CITY COUNCIL AGENDA

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

REGULAR MEETING
July 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 CITY MANAGER'S REPORT

a. City Manager will introduce new City Engineer, Sue McDermott.

3 UNSCHEDULED PUBLIC APPEARANCES

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

4 CONSENT AGENDA

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

a. APPROVAL OF MINUTES

1. Worksession of June 9, 2008
2. Worksession of June 16, 2008
3. Special Meeting of June 16, 2008
4. Regular Meeting of June 16, 2008

b. 2007-2008 PAUL COVERDELL FORENSIC IMPROVEMENT GRANT EXPENDITURE FOR LIVESCAN EQUIPMENT

Staff is requesting that the City Council approve the expenditure of $58,654.00 from the 2007-2008 Paul Coverdell Grant Award (#2007-cd-dx-0049) which was awarded to the City of Avondale on 9-11-07, for the purpose of purchasing a palm print capturing livescan unit. City Council approved the acceptance of the grant on 11-5-07, (Resolution No. 2698-1107). The Council will take appropriate action.

c. AREA AGENCY ON AGING FY 2008-09 CONTRACT AGREEMENT

Staff is requesting that the City Council approve a contractual agreement with Area Agency on Aging, Region I, Inc., (AAA) to continue the Congregate Meals, Home Delivered Meals, and Multipurpose Center Operations Programs for FY 2008 - 2009 in the amount of $300,564 and authorize the Mayor or City Manager and City Clerk to execute the related contract documents. The Council will take appropriate action.

d. PROFESSIONAL SERVICE AGREEMENT WITH LOGAN SIMPSON DESIGN, INC. TO DEVELOP A PARK, RECREATION AND TRAILS MASTER PLAN

Staff is requesting that the City Council approve a Professional Services Agreement with Logan Simpson Design, Inc. to develop a Parks, Recreation and Trails Master Plan in the amount of $170,000 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

e. SRP DEACTIVATION AGREEMENT AVONDALE BLVD. & BUCKEYE RD.

Staff is requesting that the City Council approve a Deactivation Agreement with Salt River Project (SRP) for an area north of Buckeye Road between Avondale Boulevard and 111th Avenue, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

f. PURCHASE AGREEMENT - REAL PROPERTY LOCATED AT NEC OF AVONDALE BOULEVARD AND VAN BUREN STREET

Staff is requesting the City Council approve a purchase agreement for real property located at the NEC of Avondale Boulevard and Van Buren Street (325 N. Avondale Boulevard) for the amount of $4,200,000 from Southern Devco, LLC and authorize the transfer of appropriations from 320-1210-00-8420 (Improvement District) to 101-5300-00-8200 (General Fund) to facilitate the expansion and relocation of SLT Expressway from this current location to the SWC of Riley Drive and Eliseo C. Felix Jr. Way. The Council will take appropriate action.

g. RESOLUTION 2755-708 - INTERGOVERNMENTAL AGREEMENT REGARDING THE ARIZONA WATER AND WASTEWATER AGENCY RESPONSE NETWORK (AZWARN)

Staff is requesting that the City Council adopt a resolution authorizing an Intergovernmental Agreement establishing a mutual aid agreement among members of the Arizona Water and Wastewater Agency Response Network and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

h. RESOLUTION 2756-708 - INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY HUMAN SERVICES FOR SPECIAL TRANSPORTATION SERVICES

Staff is requesting that the City Council adopt a resolution authorizing an Intergovernmental Agreement (IGA) with Maricopa County Human Services to operate the Special Transportation Service (STS) Program for FY 2008-2009 for an amount not to exceed $20,000. The Council will take appropriate action.

i. RESOLUTION 2757-708 - INTERGOVERNMENTAL AGREEMENT WITH THE GILA RIVER INDIAN COMMUNITY FOR THE PURCHASE OF A POLICE SWAT TRUCK

Staff is requesting that the City Council adopt a Resolution approving an Intergovernmental Agreement with the Gila River Indian Community for funds in the amount of $65,000.00 to purchase a Swat Truck for the Police Department. The Council will take appropriate action.

5 RESOLUTION 2752-708 - INTERGOVERNMENTAL AGREEMENT WITH LITTLETON ELEMENTARY SCHOOL DISTRICT #65 FOR COOPERATIVE PROGRAMMING AND FACILITY USE

Staff is requesting that the City Council adopt a resolution authorizing an Intergovernmental Agreement with Littleton Elementary School District #65 for the purpose of cooperative programming and the use of school facilities, and authorize the Mayor, City Manager and City Clerk to execute the documents. The Council will take appropriate action.

6 RESOLUTION 2754-708 - SECOND AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT WITH THE MARICOPA COUNTY LIBRARY DISTRICT

Staff is requesting that the City Council adopt a resolution authorizing the Second Amendment to the Intergovernmental Agreement with the Maricopa County Library District, and authorize the Mayor or City Manager and City Clerk to execute the documents. The Council will take appropriate action.

7 PUBLIC HEARING AND ORDINANCE 1317-708 - SECTION 4 - INDUSTRIAL ZONE DISTRICTS - TA-08-4

Staff is recommending that the City Council hold a public hearing and consider an ordinance amending Section 4 of the Zoning Ordinance - Industrial Zone Districts. The Council will take appropriate action.

8 RESOLUTION 2753-708 - SETTING THE PROPERTY TAX LEVY - FISCAL YEAR 2008-2009

The council will consider a resolution setting the property tax levy for the 2008-2009 fiscal year in the amount of $7,134,060. The Council will take appropriate action.

9 DISCUSSION ITEMS

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

a. **Renaming of the Old Town Library - Vice Mayor Weise**

b. **Environmental Affairs Commission - Council Member Karlin**

10 ADJOURNMENT

Respectfully submitted,

Carmen Martinez
Acting 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:
New Employee Introduction - Sue McDermott, City Engineer

MEETING DATE:
July 7, 2008

TO: Mayor and Council

FROM: Carmen Martinez

THROUGH: Charlie McClendon, City Manager

PURPOSE:

City Manager will introduce new City Engineer, Sue McDermott.

ATTACHMENTS:

Click to download

No Attachments Available

CITY COUNCIL REPORT

SUBJECT:
APPROVAL OF MINUTES

MEETING DATE:
July 7, 2008

TO: Mayor and Council

FROM: Carmen Martinez

THROUGH: Charlie McClendon, City Manager

PURPOSE:

1. Worksession of June 9, 2008
2. Worksession of June 16, 2008
3. Special Meeting of June 16, 2008
4. Regular Meeting of June 16, 2008

ATTACHMENTS:

Click to download

No Attachments Available

CITY COUNCIL REPORT

SUBJECT:
2007-2008 Paul Coverdell Forensic Improvement Grant Expenditure for Livescan Equipment

MEETING DATE:
July 7, 2008

TO: Mayor and Council

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

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council approve the expenditure of $58,654.00 from the 2007-2008 Paul Coverdell Grant Award (#2007-cd-dx-0049) which was awarded to the City of Avondale on 9-11-2007, for the purpose of purchasing a palm print capturing livescan unit. City Council approved the acceptance of the grant on 11-5-07, (Resolution No. 2698-1107).

BACKGROUND:

The Avondale Police Department is an AZAFIS (Arizona Automated Fingerprint Identification System) user and has been for three years. When the Avondale Police Department went online, the AZAFIS did not have the capaility of processing palm prints but that has now changed. As of 6-14-07, the upgraded system is capable of being used to process latent palm prints for identification. The livescan unit (a device used to capture the fingerprnts of individuals) purchased by and in use at the Avondale Police Department can not be upgraded to capture palm prints. A new livescan unit with palm print capture capabilities must be purchased in order to supply these prints from suspects, arrestees, etc.

The purchase of a palm print-capturing livecan unit and support equipment will allow direct entry in AZAFIS. This will allow palm prints obtained from crime scenes to be processed in hours as opposed to sitting in file cabinets waiting for a suspect to be developed; so that the particular suspect can be compared with the case. The majority of palm prints remain on file until the Statute of Limitations removes their value as evidence, without ever being compaired against a suspect. Backlogs will be reduced and timeliness will improve because of the acquisition of the palm capturing livescan unit and support equipment listed in this proposal.

The City of Avondale was awarded this grant on 9-11-07, by the US Department of Justice. Council approved the acceptance of this grant on 11-5-07, through Resolution No. 2698-1107.

BUDGETARY IMPACT:

Equipment- All items will be purchased from the approved Arizona State Contract Vendor for AZAFIS.

Item#	Computation	Cost
TP3800XCH	$46,257.00 X1	$46,257.00
Sales Tax	$46,257.00 X.088 (8.8 percent of cost)	$4,070.00
	Total	**$50,297.00**

Supplies - No supplies costs are associated with this proposal.

Construction - There are no construction costs for this proposal.

Warranty - Warranty costs are outlined below:

Item#	Computation	Cost
1 Year Maintenance / Warranty	$46,257.00 X.18 (18 percent of cost)	$8,327.00

Budget Summary

Personnel	$0.00
Fringe Benefits	$0.00
Travel	$0.00
Equipment	$50,297.00
Supplies	$0.00
Construction	$0.00
Consultants / Contracts	$8,327.00
Other	$0.00
Indirect costs	$0.00
TOTAL	**$58,654.00**

RECOMENDATION:

Staff recommends that the City Council authorize the expenditure of received grant funds for the purchase of a palm print device through the authorized Arizona State Contract Vendor for AFIS equipment for use by the Avondale Police Department for the cost of $58,654.00

ATTACHMENTS:

Click to download

No Attachments Available

CITY COUNCIL REPORT

SUBJECT:
Area Agency on Aging FY 2008-09 Contract Agreement

MEETING DATE:
July 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 approve a contractual agreement with Area Agency on Aging, Region I, Inc., (AAA) to continue the Congregate Meals, Home Delivered Meals, and Multipurpose Center Operations Programs for FY 2008 - 2009 in the amount of $300,564 and authorize the Mayor or City Manager and City Clerk to execute the related contract documents.

BACKGROUND:

The City of Avondale has contracted with Area Agency on Aging (AAA) to provide nutritional meals and activities for seniors and handicapped individuals in Avondale for approximately twenty-three (23) years. These services include a congregate meal program for individuals who attend the Avondale and Cashion Community Centers; a home delivered meal program which provides a nutritional meal to homebound individuals; transportation for seniors to activities and events; and multipurpose center operations that provide daily recreational, social and educational programs for senior citizens at the Avondale and Cashion Community Centers.

DISCUSSION:

The activities funded by AAA for the multipurpose center operations include exercise, arts and crafts, movies, games, speakers for topics of interest to seniors, health information and screening, special outings and events, and vehicles and drivers for transportation to and from program activities and events.

The congregate meal program is an on-site nutritional meal program for individuals who attend both Avondale and Cashion Community Centers. The home delivered meals are prepared at the Avondale Community Center and transported to the homes of eligible seniors and handicapped individuals by City of Avondale staff. Home delivered meals were previously transported through a separate contract that AAA had with Maricopa County Special Transportation Services (STS). The contract between AAA and STS was terminated on July 1, 2008, and each participating city receives additional funds for food, vehicles, and other operating expenses for the food service program.

BUDGETARY IMPACT:

The FY 2008-2009 budget includes revenue and expenses for each program area as illustrated in the attached budget summary. Revenues include $300,564 from AAA. Program income includes donations for meals at the rate of two dollars ($2) for individuals sixty (60) years of age and older and handicapped individuals, and four dollars ($4) for guests. In-kind revenues include space in the Community Centers. Non-federal cash in the amount of $122,164 represents an $11,000 contribution from the City of Goodyear, a $950 contribution from the City of Litchfield Park, and $110,214 from the City of Avondale (AAA 08-09 Budget Summary Attached).

RECOMENDATION:

Staff recommends that the City Council approve a contractual agreement with the Area Agency on Aging, Region I, Inc., (AAA) to continue the Congregate Meals, Home Delivered Meals, and Multipurpose Center Operations Programs for FY 2008 - 2009 in the amount of $300,564 and authorize the Mayor or City Manager and City Clerk to execute the related contract documents.

ATTACHMENTS:

Click to download

- Contract
- Vehicle Lease Agreement
- AAA FY 08 09 Budget Summary

CONTRACT FOR SERVICES BETWEEN
Contract #2009-08-AVO, FY-2009

Area Agency on Aging, Region One, Incorporated *AND*
1366 E. Thomas Road, Suite 108
Phoenix, AZ 85014
(602) 264-2255 FAX (602) 230-9132

City of Avondale
11465 W Civic Center Drive
Avondale, Arizona 85323
623-333-2420 fax 623-333-0240

Duration of Contract: July 1, 2008 to June 30, 2009

Contractor FEI: 866000233

A Chief Executive or designee: Charles McClendon, Title: City Manager
Address: same as above

In the absence of the principal authorized signatory named above,
Name: Rogene Hill, Title: Assistant City Manager
is authorized to sign this Contract and any amendments thereto on behalf of the Contractor.

B The Area Agency shall address all notices relative to this Contract to the attention of:
Name: Frances McCoy, Title: Recreation Coordinator
Address: same as above

C The Contractor shall address all notices relative to this Contract to the attention of:
Name: Rachel Guerrero, Title: Program Specialist

This Contract is entered into by and between City of Avondale hereafter referred to as Contractor, and Area Agency on Aging, Region One, Incorporated hereafter referred to as Area Agency. The Contractor, in consideration of the covenants and conditions set forth herein, shall provide and perform the services as set forth in the Uniform Terms and Conditions, Special Terms and Conditions, Scope(s) of Work, Service Specification(s), Methodology(s), and other Area Agency manuals, policies, and directives. Contractor hereby affirms that all insurance and indemnification requirements as set forth in this contract have been met and shall be maintained fully throughout the terms of this contract. Further, Contractor will supply to Area Agency the required certificates of insurance including all required "additional insured" as identified in this contract. All rights and obligations of the parties shall be governed by the terms of this document, and shall include any subcontracts and the approved budget and / or unit rates and contract budget ceilings.

Notice under this Contract shall be given by personal delivery or by mail to the persons indicated in Sections C and D and shall be effective upon receipt by the party to whom addressed unless otherwise indicated in said notice.

IN WITNESS WHEREOF, the parties enter into this Contract:

AREA AGENCY ON AGING,
REGION ONE, INCORPORATED

Signature Date

Mary Lynn Kasunic, President & CEO
Area Agency on Aging Director
Name and Title

CITY OF AVONDALE

Signature Date

Charles McClendon, City Manager
Name and Title

ATTEST:_____.
NAME/TITLE: Carmen Martinez, Acting City Clerk

AREA AGENCY ON AGING REGION ONE, INCORPORATED
CONTRACT SUMMARY PAGE
FIXED PRICE WITH ADJUSTMENTS

CONTRACT #: 2008-08-AVO

CONTRACTOR: CITY OF AVONDALE

TYPE: *ORIGINAL CONTRACT*

CONTRACT TERM: JULY 1, 2008 TO JUNE 30, 2009

CONTRACT PAYMENT CEILING FOR ALL SERVICES: **TOTAL $ 300,564**

THE CONTRACTOR AGREES TO PROVIDE:

CONTRACTED SERVICES	PSA	UNITS	BUDGET CEILING
Congregate Meals	2	14,000	$ 65,857
Home Delivered Meals	2	23,000	$ 154,607
Multipurpose Center Operations	2	2,650	$ 20,100
Transportation	2	7,300	$ 60,000

AREA AGENCY ON AGING REGION ONE, INCORPORATED
CONTRACT OPERATING BUDGET
JULY 1, 2008 TO JUNE 30, 2009

CONTRACT #: 2008-08-AVO
AGENCY: CITY OF AVONDALE

TYPE: ***ORIGINAL CONTRACT***

REVENUE SOURCES	CONGREGATE MEALS	HOME DELIVERED MEALS	MCO	TRANS-PORTATION	**TOTAL**
Area Agency	65,857	154,607	20,100	60,000	300,564
Project Income	7,500	6,000	-	1,500	15,000
NF Inkind	15,197	3,860	15,197	-	34,254
NF Cash	45,001	32,072	45,091	-	122,164
Other Federal	-	-	-	-	-
TOTAL	133,555	196,539	80,388	61,500	471,982

EXPENSES					
Personnel	32,304	75,987	26,239	27,100	161,630
ERE	22,904	19,331	16,222	10,000	68,457
Prof&Outside	-	-	7,800	-	7,800
Travel	-	-	-	24,400	24,400
Space	29,737	28,110	26,327	-	84,174
Equipment	-	-	-	-	-
Materials/Supl	45,210	69,361	3,800	-	118,371
Operating Svc	3,400	3,750	-	-	7,150
Indirect	-	-	-	-	-
TOTAL	133,555	196,539	80,388	61,500	471,982
UNITS	14,000	23,000	2,650	7,300	
UNIT RATE	$ 9.54	$ 8.55	$ 30.34	$ 8.42	

UNIFORM TERMS AND CONDITIONS

1. Definitions of Terms

a. *Area Agency* means the Area Agency on Aging, Region One, Incorporated.

b. *Attachment* means any item the Contract requires the Contractor to submit as part of the Contract.

c. *Begin Date* means the date that the Contractor may start to provide services under this contract. The Contractor will not be paid or reimbursed for contract services provided prior to the Begin Date. Payments or reimbursements shall not be made under this contract until the effective date of this contract.

d. *Compensation* means that part of this contract that contains the approved method of payment or reimbursement which may include a budget or fee or rate for the delivery of services pursuant to this contract. Compensation also means Cost or Price.

e. *Contract* means the combination of the Solicitation, including the Uniform and Special Instructions to offerors, the Uniform and Special Terms and Conditions, Specifications and Scopes of Work; the Offer and any Best and Final Offer(s); Methodologies and Work Statements; any Solicitation or Contract Amendments; and any terms implied by law.

f. *Contract Amendment* means a written document signed by the Area Agency President/Chief Executive Officer (CEO) that is issued for the purpose of making changes in the Contract.

g. *Contract Expenditures* means expenditures made by the Contractor during the term of this Contract and pursuant to the approved budget and compensation terms and methods.

h. *Contract Monitor* means the Area Agency staff person who is assigned managerial responsibility for the contract.

i. *Contract Operating Budget* means the Contractor's itemized then condensed operating budget as approved through a Solicitation or Amendment.

j. *Contractor* means any person, agency, entity that has a Contract with the Area Agency. Contractor shall also be referred to as Provider.

k. *Contract Term* means the period of time from the contract Begin Date to the contract termination date as awarded, extended, or terminated based on these contract provisions.

l. *Days* means calendar days unless otherwise specified.

m. *Effective Date* means the date that the Area Agency President/CEO or designee signs the contract, unless another date is specifically stated in the contract.

n. *Eligible Persons* means the persons determined eligible for contract services in accordance with the criteria set forth by this contract.

o. *Equipment* means all vehicles, furniture, machinery, electronic data processing (EDP) equipment, software and all other equipment costing $1,000 or more, including all normal and necessary expenses incurred to make the equipment ready for its intended use (e.g., taxes, freight, installation, assembly and testing charges, etc.) and with a useful life of greater than one year. Equipment as used herein does not include real property (e.g., land buildings, structures, or facilities' improvements).

p. *Fiscal Year* means the period beginning with July 1 and ending June 30.

q. *Gratuity* means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

r. *Materials* means all property, including equipment, supplies, printing, insurance, and leases of property but does not include land, a permanent interest in land or real property or leasing space.

s. *Offer* means bid, proposal, or quotation.

t. *Procurement Officer* means the Area Agency President/CEO or designee who is duly authorized by Area Agency to enter into and administer contracts and make written determinations with respect to the contract.

u. *Quarter* means fiscal quarters July-September, October-December, January-March, and April-June.
v. *Reimbursement Ceiling* means the maximum amount payable by Area Agency to the Contractor under this Contract.
w. *Scope of Work* means the Arizona Department of Economic Services or Area Agency description of service(s) to be provided pursuant to this contract. Scope of Work also means *Service.*
x. *Services* means the furnishing of labor, time, product, or effort by a Contractor or subcontractor which does not involve the delivery of a specific end product other than required reports and performance, but does not include employment agreements or collective bargaining agreements.
y. *Solicitation* means an invitation for bids, a request for proposals, request for quotation, or request for qualifications.
z. *State* means the State of Arizona and the Department of Economic Security.
aa. *Subcontract* means any contract, expressed or implied, between the Contractor and another party or between the Contractor's subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or providing any service required for the performance of the Contract.

2. **Contract Interpretation** The materials and services supplied under this contract shall comply with all applicable federal, state, and local laws, and the Contractor shall maintain all applicable license and permit requirements.
   a. Arizona Law The law of Arizona applies to this contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona and the Arizona Procurement Code, Arizona Revised Statutes (A.R.S.) Title 41, Chapter 23, and its implementing rules, Arizona Administrative Code (A.A.C.) Title 2, Chapter 7.
   b. Implied Contract Terms Each provision of law and any terms required by law to be in this contract are a part of this contract as if fully stated in it.
   c. Contract order of Precedence In the event of a conflict in the provisions of the contract, as accepted by the Area Agency and as it may be amended, the following shall prevail in the order set forth below:
      i. Special Terms and Conditions;
      ii. Uniform Terms and Conditions;
      iii. Statement, or Scope of Work,
      iv. Service Specifications;
      v. Area Agency manuals, policies and directives;
      vi. Methodologies
      vii. Attachments
      viii. Provider Specific Terms for Programs with AALTCS Funded Services
      ix. Documents referenced or included in the solicitation.
   d. Relationship of Parties The Contractor under this contract is an independent Contractor. Neither party to this contract shall be deemed to be the employee or agent of the other party to the contract. In the event that the Contractor or its personnel is sued or prosecuted for conduct arising from this contract, the Contractor or their personnel will not be represented by the Department of the Attorney General.
   e. Severability The provisions of this contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the contract.
   f. No Parole Evidence This contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any term used in this contract and no other understanding either oral or in writing shall be binding.
   g. No Waiver Either party's failure to insist on strict performance of any term or condition of the contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to

object to it.

3. **Contract Administration and Operation**
   a. Records The Contractor shall retain and shall contractually require each subcontractor to retain all data and other records relating to the acquisition and performance of the contract for a period of five years after the completion of the contract. All records shall be subject to inspection and audit by Area Agency at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records. Contract service records will be maintained in accordance with prescribed Area Agency policies and procedures.
   b. Non-Discrimination The Contractor shall comply with State Executive Order No. 94-4 and all other applicable federal and state laws, rules and regulations, including the Americans with Disabilities Act.
   c. Audit At anytime during the term of this contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the Area Agency and, where applicable, the state or federal government, to the extent that the books and records relate to the performance of the contract or subcontract.
   d. Facilities Inspection and Materials Testing The Contractor agrees to permit access to its facilities, subcontractor facilities and the Contractor's processes or services, at reasonable times for inspection of the facilities or materials covered under this contract. The Area Agency shall also have the right to test, at its own cost, the materials to be supplied under this contract. Neither inspection of the Contractor's facilities nor materials testing shall constitute final acceptance of the materials or services. If the Area Agency determines non-compliance of the materials, the Contractor shall be responsible for the payment of all costs incurred by the Area Agency for testing and inspection.
   e. Notices All notices under this contract shall be directed in writing to the persons and addresses specified for such purpose in this contract, or to such other persons and/or addresses as either party may designate to the other by notice. In the event that no person is designated to receive notices then notices shall be sent to the contract signatory.
   f. Advertising, Publishing and Promotion of Contract The Contractor shall not use, advertise, or promote information for commercial benefit concerning this contract without the prior written approval of the Area Agency President/CEO or designee.
   g. Property of the Area Agency Any materials, including reports, computer programs and other deliverables, created under this contract are the sole property of Area Agency. The Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. The Contractor shall not use or release these materials without the prior written consent of Area Agency.
   h. Ownership of Intellectual Property Any and all intellectual property, including but not limited to copyright, invention, trademark, tradename, service mark, and/or trade secrets created or conceived pursuant to or as a result of this contract and any related subcontract ("Intellectual Property"), shall be work made for hire and the Area Agency shall be considered the creator of such Intellectual Property. The Area Agency in requesting the issuance of this contract shall own (for and on behalf of the Area Agency) the entire right, title and interest to the Intellectual Property throughout the world. Contractor shall notify the Area Agency, within thirty (30) days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor (s), agrees to execute any and all document(s) necessary to assure ownership of the Intellectual Property vests in the Area Agency and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the Area Agency. The Intellectual Property shall not be disclosed by Contractor or its subcontractor(s) to any entity not the Area Agency without the express written authorization of the Area Agency President/CEO.

4. **Costs and Payments**
   a. Payments Payments shall comply with requirements of A.R.S. Title 35 and 41. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate invoice for payment from the Area Agency.

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

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

d. Availability of Funds for the Current State Fiscal Year Should the State Legislature enter back into session and reduce the appropriations for any reason and these goods or services are not funded, the State and/or the Area Agency may take any of the following actions:
   i. Accept a decrease in price offered by the Contractor;
   ii. Cancel the Contract
   iii. Cancel the Contract and re-solicit the requirements

5. Contract Changes

a. Amendments This contract is issued under the authority of the Area Agency President/CEO who signed this contract. The contract may be modified only through a contract Amendment within the scope of the contract issued under the authority of the Area Agency President/CEO. Changes to the contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person not specifically authorized by the Area Agency President/CEO in writing or made unilaterally by the Contractor are violations of the contract and of applicable law. Such changes, including unauthorized written contract amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this contract based on those changes.
   i. A written amendment to this contract shall be required whenever there is a material change in the content including but not limited to the following:
      1. Reimbursement ceiling;
      2. Contract term if extended and/or reduced without terminating the contract;
      3. Service delivery plan, the scope of work, or the level/units of service to be provided;
      4. Rate paid per unit of service;
      5. Ownership or legal entity responsible for the contract;
      6. For any other change in the terms and conditions of the contract which Area Agency deems substantial; or
      7. Except where contract Special Terms and Conditions provide otherwise, in Fixed Price with Price Adjustment contracts, whenever there is an increase or decrease in any budget category by an amount equal to or greater than ten (10%) percent.
   ii. The Contractor shall give written notice, which may not cause/require an amendment, to Area Agency of any non-material change, such as but not limited to the following:
      1. Change of address;
      2. Change of telephone number;

3. Change of Contract Authorized Signatory and his/or designee;
4. Changes in the name and/or address of the person to whom notices are to be sent;
5. Changes in contract-related personnel positions of the Contractor which do not affect staffing ratios or staff qualifications or specific individuals required under this contract;
6. Change in the name of the Contractor, where the ownership or responsible entity remains the same; or,
7. In a fixed price with price adjustment contract whenever there is less than a ten (10%) percent increase or decrease in any budget category.

iii. Where a change does not fall in any of the categories listed in paragraph B, the Contractor must obtain approval from the Area Agency President/CEO prior to effecting the change.

b. Subcontracts The Contractor shall not enter into any subcontract under this contract for the performance of this contract without the advance written approval of the Area Agency President/CEO. The Contractor shall clearly list any proposed subcontractors and the subcontractor's proposed responsibilities. The subcontract shall incorporate by reference all of the terms and conditions of this contract. The Contractor shall provide copies of subcontracts to Area Agency within ten (10) days of execution.

c. Assignment and Delegation The Contractor shall not assign any right nor delegate any duty under this contract, without the prior written approval of the Area Agency President/CEO. Area Agency shall not unreasonably with hold approval.

6. Risk and Liability

a. Risk of Loss The Contractor shall bear all loss of conforming material covered under this Contract until received by authorized personnel at the location designated in the purchase order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.

b. Indemnification

i. Contractor/Vendor Indemnification (Not Public Agency): The parties to this contract agree that the Area Agency and the State of Arizona, it's departments, agencies, boards and commissions shall be indemnified and held harmless by the Contractor for the vicarious liability of the Area Agency or the State as a result of entering into this contract. However, the parties further agree that the Area Agency and the State of Arizona, it's departments, agencies, boards and commissions shall be responsible for its' own negligence. Each party to this contract is responsible for its' own negligence.

ii. Public Agency Language Only: Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party (as 'indemnitee') from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as 'claims') arising out of bodily injury of any person (including death) or property damage but only to the extent that such claims which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its' officers, officials, agents, employees, or volunteers.

c. Indemnification – Patent and Copyright The Contractor shall indemnify and hold harmless both Area Agency and the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of contract performance or use by the Area Agency or the State of materials furnished or work performed under this contract. The Area Agency shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph. If the Contractor is insured pursuant to A.R.S. §41-621 and §35-154, this section shall not apply.

d. Force Majeure

i. Except for payments of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extend that such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or

negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts; or failures or refusals to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence.

ii. Force shall not include the following occurrences:
    1. Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;
    2. Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or
    3. Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits.

iii. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

iv. 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 cause by force majeure.

e. Third Party Antitrust Violations The Contractor assigns to the Area Agency any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor toward fulfillment of this contract.

7. Warranties

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

b. Services The Contractor warrants that all services provided under this contract shall conform to the requirements stated herein and any amendments hereto. The Department's acceptance of services provided by the Contractor shall not relieve the Contractor from its obligations under this warranty. In addition to its other remedies, the Department Procurement Officer may, at the Contractor's expense, require prompt correction of any services failing to meet the Contractor's warranty herein. Services corrected by the Contractor shall be subject to all of the provisions of this contract in the manner and to the same extent as the services originally furnished.

c. Quality Unless otherwise modified elsewhere in these terms and conditions, the Contractor warrants that, for one year after acceptance by the Area Agency of the materials, they shall be:
    i. Of a quality to pass without objection in the trade under the contract description;
    ii. Fit for the intended purposes for which the materials are used;
    iii. Within the variations permitted by the contract and are of even kid, quantity, and quality within each unit and among all units;
    iv. Adequately contained, packaged, and marked as the contract may require; and
    v. Conform to the written promises or affirmations of fact made by the Contractor.

d. Fitness The Contractor warrants that any material supplied to the Area Agency shall fully conform to all requirements of the contract and all representations of the Contractor, and shall be fit for all purposes and uses required by the contract.

e. Inspection/Testing The warranties set forth in subparagraphs Liens, Quality, and Fitness of this section are not affected by inspection or testing of or payment for the materials by the Area Agency.

f. Year 2000

i. Notwithstanding any other warranty or disclaimer of warranty in this Contract, the Contractor warrants that all products delivered and all services rendered under this Contract shall comply in all respects to performance and delivery requirements of the specifications and shall not be adversely affected by any date-related data Year 2000 issues. This warranty shall survive the expiration or termination of this Contract. In additions, the defense of *force majeure* shall not apply to the Contractor's failure to perform specification requirements as a result of any date-related data Year 2000 issues.

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

g. Compliance with Applicable Laws

i. The materials and services supplied under this contract shall comply with all applicable federal, state and local laws, and the Contractor shall maintain all applicable licenses and permit requirements. Any changes in the governing laws, rules and regulations during the term of this contract shall apply but do not require an amendment to this contract.

ii. Contractor shall comply with the laws, rules, regulations and standards contained within the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) including Section 2352 "Title XX Block Grants;" Title 45 Code of Federal Regulations Parts 74 and 96; and the Arizona Title XX Social Services Plan.

iii. Contractor shall comply with the laws, rules, regulations and standards contained within Title III of the Older Americans Act, as amended; Title 45 Code of Federal Regulations, Part 74 (except Subpart N); Title 45 of the Code of Federal Regulations parts 1320, 1321, 1324, and 1326. In accordance with Title 45 Code of Federal Regulations, Part 1321.51, the Area Agency shall afford the Contractor an opportunity for a hearing when required by the provisions of this part.

iv. Contractor shall comply with the provisions of A.R.S. Sections §46-251 through §46-253, Supplemental Payments Program.

v. The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this contract and any disputes there under. Any action relating to this contract shall be brought in Arizona court.

vi. The Contractor shall comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) and all applicable implementing Federal regulations. The Contractor shall notify Area Agency no later than one hundred and twenty (120) days prior to any required compliance date if the Contractor is unwilling to or anticipates that it will be unable to meet these requirements. Receipt by the Area Agency of a notice of anticipated inability or unwillingness to comply with these requirements constitutes grounds for the termination of this contract.

h. Survival of Rights and Obligations after Contract Expiration or Termination

i. Contractor's Representations and Warranties: All representations and warranties made by the Contractor under this contract shall survive the expiration or termination hereof.

ii. Purchase Orders: The Contractor shall, in accordance with all terms and conditions of the

Contract, fully perform and shall be obligated to comply with all purchase orders received by the Contractor prior to the expiration or termination hereof, unless otherwise directed in writing by the Area Agency President/CEO including, without limitation, all purchase orders received prior to but not fully performed and satisfied at the expiration or termination of the Contract.

8. Contractual Remedies

a. Right to Assurance If Area Agency in good faith has reason to believe that the Contractor does not intend to or is unable to perform or continue performing this contract, the Area Agency President/CEO may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of days specified in the demand may at Area Agency's option, be the basis for terminating the contract under the Uniform Terms and Conditions or other rights and remedies available by law or provided by the contract..

b. Stop Work Order

   i. The Area Agency, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the Area Agency after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

   ii. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Area Agency President/CEO shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

c. Non Exclusive Remedies The rights and the remedies of the Area Agency under this contract are not exclusive.

d. Nonconforming Tender Materials or services supplied under this contract shall fully comply with the contract. The delivery of materials or services or a portion of the materials or services that do not fully comply constitutes a breach of contract. On delivery of nonconforming materials or services the Area Agency may terminate the contract for default under applicable termination clauses in the contract, exercise any of its rights and remedies under the Uniform Commercial Code, or pursue any other right or remedy available to it.

e. Right of Offset Area Agency shall be entitled to offset against any sums due the Contractor any expenses or costs incurred by the Area Agency or damages assessed by the Area Agency concerning the Contractor's nonconforming performance or failure to perform the contract, including expenses, costs and damages described in these Uniform Terms and Conditions.

9. Contract Termination

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

b. Gratuities The Area Agency may, by written notice to the Contractor, terminate this contract in whole or in part if Area Agency determines that employment or a gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the Area Agency for the purpose of influencing the outcome of the procurement or securing the contract, an amendment to the contract, or favorable treatment concerning the contract, including the making of

any determination or decision about contract performance. The Area Agency, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the gratuity offered by the Contractor.

c. Suspension or Debarment The Area Agency may, by written notice to the Contractor, immediately terminate this contract if the Area Agency determines that the Contractor has been disbarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the Contractor is not currently suspended or debarred. If the Contractor becomes suspended or debarred, the Contractor shall immediately notify the Area Agency. If a Contractor has, prior to or during this contract, been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, the Contractor shall disclose that information to Area Agency.

d. Termination for Convenience The Area Agency reserves the right to terminate the contract, in whole or in part at anytime, when in the best interests of the Area Agency without penalty or recourse. ** In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the contract shall become the property of and be delivered to Area Agency upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination. The cost principles and procedures provided in A.A.C. R2-7-701 shall apply. The Contractor may terminate this contract at any time by providing at least sixty (60) days written notice to the Area Agency.

e. Termination for Default

   i. In addition to the rights reserved under the contract, Area Agency may terminate the contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the contract. The Area Agency President/CEO shall provide written notice of the termination and the reasons for it to the Contractor by certified mail, return-receipt requested.

   ii. Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the contract shall become the property of and be delivered to the Area Agency on demand.

   iii. This contract is voidable and subject to immediate termination by Area Agency upon the Contractor becoming insolvent or filing proceedings in bankruptcy or reorganization under the United States Code, or upon assignment or delegation of the contract and/or any rights thereunder without Area Agency's prior written approval.

   iv. Area Agency may, upon termination of this contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this contract. The Contractor shall be liable to the Area Agency for any excess costs incurred by the Area Agency in procuring materials or services in substitution for those due from the Contractor.

   v. This contract may immediately be terminated if Area Agency determines that the health or welfare or safety of service recipients is endangered.

f. Continuation of Performance Through Termination The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

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

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

SPECIAL TERMS AND CONDITIONS

1. **Definitions** In addition to the terms and conditions defined in section 1 of the Uniform Terms and Conditions, the following shall apply.
   a. *Department* means the Arizona Department of Economic Security (DES), unless otherwise indicated.
   b. *Level of Service* as used throughout these Special Terms and Conditions and Service Specifications, means the number of units of service specified in the Contract Summary page.
   c. *Vulnerable adult* means an individual who is eighteen years of age or older who is unable to protect himself from abuse, neglect or exploitation by others because of a physical or mental impairment.

2. **Contract Administration and Operation**
   a. Compliance with Applicable Laws All changes in the governing laws, rules, and regulations during the term of this contract shall apply but do not require an amendment to this contract. In addition to the terms and conditions in section 7 of the Uniform Terms and Conditions, the following shall apply:
      i. In accordance with A.R.S. §36-557 (Purchase of community development disabilities services; application; contracts; limitation), as applicable, all recipients of contract services shall have all of the same specified rights as they would have if enrolled in a service program operated directly by the State.
      ii. Nothing in this contract shall be construed as a waiver of an Indian tribe's sovereign immunity; nothing shall be construed as an Indian tribe's consent to be sued or as consent by an Indian tribe to jurisdiction of any State Court.
      iii. The Contractor shall comply with the requirements related to reporting to a peace officer or to child or adult protective services incidents of child abuse or neglect as specified in A.R.S. §13-3620 and elder abuse as specified in A.R.S. §46-454.
      iv. The Contractor shall comply with Public Law 101-121, Section 319 (31 USC 1352) and 29 CFR Part 93 which prohibits the use of federal funds for lobbying and which stipulates, in part: Except with the express authorization of Congress, the Contractor, its employees or agents, shall not utilize any federal funds under the terms of this contract to solicit or influence, or to attempt to solicit or influence, directly or indirectly, any member of Congress regarding pending or prospective legislation. Indian tribes, tribal organizations and other Indian organizations are exempt from these lobbying restrictions with respect to expenditures that are specifically permitted by other federal law.
      v. The Contractor shall comply with all applicable state and federal statutes and regulations. This shall include A.R.S. § 23-722.01 relating to new hire reporting, A.R.S. § 23-722.02 relating to wage assignment orders to provide child support, and A.R.S. § 25-535 relating to administrative or court-ordered health insurance coverage for children.
   b. Contract Extension The Area Agency has no obligation to extend or renew this contract. However, this contract may be extended or renewed for multiple periods, or may be established as a multi-year contract in its entirety or in part at the sole option of the Area Agency. Any extension or renewal must be made prior to the end of the contract period specified in this contract.
   c. Contract Term The term of this contract shall be for the period of time from the contract begin date to the contract termination date as awarded in a contract or extended in an amendment. The begin date of the contract term is the date that the Contractor may start to provide services under this contract. The Contractor will not be paid or reimbursed for contract services provided prior to the begin date or for services provided after the end date. Payments or reimbursements shall not be made under this contract outside the effective dates of the contract.
   d. Cooperation and Understanding
      i. Area Agency may undertake or award other contracts for additional work related to the work performed by the Contractor, and the Contractor shall fully cooperate with such other Contractors and Area Agency employees, and carefully fit its own work to such other

Contractors' work. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other Contractor or Area Agency employees. The Contractor shall cooperate as the Area Agency deems necessary, with the transfer of work, services, case records and files performed or prepared by the Contractor to other Contractor(s).

ii. In order for Area Agency to accomplish a comprehensive and coordinated service response system, some services must be provided through a joint venture between Area Agency and the Contractor. Area Agency recognizes the Contractor's role as both integral and significant to the delivery of services and understands the importance of a true partnership between itself and the Contractor. To this end, Area Agency recognizes the autonomy of the Contractor and will try to avoid unnecessary demands on the operations and business practices of the Contractor.

iii. Transfer of Knowledge: The Contractor shall, whenever feasible, share strategies and techniques with Department staff to transfer the skills and knowledge acquired in the delivery of the contracted service.

e. Certifications The Contractor agrees to sign the following certifications within this contract:

i. the Certification Regarding Lobbying form, compliance with 49 CFR part 20

ii. the Certification Regarding Debarment, Suspension and Voluntary Exclusion Lower Tier Covered Transactions form.

f. Federal Immigration and Nationality Act

i. By entering into the Contract, the Contractor warrants compliance with the Federal Immigration and Nationality Act (FINA) and all other Federal immigration laws and regulations related to the immigration status of its employees. The Contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Area Agency President/CEO upon request. These warranties shall remain in effect through the term of the contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor's Immigration and Control Act, for all employees performing work under the Contract.

ii. Area Agency may request verification of compliance for any Contractor or subcontractor performing work under the contract. Should the Area Agency suspect or find that the Contractor or any of its subcontractors are not in compliance, Area Agency may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

g. Identification of "Area Agency" FundingAll advertisement, publications and printed materials which are produced by the Contractor and refer to contract services shall state that such services are funded under contract with Area Agency.

h. Predecessor and Successor Contracts The execution or termination of this contract shall not be considered a waiver by Area Agency of any and all rights it may have for damages suffered through a breach of this or prior contract with the Contractor.

i. Substantial Interest Disclosure

i. Contractor shall not make any payments, either directly or indirectly, to any person, partnership, corporation, trust, or any other organization which has a substantial interest in Contractor's organization or with which Contractor (or one of its directors, officers, owners, trust certificate holders or a relative thereof) has a substantial interest, unless Contractor has made a full written disclosure of the proposed payments, including amounts, to Area Agency.

ii. Leases or rental agreements or purchase of real property which would be covered by the above paragraph of this section shall be in writing and accompanied by an independent commercial appraisal of fair market rental, lease, or purchase value, as appropriate.

iii. For the purpose of this Section, the *relative* shall have the same meanings as in A.R.S. §38-502.

j. Termination for Any Reason

i. In the event the contract is terminated, with or without cause, or expires, the Contractor whenever determined appropriate by Area Agency, shall assist the Area Agency in the transition of services or eligible persons to other contractors. Such assistance and coordination shall include, but not be limited to, the forwarding of program and other records as may be necessary to assure the smoothest possible transition and continuity of services. The cost of reproducing and forwarding such records and other materials shall be borne by the Contractor. The Contractor must make provisions for continuing all management/administrative services until the transition of services or eligible persons is complete and all other requirements of this contract are satisfied.

ii. In the event of termination or suspension of the contract by Area Agency, such termination or suspension shall not affect the obligation of the Contractor to indemnify Area Agency, the State, and DES for any claim by any other party against Area Agency, the State, or DES arising from the Contractor's performance of this contract and for which the Contractor would otherwise be liable under this contract. To the extent such indemnification is excluded by A.R.S. §41-621 et seq. or an obligation is unauthorized under A.R.S. §35-154, the provisions of this paragraph shall not apply.

iii. In the event of early termination for any reason, any funds advanced to the Contractor shall be returned to Area Agency within ten (10) days after date of termination of the contract or upon receipt of notice of termination of the contract, whichever is earlier.

k. Transition of Activities In the event that a contract is awarded to a new contractor for services similar to those being performed by Contractor under this contract, there shall be a transition of services period. During this period, the Contractor under this contract, shall work closely with the new contractor's personnel and/or Department staff to ensure a smooth and complete transfer of duties and responsibilities. The Department's authorized representative will coordinate all transition activities. A transition plan will be developed in conjunction with the existing Contractor to assist the new contractor and/or Department staff to implement the transfer of duties. The Department reserves the right to determine which projects/service delivery nearing completion will remain with the current Contractor of record.

l. Offshore Performance of Work Prohibited Due to security and identity protection concerns, all direct services under this contract shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or "overhead" services, redundant back-up services or services that are incidental to the performance of the contract. All storage and processing of information shall be performed within the borders of the United States. This provision applies to work performed by subcontractors at all tiers.

m. Pandemic Contractual Performance The State shall require a written plan that illustrates how the Contractor shall perform up to contractual standards in the event of a pandemic. The state may require a copy of the plan at anytime prior or post award of a contract. At a minimum, the pandemic performance plan shall include:

i. Key succession and performance planning if there is a sudden significant decrease in Contractor's workforce.

ii. Alternative methods to ensure there are services or products in the supply chain.

iii. An up to date list of company contacts and organizational chart.

3. Indemnification and Insurance

a. Indemnification Clause The parties to this contract agree that the Area Agency, State of Arizona and the Department of Economic Security (DES) shall be indemnified and held harmless by Contractor for the vicarious liability of the Area Agency, State and/or DES as a result of entering into this contract. However, the parties further agree that the Area Agency, State of Arizona and DES shall each be responsible for its own negligence. Each party to this contract is responsible for

its own negligence. *This indemnity shall not apply if the Contractor or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.*

b. Insurance Requirements Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The *insurance requirements* herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The Area Agency, State of Arizona, and DES in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

c. Additional Insured Requirements For the purposes of this contract, the identified agencies and specific language shall be identified as additional insured for all contract required insurance policies. The policies shall include or be endorsed to include the following provisions:

i. Required Agencies:
√ Area Agency on Aging, Region One Incorporated
√ State of Arizona and Department of Economic Security
√ Bridgeway Health Solutions
√ EverCare Select
NA Maricopa County Public Health Department
√ Mercy Care
√ SCAN Health System

ii. Required language for certificate
"The (list above identified agencies),their departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insured with respect to liability arising out of the activities performed by or on behalf of the Contractor and including involvement of owned, leased, hired, or borrowed vehicles by the Contractor".

iii. All additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this contract.

iv. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.

v. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this contract.

vi. The Additional Insured endorsement(s), where applicable to liability policies required under these provisions, and which extend policy rights to the Area Agency, shall insure only the vicarious liability to the extent stated in the Indemnification Clause.

d. Minimum Scope and Limits of Insurance Contractor shall provide coverage with limits of liability not less than those stated below.

i. Commercial General Liability – Occurrence Form Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage.

- General Aggregate $2,000,000
- Products – Completed Operations Aggregate $1,000,000
- Personal and Advertising Injury $1,000,000
- Blanket Contractual Liability – Written & Oral $1,000,000
- Fire Legal Liability $ 50,000
- Each Occurrence $1,000,000

1. The policy shall be endorsed to include coverage for any form of abuse, neglect, and sexual abuse and molestation.
2. Policy shall contain a waiver of subrogation against all agencies identified in Additional Insured Section, their departments, agencies, boards, commissions,

universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor. This requirement may be satisfied with a policy combining General and Professional Liability, provided that the General Liability section of the policy is written on an occurrence basis, and includes coverage for contractual liability.

ii. Automobile Liability Bodily Injury and Property Damage for any owned, hired, leased, and/or non-owned vehicles used in the performance of this Contract.
   1. Combined Single Limit (CSL) $1,000,000

iii. Workers Compensation and Employers' Liability
   1. Workers' Compensation Statutory
   2. Employers' Liability
      a. Each Accident $ 500,000
      b. Disease – Each Employee $ 500,000
      c. Disease – Policy Limit $1,000,000
   3. Policy shall contain a waiver of subrogation against the all agencies identified in Additional Insured Section, their departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
   4. This requirement shall not apply to: Separately, EACH contractor or subcontractor exempt under A.R.S. §23-901, AND when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

iv. Professional Liability (Errors and Omissions Liability)
   1. Requirements as follows
      a. Each Claim $1,000,000
      b. Annual Aggregate $2,000,000
   2. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed. The requirement for a policy Annual Aggregate of $2,000,000 above may also be substituted with an endorsement to the Contractor's or subcontractor's (as the case may be) showing "Unimpaired Annual Aggregate $1,000,000 for the Name Insured and all additional insured (list all additional insured as specified in this contract) with respect to contracts with the Area Agency."
   3. Policy shall contain a waiver of subrogation against the all agencies identified in Additional Insured Section, their departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
   4. The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this contract.

e. Notice of Cancellation Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the Area Agency. Such notice shall be sent directly to the Area Agency Contracts Department and shall be sent by certified mail, return receipt requested.

f. Acceptability of InsurersInsurance is to be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A- VII. The Area Agency in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency. If the social services program utilizes the Social Service Contractors Indemnity Pool (SSCIP) or other approved insurance pool for insurance coverage, SSCIP or the other approved insurance pool is exempt from the A.M. Best's rating

requirements listed in this contract. If the Contractor or subcontractor chooses to use SSCIP or another approved insurance pool as its insurance provider, the contract/subcontract would be considered in full compliance with insurance requirements relating to the A.M. Best rating requirements.

g. Verification of Coverage
   i. Contractor shall furnish the Area Agency with certificates of insurance (ACORD form) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.
   ii. All certificates and endorsements are to be received and approved by the Area Agency before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.
   iii. All certificates required by this Contract shall be sent directly to Area Agency Contracts Department. The Area Agency project/contract number and project description shall be noted on the certificate of insurance. The Area Agency reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

h. Subcontractors Contractors' certificate(s) shall include all subcontractors as insureds under its policies **or** Contractor shall furnish to the Area Agency separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to the minimum requirements identified within this contract.

i. Approval Any modification or variation from the *insurance requirements* in this Contract shall be made by the Area Agency, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

j. Exceptions
   i. In the event the Contractor or subcontractor(s) is/are a public entity, then the Insurance requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the Contractor or subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.
   ii. In the event that Contractor determines that it may not be able to comply fully with the insurance requirements set forth in this section and contract, the Contractor may request that the insurance requirements be modified pursuant to paragraph *3.i. Approval*, provided that such request be delivered in writing to Area Agency at least ten days prior to contract execution. Contractor shall include with such request Contractor's justification for the modification with supporting documentation.
      1. As provided in paragraph *3.i. Approval*, the Area Agency President/CEO shall decide whether to approve the modification.
      2. Modifications that are approved will be done so on a case-by-case basis and shall not affect the insurance requirements of other Contractors for whom modifications have not been approved. If a Contractor's request has not been approved or a Contractor fails to deliver its request prior to the applicable deadline, then the Contractor shall be required to comply fully with the insurance requirements set forth fully in paragraph *3 Approval* above.
   iii. For any Contractor or subcontractor, which is a public entity (but not a state agency or state university referred to in paragraph *j.1.* above) the indemnification and insurance requirements are replaced in their entirety by the following:
   INDEMNIFICATION: Each party (as "Indemnitor") agrees to indemnify, defend, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or

volunteers.

In addition, Contractor shall cause its contractor(s) and subcontractors, if any, to indemnify, defend, save and hold harmless the all agencies identified in Additional Insured Section, any jurisdiction or agency issuing any permits for any work arising out of this Agreement, and their respective directors, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor's contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by such Contractor from and against any and all claims. It is agreed that such Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable.

For subcontractors which are not public entities, insurance provisions *3.a* through *3.i* *Approval* above shall apply.

iv. For any Contractor or subcontractor, which is a Tribal government, the indemnification and insurance requirements are replaced in their entirety by the following: Each party is responsible for its own negligence. Contractor is insured under the federal tort claims act.

4. Services

a. Services The Contractor shall provide the services as identified on the Contract Summary page(s) of this contract in accordance with the following:

i. Scope of Work(s);
ii. Service Specification(s);
iii. Approved Methodology(s);
iv. Approved Budget or Rate;
v. Approved Outreach Plan(s), if applicable; and
vi. Other Area Agency manuals, policies, procedures, and directives.

b. Levels of Service

i. For designated non-case managed services, if the Contractor determines service recipient eligibility, the Contractor shall maintain and regulate the units or services set forth in this contract to ensure continuity and availability of services to eligible persons during the term of this contract and during any transition to a subsequent Contractor.
ii. Area Agency makes no guarantee to purchase specific quantities of goods or services, or to refer eligible persons as may be identified or specified herein. Further, it is understood and agreed that this contract is for the sole convenience of the Area Agency and that the Area Agency reserves the right to obtain like goods or services from other sources when such need is determined necessary by the Area Agency.
iii. Any administration within the Area Agency may obtain services under this contract.
iv. Contract services may be moved or expanded to other site locations within the geographic area awarded only by a written contract amendment.
v. Area Agency makes no guarantee to purchase all of the service units authorized or to provide any number of referrals. If quantities of units are specified, they are estimates only and the Area Agency may decrease and/or increase them by providing written notice to the Contractor.
vi. When the method of compensation for the service is Fixed Price with Price Adjustment, the contract may be amended, by mutual agreement, to purchase additional services by

increasing the contract service budget and/or budget summary. It is expected that the Contractor will serve in excess of contracted units by as much as 10% without obligation of Area Agency funding increase.

vii. The Area Agency shall notify the Contractor if projected levels of service are at 90% or less. The Area Agency reserves the right to amend the contract funding and units within the contract to correspond with projected levels of service.

5. Contract Compensation

a. Availability of Funds

i. The provisions of this contract relating to payment for services shall become effective when funds assigned for the purpose of compensating the Contractor, as herein provided, are actually available to the Area Agency for disbursement. The Area Agency President/CEO shall be the authority in determining the availability of funds under this contract and the Area Agency shall keep the Contractor fully informed as to the availability of funds.

ii. If any action is taken by any county, state agency, federal department, or any other agency or instrumentality to suspend, decrease, or terminate its fiscal obligation under, or in connection with this Contract, the Area Agency may reduce or terminate this contract without further recourse, obligation, or penalty in the event that insufficient funds are appropriated or allocated.

iii. The Area Agency President/CEO shall have the sole and unfettered discretion in determining the availability of funds.

iv. Funds may not presently be available for performance under this Contract beyond the current fiscal year. No legal liability on the part of the Area Agency for any payment may arise under this Contract beyond the current fiscal year of the Contract Term until funds are made available for performance of this Contract. The Area Agency shall make reasonable efforts to secure such funds.

b. Contract Payment TypesIn addition to the terms and conditions in Section 4 of the Uniform Terms and Conditions, payments regarding this contract shall be made according to the type of payment indicated with the check mark and as identified on the Contract Summary page(s) and defined as follows:

i. NA Rate or Fixed Price – the Contractor is paid a specified amount for each unit of service or deliverable as designated in the contract, not to exceed the maximum number of units if indicated for each contract service/deliverable.

ii. √ Fixed Price With Price Adjustment - Reimbursement to the Contractor is in accordance with actual, allowable costs incurred consistent with each service budget and/or budget summary not to exceed the service reimbursement ceiling. The Contractor shall furnish Area Agency with an accounting of actual costs incurred consistent with the categories set forth in the service budget. Budget categories, to include cost items in a category, may be deleted, added, or modified by a contract amendment, provided that the Total Service Cost shall not increase unless a price increase is permitted by renewal or extension of the contract.

c. Contract Payment Provisions

i. If the Contractor is in any manner in default in the performance of any obligation under this contract, or if audit exceptions are identified, Area Agency may, at its option and in addition to other available remedies, either adjust the amount of payment or withhold payment until satisfactory resolution of the default or exception.

ii. Under no circumstances shall Area Agency authorize payment to the Contractor:

1. That exceeds the contract or service reimbursement ceiling as stated on the Contract Summary page without an amendment to this contract or
2. For services performed prior to or after the term of the contract without timely extension or renewal of the contract.

iii. Payments for Fixed Price with Price Adjustment are subject to limitations and exceptions as provided in 45 CFR Part 74, Section 74.61(e) requires that cash reimbursements be timed to

coincide with cash disbursements.

iv. Failure to submit required financial and programmatic reports by the approved due date may result, at the option of Area Agency, in the assessment of a penalty equal to one percent (1%) of Area Agency reimbursement ceiling for each occurrence. This penalty is in addition to the forfeiture allowed by the Uniform General Terms and Conditions. Should a penalty be assessed, the level of service shall remain unchanged.

v. The Contractor may offer a price reduction adjustment at any time during the term of the contract. Any price reduction shall be executed by a contract amendment.

d. Compensation for Rate or Fixed Price

i. Subject to the availability of funds and during the period of this contract, the Area Agency shall pay the fixed unit prices for each unit of service authorized and delivered to each client in accordance with the contract summary sheet.

ii. The Contractor shall not be entitled to bill the Area Agency, nor shall the Area Agency honor any claim for payment for any client services performed in the development of, or review of a client's plan of care.

iii. The rates per unit of service as stated in the Contract Summary page shall be considered payment in full for all services and supplies rendered or provided under the terms of these Special Terms and Conditions. The Contractor agrees that it will not bill or charge clients, their families, guardian or conservators for services provided under this contract without prior approval of the Area Agency. The provisions of this section shall not be construed as restricting the right of the Contractor to bill Medicare for allowable costs, and/or to bill clients for other services rendered that are not covered by this contract.

iv. The Contractor shall be entitled to bill the Area Agency only for those units of service that have been performed in accordance with the Service Specifications of this contract and where the Contractor has obtained a valid client signature each time services were provided.

v. The Area Agency, working from the Contractor's completed billing, shall determine the payments to be made to the Contractor for services. If a discrepancy exists between the Contractor's billing and the Area Agency's record of authorized clients and units of service, the amount of the discrepancy will be disallowed and the remainder of the claim processed for payment. The Contractor shall be notified in writing of the amount and reasons for any disallowance and shall be afforded the opportunity to document the appropriateness of the disallowed costs and to resubmit a billing for payment within thirty (30) days of the original due date. Any disagreement over any disallowance may be submitted by the Contractor to the disputes process in accordance with the Uniform General Terms and Conditions.

vi. The Area Agency President/CEO shall be the sole determiner of the availability of funds.

e. Compensation for Fixed Price with Price Adjustment

i. Subject to the availability of funds, Area Agency shall compensate the Contractor for delivery of the contract services designated within the Service Specifications, provided that the services are delivered during the term of the contract and in accordance with the terms and conditions set forth in this contract. The maximum reimbursement ceiling for all fixed prices with price adjustment services provided during the term of this contract is stated on the contract summary sheet.

ii. At least a ten percent (10%) non-federal match is required for each Area Agency dollar awarded. This non-federal match may be either cash or in-kind.

iii. If at contract termination the total number of eligible units of service delivered for any contracted service is below ninety percent (90%) of the contracted units, Area Agency reserves the right to adjust payments to the Contractor proportionally.

iv. The Area Agency shall not be obligated to compensate the Contractor for delivery of contracted services at a ratio greater than the time remaining in the contract year. The schedule of compensation shall be applied quarterly; therefore, a Contractor may not exceed compensation greater than 25%, 50%, 75% based on the period of the contract year served. Area Agency shall have sole and unfettered discretion to deviate from this schedule.

v. The Contractor agrees to provide at least the amount of non-federal share as specified in the

Contract Operating Budget. This amount must be contributed even if it exceeds the minimal amount required by law, regulations, or other provisions. Failure to provide this amount of non-federal share may result in a proportionate reduction of the Area Agency share or other disallowance action.

f. Reporting The Contractor shall report contract expenditures to the Area Agency in the manner prescribed by the "Reporting Requirements" section of these Terms and Conditions. Upon receipt of applicable, accurate, and complete records, Area Agency shall authorize payment or reimbursement in accordance with the method(s) indicated by this contract.

6. Area Agency Responsibility

a. Technical Assistance Area Agency may, but shall not be obligated to, provide technical assistance to the Contractor in the administration of contract services, or relating to the terms and conditions, policies and procedures governing this contract. Notwithstanding the foregoing, the Contractor shall not be relieved of full responsibility and accountability for the provision of contract services in accordance with the terms and conditions set forth herein.

7. Contractor Responsibility

a. Audit

i. In compliance with the Federal Single Audit Act (31 U.S.C. per. 7501-7507) as amended by the Single Audit Act Amendments of 1996 (P.L. 104 to 156), Contractors designated as subrecipients as prescribed by the Presidents' Council on Integrity and Efficiency Position Statement No. 6, expending federal funds from all sources totaling $500,000 or more must have a yearly audit conducted in accordance with the audit and reporting standards as prescribed in OMB Circular A-133. The audit must include the Reporting Package as outlined in OMB Circular A-133. Area Agency's contract numbers and award amounts must be included in a separate schedule, if not included on the Schedule of Federal Financial Assistance. A copy of the Audit Report, Management Letter and Auditors Opinion must be submitted to the Department's Office of Audit and Management Services within thirty (30) days after completion of the audit to the Department person designated to receive notices.

ii. All Contractors are subject to the programmatic and fiscal monitoring requirements of Area Agency to ensure accountability of the delivery of all goods and services, as required under the Federal Single Audit Act. A minimum fiscal requirement for all Contractors designated as vendors is an annual financial audit which includes Area Agency contract numbers and award amounts. The Audit Report, Management Letter and Auditor's Opinion must be submitted to Area Agency within thirty (30) days after the completion of the audit.

iii. As prescribed in OMB Circular A-133, for-profit subrecipients are subject to compliance requirements established by the Area Agency. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, Area Agency monitoring during the contract, and post-award audits.

iv. Audits of non-profit corporations receiving federal or state monies required pursuant to federal or state law must be conducted as provided in 31 U.S.C. 7501 et seq. and A.R.S. §35-181.03 and any other applicable statutes, rules, regulations and standards.

b. Books and Records The following terms are in addition to the terms and conditions in section *3.a. Records* of the Uniform Terms and Conditions.

i. Contract service records will be maintained in accordance with this contract, amendment, scope(s) of service, service specification(s), and any other Area Agency policies and directives. Any such records not maintained shall mandate an audit exception in the amount of the inadequately documented expenditures.

ii. Records shall, as applicable, meet the following standards:

1. Adequately identify the service provided and each service recipient's application for contract and subcontract activities;
2. Maintain client signatures signifying receipt of each unit of service.

3. Include personnel records which contain applications for employment, job titles and descriptions, hire and termination dates, a copy of fingerprint clearance card, wage rates, and effective dates of personnel actions affecting any of these items;
4. Include time and attendance records for individual employees to support all salaries and wages paid;
5. Include records of the source of all receipts and the deposit of all funds received by the Contractor;
6. Include original invoices, statements, sales tickets, billings for services, deposit slips, etc, and a cash disbursement journal and cancelled checks to reflect all disbursements applicable to the contract;
7. Include a complete general ledger with accounts for the collection of all costs and/or fees applicable to the contract; and,
8. Include copies of lease/rental agreements, mortgages and/or any other agreements which in any way may affect contract expenditures.

iii. Contractor shall preserve and make available all records for a period of five (5) years from the date of final payment under this contract except as provided in paragraphs 32.3.1 and 32.3.2 below:

1. If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of five years from the date of any such termination.
2. Records which related to disputes, litigation or the settlement of claims arising out of the performance of this contract, or costs and expenses of this contract to which exception has been taken by the Area Agency, shall be retained by the Contractor until such disputes, litigations, claims or exceptions have been disposed of.

c. Certification of Cost or Pricing Data By signing the offer, the contract, change order, contract amendment or other official form, the Contractor is certifying that, to the best of the Contractor's knowledge and belief, any cost or pricing data submitted is accurate, complete and current as of the date submitted or other mutually agreed upon date. Furthermore, the price to the Area Agency shall be adjusted to exclude any significant amounts by which the Area Agency finds the price was increased because the Contractor-furnished cost or pricing data was inaccurate, incomplete or not current as of the date of certification. Such adjustment by the Area Agency may include overhead, profit, or fees. The certifying of cost or pricing data does not apply when contract rates are set by law or regulation.

d. Certification of Rate and/or Budget Contractor certifies the following:

i. The contract Rate or Budget set forth in this contract was prepared in accordance with applicable Area Agency guidelines and procedures;
ii. The information which was provided to Area Agency by the Contractor for use as a basis in approving the compensation budget or rate is accurate and in accordance with the "Unallowable Costs" section of these terms and conditions;
iii. Similar types of costs were accorded consistent accounting treatment in the development of the compensation section; and
iv. No costs are included as both direct and indirect costs.
v. The Contractor agrees that the funds received under this contract will be expended to achieve the purposes of this contract and to meet costs defined as allowable in applicable federal or state laws, rules, regulations and guidelines. For contracts where costs are reimbursed, any costs deemed unallowable as determined by a financial audit shall be subject to recoupment pursuant to "Personnel" section. The Contractor shall be entitled to appeal such determination through Area Agency's appeal process.

e. Competitive Bidding Contractor is authorized to purchase the supplies and equipment itemized in the contract or specified in an amendment for utilization in the delivery of contract services. Contractor shall procure all such supplies and equipment at the lowest practicable cost and shall purchase all non-expendable items, having a useful life of more than one year and an acquisition cost of $1,000 or more, through generally accepted and reasonable competitive bidding processes.

Any procurement in violation of this provision shall be considered a financial audit exception. The documentation of bids and bid acceptance decision must be maintained for Area Agency review.

f. Equipment

i. If the Contractor is authorized, specifically by the Area Agency, to purchase equipment, it shall be itemized in the contract or in the Terms of the amendment for utilization in the delivery of contract services. If equipment purchased as authorized by this contract, the Contractor shall maintain complete and up-to-date inventory records for all equipment purchased hereunder. Equipment specifically designated with this contract, to be purchased in whole or part with Area Agency funds, shall be reported in accordance with Area Agency Finance Manual inventory policies and procedures. The Contractor shall report equipment purchased with contract funds to Area Agency within thirty (30) days of purchase, perform an annual inventory of all equipment purchased with Area Agency funds and submit the equipment inventory to the Area Agency. Reimbursement claims for equipment must include the detailed receipt identifying the equipment item, cost including taxes, shipping, and installation, and the type(s) of funds used from the Area Agency.

ii. The Area Agency and its funding sources shall retain an equitable interest equal to the purchase price paid, or a fair estimate or appraisal of current market value, whichever is greater, in all equipment purchased or assigned to the Contractor for the purposes of this contract. Area Agency shall be included as a co-insured on any insurance policy which covers equipment purchased under this contract.

iii. The Contractor shall not dispose of any equipment purchased or assigned under this contract without the prior written consent of Area Agency during and after the contract term. Such consent, if given, may include direction as to the means of disposition and the utilization of proceeds, including any necessary adjustments to the contract.

iv. Upon termination of this contract, any equipment purchased or assigned under this contract shall be disposed of as directed by Area Agency and, if sold, Area Agency shall be compensated in the amount of its equitable interest.

g. Fingerprinting The provisions of A.R.S. §46-141 (as may be amended), are hereby incorporated in their entirety as provisions of this contract. For reference, these provisions include, but are not limited to, the following:

i. Personnel who are employed by the Contractor, whether paid or not, and who are required or allowed to provide services directly to juveniles or vulnerable adults shall submit a full set of fingerprints to the Contractor. The Contractor shall obtain a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544 or shall apply for fingerprint clearance card within seven working days of employment. The Contractor is required to maintain complete documentation of all personnel checks to certify and demonstrate all personnel have demonstrated clearance.

ii. The provider shall assume the costs of fingerprint checks and may charge these costs to its fingerprinted personnel. Area Agency may allow all or part of the costs of fingerprint checks to be included as an allowable cost in a contract.

iii. Except as provided in A.R.S. §46-141, this contract may be cancelled or terminated immediately if a person employed by the Contractor and who has contact with juveniles or vulnerable adults certifies pursuant to the provisions of A.R.S. §46-141 (as may be amended) that the person is awaiting trial or has been convicted of any of the offenses listed therein in this State, or of acts committed in another state that would be offenses in this State, or if the person does not possess or is denied issuance of a valid fingerprint clearance card.

iv. Personnel who are employed by any Contractor, whether paid or not, and who are required or allowed to provide services directly to juveniles or vulnerable adults shall certify on forms provided by the Department of Economic Security and notarized whether they are awaiting trial on or have ever been convicted of any of the offenses described in A.R.S. §46-141 (as may be amended).

v. Personnel who are employed by any Contractor, whether paid or not, and who are required

or allowed to provide services directly to juveniles or vulnerable adults shall certify on forms provided by the Department of Economic Security and notarized whether they have ever committed any act of sexual abuse of a child or vulnerable adults, including sexual exploitation and commercial sexual exploitation, or any act of child or adult abuse.

vi. Federally recognized Indian tribes or military bases may submit and the Department of Economic Security shall accept certifications that state that no personnel who are employed or who will be employed during the contract term have been convicted of, have admitted committing, or are awaiting trial on any offense as described in A.R.S. §46-141 (H) (as may be amended).

h. Payment Indemnification The Contractor shall be responsible for issuing payment for services performed by the Contractor's employees, subcontractors, suppliers, or any other third party incurred in the furtherance of the performance or the arising out of the contract and will indemnify and save the Area Agency harmless for all claims whatsoever out of the lawful demands of such parties. The Contractor shall, at the Area Agency's request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived.

i. Payment Recoupment Contractor must reimburse Area Agency upon demand or Area Agency may deduct from future payments the for the items below. As well, if Area Agency determines by an audit that the Contractor has improperly spent any monies paid to it under this contract, the Contractor agrees that Area Agency immediately may record or obtain a lien in the amount of such determination against real property and any other assets of the Contractor, and the Contractor shall sign all documents the Area Agency deems necessary to protect such liens. Failure to sign any such documents shall be a material breach of this contract.

i. Any amounts received by the Contractor from Area Agency for contract services which have been inaccurately reported or are found to be unsubstantiated;

ii. Any amounts paid by the Contractor to a subcontractor not authorized in writing by Area Agency;

iii. Any amount or benefit paid directly or indirectly to an individual or organization not in accordance with the "Substantial Interest" and/or "Conflict of Interest" sections of these terms and conditions;

iv. Any amounts paid by Area Agency for services which duplicate services covered or reimbursed by other specific grants, contracts, or payments;

v. Any amounts expended for items or purposes determined unallowable by Area Agency. When this contract provides for the reimbursement of costs, see the "Unallowable Costs" section of these terms and conditions;

vi. Any amounts paid by Area Agency for which the Contractor's books, records, and other documents are not sufficient to clearly substantiate that those amounts were used by the Contractor to perform contract services;

vii. Any amounts received by the Contractor from Area Agency which are identified as a financial audit exception;

viii. Any amounts paid or reimbursed in excess of the contract or service reimbursement ceiling;

ix. Any amounts paid to the Contractor which are subsequently determined to be defective pursuant to the "Certification of Cost or Pricing Data" section of these terms and conditions;

x. Any payments made for services rendered before the contract begin date or after the contract termination date.

j. Reporting Requirements

i. Unless otherwise provided in this contract, reporting shall adhere to the following schedule: no later than the tenth (10th) day following each month during the contract term the Contractor shall submit to Area Agency programmatic and financial reports in the form set forth as required by the Area Agency. Failure to submit accurate and complete reports by the tenth (10th) day following the end of a month may result, at the option of Area Agency, in retention of payment. Failure to provide such report within forty-five (45) days following the end of a month may result, at the option of Area Agency, in a forfeiture of such payment.

ii. No later than the twenty-fifth (25th) day following the termination of this contract, Contractor shall submit to Area Agency a final program and fiscal report. Failure to submit the final program and fiscal report within the above time period may result, at the option of Area Agency, in forfeiture of final payment.

k. Supporting Documents and Information In addition to any documents, reports or information required by any other section of this contract, Contractor shall furnish Area Agency with any further documents and information deemed necessary by Area Agency. Upon receipt of a request for information from DES, the Contractor shall provide complete and accurate information no later than fifteen (15) days after the receipt of the request.

l. Unallowable Costs The cost principles set forth in the Code of Federal Regulations, 48 CFR, Chapter 1, Subchapter e, Part 31, (October 1, 1991), excluding later amendments and editions, on file with the Arizona Secretary of State and incorporated by this reference, shall be used to determine the allowability of incurred costs for the purpose of reimbursing costs under contract provisions that provide for the reimbursement of costs. Those costs which are specifically defined as unallowable therein will not be submitted for reimbursement by the Contractor and may not be reimbursed with Area Agency funds. In addition, the Contractor shall comply with the following publications as applicable:

i. OMB Circular A-87 for State, local and Indian tribal governments.
ii. OMB Circular A-122 for private nonprofit organizations other than institutions of higher education, hospitals or others specified in A-122.
iii. OMB Circular A-21 for educational institutions.
iv. OMB Circular A-133 for audits of institutions of higher education and other non-profit institutions.

8. Contract Performance Terms

a. Evaluation Area Agency may evaluate and the Contractor shall cooperate in the monitoring, assessing, and evaluation of contract services. Evaluation may assess the quality and impact of contract services, either in isolation or in comparison with other similar services, and assess the Contractor's progress and/or success in achieving the goals, objectives and deliverables set forth in this contract.

b. Monitoring Area Agency may monitor the Contractor and/or subcontractor and they shall cooperate in the monitoring of services delivered, facilities and records maintained and fiscal practices.

c. Non-Discrimination In addition to the terms and conditions in section *3.b. Discrimination* of the Uniform Terms and Conditions, the following shall apply:

i. Unless exempt under federal law, the Contractor shall comply with Title VII of the Civil Rights Act of 1964 as amended and the Age Discrimination in Employment Act. The Contractor shall comply with the Rehabilitation Act of 1973, as amended, which prohibits discrimination in the employment or advancement in employment of qualified persons because of physical or mental handicap. The Contractor shall comply with the requirements of the Fair Labor Standards Act of 1938, as amended.
ii. If Contractor is an Indian Tribal government, Contractor shall comply with the Indian Civil Rights Act of 1968. It shall be permissible for an Indian Tribal Contractor to engage in Indian preference in hiring.
iii. The Contractor shall comply with Title VI of the Civil Rights Act of 1964, which prohibits the denial of benefits of or participation in contract services on the basis of race, color, or national origin. The Contractor shall comply with the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, in delivering contract services and with Title II of the Americans with Disabilities Act, and the Arizona Disability Act, which prohibit discrimination on the basis of physical or mental disabilities in the provision of contract programs, services, and activities.
iv. The following shall be included in all publications, forms, flyers, etc. that are distributed to recipients of contract services:

"Under the Americans with Disabilities Act, the (insert Contractor name here) must make a reasonable accommodation to allow a person with a disability to take part in a program, service, or activity. For example, this means that if necessary, the (insert Contractor name here) must provide sign language interpreters for people who are deaf, a wheelchair accessible location, or enlarged print materials. It also means that the (insert Contractor name here) will take any other reasonable action that allows you to take part in and understand a program or activity, including making reasonable changes to an activity. If you believe that you will not be able to understand or take part in a program or activity because of your disability, please let us know of your disability needs in advance if at all possible. Please contact: (insert Contractor contact person and phone number here)"

d. Personnel The Contractor's personnel shall satisfy all qualifications, carry out all duties, and work the hours set forth in this contract.

e. Professional Standards The Contractor shall deliver contract services in a humane and respectful manner and in accordance with any and all applicable professional accreditation standards. Levels of staff qualifications, professionalism, numbers of staff and individuals identified by name must be maintained as presented in the contract.

f. Visitation, Inspection, and Copying Contractor's or subcontractor's facilities, services and individuals served, books and records pertaining to the contract shall be available for visitation, inspection and copying by Area Agency and any other appropriate agent of the state or federal government. At the discretion of Area Agency, visitation, inspection and copying may be at any time during regular business hours, announced or unannounced. If Area Agency deems it to be an emergency situation, it may at any time visit and inspect the Contractor's or subcontractor's facilities, services, and individuals served, as well as inspect and copy their contract-related books and records.

9. Programmatic Terms

a. Client Contributions, Fees, and Program Income The Contractor shall impose no fees or charges of any kind upon recipients of contract services without written approval from the Area Agency President/CEO. The Contractor shall solicit voluntary contributions from recipients/clients for services received. The Contractor shall not deny service to any client solely because he/she refuses to make a contribution. Any contributions generated and received by the Contractor as a result of contract services must be directly allocated to the contracted service and shall be disposed of and reported in accordance with the Area Agency Finance Manual.

b. Confidentiality Contractor shall observe and abide by all applicable State and Federal statues, rules, and regulations regarding the use or disclosure of information including, but not limited to, information concerning applicants for and recipients of contract services. To the extent permitted by law, the Contractor shall release information to the Area Agency and/or the Attorney General's Office as required by the terms of this contract, by law, or upon their request.

c. Fair Hearings and Service Recipients' Grievances

   i. The Contractor shall advise all applicants for and recipients of contract services of their right, at anytime and for any reason, to present to the Contractor and to Area Agency any grievances arising from the delivery of contract services, including but not limited to ineligibility determination, reduction of services, suspension or termination of services, or quality of services. The Area Agency may assert its jurisdiction to hear the grievance or refer the matter to the appropriate authority.

   ii. The Contractor, whenever authorized by law, shall maintain a formal system acceptable to and approved by the Area Agency for reviewing and adjudicating grievances by service recipients or subcontractors arising from this contract.

d. Outcome Measurement Participation The Contractor shall participate with the Area Agency in efforts to comply with federal and state mandated requirements regarding the tracking of outcome measurement performance data and standards. Measurement data may be developed through joint planning efforts between the Contractor and the Area Agency or required as a result of mandates from federal or state fund sources.

III. PROVIDER SPECIFIC TERMS FOR PROGRAMS WITH ALTCS FUNDED SERVICES

Based on the Area Agency on Aging's contract with the ALTCS program of services, the following provisions are required for each subcontract. These provisions are verbatim to AHCCCS requirements.

MINIMUM SUBCONTRACT PROVISIONS

1. DEFICIT REDUCTION ACT OF 2005 TRAINING Contractors shall provide education and training to all staff on the following aspects of the Federal False Claims Act of 2005: (a) the administrative remedies for false claims and statements, (b) any state laws relating to civil or criminal penalties for false claims and statements, and (c) the whistleblower protections under such laws.

2. EVALUATION OF QUALITY, APPROPRIATENESS, OR TIMELINESS OF SERVICES The Arizona Health Care Cost Containment System Administration (AHCCCSA) or the U.S. Department of Health and Human Services may evaluate, through inspection or other means, the quality, appropriateness or timeliness of services performed under this subcontract.

3. RECORDS AND REPORTS The Contractor shall maintain all forms, records, reports and working papers used in the preparation of reports, files, correspondence, financial statements, records relating to quality of care, medical records, prescription files, statistical information and other records specified by AHCCCSA for purposes of audit and program management. The Contractor shall comply with all specifications for record-keeping established by AHCCCSA. All books and records shall be maintained to the extent and in such detail as shall properly reflect each service provided and all net costs, direct and indirect, of labor, materials, equipment, supplies and services, and other costs and expenses of whatever nature for which payment is made to the Contractor. Such material shall be subject to inspection and copying by the state, AHCCCSA and the U.S. Department of Health and Human Services during normal business hours at the place of business of the person or organization maintaining the records.

   The Contractor agrees to make available at the office of the Contractor, at all times reasonable times, any of its records for inspection., audit or reproduction, by any authorized representative of the state or federal governments.

   The Contractor shall preserve and make available all records for a period of five years from the date of final payment under this subcontract except as provided in paragraphs a. and b. below:

   A. If this subcontract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of five years from the date of any such termination.
   B. Records which relate to disputes, litigation or the settlement of claims arising out of the performance of this subcontract, or costs and expenses of this subcontract to which exception has been taken by the state, shall be retained by the Contractor until such disputes, litigation, claims or exceptions have been disposed of.

   The Contractor shall provide all reports requested by AHCCCSA, and all information from records relating to the performance of the Contractor which AHCCCSA may reasonably require. The Contractor reporting requirements may include, but are not limited to, timely and detailed utilization statistics, information and reports.

4. LIMITATIONS ON BILLING The Contractor shall not bill, nor attempt to collect payment directly or through a collection agency from a person claiming to be AHCCCS eligible without first receiving verification from AHCCCSA that the person was ineligible for AHCCCS on the date of service, or that services provided were not AHCCCS covered services. This provision shall not apply to patient contributions to the cost of services delivered by nursing homes.

5. ASSIGNMENT AND DELEGATION OF RIGHTS AND RESPONSIBILITIES No payment due the Contractor under this subcontract may be assigned without the prior approval of AHCCCSA. No assignment or delegation of the duties of this subcontract shall be valid unless prior written approval is received from AHCCCSA.

6. APPROVAL OF SUBCONTRACTS, AMENDMENTS OR TERMINATIONS This subcontract is subject to prior approval by AHCCCSA. The prime Contractor shall notify AHCCCSA in the event of any proposed amendment or termination during the term hereof. Any such amendment or termination is subject to the prior approval of AHCCCSA. Approval of the subcontract may be rescinded by the Director of AHCCCSA for violation of federal or state laws or rules.

7. WARRANTY OF SERVICES The Contractor, by execution of this subcontract, warrants that it has the ability, authority, skill, expertise and capacity to perform the services specified in this contract.

8. SUBJECTION OF SUBCONTRACT The terms of this subcontract shall be subject to the applicable material terms and conditions of the contract existing between the Contractor and AHCCCSA for the provision of covered services.

9. AWARDS OF OTHER SUBCONTRACTS AHCCCSA and/or the prime Contractor may undertake or award other contracts for additional or related work to the work performed by the Contractor and the Contractor shall fully cooperate with such other contractors, subcontractors or state employees. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor, subcontractor or state employee.

10. INDEMNIFICATION BY CONTRACTOR The Contractor agrees to hold harmless the state, all state officers and employees, AHCCCSA and other appropriate state agencies, and all officers and employees of AHCCCSA and all AHCCCS eligible persons in the event of nonpayment to the Contractor. The Contractor shall further indemnify and hold harmless the state, AHCCCSA, other appropriate state agencies, AHCCCS contractors, and their agents, officers and employees against all injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs and expenses which may, in any manner, accrue against the State, AHCCCSA or its agents, officers or employees, or AHCCCS contractors, through the intentional conduct, negligence or omission of the Contractor, its agent, officers or employees.

11. MAINTENANCE OF REQUIREMENTS TO DO BUSINESS AND PROVIDE SERVICES The Contractor shall be registered with AHCCCSA and shall obtain and maintain all licenses, permits and authority necessary to do business and render service under this subcontract and, where applicable, shall comply with all laws regarding safety, unemployment insurance, disability insurance and worker's compensation.

12. COMPLIANCE WITH LAWS AND OTHER REQUIREMENTS The Contractor shall comply with all federal, State and local laws, rules, regulations, standards and executive orders governing performance of duties under this subcontract, without limitation to those designated within this subcontract.

13. SEVERABILITY If any provision of these standard subcontract terms and conditions is held invalid or unenforceable, the remaining provisions shall continue valid and enforceable to the full extent permitted by law.

14. VOIDABILITY OF SUBCONTRACT This subcontract is voidable and subject to immediate termination by AHCCCSA upon the Contractor becoming insolvent or filing proceedings in bankruptcy or reorganization under the United States Code, or upon assignment or delegation of the subcontract without AHCCCS's prior written approval.

15. CONFIDENTIALITY REQUIREMENT Confidential information shall be safeguarded pursuant to 42 CFR Part 431, Subpart F, A.R.S. §36-107, 36-2903, 41-1959 and 46-135, and AHCCCS and/or ALTCS Rules.

16. GRIEVANCE AND REQUEST FOR HEARING PROCEDURES Any grievance and request for hearings filed by the Contractor shall be adjudicated in accordance with AHCCCS Rules.

17. TERMINATION OF SUBCONTRACT AHCCCSA may, by written notice to the Contractor, terminate this subcontract if it is found, after notice and hearing by the State, 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 State with a view towards securing a contract or securing favorable treatment with respect to the awarding, amending or the making of any determinations with respect to the performance of the Contractor; provided, that the existence of the facts upon which the state makes such findings shall be in issue and may be reviewed in any competent court. If the subcontract is terminated under this section, unless the prime contractor is a governmental agency, instrumentality or subdivision thereof, AHCCCSA shall be entitled to a penalty, in addition to any other damages to which it may be entitled by law, and to exemplary damages in the amount of three times the cost incurred by the Contractor in providing any such gratuities to any such officer or employee.

18. PRIOR AUTHORIZATION AND UTILIZATION REVIEW The prime contractor and Contractor shall develop, maintain and use a system for Prior Authorization and Utilization Review which is consistent with AHCCCS Rules and the prime contractor's policies.

19. NON-DESCRIMINATION REQUIREMENT If applicable, the Contractor shall comply with:
    A. The Equal Pay Act of 1963, as amended, which prohibits sex discrimination in the payment of wages to men and women performing substantially equal work under similar working conditions in the same establishment.
    B. Title VI of the Civil Rights Act of 1964, as amended, which prohibits the denial of benefits of, or participation in, contract services on the basis of race, color, or national origin.
    C. Title VII of the Civil Rights Act of 1964, as amended which prohibits private employers, state and local governments, and educational institutions from discriminating against their employees and job applicants on the basis of race, religion, color, sex, or national origin.
    D. Title VII of the Civil Rights Act of 1964, as amended which prohibits private employers, state and local governments, and educational institutions from discriminating against their employees and job applicants on the basis of race, religion, color, sex, or national origin.
    E. The Civil Rights Act of 1991, which reverses in whole or in part, several recent Supreme Court decisions interpreting Title VII.

    F. The Age Discrimination in Employment Act (A.R.S. Title 41-1461, et seq.); which prohibits discrimination based on age.
    G. State Executive Order 99-4 and Federal Order 11246 which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation, shall have equal access to employment opportunities.
    H. Section 503 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination in the employment or advancement of the employment of qualified persons because of physical or mental handicap.
    I. Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in delivering contract services.

20. COMPLIANCE WITH AHCCCS RULES RELATING TO AUDIT AND INSPECTION The Contractor shall comply with all applicable AHCCCS Rules and Audit Guide relating to the audit of the Contractor's records and the inspection of the Contractor's facilities. If the Contractor is an inpatient facility, the Contractor shall file uniform reports and Title XVIII and Title XIX cost reports with AHCCCSA.

21. CERTIFICATION OF TRUTHFULNESS OF REPRESENTATION By signing this subcontract, the Contractor certifies that all representations set forth herein are true to the best of its knowledge.

22. CERTIFICATION OF COMPLIANCE – ANTI-KICKBACK AND LABORATORY TESTING By signing this subcontract, the Contractor certifies that it has not engaged in any violation of the Medicare Anti-Kickback statute (42 USC §§1320a-7b) or the "Stark I" and "Stark II" laws governing related-entity referrals (PL 101-239

and PL 101-432) and compensation therefrom. If the Contractor provides laboratory testing, it certifies that it has complied with 42 CFR §411.361 and has sent to AHCCCSA simultaneous copies of the information required by that rule to be sent to the Health Care Financing Administration.

23. CONFLICT OF INTERPRETATION OF PROVISIONS In the event of any conflict in interpretation between provisions of this subcontract and the AHCCCS Minimum Subcontract Provisions, the latter shall take precedence.

24. ENCOUNTER DATA REQUIREMENT If the Contractor does not bill the prime contractor (e.g., Contractor is capitated), the Contractor shall submit encounter data to the prime contractor in a form, acceptable to AHCCCSA.

25. CLINICAL LABORATORY IMPROVEMENT AMENDMENT (CLIA) OF 1988 The Clinical Laboratory Improvement Amendment (CLIA) of 1988 requires laboratories and other facilities that test human specimens to obtain either a CLIA Waiver or CLIA Certificate in order to obtain reimbursement from the Medicare and Medicaid (AHCCCS) programs. In addition, they must meet all the requirements of 42 CFR 493, Subpart A. To comply with these requirements, AHCCCSA requires all clinical laboratories to provide verification of CLIA Licensure or Certificate of Waiver during the provider registration process. Failure to do so shall result in either a termination of an active provider ID number or denial of initial registration. These requirements apply to all clinical laboratories. Pass-through billing or other similar activities with the intent of avoiding the above requirements are prohibited. Prime contractor may not reimburse providers who do not comply with the above requirements.

26. INSURANCE *[This provision applies only if the Contractor provides services directly to AHCCCS members]* The Contractor shall maintain for the duration of this subcontract a policy or policies of professional liability insurance, comprehensive general liability insurance and automobile liability insurance. The Contractor agrees that any insurance protection required by this subcontract, or otherwise obtained by the Contractor, shall not limit the responsibility of Contractor to indemnify, keep and save harmless and defend the State and AHCCCSA, their agents, officers and employees as provided herein. Furthermore, the Contractor shall be fully responsible for all tax obligations, Worker's Compensation Insurance, and all other applicable insurance coverage, for itself and its employees, and AHCCCSA shall have no responsibility or liability for any such taxes or insurance coverage.

27. FRAUD AND ABUSE If the Contractor discovers, or is made aware, that an incident of potential fraud or abuse has occurred, the Contractor shall report the incident to the prime contractor, who shall proceed in accordance with the *AHCCCS Health Plans and Program Contractors Policy for Prevention, Detection and Reporting of Fraud and Abuse.* Incidents involving potential member eligibility fraud should be reported to AHCCCSA, Office of Managed Care, Member Fraud Unit. All other incidents of potential fraud should be reported to AHCCCSA, Office of the Director, Office of Program Integrity. (See AHCCCS Rule R9-22-511.

28. DEFICIT REDUCTION ACT OF 2005 Contractor will train all staff on the following aspects of the Federal False Claims act: (1) administrative remedies for false claims and statements; (2) state laws relating to civil or criminal penalties for false claims and statements; and (3) whistleblower protection laws. Contractors will retain documentation of such training to include, but not limited to: materials presented and/or distributed, date, duration, and attendance of training, employee signatures acknowledging training and compliance.

IV. SPECIAL TERMS FOR SCAATS™ LICENSE & USER AGREEMENT

These Special Terms govern City of Avondale ("Licensee") use of the Business Innovations LLC ("Licensor") software known as SCAATS™ as purchased/obtained by Area Agency on Aging, Region One.

1. Ownership SCAATS™ software product is licensed to the Licensee by the Licensor, not sold. Licensor owns all copyright, trade secret, trademark, patent, and other proprietary rights to SCAATS™, which Licensee agrees to preserve.
2. Authorized Use Unless otherwise specifically provided in writing by Licensor and Area Agency (in which case specified usage rights apply), Licensor grants Licensee a nonexclusive, nontransferable, non-sublicensable, limited license to use SCAATS™ at specifically licensed stations.
3. Licenses Licensee will only operate SCAATS™ at the designated number of licensed computer station(s) and server(s) as identified below:

   Computer Station(s) and general locations:

   1 - desk-top at Avondale Senior Center, 1007 S 3rd St, Avondale, AZ

   Server(s) and general location: N/A
4. Technical Support from Area Agency Area Agency agrees to provide three specific venues of technical support: (1) software user training, (2) SCAATS™ system support, and (3) installation or relocation of SCAATS™ to computer stations upon implementation of license requirements with Licensor.
   - User Training shall include telephone assistance and formal training sessions.
     i. Telephone assistance will include access to Licensee's computer via remote access services. The remote access provider will be established by Area Agency and shall include permissions protocol from Licensee for each Area Agency remote access.
     ii. Annual full SCAATS™ training as well as quarterly sessions for user updates. Licensee may request additional training.
   - SCAATS™ System Support will be provided through agreement with Licensor through Area Agency. Area Agency authorizes Licensor access Licensee's server/computer system via Log Me In connective services. Area Agency will fund the. If errors are detected within the SCAATS™ software, corrections will be made by agreement between Area Agency and Licensor. Errors that are detected within the Licensee's equipment or computer configurations or due to Licensee's mis-use of SCAATS™ the Licensee will be responsible for full correction and all related expenses. Licensor is available to the Licensee at an hourly rate of ninety-five dollars ($95) for computers and one hundred dollars ($100) for servers Monday through Friday, 8am to 5pm.
   - Area Agency will provide installation or relocation of SCAATS™ to computer stations. Licensee is responsible for the licensing fee(s) to add new computer stations for operations of SCAATS™. License fees are three hundred, fifty dollars ($350) per station, payable directly to Licensor.
5. SCAATS™ and Computer Support responsibilities of Licensee Licensee agrees to properly maintain all computer equipment for the highest functionality of the SCAATS™ software including but not limited to the following aspects:
   - Will participate with Area Agency for remote access services for technical assistance and SCAATS™ system support.
   - Daily back-ups of the SCAATS™ database through a viable system that must ensure data recovery. Detailed information about this back-up system submitted by the Licensee to the Area Agency on Aging, Region One upon request.
   - Annual maintenance checks of all equipment and hardware including printers.
   - Equipment repairs as malfunctions or damage occur to computer(s) or server(s).
   - Enhancements to ensure maximum functionality of computer(s) or server(s).
6. Restrictions Licensee shall not (and shall not allow any third party to) (i) decompile, disassemble, or otherwise reverse engineer (except to the extent that applicable law prohibits reverse engineering restrictions) or attempt to reconstruct or discover any source code, underlying ideas, algorithms, file formats or programming or interoperability interface of SCAATS™ by any means whatsoever, (ii) remove any product identification, copyright, or other notices, (iii) provide, lease, lend, use for timesharing service bureau or hosting purposes or

otherwise use or allow others to use SCAATS™ for the benefit of third parties, (iv) modify or incorporate into or with other software or create a derivative work of any part of SCAATS™ without written permission from the Licensor or authorized agent, (v) disseminate information or analysis (including without limitation, benchmarks) regarding the quality or performance of SCAATS™ (vi) use the output or other information generated by SCAATS™ (including, without limitation, output describing the structure of the software program) for any purposes other than use by this Agreement, or (vii) resell, sublicense, distribute, or transfer SCAATS™ or any component thereof to any third party. Notwithstanding anything else, Licensor retains all title to and except as expressly licensed herein, all rights to SCAATS™ all copies thereof. Licensee must reproduce and include the copyright notice and other proprietary notices that appear on the original SCAATS™ product on any copies and any media thereof made in accordance with the terms of this Agreement.

7. Audit By signature below, Licensee certifies that SCAATS™ is being used pursuant to the terms of this Agreement. With prior reasonable notice, Licensor may audit the number of locations of SCAATS™ in use by Licensee provided such audit is during normal business hours. Licensee is responsible for such audit costs only in the event the audit reveals a material discrepancy or material breach on the part of the Licensee.
8. Remedies and Legal Actions The failure of either party to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this Agreement or to the exercise any right hereunder, shall not be construed as a waiver or relinquishment of the future performance of any rights, and the obligations of the party with respect to such future performance shall continue in full force and effect. The remedies under this Agreement shall be cumulative and not alternative and the election of one remedy for a breach shall not preclude pursuit of other remedies unless as expressly provided in this Agreement. This Agreement shall be governed in all respects by the substantive laws of the Great State of Arizona, United States of America (excluding conflict of laws rules) as applied to agreements entered into and to be performed entirely within the Great State of Arizona between Arizona residents, without regard to the U.N. Convention on Contracts for International Sales of Goods. Any dispute regarding this Agreement involving the Licensor shall be subject to the exclusive jurisdiction of the Arizona state courts in and for Maricopa County, Arizona, or if there is federal jurisdiction, the identified United States District, and the parties agree to submit to the personal and exclusive jurisdiction and venue of these courts. The prevailing party in any legal action brought by one party against the other and arising out of this Agreement will be entitled, in addition to any other rights and remedies it may have, to reimbursement for its expenses, including court costs and reasonable attorneys' fee. Licensor is an express third party beneficiary of this Agreement and can enforce this Agreement as to a party hereto.
9. Assignment Licensee shall not assign or otherwise transfer any of its rights, obligations, or license hereunder, including any assignment by operation of law as a result of the merger or acquisition or otherwise. For the purposes of this Agreement, a change of control shall be deemed an assignment. Subject to the foregoing, the provisions of this Agreement shall apply to and bind the successors and permitted assigns of the parties.

CONGREGATE MEALS

I. SERVICE DEFINITION

A service that provides for a nutritious meal containing at least ⅓ of the Recommended Dietary Allowance for an individual in a congregate setting. This service provides for menu planning, meal preparation and service, staff training, nutrition education, and social interaction.

II. PROGRAM INFORMATION

a. The Aging and Adult Administration, through its contracts with the Area Agencies on Aging, shall provide nutrition services to "participants" - older adults and eligible persons with disabilities. For older adults, adequate nutrition may be especially important because of their vulnerability to chronic disease and condition which may impair their ability to function, their access to adequate food and nutrition, and their ability to live at home in the community. The old-old, minority individuals, low-income individuals, individuals who live alone, individuals with disabling conditions particularly those that interfere with their ability to shop and cook for themselves, and individuals with multiple chronic diseases may be at highest risk for poor nutrition and the resultant health consequences. Adequate nutrition is integral to healthy aging and the prevention or delay of chronic disease and disease-related disabilities. Congregate nutrition services improve participants' physical and mental health and prevent more costly interventions. This service provides for menu planning, meal preparation and service, staff training, nutrition education, and social interaction.

III. REPORTING UNIT

a. One unit of service equals one meal.

IV. LICENSURE REQUIREMENTS

The Contractor shall comply with the following licensure requirements:

a. Prepare and serve congregate meals in compliance with all municipal, county, state, and federal licensure and/or storage requirements related to food handling and distribution.

V. SERVICE STANDARDS

The Contractor shall comply with the following service standards:

a. Registered Dietitians and Registered Dietetic Technicians shall be individuals who meet the requirements for membership in the American Dietetic Association, have successfully completed the examination for registration, and who maintain continuing education requirements.
b. Nutritionists shall be individuals with a Bachelor's or Master's degree in food and nutrition.
c. Certified Dietary Managers shall be individuals who meet the requirements for certification as identified by the Certifying Board of Dietary Managers of the Dietary Managers Association and who maintain continuing education requirements.

VI. SERVICE REQUIREMENTS

The Contractor shall comply with the following service requirements:

a. Menu planning
    i. Develop cycle menus to be used on a quarterly basis (every 3 months). A cycle menu is a six or more week menu that will be rotated throughout the quarter.
    ii. Keep menus available for audit inspection for at least one year after the meals have been served. Menus must also be kept for at least one year at the meal preparation site and the location where the meal was served.
    iii. Plan menus with input from service participants.
    iv. Write menus in the dominant language or languages of the participant group for each site.

v. Accommodate ethnic and cultural preferences of participants when planning menus.
vi. Plan, prepare, provide and serve meals in accordance with the Arizona Department of Economic Security Aging and Adult Administration "Nutrition and Food Service Management Manual" and as may be amended from time to time.
vii. Ensure that each meal contains at least one-third (⅓) of the current Recommended Dietary Allowance of nutrients, as established by the Food and Nutrition Board of the National Academy of Science – National Research Council. Each meal must contain at least 600 calories but not more than 1,000 calories. Plan menus as hot meals. A cold meal may be planned occasionally to add variety to the menu, such as chef salad, or sub sandwich.
viii. Submit menus on the standardized menu form and secure the approval of a Registered Dietitian (R.D.), Nutritionist, Dietetic Technician Registered (DTR), or Certified Dietary Manager (CDM) prior to serving. The R.D., Nutritionist, DTR, or CDM will verify this by computerized nutritional analysis of at least one meal per week of the menu cycle and adherence to menu requirements in the Arizona Department of Economic Security Aging and Adult Administration "Nutrition and Food Service Management Manual" and as may be amended from time to time.
ix. Plan menus to reduce the frequent use of foods high in sugar, salt, and saturated fats.
x. Plan menus considering the availability of foods during seasons when they are most plentiful.

b. Meal preparation and service
i. Prepare or arrange for preparation and service of meals, and adhere to menus as written. Substitutions which must be made because of a temporary inability to obtain certain foods must be selected from the same food group, for example, ½ cup carrots for ½ cup green beans. Substitution menus for holidays and special occasions must meet menu requirements. All substitutions must be documented on the menu for site review.
ii. Purchase and receive food contributions only from an approved source, such as grocery stores and food vendors. The following shall not be used: cans which are bulging, dented, leaking, rusty, or which spurt liquid when opened; food with an off-odor; food which shows signs of mold; food prepared or canned in the home.
iii. Prepare and serve meals for persons needing diabetic or sodium-restricted diets, etc. (when appropriate and feasible) with written approval from the individual's physician, i.e. diet order. All special diet menus must be approved by a Registered Dietician or Nutritionist.
iv. Maintain a distinct and physical separation of dining facilities from food preparation facilities. Use facilities and equipment that are suitable and accessible for use by aged and disabled individuals when providing congregate meals.
v. Use facilities and equipment that are suitable and accessible for use by aged and disabled individuals when providing congregate meals.
vi. Allow adequate aisle space between tables for the use of wheelchairs, or to allow persons with canes or other support devices to walk with ease. In no case shall aisles be less than 32 inches wide.
vii. Post menus at the site at least one week in advance, in a location at the site that is clearly accessible and visible to individuals attending the congregate meals site.
viii. Obtain the individual's signature and date for each meal served and maintain the signatures in a central file, ~~or Contractor staff shall certify the individuals and dates for which each meal was served and maintain the certification in a central file.~~ *Area Agency on Aging, Region One only accepts individual signatures to validate meal services.*
ix. Document the number of meals provided each month.
x. Review food service expenditures in order to further cost effective management. Develop and implement an emergency plan to be used when a meal cannot be prepared or is unsuitable for consumption. This should include a three-day emergency menu with supplies on hand for implementation.
xi. Give participants an opportunity to contribute towards the cost of the meal in accordance with the Aging and Adult Administration Policy Chapter 3200.

c. Staff Training
    i. Provide food safety and sanitation training for all new food service personnel within the first month of employment. Training must cover personal hygiene, proper attire for food service workers, cleaning and sanitizing, correct use of gloves, proper hot and cold food temperatures, proper use of a thermometer, food delivery procedures and correct disposal or storage of left-overs.
    ii. Ensure that all food handlers attend a course of food safety and sanitation within one month of employment. The site manager or the appropriate management staff shall have additional training such as ServSafe or other course approved by their County Health Department.
    iii. Provide training on a periodic basis to persons preparing and delivering meals. Training is encouraged in the areas of food safety and sanitation, storage, food preparation and service, cost effective management, purchasing, menu planning, equipment operation and safety.
    iv. Document staff training in personnel files.
d. Nutrition Education
    i. Plan, develop, and implement a written nutrition education program that includes at least two sessions/activities each quarter. Nutrition education may include written materials, demonstrations, audio-visual presentations, lectures, and small group discussions. It may pertain to nutritionally related topics that are culturally sensitive such as: dietary guidelines for older adults, modified meals and chronic disease, food and drug interaction, physical fitness health information as it relates to nutrition, meal planning and preparation, budgeting, shopping, and sanitation. Nutrition information must be backed by credible research. Only materials from reputable sources shall be used such as The American Dietetic Association, United State Department of Agriculture, United States Food and Drug Administration, National Institutes of Health, Centers for Disease Control, Administration on Aging, and the National Institute on Aging.
    ii. Post and advertise nutrition education sessions/activities at least four weeks in advance.
    iii. Submit for each center/site an outline of the proposed nutrition education program quarterly to the Area Agency on Aging.
    iv. Document the date, topic covered, name of the presenter and the number of people who attended the nutrition education. Keep documentation available for audit inspection for at least one year at the center/site.
e. Social Interaction
    i. Provide activities that encourage social interaction, e.g., recreation and group activities.
    ii. Establish and maintain project/site councils.
f. Site Monitoring *Area Agency on Aging shall complete the following:*
    i. Monitor on an annual basis the centers/sites for compliance to the scope of work.
    ii. Establish timeframes (not to exceed 30 days) for centers/sites to respond to monitoring reports and to initiate corrective actions.

HOME DELIVERED MEALS

I. SERVICE DEFINITION

A service that provides for a nutritious meal containing at least ⅓ of the Recommended Dietary Allowance for an individual, delivered to his/her place of residence.

II. PROGRAM INFORMATION

a. The Aging and Adult Administration, though its contracts with the Area Agencies on Aging, shall provide nutrition services to "participants" - older adults and eligible persons with disabilities. For older adults, adequate nutrition may be especially important because of their vulnerability to chronic disease and condition which may impair their ability to function, their access to adequate food and nutrition, and their ability to live at home in the community. The old-old, minority individuals, low-income individuals, individuals who live alone, individuals with disabling conditions particularly those that interfere with their ability to shop and cook for themselves, and individuals with multiple chronic diseases may be at highest risk for poor nutrition and the resultant health consequences. Adequate nutrition is integral to healthy aging and the prevention or delay of chronic disease and disease-related disabilities. Home-delivered nutrition services enable older adults to avoid or delay costly institutionalization and allow them to stay in their homes and communities.

b. *Area Agency on Aging, Region One's authorized case management agencies shall perform the following:* An assessment is required for a home-delivered meal participant to establish eligibility according to the Aging and Adult Administration Case Management Policy and Procedure Manual Chapter 3120 and as may be amended from time to time.

III. REPORTING UNIT

a. One unit of service equals one meal.

IV. LICENSURE STANDARDS

The Contractor shall comply with the following licensure requirements:

a. Prepare and serve home delivered meals in compliance with all municipal, county, state, and federal licensure and/or storage requirements related to food handling and distribution.

V. SERVICE STANDARDS

The Contractor shall comply with the following service standards:

a. Registered Dieticians and Registered Dietetic Technicians shall be individuals who meet the requirements for membership in the American Dietetic Association, have successfully completed the examination for registration, and who maintain continuing education requirements.
b. Nutritionists shall be individuals with a Bachelor's or Master's degree in food and nutrition.
c. Certified Dietary Managers shall be individuals who meet the requirements for certification as identified by the Certifying Board of Dietary Managers of the Dietary Managers Association and who maintain continuing education requirements.

VI. SERVICE REQUIREMENTS

The Contractor shall comply with the following service requirements:

a. Menu planning
    i. Develop cycle menus to be used on a quarterly basis (every 3 months). A cycle menu is a six or more week menu that will be rotated throughout the quarter.
    ii. Keep menus available for audit inspection for at least one year after the meals have been served. Menus must also be kept for at least one year at the meal preparation site.
    iii. Write menus in the dominant language or languages of the participant group.

iv. Accommodate ethnic and cultural preferences when planning menus.
v. Plan, prepare, provide and serve meals in accordance with the Arizona Department of Economic Security Aging and Adult Administration "Nutrition and Food Service Management Manual" and as may be amended from time to time.
vi. Secure approval of menus on the standardized menu form by a Registered Dietitian (R.D.), Nutritionist, Dietetic Technician Registered (DTR), or Certified Dietary Manager (CDM) prior to serving.
vii. Ensure that each meal contains at least one-third (⅓) of the current Recommended Dietary Allowance of nutrients, as established by the Food and Nutrition Board of the National Academy of Science – National Research Council. Each meal must contain at least 600 calories but not more than 1,000 calories.
viii. Submit menus on the standardized menu form and secure the approval of a Registered Dietitian (R.D.), Nutritionist, Dietetic Technician Registered (DTR), or Certified Dietary Manager (CDM) prior to serving. The R.D., Nutritionist, DTR, or CDM will verify this by computerized nutritional analysis of at least one meal per week of the menu cycle and adherence to menu requirements in the Arizona Department of Economic Security Aging and Adult Administration "Nutrition and Food Service Management Manual."
ix. Plan menus as hot meals. A cold meal may be planned occasionally to add variety to the menu, such as chef salad, or sub sandwich.
x. Plan menus to reduce the frequent use of foods high in sugar, salt, and saturated fats.
xi. Plan menus considering the availability of foods during seasons when they are most plentiful.

b. Meal Preparation and Service
i. Prepare or arrange for preparation and service of meals, and adhere to menus as written. Substitutions which must be made because of a temporary inability to obtain certain foods must be selected from the same food group, for example, ½ cup carrots for ½ cup green beans. Substitution menus for holidays and special occasions must meet menu requirements. All substitutions must be documented on the menu for site review.
ii. Purchase and receive food contributions only from an approved source, such as grocery stores and food vendors. The following shall not be used: cans which are bulging, dented, leaking, rusty, or which spurt liquid when opened; food with an off-odor; food which shows signs of mold; food prepared or canned in the home.
iii. Package and deliver meals in a safe and sanitary manner.
iv. Deliver meals to an individual, i.e., not left on doorsteps, mailboxes, or porches.
v. Provide each new participant with a current week's menu and provide on-going individuals with a copy of the menu at least one week in advance.
vi. Obtain the individual's signature and date for each meal delivered and maintain the signatures in a central file.
vii. Document in the individual's service log the number of meals received each month.
viii. Maintain record/log of the number of meals delivered each month to each participant.
ix. Assess mental and physical status of the individual at the time of meal delivery.
x. Refer all individuals for appropriate action who present additional medical or social problems during the course of service delivery.
xi. When appropriate for the preservation of the nutritional quality of the meal and/or the efficiency of food delivery, meals may be prepared then chilled and/or frozen for distribution. Documentation of the participant's ability to store and reheat the meal to appropriate temperatures must be maintained in the file.
xii. Provide frozen or shelf stable meal when it will be used as meals for non-delivery days, additional meals for the same day, or where it is cost-effective to service expansion to provide frozen meals beyond the limitations of a hot meal delivery circuit, provided that (1) the meal, its menu and its preparation meet all the standards of this service specification, (2) it is verified and documented in the case record that the individual has the facilities to properly store and prepare frozen meal(s), and (3) *Area Agency on Aging, Region One shall*

require case management to meet the following: if an individual is to receive more than one frozen meal per delivery, then the reason for receiving delivery of multiple meals must also be documented in the individual's case record.

xiii. Prepare and serve meals for persons needing diabetic or sodium-restricted diets, etc. (when appropriate and feasible) with written approval from the individual's physician, i.e. diet order. All special diet menus must approved by a RD, Nutritionist, DTR, or CDM.

xiv. Review food service expenditures in order to further cost effective management.

xv. Develop and implement an emergency plan to be used when the meal cannot be prepared or is unsuitable for consumption. This should include a three-day emergency menu with supplies on hand for implementation.

xvi. Give participants an opportunity to contribute towards the cost of the meal in accordance with the Aging and Adult Administration Policy Chapters 3200.

VII. STAFF TRAINING

a. Provide food safety and sanitation training for all new food service personnel within the first month of employment. Training must cover personal hygiene, proper attire for food service workers, cleaning and sanitizing, correct use of gloves, proper hot and cold food temperatures, proper use of a thermometer, food delivery procedures and correct disposal or storage of leftovers.

b. Ensure that all food handlers attend a course of food safety and sanitation within one month of employment. The site manager or the appropriate management staff shall have additional training such as ServSafe or other course approved by their County Health Department.

c. Provide training on a periodic basis to persons preparing and delivering meals. Training is encouraged in the areas of food safety and sanitation, storage, food preparation and service, cost effective management, purchasing, menu planning, equipment operation and safety.

d. Train meal delivery staff in communication and observation skills necessary to assess an individual's mental and physical status at the time of meal delivery.

e. Document staff training in personnel files.

VIII. NUTRITION EDUCATION

Provide the printed nutrition education materials from the congregate site nutrition education sessions conducted two times per quarter to home delivered meal participants.

HOME DELIVERED MEALS

1. ADDITIONAL SERVICE DESCRIPTION
    a. To provide for delivery of home delivered meals.
    b. To conduct a welfare check of the homebound individual as to his/her health or social needs.
    c. All clients must be authorized by Area Agency designated case management agencies.
    d. Assessments of clients need for meals and the specific need for more than one meal per day shall be the sole responsibility of case management.

2. ADDITIONAL DEFINITION OF UNIT OF SERVICE
    a. One unit of service equals one meal delivered to an authorized client.

3. SERVICE TASKS
    The provider is responsible for transporting meals to clients based on the service authorization. The provider shall comply with the following requirements when delivering meals:
    a. Delivery of Home Delivered Meals
        i. The vehicle in which meal delivery is provided must have valid license plates and, at a minimum, the State of Arizona required level of liability insurance.
        ii. Individuals conducting the delivery must be a minimum of eighteen (18) years of age and shall carry agency identification badge. Persons under the age of eighteen may assist with the delivery process if accompanied and supervised by a designated person over the age of eighteen.
        iii. Two (2) references from persons other than family members must be contacted for newly hired home delivered meal employees and newly recruited volunteers for delivery of home delivered meals. Documentation of contacts must be kept on file.
        iv. Training shall be provided for persons delivering home delivered meals. Training shall be conducted prior to the person performing the delivery on their own. Training is the primary responsibility of the senior center manager. Training must minimally include:
            1. social needs of the homebound client;
            2. development of observation of skills necessary to detect changes in client functioning or status;
            3. appropriate methods of interacting with homebound clients;
            4. appropriate responses to client medical emergencies;
            5. methods of reporting changes in client's physical/mental status;
            6. methods for reporting barriers to service delivery; and
            7. contribution procedures to ensure availability for clients to contribute and ensure confidentiality for all donors.
        v. A review must be conducted at least monthly by staff and/or delivery coordinator of the client status, routes (including time and distance) delivery specifications, compliance, and changes, and other home delivered meal services.
    b. Client Signatures
        i. All clients must sign for the receipt of each home delivered meal.
        ii. If a client is unable to sign his/her name, then an adult in the home must sign the client's name and initial the signature. In the absence of a person in the home, the delivery person may execute a signature and initial the signature.
    c. Meal Delivery
        i. Meals will be provided based on case management specific authorization as to day(s) per week and number of meals per day.

ii. A route sheet listing all clients' names, addresses, diet of meal, ability to sign for meal, and any special delivery instructions must be used by the driver.
iii. Home delivered meal carriers must be opened only when necessary in order to maintain appropriate meal temperatures throughout the delivery.
iv. Delivery of the meal must be made directly to the client..
v. Delivery person will provide assistance, if needed, in opening the meal containers.
vi. Delivery staff will allow for time in the home to inquire as to the well being and health of the client. The delivery staff must report all changes in client's mental or physical status to the senior center staff. The senior center staff must document the report in the client's file and the client's case manager and/or the emergency contact person for follow up.
vii. If the client is not home to receive the meal, the meal must be returned to the senior center.

d. Non-Provision of Service Non-provision of service occurs when a client does not receive a scheduled home delivered meal. All instances of non-provision of service must be fully documented in the client's case file and appropriate action taken with the client, case manager, and/or emergency contact by the senior center staff.

4. CLIENT CONTRIBUTION POLICIES
   a. SAIL clients shall be provided the opportunity to contribute toward the cost of service.
   b. Clients shall be informed of their right to contribute toward the service as well as their right to obtain the services if unable to contribute.
   c. Suggested contribution rates shall be developed by the provider through the site council and reviewed annually. Any suggested contribution shall not imply a charge.
   d. Methods for collecting contributions may vary. However, any method or combination of methods must allow for a free and voluntary contribution, protect the privacy and confidentiality of each client with respect to his/her contribution, and be readily accessible to any client who chooses to make a contribution.
   e. Written guidelines and procedures for collections, handling, counting and depositing of contributions shall follow generally accepted accounting principles.
   f. Contributions toward the service shall be used solely to maintain or expand the service and accounted for on the Area Agency on Aging monthly financial report.

5. DISASTER PREPAREDNESS Contractor will develop and implement an emergency preparedness plan describing agency protocols to assist clients in the event of an emergency/disaster. The plan should include agency methods of coordination with state and/or local emergency response agencies. Contractor will conduct staff training on the implementation of the emergency preparedness plan.

6. REPORTING REQUIREMENTS
   Contractor shall comply with all Area Agency policies, procedures and directives regarding billing and as follows:
   a. All home delivered meal operations must be conducted using the SCAATS™ software. Contractor shall comply with all SCAATS™ specific requirements as presented in this contract.
   b. Reports and documentation must be reported on a calendar month only as follows:
      i. HDM Master List
      ii. Program Report
      iii. Financial Statement
   c. Deadlines:
      i. Monthly Billing No later than the tenth (10th) calendar day following each month, the contractor shall submit to the Area Agency the reports listed. If the 10th calendar day falls on a weekend or holiday, the monthly billing shall be submitted the last working day prior to the 10th calendar day. All billing must be submitted at one time.
      ii. Fiscal Year End Billing The fiscal year ends June 30th and the billing deadline to close the fiscal year shall be July 20th. Contractors not complying with this deadline shall forfeit any reimbursement for outstanding billing.

MULTIPURPOSE CENTER OPERATIONS

I. SERVICE DESCRIPTION

a. A service that operates facilities and maintains activities necessary for the delivery of services.

II. PROGRAM INFORMATION

a. Multipurpose centers are community facilities utilized for the organization and provision of a broad spectrum of services that include: the provision of physical and mental health, social, nutritional, educational and recreational activities for older individuals. The main purpose is to foster social, emotional, mental and physical well-being and reduce the social isolation of eligible individuals. Multipurpose centers also provide beneficial intergenerational opportunities.

III. REPORTING UNIT

a. One unit of service equals 60 minutes of staff time.

IV. LICENSURE REQUIREMENTS

The Contractor shall comply with the following service standards:

a. All facilities used for Multipurpose Center Operations shall comply with Federal and State and local Laws regarding public facilities, fire and sanitary codes and licensures.

V. SERVICE REQUIREMENTS

The Contractor shall comply with the following service requirements:

a. Operations
   i. Provide services to meet the cultural and language needs of those being served. Employ bilingual staff in centers with a high percent of non-English speaking participants.
   ii. Maintain records (e.g., client participation, financial, staffing, activities).
   iii. Establish and post a donation/contribution policy for services.
   iv. Train staff on services related to the elderly.
   v. Establish and maintain project/site councils.
   vi. Involve participants in program planning and implementation.
b. Information on available services
   i. Maintain and update a resource file of services and resource referrals.
   ii. Provide written and verbal information on the following: housing, transportation, legal services, governmental programs, physical and mental health related services, food assistance, financial assistance, support groups, residential repair, energy assistance, and other relevant information.
c. Referral and assistance in accessing the services.
   i. Assess/determine the services needed by individuals and groups.
   ii. Contact agencies providing the identified services.
   iii. Provide/arrange for transportation to services when necessary.
   iv. Provide or arrange for assistance when the individual is handicapped or has limited English abilities.
   v. Provide follow-up with individual and with agency providing service.
d. Outreach
   i. Perform outreach to ensure the participation of the economically and socially needy individuals and of minorities.
   ii. Provide written and verbal information to community groups on services available at the center and offered by other agencies.

iii. Conduct home visits to home-bound elderly in the community.

e. Education
   i. Provide educational opportunities that assist older individuals with their economic and personal needs including the following topics: consumer and continuing education, retirement and financial planning.
   ii. Provide or arrange a variety of health promotion and disease prevention sessions designed to maintain and/or improve the physical and mental health status of older individuals.
   iii. Provide written information on health promotion, disease prevention, metal and physical health to include home bound individuals.
   iv. Develop and maintain on-going physical activity programs.
   v. Coordinate with local community resources to provide health screening and health risk assessments.
   vi. Provide training on the self-management of chronic conditions.
   vii. Develop and distribute a monthly calendar for educational activities.

f. Volunteer Opportunities
   i. Designate a volunteer coordinator to provide meaningful volunteer opportunities for older individuals.
   ii. Develop a volunteer recruitment system.
   iii. Provide job descriptions for volunteers.
   iv. Provide training for volunteers.

g. Recreational Activities
   i. Provide recreational activities appropriate to the physical and emotional needs of older individuals.
   ii. Develop and distribute a monthly calendar for recreational activities that may include: entertainment, arts and crafts, field trips, special interest classes, and table games.

h. Intergenerational Programs
   i. Provide intergenerational programs of mutual benefit that includes input from all age groups involved.

MULTIPURPOSE CENTER OPERATIONS

1. ADDITIONAL REPORTING UNIT
   a. A unit shall also be one activity in the categories of health promotion and exercise.

2. SERVICE STANDARDS
   Contractor shall comply with the following minimum standards:
   a. Health Promotion
      Conduct a minimum of two (2) health promotion activities per month that may include (but not limited to) health screening, disease information, nutrition education, home safety, and education sessions that will emphasize the benefits of physical exercise and activity.
   b. Exercise
      Conduct a minimum of two (2) exercise classes per week. Exercise classes should be geared to a variety of skill levels to encourage participation from as many participants as possible.

3. DISASTER PREPAREDNESS
   Contractor will develop and implement and emergency preparedness plan describing agency protocols to assist clients in the event of an emergency/disaster. The plan should include agency methods of coordination with state and/or local emergency response agencies. Contractor agrees to conduct staff training on the implementation of the emergency preparedness plan.

4. REPORTING REQUIREMENTS
   Contractor shall comply with all Area Agency policies, procedures and directives regarding billing and as follows:
   a. All health promotion and exercise sessions must be reported using the SCAATS™ software. Contractor shall comply with all SCAATS™ specific requirements as presented in this contract.
   b. Reports and documentation must be reported as follows:
      i. Program Report for Activities
      ii. Program Report for MCO Units
      iii. Calendar of Activities
      iv. Financial Statement
   c. Deadlines:
      i. Monthly Billing No later than the tenth (10th) calendar day following each month, the contractor shall submit to the Area Agency the reports listed. If the 10th calendar day falls on a weekend or holiday, the monthly billing shall be submitted the last working day prior to the 10th calendar day. All billing must be submitted at one time.
      ii. Fiscal Year End Billing The fiscal year ends June 30th and the billing deadline to close the fiscal year shall be July 20th. Contractors not complying with this deadline shall forfeit any reimbursement for outstanding billing.

ARIZONA DEPARTMENT OF ECONOMIC SECURITY
SCOPE OF WORK
TRANSPORTATION

I. SERVICE DEFINITION

A service that provides or assists in obtaining various types of transportation for specific needs. For purposes of the Family Caregiver Support Program, this service is to be provided, on a limited basis, to complement the care provided by the caregiver.

II. PROGRAM INFORMATION

a. This service assists in obtaining various types of transportation for eligible clients to increase or maintain their functional independence. The contractor arranges transportation for eligible clients and also may actually provide the transportation. Protection of the client's physical, emotional and mental well-being while using this service is vital. The contractor may also train eligible clients to develop skills which will enable the client to independently utilize a transportation system.

b. This service may be used as part of the Family Caregiver Support Program cluster.

III. REPORTING UNIT

a. One unit of service equals one trip per person one way.

IV. LICENSURE STANDARDS

The Contractor shall comply with the following licensure requirements:

a. Vehicles used for the transportation of clients must meet federal, state and local safety and maintenance standards.

b. Individuals providing transportation must be a minimum of 18 years of age and possess a valid Arizona Operator's or Commercial Driver's License.

c. The vehicle in which transportation is provided must have a valid Arizona license plate and, at a minimum, the State of Arizona required level of liability insurance.

V. SERVICE STANDARDS

The Contractor shall comply with the following service standards:

a. Ensure that vehicle used is constructed specifically for the transportation of persons. All seats are securely fastened to the body of the vehicle, individuals are properly seated when the vehicle is in operation, and individuals utilize seatbelts.

b. Maintain logs of maintenance completed on all vehicles used for the transportation of clients.

c. Ensure that when transportation is provided by a volunteer, the volunteer driver shall carry an Agency Identification Card.

d. Provide training to drivers in areas such as instructing drivers how to assist individuals entering and exiting vehicles and disease specific training (e.g., Alzheimer's, Parkinson's, Diabetes).

VI. SERVICE REQUIREMENTS

The Contractor shall comply with the following service requirements:

a. Arrange transportation for individuals
   - i. Make arrangements for transportation through public or private transportation methods.
   - ii. Determine, with the individual and/or significant others, a plan for providing transportation.
   - iii. Ensure that drivers are physically capable and carry an Agency Identification Card, when transportation is provided by a volunteer.

b. Provide transportation for individuals
   - i. Transport individuals from one location to another. (This includes traveling to and from designated locations to pick up or drop off individuals.)
   - ii. Ensure that drivers are physically capable to assist the individual with entering and exiting the vehicles as needed
   - iii. Provide transportation to individuals with a physical disability in a vehicle adapted to their needs.
   - iv. Record services delivered to each individual.

CITIZEN TRANSPORTATION

1. SERVICE DESCRIPTION/GOAL
   This service provides or assists eligible participants in obtaining transportation.

2. ADDITIONAL STANDARDS/LICENSURE REQUIREMENTS
   The Contractor shall comply with the following standards and/or licensure requirements:
   a. The vehicle in which transportation is provided must have valid license plates and at a minimum, uninsured and underinsured motorists' coverage with a combined single limit of three hundred thousand dollars ($300,000) and a combined single limit liability policy of one million dollars ($1,000,000.)
   b. The vehicle shall be basically constructed for the transportation of persons. All seats shall be securely fastened to the body of the vehicle and individuals shall be properly seated when the vehicle is in operation. The vehicle must have seat belts installed and provide seat belt extenders as needed. Seat belts must be used by driver and passengers.
   c. Individuals providing transportation must be a minimum of eighteen (18) years of age and:
      i. obtain a pre-service medical physical examination, and
      ii. have an in-service medical physical examination every 2 years.
   d. Staff/volunteers shall be trained in the following areas:
      i. CPR and First Aid and additional training on response for emergency situations;
      ii. full vehicle equipment and operation training including optional manual over-rides on any equipment;
      iii. appropriate methods of interacting with clients and observation techniques to detect changes in health and welfare;
      iv. response protocol for emergency or urgent situations;
      v. contribution procedures to ensure availability for clients to contribute and ensure confidentiality for all donors;
   e. Annually the Contract shall submit, with the annual contract,
      i. the boundaries for service, listing all senior centers served, and
      ii. patterns of operations for each vehicle conducting senior center trips and home meal delivery.
   f. Service will be available to eligible riders to coincide with senior centers and adult day centers within the service area. The Area Agency on Aging reserves the right to change the hours of service within thirty (30) days written notice.
   g. Client eligibility shall consist of persons age sixty (60) or older, the spouse of a person age sixty (60) or over, or a person who is under sixty (60) who is disabled. All such persons in Maricopa County are eligible for this service.
   h. The drivers/aides are required to use the highest degree of care with the operation of equipment and assistance of riders. Each of the Contractor's drivers must provide assistance to passengers who need help going to/from the vehicle and home or senior center. Contractor may limit the number of bags or packages which passengers may have on board. Drivers will assist passengers with the packages from portal to portal, if necessary.
   i. The maximum in-vehicle ride time for ambulatory riders is forty (40) minutes. This assumes that the driver is transporting more than one rider.
   j. All drivers/aides in the program must carry agency identification and practice good hygiene and are required to be neat, clean and well groomed.
   k. All equipment used in the program must be kept clean and be cleaned regularly.
   l. The contractor must provide communications equipment for every vehicle used in the provision of this service.

m. Smoking, expectorating, eating, and drinking alcoholic beverages by drivers or passengers while on board any vehicle providing service for this program is prohibited.
n. Contractor shall assure that all federal, state, and local laws, regulations, ordinances, licenses, and inspections governing vehicles in this service are in compliance before service is begun and at all times covered by the period of this contract.
o. Vehicle Maintenance
    i. Contractors are expected to maintain their vehicles in good working condition. Area Agency reserves the right to inspect vehicles to ensure their safety, and to immediately remove from the program any vehicle it deems unsafe until necessary corrections are made.
    ii. Vehicles to be used in providing services under the Area Agency contract may be inspected prior to awarding of the contract.
    iii. Vans and buses should be equipped with comfortable sized steps, grab bars, and seat belt extenders for added safety to senior citizen passengers.

3. CLIENT CONTRIBUTION POLICIES
    a. Clients shall be provided the opportunity to contribute toward the cost of service.
    b. Clients shall be informed of their right to contribute toward the service as well as their right to obtain the services if unable to contribute.
    c. Suggested contribution rates may be developed by the provider. Any suggested contribution shall not imply a charge.
    d. Methods for collecting contributions may vary. However, any method or combination of methods must allow for a free and voluntary contribution, protect the privacy and confidentiality of each client with respect to his/her contribution, and be readily accessible to any client who chooses to make a contribution.
    e. Written guidelines and procedures for collections, handling, counting and depositing of contributions shall be developed. These procedures shall follow generally accepted accounting principles.
    f. Contributions toward the service shall be used solely to maintain or expand the service and accounted for on the Area Agency monthly financial report.
    g. Contractors shall be monitored on their effort in collecting contributions.

4. DISASTER PREPAREDNESS
Contractor will develop and implement and emergency preparedness plan describing agency protocols to assist clients in the event of an emergency/disaster. The plan should include agency methods of coordination with state and/or local emergency response agencies. Contractor agrees to conduct staff training on the implementation of the emergency preparedness plan.

5. REPORTING REQUIREMENTS
Contractor shall comply with all Area Agency policies, procedures and directives regarding billing and as follows:
    a. Reports and documentation must be reported as follows:
        i. Program Report
        ii. Financial Statement
        iii. Quarterly Outreach Report
    b. Deadlines:
        i. <u>Monthly Billing</u> No later than the tenth (10th) calendar day following each month, the contractor shall submit to the Area Agency the reports listed. If the 10th calendar day falls on a weekend or holiday, the monthly billing shall be submitted the last working day prior to the 10th calendar day. All billing must be submitted at one time.
        ii. <u>Fiscal Year End Billing</u> The fiscal year ends June 30th and the billing deadline to close the fiscal year shall be July 20th. Contractors not complying with this deadline shall forfeit any reimbursement for outstanding billing.

EXPERIENCE, METHODOLOGY AND QUALIFICATIONS
CONGREGATE MEALS

A. Identify the number of meals, by site, served, projected, and proposed.

SITE	FY 2006	FY 2007	PROJECTED 2008	PROPOSED 2009
Avondale	11,715	9,041	9,134	10,000
Cashion	3,856	3,686	2,001	3,000
Total	15,571	12,727	11,135	13,000

B. Identify the innovative practices implemented or planned for implementation to attract new participants.

As a result of the declining participation in the congregate meal program the City of Avondale is planning to implement a marketing plan which will help us to identify why the attendance has decreased at both our centers. We are working on surveys for seniors in nearby neighborhoods to identify reasons seniors are not attending our centers. During the current fiscal year, we have updated the look of our centers by painting the center, installing new flooring and adding new supplies and equipment.

The Senior Division is also working with the Community Relations Department in the city to publicize senior center events, screenings and activities. We are also working in partnership with our Healthy Avondale Division to schedule more health related speakers and screenings. We are constantly looking for ways to update our website to make it more attractive to the senior population and we are attending many city sponsored events where we are handing out information on our programs. In the last recreation brochure (December-March), the senior programs were the focus of the issue. After the brochure came out we received an increase in inquiries by 25% - many came from adults who were living with their parents and were looking for activities to help keep their parents active.

C. Describe the organization's process for quality assurance, participant satisfaction, and provide results from most recent participant satisfaction survey.

Seniors who participate in the Congregate Meal program are surveyed annually and asked informally about their level of satisfaction with the quality of meals served. Changes are constantly being made to reflect this feedback. When the six week menus are developed, the staff shares information about upcoming events and asks for participant ideas for the new menus. In addition to senior suggestions and staff ideas, creative ways to incorporate nutritional requirements are researched.

Survey Results – Sept. 2007
27% of seniors eat at the center 3 times a week
25% of seniors eat at the center 5 times a week
18% of seniors eat at the center 2 times a week
The top 5 entrees enjoyed most: Meat Loaf, Pork Chops, Fish, Pot Roast, BBQ Chicken
The top 5 vegetables enjoyed most: Baked Potato, Broccoli, Corn, Potato Salad, Sliced Tomatoes
The top 5 fruits enjoyed most: Bananas, Cantaloupe, Peaches, Strawberries, Pears
The top 3 entrees to remove from the menu: Menudo, Posole, Macaroni and Cheese
The top 3 vegetables to remove from the menu: Refried Beans, Beets, Mixed Vegetables
The top fruit to remove from the menue: Applesauce
The top 3 entrees to add to the menu: Pizza, Fried Chicken, Sandwiches

D. **Describe the participant outcomes that are currently being measured and summarize the results.**

When each person signs up in our program, they are required to fill out a Nutritional Health Survey. We also have our participants complete this survey every six months and starting in 2008, we will be using the data we collect from the surveys to determine what nutritional education we will need to do in our programs. Another outcome measure is the attendance in the Congregate Meal Program. As indicated in the numbers of meals served above, this number has fluctuated over the past several years. In 2007

attendance started decreasing for our centers. We had several seniors who moved from our service area, became ill and passed away. Menu satisfaction is measured through feedback from participating seniors and from those seniors who serve on the Senior Site Council. We are also participating in the Matter of Balance and Chronic Disease programs and will be using the outcomes of these programs to identify the effectiveness of fall prevention and managing chronic diseases for our participants. We have had five seniors participate in the POMP survey to find out the effectiveness of our senior center on their lives.

E. Identify per meal average contribution:

FY 2006	FY 2007	CURRENT 2008	PROPOSED 2009
$.56	$.71	$.63	$.58

F. Describe the specific strategies planned to encourage contributions and to ensure that the process is both voluntary and confidential for the participant.

Each new senior is given a welcome packet which explains the senior center policies and procedures, including how the contributions work. Monthly announcements are made encouraging seniors to contribute. To maintain the confidentiality of the contributions, seniors can place their money in a locked and opaque box. They may also use a provided envelop to place their contribution in before placing it in the locked box. Contributions are not recorded by participant. Information about contributions is posted on our website and in the monthly newsletter that is distributed to approximately 150 seniors.

G. Describe the following menu protocals:

1. **How are participants involved in the menu planning process**
   Periodic surveys are made of participating seniors to gauge satisfaction with the food service. Members of the Senior Site Council review the six week menus before they are submitted to AAA.

2. **Cultural diversity/preference is incorporated into the menu planning process**
   Based on the feedback received from the surveys, cultural diversity/preference is incorporated into the planning process. In 2007, the seniors wanted to add oriental style food into the menus and we have tried to incorporate that at least monthly. The seniors also wanted to see a decrease in the amount of Mexican food being served and we have decreased the amount to once every two weeks.

3. **Innovative menus and meal options**
   The seniors are asked to bring in their favorite recipes to incorporate into our six week cycle so we are always adding new options to our menus. We are also tying in our menus to the different activities we are planning with our Multipurpose Center Operations (like Mardi Gras, St. Patrick's Day, etc.) Staff is also developing networks with other centers to gain ideas of the different meals being served across the valley and trying to incorporate them into our system. Professional dieticians review the menu and meal preparation procedures and make suggestions and recommendations.

H. Outline the FY 2009 training for food service staff and volunteers.

First Quarter – Portion Distortion, Food Safety, Personal Hygiene
Second Quarter – Receiving & Storage, Preparation, Cooking & Serving
Third Quarter – Cleaning & Sanitizing, Foodborne Micro-organisms
Fourth Quarter – CPR/First Aid, Emergency Preparedness

I. **Describe how volunteers are recruited, managed, and the positions/tasks they perform.**

The main source of volunteers in the Congregate Meal program is the participating seniors themselves. All volunteers are managed by the senior center staff and follow the City of Avondale's policies and procedures. Tasks volunteers perform include: leading an Arts & Craft session, calling Bingo, leading group exercises/walking activities, serving as a food service worker where they may assist with the commodity food and food box programs, preparing meals for the Congregate and Home Delivered Meal programs, serving as a greeter to the center and decorating for special events.

J. Describe the organization's community/state emergency disaster plan or development of an emergency disaster plan and staff training.

This emergency plan has been created to prevent or minimize the impact of emergency interruptions in services to the senior program in Avondale. For communication purposes in an emergency, a listing of home and cell telephone numbers of all senior center staff has been prepared and is updated regularly. This listing is readily available to the Recreation Coordinator and senior program staff. In the event an emergency renders a site(s) and/or kitchen(s) inaccessible, the Recreation Coordinator will contact staff for emergency assignments.

Staff should implement the following emergency measures:

- All kitchen sites will have one week's worth of non-perishable food and water on hand at all time. This food will be rotated out on a regular basis.
- Ensure that a minimum of ***Three days emergency menu with supplies on hand for implementation*** at all times at each kitchen site. In the event that a kitchen site is unable to heat and serve its stock of frozen meals when needed, the meals can be transported to another kitchen site to be heated and delivered.
- Contact provider kitchen if quantity of food delivered is not in accordance with the order placed for the number of clients to be served. Staff may:
  - Request substitute food approved by the Registered Dietician from the providing kitchen, in the event menu food items are delivered in spoiled condition.
  - Contact coordinator for permission to purchase food at a restaurant. Select one that delivers, if possible. Check with the Dietician to make sure the meal will meet nutritional requirements.
- Activate an appropriate combination of the following steps, with supervisory direction, when a power failure occurs at a senior center meal site:
  - Keep doors on refrigerated equipment closed to maintain cold
  - Notify alternative site of expected surge in client participation status, and notify provider kitchen if participants (provide number, if possible) will be attending an alternate site due to closure of center
  - Contact transportation providers and notify them of Senior Center closure and, if applicable, possible attendance at alternative site and to transport seniors' home or alternative site if they have already arrived.
  - Post a sign outside the center with notice of closure and alternative site.
  - Cancel scheduled outside speakers or presenters
- Activate an appropriate combination of the following steps, with supervisory direction, when inclement weather or other conditions prevents delivery of prepared meals to the site:
  - Purchase food at a restaurant; Select one that delivers, if possible. Check with the Dietician to make sure the meal will meet nutritional requirements.
  - Contact local fraternal groups who have a kitchen to see if it may be used to prepare meals. Also contact the Red Cross to see if their mobile kitchen unit may be used in this emergency.
  - Follow the training guidelines provided to staff regarding the emergency feeding plan
  - Document and file the state of the emergency and the corrective action taken.

K. Identify the two quarterly nutrition education programs planned for FY 2009.

First Quarter – Basics to Good Nutrition, The Importance of Hydration
Second Quarter – Understanding Food Labeling, Cholesterol (the good & the bad)
Third Quarter – Portion Distortion & Fast Food Habits
Fourth Quarter – Cancer: Healthy Eating, How to Plan a Balanced Menu

EXPERIENCE, METHODOLOGY AND QUALIFICATIONS
HOME DELIVERED MEALS

I. MEAL PREPARATION

A. Describe the organization's process for quality assurance, participant satisfaction, and provide results from most recent participant satisfaction survey.

Several procedures are used to ensure quality assurance and customer satisfaction for the seniors who receive Home Delivered Meals. Seniors are surveyed to discover their level of satisfaction with the quality and variety of meals. Each quarter a staff members goes on each of the routes to speak with participants and ensure they are satisfied with the meal service. Several items have been dropped from the menu due to feedback that these items did not travel or reheat well.

Staff actions to assure the quality of meal preparation, food recipes and cooking methods include: following recommendations and guidelines from the AAA dietician, making sure the requirements from the Environmental Services Department are followed and strive for a gold rating, checking food at the time of delivery to ensure it is of the highest quality. Staff also selects recipes that are healthy, good tasting to the seniors and are attractive additions to the menu.

Survey Results – Sept. 2007
Average Age of Home Delivered Meal Recipient – 78
Average Meals Received per week – 4
The top 5 entrees enjoyed most: Meat Loaf, Pork Chops, BBQ Chicken, Aztec Casserole, Chicken, Rice & Broccoli Casserole
The top 5 vegetables enjoyed most: Coleslaw, Sweet Potatoes, Mashed Potatoes, Green Beans, Sliced Tomatoes
The top 5 fruits enjoyed most: Bananas, Cantaloupe, Peaches, Oranges, Pears
The top 3 entrees to remove from the menu: Menudo, Tuna, Macaroni and Cheese
The top 3 vegetables to remove from the menu: Refried Beans, Spinach, Oven Fries
The top fruit to remove from the menu: Mandarin Oranges
The top 2 entrees to add to the menu: Pizza, Swedish Meatballs

B. Describe the menu planning process for the following:

1. **How clients are involved**
   The same kitchen staff which prepares the Congregate Meals prepares the meals for the Home Delivered Meal program. The demographics of both groups are comparable and generally suggestions from the Congregate Meal group matches those made by the Home Delivered Meal Clients. When staff visits with the recipients of the home delivered meals they ask for suggestions for menu changes and if the meals received are satisfactory.

2. **How cultural diversity/preference is implemented**
   When staff goes on the Home Delivered Meal routes one of the questions asked pertains to the cultural preferences of the client is being met and changes are made if indicated.

C. Identify the current average daily meals as follows:

SITE	FY 2006	FY 2007	PROJECTED FY 2008	PROPOSED FY2009
HDM	60	70	79	91

D. Describe the specific strategies planned to encourage SAIL client contributions.

SAIL members are first encouraged to contribute by the SAIL case managers. During meetings we have with case managers we remind them of the importance of client contributions to the Home Delivered Meal Program. When we receive the Service Authorization Forms staff contacts the seniors to let them know about the program details including the opportunity to contribute. Staff

sends a welcome letter to each participant with information about contributing. Information about contributions is also posted on our website and in the monthly newsletter that is distributed to approximately 100 homebound seniors. Each quarter we send out flyers to our participants reminding them of the importance of client contributions. Our drivers also hand out envelopes every month to encourage contributions. Contributions from the SAIL program are decreasing due to the variety of assistance programs available to the seniors.

E. Identify the SAIL client per meal average contribution:

FY 2006	FY 2007	CURRENT FY2008	PROPOSED FY2009
$. 51	$.38	$.13	$.52

F. Identify the agency's operation / staffing to ensure case management communication and action Monday to Friday, 8am to 5pm.

The Home Delivered Meals are prepared in the same kitchen which provides the meals for the Congregate Meal program. Staff is available for seniors and case managers, Monday-Friday, 8:00 a.m. to 5:00 p.m. to handle any communication or action. The City of Avondale has one primary position that is responsible for coordinating with all case managers and several staff who are cross trained so there is a seamless service for all participants.

G. Describe the organization's community/state emergency disaster plan or development of an emergency disaster plan and staff training.

This emergency plan has been created to prevent or minimize the impact of emergency interruptions in services to the senior program in Avondale. For communication purposes in an emergency, a listing of home and cell telephone numbers of all senior center staff has been prepared and is updated regularly. This listing is readily available to the Recreation Coordinator and senior program staff. In the event an emergency renders a site(s) and/or kitchen(s) inaccessible, the Recreation Coordinator will contact staff for emergency assignments.

Staff should implement the following emergency measures:

- All kitchen sites will have one week's worth of non-perishable food and water on hand at all time. This food will be rotated out on a regular basis.
- Ensure that a minimum of ****Three days emergency menu with supplies on hand for implementation*** at all times at each kitchen site. In the event that a kitchen site is unable to heat and serve its stock of frozen meals when needed, the meals can be transported to another kitchen site to be heated and delivered.
- Contact provider kitchen if quantity of food delivered is not in accordance with the order placed for the number of clients to be served. Staff may:
  - Request substitute food approved by the Registered Dietician from the providing kitchen, in the event menu food items are delivered in spoiled condition or unplanned food shortages occur.
  - Contact coordinator for permission to purchase food at a restaurant. Select one that delivers, if possible. Check with the Dietician to make sure the meal will meet nutritional requirements.
- Activate an appropriate combination of the following steps, with supervisory direction, when a power failure occurs at a senior center meal site:
  - Notify clients that meals will be late
  - Contact transportation providers and notify them emergency procedures will be followed for the delivery of meals
  - Keep doors on refrigerated equipment closed to maintain cold
  - Notify vendors to postpone or relocate deliveries
  - Use an alternative kitchen to prepare food

- Contact local fraternal groups who have a kitchen to see if it may be used to prepare meals. Also contact the Red Cross to see if their mobile kitchen unit may be used in this emergency.
- Relocate staff, supplies needed and if necessary, food to facilitate preparation and delivery of food.
- Check with supervisor for permission to purchase food at a local restaurant

➢ Activate an appropriate combination of the following steps, with supervisory direction, when inclement weather or other conditions prevents delivery of prepared meals to the site:
- Notify at-risk clients that meal will be late
- Arrange for delivery in high profile vehicle
- Deliver regularly scheduled meal plus one frozen meal to each client in the event meal delivery is not or may not be possible the next day.
- Provide up to date delivery route book to relief driver(s)
- Use an alternative kitchen to prepare food
- Contact local fraternal groups who have a kitchen to see if it may be used to prepare meals. Also contact the Red Cross to see if their mobile kitchen unit may be used in this emergency.
- Relocate staff, supplies needed and if necessary, food to facilitate preparation and delivery of food.
- Follow the training guidelines provided to staff regarding the emergency feeding plan
- Document and file the state of the emergency and the corrective action taken.

Emergency Procedures for Clients

➢ Develop and maintain a list of the most vulnerable homebound elderly, specifically including those who depend on electrically-operated medical equipment, are living alone, have no car, and/or have no telephone. This list needs to be updated regularly as clients cases are opened and closed.

➢ Prepare and distribute information for homebound clients, to be distributed regularly (Monthly or quarterly), recommending that clients stock up on shelf stable food and water to have on hand in case of emergencies.

➢ Urge those who depend on electrically-operated equipment to register with their electric utility companies. Provide them with the appropriate telephone numbers to accomplish this registration.

➢ Provide center phone numbers on all written communications for the center to homebound clients. Also provide them with numbers to call in case of emergency (if different from 911).

H. Identify the two quarterly nutrition education programs planned for FY 2009.

First Quarter – Basics to Good Nutrition, The Importance of Hydration
Second Quarter – Understanding Food Labeling, Cholesterol (the good & the bad)
Third Quarter – Portion Distortion & Fast Food Habits
Fourth Quarter – Cancer: Healthy Eating, How to Plan a Balanced Menu
We will send informational flyers and brochures out each quarter to the case managers and clients.

I. List training programs for staff and volunteers:

1. **New staff orientation and competency**
   The City of Avondale provides a comprehensive new employee training which covers the policies and procedures of the city and is mandated for new staff.
2. **Conducted/planned for FY 2008**
   Defensive Driver Training
   City of Avondale Annual Training (Section on Recognizing Terrorist Activity)

Food Safety Training
Personal Hygiene
Fire Extinguisher Training
CPR/First Aid

3. **Planned for FY 2009**

Home Delivered Meal Training
- Social Needs of the Homebound Client
- Observation Skills
- Methods of Interacting with Homebound Clients
- Responding to Medical Emergencies
- Reporting Changes in Clients physical/mental status
- Reporting Barriers to Service Delivery
- Contribution Procedures

Defensive Driver Training (required annually by City of Avondale)
City of Avondale Annual Training
Emergency Preparedness
Fire Extinguisher Training (required annually by City of Avondale)

J. If applicable, identify the rate structure regarding the agency's private pay or subsidized home delivered meal program.

Private Pay Home Delivered Meal participants are charged five dollars per meal. Information on the availability of this service is included in general program publicity. Our work in providing support and education to caregivers has been helpful in advertising this service. Meals that are provided to private pay participants are delivered in the same way and meet the same standards as in the subsidized Home Delivered Meal service.

II. DELIVERY OF HOME DELIVERED MEALS

A. Describe the organization's process for quality assurance in the following areas:

1. **Welfare checks**

Each time a meal is delivered the driver has the opportunity to interact with the participant and evaluate the well being of that person. When the client is not at home, our drivers fill out a delivery notification card that lets the client know we stopped by to deliver their meal. On the card we notate the date, the time we arrived to deliver the meal, the driver's signature and the number to contact to cancel their meal. If a client fails to call to cancel a meal on 2 consecutive days, we will suspend meals until we hear from the case manager. When the drivers come back from their routes, they let the Home Delivered Meal Specialist know which clients were left cards, as well as notating the information on the route signature sheets.

2. **Reporting client concerns or changes in condition**

If the City of Avondale driver suspects a problem, the driver reports the problem to the Avondale senior staff. Follow-up is conducted by staff and if the senior has a case manager, he is notified. The family member or emergency contact is also notified of the problem.

3. **Responding to urgent or emergency situations**

If a driver encounters an emergency situation, the driver would call 911 if appropriate and then report the incident as mandated by the procedures described in number two above.

4. **Obtaining client signatures**

Van drivers are required to get the signature of the client when the meal is received. If this is not possible, prior arrangements must be made with HDM staff for someone else to sign for the meal. When there are continuted problems in getting a particular signature, a staff member from the HDM program will visit the home and assess the situation. HDM program staff verifies the signature obtained by the drivers each day.

B. Describe the emergency plans to ensure that clients receive a meal when staff or vehicle(s) are unavailable.

The City of Avondale provides a van, as well as leasing a vehicle from Area Agency on Aging and drivers for the routes for the Home Delivered Meal program. There are a number of vehicles and staff available to deliver the meals when necessary. The City of Avondale has extra vehicles which may be available for meal delivery, along with additional staff that can help deliver meals.

C. Describe methods to ensure that rural geographic areas of the PSA are served. If any area is not currently receiving daily delivery identify why and plans to implement daily delivery.

When requests for service from the Home Delivered Meal program are received the geographic location of the home is considered when the request is assigned to a van route. Keeping the delivery time within standards is critical in assigning deliveries to vans.

EXPERIENCE, METHODOLOGY AND QUALIFICATIONS
MULTIPURPOSE CENTER OPERATIONS

A. List the steps taken to welcome and orient new / potential participants to the senior center.

New and potential participants are welcomed to the center by the senior center staff and volunteers. Upon entering the center, a greeter's desk is in a prominent location and staff is available to answer any questions. Each inquiry is provided with a welcome packet that includes information on the center's policies and procedures, hours of operations, contact numbers, contribution guidelines, application forms, volunteer opportunities and the monthly newsletter and menu. Tours of the facility are provided and staff makes introductions of new and potential participants. Staff completes the necessary registration information and checks it for accuracy. New participants are assigned "buddies" for the first few days to help them feel welcomed and to orient them to the senior program.

B. Identify and describe programs/activities offered to meet required standards:
(Exercise 1 per week, Health Promotion 2 per month, Social/Recreation daily)

EXERCISE	FREQUENCY PER MONTH	DURATION	CURRENT AVERAGE ATTENDANCE
Walking	8	30 min	6
Chair Exercises	8	30 min	12
Tai Chi	4	30 min	6
Line Dancing	1	30 min	10

HEALTH PROMOTION	FREQUENCY PER YR	DURATION	CURRENT AVERAGE ATTENDANCE
Cholesterol	2	60 min	40
Parkinson's Disease	1	60 min	40
Signs of Stroke/Heart Attack	2	60 min	40
Diabetes	3	60 min	40
Osteoporosis	3	60 min	40
Nutrition	4	60 min	40
Cancer	2	60 min	40
Medication Review (not Basha's)	4	60 min	40
Mental Illness	1	60 min	40
Memory Screening	1	60 min	40
Alzheimer's Presentation	2	60 min	40
Arthritis	2	60 min	40
Valley Fever	1	60 min	40
Flu & Pneumonia Vaccinations	1	60 min	40
Pain Management	2	60 min	40
Sleep Disorders	1	60 min	40
Stress Management	1	60 min	40
Atherosclerosis	1	60 min	40

SOCIAL/RECREATION	FREQUENCY PER YR	DURATION	CURRENT AVERAGE ATTENDANCE
Holiday Parties	14	60 min	60
Birthday Parties	12	2 hours	60
Day Outings	30	4-8 hours	60
Movies	12	2 hours	60
Arts & Crafts	80	1 hour	20
Special Events	4	4 hours	60
Guest Speakers	50	1 hour	40
Club Activities	80	1 hour	40

C. Identify the services provided through the senior center

SOCIAL SERVICES	FREQUENCY PER YR	DURATION	CURRENT AVERAGE ATTENDANCE
Weatherization	12	60 min	5
Emergency Home Repair	12	60 min	5
Taxes	4	60 min	5
Emergency Food Box	12	60 min	5
Food Assistance Programs	12	60 min	5
Home Visits/Case Management	12	60 min	5
Paperwork Assistance	12	60 min	5

SUPPORT GROUPS	FREQUENCY PER YR	DURATION	CURRENT AVERAGE ATTENDANCE
Overeater's Anonymous	12	60 min	2
Caregiver's Support Group	12	60 min	5
Grief to Hope	12	60 min	5
Alzheimer's Support Group	12	60 min	5

INTERGENERATIONAL	FREQUENCY PER YR	DURATION	CURRENT AVERAGE ATTENDANCE
Garden Project	2	60 min	5
Grandparent/Grandchild Camp	2	1 week	10
Tutoring w/ Students	9	60 min	8

COMMUNITY PROGRAMS	FREQUENCY PER YR	DURATION	CURRENT AVERAGE ATTENDANCE
Brown Bag Medication	2	4 hours	30
Sun Health Speakers Bureau	12	1 hour	40
AZ Health Links	12	1 hour	40
Secure Horizons	52	30 min	40
St. Mary's Food Bank	12	1 hour	40

D. Identify marketing and promotional efforts specifically to increase participation in social services and recreation programs provided at the senior center.

As a result of the declining participation in the congregate meal program the City of Avondale is planning to implement a marketing plan which will help us to identify why the attendance has decreased at both our centers. We are working on surveys for seniors in nearby neighborhoods to identify reasons seniors are not attending our centers. During the current fiscal year, we have updated the look of our centers by painting the center, installing new flooring and adding new supplies and equipment.

The Senior Division is also working with the Community Relations Department in the city to publicize senior center events, screenings and activities. We are also working in partnership with our Healthy Avondale Division to schedule more health related speakers and screenings. We are constantly looking for ways to update our website to make it more attractive to the senior population and we are attending many city sponsored events where we are handing out information on our programs. In the last recreation brochure (December-March), the senior programs were the focus of the issue. After the brochure came out we received an increase in inquiries by 25% - many came from adults who were living with their parents and were looking for activities to help keep their parents active.

E. Describe the organization's process for quality assurance, participant satisfaction, and provide results from most recent participant satisfaction survey.

Seniors who participate in the Multipurpose Center Operations program are surveyed annually and asked informally about their level of satisfaction with the quality of activities, speakers and events held at the center. Changes are constantly being made to reflect this feedback. When the monthly calendars are developed, the staff shares information about upcoming events and asks for participant ideas for new activities. In addition to senior suggestions and staff ideas, creative ways to incorporate new recreation and social activities are researched.

Survey Results – Sept. 2007

52 surveys were completed (in English and Spanish)

An average of 32 people had participated in all activities held at the senior centers during August (the time of the survey)

3 Favorite Activities – Bingo 48%, Outings 37%, Arts & Crafts 29%

3 Activities to Add – Outings 54%, Eating Out 32%, Monthly Dances 28%

3 Guests Speakers Interested in Hearing – General Health 83%, Diabetes 42%, Any 42%

43% would attend an evening or weekend program if made available

F. Describe the development and implementation of the Site Council as follows:

1. **Staff Support**

   The Site Council is active in assisting staff with planning activities and providing menu ideas. The Council meetings monthly to provide program input. Each month the Site Council organizes the birthday parties and assists in selecting the movies shown for movie day. Site Council takes an active role in decorating the center for the month, volunteering to help with projects and bringing issues to staff's attention.

2. **Training of Site Council officers**

   In the fall of 2007, all current Site Council members went through a one day training sponsored by the Area Agency on Aging explaining their role as Site Council members and officers. After the elections are held in 2008, the new officers and members will be going through the same one day training so they will understand their new role.

3. **Functions / Tasks of current Site Council and planned for FY 2009**

   The Council plans the fundraising events which allow the seniors to have special events which might otherwise be cost prohibitive. They will continue organizing the birthday parties and providing input for special events sponsored at the centers.

G. Describe the volunteer jobs/tasks, recruitment, placement, retention, and recognition.

The main source of volunteers in the Multipurpose Center Operations program is the participating seniors themselves. All volunteers are managed by the senior center staff and follow the City of Avondale's policies and procedures. Tasks volunteers perform include: leading an Arts & Craft session, calling Bingo, leading group exercises/walking activities, serving as a food service worker where they may assist with the commodity food and food box programs, preparing meals for the Congregate and Home Delivered Meal programs, serving as a greeter to the center and decorating for special events. Volunteer opportunities are listed with the Volunteer Center and announced during the meal time announcements. The biggest source of volunteer recruitment is word of mouth. Each year there is a volunteer recognition event which is organized by the senior program staff.

MARKETING & OUTREACH PLAN

SERVICE: Multipurpose Center Operations and Transportation

GOAL #1

Marketing activities that will specifically reach socially and economically needy older individuals with particular attention to low-income minorities and non-English or limited English individuals in proposed PSAs.

OBJECTIVES	TIMELINE / FREQUENCY
Plan & schedule activities/programs designed to appeal to lower income and non/limited English speaking senior participants.	Five events per week
Display information at various city locations and events including the Libraries, Civic Center, Community Centers and special events sponsored by the department	Ongoing
Collaborate with staff to provide outreach programs and activities and provide information on senior programs in Avondale for residents at the Avondale Senior Village, Vianney Villas and Rose Terrace.	Once each month

GOAL #2

Marketing activities that will reach the isolated and/or homebound population and any rural geographic areas of proposed PSA.

OBJECTIVES	TIMELINE / FREQUENCY
Prepare and distribute monthly calendars, flyers of upcoming events and other informative materials to homebound population.	Ongoing
Develop and maintain a database for the targeted population for marketing activities	Ongoing

GOAL #3

Marketing and presentations to community agencies.

OBJECTIVES	TIMELINE / FREQUENCY
Collate and distribute information at all City of Avondale sponsored special events and activities	Monthly
Organize Senior Site Council fundraising events to raise awareness of program opportunities by collaborating with the Avondale CAP Office on the Back to School Supply Drive, the annual Troop Drive and various holiday programs	4 times a year

GOAL #4

Marketing through community media sources to develop awareness of the program.

OBJECTIVES	TIMELINE / FREQUENCY
Update the senior section of the City of Avondale's website and list serve members with current activities and resources available	Monthly
Collaborate with the City of Avondale's Public Information Office in providing information for the local newspapers 9 day activity calendars and human interest stories and pictures of senior activities for city publications	Ongoing
Circulate updates on services and resources available to the senior population with flyers, brochures and electronic media.	Ongoing

GOAL #5

Establish innovative and capacity building senior recreational programs and provide information that is relevant to senior population

OBJECTIVES	TIMELINE / FREQUENCY
Create new active and passive recreational opportunities for seniors in community and educate target population on benefits of recreation	Ten times a month
Plan & organize for speakers to come to the senior centers to present information on health, financial, safety issues and other relevant topics	Eight times a month
Facilitate a trip to a community meeting where senior issues will be discussed	Once a year

FACILITY LOCATION CHART

Contract services shall be delivered only at facilities and locations specified below and will be available during the hours and days of operation indicated:

AGENCY NAME FACILITY NAME, ADDRESS, PHONE NUMBER FAX NUMBER WHERE SERVICE(S) WILL BE PROVIDED	CONTRACTED SERVICE(S) (AS PROVIDED BY EACH FACILITY)	SUBCONTRACT	DAYS & HOURS OF OPERATION	GEOGRAPHIC COVERAGE (service area by whole cities & communities or north, south, east, west boundaries)
City of Avondale		NA		
Avondale Community Center 1007 S. Third Street Avondale, AZ 85323 (623) 333-2401 (623) 333-0240 (fax)	Congregate Meals Multipurpose Center Operations		Monday-Friday 8:00 a.m. to 2:00 p.m.	Avondale Goodyear Litchfield Park
	Home Delivered Meals Transportation		Home Delivered Meals available on weekends and holidays upon request	Avondale Goodyear Litchfield Park
Cashion Community Center 10857 W. Pima Avondale, AZ 85329 (623) 333-2402 (623) 333-0240 (fax)	Congregate Meals Multipurpose Center Operations Transportation		Monday-Friday 8:00 a.m. to 2:00 p.m.	Avondale Goodyear Litchfield Park

This facility(s) listed above will not be open on those holidays marked below:

√New Years Day	☐Good Friday	☐Yom Kippur #__days	OTHER DAYS
√ Martin Luther King Day	√Memorial Day	☐Columbus Day	☐_____
☐Lincoln's Birthday	√Independence Day	√ Veteran's Day	☐_____
☐Washington's Birthday	√ Labor Day	√ Thanksgiving Day #_2_days	
√ President's Day	☐ Rosh Hashanah #__days	√ Christmas Day	

☐HOLIDAYS marked above apply only to ADMINISTRATIVE OFFICE, services are provided 24/7.

CERTIFICATE REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements
The undersigned certifies, to the best of his or her knowledge and belief, that:

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

CITY OF AVONDALE

_____

Signature **Date**

Charles McClendon, City Manager

Name and Title

ATTEST:_____.

NAME/TITLE: Linda Farris, City Clerk

CERTIFICATE OF DEBARMENT

This certification is required by the regulations implementing Executive Order 12549-Debarment and Suspension, 29 CFR Part 98, Section 98.510, Participant's responsibilities. The regulations were published as Part VII of the May 28, 1988 Federal Register (pages 19160 - 19211).

1. By signing and submitting this document, the prospective recipient of federal assistance funds is providing the certification as set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective recipient of federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the Department of Labor (DOL) may pursue available remedies, including suspension and/or debarment.
3. The prospective recipient of federal assistance funds shall provide immediate written notice to the Area Agency President/CEO if at any time the prospective recipient of federal assistance funds learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," " proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549.
5. The prospective recipient of federal assistance funds agrees by signing this certification, that should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department of Labor (DOL).
6. The prospective recipient of federal assistance funds further agrees by signing this certification that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to check the List of Parties Excluded from Procurement or Non-Procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the DOL may pursue available remedies including suspension and/or debarment.

CITY OF AVONDALE

_____

Signature **Date**

Charles McClendon, City Manager

Name and Title

ATTEST:_____.

NAME/TITLE: Linda Farris, City Clerk

VEHICLE LEASE AGREEMENT
V2009-02-AVO

Area Agency on Aging, Region One, Incorporated **1366 E. Thomas Road, Suite 108** **Phoenix, AZ 85014** **(602) 264-2255 FAX (602) 230-9132**	***AND***	**City of Avondale** **11465 W. Civic Center Dr, Ste 100** **Avondale, AZ 85323** **(623) 333-2420 fax: (623) 333-0240** **FEI: 86-6000233**

DURATION OF THE CONTRACT: Effective June 15, 2008 and shall end June 30, 2009.

PROVIDER INFORMATION

Chief Executive or designee: Charles McClendon, Title: City Manager

The Area Agency shall address all notices relative to this Contract to: Frances McCoy, Recreation Coordinator

AREA AGENCY INFORMATION

The Contractor shall address all notices relative to this Contract to the attention of:

Name: Rachel Guerrero, Title: Program Specialist

VEHICLE INFORMATION

Year / Make:	2008 Ford	Model: Escape	VIN #: 1FMCU03178KC32869
Year / Make:	2008 Ford	Model: Escape	VIN #: 1FMCU02Z98KE01393
Year / Make:	2008 Ford	Model: Ford E450 12 passenger bus	VIN #: 1FD4E45S58DA26288

This Vehicle Lease is entered into by and between the City of Avondale hereafter referred to as Contractor, and Area Agency on Aging, Region One, Incorporated hereafter referred to as Area Agency. The Contractor, in consideration of the covenants and conditions set forth herein, shall provide and perform the services as set forth in the Uniform Terms and Conditions, Special Terms and Conditions, Scope(s) of Work, Service Specification(s), and other Area Agency manuals, policies, and directives. Contractor hereby affirms that all insurance and indemnification requirements as set forth in this contract have been met and shall be maintained fully throughout the terms of this contract. Further, Contractor will supply to Area Agency the required certificates of insurance including all required "additional insured" as identified in this contract. All rights and obligations of the parties shall be governed by the terms of this document, its exhibits, and attachments.

Notice under this Agreement shall be given by personal delivery or by mail to the persons indicated above and shall be effective upon receipt by the party to whom addressed unless otherwise indicated in said notice.

IN WITNESS WHEREOF, the parties enter into this Contract:

AREA AGENCY ON AGING, REGION ONE, INCORPORATED	**CITY OF AVONDALE**
Signature **Date**	**Signature** **Date**
Mary Lynn Kasunic, President & CEO	**Charles McClendon**
Area Agency on Aging Director	**City Manager**
Name and Title	**Name and Title**
	ATTEST:_____.
	NAME/TITLE: Carmen Martinez, Acting City Clerk

CONTRACT TERMS AND CONDITIONS

CONTRACT ADMINISTRATION

1. TERMS
    a. Vehicle Lease The Area Agency shall lease the vehicle(s) as described to the Contractor for the sum of one dollar ($1.00) per vehicle for the term of the lease in consideration of the covenants herein set forth.
    b. Duration The term of this contract shall be for the period of time from the contract begin date to the contract termination date as awarded or extended.
    c. Notices All notices under this contract shall be directed in writing to the persons and addresses specified for such purpose in this contract, or to such other persons and/or addresses as either party may designate to the other by notice. In the event that no person is designated to receive notices then notices shall be sent to the contract signatory.
    d. Liens Contractor agrees to keep the leased vehicle(s) free from any liens or other claims and will indemnify the Area Agency from any such liens or other claims.
    e. Termination In addition to any other legal remedies, the contract may be terminated based on the following reasons. The Area Agency President/CEO shall provide written notice of the termination and the reasons for it to the Contractor personally or by certified mail, return-receipt requested. The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice. Contractor shall ensure direct return of the leased vehicle(s) to the Area Agency upon termination date.
        i. For Convience Either the Contractor or the Area Agency may terminate the Agreement at any time, by providing at least thirty (30) days written notice to the other party.
        ii. For Conflict of Interest The Area Agency may cancel this contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the Area Agency is or becomes at any time while the Contract or an extension of the Contract is in effect an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time. If the contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. §38-511.
        iii. For Default
            1. The Area Agency has the right to terminate the Agreement with Contractor upon a immediate notice when the Area Agency deems the health or welfare of the clients is endangered or the Contractor's noncompliance jeopardizes the funding source's financial part full force and effect.
            2. In addition to the rights reserved under the contract, the Area Agency may terminate the contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the contract.
            3. The President/CEO of the Area Agency may suspend or terminate this Agreement immediately in the event of nonperformance of stated objectives, or other material breach of contractual obligations; or upon the occurrence of any event which would jeopardize the ability of the Contractor to perform any of its contractual obligations.

4. This contract is voidable and subject to immediate termination by Area Agency upon the Contractor becoming insolvent or filing proceedings in bankruptcy or reorganization under the United States Code, or upon assignment or delegation of the contract and/or any rights thereunder without Area Agency's prior written approval.

2. Laws The materials and services supplied under this contract shall comply with all applicable federal, state and local laws, and the Contractor shall maintain all applicable licenses and permits. Any changes in the governing laws, rules and regulations during the term of this contract shall apply but do not require an amendment to this contract.
3. Discrimination The Contractor performing under this Lease shall not discriminate against any employee or applicant, or any member of the public, because of their race, creed, color, sec or national origin, or otherwise commit an unfair employment practice. The Contractor will take affirmative action to ensure that individuals employed are dealt with without regard to their race, creed, color, sex or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion, or transfers; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training.
4. Subcontracts or Transfers The Contractor shall not assign, transfer or encumber the agreement of rights gained or any portion thereof, without prior written consent of the Area Agency.

LIABILITY & INDEMNIFICATION & INSURANCE

1. Non-Liability Each party shall be responsible for any and all liability caused by their own negligence or the negligence of their employees, agents, and officers in connection with this Agreement and each party shall bear all costs for its own defense in any resulting litigation.
2. Contractor/Vendor Indemnification The parties to this contract agree that the Area Agency, State of Arizona and the Department of Economic Security (DES) shall be indemnified and held harmless by Contractor for the vicarious liability of the Area Agency, State and/or DES as a result of entering into this contract. However, the parties further agree that the Area Agency, State of Arizona and DES shall each be responsible for its own negligence. Each party to this contract is responsible for its own negligence.
3. Insurance
   a. Requirements Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.
   b. Additional Insured
      i. Agencies
         √ Area Agency on Aging, Region One Incorporated
         √ State of Arizona Department of Economic Security
         √ Bridgeway Health System
         √ EverCare Select
         NA Maricopa County Public Health Department
         √ Mercy Care
         √ SCAN Health System
      ii. Language Required language on certificates of insurance: *"The (list above identified agencies),their departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees shall be named as additional insured with respect to liability arising out of the activities performed by or on behalf of the Contractor".*

iii. Provisions All additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this contract. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.

c. Minimum Scope and Limits Contractor shall provide coverage with limits of liability not less than those stated below. Policy(s) shall contain a waiver of subrogation against the all agencies identified in Additional Insured Section, their departments, agencies, boards, commissions, universities and its officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

i. Commercial General Liability – Occurrence Form Policy shall include bodily injury, property damage, personal injury and broad form contractual liability coverage.

- General Aggregate $2,000,000
- Products – Completed Operations Aggregate $1,000,000
- Personal and Advertising Injury $1,000,000
- Blanket Contractual Liability – Written & Oral $1,000,000
- Fire Legal Liability $ 50,000
- Each Occurrence $1,000,000

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

- Combined Single Limit (CSL) $1,000,000

iii. Workers Compensation and Employers' Liability

- Each Accident $ 500,000
- Disease – Each Employee $ 500,000
- Disease – Policy Limit $1,000,000

d. Notice of Insurance Cancellation Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the Area Agency. Such notice shall be sent directly to the Area Agency Contracts Department and shall be sent by certified mail, return receipt requested.

e. Verification of Insurance Coverage

i. Contractor shall furnish the Area Agency with certificates of insurance (ACORD form) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

ii. All certificates and endorsements are to be received and approved by the Area Agency before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

iii. All certificates required by this Contract shall be sent directly to Area Agency Contracts Department. The Area Agency project/contract number and project description shall be noted on the certificate of insurance. The Area Agency reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

VEHICLE SERVICES AND OPERATIONS

1. Vehicle Services
   a. The Contractor agrees that the leased vehicle(s) will be used only for the purpose of transporting clients and/or home delivered meals. Any additional services require approval from the Area Agency.
   b. Contractor will maintain full and complete records of all passenger trips including but not limited to: program/service of trip, date and time duration of trip, driver name, each passenger's name.
2. Facility(s) Such services will be provided for the following site(s) unless the Contractor requests and Area Agency approves expansion to additional site(s):

Avondale Senior Center
Cashion Senior Center

3. Vehicle Maintenance
    a. Operations The Contractor shall maintain sole responsibility for all costs associated with the operation of the vehicle. Area Agency bears no responsibility for costs associated with the operations, staffing, maintenance, or repair of the leased vehicle(s). In the event the Contractor is unable to maintain the operational costs of the vehicle, this Agreement will be terminated.
    b. Maintenance Contractor shall abide by the manufacturer's warranty and recommended schedule of maintenance, as a minimum, and to keep written verification of completion of all maintenance. Contractor shall also ensure that the vehicle is cleaned regularly. Maintenance records and vehicle appearance are subject to review by the Area Agency upon request.
    c. Alterations of Vehicle Contractor shall have the opportunity to display signage of a removable nature on the van. Contractor will make no other changes to the leased vehicle without first obtaining the written consent of the Area Agency.
    d. Accidents / Damage In the event the leased vehicle is involved in an accident or is vandalized, Contractor must:
        i. report the incident to the Area Agency within twenty-four (24) hours.
        ii. submit a written report of the incident to the Area Agency within three (3) days
        iii. make all repairs and restorations and shall be responsible for all costs incurred in repair of leased vehicle including the deductible amounts stated in the insurance policy.
4. Personnel Requirements Contractor shall specifically certify staff as competent to operate vehicles as required by law and the following minimum standards:
    a. Valid Arizona drivers license
    b. Obtain motor vehicle report and evaluate the report as acceptable prior to commencing driving.
    c. Driver training, supervision, and employment. Volunteer drivers must meet all these requirements and any other requirements as set for paid drivers.
5. Evaluation & Monitoring Area Agency may evaluate and the Contractor shall cooperate in the monitoring, assessment, and evaluation of contract services or transportation activities performed by the identified vehicle(s).

AAA FY 08 – 09 BUDGET SUMMARY:

REVENUES	Congregate Meals	Home Delivered Meals	Multipurpose Center	Transport ation	Total
Area Agency	$65,857	$154,607	$20,100	$60,000	$300,564
Program Income	7,500	6,000	0	1,500	15,000
Non-Fed Inkind	15,197	3,860	15,197		34,254
Non-Fed Cash	45,001	32,072	45,091		122,164
Total	$133,555	196,539	80,388	61,500	$471,982

EXPENSES	Congregate Meals	Home Delivered Meals	Multipurpose Center	Transporta tion	Total
Personnel	$32,304	$75,987	$26,239	$27,100	$161,630
Employee Related Expenses	22,904	19,331	16,222	10,000	68,457
Prof and Outside (Special Programs)			7,800		7,800
Travel (Vehicle Maintenance)				24,400	24,400
Space	29,737	28,110	26,327		84,174
Equipment					
Materials/Supply	45,210	69,361	3,800		118,371
Operating Expenses	3,400	3,750			7,150
Indirect					
Total	$133,555	$196,539	$80,388	$61,500	$471,982

CITY COUNCIL REPORT

SUBJECT:
Professional Service Agreement with Logan Simpson Design, Inc. to Develop a Park, Recreation and Trails Master Plan

MEETING DATE:
July 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 approve a Professional Services Agreement with Logan Simpson Design, Inc. to develop a Parks, Recreation and Trails Master Plan in the amount of $170,000 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

BACKGROUND:

In 2002, staff working in collaboration with the Parks and Recreation Advisory Board completed a Parks and Recreation Master Plan that has been utilized during the past few years as a guide in the development of new parks and recreation facilities. The document at the time captured some basic information regarding the existing conditions at our current parks. This information was used to guide staff through our annual Capital Improvement Plan and provide recommendations for Council regarding park development and the prioritization of projects for grant opportunities. Council has recognized the need to develop a new plan, which reflects the changes and growth that have occurred over recent years and has included an objective to develop a new plan in adopted Council Goals.

DISCUSSION:

On April 29, 2008 the city issued a Request for Qualifications for consultants interested in preparing a comprehensive master plan that systematically assesses the City's current and future needs for parks, recreation facilities and trails.

The city received nine (9) submittals by the deadline. A selection team comprised of representatives from Planning, Parks and Recreation, Engineering, Finance, Neighborhood and Family Services and the Parks and Recreation Advisory Board, evaluated and scored the proposals in accordance with the evaluation criteria. The top ranked firm selected by the committee was Logan Simpson Design, Inc.

Staff met with representatives of Logan Simpson Design, Inc. to refine the scope of work and to develop a fee proposal that is included in the Professional Service Agreement.

The master plan will include the following components:

Demographic and cultural/environmental information
Inventory of existing parks, recreation facilities and trails
Analysis of existing parks, recreation facilities and trails
Analysis of baseline standards and trends

Community needs assessment
Master plan recommendations
Implementation/action plan

Logan Simpson Design, Inc. has extensive experience in a diverse range of landscape architectural and environmental planning services. The firm has recently completed comprehensive master plans for the Cities of Goodyear and Prescott, and Pinal County. Logan Simpson Design has also included Judie Scalise, from ESI Corporation to their team who will facilitate the community needs assessment portion of the plan.

The master planning process is estimated to be completed in approximately ten (10) months. During the process the team will utilize various methods to gather public input for the plan. This will include a community needs assessment survey, meetings with stakeholder groups, community meetings and regular involvement from the Parks and Recreation Advisory Board.

A preliminary master plan will be developed and presented during a city council work session for additional input and comments. The final draft of the master plan will address staff and City Council comments and will be presented to Council for final approval.

BUDGETARY IMPACT:

The funding for the Parks, Recreation and Trails Master Plan was planned and budgeted in the Parks Capital Improvement Plan.

RECOMENDATION:

Staff recommends that the City Council approve a Professional Services Agreement with Logan Simpson Design, Inc. to develop a Parks, Recreation and Trails Master Plan in the amount of $170,000 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

- PSA

PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
LOGAN SIMPSON DESIGN INC.

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made as of July 7, 2008, between the City of Avondale, an Arizona municipal corporation (the "City") and Logan Simpson Design Inc., an Arizona corporation (the "Consultant").

RECITALS

A. The City issued a Request for Qualifications, PR 08-018 "Parks, Recreation Facilities and Trails Master Plan" (the "RFQ") seeking statements of qualifications from vendors for the preparation of a master plan for its parks, recreation facilities and trails.

B. The Consultant responded to the RFQ and the City desires to enter into an Agreement with the Consultant for the preparation of a master plan for its parks, recreation facilities and trails (the "Services").

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Consultant hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until May 31, 2009.

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

3. Compensation. The City shall pay Consultant a price not to exceed $170,000.00 for the Services as set forth in the Fee Proposal, attached hereto as Exhibit B and incorporated herein by reference.

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

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

6. Consultant Personnel. Consultant shall provide adequate, experienced personnel, capable of and devoted to the successful completion of the Services to be performed under this

Agreement. Consultant agrees to assign specific individuals to key positions. Consultant agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the City. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Consultant shall immediately notify the City of same and shall, subject to the concurrence of the City, replace such personnel with personnel of substantially equal ability and qualifications.

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

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

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

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

11. Insurance.

11.1 General.

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

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

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

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

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

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

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

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

i. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Consultant shall execute written agreement with Subcontractor containing the indemnification provisions set forth in this Section and insurance requirements set

forth herein protecting the City and Consultant. Consultant shall be responsible for executing the agreement with Subcontractor and obtaining certificates of insurance verifying the insurance requirements.

j. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Consultant will provide the City with suitable evidence of insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Agreement, issued by Consultant's insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverage, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Confidential information such as the policy premium may be redacted from the declaration page(s) of each insurance policy, provided that such redactions do not alter any of the information required by this Agreement. The City shall reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. In the event any insurance policy required by this Agreement is written on a "claims made" basis, coverage shall extend for two years past Final Completion and the City's acceptance of the Consultant's work or services and as evidenced by annual certificates of insurance. If any of the policies required by this Agreement expire during the life of this Agreement, it shall be Consultant's responsibility to forward renewal certificates and declaration page(s) to the City 30 days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified with a RFQ number and title. A $25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFQ number and title. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing a contract number will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

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

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

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

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

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

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

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

11.2 Required Insurance Coverage.

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

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

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

d. Workers' Compensation Insurance. Consultant shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Consultant's employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than $500,000 for each accident, $500,000 disease for each employee and $1,000,000 disease policy limit.

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

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

13. Termination; Cancellation.

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

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

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

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

13.5 Gratuities. The City may, by written notice to the Consultant, cancel this Agreement if it is found by the City that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is cancelled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Consultant an amount equal to 150% of the gratuity.

14. Miscellaneous.

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

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

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

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

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

14.6 Relationship of the Parties. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Consultant is advised that taxes

or Social Security payments will not be withheld from any City payments issued hereunder and Consultant agrees to be fully and solely responsible for the payment of such taxes or any other tax applicable to this Agreement.

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

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

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

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

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

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

14.13 Offset.

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

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

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

If to the City: City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Facsimile: (623) 333-0100
Attn: Charles P. McClendon, City Manager

With copy to: GUST ROSENFELD, P.L.C.
201 East Washington Street, Suite 800
Phoenix, Arizona 85004-2327
Facsimile: (602) 340-1538
Attn: Andrew J. McGuire, Esq.

If to Consultant: Logan Simpson Design Inc.
51 West 3rd Street, Suite 450
Tempe, Arizona 85281
Facsimile: (480) 966-9232
Attn: Jackie M. Keller, RLA

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

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

14.16 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the Agreement, the Scope of Work, the Fee Proposal, the RFQ and the Consultant's response to the RFQ, the documents shall govern in the order listed herein.

14.17 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the City of Avondale. The City reserves the right to obtain like goods and services from another source when necessary.

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:

_____
Carmen Martinez, Acting City Clerk

"**Consultant**"

LOGAN SIMPSON DESIGN INC., an Arizona corporation

By:_____

Name:_____

Its:_____

(ACKNOWLEDGEMENTS)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2008, by Charles P. McClendon, the City Manager of the CITY OF AVONDALE, an Arizona municipal corporation, on behalf of the City of Avondale.

_____
Notary Public in and for the State of Arizona

My Commission Expires:

_____

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on _____, 2008, by _____ as _____ of LOGAN SIMPSON DESIGN INC., an Arizona corporation, on behalf of the corporation.

_____
Notary Public in and for the State of Arizona

My Commission Expires:

_____

EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
LOGAN SIMPSON DESIGN INC.

[Scope of Work]

See following pages.

City of Avondale
Parks, Recreation Facilities & Trails Master Plan

Scope of Work
June 23, 2008

The goal of the City of Avondale (City) Parks, Recreation Facilities & Trails Master Plan (PRFT) project is to create a master plan that will provide a wide range of recreational opportunities at the neighborhood, community and regional park levels that are appropriate to Avondale's West Valley environment; identify potential locations for parks, recreation facilities, and trail corridors; identify potential upgrades or additions to existing park facilities, implement a public involvement program for developing the master plan; and develop an implementation plan for achieving the PRFT goals. The study area for this project will be the City's planning area as identified in the Avondale General Plan's Land Use Plan (2002).

LSD will be responsible for the overall master planning efforts with our sub-consultant: ESI Corporation (ESI). ESI will be assisting with regional, community, and neighborhood park planning studies as identified in the tasks outlined below. Estimated duration of time for LSD to complete all tasks for this project is approximately 10 months.

PARKS, RECREATION FACILITIES & TRAILS MASTER PLAN DEVELOPMENT

Task 1.0 Project Mobilization

The primary objectives of the project mobilization phase of this planning process will be to establish lines of communication, collect and review existing data, clarify the City's goals for each task, establish a preliminary schedule for public participation events, and identify additional information required to determine the level of planning necessary to achieve the City's overall master plan goals and objectives.

Task 1.1 Mobilization/Orientation Meeting

The purpose of the mobilization phase is to refine the steps that will be taken to develop an appropriate level of planning to effectively complete each task and provide the service level desired by the City. Specific approaches for each task will be developed as identified within this scope of work. LSD will review the planning schedule and obtain City and other available information, documents, and data pertinent to the study area that the City or affected agencies have available.

The City will provide, as available, the following information which may include but not be limited to:

- Approved preliminary and final Planned Area Developments (PAD's) and proposed development plans under consideration by the City, utility and infrastructure plans, existing park and recreation facility descriptions and location, existing zoning, land ownership (private, Arizona State Lands Department (ASLD), Bureau of Land Management (BLM), etc.), existing general plan land use, parks and open space, public facilities and transportation maps, previous or current planning studies and documents, public input information to date, and available programming information that may exist for existing or currently planned city park and recreation facilities.
- GIS spatial data layer of the City that identifies the location of subdivisions and includes a list of the planned and permitted development as well as the status of each project (i.e. proposed, approved, platted).
- All existing approved, planned, and conceptually sited park, recreation facilities, and trail and bike route locations.
- This information will be provided to LSD in hard copy and electronic format (if available). The City will provide recent aerial photography of the entire study area in digital format to LSD.

Additional items to be discussed may include:

- Establish review procedures, lines of communication, and administrative process.
- Discuss the current uses that occur on all existing public and private parks and their appropriateness and service level.
- Identify additional information from other agencies that should be incorporated into the planning process.
- Identify current or on-going issues that may include inadequate and/or antiquated utilities, parking, access points, programming, and operations and management for existing and proposed park sites.
- Any existing drainage reports for open space watersheds or major washes from the Flood Control District of Maricopa County or City.
- Create a preliminary list of contacts for affected stakeholders, as well as suggested methods of soliciting their input.

In addition, staff goals, objectives, needs, and opportunities and constraints for each task will be discussed and identified. This information will provide the basis for, and be integrated into, the planning process of each task.

Task 2.0 Demographic, Cultural/Environmental Analysis

The purpose of this phase of the planning process is to identify and evaluate the physical, cultural, and natural resources within and directly adjacent to the master plan study area. All study data pertinent to the master plan will be shown on a base map of the study area and pertinent digital data will be provided to the City in GIS format using ArcView shapefiles.

Task 2.1 Cultural Resources

LSD will complete a general overview of cultural resources within the study area based on readily available information. The Arizona State Museum (ASM), the Bureau of Land Management (BLM) Arizona State Office and the General Land Office, the State Historic Preservation Office (SHPO), in addition to Maricopa County files may be consulted for cultural resources inventory data. The cultural resources site files of the cities of Goodyear, Litchfield Park, and Phoenix may also be consulted since they may contain relevant information on nearby cultural resources. A summary of the City's cultural resources (both historic and prehistoric) will be prepared that will be suitable for public distribution and included in the Master Plan document.

Task 2.2 Biological Resources (vegetation and wildlife)

LSD will provide a general overview of the biological resources within the City planning area. LSD will coordinate with the Arizona Game and Fish Department to determine if any Wildlife of Special Concern in Arizona are present within the City planning area. Additionally, LSD will review the US Fish and Wildlife Service's list of threatened, endangered, and sensitive (TES) species and critical habitat for Maricopa County to determine if the planning area contains any listed species or critical or suitable habitat. A biological resource summary and appropriate map will be prepared as a general overview of the City's known biological resources based on available agency TES species and critical habitat information. A summary of the City's biological resources will be included in an appendix of the Master Plan document. No species-specific surveys or Section 10 consultation is included in this Scope of Work.

Task 2.3 Landforms and Topography

LSD will prepare a general slope analysis for the planning area to characterize the surface topography with available topographic base data provided by the City (general plan support data) and other secondary sources. The City and LSD staff will agree upon slope ranges. The slope analysis for potential park sites will be evaluated for the proposed program facilities and their feasibility related to implementation constraints. The slope analysis will be shown graphically on the base plan map.

Task 2.4 Geology and Soils

LSD will evaluate the general bedrock geology, surficial geology, and soils for the study area using existing geologic and soils maps prepared by Arizona State University, the Arizona Geological Survey, and the USDA Soil Conservation Service (a.k.a., NRCS) and City (general plan support data document). LSD will prepare a summary of the local geologic history and key geologic features in a format that can be utilized for identifying developable park locations, passive open space areas, and interesting geologic features that could be included as interpretative assets to the community.

Task 2.5 Existing/Planned/Zoned Land Use/Ownership Analysis

LSD will validate the existing land use and zoning within the study area, as well as identify the planned land use and ownership of land within 0.25-mile radius of the potential neighborhood, community, and regional park facilities. Existing land use and zoning information will be collected from the City or Maricopa County. Planned land use and ownership will be based on information provided by the City, Arizona State Land Department (ASLD), Bureau of Land Management's Arizona Surface Management Responsibility, Maricopa County, and adjacent municipalities. In addition, the adjacent land areas of each potential park site will be evaluated in terms of existing and future recreational opportunities and user experiences that they may provide, as well as their compatibility with existing and proposed adjacent land uses. This information will be summarized in the Master Plan document.

Task 2.6 Utilities and Infrastructure Overview

LSD will meet with the City to obtain or review available maps of major infrastructure (i.e., water distribution and sewer/storm water collection systems) throughout the City. The City will also provide any available future or planned infrastructure projects or studies.

The City will provide information from the local utility companies that identify their existing major utility corridors and future plans within the study area. The anticipated utilities include electric and gas major facilities, such as Western Area Power Administration (WAPA) and utility transmission easement corridors.

Discussions with City staff will be conducted to identify existing and planned arterial and collector streets and transportation issues. These issues may include inadequate site distance and access points, congestion, and roadway geometrics. The City will also identify and provide current area-wide transportation studies for proposed major transportation corridors.

The identified City-wide issues of infrastructure, utilities, and transportation will be evaluated in identifying proposed locations of community and regional recreation facilities.

LSD will coordinate with the City to determine if any existing or future City projects will affect the development of potential park and recreation facilities. No land survey or traffic impact study is included as part of this Scope of Work.

Task 2.7 Drainage Analysis

The City will provide LSD with any existing hydrologic modeling and drainage reports for the study area's watersheds and drainage planning criteria, as well as mapping for existing drainage patterns contributing flow to the watersheds or information obtained from published sources such as the United States Geological Survey (USGS) and Avondale's Master Drainage Plan. The City will provide existing Federal Emergency Management Agency (FEMA) mapping of floodplains and floodways. LSD will use the following information provided by the City to assist in identifying potential locations for new park sites and recreation facilities.

- Major watersheds, flood plains, and wash corridors.
- An overview of existing drainage paths and their impact on potential park sites and facilities.

Flood prone areas unsuitable for potential park development and subject to flood and erosion hazards will be identified using the available hydrologic data provided by the City, and interpretation of landform features and contours. No new detailed hydrologic or hydraulic modeling or studies will be prepared as part of this project. It is also assumed that water resources and water quality analyses will not be required in this Scope of Work.

Task 2.8 Multi-Use Recreation Opportunities Analysis

LSD will prepare a general overview within and adjacent to the study area to identify existing and planned multi-use recreation opportunities through data provided by the City and secondary sources. A review of existing and currently being developed planning documents including the General Plan, Planning and Zoning codes and ordinances, etc. will be undertaken to ensure coordination and consistency of implementing the City's vision and goals. LSD will provide a brief summary describing the multi-use recreation opportunities, constraints and guidelines that may apply to the study area and its context based on existing data. LSD will provide a map as a layer to the base map that identifies the general type, location and extent of any identified multi-use recreation features that currently exist or are planned.

Task 2.9 Demographic Analysis
ESI will conduct a demographic analysis utilizing 2000 Census data as the baseline year with current year estimates (2007) and five year projections (2012) to gain an understanding of the existing socioeconomic mix of the community. This information will help the team understand the demographic mix and potential changes in the community, which will help provide direction to the master plan. Citywide data will be compiled, which can be broken down by block group. Data that ESI will evaluate will include:

- Population
- Population by sex
- Population by race
- Households
- Households by size
- Owner versus rental occupied housing
- Household income

ESI will also utilize MAG population and household projections at the TAZ level to go beyond the 2012 time horizon; however the level of detail noted above will not be available.

Task 3.0 Public Participation Program
The purpose of the Public Participation Program (PPP) is to define the steps the City and LSD will take to maximize public participation in the master plan development. Specific milestones of the public involvement process for the PRFT are identified below. LSD will provide a summary of each public and stakeholder meeting to the City for their review. A summary of the overall results of the PPP will be submitted as an appendix to the Master Plan document.

The City will arrange the public meeting facilities for each Public and Stakeholder Meeting and assume any cost associated with using those facilities. The City will be responsible for any insurance requirements associated with the meeting facilities. The City will be responsible for all notifications of the public and stakeholder meetings (including newspapers) to reach concerned citizens, interest groups, stakeholders, and adjacent landowners and agencies affected by the study area. The City will maintain a mailing list during the study process that will be documented after each public and stakeholder meeting. The City will be responsible for all news media contacts, public service announcements, and press releases. No court reporter will be provided at the public or stakeholder meetings. Any special needs by the public at these meetings will be the responsibility of the City.

The City will provide refreshments and directional signs at each Public Meeting. LSD will provide a 'welcome' exhibit at each Public Meeting. LSD will prepare the sign-in sheets and nametags for City and LSD staff in attendance at the public meeting. LSD will submit all material to the City Project Manager and Public Information Officer for review prior to each public meeting.

LSD will attend a preview meeting at a minimum of one week prior to the public meeting to review the exhibit mock-ups, handout material, meeting format, and the roles and responsibilities of City staff and the LSD Team.

The exact format of the public and stakeholder meetings and agenda will be determined as the project proceeds. The purpose of the public meetings provided in this Scope of Work is preliminary and subject to change, but the areas of responsibility will remain as noted.

Task 3.1 Public Meeting No. 1
LSD will assist the City in organizing and conducting an initial public meeting. The objective of the initial public meeting will be twofold: 1) to introduce the study, its purpose, the schedule, and the City and LSD Team members; and 2) to receive input from the community on their values, issues, needs, concerns, and vision for the Parks, Recreation Facilities & Trails Master Plan. LSD will prepare a summary of the results of the public meeting and comments received from the meeting participants.

LSD will develop and print a comment sheet for general comments.

LSD will prepare up to three (3) exhibits for the initial public meeting. The exhibits will be no larger than 36 by 50-inches, and will not be mounted on boards. LSD will attend a preview meeting at a minimum of one week prior to the public meeting to review the exhibit mock-ups, meeting format, and the roles and responsibilities of City staff and the LSD Team. LSD will provide the City electronic copies of the exhibits in Adobe PDF format.

Task 3.2 Public Meeting No. 2

The goal of the second public meeting will be to inform the public of the results of Public Meeting No.1 (values, issues, and needs); review the Vision, Goals & Objectives developed from the values, issues, and needs; the inventory and analysis findings, the needs assessment results, the preliminary programming, and to solicit responses on the Preliminary Master Plan. The first part of the public meeting will be an information presentation by the LSD Team and City staff to show the results of Public Meeting No. 1 and the data gathering process, analysis, and the Preliminary Master Plan. The second portion of the meeting will be focused towards gathering public input through an interactive format of discussions and written responses on comment cards.

LSD will develop and print an 8 ½" x 11" comment sheet with a contact name and number for the public meeting. A draft of the comment sheet will be submitted to the City for review. A maximum of 50 copies of the comment sheet will be printed by LSD.

LSD will prepare up to 12 exhibits for the second public meeting. The exhibits will be no larger than 36 by 50-inches, and will not be mounted on boards. LSD will attend a preview meeting at a minimum of one week prior to the public meeting to review the exhibit mock-ups, handout material, meeting format, and the roles and responsibilities of City staff and the LSD Team. LSD will provide the City electronic copies of the exhibits in Adobe PDF format.

Task 3.3 Stakeholder Meetings

LSD will meet with a Stakeholder Group that may be composed of City officials, affected agency representatives, and special interest groups and homeowner association representatives. The LSD Team will assist the City in determining the composition of representatives in the Stakeholder Group. The number of representatives in the Stakeholder Group is not anticipated to exceed a total of 25 participants. LSD will organize and conduct two Stakeholder Group meetings to assist in the preparation of the Conceptual Master Plan Alternatives and the Preliminary Master Plan. LSD will prepare meeting notes summarizing the results of the Stakeholder Group meetings and provide a copy to the City.

At the initial Stakeholder Group meeting, the LSD Team will make a presentation to the Stakeholder Group on the results of Public Meeting No. 1, the site analysis findings, the results of the needs assessment and benchmark surveys, the preliminary City park and recreation standards and park programming, and a maximum of three (3) Conceptual Master Plan Alternatives. The Stakeholder Group will provide input to LSD on the potential park and recreation facility standards and locations, existing and future planning efforts, agency issues or concerns, and potential programming requirements. The results of the first Stakeholder Group meeting will be included in finalizing the Preliminary Master Plan for presentation at the second Stakeholder Group meeting.

At the second Stakeholder Group meeting, the LSD Team will present the Draft Preliminary Master Plan and the results of their input on the Conceptual Master Plan Alternatives. The Stakeholder Group will provide comments and make recommendations to the City and the LSD Team on what needs to be included in the Preliminary Master Plan presented to the public.

LSD will prepare up to six (6) exhibits for the initial Stakeholder Group meeting and three (3) exhibits for the second Stakeholder Group meeting. The exhibits will be no larger than 36 by 50-inches, and will not be mounted for these meetings. LSD will prepare the sign-in sheets and provide the City electronic copies of the exhibits in Adobe PDF format. LSD will organize and conduct the Stakeholder Group meetings to solicit values, issues, and concerns pertinent to each participant constituent.

Task 3.4 Parks and Recreation Advisory Board Presentations

The third and fourth public meetings will be held in conjunction with the Parks and Recreation Advisory Board (PRAB) meetings to present the Preliminary Master Plan, Draft Final Master Plan, and receive comments. LSD will make a formal presentation to the PRAB on the results of the public and stakeholder meetings, community needs assessment and benchmark surveys, the City's preliminary park and recreation standards, site analysis, Preliminary Master Plan, and the Draft Final Master Plan.

LSD will coordinate with City staff at a minimum of one week prior to the presentations to review the exhibit mock-ups, meeting format, and the roles and responsibilities of the City and the LSD Team. LSD will prepare a power point presentation for the meetings.

The City will be responsible for public notification of the PRAB meetings.

Task 3.5 City Council Workshop and Approval Presentations

Based on input received at all the Public and Stakeholder Meetings, LSD will develop one initial project presentation in PowerPoint format for a presentation on the site analysis, Draft Final Master Plan, and results of the public meetings and community survey in preparation for developing the Final Master Plan at a City Council Workshop for their input and direction.

LSD will develop a second project presentation in PowerPoint format for presentation of the Final Master Plan at a City Council Meeting for their approval of the Final Master Plan.

LSD will coordinate with City staff at a minimum of two weeks prior to the presentations to review the exhibit mock-ups, meeting format, and the roles and responsibilities of the City and the LSD Team. LSD will prepare a power point presentation for the meetings. Each presentation will be submitted to the City's Project Manager in electronic media that is useable on the City's equipment. The slide presentations are estimated to be a maximum of thirty (30) slides/frames in length. The LSD Team and City staff will make the presentations to the City Council.

The City will be responsible for public notification of the City Council Workshop and City Council Approval meeting.

Task 3.6 Community Recreation Needs Assessment Survey

A statistically valid mail survey will be undertaken to understand the overall parks and recreation system needs and priorities for parks and recreation facilities, program services, bike routes and trails, special events, and desired allocation of resources. As a component to the public participation process, ESI will work closely with LSD and the City of Avondale to develop a Recreational Needs Assessment Survey instrument.

To help understand resident preferences by geography, we will include a small map of the City divided into quadrants and request that respondents identify which quadrant in the city they live in. This information, combined with population projections, will be valuable when identifying areas for new park locations and future programming of recreation programs.

A summary of the services that ESI will provide includes the following:

- Survey instrument design
- Printing and mailing survey
- In-bound project administration
- Data entry
- Tabulation
- Analysis & preparation of written report

ESI, in conjunction with LSD and City Staff, will develop survey questions that will address a full range of strategically important issues to the City in their long- and short-range decision-making as it relates to parks and recreation. Following approval of the survey by Avondale, a statistically valid survey will be conducted by ESI that provides a 95 percent level of confidence with a margin of error of +/- 5 percent. To accomplish this, surveys from a minimum of 379 households would be collected. To achieve this number of completed surveys ESI will mail 4,000 surveys to randomly selected households in Avondale. ESI will tabulate up to 400 surveys.

The length of the survey instrument will be three to four pages and printed on 11 by 17 inch paper folded in half. After the respondent completes the survey they insert it into the postage paid envelope and mailed directly to ESI for data entry and tabulation.

The survey instrument will not exceed four pages in length and will be administered by ESI staff including data entry and tabulation. ESI will conduct up to six cross-tabulations comparing survey results by key demographic factors, such as zip code, length of residency, age, etc. The factors that will be cross tabulated will be selected by the City, LSD and ESI staff.

A draft needs assessment survey report will be developed for review by the City of Safford. The report will include an executive summary of findings, graphs and charts, cross-tabular analysis by geographical areas, gender, etc. and be provided in electronic format for reproduction.

Task 4.0 Existing Recreation Analyses and Comparisons

The purpose of this phase of the master planning process is to identify and evaluate the City's current and future level of service for community-wide park and recreation facilities, programs, and trails in relation to available park and recreation acreage and opportunities, and to other benchmarked communities.

Task 4.1 Similar Parks and Recreation Systems Benchmarking

ESI will conduct a benchmarking survey with up to five communities to determine parks, recreation, cultural, arts, open space and trail standards in order to evaluate the City's park and recreation standards. Benchmarking comparisons will be used to assist in determining level of service standards for indoor and outdoor parks and recreation facilities, establishing support for various fee levels and policies, and evaluating current parks and recreation facilities, programs, and services.

The benchmarking survey will focus on the numbers and types of outdoor and indoor parks and recreation facilities and capital funding, including items such as types and numbers of parks and open space areas; trails; types and numbers of outdoor recreation facilities; types and numbers of indoor recreation facilities; types of programming and fees charged; cooperative usage of facilities; capital budgeting; major sources of capital revenue; etc. Avondale will also complete the benchmark survey in order to evaluate their delivery system against the benchmark average.

LSD/ESI will meet with Avondale staff to discuss the survey instrument and questions, and identify up to 10 communities to receive the benchmarking survey. ESI will develop the benchmarking survey instrument, mail the survey to 10 communities, enter data from up to 5 communities, and develop a short executive summary report regarding the findings from the benchmarking survey.

Task 4.2 Overall Park and Recreation Facility Analysis

LSD will provide a general overview of the City's existing park and recreation facility types and their service area. The City will provide an inventory of all parklands and facilities, their acreages, and the types and conditions of facilities and amenities currently existing within each park. LSD will review the City's information for accuracy. If additional site visits are required by LSD to gain accurate, complete information on existing facilities, they will be conducted at an additional cost as agreed upon and approved by the City prior to conducting the work.

An analysis of the overall community service level for neighborhood, community, and regional park types and facilities will be compiled and summarized in the Master Plan document.

Task 4.3 Overall Park and Recreation Program, Special Events, and Festivals Analysis

LSD/ESI will conduct a strengths, weaknesses, opportunities, and threats (SWOT) analysis on existing building facilities and recreation programs offered by the City. This analysis will begin with a meeting and tour of each facility with City staff to obtain information/data on the various programs offered by the City. The City will be responsible for providing the following information for the SWOT analysis, as a minimum.

- Location of the facility and program offerings
- Frequency and time of day of program offerings
- Number and type of staffing for each facility
- Number of participants by program
- Associated staffing by program
- Overall organizational staffing structure of the Avondale Parks Department
- Program fee structure

Based on this analysis, combined with input from City Staff, we will prepare a report with recommendations to the City that identifies what program areas could be improved or need to be provided. An analysis of the overall community service level for park and recreation programs, special events, and festivals will be compiled and summarized in the Master Plan document.

Task 4.4 Overall Bike Route and Trail Analysis

LSD will conduct a strengths, weaknesses, opportunities, and threats (SWOT) analysis on existing bike route and trail corridors provided by the City. This analysis will be based on mapping and information the City provides in an electronic format for the various types of routes and trails. LSD will review the City's information for accuracy.

If additional mapping efforts are required by LSD to gain accurate, complete information on existing facilities, they will be conducted at an additional cost as agreed upon and approved by the City prior to conducting the work.

An analysis of the overall community and regional connectivity service level for bike routes and trails will be compiled and summarized in the Master Plan document.

Task 5.0 Recreation Standards and Trends Development

The purpose of this phase of the master planning process is to develop a community-wide park and recreation facility development program that provides the most effective use of the City's current and future potential park lands, and to reach agreement within the City on the vision for the development of the master plan and the overall recreational facility program elements and activities.

Task 5.1 Vision, Goals, and Objectives

LSD and City staff will review the vision, goals, and objectives crafted from the values, issues, and needs identified at Public Meeting No.1. LSD and City staff will also identify potential user groups, activities, and facilities and their spatial requirements that could be accommodated within existing and future park sites. Existing uses will be evaluated in terms of primary and secondary uses. Special events and festivals currently held, as well as potential events, will be discussed in terms of location, time of year, facility and site requirements. These needs will be evaluated against the results of the needs assessment, the City's current Parks Master Plan and General Plan, and the identified vision, goals, and objectives of the PRFT.

Task 5.2 Development of the City's Park and Recreation Facilities and Programs Standards

Using information gathered from the needs assessment survey and the benchmarking survey of other communities, LSD will develop tailored Park and Recreation Facility and Program Standards for the City. A series of linked excel spreadsheets will be developed to enter data for the various facilities for each of the benchmarked communities and for the City and include:

For benchmarked communities:
- number of facilities and programs of each type that each community currently is operating
- number of facilities and programs per 1,000 residents of each type for each community
- an average number of facilities and programs for all of the communities
- an average number of facilities and programs per 1,000 residents for all of the communities

For the City:
- number of facilities and programs of each type that the City currently is operating
- number of facilities and programs per 1,000 residents that the City currently is operating
- surplus/deficit of each facility and program per 1,000 residents (comparing the City to average of benchmarked communities, in 2013
- surplus/deficit of each facility and program per 1,000 residents (comparing the City to average of benchmarked communities, based on projecting the City's population in 2018

A draft Parks and Recreation Facilities and Programs Standards will be developed utilizing:
- information from benchmarking surveys of comparable communities
- information from the recreation needs assessment survey
- national park and recreation standards
- input from the public and stakeholder meetings

The draft standards recommendations will be built into an excel data base to show deficits/surpluses for parks and recreation facilities and programs based on the "draft" standards recommendations for year 2013 and the projected population base in year 2018.

LSD will review the draft standards with the City. Based on City comments and direction, the final City Park and Recreation Facilities and Programs Standards will be developed. If, in fact, some uses cannot or will not be accommodated within the City, then a rationale will be discussed to identify how they will be addressed (i.e. find

other areas for their activity). The Park and Recreation Facilities and Programs Standards will be reviewed and approved by the City prior to developing the Conceptual Master Plan Alternatives.

Task 5.3 Development of the City's Bike Route and Trail Standards
Using information gathered from the needs assessment survey and the benchmarking survey of other communities, LSD will develop tailored Bike Route and Trail Standards for the City. A series of linked excel spreadsheets will be developed to enter data for the various facilities for each of the benchmarked communities and for the City and include:

- types of bike routes and trails each community currently provides
- length (in miles) per 1,000 residents of each type of route and trail for each community
- an average number of miles of each type of route and trail for all of the communities
- an average number of miles of each type of route and trail per 1,000 residents for all of the communities

The draft standards recommendations for each type of route and trail will show deficits or surpluses based on the "draft" standards recommendations for year 2013 and the projected population base in year 2018.

Task 6.0 Conceptual Master Plan Alternatives
The purpose of this task will be to develop conceptual master plan alternatives that meet the vision, goals, and objectives established in Task 5.0. Based on the public and City staff input, LSD will identify the best possible siting locations for future neighborhood, community, and regional park facilities.

Task 6.1 Conceptual Master Plan Alternatives
Based on the preliminary program, the public and City staff input, and the cultural/environmental analysis, the LSD Team will identify the best possible siting locations for the desired park types. The alternatives will address the desired service level, compatibility of adjacent land uses, motorized and nonmotorized access, community and regional connectivity, potential interpretive or educational opportunities, existing and proposed facilities, and operational concerns.

To understand current growth patterns the LSD Team will obtain from the City a GIS spatial data layer of the City that identifies the location of subdivisions and includes a list of the planned and permitted development as well as the status of each project (i.e. proposed, approved, platted). Community park sites will be identified based on projected growth patterns.

Based on a combination of the existing level of service standards, the cultural/environmental analysis, the results of the needs assessment, and the benchmarking analysis, the LSD Team will develop a list of potential community park locations for further analysis.

A maximum of three conceptual plan alternatives will be developed including schematic open space conservation areas and/or linkages appropriate for each alternative. The conceptual plans will be analyzed in terms of site compatibility, adjacent land use compatibility, the needs assessment, economic feasibility, existing and current planning projects, and meeting the goals and objectives of the master plan.

Staff and Stakeholder meetings will be held to present and to receive input on the Conceptual Master Plan Alternatives in order to finalize the alternatives prior to the second Stakeholder meeting.

Task 7.0 Master Plan Development
Based on the results from public, Stakeholder, PRAB, and City staff input, LSD will develop a Preliminary and Final Parks Master Plan.

Task 7.1 Preliminary Master Plan Development
Based on the results from Public Meeting No. 1, the first Stakeholder meeting, the needs assessment and benchmark survey results, and City staff input, LSD will develop an alternative or combination of alternatives as the Draft Preliminary Master Plan for presentation to the Stakeholder Group for review and comments. Based on Stakeholder and City staff comments, a Final Preliminary Master Plan will be developed and presented to the PRAB for input and comments.

A general estimate of probable implementation costs will be prepared for the Final Preliminary Master Plan based on park category types and including potential land acquisition costs. The Final Preliminary Master Plan and preliminary probable implementation cost estimate will be presented to the PRAB in a Work Session for their review and comment. A preliminary phasing and prioritization of park development will be included as part of the work session to help identify prioritization of the phased development. Input and direction from this PRAB Work Session will provide the basis for developing the Draft Final Master Plan.

LSD will compile and document comments regarding the Preliminary Master Plan and provide a summary to the City for their review. LSD will provide to the City one electronic PDF format copy of the Preliminary Master Plan.

Task 7.2 Final Master Plan Development

Based on the comments from the PRAB and City staff from the Preliminary Master Plan presentation, LSD will develop a Draft Final Master Plan for presentation to the City Council in a Work Session. LSD will provide to the City twenty 11" x 17" colored paper copies and one (1) electronic PDF format copy of the Draft Final Master Plan to help identify prioritization for phased development. The results of the City Council Work Session and the Draft Final Master Plan presentation will be included in developing the Final Master Plan. LSD will address the City Council and staff comments in the Final Master Plan and present to the PRAB and City Council for approval.

The Parks Master Plan Document will include an overview narrative explaining the master planning process including the public participation program and a development program with estimates of probable implementation costs. The Parks Master Plan Document will be formatted in a bound document consisting of no more than 50 pages including a maximum of ten 11" x 17" colored foldouts of the cultural/environmental documentation and the Final Master Plan. LSD will reproduce twenty copies of the Parks Master Plan Document for City and 5 copies for the LSD Team. A web-ready printable PDF will also be provided to the City for their website. City staff will be responsible for the distribution of the Parks Master Plan Document.

Task 8.0 Master Plan Action/Implementation Program

Based on the results from the public meetings, Stakeholder Group meetings, the PRAB, City Council, and City staff input, the LSD Team will develop means and venues for implementing the master plan, which will provide a wide range of recreational opportunities at the city-wide park level.

The primary objectives for this phase of the planning process is to identify and successfully complete those tasks required to understand the opportunities and constraints, and associated probable implementation costs for design and construction of park facilities associated with implementing the master plan.

Task 8.1 Park and Recreation Development Program

Based on the overall park and recreation facility analysis and the City's Park and Recreation Facilities and Programs Standards established in Task 5.0, the LSD Team will develop a Community-wide Park and Recreation Facility Development Program that identifies specific park classification types, facilities, locations, and their service area. Appropriate park and recreation facilities and/or activities will be identified for each park type and provide the basis for the Park and Recreation Development Program recommendations from which the City can develop a Capital Improvements Plan. Deficiencies and/or excesses in park types, service areas, appropriate facilities, and/or acreages will be identified.

LSD will present to City staff the findings of the park and recreation facility analysis in a workshop format. The City and LSD will determine an approach and rationale for addressing any identified deficiencies or excesses that may require reorganization of facilities in order to provide the desired park and recreation level of service for the overall community prior to the development of the master plan alternatives.

In support of the Park and Recreation Development Program, ESI will provide an analysis of funding mechanisms currently utilized by City staff to fund parks, recreation facilities and bicycle routes and trails. Utilizing input from LSD relating to capital and budget needs for parks, recreation facilities and bicycle routes and trails for fiscal years 2013 and 2018, ESI will identify potential funding sources, partnerships and land acquisition methods that could be utilized for plan implementation

Task 8.2 Funding and Partnerships

A variety of funding sources and partnering mechanisms will be evaluated by ESI for the City of Avondale. ESI will review existing financial sources and mechanisms currently used by the City today to fund parks and parks

maintenance, such as impact fees, bonds, user fees, etc. ESI will also estimate future impact fees based on growth projections and current level of service.

The funding plan will include the name of each proposed project identified for FY 2013 and FY 2018 along with the applicable funding source(s). In some cases different funding sources can be utilized for different aspects of the same project. For example construction of a cultural facility may come from bond monies while acquisition dollars could come from grants.

ESI will review the opportunity for joint use facility agreements with various parties including the School Districts, Maricopa County, Flood Control District, Fish and Wildlife, and others. Based on existing community park and facility needs, combined with the recommended locations for new community parks, ESI will identify opportunities for partnering. We will contact the each agency to discuss existing and future needs and the potential of developing shared facilities for educational programs, athletic and cultural events, trails and the like that could be mutually beneficial to the City and the supporting agency.

Applicable findings from the Needs Assessment will be shared with the agencies to help identify areas of mutual interest that could be jointly planned through intergovernmental agreements or partnerships

Task 9.0 Project Coordination and Progress Meetings

LSD will provide project coordination and conduct progress meetings on a consistent basis throughout the project to ensure the City's goals and objectives are being achieved.

LSD will coordinate with the City's Project Manager and subconsultant on a routine basis via email and phone conversations to provide documents on the progress of the planning process, identify potential issues, and/or changes in schedule. LSD will keep the City's Project Manager informed of all coordination with outside agencies and other affected parties.

A total of five project status/review meetings are planned for the duration of the project with representatives from the City and the LSD Team. The purpose of these meetings is to review future, on going, and completed project tasks to date; review and adjust the project schedule as required; and discuss project activities. LSD will prepare meeting agendas for distribution two working days prior to meeting, conduct progress meetings, and prepare and distribute meeting notes. The project status/review meetings will be held at the City's offices.

LSD with the City's Project Manager as support will coordinate with interested agencies and other City and County departments to identify current and future planning concerns and issues; and to determine appropriate approaches, direction, and solutions throughout the planning process. City staff will provide information to LSD as appropriate.

ASSUMPTIONS

The City will assist LSD by providing information references and perspectives on local and regional issues. Issue topics may include politically sensitive issues; trends in future growth areas; types of development and densities; open space policy/acquisition; water resource, allocation and conservation policies; concerns of local citizen groups; any Specific Area Plans; considerations of County and adjacent municipalities General Plans and Park and Recreation Master Plans.

EXHIBIT B
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
LOGAN SIMPSON DESIGN INC.

[Fee Proposal]

See following page.

CITY OF AVONDALE
Parks, Recreation Facilities, and Trails Master Plan

City Number: P08-0088
Fee Proposal - June 23, 2008

TASK NO.	TASK DESCRIPTION	Logan Simpson Design													ESI Corporation					PROJECT TOTAL
		Project Principal	Proj. Man./ LA IV	Planner III	Planner II	Planner I	Archeologist IV	Archeologist II	Biologist III	GIS III	GIS I	Graphics II	TOTAL HOURS	TOTAL LABOR	Principal	Research Assistant	GIS Associate	TOTAL HOURS	TOTAL LABOR	
TASK 1.0 - Project Mobilization																				
1.1	Mobilization/Orientation Meeting		8		8					6			22	$ 2,352				0	$ -	
	Subtotal Task 1.0	**0**	**8**	**0**	**8**	**0**	**0**	**0**	**0**	**6**	**0**	**0**	**22**	**$ 2,352**	**0**	**0**	**0**	**0**	**$ -**	**$2,352**
TASK 2.0 - Demographic, Cultural/Environmental Analysis																				
2.1	Cultural Resources	1	2		2		4	30		2	8		49	$ 3,843				0	$ -	
2.2	Biological Resources	2	2		2				24	2	8		40	$ 3,511				0	$ -	
2.3	Landforms and Topography		4		2					2	8		16	$ 1,402				0	$ -	
2.4	Geology and Soils		2		8					2	8		20	$ 1,574				0	$ -	
2.5	Existing/Planned/Zoned Land Use/Ownership Analysis		2	2	4					2	8		18	$ 1,473				0	$ -	
2.6	Utilities and Infrastructure		4		4	2				2	8		20	$ 1,675				0	$ -	
2.7	Drainage Analysis		4		4					2	8		18	$ 1,556				0	$ -	
2.8	Multi-Use Recreation Opportunities Analysis	2	4	4	24	16				2	16		68	$ 5,275				0	$ -	
2.9	Demographic Analysis		2	2						4	4		12	$ 1,117	2	12	6	20	$ 1,680	
	Subtotal Task 2.0	**5**	**26**	**8**	**50**	**18**	**4**	**30**	**24**	**20**	**76**	**0**	**261**	**$ 21,426**	**2**	**12**	**6**	**20**	**$ 1,680**	**$23,106**
TASK 3.0 - Public Participation Program																				
3.1	Public Meeting No. 1	1	10		12	6				4		24	57	$ 4,710				0	$ -	
3.2	Public Meetings No. 2	1	10		12	6				4		40	73	$ 5,661	8			8	$ 1,200	
3.3	Stakeholder Meetings (2)		12		16	8				8		24	68	$ 5,643				0	$ -	
3.4	PRAC Meetings (2)		12		6					2		8	28	$ 2,875				0	$ -	
3.5	City Council Workshop/Meeting (2)		12		4					2		4	22	$ 2,483				0	$ -	
3.6	Community Recreation Needs Assessment Survey	2	32		4	4							42	$ 5,536	24	150		174	$ 14,850	
	Subtotal Task 3.0	**4**	**88**	**0**	**54**	**24**	**0**	**0**	**0**	**20**	**0**	**100**	**290**	**$ 26,908**	**32**	**150**	**0**	**182**	**$ 16,050**	**$42,958**
TASK 4.0 - Existing Recreation Analyses and Comparisions																				
4.1	Similar Parks and Recreation Systems Benchmarking	2	24	4	2								32	$ 4,396	15	80		95	$ 8,250	
4.2	Overall Park and Recreation Facility Analysis		4		16	8							28	$ 2,293				0	$ -	
4.3	Overall Park and Recreation Programs, Special Events/Festivals Analysis	2	4	4	16	4							30	$ 2,804	8			8	$ 1,200	
4.4	Overall Bike Routes and Trails Analysis		4		24	16							44	$ 3,386				0	$ -	
	Subtotal Task 4.0	**4**	**36**	**8**	**58**	**28**	**0**	**0**	**0**	**0**	**0**	**0**	**134**	**$ 12,879**	**23**	**80**	**0**	**103**	**$ 9,450**	**$22,329**
TASK 5.0 - Recreation Standards and Trends Development																				
5.1	Vision, Goals, and Objectives	2	8	2	8								20	$ 2,323				0	$ -	
5.2	Development of City's Facilities and Programs Standards		4		12								16	$ 1,509	4			4	$ 600	
5.3	Development of City's Bike Route and Trail Standards		4		12								16	$ 1,509				0	$ -	
	Subtotal Task 5.0	**2**	**16**	**2**	**32**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**52**	**$ 5,341**	**4**	**0**	**0**	**4**	**$ 600**	**$5,941**
TASK 6.0 - Conceptual Master Plan Alternatives																				
6.1	Conceptual Master Plan Alternatives	2	24	8	32	8				4	16	24	118	$ 10,359	4			4	$ 600	
	Subtotal Task 6.0	**2**	**24**	**8**	**32**	**8**	**0**	**0**	**0**	**4**	**16**	**24**	**118**	**$ 10,359**	**4**	**0**	**0**	**4**	**$ 600**	**$10,959**
TASK 7.0 - Master Plan Development																				
7.1	Preliminary Master Plan	2	16	8	40	16				2	4	16	104	$ 8,910				0	$ -	
7.2	Final Master Plan	2	10	4	20	8				2	4	8	58	$ 5,126				0	$ -	
	Subtotal Task 7.0	**4**	**26**	**12**	**60**	**24**	**0**	**0**	**0**	**4**	**8**	**24**	**162**	**$ 14,036**	**0**	**0**	**0**	**0**	**$ -**	**$14,036**
TASK 8.0 - Master Plan Action/Implementation Plan																				
8.1	Park and Recreation Development Program (Action Plan)		20	8	32	8							68	$ 6,688				0	$ -	
8.2	Funding and Partnerships				1								1	$ 77	16	40		56	$ 5,400	
	Subtotal Task 8.0	**0**	**20**	**8**	**33**	**8**	**0**	**0**	**0**	**0**	**0**	**0**	**69**	**$ 6,765**	**16**	**40**	**0**	**56**	**$ 5,400**	**$12,165**
TASK 9.0 - Project Coordination and Progress Meetings																				
9.1	Project Coordination	9	60	16	30					20		4	139	$ 16,347	16	8	4	28	$ 3,320	
9.2	Review Meetings (5)		30	8	30					4			72	$ 7,894	8			8	$ 1,200	
	Subtotal Task 9.0	**9**	**90**	**24**	**60**	**0**	**0**	**0**	**0**	**24**	**0**	**4**	**211**	**$ 24,241**	**24**	**8**	**4**	**36**	**$ 4,520**	**$28,761**
	Subtotal Hours	**30**	**334**	**70**	**387**	**110**	**4**	**30**	**24**	**78**	**100**	**152**	**1,319**	**$ 124,307**	**105**	**290**	**10**	**405**	**$ 38,300**	
	Billable Rate	$ 166.32	$ 145.53	$ 103.95	$ 77.22	$ 59.40	$ 106.92	$ 71.28	$ 86.13	$ 95.04	$ 59.40	$ 59.40			$ 150.00	$ 75.00	$ 80.00			
	SUBTOTAL LABOR	**$ 4,990**	**$ 48,607**	**$ 7,277**	**$ 29,884**	**$ 6,534**	**$ 428**	**$ 2,138**	**$ 2,067**	**$ 7,413**	**$ 5,940**	**$ 9,029**		**$ 124,307**	**$ 15,750**	**$ 21,750**	**$ 800**		**$ 38,300**	**$162,607**
	TOTAL LABOR																			
	EXPENSES														**EXPENSES**					
	Reproduction-Working Exhibits/Handouts													$ 1,093	Reproduction (survey & envelopes)				$ 940	
	Reproduction-Final Master Plan Document													$ 1,600	Mileage and Deliveries				$ 150	
	Arizona State Museum Cultural Data													$ 250	Postage for Business Reply Mail				$ 1,200	
	Mileage and Deliveries													$ 1,000	Mailing List & Services				$ 1,160	
	SUBTOTAL													$ 3,943	SUBTOTAL				$ 3,450	**$7,393**
														$ 128,250					$ 41,750	

TOTAL PROJECT COST	**$170,000**

CITY COUNCIL REPORT

SUBJECT:
SRP Deactivation Agreement Avondale Blvd. & Buckeye Rd.

MEETING DATE:
July 7, 2008

TO: Mayor and Council

FROM: Brian Berndt, Development Services Director (623)333-4011

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council approve a Deactivation Agreement with Salt River Project (SRP) for an area north of Buckeye Road between Avondale Boulevard and 111th Avenue, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

DISCUSSION:

On February 21, 2004 and December 22, 2006 the City Council approved subdivision plats for C.W. Ranch and Roy's Place (See vicinity map).

SRP determined that with the development of C.W. Ranch and Roy's Place, their facilities and easements are no longer necessary. They have agreed to abandon them with the stipulation that the City of Avondale enter into this Deactivation Agreement. The Deactivation Agreement includes the following conditions:

- The Developer/City shall remove the entire facility at its' sole expense.
- If at any time any shareholder entitled to irrigation drainage to this abandoned facility demonstrates adequate capability to drain irrigation water to this facility from his property, as reasonably determined by SRP, then the City shall, upon request by SRP, provide an easement for and pay all cost for a replacement facility.
- SRP shall assume responsitility for design and construction of the replacement facility, if required, and shall at all times hold the City harmless for any loss or damage arising out of the design, construction, or SRP's use of any new replacement facility.

BUDGETARY IMPACT:

This agreement has no impact on the current budget. The probability of incurring future costs to restore the abandoned facilities is minimal due to the fact that the entitled property is being converted from farm land to residential use. It is further diminished by the City's requirement that the land's SRP water entitlements be conveyed to the City for use to meet our water source requirements.

RECOMENDATION:

Staff recommends that the City Council approve a Deactivation Agreement with Salt River Project (SRP) for an area north of Buckeye Road between Avondale Boulevard and 111th Avenue, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

- Deactivation Agreement

Vicinity Map

DEACTIVATION AGREEMENT

THIS AGREEMENT is made and entered into on the last date on which the parties complete execution of this Deactivation Agreement, by and between the CITY OF AVONDALE, a municipal corporation of the State of Arizona, hereinafter, called the "CITY," and the SALT RIVER VALLEY WATER USERS' ASSOCIATION, an Arizona Corporation, hereinafter called "SRP."

WITNESSETH:

WHEREAS, it is proposed that the properties north of Buckeye Road from approximately 111th Avenue to Avondale Boulevard to be reconstructed to accommodate development; and,

WHEREAS, as part of the development improvement project reconstruction will be necessary for the removal of SRP's irrigation drainage ditch running from 111th Avenue west to Avondale Boulevard and approximately 600 feet north of Buckeye Road. (hereinafter referred to as "the Facility"). The Facility is located in Section 7; Township 1 North; Range 1 East: G&SRB&M; and,

WHEREAS, the property owner, in conjunction with the development, is required to remove the necessary Facility at its sole expense as a condition of entering into this Agreement; and,

WHEREAS, the Facility is not presently in service.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, it is agreed as follows:

1. SRP shall abandon its use of the Facility.

2. The CITY shall cause the property owner to remove of the entire Facility at its sole expense.

3. If at any time any shareholder entitled to irragtion drainage to this abandoned Facility demonstrates adequate capability to drain irragtion water to this Facility from his property, as reasonably determined by SRP, then the CITY shall, upon request by SRP, provide an easement for and pay all costs for a replacement facility.

4. SRP shall assume responsibility for design and construction of the replacement facility, if required, and shall at all times hold the CITY harmless for any loss or damage arising out of the design, construction, or SRP's use of any new replacement facility.

5. All notices, demands or requests upon any party to this Agreement shall be in writing and shall be delivered or sent by mail addresses as follows:

If to City: City of Avondale
Attention: City Engineer
11465 West Civic Center Drive, Suite 120
Avondale, Arizona 85323

If to SRP: Salt River Project
Water Engineering & Transmission
Mail Station: PAB 103
P.O. Box 52025
Phoenix, Arizona 85072-2025

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the day and year as stated below.

CITY OF AVONDALE, an Arizona municipal corporation,

By _____
Charles P. McClendon,City Manager

Date_____

ATTEST:

_____
Linda M. Farris, City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire,City Attorney

SALT RIVER VALLEY WATER USERS' ASSOCIATION, an Arizona Corporation,

By _____

Date_____

Reviewed by SRP Legal Services Dept.

_____
(Signed Name)

STEVE LANCASTER
(Printed Name)

Date: 5/28/08

VICINITY MAP

CITY OF AVONDALE

Deactivation of SRP Easement North of Buckeye Rd. & East of Avondale Blvd.

CITY COUNCIL REPORT

SUBJECT:
Purchase Agreement - Real Property Located at NEC of Avondale Boulevard and Van Buren Street

MEETING DATE:
July 7, 2008

TO: Mayor and Council

FROM: Claudia Whitehead, Economic Development Director

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting the City Council approve a purchase agreement for real property located at the NEC of Avondale Boulevard and Van Buren Street (325 N. Avondale Boulevard) for the amount of $4,200,000 from Southern Devco, LLC and authorize the transfer of appropriations from 320-1210-00-8420 (Improvement District) to 101-5300-00-8200 (General Fund) to facilitate the expansion and relocation of SLT Expressway from this current location to the SWC of Riley Drive and Eliseo C. Felix Jr. Way.

BACKGROUND:

On June 9, 2008, City Council adopted Ordinance 1316-608 authorizing the purchase of the real property located at the NEC of Avondale Boulevard and Van Buren Street to facilitate the relocation and expansion of SLT Expressway to its proposed location on Riley Street. SLT Expressway will be making an estimated $4.5 million capital investment to improve the Riley property. SLT currently employs more than 300 people with an annual payroll of $20 million. The plans are to double the number of people who work for the company by 2012 with the expansion into the new facility.

The purchase of the property located at the NEC of Avondale and Van Buren will facilitate both the ability of SLT to expand and relocate to the Riley Property, and the City's interest in implementing the vision of the City Center Area Plan at a key intersection. The cost to the City to purchse the property will be recouped through the sale of the Riley Property and the sale of other City owned Real Property.

BUDGETARY IMPACT:

The funds for the purchase of the property will initially be funded through the general fund and then a portion may be repaid through the sale of the Coldwater Booster Station property and other potential sales of City real property. The land purchase was not appropriated in the budget, as a result, a transfer of appropriation from the potential Improvement District fund is necessary. The cash for the purchase will come from the Fund Balance in the General Fund. There is also an existing lease on the property that will be assigned to the City which will provide $420,000 annual income to the City while SLT Expressway is constructing its new facility.

RECOMENDATION:

Staff recommends the City Council approve a purchase agreement for real property located at the NEC of Avondale Boulevard and Van Buren Street (325 N. Avondale Boulevard) for the amount of $4,200,000 from Southern Devco, LLC and authorize the transfer of appropriations from 320-1210-00-8420 (Improvement District) to 101-5300-00-8200 (General Fund) to facilitate the expansion and relocation of SLT Expressway from this current location to the SWC of Riley Drive and Eliseo C. Felix Jr. Way.

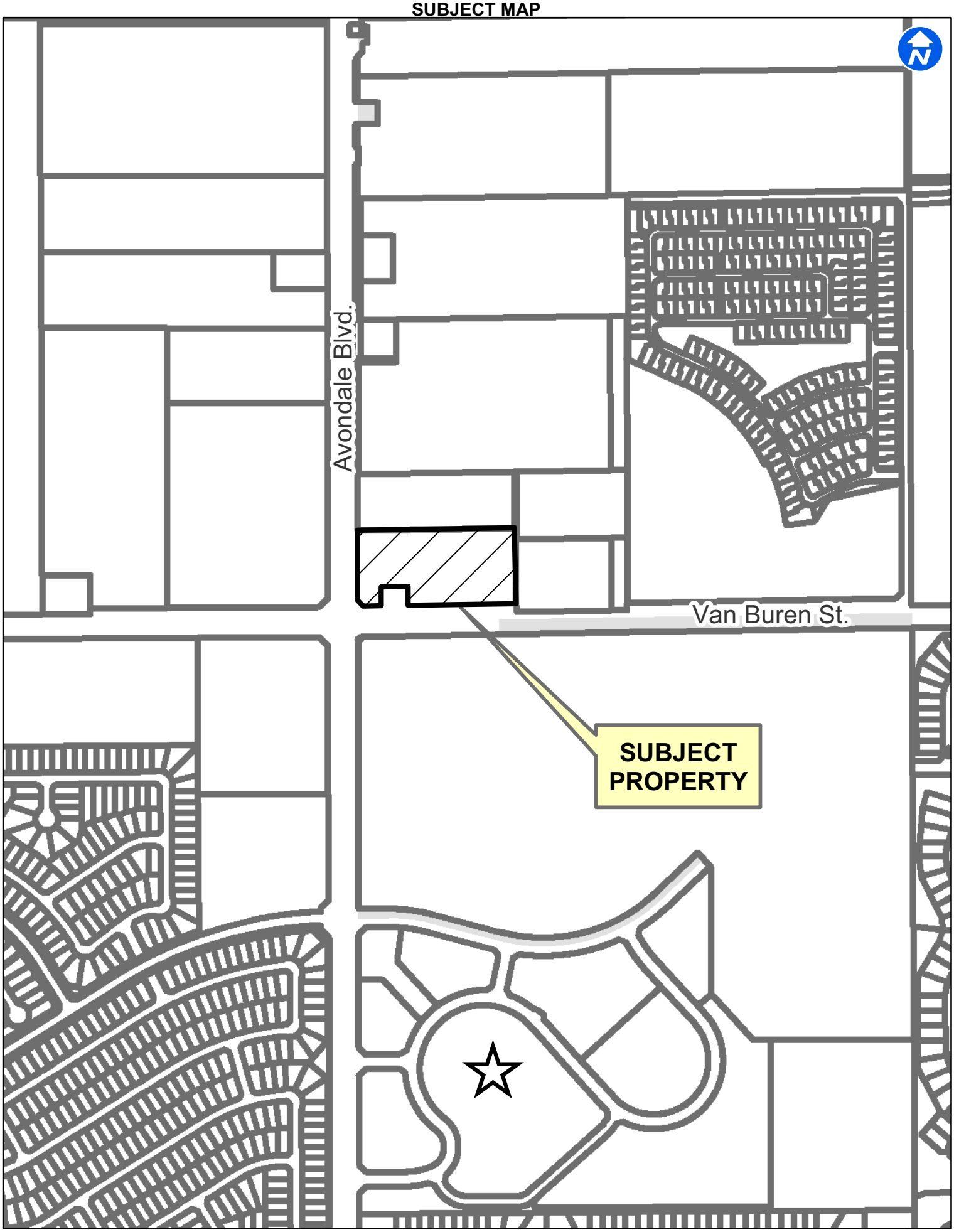
ATTACHMENTS:

Click to download

- Vicinity Map

Purchase and Sale Agreement

SUBJECT MAP



ATTACHMENT "B"
102-57-005-X

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COMMERCIAL & INVESTMENT REAL ESTATE PURCHASE & SALE AGREEMENT

This has been prepared for submission to your attorney for review and approval prior to signing. No representation is made by licensee as to its sufficiency or tax consequences
CBA Text Disclaimer: Text deleted indicated by strike. New text inserted indicated by small capital letters.

Reference Date: ,

("Buyer") agrees to buy and **Southern Devco LLC** and or assigns ("Seller") agrees to sell, on the following terms, the commercial real estate and all improvements thereon (collectively, the "Property") commonly known as **325 N. Avondale, In the City of Avondale, County of Maricopa, Arizona,** legally described on attached Exhibit A, including all water rights associated with or appurtenant to the Property, if any. The Reference Date above is intended to be used to reference this Agreement, and is not the date of "Mutual Acceptance." Mutual Acceptance is defined in Section 23 below.

1. PURCHASE PRICE. The total purchase price is **Four Million Two Hundred Thousand** Dollars ($4,200,000.00) payable as follows (check only one):

XXX All cash at closing with no financing contingency.

___ All cash at closing contingent on new financing and other considerations set forth in accordance with Addendum A attached

___ $_____% of the purchase price in cash at closing with the balance of the purchase price paid as follows **(check one or both, as applicable):** Buyer's assumption of the outstanding principal balance as of the Closing Date of a first lien note and deed of trust (or mortgage), or real estate contract, in accordance with the Financing Addendum (attach CBA Form PS-Fin); Buyer's delivery at closing of a promissory note for the balance of the purchase price, secured by a deed of trust encumbering the Property, in accordance with the Financing Addendum (attach CBA Form PS-Fin).

- Other: .

~~**2. EARNEST MONEY.** The earnest money in the amount of $_____ (3% of sale price) shall be in the form of XX Cash Personal check ____ Promissory note (attached CBA Form EMN) _____ Other:~~

~~The earnest money shall be held by ____ Selling Licensee XXX Closing Agent.~~

~~Buyer shall deliver the earnest money no later than:~~

~~_____ 3 days after Mutual Acceptance.~~

~~On the last day of the Feasibility Period defined in Section 5 below.~~

~~• Other~~

~~Selling Licensee may, however, transfer the earnest money to Closing Agent.~~

~~If the earnest money is to be held by Selling Licensee and is over $10,000, it shall be deposited to: _____ Selling Licensee's pooled trust account (with interest paid to the State Treasurer) _____ A separate interest bearing trust account in Selling Licensee's name. The interest, if any, shall be credited at closing to Buyer. If this sale fails to close, whoever is entitled to the earnest money is entitled to interest.~~

~~Selling Licensee shall deposit any check to be held by Selling Licensee within 3 days after receipt or Mutual Acceptance, whichever occurs later. Buyer agrees to pay financing and purchase costs incurred by Buyer. Unless otherwise provided in this Agreement, the earnest money shall be applicable to the purchase price.~~

3. EXHIBITS AND ADDENDA. The following Exhibits and Addenda are made a part of this Agreement:

INITIALS: Buyer_____ Date Seller_____ Date
Buyer _____ Date Seller_____ Date

- Exhibit A - Legal Description
- ~~Earnest Money Promissory Note, CBA Form EMN~~
- ~~Promissory Note, LPB Form No. 28A/CBA Form N1-A~~
- ~~Short Form Deed of Trust, LPB Form No. 20~~
- ~~Addendum A~~

~~Deed of Trust Rider, CBA Form DTR Utility Charges Addendum, CBA Form UA FIRPTA Certification, CBA Form 22E Assignment and Assumption, CBA Form PS-AS Addendum/Amendment, CBA Form PSA Back Up Addendum, CBA Form BU-A Vacant Land Addendum, CBA Form VLA Financing Addendum, CBA Form PS_Fin Tenant Estoppel Certificate, CBA PS_Tec Other~~

4. ~~**SELLER'S UNDERLYING FINANCING.** Unless Buyer is assuming Seller's underlying financing, Seller shall be responsible for confirming the existing underlying financing is not subject to any "lock out" or similar covenants which would prevent the lender's lien from being released at closing. If Seller is required to substitute securities for the Property as collateral for the underlying financing (known as "defeasance"), then the parties shall close the transaction in accordance with the three-day closing process required by the servicer of Seller's underlying financing and as described generally below. Prior to the end of the Feasibility Period described in Section 5 below, Seller shall engage a defeasance coordinator and shall provide Buyer with an outline of the three-day closing process required by the documents evidencing Seller's underlying financing. Notwithstanding anything to the contrary in Section 7 below, the date of closing shall be Day Three, which shall be the date possession of the Property is delivered to Buyer and risk of loss passes to Buyer. However, Buyer shall receive a credit at Closing for the interest which accrued from Day Two until Closing on the amount funded on Day Two.~~

~~a. **Day One.** Seller shall cause its defeasance coordinator to set up a conference call involving Seller, Seller's attorney, Buyer, Buyer's lender, Buyer's attorney, and Closing Agent to confirm that all conditions for funding the purchase of the Property on Day Two other than Seller's performance have been satisfied. Buyer shall cause its lender and attorney to participate in this call. Buyer shall be in material breach if its lender does not assure Seller that conditions are satisfied for funding on Day Two.~~

~~b. **Day Two.** Buyer and Seller shall execute and deliver to Closing Agent all documents and funds necessary to close the sale of the Property including documents necessary to release the Property from the lien securing the underlying financing, and the balance of the purchase price. This means Buyer must arrange with its lender to fund the loan on the day before the lien of the underlying financing is released and the day before Buyer's lender's lien is recorded.~~

~~c. **Day Three.** After receiving confirmation of delivery to an intermediary of the securities being used to defease the Property, Closing Agent shall disburse that portion of the funds deposited into escrow which are necessary to purchase the securities. After receiving confirmation of the purchase of the securities, Closing Agent will record the deed and reconveyance documents in accordance with the closing instruction letter from the servicer for Seller's underlying financing, and disburse the remaining closing proceeds in accordance with Closing Agent's settlement statement.~~

5. **FEASIBILITY CONTINGENCY.** This Agreement shall terminate ~~and Buyer shall receive a refund of the earnest money~~ unless Buyer gives written notice to Seller by July 21, 2008 ~~(30 days if not filled in) of Mutual Acceptance~~ stating that Buyer is satisfied, in Buyer's sole discretion, concerning all aspects of the Property, including its physical condition; the presence of or absence of any hazardous substances; the contracts and leases affecting the property; the potential financial performance of the Property; the availability of government permits and approvals; and the feasibility of the Property for Buyer's intended purpose. If such notice is timely given, the feasibility contingency stated in this Section 5 shall be deemed to be satisfied. As used in this Agreement, the

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COMMERCIAL & INVESTMENT REAL ESTATE
PURCHASE & SALE AGREEMENT
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term "Feasibility Period" shall mean the period beginning upon Mutual Acceptance and ending upon the satisfaction or waiver of the feasibility contingency.

a. **Books, Records, Leases, Agreements.** Seller shall make available for inspection by Buyer and its agents within days (2 days if not filled in) after Mutual Acceptance all documents in Seller's possession or control relating to the ownership, operation, renovation or development of the Property, excluding appraisals or other statements of value, and including: statements for real estate taxes, assessments, and utilities; property management agreements, service contracts, and agreements with professionals or consultants; leases of personal property or fixtures; leases or other agreements relating to occupancy of all or a portion of the Property and a suite-by-suite schedule of tenants, rents, prepaid rents, deposits and fees; plans, specifications, permits, applications, drawings, surveys, studies and maintenance records; and accounting records and audit reports. Buyer shall determine within the feasibility period stated in the preceding introductory paragraph whether it wishes and is able to assume, as of closing, some or all of the foregoing leases, contracts, and agreements which have terms extending beyond closing. Buyer shall be solely responsible for obtaining any required consents to such assumption and the payment of any assumption fees. Seller shall cooperate with Buyer's efforts to receive any such consents but shall not be required to incur any out-of-pocket expenses or liability in doing so. Seller shall transfer the leases, contracts and agreements as provided in Section 17 of this Agreement. Seller shall remain responsible for any leases, contracts or agreements which Buyer does not assume including any termination fees or penalties.

b. **Access.** Seller shall permit Buyer and its agents, at Buyer's sole expense and risk to enter the Property at reasonable times subject to the rights of and after legal notice to tenants, to conduct inspections concerning the Property and improvements, including without limitation, the structural condition of improvements, hazardous materials, pest infestation, soils conditions, sensitive areas, wetlands, or other matters affecting the feasibility of the Property for Buyer's intended use. Buyer shall schedule any entry onto the Property with Seller in advance and shall comply with Seller's reasonable requirements including those relating to security, confidentiality, and disruption of Seller's tenants. Buyer shall not perform any invasive testing including environmental inspections beyond a phase I assessment or contact the tenants without obtaining the Seller's prior written consent, which shall not be unreasonably withheld. Buyer shall restore the Property and improvements to the same condition they were in prior to inspection. Buyer shall be solely responsible for all costs of its inspections and feasibility analysis and has no authority to bind the Property for purposes of statutory liens. Buyer agrees to indemnify and defend Seller from all liens, costs, claims, and expenses, including attorneys' and experts' fees, arising from or relating to entry onto or inspection of the Property by Buyer and its agents. This agreement to indemnify and defend Seller shall survive closing. Buyer may continue to enter the Property in accordance with the foregoing terms and conditions after removal or satisfaction of the feasibility contingency only for the purpose of leasing or to satisfy conditions of financing.

6. TITLE INSURANCE.

a. **Title Report.** Seller authorizes Buyer, its Lender, Listing Agent, Selling Licensee and Closing Agent, at Seller's expense, to apply for and deliver to Buyer a _____standard XXX extended (standard, if not completed) coverage owner's policy of title insurance. If an extended coverage owner's policy is specified, Buyer shall pay the increased costs associated with that policy including the excess premium over that charged for a standard coverage policy, and the cost of any survey required by the title insurer. The title report shall be issued by (Seller's choice, if not completed).

b. **Permitted Exceptions.** Buyer shall notify Seller of any objectionable matters in the title report or any supplemental report within the earlier of: (1) twenty (20) days after mutual acceptance of this Agreement; or (2) the expiration of the Feasibility Period. This Agreement shall terminate and Buyer shall receive a refund of the earnest money, less any costs advanced or committed for Buyer, unless within five (5) days of Buyer's notice of such objections (1) Seller agrees to remove all objectionable provisions or (2) Buyer notifies Seller that Buyer waives any objections which Seller does not agree to remove. If any new title matters are disclosed in a

INITIALS: Buyer_____ Date Seller _____ Date

Buyer_____ Date Seller _____ Date

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supplemental title report, then the preceding termination, objection and waiver provisions shall apply to the new title matters except that Buyer's notice of objections must be delivered within five (5) days of delivery of the supplemental report and Seller's response or Buyer's waiver must be delivered within two (2) days of Buyer's notice of objections. The closing date shall be extended to the extent necessary to permit time for these notices. Buyer shall not be required to object to any mortgage or deed of trust liens, or the statutory lien for real property taxes, and the same shall not be deemed to be Permitted Exceptions; provided that the lien securing any financing which Buyer has agreed to assume shall be a Permitted Exception. Except for the foregoing, those provisions not objected to or for which Buyer waived its objections shall be referred to collectively as the "Permitted Exceptions." Seller shall cooperate with Buyer and the title company to clear objectionable title matters but shall not be required to incur any out-of-pocket expenses or liability other than payment of monetary encumbrances not assumed by Buyer and proration of real property taxes, and Seller shall provide an owner's affidavit containing the information and reasonable covenants requested by the title company. The title policy shall contain no exceptions other than the General Exclusions and Exceptions common to such form of policy and the Permitted Exceptions.

7. **CLOSING OF SALE.** This sale shall be closed on or before **July 31, 2008**, ("closing") by **Desha Jackson, Fidelity National Title Insurance Company, 7025 N. Scottsdale Rd., # 102, Scottsdale, AZ** _ ("Closing Agent") (Seller shall select the Closing Agent, if not completed). Buyer and Seller shall deposit with Closing Agent by Noon on the scheduled closing date all instruments and monies required to complete the purchase in accordance with this Agreement. "Closing" shall be deemed to have occurred when the deed is recorded and the sale proceeds are available to Seller. Time is of the essence in the performance of this Agreement. Sale proceeds shall be considered available to Seller notwithstanding they may not be disbursed to Seller until the first business day following closing. ~~Notwithstanding the foregoing, if Seller's underlying financing requires that it be defeased and may not be paid off, then closing shall be conducted in accordance with the three-day closing process described in Section 4 above.~~ This Agreement is intended to constitute escrow instructions to Closing Agent. Buyer and Seller will provide any supplemental instructions requested by Closing Agent provided the same are consistent with this Agreement.

8. **CLOSING COSTS AND PRORATIONS.** Seller shall deliver an updated rent roll to Closing Agent not later than two (2) days before the scheduled closing date in the form required by Section 5(a) and any other information reasonably requested by Closing Agent to allow Closing Agent to prepare a settlement statement for closing. Seller certifies that the information contained in the rent roll is correct as of the date submitted. Seller shall pay the premium for the owner's standard coverage title policy. Buyer shall pay the excess premium attributable to any extended coverage or endorsements requested by Buyer, and the cost of any survey required in connection with the same. Seller and Buyer shall each pay one-half of the escrow fees. Real estate excise taxes shall be paid by the party who bears primary responsibility for payment under the applicable statute or code, which is typically Seller. Real and personal property taxes and assessments payable in the year of closing; collected rents on any existing tenancies; interest; utilities; and other operating expenses shall be pro-rated as of closing. If tenants pay any of the foregoing expenses directly, then Closing Agent shall only pro rate those expenses paid by Seller. ~~Buyer shall pay to Seller at closing an additional sum equal to any utility deposits or mortgage reserves for assumed financing for which Buyer receives the benefit after closing. Buyer shall pay all costs of financing including the premium for the lender's title policy.~~ If the Property was taxed under a deferred classification prior to closing, then Seller shall pay all taxes, interest, penalties, deferred taxes or similar items which result from removal of the Property from the deferred classification. At closing, all refundable deposits on tenancies shall be credited to Buyer or delivered to Buyer for deposit in a trust account if required by state or local law. Buyer shall pay all sales or use tax applicable to the transfer of personal property included in the sale.

a. Unpaid Utility Charges. Buyer and Seller WAIVE DO NOT WAIVE the right to have the Closing Agent disburse closing funds necessary to satisfy unpaid utility charges affecting the Property pursuant to RCW 60.80. If "do not waive" is checked, then attach CBA Form UA ("Utility Charges" Addendum). If neither box is checked, then the "do not waive" option applies.

INITIALS: Buyer_____ Date Seller _____ Date

Buyer _____ Date Seller_____ Date

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9. **POST-CLOSING ADJUSTMENTS, COLLECTIONS, AND PAYMENTS.** After closing, Buyer and Seller shall reconcile the actual amount of revenues or liabilities upon receipt or payment thereof to the extent those items were prorated or credited at closing based upon estimates. Any bills or invoices received by Buyer after closing which relate to services rendered or goods delivered to the Seller or the Property prior to closing shall be paid by Seller upon presentation of such bill or invoice. At Buyer's option, Buyer may pay such bill or invoice and be reimbursed the amount paid plus interest at the rate of 12% per annum beginning fifteen (15) days from the date of Buyer's written demand to Seller for reimbursement until such reimbursement is made. Notwithstanding the foregoing, if tenants pay certain expenses based on estimates subject to a post-closing reconciliation to the actual amount of those expenses, then Buyer shall be entitled to any surplus and shall be liable for any credit resulting from the reconciliation. Rents collected from each tenant after closing shall be applied first to rentals due most recently from such tenant for the period after closing, and the balance shall be applied for the benefit of Seller for delinquent rentals owed for a period prior to closing. The amounts applied for the benefit of Seller shall be turned over by Buyer to Seller promptly after receipt. Seller shall be entitled to pursue any lawful methods of collection of delinquent rents but shall have no right to evict tenants after closing.

10. **OPERATIONS PRIOR TO CLOSING.** Prior to closing, Seller shall continue to operate the Property in the ordinary course of its business and maintain the Property in the same or better condition than as existing on the date of Mutual Acceptance, but shall not be required to repair material damage from casualty except as otherwise provided in this Agreement. After the ~~Feasibility Period~~ date of Buyer's signature below, Seller shall not enter into or modify existing rental agreements or leases ~~(except that Seller may enter into, modify, extend, renew or terminate residential rental agreements or residential leases in the ordinary course of its business)~~, service contracts, or other agreements affecting the Property which have terms extending beyond closing without first obtaining Buyer's prior, written consent, which shall not be unreasonably withheld.

11. **POSSESSION.** Buyer shall be entitled to possession on closing (on closing, if not completed). Buyer shall accept possession subject to all tenancies disclosed to Buyer during the Feasibility Period. Prior to closing, Seller shall remove all personal property not included in the sale and not owned by existing tenants, and deliver the Property in "broom clean" condition.

12. **SELLER'S REPRESENTATIONS.** Except as disclosed to or known by Buyer prior to the satisfaction or waiver of the feasibility contingency stated in Section 5 above, including in the books, records and documents made available to Buyer, or in the title report or any supplemental report or documents referenced therein, Seller represents to Buyer that, to the best of Seller's actual knowledge, each of the following selected paragraphs is true as of the date hereof **(select those which apply):**

    a. X Seller is authorized to enter into the Agreement, to sell the Property, and to perform its obligations under the Agreement;

    b. X The books, records, leases, agreements and other items delivered to Buyer pursuant to this Agreement comprise all material documents in Seller's possession or control regarding the operation and condition of the Property and specifically, Seller affirms that the Standard Lease By and Between Seller, as Owner and SLT Expressway, Inc., as tenant, entered into January 18, 2006, is currently in full force and effect and has not been amended or modified in any way since its execution by Seller and SLT Expressway, Inc.;

    c. X Seller has not received any written notices that the Property or the business conducted thereon violate any applicable laws, regulations, codes and ordinances;

    d. __ Seller has all certificates of occupancy, permits, and other governmental consents necessary to own and operate the Property for its current use;

    e. X There is no pending or threatened litigation which would adversely affect the Property or Buyer's ownership thereof after closing;

    f. X There is no pending or threatened condemnation or similar proceedings affecting the Property, and the Property is not within the boundaries of any planned or authorized local improvement district;

INITIALS: Buyer _____ Date Seller _____ Date

Buyer _____ Date Seller _____ Date

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g. XX Seller has paid (except to the extent prorated at closing) all local, state and federal taxes (other than real and personal property taxes and assessments described in Section 8 above) attributable to the period prior to closing which, if not paid, could constitute a lien on Property (including any personal property), or for which Buyer may be held liable after closing;

h. XX Seller is not aware of any concealed material defects in the Property except as disclosed to Buyer in writing during the Feasibility Period;

i. XX There are no Hazardous Substances (as defined below) currently located in, on, or under the Property in a manner or quantity that presently violates any Environmental Law (as defined below); there are no underground storage tanks located on the Property; and there is no pending or threatened investigation or remedial action by any governmental agency regarding the release of Hazardous Substances or the violation of Environmental Law at the Property. As used herein, the term "Hazardous Substances" shall mean any substance or material now or hereafter defined or regulated as a hazardous substance, hazardous waste, toxic substance, pollutant, or contaminant under any federal, state, or local law, regulation, or ordinance governing any substance that could cause actual or suspected harm to human health or the environment ("Environmental Law"). The term "Hazardous Substances" specifically includes, but is not limited to, petroleum, petroleum by-products, and asbestos.

If prior to closing Seller or Buyer discovers any information which would cause any of the representations initialed above to be false if the same were deemed made as of the date of such discovery, then the party discovering the same shall promptly notify the other party in writing. If the newly-discovered information will result in costs or liability to Buyer in excess of five percent (5%) of the purchase price, or will materially adversely affect Buyer's intended use of the Property, then Buyer shall have the right to terminate the Agreement and receive a refund of its earnest money provided Buyer elects to do so within ten (10) days of discovering or receiving written notice of the new information. Nothing in this paragraph shall prevent Buyer from pursuing its remedies against Seller if Seller had actual knowledge of the newly-discovered information such that a representation provided for above was false.

13. **AS-IS.** Except for those representations and warranties specifically included in this Agreement: (i) Seller makes no representations or warranties regarding the Property; (ii) Seller hereby disclaims, and Buyer hereby waives, any and all representations or warranties of any kind, express or implied, concerning the Property or any portion thereof, as to its condition, value, compliance with laws, status of permits or approvals, existence or absence of hazardous material on site, occupancy rate or any other matter of similar or dissimilar nature relating in any way to the Property, including the warranties of fitness of a particular purpose, tenantability, habitability and use; (iii) Buyer otherwise takes the Property "AS IS;" and (iv) Buyer represents and warrants to Seller that Buyer has sufficient experience and expertise such that it is reasonable for Buyer to rely on its own pre-closing inspections and investigations.

14. **PERSONAL PROPERTY.**

a. This sale includes all right, title and interest of Seller to the following tangible personal property:_____(None if not completed.

That portion of the personal property located on and used in connection with the Property, which Seller will itemize in an Addendum to be attached to this Agreement within ten (10) days of Mutual Acceptance (None, if not completed) The value assigned to the personal property shall be $ _____(if not completed, the County-assessed value if available, and if not available, the fair market value determined by an appraiser selected by the Listing Agent and Selling Licensee). Seller warrants title to, but not the condition of, the personal property and shall convey it by bill of sale.

b. In addition to the leases, contracts and agreements assumed by Buyer pursuant to Section 5a above, this sale includes all right, title and interest of Seller to the following intangible property now or hereafter existing with respect to the Property including without limitation: all rights-of-way, rights of ingress or egress or other interests in, on, or to, any land, highway, street, road, or avenue, open or proposed, in, on, or across, in front of, abutting or

INITIALS: Buyer_____ Date Seller_____ Date

Buyer_____ Date Seller_____ Date

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COMMERCIAL & INVESTMENT REAL ESTATE
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adjoining the Property; all rights to utilities serving the Property; all drawings, plans, specifications and other architectural or engineering work product; all governmental permits, certificates, licenses, authorizations and approvals; all rights, claims, causes of action, and warranties under contracts with contractors, engineers, architects, consultants or other parties associated with the Property; all utility, security and other deposits and reserve accounts made as security for the fulfillment of any of Seller's obligations; any name of or telephone numbers for the Property and related trademarks, service marks or trade dress; and guaranties, warranties or other assurances of performance received.

15. **CONDEMNATION AND CASUALTY.** Seller bears all risk of loss until closing, and thereafter Buyer shall bear the risk of loss. Buyer may terminate this Agreement ~~and obtain a refund of the earnest money~~ if improvements on the Property are destroyed or materially damaged by casualty before closing, or if condemnation proceedings are commenced against all or a portion of the Property before closing. Damage will be considered material if the cost of repair exceeds five percent (5%) of the purchase price stated in this Agreement. Alternatively, Buyer may elect to proceed with closing in which case at closing Seller shall assign to Buyer all claims and right to proceeds under any property insurance policy and shall credit to Buyer at closing the amount of any deductible provided for in the policy.

16. **FIRPTA - TAX WITHHOLDING AT CLOSING.** Closing Agent is instructed to prepare a certification (CBA or NWMLS Form 22E, or equivalent) that Seller is not a "foreign person" within the meaning of the Foreign Investment in Real Property Tax Act. Seller agrees to sign this certification. If Seller is a foreign person, and this transaction is not otherwise exempt from FIRPTA, Closing Agent is instructed to withhold and pay the required amount to the Internal Revenue Service.

17. **CONVEYANCE.** Title shall be conveyed by a ~~Statutory~~ Special Warranty Deed subject only to the Permitted Exceptions. If this Agreement is for conveyance of Seller's vendee's interest in a Real Estate Contract, the Statutory Warranty Deed shall include a contract vendee's assignment sufficient to convey after acquired title. At closing, Seller and Buyer shall execute and deliver to Closing Agent CBA Form No. PS-AS Assignment and Assumption Agreement transferring all leases, contracts and agreements assumed by Buyer pursuant to Section 5a and all intangible property transferred pursuant to Section 14b.

18. **NOTICES AND COMPUTATION OF TIME.** Unless otherwise specified, any notice required or permitted in, or related to, this Agreement (including revocations of offers and counteroffers) must be in writing. Notices to Seller must be signed by at least one Buyer and must be delivered to Seller ~~and Listing Agent~~ with a courtesy copy to Seller's attorney if one is identified in this Agreement. A notice to Seller shall be deemed delivered only when received by Seller, ~~Listing Agent,~~ or the licensed office of Listing Agent. Notices to Buyer must be signed by at least one Seller and must be delivered to Buyer ~~with a copy to Selling Licensee~~ with a courtesy copy to Buyer's attorney if one is identified in this Agreement. A notice to Buyer shall be deemed delivered only when received by Buyer ~~and Selling Licensee, or the licensed office of Selling Licensee. Selling Licensee and Listing Agent have no responsibility to advise of receipt of a notice beyond either phoning the represented party or causing a copy of the notice to be delivered to the party's address provided in this Agreement. Buyer and Seller must keep Selling Licensee and Listing Agent advised of their whereabouts to receive prompt notification of receipt of a notice. If any party is not represented by a licensee, then notices must be delivered to and shall be effective when received by that party~~.

Unless otherwise specified in this Agreement, any period of time in this Agreement shall mean ~~Pacific Time~~ local time, Phoenix, Arizona, and shall begin the day after the event starting the period and shall expire at 5:00 p.m. of the last calendar day of the specified period of time, unless the last day is a Saturday, Sunday or legal holiday recognized by the State of Arizona ~~as defined in RCW 1.16.050~~, in which case the specified period of time shall expire on the next day that is not a Saturday, Sunday or legal holiday. Any specified period of five (5) days or less shall not include Saturdays, Sundays or legal holidays. Notwithstanding the foregoing, references to specific dates or times or number of hours shall mean those dates, times or number of hours.

INITIALS: Buyer_____ Date Seller_____ Date

Buyer_____ Date Seller_____ Date

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COMMERCIAL & INVESTMENT REAL ESTATE
PURCHASE & SALE AGREEMENT
(CONTINUED)

19. **AGENCY DISCLOSURE.** At the signing of this Agreement,

Selling Licensee None

Represented; None

and the Listing Agent None

Represented: None

~~If Selling Licensee and Listing Agent are different salespersons affiliated with the same Broker, then Seller and Buyer confirm their consent to Broker acting as a dual agent. If Selling Licensee and Listing Agent are the same person representing both parties, then Seller and Buyer confirm their consent to that person and his/her Broker acting as dual agents. If Selling Licensee, Listing Agent, or their Broker are dual agents, then Seller and Buyer consent to Selling Licensee, Listing Agent and their Broker being compensated based on a percentage of the purchase price or as otherwise disclosed on an attached addendum. Buyer and Seller confirm prior receipt of the pamphlet entitled "The Law of Real Estate Agency."~~

19. **ASSIGNMENT.** Buyer may/may not (may not, if not completed) assign this Agreement, or Buyer's rights hereunder, without Seller's prior written consent, unless provided otherwise herein. If the "may not" option is selected and the words "and/or assigns" or similar words are used to identify the Buyer, then this Agreement may be assigned with notice to Seller but without Seller's consent only to an entity which is controlled by or under common control with the Buyer identified in this Agreement. Any other assignment requires Seller's consent. The party identified as the initial Buyer shall remain responsible for those obligations of Buyer stated in this Agreement notwithstanding any assignment and, if this Agreement provides for Seller to finance a portion of the purchase price, then the party identified as the initial Buyer shall guarantee payment of the Seller financing.

20. **DEFAULT AND ATTORNEY'S FEE.**

a. **Buyer's default.** In the event Buyer fails, without legal excuse, to complete the purchase of the Property, then *(check one):*

XX Seller may terminate this Agreement ~~and keep the earnest money as liquidated damages~~ as the sole and exclusive remedy available to Seller for such failure; or

Seller may, at its option, (a) terminate this Agreement and keep as liquidated damages the earnest money as the sole and exclusive remedy available to Seller for such failure, (b) bring suit against Buyer for Seller's actual damages, (c) bring suit to specifically enforce this Agreement and recover any incidental damages, or (d) pursue any other rights or remedies available at law or equity.

b. **Seller's default.** In the event Seller fails, without legal excuse, to complete the sale of the Property, then *(check one):*

INITIALS: Buyer _____ Date Seller _____ Date

Buyer _____ Date Seller _____ Date

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COMMERCIAL & INVESTMENT REAL ESTATE
PURCHASE & SALE AGREEMENT
(CONTINUED)

As Buyer's sole remedy, Buyer may either (a) terminate this Agreement and recover all ~~earnest money or~~ fees made by Buyer whether or not the same are identified as refundable or applicable to the purchase price; or (b) bring suit to specifically enforce this Agreement and recover incidental damages provided Buyer must file suit within sixty (60) days of the scheduled date of closing or any earlier date Seller has informed Buyer in writing that Seller will not proceed with closing; or

Buyer may, at its option, (a) bring suit against Seller for Buyer's actual damages, (b) bring suit to specifically enforce this Agreement and recover any incidental damages, or (c) pursue any other rights or remedies available at law or equity.

Neither Buyer nor Seller may recover consequential damages such as lost profits. If Buyer or Seller institutes suit against the other concerning this Agreement, the prevailing party is entitled to reasonable attorneys' fees and expenses. In the event of trial, the amount of the attorney's fee shall be fixed by the court. The venue of any suit shall be the county in which the Property is located, and this Agreement shall be governed by the laws of the state where the Property is located.

22. MISCELLANEOUS PROVISIONS.

a. **Complete Agreement.** The Agreement and any addenda and exhibits to it state the entire understanding of Buyer and Seller regarding the sale of the Property. There are no verbal or other written agreements which modify or affect the Agreement.

b. **Counterpart Signatures.** The Agreement may be signed in counterpart, each signed counterpart shall be deemed an original, and all counterparts together shall constitute one and the same agreement.

c. **Electronic Delivery.** Electronic delivery of documents (e.g., transmission by facsimile or email) including signed offers or counteroffers and notices shall be legally sufficient to bind the party the same as delivery of an original. At the request of either party, or the Closing Agent, the parties will replace electronically delivered offers or counteroffers with original documents.

d. **Section 1031 Like-Kind Exchange.** If either Buyer or Seller intends for this transaction to be a part of a Section 1031 like-kind exchange, then the other party agrees to cooperate in the completion of the like-kind exchange so long as the cooperating party incurs no additional liability in doing so, and so long as any expenses (including attorneys fees and costs) incurred by the cooperating party that are related only to the exchange are paid or reimbursed to the cooperating party at or prior to closing. Notwithstanding Section 20 above, any party completing a Section 1031 like-kind exchange may assign this Agreement to its qualified intermediary or any entity set up for the purposes of completing a reverse exchange.

23. ACCEPTANCE; COUNTEROFFERS. Seller has until midnight of , (if not filled in, the third business day following the last Buyer signature date below) to accept this offer, unless sooner withdrawn. If this offer is not timely accepted, it shall lapse and the earnest money shall be refunded to Buyer. If either party makes a future counteroffer, the other party shall have until 5:00 p.m. on the business day (if not filled in, the second business day) following its receipt to accept the counteroffer, unless sooner withdrawn. If the counteroffer is not timely accepted or countered, this Agreement shall lapse and the earnest money shall be refunded to the Buyer. No acceptance, offer or counteroffer from the Buyer is effective until a signed copy is received by the Seller~~, the Listing Agent or the licensed office of the Listing Agent~~. No acceptance, offer or counteroffer from the Seller is effective until a signed copy is received by the Buyer~~, the Selling Licensee or the licensed office of the Selling Licensee~~. "Mutual Acceptance" shall occur when the last counteroffer is signed by the offeree, and the fully signed counteroffer has been received by the offeror~~, his or her licensee, or the licensed office of the licensee. If any party is not represented by a licensee, then notices must be delivered to and shall be effective when received by that party~~.

INITIALS: Buyer_____ Date Seller _____ Date

Buyer _____ Date Seller _____ Date

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COMMERCIAL & INVESTMENT REAL ESTATE
PURCHASE & SALE AGREEMENT
(CONTINUED)

24. **INFORMATION TRANSFER.** In the event this Agreement is terminated, Buyer agrees to deliver to Seller within ten (10) days of Seller's written request copies of all materials received from Seller and any non-privileged plans, studies, reports, inspections, appraisals, surveys, drawings, permits, application or other development work product relating to the Property in Buyer's possession or control as of the date this Agreement is terminated.

25. **CONFIDENTIALITY.** Until and unless closing has been consummated, Buyer and Seller shall follow reasonable measures to prevent unnecessary disclosure of information obtained in connection with the negotiation and performance of this Agreement. Neither party shall use or knowingly permit the use of any such information in any manner detrimental to the other party.

26. ~~**SELLER'S ACCEPTANCE AND BROKERAGE AGREEMENT.** Seller agrees to sell the Property on the terms and conditions herein, and further agrees to pay a commission in a total amount computed in accordance with the listing or commission agreement. If there is no written listing or commission agreement, Seller agrees to pay a commission of % of the sales price or $. The commission shall be apportioned between Listing Agent and Selling Licensee as specified in the listing or any co-brokerage agreement. If there is no listing or written co-brokerage agreement, then Listing Agent shall pay to Selling Licensee a commission of____% of the sales price or $_____. Seller assigns to Listing Agent and Selling Licensee a portion of the sales proceeds equal to the commission. If the earnest money is retained as liquidated damages, any costs advanced or committed by Listing Agent or Selling Licensee for Buyer or Seller shall be reimbursed or paid therefrom, and the balance shall be paid one-half to Seller and one half to Listing Agent and Selling Licensee according to the listing agreement and any co-brokerage agreement. In any action by Listing Agent or Selling Licensee to enforce this Section, the prevailing party is entitled to reasonable attorneys' fees and expenses. Neither Listing Agent nor Selling Licensee are receiving compensation from more than one party to this transaction unless disclosed on an attached addendum, in which case Buyer and Seller consent to such compensation. The Property described in attached Exhibit A, is commercial real estate. Notwithstanding Section 25 above, the pages containing this Section, the parties' signatures and an attachment describing the Property may be recorded.~~

27. ~~**LISTING AGENT AND SELLING LICENSEE DISCLOSURE.** EXCEPT AS OTHERWISE DISCLOSED IN WRITING TO BUYER OR SELLER, THE SELLING LICENSEE, LISTING AGENT, AND BROKERS HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OR CONDUCTED ANY INDEPENDENT INVESTIGATION CONCERNING THE LEGAL EFFECT OF THIS AGREEMENT, BUYER'S OR SELLER'S FINANCIAL STRENGTH, BOOKS, RECORDS, REPORTS, STUDIES, OR OPERATING STATEMENTS, OR OTHER MATTERS RELATING TO THE PROPERTY, INCLUDING WITHOUT LIMITATION, THE PROPERTY'S ZONING, BOUNDARIES, AREA, COMPLIANCE WITH APPLICABLE LAWS (INCLUDING LAWS REGARDING ACCESSIBILITY FOR DISABLED PERSONS), OR HAZARDOUS OR TOXIC MATERIALS INCLUDING MOLD OR OTHER ALLERGENS. SELLER AND BUYER ARE EACH ADVISED TO ENGAGE QUALIFIED EXPERTS TO ASSIST WITH THESE DUE DILIGENCE AND FEASIBILITY MATTERS, AND ARE FURTHER ADVISED TO SEEK INDEPENDENT LEGAL AND TAX ADVICE RELATED TO THIS AGREEMENT.~~

INITIALS: Buyer_____ Date Seller_____ Date

Buyer_____ Date Seller_____ Date

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COMMERCIAL & INVESTMENT REAL ESTATE PURCHASE & SALE AGREEMENT
(CONTINUED)

28. IDENTIFICATION OF THE PARTIES. The following is the contact information for the parties involved in this Agreement:

Buyer: CITY OF AVONDALE

Contact: Charles P. McClendon
Address: 11465 W. Civic Center Dr., Avondale, AZ
Business Phone: 623-333-1015
Mobile Phone:

Fax: 623-333-0100
Email: cmcclendon@avondale.org

Seller: SOUTHERN DEVCO, LLC

Contact: Walter L. Trace, Manager/Member
Address: 1605 NW Sammamish Rd. #107, Issaquah, WA
Business Phone: (425) 557-7787
Mobile Phone: (206) 465-9404

Fax: (425) 557-7710
Email: tracewally@w-link.net
Copy to: carol@tracedevelopment.com

~~Selling Licensee~~

~~Name:~~
~~Address:~~
~~Business Phone:~~
~~Mobile Phone:~~
~~Email:~~
~~Fax:~~
~~MLS Office No.:~~

~~Listing Agent~~

~~Name:~~
~~Address:~~
~~Business Phone:~~
~~Mobile Phone:~~
~~Email:~~
~~Fax:~~
~~MLS Office No.:~~

Buyer's Attorney

Name: Andrew J. McGuire
Address: 201 E. Washington St. S. 800, PHX, AZ
Business Phone: 602-257-7664
Fax: 602-340-1538
Mobile Phone:
Email: amcguire@gustlaw.com

Seller's Attorney

Name:
Address:
Business Phone:
Fax:
Mobile Phone:
Email:

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COMMERCIAL & INVESTMENT REAL ESTATE
PURCHASE & SALE AGREEMENT
(CONTINUED)

IN WITNESS WHEREOF, the parties have signed this Agreement intending to be bound.

Buyer CITY OF AVONDALE, an Arizona municipal corp.
Printed name and type of entity

Buyer _____
Signature and title

Date signed _____

Seller SOUTHERN DEVCO LLC
A Washington limited liability company

Seller _____
Signature and title

Date signed 7/2/08

Buyer _____
Printed name and type of entity

Buyer _____
Signature and title

Date signed _____

Seller _____
Printed name and type of entity

Seller _____
Signature and title

Date signed: _____

INITIALS: Buyer _____ Date _____ Seller _____ Date

Buyer _____ Date _____ Seller _____ Date

EXHIBIT A

LEGAL DESCRIPTION OF REAL PROPERTY generally known as Lot 102-57-005X

A parcel in Lot 7, Section 6, Township 1 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows:

COMMENCING for a tie at the Southwest corner of Section 6;

thence North 89 degrees 17 minutes 22 seconds East along the South line of said section, 33.00 feet;

thence North 0 degrees 08 minutes 52 seconds East, 33.00 feet to the point of beginning;

thence continuing North 0 degrees 08 minutes 52 seconds East, 362.53 feet;

thence North 89 degrees 15 minutes 58 seconds East, 715.81 feet;

thence South 1 degree 03 minutes 27 seconds East, 49.78 feet to a point on the North line of a parcel of land described in Docket 10170, page 83, Maricopa County Records;

thence Sauch 89 degrees 17 minutes 22 seconds West along the North line of said parcel, 0.62 feet to the Northwest corner of said parcel;

thence South 1 degree 07 minutes 38 seconds East along the West line of said parcel, 313.00 feet;

thence South 89 degrees 17 minutes 22 seconds West, 723.20 feet to the POINT OF BEGINNING;

EXCEPT that portion of land lying within the property recorded in Recording No. 2000-0815079 being a portion of Lot 7, Section 6, Township 1 North, Range 1 East of Gila and Salt River Meridian, Maricopa County, Arizona described as follows:

COMMENCING at the Southwest corner of said Section 6;

thence North 89 degrees 07 minutes 09 seconds along the South line of said Lot 7, a distance of 55.01 feet;

thence North 0 degrees 02 minutes 12 seconds West a distance of 40.00 feet to the existing Northerly right-of-way line of Van Buren Street and the POINT OF BEGINNING;

thence continuing North 0 degrees 02 minutes 12 seconds West parallel with and 55.00 feet Easterly of the West line of said Lot 7, a distance of 20.00 feet;

thence South 89 degrees 07 minutes 09 seconds West parallel with the Southerly line of said Lot 7, a distance of 10.00 feet;

thence North 0 degrees 02 minutes 12 seconds West parallel with and 45.00 feet Easterly of the West line of said Lot 7, a distance of 335.53 feet;

thence North 89 degrees 04 minutes 54 seconds East, a distance of 20.00 feet;

thence South 0 degrees 02 minutes 12 seconds East parallel with and 65.00 feet Easterly of the West line of said Lot 7, a distance of 305.55 feet;

thence South 45 degrees 27 minutes 31 seconds East, a distance of 35.09 feet to a point 65.00 feet Northerly of South line of said Lot 7;

thence North 89 degrees 07 minutes 09 seconds East parallel with and 65.00 feet Northerly of the South line of said Lot 7, a distance of 79.16 feet;

thence North 0 degrees 02 minutes 12 seconds West, a distance of 82.00 feet;

thence North 89 degrees 07 minutes 09 seconds East, a distance of 118.00 feet; thence

South 0 degrees 02 minutes 12 seconds East, a distance of 82.00 feet;

thence North 89 degrees 07 minutes 09 seconds East parallel with and 65.00 feet Northerly of the South line of said Lot 7, a distance of 468.32 feet;

thence South 1 degree 18 minutes 42 seconds East, a distance of 25.00 feet to a point 40.00 feet Northerly of the South line of said Lot 7;

thence South 89 degrees 07 minutes 09 seconds West parallel with and 40.00 feet Northerly of the South line of said Lot 7, a distance of 701.04 feet to the POINT OF BEGINNING.

CITY COUNCIL REPORT

SUBJECT:
Resolution 2755-708 - Intergovernmental Agreement Regarding the Arizona Water and Wastewater Agency Response Network (AZWARN)

MEETING DATE:
July 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 resolution authorizing an Intergovernmental Agreement establishing a mutual aid agreement among members of the Arizona Water and Wastewater Agency Response Network and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

BACKGROUND:

Events such as 9/11, the 2002 Rodeo-Chediski fire, 2003 Mount Lemmon Fire and most recently Hurricane Katrina have demonstrated the need for water and wastewater agencies to create intrastate mutual aid agreements.

The Arizona Water & Pollution Control Association (AWPCA), in conjunction with representatives of municipal water/wastewater agencies, throughout the State, recognized the need to create a statewide mutual aid program, similar to agreements used by local Fire and Police Departments, allowing member utility agencies to provide assistance to other member agencies in times of need.

In early 2007 the AWPCA Utility Council formed a Steering Committee to develop a vision statement and approve the formation of a working committee to develop the Intergovernmental Agreement. Representative from ten water agencies and representatives from the Arizona Department of Environmental Quality were called to the working committee, which met throughout 2007 to develop the IGA.

An update regarding the activities of the working committee and the proposed IGA was provided to Council during the June 2, 2008 Council Meeting.

DISCUSSION:

The AZWARN program is modeled after a national template created by and endorsed by eight national water associations including the American Water Works Association. The AZWARN agreement is similar to WARN (Water/Wastewater Agency Response Network) agreements already established in twenty-two states.

A WARN is a network of utilities helping other utilities to respond to and recover from emergencies. The purpose of a WARN is to provide a method whereby water/wastewater utilities that have sustained or anticipate damage from natural or human-caused incidents can provide and receive emergency assistance in the form of personnel, equipment, materials, and other associated services as necessary from other water/wastewater utilities.

The backbone of the WARN concept is the Mutual Aid and Assistance Agreement. This agreement establishes provisions for network activation, reimbursement, liability and other issues. Participation is voluntary, there is no obligation to respond, and there is no direct cost to become a member of the network.

The network also provides a forum for establishing and maintaining emergency contacts, providing expedited access to specialized resources needed to respond to and recover from emergencies that disrupt water/wastewater agencies, and facilitating training that specifically focuses on the exchange of resources during an emergency.

To date, the following agencies have joined AZWARN:

- Phoenix
- Metro Water (Tucson)
- Tempe
- Flagstaff
- Pima County
- Peoria
- Scottsdale

BUDGETARY IMPACT:

Entering into the agreement will have no budgetary impact.

RECOMENDATION:

Staff recommends that the City Council approve a resolution authorizing an Intergovernmental Agreement establishing a mutual aid agreement among members of the Arizona Water and Wastewater Agency Response Network and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

ATTACHMENTS:

Click to download

- RES - 2755-708

RESOLUTION NO. 2755-708

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING A MUTUAL AID AGREEMENT WITH THE MEMBERS OF THE ARIZONA WATER AND WASTEWATER AGENCY RESPONSE NETWORK RELATING TO WATER AND WASTEWATER UTILITY EMERGENCIES.

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

SECTION 1. That the Mutual Aid Agreement with members of the Arizona Water and Wastewater Agency Response Network relating to water and wastewater utility emergiencies (the "Agreement") is hereby approved in the form attached hereto as Exhibit A and incorporated herein by this reference.

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

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

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Carmen Martinez, Acting City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2755-708

[Mutual Aid Agreement]

See following pages.

MUTUAL AID AGREEMENT
AN INTERGOVERNMENTAL AGREEMENT
AMONG MEMBERS OF
THE ARIZONA WATER AND WASTEWATER
AGENCY RESPONSE NETWORK

This Agreement is made and entered into by and among Municipalities, Municipal Corporations Counties, Districts and Public Agencies that have executed this Agreement to better respond to water and wastewater emergencies.

RECITALS

WHEREAS, municipal corporations within Arizona are authorized to own and operate water distribution and wastewater collection and treatment systems pursuant to A.R.S. § 9-511, and;

WHEREAS, Domestic Water and Wastewater Improvement Districts are authorized to operate water and wastewater facilities pursuant to A.R.S. § 48-909 and A.R.S. § 48-1011 et seq.;

WHEREAS, Pima County is authorized to own and operate a wastewater collection and treatment system pursuant to A.R.S. § 11-264, and;

WHEREAS , Members of the AZWARN recognize the value of cooperative efforts in responding to water and wastewater utility emergencies and intend to look for opportunities to cooperate with local governments, Tribal entities, and federal agencies to meet the need for mutual aid in emergencies; and;

WHEREAS, the signatories to this Agreement are authorized to enter into intergovernmental agreements pursuant to A.R.S. § 11-952, and;

WHEREAS, one or more members to this Agreement may find it necessary to utilize all of their own resources to cope with a "Local Emergency" a "Government-Declared State of Emergency" or a "Utility emergency" and may require the assistance of another member or other members (collectively, "Member");

WHEREAS, It is desirable that the manner of financing such cooperative undertakings be resolved in advance of such Emergency; and

WHEREAS, it would be beneficial to have established a plan and procedures in case of Emergencies;

WHEREAS; separate from this Agreement, state resources will be made available in accordance with A.R.S. § 35-192; A.R.S. § 26-303(E) and A.R.S. § 26-311;

NOW, THEREFORE, IT IS HEREBY AGREED by and between each and all of the Members hereto as follows:

AGREEMENT

Article 1. Purpose

The Members recognize that Emergencies may overwhelm the ability of a water and or wastewater utility to provide services to its customers. These Emergencies may require assistance in the form of personnel, equipment, services, and supplies from outside the area of the impact of the Emergency. Therefore, the Arizona Water and Wastewater Agency Response Network ("AZWARN") Member utilities hereby establish within the State of Arizona an Intrastate Program for Mutual Assistance ("Mutual Assistance Program") and create a statewide Arizona Water and Wastewater Agency Response Network ("AZWARN"). Through the Mutual Assistance Program and AZWARN, the Members will coordinate response activities and may share resources during Emergencies. This Agreement sets forth the procedures for the administration of this Mutual Assistance Agreement and AZWARN.

Article 2. Scope

The scope of this Agreement is to (1) provide procedures to notify Members of the need for assistance; (2) provide procedures for Requesting Members to request assistance; (3) provide a mechanism for compensation for resources; and (4) create AZWARN to implement this Agreement.

Article 3. Definitions

3.1 **Agreement** means this document, the Mutual Aid Agreement, an Intergovernmental Agreement among Members of the Arizona Water and Wastewater Agency Response Network and changes of the agreement as approved by its Members.

3.2 **Associate:** Any non utility participant, approved by the AZWARN Board, which provides a support role for the AZWARN program. These participants are nonvoting and do not officially sign the AZWARN agreement.

3.3 **Authorized Designee** means an employee of a Member that is authorized by the Member's Governing Body to request assistance, offer assistance, or declare Utility Emergencies under this Agreement.

3.4 **AZWARN (Arizona Water and Wastewater Agency Response Network)** means an organizational body of Member representatives. Each Member has one representative.

3.5 **AZWARN Board** means the Chairperson and eight other Member representatives elected at large among AZWARN Member representatives. The AZWARN Board shall be formed after the AZWARN Membership exceeds twenty (20).

3.6 **AZWARN Chairperson** means the Member Representative elected by a majority vote of AZWARN. This person is responsible for chairing AZWARN meetings, giving notices as required by this Agreement and is authorized to execute actions approved by Resolutions of AZWARN.

3.7 **Backfill** means the salary of replacement personnel who perform the regular duties of other personnel who are deployed under this mutual aid agreement.

3.8 **Coordinator** means a person assigned by AZWARN to provide services as directed by AZWARN such as managing a website, special communication hub, or grant management.

3.9 **Costs** mean the actual expenditures of funds by Responding Member, including backfill and indirect costs.

3.10 **District** means a domestic water improvement district or domestic wastewater improvement district created pursuant to A.R.S. § 48-1011 et seq.

3.11 **Emergency** means a Local Emergency, pursuant to A.R.S. § 26-301(9) or a Governor Declared State Emergency, pursuant to A.R.S. § 35-192 or a Utility Emergency as defined in this Agreement. (Note A.R.S. § 34-604, Emergency Procurement).

3.12 **Governing Body** means the legislative body (e.g., city council, board of supervisors, district board or State agencies) elected to manage the affairs of the municipality, municipal corporation, district, county or Public Agency with statutory authority to enter into Mutual Aid Agreements.

3.13 **Governor-Declared State Emergency** means a situation where the Governor has declared a state of emergency following a determination of the "existence of conditions of disaster or of extreme peril to the safety of persons or property within the state caused by air pollution, fire, flood or floodwater, storm, epidemic, riot, earthquake or other causes, except those resulting in a state of war emergency, which are or are likely to be beyond the control of the services, personnel, equipment and facilities of any single county, city or town, and which require the combined efforts of the state and the political subdivision," pursuant to A.R.S. § 35-192.

3.14 **Indirect Costs** means 10% of the total expenditures of funds by the Responding Member.

3.15 **Local Emergency** means the "existence of conditions of disaster or of extreme peril to the safety of persons or property within the territorial limits of a county, city, or town, which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of such political subdivision as determined by its Governing Body and which require the combined efforts of other political subdivisions" pursuant to A.R.S. § 26-301(9).

3.16 **Member** means a participating governmental entity in the AZWARN.

3.17 **National Incident Management System (NIMS)** means the national, standardized approach to incident management and response that sets uniform processes and procedures for emergency response operations.

3.18 **Period of Assistance** means a specified period of time when a Responding Member assists a Requesting Member. It begins with the Requesting Members' notice of acceptance of aid and ends when either the Responding Member or Requesting Member terminates the aid pursuant to notice provisions of this Agreement.

3.19 **Private Utility** means a water or wastewater distribution, collection or treatment facility or system which is not owned or operated by a Governing Body, Municipal Corporation or Water or Wastewater District.

3.20 **Requesting Member** means a Member who requests assistance in accordance with the terms and conditions of this Agreement.

3.21 **Responding Member** means a Member that responds to a request for assistance in accordance with the terms and conditions of this Agreement.

3.22 **Utility** means an Arizona water or wastewater distribution, collection or treatment facility or system owned by a Governing Body, or a municipal corporation, or an Arizona water or wastewater company who is contracting with or licensed by a Governing Body to provide services.

3.23 **Utility Emergency** means an incident or event beyond the capability of a member utility but does not amount to or require the need of a declaration of emergency by the Mayor, Chairman of the Board of Supervisors, or the Governor of the State of Arizona. This emergency is declared by the utility's Authorized Designee. (Note: A.R.S. § 34-604, Emergency Procurement).

Article 4. Implementation

4.1 This Agreement will be implemented through AZWARN. Each Member to the Agreement will select a Member representative who will each have one vote. The Member representatives will elect a Chairperson. When Membership exceeds twenty (20), AZWARN will elect eight (8) Member

representatives to the AZWARN Board. The Chairperson and each AZWARN Board Member will have one vote for Board business. Until such time as membership exceeds twenty (20) Members, AZWARN will serve as the Board.

4.2 AZWARN will meet annually to review this Agreement as well as emergency preparedness and response procedures, recommending changes when necessary. AZWARN Member representatives, and subsequently the AZWARN Board, will adopt resolutions, policies, procedures and by-laws. AZWARN Member representatives will facilitate, plan and coordinate emergency planning, response activities, and training exercises under this Agreement. AZWARN Member representatives will also determine budget and funding options.

Article 5. Funding

5.1 The AZWARN Board will be responsible for developing and adopting an annual budget and establishing funding sources.

5.2 The AZWARN Board may authorize a Member or Associate to accept grants, gifts and other sources of funds on behalf of the interests of AZWARN. Implementation of this Agreement may be funded by annual contributions necessary to meet costs of administration and sustaining this Agreement.

Article 6. Procedures for Requesting Assistance

6.1 Member Responsibility. Each Member will identify an Authorized Designee or the Authorized Designee's delegate to provide contact information, including 24 hour contact, and maintain relatively current resource information made available by the utility for mutual assistance response.

6.2 Requests for Assistance. In the event of an Emergency, a Member's Authorized Designee may request mutual assistance from any other Participating Member(s). The request for assistance may also be transmitted to the Coordinator. Requests for assistance may be made orally or in writing. When made orally, the request for assistance will be followed by a written request as soon as practicable but no more than (10) working days after the oral request was made. Specific protocols for requesting assistance will be provided in the **AZWARN Operational Plan.**

6.3 Response to a Request for Assistance. After a Member receives a request for assistance, the Authorized Designee evaluates whether resources are available to respond to the request for assistance. Following the evaluation, the Authorized Designee will notify, as soon as possible, the Requesting Member whether it has the resources to respond. If the Member is willing and able to provide assistance, the Member will: (1) notify the Requesting Member about the type of available resources; (2) notify the Requesting Member of the approximate arrival time of such assistance; (3) inform Requesting Member of any special requirements needed to utilize the resources; and (4) inform Requesting Member if there are any variations from the reimbursement provisions of this Agreement. Acceptance of this offer of assistance by the Requesting Member commences the Period of Assistance.

6.4 Discretion of Responding Member. Execution of this Agreement does not create any duty to provide assistance. When a Member receives a request for assistance, the Authorized Designee will have absolute discretion as to the availability of resources and choice of providing assistance. An Authorized Designee's decisions on the availability of resources will be final and not subject to legal challenge.

6.5 Right to Withdraw. The Responding Member's Authorized Designee retains the right to withdraw some or all of its resources upon 24 hours notice. Notice of intention to withdraw must be communicated to the Requesting Member's Authorized Designee.

Article 7. Responding Member Personnel

7.1 National Incident Management System. Assistance provided under this Agreement will be consistent with the National Incident Management System (NIMS).

7.2 Control. Personnel sent by a Responding Member will remain under the direct supervision and control of the Responding Member. The Requesting Member's Authorized Designee will coordinate response activities with the designated supervisor(s) of the Responding Member(s).

7.3 Food and Shelter. The Requesting Member will supply reasonable food and shelter for Responding Member personnel. If the Requesting Member fails to provide food and shelter to Responding personnel, the Responding Member's designated supervisor is authorized to purchase the resources necessary to meet the needs of its personnel. The cost for such resources must not exceed the per diem rates established by the State of Arizona. The Requesting Member remains responsible for reimbursing Responding Member for all costs associated with providing food and shelter, if such resources are not provided.

7.4 Communication. The Requesting Member will provide or make arrangements for appropriate communication equipment for Responding Member personnel.

7.5 Status. Unless otherwise provided by law, the Responding Member's officers and employees retain the same privileges, immunities, rights, duties, and benefits as provided in their respective jurisdictions.

Article 8. Reimbursement

Unless otherwise mutually agreed in whole or in part, the Requesting Member will reimburse the Responding Member for each of the following categories of costs that Responding Member incurred while providing aid during the specified Period of Assistance. If an alternative fees schedule is necessary for a Member, alternative fee schedules will be submitted upon signing this Agreement.

8.1 Personnel. Requesting Member will pay Responding Member for work completed by Responding Member personnel during a specified Period of Assistance according to the terms provided in their employment contracts or other conditions of employment. The supervisor(s) designated by the Responding Member must keep accurate records of work performed by personnel during the specified Period of Assistance. Reimbursement must include all personnel costs, including salaries or hourly wages (including overtime and backfill), costs of fringe benefits, and indirect costs when reimbursing Responding Member. If a Responding Member uses rates different from these costs, the fee schedule may be attached to the signed agreement and submitted to the AZWARN Board.

8.2 Equipment. The Requesting Member will reimburse the Responding Member for the use of equipment during a specified Period of Assistance. Requesting Member will use equipment rates based on the Federal Emergency Management Agency's (FEMA) Schedule of Equipment Rates. If a Responding Member uses rates different from those in the FEMA Schedule of Equipment Rates those rates may be attached to the signed agreement and submitted to the AZWARN Board. In the event of equipment not included in the schedule of equipment rates, the Responding Member must provide such rates in writing to the Requesting Member prior to supplying resources. The Requesting Member and Responding Member must mutually agree, in writing, on rates prior to Responding Member's dispatch of equipment.

8.3 Materials and Supplies. The Requesting Member must reimburse the Responding Member in kind or at actual replacement cost, plus handling charges, for use of expendable or non-returnable supplies. The Responding Member will not charge direct fees or rental charges to the Requesting Member for other supplies and reusable items that are returned to the Responding Member in a clean, damage-free condition. The Responding Member and Requesting Member will treat reusable supplies that are returned to the Responding Member with damage as expendable supplies for purposes of cost reimbursement.

8.4 Reimbursement Procedures. The Responding Member must provide an itemized invoice to the Requesting Member for all expenses it incurred as a result of providing assistance under this Agreement. The Responding Member will submit the itemized invoice to the Requesting Member no later than ninety (90) days following the end of the Period of Assistance. The Requesting Member will pay the full amount due no later than forty-five (45) days following the invoice date. Any amount that Responding Member leaves unpaid after 45 days will accrue interest at the statutory annual interest rate of 10% pursuant to A.R.S. § 44-1201.

8.5 Reimbursement Procedures by the State. It is expressly understood that when Responding Members provide aid under this Agreement to the Requesting Member, the State may reimburse the Requesting Member for eligible costs as appropriate.

8.6 Excess Costs. The Requesting Member will reimburse the Responding Member for actual excess costs incurred by Responding Member for required backfill or coverage.

8.7 Personnel Compensation and Insurance. The Requesting Member and the Responding Member will be responsible for all compensation and insurance coverage of their respective employees and equipment, if any, involved with mutual aid and consistent with A.R.S. § 26-314.B.

Article 9. Water Rights

This Agreement will not affect water rights nor create any transfer of water rights. Members do not intend that this Agreement will serve as a means of drought relief. Drought will not be considered an Emergency under the terms of this Agreement.

Article 10. Private Utilities

10.1 A participating Member may request assistance for a Private Utility or provide assistance from a Private Utility to a requesting Member pursuant to this Agreement under the following conditions: the Member must have a valid contract with the Private Utility that is consistent with the terms and conditions of this Agreement and the Member will agree to assure substantial compliance by the Private Utility with the terms and conditions of this Agreement. The Member may make substantial compliance a term of their contract with the Private Utility.

10.2 For purposes of this Agreement, the participating Member's Authorized Designee shall act as the representative of the Private Utility.

Article 11. Protected Information, Statewide Critical Infrastructure and Disclosure

To the extent permitted by the Statewide Critical Infrastructure Information System Disclosure Law, A.R.S. § 41-1803 et seq., the Arizona Public Records Law, A.R.S. § 39-101 et seq., and other applicable laws, all Members will maintain the strictest confidence and will take all reasonable steps necessary to prevent the disclosure of any protected information disclosed under this Agreement. If any Member, or other entity requests or demands, by subpoena or otherwise, that a Member disclose any protected information disclosed under this Agreement, the Member will immediately notify the owner of the protected information and will take all reasonable steps necessary to prevent the disclosure of this information by asserting all applicable rights and privileges with respect to such information and will cooperate fully in any judicial or administrative proceeding relating thereto.

Article 12. Dispute Resolution

12.1 Dispute Resolution. If a dispute arises out of or relates to this Agreement and if the dispute cannot be settled through negotiation, the Members agree first to try in good faith to resolve the dispute by mediation before resorting to litigation or some other dispute resolution procedure.

12.2 Mediation Procedure. Mediation will take place in a location agreed to by the Members, will be self-administered and be conducted under the CPR Mediation Procedures established by the CPR Institute for Dispute Resolution, with the exception of the mediator selection provisions, unless other procedures are agreed upon by the Members.

- **12.2.1 Commencement of Mediation**. Either Member may refer the dispute to mediation by sending by U.S. mail, certified and return receipt requested, to the other Member or Members a written notice (the "Mediation Notice") calling on the other Member or Members to proceed to mediation. The Member or Members who have received a Mediation Notice will contact the Member calling for mediation seven (7) days from receipt of the Notice to confirm receipt of the Mediation Notice and to begin the mediator selection process.
- **12.2.2 Mediator Selection**. Unless the Members agree otherwise, the Members will select the one or more mutually acceptable trained mediator(s) within fourteen 14 days of the confirmation of receipt of Mediation Notice.
- **12.2.3 Fees and Costs**. Each Member agrees to bear its own fees and costs to participate in mediation. The Members will enter into a written agreement with the mediator(s) regarding the mediator(s)' fees and expenses before the first mediation session. The Members will share equally the mediators' fees and mediation expenses.
- **12.2.4 Subsequent or Contemporaneous Contracts**. The Members will include this provision in all subsequent or contemporaneous contracts relative to this matter, absent specific written agreement of the Members otherwise.

12.3 Participation in Mediation. The Members agree to encourage participation in mediation by all relevant Members. The Members will not be obligated to mediate if a Member who is needed to fully resolve dispute is unwilling to join.

12.4 Waiver. This section does not constitute a waiver of the Members' rights to arbitrate or initiate legal action if a dispute is not resolved through good faith negotiation or mediation, or if provisional relief is required under the Arizona Rules of Civil Procedure.

Article 13. Indemnification

Each Member (as "Indemnitor") agrees to indemnify, defend and hold harmless the other Member (as "Indemnitee") from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious or derivative liability to the Indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees or volunteers. This indemnification shall survive termination of this Agreement or the termination of the participation of any of its Members

.

Article 14. Worker's Compensation Claims

Each Member will be responsible for any injuries which may occur to their own personnel during the course of rendering mutual assistance pursuant to this Agreement. In accordance with A.R.S. § 23-1022, each Member will be deemed the primary employer and will have sole responsibility for the

payment of worker's compensation benefits to its respective employees. Each Member will comply with the notice provisions of A.R.S. § 23-1022(E).

Article 15. Notice of Claim or Suit

A Member who becomes aware of a claim or suit that in any way, directly or indirectly, contingently or otherwise, affects or might affect other Members of this Agreement will provide prompt and timely notice to the Members who may be affected by the suit or claim. Each Member reserves the right to participate in the defense of such claims or suits as necessary to protect its own interests.

Article 16. Insurance

Each Member will bear the risk of its own actions, as it does with its operations, and determine for itself what kinds of insurance, (including self-insurance), and in what amounts, it should carry. Nothing herein will act or be construed as a waiver of any sovereign immunity or other exemption or limitation on liability that a Member may enjoy.

Article 17. Effective Date; Term

17.1 Effective Date. This Agreement will become effective for each Member after approval by its Governing Body and on the date it is recorded with the Secretary of State (the "Effective Date").
17.2 Term. Except as otherwise provided in this Agreement, this Agreement will terminate June 30, 2020 unless extended. Upon termination any involved property shall revert to the original owner unless conveyed to another participant pursuant to the terms of this Agreement.

Article 18. Withdrawal

Any Member may terminate its participation in this Agreement through a resolution of its Governing Body which gives notice of termination of participation in this Agreement and by filing a certified copy of such resolution with the Secretary of State and providing a copy to the AZWARN Chairperson. This Agreement is terminated as to such Member twenty (20) days after the filing of such resolution. The termination by one or more of the Members of its participation in this Agreement will not affect the operation of this Agreement as between the other Members thereto.

Article 19. Non-Appropriation

Notwithstanding any other provision in this Agreement, any Member may withdraw from this Agreement if for any reason the Member's Governing Body does not appropriate sufficient monies for the purposes of this Agreement. In such event, a withdrawing Member will have no further obligation to the other Members other than for payment for services rendered prior to withdrawal.

Article 20. Prohibition of Third Parties and Assignment of Rights and Duties

20.1 This Agreement is for the sole benefit of the Members and no person or entity may have any rights under this Agreement as a third-Member beneficiary. Assignments of benefits and delegations of duties created by this Agreement are prohibited.

20.2 Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties who are not Members or affect the legal liability of any Member by imposing any standard of care different from the standard of care imposed by law.

Article 21. Other Mutual Aid and Assistance Agreements

Nothing in this Agreement will limit any Member's ability to continue with, or enter into, other mutual aid or assistance agreements, including those with Tribal governments. The Members may negotiate mutual aid agreements with Tribal government as appropriate

Article 22. Americans with Disabilities Act

Each Member will comply with applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

Article 23. Non-Discrimination

No Member will discriminate against any employee, client, or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin in the course of carrying out Member duties pursuant to this Agreement. Each Member will comply with the provisions of Executive Order 75-5, as amended by Executive Order 99-4, which are incorporated into this Agreement by reference, as if set forth in full herein.

Article 24. Compliance with Laws

Each Member will comply with all federal, state and local laws, rules regulations, standard and Executive Orders, without limitation to those designated within this Agreement. The laws and regulations of the State of Arizona will govern the rights of the Members, the performance of the Agreement and any disputes hereunder. Any changes in the governing laws, rules and regulations during the terms of this Agreement will apply but do not require an amendment of this Agreement.

Article 25. Entire Agreement

This document constitutes the entire agreement among the Members pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. This Agreement will not be modified, amended, altered or extended except through a written amendment approved by the Members' Governing Bodies and recorded with the Arizona Secretary of State.

Article 26. Jurisdiction

Nothing in this Agreement will be construed as otherwise limiting or extending the legal jurisdiction of any Member. Nothing in this Agreement is intended to confer any rights or remedies to any person or entity that is not a Member under this Agreement.

Article 27. Conflict of Interest

This Agreement is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated herein by reference.

Article 28. Severability

If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions will continue to be valid and enforceable to the fullest extent permitted by law.

Article 29. Execution Procedure

This Agreement will be executed in counterparts by the Governing Body of each Member. Upon execution, the counterpart will be filed with the Secretary of State.

Article 30. Responsibility of the State of Arizona

Nothing within this Agreement limits or restricts the duties and obligations of the State of Arizona to respond to the Emergency of any Member.

MUTUAL AID AGREEMENT
AN INTERGOVERNMENTAL AGREEMENT AMONG MEMBERS OF THE ARIZONA WATER AND WASTEWATER AGENCY RESPONSE NETWORK
County Signature Page

_____ COUNTY

IN WITNESS WHEREOF, the Members hereto each sign this Mutual Aid Agreement, an Intergovernmental Agreement among Members of the Arizona Water and Wastewater Agency Response Network, on a separate signature page. The signor warrants that he or she has been duly authorized to commit the jurisdiction in the Agreement by formal approval of the jurisdiction's Governing Body.

_____
Chair, _____County Board of Supervisors Date_____

ATTEST_____
Clerk of the Board _____ Date _____

Date of formal approval by Governing Body: _____
Date

Pursuant to A.R.S. § 11-952(D), the attorney for the above entitled has determined that the foregoing Agreement is in proper form and is within the powers and authority of the entity as granted under the laws of this State.

_____
Deputy County Attorney _____ Date _____

_____County

MUTUAL AID AGREEMENT
AN INTERGOVERNMENTAL AGREEMENT AMONG MEMBERS OF THE ARIZONA WATER AND WASTEWATER AGENCY RESPONSE NETWORK

City Signature Page

City of _____

IN WITNESS WHEREOF, the Members hereto each sign this Mutual Aid Agreement, an Intergovernmental Agreement among Members of the Arizona Water and Wastewater Agency Response Network on a separate signature page. The signor warrants that he or she has been duly authorized to commit the jurisdiction in the Agreement by formal approval of the jurisdiction's Governing Body.

_____
Mayor, _____City of _____ Date_____

ATTEST_____
City Clerk _____ Date _____

Date of formal approval by Governing Body: _____
Date

Pursuant to A.R.S. § 11-952(D), the attorney for the above entitled city has determined that the foregoing Agreement is in proper form and is within the powers and authority of the entity as granted under the laws of this State.

_____
City Attorney _____ Date _____

City of _____

MUTUAL AID AGREEMENT
AN INTERGOVERNMENTAL AGREEMENT AMONG MEMBERS OF THE ARIZONA WATER AND WASTEWATER AGENCY RESPONSE NETWORK
Town Signature Page

Town of _____

IN WITNESS WHEREOF, the Members hereto each sign this Mutual Aid Agreement, an Intergovernmental Agreement among Members of the Arizona Water and Wastewater Agency Response Network on a separate signature page. The signor warrants that he or she has been duly authorized to commit the jurisdiction in the Agreement by formal approval of the jurisdiction's Governing Body.

_____
Mayor, _____City of _____ Date_____

ATTEST_____
Town Clerk _____ Date _____

Date of formal approval by Governing Body: _____
Date

Pursuant to A.R.S. § 11-952(D), the attorney for the above entitled town has determined that the foregoing Agreement is in proper form and is within the powers and authority of the entity as granted under the laws of this State.

_____
Town Attorney _____ Date _____

Town of _____

MUTUAL AID AGREEMENT
AN INTERGOVERNMENTAL AGREEMENT AMONG MEMBERS OF THE ARIZONA WATER AND WASTEWATER AGENCY RESPONSE NETWORK
District Signature Page

District _____

IN WITNESS WHEREOF, the Members hereto each sign this Mutual Aid Agreement, an Intergovernmental Agreement among Members of the Arizona Water and Wastewater Agency Response Network on a separate signature page. The signor warrants that he or she has been duly authorized to commit the jurisdiction in the Agreement by formal approval of the jurisdiction's Governing Body.

_____
Director, _____ Date_____

ATTEST_____
Director, District _____ Date _____

Date of formal approval by Governing Body: _____
Date

Pursuant to A.R.S. § 11-952(D), the attorney for the above entitled District has determined that the foregoing Agreement is in proper form and is within the powers and authority of the entity as granted under the laws of this State.

_____
General Counsel, _____ Date_____

MUTUAL AID AGREEMENT
AN INTERGOVERNMENTAL AGREEMENT AMONG MEMBERS OF THE ARIZONA WATER AND WASTEWATER AGENCY RESPONSE NETWORK
Public Agency Signature Page

State of Arizona

IN WITNESS WHEREOF, the Members hereto each sign this Mutual Aid Agreement, an Intergovernmental Agreement among Members of the Arizona Water and Wastewater Agency Response Network on a separate signature page. The signor warrants that he or she has been duly authorized to commit the Agency in the Agreement.

_____
Director,_____ Department of _____Date _____

ATTEST_____
Director Department of _____ Date _____

Date of formal approval by Governing Body: _____
Date

Pursuant to A.R.S. § 11-952(D), the attorney for the above entitled has determined that the foregoing Agreement is in proper form and is within the powers and authority of the entity as granted under the laws of this State.

_____
Attorney General, State of Arizona, _____ Date_____

CITY COUNCIL REPORT

SUBJECT:
Resolution 2756-708 - Intergovernmental Agreement with Maricopa County Human Services for Special Transportation Services

MEETING DATE:
July 7, 2008

TO: Mayor and Council

FROM: Kristen Taylor, Transit Management Assistant (623)333-1030

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council adopt a resolution authorizing an Intergovernmental Agreement (IGA) with Maricopa County Human Services to operate the Special Transportation Service (STS) Program for FY 2008-2009 for an amount not to exceed $20,000.

BACKGROUND:

The City of Avondale has contracted with the Maricopa County Human Services Department for transportation services for over twenty (20) years. The STS program provides assisted, door-to-door, advance reservation transportation to elderly, low-income, and persons with disabilities at no cost to the user. Trip destinations include medical/dialysis appointments and adult day-care.

DISCUSSION:

The City of Avondale had seen an increase in ridership with STS during FY08 primarily due to changes that were allowed by Avondale to broaden services to include social service trips, shopping, personal errands, social/recreational activities, employment and adult day-care. Because of the financial projections of the city, Avondale will have to again only allow the medical, dialysis and adult day care trips. STS is also projecting an increase in their rates because of increased fuel and labor costs.

The city is also going to be entering into a contract with a taxi company to provide the medical and dialysis trips. This will prove to be less expensive than the increased rates for STS and will also provide the citizens with door to door service without having to wait several hours for their appointment time. The change in accepted trips along with the change to the taxi program should be less costly for the City of Avondale. Special Transportation Services (STS) is seeking support from the City of Avondale to continue existing services. The City of Avondale will only pay for actual trips provided.

BUDGETARY IMPACT:

City Council budgeted $20,000 for STS service for FY09.

RECOMENDATION:

Staff recommends that the City Council approve a resolution authorizing an Intergovernmental Agreement (IGA) with the Maricopa County Human Services Department Special Transportation Service (STS) Program for FY 2008-2009 in the amount of $20,000.

ATTACHMENTS:

Click to download

RES - 2756-708

RESOLUTION NO. 2756-708

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY TO PROVIDE SPECIAL TRANSPORTATION SERVICES FOR FY 2008–2009.

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

SECTION 1. That the Intergovernmental Agreement (the "Agreement") between the City of Avondale and Maricopa County to provide special transportation services for senior citizens and handicapped individuals is hereby approved in the form attached hereto as Exhibit A and incorporated herein by reference.

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

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

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Carmen Martinez, Acting City Clerk

APPROVED:

_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2756-708

[Intergovernmental Agreement]

See following pages.

INTERGOVERNMENTAL AGREEMENT
BETWEEN CITY OF AVONDALE
AND MARICOPA COUNTY
July 1, 2008 through June 30, 2009

THIS AGREEMENT, entered into by the City of Avondale, hereinafter referred to as CITY, and Maricopa County, Administered by its Human Services Department, hereinafter referred to as CONTRACTOR as of July 7, 2008.

NOW THEREFORE, it is agreed between the parties thereto that;

I. SCOPE OF SERVICE

Activities

The CONTRACTOR will be responsible for administering a Special Transportation Services program, hereinafter referred to as STS, that provides limited transportation, free of charge, for qualified elderly (individuals age 60 and older), low-income and disabled residents of the CITY. CITY is expected to provide a map identifying all boundary lines of CITY. If no map is provided, the CONTRACTOR will use another reputable source.

CONTRACTOR will provide monthly detailed information to CITY regarding all STS trips (Trip origination & destination, client name, trip date(s) and purpose).

II. TERM AND RENEWAL

This agreement shall commence on July 1, 2008, and shall terminate on June 30, 2009 unless terminated earlier by one of the parties, in which case, written notice of termination shall be required no less than sixty (60) days prior to the proposed termination date. In the event either party elects to terminate this Agreement, all rights and duties set forth in this Agreement shall immediately terminate, and neither party shall be liable to the other party for any damages resulting from the termination. In the event of early termination CONTRACTOR shall be entitled to receive payment for all service provided to the CITY prior to the termination.

III. PAYMENT

It is expressly agreed and understood that the total amount paid by the CITY under this Agreement shall not exceed $20,000 at the per trip rate as detailed in the Trip Rate Schedule attached hereto as EXHIBIT #1. The CONTRACTOR will only submit a claim(s) for those trips that are provided, or for any trip that results in a no show/cancellation at the designated point of pick up.

IV. INDEMNIFICATION FOR CONTRACTOR

Each party (as "Indemnitor") agrees, to the extent permitted by law, to indemnify, defend and hold harmless the other party (as "Indemnitee") for, from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claim" or "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers.

To the extent either CONTRACTOR or CITY is entitled to indemnification hereunder, the obligation of either party to indemnify the other shall be deemed to have been met and satisfied to the extent that any Claim is covered by any policy of insurance maintained by a party and such insurer accepts and pays such claim.

The parties will cooperate in the investigation and defense of any claim subject to indemnification hereunder. The party obligated to indemnify any Claim shall be responsible for conducting any investigation in defense at its sole cost.

V. NOTICES

(a) Written Notices Required; Permitted Methods of Delivery

CITY and CONTRACTOR agree that any notice under this Agreement shall be in writing and can be delivered by the following methods: (a) personal delivery; (b) U.S. Postal Service, first-class mail, postage pre-paid (deemed delivered two days after being posted in the U.S. mail); (c) national recognized overnight courier (with all fees pre-paid); or (d) facsimile transmission (deemed delivered when confirmation receipt provided).

(b) Delivery to Parties

Notices to the parties, under this Agreement, must be sent to the following individuals:

City of Avondale:
Kristen Taylor
Management Assistant, Transit Program
City of Avondale
11465 W. Civic Center Drive, Suite 220
Avondale, AZ 85323

Maricopa County:
Salvatore La Puma III
STS Program Coordinator
Maricopa County Human Services Dept/STS
234 N. Central Avenue, 3rd Floor
Phoenix, AZ 85004

VI. GENERAL CONDITIONS

General Compliance

The CONTRACTOR agrees to comply with all applicable federal, state, and local laws and regulations governing the funds provided under this Agreement.

The CONTRACTOR agrees to comply with the United States Department of Transportation, Federal Transit Administration Master Agreement, which is hereby incorporated into this Intergovernmental Agreement by reference. The contract administrator for the Human Services Department Special Transportation Service Program maintains a copy of the Agreement on file.

VII. ADMINISTRATIVE REQUIREMENTS

Documentation and Recordkeeping

1. Records to Be Maintained

   CONTRACTOR shall maintain all records required by the federal regulations specified in 24 CFR Part 570.506 and that are pertinent to the activities to be funded under this Agreement.

2. Retention

   The CONTRACTOR shall retain all records pertinent to expenditures incurred under this Agreement for a period of five (5) years after the termination of all activities funded under this Agreement or after the resolution of all federal audit findings, whichever occurs later. Records for non-expendable property acquired with funds under this Agreement shall be retained for five (5) years after final disposition of such property.

3. Audits and Inspections

   All CONTRACTOR records with respect to any matters covered by this Agreement shall be made available to the CITY, or the Federal Government, at any time during normal business hours with reasonable notice to CONTRACTOR, as often as the CITY reasonably deems necessary, to audit, examine and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the CONTRACTOR within 30 days after receiving receipt from the CITY. Failure of the CONTRACTOR to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of any future payments. The CONTRACTOR hereby agrees to have an annual agency audit conducted in accordance with current policy concerning CONTRACTOR audits.

4. Payment Procedures

The CITY will pay to the CONTRACTOR funds available under this Agreement based upon information submitted by the CONTRACTOR and consistent with any approved budget and CITY policy concerning payment. The CITY shall pay the CONTRACTOR an amount not to exceed $20,000, upon submission of a properly executed claim(s). If demand exceeds annual budget the CITY may agree to continue services at current rate, however, if CITY is unable to pay for service the program CONTRACTOR may terminate services until funds are available.

At the end of each quarter, CONTRACTOR will conduct a financial reconciliation of all costs of services (including any administrative fees) for informational purposes only. After conducting the financial reconciliation, if it is found that the fees do not cover the services in the IGA then CONTRACTOR will request that the CITY in good faith negotiate for fees that will cover the costs of the IGA services.

VIII. COMPLIANCE WITH APPLICABLE LAWS

Each party shall comply with all applicable laws, ordinances, Executive Orders, rules, regulations, standards, and codes of the Federal, State, and Local governments whether or not specifically referenced herein. Specifically, the following apply:

Unless exempt under Federal law, the CONTRACTOR and the CITY shall comply with Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act, and State Executive Order No. 75-5 which mandates that all persons, regardless of race, color, religion, sex, age, national origin, or political affiliation, shall have equal access to employment opportunities. The CONTRACTOR and the CITY shall comply with the Rehabilitation Act of 1973, as amended, which prohibits discrimination in the employment of qualified persons because of physical or mental disability. The CONTRACTOR and the CITY shall comply with the requirements of the Fair Labor Standards Act of 1938, as amended.

The CONTRACTOR and the CITY shall comply with Title VI of the Civil Rights Act of 1964, which prohibits the denial of benefits of, or participation in, contract services on the basis of race, color, or national origin. The CONTRACTOR and the CITY shall comply with the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of disability, in delivering contract services; and with Title II of the Americans with Disabilities Act, and the Arizona Disability Act, which prohibits discrimination on the basis of physical or mental disabilities in the provision of contract programs, services, and activities.

IX. BUDGET

The CONTRACTOR shall establish and maintain a budget for the work contemplated by this Agreement.

X. CANCELLATION

The parties acknowledge that this IGA is subject to cancellation provisions pursuant to A.R.S. § 38-511, the provisions of which are incorporated herein by reference and made a part of hereof.

XI. CONFLICT OF INTEREST

CITY and CONTRACTOR agree that no member, official, or employee of either agency shall have any direct or indirect interest in the agreement, nor shall participate in any decision relating to this agreement which is prohibited by A.R.S. § 38-501, et seq.

XII. TERMINATION

This Agreement may be terminated by either party with 60 days written notice. All amounts due or other obligations required through the date of termination shall be performed within 60 days of the date of termination.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above:

CITY:
CITY OF AVONDALE

_____

APPROVED AS TO FORM:

_____
CITY Attorney

CONTRACTOR:
MARICOPA COUNTY

_____
Chairman, Board of Supervisors

_____
Clerk, Board of Supervisors

APPROVED AS TO FORM:

_____
Roberto Pulver
MARICOPA COUNTY ATTORNEY
Deputy County Attorney

EXHIBIT #1

TRIP RATE SCHEDULE

Trips will be billed according to the one-way "Direct Distance Mileage" as calculated by Maricopa County's Special Transportation Services' Trapeze software program. All trip distances will be rounded to the nearest whole mile.

Trip Rates:

0-5 Miles Total Distance -	$22.68
6-10 Miles Total Distance -	$25.21
11-15 Miles Total Distance -	$27.79
16-20 Miles Total Distance -	$29.64
21-49 Miles Total Distance -	$45.96
50-60 Miles Total Distance -	$51.06

CITY COUNCIL REPORT

SUBJECT:
Resolution 2757-708 - Intergovernmental Agreement with the Gila River Indian Community for the Purchase of a Police SWAT Truck

MEETING DATE:
July 7, 2008

TO: Mayor and Council

FROM: Janeen Gaskins, Grants Administrator (623)333-1025

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council adopt a Resolution approving an Intergovernmental Agreement with the Gila River Indian Community for funds in the amount of $65,000.00 to purchase a Swat Truck for the Police Department.

BACKGROUND:

The passage of Proposition 202 by the voters of Arizona in November 2002 allowed for new gaming compacts between the State and the 15 Arizona tribes to be negotiated. An important provision of Proposition 202 was the sharing of gaming revenues with Cities. Proposition 202 allows an Indian tribe to retain and distribute twelve percent (12%) of its total annual contribution of gaming revenues for "Distributions to cities, towns, or counties for government services that benefit the general public, including public safety, mitigation of the impacts of gaming, or promotion of commerce and economic development".

The Gila River Indian Community's policy is to limit the distribution of their revenues to nearby cities, towns and counties, including the City of Avondale. The Gila River Indian Community has identified several areas of priority funding including public safety, transportation facilities, health care services, economic development and education. It is also the Gila River Indian Community's policy that Councils of cities requesting funds submit a resolution of support for the grant proposal.

DISCUSSION:

On April 16, 2007 the City Council approved a resolution authorizing the Avondale Police Department to submit an application to the Gila River Indian Community for grant funding. Avondale Police Department was awarded grant funding from the Gila River Indian Community's State Shared Revenue Program to acquire a Swat truck to assist the Police Department in addressing hostile situations. The Swat truck will provide the Police Department with the most efficient tools in a timely fashion. By having an on-site command post the special task force will be able to conduct negotiations and reach resolutions.

BUDGETARY IMPACT:

There are no match requirements for this grant.

RECOMENDATION:

Staff recommends that the City Council adopt a Resolution approving an Intergovernmental Agreement with the Gila River Indian Community for funds in the amount of $65,000.00 to purchase a Swat Truck for the Police Department.

ATTACHMENTS:

Click to download

- RES - 2757-708

RESOLUTION NO. 2757-708

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AUTHORIZING THE ACCEPTANCE OF A GILA RIVER INDIAN COMMUNITY GRANT.

WHEREAS, on April 16, 2007, the Council of the City of Avondale (the "City Council") passed and adopted Resolution 2635-407 authorizing the submittal of an application to the Gila River Indian Community (the "Community") for project funding relating to the purchase of additional police transportation equipment for the protection of Arizona residents (the "Grant"); and

WHEREAS, the City Council desires to authorize acceptance of the Grant.

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

SECTION 1. That acceptance of the Grant totaling $65,000.00 for the purchase of police transportation equipment is hereby authorized.

SECTION 2. That the Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to execute and submit all documents and any other necessary or desirable instruments in connection with the Grant and to take all steps necessary to carry out the purpose and intent of this Resolution.

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

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Carmen Martinez, Acting City Clerk

APPROVED:

_____
Andrew J. McGuire, City Attorney

878988.1

CITY COUNCIL REPORT

SUBJECT:
Resolution 2752-708 - Intergovernmental Agreement with Littleton Elementary School District #65 for Cooperative Programming and Facility Use

MEETING DATE:
July 7, 2008

TO: Mayor and Council

FROM: Daniel Davis, Director of Parks, Recreation & Libraries

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council adopt a resolution authorizing an Intergovernmental Agreement with Littleton Elementary School District #65 for the purpose of cooperative programming and the use of school facilities, and authorize the Mayor, City Manager and City Clerk to execute the documents.

BACKGROUND:

The City of Avondale, in conjunction with Littleton Elementary School District, has offered summer and after school recreation programs for the past several years. The Programs have been very successful and the Littleton Elementary School District has been a strong supporter and partner with these activities.

Staff has had on-going discussions with representatives of the School District to seek additional ways to build upon our previous successes; strengthen each others goals and objectives and to create an environment that encourages a strong bound between the city and schools. Ultimately, the goal of this partnership is to build a successful, vibrant community by insuring that our local schools are strong.

DISCUSSION:

The proposed Intergovernmental Agreement (IGA) outlines opportunities to jointly develop youth services partnerships, lunches with police partners and other projects regarding issues such as school attendance, drop out prevention and parent involvement. The agreement would set out each agency's obligations to enable the City of Avondale to utilize school district facilities for summer, after-school and leisure service programs. The School district would permit the city to utilize school facilities at no cost, except for the direct staff cost associated with the facility operation during the time of use. The agreement would prioritize the city use of school facilities immediately behind the uses for school related activities. The agreement also outlines each party's obligations regarding the Arizona Criminal Justice Commission Youth Survey, which is a collaborative project with Arizona State University's Rodel Community Scholars program. The survey would be administered in cooperation with the Neighborhood and Family Services Department.

The agreement stipulates that the City of Avondale would waive building permit and inspection fees for the district, and only charge the district development fees for streets, water and sewer utility functions. The district does not have any projects that have been submitted that would be impacted by this agreement. The district is in the planning stages of re-developing their Underdown Junior High School campus, but nothing has been submitted which would enable the city to determine the benefit that this agreement would offer the district. The term of the agreement will be for a period of

five (5) Years, and has the provision that either party may terminate the agreement with a sixty (60) day written notice.

BUDGETARY IMPACT:

There is no direct expenditure associated with the approval of the Agreement. Staff did perform a financial comparison for the recently completed Estrella Vista Elementary School. If the agreement was in place at the time that project was approved, under the terms of this agreement the city would have waived approximately $ 70,000 in building permit and inspection fees. During the term of the agreement, staff believes that the school district may have 2-3 school construction projects, depending on the economy and residential growth projections.

Dr. Freeman has indicated that the school district would use the savings to further enhance their curriculum offerings allowing them to provide learning opportunities they currently do not have the resources to adequately fund. It is one way for the City to show its support for quality education.

Staff conducted a Return on Investment analysis of the agreement and based upon the current fee schedule for Littleton Elementary Schools, staff projects that the following charges would be waived and provide a direct financial benefit to the city. These estimates are based upon the use of school facilities for youth basketball practices, summer and after-school recreation programs, and leisure enrichment programs.

Administration of the youth survey	$4,000
Summer Recreation (2 sites for 6 weeks)	$65,400
After School Programs (2 sites for 12 weeks)	$54,360
Youth Basketball practices	$7,200
Total	$130,960

The agreement allows for additional program opportunities that would further enhance the benefits that the cooperative IGA would offer the City of Avondale and our program participants.

RECOMENDATION:

Staff recommends that the City Council approve a resolution authorizing an Intergovernmental Agreement with Littleton Elementary School District #65 for the purpose of cooperative programming and the use of school facilities, and authorize the Mayor, City Manager and City Clerk to execute the documents

ATTACHMENTS:

Click to download

- RES - 2852-708

RESOLUTION NO. 2752-708

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH LITTLETON SCHOOL DISTRICT NO. 65 RELATING TO COOPERATIVE FACILITY USE.

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

SECTION 1. That the Intergovernmental Agreement with Littleton Elementary School District No. 65 relating to cooperative facility use (the "Agreement") is hereby approved in the form attached hereto as Exhibit A and incorporated herein by this reference.

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

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

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Carmen Martinez, Acting City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2752-708

[Intergovernmental Agreement]

See following pages.

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
LITTLETON ELEMENTARY SCHOOL DISTRICT #65
FOR
COOPERATION/FACILITY USE AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT (this "Agreement") is entered into as of July 7, 2008, between the City of Avondale, an Arizona municipal corporation (the "City") and Littleton Elementary School District #65, an Arizona school district (the "District"). The City and District are sometimes collectively referred to in this Agreement as the "Parties" and each individually as a "Party".

RECITALS

A. The District has funding available through its Operation and Maintenance budget to fund the District's costs associated with the Agreement.

B. The City has funding available through its general fund budget fund the City's costs associated with the Agreement.

C. The City and District desire to enter into an agreement to set out each Party's obligations to enable the City to utilize the District's buildings and facilities for summer, After-School and Leisure Service Classes (the "Activities") at two schools owned by the District.

D. The City and the District also desire to enter into an agreement to set out each Party's obligations regarding the Arizona Criminal Justice Commission's Arizona Youth Survey (the "Survey") and the collaborative project with Arizona State University's Rodel Community Scholars program (the "Program").

E. The City and the District also desire to enter into an agreement to jointly develop youth services partnerships, lunches with police partners and other partnership projects regarding issues such as school attendance, drop out prevention and parent involvement.

F. The District is authorized to enter into this Agreement pursuant to ARIZ. REV. STAT. § 15-342 and ARIZ. REV. STAT. § 11-952.

G. The City is authorized to enter into this Agreement pursuant to ARIZ. REV. STAT. § 11-952 and the Avondale City Charter, Article I, Section 3.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable

consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. District's Obligations. The District agrees to:

a. Facilities. Reasonably determine which two schools owned by the District the City will utilize for the Activities (the "Facilities").

b. No Cost to City. Permit the City to utilize the Facilities at no cost to the City for the Activities except as provided in Section 2(a) below.

c. City's Priority. Prioritize the City's request to use the Facilities immediately after the District's school-related activities.

d. District Staff Members. Work cooperatively with the City to identify qualified District school staff members to work with the City administering the Activities.

e. Survey Administration. Administer the Survey to all District eighth grade students on an annual basis beginning in February 2009 in accordance with guidelines set forth by the Arizona Criminal Justice Commission. All schools in the District shall provide one-full class period for students to complete the Survey.

f. Confidential Environment. Provide a confidential environment for Survey completion that reduces the chance of teachers and other students viewing the responding student's Survey.

g. Expenses and Costs of Survey. Pay for all expenses and costs associated with the coordination, administration and collection of the Survey including teacher salaries and classroom costs.

h. Notification Sent to Parents. Notify parents about the Survey and forms granting students the ability to request that their child not participate in the Survey and send that notification and the form home with all eighth grade students one week prior to the date of the Survey administration.

i. Collect Surveys. Collect the Surveys and place them in a sealed envelope for pickup by the Survey personnel.

j. Participation in the Program. Participate in the Program. The Program will involve all applicable schools in the District and will address critical issues(s) affecting education and student success. The Program objectives and parameters will be mutually agreed upon by the District, Arizona State University and the City.

k. Program Data. Provide opportunities for the Program scholars to collect information regarding grades, truancy, suspensions, referrals, graduations and other information pertinent to the Program.

l. Jointly Develop Partnerships. Jointly develop with the City youth services partnerships, lunches with police partners and other partnership projects regarding issues such as school attendance, drop out prevention and parent involvement.

2. City Obligations. The City agrees to:

a. District Staff Charges. Be responsible for any direct District staff charges from the District for District school staff members weekend supervision or janitorial services during the time the City utilizes the Facilities for the Activities.

b. Assist with Survey. Work with the Arizona Criminal Justice Commission to assist with the coordination of the Survey.

c. Survey Materials. Assist the District in obtaining all Survey materials including teacher instructions, scripts, booklets, envelopes and parent notification letters from the Arizona Criminal Justice Commission.

d. School Specific Report. Work with the Criminal Justice Commission to provide the District with a school-specific report containing all the data from the Survey collected from the school's students.

e. Student Confidentiality. Maintain student confidentiality when communicating data obtained from all Surveys, records and meetings.

f. Jointly Develop Partnerships. Jointly develop with the District youth services partnerships, lunches with police partners and other partnership projects regarding issues such as school attendance, drop out prevention and parent involvement.

3. Fees. The City agrees to waive building permit and inspection fees for the District. Additionally, pursuant to ARIZ. REV. STAT. § 9-500.18, as amended, the City will only charge the District development fees for streets, water and sewer utility functions.

4. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect, subject to annual appropriation, for a period of five years until July 5, 2013.

5. Termination. Either Party may terminate this Agreement by providing the other Party with 60 days written notice of its intention to terminate this Agreement.

6. Maintenance. The District shall be responsible for maintaining its own property and shall reasonably clean, maintain and repair its property at its own expense during the term of this Agreement. Notwithstanding the foregoing, each Party shall clean up any waste or spills and pick up any equipment caused by/placed upon the Facilities by the Party after each use. Each Party shall be responsible for the repair of any damages to the Facilities that occur as a result of that Party's use of the Facilities.

7. Utilities. The District shall pay all reasonable charges for water, natural gas and electricity consumed by the City at the Facilities.

8. Insurance.

a. Coverage. At all times during the term of this Agreement, and during any renewal thereof, each Party shall maintain comprehensive general liability insurance, at its expense, with coverage limits of not less than $1,000,000 per occurrence and $2,000,000 aggregate limit for bodily injury and property damage, issued by an insurance carrier or via self-insurance and naming the other Party as an additional insured. Each Party shall provide the other Party with appropriate certificates of insurance showing the other Party as an additional named insured or certificates of self-insurance.

b. Notice of Possible Claims. Either Party that obtains knowledge of any injury, loss, damage or claim arising out of the use of the Facilities which may subject the other Party to any liability shall immediately give written notice of such possible claim to the other Party.

c. Determination of Primary Insurance. In the event that a claim is made against either or both Parties to this Agreement and both Parties have obtained insurance coverage from an insurance company, the primary insurance shall be that of the Party who was assigned the use of the Facilities at the time of the event giving rise to such claim, absent a showing that the damage to the property or injury to or death of person(s) arose out of the sole act, omission or negligence of the other Party or its departments, officers, employees and agents.

9. Relationship and Workers' Compensation. Except as otherwise provided by law in the performance of duties and activities under this Agreement, all parties hereto will be acting in their individual capacities and not as agents, employees, partners, joint ventures, or associates of each other. The officers, employees, agents, or subcontractors of one Party shall not be deemed or construed to be the employees or agents of the other Party. Each Party shall remain responsible for the supervision of their respective staff and shall maintain adequate workers' compensation insurance as required by law.

10. Indemnification. To the extent permitted by law, each Party shall defend, indemnify and hold harmless the other Party and its departments, officers, employees and agents for, from and against all losses, damages, claims, liabilities and expenses (including reasonable attorneys' fees) for damages to property or for injury to or death of persons which relate to the performance of this Agreement and which result from any act, omission or negligence of the indemnifying Party or its departments, officers, employees or agents.

11. Continuation Subject to Appropriation. The performance by the Parties to the Agreement of its obligations under the Agreement is subject to actual availability of funds appropriated by each Party for such purposes. Each Party to the Agreement shall be the sole judge and authority in determining the availability of funds under the Agreement and each Party shall keep the other Party fully informed as to the availability of funds for its obligations. The

obligation of each Party to fund any obligation pursuant to the Agreement is a current expense of such party, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the Party. If either Party fails to appropriate money sufficient to meet its obligations as set forth in the Agreement during any immediately succeeding fiscal year, the Agreement shall terminate at the end of then-current fiscal year and each Party to the Agreement shall thereafter be relieved of any subsequent obligation under the Agreement.

12. Miscellaneous.

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

b. Written Instrument. This Agreement may be changed, waived or terminated only by an instrument in writing signed by the Party against which enforcement of such change, waiver or termination is sought.

c. Waiver. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision. The waiver of any of the terms and conditions of this Agreement shall be limited to the particular instance involved and shall not continue.

d. Entire Agreement. This Agreement sets forth all the covenants, promises, agreements, conditions and understandings between the District and the City and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between the Parties other than as set forth in this Agreement. No representations have been made to, or relied upon by, either Party or anyone acting for or on behalf of either Party by any person which are not fully and completely set forth herein. Except as otherwise provided in this Agreement, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the District or the City unless reduced to writing and signed by them.

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

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

g. Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been

duly given if (i) delivered to the Party at the address set forth below, (ii) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, (iii) given to a recognized and reputable overnight delivery service, to the address set forth below or (iv) delivered by facsimile transmission to the number set forth below:

If to the City:	City of Avondale 11465 West Civic Center Drive Avondale, Arizona 85323 Facsimile: (623) 333-0100 Attn: Charles P. McClendon, City Manager
With copy to:	GUST ROSENFELD, P.L.C. 201 East Washington Street, Suite 800 Phoenix, Arizona 85004-2327 Facsimile: (602) 340-1538 Attn: Andrew J. McGuire, Esq.
If to the District:	Littleton Elementary School District No. 65 1252 South Avondale Boulevard Avondale, Arizona 85323 Facsimile: (623) 936-8390 Attn: Dr. Roger Freeman, Superintendent

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

h. Assignment. Neither Party may assign any right under this Agreement without the prior written consent of the other Party, which either Party may withhold in its absolute and sole discretion.

i. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona without regard to its conflict of law provisions. Should a claim in arbitration be brought by either Party to enforce or to recover on any of the terms and conditions contained in this Agreement, the substantially prevailing Party therein shall be entitled to reasonable attorneys' fee and costs.

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

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as set forth below.

"**City**"	"**District**"
CITY OF AVONDALE, an Arizona municipal corporation	LITTLETON ELEMENTARY SCHOOL DISTRICT NO. 65, an Arizona school district
By:_____ Marie Lopez Rogers, Mayor	By:_____ Kelli Watson, Board President
ATTEST:	ATTEST:
_____ Carmen Martinez, Acting City Clerk	_____ Dr. Roger Freeman, Superintendent

In accordance with the requirements of ARIZ. REV. STAT. § 11-952(D), the undersigned attorneys acknowledge that (i) they have reviewed the above Agreement on behalf of their respective clients and that (ii) as to their respective clients only, each attorney has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

_____ Andrew J. McGuire Avondale City Attorney	_____ Attorney for Littleton Elementary School

CITY COUNCIL REPORT

SUBJECT:
Resolution 2754-708 - Second Amendment to the Intergovernmental Agreement with the Maricopa County Library District

MEETING DATE:
July 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 a resolution authorizing the Second Amendment to the Intergovernmental Agreement with the Maricopa County Library District, and authorize the Mayor or City Manager and City Clerk to execute the documents.

BACKGROUND:

On July 7, 2004, Council approved an Intergovernmental Agreement between the City of Avondale and Maricopa County Library District for the operation of the Civic Center Library. The term of the agreement was five (5) years, and is scheduled to expire on June 30, 2011.

On March 6, 2006, Council approved Amendment #1 of the agreement which increased the total annual contribution for operating and maintenance expenditures to an amount not to exceed $1,000,000.

DISCUSSION:

The Maricopa County Library District has requested to terminate the agreement on September 30, 2009 after they have fulfilled their total financial obligations to the City of Avondale as specified in the agreement. The County Library district would be responsible for 25% of the operating expenses for FY 2009-10 and they will pay their 25% percentage share during the first quarter of the fiscal year. Staff from the City and Library District will work over the next year to facilitate a smooth operational transition.

Council previously discussed this proposed amendment to the IGA during the work session on May 12, 2008.

BUDGETARY IMPACT:

There is no financial impact associated with this request.

RECOMENDATION:

Staff recommends that the City Council adopt a resolution authorizing the Second Amendment to the Intergovernmental Agreement with Maricopa County Library District, and authorize the Mayor, or City Manager and City Clerk to execute the documents.

ATTACHMENTS:

Click to download

- RES - 2754-708

RESOLUTION NO. 2754-708

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING A SECOND AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT WITH THE MARICOPA COUNTY LIBRARY DISTRICT RELATING TO THE OPERATION OF THE AVONDALE PUBLIC LIBRARY.

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

SECTION 1. That the Second Amendment to that certain Intergovernmental Agreement between the City of Avondale and the Maricopa County Library District recorded at Maricopa County Recorder No. 2004-0789761, relating to the operation of the Avondale Public Library (the "Second Amendment"), is hereby approved in the form attached hereto as Exhibit A and incorporated herein by this reference.

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

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

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Carmen Martinez, Acting City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
RESOLUTION NO. 2754-708

[Second Amendment]

See following pages.

SECOND AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE MARICOPA COUNTY LIBRARY DISTRICT AND THE CITY OF AVONDALE

Agenda # 65-04-025-2-02

THIS SECOND AMENDMENT TO INTERGOVERNMENTAL AGREEMENT (this "Second Amendment") is made on _____, 2008, between the Maricopa County Library District, a political subdivision of the State of Arizona ("the DISTRICT") and the City of Avondale, an Arizona municipal corporation ("AVONDALE"). AVONDALE and the DISTRICT are collectively referred to herein as "the Parties" or individually as a "PARTY."

RECITALS:

A. The PARTIES have the legal capacity to enter into this Second amendment pursuant to Arizona Revised Statutes ("A.R.S.) §11-951, *et. seq.* and the provisions of Article 1, Section 3 of the AVONDALE Charter.

B. The PARTIES previously entered into that certain Intergovernmental Agreement dated July 7, 2004, and recorded at Maricopa County Recorder No. 2004-0789761 (the "IGA") to establish and operate the Avondale Civic Center Library.

C. The PARTIES desire to amend the IGA to (i) change the termination date and (ii) to provide for the payment by the DISTRICT during the first quarter of fiscal 2009-2010.

AGREEMENT:

NOW THEREFORE, in consideration of the foregoing and the covenants hereinafter set forth, the PARTIES agree as follows:

1. Section 1.2 of the IGA is hereby amended by changing the termination date to September 30, 2009.

2. Section 3.1 of the IGA is hereby amended by adding the following: "During fiscal 2009-2010, the DISTRICT shall pay 100% of approved library operating expenditures for the period July 1, 2009 through September 30, 2009 (first quarter).

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

IN WITNESS WHEREOF, the PARTIES have caused this Second Amendment to be executed the day and year first written above.

CITY OF AVONDALE

By: _____
Mayor

ATTEST:

By: _____
City Clerk Date

MARICOPA COUNTY
LIBRARY DISTRICT

By: _____
Chairman, Board of Directors
Maricopa County Library District

ATTEST:

By: _____
Clerk of the Board Date

ATTORNEY DETERMINATION

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

_____
Attorney for the City of Avondale Date

_____
Attorney for the Maricopa County Library District Date

DEVELOPMENT SERVICES

SUBJECT:
Public Hearing and Ordinance 1317-708 - Section 4 - Industrial Zone Districts - TA-08-4

MEETING DATE:
July 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 4 Industrial Districts

APPLICANT: Staff-Initiated Request

BACKGROUND:

Amendment to this Section is intended to re-examine and re-evaluate the purpose, uses, development, and design standards for the Commerce Park (CP) and General Industrial (A-1) zoning districts.

City Council held two work sessions for Section 4, April 14, 2008 and May 12, 2008. City Council directed staff to further investigate additional building height in A-1 zoning for some uses and carefully consider where heavy distribution is allowed in the City. Planning Commission has held one work session on Section 4 on May 14, 2008. Planning Commission's direction to staff was to further investigate additional building height in A-1 zoning for some uses (Exhibit E).

SUMMARY OF REQUEST:

As part of an overall comprehensive update to the Avondale Zoning Ordinance, staff is recommending a text amendment of Section 4, Industrial Districts.

The request will amend the following portions of Section 4 as shown in the proposed text (Exhibits A and B):

- Section 401: Purpose
- Section 402: General Provisions
- Section 403: Commerce Park (CP) District
- Section 404: General Industrial (A-1) District
- Section 405: Yard, height, and area requirements

PARTICIPATION:

The City held a neighborhood meeting on April 9, 2008 to discuss concepts for proposed changes to Section 4 and to solicit public comments on the proposed changes. A notice of the neighborhood meeting was published in the West Valley View on March 25, 2008. Four citizens attended the meeting, all of whom completed the sign-in sheet (Exhibit C).

A notice of the Planning Commission hearing was published in the West Valley View on March 25, 2008.

Updated revisions to the proposed amended Section 4 have been provided to members of the public who have expressed interest (Exhibit D). Comments and feedback have been taken into

consideration by staff and addressed.

A notice of the City Council hearing was published in the West Valley View on June 17, 2008.

PLANNING COMMISSION ACTION:

At their June 19, 2008 hearing the Planning Commission voted 4-1 to forward a recommendation of approval for application TA-08-4. As a part of the motion to recommend approval, Planning Commission recommended that staff consider allowing distribution within small buildings for certain types of specialty products. If City Council so wishes, staff is ready to conduct further research and provide recommendations.

ANALYSIS:

Staff is proposing to amend Section 4 in four primary ways:

- Amend the title of this section to Employment Districts in order to comply with the nomenclature of the General Plan.
- Revise the Purpose section to clarify the City's expectations and provide objectives for the Commerce Park (CP) district as well as the General Industrial (A-1) district.
- Revise the use list for the CP and A-1 districts to implement the Purpose and Intent statements given for each district previously. The use list is reformatted into a land use matrix for the ease of use by applicants, City Council, Planning Commission and staff.
- Revise development standards to increase maximum building height in A-1, side and rear yard setbacks in CP, and increase the minimum setback away from residential zoning or use.

<u>Section Title</u>

Staff is proposing to amend the title of Section 4 from Industrial to Employment Districts to comply with the Employment land use category in the General Plan.

<u>Purpose and Intent</u>

Staff is proposing language that clarifies the intent of the CP district providing for light manufacturing indoors, administrative uses such as offices, research laboratories, etc., and commercial that supports employment uses such as banks, dry cleaning establishments, copy centers, etc. The intent is to clearly define the different land uses expected from CP and A-1. CP land uses should encourage a campus style development that is compatible with surrounding and adjacent users and provides the ability to respond to the City's end users' economic needs.

Staff is proposing minor additions to the purpose of the A-1 district to ensure that "assembly" is given as a typical use of A-1, that heavy manufacturing belongs in A-1 (light manufacturing is specifically identified as appropriate for CP), and to identify large-scale machinery as among those things appropriate to the A-1 district. Uses that potentially have more off-site impacts such as noise, dust or fumes, that are less aesthetically appealing, or that generate traffic by larger vehicles are more appropriate to the A-1 district in comparison with the CP district.

<u>Use List - Land Use Matrix</u>

Permitted uses in the CP district that are proposed to be eliminated are: Wholesaling; mini-storage facilities; and on-site residential caretaker dwellings. Staff is proposing that wholesaling be a permitted use in the A-1 district and that mini-storage require a Conditional Use Permit (CUP) in both the CP and A-1 districts. It is also proposed that retail commercial associated with a primary use, which is limited to a maximum of 10% of floor area in the current ordinance, be amended to allow

retail as an accessory use without a maximum floor area percentage as long as the retail is accessory to a primary on-site use of manufacturing or assembly.

Additional uses proposed to be permitted uses in the CP district are: Ambulance dispatch facility; banks; business support services such as photocopy centers, office supply stores and package delivery services; data and call centers; design centers; dry cleaning drop-off; government offices and facilities; health and athletic clubs up to 10,000 square feet; hospitals and urgent care facilities; hotels and conference centers; light manufacturing; outdoor storage; public utility facilities; restaurants without drive-thrus; vocational and trade schools; colleges and universities; monument sales and manufacturing; and veterinary hospitals/clinics. These uses comply with the intent of commercial and business services that support employment uses.

Uses that currently require a Conditional Use Permit (CUP) in the CP district that are proposed to be permitted uses are: Restaurants without drive-thrus, banks, hotels, health and athletic clubs, and hospitals.

New uses proposed that will require a CUP in the CP district are: Incidental retail sales; mini-storage warehouse; and retail sales of new and used automobiles, boats. Mini-storage warehouse is currently a permitted use in CP.

Permitted uses in the A-1 district that are proposed to be eliminated are: Pharmacy; retail commercial that occupies a maximum of 10% of floor area when associated with a primary use; residential caretaker dwelling units; employment agency; animal kennels; and veterinary hospitals/clinics. The pharmacy, employment agency and veterinary hospitals/clinics uses are proposed to be a permitted use in the CP district. The 10% floor area retail use is proposed to be allowed as an accessory use without delimiting floor area.

Additional uses proposed to be permitted in the A-1 district are: Dry cleaning plant; design centers; emissions testing facility; government offices and facilities; motion picture studio; outdoor storage; public utility facilities; sign sales and manufacturing; and vehicle storage facility excluding dead vehicle storage.

Uses requiring a CUP that are proposed to be eliminated from the A-1 district are: Auto salvage and wrecking yards; house movers, equipment and storage yards; sewage disposal or treatment plant; cesspool or septic tank servicing and equipment yard; restaurants with or without drive-thrus; mobile home or RV used as a residence for an on-site caretaker; and the term “any uses similar to, and not more detrimental than the uses permitted herein.” Full service, sit-down restaurants are proposed to be allowed in the CP district only.

Additional uses proposed that will require a CUP in the A-1 district are: Animal shelter; aviation related businesses; business support services such as photocopy centers, office supply stores and package delivery services; day labor hiring centers; distribution, incidental retail; impound lot; mini-storage facility; reception facility; and truck and trailer fueling, dispatch and weighing station uses. Through the CUP approval process, Planning Commission and City Council may evaluate on a case-by-case basis the appropriateness of each use and additional development requirements to mitigate any impacts if necessary.

Two permitted uses, distribution and sales, are proposed to be amended to become accessory uses. Distribution as a stand alone use is proposed to be allowed only in the A-1 district and to require a CUP, but distribution when directly associated with on-site manufacturing or assembly is proposed to be an accessory use in both the CP and A-1 districts. Distribution as a stand alone use typically does not provide a high job-to-square-footage-of-building ratio, and thus should be evaluated on a case-by-case basis through the CUP process. Manufacturing and assembly uses have an inherent distribution component, and staff’s proposal is to make clear the legality of this use in the Zoning Ordinance. Sales of products that are manufactured or assembled on-site is proposed

to be an accessory use in both the CP and A-1 districts, replacing the permitted use that limited such sales to a maximum of 10% of the floor area when associated with a primary use. It has been apparent that the implementation of a specific floor area percentage is problematic and unnecessarily limiting. The proposal is to make sales an accessory use as long as the primary use is manufacturing or assembly on-site.

All of the above proposed revisions are in conformance with the goals and intent of the General Plan and with the revised purpose and intent statements of the CP and A-1 districts.

Development Standards

City Council and Planning Commission gave direction to investigate further a request from the development community for greater maximum building heights. Research indicates that roughly half of the cities surveyed have a greater maximum building height than the 35-foot maximum in Avondale in CP and A-1 (Exhibit E). The development community has provided information that some manufacturers are seeking building heights of 42 feet. Staff is proposing that the maximum building height be increased in the A-1 district to 45 feet. The proposed maximum building height is within the range of maximum building heights in other Valley cities, it provides adequate height for manufacturing and assembly as requested by the development community, and it is consistent with recent building heights approved for Avondale Commerce Center PAD phases 1 through 4 along Interstate 10.

Staff is proposing to increase the minimum side yard and rear yard setbacks in the CP district from 12 feet to 15 feet. This will not create any non-conforming buildings for setbacks within the City. The increase is recommended to provide consistency with the rest of the Zoning Ordinance.

Staff is proposing to increase the minimum required setback from residential zoning or use for any size building to 50 feet in the CP district and 75 feet in the A-1 district. The existing ordinance requires a minimum setback of 25 feet for one-story, and 50 feet for two-story, buildings. The increased setback would not apply to manufactured home parks.

RECOMMENDATION:

The City Council should hold a public hearing and adopt the ordinance amending Section 4 of the Zoning Ordinance - Industrial Districts.

PROPOSED MOTION:

I move that the City Council accept the findings and ADOPT the ordinance approving application TA-08-4, a request to amend Section 4 of the Zoning Ordinance.

ATTACHMENTS:

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- Ordinance 1317-708

PROJECT MANAGER:

Eric Morgan, Planning II (623) 333-4017

ORDINANCE NO. 1317-708

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE CITY OF AVONDALE ZONING ORDINANCE, SECTION 4, INDUSTRIAL DISTRICTS, AS SHOWN IN FILENAME TA-08-04.

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 a public hearing on this Ordinance on June 19, 2008; and

WHEREAS, the Commission recommended to the City Council that this Ordinance be approved; and

WHEREAS, the City Council held an additional public hearing on this Ordinance on July 7, 2008.

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

SECTION 1. That the City of Avondale Zoning Ordinance, Section 4, Industrial Districts, is hereby deleted in its entirety and replaced by a new Section 4, Employment Districts, in the form attached hereto as Exhibit A.

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

[SIGNATURES ON FOLLOWING PAGE]

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

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Carmen Martinez, Interim City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 1317-708

[New Section 4, Employment Districts]

See following pages.

SECTION 4

EMPLOYMENT DISTRICTS

Sections

401 Purpose and Intent
402 Land Use Matrix
403 Uses Permitted With Conditions
404 Uses Permitted With a Conditional Use Permit
405 Development Standards
406 Design Standards

401 Purpose and Intent

Employment zoning districts are intended to make property available for uses that provide employment opportunities, including general office and industrial, and retail and commercial uses supporting these primary uses.

The following Employment districts are established:

A. **Commerce Park (CP).** The purpose of the Commerce Park district is to accommodate employment uses including administrative, medical, and research industries, offices, hotels and light manufacturing. Associated support commercial uses are also included within this district. The Commerce Park is intended to meet the following objectives:

1. Encourage a campus-style development.

2. Development that is compatible with surrounding and adjacent uses, generally occurring within enclosed buildings.

3. A district that provides flexibility to respond to the City's land use and economic needs while projecting a highly desirable and unified appearance along public streets.

4. Promote an efficient circulation system that includes attractive streetscapes and functional pedestrian areas.

B. **General Industrial (A-1).** The purpose of the General Industrial district is to accommodate warehousing, wholesaling, assembly, and heavy manufacturing of an intensive nature, often involving open uses and/or storage, large scale machinery and structures.

402 Land Use Matrix

The following land use matrix shows the uses that are permitted outright (P), permitted subject to a conditional use permit (C), permitted with conditions provided herein (PC), as an accessory use to an otherwise permitted use (A) or prohibited (-) in specific employment 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

Permitted Use	P
Permitted Use with Conditions	PC
Conditional Use Permit	C
Accessory Use	A
Not Permitted	-

LAND USE	CP	A-1
Ambulance dispatch facility	P	P
Animal shelter	-	C
Autobody and engine repair, upholstery, painting facilities, and similar uses for trucks, automobiles, boats, motorcycles, recreational vehicles, and similar	-	P
Aviation related business, including aircraft repair, sales and service	-	C
Banks and chartered financial institutions	P	-
Business support services - photocopy centers, office supply stores, and package delivery services.	P	C
Catering	P	P
Child care center	C	-
Clinic for dental and medical	P	-
Contractor’s materials storage yard	-	P
Data and call centers	P	P
Day laborers hiring center	-	C
Design centers	P	P
Distribution	-	C
Distribution of products manufactured or assembled on-site	A	A
Dry cleaning drop-off establishment	P	-

Dry cleaning plant	-	P
Employment agency	P	-
Emissions testing facility	-	P
Extraction of rock, sand, gravel, etc. operations	-	C
Garages for repair of trucks, buses and heavy equipment	-	P
Government offices and facilities - federal, state, county and city.	P	P
Health and athletic clubs, intended to serve the surrounding employment uses (maximum 10,000 square feet gross building area)	P	-
Hospital and urgent-care facility	P	-
Hotel and conference center	P	-
Incidental commercial retail sales other than those otherwise permitted	C	C
Impound lot	-	C
Laboratories for product development, testing, experimenting and investigating - bio-science, medical, dental, pharmaceutical, electronic and similar uses.	P	P
Landscaping and agricultural supplies and equipment, wholesaling, and storage	-	P
Manufacturing and assembly, light	P	P
Manufacturing and assembly, heavy	-	P
Manufacturing of hazardous materials (explosives, chemicals, dry ice, gases, gasoline, petroleum, paints, varnishes, and other similar) manufacturing or processing	-	C
Metals collecting, crushing and recycling facility	-	C
Mini-storage warehouse, excluding outdoor storage of vehicles or trailers	C	C
Mining or drilling operations	-	C
Mixing plant for cement or paving	-	C
Motion picture productions (studio)	C	P
Motor vehicle assembly	-	P
Office for administrative, clerical, and professional	P	P
Office for dental and medical	P	-
Outdoor storage associated with an on-site primary use, excluding vehicles	C	C
Pharmacy, when integral to a multi-tenant building (no drive-thru)	P	-
Processing of meats, fats or oils	-	C
Public utility facilities	P	P
Restaurant, Full Service (no drive-thru)	P	-
Retail sales and service of new and used automobiles, boats, motorcycles and/or recreational vehicles	C	-
Sale of products manufactured or assembled on-site	A	A
Schools, vocational, business, trade, college, university	P	-
Sexually oriented businesses, subject to the	-	PC

requirements of Section 10 of the Zoning Ordinance		
Signs and monuments, including sales, manufacturing and assembly of signs or sign components	P	P
Transmitting and receiving towers	C	C
Truck and trailer fueling, dispatch and weighing stations	-	C
Veterinary hospital, clinic	P	-
Vehicle storage facility, excluding dead vehicle storage	-	P
Warehousing	P	P
Wholesaling	-	P

403 Uses Permitted With Conditions

Based upon site plan review, land uses listed in the land use matrix as "Permitted with Conditions" may be subject to additional conditions of approval if deemed necessary to protect the health, safety, and public welfare.

404 Uses Permitted With a Conditional Use Permit

The land uses listed in the land use matrix as being permitted subject to a Conditional Use Permit shall require approval of a conditional use permit through the process set forth in Section 1 of this Zoning Ordinance prior to approval of a Site Plan.

405 Development Standards

The following development standards shall apply to all developments zoned CP and A-1.

A. Landscaping Requirements:

1. Within the CP District, required yards fronting on an arterial street shall be entirely landscaped with the exception of driveway and walkways. Along all other public streets, a minimum ten (10) foot wide landscaped area shall be provided for the entire length of such public street.

2. Within the A-1 District, a minimum of twenty (20) foot wide landscaped area shall be provided along the entire length of all arterial streets. Along all other public streets, a minimum ten (10) foot wide landscaped area shall be provided for the entire length of such public street.

B. All activities, except as allowed by conditional use permit as listed in the land use matrix, shall be conducted entirely within enclosed buildings.

C. Warehousing or indoor storage of goods or material beyond that normally incidental to permitted uses shall require a Conditional Use Permit.

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 1 of the Zoning Ordinance.

E. The following table outlines the minimum development standards within each district.

District	**CP**	**A-1**
Maximum height	35′	45′
Maximum building coverage	50%	-
Minimum setbacks: Front Yard	25′	20′
Side yard	15′	-
Rear yard	15′	-
Street side	25′	15′
Adjacent to a residential zoning district or use*	50′	75′

* Not applicable to manufactured home parks.

406 Design Standards

The Design Manuals adopted by City Council and maintained by the Zoning Administrator or designee shall serve as guidelines for site and architectural design in all districts.

CITY COUNCIL REPORT

SUBJECT:
Resolution 2753-708 - Setting the Property Tax Levy - Fiscal Year 2008-2009

MEETING DATE:
July 7, 2008

TO: Mayor and Council

FROM: Kevin Artz, Finance & Budget Director (623)333-2011

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Staff is requesting that the City Council adopt a resolution setting the property tax levy for fiscal year 2008-2009, in the amount of $7,134,060.

BACKGROUND:

As required by City Charter, Article VI, Section 6 and A.R.S. §42-17151, the Council must fix, levy and assess the amount to be raised by property taxes as proposed in the annual budget by the third Monday in August. In compliance with A.R.S. §42-17104, a public hearing was held on June 16, 2008 to solicit public input on the final budget and proposed tax levy. The City has also complied with all Truth in Taxation requirements of A.R.S. §42-17107 by publishing the Truth in Taxation notice in the West Valley View on June 3rd and June 10th.

DISCUSSION:

Based on the amounts presented in the final adopted budget, the City will levy the maximum allowable primary property tax levy for the 2008-2009 fiscal year. The primary property tax levy will be utilized to fund general government operations as allowed by State Law. The maximum primary property tax levy is $1,969,790. Based on the assessed valuation provided by Maricopa County, the primary property tax rate is $0.3724 per $100 of assessed valuation.

The secondary tax levy will be utilized for the retirement of principal and payment of interest on general obligation bonds of the City as allowed by State Law. The secondary property tax levy is fixed at $5,164,270.

The secondary property tax rate is $0.7334 per $100 of assessed valuation. The total estimated tax rate for fiscal year 2007-2008 is $1.1058 per one-hundred dollars of assessed valuation, which maintains a level tax rate from fiscal year 2007-2008. The total tax levy is $7,134,060.

BUDGETARY IMPACT:

The property tax levy supports the adopted FY 2008-09 Annual Budget.

RECOMENDATION:

Staff recommends that the City Council adopt a resolution setting the primary and secondary property tax levies for fiscal year 2008-2009, in the amount of $7,134,060.

ATTACHMENTS:

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- RES - 2753-708

RESOLUTION NO. 2753-708

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, LEVYING UPON THE ASSESSED VALUATION OF THE PROPERTY WITHIN THE CITY OF AVONDALE SUBJECT TO TAXATION, A CERTAIN SUM UPON EACH ONE HUNDRED DOLLARS ($100.00) OF VALUATION SUFFICIENT TO RAISE THE AMOUNT ESTIMATED TO BE REQUIRED IN THE ANNUAL BUDGET; PROVIDING FUNDS FOR VARIOUS BOND REDEMPTIONS FOR THE PURPOSE OF PAYING INTEREST UPON BONDED INDEBTEDNESS; AND PROVIDING FUNDS FOR GENERAL MUNICIPAL EXPENSES; ALL FOR THE FISCAL YEAR ENDING JUNE 30, 2009.

WHEREAS, the Council of the City of Avondale is required by ARIZ. REV. STAT. § 42-17253 to adopt an annual tax levy based upon the rate to be assessed per each one hundred dollars ($100.00) of valuation of property within the City; and

WHEREAS, the property taxpayers of the City of Avondale (the "City") have been notified of an increase in the primary property tax levy as required by ARIZ. REV. STAT. § 42-17107; and

WHEREAS, by the provisions of State Law, the resolution levying taxes for fiscal year 2008-2009 is required to be finally adopted on or before the third Monday in August and not less than fourteen days after adoption of the municipal budget; and

WHEREAS, the City's annual budget was adopted at a meeting of the City Council held on June 16, 2008, at least fourteen days prior to the hearing date for this Resolution No. 2753-708; and

WHEREAS, Maricopa County is the assessing and collecting authority for the City.

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

SECTION 1. That there is hereby levied on each one hundred dollars ($100.00) of the assessed value of all property, both real and personal, within the corporate limits of the City, except such property as may be by law exempt from taxation, a primary property tax rate sufficient to raise the sum of $1,969,790, the maximum levy allowed by law for the fiscal year ending on June 30, 2009.

SECTION 2. That, in addition to the rate set in Section 1 hereof, there is hereby levied on each one hundred dollars ($100.00) of assessed valuation of all property, both real and personal, within the corporate limits of the City, except such property as may be by law exempt from taxation, a secondary property tax rate sufficient to raise the sum of $5,164,270 for the purpose of providing bond interest and redemption funds for General Obligation Bond debt service for the fiscal year ending June 30, 2009.

SECTION 3. That, failure by the county officials of Maricopa County, Arizona, to properly return the delinquent list, any irregularity in assessments or omissions in the same, or any irregularity in any proceedings shall not invalidate such proceedings or invalidate any title conveyed by any tax deed; failure or neglect of any officer or officers to timely perform any of the duties assigned to him or to them shall not invalidate any proceedings or any deed of sale pursuant thereto, the validity of the assessment or levy of taxes or of the judgment of sale by which the collection of the same may be enforced shall not affect the lien of the City upon such property for the delinquent taxes unpaid thereon, and no overcharge as to part of the taxes or of costs shall invalidate any proceedings for the collection of taxes or the foreclosure; and all acts of officers de facto shall be valid as if performed by officers de jure.

SECTION 4. That the City Clerk is hereby authorized and directed to transmit a certified copy of this Resolution to the Maricopa County Assessor and the Maricopa Board of Supervisors.

SECTION 5. If any provision of this Resolution is for any reason held by any court of competent jurisdiction to be unenforceable, such provision or portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Resolution.

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

_____
Marie Lopez Rogers, Mayor

ATTEST:

_____
Carmen Martinez, Acting City Clerk

APPROVED AS TO FORM:

_____
Andrew J. McGuire, City Attorney

875914.1

CITY COUNCIL REPORT

SUBJECT:
Naming the Old Town Library

MEETING DATE:
July 7, 2008

TO: Mayor and Council

FROM: Carmen Martinez

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Council Member Weise would like to discuss the issue of naming the Old Town Library.

ATTACHMENTS:

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- Policy - Naming of Park and Recreation Facilities

COMMUNITY RECREATION SERVICES
NAMING OF PARKS, RECREATION AND CULTURAL FACILITIES
POLICY

PROCEDURE:

1. The naming of all Parks, Recreation, and Cultural Facilities shall be coordinated and reviewed by the Parks and Recreation Advisory Board, who shall forward their recommendation to the City Council for approval.

2. Parks, Recreation, and Cultural Facilities may be named to describe the facility and/or geographical areas where they are located. A recognized name within a specific community is an acceptable means of identifying Parks, Recreation, and Cultural Facilities.

3. The use of commercial names shall not be used, unless a significant financial and/or land contribution is made to the City of Avondale.

4. Parks, Recreation, and Cultural Facilities may be named after something that is specifically unique to the City of Avondale, the Phoenix Valley or the Southwest. (i.e. desert flora and fauna, Native American and/or Hispanic descriptive terminology).

5. Parks, Recreation, and Cultural Facilities may be named after an organization or individual if one of the following criteria is met:

   a. If the property on which the facility is donated.
   b. If a significant financial contribution is made toward the development of the property or facility.
   c. If the organization or individual is acknowledged by the general public as a local or national hero.

6. Existing Parks, Recreation, and Cultural Facilities names may be changed, if properly justified and in compliance with the approved policy. Any facility name changes may be considered after a Public Hearing is conducted.

7. Parks, Recreation, and Cultural Facilities should be named prior to development to provide early identification.

8. The naming of parks, recreation, and cultural facilities should be done in conjunction with the community and/or neighborhood that it will serve. This may be accomplished through various means, as determined by staff, and may include contests, recommendations made by community organizations, and individuals.

CITY COUNCIL REPORT

SUBJECT:
Environmental Affairs Commission

MEETING DATE:
July 7, 2008

TO: Mayor and Council

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

THROUGH: Charlie McClendon, City Manager

PURPOSE:

Councilmember Karlin would like to discuss the possiblity of creating an Environmental Affairs Commission for the City.

RECOMENDATION:

For Council discussion and to provide direction to staff as necessary.

ATTACHMENTS:

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No Attachments Available