



# CITY COUNCIL AGENDA

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

REGULAR MEETING  
July 20, 2009  
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 RECOGNITION ITEMS (MAYOR PRESENTATIONS)**

- a. Mayor Marie Lopez Rogers will recognize the students from Trinity Lutheran School who won a statewide civics competition this past May.

**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. Work Session of July 6, 2009
2. Regular Meeting of July 6, 2009
3. Bus Tour of July 7, 2009

**b. LIQUOR LICENSE – EL TACO “T”**

City Council will consider a request from Mr. Felipe Torres-Jimenez for approval of an application for a Series 16 (State Series 12) Restaurant license to sell all spirituous liquors at El Taco "T", located at 701 East Western Avenue, Suite A. The Council will take appropriate action.

**c. CONTRIBUTIONS ASSISTANCE PROGRAM FUNDING RECOMMENDATIONS**

City Council will consider funding recommendations made by the Council Subcommittee for the Contributions Assistance Program in the amount of \$50,000. The Council will take appropriate action.

**d. AWARD A CONSTRUCTION CONTRACT TO ELS CONSTRUCTION, INC. FOR THE 99TH AVENUE AND MCDOWELL ROAD LIGHTING IMPROVEMENTS**

City Council will consider a request to award a construction contract to ELS Construction, Inc. for landscape lighting improvements at the intersection of 99th Avenue and McDowell Road in the amount of \$180,240, authorize the necessary transfer of funds and authorize the Mayor or City Manager to execute the necessary documents. The Council will take appropriate action.

**e. PROFESSIONAL SERVICES AGREEMENT - MALCOLM PIRNIE, INC.-WATER MASTER PLAN**

City Council will consider a request to approve a Professional Services Agreement with Malcolm Pirnie, Inc. for the preparation of a new Water Master Plan in the amount of \$579,078, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

**f. CONTRACT AMENDMENT - KINSEY & KINSEY**

City Council will consider a request to approve an amendment to the contract with Kinsey and Kinsey to complete the installation of the Human Resources Information System (Lawson) in the amount of \$29,700; approve the necessary transfer of funds; and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The City Council will take appropriate action.

**g. MAP OF DEDICATION - THOMAS ROAD BETWEEN LITCHFIELD ROAD AND DYSART ROAD**

The City Council will consider a request to approve a Map of Dedication accepting right-of-way for those portions of Thomas Road located within the Avondale City limits between Litchfield Road and Dysart Road and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

**h. RESOLUTION 2844-709 - AUTHORIZING AN AGREEMENT WITH ADOT FOR SAFE ROUTES TO SCHOOL CYCLE 2 GRANT**

City Council will consider a resolution authorizing the City to enter into an agreement with the Arizona Department of Transportation for the purpose of implementing the Safe Routes to School Grant Cycle 2 in the amount of \$219,746 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

**i. ORDINANCE 1380-709 - CHARTER AMENDMENTS**

City Council will consider an ordinance amending the Avondale City Charter and referring the amendments to the Avondale voters for their consideration at the November 3, 2009 election. The Council will take appropriate action.

**5 RESOLUTION 2845-709 - INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA EARLY CHILDHOOD DEVELOPMENT AND HEALTH BOARD**

City Council will consider a resolution authorizing an Intergovernmental Agreement with the State of Arizona Early Childhood Development and Health Board to provide funding for support services to families with children from birth to age five and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

**6 RESOLUTION 2843-709 - PARTICIPATION IN NATIONAL LEAGUE OF CITIES PRESCRIPTION DISCOUNT PROGRAM**

Council will consider a resolution officially supporting the City's participation in the National League of Cities (NLC) Prescription Discount Card Program. The Council will take appropriate action.

**7 CONSTRUCTION MANAGER AT RISK AGREEMENT - SUNDT CONSTRUCTION, INC. FOR AMERICAN SPORTS CENTER FACILITY AND CITY CENTER INFRASTRUCTURE**

City Council will consider a request to approve a Construction Manager at Risk (CMAR) Agreement with Sundt Construction, Inc. for the construction of the American Sports Center facility and City Center infrastructure project in the amount of \$124,207 for pre-construction services and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

**8 PUBLIC HEARING - ALTERNATIVE EXPENDITURE LIMITATION (HOME RULE)**

City Council will hold a second public hearing regarding an extension of the Alternative Expenditure Limitation (Home rule).

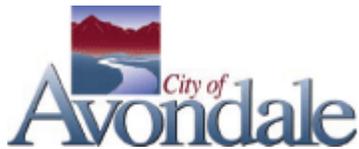
**9 ADJOURNMENT**

Respectfully submitted,

A handwritten signature in cursive script that reads "Carmen Martinez". The signature is written in black ink on a white background.

Carmen Martinez  
City Clerk

Individuals with special accessibility needs, including sight or hearing impaired, large print, or interpreter, should contact the City Clerk at 623-333-1200 or TDD 623-333-0010 at least two business days prior to the Council Meeting.



# CITY COUNCIL REPORT

**SUBJECT:**  
Trinity Lutheran School Project Citizen Award  
Winning Team

**MEETING DATE:**  
July 20, 2009

**TO:** Mayor and Council  
**FROM:** Sammi Curless, Assistant to the Mayor and Council (623)333-1613  
**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Mayor Marie Lopez Rogers would like to recognize the students from Trinity Lutheran School who won a statewide civics competition this past May.

**BACKGROUND:**

Eighteen members of the 2008-2009 8th grade class of Trinity Lutheran School competed in the Project Citizen state competition in May, after placing first in their region against 12 other regional winners. Trinity's winning project was entitled "Eliminating Excessive Use of Plastic Bags in Arizona."

Project Citizen is a civic education program for grades 5-9. Its goal is to assist teachers and students in understanding public policy and then using this information to create change in their community.

The following are members of Trinity's winning team being recognized:

- Yessica Alvarez
- Kristen Bolte
- Marley Ceja
- Shelby Dempsey
- Richard Hauck
- Kendyl Johnson
- Hannah Kylo
- Peter Lin
- Kristin Lock
- Mariah McConnell
- Mandie McDonald
- Patricia Mendoza
- Samuel Olson
- Jenny Quintana
- Gabriel Ramage
- Jordan Stupka
- Lyzi Westfall
- Paige Wooten

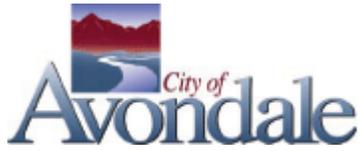
**RECOMMENDATION:**

No recommendation as this is a recognition item.

**ATTACHMENTS:**

**Click to download**

No Attachments Available



# CITY COUNCIL REPORT

**SUBJECT:**  
APPROVAL OF MINUTES

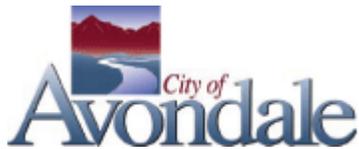
**MEETING DATE:**  
July 20, 2009

**TO:** Mayor and Council  
**FROM:** Carmen Martinez, City Clerk (623) 333-1214  
**THROUGH:** Charlie McClendon, City Manager

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available



# CITY COUNCIL REPORT

**SUBJECT:**  
Liquor License – El Taco “T”

**MEETING DATE:**  
July 20, 2009

**TO:** Mayor and Council  
**FROM:** Carmen Martinez, City Clerk, 623-333-1200  
**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council consider a request from Mr. Felipe Torres-Jimenez, for a Series 16 (State Series12) Restaurant license to sell all spirituous liquors at El Taco “T”, 701 East Western Avenue, Suite A.

**DISCUSSION:**

The City Clerk's Department has received an application from Mr. Felipe Torres-Jimenez for a Series 16 (State Series12) Restaurant license to sell all spirituous liquors for El Taco “T”, located at 701 East Western Avenue, Suite A, Avondale, Arizona. The required fee of \$1,100.00 has been paid.

As required by state law and city ordinance, the application was posted for 20 days from June 24, 2009 through July 14, 2009 and a notice was published in the West Valley View on July 3rd and 10th. No comments were received. The Arizona Department of Liquor License and Control has accepted the submitted application as complete.

This is a new application which is being submitted due to a change in ownership; the establishment was previously licensed under Restaurant Seafood Fish Duck also known as Lago de Chapala. El Taco “T” is located next door to Harvest Outreach Church. While bars and liquor stores are not allowed within 300 feet of churches or schools, Arizona state law allows restaurant liquor licensed establishments to be located within that distance. The application has been reviewed by the Police, Planning, and Fire Departments and all are recommending approval. Their comments are attached.

**RECOMMENDATION:**

Staff recommends that the City Council approve the request from Mr. Felipe Torres-Jimenez, for a Series 16 (State Series12) Restaurant license to sell all spirituous liquors at El Taco “T”, 701 East Western Avenue, Suite A.

**ATTACHMENTS:**

Click to download

- [Application](#)
- [Comments](#)
- [Vicinity Map](#)
- [Posting Pictures](#)

# ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

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

## APPLICATION FOR LIQUOR LICENSE

TYPE OR PRINT WITH BLACK INK

Notice: Effective Nov. 1, 1997, All Owners, Agents, Partners, Stockholders, Officers, or Managers actively involved in the day to day operations of the business must attend a Department approved liquor law training course or provide proof of attendance within the last five years. See page 5 of the Liquor Licensing requirements.

**SECTION 1** This application is for a:

- INTERIM PERMIT *Complete Section 5*
- NEW LICENSE *Complete Sections 2, 3, 4, 13, 14, 15, 16*
- PERSON TRANSFER (Bars & Liquor Stores ONLY)  
*Complete Sections 2, 3, 4, 11, 13, 15, 16*
- LOCATION TRANSFER (Bars and Liquor Stores ONLY)  
*Complete Sections 2, 3, 4, 12, 13, 15, 16*
- PROBATE/WILL ASSIGNMENT/DIVORCE DECREE  
*Complete Sections 2, 3, 4, 9, 13, 16* (fee not required)
- GOVERNMENT *Complete Sections 2, 3, 4, 10, 13, 15, 16*

**SECTION 2** Type of ownership:

- J.T.W.R.O.S. *Complete Section 6*
- INDIVIDUAL *Complete Section 6*
- PARTNERSHIP *Complete Section 6*
- CORPORATION *Complete Section 7*
- LIMITED LIABILITY CO. *Complete Section 7*
- CLUB *Complete Section 8*
- GOVERNMENT *Complete Section 10*
- TRUST *Complete Section 6*
- OTHER Explain

**SECTION 3** Type of license and fees

LICENSE #: \_\_\_\_\_

1. Type of License: Restaurant Liquor License Total fees attached: \$ \_\_\_\_\_

Department Use Only
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**APPLICATION FEE AND INTERIM PERMIT FEES (IF APPLICABLE) ARE NOT REFUNDABLE.**

The fees allowed under A.R.S. 44-6852 will be charged for all dishonored checks.

**SECTION 4** Applicant

1. Owner/Agent's Name: Mr. Torres-Jimenez Felipe Jesus  
(Insert one name ONLY to appear on license) Last First Middle

2. Corp./Partnership/L.L.C.: \_\_\_\_\_  
(Exactly as it appears on Articles of Inc. or Articles of Org.)

3. Business Name: EL TACO "T" B1031241  
(Exactly as it appears on the exterior of premises)

4. Principal Street Location: 701 E. Western Ave. Suite #A Avondale 85323 Maricopa 85323  
(Do not use PO Box Number) City County Zip

5. Business Phone: (623) 925-8751 Daytime Contact: (818) 554-6937 (TERESA TORRES)

6. Is the business located within the incorporated limits of the above city or town?  YES  NO

7. Mailing Address: \_\_\_\_\_  
City State Zip

8. Enter the amount paid for a bar, beer and wine, or liquor store license \$ \_\_\_\_\_ (Price of License only)

**DEPARTMENT USE ONLY**

Fees: 100 Application    100 Interim Permit    \_\_\_\_\_ Agent Change    \_\_\_\_\_ Club    24 Finger Prints \$ 224  
**TOTAL OF ALL FEES**

Is Arizona Statement of Citizenship & Alien Status For State Benefits complete?  YES  NO

Accepted by: Dm Date: 6/2/09 Lic. # 17078034

**SECTION 5 Interim Permit:**

1. If you intend to operate business when your application is pending you will need an Interim Permit pursuant to A.R.S. 4-203.01.
2. There **MUST** be a valid license of the same type you are applying for currently issued to the location.
3. Enter the license number currently at the location. 12077416
4. Is the license currently in use?  YES  NO If no, how long has it been out of use? 2 months

ATTACH THE LICENSE CURRENTLY ISSUED AT THE LOCATION TO THIS APPLICATION.

I, Rodolfo Camarena Jaso (Print full name) declare that I am the CURRENT OWNER, AGENT, CLUB MEMBER, PARTNER, MEMBER, STOCKHOLDER, OR LICENSEE (circle the title which applies) of the stated license and location.

State of \_\_\_\_\_ County of \_\_\_\_\_

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

The foregoing instrument was acknowledged before me this

My commission expires on: \_\_\_\_\_

Day \_\_\_\_\_ of \_\_\_\_\_ Month \_\_\_\_\_ Year \_\_\_\_\_

\_\_\_\_\_  
(Signature of NOTARY PUBLIC)

See attached to lease agreement

**SECTION 6 Individual or Partnership Owners:**

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE (FORM LIC0101), AN "APPLICANT" TYPE FINGERPRINT CARD, AND \$24 PROCESSING FEE FOR EACH CARD.

1. Individual:

Last	First	Middle	% Owned	Mailing Address	City State Zip
<del>TORRES</del>	FELIPE		100	25626 W. Nancy LN Buxeye AZ	85325
Torres	Simenez				

Partnership Name: (Only the first partner listed will appear on license) \_\_\_\_\_

General-Limited	Last	First	Middle	% Owned	Mailing Address	City State Zip
<input type="checkbox"/>						
<input type="checkbox"/>						
<input type="checkbox"/>						
<input type="checkbox"/>						

(ATTACH ADDITIONAL SHEET IF NECESSARY)

2. Is any person, other than the above, going to share in the profits/losses of the business?  YES  NO  
If Yes, give name, current address and telephone number of the person(s). Use additional sheets if necessary.

Last	First	Middle	Mailing Address	City, State, Zip	Telephone#

**SECTION 7 Corporation/Limited Liability Co.:**

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE (FORM LIC0101), AN "APPLICANT" TYPE FINGERPRINT CARD, AND \$24 PROCESSING FEE FOR EACH CARD.

- CORPORATION *Complete questions 1, 2, 3, 5, 6, 7, and 8.*
- L.L.C. *Complete 1, 2, 4, 5, 6, 7, and 8.* \*09 JUN '3 Lic. Lic. #M1134

1. Name of Corporation/L.L.C.: \_\_\_\_\_  
(Exactly as it appears on Articles of Incorporation or Articles of Organization)
2. Date Incorporated/Organized: \_\_\_\_\_ State where Incorporated/Organized: \_\_\_\_\_
3. AZ Corporation Commission File No.: \_\_\_\_\_ Date authorized to do business in AZ: \_\_\_\_\_
4. AZ L.L.C. File No: \_\_\_\_\_ Date authorized to do business in AZ: \_\_\_\_\_
5. Is Corp./L.L.C. Non-profit?  YES  NO
6. List all directors, officers and members in Corporation/L.L.C.:

Last	First	Middle	Title	Mailing Address	City State Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

7. List stockholders who are controlling persons or who own 10% or more:

Last	First	Middle	% Owned	Mailing Address	City State Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

8. If the corporation/L.L.C. is owned by another entity, attach a percentage of ownership chart, and a director/officer/member disclosure for the parent entity. Attach additional sheets as needed in order to disclose personal identities of all owners.

**SECTION 8 Club Applicants:**

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE (FORM LIC0101), AN "APPLICANT" TYPE FINGERPRINT CARD, AND \$24 PROCESSING FEE FOR EACH CARD.

1. Name of Club: \_\_\_\_\_ Date Chartered: \_\_\_\_\_  
(Exactly as it appears on Club Charter or Bylaws) (Attach a copy of Club Charter or Bylaws)
2. Is club non-profit?  YES  NO
3. List officer and directors:

Last	First	Middle	Title	Mailing Address	City State Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

**SECTION 9 Probate, Will Assignment or Divorce Decree of an existing Bar or Liquor Store License:**

1. Current Licensee's Name: \_\_\_\_\_  
(Exactly as it appears on license) Last First Middle
2. Assignee's Name: \_\_\_\_\_  
Last First Middle
3. License Type: \_\_\_\_\_ License Number: \_\_\_\_\_ Date of Last Renewal: \_\_\_\_\_
4. ATTACH TO THIS APPLICATION A CERTIFIED COPY OF THE WILL, PROBATE DISTRIBUTION INSTRUMENT, OR DIVORCE DECREE THAT SPECIFICALLY DISTRIBUTES THE LIQUOR LICENSE TO THE ASSIGNEE TO THIS APPLICATION.

**SECTION 10 Government: (for cities, towns, or counties only)**

1. Governmental Entity: \_\_\_\_\_
2. Person/designee: \_\_\_\_\_  
Last First Middle Contact Phone Number

**A SEPARATE LICENSE MUST BE OBTAINED FOR EACH PREMISES FROM WHICH SPIRITUOUS LIQUOR IS SERVED.**

**SECTION 11 Person to Person Transfer:**

Questions to be completed by CURRENT LICENSEE (Bars and Liquor Stores ONLY-Series 06,07, and 09).

1. Current Licensee's Name: \_\_\_\_\_ Entity: \_\_\_\_\_  
(Exactly as it appears on license) Last First Middle (Indiv., Agent, etc.)
2. Corporation/L.L.C. Name: \_\_\_\_\_  
(Exactly as it appears on license)
3. Current Business Name: \_\_\_\_\_  
(Exactly as it appears on license)
4. Physical Street Location of Business: Street \_\_\_\_\_  
City, State, Zip \_\_\_\_\_
5. License Type: \_\_\_\_\_ License Number: \_\_\_\_\_
6. Current Mailing Address: Street \_\_\_\_\_  
(Other than business) City, State, Zip \_\_\_\_\_
7. Have all creditors, lien holders, interest holders, etc. been notified of this transfer?  YES  NO
8. Does the applicant intend to operate the business while this application is pending?  YES  NO If yes, complete Section 5 of this application, attach fee, and current license to this application.

9. I, \_\_\_\_\_, hereby authorize the department to process this application to transfer the privilege of the license to the applicant, provided that all terms and conditions of sale are met. Based on the fulfillment of these conditions, I certify that the applicant now owns or will own the property rights of the license by the date of issue.

I, \_\_\_\_\_, declare that I am the CURRENT OWNER, AGENT, MEMBER, PARTNER STOCKHOLDER, or LICENSEE of the stated license. I have read the above Section 11 and confirm that all statements are true, correct and complete.

X Paula Ayala State of Arizona County of Maricopa  
(Signature of CURRENT LICENSEE) The foregoing instrument was acknowledged before me this

My commission expires on: 2/28/2013 11th day of May 2009  
 Paula Ayala  
(Signature of NOTARY PUBLIC)

**SECTION 12 Location to Location Transfer: (Bars and Liquor Stores ONLY)**

APPLICANTS CANNOT OPERATE UNDER A LOCATION TRANSFER UNTIL IT IS APPROVED BY THE STATE.

09 JUN 3 Lique. Lic. AM1184

1. Current Business: Name \_\_\_\_\_  
(Exactly as it appears on license) Address \_\_\_\_\_
2. New Business: Name \_\_\_\_\_  
(Physical Street Location) Address \_\_\_\_\_
3. License Type: \_\_\_\_\_ License Number: \_\_\_\_\_
4. What date do you plan to move? \_\_\_\_\_ What date do you plan to open? \_\_\_\_\_

**SECTION 13 Questions for all in-state applicants excluding those applying for government, hotel/motel, and restaurant licenses (series 5, 11, and 12):**

A.R.S. § 4-207 (A) and (B) state that no retailer's license shall be issued for any premises which are at the time the license application is received by the director, within three hundred (300) horizontal feet of a church, within three hundred (300) horizontal feet of a public or private school building with kindergarten programs or grades one (1) through (12) or within three hundred (300) horizontal feet of a fenced recreational area adjacent to such school building. The above paragraph DOES NOT apply to:

- a) Restaurant license (§ 4-205.02)
- b) Hotel/motel license (§ 4-205.01)
- c) Government license (§ 4-205.03)
- d) Fenced playing area of a golf course (§ 4-207 (B)(5))

1. Distance to nearest school: \_\_\_\_\_ ft. Name of school \_\_\_\_\_  
Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_

2. Distance to nearest church: \_\_\_\_\_ ft. Name of church \_\_\_\_\_  
Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_

3. I am the:  Lessee  Sublessee  Owner  Purchaser (of premises)

4. If the premises is leased give lessors: Name Wanda Lovejoy  
Address P.O. Box 30295 Phoenix AZ 85046  
City, State, Zip \_\_\_\_\_

4a. Monthly rental/lease rate \$ 1,200 What is the remaining length of the lease 2 yrs. 0 mos.

4b. What is the penalty if the lease is not fulfilled? \$ \_\_\_\_\_ or other payment in full of remaining lease term  
(give details - attach additional sheet if necessary)

5. What is the total **business** indebtedness for this license/location excluding the lease? \$ 0  
Please list debtors below if applicable.

Last	First	Middle	Amount Owed	Mailing Address	City State	Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

6. What type of business will this license be used for (be specific)? Mexican Restaurant Done-in/takeout

**SECTION 13 - continued**

7. Has a license or a transfer license for the premises on this application been denied by the state within the past one (1) year?

YES  NO If yes, attach explanation.

8. Does any spirituous liquor manufacturer, wholesaler, or employee have any interest in your business?  YES  NO

9. Is the premises currently licensed with a liquor license?  YES  NO If yes, give license number and licensee's name:

License # 12077416 (exactly as it appears on license) Name Camarena Jaso Rodolfo

**SECTION 14 Restaurant or hotel/motel license applicants:**

1. Is there an existing restaurant or hotel/motel liquor license at the proposed location?  YES  NO

If yes, give the name of licensee, Agent or a company name:

Camarena Jaso Rodolfo and license #: 12077416  
Last First Middle

2. If the answer to Question 1 is YES, you may qualify for an Interim Permit to operate while your application is pending; consult A.R.S. § 4-203.01; and complete SECTION 5 of this application.

3. All restaurant and hotel/motel applicants must complete a Restaurant Operation Plan (Form LIC0114) provided by the Department of Liquor Licenses and Control.

4. As stated in A.R.S. § 4-205.02.G.2, a restaurant is an establishment which derives at least 40 percent of its gross revenue from the sale of food. Gross revenue is the revenue derived from all sales of food and spirituous liquor on the licensed premises. By applying for this  hotel/motel  restaurant license, I certify that I understand that I must maintain a minimum of 40 percent food sales based on these definitions and have included the Restaurant Hotel/Motel Records Required for Audit (form LIC 1013) with this application.

[Signature]  
applicant's signature

As stated in A.R.S § 4-205.02 (B), I understand it is my responsibility to contact the Department of Liquor Licenses and Control to schedule an inspection when all tables and chairs are on site, kitchen equipment, and, if applicable, patio barriers are in place on the licensed premises. With the exception of the patio barriers, these items are not required to be properly installed for this inspection. Failure to schedule an inspection will delay issuance of the license. If you are not ready for your inspection 90 days after filing your application, please request an extension in writing, specify why the extension is necessary, and the new inspection date you are requesting. To schedule your site inspection visit [www.azliquor.gov](http://www.azliquor.gov) and click on the "Information" tab.

F.T  
applicants initials

**SECTION 15 Diagram of Premises: (Blueprints not accepted, diagram must be on this form)**

1. Check ALL boxes that apply to your business:

Entrances/Exits  Liquor storage areas Patio:  Contiguous  
 Service windows  Drive-in windows  Non Contiguous

2. Is your licensed premises currently closed due to construction, renovation, or redesign?  YES  NO  
If yes, what is your estimated opening date? \_\_\_\_\_  
month/day/year

3. Restaurants and hotel/motel applicants are required to draw a detailed floor plan of the kitchen and dining areas including the locations of all kitchen equipment and dining furniture. Diagram paper is provided on page 7.

4. The diagram (a detailed floor plan) you provide is required to disclose only the area(s) where spirituous liquor is to be sold, served, consumed, dispensed, possessed, or stored on the premises unless it is a restaurant (see #3 above).

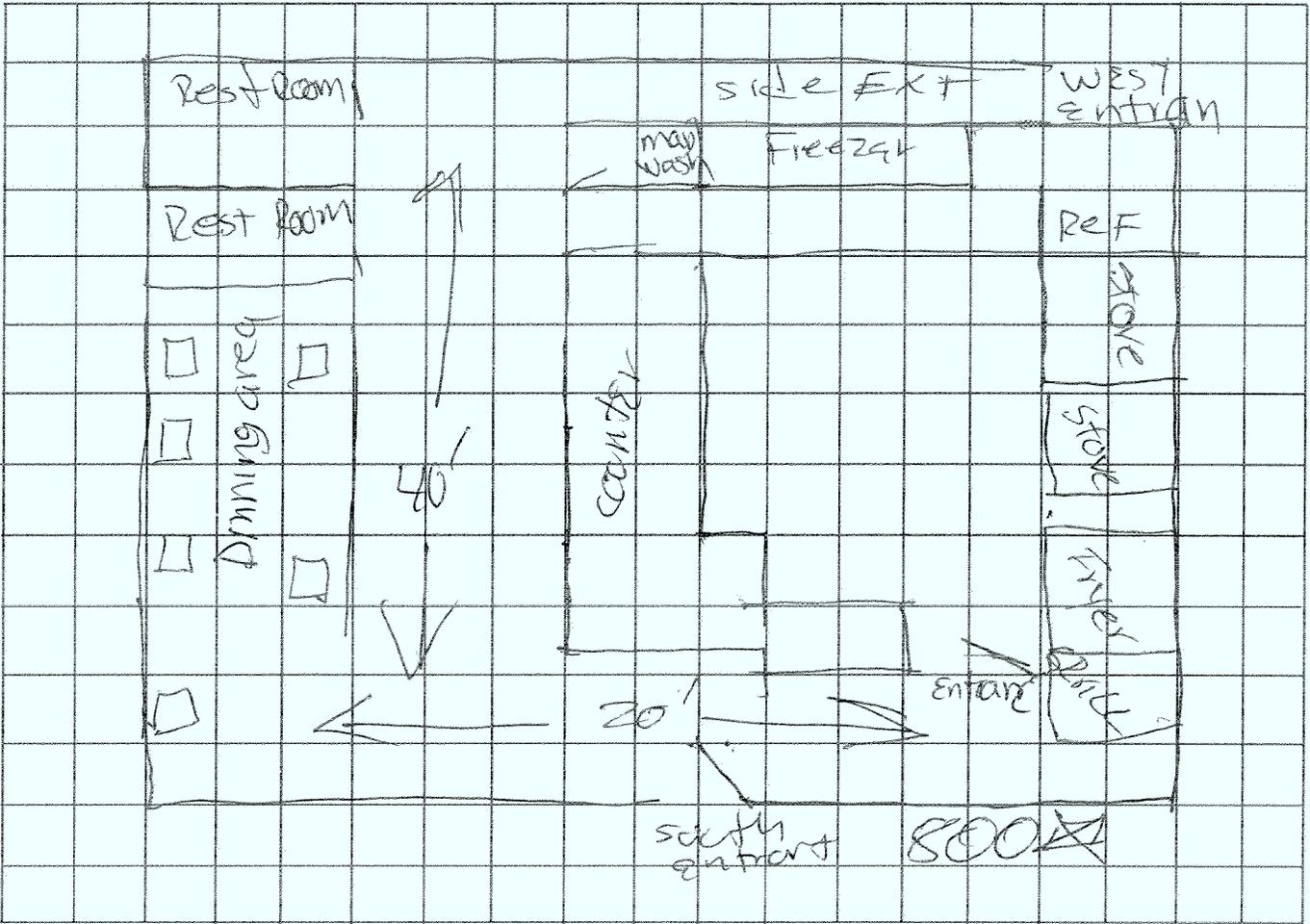
5. Provide the square footage or outside dimensions of the licensed premises. Please do not include non-licensed premises, such as parking lots, living quarters, etc.

As stated in A.R.S. § 4-205.02 (F), I understand it is my responsibility to notify the Department of Liquor Licenses and Control when there are changes to boundaries, entrances, exits, added or deleted doors, windows or service windows, or increase or decrease to the square footage after submitting this initial drawing.

F.T.  
applicants initials

**SECTION 15 Diagram of Premises**

4. In this diagram please show only the area where spirituous liquor is to be sold, served, consumed, dispensed, possessed or stored. It must show all entrances, exits, interior walls, bars, bar stools, hi-top tables, dining tables, dining chairs, the kitchen, dance floor, stage, and game room. Do not include parking lots, living quarters, etc. When completing diagram, North is up ↑.



**SECTION 16 Signature Block**

I, FELIPE TORRES JIMENEZ, hereby declare that I am the OWNER/AGENT filing this application as stated in Section 4, Question 1. I have read this application and verify all statements to be true, correct and complete.

(print full name of applicant)

*[Handwritten Signature]*  
 (Signature of applicant listed in Section 4, Question 1)

State of ARIZONA County of MARICOPA

The foregoing instrument was acknowledged before me this

4 of May, 2009

Day Month Year  
*[Handwritten Signature]*  
 signature of NOTARY PUBLIC

My commission expires on :



# ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

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



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

## RESTAURANT OPERATION PLAN

LICENSE # \_\_\_\_\_

1. List by Make, Model and Capacity of your :

Grill 24' x 24"	Superior MFG-Co. Model # EG36F
Oven 24' x 24"	Superior MFG-Co. Model # E636F
Freezer	McCall Reach-ins Model # 77070F 3 door
Refrigerator	Beverage Air. Model # ER48-1AS (Refrigerator 2 Door)
Sink	3 Compartment Sink 44 1/2' x 2'
Dish Washing Facilities	N/A
Food Preparation Counter (Dimensions)	50" x 12"
Other	Fryer - Model RVS-40 Royal Range

2. Print the name of your restaurant: EL TACO "T"

3. Attach a copy of your menu (Breakfast, Lunch and Dinner including prices).

4. List the seating capacity for: 27

- |    |                                  |           |           |           |   |
|----|----------------------------------|-----------|-----------|-----------|---|
| a. | Restaurant area of your premises | <u>27</u> | [         | <u>27</u> | ] |
| b. | Bar area of your premises        | [ +       | <u>0</u>  | ]         |   |
| c. | Total area of your premises      | [         | <u>27</u> | ]         |   |

5. What type of dinnerware and utensils are utilized within your restaurant?  
 Reusable       Disposable

6. Does your restaurant have a bar area that is distinct and separate from the restaurant seating? (If yes, what percentage of the public floor space does this area cover).       Yes \_\_\_\_\_ %       No

7. What percentage of your public premises is used primarily for restaurant dining? (Does not include kitchen, bar, cocktail tables or game area.)      Approx. 40%

\*Disabled individuals requiring special accommodations, please call the Department.

8. Does your restaurant contain any games or television?  Yes  No  
If yes, specify what types and how many of each type (Televisions, Pool tables, Video Games, Darts, etc).

1 32" TV

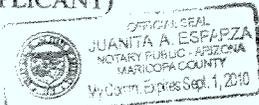
9. Do you have live entertainment or dancing?  Yes  No  
(If yes, what type and how often?)

10. Use space below or attach a list of employee positions and their duties to fully staff your business.

- ① Felipe Torres - Cook
- ② Teresa Torres - Cashier
- ③ Yesenia Torres - Server

I, Felipe Torres Jimenez, hereby declare that I am the APPLICANT filing this application. I have read this application and the contents and all statements true, correct and complete.

X [Signature]  
(Signature of APPLICANT)



My commission expires on: \_\_\_\_\_

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

4 day of May 2009  
Day of Month Month

[Signature]  
(Signature of NOTARY PUBLIC)

# ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

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

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

## HOTEL-MOTEL AND RESTAURANT LICENSES RECORDS REQUIRED FOR AUDIT OF SERIES #11 & #12 LICENSES MAKE A COPY OF THIS DOCUMENT AND KEEP IT WITH YOUR DLLC RECORDS

In the event of an audit, you will be asked to provide to the Department any documents necessary to determine compliance with A.R.S. §4-205.02(G). Such documents requested may include however, are not limited to:

1. All invoices and receipts for the purchase of food and spirituous liquor for the licensed premises.
2. A list of **all** food and liquor vendors
3. The restaurant menu used during the audit period
4. A price list for alcoholic beverages during the audit period
5. Mark-up figures on food and alcoholic products during the audit period
6. A recent, **accurate** inventory of food and liquor (taken within two weeks of the Audit Interview Appointment)
7. Monthly Inventory Figures - beginning and ending figures for food and liquor
8. Chart of accounts (copy)
9. Financial Statements-Income Statements-Balance Sheets
10. General Ledger
  - A. Sales Journals/Monthly Sales Schedules
    - 1) Daily sales Reports (to include the name of each waitress/waiter, bartender, etc. with sales for that day)
    - 2) Daily Cash Register Tapes - Journal Tapes and Z-tapes
    - 3) Dated Guest Checks
    - 4) Coupons/Specials/Discounts
    - 5) Any other evidence to support income from food and liquor sales
  - B. Cash Receipts/Disbursement Journals
    - 1) Daily Bank Deposit Slips
    - 2) Bank Statements and canceled checks
11. Tax Records
  - A. Transaction Privilege Sales, Use and Severance Tax Return (copies)
  - B. Income Tax Return - city, state and federal (copies)
  - C. Any supporting books, records, schedules or documents used in preparation of tax returns
12. Payroll Records
  - A. Copies of all reports required by the State and Federal Government

- B. Employee Log (A.R.S. §4-119)
  - C. Employee time cards (actual document used to sign in and out each work day)
  - D. Payroll records for all employees showing hours worked each week and hourly wages
13. Off-site Catering Records (must be complete and separate from restaurant records)

- A. All documents which support the income derived from the sale of food off the license premises.
- B. All documents which support purchases made for food to be sold off the licensed premises.
- C. All coupons/specials/discounts

The sophistication of record keeping varies from establishment to establishment. Regardless of each licensee's accounting methods, the amount of gross revenue derived from the sale of food and liquor must be substantially documented.

**REVOCAION OF YOUR LIQUOR LICENSE MAY OCCUR IF YOU FAIL TO COMPLY WITH A.R.S. §4-210(A)7 AND A.R.S. §4-205.02(G).**

**A.R.S. §4-210(A)7**

The licensee fails to keep for two years and make available to the department upon reasonable request all invoices, records, bills or other papers and documents relating to the purchase, sale and delivery of spirituous liquors and, in the case of a restaurant or hotel-motel licensee, all invoices, records, bills or other papers and documents relating to the purchase, sale and delivery of food.

**A.R.S. §4-205.02(G)**

For the purpose of this section:

1. "Restaurant" means an establishment which derives at least forty percent (40%) of its gross revenue from the sale of food.
2. "Gross revenue" means the revenue derived from all sales of food and spirituous liquor on the licensed premises, regardless of whether the sales of spirituous liquor are made under a restaurant license issued pursuant to this section or under any other license that has been issued for the premises pursuant to this article.

I, (print licensee name):

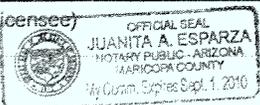
Torres Jimenez Felipe  
 Last First Middle

have read and fully understand all aspects of this statement.

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

x [Signature]  
 (Signature of Licensee)

4 day of May, 2009  
 Day Month Year



My commission Expires on: \_\_\_\_\_  
 Day Month Year

[Signature]  
 (Signature of NOTARY PUBLIC)

**MAKE A COPY OF THIS DOCUMENT AND KEEP IT WITH YOUR DLLC RECORDS**

# ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

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

400 W Congress #521  
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I, (print licensee name):

Torres                      Felipe                      Jesus  
 Last                                      First                                      Middle

have read and fully understand all aspects of this statement.

State of Arizona County of Maricopa  
 The foregoing instrument was acknowledged before me this

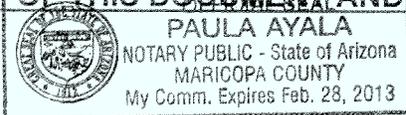
[Signature]  
 (Signature of Licensee)

4th day of May, 2009  
 Day                      Month                      Year

My commission Expires on: 2 28 2013  
 Day      Month      Year

[Signature]  
 (Signature of NOTARY PUBLIC)

**MAKE A COPY OF THIS DOCUMENT AND KEEP IT WITH YOUR DLLC RECORDS**



09 JUN 3 Lic. Lic. #1184

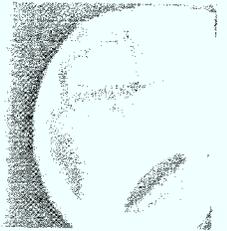
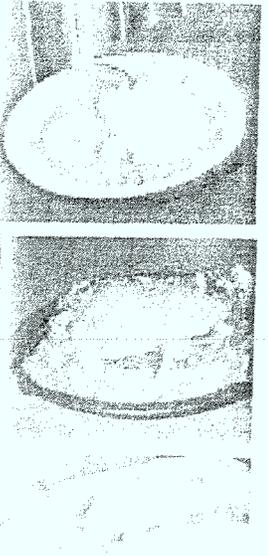
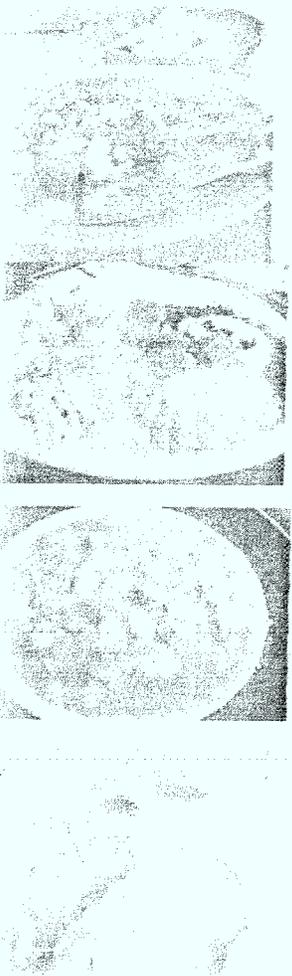
# Bienvenidos!!!



## Welcome!!

31 E. Western Ave. Azules AZ 85315

(602) 225-8750



# TACOS



Tacos.....\$1.45Lg./\$.95  
(Carne Asada, Pollo Asado, Adobada, Cabeza, Lengua, "Gringas")  
(Steak, Grilled Chicken, Chile Steak, Beef Tongue)

Sopes.....\$1.59  
(Carne Asada, Pollo Asada, Frijol)  
(Steak, Grilled Chicken, Beans)

# BURRITOS

- Frijoles.....\$1.99
- Carne Asada ...\$3.69
- Pollo Asado.....\$3.69
- Cabeza...\$3.59
- Lengua...\$3.89
- Chicharron...\$3.59



# TORTAS



- Add Cheese/ Con Quezo.....\$.50
- Hamon (Ham).....\$2.99
- Carne Asada (Steak).....\$3.69
- Pollo Asado (Grilled Chicken).....\$3.59
- Adobada ( Chili Meat).....\$3.59
- Cabeza (Beef ).....\$3.79
- Tongue).....\$3.79

## Quesadillas

(Includes Rice & Beans- Con Arroz y Frijoles)



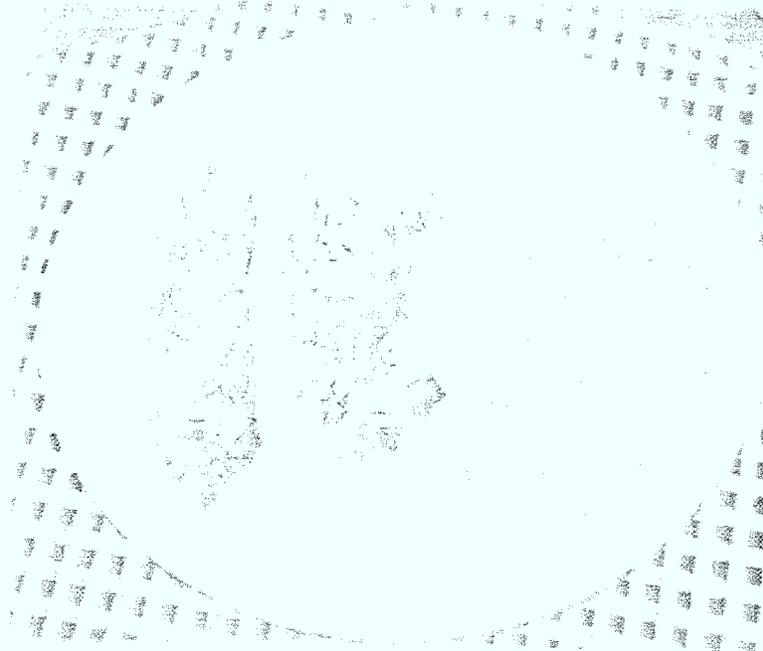
- Carne Asada (Steak).....\$5.89
- Pollo Asado (Grilled Chicken).....\$5.69
- Hamon & Cheese .....\$5.49

09 JUN 3 11:47 AM 1104

## • Combo Plates

(Includes Rice & Beans/ Con Arroz y Frijoles)

- #1. Carne Asada Tacos.....\$5.49  
(Steak)
- #2. (2) Pollo Asado Tacos.....\$5.39  
(Grilled Chicken)
- #3. (1) Taco (1) Sope.....\$5.69
- #4. (1) Taco (1) Burrito.....\$5.89
- #5. (2) Tacos Dorados (Hard Tacos)  
(1) Regular.....\$4.89
- #6. Chicharon Plate.....\$5.79
- #7. Chorizo Plate.....\$5.79



## Nachos & Fries with the "Works"

(Nachos y Papas Fritas "Especiales")



- Carne Asada(Steak).....\$6.50/ \$5.50
- Pollo Asado( Grilled Chicken)....\$5.50/ \$4.50

09 JUN 3 11:34 AM

**Hot Dogs**  
**(Estilo Tijuana)**

Con Tosino(Bacon).....\$2.99  
Regular.....\$2.50



**Papas (French Fries)**

Chili Chesse Fries.....\$2.75  
Small.....\$1.49.....Large.....\$1.89

\*09 JUN 3 Lic. Lic. #M1184

# Breakfast

\*Eggs are served to order and undercooked at your request.

\*Consuming raw or undercooked raw animal foods may increased your risk of food borne illness.

## Burritos/Omelets

- \*Chorizo/ Eggs..... \$3.59
- \*Egg/ Potatoes.....\$3.49
- \*Steak & Egg..... \$3.89
- \*Egg Omelet( Served with beans & Rice)....\$4.50
- \*Ranchero Eggs/Huevos Rancheros.....\$4.50
- \*Spicy Eggs/Huevos a la Mexicana.....\$4.50
- \*DAILY SPECIAL\* Pancake & eggs.....\$3.75

## Beverages/Bebidas

- Aguas Frescas/Mexican Waters
- Orchata, Fresa, Jamaica,..Med. \$1.49 Lg.\$1.99
- Mexican soda...\$1.99 Bote... \$1.00

09 JUN 3 Lic. Lic. #M1104  
**LEASE AGREEMENT**  
(3 pages)

This Lease Agreement (this "Lease") is dated, March 30, 2009, by and between Floyd and/or Wanda Lovejoy, dba F&W Property Management, LLC ("Landlord"), and Felipe J. Torres ("Tenant"). The parties agree as follows:

The property is located at 701 E. Western Avenue, Avondale, Arizona, Maricopa County. The tenant will occupy Suite(s) A.

TERM: The lease term shall be for 2YRS and will begin on April 1, 2009 and will terminate on March 31, 2011.

**SECURITY DEPOSIT.** A security deposit of \$1,800 (last month's rent plus \$500) plus 1<sup>st</sup> months rent of \$1,200 (total \$3,000) will be required at the signing of this document. The sum of \$500 will be non-refundable. If Landlord applies any part of the deposit to cure any default of Tenant, Tenant shall on demand deposit with Landlord the amount so applied so that the Landlord shall have the full deposit on hand at all times during the term of this lease.

**LEASE PAYMENTS.** Tenant shall pay to F&W Property Management monthly installments of \$1,200 (one-thousand two hundred dollars) for the first year of the lease. Commencing on April 1, 2010, the lease payment shall be \$1,300.00 (one-thousand three hundred dollars)

This agreement contain within the lease the right to have ownership of the equipment, if and only if the lease is extended an additional year (2012) with the lease payment being \$1,400 per month for at least 12 months. Before this time tenant will not have the right to sell this business operation without first providing the landlord the sum of \$15,000 for purchase of assets.

Tenant may exercise the option to extend the lease at anytime during the current lease period up until 3 months prior to the expiration of this lease.

Payment shall be mailed to: (or delivered in person)

Camelback Community Bank  
2777 E. Camelback Rd.  
Suite 100  
Phoenix, AZ 85016

(name of your business should be on check or written in the "Memo")

**POSSESSION:** Tenant may use the Premises only as a Restaurant/Retail and related usage. The Premises may be used for any other purpose only with the prior written consent of the Landlord, which shall not be unreasonably withheld. Tenant shall notify Landlord of any anticipated extended absence from the Premises not later than the first day of the extended absence.

**FURNISHINGS & EQUIPMENT.** Tenant shall not remove from premises any equipment or fixtures that are permanently attached to the premises; (for example, water heaters, restaurant hood systems, attached wall mirrors)

09 JUN 3 Ltr. Lic. #11104

**PROPERTY INSURANCE:** Landlord and Tenant shall each maintain appropriate insurance for their respective interest in the Premises and property located on Premises. Landlord shall be named as an "Additional Insured" in such policies. Tenant shall deliver appropriate evidence to Landlord as proof that adequate insurance is in force, issued by companies reasonably satisfactory to Landlord. Landlord shall receive advance written notice from the insurer prior to any termination of such insurance policies. Tenant shall also maintain any other insurance which Landlord may reasonably require for the protection of Landlord's interest in the Premises. Tenant is responsible for maintaining casualty insurance on its' own property.

**MAINTENANCE:** Tenant shall have the responsibility to maintain the Premises in good repair at all times during the term of this Lease. Tenant acknowledges that the premises are in good order and repair unless otherwise indicated herein. Tenant shall, at his own expense and at all times, maintain the premises in good and safe condition, including plate glass, electrical wiring, plumbing and heating installations and any other system or equipment upon the premises and shall surrender the same, at the termination hereof, in as good condition as received, normal wear and tear excepted. Tenant shall be responsible for all repairs required, excepting the roof, exterior walls, and structural foundations. Tenant shall also maintain in good condition such portions adjacent to the premises, such as sidewalk, driveways, lawns and shrubbery, which would otherwise be required to be maintained by landlord.

---

**TAXES:** LANDLORD shall pay all real estate taxes and assessments which are levied against the Premises during the time of this lease.

**PERSONAL TAXES:** TENANT shall pay all personal taxes and any other charges which may be levied against the premises and are attributable to the Tenant's use of the Premises, along with all sales and/or use taxes (IF ANY) that may be due in connection with lease payments.

**DEFAULTS:** Tenant shall be in default of the Lease if Tenant fails to fulfill any lease obligation or term by which Tenant is bound. Subject to any governing provisions of law to the contrary, if Tenant fails to cure any financial obligation within 5 days (or any other obligation within 30 days after written notice of such default is provided by Landlord to Tenant, Landlord may take possession of the Premises without further notice (to the extent permitted by law), and without prejudicing Landlord's rights to damages. In the alternative, Landlord may elect to cure any default and the cost of such action shall be added to Tenants financial obligations under this lease.. Tenant shall pay all cost, damages, and expenses (including reasonable attorney's fees) suffered by Landlord by reason of Tenant's defaults. All sums of money or charges required to be paid by Tenant under this lease shall be additional rent, whether or not such sums or charges are designated as "additional rent". The rights provided by this paragraph are cumulative in nature and are in addition to any other rights afforded by law.

**LATE PAYMENTS:** For any payment that is not paid within Five(5) days after its due date, Tenant shall pay a late fee of \$100.00.

**HOLDOVER:** If tenant maintains possession of the Premises for any period after the termination of this Lease ("Holdover Period"), Tenant shall pay to Landlord, lease payment during the Holdover Period at a rate equal to 125% of the most recent rate preceding the Holdover Period. Holdover shall constitute a month-to-month extension of the Lease.

**CUMULATIVE RIGHTS.** The rights of the parties under this lease are cumulative, and shall not be construed as exclusive unless otherwise required by law.

**NON-SUFFICIENT FUNDS.** Tenant shall be charged \$100.00 for each check that is returned to Landlord for lack of sufficient funds.

**REMODELING OR STRUCTURAL IMPROVEMENTS.** Tenant shall have the obligation to conduct any construction or remodeling ( at Tenant's expense) that may be required to use the Premises as specified above. Tenant may also construct such fixtures on the Premises (at Tenant's expense) that appropriately facilitate its use for such purposes. Such construction shall be undertaken and such fixtures may be erected only with the prior written consent of the Landlord, which shall not be unreasonably withheld. Tenant shall not install awnings or permanent advertisements on the exterior of the property without the Landlord's prior written consent. At the end of the lease term, Tenant shall be entitled to remove (or at the request of the Landlord shall remove) any and all furnishings and equipment that are not a permanent part of the structure, (premises).

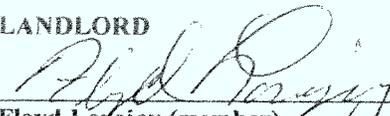
**ACCESS BY LANDLORD TO PREMISES:** Subject to Tenant's consent (which shall not be unreasonably withheld), Landlord shall have right to enter the Premises to make inspections. Landlord shall receive copies of all keys as a result of re-keying by tenant. If keys are not provided, landlord shall have premises re-keyed at Tenant's expense.

**NOTICE:** Notices under this Lease shall not be deemed valid unless given in writing and forwarded by mail, postage prepaid, addressed as follows.

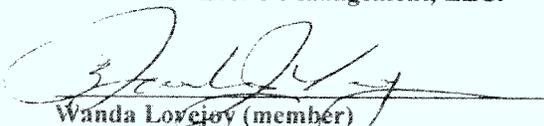
F&W Property Management, LLC.  
P.O. Box 30215  
Phoenix, AZ. 85046

Such addresses may be changed from time to time by either party by providing notice as set forth above. Notices mailed in accordance with the above provisions shall be deemed received on the third day after posting.

LANDLORD

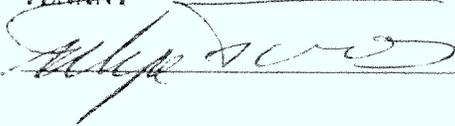
  
\_\_\_\_\_  
Floyd Loycejoy (member)  
F&W PROPERTY Management, LLC.

(date) 3-30-09

  
\_\_\_\_\_  
Wanda Loycejoy (member)  
F&W PROPERTY Management, LLC.

(date) 3/30/09

TENANT

  
\_\_\_\_\_

(date) 3/30/2009

\_\_\_\_\_  
(date)

**GOVERNING LAW:** This Lease shall be construed in accordance with the laws of the State of Arizona.

**F&W PROPERTY MANAGEMENT, LLC.**  
**P.O. BOX 30215**  
**PHOENIX, AZ 85045-0215**

*May 4, 2009*

*State of Arizona*  
*Arizona Department of Liquor*  
*800 West Washington , 5<sup>th</sup> Floor*  
*Phoenix, Arizona 85007*

*Re: 701 E. Western Avenue, Avondale, Arizona*

*To Whom It May Concern:*

*Felipe Torres is a new tenant, with a new lease agreement . There has been no evidence in our contact with him, that would lead us to believe that he is connected to any former tenants of this property.*

*Sincerely,*



*Wanda Lovejoy*  
*Managing Member*  
*(602)387-0345*

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

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

QUESTIONNAIRE

Attention all Local Governing Bodies: Social Security and Birthdate information is Confidential. This information may be given to local law enforcement agencies for the purpose of background checks only but must be blocked to be unreadable prior to posting or any public view.

Read carefully. This instrument is a sworn document. Type or print with BLACK INK. An extensive investigation of your background will be conducted. False or incomplete answers could result in criminal prosecution and the denial or subsequent revocation of a license or permit.

TO BE COMPLETED BY EACH CONTROLLING PERSON, AGENT, OR MANAGER. EACH PERSON COMPLETING THIS FORM MUST SUBMIT AN "APPLICANT" TYPE FINGERPRINT CARD WHICH MAY BE OBTAINED AT DLLC. FINGERPRINTING MUST BE DONE BY A BONA FIDE LAW ENFORCEMENT AGENCY OR A FINGERPRINTING SERVICE APPROVED BY DLLC. THE DEPARTMENT DOES NOT PROVIDE THIS SERVICE.

Effective 10/01/07 there is a \$24.00 processing fee for each fingerprint card submitted.

Liquor License #

The fees allowed by A.R.S. § 44-6852 will be charged for all dishonored checks.

(If the location is currently licensed)

1. Check appropriate box →  Controlling Person (Complete Questions 1-19)  Agent  Manager (Only) (Complete All Questions except # 14, 14a & 21) Controlling Person or Agent must complete #21 for a Manager

2. Name: Torres - Jimenez Felipe Date of Birth: \_\_\_\_\_  
Last First Middle (NOT a Public Record)

3. Social Security Number: \_\_\_\_\_ Drivers License #: \_\_\_\_\_ State: AZ  
(NOT a public record) (NOT a public record)

4. Place of Birth: El Chante Jalisco Mexico Height: 5'9" Weight: 175 Eyes: Brown Hair: Blk  
City State Country (not county)

5. Marital Status  Single  Married  Divorced  Widowed Daytime Contact Phone: (818) 554 0880

6. Name of Current or Most Recent Spouse: Torres Maria Teresa Lopez Date of: \_\_\_\_\_  
(List all for last 5 years - Use additional sheet if necessary) Last First Middle Maiden (NOT a public record)

7. You are a bona fide resident of what state? Arizona If Arizona, date of residency: 10/04

8. Telephone number to contact you during business hours for any questions regarding this document. 818 554-6937

9. If you have been an Arizona resident for less than three (3) months, submit a copy of your Arizona driver's license or voter registration card.

10. Name of Licensed Premises: EL TACO "T" Premises Phone: (623) 925-8751

11. Physical Location of Licensed Premises Address: 701 E. Western Ave. Supt #A Avondale Maricopa 85323  
Street Address (Do not use PO Box #) City County Zip

12. List your employment or type of business during the past five (5) years. If unemployed part of the time, list those dates. List most recent 1st.

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYER'S NAME OR NAME OF BUSINESS (street address, city, state & zip)
8/08	CURRENT	Driver	RMI ReadyMix - 4602 E. Thomas Rd. Phoenix 85018
10/05	06/08	Driver	Comex, Inc. - 840 Gessner Suite 1400 Houston TX 77020
11/04	7/4/05	Labor	Mitchell Electric Co. 7138 North 110 A Glendale AZ 85306

ATTACH ADDITIONAL SHEET IF NECESSARY FOR EITHER SECTION ↓

13. Indicate your residence address for the last five (5) years:

FROM Month/Year	TO Month/Year	Rent or Own	RESIDENCE Street Address	City	State	Zip
8/06	CURRENT	own		Buckley	AZ	85326
8/05	8/06	rent	2231 W. McRae Way	Phoenix	AZ	85027
01/89	9/05	own	13006 Louvre St	Pacifica	Ca.	91331

If you checked the Manager box on the front of this form skip to # 15

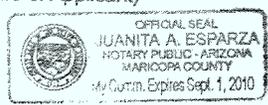
- 14. As a Controlling Person or Agent, will you be physically present and operating the licensed premises?  
If you answered YES, how many hrs/day? 15, and **answer #14a below**. If NO, skip to #15.  YES  NO
- 14a. Have you attended a DLLC-approved Liquor Law Training Course within the past 5 years? (Must provide proof if the answer to # 14a is "NO", course must be completed before issuance of a new license or approval on an existing license.)  YES  NO
- 15. Have you been convicted, fined, ordered to deposit bail, imprisoned, placed on probation or parole, had to post bond or had sentence suspended for any violation of ANY law or ordinance within the past ten (10) years (include only traffic violations that were alcohol and/or drug related)?  YES  NO
- 16. Are there ANY administrative law citations, compliance actions or consents, criminal arrest, indictments or summonses PENDING against you or ANY entity in which you are now involved?  YES  NO
- 17. Have you or any entity in which you have held ownership, been an officer, member, director or manager EVER had a business, professional or liquor application or license rejected, denied, revoked, suspended or fined in this or any other state?  YES  NO
- 18. Has anyone EVER filed suit or obtained a judgment against you, the subject of which involved fraud or misrepresentation?  YES  NO
- 19. Are you NOW or have you EVER held ownership, been a controlling person, been an officer, member, director or manager on any other liquor license in this or any other state?  YES  NO

If any answer to Questions 15 through 19 is "YES" YOU MUST attach a signed statement. Give complete details including dates, agencies involved, and dispositions.  
**SUBSTANTIVE CHANGES TO THIS APPLICATION WILL NOT BE ACCEPTED**

20. I, Felipe Torres Jimenez hereby declare that I am the APPLICANT/REPRESENTATIVE (full name of Applicant) filing this questionnaire. I have read this questionnaire and all statements are true, correct and complete.

X [Signature]  
 (Signature of Applicant)

State of ARIZONA County of MARICOPA



The foregoing instrument was acknowledged before me this 4 day of May, 2009.  
 (Month Year)

[Signature]  
 (Signature of NOTARY PUBLIC)

My commission expires on: \_\_\_\_\_  
 Day Month Year

**COMPLETE THIS SECTION ONLY IF YOU ARE A CONTROLLING PERSON OR AGENT APPROVING A MANAGER'S APPLICATION**

21. The applicant hereby authorizes the person named on this questionnaire to act as manager for the named liquor license. The manager named must be at least 21 years of age.

State of \_\_\_\_\_ County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this

X \_\_\_\_\_  
 Signature of Controlling Person or Agent (circle one)

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
 Month Year

\_\_\_\_\_  
 Print Name

\_\_\_\_\_  
 (Signature of NOTARY PUBLIC)

My commission expires on: \_\_\_\_\_  
 Day Month Year

UNITED STATES DEPARTMENT OF JUSTICE

DEPARTMENT OF JUSTICE



DEPARTMENT OF JUSTICE

No. 23845635

ES Registration No.

Personal description of holder as of date of issuance of this certificate: Date of birth \_\_\_\_\_ sex MALE; complexion \_\_\_\_\_ color of eyes BROWN; color of hair BLACK; height 5 feet 9 inches; weight \_\_\_\_\_ pounds; visible distinctive marks \_\_\_\_\_; Marital status MARRIED; Country of former nationality MEXICO

*Felipe Torres Jimenez*  
(Complete and true signature of holder)

Be it known, that FELIPE TORRES-JIMENEZ



Seal

residing at \_\_\_\_\_ having applied to the Director, U.S. Citizenship and Immigration Services, for a Certificate of Naturalization and having proved to the satisfaction of the Director that (s)he

COMPLIED WITH THE APPLICABLE PROVISIONS OF SUCH NATURALIZATION AND WAS ENTITLED TO BE ADMITTED TO CITIZENSHIP, SUCH PERSON HAVING TAKEN THE OATH OF ALLEGIANCE IN A CEREMONY CONDUCTED BY THE U. S. DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA AT LOS ANGELES, CALIFORNIA ON DECEMBER 11, 1997

Now Therefore, in pursuance of the authority contained in Section 343( ) of the Immigration and Nationality Act, this Certificate of Naturalization is issued this 1ST day of APRIL 2008 and the seal of the Department of Homeland Security affixed pursuant to statute.

IT IS PUNISHABLE BY U. S. LAW TO COPY, PRINT OR PHOTOGRAPH THIS CERTIFICATE, WITHOUT LAWFUL AUTHORITY.

1346543

Director, U. S. Citizenship and Immigration Services

*D. Smith*

DEPARTMENT OF HOMELAND SECURITY

09 JUN 3 11:35 AM



ARIZONA STATEMENT OF CITIZENSHIP AND ALIEN STATUS FOR STATE PUBLIC BENEFITS

Professional License and Commercial License Department of Liquor Licenses and Control

Liquor License #: \_\_\_\_\_

Ownership Name: Felipe Torres-Jimenez (as listed on the current liquor license application or renewal application)

Title IV of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (the "Act"), 8 U.S.C. § 1621, provides that, with certain exceptions, only United States citizens, United States non-citizen nationals, non-exempt "qualified aliens" (and sometimes only particular categories of qualified aliens), nonimmigrants, and certain aliens paroled into the United States are eligible to receive state or local public benefits. With certain exceptions, a professional license and commercial license issued by a State agency is a State public benefit.

Arizona Revised Statutes § 1-501 requires, in general, that a person applying for a license must submit documentation to the licensing agency that satisfactorily demonstrates that the applicant is lawfully present in the United States.

Directions: All applicants must complete Sections I, II, and IV. Applicants who are not U.S. citizens or nationals must also complete Section III. Submit this completed form and copy of one or more documents that evidence your citizenship or alien status with your application for license or renewal.

SECTION I - APPLICANT INFORMATION

APPLICANT'S NAME (Print or type) Felipe Torres-Jimenez DATE 5/31/09

TYPE OF APPLICATION (check one) [X] INITIAL APPLICATION [ ] RENEWAL

TYPE OF LICENSE Restaurant

SECTION II - CITIZENSHIP OR NATIONAL STATUS DECLARATION

Directions: Attach a legible copy of the front, and the back (if any), of a document from the attached List A or other document that demonstrates U.S. citizenship or nationality. Name of document provided: \_\_\_\_\_

A. Are you a citizen or national of the United States? (check one) [X] Yes [ ] No

B. If the answer is "Yes," where were you born? List city, state, (or equivalent), and country. City El Charco State (or equivalent) Jalisco Country or Territory Mexico

If you are a citizen or national of the United States, go to Section IV. If you are not a citizen or national of the United States, please complete Sections III and IV.

**SECTION III — ALIEN STATUS DECLARATION**

**Directions:** To be completed by applicants who are not citizens or nationals of the United States. Please indicate alien status by checking the appropriate box. Attach a legible copy of the front, and the back (if any), of a document from the attached List B or other document that evidences your status. A.R.S. § 1-501. Name of document provided:

\_\_\_\_\_

**“Qualified Alien” Status (8 U.S.C. §§ 1621(a)(1), -1641(b) and (c))**

- 1. An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (INA).
- 2. An alien who is granted asylum under Section 208 of the INA.
- 3. A refugee admitted to the United States under Section 207 of the INA
- 4. An alien paroled into the United States for at least one year under Section 212(d)(5) of the INA.
- 5. An alien whose deportation is being withheld under Section 243(h) of the INA.
- 6. An alien granted conditional entry under Section 203(a)(7) of the INA as in effect prior to April 1, 1980.
- 7. An alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980).
- 8. An alien who is, or whose child or child’s parent is a “battered alien” or an alien subjected to extreme cruelty in the United States.

**Nonimmigrant Status (8 U.S.C. § 1621(a)(2))**

- 9. A nonimmigrant under the Immigration and Nationality Act [8 U.S.C. § 1101 et seq.] Nonimmigrants are persons who have temporary status for a specific purpose. See 8 U.S.C. § 1101(a)(15).

**Alien Paroled into the United States For Less Than One Year (8 U.S.C. § 1621(a)(3))**

- 10. An alien paroled into the United States for less than one year under Section 212(d)(5) of the INA

**Other Persons (8 U.S.C. § 1621(c)(2)(A) and (C))**

- 11. A nonimmigrant whose visa for entry is related to employment in the United States, or
- 12. A citizen of a freely associated state, if section 141 of the applicable compact of free association approved in Public Law 99-239 or 99-658 (or a successor provision) is in effect [Freely Associated States include the Republic of the Marshall Islands, Republic of Palau and the Federate States of Micronesia, 48 U.S.C. § 1901 et seq.];
- 13. A foreign national not physically present in the United States.

**Otherwise Lawfully Present (A.R.S. § 1-501)**

- 14. A person not described in categories 1–13 who is otherwise lawfully present in the United States. PLEASE NOTE: The federal Personal Responsibility and Work Opportunity Reconciliation Act may make persons who fall into this category ineligible for licensure. See 8 U.S.C. § 1621(a).

**SECTION IV — DECLARATION**

**All applicants must complete this section.** I declare under penalty of perjury under the laws of the state of Arizona that the answers I have given are true and correct to the best of my knowledge.

  
APPLICANT'S SIGNATURE

3 Lic. Lic. AM11 3/4/9  
TODAY'S DATE

Attachment: Lists A and B Evidence of U.S. Citizenship, U.S National Status, or Alien Status,

DLLC 1/15/09

AG 11/08/07 - 81662

Attachment to Form 1 Applicant Statement

**EVIDENCE OF U.S. CITIZENSHIP, U.S NATIONAL STATUS, OR ALIEN STATUS**

**LIST A: U.S. CITIZEN OR U.S. NATIONAL**

Note: In this List, the term "Service" refers to the U.S. Citizenship and Immigration Service, formerly, the U.S. Immigration and Naturalization Service (INS).

[Source: Proposed Rules, Verification of Eligibility for Public Benefits, 8 CFR § 104.23; 63 FR 41662-01 August 4, 1998); and Interim Guidance of Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("Interim Guidance"), 62 FR 61344 (Nov. 17, 1997), Attachment 4]

**Evidence showing U.S. citizen or U.S. national status includes the following:**

**a. Primary Evidence:**

- (1) A birth certificate showing birth in one of the 50 states, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, or the Northern Mariana Islands (on or after November 4, 1986, Northern Mariana Islands local time) (unless the applicant was born to foreign diplomats residing in such a jurisdiction);
- (2) United States passport;
- (3) Report of birth abroad of a U.S. citizen (FS-240) (issued by the Department of State to U.S. citizens);
- (4) Certificate of Birth (FS-545) (issued by a foreign service post) or Certification of Report of Birth (DS-1350), copies of which are available from the Department of State;
- (5) Form N-561, Certificate of Citizenship;
- (6) Form I-197, United States Citizen Identification Card (issued by the Service until April 7, 1983 to U.S. citizens living near the Canadian or Mexican border who needed it for frequent border crossings) (formerly Form I-179, last issued in February 1974);
- (7) Form I-873 (or prior versions), Northern Marianas Card (issued by the Service to a collectively naturalized U.S. citizen who was born in the Northern Mariana Islands before November 3, 1986);
- (8) Statement provided by a U.S. consular official certifying that the individual is a U.S. citizen (given to an individual born outside the United States who derives citizenship through a parent but does not have an FS-240, FS-545, or DS-1350); or
- (9) Form I-872 (or prior versions), American Indian Card with a classification code "KIC" and a statement on the back identifying the bearer as a U.S. citizen (issued by the Service to U.S. citizen members of the Texas Band of Kickapoos living near the U.S./Mexican border).

[Source: Interim Guidance of Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("Interim Guidance"), 62 FR 61344 (Nov. 17, 1997), Attachment 4]

**b. Secondary Evidence**

If the applicant cannot present one of the documents listed in (a) above, the following may be relied upon to establish U.S. citizenship or U.S. national status:

- (1) Religious record recorded in one of the 50 states, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, or the Northern Mariana Islands (on or after November 4, 1986, Northern Mariana Islands local time) (unless the applicant was born to foreign diplomats residing in such a jurisdiction) within three 3 months after birth showing that



09 JUN 3 11:41 AM 1134

# STATE OF ARIZONA DEPARTMENT OF LIQUOR LICENSES AND CONTROL

## ANNUAL RENEWAL OF SPIRITUOUS LIQUOR LICENSE

RC090683

RODOLFO CAMARENA JASO  
LAGO DE CHAPALA  
P O BOX 711  
AVONDALE AZ 85323

*Pending*

### LICENSES EXPIRE ON MARCH 31, 2009

RENEWALS MUST BE POSTMARKED NO LATER THAN THE EXPIRATION DATE.  
A \$150 PENALTY WILL BE CHARGED FOR LATE FILING.

**THE FEES ALLOWED UNDER A.R.S. § 44-6853 WILL BE CHARGED FOR ALL DISHONORED CHECKS.**

A. TYPE OF OWNERSHIP: **Section A must be completed even if there are no changes.** Please check 'New' box if applicable.

Corporation/L.L.C./Club: Attach additional sheet if necessary.

AZ Corporation Commission file number (if applicable): \_\_\_\_\_

New	Title	Last	First	Middle	Mailing Address	City	State	Zip
<input type="checkbox"/>								
<input type="checkbox"/>								
<input type="checkbox"/>								
<input type="checkbox"/>								
<input type="checkbox"/>								

Percentage of Ownership: **PERCENTAGE MUST EQUAL 100%.** Attach additional sheet if necessary.

New	Last	First	Middle	Mailing Address	City	State	Zip	Ownership
<input type="checkbox"/>								%
<input type="checkbox"/>								%
<input type="checkbox"/>								%
<input type="checkbox"/>								%

Partnership: Please indicate if General or Limited partner. **PERCENTAGE MUST EQUAL 100%.**

New	G / L	Last	First	Middle	Mailing Address	City	State	Zip	Ownership
<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>								%
<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>								%
<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>								%

RENEWLET 4/15/2009

G. Domestic Farm Winery/Domestic Microbrewery Annual Report (check report that applies below)

1.  Domestic Farm Winery Name: \_\_\_\_\_, Fiscal Year: July 1– June 30, \_\_\_\_\_  
 A.R.S. § 4-205.04(B) (Year)
- Domestic Microbrewery Name: 109 JUN 3 LIQ. LIC. #M11135, Calendar Year: Jan. 1– Dec. 31, \_\_\_\_\_  
 A.R.S. § 4-205.08(B) (Year)

2. Liquor License # \_\_\_\_\_

3. Name of Owner or Agent: \_\_\_\_\_  Owner  Agent

4. Physical Address Of Licensed Location: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
 Street Address City Zip Code

5.  Amount of Wine Manufactured (in gallons) During Reported Year: \_\_\_\_\_

Amount of Beer Manufactured (in gallons) During Reported Year: \_\_\_\_\_

I, \_\_\_\_\_ declare that I have read the aforementioned and the contents and  
(Print Name) statements are true, correct and complete.

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

State of \_\_\_\_\_ County of \_\_\_\_\_  
The foregoing instrument was acknowledged before me this

\_\_\_\_\_ day of \_\_\_\_\_,  
Day Month Year

\_\_\_\_\_  
(Signature of NOTARY PUBLIC)

The following is a list of licenses that are due for renewal, please review them carefully, and make any changes if necessary (changes in ownership or business location may require filing an application with this department):

-----  
 License# 12077416 Renew? Yes  No   
 Status: Surrendered Status Date: 2/10/2009  
 License Inactive?  Yes  No Changes: (may require additional Filing)  
 Agent: \_\_\_\_\_  
 Location: LAGO DE CHAPALA \_\_\_\_\_  
 701 E WESTERN AVE \_\_\_\_\_  
 AVONDALE, AZ 85323 \_\_\_\_\_  
 Business Phone: (623)932-4705 \_\_\_\_\_  
 % Of Revenue From Food Sales: \_\_\_\_\_

Renewal Fees:

License Renewal:	500.00
ARS 4-209 K Sur-Charge:	35.00
Audit Sur-Charge:	30.00
ARS 4-209 L Sur-Charge:	20.00
Total:	585.00

Your e-mail address: FTorres5265@yahoo.com

Your daytime contact telephone number: (818) 554-6937 or (623) 925-8751

Has the residential address of any owner, agent or controlling person on this license changed since the last application or renewal was filed at the Arizona Department of Liquor Licenses and Control?  No  Yes

If yes, please list the persons name and their new residential address:



**DEPARTMENTAL REVIEW FORM**

**TYPE OF LICENSE:**

- OFF TRACK BETTING
- LIQUOR LICENSE SERIES # 16
- EXTENSION OF PREMISES
- ACQUISITION OF CONTROL

**ROUTING:**

- POLICE DEPARTMENT
- DEVELOPMENT SERVICES
- FIRE DEPARTMENT
- FINANCE DEPARTMENT

**APPLICANT'S NAME:** FELIPE TORRES-JIMENEZ

**BUSINESS NAME:** EL TACO "T"

**ADDRESS:** 701 EAST WESTERN AVENUE

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

**DEPARTMENTAL COMMENTS:**

- APPROVED
- DENIED

*Brian Burns*

*6/29/09*

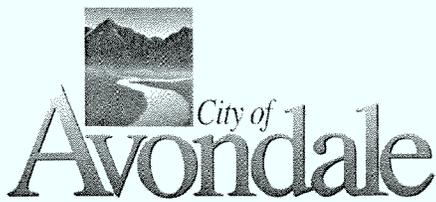
SIGNATURE

DATE

*DEVELOPMENT SERVICES DIRECTOR*

TITLE

**THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: JULY 20, 2009**  
**PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JULY 1, 2009**



## DEVELOPMENT SERVICES

### MEMORANDUM

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**DATE:** June 25, 2009

**TO:** Carmen Martinez, City Clerk

**PREPARED BY:** Eric Morgan, Planner II

**SUBJECT:** Series 16 (State Series 12) Restaurant Liquor License for El Taco "T"  
701 East Western Avenue

The site is located on the southeast corner of Western Avenue and 7<sup>th</sup> Street. The building is existing and is operating as a dine-in restaurant.

A Series 16 (State Series 12) liquor license is exempt from the 300 foot separation requirement from a church, school, or fenced school recreational area.

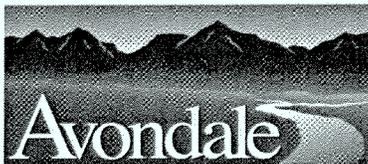
The General Plan designates the property as Mixed Use and the current zoning is Old Town Avondale Business (OTAB) District. A dine-in restaurant is a permitted use in OTAB zoning.

Staff recommends approval of this request.

Attachment: 2009 Aerial Photography  
Zoning Vicinity Map

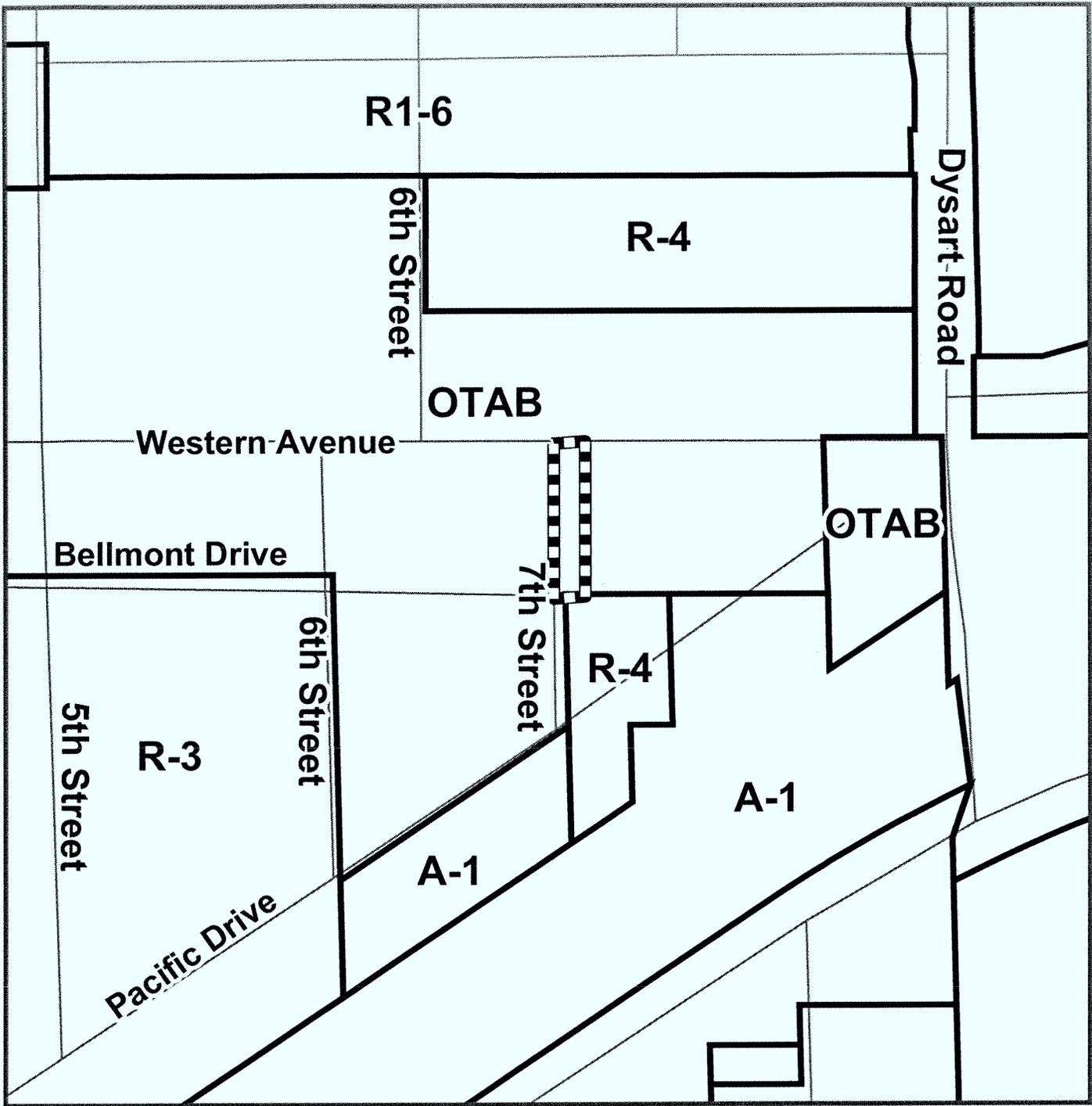


## 2009 Aerial Photograph

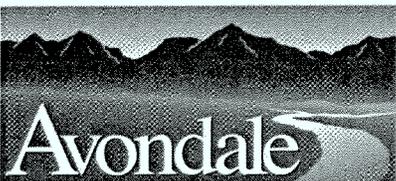


El Taco "T"

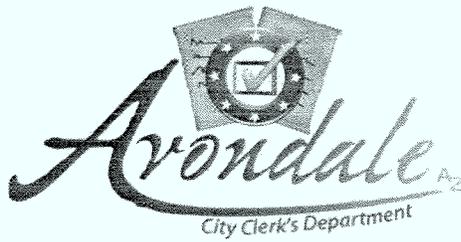




### Zoning Vicinity Map



El Taco "T"



**DEPARTMENTAL REVIEW FORM**

**TYPE OF LICENSE:**

- OFF TRACK BETTING
- LIQUOR LICENSE SERIES # 16
- EXTENSION OF PREMISES
- ACQUISITION OF CONTROL

**ROUTING:**

- POLICE DEPARTMENT
- DEVELOPMENT SERVICES
- FIRE DEPARTMENT
- FINANCE DEPARTMENT

**APPLICANT'S NAME:** FELIPE TORRES-JIMENEZ

**BUSINESS NAME:** EL TACO "T"

**ADDRESS:** 701 EAST WESTERN AVENUE

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

**DEPARTMENTAL COMMENTS:**

- APPROVED
- DENIED

Jessica B. de la  
SIGNATURE  
Privileged Tax Audit  
TITLE

6/24/09  
DATE

**THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: JULY 20, 2009**  
**PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JULY 1, 2009**



**DEPARTMENTAL REVIEW FORM**

**TYPE OF LICENSE:**

- OFF TRACK BETTING
- LIQUOR LICENSE SERIES # 16
- EXTENSION OF PREMISES
- ACQUISITION OF CONTROL

**ROUTING:**

- POLICE DEPARTMENT
- DEVELOPMENT SERVICES
- FIRE DEPARTMENT
- FINANCE DEPARTMENT

---

**APPLICANT'S NAME:** FELIPE TORRES-JIMENEZ

**BUSINESS NAME:** EL TACO "T"

**ADDRESS:** 701 EAST WESTERN AVENUE

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

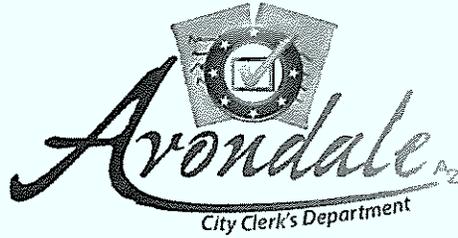
**DEPARTMENTAL COMMENTS:**

- APPROVED
- DENIED

  
\_\_\_\_\_  
SIGNATURE  
**FIRE INSPECTOR**  
\_\_\_\_\_  
TITLE

06/24/09  
DATE

**THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: JULY 20, 2009**  
**PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JULY 1, 2009**



**DEPARTMENTAL REVIEW FORM**

**TYPE OF LICENSE:**

- OFF TRACK BETTING
- LIQUOR LICENSE SERIES # 16
- EXTENSION OF PREMISES
- ACQUISITION OF CONTROL

**ROUTING:**

- POLICE DEPARTMENT
- DEVELOPMENT SERVICES
- FIRE DEPARTMENT
- FINANCE DEPARTMENT

**APPLICANT'S NAME:** FELIPE TORRES-JIMENEZ

**BUSINESS NAME:** EL TACO "T"

**ADDRESS:** 701 EAST WESTERN AVENUE

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

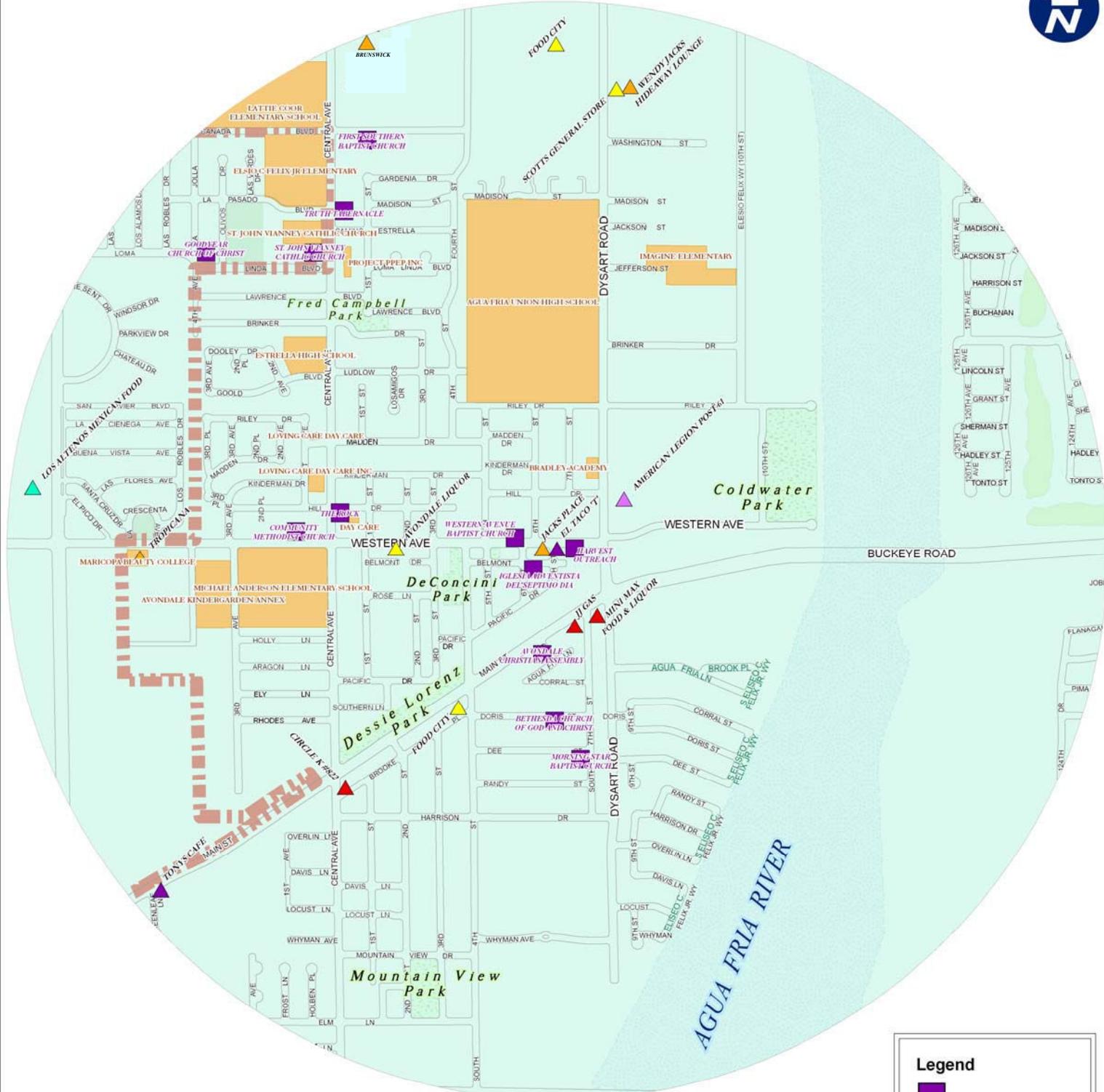
**DEPARTMENTAL COMMENTS:**

- APPROVED
- DENIED

*Lynne Park*  
SIGNATURE  
ASSISTANT POLICE CHIEF  
TITLE

062409  
DATE

**THIS LICENSE IS SCHEDULED FOR THE COUNCIL MEETING OF: JULY 20, 2009**  
**PLEASE RETURN YOUR COMMENTS TO THE CITY CLERK'S OFFICE BY: JULY 1, 2009**



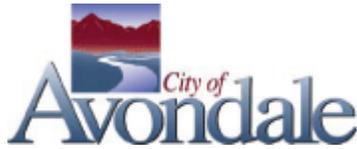
**Legend**

-  PLACE OF WORSHIP
- LIQUOR LICENSE**
-  SERIES 6
-  SERIES 7
-  SERIES 9
-  SERIES 10
-  SERIES 12
-  SERIES 14
-  SERIES 16
-  SCHOOLS

**EL TACO 'T'**  
**701 E Western Ave**  
**1 Mile Buffer**







# CITY COUNCIL REPORT

**SUBJECT:**  
Contributions Assistance Program Funding  
Recommendations

**MEETING DATE:**  
July 20, 2009

**TO:** Mayor and Council  
**FROM:** Gina Montes, Neighborhood and Family Services Director (623)333-2727  
**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

The purpose of this item is for City Council to consider the funding recommendations made by the City Council Subcommittee for the Contributions Assistance Program in the amount of \$50,000.

**BACKGROUND:**

The Contributions Assistance Program was allocated \$40,000 for FY 2009 - 2010. At the April 20, 2009 Council meeting a recommendation was made to increase this amount by \$10,000 for a total of \$50,000. Council appointed a subcommittee to review applications for funding and make recommendations to the full Council. Applications from agencies requesting funding were due on May 22, 2009. Program staff reviewed the applications and made recommendations to the Council Subcommittee at their meeting on June 9, 2009. Fourteen agencies submitted funding requests for a total amount of \$102,883.

**DISCUSSION:**

The Council Subcommittee members used the following criteria for recommending funding:

1. Applicants must provide direct services which improve the health and welfare of Avondale residents.
2. Applicants that received previous funding must be current in their reporting and have submitted timely and accurate quarterly reports.
3. Applicants must demonstrate the ability to generate revenue from other sources. Priority will be given to special projects, however, requests for operating support toward direct and measurable services will be considered. Administrative costs will not be eligible.
4. Priority will be given to services and initiatives that support and address City Council goals.

This criteria was not weighted and was used as a guide toward consensus decision making. Funding recommendations were based on a composite of staff's technical evaluation of a project and the selection by each Council Subcommittee member of the activities they believe best meet local community needs.

The following funding recommendations were made by the Council Subcommittee:

1. Boys and Girls Club - \$10,000
2. New Life - \$10,000
3. St. Mary's Food Bank - \$7,000
4. Southwest Lending Closet - \$5,000
5. Civitan - \$5,000
6. Teen Outreach Pregnancy Services (TOPS) - \$5,000

7. New Leaf - \$5,000

8. Southwest Valley Literacy -\$3,000

**BUDGETARY IMPACT:**

A total of \$50,000 was included in the 2009-10 budget for the Contributions Assistance Program.

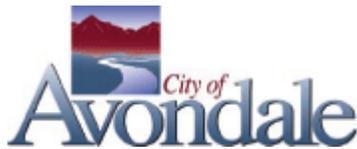
**RECOMMENDATION:**

Staff recommends that Council accept the Contributions Assistance Program funding recommendations made by the Council Subcommittee.

**ATTACHMENTS:**

[Click to download](#)

No Attachments Available



# CITY COUNCIL REPORT

**SUBJECT:**

Award a Construction Contract to ELS Construction, Inc. for the 99th Avenue and McDowell Road Lighting Improvements

**MEETING DATE:**

July 20, 2009

**TO:** Mayor and Council

**FROM:** Sue McDermott, P.E., City Engineer, 623-333-4211

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council award a construction contract to ELS Construction, Inc. for lighting improvements at the intersection of 99th Avenue and McDowell Road in the amount of \$180,240; authorize the transfer of \$180,240 from Street Fund Line Item No. 304-1089-00-8420, Van Buren-Bridge to Fairway to Street Fund Line Item No. 304-1163-00-8420, 99th Avenue at McDowell; and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

**BACKGROUND:**

The 2006-2007 Capital Improvement Plan (CIP) included a project to design an additional left-turn lane on 99th Avenue at McDowell Road. On February 20, 2007, Council approved a Professional Services Agreement with URS Corporation to provide design services for these improvements. It was determined that the 99th Avenue corridor would require wider medians which lent themselves more readily to landscaping. 99th Avenue and McDowell Road serves as a primary gateway into the City and therefore, staff proposed to incorporate a landscape component for this project. On January 9, 2008, the City contracted with A Dye Design, Inc. to provide landscape design services for 99th Avenue and incorporate additional landscaping along McDowell Road from 99th Avenue to 103rd Avenue. On April 20, 2009, Council approved a construction contract with ValleyCrest Landscape Development to install the landscaping. As part of the landscape improvements, a lighting component has been added which will light and enhance the landscape. The lighting and landscaping will beautify the City as well as provide a unique lighted gateway into the City at 99th Avenue and McDowell Road.

**DISCUSSION:**

The proposed landscape lighting improvements will illuminate the proposed 25 foot tall date palm trees, desert museum trees, and a variety of shrubs and plants along 99th Avenue from approximately 300 feet north of the I-10 Bridge to 500 feet north of the intersection. To provide consistency between 99th Avenue and McDowell Road, the enhanced landscaping along McDowell Road will be improved with lighting.

**SCOPE OF WORK:**

The scope of work for this project includes:

- Complete conduit system for lighting
- Trenching and backfilling for underground electrical system
- Landscape lighting including housing and base/foundation
- All other electrical equipment and services needed to complete a usable and operable facility in

accordance with all pertinent codes and regulations

**BID PROCESS:**

Requests-for-Bid notices were published in the West Valley View on June 16 and 23, 2009 and in the Arizona Business Gazette on June 18, 2009. The Engineering Department held a pre-bid meeting on June 25, 2009. Twelve (12) bids were received and opened on July 9, 2009. Each bid package was reviewed and all except three (3) bidders met the bidding requirements. The firms who met requirements and the amount of their bid are as follows:

<u>BIDDER</u>	<u>BID AMOUNT</u>	<u>M/DBE</u>
G.U.Y. Construction	\$190,243.14	No
Nickle Contracting, Inc.	\$199,762.20	No
Kimbrell Electric, Inc.	\$223,814.87	No
Goldstein & Luera	\$267,500.00	Yes
Sorensen Construction	\$254,516.79	No
B&F Contracting, Inc.	\$218,060.60	No
Arizona Traffic Signal	\$234,816.81	No
Rural Electric, Inc.	\$271,500.00	Yes
ELS Construction, Inc.	\$180,240.00	No

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

ELS Construction, Inc. with a bid of \$180,240 was determined to have submitted the lowest, responsive, and qualified bid. Staff was able to contact all three (3) required references who provided positive recommendations for the contractor. Staff believes ELS Construction, Inc. to be competent and qualified for this project. ELS Construction, Inc. has successfully completed similar work. Staff contacted the Registrar of Contractors and found no claims on file against this contractor.

The contract is on file with the City Clerk.

**SCHEDULE:**

A tentative construction schedule is as follows:

<u>PROJECT MILESTONES</u>	<u>TARGET DATES</u>
Issue Notice of Award	07/21/09
Issue Notice to Proceed	08/04/09
Pre-Construction Conference	08/11/09
Begin Construction	08/25/09
Completion	10/05/09

**BUDGETARY IMPACT:**

Funding in the amount of \$180,240 is available in Street Fund Line Item No. 304-1089-00-8420, Van Buren-Bridge to Fairway and will need to be transferred to Street Fund Line Item No. 304-1163-00-8420, 99<sup>th</sup> Avenue at McDowell Road.

**RECOMMENDATION:**

Staff recommends that the City Council award a construction contract to ELS Construction, Inc. for lighting improvements at the intersection of 99th Avenue and McDowell Road in the amount of \$180,240; authorize the transfer of \$180,240 from Street Fund Line Item No. 304-1089-00-8420, Van Buren-Bridge to Fairway to Street Fund Line Item No. 304-1163-00-8420, 99th Avenue at McDowell; and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

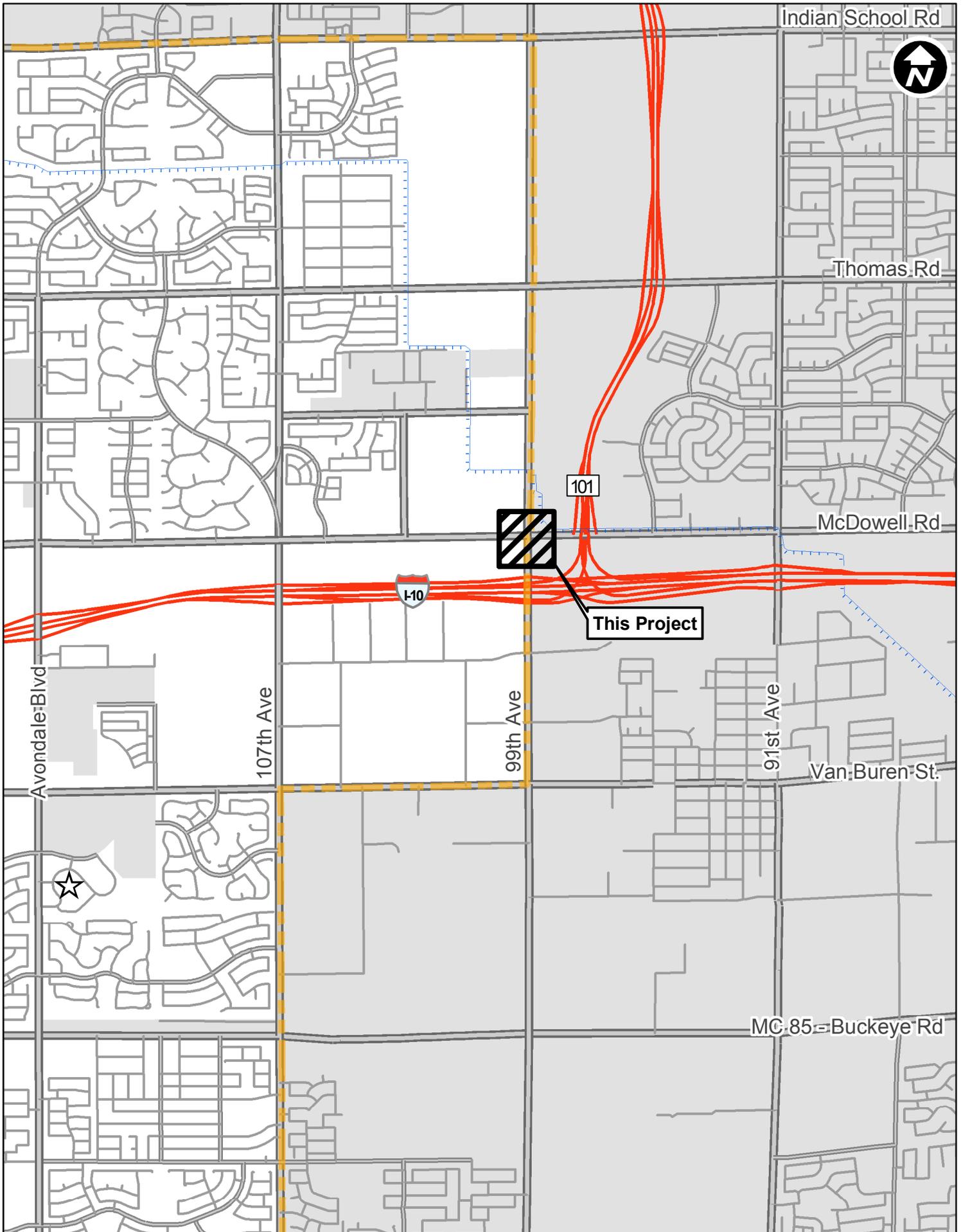
**ATTACHMENTS:**

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 [Vicinity Map](#)

 [Bid Tabulation Sheet](#)

# VICINITY MAP

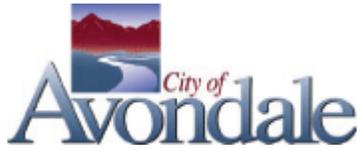


BID TABULATION  
**ST1163L 99th Ave McDowell Rd Lighting Improvements**  
 BID DATE: July 9, 2009

Item No.	Description of Materials and/or Services	Qty	Unit	Cissell Electric Inc.		G.U.Y. Construction, LLC		Nickle Contracting, LLC		Kimbrell Electric, inc.		Goldstein & Luera Construction, LLC		Sorensen Construction, Inc.	
				Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
107.01501	Community Relations (Allowance)	1	ALLOW	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00
107.04000	Miscellaneous Reimbursables (Allowance)	1	ALLOW	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00
108.01000	Construction Surveying & Layout	1	LS	\$ 950.00	\$ 950.00	\$ 750.00	\$ 750.00	\$ 5,500.00	\$ 5,500.00	\$ 3,074.00	\$ 3,074.00	\$ 2,476.42	\$ 2,476.42	\$ 1,468.33	\$ 1,468.33
108.01010	Preparation of As-Built Plans	1	LS	\$ 450.00	\$ 450.00	\$ 500.00	\$ 500.00	\$ 1,850.00	\$ 1,850.00	\$ 924.00	\$ 924.00	\$ 471.70	\$ 471.70	\$ 734.16	\$ 734.16
109.09000	Mobilization/Demobilization	1	LS	\$ 1,500.00	\$ 1,500.00	\$ 1,000.00	\$ 1,000.00	\$ 5,000.00	\$ 5,000.00	\$ 3,074.00	\$ 3,074.00	\$ 5,896.23	\$ 5,896.23	\$ 10,167.72	\$ 10,167.72
401.01000	Traffic Control	1	LS	\$ 9,000.00	\$ 9,000.00	\$ 5,000.00	\$ 5,000.00	\$ 7,530.00	\$ 7,530.00	\$ 11,074.00	\$ 11,074.00	\$ 4,716.98	\$ 4,716.98	\$ 2,916.10	\$ 2,916.10
401.01001	Police Officer (Allowance)	1	ALLOW	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00
471.55001	Furnish and Install All 70W MH Palm Tree Lights Complete and In Place Including Three (3) Additional Colored Lenses. Lens Colors to be Determined by the City of Avondale.	72	EA	794.0000	\$ 57,168.00	\$ 725.00	\$ 52,200.00	\$ 615.00	\$ 44,280.00	\$ 774.81	\$ 55,786.32	\$ 972.88	\$ 70,047.17	\$ 1,029.32	\$ 74,111.04
471.55002	Furnish and Install All 35W MH Shade Tree Lights Complete and In Place Including Three (3) Additional Colored Lenses. Lens Colors to be Determined by the City of Avondale.	100	EA	\$ 794.00	\$ 79,400.00	\$ 725.00	\$ 72,500.00	\$ 615.00	\$ 61,500.00	\$ 774.81	\$ 77,481.00	\$ 972.88	\$ 97,287.74	\$ 939.48	\$ 93,948.00
471.55003	Furnish and Install All Conduit and Conductors Complete and In Place Including Trenching and Backfill	1	LS	\$ 23,929.37	\$ 23,929.37	\$ 16,000.00	\$ 16,000.00	\$ 33,500.00	\$ 33,500.00	\$ 28,292.00	\$ 28,292.00	\$ 41,273.58	\$ 41,273.58	\$ 39,171.44	\$ 39,171.44
	Bonds				\$ 10,804.44										
	SUBTOTAL				\$ 215,201.81		\$ 179,950.00		\$ 191,160.00		\$ 211,705.32		\$ 254,169.82		\$ 254,516.79
	TAX						12,309.54		8,602.20		12,109.55		13,330.19		
	<b>TOTAL SUBMITTED BY BIDDER</b>				\$ 215,201.81		\$ 192,259.54		\$ 199,762.20		\$ 223,814.87		\$ 267,500.00		\$ 254,516.79
	Bid Bond Attached?					Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Contractor License Attached?					No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Is Contract Properly Signed?					Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Business License Attached?					No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	References Attached?					Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Addendum #1 Attached					Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Exceptions to Specifications?					No	No	No	No	No	No	No	No	No	No

BID TABULATION  
 ST1163L 99th Ave McDowell Rd Lighting Improvements  
 BID DATE: July 9, 2009

Item No.	Description of Materials and/or Services	Qty	Unit	B & F Contracting, Inc.		Arizona Traffic Signal		Utility Construction Co.		ELS Construction Inc.		Rural Electric, Inc.		Chapman Electrical Cont.	
				Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
107.01501	Community Relations (Allowance)	1	ALLOW	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00
107.04000	Miscellaneous Reimbursables (Allowance)	1	ALLOW	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00
108.01000	Construction Surveying & Layout	1	LS	\$ 2,832.00	\$ 2,832.00	\$ 1,450.00	\$ 1,450.00	\$ 1,000.00	\$ 1,000.00	\$ 3,675.00	\$ 3,675.00	\$ 1,875.00	\$ 1,875.00	\$ 12,000.00	\$ 12,000.00
108.01010	Preparation of As-Built Plans	1	LS	\$ 500.00	\$ 500.00	\$ 1,000.00	\$ 1,000.00	\$ 500.00	\$ 500.00	\$ 765.00	\$ 765.00	\$ 625.00	\$ 625.00	\$ 5,000.00	\$ 5,000.00
109.09000	Mobilization/Demobilization	1	LS	\$ 1,000.00	\$ 1,000.00	\$ 1,300.00	\$ 1,300.00	\$ 20,000.00	\$ 20,000.00	\$ 2,955.00	\$ 2,955.00	\$ 30,000.00	\$ 30,000.00	\$ 15,000.00	\$ 15,000.00
401.01000	Traffic Control	1	LS	\$ 4,110.00	\$ 4,110.00	\$ 10,000.00	\$ 10,000.00	\$ 7,500.00	\$ 7,500.00	\$ 5,855.00	\$ 5,855.00	\$ 11,500.00	\$ 11,500.00	\$ 13,000.00	\$ 13,000.00
401.01001	Police Officer (Allowance)	1	ALLOW	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00
471.55001	Furnish and Install All 70W MH Palm Tree Lights Complete and In Place Including Three (3) Additional Colored Lenses. Lens Colors to be Determined by the City of Avondale.	72	EA	\$ 714.00	\$ 51,408.00	\$ 880.00	\$ 63,360.00	\$ 950.00	\$ 68,400.00	\$ 660.00	\$ 47,520.00	\$ 900.00	\$ 64,800.00	\$ 1,011.00	\$ 72,792.00
471.55002	Furnish and Install All 35W MH Shade Tree Lights Complete and In Place Including Three (3) Additional Colored Lenses. Lens Colors to be Determined by the City of Avondale.	100	EA	\$ 714.00	\$ 71,400.00	\$ 870.00	\$ 87,000.00	\$ 900.00	\$ 90,000.00	\$ 660.00	\$ 66,000.00	\$ 900.00	\$ 90,000.00	\$ 1,011.00	\$ 101,100.00
471.55003	Furnish and Install All Conduit and Conductors Complete and In Place Including Trenching and Backfill	1	LS	\$ 43,191.00	\$ 43,191.00	\$ 26,002.00	\$ 26,002.00	\$ 29,000.00	\$ 29,000.00	\$ 11,718.08	\$ 11,718.08	\$ 40,700.00	\$ 40,700.00	\$ 231,108.00	\$ 231,108.00
	Bonds														
					\$ 206,441.00		\$ 222,112.00		\$ 248,400.00		\$ 170,488.08		\$ 271,500.00		\$ 482,000.00
	TAX				11,619.60		12,704.81		14,208.48		9,751.92				
	<b>TOTAL SUBMITTED BY BIDDER</b>				\$ 218,060.60		\$ 234,816.81		\$ 262,608.48		\$ 180,240.00		\$ 271,500.00		\$ 482,000.00
	Bid Bond Attached?				Yes		Yes		Yes		Yes		Yes		No
	Contractor License Attached?				Yes		Yes		No		Yes		Yes		Yes
	Is Contract Properly Signed?				Yes		Yes		Yes		Yes		Yes		Yes
	Business License Attached?				Yes		Yes		Yes		Yes		Yes		Yes
	References Attached?				Yes		Yes		Yes		Yes		Yes		Yes
	Addendum #1 Attached				Yes		Yes		Yes		Yes		Yes		No
	Exceptions to Specifications?				No		No		No		No		No		No



# CITY COUNCIL REPORT

**SUBJECT:**

Professional Services Agreement - Malcolm Pirnie,  
Inc.-Water Master Plan

**MEETING DATE:**

July 20, 2009

**TO:** Mayor and Council

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

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council approve a Professional Services Agreement with Malcolm Pirnie, Inc. for the preparation of a new Water Master Plan in the amount of \$579,078, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**BACKGROUND:**

The City's present Water Master Plan is approximately 7 years old, and should be updated. This update is also needed due to water quality issues, changing population growth patterns, and the need to update the 5-year Capital Improvement Program for the upcoming Water Rate Study.

**DISCUSSION:**

The last complete update of the Water Resources Water Master Plan was completed in 2002. Considerable construction work has been done in the City since that time based on this study. As the City has developed to the south, water quality has been found to deteriorate with the potential to require expensive treatment to meet standards. This Master Plan update will reexamine the water resources available to the City, analyze the department's ability to provide an adequate water supply, and make recommendations as to how to economically provide water for the City as it expands towards build out. One product of this study will be a new 5-year Capital Improvement Program, which will be used by the City Finance Department in their upcoming Water Rate Study.

**BUDGETARY IMPACT:**

Funding is currently available in account 501-9110-00-6180.

**RECOMMENDATION:**

Staff recommends that the City Council approve a Professional Services Agreement with Malcolm Pirnie, Inc. for the preparation of a new Water Master Plan in the amount of \$579,078, and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**ATTACHMENTS:**

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[PSA](#)

**PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE CITY OF AVONDALE  
AND  
MALCOLM PIRNIE, INC.**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made as of July 20, 2009, between the City of Avondale, an Arizona municipal corporation (the "City") and Malcolm Pirnie, Inc., a New York corporation (the "Consultant").

RECITALS

A. The City issued a Request for Qualifications, WR-09-052 "Water Resource Master Plan" (the "RFQ"), attached hereto as Exhibit A, and incorporated herein by reference, seeking statements of qualifications (the "SOQ") from vendors for professional consulting services to update the City's Water Resource Master Plan.

B. The Consultant submitted an SOQ in response to the RFQ, attached hereto as Exhibit B and incorporated herein by reference, and the City desires to enter into an Agreement with the Consultant to update the Water Resource Master Plan (the "Services").

AGREEMENT

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

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until March 31, 2010.

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

3. Compensation. The City shall pay Consultant a price not to exceed \$579,078.00 for the Services as set forth in the Fee Proposal, attached hereto as Exhibit D 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 prevailing 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) arise out of, or are caused by the negligent acts, errors or omissions or intentional misconduct, 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. Neither party shall be liable for consequential, indirect or special damages.

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 authorized to do business in the State of Arizona pursuant to ARIZ. REV. STAT. § 20-206, as amended, 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. 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.

g. 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.

h. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Consultant shall execute written agreements with its subcontractors 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 any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

i. 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 coverages, 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 completion of the Services 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 by referencing the RFQ number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFQ number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFQ number and title or a reference to this Agreement, as applicable, 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 annual aggregate. In the event the Professional Liability insurance policy is written on a “claims made” basis, coverage shall extend for two 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 change 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.

13.6 Agreement Subject to Appropriation. The provisions of this Agreement for payment of funds by the City shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. The City shall be the sole judge and authority in determining the availability of funds under this Agreement and the City shall keep the Consultant fully informed as to the availability of funds for the Agreement. The obligation of the City to make any payment pursuant to this Agreement is a current expense of the City, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the City. If the City Council fails to appropriate money sufficient to pay the amounts as set forth in this Agreement during any immediately succeeding fiscal year, this Agreement shall terminate at the end of then-current fiscal year and the City and the Consultant shall be relieved of any subsequent obligation under this Agreement.

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:               Malcolm Pirnie, Inc.  
4646 East Van Buren Street, #400  
Phoenix, Arizona 85008-6945  
Facsimile: (602) 231-0131  
Attn: Jim Albu, Vice President

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 subsection. 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 Records and Audit Rights. Consultant's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Consultant and its subcontractors' employees who perform any work or Services pursuant to this Agreement to ensure that the Consultant and its subcontractors are complying with the warranty under subsection 14.17 below (all the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City, to the extent necessary to adequately permit (a) evaluation and verification of any invoices, payments or claims based on Consultant's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (b) evaluation of the Consultant's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 14.17 below. To the extent necessary for the City to audit Records as set forth in this subsection, Consultant and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the City to Consultant pursuant to this Agreement. Consultant and its subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this subsection. The City shall give Consultant or its subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

14.17 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Consultant and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Consultant's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

14.18 Scrutinized Business Operations. Pursuant to ARIZ. REV. STAT. §§ 35-391.06 and 35-393.06, the Consultant certifies that it does not have scrutinized business operations in Sudan or Iran. For the purpose of this subsection the term “scrutinized business operations” shall have the meanings set forth in ARIZ. REV. STAT. § 35-391 or 35-393, as applicable. If the City determines that the Consultant submitted a false certification, the City may impose remedies as provided by law including terminating this Agreement pursuant to subsection 13.2 above.

14.19 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 SOQ, the documents shall govern in the order listed herein.

14.20 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the City. 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, City Clerk

**“Consultant”**

MALCOLM PIRNIE, INC.,  
a New York corporation

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

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

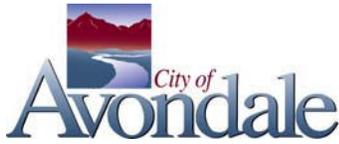
Its:\_\_\_\_\_



EXHIBIT A  
TO  
PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE CITY OF AVONDALE  
AND  
MALCOLM PIRNIE, INC.

[RFQ]

See following pages.



**REQUEST FOR  
STATEMENTS OF QUALIFICATIONS  
FOR  
WATER RESOURCE MASTER PLAN**

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

**SOLICITATION INFORMATION AND SELECTION SCHEDULE**

Solicitation Number: **WR 09-052**

Solicitation Title: **Water Resource Master Plan**

Release Date: **March 26, 2009**

**NON-MANDATORY**

Pre-Submittal Conference: **April 22, 2009**  
**1:30 p.m.** (local time, Phoenix, Arizona)  
Avondale Civic Center  
City Council Chambers  
11465 West Civic Center Drive  
Avondale, Arizona 85323

Final Date for Inquiries **April 27, 2009**

SOQ Deadline: **April 30, 2009**  
**3:00 p.m.** (local time, Phoenix, Arizona)

Letters to Final Listed Vendors: **May 7, 2009**

Oral Discussions: **May 20, 2009**

Target City Council Award Date: **July 20, 2009**

City Representatives: **Mike Smith** **msmith@avondale.org**  
**623-333-4450**  
**Pilar Morales** **pmorales@avondale.org**  
**623-333-2026**

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

EXHIBIT B  
TO  
PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE CITY OF AVONDALE  
AND  
MALCOLM PIRNIE, INC.

[Consultant's SOQ]

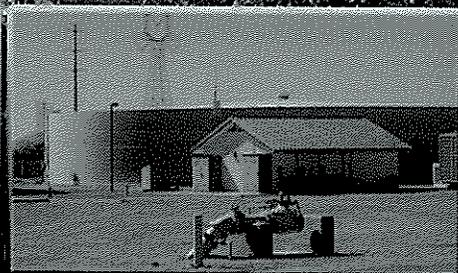
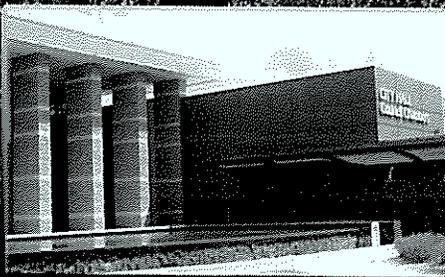
See following pages.



## Statement of Qualifications

# Water Resource Master Plan

WR 09-052



April 2009  
A086409

INDEPENDENT ENVIRONMENTAL ENGINEERS, SCIENTISTS AND CONSULTANTS

**MALCOLM  
PIRNIÉ**

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

EXHIBIT C  
TO  
PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE CITY OF AVONDALE  
AND  
MALCOLM PIRNIE, INC.

[Scope of Work]

See following pages.

**WATER RESOURCE MASTER PLAN PROJECT  
(WR 09-052)**

**SCOPE OF WORK  
(July 5, 2009)**

**INTRODUCTION**

The City last updated its Water Resource Plan and Water Infrastructure Plan in 2002. A Utility Systems Evaluation was completed in 2005, which further analyzed the City's existing water and wastewater demands, developed unit rates for existing and future development and provided an updated Capital Improvement Plan ("CIP") to meet the anticipated growth in the City. A model of the City's water infrastructure in H2OMAP has been updated and is available to better analyze and evaluate water supply options. Additional studies have also been completed that looked at potential alternate water supplies, including wells only, the purchase of treated water from different sources, reverse osmosis treatment of well supplies, and the development of a surface water treatment plant.

Based on these previous studies, the City has been developing wells and regional supply facilities. The City is also currently expanding and upgrading its Water Reclamation Facility and constructing a pipeline to discharge effluent to the City's Recharge Facility. As the City develops to the south, the water quality of well supplies has been found to be of lower quality, potentially requiring treatment. As the City is currently experiencing a period of slower growth, this is an opportune time to reexamine the direction the City should go to provide water for its current and future residents.

The purpose of this Water Resource Master Plan project is to update the Water Resource Plan and Water Infrastructure Plan to incorporate changes in development and land use planning and CIP achievements since 2002, and to recommend how best to utilize the City's water resources to provide an adequate water supply and good quality water for current and future citizens.

## GENERAL PROJECT MANAGEMENT

1. The Consultant shall prepare agendas for and hold monthly project status meetings, or as required by the City. Written minutes documenting discussion items, items of concern, and action items shall be prepared by the consultant and submitted to the City within five (5) working days after the project status meeting. **This scope of work assumes an eight month project schedule, that half of the project status meetings will be held at the City's offices, and that half of the meetings will be by telephone or held at the consultant's offices.**
2. The consultant shall monitor the progress of the project from a schedule and budget perspective and submit to the City a monthly report indicating work progress versus the planned schedule and expenditures versus the planned budget by task.
3. The consultant shall make milestone deliverable presentations to the City upon completion of technical memoranda documenting the findings and conclusions of the work performed. One of these milestone presentations will be held by the end of January 2010 and will cover recommended CIP information that is required for the rate study being done for the City.

Note: the types of geographically referenced information that will be either provided to the consultant by the City during this project or developed as part of this project will be determined through discussion with the City. All geographically referenced data developed as part of this project will be the property of the City of Avondale and will be in an identical coordinate system to ensure that all data overlays correctly.

## **WATER RESOURCE MASTER PLAN**

The consultant shall complete each of the study phases identified below. At the end of each phase, the consultant shall prepare and submit a technical memorandum and a PowerPoint presentation summarizing the results, findings and conclusions of the work completed. The consultant shall present the summary at a scheduled workshop, and receive City comments on the technical memorandum. The consultant shall incorporate City comments on the technical memorandum into the Draft Final Report. The workshops will be up to four hours in length and will include the technical memorandum presentation, as well as discussion and receipt of City guidance on subsequent scope phases.

### **Phase 1- Background Information and Base Data**

**1.1 Applicable Laws, Regulations & Permits:** Consultant shall briefly describe the laws, rules and regulations listed below with special emphasis given on how these laws apply to the City of Avondale.

- A. 1980 Arizona Groundwater Management Act, amendments, Third Management Plan, and any requirements that are being considered in the Fourth Management Plan.
- B. 1995 Assured Water Supply Rules and amendments
- C. Water Exchanges
- D. Central Arizona Groundwater Replenishment District
- E. Water Transfer Legislation
- F. Underground Water Storage and Replenishment
- G. 1986 Safe Drinking Water Act and its amendments that will effect the treatment of surface water supplies and the continued use of groundwater supplies
- H. Other

The consultant shall make maximum use of studies and reports recently completed for the City and update the information as necessary.

**1.2 Background Information:** Consultant shall briefly describe historical information on Avondale's water system that should include a discussion on at least the following:

- A. Avondale's Assured Water Supply application and designation
- B. Central Arizona Groundwater Replenishment District membership
- C. Salt River Project and Central Arizona Project service areas
- D. Recovery well permits for its service area wells.
- E. Recent water resource accomplishments such as addition of recovery wells and submittal of an application for re-designation of assured water supply, and the construction of the City reclaimed water line.

**This scope of work assumes that the City has compiled a substantial amount of the above information as part of its application for Redesignation of Assured**

**Water Supply and that this information will be provided to the consultant.** The consultant shall describe and document its findings from Items 1.1 and 1.2 and compile all sources of information collected by the consultant, including information provided by the City into a bibliography.

- 1.3 Water Supply and Infrastructure:** Consultant shall review the City's existing (2008) Water Resources Inventory and provide an analysis for the issues associated with the quality, quantity, reliability and/or effectiveness of the following:
- A. Central Arizona Project (CAP)
  - B. Salt River Project (SRP)
  - C. Review drought history on the SRP and CAP systems and develop recommendations on levels of drought to plan for.
  - D. Groundwater supplies: groundwater should include volume and quality of water in aquifer storage, assessment of groundwater allowances, and potential irrigation rights extinguishment pursuant to ADWR Assured Water Supply rules
  - E. Reclaimed water supplies: treated wastewater effluent, tailwater, irrigation wells

The consultant shall also review and summarize the water resources infrastructure for producing and delivering the City's water supply. The consultant shall identify current and planned capacities, ownership status (leased, purchased, etc.), and any issues associated with future use of the infrastructure (e.g., recharge and conveyance piping capacities, etc.).

- 1.4 Water Conservation:** The consultant shall briefly describe the City's existing water conservation requirement (i.e., Total GPCD program under ADWR's Municipal Conservation Program) and alternatives to that program. The consultant shall report on the City's compliance status, summarize the City's existing program, and provide an overview of the City's plans for additional water conservation program elements. **This scope of work assumes that the City has recently determined their compliance status with ADWR and that relevant information from the determination shall be provided to the consultant.**

- 1.5 Hydrogeologic Study:** The consultant shall review available hydrogeologic information, included the pilot studies completed in 2002, exploratory drilling studies, other previous studies for new production wells and groundwater treatment, and data regarding existing potable and agricultural wells.
- A. Consultant shall summarize the review results, including updated groundwater level maps, geologic cross-sections, groundwater quality and aquifer quantity predications.
  - B. The consultant shall identify and assess existing groundwater production wells as potential candidates for rehabilitation and/or redrilling, constructing distribution facilities or blending, and well pumping and operational modifications to improve the quality of water produced and

- reducing the cost of treatment (i.e. reducing TDS, nitrates, arsenic, DBCP, etc.).
- C. The consultant shall include a discussion of the various non-treatment methods, their history of success, and their potential applicability to Avondale.
  - D. The consultant shall also include recommendations on the viability of future groundwater supply wells for incorporation into the City's distribution system.

## **Phase 2 – Water Demand**

- 2.1 Historical Water Demand:** Consultant shall review population, land use, and water production and water billing records since 2005 and, together with existing demand information from the 2002 and 2005 water master plan studies, develop a record of historical water use patterns, including monthly demands, average annual demands, non-revenue water (lost and unaccounted for water) and maximum day per month water demands. The review shall also identify per capita residential and per acre non-residential water demand factors (gpcd, gpd/DU, gpad, etc.) for comparison against demand factors used in the previous master plans, and recommend demand factors for use in this study.
  
- 2.2 Water Demand Projections:** Consultant shall research and identify the City's current and future water demands. The City shall provide the consultant an updated General Land Use Plan in GIS which includes all areas within the City's Municipal Planning Area (MPA), including areas south of the Estrella Mountains. The land use map will serve as the basis for projecting water demands and for inputting spatially allocated demands into the City's water system hydraulic model. **This scope of work assumes that the demand projections task will be similar to the 2005 master plan effort and based on a single land use plan and demand factors identified above. This method will allow only limited, whole scale changes to potable water demand planning parameters. Task 2 of the Special Studies scope of work provides for services to develop a more dynamic demand projection tool that allows detailed changes to planning parameters and to simultaneously develop potable water, wastewater flows, reclaimed water availability, and reclaimed water demand at will:**
  - A. Demand projections will be developed for the entire MPA, including areas south of the Estrella Mountains, the Phoenix International Raceway (PIR), and private water company service areas (excluding LIPSCO). The planning area for the Water Resources Master Plan will be, however, the area north of the Estrella Mountains, including PIR and private water company service areas (excluding LIPSCO).
  - B. The consultant shall prepare a projection for build-out conditions in the areas south of the Estrella Mountains and a brief discussion of the potential water demand for the area. The projection and discussion will be for City reference only. The projections will not be considered further in identifying water supply or water infrastructure for the area. However, the

discussions of future water supply alternatives (Task3.2) will indicate that additional future water supplies could fulfill the needs of the areas south of PIR.

- C. The consultant shall utilize population projections provided by the City for each planning period in order to estimate water demand in the increments identified below. Also, identify a “buildout” population within the MPA. Work with City staff to identify population projections and land use plans for the undeveloped portions in the MPA and compare the City’s population estimates to the Maricopa Association of Governments (MAG) population projections.
- D. Summarize current and future water demands based upon population projections for the planning horizons identified below. Summarize current and future water demands based upon existing and projected land use designations and compare to population based demand.
  - a. 2010
  - b. 2015
  - c. 2020
  - d. 2030
  - e. Projected build-out (approximately 2040)
- E. Summarize current and future water demand data within four water planning zones for each planning horizon. The water planning zones are:
  - a. On-Project developed (include and show non-member lands)
  - b. On-Project agricultural and undeveloped (include and show non-member lands)
  - c. Off-Project developed
  - d. Off-Project agricultural and undeveloped
- F. Summarize water demand data by land use categories in the City’s General Land Use plan, such as:
  - a. Residential
  - b. Turf
  - c. Non-residential
  - d. Agricultural
  - e. Industrial

The data developed for this effort will be based upon the GIS desktop platform ArcView (and ArcInfo if necessary) and Microsoft Access database. Some minor digitizing may be necessary to identify each of the boundaries discussed above.

### **Phase 3 - Analysis of Base Data**

- 3.1 Water Demand & Supply Comparison:** Consultant shall conduct an analysis of the projected water demands determined in Phase 2 and compare them with current water supplies. This comparison must include maintaining the Assured Water Supply Designation and separate the hydrologic supply of water versus the legal supply of water while considering the following:

- A. Compare water supplies to the projected demands for each planning horizon. This analysis shall include:
  - a. Normal hydrologic year
  - b. Dry or drought hydrologic year: e.g., 10% & 20%, 30% (and/or maximum drought generally accepted for planning) reductions in surface water supplies. This should be done for the SRP system only, the Colorado system only, and both the SRP system and the Colorado system together.
- B. Identify and discuss other factors that may affect the water supply:
  - a. Physical availability of groundwater (Impact of Assured Water Supply rules)
  - b. Decreased groundwater quality
- C. Recovery well permits for the City's service area wells

**3.2 Future Water Supply Opportunities:** Consultant shall identify and discuss potential new supply alternatives to fill supply gaps identified and/or to provide recommended supply reserves, considering the following at a minimum. Each of these alternatives should include a comparison of cost/acre-foot, resource reliability, availability and timing. The consultant shall also identify the legal and water resource issues necessary for possible development of additional water supplies. This discussion shall include expected impacts on regulatory mandates on water treatment processes and capacities; infrastructure additions or modifications; and existing CIP budgets.

- A. Identify potential additional water supplies such as:
  - a. Reallocation of CAP M & I water
  - b. Non-Indian agricultural CAP water
  - c. Indian lease/settlement water
  - d. Other M & I CAP supplies
  - e. Roosevelt Irrigation District groundwater and surface water,
  - f. Remediated groundwater
  - g. 23<sup>rd</sup> Avenue WWTP effluent
  - h. other surface or groundwater sources
- B. Underground Storage and Recovery. Discuss how this option may be used as a temporary or permanent solution in-lieu of constructing surface water treatment plants. Discuss available sources of water, locations to recharge and issues related to the recovery of the water. Possible sources of water may include;
  - a. Avondale's existing CAP supplies & other surface water sources.
  - b. Effluent reuse from wastewater treatment plants (existing and future facilities)

**This scope of work assumes that the City will provide the consultant a record of water (raw water and reclaimed water) recharged at the City's various recharge facilities (owned and leased) since 2004, as well as projected recharge volumes out to 2025.**

- C. Central Arizona Groundwater Replenishment District

- a. Evaluate costs associated with this option as a long-term supply and impacts/limitations of physical availability.
- b. Evaluate the possibility of direct delivery membership
- D. Water Conservation Program. Briefly discuss the possible impacts on the water supply with a conservation program fully implemented. **This scope of work assumes that the City will provide the consultant information on the existing conservation program, recent additions to the program, and compliance determination documentation with ADWR.**
- E. Firming of SRP and CAP supplies during drought periods. Review AWBA activities and planned actions during droughts to help communities. Recommend how much of an emergency supply the City should plan for anticipated drought conditions outlined above: i.e., identify emergency volume and duration (through long term storage credits) that the City should plan for to firm anticipated SRP and CAP shortages during drought.
- F. Options for Reuse of Reclaimed Water. Discuss briefly how reclaimed water may be developed for use. This analysis shall be based on the 2005 water reuse study conducted for the City. The consultant shall review the study and summarize the study recommendations and indicate how the study recommendations will be handled in the Water Resources Master Plan.
- G. Options for surface water treatment. Discuss briefly how surface water treatment can be implemented and conceptually identify siting, water quality and treatment requirements, infrastructure requirements, and costs.

#### **Phase 4 – Water Supply Alternatives & Recommendations**

**4.1 Water Supply Alternatives:** The consultant shall facilitate a workshop with City management and operations staff to identify water supply alternatives to be evaluated. The alternative plans could include:

- A. Continuation of the development of wells for supply (including potential future recovery development around the recharge facility)
- B. Blending of various water supplies
- C. Wellhead treatment
- D. Rehabilitation and/or re-drilling of existing wells
- E. Surface water treatment plant
- F. Combinations of the above

The consultant shall develop recommendations on up to five (5) primary alternatives for evaluation. The primary alternatives can involve sub-options to capture significant City concerns related to water supply system challenges, including water quality, operational complexity, available capacities, etc. The consultant shall also facilitate a discussion to identify the most important decision criteria that will be used to characterize and compare the water supply alternatives.

- 4.2 Alternatives Evaluations:** The consultant shall analyze and summarize water supply alternatives. This subtask will include use of the water system model developed in Phase 2 of the Water Infrastructure Master Plan to conceptually identify infrastructure requirements. **This scope of work assumes that only generalizations will be made with regards to groundwater movement resulting from recharge and recovery strategies, potential contaminant plume behaviors, etc. If the City chooses to develop a groundwater model, the consultant shall use the model to determine the hydrogeologic benefits of each water supply alternative. The additional evaluations that can be conducted with a groundwater model are described in the Special Studies scope of work, Task 1.**
- A. The consultant shall consider life cycle costs for treatment, energy and infrastructure required for water delivery, as well as timing and need for resources.
  - B. The consultant shall also characterize the advantages and disadvantages of each alternative according to the decision criteria.
  - C. The consultant shall facilitate a workshop with City staff to prioritize decision criteria and to develop a priority ranking of alternatives. The results of this workshop will be development of a consensus on the most preferred future water supply alternative.
  - D. The consultant shall collaborate with City staff to develop a matrix presentation of alternatives that clearly defines the attributes of each alternative and that can be used at City Council briefings to provide justification for the selected water supply alternative.
- 4.3 Recommendations:** Based on the analysis conducted in Phases 1 through 3, the consultant shall develop a series of recommendations to address, at a minimum, maintenance of Avondale’s Assured Water Supply designation and maintenance of an adequate, secure, reliable water supply in the future. Discuss the results and provide an analysis and recommendations for the first planning period which will be specific while recommendations for the following and “build-out” planning periods may be general and conceptual.
- 4.4 Deliverables**
- A. The consultant shall prepare and submit a draft outline of the Water Resource Master Plan for the approval of the City. Following outline approval, the consultant shall prepare and submit an electronic copy (CD and PDF, index tabbed for easy use) of the Draft Water Resource Master Plan to the City for its review and approval which incorporates technical memoranda and summarizing findings and conclusions of each phase.
  - B. The consultant shall incorporate comments from the City on the Draft Plan. Following the approval of the Draft Water Resource Master Plan by the City, the consultant shall prepare seven (7) copies of the Final Water Resource Master Plan. An electronic version (CD and PDF, index tabbed for easy use) shall also be submitted to the City. The electronic version shall included an Executive Summary.

- C. Maps and tables: data analysis and recommendations from this study shall be provided in map and tabular form. Maps shall be provided in hard copy and electronic copy. Electronic copies of maps and data shall be compatible with ESRI's Geographic Information System (GIS) ArcInfo/ArcView and Microsoft's ACCESS database. The coordinate system for the GIS layers shall be in Arizona State Plan Central- NAD83.

**4.5 Final Presentations:** The consultant shall assist City staff in presenting the conclusions of the **Final Water Resource Master Plan and the Water Infrastructure Master Plan** at no more than two (2) meetings (one for City executive staff and one for the Avondale City Council at a City Council meeting).

## **WATER INFRASTRUCTURE MASTER PLAN**

The consultant shall complete each of the study phases identified below. At the end of each phase, the consultant shall prepare and submit a technical memorandum and a PowerPoint presentation summarizing the results, findings and conclusions of the work completed. The consultant shall present the summary at a scheduled workshop, and receive City comments on the technical memorandum. The consultant shall incorporate City comments on the technical memorandum into the Draft Final Report.

### **Phase 1 - Background Information and Base Data**

- 1.1 Applicable Laws & Regulations:** The consultant shall research current regulations which affect treatment and delivery of the City's potable water including:
- A. The Safe Drinking Water Act, including new Groundwater Rule
  - B. Fire Protection Standards (including applicability of standards with intended building uses)
  - C. Arizona Department of Environmental Quality Regulations
  - D. Arizona Department of Water Resources Regulations
- 1.2 Background Information:** The consultant shall review existing reports, city ordinances, development agreements, intergovernmental agreements, operational and maintenance manuals, plan, records, flow data, water use, and other data relating to the treatment and delivery of water. The City will provide copies of all existing and available background documents including:
- A. Avondale's 2002 Water Resource Master Plan
  - B. Avondale's 2002 Water Infrastructure Master Plan
  - C. Water system Infrastructure Study for the PIR and Area South of the Gila River
  - D. Avondale Surface Water Treatment Investigation, November 2004
  - E. Wastewater Collection System Master Plan & Utility Systems Evaluation, August 2005
  - F. Surface Water Treatment: Opportunities and analysis, April 2007
  - G. Del Rio Wellhead Treatment Summary Report, August 2008
  - H. AMEC Exploratory well study
  - I. SCADA Master Plan
  - J. Avondale's Water Capital Improvement Plan

The consultant shall describe and document its findings from Items 1.1 and 1.2 and compile all sources of information collected by the consultant, including information provided by the City into a bibliography.

- 1.3 Existing System Inventory:** This scope of work assumes that the City shall provide consultant with compiled information on the existing water delivery system including the physical characteristics of the existing infrastructure, (wells, reservoirs, booster stations, pressure zones, distribution lines,

**connections, and all appurtenances), including capacities, type, level of treatment, age, and condition.** The consultant shall summarize this information as displays on maps, tables, and described in a narrative form:

- A. The consultant shall review historical water quality data for all production sources and identify trends and compliance status with regards to SDWA water quality rules and MCLs.
- B. The consultant shall discuss the City's drinking water supply quality with respect to secondary MCLs.
- C. The consultant shall summarize the water demand and usage patterns developed in the Water Resource Master Plan Task 2.1 as it will pertain to the Water Infrastructure Master Plan, including water demand on a per capita and/or per acre basis for both residential and non-residential uses, and the appropriate daily and seasonal peaking factors.
- D. The consultant shall discuss and document existing blending plans and locations.
- E. Certain information (water system mapping) will be provided by the City in a Geographical Information system software format, (including ARCINFO and ARCVIEW). This information will be made available in an electronic format.

## **Phase 2 - Distribution and Flow Model**

**2.1 Water Demand Input:** This scope of work assumes that the City shall provide consultant with a fully updated and calibrated hydraulic model of the water distribution system, and that the City shall provide a model development and calibration report to the consultant for reference. The City has an H2O Map water model, which contains all the existing water supply facilities and pipelines in the City for the present conditions and is available for use for this study. The consultant shall incorporate the water demand projections developed in Phase 2 of the Water Resource Master Plan scope into the H2O Map demand allocator and prepare water demand loadings for the water demand planning periods (2010, 2015, 2020 and build-out).

- A. The study area for the Water Infrastructure Master Plan shall be the area north of the Estrella Mountains, including PIR and private water company service areas (excluding LIPSCO).
- B. The demands of PIR, private water companies (excluding LIPSCO), and areas between the Estrella Mountains and the Gila River shall be accounted for; however, the plan does not need to determine how to serve these areas or timing of improvements should the City decide to serve these areas.

**2.2 System Performance Criteria:** The City and consultant will jointly agree on criteria for the distribution system standards and performance, including minimum and maximum velocities and pressures, friction losses, pipe sizing, fire flow criteria (pressures and flows), and demand conditions for average day, maximum day and peak hour. The consultant shall review the criteria used in

previous City infrastructure master plans and recommend any changes based on typical criteria used in the industry and in surrounding communities.

### **Phase 3 – Existing Production, Storage and Distribution System**

**3.1 Existing Model Evaluations:** This scope of work assumes that others (Carollo Engineers) have recently modeled the existing system and that the City will provide the consultant with the results of the modeling in a report format. The consultant shall update the demand input component and run the model for existing demand conditions to confirm the evaluation of the existing distribution system performed recently by others.

- A. The consultant shall confirm the performance of the existing water production and distribution system for existing demands at peak hour periods. The consultant shall perform model simulations using 24-hour extended period simulations for average day, maximum day and/or maximum day plus fire flow demand conditions to compute the indicators of system performance as listed below:
  - a. Minimum and maximum system working pressures at model nodes under average and maximum day demand conditions.
  - b. Pump operating schedules under average and maximum day demand conditions
  - c. Distribution system storage level profiles under average and maximum day demand conditions
  - d. Computed fire flow capabilities at hydrant nodes
  - e. Maximum rates of flow and head losses through mains under peak demand conditions
- B. The consultant shall confirm whether or not the City's distribution system is meeting fire standards established in the 2005 Water Master Plan.
- C. The consultant shall evaluate the applicability of the 2005 standards with the current Fire Protection Laws.
- D. The consultant shall prepare an exhibit showing potential fire flows available to the industrial and major commercial areas of the City.

### **Phase 4 – Recommendations for Improvements**

**4.1 Future Water Production, Storage and Distribution System:** The consultant shall model the selected future water supply alternative. At a minimum, the consultant shall model appropriate size of future transmission and distribution lines; preferred locations of future water reservoirs, booster stations and other water facilities (considering hydraulics, economics, water supply sources and land use); and, if appropriate, impact of conversion from a well-based production system to a surface water production system, and the partial use of wells.

- A. The consultant shall support the evaluation of water supply alternatives in Task 4.2 of the Water Resources Master Plan scope by using the hydraulic model to identify conceptual water production and distribution infrastructure for the various water supply alternatives.

- B. The consultant shall perform model simulations using 24-hour extended period simulations for average day, maximum day and/or maximum day plus fire flow demand conditions to compute the indicators of system performance as listed below:
  - a. Minimum and maximum system working pressures at model nodes under average and maximum day demand conditions.
  - b. Pump operating schedules under average and maximum day demand conditions
  - c. Distribution system storage level profiles under average and maximum day demand conditions
  - d. Computed fire flow capabilities at hydrant nodes
  - e. Maximum rates of flow and head losses through mains under peak demand conditions
- C. The consultant shall make recommendations regarding improvements to the existing water production and distribution system necessary to meet existing water demands. These recommendations shall be accompanied by an implementation and cost schedule. These improvements shall take into account the regulations outlined in Phase I.
- D. The consultant shall make recommendations regarding what action the City should take to meet the fire standards established by the City or some other standard, if appropriate.
- E. The consultant shall evaluate the technical considerations associated with using the water resources available to the City (production well locations, potential surface WTP locations, optimal recharge locations for reclaimed water and surface water, etc).
- F. The consultant shall examine the issue of backup or redundant water supply in the event of disruption of the primary water source for various areas of the City's service area. The consultant shall make recommendations regarding minimum standards for redundant water supply.
- G. The consultant shall investigate the advantages/disadvantages of creating a pressure zone change in South Avondale based on expected pressures and use of plastic distribution piping. The consultant shall recommend the allowable operational pressures for the types of plastic piping used in the area based on pipe specifications and industry standards.
- H. The consultant shall investigate the usage of existing booster stations at various sites versus the system curves. The consultant shall develop recommendations of proper sizing of the boosters versus the benefits of standardizing booster pumps for availability and ease of repairs.
- I. The consultant shall provide, analyze and make recommendations for potential water storage and treatment facilities including owner information, facilities needed, required land area, infrastructure and estimated associated costs.
- J. The consultant shall investigate the potential interactions between infrastructure elements that may provide better efficiencies or economies of scale.

- K. The consultant shall provide recommendations for emergency or “contingency” water supply including additional groundwater pumping capacity necessary to provide said supply.
- L. The consultant shall analyze the advantages/disadvantages of developing a surface water treatment plant at potentially two (2) different locations based upon considerations for siting a WTP, including raw water supplies, conveyance to water distribution systems, etc., and identify the most suitable location for a future WTP. The consultant shall briefly discuss the potential of sharing this facility with other partners, i.e., Goodyear, Tolleson, etc.
- M. **This scope of work assumes that only generalizations will be made with regards to groundwater movement resulting from recharge and recovery strategies, potential contaminant plume behaviors, etc. If the City chooses to develop a groundwater model (Task 1 of Special Studies scope), the consultant shall optimize production/recovery with relation to maximum utilization of the City Recharge Facility. Using the model, the consultant shall identify optimal locations and operational pumping for recovery wells around the Recharge Facility that will maintain favorable groundwater mounding and prevent impacts to/from the Phoenix/Goodyear Airport superfund site.**
- N. The consultant shall develop conceptual recommendations for incorporating the PIR and Rigby Water Company into the City service area. Both PIR and Rigby currently have their own wells but are in the City’s water service area. The recommendations could include a near-term transmission pipeline to the southern areas that is later incorporated into a looped transmission system. The LIPSCO water service area within the City limits will be identified, but not be included in the evaluations.
- O. The consultant shall investigate development of a transmission loop around the City to better move water to all portions of the service area and for water redundancy purposes.
- P. The consultant shall prepare a PowerPoint presentation summarizing the preliminary results, findings and conclusions of the work completed in Task 4.1. The consultant shall present the summary at a scheduled workshop, and receive City comments prior to developing CIP recommendations and the Draft Final Report.

**4.2 CIP Recommendations:** The consultant shall make recommendations regarding future improvements to the City’s water production and distribution system necessary to meet future water demands. These recommendations shall be accompanied by an implementation and cost schedule for each time period established in the previous sections.

- A. The consultant shall review the City’s current 5-year Water Capital Improvement Plan.
- B. The consultant shall develop a priority list of projects to be included in the Water Capital Improvement Program.

- C. The consultant shall make specific recommendations for the new 5-year Water Capital Improvement Plan.
- D. The consultant shall make general recommendations for the new 10-year and build-out Water Capital Improvement Plan.

#### **4.3 Deliverables**

- A. The consultant shall prepare and submit a draft outline of the Water Infrastructure Master Plan for the approval of the City. Following outline approval, the consultant shall prepare and submit an electronic copy (CD and PDF, index tabbed for easy use) of the Draft Water Infrastructure Master Plan to the City for its review and approval which incorporates technical memoranda and summarizing findings and conclusions of each phase.
- B. The consultant shall incorporate comments from the City on the Draft Plan. Following the approval of the Draft Water Infrastructure Master Plan by the City, the consultant shall prepare seven (7) copies of the Final Water Infrastructure Master Plan. An electronic version (CD and PDF, index tabbed for easy use) shall also be submitted to the City. The electronic version shall also include an Executive Summary.
- C. Maps and tables: data analysis and recommendations from this study shall be provided in map and tabular form. Maps shall be provided in hard copy and electronic copy. Electronic copies of maps and data shall be compatible with ESRI's Geographic Information System (GIS) ArcInfo/ArcView and Microsoft's ACCESS database. The coordinate system for the GIS layers shall be in Arizona State Plan Central- NAD83.

**4.4 Final Presentations:** The consultant shall assist City staff in presenting the conclusions of the Final Water Infrastructure Master Plan. The presentations shall be combined with the presentations in Task 4.5 of the Water Resources Master Plan scope.

## SPECIAL STUDIES

If requested, the consultant shall complete each of the special studies identified below. At the end of each study, the consultant shall prepare and submit a technical memorandum and a PowerPoint presentation summarizing the results, findings and conclusions of the work completed. The consultant shall present the summary at a scheduled workshop, and receive City comments on the technical memorandum. The consultant shall incorporate City comments on the technical memorandum into the Draft Final Report for either the Water Resource or Water Infrastructure Master Plan.

### **Task 1 - Groundwater Model**

Based on the hydrogeologic review conducted in Phase 1 of the Water Resources Master Plan, the consultant shall prepare a groundwater model suitable for master planning purposes. The model shall be based on the ADWR groundwater model for the West Salt River Valley modified to model groundwater occurrence and flow with the Avondale service area and vicinity, and shall incorporate Avondale specific hydrogeologic information gleaned from the review of information and previous studies. The purpose of the model would be to support the evaluation of water supply alternatives (Water Resources Master Plan) and infrastructure modeling (Water Infrastructure Master Plan). For example, the model will allow the project team to evaluate the potential hydraulic impacts on nearby contaminant plumes (e.g., Phoenix/Goodyear Superfund site, DBCP well, etc.) for various recharge and recovery pumping options, as well as inter-well impacts.

- 1.1 Convert ADWR Model:** The most recent, publically available, version of ADWR's groundwater flow model for the Salt River Valley (SRV) will be used to develop a smaller, localized groundwater flow model for the Avondale area. The ADWR SRV model grid will be refined in areas of interest such as pumping wells and the City's recharge site. The smaller, refined model will allow more detailed predictions of groundwater level fluctuations resulting from the various pumping and aquifer recharge management scenarios that will be evaluated (Task 1.4).
- 1.2 Calibrate/Verify Refined Model:** The localized groundwater flow model will be calibrated, if necessary, to verify that the refined model provides reasonable prediction of the actual groundwater conditions observed in the Avondale area. The calibrated groundwater flow model will incorporate local data from the Avondale area, where applicable data is available.
- 1.3 Complete Summary Writeup:** Develop a summary report that documents the construction of the model, model inputs and assumptions, and general model use.
- 1.4 Support Evaluation of Alternatives:** Use the groundwater model to simulate groundwater levels and groundwater movement for the evaluation of water supply alternatives (Water Resources Master Plan) and optimization of recovery wells (Water Infrastructure Master Plan). **This scope of work assumes that the**

**evaluations will require up to twelve (12) model simulations. The simulations will involve evaluation of the following:**

- A. Hydraulic effects of increased recharge of reclaimed water at the City's Recharge Facility.
- B. Recovery well opportunities for the City's Recharge Facility. For example, it may be possible to store more water than the ADWR permitted volume at the City's recharge facility if, the City can demonstrate that it has recovery well(s) located with hydraulic impact area of the aquifer recharge facility. The groundwater model can be used to demonstrate that the new or existing recovery wells are located within the hydraulic impact area of the recharge facility.
- C. Operational issues associated with extended recharge of reclaimed water.
- D. Operational plan to balance recharge vs. safe yield pumping from recovery wells. For example the model can be used to evaluate the addition of new recovery wells located near the recharge facility and evaluate the balance of increased recharge and increase pumping volumes from new production/recovery wells.
- E. Potential hydraulic impacts on nearby contaminant plumes (e.g., Phoenix/Goodyear Airport superfund site, DBCP well, etc.) resulting from the various recharge and recovery scenarios. For example, if the master plan recommendations call for more production wells to be located in the northern half of the City's service area due to more favorable water quality considerations, the higher density of production wells may result in a higher potential to cause hydraulic impacts on north end of the Phoenix/Goodyear North plume.

## **Task 2 – Water Demand Projection Tool**

The consultant shall develop a water demand projection tool that receives as input the City's GIS, land use, and population data and combines it with demand factors to simultaneously develop projections of water demands, reclaimed water availability, and reclaimed water demands. The purpose of the completed tool will be to allow the City to make changes to planning and demand factors at will and instantly create new demand projections (i.e., use the tool to facilitate development "scenario planning").

- 2.1 Planning Parameters and Mapping:** The consultant will meet with the City to discuss planning parameters that the City would like to include in the tool. Planning parameters may include demand factors, residential densities, percent conservation, and rate of development. The consultant and City shall also identify GIS mapping that will be used to develop a demand map. GIS mapping may include City planning area, General Land Use Plan, Maricopa Association of Governments population and land use projections for the City's municipal planning area, streets, On/Off SRP Project areas, planned developments, water service areas, wastewater service areas, etc.

- 2.2 Demand Map:** Once the parameters have been set, the City shall provide the consultant the GIS shape files for mapping identified in Task 2.1. After shape files have been received, the consultant will merge the shape files together into a single Demand Map layer, possessing the same attributes of each shape file. The consultant will also develop a user-friendly interface from which the demand projection tool can be driven.
- 2.3 Demand Projection Scenarios:** During a workshop with the City and the consultant, the City will have the opportunity to construct up to six “what if” scenarios involving changes to the parameters discussed above. The effect of each “what if” scenario on the water demand/supply balance will be portrayed in a graphical format interactively. Output from the demand projection tool will also be used as input to the water system hydraulic model.
- 2.4 Technical Memorandum:** The consultant shall prepare a technical memorandum that summarizes the planning parameters and GIS mapping selected for the demand projection tool, and describes the construction and operation of the tool.

EXHIBIT D  
TO  
PROFESSIONAL SERVICES AGREEMENT  
BETWEEN  
THE CITY OF AVONDALE  
AND  
MALCOLM PIRNIE, INC.

[Fee Proposal]

See following pages.

CITY OF AVONDALE, ARIZONA

WATER RESOURCE MASTER PLAN

FEE SCHEDULE

SUMMARY OF HOURS AND COSTS

TASK/DESCRIPTION	HOURS	TOTAL LABOR	EXPENSES/ SUBCONSULTANTS	TOTAL
<b>BASIC SERVICES</b>				
GENERAL PROJECT MANAGEMENT	244	\$35,710	\$1,000	\$36,710
WATER RESOURCE MASTER PLAN	1,512	\$208,194	\$61,850	\$270,044
WATER INFRASTRUCTURE MASTER PLAN	1,290	\$165,760	\$4,900	\$170,660
<b>TOTAL BASIC SERVICES</b>	<b>3,046</b>	<b>409,664</b>	<b>67,750</b>	<b>477,414</b>
<b>SPECIAL STUDIES</b>				
1. GROUNDWATER MODEL	396	\$54,832	\$0	\$54,832
2. WATER DEMAND PROJECTION TOOL	362	\$46,832	\$0	\$46,832
<b>TOTAL SPECIAL STUDIES</b>	<b>758</b>	<b>\$101,664</b>	<b>\$0</b>	<b>\$101,664</b>
<b>TOTAL BASIC SERVICES, AND SPECIAL STUDIES</b>	<b>3,804</b>	<b>\$511,328</b>	<b>\$67,750</b>	<b>\$579,078</b>







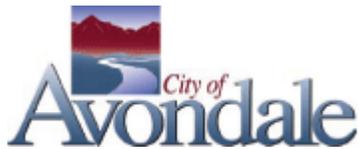
CITY OF AVONDALE, ARIZONA  
 WATER RESOURCE MASTER PLAN

FEE SCHEDULE

I. GROUNDWATER MODEL

TASK	DESCRIPTION	Officer	Sr. Assoc.	Assoc.	ENGINEERS						TECHNICIANS				TOTAL	TOTAL	TOTAL
					E6/S6	E5/S5	E4/S4	E3/S3	E2/S2	E1/S1	T8/7	T6/5	T4/3	T2/1			
1.1	Convert ADWR Model		8			40									48	\$ 6,448	
1.2	Calibrate/Verify Refined Model		16			80									96	\$ 12,896	
1.3	12 Simulations		12			96									108	\$ 13,848	
1.4	Summary Writup	4	40			100									144	\$ 21,640	
TOTAL LABOR		4	76	0	0	316	0	0	0	0	0	0	0	0	396	\$ 54,832	
LABOR CATEGORY																	
OFFICER		HOURS															
SENIOR ASSOCIATE		4															
ASSOCIATE		76															
E6 - SENIOR PROJECT ENGINEER		0															
E5 - PROJECT ENGINEER		0															
E4 - PROJECT ENGINEER		0															
E3 - PROJECT ENGINEER		316															
E2 - ENGINEER		0															
E1 - ENGINEER		0															
T7/8 - TECHNICIAN		0															
T5/6 - TECHNICIAN		0															
T4/3 - TECHNICIAN		0															
T2/1 - TECHNICIAN		0															
TOTALS		396															
		TOTAL EXPENSES / SUBS															
		\$0															
		TOTAL LABOR AND EXPENSES															
		\$54,832															
		EXPENSES / SUBCONSULTANTS															
		ESTIMATED COST															
ITEM																	
OTHER DIRECT COSTS (printing, mail/courier, supplies)		\$0															
TRAVEL																	
SUBCONSULTANTS																	
SUB 1		\$0															
SUB 2		\$0															
HANDLING (@10%)		\$0															





# CITY COUNCIL REPORT

**SUBJECT:**

Contract Amendment - Kinsey & Kinsey

**MEETING DATE:**

July 20, 2009

**TO:** Mayor and Council

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

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council approve an amendment to the contract with Kinsey and Kinsey to complete the installation of the Human Resources Information System (Lawson) in the amount of \$29,700; approve the necessary transfer of funds; and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**BACKGROUND:**

On May 13, 2008 Council approved a contract with Kinsey and Kinsey to assist with the installation of the Human Resources Information Management System, Lawson. The project was substantially completed on May 28th, 2009 when the Human Resources Department finalized the final payroll conversion from EDEN to Lawson.

**DISCUSSION:**

After the award of the contract, staff evaluated and recommended the acquisition of the Kronos electronic time clock system to ease time keeping efforts, reduce data entry, and improve accuracy. Through Kronos each employee enters and manages their own time card, vacation and sick leave use resulting in the elimination of a payroll position saving approximately \$70,000 per year in on-going salary costs.

The original Kinsey and Kinsey contract did not contemplate the implementation of this technology. They did agree, in good faith, to continue with the project without a contract modification. Staff and the consultant had hoped that both systems could be integrated and implemented within the contract schedule. However, during the development of the data entry, staff discovered that the number of existing pay rules, primarily affecting the Fire and Police departments, required considerable policy revision expending substantially more hours on this task than anticipated. This extra work used time allocated to the final project tasks that must still be completed.

It is estimated that an additional 140 hours will be required to finalize the tasks that were excluded at the end of the project due to additional hours spent implementing Kronos and the pay rule changes. The following tasks remain to be completed for the Lawson implementation:

- History conversion for years 2006 through 2008 (30 hours)
- Provide final setup documentation (10 hours)
- Provide check reconciliation (20 hours)
- Provide additional miscellaneous assistance (60 hours)
- Security setup to end user
- Additional security support
- Assistance with Eden upgrade (if needed)
- Assist with fiscal year accruals (20 hours)

**BUDGETARY IMPACT:**

Funding for this purchase will come from the Information Technology budget 101-5122-00-8011 after the transfer of funds from 101-5900-00-5010. This purchase will not increase ongoing expenses in subsequent fiscal years.

**RECOMMENDATION:**

Staff recommends that the City Council approve an amendment to the contract with Kinsey and Kinsey to complete the installation of the Human Resources Information System (Lawson) in the amount of \$29,700; approve the necessary transfer of funds; and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**ATTACHMENTS:**

Click to download

 [Agreement](#)

**Kinsey & Kinsey, Inc. and City of Avondale, AZ**  
**Service & Support Agreement #2009-06-11-1**  
**June 11, 2009**

This Services and Support Agreement (this “Agreement”), effective as of the 20th day of July, 2009 (“Effective Date”), is by and between Kinsey & Kinsey an Illinois corporation located at 26 N. Park Blvd., Glen Ellyn, IL 60137 (“K&K”) and the City of Avondale, AZ (“City”), an Arizona municipal corporation, the offices of which are located at 11465 W. Civic Center Drive, Avondale, AZ 85322.

**1. Scope of Service:**

The parties enter into this agreement for the purpose of providing the City with consulting services relating to the City’s existing implementation of Lawson Software Human Resources, Benefits, and Payroll applications. K&K shall provide the following 140 hours of services which are extensions of scope of the original Lawson implementation:

- History conversion for years 2006 through 2008 (30 hours)
- Provide final setup documentation (10 hours)
- Provide check reconciliation (20 hours)
- Provide additional miscellaneous assistance (60 hours)
  - Security setup to end user
  - Additional security support
  - Assistance with Eden upgrade (if needed)
- Assist with fiscal year accruals (20 hours)

**2. Access**

The City agrees to be responsible for providing appropriate access to systems and programs at the City, and to provide accurate and timely information for K&K to proceed with scheduled work. The City and K&K agree that the full cooperation of both parties is necessary to enable the project to meet expectations.

**3. Fees/Payment Terms:**

The services project will be completed for a total of \$29,700 (\$24,500 for services and travel not to exceed \$5,200 [airfare, hotels, cars, meals, etc.]). Services provided and related expenses will be billed twice monthly and payment is due within 30 days of receipt.

**4. Limitation of Liability**

**4.1** The City acknowledges that K&K is a practicing consulting firm specializing in Lawson Software, and that consulting services are provided on a non-exclusive basis. K&K warrants that qualified personnel will perform services provided under this agreement in a professional manner. In no event shall K&K be liable to City for loss of profits, or any special, indirect, exemplary, consequential, or incidental damages, including costs or legal expenses in connection

with the use of performance of models designed or the performance of its obligations pursuant to these term even if it is aware of the possibility of such damages.

**4.2** Unless caused by the negligence or the intentional misconduct of K&K, or any of K&K's directors, officers, employees or agents, the total liability of K&K to City for any claim under this Agreement, whether it arises by statute, contract or otherwise, will not exceed the lesser of \$100,000 or the amounts paid to K&K by City under this Agreement for Services which form the subject of the claim. The foregoing limit does not apply to (i) death or personal injury arising from negligence of K&K, or (ii) in respect of accidental loss of or damage to City's tangible property, to the extent caused by the negligence of K&K, its employees or subcontractors. In the event of accidental loss of or damage to City's tangible property, to the extent caused by the negligence of K&K, its employees or subcontractors, the limit of liability is \$1,000,000.

## **5. Mutual Not to Hire**

The City agrees not to employ any current or future K&K employee for a period of 12 months from completion of this agreement without prior written permission, whether said employee is at that time in K&K's employment or not. Employment shall be defined as the offering of part-time or full-time employment or other form of compensation. K&K agrees not to employ any current or future City employee for a period of 12 months from completion of this agreement without prior written permission, whether said employee is at that time in City's employment or not. Employment shall be defined as the offering of part-time or full-time employment or other form of compensation. Penalty for breach of this clause shall equal the estimated first year compensation of the hired individual.

## **6.0 Confidential Information**

**6.1** In the course of their dealings, the parties may disclose to one another confidential information relating to their business ("Confidential Information"). Neither party will disclose the other party's Confidential Information to any third party without the prior written consent of the other party, nor will a party make use of any of the other party's Confidential Information except in the performance of rights or obligations under this Agreement. Each party will use at least the same degree of care to avoid disclosure of the other party's Confidential Information as it uses with respect to its own Confidential Information, but in no event shall less than reasonable care be used.

**6.2** Confidential Information does not include information: (a) generally available to or known to the public, (b) previously known to the recipient without any obligation of confidentiality, (c) independently developed by the recipient outside the scope of this Agreement without any use of the other party's Confidential Information, (d) lawfully disclosed to the recipient by a third party under no obligation of confidentiality, or (e) disclosed pursuant to a valid court order or as required by a judicial court or tribunal of competent jurisdiction.

## **7. Work Product**

City retains all right, title and interest in any software, documentation or other works provided or developed as a result of performing Services ("Works"). Either party may (a) independently

develop works competitive with or similar to the Works, and (b) make use of the know-how acquired, principles learned or experience gained during the performance of the Services.

## **8. Termination**

### **8.1 Termination of scheduled work**

The City is paying K&K for services to be provided as indicated above. K&K will make every effort to accommodate City's requests for services on specific dates up to 90 days in advance, but such requests are subject to each specific consultant's availability. The City may terminate scheduled work at any time with two weeks written notice. Scheduled dates, which are canceled by City less than seven (7) business days in advance of dates, will be billed at regular rates.

### **8.2 Termination of Agreement**

Either party may terminate this Agreement if the other party fails to remedy a breach of any material obligation under this Agreement within thirty (30) days of receiving written notice from the other party detailing such breach. Upon termination, City shall continue to be liable for any obligations arising, liabilities accrued or amounts payable under this Agreement executed prior to termination. Sections 4, 5, 6, and 7 of this Agreement shall survive the termination of this Agreement.

## **9.0 Conflict of Interest**

The Service & Support Agreement (the "Agreement") is subject to the provisions of ARIZ. REV. STAT. § 38-511. The City may, within three years of execution, 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.

## **10.0 Cooperative Purchasing**

This Agreement shall be for the use of the City. In addition, specific eligible political subdivisions and nonprofit educational or public health institutions may also participate, at their discretion and with the agreement of Kinsey & Kinsey, Inc. In order to participate in this Agreement, a political subdivision or nonprofit educational or public health institution must agree to the terms and conditions in the Agreement and Kinsey & Kinsey, Inc. must be in agreement with the cooperative transaction. Any orders placed with Kinsey & Kinsey, Inc. will be placed by the specific agencies participating in this purchase. Payment for purchases made under this Agreement will be the sole responsibility of each participating agency. The City shall not be responsible for any disputes arising out of transactions made by others.

## **11.0 General**

**11.1** All notices pursuant to this Agreement will be in writing and given by hand delivery, registered mail or certified mail (postage prepaid) to the other party at the address appearing on the Order Agreement. City will promptly give written notice of any change in its address or

addressee. Notices will be deemed to be received on delivery or the 5<sup>th</sup> business day after mailing.

**11.2** No delay or failure in exercising any right under this Agreement, or any partial or single exercise of any right, will constitute a waiver of that right or any other rights under this Agreement. No consent to a breach of any express or implied term set out in this Agreement constitutes consent to any subsequent breach.

**11.3** If any provision of this Agreement is, or becomes, unenforceable, it will be severed from this Agreement and the remainder of this Agreement will remain in full force and effect.

**11.4** This Agreement is binding upon and will inure to the benefit of both parties, and their respective successors and assigns. Kinsey & Kinsey may assign or otherwise transfer its rights under this Agreement to a third party (“assignment”) on the condition that (a) the third party delivers to the non-assigning party a duly executed document agreeing to be bound by this Agreement and (b) the assignment is part of a bona fide internal corporate reorganization or an arm’s length commercial transaction.

**11.5** City understands the terms set forth in this agreement, including, but not limited to, the pricing terms, are Kinsey & Kinsey Confidential Information, and City may not disclose such terms to any third party, including a third party acquiring or acquired by City by merger, consolidation or otherwise, without Kinsey & Kinsey’s prior written consent.

**11.6** This Agreement and any matters relating to it, will be governed, construed and interpreted in accordance with the laws applicable in the State of Arizona and each party agrees to the jurisdiction of those courts.

**11.7** This Services Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511. The City may, within three years after its execution, cancel this Services Agreement, without penalty or further obligation, made by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Services Agreement on behalf of the City or any of its departments or agencies is, at any time while the Services Agreement or any extension of the Services Agreement is in effect, an employee or agent of any other party to the Services Agreement in any capacity or a consultant to any other party of the Services Agreement with respect to the subject matter of the Services Agreement.

**11.8** To the extent applicable under ARIZ. REV. STAT. § 41-4401, K&K and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). K&K’s or its subcontractor’s breach of the above-mentioned warranty shall be deemed a material breach of this Agreement and may result in the termination of the Agreement by the City. The City retains the legal right to randomly inspect the papers and records of K&K and its subcontractors who work on the Agreement to ensure that K&K and its subcontractors are complying with the above-mentioned warranty.

**11.9** Pursuant to ARIZ. REV. STAT. §§ 35-391.06 and 35-393.06, K&K certifies that it does not have scrutinized business operations in Sudan or Iran. For the purpose of this section the term “scrutinized business operations” shall have the meanings set forth in ARIZ. REV. STAT. §§ 35-391 or 35-393, as applicable. If the City determines that K&K submitted a false certification, the City may impose remedies as provided by law including terminating this Agreement.

**11.10** This Agreement is subject to the provisions of ARIZ. REV. STAT. § 42-17106. The provisions of this Services Agreement for payment of funds by the City shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. The City shall be the sole judge and authority in determining the availability of funds under this Agreement and the City shall keep K&K fully informed as to the availability of funds for the Agreement. The obligation of the City to make any payment pursuant to this Agreement is a current expense of the City, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the City. If the City's Council fails to appropriate money sufficient to pay the amounts as set forth in this Agreement during any immediately succeeding fiscal year, this Agreement shall terminate at the end of then-current fiscal year and the City and K&K shall be relieved of any subsequent obligation under this Agreement.

**11.11** 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. K&K is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and K&K agrees to be fully and solely responsible for the payment of such taxes or any other tax applicable to this Agreement.

**11.12** This Agreement is the entire understanding and agreement between City and K&K with respect to Services, and it supersedes all prior negotiations, commitments and understandings, verbal or written, any purchase order issued by City. This Agreement may only be amended or otherwise modified by written agreement signed by the authorized signatories of both parties.

**11.13** 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.

**City of Avondale**

**Kinsey & Kinsey, Inc.**

By: \_\_\_\_\_  
(Signature)

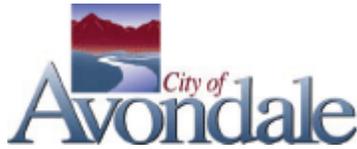
By: \_\_\_\_\_  
(Signature)

Charles P. McClendon  
City Manager

Bradley J. Kinsey  
CEO

Date: \_\_\_\_\_

Date: \_\_\_\_\_



# CITY COUNCIL REPORT

**SUBJECT:**

Map of Dedication - Thomas Road between  
Litchfield Road and Dysart Road

**MEETING DATE:**

July 20, 2009

**TO:** Mayor and Council

**FROM:** Sue McDermott, P.E., City Engineer, 623-333-4211

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council approve a Map of Dedication accepting right-of-way for those portions of Thomas Road located within the Avondale City limits between Litchfield Road and Dysart Road, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

**BACKGROUND:**

On January 6, 2003, Tom Hill, of SunCor Development Company (SunCor), requested that the City Council adopt an ordinance approving a Map of Dedication of right-of-way for portions of Thomas Road west of Dysart Road. Council asked that the item be continued so further information could be provided.

The proposed right-of-way includes property owned by SunCor and Estrella Mountain Community College and is for those portions of Thomas Road that were annexed into the City of Avondale per Ordinance No. 647, dated June 16, 1997. Annexation and de-annexation procedures were performed by both Avondale and Goodyear at that time to properly establish and recognize a common boundary. This right-of-way dedication is now required in advance of an IGA outlining maintenance responsibilities with Goodyear to complete eligibility requirements for federal stimulus funding. Goodyear plans to use a portion of their recovery funding for a pavement preservation project on Thomas Road.

**DISCUSSION:**

The dedication area is an approximately 4403 foot long strip of right-of-way varying in width consisting of the south 34.5 to 40 foot width and the north 55 feet of right-of-way from Dysart Road to a point 2,211 feet west of Dysart Road, then narrowing to only the north 20.42 feet continuing west 2,192 feet ending about 1,069 feet east of Litchfield Road. The south line of the new right-of-way is the Avondale City limits.

The Estrella Mountain Community College, Fulton Estates residential subdivision and St. Thomas Aquinas Catholic Church share frontage on this portion of Thomas Road. Avondale water and wastewater pipelines which serve Fulton Estates have been constructed under the roadway within this proposed right-of-way location.

**BUDGETARY IMPACT:**

There is no financial impact to the City.

**RECOMMENDATION:**

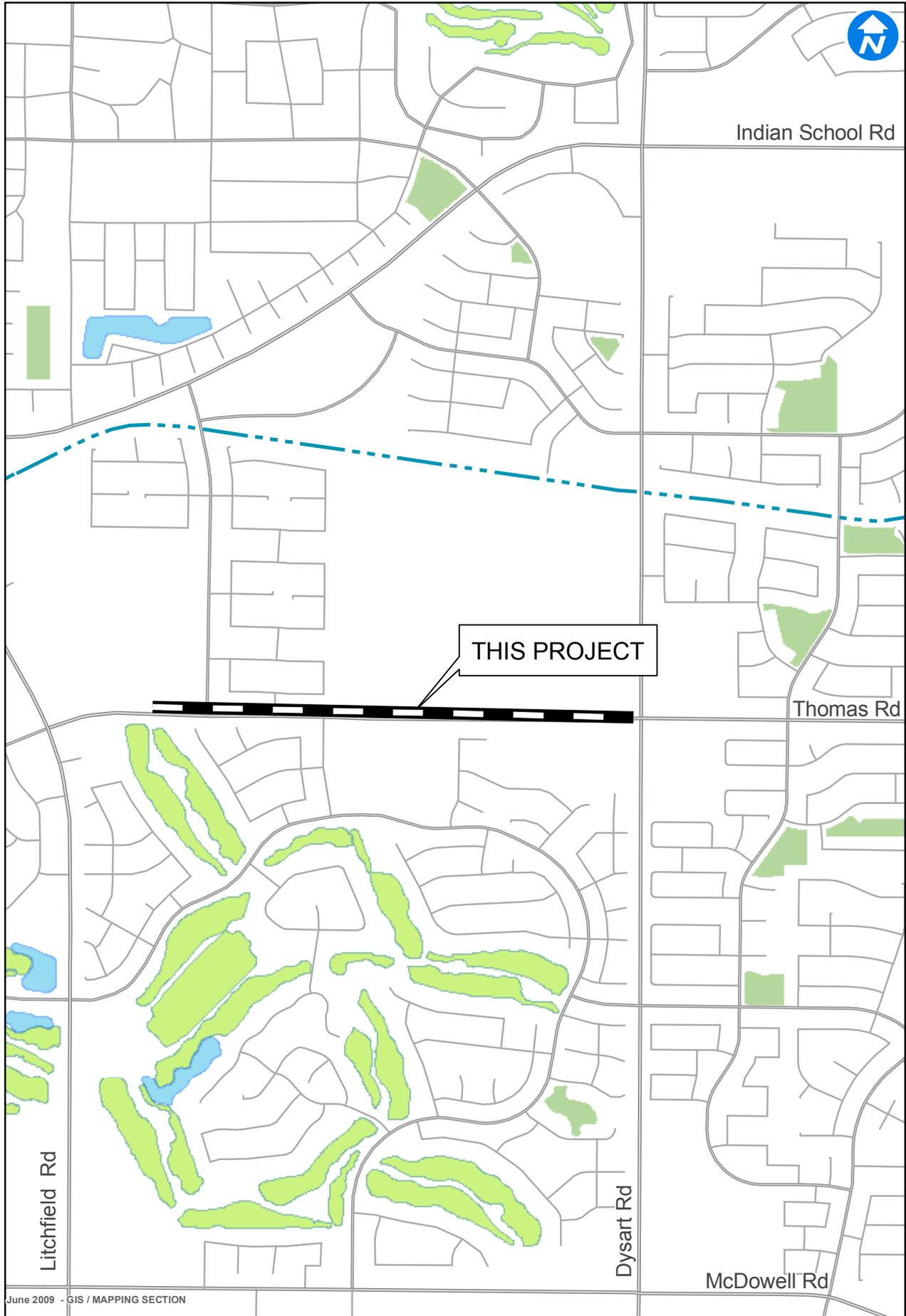
Staff recommends that the City Council approve a Map of Dedication accepting right-of-way for those portions of Thomas Road located within the Avondale City limits between Litchfield Road and Dysart Road, and authorize the Mayor, or City Manager and City Clerk to execute the necessary documents.

**ATTACHMENTS:**

Click to download

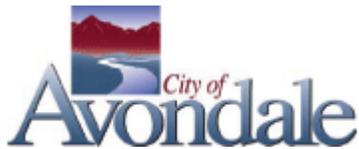
 [Vicinity Map](#)

# VICINITY MAP



June 2009 - GIS / MAPPING SECTION

## CITY OF AVONDALE Right-of-Way Dedication Thomas Rd



# CITY COUNCIL REPORT

**SUBJECT:**

Resolution 2844-709 - Authorizing an agreement with ADOT for Safe Routes To School Cycle 2 grant

**MEETING DATE:**

July 20, 2009

**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 authorize the City Manager to enter into an agreement with the Arizona Department of Transportation for the purpose of implementing the Safe Routes to School Cycle 2 Grant in the amount of \$219,746.

**BACKGROUND:**

The Safe Routes To School Program was created by the U.S. Congress as part of a federal transportation bill called SAFETEA-LU. The primary reason for developing this nationwide program is this country's growing epidemic of childhood obesity and diabetes. One of the causes of the epidemic is children's inability to get physical activity - biking and walking to school - due to the lack of safe and convenient ways to do so. To this end, Safe Routes was created to accomplish three goals: 1) To enable and encourage children, including those with disabilities, to walk and bicycle to school; 2) To make bicycling and walking to school a safer and more appealing transportation alternative, thereby encouraging a healthy and active lifestyle from an early age; and 3) To facilitate the planning, development, and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution near schools.

The program provides funding for schools and communities to implement infrastructure projects (such as sidewalk improvements, trails, and 'traffic calming') and non-infrastructure programs (such as education campaigns, law enforcement efforts, and prize giveaways). The City of Avondale was awarded \$38,000 for Safe Routes To School Cycle 1. Funding from this grant was used by the Engineering Department to implement safety at local elementary schools. Staff has conducted baseline surveys and provided a Safe Route to School Toolbox to each school. Several school administrators and teachers have expressed interest in starting a program at their school. The toolbox provided a bicycle or a walk to school incentive program that could be easily implemented. Schools are gearing up for programs to begin in the next school year with staff assistance. Safety items such as sunscreen, first aid kits, reflective decals for bicycle helmets, slap wraps, activity books for three age groups, etc., have been purchased with the grant money and are currently available for use as materials and incentives for the individual SRTS programs. School program administrators may choose to award semester or annual prizes in the form of a gift card. Funds are also available through the grant to purchase the gift cards. Incentives can be awarded to students participating in the program as well as parents and teachers who volunteer to help administer the program. At the end of the grant cycle, staff will conduct additional surveys to measure the effectiveness of the program and be able to provide schools on-going support.

**DISCUSSION:**

The Engineering Department determined that Michael Anderson, Garden Lakes and Rancho Santa

Fe elementary schools are in need of improvements to alleviate congested areas during drop-off/pick-up times and on roadways with excessive traffic volumes, high vehicle speeds, high pedestrian volumes, as well as a need for increased pedestrian visibility for the safety of school children. A previous Traffic Safety Study recommended a cross walk project to increase safety, reduce conflicts, and encourage more parents and students to feel comfortable walking and bicycling to school, thereby increasing the number of walkers.

The City of Avondale applied for the Safe Routes to School Cycle 2 grant to support the implementation of the cross walk improvements. The City was awarded grant funding in the amount of \$219,746. Arizona Department of Transportation will administer the grant program and therefore has developed an Intergovernmental Agreement that will allow them to work with the City of Avondale.

**BUDGETARY IMPACT:**

This grant does not have any matching requirements. The cost will cover design and construction. Any cost overages will come from the Engineering Department's Other Professional Services program fund for Traffic Studies/Safety Issues, line item number 101-5900-00-6180.

**RECOMMENDATION:**

Staff recommends that the City Council authorize the City Manager to enter into an agreement with the Arizona Department of Transportation for the purpose of implementing the Safe Routes to School Grant Cycle 2 in the amount of \$219,746.

**ATTACHMENTS:**

Click to download

 [Resolution 2844-709](#)

**RESOLUTION NO. 2844-709**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA RELATING TO DESIGN AND CONSTRUCTION OF TRAFFIC CALMING AND OTHER INFRASTRUCTURE IMPROVEMENTS.

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

SECTION 1. That the Intergovernmental Agreement with State of Arizona relating to design and construction of traffic calming and other infrastructure improvements within the City of Avondale, Arizona (the "Agreement") is hereby approved in the form attached hereto as Exhibit A.

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

**PASSED AND ADOPTED** by the Council of the City of Avondale, July 20, 2009.

\_\_\_\_\_  
Marie Lopez Rogers, Mayor

ATTEST:

\_\_\_\_\_  
Carmen Martinez, City Clerk

APPROVED AS TO FORM:

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

EXHIBIT A  
TO  
RESOLUTION NO. 2844-709

[Intergovernmental Agreement]

See following pages.

**INTERGOVERNMENTAL AGREEMENT**

**BETWEEN  
THE STATE OF ARIZONA  
AND  
CITY OF AVONDALE**

THIS AGREEMENT is entered into \_\_\_\_\_, 2009, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and The City of Avondale, acting by and through its Mayor and CITY COUNCIL (the "City"). The State and the City are collectively referred to as the "Parties", and individually as the State, City, and "Party".

**I. RECITALS**

1. The State is authorized by Arizona Revised Statutes Section 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.
2. The City is authorized by Arizona Revised Statutes Section 11-952 and Article I, Section III of the City Charter to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the City.
3. The City has requested Safe Routes to School (SRTS) Federal funds in the amount of two hundred nineteen thousand seven hundred forty six dollars (\$219,746). The Arizona Department of Transportation (ADOT) has recommended the approval of such funds to be expended per the tasks proposed in the City's approved application, and the Arizona State Transportation Board has approved the project.
4. The interest of the State in the project is in the acquisition of federal funds for the use and benefit of the City by reason of federal law and regulations under which funds for the project are authorized to be expended. It is also in the interest of the State to administer the project.
5. Such project within the boundary of the City has been selected by the City and the plans, estimates and specifications will be prepared and, as required, submitted to the State for its approval.
6. The work embraced in this agreement is to install traffic calming and other infrastructure treatments such as raised crosswalks, sidewalks and ramps, landscape medians, and pedestrian channelization around three schools, and the estimated costs are as follows:.

**Design TRACS No. PSRTS 01 D**

Estimated Design Cost \$ 36,640

**Construction TRACS No. PSRTS 01 C**

Estimated Construction Cost \$183,106

Total for Design and Construction \$219,746

THEREFORE, in consideration of the mutual Agreements expressed herein, it is agreed as follows:

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## II. SCOPE OF WORK

### 1. The City shall:

- a. Should unforeseen conditions or circumstances increase the cost of said work required by a change in the extent or scope of the work called for in this agreement, the Safe Routes to School Advisory Committee shall determine if the expenditures in excess of the authorized amount are eligible for reimbursement. Such changes require the prior approval of the State.
- b. Acquire the necessary right of way required for project construction and hereby certifies that all necessary rights of way have been or will be acquired prior to advertisement and shall remove from the proposed right of way all obstructions or unauthorized encroachments of whatever nature, either above or below the surface of the project area and hereby certifies that all obstructions and encroachments have been or will be removed there from prior to the start of construction.
- c. Provide the State with a temporary construction easement for the project of traffic calming and other infrastructure treatments such as raised crosswalks, sidewalks and ramps, landscape medians, and pedestrian channelization around three schools.
- d. Prepare and provide design plans, specifications and other such documents and services required for construction bidding and construction, and submit to the State.
- e. Shall furnish all water for landscape installation during the construction phase, a point of connection (POC) for the irrigation system, and all water thereafter necessary to properly maintain the landscape, all at the City's expense.
- f. Upon completion of construction, provide for, at its own cost and as an annual item in its budget, proper maintenance of all bicycle lanes, and traffic calming measures and improvements, including, but not limited to:
  - maintaining healthy landscaping
  - operation and cost of irrigation
  - operation and cost of lighting
  - removal and treatment of weeds
  - safe access to pedestrian facilities
  - safe access to bicycle facilities
- g. Shall allow free public access to the project improvements during normal business hours.
- h. Comply with all applicable State, Federal and local requirements. The City will comply with all applicable provisions of Titles 23 (Federal Highway Administration) and 49 (United States DOT) and other applicable Codes of Federal Regulations (C.F.R's). All procurements will be completed in accordance with Exhibit B, attached hereto, and made part thereof. (See "Miscellaneous Provisions", Section 13 for procurement contact information.)
- i. Invoice the State in an amount not to exceed thirty-six thousand six hundred forty dollars (\$36,640) for design fees utilizing Exhibit A. Expenditures to be reimbursed by ADOT must be supported by invoices, receipts, or other suitable and appropriate documentation. Reimbursement for SRTS funds shall be address to Arizona Department of Transportation, ATTN: SRTS Program Coordinator, 206 S. 17<sup>th</sup> Ave., MD310B, Phoenix, AZ 85007.

- j. Reimburse the State any funds received from the State under this Agreement, which are not specifically and directly expended in compliance with the SRTS grant application.
- a. The cost of the construction and construction engineering work covered by this agreement is to be borne by FHWA. Therefore, should the Project not be completed, or be partially completed, the City shall reimburse the State for all Federal Aid received for design fees in an amount not to exceed thirty-six thousand six hundred forty dollars (\$36,640).

**2. The State shall:**

- a. Submit a program containing the aforementioned project to FHWA with the recommendation that it be approved for construction.
- b. Will review the National Environmental Policy Act (NEPA) environmental document (Categorical Exclusion CE), Environmental Assessment (EA), or Environmental Impact Statement (EIS) for the City and after ensuring that it is in order, will process Environmental Clearance (see Exhibit B). This is to be completed prior to project authorization by FHWA.
- c. If such project is approved for construction by FHWA and the funds are available for construction of the project, the City will and does hereby designate the State as authorized agent for the City to the extent necessary for the performance of the State's obligations contemplated and agreed to herein, and with the aid and consent of the City, the State will proceed to advertise for, receive and open bids, for the City. The State, subject to the concurrence of FHWA and the City, will enter into a contract(s) with a firm(s) to whom the award is made for the construction of the project, such project to be performed, completed, accepted and paid for in accordance with the requirements of the Project Plans, Special Provisions, and Standard Specifications for Road and Bridge Construction of the Arizona Department of Transportation. The State will administer the project.
- d. Within thirty (30) days after receipt of invoices, reimburse the City for design costs in an amount not to exceed thirty-six thousand six hundred forty dollars (\$36,640).
- e. Grant such extensions as are necessary for the proper completion of any work or project(s) contemplated by this Agreement if the reviews by ADOT or FHWA cause delay.

**III. MISCELLANEOUS PROVISIONS**

- 1. The State assumes no financial obligation or liability under this Agreement. The City assumes full responsibility for the design, plans, specifications, and reports. Any damages arising from carrying out, in any respect, the terms of this Agreement or any modification thereof, shall be solely the liability of the City.
- 2. The 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.

3. This Agreement shall remain in force and effect until 36 months from the date of execution; provided, however, that any provisions in this Agreement for maintenance, unless assumed by another entity, may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party. Further, this Agreement may be terminated and the SRTS grant cancelled by the State if the City, in the opinion of and by action of the Transportation Board, fails to pursue due diligence on the Project or in the performance of any of the terms of this Agreement.
4. This Agreement shall become effective upon filing with the Arizona Secretary of State.
5. This Agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.
6. All books, accounts, reports, files and other records of any Party relating to this Agreement or the work done under this Agreement shall be subject at all reasonable times to inspection and audit by the other Party until five years after the State has repaid all monies in full. Such records shall be available for inspection upon five business days' notice at the offices of the Party in possession of the records.
7. In the event of any controversy which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth in Arizona Revised Statutes Section 12-1518.
8. In accordance with Arizona Revised Statutes Section 11-952, D, attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this Agreement and that the Agreement is in proper form.
9. Non-Availability of Funds. Every payment obligation of ADOT under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by ADOT at the end of the period for which the funds are available. No liability shall accrue to ADOT in the event this provision is exercised, and ADOT shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.
10. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 USC. 12101-12213) and all applicable federal regulations under the ACT, including 28 CFR Parts 35 and 36. (Non-Discrimination. The City shall comply with Executive Order 2003-22, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation shall have equal access to employment opportunities, and all other applicable state and federal employment laws, rules and regulations, including the Americans With Disabilities Act. The City shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, age, national origin or political affiliation or disability.)
11. To the extent applicable under Arizona Revised Statutes Section 41-4401, each Party and its subcontractors warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under Arizona Revised Statutes Section 23-214(A). A breach of the above-mentioned warranty by any Party or its subcontractors shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by the non-breaching Parties. Each Party retains the legal right to randomly inspect the papers and records of the other Parties' or its subcontractors' employees who work on the Agreement to ensure that the Parties or its subcontractors are complying with the above-mentioned warranty.

12. Pursuant to Arizona Revised Statutes Sections 35-391.06 and 35-393.06, each Party certifies that it does not have a scrutinized business operation in Sudan or Iran. For the purpose of this Section the term "scrutinized business operations" shall have the meanings set forth in Arizona Revised Statutes Section 35-391 or 35-393, as applicable. If any Party determines that another Party submitted a false certification, that Party may impose remedies as provided by law including terminating this Agreement.
13. All notices or demands upon any party to this Agreement, except as otherwise specified herein, shall be in writing and shall be delivered in person or sent by mail addressed as follows:

For Contract Issues

Arizona Department of Transportation  
Mary Ann Roder, Manager  
Multimodal Planning Division Admin  
206 South 17th Ave., Mail Drop 310B  
Phoenix, AZ 85007  
Phone: 602-712-4848  
FAX: 602-712-3046  
[mroder@azdot.gov](mailto:mroder@azdot.gov)

City of Avondale  
Charles P. McClendon, City Manager  
11465 W. Civic Center Dr., Ste 120  
Avondale, AZ 85323  
Phone: 623-333-1000  
Fax: 623-333-0100  
[cmclendon@avondale.org](mailto:cmclendon@avondale.org)

For Project Issues

Arizona Department of Transportation  
Brian Fellows, Project Manager  
Multimodal Planning Division  
206 South 17th Avenue, Mail Drop 310B  
Phoenix, AZ 85007  
Phone: 602-712-712-8010  
FAX 602-712-3046  
[bfellows@azdot.gov](mailto:bfellows@azdot.gov)

City of Avondale  
Charles P. McClendon, City Manager  
11465 W. Civic Center Dr., Ste 120  
Avondale, AZ 85323  
Phone: 623-333-1000  
Fax: 623-333-0100  
[cmclendon@avondale.org](mailto:cmclendon@avondale.org)

For Procurement Assistance

Arizona Department of Transportation  
Valarie Vacanari  
ADOT Procurement  
1739 W. Jackson, Suite A, Mail Drop 100P  
Phoenix, AZ 85007  
Phone: 602-712-7211  
FAX 602-712-8647  
[tjohnson@azdot.gov](mailto:tjohnson@azdot.gov)

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

**CITY OF AVONDALE**

**STATE OF ARIZONA  
Department of Transportation**

By \_\_\_\_\_  
MARIE LOPEZ-ROGERS, Mayor

By \_\_\_\_\_  
JENNIFER TOTH, Division Director  
Multimodal Planning Division

Date \_\_\_\_\_

Date \_\_\_\_\_

ATTEST:

By \_\_\_\_\_  
Carmen Martinez, City Clerk

Date \_\_\_\_\_

**APPROVAL OF THE CITY OF AVONDALE**

I have reviewed the above referenced proposed Intergovernmental Agreement, BETWEEN the ARIZONA DEPARTMENT OF TRANSPORTATION, MULTIMODAL PLANNING DIVISION, and CITY OF AVONDALE and declare this Agreement to be in proper form and within the powers and authority granted to CITY OF AVONDALE under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Attorney for the CITY OF AVONDALE

**ARIZONA DEPARTMENT OF TRANSPORTATION  
SAFE ROUTES TO SCHOOL  
PROGRESS PAYMENT REPORT**

<b>Report No.</b>		<b>JPA 09-013M</b>	
		<b>PROGRESS</b>	
<b>Project No.</b>	PSRTS 01C/PSRTS 01D	<b>Final</b>	
<b>Name of Project</b>	Safe Routes to School		
<b>Name of Vendor</b>	City of Avondale		
<b>REMIT PAYMENT TO:</b>			
Date Started	Estimated Completion Date:		

**SUMMARY OF WORK FOR WHICH PAYMENT IS REQUESTED**

Items	DESCRIPTION	Hours	CONTRACT AMOUNT	Previous Accumulative Amount	Current Month	Accumulative Amount
	PER JPA					\$ -

Submitted By _____	Date: _____	Total: To: Date:	\$0.00
Approved By: _____	Date: _____	Total: Previous: Report:	\$0.00
Accepted By: _____	Date: _____	Current: Report:	\$0.00
MPD Administration			



## **EXHIBIT B**

The following information is being provided as an instructional and informational tool regarding the procurement of items for any grant programs that are administered by the Arizona Department of Transportation, (Department). These rules shall apply for all purchases, where the recipient is not certified, as provided for through 49 CFR, Article 18.36\*.

### **For all grant programs the following rules shall apply regarding the purchasing of items.**

The Arizona Department of Transportation is commanded by state statute to follow, the Arizona State Procurement Code, (A.R.S. 41- 2501\*\*) for the purchase of materials, and or services. As a recipient of a grant, as managed by the Department, your ability to purchase items utilizing these grant monies shall be limited as follows:

**Procurements of less than \$5,000.00 (total)** shall be procured by the grant recipient, following best procurement practices, as stated above, which promotes the use of competition. Total is restricted to order total, not cost per item. Additionally, any procurement shall also promote the use of small, woman-owned and minority-owned businesses where applicable.

Use of any brand names or potentially restrictive specifications shall be documented for audit review. Any use of a brand name to intentionally restrict competition, shall be strictly prohibited, as provided for in A.R.S. 41-2565\*\*.

In all instances, the recipient shall issue an official document such as a purchase order, to the Supplier. The purchase order shall provide the following information:

- Supplier Name, address, contact name, and phone number
- Place of delivery
- Purchase Order Number
- Date of Order
- Date of Delivery
- Unit Cost of Item
- Description of Item
- Total \$ amount of order
- Taxes
- Freight/Shipping and Handling
- Purchase Order Total

### **Items or Orders Over \$5,000.00**

In **all** instances where the item total or order total is above \$5,000.00, the recipient must inform the Department of the need/requirement. The recipient shall not make any purchases beyond the \$5,000.00 limit.

### **Audit Requirement(s)**

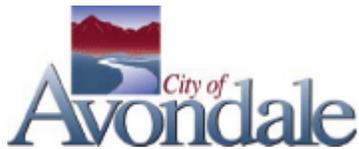
The recipient must be aware, that at any time, the Department reserves the right to inspect/audit any and all grant expenditures, including any associated documents, reports and programs.

**These guidelines do not supersede or intentionally conflict with any requirements set forth in any grant application, grant approvals, intergovernmental agreements, joint project agreements or other documentation as provided for the subject grant.**

\* 49CFR 18.36 provides for roles, responsibilities, and processes for the utilization of Federal grant monies. In part, this Common Rule, states that the original Grantee (ADOT) is responsible for the procurement of all items and services that will be expended for the grant, and further, the grantee (ADOT) is subject to audit and further oversight by the Federal entity (FHWA) for conformance to these rules. In all cases, the Grantee (ADOT) is required to use those procurement processes (state or federal) that provide for the most oversight and accountability in the expenditure of these grant monies.

\*\*A.R.S 41-2501, the Arizona State Procurement Code, is a combination of state statute and administrative code that states the public procurement processes and requirements, as it relates to competition, overall best value and the effective expenditure of taxpayer monies.

\*\*A.R.S 41-2565, Maximum practicable competition which states; "All specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the state's needs and shall not be unduly restrictive."



# CITY COUNCIL REPORT

**SUBJECT:**  
Ordinance 1380-709 - Charter Amendments

**MEETING DATE:**  
July 20, 2009

**TO:** Mayor and Council  
**FROM:** Carmen Martinez, City Clerk (623) 333-1214  
**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

City Council will consider an ordinance amending the Avondale City Charter and referring the amendments to the Avondale voters for their consideration at the November 3, 2009 election. The Council will take appropriate action.

**DISCUSSION:**

At the work session of July 6, 2009, staff reviewed a series of proposed amendments to the City's Charter. As presented, the amendments seek to update the Charter to bring it into alignment with current practices and/or state law. The proposed amendments are as follows:

- **Article VI Section 6 Adoption of ordinance fixing tax rate**  
Currently there is a discrepancy between the charter and state law. State law says that the City Council must adopt a resolution setting the tax levy; the Charter requires that this action be taken by ordinance. The language is being amended to bring it in compliance with state law and at the same time build in flexibility in case state law changes.
- **Article VII Section 6 Reading and passage of ordinances and resolution; effective date.**  
The language in this section is being updated to: 1) bring it current with our practices and recognize the use of technology to inform the residents of ordinances and resolutions being considered by council; 2) allow the Council the ability to amend proposed ordinances or resolutions provided that such amendments are duly recorded in the minutes where the amended ordinance or resolution is adopted; 3) delete a paragraph that is now obsolete due to the availability of technology; 4) eliminate the requirement for ordinances and resolutions to be read by number and title prior to adoption while retaining the Council's authority to direct that ordinance and resolutions be read in their entirety or by title and number only.
- **Article IX Section 3 Qualifications of electors; registration.**  
Currently the Charter reads that only real property owners may vote on a ballot question regarding the issuance of bonds. This is clearly not our practice as all Avondale voters vote in any City election.
- **Article IX Section 6 Time of holding primary elections.**  
This section is currently in conflict with state law. The amendment will set the date for the Primary election that is in conformance with state law.
- **Article IX Section 9 Time of holding general election.**  
This section is currently in conflict with state law. The amendment will set the date for the General election that is in conformance with state law.

The following amendment was not part of the discussion on July 6th. Staff is recommending this amendment in order to standardize procedures.

**Article VII, Sections 5 When actions to be taken by ordinance**

Expands on this paragraph so that an ordinance does not have to be adopted to approve items related to the acquisition, sale or lease of public property when these are part of subdivision plat, map of dedication or other legal division of land. The proposed ordinance approves these amendments and will refer the same for the consideration of Avondale voters at the November 3, 2009 election.

**RECOMMENDATION:**

Staff is recommending that Council adopt the ordinance approving the Charter amendments and referring the same for the consideration of Avondale voters at the November 3, 2009 election.

**ATTACHMENTS:**

Click to download

 [Ordinance 1380-709](#)

**ORDINANCE NO. 1380-709**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, AMENDING THE AVONDALE CITY CHARTER AND REFERRING SUCH AMENDMENTS TO THE QUALIFIED ELECTORS OF THE CITY OF AVONDALE FOR CONSIDERATION AT THE GENERAL ELECTION TO BE HELD NOVEMBER 3, 2009.

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

SECTION 1. That Article VI, Section 6 of the Avondale City Charter is hereby amended to read as follows:

**Section 6 Adoption of ordinance OR RESOLUTION fixing tax rate.**

On the day set for establishing tax rates but no later than the DATE ESTABLISHED BY STATE LAW, BUT IF NO DATE IS ESTABLISHED BY STATE LAW, THEN NOT LATER THAN THE third Monday in August, the council shall meet and adopt EITHER an ordinance OR A RESOLUTION IN COMPLIANCE WITH STATE LAW levying upon the assessed valuation of the property within the city, subject to the provisions of this charter, a rate of taxation on each one hundred dollars (\$100.00) of valuation, sufficient to raise the tax levy shown in the annual budget. The city clerk shall then send a certified copy of the tax levy ordinance OR RESOLUTION to the county assessor, who shall compute the taxes and cause their collection for the City.

SECTION 2. That Article VII, Sections 5 and 6 of the Avondale City Charter are hereby amended to read as follows:

**Section 5 When actions to be taken by ordinance.**

. . . .

(2) Providing for the appropriation, acquisition, sale or lease of public property UNLESS SUCH PROPERTY IS DEDICATED TO THE CITY AS PART OF AN APPROVED SUBDIVISION PLAT, MAP OF DEDICATION OR OTHER LEGAL DIVISION OF LAND.

. . . .

**Section 6 Reading and passage of ordinances and ~~resolution~~ RESOLUTIONS; effective date.**

All proposed ordinances and resolutions shall be subject to the following requirements for passage at any meeting of the council:

(1) Copies of a proposed ordinance or resolution, INCLUDING ALL ATTACHMENTS, shall be POSTED ON THE CITY'S WEBSITE OR OTHER ELECTRONICALLY ACCESSIBLE PUBLIC SITE AND delivered to the CITY HALL OFFICES OF THE mayor and council, or left at their usual place of abode, at least forty-eight (48) hours prior to the meeting.

(4 2) In the event that an amendment of A substantive matter is proposed ~~such~~ FOR AN ordinance or resolution THAT HAS BEEN MADE AVAILABLE AS SET FORTH IN SUBSECTION (1) OF SECTION 6 ABOVE, SUCH AMENDED ORDINANCE OR RESOLUTION ~~containing such proposed amendment~~ shall not be adopted without FIRST ENTERING INTO THE RECORD AT THE PUBLIC MEETING AT WHICH IT IS TO BE ADOPTED SUCH INFORMATION AS REASONABLY NECESSARY TO INFORM THE COUNCIL AND THE PUBLIC OF THE NATURE OF THE AMENDMENT ~~following the provision set forth in subparagraph (3) of section 6 of article VII of this charter.~~ For the purpose of this subsection, the term "amendment of A substantive matter" means an amendment which, either by addition, alteration or deletion, alters the sense, meaning or effect of the proposed ordinance OR RESOLUTION, but shall not be deemed to include the changing of capitalization for the purpose of uniformity or the correction of manifest clerical typographical or format errors.

~~(3) If the council so directs, copies of titles of proposed ordinance or resolutions shall be posted at the city hall forty eight (48) hours before the hour the city council convenes to act upon the ordinance or resolution. During the said forty eight hour period, copies of the entire proposed ordinance or resolution shall be made available for the inspection of the public at any time during the city's regular business hours.~~

(2 3) By request of the mayor or any member of the council, a full reading of the proposed ordinance or resolution shall be ordered. ~~, otherwise such ordinance or resolution heretofore mentioned shall be read by number and title only. The measure may be passed and adopted at any time after such reading.~~

(4) Measures, other than emergency measures, shall take effect and become operative thirty (30) days after the date of their passage.

SECTION 3. That Article IX, Sections 3, 6 and 9 of the Avondale City Charter are hereby amended to read as follows:

**Section 3 Qualifications of electors; registration.**

The qualification of electors shall be as required by the constitution and laws of this state for state and county electors. ~~However, in voting on the question of issuing bonds, in addition to being qualified electors of the city, the elector must be a real property taxpayer.~~

**Section 6 Time of holding primary elections.**

Primary elections shall be held on the ~~second Tuesday in September~~ TENTH TUESDAY BEFORE THE FIRST MONDAY IN NOVEMBER OR ON THE DATE OTHERWISE PRESCRIBED BY STATE LAW of each odd-numbered year commencing in 1961.

**Section 9 Time of holding general election.**

There shall be a general municipal election held every odd-numbered year on the ~~second Tuesday in November~~ FIRST TUESDAY AFTER THE FIRST MONDAY IN NOVEMBER OR ON THE DATE OTHERWISE PRESCRIBED BY STATE LAW, unless same is unnecessary by reason of other provisions herein.

SECTION 4. That this Ordinance shall be submitted to the qualified electors of the City of Avondale at the General Election to be held on November 3, 2009 and the individual provisions set forth in Sections 1, 2 and 3 herein shall be effective only upon approval of the majority of qualified electors voting at such election.

SECTION 5. If any provision of this Ordinance is for any reason held by any court of competent jurisdiction to be unenforceable, such provision of portion hereof shall be deemed separate, distinct and independent of all other provisions and such holding shall not affect the validity of the remaining portions of this Ordinance.

**PASSED AND ADOPTED** by the Council of the City of Avondale, July 20, 2009.

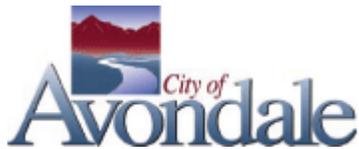
\_\_\_\_\_  
Marie Lopez Rogers, Mayor

ATTEST:

\_\_\_\_\_  
Carmen Martinez, City Clerk

APPROVED AS TO FORM:

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



# CITY COUNCIL REPORT

**SUBJECT:**

Resolution 2845-709 - Intergovernmental Agreement with the State of Arizona Early Childhood Development and Health Board

**MEETING DATE:**

July 20, 2009

**TO:** Mayor and Council

**FROM:** Gina Montes, Neighborhood and Family Services Director (623)333-2727

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council approve a resolution authorizing an Intergovernmental Agreement with the State of Arizona Early Childhood Development and Health Board to provide funding for support services to families with children from birth to age five and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**BACKGROUND:**

The Arizona Early Childhood Development and Health Board, known as First Things First, is a State agency established by a voter initiative to support a voluntary system of early care and education. The objective is to provide an array of programs for families with children from birth to age five. The Southwest Maricopa Regional Partnership Council (Regional Council) represents Avondale and surrounding communities and is charged with making funding and strategy recommendations to the First Things First Board.

At the request of the Regional Council, First Things First offered the opportunity for the Neighborhood and Family Services Department to receive a noncompetitive grant to expand services for young children and their families at the Care 1st Avondale Resource and Housing Center. This grant addresses the Regional Council's goal to expand and enhance family resource centers to offer comprehensive services including parenting education, early literacy development, social support opportunities and access to community resources.

**DISCUSSION:**

The scope of work for the grant was negotiated to address the priority areas of the Regional Council and to enhance services provided out of the Care 1st Center. These include three areas of service provision: parenting education, early literacy services, and emergency food boxes for families with young children. The services will be provided to residents of Southwest Maricopa County. In addition, funds are being provided for a pass-through contract for services in Gila Bend.

Parenting Education

The first service is a family-centered and strengths-based family education program. Parenting classes will help families to promote the healthy development of their children. By providing a community-based program, parents are more able to access information on a variety of child development topics. Services will include: information and referral, assisting families in connecting with support networks, and parenting skills education.

### Early Literacy

If approved, the grant will also expand early language and literacy programs in the Southwest Valley. Training will be provided for parents to assist them in promoting early literacy and school readiness in their children. Parents will learn about child development and age appropriate methods to prepare children for school success.

### Emergency Food Boxes

First Things First has reserved a portion of funding to address the emergency needs of families due to the recession. The grant will provide funding for emergency food boxes that also include necessary age appropriate supplies for children from birth to age five, such as diapers and baby formula. Funding will allow for approximately 720 food boxes to be distributed.

Total funding is \$284,702 annually for three years. The Neighborhood and Family Services Department will hire a full-time coordinator and a part-time early literacy specialist. A pass-through grant is included for Teen Outreach Pregnancy Services which will provide services to Gila Bend. The budget also includes operating expenses, supplies and training and technical assistance. The budget is attached.

### **BUDGETARY IMPACT:**

There is no match funding required and no impact on the General Fund.

### **RECOMMENDATION:**

Staff recommends that the City Council approve a resolution authorizing an Intergovernmental Agreement with the State of Arizona Early Childhood Development and Health Board to provide funding for support services to families with children from birth to age five and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

### **ATTACHMENTS:**

Click to download

 [Resolution 2845-709](#)

**RESOLUTION NO. 2845-709**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE FIRST THINGS FIRST SOUTHWEST MARICOPA REGIONAL PARTNERSHIP COUNCIL RELATING TO ENHANCEMENT OF SERVICES AT THE CITY OF AVONDALE FAMILY RESOURCE CENTER.

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

SECTION 1. That the intergovernmental agreement with the First Things First Southwest Maricopa Regional Partnership Council relating to enhancement of services at the City of Avondale Family Resource Center (the “Agreement”) is hereby approved in substantially 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 20, 2009.

---

Marie Lopez Rogers, Mayor

ATTEST:

---

Carmen Martinez, City Clerk

APPROVED AS TO FORM:

---

Andrew J. McGuire, City Attorney

EXHIBIT A  
TO  
RESOLUTION NO. 2845-709

[Intergovernmental Agreement]

See following pages.

**GRANT AGREEMENT**  
**GRA-RC007-10-0008-01**  
**BETWEEN THE**  
**ARIZONA EARLY CHILDHOOD DEVELOPMENT AND HEALTH BOARD**  
**a/k/a/**  
**FIRST THINGS FIRST SOUTHWEST MARICOPA REGIONAL PARTNERSHIP COUNCIL**  
**AND**  
**THE CITY OF AVONDALE**

THIS GRANT AGREEMENT (this "Agreement") is entered into by and between the Arizona Early Childhood Development and Health Board (the "Board") a/k/a/ First Things First Southwest Maricopa Regional Partnership Council, an Arizona governmental agency (hereinafter, collectively, "FTF" or "GRANTOR"), and the City of Avondale, an Arizona municipal corporation ("Avondale" or "GRANTEE") (FTF and GRANTEE are referred to herein individually as a "Party" and collectively as the "Parties").

RECITALS

WHEREAS, ARIZ. REV. STAT. § 8-1192(A)(3) charges the Board and FTF with the responsibility of administering funds.

WHEREAS, Avondale established a resource center to provide convenient and comprehensive human and housing services to residents of the southwestern valley region in the building that formerly housed the Old Town Library, located at 328 West Western Avenue, Avondale, Arizona (the "Family Resource Center").

WHEREAS, Avondale entered into that certain Financial Assistance Agreement, dated November 3, 2008, with Care 1st Health Plan Arizona, Inc., an Arizona corporation ("Care 1st"), by which Care 1st provided Avondale with funding for the improvement, operation and maintenance of the Family Resource Center.

WHEREAS, the Parties desire to expand, enhance or supplement the services already provided at the Family Resource Center by also offering early childhood and family development services (the "Development Services").

WHEREAS, the Parties desire to engage the services of a qualified vendor for the provision of Development Services to the Town of Gila Bend ("Gila Bend").

WHEREAS, the Parties desire to enter into this Agreement to cooperatively provide the Development Services at the Family Resource Center and to arrange for the provision of same to Gila Bend.

AGREEMENT

NOW, THEREFORE, IN CONSIDERATION of the foregoing recitals, which are incorporated as if set forth fully herein, the covenants, promises, terms and conditions set forth herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

**I. PURPOSE OF AGREEMENT**

The purpose of this Agreement is to specify the responsibilities and procedures for the GRANTEE role in administering FTF grant funds.

**II. TERM OF AGREEMENT**

This Agreement shall become effective on July 20, 2009 and shall terminate on June 30, 2010.

**III. DESCRIPTION OF SERVICES**

The GRANTEE shall provide the following services for the GRANTOR as approved and summarized below:

A. Avondale Family Resource Center

1. Enhance the Family Resource Center by providing families with access to the information and support necessary to strengthen family and community life, enhance the healthy growth and development of children through parenting education, early literacy development, social support opportunities and access to additional community resources
2. The GRANTEE shall adhere to all requirements as set forth in any of Attachments A-H and Exhibits A-G, attached hereto and incorporated herein by reference.
3. Develop a plan for compliance with the terms of this Agreement and adherence to First Things First standards as set forth herein (the "Implementation Plan"). The Implementation Plan is attached hereto as Attachment C.
4. Provide parenting education to families with children aged birth to five, targeting pregnant or parenting teens, early language and literacy, as well as community food assistance as part of the Development Services offered under the terms of this Agreement at the Family Resource Center. All Development Services must comply with the Scope of Work and Standards of Practice as detailed in Exhibits A and Exhibit B, each of which is attached hereto.
5. Family Resource Center staff shall be provided with and will be required to utilize The Arizona Parents Kit, as set forth more particularly in Exhibit E, attached hereto, while assisting families with young children.
6. Offer southwest valley families access to information and resources through the further development or expansion, if any, of the Family Resource Center as well as provide linkages and referrals to other community and social services that meet the needs of the families.

7. Ensure that the Family Resource Center reflect the social and cultural characteristics of the community as well as the age and needs of the participants. GRANTEE shall include the requirements of this subsection in its Implementation Plan.
8. Develop plans for recruitment and outreach to families and the community as well as plans to encourage family and community involvement in continuous ongoing program development, which should be included in the Implementation Plan.
9. The GRANTEE must submit the Grant Management Forms provided by FTF (Attachments A-G) and return prior to July 31, 2009.
10. The GRANTEE must develop a plan for evaluation to demonstrate program effectiveness and impact, which plan shall be included in the Implementation Plan. Programs must plan for a pre/post survey of parents to show changes in parental knowledge and skills and parent satisfaction as well as developing data collection and reporting to track family utilization of the Family Resource Center who have children ages birth through five. In addition, the GRANTEE must complete Evaluation/Performance Measure requirements as detailed in Exhibit F attached hereto.
11. Attend meetings and work groups in the region being served to identify, develop, and implement mechanisms around coordination and collaboration. Participate in cross regional and statewide work that may include additional work groups and meetings. At a minimum monthly meetings within the regional area, four cross regional meeting/work groups held in various location and one statewide meeting will be scheduled.
12. Share data with FTF that will be used for cross regional analysis

B. Gila Bend Development Services

1. Contract with a qualified vendor (the "Gila Bend Contractor") for a total aggregate amount not to exceed \$75,000.00 from proceeds received by GRANTEE under the terms of this Agreement to provide family education services to the Town of Gila Bend for the delivery of services to include:
  1. Parenting Skills
  2. Resource Coordination
2. Ensure by way of separate agreement, as described above, that the Gila Bend Contractor shall provide parenting education to families with children aged birth to five, targeting pregnant or parenting teens, early language and literacy, as well as community food assistance as part of the Development Services offered under the terms of this Agreement to Gila Bend Resource Center utilizing the FTF Standards of Practice attached hereto as Exhibit B.

3. Offer all families access to information and resources as part of the Development Services, as well as provide linkages and referrals to other community and social services that meet the needs of the families.
4. Ensure that the Development Services provided to Gila Bend reflect the social and cultural characteristics of the community as well as the age and needs of the participants.
5. The GRANTEE must develop a plan for evaluation to demonstrate program effectiveness and impact, which plan shall be included as part of the Implementation Plan. Programs must plan for a pre/post survey of parents to show changes in parental knowledge and skills and parent satisfaction as well as developing data collection and reporting to track family utilization of the Development Services who have children ages birth through five. In addition, the GRANTEE shall ensure that the Gila Bend Contractor shall complete Evaluation/Performance Measure requirements as detailed in Exhibit F attached hereto.

**IV. MANNER OF FINANCING**

The GRANTOR shall:

- A. Provide up to \$284,702 to GRANTEE for services provided under Section III.
- B. Payment made by the GRANTOR to the GRANTEE shall be on a reimbursement basis only and is conditioned upon receipt of applicable, accurate and complete reimbursement documents to be submitted by the GRANTEE. Final payment will be contingent upon receipt of all fiscal and programmatic reports required of the GRANTEE under this Agreement.
- C. Provide GRANTEE with all such Arizona Parent Kits as GRANTEE may require under the terms of this Agreement.

**V. FISCAL RESPONSIBILITY**

It is understood and agreed that the total amount of the funds used under this Agreement shall be used for the project(s) and scope of work outlined in this Agreement. Therefore, should the project not be completed, be partially completed, or be completed at a lower cost than the original budget called for, the amount reimbursed to the GRANTEE shall be for only the amount of dollars actually spent by the GRANTEE. For any funds received under this Agreement for which expenditure is disallowed by an audit exception by the GRANTOR, the State, or Federal government, the GRANTEE shall reimburse said funds directly to the GRANTOR immediately.

**VI. RECORDS AND AUDITS**

- A. All books, accounts, reports, files and other records of any Party relating to this Agreement or the work done under this Agreement shall be subject at all reasonable times to inspection and audit by the other Party until five years after the State has repaid all monies in full.

Such records shall be available for inspection upon five business days' notice at the offices of FTF.

- B. In addition, in compliance with the Federal Single Audit Act (31 U.S.C. par., 7501-7507), as amended by the Single Audit Act Amendments of 1996 (P.L. 104 to 156), GRANTEE must have an annual audit conducted in accordance with Office of Management and Budget (OMB) Circular #A-133 ("Audits of States, Local Governments, and Non-profit Organizations") if GRANTEE expends more than \$500,000 from federal awards. *If the GRANTEE has expended more than \$500,000 in federal dollars, a copy of the GRANTEE's audit report for the previous fiscal year must be submitted to the GRANTOR for review within thirty (30) days of signing this Agreement. Otherwise the annual audit review/statement must be provided to the GRANTOR within thirty (30) days.*

#### **VII. DEBARMENT AND SUSPENSION REGULATIONS**

The GRANTEE agrees to comply with federal debarment and suspension regulations as set forth in Title 45 CFR, Part 74.

#### **VIII. FUNDS MANAGEMENT**

- A. The GRANTEE must maintain funds received under this Agreement in separate ledger accounts and cannot mix these funds with other sources. GRANTEE must manage funds according to applicable federal regulations for administrative requirements, costs principles and audits.
- B. The GRANTEE must maintain adequate business systems to comply with Federal requirements. The business systems that must be maintained are:
- Financial Management
  - Procurement
  - Personnel
  - Property
  - Travel
- C. A system is adequate if it is 1) written; 2) consistently followed – it applies in all similar circumstances; and 3) consistently applied – it applies to all sources of funds. Rates for mileage, lodging and meals are limited to the rates established by the State of Arizona Travel Policy ([www.gao.state.az.us/travel/](http://www.gao.state.az.us/travel/)).

#### **IX. REPORTING REQUIREMENTS**

Regular reports by the GRANTEE shall include:

- A. Programmatic and Evaluation Reports. The GRANTEE shall provide quarterly program activity reports to the GRANTOR within twenty (20) working days of the last day of the quarter in which services are provided. The report shall contain such information as deemed necessary by the GRANTOR. Quarterly reports are due:

1. Period: July 20, 2009 – September 30, 2009  
Due: October 20, 2009
  2. Period: October 1, 2009 – December 31, 2009  
Due: January 20, 2010
  3. January 1, 2009 – March 31, 2009  
Due: April 20, 2010
  4. April 1, 2010 – June 30, 2010  
Due: July 20, 2010
  5. The final programmatic report as submitted shall be marked FINAL
- B. Financial Reimbursement. The GRANTEE shall provide, as frequently as monthly but not less than quarterly, requests for reimbursement. Reimbursement requests shall be submitted with the Reimbursement Cover Sheet template provided by the GRANTOR. The GRANTEE shall submit a final reimbursement request for expenses obligated prior to the end of the termination of this Agreement no more than thirty (30) days after the end of the Agreement. Requests for reimbursement received later than the thirty (30) days after the Agreement termination will not be paid. The final reimbursement request as submitted shall be marked FINAL.
- C. All reports shall be submitted to the contact person designated in Section XLI, NOTICES, of this Agreement.

**X. ASSIGNMENT AND DELEGATION**

- A. GRANTEE may not assign any rights hereunder without the express, prior written consent of both parties.

**XI. AMENDMENTS**

- A. Any change in this Agreement including but not limited to the Description of Services and budget described herein, whether by modification or supplementation, must be accomplished by a formal written Agreement amendment signed and approved by and between the duly authorized representative of the GRANTEE and the GRANTOR.
- B. Any such amendment shall: (1) specify an effective date; (2) specify any increases or decreases in the amount of the GRANTEE's compensation if applicable; (3) be titled as an "Amendment"; and (4) be signed by the parties identified in the preceding sentence. The GRANTEE expressly and explicitly understands and agrees that no other method of communication, including any other document, correspondence, act, or oral communication by or from any person, shall be used or construed as an amendment or modification or supplementation to this Agreement.

**XII. SUBCONTRACTORS**

- A. The GRANTEE may enter into written subcontract(s) for performance of certain of its functions under the contract in accordance with terms established in the State of Arizona procurement policy.

B. The GRANTEE agrees and understand that no subcontract that the GRANTEE enters into with respect to performance under this Agreement shall in any way relieve the GRANTEE of any responsibilities for performance if its duties. The GRANTEE shall give the GRANTOR immediate notice in writing by certified mail of any action or suit filed and prompt notice of any claim made against the GRANTEE by any subcontractor or vendor which in the opinion of the GRANTEE may result in litigation related in any way to the Agreement with the GRANTOR.

**XIII. OFFSHORE PERFORMANCE OF WORK PROHIBITED**

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

**XIV. E-VERIFY REQUIREMENTS**

To the extent applicable under ARIZ. REV. STAT. § 41-4401, each Party and its subcontractors warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify requirements under Arizona Revised Statutes Section 23-214(A). A breach of the above-mentioned warranty by any Party or its subcontractors shall be deemed a material breach of the Agreement and may result in the termination of the Agreement by the non-breaching Parties. Each Party retains the legal right to randomly inspect the papers and records of the other Parties' or its subcontractors' employees who work on the Agreement to ensure that the Parties or its subcontractors are complying with the above-mentioned warranty.

**XV. SCRUTINIZED BUSINESS OPERATIONS**

Pursuant to ARIZ. REV. STAT. §§ 35-391.06 and 35-393.06, each Party certifies that it does not have a scrutinized business operation in Sudan or Iran. For the purpose of this Section the term "scrutinized business operations" shall have the meanings set forth in ARIZ. REV. STAT. §§ 35-391 or 35-393, as applicable. If any Party determines that another Party submitted a false certification, that Party may impose remedies as provided by law including terminating this Agreement.

**XVI. AGREEMENT RENEWAL**

This Agreement shall not bind nor purport to bind the GRANTOR for any contractual commitment in excess of the original Agreement period.

**XVII. RIGHT TO ASSURANCE**

If the GRANTOR in good faith has reason to believe that the GRANTEE does not intend to, or is unable to perform or continue performing under this Agreement, the GRANTOR may demand in writing that the GRANTEE give a written assurance of intent to perform. Failure by the GRANTEE to provide written assurance within the number of days specified in the demand (which shall be

not less than ten days) may, at the GRANTOR's option, be the basis for terminating this Agreement under the terms of this Agreement or other rights and remedies available by law.

**XVIII. CANCELLATION FOR CONFLICT OF INTEREST**

The GRANTOR or the GRANTEE may, by written notice cancel this Agreement without penalty or further obligation pursuant to ARIZ. REV. STAT. § 38-511 if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the State or its subdivisions (unit of local government) is an employee or agent of any other party in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement. Such cancellation shall be effective immediately upon receipt of written notice from the GRANTOR or the GRANTEE, unless the notice specifies a later time.

**XIX. THIRD PARTY ANTITRUST VIOLATIONS**

GRANTEE assigns to the State of Arizona, GRANTOR any claim for overcharges resulting from antitrust violations to the extent that such violations concern materials or services supplied by third parties to GRANTEE toward fulfillment of this Agreement.

**XX. AVAILABILITY OF FUNDS**

Every payment or performance obligation of the GRANTOR or GRANTEE, as applicable, under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment or performance of such obligations. If the funds are not allocated and available for the continuance of this Agreement, either Party may terminate this Agreement at the end of the period for which funds are available. No liability shall accrue to either Party in the event this provision is exercised, and the GRANTOR and the GRANTEE shall not be obligated or liable for any future payments or performances or for any damages as a result of termination under this paragraph, including purchases and/or contracts entered into by either Party in the execution of this Agreement.

**XXI. FORCE MAJEURE**

If either party hereto is delayed or prevented from the performance of any act required in this Agreement due to acts of God, strikes, lockouts, labor disputes, civil disorder, or other causes without fault and beyond the control of the party obligated, performance of or payment for such act will be excused for the period of the delay.

**XXII. ARBITRATION**

This agreement is subject to arbitration to the extent required by ARIZ. REV. STAT. § 12-1518.

**XXIII. GOVERNING LAW AND CONTRACT INTERPRETATION**

A. This Agreement shall be governed and interpreted in accordance with the laws of the State of Arizona.

B. Either party's failure to insist on strict performance of any term or condition of the Agreement 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.

**XXIV. ENTIRE AGREEMENT**

This Agreement and any Attachments and Exhibits incorporated herein by reference constitute the entire Agreement between the parties hereto pertaining to the subject matter hereof and may not be changed or added to except by a writing signed by all parties hereto in conformity with Section XI of this Agreement. All prior and contemporaneous agreements, representations, and understandings of the parties, oral, written, pertaining to the subject matter hereof, are hereby superseded or merged herein.

**XXV. RESTRICTIONS ON LOBBYING**

The GRANTEE shall not use funds made available to it under this Agreement to pay for, influence, or seek to influence any officer or employee of a State, Local or Federal government.

**XXVI. LICENSING**

The GRANTEE, unless otherwise exempted by law, shall obtain and maintain all licenses, permits and authority necessary to perform those acts it is obligated to perform under this Agreement.

**XXVII. NON-DISCRIMINATION**

The GRANTEE shall comply with all state and federal equal opportunity and non-discrimination requirements and conditions of employment, including the American with Disability Act, in accordance with ARIZ. REV. STAT. Title 41, Chapter 9, Article 4 and Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin, disability or political affiliation, shall have equal access to employment opportunities and all applicable provisions and regulations relating to Executive Order No. 13279 – Equal Protection of the Laws for Faith-based and Community Organizations.

**XXVIII. SECTARIAN REQUESTS**

Funds disbursed pursuant to this Agreement may not be expended for any sectarian purpose or activity, including sectarian worship or instruction in violation of the United States or Arizona Constitutions.

**XXIX. SEVERABILITY**

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

**XXX. ADVERTISING AND PROMOTION OF AGREEMENT**

The GRANTEE shall not advertise or publish information for commercial benefit concerning this Agreement without the written approval of the GRANTOR.

**XXXI. OWNERSHIP OF INFORMATION, PRINTED AND PUBLISHED MATERIAL**

- A. The GRANTOR reserves the right to review and approve any publications and/or media funded or partially funded through this Agreement. All publications funded or partially funded through this Agreement shall recognize the GRANTOR, and GRANTOR shall have full and complete rights to reproduce, duplicate, disclose, perform, and otherwise use all materials prepared under this Agreement.
- B. The GRANTEE agrees that any report, printed matter, or publication (written, visual, or sound, but excluding press releases, newsletters, and issue analyses) issued by the GRANTEE describing programs or projects funded under this agreement in whole or in part with FTF funds shall follow the Style Guide, attached hereto as Exhibit G and incorporated herein by reference.
- C. The GRANTEE also agrees that one copy of any such publication, report, printed matter, or publication shall be submitted to the GRANTOR to be placed on file and distributed as appropriate to other potential Grantees or interested parties. The GRANTOR may waive the requirement for submission of any specific publication upon submission of a request providing justification from the GRANTEE.
- D. GRANTOR and GRANTEE recognize that research resulting from this Agreement has the potential to become public information. However, prior to the termination of this Agreement, the GRANTEE agrees that no research-based data resulting from this Agreement shall be published or otherwise distributed in any form without express written permission from the GRANTOR. It is also agreed that any report or printed matter completed as a part of this agreement is a work for hire and shall not be copyrighted by the GRANTEE.

**XXXII. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS**

Any television public service announcement that is produced or funded under this agreement in whole or in part by the GRANTEE shall include closed captioning of the verbal content of such announcement.

**XXXIII. 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 negligent act or intentional misconduct of the indemnifying Party or its departments, officers, employees or agents.

**XXXIV. CONFIDENTIALITY OF RECORDS**

The GRANTEE shall establish and maintain procedures and controls that are acceptable to the GRANTOR for the purpose of assuring that no information contained in its records or obtained from the State of Arizona or from a subcontractor under this Agreement shall be used by or disclosed by it, its agents, officers, or employees, except as required, to efficiently perform duties under the Agreement. GRANTEE also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of the GRANTEE as needed for performance of duties under this Agreement, unless otherwise agreed to in writing.

**XXXV. EARLY TERMINATION**

- A. Each Party reserves the right to terminate the Agreement, in whole or in part, for cause. The terminating Party shall provide written notice of such termination for cause to the other Party in accordance with the provisions of Section XLI, below.
- B. Either Party may terminate this Agreement for convenience upon 45 days' written notice to the other Party at the addresses indicated below, and, upon such termination, all personal property, assets, equipment and supplies used by the Parties in performance of their responsibilities shall remain with or be returned to the owner of such property.

**XXXVI. CONTINUATION OF PERFORMANCE THROUGH TERMINATION**

The GRANTEE and GRANTOR shall continue to perform, in accordance with the requirements of this Agreement, up to the date of termination, as directed in the termination notice as set forth above.

**XXXVII. PARAGRAPH HEADINGS**

The paragraph headings in this Agreement are for convenience of reference only and do not define, limit, enlarge, or otherwise affect the scope, construction, or interpretation of this Agreement or any of its provisions.

**XXXVIII. COUNTERPARTS**

This Agreement may be executed in any number of counterparts, copies, or duplicate originals. Each such counterpart, copy, or duplicate original shall be deemed an original, and collectively they shall constitute one agreement.

**XXXIX. AUTHORITY TO EXECUTE THIS AGREEMENT**

Each individual executing this Agreement on behalf of the GRANTEE represents and warrants that he or she is duly authorized to execute this Agreement.

**XL. COMPLIANCE WITH FEDERAL IMMIGRATION LAWS AND REGULATIONS**

The GRANTEE shall comply with Executive Order 2005-30, which mandates as follows: (A) The GRANTEE shall, and by signing this agreement does, represents that it is in compliance with all

federal immigration laws and regulations; (B) The GRANTEE shall take affirmative action to ensure that all subcontractors of the Contractor execute similar representation; (C) the breach of any such warranty shall be deemed a material breach of this Contract, subject to monetary penalties or other penalties up to and including termination of the Contract; and (D) the State retains the legal right to inspect the papers of any employee who works on the Contract to ensure that the employer is in compliance with its representation.

**XLI. NOTICES**

Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (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 or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to GRANTOR: Arizona Early Childhood Development and Health Board  
4000 North Central, Suite 800  
Phoenix, Arizona 85012  
Attn: Southwest Maricopa Regional Partnership Council

If to GRANTOR to request reimbursement: Arizona Early Childhood Development and Health Board  
4000 North Central, Suite 800  
Phoenix, Arizona 85012  
Attn: Finance Division Southwest Maricopa Regional Partnership Council

If to the GRANTEE: 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.

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 or (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. 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.

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

“GRANTEE”

CITY OF AVONDALE, an Arizona  
municipal corporation

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

ATTEST:

\_\_\_\_\_  
Carmen Martinez, City Clerk

“GRANTOR”

ARIZONA EARLY CHILDHOOD DEVELOPMENT AND  
HEALTH BOARD a/k/a FIRST THINGS FIRST  
SOUTHWEST MARICOPA REGIONAL PARTNERSHIP  
COUNCIL, an Arizona governmental entity

\_\_\_\_\_  
J. Elliott Hibbs, Director

# Attachment A

## FIRST THINGS FIRST STANDARD DATA COLLECTION FORM

### A. Agency Information:

Program Name (if applicable) City of Avondale

Agency City of Avondale Contact Person Chris Lopez

Address 11465 W. Civic Center Drive Position Youth Development Coordinator

Address \_\_\_\_\_ Email clopez@avondale.org

City, State, Zip Avondale, AZ 85323 Phone 623-333-2719 x \_\_\_\_\_ Fax 623-333-0270

County Maricopa Employer Identification Number: 86-6000233

Agency Classification:  State Agency  County Government  Local Government  Schools  Tribal  
 Faith Based  Other

Have you previously conducted business with First Things First using this EIN: **Y** **N?** No

If **NO**, please go to the following website, download the State of Arizona Substitute W-9 Form and submit with your Application.

[http://www.gao.state.az.us/Vendor/forms/new/stateofaz\\_subw-9\\_042008.pdf](http://www.gao.state.az.us/Vendor/forms/new/stateofaz_subw-9_042008.pdf)

In which Congressional (Federal) District is your agency? Enter District # 7 & 2  
<http://www.azredistricting.org> (click on Final Maps)

In which Legislative (State) District is your agency? Enter District # 12, 13 & 23  
<http://www.azredistricting.org> (click on Final Maps)

Approximately how much FEDERAL funding (from a Federal Source) will your organization expend in your current fiscal year? \$\$2.2 million

What is your organization's fiscal year-end date? June 30

Accounting Method:  Cash  Accrual

Does your organization undergo an annual independent audit in accordance with OMB Circular A-133? **Yes**

Please provide contact information of the audit firm conducting your audit:

Agency Henry & Horne, LLP

Address 711 E. Cottonwood Lane, Suite C Casa Grande, AZ 85222-2725

Phone Number 520-836-8201

### B. Proposed Program Information / Description:

Amount requested: \$284,702

Service area of proposed program: Southwest Maricopa Region

Target population of proposed program: Parents with children aged birth to five with a special emphasis on pregnant or parenting teens

Number of participants to be served: 80 Family Education, 80 Family Literacy, 720 Emergency Food Boxes, 40 Gila Bend

Please provide a **brief** description of the **proposed program** in one or two paragraphs.

The proposed program will be provided to residents of Southwest Maricopa County and will include the following services.

#### **Parenting Education**

The first service is a family-centered and strengths-based family education program for 80 families with children birth through age five. The evidence based Healthy Steps Program provides the following services as well child visits either in conjunction with a Pediatric Clinician or alone, and through regular home visits:

- Assessing children's developmental progress
- Promoting parental knowledge and enhancing parent-child interactions
- Providing written informational materials
- Providing linkages to community resources/assisting families in connecting with support networks

To further enhance the program, parenting classes will also be provided to the families to promote the healthy development of their children. By providing a community-based program at our Care 1<sup>st</sup> Resources and Housing Center, parents will be more able to access information on a variety of child development topics. The ten week parenting skills workshops will be repeated every ten weeks by the Family Education Coordinator and will be based on the evidence based Bright Beginnings Curriculum. Lesson topics addressed by the Bright Beginnings curriculum will include the following:

- **Lesson Module 1: Prenatal Parenting: From Beginning to Birth** - Reviews issues in the transition to parenthood and discusses how to create a healthy prenatal environment for children.
- **Lesson Module 2: Brain Development in Infancy and Early Childhood** - Outlines the importance of brain development in a child's early years and suggests brain-building practices for parents and others.
- **Lesson Module 3: Attachment in Infancy and Early Childhood** - Addresses types of attachment relationships in young children and strategies for building parent-child attachments.
- **Lesson Module 4: From Muscles to Motor Skills: Understanding and Enhancing Young Children's Physical Development** - Focuses on physical development in children and how parents can enhance children's physical growth and skills.
- **Lesson Module 5: Young Children and Emotional Intelligence** - Reviews the topic of emotional intelligence and introduces strategies for fostering emotional intelligence.
- **Lesson Module 6: Assisting Your Child's Social Development** - Discusses social development in children and how parents can assist children with relationships.
- **Lesson Module 7: Selecting a Quality Child Care Environment** - Reviews types of child care, components of a quality child care environment, and how to evaluate child care quality.
- **Lesson Module 8: The Magic of Reading with Young Children** - Outlines the value of reading, practical guidelines for reading, and selection of reading materials for young children.
- **Lesson Module 9: Play's the Thing! Young Children and the Importance of Play** - Addresses the stages and purposes of play, how adults can enhance children's play, and skills and qualities learned by children in play.
- **Lesson Module 10: Alcohol, Tobacco and Other Drug Prevention for Young Children** - Focuses on alcohol, tobacco and other drug prevention for young children and guidelines for parents.

The program is further enhanced through the provision of a Development Telephone Information Line.

#### **Early Literacy**

The proposed program will also provide Early Literacy workshops to 80 parents of children ages birth through five, Parent/Child Story Time, Early Literacy Computer Learning Lab and free Age Appropriate Books. Parent/Child Story Time will be offered weekly. The Early Literacy workshops will be offered monthly and will provide training to parents to assist them in promoting early literacy and school readiness in their children. Parents will learn about child development and age appropriate methods to prepare children for school success. Early literacy programming and services will be conducted by a trained and qualified Early Literacy Specialist and will be based on the evidence based HIPPPY (Home Instruction for Parent of Preschool Youngsters) curriculum.

#### **Emergency Food Boxes**

The overall program will be further strengthened by the Emergency Food Box Program. Food boxes provided through this program will include the necessary age appropriate food and supplies for children from birth through age five, such as diapers and baby formula. The proposed program is expected to provide approximately 720 food boxes to families in need.

#### **Town of Gila Bend**

In addition, funds will be used to contract with a qualified vendor to provide family education services to the Town of Gila Bend for provision of services to include parenting skills education and resource coordination for 40 families with children ages birth through five. We will require that the vendor selected utilizes an approved evidence based curriculum with special preference toward the use of Bright Beginnings or Healthy Steps curriculums.

### C. Contact Information

**Program Agency** – Indicates person with primary contact with First Things First and is directly responsible for ensuring that the program plan is implemented. All future program correspondence will be sent to **this person**.

**Fiscal Agency** - Indicates person responsible for financial matters pertaining to this grant.

**Collaborator** – Indicates all persons/agencies that have been identified as a collaborator, partner, or host site as a requirement of this grant.

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<input checked="" type="checkbox"/> <b>Program Agency</b>	<input checked="" type="checkbox"/> <b>Fiscal Agency</b>	<input type="checkbox"/> <b>Collaborator</b>
Agency <u>City of Avondale</u>		Contact Person <u>Chris Lopez</u>
Address <u>11645 W. Civic Center Drive</u>		Position <u>Youth Development Coordinator</u>
Address _____		Email <u>clopez@avondale.org</u>
City, State, Zip <u>Avondale, AZ 85323</u>		Phone <u>623-333-2719</u> x _____ Fax <u>623-333-0270</u>
County <u>Maricopa</u>		

<input type="checkbox"/> <b>Program Agency</b>	<input type="checkbox"/> <b>Fiscal Agency</b>	<input checked="" type="checkbox"/> <b>Collaborator</b>
Agency <u>Phoenix Children's Hospital</u>		Contact Person <u>DeAnn Davies</u>
Address <u>1919 E. Thomas Rd. B-244</u>		Position <u>Healthy Steps Coordinator</u>
Address _____		Email <u>ddavies@phoenixchildrens.com</u>
City, State, Zip <u>Phoenix, AZ 85016</u>		Phone <u>602-546-0235</u> x _____ Fax <u>602-546-0222</u>
County <u>Maricopa</u>		

<input type="checkbox"/> <b>Program Agency</b>	<input type="checkbox"/> <b>Fiscal Agency</b>	<input type="checkbox"/> <b>Collaborator</b>
Agency _____		Contact Person _____
Address _____		Position _____
Address _____		Email _____
City, State, Zip _____		Phone _____ x _____ Fax _____
County _____		

**Attachment B**

**KEY PERSONNEL OVERVIEW**

<b>STAFF MEMBER</b>	<b>BACKGROUND AND EXPERTISE OF PERSONNEL</b>
<p>Name: Gina Montes            Title: NFS Director            FTE on this project: .05            In-kind</p>	<p>Ms. Montes is the head Avondale’s newly-formed Neighborhood &amp; Family Services Department which is charged with organizing neighborhood outreach and citizen participation programs to improve the quality of neighborhoods throughout the city. She oversees the Social Services Division, the Community Development Block Grant (CDBG) program, and the Code Enforcement Division and the Youth Development Division.</p> <p>Ms. Montes has more than 14 years of experience in local government and human services programs. Prior to joining the City of Avondale, she was deputy human services director for the City of Phoenix. She also worked for the City of Phoenix in a variety of capacities, including internal auditor, management intern, management assistant and deputy city auditor. She holds a Bachelor of Arts degree in History and Political Science from Texas Christian University in Fort Worth, and a Masters degree in Public Affairs from the University of Texas at Austin.</p>
<p>Name: Sylvia Sheffield            Title: Social Services Manager            FTE on this project: .15            In-kind</p>	<p>Manages the Social Services Division through grant/contract preparation/compliance and supervision of staff. Provide budget oversight; administers the Community Action Program, senior programming, and outreach programs. Create partnerships by coordinating and collaborating with other community organizations. Develop and implement policies and procedures, provide direction and vision for the Division. Manage programs including the Community Action Program; three food distribution programs; services for Caregivers including groups, forums, and training; Financially Fit program; Code Enforcement relocation fund; and the Employee Assistance Fund. Manage budgets for programs in the division. Contracts include Maricopa County Human Services Department funds, Arizona (AZ) Department of Health Services funds, Individual Development Account federal matching funds, various smaller grants and donations, and General Fund budget.</p>
<p>Name: Chris Lopez            Title: Youth Development Coordinator            FTE on this project: .25            In-kind</p>	<p>Chris Lopez holds a Masters degree in Organizational Management and over 10 years experience in youth development. Chris offers expertise in the implementation, facilitation, supervision and evaluation of programs that address violence, gangs, substance abuse and other antisocial behavior and teen health and pregnancy. Chris experience includes work with the Boys &amp; Girls Club of America SMART Moves program and numerous municipally led youth development programs. Chris currently oversees the Avondale Young Families program which provided health and life skill education to pregnant and parenting teens.</p>
<p>Name: Christina Avila            Title: Community Outreach Coordinator            FTE on this project: .15            In-kind</p>	<p>Identifies needs of the community for services to be provided or coordinated by the Social Services Division. Works with Advisory Board members and community groups to identify these needs. Works with other staff to establish and oversee new programs and services to meet identified needs. Evaluates the effectiveness of and participant satisfaction with programs and activities. Coordinate special projects and events sponsored by the Social Services Division. Assist the Social Service Division staff in resolving client crises and identifying resources to meet client needs. Oversee the Financially FIT program including staff supervision, obtaining funding, service need identification, and program development.</p>

STAFF MEMBER	BACKGROUND AND EXPERTISE OF PERSONNEL
<p>Name: Sheila Patton  Title: Resource Center Coordinator  FTE on this project: .10  In-kind</p>	<p>Oversee the operation of the Care1st Avondale Resource Center and Southwest Regional Housing Center. Duties include coordinating service provision, assisting with identifying and recruiting needed community services, assisting residents in finding and applying for services, and coordinating the community conference room schedule. Participate in the Avondale Weed and Seed initiative by assisting with the development, operation, and coordination of this initiative. Provide support to other related neighborhood projects and activities. Assist with increasing the funding for the Resource Center by applying for grants, contracts, and contributions.</p>
<p>Name: TBD  Title: Family Education Coordinator  FTE on this project: 1.0</p>	<p>Coordinates and implements activities and functions of the Parenting Education Program by focusing on developmental aspects of children’s growth and assisting parents increase understanding of child growth and development.</p> <p><b>Minimum Qualifications</b>  Bachelor's degree in Child Development, Social Work, Family Studies, Nursing, Psychology, or closely related field, or equivalent combination of post-secondary education. One (1) years experience with early child growth and development, parent-child relationships, child health, and family systems programming and services. One (1) year experience with program coordination and development.</p> <p><b>Job Functions:</b>  Conducts office well child visits either in conjunction with Pediatric Clinician or alone to assess developmental progress and promote parental knowledge of developing child. Develops and maintains resource and referral information to assist families find timely and appropriate community-based programs and resources. Works closely and in conjunction with a variety of community leaders, healthcare providers, educational institutions, and other organizations to develop and maintain strong understanding and support of program initiatives. Facilitates parent groups and/or works in conjunction with established community based parent groups to provide educational and/or informational programs for clients. Develops and monitors effectiveness of parent to parent bulletin board to facilitate development of informal resource and support network. Maintains professional and technical competency through regular participation in a variety of educational programs and in-services, reviewing relevant professional publication and materials, and participating in professional societies to ensure ongoing awareness and understanding of most current methodologies, practices, and philosophies as applied to patient care population Performs assessment of developmental progress. Assists parents increase knowledge and understanding of developing child by identifying areas of strength to support growth in all developmental areas. Plans, develops, implements, and evaluates program strategy, objectives, and goals to ensure targeted population and/or specific intervention needs are effectively met and desired outcomes are achieved. Regularly conducts home visits to support and enhance parent-infant interactions. Provides information and assistance as needed to promote home safety. Works closely with parents to increase understanding of parenting skill techniques needed to appropriately manage common behavioral concerns. Develops and maintains outreach and distribution system for the Family Emergency Food Box program. Coordinates Family Literacy Program and activities. Performs miscellaneous related job duties, as assigned.</p>

STAFF MEMBER	BACKGROUND AND EXPERTISE OF PERSONNEL
<p>Name: TBD  Title: Family Literacy Specialist  FTE on this project: .5</p>	<p>Create and maintain a safe and stimulating environment for young children (ages 0-5). Teach early childhood education classes for ages 0-5. Provide information to parents regarding child development. Work in a family-centered program and center your duties on the needs of the families</p> <p><b>Minimum Qualifications</b>  Bachelor’s Degree in Education or related field. Experience in early childhood education</p> <p><b>Job Functions:</b>  Create a classroom environment conducive to learning and appropriate to the physical, social, and emotional development of students with an emphasis on language development and emergent literacy skills. Provide for the screening and preparation of children to fully participate in program services. Establish instructional programs based on scientifically based reading research. Must demonstrate the ability to support the social and emotional development of children. Provide activities and opportunities that encourage curiosity, exploration, and problem-solving appropriate to the development levels of the children. Model developmentally appropriate activities and positive behavior management techniques through daily contact with children and early childhood staff in the classroom. Select books, equipment and other instructional materials appropriate for the early childhood program. Include materials and experiences in the classroom that are culturally appropriate and represent diversity. Maintain attendance records of children participating in the Early Childhood Program. Lead regularly scheduled Early Childhood team meetings. Participate in team planning sessions with all project staff to ensure well-coordinated and effective delivery of project services to meet program objectives. Work cooperatively and effectively as a team member by communicating and contributing information on a continuous basis. Work with the Family Education Coordinator to facilitate parent and child interactive literacy activities. Work with the Family Education Coordinator to provide special training of instructional assistants to develop the skills to work with parents of young children in the full range of instructional services. Conduct and supervise the completion of pre and post assessments for children. Develop and facilitate child development instruction for parents. Design and facilitate interactive parent and child literacy activities. Maintain open, friendly, and cooperative relationship with each child’s family and encourages their involvement in the program. Continue professional development through attending workshops, conferences and other staff development. Maintain up to date knowledge of current child development practices. Demonstrate behavior that is professional, ethical, and responsible. Perform other duties and responsibilities as assigned.</p>

**\*In addition to this overview, please attach a resume (for current personnel) or a job description (for positions to be hired) for the key individuals involved in the project.**

## Attachment C

### IMPLEMENTATION PLAN

Activities	Task	Person Responsible	Date Task Will Be Completed/Timeline	Support Documentation
Grant awarded and contract signed	Submit council report, Have, have City Attorney review IGA, present IGA to City Council, sign contract	Neighborhood and Family Services Director	7/1/09	Signed IGA
Subcontract with selected vendor	Meet with potential vendors	Youth Development Coordinator	7/30/09	Signed Contract
	Submit draft contract to City Attorney	Youth Development Coordinator	8/15/09	
	Secure City Council approval	Youth Development Coordinator	8/30/09	
Recruited and hired program staff as per City policies and procedures.	Meet with HR, submit personal action form, post job opening	Youth Development Coordinator	7/15/09	
	Review applications, establish interview panel and schedule interviews	Youth Development Coordinator	7/30/09	
	Conduct interviews, select candidate, make job offer	Youth Development Coordinator	8/15/09	
Purchase office equipment and supplies	Secure price quotes	Youth Development Coordinator	7/30/09	
	Submit purchase orders	Youth Development Coordinator	8/5/09	
	Place orders	Youth Development Coordinator	8/15/09	Purchase orders and receipts
Purchase Bright Beginnings curriculum for community based family education program	Secure price quote	Youth Development Coordinator	8/30/09	
	Submit purchase orders	Youth Development Coordinator	8/15/09	Purchase orders and receipts
	Place order	Youth Development Coordinator	8/30/09	
Provide new employee training to program staff	Schedule training	Youth Development Coordinator	8/30/09	
	Attend training	Family Education Coordinator & Literacy Specialist	9/15/09	
Receive Ages & Stages Training	Schedule training	Youth Development Coordinator	8/30/09	
	Attend training	Family Education Coordinator & Literacy Specialist	9/15/09	
Secure Phoenix Children's Hospitals Healthy Steps Specialist Certification	Schedule training	Youth Development Specialist	8/30/09	Training certification
	Attend training	Family Education Coordinator	10/15/09	
Purchase supplies and assemble emergency food boxes	Secure quotes	Family Education Coordinator	10/1/09	
	Purchase supplies	Family Education Coordinator	10/15/09	
	Assemble emergency food boxes	Family Education Coordinator	10/30/09	Purchase orders and receipts

Activities	Task	Person Responsible	Date Task Will Be Completed/Timeline	Support Documentation
Partnership team conducts initial and ongoing monthly meetings to develop program plans, outreach strategies, resolve issues, propose quality improvement strategies	Schedule meeting	Youth Development Coordinator	9/15/09	
	Establish agenda	Youth Development Coordinator	9/15/09	Meeting agenda
	Conduct meeting and develop ongoing meeting schedule Develop plan to resolve any identified issues or challenges	Youth Development Coordinator	9/15/09	Meeting agendas and attendance rosters
Attend Cross Regional Meetings	Attend Cross Regional Meetings	Youth Development Coordinator & Family Education Coordinator	As scheduled	Attendance roster
Attend Statewide	Attend Statewide	Youth Development Coordinator & Family Education Coordinator	As scheduled	Attendance roster
Program staff conducts initial and ongoing outreach	Design and print outreach materials	Family Education Coordinator	9/1/09	Flyers & Brochures
	Identify outreach locations	Family Education Coordinator	9/1/09	
	Conduct ongoing outreach	Family Education Coordinator	9/15/09	
Begin ongoing enrollment of families in program	Administer Initial and ongoing Ages & Stages Questionnaire	Family Education Coordinator	10/5/09	Ages & Stages Questionnaire
	Developed individual service plans for program participants	Family Education Coordinator	10/5/09	Individual service plans
	Provide resource referrals as needed	Family Education Coordinator	10/1/09	Client referral sheet & Individual service plans
Conducting ongoing Community Based Family Education Workshops at Care1st Resource Center	Establish workshop schedule	Family Education Coordinator	9/1/09	Workshop calendar
	Purchase meeting supplies	Family Education Coordinator	9/15/09	Purchase orders and receipts
	Conduct workshops and	Family Education Coordinator	10/5/09	Attendance Rosters
	Administer Pre-testing and post-testing with each participant	Family Education Coordinator	10/5/09	Pre-tests & Post-tests
Conduct initial and ongoing monthly workshop observations	Observe a minimum of one workshop per month	Youth Development Coordinator	10/5/09	Observation notes
	Document successful practices and areas in need of attention	Youth Development Coordinator	10/10/09	Observation notes
	Discuss observations with staff during weekly meetings	Youth Development Coordinator	10/15/09	Meeting agenda
Submit initial and ongoing quarterly reports to FTF	Compile data and create report	Youth Development Coordinator	10/20/09	Quarterly reports
Attend ongoing FTF partnership meetings	RSVP for meetings	Youth Development Coordinator & Family Education Coordinator	10/20/09 1/20/10 4/20/10	Attendance Rosters
Submit Final Report	Compile data and create report	Youth Development Coordinator	7/20/10	Final Report

## Attachment D – Line Item Budget

### LINE ITEM BUDGET – USE IF LISTING MATCHING FUNDS

While you must use this format, you may reproduce it with Word Processing or Spreadsheet software. Limit your budget line items to the following categories: Personnel, Fringe Benefits, Professional Services, Travel, Pass-Through (i.e. Sub grants), Other Operating Expenses and Administrative/Indirect Costs.

**Budget period: July 1, 2009 – June 30, 2010**

Budget Category	Line Item	Requested Funds	** Matching Funds/ Source	Total Cost
<b>Personnel and Fringe Benefits</b>				
Personnel	Family Ed Coordinator - 1.0 FTE	\$50,000	0	\$91,397
	Family Literacy Specialist - .5 FTE	\$18,720	0	
Fringe Benefits	Family Education Coordinator	\$16,500	0	
	Family Literacy Specialist	\$6,177	0	
<b>Contracted Services/Professional Services</b>				
Contract services	Healthy Steps Training and Technical assistance	\$15,000	0	\$15,000
<b>Travel</b>				
Out of State:			0	
In State:	.445/mile X 250 mi/mo X 12mo	\$1,335	\$0	\$1,335
<b>Pass Through</b>				
Sub grants	Parenting Skills Workshops & Resource coordination and referrals in Gila Bend	\$75,000	0	\$75,000
<b>Supplies and Other Operating</b>				
Supplies and Other Operating Expenses	Laptops (2)	\$6,000	0	\$101,970
	Cell phones (2) and service	\$2,800	0	
	Wireless internet service	\$2,400	0	
	Parent education materials	\$3,500	0	
	Curriculum & Developmental screening tools	\$1,609	0	
	Office supplies	\$1,015	0	
	Office equipment	\$1,288	0	
	Meeting expense	\$1,000	0	
	Printing	\$3,500	0	
	Training	\$3,800	0	
	Books	\$2,000	0	
	Transportation vouchers	\$20,250	0	
	Child Literacy Computers (3)	\$6,200	0	
	Office Furniture	\$2,200	0	
	Program incentives	\$4,375	0	

	Arizona Parenting Kits	\$200	0	
	Emergency Food Box supplies	\$39,833	0	
<b>Subtotal Direct Program Costs:</b>		\$284,702	\$0	\$284,702
<b>Administrative/Indirect Costs</b>				
<b>Indirect Costs</b>		0	0	0
<b>Total</b>		\$284,702	\$0	<b>\$284,702</b>

\*As shown, a line item budget justification for each component **MUST** be included in the proposal that describes the procedure for determining the cost of budget categories. Detail in the line item budget narrative strengthens proposals. See the following page for budget narrative format.

\*\* Matching Funds are not required, but if listed, are subject to monitoring by First Things First.

Authorized signature \_\_\_\_\_ Date \_\_\_\_\_

Job Title \_\_\_\_\_

## Attachment E – Budget Narrative

### **BUDGET NARRATIVE EXPLANATION**

The purpose of the budget narrative is to provide more clarity and detail on the various budget line items. The budget narrative should explain the criteria used to compute the budget figures on the budget form. Please verify that the narrative and budget form correspond and the calculations and totals are accurate.

#### **Personnel:**

**Family Education Coordinator:** 1.0 FTE @ a rate of \$24.03/hour X 80 hours/pay period X 26 pay periods = \$50,000 annually

**Family Literacy Specialist:** 0.5 FTE @ a rate of \$18/hour X 40 hour/pay period X 26 pay periods = \$18,720 annually

#### **Fringe Benefits:**

The fringe benefit rate is calculated at 33%, which is the City of Avondale's standard fringe benefit rate for FICA, health and dental insurance, PTO, and related benefits.

**Family Education Coordinator:** 1.0 FTE @ \$50,000 annually X 33% = \$16,500

**Family Literacy Specialist:** 0.5 FTE @ \$18,720 annually X 33% = \$6,177

#### **Contracted Consultant/Professional Services:**

##### **Phoenix Children's Hospital – Healthy Steps Specialist Training**

Family Education Coordinator will receive training From Phoenix Children's to become a certified Healthy Steps Specialist. Family Education Coordinator will provide home visitation as needed for the enhancement of the Community Based Family Education Program.

Healthy Steps Specialist Training & 2 years of technical assistance at a cost of \$15,000

Contract to be established in accordance with City of Avondale procurement policies and procedures.

#### **Travel:**

Mileage costs include travel for outreach, home visitation and meeting travel. Mileage calculated at (according to State of Arizona Travel Policy): .445/mile X 250 mi/mo X 12mo = \$1,335

#### **Pass Through/Sub grants: – Family Education & Resource Coordination for the Town of Gila Bend**

Establish a contract with a qualified vendor to provide family education services and resource coordination to the Town of Gila at a contractual amount of \$75,000. Contract to be established in accordance with City of Avondale procurement policies and procedures.

#### **Supplies and Operating Expenses:**

**Laptops** - (2) - including wireless cards, carrying case, licenses and software 2 laptops X \$3,000 each

**Cell phones** - (2) cell phones at \$200 each = \$400

**Cell Phone Data plans** - \$100/month X 2 phones X 12months = \$2,400

**Wireless internet service** \$100/month X 2 laptops X 12months = \$2,400

**Parent education materials** - 125 families X \$28/family = \$3,500

**Curriculum & Developmental screening tools** – Bright Beginnings Curriculum = \$87 + \$11 shipping = \$98

(1) Ages & Stages Questionnaire kit in English @ \$250

(2) Ages & Stages Questionnaire kit in Spanish @ \$250 = \$500

(1) Ages & Stages Materials kit @ \$275

Ages & Stages DVDs (Home Visit, Scoring, and In Practice) \$150

Literacy Curriculum = \$184

\$1,273 + \$152 shipping = \$1,609

**Office supplies** – (2) staff X 12months X 42.29/month = \$1,015

**Office equipment** – Projector for family education and literacy presentations = \$954

Digital Camera for program documentation = \$286

Memory Card for digital camera = \$48

For a total of \$1,288

**Meeting expense** – 24 meetings X \$41.67/meeting = \$1,000

**Printing** – Printing of outreach and educational materials. Design fees for rack cards, posters and flyers = \$1,500 + Printing costs for rack cards, posters and flyers .50/documents X 4000 documents = \$2,000 for at total of \$3,500

**Training** – Ages & Stages Questionnaire ASQ 3 Training for \$1,900

Ages & Stages Questionnaire Training ASQ: SE at \$1,900

For a total of \$3,800

**Books** – 80 families X \$16/family = \$2,000

**Transportation service and vouchers** - \$75/hr X 2.5 hours per transport X 2 transports/week X 50 weeks = \$18,750

600 daily bus passes X \$2.50/pass = \$1,500

For a total of \$20,250

**Child Literacy Computers** - (3) computers and software X \$2066.67 = \$6,200

**Office Furniture** – (3) Child computer workstations x \$450 = \$1,350, (3) Child chairs X 150 = \$450, (1)

Locking cabinet @ \$400 = \$2,200

**Program incentives (zoo passes, growth charts, teaching aids)** – 80 families X \$54.68/family = \$4,375

**Arizona Parenting Kits** – 8 kits X \$25per kit = \$200

**Emergency Food Box supplies** –

The City of Avondale will provide emergency food boxes to qualifying families with children age's birth to five living in southwest region. The emergency food box program will provide 720 emergency food boxes at an approximate cost of \$55.32 each = \$39,833

The following list of items will be assembled to

Diaper (sized newborn – 6)	1440 at \$7.97=	\$11,476.80
Wipes (packs of 9)	160 at \$13.28=	\$2124.80
Rice Cereal	720 at \$3.58=	\$2577.60
Juice	720 at \$2.18=	\$1569.60
Jar Baby Food (packs of 18)	160 at \$7.58=	\$1212.80
Jar Toddler Food	240 at \$1.50=	\$360
General Mills – Cheerios	720at \$2.50=	\$1800
Formula (Regular & Lactose Free)	960 at \$13.76=	\$13209.60
Toddler Crackers/Puffs	240 at \$2.24=	\$537.60
Toddler Granola Bars	240 at \$3=	\$720
Grocery Bags	2 at 10.97=	\$21.94

Storage Lockers  
Estimated Taxes

2 at \$500=  
8.8%  
Total

\$1000  
\$3221.75  
\$39,833

**Attachment F**

**DISCLOSURE OF OTHER FUNDING SOURCES**

Please list all other funding that your organization currently receives from State or Public Agencies, Federal Agencies, Non-Profit Organizations, or any other source providing funding for the proposed Program\*. Statute ARS 8-1183 provides for a prohibition on supplanting of state funds by First Things First expenditures, meaning that no FTF monies expended are to be used to take the place of any existing state or federal funding for early childhood development and health programs. Use a continuation sheet if necessary. The following form may be reproduced with word processing software or another form may be created that contains all the information requested.

<b>Type of Funding (Federal, State, local, other)</b>	<b>Received From</b>	<b>Amount</b>	<b>♥ If used for match on this grant</b>
N/A	N/A	0.00	
<b>TOTAL:</b>			

**\*This table should include only those funds that will support the program detailed in this Application.**

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_

Job Title \_\_\_\_\_

## **Attachment G:**

### **FIRST THINGS FIRST FINANCIAL SYSTEMS SURVEY**

Name of Applicant: City of Avondale, Arizona

**Please answer every question by filling in the circle next to the correct answer. Attach materials and document comments as required.**

As stewards of federal and state funds, First Things First awards funds to organizations (regardless of how small or large) that are both capable of achieving project goals/objectives and upholding their responsibility for properly managing funds as they achieve those objectives.

This survey will be used primarily for initial monitoring of the organization. This survey may also be used in evaluating the financial capability of the organization in the award process. Deficiencies should be addressed for corrective action and the organization should consider procuring technical assistance in correcting identified problems.

#### **A. GENERAL INFORMATION**

1. Has your organization received a Federal or State Grant within the last two years? <i>(The City receives and administers both federal and state grants each year.)</i>	<input checked="" type="radio"/> YES <input type="radio"/> NO
2. Has your organization completed an A-133 Single Audit within the past two years? If yes, please <b>attach</b> a complete copy of your A-133 Audit, including, but not limited to, your Management Letter, Findings and Questioned Costs. <i>(The City issues and audited, OMB Circular A-133 Single Audit Reporting Package annually. The Reports, which contain the Schedule of Finding and Questioned Costs, are available on the City's internet web site: <a href="http://www.avondale.org">www.avondale.org</a>. The independent auditors did not issue a Management Letter for the year ended June 30, 2008, which is the most recently completed single audit.</i>	<input checked="" type="radio"/> YES <input type="radio"/> NO
3. If your organization has not completed an A-133 Single Audit, have your financial statements been audited, reviewed or compiled by an independent Certified Public Accountant within the past two years? If yes, please <b>attach</b> a complete copy of the most recent audited, reviewed or compiled financial statements. NOTE THAT ONLY ONE COPY OF YOUR AUDIT NEEDS TO BE INCLUDED WITH THE APPLICATION MARKED "ORIGINAL". It is not necessary to include additional copies with each copy of the completed Application.	<input type="radio"/> YES <input type="radio"/> NO <input checked="" type="radio"/> NA
4. Please <b>attach</b> a schedule showing the TOTAL federal funds (by granting agency) expended by your agency for the most recent fiscal year. Note: If your organization had an A-133 Single Audit, a copy of the "Schedule of Expenditures for Federal Awards" can be submitted. ONLY ONE COPY IS NEEDED, TO BE INCLUDED WITH THE APPLICATION MARKED "ORIGINAL"	The SEFA is included in the City's CAFR on the web site cited in 2 above.
5. Has your organization been granted tax-exempt status by the Internal Revenue Service? <i>(As a governmental unit or political subdivision, the City is not subject to federal income tax under the provisions of Section 115(1) of the Internal Revenue Code.)</i>	<input type="radio"/> YES <input type="radio"/> NO <input checked="" type="radio"/> N/A
6. If you answered YES to question #5, under what section of the IRS code? O 501 C (3) O 501 C (4) O 501 C (5) O 501 C (6) O Other Specify: _____	
7. Does your organization have established policies related to salary scales, fringe benefits,	<input checked="" type="radio"/> YES

travel reimbursement and personnel policies?	<input type="radio"/> NO
--	--------------------------

**B. FUNDS MANAGEMENT**

1. Which of the following describes your organization's accounting system? <i>(The City's accounting system is predominately automated, but the system is supplemented with manual control activities and documentation as necessary to achieve the desired accounting and internal control objectives.)</i>	<input type="radio"/> Manual <input type="radio"/> Automated <input checked="" type="radio"/> Combination
2. How frequently do you post to the General Ledger? <i>(The frequency with which the City posts accounting information and data to its general ledger depends on several factors including, but not limited to, the (1) source of the information and data such as journal entries vs. Subsystems that interface with the general ledger, and (2) type of information and data being recorded such as cash receipts, payroll expenditures, etc. The frequency varies from daily to as infrequently as semi-annually.)</i>	<input checked="" type="radio"/> Daily <input type="radio"/> Weekly <input type="radio"/> Monthly <input checked="" type="radio"/> Other
3. Does the accounting system completely and accurately track the receipt and disbursements of funds by each grant or funding source?	<input checked="" type="radio"/> YES <input type="radio"/> NO
4. Does the accounting system provide for the recording of actual costs compared to budgeted costs for each budget line item?	<input checked="" type="radio"/> YES <input type="radio"/> NO
5. Are time and effort distribution reports maintained for employees working fully or partially on state or federal grant programs that account for 100% of each employee's time? <i>These reports are referred to as labor distribution reports and employee history reports.)</i>	<input checked="" type="radio"/> YES <input type="radio"/> NO
6. Is your organization familiar with Federal Cost Principles (i.e. 2 CFR 220, 2 CFR 225, and 2 CFR 230)?	<input checked="" type="radio"/> YES <input type="radio"/> NO
1. How does your organization plan to charge common/indirect costs to this grant? <b>NOTE:</b> Those organizations using allocable direct charges <b>must attach</b> a copy of the methodology and calculations in determining those charges. Those organizations using a federally approved indirect cost rate <b>must attach</b> a copy of the approval documentation issued by the federal government.	<input type="radio"/> Direct Charges <input type="radio"/> Utilizing an Indirect Cost Allocation Plan or Rate <input checked="" type="radio"/> NA

**C. INTERNAL CONTROLS**

1. Are duties of the bookkeeper/accountant segregated from the duties of cash receipt or cash disbursement?	<input checked="" type="radio"/> YES <input type="radio"/> NO
2. Are checks signed by individuals whose duties exclude recording cash received, approving vouchers for payment and the preparation of payroll?	<input checked="" type="radio"/> YES <input type="radio"/> NO
3. Are all accounting entries and payments supported by source documentation?	<input checked="" type="radio"/> YES <input type="radio"/> NO
4. Are cash or in-kind matching funds supported by source documentation?	<input checked="" type="radio"/> YES <input type="radio"/> NO
5. Are employee time sheets supported by appropriately approved/signed documents? <i>(Timecards are approved electronically.)</i>	<input checked="" type="radio"/> YES <input type="radio"/> NO
6. Does the organization maintain policies that include procedures for assuring compliance with applicable cost principles and terms of each grant award?	<input checked="" type="radio"/> YES <input type="radio"/> NO

**D. PROCUREMENT**

1. Does the organization maintain written codes of conduct for employees involved in awarding or administering procurement contracts?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
2. Does the organization conduct purchases in a manner that encourages open and free competition among vendors?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
3. Does the organization complete some level of cost or price analysis for every major purchase?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
4. Does the organization maintain a system of contract administration to ensure Grantee conformance with the terms and conditions of each contract?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
5. Does the organization maintain written procurement policies and procedures?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

**E. CONTACT INFORMATION**

Please indicate the following information. In the event that First Things First has questions about this survey, this individual will be contacted.

Prepared By: Steven R. Montague

Job Title: Controller

Date: May 21, 2009

Phone/Fax/Email: 623.333.2013/623.333.0200/smontague@avondale.org

**F. CERTIFICATION**

I certify that this report is complete and accurate, and that the Grantee has accepted the responsibility of maintaining the financial systems.

*Steven R. Montague* 5/21/09  
Authorized Signature

**G. COMMENT AND ATTACHMENTS**

Please use the space below to comment on any answers in Sections A – D. Please indicate the Section and Question # next to each comment.

Number of Attachments (please number each attachment): 0

COMMENTS: Comments were added within each question cell (*see bold italicized text*). If further information is required, please do not hesitate to contact me. Thanks.

## **Attachment H**

### **Resumes**

## **Gina Ramos Montes**

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★ 322 E Desert Park Lane Phoenix, AZ 85020 602-216-0365 H 623-333-2727 W ★

### **EXPERIENCE**

#### **Neighborhood and Family Services Department, City of Avondale**

Sep 06 to present

##### *Neighborhood and Family Services Director*

- Plan, direct and manage the functions of the following program divisions: Youth Development, Social Services, Code Enforcement and Community Development Block Grant (CDBG).
- Coordinates department activities with other City departments and outside agencies to benefit Avondale.
- Oversee the functions of the Neighborhood and Family Services Commission.
- Organizes and supports neighborhood outreach and citizen participation programs to improve the quality of neighborhoods.
- Prepare annual budget; monitor and approve expenditures; forecasts additional funding needs.

#### **Human Services Department, City of Phoenix**

##### *Deputy Human Services Director*

Sep 02 to Sep 06

- Provided overall administrative direction for the Education Division and 120 staff.
- Coordinated Head Start program activities with other City departments and governmental, social service, and private community agencies to assure maximum program benefits.
- Maintained working relationships with officials at the municipal, county, state, and federal levels and leaders in business and non-profit agencies.
- Established and monitored management controls for administrative, program, and fiscal priorities.
- Provided support to the Head Start Policy Council (parent commission) in establishing program priorities.
- Developed, implemented, and monitored contracts for service with school districts and non-profit agencies.

#### **City Auditor Department, City of Phoenix**

##### *Deputy City Auditor*

July 00 to Sep 02

- Managed staff of five in citywide projects involving internal control procedures, performance measures, and other management services.
- Assigned and supervised projects and reviewed reports for completeness and accuracy.
- Planned and conducted risk analyses and develop solutions to improve internal controls.
- Collaborated with other departments on citywide initiatives, such as the Seamless Service II initiative and on business process improvements.
- Prepared and reviewed reports and prepare budgets for division.
- Led complex projects and provided hands on training to new staff.

#### **Human Services Department, City of Phoenix**

##### *Management Assistant II*

Feb 99 to July 00

- Coordinated all Formal and Policy City Council and Subcommittee actions for the department.
- Resolved customer service issues referred by City Council, management and the public.
- Reviewed and wrote administrative, City Council, financial reports, policies and procedures.
- Supervised professional intern, special projects, and staff teams.
- Provided staff support to the Human Services Commission and Workforce Investment Board.

#### **Neighborhood Services Department, City of Phoenix**

##### *Management Assistant I*

July 98 to Feb 99

- Provided customer service support to the Director by researching high profile issues, coordinating and preparing responses, and tracking cases through resolution.
- Prepared a variety of reports on a weekly, monthly, and quarterly basis communicating department activities to City Council, top management, the public, and staff.

- Supervised and provided staff support to the Neighborhood Initiative Areas (redevelopment target zones) in the areas of reporting, coordination, special projects.

## **City of Phoenix**

### *Management Internship Program*

July 97 to July 98

- Rotated in three assignments, including the City Manager's Office, Development Services Department, and Budget and Research Department.
- Provided staff support for City Council Policy Sessions, Housing and Neighborhood Subcommittee, Phoenix Sonoran Valley Preserves and the Development Services ad hoc committees.
- Resolved citizen complaints on behalf of the City Manager.
- Monitored and analyzed budget submissions, prepared summary budgets, processed adjustments.

## **City Auditor Department, City of Phoenix**

### *Internal Auditor II*

Sep 95 to July 97

- Conducted performance studies and cost analyses on operational and financial systems.
- Supervised and trained new auditors.
- Examples of projects included city overtime usage, temporary employee policy, neighborhood block watch grant program, transit sole source cost analysis, municipal court financial system, franchise fees.
- Wrote detailed audit reports and one-page briefing memoranda.
- Conducted focus groups and interviewed all levels of staff.

## **Office of the City Auditor, City of Austin, TX**

### *Professional Intern*

Sep 94 to Sep 95

- Provided research and analytical support for audits. Samples included overtime, utilities customer service, personnel policies.
- Designed and administered surveys for performance and compliance evaluation.
- Researched and summarized "best practices" for accounts receivable.
- Supervised four interns on comprehensive data collection for citywide projects.

## **U. S. Senate Subcommittee on Housing and Urban Affairs, Washington, D.C.**

### *Professional Staff Member*

Sep 93 to Sep 94

- Managed portfolio of issues including Section 8 Vouchers and Certificates, mobility programs, *colonias* programs, and Department of Housing and Urban Development (HUD) management.
- Planned Senate Subcommittee hearing on management of HUD.
- Drafted portion of housing reauthorization legislation and Subcommittee Conference report.
- Researched methods for merging the Section 8 Voucher and Certificate programs.
- Served as liaison from Staff Director to fair housing advocacy groups.

## **EDUCATION**

### **University of Texas at Austin**

**Master of Public Affairs**, Lyndon B. Johnson School of Public Affairs

Woodrow Wilson Foundation Fellowship, Congressional Hispanic Caucus Institute Fellowship

### **Texas Christian University, Fort Worth**

**Bachelor of Arts**, History and Political Science

TCU Scholar, Hatton Sumners Foundation Scholar, 1992 Outstanding Student Leadership Award

## **COMMUNITY INVOLVEMENT**

Camp Fire Greater Arizona Council, Board of Directors; Arizona Head Start Association, Board of Directors; Upward Foundation, Board of Directors; Friendly House, Board of Directors, 2001 Treasurer, 2002 Vice Chair; Arizona City/County Management Association, 1998 Midwinter Conference Planning Committee

Sylvia Sickels Sheffield  
Work: 623-333-2722  
ssheffield@avondale.org

## **Work History**

### City of Avondale

Avondale, AZ 2002 – Present

#### Social Services Manager

Direct the Social Services Division which includes the Community Action Program, community outreach, information and referral, asset development programs, and managing new grant initiatives. Duties include: contract management, budget development and oversight, grant writing, staff supervision, reporting, and the establishment of both internal and external collaborations which strengthen Division services.

### Child & Family Resources

Phoenix, AZ 2001 – 2002

#### Program Director

Responsible for oversight of two home-based child abuse prevention programs, Family Builders and Choices for Families. Duties include contract renewal and compliance oversight, staff supervision, program development, grant writing, and community networking. Membership on the agency wide Management Team and Continuous Quality Improvement Committee.

### Family Service of Northwest Ohio

Toledo, OH 1997 - 2000

#### Vice President of Operations, 1999 - 2000

Responsible for operations of a family service agency which covers a seven county area with a three million dollar budget. Duties include contract development and oversight, grant writing, quality assurance, supervision of site directors, agency-wide strategic planning, leadership of the Management Team, oversight of certification process and maintenance of the Ohio Department of Mental Health (ODMH) and the Council on Accreditation (COA), and budget and productivity monitoring.

#### Director, Family Service of Lucas County, 1997 - 1999

Responsible for all operations of the Lucas County office of Family Service of Northwest Ohio. Specific duties include oversight of the clinical and community outreach programs, staff supervision, budget development and oversight, program development, grant writing, and contract development, community networking, and agency planning.

### National Exchange Club Foundation for the Prevention of Child Abuse

Toledo, OH, 1992 - 1997

#### Program Specialist

Responsible for providing technical assistance, training, needs assessment, and minimum standard compliance to Exchange Club Child Abuse Prevention Centers throughout the

country. Provided training and technical assistance in the areas of: board development and planning, program development, child abuse prevention theory, orientation of new center directors, clinical oversight, and administrative issues

## **Education**

Masters of Social Work, Florida State University  
Focus area: Program Evaluation and Administration

Bachelor of Social Work, Florida International University  
Focus area: Public Administration

Certified Public Manager, Arizona State University, School of Public Affairs, 2006

## **Licensure**

Academy of Certified Social Workers (ACSW)

## **Community and Professional Affiliations**

Arizona Community Action Association board member 2008 to present

West Valley Human Services Alliance, co-chairperson of Health, Wellness, and Safety sub-committee, 2005 to 2008

Maricopa Association of Governments (MAG) Human Services Technical Committee, 2002 to present

Arizona State University, Social Work Field Instructor, 2000 to present

City Management Intern Program, City of Avondale, AZ, 2004

Adjunct Instructor, University of Alabama at Birmingham  
Department of Social Work, 1985 - 1991

National Association of Social Workers, 1985 – Present

# Christopher J. Lopez

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Email: clopez2002@aol.com

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## EDUCATION

### **Masters of Organizational Management**

*University of Phoenix*

### **Bachelors of Fine Art**

*University of Arizona*

## EMPLOYMENT

2007 – Present

### **Youth Development Coordinator**

*City of Avondale*

- Conducts community needs assessments
- Develops resources to support programming including grants and sponsorships
- Develops strategies to address youth development needs city wide
- Trains city staff on youth development
- Monitors and assesses program outcomes
- Promotes and markets programs to the community
- Manages the Avondale Young Families program

2004 – 2007

### **Senior Recreation Coordinator**

*City of Glendale*

- Chair Outcome Measurement Committee
- Co-Chair Recreational Apprenticeship Committee
- Increased Community Center Attendance by 95%
- Developed a comprehensive set of program planning, outcome measurement and performance evaluation systems
- Established the “Heart of Glendale Community Council” to assess the needs of the community and provide recommendations for future programming and services.
- Generated over \$40K in grants and sponsorships in 2005
- Responsible for the operation of multiple recreation facilities
- Established multiple partnerships with outside agencies and civic groups

2003 – 2004

### **Branch Director**

*Boys & Girls Clubs of Tucson*

- Recruits, trains and supervises regular and part-time program staff
- Prepares statistical reports regarding all branch programming
- Monitors and assess program outcomes
- Promotes and markets the organization to the community
- Develops annual programming calendar
- Manages operational budget
- Develops and coordinates partnerships with outside organizations
- Involved in establishing organizational goals and objectives

2000-2003

**Youth Development Director**

*Boys & Girls Clubs of Tucson*

- Developed, planned and implemented Education, Career Development, Environmental Education, Character, Leadership, Health and Life Skills programming
- Directed community outreach
- Managed expenses as designated within programming budget
- Provided supervisions and training to staff

**PROFESSIONAL ACTIVITIES**

**City of Avondale Weed & Seed Committee - Member**

**Governor's Youth Development Task Force Work Group – Member**

**West Valley Coalition to Prevent Underage Drinking – Member**

**AWARDS & RECOGNITION**

**City of Glendale Spark Award 2005 – Partnering in the Community**

**Office of the Governor Special Recognition 2005 – Leader in innovative programming and partnerships for adults and youth.**

**Outstanding Mentor 2003 –Arizona Daily Star Newspaper**

**4-H National Youth Development Conversation - Washington, DC**

Selected to represent the state of Arizona to create a national youth development agenda to be presented to the President of the United States and members of Congress.

**TRAINING**

- City of Glendale Grant Writing
- Resource Development
- Youth Development
- Ultimate Journey – Environmental Education
- Measuring Program Outcomes
- Facility Management
- Effective Guidance and Discipline
- Supervision and Leadership
- Project Learn – High Yield Educational Activities
- Smart Moves – Life Skills - Gang & Drug Resistance
- 4–H Team Building
- City of Glendale Leadership Academy

**SHEILA MAHONEY PATTON**  
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Phoenix, Arizona 85012  
(602) 235-9060  
fspatton@aol.com

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## SUMMARY

Highly effective professional with 13 years experience as administrator with not-for-profit organizations. Diverse expertise in community development and the grant proposal process. Energetic and innovative team player with excellent interpersonal and communication skills. Proven ability to manage multiple projects.

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## PROFESSIONAL EXPERIENCE

**CITY OF PHOENIX, Phoenix, AZ**

**1999-2001**

### Neighborhood Specialist

Acted as a liaison between concerned residents and the City on complex planning and zoning issues. Interpreted the City's zoning ordinances.

- Acted as the lead representative for the mobile food vendor project.
- Organized the first successful neighborhood day at the Legislature.
- Participated in the Roosevelt NIA team.
- Assisted residents in administering Fight Back projects in designated neighborhoods.

**VILLAGE OF SCHAUMBURG, Schaumburg, IL 1997-1998**

### Long Range Planner

Responsible for administering the Village's Community Development Block Grant. Assisted with economic development reports for the Mayor. Interpreted Village Zoning Ordinance for home occupation business license applicants. Managed the successful transition of the Village's Federal financial reporting system.

**SAVE THE CHILDREN, Western Area Office, Albuquerque, NM**

**1995-1997**

### Sponsorship Manager

Responsible for coordination of program, ensuring that agency policies and procedures were followed. Managed 8,000 plus relationships between each sponsor and child. Supervised direct staff of four, as well as thirty plus volunteers and field staff. Developed sponsorship training materials and forms.

- Organized and led multi-site logistical operations of collecting over 10,000 status reports for children participating in sponsorship in a five-state region.
- Cultivated, developed and maintained relationships with public contacts, community leaders, donors and sponsors.
- Successfully managed the consolidation of three field offices' sponsorship programs, staff reduced by two-thirds and sponsorship procedures were improved and streamlined.

**LAKE COUNTY DEPT. OF PLANNING, ZONING & ENVIRONMENTAL QUALITY, Waukegan, IL 1994-1995**

### Planner

Responsible for administering Community Development Block Grant received from the US Department of Housing and Urban Development. Acted as source for technical assistance to County's CDBG grantees-townships, cities, villages and community based organizations.

- Evaluated grant proposals and monitored grantees for Federal, State and Local compliance upon funding.
- Assisted with design and implementation of the County's Community Development, Homeless Assistance and Housing Programs.

- Provided technical assistance on urban/regional planning issues and initiatives to sub grantees, non-profit groups and City, County and State officials.
- Assisted in the development of the County's Consolidated Plan mandated by HUD. Completed needs assessment for this plan that was adopted by HUD and used as an example for other urban counties and entitlement communities across the country.
- Managed County's Emergency Shelter Grant entitlement for homeless agencies and community-based organizations. Evaluated grant proposals and recommended dispersal of funding.

**SANTEE - LYNCHES REGIONAL COUNCIL OF GOVERNMENTS, Sumter, SC****1991-1993****Community Development Specialist**

Responsible for administering the Community Development Block Grant of \$1.5 million received through the State of South Carolina from the US Department of Housing and Urban Development to four rural counties.

- Researched and wrote grant federal grant applications on behalf of townships, cities and counties.
- Coordinated and managed all aspects of development, redevelopment and capital improvement projects for the four county region.
- Assisted in the development of the region's Comprehensive Housing Affordability Strategy.
- Managed funded projects, monitored for compliance and measured project results.

**COMMUNITY DEVELOPMENT BLOCK GRANT DIVISION**

County of Los Angeles, CA

**1991****Community Development Specialist**

Responsible for preparing environmental review records in compliance with NEPA and CEQA for the Los Angeles County Community Development Commission.

- Administered and coordinated Fair Housing Contracts with all outside agencies and the County of Los Angeles.
- Team member in the development the County's Comprehensive Housing Affordability Strategy.

**WESTSIDE FAIR HOUSING COUNCIL, Los Angeles, CA****1990-1991****Bi-Lingual Housing Discrimination Counselor/ Coordinator**

Responsible for counseling and investigating all allegations of housing discrimination.

- Trained and coordinated activities of 50 fair housing testers in a bi-lingual environment.
- Developed and organized community outreach program designed to educate local population of fair housing laws and policies.
- Compiled and prepared quarterly reports to city, state and federal agencies outlining contract fulfillment and financial expenditures.
- Investigated and documented cases of alleged housing discrimination.

**CITY OF PHOENIX, Phoenix, AZ****1988-1989**

**Mayoral Representative**, HIMEJI, JAPAN (1989) Represented the City of Phoenix in the Sister Cities program and promoted trade opportunities between Phoenix and Japan.

**Assistant to the Mayor** (1988-1989)

Assisted with Mayoral correspondence. Participated in special projects.

**EDUCATION**

**Master's in International Management, 1989**

American Graduate School of International Management, Glendale, AZ

**BA Spanish and Italian, 1987**

University of Arizona, Tucson, AZ

**University of Arizona Italian Studies Program, 1985**

University of Florence, Florence, Italy

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avilacasa@gmail.com

## **Christina Peru-Hipolito Avila**

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**OBJECTIVE** To obtain a position with an organization seeking a motivated individual with hands-on-training and exceptional communication and leadership skills.

**EXPERIENCE** **City of Avondale** – Avondale, AZ  
October 2006

Community Outreach Coordinator

- Coordinator of Social Services Advisory Board
- Supervise Financially FIT program staff
- Coordinate social services for the City of Avondale
- Plan and implement a yearly health and resource fair

**notMYkid** – Phoenix AZ  
August 2006 – October 2006

Coordinator – part time

- Liaison to Board of Directors .
- Liaison to Auxiliary Board.
- Manage grants.
- Assist with completing grant reports.

**BIG BROTHERS BIG SISTERS OF CENTRAL ARIZONA** – Phoenix, AZ  
June 1997 – December 2005

Director of Programs (July 2000 to December 2005)

- Supervision of program staff serving community and school based mentoring programs throughout the Metro-Phoenix Area.
- Plan and implement new school based programs including pilot programs (High School Mentoring).
- Provide ongoing support to existing school based programs by acting as liaison between the schools and Big Brother Big Sisters programs.
- Assist with completing local and federal grant reports.
- Assist in completing evaluations for national organization.
- Participating in the planning and implementation of program development.
- Assist in the hiring and training of new staff.
- Development of training material for new program staff.

• Senior School Based Case Manager (August 1999 to July 2000)

- Case, match, and program management for two elementary schools.
- Conduct recruitment for assigned schools as well as assist other school based case managers in recruitment for their schools.
- Assist in training of new staff.
- Work with peer senior case managers to plan and implement events for matches agency wide.

School Based Case Manager (June 1997 to August 1999)

- Child outreach and intake.

- Volunteer recruitment, intake, and training.
- Match support and supervision at a local elementary school.
- Completed federally required reports and evaluations.
- Developed new programs for the students in the program to participate in (Discover Yourself and Uniform distribution).
- Organized group events for matches on a monthly basis.

**CITY OF PHOENIX**

August 1996 – May 1997

- Social Work Intern (School Based Care Centers)
- Child intake and counseling at a valley High School.
- Co - trainer for drug and alcohol abuse groups.
- Crisis management when needed.

**YOUTH ETC** – Phoenix, AZ

November 1995 – December 1995

- Volunteer
- Volunteer in a group home for girls 12 to 18 with behavioral problems.

**ST. AUGUSTINE CATHOLIC CHURCH** – Phoenix, AZ

September 1992 – May 1993

- Youth Peer Advisor
- Taught weekly classes on personal growth to high school students.

**EDUCATION**

**Arizona State University** – Tempe, AZ

*Bachelor of Social Work*

May 1997

**Arizona State University Downtown** – Phoenix, AZ

*Certificate of Non-Profit Management*

On-going

**Hispanic Leadership Institute** – Phoenix, AZ

Arizona State University/Valle de Sol

November 2001

**COMMUNITY SERVICE**

City of Phoenix – Youth & Education Commission, 2003 - 2006  
 American Cancer Society – Climb the Mountain Walk 2006, 2007  
 Big Sister - Big Brothers Big Sisters of Central AZ, 1999 – 2005  
 Susan G. Komen – Race for the Cure – Cancer Walk 2002, 2004  
 Christmas in April, 1994 – 1999

**AWARDS**

Margaret Slack Professional Development Award – 2002  
 Big Brother Big Sister of America

# Family Education Coordinator

## Job Description

Coordinates and implements activities and functions of the Healthy Families Program by focusing on developmental aspects of children's growth and assisting parents increase understanding of child growth and development.

### Minimum Qualifications

Bachelor's degree in Child Development, Social Work, Family Studies, Nursing, Psychology, or closely related field, or equivalent combination of post-secondary education. One (1) years experience with early child growth and development, parent-child relationships, child health, and family systems programming and services. One (1) year experience with program coordination and development.

### Job Functions:

Conducts office well child visits either in conjunction with Pediatric Clinician or alone to assess developmental progress and promote parental knowledge of developing child. Develops and maintains resource and referral information to assist families find timely and appropriate community-based programs and resources. Works closely and in conjunction with a variety of community leaders, healthcare providers, educational institutions, and other organizations to develop and maintain strong understanding and support of program initiatives. Facilitates parent groups and/or works in conjunction with established community based parent groups to provide educational and/or informational programs for clients. Develops and monitors effectiveness of parent to parent bulletin board to facilitate development of informal resource and support network. Maintains professional and technical competency through regular participation in a variety of educational programs and in-services, reviewing relevant professional publication and materials, and participating in professional societies to ensure ongoing awareness and understanding of most current methodologies, practices, and philosophies as applied to patient care population Performs assessment of developmental progress. Assists parents increase knowledge and understanding of developing child by identifying areas of strength to support growth in all developmental areas. Plans, develops, implements, and evaluates program strategy, objectives, and goals to ensure targeted population and/or specific intervention needs are effectively met and desired outcomes are achieved. Regularly conducts home visits to support and enhance parent-infant interactions. Provides information and assistance as needed to promote home safety. Works closely with parents to increase understanding of parenting skill techniques needed to appropriately manage common behavioral concerns. Develops and maintains outreach and distribution system for the Family Emergency Food Box program. Coordinates Family Literacy Program and activities. Performs miscellaneous related job duties, as assigned.

# Literacy Specialist

## Job Description

Create and maintain a safe and stimulating environment for young children (ages 0-5). Teach early childhood education classes for ages 0-5. Provide information to parents regarding child development. Work in a family-centered program and center your duties on the needs of the families

### Minimum Qualifications

Bachelor's Degree in Education or related field. Experience in early childhood education

### Job Functions:

Create a classroom environment conducive to learning and appropriate to the physical, social, and emotional development of students with an emphasis on language development and emergent literacy skills. Provide for the screening and preparation of children to fully participate in program services. Establish instructional programs based on scientifically based reading research. Must demonstrate the ability to support the social and emotional development of children. Provide activities and opportunities that encourage curiosity, exploration, and problem-solving appropriate to the development levels of the children. Model developmentally appropriate activities and positive behavior management techniques through daily contact with children and early childhood staff in the classroom. Select books, equipment and other instructional materials appropriate for the early childhood program. Include materials and experiences in the classroom that are culturally appropriate and represent diversity. Maintain attendance records of children participating in the Early Childhood Program. Lead regularly scheduled Early Childhood team meetings. Participate in team planning sessions with all project staff to ensure well-coordinated and effective delivery of project services to meet program objectives. Work cooperatively and effectively as a team member by communicating and contributing information on a continuous basis. Work with the Family Education Coordinator to facilitate parent and child interactive literacy activities. Work with the Family Education Coordinator to provide special training of instructional assistants to develop the skills to work with parents of young children in the full range of instructional services. Conduct and supervise the completion of pre and post assessments for children. Develop and facilitate child development instruction for parents. Design and facilitate interactive parent and child literacy activities. Maintain open, friendly, and cooperative relationship with each child's family and encourages their involvement in the program. Continue professional development through attending workshops, conferences and other staff development. Maintain up to date knowledge of current child development practices. Demonstrate behavior that is professional, ethical, and responsible. Perform other duties and responsibilities as assigned.

## **Exhibit A:**

### **Scope of Work**

The Southwest Maricopa Regional Partnership Council (RPC) has identified the need to expand/enhance family resource centers to provide families with access to the information and support necessary to strengthen family and community life, enhance the healthy growth and development of children, parenting education, early literacy development, social support opportunities and access to additional community resources.

Southwest Maricopa Regional Partnership Council serves the areas of Avondale, Buckeye, Goodyear, Litchfield Park, Tolleson and Gila Bend (including zip codes 85323, 85329, 85351, 85353, 85337, 85338, 85340, 85326, 85396, 85309, 85354, 85343, 85322, 85395, 85392, deducting the portion of the Tohono O'odham Tribe in the regional area and deducting the portion of the Gila River Indian Community in the Southwest Maricopa Regional area). The intended target population of this funding opportunity is families with children birth through five years who reside or receive services within the regional boundaries with the exception of Buckeye and west of it as a separate agreement will implemented for those areas. Grantee should demonstrate how implementation of this strategy targets expansion of resources to rural and underserved communities within the region, but also allows for the development of new services.

A needs and assets assessment of the region has shown that there is a lack of family access to services, particularly services to families in rural areas. Furthermore, there are very few parenting classes available to new parents and a lack of coordination among service providers in the area to offer a comprehensive network of support services to families. The region has a high rate of teen pregnancy but families in general lack awareness of family support resources available in each region or community.

General literature on family resource centers shows that there are many different strategies to support families in a family resource center model. This evidence-based approach has promising implication for the family strengthening field and positive outcomes for families. A family resource center is a vehicle for engaging local community organizations and local government in the identification and resolution of community concerns. These family resource centers are to be a place in a neighborhood that anyone can enter (a child, a teen mother, a neighbor, a senior citizen, a father) to access social, educational, and health services, and family support. Successful parent education programs help parents acquire and internalize parenting and problem-solving skills necessary to build a healthy family. Effective parenting education develops nurturing and attachment, knowledge of parenting and of child development, parental resilience, and social connections and support for parents. Research suggests that improving fundamental parenting practices reduces the likelihood of problem behaviors in children. It has been shown that parent-child relationships can be enhanced through parent training and family strengthening programs.

### **Implementation Requirements:**

The Resource Center Program is designed to address these specific Goals and Key Measures:

#### **First Things First Goal Area to be addressed:**

- Family Support

**First Things First Goal to be addressed:**

- First Things First will coordinate and integrate with existing education and information systems to expand families' access to high quality, diverse and relevant information and resources to support their child's optimal development.
- First Things First will increase the availability, quality and diversity of relevant resources that support language and literacy development for young children and their families.

**First Things First Key Measures to be addressed:**

- Percentage of families with children birth through age five who report they are competent and confident about their ability to support their child's safety, health, and well-being
- Percentage of families who report they are satisfied with the level of coordination and community among agencies serving their children
- Percentage of families of children birth through age five who report they maintain language and literacy rich home environments (e.g. children hear language throughout the day, children have opportunities for listening and talking with family members, books and other literacy tools and materials are available and accessible to children)

As part of successful program implementation, the Grantee will expand/enhance family resource centers to provide families with access to the information and support necessary to strengthen family and community life, and enhance the healthy growth and development of children. The family resource centers are asked to provide parenting education targeting pregnant or parenting teens. The Council feels that these services are highly necessary given that the region has a high rate of teen pregnancy. Approximately one out of 10 children in the region in 2006 were born to mothers aged 19 years or younger, with Gila Bend reporting 19 percent of children born to teen mothers, which is higher than the state average of 12 percent.

Strategies should offer all families access to information and resources through the development or expansion of family resource centers as well as provide linkages and referrals to other community and social services that meet the needs of the families. Resource centers may be diverse in size and services provided, however, all will be located in areas where families routinely congregate and all will provide parenting education, early literacy development, social support opportunities, and access to local community resources. The resource centers should reflect the social and cultural characteristics of the community as well as the age and needs of the participants.

The Regional Partnership Council has targeted two geographic areas with this Grant Agreement; Avondale to be the main hub for the surrounding population with a subcontract to serve the Town of Gila Bend. The Regional Council has identified a partnership with the City of Avondale through its partnership with Care 1<sup>st</sup> in developing a family resource center. The City of Avondale will collaborate with regional Arizona Department of Economic Security (DES)/Arizona Division of Developmental Disabilities (DDD) offices. Both the City of Avondale and City of Goodyear are developing new library centers; this will expand the opportunities to collaborate in early literacy development programs as well. Grantee shall coordinate and align the programming across the community with the other community organizations providing services.

The Grantee may incorporate parent education programs, early language and literacy as well as community food assistance as part of the Family Resource Center. If these strategies are to be implemented, the Grantee is encouraged to refer to Community-Based Family Education (**Exhibit B**), Early Literacy (**Exhibit C**), and Food Assistance (**Exhibit D**), First Things First Arizona Parent Kit Standards of Practice (**Exhibit E**), Performance Measures (**Exhibit F**). Upon final signed agreement, the Family Resource Center staff will be provided with and will be required to utilize The Arizona Parents Kit while assisting families with young children.

The Grantee must develop plans for recruitment and outreach to families and the community as well as plans to encourage family and community involvement in continuous ongoing program development, which should be included in the Implementation Plan.

Coordination and collaboration with all FTF grantees is critical to developing a seamless service delivery system for children and families. Services and programs cannot be implemented in isolation and coordination and collaboration must occur within a region and across regions. FTF staff and Regional Councils will identify opportunities for collaboration and coordination with grantee of First Things First. Grantee will be required to attend meetings and workgroups in the region being served to identify, develop and implement mechanisms around coordination and collaboration. Grantee will also be required to share data with First Things First and the Regional Partnership Council that will be used for cross-regional analysis. Grantee will also participate in cross-regional and statewide work that may include additional workgroups and meetings. In order to accomplish these tasks, grantee should plan the appropriate budget that would include travel for monthly meetings within the regional area, four cross-regional meetings/workgroups held in various locations, and one statewide meeting to be held in Phoenix, Arizona. All travel related costs for these trainings and meetings should be included in the applicant's budget and calculated using the State of Arizona travel policy as described on the budget narrative worksheet.

A total of approximately \$287,981 is available for the contracted Family Resource Centers with an estimated agreement to provide up to \$75,000 of the total award to be used to provide services to Gila Bend. Allowable costs for implementation of this strategy may include staffing and outreach materials.

Grantee must develop a plan for evaluation to demonstrate program effectiveness and impact. Programs must plan for a pre/post survey of parents to show changes in parental knowledge and skills and parent satisfaction as well as developing data collection and reporting to track family utilization of the resource centers who have children ages birth through five.

## **Exhibit B:**

### **First Things First Community-Based Family Education Programs Standards of Practice**

Community-based family education programs work to enable families to build on their own strengths and capacities to promote the healthy development of children. Successful family education programs help parents acquire and internalize parenting and problem-solving skills necessary to build a healthy family. Effective parenting education develops nurturing and attachment, knowledge of parenting and of child development, parental resilience, and social connections and supports for parents. Research suggests that improving fundamental parenting practices reduces the likelihood of problem behaviors in children. It has been shown that parent-child relationships can be enhanced through parent training and family strengthening programs.

While these programs come in different forms, they have a common goal of increasing the level of family functioning and promoting healthy child development. Programs are embedded in their communities and contribute to the community building process. Parents should be able to access educational information in their community on a variety of child development topics. Information about where and when parenting education programs are available needs to be easily accessible by all interested persons.

Based upon Building Bright Futures, regional needs and assets reports, and preliminary information from the Family and Community Survey, we know that Arizona's parents and families with young children need information on child development; to develop parenting skills; and have access to resources. For those who do not qualify or choose to participate in a home visitation program, community-based family education programs serve as another opportunity for Arizona's parents and families to access education, information and resources.

While each First Things First funded community-based family education program may be uniquely designed, they all have a valuable role to play in meeting the complex needs of families and communities across the State of Arizona. First Things First focuses on programs and services that provide children with the best opportunities for school and life success. Funding decisions are based upon a robust process of review to ensure programs are supported by research, value the family and use approaches considered best practices, which are responsive to the needs, identified in a specific Region. First Things First funded programs shall supplement, not supplant, other state expenditures on, and federal monies received for early childhood development and health programs.

As stated in the Scope of Work, it is expected that community-based family education programs funded by First Things First will be comprehensive for the families they serve. Using a family-centered and strengths-based approach, these programs will:

1. Provide resource and referral information (e.g. where to access regular developmental screenings).
2. Each family must receive information and support in each of the core areas: child development, parenting skills and resource and referral.
  - All domains of child development (physical, cognitive, social, emotional, language, sensory)

- Appropriate child-adult interactions and development of parenting skills (i.e. physical touch, showing affection, spending time together, positive discipline, parental monitoring, early reading and language experiences and communication)
- Resource and Referral Information-Identify supports and services available to families with young children, for example, health (e.g. nutrition; obesity; breastfeeding; physical activity; immunizations; oral health; insurance enrollment; participation in consistent medical/dental homes; participation in prenatal care; safety; developmental health, vision and hearing screening)

**Programs may also help families:**

- Identify their natural supports such as peer support.
- Access opportunities to participate in family literacy activities.

When implementing the Scope of Work, programs will:

1. Provide services to families that are based upon a culture of trust and respect
  - A. Create a family-centered environment.
    - a. Staff are from the community and have extensive knowledge of community resources
    - b. Structure activities compatible with the family's availability and accessibility
    - c. Demonstrate genuine interest in and concern for families
  - B. Clearly define program objectives with the families upon enrollment: understanding what the program will accomplish helps families become fully engaged in program services.
  - C. Create opportunities for formal and informal feedback and act upon it; ensure that input shapes decision-making.
  - D. Encourage open, honest communication.
  - E. Maintain confidentiality, being respectful of family members and protective of their legal rights.
2. Support the growth and development of all family members; encourage families to be resources for themselves and others.
  - A. Encourage family members to build upon their strengths.
  - B. Publicity/outreach, literature and staff training reflect the commitment to effectively serve fathers
  - C. Help families identify & acknowledge informal networks of support and community resources
  - D. Create opportunities to enhance parent-child and peer relationships

3. Affirm, strengthen and promote families' cultural, racial and linguistic identities and enhance their ability to function in a multicultural society
  - A. Create opportunities for families of different backgrounds to identify areas of common ground and to accept and value differences between them
  - B. Strengthen parent and staff skills to advocate for themselves within institutions and agencies.
  - C. Hire staff who reflect the cultural and ethnic experiences and language of the families with whom they work and integrate their expertise into the entire program
  - D. Provide ongoing staff development on diversity issues
4. Programs are flexible and continually responsive to emerging family and community issues.
  - A. Be accessible for families.
  - B. Ensure a manageable classroom size and appropriate staffing patterns. Calculate classroom size and staffing patterns based upon:
    - i. Space, square footage. For adult-only sessions, there will be a maximum of 25 participants.
    - ii. Number of sessions held for families throughout a calendar week
    - iii. Program model. For example, for play groups that involve both adults and children, staffing patterns must demonstrate appropriate staff to family ratios (lead instructor and two teachers for eight families with two year olds – while adults receive information from lead instructor, teachers will maintain a 1:4 ratio with the children).
  - C. Engage families as partners to ensure that the program is beneficial. Families have regular input and feedback in programmatic planning to meet their needs.
  - D. Develop a collaborative, coordinated response to community needs.
5. Community-based programs provide ongoing staff development/training to ensure program quality and give staff an opportunity to develop professionally.
  - A. Assess staff skills and abilities. They must be able to engage families while keeping a professional rapport.
  - B. Provide ongoing staff development/training on the Standards of Practice principles.
  - C. Supervisors should work with staff to prepare professional development plans.
6. All Standards of Practice are modeled in all activities including planning, governance, and administration.
  - A. The length of employment and experience/education are reflective of high quality staff. Staff are required to have a minimum of a Bachelors degree in early childhood development, education, family studies or a closely related field; or staff is extensively

- trained and can demonstrate competency in service provision (programs must provide documentation). Supervisors must also meet or exceed this degree requirement with at least two years of program management experience. If programs experience hardship in recruitment efforts, they must notify and consult with First Things First.
- B. Establish an effective, consistent supervisory system that provides support for all staff members and ensures accountability to participants, funders, and the community.
  - C. Establish supervision as a collaborative process with mechanisms that support staff in difficult situations and provides regular discussion to reflect and debrief. Supervision will also include observation. It is important that supervisors spend time with staff as they provide education sessions to families to have a sense of how the service is being delivered. This will help supervisors and staff to identify coaching and mentoring opportunities.
  - D. All staff work as a team, modeling respectful relationships of equality.
  - E. Build a team of staff who is consistent with program goals, whose top priority is the well-being of families and children.
  - F. Evaluation and monitoring is a collaborative, ongoing process that includes input from staff, families, program administrators, and community members.
    - i. Activities, as identified by First Things First, include pre and post testing, self-assessment and opportunities for feedback
    - ii. Identify outreach, engagement and retention practices
    - iii. Must demonstrate program effectiveness mechanism. Programs must participate in data collection and reporting of performance measures.
7. Parenting Skills Education:
- A. The intent of this funding opportunity is to expand or establish community-based parenting education programs. Community-based parenting education programs funded under this Request for Grant Applications must propose to offer a comprehensive education program to the families they serve. Using a family-centered and strengths-based approach, programs will:
    - i. Provide participating families with information and support in all domains of child development (physical, cognitive, social, emotional, language, and sensory)
    - ii. Foster appropriate child-adult interactions and development of parenting skills (i.e. physical touch, showing affection, spending time together, positive discipline, parental monitoring, early reading and language experiences and communication)
    - iii. Identify outreach, engagement, and retention practices for participants/families.
    - iv. Demonstrate program effectiveness and participate in data collection and reporting of performance measures. Pre and post testing must be administered.
    - v. Provide information and support in each of the following core areas: child development, parenting skills and resource and referral.
      - All domains of **child development** will be covered including: physical, cognitive, social, emotional, language, and sensory.

- Development of **parenting skills** will include appropriate child-adult interactions as well as: physical touch, showing affection, spending time together, positive discipline, parental monitoring, early reading and language experiences and communication.
- Provide **resource and referral** information, for example where to access regular developmental screenings.

Grantee is required to identify the curriculum that will be used for the proposed program as well as describe staff qualifications, supervision, and training that will support the successful implementation of the curriculum. Preference will be given to approaches that are research-based and to applicants who can demonstrate positive outcomes for the target population.

## **Exhibit C:**

### **Community Based First Things First Early Literacy Standards of Practice**

Effective literacy development programs understand the parent's literacy history and strengths and reinforce their knowledge and skills as well as provide an opportunity for adults and children to reflect on literacy practices in their daily lives. Programs should contain an educational component, which formally or informally affects the child's literacy or development. Programs should also consider the family's socio-cultural context including children's experiences with the world, which greatly influences their ability to comprehend what they read.

Expand the capacity of early language and literacy programs to provide supports and services to young children and their families. Model strategies support serving the needs and concerns of the family rather than serving individual family members in isolation.

- ✓ Provide training for parents that will assist them in improving the skills needed to be their child's first teacher.
  - ✓ Provide age-appropriate education to prepare children for success in school and life.
  - ✓ Curriculum is adapted and accommodations made for children and adults to meet the range of individual / special needs.
  - ✓ Provide "family- friendly" community sites that offer family literacy and parenting education to enable adults to attain proficiency in basic skills.
  - ✓ Provide an educational component for the adult, such as adult education or English-acquisition.
- Grantee will be required to identify approaches that build upon current efforts in the region and demonstrate evidence of their effectiveness in carrying out the approaches.
  - Applicants must demonstrate their outreach efforts can reach families with children including linguistically or socially isolated families or families with educational attainment needs.
  - The Family Literacy model must include:
    - ✓ Parent support and education that shows parents how to be the first teachers for their children and how to be full partners in their children's education.
    - ✓ Adult education component which addresses parent literacy training (reading, math and language skills) leading to educational and personal achievement goals for adults.
    - ✓ Young children have age-appropriate education.
    - ✓ Parent and Child together time which allows for interactive literacy activities between parents and their children.

#### **Implementation Considerations:**

- Implementation Plan needs to address: outreach and recruitment, collaborator's roles and responsibilities, family engagement and retention.
- Preference considerations should be given to programs demonstrating research-based approaches and those programs that have shown success in delivery of services.
- Grantee must show staff qualifications, supervision and training that will support the successful implementation of the research-based model.
- Grantee must consider how they will collect evaluation results and report to FTF.

The curriculum utilized must be evidence/research-based and founded on proven literacy development practices in addition to being culturally and linguistically relevant to the community served. Evidence-based research identifies key components of early literacy curricula, which include:

- Oral language: Fostering vocabulary and listening comprehension, expressive and receptive language
- Alphabetic Code: Developing alphabet knowledge, and phonological/ phonemic awareness, which is the ability to discriminate sounds in words, invented spelling
- Print knowledge: Understanding environmental print and concepts about print

Some examples of best practice models include The “Parent-Child Home Program”, The (HIPPI) “Home Instruction for Parents of Preschool Youngsters” Model, and the Even Start Family Literacy Program. Examples of programs based on change theory/research/evidence, but not given the “best practice” identification include The “Raising a Reader” Program, the “Reach Out and Read” Program, “Reading Is Fundamental”, “Once upon a Time—Together”, and “Reading Rockets”.

It is important that programs provide accommodations and adaptations for children and adults with special needs or disabilities and recognize oral language as the foundation for literacy development. Family participation in family literacy services will be voluntary and must be provided free of charge to the family.

## **Exhibit D:**

### **First Things First Food Assistance Standards of Practice**

First Things First has determined that it wishes to address food insecurity among families with children ages birth through five. Research has shown that even moderate under-nutrition, the type seen most frequently in the United States, can have lasting effects on the brain development of children. According to the Center on Hunger and Poverty, inadequate nutrition is a major cause of impaired cognitive development, and is associated with increased educational failure among impoverished children.

In Arizona, 15 percent of families report that their children skipped meals because there was not enough money for food. Twenty-eight percent of the families within the past year had to choose between buying food and paying for medical care. Forty-one percent of the families within the past year had to choose between buying food and paying for utilities.

Demand for emergency food assistance is growing during these tough economic times. Many food banks are reporting that an increasing number of middle-income families are seeking food assistance for their families as the economy becomes increasingly unstable and job loss grows. The demand for such assistance is not keeping pace with the growing demand. In 2007, more than 1,250 food banks, pantries and other agencies provided first-line defenses against hunger for Arizona's children, yet 36 percent of pantry programs reported lack of food as the most frequent reason for having to turn families away. According to the Arizona Association of Food banks, demand for emergency food boxes grew by over 40 percent in the last quarter of 2008 from the previous year.

While some people receiving food boxes might also be receiving resources from Food Stamps or WIC, it is recognized that the amount of food available through these existing programs is inadequate to meet the needs of children and families. In addition, we recognize that many middle class families are struggling in today's economy, and food boxes may be needed by many more families than those typically served by providers serving low-income families.

Expanded provision of emergency food boxes for families of children ages birth through five are one such strategy. These include, but are not limited to the following:

- Distribution of a supplemental food packages for children ages birth through five to accompany existing food box distribution to families of children ages birth through five
- Bulk purchases of food products or products such as diapers that can be distributed to families through existing distribution efforts, such as provision of emergency food boxes
- Expansion of voucher programs that enable families with children ages birth through five to purchase nutritious food
- Distribution of infant boxes containing formula, diapers, infant food, or other such commodities to families with young children

The purchase of non-food related items typically included in food boxes for families of children ages birth through five will also be considered. This includes the purchase of diapers, diaper ointment, diaper wipes, and baby formula.

## **Exhibit E**

### **First Things First Arizona Parent Kits Standards of Practice**

National data “provides evidence for the effectiveness of the kit in diverse community contexts. Knowledge gains in this study compared favorably with results from other studies. The kit also affected important parenting practices.”

- Parents were more likely to put babies to sleep on their backs to minimize the chances of Sudden Infant Death Syndrome
- Increased the incidence and duration of breastfeeding.
- Increased the rate of reading to babies
- Increased the amount of time adults played with their babies.
- Produced more appropriate methods of dealing with infant behavior
- Increased the correct use of car seats

#### **Strategies:**

##### **Statewide distribution of the Arizona Parent Kit**

##### **Supporting use of the Arizona Parent Kit through family support programs**

- The kit is an adaptation of the California Parents Kit, developed and evaluated by the University of California, Berkeley, School of Public Health Kit contents include:
  - a. 6 videos/DVDs on prenatal care, child health and nutrition, child development, safety, quality child care, early literacy, and discipline
  - b. 80-page Arizona Parents Guide: a resource guide for families to accompany the videos/DVDs
  - c. A chubby picture book for parents to read to their baby

#### **Activities and Tasks:**

For programs supporting use of the kit:

1. Staff should be familiar with the kit’s contents prior to incorporating into their regular practice. Through the RFGA process, the scope of work can dictate how programs will monitor and document this activity or ask for applicants to provide a plan. (e.g. staff view each video and read the guide independently, in small study groups or during staff meetings). These activities should be documented.
2. While assessing the families’ status or working with families, staff can ask the following questions:
  - Where did you deliver the baby? (name of hospital, regional medical, birthing center or other)
  - Were you offered a kit? If yes – have you taken a look at any of the contents? Let’s take a look at what’s inside – explore the contents with the family to familiarize them  
If no – record in regular reporting to First Things First.
  - Practitioners can encourage a family to return to their birthing hospital to obtain the kit or they may loan a kit to a family
3. While working directly with families or through an assessment process, staff may identify topics or emergent areas of need for a family. Encourage parents/adult primary caregivers to view a particular video or section of the guide.

**Evaluation:**

- # of families showing increases in knowledge and skill after receiving kit /actual service # *(FTF provided questions on an observational pre/post)*
- # of families reporting satisfaction with kit assistance /actual service #
- # of kits distributed by location / proposed service #
- # of kits supported by visit or coaching /proposed service #
  
- During a home visit, staff may choose to highlight a particular excerpt and have the family reflect thoughts and feelings. Based upon this information and reflection, staff may suggest activities that can be easily incorporated into the family's daily schedule or routine to best support their child's development.
- Staff can also encourage families to refer to the guide for information and resources.
- Staff can also use the videos and guide to inform their work with families (e.g. refer to the guide for other local resources, supports or services).
- Grantees or contractors must participate in evaluation and monitoring activities to demonstrate effectiveness and provide data on performance measures.

## **Exhibit F**

### **Performance Measures**

Evaluation should be directly connected to the Goals, Key Measures, and the Performance Measures and should determine the extent to which the program has accomplished the stated goals and key measures. The evaluation should also measure program fidelity by assessing which activities were implemented and the quality, strengths and weaknesses of the implementation. Successful Applicants agree to participate in the First Things First evaluation and will meet the requirements of the evaluation including, but not limited to, timely and regular reporting and cooperation with all First Things First evaluation activities. Timely and regular reporting of all performance and evaluation data includes the electronic submission (through the First Things First secure web portal) of performance measures and other evaluation data as proposed by the Applicant in this Request for Grant Application.

Performance measure data must be submitted in its raw form (e.g. number of children served/proposed service number= 52 actual children served/50 proposed service number). Successful Applicants are also required to collaborate with the First Things First longitudinal evaluation. The provider must participate in child assessment activities associated with the longitudinal evaluation including tracking and reporting to First Things First data pertaining to participant attendance, enrollment, and demographic information, all of which must be maintained in a secure and anonymous manner. In addition, Applicants agree to allow First Things First and evaluation consultants of First Things First to observe program activities on site and obtaining parent consent for data collection related to evaluation efforts.

Performance Measures are defined by First Things First to determine the key impacts of the strategies, programs and approaches being implemented. Applicants are expected to collect and report data to First Things First on the progress of achieving the Performance Measures. Performance Measures for purposes of this RFGA are as follows:

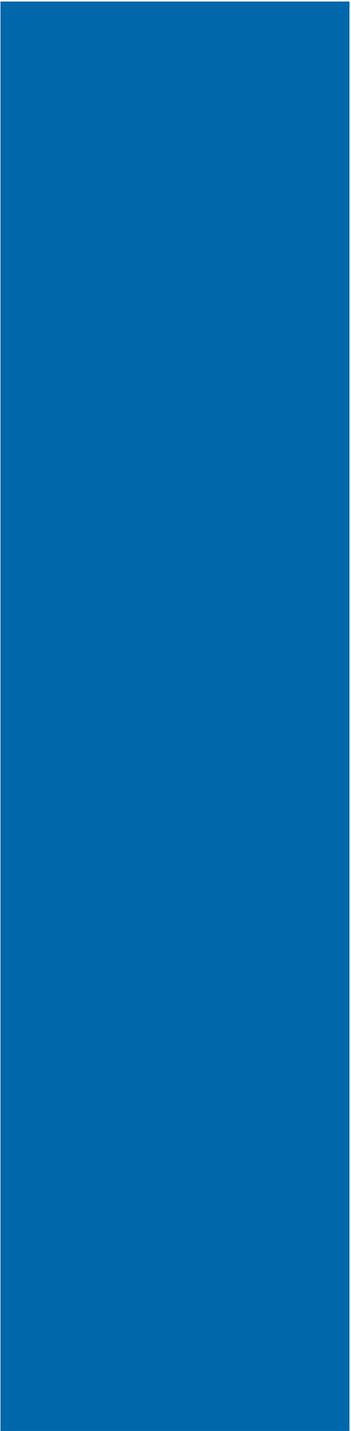
#### **Performance Measures**

- Number of families receiving counseling/support/education services/proposed service number
- Number of families recruited to participate/families participating
- Family attrition
- Counselor/staff attrition
- Number of families who successfully meet family service plan outcomes/actual service number
- Number of families reported satisfaction with provided services/actual service number
- Number of families showing increases in parenting knowledge and skill after receiving services/actual service number-using pre/post measure aligned with research based program requirements
- Total number of children served/proposed service number
- Number of families who report an increase in reading to their child in pre-post test (minimum questions provided by First Things First staff)/actual service number
- Number of families who report use of family centered practices (minimum questions provided by First Things First staff)/actual service number

- Total number of teen parents showing increases in parenting knowledge and skills
- Total number of parents receiving early literacy development skills
- Percentage of families with children birth through five years of age who report that they are satisfied with the accessibility of information and resources on child development and health
- Total number of community based education programs/ proposed service number.
- Total number and percentage of families utilizing community resource centers/ proposed service number

**Exhibit G**  
**FTF Brand and Style Guide**

See following pages.



FIRST THINGS FIRST  
BRAND AND STYLE GUIDE

## First Things First Logo Policy

The First Things First logo (or Regional Partnership Council logo) is an important asset which must be presented with consistency. It must always appear as defined in these logo usage guidelines. Please do not attempt to redraw the logo, or add/take away any element within its presentation.

To ensure First Things First branding – any and all program materials that are either partially or fully funded by FTF must include the First Things First logo. If a partner organization's logo must also appear on materials, the size and placement of the First Things First logo must be comparable to the partner organization's brand/logo.



Ideally the logo should be used on a white background for maximum impact and clarity. The logo will have a minimum of 1x-height white space around it.



## Logo Usage Guidelines

1. The First Things First logo is the ONLY logo that can appear on official letters.
2. Logos can only be used in the colors specified or black.
3. The logo must always be represented as a whole image.
4. If you choose to resize the logo, please keep the original proportions.
5. For engraving or reversing the logo, please request a special use logo by contacting First Things First Communications at 602.771.5062 or email us at [communication@azftf.gov](mailto:communication@azftf.gov).

*Image Resizing Hint: Be sure to resize from the corner and hold down your Shift key. This will ensure that the image resizes proportionately.*

## Color Palette

### Primary Colors



Pantone  
7462



Pantone  
7433



Pantone  
2985



Pantone  
381

### Support Colors



Pantone  
143



Pantone  
4545



Black

### CMYK / RGB / Web

100/45/6/27  
0/90/139  
#005A8B

7/83/16/23  
168/64/105  
#A84069

60/0/4/0  
91/198/232  
#5BC6E8

23/0/89/0  
201/221/3  
#C9DD03

0/32/86/0  
238/175/48  
#EEAF30

3/5/25/5  
220/214/178  
#DCD6B2

0/0/0/0  
0/0/0  
#000000

## Logo File Type Guidelines

### .TIF files

Should be used in documents that will be printed because they have a higher resolution. This means that they won't print "fuzzy".

### .EPS files

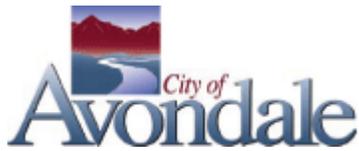
are typically used by designers because they are vector art – the cleanest versions of the logos. However, not all machines can interpret these logos unless they have proper software installed.

### .GIF files

are always low-resolution and should only be used for Web sites and email.

### .JPG files

can be either high resolution or low resolution for web use.



# CITY COUNCIL REPORT

**SUBJECT:**

Resolution 2843-709 - Participation in National League of Cities Prescription Discount Program

**MEETING DATE:**

July 20, 2009

**TO:** Mayor and Council

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

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council adopt a resolution officially supporting the City's participation in the National League of Cities (NLC) Prescription Discount Card Program.

**BACKGROUND:**

The NLC Prescription Discount Card, a partnership between NLC and CVS Caremark, is a free program in which residents can receive on average 20 percent off the retail price of prescription medication at selected pharmacies. The program will offer savings on prescription drugs to residents who are without health insurance, a traditional pharmacy benefit plan or have prescriptions not covered by insurance.

Benefits of the program include: no enrollment fees, age or income requirements, membership fees or limits on the number of times the card can be used and the card covers all family members.

**DISCUSSION:**

City staff has begun working with CVS Caremark staff to market the program, with an anticipated launch of the program in the first week of August. Residents will be able to pick up cards at certain City facilities as well as will be able to print off the cards from the [www.avondale.org](http://www.avondale.org) website. While not every pharmacy is a partner to this program, within a 10-mile radius of the 85323 zip code, 49 pharmacies are participating in the program.

The attached FAQ will be posted to the City's website to assist residents with the program as there are caveats associated with the use of the card.

**BUDGETARY IMPACT:**

There is no budget impact.

**RECOMMENDATION:**

Staff recommends that the City Council adopt a resolution supporting the City's participation in the NLC Prescription Discount Card Program.

**ATTACHMENTS:**

Click to download

[NLC Prescription Discount Program FAQs](#)

[Resolution 2843-709](#)

# National League of Cities Prescription Discount Card

## Frequently Asked Questions (FAQ)

### General Questions

#### **I just received my card. Can I use it right away?**

Yes, just use your card to start saving immediately. Present your prescription discount card at a participating retail pharmacy when you fill or refill your prescriptions.

#### **How much does the card cost?**

Your prescription discount card is provided to you free of charge. You pay the cost of the prescription less any applicable discount.

#### **Does everyone in my family need an individual card?**

No. Everyone in the family may use the same card if desired.

#### **Can I use this card to get discounts on my pet's medications?**

Yes, if your pet has been prescribed a medication that is also used to treat a human condition, you may receive a discount on the medication by taking the prescription to a participating retail pharmacy.

#### **Can I use my card to get discounts on over-the-counter products and non-prescription medications?**

Not usually. However, discounts are available for many diabetic supplies.

#### **How is this prescription discount program different from traditional prescription insurance?**

This is not insurance; it is a prescription discount program. The card provides immediate discounts at participating retail pharmacies. Upon presenting your card to the pharmacist, you will pay the lower of a discounted price or the pharmacy's regular retail price. There are no claim forms to fill out and no limit to the number of times you can use the card. These discounts are available only at participating retail pharmacies.

#### **Can I use my prescription discount card with my current insurance benefit to reduce my costs?**

Your card cannot be used in conjunction with other insurance. However, you are encouraged to use your card to purchase prescriptions anytime they are not covered by your insurance plan.

**Can I still use my prescription discount card if I sign up for a Medicare prescription plan?**

Yes, you can use your prescription discount card anytime you need to purchase a prescription that is not covered by your Medicare prescription plan or any other insurance.

**Should I use my prescription discount card during my deductible and coverage gap periods of coverage for covered medications?**

No. Only use your prescription discount card to purchase non-covered medications.

**Can I use my prescription discount card in addition to my Medicare prescription plan and get additional discounts?**

No. You need to present either your Medicare prescription plan card or your prescription discount card. Only use your prescription discount card when purchasing medications not covered by your Medicare prescription plan.

**I'm not going to sign-up for a Medicare prescription plan; can I still use my prescription discount card?**

Yes, you can continue to use your prescription discount card just as you do today.

**Pharmacy and Pricing Questions**

**Which pharmacies accept the card?**

The prescription discount card is accepted at more than 59,000 retail pharmacies nationwide, including the major chains as well as many independent pharmacies. Ask your local pharmacy if they participate or visit [www.caremark.com/nlc](http://www.caremark.com/nlc) or call toll free 1-888-620-1749 to find out if a specific pharmacy participates in the program.

**How much will I save?**

While savings on each prescription may vary, you can save an average of 20 percent off of the pharmacy's regular retail prices for prescription drugs. In addition, you may save even more on select medications.

**Will I always receive the lowest price?**

Yes. You will receive the best price available to you through this program at the participating pharmacy. On occasion, pharmacies will price a particular medication lower than the discount rate provided by the card. If that occurs, you will pay the lower price.

**Can I find out the discounted price of my prescriptions before going to the pharmacy?**

Because prices can vary by location, only the actual pharmacy can tell you the exact price of the prescription. However, you can look up an estimated price for medications at [www.caremark.com/nlc](http://www.caremark.com/nlc) or call toll free 1-888-620-1749.

**Why did the price of my prescription change since the last time I purchased the prescription?**

Drug prices may vary from pharmacy to pharmacy. Even pharmacy chains have different prices in their stores depending on the population they are servicing. Additionally, manufacturers' drug prices change periodically.

**Will I save 20 percent on all my medications?**

Because a pharmacy's retail price or usual and customary charge can differ greatly by pharmacy, your exact percentage of savings may vary depending on the prescription drug and the price you have paid before.

**Should I use my prescription discount card at a retail pharmacy with a flat rate generic pricing plan?**

Yes, always present your prescription discount card when buying prescriptions not covered by insurance. For a medicine on a generic pricing plan you will pay either the flat rate or the prescription discount card price, whichever is lower.

**About Specialty Pharmacy**

**What is specialty pharmacy and what kinds of services do they offer?**

Specialty pharmacy offers delivery of injectable and select oral specialty medication and supplies to the location of your choice. Services include delivery notification and refill reminder calls to help you stay on your treatment plan. You'll also receive expert care services including counseling, follow-up care calls, informative disease-related materials and access to health experts 24 hours a day, seven days a week.

**What drugs are offered through specialty pharmacy?**

Medications for a variety of chronic conditions including multiple sclerosis, rheumatoid arthritis, cystic fibrosis, hemophilia, infertility, immunologic disorders, Crohn's disease, Gaucher disease, pulmonary hypertension, Fabry disease, MPS 1, blood dyscrasia, growth hormone deficiency, respiratory syncytial virus, hepatitis C and more are available through specialty pharmacy.

**RESOLUTION NO. 2843-709**

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, APPROVING THE CITY'S PARTICIPATION IN THE NATIONAL LEAGUE OF CITIES PRESCRIPTION DISCOUNT CARD PROGRAM.

**WHEREAS**, many residents of Avondale are among the millions of Americans without health insurance or with limited prescription coverage; and

**WHEREAS**, the National League of Cities (the "NLC") is sponsoring a program in collaboration with CVS Caremark to provide relief to city residents around the country from the high cost of prescription drugs; and

**WHEREAS**, the NLC Prescription Discount Card Program (the "Program") is available to NLC member cities at no cost; and

**WHEREAS**, CVS Caremark will provide cities participating in the Program with prescription discount cards, marketing materials and customer support; and

**WHEREAS**, the discount cards offer an average savings of 20% off the retail price of most prescription drugs, has no enrollment form or membership fee, no restrictions based on the resident's age or income level, and may be used by city residents and their families if their prescriptions are not otherwise covered by insurance; and

**WHEREAS**, the City of Avondale (the "City") is a member of the NLC; and

**WHEREAS**, the Council of the City of Avondale (the City Council") desires that its residents be permitted to participate in the Program.

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

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

SECTION 2. That the City Council hereby authorizes the City's participation in the Program and will work with NLC and CVS Caremark to implement the Program for the benefit of the residents of the City.

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

**PASSED AND ADOPTED** by the Council of the City of Avondale, July 20, 2009.

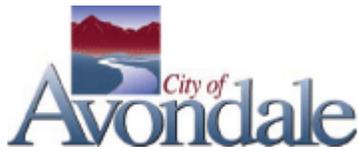
\_\_\_\_\_  
Marie Lopez Rogers, Mayor

ATTEST:

\_\_\_\_\_  
Carmen Martinez, City Clerk

APPROVED AS TO FORM:

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



# CITY COUNCIL REPORT

**SUBJECT:**

Construction Manager at Risk Agreement - Sundt Construction, Inc. for American Sports Center Facility and City Center Infrastructure

**MEETING DATE:**

July 20, 2009

**TO:** Mayor and Council

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

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff requests that the City Council approve a Construction Manager at Risk (CMAR) Agreement with Sundt Construction, Inc. for the construction of the American Sports Center facility and City Center infrastructure project in the amount of \$124,207 for pre-construction services.

**BACKGROUND:**

During the past year the City of Avondale has planned for the construction of the American Sports Centers-Avondale in the City Center planning area. Council has previously approved Professional Services Agreements with David Evans and Associates for engineering design services for the infrastructure portion of the project, and with SmithGroup for the Architectural design services for the American Sports Center building.

**DISCUSSION:**

Staff enlisted the professional services of Eubanks Consulting, L.L.C. to assist in the selection process for the Construction Manager. Eubanks Consulting coordinated the pre-submittal conference, established the selection committee, evaluated the statement of qualifications, prepared evaluation forms, developed appropriate interview questions, and assisted the City during the contract negotiation process. Through the use of an independent consultant, the City is provided an extra level of assurance that the entire selection process is thorough, above reproach, and fully compliant with statutory requirements.

Staff selected the CMAR alternative delivery method which will enable construction of the project to start months earlier than the conventional design-bid-build method and provide the City additional cost control over the project design and construction. On May 28, 2009 the City issued a Request for Qualifications for interested firms to provide a General Contractor to deliver the project to the City in the shortest possible time within the stated budget. The City of Avondale received twenty-two (22) Statements of Qualifications (SOQ's) from interested firms. A selection committee comprised of City Staff and construction professionals reviewed the SOQ's and ranked the firms in accordance with procurement guidelines. Three (3) firms were invited to participate in an interview in which the Selection Committee was able to evaluate each team based upon the criteria of Project Understanding, Team Organization, Team Experience, Design-Build approach, and Capacity to perform the necessary work. The three (3) firms were Sundt Construction, Haydon Building Corp., and McCarthy. The highest ranked firm following the selection process was Sundt Construction.

As required by the CMAR Selection Process, Sundt Construction, Inc. submitted a Scope of Work and Project Schedule at the time of their interview. Staff and our consultant have reviewed the qualifications and previous work performed by Sundt Construction Inc. and found them to be well

qualified and capable to perform the required work.

The CMAR Agreement consists of two distinct phases; the pre-construction phase and the construction phase. At the conclusion of the pre-construction phase, the City and Contractor shall negotiate a Guaranteed Maximum Price (GMP) for the construction phase of the project. If the City and Contractor cannot agree on a GMP for the construction phase, the City shall be free to publicly bid the construction phase utilizing the construction plans and specifications. Staff anticipates at least 2 (two) GMP's for this project; one for the infrastructure; and one for the ASC facility.

**BUDGETARY IMPACT:**

As previously stated, the first phase of the CMAR Agreement requires a negotiated fee for pre-construction services. The Scope of Services and fee proposal are included as an exhibit within the agreement. Staff negotiated a fee of \$124,207.00 with Sundt Construction for the pre-construction services as defined with the CMAR Agreement. The Scope of Services and fee proposal for the pre-construction services includes the final constructability review and cost estimating, and establishing a guaranteed maximum price (GMP) for the city center infrastructure and American Sports Center building. The City and the contractor will negotiate the Guaranteed Maximum Price (GMP) for the construction phase of the project, which will be presented to the City Council for approval. Funding for this project was approved by Council and is budgeted in the Parks Capital Improvement fund account No. 310-1119-00-8210.

**PROJECT SCHEDULE:**

The City Center infrastructure design is scheduled to be completed by September, at which time a GMP will be established and presented to council. The American Sports Center design phase is scheduled to be completed in December, and a GMP presented to council at that time. The overall project is scheduled for completion by October 2010.

**RECOMMENDATION:**

Staff recommends that the City Council approve a Construction Manager at Risk (CMAR) Agreement with Sundt Construction, Inc. for the construction of the American Sports Center facility and City Center infrastructure project in the amount of \$124,207 for pre-construction services.

**ATTACHMENTS:**

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**CONSTRUCTION MANAGER  
AT RISK AGREEMENT  
BETWEEN  
CITY OF AVONDALE  
AND  
SUNDT CONSTRUCTION, INC.**

THIS CONSTRUCTION MANAGER AT RISK AGREEMENT (this “Agreement”) is made July 20, 2009, by and between the City of Avondale, an Arizona municipal corporation (the “City”) and Sundt Construction, Inc., an Arizona corporation (the “Construction Manager”), for design phase review and complete construction services related to (i) an approximately 83,000 SF multi-purpose recreational facility on a site within the area known as the City Center, located at the northeast corner of the alignment for the future public streets to be known as City Center Drive and 114th Avenue in Avondale, Arizona (the “Facility”) and (ii) the public infrastructure for a portion of the City Center including, but not limited to, streets, drainage facilities, wet utilities and dry utilities (the “Public Infrastructure”) and other items as deemed necessary by the City (the “Project”).

**ARTICLE 1  
GENERAL**

1.1 Project Summary. The Construction Manager shall perform all management and construction services set forth in Article 3 below (the “Services”), including providing all material, equipment, tools and labor necessary to complete the Work (as defined below) described herein and reasonably inferable from the Contract Documents (as defined below), including the upgrades and improvements to be encompassed in the Project. The Construction Manager will also coordinate with and provide comments to (A) SmithGroup, Inc. (the “Facility Designer”) to ensure that the Facility portion of the Project design is constructible within the established budget, (B) David Evans and Associates, Inc., (the “Public Infrastructure Designer”) to ensure that the Public Infrastructure portion of the Project design is constructible within the established budget and (C) ASC-Avondale, LLC (the “Sports Operations Consultant”) to ensure that the Facility sports courts, fixtures, furniture and equipment can be included as planned within the established budget. The Facility Designer, the Public Infrastructure Designer and the Sports Operations Consultant are collectively referred to herein as the “Project Designers.”

1.2 Phased Agreement. The Services contemplated by this Agreement shall be carried out in several distinct phases. The Construction Manager shall be compensated on an hourly basis, at the agreed-upon hourly rates and a stipulated not-to-exceed total fee, for the pre-construction phase services as set forth in Section 7.1 below, provided that such services may extend through the construction phase for various components of the Project. At the point in the pre-construction phase services as determined by the City, the City may request that the Construction Manager submit a proposal for a guaranteed maximum price (“GMP”) for construction of (A) the Facility portion of the Project (the “Facility GMP”), which may be submitted as a single GMP or as multiple GMPs at the City’s sole discretion and (B) the Public Infrastructure portion of the Project (the “Infrastructure GMP”), which may be submitted as a single GMP or as multiple GMPs at the City’s sole discretion. If the City and the Construction Manager cannot, after good faith efforts, agree on both the Facility GMP and the Infrastructure

GMP, the City may, in its sole discretion, terminate this Agreement (subject to the terms and conditions set forth in Article 12 below) and begin negotiations with the next most qualified firm.

### 1.3 Definitions.

A. “Applicable Law” means any law, rule, code, regulation, requirement, action, determination, guideline, or order of, or any legal entitlement issued by, any governmental body having jurisdiction, applicable, relating to the design, permitting, construction, equipping, financing, ownership, possession, or any other transaction or matter contemplated hereby relating to the design and construction of the Project.

B. “Contract Documents” means all of the following:

1. Change orders and written amendments to this Agreement signed by both the City and the Construction Manager, including the amendments, if any, relating to the respective GMPs, attached hereto as Exhibit A-1 and Exhibit A-2 and incorporated herein by reference (the “GMP Amendments”).

2. This Agreement.

3. The Construction Manager’s Guaranteed Maximum Price Proposals, if any, relating to the Facility GMP (the “Facility Proposal”) and the Infrastructure GMP (the “Infrastructure Proposal”) (the Facility Proposal and the Infrastructure Proposal are collectively and individually referred to herein as the “GMP Proposal”), attached hereto as Exhibit B-1 and Exhibit B-2 and incorporated herein by reference.

4. The Construction Manager’s proposed (A) scope of services and fee breakdown for the Facility Proposal (the “Facility Scope”), (B) scope of services and fee breakdown for the Infrastructure Proposal (the “Infrastructure Scope”) and (C) the Master Schedule developed in accordance with subsections 3.3(B) and 3.5(B)(1) below relating to both the Facility Scope and the Infrastructure Scope (the Facility Scope, the Infrastructure Scope and the Master Schedule are collectively referred to herein as the “Scope”), attached hereto as Exhibit C and incorporated herein by reference.

5. The design documents prepared by the Project Designers and approved by the City (the “Design Documents”), attached hereto as Exhibit D and incorporated herein by reference.

6. The City’s Request for Qualifications (the “RFQ”) attached hereto as Exhibit E and incorporated herein by reference.

7. The Construction Manager’s response to the City’s RFQ attached hereto as Exhibit F and incorporated herein by reference.

In case of any inconsistency, conflict or ambiguity among the Contract Documents, the documents shall govern in the order in which they are listed above.

C. A “Change Order” means a written instrument, issued after execution of this Agreement, signed by the City and Construction Manager, stating their agreement upon a change in the Work.

D. “Day” means calendar day.

E. “Environmental Conditions” means collectively, Hazardous Materials and Underground Storage Tanks.

F. “Environmental Damages” means all claims, judgments, damages, losses, penalties, fines, liabilities, encumbrances, liens, costs and expenses of investigation and defense of any claim, including, without limitation, attorney’s fees, which are incurred at any time as a result of the existence of Hazardous Materials upon, about or beneath the Project site or migrating or threatening to migrate to or from the Project site, and including, without limitation:

1. Damages for personal injury, or injury to property or to natural resources occurring upon or off the Project site.

2. Fees incurred for the services of attorneys, consultants, the Construction Manager, experts, laboratories and all other costs incurred in connection with the investigation or remediation of such Hazardous Materials or violation of Environmental Requirements.

3. Liability to any third party or governmental agency or political subdivision to indemnify such party, agency or political subdivision for costs expended in connection with the items listed in subsection 1.3(E)(2) above.

G. “Environmental Requirements” means all applicable laws, statutes, regulations, rules, ordinances, codes, licenses, permits, orders and similar items of all governmental agencies or other instrumentalities of the United States, the State of Arizona, Maricopa County and all applicable, judicial, administrative and regulatory decrees, judgments and orders relating to the protection of human health or the environment, including, without limitation:

1. All requirements, including but not limited to, those pertaining to reporting, licensing, permitting, investigation and remediation of emissions, discharges, releases or threatened releases of Hazardous Materials into the air, surface water, ground water or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials.

2. All requirements pertaining to the protection of the health and safety of employees or the public.

H. “Final Completion” shall be defined as set forth in subsection 3.6(A)(11) and shall occur not later than 60 days from the Date of Substantial Completion, (the “Date of Final Completion”), subject to modification by changes in the Work as provided in Article 9 below.

I. “Hazardous Materials” means any substance:

1. The presence of which requires investigation or remediation under federal, state or local law, statute, regulation, ordinance, order, action, policy or common law.

2. Which is or becomes defined as a “hazardous waste”, “hazardous substance”, pollutant or contaminant under any federal, state or local law, statute, regulation, rule or ordinance or amendments thereto, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 *et seq.* (“CERCLA”), as amended, or the Resource, Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 *et seq.* (“RCRA”).

3. Which is petroleum, including crude oil or any fraction thereof not otherwise designated as a “hazardous substance” under CERCLA, including without limitation gasoline, diesel fuel or other petroleum hydrocarbons.

4. Which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority or instrumentality of the United States or the State of Arizona.

5. The presence of which on the Project site causes or threatens to cause a nuisance upon the Project site or to the adjacent properties or poses or threatens to pose a hazard to the health or safety of persons on or about the Project site.

6. The presence of which on adjacent properties could constitute a trespass by the Construction Manager or the City.

J. “Punch List” means that list of items provided by City to Construction Manager at the time of Substantial Completion indicating items to be completed or corrected, including the time for completion or correction by Construction Manager after Substantial Completion.

K. “Substantial Completion” shall be defined as set forth in subsection 3.6(A)(10) below and shall occur not later than the date set forth in the applicable GMP Amendment (the “Date of Substantial Completion”), subject to modification by changes in the Work as provided in Article 9 below.

L. “Subcontractor” means a person or entity employed or engaged by the Construction Manager or any person or entity directly or indirectly in privity with the Construction Manager to perform any portion of the Work. The term Subcontractor does not

include the Project Designers or any separate contractor employed by the City.

M. “Underground Storage Tank” shall have the definition assigned to that term by § 9001 of RCRA, 42 U.S.C. § 6991, as amended, and also shall include:

1. Any tank of 1,100 gallons or less capacity used for storing motor fuel.
2. Any tank used for storing heating oil for consumption on the premises where stored.
3. Any septic tank.
4. Any pipes connected to items listed in subsections 1.3(M)(1) and 1.3(M)(2) above.

N. The “Work” includes the (1) Environmental Investigation set forth in Section 3.1 below, (2) Review of Design Documents and design remedies set forth in Section 3.2 below, (3) Pre-construction Phase General Services set forth in Section 3.3 below, (4) GMP Proposal provided in accordance with Section 3.4 and Article 8 below, (5) Construction Phase General Services provided in accordance with Section 3.5 below, if applicable, (6) Construction Services provided in accordance with Section 3.6 below, if applicable, (7) additional services that may be provided pursuant to an approved change order in accordance with Article 9 below and (8) other services which are necessary to complete the Project in accordance with and reasonably inferable from the Contract Documents.

## **ARTICLE 2 RELATIONSHIP OF THE PARTIES**

2.1 Team Relationship. City and Construction Manager agree to proceed with the Project on the basis of trust, good faith and fair dealing, and shall take all actions reasonably necessary to perform this Agreement in an economical and timely manner, but without sacrificing quality. The City and the Construction Manager agree to consider design modifications and alternative materials or equipment if necessary to permit the Project to be constructed by the dates of Substantial Completion and Final Completion, as established by the mutually-agreed-upon Master Schedule attached hereto as part of the Scope.

### 2.2 City Representations.

A. Project Designers Selection. The City has contracted separately with the Project Designers to provide engineering and design for the Project.

B. Limited Project Management. None of the City’s project management activities are intended to supplant or conflict with the design, budget, or any other services and responsibilities customarily furnished by the Construction Manager or its Subcontractors, except as otherwise specifically modified by this Agreement.

C. No Third Party Relationships. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against the City or the Construction Manager.

### 2.3 Construction Manager Representations.

A. Standards. The Construction Manager covenants with the City to furnish its skill and judgment with due care and in accordance with the highest standards of its profession and with Applicable Law in effect on the date of this Agreement or as subsequently amended.

B. Subcontractor Selection Program. In conjunction with its response to the City's RFQ, the Construction Manager submitted to the City a written procedure in conformance with ARIZ. REV. STAT. § 34-601 *et seq.*, as amended, for qualifications-based selection of Subcontractors to be utilized in completion of the Project (the "Subcontractor Selection Program"), which is attached hereto as Exhibit G and incorporated herein by reference. The Construction Manager shall be solely responsible for ensuring that (1) the Subcontractor Selection Program is in conformance with Applicable Law and (2) all Subcontractors are selected in accordance with the Subcontractor Selection Program. The Construction Manager shall defend indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees for, from and against all claims, damages, losses and expenses (including, but not limited to, attorney fees, court costs and the cost of appellate proceedings) relating to, arising out of, or alleged to have resulted from the Construction Manager's failure to appropriately select its Subcontractors. Additionally, prior to Construction Manager's submittal of any GMP Proposal under this Agreement, the Construction Manager shall provide the City a list of all Subcontractors that the Construction Manager intends to utilize relating to the Project. The list shall include such information on the qualifications of the Subcontractors as may be requested by the City. The City reserves the right to review and reasonably object to the Subcontractors proposed, and the Construction Manager shall not retain a Subcontractor to which the City has a reasonable objection.

C. Key Personnel. The Construction Manager shall provide to the City a list of the proposed key project personnel of the Construction Manager and its Subcontractors to be assigned to the Project. This list shall include such information on the professional background of each of the assigned individuals as may be requested by the City. Such key personnel and consultants shall be satisfactory to the City and shall not be changed except with the consent of the City. Additionally, the City shall have the right to request that the Construction Manager personnel be removed from the Project if, in the City's sole discretion, such personnel are detrimental to the Project delivery process. Upon receipt of such request, the Construction Manager shall remove such personnel unless the Construction Manager can provide the City with sufficient documentation to prove it is commercially impractical to replace the personnel with similarly qualified personnel. The City's approval of substituted personnel shall not be unreasonably withheld.

D. Site Conditions. The Construction Manager represents that it has taken steps reasonably necessary to ascertain the nature and location of the Work related to the Project, and that it has investigated and satisfied itself as to the general and local conditions and

constraints that are applicable to the Work such as (1) conditions bearing on transportation, disposal, handling and storage of materials, (2) the availability of labor, water, power and roads, (3) normal weather conditions, (4) observable physical conditions at the Project site, (5) the surface conditions of the ground and (6) the character of equipment and facilities needed prior to and during the performance of the Work. To the extent the Construction Manager encounters subsurface or concealed conditions that differ materially from those which could reasonably have been determined from a site surface investigation by the Construction Manager on the date of this Agreement or from those ordinarily found to exist and generally recognized as inherent in the activities of the character provided in the Contract Documents, then the Construction Manager shall give notice to the City promptly before conditions are disturbed and in no event later than seven Days after the first observance of the conditions if a Change Order is contemplated by the Construction Manager due to such conditions. Such materially different conditions, if discovered after a GMP is approved, may entitle the Construction Manager to an equitable adjustment in the applicable GMP or schedule pursuant to the Change Order provisions set forth in Article 9 below.

2.4 City and Subcontractors. The City will require the Construction Manager to contract directly with such Subcontractors as may be necessary for construction or supply of the Project. All such contracts shall be issued consistent with (A) the applicable provisions of this Agreement and (B) Applicable Law, including, but not limited to, the requirements of ARIZ. REV. STAT. § 34-603(N) relating to inclusion of the Project's physical location in all subcontracts.

2.5 Construction Manager to Other Project Participants. In providing the Services described in this Agreement, the Construction Manager shall endeavor to maintain a working relationship with the Project Designers. The Project Designers are solely responsible for the Project design and shall perform in accordance with their respective agreements with the City. Nothing in this Agreement shall be construed to mean that the Construction Manager is responsible for the design of the Project or that the Construction Manager assumes any of the contractual or customary responsibilities or duties of the Project Designers or any other persons or parties not specified by this Agreement; provided, however, that the Construction Manager shall provide comment and input in the form of a value analysis and constructability review with respect to the Project Designers' designs as set forth in Section 3.2 below.

### **ARTICLE 3 CONSTRUCTION MANAGER'S SERVICES**

The Construction Manager shall provide the professional management and construction services for the Project in accordance with the terms and conditions of this Agreement. The Construction Manager shall exercise reasonable skill and judgment in the performance of its Services. The Construction Manager's Services shall be divided into two components. The initial Services shall be to provide (A) such environmental investigation services as applicable pursuant to section 3.1 below, (B) review of the Project Designers' Design Documents pursuant to Section 3.2 below, (C) the Pre-Construction Phase General Services, pursuant to Section 3.3 below and (D) if requested by the City, the GMP Proposals pursuant to Section 3.4 below. If the City and the Construction Manager agree upon the respective GMP Proposals, the Construction Manager shall furnish, with respect to each GMP Proposal (A) such environmental investigation

services as applicable pursuant to section 3.1 below, (B) the Construction Phase General Services set forth in Section 3.5 below and (C) the Construction Services set forth in Section 3.6 below.

### 3.1 Environmental investigation.

A. Upon written notice from the City or upon Construction Manager's discovery of Environmental Conditions on the Project site, the Construction Manager shall recommend, for execution by the City, one or more contracts ("Environmental Contracts") with suitably qualified consultants and/or engineers ("Environmental Engineers"), each of which Environmental Engineer and which form of Environmental Contract shall be subject to the approval of the City, for purposes of performing an investigation and analysis of the Project site prior to demolition and excavation activities, to determine the presence of any Environmental Conditions on, in or under the Project site. The Environmental Contracts shall provide for a commercially reasonable scope of investigation approved by the City, and may provide for conducting the investigation and testing in phases acceptable to the City. The Environmental Contracts shall also provide that the Environmental Engineers shall begin their tests and inspections at the Project site as soon as the City is able to arrange access to the Project site, or any portions thereof, for such purposes. The Environmental Contracts shall provide that the Construction Manager, acting as agent of the City, shall coordinate the activities of the Environmental Engineers with the Work.

B. The Environmental Contracts shall provide that the Environmental Engineers shall prepare such reports, feasibility studies and remedial plans ("Environmental Assessments") as may be reasonably necessary in order to identify and explain the quantity, scope and nature of the Environmental Conditions found to exist at the Project site. The Environmental Assessments shall contain a detailed analysis of the Environmental Conditions discovered, and the actions ("Remedial Actions") required for the response, removal, cleanup or remediation of such Environmental Conditions (1) which are required by Environmental Requirements, or (2) which are reasonably necessary to mitigate Environmental Damages.

C. The Environmental Contracts shall provide that the Environmental Engineers shall promptly provide the City and the Construction Manager with a copy of each Environmental Assessment, together with any other reports and test results generated pursuant to the Environmental Contracts. The Construction Manager shall, promptly after receipt of the foregoing matters from the Environmental Engineers, prepare and submit to the City a written report setting forth the Construction Manager's understanding of whether and to what extent any recommended Remedial Actions may result in an amendment to the Master Schedule and the progress of the Work.

D. The Environmental Contracts shall provide that it shall be the responsibility of the Environmental Engineers to (1) give any necessary notice to the Federal government and the State of Arizona or other agencies of the presence of any Environmental Conditions, (2) to pursue all necessary negotiations with Federal and Arizona agencies concerning preparation and approval of a plan for clean-up to the extent required and (3) obtain all necessary permits to perform any Remedial Actions.

E. If so instructed by the City, based upon the results of the Environmental Assessments, the Construction Manager shall, as agent for the City, obtain bids from remediation contractors (“Remediation Contractors”) suitably qualified and approved by the City, to perform the Remedial Actions selected by the City and shall submit such bids to the City, together with the Construction Manager’s recommendation of the most qualified Remediation Contractor(s). If the City elects to go forward with all or any portion of the Remedial Actions covered by the bids submitted, the City will so advise the Construction Manager in a written notice on or before the date which is 60 Days after receipt of the foregoing matters from the Construction Manager. Promptly after receipt of such notice, the Construction Manager shall recommend for the City’s execution remediation contracts (“Remediation Contracts”) with the Remediation Contractors identified in such notice.

F. Unless otherwise instructed, the Construction Manager, as agent for the City, shall be responsible for coordinating the work and services performed by the Remediation Contractors with the Work.

G. If, in the course of performance of the Work, the Construction Manager encounters on the Project site any Hazardous Materials not previously disclosed and remediated by the Environmental Engineers or the Remediation Contractors, the Construction Manager shall immediately suspend the Work in the area affected and promptly thereafter report the condition to the City.

H. The City will make all payments due under the Environmental Contracts and the Remediation Contractors directly to the Environmental Engineers and the Remediation Contractors. Such payments will be based on requisitions, which requisitions shall be approved by the Construction Manager prior to submission to the City.

I. All payments due under the Environmental Contracts, the Remediation Contracts and for Environmental Damages, shall not be a part of the applicable GMP, and shall be the sole responsibility of the City, except as expressly provided otherwise.

J. Except as set forth in subsection 3.1(M) below, it is understood and agreed that with respect to any Environmental Conditions existing on the Project site, the Construction Manager is not, and shall not be deemed to be, a generator, arranger, owner, operator, treater, storer, transporter or disposer of, or otherwise responsible for, any such Environmental Conditions. It is understood and agreed that the Construction Manager shall have no right to direct the means or methods of performance of any Environmental Engineer or Remediation Contractor.

K. To the extent that the Construction Manager or the Subcontractors are not in violation of subsection 3.1(M) below, the City shall indemnify, defend and hold harmless the Construction Manager, the Subcontractors, and the directors, officers, agents and employees of each (the “Construction Manager Indemnitees”), for, from and against any Environmental Damages asserted against or sustained by such parties as a result of any of the Construction Manager Indemnities being deemed or determined to be a generator, arranger, owner, operator, treater, storer, transporter or disposer of, or otherwise responsible for, any such Environmental Conditions.

L. The City acknowledges and agrees that the Construction Manager shall not commence or continue any demolition or construction activities on any portion of the Project site on or in which Remedial Actions are to be performed until such Remedial Actions are to the point where construction activities will not interfere with such Remedial Actions, as evidenced by appropriate certification by the applicable Environmental Engineer and/or Remediation Contractor and any required approvals of any applicable government agencies. The Construction Manager agrees to use good faith efforts to adjust and reschedule its activities at the Project site so as to minimize, to the extent reasonably practical, the adverse effect on the progress of the Work resulting from any Remedial Actions.

M. The Construction Manager shall not bring Hazardous Materials to the Project site, and shall not include Hazardous Materials in any construction materials, unless permitted by Environmental Requirements. The Construction Manager shall comply, and shall cause the Subcontractors to comply, with all Environmental Requirements regarding the generation, handling, storage, treatment and disposal of Hazardous Materials.

N. The Construction Manager shall indemnify, defend and hold harmless the City, its agents, representatives, officers and employees for, from and against any Environmental Damages asserted against or sustained by such parties as a result of any violation by the Construction Manager or the Subcontractors of any Environmental Requirements arising out of subsection 3.1(M) above.

### 3.2 Review of Design Documents; Design Remedies.

A. Design Document Review. The Construction Manager shall assist the City in reviewing the Design Documents for clarity, consistency, constructability and coordination among the contractors. The Construction Manager's first review of the Design Documents related to the Facility shall occur in conjunction with the Facility Designer finalizing the 30% stage of the design for each component of the Facility as designated by the City and shall be ongoing until 100% plans are final and complete for all phases of the Project. The Construction Manager's first review of the Design Documents related to the Public Infrastructure shall occur in conjunction with the Public Infrastructure Designer finalizing the 60% stage of the design for each component of the Public Infrastructure as designated by the City and shall be ongoing until plans are final and complete for all phases of the Project. If the Construction Manager recognizes that portions of the Design Documents are (1) in violation of Applicable Law or (2) in any way inadequate to achieve the intended result of the Project, the Construction Manager shall immediately notify the City in writing, describing the apparent violation or inadequacy.

B. Construction Manager Not Responsible for Design. Notwithstanding the foregoing, the Construction Manager is not responsible for providing, nor does the Construction Manager control, the Project design and contents of the Design Documents. By assisting with the reviews described herein, the Construction Manager is not acting in a manner so as to assume responsibility or liability, in whole or in part, for all or any part of the Project design and Design Documents.

C. Constructability Review and Certification. The Construction Manager shall perform complete constructability reviews throughout the pre-construction phase of each portion of the Project. The Construction Manager shall provide the City with a written report containing, at a minimum, (1) a summary of the research and analysis conducted, (2) a detailed description of any constructability issues or challenges and (3) recommendations for correcting any constructability issues or challenges. At the completion of its review of the Design Documents for each phase of the Project, the Construction Manager shall certify, without assuming engineering responsibility therefore, that the Design Documents are sufficient and complete to build the respective portion of the Project within (1) the time available before the respective Date of Substantial Completion and (2) the Project budget. The Construction Manager's assistance in reviewing the Project design, Design Documents and in making recommendations as provided herein is only for the purpose of providing advice to the City. Nothing in this subsection shall relieve the Project Designers of their respective responsibility for the Design Documents.

D. Value Analysis. The Construction Manager shall make recommendations to the City and the Project Designers with respect to constructability, construction cost, sequence of construction, construction duration, possible means and methods of construction, time for construction and separation of the Project into contracts for various categories of the Work. Construction Manager shall evaluate all design options to provide value analysis services and cost savings recommendations to the City. The Construction Manager shall consider options most effective in first costs as well as long term operational costs and life cycle costs when evaluating each design option. The Construction Manager shall submit to the City (1) written cost studies, (2) cost-benefit evaluations of each of the cost studies, (3) a formal report to the design team, (4) a final written analysis study document and (5) a tracking report for the increases or decreases in Project cost due to value engineering or scope changes.

### 3.3 Pre-Construction Phase General Services.

A. Personnel; Project Meetings; Project Analysis. The Construction Manager shall submit to the City an organizational chart and resumes of its key personnel assigned to the pre-construction phase of the Project. The Construction Manager will meet with the City, the Project Designers and all the other Project stakeholders to fully understand the program, the Design Documents and all other aspects of the Project. Construction Manager shall attend the regularly scheduled meetings with the City and the Project Designers to advise the City on matters of site use, improvements, selection of materials, building methods, construction details, building systems, equipment, phasing and sequencing.

B. Schedule Development. The Construction Manager shall (1) establish detailed Critical Path Method ("CPM") schedules for the pre-construction/design phase and the construction phase of the Project with concurrence of the City and the Project Designers, (2) monitor the Project schedules during the pre-construction phase and ensure that the Project Master Schedule (as defined in subsection 3.5(B)(1) below) is updated as necessary and (3) advise the City of any schedule deficiencies. The Construction Manager shall utilize Primavera SureTrak scheduling software to prepare, provide and maintain the detailed CPM schedules.

C. Cost Models. The Construction Manager shall provide the City with detailed cost information for all aspects of the Project. Each cost model will contain a detailed estimate of the direct cost (including materials, labor and equipment) pertaining to each aspect of the Project along with the cost of the contract bonds, the cost of the Project's required insurance, the cost of taxes, Construction Manager's general conditions, Construction Manager's fee and the amount of Construction Manager's contingency and shall be consistent with such requirements as determined by the City or the Project Designers.

D. Traffic Control/Sequencing Plans. The Construction Manager shall provide the City with (1) a detailed traffic control plan, in accordance with subsection 3.6(A)(7) below and (2) construction sequencing plans. Upon approval by the City, the traffic control plan and the construction sequencing plan shall be attached hereto as Exhibit H, and incorporated herein by reference.

E. Phasing; Long Lead Procurement. The Construction Manager shall review the Design Documents and make recommendations to the City with respect to the phase issuance of the Construction Documents to facilitate phased construction of the Work, if appropriate. The Construction Manager may also recommend to the City and to the Project Designers a list and a schedule for purchasing items necessary for the Project which may require substantial lead time for procurement (the "Long Lead Items"), which may be separately procured by the City or included as a separate GMP in this Agreement, at the discretion of the City. The Construction Manager shall make such adjustments to the Master Schedule as necessary to accommodate the procurement process for the Long Lead Items. Upon purchase, the Construction Manager shall safeguard the Long Lead Items until installed as part of the Project.

F. Other Deliverables; Pre-Construction Progress Payments. The Construction Manager shall provide the City with written plans for the pre-qualification of subcontractors (according to the Subcontractor Selection Program), subcontract bid packages, project safety, quality control, owner training and commissioning. The Construction Manager will prepare and submit monthly pay applications to the City for work performed during the specific payment period for the pre-construction phase of the Project.

### 3.4 Guaranteed Maximum Price Proposal.

A. GMP Submittal Process. At the stage of the pre-construction phase services as determined by the City, the Construction Manager shall, if requested by the City, submit the Facility Proposal, which shall be the sum of the estimated Cost of the Work relating to completion of that portion of the Scope for the Project and the Construction Phase Fee relating to the Facility. At the stage of the pre-construction phase services as determined by the City, the Construction Manager shall, if requested by the City, submit the Infrastructure Proposal, which shall be the sum of the estimated Cost of the Work relating to completion of that portion of the Scope for the Project and the Construction Phase Fee relating to the Public Infrastructure.

B. Failure to Agree Upon GMP. If the City and the Construction Manager do not agree to any GMP requested by the City, all references in this Agreement to the GMP shall

not be applicable, and the parties shall proceed on the basis of reimbursement as provided in Articles 7 and 8 below.

C. Construction Manager's Contingency. The estimated Cost of the Work may include the Construction Manager's contingency, a sum established by the Construction Manager and approved by the City for use at the Construction Manager's discretion, with the prior, written approval of the City, which approval shall not be unreasonably withheld, conditioned or delayed, to cover costs that are properly reimbursable as a Cost of the Work but are not the basis for a Change Order.

D. Submittal Requirements. The Construction Manager shall include with each GMP Proposal a written statement of its basis, which shall include:

1. A detailed scope of services related to the respective GMP Proposal, including a breakdown of the GMP as it relates to the applicable part of the Scope.
2. A list of the drawings and specifications, including all addenda, which were used in preparation of the respective GMP Proposal.
3. A list of allowances and a statement of their basis.
4. A list of the assumptions and clarifications made by the Construction Manager in the preparation of the respective GMP Proposal to supplement the information contained in the Design Documents.
5. The Date of Substantial Completion, if applicable, upon which the respective GMP Proposal is based and the Master Schedule for the Work upon which the respective date of Substantial Completion is based, including a clear statement of the number of rain delay days included within the Master Schedule.
6. A schedule of applicable alternate prices.
7. A schedule of applicable unit prices.
8. A statement of additional services included, if any.
9. The time limit for acceptance of the GMP Proposal.

E. GMP Proposal Review. The Construction Manager shall meet with the City to review each GMP Proposal. In the event that the City discovers any inconsistencies or inaccuracies in the information presented, the City shall give written notice to the Construction Manager, who shall make appropriate adjustments to the GMP, its basis or both.

F. GMP Effective Date. Each GMP Proposal shall not become a part of this Agreement until the City accepts such GMP Proposal in writing by executing the applicable

GMP Amendment, on or before the date specified in each such GMP Proposal for such acceptance.

G. No Prior Costs. Prior to the City's acceptance of a GMP Proposal, the Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work related to such GMP Proposal, except as provided in this Agreement or as the City may specifically authorize in writing.

H. Acceptance; Effect. Upon acceptance by the City of each GMP Proposal, the GMP contained therein and its basis shall be set forth in the applicable GMP Amendment. Once established, the GMP and Date of Substantial Completion shall be subject to modification by changes in the Work as provided in Articles 6 and 9 below.

I. Taxes. Each GMP Proposal shall include, in the Cost of the Work, those taxes that are applicable at the time the GMP is established. If, in accordance with the City's express written direction, an exemption is claimed for certain taxes, the City agrees to indemnify, defend and hold the Construction Manager harmless for any liability, penalty, interest, fine, tax assessment, attorneys fees or other expense or cost incurred by the Construction Manager as a result of any action taken by the Construction Manager in reliance upon the City's direction relative to such tax exemptions claimed by the City.

J. Control of Construction. After the date any Amendment to this Agreement is executed by the City and the Construction Manager approving a GMP Proposal, the Construction Manager shall become responsible for the means, methods, sequences and procedures used in the construction of the portion of the Project related to such GMP Proposal and shall proceed with the Construction Manager's Construction Services related to the GMP Proposal under this Agreement.

K. Construction Manager Assumptions. Each GMP is the total cost of the applicable portion of the Project including the cost of labor, equipment, supplies, materials, services and allowances to complete the applicable portion of the Project. The cost data is directly correlated to the specific Design Documents in existence at the time each GMP Proposal is prepared. The assumptions used in the preparation of the GMP Proposal shall be identified by the Construction Manager as part of the GMP Proposal.

### 3.5 Construction Phase General Services.

#### A. Project Management.

1. The Construction Manager shall prepare a construction management plan for the Project. In preparing the construction management plan, the Construction Manager shall consider the City's schedule, cost and design requirements for the Project. The Construction Manager shall then develop various alternatives for the sequencing and management of the Project and shall make recommendations to the City. The construction management plan shall also include a description of the various proposal packages recommended for the Project. The construction management plan shall be presented to the City for acceptance.

2. The Construction Manager shall conduct periodic Project meetings attended by the City, the Project Designers and other necessary parties. Such meetings shall serve as a forum for the exchange of information concerning the Project and the view of construction progress. The Construction Manager shall prepare and distribute minutes of these meetings to the City, the Project Designers and others in attendance.

3. The Construction Manager shall coordinate transmittal of documents to regulatory agencies for review and shall advise the City of potential problems in completing such reviews.

4. The Construction Manager shall assist the City in public relations activities and shall prepare information for and attend public meetings regarding the Project.

5. The Construction Manager shall prequalify and select all Subcontractors according to the Subcontractor Selection Program set forth on Exhibit G. The Construction Manager shall conduct a telephone and correspondence campaign to attempt to create interest among Subcontractors. The Construction Manager shall develop and coordinate procedures to provide answers to Subcontractors' questions.

6. In conjunction with the Project Designers and the City, the Construction Manager shall conduct a pre-construction conference with all Subcontractors during which the Construction Manager shall review (a) the Master Schedule, as defined below, and (b) the reporting procedures and other rules.

7. The Construction Manager shall ensure that each Subcontractor has secured the required business licenses, permits, insurance and bonds.

8. The Construction Manager will maintain As-Built Drawings for the entire term of the Project. These As-Built Drawings will be reviewed monthly by the City and the Project Designers. If As-Built Drawings are not acceptable to the City and the Project Designers, progress monthly billings may be reduced until As-Built Drawings are acceptable. Final As-Built Drawings will be submitted to the Project Designers and the City for review and acceptance. Such acceptance is required before final payment may be released to the Construction Manager.

B. Time Management.

1. In accordance with the construction management plan, the Construction Manager shall prepare a master CPM schedule for the Project (the "Master Schedule"). The Master Schedule shall specify the proposed start dates for each project activity and the dates by which certain construction activities must be complete including the date of Substantial Completion established in the GMP Amendments. The Construction Manager shall submit the Master Schedule to the City for acceptance as part of the applicable GMP Amendment. All schedules shall be submitted utilizing Primavera SureTrak scheduling software.

2. Prior to transmitting Contract Documents to Subcontractors, the Construction Manager shall prepare a pre-proposal construction schedule for each part of the Project and make the schedule available to the Subcontractors. The Construction Manager shall provide a copy of the Master Schedule to the Subcontractors. As part of the Notice of Award by the Construction Manager to each Subcontractor, the Construction Manager shall inform each Subcontractor of the requirements for the preparation of the Master Schedule. Each Subcontractor shall prepare its own Subcontractor construction schedule in accordance with the requirements of the Contract Documents.

C. Cost Management.

1. The Construction Manager shall make recommendations to the City concerning design changes that may result in revisions to the Project budget and division of the Work required for the Project.

2. The Construction Manager shall prepare an estimate of the construction cost for each submittal of design drawings and specifications from the Project Designers. The estimate for each submittal shall be accompanied by a report to the City and the Project Designers identifying any variances from the Project budget. The Construction Manager shall coordinate and expedite the activities of the City and the Project Designers when changes to the design are required to remain within the Project budget.

3. The Construction Manager shall assist the City with value analysis studies for major construction components. The results of these studies shall be in report form and distributed to the City, the Construction Manager and the Project Designers. The Construction Manager shall analyze the cost for various design and construction alternatives relating to efficiency, useable life and maintenance.

4. The Construction Manager shall prepare an estimate of costs for all addenda and shall submit the estimates to the City for approval. After approval by the City, the addenda shall be transmitted to the Subcontractors.

5. Upon receipt of proposals, the Construction Manager shall evaluate the proposals, including alternate prices and unit prices.

6. The Construction Manager shall prepare a Project budget based on separate divisions of the Work required for the Project and shall submit a variance report with each pay application.

D. Reports.

1. The Construction Manager shall prepare and distribute design phase change order reports monthly to the City that shall list all City-approved Change

Orders as of the date of the report and shall state the effect of the Change Orders on the Project budget and the Master Schedule.

2. The Construction Manager shall prepare and distribute schedule maintenance reports monthly to the City comparing the actual and scheduled dates for Subcontractors' contract awards and completion of each such Subcontractor's portion of the Project.

3. The Construction Manager shall prepare and distribute the Project cost reports monthly to the City specifying actual award prices and construction costs for each of the individually awarded components of the Project as compared to the Project budget.

4. The Construction Manager shall prepare and distribute cash flow reports monthly to the City specifying actual cash flow for each of the individually awarded components of the Project as compared to the projected cash flow.

5. The requirements for filing reports set forth in this subsection 3.5(D) shall not be deemed to meet the requirements for requests for extensions of time or requests for change orders as set forth in Section 6 and Section 9 below.

### 3.6 Construction Services.

#### A. Project Management.

1. The Construction Manager shall provide and maintain a management team on the Project site to provide contract administration. The Construction Manager shall establish and implement coordination and communication procedures among the Construction Manager, the City, the Project Designers and Subcontractors.

2. The Construction Manager shall establish and implement procedures for expediting and processing requests for information, shop drawings, material and equipment sample submittals, contract schedule adjustments, Change Orders, substitutes, payment requests and the maintenance of logs. The Construction Manager shall maintain daily job reports. The Construction Manager shall be the party to whom requests for information, submittals, Subcontractor schedule adjustments, substitutions, Change Order requests and payment requests shall be submitted.

3. Periodically, the Construction Manager shall conduct meetings at the Project site with each Subcontractor. The Construction Manager shall conduct coordination meetings with all Subcontractors. The Construction Manager shall record, transcribe and distribute minutes to all attendees, the City and the Project Designers.

4. Technical inspection and testing provided by the Project Designers or others who are not Subcontractors shall be coordinated with the Construction Manager. The Construction Manager shall be provided a copy of all inspection and

testing reports on the day of the inspection or test. The Construction Manager is not responsible for providing, nor does the Construction Manager control, the actual performance of such technical inspection and testing. The Construction Manager is performing a coordination function and is not acting in a manner so as to assume responsibility or liability, in whole or in part, for all or any part of such inspection and testing.

5. The Construction Manager shall perform, with its own forces, construction work that amounts to not less than 45% of the total contract price for construction of the Project. For the purposes of this paragraph, the total contract price for construction of the Project (a) includes the total of the GMP amounts as agreed upon by the Construction Manager and the City and (b) does not include the cost of preconstruction services, design services or any other related services or the costs to procure any right-of-way or other costs of condemnation.

6. Construction Manager shall ensure that each Subcontractor (a) has inspected the jobsite and has thoroughly reviewed this Agreement as the same may be revised by the City, and is not relying on any opinions or representations of the City, (b) agrees to perform and complete the Work in strict accordance with this Agreement and under the Construction Manager's direction, (c) agrees that any exclusions of any Work must be approved in writing by the Construction Manager prior to acceptance of any agreement between Construction Manager and a Subcontractor or same shall not be excluded hereunder, (d) is responsible for all safety precautions and programs and shall provide all protection and necessary supervision to implement said precautions and programs, (e) shall take all reasonable precautions for the safety of and provide reasonable protection to prevent damage, injury or loss to: (i) employees or others on the Project, (ii) the Work and materials and (iii) other property at the Project or adjacent thereto, (f) shall designate a responsible person on the Project whose duty shall be prevention of accidents, (g) shall provide all competent supervision necessary to execute all Work and any work incidental thereto in a thorough, first-class, workmanlike manner and (h) has acknowledged that it is Subcontractor's responsibility that all of the Work and any work incidental thereto conforms to, and is performed in accordance with, Applicable Law.

7. All traffic affected by the Work under this Agreement shall be regulated in accordance with the most recent revision of the United States Department of Transportation *Manual on Uniform Traffic Control Devices* (the "MUTCD") and the City of Phoenix Traffic Barricade Manual (the "Barricade Manual") (the MUTCD and the Barricade Manual are collectively referred to herein as the "Traffic Control Requirements"), which are incorporated herein by reference; provided, however, that this Agreement shall govern in a conflict with the terms of the MUTCD or the Barricade Manual. At the time of the pre-construction conference, each Subcontractor shall designate an employee who is well qualified and experienced in construction traffic control and safety to be responsible for implementing, monitoring and altering traffic control measures, as necessary. At the same time the Construction Manager will designate a representative who will be responsible to see that all traffic control and any alterations are implemented and monitored to the extent that traffic is carried through the

Work area in an effective manner and that motorists, pedestrians, bicyclists and workers are protected from hazard and accidents. The Construction Manager shall ensure that Subcontractors adhere to the following:

a. All traffic control devices and advance warning signs (such as REDUCE SPEED, LOOSE GRAVEL, 25 MPH SPEED LIMIT and DO NOT PASS) required for the Work under this Agreement shall be placed in accordance with the Traffic Control Requirements.

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

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

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

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

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

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

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

i. Equipment used and/or directed by the Subcontractor shall travel with traffic at all times. Supply trucks shall travel with traffic except when

being spotted. Subcontractor shall provide a flagman or off-duty, uniformed law enforcement officer to assist with spotting.

j. During construction, it may be necessary to alter traffic control. Any such alterations shall be in accordance with the Traffic Control Requirements.

k. No street within the Project area may be closed to through traffic or to local emergency traffic without prior, written approval of the City. The City may give written approval as its sole discretion and only if sufficient time exists to allow for notification of the public at least two days in advance of such closing. Partial closure of streets within the Project shall be done in strict conformity with the City's written directions.

l. Caution should be used when excavating near intersections with traffic signal underground cable. Subcontractor shall notify the City 24 hours in advance of any work at such intersections. The Subcontractor shall install and maintain temporary overhead traffic signal cable as specified by the City when underground conduit is to be severed by excavations at intersections. The Subcontractor shall provide an off-duty uniformed law enforcement officer to direct traffic while the traffic signal is turned off and the wiring is transferred. All damaged or modified traffic signal overhead and underground items shall be repaired and restored to the City's satisfaction. Magnetic detector loops shall, under no circumstances, be spliced.

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

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

8. The Construction Manager shall review the contents of a request for changes to the subcontract time or price submitted by a Subcontractor, assemble information concerning the request and endeavor to determine the cause of the requests. In instances where the Construction Manager's analysis reveals that the request is valid, the Construction Manager shall prepare a detailed report to the City for approval in accordance with Section 6 below. The Construction Manager shall also prepare and timely deliver a detailed report to the City of other such requests and requests found to be invalid and timely inform the Subcontractor of any such determination. The Construction Manager shall prepare the necessary change order documents for signature by the Subcontractor.

9. The Construction Manager shall establish and implement a program to monitor the quality of construction by itself and by Subcontractors. The

purpose of the program shall be to protect the City against defects and deficiency in the Work of the Construction Manager or the Subcontractors. The Construction Manager shall reject the Work and transmit to the Subcontractor a notice of nonconforming work when it is the opinion of the Construction Manager that the Work does not conform to the requirements of the Contract Documents. Except for minor variations as stated herein, the Construction Manager is not authorized as part of this service to change, evoke, enlarge, relax, alter, or release any requirement of the Contract Documents or to approve or accept any portion of the Work not performed in accordance with the Contract Documents.

10. When the Construction Manager considers that the Work is Substantially Complete, the Construction Manager shall prepare and submit to the City a comprehensive list of Punch List items, which the City may edit and supplement. The Construction Manager shall proceed promptly to complete and correct Punch List items. Failure to include an item on the Punch List does not alter the responsibility of the Construction Manager to complete all Work in accordance with the Contract Documents. In consultation with the Project Designers, the City shall determine when the Project and the Construction Manager's Work is substantially complete. "Substantial Completion" means construction has been completed in accordance with the Contract Documents to the extent that the City can use or occupy the entire Project, or the designated portion of the Project, for the use intended without any outstanding, concurrent construction at the site, except as may be required to complete or correct Punch List items. A prerequisite for Substantial Completion, over and above the extent of construction completion required, is receipt by the City of acceptable documentation that Construction Manager has successfully tested and demonstrated all systems for their intended use. The Date of Substantial Completion shall be confirmed by a Certificate of Substantial Completion signed by the City and Construction Manager. The Certificate of Substantial Completion signed by the City and Construction Manager shall state the respective responsibilities of the City and the Construction Manager for security, maintenance and damage to the work and insurance. The Certificate of Substantial Completion shall also include the Punch List as created by the Construction Manager and modified by the Project Designers in consultation with the City and establish the time for completion and correction of all Punch List items. If the City and the Construction Manager cannot agree as to the appropriate Date of Substantial Completion, such issue shall be submitted for dispute resolution in accordance with the procedures set forth in Article 13 below. Notwithstanding such disagreement, the Construction Manager shall diligently proceed with completion of the Punch List items. Warranties required by the Contract Documents shall commence on the Date of Substantial Completion or designated portion thereof unless otherwise provided in the Contract Documents.

11. In consultation with the Project Designers, the City shall determine when the Project and the Construction Manager's Work is finally completed. "Final Completion" means completion of the Project by the Construction Manager in accordance with the Contract Documents, certified to the City by the Construction Manager. Final Completion shall be achieved only upon the City's written acceptance of (a) the Construction, (b) all testing, (c) demonstration by the Construction Manager that the Work functions as required by the Contract Documents and meets all Contract

requirements, (d) resolution of all outstanding system deficiencies and Punch List items, if any, (e) delivery of all as-built documentation, drawings, completed record documents (with revisions made after Substantial Completion), annotated submittals and Design Document deliverables, (f) submittal, acceptance, and delivery of the 100% complete O&M manuals, (g) delivery of warranties, inspection certificates, bonds and all other required documents, (h) all pre-requisites for final payment and (i) submittal of Construction Manager's request for final payment and acceptance enclosing all required documentation. Upon Final Completion the City shall issue a Certificate of Final Completion to the Construction Manager on behalf of the City. Following receipt of payment from the City, the Construction Manager shall make all payments due to the Subcontractors.

12. The Construction Manager shall coordinate and expedite submittals of information from the Subcontractors for record drawings and specification preparations and shall coordinate and expedite the transmittal of record documents to the City.

B. Time Management.

1. The Construction Manager shall, not less than monthly, adjust and update the Master Schedule and distribute copies to the City and the Project Designers. All adjustments to the Master Schedule must be (a) made for the benefit of the Project and (b) acceptable to the City; provided, however, that such adjustments or updates shall not extend the time for performance of the Work beyond the Date of Substantial Completion unless such extension is requested by the Construction Manager and approved by the City in accordance with Section 6 below.

2. The Construction Manager shall review each Subcontractor's construction schedule and shall verify that the schedule is prepared in accordance with the requirements of the Contract Documents and that it establishes completion dates that comply with the requirements of the Master Schedule.

3. The Construction Manager shall (a) review the progress of construction of each Subcontractor on a monthly basis, (b) evaluate the percentage completion of each construction activity as indicated in the Subcontractor's construction schedule and (c) review such percentages with the Subcontractor. This evaluation shall serve as data for input to the periodic construction schedule report that the Construction Manager shall prepare and distribute to the appropriate Subcontractor, the City and the Project Designers. The report shall serve as the basis for (a) determining the actual progress compared to scheduled progress and (b) determining the progress payment due to the Subcontractor. The Construction Manager shall determine and implement alternative courses of action that may be necessary to achieve contract compliance by the Subcontractor.

4. The Construction Manager shall, prior to the issuance of a Change Order, determine the effect on the Master Schedule of time extensions requested by a Subcontractor. The Construction Manager may require a Subcontractor to prepare and

submit a recovery schedule in the event the Subcontractor fails to meet the Master Schedule.

5. The Construction Manager shall prepare an occupancy plan for the Project. This plan shall be provided to the City not later than 60 days prior to the scheduled Date of Substantial Completion.

C. Cost Management.

1. The Construction Manager shall, in participation with the Subcontractors, determine a schedule of values for each of the construction subcontracts. The schedule of values shall be the basis for the allocation of the contract price to the activities shown on the Subcontractors' construction schedule. The City shall approve the schedule of values before acceptance for progress billings.

2. Each Subcontractor's construction schedule shall have the total contract price allocated among the Subcontractor's scheduled activities so that each of the Subcontractor's activities shall be allocated a price and the sum of the prices of the activities shall equal to or less than the total contract price. The Construction Manager shall review the contract price allocations and verify that such allocations are made in accordance with the requirements of the Contract Documents. Progress payments to a Subcontractor and Construction Manager shall be based on the Subcontractor's percentage of completion of the scheduled activities as set out in each Subcontractor's construction schedule report and the Subcontractor's compliance in accordance with the Contract Documents.

3. The Construction Manager shall establish and implement a Change Order control system. All proposed Change Orders shall first be described in detail in writing by the Project Designers to the Construction Manager and then shall be described in detail in a request for proposal to the affected Subcontractor accompanied by technical drawings and specifications prepared by the Project Designers. In response to the request for a proposal, the Subcontractor shall submit detailed information to the Construction Manager for evaluation concerning the costs and time adjustments, if any, necessary to perform the proposed Change Order work. The Construction Manager shall discuss the proposed Change Order with the Subcontractor and endeavor to determine the Subcontractor's basis for the cost to perform the work and the effect, if any, on the applicable GMP. The Construction Manager shall make a recommendation to the City pursuant to Section 6 below and prior to the City's acceptance of Change Orders and, following City acceptance, shall prepare the Change Order documents for approval by the City and signature by the Construction Manager and Subcontractor. In the event the Change Order increases the GMP, it must be approved by the City Council in the form of an amendment to this Agreement.

4. In instances where a lump sum or unit price is not determined prior to performing Work described in a request for proposal as provided in subsection 3.6(C)(3) above, the Construction Manager shall request from the Subcontractor records

for the cost of payroll, materials and equipment and the amount of payments to its Subcontractors, if any, incurred by the Subcontractor in performing the Work.

5. The Construction Manager shall provide trade-off studies for various minor construction components. The results of the trade-off studies shall be in report form and distributed to the City and the Project Designers.

6. In consultation with the Project Designers, the Construction Manager shall review the payment applications submitted by each Subcontractor and determine whether the amount requested reflects the progress of the Subcontractor's work. The Construction Manager shall make appropriate adjustments to each payment application and shall prepare and forward a progress payment report to the City. The progress payment report shall state the total contract price, payments to date, current payment requested, retainage and actual amounts owed for the current period. Included in this report shall be a certificate for payment that shall be signed by the Construction Manager and delivered to the City. The Construction Manager shall keep the Project and the site on which Work is performed free and clear of all liens and claims from its Subcontractors, suppliers or materialmen.

7. The Construction Manager shall make recommendations to the City concerning construction changes that may result in revisions to the Project budget or the applicable GMP.

D. Post-Construction Phase.

1. At the conclusion of the Project, the Construction Manager shall prepare final Project accounting and close-out reports.

2. The Construction Manager shall prepare and distribute reports as necessary associated with the occupancy plan.

3.7 Warranties and completion.

A. New Materials. The Construction Manager warrants that all materials and equipment furnished under construction phase(s) of this Agreement will be (1) new unless otherwise specified, (2) of good quality, (3) in conformance with the Contract Documents and (4) free from defective workmanship, defective materials and hazardous materials. Warranties shall commence on the date of Substantial Completion of the Work or of a designated portion if the warranted items are fully installed, operational and available for use and if not, at such time after the date of Substantial Completion as they are fully installed, operational and available for use.

B. Defective Construction. The Construction Manager agrees to correct all construction performed under this Agreement which proves to be defective in workmanship and materials within a period of two years from the applicable date of Substantial Completion or for such longer periods of time as may be set forth with respect to specific warranties required by the Contract Documents.

C. Certificates. The Construction Manager shall secure required certificates of inspection, testing or approval and deliver them to the City.

D. Manuals and Warranties. The Construction Manager shall require the Subcontractors to provide manufacturers' operations and maintenance manuals, warranties and guarantees for materials and equipment installed in the Project. Prior to Final Completion of the Project, the Construction Manager shall compile such manuals, warranties and guarantees, bind same in an organized manner and deliver the bound materials to the City; the City shall not be required to issue the final payment to the Construction Manager pursuant to Section 10.2 below until after the compiled manuals, warranties and guarantees have been delivered to the City.

E. Inspection and Testing. With the assistance of the City's maintenance personnel, the Construction Manager shall direct the inspection of utilities and operations of systems and equipment for readiness, and assist in their initial start-up and testing.

3.8 Additional services. Any additional services must be authorized in advance by the City in writing; the Construction Manager shall furnish or obtain from others such authorized services. The Construction Manager shall be paid for these additional services by the City as herein provided to the extent they exceed reasonably inferable obligations of the Construction Manager under this Agreement. Potential additional services include:

A. Planning. Providing additional planning surveys or alternative site evaluations other than as required or reasonably inferred in this Article 3.

B. Future/Outside of Project Design. Providing design services relative to future facilities, systems and equipment that are not intended to be constructed as part of the Project, other than general planning and master planning for future work as indicated by the City's Project program. Providing design and engineering of any work outside the property line if said work is not expressly identified and included in the Scope.

C. Major Document Revisions/Additional Documents. Making major revisions in the construction documents, or other documents when such revisions are inconsistent with written approvals or instructions previously given by the City or are due to causes beyond the control and without the fault and negligence or partial fault or negligence of the Construction Manager or its consultants or agents. Preparing additional documents for alternate, separate, or sequential bids or providing services in connection with bidding, negotiation, or construction prior to the completion of the Construction Phase, other than as required or reasonably inferred in this Article 3. Making revisions to design documents after the City has approved them when revisions are due to causes beyond the control and not the fault or partial fault of the Construction Manager.

D. Advanced Soils Analysis. Providing additional soils sampling, classification, and analysis other than as required or reasonably inferred in the foregoing sections of Article 3. Construction Manager is entitled to rely upon the soils analysis and recommendations as provided by a geotechnical consultant, however, Construction Manager is responsible for interpretation of such data for the purpose of establishing the means and methods

of construction and such interpretation shall not be considered additional services during the design phase or the construction phase.

E. Expert Testimony. Preparing to serve or serving as an expert witness for the City in connection with any public hearing, arbitration proceeding, or legal proceeding wherein the Construction Manager or Subcontractor of the Construction Manager is not a party or allegedly at fault; provided, however, preparing to serve or serving as a fact witness for the City or rendering testimony necessary to secure governmental approval for the Project shall not constitute an additional service.

F. Survey. Providing surveying services such as platting, mapping, subdivision agreements, or recording subdivision plats other than as required or reasonably inferred in this Article 3.

G. Additional Travel. Providing additional services and costs necessitated by out-of-City travel required of and approved in writing by the City other than visits to the Project and other than for travel required to accomplish the Work.

H. Unrelated Services. Providing any other services not otherwise included in this Agreement, reasonably inferred by this Agreement or not customarily furnished in accordance with generally accepted contractual practices consistent with the term of this Agreement.

I. Replacement Work. Providing consultation concerning replacement of Work damaged by fire or other causes and not due in whole or in part to Construction Manager's action or inaction during construction, or furnishing services required in connection with the replacement of such work.

J. Special Studies. Providing additional special surveys, environmental studies, and submissions required for approvals of governmental authorities or others having jurisdiction over the Project, other than as required or reasonably inferred in Article 3 above.

K. O&M Analysis. Providing analyses of operating and maintenance costs, unless provided for in the Scope.

L. Assisting with City-Performed Work. Designing, and providing other services supporting the procurement of materials to be obtained, or work, if any, to be performed by the City, that are not a part of the Work.

#### **ARTICLE 4 CITY'S RESPONSIBILITIES**

4.1 Complete Information. The City shall provide to the Construction Manager complete information regarding the City's requirements for the Project.

4.2 Requests for Information. The City shall examine requests for information/direction submitted by the Construction Manager and shall render decisions thereto

promptly. The City shall furnish required information and approvals and perform its responsibilities and activities in a timely manner to facilitate orderly progress of the Work (A) in cooperation with the Construction Manager, (B) consistent with this Agreement and (C) in accordance with the planning and scheduling requirements and budgetary restraints of the Project as determined by the City.

4.3 Notice to Construction Manager of Defect. If the City observes or otherwise becomes aware of any fault or defect in the Project or nonconformity with the Contract Documents, the City shall give written notice thereof to the Construction Manager.

4.4 Copies of Contract Documents. At the request of the Construction Manager, sufficient copies of interim and final drawings, specifications and Contract Documents shall be furnished to the Construction Manager by the City at the City's expense.

4.5 Approvals. The City shall secure, submit and pay for necessary approvals, easements, assessments, permits and charges required for the Project.

4.6 Communication. The City, its representatives and consultants shall communicate with the Subcontractors only through the Construction Manager.

4.7 Notices. The City shall send to the Construction Manager, and shall require the Project Designers to send to the Construction Manager, copies of all notices and communications sent to or received by the City or the Project Designers relating to the Construction Manager's Services with respect to the Project.

4.8 Authorized Representatives. The City shall designate an officer, employee or other authorized representatives to act in the City's behalf with respect to the Project. The representatives shall have the authority allowed by law to approve minor changes in the scope of the Project and shall be available during working hours and as often as may be required to render decisions and furnish information in a timely manner.

4.9 Progress Payments. The City shall make payments to the Construction Manager on the basis of the Subcontractors' payment applications that are certified by the Construction Manager and on the basis of the Construction Manager's invoices for its Services performed pursuant to the terms and conditions of this Agreement.

## **ARTICLE 5 CHANGES IN CONSTRUCTION MANAGER'S SERVICES**

Changes in Construction Manager's Services shall only be made by a written amendment or change order to this Agreement signed by the City and the Construction Manager. Changes involving (A) a change in the lump sum for the Services set forth in Sections 3.1, 3.2 and 3.3 above or (B) a change in any GMP, shall be approved by the City Council as an amendment to this Agreement and executed by the City and the Construction Manager. The Construction Manager shall not (A) perform any additional services or (B) eliminate any duties included in the Services until a written amendment or Change Order has been properly approved and executed by both parties. The Construction Manager shall proceed to perform the Services required by the

amendment only after receiving written notice from the City directing the Construction Manager to proceed.

## **ARTICLE 6 CONTRACT TIME**

6.1 Progress and Completion. The City and the Construction Manager agree the time limits stated in the Contract Documents, as the same may be amended and updated by the Parties, are of the essence of this Agreement.

6.2 Commencement of the Work. The Work, except for the (A) Environmental investigation services set forth in Section 3.1 above, (B) Review of Design Documents and Design Remedies services set forth in Section 3.2 above, (C) Pre-Construction Phase General Services set forth in Section 3.3 above and (D) each GMP Proposal, if any, shall commence on or about the date of the applicable GMP Amendment, and shall proceed in general accordance with the Schedule for the Work set forth therein.

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

6.4 Critical Path Activities. To the extent the Construction Manager completes activities on the critical path earlier than scheduled, the savings in time on account thereof shall belong solely to the Construction Manager.

6.5 Construction Activities. At such time as the Construction Documents, or any portion thereof, are complete, the Construction Manager shall submit a revised Master Schedule to the City for incorporation into the Contract Documents, which will expand the Master Schedule approved to date, but which will not, in and of itself, change the Date of Substantial Completion of the Project. This revised Master Schedule shall be based upon a Critical Path Method and shall show in complete detail starting and completion time of detail activities, the sequence of the Work and all significant activities.

6.6 Extensions of Time.

A. Limited to Excusable Delay. An extension in the scheduled Date of Substantial Completion will only be granted in the event of Excusable Delays affecting Work activities on the critical path. The Construction Manager shall be entitled to general condition costs and extra costs related to the Excusable Delay for idle labor, equipment inefficiency and lost productivity of the performance of the Work. The Construction Manager must submit evidence reasonably satisfactory to the City substantiating such costs. Such adjustment to the contract sum and Date of Substantial Completion shall be issued in an amendment to this Agreement.

B. Excusable Delays. To the extent any of the following events results in an actual delay in the Work affecting Work activities on the critical path, such shall constitute an “Excusable Delay” (to the extent not set forth below, a delay will be considered an “Inexcusable Delay”):

1. Delays resulting from Force Majeure.
2. Differing, unusual or concealed site conditions that could not reasonably have been anticipated by the Construction Manager in preparing the Master Schedule, including, without limitation, archaeological finds and unusual soil conditions (including rock or other geological conditions), underground foundations, abandoned or not properly identified utility lines and water conditions.
3. Delays resulting from the existence or discovery of Hazardous Materials on the Site not brought to the site by or on behalf of the Construction Manager.
4. Delays resulting from changes in Applicable Laws occurring after the date of execution of this Agreement.
5. Delays occurring due to the acts or omissions of the City and those within the control of the City.
6. Delays occurring due to the acts or omissions of a utility, so long as Construction Manager has coordinated with the utility causing the delay and the delay occurs despite reasonable steps taken by Construction Manager to avoid the delay.
7. Delays resulting from weather conditions which make it unreasonable to perform the Work in accordance with the Master Schedule.

C. Process for Requesting Extension of Time. In order to obtain an extension of time due to an Excusable Delay, the Construction Manager shall comply with the following requirements: The Construction Manager shall notify the City of the Excusable Delay as soon as practicable, but in no event more than seven Days after the Construction Manager becomes aware of the occurrence of the Excusable Delay. Such notice shall describe the Excusable Delay and shall state the approximate number of Days the Construction Manager expects to be delayed. After the cessation of the Excusable Delay, the Construction Manager shall notify the City of the

number of Days the Construction Manager believes that its activities were in fact delayed by the Excusable Delay. In the event that the delay arises as a result of a Change Order request by the City, the request for an extension of time contained in the resulting Change Order proposal or amendment to this Agreement, as applicable, shall be deemed sufficient for purposes of this subsection.

D. City Determination. Within ten Days after cessation of an event giving rise to either an Excusable Delay or Inexcusable Delay, the parties will use good faith efforts to agree on the extent to which the Work has been delayed and whether the delay is an Excusable Delay or an Inexcusable Delay. In the absence of agreement between the parties as to the then current status of Excusable Delays and Inexcusable Delays, the City will provide the Construction Manager with written notice of City's determination of the number of Days of Excusable Delay and/or Inexcusable Delay within ten Days after receipt by the City of the Construction Manager's written request for such determination. The Construction Manager shall not, however, deem an issuance by the City of such a determination to be a concurrence of the matters set forth in the Construction Manager's request, and the Construction Manager may invoke the dispute resolution procedures set forth in Article 13 below with respect to such determination.

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

6.8 Weather Delays. The Construction Manager shall include and clearly identify an appropriate number of Days of weather-related delays within (A) the aggregate Master Schedule for the Work and within the portions of the Master Schedule submitted with each GMP Proposal relating to any phase of the Project and (B) each GMP Amendment. If the Construction Manager experiences additional weather-related delays beyond the number of Days set forth in the Master Schedule and the GMP Amendment, the Construction Manager shall be entitled to commensurate extension of time and reimbursement of costs associated with such delay; provided such requests for extensions of time are submitted and approved according to the process set forth in Section 6.6 above. If the Construction Manager fails to include an appropriate number of Days of weather-related delays within the applicable GMP Proposal for any portion of the Project, Construction Manager shall not be eligible for any extension of time or reimbursement of costs related to otherwise Excusable Delays relating to the applicable GMP Proposal.

6.9 Liquidated Damages.

A. Established. The Construction Manager and the City acknowledge that in the event that the Construction Manager fails to achieve Substantial Completion or Final Completion of the Project by the dates established therefore in the applicable GMP Amendment, as adjusted, the City will incur substantial damages and the extent of such damages shall be incapable of accurate measurement. Nonetheless, the parties acknowledge that on the date of this Agreement, the amount of liquidated damages set forth below represents a good faith

estimate as to the actual potential damages that the City would incur as a result of late Substantial Completion or Final Completion of the Project. Such liquidated damages shall be the sole and exclusive remedy of the City for late completion of the Project, and the City hereby waives all other remedies available at law or in equity with respect to losses resulting from late completion. The amount of the liquidated damages calculated hereunder does not include any penalty.

B. Amount of Liquidated Damages.

1. If the Construction Manager fails to achieve Substantial Completion of for that portion of the Work applicable to a particular GMP Proposal on or before the Date of Substantial Completion set forth in the applicable GMP Proposal, as adjusted, for any reason other than Excusable Delays, the Construction Manager shall pay to the City liquidated damages in the amount per Day as determined by the Maricopa Association of Governments specifications existing on the date this Agreement is approved by the City Council (the "MAG Specifications") for each Day the Date of Substantial Completion is delayed beyond the Date of Substantial Completion set forth in the applicable GMP Amendment.

2. If the Construction Manager fails to achieve Final Completion of for that portion of the Work applicable to a particular GMP Proposal on or before the Date of Final Completion, as adjusted, for any reason other than Excusable Delays, the Construction Manager shall pay to the City liquidated damages in the amount per Day as determined by MAG Specifications for each Day the Date of Final Completion is delayed beyond the Date of Final Completion established according to the applicable GMP Amendment.

3. In no case may the amount of liquidated damages due under this subsection 6.9(B) for any single Day of delay exceed the highest amount, as determined according to MAG Specifications, that would be charged for any single Inexcusable Delay existing on such Day.

4. Payment of liquidated damages is to be made contemporaneously with any required payment to the Construction Manager, and such payments may be offset against each other.

**ARTICLE 7**  
**COMPENSATION FOR CONSTRUCTION MANAGER SERVICES**

7.1 Pre-construction Phase Compensation.

A. Project Designers' Services Not Included. The cost of services performed directly by the Project Designers are not included in the Construction Manager's compensation.

B. Amount. The City shall pay the Construction Manager an amount not to exceed \$124,207.00 for services performed during the Pre-construction Phase, as set forth in Sections 3.1, 3.2 and 3.3 above, and as more particularly described in Exhibit I, attached hereto

and incorporated herein by reference, including all cost items, allowances and reimbursable expenses.

C. Equitable Adjustment. Compensation of Pre-construction Phase Services shall be equitably adjusted if such services extend beyond December 31, 2009, for reasons beyond the reasonable control and not the fault or partial fault of the Construction Manager or as provided in Section 9.1 below. For changes in Pre-construction Phase Services, compensation shall be adjusted as mutually agreed upon by the City and the Construction Manager at the time of such extended services.

D. Payments. Payments for Pre-construction Phase Services shall be due and payable within 30 days following approval of the Construction Manager's monthly invoice by the City. Payments due the Construction Manager that are unpaid for more than 30 days from the due date of the invoice shall bear interest at the statutory rate.

## 7.2 Construction Phase Compensation.

### A. Facility.

1. Guaranteed Maximum Price. If the City and the Construction Manager agree upon the Facility GMP, the City shall, up to the amount of the Facility GMP established in applicable GMP Amendment and as it may be adjusted under Article 9 below, compensate the Construction Manager for Work performed following the commencement of the construction phase as set forth in Article 8 below.

2. Adjustments; Savings. The compensation to be paid under this Subsection 7.2(A) shall not exceed the Facility GMP established in the applicable GMP Amendment, as adjusted under Article 9 below. In the event the Cost of the Work is less than the Facility GMP, as adjusted, the City shall retain the resulting savings.

3. Payments. Payment for Construction Phase Services related to the Facility shall be as set forth in Article 10 below. Construction Manager shall be compensated for pre-construction services to be provided after construction has commenced in accordance with the Scope.

4. Construction Phase Fees. The Construction Phase Fee related to the Facility shall be itemized, in detail, as a part of the Facility GMP and includes the following items, if directly related to the Work:

a. Salaries and other mandatory or customary compensation of the Construction Manager's employees at its principal and branch offices, except employees listed in subsection 8.2(B) below.

b. General and administrative expenses of the Construction Manager's principal and branch offices other than the field office, except as may be expressly included in Article 8 below.

c. The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work.

d. Costs related to the Construction Manager's safety program related to the Project.

e. Construction Manager's reasonable profit, which shall not exceed 5% of the Facility GMP.

B. Public Infrastructure.

1. Guaranteed Maximum Price. If the City and the Construction Manager agree upon the Infrastructure GMP, the City shall, up to the amount of the Infrastructure GMP established in applicable GMP Amendment and as it may be adjusted under Article 9 below, compensate the Construction Manager for Work performed following the commencement of the construction phase as set forth in Article 8 below.

2. Adjustments; Savings. The compensation to be paid under this Subsection 7.2(B) shall not exceed the Infrastructure GMP established in the applicable GMP Amendment, as adjusted under Article 9 below. In the event the Cost of the Work is less than the Infrastructure GMP, as adjusted, the City shall retain the resulting savings.

3. Payments. Payment for Construction Phase Services related to the Infrastructure shall be as set forth in Article 10 below. Construction Manager shall be compensated for pre-construction services to be provided after construction has commenced in accordance with the Scope.

4. Construction Phase Fees. The Construction Phase Fee related to the Infrastructure shall be itemized, in detail, as a part of the Infrastructure GMP and includes the following items, if directly related to the Work:

a. Salaries and other mandatory or customary compensation of the Construction Manager's employees at its principal and branch offices, except employees listed in subsection 8.2(B) below.

b. General and administrative expenses of the Construction Manager's principal and branch offices other than the field office, except as may be expressly included in Article 8 below.

c. The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work.

d. Costs related to the Construction Manager's safety program related to the Project.

e. Construction Manager's reasonable profit, which shall not exceed 5% of the Infrastructure GMP.

7.3 Adjustment in the Construction Phase Fee. Adjustment to the respective components of the Construction Phase Fee (Facility and Public Infrastructure, respectively) shall be made as follows:

A. Changes in the Work. For changes in the Work as provided in Article 9 below, the applicable Construction Phase Fee shall be adjusted as mutually agreed by the parties, in writing, prior to commencement of any work pursuant to such changes.

B. Delays in the Work. For delays in the Work not caused, in whole or in part, by the Construction Manager, Subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable. There will be an equitable adjustment in the applicable Construction Phase Fee to compensate the Construction Manager for increased expenses due to unforeseeable circumstances, subject to Article 6 above.

C. Replacement Work. If the Construction Manager is placed in charge of managing the replacement of an insured or uninsured loss not caused by or the fault of the Construction Manager or other parties identified in subsection 7.3(B) above, the Construction Manager shall be paid an additional fee in the same proportion that the applicable Construction Phase Fee bears to the estimated applicable Cost of the Work, or as otherwise agreed to by the parties.

## **ARTICLE 8 COST OF THE WORK**

The City agrees to pay the Construction Manager for the Cost of the Work as defined in this Article 8. This payment shall be in addition to the Construction Phase Fee stipulated in Article 7 above. However, in no event shall the City pay the Contractor total compensation greater than the aggregate amount of the pre-construction phase compensation and the GMP established in the GMP Amendment relating to the Facility and the Public Infrastructure, respectively, as it may be adjusted pursuant to Article 9 below.

8.1 Cost Items for Pre-construction Phase Services. Compensation for cost items related to Pre-construction Phase Services shall be included as part of the pre-construction phase compensation as provided in Section 7.1 above.

8.2 Cost Items for Construction Phase Services.

A. Cost Defined. The phrase “Cost of the Work” or “Actual Cost of the Work” shall include all amounts paid by the City to the Construction Manager for payment to all separate Subcontractors, labor, equipment, material, suppliers and equipment lessors for all Work, material, and equipment supplied to the Project including:

1. Wages paid for labor in the direct employ of the Construction Manager in the performance of the Work.

2. Salaries of Construction Manager's (a) employees when (i) stationed at the field office located at the Project site and (ii) working on matters directly related to the Project, in whatever capacity employed, (b) employees engaged on the road expediting the production or transportation of material and equipment and (c) employees from the principal or branch office performing the functions listed below, if such functions are directly related to the Work.

3. Cost of all employee benefits and taxes including but not limited to, unemployment compensation, Social Security, health, welfare, retirement and other fringe benefits as required by law, labor agreements, or paid under the Construction Manager's standard personnel policy, insofar as such costs are paid to employees of the Construction Manager who are included in the Cost of the Work under this subsection 8.2(A). Reimbursement for costs covered in subsections 8.2(A)(1) – (3) shall be in accordance with the Personnel Reimbursement Schedule to be included in each GMP Amendment.

4. Reasonable transportation, travel and hotel expenses of the Construction Manager's personnel incurred in connection with the Work.

5. Cost of all materials, supplies and equipment incorporated in the Work, including costs of inspection, testing, transportation, storage and handling.

6. Payments made by the Construction Manager to Subcontractors for Work performed under this Agreement.

7. Fees and expenses for design services procured by the Construction Manager.

8. Cost, including transportation and maintenance of all materials, supplies, equipment and temporary facilities that are consumed in the performance of the Work.

9. Rental charges paid by Construction Manager to third parties for all necessary machinery and equipment, exclusive of hand tools owned by workers, used at the site of the Work including installation, repair and replacement, dismantling, removal, maintenance, transportation and delivery costs. Such rental charges shall be consistent with those prevailing in the Phoenix metropolitan area.

10. Cost of premiums for normal and customary Construction Manager's Subcontractor default insurance at the rate of 1.25% of the cost of subcontracts and Subcontractor's liability, workman's compensation and builders risk insurance as required pursuant to Article 11 below, which shall be identified as separate line items within the applicable GMP. The Construction Manager intends to utilize its Subcontractor Liability Wrap-up Coverage (Z-25), which will be reimbursed at the rate of 1.5% of the Subcontract amount, and credited from the Subcontractor bids. Commercial General Liability Insurance shall be reimbursed at the rate of 1.1% of the applicable GMP amount.

11. Sales, use, gross receipts or other taxes, tariffs or duties related to the Work for which the Construction Manager is liable.

12. Permits, fees, licenses and tests.

13. All costs associated with establishing, equipping, operating, maintaining and demobilizing the field office at the Project site.

14. Reproduction costs, photographs, long distance telephone calls and facsimiles, data processing services, postage, express delivery charges and telephone service at the Project site.

15. All water, power and fuel costs necessary for the Work.

16. Cost of removal of all non-hazardous substances, debris and waste materials.

17. Costs incurred due to an emergency affecting the safety of persons and/or property, excluding such costs related to the negligence or willful acts of the Construction Manager or any person or entity for whom the Construction Manager is responsible.

18. All costs directly incurred in the performance of the Work or in connection with the Project, and not included in the Construction Phase Fee as set forth in Article 7 above, which are reasonably inferable from the Contract Documents as necessary to produce the intended results, subject to the maximum price limitation established by the respective GMP.

B. Cost Exclusions. The Cost of the Work shall not include the following:

1. All professional fees paid by the City to the Project Designers or other consultants retained directly by the City.

2. All costs paid directly by the City to Subcontractors or suppliers retained directly by the City and outside the scope of all GMPs.

3. All Additional Service costs as defined herein.

4. All other costs not within the control of the Construction Manager or identified as being not within any GMP.

5. All fees paid to the Construction Manager except those fees that may be paid to Construction Manager for Pre-construction Phase Services above.

C. Determination of “Cost of the Work” or “Actual Cost of the Work”

1. The City and the Construction Manager understand and agree that any GMP agreed to under this Project will be administered as a Measured Quantity/Unit Price Guaranteed Not-to-Exceed Contract. This Not-to-Exceed amount is defined by the individual work items and their associated competitively bid and/or negotiated unit prices plus negotiated on-site general conditions, fee structures, markups and Construction Manager's Contingency. Final contract price/payout will be based on field measured final completed quantities, approved unit prices and approved change orders. Furthermore, the term "actual cost" is defined as the final negotiated unit prices (costs) mutually agreed to by the City and Construction Manager. The City and the Construction Manager understand and agree that individually priced, "self-performed" items may include the cost associated with the risk of delivering the work.

2. The City and the Construction Manager understand and agree that the City, its authorized representatives, and/or the appropriate federal or state agencies may audit the Construction Manager's records to verify the accuracy and appropriateness of all pricing data, including data used to negotiate any GMP, and including, but not limited to: self-performed items, qualifications-only selected Subcontractor items, Change Orders, use of Allowance funds and use of Construction Manager's Contingency funds. The City and its authorized representatives shall have access, during normal working hours, to all necessary Construction Manager and Subcontractor facilities, and shall be provided adequate and appropriate workspace, in order to conduct audits in compliance with the provisions of this subsection. The City shall give Construction Manager or Subcontractor reasonable advance notice of intended audits.

8.3 Discounts. All discounts for prompt payment shall accrue to the City to the extent such payments are made directly by the City. To the extent payments are made with funds of the Construction Manager, all cash discounts shall accrue to the Construction Manager. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Work.

## **ARTICLE 9 CHANGES IN THE WORK**

9.1 Change Orders and GMP Adjustments. Changes in the Work that are within the general scope of this Agreement may be accomplished by Change Order without invalidating this Agreement; provided, however, that any change in the Work that will result in an increase to a GMP or extension of the date of Substantial Completion shall be approved by a written amendment to this Agreement. Each adjustment in a GMP resulting from a Change Order shall be adjusted by written amendment to this Agreement and shall clearly separate the amount attributable to compensation for the Construction Phase General Services, the Construction Services and other Cost of the Work.

9.2 Determination of Cost. An increase or decrease in a GMP resulting from a change in the Work shall be determined by one or more of the following methods:

- A. Unit prices set forth in this Agreement or as subsequently agreed.

- B. Mutually accepted, itemized lump sum.
- C. Costs determined as defined in Article 8 above.

D. If an increase or decrease cannot be agreed to as set forth in subsections 9.2(A) and (B) and the City issues a written order for the Construction Manager to proceed with the change, the cost of the change in the Work shall be determined by the reasonable expense or savings of the performance of the Work resulting from the change.

9.3 No Obligation to Perform. The Construction Manager shall not be obligated to perform changed Work until a Change Order or amendment to this Agreement, as applicable, has been executed by the City and the Construction Manager, except as provided in subsection 9.2(D) above.

9.4 Adjustment of Unit Prices. If a proposed Change Order alters original quantities to a degree that application of previously agreed to unit prices would be inequitable to either the City or the Construction Manager, the unit prices shall be equitably adjusted and, if the result is an increase to a GMP, an amendment to this Agreement shall be executed.

9.5 Unknown Conditions. If, in the performance of the Work, the Construction Manager or its Subcontractor finds latent, concealed or subsurface physical conditions that (A) differ from the conditions the Construction Manager or its Subcontractor should have reasonably anticipated, (B) differ substantially from available soils reports or (C) differ substantially and materially from those normally encountered and generally recognized as inherent in the kind of work provided for in this Agreement at this location (occurrence of shifting and expansive soils, including clay soils and sandstone expressly noted as commonly occurring in the Project area), then the applicable GMP compensation and/or the date of Substantial Completion may be equitably adjusted only if the Construction Manager notifies the City within seven days after the conditions are first observed in accordance with Article 6 above.

9.6 Emergencies. In any emergency affecting the safety of persons and/or property, the Construction Manager shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in a GMP, compensation for Pre-construction Phase Services, the Construction Phase Fee and/or extension of the Date of Substantial Completion on account of emergency work shall be determined as provided in this Agreement.

## **ARTICLE 10 PAYMENT FOR CONSTRUCTION PHASE SERVICES**

### 10.1 Progress Payments.

A. Submittal Process. On or before the 15th day of each month after the Construction Phase has commenced, the Construction Manager shall submit to the City an “Application for Payment” consisting of the Cost of the Work performed up to the end of the prior month, including the cost of material stored on the site or at other locations approved by the City, along with a proportionate share of the Construction Phase Fee. Prior to submission of the next Application for Payment, the Construction Manager shall make available at the request of

the City a statement accounting for the disbursement of funds received under the previous Application for purposes of audit. The form and extent of such statement shall be as agreed upon between the City and Construction Manager.

B. City's Payment. Within seven days after approval of each monthly Application for Payment, the City shall pay directly to the Construction Manager the appropriate amount for which Application for Payment is made, less amounts (1) previously paid by the City, (2) sufficient to pay expenses the City reasonably expects to incur in correcting deficiencies which are set forth in writing and provided to the Construction Manager and (3) any retainage as set forth in Section 10.2 below.

C. No Liens. The Construction Manager warrants and guarantees that the title to all Work, materials and equipment covered by an Application for Payment, whether incorporated in the Project or not, will pass to the City upon receipt of such payment by the Construction Manager free and clear of all liens, claims, security interests or encumbrances.

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

E. Unfinished Items. Upon Substantial Completion of the Work, the City shall pay the Construction Manager the unpaid balance of the Cost of the Work, compensation for Pre-construction Phase Services and the Construction Phase Fee, less a sum equal to the Construction Manager's estimated cost of completing any unfinished items as agreed to between the City and the Construction Manager as to extent and time for completion. The City thereafter shall pay the Construction Manager monthly the amount retained for unfinished items as each item is completed.

## 10.2 Retainage.

A. Exemptions to Retainage Requirement. No Retainage shall be withheld with respect to gross receipts tax and premiums for bonds and insurance.

B. Amount Retained. With respect to the Work, the City shall retain ten per cent (10%) of the amount of each estimate until Final Completion and acceptance of all material, equipment and work covered by the Contract Documents.

1. Any securities submitted by Construction Manager in lieu of retainage as may be allowed by law, shall be deposited in an escrow account by the City. The City shall be listed as Payee or Multiple Payee with Construction Manager on all such securities.

2. When the Work is fifty per cent (50%) completed, one-half of the amount retained including any securities substituted pursuant to subsection 10.2(B)(1) shall be paid to the Construction Manager on the Construction Manager's request, provided the Construction Manager is making satisfactory progress on the Work and there is no specific cause or claim requiring a greater amount to be retained. After the

construction Work is fifty per cent (50%) completed, no more than five per cent (5%) of the amount of any subsequent progress payments made under the Contract Documents may be retained, provided the Construction Manager is making satisfactory progress on the Project. If, at any time, the City determines satisfactory progress is not being made, ten per cent (10%) retention shall be reinstated for all progress payments made under the Contract Documents after the determination.

10.3 Payment for On-site and Off-site Stored Materials. Payment shall be made on account of materials and equipment delivered and suitably stored at the Project site for subsequent incorporation in the Work. Payment may similarly be made for materials and equipment suitably stored off the Site, conditioned upon the Construction Manager furnishing evidence to the Owner that (A) title to the materials and equipment will pass to the City upon payment therefore, (B) the materials and equipment are adequately insured and (C) such other matters as the City may reasonably request in order to protect its interests.

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

10.5 Offset.

A. Offset for Damages. In addition to all other remedies at law or equity, the City may offset from any money due to the Construction Manager any amounts Construction Manager 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 Construction Manager any amounts Construction Manager owes to the City for delinquent fees, transaction privilege taxes and property taxes, including any interest or penalties.

10.6 Final Payment.

A. Fully Completed Work. Final payment, consisting of the unpaid balance of (1) the Cost of the Work, (2) compensation for Pre-Construction Phase Services and (3) the Construction Phase Fee, shall be due and payable when the Work is fully completed and accepted by the City. Before issuance of final payment, the City may request satisfactory evidence that all payrolls, materials bills and other indebtedness connected with the Work have been paid or otherwise satisfied.

B. Waiver of Claims. In making final payment, the City waives all claims against the Construction Manager except for:

1. Outstanding liens.
2. Improper workmanship or defective materials.
3. Work not in conformance with the Contract Documents or work not completed.
4. Terms of any special warranties required by the Contract Documents.
5. Delivery to City of all warranties, operation and maintenance manuals, record drawings and other documents as required by the Contract Documents.
6. Right to audit Construction Manager records for a period of three years.
7. Claims previously made in writing and which remain unsettled.

C. Acceptance as Waiver. Acceptance of final payment by the Construction Manager shall constitute a waiver of affirmative claims by the Construction Manager against the City, its employees, elected officials and agents, except those previously made in writing and identified as unsettled at the time of final payment.

## **ARTICLE 11 INSURANCE AND BONDS**

### 11.1 Insurance Representations and Requirements.

#### A. General.

1. Insurer Qualifications. Without limiting any obligations or liabilities of Construction Manager, Construction Manager 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.

2. No Representation of Coverage Adequacy. By requiring insurance herein, City does not represent that coverage and limits will be adequate to protect Construction Manager. City reserves the right to review evidence of 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 Construction Manager 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.

3. 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 the work included in 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.

4. 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.

5. Primary Insurance. Construction Manager's insurance shall be primary insurance with respect to performance of the work included in this Agreement and in the protection of City as an Additional Insured.

6. 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 Work or services. Such continuing coverage shall be evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three-year period.

7. Waiver. All policies, 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 Construction Manager. Construction Manager shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

8. 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 City. Construction Manager shall be solely responsible for any such deductible or self-insured retention amount. City, at its option, may require Construction Manager to secure payment of such deductible or self-insured retention by a surety bond or irrevocable and unconditional letter of credit.

9. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Construction Manager shall execute written agreement with Subcontractor containing the indemnification provisions set forth in Section 11.2 below and insurance requirements set forth herein protecting the City and Construction Manager. At Construction Manager's option and at Construction Manager's sole risk, Construction Manager may, subject to the City's prior, written approval, which approval shall not be unreasonably withheld, allow subcontractors to deviate from these insurance requirements due to insurance market availability or affordability issues. Construction

Manager shall be responsible for executing the agreement with Subcontractor and obtaining certificates of insurance verifying the insurance requirements.

10. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Construction Manager shall furnish the City with suitable evidence of insurance in the form of certificate(s) of insurance and a copy of the declaration page(s) of the insurance policies or formal endorsement as required by this Agreement, issued by Construction Manager's insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. 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. If a certificate of insurance is submitted as verification of coverage, the City shall reasonably rely upon the certificate 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 Construction Manager'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 Construction Manager'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:

a. The City, its agents, representatives, officers, directors, officials and employees are Additional Insureds as follows:

- (i) Commercial General Liability - Insurance Services Office, Inc., ("ISO") Form CG 20 10 03 97 or more current edition.
- (ii) Auto Liability - ISO Form CA 20 01 03 06 or equivalent most current edition.
- (iii) Excess Liability - Follow Form to underlying insurance.

b. Construction Manager's insurance shall be primary insurance with respect to performance of the Work included in this Agreement.

c. All policies, 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 Construction Manager under this Agreement.

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

B. Required Insurance Coverage.

1. Commercial General Liability. Construction Manager shall maintain "occurrence" form Commercial General Liability insurance with an unimpaired limit of not less than \$5,000,000 for each occurrence, \$5,000,000 Products and Completed Operations Annual Aggregate and a \$5,000,000 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 more recent edition 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 more recent edition thereof, which shall read "Who is an Insured 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.

2. Professional Liability. If this Agreement is the subject of any professional services or work, or if Construction Manager engages in any professional services or work adjunct or residual to performing the work under this Agreement, Construction Manager shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the work or services performed by Construction Manager, or anyone employed by Construction Manager, or anyone for whose negligent acts, mistakes, errors and omissions Construction Manager is legally liable, with an unimpaired liability insurance limit of \$1,000,000 each claim and \$2,000,000 all claims. In the event the Professional Liability insurance policy is written on a "claims made" basis, coverage shall extend for three years past completion and acceptance of the work or services, and Construction Manager 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.

3. Vehicle Liability. Construction Manager shall maintain Business Automobile Liability insurance with a limit of \$5,000,000 each occurrence on Construction Manager's owned, hired and non-owned vehicles assigned to or used in the performance of the Construction Manager'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.

4. Workers' Compensation Insurance. Construction Manager shall maintain Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Construction Manager'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.

5. Builder's Risk Insurance. The Construction Manager shall be responsible for purchasing and maintaining insurance to protect the Project from perils of physical loss. The insurance shall provide for the full cost of replacement for the entire Project at the time of any loss. The insurance shall include as named insureds the City, the Construction Manager, the Construction Manager's Subcontractors and subsubcontractors and shall insure against loss from the perils of fire and all-risk coverage for physical loss or damage due to theft, vandalism, collapse, malicious mischief, transit, flood, earthquake, testing, resulting loss arising from defective design, negligent workmanship or defective material. The Construction Manager shall increase the coverage limits as necessary to reflect changes in the estimated replacement cost.

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

11.2 Indemnity. To the fullest extent permitted by law, the Construction Manager shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees for, from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs and the cost of appellate proceedings) relating to, arising out of, or alleged to have resulted from the negligent or intentional acts, errors, mistakes, omissions, work or services of the Construction Manager, its employees, agents, or any tier of subcontractors in the performance of this Agreement. Construction Manager's duty to defend, hold harmless and indemnify the City, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment or destruction of tangible real or personal property, including loss of use resulting therefrom, to the extent caused by any negligent or intentional acts, errors, mistakes, omissions, work or services in the performance of the work included in this Agreement of the Construction Manager's

employee or any tier of subcontractor or any other person for whose negligent or intentional acts, errors, mistakes, omissions, work or services the Construction Manager may be legally liable. 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 subsection.

### 11.3 Performance and Payment bonds.

A. Performance Bond. After the City and the Construction Manager have agreed to a GMP but prior to commencing the Construction Phase attributable to such GMP, the Construction Manager shall be required to furnish the City with an irrevocable security binding the Construction Manager to provide faithful performance of the Agreement in the amount of 100% of the percentage of the GMP attributable to the Construction Phase, payable to the City. Performance security shall be in the form of a performance bond, certified check or cashier's check. If the Construction Manager fails to execute the security document as required, the Construction Manager may be found in material default and the Agreement, permitting the City to terminate this Agreement for cause as set forth in Section 12 below. In case of default the City reserves all rights. All performance bonds shall be executed on the form attached hereto as Exhibit J, duly executed by the Construction Manager as Principal and having as Surety thereon a Surety company approved by the City and holding a Certificate of Authority issued by the Arizona Department of Insurance to transact surety business in the State of Arizona. Individual sureties are unacceptable. All Insurers and Sureties shall have at the time of submission of the proposal and A.M. Best's Key Rating Guide of "A-" or better as currently listed in the most recent Best Key Guide, published by the A.M. Best Company.

B. Payment Bond. After the City and the Construction Manager have agreed to a GMP but prior to commencing the Construction Phase attributable to such GMP, the Construction Manager shall be required to furnish the City with an irrevocable security for the protection of all persons supplying labor and material to the Construction Manager or any subcontractor for the performance of any work related to the Agreement. Payment security shall be in the amount of 100% of the portion of the GMP attributable to the Construction Phase and be payable to the City. Payment security shall be in the form of a payment bond, certified check or cashier's check. If the Construction Manager fails to execute the security document as required, the Construction Manager may be found in material default and the Agreement, permitting the City to terminate this Agreement for cause as set forth in Section 12 below. All payment bonds shall be executed on a the form attached hereto as Exhibit K, duly executed by the Construction Manager as Principal and having as Surety thereon a Surety company approved by the City and holding a Certificate of Authority issued by the Arizona Department of Insurance to transact surety business in the State of Arizona. Individual sureties are unacceptable. All Insurers and Sureties shall have at the time of submission of the proposal and A.M. Best's Key Rating Guide of "A-" or better as currently listed in the most recent Best Key Guide, published by the A.M. Best Company.

**ARTICLE 12**  
**TERMINATION AND SUSPENSION**

12.1 Termination by the Construction Manager.

A. Procedure. Upon 30 days' written notice to the City of one of the reasons set forth below, and if the City fails to cure or initiate reasonable action to cure within 30 Days of receipt of said notice, the Construction Manager may terminate this Agreement for any of the following:

1. If the Work has been stopped for a 60-day period:
  - a. Under court order or order of other governmental authorities having jurisdiction; or
  - b. As a result of the declaration of a national emergency or other governmental act during which, through no act or fault of the Construction Manager, materials are not available.
2. If the Work is suspended by the City for more than 60 days.
3. If the City materially delays the Construction Manager in the performance of the Work.
4. If the City otherwise materially breaches this Agreement.

B. Payment to Construction Manager. Upon termination by the Construction Manager in accordance with subsection 12.1(A) above, the Construction Manager shall be entitled to recover from the City payment for all Work completed to the date of termination plus reasonable demobilization costs, subcontract and purchase order termination costs, reasonable overhead, extended general conditions and profit on the Work performed. The City may subtract reasonable estimates of costs for deficient work from the payments noted above.

12.2 Termination by the City for Cause.

A. Construction Manager Default. If the Construction Manager refuses or fails, except in cases for which extension of time is provided, to supply sufficient properly skilled staff or proper materials, or disregards laws, ordinances, rules, regulations, or orders of any public authority jurisdiction, or otherwise substantially violates or materially breaches any term or provision of this Agreement, and such nonperformance or violation continues without cure for 15 Days after the Construction Manager receives written notice of such nonperformance or violation from the City, then the City may, without prejudice to any right or remedy otherwise available to the City, terminate this Agreement.

B. Set Off. Upon termination of this Agreement by the City, the City shall be entitled to furnish or have furnished the services to be performed hereunder by the Construction Manger by whatever method the City may deem expedient. Also, in such case, the Construction

Manager shall not be entitled to receive any further payment until completion of the Work and the total compensation to the Construction Manager under this Agreement shall be the amount that is equitable under the circumstances. If the City and the Construction Manager are unable to agree on the amount to be paid under the foregoing sentence, the City shall fix an amount, if any, that it deems appropriate in consideration of all of the circumstances surrounding such termination, and shall make payment accordingly. The Construction Manager may dispute the City's assessment of the termination amount by the method of dispute resolution permitted under Section 13 of this Agreement.

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

1. Promptly cures all breaches within such three-day period.
2. Provides adequate assurances of future performance.
3. Compensates the City for actual pecuniary loss resulting from such breache(s).
4. Assumes the obligations of the Construction Manager within the established time limits.

12.3 Termination by the City for Convenience. The City may, upon 30 days' written notice to the Construction Manager, terminate this Agreement, in whole or in part, for the convenience of the City, without prejudice to any right or remedy otherwise available to the City. Upon receipt of such notice, the Construction Manager shall immediately discontinue all services affected unless such notice directs otherwise. In the event of a termination for convenience of the City, the Construction Manager's sole and exclusive right and remedy shall be to be paid for all Work performed and to receive equitable adjustment for all Work performed through the date of termination plus reasonable demobilization costs, subcontract and purchase order termination costs, reasonable overhead and profit on the Work performed. The Construction Manager shall not be entitled to be paid any amount as profit for unperformed Work or Services or consideration for the termination of convenience by the City.

12.4 Suspension by the City for Convenience.

A. Procedure. The City may order the Construction Manager in writing to suspend, delay or interrupt all or any part of the Work without cause for such period of time as the City may determine to be appropriate for its convenience, but not in abrogation of the rights given Construction Manager in Section 12.1 above.

B. Adjustments to GMP and Schedule. Adjustments caused by suspension, delay or interruption shall be made for increases in the applicable GMP and/or the applicable Date of Substantial Completion. No adjustment shall be made if the Construction Manager is or otherwise would have been responsible for the suspension, delay or interruption of the Work, or if another provision of this Agreement is applied to render an equitable adjustment.

## **ARTICLE 13 DISPUTE RESOLUTION**

13.1 Scope. Notwithstanding anything to the contrary provided elsewhere in the Contract Documents, except for subsection 13.4 (G) below, the alternative dispute resolution (“ADR”) process provided for herein shall be the exclusive means for resolution of claims or disputes arising under, relating to or touching upon the Agreement, the interpretation thereof or the performance or breach by any party thereto, including but not limited to original claims or disputes asserted as cross claims, counterclaims, third party claims or claims for indemnity or subrogation, in any threatened or ongoing litigation or arbitration with third parties, if such disputes involve parties to agreements containing this ADR provision.

13.2 Neutral Evaluator, Arbitrators. The City will select a Neutral Evaluator to serve as set forth in this ADR process. The City and Construction Manager shall each select an arbitrator to serve as set forth in this ADR process. Each arbitrator selected shall be a member of the State Bar of the State of Arizona and shall have experience in the field of construction law. None of the arbitrators nor any of the arbitrator’s firms shall have presently, or in the past, represented any party to the arbitration.

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

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

B. Non-Binding Informal Hearing. The Neutral Evaluator shall schedule a non-binding informal hearing of the matter to be held within seven Days from receipt of notification of the existence of a dispute. The Neutral Evaluator may conduct the hearing in such manner as he deems appropriate and shall notify each party of the hearing and of its opportunity to present evidence they believe will resolve the dispute. Each party to the dispute shall be notified by the Neutral Evaluator that they shall submit a written outline of the issues and evidence intended to be introduced at the hearing and their proposed resolution of the dispute to the Neutral Evaluator before the hearing commences. Arbitrators shall not participate in such informal hearing or proceedings process. The Neutral Evaluator is not bound by the rules of evidence when admitting evidence in the hearing and may limit the length of the hearing, the number of witnesses or any evidence introduced to the extent deemed relevant and efficient.

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

13.4 Binding Arbitration Procedure. The following binding arbitration procedure, except as provided in subsection 13.4 (G) below, shall serve as the exclusive method to resolve a dispute if any party chooses not to accept the decision of the Neutral Evaluator. The party requesting binding arbitration shall notify the Neutral Evaluator in writing within three working days of receipt of the Neutral Evaluator's decision of a request for arbitration. If the Construction Manager requests arbitration it shall post a cash bond with the Neutral Evaluator in an amount agreed upon by the parties or, in the event of no agreement, the Neutral Evaluator shall establish the amount of the cash bond to defray the cost of the arbitration as set forth in subsection 13.4 (M) and the proceeds from the bond shall be allocated in accordance with subsection 13.4 (M) by the Arbitration Panel.

A. Arbitration Panel. The Arbitration Panel shall consist of three arbitrators: the City's appointed arbitrator, the Construction Manager's appointed arbitrator and a third arbitrator (or "Neutral Arbitrator") who shall be selected by the parties' arbitrators as set forth in subsection 13.4(B) below. If one or more Subcontractor(s) is (are) involved in a dispute, the Subcontractors shall agree on an appointee to serve as arbitrator on behalf of all such Subcontractors. The Neutral Evaluator shall not participate in the proceedings.

B. Selection of Neutral Arbitrator. The parties' arbitrators shall choose the Neutral Arbitrator within five business days of receipt of notification of a dispute from the Neutral Evaluator. The Neutral Arbitrator shall have the same qualifications as those of the arbitrators set forth in Section 13.2 above. In the event that the selected arbitrators cannot agree on the Neutral Arbitrator as set forth above, the Neutral Arbitrator shall be the Default Neutral Arbitrator, a person or entity jointly selected by the City and the Construction Manager not later than 30 days of City and the Construction Manager reaching agreement upon the applicable GMP. If the City and the Construction Manager cannot agree on a Default Neutral Arbitrator, the City and the Construction Manager shall each submit two names to the presiding judge of the Maricopa County Superior Court, who shall select one person to serve as the Neutral Arbitrator.

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

D. Procedure. The Arbitration Panel will select a chairman and will conduct the hearing in such a manner that will resolve disputes in a prompt, cost efficient manner giving regard to the rights of all parties. Each party shall supply to the Arbitration Panel a written pre-hearing statement which shall contain a brief statement of the nature of the claim or defense, a list of witnesses and exhibits, a brief description of the subject matter of the testimony of each witness who will be called to testify, and an estimate as to the length of time that will be required

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

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

F. Award. The Arbitration Panel shall, within ten calendar days from the conclusion of any hearing, by majority vote issue its award. The award shall include an allocation of fees and costs pursuant to subsection 13.4(M) below. The award is to be rendered in accordance with this Agreement and the laws of the State of Arizona.

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

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

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

J. Severance and Joinder. To reduce the possibility of inconsistent adjudications, the Neutral Evaluator or the Arbitration Panel, may: (1) at the request of any party, join and/or sever parties, and/or claims arising under other contracts containing this ADR provision and (2) the Neutral Evaluator, on his own authority, or the Arbitration Panel may, on its own authority, join or sever parties and/or claims subject to this ADR process as they deem necessary for a just resolution of the dispute, consistent with the parties' goal of the prompt and

efficient resolution of disputes; provided, however, that the Construction Manager, the Project Designers and other Project professionals shall not be joined as a party to any claim made by a Subcontractor. Nothing herein shall create the right by any party to assert claims against another party not germane to the Agreement or not recognized under the substantive law applicable to the dispute. Neither the Neutral Evaluator nor the Arbitration Panel is authorized to join to the proceeding parties not in privity with the City. The Construction Manager cannot be joined to any pending arbitration proceeding, without the Construction Manager's express written consent, unless the Construction Manager is given the opportunity to participate in the selection of the non-City appointed arbitrator.

K. Appeal. Any party may appeal (1) errors of law by the Arbitration Panel if, but only if, the errors arise in an award in excess of \$100,000, (2) the exercise by the chairman or Arbitration Panel of any powers contrary to or inconsistent with this Agreement or (3) on the basis of any of the grounds provided in ARIZ. REV. STAT. § 12-1512. Appeals shall be to the Maricopa County Superior Court within 15 calendar days of entry of the award. The standard of review in such cases shall be that applicable to the consideration of a motion for judgment notwithstanding the verdict, and the Maricopa County Superior Court shall have the authority to confirm, vacate, modify or remand an award appealed under this Section, but not to conduct a trial, entertain the introduction of new evidence or conduct a hearing *de novo*.

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

M. Fees and Costs. Each party shall bear its own fees and costs in connection with any informal hearing before the Neutral Evaluator. All fees and costs associated with any arbitration before the Arbitration Panel, including without limitation the Arbitration Panelists' fees, and the prevailing party's reasonable attorneys' fees, expert witness fees and costs, will be paid by the non-prevailing party, except as provided for herein. In no event shall any Arbitrator's hourly fees be awarded in an amount in excess of \$200 per hour and (1) costs shall not include any travel expenses in excess of mileage at the rate paid by the City, not to exceed a one way trip of 150 miles, and (2) all travel expenses, including meals, shall be reimbursed pursuant to the travel policy of the City in effect at the time of the hearing. The determination of prevailing and non-prevailing parties, and the appropriate allocation of fees and costs, will be included in the award by the Arbitration Panel. Fees for the Neutral Evaluator shall be paid by the City.

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

O. Equitable Litigation. Notwithstanding any other provision of ADR to the contrary, any party can petition the Maricopa County Superior Court for interim equitable relief as necessary to preserve the status quo and prevent immediate and irreparable harm to a party or

to the Project pending resolution of a dispute pursuant to ADR provided herein. No court may order any permanent injunctive relief except as may be necessary to enforce an order entered by the Arbitration Panel. The fees and costs incurred in connection with any such equitable proceeding shall be determined and assessed in ADR.

P. Change Order. Any award in favor of the Construction Manager against the City or in favor of the City against the Construction Manager shall be reduced to a Change Order or amendment to this Agreement, as applicable, and executed by the parties in accordance with the award and the provisions of this Agreement.

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

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

## **ARTICLE 14 ADDITIONAL PROVISIONS**

14.1 Confidentiality. The Construction Manager shall not disclose or permit the disclosure of any confidential information except to its agents, employees and Subcontractors who need such confidential information in order to properly perform their duties relative to this Agreement.

14.2 Limitation and Assignment. The City and the Construction Manager each bind themselves, their successors, assigns and legal representatives to the terms of this Agreement. Neither the City nor the Construction Manager shall assign or transfer its interest in this Agreement without the written consent of the other, except that the Construction Manager may assign accounts receivable to a commercial bank for securing loans without approval of the City. Nothing contained in this subsection shall prevent the Construction Manager from employing such consultants, associates or Subcontractors as the Construction Manager may deem appropriate to assist in performance of the Services hereunder.

14.3 Entire Agreement. This Agreement represents the entire and integrated agreement between the City and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by

written instrument signed by both the City and the Construction Manager. Nothing contained in this Agreement is intended to benefit any third party. Subcontractors, if any and the Project Designers are not intended third-party beneficiaries of this Agreement.

14.4 Severability. If any provision of this Agreement is held as a matter of law to be unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be enforceable without such provision.

14.5 Meaning of Terms. References made in the singular shall include the plural and the masculine shall include the feminine or neuter.

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

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

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

If to Facility Designer: SmithGroup, Inc.  
455 North Third Street, Suite 250  
Phoenix, Arizona 85004  
Facsimile: 602-265-2244  
Attn: Bob Colletta, Sr. Vice President

If to Public Infrastructure Designer: David Evans and Associates, Inc.  
2141 East Highland Avenue, Suite 200  
Phoenix, Arizona 85016  
Facsimile: 602-678-5155  
Attn: Charles A. Horvath, Senior Associate

If to Construction Manager: Sundt Construction, Inc.  
2620 South 55th Street  
Tempe, Arizona 85282  
Facsimile: 480-293-3076  
Attn: Eric Hedlund, Sr. Vice President

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.

14.7 Governing Law. This Agreement shall be governed by the laws of the State of Arizona and venue shall be in Maricopa County.

14.8 No Waiver of Performance. The failure of either party to insist, in any one or more instances, on the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition right with respect to further performance.

14.9 Headings. The headings given to any of the provisions of this Agreement are for ease of reference only and shall not be relied upon or cited for any other purpose.

14.10 Asbestos Free Materials. The Project is to be constructed by the Construction Manager with asbestos free materials. A written, notarized statement on company letterhead shall be submitted to the City by the Construction Manager with the final payment request certifying that the Construction Manager has incorporated no asbestos material into the Project. Final payment shall be withheld until such statement is submitted. The Construction Manager shall agree that if materials containing asbestos are subsequently discovered at any future time to have been included in the construction done by the Construction Manager or any of its Subcontractors or agents and were not specified in the design or required by the Contract Documents, the Construction Manager shall be liable for all costs related to the abatement of such asbestos and damages or claims against the City notwithstanding any statute of limitations or other legal bar to any claim by the City.

14.11 Cancellation. This Agreement may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

14.12 Survival of Representations and Warranties. Notwithstanding any other provision of this Agreement, the representations, warranties and covenants herein shall survive termination of this Agreement.

14.13 Endangered Hardwoods Prohibited. Construction Manager shall ensure that products containing endangered wood species shall not be utilized in the construction of the Project unless exempted pursuant to ARIZ. REV. STAT. § 34-201(J), as amended.

14.14 Records and Audit Rights. Construction Manager's and its Subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Construction Manager and its subcontractors' employees who perform any work or Services pursuant to this Agreement to ensure that the Construction Manager and its subcontractors are complying with the warranty under subsection 14.15 below (all the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Construction Manager's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Construction Manager's and its Subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 14.15 below. To the extent necessary for the City to audit Records as set forth in this subsection, Construction Manager and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the City to Construction Manager pursuant to this Agreement. Construction Manager and its subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this subsection. The City shall give Construction Manager or its subcontractors reasonable advance notice of intended audits. Construction Manager shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

14.15 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Construction Manager and its Subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Construction Manager's or its Subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

14.16 Scrutinized Business Operations. Pursuant to ARIZ. REV. STAT. §§ 35-391.06 and 35-393.06, the Construction Manager certifies that it does not have scrutinized business operations in Sudan or Iran. For the purpose of this subsection the term "scrutinized business operations" shall have the meanings set forth in ARIZ. REV. STAT. § 35-391 or 35-393, as applicable. If the City determines that the Construction Manager submitted a false certification, the City may impose remedies as provided by law including terminating this Agreement pursuant to subsection 12.2 above.

[SIGNATURES ON FOLLOWING PAGE]

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

**“City”**

CITY OF AVONDALE,  
an Arizona municipal corporation

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

ATTEST:

\_\_\_\_\_  
Carmen Martinez, City Clerk

**“Construction Manager”**

SUNDT CONSTRUCTION, INC.,  
an Arizona corporation

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

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

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

(ACKNOWLEDGMENTS)

STATE OF ARIZONA        )  
  ) ss.  
COUNTY OF MARICOPA    )

This instrument was acknowledged before on \_\_\_\_\_, 2009,  
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 \_\_\_\_\_)

This instrument was acknowledged before me on \_\_\_\_\_, 2009,  
by \_\_\_\_\_, the \_\_\_\_\_ of SUNDT CONSTRUCTION, INC., an  
Arizona corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public in and for the State of Arizona

My Commission Expires:

\_\_\_\_\_

EXHIBIT A  
TO  
CONSTRUCTION MANAGER  
AT RISK AGREEMENT  
BETWEEN  
CITY OF AVONDALE  
AND  
SUNDT CONSTRUCTION, INC.

[Change Orders, Amendments and GMP Amendments]

See following pages.

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

[Facility Proposal]

See following pages.

EXHIBIT B-2  
TO  
CONSTRUCTION MANAGER  
AT RISK AGREEMENT  
BETWEEN  
CITY OF AVONDALE  
AND  
SUNDT CONSTRUCTION, INC.

[Infrastructure Proposal]

See following pages.

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

[Scope]

See following pages.



**CM at Risk (CMAR) Scope of Preconstruction Services – Sundt Construction, Inc.  
Avondale City Center Infrastructure & American Sports Centers Facility  
July 20, 2009**

The Avondale City Center (ACC) Infrastructure and American Sports Centers Facility (ASC) preconstruction services will consist of a multi-discipline, team-based, collaborative effort between the City of Avondale, Sundt Construction, SmithGroup (ASC Designer), David Evans and Associates (DEA- ACC Infrastructure Designer) and other Consultants and Stakeholders. The process will be broken down into four phases. All phases include attendance at weekly design meetings, updating of schedules and attendance at special consultant meetings or other breakout sessions.

**KICK-OFF, TEAM-BUILDING AND COST MODELING**

1. The team will participate in project kickoff meeting which will seek to establish:
  - Lines of Communication among stakeholders
  - Definitions of Success for all team members
  - Expectations of the participants for a successful process and outcome
  - Goals & Objectives for the project.
2. Cost Modeling for the ASC Facility
  - SmithGroup and Sundt will review with owner the design and cost parameters for the ASC including
    - Thorough discussion of the Owner's Project Requirements (OPRs)
    - Substructure, superstructure, MEP and skin system possibilities
    - Facility space planning to meet programming needs
    - Historical Cost Information for like projects
    - Sports equipment functionality and programming
    - Establish detailed design, estimating and permitting schedule (flesh out the preliminary Project Schedule)
    - Cost Model for the project will be created as a result of this meeting, published to all parties.
  - Communicate with City and ASC staff to understand the Sports Programming and functionality issues associated with facility uses.
  - Work with City of Avondale and SmithGroup to set the team's direction for Sustainability goals and LEED Certification.

3. Analyze project benefits for the potential use of BIM coordination for the building and/or infrastructure portions of the project. Discuss and agree on extent of BIM's use.

## **SCHEMATIC DESIGN**

1. Conduct 30% Design review meeting with DEA for the ACC Infrastructure scope of work
  - a. Sundt Complete 30% Design Review and Estimate for ACC Infrastructure work. Compare Sundt estimate to 30% estimate prepared by DEA and review with City.
  - b. Review 30% Estimate performed by Sundt and create baseline budget for Infrastructure project.
  - c. Establish detailed design, estimating and permitting schedule (flesh out the preliminary Project Schedule for Infrastructure design and permitting)
  - d. Review Dry and Wet Utilities design status and develop detailed Utility Company Management Plan to clearly understand the status of utility changes and additions and their impact on the project.
  - e. Work with DEA on preliminary material and/or equipment specifications and optional approaches for cost savings.
2. Daily interaction with SmithGroup and Consultants on the ASC:
  - a. Shell Building systems analysis for:
    - i. HVAC, Plumbing and Electrical Systems
      1. Preliminary energy Model.
      2. Life Cycle Cost Analysis
    - ii. Substructure and structural frame
      1. Soils and Foundations
        - a. Piers vs. shallow spread footings
        - b. Review preliminary Soils Report prepared by DEA and SmithGroup
          - i. Soils bearing Pressures allowable
      2. Look at long-span options
        - a. Pre-engineered structures
        - b. Joist and Joist Girder Assemblies
    - iii. Skin
      1. CMU, concrete tilt panel, other
      2. Roof Options available and cost criteria
  - b. Participate in schematic design and pricing decisions regarding Sports-related issues
    - i. Development of preliminary supplier/vendor list for all sports-related equipment
    - ii. Systems selection
      1. Dasher Boards
      2. Netting
      3. Indoor Soccer turf systems

4. Storage requirements
    5. AV and Scoreboards
    6. Sports Lighting and dimming systems
    7. HVAC systems and sustainability issues.
    8. Locker room requirements and training needs
  - c. Develop Food Service design requirements (for tenant concessionaire) to establish plan for what gets included in design.
    - i. Grease Interceptor Requirements
    - ii. MEP rough-in
    - iii. Evaluate potential need to leave-out slab for future tenant flexibility.
    - iv. Tenant finishes
3. Further development of CPM Project Schedule and solidify milestone dates for both Infrastructure and ASC elements.
4. Review preliminary material specifications and design details. Advise on constructability, availability of materials, long lead times and alternate methods, systems and/or materials.
5. Develop Self-performed work plan to meet project criteria of 45%. Opportunities are:
  - a. Concrete
  - b. Underground Wet Utilities
  - c. Earthwork and Paving
  - d. Masonry
6. Develop and present proposed pre-qualified list of subcontractors to the City for review and approval prior to bidding and/or qualifications-based selection.
7. Engage project team in Value Engineering to maximize value and minimize overall cost. Quantify and demonstrate the impact on costs and schedule of each element value engineered.
8. Prepare Schematic Estimate and Schedule Package for review for review and approval by City.
9. Identify long lead materials and equipment for pre-purchase, and make recommendations on schedule and costs
10. Review ACC site conditions and tie-in locations at adjacent properties and Avondale Blvd. Review As-built record drawings for all coordination points and make recommendations to DEA and SmithGroup.
11. Utilize Design Evolution Log to insure the budget status is communicated regularly and cost impacts of decisions are clearly understood by entire project team.

## **DESIGN DEVELOPMENT PHASE**

During Design Development, CMAR will continue to work closely with both SmithGroup and DEA to further refine the design and pricing of both elements of the project. Refinement of details and specificity of information will result.

1. If the project team determines that Building Information Modeling (BIM) is to be used, the following Option is provided in the reimbursable schedule to determine the level of services to be performed. . BIM shall be performed in cooperation with the design team, coordinated by and maintained by the CMAR and commence as soon as possible in the design, but not later than 4 weeks prior to start of Design Development. The CMAR shall be responsible for the following Add Alternate No. 1:

- A. Sundt Constructions Base Preconstruction Services includes 80 Hrs of evaluation & due diligence by the Sundt's SIMCON Department and in collaboration with DEA & Smith Group, inc, to analyze components of the project that could benefit from the use of BIM software to resolve issues through clash detection meetings or other available tools and practices. The cost for this basic service is itemized in our Preconstruction Fees as \$6,832.00 for 80 hrs @ \$85.40 per hour.

Add Alternate No. 1 – If additional services are determined to be necessary, this Option provides the services of Sundt's SIMCON Department to include clash detection and 4D scheduling. The price of \$19,760.00 is based on providing 16 hours to develop the BIM Implementation Plan, 8 weeks at 16 hours a week for clash detection, and 4 weeks at 16 hours a week for 4D scheduling for at total 208 billable Hours. Billable hours for this scope of work are \$95.00/Hr.

2. Continued design coordination meetings and special consultant meetings as needed:
3. Review 60% Infrastructure Design package and prepare 60% Estimate and Schedule. Advise on construction feasibility, utility coordination with existing facilities, availability of materials, and time requirements. Recommend in writing alternative systems/methods/materials to enhance the schedule, reduce cost, and facilitate construction.
4. Maintenance and monitoring of the Utility Company Management Plan including regularly scheduled meetings, published meeting notes, and tasks assigned and progress monitored.
5. Provide Design Development Estimate and Schedule Package on the ASC Facility for review and input from the project team.
6. Perform written Constructability Review on both project elements and Log results, tracking issues until resolved with all relevant parties.
7. Initiate long-lead procurement as approved by the Owner on infrastructure-related and ASC items and equipment.
8. Finalize Infrastructure and ASC Facility Prequalified Subcontractors/Bidders list with project team. Keep the Subcontractor community aware of the project's bid schedule to maximize competition.

9. Continuously update and develop the CPM Project Schedule.
10. Develop On-Site and Off-site Logistics Plans including construction site layout, staging, storage, trailer location and worker parking.
11. Interact proactively with both design teams to develop pre-bid value engineering alternates.

### **CONTRACT DOCUMENTS AND GMP PHASE**

1. It is the intent to enter into multiple GMP agreements for the project. The first, for the ACC Infrastructure scope of work, the second for the ASC Facility. Additional Amendments may be required to secure long-lead items to maintain the Critical Path Schedule
2. Draft the Instructions to Bidders and Invitation to Bid including job-specific and generic requirements for the ACC Infrastructure Bid. Establish bid calendar and recruit Subcontractor participation.
3. Draft the Instructions to Bidders and Invitation to Bid including job-specific and generic requirements for the ASC Facility Bid. Establish bid calendar and recruit Subcontractor participation.
4. Prepare detailed “open-book” estimates on all self-performed scopes of work. Conduct review meetings for the purpose of transparent communication regarding competitiveness of these scopes of work. Address any concerns promptly and to the satisfaction of the Owner.
5. Perform Constructability Review of final CDs, checking for resolution of all previous constructability items.
6. Continuously update and develop the final Bid Schedule and Contract Schedule. Schedule will identify all contractual milestones including partial turnovers for infrastructure work or milestones allowing for Owner Vendors in the ASC to commence work.
7. Provide quantity take-offs of owner-furnished materials and equipment as needed by the owner.
8. Develop Procurement Plan for the project and report on status of pre-purchased materials and equipment.
9. Prepare and present detailed GMP of construction costs for the ACC Infrastructure which is to commence first. Prepare contractual GMP exhibits as required for signature.
10. Prepare a schedule of Unit Prices and/or Alternates that may be required in the performance of the Infrastructure work. These will include: Description, Unit of Measurement, Price, Name of Trade.
11. Perform post-bid value engineering as required to meet budget objectives.
12. Conduct pre-bid conferences.

13. Design firm or owner will furnish all sets of blue lines for CMAR's bidding and pricing purposes at no cost to CMAR.
14. Where deemed appropriate in consultation with the City, solicit three (3) to five (5) bids per major trade. Prepare analysis of bids, outlining areas of qualification. Discuss recommendations of bids with project team. Upon approval of the GMP and subcontractor recommendations, award Subcontracts / Purchase Orders.
15. Prepare and present the Guaranteed Maximum Price (GMP) Packages to the Owner for Approval.
16. Prepare to mobilize on site to begin construction.

EXHIBIT D  
TO  
CONSTRUCTION MANAGER  
AT RISK AGREEMENT  
BETWEEN  
CITY OF AVONDALE  
AND  
SUNDT CONSTRUCTION, INC.

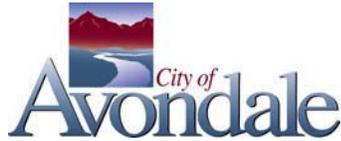
[Design Documents]

See following pages.

EXHIBIT E  
TO  
CONSTRUCTION MANAGER  
AT RISK AGREEMENT  
BETWEEN  
CITY OF AVONDALE  
AND  
SUNDT CONSTRUCTION, INC.

[City's RFQ]

See following pages.



**REQUEST FOR  
STATEMENTS OF QUALIFICATIONS  
FOR  
CONSTRUCTION MANAGER AT RISK (CMAR):  
AVONDALE CITY CENTER INFRASTRUCTURE &  
AMERICAN SPORTS CENTERS AVONDALE FACILITY**  
City of Avondale

**SOLICITATION INFORMATION AND SELECTION SCHEDULE**

Solicitation Number: **PR 09-055**

Solicitation Title: **Construction Management at Risk (CMAR): American Sports Center Avondale and City Center Infrastructure**

RFQ Release Date: **May 28, 2009**

Final Date for Inquiries: **June 11, 2009** (14 days after the opening of the RFQ)  
**5:00 p.m.** (local time, Phoenix, Arizona)

**MANDATORY**  
Pre-Submittal Conference: **June 9, 2009**  
**10:00 a.m.** (local time, Phoenix, Arizona)  
Avondale Civic Center  
City Council Chambers  
11465 West Civic Center Drive  
Avondale, Arizona 85323

SOQs Due Date and Time: **June 18, 2009**  
**3:00 p.m.** (local time, Phoenix, Arizona)

Letters to Final Listed Firms: **\*June 25, 2009**

Interviews: **\*July 1, 2009**

Target City Council Award Date: **\*July 20, 2009**

City Representatives: **Dan Davis** **ddavis@avondale.org**  
623-333-2400  
**Loretta Browning** **lbrowning@avondale.org**  
623-333-2029

**\*The City of Avondale reserves the right to modify the Solicitation and Selection Schedule as necessary. All changes in the schedule will be posted on the City of Avondale procurement web page.**

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

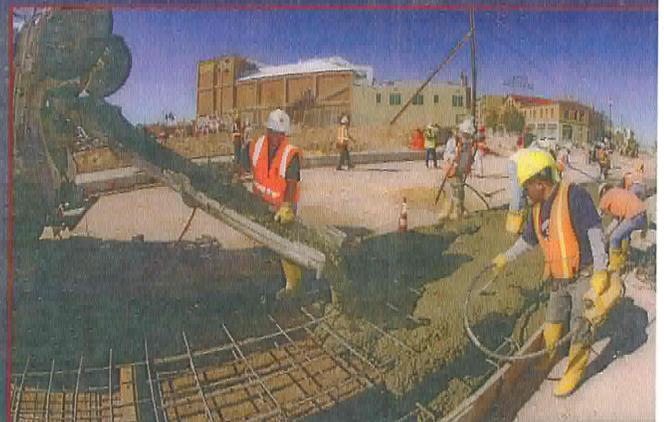
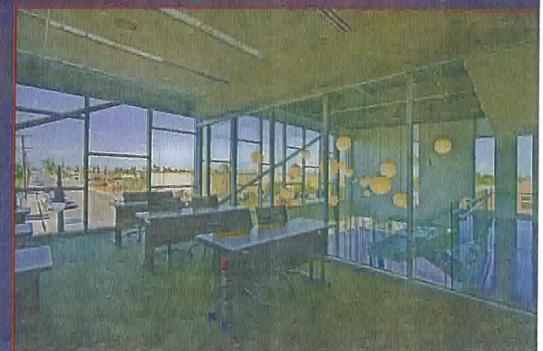
EXHIBIT F  
TO  
CONSTRUCTION MANAGER  
AT RISK AGREEMENT  
BETWEEN  
CITY OF AVONDALE  
AND  
SUNDT CONSTRUCTION, INC.

[Construction Manager's Response to City's RFQ]

See following pages.



SUNDT



*Building Community, Celebrating Diversity, Fostering Pride*

Statement of Qualifications for CM@Risk Service

**PR 09-055 AVONDALE CITY CENTER INFRASTRUCTURE & AMERICAN SPORTS CENTERS AVONDALE FACILITY**

June 18, 2009

COPY



June 18, 2009

City Clerk  
City of Avondale  
11465 West Civic Center Dr.  
Avondale, Arizona 85323

**RE: Statement of Qualifications for CMAR Services for:  
Avondale City Center Infrastructure & American Sports Centers Avondale Facility (PR 09-055)**

Dear Mr. Davis and Ms. Browning:

Sundt Construction is pleased to submit our Statement of Qualifications for CMAR services relative to the aforementioned project. We have thoroughly acquainted ourselves with the requirements of this project and have endeavored to respond to your Request For Qualifications in a complete and organized manner. As we prepared this proposal we chose project examples that all contain elements of what needs to be accomplished in Avondale. The University of Arizona Recreation Center is all about sports, the Avondale Boulevard project speaks to our specific knowledge of the immediate area infrastructure, and the Glendale Downtown Street Improvements points to our ability to create a sense of place and community pride.

We understand the importance of completing the new infrastructure and sports facility in a value-added and timely manner, and are committed to working closely with the TEAM including SmithGroup and David Evans Associates to develop a facility that will be the cornerstone of Avondale's development efforts on Avondale Boulevard. As part of your team we will construct a facility that is worthy of its location and representative of the attributes necessary to be a success including sustainability, durability, efficiency, ease of maintenance and operation, and of course true to the Architect's and community's intent. Working in collaboration with the City and SmithGroup we will use our expertise in preconstruction to add value even before a shovel has hit the ground. As construction progresses there will be no doubt that your goals are ours as well. We will help find and implement creative solutions to create value at every step. We take the role of Construction Manager at Risk very seriously, and have acted as such for not only the City of Avondale on past jobs but for hundreds of other municipalities and private clients as well.

Above all, Sundt has the local resources and expertise to cost-effectively complete this project in a manner that successfully addresses all operational, aesthetic, schedule and budgetary goals for the project. The team we have assembled for the Sports Center was purposely selected for several reasons. One, they have the proven expertise in similar recreation, sports and community facilities to do a great job. Two, they have worked together as a team on

*We Make Projects Work.<sup>sm</sup>*

2620 SOUTH 55TH STREET • TEMPE, AZ 85282 • 480.293.3000 • WWW.SUNDT.COM  
NOVATO • PHOENIX • RENO • SACRAMENTO • SAN DIEGO • TUCSON

CONTRACTOR LICENSES: AZ: ROC068013-A ROC068014-L-09 ROC078799-L-37 ROC076101-L-11 CA: 453175-A-B  
ROC068813-B-01 ROC078088-L-04 ROC076561-L-39 ROC067653-B NV: 22067-A-B



Avondale City Center Infrastructure & American Sports Centers Avondale Facility (PR 09-055)

June 18, 2009

Page 2

numerous other projects, bringing added value to Avondale; they know each other's approach to management and construction. Three, no other construction company has as much Avondale experience. And lastly, our ability to self-perform the civil and concrete will provide a greater level of control both in terms of budget and as it relates to schedule. Those four factors, in addition to a sincere desire to work with Avondale will benefit Avondale's residents and all who use this new sports facility.

We look forward to the opportunity to present our qualifications in greater detail in the next step of your selection process.

Sincerely,

**SUNDT CONSTRUCTION, INC.**

Eric Hedlund, P.E., CPC  
Senior Vice President

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

EXHIBIT G  
TO  
CONSTRUCTION MANAGER  
AT RISK AGREEMENT  
BETWEEN  
CITY OF AVONDALE  
AND  
SUNDT CONSTRUCTION, INC.

[Subcontractor Selection Program]

See following pages.

EXHIBIT H  
TO  
CONSTRUCTION MANAGER  
AT RISK AGREEMENT  
BETWEEN  
CITY OF AVONDALE  
AND  
SUNDT CONSTRUCTION, INC.

[Traffic Control/Sequencing Plans]

See following pages.

EXHIBIT I  
TO  
CONSTRUCTION MANAGER  
AT RISK AGREEMENT  
BETWEEN  
CITY OF AVONDALE  
AND  
SUNDT CONSTRUCTION, INC.

[Pre-construction Cost Summary]

See following pages.

**Avondale City Center Infrastructure And American Sports Centers Avondale Facility**

**SUNDT CONSTRUCTION  
PRE-CONSTRUCTION PHASE FEE BREAKDOWN**

Date	Preconstruction Phases	Sr. Proj. Director (Marty H.)	Project Manager (Joel W.)	Precon Manager (Brian K.)	Estimator II (Brian Pos)	Estimator II (TBD)	Mech. Senior Estimator (Dennis K.)	Elec. Senior Estimator (Mark S.)	Concrete Senior Estimator (Jeff M.)	Civil Precon Manager (Fred Stone)	Project Supt. (Lance B.)	BIM BIM Coord. (Eric C.)	BIM Project Engineer (TBD)	Admin. Project Admin. (TBD)	Total Labor Fee Per Month	
<b>1</b>	<b>"INFRASTRUCTURE" SCOPE</b>														<b>\$0.00</b>	
2	July 2009	30% DEA Design - Review & Estimate	2	2	2	2	0	4	4	10	2	4	0	4	\$3,223.40	
2	July 2009	60% DEA Design - Sundt Estimate	2	2	2	2	0	4	4	70	2	16	0	4	\$10,758.20	
3	Aug. 2009	Design Evolution / Cost Mngmnt	8	4	4	4	0	8	8	60	8	0	0	8	\$10,934.00	
4	Sept. 2009	GMP Preparation & Submittal	4	4	4	4	0	0	8	80	4	0	0	8	\$11,600.00	
5	Oct. 2009	Plan Check / Permitting Assist	0	0	0	0	0	0	0	16	4	0	0	8	\$2,433.60	
6	Oct./Nov. '09	Buyout / Contracts	0	0	0	0	0	0	0	20	4	0	0	16	\$3,236.40	
7	Oct.29, '09	Construction Start	0	0	0	0	0	0	0	0	0	20	0	0	\$1,708.00	
<b>8</b>	<b>"ASC FACILITY" SCOPE</b>														<b>\$0.00</b>	
9	July/Aug 09	SG Concept - Sundt Cost Model	4	4	8	8	0	4	4	0	0	20	0	16	\$5,344.80	
10	Aug. 2009	Design Evolution / Cost Mngmnt	8	16	16	24	0	8	8	4	16	0	0	8	\$9,816.40	
11	Sept. 2009	SG 60% Design - Sundt Estimate	8	16	20	120	0	16	16	8	16	0	0	8	\$17,858.80	
12	Oct. 2009	Design Evolution / Cost Mngmnt	8	16	16	20	0	8	8	4	16	0	0	0	\$9,204.80	
13	Oct./Nov. '09	GMP Preparation & Submittal	20	16	16	120	0	16	16	8	16	0	0	16	\$19,298.40	
14	Oct./Nov. '09	Plan Check / Permitting Assist	8	16	8	0	0	0	0	0	16	0	0	0	\$4,668.00	
15	Nov./Dec. '09	Buyout / Contracts	8	8	16	20	0	8	8	4	4	0	0	16	\$8,207.20	
16	Dec. 3, '09	Construction Start	0	0	0	0	0	0	0	0	0	20	0	0		
17	<b>TOTAL HOURS</b>		80	104	112	324	0	60	76	60	284	112	80	0	112	0
18	<b>Total Hourly Rate</b>		\$125.40	\$92.60	\$108.50	\$60.70	\$60.70	\$84.20	\$84.20	\$84.20	\$108.50	\$82.20	\$85.40	\$52.10	\$46.10	\$0.00
19	<b>SUB-TOTAL</b>		\$10,032.00	\$9,630.40	\$12,152.00	\$19,666.80	\$0.00	\$5,052.00	\$6,399.20	\$5,052.00	\$30,814.00	\$9,206.40	\$6,832.00	\$0.00	\$5,163.20	\$0.00
20	<b>SUMMARY</b>															<b>FEE &amp; REIMB.</b>
21	<b>TOTAL LABOR</b>															<b>\$118,292</b>
22																\$0
23	<b>REIMBURSABLES</b>															\$0
24	- Building Information Modeling (BIM) - Base Services Included (Hours included are for intitial evaluation and limited modeling analysis for focused scopes of work.) (Full BIM coordination is excluded)															\$0
25	- Add Alternate No. 1 - Building Information Modeling (BIM) = 208 Hrs x \$95/Hr = \$19760															\$0
25	- Subcontractor Design Assist Fee's (Excluded)															\$0
26	- Binders, Plotting, Printing, Misc Expenses, Supplies (5% of Total Labor)															\$5,915
27																
28																
29	<b>Sub-total Reimbursables</b>															<b>\$5,915</b>
30	<b>GRAND TOTAL</b>															<b>Percent of \$16.6M Construction Budget = 0.75%</b>
																<b>\$124,207</b>

**PERSONNEL REIMBURSEMENT SCHEDULE "A"**  
**City of Avondale - American Sports Complex**

May 20, 2008

CODE	DESCRIPTION	HOURLY RATE
<b>1000 SALARIED &amp; ADMIN PERSONNEL</b>		
1001	OPERATIONS MANAGER	\$ 153.20
1002	SR. PROJECT DIRECTOR	\$ 125.40
1003	SR. PROJECT MANAGER	\$ 125.40
1004	PROJECT MANAGER	\$ 92.60
1005	ASSISTANT PROJECT MANAGER	\$ 80.00
1023	PRE-CONSTRUCTION MANAGER	\$ 108.50
1024	SENIOR ESTIMATOR	\$ 84.20
1024	ESTIMATOR II	\$ 60.70
1024	ESTIMATOR	\$ 58.90
1007	SENIOR PROJECT SUPERINTENDENT	\$ 115.50
1008	PROJECT SUPERINTENDENT	\$ 82.20
1009	AREA SUPERINTENDENT	\$ 79.60
1018	SWING SHIFT SUPERINTENDENT	\$ 79.60
1019	FIELD SUPERINTENDENT	\$ 79.60
1020	STRUCTURE SUPERINTENDENT	\$ 79.60
1026	SENIOR PROJECT ENGINEER	\$ 68.50
1026	PROJECT ENGINEER	\$ 52.10
1048	BIM COORDINATOR	\$ 85.40
1029	COST ENGINEER	\$ 52.10
1033	STRUCTURAL ENGINEER	\$ 85.00
1034	SCHEDULE ENGINEER	\$ 79.60
1035	M.P.E. ENGINEER	\$ 79.60
1036	CQC MANAGER	\$ 89.40
1037	CQC ASSISTANT	\$ 70.00
1038	MATERIALS COORDINATOR	\$ 52.10
1039	SAFETY SPECIALIST	\$ 69.00
1040	ADMINISTRATION MANAGER	\$ 58.80
1041	PROJECT ADMINSTRATOR	\$ 46.10
1042	CLERICAL PERSONNEL	\$ 37.80
1046	COMMISSIONING COORDINATOR	\$ 95.50
<b>----- CRAFT PERSONNEL -----</b>		
	CARPENTER FOREMAN	\$ 46.90
	CARPENTER JOURNEYMAN	\$ 39.90
	EQUIPMENT OPERATOR FOREMAN	\$ 46.90
	EQUIPMENT OPERATOR JOURNEYMAN	\$ 39.90
	EQUIPMENT OPERATOR TOWER CRANE	\$ 39.90
	CEMENT MASON FOREMAN	\$ 46.90
	CEMENT MASON JOURNEYMAN	\$ 39.90
	LABORER FOREMAN	\$ 39.90
	LABORER JOURNEYMAN	\$ 33.00
	IRONWORKER FOREMAN	\$ 46.90
	IRONWORKER JOURNEYMAN	\$ 39.90
	WELDER	\$ 39.90

Note - The above hourly rates include all labor costs including customary fringe benefits, insurance, training, pensions and all benefits required by law. They also include vehicle and cell phone where applicable. These rates are effective from July 2, 2009 through Sept. 30, 2010. Beyond that date an adjustment of not more than 5% may be applied to reflect inflation and/or cost of living increases.

EXHIBIT J  
TO  
CONSTRUCTION MANAGER  
AT RISK AGREEMENT  
BETWEEN  
CITY OF AVONDALE  
AND  
SUNDT CONSTRUCTION, INC.

[Performance Bond]

See following page.

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT, \_\_\_\_\_ an Arizona corporation (hereinafter called Principal), as Principal, and \_\_\_\_\_, a corporation authorized to do business in the State of Arizona by the Department of Insurance pursuant to Title 20, Chapter 2, Article 1, Arizona Revised Statutes, organized and existing under the laws of the State of \_\_\_\_\_, with its principal office in the City of \_\_\_\_\_, (hereinafter called the Surety), as Surety, are held and firmly bound unto the City of Avondale (hereinafter called the Obligee) in the amount of \_\_\_\_\_ (Dollars) (\$\_\_\_\_\_), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Agreement with the Obligee, dated \_\_\_\_\_, 2009, for complete construction services related to an approximately 83,000 SF multi-purpose recreational facility on a site within the area known as the City Center, located at the northeast corner of the alignment for the future public streets to be known as City Center Drive and 114th Avenue in Avondale, Arizona (the "Agreement"), which is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, the condition of this obligation is that if the principal faithfully performs and fulfills all of the undertakings, covenants, terms, conditions of the Agreement during the original term of the Agreement and any extension of the Agreement, with or without notice to the surety, and during the life of any guaranty required under the Agreement, and also performs and fulfills all of the undertakings, covenants, terms, and conditions of all duly authorized modifications of the Agreement that may hereafter be made, notice of which modifications to the surety being hereby waived, the above obligation is void. Otherwise it remains in full force and effect. Provided, however, that this bond is executed pursuant to Title 34, Chapter 6, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with Title 34, Chapter 6, Arizona Revised Statutes, to the extent as if it were copied at length in this Agreement. The prevailing party in a suit on this bond shall recover as part of the judgment reasonable attorney fees that may be fixed by the court. The performance under this bond is limited to the construction to be performed under the Agreement and does not include any design services, preconstruction services, finance services, maintenance services, operations services or any other related services included in the Agreement.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

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

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

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

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

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

EXHIBIT K  
TO  
CONSTRUCTION MANAGER  
AT RISK AGREEMENT  
BETWEEN  
CITY OF AVONDALE  
AND  
SUNDT CONSTRUCTION, INC.

[Payment Bond]

See following page.

PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT, \_\_\_\_\_, an Arizona corporation (hereinafter called Principal), as Principal, and \_\_\_\_\_, a corporation authorized to do business in the State of Arizona by the Department of Insurance pursuant to Title 20, Chapter 2, Article 1, Arizona Revised Statutes, organized and existing under the laws of the State of \_\_\_\_\_, with its principal office in the City of \_\_\_\_\_, (hereinafter called the Surety), as Surety, are held and firmly bound unto the City of Avondale (hereinafter called the Obligee) in the amount of \_\_\_\_\_ (Dollars) (\$ \_\_\_\_\_), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Agreement with the Obligee, dated \_\_\_\_\_, 2009, for complete construction services related to an approximately 83,000 SF multi-purpose recreational facility on a site within the area known as the City Center, located at the northeast corner of the alignment for the future public streets to be known as City Center Drive and 114th Avenue in Avondale, Arizona, which is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, the condition of this obligation is that if the principal promptly pays all monies due to all persons supplying labor or materials to the principal or the principal's subcontractors in the prosecution of the construction provided for in the Agreement, this obligation is void. Otherwise it remains in full force and effect. Provided, however, that this bond is executed pursuant to Title 34, Chapter 6, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions, conditions and limitations of Title 34, Chapter 6, Arizona Revised Statutes, to the same extent as if they were copied at length in this Agreement. The prevailing party in a suit on this bond shall recover as a part of the judgment reasonable attorney fees that may be fixed by the court.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

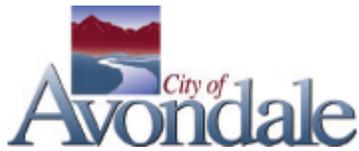
\_\_\_\_\_  
Principal  
Seal

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

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

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

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



# CITY COUNCIL REPORT

**SUBJECT:**

Public Hearing - Alternative Expenditure Limitation  
(Home Rule)

**MEETING DATE:**

July 20, 2009

**TO:** Mayor and Council

**FROM:** Kevin Artz, Finance and Budget Director (623)333-2011

**THROUGH:** Charlie McClendon, City Manager

**PURPOSE:**

Staff is requesting that the City Council hold the second public hearing regarding an extension of the Alternative Expenditure Limitation (Home Rule).

**BACKGROUND:**

The Arizona State Constitution and Arizona Revised Statutes impose an expenditure limitation on every City and Town in the State. The state-imposed limitation uses expenditures of local revenues from Fiscal Year 1979-80 as a baseline. Each year, the Economic Estimates Commission (EEC) adjusts baseline expenditures based on a standard inflation rate and the population growth in the community to establish a new expenditure limitation (See Attachment A for FY 09/10 final estimates).

Certain revenues are specifically excluded from the state-imposed expenditure limitation. For example, revenues received from the issuance of bonds, revenues received from interest or dividends, revenue from Federal grants, and intergovernmental revenue already subject to another entity's expenditure limitation, are all exempt from the expenditure limit.

If the state-imposed limitation does not allow for the expenditure of sufficient local funds (less the exemptions listed above), State law provides four options to potentially solve this problem.

- Alternative expenditure limitation (local home rule option)
- A permanent base adjustment
- A capital projects accumulation fund
- A one-time override

All of the options require voter approval. If none of the options are approved by the voters, the state-imposed limitation will apply.

In September of 2005, the Avondale voters adopted an alternative expenditure limitation (first approved in 1981 with six subsequent extensions).

The Home Rule option expires at the end of Fiscal Year 2009-10. The home rule option allows the City to adopt its own "alternative" expenditure limitation and sets the limit at its adopted budget. In other words, it allows the City to establish its own expenditure limitation without being subject to the state-imposed limitation. Home rule must be approved by the voters, and is good for a period of four years.

## **DISCUSSION:**

In order to extend the home rule option, State law requires that two public hearings be held (the first public hearing was held July 6, 2009) and the City Council adopt a resolution proposing the extension at a special meeting immediately following the second public hearing (July 20th). The alternative expenditure limitation will then be submitted to the voters of Avondale at an election to be held in November of 2009.

The final state-imposed expenditure limitation for the City of Avondale for Fiscal Year 2009-10 is \$45,327,365. Staff estimates that the City would have an additional \$50,000,000 of exclusions from the state imposed limit for a total expenditure limitation of approximately \$95,300,000. The final adopted budget for FY 09-10 is approximately \$224,000,000 which would put the City approximately \$128,700,000 over the state-imposed limitation if the Home Rule option were not in effect for Fiscal Year 2009-10. There are several factors that would cause the City of Avondale to exceed the state-imposed expenditure limit.

First, the state-imposed expenditure limitation, which is calculated with population and inflation factors, is based on projections for one year's needs. In a high growth community, this doesn't allow for a City to plan infrastructure and city services to stay ahead of the growth curve (i.e., building a wastewater treatment facility with excess capacity, instead of one year's capacity needs).

Second, the City of Avondale has changed significantly since 1979-80, when the baseline was established. Current citizens are demanding increased services and amenities that may not have been required in 1980. The increased expectations of the residents are not adequately factored into the population and inflation calculation performed by the State. As a result, the state-imposed limitation is based on expectations from 25 years ago, instead of today's residents.

Finally, the State imposed limitation does not account for additional revenue sources received since 1979-80. The City of Avondale has established development impact fees and two, half-percent sales tax increases since 1979-80. Both of these local revenue sources are subject to the State-imposed limitation. Without an alternate expenditure limitation, the City would be unable to spend sales tax dollars from a voter approved initiative, which was approved to increase funding for public safety, and for basic water, sewer and street infrastructure improvements.

As the state-imposed expenditure limitation for the City of Avondale is not sufficient to allow the City to expend its local revenues and provide the basic services that the residents require, the City must seek approval from the voters to authorize an extension to the home rule option.

## **RECOMMENDATION:**

Staff recommends that Council hold the second Public Hearing regarding an extension of the Alternative Expenditure Limitation (home rule option).

## **ATTACHMENTS:**

Click to download

 [Fy 09-10 final estimates](#)

# ECONOMIC ESTIMATES COMMISSION

Department of Revenue Building



Janice K. Brewer  
Governor

Gale Garriott  
Chairman

Elliott D. Pollack  
Member

Alan E. Maguire  
Member

March 26, 2009

City/Town Managers and Finance Directors  
State of Arizona

## RE: Final FY 2009/10 Expenditure Limits

The final fiscal year 2009/10 expenditure limits for cities and towns are being supplied in accordance with Article IX, Section 20, Constitution of Arizona and A.R.S. § 41-563.

The fiscal year 1979/80 base limits have been adjusted for changes in the population and the cost of living between 1978 and 2008. The formula is shown below.

$$\frac{\text{2008 Population}}{\text{1978 Population}} \times \frac{\text{GDP Implicit Price Deflator 2008}}{\text{GDP Implicit Price Deflator 1978}} \times \text{FY 1979/80 Base Limit} = \text{Final FY 2009/10 Expenditure Limit}$$

Please contact Diane Sosinski in Economic Research and Analysis at (602) 716-6797 if you have any questions.

Sincerely,

ECONOMIC ESTIMATES COMMISSION

  
Gale Garriott, Chairman

GG:ds

**FY 2009/10 FINAL EXPENDITURE LIMITATIONS: CITIES & TOWNS**

CITY	POPULATION **		POPULATION FACTOR	INFLATION FACTOR*	FY 1979/80 BASE LIMIT	FINAL FY 2009/10 EXPENDITURE LIMITATION
	2008	1978				
APACHE JUNCTION	37,917	9,500	3.9913	2.6750	\$1,581,484	\$16,884,776
AVONDALE	76,648	6,900	11.1084	2.6750	\$1,525,417	\$45,327,365
BENSON	5,030	3,925	1.2815	2.6750	\$1,317,815	\$4,517,550
BISBEE	6,389	6,860	0.9313	2.6750	\$1,625,337	\$4,049,230
BUCKEYE	50,143	3,175	15.7931	2.6750	\$1,048,270	\$44,285,331
BULLHEAD CITY	41,187	13,830	2.9781	2.6750	\$5,493,553	\$43,763,440
CAMP VERDE	11,580	5,650	2.0496	2.6750	\$2,072,112	\$11,360,396
CAREFREE	3,948	1,744	2.2638	2.6750	\$1,642,262	\$9,944,736
CASA GRANDE	45,116	14,100	3.1997	2.6750	\$18,793,221	\$160,854,363
CAVE CREEK	5,132	2,025	2.5343	2.6750	\$656,393	\$4,449,853
CHANDLER	244,376	23,500	10.3990	2.6750	\$7,245,951	\$201,560,874
CHINO VALLEY	13,069	2,400	5.4454	2.6750	\$255,094	\$3,715,793
CLARKDALE	4,030	1,200	3.3583	2.6750	\$255,616	\$2,296,318
CLIFTON	2,616	4,515	0.5794	2.6750	\$1,656,956	\$2,568,095
COLORADO CITY	4,042	1,730	2.3364	2.6750	\$987,191	\$6,169,804
COOLIDGE	12,311	6,775	1.8171	2.6750	\$1,530,413	\$7,438,970
COTTONWOOD	11,230	4,200	2.6738	2.6750	\$1,105,601	\$7,907,679
DEWEY HUMBOLDT	4,444	4,080	1.0892	2.6750	\$1,533,271	\$4,467,381
DOUGLAS	21,709	12,600	1.7229	2.6750	\$17,190,988	\$79,230,110
DUNCAN	845	700	1.2071	2.6750	\$177,389	\$572,803
EAGAR	4,810	2,450	1.9633	2.6750	\$627,268	\$3,294,218
EL MIRAGE	33,647	4,025	8.3595	2.6750	\$774,680	\$17,322,994
ELOY	16,163	6,300	2.5656	2.6750	\$1,419,813	\$9,743,898
FLAGSTAFF	64,693	32,000	2.0217	2.6750	\$22,522,966	\$121,801,614
FLORENCE	24,096	3,175	7.5893	2.6750	\$714,110	\$14,497,279

**FY 2009/10 FINAL EXPENDITURE LIMITATIONS: CITIES & TOWNS**

CITY	POPULATION **		POPULATION FACTOR	INFLATION FACTOR*	FY 1979/80 BASE LIMIT	FINAL FY 2009/10 EXPENDITURE LIMITATION
	2008	1978				
FOUNTAIN HILLS	25,995	10,190	2.5510	2.6750	\$4,107,576	\$28,029,890
FREDONIA	1,130	850	1.3294	2.6750	\$329,695	\$1,172,444
GILA BEND	1,899	1,575	1.2057	2.6750	\$684,678	\$2,208,264
GILBERT	214,820	4,250	50.5459	2.6750	\$2,346,450	\$317,261,400
GLENDALE	248,435	84,000	2.9576	2.6750	\$67,955,628	\$537,624,528
GLOBE	8,032	6,550	1.2263	2.6750	\$2,436,186	\$7,991,218
GOODYEAR	59,436	2,500	23.7744	2.6750	\$4,125,000	\$262,333,448
GUADALUPE	5,990	4,300	1.3930	2.6750	\$549,792	\$2,048,693
HAYDEN	839	1,200	0.6992	2.6750	\$408,838	\$764,631
HOLBROOK	5,611	5,450	1.0295	2.6750	\$2,585,121	\$7,119,423
HUACHUCA CITY	1,952	1,690	1.1550	2.6750	\$317,153	\$979,901
JEROME	329	395	0.8329	2.6750	\$132,688	\$295,631
KEARNY	2,285	2,665	0.8574	2.6750	\$950,057	\$2,179,008
KINGMAN	28,823	8,745	3.2959	2.6750	\$4,426,488	\$39,026,429
LAKE HAVASU CITY	55,429	13,000	4.2638	2.6750	\$4,711,264	\$53,734,261
LITCHFIELD PARK	5,093	3,835	1.3280	2.6750	\$3,542,818	\$12,585,698
MAMMOTH	1,789	1,960	0.9128	2.6750	\$425,048	\$1,037,797
MARANA	33,744	1,425	23.6800	2.6750	\$202,239	\$12,810,520
MARICOPA	37,252	3,790	9.8290	2.6750	\$10,601,417	\$278,736,891
MESA	459,682	130,000	3.5360	2.6750	\$54,090,640	\$511,630,488
MIAMI	1,891	2,615	0.7231	2.6750	\$878,262	\$1,698,885
NOGALES	21,709	11,740	1.8491	2.6750	\$3,245,377	\$16,053,030
ORO VALLEY	43,223	1,475	29.3037	2.6750	\$272,317	\$21,346,063
PAGE	7,374	4,375	1.6855	2.6750	\$6,429,631	\$28,988,869
PARADISE VALLEY	14,444	10,425	1.3855	2.6750	\$6,645,509	\$24,629,739

**FY 2009/10 FINAL EXPENDITURE LIMITATIONS: CITIES & TOWNS**

CITY	POPULATION **		POPULATION FACTOR	INFLATION FACTOR*	FY 1979/80 BASE LIMIT	FINAL
	2008	1978				EXPENDITURE LIMITATION
PARKER	3,385	2,485	1.3622	2.6750	\$1,145,364	\$4,173,457
PATAGONIA	934	925	1.0097	2.6750	\$213,500	\$576,664
PAYSON	16,965	4,305	3.9408	2.6750	\$1,267,280	\$13,358,984
PEORIA	155,560	10,500	14.8152	2.6750	\$18,247,857	\$723,170,421
PHOENIX	1,561,485	717,000	2.1778	2.6750	\$229,200,625	\$1,335,225,471
PIMA	2,399	1,465	1.6375	2.6750	\$275,000	\$1,204,607
PINETOP-LAKESIDE	4,765	2,635	1.8083	2.6750	\$1,214,814	\$5,876,412
PRESCOTT	43,280	19,250	2.2483	2.6750	\$8,495,931	\$51,096,087
PRESCOTT VALLEY	38,962	1,520	25.6329	2.6750	\$380,054	\$26,059,322
QUARTZSITE	3,692	2,115	1.7456	2.6750	\$974,825	\$4,551,955
QUEEN CREEK	23,827	2,525	9.4364	2.6750	\$818,277	\$20,655,150
SAFFORD	9,982	6,200	1.6100	2.6750	\$20,484,597	\$88,221,299
SAHUARITA	23,190	1,629	14.2357	2.6750	\$713,697	\$27,177,762
SAN LUIS	26,705	1,690	15.8018	2.6750	\$724,909	\$30,641,465
SCOTTSDALE	242,337	83,000	2.9197	2.6750	\$55,861,444	\$436,288,678
SEDONA	11,372	7,050	1.6130	2.6750	\$2,960,687	\$12,774,984
SHOW LOW	12,315	3,800	3.2408	2.6750	\$1,443,667	\$12,515,206
SIERRA VISTA	45,908	24,050	1.9089	2.6750	\$10,055,882	\$51,346,827
SNOWFLAKE	5,565	3,000	1.8550	2.6750	\$741,469	\$3,679,231
SOMERTON	11,377	3,540	3.2138	2.6750	\$681,742	\$5,860,905
SOUTH TUCSON	5,800	6,275	0.9243	2.6750	\$1,879,168	\$4,646,223
SPRINGERVILLE	2,194	1,400	1.5671	2.6750	\$678,299	\$2,843,478
STAR VALLEY	2,164	2,255	0.9596	2.6750	\$744,113	\$1,910,160
ST. JOHNS	4,006	4,100	0.9771	2.6750	\$819,104	\$2,140,850
SUPERIOR	3,375	4,700	0.7181	2.6750	\$682,763	\$1,311,493

**FY 2009/10 FINAL EXPENDITURE LIMITATIONS: CITIES & TOWNS**

CITY	POPULATION **		POPULATION FACTOR	INFLATION FACTOR*	FY 1979/80 BASE LIMIT	FINAL FY 2009/10 EXPENDITURE LIMITATION
	2008	1978				
SURPRISE	108,761	3,550	30.6369	2.6750	\$9,500,000	\$778,553,738
TAYLOR	4,453	1,740	2.5592	2.6750	\$245,508	\$1,680,696
TEMPE	172,641	102,000	1.6926	2.6750	\$65,579,379	\$296,914,373
THATCHER	5,499	3,170	1.7347	2.6750	\$1,860,674	\$8,634,057
TOLLESON	6,833	4,190	1.6308	2.6750	\$966,494	\$4,216,156
TOMBSTONE	1,709	1,600	1.0681	2.6750	\$508,007	\$1,451,483
TUCSON	543,959	311,400	1.7468	2.6750	\$138,097,586	\$645,288,307
WELLTON	2,318	900	2.5756	2.6750	\$460,150	\$3,170,228
WICKENBURG	6,442	3,300	1.9521	2.6750	\$6,600,000	\$34,464,411
WILLCOX	3,904	2,985	1.3079	2.6750	\$10,497,909	\$36,727,251
WILLIAMS	3,165	2,100	1.5071	2.6750	\$1,254,501	\$5,057,613
WINKELMAN	427	1,010	0.4228	2.6750	\$183,579	\$207,611
WINSLOW	10,194	7,725	1.3196	2.6750	\$4,995,579	\$17,634,052
YOUNGTOWN	6,522	2,100	3.1057	2.6750	\$559,874	\$4,651,274
YUMA	93,719	34,500	2.7165	2.6750	\$15,663,245	\$113,817,867
<b>TOTAL</b>	<b>5,264,467</b>	<b>1,896,043</b>	<b>2.7766</b>		<b>\$893,830,595</b>	<b>\$7,820,088,230</b>

\* SOURCE: (2008 GDP Implicit Price Deflator - Survey of Current Business, March 2009)/(1978 GDP Implicit Price Deflator) = 122.41/45.76  
 \*\* FIGURES AS OF JULY 1 (SOURCE: DEPT. OF ECONOMIC SECURITY)