest concern is that if the Council moves ahead and keeps the Plans to minimum heights, then they will be tying the hands of future councils. She suggested writing the amendments in such a way as to give future councils the opportunity to do what needs to happen when it comes to economic development.

Council Member Buster asked if the area along the 99th Ave. corridor could go up to four stories. Mr. Svoboda explained that the way the North Valley Specific Plan is written, 1-2 stories is a given, and in order to achieve 3-4 stories, there have to be certain performance criteria met. Council Member Buster stated that the Entorno Project will have residential over commercial and asked how high could those towers go. Mr. Svoboda explained that the Entorno Plan that was approved has a various number of heights, but generally it is 3-4 stories maximum through the majority of the area, and there were 2 eight story towers recommended in the middle of the project. Council Member Buster stated that would be dependent on the height amendment, which Mr. Svoboda confirmed, and added that with this proposal it was stipulated that unless the North Valley Plan is amended, the maximum height allowed would be four stories. Council Member Buster asked if the way the amendment is proposed tonight, the urban mixed-use area 1,200 feet away from the residential could still go up to eight stories. Mr. Svoboda stated that is correct, and given the fact that the zoning has already been granted, if the amendment to the North Valley Plan is ultimately approved by the Council, they will have the right to go up to eight stories on that portion of the property.

Council Member Buster stated in other areas there were two to four story recommendations next to residential, and asked how far away were those two to four story areas from the residential. Mr. Svoboda stated that the North Valley Plan was intended to protect the existing residential areas, but to allow a transition of uses from 99th Ave. into the west, and so some of the concerns that were raised at the neighborhood meeting were well taken, with the caveat that some intensity is certainly appropriate along 99th Ave. He stated many of those that attended the neighborhood meeting were from the residential areas to the west, and while they felt that taller buildings were very appropriate along the 101 Freeway, they felt that because 99th Ave. was somewhat

removed from the freeway, that there was no need for extremely tall buildings there, and most people expressed that four to six stories probably was okay. Therefore, he stated Staff felt it extremely appropriate to be sensitive to the residential area along 99th Ave.

Mr. Svoboda explained that the Freeway Corridor area is different. He pointed out that this Plan allows taller building heights to start with and is also intended to be the location of the most intense development anywhere in the City. He noted in many cases there is not a 1,200-1,400 foot distance separating some of the residential areas. He pointed out that currently on the north side of McDowell Rd., the Freeway Corridor Plan already allows four to six stories at some locations, and the proximity of two to four story developments is separated primarily by the arterial street. Council Member Buster and Mr. Svoboda discussed the separation of taller buildings from residential and Council Member Buster expressed his concern. Mr. Svoboda stated there has been an extra buffer built in reflecting the nature of the existing neighborhoods.

Council Member Weise stated while the Council had worked hard to protect the neighborhoods, Avondale was eventually going to go vertical, 8 to 10 stories, and he agrees with Council Member Lynch, in that this council should not handcuff future councils on decisions that it makes today. He pointed out Glenarm Farms, stating he thinks there is enough of a buffer there to protect them from taller buildings and the trees there are 50-60' tall. He added he does not want to do anything to stop economic development and that Avondale cannot control what Phoenix does at Algodon. He summarized that what Staff had done here with Glenarm Farms and Westwind was pretty good and he thanked the Staff for their efforts.

Vice Mayor Wolf stated a building could be 20 stories and still will not be seen 1,200 feet away from the residential area. He stated that someone wanting to build a 13 story or taller building would put in a specific Site Plan amendment, so he does not believe what Council does over the next three to four weeks is going to handcuff future councils. He pointed out there is a provision to add three stories in the Freeway Corridor Specific Plan, and he is puzzled as to why it is not considered in the North Avondale Specific Area. He stated his preference is there would be a provision for three stories in the North Avondale Specific Plan and five stories in the Freeway Corridor Specific Plan. He stated if Avondale gets the type of development it wants on Avondale Blvd., it is quite conceivable that someone will want to do 14-15 stories. Vice Mayor Wolf stated if no one on the Council wanted to entertain five stories in the Freeway Corridor Plan, he thinks the provision should be there that if the project is done correctly, that there be the flexibility for at least 10 stories in the North Avondale Specific Plan. Mr. Svoboda replied that with the geometry on the site distance, it would probably take a 30 story building before one would see it from Glenarm Farms or the subdivision to the west. He relayed that Staff's intent was that the tallest buildings would be located along Avondale Blvd. and where the Council may end up with that, will be determined by another action. He added that Staff did feel that because Avondale started out as a suburban community, that in order to avoid some of the types of battles that councils often have as buildings crop up, they felt it was important to set a realistic height limit, but also one that would step down as it comes closer to the residential areas. He stated Staff wanted to be

respectful of the urban form as well, and if the Council wants to provide additional flexibility along 99th Ave., that can be discussed at the public hearing. Vice Mayor Wolf stated that five years ago the goal was to create a single central core along Avondale Blvd., but now it must be cognizant of what is happening along the 101, and now average Class A office developers are putting projects along the 101, and the Council has to be careful not to lose that market simply because it has its eyes set on Avondale Blvd.

Mayor Lopez Rogers asked if Mr. Svoboda had enough information. Mr. Svoboda confirmed he did. Mayor Lopez Rogers asked for a motion to adjourn to Executive Session.

RESOLUTION NO. 2708-1207

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE ARIZONA, AMENDING THE CITY OF AVONDALE FREEWAY CORRIDOR SPECIFIC PLAN TO INCREASE THE ALLOWED BUILDING HEIGHT ALONG PORTIONS OF THE INTERSTATE 10 FREEWAY.

WHEREAS, the Freeway Corridor Specific Plan was adopted by the Council of the City of Avondale (the "City Council") on June 17, 1991 and updated on June 17, 2002; and

WHEREAS, the City Council desires to amend the Freeway Corridor Specific Plan pursuant to ARIZ. REV. STAT. § 9-461.09; and

WHEREAS, all due and proper notices of pubic hearings on the proposed amendment held before the City of Avondale Planning Commission (the "Commission") and the City Council were given in the time, form, substance and manner provided by ARIZ. REV. STAT. § 9-461.09; and

WHEREAS, the Commission held a public hearing on the proposed amendment in the City Council Chambers on November 15, 2007; and

WHEREAS, the Commission recommended approval; and

WHEREAS, the City Council held a public hearing on the proposed amendment on December 17, 2007.

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

SECTION 1. That Section IV, Specific Plan Elements, and Section V, Implementation, of the Freeway Corridor Specific Plan are hereby amended to increase the allowed building height along portions of the Interstate 10 freeway, as set forth in Exhibit A and depicted Exhibit B 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, December 17, 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. 2708-1207

(Freeway Corridor Specific Plan Text Amendment)

See following page.

FREEWAY CORRIDOR SPECIFIC PLAN AMENDMENT
(SP-07-04)

IV. SPECIFIC PLAN ELEMENTS

B. Urban Design Element

(Page 17)

1. Building Intensity

Intensity refers to the level of human activity within the Corridor, i.e. the number of people who will be attracted to live and work in the area. Intensity is often measured by the square footage of individual buildings, the number of vehicle trips generated by development, and the number of jobs created in an area. Intensity is regulated by a variety of mechanisms, the most prominent of which are:

- building height;
- lot coverage
- floor area ratio;
- density of residential projects.

The Corridor Plan suggests that certain sub-areas are well-suited for certain uses and activities which are more intensive than normally permitted by the Avondale Zoning Ordinance. The Corridor Plan will utilize the elements of building height, lot coverage, and density to encourage more intense development in those areas.

(Page 18)

~~Office uses:~~ OfficeS, ~~uses~~ HOTELS, AND VERTICALLY INTEGRATED MIXED-USE: BUILDINGS in specified locations are permitted to exceed the maximum height established by the Zoning Ordinance (maximum of two (2) stories or 30 feet) upon meeting certain performance criteria. The locations where building heights can be increased are:

- Avondale Centre (115th Avenue / I-10:
  Maximum height of ten (10) stories, 135+ feet.

- ~~Corridor Entries as designated by the Land Use Plan:~~
  ~~Maximum height of four (4) stories, 56+ feet.~~

- SHOWN ON BUILDING HEIGHT MAPS 1 and 2.

The height of buildings within the Avondale Centre area should relate to the site's location, with the highest building situated near the I-10 Freeway and 115th Avenue. Building height should decrease as distance from the intersection increases, similar to the concept of a pyramid, shown on Intensity of Development figure (page 19).

Residential Uses: High density residential uses within three fourths of a mile of the I-10 Freeway and with direct access to an arterial street are permitted to exceed the building heights and densities established by the Zoning Ordinance (maximum of two (2) stories or 30 feet and 22 units per acre) upon meeting certain performance criteria. Building height and density may be increased to 40 feet and 30 units per acre respectively.

V. IMPLEMENTATION

(Page 33)

B. Development Review Procedures

This section describes regulatory procedures for the review of development proposals and rezonings within the Freeway Corridor area. Two primary areas for review and processing are addressed by this section: 1) those projects which desire to achieve increased height or density allowances in certain areas of the Corridor; 2) projects located within the Corridor with regard to conformance with specific design standards.

Increased height and density allowances may be granted by the City Council, upon recommendation of the Planning Commission, in accordance with the procedures for review and approval of Zoning Ordinance Amendments (Section 109 of the Avondale Zoning Ordinance) and Notification of Public Hearings (Section 111). Requests for increased height and density allowances may be combined and heard concurrently with requests for rezoning of property.

(Page 34)

1. Increased Building Height Allowance

   ~~Within the Avondale Centre Corridor Entry areas~~, ~~t~~The height of office, HOTELS, AND VERTICALLY INTEGRATED MIXED-USE buildings may be increased above the maximum height allowed by the Zoning Ordinance to the following levels:

   - Avondale Centre: Maximum of ten (10) stories or 135+ feet
   - ~~Corridor Entry Area: Maximum of four (4) stories or 56+~~ feet
   - OTHER LOCATIONS: AS SHOWN ON BUILDING HEIGHT MAPS 1 AND 2

   Approval of a request for increased height allowances shall only be granted by the City Council upon finding that:

   a. The request conforms to the intent and objectives of the Freeway Corridor Plan.
   b. The request meets the Corridor design standards and principles.
   c. The request addresses four or more of the following performance criteria.

      - The project supports the Boulevard streetscape concept and provides street and landscaping improvements which exceed the minimum requirements.
      - The project provides a mix of land uses which may, in addition to office, include retail, hotel, entertainment, and residential uses.

- The project exhibits extraordinary architectural design quality.
- The project provides a daycare or preschool facility primarily for employees.
- The project provides and incorporates public art into the site.
- The project provides cultural amenities such as libraries, museums, art galleries either on or off-site.
- The project is "pedestrian-friendly", providing for ease of pedestrian movement, unique pedestrian environments, or distinctive pedestrian gathering places.
- If within a Corridor Entry area, the project incorporates unique signage, monuments, and other improvements to announce entry into the City of Avondale.
- The project goes to extraordinary efforts to mitigate the impact of parking on the visual environment by use of structured or underground garages or exceptional landscaping treatment.
- The project provides unique transit stops within or adjacent to the site.

~~The review of a request for an increased building height allowance is a subjective matter left to the discretion of the City Council. The performance criteria establish a framework for evaluation purposes. In review of a proposal, the City Council should consider:~~

- ~~The cost associated with the amenities provided under the performance criteria;~~
- ~~The importance and desirability of the amenities in meeting the objectives of the Freeway Corridor Specific Plan~~.

THE CITY COUNCIL MAY GRANT AN ADDITIONAL HEIGHT INCREASE OF UP TO FIFTY PERCENT (50%) IN AREAS WHERE FOUR OR MORE STORIES WOULD OTHERWISE BE ALLOWED UPON FURTHER FINDING THAT:

1. THE ADDITIONAL HEIGHT IS NEEDED TO FURTHER THE CITY'S STRATEGIC PLAN FOR ECONOMIC DEVELOPMENT;

2. BUILDINGS WILL EXHIBIT SUPERIOR DESIGN FEATURES THAT ARE APPROPRIATE FOR A COMMUNITY LANDMARK;

3. THE ADDITIONAL HEIGHT WILL NOT RESULT IN INCOMPATIBLE LAND USE RELATIONSHIPS; AND

4. THE ADDITIONAL HEIGHT WILL NOT ADVERSELY AFFECT THE FUTURE DEVELOPMENT OR ONGOING VITALITY OF THE CITY CENTER AREA ALONG AVONDALE BOULEVARD.

4. Development Processing – Design Standards

(Page 37)

C. Design Standards

The Design Standards directly affect only a few important sub-areas within the corridor and are organized by those categories of sub-area and design element. The standards are also noted by the symbol (R) or (E). The symbol (R) indicates that the standard is a "regulation;" i.e. it must be included in a development which is subject to the city's Site Plan Review process. Any waiver of or relief from the regulation must be approved through the variance procedures established in the Zoning Ordinance.

The symbol (E) refers to the term "expectation;" i.e. a concept or principle which should be considered in the design of a project. Adhering to expectation standards may be beneficial to the favorable acceptance of a plan by demonstrating the applicant's desire to meet the objectives of the Freeway Corridor Plan. This, in turn, may help the City to evaluate the project for a request for rezoning or for an increase building height or density allowance.

1. Boulevard Area Design Standards

   Property fronting on the "Boulevard" area or located at a Corridor Entry site shall meet the following design standards.

   <u>Building Design</u>

   (~~R~~ E) a. Buildings higher than two (2) stories shall be designed with a "stepped" pattern to promote openness along the street frontage. Such a pattern creates interesting building surfaces and the opportunity to preserve view corridors.

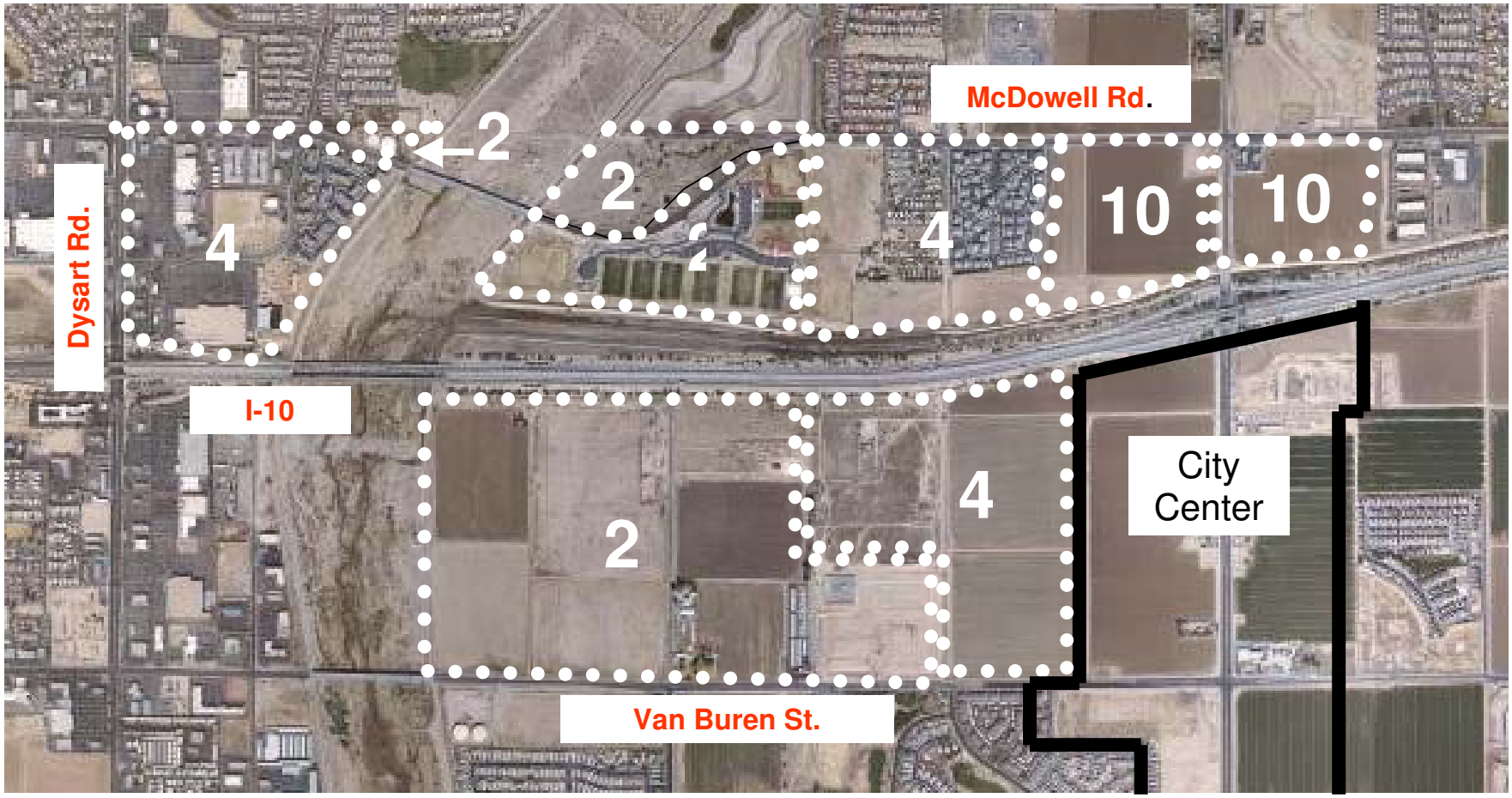
EXHIBIT B
TO
RESOLUTION NO. 2708-1207

(Map Depicting Area of Freeway Corridor Specific Plan Text Amendment)

See following page.

Building Height (stories)

MAP 1



Match Map 2

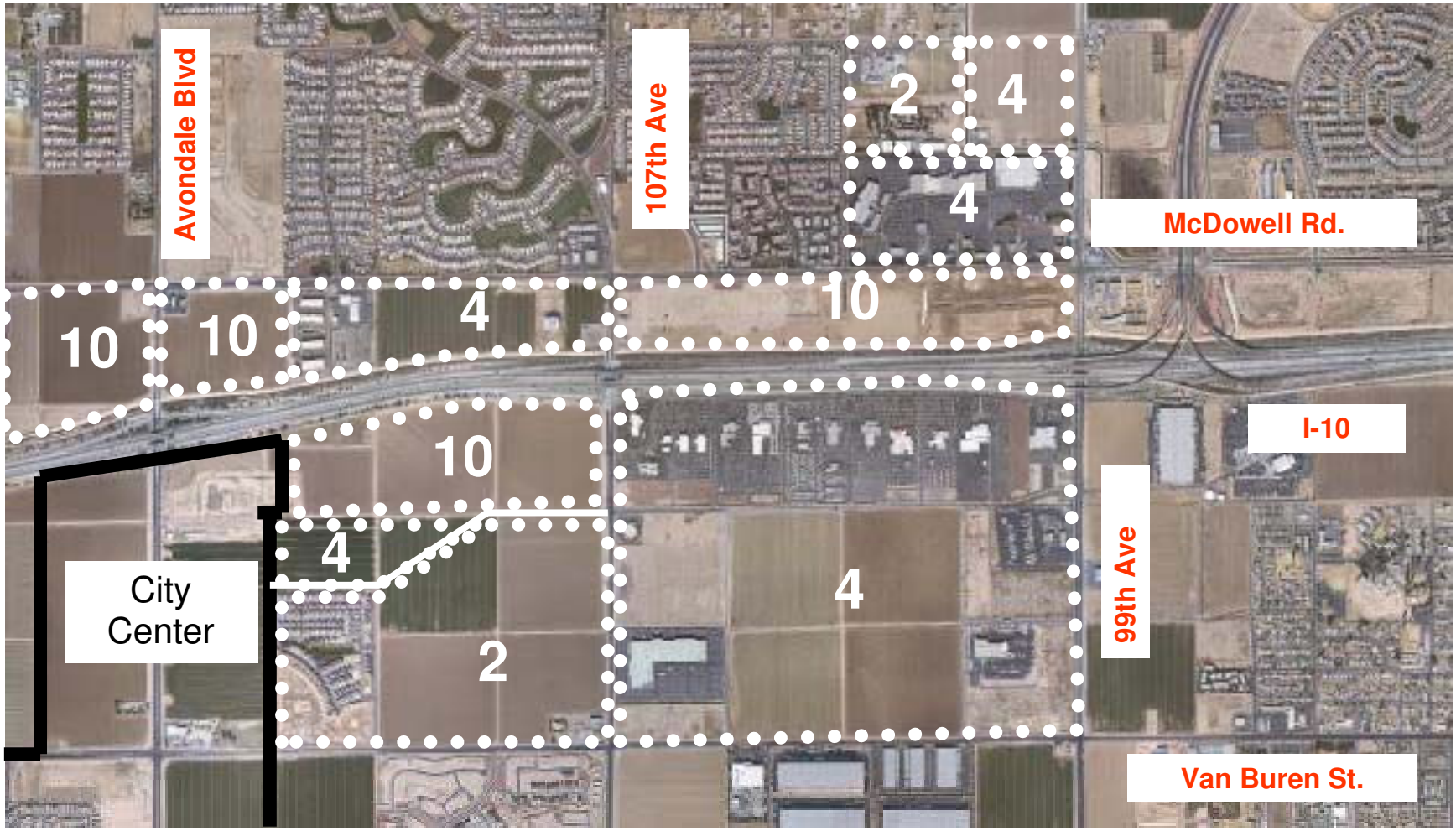
SP-07-04

N

Building Height (stories)

MAP 2

Match Map 1



SP-07-04

N