

# CITY COUNCIL AGENDA

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

**REGULAR MEETING**  
**April 7, 2008**  
**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 March 17, 2008
- b. Work Session of March 17, 2008

**b. APPOINTMENT OF COUNCIL MEMBER MCDONALD - RISK MANAGEMENT TRUST FUND BOARD**

The Council will consider the appointment of Council Member Jim McDonald to the Risk Management Trust Fund Board. The Council will take appropriate action.

**c. AMENDMENT - PROFESSIONAL SERVICE AGREEMENT - DLT&V SYSTEMS ENGINEERING - MASTER SCADA 5-YEAR PLAN**

Staff is requesting the City Council approve a \$69,883 amendment to DLT&V's Professional Service Agreement for the Master SCADA (Supervisory Controls and Data Acquisition) 5-Year Plan for a not to exceed total amount of \$145,325 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

**d. CONSTRUCTION CONTRACT AWARD- COMBS CONSTRUCTION COMPANY, INC. - 99TH AVENUE AND MCDOWELL ROAD DUAL LEFT IMPROVEMENTS**

Staff is requesting that the Council award a construction contract to Combs Construction Company, Inc. for roadway work and other improvements along 99th Avenue at the intersection of McDowell Road in the amount of \$568,250.90 and authorize the transfer of \$97,251 from Street Fund Line Item No. 304-1195-00-8410 (Traffic Signal-Central/Lower Buckeye) to Street Fund Line Item No. 304-1163-00-8420 (99th Avenue at McDowell Dual Left), and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

**e. CONSTRUCTION CONTRACT - TALIS CONSTRUCTION CORPORATION - VAN STREET SIDEWALKS PROJECT**

Staff is requesting that the City Council award a construction contract to Talis Construction Corporation for the construction of sidewalk and landscaping improvements for Van Buren Street between La Jolla Boulevard and Central Avenue, in the amount of \$157,874.39 and authorize the Mayor, or City Manager

and City Clerk to execute the necessary documents. The Council will take appropriate action.

**f. AWARD A CONTRACT FOR THE MT. VIEW WELL MODIFICATION TO THE WEBER GROUP FOR \$65,625.40.**

Staff is requesting that the City Council award a contract to the Weber Group, L.C. for the purpose of completing the Mountain View Well Modifications for an amount not to exceed \$65,625.40 and authorize the Mayor or City Manager and the City Clerk to execute the necessary documents. The Council will take appropriate action.

**g. SPECIAL EVENT LIQUOR LICENSE - ST. THOMAS AQUINAS CHURCH - THE HARLEM GOSPEL CHOIR CONCERT**

Staff is requesting that the City Council consider a special event liquor license for the St. Thomas Aquinas Church, 13720 West Thomas Road, Avondale for April 18, 2008. The Council will take appropriate action.

**h. TA-08-1 SECTION 6 PLANNED AREA DEVELOPMENT ZONING DISTRICTS**

Staff is requesting that this item be continued to the May 5th regular agenda. The Council will take appropriate action.

**i. RESOLUTION ADOPTING THE CITY OF AVONDALE SUPPLEMENT TO MAG UNIFORM STANDARD SPECIFICATIONS AND DETAILS FOR PUBLIC WORKS CONSTRUCTION**

The Council will consider a resolution adopting the City of Avondale Supplement to MAG Uniform Standard Specifications and Details for Public Works Construction. The Council will take appropriate action.

**j. ORDINANCE 1299-408 - ELECTRICAL EASEMENT - ARIZONA PUBLIC SERVICE - OLD TOWN LIBRARY PROJECT**

The City Council will consider an ordinance granting an electrical easement to Arizona Public Service (APS) to provide electrical service to the Old Town Library Project, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

**4 PUBLIC HEARING - ENCANTO 66 ANNEXATION**

The City Council will conduct a public hearing regarding the proposed annexation of Parcel Numbers 501-74-013P, 501-74-013R, 501-74-013S, 501-74-013T, 501-74-013U, 501-74-014Y, 501-74-885A; approximately 65.3 acres of land generally located at the southeast corner of Virginia Avenue and 119th Avenue.

**5 CONTINGENCY FUNDS TO PURCHASE GRAFFITI CAMERA AND LICENSE PLATE RECOGNITION SYSTEM**

Staff is requesting that the City Council approve the purchase of two advanced technology systems, Graffiti Cam and License Plate Recognition and a transfer of contingency funds in the amount of \$28,250. The Council will also discuss a request for a third system, at no cost, that will distribute traffic collision reports online. The Council will take appropriate action.

**6 PUBLIC HEARING AND ORDINANCE 1300-408 - SECTION 3 - COMMERCIAL ZONE DISTRICTS - TA-08-2**

The Council will hold a public hearing and will consider an ordinance approving a text amendment to Section 3 of the Zoning Ordinance - Commercial Districts. The Council will take appropriate action.

**7 EXECUTIVE SESSION**

**a.** The Council may hold an executive session pursuant to Ariz. Rev. Stat. § 38-431.03 (A)(1) for discussion regarding the City Manager's annual evaluation.

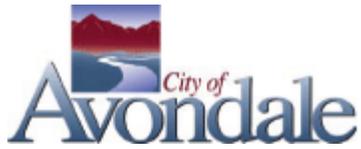
**8 ADJOURNMENT**

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:**  
APPROVAL OF MINUTES

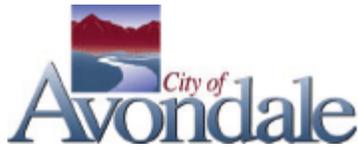
**MEETING DATE:**  
April 7, 2008

**TO:** Mayor and Council  
**FROM:** Linda Farris  
**THROUGH:** Charlie McClendon, City Manager

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available



# CITY COUNCIL REPORT

**SUBJECT:**

Appointment of Council Member McDonald - Risk Management Trust Fund Board

**MEETING DATE:**

April 7, 2008

**TO:** Mayor and Council

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

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

The appointment of Council Member McDonald to the Risk Management Trust Fund Board.

**BACKGROUND:**

The Risk Management Fund Board was established by Ordinance 1010-04 in 2004. Subparagraph (a) of the ordinance states "The Risk Management Trust Fund shall be administered by no less than five joint trustees appointed by the City Council. All trustees shall be residents of the City. No more than one member of the City Council and no more than one City employee shall serve as a trustee. "

Most recently, former Council Member Betty Lynch was the Council's representative on the Board. Since leaving office, she is serving as a regular member. Prior to taking office, Council Member McDonald served as a regular member on this board and is now willing to serve as the Council representative.

**RECOMENDATION:**

City Staff recommends the appointment of Council Member Jim McDonald to the Risk Management Trust Fund Board as the Council Member representative.

**ATTACHMENTS:**

Click to download

[Risk Management Fund Trust Fund roster](#)

[Ordinance 1010-04](#)

**City of Avondale**

**Risk Management Trust Fund Board**

<i>Board Member</i>	<i>Term expires</i>
Kevin Artz	Indefinite
Jay Lageschulte	12/31/08
Amos Reed	12/31/08
Council Appointee	
Betty Lynch	12/31/10

On June 21, 2004 the City Council adopted Ordinance 1010-04 approving the formation of the City of Avondale Risk Management Trust Fund Board of Trustees.

Staff Person – Allen Iampaglia

1/11/08

**ORDINANCE NO. 1010-04**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE AVONDALE CITY CODE, CHAPTER 2, ADMINISTRATION, RELATING TO RISK MANAGEMENT, AND DECLARING AN EMERGENCY.

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

SECTION 1. That the Avondale City Code, Chapter 2, Administration, is hereby amended to add the following article:

**Article V**

**RISK MANAGEMENT**

**2-70 Definitions.**

As used in this article, the following definitions shall apply.

“Claim” shall mean any insured claim or SIR claim.

“Claim cost” shall mean any internal or external cost or expense incurred by the City in response to any claim against the City, any covered corporation, covered City entity or covered individual as defined herein, including, but not limited to, claim adjustment costs, contractual services costs, legal defense costs and attorneys’ fees awarded against the City.

“Covered corporation” shall mean any corporation created for the purpose of assisting the City in capital acquisitions and other exclusively municipal purposes.

“Covered City entity” shall mean any board, commission, committee or subcommittee created by any City Charter provision, City ordinance or resolution or other formal action of the City Council, created for or in the course of carrying out the exercising powers and duties for and on behalf of and for the exclusive benefit of the City as a public municipality.

“Covered individual” shall mean any individual acting within the scope of employment or authority and falling within the following classes as of any applicable date of loss:

- (a) Any elected official of the City.
- (b) Any individual appointed to any covered City entity or as a Board Member of a covered corporation.
- (c) Any employee of the City, including any officer of the City, carried on the City payroll and subject to City personnel rules, whether full-time, part-time, permanent or temporary.

(d) Any agent or representative appointed by the City and acting at the direction of the City.

(e) Any individual acting as a duly appointed volunteer for or on behalf of the City and who was acting under the actual direction or control of an individual described in subsections a, b or c of this definition at the time and place of the occurrence, event, act or omission alleged to have formed the basis of any claim.

“Insured claim” shall mean any claim falling within the coverage provisions of any insurance policy insuring the City, a covered City entity, a covered corporation or a covered individual.

“Risk Management Cost” shall mean any internal or external cost associated with the purchase and maintenance of any commercial property insurance policy or liability insurance policy or bond for, or on behalf of, the City or any covered corporation, covered entity or covered individual, including consulting, brokerage and actuarial fees; and all other internal and external costs, fees and expenses incurred in connection with loss prevention and the management of the Risk Management Trust Fund.

“Risk Management Trust Fund” shall mean the trust fund established by the City Manager for the purpose of paying claims, claim costs, SIR costs and risk management costs.

“SIR” shall mean self-insured retention.

“SIR claim” shall mean any demand, including a legal action and counter demand or counterclaim for payment of any property loss sustained or lawful claim of liability or fortuitous loss made against the City, covered corporations, covered City entities or covered individuals. The following types of claims are specifically excluded from the definition of “SIR claim”: (i) any claim alleging damages relating to employee benefits or salary or (ii) or any insured claim.

“SIR costs” shall mean any claim cost arising from an SIR claim.

## **2-71 Risk Management Trust Fund Established.**

(a) There is hereby established a Risk Management Trust Fund. Such trust fund shall be funded as part of the annual budgetary and appropriation process of the City in such amounts as to provide sufficient monies to pay all reasonable anticipated claim costs and risk management costs for which the City will be responsible in the ensuing fiscal year.

(b) Expenditures during the fiscal year from the Risk Management Trust Fund and monies in said fund at the close of the fiscal year shall not be subject to the provisions of Title 42, Chapter 17, Article 3, Arizona Revised Statutes, as amended.

(c) The Risk Management Trust Fund shall be audited annually by an external auditor and a copy of the audit report shall be kept on file in the office of the City Clerk for a period not less than five years.

## **2-72 Risk Management Trust Fund Trustees.**

(a) The Risk Management Trust Fund shall be administered by no less than five joint trustees appointed by the City Council. All trustees shall be residents of the City. No more than one member of the City Council and no more than one City employee shall serve as a trustee. At the time of initial appointment, the City Council shall designate the length of terms to provide for staggered terms.

(b) The trustees shall be responsible for recommendations to the City Council regarding the administration of the Risk Management Trust Fund.

(c) The trustees shall meet at least once a year and submit a report to the City Council delineating the status of the Risk Management Trust Fund and including recommendations as the trustees deem necessary.

(d) The trustees shall be bonded in a minimum amount of \$10,000. Said bonding costs shall be paid by the City.

(e) The resignation, incompetency, death or termination of any or all of the trustees shall not terminate the Risk Management Trust Fund or affect its continuity. During a vacancy, the remaining trustees may exercise the power of the trustees hereunder. Vacancies among the trustees shall be filled by appointment by the City Council for the remainder of the vacant term.

## **2-73 Non-liability and Indemnification of Trustees.**

(a) Except as otherwise provided by law, the trustees shall not be liable individually for any act or omission of the trustees or representatives of the trustees for negligence, error in judgment or any act or omission, except his or her own willful misfeasance, gross negligence or bad faith in the conduct of his or her duties as a Risk Management Trust Fund trustee. Every act or thing done or omitted, and power exercised or obligation incurred by the trustees in the administration of the Risk Management Trust Fund, or in connection with any business or property of the trust, in his or her capacity as trustee, shall be deemed done, omitted, exercised or incurred by the trustee acting under the powers and duties imposed on the trustee under the provisions of this Article; and, upon any debt, claim, demand, judgment, decree or obligation of any nature whatsoever against or incurred by the trustee in his or her capacity as such, whether founded upon contract or tort, recourse shall be had solely to the property of the trust. Nothing contained in this trust shall protect the trustees or agents or representatives of the trust against liability to the trust, or to the beneficiaries thereof, for willful misfeasance, gross negligence or bad faith in the conduct of his or her duty.

(b) The trust shall indemnify, defend and hold harmless the trustees from and against all claims and liabilities, whether they proceed to judgment or are settled, to which the trustee may become subject by reason of his or her being or having been the trustee, or by reason of any action alleged to have been taken or omitted by him or her, as trustee, and shall reimburse him or her for all legal and other expenses reasonably incurred by him or her in connection with any such claim or liability; provided, however, that the trustee shall be indemnified or reimbursed under the foregoing provisions in relation to any matter, unless it shall have been adjudicated that

his or her action or omission constituted willful misfeasance, gross negligence or bad faith in the conduct of his or her duties, or unless, in the absence of such an adjudication, the trust shall have received a written opinion from the City Attorney to the effect that if the matter of willful misfeasance, gross negligence or bad faith, in the conduct of duties had been adjudicated, it would have been adjudicated in favor of the trustee. The rights accruing to the trustees under these provisions shall not exclude any other right to which her or she may be lawfully entitled, nor shall anything contained herein restrict the right of the trust to indemnify or reimburse the trustees in any proper cause, even though not specifically provided for herein; provided that the trustee may satisfy any right of indemnity or reimbursement granted herein, or to which her or she may otherwise be entitled, except as provided by law.

#### **2-74 Presentation of Claims.**

All claims against the City shall be presented as required by Arizona law.

#### **2-75 Duties and Responsibilities of the Risk Manager and the City Attorney.**

(a) The City Manager shall designate a risk manager, licensed pursuant to Title 20, Chapter 2, Articles 3 or 9, Arizona Revised Statutes, as amended. The risk manager shall have the responsibility for (i) the fiscal and administrative management of all claims against the City defined herein, including SIR claims and insured claims, (ii) the use and implementation of alternative dispute resolution methods involving any claim, (iii) the selection, acquisition of and payment for commercial insurance policies, alternative risk financing measures and surety bonds purchased for the benefit of the City and covered corporations, entities and individuals, (iv) the payment of claim costs and risk management costs and (v) causing the City to comply with all requirements for self-insurers as such may be contained in the applicable law.

(b) The City Attorney shall have the responsibility for management of all legal actions against the City, including the direct selection of legal counsel for defense of any claim, and shall further have the responsibility for determining the legal liability of the City with respect to any claim, including any decision to file suit, defend a suit or prosecute an appeal.

#### **2-76 Manner of Approval or Disapproval of Claims.**

(a) The risk manager, acting within the parameters set by the City Attorney for determining that the City has exposure to legal liability, and upon further determining that the proposed expenditure of Risk Management Trust Funds is reasonable, may authorize and pay any SIR claim in an amount not to exceed the sum of \$5,000 in the aggregate for any single demand for any single claim. The risk manager shall consult with the City Attorney prior to any determination to pay any claim for which the exposure to legal liability is unclear. No SIR claim in litigation can be settled or paid by the risk manager without prior determination by the City Attorney that the City has exposure to legal liability.

(b) The risk manager may, with the concurrence of the City Manager and the City Attorney, authorize payment of any claim in any amount between \$5,000 and \$25,000 for any single demand for any single claim.

(c) No claim in excess of \$25,000 for any single demand for any single claim may be paid without City Council approval.

**2-77 Insurance.**

The City Manager is authorized to enter into, on behalf of the City, any appropriate insurance and surety bonding contracts to provide such risk insurance as he or she determines to be in the City's best interests. Such contracts in excess of \$25,000 are subject to City Council approval.

**2-78 Self-Insurance.**

(a) The City shall act as a self-insurer for all claims and claim costs against the City other than those falling within the coverage provisions of an insurance policy or surety bond. The City's liability for such claims and claim costs shall governed by state and federal law.

(b) If other valid and collectible insurance is available to apply to any claim against the City, a covered corporation, a covered City entity or a covered individual, the application of the SIR shall be limited as set forth in this subsection. The SIR is primary and applies to all SIR claims except when the following apply:

- (1) Any other insurance, whether primary, excess, contingent or on any other basis that covers any covered corporation, or covered City entity, whether purchased by the City or by the corporation or entity.
- (2) Any automobile liability coverage on a private motor vehicle driven by a covered individual on City business.
- (3) Any insurance, whether primary, excess, contingent or on any other basis, that is purchased by any other person or entity and is available to cover a claim against the City by reason of the City's having been listed as a person insured, additional insured or additional named insured on the other person's or entity's insurance.

**2-79 Procurement Code Exemption.**

Except as prohibited by Arizona law, agreements with legal counsel for the defense of a claim under this article and agreements negotiated in the settlement of a claim or litigation or threatened litigation are exempt from the requirements of the City's Procurement Code.

**2-80-2-90 Reserved.**

SECTION 2. The immediate operation of this Ordinance is necessary for the financing of the City of Avondale's risk management operations and for the preservation of the public health and welfare relating to risk management; therefore, an emergency is hereby declared to exist. This Ordinance shall be in full force and effect from and after its passage and approval by

the Mayor and Council of the City of Avondale as required by law, and this Ordinance is hereby exempt from the referendum provisions of the constitution and laws of the State of Arizona.

SECTION 3. 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 of this Ordinance.

**PASSED AND ADOPTED** by the Council of the City of Avondale, June 21, 2004.

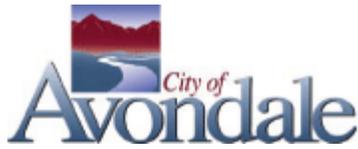
\_\_\_\_\_  
Ronald J. Drake, Mayor

ATTEST:

\_\_\_\_\_  
Linda M. Farris, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Andrew J. McGuire, City Attorney



# CITY COUNCIL REPORT

**SUBJECT:**

Amendment - Professional Service Agreement - DLT&V  
Systems Engineering - Master SCADA 5-Year Plan

**MEETING DATE:**

April 7, 2008

**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 \$69,883 amendment to DLT&V's Professional Service Agreement for the Master SCADA (Supervisory Controls and Data Acquisition) 5-Year Plan and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The total DLT&V contract amount including this amendment is not to exceed \$145,325.

**BACKGROUND:**

The Water Resources Department contracted with DLT&V Systems Engineering in August 2007 to complete a Master SCADA (Supervisory Controls and Data Acquisition) 5-Year Plan. SCADA is used to monitor and control the City's Wastewater and Water systems. A selection committee evaluated three firms based on previous municipal experience, personnel qualifications and the capabilities of the consultant to complete the project. The Professional Services Agreement is for \$75,442. The contract with DLT&V consists of developing a preliminary design study and report to include hardware, software and programming standards to include naming convention and graphics, which the Water Resources Department will use when developing new facilities or upgrading existing facilities. The plan will identify recommendations on how best to optimize SCADA, define requirements to achieve SCADA optimization and make recommendations on an implementation schedule.

During the fall/winter of 2007, Water Resource staff became aware that the current SCADA system at the Water Reclamation Facility (WRF) is running a SCADA software version no longer supported and the overall hardware is in need of upgrades. During discussion with staff from Damon S. Williams and Associates (DSWA), the firm selected to design the expansion, staff was made aware that DSWA expected the City's SCADA system to meet current standards. Based on the immediate need to make upgrades to the SCADA system, staff asked DLT&V to identify the hardware, software and upgrade/conversion efforts needed to bring the Water Resources' SCADA system to current standards. IT staff assisted with the purchase of hardware and upgraded SCADA software was purchased. DLT&V submitted a services quote for \$69,883 to upgrade/covert the existing Water Resources water and wastewater systems. DLT&V's quote includes conversion of both the Wastewater and Water SCADA application and data to the most current SCADA software version, convert non-standard naming to a standard naming convention and install and setup a SCADA historian server to capture all historic data.

**DISCUSSION:**

The need for this work has reached a critical point. If not completed shortly, all the new SCADA work at the WRF will be built on an application that is no longer supported. Any work completed prior to an upgrade will need to be re-worked after the upgrade occurs.

Options

1. Through this action, amend the DLT&V contract and have them move the water and wastewater SCADA

systems to “current standards.” This conversion involves installing software, converting existing applications and data, replacing six PLC cards with new cards, and reloading the programming on these cards.

2. Select a consultant from the Pre-Qualification List to complete the water and wastewater conversion under a new and separate contract. This is a time-consuming option.
3. Amend the PCL (the contractor at the WRF) contract to include conversion of the wastewater SCADA system. The conversion of the water SCADA system could be completed by a consultant selected from the Pre-Qualification List under a new and separate contract, however, the contractor's mark-up on change orders such as this could cost 15% additional.

#### Recommendation

Time is of the essence. For the following reasons, staff recommends amendment of the DLT&V contract to convert both the water and wastewater SCADA systems to “current standards.”

1. DLT&V is already mobilized to the City and will be able to complete the work prior to new facilities coming on-line. This will limit re-work and all new work will be completed per the new SCADA standards.
2. DLT&V is familiar with our conversion needs, whereas another consultant would need to spend time and effort to become familiar with Water Resources needs.
3. Standardization of the initial SCADA conversion setup for water and wastewater will be achieved if one consultant does the conversion for both systems.

#### **BUDGETARY IMPACT:**

Funding for the proposed professional services is available in the Wastewater Administration budget line item number 503-9210-00-6180 and Water Administration budget line item number 501-9110-00-6180.

#### **RECOMENDATION:**

Staff recommends that the City Council approve a \$69,883 amendment to DLT&V’s Professional Service Agreement for the Master SCADA (Supervisory Controls and Data Acquisition) 5-Year Plan and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The total DLT&V contract amount is not to exceed \$145,325.

#### **ATTACHMENTS:**

Click to download

 [PSA First Amendment](#)

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

THIS FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (this "First Amendment") is made as of April 7, 2008, 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 and the Consultant entered into a Professional Services Agreement dated August 20, 2007, for the City's Master SCADA Five Year Plan including the water and wastewater system (the "Agreement").

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

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

AGREEMENT

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

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

2. Compensation. The Consultant's total compensation under the Agreement shall be increased by no more than \$69,883.00 from \$75,442.00 to \$145,325.00 as consideration for the Additional Services as more particularly set forth in Exhibit A.

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

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

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

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

**“City”**

CITY OF AVONDALE, an Arizona  
municipal corporation

\_\_\_\_\_  
Charles P. McClendon, City Manager

ATTEST:

\_\_\_\_\_  
Linda M. Farris, City Clerk

**“Consultant”**

DLT&V SYSYEMS ENGINEERING,  
INC., an Arizona corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



EXHIBIT A  
TO  
FIRST AMENDMENT  
TO THE  
PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE CITY OF AVONDALE  
AND  
DLT&V SYSTEMS ENGINEERING, INC.

[Scope and Fee Proposal]

See following pages.

## **Scope of Services**

### **Project Description**

- 1.0 Programming services will consist of upgrading the existing SCADA systems at the Water Treatment and WasteWater Treatment Plants.
- 1.1 The Water Treatment Plant SCADA system upgrade will consist of the following. Setup two redundant Terminal Servers, one Historian Server (for both Water and Waste Water SCADA System), seven FAT client workstations (1 Operator Desktop and 6 Remote Laptops), and one engineering development workstation. The setup process will involve performing the appropriate operating system modifications and installation of all Wonderware software. Convert the existing InTouch v9.5 Runtime application to an Industrial Application Server v3.0/InTouch v10.0 Terminal Services application. Convert the existing SCADAalarm application to a SCADAalarm v6.0 SP2 application.
- 1.2 The WasteWater Treatment Plant SCADA system upgrade will consist of the following. Setup two redundant Terminal Servers, five FAT client workstations (3 Desktops and 2 Remote Laptops), and one engineering development workstation; note that the Water Production and Waste Water Treatment Plant are sharing the same computer for engineering development workstation. The setup process will involve performing the appropriate operating system modifications and installation of all Wonderware software. Convert the existing InTouch v7.1 Runtime application to an Industrial Application Server v3.0/InTouch v10.0 Terminal Services application. Convert the existing SCADAalarm application to a SCADAalarm v6.0 SP2 application.
- 1.3 DLT&V will implement the new City of Avondale Tagname Convention Standards when converting the existing database from text form to IAS objects, and test the new database after the conversion.
- 1.4 DLT&V will provide PLC programming service to modify the wells 10, 11 and 12 PLC (s) communication configuration from Modbus (MDS radio) to Modbus Ethernet (Microwave). Wells 10, 11 and 12 will communicate with Coldwater Springs booster PS using Microwave.
- 1.5 DLT&V will install three (3) Connexium Gateway Modules 'TSX ETG 100' (Ethernet TCP/IP to Modbus Devices) for existing Modicon Micro PLC out at the Wells 10, 11 and 12. Also configure the Ethernet communication to Master PLC (Primary and Standby) at Coldwater Springs Booster Pump Station accordingly. Note that the owner will provide these three Connexium Gateway Modules.
- 1.6 DLT&V will install three (3) Ethernet cards for Quantum 140 CPU 434 12, Redundant PLC in Control Room, and Quantum 140 CPU 113 03 at the Solid Handling Electrical Room. Also configure the Ethernet communication to SCADA servers accordingly. Note that the owner will provide these three Ethernet cards.
- 2.0 DLT&V will coordinate with owner's IT staff and perform computer and network configuration as it pertains to the SCADA system.

### **Responsibilities of Others**

- 1.0 Prior to DLT&V commencing work on programming scope, CLIENT shall furnish the existing SCADA applications from the Water Treatment and WasteWater Treatment Plants on CD.

### **Deliverables**

- 1.0 Upon completion of our programming, DLT&V will provide one (1) copy of new SCADA applications at the Water Treatment and WasteWater Treatment Plants on CD.

### **Exclusions and Exceptions**

- 1.0 Should a condition exist, at no fault of DLT&V, that interrupts or prevents DLT&V from providing contracted services, DLT&V may cease work until the condition(s) are remedied. At the client's request, DLT&V may provide assistance to remedy the delaying condition(s), charged on a time and materials basis.
- 2.0 Excessive work interruption(s) by others that delay the provision of contracted services by DLT&V may result in additional service charges billed on a time and materials basis.



Project Number: 2007.11.0178

Date: 22-Feb-08

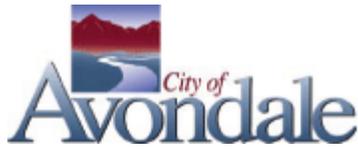
Project Name: City of Avondale WTP and WWTP Plants SCADA Upgrade - Engineering Services

#	Sub-Task	Depart. Mgr. VII	Depart. Mgr. V	Project Mgr. IV	Const. Mgr. III	Designer V	Integr. IV	Designer IV	CAD Mgr. III	Admin. II	Tot. Hrs.	Section Subtot.
<b>Task 300 - Programming</b>												
1	Meetings			5.0			5.0			1.0	11.0	
2	Control Description											
3	Procurement Activities											
4	PLC Software Develop.											
5	PLC Testing/Debug											
6	PLC Config & Network Comm			23.0			23.0				46.0	
7	PLC Class Prep & Training											
8	HMI Hardware Setup			56.0			24.0				80.0	
9	HMI Database			132.0			188.0				320.0	
10	HMI Graphics			24.0			48.0				72.0	
11	HMI Testing			20.0			30.0				50.0	
12	HMI Class Prep & Training											
13	Trends			10.0			15.0				25.0	
14	Historical Data											
15	Alarm Software Config.											
16	OIT Programming											
17	OIT Testing											
18	OIT Class Prep & Training											
19	Quality Assurance Review											
20	Factory Testing											
21	Field Loop Checks											
22	On-site Code Validation & Tests											
23	PLC/HMI Data Verification			16.0			16.0				32.0	
24	Documentation	1.0	1.0	4.0						4.0	10.0	
25	Continuing Support	1.0	1.0	4.0			6.0			1.0	13.0	
26	Project Management											
	<b>Programming Fees Sub Total:</b>	<b>2.0</b>	<b>2.0</b>	<b>294.0</b>			<b>355.0</b>			<b>6.0</b>	<b>659.0</b>	<b>\$69,518</b>
	<b>Programming Expenses:</b>											<b>\$365</b>
	<b>Total Programming &amp; Expenses:</b>											<b>\$69,883</b>
	<b>Totals:</b>	<b>2.0</b>	<b>2.0</b>	<b>294.0</b>			<b>355.0</b>			<b>6.0</b>	<b>659.0</b>	

<b>Std Hourly Rates:</b>	<b>\$180.00</b>	<b>\$135.00</b>	<b>\$122.00</b>	<b>\$106.00</b>	<b>\$106.00</b>	<b>\$92.00</b>	<b>\$92.00</b>	<b>\$101.00</b>	<b>\$60.00</b>	
<b>Total Fees:</b>	<b>\$360</b>	<b>\$270</b>	<b>\$35,868</b>			<b>\$32,660</b>			<b>\$360</b>	<b>\$69,518</b>

Total Expenses: \$365

Grand Total: \$69,883



# CITY COUNCIL REPORT

**SUBJECT:**

Construction Contract Award- Combs Construction Company, Inc. - 99th Avenue and McDowell Road Dual Left Improvements

**MEETING DATE:**

April 7, 2008

**TO:** Mayor and Council

**FROM:** David 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 Combs Construction Company, Inc. for roadway work and other improvements along 99th Avenue at the intersection of McDowell Road in the amount of \$568,250.90, authorize the transfer of \$97,251 from Street Fund Line Item No. 304-1195-00-8410 (Traffic Signal-Central/Lower Buckeye) to Street Fund Line Item No. 304-1163-00-8420 (99th Avenue at McDowell Dual Left), and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

**BACKGROUND:**

On February 20, 2007, the City Council approved a Professional Services Agreement (PSA) with URS Corporation in the amount of \$65,238 to design additional left-turn lanes on 99th Avenue at McDowell Road (see vicinity map). The purpose of the project is to improve intersection capacity and functionality, reduce traffic congestion and provide additional storage for the proposed left-turn lanes. On November 20, 2007, the City Manager approved Amendment No. 1 to the PSA with URS Corporation in the amount of \$5,871 for additional design services, resulting in a total revised contract amount of \$71,109.

The proposed construction improvements will provide dual left-turn lanes on 99th Avenue in both the northbound-westbound and southbound-eastbound left turn movements.

**DISCUSSION:****SCOPE OF WORK:**

The scope of work for this project will include:

- Removing and installing new concrete medians with 6-foot wide pedestrian refuges
- Removing and installing new asphalt pavement
- Installing drainage scuppers in the new median for drainage
- Removing and installing a new traffic signal pole on the northwest corner of 99th Avenue and McDowell Road
- Installing pedestrian buttons in the new raised medians
- Installing conduits into the proposed raised median for future landscape lighting and future landscape irrigation
- Installing new ADA ramps
- Miscellaneous removals and installations

**BID PROCESS:**

Requests-for-Bid notices were published in the West Valley View on February 8 and February 12, 2008; the Arizona Business Gazette on February 14, 2008. The Engineering Department held a pre-bid meeting on February 25, 2008. Six (6) bids were received and opened on March 13, 2008. Each bid package was reviewed and all except one (1) bidder met the bidding requirements. The firms submitting bids and the amount of their bids are as follows:

<b><u>BIDDER</u></b>	<b><u>AMOUNT</u></b>	<b><u>M/DBE</u></b>
Combs Construction Company, Inc.	\$568,250.90	No
DCS Contracting	\$585,676.58	No
Ellison Mills Construction	\$603,857.30	No
Standard Construction	\$622,707.07	No
Blucor Contracting, Inc. (Non-Responsive)	\$821,046.67	No
J. Banicki Construction	\$983,972.85	No

See the attached Bid Tabulation Sheet for a detailed, bid item breakdown of each submitted bid.

Combs Construction Company, Inc. with a bid of \$568,250.90 was determined to have submitted the lowest, responsive, and qualified bid. Staff was able to contact the 3 required references and Combs Construction Company, Inc. did receive positive recommendations. Staff believes Combs Construction Company, Inc. to be competent and qualified for this project. Combs Construction Company, Inc. has successfully completed similar work. Staff contacted the Registrar of Contractors and found no claims on file against this contractor.

#### **SCHEDULE:**

A tentative construction schedule is as follows:

<b><u>PROJECT MILESTONES</u></b>	<b><u>TARGET DATES</u></b>
Issue Notice of Award	04/08/08
Pre-Construction Conference	05/22/08
Notice-to-Proceed	04/22/08
Begin Construction	05/06/08
Completion	07/21/08

#### **BUDGETARY IMPACT:**

Funding for this project is available in Street Fund Line Items No. 304-1163-00-8420 and 304-1195-00-8410.

#### **RECOMENDATION:**

Staff recommends that the City Council award a construction contract to Combs Construction Company, Inc. for roadway work and other improvements along 99th Avenue at the intersection of McDowell Road, in the amount of \$568,250.90, authorize the transfer of \$97,251 from Street Fund Line Item No. 304-1195-00-8410 (Traffic Signal-Central/Lower Buckeye) to Street Fund Line Item No. 304-1163-00-8420 (99th Avenue at McDowell Dual Left), and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

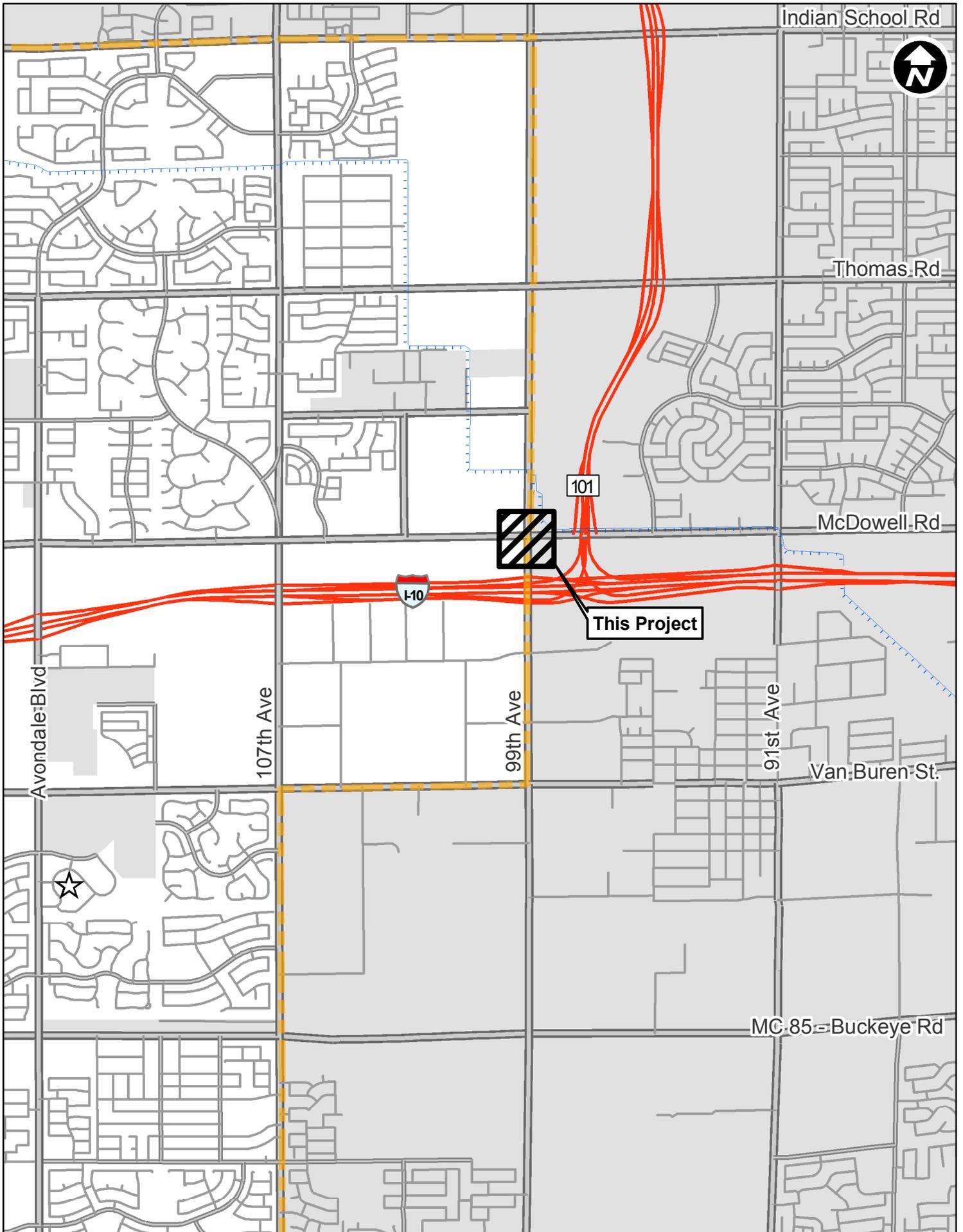
The contract is on file with the City Clerk.

#### **ATTACHMENTS:**

Click to download

-  [Vicinity Map](#)
-  [Bid Tab](#)

# VICINITY MAP

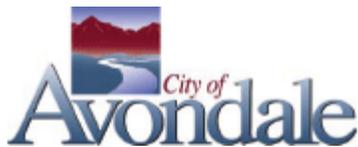


Item No.	Description of Materials and/or Services	Qty	Unit	Blucor		Combs	
				Unit	Total	Unit	Total
				Price	Price	Price	Price
109.09000	Mobilization/Demobilization	1	LS	\$15,055.49	\$15,055.49	\$53,000.00	\$53,000.00
107.15000	Community Relations (ALLOWANCE)	1	ALLOW	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00
107.04000	Miscellaneous Reimbursables (ALLOWANCE)	1	ALLOW	\$60,000.00	\$60,000.00	\$60,000.00	\$60,000.00
108.01000	As-Built Plans Preparation	1	LS	\$11,545.46	\$11,545.46	\$500.00	\$500.00
108.01010	Construction Surveying and Layout	1	LS	\$22,639.19	\$22,639.19	\$15,505.00	\$15,505.00
401.01000	Traffic Control	1	LS	\$22,787.10	\$22,787.10	\$28,800.00	\$28,800.00
<b>PAVING</b>							
301.01000	Subgrade Preparation (under a.c. pavement, median island, curb, and sidewalk)	3,484	SY	\$4.52	\$15,747.68	\$6.00	\$20,904.00
310.03000	Aggregate Base Course (under a.c. pavement, median paving, and curb)	1,893	TN	\$29.61	\$56,051.73	\$18.00	\$34,074.00
321.01200	Asphalt Concrete Pavement (5 inches) (127mm) (Superpave)	753	TN	\$92.01	\$69,283.53	\$75.00	\$56,475.00
329.01000	Emulsified Tack Coat, Type SS-1H	0.45	TN	\$759.57	\$341.81	\$2,000.00	\$900.00
340.01110	Vertical Curb and Gutter, Std. Dtl. 220 (Mod), Type 'A', H=6" (Reverse Gutter Pan)	900	LF	\$22.37	\$20,133.00	\$10.00	\$9,000.00
340.01110	Vertical Curb and Gutter, Std. Dtl. 220, Type 'A', H=6"	288	LF	\$30.85	\$8,884.80	\$10.00	\$2,880.00
340.01160	Single Curb, MAG Detail 222, Type 'A'	920	LF	\$22.36	\$20,571.20	\$7.00	\$6,440.00
340.01210	Sidewalk Ramp Retrofit - Method B, MCDOT Detail 2030-B	4	EA	\$2,017.58	\$8,070.32	\$800.00	\$3,200.00
340.01210	Concrete Sidewalk, Std. Dtl. 230	465	SF	\$3.09	\$1,436.85	\$3.00	\$1,395.00
340.01310	Concrete Median Paving (4" Thick, Class 'A' Concrete, Broom Finish) (Complete In-Place)	280	SF	\$13.42	\$3,757.60	\$3.00	\$840.00
340.04230	Median Nose Transition, MAG Dtl. 223 (modified) (see detail on plans) (monolithic constr.)	5	EA	\$153.76	\$768.80	\$250.00	\$1,250.00
340.12580	Bus Bay Shelter Pad, City of Scottsdale Dtl., 2238	412	SF	\$23.06	\$9,500.72	\$5.00	\$2,060.00
342.01220	Concrete Pavers, City of Scottsdale Dtl. 2239 (see detail on plans)	150	SF	\$7.60	\$1,140.00	\$4.00	\$600.00
345.01100	Adjust Manhole Frame and Cover, Std. Dtl. 422	2	EA	\$455.74	\$911.48	\$350.00	\$700.00
350.01310	Remove Existing Asphalt Pavement	1,632	SY	\$13.31	\$21,721.92	\$5.00	\$8,160.00
350.01320	Remove Existing Median Paving	680	SY	\$11.58	\$7,874.40	\$6.00	\$4,080.00
350.01800	Remove Existing Curb & Gutter	535	LF	\$5.69	\$3,044.15	\$4.00	\$2,140.00
350.01850	Remove Existing Single Curb	819	LF	\$5.18	\$4,242.42	\$3.00	\$2,457.00
350.01900	Remove Existing Concrete Sidewalk	907	LF	\$2.71	\$2,457.97	\$1.50	\$1,360.50
350.02000	Remove Existing Sidewalk Ramp	3	EA	\$520.95	\$1,562.85	\$125.00	\$375.00
401.01100	Police Officer (allowance)	1	ALLOW	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00
430.30000	Decomposed Granite (spread to 2-inch depth, compacted in-place) (by others) Not Used						
440.01104	PVC Schedule 80 Sleeve (4-inch Dia.) (Bore)	270	LF	\$44.05	\$11,893.50	\$4.00	\$1,080.00
505.06515	Scupper, MAG Detail 206-1 (modified) (see detail on plans)	6	EA	\$4,405.21	\$26,431.26	\$200.00	\$1,200.00
610.10525	Water Service Connection (Tap w/ saddle by Contractor) (1-inch service)	2	EA	\$1,762.08	\$3,524.16	\$650.00	\$1,300.00
610.10526	Water Service Line (1-inch Copper) (cap end in median)	163	LF	\$44.05	\$7,180.15	\$8.00	\$1,304.00
610.10527	Water Meter (1-inch) (Connection to Service Line by City of Avondale)	2	EA	\$2,643.13	\$5,286.26	\$500.00	\$1,000.00
610.10560	Water Meter Box & Cover, MAG Detail 320 and 311	4	EA	\$881.04	\$3,524.16	\$75.00	\$300.00
602.10050	Bore Under Pavement, Sidewalk, and Curb ( for irrigation sleeve ) (MCDOT Std. Dtl. 4821)	135	LF	\$75.95	\$10,253.25	\$34.00	\$4,590.00
602.10060	Bore Under Pavement, Sidewalk, and Curb ( for water service) (MCDOT Std. Dtl. 4821)	135	LF	\$75.95	\$10,253.25	\$34.00	\$4,590.00
<b>MARKING</b>							
460.01000	Obliteration of Existing Striping (Remove) (Paint Stripe) (4" Equiv)	25,472	LF	\$0.99	\$25,217.28	\$0.30	\$7,641.60
460.01100	Obliteration of Existing Symbol (Remove) (Single Arrow and "ONLY")	16	EA	\$151.92	\$2,430.72	\$45.00	\$720.00
350.04010	Remove Sign, Post And Base (Salvage Sign and Post - not base or foundation)	6	EA	\$75.95	\$455.70	\$100.00	\$600.00
351.46005	Relocate Sign on New Post, MCDOT Dtl. 2060	7	EA	\$75.95	\$531.65	\$200.00	\$1,400.00
351.46010	Remove Sign, Post and Base / Relocate Sign to Ped Push-Button Pole Not Used						
461.01110	4" Skip White Stripe (2-ft Stripe, 6-ft Gap) (Thermoplastic) (4" Equiv)	696	LF	\$0.60	\$417.60	\$0.22	\$153.12
461.01210	8" Yellow Chevron Markings (4" Equiv Yellow Stripe)	875	LF	\$0.84	\$735.00	\$0.80	\$700.00
461.01600	Paint Median Nose, ADOT M-1 (or MUTCD approved equal)	5	EA	\$151.92	\$759.60	\$85.00	\$425.00
462.01110	4" White Edge Stripe (Thermoplastic) (4" Equiv)	1,195	LF	\$0.60	\$717.00	\$0.22	\$262.90
462.01120	4" Skip White Stripe (10-ft Stripe, 30-ft Gap) (Thermoplastic)	7,917	LF	\$0.60	\$4,750.20	\$0.22	\$1,741.74
462.01130	18" White Stop Bar (Thermoplastic) (4" Equiv)	1,930	LF	\$0.84	\$1,621.20	\$0.80	\$1,544.00
462.01140	12" White Cross Walk (Thermoplastic) (4" Equiv)	4,445	LF	\$0.84	\$3,733.80	\$0.80	\$3,556.00
462.01150	8" Solid White Stripe (Thermoplastic) (4" Equiv)	5,908	LF	\$0.60	\$3,544.80	\$0.22	\$1,299.76
462.01210	4" Double Yellow Stripe (Thermoplastic) (4" Equiv)	2,715	LF	\$1.22	\$3,312.30	\$0.22	\$597.30
462.01511	Thermoplastic Left Turn Arrow	12	EA	\$182.30	\$2,187.60	\$130.00	\$1,560.00
462.01512	Thermoplastic Right Turn Arrow	10	EA	\$182.30	\$1,823.00	\$130.00	\$1,300.00

Item No.	Description of Materials and/or Services	Qty	Unit	Blucor		Combs	
				Unit	Total	Unit	Total
				Price	Price	Price	Price
462.01160	8" Broken White Stripe (3-ft stripe, 9-ft gap) (Thermoplastic) (4" Equiv)	1,203	LF	\$0.61	\$733.83	\$0.22	\$264.66
462.01513	Thermoplastic Lane-Reduction Arrow (merge left arrow)	1	EA	\$493.72	\$493.72	\$175.00	\$175.00
463.01100	ReflectORIZED Raised Pavement Marker (Type D, Yellow, 2-Way) Not Used						
	<b>SIGNING</b>						
464.02000	Perforated Sign Post (Square Tube) (MCDOT Dtl. 2060) (no foundation) (installed)	350	LF	\$17.47	\$6,114.50	\$12.00	\$4,200.00
465.01507	Right (symbol) Only (text), R3-5R (24 x 30)	1	EA	\$189.89	\$189.89	\$130.00	\$130.00
465.01508	Right Lanes, R3-5f (36 x 12)	1	EA	\$91.14	\$91.14	\$65.00	\$65.00
465.01509	Left Lanes, R3-5b (36 x 12)	2	EA	\$91.14	\$182.28	\$65.00	\$130.00
465.03001	Object Marker, OM-3L (12x36) (Install on Post with R4-7)	5	EA	\$113.93	\$569.65	\$80.00	\$400.00
465.01500	No Left Turn, R3-2(L) (18x18) (Install on Post with R4-7 and OM-3L)	1	EA	\$75.95	\$75.95	\$55.00	\$55.00
465.01501	Keep Right, R4-7 (24x30)	5	EA	\$189.89	\$949.45	\$130.00	\$650.00
465.01502	One Way with Arrow R6-1 (R) (36x12)	3	EA	\$113.93	\$341.79	\$80.00	\$240.00
465.01503	Left Only, R3-8D (L) (36x36)	2	EA	\$250.66	\$501.32	\$170.00	\$340.00
465.04000	Delineator D-1 -Y (6x12), MCDOT Std. Detail 2056	3	EA	\$68.36	\$205.08	\$50.00	\$150.00
465.01504	W1-7, Black on Yellow (48x24)	2	EA	\$235.47	\$470.94	\$165.00	\$330.00
465.01505	M-1, Yellow on Black (18x18)	2	EA	\$75.95	\$151.90	\$55.00	\$110.00
465.01506	Right Lane Merge Left, W4-2 (R) (36x36)	1	EA	\$250.66	\$250.66	\$170.00	\$170.00
465.03002	Object Marker, OM-3L (12x36) (Install on 'A' Pole with R4-7) (See Signal Plans)	4	EA	\$113.93	\$455.72	\$80.00	\$320.00
465.01508	Lane Ends Merge Left, W9-2(L) (36 x 36)	1	EA	\$250.66	\$250.66	\$170.00	\$170.00
465.01509	Bus Stop sign (12 x 8) (Format by City of Avondale) Not Used						
465.01510	Speed Limit 35, R2-1-35 (24x30)	1	EA	\$189.89	\$189.89	\$135.00	\$135.00
465.01511	Reduced Speed Ahead, R2-5a (24x30)	1	EA	\$189.89	\$189.89	\$135.00	\$135.00
	<b>SIGNALIZATION</b>						\$0.00
465.02100	Illuminated Street Name Sign (ILLSNS)	4	EA	\$12,001.21	\$48,004.84	\$3,300.00	\$13,200.00
470.00010	Remove & Salvage Type R Signal Pole w/ (55') SMA, (25') LMA	1	EA	\$2,278.71	\$2,278.71	\$1,800.00	\$1,800.00
471.60043	No. 3-1/2 Pull Box (Number. 3.5)	3	EA	\$455.74	\$1,367.22	\$600.00	\$1,800.00
471.60047	No. 7 Pull Box (Number 7)	2	EA	\$759.57	\$1,519.14	\$800.00	\$1,600.00
471.61113	Sch. 80 PVC Electrical Conduit, 3" (Trenching)	105	LF	\$13.67	\$1,435.35	\$18.00	\$1,890.00
471.61114	Sch. 80 PVC Electrical Conduit, 3" (Boring)	122	LF	\$75.95	\$9,265.90	\$35.00	\$4,270.00
471.61313	Sch. 80 PVC Electrical Conduit, 4" (Trenching)	167	LF	\$15.19	\$2,536.73	\$20.00	\$3,340.00
471.61314	Sch. 80 PVC Electrical Conduit, 4" (Boring)	725	LF	\$75.95	\$55,063.75	\$35.00	\$25,375.00
472.61100	Pole Foundation, Type A	3	EA	\$1,595.09	\$4,785.27	\$1,000.00	\$3,000.00
472.61400	Pole Foundation, Type R	1	EA	\$7,975.48	\$7,975.48	\$3,500.00	\$3,500.00
474.60113	Type A Signal Pole, 10' Item Pre-Ordered by City		EA				
474.60114	Type A Signal Pole, 14' Item Pre-Ordered by City		EA				
474.60770	Type R Signal Pole w/ (55') SMA, (25') LMA Item Pre-Ordered by City		EA				
474.63000	Pedestrian Push Button w/Sign (ADA Pedestrian Push Button Detectors)	4	EA	\$334.21	\$1,336.84	\$350.00	\$1,400.00
475.83100	Tomar Pre-Emption System (Emergency Vehicle Pre-emption Priority System, 4 detectors & 1 processor)	2	EA	\$10,785.90	\$21,571.80	\$8,000.00	\$16,000.00
475.84000	Video Detection System	2	EA	\$50,891.19	\$101,782.38	\$31,000.00	\$62,000.00
476.61211	12" Signal Indication, Type 'F' Signal Face, Side Mount	1	EA	\$1,671.06	\$1,671.06	\$1,200.00	\$1,200.00
476.61213	12" Signal Indication, Type 'F' Signal face, Plumbizer Mount	2	EA	\$1,519.14	\$3,038.28	\$1,200.00	\$2,400.00
476.61241	12" Signal Indication, Type 'R' Signal face, Side Mount	2	EA	\$1,595.09	\$3,190.18	\$1,200.00	\$2,400.00
476.61242	12" Signal Indication, Type 'R' Signal face, Plumbizer Mount	3	EA	\$1,367.23	\$4,101.69	\$1,200.00	\$3,600.00
476.62010	Pedestrian Signal, Side Mount	2	EA	\$1,215.31	\$2,430.62	\$800.00	\$1,600.00
478.01010	Electrical Conductors	1	LS	\$3,190.19	\$3,190.19	\$12,000.00	\$12,000.00
	<b>SUBTOTAL WITHOUT TAX</b>				\$ 820,067.60		\$ 537,505.58
	<b>TAX</b>				46,907.87		30,745.32
	<b>TOTAL CALCULATED BY STAFF</b>				<b>\$866,975.46</b>		<b>\$568,250.90</b>
	<b>TOTAL SUBMITTED BY BIDDER</b>				<b>\$821,046.67</b>		<b>\$568,250.90</b>
	Bid Bond Attached?				Yes		Yes
	Contractor License Attached?				No		Yes
	Is contract properly signed?				Yes		Yes
	Business License Attached?				No		No
	Addendum #1 attached				Yes		Yes
	Exceptions to specifications?				No		No

DCS Contracting		Ellison Mills Construction		J. Banicki		Standard		Engineer's Estimate	
Unit	Total	Unit	Total	Unit	Total	Unit	Total	Unit	Total
Price	Price	Price	Price	Price	Price	Price	Price	Price	Price
\$10,000.00	\$10,000.00	\$22,890.00	\$22,890.00	\$53,000.00	\$53,000.00	\$3,500.00	\$3,500.00	\$40,000.00	\$40,000.00
\$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
\$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
\$4,700.00	\$4,700.00	\$6,954.20	\$6,954.20	\$2,600.00	\$2,600.00	\$2,500.00	\$2,500.00	\$4,000.00	\$4,000.00
\$15,000.00	\$15,000.00	\$12,513.20	\$12,513.20	\$15,000.00	\$15,000.00	\$7,500.00	\$7,500.00	\$8,000.00	\$8,000.00
\$20,000.00	\$20,000.00	\$45,530.37	\$45,530.37	\$54,000.00	\$54,000.00	\$19,000.00	\$19,000.00	\$40,000.00	\$40,000.00
\$9.00	\$31,356.00	\$8.78	\$30,589.52	\$23.00	\$80,132.00	\$5.00	\$17,420.00	\$8.00	\$27,872.00
\$17.00	\$32,181.00	\$20.77	\$39,317.61	\$44.00	\$83,292.00	\$29.00	\$54,897.00	\$33.00	\$62,469.00
\$76.50	\$57,604.50	\$69.63	\$52,431.39	\$104.00	\$78,312.00	\$93.00	\$70,029.00	\$110.00	\$82,830.00
\$2,365.00	\$1,064.25	\$5,826.04	\$2,621.72	\$692.00	\$311.40	\$450.00	\$202.50	\$1,100.00	\$495.00
\$12.00	\$10,800.00	\$8.72	\$7,848.00	\$13.50	\$12,150.00	\$18.00	\$16,200.00	\$16.00	\$14,400.00
\$14.00	\$4,032.00	\$8.72	\$2,511.36	\$13.00	\$3,744.00	\$18.00	\$5,184.00	\$12.50	\$3,600.00
\$11.00	\$10,120.00	\$5.94	\$5,464.80	\$9.00	\$8,280.00	\$17.00	\$15,640.00	\$14.00	\$12,880.00
\$135.00	\$540.00	\$730.30	\$2,921.20	\$1,500.00	\$6,000.00	\$2,200.00	\$8,800.00	\$1,450.00	\$5,800.00
\$4.00	\$1,860.00	\$2.05	\$953.25	\$3.00	\$1,395.00	\$6.00	\$2,790.00	\$6.00	\$2,790.00
\$4.00	\$1,120.00	\$2.05	\$574.00	\$3.00	\$840.00	\$4.00	\$1,120.00	\$4.00	\$1,120.00
\$110.00	\$550.00	\$579.88	\$2,899.40	\$370.00	\$1,850.00	\$1,300.00	\$6,500.00	\$700.00	\$3,500.00
\$12.00	\$4,944.00	\$14.32	\$5,899.84	\$11.00	\$4,532.00	\$22.00	\$9,064.00	\$16.00	\$6,592.00
\$12.00	\$1,800.00	\$9.59	\$1,438.50	\$15.00	\$2,250.00	\$18.00	\$2,700.00	\$10.00	\$1,500.00
\$400.00	\$800.00	\$545.00	\$1,090.00	\$506.00	\$1,012.00	\$400.00	\$800.00	\$325.00	\$650.00
\$9.00	\$14,688.00	\$6.43	\$10,493.76	\$20.00	\$32,640.00	\$15.00	\$24,480.00	\$6.00	\$9,792.00
\$13.00	\$8,840.00	\$7.71	\$5,242.80	\$9.00	\$6,120.00	\$35.00	\$23,800.00	\$4.00	\$2,720.00
\$5.00	\$2,675.00	\$6.53	\$3,493.55	\$7.00	\$3,745.00	\$7.00	\$3,745.00	\$3.50	\$1,872.50
\$4.00	\$3,276.00	\$4.27	\$3,497.13	\$8.00	\$6,552.00	\$7.00	\$5,733.00	\$3.50	\$2,866.50
\$1.00	\$907.00	\$1.93	\$1,750.51	\$5.00	\$4,535.00	\$3.00	\$2,721.00	\$2.50	\$2,267.50
\$75.00	\$225.00	\$582.60	\$1,747.80	\$1,500.00	\$4,500.00	\$350.00	\$1,050.00	\$100.00	\$300.00
\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00
\$4.00	\$1,080.00	\$3.55	\$958.50	\$17.00	\$4,590.00	\$15.00	\$4,050.00	\$30.00	\$8,100.00
\$150.00	\$900.00	\$163.50	\$981.00	\$700.00	\$4,200.00	\$0.01	\$0.06	\$1,000.00	\$6,000.00
\$500.00	\$1,000.00	\$1,067.49	\$2,134.98	\$1,500.00	\$3,000.00	\$550.00	\$1,100.00	\$500.00	\$1,000.00
\$20.00	\$3,260.00	\$28.08	\$4,577.04	\$41.00	\$6,683.00	\$16.00	\$2,608.00	\$20.00	\$3,260.00
\$250.00	\$500.00	\$1,164.12	\$2,328.24	\$362.00	\$724.00	\$1,300.00	\$2,600.00	\$300.00	\$600.00
\$200.00	\$800.00	\$293.64	\$1,174.56	\$570.00	\$2,280.00	\$300.00	\$1,200.00	\$175.00	\$700.00
\$53.00	\$7,155.00	\$61.39	\$8,287.65	\$131.00	\$17,685.00	\$55.00	\$7,425.00	\$50.00	\$6,750.00
\$53.00	\$7,155.00	\$61.39	\$8,287.65	\$112.00	\$15,120.00	\$55.00	\$7,425.00	\$20.00	\$2,700.00
\$0.35	\$8,915.20	\$0.29	\$7,386.88	\$1.00	\$25,472.00	\$0.40	\$10,188.80	\$0.48	\$12,226.56
\$45.00	\$720.00	\$38.15	\$610.40	\$64.00	\$1,024.00	\$125.00	\$2,000.00	\$150.00	\$2,400.00
\$100.00	\$600.00	\$207.10	\$1,242.60	\$220.00	\$1,320.00	\$150.00	\$900.00	\$125.00	\$750.00
\$150.00	\$1,050.00	\$430.55	\$3,013.85	\$220.00	\$1,540.00	\$150.00	\$1,050.00	\$175.00	\$1,225.00
\$0.30	\$208.80	\$0.22	\$153.12	\$0.50	\$348.00	\$0.25	\$174.00	\$0.75	\$522.00
\$1.00	\$875.00	\$0.82	\$717.50	\$0.60	\$525.00	\$0.90	\$787.50	\$0.30	\$262.50
\$105.00	\$525.00	\$87.20	\$436.00	\$152.00	\$760.00	\$90.00	\$450.00	\$100.00	\$500.00
\$0.25	\$298.75	\$0.22	\$262.90	\$0.40	\$478.00	\$0.25	\$298.75	\$0.75	\$896.25
\$0.25	\$1,979.25	\$0.22	\$1,741.74	\$0.40	\$3,166.80	\$0.25	\$1,979.25	\$0.75	\$5,937.75
\$1.00	\$1,930.00	\$0.82	\$1,582.60	\$0.80	\$1,544.00	\$0.90	\$1,737.00	\$0.75	\$1,447.50
\$1.00	\$4,445.00	\$0.82	\$3,644.90	\$0.75	\$3,333.75	\$0.90	\$4,000.50	\$0.75	\$3,333.75
\$0.25	\$1,477.00	\$0.22	\$1,299.76	\$0.40	\$2,363.20	\$0.25	\$1,477.00	\$0.75	\$4,431.00
\$0.25	\$678.75	\$0.22	\$597.30	\$0.50	\$1,357.50	\$0.25	\$678.75	\$0.75	\$2,036.25
\$155.00	\$1,860.00	\$130.80	\$1,569.60	\$140.00	\$1,680.00	\$140.00	\$1,680.00	\$250.00	\$3,000.00
\$155.00	\$1,550.00	\$130.80	\$1,308.00	\$140.00	\$1,400.00	\$0.90	\$9.00	\$250.00	\$2,500.00

DCS Contracting		Ellison Mills Construction		J. Banicki		Standard		Engineer's Estimate	
Unit	Total	Unit	Total	Unit	Total	Unit	Total	Unit	Total
Price	Price	Price	Price	Price	Price	Price	Price	Price	Price
\$0.25	\$300.75	\$0.22	\$264.66	\$0.40	\$481.20	\$0.25	\$300.75	\$0.75	\$902.25
\$200.00	\$200.00	\$168.95	\$168.95	\$300.00	\$300.00	\$175.00	\$175.00	\$250.00	\$250.00
\$15.00	\$5,250.00	\$16.81	\$5,883.50	\$12.00	\$4,200.00	\$7.00	\$2,450.00	\$7.00	\$2,450.00
\$165.00	\$165.00	\$163.50	\$163.50	\$120.00	\$120.00	\$85.00	\$85.00	\$200.00	\$200.00
\$75.00	\$75.00	\$109.00	\$109.00	\$70.00	\$70.00	\$50.00	\$50.00	\$5.00	\$5.00
\$75.00	\$150.00	\$109.00	\$218.00	\$70.00	\$140.00	\$50.00	\$100.00	\$75.00	\$150.00
\$95.00	\$475.00	\$92.65	\$463.25	\$70.00	\$350.00	\$50.00	\$250.00	\$60.00	\$300.00
\$65.00	\$65.00	\$109.00	\$109.00	\$50.00	\$50.00	\$37.00	\$37.00	\$105.00	\$105.00
\$160.00	\$800.00	\$163.50	\$817.50	\$118.00	\$590.00	\$80.00	\$400.00	\$150.00	\$750.00
\$95.00	\$285.00	\$163.50	\$490.50	\$70.00	\$210.00	\$50.00	\$150.00	\$95.00	\$285.00
\$215.00	\$430.00	\$207.10	\$414.20	\$200.00	\$400.00	\$140.00	\$280.00	\$200.00	\$400.00
\$55.00	\$165.00	\$27.25	\$81.75	\$189.00	\$567.00	\$30.00	\$90.00	\$60.00	\$180.00
\$200.00	\$400.00	\$190.75	\$381.50	\$189.00	\$378.00	\$130.00	\$260.00	\$175.00	\$350.00
\$65.00	\$130.00	\$109.00	\$218.00	\$54.00	\$108.00	\$35.00	\$70.00	\$105.00	\$210.00
\$215.00	\$215.00	\$190.75	\$190.75	\$212.00	\$212.00	\$150.00	\$150.00	\$155.00	\$155.00
\$95.00	\$380.00	\$92.65	\$370.60	\$70.00	\$280.00	\$50.00	\$200.00	\$60.00	\$240.00
\$215.00	\$215.00	\$190.75	\$190.75	\$212.00	\$212.00	\$150.00	\$150.00	\$155.00	\$155.00
\$160.00	\$160.00	\$163.50	\$163.50	\$118.00	\$118.00	\$83.00	\$83.00	\$150.00	\$150.00
\$160.00	\$160.00	\$163.50	\$163.50	\$118.00	\$118.00	\$83.00	\$83.00	\$150.00	\$150.00
\$5,200.00	\$20,800.00	\$7,779.33	\$31,117.32	\$13,000.00	\$52,000.00	\$4,500.00	\$18,000.00	\$1,200.00	\$4,800.00
\$1,000.00	\$1,000.00	\$3,399.71	\$3,399.71	\$3,400.00	\$3,400.00	\$900.00	\$900.00	\$4,200.00	\$4,200.00
\$675.00	\$2,025.00	\$458.89	\$1,376.67	\$500.00	\$1,500.00	\$600.00	\$1,800.00	\$400.00	\$1,200.00
\$850.00	\$1,700.00	\$786.98	\$1,573.96	\$800.00	\$1,600.00	\$750.00	\$1,500.00	\$700.00	\$1,400.00
\$20.00	\$2,100.00	\$15.26	\$1,602.30	\$15.00	\$1,575.00	\$19.00	\$1,995.00	\$45.00	\$4,725.00
\$47.00	\$5,734.00	\$74.12	\$9,042.64	\$84.00	\$10,248.00	\$43.00	\$5,246.00	\$42.00	\$5,124.00
\$26.00	\$4,342.00	\$16.35	\$2,730.45	\$17.00	\$2,839.00	\$24.00	\$4,008.00	\$48.00	\$8,016.00
\$52.00	\$37,700.00	\$55.59	\$40,302.75	\$84.00	\$60,900.00	\$46.00	\$33,350.00	\$45.00	\$32,625.00
\$1,200.00	\$3,600.00	\$970.10	\$2,910.30	\$1,800.00	\$5,400.00	\$1,000.00	\$3,000.00	\$1,200.00	\$3,600.00
\$2,300.00	\$2,300.00	\$3,028.02	\$3,028.02	\$3,000.00	\$3,000.00	\$2,000.00	\$2,000.00	\$3,500.00	\$3,500.00
\$390.00	\$1,560.00	\$248.52	\$994.08	\$380.00	\$1,520.00	\$350.00	\$1,400.00	\$350.00	\$1,400.00
\$3,775.00	\$7,550.00	\$6,183.57	\$12,367.14	\$12,000.00	\$24,000.00	\$3,200.00	\$6,400.00	\$5,000.00	\$10,000.00
\$37,200.00	\$74,400.00	\$15,528.14	\$31,056.28	\$50,000.00	\$100,000.00	\$30,000.00	\$60,000.00	\$10,000.00	\$20,000.00
\$1,200.00	\$1,200.00	\$1,076.92	\$1,076.92	\$1,800.00	\$1,800.00	\$1,000.00	\$1,000.00	\$1,100.00	\$1,100.00
\$1,000.00	\$2,000.00	\$898.16	\$1,796.32	\$1,600.00	\$3,200.00	\$900.00	\$1,800.00	\$1,300.00	\$2,600.00
\$1,200.00	\$2,400.00	\$934.13	\$1,868.26	\$1,700.00	\$3,400.00	\$1,000.00	\$2,000.00	\$1,100.00	\$2,200.00
\$995.00	\$2,985.00	\$801.15	\$2,403.45	\$1,400.00	\$4,200.00	\$900.00	\$2,700.00	\$1,300.00	\$3,900.00
\$650.00	\$1,300.00	\$655.09	\$1,310.18	\$1,300.00	\$2,600.00	\$600.00	\$1,200.00	\$800.00	\$1,600.00
\$10,200.00	\$10,200.00	\$14,395.63	\$14,395.63	\$3,500.00	\$3,500.00	\$9,000.00	\$9,000.00	\$15,000.00	\$15,000.00
	\$ 553,962.25		\$ 571,185.47		\$ 933,972.85		\$ 592,856.86		\$ 569,272.31
	31,686.64		32,671.81		53,423.25		33,911.41		32,562.38
	<b>\$585,648.89</b>		<b>\$603,857.28</b>		<b>\$987,396.10</b>		<b>\$626,768.27</b>		<b>\$601,834.69</b>
	<b>\$585,676.58</b>		<b>\$603,857.30</b>		<b>\$983,972.85</b>		<b>\$622,707.07</b>		
	Yes		Yes		Yes		Yes		
	Yes		Yes		Yes		Yes		
	Yes		Yes		Yes		Yes		
	Yes		Yes		Yes		Yes		
	Yes		Yes		Yes		Yes		
	No		No		No		No		



# CITY COUNCIL REPORT

**SUBJECT:**

Construction Contract - Talis Construction Corporation -  
Van Street Sidewalks Project

**MEETING DATE:**

April 7, 2008

**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 Talis Construction Corporation for the construction of sidewalk and landscaping improvements for Van Buren Street between La Jolla Boulevard and Central Avenue, in the amount of \$157,874.39 and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

**BACKGROUND:**

The approved 2007-2008 Capital Improvement Program (CIP) included this project to improve pedestrian safety through the Van Buren Street Corridor (see attached vicinity map). The City of Avondale received a MAG Pedestrian Assistance Grant in FY 2006-2007 for 95% of the design work. On October 30, 2007, a professional services agreement with E Group and Associates was approved by the City Manager to finalize the design and construction contract documents for the project.

This project will install a new six (6) foot sidewalk along the south side of Van Buren Street. In conjunction with the grant requirements, landscaping improvements will also be completed to provide a pedestrian friendly corridor. The existing ramps and driveways will be completely reconstructed and replaced with ADA compliant features.

**DISCUSSION:****SCOPE OF WORK:**

The scope of work for this project will include:

- Installation of approximately ¼ mile of sidewalk
- Reconstruction of driveways and ramps
- Installation of trees and decomposed granite

**BID PROCESS:**

Requests-for-Bid notices were published in the West Valley View on February 19 and 22, 2008 and in the Arizona Business Gazette on February 21, 2008. The Engineering Department held a pre-bid meeting on March 4, 2008. Seven (7) bids were received and opened on March 13, 2008. Each bid package was reviewed and all bidders met the bidding requirements. The firms submitting bids and the amount of their bids are as follows:

<b>BIDDER</b>	<b>BID AMOUNT</b>	<b>M/DBE</b>
Talis Construction	\$157,874.39	No
Combs Construction	\$163,603.81	No
442 Construction	\$173,196.00	No

Standard Construction	\$180,975.11	No
ELS Construction	\$185,842.79	No
Visus Engineering Construction	\$190,988.25	No
AAA Landscape	\$242,246.81	No

See the attached Bid Tabulation Sheet for a detailed, bid item breakdown of each submitted bid.

Talis Construction, with a bid of \$157,874.39, was determined to have submitted the lowest, responsible and qualified bid. Staff contacted references and believes Talis Construction to be competent and qualified for this project. Talis Construction has successfully completed similar work for other local government agencies. Staff contacted the Registrar of Contractors and found no claims on file against this contractor.

**SCHEDULE:**

A tentative construction schedule is as follows:

<b>PROJECT MILESTONES</b>	<b>TARGET DATES</b>
Issue Notice of Award	4/08/08
Pre-Construction Conference	4/21/08
Notice-to-Proceed	4/22/08
Begin Construction	4/23/08
Completion	7/07/08

**BUDGETARY IMPACT:**

Funding for this project is available in the Street Fund Line Item No. 304-1218-00-8420 (Van Buren Sidewalks) in the amount of \$157,875.39.

**RECOMENDATION:**

Staff recommends that the City Council award a construction contract to Talis Construction Corporation for the construction of sidewalk and landscaping improvements for Van Buren Street between La Jolla Boulevard and Central Avenue, in the amount of \$157,874.39 and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

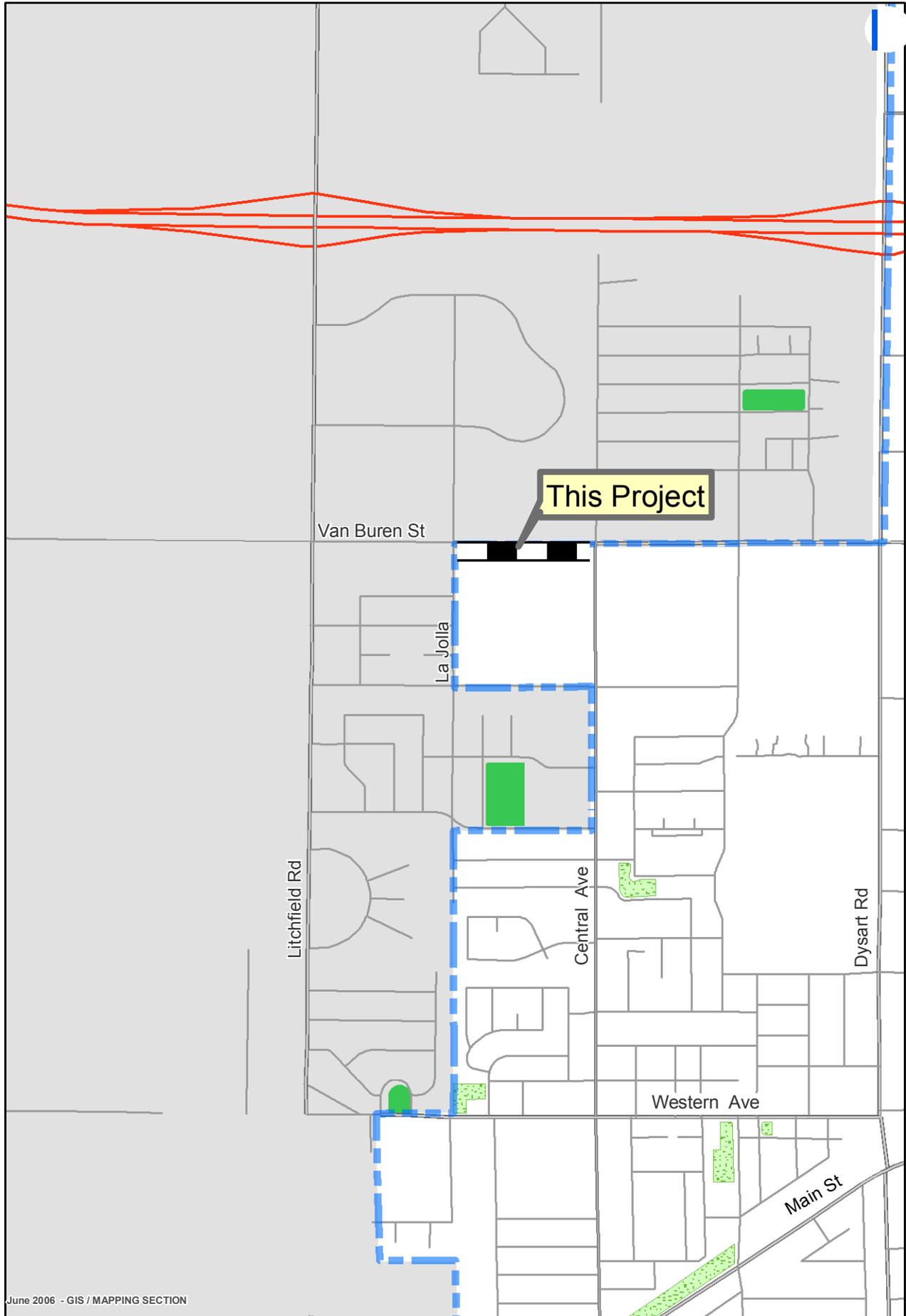
The contract is on file with the City Clerk.

**ATTACHMENTS:**

Click to download

-  [Project Vicinity Map](#)
-  [Bid Tabulation Sheet](#)

# VICINITY MAP

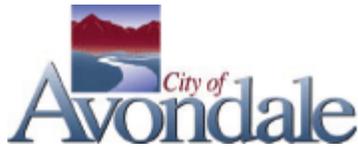


June 2006 - GIS / MAPPING SECTION

## CITY OF AVONDALE Van Buren St Sidewalks

**BID TABULATION**  
**ST1218 - Van Buren Sidewalk Project**  
**BID DATE: March 13, 2008**

Item No.	Description of Materials and/or services	Qty	Unit	442 Construction		Talis Construction		AAA Landscape		ELS Construction		Visus Engineering Cons.		Combs Construction		Standard Construction		Engineer's Estimate		
				Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price
107.04000	Miscellaneous Reimbursables (ALLOWANCE)	1	ALLOW	\$ 10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00
107.15000	Community Relations (ALLOWANCE)	1	ALLOW	\$ 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
108.01000	Preparation of As-Built Plans	1	LS	\$ 1,825.00	\$1,825.00	\$1,000.00	\$1,000.00	\$3,104.00	\$3,104.00	\$1,955.00	\$1,955.00	\$500.00	\$500.00	\$500.00	\$500.00	\$600.00	\$600.00	\$4,000.00	\$4,000.00	\$4,000.00
108.01010	Construction Surveying and Layout	1	LS	\$ 3,250.00	\$3,250.00	\$4,200.00	\$4,200.00	\$8,691.00	\$8,691.00	\$3,965.00	\$3,965.00	\$2,500.00	\$2,500.00	\$10,080.00	\$10,080.00	\$4,200.00	\$4,200.00	\$6,000.00	\$6,000.00	\$6,000.00
109.09000	Mobilization/Demobilization	1	LS	\$ 6,481.30	\$6,481.30	\$3,000.00	\$3,000.00	\$40,815.00	\$40,815.00	\$9,875.00	\$9,875.00	\$6,000.00	\$6,000.00	\$15,000.00	\$15,000.00	\$2,500.00	\$2,500.00	\$10,000.00	\$10,000.00	\$10,000.00
310.03275	Aggregate Base Course	153	TON	\$ 51.60	\$7,894.80	\$54.00	\$8,262.00	\$11.17	\$1,709.01	\$68.30	\$10,449.90	\$30.00	\$4,590.00	\$25.00	\$3,825.00	\$48.00	\$7,344.00	\$60.00	\$9,180.00	\$9,180.00
321.00200	AC Pavement (12.5 mm)	26	TON	\$ 190.00	\$4,940.00	\$105.00	\$2,730.00	\$775.97	\$20,175.22	\$156.65	\$4,072.90	\$90.00	\$2,340.00	\$98.00	\$2,548.00	\$105.00	\$2,730.00	\$90.00	\$2,340.00	\$2,340.00
321.01300	AC Pavement (19 mm)	34	TON	\$ 190.00	\$6,460.00	\$105.00	\$3,570.00	\$602.87	\$20,497.58	\$145.45	\$4,945.30	\$200.00	\$6,800.00	\$88.00	\$2,992.00	\$105.00	\$3,570.00	\$95.00	\$3,230.00	\$3,230.00
340.01110	Vertical Curb & Gutter, MAG 222 Type 'A'	345	L.FT.	\$ 17.50	\$6,037.50	\$18.00	\$6,210.00	\$9.93	\$3,425.85	\$13.00	\$4,485.00	\$20.00	\$6,900.00	\$9.00	\$3,105.00	\$18.00	\$6,210.00	\$15.00	\$5,175.00	\$5,175.00
340.01210	Concrete Sidewalk, MAG 230 w/special pavement	4,128	SQ.FT.	\$ 3.40	\$14,035.20	\$5.00	\$20,640.00	\$3.01	\$12,425.28	\$3.65	\$15,067.20	\$5.00	\$20,640.00	\$4.00	\$16,512.00	\$4.00	\$16,512.00	\$9.00	\$37,152.00	\$37,152.00
340.01300	Pedestrian Ramp, MAG 231, Type 'A'	1	EA	\$ 1,282.00	\$1,282.00	\$1,500.00	\$1,500.00	\$1,105.00	\$1,105.00	\$2,230.00	\$2,230.00	\$3,000.00	\$3,000.00	\$1,300.00	\$1,300.00	\$2,800.00	\$2,800.00	\$2,000.00	\$2,000.00	\$2,000.00
340.01410	Residential Driveway, MAG 250-modified	5	EA	\$ 3,505.00	\$17,525.00	\$1,800.00	\$9,000.00	\$1,545.73	\$7,728.65	\$2,265.00	\$11,325.00	\$5,000.00	\$25,000.00	\$1,500.00	\$7,500.00	\$2,900.00	\$14,500.00	\$2,500.00	\$12,500.00	\$12,500.00
345.01500	Adjust Water Meter to Grade	5	EA	\$ 206.50	\$1,032.50	\$350.00	\$1,750.00	\$620.77	\$3,103.85	\$178.50	\$892.50	\$200.00	\$1,000.00	\$30.00	\$150.00	\$400.00	\$2,000.00	\$350.00	\$1,750.00	\$1,750.00
345.02000	Adjust Traffic Pull Box to Grade	3	EA	\$ 256.50	\$769.50	\$350.00	\$1,050.00	\$217.27	\$651.81	\$183.60	\$550.80	\$200.00	\$600.00	\$30.00	\$90.00	\$400.00	\$1,200.00	\$350.00	\$1,050.00	\$1,050.00
350.01301	(Sawcut&) Remove Existing Asphalt Pavement	498	SY	\$ 21.40	\$10,657.20	\$10.75	\$5,353.50	\$16.76	\$8,346.48	\$7.60	\$3,784.80	\$3.00	\$1,494.00	\$4.00	\$1,992.00	\$9.00	\$4,482.00	\$20.00	\$9,960.00	\$9,960.00
350.01800	Remove Existing Curb and Gutter	259	L.FT.	\$ 16.50	\$4,273.50	\$6.00	\$1,554.00	\$8.69	\$2,250.71	\$12.10	\$3,133.90	\$12.00	\$3,108.00	\$3.00	\$777.00	\$11.00	\$2,849.00	\$10.00	\$2,590.00	\$2,590.00
350.01801	Remove Existing Single Curb	462	SQ.FT.	\$ 16.50	\$7,623.00	\$5.00	\$2,310.00	\$7.45	\$3,441.90	\$10.00	\$4,620.00	\$12.00	\$5,544.00	\$2.00	\$924.00	\$11.00	\$5,082.00	\$10.00	\$4,620.00	\$4,620.00
350.01901	Remove Existing Sidewalk, Driveway or Valley Gutt	62	SF	\$ 2.00	\$124.00	\$7.25	\$449.50	\$3.10	\$192.20	\$11.90	\$737.80	\$12.00	\$744.00	\$7.50	\$465.00	\$4.00	\$248.00	\$6.00	\$372.00	\$372.00
351.04000	Relocate Existing Stop/Street Sign	1	EA	\$ 60.00	\$60.00	\$350.00	\$350.00	\$559.00	\$559.00	\$305.00	\$305.00	\$400.00	\$400.00	\$300.00	\$300.00	\$250.00	\$250.00	\$450.00	\$450.00	\$450.00
401.01000	Traffic Control	1	LS	\$ 4,074.00	\$4,074.00	\$5,000.00	\$5,000.00	\$9,312.00	\$9,312.00	\$6,018.00	\$6,018.00	\$10,000.00	\$10,000.00	\$18,520.00	\$18,520.00	\$9,000.00	\$9,000.00	\$11,000.00	\$11,000.00	\$11,000.00
410.01400	Concrete Curb Stops, MAG 150 Type B-3	7	EA	\$ 40.00	\$280.00	\$225.00	\$1,575.00	\$80.70	\$564.90	\$136.00	\$952.00	\$40.00	\$280.00	\$85.00	\$595.00	\$125.00	\$875.00	\$300.00	\$2,100.00	\$2,100.00
430.01050	36" Box Trees (Southern Live Oak)	17	EA	\$ 582.00	\$9,894.00	\$600.00	\$10,200.00	\$568.50	\$9,664.50	\$663.00	\$11,271.00	\$1,000.00	\$17,000.00	\$450.00	\$7,650.00	\$600.00	\$10,200.00	\$800.00	\$13,600.00	\$13,600.00
430.02000	Tree Grate 30x60-inch Half w/light well & powder coat finish	17	EA	\$ 1,288.00	\$21,896.00	\$750.00	\$12,750.00	\$1,772.31	\$30,129.27	\$1,275.00	\$21,675.00	\$1,200.00	\$20,400.00	\$1,300.00	\$22,100.00	\$1,900.00	\$32,300.00	\$1,500.00	\$25,500.00	\$25,500.00
430.30000	Decomposed Granite (2-inch deep) w/pre-emergent weed contro	3,000	SQ.FT.	\$ 0.90	\$2,700.00	\$0.80	\$2,400.00	\$0.48	\$1,440.00	\$0.51	\$1,530.00	\$1.00	\$3,000.00	\$1.25	\$3,750.00	\$0.50	\$1,500.00	\$0.65	\$1,950.00	\$1,950.00
440.01100	PVC laterals	1,000	L.FT.	\$ 2.50	\$2,500.00	\$3.00	\$3,000.00	\$1.37	\$1,370.00	\$1.53	\$1,530.00	\$3.00	\$3,000.00	\$1.50	\$1,500.00	\$2.00	\$2,000.00	\$2.50	\$2,500.00	\$2,500.00
440.01104	Irrigation Sleeving (PVC)-Schedule 80	200	L.FT.	\$ 2.40	\$480.00	\$7.00	\$1,400.00	\$3.40	\$680.00	\$6.12	\$1,224.00	\$8.00	\$1,600.00	\$5.00	\$1,000.00	\$7.00	\$1,400.00	\$12.00	\$2,400.00	\$2,400.00
440.01300	Control Valve	1	EA	\$ 439.00	\$439.00	\$550.00	\$550.00	\$412.00	\$412.00	\$306.00	\$306.00	\$500.00	\$500.00	\$250.00	\$250.00	\$300.00	\$300.00	\$250.00	\$250.00	\$250.00
440.01400	Irrigation Solar Controller	1	EA	\$ 1,333.00	\$1,333.00	\$1,450.00	\$1,450.00	\$1,215.00	\$1,215.00	\$1,530.00	\$1,530.00	\$2,500.00	\$2,500.00	\$2,000.00	\$2,000.00	\$3,200.00	\$3,200.00	\$2,800.00	\$2,800.00	\$2,800.00
440.03000	Multi-port Emitter	17	EA	\$ 48.50	\$824.50	\$21.00	\$357.00	\$31.99	\$543.83	\$36.00	\$612.00	\$30.00	\$510.00	\$35.00	\$595.00	\$19.00	\$323.00	\$5.00	\$85.00	\$85.00
461.00010	Signage and Marking	1	LS	\$ 600.00	\$600.00	\$1,000.00	\$1,000.00	\$1,552.00	\$1,552.00	\$1,720.00	\$1,720.00	\$1,000.00	\$1,000.00	\$100.00	\$100.00	\$500.00	\$500.00	\$3,000.00	\$3,000.00	\$3,000.00
505.09100	Concrete Wall per Detail	82	L.FT.	\$ 43.00	\$3,526.00	\$80.00	\$6,560.00	\$27.31	\$2,239.42	\$49.35	\$4,046.70	\$90.00	\$7,380.00	\$26.00	\$2,132.00	\$35.00	\$2,870.00	\$45.00	\$3,690.00	\$3,690.00
610.08501	Relocate Fire Hydrant	3	EA	\$ 1,611.00	\$4,833.00	\$4,100.00	\$12,300.00	\$3,103.87	\$9,311.62	\$7,815.00	\$23,445.00	\$3,000.00	\$9,000.00	\$2,600.00	\$7,800.00	\$4,200.00	\$12,600.00	\$3,000.00	\$9,000.00	\$9,000.00
610.10544	Irrigation Meter (1-inch)	1	EA	\$ 500.00	\$500.00	\$1,200.00	\$1,200.00	\$1,694.00	\$1,694.00	\$1,530.00	\$1,530.00	\$3,000.00	\$3,000.00	\$1,700.00	\$1,700.00	\$550.00	\$550.00	\$1,500.00	\$1,500.00	\$1,500.00
630.60201	Irrigation Backflow Assembly (1-inch)	1	EA	\$ 1,383.00	\$1,383.00	\$2,100.00	\$2,100.00	\$1,411.00	\$1,411.00	\$1,545.00	\$1,545.00	\$1,000.00	\$1,000.00	\$2,000.00	\$2,000.00	\$2,300.00	\$2,300.00	\$1,800.00	\$1,800.00	\$1,800.00
<b>SUBTOTAL WITHOUT TAX</b>					\$164,533.00		\$149,771.00		\$224,762.08		\$176,329.80		\$186,330.00		\$154,752.00		\$171,995.00		\$208,544.00	\$208,544.00
<b>TAX</b>					\$9,411.29		\$8,566.90		\$12,856.39		\$10,086.06		\$10,658.08		\$8,851.81		\$9,838.11		\$12,512.64	\$12,512.64
<b>TOTAL CALCULATED BY STAFF</b>					<b>\$173,944.29</b>		<b>\$158,337.90</b>		<b>\$237,618.47</b>		<b>\$186,415.86</b>		<b>\$196,988.08</b>		<b>\$163,603.81</b>		<b>\$181,833.11</b>		<b>\$221,056.64</b>	<b>\$221,056.64</b>
<b>TOTAL SUBMITTED BY BIDDER</b>					<b>\$173,196.00</b>		<b>\$157,874.39</b>		<b>\$242,246.81</b>		<b>\$185,842.79</b>		<b>\$190,988.25</b>		<b>\$163,603.81</b>		<b>\$180,975.11</b>			
Bid Bond Attached?					Yes		Yes		Yes		Yes		Yes		Yes		Yes		Yes	
Contractor License Attached?					Yes		Yes		Yes		Yes		Yes		Yes		Yes		Yes	
Is contract properly signed?					Yes		Yes		Yes		Yes		Yes		Yes		Yes		Yes	
Business License Attached?					No		Yes		Yes		Yes		Yes		Yes		Yes		Yes	
Exceptions to specifications?					No		No		No		No		No		No		No		No	



# CITY COUNCIL REPORT

**SUBJECT:**

Award a Contract for the Mt. View Well Modification to the Weber Group for \$65,625.40.

**MEETING DATE:**

April 7, 2008

**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 award a contract to the Weber Group, L.C. for the purpose of completing the Mountain View Well Modifications for an amount not to exceed \$65,625.40 and authorize the Mayor or City Manager and the City Clerk to execute the necessary documents.

**BACKGROUND:**

In 1972 the City drilled and equipped Well No. 5 (Mt. View Well), located on the northwest corner of Mountain ViewPark. The facility consisted of a 1,500 gallon per minute well (GPM), one 300,000 gallon reservoir and two booster pumps with a total capacity of 900 GPM. This facility provided a majority of the City's water supply during the 70's and 80's. In the mid 1990's the well was taken off line due to high nitrate levels, and decreasing well production (well production dropped to 500 GPM). The reservoir and booster facilities continued to be used through 2006.

In 2003 URS was retained to evaluate the feasibility of putting the well back in service. URS recommended decommissioning the well due to poor water quality with nitrate concentrations of 9.4 mg/l which is slightly below drinking water standards of 10 mg/l. They also found that the well production rate did not warrant its rehabilitation for potable water use.

Additional well evaluations were conducted in 2006 with a recommendation that Well No. 5 could be modified at a reasonable cost for use as an irrigation well for Festival Fields. Based upon this recommendation, a non-potable water line was installed between the well site and Festival Fields in conjunction with the construction of the park. The planned modifications will reduce the amount of sand being produced by the well through the installation of new well casing and other minor improvements. With the modifications the well should be suitable for irrigation use for many years to come.

In April 2007 Staff selected AMEC Earth and Environmental, using the Professional Services Pre-Qualified list, to develop a technical specification for the well modification project. AMEC provided assistance during the bidding phase of the project and will provide construction oversight during the construction phase of the project. AMEC has also assisted with permitting and regulatory reporting.

**DISCUSSION:**

The bid announcement for this contract was advertised in the West Valley View on February 12th & 15th, the Arizona Business Gazette on February 14th, and Buy Hub on February 12th. A mandatory pre-bid meeting was held on February 27, 2008, and was attended by four potential bidders: AZCA Drilling & Pump, Inc., Layne Christensen Company, SW WaterWorks Contractors, Inc/Zim Industries and the Weber Group. Three contractors submitted bids for this project:

The Weber Group	\$65,625.40
Layne Christensen	\$84,534.77

AZCA Drilling & Pump \$89,418.00

No complaints have been lodged against The Weber Group, according to the State Registrar of Contractors Office. Staff has contacted the list of references provided by the contractor, and found no reason to disqualify The Weber Group. The Weber Group has successfully completed a number of projects for the City, included the installation of two booster pumps at the Coldwater Springs Booster Station and the Rancho Santa Fe On-Site Chlorine Generation Facility.

The scope of the contract will include:

- Brushing/bailing well
- Well pump inspection, maintenance/repair
- Installation of 12 inch well casing and filter pack
- Installation of sanitary seal and well pad

Under the terms of the project, the contractor is allowed 90 calendar days to complete the project.

The tentative completion schedule for the project is:

- Award by Council April 7, 2008
- Pre-Construction Conference/Notice to Proceed May 7, 2008
- Begin Work May 22, 2008
- Project complete August 22, 2008

**BUDGETARY IMPACT:**

Funding for the Mt. View Well Modification project is available in the Water Resources – Water Maintenance Operating Budget 501-9122-00-8630.

**RECOMENDATION:**

Staff recommends that the City Council award a contract to the Weber Group, L.C. for the purpose of completing the Mountain View Well Modifications for an amount not to exceed \$65,625.40 and authorize the Mayor or City Manager and the City Clerk to execute the necessary documents.

**ATTACHMENTS:**

Click to download

 [Agreement](#)



## INVITATION FOR BID

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

Solicitation Number: **WR 07-060**

Solicitation Title: **Mountain View Well Modification**

Release Date: **Tuesday, February 12, 2008**

**Mandatory Prospective Bidders' Conference:** **Wednesday, February 27, 2008**  
**2:00 PM**  
(local-time, Phoenix, Arizona) **203 East Mountain View Drive**  
**Avondale, Arizona 85323**

Bid Deadline: **Thursday, March 13, 2008**  
(local time, Phoenix, Arizona) **3:00 PM**

Bid Opening: **Thursday, March 13, 2008**  
(local time, Phoenix, Arizona) **3:00 PM**

Contract Representatives: **Steve Ruppenthal** [sruppenthal@avondale.org](mailto:sruppenthal@avondale.org)  
**Mary Rogers** [mrogers@avondale.org](mailto:mrogers@avondale.org)  
623-333-4433  
623-333-2030

In accordance with the City of Avondale Procurement Code, competitive sealed Bids for the services specified herein will be received by the City Clerk at the City Clerk's Office at the above-referenced location until the date and time cited below (the "Bid Deadline"). Bids received by the Bid Deadline shall be publicly opened and the Bid Price read. Bids shall be in the actual possession of the City Clerk on, or prior to, the Bid Deadline Date. Late Bids shall not be considered except as provided in the City Procurement Code. Bids shall be submitted in a sealed envelope with the Solicitation Number and the Bidder's name and address clearly indicated on the front of the envelope.

Plans and Technical Specifications prepared by:

**City of Avondale**

There is no charge for the first set of Plans and Specifications.  
Plans and Specifications may be picked up at the City of Avondale.

**CITY OF AVONDALE**  
**WATER RESOURCES DEPARTMENT**  
**WR 07-060**

**OFFER**

OFFER

The undersigned (the "Bidder") hereby offers this Bid (the "Offer") and certifies that Bidder has read, understands and agrees to fully comply with all terms and conditions as set forth in this Contract, and any amendments thereto, together with all Special Terms and Conditions and other documents included as part of this Contract.

**BY SIGNING THIS PAGE THE SUBMITTING BIDDER CERTIFIES THAT BIDDER HAS REVIEWED THIS CONTRACT AND ALL CORRESPONDING IFB TERMS AND CONDITIONS AND AGREES TO BE CONTRACTUALLY BOUND BY THEM.**

<p>Arizona Transaction (Sales) Privilege Tax License Number: <u>07-592407-R</u></p> <p>Federal Employer Identification Number: <u>Weber Group L.C.</u> Contractor Name</p> <p><u>16825 S. Weber Dr</u> Address</p> <p><u>Chandler, AZ</u>      <u>85226</u> City                      State                      Zip Code</p>	<p>For Clarification of this Bid contact:</p> <p>Name: <u>Greg Simpson</u></p> <p>Telephone: <u>480-961-1141</u></p> <p>Facsimile: <u>480-961-0290</u></p> <p>Email: <u>gsimpson@webergrouplc.com</u></p> <p><u>Jeffery P. Wold</u> Authorized Signature for Contractor</p> <p><u>Jeffery P. Wold</u> Printed Name</p> <p><u>Senior Vice President</u> Title</p>
---	--

**ACCEPTANCE OF OFFER AND NOTICE OF AWARD (FOR CITY OF AVONDALE USE ONLY)**

Effective Date: \_\_\_\_\_ Contract No. \_\_\_\_\_ Official File: \_\_\_\_\_

CITY OF AVONDALE, an Arizona municipal corporation

\_\_\_\_\_  
Charles P. McClendon, City Manager

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Linda M. Farris, City Clerk

\_\_\_\_\_  
Andrew J. McGuire, City Attorney

**SECTION I**  
**INTRODUCTION; SPECIAL TERMS AND CONDITIONS**

**I. INTRODUCTION; SPECIAL TERMS AND CONDITIONS**

1. Project Description. This project encompasses modification of the Mountain View Well (55-608733). The well is located at the northwest corner of Mountain View Park (see Figure 1 of the Specifications). The approximate site address is 203 East Mountain View Road, Avondale, Arizona. The jobsite is fully accessible and the well site does not have any identified safety or logistical problems. Overhead power is located at the street curb access. Photographs of the site layout and wellhead access are presented in Figures 2 and 3 of the Specifications. The current vertical turbine pump motor was not installed at the time of photographs.

2. Offer Acceptance Period. Contractor Offers shall be valid and irrevocable for **90** days after the Bid Opening.

3. Contract Time. The Contract Time for this Project shall be **90** days from the Notice to Proceed. All Work on the Project shall be completed on or before the expiration of the Contract Time.

4. Plans and Specifications to Successful Contractor. The successful Contractor may obtain **seven** sets of plans and specifications for this project from the Engineer at no cost.

**II. DEFINITIONS**

For purposes of this solicitation, the following definitions shall apply:

“Bid” or “Offer” means a responsive bid or quotation submitted by a Bidder in response to this IFB.

“Bid Deadline” means the date and time set forth on the cover of this IFB for the City Clerk to be in actual possession of the sealed Bids.

“Bid Opening” means the date and time set forth on the cover of this IFB for opening of sealed bids.

“Bidder” means any person or firm submitting a competitive Bid in response to this IFB.

“Days” means calendar days unless otherwise specified.

“City” means the City of Avondale, an Arizona municipal corporation.

“Confidential Information” means that portion of a Bid, proposal, Offer, specification or protest that contains information that the person submitting the information believes should be withheld, provided (i) such person submits a written statement advising the City of this fact at the time of the submission and (ii) the information shall be so identified wherever it appears.

“Contract” means, collectively, the (i) the Offer, (ii) the Special Terms & Conditions, (iii) the General Terms & Conditions, (iv) the Specifications attached hereto as Exhibit A, (v) the Contractor Exceptions to Specifications, attached hereto as Exhibit B, (vi) the Price Sheet attached hereto as Exhibit C, (vii) the Bid Bond attached hereto as Exhibit D, (viii) the Performance Bond attached hereto as Exhibit E, (ix) the Payment Bond attached hereto as Exhibit F, (x) the Notice of Award, (xi) the Notice to Proceed, (xii) any approved Change Order or Addenda, (xiii) Contractor’s Certificates of Insurance and (xiv) the Certificate of Completion.

“Contractor” means the individual, partnership, or corporation who has submitted a Bid in response to this IFB and who, as a result of the competitive bidding process, is awarded a contract for materials or services by the City.

“Contract Representative” means a City employee who has specifically been designated to act as a contact person to the Bidders and/or Contractor, and who is responsible for monitoring and overseeing the Contractor’s performance under the Contract.

“Contract Time” means the time paid during which the Contractor must complete all of the Work related to the Project.

“Engineer” means the City Engineer or authorized designee.

“Invitation for Bids” or “IFB” means this request by the City for participation in the competitive bidding process according to all documents, including those attached or incorporated herein by reference, utilized for soliciting Bids for the materials and/or services set forth above in compliance with the provisions of the City Procurement Code.

“MAG Specifications” means, collectively, the “Uniform Standard Specifications for Public Works Construction, 1998 Edition with Revisions through 2007” and the “Uniform Standard Details for Public Works Construction, 1998 Edition with Revisions through 2007” which are sponsored and distributed by the Maricopa Association of Governments (“MAG”) and any amendments or supplements adopted by the City.

***DEFINITIONS***

---

“Materials” means any personal property, including equipment and supplies provided by the Contractor in conjunction with the Contract and shall include, in addition to materials incorporated in the Project, equipment and other material used and/or consumed in the performance of the Work.

“Multiple Award” means an award of an indefinite quantity contract for one or more similar products, commodities or services to more than one Bidder.

“Price” means the total expenditure for a defined quantity of a commodity or service.

“Procurement Agent” means the City Manager or authorized designee.

“Procurement Code” means the City of Avondale Procurement Code, as amended from time to time.

“Project” means the purpose and work described in the “Project Description” set forth in Section I of the IFB.

“Services” means the furnishing of labor, time or effort by a Contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance and as further defined in the Contract. This term does not include “professional services” as defined in the Procurement Code.

“Specification” means any description of the physical characteristics, functional characteristics, or the nature of a commodity, product, supply or services. The term may include a description of any requirements for inspecting, testing, or preparing a supply or service item for delivery.

“Subcontractor” means those persons or groups of persons having a direct contract with the Contractor and those who furnish material worked to a special design according to the plans and/or Specifications for this Work, and includes those who merely furnish materials.

“Substantial Completion” of the Work or of a designated portion thereof, occurs on the date when construction is sufficiently complete in accordance with the Contract so that the City can safely occupy and fully utilize the Project, or a designated portion thereof, for the use for which it is intended. This date shall be confirmed by a certificate of Substantial Completion signed by the City and the Contractor. The certificate shall state the respective responsibilities of the City and the Contractor for security, maintenance, utilities, damage to the Work and insurance. The certificate shall also list the items to be completed or corrected, and establish the time for their completion and correction.

“Vendor” means any firms, entities or individuals desiring to prepare a responsive Bid in response to this IFB.

“Work” means all labor, materials and equipment incorporated or to be incorporated in said construction that are necessary to accomplish the construction required by this Contract.

**III. BIDDING; AWARD OF CONTRACT**

1.1 **Purpose/Scope of Work.** The purpose of this IFB is to secure a qualified Contractor to perform the Work and provide materials as more particularly described in the Specifications, attached hereto as Exhibit A, and incorporated herein by reference. Provided, however, that the Specifications are modified as set forth in the Contractor Exceptions to Specifications, attached hereto as Exhibit B and incorporated herein by reference.

1.2 **Authority; Amendment of IFB.** This IFB and resultant Contract is issued under the authority of the City. No alteration hereof may be made without the express written approval of the City in the form of an official IFB or Contract amendment. Any attempt to alter this IFB/Contract without such approval is a violation of this Contract and the City Procurement Code. Any such action is subject to the legal and contractual remedies available to the City including, but not limited to, Contract cancellation and suspension and/or debarment of the Bidder or Contractor.

1.3 **Preparation/Submission of Bid.** Vendors are invited to participate in the competitive bidding process for the materials outlined in this IFB. Bidders shall review their Bid submissions to ensure the following requirements are met.

a. The City will consider as "irregular" or "non-responsive" and reject any Bid not prepared and submitted in accordance with the IFB and Specifications, or any Bid lacking sufficient information to enable the City to make a reasonable determination of compliance to the Specifications. Unauthorized or unreasonable exceptions, conditions, limitations, or provisions shall be cause for rejection.

b. Bidders are reminded that the Specifications stated in this IFB are the minimum levels required and that Bids submitted must be for products that meet or exceed the minimum level of all features specifically listed in this IFB. Bids offering less than the minimums specified are not responsive and should not be submitted. It shall be the Bidder's responsibility to carefully examine each item listed in the Specifications. All variances, exceptions and/or deviations shall be fully described in the Contractor Exceptions to Specifications, as set forth in Exhibit B.

c. Bidders shall provide one fully executed **original** of this IFB, signed in ink by a person authorized to bind the Bidder, and one copy of each of the following to be considered a responsive Bid:

- i. Offer
- ii. Contractor Exceptions to Specifications
- iii. Price Sheet
- iv. Bid Bond
- v. Licenses; References
- vi. Acknowledgement of Addenda Received, if applicable

d. All Bidders shall (i) examine the entire Bid Package, (ii) seek clarification of any item or requirement that may not be clear, (iii) check all responses for accuracy before submitting a Bid and (iv) submit the entire, completed Bid Package by the official Bid Deadline. Bids not submitted with an **original, signed** Offer page by a person authorized to bind the Bidder shall be considered a non-responsive Bid. Negligence in preparing a Bid confers no right of withdrawal after the Bid Opening, unless otherwise provided in the City Procurement Code.

e. All Bids shall be sealed and clearly marked with the IFB title and number on the lower left hand corner of the mailing envelope. A return address must also appear on the outside of the sealed Bid.

**BID PROCESS; BID AWARD**

f. All Bids shall be directed to the following address: City Clerk, 11465 West Civic Center Drive, Suite 200, Avondale, Arizona 85323, or hand-delivered to the City Clerk's office.

g. All Bids shall be on the forms provided in this IFB. It is permissible to copy these forms if required. Telegraphic (facsimile), electronic (email) or mailgram Bids will not be considered.

h. Erasures, interlineations, or other modifications in the Bid shall be initialed in original ink by the authorized person signing the Bid.

i. No Bid shall be altered, amended or withdrawn after the specified Bid Deadline, unless otherwise permitted pursuant to the City Procurement Code.

j. Bid prices shall be submitted on a per unit basis by line item, when applicable. In the event of a disparity between the unit price and extended price, the unit price shall prevail unless obviously in error.

1.4 Inquiries; Interpretation Of Plans, Specifications and Drawings.

a. Inquiries. Any question related to the IFB, including any part of the plans, Specifications or other Contract documents, shall be directed to the Engineer or Contract Representative whose name appears on the cover page of this IFB. Questions shall be submitted in writing no later than seven days prior to the Bid Opening. Any correspondence related to the IFB shall refer to the title and number, page and paragraph. However, the Bidder shall not place the IFB number and title on the outside of any envelope containing questions, because such an envelope may be identified as a sealed Bid and may not be opened until the Bid Opening. The Vendor submitting such inquiry will be responsible for its prompt delivery to the City. Any interpretations or corrections of the proposed Contract documents will be made only by addenda duly approved and issued and a copy of each such addendum will be mailed or delivered to each person receiving a set of such documents. The City will not be responsible for any other explanations or interpretations of the Contract documents.

b. Approval of Substitutions. The materials, products, and equipment described in this Contract establish a standard or required function, dimension, appearance and quality to be met by any proposed substitution. No substitute will be considered unless written request for approval has been received by the City or its representative at least ten days prior to the Bid Deadline. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute including any drawings, cuts, performance and test data and any other information necessary for evaluation of the substitute. If a substitute is approved, the approval shall be by written addendum to the Contract. Contractor shall not rely upon approvals made in any other manner.

c. Use of Equals. When the specifications for materials, articles, products and equipment include the phrase "or equal", Contractor may bid upon and use materials, articles, products and equipment which will perform equally the duties imposed by the general design. The Engineer will have the final approval of all materials, articles, products and equipment proposed to be used as an "equal." No such "equal" shall be purchased or installed without prior written approval from the Engineer. Approvals for "equals" before Bid Opening may be requested in writing to the Engineer for approval. Requests must be received at least ten days prior to the Bid Deadline. The request shall state the name of the material, article, product or equipment for which the item is sought to be considered and equal and a complete description of the proposed equal including any drawings, cuts, performance and test data and any other information necessary for approval of the equal. All approvals of equals shall be issued in the form of written addendum to this Contract.

**BID PROCESS; BID AWARD**

1.5 Prospective Bidders' Conference. A prospective Bidders' conference may be held. If scheduled, the date and time of this conference will be indicated on the cover page of this IFB. This conference may be designated as mandatory or non-mandatory on the cover of this IFB. Bids shall not be accepted from Bidders who do not attend a mandatory Prospective Bidders' conference. The purpose of this conference will be to clarify the contents of this IFB in order to prevent any misunderstanding of the City's requirements. Any doubt as to the requirements of this IFB or any apparent omission or discrepancy should be presented to the City at this conference. The City will then determine if any action is necessary and may issue a written amendment or addendum to the IFB. Oral statements or instructions will not constitute an amendment or addendum to this IFB.

1.6 Late Bids. Late Bids will not be considered, except as provided by the City Procurement Code. A Bidder submitting a late Bid shall be so notified.

1.7 Withdrawal of Bid. At any time prior to the specified Bid Opening, a Bidder (or designated representative) may withdraw its Bid. Facsimile, electronic (email) or mailgram Bid withdrawals will not be considered.

1.8 Amendment of Bid. At any time prior to the specified Bid Opening, a Bidder (or designated representative) may amend its Bid. Facsimile, electronic (email) or mailgram Bid amendments will not be considered.

1.9 New. All material to be utilized by the Contractor and included in the Bid shall be new, unless otherwise stated in the Specifications.

1.10 Pricing. All work shall be performed at the prices as set forth in the Price Sheet attached as Exhibit C.

1.11 Payment; Discounts. Any Bid that requires payment in less than 30 calendar days shall not be considered. Payment discounts of 30 calendar days or less will be deducted from the Bid price in determining the low Bid. However, the City shall be entitled to take advantage of any payment discount offered, provided payment is made within the discount period. Payment discounts shall be indicated on Price Sheet.

1.12 Taxes. The City is exempt from Federal Excise Tax, including the Federal Transportation Tax. Sales tax, if any, shall be indicated as a separate item.

1.13 Federal Funding. It is the responsibility of the Bidder to determine if federal wage rates apply to the Work. It is also the responsibility of the Bidder to incorporate any necessary amounts in the Bid to accommodate for required federal record keeping and necessary pay structures. The Bidder should contact the City regarding any applicable Davis Bacon wage rates.

1.14 Cost of Bid/Proposal Preparation. The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Bids submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Bidder is responsible for all costs incurred in responding to this IFB. All materials and documents submitted in response to this IFB become the property of the City and will not be returned.

1.15 Public Record. All Bids shall become the property of the City and shall become a matter of public record available for review, subsequent to the award notification, in accordance with the City's Procurement Code.

**BID PROCESS; BID AWARD**

1.16 Confidential Information. If a Vendor/Bidder believes that a Bid, Specification, or protest contains information that should be withheld from the public record, a statement advising the Contract Representative of this fact shall accompany the submission and the information shall be identified. The information identified by the Vendor or Bidder as confidential shall not be disclosed until the Contract Representative makes a written determination. The Contract Representative shall review the statement and information and shall determine in writing whether the information shall be withheld. If the Contract Representative determines to disclose the information, the Contract Representative shall inform the Vendor or Bidder in writing of such determination.

1.17 Vendor Licensing and Registration. Prior to the award of the Contract, the successful Bidder shall (a) be licensed with the Arizona Corporation Commission to do business in Arizona and (b) have a completed Request for Vendor Number or Changes on file with the City Financial Services Department.

1.18 Certification. By submitting a Bid, the Bidder certifies:

- a. The submission of the Bid did not involve collusion or other anti-competitive practices.
- b. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11456.
- c. It has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor or service to a City employee, officer or agent in connection with the submitted Bid. Failure to sign the Bid, or signing it with a false statement, shall void the submitted Bid and any resulting agreement and the Bidder may be debarred from further bidding in the City.

1.19 Bid Bond. All Vendors desiring to prepare a responsive Bid shall submit a non-revocable bid security payable to the City in the amount of ten percent of the total Bid price. This security shall be in the form of a bid bond, certified check or cashier's check and must be in the possession of the Engineer by the Bid Deadline. All bid security from Contractors who have been issued a Notice of Award shall be held until the successful execution of all required Contract documents and bonds. If the Contractor fails to execute the required contractual documents and bonds within the time specified, or ten days after Notice of Award if no period is specified, the Contractor may be found to be in default and the Contract terminated by the City. In case of default, the City reserves all rights inclusive of, but not limited to, the right to purchase material and/or to complete the Work and to recover any actual excess costs associated with such completion from the Contractor. All bid bonds shall be executed in the form attached hereto as Exhibit D, duly executed by the Bidder as Principal and having as Surety thereon a Surety company approved by the owner and holding a Certificate of Authority from the Arizona Department of Insurance to transact surety business in the State of Arizona. Individual sureties are unacceptable. All insurers and sureties shall have, at the time of submission of the proposal, an A.M. Best's Key Rating Guide of "A-" or better as currently listed in the most recent Best Key Guide, published by the A.M. Best Company. As soon as is practicable after the completion of the evaluation, the City will:

- a. Issue a Notice of Award for those Offers accepted by the City; and
- b. Return all checks to those who have not been issued a Notice of Award.

**BID PROCESS; BID AWARD**

---

1.20 Award of Contract.

a. Unless the Contractor's Offer states otherwise, or unless provided within this Contract, the City reserves the right to award by individual line item, by group of line items, or as a total, whichever is deemed most advantageous to the City.

b. The evaluation of this Bid will be based on, but not limited to, the following: (i) compliance with Specifications, (ii) Price and (iii) Bidder qualifications to perform the Work.

c. Notwithstanding any other provision of this IFB, the City expressly reserves the right to: (i) waive any immaterial defect or informality, (ii) reject any or all Bids or portions thereof and (iii) reissue an IFB.

d. A Bid is a binding offer to contract with the City based upon the terms, conditions and specifications contained in this IFB and the Bidder's responsive Bid, unless any of the terms, conditions, or specifications is modified by a written addendum or contract amendment. Bids become binding Contracts when the Acceptance of Offer and Notice of Award is executed in writing by the City.

e. Protests. Any interested party may protest this IFB issued by the City, the proposed award of a Contract, or the actual award of a Contract. All protests will be considered in accordance with the City Procurement Code.

**SECTION IV  
GENERAL TERMS AND CONDITIONS**

**1. GENERAL**

1.1 Reference Standards. The MAG Specifications are incorporated herein by reference.

1.2 Pre-Construction Conference. Within 30 days of the issuance of the Notice of Award, the Contractor shall attend a pre-construction conference. The City will contact the Contractor to schedule a specific date, time and location for the pre-construction conference. The purpose of this conference is to outline specific items and procedures and to address items that require special attention on the part of the Contractor. The Contractor may also present proposed variations in procedures that the Contractor believes may (i) improve the Project (as defined below), (ii) reduce cost or (iii) reduce inconvenience to the public. Any necessary coordination and procedures for construction inspection and staking will be addressed during the pre-construction Conference. The Contractor will be required to provide the following items at the pre-construction conference, each of which is subject to review and approval by the Engineer (as defined below):

- a. Names and emergency telephone numbers of key personnel involved in the Project.
- b. Names of all subcontractors proposed for use on the Project.
- c. A construction progress schedule showing the estimated time for start and completion of the major items of work.
- d. A payment schedule showing the estimated dollar volume of work for each calendar month during the life of the Project.
- e. A written proposal outlining the intended plans for traffic control and for maintaining continuous access to residences and businesses along the construction site.
- f. An itemized list of all required shop drawings, material and equipment submittals and a schedule indicating the dates each of these items will be transmitted to the City for review.

1.3 Notice to Proceed. Within 45 days of the issuance of the Notice of Award the City may issue a written Notice to Proceed. The Notice to Proceed shall stipulate the actual Contract start date, the Contract duration and the Contract completion date. The time required for the Contractor to obtain permits, licenses and easements shall be included in the Contract duration and shall not be justification for a delay claim by the Contractor. The time required for the Contractor to prepare, transmit and obtain approval of applicable submittals shall be included in the Contract duration and shall not be justification for a delay claim by the Contractor. No work shall be started until after all required permits, licenses, and easements have been obtained. The Contractor shall notify the Engineering Department of the City at least 72 hours before the following events:

- a. The start of construction.
- b. Shutdown of City water, sewer, drainage, irrigation and/or traffic control facilities.
- c. Shutdown of existing water wells and booster pumps. Such shutdown shall not exceed 72 hours of any facility and only one facility may be shutdown at any one time.
- d. All draining and filling of water lines and irrigation laterals and all operations of existing valves or gages.

**GENERAL TERMS AND CONDITIONS**

---

e. Start-up or testing of any water well or booster pump to be connected to any part of the existing City water system. This includes operation of existing valves necessary to accommodate the water.

1.4 Laws and Regulations. The Contractor shall keep fully informed of all rules, regulations, ordinances, statutes or laws affecting the Work herein specified, including the following: (i) existing and future City and County ordinances and regulations, (ii) state and federal laws and (iii) Occupational Safety and Health Administration ("OSHA") standards.

1.5 Rights-of-Way. The Contractor shall obtain a right-of-way permit for any of the Work completed in the public right-of-way. The Contractor will be responsible for any required Maricopa County permits or other agency permits. The City will provide any necessary easements for Work specified under this Contract, and the Contractor shall not enter or occupy with men, tools, equipment or materials any private ground outside the property of the City without the written consent of the owner thereof. The Contractor, at his own expense, is responsible for the acquisition of any additional easements or rights-of-way.

1.6 Inspection, Safety and Compliance. Each Contractor must inform itself fully of the conditions relating to the construction of the project and the employment of labor thereon. Failure to do so will not relieve the Contractor of its obligation to furnish all material and labor necessary to carry out the provisions of this Contract. Insofar as possible the Contractor, in carrying out its work, must employ such methods or means as will not cause any interruption of or interference with the work of any other Contractor. Contractor affirms that it has inspected the jobsite and has thoroughly reviewed the Contract including, without limitation, the Specifications listed on Exhibit A, as the same may be revised by the City, and is not relying on any opinions or representations of City. Contractor agrees to perform and complete such Work in strict accordance with the Contract and under the general direction of the City. Contractor agrees that any exclusions of any Work must be approved in writing by the City prior to acceptance of this Contract or same shall not be excluded hereunder. Contractor is responsible for all safety precautions and programs and shall provide all protection and necessary supervision to implement said precautions and programs. Contractor shall take all reasonable precautions for the safety of and provide reasonable protection to prevent damage, injury or loss to: (a) employees or others on the Project, (b) the Work and materials and (c) other property at the Project or adjacent thereto. Contractor shall designate a responsible person on the Project whose duty shall be prevention of accidents. Contractor shall provide all competent supervision necessary to execute all Work and any Work incidental thereto in a thorough, first-class, workmanlike manner. It is Contractor's responsibility that all of the Work and any work incidental thereto conforms to, and is performed in accordance with, all applicable federal, state, county and city laws, codes, ordinances, regulations (including NPDES and air pollution) and orders of public authorities bearing on performance of the Work.

1.7 Changes in the Work. The City may, without invalidating this Contract, order changes in the Work consisting of additions, deletions or other revisions to the Contract and the Contract Price and the Contract Time shall be adjusted as provided below. The Contract Price and/or the Contract Time may only be changed by the City's written directive or approval authorizing said change, and said changes shall be performed under the applicable conditions of the Contract. The Contract Price shall be adjusted as a result of a change in the Work as follows:

a. Additions. When the City increases the scope of the Work, Contractor will perform the increased work pursuant to Contractor's Unit Prices set forth on the Price Sheet.

b. Deletions. When the City decreases the Work resulting in a decrease in Contractor's quantity of the Work, the City shall be allowed a decrease in the Contract Price amounting to the quantity of the deleted Work multiplied by the Contractor's Unit Prices.

**GENERAL TERMS AND CONDITIONS**

c. Estimating. Whenever the City is considering a change to the Work, Contractor shall promptly, and in any event within three business days, estimate the price of the contemplated additional or deleted Work in good faith and as accurately as in then feasible. The estimate shall show quantities of labor, material and equipment and shall be pursuant to the rates set forth in the Contractor Bid.

1.8 Payments To Contractor. Payment shall be conditioned upon Contractor's compliance with the payment terms and conditions set forth below. Contractor expressly acknowledges and agrees that (a) the Contract Price is an estimated amount based upon an engineer's estimate of the quantities of the materials deemed necessary to perform the Work and (b) the amount of any payment to be made pursuant to this Contract shall be determined by the field-measured quantities of materials actually installed by Contractor. Material or equipment delivered to the Project by or on behalf of Contractor shall not constitute material or equipment furnished in the performance of the Work until same has been incorporated into the improvements constituting the Project. Payment shall not constitute acceptance by the City or evidence thereof of any Work performed.

a. Form of Payment. The City may pay Contractor by check made payable to Contractor or by joint check made payable to Contractor and any subcontractor, lower-tier subcontractor or materialmen.

b. Progress Payments.

i. On or before the 15th day of each month after construction has commenced, the Contractor shall submit to the City an application for payment consisting of the cost of the Work performed up to the end of the prior month, including the cost of material stored on the site or at other locations approved by the City. Prior to submission of the next application for payment, the Contractor shall make available at the request of the City a statement accounting for the disbursement of funds received under the previous application for purposes of audit. The extent of such statement shall be as agreed upon between the City and Contractor.

ii. Within 14 days after approval of each monthly application for payment, the City shall pay directly to the Contractor the appropriate amount for which application for payment is made, less amounts (A) previously paid by the City, (B) sufficient to pay expenses the City reasonably expects to incur in correcting deficiencies which are set forth in writing and provided to the Contractor and (C) any retainage as set forth in subsection 1.8(c) below.

iii. The Contractor warrants and guarantees the title to all Work, materials and equipment covered by an application for payment, whether incorporated in the Project or not, will pass to the City upon receipt of such payment by the Contractor free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to as "liens."

iv. The City's progress payment, occupancy or use of the Project, whether in whole or in part, shall not be deemed as acceptance of any Work not conforming to the requirements of this Contract.

v. Upon Substantial Completion of the Work, the City shall pay the Contractor the unpaid balance of the cost of the Work, less a sum equal to the Contractor's estimated cost of completing any unfinished items as agreed to between the City and the Construction Manager as to extent and time for completion. The City thereafter shall pay the Contractor monthly the amount retained for unfinished items as each item is completed.

c. Retainage. With respect to the Work, the City shall retain ten per cent (10%) of the amount of each estimate until final completion and acceptance of all material, equipment and work covered by this Contract.

**GENERAL TERMS AND CONDITIONS**

i. Any securities submitted by Contractor in lieu of retainage as may be allowed by law, shall be deposited in an escrow account by the City. The City shall be listed as payee or multiple payee with Contractor on all such securities.

ii. When the Work is fifty per cent (50%) completed, one-half of the amount retained including any securities substituted pursuant to subsection 1.8(c) shall be paid to the Contractor on the Contractor's request, provided the Contractor is making satisfactory progress on the Work and there is no specific cause or claim requiring a greater amount to be retained. After the construction Work is fifty per cent (50%) completed, no more than five per cent (5%) of the amount of any subsequent progress payments made under this Contract may be retained, provided the Contractor is making satisfactory progress on the Project. If, at any time, the City determines satisfactory progress is not being made, ten per cent (10%) retention shall be reinstated for all progress payments made under this Contract after the determination.

d. Payment for on-site and off-site stored materials. Payment shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. Payment may similarly be made for materials and equipment suitably stored off the site, conditioned upon the Contractor furnishing evidence to the City that (i) title to the materials and equipment will pass to the City upon payment therefore, (ii) the materials and equipment are adequately insured and (iii) such other matters as the City may reasonably request in order to protect its interests. With the prior written approval of the City, Contractor may advance order the bulk delivery of work materials to be incorporated into the Work over the course of this Contract, and upon delivery and receipt of supplier invoice either directly to the Contractor, or to the vendor or by joint check to Contractor and vendor and shall receive a full release for the amount paid from vendor and Contractor. Contractor agrees to assume full responsibility for the safekeeping of all said materials and shall guarantee to the City that said materials shall remain safe from theft or damage from any and all causes (unless caused by the sole negligence of the City). Contractor shall immediately replace, repair or restore said materials to their original condition so as to not cause any delay in the Work, and Contractor shall indemnify and hold harmless the City from and against any and all loss, cost, liability or expense resulting from any loss or damage to any of the materials described herein from any cause unless due to the City's sole negligence. Should the City have reason to believe Contractor is not properly safeguarding any of the said materials, the City shall have the right, but not the affirmative duty, to immediately take such steps as it deems necessary to do so, including removing Contractor from the job, replacing any materials or expending any sums to properly carry out Contractor's responsibility hereunder, and any amounts so expended shall be billed back to Contractor or deducted from any sums then or thereafter due to Contractor. Contractor shall fully insure all materials stored on site as required by the City, and if such insurance is not obtained due to a lack of insurable interest, the City shall have the right to obtain such insurance and charge the amount thereof back to Contractor or deduct said amount from any funds then or thereafter due to Contractor.

e. Title to construction work. The Contractor warrants that title to all Work covered by an application for payment shall pass to the City no later than the time of payment. The Contractor further warrants that upon submittal of an application for payment, all Work for which applications for payment have been previously issued and payments received from the City shall be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

f. Substantial completion. When the Contractor considers that the Work is Substantially Complete, the Contractor shall prepare and submit to the City a comprehensive list of Punch List items, which the City may edit and supplement. The Contractor shall proceed promptly to complete and correct Punch List items. Failure to include an item on the Punch List does not alter the responsibility of the Contractor to complete all Work in accordance with this Contract. Upon receipt of the Punch List, the City will make an

**GENERAL TERMS AND CONDITIONS**

inspection to determine whether Substantial Completion has occurred and if so, a Certificate of Substantial Completion shall be issued stating the date of Substantial Completion. The City and the Contractor shall execute the Certificate of Substantial Completion. If the City and the Contractor cannot agree as to the appropriate date of Substantial Completion, such issue shall be submitted for dispute resolution in accordance with the procedures set forth in Section 4 below. Notwithstanding such disagreement, the Contractor shall diligently proceed with completion of the Punch List items. Warranties required by this Contract shall commence on the date of Substantial Completion or designated portion thereof unless otherwise provided in this Contract.

g. Final payment.

i. Final payment, consisting of the unpaid balance of the cost of the Work shall be due and payable when the Work is fully completed and accepted by the City. Before issuance of final payment, the City may request satisfactory evidence that all payrolls, materials bills and other indebtedness connected with the Work have been paid or otherwise satisfied.

ii. In making final payment the City waives all claims except for:

- A. Outstanding liens.
- B. Improper workmanship or defective materials.
- C. Work not in conformance with this Contract or work not completed.
- D. Terms of any special warranties required by this Contract.
- E. Delivery to City of all warranties, operation and maintenance manuals, "AS-BUILT" record drawings and other documents as required by this Contract.
- F. Right to audit Contractor records for a period of three years.
- G. Claims previously made in writing and which remain unsettled.

iii. Acceptance of final payment by the Contractor shall constitute a waiver of affirmative claims by the Contractor, except those previously made in writing and identified as unsettled at the time of final payment.

1.9 Federal Funding. It is the responsibility of the Contractor to determine if federal wage rates apply to the Work. It is also the responsibility of the Contractor to incorporate any necessary amounts in the Bid to accommodate for required federal record keeping and necessary pay structures. The Contractor should contact the City regarding any applicable Davis Bacon wage rates.

1.10 Traffic Regulations. All traffic affected by the Work under this Contract shall be regulated in accordance with the *City of Phoenix-Traffic Barricade Manual, revised July 1998* (the "Barricade Manual") which is incorporated herein by reference; provided, however, that this Contract shall govern in a conflict with the terms of the Barricade Manual. At the time of the pre-construction conference, the Contractor shall designate an employee who is well qualified and experienced in construction traffic control and safety to be responsible for implementing, monitoring and altering traffic control measures, as necessary. At the same time the City will designate a representative who will be responsible to see that all traffic control and any alterations are implemented and monitored to the extent that traffic is carried through the Work area in an effective manner and that motorists, pedestrians, bicyclists and workers are protected from hazard and accidents.

**GENERAL TERMS AND CONDITIONS**

a. The following shall be considered major streets: All major parkway, mile (section line), arterial and collector (mid-section line and quarter section line) streets so classified by the City.

b. All traffic control devices required for the Work under this Contract shall be the responsibility of the Contractor. The Contractor shall place advance warning signs (such as REDUCE SPEED, LOOSE GRAVEL, 25 MPH SPEED LIMIT and DO NOT PASS) in accordance with the Barricade Manual.

c. The Contractor shall provide, erect and maintain all necessary flashing arrow boards, barricades, suitable and sufficient warning lights, signals and signs and shall take all necessary precautions for the protection of the Work and safety of the public. The Contractor shall provide, erect and maintain acceptable and adequate detour signs at all closures and along detour routes.

d. All barricades and obstructions shall be illuminated at night, and all safety lights shall be kept burning from sunset until sunrise. All barricades and signs used by the Contractor shall conform to the standard design generally accepted for such purposes and payment for all such services and materials shall be considered as included in the other pay items of the Contract.

e. The Contractor shall ensure that all existing traffic signs are erect, clean and in full view of the intended traffic at all times. Street name signs at major street intersections shall be maintained erect at all times. If these signs should interfere with construction, the Contractor shall notify the Engineer at least 48 hours in advance for City personnel to temporarily relocate said signs. The Engineer will direct the Contractor as to the correct positions to re-set all traffic and street name signs to permanent locations when notified by the Contractor that construction is complete.

f. When construction activities or traffic hazards at the construction site require the use of flagmen, it shall be the Contractor's responsibility to provide trained flagmen to direct traffic safely.

g. Manual traffic control shall be in conformity with the Barricade Manual, except that the designated liaison officer shall be contacted at the Avondale Police Department.

h. When traffic hazards at construction sites warrant the use of certified police personnel to direct traffic, arrangements must be made with the liaison officer at the Avondale Police Department.

i. The assembly and turnarounds of the Contractor's equipment shall be accomplished using adjacent local streets when possible.

j. Equipment used and/or directed by the Contractor shall travel with traffic at all times. Supply trucks shall travel with traffic except when being spotted. Contractor shall provide a flagman or off-duty, uniformed officer to assist with spotting.

k. During construction, it may be necessary to alter traffic control. Any such alterations shall be in accordance with the Barricade Manual.

l. No street within the Project area may be closed to through traffic or to local emergency traffic without prior, written approval of the Engineer. Written approval may be given if sufficient time exists to allow for notification of the public at least two days in advance of such closing. Partial closure of streets within the Project shall be done in strict conformity with the Engineer's written directions.

m. Caution should be used when excavating near intersections with traffic signal underground cable. Contractor shall notify the Engineer 24 hours in advance of any work at such intersections.

**GENERAL TERMS AND CONDITIONS**

The Contractor shall install and maintain temporary overhead traffic signal cable as specified by the Engineer when underground conduit is to be severed by excavations at intersections. The Contractor shall provide an off-duty uniformed police officer to direct traffic while the traffic signal is turned off and the wiring is transferred. All damaged or modified traffic signal overhead and underground items shall be repaired and restored to the Engineer's satisfaction. Magnetic detector loops shall, under no circumstances, be spliced.

n. The Contractor shall accommodate local access to adjacent properties in accordance with the specification set forth below.

o. Where crossings of existing pavement occurs, no open trenches shall be permitted overnight, but plating may be permitted if conditions allow, as determined by the Engineer or his authorized representative in his sole discretion. If plates cannot be used, crossings shall either be back-filled or the Contractor shall provide a detour.

1.11 Indemnification. To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the City and each council member, officer, employee or agent thereof (the City and any such person being herein called an "Indemnified Party"), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the work or services of the Contractor, its officers, employees, agents, or any tier of subcontractor in the performance of this Contract. 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.

1.12 Insurance Representations and Requirements.

a. General.

i. Insurer Qualifications. Without limiting any obligations or liabilities of Contractor, Contractor shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies 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 Contract at the City's option.

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

iii. 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 Contract, the City, its agents, representatives, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Contract.

iv. 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 Contract are

**GENERAL TERMS AND CONDITIONS**

satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Contract.

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

vi. Claims Made. In the event any insurance policies required by this Contract 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 Work or 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.

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

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

ix. Use of Subcontractors. If any work under this Contract is subcontracted in any way, Contractor 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 Contractor. Contractor shall be responsible for executing the agreement with subcontractor and obtaining certificates of insurance verifying the insurance requirements.

x. Evidence of Insurance. Prior to commencing any work or services under this Contract, Contractor shall furnish the City with certificate(s) of insurance, or formal endorsements as required by this Contract, issued by Contractor'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 Contract 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 Contract. If any of the above-cited policies expire during the life of this Contract, it shall be Contractor'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 10 103 97 or equivalent.

**GENERAL TERMS AND CONDITIONS**

- (b) Auto Liability - Under ISO Form CA 20 48 or equivalent.
- (c) Excess Liability - Follow Form to underlying insurance.

(2) Contractor's insurance shall be primary insurance as respects performance of the Contract.

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

(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.

**b. Required Insurance Coverage.**

i. Commercial General Liability. Contractor shall maintain "occurrence" form Commercial General Liability insurance with an unimpaired limit of not less than \$2,000,000 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 Contract, 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.

ii. Professional Liability. If this Contract is the subject of any professional services or work, or if the Contractor engages in any professional services or work adjunct or residual to performing the Work under this Contract, the Contractor shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Work performed by the Contractor, or anyone employed by the Contractor, or anyone for whose negligent acts, mistakes, errors and omissions the Contractor is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 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 Work and the Contractor shall be required to submit certificates of insurance evidencing proper coverage is in effect as required above.

iii. Vehicle Liability. Contractor shall maintain Business Automobile Liability insurance with a limit of \$2,000,000 each occurrence on Contractor's owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor's work or services under this Contract. 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

**GENERAL TERMS AND CONDITIONS**

this Contract, 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 paragraph, such Excess insurance shall be "follow form" equal or broader in coverage scope than underlying insurance.

iv. Workers' Compensation Insurance. Contractor shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of work or services under this Contract 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.

c. Certificates of Insurance. Prior to commencing the Work under this Contract, Contractor shall furnish the City with certificates of insurance, or formal endorsements as required by this Contract, issued by Contractor's insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Contract are in full force and effect. Unless otherwise specified in this Contract, in the event any insurance policy(ies) required by this Contract is(are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of the Contractor's work or services and as evidenced by annual certificates of insurance. If a policy does expire during the life of the Contract, a renewal certificate must be sent to the City 30 days prior to the expiration date. All certificates of insurance required by this Contract shall be identified with a Bid number and title. A \$25.00 administrative fee shall be assessed for all certificates received without the appropriate bid serial number and title.

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

1.13 Performance Bond. The Contractor shall be required to furnish non-revocable security binding the Contractor to provide faithful performance of the Contract in the amount of 100% of the total Contract price payable to the City. Performance security shall be in the form of a performance bond, certified check or cashier's check. This security must be in the possession of the Engineering Division within the time specified or ten days after notice of award if no period is specified. If the Contractor fails to execute the security document as required, the Contractor may be found in default and the Contract terminated by the City. In case of default the City reserves all rights. All performance bonds shall be executed in the form attached hereto as Exhibit E, duly executed by the Contractor as Principal and having as Surety thereon a Surety company approved by the City and holding a Certificate of Authority to transact surety business in the State of Arizona, by the Arizona Department of Insurance. Individual sureties are unacceptable. All Insurers and Sureties shall have at the time of submission of the proposal and A.M. Best's Key Rating Guide of "A-" or better as currently listed in the most recent Best Key Guide, published by the A.M. Best Company.

1.14 Payment Bond. The Contractor shall be required to furnish non-revocable security for the protection of all persons supplying labor and material to the Contractor or any subcontractor for the performance of any work related to the Contract. Payment security shall be in the amount of 100% of the total Contract price and be payable to the City. Payment security shall be in the form of a payment bond, certified check or cashier's check. All payment bonds shall be executed in the form attached hereto as Exhibit F, duly executed by the Contractor as Principal and having as Surety thereon a Surety company approved by the City and holding a Certificate of Authority to transact surety business in the State of Arizona, by the Arizona Department of Insurance. Individual sureties are unacceptable. All Insurers and Sureties shall have at the time of submission of the proposal and A.M. Best's Key Rating Guide of "A-" or better as currently listed in the most recent Best Key Guide, published by the A.M. Best Company.

**GENERAL TERMS AND CONDITIONS**

1.15 Affirmative Action Report. It is the policy of the City that suppliers of goods or services to the City adhere to a policy of equal employment opportunity and demonstrate an affirmative effort to recruit, hire, and promote regardless of race, color, religion, gender, national origin, age or disability. On any Contract in excess of six months, the Contractor shall provide an annual report to the Engineer highlighting its activities to comply with this Section 1.15.

**2. PERFORMANCE OF THE WORK**

2.1 Work Scheduling. Time is of the essence for this Contract. Contractor shall provide the City with any requested scheduling information and a proposed schedule for performance of the Work within the Contract Time in a form acceptable to the City and approved by the City, in its sole and absolute discretion, providing for commencement and completion of the Work (the "Schedule"). The Schedule shall include the date for Substantial Completion of the Work. The City may revise the Schedule during the course of the Work. Contractor, to induce the City to enter into this Contract, has and does hereby agree to fully perform and complete the Work for the Contract Price within the Schedule.

2.2 Prosecution of the Work. The Contractor shall prosecute the Work so that the portion of the Work completed at any point in time shall be not less than as required by the Schedule. If the delay is an Inexcusable Delay, as defined below, the Contractor shall prepare a recovery schedule for the City's review and approval, showing how the Contractor will compensate for the delays and achieve Substantial Completion by the date(s) shown on the Schedule. If the Contractor is unable to demonstrate how it will overcome Inexcusable Delays, the City may order the Contractor to employ such extraordinary measures as are necessary to bring the Work into conformity with the Substantial Completion date(s) set forth therein, the costs of which shall be included as part of the Cost of the Work. If the delay is an Excusable Delay, as defined below, the City shall either (a) authorize an equitable extension in the Schedule to account for such delay, and equitably adjust the contract sum on account of such delay or (b) request that the Contractor prepare a recovery schedule showing how (if possible) the Contractor can achieve Substantial Completion by the applicable date shown on the Schedule, and equitably adjust the contract sum in accordance with the Change Order provisions of this Contract on account of any extraordinary activities required of the Contractor on account of such recovery schedule.

2.3 Extensions of Time.

a. An extension in the scheduled date of Substantial Completion will only be granted in the event of Excusable Delays affecting the Work. The Contractor shall be entitled to general condition costs and extra costs related to the excusable delay for idle labor, equipment inefficiency and lost productivity of the performance of the Work. The Contractor must submit evidence reasonably satisfactory to the City substantiating such costs. Such adjustment to the contract sum and Substantial Completion date shall be issued in a Change Order.

b. To the extent any of the following events results in an actual delay in the Work, such shall constitute an "Excusable Delay" (to the extent not set forth below, a delay will be considered an "Inexcusable Delay"):

i. Delays resulting from Force Majeure.

ii. Differing, unusual or concealed site conditions that could not reasonably have been anticipated by the Contractor in preparing the Schedule, including, without limitation, archaeological finds and soil conditions (including rock or other geological conditions), underground foundations, abandoned utility lines and water conditions.

**GENERAL TERMS AND CONDITIONS**

iii. Delays resulting from the existence or discovery of Hazardous Materials on the Site not brought to the site by the Contractor.

iv. Delays resulting from changes in Applicable Laws occurring after the date of execution of this Contract.

v. Delays occurring due to the acts or omissions of the City and those within the control of the City.

vi. Delays occurring due to the acts or omissions of a utility, so long as Contractor has coordinated with the utility causing the delay and the delay occurs despite reasonable steps taken by Contractor to avoid the delay.

vii. Delays resulting from weather conditions which make it unreasonable to perform the Work in accordance with the Schedule.

c. In order to obtain an extension of time due to an Excusable Delay, the Contractor shall comply with the following requirements. The Contractor shall notify the City of the Excusable Delay as soon as practicable, but in no event more than seven Days after the Contractor becomes aware of the occurrence of the Excusable Delay. Such notice shall describe the Excusable Delay and shall state the approximate number of Days the Contractor expects to be delayed. After the cessation of the Excusable Delay, the Contractor shall notify the City of the number of Days the Contractor believes that its activities were in fact delayed by the Excusable Delay. In the event that the delay arises as a result of a Change Order request by the City, the request for an extension of time contained in the resulting Change Order proposal shall be deemed sufficient for purposes of this subsection.

d. Within ten days after cessation of an event giving rise to either an Excusable Delay or Inexcusable Delay, the parties will use good faith efforts to agree on the extent to which the Work has been delayed and whether the delay is an Excusable Delay or an Inexcusable Delay. In the absence of agreement between the parties as to the then-current status of Excusable Delays and Inexcusable Delays, the City will provide the Contractor with written notice of City's determination of the respective number of Days of Excusable Delay and/or Inexcusable Delay within ten Days after receipt by the City of the Contractor's written request for such determination. The Contractor shall not, however, deem an issuance by the City of such a determination to be a concurrence of the matters set forth therein, and the Contractor may invoke the dispute resolution procedures set forth in Section 4 below with respect to such determination.

e. To the extent the Contractor is entitled to an extension of time due to an Excusable Delay, but the performance of the Work would have been suspended, delayed or interrupted by the fault or neglect of the Contractor or by an Inexcusable Delay, the Contractor shall not be entitled to any additional costs for the period of such concurrency.

2.4 Liquidated Damages. It is expressly understood that should Contractor fail to complete the Work covered hereby within the Contract Time, the Contractor agrees to pay and shall pay to the City upon request therefore for each calendar day of delay beyond the original or revised scheduled time of completion of Contractor's work as liquidated damages, and not as a penalty, in the amount per day as set forth in MAG Specifications for each calendar day of delay.

a. If the Contract is not terminated, the Contractor shall continue performance and be liable to the City for the liquidated damages until the Work is complete.

**GENERAL TERMS AND CONDITIONS**

b. In the event the City exercises its right of termination, the Contractor shall be liable to the City for any excess costs and, in addition, for liquidated damages until such time the City may reasonably obtain delivery or performance of similar services.

2.5 Offset.

a. Offset for Damages. In addition to all other remedies at law or equity, the City may offset from any money due to the Contractor any amounts Contractor owes to the City for damages resulting from breach or deficiencies in performance or breach of any obligation under this Contract.

b. Offset for Delinquent Fees or Taxes. The City may offset from any money due to the Contractor any amounts Contractor owes to the City for delinquent fees, transaction privilege taxes and property taxes, including any interest or penalties.

2.6 Termination by the City for Cause.

a. If the Contractor refuses or fails to supply sufficient properly skilled staff or proper materials, or disregards laws, ordinances, rules, regulations, or orders of any public authority jurisdiction, or otherwise substantially violates or materially breaches any term or provision of this Contract, and such nonperformance or violation continues without cure for 15 days after the Contractor receives written notice of such nonperformance or violation from the City, then the City may, without prejudice to any right or remedy otherwise available to the City, terminate this Contract.

b. Upon termination of this Contract by the City, the City shall be entitled to furnish or have furnished the services to be performed hereunder by the Contractor by whatever method the City may deem expedient. Also, in such case, the Contractor shall not be entitled to receive any further payment until completion of the Work; and the total compensation to the Contractor under this Contract shall be the amount that is equitable under the circumstances. If the City and the Contractor are unable to agree on the amount to be paid under the foregoing sentence, the City shall fix an amount, if any, that it deems appropriate in consideration of all of the circumstances surrounding such termination, and shall make payment accordingly. The Contractor may dispute the City's assessment of the termination amount pursuant to the dispute resolution process set forth in this Contract.

c. Upon the appointment of a receiver for the Contractor, or if the Contractor makes a general assignment for the benefit of creditors, the City may terminate this Contract, without prejudice to any right or remedy otherwise available to the City, upon giving three working days' written notice to the Contractor. If an order for relief is entered under the bankruptcy code with respect to the Contractor, the City may terminate this Contract by giving three working days' written notice to the Contractor unless the Contractor or the trustee completes all of the following:

- i. Promptly cures all breaches within such three-day period.
- ii. Provides adequate assurances of future performance.
- iii. Compensates the City for actual pecuniary loss resulting from such breaches.
- iv. Assumes the obligations of the Contractor within the established time limits.

2.7 Termination by the City for Convenience. The City may, upon 30 days' written notice to the Contractor, terminate this Contract, in whole or in part, for the convenience of the City without prejudice to any right or remedy otherwise available to the City. Upon receipt of such notice, the Contractor shall immediately

**GENERAL TERMS AND CONDITIONS**

discontinue all services affected unless such notice directs otherwise. In the event of a termination for convenience of the City, the Contractor's sole and exclusive right and remedy shall be payment for all work performed through the date of termination. The Contractor shall not be entitled to be paid any amount as profit for unperformed services or consideration for the termination of convenience by the City.

2.8 Suspension by the City for Convenience.

a. The City may order the Contractor in writing to suspend, delay or interrupt all or any part of the Work without cause for such period of time as the City may determine to be appropriate for its convenience.

b. Adjustments caused by suspension, delay or interruption shall be made for increases in the applicable contract sum and/or the date(s) of Substantial Completion. No adjustment shall be made if the Contractor is or otherwise would have been responsible for the suspension, delay or interruption of the Work, or if another provision of this Contract is applied to render an equitable adjustment.

2.9 Additional Materials and/or Overtime. Contractor expressly agrees that if overtime or additional workers or materials are necessary to meet the Schedule, that such overtime will be performed or additional workers or materials will be procured by the Contractor, and the additional expense thereof shall be borne by Contractor unless the delay requiring overtime shall have been occasioned directly by the City, in which event Contractor shall be entitled to compensation for such overtime work.

2.10 No Damage for Delay by the City. Contractor shall adjust its operations to conform to any progress schedule changes and hereby waives and releases the City from any liability for damages or expenses which may be caused to or sustained by Contractor by reason of such changes or by reason of delays in the Work, whether caused in whole or in part by conduct on the part of the City, including without limitation, any breach of this Contract or delays by other contractors or subcontractors. Contractor's exclusive remedy in event of delay by the City shall be an extension of time hereunder to complete the Work.

2.11 Proposal Quantities. It is expressly understood and agreed by the parties hereto that the quantities of the various classes of work to be done and the material to be furnished under this Contract, which have been estimated as stated in the Contractor Offer, are only approximate and are to be used solely for the purpose of comparing, on a consistent basis, the Contractor Offers presented for the Work under this Contract. The Contractor further agrees that the City shall not be held responsible if any of the quantities shall be found to be incorrect and the Contractor will not make any claim for damages or for loss of profits because of a difference between the quantities of the various classes of Work as estimated and the Work actually done. If any error, omission or misstatement is found to occur in the estimated quantities, the same shall not (a) invalidate this Contract or the whole or any part of the Work in accordance herewith and for the prices herein agreed upon and fixed therefore, (b) excuse Contractor from any of the obligations or liabilities hereunder or (c) entitle Contractor to any damage or compensation except as may be provided in this Contract.

2.12 Risk of Loss. Contractor shall assume the risk of loss occasioned by fire, theft or other damage to materials, machinery, apparatus, tools and equipment relating to the Work prior to actual installation in final place on the Project and acceptance by the City. Contractor shall be responsible for damage to the materials, machinery, apparatus, tools, equipment and property of the City and other contractors resulting from the acts or omissions of its subcontractors, employees, agents, representatives sub-contractors, and to pay the full costs of repair or replacement of any said damage.

2.13 Character and Status of Workers. Only skilled foremen and workers shall be employed on work requiring special qualifications. When required by the Engineer, the Contractor shall discharge any person who is, in the opinion of the Engineer, disorderly, dangerous, insubordinate, incompetent or otherwise objectionable.

**GENERAL TERMS AND CONDITIONS**

The Contractor shall indemnify and hold harmless the City from and against damages or claims for compensation that may occur in the enforcement of this Section. The Contractor shall be responsible for assuring the legal working status of its employees and its subcontractor's employees. The Contractor agrees that once assigned to work under this Contract, key personnel shall not be removed or replaced without written notice to the City. If key personnel are not available for work under this Contract for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Work than initially anticipated, the Contractor shall immediately notify the City and shall, subject to the concurrence of the City, replace such personnel with personnel of substantially equal ability and qualifications.

2.14 Work Methods. The methods, equipment and appliances used on the Work shall be such as will produce a satisfactory quality of Work, and shall be adequate to complete the Contract within the time limit specified. Except as is otherwise specified in this Contract, the Contractor's procedure and methods of construction may, in general, be of its own choosing, provided such methods (a) follow best general practice and (b) are calculated to secure results which will satisfy the requirements of this Contract. The Work covered by this Contract shall be carefully laid out in advance and performed in a manner to minimize interference with normal operation and utilization of the City's right-of-way. The Contractor shall exercise caution during the course of this Work to avoid damage to all known existing or possible unknown existing underground utilities. It shall conduct its operations in such a manner as to avoid injury to its personnel and to avoid damage to all utilities. Any damage done will be repaired without delay and at the expense of the Contractor.

2.15 Drawings, Samples and Substitution of Materials. Contractor shall furnish, within three business days following request therefore by the City, detailed drawings of the Work, samples of materials and other submittals required for the performance or coordination of the Work. Substitutions shall be equal or superior to materials specified in the Contract Documents and shall be clearly identified on submittals as "proposed substitutions". Contractor shall be fully responsible for the adequacy, completeness and promptness of all such submittals. Materials shall not be furnished to the jobsite unless same is in strict compliance with the specifications or otherwise approved in writing by the City. Approval by the City shall not relieve Contractor of full responsibility for compliance with scope, intent and performance in accordance with this Contract.

2.16 Outdoor Construction Time Restrictions. Unless otherwise permitted by the Engineer, no work shall be done between the hours of 6:00 pm and 7:00 am, nor on Saturdays, Sundays or legal holidays, except as necessary for the proper care and protection of work already performed. If it shall be come absolutely necessary to perform work at night or on Saturdays, Sundays or legal holidays, the Engineer shall be informed at least 24 hours in advance of the beginning of performance of such work. Only such work shall be done at night as can be done satisfactorily as determined by the Engineer and in a first-class manner. Good lighting and all other necessary facilities for carrying out and inspecting the work shall be provided and maintained at all points where such work is being done.

2.17 Survey Control Points. Existing survey markers (either brass caps or iron pipes) shall be protected by the Contractor or removed and replaced under direct supervision of the Engineer or his authorized representative. Survey monuments shall be constructed to the requirements of MAG Specifications, Section 405. Lot corners shall not be disturbed without knowledge and consent of the property owner. The Contractor shall replace benchmarks, monuments or lot corners moved or destroyed during construction at no expense to the City. Contractor and its sureties shall be liable for correct replacement of disturbed survey benchmarks except where the City elects to replace survey benchmarks using its own forces.

2.18 Protection of Finished or Partially Finished Work. The Contractor shall properly guard and protect all finished or partially finished work and shall be responsible for the same until the entire Contract is completed and accepted by the Engineer. The Contractor shall turn over the entire Work in full accordance with this Contract before final settlement shall be made.

**GENERAL TERMS AND CONDITIONS**

2.19 Stockpile of Materials.

a. The Contractor may, if approved by the Engineer, place or stockpile materials in the public right-of-way provided such materials do not prevent access to adjacent properties or prevent compliance with traffic regulations.

b. Traffic shall not be required to travel over stockpiled materials and proper dust control shall be maintained.

2.20 Excess Materials. When excavations are made, resultant loose earth shall be (a) utilized for filling by compacting in place or (b) disposed of off-site. Excess or unsuitable material, broken asphaltic concrete and broken portland cement concrete excavated from the right-of-way shall be removed from the project and disposed of by the Contractor. Disposal of material within the Avondale City Limits or Planning Area must be approved by the Engineer or his authorized representative. Waste material shall not be placed on private property without express permission of the property owner. The Contractor shall, at all times, keep the premises free from accumulation of waste materials or rubbish caused by its operations. At the completion of the work, Contractor shall remove all equipment, tools and surplus materials, and shall completely clean the premises, removing and disposing of all debris and rubbish and cleaning all stains, spots, marks, dirt, smears or other blemishes. When the Work premises are turned over to the City, they shall be thoroughly clean and ready for immediate use. Clean-up shall include removal of all excess pointing mortar materials within pipes and removal of oversized rocks and boulders left after finish grading. The Contractor shall provide for the legal disposal of all waste products and debris and shall make necessary arrangements for such disposal.

2.21 Dust Control and Water. Contractor shall implement dust control measures in accordance with the requirements of the "Maricopa County Health Department Air Pollution Control Regulations." Specifically, Regulation II, Rule 21, subparagraph C and Regulation III, Rule 310 as amended shall be rigidly observed and enforced. Water or other approved dust palliative in sufficient quantities shall be applied during all phases of construction involving open earthwork to prevent unnecessary discharge of dust and dirt into the air. The Contractor shall be required to obtain the necessary permit and all pertinent information from the Maricopa County Air Pollution Control Bureau. The Contractor shall keep suitable equipment on hand at the job site for maintaining dust control on the project streets, and shall employ sufficient labor, materials and equipment for that purpose at all times during the Project to the satisfaction of the Engineer. Watering shall conform to the provisions of Section 225 of the MAG Specifications. The cost of watering will be included in the Contractor Bid for the construction operation to which such watering is incidental or appurtenant. Installation and removal of fire hydrant meters should be scheduled at least 48 hours in advance through the City Water Billing Department. A deposit and installation fee in amounts set forth in the City's fee schedule are required for each meter. The cost of the water is at the prevailing rate.

2.22 Temporary Sanitary Facilities. The Contractor shall provide ample toilet facilities with proper enclosures for the use of workmen employed on the Work site. Toilet facilities shall be installed and maintained in conformity with all applicable state and local laws, codes, regulations and ordinances and shall be properly lit and ventilated, and kept clean at all times. Adequate and satisfactory drinking water shall be provided at all times and under no circumstances and under no conditions will the use of common cups be permitted. The Contractor must supply sanitary drinking cups for the benefit of all employees.

2.23 Electric Power, Water and Telephone. Unless otherwise specified, the Contractor shall make its own arrangements for electric power, water and telephone. Subject to the convenience of the utility, it may be permitted to connect to existing facilities where available, but Contractor shall meter and bear the cost of such power or water, and installation and disconnect of such power, water and telephone services.

**GENERAL TERMS AND CONDITIONS**

2.24 Energized Aerial Electrical Power Lines. Utility companies may maintain energized aerial electrical power lines in the immediate vicinity of this Project. Contractor shall not presume any such lines to be insulated. Construction personnel working in proximity to these lines may be exposed to an extreme hazard from electrical shock. Contractor, its employees and all other construction personnel working on this Project must be warned of the danger and instructed to take adequate protective measures, including maintaining a minimum ten feet clearance between the lines and all construction equipment and personnel. (see: OSHA Std. 1926.550 (a) 15). As an additional safety precaution, Contractor shall call the affected utility companies to arrange, if possible, to have these lines de-energized or relocated when the Work reaches their immediate vicinity. The cost of such temporary arrangements shall be borne by the Contractor. Contractor shall account for the time necessary to cause such utility disconnection in the preparation of its Bid. Electrical utility companies may maintain energized underground electrical power lines in the immediate vicinity of this Project. These power lines represent an extreme hazard of electrical shock to any construction personnel or equipment coming in contact with them. Arizona law requires all parties planning excavations in public rights-of-way to contact all utility firms for locations of their underground facilities. Contractors, their employees, and all other personnel working near any underground power lines must be warned to take adequate protective measure. (see: OSHA Std. 1926-651 (A)).

2.25 Site Clean Up. Contractor shall at all times, but not less than daily unless otherwise agreed by City, keep the premises on which the Work is being performed clean and free from accumulation of any waste materials, trash, debris and excess dirt, and at all times shall remove Contractor's implements, machinery, tools, apparatus and equipment from the jobsite when not needed on the jobsite. Should the City find it necessary in its opinion to employ help to clean up, remove or store any of the foregoing or failure of Contractor to do so, the expense thereof shall be charged to Contractor. Verbal notice from a City representative on clean-up or removal is considered adequate notice hereunder, and failure to conform with his/her request within 24 hours thereof will be construed as a breach of this Contract by the Contractor and such charges will be made against Contractor's account as are necessary to accomplish the clean-up or removal. The cost of clean up, removal or storage by the City, if not deducted by the City from monies due Contractor, shall be paid by Contractor within five business days of written demand by the City.

2.26 Use of the Site. Contractor shall at all times comply fully with all laws, orders, citations, rules, regulations, standards and statutes with respect to occupational health and safety, the handling and storage of hazardous materials, accident prevention, safety equipment and practices, including any accident prevention and safety program of the City; provided, however, that the City shall not be required to impose any safety requirements or administer any such programs and the review or requirement of any safety plan by the City shall not be deemed to release Contractor or in any way diminish its liability, by way of indemnity or otherwise, as assumed by it under this Contract. Contractor shall conduct inspections regularly to determine that safe working conditions and equipment exist and accepts sole responsibility for providing a safe place to work for its employees and employees of its subcontractors, laborers and suppliers of material and equipment, for adequacy of and required use of all safety equipment and for compliance herewith. When so ordered, Contractor shall stop any part of the Work that the City deems unsafe until corrective measures satisfactory to the City have been taken. Should Contractor neglect to adopt such corrective measures, the City may do so and deduct the cost from payments due Contractor. Contractor shall timely submit copies of all accident or injury reports to the City.

2.27 Public Information and Notification. The Contractor shall submit a public information and notification plan for this Project (the "Notification Plan") to the City at the first pre-construction meeting held prior to start of construction. The Notification Plan shall include, at a minimum, the items set forth in this subsection 2.27; provided, however, that the Engineer may waive any portion of the requirements of this subsection upon a written determination that the Project scope does not warrant such notification. Contractor shall provide Project information to affected residents and homeowners' associations prior to and throughout the Project's duration. The Contractor shall use the Notification Plan to inform the local citizens, businesses and

**GENERAL TERMS AND CONDITIONS**

City officials, not less than five business days in advance, of (i) necessary operations that create high noise levels, (ii) street closures, (iii) detour locations, (iv) haul routes and material delivery routes and (v) disruption of bus routes, mail routes and other delivery/pick-up routes.

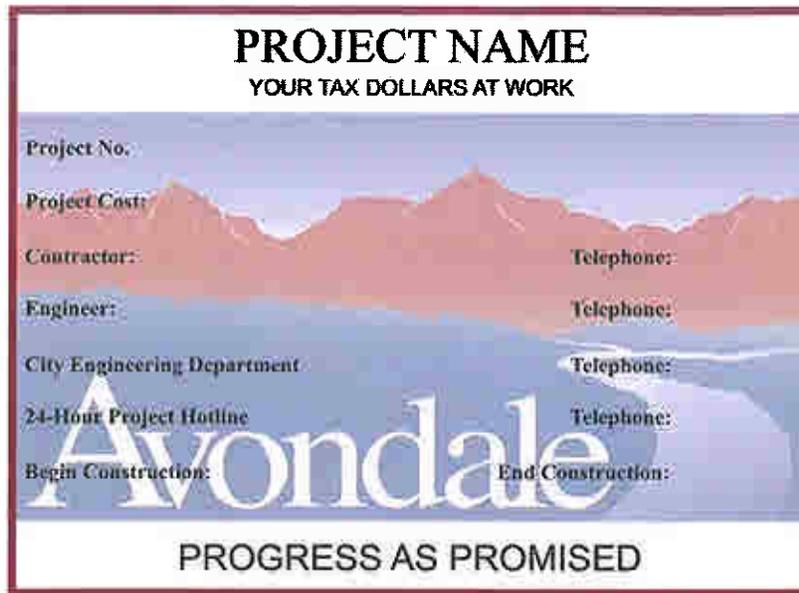
a. Neighborhood Notification. Prior to the start of any work on the Project, the Contractor shall distribute a preliminary "Dear Neighbor" letter (8-1/2"x11") to all businesses, property owners and residents within 600 feet of any portion of this Project. This "Dear Neighbor" letter shall include, at a minimum, the following information:

- i. Contractor's name, business telephone number and the 24-hour "Hot Line" telephone number for this Project
- ii. Name of Contractor's Project Manager
- iii. Name of Contractor's Project Superintendent
- iv. Brief description of the Project
- v. Construction schedule, including anticipated work hours
- vi. Anticipated lane restrictions, including the expected duration thereof
- vii. Name of City's Project Manager
- viii. Name of the Engineer

The Engineer shall provide the Contractor with a distribution list for this "Dear Neighbor" letter. Contractor shall (i) ensure that the letter is distributed to all persons and businesses indicated on the list provided by the Engineer and (ii) provide the Engineer with a copy of the letter sent and sufficient proof of mailing. Subsequent to the aforementioned, the Contractor shall distribute bi-monthly construction progress updates, including construction schedule and any additional information the Engineer deems important as a result of construction activities, to all persons and businesses included on the aforementioned distribution list. At the request of the Engineer, Contractor may be required to distribute additional public notifications. At the end of construction a final "Dear Neighbor" letter shall be distributed to the persons and businesses on the aforementioned distribution list highlighting the Contractor's and the City's appreciation for their patience during construction of the Project.

b. Project Signs. The Contractor shall furnish and install at least two Project signs, unless otherwise directed by the City Engineer, not less than five business days before beginning construction, at locations determined by the Engineer, to inform the public of the forthcoming Project, construction dates and 24-Hour Hotline number. The Contractor shall maintain the signs as necessary and update the information as directed by the Engineer. At the completion of the project, the Contractor shall remove and dispose of the signs. The Project signs shall be fabricated as follows: (i) the vinyl sheeting for the background, legend, and border shall be applied by heat bonding, except that the decal and legend for the project title, cost, and Contractor's name shall be pressure sensitive application; (ii) the 4-foot by 8-foot signs shall be mounted four-feet above the ground level and anchored three-feet into the ground with concrete backfill around the posts; and (iii) sign colors shall be black letters on white background, over a ghost image of the City of Avondale logo. The information on the Project signs shall be in the format and fonts proportions as depicted on the sample sign below. The image template may be obtained from the City of Avondale, Engineering Department as a computer image file.

**GENERAL TERMS AND CONDITIONS**



c. 24-Hour Project Hotline. The Contractor shall be required to furnish a private 24-hour telephone line to be used solely for receiving incoming calls from local citizens or businesses with questions or complaints concerning Project construction operations or procedures (the "Hotline"). The Contractor shall include this Hotline telephone number on all public information distributed throughout the duration of the Project. Contractor shall ensure that Contractor personnel man the Hotline during all hours that there is any work being performed on this Project; the Hotline shall be answered by a live answering service during all other hours. The Contractor shall maintain a log of incoming calls, responses and action taken that shall be submitted to the Engineer weekly and upon request.

d. Public Meetings. The Contractor shall attend public meetings deemed necessary by the Engineer.

e. Press Releases. The Contractor shall, at the request of the Engineer, prepare press releases regarding the Project.

f. Payment for Public Notification. The City will pay, based on time and materials invoices, an amount not to exceed the amount designated in the Price Sheet and entitled COMMUNITY RELATIONS, for work performed in accordance with the Notification Plan. Work which is eligible for reimbursement includes: the "Dear Neighbor" letters; bi-monthly progress reports; meetings with impacted businesses, residents, schools, churches or other groups; scheduling newsletter when necessary (at least monthly); temporary signs for local access; and maintaining the Hotline. The cost for the Project signs, including installation, maintenance and all labor and materials shall be a non-pay item and shall be considered incidental to the items of work. No payment will be made under this item for any calendar day during which there are substantial deficiencies in compliance, as determined by the Engineer. The Contractor shall submit a final report/evaluation of its Notification Plan process performed for this Project. The report shall be submitted before the Contractor receives final payment.

**3. MISCELLANEOUS**

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

**GENERAL TERMS AND CONDITIONS**

purpose of securing this Contract. In the event this Contract 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 Contractor an amount equal to 150% of the gratuity.

3.2 Applicable Law; Venue. In the performance of this Contract, Contractors 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 Contract. This Contract shall be governed by the laws of the State of Arizona and suit pertaining to this Contract may be brought only in courts in the State of Arizona.

3.3 Cancellation. This Contract is subject to the provisions of ARIZ. REV. STAT. § 38-511; the City may cancel this Contract 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 Contract on behalf of the City or any of its departments or agencies is, at any time while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a consultant to any other party of the Contract with respect to the subject matter of the Contract.

3.4 Contract Amendments. This Contract may be modified only by a written Contract Amendment approved by the City Council and signed by persons duly authorized to enter into contracts on behalf of the City and the Contractor.

3.5 Provisions Required By Law. Each and every provision of law and any clause required by law to be in the Contract 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 Contract will forthwith be physically amended to make such insertion or correction.

3.6 Severability. The provisions of this Contract 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 Contract which may remain in effect without the invalid provision or application.

3.7 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 Contractor is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and that the Contractor should make arrangements to directly pay such expenses, if any.

3.8 Interpretation-Parol Evidence. This Contract 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 Contract are hereby revoked and superseded by this Contract. 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 Contract. This Contract may not be changed, modified or rescinded except as provided for herein, absent a written agreement signed by both parties. Any attempt at oral modification of this Contract shall be void and of no effect.

3.9 Assignment-Delegation. No right or interest in this Contract shall be assigned by Contractor without prior, written permission of the City and no delegation of any duty of Contractor shall be made without prior, written permission of the City.

**GENERAL TERMS AND CONDITIONS**

3.10 Subcontracts. No subcontract shall be entered into by the Contractor with any other party to furnish any of the material, service or construction specified herein without the prior written approval of the City. A Contractor acting as prime Contractor shall itemize in its Bid all sub-contractors that shall be utilized on the Project. Any substitution of sub-contractors by the Contractor must receive City approval prior to such substitution and any cost savings will be reduced from the Contractor's bid amount. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract as if the subcontractor were the Contractor referred to herein. The Contractor is responsible for Contract performance whether or not subcontractors are used.

3.11 Rights and Remedies. No provision in this Contract 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 Contract. The failure of the City to insist upon the strict performance of any term or condition of this Contract or to exercise or delay the exercise of any right or remedy provided in this Contract, or by law, or the City's acceptance of and payment for materials or services, shall not release the Contractor from any responsibilities or obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of this Contract.

3.12 Overcharges by Antitrust Violations. The City maintains that, in practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the City any and all claims for such overcharges as to the goods and services used to fulfill the Contract.

3.13 Force Majeure. Except for payment for 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; floods; lockouts, injunctions-intervention-acts, or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence. The force majeure shall be deemed to commence when the party declaring force majeure notifies the other party of the existence of the force majeure and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with this Contract.

Force majeure shall not include the following occurrences:

- a. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies or similar occurrences.
- b. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this Section 3.13.

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. If either party is delayed at any time in the progress of the work by force majeure, then the delayed party shall notify the other party in writing of such delay within 48 hours commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand delivered or sent via U.S. Mail, Certified-Return Receipt and shall make a specific reference to this subsection, 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. The time of completion shall be extended by written Contract amendment for a period of time equal to

**GENERAL TERMS AND CONDITIONS**

the time that the results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

3.14 Right To Assurance. Whenever one party to this Contract in good faith has reason to question the other party's intent to perform it may demand that the other party give a written assurance of its intent to perform. In the event that a demand is made and no written assurance is given within five days, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

3.15 Right To Audit Records. The City may, at reasonable times and places, audit the books and records of the Contractor as related to this Contract.

3.16 Right To Inspect Plant. The City may, at reasonable times, inspect the part of the plant or place of business of the Contractor or subcontractor that is related to the performance of this Contract.

3.17 Warranties. Contractor warrants to the City that all materials and equipment furnished shall be new unless otherwise specified and agreed by the City and that all Work shall be of first class quality, free from faults and defects and in conformance with the Contract. If at any time within one year following the date of completion and acceptance of the entire Project (or such longer period as may be provided under warranties for equipment or materials): (a) any part of the materials furnished in connection with the Work shall be or become defective due to defects in either labor or materials, or both, or (b) Contractor's work or materials, or both, are or were not in conformance with original or amended plans and specifications, or supplementary or shop drawings, then the Contractor shall upon written notice from the City immediately replace or repair such defective or non-conforming material or workmanship at no cost to the City. Contractor further agrees to execute any special guarantees as provided by the Contract or required by law. Contractor shall require similar guarantees from all vendors and from all its subcontractors. Contractor further agrees, upon written demand of the City and during the course of construction, to immediately reexecute, repair or replace any work that fails to conform to the requirements of the Contract, whether caused by faulty materials or workmanship, or both. In the event Contractor shall fail or refuse to make such change upon the City's written demand, the City shall have the right to have such work re-executed, repaired or replaced, to withhold from or back charge to Contractor all costs incurred thereby.

3.18 Inspection. All material and/or services are subject to final inspection and acceptance by the City. Materials and/or services failing to conform to the Specifications of this Contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Upon discovery of a non-conforming material or services, the City may elect to do any or all of the following by written notice to the Contractor:

- a. Waive the non-conformance.
- b. Stop the work immediately.
- c. Bring material or service into compliance and withhold the cost of same from any payments due to the Contractor.

3.19 No Replacement of Defective Tender. Every tender of materials shall fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach of the Contract as a whole.

3.20 Shipment Under Reservation Prohibited: Contractor is not authorized to ship materials under reservation and no tender of a bill of lading will operate as a tender of the materials.

**GENERAL TERMS AND CONDITIONS**

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

3.22 Licenses. Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this Contract.

3.23 Patents and Copyrights. All services, information, computer program elements, reports and other deliverables, which may be patented or copyrighted and created under this Contract are the property of the City and shall not be used or released by the Contractor or any other person except with the prior written permission of the City.

3.24 Preparation of Specifications by Persons other than City Personnel. All Specifications shall seek to promote overall economy for the purposes intended and encourage competition and not be unduly restrictive in satisfying the City's needs. No person preparing specifications shall receive any direct or indirect benefit from the utilization of Specifications, other than fees paid for the preparation of Specifications.

3.25 Advertising. Contractor shall not advertise or publish information concerning this Contract without prior, written consent of the City.

**4. ALTERNATIVE DISPUTE RESOLUTION**

4.1 Scope. Notwithstanding anything to the contrary provided elsewhere in the Contract Documents, except for subsection 4.4(g) below, the alternative dispute resolution ("ADR") process provided for herein shall be the exclusive means for resolution of claims or disputes arising under, relating to or touching upon the Contract, the interpretation thereof or the performance or breach by any party thereto, including but not limited to original claims or disputes asserted as cross claims, counterclaims, third party claims or claims for indemnity or subrogation, in any threatened or ongoing litigation or arbitration with third parties, if such disputes involve parties to contracts containing this ADR provision.

4.2 Neutral Evaluator, Arbitrators. The City will select a Neutral Evaluator to serve as set forth in this ADR process, subject to the Contractor's approval, which approval shall not be unreasonably withheld. In the event that the City and the Contractor are unable to agree upon a Neutral Evaluator, the neutral evaluation process shall be eliminated and the parties shall proceed with the binding arbitration process set forth in Section 4.4 below. The City and Contractor shall each select an arbitrator to serve as set forth in this ADR process. Each arbitrator selected shall be a member of the State Bar of the State of Arizona and shall have experience in the field of construction law. None of the arbitrators nor any of the arbitrator's firms shall have presently, or in the past, represented any party to the arbitration.

4.3 Neutral Evaluation Process. If the parties have been unable to resolve the disputes after discussions and partnering, but the parties have agreed to a Neutral Evaluator, the following neutral evaluation process shall be used to resolve any such dispute.

a. Notification of Dispute. The City through its Project Manager shall notify the Neutral Evaluator in writing of the existence of a dispute within ten days of the City or the Contractor declaring need to commence the neutral evaluation process.

b. Non-Binding Informal Hearing. The Neutral Evaluator shall schedule a non-binding informal hearing of the matter to be held within seven calendar days from receipt of notification of the existence of a dispute. The Neutral Evaluator may conduct the hearing in such manner as he deems appropriate and shall notify each party of the hearing and of its opportunity to present evidence it believes will resolve the dispute. Each party to the dispute shall be notified by the Neutral Evaluator that the party shall submit a written outline

**GENERAL TERMS AND CONDITIONS**

of the issues and evidence intended to be introduced at the hearing and the proposed resolution of the dispute to the Neutral Evaluator before the hearing commences. Arbitrators shall not participate in such informal hearing or proceedings process. The Neutral Evaluator is not bound by the rules of evidence when admitting evidence in the hearing and may limit the length of the hearing, the number of witnesses or any evidence introduced to the extent deemed relevant and efficient.

c. Non-Binding Decision. The Neutral Evaluator shall render a non-binding written decision as soon as possible, but not later than five calendar days after the hearing.

4.4 Binding Arbitration Procedure. The following binding arbitration procedure, except as provided in subsection 4.4(g) below, shall serve as the exclusive method to resolve a dispute if (i) the parties cannot agree to a Neutral Evaluator as set forth in Section 4.2 above or (ii) any party chooses not to accept the decision of the Neutral Evaluator. The party requesting binding arbitration shall notify the Neutral Evaluator of a request for arbitration in writing within three Working Days of receipt of the Neutral Evaluator's decision. If the Contractor requests arbitration or if Contractor rejects the City's selection of a Neutral Evaluator, it shall post a cash bond with the Neutral Evaluator in an amount agreed upon by the parties or, in the event of no agreement, the Neutral Evaluator shall establish the amount of the cash bond to defray the cost of the arbitration as set forth in subsection 4.4(m) and the proceeds from the bond shall be allocated in accordance with subsection 4.4(m) by the Arbitration Panel.

a. Arbitration Panel. The Arbitration Panel shall consist of three arbitrators: the City's appointed arbitrator, the Contractor's appointed arbitrator and a third arbitrator (or "Neutral Arbitrator") who shall be selected by the parties' arbitrators as set forth in subsection 4.4(b) If more than one consultant or contractor is involved in a dispute, the consultants and/or contractors shall agree on an appointee to serve as arbitrator. The Neutral Evaluator shall not participate in the proceedings.

b. Selection of Neutral Arbitrator. The parties' arbitrators shall choose the Neutral Arbitrator within five business days of receipt of notification of a dispute from the Neutral Evaluator. The Neutral Arbitrator shall have the same qualifications as those of the arbitrators set forth in Section 4.2. In the event that the selected arbitrators cannot agree on the Neutral Arbitrator as set forth above, the Neutral Arbitrator shall be the Default Neutral Arbitrator, a person or entity jointly selected by the City and the Contractor. If the City and the Contractor cannot agree on a Default Neutral Arbitrator, the City and the Contractor shall each submit two names to an appropriate judge who shall select one person.

c. Expedited Hearing. The parties have structured this procedure with the goal of providing for the prompt, efficient and final resolution of all disputes falling within the purview of this ADR process. To that end, any party can petition the Neutral Evaluator to set an expedited hearing. If the Neutral Evaluator determines that the circumstances justify it, the Neutral Evaluator shall contact the selected Arbitration Panel and arrange for scheduling of the arbitration at the earliest possible date. In any event, the hearing of any dispute not expedited will commence as soon as practical but in no event later than 20 calendar days after notification of request for arbitration having been submitted. This deadline can be extended only with the consent of all the parties to the dispute, or by decision of the Arbitration Panel upon a showing of emergency circumstances.

d. Procedure. The Arbitration Panel will select a Chairman and will conduct the hearing in such a manner that will resolve disputes in a prompt, cost efficient manner giving regard to the rights of all parties. Each party shall supply to the Arbitration Panel a written pre-hearing statement which shall contain a brief statement of the nature of the claim or defense, a list of witnesses and exhibits, a brief description of the subject matter of the testimony of each witness who will be called to testify, and an estimate as to the length of time that will be required for the arbitration hearing. The Arbitration Panel shall review and consider the Neutral Evaluator decision, if any. The Chairman shall determine the nature and scope of discovery, if any, and

**GENERAL TERMS AND CONDITIONS**

the manner of presentation of relevant evidence consistent with deadlines provided herein and the parties' objective that disputes be resolved in a prompt and efficient manner. No discovery may be had of any materials or information for which a privilege is recognized by Arizona law. The Chairman upon proper application shall issue such orders as may be necessary and permissible under law to protect confidential, proprietary or sensitive materials or information from public disclosure or other misuse. Any party may make application to the Maricopa County Superior Court to have a protective order entered as may be appropriate to confirm such orders of the Chairman.

e. Hearing Days. In order to effectuate parties' goals, the hearing once commenced, will proceed from working day to working day until concluded, absent a showing of emergency circumstances.

f. Award. The Arbitration Panel shall, within ten calendar days from the conclusion of any hearing, by majority vote issue its award. The award shall include an allocation of fees and costs pursuant to subsection 4.4(m) herein. The award is to be rendered in accordance with this Contract and the laws of the State of Arizona.

g. Scope of Award. The Arbitration Panel shall be without authority to award punitive damages, and any such punitive damage award shall be void. The Arbitration Panel shall be without any authority to issue an award against any individual party in excess of 20% of the original Contract amount, but in no event shall any award exceed \$2,000,000, exclusive of interest, arbitration fees, costs and attorneys' fees. If an award is made against any individual party in excess of \$100,000, exclusive of interest, arbitration fees, costs and attorneys' fees, it must be supported by written findings of fact, conclusions of law and a statement as to how damages were calculated. Any claim in excess of 20% of the original Contract amount or in excess \$2,000,000 shall be subject to the jurisdiction of the Superior Court of Arizona, Maricopa County. Any party can contest the validity of the amount claimed if an action is filed in the Superior Court.

h. Jurisdiction. The Arbitration Panel shall not be bound for jurisdictional purposes by the amount asserted in any party's claim, but shall conduct a preliminary hearing into the question of jurisdiction upon application of any party at the earliest convenient time, but not later than the commencement of the arbitration hearing.

i. Entry of Judgment. Any party can make application to the Maricopa County Superior Court for confirmation of an award, and for entry of judgment on it.

j. Severance and Joinder. To reduce the possibility of inconsistent adjudications: (i) the Neutral Evaluator or the Arbitration Panel may, at the request of any party, join and/or sever parties, and/or claims arising under other contracts containing this ADR provision, and (ii) the Neutral Evaluator, on his own authority, or the Arbitration Panel may, on its own authority, join or sever parties and/or claims subject to this ADR process as they deem necessary for a just resolution of the dispute, consistent with the parties' goal of the prompt and efficient resolution of disputes, provided, however, that the Contractor, Architect/Engineer and Project professionals shall not be joined as a party to any claim made by a Contractor. Nothing herein shall create the right by any party to assert claims against another party not germane to the Contract or not recognized under the substantive law applicable to the dispute. Neither the Neutral Evaluator nor the Arbitration Panel are authorized to join to the proceeding parties not in privity with the City. Contractor can not be joined to any pending arbitration proceeding, without Contractor's express written consent, unless Contractor is given the opportunity to participate in the selection of the non-City appointed arbitrator.

k. Appeal. Any party may appeal (i) errors of law by the Arbitration Panel if, but only if, the errors arise in an award in excess of \$100,000, (ii) the exercise by the Chairman or Arbitration Panel of any powers contrary to or inconsistent with the Contract or (iii) on the basis of any of the grounds provided in ARIZ. REV. STAT. § 12-1512, as amended. Appeals shall be to the Maricopa County Superior Court within 15

**GENERAL TERMS AND CONDITIONS**

calendar days of entry of the award. The standard of review in such cases shall be that applicable to the consideration of a motion for judgment notwithstanding the verdict, and the Maricopa County Superior Court shall have the authority to confirm, vacate, modify or remand an award appealed under this Section, but not to conduct a trial, entertain the introduction of new evidence or conduct a hearing de novo.

l. Uniform Arbitration Act. Except as otherwise provided herein, binding arbitration pursued under this provision shall be governed by the Uniform Arbitration Act as codified in Arizona in ARIZ. REV. STAT. § 12-1501, *et seq.*

m. Fees and Costs. Each party shall bear its own fees and costs in connection with any informal hearing before the Neutral Evaluator. All fees and costs associated with any arbitration before the Arbitration Panel, including without limitation the Arbitration Panelists' fee, and the prevailing party's reasonable attorneys' fees, expert witness fees and costs, will be paid by the non-prevailing party, except as provided for herein. In no event shall any Arbitrator's hourly fees be awarded in an amount in excess of \$200 per hour and (i) costs shall not include any travel expenses in excess of mileage at the rate paid by the City, not to exceed a one way trip of 150 miles, and (ii) all travel expenses, including meals, shall be reimbursed pursuant to the travel policy of the City in effect at the time of the hearing. The determination of prevailing and non-prevailing parties, and the appropriate allocation of fees and costs, will be included in the award by the Arbitration Panel. Fees for the Neutral Evaluator shall be divided evenly between the City and the Contractor.

n. Confidentiality. Any proceeding initiated under ADR shall be deemed confidential to the maximum extent allowed by Arizona law and no party shall, except for disclosures to a party's attorneys or accountants, make any disclosure related to the disputed matter or to the outcome of any proceeding except to the extent required by law, or to seek interim equitable relief, or to enforce an agreement reached by the parties or an award made hereunder.

o. Equitable Litigation. Notwithstanding any other provision of ADR to the contrary, any party can petition the Maricopa County Superior Court for interim equitable relief as necessary to preserve the status quo and prevent immediate and irreparable harm to a party or to the Program pending resolution of a dispute pursuant to ADR provided herein. No court may order any permanent injunctive relief except as may be necessary to enforce an order entered by the Arbitration Panel. The fees and costs incurred in connection with any such equitable proceeding shall be determined and assessed in ADR.

p. Change Order. Any award in favor of the Contractor against the City or in favor of the City against the Contractor shall be reduced to a Change Order and executed by the parties in accordance with the award and the provisions of this Contract.

q. Merger and Bar. Any claim asserted pursuant to this ADR process shall be deemed to include all claims, demands, and requests for compensation for costs and losses or other relief, including the extension of the Contract performance period which reasonably should or could have been brought against any party that was or could have been brought into this ADR process, with respect to the subject claim. The Arbitration Panel shall apply legal principles commonly known as merger and bar to deny any claim or claims against any party regarding which claim or claims recovery has been sought or should have been sought in a previously adjudicated claim for an alleged cost, loss, breach, error, or omission.

r. Inclusion in Other Contracts. The Contractor shall cooperate with the City in efforts to include this ADR provision in all other Project contracts. Subject to Contractor's reasonable agreement, the Contractor agrees that any modification to this ADR provision that is included in the construction or other contracts shall also apply to the Contractor. It is the intent of the parties that any changes to this ADR provision in later contracts will be evolutionary and designed to incorporate the terms of this ADR provision without material changes to the substance or procedure of this ADR provision.

**EXHIBIT A**

---

EXHIBIT A  
TO  
INVITATION FOR BID NO. WR 07-060

[Specifications]

See following pages.

**EXHIBIT A**

---

**1. SCOPE OF WORK**

The scope of work for this project will consist of installing a new casing liner in registered well 55608733. An ADWR well driller report is attached for review. The well is to be utilized as an irrigation water source for the locally adjacent park facility. AMEC will obtain all necessary ADWR permits for the well modification. Site access is good and obtained through a locked double cyclone swing gate assembly. On-site well pump motor power will be verified switched off and locked out by City of Avondale representatives with verification by the consultant and drilling contractor prior to work activities.

The existing well has been completed with 16-inch stovepipe casing to total reported depth of 550 feet bgs. The static water level is approximately 55 feet bgs. The existing pumping equipment consists of 180 feet of 8-inch vertical column pipe and bowel assembly. The well casing perforations are reported to consist of horizontal-punch louvered from 184 feet below land surface bls to 465 feet bls. The well produces fine sand during pumping operation. The wellhead is completed with a 6-inch, square 6-foot cement pad.

Prior to well modifications the well will be bailed to bottom. A down hole video and geophysical suite have been completed to verify the overall well structural integrity as applicable to well casing liner installation.

**1.1 LOCATION**

The well is located at the northwest corner of Mountain View Park (Figure 1). The approximate site address is 201 East Mountain View Road, Avondale, Arizona. The jobsite is fully accessible and the well site does not have any identified safety or logistical problems. Overhead power is located at the street curb access. Photographs of the site layout and wellhead access are presented in Figures 2 and 3. The current vertical turbine pump motor was not installed at the time of photographs.

**1.2 PUMP REMOVAL AND INSTALLATION**

- 1.2.1 The existing pumping equipment consists of vertical turbine pump assembly having 180 feet of 8-inch vertical column pipe and related bowel assembly. The related surface pump assembly piping, skirt, motor and vertical column pipe will need to be removed, and safely stored at the job site during well modification activities.
- 1.2.2 A subtask of this work includes inspection, repair and maintenance of any critical components of the pump column, pump bowels, and motor assembly.
- 1.2.3 A fixed amount of \$15,000 is applicable to the inspection, maintenance and repairs based upon contractor recommendations.
- 1.2.4 Subsequent to the well casing modifications the pump assembly will be reinstalled and all proper piping and power connections completed.
- 1.2.5 Final work includes field verification of the pump assembly operation.

**1.3 WELL SLEEVING**

- 1.3.1 Well Liner Casing – A contractor approved welding plan will be presented and approved by the project engineer. AMEC may conduct a formal site weld inspection during the initial welding program to verify construction integrity. A geologist shall provide on-site supervision during the casing sleeving of the well. For bidding purposes the basic design modifications are as follows:

**EXHIBIT A**

---

- 1.3.1.1 The new liner casing blank interval is 180 feet in length.
- 1.3.1.2 The new liner casing perforation interval is 370 feet in length.
- 1.3.1.3 A bottom sump of 20-feet in length including welded bottom plate will also be installed.
- 1.3.1.4 The well casing blank and perforated liner consists of 12-inch diameter, low carbon steel casing having a 5/16-inch wall thickness.
- 1.3.1.5 The well casing perforations shall consist of a 24-row, double slot, having 48 slots per foot, 0.80 inch slot gauge.
- 1.3.2 Filter Pack
  - 1.3.2.1 Sand filter pack will be tremied between the existing and new well casing annular space. The annular working space will be approximately 2 inches.
  - 1.3.2.2 Filter pack material will consist of No. 6-8 Tacna sand. The filter pack material will be placed from the bottom of the well to approximately 80-feet above the top of the well screen depth of 180 feet bls, or approximately to a depth of 100 feet bls.
  - 1.3.2.3 Intermittent swabbing during filter pack installation will be required to reduce bridging.
  - 1.3.2.4 Simultaneous with the installation of the filter pack sand, a granular hypochlorite or similar disinfectant shall be added to the filter pack sand at the rate of ½ pound per cubic yard of filter pack material, based on 70-percent chlorine content.
  - 1.3.2.5 If a lesser strength hypochlorite or other chlorine product is used, the quantity shall be adjusted accordingly.
  - 1.3.2.6 For bidding purposes, 450 feet of filter pack is estimated between the existing 16-inch casing and new 12-inch casing. The filter pack will be installed by tremie starting at the bottom of the borehole, maintaining 40 feet of clearance about the tagged fill depth.
  - 1.3.2.7 Depth of fill will be confirmed periodically with a weighted tape during filter pack installation. The filter pack will be inspected and approved by the consultant prior to installation. No additional materials will be installed on-top of the filter pack within the annular well space, and shall remain open.

**1.4 SANITARY SEAL**

- 1.4.1 ADWR may require the installation of a well surface sanitary seal if not evident, or the current wellhead pad is not acceptable by ADWR for well head protection.

**EXHIBIT A**

---

- 1.4.2 A separate line item cost is provided to install a new surface neat cement grout seal 20 feet bls by means of extrication of 4-6 inches of the locally adjacent ground **peripheral** to the existing 16-inch casing. This work task includes the removal and replacement of the existing 6-foot square wellhead completion pad.
- 1.4.3 The replacement well head completion pad shall be constructed with reinforced steel.

**1.5 ASSUMPTIONS**

- 1.5.1 The selected drilling contractor is responsible for final ADWR well modifications completion reporting.
- 1.5.2 Solid materials removed from the well casing during bailing will be stockpiled and allowed to drain and dry at the site. The drilling contractor will be responsible for removal and proper disposal of the stockpiled materials.
- 1.5.3 The new well casing will be completed to the equivalent height of the existing well casing collar.

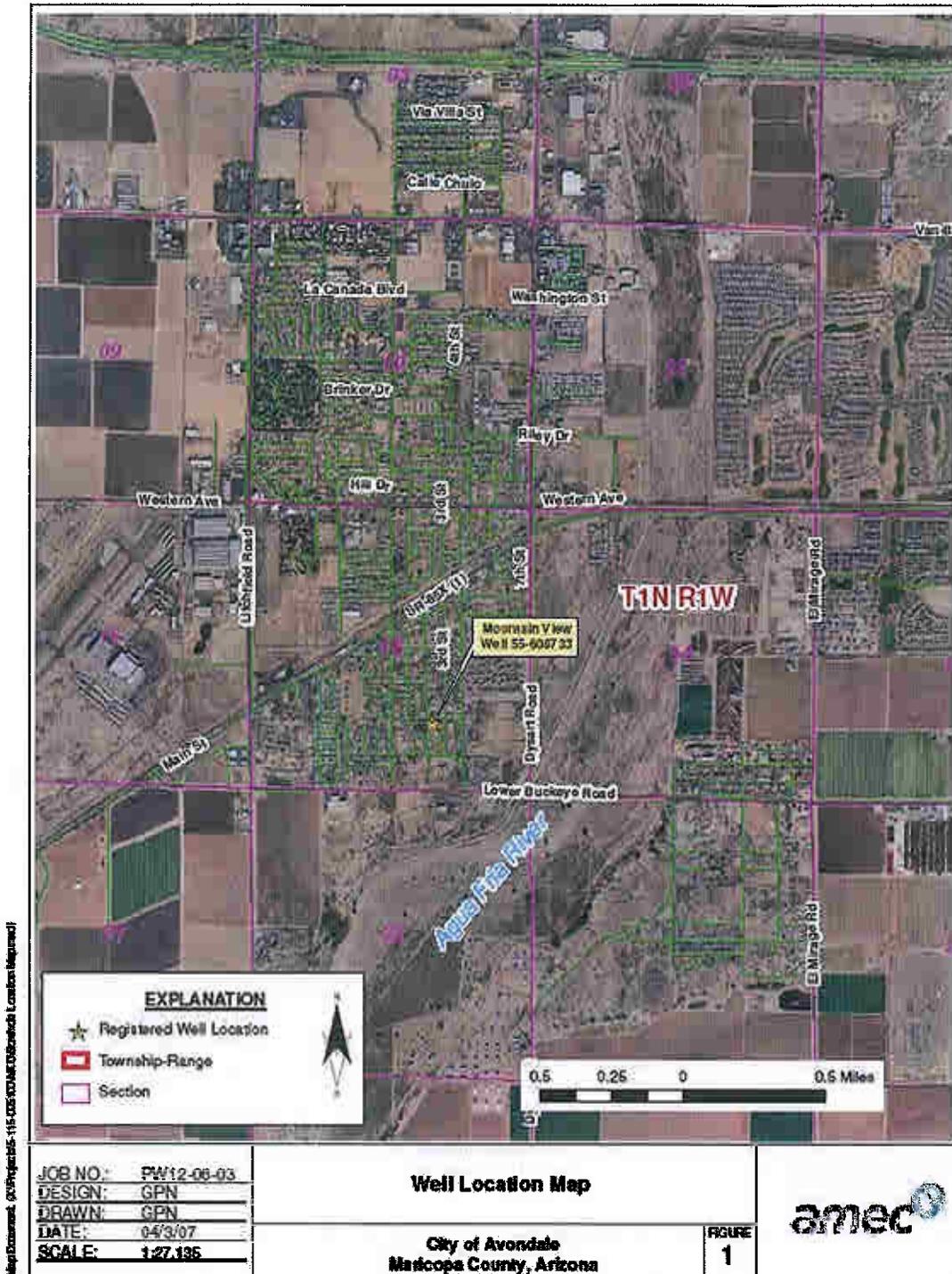
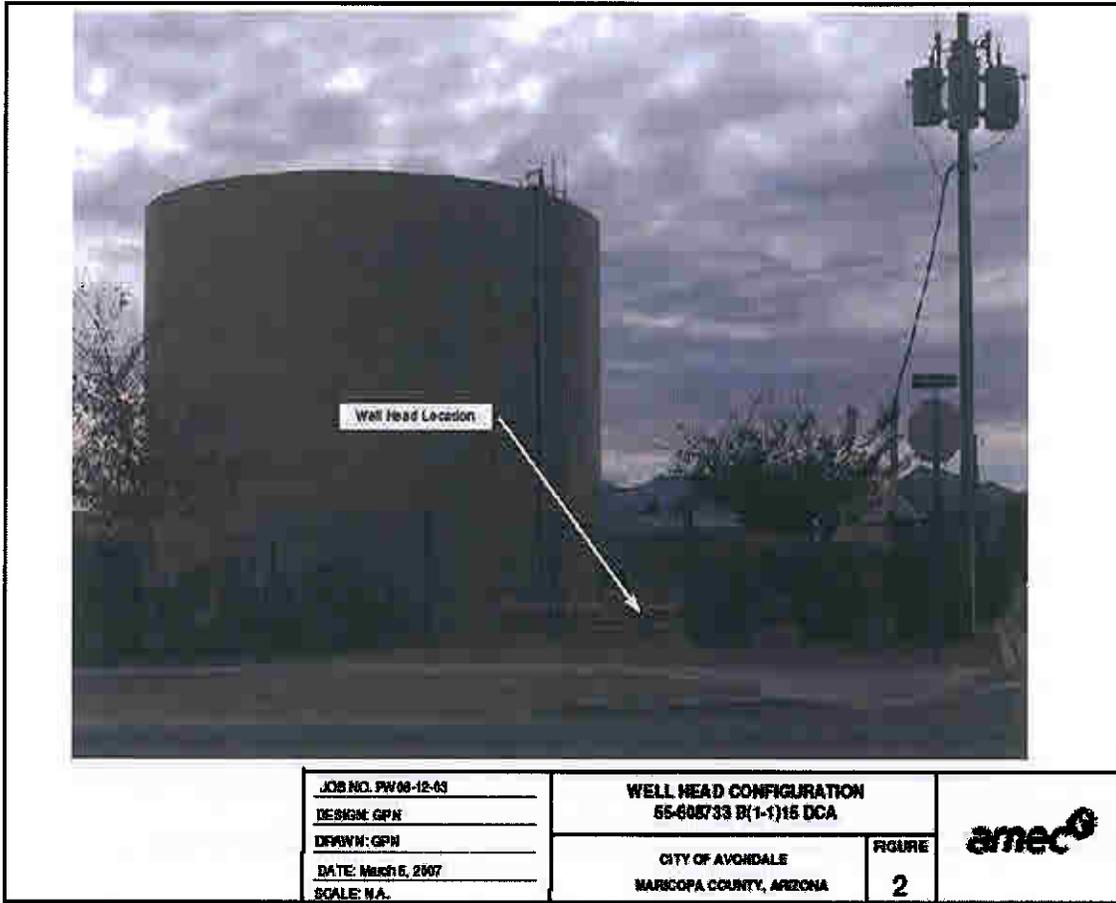


Figure 1

**EXHIBIT A**



**EXHIBIT A**



JOB NO. FW08-12-03	<b>WELL HEAD CONFIGURATION</b>		<b>amec</b>
DESIGN: GPN	55-608733 B(1-1)15 DCA		
DRAWN: GPN	CITY OF AVONDALE MARICOPA COUNTY, ARIZONA	FIGURE	3
DATE: March 5, 2007			
SCALE: N/A.			

**EXHIBIT B**

---

**EXHIBIT B  
TO  
INVITATION FOR BID NO. WR 07-060**

**[Contractor Exceptions to Specifications]**

See following pages.

**EXHIBIT B**

CONTRACTOR EXCEPTIONS TO SPECIFICATIONS

Bidder/Contractor shall fully describe every variance, exception and/or deviation. Additional sheets may be used if required.

Tacna sand and Gravel will not make  
a 6-8 sand. Therefore I have enclosed  
a sieve analysis on a 1/4-8 which  
they will make.

### TACNA SAND & GRAVEL

#### SIEVE ANALYSIS TEST RESULTS

PROJECT: WEBER GROUP  
 LOCATION: \_\_\_\_\_  
 MATERIAL: 1/4 X 8  
 SAMPLED BY: DAVE BURAU  
 TESTED BY: DAVE BURAU

DATE: 3/11/08  
 SAMPLE NO.: \_\_\_\_\_  
 SAMPLED FROM: STOCK

FRACTION EQUIVALENTS	US STANDARD	OPENING INCHES	PERCENT WEIGHT	PERCENT RETAINED	PERCENT PASSED	SPECS	
3/4"	3/4"	0.750					
1/2"	1/2"	0.500					
3/8"	3/8"	0.375					
5/16"	5/16"	0.312					
1/4"	1/4"	0.250	0.0				
3/16"	#4	0.187	0.9	0.9	99.1		
1/8"	#6	0.132	50.0	50.9	49.1		
3/32"	#8	0.0937					
	#10	0.0787	47.2	98.1	1.9		
	#12	0.0661					
	#14	0.0555					
	#16	0.0469					
	#18	0.0394	1.9	100.0			
	#20	0.0331					
	#30	0.00234					
	#40	0.0165					
	#50	0.0117					
	#60	0.0098					
	#70	0.0083					
	#100	0.0059					
	#200	0.0029					
	PAN		TRACE				
TOTAL							

SUBMITTED BY: \_\_\_\_\_

**EXHIBIT C**

---

EXHIBIT C  
TO  
INVITATION FOR BID NO. WR 07-060

[Price Sheet]

See following page.

**CITY OF AVONDALE**  
**WATER RESOURCES DEPARTMENT**  
 WR 07-060

**EXHIBIT C – REVISED PRICE SHEET**

Item	Description	Unit	Estimated Quantity	Unit Price	Extended Price
1.0	Mobilization/Demobilization	LS	1		\$ 4385
2.0	Remove and Install Well Pump Assembly	LS	1		\$ 2050
3.0	Well Pump Assembly Inspection, Maintenance and Repairs	LS	1		\$15,000.00
4.0	Bailing of Well	HR	6	\$ 175	\$ 1050
5.0	Disposal of Bailed Sediment	LS	1		\$ 1250
<b>Items No. 6-9: 12-inch Casing Liner w/Filter Pack</b>					
6.0	Furnish Install 12-inch LCS, Blank Casing, 5/16-inch wall	LF	200	\$ 41.33	\$ 8266
7.0	Furnish Install 12-inch LCS, Perforated Casing 24-row, Double Shot, 0.80 inch slot gauge, 5/16 inch wall thickness	LF	280	\$ 68.56	\$ 19,197
8.0	Furnish Install 12-inch LCS, Sump with plate, 5/16-inch wall	LF	20	\$ 41.33	\$ 827
9.0	Furnish Install Tacna No. 6-8 Sand Filter Pack <sup>(1)</sup>	TN	25	\$ 164	\$ 4100
<b>Items No. 10-11 Sanitary Seal and Well Pad Installation</b>					
10.0	Install 20-foot Sanitary Well Seal	LS	1		\$ 3575
11.0	New Well Head Pad	LS	1		\$ 2375
12.0	Unavoidable delay				
	A. With crew	HR	1	\$ 205	
	B. Without crew	HR	1	\$ 75	

AA  
 19,196.80  
 826.60  
 AA

**Taxes**                    \$ 3551  
**Total**                        \$ 65,625.40 AA  
 65,625.40  
 9PU

(1) Volume based upon a 16-inch existing well casing and 12-inch well casing sleeve annulus for 450 feet. 30% volume overage included. (25 Ton = 356 ft<sup>3</sup> = 13.2 yd<sup>3</sup>)

**EXHIBIT C**

**TOTAL OF UNIT PRICES (in words)**

---

SIGNED: \_\_\_\_\_

DATE: \_\_\_\_\_

TITLE: \_\_\_\_\_

COMPANY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

FAX: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

EMAIL: \_\_\_\_\_

**NOTES:**

1. Quantities are not guaranteed. Final payment shall be based on actual quantities. If the required quantities of the items listed above are increased or decreased by change order, the unit prices set forth above shall apply to such increased or decreased quantities
2. The filter pack material volumes are estimated based on the calculated annulus volume. Only materials utilized in well construction will be subject for payment
3. The Contractor's total bid is based upon the unit prices and allowances. If there is an error in the total bid or other computed totals by the bidder, it shall be changed and the unit prices shall govern.
4. All prices shall include all applicable Contractor's tax.

**EXHIBIT D**

---

**EXHIBIT D  
TO  
INVITATION FOR BID NO. WR 07-060**

[Bid Bond]

See following pages.

MAR-13-2008 THU 12:25 AM

P. 002

**CITY OF AVONDALE  
WATER RESOURCES DEPARTMENT  
WR 07-060**

**EXHIBIT D**

**BID BOND**

KNOW ALL PERSONS BY THESE PRESENTS:

THAT, Weber Group, LC (hereinafter called Principal), as Principal, and Merchants Bonding Company (mutual), a corporation organized and existing under the laws of the State of Iowa with its principal office in the City of Des Moines, Iowa, (hereinafter called the Surety), as Surety, are held and firmly bound unto the City of Avondale, (hereinafter called the Oblige) in the penal sum of Ten Percent (10%) of Bid Amount, TEN PERCENT OF AMOUNT BY (Dollars) (\$ 10% amt bid ) lawful money of the United States of America, to be paid to the order of the City of Avondale, for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents and in conformance with A.R.S. Section 34-201.

WHEREAS, the Principal has submitted a bid/proposal for: Mountain View Well Modifications

NOW THEREFORE, if the Oblige shall accept the proposal of the Principal and the Principal shall enter into a Contract with the Oblige in accordance with the terms of the proposal and give the Bonds and Certificates of Insurance as specified in the Standard Specifications with good and sufficient surety for the faithful performance of the Contract and for the prompt payment of labor and materials furnished in the prosecution of the Contract, or in the event of the failure of the Principal to enter into the Contract and give the Bonds and Certificates of Insurance, if the Principal pays to the Oblige the difference not to exceed the penalty of the Bond, between the amount specified in the bid/proposal and such larger amount for which the Oblige may in good faith Contract with another party to perform the work covered by the bid/proposal, then this obligation is void. Otherwise it remains in full force and effect provided, however, that this Bond is executed pursuant to the provisions of Section 34-201, Arizona Revised Statutes, and all liabilities on this Bond shall be determined in accordance with the provisions of the section to the extent as if it were copied at length herein.

The prevailing party in a suit on this bond shall recover as part of his judgment such reasonable attorneys' fees as may be fixed by a judge of the Court.

Witness our hands this 13 day of March 2008.

Weber Group, LC  
Principal Seal

BY: Jerry P. Wild

Merchants Bonding Company (mutual)  
Surety Seal

BY: Jessika Gulliver

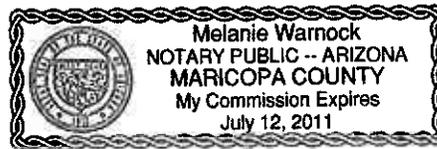
Jessika Gulliver  
Compass Insurance/Phoenix Division  
Agency of Record

State of Arizona  
County of Maricopa

The foregoing instrument (Bid Bond for City of Avondale, Mountain View Well Modifications WR07-060) was acknowledged before me this 13th day of March, 2008) by Jeff Wold, Member, on behalf of Weber Group, L.C., a limited liability company.

*Melanie Warnock*

Notary Public



# Merchants Bonding Company

(Mutual)

## POWER OF ATTORNEY

Know All Persons By These Presents, that the MERCHANTS BONDING COMPANY (MUTUAL), a corporation duly organized under the laws of the State of Iowa, and having its principal office in the City of Des Moines, County of Polk, State of Iowa, hath made, constituted and appointed, and does by these presents make, constitute and appoint

Jorge Luis Mendez, Jessika Gulliver, Melanie Leigh Warnock

of Phoenix and State of AZ its true and lawful Attorney-in-Fact, with full power and authority hereby conferred in its name, place and stead, to sign, execute, acknowledge and deliver in its behalf as surely any and all bonds, undertakings, recognizances or other written obligations in the nature thereof, subject to the limitation that any such instrument shall not exceed the amount of:

TEN MILLION (\$10,000,000.00) DOLLARS

and to bind the MERCHANTS BONDING COMPANY (MUTUAL) thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of the MERCHANTS BONDING COMPANY (MUTUAL), and all the acts of said Attorney in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This Power-of-Attorney is made and executed pursuant to and by authority of the following Amended Substituted and Restated By-Laws adopted by the Board of Directors of the MERCHANTS BONDING COMPANY (MUTUAL) on November 16, 2002.

ARTICLE II, SECTION 8 - The Chairman of the Board or President or any Vice President or Secretary shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the Seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof.

ARTICLE II, SECTION 9 - The signature of any authorized officer and the Seal of the Company may be affixed by facsimile to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed.

In Witness Whereof, MERCHANTS BONDING COMPANY (MUTUAL) has caused these presents to be signed by its President and its corporate seal to be herelo affixed, this 16th day of January, 2006.



MERCHANTS BONDING COMPANY (MUTUAL)

By

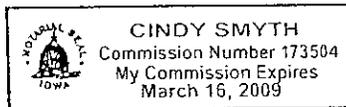
Handwritten signature of Larry Taylor in cursive.

President

STATE OF IOWA  
COUNTY OF POLK ss.

On this 16th day of January, 2006, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of the MERCHANTS BONDING COMPANY (MUTUAL), the corporation described in the foregoing instrument, and that the Seal affixed to the said instrument is the Corporate Seal of the said Corporation and that the said instrument was signed and sealed in behalf of said Corporation by authority of its Board of Directors.

In Testimony Whereof, I have hereunto set my hand and affixed my Official Seal at the City of Des Moines, Iowa, the day and year first above written.



Handwritten signature of Cindy Smyth in cursive.

Notary Public, Polk County, Iowa

STATE OF IOWA  
COUNTY OF POLK ss.

I, William Warner, Jr., Secretary of the MERCHANTS BONDING COMPANY (MUTUAL), do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said MERCHANTS BONDING COMPANY (MUTUAL), which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Company on this 13 day of March, 2008



Handwritten signature of William Warner Jr. in cursive.

Secretary

**EXHIBIT E**

---

EXHIBIT E  
TO  
INVITATION FOR BID NO. WR 07-060

[Performance Bond]

See following pages.

**EXHIBIT E**

**PERFORMANCE BOND**

KNOW ALL PERSONS BY THESE PRESENTS:

THAT, \_\_\_\_\_ (hereinafter called Principal), as Principal, and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, with its principal office in the City of \_\_\_\_\_ (hereinafter called the Surety), as Surety, are held and firmly bound unto the City of Avondale (hereinafter called the Obligee) in the amount of \_\_\_\_\_ (Dollars) (\$ \_\_\_\_\_), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the Obligee, dated the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, for the material, service or construction described as \_\_\_\_\_ is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said Contract during the original term of said Contract and any extension thereof, with or without notice to the Surety and during the life of any guaranty required under the Contract, and shall also perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the surety being hereby waived; then the above obligations shall be void. Otherwise it remains in full force and effect.

PROVIDED, however, that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, to the extent as if it were copied at length in this agreement.

The prevailing party in a suit on this bond shall recover as part of his judgment such reasonable attorneys' fees as may be fixed by a judge of the Court.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Principal Seal

BY: \_\_\_\_\_

\_\_\_\_\_  
Surety Seal

BY: \_\_\_\_\_

\_\_\_\_\_  
Agency of Record

**EXHIBIT F**

---

EXHIBIT F  
TO  
INVITATION FOR BID NO. WR 07-060

[Performance Bond]

See following pages.

**EXHIBIT F**

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT, \_\_\_\_\_ (hereinafter called Principal), as Principal, and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, with its principal office in the City of \_\_\_\_\_ (hereinafter called the Surety), as Surety, are held and firmly bound unto the City of Avondale (hereinafter called the Obligee) in the amount of \_\_\_\_\_ (Dollars) (\$ \_\_\_\_\_), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the Obligee, dated the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, for the material, service or construction described as \_\_\_\_\_ which Contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall promptly pay all monies due to all persons supplying labor or materials to him or his subcontractors in the prosecution of the work provided for in said Contract, then this obligation shall be void. Otherwise it remains in full force and effect.

PROVIDED, however, that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, to the extent as if it were copied at length in this agreement.

The prevailing party in a suit on this bond shall recover as part of his judgment such reasonable attorneys' fees as may be fixed by a judge of the Court.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Principal Seal

BY: \_\_\_\_\_

\_\_\_\_\_  
Surety Seal

BY: \_\_\_\_\_

\_\_\_\_\_  
Agency of Record

***EXHIBIT G***

---

EXHIBIT G  
TO  
INVITATION FOR BID NO. WR 07-060

[Licenses; References]

See following page.

**CITY OF AVONDALE  
WATER RESOURCES DEPARTMENT  
WR 07-060**

**EXHIBIT G**

LICENSES: REFERENCES

- Attach a copy of your Contractor's License to your bid submittal.
- Attach a copy of your Business License to your bid submittal.

Has your firm been certified by any jurisdiction in Arizona as a minority or woman owned business enterprise? Yes \_\_\_\_\_, No .

If yes, please provide details and documentation of the certification.

Please list a minimum of three (3) references whom the Procurement Office may contact:

1. Company: City of Phoenix  
 Contact: Gary Ginn  
 Address: 251 W. Washington 5<sup>th</sup> Floor  
Phoenix AZ 85003  
 Phone: 602-495-5654
  
2. Company: City of Mesa  
 Contact: Dave Bates  
 Address: P.O. Box 1466  
Mesa AZ 85211-1466  
 Phone: 480-644-2140
  
3. Company: AZ-American Water  
 Contact: Dale Conover  
 Address: 19820 N. 7<sup>th</sup> St #201  
Phoenix AZ 85024  
 Phone: 623-445-2405

STATE OF ARIZONA

Office of the Registrar of Contractors

License No. 146267

WEBER GROUP L C

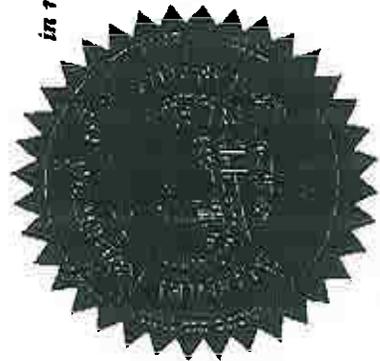
This is to Certify That

having been shown to possess all the necessary qualifications, and having complied with all the requirements of the law, is by order of the Registrar of Contractors on the 15T day of JULY in the year ONE THOUSAND NINE HUNDRED AND NINETY NINE, duly licensed and admitted to engage in and pursue the business of

KA- DUAL ENGINEERING

Contractor in the State of Arizona. Given under my hand and the seal of the Registrar of Contractors

in my office, City of Phoenix, this 15T day of JULY, 1999.



LICENSE EFFECTIVE THROUGH JUL 2009  
STATE OF ARIZONA  
Registrar of Contractors CERTIFIES THAT



WEBER GROUP L C  
CONTRACTORS LICENSE NO. ROC146267 KA-  
CLASS  
DUAL ENGINEERING

*Michael Calderon*  
DIRECTOR

RESIDENTIAL & COMMERCIAL  
THIS CARD MUST BE PRESENTED UPON DEMAND  
*Julio V. Garcia*  
DIRECTOR



ARIZONA DEPARTMENT OF REVENUE  
LICENSE & REGISTRATION SECTION  
1600 WEST MONROE  
PHOENIX, ARIZONA 85007-2650

**BOND EXEMPTION CERTIFICATE**

Issued To: 0700006944201  
WEBER GROUP LC  
16825 S WEBER DR  
CHANDLER AZ 85226-4112

**RECEIVED**  
JUL 17 2007  
WEBER GROUP

07592407

ALL communications and reports MUST REFER to this LICENSE NO.

200206-02-0338-DOR670

THE CONTRACTOR LISTED ABOVE IS EXEMPT FROM A.R.S. 42-5007 BONDING  
-NOT TRANSFERABLE-

FROM: August 1, 2007 EFFECTIVE DATE

TO: July 31, 2008

July 9, 2007 PRINT DATE

ARIZONA DEPARTMENT OF REVENUE  
LICENSE & REGISTRATION SECTION  
1600 WEST MONFOE  
PHOENIX, ARIZONA 85007-2650



MUST BE  
DISPLAYED IN A  
CONSPICUOUS PLACE

T R A N S A C T I O N P R I V I L E G E T A X L I C E N S E

-NOT TRANSFERABLE-

THIS LICENSE IS ISSUED TO THE BUSINESS NAMED BELOW FOR THE ADDRESS SHOWN.  
LICENSES, BY LAW, MAY NOT BE TRANSFERRED FROM ONE PERSON TO ANOTHER NOR CAN  
THEY BE TRANSFERRED FROM ONE LOCATION TO ANOTHER. ARIZONA LAW REQUIRES LI-  
CENSEES TO NOTIFY THE DEPARTMENT OF REVENUE OF ANY CHANGE IN BUSINESS LI-  
NAME, TRADE NAME, LOCATION, MAILING ADDRESS OR OWNERSHIP. IN ADDITION, WHEN  
BUSINESS IS DISCONTINUED OR BUSINESS LOCATION CHANGES, A NEW LICENSE IS  
ISSUED, THIS LICENSE MUST BE RETURNED TO THE ARIZONA DEPARTMENT OF REVENUE.

THE LICENSEE LISTED BELOW IS LICENSED TO CONDUCT BUSINESS UPON THE CONDITION  
THAT TAXES ARE PAID TO THE ARIZONA DEPARTMENT OF REVENUE AS ACCRUED UNDER  
PROVISIONS OF ARS TITLE 42, CHAPTER 8, ARTICLE 1.

ISSUED TO

WEBER GROUP LC  
C/O KUZMIK, SUSAN  
16825 S. WEBER DR  
CHANDLER, AZ 85226-4112

07-592407-R

17 BUSINESS CODE

(OBA)

WEBER GROUP LC  
16825 S. WEBER DR  
CHANDLER, AZ 85226-4112

10/01/99

EFFECTIVE DATE

05/28/99

PRINT DATE

DOR 87024 (1/98)

Attachment #1

Transaction Privilege Tax

March 1997

602(a)

to state

o state

on of

Other Licenses Required: You may also be required to be li-  
censed with other state agencies. For assistance, refer to the  
Guide to Arizona Licensing Requirements, a publication

ALL communications  
and reports MUST  
REFER to this  
LICENSE NO.



LICENSE NO:10109

THIS NONTRANSFERABLE PRIVILEGE TAX/BUSINESS LICENSE IS ISSUED IN ACCORDANCE THE WITH CITY OF AVONDALE TAX CODE AND IS VALID ONLY WHILE OPERATING UNDER THE HEREIN SPECIFIED NAME AND LOCATION UNTIL EXPIRATION DATE. BUSINESS ACTIVITY MUST BE CONDUCTED IN COMPLIANCE WITH ALL BUILDING, FIRE AND ZONING CODES.

BUSINESS NAME: WEBER GROUP, L. C.

EXPIRES:12/31/08

BUSINESS LOCATION: LOCATION OUTSIDE AVONDALE

THIS LICENSE MUST BE DISPLAYED IN A CONSPICUOUS PLACE

WEBER GROUP, L. C.  
16825 S WEBER DRIVE  
CHANDLER, AZ 85226-4112

ISSUED BY Kevin H. Artz  
City of Avondale  
11465 W Civic Center Dr. #270  
Avondale, AZ 85323

### CERTIFICATE

The undersigned, being the duly elected and acting Secretary of **WEBER GROUP, L.C.**, an Arizona limited liability company does hereby certify and declare that the following resolution adopted by the Members of said company is a full, true and correct copy of said resolution as is presently contained in the minute book of said company and that the directions and authorities as therein contained and/or expressed remain in full force and effect and have not been revoked or modified. The said resolution is as follows:

RESOLVED, that the officers and members of the Company (Bernard Lee Weber, CEO & Member; Fred Michael Tregaskes, President & Member; Sterling J. Smith CPA, Treasurer; Susan Marie Kuzmik CPA, Secretary & Member; Martin Weber, Member; Jeffery P. Wold, Member; and Bryan Weber, Member) are authorized, empowered, and directed to execute and file all documents. Only one signature of an officer or member is required on documents.

DATED: March 13, 2008

**WEBER GROUP, L.C.**

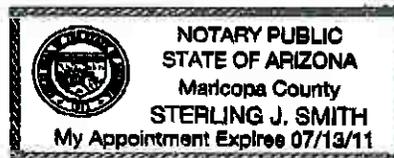
Susan Marie Kuzmik  
Susan Marie Kuzmik CPA  
Secretary

State of Arizona  
County of Maricopa

The foregoing instrument was subscribed and sworn to before me this 13<sup>th</sup> day of March, 2008 by Susan Marie Kuzmik.

Sterling J. Smith  
Notary Public

My commission expires on 7/13/11.



**EXHIBIT H**

---

EXHIBIT H  
TO  
INVITATION FOR BID NO. WR 07-060

[Addenda Acknowledgment]

See following page.

EXHIBIT H

ACKNOWLEDGMENT OF ADDENDA RECEIVED

Weber Group, L.C., (Name of Vendor) affirms that the following ADDENDA have been received and that the information contained in the ADDENDA has been incorporated in formulating the Bid.

Signed, for the Vendor Jeff R. Wold Date 3/13/, 2008

ADDENDA RECEIVED:

1. Addendum #1, dated March 4, 2008.
2. E-mail, dated March 12, 2008.
3. \_\_\_\_\_, dated \_\_\_\_\_, 2008.
4. \_\_\_\_\_, dated \_\_\_\_\_, 2008.
5. \_\_\_\_\_, dated \_\_\_\_\_, 2008.

(Add others as needed, identified in the same format)

EXHIBIT 1  
TO  
ADDENDUM NO. 1  
TO  
INVITATION FOR BID NO. WR 07-060  
MOUNTAIN VIEW WELL MODIFICATIONS

(Exhibit C, Price Sheet, Mountain View Well Modifications)  
WR 07-060

## INVITATION FOR BIDS

### Mountain View Well Modifications

WR 07-060

#### Addendum No. 1

Date: March 4, 2008

From: Mary Rogers, Buyer

Subject: Addendum No. 1 to the Invitation for Bids No. WR 07-060

Closing Date and Time: **March 13, 2008**, 3:00 p.m. local time, Phoenix, Arizona

#### **SCOPE**

This Addendum forms a part of the Contract and clarifies, corrects, or modifies the original Invitation for Bid documents prepared by the City of Avondale. Acknowledge receipt of this addendum in the space provided on the attached form. This acknowledgement and addendum must accompany the submitted bid. Failure to do so may subject the bidder to disqualification.

This addendum No. 1 consists of the modification of Scope of Work and revisions to Exhibit C, Price Sheet

#### **ADDENDUM**

1. Page A-2, Scope of Work, Item 1.3.1.1 is hereby amended to read as follows:  
Item 1.3.1.1 The new liner casing blank interval is **200** feet in length.
2. Page A-2, Scope of Work, Item 1.3.1.2 is hereby amended to read as follows:  
1.3.1.2 The new liner casing perforation interval is **280** feet in length.
3. Page A-2, Scope of Work, Item 1.3.1.3 now reads:  
1.3.2.3 Intermittent swabbing during filter pack installation will be required to reduce bridging.

Page A-2, Scope of Work, Item 1.3.2.3 is amended to read:

**1.3.2.3 For bidding purposes, five (5) minutes per foot of screen will be utilized for swabbing during filter pack installation to reduce bridging.**

4. Page A-2, Scope of Work, Item 1.3.2.6 is hereby amended to read as follows:

1.3.2.6 For bidding purposes, 400 feet of filter pack is estimated between the existing 16-inch casing and new 12-inch casing. The filter pack will be installed by tremie starting at the bottom of the borehole, maintaining 40 feet of clearance about the tagged fill depth.

5. Replace Exhibit C, Price Sheet attached to Invitation for Bids No. WR 07-060 with Exhibit 1, Price Sheet attached to this Addendum No. 1 as Exhibit 1 and incorporated herein by reference.

**CITY OF AVONDALE  
ACKNOWLEDGMENT OF ADDENDA RECEIVED  
INVITATION FOR BIDS**

Mountain View Well Modifications

WR 07-060

**Addendum No. 1**

Weber Group, L.C., affirms that ADDENDUM No. 1 has  
(Name of Vendor/Designee)  
been received and that the information contained in ADDENDUM No. 1 has been incorporated  
in formulating the Vendor's Offer.

Signed Jeffery P. Wold, Date March 13, 2008

Print Name Jeffery P. Wold

Title Senior Vice-President

Company Name Weber Group, L.C.

Address 16925 S. Weber Drive

City, State Zip Chandler, AZ 85226

END OF ADDENDUM No. 1

**Jeff Wold**

---

**From:** Steve Ruppenthal [sruppenthal@avondale.org]  
**Sent:** Wednesday, March 12, 2008 8:08 AM  
**To:** azcadrilling@aol.com; mcphxaz@cs.com; zim@zimindustries.com; dapaszli@laynechristensen.com; Jeff Wold  
**Cc:** Mary Rogers; Attorney Andrew McGuire; Melquides Esparza; Steve Ruppenthal; Smith, Adam  
**Subject:** Mountain View Well Rehab

This reply is not met to provide direction to the contractor regarding installation of the filter pack, but convey the City's position regarding inquires towards filter pack installation.

There may be concern regarding the installation of the filter pack, as outlined in section 1.3.2 Filter Pack, in the Invitation For Bids packet, due to the annular work space between the existing and new well casing. The contractor is expected to comply with the original bid specifications and addendum. If the Consultant, AMEC, determines that this method is ineffective during the course of the installation of the Filter Pack, the City, AMEC and the Contractor will meet to determine and alternative course of action and any potential change orders upon agreement of an alternative solution.

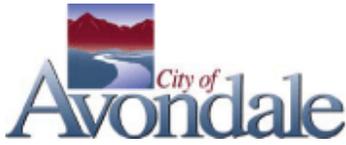
Bidder may elect to insert the filter pack in a manner other than outlined in the specifications. If an alternative method is suggested, then that process shall be noted in Exhibit B, Contractor Exceptions To Specifications. The City and AMEC will consider Contractor Exceptions during the post bid submittal evaluation process.

Steve Ruppenthal  
Operations Superintendent  
City of Avondale Water Resources Department  
399 E. Lower Buckeye, Suite 100  
Avondale, AZ 85323

Phone: 623-333-4433  
Fax: 623-333-0440

"Government isn't bad. It's stupid government that's bad."

Alan Hevesi, New York City Comptroller



# CITY COUNCIL REPORT

**SUBJECT:**  
Special Event Liquor License - St. Thomas Aquinas  
Church - The Harlem Gospel Choir concert

**MEETING DATE:**  
April 7, 2008

**TO:** Mayor and Council  
**FROM:** Linda Farris, City Clerk (623) 333-1211  
**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council consider a special event liquor license for the St. Thomas Aquinas Church, 13720 West Thomas Road, Avondale for April 18, 2008.

**DISCUSSION:**

The City Clerk's Office has received an application for a special event liquor license from Carl Sappenfield, representing St. Thomas Aquinas Church, to be used in conjunction with The Harlem Gospel Choir concert.

This event will be held on Friday, April 18, 2008 from 6:30 p.m. to 9:30 p.m., at St. Thomas Aquinas Church. Staff has reviewed this application using the 14 factors set forth in Ordinance 1031-04.

The findings are as noted below:

- 1) The event will be open to the public.
- 2) Criminal history of the applicant - A background check of the organizer, Mr. Carl Sappenfield, revealed no contact with the Avondale Police Department.
- 3) The event is a concert.
- 4) Security measures taken by the applicant – Police Department has reviewed the security plan and is recommending approval.
- 5) & 6) Wine and beer will be sold in plastic cups during the intermission.
- 7) Has this event created any neighborhood disturbances in the past three years –no problems have been reported with similar concerts at the same location.
- 8) Potential for problems in the neighborhood in terms of noise, hours and time of the event - All activities will be confined to the church and no amplification will be used.
- 9) Length of the event – 3 hours, including intermission.
- 10) Sanitary facilities available to the participants – Church has facilities.
- 11) Is zoning appropriate - Zoning is A-1 General Industrial. Planning staff has indicated that the proposed use will not result in incompatible land uses.
- 12) Anticipated number of attendees - The anticipated total daily attendance is 100 to 150 people at the event.
- 13) Nature of sound amplification system – none.
- 14) Traffic control measures will not be necessary per the Chief of Police.

**RECOMENDATION:**

Staff is recommending the approval of a special event liquor license for St. Thomas Aquinas Church, 13720 West Thomas Road, for The Harlem Gospel Choir concert to be held April 18, 2008.

**ATTACHMENTS:**

Click to download

- [State Application](#)
- [Comments](#)

**ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL**

800 W Washington 5th Floor  
Phoenix AZ 85007-2934  
(602) 542-5141



400 W Congress #521  
Tucson AZ 85701-1352  
(520) 628-6595

**APPLICATION FOR SPECIAL EVENT LICENSE**  
 Fee = \$25.00 per day, for 1-10 day events only  
 A service fee of \$25.00 will be charged for all dishonored checks (A.R.S. § 44-6852)

**PLEASE NOTE: THIS DOCUMENT MUST BE FULLY COMPLETED OR IT WILL BE RETURNED.**

**\*\*APPLICATION MUST BE APPROVED BY LOCAL GOVERNMENT**

DEPT USE ONLY  
LIC#

1. Name of Organization: St. Thomas Aquinas Church
  2. Non-Profit/I.R.S. Tax Exempt Number: 86-0337499
  3. The organization is a: (check one box only)
    - Charitable
    - Fraternal (must have regular membership and in existence for over 5 years)
    - Civic
    - Political Party, Ballot Measure, or Campaign Committee
    - Religious
  4. What is the purpose of this event? Fundraiser
  5. Location of the event: 13720 W Thomas Rd Avondale Maricopa 85323  
Address of physical location (Not P.O. Box) City County Zip
- Applicant must be a member of the qualifying organization and authorized by an Officer, Director or Chairperson of the Organization named in Question #1. (Signature required in section #18)**
6. Applicant: Sappenfield Carl Henry  
Last First Middle Date of Birth
  7. Applicant's Mailing Address: 10236 S 185<sup>th</sup> Dr Goodyear AZ 85338  
Street City State Zip
  8. Phone Numbers: 623 935 2151 ( )  
Site Owner # Applicant's Business # Applicant's Home #
  9. Date(s) & Hours of Event: (Remember: you cannot sell alcohol before 10:00 a.m. on Sunday)
 

	Date	Day of Week	Hours from A.M./P.M.	To A.M./P.M.
Day 1:	<u>04-18-08</u>	<u>Friday</u>	<u>06:30 PM</u>	<u>09:30 PM</u>
Day 2:	_____	_____	_____	_____
Day 3:	_____	_____	_____	_____
Day 4:	_____	_____	_____	_____
Day 5:	_____	_____	_____	_____
Day 6:	_____	_____	_____	_____
Day 7:	_____	_____	_____	_____
Day 8:	_____	_____	_____	_____
Day 9:	_____	_____	_____	_____
Day 10:	_____	_____	_____	_____

10. Has the applicant been convicted of a felony in the past five years, or had a liquor license revoked?  
 YES  NO (attach explanation if yes)
11. This organization has been issued a special event license for 2 days this year, including this event (not to exceed 10 days per year).
12. Is the organization using the services of a promoter or other person to manage the event?  YES  NO  
 If yes, attach a copy of the agreement.
13. List all people and organizations who will receive the proceeds. Account for 100% of the proceeds.  
**THE ORGANIZATION APPLYING MUST RECEIVE 25% of the gross revenues of Alcoholic Beverage Sales.**

<u>Name</u>	<u>Address</u>	<u>Percentage</u>
<u>St. Thomas Aquinas</u>	<u>13720 W Thomas Av.</u>	<u>100%</u>

(Attach additional sheet if necessary)

14. Knowledge of Arizona State Liquor Laws Title 4 is important to prevent liquor law violations. If you have any questions regarding the law or this application, please contact the Arizona State Department of Liquor Licenses and Control for assistance.

NOTE: ALL ALCOHOLIC BEVERAGE SALES MUST BE FOR CONSUMPTION AT THE EVENT SITE ONLY.  
"NO ALCOHOLIC BEVERAGES SHALL LEAVE SPECIAL EVENT PREMISES."

15. What security and control measures will you take to prevent violations of state liquor laws at this event?  
 (List type and number of security/police personnel and type of fencing or control barriers if applicable)

2 # Police  Fencing  
 \_\_\_\_\_ # Security personnel  Barriers

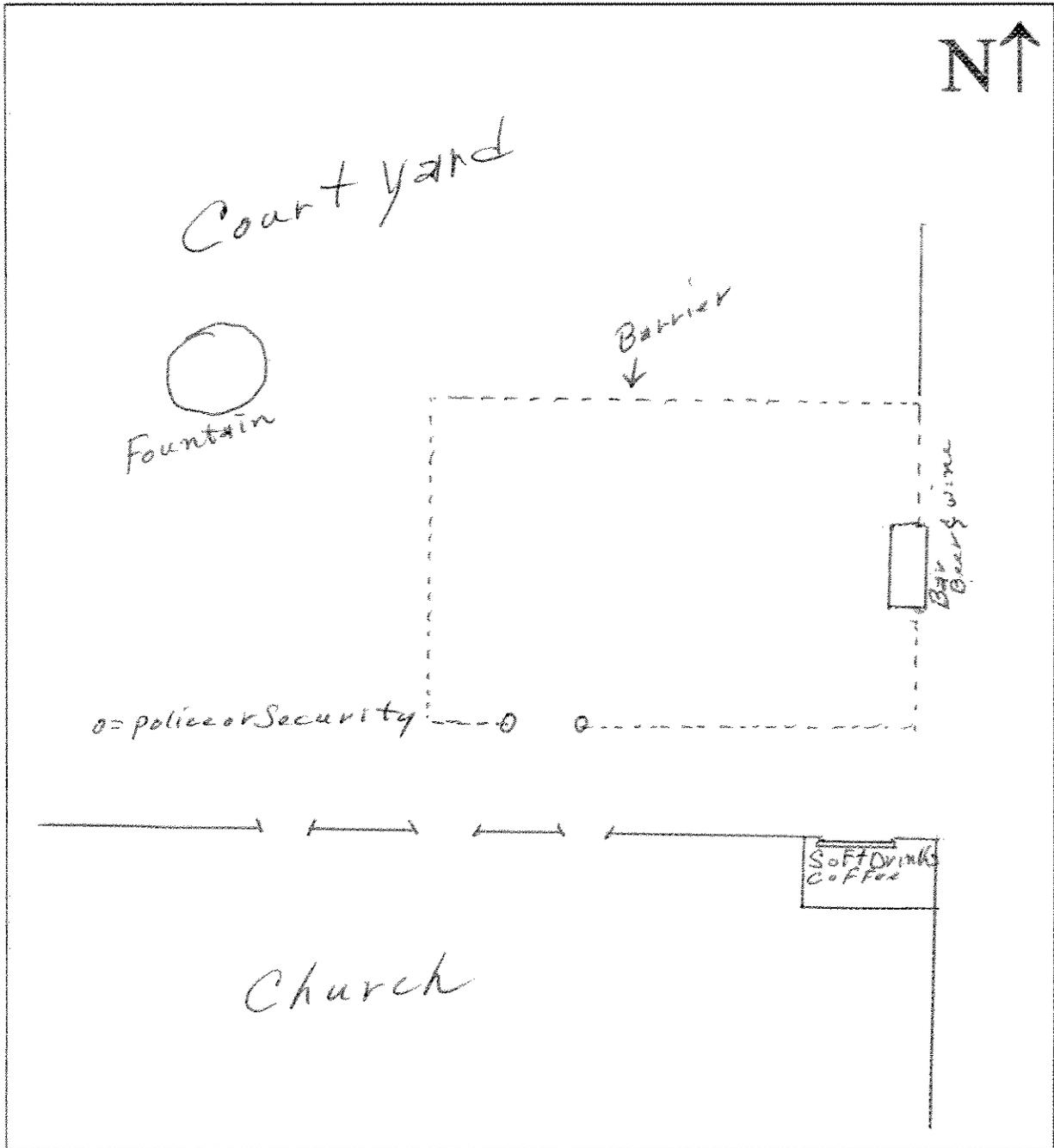
16. Is there an existing liquor license at the location where the special event is being held?  YES  NO  
 If yes, does the existing business agree to suspend their liquor license during the time period, and in the area in which the special event license will be in use?  YES  NO  
**(ATTACH COPY OF AGREEMENT)**

\_\_\_\_\_  
 Name of Business ( ) Phone Number

17. Your licensed premises is that area in which you are authorized to sell, dispense, or serve spirituous liquors under the provisions of your license. The following page is to be used to prepare a diagram of your special event licensed premises. Please show dimensions, serving areas, fencing, barricades or other control measures and security positions.

**SPECIAL EVENT LICENSED PREMISES DIAGRAM**  
(This diagram must be completed with this application)

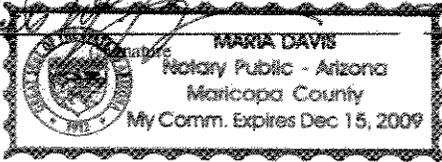
Special Event Diagram: (Show dimensions, serving areas, and label type of enclosure and security positions)  
NOTE: Show nearest cross streets, highway, or road if location doesn't have an address.



**THIS SECTION TO BE COMPLETED ONLY BY AN OFFICER, DIRECTOR OR CHAIRPERSON OF THE ORGANIZATION NAMED IN QUESTION #1**

18. I, MATTHEW S. SPENKLE, declare that I am an Officer/Director/Chairperson appointing the applicant listed in Question 6, to apply on behalf of the foregoing organization for a Special Event Liquor License.

*[Handwritten Signature]*



Director of Music 3/6/08 623935751  
 (Title/Position) (Date) (Phone #)

State of ARIZONA County of MARICOPA  
 The foregoing instrument was acknowledged before me this 6 MARCH 2008  
 Day Month Year

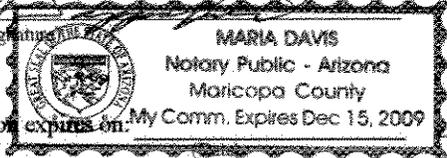
My Commission expires on: 12/15/2009  
 (Date)

*[Handwritten Signature: Maria Davis]*  
 (Signature of NOTARY PUBLIC)

**THIS SECTION TO BE COMPLETED ONLY BY THE APPLICANT NAMED IN QUESTION #6**

19. I, Carl H. Sappen Field, declare that I am the APPLICANT filing this application as listed in Question 6. I have read the application and the contents and all statements are true, correct and complete.

*[Handwritten Signature]*



State of ARIZONA County of MARICOPA  
 The foregoing instrument was acknowledged before me this

6 MARCH -2008  
 Day Month Year

My commission expires on: My Comm. Expires Dec 15, 2009

*[Handwritten Signature: Maria Davis]*  
 (Signature of NOTARY PUBLIC)

**You must obtain local government approval. City or County MUST recommend event & complete item #20. The local city or county jurisdiction may require additional applications to be completed and additional licensing fees before approval may be granted.**

**LOCAL GOVERNING BODY APPROVAL SECTION**

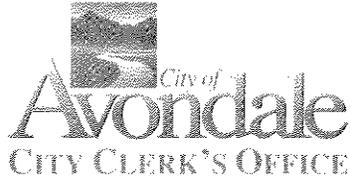
20. I, \_\_\_\_\_ hereby recommend this special event application  
 (Government Official) (Title)  
 on behalf of \_\_\_\_\_  
 (City, Town or County) (Signature of OFFICIAL) (Date)

**FOR DLLC DEPARTMENT USE ONLY**

Department Comment Section:

\_\_\_\_\_  
 (Employee) (Date)

APPROVED  DISAPPROVED BY: \_\_\_\_\_  
 (Title) (Date)



**DEPARTMENTAL REVIEW FORM**

**TYPE OF LICENSE:**

SPECIAL EVENT LIQUOR LICENSE

**ROUTING:**

POLICE DEPARTMENT

FIRE DEPARTMENT

---

**APPLICANT'S NAME:** CARL SAPPENFIELD

**ORGANIZATIONS NAME:** ST. THOMAS AQUINAS CHURCH

**EVENT ADDRESS:** 13720 WEST THOMAS ROAD

**CITY:** AVONDALE    **STATE:** AZ    **ZIP CODE:** 85323

**PURPOSE OF EVENT:** THE HARLEM GOSPEL CHOIR

**DEPARTMENTAL COMMENTS:**

APPROVED

DENIED

A handwritten signature in black ink, appearing to be "F. M. H.", written over a horizontal line.

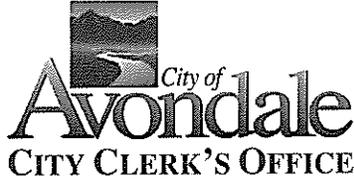
**SIGNATURE**  
FIRE MARSHAL

**TITLE**

A handwritten date "4/1/08" written in black ink over a horizontal line.

**DATE**

**THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: APRIL 7, 2008**  
**PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: MARCH 31, 2007**



**DEPARTMENTAL REVIEW FORM**

**TYPE OF LICENSE:**

SPECIAL EVENT LIQUOR LICENSE

**ROUTING:**

POLICE DEPARTMENT

FIRE DEPARTMENT

---

**APPLICANT'S NAME:** CARL SAPPENFIELD

**ORGANIZATIONS NAME:** ST. THOMAS AQUINAS CHURCH

**EVENT ADDRESS:** 13720 WEST THOMAS ROAD

**CITY:** AVONDALE    **STATE:** AZ    **ZIP CODE:** 85323

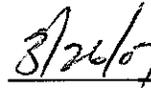
**PURPOSE OF EVENT:** THE HARLEM GOSPEL CHOIR

**DEPARTMENTAL COMMENTS:**

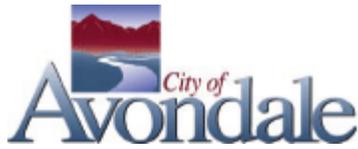
APPROVED

DENIED

  
\_\_\_\_\_  
**SIGNATURE**  
  
\_\_\_\_\_  
**TITLE**

  
\_\_\_\_\_  
**DATE**

**THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: APRIL 7, 2008  
PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: MARCH 31, 2007**



# DEVELOPMENT SERVICES

**SUBJECT:**  
TA-08-1 Section 6 Planned Area Development Zoning  
Districts

**MEETING DATE:**  
April 7, 2008

**TO:** Mayor and Council  
**FROM:** Brian Berndt, Development Services Director (623) 333-4011  
**THROUGH:** Charlie McClendon, City Manager

---

**REQUEST:** Staff requests that this item be continued to the May 5th regular agenda.

**APPLICANT:** Staff

**SUMMARY OF REQUEST:**

Text amendment of Section 6, Planned Area Development Districts, of the Zoning Ordinance.

**PLANNING COMMISSION ACTION:**

On March 20, 2008, Planning Commission voted unanimously to continue the item to the April 17, 2008 Planning Commission meeting, at the request of staff.

**ATTACHMENTS:**

[Click to download](#)

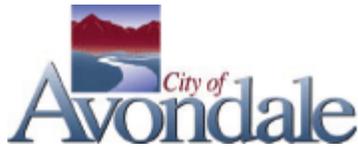
No Attachments Available

**FULL SIZE COPIES (Council Only):**

None

**PROJECT MANAGER:**

Eric Morgan, Planner II



# CITY COUNCIL REPORT

**SUBJECT:**

Resolution Adopting the City of Avondale Supplement to MAG Uniform Standard Specifications and Details for Public Works Construction

**MEETING DATE:**

April 7, 2008

**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 adopt a Resolution approving the 2008 edition of the City of Avondale Supplement to the Maricopa Association of Governments (MAG) Uniform Standard Specifications and Details for Public Works Construction.

**BACKGROUND:**

On October 2, 2006, the City Council approved a Professional Services Agreement (PSA) with Entellus Engineering in the amount of \$128,243 to prepare the General Engineering Guideline Manuals. This agreement covered the simultaneous creation of two (2) separate manuals: the General Engineering Requirements (GER) and the City of Avondale MAG Supplement to the Standard Specifications and Details for Public Works (MAG Supplement Manual). These documents will provide guidance to the engineering and construction community relating to design and construction standards for work performed within the City of Avondale. The project duration was anticipated to be six (6) months. On April 10, 2007, the City Manager approved Amendment No. 1 to the PSA to extend the contract time. On November 19, 2007, Council approved Amendment No. 2 to the PSA in the amount of \$50,000, for additional work outside the original scope of work bringing the total contract price to \$178,243. On February 4, 2008, Council approved a resolution adopting the GER Manual.

**DISCUSSION:**

In order to prepare the MAG Supplement Manual, the project team utilized the existing City Construction Specifications Manual which was last revised April 1, 1999. The project team also researched the MAG Supplement Manuals for neighboring municipalities including the Cities of Phoenix, Chandler, Goodyear, Scottsdale, and Surprise, in an attempt to remain consistent and competitive. Based on the review and research conducted, the project team decided the most efficient approach to drafting the manual would be to work on it as two (2) separate components: 1) Technical Specifications and 2) City Standard Details.

The MAG Supplement Manual will be beneficial to the City by improving the consistency and quality of public works construction. This will be completed by providing:

- Clear and concise direction for the expectation of construction activities. Detailed documentation of acceptable materials, means, and methods for public works construction.
- An explanation of the construction inspection process in the City of Avondale.
- Versatility to be dynamic in nature by utilizing the internet.
- Removal of inconsistencies and inadequacies.
- A specifications and detail manual that is consistent within the state.
- A valuable resource to other City Departments.
- Reduction in staff review time and increased efficiency

The first component of the MAG Supplement Manual the team focused on was technical specifications for construction of public works. This part of the manual was created by taking the previous City Construction Specifications Manual and reformatting it into MAG format. The reformatted document was then distributed to city engineering and construction staff to review and provide comments. Comments were evaluated by the project team and incorporated into the document. This process went through multiple iterations throughout the year also taking into consideration the development of the GER Manual. The pre-final draft was completed in January 2008 and distributed one last time to staff as well as multiple representatives from the development, engineering, and construction communities. These representatives included RDB Development, RBF Development, CMX Engineering, Coe & Van Loo Engineering, Dibble Engineering, Pierson Construction, Wheeler Construction, Swengel Robbins Construction, and Achen Gardner Construction. Final comments were received in February 2008 and were compiled, evaluated, and incorporated into the final version of the technical specifications for construction of public works.

The second component of the MAG Supplement Manual included the City Standard Details. In general, the City utilizes the MAG Standard Details; however there are some special applications and circumstances that occur within the City which require special details. One such application is pedestrian access ramps with respect to the current American Disabilities Act (ADA) Standards. The pedestrian ramp details contained in the MAG Manual do not currently meet ADA standards. The pedestrian ramp details proposed in the City of Avondale Supplement to MAG Manual do meet the current ADA standards and requirements. In an effort to create specific details that work for the City of Avondale, the project team first developed a packet of relevant details for staff consideration. The team did this by incorporating existing sketches, concepts, and drawings currently utilized by staff and combined them with other relevant City Supplement Details. The packet was then distributed to representatives from the Fire, Water Resources, Field Operations, Engineering, Development Services, and Parks, Recreation and Libraries Departments for review and comment. While many details in the packet were deleted because they were not needed, there were a significant amount of details that were regarded as necessary. Entellus compiled all of staff's comments, created CADD files for each detail that was deemed necessary, and implemented the approved revisions from staff. The details were then sent out one last time for review and comment. This time the distribution list included city staff, as well as representatives from the development, engineering, and construction communities mentioned above. Comments were compiled by the project team, considered by City staff, and implemented into the CADD files for final approval.

The final step in developing the City of Avondale MAG Supplement Manual was to combine the two (2) components into one (1) comprehensive manual. This included cross-referencing specifications to details and determining the formatting of the table of contents and manual organization. The project team decided to follow the format outlined in other municipalities to remain consistent and user-friendly.

Moving forward, it is critical that the Engineering Design Guidelines be updated on a regular basis. By doing this, staff will be able to complete a majority of the revisions. Staff recommends that initially both manuals be updated annually. In later years, staff recommends that the GER Manual be updated every other year and that the MAG Supplement Manual continue to be updated annually. Updating the GER Manual every other year will allow the City to remain competitive with other municipalities, while keeping its requirements up-to-date and allowing staff to perform most of the work. Updating the MAG Supplement Manual annually will coincide with how often the MAG Manual itself is updated.

#### **BUDGETARY IMPACT:**

The total cost to create the MAG Supplement Manual together with the previously adopted General Engineering Requirements Manual was \$175,000.

#### **RECOMENDATION:**

Staff recommends that City Council adopt a Resolution approving the 2008 edition of the City of Avondale Supplement to the Maricopa Association of Governments (MAG) Uniform Standard Specifications and Details for Public Works Construction.

#### **ATTACHMENTS:**

[Click to download](#)



**RESOLUTION NO. 2732-408**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, ADOPTING THE 2008 CITY OF AVONDALE SUPPLEMENT TO MAG UNIFORM STANDARD SPECIFICATIONS AND DETAILS FOR PUBLIC WORKS CONSTRUCTION.

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

SECTION 1. That the 2008 City of Avondale Supplement to MAG Specifications and Details for Public Works Construction is hereby adopted in the form attached hereto as Exhibit A and incorporated herein by reference.

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

**PASSED AND ADOPTED** by the Council of the City of Avondale, April 7, 2008.

---

Marie Lopez Rogers, Mayor

ATTEST:

---

Linda M. Farris, City Clerk

APPROVED AS TO FORM:

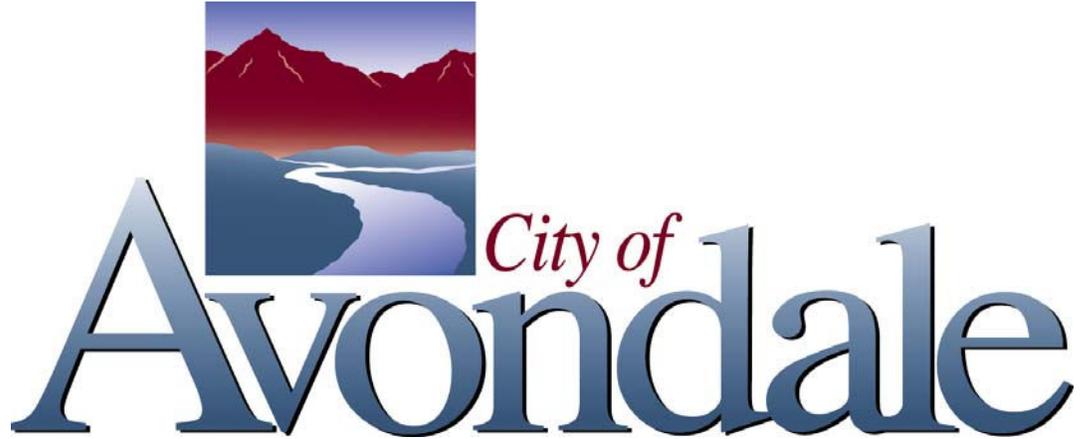
---

Andrew J. McGuire, City Attorney

EXHIBIT A  
TO  
RESOLUTION NO. 2732-408

[City of Avondale Supplement to MAG Specifications and Details for Public Works Construction]

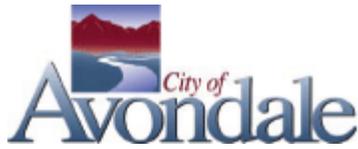
See following pages.



Supplement to MAG  
Uniform Standard  
Specifications and Details  
for  
Public Works Construction

April, 2008

The remainder of this document on file with the Avondale City Clerk.



# CITY COUNCIL REPORT

**SUBJECT:**

Ordinance 1299-408 - Electrical Easement - Arizona  
Public Service - Old Town Library Project

**MEETING DATE:**

April 7, 2008

**TO:** Mayor and Council

**FROM:** Daniel Davis, Director of Parks, Recreation & Libraries (623)333-2411

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council adopt an ordinance granting an electrical easement to Arizona Public Service (APS) to provide electrical service to the Old Town Library Project, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**BACKGROUND:**

Council awarded a Design-Build contract to Sundt Construction, Inc. on June 20, 2005 for preconstruction services relating to the Civic Center and Old Town Branch Libraries, including master-planning and design services. Council reviewed the Old Town Library Conceptual Design on January 16, 2007 and provided staff with direction to construct a 12,500 square foot facility. The GMP for the project was approved on August 20, 2007. The project is scheduled to be completed no later than November 2008.

**DISCUSSION:**

In order to provide electrical service to the Old Town Library Project, Arizona Public Service (APS) requires an easement from the City of Avondale to accommodate the primary electrical line and conduit from the APS transformer to the building. (See attached legal description).

**BUDGETARY IMPACT:**

There is no financial impact to the City of Avondale by granting the electrical easement to APS.

**RECOMENDATION:**

Staff recommends that that the City Council adopt an ordinance granting an electrical easement to Arizona Public Service (APS) to provide electrical service to the Old Town Library Project, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**ATTACHMENTS:**

Click to download

 [Ordinance](#)

**ORDINANCE NO. 1299-408**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, GRANTING A UTILITY EASEMENT TO ARIZONA PUBLIC SERVICE COMPANY.

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

SECTION 1. That a utility easement is hereby granted to Arizona Public Service Company through, over, under and across  $\pm$  0.049 acres of real property, generally located south of Western Avenue, east of 4th Street, in the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to 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, April 7, 2008.

---

Marie Lopez Rogers, Mayor

ATTEST:

---

Linda M. Farris, City Clerk

APPROVED AS TO FORM:

---

Andrew J. McGuire, City Attorney

EXHIBIT A  
TO  
ORDINANCE NO. 1299-408

[APS Utility Easement]

See following pages.

## UTILITY EASEMENT

NE 1/4 15 1N 1W  
W392774  
Survey 479/72  
JNJ

**CITY OF AVONDALE, a municipal corporation of the State of Arizona**, (hereinafter called "Grantor"), is the owner of the following described real property located in Maricopa County, Arizona (hereinafter called "Grantor's Property"):

### **SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF**

Grantor, for and in consideration of One Dollar (\$1.00) and other valuable consideration, receipt of which is hereby acknowledged, does hereby grant and convey to **ARIZONA PUBLIC SERVICE COMPANY**, an Arizona corporation, (hereinafter called "Grantee"), and to its successors and assigns, a non-exclusive right, privilege, and easement at locations and elevations, in, upon, over, under, through and across, a portion of Grantor's Property described as follows (herein called the "Easement Premises"):

### **SEE EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF**

Grantee is hereby granted the right to: construct, reconstruct, replace, repair, operate and maintain electrical lines, together with appurtenant facilities and fixtures for use in connection therewith, for the transmission and distribution of electricity to, through, across, and beyond Grantor's Property; install, operate and maintain telecommunication wires, cables, conduits, fixtures and facilities incidental to supplying electricity or for Grantee's own use (said electrical and telecommunication lines, facilities and fixtures collectively herein called "Grantee Facilities"); utilize the Easement Premises for all other purposes connected therewith; and permit the installation of the wires, fixtures, conduits, or cables of any other company.

Grantee is hereby granted the right, but not the obligation, to trim, prune, cut, and clear away trees, brush, shrubs, or other vegetation on, or adjacent to, the Easement Premises whenever in Grantee's judgment the same shall be necessary for the convenient and safe exercise of the rights herein granted.

Grantee shall at all times have the right of full and free ingress and egress to and along the Easement Premises for the purposes herein specified.

Grantor shall not locate, erect or construct, or permit to be located, erected or constructed, any building or other structure or drill any well within the limits of the Easement Premises; nor shall Grantor plant or permit to be planted any trees within the limits of the Easement Premises without the prior written consent of Grantee. However, Grantor reserves the right to use the Easement Premises for purposes that are not inconsistent with Grantee's easement rights herein conveyed and which do not interfere with or endanger any of the Grantee Facilities, including, without limitation, granting others the right to use all or portions of the Easement Premises for utility or roadway purposes and constructing improvements within the Easement Premises such as paving, sidewalks, landscaping, and curbing. Notwithstanding the foregoing, Grantor shall not have the right to lower by more than one foot or raise by more than two feet the surface grade of the Easement Premises, and in no event shall a change in the grade compromise Grantee's minimum cover requirements or interfere with Grantee's operation, maintenance or repair.

Grantor shall maintain a clear area that extends 2 feet from and around all edges of all transformer pads and 3 feet from and around all other equipment pads, and a clear operational area that extends 10 feet immediately in front of all transformer and other equipment openings. No obstructions, trees, shrubs, fixtures, or permanent structures shall be placed by Grantor within said areas.

Grantee agrees that following any installation, excavation, maintenance, repair, or other work by Grantee within the Easement Premises, the affected area will be restored by Grantee to as close to original condition as is reasonably possible, at the expense of Grantee.

The easement granted herein shall not be deemed abandoned except upon Grantee's execution and recording of a formal instrument abandoning the easement.

The covenants and agreements herein set forth shall extend and inure in favor and to the benefit of, and shall be binding on the heirs, administrators, executors, successors in ownership and estate, assigns and lessees of Grantor and Grantee.

IN WITNESS WHEREOF, **CITY OF AVONDALE**, has caused this Utility Easement to be executed by its duly authorized representative, this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

**CITY OF AVONDALE,**

A municipal corporation of the State of Arizona

By: \_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

STATE OF                    }  
                                  } ss.  
County of                   }

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,

200\_\_ by \_\_\_\_\_  
(Grantor)

IN WITNESS WHEREOF I hereunto set my hand and official seal.

My Commission Expires:

\_\_\_\_\_  
Notary Public

\_\_\_\_\_

(EXHIBIT A)  
(LEGAL DESCRIPTION OF PROPERTY)

Lots 1 through 4, includes Block 7, AVONDALE, according to Book 21 of Maps, Page 34, records of Maricopa County, Arizona, EXCEPT the North 7 feet thereof, as quit claimed to the City of Avondale by deed recorded in Docket 786, Page 387, and EXCEPT the West 10 feet of said Lot 4, and Lots 1 through 11, inclusive Block 6, AVONDALE, according to Book 21 of Maps, Page 34, records of Maricopa County, Arizona, EXCEPT the North 7 feet thereof, and the following right of way abandonment description:

RIGHT OF WAY ABANDONMENT:

A 65.00 foot right of way abandonment of 5<sup>th</sup> Street between Western Avenue and Belmont Drive, Being a part of Avondale, a subdivision of East-Avondale, in the Northeast Quarter of the Northeast Quarter of Section 15, Township 1 North, Range 1 West, Gila and Salt River Base and Meridian as recorded in Book 21 of Maps, Page 34, Official Records of Maricopa County, Arizona, more particularly described as follows:

BEGINNING at the Northwest corner of Lot 11, Blok 6, in said subdivision;

THENCE South 01°28'10" East, a distance of 140.00 feet to the Southwest corner of said Lot 11;

THENCE North 89°44'13" West, a distance of 65.02 feet to the Southeast corner of Lot 1, Block 7, in said subdivision;

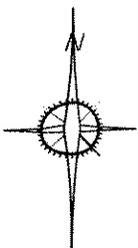
THENCE North 01°28'10" West, a distance of 140.00 feet to the Northeast corner of said Lot 1;

THENCE South 89°44'13" East, a distance of 65.02 feet to the POINT OF BEGINNING.

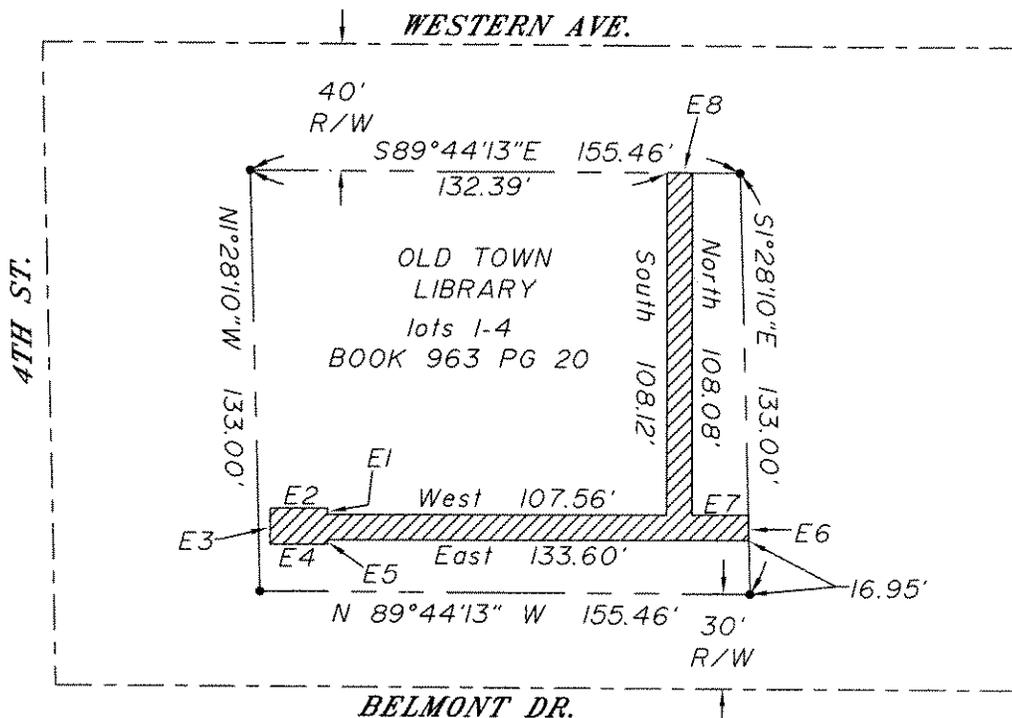
Except the North 7.00 feet thereof.

# EXHIBIT "B"

SKETCH SHOWING LOCATION AND LIMITS OF  
UTILITY EASEMENT



SCALE 1"=60'



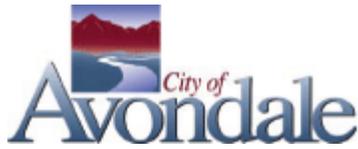
### ELECTRIC LINE EASEMENT

NUM	BEARING	DISTANCE
E1	N0°00'00"E	1.97'
E2	N90°00'00"W	18.25'
E3	S0°00'00"W	11.33'
E4	N90°00'00"E	18.25'
E5	N0°00'00"E	1.36'
E6	N1°28'10"W	8.00'
E7	S90°00'00"W	17.84'
E8	N89°44'13"W	8.00'

#### LEGEND

- EASEMENT AREA
- ROAD CENTERLINE
- PROPERTY LINE
- PROPERTY CORNER

JOB# W392774	DATE: 02/29/08
NE 1/4 SEC 15 T 1N R 1W	
SCALE: 1"= 60'	MAP 479/72
R/W: JAYSON JOHNSON	
SURVEY: JOHNSON-OLSON	
DRAWN BY: JOHNSON	



# CITY COUNCIL REPORT

**SUBJECT:**  
Public Hearing - Encanto 66 Annexation

**MEETING DATE:**  
April 7, 2008

**TO:** Mayor and Council  
**FROM:** Linda Farris, City Clerk (623)333-1211  
**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council conduct a public hearing regarding the proposed annexation of Parcel Numbers 501-74-013P, 501-74-013R, 501-74-013S, 501-74-013T, 501-74-013U, 501-74-014Y, 501-74-885A; approximately 65.3 acres of land generally located at the southeast corner of Virginia Avenue and 119th Avenue.

**BACKGROUND:**

On May 30, 2007, staff received a request from Howard Cornell of Encanto 66, LLC on behalf of Eastwood Avondale, LLC and Treguboff Properties for the annexation of approximately 59.49 acres of land generally located north of Encanto Boulevard between Avondale Blvd. and 199th Avenue.

Upon reviewing the request, staff realized that as requested, the annexation would leave a county island by leaving out APN 501-74-013P, 501-74-013R, 501-74-013S, 501-74-013T. Staff was successful in negotiating pre-annexation agreements with the owners of these properties, Council has approved them and these properties are therefore being included in this annexation.

The properties are contiguous to existing city limits on all four sides, are zoned Rural-43 by Maricopa County and will be designated RR-43 upon annexation. The annexation will eliminate a county island.

In accordance with state statutes, the Council must hold a public hearing on this proposed annexation. The notice of this hearing and the pending annexation have been published in the West Valley View and posted at three locations within the property as required by state statutes. No comments have been received from the public.

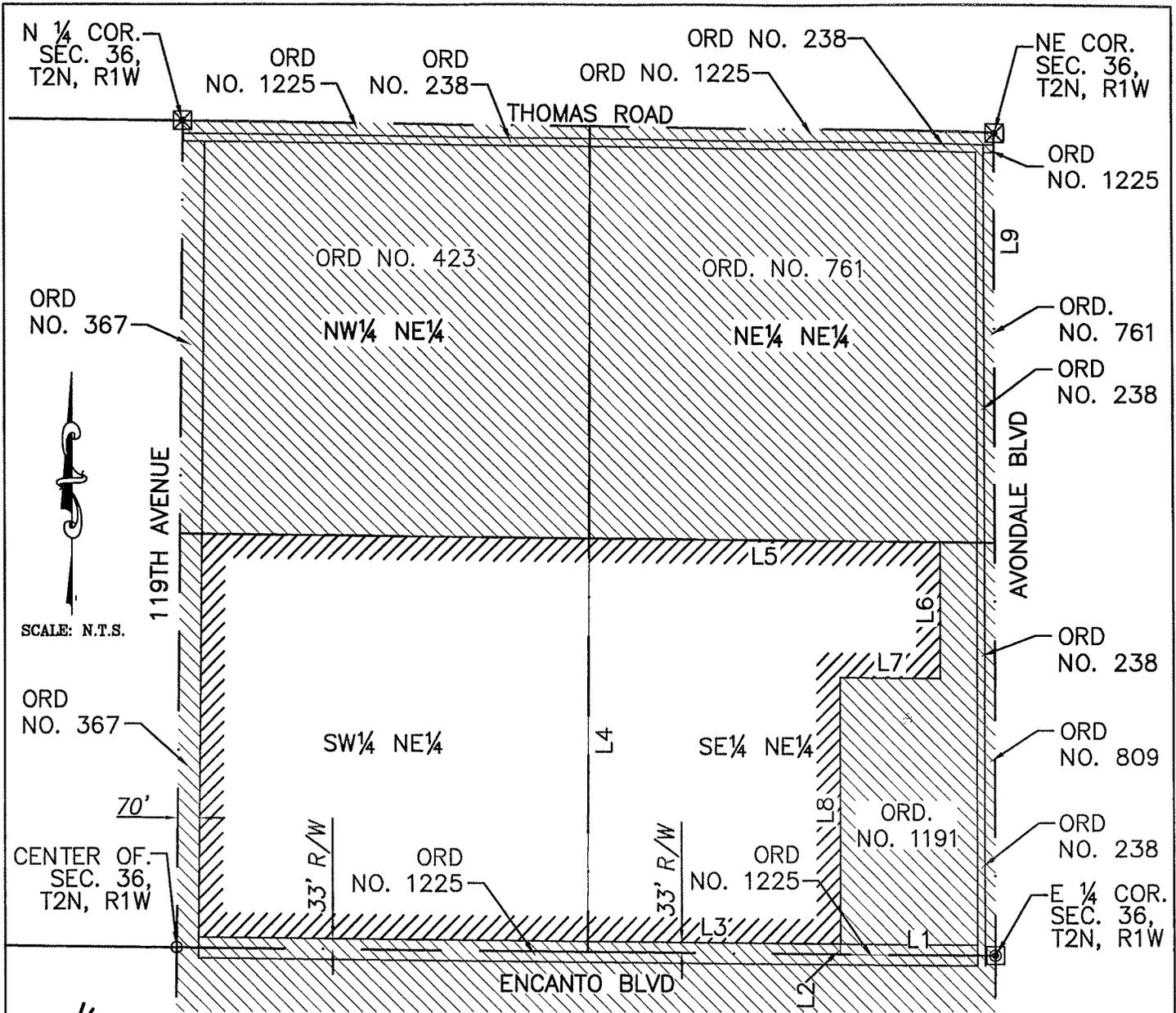
**RECOMENDATION:**

Staff recommends that Council hold a public hearing on the proposed annexation as required by law.

**ATTACHMENTS:**

Click to download

- [Map and legal description](#)
- [Posting photos](#)



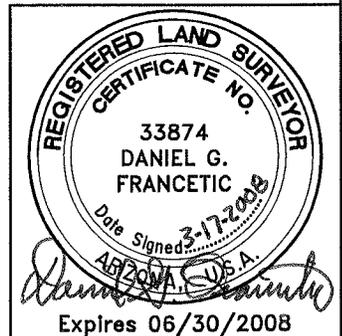
**Entellus™**

2255 N. 44th Street Suite 125  
 Phoenix, AZ 85008.3279  
 Tel 602.244.2566  
 Fax 602.244.8947  
 Website: www.Entellus.com

**ENCANTO 66 ANNEXATION**  
 CITY OF AVONDALE, ARIZONA

WE HEREBY CERTIFY THAT THIS IS AN ACCURATE  
 PLAT OF TERRITORY ANNEXED TO THE CITY OF  
 AVONDALE, ARIZONA BY ORDINANCE NO.

MAYOR \_\_\_\_\_ DATE \_\_\_\_\_  
 CLERK \_\_\_\_\_ DATE \_\_\_\_\_



LINE	BEARING	DISTANCE
L1	N 89°34'14" W	502.71'
L2	N 00°01'40" W	33.00'
L3	N 89°34'14" W	813.97'
L4	N 00°11'35" E	1281.69'
L5	S 89°28'52" E	1133.72'
L6	S 00°03'39" E	431.89'
L7	N 89°34'14" W	324.92'
L8	S 00°01'40" E	848.03'
L9	N 00°03'39" W	2625.30'

**LEGEND**

- PARCEL TO BE ANNEXED
- EXISTING CITY LIMITS
- BRASS CAP FLUSH
- BRASS CAP IN HAND HOLE

**CITY OF AVONDALE, ARIZONA**

SECTION 36  
 T.2N., R.1W. G. & S.R.B. & M.  
**ANNEXATION EXHIBIT**  
 DATE: 3/17/08 REV'D: \_\_\_/\_\_\_/\_\_\_  
 DRAWN BY: DG/CHK'D: DGF PG: 1 OF 1  
 FILE: 435011\_PHS05\_ENCANTO 66

**CITY OF AVONDALE  
DESCRIPTION FOR ANNEXATION**

Those portions of the Northeast Quarter of Section 36, Township 2 North, Range 1 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

The Southwest Quarter of said Northeast Quarter;

EXCEPT the West 70.00 feet and South 33.00 feet thereof.

That portion of the Southeast Quarter of said Northeast Quarter described as follows:

COMMENCING at the aluminum cap marked "LS 21782" and found at the East Quarter of said Section, from which the Northeast Corner of said Section bears North 00 degrees 03 minutes 39 seconds West a distance of 2625.30 feet as described in legal descriptions found in Documents # 2005-1277463, 2005-1277464, 2005-1385661, 2005-1394726, 2005-1395697, 2006-0065738, and 2006-0065739 of the Maricopa County Recorder;

Thence along the East-West mid-section line as described in said Documents, North 89 degrees 34 minutes 14 seconds West a distance of 502.71 feet to a point;

Thence North 00 degrees 01 minute 40 seconds West a distance of 33.00 feet to a point on a line parallel with and 33.00 feet distant from the South line of said Southeast Quarter, said parallel line also being the North line of an annexation described in Document # 2007-0063748 of the Maricopa County Recorder, being City of Avondale Ordinance 1225-206, and said point being the POINT OF BEGINNING;

Thence along said parallel line, North 89 degrees 34 minutes 14 seconds West a distance of 813.97 feet to a point on the West line of said Southeast Quarter of the Northeast Quarter;

Thence along said West line, North 00 degrees 11 minute 35 seconds East a distance of 1281.69 feet to a point on the North line of said Southeast Quarter of the Northeast Quarter, said line also being the South line of an annexation described in Document # 2000-0953477 of the Maricopa County Recorder, being City of Avondale Ordinance 761-00;

Thence along said North line, South 89 degrees 28 minutes 52 seconds East a distance of 1133.72 feet to a point on the West line of an annexation described in Document # 2006-1003627 of the Maricopa County Recorder, being City of Avondale Ordinance 1191-606;

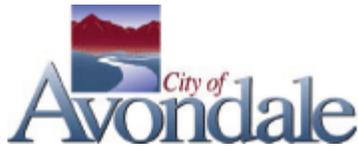
Thence along said West line, South 00 degrees 03 minutes 39 seconds East a distance of 431.89 feet to a point;

Thence continuing along said West line, North 89 degrees 34 minutes 14 seconds West a distance of 324.92 feet to a point;

Thence continuing along said West line, South 00 degrees 01 minute 40 seconds East a distance of 848.03 feet to the POINT OF BEGINNING.







# CITY COUNCIL REPORT

**SUBJECT:**

Contingency Funds to Purchase Graffiti Camera and License Plate Recognition System

**MEETING DATE:**

April 7, 2008

**TO:** Mayor and Council  
**FROM:** Kevin Kotsur, Police Chief (623)333-7201  
**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council approve the purchase of two advanced technology systems, Graffiti Cam and License Plate Recognition, to combat crime and potentially assist in the apprehension and conviction of criminals; and a transfer of contingency funds in the amount of \$28,250. This report will also discuss a request for a third system, at no cost, that will distribute traffic collision reports online.

**BACKGROUND:**

During the Council – Management Retreat held on December 01, 2007, Council developed objectives pertaining to operational goals for the next Fiscal Year. One particular Goal, Public Safety (Improve Public Safety in the Community) listed an objective to “expand uses of technology in law enforcement.” There is a great deal of technology available to law enforcement but it is not always cost effective – meaning, in order to purchase a system, the City would also need to hire additional personnel to support the system. Therefore, staff looked for technology that would be compatible with current computer systems, would not require the hiring of additional personnel to oversee the system and would streamline current processes, provide greater customer service, create opportunities to be more pro-active in the apprehension and conviction of criminals, deter criminal activity and/or provide cost saving measures.

Three systems – PoliceReports.US, Graffiti Cam, and License Plate Recognition – are law enforcement related tools that meet the above listed criteria.

**DISCUSSION:**

The funds for this unanticipated expenditure is not available in the Police Department budget and therefore the use of contingency is required. The contingency funds will be transferred to PD account 101-6174-00-8012.

**PoliceReports.US**

PoliceReports.US enables law enforcement agencies to distribute traffic collision reports online. There is no upfront charge for software or installation. The service is available to agencies that maintain handwritten and printed reports, utilize records management systems, or use document imaging systems. Staff determine what reports are available online, set the requirements to retrieve reports, and specify the fees that are to be collected.

Online report distribution will greatly reduce administrative costs by significantly reducing walk-in and mail-in requests for reports. Currently, the Avondale Police Department Records Section responds to an average of 400 report requests per month of which about 75% (300) of those requests are for accident reports. Cost savings will be reflected in the following areas:

- Labor: Less staff time required for processing mail requests and the front lobby staff can be used more productively, not having to handle as many walk-ins.
- Supplies: There will be a reduction in the amount of paper and printer supplies used to print reports.
- Expenses: We will save money on photocopier costs, long distance phone and fax costs, and postage

cost for mail requests.

There are currently six Arizona law enforcement agencies using PoliceReports.US to provide accident reports online. The Chandler and Surprise Police Departments are two valley agencies using this vendor. Both agencies were contacted and advised that they were “extremely happy” with the services provided by PoliceReports.US.

### **Graffiti Cam**

Graffiti Cam is a video recording unit that detects crimes and immediately notifies authorities. When the motion detector camera is activated, it sends text messages of the event in about six seconds to a designated cell phone (to be retained in Dispatch), enabling law enforcement to dispatch resources and hopefully apprehend suspects in the act of committing a crime.

Several members of our VIPS (Volunteers in Police Services) have acknowledged an interest in overseeing the video recording unit, changing out media cards and batteries, moving the camera from site to site, etc. Training on the equipment is provided at no cost by the vendor and we would propose that the interested volunteers and a few specific police employees receive the training.

At this time, no law enforcement agencies in the Valley or the State of Arizona are using Graffiti Cam.

Between October 01, 2007 and March 25, 2008, there were 120 graffiti incidents reported to the Avondale Police Department – about 1 incident every 36 hours. (These incidents are calls for service reported by citizens to the Police Department and do not reflect the telephone calls made to the Graffiti Hotline monitored by City Code Enforcement.) 77% of the incidents involved spray paint, 19% involved markers and 4% involved an unknown instrument. A total of twelve juveniles and one adult were arrested and charged with Criminal Damage/Graffiti.

### **License Plate Recognition System**

License Plate Recognition (LPR) systems are available to local law enforcement in the recovery and suppression of auto theft activity while at the same time providing an intelligence component in locating vehicles used in crimes yet to be committed.

By implementing the LPR program, officers can literally scan thousands of license plates in an hour. In less than one second, scanned license plates are compared to a stolen vehicle database of all states. Officers receive an alert on any possible matches which warrant further investigation. The system can scan license plates in either direction while moving or stationary. This allows the officers greater opportunity to apprehend suspects who are occupying stolen vehicles which will have a direct impact on the auto theft rate.

A secondary function of the LPR program is the development of an intelligence database to use in solving future crimes. When in use, the LPR captures and stores all license plates scanned including location, date, and time. This information is downloaded to a database and stored. When a crime occurs and a license plate is obtained, a check can be made in the database to determine if this license plate has ever been scanned. If the check is positive, officers have a reference point to begin their investigation as to the suspects who committed the crime. In an 8 hour shift, a LPR can read between 5,000 and 7,000 license plates while automatically checking for stolen vehicles and storing the intelligence.

The City of Avondale has traditionally had a public safety concern with the number of auto thefts occurring within the City’s boundaries. An analysis was recently completed which compared auto thefts occurring within the City of Avondale to other Valley cities. This analysis revealed the following:

<b>City</b>	<b>Year</b>	<b>Motor Vehicle Thefts</b>	<b>Population</b>	<b>MVT Per 1,000</b>
<b>Avondale</b>	<b>2006</b>	<b>1,031</b>	<b>66,706</b>	<b>15.5</b>
	<b>2007</b>	<b>837</b>	<b>69,356</b>	<b>12.1</b>

Chandler	2006	1,171	234,939	5.0
	2007	832	243,317	3.4
Gilbert	2006	470	186,860	2.5
	2007	425	203,062	2.1
Glendale	2006	2,712	243,881	11.1
	2007	2,967	248,587	11.9
Mesa	2006	3,654	456,155	8.0
	2007	2,960	460,155	6.4
Peoria	2006	972	143,483	6.8
	2007	776	145,280	5.3
Phoenix	2006	24,089	1,517,443	15.9
	2007	20,859	1,551,635	13.4
Scottsdale	2006	1,118	238,900	4.7
	2007	752	241,750	3.1
Tempe	2006	2,420	167,303	14.5
	2007	1,599	169,712	9.4

For the year of 2007, the rate of auto thefts within the City of Avondale is second only to the City of Phoenix when population is factored. In the last 45 days, two large scale “chop shops” have been located within the boundaries of the City of Avondale where it is estimated that \$450,000 worth of vehicles, vehicle parts and equipment have been recovered.

#### **BUDGETARY IMPACT:**

##### **PoliceReports.US**

PoliceReports.US currently charges \$2.50 per request. Police Departments may charge whatever cost per request knowing that PoliceReports.US will take \$2.50 off the top. Currently, we charge \$5.00 per request. Therefore, under the current fee schedule, we would now receive \$2.50 per request – keeping in mind the other cost saving factors. Valley law enforcement agencies charge between \$3.00 and \$10.00 per request (Chandler and Surprise each charge \$5.00 per request.)

There are no additional costs such as credit card fees or software purchases. All costs are included in the \$2.50 fee collected by the vendor. Each month, the vendor will send us an invoice of all reports obtained and a check along with a statistical / data report showing such things as who made the request, number of requests, etc.

There is no financial impact to the City of Avondale if this agreement is approved.

##### **Graffiti Cam**

Camera	\$5,000	
Battery Pack	\$1,250	(2 at \$625 each)
Media Card	\$350	(5 at \$70 each)
Initial Total	\$6,600	

There are no on-going expenses except when batteries and media cards require replacement. Also, if a camera is damaged and we have no suspect to charge and seek restitution, we would have to purchase a new camera in order to maintain the program.

##### **License Plate Recognition System**

The estimated cost of the two camera system is approximately \$21,650 that would allow for one police vehicle to be outfitted with the necessary equipment. The selected vendor, Remington Eltag Law Enforcement Systems, LLC, is on State Contract. There is a Service Plan/Warranty on the hardware and software included in the first year. The Service Plan/Warranty includes software updates, annual training/service and parts/labor. There is a fee of \$1,083 to maintain the Service Plan/Warranty in Year 2 and the same for Years 3 and 4. The system is not covered in Year 5 or after.

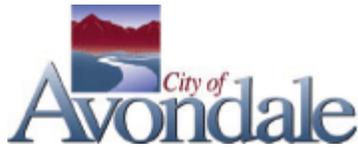
**RECOMENDATION:**

Staff recommends that Council approve the purchase of Graffiti Cam and License Plate Recognition and the transfer of Contingency Funds in the amount of \$28,250.

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available



# DEVELOPMENT SERVICES

**SUBJECT:**  
Public Hearing and Ordinance 1300-408 - Section 3 -  
Commercial Zone Districts - TA-08-2

**MEETING DATE:**  
April 7, 2008

**TO:** Mayor and Council  
**FROM:** Brian Berndt, Development Services Director 623-333-4011  
**THROUGH:** Charlie McClendon, City Manager

---

**REQUEST:** Amendment of the Zoning Ordinance - Section 3 Commercial Districts

**APPLICANT:** Staff-Initiated Request

**BACKGROUND:**

As part of a comprehensive update to the Avondale Zoning Ordinance, staff is proposing to amend Section 3, Commercial Districts.

The City Council has discussed this item three times in the past six (6) months. Staff introduced Council to the concepts of the the proposed amendment at the November 19, 2007 work session; presented the first draft of the ordinance at the January 14, 2008 work session and provided a progress update to the Council on March 3, 2008. Tonight, staff is presenting the final ordinance for Council consideration and possible adoption.

The Zoning Ordinance currently contains 6 commercial districts:

- Commercial Office (C-O);
- Neighborhood Commercial (C-1);
- Community Commercial (C-2);
- Major Commercial (C-3);
- Old Town Avondale Business District (OTAB); and
- Cashion Business District.

Staff is proposing to amend the C-O, C-1, C-2, and C-3 districts in order to better implement the goals and objectives of the General Plan.

Following the potential adoption of the Old Town Avondale Revitalization Plan, staff will examine the existing OTAB and Cashion Business District and propose any necessary text amendments.

**SUMMARY OF REQUEST:**

The request will amend the following portions of Section 3 as shown the proposed text (Exhibit H):

- Section 302: Establishment of Commercial Districts
- Section 303: Land Use Matrix
- Section 304: General Regulations
- Section 305: Conditional Use Development Standards

The request will also amend Section 308: Property Development Standards and renumber it as Section 306.

Sections 306: Old Town Avondale Zoning Overlay District and Section 307: Cashion Business District will not

be amended by this request, but will be renumbered to Sections 307 and 308, respectively.

### **PARTICIPATION:**

The City held a neighborhood meeting on November 29, 2007 to discuss concepts for proposed changes to Section 3 and to solicit public comments on the proposed changes. A notice of the neighborhood meeting was published in the West Valley View on November 7, 2007. Approximately 20 citizens attended the meeting, 11 of whom completed the sign-in sheet.

A notice of the Planning Commission hearing was published in the West Valley View on March 4, 2008. No public comments have been received to date.

A notice of the City Council hearing was published in the West Valley View on March 18, 2008. No public comments have been received to date.

### **PLANNING COMMISSION ACTION:**

At their March 20, 2008, hearing, the Planning Commission voted 6-0 to forward a recommendation of approval for application TA-08-2.

### **ANALYSIS:**

Staff is proposing to amend Section 3 in six primary ways:

- Amend the permitted use lists for the Commercial Office, Neighborhood Commercial, and Community Commercial to be consistent with the goals of the land use designations of the General Plan;
- Revise the use list and purpose of the Major Commercial district to create a Freeway Commercial Zoning District, in order to create an appropriate zone district for areas along or near freeways and major arterials;
- Create a Residential Office district to provide for low-intensity, residential-scale office development, adaptive reuse of existing residential areas, and create a district that can act as a buffer area between larger office parks and traditional residential uses;
- Revise the commercial use list in order to make Section 3 more user-friendly;
- Reduce the number of routine public hearings by changing some Conditional Uses to Uses Permitted with Conditions, which would be approved administratively if the proposed use complies with conditions enumerated in the Zoning Ordinance (Exhibit E); and
- Revise the Development Standards for the commercial districts to ensure that the standards meet the intent of the commercial districts.

The vast majority of commercial developments in the City are zoned either C-2 or PAD with C-2 uses. A limited number of neighborhood shopping centers are zoned C-1, and very few properties are zoned C-O. The proposed text amendment revises these three districts so that they include more land uses that are compatible with the areas of the city for which they were designed and designated by the General Plan.

Currently, only one property in the city is zoned C-3. The C-3 would be better used as a Freeway Commercial zone district, for larger and more intense land uses that are most appropriate in close proximity to freeway access. These uses include large scale entertainment uses, like amusement parks and stadiums as well as large-scale retail uses. Many of the large uses allowed in the proposed C-3 district are also currently permitted in the Special Use District.

Staff is also proposing to create a new Residential Office district. This district is designed for smaller office uses, at a residential scale. This district is also designed to allow for live-work uses, which combine small offices with traditional residential development. The Residential Office district will be able to act as a buffer between traditional residential and more intense commercial/office developments.

Staff is proposing to revise the format and layout of the commercial land use table to make it more user-friendly, by listing land uses in alphabetical order, rather than grouping the uses in broader categories. The goal is to help make land uses easier to find in the table, and to help customers identify which uses are allowed

in each district.

Staff is proposing to classify certain uses as Permitted with Conditions. These are uses that may or may not have an impact on surrounding areas and in the past were only allowed as conditional uses. Many of these conditional uses have standard conditions of approval that are applied to every Conditional Use approval. Staff is proposing to make some of these uses permitted, but only if they comply with a set list of conditions, which, combined with other conditions deemed necessary by staff, will mitigate any adverse effects on surrounding properties and uses. This will ensure that the potential negative effects of all uses are mitigated, while eliminating routine conditional use permits.

Staff is also proposing to revise the development standards for the commercial districts, including building and parking setbacks, building height, and lot coverage. Staff examined the current building and parking setbacks, maximum building heights, and maximum lot coverage for the commercial districts to ensure that properties will develop in a way that is consistent with the intent of the districts.

For reference, the following documents are included:

- The current land use, with notes indicating the changes, if any, to each use (Exhibit A);
- The draft proposed new land use table (Exhibit B);
- Current purpose statements for the existing commercial zone districts (Exhibit C);
- Draft proposed new purpose statements for the districts (Exhibit D);
- Proposed conditions for the uses proposed to be Permitted with Conditions (Exhibit E);
- Summary sheet of the major differences between the existing districts and the districts as proposed (Exhibit F);
- The proposed revisions to the commercial district development standards (Exhibit G); and
- The current draft of the revised text of Section 3 (Exhibit H).

#### **RECOMMENDATION:**

The City Council should hold a public hearing and adopt the ordinance amending Section 3 of the Zoning Ordinance - Commercial Districts.

#### **PROPOSED MOTION:**

I move that the City Council accept the findings and ADOPT the ordinance approving application TA-08-2, a request to amend Section 3 of the Zoning Ordinance.

#### **ATTACHMENTS:**

Click to download

- [Exhibits A-G](#)
- [TA-08-2 Exhibit H](#)
- [TA-08-2 Exhibit I](#)
- [Ordinance](#)

#### **PROJECT MANAGER:**

Scott Wilken, Senior Planner, 623-333-4016

## **TA-08-2 Section 3 – Commercial Districts**

### **ATTACHMENTS**

- Exhibit A - Existing commercial land use table with proposed change notes
- Exhibit B - Draft commercial land use table
- Exhibit C - Current purpose statements for the commercial zone districts
- Exhibit D - Draft purpose statements for the commercial zone districts
- Exhibit E - Draft conditions for uses Permitted with Conditions
- Exhibit F - Summary of major land use changes
- Exhibit G - Draft commercial district development standards
- Exhibit H - Proposed text of Section 3 – Commercial Districts
- Exhibit I - Draft minutes of the March 20, 2008 Planning Commission hearing

## Existing Land Use Table

LAND USE	C-O	C-1	C-2	C-3	Change
<b>AUTO-ORIENTED USES</b>					
Auto supply store, indoor	-	C	C	C	Now considered retail, P in C-1, C-2, C-3
Autobody and engine repair, upholstery, painting facilities, and similar uses	-	-	-	C	Moved to A-1
Automobile, boat, recreational vehicle, or motorcycle, sales and rental	-	-	C	P	Combined with leasing; PC in C-2 and C-3
Automobile leasing facility	-	C	C	P	Added to sales; removed from C-1; PC in C-2 and C-3
Automobile service and diagnostic facility	-	-	C	C	PC in C-2 and C-3
Car wash, mechanical, self service	-	-	C	C	C in C-2, removed from C-3
Emissions testing facility	-	-	-	P	Moved to A-1
Gas service station with retail gasoline sales, convenience store, and car wash	-	-	C	C	No change
Tire sales, repair and mounting	-	-	C	C	PC in C-2 and C-3
Truck stop, including wash	-	-	-	C	No change
<b>EATING &amp; DRINKING ESTABLISHMENTS</b>					
Restaurants and similar uses	C	P	P	P	No change
Drive-thru restaurants	-	C	P	P	PC in C-1, C-2, and C-3
Tavern, bar, lounge or establishment that sells beer or intoxicating liquor for consumption on premise, excluding restaurants and adult uses	-	-	C	C	Listed as "Bar," C in C-2, PC in C-3
<b>ENTERTAINMENT, COMMERCIAL RECREATION &amp; ASSEMBLY USES</b>					
Commercial sporting complexes, concert facilities, stadiums, and similar outdoor recreational facilities	-	-	-	C	Listed separately; large uses C in C-3; P in Special Use District
Convention centers and exhibition halls	-	-	P	P	removed from C-2
Dancing, theatrical or music studio	-	C	P	P	Listed separately; added as P in C-1
Health and exercise center	C	C	P	P	Removed from C-O, PC in C-1
Indoor commercial recreation/entertainment uses such as movie theaters, bowling alleys, game rooms, video arcades, ice and roller skating rinks, shooting ranges, pool and dance halls, bingo halls, and similar uses, excluding adult uses and taverns bars and lounges	-	-	P	P	Listed separately
Outdoor commercial recreational/entertainment uses such as amusement parks, fairgrounds, golf courses, golf driving ranges, commercial racetrack, rodeo grounds, shooting range, swimming and tennis clubs, and similar uses	-	-	-	C	Listed separately
Reception centers, recreation and social/private clubs	-	-	C	P	Listed separately; no change for reception centers; P in C-1 and C-2
Resorts	-	-	P	P	No change
<b>INSTITUTIONAL USES</b>					
Vocational school	-	-	P	P	combined with business or technical school; P in C-O only
Business or technical school	P	C	P	P	combined with vocational school; P in C-O only
College or university	-	-	P	P	PC in C-3 only

## Existing Land Use Table

LAND USE	C-O	C-1	C-2	C-3	Change
Churches, synagogues, temples, and similar places of worship	P	P	P	P	renamed "Place of worship." otherwise no change
Cultural institutions	P	C	P	P	combined with Museum; removed from C-O and C-1
Child care center	C	C	C	C	No change
Libraries and museum	P	P	P	P	separated; removed from C-O, museum removed from C-1
Assisted living facility, nursing or convalescent home, long term care facility & hospices, and group care facility	C	-	-	-	C in R-O and C-O
Post office	P	P	P	P	Combined with Public Use; no other change
Public service and non-profit community uses	C	C	C	C	Removed from C-3; to be clarified by definition
Public utility buildings, structures, uses, facilities and equipment	C	C	C	C	PC in all districts
Schools and educational institutions (public and private), excluding colleges, universities, and vocational schools	P	C	P	P	moved to residential districts
Substance abuse detoxification and treatment centers, halfway house	-	-	-	C	separated; halfway house moved to residential; other uses C in C-O
Zoo (private, public)	-	-	-	C	C in C-3; included in Special Use District
<b>OFFICE/MEDICAL USES</b>					
Ambulance service facility	-	-	C	C	Moved to A-1
Emergency medical care facility	P	C	P	P	P in C-O, C-1, C-2, and C-3
Employment agencies	P	P	P	P	No change
Hospitals	-	-	P	P	removed from C-2
Medical, dental or health offices, clinics and laboratories, excluding plasma centers	P	P	P	P	No change
Veterinary hospital, offices and clinics, excluding animal boarding	-	C	C	C	PC in C-1, C-2, and C-3
Pet boarding and day care facility	-	-	C	-	PC in C-2
Professional, administrative or business offices, banks and financial institutions, excluding non-chartered financial services	P	P	P	P	No change
Non-chartered financial services	-	-	C	-	No change
Plasma centers	-	-	C	-	No change
<b>PERSONAL SERVICES USES</b>					
Appliance service and repair	-	C	P	P	removed from C-1 and C-3
Clothing alteration, custom dressmaking or tailor shop	-	P	P	P	Removed from C-3
Dry cleaning and laundry establishment	C	P	P	P	Changed to drop-off only; removed from C-O
Laundromat, self-service	-	P	P	P	removed from C-3
Nail salon, barber shop, and beauty salon	C	P	P	P	removed from C-O and C-3

## Existing Land Use Table

LAND USE	C-O	C-1	C-2	C-3	Change
Personal service establishments such as tanning salon, massage therapy, palm readers, phrenologists, fortune tellers and astrologers, excluding adult uses	-	-	C	C	Tanning and Massage P in C-1 and C-2; others to be moved to OTAB; added Massage Therapy (medical) to be treated like medical office
Photographic developing and printing studio	-	P	P	P	No change
Ticket and travel agency	P	P	P	P	No change
Tattoo parlors and body piercing studios	-	-	C	-	No change
<b>RESIDENTIAL &amp; LODGING USES</b>					
One caretakers quarters	A	A	A	A	No change
Dwelling units above the ground floor of a building	C	C	C	C	renamed "Residential, upper floor"; P in R-O, C in C-O; removed from C-1, C-2, C-3
Hotel or motel	-	-	P	P	No change
<b>RETAIL USES</b>					
Retail sales of new merchandise within enclosed buildings, excluding liquor stores	A	P	P	P	removed from C-O
Equipment sales, rental and storage yard	-	-	-	C	P in C-3
Monument sales and engraving shop	-	-	-	P	to be moved to A-1
Pawn shop	-	-	-	C	C in C-2, removed from C-3
Plant nursery	-	-	C	P	removed from C-2
Retail/wholesale sales of lumber, landscaping and building materials, excluding outdoor storage	-	-	C	P	removed from C-2; PC in C-3
Specialty stores and services, indoor, excluding liquor stores	-	P	P	P	Separated into "Specialty Retail" and "Specialty Service"; specialty service added as P in C-O
Surplus store, thrift store	-	-	-	P	PC in C-2, removed from C-3
Liquor stores	-	-	C	-	No change
Consignment shops	-	-	P	-	Added as P in C-1
<b>MISCELLANEOUS USES</b>					
Accessory buildings, structures and uses customarily incidental to a permitted use	A	A	A	A	use deleted (not necessary to list)
Automatic teller machine (ATM)	P	P	P	P	use deleted (not necessary to list)
Bus terminals	-	-	C	C	P in C-3, removed from C-2
Cemetery, crematorium, mausoleum, funeral home and chapel, mortuaries and columbariums	-	-	C	C	Funeral Home PC in R-O, P in C-2 and C-3; other uses moved to Special Use District
Day labor hiring centers	-	-	-	C	Moved to A-1
Mini-storage warehouses	-	-	C	C	removed from C-3
Moving truck, trailer and equipment rental	-	-	C	P	listed as "Equipment sales and rental"; removed from C-2
Office warehouses	-	-	C	P	Moved to A-1

LAND USE	R-O	C-O	C-1	C-2	C-3
Adult day care	C	-	-	-	-
Amusement parks, outdoor	-	-	-	-	C
Antique Store	-	-	P	P	-
Appliance service and repair	-	-	-	P	-
Aquarium	-	-	-	-	C
Art gallery	P	-	-	P	P
Art studio	P	-	C	P	P
Assisted living facility	C	C	-	-	-
Automobile rental facility with no on-site storage	P	P	P	P	P
Automobile rental facility with on-site storage	-	-	-	PC	PC
Automobile service and diagnostic facility	-	-	-	PC	PC
Automobile, boat, recreational vehicle, or motorcycle, sales and/or leasing	-	-	-	PC	PC
Banks and financial institutions without drive-thru, excluding non-chartered financial institutions	-	PC	P	P	P
Bar	-	-	-	C	PC
Barber shop	-	-	P	P	-
Beauty salon	-	-	P	P	-
Bingo Hall	-	-	-	-	P
Body piercing studios	-	-	-	C	-
Bowling alley	-	-	-	P	P
Brewery, ancillary to a bar or restaurant	-	-	-	P	P
Bus terminals	-	-	-	-	P
Car wash, accessory to a gas station	-	-	-	A	A
Car wash, self-service	-	-	-	C	-
Caretakers quarters	A	A	A	A	A
Child care center	-	C	C	C	C
Cigar Bar or tobacco lounge	-	-	-	P	P
Clothing alteration, custom dressmaking or tailor shop	-	-	P	P	-
College or university	-	-	-	-	PC
Commercial racetrack, outdoor	-	-	-	-	C
Commercial sporting complexes	-	-	-	-	C
Concert facilities, outdoor	-	-	-	-	C
Consignment shops	-	-	P	P	-
Contractor facility with retail sales	-	-	-	-	P
Contractor storage yard	-	-	-	-	C
Convention centers and exhibition halls	-	-	-	-	P
Dance studio	-	-	P	P	P
Drive-thru uses, including restaurants and financial institutions	-	-	PC	PC	PC
Dry cleaning and laundry establishment, pick-up and drop-off only	-	-	P	P	P
Emergency medical care facility	-	P	P	P	P
Employment agencies excluding day labor	-	P	P	P	P
Equipment sales and rental	-	-	-	-	P
Funeral Home	PC	-	-	P	P
Gas station with or without convenience store and/or car wash	-	-	-	C	C
Health and exercise center	-	-	PC	P	P
Hospitals	-	-	-	-	P
Hotel or motel	-	-	-	P	P

LAND USE	R-O	C-O	C-1	C-2	C-3
Ice skating rink, indoor	-	-	-	P	P
Indoor commercial recreation/entertainment uses not otherwise listed	-	-	-	P	P
Laundromat, self-service	-	-	P	P	-
Libraries	-	-	P	P	P
Liquor stores	-	-	-	C	-
Massage therapy (medical)	P	P	P	P	P
Massage or day spa	-	-	P	P	-
Medical, dental or health offices, clinics and laboratories, excluding plasma centers	P	P	P	P	P
Museum and cultural centers	-	-	-	P	P
Mini-storage warehouses and personal storage	-	-	-	C	-
Movie theater, indoor	-	-	-	P	P
Music studio	-	-	P	P	P
Nail salon	-	-	P	P	-
Night Club	-	-	-	C	PC
Non-chartered financial services	-	-	-	C	-
Outdoor commercial recreational/entertainment uses not otherwise listed	-	-	-	-	C
Outdoor Dining	-	-	A	A	A
Pawn shop	-	-	-	C	-
Pet boarding and day care facility	-	-	-	PC	-
Photographic developing and printing studio	-	-	P	P	P
Places of worship	P	P	P	P	P
Plant nursery	-	-	-	-	P
Plasma centers	-	-	-	C	-
Pre-schools and similar uses	-	-	C	C	-
Professional offices	P	P	P	P	P
Public service and non-profit community uses	-	C	C	C	-
Public uses	P	P	P	P	P
Public utility buildings, structures, uses, facilities and equipment	PC	PC	PC	PC	PC
Real Estate office	P	P	P	P	P
Reception centers	-	-	-	C	P
Residential, occupied by owner or employee of business on property	P	-	-	-	-
Residential, upper floor	P	C	-	-	-
Resorts	-	-	-	P	P
Restaurants, without drive-thru	-	C	P	P	P
Retail sales of new merchandise within enclosed buildings, excluding liquor stores	-	-	P	P	P
Retail/wholesale sales of lumber, landscaping and building materials, excluding outdoor storage	-	-	-	-	PC
Rodeo grounds, outdoor	-	-	-	-	C
Roller rink, indoor	-	-	-	P	P
School, business, technical, or vocational	-	P	-	-	-
Shooting range, indoor	-	-	-	C	C
Sidewalk Café	-	-	P	P	-
Social/private clubs	-	-	PC	PC	PC
Specialty retail, indoor, excluding liquor stores	-	-	P	P	P
Specialty services	-	P	P	P	P

LAND USE	R-O	C-O	C-1	C-2	C-3
Stadiums	-	-	-	-	C
Substance abuse treatment centers	-	C	-	-	-
Substance abuse detoxification centers	-	C	-	-	-
Surplus store, thrift store	-	-	-	P	-
Swimming club, outdoor	-	-	-	-	C
Tanning salon	-	-	P	P	-
Tattoo parlors	-	-	-	C	-
Telecommunication Tower	PC	PC	PC	PC	PC
Theater, excluding movie theaters	-	-	C	P	P
Thrift store	-	-	PC	PC	-
Ticket and travel agency	P	P	P	P	P
Tire sales, repair and mounting	-	-	-	PC	PC
Truck stop, including wash	-	-	-	-	C
Truck, trailer and equipment rental	-	-	-	C	P
Veterinary hospital, offices and clinics, excluding animal boarding	-	-	PC	PC	PC
Video arcade or game room	-	-	-	P	P
Video Rental	-	-	P	P	P
Wine Bar	-	-	-	C	PC
Zoo	-	-	-	-	C

### **Existing Commercial Zoning Districts purpose statements**

**Commercial Office District (C-O):** This district is intended to provide an environment desirable for and conducive to development of office and related uses. In addition, certain other kinds of uses are permitted under conditions and standards, which assure compatibility with a general concentration of office uses, as well as with the residential districts, which often adjoin the C-O District. This district will generally serve to provide a transition from more intensive to less intensive uses and will most frequently occur between commercial and residential districts.

**Neighborhood Commercial District (C-1):** This district is intended to accommodate retail and service establishments satisfying the everyday needs of consumers residing in adjacent neighborhoods. The C-1 Commercial District provides for neighborhood commercial centers having a supermarket as a principal tenant and with a trade area limited generally to adjacent neighborhoods. This district is intended to be the primary type of neighborhood commercial development. It is further intended that C-1 Districts be restricted to the intersection of arterial streets. No one user shall have a building in excess of one hundred thousand (100,000) gross square feet.

**Community Commercial District (C-2):** This district is intended to accommodate development of commercial complexes providing goods and services to a community-wide trade area. It is further intended that such commercial centers shall be planned, developed and managed as integrated complexes with individual users with a building square footage in the range of one hundred thousand (100,000) to two hundred thousand (200,000) gross square feet.

**Major Commercial District (C-3):** This district is intended to accommodate development of large-scale planned commercial complexes providing goods and services to a community-wide and regional trade area. It is further intended that such commercial centers shall be planned, developed and managed as integrated complexes with some individual users with a building square footage in excess of two hundred thousand (200,000) gross square feet.

## **Draft Commercial Zone Districts purpose statements**

### **Residential Office (R-O)**

The purpose of the Residential Office (R-O) district is to promote professional and administrative services and live-work uses on small parcels located between higher intensity commercial and multi-use zones and residential zones. Residential Office is most appropriate in and around traditional single-family and multi-family residential developments.

- A. Encourage a low-intensity environment for office uses at a residential scale
- B. Provide an appropriate transition from single-family residential uses to multi-family residential and non-residential uses
- C. Support the adaptive reuse of residential structures with direct access to collector and arterial streets for limited office uses.
- D. Encourage development that is consistent with the policies and the guidelines established in any specific plan and the General Plan.

### **Commercial Office (C-O)**

The purpose of the Commercial Office (C-O) district is to provide an environment desirable for and conducive to development of office and related uses, as well as certain other kinds of uses which assure compatibility with office uses and/or the residential districts that often may abut the C-O district.

- A. Provide an environment for office park development with maximum heights as prescribed by General Plan, Freeway Corridor Specific Plan, and North Avondale Specific Plans
- B. Provide an area for high-quality employment uses in a campus setting as presented in the Employment designation in the General Plan
- C. Allow uses that are compatible with an office park that act as support for the uses within the office park
- D. Serve to provide a transition from more intensive to less intensive uses, usually between commercial and residential districts
- E. Encourage development that is consistent with the policies and the guidelines established in any specific plan and the General Plan.

### **Neighborhood Commercial (C-1)**

The purpose of the Neighborhood Commercial (C-1) district is to accommodate retail and service establishments satisfying the everyday needs of consumers residing in adjacent and nearby neighborhoods.

- A. Provide for neighborhood commercial centers with a trade area limited generally to adjacent and nearby neighborhoods.
- B. Act as the primary type of neighborhood commercial development.
- C. Be located at the intersection of arterial streets with at least one property line directly abutting a residential zone.

- D. Have users that generally do not exceed seventy thousand (70,000) gross building square feet.
- E. Encourage development that is consistent with the policies and the guidelines established in any specific plan and the General Plan.

**Community Commercial (C-2)**

The purpose of the Community Commercial (C-2) district is to accommodate development of commercial complexes providing goods and services to a community-wide trade area.

- A. Encourage commercial centers that are planned, developed and managed as integrated complexes with individual users.
- B. Be located so that primary driveways access arterial streets.
- C. Include users with a building square footage up to two hundred thousand (200,000) gross building square feet.
- D. Encourage development that is consistent with the policies and the guidelines established in any specific plan and the General Plan.

**Freeway Commercial (C-3)**

The purpose of the Freeway Commercial (C-3) district is to promote freeway-oriented services and products with a community-wide to regional trade area while avoiding the disruption of less intensive commercial activities. This zone district is most appropriate along major arterial streets or along or near freeways.

- A. Provide an area for large-scale commercial developments while avoiding the disruption of less intensive residential or commercial activities.
- B. To create an environment for uses that generally can produce amounts of noise, traffic, and other adverse effects and are of a size that are not compatible with residential development or less intense office and commercial development.
- C. Encourage commercial centers that are planned, developed and managed as integrated complexes with individual users.
- D. Include users with a building square footage in the range greater than two hundred thousand (200,000) gross square feet.
- E. Encourage development that is consistent with the policies and the guidelines established in any specific plan and the General Plan.

**Uses Permitted with Conditions  
Draft Conditions**

**A. Automobile, boat, recreational vehicle, or motorcycle sales and/or leasing (PC in C-2 and C-3)**

1. No more than 6 vehicles shall be stored on site in association with an office location that is part of a commercial center, or commercial complex that includes retail uses
2. Vehicle storage shall be limited to paved areas and shall not occupy required parking spaces or drive aisles
3. Accessory uses, such as vehicle washing, refueling stations, and minor maintenance garages, may be allowed on site only if such uses are screened from off site view and are not used by the general public. Such uses shall be designed and sited as to limit the noise impacts to surrounding properties.

**B. Automobile rental facility with on-site storage (PC in C-2 and C-3)**

1. No more than 6 vehicles shall be stored on site in association with an office location that is part of a commercial center, or commercial complex that includes retail uses
2. Vehicle storage shall be limited to paved areas and shall not occupy required parking spaces or drive aisles
3. Accessory uses, such as vehicle washing, refueling stations, and minor maintenance garages, may be allowed on site only if such uses are screened from off site view and are not used by the general public. Such uses shall be designed and sited as to limit the noise impacts to surrounding properties.
4. Storage of vehicles shall be screened from off site view by a 3' or taller screen wall

**C. Automobile service and diagnostic facility (PC in C-2 and C-3)**

1. Where the site or use abuts or adjoins any residentially zoned property or use, there shall be a solid screen wall at least six (6) feet in height constructed according to the City of Avondale Design Manuals, with a minimum twenty (20) foot landscaping buffer inside the wall adjacent to the residentially zoned property or use.
2. Buildings shall be sited to ensure that garage bay doors do not face public streets or are immediately adjacent to residentially zoned property or uses.

**D. Banks and financial institutions without drive-thru, excluding non-chartered financial institutions (PC in C-O)**

1. Banks and financial institutions included within an office building shall not occupy more than 25% of the gross floor area

**E. Bars (PC in C-3)**

1. The exterior building wall of a bar shall not be located within one thousand three hundred and twenty (1,320) feet of the exterior property lines of a public or private school, church, or other bar, night club, or wine bar
2. Exits and entrances to a bar shall not be located within three hundred (300) feet of a residential district or use.
3. Closing time for dance floors or other accessory uses to a bar shall coincide with the closing time for the bar.

**F. College or university (PC in C-3)**

1. Colleges and universities shall be developed as a campus or park development, rather than as or within a shopping center

**G. Drive-thru uses, including restaurants and financial institutions (PC in C-1, C-2 and C-3)**

1. Payment and/or pick-up windows shall not face public streets.
2. Drive thru canopies shall be included covering any payment or pick-up windows. Canopies shall be fully architecturally integrated in to the building consistent with the requirements of the Design Manuals.
3. Drive thru lanes shall be screened from view by a minimum 3' tall masonry wall.
4. Speaker boxes shall be located a minimum of 70' from any residentially zoned property or residential use
5. Drive thru cueing length shall be approved in accordance with a traffic study as approved by the City Engineer.

**H. Funeral homes (PC in R-O)**

1. Sites shall be designed such that parking, circulation, and access will not adversely affect adjacent or nearby residentially zoned property or residential use.

**I. Health and exercise centers (PC in C-1)**

1. Health and exercise centers located within neighborhood shopping centers shall be limited to no larger than 3,000 square feet in area.

**J. Night clubs (PC in C-3)**

1. The exterior building wall of a bar shall not be located within one thousand three hundred and twenty (1,320) feet of the exterior property lines of a public or private school, or other bar, night club, or wine bar.
2. Exits and entrances to a night club shall not be located within three hundred (300) feet of a residential district or use.
3. Closing time for dance floors or other accessory uses to a night club shall coincide with the closing time for the night club.

**K. Pet boarding and day care facilities, excluding any outdoor exercise/play areas, (PC in C-2)**

1. All activities shall be conducted entirely within enclosed buildings.
2. Buildings shall be constructed in a manner that limits exterior noise from activities inside the building to a maximum of forty-five (45) DBA measured at the exterior building wall. A statement from a registered architect to this effect is required at the time of construction plan submittal.
3. Buildings shall be setback a minimum of one hundred (100) feet from any residential district.
4. Solid animal waste must be bagged separately from other refuse.

**L. Pet boarding and day care facilities, including any outdoor exercise/play areas, (PC in C-2)**

1. Direct access shall not be provided from animal housing units to the outside of the building.
2. Buildings shall be constructed in a manner that limits exterior noise from activities inside the building to a maximum of forty-five (45) DBA measured at the exterior building wall. A statement from a registered architect to this effect is required at the time of construction plan submittal.

3. Outdoor walks and exercise must take place within specified play/exercise areas.
  4. Animals must be supervised by a facility employee at all times when in an outdoor play/exercise area.
  5. Animals shall not be allowed outside between the hours of 7:00 p.m. and 7:00 a.m.
  6. Buildings shall be set back a minimum of one hundred (100) feet from any residential district.
  7. Outdoor play/exercise areas shall be set back a minimum of two hundred fifty (250) feet from any residential district.
  8. A solid block wall with a minimum height of eight (8) feet shall enclose the perimeter of any outdoor play/exercise area.
  9. Animal waste shall be removed from outdoor play/exercise areas every five hours during time periods when these areas are in use.
  10. Solid animal waste must be bagged separately from other refuse.
- M. Public utility buildings, structures, uses, facilities and equipment (PC in R-O, C-O, C-1, C-2 and C-3)**
1. Sites shall be screened from off-site view by a minimum 6' tall masonry wall. Screen wall may be required to be 8' tall as determined by staff. All screen walls shall comply with wall standards set forth in the Design Manuals.
- N. Retail/wholesale sales of lumber, landscaping and building materials, excluding outdoor storage (PC in C-3)**
1. All pick-up areas, loading and unloading areas, and truck wells shall be screened from off site by a minimum 6' masonry wall. All screen walls shall comply with the wall standards set forth in the Design Manuals.
- O. Social/Private Club (PC in C-1, C-2, and C-3)**
1. Any restaurant or bar operated in connection with a social/private club shall be an integral part of a principal building, shall have no public entrance except from within the building and shall make no exterior display or advertising of any commercial activity, however incidental.
- P. Telecommunication Towers (PC in R-O, C-O, C-1, C-2 and C-3)**
1. Telecommunication towers shall be setback from all property lines a minimum of a distance equal to 1' for every 1' of the tower's height above grade.
  2. Telecommunication towers shall be architecturally designed to give the appearance of blending in with its surroundings.
- Q. Thrift stores are allowed in certain commercial zone districts provided that:**
1. Outdoor donation bins shall be prohibited
  2. Signage shall be required on site clearly stating that after-hours drop-off is prohibited
  3. Loading and unloading areas shall not face or be visible from public streets.
  4. Garage bay doors shall be closed except during drop-off or pick-up of items
  5. All items shall be stored indoors at all times
- R. Tire sales, repair and mounting facilities (PC in C-2 and C-3)**
1. Where the site or use abuts or adjoins any residentially zoned property or use, there shall be a solid screen wall at least six (6) feet in height constructed according to the City of Avondale Design Manuals, with a minimum twenty

(20) foot landscaping buffer inside the wall adjacent to the residentially zoned property or use.

2. Buildings shall be sited to ensure that garage bay doors do not face public streets or are immediately adjacent to residentially zoned property or uses.

**S. Veterinary hospital, offices and clinics, excluding animal boarding (PC in C-1, C-2 and C-3)**

1. Clinic activities shall be restricted to the medical care and treatment of small animals during regular office hours. The confinement of such animals on the premises shall be limited to essential and occasional overnight care and shall be entirely within enclosed structures. The boarding and breeding of animals shall be prohibited.
2. Clinics shall be constructed to be completely contained as to prevent emission of any noise or odor.
3. Outdoor runs or exercise pens shall be prohibited unless approval from the City Council is obtained prior to site plan submittal. Additionally, no outdoor runs, pens or enclosures shall be located closer than one hundred (100) feet to any street, residential district or existing restaurant, hotel or motel.

**T. Wine bars (PC in C-3)**

1. The exterior building wall of a bar shall not be located within one thousand three hundred and twenty (1,320) feet of the exterior property lines of a public or private school, or other bar, night club, or wine bar.
2. Exits and entrances to a wine bar shall not be located within three hundred (300) feet of a residential district or use.
3. Closing time for dance floors or other accessory uses to a wine bar shall coincide with the closing time for the wine bar.

**Summary of major land use changes to commercial zone district land use table**

- Auto body and engine repair, upholstery, painting facilities, and similar uses are currently allowed as a CUP in C-3; staff is proposing to only allow this use in General Industrial (A-1) zone district
- Automobile service and diagnostic facility and Tire sales, repair and mounting are currently allowed with CUP in C-2 and C-3; staff is proposing to make these uses Permitted with Conditions
- Drive-thru restaurants are currently allowed with a CUP in C-1, and are permitted in C-2 and C-3; staff is proposing for this use to be Permitted with Conditions in C-1, C-2, and C-3
- Vocational school is currently Permitted in C-2 and C-3; staff is proposing to change this to be Permitted only in C-O
- Business or technical school is currently Permitted in C-O, C-2, and C-3 and allowed with a CUP in C-1; staff is proposing to change this to be Permitted only in C-O
- Schools and educational institutions (public and private), excluding colleges, universities, and vocational schools are currently Permitted in C-O, C-2, and C-3 and allowed with a CUP in C-1; staff is proposing to remove these uses completely from Commercial districts and allow them only in Residential districts
- Ambulance service facility is currently allowed with a CUP in C-2 and C-3; staff is proposing to remove this use from Commercial and allow it only in General Industrial (A-1)
- Day labor hiring centers are currently allowed with a CUP in C-3; staff is proposing to remove this use from Commercial and allow it only in General Industrial (A-1)
- Office warehouses are currently allowed with a CUP in C-2 and Permitted in C-3; staff is proposing remove this use from Commercial and allow it only in General Industrial (A-1)
- Bars, night clubs, and wine bars are currently allowed with a CUP in C-2 and C-3; staff is proposing to keep this a CUP in C-2 and allow them as Permitted with Conditions in C-3.

**Draft commercial district development standards**

	R-O	C-O	C-1	C-2	C-3
Minimum Lot Width	45'	60'	None	None	None
Minimum Site Depth	100'	100'	None	None	None
Maximum Lot Coverage	35%	35%	None	None	None
Maximum Building Height	30'	30'	30'	30'	40'
Front Setback	20'	20'	20'	20'	20'
Street Setback	20'	20'	20'	20'	20'
Rear Setback	20'	20'	20'	20'	20'
Side Setback	20'	15'	15'	15'	20'
Parking Setback	10'	20'	30'	30'	30'
Interior Setback	15'	15'	None	None	None
Setback from a Residential District or Use	1' per 1' bldg height	1' per 1' bldg height	1' per 1' bldg height	50'	100'
Parking Setback from Residential District or Use	25'	25'	25'	25'	25'
Maximum Accessory Structure Height	15'	15'	15'	15'	15'

## Section 3 COMMERCIAL DISTRICTS

## Sections

301 Purpose and intent.

302 ~~Establishment of commercial districts.~~ **Commercial district statements of purpose**

303 Land use matrix.

304 ~~General regulations~~ **Uses permitted with conditions.**

305 Conditional use development standards.

306 **Commercial development standards**306 ~~307~~ Old Town Avondale Zoning Overlay District.307 ~~308~~ Cashion Business District.308 ~~Property development standards.~~**301 Purpose and intent.**

Commercial districts provide activity centers with shopping and services, employment for local residents and additional revenue to strengthen the city's economic base. Commercial zoning standards are intended to ensure convenience, safety, positive community image, variety in retail uses, commerce and office development that enhances the citizens' quality of life. Zoning classifications include classifications for (i) offices, (ii) neighborhood, community and regional businesses and (iii) unique commercial uses found in the city's traditional commercial area. Use intensities and site development criteria are intended to mitigate impact on, as well as maintain compatibility with adjacent residential areas.

302 ~~Establishment of commercial districts.~~ **Commercial district statements of purpose**

The following commercial districts are established:

**A. Residential Office (R-O): The purpose of the Residential Office (R-O) district is to promote professional and administrative services and live-work uses on small parcels located between higher intensity commercial and multi-use zones and residential zones. Residential Office is most appropriate in and around traditional single-family and multi-family residential developments.**

- 1. Encourage a low-intensity environment for office uses at a residential scale**
- 2. Provide an appropriate transition from single-family residential uses to multi-family residential and non-residential uses**
- 3. Support the adaptive reuse of residential structures with direct access to collector and arterial streets for limited office uses.**
- 4. Encourage development that is consistent with the policies and the guidelines established in any specific plan and the General Plan.**

**B. Commercial Office District (C-O): This district is intended** **The purpose of the Commercial Office (C-O) district is** to provide an environment desirable for and conducive to development of office and related uses, **as well as certain other kinds of uses which assure compatibility with office uses and/or the residential districts that often may abut the C-O district.** ~~In addition, certain other kinds of uses are permitted under conditions and standards, which assure compatibility with a general concentration of office uses, as well as with the~~

residential districts, which often adjoin the C-O District. This district will generally serve to provide a transition from more intensive to less intensive uses and will most frequently occur between commercial and residential districts.

1. Provide an environment for office park development with maximum heights as prescribed by General Plan, Freeway Corridor Specific Plan, and North Avondale Specific Plans
2. Provide an area for high-quality employment uses in a campus setting as presented in the Employment designation in the General Plan
3. Allow uses that are compatible with an office park that act as support for the uses within the office park
4. Serve to provide a transition from more intensive to less intensive uses, usually between commercial and residential districts
5. Encourage development that is consistent with the policies and the guidelines established in any specific plan and the General Plan

**C.** Neighborhood Commercial District (C-1): This district is intended The purpose of the Neighborhood Commercial (C-1) district is to accommodate retail and service establishments satisfying the everyday needs of consumers residing in adjacent neighborhoods. The C-1 Commercial District provides for neighborhood commercial centers having a supermarket as a principal tenant and with a trade area limited generally to adjacent neighborhoods. This district is intended to be the primary type of neighborhood commercial development. It is further intended that C-1 Districts be restricted to the intersection of arterial streets. No one user shall have a building in excess of one hundred thousand (100,000) gross square feet.

1. Provide for neighborhood commercial centers with a trade area limited generally to adjacent and nearby neighborhoods.
2. Act as the primary type of neighborhood commercial development
3. Be located at the intersection of arterial streets with at least one property line directly abutting a residential zone
4. Have users that generally do not exceed seventy thousand (70,000) gross building square feet
5. Encourage development that is consistent with the policies and the guidelines established in any specific plan and the General Plan

**D.** Community Commercial District (C-2): This district is intended The purpose of the Community Commercial (C-2) district is to accommodate development of commercial complexes providing goods and services to a community-wide trade area. It is further intended that such commercial centers shall be planned, developed and managed as integrated complexes with individual users with a building square footage in the range of one hundred thousand (100,000) to two hundred thousand (200,000) gross square feet.

1. Encourage commercial centers that are planned, developed and managed as integrated complexes with individual users.
2. Be located so that primary driveways access arterial streets.
3. Include users with a building square footage up to two hundred thousand (200,000) gross building square feet.

**4. Encourage development that is consistent with the policies and the guidelines established in any specific plan and the General Plan.**

Major Commercial District (C-3): This district is intended to accommodate development of large-scale planned commercial complexes providing goods and services to a community-wide and regional trade area. It is further intended that such commercial centers shall be planned, developed and managed as integrated complexes with some individual users with a building square footage in excess of two hundred thousand (200,000) gross square feet.

- E. Freeway Commercial District (C-3): The purpose of the Freeway Commercial (C-3) district is to promote freeway-oriented services and products with a community-wide to regional trade area while avoiding the disruption of less intensive commercial activities. This zone district is most appropriate along major arterial streets or along or near freeways.**
- 1. Provide an area for large-scale commercial developments while avoiding the disruption of less intensive residential or commercial activities**
  - 2. To create an environment for uses that generally can produce amounts of noise, traffic, and other adverse effects and are of a size that are not compatible with residential development or less intense office and commercial development**
  - 3. Encourage commercial centers that are planned, developed and managed as integrated complexes with individual users**
  - 4. Include users with a building square footage in the range greater than two hundred thousand (200,000) gross square feet**
  - 5. Encourage development that is consistent with the policies and the guidelines established in any specific plan and the General Plan**
- F. Old Town Avondale Zoning Overlay District (OTAB):** The Old Town Avondale Zoning Overlay District, hereinafter referred to as Old Town Avondale Business District (OTAB), is intended to provide for general retail, residential, professional office/service, and mixed-use activities serving a regional/community-wide need under design standards which ensure compatibility and harmony with adjoining land uses, and which encourage the highest quality design and development. The OTAB zone is intended to promote a strong pedestrian orientation through its mix of permitted uses and specific development standards.

### **303 Land use matrix**

The following land use matrix shows the uses, which are permitted outright (P), permitted conditionally **with a conditional use permit (C)**, **permitted with conditions (PC)**, permitted as accessory uses (A) or prohibited (-) in specific commercial zoning districts in the City of Avondale. The land use matrix is intended to serve as a guide for the convenience of the user of this zoning ordinance. Where the text of this zoning ordinance differs from the land use matrix, the text shall prevail.

Land Use Matrix

<del>LAND USE</del>	<del>C 0</del>	<del>C 1</del>	<del>C 2</del>	<del>C 3</del>
<del>AUTO-ORIENTED USES</del>				
Auto supply store, indoor	—	C -	C -	C -
Autobody and engine repair, upholstery, painting facilities, and similar uses	—	—	—	C -
Automobile, boat, recreational vehicle, or motorcycle, sales and rental	—	—	C -	P -
Automobile leasing facility	—	C -	C -	P -
Automobile service and diagnostic facility	—	—	C -	C -
Car wash, mechanical, self service	—	—	C -	C -
Emissions testing facility	—	—	—	P -
Gas service station with retail gasoline sales, convenience store, and car wash	—	—	C -	C -
Tire sales, repair and mounting	—	—	C -	C -
Truck stop, including wash	—	—	—	C -
<del>EATING &amp; DRINKING ESTABLISHMENTS</del>				
Restaurants and similar uses	C -	P -	P -	P -
Drive-thru restaurants	—	C -	P -	P -
Tavern, bar, lounge or establishment that sells beer or intoxicating liquor for consumption on premise, excluding restaurants and adult uses	—	—	C -	C -
<del>ENTERTAINMENT, COMMERCIAL RECREATION &amp; ASSEMBLY USES</del>				
Commercial sporting complexes, concert facilities, stadiums, and similar outdoor recreational facilities	—	—	—	C -

Convention centers and exhibition halls—	—	—	P -	P -
Dancing, theatrical or music studio—	—	€ -	P -	P -
Health and exercise center—	€ -	€ -	P -	P -
Indoor commercial recreation/entertainment uses such as movie theaters, bowling alleys, game rooms, video arcades, ice and roller skating rinks, shooting ranges, pool and dance halls, bingo halls, and similar uses, excluding adult uses and taverns bars and lounges—	—	—	P -	P -
Outdoor commercial recreational/entertainment uses such as amusement parks, fairgrounds, golf courses, golf driving ranges, commercial racetrack, rodeo grounds, shooting range, swimming and tennis clubs, and similar uses—	—	—	—	€ -
Reception centers, recreation and social/private clubs—	—	—	€ -	P -
Resorts—	—	—	P -	P -
INSTITUTIONAL USES—				
Vocational school—	—	—	P -	P -
Business or technical school—	P -	€ -	P -	P -
College or university—	—	—	P -	P -
Churches, synagogues, temples, and similar places of worship—	P -	P -	P -	P -
Cultural institutions—	P -	€ -	P -	P -
Child care center—	€ -	€ -	€ -	€ -
Libraries and museum—	P -	P -	P -	P -
Assisted living facility, nursing or convalescent home, long term care facility & hospices, and group care facility—	€ -	—	—	—
Post office—	P -	P -	P -	P -

Public service and non-profit community uses—	€ -	€ -	€ -	€ -
Public utility buildings, structures, uses, facilities and equipment—	€ -	€ -	€ -	€ -
Schools and educational institutions (public and private), excluding colleges, universities, and vocational schools—	P -	€ -	P -	P -
Substance abuse detoxification and treatment centers, halfway house—	—	—	—	€ -
Zoo (private, public)—	—	—	—	€ -
<b>OFFICE/MEDICAL USES—</b>				
Ambulance service facility—	—	—	€ -	€ -
Emergency medical care facility—	P -	€ -	P -	P -
Employment agencies—	P -	P -	P -	P -
Hospitals—	—	—	P -	P -
Medical, dental or health offices, clinics and laboratories, excluding plasma centers—	P -	€ -	P -	P -
Veterinary hospital, offices and clinics, excluding animal boarding—	—	€ -	€ -	€ -
Pet boarding and day care facility—	—	—	€ -	—
Professional, administrative or business offices, banks and financial institutions, excluding non-chartered financial services—	P -	P -	P -	P -
Non-chartered financial services—	—	—	€ -	—
Plasma centers—	—	—	€ -	—
<b>PERSONAL SERVICES USES—</b>				
Appliance service and repair—	—	€ -	P -	P -
Clothing alteration, custom dressmaking or tailor shop—	—	P -	P -	P -

Dry cleaning and laundry establishment—	<del>C</del> -	<del>P</del> -	<del>P</del> -	<del>P</del> -
Laundromat, self-service—	—	<del>P</del> -	<del>P</del> -	<del>P</del> -
Nail salon, barber shop, and beauty salon—	<del>C</del> -	<del>P</del> -	<del>P</del> -	<del>P</del> -
Personal service establishments such as tanning salon, massage therapy, palm readers, phrenologists, fortune tellers and astrologers, excluding adult uses—	—	—	<del>C</del> -	<del>C</del> -
Photographic developing and printing studio—	—	<del>P</del> -	<del>P</del> -	<del>P</del> -
Ticket and travel agency—	<del>P</del> -	<del>P</del> -	<del>P</del> -	<del>P</del> -
Tattoo parlors and body piercing studios—	—	—	<del>C</del> -	—
<del>RESIDENTIAL &amp; LODGING USES—</del>				
One caretakers quarters—	<del>A</del> -	<del>A</del> -	<del>A</del> -	<del>A</del> -
Dwelling units above the ground floor of a building—	<del>C</del> -	<del>C</del> -	<del>C</del> -	<del>C</del> -
Hotel or motel—	—	—	<del>P</del> -	<del>P</del> -
<del>RETAIL USES—</del>				
Retail sales of new merchandise within enclosed buildings, excluding liquor stores—	<del>A</del> -	<del>P</del> -	<del>P</del> -	<del>P</del> -
Equipment sales, rental and storage yard—	—	—	—	<del>C</del> -
Monument sales and engraving shop—	—	—	—	<del>P</del> -
Pawn shop—	—	—	—	<del>C</del> -
Plant nursery—	—	—	<del>C</del> -	<del>P</del> -
Retail/wholesale sales of lumber, landscaping and building materials, excluding outdoor storage—	—	—	<del>C</del> -	<del>P</del> -
Specialty stores and services, indoor, excluding liquor stores—	—	<del>P</del> -	<del>P</del> -	<del>P</del> -

Surplus store, thrift store—	—	—	—	P-
Liquor stores—	—	—	€-	—
Consignment shops—	—	—	P-	—
<b>MISCELLANEOUS USES—</b>				
Accessory buildings, structures and uses customarily incidental to a permitted use—	A-	A-	A-	A-
Automatic teller machine (ATM)—	P-	P-	P-	P-
Bus terminals—	—	—	€-	€-
Cemetery, crematorium, mausoleum, funeral home and chapel, mortuaries and columbariums—	—	—	€-	€-
Day labor hiring centers—	—	—	—	€-
Mini-storage warehouses—	—	—	€-	€-
Moving truck, trailer and equipment rental—	—	—	€-	P-
Office warehouses—	—	—	€-	P-

LAND USE	R-O	C-O	C-1	C-2	C-3
Adult day care	C	-	-	-	-
Amusement parks, outdoor	-	-	-	-	C
Antique Store	-	-	P	P	-
Appliance service and repair	-	-	-	P	-
Aquarium	-	-	-	-	C
Art gallery	P	-	-	P	P
Art studio	P	-	C	P	P
Assisted living facility	C	C	-	-	-
Automobile rental facility with no on-site storage	P	P	P	P	P
Automobile rental facility with on-site storage	-	-	-	PC	PC
Automobile service and diagnostic facility	-	-	-	PC	PC
Automobile, boat, recreational vehicle, or motorcycle, sales and/or leasing	-	-	-	PC	PC
Banks and financial institutions without drive-thru, excluding non-chartered financial institutions	-	PC	P	P	P

LAND USE	R-O	C-O	C-1	C-2	C-3
Bar	-	-	-	C	PC
Barber shop	-	-	P	P	-
Beauty salon	-	-	P	P	-
Bingo Hall	-	-	-	-	P
Body piercing studios	-	-	-	C	-
Bowling alley	-	-	-	P	P
Brewery, ancillary to a bar or restaurant	-	-	-	P	P
Bus terminals	-	-	-	-	P
Car wash, accessory to a gas station	-	-	-	A	A
Car wash, self-service	-	-	-	C	-
Caretakers quarters	A	A	A	A	A
Child care center	-	C	C	C	C
Cigar Bar or tobacco lounge	-	-	-	P	P
Clothing alteration, custom dressmaking or tailor shop	-	-	P	P	-
College or university	-	-	-	-	PC
Commercial racetrack, outdoor	-	-	-	-	C
Commercial sporting complexes	-	-	-	-	C
Concert facilities, outdoor	-	-	-	-	C
Consignment shops	-	-	P	P	-
Contractor facility with retail sales	-	-	-	-	P
Contractor storage yard	-	-	-	-	C
Convention centers and exhibition halls	-	-	-	-	P
Dance studio	-	-	P	P	P
Drive-thru uses, including restaurants and financial institutions	-	-	PC	PC	PC
Dry cleaning and laundry establishment, pick-up and drop-off only	-	-	P	P	P
Emergency medical care facility	-	P	P	P	P
Employment agencies excluding day labor	-	P	P	P	P
Equipment sales and rental	-	-	-	-	P
Funeral Home	PC	-	-	P	P
Gas station with or without convenience store and/or car wash	-	-	-	C	C
Health and exercise center	-	-	PC	P	P
Hospitals	-	-	-	-	P
Hotel or motel	-	-	-	P	P
Ice skating rink, indoor	-	-	-	P	P
Indoor commercial recreation/entertainment uses not otherwise listed	-	-	-	P	P
Laundromat, self-service	-	-	P	P	-
Libraries	-	-	P	P	P
Liquor stores	-	-	-	C	-
Massage therapy (medical)	P	P	P	P	P
Massage or day spa	-	-	P	P	-
Medical, dental or health offices, clinics and laboratories, excluding plasma centers	P	P	P	P	P
Museum and cultural centers	-	-	-	P	P
Mini-storage warehouses and personal storage	-	-	-	C	-
Movie theater, indoor	-	-	-	P	P

LAND USE	R-O	C-O	C-1	C-2	C-3
Music studio	-	-	P	P	P
Nail salon	-	-	P	P	-
Night Club	-	-	-	C	PC
Non-chartered financial services	-	-	-	C	-
Outdoor commercial recreational/entertainment uses not otherwise listed	-	-	-	-	C
Outdoor Dining	-	-	A	A	A
Pawn shop	-	-	-	C	-
Pet boarding and day care facility	-	-	-	PC	-
Photographic developing and printing studio	-	-	P	P	P
Places of worship	P	P	P	P	P
Plant nursery	-	-	-	-	P
Plasma centers	-	-	-	C	-
Pre-schools and similar uses	-	-	C	C	-
Professional offices	P	P	P	P	P
Public service and non-profit community uses	-	C	C	C	-
Public uses	P	P	P	P	P
Public utility buildings, structures, uses, facilities and equipment	PC	PC	PC	PC	PC
Real Estate office	P	P	P	P	P
Reception centers	-	-	-	C	P
Residential, occupied by owner or employee of business on property	P	-	-	-	-
Residential, upper floor	P	C	-	-	-
Resorts	-	-	-	P	P
Restaurants, without drive-thru	-	C	P	P	P
Retail sales of new merchandise within enclosed buildings, excluding liquor stores	-	-	P	P	P
Retail/wholesale sales of lumber, landscaping and building materials, excluding outdoor storage	-	-	-	-	PC
Rodeo grounds, outdoor	-	-	-	-	C
Roller rink, indoor	-	-	-	P	P
School, business, technical, or vocational	-	P	-	-	-
Shooting range, indoor	-	-	-	C	C
Sidewalk Café	-	-	P	P	-
Social/private clubs	-	-	PC	PC	PC
Specialty retail, indoor, excluding liquor stores	-	-	P	P	P
Specialty services	-	P	P	P	P
Stadiums	-	-	-	-	C
Substance abuse treatment centers	-	C	-	-	-
Substance abuse detoxification centers	-	C	-	-	-
Surplus store, thrift store	-	-	-	P	-
Swimming club, outdoor	-	-	-	-	C
Tanning salon	-	-	P	P	-
Tattoo parlors	-	-	-	C	-
Telecommunication Tower	PC	PC	PC	PC	PC
Theater, excluding movie theaters	-	-	C	P	P
Thrift store	-	-	PC	PC	-

LAND USE	R-O	C-O	C-1	C-2	C-3
Ticket and travel agency	P	P	P	P	P
Tire sales, repair and mounting	-	-	-	PC	PC
Truck stop, including wash	-	-	-	-	C
Truck, trailer and equipment rental	-	-	-	C	P
Veterinary hospital, offices and clinics, excluding animal boarding	-	-	PC	PC	PC
Video arcade or game room	-	-	-	P	P
Video Rental	-	-	P	P	P
Wine Bar	-	-	-	C	PC
Zoo	-	-	-	-	C

P = Permitted Use

C = Conditional Use Permit required.

**PC = Permitted with Conditions**

A = Accessory Use

- = Not Permitted

(Ord. No. 1134-05, 8-15-05; Ord. No. 1133-05, § 4, 12-19-05; Ord. No. 1203-906, § 2, 9-18-06; Ord. No. 1211-1106, § 2, 11-20-06; Ord. No. 1241-107, § 2, 1-2-07)

304 General regulations.

~~A. All activities, except as otherwise permitted herein, shall be conducted entirely within enclosed buildings.~~

~~B. Outdoor storage of goods and materials shall be prohibited.~~

~~C. Warehousing or indoor storage of goods or material beyond that normally incidental to permitted uses shall be prohibited.~~

~~D. All new buildings and uses of land or substantial additions to or remodeling of existing buildings/uses shall be subject to site plan review in accordance with Section 106.~~

~~E. Office buildings uses as the primary use: Retail sales of new merchandise and restaurants shall be allowed provided that such uses shall not exceed twenty five (25) percent of the gross square footage of the building.~~

### **304 Uses Permitted With Conditions**

**The following land uses are listed in the land use matrix as Permitted with Conditions. These uses are permitted by right only if the conditions listed below for the individual uses are met. Based on site plan review, staff may add additional conditions of approval deemed necessary to protect the health, safety, and public welfare.**

**A. Automobile, boat, recreational vehicle, or motorcycle sales and/or leasing is allowed in certain commercial zone districts provided that:**

**1. No more than 6 vehicles shall be stored on site in association with an office location that is part of a commercial center, or commercial complex that includes retail uses**

2. Vehicle storage shall be limited to paved areas and shall not occupy required parking spaces or drive aisles
  3. Accessory uses, such as vehicle washing, refueling stations, and minor maintenance garages, may be allowed on site only if such uses are screened from off site view and are not used by the general public. Such uses shall be designed and sited as to limit the noise impacts to surrounding properties.
- B. Automobile rental facility with on-site storage is allowed in certain commercial zone districts provided that:**
1. No more than 6 vehicles shall be stored on site in association with an office location that is part of a commercial center, or commercial complex that includes retail uses
  2. Vehicle storage shall be limited to paved areas and shall not occupy required parking spaces or drive aisles
  3. Accessory uses, such as vehicle washing, refueling stations, and minor maintenance garages, may be allowed on site only if such uses are screened from off site view and are not used by the general public. Such uses shall be designed and sited as to limit the noise impacts to surrounding properties.
  4. Storage of vehicles shall be screened from off site view by a 3' or taller screen wall
- C. Automobile service and diagnostic facility is allowed in certain commercial zone districts provided that:**
1. Where the site or use abuts or adjoins any residentially zoned property or use, there shall be a solid screen wall at least six (6) feet in height constructed according to the City of Avondale Design Manuals, with a minimum twenty (20) foot landscaping buffer inside the wall adjacent to the residentially zoned property or use.
  2. Buildings shall be sited to ensure that garage bay doors do not face public streets or are immediately adjacent to residentially zoned property or uses.
- D. Banks and financial institutions without drive-thru, excluding non-chartered financial institutions are allowed in certain commercial zone districts provided that:**
1. Banks and financial institutions included within an office building shall not occupy more than 25% of the gross floor area
- E. Bars are allowed in certain commercial zone districts provided that:**
1. The exterior building wall of a bar shall not be located within one thousand three hundred and twenty (1,320) feet of the exterior property lines of a public or private school, church, or other bar, night club, or wine bar.
  2. Exits and entrances to a bar shall not be located within three hundred (300) feet of a residential district or use.
  3. Closing time for dance floors or other accessory uses to a bar shall coincide with the closing time for the bar.

- F. College or university is allowed in certain commercial zone districts provided that:**
- 1. Colleges and universities shall be developed as a campus or park development, rather than as or within a shopping center**
- G. Drive-thru uses, including restaurants and financial institutions are allowed in certain commercial zone districts provided that:**
- 1. Payment and/or pick-up windows shall not face public streets.**
  - 2. Drive thru canopies shall be included covering any payment or pick-up windows. Canopies shall be fully architecturally integrated in to the building consistent with the requirements of the Design Manuals.**
  - 3. Drive thru lanes shall be screened from view by a minimum 3' tall masonry wall.**
  - 4. Speaker boxes shall be located a minimum of 70' from any residentially zoned property or residential use.**
  - 5. Drive thru queuing length shall be approved in accordance with a traffic study as approved by the City Engineer.**
- H. Funeral homes are allowed in certain commercial zone districts provided that:**
- 1. Sites shall be designed such that parking, circulation, and access will not adversely affect adjacent or nearby residentially zoned property or residential use.**
- I. Health and exercise centers are allowed in certain commercial zone districts provided that:**
- 1. Health and exercise centers located within neighborhood shopping centers shall be limited to no larger than 3,000 square feet in area.**
- J. Night clubs are allowed in certain commercial zone districts provided that:**
- 1. The exterior building wall of a bar shall not be located within one thousand three hundred and twenty (1,320) feet of the exterior property lines of a public or private school, or other bar, night club, or wine bar.**
  - 2. Exits and entrances to a night club shall not be located within three hundred (300) feet of a residential district or use.**
  - 3. Closing time for dance floors or other accessory uses to a night club shall coincide with the closing time for the night club.**
- K. Pet boarding and day care facilities, excluding any outdoor exercise/play areas, are allowed in certain commercial zone districts provided that:**
- 1. All activities shall be conducted entirely within enclosed buildings.**
  - 2. Buildings shall be constructed in a manner that limits exterior noise from activities inside the building to a maximum of forty-five (45) DBA measured at the exterior building wall. A statement from a registered architect to this effect is required at the time of construction plan submittal.**
  - 3. Buildings shall be setback a minimum of one hundred (100) feet from any residential district.**
  - 4. Solid animal waste must be bagged separately from other refuse.**
- L. Pet boarding and day care facilities, including any outdoor exercise/play areas, are allowed in certain commercial zone districts provided that:**

1. Direct access shall not be provided from animal housing units to the outside of the building.
  2. Buildings shall be constructed in a manner that limits exterior noise from activities inside the building to a maximum of forty-five (45) DBA measured at the exterior building wall. A statement from a registered architect to this effect is required at the time of construction plan submittal.
  3. Outdoor walks and exercise must take place within specified play/exercise areas.
  4. Animals must be supervised by a facility employee at all times when in an outdoor play/exercise area.
  5. Animals shall not be allowed outside between the hours of 7:00 p.m. and 7:00 a.m.
  6. Buildings shall be set back a minimum of one hundred (100) feet from any residential district.
  7. Outdoor play/exercise areas shall be set back a minimum of two hundred fifty (250) feet from any residential district.
  8. A solid block wall with a minimum height of eight (8) feet shall enclose the perimeter of any outdoor play/exercise area.
  9. Animal waste shall be removed from outdoor play/exercise areas every five hours during time periods when these areas are in use.
  10. Solid animal waste must be bagged separately from other refuse.
- M. Public utility buildings, structures, uses, facilities and equipment are allowed in certain commercial zone districts provided that:
1. Sites shall be screened from off-site view by a minimum 6' tall masonry wall. Screen wall may be required to be 8' tall as determined by staff. All screen walls shall comply with wall standards set forth in the Design Manuals.
- N. Retail/wholesale sales of lumber, landscaping and building materials, excluding outdoor storage is allowed in certain commercial zone districts provided that:
1. All pick-up areas, loading and unloading areas, and truck wells shall be screened from off site by a minimum 6' masonry wall. All screen walls shall comply with the wall standards set forth in the Design Manuals.
- O. Social/Private Club is allowed in certain commercial zone districts provided that:
1. Any restaurant or bar operated in connection with a social/private club shall be an integral part of a principal building, shall have no public entrance except from within the building and shall make no exterior display or advertising of any commercial activity, however incidental.
- P. Telecommunication Towers are allowed in certain commercial zone districts provided that:
1. Telecommunication towers shall be setback from all property lines a minimum of a distance equal to 1' for every 1' of the tower's height above grade.

- 2. Telecommunication towers shall be architecturally designed to give the appearance of blending in with its surroundings.**
- Q. Thrift stores are allowed in certain commercial zone districts provided that:**
- 1. Outdoor donation bins shall be prohibited**
  - 2. Signage shall be required on site clearly stating that after-hours drop-off is prohibited**
  - 3. Loading and unloading areas shall not face or be visible from public streets or primary drive aisles.**
  - 4. Garage bay doors shall be closed except during drop-off or pick-up of items**
  - 5. All activities, including collection, storage, sorting, and processing, shall occur within a fully enclosed building.**
  - 6. Collection areas inside the store shall be secured from public access during non-business hours.**
  - 7. Large or bulk items not capable of being discarded in a garbage enclosure shall be stored inside the building until the arrival of a removal service.**
- R. Tire sales, repair and mounting facilities are allowed in certain commercial zone districts provided that:**
- 1. Where the site or use abuts or adjoins any residentially zoned property or use, there shall be a solid screen wall at least six (6) feet in height constructed according to the City of Avondale Design Manuals, with a minimum twenty (20) foot landscaping buffer inside the wall adjacent to the residentially zoned property or use.**
  - 2. Buildings shall be sited to ensure that garage bay doors do not face public streets or are immediately adjacent to residentially zoned property or uses.**
- S. Veterinary hospital, offices and clinics, excluding animal boarding are allowed in certain commercial zone districts provided that:**
- 1. Clinic activities shall be restricted to the medical care and treatment of small animals during regular office hours. The confinement of such animals on the premises shall be limited to essential and occasional overnight care and shall be entirely within enclosed structures. The boarding and breeding of animals shall be prohibited.**
  - 2. Clinics shall be constructed to be completely contained as to prevent emission of any noise or odor.**
  - 3. Outdoor runs or exercise pens shall be prohibited unless approval from the Zoning Administrator or designee is obtained prior to site plan submittal. Additionally, no outdoor runs, pens or enclosures shall be located closer than one hundred (100) feet to any street, residential district or existing restaurant, hotel or motel.**
- T. Wine bars are allowed in certain commercial zone districts provided that:**
- 1. The exterior building wall of a bar shall not be located within one thousand three hundred and twenty (1,320) feet of the exterior property lines of a public or private school, or other bar, night club, or wine bar.**
  - 2. Exits and entrances to a wine bar shall not be located within three hundred (300) feet of a residential district or use.**

**3. Closing time for dance floors or other accessory uses to a wine bar shall coincide with the closing time for the wine bar.**

305 Conditional use development standards.

**The following land uses are listed in the land use matrix as being allowed with a Conditional Use Permit. All uses being granted a Conditional Use Permit shall comply with the conditions listed below for the individual uses, if applicable. Based on review of the Conditional Use Permit application, the City Council may add additional conditions of approval deemed necessary to protect the health, safety, and public welfare.**

A. ~~Automobile service and diagnostic facilities, auto supply stores, auto body and engine repair facilities, upholstery and painting facilities, tire sales repair and mounting facilities and similar uses may be allowed as conditional uses in certain commercial districts subject to the following provisions:~~

~~1. Outdoor displays of merchandise sold on the premises, not exceeding one hundred (100) square feet, shall be allowed during normal business hours. However, no outdoor storage shall be permitted.~~

~~2. The exterior design of all buildings shall meet the City of Avondale design requirements.~~

~~3. Where the site or use abuts or adjoins any residentially zoned property there shall be a solid masonry wall at least six (6) feet in height constructed according to the City of Avondale wall standards, with a minimum twenty (20) foot landscaping buffer between the masonry wall and the property line abutting the residentially zoned property.~~

B. ~~Automobile leasing facilities may be allowed as conditional uses in certain commercial zones, provided that:~~

~~1. No more than six (6) vehicles shall be stored on site in association with an office location, which is part of a commercial center, or commercial complex that includes retail uses.~~

~~2. Automobile storage shall be limited to paved areas and shall not occupy required parking spaces or access lanes.~~

C. ~~Car washes, mechanical, and self service may be allowed as conditional uses in certain commercial zones provided that:~~

~~1. The site for the car wash shall have a minimum width of one hundred fifty (150) feet and a minimum area of twenty two thousand five hundred (22,500) square feet after dedication of all required public right-of-way.~~

~~2. Where the site or use abuts or adjoins any residentially zoned property there shall be a solid masonry wall at least six (6) feet in height, with a minimum ten (10) foot landscaping buffer between the masonry wall and the property line abutting residentially zoned property.~~

~~3. Lighting shall be directed toward the site and shall not cause undesirable glare to nearby residential properties.~~

~~4. Design of structures and site shall be compatible with the type of development in or anticipated in the nearby areas and meet the design criteria of the City of Avondale.~~

~~5. All bays shall be oriented away from adjacent streets and residential areas.~~

~~Appropriate screening may be used when approved by the community development director.~~

~~D. Convenience stores/gas service stations~~

**A. Gas stations with or without convenience stores** may be permitted as conditional uses in certain commercial districts, provided that:

1. Facilities for tire changing and repair, polishing, lubing, washing and minor repair and servicing of motor vehicles shall be entirely within an enclosed building. Body repair, engine rebuilding, bumping, painting, vehicle or trailer rental and general sales of auto parts shall be expressly prohibited.
2. Paved areas shall be reduced to the smallest area commensurate with efficient operation and function of the site. All unpaved areas shall be maintained in turf or landscaping.
3. The site has minimum frontage of one hundred fifty (150) feet on one arterial street.
4. The design of all buildings shall meet City of Avondale ~~design requirements~~ **Design Manuals** and be compatible with the existing and anticipated surrounding development. In addition, the roofline and the architecture of the canopies shall be stylistically consistent with the other buildings on the site and shall not exceed one hundred fifty (150) lineal feet on any side.
5. All canopies, accessory equipment and fuel pump mechanisms shall meet the principal building setback requirements of the applicable zone.
6. Service and car wash bays shall not face residential properties or public streets unless entirely screened in a method acceptable to the Zoning Administrator or designee.

~~E. A tavern, bar, lounge or similar establishment that sells beer or intoxicating liquor on the premises for consumption on premises, excluding restaurants,~~

**B. Bars, night clubs, and wine bars** may be permitted as a conditional use in certain commercial districts, provided that:

1. The exterior building wall of a tavern, bar, lounge, or establishment that sells beer or intoxicating liquor on the premises for consumption on the premises shall not be located within one thousand three hundred and twenty (1,320) feet of the exterior property lines of a public or private school, church ~~or other tavern, bar or lounge.~~ **or other bar, night club, or wine bar.**

~~F. Recreation facilities and social clubs and reception centers~~

**C. Reception centers** may be permitted as conditional uses in certain commercial districts provided that:

1. Any restaurant or bar operated in connection with ~~a recreation and social club or a reception center~~ shall be an integral part of a principal building, shall have no public entrance except from within the building and shall make no exterior display or advertising of any commercial activity, however incidental.
2. ~~Golf fairways, greens and tees, swimming pools, tennis courts and similar outdoor recreation facilities shall be located not less than twenty five (25) feet from any property line.~~

~~G. D.~~ An assisted living facility, ~~nursing or convalescent home,~~ or similar use may be permitted as a conditional use in certain commercial districts, provided that no such facility is located on a lot with a property line within one thousand, three hundred twenty (1,320) feet, measured in a straight line in any direction, of the lot line of another facility or group home.

~~H. Veterinary offices, hospitals and clinics (excluding animal boarding) may be permitted as conditional uses in certain commercial districts, provided that:~~

~~1. Clinic activities shall be restricted to the medical care and treatment of small animals during regular office hours. The confinement of such animals on the premises shall be limited to essential and occasional overnight care and shall be entirely within enclosed structures. The boarding and breeding of animals shall be prohibited.~~

~~2. Clinics shall be constructed to be completely contained as to prevent emission of any noise or odor.~~

~~3. Outdoor runs or exercise pens shall be prohibited unless approval from the City Council is obtained prior to site plan submittal. Additionally, no outdoor runs, pens or enclosures shall be located closer than one hundred (100) feet to any street, residential district or existing restaurant, hotel or motel.~~

~~I.E. Mini-storage warehouses may be permitted as a conditional use in certain commercial districts, provided that:~~

~~1. Doors of the storage areas shall not front or face onto any public street or residential use.~~

~~2. Only indoor storage shall be permitted and there shall be no sale or rental of goods, materials or other tangible or intangible property from the facility or any part thereof and there shall be no activities conducted on the premises whether related to the stored items or otherwise. The sale of insurance by the operator on goods stored therein or the sale therein or the sale by the operator of items used in connection with the storage of goods at the site shall not be prohibited.~~

~~3. No hazardous or flammable materials, as defined in the Avondale Building Code, shall be stored in such facility.~~

~~4. Any structure may be exempt from side and rear yard setbacks, provided, that in all cases where the conditional use abuts any residential district on its side or rear lot lines, there shall be a side yard of not less than twenty-five (25) feet and a rear yard of not less than twenty-five (25) feet.~~

~~5. A wall with a minimum height of six (6) feet and a landscaping screen **area a minimum of 20' wide**, all as approved by the Zoning Administrator, shall be constructed on the side and/or rear property lines.~~

~~J. Pet boarding and day care facilities, excluding any outdoor exercise/play areas, may be permitted as a conditional use in certain commercial districts, provided that:~~

~~1. All activities shall be conducted entirely within enclosed buildings.~~

~~2. Buildings shall be constructed in a manner that limits exterior noise from activities inside the building to a maximum of forty-five (45) DBA measured at the exterior building wall. A statement from a registered architect to this effect is required at the time of construction plan submittal.~~

~~3. Buildings shall be setback a minimum of one hundred (100) feet from any residential district.~~

~~4. Solid animal waste must be bagged separately from other refuse.~~

~~K. Pet boarding and day care facilities, including outdoor exercise/play areas, may be permitted as a conditional use in certain commercial districts, provided that:~~

~~1. Direct access shall not be provided from animal housing units to the outside of the building.~~

- ~~2. Buildings shall be constructed in a manner that limits exterior noise from activities inside the building to a maximum of forty five (45) DBA measured at the exterior building wall. A statement from a registered architect to this effect is required at the time of construction plan submittal.~~
- ~~3. Outdoor walks and exercise must take place within specified play/exercise areas.~~
- ~~4. Animals must be supervised by a facility employee at all times when in an outdoor play/exercise area.~~
- ~~5. Animals shall not be allowed outside between the hours of 7:00 p.m. and 7:00 a.m.~~
- ~~6. Buildings shall be set back a minimum of one hundred (100) feet from any residential district.~~
- ~~7. Outdoor play/exercise areas shall be set back a minimum of two hundred fifty (250) feet from any residential district.~~
- ~~8. A solid block wall with a minimum height of eight (8) feet shall enclose the perimeter of any outdoor play/exercise area.~~
- ~~9. Animal waste shall be removed from outdoor play/exercise areas every five hours during time periods when these areas are in use.~~
- ~~10. Solid animal waste must be bagged separately from other refuse.~~
  - ~~E. **F.** Body piercing studios, tattoo parlors, non-chartered financial services, pawnshops, liquor stores, and plasma centers may be permitted as a conditional use in certain commercial districts provided that:
 
    1. The minimum separation between any of the above-listed uses shall be one thousand three hundred twenty (1,320) feet, measured in a straight line from the nearest property line of each property.
    2. The above-listed uses shall not be located within one thousand three hundred twenty (1,320) feet of a tavern, bar or cocktail lounge or an adult use **a sexually oriented business as defined by Section 10, bar, night club, or wine bar.**
    3. The minimum separation required for the above uses shall apply regardless of whether the other use is located within the incorporated area of the City of Avondale or another jurisdiction. (Ord. No. 1203-906, § 3, 9-18-06; Ord. No. 1211-1106, § 3, 11-20-06)~~

### **306 Commercial Development Standards**

**The following development standards shall apply to all commercial developments zoned R-O, C-O, C-1, C-2, or C-3, except if otherwise noted above.**

- A. All activities, except as otherwise permitted herein, shall be conducted entirely within enclosed buildings.**
- B. Outdoor storage of goods and materials shall be prohibited.**
- C. Warehousing or indoor storage of goods or material beyond that normally incidental to permitted uses shall be prohibited.**
- D. All new buildings and uses of land or substantial additions to or remodeling of existing buildings/uses shall be subject to site plan review in accordance with Section 106.**
- E. The following table outlines the minimum development standards within each district. Yard, height, and area requirements in excess of these minimum standards may be required in accordance with the design standards outlined in the Zoning Ordinance, conditions required of**

**conditional use permits or uses permitted with conditions, and/or the Design Manuals:**

	R-O	C-O	C-1	C-2	C-3
Minimum Lot Width	45'	60'	None	None	None
Minimum Site Depth	100'	100'	None	None	None
Maximum Lot Coverage	35%	35%	None	None	None
Maximum Building Height	30'	30'	30'	30'	40'
	R-O	C-O	C-1	C-2	C-3
Front Setback	20'	20'	20'	20'	20'
Street Setback	20'	20'	20'	20'	20'
Rear Setback	20'	20'	20'	20'	20'
Side Setback	20'	15'	15'	15'	20'
Parking Setback	10'	20'	30'	30'	30'
Interior Setback	15'	15'	None	None	None
Setback from a Residential District or Use	1' per 1' bldg height	1' per 1' bldg height	1' per 1' bldg height	50'	100'
Parking Setback from Residential District or Use	25'	25'	25'	25'	25'
Maximum Accessory Structure Height	15'	15'	15'	15'	15'

306 **307** Old Town Avondale Zoning Overlay District.

A. Permitted uses. In the OTAB zone, the following uses and their accessory buildings and uses are permitted, subject to the general revisions and exceptions set forth by this ordinance:

1. Antiques and collectibles shops.
2. Art galleries.
3. Artists' studios, and artisans' and craftspersons' studios or workshops, including retail sales.
4. Athletic clubs, health clubs.
5. Bakeries.
6. Banks and financial institutions, excluding non-chartered financial services.
7. Beauty salons, nail salons, and barber shops, without massage services.
8. Bicycle and sporting good stores.
9. Bookstores.
10. Camera shops.
11. Candy/confectioner's shops.

12. Churches.
  13. Clothing, resort-wear, and t-shirt shops, selling only new merchandise.
  14. Clothing consignment shops.
  15. Clubs and lodges.
  16. Coffee houses.
  17. Curio shops.
  18. Delicatessens.
  19. Florists and flower shops.
  20. Furniture sales, but not furniture, office, or household item rental.
  21. Gift shops.
  22. Herbal, natural remedy and metaphysical shops.
  23. Ice cream shops.
  24. Import stores.
  25. Jewelry stores.
  26. Juice bars.
  27. Medical, dental, and optical offices.
  28. Museums.
  29. Music, record, and CD stores.
  30. Newsstands.
  31. Offices for professional, administrative, clerical, and sales service.
  32. Outdoor gear stores.
  33. Photography studios.
  34. Plant nurseries with outdoor display.
  35. Restaurants, restaurant/bars, and cafes of a sit-down nature, including those with outdoor dining.
  36. Retail shops, as an accessory use to any of the primary uses permitted in this section.
  37. Shoe stores and shoe repair shops.
  38. Specialty grocers and food stores, without gasoline sales.
  39. Specialty retail, such as flag, kite, magic, and puppet shops, etc.
  40. Tailors and dressmaking shops.
  41. Toy shops.
  42. Video and DVD rental stores.
  43. Sidewalk vendors. Vending on public streets and sidewalks in the OTAB District promotes the public interest by contributing to an active and attractive pedestrian environment. However, reasonable regulation of street and sidewalk vending is necessary to protect the public health, safety, and welfare.  
The purpose of this section is to set forth the conditions and requirements under which sidewalk vendors may be permitted to operate within the OTAB District.
- a. Definition. For purposes of this section, the following definitions shall apply:
    - 1) "Stand," means a pushcart, wagon, or any other wheeled vehicle or device which may be moved without the assistance of a motor and is used for the displaying, storing, or transporting of articles offered for sale by a vendor.
    - 2) "Vending" means the sale of food or merchandise from a stand operating on private property within the downtown area.

- b. Vendors license required. Selling, or offering for sale, any food, beverage or merchandise on any property within the downtown shall comply with City of Avondale Municipal Code licensing requirements.
- c. Applications. The application for a vendor's license shall be signed by the applicant and shall include:
1. The name, home, and business address of the applicant, and the name and address of the owner, if other than the applicant, of the vending stand to be used in the operation of the vending business,
  2. A description of the type of food, beverage, or merchandise to be sold.
  3. A description and photograph (including signage and colors) of any stand to be used in the operation of the business.
  4. Proof of an insurance policy, issued by an insurance company licensed to do business in the State of Arizona, protecting the licensee and the city from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the license. Such insurance shall name as additional insured the city and shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days advance written notice to the city.
- d. Issuance and fees. Not later than thirty (30) days after the filing of a completed application for a vendor's license, the applicant shall be notified of the decision on the issuance or denial of the license.
1. Fees shall be determined by resolution of the City Council and shall be paid prior to issuance of a permit.
  2. Licenses to vend within the OTAB District shall be reviewed and approved by development services director in conjunction with the city clerk.
  3. Locations for vending within the OTAB District area shall be approved by the development services director. Vending locations shall be designated based on the ability of the site to safely accommodate the use and to assure, as much as practical, that the sidewalk vendor is not selling merchandise that is primarily sold "on premise" within three hundred (300) feet of the vending locations.
  4. Vending locations may change only upon written request by an applicant and approval by the development services director.
  5. All locations of vending stands shall be in conjunction with right-of-way considerations, pedestrian safety, and proximity to existing vendors. All locations shall be within the OTAB District with primary emphasis at major intersections in the downtown core.
  6. As an initial pilot program, it is recommended that a maximum of six (6) sidewalk vendors be allowed in Old Town Avondale. The director of may review this program periodically development services.
- e. Term and renewal. All licenses are valid for one year unless revoked or suspended prior to expiration. An application to renew a license shall be made not later than sixty (60) days before the expiration of the current license. License fees and renewal procedures shall be established in accordance with the City of Avondale Municipal Code.
- f. Prohibited conduct and hours of operation. It shall be prohibited for any outdoor vendor to operate under any of the following conditions:
1. Vend between 10:00 p.m. to 6:00 a.m. unless in conjunction with a special event.
  2. Leave any stand or motor vehicle unattended.

3. Store, park, or leave any stand overnight on any public street or sidewalk, or park any motor vehicle other than in a lawful parking place.
4. Sell food or beverages for immediate consumption unless there is a litter receptacle available for patrons' use.
5. Leave any location without first picking up, removing, and disposing of all trash or refuse remaining from sales made from by him. Trash and refuse generated by the vending cart operations shall not be disposed in public trash receptacles.
6. Allow any items relating to the operation of the vending business to be placed anywhere other than in, on, or under the stand.
7. Set up, maintain, or permit the use of any additional table, crate, carton, rack, or any other device to increase the selling or display capacity of his/her stand where such terms have not been described in his/her application.
8. Solicit or conduct business with persons in motor vehicles.
9. Sell anything other than that which he/she is licensed to vend.
10. Sound or permit the sounding of any device that produces a loud and raucous noise, or use or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract the attention of the public.
11. Vend without the insurance coverage previously specified.
  - g. Vending stand requirements. Vendor shall be required to submit a photograph or drawing of the vending stand to be used for review during application approval process, including materials, colors and signage. No stand shall exceed four (4) feet in width, eight (8) feet in length, and eight (8) feet in height.
  - h. Safety requirements. All vehicles in or from which food is prepared or sold shall comply with the following requirements:
    1. All equipment installed in any part of the vehicle shall be secured in order to prevent movement during transit and to prevent detachment in the event of a collision or overturn.
    2. All utensils shall be stored in order to prevent their being hurled about in the event of a sudden stop, collision or overturn. A safety knife holder shall be provided to avoid loose storage of knives.
    3. Compressors, auxiliary engines, generators, batteries, battery chargers, gas fueled water heaters, and similar equipment shall be installed so as to be hidden from view to the extent possible and be easily accessible.
    - i. Display of license. All licenses shall be displayed in a visible and conspicuous location at all times during the operation of the vending business.
    - j. Advertising. No advertising, except the posting of prices, shall be permitted on any stand, except to identify the name of the product or the name of the vendor.
    - k. Denial, suspension, and revocation. Any license may be denied, suspended, or revoked in accordance with the procedures in the City of Avondale Municipal Code for any of the following causes:
      1. Fraud or misrepresentation contained in the application for the license.
      2. Fraud or misrepresentation made in the course of carrying on the business of vending.
      3. Conduct of the licensed business in such manner as to create a public nuisance, or constitute a danger to the public health, safety, welfare, or morals.
      4. Conduct, which is contrary to the provisions of this section.

B. Uses permitted subject to a conditional use permit. In the OTAB District, the following uses and activities and their accessory buildings and uses are permitted subject to the provisions of Section 107:

1. Alcoholic beverage sales for off premises consumption (liquor stores).
2. Cocktail lounges, bars, nightclubs, taverns, with or without entertainment and/or dancing.
3. Commercial parking lots and garages. Alleyway or side street ingress and egress is preferred for such lots and garages, as is their location to the rear of street side businesses, such that they are not visible from Western Avenue. Parking garages may be required by the development services director to accommodate commercial or civic uses on ground floors adjacent to the street.
4. Dwellings not part of a commercial development (fourteen and one-half (14.5) dwelling units/acre maximum). For lots fronting on Western Avenue, no front yard setbacks are required and the maximum setback permitted shall be ten (10) feet which may be used for landscaping, pedestrian circulation, entry court, and similar uses related to a downtown pedestrian environment. Development standards for such dwellings shall be determined on a case-by-case basis, taking into account the character of the surrounding area.
5. Dwellings which are an integral part of a commercial development (fourteen and one-half (14.5) du/ac maximum). Must be located above ground floor, or to the side or the rear, of the commercial development. Development standards for such dwellings shall be determined on a case-by-case basis, taking into account the character of the surrounding area.
6. Hotels, motels and bed and breakfast inns.
7. Movie theaters (enclosed buildings), especially art film theaters, but excluding adult theaters.
8. Performing arts theaters, but excluding adult live entertainment establishments.
9. Restaurants with a separate bar/lounge area, with or without entertainment and/or dancing.
10. Veterinary offices provided such offices are constructed to prevent objectionable noises and odors outside the walls of the office. The boarding of animals shall be permitted only for short time periods for the purpose of observation incidental to care.
11. Uses similar to and not more detrimental than those permitted herein, excluding tattoo parlors, body piercing studios, pawn shops, plasma centers, and non-chartered financial services.
12. Sidewalk cafes. Sidewalk cafes on public sidewalks can enhance the pedestrian ambiance of Old Town Avondale and are encouraged. The purpose of this section is to set forth the conditions and requirements under which a sidewalk cafe, as defined below, may be permitted to operate on a public sidewalk within the OTAB District.
  - a. Definition. A sidewalk cafe is any group of tables and chairs, and its authorized decorative and accessory devices, situated and maintained upon the public sidewalk or along the private porches and arcades for use in connection with the consumption of food and beverage sold to the public from or in an adjoining indoor restaurant or delicatessen.
  - b. Conditional use permit required. A conditional use permit is required for all sidewalk cafes. Fees for the conditional use permit may be waived by City Council Resolution as an incentive for sidewalk cafes.

c. Findings and conditions. In connection with approval of a conditional use permit, the development services director shall make findings that the proposed operation meets the limitations of this section. The development services director may impose such conditions in granting approval as deemed necessary to assure that the proposed operation will meet the operating requirements and conditions set forth in this section and to assure that the general public health, safety and welfare will be protected.

d. Term and renewal. A conditional use permit for a sidewalk cafe may be approved by the development services commission for a maximum period of one year. Thereafter, the development services director, if an extension application is filed prior to any expiration date of the conditional use permit, may extend the permit for additional periods, not to exceed one year each, following his review and approval of the cafe's operations. In the event the development services director considers additional or revised conditions are necessary and should be imposed if the permit is to be extended or if the development services director is of the opinion that the permit should not be extended at all, he or she shall refer the application to the Planning Commission which shall hold a public hearing and thereafter decide the matter. The Planning Commission may make any extension of a conditional use permit subject to such additional and revised conditions and requirements as it deems appropriate or necessary and any extension granted by the Planning Commission shall not exceed a period of one year.

e. Revocation. A conditional use permit may be revoked by the development services director, following notice to the permitted and a public hearing, upon a finding that any of the following are true:

1. One or more conditions of the permit have been violated;
2. That one or more conditions of this section have been violated;
3. That the sidewalk cafe is being operated in a manner which constitutes a nuisance; or
4. That the operation of the sidewalk cafe unduly impedes or restricts the movement of pedestrians past the sidewalk cafe.

f. Appeals. The applicant or any interested party may appeal a decision of the development services director to the Planning Commission. All applications for appeal shall be accompanied by the required fee.

g. Limitations and requirements. A sidewalk cafe may be permitted only in the OTAB District if the sidewalk cafe is situated adjacent to an indoor restaurant or delicatessen as specified below, and the sidewalk cafe's operation is incidental to and a part of the operation of such adjacent indoor restaurant or delicatessen.

1. Existing indoor restaurants and delicatessens must conform to all sections of the City of Avondale Municipal Code in order to be eligible for approval of sidewalk services.
2. A sidewalk cafe may be located on the public sidewalk immediately adjacent to and abutting the indoor restaurant or delicatessen which operates the cafe, provided that the area in which the sidewalk cafe is located extends no farther along the sidewalk's length than the actual sidewalk frontage of the operating indoor restaurant or delicatessen and all other applicable provisions of this section are fulfilled.
3. An indoor restaurant or delicatessen may be permitted to operate only one sidewalk cafe and each sidewalk cafe shall be confined to a single location on the sidewalk.
4. A sidewalk cafe may be permitted only where the sidewalk or porch is wide enough to adequately accommodate both the usual pedestrian traffic in the area and the operation

of the proposed cafe. There shall be a minimum forty-eight (48) inches clear distance free of all obstructions, in order to allow adequate pedestrian movement.

5. All outdoors dining furniture, including tables, chairs, umbrellas, and planters, shall be movable. Umbrellas must be secured with a minimum base of not less than sixty (60) pounds. Outdoor heaters, amplified music, or speakers shall be reviewed at the time of application for a conditional use permit.

6. No signing shall be allowed at any outdoor cafe except for the name of the establishment on an awning or umbrella valance.

7. A sidewalk cafe may serve only food and beverages prepared or stocked for sale at the adjoining indoor restaurant or delicatessen; provided that the service of beer or wine, or both, solely for on-premises consumption by customers within the area of the sidewalk cafe has been authorized as part of a conditional use permit approval. Each of the following requirements must also be met:

i. The area in which the sidewalk cafe is authorized is identified in a manner, as approved by the development services director, which will clearly separate and delineate it from the areas of the sidewalk, which will remain open to pedestrian traffic.

ii. The sidewalk cafe operation is duly licensed in accordance with, the City of Avondale Municipal Code, or prior to the service of any beer or wine at the cafe, will be duly licensed, by state authorities to sell beer or wine, or both, for consumption within the area of the sidewalk cafe.

iii. The outdoor preparation of food and busing facilities are prohibited at sidewalk cafes. The presetting of tables with utensils, glasses, napkins, condiments, and the like is prohibited. All exterior surfaces within the cafe shall be easily cleanable and shall be kept clean at all times by the permitted.

iv. Trash and refuse storage for the sidewalk cafe shall not be permitted within the outdoor dining area or on adjacent sidewalk areas and the permitted shall remove all trash and litter as they accumulate. The permitted shall be responsible for maintaining the outdoor dining area, including the sidewalk surface and furniture and adjacent areas in a clean and safe condition.

8. Hours of operation shall be identical to those of the indoor restaurant or delicatessen. All furniture used in the operation of an outdoor cafe shall be removed from the sidewalk and stored indoors whenever the indoor restaurant or delicatessen is closed.

9. The city shall have the right to prohibit the operation of a sidewalk cafe at any time because of anticipated or actual problems or conflicts in the use of the sidewalk area. Such problems and conflicts may arise from, but are not limited to, scheduled festivals and similar events, parades, repairs to the street or sidewalk, or emergencies occurring in the area. To the extent possible, the permitted will be given prior written notice of any time period during which the operation of the sidewalk cafe will be prohibited by the city.

10. The sidewalk cafe shall not require the provision of additional off-street parking.

11. Uses similar to and not more detrimental than those permitted herein, excluding tattoo parlors, body piercing studios, pawn shops, plasma centers, and non-chartered financial services.

C. Property development standards.

1. Area and density. No standard is established.

2. Coverage. Full coverage is allowable provided minimum loading space; parking, landscaping, and setbacks have been provided, unless otherwise approved by the City Council.
3. Setbacks.
  - a. Front yard. No front yard setbacks are required and the maximum setback permitted shall be ten (10) feet which may be used for landscaping, pedestrian, circulation, entry court, outdoor dining, and similar uses related to a downtown pedestrian environment.
  - b. Side yard. No side yard setbacks shall be required, except as follows:
    1. Where the side property line abuts residential zoned property, no setback shall be required for the ground floor portion of the structure or first fifteen (15) feet of structure height, whichever is less. Portions of the structure above the ground floor or fifteen (15) feet in height shall be set back a minimum of ten (10) feet from the side property line.
    2. Where the side property line abuts dedicated alley which separates such side property line from abutting residential zoned property, the side yard shall have a minimum depth of ten (10) feet, which shall be measured from the center line of said alley and the forty-five-degree angle of the afore described plane may be measured at the ground level along the center line of said alley.
  - c. Rear yard. No rear yard setbacks shall be required except as follows:
    1. Where the rear property line abuts residential zoned property a minimum rear yard setback of twenty (20) feet shall be maintained, except that no portion of any structure shall encroach through a plane projected from an angle of forty-five (45) degrees measured at the ground level along the rear property line.
    2. Where the rear property line abuts a dedicated alley which separates such rear property line from abutting residential zoned property, the rear yard shall have a minimum depth of twenty (20) feet which shall be measured from the center line of said alley and the forty-five (45) degree angle of the afore described plane may be measured at the ground level along the center line of said alley.
4. Height. Maximum height of all structures shall be three (3) stories.
5. Width. For purposes of regulating the division of existing storefronts, no minimum storefront width shall apply. For the purpose of this section, a storefront is the primary (front facade) and secondary (rear/side facade) building entrance where access is taken from a public street, alley, public or private parking lot, or pedestrian mall/arcade or passage.
6. Design standards. Any exterior modification of a building, structure or site within the OTAB District shall be subject to the standards set forth in the Old Town Avondale Business District Design Guidelines as adopted by the City Council. The Old Town Avondale Business District Design Guidelines shall supersede the design requirements respecting site organization and development, building design, landscaping, lighting, signage and public art set forth elsewhere in this ordinance. The required approval process shall be as follows:
  - a. Exterior modifications requiring a building permit shall be subject to the site plan review process and the appeal procedures for site plan review set forth in Section 106 of this ordinance.
  - b. Exterior modifications that do not require a building permit shall be reviewed and approved by city staff according to procedures established by the City Manager or designee.

7. OTAB joint-use parking. Joint-use parking standards are based on the assumption that patrons will use a single parking space for more than one destination in Old Town Avondale and that one parking space will be open and available for short-term parking to serve many different uses which may have different peak hours.

a. The following categories of development shall be eligible to use joint-use parking standards to meet parking requirements:

1. Non-residential new construction on sites of less than twenty thousand (20,000) square feet in size.
2. New construction on sites greater than twenty thousand (20,000) square feet in size for retail commercial, restaurants, and movie theaters;
3. Existing buildings with uses or occupancies as specified in Section 306 of this ordinance, including additions to and rehabilitation of such buildings; and
4. Changes in uses or occupancies of existing buildings from uses or occupancies not listed in Section 306 of this ordinance to any uses or occupancies specified in Section 306 of this ordinance.

b. Ineligible development. The following types of uses are not eligible to use joint-use parking standards:

1. New or existing residential uses; and
2. New construction of hotel or office uses on sites greater than twenty thousand (20,000) square feet in size.

8. Alternative joint-use parking standards. Section 8 the City of Avondale Zoning Ordinance shall determine circumstances in which parking shall be required. Once it has been established that parking is required, eligible projects within the OTAB District may choose to provide required parking by using the Alternative Joint-Use Parking Standards (Table 1) or to provide parking for the projects exclusive use under the standards established in Section 8.

9. Joint-use parking agreement. All parking developed under joint-use parking standards shall be required to enter into an agreement with the city and recorded by the city clerk, requiring the parking to be operated on a non-exclusive basis, to be open and available to the public for joint-use short-term public parking during normal business hours.

**ALTERNATIVE JOINT-USE PARKING STANDARDS  
MINIMUM PARKING RATIOS**

TABLE INSET:

Use	Minimum Parking Ratios
OFFICE	3.0 spaces/1,000 sf of gross usable area
Including:	
1. Banks, Savings and Loans, Other Financial Institutions.	
2. Medical or Dental Office.	
3. Professional or Unspecified Office.	

RETAIL COMMERCIAL	4.0 Spaces/1,000 sf of gross usable area
PUBLIC ASSEMBLY	
Including:	
1. Movie Theater	1.0 space/4 seats
2. Museum.	3.0 Spaces/1,000 of gross usable area
RESTAURANT	
Including:	
1. Restaurant, Coffee House, Juice Bar under 1,000 square feet of gross usable area.	3.0 spaces/1,000 of gross usable area
2. Restaurant over 1,000 square feet of gross usable area.	5.0 spaces/1,000 of gross usable area
3. Outdoor dining areas associated with a restaurant.	0 spaces
RESIDENTIAL	Excluded from use of joint-use parking standards
NEW CONSTRUCTION OF OFFICE OR HOTEL USES ON LOTS GREATER THAN 20,000 SQUARE FEET	Excluded from use of joint-use parking standards
OTHER	Any category not listed above may be reviewed by the city on a case-by-case basis, taking into consideration the impact on peak-hour parking usage and the established parking standards contained in Section 8 of the City of Avondale Zoning Ordinance

10. OTAB in-lieu parking fee. The existence of small parcels within Old Town Avondale often makes it difficult to provide on-site parking. As an alternative to on-site parking, the city may establish an in-lieu parking fee as part of a transportation system development charge. The fees would be "banked" by the city to provide funds to develop and maintain centralized public parking facilities.

11. Use of alleys within OTAB. For existing structures, a public alley may be used as part of the required maneuvering aisle for on-site parking that is immediately adjacent to the alley.

12. Structured parking within OTAB. For any proposed project in the OTAB District, up to a maximum twenty-five (25) percent reduction in required parking spaces may be allowed for the development of structured parking provided that a finding can be made that adequate parking will be available to serve the subject project.

13. On-street parking within OTAB. The number of on-street parking spaces within one hundred (100) feet of a parcel in the OTAB District, or the number that will be within one hundred (100) feet upon completion of planned street/parking improvements, whichever is greater, may be counted toward the required number of parking spaces.

14. Parking reductions within OTAB. For new and existing development within the OTAB area, required parking may be reduced on a case-by-case basis in compliance with Section 106.

15. OTAB parking lot landscaping and lighting requirements. Parking lot landscaping and lighting requirements shall be included as components of the OTAB District design standards which are promulgated administratively pursuant to Section 306 of this ordinance, under property development standards, item (6).

16. Business address required. Each business or structure (as appropriate) shall provide its address in numbers a minimum of six (6) inches in height. The address shall be placed on the building, awning valance, or canopy in a manner to be clearly visible from the adjacent street, alley, and sidewalk. The preferred locations are above the main pedestrian entrance and at rear or side entrances. (Ord. No. 1211-1106, §§ 4, 5, 11-20-06)

~~307~~ **308** Cashion Business District.

A. Permitted uses.

Automatic teller machines.

Church, synagogue, temple, similar place of worship.

Clothing alteration, custom dressmaking, or tailor shop.

Cultural institution.

Dancing, theatrical, or music studio.

Child care center.

Dry cleaning and laundry establishment.

Laundromat, self-service.

Library or museum.

Medical, dental or health office, clinic, or laboratory.

Nail salon, barbershop, or beauty salon.

Photographic developing and printing studio.

Post office.

Professional, administrative, or business office, bank or financial institution, or similar use, excluding non-chartered financial services.

Public service or non-profit community use.

Restaurants, including drive-thru restaurants.

Retail sales of new merchandise in enclosed buildings, excluding liquor stores.

Retail sales of new merchandise and produce in open-air markets (mercados), excluding liquor sales and sidewalk sales.

Schools and educational institutions (public and private), excluding colleges, universities, and vocational schools.

Specialty stores and services, indoor, excluding liquor stores, pawn shops, tattoo parlors, body piercing studios, plasma centers and non-chartered financial services.

Ticket and travel agency.

B. Uses permitted subject to a conditional use permit.

Appliance service and repair.

Assisted living facility, nursing home, hospice, group home.

Auto supply store.

Automobile leasing facility.

Business or technical school.

Car wash, mechanical or self-service.  
 Caretaker's quarters (one, accessory use).  
 Dwelling units above the ground floor of a building.  
 Emergency medical care facility.  
 Gas service station with retail gasoline sales, convenience store, and car wash.  
 Health and exercise facility.  
 Hospitals.  
 Hotel and motel.  
 Movie theater.  
 Plant nursery.  
 Public utility building, structure, use, facility, equipment.  
 Reception center, recreation center, or social/private club.  
 Veterinary hospital, office or clinic, excluding animal boarding.  
 Vocation school.

C. Prohibited uses. Any use not expressly stated herein is prohibited.

D. Property development standards.

1. Area and density. No standard is established.

2. Coverage. Full coverage is allowable provided minimum loading space; parking, landscaping, and setbacks have been provided, unless otherwise approved by the City Council.

3. Setbacks.

a. Front yard. The minimum setback required shall be ten (10) feet. Within this setback, the first ten (10) feet must be used for landscaping.

b. Side yard. No side yard setbacks shall be required, except as follows:

1. Where the side property line abuts with residential use or zoning, the minimum setback required shall be ten (10) feet from such side property line. Such setback shall be landscaped in accordance with Section 12 of this ordinance.

2. Where the side property line abuts a dedicated alley, which separates such side property line from abutting residential zoned property, the side yard shall have a minimum depth of ten (10) feet. Such side yard shall be landscaped in accordance with Section 12 of this ordinance.

c. Rear yard. No rear yard setbacks shall be required except as follows:

1. Where the rear property line abuts residential zoned property, a minimum rear yard setback of ten (10) feet shall be maintained. Such setback shall be landscaped in accordance with Section 12 of this ordinance.

2. Where the rear property line abuts a dedicated alley, which separates such rear property line from abutting residential zoned property, the rear yard shall have a minimum depth of ten (10) feet. Such rear yard shall be landscaped in accordance with Section 12 of this ordinance.

4. Height. Maximum height of all structures shall be thirty (30) feet.

5. Width. For the purpose of regulating the division of existing storefronts, no minimum storefront width shall apply. For the purpose of this section, a storefront is the primary (front facade) and secondary (rear/side facade) building entrance where access is taken from a public street, alley, or parking lot.

6. Design standard. The Cashion Business District shall be subject to the property development standards found in Section 12, Sections 609.4. and 609.5. of this ordinance,

with the exception of subsections 503.C.2. and 3., and the exterior color reference in subsection 609.4.d. In addition, the following design standards shall be applicable to the Cashion Business District:

A Cashion Heritage theme shall be implemented in the Cashion Business District, requiring the use of vibrant facade colors, tinted sidewalks, the color of which shall be prescribed by the City of Avondale Development Services Department, and the planting of one Phoenix roebelenii tree (Pygmy Date Palm) every twenty (20) linear feet within the first ten (10) feet of the required front setback adjacent to the public right-of-way for each property in the district.

7. Cashion Business District joint-use parking. Joint-use parking standards are based on the assumption that patrons will use a single parking space for more than one destination in the Cashion Business District and that one parking space will be open and available for short-term parking to serve many different uses, which may have different peak hours.

a. The following categories of development shall be eligible to use joint-use parking standards to meet parking requirements:

1. Non-residential new construction on sites of less than twenty thousand (20,000) square feet in size.
2. New construction on sites greater than twenty thousand (20,000) square feet in size for retail commercial, restaurants, and movie theater.
3. Existing buildings with uses or occupancies as specified in Section 307 of this ordinance, including additions to and rehabilitations of such building; and
4. Changes in uses or occupancies of existing buildings from uses or occupancies not listed in Section 307 of this ordinance to any uses or occupancies specified in Section 307 of this ordinance.

b. Ineligible development. The following types of uses are not eligible to use joint-use parking standards:

1. Existing residential uses; and
  2. New construction of hotel or office uses on sites greater than twenty thousand (20,000) square feet in size.
8. Alternative joint-use parking standards. Section 8 of this ordinance shall determine circumstances in which parking shall be required. Once it has been established that parking is required, eligible projects within the Cashion Business District may choose to provide required parking by using the Alternative Joint-Use Parking Standards (Table 1), or provide parking for the project's exclusive use under the standards established in Section 8.

9. Joint-use parking agreement. All parking developed under joint-use parking standards shall be required to enter into an agreement with the city and recorded by the city clerk, requiring the parking to be operated on a non-exclusive basis, to be open and available to the public for joint-use short-term public parking during normal business hours.

10. Parking reductions within the Cashion Business District. For new and existing development within the Cashion Business District, required parking may be reduced on a case-by-case basis in compliance with subsection 804.F.

TABLE I

TABLE INSET:

CASHION BUSINESS DISTRICT
---------------------------

ALTERNATIVE JOINT-USE PARKING STANDARDS MINIMUM PARKING RATIOS	
USE	MINIMUM PARKING RATIOS
OFFICE	3.0 spaces/1,000 sf of gross usable area
Including:	
1. Banks, Savings and Loans, Other Financial Institutions.	
2. Medical or Dental Office.	
3. Professional or Unspecified Office.	
RETAIL COMMERCIAL	4.0 Spaces/1,000 SF of gross usable area
PUBLIC ASSEMBLY	
Including:	
1. Movie Theater.	1.0 space/4 seats
2. Social/Private Club.	3.0 Spaces/1,000 SF of gross usable area
RESTAURANT	
Including:	
1. Restaurant under 1,000 SF gross usable area.	3.0 spaces/1,000 sf of gross usable area
2. Restaurant over 1,000 SF gross usable area.	5.0 Spaces/1,000 SF of gross usable area
RESIDENTIAL	Excluded from use of joint-use parking standards.
NEW CONSTRUCTION OF OFFICE OR HOTEL USES ON LOTS GREATER THAN 20,000 SQUARE FEET	Excluded from use of joint-use parking standards.
OTHER	Variable
Any category not listed above may be reviewed by the city on a case-by-case basis.	

(Ord. No. 1134-05, § 6, 8-15-05; Ord. No. 1211-1106, § 6, 11-20-06)

308 Property development standards.  
TABLE INSET:

—	<del>C-0</del>	<del>C-1</del>	<del>C-2</del>	<del>C-3</del>
---	----------------	----------------	----------------	----------------

Minimum Lot Width—	60'—	None— -	None— -	None— -
Minimum Site Depth—	100'—	None— -	None— -	None— -
Maximum Lot Coverage—	35%—	None— -	None— -	None— -
Maximum Height—	30'—	30'—	30'—	30'—
Front Setback—	20'—	20'—	20'—	20'—
Street Setback—	20'—	20'—	20'—	20'—
Interior Setback—	None— -	None— -	None— -	None— -
Minimum Setback from a Residential District or Use *—	25'—	25'—	25'—	30'—

\*When adjacent to a residential district or use, the following side and rear yard setbacks shall apply:

TABLE INSET:

—Building Height—	Setback—
1 Story (15')—	25'—
2 Story (30')—	50'—

**Excerpt of the Draft Minutes of the regular Planning Commission meeting held  
March 20, 2008 at 6:30 p.m. in the Council Chambers.**

COMMISSIONERS PRESENT

David Iwanski, Chairman  
Michael Demlong, Vice Chair  
Al Lageschulte, Commissioner  
Edward Meringer, Commissioner  
Angela Cotera, Commissioner  
Linda Webster, Commissioner

COMMISSIONER ABSENT

Kevin Grimsley, Commissioner

CITY STAFF PRESENT

Chris Schmaltz, City Attorney  
Dean Svoboda, Long Range Planning Director  
Ken Galica, Planner II, Development Services Department  
Eric Morgan, Planner II, Development Services Department  
Scott Wilken, Senior Planner, Development Services Department  
Tracy Stevens, Planning Manager, Development Services Department

OTHERS PRESENT

Leslie Gould, Dyett & Bhatia Urban & Regional Planners  
Heidi Kimsey, Lapour Partners

**APPLICATION**                      TA-08-2

**APPLICANT**                        Staff-initiated request

**REQUEST**                            This is a public hearing before the Planning Commission to review and solicit public input on application TA-08-2, a Staff initiative to amend Section 3, Commercial Districts, to include revisions to land uses and development standards for Commercial Office (C-O), Neighborhood Commercial (C-1), Community Commercial (C-2); to propose amending Major Commercial (C-3) to become Freeway Commercial (C-3); to propose creation of Residential Office (R-O).  
Staff Contact: Scott Wilken.623-333-4016.

Scott Wilken, Senior Planner, Development Services Department, stated this is Item TA-08-2, an amendment of the Zoning Ordinance to Section 3, Commercial Districts. He outlined that the Zoning Ordinance has six Commercial districts: Commercial Office,

Neighborhood Commercial, Community Commercial, Major Commercial, Old Town Avondale Business District, and Cashion Business District. He informed the Planning Commission that this proposal would amend the Commercial Office, Neighborhood Commercial, Community Commercial and Major Commercial districts. In the future, Staff may bring a proposal before the Planning Commission to reexamine the Old Town Avondale Business and Cashion Business Districts. In addition, following the completion of the City Center Specific Plan, Staff is proposing to draft a City Center zoning district.

Mr. Wilken outlined that Staff is proposing to amend Section 3 as follows: ● Amend the permitted use lists for the Commercial Office, Neighborhood Commercial, and Community Commercial to be consistent with the goals of the land use designations of the General Plan. ● Review the use list and purpose of the Major Commercial district to create a Freeway Commercial district in order to create an appropriate zone district for areas along or near freeways and major arterials. ● Create a Residential Office district to provide for low-intensity, residential-scale office development, adaptive reuse of existing residential areas, and create a district that can act as a buffer area between larger office parks and traditional residential uses. ● Review the Commercial use list in order to make Section 3 more user-friendly. ● Reduce the number of routine public hearings by changing some Conditional Uses to Uses Permitted with Conditions. ● Review the Development Standards, to include setbacks, lot coverage, building height, etc., for the Commercial districts to ensure that the standards meet the intent of the Commercial districts.

Mr. Wilken stated that some recent changes include that at the request of the Planning Commission, Staff has added self-service car washes in the Commercial districts, they have changed the way garage bay doors for auto diagnostic and tire mounting shops are oriented so they will not impact residences, and they have modified the proposed conditions of approval for thrift stores to help minimize any impacts of those uses. Staff has also increased the building height in the Freeway Commercial district, and has increased the setback from residential to help minimize those issues, as well as the interior setback within development sites, and they have increased the parking setback from a property line and from residential to help minimize those issues.

Chairperson Iwanski invited questions for Staff.

Vice Chair Demlong inquired about the changes in setbacks. Mr. Wilken stated the interior setback previously had no setback for any of the districts, and it has been increased for the Residential Office and for the Commercial Office to 15 feet. The setbacks from residential use in C-3 has been increased from 50 to 100 feet, and for C-2, Staff is proposing 50 feet. In the other three districts, Staff is proposing setbacks of 1 foot per 1 foot of building height. For parking setbacks from residential use, Staff is proposing 25 feet for all five districts.

Chairperson Iwanski thanked the Staff for their response to the Planning Commission's prior recommendations and concerns on this item. Chairperson Iwanski opened Item TA-08-2 for public hearing. There were no requests to speak, and he closed the public hearing. Chairperson Iwanski invited further questions of Staff, and hearing none, invited a motion.

Commissioner Cotera moved that the Planning Commission recommend approval of Text Amendment TA-08-2, a request to amend Section 3 – Commercial Districts. Commissioner Webster seconded the motion.

Chairperson Iwanski opened the floor for discussion.

Vice Chair Demlong stated he appreciates when Staff takes the time to streamline the Zoning Ordinances and makes it easier for the citizens and developers to do business in Avondale. He stated they had made some logical changes and had done a very good job.

Chairperson Iwanski, hearing no further discussion, stated it had been moved and seconded that the Planning Commission recommend approval of the Text Amendment TA-08-2, a request to amend Section 3 – Commercial Districts, and called for a vote.

#### ROLL CALL VOTE

Chairperson Iwanski	Aye
Vice Chair Demlong	Aye
Commissioner Lageschulte	Aye
Commissioner Grimsley	Absent
Chairperson Meringer	Aye
Commissioner Cotera	Aye
Commissioner Webster	Aye

The motion passed unanimously.

**ORDINANCE NO. 1300-408**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE CITY OF AVONDALE ZONING ORDINANCE, SECTION 3, COMMERCIAL DISTRICTS, AS SHOWN IN FILENAME TA-08-02.

**WHEREAS**, all due and proper notices of public hearings on this Ordinance held before the City of Avondale Planning and Zoning Commission (the "Commission") and the Council of the City of Avondale (the "City Council") were given in the time, form, substance and manner provided by ARIZ. REV. STAT. § 9-462.04; and

**WHEREAS**, pursuant to ARIZ. REV. STAT. § 9-462.04, the Commission held public hearings on this Ordinance on March 20, 2008; and

**WHEREAS**, the Commission recommended to the City Council that this Ordinance be approved; and

**WHEREAS**, the City Council held a public hearing on this Ordinance on April 7, 2008.

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

SECTION 1. That the City of Avondale Zoning Ordinance, Section 3, Commercial Districts, is hereby deleted in its entirety and replaced by a new Section 3, Commercial Districts, attached hereto as Exhibit A, and incorporated herein by reference.

SECTION 2. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to execute all documents and take all steps necessary to carry out the purpose 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 provision 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, April 7, 2008.

---

Marie Lopez Rogers, Mayor

ATTEST:

---

Linda M. Farris, City Clerk

APPROVED:

---

Andrew J. McGuire, City Attorney

EXHIBIT A  
TO  
ORDINANCE NO. 1300-408

[City of Avondale Zoning Ordinance, Section 3, Commercial Districts]

See following pages.

## **Section 3 COMMERCIAL DISTRICTS**

### **Sections**

#### **301 Purpose and intent**

#### **302 Commercial district statements of purpose**

#### **303 Land use matrix**

#### **304 Uses permitted with conditions**

#### **305 Conditional use development standards**

#### **306 Commercial development standards**

#### **307 Old Town Avondale Zoning Overlay District**

#### **308 Fashion Business District**

#### **301 Purpose and intent**

Commercial districts provide activity centers with shopping and services, employment for local residents and additional revenue to strengthen the city's economic base. Commercial zoning standards are intended to ensure convenience, safety, positive community image, variety in retail uses, commerce and office development that enhances the citizens' quality of life. Zoning classifications include classifications for (i) offices, (ii) neighborhood, community and regional businesses and (iii) unique commercial uses found in the city's traditional commercial area. Use intensities and site development criteria are intended to mitigate impact on, as well as maintain compatibility with adjacent residential areas.

#### **302 Commercial district statements of purpose**

The following commercial districts are established:

- A. Residential Office (R-O).** The purpose of the Residential Office (R-O) district is to promote professional and administrative services and live-work uses on small parcels located between higher intensity commercial and multi-use zones and residential zones. Residential Office is most appropriate in and around traditional single-family and multi-family residential developments.
  1. Encourage a low-intensity environment for office uses at a residential scale
  2. Provide an appropriate transition from single-family residential uses to multi-family residential and non-residential uses
  3. Support the adaptive reuse of residential structures with direct access to collector and arterial streets for limited office uses.
  4. Encourage development that is consistent with the policies and the guidelines established in any specific plan and the General Plan.
- B. Commercial Office District (C-O).** The purpose of the Commercial Office (C-O) district is to provide an environment desirable for and conducive to development of office and related uses, as well as certain other kinds of uses which assure compatibility with office uses and/or the residential districts that often may abut the C-O district.
  1. Provide an environment for office park development with maximum heights as prescribed by General Plan, Freeway Corridor Specific Plan, and North Avondale Specific Plans

2. Provide an area for high-quality employment uses in a campus setting as presented in the Employment designation in the General Plan
  3. Allow uses that are compatible with an office park that act as support for the uses within the office park
  4. Serve to provide a transition from more intensive to less intensive uses, usually between commercial and residential districts
  5. Encourage development that is consistent with the policies and the guidelines established in any specific plan and the General Plan
- C. Neighborhood Commercial District (C-1).** The purpose of the Neighborhood Commercial (C-1) district is to accommodate retail and service establishments satisfying the everyday needs of consumers residing in adjacent neighborhoods.
1. Provide for neighborhood commercial centers with a trade area limited generally to adjacent and nearby neighborhoods.
  2. Act as the primary type of neighborhood commercial development
  3. Be located at the intersection of arterial streets with at least one property line directly abutting a residential zone
  4. Have users that generally do not exceed seventy thousand (70,000) gross building square feet
  5. Encourage development that is consistent with the policies and the guidelines established in any specific plan and the General Plan
- D. Community Commercial District (C-2).** The purpose of the Community Commercial (C-2) district is to accommodate development of commercial complexes providing goods and services to a community-wide trade area.
1. Encourage commercial centers that are planned, developed and managed as integrated complexes with individual users.
  2. Be located so that primary driveways access arterial streets.
  3. Include users with a building square footage up to two hundred thousand (200,000) gross building square feet.
  4. Encourage development that is consistent with the policies and the guidelines established in any specific plan and the General Plan.
- E. Freeway Commercial District (C-3).** The purpose of the Freeway Commercial (C-3) district is to promote freeway-oriented services and products with a community-wide to regional trade area while avoiding the disruption of less intensive commercial activities. This zone district is most appropriate along major arterial streets or along or near freeways.
1. Provide an area for large-scale commercial developments while avoiding the disruption of less intensive residential or commercial activities
  2. To create an environment for uses that generally can produce amounts of noise, traffic, and other adverse effects and are of a size that are not compatible with residential development or less intense office and commercial development
  3. Encourage commercial centers that are planned, developed and managed as integrated complexes with individual users
  4. Include users with a building square footage in the range greater than two hundred thousand (200,000) gross square feet

5. Encourage development that is consistent with the policies and the guidelines established in any specific plan and the General Plan

**F. Old Town Avondale Zoning Overlay District (OTAB).** The Old Town Avondale Zoning Overlay District, hereinafter referred to as Old Town Avondale Business District (OTAB), is intended to provide for general retail, residential, professional office/service, and mixed-use activities serving a regional/community-wide need under design standards which ensure compatibility and harmony with adjoining land uses, and which encourage the highest quality design and development. The OTAB zone is intended to promote a strong pedestrian orientation through its mix of permitted uses and specific development standards.

### 303 Land use matrix

The following land use matrix shows the uses, which are permitted outright (P), permitted with a conditional use permit (C), permitted with conditions (PC), permitted as accessory uses (A) or prohibited (-) in specific commercial zoning districts in the City of Avondale. The land use matrix is intended to serve as a guide for the convenience of the user of this zoning ordinance. Where the text of this zoning ordinance differs from the land use matrix, the text shall prevail.

#### Land Use Matrix

LAND USE	R-O	C-O	C-1	C-2	C-3
Adult day care	C	-	-	-	-
Amusement parks, outdoor	-	-	-	-	C
Antique Store	-	-	P	P	-
Appliance service and repair	-	-	-	P	-
Aquarium	-	-	-	-	C
Art gallery	P	-	-	P	P
Art studio	P	-	C	P	P
Assisted living facility	C	C	-	-	-
Automobile rental facility with no on-site storage	P	P	P	P	P
Automobile rental facility with on-site storage	-	-	-	PC	PC
Automobile service and diagnostic facility	-	-	-	PC	PC
Automobile, boat, recreational vehicle, or motorcycle, sales and/or leasing	-	-	-	PC	PC
Banks and financial institutions without drive-thru, excluding non-chartered financial institutions	-	PC	P	P	P
Bar	-	-	-	C	PC
Barber shop	-	-	P	P	-
Beauty salon	-	-	P	P	-
Bingo Hall	-	-	-	-	P
Body piercing studios	-	-	-	C	-
Bowling alley	-	-	-	P	P
Brewery, ancillary to a bar or restaurant	-	-	-	P	P
Bus terminals	-	-	-	-	P
Car wash, accessory to a gas station	-	-	-	A	A
Car wash, self-service	-	-	-	C	-

Exhibit A  
Commercial Districts Text Amendment Ordinance

LAND USE	R-O	C-O	C-1	C-2	C-3
Caretakers quarters	A	A	A	A	A
Child care center	-	C	C	C	C
Cigar Bar or tobacco lounge	-	-	-	P	P
Clothing alteration, custom dressmaking or tailor shop	-	-	P	P	-
College or university	-	-	-	-	PC
Commercial racetrack, outdoor	-	-	-	-	C
Commercial sporting complexes	-	-	-	-	C
Concert facilities, outdoor	-	-	-	-	C
Consignment shops	-	-	P	P	-
Contractor facility with retail sales	-	-	-	-	P
Contractor storage yard	-	-	-	-	C
Convention centers and exhibition halls	-	-	-	-	P
Dance studio	-	-	P	P	P
Drive-thru uses, including restaurants and financial institutions	-	-	PC	PC	PC
Dry cleaning and laundry establishment, pick-up and drop-off only	-	-	P	P	P
Emergency medical care facility	-	P	P	P	P
Employment agencies excluding day labor	-	P	P	P	P
Equipment sales and rental	-	-	-	-	P
Funeral Home	PC	-	-	P	P
Gas station with or without convenience store and/or car wash	-	-	-	C	C
Health and exercise center	-	-	PC	P	P
Hospitals	-	-	-	-	P
Hotel or motel	-	-	-	P	P
Ice skating rink, indoor	-	-	-	P	P
Indoor commercial recreation/entertainment uses not otherwise listed	-	-	-	P	P
Laundromat, self-service	-	-	P	P	-
Libraries	-	-	P	P	P
Liquor stores	-	-	-	C	-
Massage therapy (medical)	P	P	P	P	P
Massage or day spa	-	-	P	P	-
Medical, dental or health offices, clinics and laboratories, excluding plasma centers	P	P	P	P	P
Museum and cultural centers	-	-	-	P	P
Mini-storage warehouses and personal storage	-	-	-	C	-
Movie theater, indoor	-	-	-	P	P
Music studio	-	-	P	P	P
Nail salon	-	-	P	P	-
Night Club	-	-	-	C	PC
Non-chartered financial services	-	-	-	C	-
Outdoor commercial recreational/entertainment uses not otherwise listed	-	-	-	-	C
Outdoor Dining	-	-	A	A	A
Pawn shop	-	-	-	C	-
Pet boarding and day care facility	-	-	-	PC	-
Photographic developing and printing studio	-	-	P	P	P

Exhibit A  
Commercial Districts Text Amendment Ordinance

LAND USE	R-O	C-O	C-1	C-2	C-3
Places of worship	P	P	P	P	P
Plant nursery	-	-	-	-	P
Plasma centers	-	-	-	C	-
Pre-schools and similar uses	-	-	C	C	-
Professional offices	P	P	P	P	P
Public service and non-profit community uses	-	C	C	C	-
Public uses	P	P	P	P	P
Public utility buildings, structures, uses, facilities and equipment	PC	PC	PC	PC	PC
Real Estate office	P	P	P	P	P
Reception centers	-	-	-	C	P
Residential, occupied by owner or employee of business on property	P	-	-	-	-
Residential, upper floor	P	C	-	-	-
Resorts	-	-	-	P	P
Restaurants, without drive-thru	-	C	P	P	P
Retail sales of new merchandise within enclosed buildings, excluding liquor stores	-	-	P	P	P
Retail/wholesale sales of lumber, landscaping and building materials, excluding outdoor storage	-	-	-	-	PC
Rodeo grounds, outdoor	-	-	-	-	C
Roller rink, indoor	-	-	-	P	P
School, business, technical, or vocational	-	P	-	-	-
Shooting range, indoor	-	-	-	C	C
Sidewalk Café	-	-	P	P	-
Social/private clubs	-	-	PC	PC	PC
Specialty retail, indoor, excluding liquor stores	-	-	P	P	P
Specialty services	-	P	P	P	P
Stadiums	-	-	-	-	C
Substance abuse treatment centers	-	C	-	-	-
Substance abuse detoxification centers	-	C	-	-	-
Surplus store, thrift store	-	-	-	P	-
Swimming club, outdoor	-	-	-	-	C
Tanning salon	-	-	P	P	-
Tattoo parlors	-	-	-	C	-
Telecommunication Tower	PC	PC	PC	PC	PC
Theater, excluding movie theaters	-	-	C	P	P
Thrift store	-	-	PC	PC	-
Ticket and travel agency	P	P	P	P	P
Tire sales, repair and mounting	-	-	-	PC	PC
Truck stop, including wash	-	-	-	-	C
Truck, trailer and equipment rental	-	-	-	C	P
Veterinary hospital, offices and clinics, excluding animal boarding	-	-	PC	PC	PC
Video arcade or game room	-	-	-	P	P
Video Rental	-	-	P	P	P
Wine Bar	-	-	-	C	PC
Zoo	-	-	-	-	C

P = Permitted Use  
C = Conditional Use Permit required.  
PC = Permitted with Conditions  
A = Accessory Use  
- = Not Permitted

(Ord. No. 1134-05, 8-15-05; Ord. No. 1133-05, § 4, 12-19-05; Ord. No. 1203-906, § 2, 9-18-06; Ord. No. 1211-1106, § 2, 11-20-06; Ord. No. 1241-107, § 2, 1-2-07)

### **304 Uses Permitted With Conditions**

The following land uses are listed in the land use matrix as Permitted with Conditions. These uses are permitted by right only if the conditions listed below for the individual uses are met. Based on site plan review, staff may add additional conditions of approval deemed necessary to protect the health, safety, and public welfare.

- A. Automobile, boat, recreational vehicle, or motorcycle sales and/or leasing** is allowed in certain commercial zone districts provided that:
1. No more than 6 vehicles shall be stored on site in association with an office location that is part of a commercial center, or commercial complex that includes retail uses
  2. Vehicle storage shall be limited to paved areas and shall not occupy required parking spaces or drive aisles
  3. Accessory uses, such as vehicle washing, refueling stations, and minor maintenance garages, may be allowed on site only if such uses are screened from off site view and are not used by the general public. Such uses shall be designed and sited as to limit the noise impacts to surrounding properties.
- B. Automobile rental facility with on-site storage** is allowed in certain commercial zone districts provided that:
1. No more than 6 vehicles shall be stored on site in association with an office location that is part of a commercial center, or commercial complex that includes retail uses
  2. Vehicle storage shall be limited to paved areas and shall not occupy required parking spaces or drive aisles
  3. Accessory uses, such as vehicle washing, refueling stations, and minor maintenance garages, may be allowed on site only if such uses are screened from off site view and are not used by the general public. Such uses shall be designed and sited as to limit the noise impacts to surrounding properties.
  4. Storage of vehicles shall be screened from off site view by a 3' or taller screen wall
- C. Automobile service and diagnostic facility** is allowed in certain commercial zone districts provided that:
1. Where the site or use abuts or adjoins any residentially zoned property or use, there shall be a solid screen wall at least six (6) feet in height constructed according to the City of Avondale Design Manuals, with a minimum twenty

(20) foot landscaping buffer inside the wall adjacent to the residentially zoned property or use.

2. Buildings shall be sited to ensure that garage bay doors do not face public streets or are immediately adjacent to residentially zoned property or uses.
- D. Banks and financial institutions without drive-thru, excluding non-chartered financial institutions** are allowed in certain commercial zone districts provided that:
1. Banks and financial institutions included within an office building shall not occupy more than 25% of the gross floor area
- E. Bars** are allowed in certain commercial zone districts provided that:
1. The exterior building wall of a bar shall not be located within one thousand three hundred and twenty (1,320) feet of the exterior property lines of a public or private school, church, or other bar, night club, or wine bar.
  2. Exits and entrances to a bar shall not be located within three hundred (300) feet of a residential district or use.
  3. Closing time for dance floors or other accessory uses to a bar shall coincide with the closing time for the bar.
- F. Colleges or universities** are allowed in certain commercial zone districts provided that:
1. Colleges and universities shall be developed as a campus or park development, rather than as or within a shopping center
- G. Drive-thru uses, including restaurants and financial institutions** are allowed in certain commercial zone districts provided that:
1. Payment and/or pick-up windows shall not face public streets.
  2. Drive thru canopies shall be included covering any payment or pick-up windows. Canopies shall be fully architecturally integrated in to the building consistent with the requirements of the Design Manuals.
  3. Drive thru lanes shall be screened from view by a minimum 3' tall masonry wall.
  4. Speaker boxes shall be located a minimum of 70' from any residentially zoned property or residential use.
  5. Drive thru queuing length shall be approved in accordance with a traffic study as approved by the City Engineer.
- H. Funeral homes** are allowed in certain commercial zone districts provided that:
1. Sites shall be designed such that parking, circulation, and access will not adversely affect adjacent or nearby residentially zoned property or residential use.
- I. Health and exercise centers** are allowed in certain commercial zone districts provided that:
1. Heath and exercise centers located within neighborhood shopping centers shall be limited to no larger than 3,000 square feet in area.
- J. Night clubs** are allowed in certain commercial zone districts provided that:
1. The exterior building wall of a bar shall not be located within one thousand three hundred and twenty (1,320) feet of the exterior property lines of a public or private school, or other bar, night club, or wine bar.

2. Exits and entrances to a night club shall not be located within three hundred (300) feet of a residential district or use.
3. Closing time for dance floors or other accessory uses to a night club shall coincide with the closing time for the night club.

**K. Pet boarding and day care facilities, excluding any outdoor exercise/play areas,** are allowed in certain commercial zone districts provided that:

1. All activities shall be conducted entirely within enclosed buildings.
2. Buildings shall be constructed in a manner that limits exterior noise from activities inside the building to a maximum of forty-five (45) DBA measured at the exterior building wall. A statement from a registered architect to this effect is required at the time of construction plan submittal.
3. Buildings shall be setback a minimum of one hundred (100) feet from any residential district.
4. Solid animal waste must be bagged separately from other refuse.

**L. Pet boarding and day care facilities, including any outdoor exercise/play areas,** are allowed in certain commercial zone districts provided that:

1. Direct access shall not be provided from animal housing units to the outside of the building.
2. Buildings shall be constructed in a manner that limits exterior noise from activities inside the building to a maximum of forty-five (45) DBA measured at the exterior building wall. A statement from a registered architect to this effect is required at the time of construction plan submittal.
3. Outdoor walks and exercise must take place within specified play/exercise areas.
4. Animals must be supervised by a facility employee at all times when in an outdoor play/exercise area.
5. Animals shall not be allowed outside between the hours of 7:00 p.m. and 7:00 a.m.
6. Buildings shall be set back a minimum of one hundred (100) feet from any residential district.
7. Outdoor play/exercise areas shall be set back a minimum of two hundred fifty (250) feet from any residential district.
8. A solid block wall with a minimum height of eight (8) feet shall enclose the perimeter of any outdoor play/exercise area.
9. Animal waste shall be removed from outdoor play/exercise areas every five hours during time periods when these areas are in use.
10. Solid animal waste must be bagged separately from other refuse.

**M. Public utility buildings, structures, uses, facilities and equipment** are allowed in certain commercial zone districts provided that:

1. Sites shall be screened from off-site view by a minimum 6' tall masonry wall. Screen wall may be required to be 8' tall as determined by staff. All screen walls shall comply with wall standards set forth in the Design Manuals.

**N. Retail/wholesale sales of lumber, landscaping and building materials, excluding outdoor storage** is allowed in certain commercial zone districts provided that:

1. All pick-up areas, loading and unloading areas, and truck wells shall be screened from off site by a minimum 6' masonry wall. All screen walls shall comply with the wall standards set forth in the Design Manuals.
- O. Social/Private Club** is allowed in certain commercial zone districts provided that:
1. Any restaurant or bar operated in connection with a social/private club shall be an integral part of a principal building, shall have no public entrance except from within the building and shall make no exterior display or advertising of any commercial activity, however incidental.
- P. Telecommunication Towers** are allowed in certain commercial zone districts provided that:
1. Telecommunication towers shall be setback from all property lines a minimum of a distance equal to 1' for every 1' of the tower's height above grade.
  2. Telecommunication towers shall be architecturally designed to give the appearance of blending in with its surroundings.
- Q. Thrift stores** are allowed in certain commercial zone districts provided that:
1. Outdoor donation bins shall be prohibited
  2. Signage shall be required on site clearly stating that after-hours drop-off is prohibited
  3. Loading and unloading areas shall not face or be visible from public streets or primary drive aisles.
  4. Garage bay doors shall be closed except during drop-off or pick-up of items
  5. All activities, including collection, storage, sorting, and processing, shall occur within a fully enclosed building.
  6. Collection areas inside the store shall be secured from public access during non-business hours.
  7. Large or bulk items not capable of being discarded in a garbage enclosure shall be stored inside the building until the arrival of a removal service.
- R. Tire sales, repair and mounting facilities** are allowed in certain commercial zone districts provided that:
1. Where the site or use abuts or adjoins any residentially zoned property or use, there shall be a solid screen wall at least six (6) feet in height constructed according to the City of Avondale Design Manuals, with a minimum twenty (20) foot landscaping buffer inside the wall adjacent to the residentially zoned property or use.
  2. Buildings shall be sited to ensure that garage bay doors do not face public streets or are immediately adjacent to residentially zoned property or uses.
- S. Veterinary hospital, offices and clinics, excluding animal boarding** are allowed in certain commercial zone districts provided that:
1. Clinic activities shall be restricted to the medical care and treatment of small animals during regular office hours. The confinement of such animals on the premises shall be limited to essential and occasional overnight care and shall be entirely within enclosed structures. The boarding and breeding of animals shall be prohibited.
  2. Clinics shall be constructed to be completely contained as to prevent emission of any noise or odor.

3. Outdoor runs or exercise pens shall be prohibited unless approval from the Zoning Administrator or designee is obtained prior to site plan submittal. Additionally, no outdoor runs, pens or enclosures shall be located closer than one hundred (100) feet to any street, residential district or existing restaurant, hotel or motel.

**T. Wine bars** are allowed in certain commercial zone districts provided that:

1. The exterior building wall of a bar shall not be located within one thousand three hundred and twenty (1,320) feet of the exterior property lines of a public or private school, or other bar, night club, or wine bar.
2. Exits and entrances to a wine bar shall not be located within three hundred (300) feet of a residential district or use.
3. Closing time for dance floors or other accessory uses to a wine bar shall coincide with the closing time for the wine bar.

**305 Conditional use development standards**

The following land uses are listed in the land use matrix as being allowed with a Conditional Use Permit. All uses being granted a Conditional Use Permit shall comply with the conditions listed below for the individual uses, if applicable. Based on review of the Conditional Use Permit application, the City Council may add additional conditions of approval deemed necessary to protect the health, safety, and public welfare.

**A. Gas stations with or without convenience stores** may be permitted as conditional uses in certain commercial districts, provided that:

1. Facilities for tire changing and repair, polishing, lubing, washing and minor repair and servicing of motor vehicles shall be entirely within an enclosed building. Body repair, engine rebuilding, bumping, painting, vehicle or trailer rental and general sales of auto parts shall be expressly prohibited.
2. Paved areas shall be reduced to the smallest area commensurate with efficient operation and function of the site. All unpaved areas shall be maintained in turf or landscaping.
3. The site has minimum frontage of one hundred fifty (150) feet on one arterial street.
4. The design of all buildings shall meet City of Avondale Design Manuals and be compatible with the existing and anticipated surrounding development. In addition, the roofline and the architecture of the canopies shall be stylistically consistent with the other buildings on the site and shall not exceed one hundred fifty (150) lineal feet on any side.
5. All canopies, accessory equipment and fuel pump mechanisms shall meet the principal building setback requirements of the applicable zone.
6. Service and car wash bays shall not face residential properties or public streets unless entirely screened in a method acceptable to the Zoning Administrator or designee.

**B. Bars, night clubs, and wine bars** may be permitted as a conditional use in certain commercial districts, provided that:

1. The exterior building wall of a tavern, bar, lounge, or establishment that sells beer or intoxicating liquor on the premises for consumption on the premises

shall not be located within one thousand three hundred and twenty (1,320) feet of the exterior property lines of a public or private school, church or other bar, night club, or wine bar.

- C. Reception centers** may be permitted as conditional uses in certain commercial districts provided that:
1. Any restaurant or bar operated in connection with a reception center shall be an integral part of a principal building, shall have no public entrance except from within the building and shall make no exterior display or advertising of any commercial activity, however incidental.
- D. An assisted living facility, or similar use** may be permitted as a conditional use in certain commercial districts, provided that no such facility is located on a lot with a property line within one thousand, three hundred twenty (1,320) feet, measured in a straight line in any direction, of the lot line of another facility or group home.
- E. Mini-storage warehouses** may be permitted as a conditional use in certain commercial districts provided that:
1. Doors of the storage areas shall not front or face onto any public street or residential use.
  2. Only indoor storage shall be permitted and there shall be no sale or rental of goods, materials or other tangible or intangible property from the facility or any part thereof and there shall be no activities conducted on the premises whether related to the stored items or otherwise. The sale of insurance by the operator on goods stored therein or the sale therein or the sale by the operator of items used in connection with the storage of goods at the site shall not be prohibited.
  3. No hazardous or flammable materials, as defined in the Avondale Building Code, shall be stored in such facility.
  4. Any structure may be exempt from side and rear yard setbacks, provided, that in all cases where the conditional use abuts any residential district on its side or rear lot lines, there shall be a side yard of not less than twenty-five (25) feet and a rear yard of not less than twenty-five (25) feet.
  5. A wall with a minimum height of six (6) feet and a landscaping area a minimum of 20' wide, all as approved by the Zoning Administrator, shall be constructed on the side and/or rear property lines.
- F. Body piercing studios, tattoo parlors, non-chartered financial services, pawnshops, liquor stores, and plasma centers** may be permitted as a conditional use in certain commercial districts provided that:
1. The minimum separation between any of the above-listed uses shall be one thousand three hundred twenty (1,320) feet, measured in a straight line from the nearest property line of each property.
  2. The above-listed uses shall not be located within one thousand three hundred twenty (1,320) feet of a sexually oriented business as defined by Section 10, bar, night club, or wine bar.
  3. The minimum separation required for the above uses shall apply regardless of whether the other use is located within the incorporated area of the City of

Exhibit A  
Commercial Districts Text Amendment Ordinance

Avondale or another jurisdiction. (Ord. No. 1203-906, § 3, 9-18-06; Ord. No. 1211-1106, § 3, 11-20-06)

**306 Commercial Development Standards**

The following development standards shall apply to all commercial developments zoned R-O, C-O, C-1, C-2, or C-3, except if otherwise noted above.

- A. All activities, except as otherwise permitted herein, shall be conducted entirely within enclosed buildings.
- B. Outdoor storage of goods and materials shall be prohibited.
- C. Warehousing or indoor storage of goods or material beyond that normally incidental to permitted uses shall be prohibited.
- D. All new buildings and uses of land or substantial additions to or remodeling of existing buildings/uses shall be subject to site plan review in accordance with Section 106.
- E. The following table outlines the minimum development standards within each district. Yard, height, and area requirements in excess of these minimum standards may be required in accordance with the design standards outlined in the Zoning Ordinance, conditions required of conditional use permits or uses permitted with conditions, and/or the Design Manuals:

	R-O	C-O	C-1	C-2	C-3
Minimum Lot Width	45'	60'	None	None	None
Minimum Site Depth	100'	100'	None	None	None
Maximum Lot Coverage	35%	35%	None	None	None
Maximum Building Height	30'	30'	30'	30'	40'
Front Setback	20'	20'	20'	20'	20'
Street Setback	20'	20'	20'	20'	20'
Rear Setback	20'	20'	20'	20'	20'
Side Setback	20'	15'	15'	15'	20'
Parking Setback	10'	20'	30'	30'	30'
Interior Setback	15'	15'	None	None	None
Setback from a Residential District or Use	1' per 1' bldg height	1' per 1' bldg height	1' per 1' bldg height	50'	100'
Parking Setback from Residential District or Use	25'	25'	25'	25'	25'
Maximum Accessory Structure Height	15'	15'	15'	15'	15'

**307 Old Town Avondale Zoning Overlay District**

- A. Permitted uses. In the OTAB zone, the following uses and their accessory buildings and uses are permitted, subject to the general revisions and exceptions set forth by this ordinance:
1. Antiques and collectibles shops.
  2. Art galleries.
  3. Artists' studios, and artisans' and craftspersons' studios or workshops, including retail sales.
  4. Athletic clubs, health clubs.
  5. Bakeries.
  6. Banks and financial institutions, excluding non-chartered financial services.
  7. Beauty salons, nail salons, and barber shops, without massage services.
  8. Bicycle and sporting good stores.
  9. Bookstores.
  10. Camera shops.
  11. Candy/confectioner's shops.
  12. Churches.
  13. Clothing, resort-wear, and t-shirt shops, selling only new merchandise.
  14. Clothing consignment shops.
  15. Clubs and lodges.
  16. Coffee houses.
  17. Curio shops.
  18. Delicatessens.
  19. Florists and flower shops.
  20. Furniture sales, but not furniture, office, or household item rental.
  21. Gift shops.
  22. Herbal, natural remedy and metaphysical shops.
  23. Ice cream shops.
  24. Import stores.
  25. Jewelry stores.
  26. Juice bars.
  27. Medical, dental, and optical offices.
  28. Museums.
  29. Music, record, and CD stores.
  30. Newsstands.
  31. Offices for professional, administrative, clerical, and sales service.
  32. Outdoor gear stores.
  33. Photography studios.
  34. Plant nurseries with outdoor display.
  35. Restaurants, restaurant/bars, and cafes of a sit-down nature, including those with outdoor dining.
  36. Retail shops, as an accessory use to any of the primary uses permitted in this section.
  37. Shoe stores and shoe repair shops.
  38. Specialty grocers and food stores, without gasoline sales.
  39. Specialty retail, such as flag, kite, magic, and puppet shops, etc.
  40. Tailors and dressmaking shops.
  41. Toy shops.

42. Video and DVD rental stores.

43. Sidewalk vendors. Vending on public streets and sidewalks in the OTAB District promotes the public interest by contributing to an active and attractive pedestrian environment. However, reasonable regulation of street and sidewalk vending is necessary to protect the public health, safety, and welfare.

The purpose of this section is to set forth the conditions and requirements under which sidewalk vendors may be permitted to operate within the OTAB District.

a. Definition. For purposes of this section, the following definitions shall apply:

1) "Stand," means a pushcart, wagon, or any other wheeled vehicle or device which may be moved without the assistance of a motor and is used for the displaying, storing, or transporting of articles offered for sale by a vendor.

2) "Vending" means the sale of food or merchandise from a stand operating on private property within the downtown area.

b. Vendors license required. Selling, or offering for sale, any food, beverage or merchandise on any property within the downtown shall comply with City of Avondale Municipal Code licensing requirements.

c. Applications. The application for a vendor's license shall be signed by the applicant and shall include:

1. The name, home, and business address of the applicant, and the name and address of the owner, if other than the applicant, of the vending stand to be used in the operation of the vending business,

2. A description of the type of food, beverage, or merchandise to be sold.

3. A description and photograph (including signage and colors) of any stand to be used in the operation of the business.

4. Proof of an insurance policy, issued by an insurance company licensed to do business in the State of Arizona, protecting the licensee and the city from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the license. Such insurance shall name as additional insured the city and shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days advance written notice to the city.

d. Issuance and fees. Not later than thirty (30) days after the filing of a completed application for a vendor's license, the applicant shall be notified of the decision on the issuance or denial of the license.

1. Fees shall be determined by resolution of the City Council and shall be paid prior to issuance of a permit.

2. Licenses to vend within the OTAB District shall be reviewed and approved by development services director in conjunction with the city clerk.

3. Locations for vending within the OTAB District area shall be approved by the development services director. Vending locations shall be designated based on the ability of the site to safely accommodate the use and to assure, as much as practical, that the sidewalk vendor is not selling merchandise that is primarily sold "on premise" within three hundred (300) feet of the vending locations.

4. Vending locations may change only upon written request by an applicant and approval by the development services director.

5. All locations of vending stands shall be in conjunction with right-of-way considerations, pedestrian safety, and proximity to existing vendors. All locations shall be

within the OTAB District with primary emphasis at major intersections in the downtown core.

6. As an initial pilot program, it is recommended that a maximum of six (6) sidewalk vendors be allowed in Old Town Avondale. The director of may review this program periodically development services.

e. Term and renewal. All licenses are valid for one year unless revoked or suspended prior to expiration. An application to renew a license shall be made not later than sixty (60) days before the expiration of the current license. License fees and renewal procedures shall be established in accordance with the City of Avondale Municipal Code.

f. Prohibited conduct and hours of operation. It shall be prohibited for any outdoor vendor to operate under any of the following conditions:

1. Vend between 10:00 p.m. to 6:00 a.m. unless in conjunction with a special event.
2. Leave any stand or motor vehicle unattended.
3. Store, park, or leave any stand overnight on any public street or sidewalk, or park any motor vehicle other than in a lawful parking place.
4. Sell food or beverages for immediate consumption unless there is a litter receptacle available for patrons' use.
5. Leave any location without first picking up, removing, and disposing of all trash or refuse remaining from sales made from by him. Trash and refuse generated by the vending cart operations shall not be disposed in public trash receptacles.
6. Allow any items relating to the operation of the vending business to be placed anywhere other than in, on, or under the stand.
7. Set up, maintain, or permit the use of any additional table, crate, carton, rack, or any other device to increase the selling or display capacity of his/her stand where such terms have not been described in his/her application.
8. Solicit or conduct business with persons in motor vehicles.
9. Sell anything other than that which he/she is licensed to vend.
10. Sound or permit the sounding of any device that produces a loud and raucous noise, or use or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract the attention of the public.
11. Vend without the insurance coverage previously specified.

g. Vending stand requirements. Vendor shall be required to submit a photograph or drawing of the vending stand to be used for review during application approval process, including materials, colors and signage. No stand shall exceed four (4) feet in width, eight (8) feet in length, and eight (8) feet in height.

h. Safety requirements. All vehicles in or from which food is prepared or sold shall comply with the following requirements:

1. All equipment installed in any part of the vehicle shall be secured in order to prevent movement during transit and to prevent detachment in the event of a collision or overturn.
2. All utensils shall be stored in order to prevent their being hurled about in the event of a sudden stop, collision or overturn. A safety knife holder shall be provided to avoid loose storage of knives.
3. Compressors, auxiliary engines, generators, batteries, battery chargers, gas fueled water heaters, and similar equipment shall be installed so as to be hidden from view to the extent possible and be easily accessible.

- i. Display of license. All licenses shall be displayed in a visible and conspicuous location at all times during the operation of the vending business.
- j. Advertising. No advertising, except the posting of prices, shall be permitted on any stand, except to identify the name of the product or the name of the vendor.
- k. Denial, suspension, and revocation. Any license may be denied, suspended, or revoked in accordance with the procedures in the City of Avondale Municipal Code for any of the following causes:
  1. Fraud or misrepresentation contained in the application for the license.
  2. Fraud or misrepresentation made in the course of carrying on the business of vending.
  3. Conduct of the licensed business in such manner as to create a public nuisance, or constitute a danger to the public health, safety, welfare, or morals.
  4. Conduct, which is contrary to the provisions of this section.
- B. Uses permitted subject to a conditional use permit. In the OTAB District, the following uses and activities and their accessory buildings and uses are permitted subject to the provisions of Section 107:
  1. Alcoholic beverage sales for off premises consumption (liquor stores).
  2. Cocktail lounges, bars, nightclubs, taverns, with or without entertainment and/or dancing.
  3. Commercial parking lots and garages. Alleyway or side street ingress and egress is preferred for such lots and garages, as is their location to the rear of street side businesses, such that they are not visible from Western Avenue. Parking garages may be required by the development services director to accommodate commercial or civic uses on ground floors adjacent to the street.
  4. Dwellings not part of a commercial development (fourteen and one-half (14.5) dwelling units/acre maximum). For lots fronting on Western Avenue, no front yard setbacks are required and the maximum setback permitted shall be ten (10) feet which may be used for landscaping, pedestrian circulation, entry court, and similar uses related to a downtown pedestrian environment. Development standards for such dwellings shall be determined on a case-by-case basis, taking into account the character of the surrounding area.
  5. Dwellings which are an integral part of a commercial development (fourteen and one-half (14.5) du/ac maximum). Must be located above ground floor, or to the side or the rear, of the commercial development. Development standards for such dwellings shall be determined on a case-by-case basis, taking into account the character of the surrounding area.
  6. Hotels, motels and bed and breakfast inns.
  7. Movie theaters (enclosed buildings), especially art film theaters, but excluding adult theaters.
  8. Performing arts theaters, but excluding adult live entertainment establishments.
  9. Restaurants with a separate bar/lounge area, with or without entertainment and/or dancing.
  10. Veterinary offices provided such offices are constructed to prevent objectionable noises and odors outside the walls of the office. The boarding of animals shall be permitted only for short time periods for the purpose of observation incidental to care.

11. Uses similar to and not more detrimental than those permitted herein, excluding tattoo parlors, body piercing studios, pawn shops, plasma centers, and non-chartered financial services.

12. Sidewalk cafes. Sidewalk cafes on public sidewalks can enhance the pedestrian ambiance of Old Town Avondale and are encouraged. The purpose of this section is to set forth the conditions and requirements under which a sidewalk cafe, as defined below, may be permitted to operate on a public sidewalk within the OTAB District.

a. Definition. A sidewalk cafe is any group of tables and chairs, and its authorized decorative and accessory devices, situated and maintained upon the public sidewalk or along the private porches and arcades for use in connection with the consumption of food and beverage sold to the public from or in an adjoining indoor restaurant or delicatessen.

b. Conditional use permit required. A conditional use permit is required for all sidewalk cafes. Fees for the conditional use permit may be waived by City Council Resolution as an incentive for sidewalk cafes.

c. Findings and conditions. In connection with approval of a conditional use permit, the development services director shall make findings that the proposed operation meets the limitations of this section. The development services director may impose such conditions in granting approval as deemed necessary to assure that the proposed operation will meet the operating requirements and conditions set forth in this section and to assure that the general public health, safety and welfare will be protected.

d. Term and renewal. A conditional use permit for a sidewalk cafe may be approved by the development services commission for a maximum period of one year. Thereafter, the development services director, if an extension application is filed prior to any expiration date of the conditional use permit, may extend the permit for additional periods, not to exceed one year each, following his review and approval of the cafe's operations. In the event the development services director considers additional or revised conditions are necessary and should be imposed if the permit is to be extended or if the development services director is of the opinion that the permit should not be extended at all, he or she shall refer the application to the Planning Commission which shall hold a public hearing and thereafter decide the matter. The Planning Commission may make any extension of a conditional use permit subject to such additional and revised conditions and requirements as it deems appropriate or necessary and any extension granted by the Planning Commission shall not exceed a period of one year.

e. Revocation. A conditional use permit may be revoked by the development services director, following notice to the permitted and a public hearing, upon a finding that any of the following are true:

1. One or more conditions of the permit have been violated;
2. That one or more conditions of this section have been violated;
3. That the sidewalk cafe is being operated in a manner which constitutes a nuisance; or
4. That the operation of the sidewalk cafe unduly impedes or restricts the movement of pedestrians past the sidewalk cafe.

f. Appeals. The applicant or any interested party may appeal a decision of the development services director to the Planning Commission. All applications for appeal shall be accompanied by the required fee.

g. Limitations and requirements. A sidewalk cafe may be permitted only in the OTAB District if the sidewalk cafe is situated adjacent to an indoor restaurant or delicatessen as

specified below, and the sidewalk cafe's operation is incidental to and a part of the operation of such adjacent indoor restaurant or delicatessen.

1. Existing indoor restaurants and delicatessens must conform to all sections of the City of Avondale Municipal Code in order to be eligible for approval of sidewalk services.
2. A sidewalk cafe may be located on the public sidewalk immediately adjacent to and abutting the indoor restaurant or delicatessen which operates the cafe, provided that the area in which the sidewalk cafe is located extends no farther along the sidewalk's length than the actual sidewalk frontage of the operating indoor restaurant or delicatessen and all other applicable provisions of this section are fulfilled.
3. An indoor restaurant or delicatessen may be permitted to operate only one sidewalk cafe and each sidewalk cafe shall be confined to a single location on the sidewalk.
4. A sidewalk cafe may be permitted only where the sidewalk or porch is wide enough to adequately accommodate both the usual pedestrian traffic in the area and the operation of the proposed cafe. There shall be a minimum forty-eight (48) inches clear distance free of all obstructions, in order to allow adequate pedestrian movement.
5. All outdoors dining furniture, including tables, chairs, umbrellas, and planters, shall be movable. Umbrellas must be secured with a minimum base of not less than sixty (60) pounds. Outdoor heaters, amplified music, or speakers shall be reviewed at the time of application for a conditional use permit.
6. No signing shall be allowed at any outdoor cafe except for the name of the establishment on an awning or umbrella valance.
7. A sidewalk cafe may serve only food and beverages prepared or stocked for sale at the adjoining indoor restaurant or delicatessen; provided that the service of beer or wine, or both, solely for on-premises consumption by customers within the area of the sidewalk cafe has been authorized as part of a conditional use permit approval. Each of the following requirements must also be met:
  - i. The area in which the sidewalk cafe is authorized is identified in a manner, as approved by the development services director, which will clearly separate and delineate it from the areas of the sidewalk, which will remain open to pedestrian traffic.
  - ii. The sidewalk cafe operation is duly licensed in accordance with, the City of Avondale Municipal Code, or prior to the service of any beer or wine at the cafe, will be duly licensed, by state authorities to sell beer or wine, or both, for consumption within the area of the sidewalk cafe.
  - iii. The outdoor preparation of food and busing facilities are prohibited at sidewalk cafes. The presetting of tables with utensils, glasses, napkins, condiments, and the like is prohibited. All exterior surfaces within the cafe shall be easily cleanable and shall be kept clean at all times by the permitted.
  - iv. Trash and refuse storage for the sidewalk cafe shall not be permitted within the outdoor dining area or on adjacent sidewalk areas and the permitted shall remove all trash and litter as they accumulate. The permitted shall be responsible for maintaining the outdoor dining area, including the sidewalk surface and furniture and adjacent areas in a clean and safe condition.
8. Hours of operation shall be identical to those of the indoor restaurant or delicatessen. All furniture used in the operation of an outdoor cafe shall be removed from the sidewalk and stored indoors whenever the indoor restaurant or delicatessen is closed.

9. The city shall have the right to prohibit the operation of a sidewalk cafe at any time because of anticipated or actual problems or conflicts in the use of the sidewalk area. Such problems and conflicts may arise from, but are not limited to, scheduled festivals and similar events, parades, repairs to the street or sidewalk, or emergencies occurring in the area. To the extent possible, the permitted will be given prior written notice of any time period during which the operation of the sidewalk cafe will be prohibited by the city.

10. The sidewalk cafe shall not require the provision of additional off-street parking.

11. Uses similar to and not more detrimental than those permitted herein, excluding tattoo parlors, body piercing studios, pawn shops, plasma centers, and non-chartered financial services.

C. Property development standards.

1. Area and density. No standard is established.

2. Coverage. Full coverage is allowable provided minimum loading space; parking, landscaping, and setbacks have been provided, unless otherwise approved by the City Council.

3. Setbacks.

a. Front yard. No front yard setbacks are required and the maximum setback permitted shall be ten (10) feet which may be used for landscaping, pedestrian, circulation, entry court, outdoor dining, and similar uses related to a downtown pedestrian environment.

b. Side yard. No side yard setbacks shall be required, except as follows:

1. Where the side property line abuts residential zoned property, no setback shall be required for the ground floor portion of the structure or first fifteen (15) feet of structure height, whichever is less. Portions of the structure above the ground floor or fifteen (15) feet in height shall be set back a minimum of ten (10) feet from the side property line.

2. Where the side property line abuts dedicated alley which separates such side property line from abutting residential zoned property, the side yard shall have a minimum depth of ten (10) feet, which shall be measured from the center line of said alley and the forty-five-degree angle of the afore described plane may be measured at the ground level along the center line of said alley.

c. Rear yard. No rear yard setbacks shall be required except as follows:

1. Where the rear property line abuts residential zoned property a minimum rear yard setback of twenty (20) feet shall be maintained, except that no portion of any structure shall encroach through a plane projected from an angle of forty-five (45) degrees measured at the ground level along the rear property line.

2. Where the rear property line abuts a dedicated alley which separates such rear property line from abutting residential zoned property, the rear yard shall have a minimum depth of twenty (20) feet which shall be measured from the center line of said alley and the forty-five (45) degree angle of the afore described plane may be measured at the ground level along the center line of said alley.

4. Height. Maximum height of all structures shall be three (3) stories.

5. Width. For purposes of regulating the division of existing storefronts, no minimum storefront width shall apply. For the purpose of this section, a storefront is the primary (front facade) and secondary (rear/side facade) building entrance where access is taken from a public street, alley, public or private parking lot, or pedestrian mall/arcade or passage.

6. Design standards. Any exterior modification of a building, structure or site within the OTAB District shall be subject to the standards set forth in the Old Town Avondale Business District Design Guidelines as adopted by the City Council. The Old Town Avondale Business District Design Guidelines shall supersede the design requirements respecting site organization and development, building design, landscaping, lighting, signage and public art set forth elsewhere in this ordinance. The required approval process shall be as follows:

- a. Exterior modifications requiring a building permit shall be subject to the site plan review process and the appeal procedures for site plan review set forth in Section 106 of this ordinance.
- b. Exterior modifications that do not require a building permit shall be reviewed and approved by city staff according to procedures established by the City Manager or designee.

7. OTAB joint-use parking. Joint-use parking standards are based on the assumption that patrons will use a single parking space for more than one destination in Old Town Avondale and that one parking space will be open and available for short-term parking to serve many different uses which may have different peak hours.

a. The following categories of development shall be eligible to use joint-use parking standards to meet parking requirements:

- 1. Non-residential new construction on sites of less than twenty thousand (20,000) square feet in size.
- 2. New construction on sites greater than twenty thousand (20,000) square feet in size for retail commercial, restaurants, and movie theaters;
- 3. Existing buildings with uses or occupancies as specified in Section 306 of this ordinance, including additions to and rehabilitation of such buildings; and
- 4. Changes in uses or occupancies of existing buildings from uses or occupancies not listed in Section 306 of this ordinance to any uses or occupancies specified in Section 306 of this ordinance.

b. Ineligible development. The following types of uses are not eligible to use joint-use parking standards:

- 1. New or existing residential uses; and
- 2. New construction of hotel or office uses on sites greater than twenty thousand (20,000) square feet in size.

8. Alternative joint-use parking standards. Section 8 the City of Avondale Zoning Ordinance shall determine circumstances in which parking shall be required. Once it has been established that parking is required, eligible projects within the OTAB District may choose to provide required parking by using the Alternative Joint-Use Parking Standards (Table 1) or to provide parking for the projects exclusive use under the standards established in Section 8.

9. Joint-use parking agreement. All parking developed under joint-use parking standards shall be required to enter into an agreement with the city and recorded by the city clerk, requiring the parking to be operated on a non-exclusive basis, to be open and available to the public for joint-use short-term public parking during normal business hours.

**ALTERNATIVE JOINT-USE PARKING STANDARDS  
MINIMUM PARKING RATIOS**

Exhibit A  
Commercial Districts Text Amendment Ordinance

TABLE INSET:

Use	Minimum Parking Ratios
OFFICE	3.0 spaces/1,000 sf of gross usable area
Including:	
1. Banks, Savings and Loans, Other Financial Institutions.	
2. Medical or Dental Office.	
3. Professional or Unspecified Office.	
RETAIL COMMERCIAL	4.0 Spaces/1,000 sf of gross usable area
PUBLIC ASSEMBLY	
Including:	
1. Movie Theater	1.0 space/4 seats
2. Museum.	3.0 Spaces/1,000 of gross usable area
RESTAURANT	
Including:	
1. Restaurant, Coffee House, Juice Bar under 1,000 square feet of gross usable area.	3.0 spaces/1,000 of gross usable area
2. Restaurant over 1,000 square feet of gross usable area.	5.0 spaces/1,000 of gross usable area
3. Outdoor dining areas associated with a restaurant.	0 spaces
RESIDENTIAL	Excluded from use of joint-use parking standards
NEW CONSTRUCTION OF OFFICE OR HOTEL USES ON LOTS GREATER THAN 20,000 SQUARE FEET	Excluded from use of joint-use parking standards
OTHER	Any category not listed above may be reviewed by the city on a case-by-case basis, taking into consideration the impact on peak-hour parking usage and the established parking standards contained in Section 8 of the City of Avondale Zoning Ordinance

10. OTAB in-lieu parking fee. The existence of small parcels within Old Town Avondale often makes it difficult to provide on-site parking. As an alternative to on-site parking, the city may establish an in-lieu parking fee as part of a transportation system

development charge. The fees would be "banked" by the city to provide funds to develop and maintain centralized public parking facilities.

11. Use of alleys within OTAB. For existing structures, a public alley may be used as part of the required maneuvering aisle for on-site parking that is immediately adjacent to the alley.

12. Structured parking within OTAB. For any proposed project in the OTAB District, up to a maximum twenty-five (25) percent reduction in required parking spaces may be allowed for the development of structured parking provided that a finding can be made that adequate parking will be available to serve the subject project.

13. On-street parking within OTAB. The number of on-street parking spaces within one hundred (100) feet of a parcel in the OTAB District, or the number that will be within one hundred (100) feet upon completion of planned street/parking improvements, whichever is greater, may be counted toward the required number of parking spaces.

14. Parking reductions within OTAB. For new and existing development within the OTAB area, required parking may be reduced on a case-by-case basis in compliance with Section 106.

15. OTAB parking lot landscaping and lighting requirements. Parking lot landscaping and lighting requirements shall be included as components of the OTAB District design standards which are promulgated administratively pursuant to Section 306 of this ordinance, under property development standards, item (6).

16. Business address required. Each business or structure (as appropriate) shall provide its address in numbers a minimum of six (6) inches in height. The address shall be placed on the building, awning valance, or canopy in a manner to be clearly visible from the adjacent street, alley, and sidewalk. The preferred locations are above the main pedestrian entrance and at rear or side entrances. (Ord. No. 1211-1106, §§ 4, 5, 11-20-06)

### **308 Cashion Business District**

#### **A. Permitted uses.**

Automatic teller machines.

Church, synagogue, temple, similar place of worship.

Clothing alteration, custom dressmaking, or tailor shop.

Cultural institution.

Dancing, theatrical, or music studio.

Child care center.

Dry cleaning and laundry establishment.

Laundromat, self-service.

Library or museum.

Medical, dental or health office, clinic, or laboratory.

Nail salon, barbershop, or beauty salon.

Photographic developing and printing studio.

Post office.

Professional, administrative, or business office, bank or financial institution, or similar use, excluding non-chartered financial services.

Public service or non-profit community use.

Restaurants, including drive-thru restaurants.

Retail sales of new merchandise in enclosed buildings, excluding liquor stores.

Retail sales of new merchandise and produce in open-air markets (mercados), excluding liquor sales and sidewalk sales.

Schools and educational institutions (public and private), excluding colleges, universities, and vocational schools.

Specialty stores and services, indoor, excluding liquor stores, pawn shops, tattoo parlors, body piercing studios, plasma centers and non-chartered financial services.

Ticket and travel agency.

B. Uses permitted subject to a conditional use permit.

Appliance service and repair.

Assisted living facility, nursing home, hospice, group home.

Auto supply store.

Automobile leasing facility.

Business or technical school.

Car wash, mechanical or self-service.

Caretaker's quarters (one, accessory use).

Dwelling units above the ground floor of a building.

Emergency medical care facility.

Gas service station with retail gasoline sales, convenience store, and car wash.

Health and exercise facility.

Hospitals.

Hotel and motel.

Movie theater.

Plant nursery.

Public utility building, structure, use, facility, equipment.

Reception center, recreation center, or social/private club.

Veterinary hospital, office or clinic, excluding animal boarding.

Vocation school.

C. Prohibited uses. Any use not expressly stated herein is prohibited.

D. Property development standards.

1. Area and density. No standard is established.

2. Coverage. Full coverage is allowable provided minimum loading space; parking, landscaping, and setbacks have been provided, unless otherwise approved by the City Council.

3. Setbacks.

a. Front yard. The minimum setback required shall be ten (10) feet. Within this setback, the first ten (10) feet must be used for landscaping.

b. Side yard. No side yard setbacks shall be required, except as follows:

1. Where the side property line abuts with residential use or zoning, the minimum setback required shall be ten (10) feet from such side property line. Such setback shall be landscaped in accordance with Section 12 of this ordinance.

2. Where the side property line abuts a dedicated alley, which separates such side property line from abutting residential zoned property, the side yard shall have a minimum depth of ten (10) feet. Such side yard shall be landscaped in accordance with Section 12 of this ordinance.

c. Rear yard. No rear yard setbacks shall be required except as follows:

1. Where the rear property line abuts residential zoned property, a minimum rear yard setback of ten (10) feet shall be maintained. Such setback shall be landscaped in accordance with Section 12 of this ordinance.
2. Where the rear property line abuts a dedicated alley, which separates such rear property line from abutting residential zoned property, the rear yard shall have a minimum depth of ten (10) feet. Such rear yard shall be landscaped in accordance with Section 12 of this ordinance.
4. Height. Maximum height of all structures shall be thirty (30) feet.
5. Width. For the purpose of regulating the division of existing storefronts, no minimum storefront width shall apply. For the purpose of this section, a storefront is the primary (front facade) and secondary (rear/side facade) building entrance where access is taken from a public street, alley, or parking lot.
6. Design standard. The Cashion Business District shall be subject to the property development standards found in Section 12, Sections 609.4. and 609.5. of this ordinance, with the exception of subsections 503.C.2. and 3., and the exterior color reference in subsection 609.4.d. In addition, the following design standards shall be applicable to the Cashion Business District:

A Cashion Heritage theme shall be implemented in the Cashion Business District, requiring the use of vibrant facade colors, tinted sidewalks, the color of which shall be prescribed by the City of Avondale Development Services Department, and the planting of one Phoenix roebelenii tree (Pygmy Date Palm) every twenty (20) linear feet within the first ten (10) feet of the required front setback adjacent to the public right-of-way for each property in the district.
7. Cashion Business District joint-use parking. Joint-use parking standards are based on the assumption that patrons will use a single parking space for more than one destination in the Cashion Business District and that one parking space will be open and available for short-term parking to serve many different uses, which may have different peak hours.
  - a. The following categories of development shall be eligible to use joint-use parking standards to meet parking requirements:
    1. Non-residential new construction on sites of less than twenty thousand (20,000) square feet in size.
    2. New construction on sites greater than twenty thousand (20,000) square feet in size for retail commercial, restaurants, and movie theater.
    3. Existing buildings with uses or occupancies as specified in Section 307 of this ordinance, including additions to and rehabilitations of such building; and
    4. Changes in uses or occupancies of existing buildings from uses or occupancies not listed in Section 307 of this ordinance to any uses or occupancies specified in Section 307 of this ordinance.
  - b. Ineligible development. The following types of uses are not eligible to use joint-use parking standards:
    1. Existing residential uses; and
    2. New construction of hotel or office uses on sites greater than twenty thousand (20,000) square feet in size.
8. Alternative joint-use parking standards. Section 8 of this ordinance shall determine circumstances in which parking shall be required. Once it has been established that parking is required, eligible projects within the Cashion Business District may choose to

Exhibit A  
Commercial Districts Text Amendment Ordinance

provide required parking by using the Alternative Joint-Use Parking Standards (Table 1), or provide parking for the project's exclusive use under the standards established in Section 8.

9. Joint-use parking agreement. All parking developed under joint-use parking standards shall be required to enter into an agreement with the city and recorded by the city clerk, requiring the parking to be operated on a non-exclusive basis, to be open and available to the public for joint-use short-term public parking during normal business hours.

10. Parking reductions within the Cashion Business District. For new and existing development within the Cashion Business District, required parking may be reduced on a case-by-case basis in compliance with subsection 804.F.

TABLE I

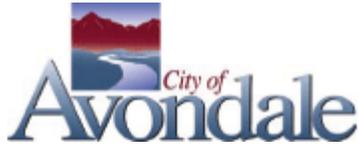
TABLE INSET:

CASHION BUSINESS DISTRICT ALTERNATIVE JOINT-USE PARKING STANDARDS MINIMUM PARKING RATIOS	
USE	MINIMUM PARKING RATIOS
OFFICE	3.0 spaces/1,000 sf of gross usable area
Including:	
1. Banks, Savings and Loans, Other Financial Institutions.	
2. Medical or Dental Office.	
3. Professional or Unspecified Office.	
RETAIL COMMERCIAL	4.0 Spaces/1,000 SF of gross usable area
PUBLIC ASSEMBLY	
Including:	
1. Movie Theater.	1.0 space/4 seats
2. Social/Private Club.	3.0 Spaces/1,000 SF of gross usable area
RESTAURANT	
Including:	
1. Restaurant under 1,000 SF gross usable area.	3.0 spaces/1,000 sf of gross usable area
2. Restaurant over 1,000 SF gross usable area.	5.0 Spaces/1,000 SF of gross usable area
RESIDENTIAL	Excluded from use of joint-

Exhibit A  
Commercial Districts Text Amendment Ordinance

	use parking standards.
<b>NEW CONSTRUCTION OF OFFICE OR HOTEL USES ON LOTS GREATER THAN 20,000 SQUARE FEET</b>	Excluded from use of joint-use parking standards.
<b>OTHER</b>	Variable
Any category not listed above may be reviewed by the city on a case-by-case basis.	

(Ord. No. 1134-05, § 6, 8-15-05; Ord. No. 1211-1106, § 6, 11-20-06)



# CITY COUNCIL REPORT

**SUBJECT:**  
EXECUTIVE SESSION

**MEETING DATE:**  
April 7, 2008

**TO:** Mayor and Council  
**FROM:** Linda Farris  
**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

The Council may hold an executive session pursuant to Ariz. Rev. Stat. § 38-431.03 (A)(1) for discussion regarding the City Manager's annual evaluation.

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available